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**Talking Points & Leg Summary: HB1942: OKVRP NCSL**

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**HB1942: Oklahoma Veteran Recovery Plan**  
**Senator Mark Allen & Representative John Bennett**  
**Oklahoma Legislature**

**Section 1: Talking Points**

1. **The Oklahoma Veteran Recovery Plan** (HB1942) passed the Oklahoma House and Senate unanimously. It is currently in conference for final language changes, as provided in the copy with this document. The Governor has agreed to sign the legislation for approximately \$7 million, which will be determined in the Conference Committee. Because this is a revolving fund, the states \$7 million is estimated to translate into \$28 million in a calendar year.
2. **The Oklahoma Veteran Recovery Plan Revolving Fund** begins deploying and paying for effective biological repair treatments for brain injury and PTSD as soon as the governor signs the act.
  - a. Tracking:
    - i. Provisions provide that the Oklahoma State University Center for Health Sciences College of Public Health, will track the data from the IHMF's National Brain Injury Rescue & Rehabilitation Project study for Traumatic Brain Injury or Post Traumatic Stress Disorder (PTSD). Nationwide tracking of patient outcomes at all of our sites is provided under contract through the Oklahoma State Insurance Commissioner.
    - ii. Oklahoma State University will track the long term outcomes of those who participate in the program including changes in employment, health, family status, incarceration rates, substance abuse, and income. They will also be tracking the impact on the federal and state budget of the changes in this population, compared to known normative data.
    - iii. These areas have long been known to be adversely affected by brain insults, and this will be the first study of its kind to ever track its long term outcomes on the mandatory spending budgets of the nation's governments.

### b. Restoring Military Readiness:

- i. **Federal & National Guard Readiness:** Forty percent of the active Army force has mental health issues, according to an article in *Military Medicine*. That number is nearly identical to the Vietnam number of 38.5% of all who served in theater developing PTSD (1983 VA Report) and the 2008 RAND Report of 33% (2008). It is known by the 4<sup>th</sup> deployment that combat readiness of a soldier is degraded 80%. The percentages of injured are much higher in combat arms, engineers, and others such as transportation who have been routinely exposed to IED blasts.
- ii. **Immediate Rescue of War Injured:** The OKVRP immediately begins the wider rescue of the tens of thousands of injured veterans and begins to restore National Guard readiness (currently degraded between 40 and 70%). Currently there are approximately 30 sites across the nation who are or have participated in the NBIRR study. Only one is able to treat patients for free, the OSU Medical School site in Tulsa,, run by Dr. Rock, an Army-trained physician who has served for 20 years on the Army Medical Research committees.
- iii. **Immediate War Veteran Relief:** Experience under NBIRR-01 to date, results of which are scientifically valid data, is as follows:
  1. Each patient who has completed 40 treatments has had clinically significant improvement.
  2. At the first treatment, photophobia tends to be relieved, by treatment five the headaches begin to come under control and generally by treatment 10 they are able to begin sleeping through the night. Over fifty-percent who complete 40 treatments are able to return to duty, work or school, and over 80% of those who complete 80 treatments are able to return to work, duty, or school. We have discovered that the second forty treatments creates a marked improvement in productivity and improves success.

3. The Oklahoma Veteran Recovery Plan expands treatment from Tulsa to every community across the state with the equipment needed to deliver effective treatment. It provides a limited budget for equipment to medical providers that do not have equipment, as well as needed training and education in delivery of effective treatment.
  4. Each state can follow Oklahoma's example and set up the same program. The IHMF's study is nationwide and soon will be international.
- c. **Hyperbaric medicine has been used for brain injury for 75 years and was its first indication. HBOT also works synergistically by biologically repairing the injury originally caused by a lack of oxygen.** Therefore it works with all of the other available treatments that work to mitigate the symptoms instead of the cause of the injury. It also works synergistically with treatments like cognitive rehabilitation by biologically repairing circuitry so that that circuitry can be reconnected by the progresses of these other therapies
3. **Recovery of Treatment Costs from the Federal Government:**
- a. Creation of the Veterans Bureau in 1921:
    - i. The Legislative History and Intent makes it clear why the Veterans Bureau was created in 1921. World War I veterans had been dumped onto the states and were not being taken care of properly by the Federal government. Two things came out of the act.
      1. Payment to Veterans Directly for Care: The Current VA Disability System and Hospitals.
      2. Reimbursement to the States when States Paid: This is still seen today with payment from VA for State run nursing homes and even some payment to local hospitals and providers when VA facilities are not available for treatment.
      3. Cost shifts to the states from war casualties today are much higher than in World War I.

