

SB 580

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THE STATE SENATE
Monday, February 21, 2005

Senate Bill No. 580

SENATE BILL NO. 580 - By: KERR and CORN 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

1 with Sections 500.1 through 500.18 of this title shall be deemed to
2 provide for reimbursement in accordance with Sections 500.1 through
3 500.18 of this title unless a contrary intent is explicitly
4 expressed in this section. Sections 500.1 through 500.18 of this
5 title shall not apply, however, to travel reimbursements made by
6 political subdivisions of this state, except as otherwise provided
7 by law.

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

11 1. Oklahoma Department of Agriculture, Food, and Forestry:

12 a. The actual and reasonable expenses of travel and
13 subsistence in pursuing and developing markets for
14 Oklahoma agricultural products incurred by the
15 Commissioner, Deputy Commissioner and such employees
16 designated by the State Board of Agriculture within
17 the marketing development programs of the Oklahoma
18 Department of Agriculture, Food, and Forestry shall be
19 reimbursed to the employee incurring such expenses.
20 Reimbursement of such expenses shall be in accordance
21 with rules adopted by the Board. Expenses claimed
22 shall, prior to reimbursement, be reviewed by the

1 Board at a regular meeting and individually approved
2 or disapproved.

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

9 2. Wheat Utilization, Research and Market Development

10 Commission:

11 The actual and reasonable expenses of travel, lodging and
12 subsistence in pursuing and developing markets for Oklahoma wheat
13 and wheat products incurred by the Commission, staff and such
14 persons authorized by the Commission shall be reimbursed to the
15 person incurring such expenses. Expenses of wheat trade officials
16 on wheat trade missions from foreign countries and from other states
17 can be reimbursed to the person previously authorized by the
18 Commission to incur the expense. No actual and reasonable expenses
19 shall be paid except for time spent working with wheat trade
20 officials on wheat trade missions. Reimbursement of such expenses
21 shall be made in accordance with rules adopted by the Commission.
22 Expenses claimed shall, prior to reimbursement, be reviewed by the

1 Commission at each regular meeting and individually approved or
2 disapproved.

3 3. Department of Public Safety:

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

9 4. Department of Corrections:

10 The Department of Corrections shall be exempt from limitations
11 of reimbursement for rented automobiles, as set forth in Section
12 500.5 of this title, when the rental is by a Correctional Officer or
13 Transportation Officer for the limited purpose of transporting
14 inmates. Reimbursement for the expense shall be on the basis of
15 actual cost.

16 5. Oklahoma Tourism and Recreation Department:

17 The Oklahoma Tourism and Recreation Commission and Department
18 staff who promote in-state and out-of-state business for Oklahoma's
19 state-operated or state-owned parks, lodges, and golf courses and
20 the tourism and recreation industry, may be reimbursed for the
21 actual and necessary expense of travel, subsistence and
22 entertainment for this purpose. The Director of the Oklahoma
23 Tourism and Recreation Department may reimburse the Publisher of

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

10 6. Oklahoma Department of Commerce:

11 a. The actual and necessary expenses incurred by the
12 Director and other employees of the Department
13 authorized by the Director for the purpose of business
14 recruitment shall be reimbursed. Reimbursement of
15 expenses shall be in accordance with rules adopted by
16 the Director of the Oklahoma Department of Commerce.
17 Expenses claimed shall, prior to reimbursement, be
18 reviewed by the Director and individually approved or
19 disapproved.

20 b. The Department, at the discretion of the Director, may
21 charter aircraft for the purposes of carrying out its
22 duties and responsibilities related to business
23 recruitment and performing the duties of the Director.

1 The cost of such charter shall be exempt from the
2 provisions of Section 500.6 of this title. Claims
3 filed with the Office of State Finance shall bear the
4 following certification:
5 The best interests of the citizens of Oklahoma were
6 better served in that conventional ground
7 transportation was not practical or feasible for this
8 trip, aircraft from the Department of Public Safety
9 were not available for this trip, and no other claim
10 has been or will be filed as a payment for the cost of
11 transportation in connection with this trip.

