

Budget and Revenue Team Presentation

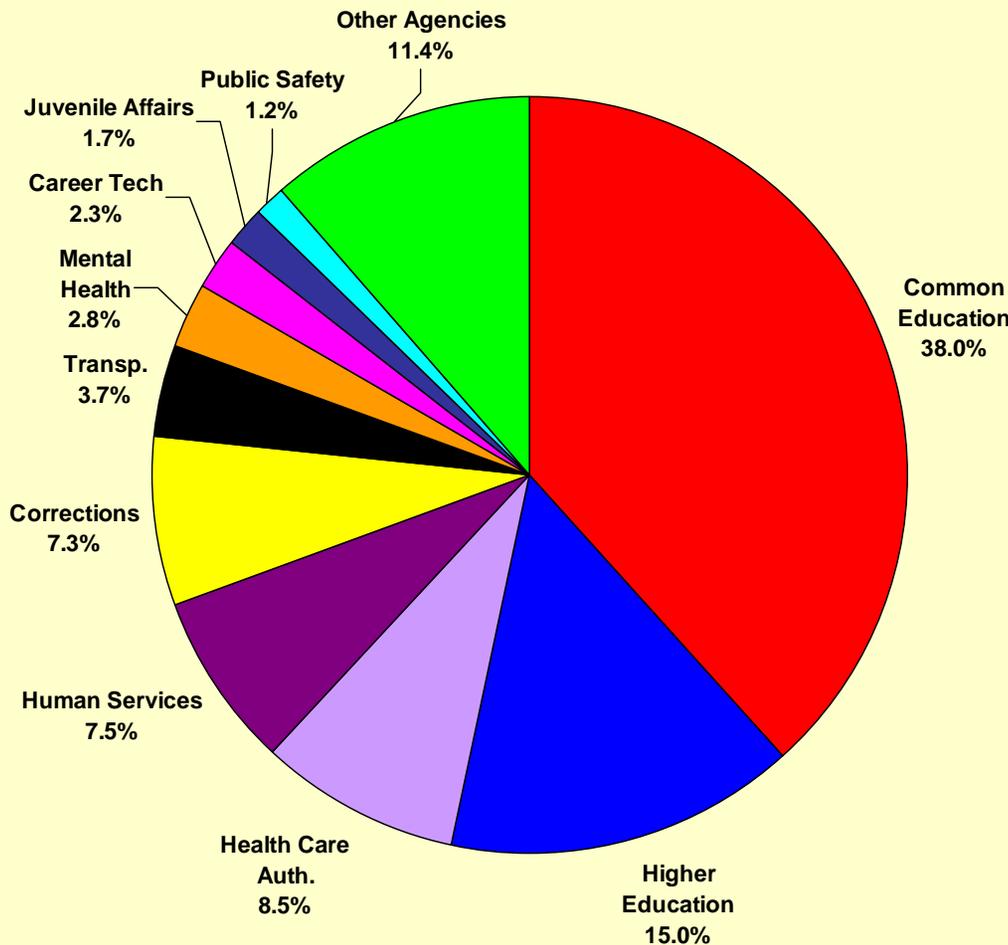
September 23, 2003

Team members: Caroline Dennis, Randy Dowell, Ron Henderson, Laurie Houser, Selden Jones, Ron Meister, Amanda Paliotta, Liz Park, Brian Phillips, Brenda Price, Cheryl Purvis, Joanie Raff, Robert Thompson

Budget and Revenue Team Presentation

- **FY'04 Budget Review (Amanda Paliotta, Randy Dowell, Brian Phillips)**
- **Zero-based Budgeting (Amanda Paliotta)**
- **Quality Jobs Program and Tax Preferences (Caroline Dennis, Joanie Raff)**
- **Recent Court Action on 2000 Bond Package (Selden Jones, Robert Thompson)**
- **Bond Financing For Native American Cultural Center and Oklahoma History Center (Robert Thompson, Selden Jones)**
- **Capital Needs of State Owned Tourism Property (Ron Meister)**
- **Deferred Deposit Lending Act (Caroline Dennis, Cheryl Purvis)**

