

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

OSAGE NATION CONGRESS

4th Session of the 1st Congress

BILL NUMBER ONCA 08-04

ENROLLED

March 31, 2008

SPONSOR: Faren Revard Anderson

CO-SPONSOR(S): Jerri Jean Branstetter, Eddy Red Eagle, Jr., Debra Atterberry,
Anthony Shackelford

An Act

To establish a Commission to study a merit based employment system;
and to declare that an emergency exists.

Be it enacted by the Congress of the Osage Nation:

SECTION 1. SHORT TITLE

This Act may be cited as the “Merit Based Employment Study Commission Act”

SECTION 2. FINDINGS; PURPOSES

- A. The Osage Nation Congress finds that the provisions of Article VI, Section 22 of the Osage Nation Constitution require the Osage Nation Congress establish a system under which the merit principle will govern the employment of persons by the Osage Nation.
- B. The Osage Nation Congress further finds that the establishment of a Commission to study and report its findings on a merit based employment system is in the best interest of the Osage Nation.
- C. Establishment of this Commission is the initial act of the Osage Nation Congress toward fulfilling its constitutional duty to establish a merit based employment system.

SECTION 3. DEFINITIONS

- A. “Employee” means a person in the service of the Osage Nation under any contract of hire to include at-will employment, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed.

48 **SECTION 4. MERIT BASED EMPLOYMENT STUDY COMMISSION**

49

50 A Merit Based Employment Study Commission (hereinafter "Commission") is
51 established to study, report its findings and make recommendations on the best practices
52 for implementing a merit based employment system for the Osage Nation.

53

54 A. The Commission shall consist of seven (7) members as follows:

55

56 1. one (1) representative of the Osage Nation Executive;

57

58 2. one (1) representative of the Osage Nation Congress;

59

60 3. one (1) representative of the Osage Nation human resources
61 department;

62

63 4. four (4) members of the public-at-large who are not employees of
64 the Osage Nation or any other business entity owned or affiliated
65 with the Osage Nation, but may include:

66

67 a. current and former contractors and subcontractors of the
68 Osage Nation and its business entities;

69

70 b. former employees of the Osage Nation.

71

72 B. The Commission members representing the Osage Nation Executive, the
73 Osage Nation Congress and the Osage Nation human resources
74 department shall be nominated by their respective branch or department,
75 and approved by the Osage Nation Congress. If a nominee for
76 Commission member is not approved for any reason by the Osage Nation
77 Congress, the branch or department that submitted the nominee will
78 submit another nominee for Commission member.

79

80 1. The Osage Nation Congress delegates the duty to approve
81 Commission members to the Osage Nation Governmental
82 Operations committee.

83

84 C. The Commission members representing the public-at-large shall be
85 nominated by the Osage Nation Governmental Operations committee, and
86 approved by the Osage Nation Congress.

87

88 D. The Osage Nation Congress delegates the duty of oversight of the
89 Commission to the Osage Nation Governmental Operations committee.

90

91 E. The Commission nominees shall be submitted for nomination to the Osage
92 Nation Congress at the earliest available date, but no later than April 4th,
93 2008. If a nominee is not approved pursuant to paragraph (B) of this

94 section, a replacement nominee will be submitted within three (3) business
95 days upon notice that the nominee is not approved.
96

97 F. The Commission nominees submitted to the Osage Nation Congress shall
98 be promptly approved or rejected at the earliest available date, but no later
99 than April 15, 2008, but if a nominee is not approved then the Osage
100 Nation Congress will consider the subsequent nominee within five (5)
101 business days after submission.
102

103 G. The Commission members shall have the following rights and powers:
104

- 105 1. to determine by election of a simple majority (more than 50% of
106 quorum) the chairperson of the Commission;
107
- 108 2. to set the date, time, place and manner of meetings;
109
- 110 3. to submit questions and requests for clarification to the Osage
111 Nation Governmental Operations committee;
112
- 113 4. to meet, organize and act to accomplish the merit based
114 employment study and report of the Commission set forth in the
115 first paragraph of this section.
116

117 H. The Commission shall report to the Osage Nation Congress once per
118 month for each month it is in effect. The Commission shall submit its
119 final report and recommendations on a merit based employment system in
120 writing on or before July 15, 2008.
121

122 I. The Commission shall remain in effect until it is dissolved in writing by
123 the Speaker of the Osage Nation Congress, at the recommendation of the
124 Osage Nation Governmental Operations committee.
125

126 J. The Commission may make expenditures from its budget allowance for
127 the following:
128

- 129 1. clerical supplies to include, but not limited to, paper, pens, pencils,
130 binders, staplers, staples, tape, page marking flags, and
131 highlighters.
132
- 133 2. all paper copies whether for Commission members or members of
134 the Osage Nation Congress.
135
- 136 3. automobile mileage for Commission meeting or study purposes at
137 the rate of \$0.505 per mile for each member of the Commission.
138

139 4. any other expenses must be approved by the Osage Nation
140 Congressional Affairs committee before they will be paid.
141

142 **SECTION 5. AUTHORIZATION OF APPROPRIATION**
143

144 To carry out the purposes of this Act, funds will be appropriated out of the Osage
145 Nation Congressional budget.
146

147 **SECTION 6. SEVERABILITY**
148


149 If any provision of this Act or the application of such provision to any person,
150 firm, association, corporation, or circumstance is found to be unenforceable by a court of
151 competent jurisdiction, such provision shall be of no force or effect; but the remainder of
152 the Act shall continue in full force and effect.
153

