

--- On **Thu, 10/22/09, Raymond Redcorn <rredcorn@gmail.com>** wrote:

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Subject: Update #99

To: rredcorn@gmail.com

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Update #99

The views, opinions and commentary in this update are those of Congressman Red Corn. They are his alone, and do not necessarily represent the views and opinions of the Osage Nation Congress.

Second Open Records Act passed

ONCA 10-05 passed Tuesday on a unanimous vote. The bill had been reintroduced with minor changes after its predecessor, ONCA 09-06, had been vetoed by the Principal Chief. No override of the first veto was possible as Congress was out of session by the time the veto message was received.

The new Open Records Act passed in time to allow Congress one day to override and Executive veto if one is forthcoming. The changes made to this bill addressed two of the concerns expressed by the Principal Chief, but left intact the provision that the records of the Osage Nation would be truly public, a provision the Executive branch strongly opposed. The Executive branch has until Monday at 4:30 to deliver a veto message on this bill.

Defining terms found in the Osage Constitution

There is a running debate in the Osage Congress on the definition of a term found in Article VI, Section 23, which reads as follows:

Annual Budget: The Osage Nation Congress shall enact, by law, an annual expenditure of funds which shall include an appropriation of operating funds for each branch of government for each fiscal year. The annual budget shall not exceed projected revenues.

At issue is whether the accumulated unspent revenue now held in the Treasury, estimated at \$55 million less existing encumbrances, is included in “projected revenues”.

One opinion holds that “projected revenues” means only the funds expected to be distributed to the Osage Nation by the Tax Commission and the Gaming Enterprise Board. If this is true, it follows that the \$55 million is off limits to use as “operating funds” of the Osage Nation.

For example, let’s imagine a worst case scenario for the Osage Nation – the loss of the reservation status lawsuit and income from four of our seven casinos. If the definition of “projected revenues” excludes accumulated funds in the Treasury, and the Nation’s income drops to \$10 million per year, the \$55 million in the Treasury cannot be used to supplement “operating funds” of the Osage Nation.

A contrasting opinion holds that “projected revenues” includes the funds in the Treasury. These funds have not been obligated by appropriation, and have not been reserved for any particular purpose by law. I subscribe to this definition. There are other definitions that may apply.

In the first example, one may easily infer that “projected revenue” means projected *net* revenue. One may also argue that it means projected *gross* revenue, a much higher number if one considers the gross income of the gaming enterprise before expenses are deducted.

These questions and uncertainties will be with us until legislation defines these terms in law, most likely by an amendment to the Treasury bill. The nation has been fortunate until now, as “projected revenues” as defined in the first example have always exceeded the annual operation budget. The establishment of a reserve fund would seem a logical part of the effort.

LLC funding bill tabled

ONCA 09-77 has been tabled in the Commerce committee, and will likely remain so until the spring regular session. The bill appropriates a capital contribution to Osage, LLC of \$3 million.

The successful motion to table is purposeful, as Osage, LLC operates on the calendar year and will be able to better report on its investments and the condition of its small businesses after December 31, 2009.

A long weekend

Congress has adjourned until Monday at 10 a.m., and has extended the session through next Tuesday. It is anticipated that a third consecutive Special Session will be called beginning the week of November 2nd, and some of the major appropriations bills will be carried over into that session for amendment and final vote.

As always, please share your opinions and thoughts with me at your convenience.

With respect,

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