FY'04 Distribution of Appropriations

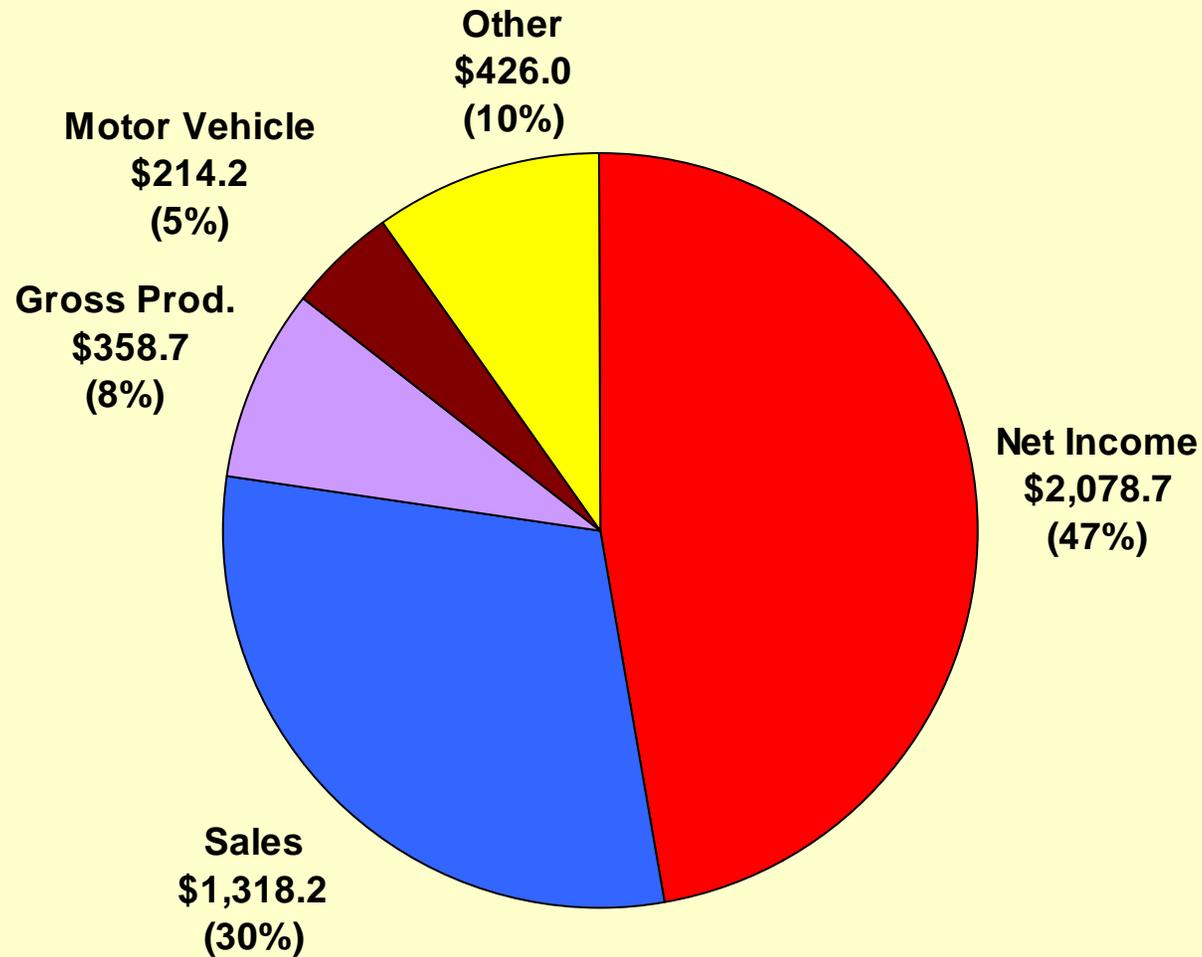


| | FY'04 Appropriation |
|----------------------------------|------------------------|
| Common Education | \$1,950,875,385 |
| Higher Education | \$767,880,401 |
| Health Care Authority (Medicaid) | \$439,000,000 |
| Human Services | \$387,455,619 |
| Corrections | \$373,931,566 |
| Transportation | \$192,185,387 |
| Mental Health | \$145,018,006 |
| Career and Tech. | \$117,822,607 |
| Juvenile Affairs | \$90,000,000 |
| Public Safety | <u>\$62,429,532</u> |
| Subtotal (88.5% Total) | \$4,526,598,503 |
| Other Agencies (11.5% of Total) | <u>\$586,190,896</u> |
| Total Appropriations | \$5,112,789,399 |

