



2009

Session Overview

FIRST REGULAR SESSION OF THE
52ND LEGISLATURE

Oklahoma House of Representatives
Speaker Chris Bengé

Committee Staff Division

Final Edition – June 10, 2009

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increase in the ability to recruit and retain doctors. Legislation was enacted to improve the quality of life and safety of children with autism. Funding for an autism research project, training, and therapist licensing were other priorities of the Legislature. The state will require a license for those who work with autistic children, as well as funding for specialized training for providers. The Legislature implemented several recommendations from the Department of Human Services performance audit in order to improve outcomes for children and families who have contact with the child welfare system. The state’s strong history of being a national leader in energy development continued this session as several measures focused on expanding Oklahoma’s energy capabilities. Incentives were enacted to promote the use of alternative fuel vehicles, especially those operating on compressed natural gas, and the Oklahoma Quality Jobs Program Act was expanded in an effort to attract companies to the state involved in all aspects of the wind energy industry. Other energy measures seek to strengthen alternative energy research and development.

A future publication will be prepared by the House Committee Staff later this year that will provide a complete review of all legislation enacted during the 2009 session.

Introduction

The 2009 Legislative session generated a flurry of activity by both the House and Senate, as legislators addressed many issues important to the state of Oklahoma including tort reform, autism treatment, education reform, health reform, child welfare reform, government modernization, and energy incentives and efficiency. One glaring issue the Legislature addressed, along with many other states, was the projected budget shortfall. The Governor and the leaders of the House and Senate identified four functions of state government – education, health care, corrections, and transportation – that would largely be protected from cuts, and then agreed on a budget. This *Session Overview* provides a brief recap of the major legislation passed in the First Session of the Fifty-Second Legislature.

Attempts at lawsuit reform were finally successful after several years of continued efforts. Reforms include making it more difficult to file frivolous lawsuits in Oklahoma, fostering a stronger, more stable business atmosphere, lowering health care costs, as well as an

Agriculture and Rural Development

The Legislature passed several measures affirming the importance and value of agriculture and rural life in Oklahoma. According to the USDA 2007 Census of Agriculture, Oklahoma farms and farmed land increased 4 percent between 2002 and 2005.

To foster continued growth, the Legislature passed **HB 1482**, the “right to farm” bill, which expands the definition of agricultural activities to include aquaculture

and improvements or expansion to shelters, fences, pens, and storage. Furthermore, the measure creates a two-year statute of limitations for private nuisance actions. If a nuisance action is declared frivolous by the court, the defendant will recover court costs and attorney fees.

HB 2151 preemptively addresses recent legislative initiatives by advocacy groups in Arizona, California, Colorado, Florida, and Maine to amend regulations in those states regarding livestock confinement. The measure declares the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) as the state entity empowered to implement regulations on the care and handling of livestock. No political subdivision may create or enforce regulations related to care or handling of livestock that are more restrictive than ODAFF rules. Ordinances or regulations by municipalities pertaining to land use or to human health or safety will not be considered to constitute livestock care and handling.

Over the last several years there has been growing concern of a looming shortage of large-animal veterinarians. A 2006 interim study explored incentives for veterinarians practicing in rural areas. **HB 1919** amends the “eligible agricultural business” definition in the Oklahoma Agricultural Linked Deposit Program to include recent graduates of veterinary school who are establishing a practice where at least 30 percent of business consists of services for large animals. The Linked Deposit Program was created in 1987 to diversify Oklahoma's agricultural industry by offering loans at a reduced rate.

The Legislature passed **HB 1483** as an effort to address the impending expiration of the moratorium on out-of-state water sales, as well as the suit brought by water providers in the Dallas/Fort Worth metroplex. The measure declares that no out-of-state water permit will impair the ability of the state of Oklahoma to meet its obligations under any interstate stream compact or impair or affect the obligations of the United States. The Oklahoma Legislature must approve permits for use of water apportioned to the state of Oklahoma by an interstate compact. In addition, the measure provides that:

- When evaluating applications for use of water outside the state, the Oklahoma Water Resources Board (OWRB) must consider certain matters, including whether the water that is the subject of the application could be feasibly transported to alleviate Oklahoma water shortages;
- Out-of-state water permits must be reviewed by OWRB at least every ten years;

- OWRB is authorized to issue conditional permits for use of water outside of Oklahoma; and
- OWRB is required to promulgate rules and apply the provisions of this measure to pending and future water permit applications.

Economic Development and Financial Services

The Legislature considered a number of issues affecting business, including regulation of professions and occupations, insurance reform, and banking.

In 2008, a Centers for Disease Control and Prevention survey found that one-third of Oklahomans under the age of 65 do not have health insurance. The state ranks fifth in the nation in the percentage of citizens without health insurance. The House Health Care Reform Task Force studied the causes behind the large numbers of uninsured and developed recommendations to address the problem. The resulting measure, **HB 2026**, directs the Insurance Commissioner, the Oklahoma Health Care Authority (OHCA), and the State Board of Health to collaborate on the creation and administration of the Health Care for the Uninsured Board (HUB) within the State Department of Health. The purpose of the HUB is to establish a system of counseling, including a website, to educate and assist consumers in selecting an insurance policy or program that meets their needs. Other key provisions of the measure include: providing a mechanism allowing a health care provider to refer an uninsured individual to the HUB at the point of service; authorizing the issuance of standard health benefit plans that do not contain state-mandated benefits to persons under 40 years of age; and authorizing the OHCA to create a high-deductible health insurance plan option that is compatible with a health savings account as part of the premium assistance program administered by the authority.

