

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, white, sans-serif font.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Texas Indian Commission

A Staff Report
to the
Sunset Advisory Commission

1988

TEXAS INDIAN COMMISSION

April 1988

TABLE OF CONTENTS

	<u>Page</u>
Summary of Recommendations	1
Agency Evaluation	3
Background	5
Creation and Powers	7
Policy-making Structure	9
Funding and Organization	9
Programs and Functions	11
Review of Operations	15
Focus of Review	17
The Texas Indian Commission is Not Needed	18
The Governor’s Energy Management Center Should be the Supervising Agency for the Native American Restitutionary Program	23

Summary of Recommendations

The Texas Indian Commission (TIC) is the successor of the Texas Commission for Indian Affairs, which was established in 1965. The three-member commission is appointed by the governor and has the responsibility for administering the state's trust responsibility for the Alabama-Coushatta and Tigua Indian Reservations, which were assumed in 1953 and 1968, respectively. The commission also has limited statutory authorization to provide assistance to the Texas Band of Kickapoo Indians which became a federally recognized tribe and was placed under federal trust in 1984.

The commission operates with a staff of 14 employees, of which two are on the Alabama-Coushatta reservation in Livingston, 10 on the Tigua reservation in El Paso, and two in the administrative office in Austin. The agency's operating budget for fiscal year 1988 is \$450,418 and is appropriated \$451,571 for fiscal year 1989.

In 1987, the federal government accepted trust responsibilities for the Alabama Coushatta and the Tigua tribes. The 70th Legislature (S.B. 610) also authorized the governor to turn over all assets the state currently holds in trust for the tribes to the Secretary of the Interior. The two tribes requested the federal trust relationship, believing they would be better off financially under federal management and in reaction to concerns about the state's long term commitment to them. This transfer of trust to the federal government is expected to be concluded by the end of fiscal year 1989.

The review determined that a need for an Indian commission no longer exists. In determining the need for the commission, careful attention was given to the state's past and present responsibility and efforts to serve both reservation and non-reservation Indian populations. Although both populations continue to need assistance, the responsibility for assisting tribal or reservation Indians will soon rest with the federal government. Assistance has been and will continue to be provided to non-reservation or urban Indians through programs developed through local initiatives as well as the many state and federal programs that serve low-income or otherwise disadvantaged individuals.

In addition, one program currently administered by the commission was identified as needing continuation. The governor's office can manage this program when the Indian commission is abolished.

Recommendations to address these two conclusions are set out below.

Recommendations

1. The Texas Indian Commission should be abolished. (p.18)

The need for continuing administration of state trust responsibilities for the Alabama-Coushatta and Tigua Indian tribes no longer exists. Trust for these tribes is now the responsibility of the federal government. There have never been appropriations to the Indian commission for any purposes other than administering the state trust. Furthermore, continuing the agency for the purpose of assisting the non-reservation Indian population is unnecessary since this population has access to services provided by many local, state and federal agencies.

2. The statute should be amended to designate the Governor's Energy Management Center as the supervising agency for the Native American Restitutionary Program. (Statutory) (p.23)

The Oil Overcharge Restitutionary Act, passed by the 70th Legislature (S.B. 33, 2nd called session, 1987), contains a direct grant program called the Native American Restitutionary Program (NARP). The program is to provide energy-related assistance to Native Americans in Texas. Funds for the program are appropriated to the Governor's Energy Management Center (GEMC). The GEMC currently contracts with the TIC to supervise the disbursement of the grant program's \$351,000. The funding period is fiscal years 1988 through 1991 (\$87,750 per year) and the funds are to be divided equally among Texas' three tribes. All funds are retained by the GEMC and will be disbursed to the tribes on a cost reimbursement basis. The review determined that responsibility for the program should rest with the GEMC when the Texas Indian Commission is abolished.

AGENCY EVALUATION

Background

Creation and Powers

The roots of what is now the Texas Indian Commission go back to the first days of the Republic of Texas. From the republic's inception, a series of legislative enactments dealt with various aspects of Texas' Indian population. The legislation covered topics ranging from authorizing agents to seek peaceful coexistence with the Indians through treaties and payments to authorizing appropriations for ammunition to fight off the "depredations of hostile tribes." The Republic of Texas first developed treaties with Indian tribes in 1836 and recognized the Alabama tribe specifically in 1840.