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- b. Provisions for treating civilians is also included under the act but payment for treatment is voluntary and must be pre-approved by a patient's insurance carrier.
  - c. Under the rules of the Oklahoma TBI Treatment Act, also part of this legislation, payment is only provided to a provider from the revolving fund when treatment actually improves a patient's medical condition. All treatments that work are eligible for payment.
4. **The pilot for the Oklahoma Veteran Recovery Plan started in 2009.** The results have clearly and convincingly demonstrated to General Aragon, key leadership at the OSU Medical School, and at OUHSC and at OU-Norman's Cognitive Science Research Center, that the hyperbaric treatment protocol used in the NBIRR-01 study does indeed rebuild brains of injured service members and civilians in as little as 150 days.
- a. Therefore, the Oklahoma Veteran Recovery Plan is designed to take this treatment demonstrated at OSU Medical School, and permit every hospital and clinic throughout the State of Oklahoma to begin treating the tens of thousands of brain injured National Guard and other veterans, plus allow insurance carriers to achieve significant savings while improving patient outcomes, when they chose to send patients to be treated at approved sites and pay for treatment when patients actually improve.
5. We are all well aware of the crisis our veterans face. What we have not been aware of previously is the true level of injury our National Guard has endured, nor the long term consequences to the state's economy.
- a. In 2008, in Congressional testimony, a study was discussed that revealed the economic cost per war veteran left untreated is \$60,000 per year. That includes lost income, tax revenue, incarceration, substance abuse, family disintegration, health care and other costs.
    - i. Thus, our economy is paying \$2.1 billion per year as a result of the 44,000 battle casualties of the 94,000 who have served from our state over the last 12 years of war.
    - ii. That is reflected in the hundreds of millions in mandatory spending in our state's budget and the economic loss from the 25,000 of those who are unemployed due to their injuries, and the 10,800 who have withdrawn from the work force.

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- iii. The State Department of Commerce estimated that if just 22,000 of those were able to return to work, the revenues to the State of Oklahoma would be \$79 million per year.
    - iv. So the question is not whether we can afford this legislation, it is whether we can afford the cost of the \$87.6 billion in our state's economy over the next forty years if we do nothing.
6. The costs of these untreated casualties, which federal DoD medicine and the VA have refused to treat properly, are an unfunded mandate to the states from the Federal government. As above, that cost is substantial. There is a remedy.
  - a. Under the law that created the Veterans Bureau in 1921, the provisions of which are still in effect, if the states pay for treatment of veterans, they must be reimbursed.
    - i. To date, the State of Oklahoma has paid \$238,000 to repair these brain injured veterans at Oklahoma State University's Medical School, and we are owed federal reimbursement.
    - ii. Tricare, the DoD Medicine's payment mechanism, has already paid for ½ of the battle casualties treated under the NBIRR LSU pilot study, and U.S. Congressional legislators have told IHMF if a formal mechanism can be created, they will ensure that Tricare pays for these casualties.
    - iii. The provisions of this legislation provide the mechanism for the state of Oklahoma and other states to be reimbursed for these treatments and begin widely treating veterans across the state under the Oklahoma Veteran Recovery Plan Revolving Fund.
7. Oklahoma has led the way nationally in repairing our brain injured veterans. We are the only state that owns our own hyperbaric chamber at OSUCHS Center for Aerospace and Hyperbaric Medicine. **Our medical research leadership in the state has verified that it is possible to rebuild a brain in 150 days. Within 10 treatments, most have relief in headaches, photophobia and sleeplessness. One-hundred percent of those who have completed 40 treatments, nationwide, have experienced significant clinical improvement. This is not anecdote. This is science, conducted under FDA rules for evidence for a new treatment, by Oklahoma's medical practitioners and verified by her scientists. The results are**

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reported to the FDA under their evidence rules and the IHMF has met with the FDA regarding this and other studies.<sup>1</sup>

- a. **The OKVRP is about deploying effective biological repair for brain injury and PTSD, currently only available in Tulsa at OSUCHS at the Jenks Airport, throughout the state under the controlled and scientifically valid International Hyperbaric Medical Foundation national study that OSUCHS has joined.**
- b. **The OKVRP permits your doctors and hospitals and clinics in your areas to repair your veterans locally so that all injured persons do not have to live in Tulsa for 150 days. If you do not have equipment in your area, the OKVRP revolving fund has funds available so your community can get equipment if they do not have it. It also provides for training and education, as required by FDA-guidelines under which this study operates.**
- c. The OSUCHS Tulsa chamber has capacity to treat 100 per day. We have 43,910 war veterans injured. We have 2,300 injured National Guard in the group that most recently returned from Afghanistan. Each treatment berth we have in the State, if used to capacity in an additional 8 hour shift, we will be able to rescue 1140 veterans this year. Therefore the amount appropriated by the State has a direct bearing on how quickly we rescue war injured veterans.
- d. No treatment other than hyperbaric oxygen therapy has been effective at restoring lives to former levels of function. Other therapies can cause improvement in symptoms, and they are compatible with hyperbaric oxygen therapy, including the drug regimens that now work much more effectively.
  - i. OUHSC has the mission under this legislation to objectively verify the effectiveness of treatment, using the latest scientific methods.

