

ARIZONA STATE LEGISLATURE
Fifty-first Legislature – Second Regular Session

JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE

Minutes of Interim Meeting
Monday, December 8, 2014
House Hearing Room 5 -- 1:00 p.m.

Co-Chairman Lesko called the meeting to order at 1:09 p.m. and attendance was noted by the secretary.

Members Present

Senator Steve Yarbrough, Co-Chairman
Senator Olivia Cajero Bedford
Senator Bob Worsley

Representative Debbie Lesko, Co-Chairman
Representative Javan Mesnard
Representative Justin Olson
Representative Bruce Wheeler

Members Absent

Senator David Farnsworth
Senator Robert Meza

Representative Chad Campbell

CONSIDERATION OF INCOME TAX CREDITS ON THE 2014 REVIEW SCHEDULE

Hans Olofsson, Chief Economist, Joint Legislative Budget Committee, related that the purpose of the Committee is to annually review tax credits. This role involves determining the original purpose of the tax credits, establishing standards for evaluating and measuring the success or failure and recommending changes upon conclusion of the review (Attachments 1 and 2). He noted that issues affecting the evaluation of income tax credits include timeliness of data, lack of performance measures in statute to gauge whether a tax credit has been successful or not and the fact that certain costs and benefits can be difficult to quantify because data is not available (Attachment 1, pages 1-7).

A.R.S. §§ 43-1081.01 and 43-1170.01 – Credit for agricultural pollution control equipment

Josh Hope, Joint Legislative Budget Committee, reviewed the agricultural pollution control equipment tax credit (Attachment 1, pages 9-13). He advised that the purpose of the tax credit is to mitigate costs incurred by farmers and ranchers to comply with environmental regulations.

Representative Olson inquired if the agricultural pollution control equipment is compulsory or optional. Mr. Hope stated that certain standards are required in order to be compliant with environmental regulations.

Mr. Olofsson returned to the podium and advised that this particular tax credit is voluntary as opposed to other tax credits for pollution control that are required by law. Representative Olson questioned the required measures to receive the tax credit. Mr. Olofsson answered that adding gravel to a dirt road is a suitable action to receive the credit.

Representative Mesnard questioned the reason that the 2009 Joint Legislative Income Tax Credit Review Committee recommended eliminating this tax credit.

Co-Chairman Lesko related that the 2009 Committee indicated that they could not be provided with enough information about the taxpayers claiming the credit to be able to judge whether or not the credit was doing any good. She stated that the Committee has the option to retain, terminate or modify any of the tax credits being reviewed today.

Senator Cajero Bedford inquired the amount of tax credit used for dust control. Mr. Hope replied that he does not have information on the specific usage of the tax credit.

DISCUSSION AND RECOMMENDATIONS BY THE COMMITTEE

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for agricultural pollution control equipment be retained and placed on the review schedule for 2019.

Co-Chairman Lesko cited figures on previous agricultural pollution control equipment tax credit usage and advised that only five people used the credit in 2012. She stated that she believes Arizona's tax system is complicated and that this is an opportunity for tax reform.

Representative Olson concurred and reiterated that the tax credit is rarely used. He said that he would like to hear from the entities using the tax credit to determine if it is beneficial to retain.

Co-Chairman Yarbrough provided history on the tax credit and related that introducing legislation to repeal the tax credit will determine its importance.

Discussion ensued on the use of the tax credit to minimize dust pollution.

Question was called on the motion that the Joint Legislative Income Tax Credit Review Committee continue and place the agricultural pollution control equipment tax credit on the Income Tax Credit Review schedule for 2019. The motion failed.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for agricultural pollution control equipment be repealed. The motion carried.

A.R.S. § 43-1084 – Credit for agricultural water conservation system

Henry Furtick, Joint Legislative Budget Committee, reviewed the agricultural water conservation system tax credit (Attachment 1, pages 15-19).