After statehood, the special relationship with the tribe was allowed to continue as an exception to the federal Indian Tribes Intercourse Act of 1834 which specified that only the federal government was allowed to deal with Indian tribes. Under this relationship, in 1854, the Texas legislature purchased 1,280 acres of land in east Texas, and deeded it to the Alabama Indians but prohibited the tribe from selling the property.

From 1854 to 1928, the state began a period of sporadic assistance to the tribe and employed agents to work on the reservation. In 1928, the Alabama reservation boundaries were altered when the tribe petitioned for and received federal trust status. As a part of the trust status the federal government purchased an additional 3,071 acres of land for the tribe, adjacent to the original tract. Under the new arrangement, both the federal and state government provided assistance and funding to the tribe. In 1938, the tribe became officially known as the Alabama-Coushatta Indians, according to the tribal constitution.

In 1953, under the Eisenhower administration, policies were adopted to relieve the federal government of its duty to supervise the lives and property of Indians. The federal government terminated its trust relationship with reservations, started sending Indian children to public schools, and implemented various programs aimed at getting Indians off the reservations and relocated to urban areas. These actions had two primary impacts on the Indian population in Texas. First, the non-reservation Indian population began to increase and became centered around Dallas which was a federally designated relocation center. Second, the state accepted trust responsibility from the federal government for the Alabama-Coushatta Indians in 1954. The state assumed trust for the 3,071 acre tract of land purchased by the federal government. The tribe, however, retained title to the other 1,280 acres. Federal statutes authorized the tribe to convey those acres to the state, but the tribe

decided to retain the land. The governor designated the Board of State Hospitals and Special Schools as the state agency responsible for the trust.

Between 1965 and 1968, the state clarified and expanded its responsibilities to its Indian population. In 1965, a separate agency was created to assist the Alabama-Coushatta Indians which were, at that time, the single federally recognized tribe in Texas. In 1968, a second tribe, the Tigua Indian tribe, was federally recognized and the federal trust responsibility for this tribe was transferred to Texas.

Until 1984, the responsibility of the Texas Indian Commission was directed toward providing a management structure through which the Alabama-Coushatta and Tigua Indian tribes could develop their tribal enterprises and secure federal and state grants. In 1984, an additional tribe, the Texas Band of Kickapoo Indians (Eagle Pass), became federally recognized. The trust responsibility for the Kickapoo tribe was not transferred by the federal government and the state's role in assisting this tribe was limited to providing technical assistance that did not conflict with the band's status as a federally recognized Indian tribe or its relationship with the United States government. No state funds have been appropriated for the Kickapoo and the commission has functioned as a link between the Kickapoo and state agencies.

In 1985, the Alabama-Coushatta and Tigua Indian tribes, concerned over their future status with the state and dissatisfied with the general level of state funds and services, began the process to restore their federal trust status. The trust status was restored in 1987 and the 70th Legislature in 1987 passed S.B. 610 to implement the transition to federal status. The legislation provides for the transfer by the state of all trust responsibilities for those two tribes to the United States. Transfer of the trust involves a number of steps. First of all, all assets held in trust by the state for the benefit of those tribes, including all real property, buildings, and improvements on that property, must be transferred by the governor to the Secretary of the Interior. It also includes the transfer of all equipment and other items on both reservations to the respective tribes. Currently, real property includes the Tigua 97-acre reservation, and the 4,351-acre Alabama-Coushatta reservation. The Texas Indian Commission is to assist the governor and the tribes during the transition process. The transfer should be completed before the end of fiscal year 1989.

Policy-making Structure

The Texas Indian Commission is composed of three members, at least one of whom must be an Indian. Members of the commission are appointed by the governor with the advice and consent of the senate. Each member holds office for a term of six years. The chairman of the commission is elected by the members for a two-year term. The commission hires the executive director, reviews and approves the agency's operating budget, hears activity reports from each of the reservations, and adopts resolutions pertaining to Indian affairs issues. The commission is required by statute to hold at least three public meetings per year.

