ENGROSSED SENATE
BILL NO. 580

By: Kerr, Corn and Reynolds of the Senate

and

McCarter and Calvey of the House

An Act relating to the Native American Cultural and Educational Authority; amending 74 O.S. 2001, Section 500.18, as last amended by Section 5, Chapter 524, O.S.L. 2004 (74 O.S. Supp. 2004, Section 500.18), relating to the State Travel Reimbursement Act; adding eligible reimbursement entity; amending 74 O.S. 2001, Section 1226.2, which relates to members of the Authority; providing for removal of members for good cause; providing reimbursement for certain persons pursuant to the State Travel Reimbursement Act; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 500.18, as last amended by Section 5, Chapter 524, O.S.L. 2004 (74 O.S. Supp. 2004, 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 for 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. Oklahoma Department of Agriculture, Food, and Forestry:

a. 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 Oklahoma Department of Agriculture, Food, and Forestry shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules adopted by the Board. Expenses claimed shall, prior to reimbursement, be reviewed by the Board at a regular meeting and individually approved or disapproved.

b. The actual and necessary expenses of out-of-state travel and subsistence incurred by employees of the Forestry Division authorized to evaluate and acquire federal excess property or surplus property in other states for use in its fire protection program, shall be reimbursed to the employee incurring such expenses.

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 adopted by the Commission. 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:

When traveling with the Governor or at the Governor's request, personnel assigned by the Commissioner for executive security and pilots on executive assignment shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner.

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 this title, when the rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for the expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

The Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business for Oklahoma's state-operated or state-owned parks, lodges, and golf courses and the tourism and recreation industry, may be reimbursed for the actual and necessary expense of travel, subsistence and entertainment for this purpose. The Director of the Oklahoma Tourism and Recreation Department may reimburse the Publisher of Oklahoma Today magazine and its staff for expenses for meals and

other entertainment in order to gain advertising and promotion for Oklahoma Today magazine. The Oklahoma Tourism and Recreation Department may reimburse the Director of the Office of the Oklahoma Film and Music Commission and staff for the actual and necessary expenses for meals and other entertainment in order to promote the film and music industries in this state. Reimbursement of all actual and necessary expenses shall be in accordance with rules adopted by the Oklahoma Tourism and Recreation Commission.

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. Reimbursement of expenses shall be in accordance with rules adopted by the Director of the Oklahoma Department of Commerce. 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 performing 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 were 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.

7. Department of Central Services:

The actual and necessary expenses of travel and subsistence incurred by the Director, any state employee approved by his or her appointing authority, or state officials, for travel outside the state in performance of duties related to bond financing shall be reimbursed to the employee or state official 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 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 adopted by the Director of the Center for International Trade Development. 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 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. 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.

14. Oklahoma Health Care Authority:

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 Authority or any of its officials or employees, at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Administrator prior to reimbursement.

15. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control:

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 employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

16. University Hospitals:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Office in the performance of their duties for the purpose of representing the

University Hospitals 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. Expenses shall be approved by the Chief Executive Officer of the University Hospitals or by the University Hospitals Authority.

17. Oklahoma Historical Society:

The actual and necessary expenses of travel, subsistence and entertainment incurred by the Executive Director, Deputy Director and any employees designated by the Executive Committee of the Oklahoma Historical Society Board of Directors in pursuing and developing programs and projects for the preservation and marketing of Oklahoma history shall be reimbursed to the person incurring the expenses. Reimbursement of expenses shall be in accordance with rules adopted by the Oklahoma Historical Society Board of Directors. Prior to reimbursement, expenses claimed shall be reviewed by the Executive Committee at a regularly scheduled meeting and each claim shall be individually approved or disapproved.

18. The Oklahoma Department of Mines:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Department in the performance of their duties for the purpose of representing the Department or any of its officials or employees, at any proceeding, hearing or meeting with federal agencies, boards, commissions, congressional representatives, congressional committees or staff, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Executive Director prior to reimbursement.

19. The Office of Attorney General:

The actual and necessary expenses of travel, lodging and subsistence incurred by its employees in the performance of their

duties for the purpose of representing the state, the Legislature, any state board, agency or commission, or any employee or official of the state entitled to representation, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, and the actual and necessary expenses incurred by employees as a result of conducting investigations shall be reimbursed to the employee incurring the expenses. The expenses shall be approved by the Attorney General prior to reimbursement.

20. District Attorneys Council:

The actual and necessary expenses of travel, lodging and subsistence incurred by each district attorney and other employees of the district attorney authorized by the district attorney in the performance of their duties for any district other than the district for which they are employed for the purpose of representing the state, any county, or any employee or official of the state entitled to representation at any proceeding, including depositions held before any court, administrative body or any representative of a court or administrative body, and the actual and necessary expenses incurred as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the District Attorneys Council. Prior to reimbursement, expenses claimed shall be reviewed by the Council and individually approved or disapproved.

