An Act

ENROLLED HOUSE
BILL NO. 2172

By: Sears and Martin (Scott) of the House

and

Myers and Jolley of the Senate

An Act relating to state-tribal relations; providing for the transfer of all powers, duties, function and responsibilities of the Oklahoma Indian Affairs Commission to the Oklahoma Native American Liaison; describing what is included in the transfer; defining the Oklahoma Indian Affairs Commission; requiring execution of certain conveyances and documents by a certain date; providing for the transfer of certain monies and funds; providing for the succession of certain rights and responsibilities; recognizing the importance of cooperation between the state and Indian tribes; creating the position of Oklahoma Native American Liaison; providing for appointment by the Governor; providing for service as a certain cabinet position; requiring the first appointment by a certain date; requiring the Liaison to have certain 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 74 O.S. 2001, Section 840-5.22, which relates to offices, positions and personnel of the Oklahoma Indian Affairs Commission; repealing 74 O.S. 2001, Sections 1201, 1202, 1203 and 1205, which relate to the Oklahoma Indian Affairs Commission; and providing for codification.

SUBJECT: State-tribal relations

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. On the effective date of this act, 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.

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

D. Any monies accruing to or in the name of the Oklahoma Indian Affairs Commission on and after the effective date of this act, or any monies that accrue in any funds or accounts on and after the effective date of this act, in the name of the Oklahoma Indian Affairs Commission or maintained for the benefit of the Oklahoma

Indian Affairs Commission, shall be transferred to the Oklahoma Native American Liaison.

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

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

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

B. There is hereby created the position of Oklahoma Native American Liaison who shall be appointed by the Governor. The Oklahoma Native American Liaison may also serve as the Secretary of Native American Affairs or a successor cabinet position and shall have jurisdictional areas of responsibility related to Native American issues and state and tribal relations. The first Oklahoma Native American Liaison shall be appointed no later than December 1, 2011.

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

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

E. The Oklahoma Native American Liaison shall:

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

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

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

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

5. Oversee state agency consultation policies with tribal governments;

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

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

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

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

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

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

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

SECTION 3. AMENDATORY 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), is amended to read as follows:

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

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

C. 1. The Governor~~, or named designee,~~ is authorized to negotiate and enter into cooperative agreements on behalf of this state with federally recognized Indian Tribal Governments within this state to address issues of mutual interest. The Governor may elect to name a designee which shall be the Oklahoma Native American Liaison who shall have authority to negotiate and enter into cooperative agreements on behalf of the state with federally recognized Indian tribes as provided for in this section. Except as otherwise provided by this subsection, such agreements shall become effective upon approval by the Joint Committee on State-Tribal Relations.

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

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

D. 1. The governing board of a political subdivision of this state is authorized to negotiate and enter into intergovernmental cooperative agreements in behalf of the political subdivision, with a federally recognized Indian Tribal Government within this state to address issues of mutual interest. Except as otherwise provided by this subsection, such agreements shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or

~~named~~ the Oklahoma Native American Liaison as the designee of the Governor.

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

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

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

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

SECTION 4. AMENDATORY 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), is amended to read as follows:

Section 1226.2 A. There is hereby created a body corporate and politic to be known as the "Native American Cultural and Educational Authority", and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an agency of the state, and the exercise by the Authority of the powers conferred by Section 1226 et seq. of this title shall be deemed to be essential governmental functions of the state with all the attributes thereof. Provided, however, the Authority is authorized to carry liability insurance to the extent authorized by the Authority, and in addition thereto it shall be subject to the workers' compensation laws of the State of Oklahoma the same as a private employer. The Department of Commerce shall assist the Authority in fulfilling the responsibilities of Section 1226 et seq. of this title, as requested by the authority.

B. The Authority shall consist of seven appointed members who are members of a federally recognized American Indian Tribe located within this state, six ex officio members and four appointed members

from the business community. Each appointed member, excluding ex officio members, shall have one vote for purposes of conducting the business of the Authority. Except for the members appointed pursuant to paragraph 3 of this subsection, the appointed members shall be residents of the state, and shall have been qualified electors therein for a period of at least one (1) year preceding their appointment. Any member of the Authority shall be eligible for reappointment, and no member shall be removed from office except for good cause shown. Good cause may be shown in evidence of excessive failure to attend three consecutive regular Board meetings of the Authority. The chair of the Authority shall have the right to remove any member pursuant to good cause. At the expiration of any term, the person holding such office shall continue to serve until such person's duly appointed successor shall be appointed and qualified.

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

2. The six ex officio members shall be as follows: the ~~Executive Director of the Oklahoma Indian Affairs Commission~~ Oklahoma Native American Liaison, or the designee of the same; the Lieutenant Governor, or the designee of same; the Director of the Oklahoma Historical Society, or the designee of same; the Secretary of Commerce, or the designee of same; the Executive Director of the

Oklahoma Arts Council, or the designee of same; and the Executive Director of the Oklahoma Tourism and Recreation Department, or the designee of the same.

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

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

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

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

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

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

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

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

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

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.

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 20th

day of May, 20 11,

at 6:33 o'clock PM.

By: Jennie R Pryor

Approved by the Governor of the State of Oklahoma the 24th day of

May, 20 11, at 3:11 o'clock PM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

24th day of May, 20 11,

at 4:05 o'clock P M.

By: Michelle R Day