Funding and Organization

The headquarters of the Texas Indian Commission is located in Austin. The commission employs 14 full-time employees of which two are in the administrative office in Austin, two on the Alabama-Coushatta Reservation near Livingston, and 10 on the Tigua Reservation in El Paso. The commission appoints an executive director who is a full-time administrator and responsible for the management and supervision of the agency. The executive director employs a superintendent on each reservation who is a program administrator and administrator for the tribal council.

Expenditures for the commission in the fiscal year ending August 31, 1987 were \$488,143, and the budget for fiscal year 1988 is \$450,418. In 1987, \$358,745 was expended from general revenue funds to the commission administration and the Tigua reservation. The balance of \$129,398, designated for the Alabama-Coushatta reservation, was appropriated from the Alabama-Coushatta Mineral Fund No. 157. For fiscal year 1988, \$292,144 is appropriated from general revenues and \$158,274 from the Alabama-Coushatta Mineral Fund No. 157. Again, the general revenue funds are for the administration of the commission and the Tigua reservation, and the mineral fund for the administration of the Alabama-Coushatta reservation. Prior to fiscal year 1986, and resuming in fiscal year 1989, the state provided general revenue funds for the Alabama-Coushatta reservation. Exhibit 1 shows the commission's appropriations since fiscal year 1974. Total expenditures for the 16-year period are \$7,439,775.

Exhibit 1
**State General Revenue Expenditures Through the
Texas Indian Commission**

Year	Alabama- Coushatta Reservation	Tigua Reservation	Administrative Office***	TOTAL
1974	245,468	156,771		402,239
1975	273,424	177,487		450,911
1976	194,685	262,245	40,014	496,944
1977	177,641	257,774	42,938	478,353
1978	107,702	236,876	46,969	391,547
1979	36,400	238,382	53,721	328,503
1980	95,946	260,151	72,640	428,737
1981	109,946	283,009	82,566	475,521
1982	133,649	290,749	88,957	513,355
1983	135,269	286,851	88,154	510,274
1984	133,850	292,135	102,892	528,877
1985	148,584	315,810	105,989	570,383
1986	69,478*	297,438	107,083	473,999
1987	129,398*	257,797	100,948	488,143
1988**	158,274*	209,160	82,984	450,418
1989**	<u>158,274</u>	<u>209,990</u>	<u>83,307</u>	<u>451,571</u>
Total	2,307,988	4,032,625	1,099,162	\$7,439,775

* Out of the Alabama-Coushatta Mineral Fund No. 157.

** Budgeted.

*** During 1974 and 1975, there was no separate appropriation for the commission's administrative office.

The Alabama-Coushatta Mineral Fund No. 157 is made up of revenue collected on mineral leases from tribal lands. Natural gas was discovered on Alabama-Coushatta tribal lands in 1983. At that time it was estimated that the tribe could be receiving mineral funds up to \$160,000 per month for the next ten years. Consequently, the legislature ceased appropriating general revenue funds for the Alabama-Coushatta reservation beginning with fiscal year 1986. Although the legislature could not directly appropriate the mineral fund to the tribe because it is a trust fund, the appropriations bill and its riders for the TIC, in essence, allowed the tribe to purchase the services of the state employees on the reservation. By the time

the 70th Legislature convened in 1987, however, it was clear that mineral revenues would not reach the amounts that were at first projected. Therefore, general revenue appropriations to the Alabama-Coushatta reservation resume in fiscal year 1989.

Programs and Functions

Assistance to State Trust Tribes

The main function of the TIC is to carry out the state's trust responsibility for its two Indian tribes. This responsibility involves protecting the legal status, land, property, resources, and lives of the tribal members. The TIC does this by hiring a superintendent for each tribe to administer and supervise the reservation, and to implement the commission's policies. The superintendent hires a financial officer and other staff, according to the tribe's needs and budget, to assist the tribal council in improving their health, educational, agricultural, business, and industrial capacities. For example, tribal enterprises on the Tigua Indian Reservation include two restaurants, an arts and crafts center, and a spice plant. In 1987, total sales of these businesses amounted to approximately \$1,000,000. The Alabama-Coushatta's tribal enterprises include a service center, an amusement center, a gift shop, a restaurant, a camp ground, a pottery plant, timber sales, and an oil and gas lease. Total sales for the Alabama-Coushatta tribal enterprises in 1987 were \$1,020,381. In the context of assisting the tribes, the TIC is authorized to receive gifts or donations, and to negotiate with any agency of the United States to obtain grants for the tribes' development. The only gifts, grants, or donations the TIC has received directly for the development of the reservations were a series of small grants made by the Moody Foundation in the 1970's. These were annual amounts of \$500 to \$5,000 given to the TIC administrator on the Alabama-Coushatta reservation for the tribe's theatre production.