12 7. Department of Central Services:

13 The actual and necessary expenses of travel and subsistence
14 incurred by the Director, any state employee approved by his or her
15 appointing authority, or state officials, for travel outside the
16 state in performance of duties related to bond financing shall be
17 reimbursed to the employee or state official incurring such
18 expenses. Reimbursement for lodging expenses shall be supported by
19 three telephone bids from hotels within a reasonable distance of the
20 activity for which the travel was approved.

21 8. Oklahoma Futures:

22 The actual and necessary expenses incurred by the members of
23 Oklahoma Futures in the performance of their duties shall be

1 reimbursed to the members incurring such expenses. Reimbursement of
2 all actual and necessary expenses shall be in accordance with rules
3 adopted by Oklahoma Futures.

4 9. Oklahoma Development Finance Authority:

5 The actual and necessary expenses incurred by the members and
6 employees of the Oklahoma Development Finance Authority in the
7 performance of their duties shall be reimbursed to the person
8 incurring such expenses. Reimbursement of all actual and necessary
9 expenses shall be in accordance with the bylaws of the Authority.

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

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

18 11. Center for International Trade Development:

19 The actual and necessary expenses of travel, lodging and
20 subsistence incurred by the Director and authorized employees of the
21 Center for International Trade Development for performance of their
22 duties for the purpose of business recruitment and assistance shall
23 be reimbursed to the person incurring such expenses. Reimbursement

1 of such expenses shall be in accordance with the rules adopted by
2 the Director of the Center for International Trade Development.
3 Expenses claimed shall be reviewed and individually approved or
4 disapproved, prior to reimbursement, first by the Director, and
5 finally by either the Vice President, Business and Finance of
6 Oklahoma State University or the President of Oklahoma State
7 University.

8 12. Oklahoma State Bureau of Investigation:

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

17 13. Department of Human Services:

18 a. The actual and necessary expenses of travel, lodging
19 and subsistence incurred by employees of the Legal
20 Division in the performance of their duties for the
21 purpose of representing the Department of Human
22 Services or any of its officials, employees,
23 institutions or hospitals at any proceeding, including

1 depositions, held before any court, administrative
2 body or representative thereof, shall be reimbursed to
3 the employee incurring such expenses. Expenses
4 claimed shall be approved by the General Counsel and
5 the Director of Human Services prior to reimbursement.

6 b. The Department, at the discretion of the Director, may
7 charter aircraft when determined by the Director such
8 charter would be more practical or less expensive than
9 normal modes of transportation and when aircraft of
10 the Department of Public Safety are unavailable. The
11 costs of such charter shall be exempt from the
12 provisions of Section 500.6 of this title.

13 14. Oklahoma Health Care Authority:

14 The actual and necessary expenses of travel, lodging and
15 subsistence incurred by employees of the Legal Division in the
16 performance of their duties for the purpose of representing the
17 Authority or any of its officials or employees, at any proceeding,
18 including depositions, held before any court, administrative body or
19 representative thereof, shall be reimbursed to the employee
20 incurring such expenses. Expenses claimed shall be approved by the
21 Administrator prior to reimbursement.

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

1 The actual and necessary expenses incurred by the Director and
2 other employees of the Bureau authorized by the Director as a result
3 of conducting investigations shall be reimbursed to each employee
4 incurring the expenses. Reimbursement of the expenses shall be in
5 accordance with rules adopted by the Director of the Oklahoma State
6 Bureau of Narcotics and Dangerous Drugs Control. Prior to
7 reimbursement, expenses claimed shall be reviewed by the Director
8 and individually approved or disapproved.

9 16. University Hospitals:

10 The actual and necessary expenses of travel, lodging and
11 subsistence incurred by employees of the Legal Office in the
12 performance of their duties for the purpose of representing the
13 University Hospitals or any of its officials, employees,
14 institutions or hospitals at any proceeding, including depositions,
15 held before any court, administrative body or representative
16 thereof, shall be reimbursed to the employee incurring such
17 expenses. Expenses shall be approved by the Chief Executive Officer
18 of the University Hospitals or by the University Hospitals
19 Authority.

