STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

SENATE BILL 650 By: Wilcoxson

AS INTRODUCED

An Act relating to revenue and taxation; providing for specified credit against income, bank privilege and premium tax liability; specifying amount of credit for certain contribution; providing limitations; authorizing Oklahoma Tax Commission to make certain adjustments and providing formula for such adjustments; defining terms; providing for carryover of unused credit; requiring Oklahoma Tax Commission to promulgate rules; authorizing Tax Commission to recapture tax credit under specified conditions; requiring State Board of Education to promulgate specified rules and to cooperate with Tax Commission; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.206 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. 1. For tax years beginning after December 31, 2007, there shall be allowed against the tax imposed by Sections 2355 and 2370 of Title 68 and that portion of the tax imposed by Sections 624 and 628 of Title 36 of the Oklahoma Statutes which is actually paid to and placed into the General Revenue Fund, a credit for any taxpayer

who makes a contribution to an eligible scholarship organization or educational improvement organization.

2. The amount of the credit provided in paragraph 1 of this subsection shall be:

a. seventy-five percent (75%) of the amount contributed to any scholarship organization or educational improvement organization in the tax year for which the credit is being claimed, subject to the limitations provided in paragraph 3 of this subsection, or

b. ninety percent (90%) of the amount contributed to any scholarship organization or educational improvement organization in the tax year for which the credit is claimed pursuant to a two-year agreement, subject to the limitations provided in paragraph 3 of this subsection.

3. The credit provided in this subsection shall be subject to the following limitations:

a. in no event shall the credit granted to a taxpayer exceed Two Hundred Thousand Dollars ($200,000.00) annually,

b. in no event shall the credit be claimed by the taxpayer more than once for each taxable year, and

c. the total of the credits authorized by this section shall not exceed Twenty Million Dollars

($20,000,000.00) annually. The amount of the credit for each taxpayer shall be adjusted by the Oklahoma Tax Commission annually so that the total estimate of the credits authorized by this section does not exceed Twenty Million Dollars ($20,000,000.00). The formula to be used for the percentage adjustment for claims made pursuant to subparagraph a of paragraph 2 of subsection A of this section shall be seventy-five percent (75%) times Twenty Million Dollars ($20,000,000.00) divided by the credits claimed in the preceding year. The formula to be used for the percentage adjustment for claims made pursuant to subparagraph b of paragraph 2 of subsection A of this section shall be ninety percent (90%) times Twenty Million Dollars ($20,000,000.00) divided by the credits claimed in the preceding year. In the event the total tax credits authorized by this section exceed Twenty Million Dollars ($20,000,000.00) in any calendar year, the Tax Commission shall permit any excess over Twenty Million Dollars ($20,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

B. As used in this section:

1. "Contribution" means a contribution of cash, personal property or services the value of which is the net cost of the contribution to the taxpayer or the pro rata hourly wage, including benefits, of the individual performing the services. Contribution does not include activities that are part of the taxpayer's normal course of business;

2. "Educational improvement organization" means an organization which:

a. is a nonprofit entity,

b. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3),

c. contributes at least eighty percent (80%) of its annual receipts as grants to a public school for innovative educational programs as defined in paragraph 3 of this subsection. For purposes of this subparagraph, "annual receipts" means the total amount or value of contributions received by an organization from taxpayers awarded credits during the organization's fiscal year, and

d. has policies in place to maintain full and accurate records with respect to the receipt of contributions and expenditures of those contributions for a period of not less than three (3) years;

3. “Innovative educational program” means an advanced academic or similar program, as authorized by the State Board of Education pursuant to subsection F of this section, that is not part of the regular academic program of a public school but enhances the curriculum or academic program, and which may include but is not limited to programs which:

a. modify the curriculum or academic program,

b. are offered as a standards-based program of instruction,

c. use specialized instructional materials, instructors or instruction not offered by the public school,

d. use internships or other work-based learning opportunities,

e. offer instruction or programming that provides credits or advanced placement transferable to a two- or four-year college or university in this state, or

f. reconfigure, renovate or equip a public school facility to create a specialized environment which is integral and necessary to the operation of an innovative educational program;

4. “Scholarship organization” means an organization which:

a. is a nonprofit entity,

b. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3),

c. contributes at least eighty percent (80%) of its annual receipts to a scholarship program as defined in paragraph 5 of this subsection. For purposes of this paragraph, "annual receipts" means the total amount or value of contributions received by an organization from taxpayers awarded credits during the organization's fiscal year, and

d. has policies in place to:

(1) address rebates or refunds of scholarship awards for students who withdraw prior to the end of the period which the tuition covers,

(2) maintain confidentiality of information pertaining to student eligibility in a scholarship program, and

(3) maintain full and accurate records with respect to the receipt of contributions and expenditures of those contributions for a period of not less than three (3) years;

5. "Scholarship program" means a program which:

a. provides tuition and fees to eligible students to attend a private school located in this state and

accredited by the State Board of Education or an approved accrediting association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma Statutes,

b. limits eligibility to students who are entitled to an education pursuant to Section 1-114 of Title 70 of the Oklahoma Statutes and who are residents of this state and members of a household where the student's parents or guardians income from taxable and nontaxable sources does not exceed more than Fifty Thousand Dollars ($50,000.00) per year,

c. makes scholarships available to students of more than one (1) school, and

d. does not provide any single scholarship to a student which exceeds the actual amount of tuition and fees charged by the school; and

6. "Two-year agreement" means an agreement between a taxpayer and a scholarship organization or an educational improvement organization, subject to the approval of the Tax Commission pursuant to subsection E of this section, for a contribution of a specified amount from the taxpayer to the organization in each of two (2) specified years.

C. In no event shall the amount of the credit exceed the amount of any tax liability of the taxpayer.

D. Any credits allowed but not used in any tax year may be carried over, in order, to each of the four (4) years following the year of qualification.

E. The Tax Commission shall promulgate rules necessary to implement this act. Such rules shall include provisions and procedures for the development of a binding and enforceable two-year agreement, as defined in paragraph 6 of subsection B of this section, and for the review and approval of such agreements. If the Tax Commission determines that any taxpayer who has entered into a two-year agreement has failed to comply with the terms of the agreement, such taxpayer may be subject to recapture of the amount of the tax credit provided for in subsection A of section 1 of this act.

F. The State Board of Education shall promulgate such rules as may be necessary to authorize a proposed program as an innovative educational program, pursuant to paragraph 3 of subsection B of this section. The Board shall cooperate with the Tax Commission in order to provide the Tax Commission with a list of all authorized innovative educational programs.

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

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