

# SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

## FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1651, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

\_\_\_\_\_  
Senator Jolley

Jolley-AM-FS-Req#3457  
2/25/2014 5:50 PM

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 1651

By: Jolley, Loveless and  
Paddack of the Senate

and

Dank of the House

FLOOR SUBSTITUTE

[ Native American Cultural and Educational Authority  
- termination - Native American Cultural Center Trust  
Authority - Native American Cultural Center Trust  
Fund - repayment of certain obligations -  
codification - noncodification -

emergency ]

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

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

Section 1226.2. A. There is hereby created a body corporate  
and politic to be known as the "Native American Cultural and  
Educational Authority", and by that name the Authority may sue and  
be sued, and plead and be impleaded. The Authority is hereby  
constituted an agency of the state, and the exercise by the  
Authority of the powers conferred by Section 1226 et seq. of this  
title shall be deemed to be essential governmental functions of the

1 state with all the attributes thereof. Provided, however, the  
2 Authority is authorized to carry liability insurance to the extent  
3 authorized by the Authority, and in addition thereto it shall be  
4 subject to the workers' compensation laws of the State of Oklahoma  
5 the same as a private employer. The Department of Commerce shall  
6 assist the Authority in fulfilling the responsibilities of Section  
7 1226 et seq. of this title, as requested by the Authority.

8       B. 1. The statutory entity created by subsection C of this  
9 section shall be terminated on July 1, 2019, or on the first day the  
10 American Indian Cultural Center and Museum is open to the public,  
11 whichever is sooner. All powers, duties and functions shall  
12 transfer to the Native American Cultural Center Trust Authority as  
13 created in Section 2 of this act on that date and such reference to  
14 the Authority created in Section 2 of this act shall apply pursuant  
15 to paragraph 1 of Section 1226.3 of this title.

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

22       3. Notwithstanding any other provisions of this act, any lease  
23 revenue bonds issued heretofore or hereafter by the Oklahoma Capitol  
24 Improvement Authority and secured by lease agreements with the

1 Native American Cultural and Educational Authority, or its successor  
2 entities, including the Authority created by section 2 of this act  
3 shall remain in full force and effect, and no such statutory entity  
4 shall be terminated under the terms of this act until such  
5 outstanding bonded indebtedness has been satisfied. The Authority  
6 shall take no action that will affect the tax status of any  
7 outstanding bonded indebtedness.

8     C. The Authority shall consist of seven (7) appointed members  
9 who are members of a federally recognized American Indian Tribe  
10 located within this state, six (6) ex officio members and four (4)  
11 appointed members from the business community. Each appointed  
12 member, excluding ex officio members, shall have one vote for  
13 purposes of conducting the business of the Authority. Except for  
14 the members appointed pursuant to paragraph 3 of this subsection,  
15 the appointed members shall be residents of the state, and shall  
16 have been qualified electors therein for a period of at least one  
17 (1) year preceding their appointment. Any member of the Authority  
18 shall be eligible for reappointment, and no member shall be removed  
19 from office except for good cause shown. Good cause may be shown in  
20 evidence of excessive failure to attend three (3) consecutive  
21 regular Board meetings of the Authority. The chair of the Authority  
22 shall have the right to remove any member pursuant to good cause.  
23 At the expiration of any term, the person holding such office shall  
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1 continue to serve until such person's duly appointed successor shall  
2 be appointed and qualified.