FY'04 Appropriation Comparison

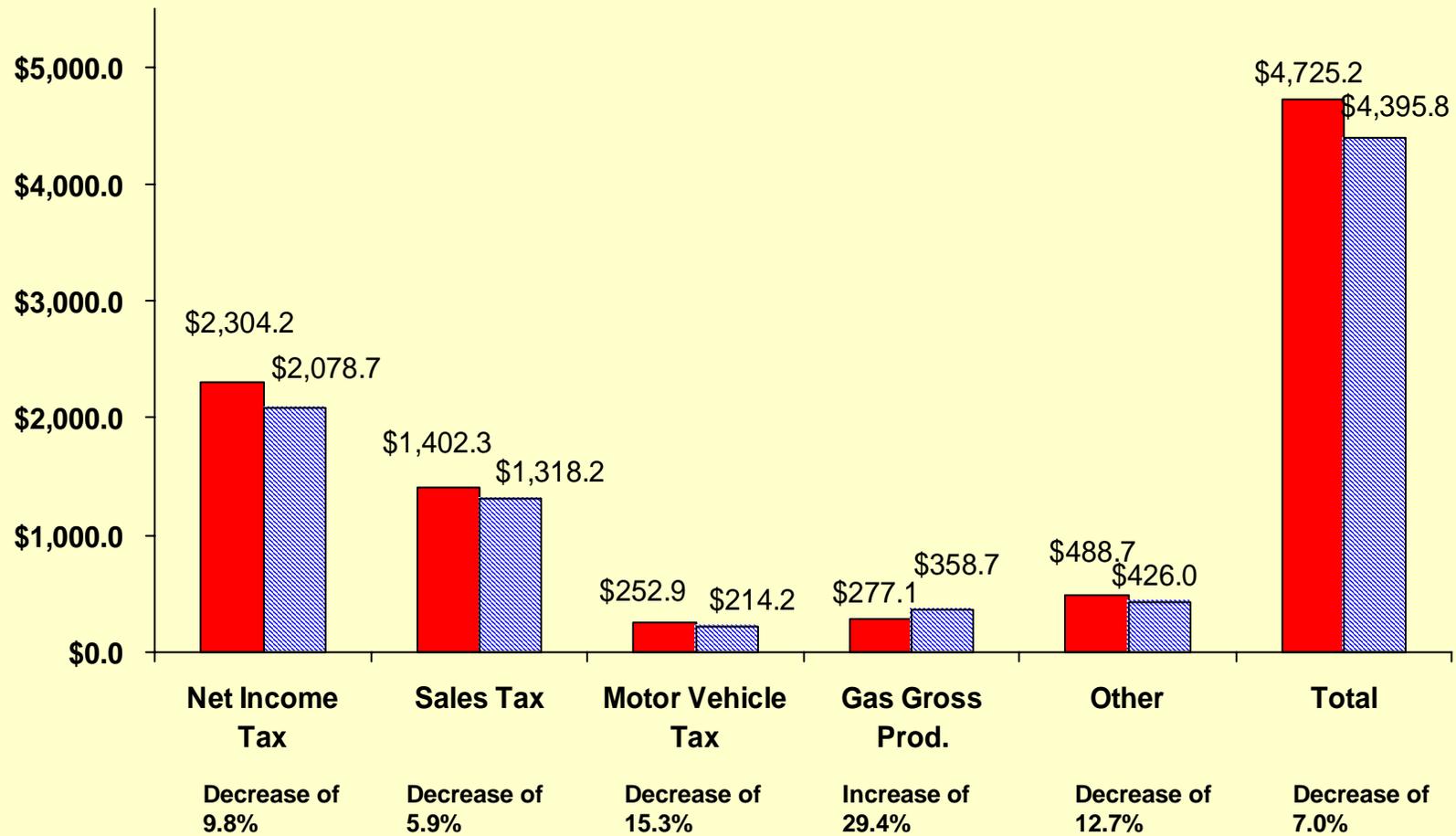
| | FY'03 Original <u>Appropriation</u> | FY'03 Revised <u>Appropriation</u> | FY'04 <u>Appropriation</u> | \$ Change from <u>Orig. FY'03</u> | % from <u>Orig. FY'03</u> | \$ Change from <u>Rev. FY'03</u> | % from <u>Rev. FY'03</u> |
|----------------------------------|--|---------------------------------------|-------------------------------|---|---------------------------------|--|--------------------------------|
| Common Education | \$2,040,028,941 | \$1,871,498,539 | \$1,950,875,385 | (\$89,153,556) | -4.4% | \$79,376,846 | 4.2% |
| Higher Education | \$851,255,610 | \$791,495,572 | \$767,880,401 | (\$83,375,209) | -9.8% | (\$23,615,171) | -3.0% |
| Health Care Authority (Medicaid) | \$442,597,083 | \$420,759,746 | \$439,000,000 | (\$3,597,083) | -0.8% | \$18,240,254 | 4.3% |
| Human Services | \$410,923,039 | \$384,091,616 | \$387,455,619 | (\$23,467,420) | -5.7% | \$3,364,003 | 0.9% |
| Corrections | \$402,628,555 | \$380,791,513 | \$373,931,566 | (\$28,696,989) | -7.1% | (\$6,859,947) | -1.8% |
| Transportation | \$247,008,202 | \$244,399,782 | \$192,185,387 | (\$54,822,815) | -22.2% | (\$52,214,395) | -21.4% |
| Mental Health | \$150,924,452 | \$139,167,043 | \$145,018,006 | (\$5,906,446) | -3.9% | \$5,850,963 | 4.2% |
| Career and Tech. | \$131,196,667 | \$120,897,729 | \$117,822,607 | (\$13,374,060) | -10.2% | (\$3,075,122) | -2.5% |
| Juvenile Affairs | \$102,368,526 | \$94,432,599 | \$90,000,000 | (\$12,368,526) | -12.1% | (\$4,432,599) | -4.7% |
| Public Safety | <u>\$69,594,193</u> | <u>\$64,136,349</u> | <u>\$62,429,532</u> | <u>(\$7,164,661)</u> | <u>-10.3%</u> | <u>(\$1,706,817)</u> | <u>-2.7%</u> |
| Subtotal | \$4,848,525,268 | \$4,511,670,488 | \$4,526,598,503 | (\$321,926,765) | -6.6% | \$14,928,015 | 0.3% |
| Other Agencies | <u>\$666,291,663</u> | <u>\$628,224,368</u> | <u>\$586,190,896</u> | <u>(\$80,100,767)</u> | <u>-12.0%</u> | <u>(\$42,033,472)</u> | <u>-6.7%</u> |
| Total Appropriations | \$5,514,816,931 | \$5,139,894,856 | \$5,112,789,399 | (\$402,027,532) | -7.3% | (\$27,105,457) | -0.5% |

