

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1651

By: Jolley

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7 COMMITTEE SUBSTITUTE

8 An Act relating to the Native American Cultural and
9 Educational Authority; amending 74 O.S. 2011, Section
10 1226.2, which relates to the creation of the Native
11 American Cultural and Educational Authority;
12 providing for termination of current Authority;
13 transferring all powers and duties of Authority upon
14 certain date to a newly created authority; providing
15 that all actions of the Authority prior to the
16 transfer shall remain effective; providing that all
17 obligations issued shall remain in effect; creating
18 the Native American Cultural Center Trust Authority
19 upon the occurrence of certain events; specifying
20 that the created entity is a public trust charged
21 with carrying out specified duties; providing for
22 trustees; specifying appointment of trustees;
23 providing that the Governmental Tort Claims Act shall
24 apply to certain entity; exempting trustees from
certain statutory provisions; creating the Native
American Cultural Center Trust Fund; providing for
the principal of the fund; specifying purpose for
which funds may be expended; prohibiting the
acceptance of certain federal funds; directing the
Office of Management and Enterprise Services to
transfer certain sum into certain fund; directing
revenues in excess of certain costs be applied to
repayment of certain obligations; providing for
codification; providing for noncodification; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 74 O.S. 2011, Section 1226.2, is
2 amended to read as follows:

3 Section 1226.2. A. There is hereby created a body corporate
4 and politic to be known as the "Native American Cultural and
5 Educational Authority", and by that name the Authority may sue and
6 be sued, and plead and be impleaded. The Authority is hereby
7 constituted an agency of the state, and the exercise by the
8 Authority of the powers conferred by Section 1226 et seq. of this
9 title shall be deemed to be essential governmental functions of the
10 state with all the attributes thereof. Provided, however, the
11 Authority is authorized to carry liability insurance to the extent
12 authorized by the Authority, and in addition thereto it shall be
13 subject to the workers' compensation laws of the State of Oklahoma
14 the same as a private employer. The Department of Commerce shall
15 assist the Authority in fulfilling the responsibilities of Section
16 1226 et seq. of this title, as requested by the authority.

17 B. 1. The statutory entity created by subsection C of this
18 section shall be terminated on July 1, 2019, or on the first day the
19 Native American Cultural Center is open to the public, whichever is
20 sooner. All powers, duties and functions shall transfer to the
21 Native American Cultural Center Trust Authority as created in
22 Section 2 of this act on that date and such reference to the
23 Authority created in Section 2 of this act shall apply pursuant to
24 paragraph 1 of Section 1226.3 of this title.

1 2. All orders, determinations, rules, regulations, permits,
2 certificates, licenses, contracts, rates and privileges which have
3 been issued, made, granted or allowed to become effective by the
4 statutory entity abolished by this act or by any provision of law
5 affected by this act, shall continue in effect according to their
6 terms until terminated or modified by operation of law.

7 3. Notwithstanding any other provisions of this act, any
8 revenue bonds heretofore or hereafter issued or sold by the
9 statutory entity shall remain in full force and effect, and no such
10 statutory entity shall be terminated under the terms of this act
11 until such outstanding revenue bonded indebtedness has been
12 satisfied.

13 C. The Authority shall consist of seven (7) appointed members
14 who are members of a federally recognized American Indian Tribe
15 located within this state, six (6) ex officio members and four (4)
16 appointed members from the business community. Each appointed
17 member, excluding ex officio members, shall have one vote for
18 purposes of conducting the business of the Authority. Except for
19 the members appointed pursuant to paragraph 3 of this subsection,
20 the appointed members shall be residents of the state, and shall
21 have been qualified electors therein for a period of at least one
22 (1) year preceding their appointment. Any member of the Authority
23 shall be eligible for reappointment, and no member shall be removed
24 from office except for good cause shown. Good cause may be shown in

1 evidence of excessive failure to attend three (3) consecutive
2 regular Board meetings of the Authority. The chair of the Authority
3 shall have the right to remove any member pursuant to good cause.
4 At the expiration of any term, the person holding such office shall
5 continue to serve until such person's duly appointed successor shall
6 be appointed and qualified.

7 1. Seven members appointed to serve shall serve overlapping
8 terms and shall be chosen as follows: three members shall be
9 appointed by the Governor; two members shall be appointed by the
10 President Pro Tempore of the Senate; and two members shall be
11 appointed by the Speaker of the House of Representatives. Each of
12 these members shall be a member of a federally recognized American
13 Indian tribe located within this state. Such tribal membership
14 shall be determined by the respective tribes. Appointments shall be
15 made from names provided by tribal governments, councils or other
16 recognized tribal entities. Appointments shall be restricted to not
17 more than one representative of any tribe. Such appointed members
18 initially appointed shall continue in office for terms of from three
19 (3) to seven (7) years, respectively, from the date of their
20 appointment, with the term of each initially appointed member to be
21 designated by the Governor at the time of the appointment, with one
22 member to be appointed to a three-year term, two members to be
23 appointed to a four-year term, one member to be appointed to a five-
24 year term, one member to be appointed to a six-year term, and two

1 members to be appointed to a seven-year term. Any person appointed
2 to fill a vacancy shall serve only for the unexpired term. Upon the
3 expiration of a term, on or after July 1, 2000, any succeeding term
4 shall be for four (4) years.