In other health insurance reform, **HB 1055** expands acts that are considered an unfair claim, to include failure to pay for services covered in a health care policy, providing the plan has issued preauthorization and verification of eligibility for the services. The measure also requires the Insurance Commissioner to create an affidavit for patients to sign before nonemergency services are received, in order to determine benefit eligibility. The measure also creates the State Employee Health Insurance Working Group, which will study and examine the most efficient and cost-effective ways to provide state employees with

health insurance while ensuring the highest level of health care at a competitive price.

Employers are now required to reimburse employees for any fees or costs incurred by the employee due to “bounced” paychecks under **SB 527**.

Education

Common Education

In the area of common education, the Legislature focused on improving the performance and operations of schools, reducing the drop-out rate, and education accountability. **HB 1461** requires schools that do not make Adequate Yearly Progress for two consecutive years and are identified for school improvement to use the assistance of a school support team established by the State Department of Education. The school support team will review and analyze all operations of the school and incorporate school improvement strategies and facilitate professional development through teacher training. **SB 268** requires school boards to alter the governing arrangements of schools identified for improvement for four consecutive years. The district school board can attempt to remedy the situation by turning the school into a public charter school, contracting with a private management company, removing all or most of the staff responsible for the failure to meet Adequate Yearly Progress goals, granting control of the school to the State Board of Education, or any other arrangement that significantly alters the structure or staff of the school, provided that the solution produces results within two years. Failure to comply will result in the State Board of Education assuming control of the management and operations of the school and withholding district funds that would have been allocated based on the school site. **HB 1864** allows school districts to adopt a policy that changes the calculation of the school year from days to hours. Specifically, the school year will consist of 1,080 hours of classroom instruction as opposed to the current school year of 175 days and provides flexibility to school districts in meeting the hourly requirement. The bill allows for up to 30 hours a year for attendance of professional meetings. Also, if authorized by the school district, parent-teacher conferences can count as classroom instruction time for a total of 12 hours per year. **HB 1050** encourages school districts to develop mentorship programs in order to reduce dropout rates. The programs will provide high risk middle and high school students with comprehensive prevention and intervention assistance. Finally, **SB 222** creates the Educational Accountability Reform Act and provides

numerous provisions related to education accountability. Specifically, the measure:

- Creates the P-20 Data Coordinating Council until July 1, 2015, in order to assess the state’s current student data system and to make recommendations on improvements toward a unified system among all education agencies;
- Creates the Quality Assessment and Accountability Task Force for the purpose of conducting an assessment of state curricular and performance standards and reviewing the state student testing system;
- Creates the Educational Quality and Accountability Board in order to review Adequate Yearly Progress standards, testing contracts, tests, cut scores, and performance levels for tests required by the Oklahoma School Testing Program Act; and
- Modifies testing performance terminology and the method by which the State Board of Education will implement testing cut scores.

The Legislature took numerous steps to increase the protection of Oklahoma teachers. **HB 1598** creates the School Protection Act for the purpose of providing school employees the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment. The bill provides that:

- Any person 18 years of age and older who makes false accusations of criminal activity against an education employee will be guilty of a misdemeanor. If the accuser is under 18, the court has discretion to determine punishment;
- Any civil action against a school or an education employee, the court will award court costs and attorney fees to the prevailing party. Expert witness fees may be included as part of the costs;
- The existence of any policy of insurance indemnifying a school or an education employee against liability for damages is not a waiver of any defense;
- Any student in grades six through twelve who assaults or attempts to cause physical bodily injury to an education employee will be subject to out-of-school suspension for the remainder of the current semester and the next consecutive semester. The term of the suspension can be modified by the Superintendent;
- Any education employee who is injured as a result of an assault during performance of their

duties will be entitled to a leave of absence without a loss of leave benefits;

- The School Protection Act will not limit the Governmental Tort Claims Act; and
- The state or a political subdivision will not be liable if a loss or claim results from the use of necessary and reasonable force by a school district employee.

SB 394 modifies the date for school boards to notify teachers on whether or not their contract will be renewed (the first Monday in June) along with modifying teacher response deadlines (15 days after the first Monday in June). The measure also requires the State Board of Education to issue a certificate to teach to an individual who has been issued a license under the Teach for America Program, completed coursework requirements for the Teach for America Program, successfully passed the Teach for America assessment requirements, and submitted an application and payment for certification. **HB 1070** allows school districts to hire any licensed teacher on a temporary contract in a resident teacher position for two complete school years. Currently, licensed teachers can only be hired on a temporary contract by a school district for three semesters.