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<sup>1</sup> Dr. Raskob, Dean of the College of Public Health at OUHSC, has stated, "Although a randomized clinical trial is the most definitive scientific method to evaluate a treatment, it is my professional judgment, as a clinical epidemiologist with more than 25 years of experience in design and conduct of clinical trials, that a randomized trial is not feasible at the present time for hyperbaric therapy of traumatic brain injured veterans....Because there is a relative low risk from hyperbaric oxygen therapy, most patients wish to at least try it to improve their outcome and life...The use of a prospective treatment registry, as will be done in the OKVRP, is an appropriate step in such circumstances." Letter to the IHMF dated 17 April 2013

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- ii. OSU has the mission of reaching out to those veterans, tracking their progress, and helping get them back into the workforce.
- iii. OSUCHS has the mission of oversight of all of the medical treatments provided.
- iv. OU-Norman's CRSC will analyze the data and continue to perfect their instrument, the ANAM, for wider use in human resources, public health, and workers compensation programs.
- e. No other program ever brought before this body has:
  - i. Already achieved millions of dollars in savings for the state.
  - ii. Had results that were already verified by State officials
  - iii. Been willing and encouraged long term tracking of results to verify that the expected gains will be realized.
  - iv. Been fully reimbursable by the Federal government under existing Federal Law.
- f. The State of Oklahoma has 25,000 National Guard and others who have served unemployed and too injured to work. It is a \$79 million new revenue stream to our state budget when we move those injured persons to treatment so that they regain their lives. Without this plan they will continue to kill themselves at the rate of 22 per day nationwide. More have died by their own hand than have died from enemy action. Oklahoma has the ability, with this legislation, to stop that in this state and lead the way so that other states can adopt these actions for their war veterans.
- g. 41 persons have been treated in Oklahoma since 2009. The scientific results are clear to both Universities. The treatment works to biologically repair brain injury and post-traumatic stress disorder.
  - i. Many members of the National Guard have now been treated, and 65% of those treated are veterans with documented traumatic brain injury or PTSD. All who completed 40 treatments have had documented significant clinical improvement.
  - ii. Two National Guard officers who were being put out of the service are today still in the National Guard and now command their respective units. One is 1LT(P) Smothermon who

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recently took command of the unit he deployed with to Afghanistan. He is also back in law school.

- iii. Savings to the State of Oklahoma for these two officers alone: \$1.7 million
  - h. At that time the OSU Center for Health Sciences, Center for Aerospace and Hyperbaric Medicine, joined the National Brain Injury Rescue and Rehabilitation Project, NBIRR-01 study on mild-moderate TBI or PTSD for both military and civilian study subjects.
  - i. At the same time, Oklahoma University's Cognitive Sciences Center, developer of the Automated Neuropsych Assessment Metric (ANAM), given to every service member deployed into theater from Oklahoma since 2007, and nationwide since 2008, published ANAM results with IHMF's Vice President for Research, James Wright (COL, USAF, MC, Ret). All four service members returned to duty and continued their careers, a \$19.2 million savings to DoD and VA for a cost of \$96,000 of HBOT treatment.
8. Hyperbaric Oxygen Therapy is already approved and paid for by every insurance carrier in the nation for three kinds of chronic non-healing wounds and three types of acute and chronic brain injury. The science for using hyperbaric oxygen to treat brain injury goes back 75 years.
- a. All of the Air Forces and Navies of the world know if they get a brain injured service member into a hyperbaric chamber within 1 hour they have a 95% single treatment cure rate. If they do not, they follow a multiple treatment protocol.
  - b. To date, no other non-hormonal treatment has been shown to biologically repair brain injury and PTSD, which makes sense since no substitute, has ever been found for oxygen for brain injury in the past 75 years, and it is known that no wound will heal without it.
  - c. Oxygen is used in 5,769 cellular processes. Hyperbaric oxygen activates 8,101 genes dealing with grown and repair and inflammation, activates adult stem cells 8x normal, and activates mitochondria so they begin making energy and requesting a blood supply be provided to the previously inactive and injured cell.
    - i. The underlying physiological and genetic processes are well understood and published.