3 1. Seven members appointed to serve shall serve overlapping  
4 terms and shall be chosen as follows: three members shall be  
5 appointed by the Governor; two members shall be appointed by the  
6 President Pro Tempore of the Senate; and two members shall be  
7 appointed by the Speaker of the House of Representatives. Each of  
8 these members shall be a member of a federally recognized American  
9 Indian tribe located within this state. Such tribal membership  
10 shall be determined by the respective tribes. Appointments shall be  
11 made from names provided by tribal governments, councils or other  
12 recognized tribal entities. Appointments shall be restricted to not  
13 more than one representative of any tribe. Such appointed members  
14 initially appointed shall continue in office for terms of from three  
15 (3) to seven (7) years, respectively, from the date of their  
16 appointment, with the term of each initially appointed member to be  
17 designated by the Governor at the time of the appointment, with one  
18 member to be appointed to a three-year term, two members to be  
19 appointed to a four-year term, one member to be appointed to a five-  
20 year term, one member to be appointed to a six-year term, and two  
21 members to be appointed to a seven-year term. Any person appointed  
22 to fill a vacancy shall serve only for the unexpired term. Upon the  
23 expiration of a term, on or after July 1, 2000, any succeeding term  
24 shall be for four (4) years.

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

9        3. The four appointed members from the business community shall  
10 be chosen as follows: two members shall be appointed by the  
11 Governor; one member shall be appointed by the Speaker of the House  
12 of Representatives; and one member shall be appointed by the  
13 President Pro Tempore of the Senate. Each member shall have at  
14 least fifteen (15) years of experience in business, banking, finance  
15 or corporate law, and shall have demonstrated outstanding ability in  
16 business or industry. However, in lieu of appointing a member with  
17 such experience, one of the two members appointed by the Governor  
18 may be a person who has exhibited at least three (3) years of  
19 outstanding leadership and involvement in recognized Native American  
20 organizations and activities. Upon the expiration of a term, on or  
21 after July 1, 2000, any succeeding term shall be for four (4) years.  
22 Any person appointed to fill a vacancy shall serve only for the  
23 unexpired term.  
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1       ~~C.~~ D. The Authority shall elect one of its members as  
2 chairperson, and another as vice-chairperson, and also shall elect a  
3 secretary, treasurer and such other officers as the Authority may  
4 deem appropriate. A majority of the members of the Authority  
5 (exclusive of vacancies) shall constitute a quorum and the vote of a  
6 majority of the members (exclusive of vacancies) shall be necessary  
7 for any action taken by the Authority. No vacancy in the membership  
8 of the Authority shall impair the right of a quorum to exercise all  
9 the rights and perform all the duties of the Authority.

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

20       ~~E.~~ F. The members of the Authority shall not be entitled to  
21 compensation for their services, but each member shall be reimbursed  
22 for actual expenses necessarily incurred in the performance of  
23 duties on behalf of the Authority, provided that members of the  
24 Authority shall be compensated for their travel expenses pursuant to

1 the State Travel Reimbursement Act. All expenses incurred in  
2 carrying out the provisions of Section 1226 et seq. of this title  
3 shall be payable solely from funds provided under the authority of  
4 Section 1226 et seq. of this title and no liability or obligation  
5 shall be incurred by the Authority hereunder beyond the extent to  
6 which monies shall have been provided under the authority of Section  
7 1226 et seq. of this title.

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

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

18 ~~H.~~ I. The Directors and staff of the Authority employed to  
19 perform the duties of Sections 1226 et seq. of this title shall be  
20 considered employees of the Authority. The employees of the  
21 Authority shall be entitled to be reimbursed for actual and  
22 necessary expenses incurred in the performance of duties on behalf  
23 of the Authority. Such compensation for travel expenses shall be  
24 paid pursuant to the State Travel Reimbursement Act.