Alternative certification for teachers is another issue the Legislature targeted this session. **SB 582** requires the State Board of Education to award an Alternative Placement teaching certificate to any person who meets the eligibility requirements for the Troops to Teachers Program and meets the current alternative certification requirements. The measure also requires the State Board of Education to issue a one-year, nonrenewable secondary or middle level license to teach to any person who has attained certification by an alternative teacher certification organization, has on file a criminal history check, and participates in a mentoring program. **HB 1333** modifies eligibility criteria for the award of an alternative placement teaching certificate. Specifically, the measure requires a minimum 2.50 GPA for alternative placement teaching certificates and eliminates exemptions from existing alternative placement requirements.

The Legislature enacted several pieces of legislation that will directly affect students. **SB 290** allows a student who earns college credit through concurrent enrollment to receive high school academic credit for any concurrently enrolled higher education courses that are correlated with the academic credit. **HB 1826** requires school districts to adopt policies and procedures to annually notify parents/guardians of students about clubs and organizations sponsored by the school. The policy will allow parents/guardians an opportunity to

withhold permission for a student to join a club or organization. Finally, **HB 1518** allows schools to exclude students from participation in physical education or exercise programs who have been placed into an in-house suspension or detention class.

Higher Education

In higher education, the Legislature took action to address the rising costs of textbooks, teacher reading training, and student athletes. **HB 1882** clarifies what constitutes bundled textbooks by incorporating a definition for integrated textbooks and custom editions. The measure also requires publishers to provide to faculty and staff a description of the content revisions of textbooks between the current edition and the previous edition. **HB 1581** requires all higher education institutions offering programs in elementary, early childhood, or special education programs to ensure their prospective teachers are qualified to teach the five elements of reading – phoneme understanding, phonics, fluency, comprehension, and vocabulary. The bill also requires teacher candidates to pass a comprehensive assessment to measure their teaching skills in the area of reading instruction. **HB 1095** prohibits an athlete agent from any and all communication and contact with student athletes who are ineligible to be drafted, with the exception of general promotional brochures. An athlete agent is subject to a fine of \$1,000 to \$10,000 for any type of illegal contact with a student athlete.

Career Tech

The Legislature addressed several issues of importance to Career Technology. **SB 867** authorizes technology center schools to provide intervention and remediation in Algebra II, Geometry, English II, English III, and United States History to students enrolled in technology center schools. **SB 605** allows grants to be made available to technology center schools to encourage greater emergency preparedness. Finally, **SB 285** allows the Department of Career and Technology Education and technology center school districts to keep confidential business plans, feasibility studies, financing proposals, marketing plans, financial statements, and trade secrets submitted by entities seeking economic advice, business development, or customized training.

Energy and Utility Regulation

The Legislature enacted numerous measures promoting and incentivizing the use of alternative energy sources. **HB 1949** provides for a five-year extension of existing tax credits available for investments in qualified clean-burning and electric motor vehicles. The measure adds hydrogen fuel cell

vehicles to the list of qualifying vehicles, which includes compressed natural gas (CNG), liquefied natural gas (LNG), and liquefied petroleum gas (LPG) vehicles. A 50 percent tax credit is available for originally equipped and converted qualified vehicles. In addition, the measure provides for a 75 percent tax credit for costs associated with entities investing in qualified clean-burning fueling infrastructure and a tax credit of up to \$2,500 for individuals investing in equipment related to the delivery of natural gas from a private residence into the fuel tank of a CNG vehicle. **HB 1952** allows the Department of Central Services (DCS) to provide alternative fueling infrastructure for use by state agencies. In a further attempt to increase access to alternative fuels, the measure provides that DCS may offer public access to alternative fueling infrastructure in areas of the state where access to such infrastructure is not readily available. The measure also repeals the current statutory requirement that each CNG conversion kit installed in any motor vehicle in the state of Oklahoma meet the exhaust emissions standards of the California Air Resources Board in an attempt to make CNG conversions less cost-prohibitive.

In an effort to strengthen Oklahoma's position as a leader in wind energy, the Legislature enacted **HB 1953**. The measure enables companies that support, repair, and maintain service activities for wind industry energy companies to be eligible for the state's Quality Jobs Act. In addition, **SB 827** authorizes the Corporation Commission to employ one person to act as an electric transmission system advisor to the commission. The advisor is directed to participate in meetings of the Southwest Power Pool to advocate on behalf of the state on all issues relating to electric power transmission, which is critical to the continued development of the wind power industry in Oklahoma.

The Legislature again showed strong support for the oil and gas industry in Oklahoma. With the passage of **SB 313**, the Legislature extended a rebate incentive program which continues to keep Oklahoma a leader in the oil and gas industry and competitive with incentive programs in other energy producing states. The measure extends the sunset dates for certain existing gross production tax rebates and exemptions. The following rebates are extended from 2009 to 2012:

- Tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2012;
- New secondary recovery projects on or after July 1, 1993, and before July 1, 2012;
- The production of oil, gas, or oil and gas from a horizontally drilled well producing prior to July

1, 2012, which production commenced after July 1, 2002;

- Work to reestablish or enhance production started on or after July 1, 1994, and for which production is reestablished prior to July 1, 2012;
- Wells spudded between July 1, 2005, and July 1, 2012, and drilled to a depth between 12,500 feet and 14,999 feet;
- The production of oil, gas, or oil and gas from wells spudded or reentered between July 1, 1995, and July 1, 2012, which qualify as a new discovery; and
- The production of oil, gas, or oil and gas from any well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2012, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology.