FY'04 Certification of General Fund Revenue

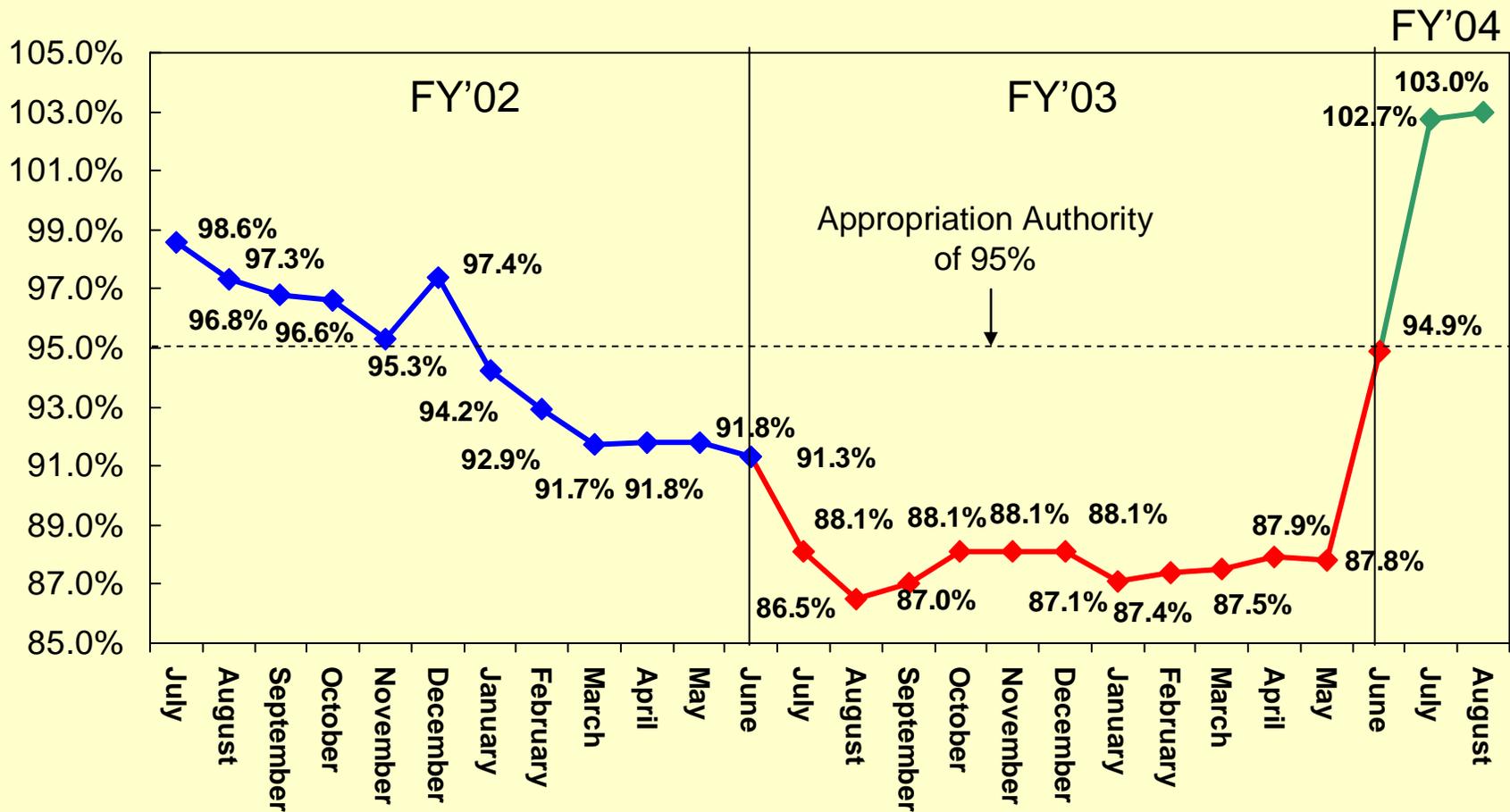


Total FY'04 General Fund Estimate = \$4,395.8 million

General Revenue Comparisons FY'03-04



Revenue Collections as % of Estimate



FY'04 Revenue Collections

- **For the first time in 18 months revenue collections are above the budgeted estimates. However.....**
 - **Only into the first two months of the fiscal year;**
 - **The base of the FY'04 general fund estimate is 7% below the prior year estimate;**
 - **Revenue increases are only from two sources:**
 - **Natural Gas Gross Production 41.2% above the estimate**
 - **Sales Tax 1.2% above the estimate**
 - **Net Income Tax 1.8% below the estimate**
 - **Motor Vehicle 1.9% below the estimate**

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Budget Reform Measures (Zero-based Budgeting)

- **Legislative Oversight Committee on State Budget and Performance**
 - Overview of HB 1256
 - Committee meeting schedule
 - Agency 4-year schedule
- **Different Budget Processes**

Overview of HB 1256

- **SECTION 1 – Amends Title 62, Section 41.209 as follows:**
 - **Directs information reported by agencies to the Director of State Finance and the Chair and Vice Chair of the Legislative Oversight Committee on State Budget and Performance to include the following information:**
 - **Budget analysis of existing and proposed programs utilizing zero-based budgeting techniques;**
 - **Listing of similar local, state or federal agencies which administer similar/cooperating programs;**
 - **Statutory authority for missions and quantified objectives for each program;**
 - **Groups of people served by each program;**
 - **Quantification of each program;**
 - **Description of the tactics to accomplish each objective;**
 - **List of quantifiable outcomes;**
 - **Ranking of programs by priority;**
 - **Actual program expenditures and required number of personnel;**
 - **Generated revenues by each program, if any.**

Overview of HB 1256 cont.

- **SECTION 2 – NEW LAW, Title 62, Section 41.29-1**
 - **Directs the Appropriation and Budget Committee of the House of Representatives and the State Senate to:**
 - **Utilize information collected by OSF and the Performance Budget Committee to evaluate programs, fiscal needs of state agencies;**
 - **File an evaluation report no later than March 1 of each fiscal year with the following information:**
 - **Review of agency programs**
 - **Whether the agency has demonstrated a public need for their services and justification of agency's continued existence**
 - **Whether agency is the proper provider of their programs**
 - **Directs the Appropriation and Budget Committee of the House of Representatives and the State Senate to utilize the evaluation report in determining future adjustments in funding levels.**
 - **States that no action on an appropriation measure for a state agency may be taken unless the evaluation report has been filed.**

Overview of HB 1256 cont.

- **SECTION 3 – Amends Title 62, Section 41.47 as follows:**
 - Establishes the Legislative Oversight Committee on State Budget and Performance with the purpose of implementing a system of program performance-based budgeting for implementation by state agencies;
 - The Committee’s duties include:
 - Development of agency budget request forms and instructions in conjunction with state agencies;
 - Directing studies to aid in the development of legislative and procedural changes to further improve the budgetary processes and systems of the state;
 - Ongoing evaluation review procedure of existing programs based on zero-based budgeting techniques;
 - Established a schedule to review each agency a minimum of once every four years;
 - Issue an evaluation report to include:
 - Review of agency programs;
 - Whether the agency has demonstrated that there is a need for the services and programs which justify the existence of the agency;
 - Whether the agency is the most appropriate provider of their services.

Overview of HB 1256 cont.

- **SECTION 3 continued:**
 - **The composition of the Committee shall be:**
 - 3 members of majority party of the Senate
 - 2 members of the minority party of the Senate
 - 3 members of the majority party of the House
 - 2 members of the minority party of the House
 - **The Chair and Vice Chair rotate every two years with a Senate member serving as Chair in 2003.**
 - **The Committee shall meet at least four times per year and shall periodically meet in different geographical regions of the state.**



Overview of HB 1256 cont.

