

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1968

By: Jolley and Justice of the
Senate

6 and

7 Sears and Martin (Scott) of
8 the House

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to the Native American Cultural and
12 Educational Authority; abolishing the Authority;
13 providing for interpretation of certain statutory
14 references; transferring certain personnel, funds,
15 records, encumbrances, equipment, and other items to
16 the Oklahoma Tourism and Recreation Department;
17 providing requirements pertaining to transfer of
18 employees; transferring the rights and
19 responsibilities of the Authority to the Oklahoma
20 Tourism and Recreation Department; amending 74 O.S.
21 2011, Sections 1226, 1226.3, 1226.4, 1226.4A, 1226.7,
22 1226.10 and 1226.17, which relate to the powers,
23 duties, and proceedings of the Native American
24 Cultural and Educational Authority; conforming
references to the abolishment of the Authority;
updating citations; modifying certain powers of the
Department; modifying authority to use certain
compensation; authorizing the selling of certain
assets and the retention of certain proceeds in
specified circumstance; providing for certain real
property to revert to specified entity; repealing 74
O.S. 2011, Sections 1226.1, 1226.2, 1226.5, 1226.6,
1226.9, 1226.12, 1226.13, 1226.14, 1226.15 and
1226.16, which relate to the Native American Cultural
and Educational Authority; providing for
codification; and providing an effective date.

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

4 SECTION 1. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1226.2a of Title 74, unless
6 there is created a duplication in numbering, reads as follows:

7 A. The Native American Cultural and Educational Authority is
8 hereby abolished. Any reference in the Oklahoma Statutes to the
9 Native American Cultural and Educational Authority shall be deemed
10 to be a reference to the Oklahoma Tourism and Recreation Department
11 unless otherwise required by the context of the reference.

12 B. All assets, funds, liabilities, allotments, purchase orders,
13 outstanding financial obligations, encumbrances, records, vehicles,
14 equipment, and other property of the Native American Cultural and
15 Educational Authority is hereby transferred to the Oklahoma Tourism
16 and Recreation Department as a division thereof.

17 C. Personnel employed by the Native American Cultural and
18 Educational Authority on January 1, 2013, may be transferred to the
19 Oklahoma Tourism and Recreation Department as is necessary and
20 efficient for the operation of the Oklahoma Tourism and Recreation
21 Department, to be determined by the Executive Director.

22 D. The classified and unclassified employees who are
23 transferred pursuant to this section shall be subject to the
24 following provisions:

1 1. Classified employees will remain subject to the provisions
2 of the Merit System of Personnel Administration, as provided in the
3 Oklahoma Personnel Act, unless the classified employee accepts an
4 unclassified position;

5 2. Unclassified employees transferred to the Oklahoma Tourism
6 and Recreation Department shall remain in the unclassified service
7 and shall serve at the pleasure of the Director of the Oklahoma
8 Tourism and Recreation Department;

9 3. If employees are transferred pursuant to this section, the
10 employees shall retain leave, sick and annual time earned and any
11 retirement and longevity benefits which have accrued during their
12 employment with the state;

13 4. Any transfer of personnel is done for the efficient
14 operation of Oklahoma Tourism and Recreation Department and if the
15 Oklahoma Tourism and Recreation Department should not retain current
16 employees of the Native American Cultural and Educational Authority,
17 this will not be considered a reduction in force; and

18 5. Any transfer of personnel shall be coordinated with the
19 Office of Personnel Management Division of the Office of State
20 Finance.

21 6. The Board of the Native American Cultural and Educational
22 Authority is hereby abolished and the Commission of the Oklahoma
23 Tourism and Recreation Department has all rights and
24 responsibilities for the Native American Cultural and Educational

1 Authority as it is hereby made a department of the Oklahoma Tourism
2 and Recreation Department.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 1226, is
4 amended to read as follows:

5 Section 1226. In order to promote the history and culture of
6 Native Americans for the mutual benefit of the State of Oklahoma and
7 its Indian and non-Indian citizens, ~~there is hereby created the~~
8 ~~"Native American Cultural and Educational Authority", which~~
9 ~~Authority~~ the Oklahoma Tourism and Recreation Department is hereby
10 authorized and empowered to construct, maintain, repair and operate
11 a Native American cultural center, museum and theme park, along with
12 commercial facilities as defined by Section 1226.3 of this title,
13 within the State of Oklahoma as shall be approved by the ~~Authority~~
14 ~~and to issue revenue bonds of the Authority~~ Oklahoma Tourism and
15 Recreation Department payable solely from revenues to pay the cost
16 of such projects. Provided, no state appropriations shall be used
17 to pay costs of financing or constructing commercial facilities,
18 except for commercial elements within and incidental to the Cultural
19 Center.