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- ii. The myth that there is not treatment for brain injury has been the biggest barrier to utilizing a treatment that has been used for brain injury for 75 years, good Navy medicine.
9. In 2008, the pilot study for the National Brain Injury Rescue and Rehabilitation project was funded by the Marine Semper Fi Funds at Louisiana State University. The results were dramatic, remarkable and published in the prestigious journal, *Neurotrauma* in November 2011.
- a. Results of the first 40 treatments (of 80 used in Oklahoma):
    - i. 15 point IQ increase
    - ii. 39% reduction in post-concussive syndrome (headaches, sleep disorder, photophobia, inability to work)
    - iii. 30% reduction in PTSD, the largest reduction in PTSD of any treatment ever published
    - iv. 51% reduction in depression with a 96% improvement in emotional control. (Drives both suicides and incarceration.)
    - v. Great reduction in the need for prescription drugs including opiates for pain in these battle casualties.
    - vi. The annual savings from the drugs alone, a cost which is also being born in our prison system and the Medicaid program that uses similar cocktails as the DoD and VA are using to manage the symptoms, not treat, brain injury and PTSD.)

## Section 2: Legislative Summary

1. Section 1: Creation of the Oklahoma Veterans Recovery Plan of 2013
  - a. The goal of the Oklahoma Veteran Recovery Plan is to rescue as many at-risk and injured veterans as possible in order to restore wholeness to their lives and improve productivity, opportunity, and community.
2. Section 2: Payment for effective treatment for brain injury or post-traumatic stress disorder is organized across the state. All treatment shall be organized under registered studies ([www.clinicaltrials.gov](http://www.clinicaltrials.gov)) such as NCT01105962 where Oklahoma State University Center for Health Sciences is currently enrolling and treating study subjects.
  - a. The State of Oklahoma's two medical schools both participate, with OSUCHS and OSU tracking data, patient interaction, and long term outcomes. OSU will do the long term outcome tracking nationwide. OUHSC will handle national statistical analysis and reporting under contract as well.
  - b. State Insurance Department to recover costs for treating veterans from the Federal government under the program, following the rules of the Oklahoma TBI Treatment Act. Private insurance carriers and other third party payers are invited to participate in the program.
3. Section 3: Hyperbaric Oxygen Therapy
  - a. Definition
  - b. Treatment under the Act deemed to meet all 3<sup>rd</sup> Party Payer requirements, with no more stringent rules than are defined under the Act. **This language is essential to the function of the entire legislation and should not be changed.**
    - i. Note: This provision is necessary because many extraneous rules have been developed by third party payers to prevent the wide-spread use of hyperbaric oxygen therapy and prevent its use outside of a hospital

setting. The medical politics go back 75 years. A few instances should suffice.

1. Navy SG, 1937: Refuses to use the oxygen diving tables developed and presented to him. The use of compressed air was mandated instead. Navy did not adopt the oxygen diving tables until 1968, unnecessarily injuring hundreds of UDT and other military and commercial divers over two decades.
2. FDA/Medicare, 1976: Stroke was removed by order of the President, from the approved indications list for hyperbaric oxygen therapy. The preference was for those people to die. Modern technology has now kept those persons alive, but without oxygen saturation, they remain more injured than they would be with treatment. Numerous randomized controlled and other studies have verified this, but there has been no change to medical practice or the regulations.
3. Medicare, 1998: Doctors were fined by Medicare for saving patients feet who had diabetic foot wounds, when doctors knew amputations could be prevented over 70% of the time. The Medicare preference was amputation. Dr. Duncan at Congressman Istook's office, got that decision reversed and today, since 2002. Medicare has been saving an estimated \$348 million per year, just by treating 11% of those whose amputations currently could be prevented. Fully implemented the saving to Medicare is estimated at over \$3

billion per year with concurrent state mandatory spending reductions.

4. Third Party Intermediary Medicare/Medicaid Advanced Life Support Rule preventing use of HBOT in free-standing (non-hospital) facilities
  - a. This prevented Oklahoma from using its State owned chamber to treat burn, cancer (radiation necrosis), and diabetic foot wounds for 10 years.
  - b. The Administrative Law Judge ruled that the rule was not based upon accurate information and overturned the decision.
    - i. Result: That was for one case. The rule has been so effective; it has been adopted in nearly every state to prevent community health centers and others from preventing amputations by using hyperbaric oxygen therapy.
    - ii. The legislative provision exists in this legislation to get through this rule, but Oklahoma still cannot use its own chamber for its own Medicaid patients, in direct contradiction to the intent of Local Coverage Determinations from the original Medicare and Medicaid Law, to provide a mechanism so that State decision makers and medical personnel would control state health care policy.