- **SECTION 4 – Amends Title 62, Section 45.1 for internal clean-up language.**
- **SECTION 5 – Amends Title 62, Section 45.3 for internal clean-up language.**
- **SECTION 6 – Effective date of July 1, 2003.**
- **SECTION 7 – Emergency Declaration.**



Committee Schedule

- **Scheduled meetings through October:**
 - **Every Monday at 9:30 and after lunch**
 - **1 to 2 agencies per meeting depending on size of agency**
 - **Small agencies at first couple of meetings**
 - **Military Department; OETA**
 - **Dept. of Mines; ABLE Commission**

Four-Year Schedule

Year 1 (2003-04)

1. Centennial Commission
2. Military, Department of
3. Alcoholic Beverage Laws Enforcement
4. Agriculture, Department of
5. Indigent Defense System
6. Attorney General
7. Arts Council
8. Finance, Office of State
9. Mines, Department of
10. Children and Youth, Commission on
11. Corrections, Department of
12. Commerce, Department of
13. Corporation Commission
14. Court of Criminal Appeals
15. J.M. Davis Memorial Commission
16. Health Care Authority
17. District Attorneys and DAC
18. Education, State Board of
19. Educational Television Authority
20. Teacher Preparation Commission

Year 2 (2004-05)

21. Election Board
22. Environmental Quality, Department of
23. Ethics Commission
24. Merit Protection Commission
25. Auditor and Inspector
26. Governor
27. Pardon and Parole Board
28. Investigation, State Bureau of
29. Civil Emergency Management
30. Fire Marshal
31. Handicapped Concerns, Office of
32. Health, Department of
33. Medicolegal Investigations, Board of
34. Transportation, Department of
35. Space Industry Development Authority
36. Historical Society
37. Horse Racing Commission
38. Human Rights Commission
39. Indian Affairs, Commission of
40. Native American Cultural Center

Four-Year Schedule cont.

Year 3 (2005-06)

41. Workers' Compensation Court
42. Insurance Commissioner
43. Juvenile Affairs, Office of
44. Labor, Department of
45. Land Office, Commissioners of
46. Law Enforcement Education and Training
47. Senate
48. House of Representatives
49. Legislative Service Bureau
50. Libraries, Department of
51. Lt. Governor
52. Mental Health & Substance Abuse Services
53. Narcotics and Dangerous Drugs, Bureau of
54. Personnel Management
55. Private Vocational Schools, Board of
56. Tourism and Recreation, Department of
57. Scenic Rivers Commission
58. Central Services, Department of
59. Public Safety, Department of

Year 4 (2006-07)

60. Higher Education, Regents for
61. Physician Manpower Training Commission
62. Secretary of State
63. Science and Technology, Center for
64. Science and Math, School of
65. Securities Commission
66. Consumer Credit, Department of
67. Conservation Commission
68. Veterans Affairs, Department of
69. J.D. McCarty Center
70. Supreme Court
71. Judicial Complaints, Council on
72. Tax Commission
73. Treasurer
74. Career and Technology Education
75. Rehabilitation Services, Department of
16. University Hospital Authority
77. Human Services, Department of
78. Water Resources Board
79. District Courts
80. Will Rogers Memorial Commission



Different Budget Processes

- Line-item Budgeting
- Incremental Budgeting
- Program Budgeting
- Performance Budgeting
- Zero-Based Budgeting



Line Item Budgeting

- **Earliest attempts at institutionalizing a budget process.**
- **Line-items are “lines” in an appropriation bill which simply show how much money can be spent for certain items.**
- **Defines expenditures and sets limits.**
- **Does not address issue of performance, quality or accountability.**



Incremental Budgeting

- **Attention to additions or deletions to the existing structure.**
- **Focuses on year to year inflationary changes.**
- **Budget decisions on what money can buy (inputs).**
- **Tends to neglect quality of service (outputs).**



Program Budgeting

- **Groups expenditures and sources of funds into functional categories.**
- **Function categories are divisible into activities.**
- **Focus on what an agency does and why do they need money to do it.**
- **Agency's create goals workload measures to answer the what and the why's.**



Performance Budgeting

- **Natural progression from program budgeting.**
- **Emphasizes the outcome of programs and attempts to measure the performance.**
- **Difficult to identify meaningful measures of performance.**
- **Main purpose is to reward good performance and sanction poor performance.**



Zero-Based Budgeting

- **Began in the late 1960s with Texas Instruments.**
- **Budget starts from scratch every year for both existing and proposed new programs.**
- **Programs and activities are placed into “decision packages”.**
- **Decision packages are prioritized in their importance.**
- **Hindered by statutes, obligations to local entities and requirements of the federal government.**

Oklahoma's Line-item, Incremental, Program Based Modified Zero-Based Performance Budget

- **Line-items of expenditure categories that are defined in appropriation bills.**
- **Establishes a base budget with mechanisms to allow inflationary increases and program enhancements to existing programs.**
- **Budget information is structured by program with goals and objectives.**
- **Performance measures are submitted with the Budget Request Documents.**
- **Zero-based with rankings and priorities, removing one-time expenditures and sunseting programs.**

Utilization of Decision Packages

- **For each program the agency would show various level of service that could be provided with different levels of funding:**
 - 100% Reduction (zero funding)
 - 25% Reduction
 - 10% Reduction
- **Agency would show alternative courses of action.**
- **Consequences of funding the program at the different levels.**
- **Each Decision package is then ranked within the agency.**
- **Each Decision package should include:**
 - Measurable performance objectives
 - Appropriate activities for achieving the performance objectives
 - Resource allocation essential for conducting the activities
 - Methods for carrying out the activities as planned



Sources:

- “The Evolution of State Budget Processes, Fundamentals of Sound State Budgeting Processes”, National Conference of State Legislatures**
- Local Government Assistance Budget Manual, Texas Comptroller of Public Accounts**
- Zero-Based Budgeting An Overview, S.W. Bliss Incorporated**