Several other measures were enacted that focus on energy independence and environmental concerns. **SB 679** extends the duration of the Oklahoma Geologic Storage of Carbon Dioxide Task Force, which is directed to study any issues necessary to implement the transmission and storage of carbon dioxide in geologic formations and to issue a report containing legislative recommendations following the termination of its activities. In addition, **SB 953** creates the Oklahoma Clean Energy Independence Commission to explore ways to utilize the state's resources to make a significant contribution to the nation's efforts to achieve a goal of clean energy independence within the next five years. And finally, **SB 446** amends the Oklahoma Brownfields Voluntary Redevelopment Act by adding the requirements that the Department of Environmental Quality approve site-specific work plans for site characterization, evaluate engineering and institutional controls for function and performance, and provide audits of completed projects.

General Government

The Legislature addressed several issues of importance to counties and municipalities this session. **HB 1420** allows municipalities with populations of less than 5,000 persons to employ city planners on a part-time basis. **HB 1753** provides that city managers must reside within the boundaries of the city, the school district or districts that overlap the city boundaries, or within ten miles of the city or school district during the tenure in which he or she holds the office of city manager. In addition, **HB 1473** exempts parcels of land ten acres in size or larger, which are currently used for

agricultural purposes, from ordinances restricting land use and building construction when those areas are annexed into the incorporated limits of a municipality. Finally, **SB 668** creates the Oklahoma Energy Independence Act as part of a continued effort to promote the use of alternative energy. The measure authorizes a board of county commissioners to establish a County Energy District Authority, which is authorized to make loans or grants to residential and commercial property owners for energy efficient improvements and the installation of renewable energy systems.

The Legislature also enacted a number of measures relating to general governance. **HB 1330** creates the Ten Commandments Monument Display Act, which authorizes the State Capitol Preservation Commission or designee to erect a monument of the Ten Commandments on the State Capitol grounds. The monument is to be designed and constructed by private entities at no expense to the state. In addition, **HB 1608** authorizes public safety professionals to work in excess of eight hours per day when such hours are assigned as part of an alternative work schedule. The measure defines public safety professionals as sheriffs, deputy sheriffs, correctional officers, and persons in the emergency medical service profession.

Government Modernization and Agency Oversight

A number of bills passed by the Legislature relate to government reform, efficiency, and agency oversight. **HB 1170** creates a plan to streamline the management of the state’s information technology by creating a state Chief Information Officer (CIO). This cabinet-level position will direct the Information Services Division of the Office of State Finance. The CIO will be charged with providing an accurate assessment of the state’s strengths and deficiencies as it relates to information technology systems and cyber-security. The CIO is authorized to approve all statewide contracts for software, hardware, information technology consulting services, and communication and telecommunications. The measure also requires that a net savings be realized for the state within two years of the CIO’s appointment, with the expectation that the state will spend at least 15 percent less on information technology and telecommunications after implementation of the statewide plan.

HB 1032 creates the Oklahoma State Government Modernization Act of 2009. Under provisions of the bill, all purchases made with state purchasing cards, or P-cards, will have to be reported to the Office of State

Finance, which will then post those transaction details online. The legislation also amends the state Central Purchasing Act to allow Department of Central Services (DCS) personnel to make better use of state spending patterns to negotiate the best possible terms and prices for the state. The bill also seeks to make government more accessible by requiring state entities to provide the public with the option of renewing or applying for various permits and licenses online. Finally, **SB 670** addresses numerous issues related to state entities and employees. First, the legislation requires that any employee contributions to the Oklahoma Public Employees Association or any other statewide association can only be made when the minimum dues-paying membership is 2,000 as opposed to the previous requirement of 1,000 dues-paying members. The bill also provides more flexibility concerning the state leave sharing program. Finally, the bill creates the Executive Development Program for cabinet secretaries, agency directors, and senior-level executives within Oklahoma state agencies for the purpose of enhancing leadership skills.

Nine entities and functions of Oklahoma government were scheduled to terminate on July 1, 2009, under the sunset provisions of the Oklahoma statutes. The Legislature re-created eight of the nine entities for another four years and one entity for a one-year period. The following table summarizes the sunset review process this session by providing the bill number, the entity, and their new sunset date.

Sunset Review, 2009 Legislative Session		
Bill #	Sunset Entity	Sunset Date
HB 1012	Partnership for School Readiness Board	July 1, 2013
HB 1013	State Board of Cosmetology	July 1, 2013
HB 1014	State Board of Medical Licensure	July 1, 2013
HB 1015	State Board of Examiners of Psychologists	July 1, 2013
HB 1016	Oklahoma Real Estate Commission	July 1, 2013
HB 1017	Scenic Rivers Commission	July 1, 2013
HB 1018	State Barber Advisory Board	July 1, 2013
HB 1022	Domestic Violence and Sexual Assault Advisory Council	July 1, 2013
HB 1019	Group Homes for Persons with Developmental or Physical Disabilities Advisory Board	July 1, 2010

Health and Human Services

The Legislature took action on several fronts in the health and human services arena by reforming the child welfare system, addressing a variety of issues related to the care of children with autism, strengthening adoption laws, and giving senior citizens greater choices in the type of care available to them.