21. The Department of Securities:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Administrator and other employees of the Department of Securities in the performance of their duties for the purpose of representing the Department of Securities, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, conducting on-site examinations, or conducting investigations, shall be reimbursed

to each employee incurring the expenses. The expenses shall be approved by the Administrator of the Department of Securities prior to reimbursement.

22. Corporation Commission:

The actual and necessary travel expenses incurred by the staff of the Public Utility Division as a result of conducting audits and/or reviews of utility service providers shall be reimbursed to each such employee incurring the expense. Reimbursement of the expenses shall be as set forth in procedures established by the appointing authority.

23. The Department of Human Services:

Employees of the Department of Human Services shall be reimbursed for their actual and necessary expenses of travel, lodging and subsistence incurred in the performance of their duties for the purpose of escorting and transporting children or adults in the care or custody of the Department:

a. for out-of-state visitation, care, treatment and placement of a child welfare client,

b. for out-of-state treatment for or placement of an adult protective services client,

c. for out-of-state treatment for or placement of a resident of a state resource center, or

d. for out-of-state treatment for or placement of an individual with a developmental disability who is living in the community in community residential services.

Expenses claimed shall be approved by the appropriate Division Administrator or Associate Director prior to reimbursement.

24. The Banking Department:

The actual and necessary expenses of travel and lodging incurred by the Commissioner and other employees of the Banking Department in the performance of their duties for the Banking Department shall be

paid or reimbursed by the Banking Department to each employee incurring the expenses. The expenses shall be approved by the Banking Commissioner prior to payment or reimbursement.

25. Oklahoma Office of Homeland Security:

The actual and necessary expenses of travel, lodging, and subsistence incurred by the Oklahoma Homeland Security Director, as a result of the duties and responsibilities of the Director, shall be paid or reimbursed by the Oklahoma Office of Homeland Security.

26. The Grand River Dam Authority:

The actual and necessary expenses of travel and lodging incurred by the Board of Directors and other employees of the district in the performance of their duties for the Grand River Dam Authority shall be paid or reimbursed by the district to each Director or employee incurring the expenses. The expenses shall be approved by the General Manager of the Grand River Dam Authority prior to payment or reimbursement.

27. The Native American Cultural and Educational Authority:

The actual and necessary expenses incurred by the Directors and employees of the Native American Cultural and Educational Authority in performances of duties. The expenses shall be approved by the Director prior to payment or reimbursement.

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 74 O.S. 2001, 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 Authority is authorized to carry liability insurance to the extent authorized by the Authority, and in addition thereto it shall be subject to the workers' compensation laws of the State of Oklahoma the same as a private employer. The Department of Commerce shall assist the Authority in fulfilling the responsibilities of Section 1226 et seq. of this title, as requested by the authority.

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

1. Seven members appointed to serve shall serve overlapping terms and shall be chosen as follows: three members shall be

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

2. The six ex officio members shall be as follows: the Executive Director of the Oklahoma Indian Affairs Commission, or the designee of the same; the Lieutenant Governor, or the designee of same; the Director of the Oklahoma Historical Society, or the designee of same; the Secretary of Commerce, or the designee of same; the Executive Director of the Oklahoma Arts Council, or the designee of same; and the Executive Director of the Oklahoma Tourism and Recreation Department, or the designee of the same.

3. The four appointed members from the business community shall be chosen as follows: two members shall be appointed by the Governor; one member shall be appointed by the Speaker of the House of Representatives; and one member shall be appointed by the

President Pro Tempore of the Senate. Each member shall have at least fifteen (15) years of experience in business, banking, finance or corporate law, and shall have demonstrated outstanding ability in business or industry. However, in lieu of appointing a member with such experience, one of the two members appointed by the Governor may be a person who has exhibited at least three (3) years of outstanding leadership and involvement in recognized Native American organizations and activities. Upon the expiration of a term, on or after July 1, 2000, any succeeding term shall be for four (4) years. Any person appointed to fill a vacancy shall serve only for the unexpired term.

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

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

E. The members of the Authority shall not be entitled to compensation for their services, but each member shall be reimbursed

for actual expenses necessarily incurred in the performance of duties on behalf of the Authority, provided that members of the Authority shall be compensated for their travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of this title. All expenses incurred in carrying out the provisions of Section 1226 et seq. of this title shall be payable solely from funds provided under the authority of Section 1226 et seq. of this title and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which monies shall have been provided under the authority of Section 1226 et seq. of this title.

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

G. The Directors and staff of the Authority employed to perform the duties of Sections 1226 et seq. of this title shall be considered employees of the Authority. The employees of the Authority shall be entitled to be reimbursed for actual and necessary expenses incurred in the performance of duties on behalf of the Authority. Such compensation for travel expenses shall be paid pursuant to the State Travel Reimbursement Act.

SECTION 3. This act shall become effective July 1, 2005.

SECTION 4. 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.

Passed the Senate the 3rd day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

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Presiding Officer of the House
of Representatives