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February 19, 2014

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 1651

By: Jolley and Loveless of the  
Senate

and

## Dank of the House

[ 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 state with all the attributes thereof. Provided, however, the

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

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

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

21 3. Notwithstanding any other provisions of this act, any  
22 revenue bonds heretofore or hereafter issued or sold by the  
23 statutory entity shall remain in full force and effect, and no such  
24 statutory entity shall be terminated under the terms of this act

1 until such outstanding revenue bonded indebtedness has been  
2 satisfied.

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

21 1. Seven members appointed to serve shall serve overlapping  
22 terms and shall be chosen as follows: three members shall be  
23 appointed by the Governor; two members shall be appointed by the  
24 President Pro Tempore of the Senate; and two members shall be

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

19 2. The six ex officio members shall be as follows: the  
20 Oklahoma Native American Liaison, or the designee of the same; the  
21 Lieutenant Governor, or the designee of same; the Director of the  
22 Oklahoma Historical Society, or the designee of same; the Secretary  
23 of Commerce, or the designee of same; the Executive Director of the  
24 Oklahoma Arts Council, or the designee of same; and the Executive

1 Director of the Oklahoma Tourism and Recreation Department, or the  
2 designee of the same.

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

18 ~~C.~~ D. The Authority shall elect one of its members as  
19 chairperson, and another as vice-chairperson, and also shall elect a  
20 secretary, treasurer and such other officers as the Authority may  
21 deem appropriate. A majority of the members of the Authority  
22 (exclusive of vacancies) shall constitute a quorum and the vote of a  
23 majority of the members (exclusive of vacancies) shall be necessary  
24 for any action taken by the Authority. No vacancy in the membership

1 of the Authority shall impair the right of a quorum to exercise all  
2 the rights and perform all the duties of the Authority.

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

13 ~~E.~~ F. The members of the Authority shall not be entitled to  
14 compensation for their services, but each member shall be reimbursed  
15 for actual expenses necessarily incurred in the performance of  
16 duties on behalf of the Authority, provided that members of the  
17 Authority shall be compensated for their travel expenses pursuant to  
18 the State Travel Reimbursement Act. All expenses incurred in  
19 carrying out the provisions of Section 1226 et seq. of this title  
20 shall be payable solely from funds provided under the authority of  
21 Section 1226 et seq. of this title and no liability or obligation  
22 shall be incurred by the Authority hereunder beyond the extent to  
23 which monies shall have been provided under the authority of Section  
24 1226 et seq. of this title.

1       ~~F.~~ G. The Authority is authorized to establish subcommittees as  
2 necessary to perform its functions and duties. A subcommittee may  
3 be composed of Authority members and/or nonmembers and shall not  
4 have more than five members. Nonmembers of a subcommittee shall be  
5 reimbursed by the Authority in accordance with the State Travel  
6 Reimbursement Act.

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

11       ~~H.~~ I. The Directors and staff of the Authority employed to  
12 perform the duties of Sections 1226 et seq. of this title shall be  
13 considered employees of the Authority. The employees of the  
14 Authority shall be entitled to be reimbursed for actual and  
15 necessary expenses incurred in the performance of duties on behalf  
16 of the Authority. Such compensation for travel expenses shall be  
17 paid pursuant to the State Travel Reimbursement Act.

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

21       A. Upon the effective date pursuant to subsection B of Section  
22 1226.2 of Title 74 of the Oklahoma Statutes, the state expressly  
23 approves the creation of a public trust to be named the "Native  
24 American Cultural Center Trust Authority", also known as "NACCTA",

1 of which the state shall be the beneficiary; provided, however, such  
2 approval shall be contingent upon satisfaction of the following  
3 conditions:

4 1. Finalizing the declaration of trust;

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

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

10 B. The approved declaration of trust shall:

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

15 2. Specify that the primary purpose of NACCTA shall be to carry  
16 out the functions, duties and responsibilities pursuant to Section  
17 1226 et seq. of Title 74 of the Oklahoma Statutes; and

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

22 C. 1. NACCTA shall have eleven (11) trustees, seven of which  
23 shall be members of a federally recognized American Indian Tribe  
24 located within this state and of those seven trustees three shall be

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

19       2. The other four appointed trustees shall be from the business  
20 community and shall be chosen as follows: two members shall be  
21 appointed by the Governor; one member shall be appointed by the  
22 President Pro Tempore of the Senate; and one member shall be  
23 appointed by the Speaker of the House of Representatives. Each  
24 member shall have at least fifteen (15) years of experience in

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

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

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

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

22 A. There is hereby created in the State Treasury a revolving  
23 fund for the Native American Cultural and Educational Authority, to  
24 be designated the "Native American Cultural Center Trust Fund". The

1 fund shall be a continuing fund, not subject to fiscal year  
2 limitations. All monies accruing to the credit of the fund are  
3 hereby appropriated and may be budgeted and expended by the Native  
4 American Cultural and Educational Authority. The fund shall consist  
5 of funds transferred to it from the Unclaimed Property Fund as  
6 created in Section 668 of Title 60 of the Oklahoma Statutes and any  
7 private donations, contributions and gifts received for the purpose  
8 of completing construction of the American Indian Cultural Center  
9 and Museum. Monies deposited to the credit of the fund shall only  
10 be expended for the purpose of completing construction of the Native  
11 American Cultural Center and Museum.

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

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

17 TRANSFER Notwithstanding any other provision of law, the  
18 Director of the Office of Management and Enterprise Services shall  
19 transfer the sum of Forty Million Dollars (\$40,000,000.00) from the  
20 Unclaimed Property Fund established pursuant to Section 668 of Title  
21 60 of the Oklahoma Statutes to the Native American Cultural Center  
22 Trust Fund created in Section 3 of this act.

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
16 February 19, 2014 - DO PASS AS AMENDED  
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