20 SECTION 3. AMENDATORY 74 O.S. 2011, Section 1226.3, is
21 amended to read as follows:

22 Section 1226.3. As used in ~~Sections~~ Section 1226 ~~through~~
23 ~~1226.16~~ et seq. of this title:
24

1 1. ~~"Authority" shall mean the Native American Cultural and~~
2 ~~Educational Authority, created by Section 1226.2 of this title, or,~~
3 ~~if such Authority shall be abolished, the board, body, or commission~~
4 ~~succeeding to the principal functions hereof or to whom the powers~~
5 ~~given by Section 1226 et seq. of this title shall be given by law;~~

6 2. "Project" or "projects" shall ~~mean~~ means any facilities
7 constructed or improvements made under the provisions of ~~this act~~
8 Section 1226 et seq. of this title by the ~~Authority~~ Oklahoma Tourism
9 and Recreation Department for the purpose of constructing a Native
10 American cultural center, museum and theme park, to also include
11 commercial facilities as herein defined, and shall embrace all
12 buildings, structures, landscaping, infrastructure, utilities,
13 roadways, parking structures, parking lots, sidewalks, personal
14 property and fixtures, equipment and machinery, and other
15 improvements which the ~~Authority~~ Oklahoma Tourism and Recreation
16 Department may deem necessary for the operation of such projects,
17 together with all property, rights, easements and interests which
18 may be acquired by the ~~Authority~~ Oklahoma Tourism and Recreation
19 Department for the construction or the operation of such;

20 3. 2. "Commercial facilities" shall ~~mean~~ means facilities,
21 including, but not limited to, conference centers, hotels, motels,
22 recreational vehicle parks, festival marketplaces, restaurants,
23 retail sales facilities, studios and other facilities for the
24 design, development and manufacture of Native American art, crafts

1 and cultural objects, and uses related thereto and other supporting,
2 complementary and ancillary uses;

3 ~~4.~~ 3. "Cost" as applied to a project shall include expenditures
4 of the ~~Authority~~ Oklahoma Tourism and Recreation Department, other
5 governmental agencies, and private entities, to include past,
6 present and future expenditures, and shall embrace the cost of
7 construction, the cost of the acquisition of all land, rights-of-
8 way, property, rights, easements and interests acquired by the
9 ~~Authority~~ Oklahoma Tourism and Recreation Department for such
10 construction, the cost of all machinery and equipment, financing
11 charges, provision for working capital, interest prior to, during,
12 and after construction and a reserve for interest in such amounts as
13 the ~~Authority~~ Oklahoma Tourism and Recreation Department shall
14 determine, cost of engineering, architecture, planning, legal and
15 accounting expenses, plans, specifications, surveys, estimates of
16 cost, and of revenues, other expenses necessary or incident to
17 determining the feasibility or practicability of constructing any
18 such project, administrative expense, and such other expense as may
19 be necessary or incident to the construction of the project, the
20 financing of such construction, and the placing of the project in
21 operation, and other expenditures in furtherance of the objectives
22 of Sections 1226 through 1226.16 of this title;

23 ~~5.~~ 4. "Owner" shall include all individuals, copartnerships,
24 associations, corporations, trusts, and any other person or entity

1 having any title or interest in any property, rights, easements, and
2 interests authorized to be acquired by Sections 1226 through 1226.16
3 of this title;

4 ~~6. The phrase "operational~~ 5. "Operational services" shall
5 ~~mean~~ means services of a maintenance or operational nature,
6 including, but not limited to, grounds maintenance and security
7 services, provided by the ~~Authority~~ Oklahoma Tourism and Recreation
8 Department, pursuant to an agreement between the ~~Authority~~ Oklahoma
9 Tourism and Recreation Department and any service recipient; and

10 ~~7. The phrase "other~~ 6. "Other governmental agencies" shall
11 ~~mean~~ means the State of Oklahoma or other agencies thereof, the
12 national government, other sovereign nations, other states or
13 agencies thereof, public trusts, municipalities, counties and other
14 subdivisions of government.

15 SECTION 4. AMENDATORY 74 O.S. 2011, Section 1226.4, is
16 amended to read as follows:

17 Section 1226.4. ~~The Authority is hereby authorized and~~
18 ~~empowered~~ Pursuant to Section 1226 et seq. of this title, the
19 Oklahoma Tourism and Recreation Department may:

- 20 1. ~~To adopt bylaws for the regulation of its affairs and~~
21 ~~conduct of its business;~~
- 22 2. ~~To adopt an official seal and alter the same at pleasure;~~
- 23 3. ~~To have its principal office located at a site designated by~~
24 ~~the Authority;~~

