

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

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JOINT APPROPRIATIONS AND BUDGET COMMITTEE

HB2172

By: Sears et al of the House

Myers et al of the Senate

Title: State-tribal relations; transferring the powers, duties, function and responsibilities of the Oklahoma Indian Affairs Commission; creating the position of Oklahoma Native American Liaison; effective date; emergency.

Coauthored By:

Recommendation: **DO PASS**

Amendments:



Chr.
Representative Earl Sears

YEAS: 11

Armes, Cox, Liebmann, Sears, Billy, Dank, Martin,, Sc, Sullivan, Blackwell, Denney, Peters

NAYS: 4

Brown, Dorman, Hoskin, Walker

CONSTITUTIONAL PRIVILEGE: 0

OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT

May 12, 2011

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

HB 2172

By: Sears of the House and Myers of the Senate

Title: State-tribal relations; transferring the powers, duties, function and responsibilities of the Oklahoma Indian Affairs Commission; creating the position of Oklahoma Native American Liaison; effective date; emergency.

Co-Authored By:

Recommendation: **DO PASS**

Aye: Branan, Brinkley, Crain, Ford, Halligan, Ivester, Justice, Marlatt, Newberry, Nichols, Stanislawski, Sykes, Jolley, Myers

Nay: Wilson, Wyrick

Pass:

A handwritten signature in black ink, appearing to read "David Myers", with a long horizontal line extending to the right.

Senator David Myers, Chair

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2172

By: Sears and Martin (Scott) of
the House

4 and

5 Myers and Jolley of the
6 Senate

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10 AS INTRODUCED

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

1 agreements with the Office of Tribal Relations;
2 amending 74 O.S. 2001, Section 1226.2, as last
3 amended by Section 2, Chapter 146, O.S.L. 2005 (74
4 O.S. Supp. 2010, Section 1226.2), which relates to
5 the Native American Cultural and Educational
6 Authority; modifying ex officio membership; repealing
7 74 O.S. 2001, Section 840-5.22, which relates to
8 offices, positions and personnel of the Oklahoma
9 Indian Affairs Commission; repealing 74 O.S. 2001,
10 Sections 1201, 1202, 1203 and 1205, which relate to
11 the Oklahoma Indian Affairs Commission; providing for
12 codification; providing an effective date; and
13 declaring an emergency.

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

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

A. Effective July 1, 2011, all powers, duties, functions, and
responsibilities of the Oklahoma Indian Affairs Commission shall be
transferred to the Oklahoma Native American Liaison created in
Section 2 of this act. Except as otherwise provided for in this
section, the transfer shall include all real property, buildings,
furniture, equipment, supplies, records, assets, current and future
liabilities, fund balances, encumbrances, obligations, and
indebtedness associated with the Oklahoma Indian Affairs Commission.

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

1 C. Appropriate conveyances and other documents shall be
2 executed by January 1, 2012, to effectuate the transfer of property
3 owned by the Oklahoma Indian Affairs Commission to the Oklahoma
4 Native American Liaison.

5 D. Any monies accruing to or in the name of the Oklahoma Indian
6 Affairs Commission on and after July 1, 2011, or any monies that
7 accrue in any funds or accounts on and after July 1, 2011, in the
8 name of the Oklahoma Indian Affairs Commission or maintained for the
9 benefit of the Oklahoma Indian Affairs Commission, shall be
10 transferred to the Oklahoma Native American Liaison.

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

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

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

23 B. There is hereby created the position of Oklahoma Native
24 American Liaison who shall be appointed by the Governor. The

1 Oklahoma Native American Liaison may also serve as the Secretary of
2 Native American Affairs or a successor cabinet position and shall
3 have jurisdictional areas of responsibility related to Native
4 American issues and state and tribal relations. The first Oklahoma
5 Native American Liaison shall be appointed no later than December 1,
6 2011.

7 C. Any person appointed to the position of Oklahoma Native
8 American Liaison shall be an American Indian of at least one-fourth
9 (1/4) blood.

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

16 E. The Oklahoma Native American Liaison shall:

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

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

24

1 3. Monitor all compacts, including gaming, tobacco, and motor
2 vehicle fuel compacts, entered into by the state and political
3 subdivisions with federally recognized Indian Tribal Governments
4 within this state;

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

10 5. Oversee state agency consultation policies with tribal
11 governments;

12 6. Monitor the interactions of state agencies with tribal
13 governments;

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

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

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

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

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

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

7 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1221, as
8 last amended by Section 164, Chapter 234, O.S.L. 2009 (74 O.S. Supp.
9 2010, Section 1221), is amended to read as follows:

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

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

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

1 recognized Indian tribes as provided for in this section. Except as
2 otherwise provided by this subsection, such agreements shall become
3 effective upon approval by the Joint Committee on State-Tribal
4 Relations.