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Oklahoma Quality Jobs Program Act



- **Created by the Legislature in 1993.**
- **Provides payments of up to 5% of new payroll created in certain industries for up to 10 years.**
- **Company must have new payroll of at least \$2.5 million annually and offer basic health benefits.**
- **Similar programs for small employers, former military facilities, etc.**
- **Payments amounted to approximately \$60 million in FY 03.**

Other Tax Benefits Available to Companies

- **Five-year ad valorem tax exemption.**
- **Freeport exemption (exempts inventory moving through the state).**
- **Local incentive or increment districts.**
- **Sales tax exemptions for manufacturers, computer and data processing companies, aircraft manufacturing and maintenance facilities, telecommunications, spaceports, tourism development.**
- **Income tax credits for manufacturing facilities, venture capital companies, agricultural processing facilities.**
- **Enterprise zones.**
- **Specific incentives for targeted industries (airlines, space industry developers, agriculture).**
- **Gross production tax exemptions.**

Federal Tax Credits for Former Indian Lands

- **Federal law allows an income tax credit for employment on former Indian lands, as well as an accelerated depreciation schedule for property used on such lands.**
- **Approximately 2/3 of the state qualifies geographically.**
- **Credit is set to expire, but may be extended in pending federal legislation.**



Tax Benefits Available to Individuals

- **Standard deduction and personal exemptions.**
- **Retirement benefits and Social Security deductions.**
- **Federal income tax deduction.**
- **College savings programs.**
- **Sales Tax Relief Act.**
- **Homestead exemptions.**



Sales Taxes on Services

- **Some services are subject to Oklahoma sales taxes (non-residential utilities, parking, non-exempt transportation, non-exempt telecommunications, non-exempt advertising).**
- **Most services are not exempt; rather they are excluded (i.e., never made taxable in the first place).**
- **According to a 1997 report by the Federation of Tax Administrators, Oklahoma taxed 32 services. Surrounding states taxed services as follows: Arkansas (65); Colorado (14); Kansas (76); Louisiana (58); Missouri (28); New Mexico (152); Texas (78).**



Legislative Activity on Tax Issues

2003 Session



- **Nearly 20 measures enacted.**
- **Variety of provisions including everything from procedural and administrative changes to tax credits for ethanol facilities and donations to biomedical research to tax relief for tornado victims.**
- **Interim and task force studies on:**
 - **Tax Exempt Bond Financing**
 - **Streamlined Sales Tax System**
 - **Tax Incentives Designed for Economic Growth**
 - **Valuation of Gas Gathering System Assets**

Constituent Response From HB 1356 and HB 1593

Goal

- More efficient tax collection
- Capture uncollected tax

One Result

More money available for appropriation during next fiscal year and beyond

Unintended Result

Create vendor confusion or burden on small business

New Provisions

Accelerated Tax Payments

1. Certain group of vendors (those filing between \$2,500 and \$25,000 a month or about 7% of all vendors) will be required to begin remitting tax on a different day of the month and for a different time period.
(For the transition month of October ONLY, this will require them to remit taxes twice)
2. Day of the month when sales tax returns are filed will change for all vendors.
(Gives them access to the money for 5 extra days)
3. All vendors required to file electronically.
(vendors compensated by keeping 2¼%; those who cannot comply may be granted an exception for one year at a time)

Tax Commission is providing assistance through: direct contacts with vendors, presentations to various groups, additional employees added to phone bank.



New Compliance Provisions

- **Special Event Permits:**
 - Requires promoters of special events to obtain a “special event permit”. Intended to capture uncollected sales tax due from events such as gun shows, carnivals and flea markets.
- **Withholding Requirements:**
 - Requires pass-through entities such as partnerships which make distributions to non-residents to withhold Oklahoma income tax at 5%.



Questions?

**Contact the
Taxpayer Assistance Division**

By phone: (405) 521-3160 or (800) 522-8165

By fax: (405) 522-0576 or (405) 522-4275

By e-mail: helpmaster@oktax.state.ok.us



OCIA Bond Issue

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION
OF THE OKLAHOMA CAPITOL
IMPROVEMENT AUTHORITY FOR
APPROVAL OF \$155 MILLION
OKLAHOMA CAPITOL IMPROVEMENT
AUTHORITY STATE FACILITIES
REVENUE BONDS, SERIES 2002C AND
\$20 MILLION, SERIES
2002D(TAXABLE)

NO. 97,936

FILED JUNE 3,
2003

**ORIGINAL PROCEEDING TO DETERMINE VALIDITY OF PROPOSED
STATE FACILITIES REVENUE BONDS**



Background

- **OCIA** – Oklahoma Capitol Improvement Authority (created in 1959) - Created to provide office space for state/federal depts. and agencies, and improved and expanded highway infrastructure. The OCIA is authorized by law to borrow money on the credit of the income and revenues to be derived from the operation of the property it is authorized to create (revenue bonds). Title is retained by OCIA prior to the bonds being paid.
- **Supreme Court** – OCIA is authorized to file an application for approval of any bonds it issues with the Oklahoma Supreme Court. 73 O.S. 2001, Sec. 160.
- **Art. 10, Sec. 16 Oklahoma Constitution** - All laws authorizing the borrowing of money by and on behalf of the State, county, or other political subdivision of the State, shall **specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose.**



- **73 O.S. Supp. 1999, Sec. 301** – Provides specific authority to the OCIA for funding of certain capital projects. In 2000, legislation amended this section of law to allow the OCIA to issue State Facilities Revenue Bonds in the amount of \$175 million. This money was allocated to 27 state agencies by Sec. 301(A)(16).
- **Approval** – OCIA sought approval from the Oklahoma Supreme Court of the proposed bonds.
- **Protestants** – 3 protestants, Cassidy, Fent, and Kessler objected to the bond proposal. They challenged both the authorizing statute, Sec. 301 and the bond approval process on constitutional grounds.