20 17. Oklahoma Historical Society:

21 The actual and necessary expenses of travel, subsistence and
22 entertainment incurred by the Executive Director, Deputy Director
23 and any employees designated by the Executive Committee of the

1 Oklahoma Historical Society Board of Directors in pursuing and
2 developing programs and projects for the preservation and marketing
3 of Oklahoma history shall be reimbursed to the person incurring the
4 expenses. Reimbursement of expenses shall be in accordance with
5 rules adopted by the Oklahoma Historical Society Board of Directors.
6 Prior to reimbursement, expenses claimed shall be reviewed by the
7 Executive Committee at a regularly scheduled meeting and each claim
8 shall be individually approved or disapproved.

9 18. The Oklahoma Department of Mines:

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

19 19. The Office of Attorney General:

20 The actual and necessary expenses of travel, lodging and
21 subsistence incurred by its employees in the performance of their
22 duties for the purpose of representing the state, the Legislature,
23 any state board, agency or commission, or any employee or official

1 of the state entitled to representation, at any proceeding,
2 including depositions, held before any court, administrative body or
3 any representative thereof, and the actual and necessary expenses
4 incurred by employees as a result of conducting investigations shall
5 be reimbursed to the employee incurring the expenses. The expenses
6 shall be approved by the Attorney General prior to reimbursement.

7 20. District Attorneys Council:

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

23 21. The Department of Securities:

1 The actual and necessary expenses of travel, lodging and
2 subsistence incurred by the Administrator and other employees of the
3 Department of Securities in the performance of their duties for the
4 purpose of representing the Department of Securities, at any
5 proceeding, including depositions, held before any court,
6 administrative body or any representative thereof, conducting on-
7 site examinations, or conducting investigations, shall be reimbursed
8 to each employee incurring the expenses. The expenses shall be
9 approved by the Administrator of the Department of Securities prior
10 to reimbursement.

11 22. Corporation Commission:

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

18 23. The Department of Human Services:

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

- 1 a. for out-of-state visitation, care, treatment and
- 2 placement of a child welfare client,
- 3 b. for out-of-state treatment for or placement of an
- 4 adult protective services client,
- 5 c. for out-of-state treatment for or placement of a
- 6 resident of a state resource center, or
- 7 d. for out-of-state treatment for or placement of an
- 8 individual with a developmental disability who is
- 9 living in the community in community residential
- 10 services.

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

13 24. The Banking Department:

14 The actual and necessary expenses of travel and lodging incurred
15 by the Commissioner and other employees of the Banking Department in
16 the performance of their duties for the Banking Department shall be
17 paid or reimbursed by the Banking Department to each employee
18 incurring the expenses. The expenses shall be approved by the
19 Banking Commissioner prior to payment or reimbursement.

20 25. Oklahoma Office of Homeland Security:

21 The actual and necessary expenses of travel, lodging, and
22 subsistence incurred by the Oklahoma Homeland Security Director, as

1 a result of the duties and responsibilities of the Director, shall
2 be paid or reimbursed by the Oklahoma Office of Homeland Security.

3 26. The Grand River Dam Authority:

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

11 27. The Native American Cultural and Educational Authority:

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

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

1 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1226.2, is
2 amended to read as follows:

3 Section 1226.2 A. There is hereby created a body corporate and
4 politic to be known as the "Native American Cultural and Educational
5 Authority", and by that name the Authority may sue and be sued, and
6 plead and be impleaded. The Authority is hereby constituted an
7 agency of the state, and the exercise by the Authority of the powers
8 conferred by Section 1226 et seq. of this title shall be deemed to
9 be essential governmental functions of the state with all the
10 attributes thereof. Provided, however, the Authority is authorized
11 to carry liability insurance to the extent authorized by the
12 Authority, and in addition thereto it shall be subject to the
13 workers' compensation laws of the State of Oklahoma the same as a
14 private employer. The Department of Commerce shall assist the
15 Authority in fulfilling the responsibilities of Section 1226 et seq.
16 of this title, as requested by the authority.