Children

In response to a performance audit of the Department of Human Services initiated by the House of Representatives last year, the Legislature enacted **HB 1734**. The measure implements 18 of the 25 recommendations resulting from the audit with the intent primarily to improve outcomes for children and families who have contact with the child welfare system. Significant provisions of the measure include:

- Requiring the Oklahoma Commission on Children and Youth to establish a system of certification for the children’s shelters operated by DHS;
- Establishing imminent safety threat as the threshold for removing a child from his or her home due to abuse or neglect;
- Directing DHS by January 1, 2010, in cooperation with law enforcement and the district courts, to develop and implement a system of joint response that will allow the department to perform a safety evaluation when a child is taken into protective custody by law enforcement;
- Authorizing the department to recommend court-supervised and department-monitored in-home placement of a child when a significant risk of abuse or neglect exists, but there is not an imminent safety threat to the child;
- Requiring DHS to establish a Passport Program for children in foster care that includes readily accessible information about the child’s physical and behavioral health and educational history;
- Placing an emphasis on the use of kinship and emergency foster care while reducing the number of children placed in shelters; and
- Directing the department to establish a statewide centralized hotline for the reporting of child abuse and neglect.

How best to serve children with autism was an over-arching concern brought to the attention of the Legislature last year, and to address the issue, the House conducted an extensive interim study. **SB 135** was a result of the findings of the study. The measure will enhance the pool of service providers that treat children

with autism by establishing a state license for Board Certified Behavior Analysts, increasing training for the evaluation and diagnosis of autism spectrum disorders, enhancing Sooner Start by training providers, conducting an applied behavior analysis research project, and replicating the Early Foundations program.

Another measure, **HB 2028**, was the product of more than two years of study by the Children and Juvenile Law Reform Committee. The committee was charged with reviewing the Children’s Code and organizing and clarifying its content. Some provisions include:

- Allowing a parent who is arrested on a charge other than child abuse or neglect to designate another person to take custody of the child, rather than the child being placed in a shelter or foster placement;
- Requiring the court to conduct a hearing after it receives notice that DHS has terminated a trial reunification of a child and parent to determine if the child remaining in the home is contrary to the child’s welfare and whether reasonable efforts were made to prevent the termination;
- Authorizing the court to issue a restraining order against an alleged perpetrator of the abuse from having contact with the child and requiring the alleged perpetrator to move from the household in which the child resides; and
- Prohibiting social records from being filed in the court record unless ordered by the court and restricting access to social records if they are filed in the court record.

Two measures take steps to strengthen the adoption process. To prevent “venue shopping,” **HB 2174** requires adoption proceedings be brought in the district court where the petitioners or the child to be adopted lives or in Tulsa County or Oklahoma County. The bill authorizes the court to appoint an attorney for the child to examine all expenses and attorney fees presented to the court for approval and requires a Disclosure Statement of Adoption-Related Costs and Expenditures be prepared and filed before the final decree of adoption is ordered. The bill amends the definition of the crime of child trafficking to include the receipt of money or other thing of value by a child-placing agency or attorney without immediately disclosing the receipt and adds to the definition the solicitation or receipt of money or other thing of value by a birth parent, attorney, or child-placing agency from more than one prospective adoptive family or representing at the same time to more than one prospective adoptive family that a child is available for adoption. A related measure, **SB 1029**, requires that an adoption full disclosure statement be

prepared by the attorneys for the petitioner and birth parents in a direct placement adoption of a minor and requires that the statement be attached to the petition for adoption filed with the court. Finally, the measure deletes the authority of the court to waive the requirement of a pre-placement home study in a proceeding for adoption and provides that a home study is not required if a minor has been living with a birth parent's spouse for at least one year as of the date the petition for adoption is filed.

Abortion

HB 1595 prohibits a person from performing an abortion on a woman who is seeking the abortion solely because of the sex of the child and creates the Statistical Reporting of Abortions Act which requires physicians who perform abortions to report certain information to the Oklahoma State Department of Health.

Health Care Access

To make it easier for retired health care professionals to donate their services at charity and faith-based health clinics, **HB 1481** provides that retired physicians, physician assistants, nurses, and pharmacists may be issued a special volunteer license.

Elderly and Long-Term Care

In an effort to give senior citizens greater choice in the types of long-term care services that are available to them, **HB 1736** creates a category of care within the Home Care Act of "standby assistance," which means supervision of client-directed activities with verbal prompting with only infrequent, incidental hands-on intervention and establishes requirements for the training of supportive home assistants. The measure requires that each supportive home assistant complete agency-based training and demonstrate competence by testing through an independent entity approved by the State Department of Health.

HB 1065 requires the State Department of Health to create a consumer guide to assist senior citizens and their families to understand the services provided by assisted living centers and to compare and select a facility and to post results of routine inspections and complaint investigations of each assisted living center on the department's website.

