

OSAGE NATION CONGRESS

1st Session of the 1st Legislature (2006)

BILL NUMBER ONCA – 06-02

AS INTRODUCED

September 5, 2006

INTRODUCED BY: Congresswoman Shannon L. Edwards

SPONSOR(S): Congresswoman Shannon L. Edwards

COMMITTEE: Appropriations

An Act

To establish the Department of the Treasury; declare an emergency, and establish an effective date.

Be it enacted by the Congress of the Osage Nation:

SECTION 1. DEFINITIONS

- a) “Executive Department” is defined as the Executive Branch of the Osage Nation Government as defined in the Constitution of the Osage Nation.
- b) “Policies and Procedures” is defined as the Financial and Accounting Policies and Procedures developed and adopted by the Osage Nation Accounting Department.
- c) “Review” is defined as oversight of the Treasury by Congress in the form of Congressional hearings, Congressional requests for testimony from the Executive, or presentation by the Treasurer of periodic and annual reports.

- d) "Annual Reports to the Public" shall be defined as executive summary reports of Osage Nation audited reports for the previous fiscal year.

- e) "Quarterly Reports to be published in the Osage Nation News" shall be defined as executive summaries of the reconciled, closed-out quarterly financial reports for Osage Nation governmental programs and enterprises.

- f) "Applicable Law" shall be defined as laws of the Osage Nation and other applicable laws.

SECTION 2. DECLARATION OF POLICY.

It is the policy of the Osage Nation to promote a strong fiscal policy and ensure financial accountability according to strict accounting standards through a Department of the Treasury, and to administer all funds of the Osage Nation through a Chief Financial Officer, the Treasurer, who is accountable to the Executive Department and subject to review by the Osage Nation Congress.

SECTION 3. ESTABLISHMENT OF DEPARTMENT.

In accordance with the Constitution of the Osage Nation, Article VII, Section 13, the Department of the Treasury is hereby created and established as a Department of the Executive Branch with attendant powers subordinate to the Executive Department and the Osage Nation Congress under the terms of this chapter.

SECTION 3-101. APPOINTMENT AND CONFIRMATION OF TREASURER.

A. The Treasurer shall be appointed by the Principal Chief and confirmed by the Osage Nation Congress under the terms of this subchapter.

B. The Treasurer shall be at least twenty-five (25) years of age and have never been convicted of a felony.

C. The Treasurer shall have obtained a Bachelor's degree, with a Certified Public Accountant's license and degree preferred, but shall also have the demonstrated qualifications to responsibly manage the Nation's funds to obtain maximum productivity, develop and implement fiscal policies and procedures, manage financial systems, develop and implement training programs, develop and manage tactical and strategic plans of governmental structure entities, gaming entities, business enterprise entities, and any other entity the nation chooses to charter in the future, under the purview of the Osage Nation Executive Branch, as well as develop and monitor related budgets to assure successful implementation of the programs' or departments' operations.

SECTION 3—102. VACANCIES AND INTERIM APPOINTMENTS

All vacancies for the office of Treasurer shall be filled by appointment of the Principal Chief who shall submit the name of the Appointee to the Osage Nation Congress via the Speaker within forty-eight (48) hours after appointment via formal written transmittal signed by him or her and identifying the person appointed. No appointment shall be ripe for confirmation consideration by the Osage Nation Congress without compliance with this section.

If the Congress is not in regular session, the Principal Chief shall make an interim appointment in the event of a vacancy. An interim Treasurer appointment expires at the end of the next regular session of the Osage Nation Congress if the appointee is not confirmed. Failure

of the Osage Nation Congress to confirm appointment prior to the end of the session shall constitute rejection.

No person whose appointment as Treasurer has been submitted and rejected by vote or nonaction of the Osage Nation Congress is permitted to serve as interim treasurer during any recess of the Osage Nation Congress.

SECTION 3- 103. COMPENSATION.

The salary, including bonuses and other compensation of the Treasurer shall be set by the Executive Department with the advice and consent of the Osage Nation Congress and appropriated in accordance with Osage Nation Law.

SECTION 3- 104. BONDING.

The Treasurer, any person designated by the Treasurer to have purchasing or check writing authority, and all Treasury staff, pursuant to the Financial and Accounting Policies and Procedures, shall be bonded in an amount not less than the upper limit of their signing authority.