1 ~~4. To sue Sue and be sued in contract, reverse condemnation,~~
2 equity, mandamus and similar actions in its own name, plead and be
3 impleaded; provided, that any and all actions at law or in equity
4 against the Authority Oklahoma Tourism and Recreation Department
5 shall be brought in Oklahoma County. ~~The Authority shall be subject~~
6 ~~to the Governmental Tort Claims Act, Section 151 et seq. of Title 51~~
7 ~~of the Oklahoma Statutes;~~

8 ~~5. To construct~~ 2. Construct, maintain, repair and operate a
9 Native American cultural center, museum and theme park;

10 ~~6. To construct~~ 3. Construct, maintain, repair and operate any
11 facilities necessary to effectuate educational and training programs
12 relating to Native American cultures, languages, skills, arts and
13 crafts, and may include facilities for the sale of such Native
14 American artwork and crafts;

15 ~~7. To issue revenue bonds of the Authority, of up to Forty (40)~~
16 ~~million dollars payable solely from revenues, including the revenues~~
17 ~~accruing to the trust fund created by this act, for the purpose of~~
18 ~~paying all or any part of the cost of any one or more projects;~~

19 ~~8. To fix~~ 4. Fix and revise from time to time user charges for
20 the use of projects;

21 ~~9. To acquire~~ 5. Acquire, hold, and dispose of real and
22 personal property in the exercise of its powers and the performance
23 of its duties, to include the right to acquire such property for
24

1 prospective projects, including the acquisition of existing
2 facilities, buildings, equipment and improvements;

3 ~~10. To lease~~ 6. Lease projects or real property without
4 restriction as to term, or portions thereof, to other governmental
5 agencies or to private persons, partnerships, corporations, trusts,
6 and other private entities;

7 ~~11. To acquire~~ 7. Acquire in the name of the ~~Authority~~
8 Oklahoma Tourism and Recreation Department by purchase or otherwise
9 on such terms and conditions and in such manner as it may deem
10 proper, such public or private lands, including public parks, or
11 reservations, or parts thereof or rights therein, rights-of-way,
12 property rights, easements, and interests, as it may deem necessary
13 for carrying out the provisions of ~~this act~~ Section 1226 et seq. of
14 this title;

15 ~~12. To make~~ 8. Make and enter into all contracts and
16 agreements necessary or incidental to the performance of its duties
17 and the execution of its powers, and to employ consulting engineers,
18 attorneys, accountants, construction and financial experts,
19 superintendents, managers, and such other employees and agents as
20 may be necessary in its judgment, and to fix their compensation;

21 ~~13. To receive~~ 9. Receive and accept from any federal agency
22 grants or any other grants for or in aid of the construction of any
23 project; and to receive and accept aid or contributions from any
24 source of either money, property, labor, or other things of value,

1 to be held, used, and applied only for the purposes for which such
2 grants and contributions may be made; and

3 ~~14. To do~~ 10. Do all things necessary or convenient to carry
4 out the powers expressly granted in ~~this act;~~ and

5 ~~15. All meetings of the Authority shall be subject to the~~
6 ~~Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the~~
7 ~~Oklahoma Statutes and all records of the Authority shall be subject~~
8 ~~to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51~~
9 ~~of the Oklahoma Statutes, both as the same shall from time to time~~
10 ~~be amended~~ Section 1226 et seq. of this title.

11 SECTION 5. AMENDATORY 74 O.S. 2011, Section 1226.4A, is
12 amended to read as follows:

13 Section 1226.4A. With respect to approval of agreements for the
14 planning, construction, development, operation, maintenance, and
15 administration of commercial facilities which support, enhance, or
16 contribute to the American Indian Cultural Center, the ~~Native~~
17 ~~American Cultural and Educational Authority~~ Oklahoma Tourism and
18 Recreation Department, notwithstanding any other provision of law,
19 may enter into contractual agreements without approval from the
20 Oklahoma Department of Central Services, and the provisions of the
21 Public Building Construction and Planning Act, ~~Section 202 et seq.~~
22 ~~of Title 61 of the Oklahoma Statutes~~ and Sections 60 through 65 of
23 Title 61 of the Oklahoma Statutes shall not apply. This section
24 applies to all projects as defined in 1226.3 and otherwise shall not

1 be construed to enlarge the powers of the ~~Native American Cultural~~
2 ~~and Educational Authority~~ Oklahoma Tourism and Recreation
3 Department.

