

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 442

BY: KERR

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; AMENDING 74 O.S. 1981, SECTION 500.18, AS LAST AMENDED BY SECTION 50, CHAPTER 258, O.S.L. 1990 AND SECTIONS 1 AND 5, CHAPTER 121, O.S.L. 1987, 3, 6, 7 AND 8, CHAPTER 121, O.S.L. 1987, AS AMENDED BY SECTIONS 2, 3, 4 AND 5, CHAPTER 313, O.S.L. 1988 AND 9, CHAPTER 121, O.S.L. 1987 (74 O.S. SUPP. 1990, SECTIONS 500.18, 5064.1, 5064.3, 5064.5, 5064.6, 5064.7, 5064.8 AND 5064.9), WHICH RELATE TO THE STATE TRAVEL REIMBURSEMENT ACT AND THE INVENTORS ASSISTANCE ACT; ADDING EXCEPTION TO STATE TRAVEL REIMBURSEMENT ACT FOR TRAVEL AND NECESSARY EXPENSES OF CERTAIN EMPLOYEES; MODIFYING SHORT TITLE; ADDING AND MODIFYING DEFINITIONS; CONFORMING CHANGES; DELETING REQUIREMENT TO CHARGE CERTAIN FEE; MAKING CERTAIN REQUIRED ACTION PERMISSIVE; MODIFYING MAXIMUM FEE CHARGED FOR SERVICES; MODIFYING CERTAIN TAX INCENTIVES; LIMITING CERTAIN TAX CREDIT UNDER CERTAIN CONDITIONS; PROVIDING TAX CREDIT FOR RESEARCH AND DEVELOPMENT; PROVIDING CERTAIN OPTION FOR CLAIMING TAX EXEMPTION OR CREDIT; DELETING LIMITATION ON EXPENDITURE OF CERTAIN FUNDS; DELETING INFORMATION REQUIRED TO BE INCLUDED IN CERTAIN REPORT; PROVIDING EFFECTIVE DATES; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 74 O.S. 1981, Section 500.18, as last amended by Section 50, Chapter 258, O.S.L. 1990 (74 O.S. Supp. 1990, Section 500.18), is amended to read as follows:

Section 500.18 A. Except for members of the Legislature, the Governor and the Lieutenant Governor, provisions of Sections 500.1 through 500.18 of this title shall be mandatory as to all officials and employees of all departments, boards, commissions and institutions of the state, regardless of the provisions of any other act of the Legislature, except as provided by this section. The enactment of any measure in the future providing for travel reimbursement of state officers and employees on the basis of "actual and necessary" expenses or in any other manner inconsistent with Sections 500.1 through 500.18 of this title shall be deemed to provide for reimbursement in accordance with Sections 500.1 through 500.18 of this title unless a contrary intent is explicitly expressed in this section. Sections 500.1 through 500.18 of this title shall not apply, however, to travel reimbursements made by political subdivisions of this state, except as otherwise provided by law.

B. The agencies listed below are authorized certain exceptions and/or exemptions to the provisions of Sections 500.1 through 500.18 of this title to the extent specified:

1. State Department of Agriculture:

The actual and reasonable expenses of travel and subsistence in pursuing and developing markets for Oklahoma agricultural products incurred by the Commissioner, Deputy Commissioner and such employees

designated by the State Board of Agriculture within the marketing development programs of the Department of Agriculture shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Board. Such expenses claimed shall, prior to reimbursement, be reviewed by the Board at each regular meeting and individually approved or disapproved.

2. Wheat Utilization, Research and Market Development

Commission:

The actual and reasonable expenses of travel, lodging and subsistence in pursuing and developing markets for Oklahoma wheat and wheat products incurred by the Commission, staff and such persons authorized by the Commission shall be reimbursed to the person incurring such expenses. Expenses of wheat trade officials on wheat trade missions from foreign countries and from other states can be reimbursed to the person previously authorized by the Commission to incur the expense. No actual and reasonable expenses shall be paid except for time spent working with wheat trade officials on wheat trade missions. Reimbursement of such expenses shall be made in accordance with rules and regulations adopted by the Commission. Such expenses claimed shall, prior to reimbursement, be reviewed by the Commission at each regular meeting and individually approved or disapproved.

3. Department of Public Safety:

Not more than seven personnel assigned by the Commissioner for executive security shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner, when traveling with the Governor or at his request.

