Department of Finance and Administration

Legislative Impact Statement

Bill: SB226
Bill Subtitle: TO AMEND THE INCOME TAX CREDIT ALLOWED FOR DONATIONS OR SALES OF MACHINERY AND EQUIPMENT TO CERTAIN EDUCATIONAL INSTITUTIONS.

Basic Change :

Sponsor: Sen. Pitsch

SB226 amends § 26-51-1101 to add a subsection allowing an income tax credit for cash donations to certain educational institutions for the purchase of machinery and equipment. The credit is equal to 33% of the amount of the cash donation used by a qualified educational institution to purchase new machinery and equipment from a wholesale, retail, or manufacturing business. Unused credits may be carried forward up to nine years. SB226 also adds a new section to the Arkansas Code, § 26-51-1106, to clarify the procedure for applying for a credit through the Arkansas Economic Development Commission (AEDC).

SB226 details the review process of each application, and clarifies that expenditures incurred before the approval date of the financial incentive agreement required under proposed § 26-51-1106(b) will be denied a credit. The bill clarifies numerous provisions in §§ 26-51-1101 through 26-51-1106 including transferring responsibility for approving the credit from the Division of Science and Technology to the Executive Director of AEDC and the Department of Higher Education (DHE). The definition of "qualifying educational institution" is amended to exclude elementary schools, but does include public secondary schools, and both public and private colleges, universities, junior college or vocational technical training schools. In the case of cash donations, itemized receipts must be presented by the educational institution to document the amount of credit to be awarded to the donor. Rules to administer the credit are to be jointly promulgated by the Directors of the Department of Finance and Administration (DFA), DHE, the Department of Career Education, the Commissioner of the Department of Education and the Executive Director of ADEC.

Revenue Impact :

Undetermined fiscal impact.

[Since 1985, $374,000 in credits have been issued and $294,209 have been redeemed. Since 1999, $1,269 in credits have been redeemed.]

Taxpayer Impact :

Taxpayers will be required to document both the cash donation and how much was spent on the purchase of new machinery and equipment or document the cost of machinery and equipment donated to a qualifying educational institution and include a copy of the approval for the credit from the Executive Director of AEDC. This 33% income tax credit would be granted against a taxpayer's Arkansas corporate or individual income tax in exchange for cash donations to qualified education institutions.

Resources Required :

Update computer programs and tax instructions.

Time Required :

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Adequate time is provided for implementation.

Procedural Changes :

Computer programs, tax form instructions and training material will need to be updated. Department employees will need to be educated as well as the tax community.

Other Comments :

There is no provision providing an annual cap on the program and no provision reducing charitable contribution deductions by the amount of the credit.

Legal Analysis :

Under current law, an income tax credit may be taken by a taxpayer that donates or sells machinery or equipment to a qualified primary, secondary or post-secondary school in Arkansas. The bill removes primary schools from the list of qualified schools and adds a new provision allowing an income tax credit to be taken for a cash donation made to a qualified school that the school will use to purchase new machinery or equipment for use by the school. The amount of the income tax credit will be equal to 33% of the cash donation used to purchase new machinery or equipment. The bill also adds a new section to existing law that sets out an application process for the income tax credit. Under the new application process, a taxpayer must submit an application to AEDC for approval.

DFA, DHE, Department of Career Education, Department of Education and AEDC are required to jointly promulgate a rule to implement the income tax credit provisions.