Analysis of the Arguments and Ruling in Case No. 97,936

I. Purpose-of-Borrowing Requirement:

- **Protestants argue that Sec. 301 does not reveal the purposes for which the borrowed money may be expended as required by the Constitution.**
- **3 subsections of Sec. 301 were reviewed. Subsection (A)(16), (L) and (M).**
- **OCIA argues that the purpose is for “capital projects” of the listed agencies.**



- **73 O.S. Supp. 1999, Sec. 301(A)(16)**

- 16. The following capital projects to be funded by the obligations authorized herein in the amounts to be allocated and expended by the following entities and in the following amounts:

| | | | |
|-------|---|------------------|-----------------|
| • a. | the Oklahoma Aeronautics Commission | \$2,990,000.00 | |
| • b. | the State Department of Agriculture | \$5,044,194.00 | |
| • c. | the Oklahoma State Bureau of Investigation | \$300,000.00 | |
| • d. | the Oklahoma Capitol Complex and Centennial Commission | | \$5,470,101.00 |
| • e. | the Department of Central Services | \$975,000.00 | |
| • f. | the Oklahoma Department of Commerce | \$1,250,000.00 | |
| • g. | the Oklahoma Conservation Commission | \$100,000.00 | |
| • h. | the Oklahoma Department of Corrections | \$260,101.00 | |
| • i. | the State Department of Education | \$700,000.00 | |
| • j. | the Oklahoma Educational Television Authority | \$250,000.00 | |
| • k. | the Grand River Dam Authority | \$220,000.00 | |
| • l. | the State Department of Health | \$735,000.00 | |
| • m. | the Oklahoma State Regents for Higher Education | | \$30,617,909.00 |
| • n. | the Oklahoma Historical Society | \$10,456,303.00 | |
| • o. | the Oklahoma House of Representatives | \$46,434.00 | |
| • p. | the Department of Human Services | \$2,010,101.00 | |
| • q. | the J.D. McCarty Center for Children with Developmental Disabilities | | \$485,101.00 |
| • r. | the Office of Juvenile Affairs | \$1,227,601.00 | |
| • s. | the Oklahoma Department of Mental Health and Substance Abuse Services | | \$2,075,000.00 |
| • t. | the Oklahoma Military Department | \$5,700,101.00 | |
| • u. | the Department of Public Safety | \$1,194,000.00 | |
| • v. | the Oklahoma Department of Tourism and Recreation | | \$10,565,005.00 |
| • w. | the Oklahoma Department of Transportation | \$5,241,412.00 | |
| • x. | the Oklahoma Department of Veterans Affairs | \$1,450,000.00 | |
| • y. | the Oklahoma Department of Career and Technology Education | | \$13,845,303.00 |
| • z. | the Oklahoma Water Resources Board | \$1,850,000.00 | |
| • aa. | the Oklahoma Department of Wildlife Conservation | | \$608,000.00 |
| • bb. | the Department of Central Services | \$51,833,333.00 | |
| • | GRAND TOTAL | \$157,499,999.00 | |

- The funds allocated in subparagraph bb of this paragraph shall be spent for **capital projects** which are important to the furtherance of state functions, as directed by the Governor.



Supreme Court's Analysis

- **Merely listing amounts of borrowed money and identifying 27 state agencies does not reveal the purpose of the borrowing.**
- **The term “capital project” is not sufficiently descriptive to satisfy the purpose-of-borrowing requirement.**



•73 O.S. Supp. 1999, Sec. 301(L)

L. The Legislature finds that several functions of state government are properly performed through the delivery of state services by use of political subdivisions. In order to facilitate the delivery of essential state services and in furtherance of state governmental functions by the construction, acquisition or improvement of assets which may be located within the corporate limits of a municipality of the State of Oklahoma or which may be located in unincorporated areas of the state and subject to the jurisdiction of a board of county commissioners, but which nonetheless serve an important function of state government, **the State of Oklahoma finds that the use of the proceeds from the issuance of obligations pursuant to this section effectuates the performance of essential state governmental functions, including, but not limited to:**

1. Fire protection services;
2. Roads, bridges and highways located either partially within or completely within the corporate limits of a municipality or in an unincorporated area of the state;
3. Historic preservation;
4. Recreational facilities;
5. Air transportation infrastructure;
6. Facilities for the housing and care of the elderly;
7. Juvenile delinquency prevention and treatment facilities;
8. Agricultural and horticultural event facilities;
9. Health care facilities, including, but not limited to facilities the primary purpose of which is the treatment or prevention of communicable diseases or illness;
10. Promotion of tourism;
11. Promotion of economic development and business site selection; and
12. Public safety.



Supreme Court's Analysis

The listing in subsection (L) of 12 service areas, without more, does not disclose the projects to be accomplished.



73 O.S. Supp. 1999, Sec. 301(M)

M. Notwithstanding any other provision of law to the contrary, **each** and every **agency**, board, commission, department or other entity of state government as identified in paragraph 16 of subsection A of this section **shall have the authority to acquire or to transfer such property, whether real or personal, tangible or intangible, as may be required to fully fund the projects and to acquire or improve the assets for which the proceeds from the obligations authorized by this section are available.**



Argument

Purpose-of-Borrowing Requirement, cont'd:

OCIA argues that Sec. 301(M) requires the bond proceeds to be used for capital projects of the various state agencies and confers discretion in the agencies to select the capital project.



Supreme Court's Analysis

- **The Legislature may set parameters of its policy and delegate to an agency the task of implementing that policy under articulated safeguards.**
- **When delegating the use of borrowed money the purpose-of-borrowing requirement must still be met.**
- **OCIA's argument further reveals that the specific projects have not yet been determined.**



Dissent

Purpose-of-Borrowing Requirement, cont'd:

The dissent argues that the Supreme Court's reading of the purpose-of-borrowing requirement is overly restrictive.



