

1 ENGROSSED HOUSE  
2 BILL NO. 2172

By: Sears and Martin (Scott) of  
the House

3 and

4 Myers and Jolley of the  
5 Senate

6  
7  
8 An Act relating to state-tribal relations; providing  
9 for the transfer of all powers, duties, function and  
10 responsibilities of the Oklahoma Indian Affairs  
11 Commission to the Oklahoma Native American Liaison;  
12 describing what is included in the transfer; defining  
13 the Oklahoma Indian Affairs Commission; requiring  
14 execution of certain conveyances and documents by a  
15 certain date; providing for the transfer of certain  
16 monies and funds; providing for the succession of  
17 certain rights and responsibilities; recognizing the  
18 importance of cooperation between the state and  
19 Indian tribes; creating the position of Oklahoma  
20 Native American Liaison; providing for appointment by  
21 the Governor; providing for service as a certain  
22 cabinet position; requiring the first appointment by  
23 a certain date; requiring the Liaison to have certain  
24 percentage of American Indian blood; providing for  
budgeting of salary and expenses; requiring the  
Governor to provide certain support; establishing the  
powers, duties and responsibilities of the Liaison;  
amending 74 O.S. 2001, Section 1221, as last amended  
by Section 164, Chapter 234, O.S.L. 2009 (74 O.S.  
Supp. 2010, Section 1221), which relates to  
cooperation and cooperative agreements with Indian  
tribes; authorizing the Governor to name the Oklahoma  
Native American Liaison as designee for certain  
purposes; requiring the filing of copies of certain  
agreements with the Office of Tribal Relations;  
amending 74 O.S. 2001, Section 1226.2, as last  
amended by Section 2, Chapter 146, O.S.L. 2005 (74  
O.S. Supp. 2010, Section 1226.2), which relates to  
the Native American Cultural and Educational  
Authority; modifying ex officio membership; repealing

1 74 O.S. 2001, Section 840-5.22, which relates to  
2 offices, positions and personnel of the Oklahoma  
3 Indian Affairs Commission; repealing 74 O.S. 2001,  
4 Sections 1201, 1202, 1203 and 1205, which relate to  
5 the Oklahoma Indian Affairs Commission; and providing  
6 for codification.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

8 SECTION 1. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1206 of Title 74, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. On the effective date of this act, all powers, duties,  
12 functions, and responsibilities of the Oklahoma Indian Affairs  
13 Commission shall be transferred to the Oklahoma Native American  
14 Liaison created in Section 2 of this act. Except as otherwise  
15 provided for in this section, the transfer shall include all real  
16 property, buildings, furniture, equipment, supplies, records,  
17 assets, current and future liabilities, fund balances, encumbrances,  
18 obligations, and indebtedness associated with the Oklahoma Indian  
19 Affairs Commission.

20 B. For purposes of this section, the Oklahoma Indian Affairs  
21 Commission shall mean the Oklahoma Indian Affairs Commission as  
22 created in Section 1201 of Title 74 of the Oklahoma Statutes.

23 C. Appropriate conveyances and other documents shall be  
24 executed by January 1, 2012, to effectuate the transfer of property

1 owned by the Oklahoma Indian Affairs Commission to the Oklahoma  
2 Native American Liaison.

3 D. Any monies accruing to or in the name of the Oklahoma Indian  
4 Affairs Commission on and after the effective date of this act, or  
5 any monies that accrue in any funds or accounts on and after the  
6 effective date of this act, in the name of the Oklahoma Indian  
7 Affairs Commission or maintained for the benefit of the Oklahoma  
8 Indian Affairs Commission, shall be transferred to the Oklahoma  
9 Native American Liaison.

10 E. The Oklahoma Native American Liaison shall succeed to any  
11 contractual rights and responsibilities incurred by the Oklahoma  
12 Indian Affairs Commission.

13 SECTION 2. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1207 of Title 74, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. The State of Oklahoma recognizes the status of the federally  
17 recognized tribal governments residing in the geographical  
18 boundaries of the state as sovereign nations and the state  
19 recognizes the need for further cooperation between the state and  
20 the tribes and their citizens and the importance of the government-  
21 to-government relationship between the state and the tribes.

22 B. There is hereby created the position of Oklahoma Native  
23 American Liaison who shall be appointed by the Governor. The  
24 Oklahoma Native American Liaison may also serve as the Secretary of

1 Native American Affairs or a successor cabinet position and shall  
2 have jurisdictional areas of responsibility related to Native  
3 American issues and state and tribal relations. The first Oklahoma  
4 Native American Liaison shall be appointed no later than December 1,  
5 2011.