4. Department of Corrections:

The Department of Corrections shall be exempt from limitations of reimbursement for rented automobiles, as set forth in Section 500.5 of Title 74 of the Oklahoma Statutes, when such rental is by a

Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for such expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

Authorization is provided the Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business to Oklahoma's state-operated parks and lodges and the tourism and recreation industry, the actual and necessary expense of travel, subsistence and entertainment for this purpose. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by the Commission on Tourism and Recreation. Such expenses claimed shall prior to reimbursement be reviewed by the Commission at each regular meeting and individually approved or disapproved.

6. Oklahoma Department of Commerce:

- a. The actual and necessary expenses incurred by the Director and other employees of the Department authorized by the Director for the purpose of business recruitment shall be reimbursed to such employee. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma Department of Commerce. Such expenses claimed shall prior to reimbursement be reviewed by the Director and individually approved or disapproved.
- b. The Department, at the discretion of the Director, may charter aircraft for the purposes of carrying out its duties and responsibilities related to business recruitment and to implement the duties of the Director. The cost of such charter shall be exempt from the provisions of Section 500.6 of this title. Claims filed with the Office of State Finance shall bear the following certification:

The best interests of the citizens of Oklahoma were better served in that conventional ground transportation was not practical or feasible for this trip, aircraft from the Department of Public Safety was not available for this trip, and no other claim has been or will be filed as a payment for the cost of transportation in connection with this trip herein claimed.

c. The actual and necessary expenses incurred by staff employed in the inventors assistance and new product commercialization program of the Department as authorized by the Director.

7. Office of Public Affairs:

The actual expenses of travel and subsistence incurred by the Director, Assistant Director and any employee approved by the Director of the Office of Public Affairs outside the state in recruiting and evaluating professional money managers for the state's pension funds shall be reimbursed to the employee incurring such expenses. Reimbursement for lodging expenses shall be supported by three telephone bids from hotels within a reasonable distance of the activity for which the travel was approved.

8. Oklahoma Futures:

The actual and necessary expenses incurred by the members of Oklahoma Futures in the performance of their duties shall be reimbursed to the members incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by Oklahoma Futures.

9. Oklahoma Development Finance Authority:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Development Finance Authority in the performance of their duties shall be reimbursed to the person

incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Authority.

10. Oklahoma Center for the Advancement of Science and Technology:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Center for the Advancement of Science and Technology in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Center.

11. Center for International Trade Development:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Director and authorized employees of the Center for International Trade Development for performance of their duties for the purpose of business recruitment and assistance shall be reimbursed to the person incurring such expenses. Reimbursement of such expenses shall be in accordance with the rules and regulations adopted by the Director of the Center for International Trade Development. Such expenses claimed shall be reviewed and individually approved or disapproved, prior to reimbursement, first by the Director, and finally by either the Vice President, Business and Finance of Oklahoma State University or the President of Oklahoma State University.

12. Oklahoma State Bureau of Investigation:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma State Bureau of Investigation. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

13. Department of Human Services:

- a. The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Department of Human Services or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the General Counsel and the Director of Human Services prior to reimbursement.
- b. The Department, at the discretion of the Director, may charter aircraft when determined by the Director such charter would be more practical or less expensive than normal modes of transportation and when aircraft of the Department of Public Safety are unavailable. The costs of such charter shall be exempt from the provisions of Section 500.6 of this title.

C. The agencies listed in subsection B of this section shall be required to report annually the actual expenses excepted or exempted from Sections 500.1 through 500.18 of this title to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The report shall be submitted no later than the first day of September following the end of each fiscal year.

SECTION 2. AMENDATORY Section 1, Chapter 121, O.S.L. 1987 (74 O.S. Supp. 1990, Section 5064.1), is amended to read as follows:

Section 5064.1 This act shall be known and may be cited as the "Inventors Assistance and New Product Commercialization Act".