5 2. The six ex officio members shall be as follows: the
6 Oklahoma Native American Liaison, or the designee of the same; the
7 Lieutenant Governor, or the designee of same; the Director of the
8 Oklahoma Historical Society, or the designee of same; the Secretary
9 of Commerce, or the designee of same; the Executive Director of the
10 Oklahoma Arts Council, or the designee of same; and the Executive
11 Director of the Oklahoma Tourism and Recreation Department, or the
12 designee of the same.

13 3. The four appointed members from the business community shall
14 be chosen as follows: two members shall be appointed by the
15 Governor; one member shall be appointed by the Speaker of the House
16 of Representatives; and one member shall be appointed by the
17 President Pro Tempore of the Senate. Each member shall have at
18 least fifteen (15) years of experience in business, banking, finance
19 or corporate law, and shall have demonstrated outstanding ability in
20 business or industry. However, in lieu of appointing a member with
21 such experience, one of the two members appointed by the Governor
22 may be a person who has exhibited at least three (3) years of
23 outstanding leadership and involvement in recognized Native American
24 organizations and activities. Upon the expiration of a term, on or

1 after July 1, 2000, any succeeding term shall be for four (4) years.
2 Any person appointed to fill a vacancy shall serve only for the
3 unexpired term.

4 ~~C.~~ D. The Authority shall elect one of its members as
5 chairperson, and another as vice-chairperson, and also shall elect a
6 secretary, treasurer and such other officers as the Authority may
7 deem appropriate. A majority of the members of the Authority
8 (exclusive of vacancies) shall constitute a quorum and the vote of a
9 majority of the members (exclusive of vacancies) shall be necessary
10 for any action taken by the Authority. No vacancy in the membership
11 of the Authority shall impair the right of a quorum to exercise all
12 the rights and perform all the duties of the Authority.

13 ~~D.~~ E. Before the issuance of any revenue bonds under the
14 provisions of Section 1226 et seq. of this title, each member of the
15 Authority shall execute a surety bond in the penal sum of Twenty-
16 five Thousand Dollars (\$25,000.00) and the secretary and treasurer
17 shall execute a surety bond in the penal sum of One Hundred Thousand
18 Dollars (\$100,000.00), each such surety bond to be conditioned upon
19 the faithful performance of the duties of his or her office, to be
20 executed by a surety company authorized to transact business in the
21 State of Oklahoma as surety, and to be filed in the office of the
22 Secretary of State.

23 ~~E.~~ F. The members of the Authority shall not be entitled to
24 compensation for their services, but each member shall be reimbursed

1 for actual expenses necessarily incurred in the performance of
2 duties on behalf of the Authority, provided that members of the
3 Authority shall be compensated for their travel expenses pursuant to
4 the State Travel Reimbursement Act. All expenses incurred in
5 carrying out the provisions of Section 1226 et seq. of this title
6 shall be payable solely from funds provided under the authority of
7 Section 1226 et seq. of this title and no liability or obligation
8 shall be incurred by the Authority hereunder beyond the extent to
9 which monies shall have been provided under the authority of Section
10 1226 et seq. of this title.

11 ~~F.~~ G. The Authority is authorized to establish subcommittees as
12 necessary to perform its functions and duties. A subcommittee may
13 be composed of Authority members and/or nonmembers and shall not
14 have more than five members. Nonmembers of a subcommittee shall be
15 reimbursed by the Authority in accordance with the State Travel
16 Reimbursement Act.

17 ~~G.~~ H. Members of the Authority shall be exempt from the
18 provisions of Section 6 of Title 51 of the Oklahoma Statutes, which
19 prohibits the holding of any other office during the member's term
20 of office on the Authority.

21 ~~H.~~ I. The Directors and staff of the Authority employed to
22 perform the duties of Sections 1226 et seq. of this title shall be
23 considered employees of the Authority. The employees of the
24 Authority shall be entitled to be reimbursed for actual and

1 necessary expenses incurred in the performance of duties on behalf
2 of the Authority. Such compensation for travel expenses shall be
3 paid pursuant to the State Travel Reimbursement Act.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1226.18 of Title 74, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Upon the effective date pursuant to subsection B of Section
8 1226.2 of Title 74 of the Oklahoma Statutes, the state expressly
9 approves the creation of a public trust to be named the "Native
10 American Cultural Center Trust Authority", also known as "NACCTA",
11 of which the state shall be the beneficiary; provided, however, such
12 approval shall be contingent upon satisfaction of the following
13 conditions:

- 14 1. Finalizing the declaration of trust;
- 15 2. Adoption of the declaration of trust by an official action
16 of the trustees of NACCTA; and
- 17 3. Submission of NACCTA for acceptance of the beneficial
18 interest and approval as required by Section 177 of Title 60 of the
19 Oklahoma Statutes.

