

1 **OSAGE NATION CONGRESS**

2
3 3rd Session of the 1st Congress

4
5 **BILL NUMBER ONCA 07-48**

6
7 **ENROLLED**

8
9 **September 27, 2007**

10
11
12 **SPONSOR:** Doug Revard

13
14 **COSPONSORS:** Faren Revard Anderson, Jerri Jean Branstetter, Anthony
15 Shackelford, William "Kugee" Supernaw

16
17
18 **An Act**

19 To provide for the Issuance and Enforcement of Congressional Subpoenas; Declaring an Emergency; and
20 Establishing an Effective Date.

21
22 *Be it enacted by the Congress of the Osage Nation:*

23
24 **SECTION 1. SHORT TITLE**

25
26 This Act may be cited as the "Congressional Subpoena Act."

27
28 **SECTION 2. FINDINGS**

29
30 While researching and investigating legislative issues, the Osage Nation Congress
31 and its committees require accurate information from the Nation's departments, divisions,
32 entities, officers and employees. Without the power to require the attendance of
33 witnesses and the production of books, records, papers, and documents, the Osage Nation
34 Congress and its committees may not have adequate information for investigating,
35 researching, drafting, and voting upon legislation.

36
37 **SECTION 3. PURPOSE**

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39 The purpose of this Act is to authorize the Osage Nation Congress and its
40 committees the power to issue subpoenas, to require the production of documents and the
41 attendance of witnesses regarding matters within their jurisdiction while safeguarding the
42 rights of every Osage Nation citizen or employee, regardless of position, from the
43 contempt powers of the Osage Nation Congress unless a subpoena is specifically issued
44 and due process is implemented.

46 **SECTION 4. SUBPOENA AUTHORITY OF THE OSAGE NATION CONGRESS**

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48 For the purpose of carrying out any of its functions and duties, the Osage Nation
49 Congress and its committees may require by subpoena the attendance and testimony of
50 witnesses and the production of books, records, correspondence, memorandum, papers
51 and documents as it deems necessary.

52

53 (A) The Speaker may issue subpoenas if a majority of Congress members present
54 concur.

55

56 (B) The Chair of a Standing Committee of Congress may issue a subpoena if a
57 majority of the Committee members concur, provided the subpoena is also
58 signed by the Speaker.

59

60 **SECTION 5. SERVICE OF SUBPOENA**

61

62 Service of a subpoena upon a person named therein shall be made by delivering or
63 mailing by certified mail (restricted to the person named in the subpoena) a copy thereof
64 to such person at least five days prior to the meeting or hearing (excluding weekends and
65 official tribal holidays). Service of a subpoena may be accomplished by an Osage Nation
66 Police Officer.

67

68 A subpoena shall identify the Osage Nation Congress as the legislative body
69 issuing the subpoena, the date, time, place of meeting or hearing a witness is to attend,
70 the particular kind of documents sought, and shall specify with particularity the subject of
71 the testimony or information sought.

72

73 **SECTION 6. PROTECTION OF PERSONS SUBJECT TO SUBPOENAS**

74

75 A) The Osage Nation Congress or its committees responsible for the issuance and
76 service of a subpoena shall take reasonable steps to avoid imposing undue
77 burden or expense on a person subject to that subpoena.

78

79 B) The affected party may plead to the Judicial Branch of the Osage Nation to
80 hear the party's right to contest the subpoena and the Judicial Branch shall
81 quash or modify the subpoena if it:

82

83 (1) Fails to provide five days notice for compliance;

84

85 (2) Requires disclosure of privileged or other protected matter and no
86 exception or waiver applies:

87

88 (3) Subjects a person undue burden or hardship; or

89

- 90 (4) Requires the production of documents or things outside the scope of the
91 affected party's access or possession or outside the scope of the authority
92 to possess or gain access to.
93

94 **SECTION 7. DUTIES IN RESPONDING TO A SUBPOENA**
95

- 96 A) All Osage Nation officers and employees shall be obligated upon service of a
97 validly issued subpoena to attend the meeting or hearings and produce all
98 documents as directed. Executive Privilege is not deemed a defense except
99 for those communications from or with the Principal Chief or the Assistant
100 Principal Chief.
101
- 102 B) A person responding to a subpoena to produce documents shall produce them
103 as they are kept in the usual course of business or shall organize them to
104 correspond to the categories in the demand.
105
- 106 C) When information subject to a subpoena is withheld on a claim that it is
107 privileged or subject to protection, the claim shall be made expressly and shall
108 be supported by a description of the nature of the documents,
109 communications, or things not produced that is sufficient to enable the Osage
110 Nation Congress or committee thereof to contest the claim.
111

