

1 ENGROSSED SENATE
2 BILL NO. 1651

By: Jolley, Loveless, Paddack,
Johnson (Constance) and
Sparks of the Senate

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5 Dank of the House
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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 service to
certify receipt of certain deposits; directing the
Office of Management Enterprise Services to transfer
certain sum into certain fund; authorizing
expenditure of certain amounts from fund upon
certification of deposits; creating the American
Indian Cultural Center and Museum Completion Fund;
specifying corpus of fund; providing purpose for
which funds may be expended; directing revenues in
excess of certain costs be applied to repayment of
certain obligations; providing for codification;

1 providing for noncodification; and declaring an
2 emergency.

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

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

6 Section 1226.2. A. There is hereby created a body corporate
7 and politic to be known as the "Native American Cultural and
8 Educational Authority", and by that name the Authority may sue and
9 be sued, and plead and be impleaded. The Authority is hereby
10 constituted an agency of the state, and the exercise by the
11 Authority of the powers conferred by Section 1226 et seq. of this
12 title shall be deemed to be essential governmental functions of the
13 state with all the attributes thereof. Provided, however, the
14 Authority is authorized to carry liability insurance to the extent
15 authorized by the Authority, and in addition thereto it shall be
16 subject to the workers' compensation laws of the State of Oklahoma
17 the same as a private employer. The Department of Commerce shall
18 assist the Authority in fulfilling the responsibilities of Section
19 1226 et seq. of this title, as requested by the ~~authority~~ Authority.

20 B. 1. The statutory entity created by subsection C of this
21 section shall be terminated on July 1, 2019, or on the first day the
22 American Indian Cultural Center and Museum is open to the public,
23 whichever is sooner. All powers, duties and functions shall
24 transfer to the Native American Cultural Center Trust Authority as

1 created in Section 2 of this act on that date and such reference to
2 the Authority created in Section 2 of this act shall apply pursuant
3 to paragraph 1 of Section 1226.3 of this title.

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

10 3. Notwithstanding any other provisions of this act, any lease
11 revenue bonds issued heretofore or hereafter by the Oklahoma Capitol
12 Improvement Authority and secured by lease agreements with the
13 Native American Cultural and Educational Authority, or its successor
14 entities, including the Authority created by section 2 of this act
15 shall remain in full force and effect, and no such statutory entity
16 shall be terminated under the terms of this act until such
17 outstanding bonded indebtedness has been satisfied. The Authority
18 shall take no action that will affect the tax status of any
19 outstanding bonded indebtedness.

20 C. The Authority shall consist of seven (7) appointed members
21 who are members of a federally recognized American Indian Tribe
22 located within this state, six (6) ex officio members and four (4)
23 appointed members from the business community. Each appointed
24 member, excluding ex officio members, shall have one vote for

1 purposes of conducting the business of the Authority. Except for
2 the members appointed pursuant to paragraph 3 of this subsection,
3 the appointed members shall be residents of the state, and shall
4 have been qualified electors therein for a period of at least one
5 (1) year preceding their appointment. Any member of the Authority
6 shall be eligible for reappointment, and no member shall be removed
7 from office except for good cause shown. Good cause may be shown in
8 evidence of excessive failure to attend three (3) consecutive
9 regular Board meetings of the Authority. The chair of the Authority
10 shall have the right to remove any member pursuant to good cause.
11 At the expiration of any term, the person holding such office shall
12 continue to serve until such person's duly appointed successor shall
13 be appointed and qualified.

14 1. Seven members appointed to serve shall serve overlapping
15 terms and shall be chosen as follows: three members shall be
16 appointed by the Governor; two members shall be appointed by the
17 President Pro Tempore of the Senate; and two members shall be
18 appointed by the Speaker of the House of Representatives. Each of
19 these members shall be a member of a federally recognized American
20 Indian tribe located within this state. Such tribal membership
21 shall be determined by the respective tribes. Appointments shall be
22 made from names provided by tribal governments, councils or other
23 recognized tribal entities. Appointments shall be restricted to not
24 more than one representative of any tribe. Such appointed members

1 initially appointed shall continue in office for terms of from three
2 (3) to seven (7) years, respectively, from the date of their
3 appointment, with the term of each initially appointed member to be
4 designated by the Governor at the time of the appointment, with one
5 member to be appointed to a three-year term, two members to be
6 appointed to a four-year term, one member to be appointed to a five-
7 year term, one member to be appointed to a six-year term, and two
8 members to be appointed to a seven-year term. Any person appointed
9 to fill a vacancy shall serve only for the unexpired term. Upon the
10 expiration of a term, on or after July 1, 2000, any succeeding term
11 shall be for four (4) years.