Judiciary

In the area of judiciary, a number of issues were addressed this session, with comprehensive tort reform receiving the greatest amount of attention.

The Legislature was successful in enacting comprehensive tort reform. **HB 1603** contains several provisions that, among others things, seek to reduce frivolous lawsuits, attract and retain doctors in the state,

and provide business a more stable legal environment in which to operate. Significant provisions of the measure include:

- Capping noneconomic damage awards at \$400,000, while at the same time allowing some leeway to waive the cap under exceptional circumstances;
- Creating a taskforce to look into the state purchasing a reinsurance policy that would pay for any amount awarded that is greater than \$400,000 up to a maximum of \$20 million;
- Protecting food growers and manufacturers from obesity lawsuits;
- Simplifying and providing clarity to what qualifies as a frivolous lawsuit;
- Restricting "court shopping" in class action lawsuits; and
- Requiring an expert to certify that a professional negligence case has merit before it can proceed.

The bill also provides certain liability protections to teachers, gun manufacturers, emergency volunteers, and companies who have purchased other companies that have previous exposure to asbestos lawsuits.

HB 1025 prohibits employers (both public and private) and public officials from asking prospective employees whether or not they own or possess a gun. If a private employer is found to have violated this law, he or she would be guilty of a misdemeanor, punishable by a fine of up to \$1,000. Public employers or officials who violate this law would be deemed to be acting outside the scope of their employment and lose protection from immunity under the Governmental Tort Claims Act.

HB 1360 increases from a misdemeanor to a felony the crime of assaulting an EMT who is performing in the line of duty.

SB 518 authorizes the Crime Victims Compensation Board to compensate reasonable costs associated with any crime scene cleanup (as opposed to just homicide scene cleanup) up to \$2,000. This bill also adds *grandparent* to the definition of "members of the immediate family" as it relates to victim impact statements and who may submit them.

SB 1103 creates the Use of Force for the Protection of the Unborn Act. The act establishes justifications for a pregnant woman to use deadly force to protect her unborn child under the following conditions:

- When a pregnant woman reasonably believes she would be justified in using force or deadly force to protect herself against the unlawful force or unlawful deadly force she reasonably believes to be threatening her unborn child; and

- When she reasonably believes that her intervention and use of force or deadly force are immediately necessary to protect her unborn child.

This act does not apply to those acts committed by anyone other than the pregnant woman or acts where the woman would be obligated to retreat, surrender the possession of something, or to comply with a demand before using force in self-defense. It also does not apply to the defense of embryos that exist outside the woman's body.

HB 1678 spells out a detailed and expansive list of those medical professionals who are provided immunity under the Volunteer Professional Services Act. The measure provides immunity to persons participating in the Oklahoma Medical Reserve Corps who are assisting in disaster drills and community service events endorsed by a government entity. Finally, this bill also offers immunity from damages to any person who voluntarily provides goods/services or seeks to help, prevent, or minimize injury during emergencies, pandemics, catastrophic acts of nature, or terrorist attacks. The exception to this immunity is willful or wanton neglect or misconduct.

HB 1114 makes human cloning a misdemeanor.

Public Safety

The Legislature took numerous steps to increase the protection of Oklahoma citizens and enhance the capabilities of law enforcement this session. Measures to improve the DNA Offender Database and to protect senior citizens were enacted. **SB 1102** creates Juli's Law and requires persons convicted of certain misdemeanor offenses to submit DNA samples for entry into the DNA database. The DNA database is used to match DNA found at crime scenes to known criminals. The misdemeanor crimes being added are:

- Assault and battery;
- Domestic abuse;
- Stalking;
- Possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act;
- Outraging public decency;
- Resisting arrest, escape, or attempting to escape;
- Eluding a police officer;
- Peeping tom;
- Pointing a firearm;
- Unlawful carry of a firearm;
- Illegal transport of a firearm;
- Discharging of a firearm;

- Threatening an act of violence;
- Breaking and entering a dwelling place;
- Destruction of property;
- Negligent homicide; or
- Causing a personal injury accident while driving under the influence of any intoxicating substance.

Additional protections are offered to vulnerable senior citizens with the enactment of **HB 2030** which directs the Department of Public Safety to develop and implement a statewide silver alert system. The alert is to be activated on behalf of a missing senior citizen in cooperation with the Department of Transportation, the Department of Human Services, any local law enforcement agency, the Oklahoma Association of Broadcasters, and any other appropriate state or local agency.

Punishing people who drive while under suspension was the focus of **HB 2263**. The bill creates the Gaje Jeffrey Florence Act and requires the Department of Public Safety to extend the period of suspension, revocation, or denial of driving privilege for an additional 12 months for any person who is convicted of operating a motor vehicle while under suspension, revocation, or denial of driving privileges. The measure establishes a misdemeanor crime of driving while canceled, denied, suspended, or revoked if the person is involved in a personal injury accident. Punishment is up to one year in the county jail and a fine of not more than \$2,000. If the person is driving while under suspension and is involved in an accident involving great bodily injury, the crime is a felony subject to imprisonment for not more than five years and a fine of not more than \$3,000. If the accident results in a death, the crime is a felony punishable by not more than five years imprisonment and a fine of not more than \$5,000.