5. Therefore, with these multiple ways of denying payment, these provisions must remain in place. These multiple barriers are party of the reason that the State Insurance Department, and not the Health Care Authority, was chosen in Oklahoma to administer the program.
  - c. Physician Supervision for all hyperbaric treatments is defined and telemedicine is authorized for payment to provide that supervision.
  - d. The State Health Care Authority is directed to seek waivers to local coverage determinations that prevent the use of hyperbaric oxygen therapy and state funds are to be used despite those rules preventing payment for hyperbaric services imposed from outside the state.
4. Section 4: Creation of the Oklahoma Veterans Recovery Plan Revolving Fund with the Insurance Department Administering the Fund.
  - a. State Revolving Fund rules apply.
  - b. All providers seek and receive payment through the Plan Administrator of the revolving fund.
  - c. New sites needing equipment will apply to the Administrator for funds to install equipment. Recovery of funds for equipment installation provided.
  - d. Education of physicians and training of all medical personnel is provided for through scholarships, with methods to recover these funds back to the revolving fund.
  - e. Oklahoma Governmental Tort Claims Act applies to all limits of liability
5. Section 5: Partnership between Oklahoma University, Oklahoma University Health Sciences Center, Oklahoma Center for Health

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Sciences and Oklahoma State University to handle research statistics, follow long term outcomes in every public health and economic performance measure, and analyze and assist in publication of the study subject outcomes. This partnership is paid with user fees from the treatment payments to each site.

- a. Oklahoma University Health Sciences Center College of Public Health will certify the results from each treatment and authorize the revolving fund to pay under the rules of the Oklahoma TBI Treatment Act. (Each study subject must improve on standard outcome measures in order to be paid.)
  - b. OSU's Department of Occupational Employment will focus on finding and assisting in the recruiting of 25,000 unemployed veterans in the state, many of whom are National Guard, and tracking their outcomes. The program will provide needed reemployment services as well.
  - c. All funding for the services and coordination is paid from the user fee charged for each patient treatment from the Medicare payment rate. This is possible because of the efficiency improvement from reducing the average cost of treatment by increasing equipment utilization to a 16 hour day, necessary to clear the back log of injured war veterans.
6. Section 6: The Oklahoma TBI Treatment Act
- a. This is a direct copy of HR 396: The TBI Treatment Act, passed unanimously by the U.S. House of Representatives for three years, consecutively. It has been endorsed by all of the major veterans' organizations, and the Brain Injury Caucus in the U.S. Congress. It died in the conference between the House and Senate Armed Services Committees each time.
  - b. On the state level, this portion of the act provides rational policy under state law to make sure that treatments that

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- actually work get paid for. It also deems that treatments that actually work to repair brain injury are medically necessary.
- c. The logic is clear. The reason for government to be involved in health care is to create a healthy work force. Paying for treatments that do not work is counterproductive to that effort. Further, the mandatory expenditures in government budgets because of brain insults are almost incalculable. This legislation permits the implementation of effective treatment and the creation of care pathways that current medical practices do not currently foster.
  - d. For a medical provider to be paid for treating a study subject, the study subject must improve. They must show improvement on any one of four measures:
    - i. Standardized independent pretreatment and post treatment neuropsychological testing (IQ, ANAM, CNSVS, IMPACT, RBANS, etc.)
    - ii. Accepted survey instruments (PTSD, Post-Concussion, Depression scales)
    - iii. Neurological imaging (Functional MRI, SPECT, QEEG, etc.)
    - iv. Clinical examination (Coma state, balance, quality of life issues.)
  - e. All patients must be treated under a study following the rules of the Department of HHS Office of Human Research Protections (OHRP) and registered with on [www.clinicaltrials.gov](http://www.clinicaltrials.gov). All receive real treatment with already available therapies under the auspices of an approved study.
  - f. Provisions are made in this section for the state's plan administrator to purchase equipment, pay for education and

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training, and other needful things to carry out the act.

Because of the emergency, the state's normal bidding requirements and processes are waived.

7. Section 7: Oklahoma Veterans Recovery Plan Revolving Fund.
  - a. Authorizes immediately to begin paying for treatment and funds the veteran portion of the fund for \$5 million.
  - b. Authorizes \$2 million to begin paying for selected civilians whose 3<sup>rd</sup> party payers have agreed to treat them under this program.
  - c. Provides a recommendation that 10% of the realized savings in mandatory and other state expenses be put into the fund to further foster deployment of effective treatment.
8. Provides the Emergency clause for immediate funding availability.