SECTION 3-105. REMOVAL OF TREASURER AND DEPARTMENT EMPLOYEES.

The Treasurer shall serve his or her term, after being duly appointed, confirmed, and sworn in for the full period of the appointment, and shall not be subject to the Osage Nation Merit Employment System.

The Treasurer shall be subject to removal by the Principal Chief in accordance with Article XII of the Osage Constitution and by law and for cause, including but not limited to the following:

- A. Inability to meet the qualifications to serve.

- B. Willful neglect of duty.
- C. Malfeasance in office.
- D. Habitual abuse of alcohol or drugs.
- E. Conviction, in Tribal Court, Federal Court or State Court of any felony under the applicable law.
- F. Conviction, in any court, of any crime of corruption or involving moral turpitude while in a tribal office.
- E. Excessive absence from duties of office.

Upon removal of the Treasurer, the Principal Chief shall immediately notify the Osage Nation Congress via a formal written transmittal, stating the fact of removal and the grounds therefore, and shall immediately ensure that the records and funds of the Nation are secure.

The employees of the Treasury Department are employees of the Osage Nation and are governed by the Osage Nation Merit Employment System, and its rules for discipline and termination.

SECTION 3- 106. TRIBAL COURT JURISDICTION OVER DEPARTMENT OF TREASURY.

The courts of the Osage Nation shall have jurisdiction over any action brought by or on behalf of the Nation against the Treasurer or any Treasury Department employee for breach of his or her fiduciary duties in administering the funds of the Osage Nation or for any criminal or civil act committed in connection with employment by the Osage Nation Treasury Department.

SECTION 3 - 107. NO WAIVER OF SOVEREIGN IMMUNITY.

The sovereign immunity of the Osage Nation is not waived by this chapter, cannot be waived by an officer under this chapter, and shall be respected by the Treasurer at all times. The

Treasurer shall advise the Osage Nation Congress of all known claims against the sovereign immunity of the Osage Nation.

SECTION 3-108. DUTIES OF THE TREASURER.

- A. The Treasurer shall report regularly to the Principal Chief, keeping the Executive Department fully advised of all financial matters, and shall report to the Osage Nation Congress in a reasonable and timely manner upon written request during each Session and at least quarterly when Congress is not in session to keep them informed of the financial status of the Osage Nation.
- B. The Treasurer shall assist the Executive Branch in preparing the Comprehensive Annual Budget, and shall ensure that all budget documents submitted to and required by the Congress are in proper form and contain all required line items and budgetary information.
- C. The Treasurer shall review all budgets accompanying all applications, grant requests and proposals for completeness and accuracy prior to their submission and shall indicate same by cover letter signed by the Treasurer to the appropriate department.
- D. The Treasurer shall review all Bills introduced into the Osage Nation Congress which contain any appropriation of funds, shall prepare a written fiscal analysis of the impact of the legislation on the financial condition of the Osage Nation, and shall submit that analysis and report to the Appropriations Committee the fiscal impact of such appropriation prior to the time set for Committee consideration of such bill.

- E. The Treasurer shall ensure that all Departments and Programs do not exceed spending of their appropriated funds and no shifting of line item funding in excess of 10% of any line item appropriation occurs during the fiscal year. The Treasurer shall disallow any expense request which violates this subsection.
- F. The Treasurer shall have the authority to require monthly financial data from the Nation's Tribal Enterprises, Boards, Councils, Commissions and all other entities, however designated who receive or generate funding as part of the Nation and may suspend and disallow all funding to any entity who fails to comply with this requirement until such time as compliance is met.
- G. The Treasurer shall annually oversee preparation and publication of financial information pertinent to the Nation in the form of an Executive Summary report of the annual audited financial reports of the Osage Nation to be made available to all enrolled members of the Osage Nation no later than March 1 of each year for the previous fiscal year.
- H. The Treasurer shall exercise emergency fiscal authority necessary to protect life, property, and the integrity of the Osage Nation.
- I. The Treasurer shall take action, when necessary, in the absence of formal fiscal policy, to promote and protect the financial interests of the Osage Nation.

J. The Treasurer shall assure that annual expenditures shall not exceed the available funds as appropriated by the Congress or appropriate Osage Nation Board of Directors as authorized by Osage Nation law.