In response to questions, he noted that other states offer similar tax credits for water conservation efforts and that the United States Department of Agriculture (USDA) has measures in place to approve conservation plans. In order to receive the state tax credit, the conservation plan must meet federal requirements.

Co-Chairman Lesko questioned if a requirement to report on the reduction in water use can be added to performance measures. Mr. Furtick agreed.

Representative Wheeler inquired the qualifications for water sprinkler systems to reduce wasteful evaporation. Mr. Furtick responded that the USDA qualifies water conservation system plans. Representative Wheeler asked which state bureaucracy is responsible for verifying water conservation efforts.

Representative Olson noted that the state does not currently verify water conservation performance measures. He said that the Committee can recommend performance measures that require reportage of water reduction determinations.

Mr. Furtick reiterated that performance measures are not in place to evaluate the efficiency of the tax credit for agricultural water conservation systems.

Co-Chairman Lesko questioned if the Arizona Department of Revenue verifies the tax credit.

Sean Laux, Legislative Liaison, Arizona Department of Revenue (ADOR), stated that ADOR is not an expert in agriculture operations. He said that if another agency is absent in verifying the tax credit, then ADOR will serve as a repository for the data and provide a report at the next tax credit review.

DISCUSSION AND RECOMMENDATIONS BY THE COMMITTEE

Mr. Wheeler commented on the importance of requiring verification for water conservation efforts; however, he said the requirement will create another layer of government which will cost the state additional revenue.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for agricultural water conservation system be repealed.

Senator Worsley recused himself from the vote due to possible conflict of interest concerns.

Question was called on the motion that the Joint Legislative Income Tax Credit Review Committee repeal the tax credit for agricultural water conservation system. The motion carried.

A.R.S. § 43-1184 – Credit for contributions to school tuition organization; displaced students; students with disabilities

Steve Schimpp, Joint Legislative Budget Committee, reviewed the private school tuition organization tax credit (Attachment 1, pages 21-30). He stated that the purpose of the tax credit is to assist parents with the cost of private school tuition for displaced or disabled pupils. In response to questions, Mr. Schimpp advised that there are no performance measures in statute and that the cost of the tax credit is estimated to be \$5 million in donations for fiscal year 2015.

Senator Cajero Bedford questioned student qualification requirements for the credit.

Sean Laux, Arizona Department of Revenue, related that disabled students must have either a Multidisciplinary Evaluation Team (MET) plan or an Individualized Education Plan (IEP) plan from an Arizona public school. Displaced students must have been in the foster child care system and are verified by the Arizona Department of Economic Security.

PUBLIC TESTIMONY

Sydney Hay, American Federation for Children, explained that the average cost to the state for a displaced or disabled student is \$18,000 per student and that the average cost to the state for the tax credit scholarship program is \$5,000 per student. This program is another option for parents to find schools where children requiring additional resources for education can flourish. She provided an example of how the program has benefited children with special needs and stressed the importance of having school choices. Ms. Hay pointed out that the program is fiscally responsible and has built-in savings for the state. A pupil can only receive 90 percent of what the state would have spent on the child in a public school or tuition, whichever is less. Private schools are providing education for these students at a lower cost than the state.

Co-Chairman Lesko inquired the reason private schools can provide an education to displaced or disabled students at a lower rate than the state. Ms. Hay responded that she is uncertain. She stated that she believes that the reason may be because private schools have to compete for parents in the marketplace.

Representative Olson commented that school districts do not necessarily incur the costs of \$18,000 per displaced or disabled student but that the amount is what the state's formula affords the schools for these students. He questioned if private schools have any data on the average amount it costs to educate these students. Ms. Hay answered in the negative.

Discussion ensued on the varying costs for educating students, the impact of private faith based schools and the education results for disabled students.