SECTION 3. AMENDATORY Section 3, Chapter 121, O.S.L. 1987, as amended by Section 2, Chapter 313, O.S.L. 1988 (74 O.S. Supp. 1990, Section 5064.3), is amended to read as follows:

Section 5064.3 As used in Section 5064.1 et seq. of this title:

1. "Commercial stage" means the point at which the product has advanced beyond the theoretical and prototype stage and is capable of being manufactured or reduced to practice commercially;

2. "Inventor" means any person who perceives a new concept which may result in a product or patentable process;

3. "Licensee" means the person to whom the intellectual properties related to a product have been licensed or assigned;

~~3.~~ 4. "Person" means any individual, sole proprietor, partnership or corporation;

~~4.~~ 5. "Product" means any device, technique or process;

~~5.~~ 6. "Proposal" means a plan provided by the inventor which includes technical and descriptive information on the concept; and

~~6.~~ 7. "Royalties" means all things of value received by an inventor in connection with the licensing, rental or sale of a product patented, in patent pending, copyrighted or trademarked pursuant to federal law.

SECTION 4. AMENDATORY Section 5, Chapter 121, O.S.L. 1987 (74 O.S. Supp. 1990, Section 5064.5), is amended to read as follows:

Section 5064.5 The Oklahoma Department of Commerce shall have the power to:

1. Enter into contracts on a competitive bid basis with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for inventors as required by this act;

2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;

3. Receive and administer funds for the purpose of operating the inventors assistance and new product commercialization program;
4. Advertise and promote the ~~inventors assistance~~ program; and
5. Promulgate rules and regulations to implement the provisions of this act.

SECTION 5. AMENDATORY Section 6, Chapter 121, O.S.L. 1987, as amended by Section 3, Chapter 313, O.S.L. 1988 (74 O.S. Supp. 1990, Section 5064.6), is amended to read as follows:

Section 5064.6 ~~A. The Oklahoma Department of Commerce shall charge a filing fee of One Hundred Dollars (\$100.00) for each proposal submitted for review and evaluation.~~

~~B.~~ A. After review and evaluation, proposals shall be accepted or rejected for development under the inventors assistance and new product commercialization program. The Department shall not charge for any services to aid in the development of the product. Services may include patent searches, market analysis, product research and development, assistance in obtaining financing, including financing from private sources, and business counseling, if needed. Provided, the Department shall receive a fee not to exceed an amount equal to ~~ten percent (10%)~~ twenty percent (20%) of all royalties from any product developed under the ~~inventors assistance~~ program for a period of ten (10) years from the first day after royalties are received from the commercial licensing, rental or sale of the product.

~~C.~~ B. Before services to aid in the development of the product shall commence, the Department ~~shall~~ may enter into a contract with the inventor which shall include, in addition to any other provisions consistent with the provisions of Section 5064.1 et seq. of this title:

1. The services which the Department will provide to aid in the development of the product;

2. Any other services which the Department will assist the inventor in obtaining and for which the inventor shall be liable pursuant to written consent;

3. Authorization for the Department to receive a fee not to exceed an amount equal to ~~ten percent (10%)~~ twenty percent (20%) of all royalties from the product for a period of ten (10) years; and

4. An agreement from the inventor that all products developed under the program shall be researched, developed, manufactured, packaged and distributed from this state to the extent that it is economically feasible. Provided, the fee not to exceed an amount equal to ~~ten percent (10%)~~ twenty percent (20%) of all royalties from products developed under this program wherever manufactured shall accrue to this state pursuant to the provisions of this act.

SECTION 6. AMENDATORY Section 7, Chapter 121, O.S.L. 1987, as amended by Section 4, Chapter 313, O.S.L. 1988 (74 O.S. Supp. 1990, Section 5064.7), is amended to read as follows:

Section 5064.7 A. ~~The~~ For taxable years ending December 31, 1991, the following incentives shall be available to inventors for products developed and manufactured in this state and to instate manufacturers of said products; provided, to qualify for the incentives, the product shall be patented or have patent pending pursuant to federal law and shall be registered with the Department of Commerce:

1. Royalty earned by an inventor from a product developed and manufactured in this state shall be exempt from state income tax for a period of seven (7) years from January 1 of the first year in which such royalty is received as long as the manufacturer remains in the state; and

2. An instate manufacturer of a product developed in this state by an inventor shall be eligible for a tax credit, as provided for in Section 2357.4 of Title 68 of the Oklahoma Statutes. In addition such manufacturer may exclude from Oklahoma taxable income, or in

the case of an individual, the Oklahoma adjusted gross income, sixty-five percent (65%) of the cost of depreciable property purchased and utilized directly in manufacturing the product. The maximum exclusion shall not exceed Five Hundred Thousand Dollars (\$500,000.00). If the exclusion allowed by this paragraph exceeds the Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, the amount of the exclusion that is in excess of such income may be carried forward as an exclusion against subsequent Oklahoma taxable income or in the case of an individual, subsequent Oklahoma adjusted gross income, for a period not to exceed four (4) years. For the purposes of this paragraph, "depreciable property" means machinery, fixtures, equipment, buildings, or substantial improvements thereto, placed in service in this state during the taxable year.