Several measures were enacted this session dealing with the issuance of driver licenses. Responding to concerns over identity theft and the importance of driver licenses and state issued identification cards in a citizen's everyday life, **HB 1092** allows an expired Oklahoma driver license to be considered a valid form of identification for the purpose of renewing an Oklahoma driver license if the license is not more than 30 days past the date of expiration.

In an effort to eliminate waste and improve efficiency, **HB 2252** removes the requirement that the Department of Public Safety provide an alternative method of testing an applicant for a driver license in a language other than English. The measure also strengthens DUI penalties by increasing the punishment for a second conviction for a felony DUI offense from

five years imprisonment to not more than ten years imprisonment. Punishment for third and subsequent felony DUI offenses is increased from ten years imprisonment to not more than twenty years imprisonment. Additionally, the measure delays until July 1, 2012, the requirement that persons appointed to the Highway Patrol Division have a bachelor's or associate's degree or a minimum of 62 completed semester hours of college coursework.

A related driver license measure, **HB 1599**, increases the amount of behind-the-wheel training required to obtain an intermediate Class D license when the applicant is parent-taught from 40 hours to 50 hours. The bill also prohibits intermediate Class D license holders from driving after 10:00 p.m.

HB 1707 adds a fine of \$5,000 for first offense Schedule I or II drug possession and a \$10,000 fine for second or subsequent Schedule I or II drug possession convictions. The bill also adds a \$1,000 fine for Schedule III, IV, or V drug possession and a \$5,000 fine for second or subsequent Schedule III, IV, or V possession convictions. Persons who are convicted a second time of possessing or purchasing a controlled dangerous substance within 1,000 feet of a school, park, or in the presence of a child under the age of 12 are subject to a fine of up to \$10,000. Lastly, the bill establishes that an expunged conviction for a violation of the Uniform Controlled Dangerous Substances Act can still be used as a prior conviction for enhancement purposes if not more than ten years following the completion of court imposed probationary term has passed and the person has not been convicted of a misdemeanor involving moral turpitude or other felony in that ten-year time period.

Numerous changes were made to enhance the protections afforded to Oklahoma citizens by the Sex Offender Registration Act. **HB 1509** creates a new misdemeanor crime for harboring, concealing, or providing false information to law enforcement regarding a sex offender who is in violation of the registration act. The bill adds crimes related to possession or procurement of child pornography, solicitation of a child through technology, and child endangerment that involves sex abuse to the list of offenses requiring registration and requires persons convicted in United States territories or foreign countries to register. In other provisions, the bill:

- Provides that a person who has received a criminal history records expungement for a conviction of an offense in another state does not have to register;

- Changes the name of the risk assessment review committee to the sex offender level assignment committee. Requires the committee to determine the appropriate level of an offender based on federal law. Prohibits the committee, Department of Corrections, or a court from overriding and reducing a level assigned to an offender;
- Requires offenders to notify the Department of Corrections and local law enforcement within three business days of changing or terminating employment or changing enrollment status as a student. Requires offender to appear in person to give notice of change of employment or enrollment;
- Establishes a procedure for the registration of transients. Requires transients to report in person to the nearest local law enforcement authority every seven days, giving an approximate location of where the person is staying;
- Gives local governing bodies more control over the zoning of treatment or nonprofit facilities. Prohibits operation of boarding house or group home unless treatment services are provided; and
- Creates a "Romeo and Juliet" provision. Provides that a person can petition the court and be considered for removal from registration if the person was not more than four years older than the victim of the violation who was 14 years of age or older but not more than 17 years of age at the time the person committed the violation.

Improved efficiency for the Department of Corrections was also the purpose of **HB 2245** which creates the Oklahoma Criminal Illegal Alien Rapid Repatriation Act of 2009. The bill allows the Department of Corrections to release to the United States Immigration and Customs Enforcement a prisoner who is on a detainer for deportation if the prisoner has served at least one-third of the incarceration imposed. The measure provides that if the prisoner returns illegally to the United States, the prisoner will be required to serve out the remainder of the sentence and will be ineligible for any parole. Another provision of the bill allows the Board of Corrections to renew any private prison contract if the contract will result in a reduced per diem rate. If a reduced per diem is determined by the Board of Corrections, the contract is not subject to the Consumer Price Index for All Urban Consumers requirements. The board is to negotiate based upon

terms deemed to be in the best interest of operational efficiency. The measure clarifies the types of prisoners private facilities may hold in Oklahoma and prohibits private prisons located in Oklahoma from housing detainees designated as enemy combatants by the federal government or persons who are under federal, state, or local investigation or convicted of crimes of international terrorism or conspiracy to commit international terrorism or acts of hostile aggression against the United States or allies. Prior to contracting with the federal government or another state to hold prisoners, the private facility must grant the Oklahoma Department of Corrections the first right to contract for the beds in the private facility. Lastly, the bill requires a private prison contractor to obtain authorization from the Department of Corrections prior to housing maximum security inmates from another state and establishes the procedure and timeline for obtaining authorization.