112 **SECTION 8. CONTEMPT**
113

- 114 A) Failure by any person without adequate excuse as set forth herein to obey a
115 subpoena served upon him or her may be deemed a contempt of the Osage
116 Nation Congress.
117
- 118 B) Contempt of the Osage Nation Congress by any person shall subject that
119 person to criminal and/or civil penalties.
120
- 121 C) A finding of Contempt of the Osage Nation Congress shall be approved by the
122 vote of two-thirds of the Osage Nation Congress. A finding of Contempt of
123 the Osage Nation Congress requires an immediate referral to the Prosecutor of
124 the Osage Nation for prosecution.
125

126 **SECTION 9. PENALTY FOR CONTEMPT**
127

128 Not more than five hundred dollars (\$500) or by imprisonment in the Tribal Jail
129 not exceeding one (1) year, or both.
130

131 **SECTION 10. RECOGNITION OF EXECUTIVE PRIVILEGE**
132

133 The Osage Nation Congress recognizes the immunity of the Principal Chief and
134 the Assistant Principal Chief by virtue of their elected positions into the Executive

135 Branch of the Osage Nation Government and accordingly, they are not subject to this
136 law.

137

138 **SECTION 11. SOVEREIGN IMMUNITY NOT APPLICABLE TO INDIVIDUALS OF THE OSAGE**
139 **NATION GOVERNMENT TO AVOID SUBPOENA AND / OR CONTEMPT PROCEEDINGS**

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141 The Sovereign Immunity of the Osage Nation shall not be abused by any officer
142 or employee of the Osage Nation and shall not be used as a purported defense or allow
143 avoidance of Congressional Subpoena and/or Contempt of Congress proceedings.

144

145 **SECTION 12. DECLARATION OF EMERGENCY AND EFFECTIVE DATE**

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

150

151 ENACTED by the Osage Nation Congress on this 27TH day of September, 2007.

152

153

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

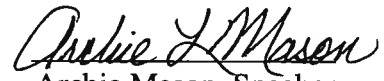
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Archie Mason, Speaker
Osage Nation Congress

161

CERTIFICATION

162

163 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT
164 FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve members
165 and one ex-officio member with 13 members attending this meeting on the 26TH day of
166 September, 2007, and that the above is in conformity with the provisions therein adopted
167 by a vote of 12 in favor, 0 against, and 0 abstentions.

168

169 Faren Revard Anderson yes

170 Jerri Jean Branstetter yes

171 Shannon Edwards yes

172 Mark Freeman yes

173 Debra Littleton yes

174 Archie Mason yes

175 Raymond Red Corn yes

176 Eddy Red Eagle, Jr. yes

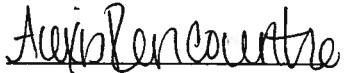
177 Doug Revard yes

178 Anthony Shackelford yes

179 Mark Simms yes

180 William Supernaw yes

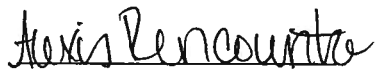
181 Said Bill has not been rescinded or amended in any way and the above is the signature of
182 the Speaker of the Osage Nation Congress.


Alexis Rencountre, Clerk
Osage Nation Congress

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189 **EFFECTIVE DATE CERTIFICATION**

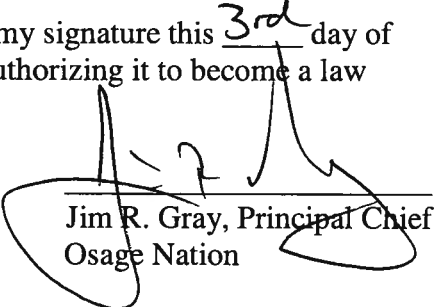
190
191 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE
192 was approved by a two-thirds vote of the Osage Nation Congress in accordance with the
193 Constitution of the Osage Nation Article VI, Section 13. This provision was adopted by
194 a vote of 11 in favor, 1 against, and 0 abstentions.

195
196 Faren Revard Anderson yes
197 Jerri Jean Branstetter yes
198 Shannon Edwards no
199 Mark Freeman yes
200 Debra Littleton yes
201 Archie Mason yes
202 Raymond Red Corn yes
203 Eddy Red Eagle, Jr. yes
204 Doug Revard yes
205 Anthony Shackelford yes
206 Mark Simms yes
207 William Supernaw yes

208
209 
Alexis Rencountre, Clerk
Osage Nation Congress

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214 **APPROVAL**

215
216 I, the Principal Chief of the Osage Nation, hereby affix my signature this 3rd day of
217 October, 2007, to the above Bill No. ONCA 07-48 authorizing it to become a law
218 under the Constitution of the Osage Nation.

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220
221 
Jim R. Gray, Principal Chief
Osage Nation
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223