The bulk of federal grants for Indians are given to qualifying Indian tribes or Indian organizations, not to state agencies. The TIC does not actually receive any federal grants. What the TIC does is provide technical assistance to each of the tribes in identifying and applying for those grants and provide for the management structure necessary to receive grant awards. The superintendent and fiscal officer at each reservation bear the primary responsibility of writing the grant applications and administering any grants received (the funds go to the tribes, not the TIC). Currently, the Alabama-Coushatta receive a \$76,000 grant from the Administration for Native Americans, a \$32,000 community service block grant from the Texas

Department of Community Affairs, and a \$274,000 grant from the federal Department of Housing and Urban Development for housing rehabilitation. The Tigua have a \$35,000 contract with the Texas Rehabilitation Commission and a \$200,000 grant pending. Both tribes are also designated as prime sponsors for the Indian Job Training Partnership Act program (JTPA).

Housing Authority

Another function the commission has served is that of Indian Housing Authority. The U.S. Department of Housing and Urban Development (HUD) currently has housing development projects at each of the reservations. These are operated under the terms of HUD's special Indian Housing Program. The residents of the homes make monthly payments and eventually own the homes. These payments are deposited in a local operating account, out of which the local housing manager's salary and expenses are paid. The balance of the funds are eventually sent to HUD and that agency is responsible for auditing the program. The TIC receives regular reports from the housing managers, and approves their budgets and annual contracts with HUD. Currently, there are 127 units on the Alabama-Coushatta reservation, of which 34 are already paid off. The average monthly payment for a unit is \$131. The Tigua reservation has 112 units, all of which are currently making payments which average \$189 per month. Because the state holds title to the tribal lands where the homes are located in trust, the Texas Indian Commission was designated as the Housing Authority when the program was established. Texas is unique in this situation. When the trust relationship with the state is terminated, each of the reservations will establish its own housing authority, the current housing managers will be referred to as housing directors, and they will report to the tribal housing authority instead of the TIC. There are no state funds involved in this housing authority function.

Other Functions

Although the appropriations to the TIC have been geared toward providing an administrative infrastructure for the reservations, the statute does authorize the TIC to engage in a number of other functions. These include assisting the Texas Band of Kickapoo Indians in improving their welfare without conflicting with their status of federally recognized tribe; promoting unity and understanding among American Indians in the state; and increasing the understanding of American and Texas Indian culture and history among the general public. To accomplish this, the TIC is authorized to conduct research in cooperation with other state agencies; to

prepare and disseminate information; and to cooperate with state and federal agencies in matters relating to Indian affairs. Examples of activities the TIC has undertaken in this area include a survey of Indian affairs offices throughout the nation; the development of working definitions of "Indian" and "Indian business" for use by other state agencies; and assistance provided to the Texas Historical Commission on issues concerning Indian burial sites. The commission and staff have engaged in these activities to varying degrees as time and funding have permitted.

Review of Operations

Focus of Review

The review of the Texas Indian Commission focused on three general areas of inquiry: 1) whether the need which led to the commission's creation still exists; 2) whether another need to continue the commission exists; and if so, 3) whether the duties of the commission could be carried out by other state agencies. A number of activities were undertaken by the staff to gain a better understanding of the agency and to gain answers to the areas of inquiry. These activities included:

- discussions with the executive director and the reservations' superintendents;
- visits to the three reservations;
- discussions with members of the Alabama-Coushatta, Tigua and Kickapoo tribal councils;
- phone discussions with officials of other states' Indian affairs offices;
- discussions with persons in other state agencies knowledgeable of the agency's operation and functions;
- a meeting with individuals from the Dallas-Ft. Worth area knowledgeable of the urban Indian population situation and needs;
- phone discussions with officials of federal agencies that fund Indian organizations and programs;
- discussions with independent individuals in the state involved in Indian affairs; and
- review of past legislative issues, attorney general opinions, and relevant evaluation studies and reports.

