

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 ENGROSSED SENATE
5 BILL NO. 1651

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

7 and

8 Dank, Christian and Kirby
of the House

11 **[state government - Native American Cultural and**
12 **Educational Authority - transfer of powers, duties**
13 **and functions -**
14 **emergency]**

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

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

21 Section 1226.2. A. There is hereby created a body corporate
22 and politic to be known as the "Native American Cultural and
23 Educational Authority", and by that name the Authority may sue and
24 be sued, and plead and be impleaded. The Authority is hereby

1 constituted an agency of the state, and the exercise by the
2 Authority of the powers conferred by Section 1226 et seq. of this
3 title shall be deemed to be essential governmental functions of the
4 state with all the attributes thereof. Provided, however, the
5 Authority is authorized to carry liability insurance to the extent
6 authorized by the Authority, and in addition thereto it shall be
7 subject to the workers' compensation laws of the State of Oklahoma
8 the same as a private employer. The Department of Commerce shall
9 assist the Authority in fulfilling the responsibilities of Section
10 1226 et seq. of this title, as requested by the ~~authority~~ Authority.

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

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

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

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

1 shall have the right to remove any member pursuant to good cause.

2 At the expiration of any term, the person holding such office shall
3 continue to serve until such person's duly appointed successor shall
4 be appointed and qualified.

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

1 expiration of a term, on or after July 1, 2000, any succeeding term
2 shall be for four (4) years.

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

11 3. The four appointed members from the business community shall
12 be chosen as follows: two members shall be appointed by the
13 Governor; one member shall be appointed by the Speaker of the House
14 of Representatives; and one member shall be appointed by the
15 President Pro Tempore of the Senate. Each member shall have at
16 least fifteen (15) years of experience in business, banking, finance
17 or corporate law, and shall have demonstrated outstanding ability in
18 business or industry. However, in lieu of appointing a member with
19 such experience, one of the two members appointed by the Governor
20 may be a person who has exhibited at least three (3) years of
21 outstanding leadership and involvement in recognized Native American
22 organizations and activities. Upon the expiration of a term, on or
23 after July 1, 2000, any succeeding term shall be for four (4) years.

1 Any person appointed to fill a vacancy shall serve only for the
2 unexpired term.

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

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

22 ~~E.~~ F. The members of the Authority shall not be entitled to
23 compensation for their services, but each member shall be reimbursed
24 for actual expenses necessarily incurred in the performance of

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

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

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

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

1 of the Authority. Such compensation for travel expenses shall be
2 paid pursuant to the State Travel Reimbursement Act.

3 SECTION 2. 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. Upon the effective date pursuant to subsection B of Section
7 1226.2 of Title 74 of the Oklahoma Statutes, the state expressly
8 approves the creation of a public trust to be named the "Native
9 American Cultural Center Trust Authority", also known as "NACCTA",
10 of which the state shall be the beneficiary; provided, however, such
11 approval shall be contingent upon satisfaction of the following
12 conditions:

13 1. Finalizing the declaration of trust;

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

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

19 B. The approved declaration of trust shall:

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

24

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 1226.19 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. Subject to the provisions of subsection C of this
14 section, all monies accruing to the credit of the fund are hereby
15 appropriated and may be budgeted and expended by the Native American
16 Cultural and Educational Authority. The fund shall consist of funds
17 transferred to it from the Unclaimed Property Fund as created in
18 Section 668 of Title 60 of the Oklahoma Statutes. Monies deposited
19 to the credit of the fund shall only be expended for the purpose of
20 completing construction of the American Indian Cultural Center and
21 Museum

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

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

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

13 2. Upon certification by the Office of Management and
14 Enterprise Services that total deposits of non-state and non-federal
15 donations, contributions, gifts and bequests into the fund created
16 pursuant to Section 4 of this act, including the amount certified in
17 paragraph 1 of this subsection, equal Forty Million Dollars
18 (\$40,000,000.00), the Authority shall be authorized to expend the
19 remaining amount in the Native American Cultural Center Trust Fund.

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

23 A. There is hereby created in the State Treasury a revolving
24 fund for the Native American Cultural and Educational Authority, to

1 be designated the "American Indian Cultural Center and Museum
2 Completion Fund". The fund shall be a continuing fund, not subject
3 to fiscal year limitations. All monies accruing to the credit of
4 the fund are hereby appropriated and may be budgeted and expended by
5 the Native American Cultural and Educational Authority. The fund
6 shall consist of monies received in the form of non-state and non-
7 federal donations, contributions, gifts and bequest, by the Native
8 American Cultural and Educational Authority, for the purpose of
9 completing construction of the American Indian Cultural Center and
10 Museum. Monies deposited to the credit of the fund shall only be
11 expended for the purpose of completing construction of the American
12 Indian Cultural Center and Museum.

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

15 TRANSFER Notwithstanding any other provision of law, the
16 Director of the Office of Management and Enterprise Services shall
17 transfer the sum of Forty Million Dollars (\$40,000,000.00) from the
18 Unclaimed Property Fund established pursuant to Section 668 of Title
19 60 of the Oklahoma Statutes to the Native American Cultural Center
20 Trust Fund created in Section 3 of this act.

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

24

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

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

12
13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
14 04/14/2014 - DO PASS, As Amended and Coauthored.
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