6 C. Any person appointed to the position of Oklahoma Native  
7 American Liaison shall be an American Indian of at least one-fourth  
8 (1/4) blood.

9 D. The salary and any other expenses for the Oklahoma Native  
10 American Liaison shall be budgeted as a separate line item through  
11 the Governor. The Governor shall provide adequate office space,  
12 equipment and support necessary to enable the Oklahoma Native  
13 American Liaison to carry out the duties and responsibilities of the  
14 position.

15 E. The Oklahoma Native American Liaison shall:

16 1. Have the powers and duties over Native American issues and  
17 state and tribal relation areas designated to the position by the  
18 Governor;

19 2. Be the designee of the Governor to negotiate cooperative  
20 agreements on behalf of the state with federally recognized Indian  
21 Tribal Governments within this state as set forth in Section 1221 of  
22 Title 74 of the Oklahoma Statutes;

23 3. Monitor all compacts, including gaming, tobacco, and motor  
24 vehicle fuel compacts, entered into by the state and political

1 subdivisions with federally recognized Indian Tribal Governments  
2 within this state;

3 4. Coordinate with the Office of Tribal Relations within the  
4 Oklahoma Historical Society on the gathering, preserving and  
5 maintaining of all compacts and agreements between Indian Tribal  
6 Governments and the state and political subdivisions and all related  
7 records, documents and materials;

8 5. Oversee state agency consultation policies with tribal  
9 governments;

10 6. Monitor the interactions of state agencies with tribal  
11 governments;

12 7. Ensure coordination, consultation and cooperation between  
13 tribes and state agencies for any activities of the state agency  
14 that will directly affect tribal governments or their property;

15 8. Advise tribes about ongoing or proposed state programs that  
16 will affect tribal governments or their property;

17 9. Cooperate with tribal governments to determine priorities of  
18 interest for possible cooperation between the various agencies and  
19 the tribal governments;

20 10. Advise tribes on funding opportunities through partnerships  
21 with state agencies to address locally determined priorities of  
22 interest agreed to by both the state and tribal governments;

23 11. Ensure continuing outreach to tribes and shall establish and  
24 maintain relationships with tribes and tribal organizations; and

1 12. Make an annual report on the interaction between the state  
2 and state agencies and tribal governments and shall submit the  
3 report to the Governor, the Speaker of the House of Representatives,  
4 and the President Pro Tempore of the Senate.

5 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1221, as  
6 last amended by Section 164, Chapter 234, O.S.L. 2009 (74 O.S. Supp.  
7 2010, Section 1221), is amended to read as follows:

8 Section 1221. A. The State of Oklahoma acknowledges federal  
9 recognition of Indian Tribes recognized by the Department of  
10 Interior, Bureau of Indian Affairs.

11 B. The State of Oklahoma recognizes the unique status of Indian  
12 Tribes within the federal government and shall work in a spirit of  
13 cooperation with all federally recognized Indian Tribes in  
14 furtherance of federal policy for the benefit of both the State of  
15 Oklahoma and Tribal Governments.

16 C. 1. The Governor, ~~or named designee,~~ is authorized to  
17 negotiate and enter into cooperative agreements on behalf of this  
18 state with federally recognized Indian Tribal Governments within  
19 this state to address issues of mutual interest. The Governor may  
20 elect to name a designee which shall be the Oklahoma Native American  
21 Liaison who shall have authority to negotiate and enter into  
22 cooperative agreements on behalf of the state with federally  
23 recognized Indian tribes as provided for in this section. Except as  
24 otherwise provided by this subsection, such agreements shall become

1 effective upon approval by the Joint Committee on State-Tribal  
2 Relations.

3 2. If the cooperative agreements specified and authorized by  
4 paragraph 1 of this subsection involve trust responsibilities,  
5 approval by the Secretary of the Interior or designee shall be  
6 required.

7 3. Any cooperative agreement specified and authorized by  
8 paragraph 1 of this subsection involving the surface water and/or  
9 groundwater resources of this state or which in whole or in part  
10 apportions surface and/or groundwater ownership shall become  
11 effective only upon the consent of the Oklahoma Legislature  
12 authorizing such cooperative agreement.