Revenue and Taxation

Due to the economic downturn at both the state and national level, the Legislature primarily focused on administrative and cost neutral reforms of existing Oklahoma tax provisions. **HB 1048** allows counties to reduce costs and redundant work in the process of dealing with delinquency and lien notices for those who owe county taxes. The measure removes the requirement that notices of sale must be sent by certified mail to a delinquent taxpayer. **HB 1480** provides greater flexibility to local governments when levying lodging taxes by clarifying that proceeds from the taxes can be used for advertising or invested for future use. The measure applies to taxes collected beginning July 1, 2009. **HB 1489** continues the Legislature's efforts to annually provide funding for one-time capital improvements for the Oklahoma Conservation Commission, the Oklahoma Department of Tourism, and the Oklahoma Water Resources Board. The measure continues the gross production tax apportionments for these agencies until the fiscal year ending June 30, 2014. **SB 11** shortens the period of time that refunds must be provided to taxpayers. This will allow for taxpayer refund balances to accrue interest to the taxpayer beginning 20 days after filing electronic returns and 90 days for all other returns. The measure applies to all returns for tax years beginning after January 1, 2010.

In other tax reform efforts, the Legislature passed a comprehensive tax measure, **SB 318**. A major provision in the measure is the requirement that the Oklahoma Tax Commission will now prepare and maintain on the Internet a list of all persons who owe delinquent taxes. The reported amounts include delinquent taxes, interest,

penalties, fees, and costs over \$25,000 which are unpaid for more than 90 days after the completion of an appeals process and filing of a tax warrant. Continuing efforts to collect from delinquent taxpayers, the measure also authorizes the Tax Commission to increase commissions paid to collection agencies from 20 percent to 35 percent of delinquent amounts in order to collect the past due taxes.

In an effort to continue to promote economic development through the Quality Jobs Act, the Legislature will allow qualifying entities to use two incentives beginning January 1, 2010. **SB 909** allows companies that receive Quality Jobs payments that create new direct jobs and bring a positive benefit rate to the state to claim the existing tax credit for purchases of qualifying depreciable property. The property must be purchased after January 1, 2010, and cost at least \$40 million. The Legislature also built on the success of the Quality Jobs Act by creating a new, separate program entitled the 21st Century Quality Jobs Act in **SB 938**. Provisions of the act include additional requirements to qualify for incentives, including that certain jobs exceed 300 percent of the county or state average wage. The act also provides a higher incentive payment based on certain formulas.

Rules

The House considered a number of reforms affecting the election process, elected officials, judges, and other state agencies. To prevent voter fraud in Oklahoma, **SB 692** sends a State Question to a vote of the people to require individuals voting in person to provide proof of identity, which includes government issued photo identification or a voter identification card. Voters will also be able to consider limiting the number of terms statewide elected officials can serve pursuant to a State Question under **SJR 12**. Statewide officials would be limited to two terms, or eight years, with the exception of the Corporation Commissioners whose two terms would equal twelve years. **SJR 27** asks the people to consider a constitutional amendment to increase the membership of the Judicial Nominating Commission to allow one appointment each by the Speaker of the House and the President Pro Tempore of the Senate. The Judicial Nominating Commission nominates individuals to serve as judge or justice, in the case of a vacancy.

A constitutional amendment requiring Senate confirmation of the Governor's appointments to the Workers' Compensation Court will be sent to the people under **HJR 1041**. With the passage of **HJR 1042**, another State Question will ask the people to establish English as the common and unifying language of the

state of Oklahoma, requiring all official actions of the state to be conducted in English, unless otherwise required by federal law.

HB 1661 creates an income tax refund check-off for the Oklahoma Chapter of the Y.M.C.A. Youth and Government program to provide grants to the program to educate youth about government and the legislative process. The bill also includes a tax reform to require all tax check-off programs to expire after four years, unless reauthorized by the Legislature.

Tourism

In the area of tourism, the Legislature continued efforts to encourage local governments to be responsible for local landmarks. **HB 1077** and **SB 256** transfer all operational duties and applicable provisions for the Tulsa Race Riot Memorial of Reconciliation from the Oklahoma Historical Society to the City of Tulsa.

Veterans and Military Affairs

The Legislature continued its effort to show its support and respect for the military and veterans. In

order to honor the life and ultimate sacrifice of fallen soldiers from Oklahoma, **SB 712** requires flags to be flown at half-staff on days when a memorial service is held for Oklahoma service persons that have been killed in combat. **SB 1134** allows military personnel to be exempt from service as a juror, if the person is a member of the Armed Forces of the United States who is serving on active duty during a time of war or declared hostilities. Finally, **HCR 1014** encourages employers to allow veterans a day off with pay on Veterans Day.

Wildlife

The Legislature continued to support measures to help improve wildlife issues in Oklahoma. **HB 1464** authorizes the Department of Wildlife to issue licenses for the hunting of black bear. **HB 1761** directs the Department of Wildlife to allow persons with a disability to have the opportunity to hunt with a conventional longbow with a device that permits the bow to be held mechanically at full or partial draw.

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