Overall, the review indicated that the need that led to the creation of the original commission no longer exists. The United States Department of the Interior, through the Bureau of Indian Affairs, will now carry out the commission's primary purpose of administering the trust of the state's Indian tribes. Other needs of the Indian population can be addressed by other state or federal agencies or through local organizations.

One program currently administered by the commission should be continued and can be managed through the governor's office. Recommendations to address these two conclusions are set out below.

The Texas Indian Commission is Not Needed

The state statute (Chapter 461, Government Code) requires the Texas Indian Commission to administer the trust relationship with the Alabama-Coushatta and Tigua Indian reservations and, as a part of the unique political relationship established through the trust relationship, to assist them in the development of their human and economic resources. While there are other duties specified in the statute, the state has not appropriated funds for these purposes. State monies have been directed toward the administration of the trust responsibilities for the Alabama-Coushatta and Tigua Indian tribes. The federal government has assumed trusteeship for all three Texas tribes and fully intends to carry out the responsibilities formerly exercised by the state.

The Texas Indian Commission should be abolished.

In determining the need for the commission, careful attention was given to the state's past and present responsibility and efforts to serve both reservation and non-reservation Indian populations. As discussed in the background, the state has varied in its relationship to tribal or reservation Indians but has never established programs or funded projects through the Texas Indian Commission for non-reservation or urban Indians. Although both populations continue to need assistance, the responsibility for assisting tribal or reservation Indians will soon rest with the federal government. Assistance has been and will continue to be provided to non-reservation or urban Indians through programs developed through local initiatives as well as the many state and federal programs that serve low-income or otherwise disadvantaged individuals. The support for these conclusions is set out below.

Need for a State Commission to Serve Reservation Populations. The state, in concert with federal policy, has assisted the Alabama-Coushatta and Tigua tribes through the appropriation of dollars to the Indian Commission to be used to pay the salaries of administrative personnel on the reservations. Small amounts of funding have been appropriated to provide an administrative office (two staff) for the commission in Austin to supervise the reservation personnel and to respond to general support, assistance or information requests from either the Indian population or the general public. The bulk of the commission's work and funding has

been designed to administer the state's trust responsibilities for the two tribes (no state funds have ever been appropriated to assist the Kickapoo). As the trust responsibility for the tribes reverts back to the federal government, the need for the state to carry out this function is eliminated. While the state is authorized to continue to provide assistance to the three federal reservations, the review concluded that having an Indian Commission to provide assistance is not necessary . For federal fiscal year 1988, each of the newly recognized tribes was allocated \$475,000 from the Bureau of Indian Affairs (BIA). While the budget for 1989 is not yet determined, the Tigua are requesting \$700,000 and the Alabama-Coushatta \$750,000 under the BIA's new tribes' program. These sums are considerably larger than the amounts the state has appropriated for the tribes. Under the new tribes' funding, a letter of credit is established for each tribe and they can hire personnel to help them administer their affairs. In the event that federal funding did not begin as anticipated, appropriations or grants to the tribes could still be made through another state agency, should the legislature determine it necessary. In any event, the role of trustee no longer exists, thus there is no need for a commission to oversee and approve all matters relating to the tribal members' lives and property.

Need for a State Commission to Serve Non-Reservation Populations.

The urban, or general non-reservation Indian population has never received official assistance from the TIC. A review of past legislation, funding patterns and attorney general opinions indicate that the commission has never received a clear directive to serve the non-reservation Indian population. As mentioned in the background, the commission was created for the sole and specific purpose of administering the trust responsibilities for the Alabama-Coushatta Indian tribe. Later, the administration of trust responsibilities for the Tigua Indian tribe was included in its duties when the Tigua became a federally recognized Indian tribe. In 1977, however, the Texas Indian Commission statutes were amended to require the commission to assist the Kickapoo Indians in applying for federal assistance. At the same time, the commission was directed specifically to assist inter-tribal Indian organizations chartered in this state in applying for federal and private funds. This legislative action resulted in a series of attorney general opinions, legislative statutory modifications and a federal court case to clarify the state's authority to provide services to non-reservation or urban Indians. Although the state could maintain the Indian Commission and redirect its efforts to assist non-reservation Indians, the

review examined the need for such an action in light of currently available services and how other states have approached this issue. Exhibit 2 shows the distribution of the Indian population in Texas' largest cities.