154 **SECTION 7. DECLARATION OF EMERGENCY AND EFFECTIVE DATE**
155

156 An emergency exists. This bill is effective upon signature of the Principal Chief
157 or upon signature of the Speaker of the Osage Nation Congress following legislative
158 override.
159

160
161
162 ENACTED by the Osage Nation Congress on this 31ST day of March, 2008.
163
164

165 IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has
166 hereto attached his signature.
167

168 
169 Archie Mason, Speaker
170 Osage Nation Congress
171

172
173 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE
174 EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of
175 twelve members and one ex-officio member with 12 members attending this meeting on
176 the 31ST day of March, 2008, and that the above is in conformity with the provisions
177 therein adopted by a vote of 11 in favor, 0 against, and 1 absent.
178

179	Faren Revard Anderson	yes
180	Jerri Jean Branstetter	yes
181	Shannon Edwards	yes
182	Mark Freeman	yes
183	Debra Littleton	yes
184	Archie Mason	yes

185	Raymond Red Corn	yes
186	Eddy Red Eagle, Jr.	yes
187	Doug Revard	yes
188	Anthony Shackelford	yes
189	Mark Simms	absent
190	William Supernaw	yes

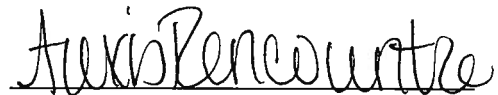
191
 192 Said Bill has not been rescinded or amended in any way and the above is the
 193 signature of the Speaker of the Osage Nation Congress.

194 
 195
 196 Alexis Rencountre, Clerk
 197 Osage Nation Congress
 198
 199

200 **EFFECTIVE DATE CERTIFICATION**

201
 202 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE
 203 was / was not approved by a two-thirds vote of the Osage Nation Congress in accordance
 204 with the Constitution of the Osage Nation Article VI, Section 13. This provision was /
 205 was not adopted by a vote of 11 in favor, 0 against, and 1 absent.
 206

207	Faren Revard Anderson	yes
208	Jerri Jean Branstetter	yes
209	Shannon Edwards	yes
210	Mark Freeman	yes
211	Debra Littleton	yes
212	Archie Mason	yes
213	Raymond Red Corn	yes
214	Eddy Red Eagle, Jr.	yes
215	Doug Revard	yes
216	Anthony Shackelford	yes
217	Mark Simms	absent
218	William Supernaw	yes

219 
 220
 221 Alexis Rencountre, Clerk
 222 Osage Nation Congress
 223
 224
 225
 226
 227
 228
 229
 230

APPROVAL

231
232
233
234
235
236
237
238
239
240

I, the Principal Chief of the Osage Nation, hereby affix my signature this 3rd day of
April, 2008, to the above Bill No. ONCA 08-04 authorizing it to become
a law under the Constitution of the Osage Nation.

Jim R. Gray, Principal Chief
Osage Nation

KA.SN.KA
Jim Gray
Principal Chief

Osage Nation
Office of the Principal Chief

KA.SN.KA O.HA.DZA
John D. Red Eagle
Assistant Principal Chief



EXECUTIVE VETO MESSAGE

April 4, 2008

The Honorable Archie Mason, Speaker of the Osage Nation Congress and Members of the 2nd Osage Nation Congress

Dear Mr. Speaker and Members of the 2nd Osage Nation Congress:

I am honored to extend my appreciation for the initiative and leadership demonstrated by the 2nd Osage Nation Congress in the promulgation of a bill that seeks to carry out the mandate of the Osage people to establish a system under which merit principals will govern most Osage Nation employees. That mandate, which was clearly expressed at the adoption of the Osage Nation Constitution at Article VI, Section 22, is an important step toward assuring all who work for the Nation and its many enterprises, agencies and programs, that their dedication and hard work in their employment positions will be recognized and rewarded.

However, while fully supportive of the purpose and intent of Congress that is reflected by this bill, after careful review and consideration, and in accordance with Section 11 of Article VII and Section 13 of Article VI of the Osage Nation Constitution, I must regretfully transmit this message voicing my objection and disapproval of ONCA 08-04, entitled:

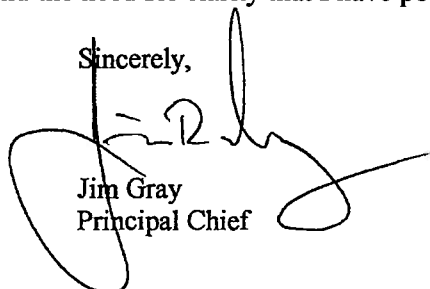
“An Act to establish a Commission to study a merit based employment system; and to declare that an emergency exists.”

Specifically, I find that in its present form, ONCA 08-04 would at Section 4(B)(1) effect a delegation of the constitutional power of appointment that is vested in the Congress to a subordinate Committee of Congress, namely the Osage Nation Governmental Operations Committee, in violation of Article VI, Section 21 of the Osage Nation Constitution.

In addition, I find that the definition of the term “Employee” provided at Section 3 (A) of the bill fails to clarify the fact that there are certain employees of the Nation that are, by law, exempt from the Merit Based Employment System. This can only create unwanted confusion and conflict as we move toward the otherwise all inclusive system that will insure a feeling of fair treatment for those persons employed by the Osage Nation that are covered by this system.

I believe that ONCA 08-04 can be easily amended to both fulfill congressional intent, and at the same time, address both the constitutional conflict and the need for clarity that I have pointed out.

Sincerely,



Jim Gray
Principal Chief