DISCUSSION AND RECOMMENDATIONS BY THE COMMITTEE

Representative Wheeler commented on the vast majority of displaced and disabled students that are being left out of the program: 345 students benefit out of the 130,000 students. He said that that he would prefer to focus on improving the services provided to these students in Arizona's public schools which benefits all students.

Co-Chairman Lesko remarked that private schools are providing services at a much lower rate than the state. She said that parents have testified on the benefits of the program and are elated that their children are receiving a quality education.

Representative Mesnard offered to work with Representative Wheeler on improving the services provided by public schools and the expansion of the school tuition tax credit in the upcoming legislative session.

Representative Wheeler expressed a commitment to address the needs of disabled students.

Co-Chairman Yarbrough advised the Committee to review Florida's model that successfully addresses the education needs of disabled students.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the private school tuition organization tax credit be retained and placed on the review schedule for 2019.

Senator Cajero Bedford stated opposition for removing appropriations from the General Fund and public schools to aid private school organizations.

Representative Wheeler requested a roll call vote on the motion. Co-Chairman Lesko agreed.

Question was called on the motion that the Joint Legislative Income Tax Credit Review Committee continue and place the private school tuition organization tax credit on the Income Tax Credit Review schedule for 2019. The motion carried by a roll call vote of 5-2-0-3 (Attachment 3).

A.R.S. §§ 43-1076 and 43-1162 – Credit for employment by a healthy forest enterprise and A.R.S. §§ 43-1076.01 and 43-1162.01 – Credit for ecological restoration workforce training

Krista MacGahan, Joint Legislative Budget Committee, reviewed the healthy forest and renewable energy investment and employment tax credits (Attachment 1, pages 32-38). She explained that the purpose of the healthy forest tax credits is to provide incentives to help establish businesses that promote forest health. Ms. MacGahan provided background on the previous usage of the credit and stated that in tax year 2012, neither the corporate nor the individual income tax credits were used. In response to questions, she explained that the total

weight in forest product harvesting is being reported but that the tax credit portion of the program is not.

Representative Mesnard and Representative Olson asked for further clarification of the tax credits.

Mr. Olofsson returned to the podium and further explained the healthy forest tax credits. He said that part of the tax credit is for workforce training and the other portion is for employment. The workforce training credit has never been used.

Discussion ensued on repealing tax credits.

Senator Worsley recused himself from the vote due to possible conflict of interest concerns.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for employment by a healthy forest enterprise be repealed. The motion carried.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for ecological restoration workforce training be repealed. The motion carried.

A.R.S. §§ 43-1083.01 and 43-1164.01 – Credit for renewable energy industry

Jon Stall, Joint Legislative Budget Committee, reviewed the tax credit for the renewable energy industry (Attachment 1, pages 40-44). He explained that the purpose of the bill is to encourage renewable energy investment that results in high income employment. Mr. Stall pointed out that eligibility for the full 10 percent credit requires one of the following two conditions to be met:

- Up to \$500,000 of manufacturing investment per 1.5 new jobs
- Up to \$200,000 of headquarters investment per 1 new job

Mr. Stall further reviewed the credit, related the benefits to the Arizona economy and potential performance measures.

Senator Worsley recused himself from the vote due to possible conflict of interest concerns.

Representative Olson referred to Attachment 1, page 43 and inquired the actual amount that has been awarded in the tax credit. Mr. Stall responded that the actual figure is located in Attachment 2 which is the confidential information packet.

Discussion ensued on the outcome of repealing the tax credit for pre-approved entities and the differences between refundable and nonrefundable tax credits.

Sean Laux, Legislative Liaison, Arizona Department of Revenue, returned to the podium and explained the tax credit's usage and the amount that has been refunded.

Co-Chairman Yarbrough moved that the Joint Legislative Income Tax Credit Review Committee recommend that the tax credit for renewable energy industry be repealed. The motion carried.

Without objection, the meeting adjourned at 3:04 p.m.

Abby Selvey, Committee Secretary
December 29, 2014

(Original minutes, attachments and audio on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)