

CS for SB 526

1 THE STATE SENATE  
2 Monday, February 26, 2007

3 Committee Substitute for  
4 Senate Bill No. 526

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 526 - By: MYERS of the  
6 Senate and DeWITT of the House.

7 [ revenue and taxation - income tax credit for the donation  
8 of land - effective date ]

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

10 SECTION 1. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 2357.105 of Title 68, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. For taxable years beginning after December 31, 2007, there  
14 shall be allowed a credit against the tax imposed by Section 2355 of  
15 Title 68 of the Oklahoma Statutes equal to fifty percent (50%) of  
16 the fair cash value of any land or interest in land located in this  
17 state which is donated to a governmental entity or a private, not-  
18 for-profit charitable organization or trust which is exempt from  
19 taxation pursuant to the provisions of the Internal Revenue Code, 26  
20 U.S.C., Section 501 (c) (3) and which is organized and operated for  
21 natural resource, land conservation or historic preservation  
22 purposes and is eligible to hold such land and interest for  
23 conservation or preservation purposes; provided, such land or

1 interest in land shall be donated as an unconditional donation in  
2 perpetuity by the taxpayer.

3 B. As used in this section:

4 1. "Conservation or preservation purposes" means a purpose  
5 determined by the Oklahoma Conservation Commission to have as its  
6 intended result:

- 7 a. open space, except open space donated for the purpose  
8 of fulfilling density requirements to obtain  
9 subdivision or building permits,  
10 b. natural resource and/or biodiversity conservation, and  
11 c. land, agricultural, watershed and/or historic  
12 preservation;

13 2. "Fair cash value" means the value or price at which a  
14 willing buyer would purchase property and a willing seller would  
15 sell property if both parties are knowledgeable about the property  
16 and its uses and if neither party is under any undue pressure to buy  
17 or sell and for real property, shall mean the value for the highest  
18 and best use for which such property was actually used, or was  
19 previously classified for use, as determined by the county assessor  
20 for the county in which such property is located;

21 3. "Interest in land" means any right in real property,  
22 including access thereto or improvements thereon, or water including  
23 but not limited to a fee simple, easement or conservation easement,

1 provided such interest complies with the requirements of Section 170  
2 (h) of the Internal Revenue Code, partial interest, mineral right,  
3 remainder of future interest, or other interest or right in real  
4 property; provided, interest in land shall include the donation in  
5 perpetuity of a fee interest in real property or a less-than-fee  
6 interest in real property, including a conservation restriction,  
7 preservation restriction, agricultural preservation restriction or  
8 watershed preservation restriction if such less-than-fee interest  
9 qualifies as a charitable contribution deduction pursuant to Section  
10 170 (h) of the Internal Revenue Code; and

11 4. "Land" means real property, with or without improvements  
12 thereon, rights of way, water and riparian rights, easements,  
13 privileges and all other rights or interests of any land or  
14 description in, relating to or connected with real property.

15 C. In no event shall the credit provided in subsection A of  
16 this section exceed:

17 1. One Hundred Thousand Dollars (\$100,000.00) for any one  
18 taxpayer; or

19 2. The amount of tax liability for the taxpayer.

20 D. Any credits allowed but not used in any tax year may be  
21 carried over, in order, to each of the twenty (20) years following  
22 the year or qualification.

1           E. The credit allowed pursuant to subsection A of this section  
2 but not used shall be freely transferable, by written agreement, to  
3 subsequent transferees at any time during the five (5) years  
4 following the year of qualification. An eligible transferee shall  
5 be any taxpayer subject to the tax imposed by Section 2355 of Title  
6 68 of the Oklahoma Statute. The taxpayer originally allowed the  
7 credit and the subsequent transferee shall jointly file a copy of  
8 the written credit transfer agreement with the Oklahoma Tax  
9 Commission within thirty (30) days of the transfer. The written  
10 agreement shall contain the name, address and taxpayer  
11 identification number of the parties to the transfer, the amount of  
12 credit being transferred, the year the credit was originally allowed  
13 to the transferring taxpayer and the tax year or years for which the  
14 credit may be claimed.

15           F. The Oklahoma Tax Commission shall promulgate rules necessary  
16 to implement the provisions of this act, including rules to permit  
17 verification that a taxpayer is donating land or of the timeliness  
18 of a tax credit claimed upon a tax return pursuant to subsection E  
19 of this section but shall not promulgate any rules which unduly  
20 restrict or hinder the transfers of such tax credit.

21           G. The Oklahoma Conservation Commission shall promulgate rules  
22 to permit verification that a taxpayer has donated land or an  
23 interest in land for conservation or preservation purposes as

1 defined in this section. A certificate of verification from the  
2 Oklahoma Conservation Commission shall satisfy all requirements of  
3 the Tax Commission pertaining to the eligibility of the taxpayer  
4 claiming the credit.

5 H. No taxpayer who receives a tax credit pursuant to this  
6 section shall be eligible to receive any other credit against the  
7 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for  
8 the same donation of land or interest in land.

9 SECTION 2. This act shall become effective November 1, 2007.

10 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
11 2-22-07 - DO PASS, As Amended and Coauthored.