Supreme Court's Analysis

- **The Court disagrees with the dissent and makes an analogy to appropriated funds.**
- **Sums appropriated must distinctly specify the sum appropriated and the object to which it is to be applied Art. 5, Sec. 55.**
- **The Court finds that its holding requires no more of the Legislature when it authorizes the borrowing of money than when it appropriates money.**



Supreme Court's Analysis

- **The Court further finds that the Legislature has in the past provided descriptive designations, rather than minute detail, of the purposes to which borrowed money would be expended and that these have met the purpose-in-borrowing requirement.**
- **E.g., “to construct improvements and facilities upon property under the control of the Dept. of Corrections suitable for use as a district probation and parole office.”**



Dissent

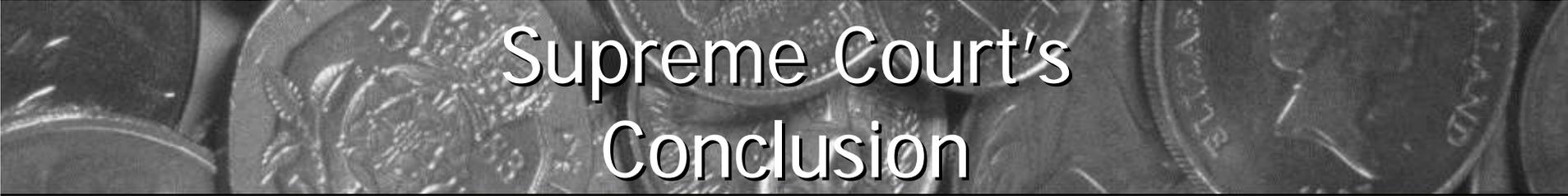
II. Vote of the People:

- **The dissent urges that the purpose-of-borrowing provision must be harmonized with other constitutional provisions.**
- **Art. 10, Sec. 25, requires that debts contracted on behalf of the state shall have no effect unless the law receives a majority vote at general election.**



Supreme Court's Analysis

- **The Court has held in the past that self-liquidating projects do not require a vote of the people.**
- **A self-liquidating project is e.g. “bonds to be repaid from tolls and fees paid by highway users”.**
- **Because the projects for the bonds in question have not yet been determined it is impossible to determine whether they will be self-liquidating and thus whether a vote of the people will be necessary.**



Supreme Court's Conclusion

- **Because the projects contested in Sec. 301 do not specify the purpose for which the proceeds will be used and thus do not meet the purpose-in-borrowing requirement, the bonds are not properly authorized.**
- **Application for Approval Denied.**



Bond Proceeds to Higher Education

- **1 of the 27 agencies was the Oklahoma State Regents for Higher Education.**
- **Art. 13-A, Sec. 3, might be interpreted to satisfy the purpose-in-borrowing requirement.**
- **However, because the Legislature provided no severability clause and severing such provision would not carry out the legislative intent of the law it too fails.**



UPDATE

- **OCIA Petition for Rehearing filed 6-20-2003.**
- **Petition for Rehearing Denied 9-8-2003.**



Deferred Deposit Lending Act



Deferred Deposit Lending Act

SB 583 (Monson/Nations): Creates the Deferred Deposit Lending Act, including the following provisions:

- Requires deferred deposit loans to be documented by a written agreement, containing specified provisions, notices and disclaimers;**
- Excludes loans made by licensed supervised lenders, financial institutions, governmental agencies or pawnbrokers;**
- Debtors must be informed in writing of their rights and responsibilities with respect to deferred deposit loans;**



Deferred Deposit Lending Act

- Debtors are granted a right of rescission until 5:00 p.m. on the next business day;
- Loans are limited to \$500 and finance charges are limited to \$15.00 for every \$100.00 advanced up to the first \$300.00 of the amount advanced and an additional \$10.00 for every \$100.00 advanced in excess of \$300.00;
- Lenders are required to follow certain practices, including verifying if the debtor has any outstanding deferred deposit loans. If any such loans are outstanding, the loan may not be made;



Deferred Deposit Lending Act

- **A loan may not be made if it is the sixth or subsequent loan made to the debtor in a 90-day period unless the debtor has obtained consumer credit counseling;**
- **Lenders must be licensed by the Administrator of Consumer Credit and must maintain and submit specified records; and**
- **The Administrator may investigate violations and is granted certain powers to administer the act, including the power to impose civil penalties.**

Deferred Deposit Lending Act

- **SB 583 becomes effective September 1, 2003.**
- **As of August 5, 2003, the Department of Consumer Credit had received approximately 40 applications from lenders and expects many more.**
- **The national chain "Check and Go" has announced its intentions to open 50 locations in Oklahoma this year.**
- **"Crusader Cash Advance" plans to open 20 locations.**
- **"Check Into Cash" plans to open at least 32 locations.**



Deferred Deposit Lending Act

\$\$ Consumer Protections \$\$

Although the Tulsa Community Action Project and other consumer advocates have opposed SB 583, it contains several provisions designed to protect consumers from predatory lending practices. Some of these provisions are unique in the country and may be used as a model for other states, including the following:

- Notices stating that deferred deposit loans are designed only for short-term cash needs must be included on the face of the loan agreement;**
- Pamphlets describing the availability of consumer counseling services must be distributed at the time the loan is made;**



Deferred Deposit Lending Act

- Debtors are given a right of rescission;
- Lenders are required to verify if borrowers have any outstanding deferred deposit loans, through checking their own records and by subscribing to a database approved by the Administrator of Consumer Credit. All lenders must subscribe to such a database by July 1, 2004;
- If more than one such loans is outstanding, the loan may not be made; and
- If the borrower is applying for a sixth or subsequent loan in a 90-day period, the borrower must undergo consumer credit counseling before the loan can be made.