12 2. The six ex officio members shall be as follows: the
13 Oklahoma Native American Liaison, or the designee of the same; the
14 Lieutenant Governor, or the designee of same; the Director of the
15 Oklahoma Historical Society, or the designee of same; the Secretary
16 of Commerce, or the designee of same; the Executive Director of the
17 Oklahoma Arts Council, or the designee of same; and the Executive
18 Director of the Oklahoma Tourism and Recreation Department, or the
19 designee of the same.

20 3. The four appointed members from the business community shall
21 be chosen as follows: two members shall be appointed by the
22 Governor; one member shall be appointed by the Speaker of the House
23 of Representatives; and one member shall be appointed by the
24 President Pro Tempore of the Senate. Each member shall have at

1 least fifteen (15) years of experience in business, banking, finance
2 or corporate law, and shall have demonstrated outstanding ability in
3 business or industry. However, in lieu of appointing a member with
4 such experience, one of the two members appointed by the Governor
5 may be a person who has exhibited at least three (3) years of
6 outstanding leadership and involvement in recognized Native American
7 organizations and activities. Upon the expiration of a term, on or
8 after July 1, 2000, any succeeding term shall be for four (4) years.
9 Any person appointed to fill a vacancy shall serve only for the
10 unexpired term.

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

20 ~~D.~~ E. Before the issuance of any revenue bonds under the
21 provisions of Section 1226 et seq. of this title, each member of the
22 Authority shall execute a surety bond in the penal sum of Twenty-
23 five Thousand Dollars (\$25,000.00) and the secretary and treasurer
24 shall execute a surety bond in the penal sum of One Hundred Thousand

1 Dollars (\$100,000.00), each such surety bond to be conditioned upon
2 the faithful performance of the duties of his or her office, to be
3 executed by a surety company authorized to transact business in the
4 State of Oklahoma as surety, and to be filed in the office of the
5 Secretary of State.

6 ~~F.~~ F. The members of the Authority shall not be entitled to
7 compensation for their services, but each member shall be reimbursed
8 for actual expenses necessarily incurred in the performance of
9 duties on behalf of the Authority, provided that members of the
10 Authority shall be compensated for their travel expenses pursuant to
11 the State Travel Reimbursement Act. All expenses incurred in
12 carrying out the provisions of Section 1226 et seq. of this title
13 shall be payable solely from funds provided under the authority of
14 Section 1226 et seq. of this title and no liability or obligation
15 shall be incurred by the Authority hereunder beyond the extent to
16 which monies shall have been provided under the authority of Section
17 1226 et seq. of this title.

18 ~~F.~~ G. The Authority is authorized to establish subcommittees as
19 necessary to perform its functions and duties. A subcommittee may
20 be composed of Authority members and/or nonmembers and shall not
21 have more than five members. Nonmembers of a subcommittee shall be
22 reimbursed by the Authority in accordance with the State Travel
23 Reimbursement Act.

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

5 ~~H.~~ I. The Directors and staff of the Authority employed to
6 perform the duties of Sections 1226 et seq. of this title shall be
7 considered employees of the Authority. The employees of the
8 Authority shall be entitled to be reimbursed for actual and
9 necessary expenses incurred in the performance of duties on behalf
10 of the Authority. Such compensation for travel expenses shall be
11 paid pursuant to the State Travel Reimbursement Act.

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

15 A. Upon the effective date pursuant to subsection B of Section
16 1226.2 of Title 74 of the Oklahoma Statutes, the state expressly
17 approves the creation of a public trust to be named the "Native
18 American Cultural Center Trust Authority", also known as "NACCTA",
19 of which the state shall be the beneficiary; provided, however, such
20 approval shall be contingent upon satisfaction of the following
21 conditions:

- 22 1. Finalizing the declaration of trust;
- 23 2. Adoption of the declaration of trust by an official action
24 of the trustees of NACCTA; and

1 3. Submission of NACCTA for acceptance of the beneficial
2 interest and approval as required by Section 177 of Title 60 of the
3 Oklahoma Statutes.

4 B. The approved declaration of trust shall:

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

9 2. Specify that the primary purpose of NACCTA shall be to carry
10 out the functions, duties and responsibilities pursuant to Section
11 1226 et seq. of Title 74 of the Oklahoma Statutes; and

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

16 C. 1. NACCTA shall have eleven (11) trustees, seven of which
17 shall be members of a federally recognized American Indian Tribe
18 located within this state and of those seven trustees three shall be
19 appointed by the Governor; two trustees shall be appointed by the
20 President Pro Tempore of the Senate; and two trustees shall be
21 appointed by the Speaker of the House of Representatives. Such
22 tribal membership shall be determined by the respective tribes.
23 Appointments shall be made from names provided by tribal
24 governments, councils or other recognized tribal entities.