Exhibit 2

Texas Metropolitan Areas with Highest Indian Population

Area	Population
Dallas-Fort Worth	11,076
Houston	6,377
San Antonio	2,463
El Paso	1,484
Austin	1,378
Killeen-Temple	908
Corpus Christi	852
Amarillo	<u>743</u>
TOTAL	25,281

Source: U.S. 1980 Census

The non-reservation Indian population, if eligible, can access any services provided by the state for its citizens. In addition, in large urban areas with high populations of Indians, Indian organizations sometimes provide assistance to non-reservation individuals who have relocated to those areas. The Dallas Inter-tribal Center is a non-profit American Indian corporation that provides health, counseling, education, and job training support services primarily, but not solely, to Indians. The center was established in 1971 by a group of American Indians and non-Indians to provide support to American Indians relocating to the Dallas and Fort Worth area and to help them in their transition from rural or reservation life to urban living. The center began as a small volunteer outpatient health clinic operating two nights per week. Once it received a contract with the Indian Health Service, however, it began to grow considerably. Today, funding for the center comes from federal, state, local, and private sources which the center applies for directly. For its fiscal year ending June 1986, the Inter-tribal Center received a total of \$1.4 million in grants, contributions, and fee revenues, and provided over 110,000 units of service. The

major source of state funding to the Dallas Inter-tribal Center was a \$60,000 community service block grant from the Texas Department of Community Affairs for health care, rent and food assistance. In addition, the center receives in-kind support from a Texas Department of Health (TDH) subcontractor who provides the services of a health care team at the clinic one-half day per week and \$7,000 in laboratory and prescription services. The center also serves 2,000 persons monthly in the Special Supplemental Feeding Program for Women, Infants and Children (WIC) which is funded through the TDH. The Dallas center has a 12-member board of directors, employs over 40 people, and developed independently of any assistance from the TIC. Efforts such as this indicated that having an Indian commission is not a prerequisite to the successful development of programs and services for Indians.

A comparison of other states' activities in terms of Indian affairs showed a mixed approach. For example, California, the state with the largest Indian population (see Exhibit 3), has 126 federally recognized tribes, 18 tribes which are petitioning for recognition, and an urban Indian population of more than 100,000 but does not have an office for Indian affairs. California does have a Native American Heritage Commission, a state agency whose sole purpose is protecting American Indian burial, religious, and cultural sites. In Texas, these functions are handled by the Historical Commission and its Antiquities Committee.

The examination of 14 other states with significant Indian populations indicated that none have Indian offices or agencies that provide direct services to the non-reservation Indian population. Some of the states do, however, have either a small office or commission to perform general liaison work with their tribes and other state agencies or have designated a staff person in the governor's office to deal with Indian affairs. Both of these arrangements, where they exist, are usually found in states with a significantly higher Indian population than Texas (Oklahoma, Arizona, New Mexico) or in states with a cabinet style of government where the governor appoints all agency heads directly (Washington, South Dakota, Wisconsin). Numerous discussions with officials in these states led to the conclusion that these functions could be performed through other state agencies. For example, it is likely that precise legal relationships between the tribes, the state and the federal government will require continued articulation. A state Indian Commission could provide a focal point for the collection of legal questions and forward those to the appropriate state or federal agency or court for resolution. This represents an unneeded step, however, since the commission could not provide the final answers to the questions that will have to be addressed through formal legal processes.

Exhibit 3
States With Highest Indian Population

State	Indian Population	Percentage of Total State Population
California	201,369	.85%
Oklahoma	169,459	5.60%
Arizona	152,745	5.62%
New Mexico	106,119	8.14%
North Carolina	64,652	1.10%
Alaska	64,103	15.95%
Washington	60,804	1.47%
South Dakota	44,968	6.51%
Texas	40,075	.28%
Michigan	40,050	.43%
New York	39,582	.23%
Montana	37,153	4.72%
Minnesota	35,016	.86%
Wisconsin	29,499	.63%
Oregon	27,314	1.04%

Source: U.S. 1980 Census

A state commission could also assist non-reservation Indian groups in obtaining federal or state funding assistance. Based on the Dallas Inter-tribal Center experience, however, this appears unnecessary. Furthermore, state agencies actively advertise the funding they have available to assist groups such as non-reservation Indians. The Dallas group has been successful in obtaining funds directly from many sources, including the Department of Community Affairs and the Department of Health, without needing the assistance of another agency.