4 SECTION 6. AMENDATORY 74 O.S. 2011, Section 1226.7, is
5 amended to read as follows:

6 Section 1226.7. A. The ~~Authority~~ Oklahoma Tourism and
7 Recreation Department, subject to the provisions hereof, is hereby
8 authorized to fix, revise, charge and collect compensation for the
9 use of each project, and parts or sections thereof, and to contract
10 with any person, partnership, association, corporation, or other
11 governmental agencies desiring the use, for any purpose, of all or
12 any part of any project and to fix the terms, conditions, rents and
13 rates of charge for such use. Such compensation, subject to other
14 restrictions hereof, shall be so fixed and adjusted so as to provide
15 a fund sufficient with other revenues, if any, to pay:

16 1. ~~The~~ the cost of maintaining, repairing and operating such
17 project or projects; ~~and~~

18 2. ~~The principal of and the interest of bonds issued for the~~
19 ~~purpose of financing Authority projects as the same shall become due~~
20 ~~and payable, and to create reserves for such purposes.~~

21 B. ~~The compensation derived from the projects in connection~~
22 ~~with which the bonds of any issue shall have been issued, except~~
23 ~~such part thereof as may be necessary to pay for maintenance,~~
24 ~~repair, and operation and to provide such reserves therefor as may~~

1 ~~be provided for in the resolution authorizing the issuance of such~~
2 ~~bonds or in the trust agreement securing the same shall be set aside~~
3 ~~at such regular intervals as may be provided in such resolution or~~
4 ~~such trust agreement in a sinking fund which is hereby pledged to,~~
5 ~~and charged with, the payment of:~~

6 1. ~~The interest upon such bonds as such interest shall become~~
7 ~~due;~~

8 2. ~~The principal of such bonds as the same shall fall due;~~

9 3. ~~The necessary charges of paying agents for paying principal~~
10 ~~and interest; and~~

11 4. ~~The redemption price or the purchase price of bonds retired~~
12 ~~by call or purchased as herein provided, which are a charge against~~
13 ~~such fund.~~

14 C. ~~The use and disposition of monies to the credit of such~~
15 ~~sinking fund shall be subject to the provisions of the resolution~~
16 ~~authorizing the issuance of such bonds or of such trust agreement.~~
17 ~~Except as may otherwise be provided for in such resolution or such~~
18 ~~trust agreement, such sinking fund shall be a fund for all such bond~~
19 ~~issues without distinction or priority of one over another. The~~
20 ~~money in the sinking fund, less such reserve as may be provided in~~
21 ~~such resolution or trust agreement, if not used within a reasonable~~
22 ~~time for the purchase of bonds for cancellation as above provided,~~
23 ~~shall be applied to the redemption of bonds at the redemption price~~
24 ~~then applicable.~~

1 SECTION 7. AMENDATORY 74 O.S. 2011, Section 1226.10, is
2 amended to read as follows:

3 Section 1226.10. The exercise of the powers granted by ~~this act~~
4 Section 1226 et seq. of this title will be in all respects for the
5 benefit of the people of the state, for the increase of their
6 education, commerce and prosperity, and as the operation and
7 maintenance of projects by the ~~Authority~~ Oklahoma Tourism and
8 Recreation Department will constitute the performance of essential
9 governmental functions, the ~~Authority~~ Oklahoma Tourism and
10 Recreation Department shall not be required to pay any taxes or
11 assessments upon any project or any property acquired or used by the
12 ~~Authority~~ Oklahoma Tourism and Recreation Department under the
13 provisions of ~~this act~~ Section 1226 et seq. of this title or upon
14 the income therefrom.

15 SECTION 8. AMENDATORY 74 O.S. 2011, Section 1226.17, is
16 amended to read as follows:

17 Section 1226.17. There is hereby created in the State Treasury
18 a revolving fund for the Oklahoma ~~Department of Commerce~~ Tourism and
19 Recreation Department to be designated the "Native American Cultural
20 ~~and Educational Authority~~ Center Fund." The fund shall be a
21 continuing fund, not subject to fiscal year limitations. The fund
22 shall consist of all monies authorized by law for deposit in such
23 fund including but not limited to appropriations, gifts, grants,
24 private donations, fee revenues and funds by governmental or tribal

1 government entities. Monies deposited or apportioned to the credit
2 of the fund may be expended for the purposes authorized by law. All
3 monies accruing to the credit of ~~said~~ the fund are hereby
4 appropriated and may be budgeted and expended by the Oklahoma
5 ~~Department of Commerce~~ Tourism and Recreation Department.

6 Expenditures from ~~said~~ the fund shall be made upon warrants issued
7 by the State Treasurer against claims submitted to the Director of
8 State Finance.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1226.18 of Title 74, unless
11 there is created a duplication in numbering, reads as follows:

12 If the Native American Cultural and Educational Authority Center
13 remains unoccupied or is not funded to substantial completion within
14 five (5) years after the effective date of this act, then the
15 Oklahoma Tourism and Recreation Department may sell all assets and
16 retain the proceeds. The real property shall revert to the City of
17 Oklahoma City.

18 SECTION 10. REPEALER 74 O.S. 2011, Sections 1226.1,
19 1226.2, 1226.5, 1226.6, 1226.9, 1226.12, 1226.13, 1226.14, 1226.15
20 and 1226.16, are hereby repealed.

21 SECTION 11. This act shall become effective January 1, 2013.

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