17 B. The Authority shall consist of seven appointed members who
18 are members of a federally recognized American Indian Tribe located
19 within this state, six ex officio members and four appointed members
20 from the business community. Each appointed member, excluding ex
21 officio members, shall have one vote for purposes of conducting the
22 business of the Authority. Except for the members appointed
23 pursuant to paragraph 3 of this subsection, the appointed members

1 shall be residents of the state, and shall have been qualified
2 electors therein for a period of at least one (1) year preceding
3 their appointment. Any member of the Authority shall be eligible
4 for reappointment, and no member shall be removed from office except
5 for good cause shown. Good cause may be shown in evidence of
6 excessive failure to attend meetings of the Authority. The chair of
7 the Authority shall have the right to remove any member pursuant to
8 good cause. At the expiration of any term, the person holding such
9 office shall continue to serve until such person's duly appointed
10 successor shall be appointed and qualified.

11 1. Seven members appointed to serve shall serve overlapping
12 terms and shall be chosen as follows: three members shall be
13 appointed by the Governor; two members shall be appointed by the
14 President Pro Tempore of the Senate; and two members shall be
15 appointed by the Speaker of the House of Representatives. Each of
16 these members shall be a member of a federally recognized American
17 Indian tribe located within this state. Such tribal membership
18 shall be determined by the respective tribes. Appointments shall be
19 made from names provided by tribal governments, councils or other
20 recognized tribal entities. Appointments shall be restricted to not
21 more than one representative of any tribe. Such appointed members
22 initially appointed shall continue in office for terms of from three
23 (3) to seven (7) years, respectively, from the date of their

1 appointment, with the term of each initially appointed member to be
2 designated by the Governor at the time of the appointment, with one
3 member to be appointed to a three-year term, two members to be
4 appointed to a four-year term, one member to be appointed to a five-
5 year term, one member to be appointed to a six-year term, and two
6 members to be appointed to a seven-year term. Any person appointed
7 to fill a vacancy shall serve only for the unexpired term. Upon the
8 expiration of a term, on or after July 1, 2000, any succeeding term
9 shall be for four (4) years.

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

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

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

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

19 D. Before the issuance of any revenue bonds under the
20 provisions of Section 1226 et seq. of this title, each member of the
21 Authority shall execute a surety bond in the penal sum of Twenty-
22 five Thousand Dollars (\$25,000.00) and the secretary and treasurer
23 shall execute a surety bond in the penal sum of One Hundred Thousand

1 Dollars (\$100,000.00), each such surety bond to be conditioned upon
2 the faithful performance of the duties of his or her office, to be
3 executed by a surety company authorized to transact business in the
4 State of Oklahoma as surety, and to be filed in the office of the
5 Secretary of State.

6 E. The members of the Authority shall not be entitled to
7 compensation for their services, but each member shall be reimbursed
8 for actual expenses necessarily incurred in the performance of
9 duties on behalf of the Authority, provided that members of the
10 Authority shall be compensated for their travel expenses pursuant to
11 the State Travel Reimbursement Act, Section 500.1 et seq. of this
12 title. All expenses incurred in carrying out the provisions of
13 Section 1226 et seq. of this title shall be payable solely from
14 funds provided under the authority of Section 1226 et seq. of this
15 title and no liability or obligation shall be incurred by the
16 Authority hereunder beyond the extent to which monies shall have
17 been provided under the authority of Section 1226 et seq. of this
18 title.

19 F. The Authority is authorized to establish subcommittees as
20 necessary to perform its functions and duties. A subcommittee may
21 be composed of Authority members and/or nonmembers and shall not
22 have more than five members. Nonmembers of a subcommittee shall be

1 reimbursed by the Authority in accordance with the State Travel
2 Reimbursement Act.

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

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

11 SECTION 4. 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 GENERAL GOVERNMENT, dated 2-14-05
16 - DO PASS, As Coauthored.