1 Appointments shall be restricted to not more than one representative
2 of any tribe. Such appointed members initially appointed shall
3 continue in office for terms of from three (3) to seven (7) years,
4 respectively, from the date of their appointment, with the term of
5 each initially appointed member to be designated by the Governor at
6 the time of the appointment, with one member to be appointed to a
7 three-year term, two members to be appointed to a four-year term,
8 one member to be appointed to a five-year term, one member to be
9 appointed to a six-year term, and two members to be appointed to a
10 seven-year term. Any person appointed to fill a vacancy shall serve
11 only for the unexpired term. Succeeding terms shall be for a term
12 of four (4) years.

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

1 initial terms of the trustees appointed by the Governor shall be for
2 one (1) year, the one trustee appointed by the President Pro Tempore
3 of the Senate shall be for two (2) years and the trustee appointed
4 by the Speaker of the House of Representatives shall be for three
5 (3) years. Upon the expiration of a term any succeeding term shall
6 be for four (4) years. Any person appointed to fill a vacancy shall
7 serve only for the unexpired term.

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

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

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1226.19 of Title 74, unless
15 there is created a duplication in numbering, reads as follows:

16 A. There is hereby created in the State Treasury a revolving
17 fund for the Native American Cultural and Educational Authority, to
18 be designated the "Native American Cultural Center Trust Fund". The
19 fund shall be a continuing fund, not subject to fiscal year
20 limitations. Subject to the provisions of subsection C of this
21 section, all monies accruing to the credit of the fund are hereby
22 appropriated and may be budgeted and expended by the Native American
23 Cultural and Educational Authority. The fund shall consist of funds
24 transferred to it from the Unclaimed Property Fund as created in

1 Section 668 of Title 60 of the Oklahoma Statutes. Monies deposited
2 to the credit of the fund shall only be expended for the purpose of
3 completing construction of the American Indian Cultural Center and
4 Museum

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

8 C. Monies transferred into the Native American Cultural Center
9 Trust Fund pursuant to Section 5 of this act shall be expended
10 according to limits of this subsection.

11 1. Upon certification by the Office of Management and
12 Enterprise Services that Twenty Million Dollars (\$20,000,000.00) in
13 non-state and non-federal donations, contributions, gifts and
14 bequests received for the purpose of completing construction of the
15 American Indian Cultural Center and Museum have been deposited in
16 the fund created pursuant to Section 4 of this act, the Authority
17 shall be authorized to expend Twenty Million Dollars
18 (\$20,000,000.00) from the Native American Cultural Center Trust
19 Fund.

20 2. Upon certification by the Office of Management and
21 Enterprise Services that total deposits of non-state and non-federal
22 donations, contributions, gifts and bequests into the fund created
23 pursuant to Section 4 of this act, including the amount certified in
24 paragraph 1 of this subsection, equal Forty Million Dollars

1 (\$40,000,000.00), the Authority shall be authorized to expend the
2 remaining amount in the Native American Cultural Center Trust Fund.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1226.20 of Title 74, unless
5 there is created a duplication in numbering, reads as follows:

6 A. There is hereby created in the State Treasury a revolving
7 fund for the Native American Cultural and Educational Authority, to
8 be designated the "American Indian Cultural Center and Museum
9 Completion Fund". The fund shall be a continuing fund, not subject
10 to fiscal year limitations. All monies accruing to the credit of
11 the fund are hereby appropriated and may be budgeted and expended by
12 the Native American Cultural and Educational Authority. The fund
13 shall consist of monies received in the form of non-state and non-
14 federal donations, contributions, gifts and bequest, by the Native
15 American Cultural and Educational Authority, for the purpose of
16 completing construction of the American Indian Cultural Center and
17 Museum. Monies deposited to the credit of the fund shall only be
18 expended for the purpose of completing construction of the American
19 Indian Cultural Center and Museum.

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

22 TRANSFER Notwithstanding any other provision of law, the
23 Director of the Office of Management and Enterprise Services shall
24 transfer the sum of Forty Million Dollars (\$40,000,000.00) from the

1 Unclaimed Property Fund established pursuant to Section 668 of Title
2 60 of the Oklahoma Statutes to the Native American Cultural Center
3 Trust Fund created in Section 3 of this act.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1226.7A of Title 74, unless
6 there is created a duplication in numbering, reads as follows:

7 After completion of the American Indian Cultural Center and
8 Museum, all revenues received by the Native American Cultural and
9 Educational Authority, or its successor, in excess of the cost of
10 operation and maintenance of the American Indian Cultural Center and
11 Museum, shall be applied to retire any outstanding obligations
12 issued for the purpose of construction of said project until such
13 obligations and interest thereon shall have been paid.

14 SECTION 7. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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1 Passed the Senate the 4th day of March, 2014.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2014.

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8 _____
9 Presiding Officer of the House
10 of Representatives