

**State of Oklahoma
House of Representatives**

By Rep. Jeannie McDaniel

Session Overview

Dear Friends – Our session is finished. I’ve put together a review of some major legislation below. Also, for more in-depth information I’ve attached a link of the formal session overview put together by the House of Representatives staff.

<http://www.okhouse.gov/Documents/2011SessionOverview.pdf>

It usually takes a week or two to let the dust settle and take a look at what passed, what was vetoed and what bills are held over for next year. Most of the “task forces” will be working this interim with anticipated reports due by January 2012.

Memorial Day – was a day to reflect not only the honored veterans amongst us and those we miss – but also a day to reflect the many blessing we enjoy. The recent natural disasters headlining the news each day remind me to enjoy each moment each day and cherish our friends and loved ones. This has been a spring of tragic weather nationwide. We’re reminded that human touch and working together is the only way to face the recoveries ahead.

Interim studies are due in the Capitol on June 14th. If you have any suggestions for ideas the legislature should consider please contact me through my email at Jeanniemcdaniel@okhouse.gov or call my office at 800-522-8502. It is the input from citizens that often lead to better policies for the state. When our citizens are engaged in the system, it often leads to a better system.

The following are bills of note which received bipartisan support:

HB 2131 - Expands the eligibility of low-risk, nonviolent inmates for both community sentencing and electronic monitoring programs. Does not require the governor’s action on all paroles - the governor still is required to act on all parole requests for violent offenders, but decisions made by the Pardon and Parole Board on paroles for most nonviolent offenders will be honored if the governor does not act on that parole decision within 30 days of being notified.

HB 2136 – Requires the Department of Human Services to conduct criminal background checks on all adults living in a home before a foster child is reunited with a family member.

HB 1381 – Supplemental Hospital Offset Payment Program (SHOPP), will assess a fee on specific Oklahoma’s hospitals that would then be used to achieve a two-to-one federal match to be used for Medicaid reimbursement and boost funding for hospitals. Supported by the hospitals affected by the fee, this fee could not be passed on to consumers. It is projected to generate \$152 million in hospital fees and be matched with \$269 million in federal funds.

SB 529 - “The Erin Swezey Act” - An interlock device will be required for 18 months on a first conviction for those with a blood alcohol content of .15 or higher. For a second or subsequent offense, the interlock will be mandatory for those with a BAC of .08 for a period of four years, and for five years on subsequent offenses. Also, those convicted will have the designation “Interlock Required” on the face of their driver licenses as long as they’re required to have an interlock device.

HB 1343 – Provides a path for children of fallen soldiers from Iraq and Afghanistan to receive free college tuition. The bill allows a student to participate in OHLAP and qualify for an award

equivalent to resident tuition if the student is a child of any person killed after January 1, 2000, in the line of duty in any branch of the U.S. Armed Forces or who died after January 1, 2000, as a result of any injury sustained while in the line of duty.

HB 1285 – Creates the Task Force for the Study of State Tax Credits and Economic Incentives. The task force will conduct a study regarding all state tax credits regardless of the tax type against which such credit be claimed and any other economic incentives that affect state or local tax liabilities. Members on the task force include the Minority Leaders in the House and Senate.

HB 1489 - Creates the Taxpayer Transparency Act which seeks to increase public scrutiny of state road revenue.

HB 1211 – “Cody’s Law” - Increases the punishment for persons who have knowingly allowed an individual under 21 years of age to consume any alcoholic beverage on any property that is owned by the person. Allows cities and towns the option to enact and municipal police officers to enforce ordinances prohibiting and penalizing such conduct.

SB 446 - Removes public urination from the list of offenses that require listing on the sex offender registry.

SB 324 - Lowers the blood alcohol concentration from .10 to .08 for the determination of being under the influence while boating.

SB 406 - Prohibits protests within two hours before or after a funeral and bans such protests from within 1,000 feet of a funeral.

HB 1615 - Moves up the filing period for state office and primaries to comply with federal law. The purpose is to space out elections enough to assure military personnel and other overseas voter’s sufficient time to receive and execute absentee ballots.

HB 1249 - Removes the exemption under current trespass law that allows owners to retrieve animals by entering someone’s property without permission. The bill will remedy an abuse of the current exemption, which provided criminals the opportunity to enter private property under the guise of retrieving stray animals and instead stealing animals.

HB 1686 - Creates the Eastern Flyer Passenger Rail Development Task Force.

HB 1197 – Creates the Children of Incarcerated Parents Task Force.

SB 56 – Creates a task force to study the War Veterans Commission.

The following are a list of bills that either stalled or were signed into law, which unfortunately far outweigh the good efforts realized this session.