K. The Treasurer shall maintain an accurate historical accounting of Osage Nation funds.

SECTION 3-109. REGULATIONS.

The Treasurer shall submit his regulations for the administration of funds in control of, belonging to or owed to the Osage Nation, for the approval of the Osage Nation Congress, or any proposed amendments thereto by the fifteenth legislative day of each regular session of Congress.

SECTION 3-310. FINANCIAL STATEMENTS.

The Treasurer shall prepare monthly financial statements in accordance with the adopted and approved Financial and Accounting Policies and Procedures of the Osage Nation, and shall publish quarterly executive summaries of these reports within 45 days of the end of each fiscal quarter in the Osage Nation News.

SECTION 3-311. ENFORCEMENT OF ACCESS TO RECORDS.

The enforcement of the constitutional rights of access to records of tribal funds by tribal citizens is delegated to the Treasurer and his enforcement of that Constitutional Right is declared justiciable in the Courts of the Osage Nation.

SECTION 3-312. DISBURSEMENT OF FUNDS; COLLECTION OF DEBTS AND OBLIGATIONS

The Treasurer shall be responsible for assuring the proper disbursement of funds in the control of, or belonging to, the Osage Nation and for the prompt and timely collection of debts and obligations owed to the Osage Nation, including appropriate revenues from Osage Nation taxes and enterprise incomes. In order to carry out the responsibilities assigned to the Office of the Treasurer under the provisions of this subchapter, the Treasurer shall be and hereby is vested with all of the power and authority necessary to accomplish these duties.

SECTION 3-313. CONVERSION AND MISAPPROPRIATION OF FUNDS.

Upon his or her discovery of any substantiated indication of conversion of funds, misappropriation of funds, improper expenditure, unallowable costs, maladministration of funds, of governmental programs, gaming, tribal enterprises or any other tribal entity the Treasurer shall:

- A. Have the authority to conduct any appropriate investigations or audits of governmental programs, gaming, tribal enterprises or any other tribal entity necessary to ascertain the scope, extent, and content of any such activities or intended activities which may be contrary to the Financial and Accounting Policies and Procedures of the Osage Nation.
- B. Notify appropriate authorities as required by the Financial and Accounting Policies and Procedures of the Osage Nation, or applicable Osage Nation law.

SECTION 3-314. EXPENDITURE OF APPROPRIATED FUNDS.

The Treasurer is obligated to expend appropriated funds upon receipt of duly authorized and legal requests for said funds.

SECTION 3-315. PAYMENT OF JUDGMENTS AND SETTLEMENTS

Upon adoption of a law as a specific waiver of tribal sovereign immunity, or upon judgment against the Nation by any valid Court of Jurisdiction finding waiver of sovereign immunity by the Osage Nation, the Treasurer shall pay the same in the amount directed by the judgment, or as provided by law.

SECTION 3-316. ESTABLISHING FINANCIAL AND ACCOUNTING POLICIES AND PROCEDURES OF THE OSAGE NATION.

A. CONTRACTING AUTHORITY. The Treasurer shall develop Financial and Accounting Policies and Procedures for the Osage Nation. The proposed Financial and Accounting Policies and Procedures shall be subject to review and approval by the Osage Nation Congress. The Treasurer and any person(s) designated by the Treasurer in writing shall have the authority to contract for, purchase and/or issue and approve purchase requisitions, purchase orders and authorizations for payment for any and all goods and services for all programs, offices, divisions, departments and agencies of the Osage Nation. Provided, however, any such contracts, purchases, purchase orders and authorizations for payment in excess of \$150,000 must first be approved in writing by the Principal Chief. The Principal Chief's approval authority may be delegated by him in writing to the Assistant Principal Chief in the event the Principal Chief is absent or unavailable and therefore unable to give such written approval, provided that the delegation shall be limited to the duration of such absence or unavailability. All

purchases of goods and/or services must be made in accordance with an approved budget and an appropriation by the Osage Nation Congress.

B. OBLIGATING FUNDS. Notwithstanding any other provision of law heretofore enacted by the Osage Nation Congress, the Treasurer shall have the authority to sign or endorse any check, draft or other written instrument of payment drawn on any account of the Osage Nation, provided that any such instrument shall be in payment of a valid obligation or commitment of the Osage Nation made and authorized under appropriation and in accordance with the law. Provided, further, that any such instrument in excess of \$150,000.00 shall also be signed by the Principal Chief or if the Principal Chief be absent or unavailable, then by an officer of the Osage Nation designated in writing for such purpose by the Principal Chief for the duration of such absence on unavailability.