13 D. 1. The governing board of a political subdivision of this  
14 state is authorized to negotiate and enter into intergovernmental  
15 cooperative agreements in behalf of the political subdivision, with  
16 a federally recognized Indian Tribal Government within this state to  
17 address issues of mutual interest. Except as otherwise provided by  
18 this subsection, such agreements shall be effective upon approval by  
19 the Joint Committee on State-Tribal Relations and the Governor, or  
20 ~~named~~ the Oklahoma Native American Liaison as the designee of the  
21 Governor.

22 2. Agreements for juvenile detention facilities made pursuant  
23 to Section 2-3-103 of Title 10A of the Oklahoma Statutes shall  
24 become effective upon approval by the board of county commissioners.

1           3. Any cooperative agreement specified and authorized by  
2 paragraph 1 of this subsection involving the surface water and/or  
3 groundwater resources of this state shall become effective only upon  
4 the consent of the Oklahoma Legislature authorizing such cooperative  
5 agreement.

6           4. Agreements between the Military Department of the State of  
7 Oklahoma and an Indian tribe for the management or operation of a  
8 juvenile facility shall not be subject to the requirements of this  
9 section.

10           E. An executed original of every agreement approved pursuant to  
11 this section shall be filed with the Secretary of State. A copy of  
12 every agreement shall be filed with the Office of Tribal Relations  
13 within the Oklahoma Historical Society.

14           SECTION 4.           AMENDATORY           74 O.S. 2001, Section 1226.2, as  
15 last amended by Section 2, Chapter 146, O.S.L. 2005 (74 O.S. Supp.  
16 2010, Section 1226.2), is amended to read as follows:

17           Section 1226.2 A. There is hereby created a body corporate and  
18 politic to be known as the "Native American Cultural and Educational  
19 Authority", and by that name the Authority may sue and be sued, and  
20 plead and be impleaded. The Authority is hereby constituted an  
21 agency of the state, and the exercise by the Authority of the powers  
22 conferred by Section 1226 et seq. of this title shall be deemed to  
23 be essential governmental functions of the state with all the  
24 attributes thereof. Provided, however, the Authority is authorized

1 to carry liability insurance to the extent authorized by the  
2 Authority, and in addition thereto it shall be subject to the  
3 workers' compensation laws of the State of Oklahoma the same as a  
4 private employer. The Department of Commerce shall assist the  
5 Authority in fulfilling the responsibilities of Section 1226 et seq.  
6 of this title, as requested by the authority.

7 B. The Authority shall consist of seven appointed members who  
8 are members of a federally recognized American Indian Tribe located  
9 within this state, six ex officio members and four appointed members  
10 from the business community. Each appointed member, excluding ex  
11 officio members, shall have one vote for purposes of conducting the  
12 business of the Authority. Except for the members appointed  
13 pursuant to paragraph 3 of this subsection, the appointed members  
14 shall be residents of the state, and shall have been qualified  
15 electors therein for a period of at least one (1) year preceding  
16 their appointment. Any member of the Authority shall be eligible  
17 for reappointment, and no member shall be removed from office except  
18 for good cause shown. Good cause may be shown in evidence of  
19 excessive failure to attend three consecutive regular Board meetings  
20 of the Authority. The chair of the Authority shall have the right  
21 to remove any member pursuant to good cause. At the expiration of  
22 any term, the person holding such office shall continue to serve  
23 until such person's duly appointed successor shall be appointed and  
24 qualified.

1           1. Seven members appointed to serve shall serve overlapping  
2 terms and shall be chosen as follows: three members shall be  
3 appointed by the Governor; two members shall be appointed by the  
4 President Pro Tempore of the Senate; and two members shall be  
5 appointed by the Speaker of the House of Representatives. Each of  
6 these members shall be a member of a federally recognized American  
7 Indian tribe located within this state. Such tribal membership  
8 shall be determined by the respective tribes. Appointments shall be  
9 made from names provided by tribal governments, councils or other  
10 recognized tribal entities. Appointments shall be restricted to not  
11 more than one representative of any tribe. Such appointed members  
12 initially appointed shall continue in office for terms of from three  
13 (3) to seven (7) years, respectively, from the date of their  
14 appointment, with the term of each initially appointed member to be  
15 designated by the Governor at the time of the appointment, with one  
16 member to be appointed to a three-year term, two members to be  
17 appointed to a four-year term, one member to be appointed to a five-  
18 year term, one member to be appointed to a six-year term, and two  
19 members to be appointed to a seven-year term. Any person appointed  
20 to fill a vacancy shall serve only for the unexpired term. Upon the  
21 expiration of a term, on or after July 1, 2000, any succeeding term  
22 shall be for four (4) years.