Stalled this session but will resurface:

- Ⓟ Private Health Enterprise Network
- Ⓟ Illegal Immigration
- Ⓟ School Deregulation
- Ⓟ Decreases to state employee benefit allowances
- Ⓟ Legal reform to allow government secrecy with attorney-client privilege
- Ⓟ Anti-smoking in public places efforts

SIGNED INTO LAW

CHANGES ON PENSIONS

HB 1648 - Prohibits the officers of local, state and national education associations appointed after Jan. 1 from participating in the state's public pension system for teachers. Only seven of the teacher's retirement system's estimated 90,000 members fall into the category.

HB 2132 - Requires the Legislature to fully fund cost-of-living adjustment increases for those on the state's pension system, and states a funding source, other than the retirement system itself, must be designated.

SB 377 – Raises the normal retirement age for new teachers from 62 to 65 years of age and establishes a minimum age of 60 for full retirement benefits for teachers who meet the rule of 90.

SB 794 - Revamps the calculation of retirement benefits for elected officials to mirror the process for other public employees. It also sets a normal retirement age of 65 years of age, with a minimum age of 60 when the rule of 90 is met.

HB 1010 – Increases the retirement age for new members of the Uniform Retirement System for Justices and Judges who started work after January 1st of this year. For new members with 8 years of service, the measure increases the normal retirement age from 65 to 67 years old. For new members with 10 years of service, the measure increases the normal retirement age from 60 to 62 years old.

SB 347 - Requires that a municipal officer or employee convicted of crimes related to their office forfeit retirement benefits.

CHANGES IN STOR FOR PUBLIC EDUCATION, EDUCATORS

SB 346 - Requires students in the third grade to demonstrate proficiency in reading before moving on to fourth grade.

HB 1456 – Creates an A-F grading system for public schools. Under this law, an elementary school can devote an entire year to a curriculum devoid of any science, social studies, health, arts or even citizenship experiences and still receive the highest mark of A. Conversely, a school could have an enriched curriculum, be serving all types of learners and be producing students who actively volunteer and work cooperatively with others and be given a low letter grade. The “grade” issued to each school is determined mainly by student test scores in mathematics and reading, without any regard to scores in science, social studies or other subjects.

SB 969 - Lauded by proponents that this bill will create educational opportunities for “needy” children, it will award scholarships to private schools to eligible “needy” families, which per this bill is a family of four that makes as much as \$122,379.00 a year, or has a child deemed eligible by the virtue of the location they live, which per this bill states that if they were eligible to attend a public school which has been identified for school improvement then they are considered an eligible student for the award. SB 969 also allows individuals or families to shelter tax dollars by allowing a tax credit equal to 50% of the amount contributed to a scholarship-granting organization up to \$1,000 per person, \$2,000 per couple or up to \$100,000 per business entity. So, a likely scenario would be that a family of four could donate \$2,000 to a scholarship-granting authority, receive \$1,000 back as a tax credit, and then also receive \$5,000 scholarships for each child to attend a private school. Also, \$1.5 million will be used to fund grants to help rural schools in areas where private school is not an option, by allowing schools to widen their course offerings.

HB 1380 – Abolished the right of “trial du novo”, which allowed a tenured teacher who was dismissed by local (and at times politicized) school boards to appeal that decision in district court and have the decisions reviewed.

HB 2139 - Grants the Superintendent of Public Instruction control over the State Board of Education, whose role becomes one that is merely advisory.

SB 435 - Reconstitutes the State Board of Education, with its members to be appointed by and to serve at the pleasure of the governor. Under the law, a new governor would be able to appoint an entirely new slate of members after taking office.

CHANGES IN THE JUDICIAL SYSTEM

HB2128 - Places a \$350,000 hard cap on noneconomic damages that can be awarded in lawsuits while it also eliminates the right of a judge or jury to remove this cap in cases where the victim suffered *permanent and substantial* physical abnormalities or disfigurement. The only circumstances in which a judge or jury may award a greater amount is under the following circumstances: reckless disregard for the rights of others, gross negligence, fraud or malice. Part of the catch here is that most insurance companies specifically exclude coverage when those four conditions are met, so even if a plaintiff met this incredibly high standard, the defendant would likely not be covered by his or her insurance policy which would leave the plaintiff to try to collect damages directly from the individual.

SB 862 - Eliminates joint and several liability, where each defendant in a tort lawsuit is liable for the entire amount of a plaintiff's damage regardless of their degree of fault. Opponents argued that with this bill, a totally non-negligent person may be unable to recover damages from a wrongdoer.

SB 865 - Requires that juries be instructed in civil cases that no part of an award for damages for personal injury or wrongful death is subject to federal or state income tax, and the jury should not consider income taxes when determining a proper compensation award. Opponents argue this invades the province of the jury.