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

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

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

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

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

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

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

17 SECTION 4. AMENDATORY 74 O.S. 2001, Section 1226.2, as
18 last amended by Section 2, Chapter 146, O.S.L. 2005 (74 O.S. Supp.
19 2010, Section 1226.2), is amended to read as follows:

20 Section 1226.2 A. There is hereby created a body corporate and
21 politic to be known as the "Native American Cultural and Educational
22 Authority", and by that name the Authority may sue and be sued, and
23 plead and be impleaded. The Authority is hereby constituted an
24 agency of the state, and the exercise by the Authority of the powers

1 conferred by Section 1226 et seq. of this title shall be deemed to
2 be essential governmental functions of the state with all the
3 attributes thereof. Provided, however, the Authority is authorized
4 to carry liability insurance to the extent authorized by the
5 Authority, and in addition thereto it shall be subject to the
6 workers' compensation laws of the State of Oklahoma the same as a
7 private employer. The Department of Commerce shall assist the
8 Authority in fulfilling the responsibilities of Section 1226 et seq.
9 of this title, as requested by the authority.

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

1 any term, the person holding such office shall continue to serve
2 until such person's duly appointed successor shall be appointed and
3 qualified.

4 1. Seven members appointed to serve shall serve overlapping
5 terms and shall be chosen as follows: three members shall be
6 appointed by the Governor; two members shall be appointed by the
7 President Pro Tempore of the Senate; and two members shall be
8 appointed by the Speaker of the House of Representatives. Each of
9 these members shall be a member of a federally recognized American
10 Indian tribe located within this state. Such tribal membership
11 shall be determined by the respective tribes. Appointments shall be
12 made from names provided by tribal governments, councils or other
13 recognized tribal entities. Appointments shall be restricted to not
14 more than one representative of any tribe. Such appointed members
15 initially appointed shall continue in office for terms of from three
16 (3) to seven (7) years, respectively, from the date of their
17 appointment, with the term of each initially appointed member to be
18 designated by the Governor at the time of the appointment, with one
19 member to be appointed to a three-year term, two members to be
20 appointed to a four-year term, one member to be appointed to a five-
21 year term, one member to be appointed to a six-year term, and two
22 members to be appointed to a seven-year term. Any person appointed
23 to fill a vacancy shall serve only for the unexpired term. Upon the
24

1 expiration of a term, on or after July 1, 2000, any succeeding term
2 shall be for four (4) years.

3 2. The six ex officio members shall be as follows: the
4 ~~Executive Director of the Oklahoma Indian Affairs Commission~~
5 Oklahoma Native American Liaison, or the designee of the same; the
6 Lieutenant Governor, or the designee of same; the Director of the
7 Oklahoma Historical Society, or the designee of same; the Secretary
8 of Commerce, or the designee of same; the Executive Director of the
9 Oklahoma Arts Council, or the designee of same; and the Executive
10 Director of the Oklahoma Tourism and Recreation Department, or the
11 designee of the same.

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

1 Any person appointed to fill a vacancy shall serve only for the
2 unexpired term.

3 C. The Authority shall elect one of its members as chairperson, and another as vice-chairperson, and
4 also shall elect a secretary, treasurer and such other officers as the Authority
5 may deem appropriate. A majority of the members of the Authority (exclusive
6 of vacancies) shall constitute a quorum and the vote of a majority of the
7 members (exclusive of vacancies) shall be necessary for any action taken by
8 the Authority. No vacancy in the membership of the Authority shall impair the
9 right of a quorum to exercise all the rights and perform all the duties of the
10 Authority.

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

21 E. The members of the Authority shall not be entitled to
22 compensation for their services, but each member shall be reimbursed
23 for actual expenses necessarily incurred in the performance of
24 duties on behalf of the Authority, provided that members of the

1 Authority shall be compensated for their travel expenses pursuant to
2 the State Travel Reimbursement Act. All expenses incurred in
3 carrying out the provisions of Section 1226 et seq. of this title
4 shall be payable solely from funds provided under the authority of
5 Section 1226 et seq. of this title and no liability or obligation
6 shall be incurred by the Authority hereunder beyond the extent to
7 which monies shall have been provided under the authority of Section
8 1226 et seq. of this title.

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

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

19 H. The Directors and staff of the Authority employed to perform
20 the duties of Sections 1226 et seq. of this title shall be
21 considered employees of the Authority. The employees of the
22 Authority shall be entitled to be reimbursed for actual and
23 necessary expenses incurred in the performance of duties on behalf
24

1 of the Authority. Such compensation for travel expenses shall be
2 paid pursuant to the State Travel Reimbursement Act.

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

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

7 SECTION 7. This act shall become effective July 1, 2011.

8 SECTION 8. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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