20 B. The approved declaration of trust shall:

- 21 1. Specify that NACCTA shall be created as a public trust
22 pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes
23 and shall have the same rights, responsibilities, and attributes as
24 any public trust created under such laws;

1 2. Specify that the primary purpose of NACCTA shall be to carry
2 out the functions, duties and responsibilities pursuant to Section
3 1226 et seq. of Title 74 of the Oklahoma Statutes; and

4 3. To the extent required by law, specify the adoption of
5 bylaws and rules for the due and orderly administration and
6 regulation of affairs of NACCTA, which shall require approval in
7 accordance with the provisions of the Administrative Procedures Act.

8 C. 1. NACCTA shall have eleven (11) trustees, seven of which
9 shall be members of a federally recognized American Indian Tribe
10 located within this state and of those seven trustees three shall be
11 appointed by the Governor; two trustees shall be appointed by the
12 President Pro Tempore of the Senate; and two trustees shall be
13 appointed by the Speaker of the House of Representatives. Such
14 tribal membership shall be determined by the respective tribes.
15 Appointments shall be made from names provided by tribal
16 governments, councils or other recognized tribal entities.
17 Appointments shall be restricted to not more than one representative
18 of any tribe. Such appointed members initially appointed shall
19 continue in office for terms of from three (3) to seven (7) years,
20 respectively, from the date of their appointment, with the term of
21 each initially appointed member to be designated by the Governor at
22 the time of the appointment, with one member to be appointed to a
23 three-year term, two members to be appointed to a four-year term,
24 one member to be appointed to a five-year term, one member to be

1 appointed to a six-year term, and two members to be appointed to a
2 seven-year term. Any person appointed to fill a vacancy shall serve
3 only for the unexpired term. Succeeding terms shall be for a term
4 of four (4) years.

5 2. The other four appointed trustees shall be from the business
6 community and shall be chosen as follows: two members shall be
7 appointed by the Governor; one member shall be appointed by the
8 President Pro Tempore of the Senate; and one member shall be
9 appointed by the Speaker of the House of Representatives. Each
10 member shall have at least fifteen (15) years of experience in
11 business, banking, finance or corporate law, and shall have
12 demonstrated outstanding ability in business or industry. However,
13 in lieu of appointing a member with such experience, one of the two
14 members appointed by the Governor may be a person who has exhibited
15 at least three (3) years of outstanding leadership and involvement
16 in recognized Native American organizations and activities. The
17 initial terms of the trustees appointed by the Governor shall be for
18 one (1) year, the one trustee appointed by the President Pro Tempore
19 of the Senate shall be for two (2) years and the trustee appointed
20 by the Speaker of the House of Representatives shall be for three
21 (3) years. Upon the expiration of a term any succeeding term shall
22 be for four (4) years. Any person appointed to fill a vacancy shall
23 serve only for the unexpired term.

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1 D. The provisions of the Governmental Tort Claims Act shall
2 apply to NACCTA as a state-beneficiary public trust created pursuant
3 to state law.

4 E. Members of the NACCTA shall be exempt from the provisions of
5 Section 6 of Title 51 of the Oklahoma Statutes.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1226.18 of Title 74, unless
8 there is created a duplication in numbering, reads as follows:

9 A. There is hereby created in the State Treasury a revolving
10 fund for the Native American Cultural and Educational Authority, to
11 be designated the "Native American Cultural Center Trust Fund". The
12 fund shall be a continuing fund, not subject to fiscal year
13 limitations. All monies accruing to the credit of the fund are
14 hereby appropriated and may be budgeted and expended by the Native
15 American Cultural and Educational Authority. The fund shall consist
16 of funds transferred to it from the Unclaimed Property Fund as
17 created in Section 668 of Title 60 of the Oklahoma Statutes and any
18 private donations, contributions and gifts received for the purpose
19 of completing construction of the American Indian Cultural Center
20 and Museum. Monies deposited to the credit of the fund shall only
21 be expended for the purpose of completing construction of the Native
22 American Cultural Center and Museum.

1 B. The Native American Cultural Center Trust Fund shall not
2 accept any additional federal funds issued pursuant to the Indian
3 Financing Amendments Act of 2002, P.L. 107-331.

4 SECTION 4. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

6 TRANSFER Notwithstanding any other provision of law, the
7 Director of the Office of Management and Enterprise Services shall
8 transfer the sum of Forty Million Dollars (\$40,000,000.00) from the
9 Unclaimed Property Fund established pursuant to Section 668 of Title
10 60 of the Oklahoma Statutes to the Native American Cultural Center
11 Trust Fund created in Section 3 of this act.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1226.7A of Title 74, unless
14 there is created a duplication in numbering, reads as follows:

15 After completion of the Native American Cultural Center and
16 Museum, all revenues received by the Native American Cultural and
17 Educational Authority, or its successor, in excess of the cost of
18 operation and maintenance of the Native American Cultural Center and
19 Museum, shall be applied to retire any outstanding obligations
20 issued for the purpose of construction of said project until such
21 obligations and interest thereon shall have been paid.

22 SECTION 6. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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