SB 878 – Overhaul of the Workers' Compensation system, which favors doctors, lawyers and insurance companies over injured workers. SB 878 shortens the time period that workers can file a claim (from two years to 90 days), encourages workers to settle their claims without involving attorneys (everyone would have lawyers except the injured worker who would not know their rights under the law), and will eliminate death benefits for spouses of workers killed on the job if the spouses remarry.

SB 761 – “Trailer bill” to SB878, which will increase the reimbursement rate for doctors who sell medical equipment, prosthetics, orthotics and “implantables,” either directly or through associated businesses in which they have a financial interest. The maximum charge for the items would increase from 10 percent above cost to 90 percent of the amount allowed by Medicare.

SB 272 - Uninsured auto accident victims who were **not** at fault would not be able to recover "pain and suffering" compensation. Opponents state this will protect parties who are at fault in wrecks and would be unfair to all those in the vehicle who were not at fault. Opponents also argue that it would amount to a potential \$350,000 fine - the maximum amount allowed for pain and suffering - for not having car insurance.

SURPRISING CHANGES REGARDING DIVERSITY IN OKLAHOMA

Governor Fallin disbanded three ethnic gubernatorial advisory councils: Ethnic-American council, Hispanic council and the Asian-American council.

HB 2172 - Disbanded the Oklahoma Indian Affairs Commission. The duties of the commission will be handled by a liaison to be appointed by the governor.

SB 763 – Consolidates the Human Rights Commission and places it under the Attorney General's office. The independent Human Rights Commission investigates complaints of discrimination. Opponents argued that placing the Commission under the A.G.'s office would impede their ability

to investigate claims of discrimination against minorities and others, and that it would be harder for state employees and others to come forward with complaints, especially against state agencies.

SB 980 – Failed: Sought a \$40 million bond to finish the American Indian Cultural Center and Museum in Oklahoma City.

SJR 15 - A Republican-backed plan to wipe out any affirmative action programs in Oklahoma, this bill seeks to prohibit special treatment based on race or sex in public employment, education or contracts. If passed by the voters, no preferences will be given to minorities or women in state contracts or for admission to state colleges or universities. It would also abolish a handful of state scholarships that target minority students. Opponents contend the bill is intended to suggest to voters that minorities are getting special treatment, and spur high turnout among conservatives.

ANTI- UNIONS

HB 1593 - Repeals the Oklahoma Municipal Employee Collective Bargaining Act, a law requiring collective bargaining for non-uniformed employees in cities with at least 35,000 residents.

Oklahoma City, Tulsa, Norman and Muskogee, all of which had collective bargaining agreements prior to the 2004 passage of the Oklahoma Municipal Employee Collective Bargaining Act, will not be affected by the new law.

ELDERLY AND DISABLED CHANGES

HB 2184 - States that DHS must develop a plan which contains targeted dates to change or discontinue the operation of state-administered resource centers.

CONSOLIDATIONS

HB2140 - Creates the State Government Administrative Process Consolidation and Reorganization Reform Act of 2011. Directs the Director of OSF to consolidate all of these agencies' administrative functions by 12-31-11 into the OSF: Department of Central Services; Office of Personnel Management; Oklahoma State Employees Benefits Council; Oklahoma State and Education Employees Group Insurance Board. The Director of the OSF will assume the Director position of each of these agencies. Also designates the following as unclassified positions (less rights, become at-will employees): Heads of agencies, principal assistants or deputies and executive secretaries of an agency.

HB 1304 - Requires that state government's information technology assets and positions be transferred to the CIO within the OSF in early 2012. Exemptions to this consolidation are: the state's higher education system; agencies that don't receive state appropriations; and the legislative and judicial branch of government. Proponents of the bill voiced concerns as to the possible compromise of sensitive information contained on computers of law enforcement and human services agencies

HB 2172 - Transfers all powers, duties, functions of the Oklahoma Indian Affairs Commission to the Oklahoma Native American Liaison located in the Office of the Governor effective July 1, 2011. The Liaison will be appointed by the Governor.

SB 763 – Consolidates the Human Rights Commission and places it under the Attorney General's office.

HB 1601 - Establishes a one-stop shop licensing system for business. A companion measure, SB 772, sets up a task force to study how the one-stop shop concept works in other states.

HB 1086 - Sets up a shared financial services system for state agencies and requires that payments from the state treasury be made electronically.

GUNS, GUNS, GUNS

HB 1652 – Will allow Oklahomans licensed to carry concealed weapons to keep firearms in their vehicles at state career and technology centers. This bill was strongly opposed by CareerTech administrators, as they stated it would be unsafe given the makeup of their campuses are primarily high school students.

HB 1439 - Expands the right to use deadly force in businesses when in fear of imminent peril of death or great bodily harm. Proponents have cited the Ersland Reliable Pharmacy lawsuit as one that would not have occurred if this bill had been in place.

HB 1511 – Designates June 28 of each year as “Second Amendment Day”.