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

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

1. Finalizing the declaration of trust;

2. Adoption of the declaration of trust by an official action of the trustees of NACCTA; and

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

B. The approved declaration of trust shall:

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

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

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

5        C. 1. NACCTA shall have eleven (11) trustees, seven of which  
6 shall be members of a federally recognized American Indian Tribe  
7 located within this state and of those seven trustees three shall be  
8 appointed by the Governor; two trustees shall be appointed by the  
9 President Pro Tempore of the Senate; and two trustees shall be  
10 appointed by the Speaker of the House of Representatives. Such  
11 tribal membership shall be determined by the respective tribes.  
12 Appointments shall be made from names provided by tribal  
13 governments, councils or other recognized tribal entities.  
14 Appointments shall be restricted to not more than one representative  
15 of any tribe. Such appointed members initially appointed shall  
16 continue in office for terms of from three (3) to seven (7) years,  
17 respectively, from the date of their appointment, with the term of  
18 each initially appointed member to be designated by the Governor at  
19 the time of the appointment, with one member to be appointed to a  
20 three-year term, two members to be appointed to a four-year term,  
21 one member to be appointed to a five-year term, one member to be  
22 appointed to a six-year term, and two members to be appointed to a  
23 seven-year term. Any person appointed to fill a vacancy shall serve  
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1 only for the unexpired term. Succeeding terms shall be for a term  
2 of four (4) years.

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

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

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

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1226.18 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 "Native American Cultural Center Trust Fund". The  
9 fund shall be a continuing fund, not subject to fiscal year  
10 limitations. Subject to the provisions of subsection C of this  
11 section, all monies accruing to the credit of the fund are hereby  
12 appropriated and may be budgeted and expended by the Native American  
13 Cultural and Educational Authority. The fund shall consist of funds  
14 transferred to it from the Unclaimed Property Fund as created in  
15 Section 668 of Title 60 of the Oklahoma Statutes. Monies deposited  
16 to the credit of the fund shall only be expended for the purpose of  
17 completing construction of the American Indian Cultural Center and  
18 Museum

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

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

1        1. Upon certification by the Office of Management and  
2 Enterprise Services that Twenty Million Dollars (\$20,000,000.00) in  
3 private donations, contributions, gifts and bequests received for  
4 the purpose of completing construction of the American Indian  
5 Cultural Center and Museum have been deposited in the fund created  
6 pursuant to Section 4 of this act, the Authority shall be authorized  
7 to expend Twenty Million Dollars (\$20,000,000.00) from the Native  
8 American Cultural Center Trust Fund.

9        2. Upon certification by the Office of Management and  
10 Enterprise Services that total deposits of private donations,  
11 contributions, gifts and bequests into the fund created pursuant to  
12 Section 4 of this act, including the amount certified in paragraph 1  
13 of this subsection, equal Forty Million Dollars (\$40,000,000.00),  
14 the Authority shall be authorized to expend the remaining amount in  
15 the Native American Cultural Center Trust Fund.

16        SECTION 4.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1226.19 of Title 74, unless  
18 there is created a duplication in numbering, reads as follows:

19        A. There is hereby created in the State Treasury a revolving  
20 fund for the Native American Cultural and Educational Authority, to  
21 be designated the "American Indian Cultural Center and Museum  
22 Completion Fund". The fund shall be a continuing fund, not subject  
23 to fiscal year limitations. All monies accruing to the credit of  
24 the fund are hereby appropriated and may be budgeted and expended by

1 the Native American Cultural and Educational Authority. The fund  
2 shall consist of monies received in the form of private donations,  
3 contributions, gifts and bequest, by the Native American Cultural  
4 and Educational Authority, for the purpose of completing  
5 construction of the American Indian Cultural Center and Museum.  
6 Monies deposited to the credit of the fund shall only be expended  
7 for the purpose of completing construction of the American Indian  
8 Cultural Center and Museum.

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

11 TRANSFER Notwithstanding any other provision of law, the  
12 Director of the Office of Management and Enterprise Services shall  
13 transfer the sum of Forty Million Dollars (\$40,000,000.00) from the  
14 Unclaimed Property Fund established pursuant to Section 668 of Title  
15 60 of the Oklahoma Statutes to the Native American Cultural Center  
16 Trust Fund created in Section 3 of this act.

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

20 After completion of the American Indian Cultural Center and  
21 Museum, all revenues received by the Native American Cultural and  
22 Educational Authority, or its successor, in excess of the cost of  
23 operation and maintenance of the American Indian Cultural Center and  
24 Museum, shall be applied to retire any outstanding obligations

1 issued for the purpose of construction of said project until such  
2 obligations and interest thereon shall have been paid.

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

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