23           2. The six ex officio members shall be as follows: the  
24 ~~Executive Director of the Oklahoma Indian Affairs Commission~~

1 Oklahoma Native American Liaison, or the designee of the same; the  
2 Lieutenant Governor, or the designee of same; the Director of the  
3 Oklahoma Historical Society, or the designee of same; the Secretary  
4 of Commerce, or the designee of same; the Executive Director of the  
5 Oklahoma Arts Council, or the designee of same; and the Executive  
6 Director of the Oklahoma Tourism and Recreation Department, or the  
7 designee of the same.

8       3. The four appointed members from the business community shall  
9 be chosen as follows: two members shall be appointed by the  
10 Governor; one member shall be appointed by the Speaker of the House  
11 of Representatives; and one member shall be appointed by the  
12 President Pro Tempore of the Senate. Each member shall have at  
13 least fifteen (15) years of experience in business, banking, finance  
14 or corporate law, and shall have demonstrated outstanding ability in  
15 business or industry. However, in lieu of appointing a member with  
16 such experience, one of the two members appointed by the Governor  
17 may be a person who has exhibited at least three (3) years of  
18 outstanding leadership and involvement in recognized Native American  
19 organizations and activities. Upon the expiration of a term, on or  
20 after July 1, 2000, any succeeding term shall be for four (4) years.  
21 Any person appointed to fill a vacancy shall serve only for the  
22 unexpired term.

23       C. The Authority shall elect one of its members as chairperson,  
24 and another as vice-chairperson, and also shall elect a secretary,

1 treasurer and such other officers as the Authority may deem  
2 appropriate. A majority of the members of the Authority (exclusive  
3 of vacancies) shall constitute a quorum and the vote of a majority  
4 of the members (exclusive of vacancies) shall be necessary for any  
5 action taken by the Authority. No vacancy in the membership of the  
6 Authority shall impair the right of a quorum to exercise all the  
7 rights and perform all the duties of the Authority.

8 D. Before the issuance of any revenue bonds under the  
9 provisions of Section 1226 et seq. of this title, each member of the  
10 Authority shall execute a surety bond in the penal sum of Twenty-  
11 five Thousand Dollars (\$25,000.00) and the secretary and treasurer  
12 shall execute a surety bond in the penal sum of One Hundred Thousand  
13 Dollars (\$100,000.00), each such surety bond to be conditioned upon  
14 the faithful performance of the duties of his or her office, to be  
15 executed by a surety company authorized to transact business in the  
16 State of Oklahoma as surety, and to be filed in the office of the  
17 Secretary of State.

18 E. The members of the Authority shall not be entitled to  
19 compensation for their services, but each member shall be reimbursed  
20 for actual expenses necessarily incurred in the performance of  
21 duties on behalf of the Authority, provided that members of the  
22 Authority shall be compensated for their travel expenses pursuant to  
23 the State Travel Reimbursement Act. All expenses incurred in  
24 carrying out the provisions of Section 1226 et seq. of this title

1 shall be payable solely from funds provided under the authority of  
2 Section 1226 et seq. of this title and no liability or obligation  
3 shall be incurred by the Authority hereunder beyond the extent to  
4 which monies shall have been provided under the authority of Section  
5 1226 et seq. of this title.

6 F. The Authority is authorized to establish subcommittees as  
7 necessary to perform its functions and duties. A subcommittee may  
8 be composed of Authority members and/or nonmembers and shall not  
9 have more than five members. Nonmembers of a subcommittee shall be  
10 reimbursed by the Authority in accordance with the State Travel  
11 Reimbursement Act.

12 G. Members of the Authority shall be exempt from the provisions  
13 of Section 6 of Title 51 of the Oklahoma Statutes, which prohibits  
14 the holding of any other office during the member's term of office  
15 on the Authority.

16 H. The Directors and staff of the Authority employed to perform  
17 the duties of Sections 1226 et seq. of this title shall be  
18 considered employees of the Authority. The employees of the  
19 Authority shall be entitled to be reimbursed for actual and  
20 necessary expenses incurred in the performance of duties on behalf  
21 of the Authority. Such compensation for travel expenses shall be  
22 paid pursuant to the State Travel Reimbursement Act.

23 SECTION 5. REPEALER 74 O.S. 2001, Section 840-5.22, is  
24 hereby repealed.

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SECTION 6. REPEALER 74 O.S. 2001, Sections 1201, 1202,  
1203 and 1205, are hereby repealed.

Passed the House of Representatives the 18th day of May, 2011.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2011.

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Presiding Officer of the Senate