B. For taxable years beginning after December 31, 1991, the following incentives shall be available to inventors and licensees for products assembled or manufactured in this state and for Research and Development; provided, to qualify for the incentives set out in paragraphs 1 and 2 of this subsection, the product shall be protected under federal patent law (patent pending or unexpired patent), registered with the Department of Commerce and shall not have been assembled or manufactured in this state during the year preceding registration:

1. Royalty earned by an inventor from such product assembled or manufactured in this state shall be exempt from state income tax for a period of seven (7) years from January 1 of the first year in which such royalty is received as long as the person who assembles or manufactures the product remains in the state;

2. A person who assembles or manufactures such product in state shall be eligible for a state income tax credit equal to the amount of royalties paid to the inventor, for seven (7) years from January 1 of the first year in which the product is licensed. Provided, if

the person eligible for said tax credit is the inventor of the product, the exemption allowed pursuant to paragraph 1 of this subsection may be taken in lieu of the tax credit, but both the exemption and credit may not be taken together. If the tax credit is taken, the inventor shall be limited to a credit, for each of seven (7) years, which does not exceed seven percent (7%) of the gross revenues generated by the product; and

3. A person who conducts Research and Development in this state shall be eligible for a tax credit equal to fifty percent (50%) of the Research and Development cost above a base year expenditure, for a period of seven (7) years from January 1 of the first year tax credits are earned. "Base year" means Research and Development cost in the calendar year 1991, adjusted by the Producer Price Index (PPI) for future years that the tax credits are earned. The tax credits may be carried forward for four (4) years and shall begin by the tax year beginning January 1, 1995.

C. An inventor or person who has claimed a tax exemption or tax credit under the provisions of subsection A of this section may elect to continue the exemption or credit for the time period allowed under said subsection or, for the remainder of the period, may elect to claim the exemption or credit allowed pursuant to subsection B of this section. Provided, in all cases the limitations on the tax credit set out in paragraph 2 of subsection B of this section shall apply.

~~B.~~ D. The Oklahoma Tax Commission, in conjunction with the Oklahoma Department of Commerce, shall promulgate rules and regulations to implement the provisions of this section.

SECTION 7. AMENDATORY Section 8, Chapter 121, O.S.L. 1987, as amended by Section 5, Chapter 313, O.S.L. 1988 (74 O.S. Supp. 1990, Section 5064.8), is amended to read as follows:

Section 5064.8 There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce, to

be designated the "Inventors Assistance and New Product Commercialization Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department for implementation of the Inventors Assistance and New Product Commercialization Act, Section 5064.1 et seq. of this title from all funds appropriated thereto by the Legislature, all fees received pursuant to Section 5064.1 et seq. of this title, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from private, state, federal or whatever source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing this act; ~~however, monies expended for administrative costs shall not exceed five percent (5%) of the total amount of monies in said fund.~~ Any amount in said fund not directly needed to implement the provisions of Section 5064.1 et seq. of this title shall go to the General Revenue Fund of the state. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. AMENDATORY Section 9, Chapter 121, O.S.L. 1987 (74 O.S. Supp. 1990, Section 5064.9), is amended to read as follows:

Section 5064.9 The Director of the Oklahoma Department of Commerce shall submit an annual report on or before December 31 of each year to the Governor and the Legislature which shall include, but not be limited to:

1. The number of proposals submitted for review and evaluation;
2. The number of proposals accepted for development and the number rejected; and
- ~~3. The number of products patented;~~
4. 3. The number of products developed to the commercial stage;

~~5. The number of jobs created and preserved as a result of the manufacturing, marketing, packaging, warehousing and distribution of products; and~~

~~6. An estimate of the multiplier effect on the Oklahoma economy as a result of jobs so created and preserved.~~

SECTION 9. Sections 1, 2, 3, 4, 5, 7 and 8 of this act shall become effective July 1, 1991. Section 6 of this act shall become effective January 1, 1992.

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

43-1-224

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