

Information about the Dec. 17 indictment of the Oklahoma House of Representative's second-ranking officer and his wife has been tight, but it is clear the charges could have far-reaching consequences. The charges against House Speaker Pro Tem Terry O'Donnell, R-Catoosa, could affect House leadership all the way up to Speaker Charles McCall, R-Atoka. The two are close friends and legislative session roommates, and McCall was a witness before the Oklahoma County grand jury that issued the eight-count indictment against O'Donnell and his wife, Teresa O'Donnell. There isn't much disagreement about the basic facts of the case. They are largely a matter of public record. The question is whether the O'Donnells crossed what is often regarded as a hazy line between public interest and self-dealing. The O'Donnells are essentially accused of illegally using his influence as a lawmaker and member of House leadership to facilitate the transfer of a tag agency earning about \$100,000 a year to Teresa O'Donnell from her late mother. To do that, an Oklahoma County grand jury alleges, Terry O'Donnell voted for three bills — two in 2018 and one in 2019 — that removed barriers to tag agency ownership by lawmakers and their immediate families. By law, legislators are not supposed to vote on matters with direct financial benefit for them or their families. Yet it happens all the time. Insurance executives run and vote on bills dealing with insurance. Lawmakers with public education backgrounds, or whose spouses are teachers and administrators, routinely vote on education matters. Same for agriculture, and oil and gas, health care and other interests. The argument in the O'Donnell case is that the couple went too far too brazenly. The charges against the two include three counts of violating law regulating official conduct, two counts of illegal use of computers, and one count each of perjury, obtaining a thing exceeding \$15,000 in value and one count of conspiracy. The last count, that of conspiracy, is probably sending the most shivers through state government and politics. Besides being the most serious charge, carrying a penalty of up to 10 years in prison and a \$25,000 fine, the count's wording leaves open the possibility of more

indictments to come. Twice, the indictment refers to “other natural persons” involved in the alleged conspiracy. There are several references to phone calls between Terry O’Donnell and a “high-ranking State official,” and communications with unnamed Oklahoma Tax Commission employees, including director, who at the time was Tony Mastin. Oklahoma County District Attorney David Prater is mum on the matter, as is everyone else involved, but he is known for taking a dim view of the backscratching that goes on at the Capitol.

And, reportedly, the grand jury has not been dismissed. More broadly, the indictment could give pause to what some consider routine flouting of conflict-of-interest laws. House and Senate rules say members have a duty to take what’s known as constitutional privilege on votes involving their own financial interests. In practice, that rarely happens. Former Oklahoma Attorney General Drew Edmondson, who was also a legislator and a Muskogee County prosecutor, said there is generally considered to be a difference between voting on something that affects a lawmaker only as a larger group and voting on something that benefits only the lawmaker or a small class of people. Edmondson said an Oklahoma prosecutor once closed a corruption case against a county commissioner by explaining that while voters might expect a commissioner to receive some gifts and kickbacks, the one in question had “abused the privilege.” That proved to be the case in the mid-1980s, when Senate President Pro Tem Finis Smith, D-Tulsa, and his wife, Doris, were convicted in federal court on eight counts each of mail fraud, tax fraud, tax evasion and conspiracy.

The charges stemmed from a scheme involving several tag agencies owned or controlled by the Smiths and some relatives. That incident prompted the laws, repealed by O’Donnell’s legislation, precluding legislators or their families from owning tag agencies. It also led to the power to appoint tag agents shifting from state senators to the Tax Commission. In March 2019, when O’Donnell’s bill lifting the ownership ban came to the floor, only one member questioned it. When Rep. Shane Stone, D-Oklahoma City, asked O’Donnell why that language was being stripped out, O’Donnell said it was obsolete. “The Senate used to

make those appointments,” O’Donnell said. “The Senate now no longer makes those appointments. Those appointments are made by the Tax Commission. And so we’ve got a real conflict with the Tax Commission. This language no longer applies because the Senate no longer makes those appointments.” Stone didn’t quite buy it. “I feel like voting for this could be a little self-serving, wouldn’t you agree?” he asked. Wouldn’t he be “kind of expanding my economic opportunity” by voting for the bill, Stone continued. “I think as a part-time legislator you should have the same opportunities as any other individual would have,” O’Donnell said. “By that same token, you would have to go through the same process that the Tax Commission uses to appoint a tag agent. I think it restores your right as a citizen.” Stone, along with Republicans Tom Gann and Tommy Hardin, were the only House members to vote against the bill. Eight senators, all Republicans, voted against the bill, including President Pro Tem Greg Treat. Gov. Kevin Stitt signed it into law in April 2019. When the issue was raised during his 2020 re-election campaign, O’Donnell said he didn’t know his wife would be acquiring his mother-in-law’s tag agency until the latter’s death in July 2019, and that he and his wife acted mainly to prevent the agency from being closed. Apparently, Prater did not find that plausible. The indictment indicates he first took the case to the multicounty grand jury and then, when it was timed out in September, to an Oklahoma County panel. Featured video: Get Government & Politics updates in your inbox! Stay up-to-date on the latest in local and national government and political topics with our newsletter. Sign up! * I understand and agree that registration on or use of this site constitutes agreement to its user agreement and privacy policy.