F. EXCLUSIONS. The provisions of this section shall not apply to funds or accounts which, pursuant to the provisions of duly enacted laws of the Osage Nation Congress, are appropriated by law and placed under the control of the Judicial Branch or under the direct control of the Tribal Enterprise Boards and other authorities of the Osage Nation.

SECTION 3-317. CASH RECEIPTS AND PETTY CASH MANAGEMENT.

The Osage Nation Congress hereby authorizes the Treasurer to promulgate regulations and maintain policies required to meet the guidelines of Generally Accepted Accounting Principles for the centralization of cash receipts and petty cash management.

SECTION 3-318. FINANCIAL MANAGEMENT PLANNING AND INVESTMENT STRATEGY

The Treasurer shall develop a Financial Management Plan and Investment Strategy for the Osage Nation. The proposed Financial Management Plan and

Investment Strategy and shall be subject to review and approval by the Osage Nation Congress.

SECTION 4. AUDITS.

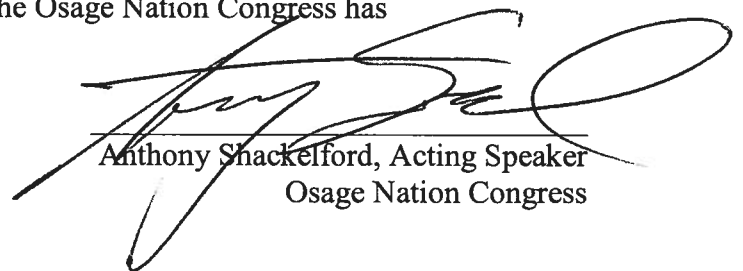
The Treasurer shall engage annual independent audits by Certified Public Accountants and shall present the audit reports to the Principal Chief, and Osage Nation Congress in accordance with the Financial and Accounting Policies and Procedures of the Osage Nation. The Treasurer shall cause the financial statement and audit findings to be published and made available to the Osage public.

SECTION 5. DECLARATION OF EMERGENCY AND EFFECTIVE DATE

An emergency exists. This law is effective upon signature of the Principal Chief or upon signature of the Speaker of the Osage Nation Congress following legislative override.

ENACTED by the Osage Nation Congress on this 22nd day of Sept, 2006.

IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has hereto attached his signature.



Anthony Shackelford, Acting Speaker
Osage Nation Congress

CERTIFICATION

I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve members and one ex-officio member with 9 members attending this meeting on the 22nd day of Sept., 2006, and that the above is in conformity with the provisions therein adopted by a vote of 9 in favor, 0 against, 0 abstentions.

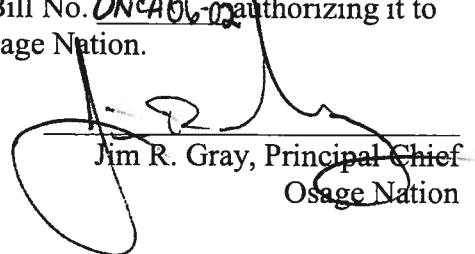
Faren Revard Anderson	<u>absent</u>
Jerri Jean Branstetter	<u>yes</u>
Shannon Edwards	<u>yes</u>
Mark Freeman	<u>yes</u>
Debra Littleton	<u>yes</u>
Archie Mason	<u>absent</u>
Raymond Red Corn	<u>yes</u>
Eddy Red Eagle, Jr.	<u>absent</u>
Doug Revard	<u>yes</u>
Anthony Shackelford	<u>yes</u>
Mark Simms	<u>yes</u>
William Supernaw	<u>yes</u>

Said Bill has not been rescinded or amended in any way and the above is the signature of the Speaker of the Osage Nation Congress.


Alexis Rencountre, Clerk
Osage Nation Congress

APPROVAL

I, the Principal Chief of the Osage Nation, hereby affix my signature this day 27th of September, 2006, to the above Bill No. ON 406-12 authorizing it to become a law under the Constitution of the Osage Nation.


Jim R. Gray, Principal Chief
Osage Nation