In summary, the state's policy regarding the Texas Indian Commission has been to assign it the role of administering the state's trust responsibilities for the Alabama-Coushatta and the Tigua reservations. Now that these responsibilities

have been assumed by the federal government, there is no longer a need for the commission to assist the tribes. Although the urban and non-reservation Indian population is undoubtedly one that has many needs, these needs can and should be addressed in the same manner as the state deals with all its citizens in need of assistance. That is, by having specific agencies or programs designed for a specific function or to solve a specific problem for all the state's citizens.

The Governor's Energy Management Center Should be the Supervising Agency for the Native American Restitutionary Program

The Oil Overcharge Restitutionary Act was enacted by the 70th Legislature (S.B. 33, 2nd called session, 1987). The Act and corresponding provisions in the Appropriations Bill control the disbursement of approximately \$250 million the state will receive in settlements from petroleum overcharge litigation. One of those settlement agreements requires that the state distribute an equitable share of the benefits to Indian tribal governments. Consequently, S. B. 33 created a direct grant program called the Native American Restitutionary Program (NARP), which is to provide energy-related assistance to Native Americans in Texas. The bill designated the TIC as the supervising agency for the NARP, although the funds for the program (\$351,000) were appropriated to the Governor's Energy Management Center (GEMC). The management center currently contracts with the TIC to administer the program, though the management center retains final approval authority on all expenditures. While the TIC is serving a useful role currently in the planning and implementation phase of this program, the administration of the program could be accomplished directly by the GEMC

The statute should be amended to designate the Governor's Energy Management Center as the supervising agency for the Native American Restitutionary Program.

Senate Bill 33 explicitly gives the governor the power and discretion to finance projects and administer the expenditure of oil overcharge funds in Texas. It outlines 23 specific programs: 12 direct grant programs, each to be administered by a designated supervising agency, and 11 competitive grant programs. The Governor's Energy Management Center is the supervising agency for four of the direct grant programs and all of the competitive grant programs. Other supervising agencies designated for the direct grant programs are the Texas Department of Human

Services, the Texas Department of Community Affairs, the Railroad Commission, the Office of Public Utility Counsel, and the Texas National Research Laboratory Commission. Supervising agencies are designated, according to the GEMC, on the basis of their knowledge of the subject matter and having a good working relationship with the target audience.

The Native American Restitutionary Program is designed to provide assistance to Texas tribal governments. Specifically, the grant funds are to be used for emergency relief and energy crisis intervention assistance; low income home energy assistance; community facility weatherization and rehabilitation; and tribal government and community energy and fuel consumption. Other uses may be approved by the GEMC. The total funds for the program are \$351,000, which will be disbursed evenly over the four year funding period (FY 1988 - 1991). According to the program plan submitted by the GEMC to the federal Department of Energy for approval, the funds are to be divided equally among the three tribes living on reservations in the state. Five percent of the program funds are allocated to the TIC annually (\$4,425) to cover the costs of program management.

Each tribe will identify funding needs and submit a proposal for approval by GEMC. All funds are retained by the GEMC and will be disbursed to the tribes on a cost reimbursement basis. The GEMC will contract with the TIC to supervise the implementation of each tribe's plan. The TIC's duties as supervising agency include submitting the tribes' requests for reimbursement with required performance reports to the GEMC, maintaining proper records, subcontracting for services to be provided, monitoring all services that are subcontracted for, and ensuring that all services in the plan are provided.

The review determined that supervising agency responsibility for this program should rest with the GEMC beginning with fiscal year 1990. By that time, the program will be half way through its implementation. The tribes' program plans will have been submitted and approved and half the expenditures completed. The role of intermediary between the tribes and the GEMC currently fulfilled by the TIC will not be needed and the GEMC should be able to continue the administration of the program by dealing directly with the three tribes.