

# ARIZONA STATE SENATE

## RESEARCH STAFF



TO: JOINT LEGISLATIVE INCOME TAX  
CREDIT REVIEW COMMITTEE  
Senator J.D. Mesnard, Co-Chair  
Representative Ben Toma, Co-Chair

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DATE: January 3, 2020

SUBJECT: Joint Legislative Income Tax Credit Review Committee Annual Report

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As required by Laws 2002, Chapter 238, the Joint Legislative Income Tax Credit Review Committee reviews individual and corporate income tax credits pursuant to the statutory tax credit review schedule ([A.R.S. § 43-221](#)). The Committee met on December 19, 2019, and reviewed the following credits:

- A.R.S. § 43-1076 - Employment Credit for Healthy Forest Enterprises (Individual)
- A.R.S. § 43-1162 - Employment Credit for Healthy Forest Enterprises (Corporate)
- A.R.S. § 43-1081.01 - Credit for Agricultural Pollution Control Equipment (Individual)
- A.R.S. § 43-1170.01 - Credit for Agricultural Pollution Control Equipment (Corporate)
- A.R.S. § 43-1084 - Credit for Agricultural Water Conservation System (Corporate)
- A.R.S. § 43-1083.03 - Credit for Qualified Facilities (Individual)
- A.R.S. § 43-1164.04 - Credit for Qualified Facilities (Corporate)
- A.R.S. § 43-1164.05 - Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers (Corporate)
- A.R.S. § 43-1184 - Credit for Contributions to School Tuition Organizations for Displaced/Disabled Students (Corporate)

As required by A.R.S. § 43-221, a copy of the Annual Report of the Joint Legislative Income Tax Credit Review Committee has been distributed to the following individuals:

Governor of the State of Arizona  
The Honorable Doug Ducey

President of the Senate  
Senator Karen Fann

Speaker of the House of Representatives  
Representative Russell Bowers

Senate Members  
Senator J.D. Mesnard, Co-Chair  
Senator Lela Alston  
Senator Sean Bowie  
Senator Vince Leach  
Senator David Livingston

House of Representatives Members  
Representative Ben Toma, Co-Chair  
Representative Shawna Bolick  
Representative Andres Cano  
Representative Regina E. Cobb  
Representative Pamela Powers Hannley

Arizona State Library, Archives and Public Records

Senate Republican Staff  
Senate Democratic Staff  
Senate Research Staff  
Senate Resource Center

House Majority Staff  
House Democratic Staff  
House Majority Research Staff  
House Chief Clerk

# JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE



## Annual Report

### Members

Senator J.D. Mesnard, Co-Chair  
Senator Lela Alston  
Senator Sean Bowie  
Senator Vince Leach  
Senator David Livingston

Representative Ben Toma, Co-Chair  
Representative Shawna Bolick  
Representative Andres Cano  
Representative Regina E. Cobb  
Representative Pamela Powers Hannley

### ***Committee Authorization***

The Joint Legislative Income Tax Credit Review Committee (Committee) was established by Laws 2002, Chapter 238. The Committee is composed of five members from the House of Representatives Ways and Means Committee and five members from the Senate Finance Committee.

### ***Committee Duties***

The Committee is statutorily required:

- to determine the original purpose of existing tax credits;
- to establish a standard for evaluating and measuring the success or failure of the tax credits which may include:
  - the history, rationale and estimated revenue impact of the credit;
  - whether the credit has provided a benefit to Arizona including, for corporate tax credits, measurable economic development, new investments, creation of new jobs or retention of existing jobs in Arizona; and
  - whether the application, administration and approval process for the credit is unnecessarily complex.
- to review the individual and corporate income tax credits pursuant to the statutory income tax credit review schedule;
- after the review process, to determine whether the credit should be amended, repealed or retained; and
- to submit a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, the Governor and the Director of the Arizona State Library, Archives and Public Records by December 15 of each year.

### ***Committee Action***

The Committee met on December 19, 2019,<sup>1</sup> and reviewed information<sup>2</sup> provided by the Joint Legislative Budget Committee (JLBC) staff in open session for the following tax credits:

- Employment Credit for Healthy Forest Enterprises
  - A.R.S. § 43-1076 (Individual)
  - A.R.S. § 43-1162 (Corporate)
- Credit for Agricultural Pollution Control Equipment
  - A.R.S. § 43-1081.01 (Individual)
  - A.R.S. § 43-1170.01 (Corporate)
- Credit for Agricultural Water Conservation System
  - A.R.S. § 43-1084 (Corporate)
- Credit for Qualified Facilities
  - A.R.S. § 43-1083.03 (Individual)
  - A.R.S. § 43-1164.04 (Corporate)

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<sup>1</sup> Meeting notice and minutes will be available through the Senate Secretary's Office or online at <https://www.azleg.gov/interim-committees/>

<sup>2</sup> JLBC Staff Memorandum will be available through the Senate Secretary's Office as an attachment to the meeting minutes or online at <http://www.azleg.gov/jlbc/jlitcrprt112219.pdf>

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- Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers
  - A.R.S. § 43-1164.05 (Corporate)
- Credit for Contributions to School Tuition Organizations for Displaced or Disabled Students
  - A.R.S. § 43-1184 (Corporate)

### *Discussion*

The Committee heard testimony from JLBC staff pertaining to each tax credit on the agenda. A brief description of each credit heard in open session follows:

#### Employment Credit for Healthy Forest Enterprises

The Credit for Employment by a Healthy Forest Enterprise is offered to companies primarily engaged in the business of harvesting, processing or transporting qualifying forest products for commercial use. The amount of the credit per employee is based on the employee's wage and year of employment. For a qualified employment position, the credit equals: 1) one quarter of the wages paid to the employee in the first year of employment up to \$500; 2) one third of wages paid to the employee in the second year of employment up to \$1,000; and 3) one half of wages paid to the employee in the third year of employment up to \$1,500. The credit is received over a three-year period, totaling up to \$3,000 per qualified employment position, if all conditions are met. A taxpayer may not claim more than 200 qualified employment positions in any given tax year. The credit is non-refundable and unused portions of the credit may be carried forward up to five taxable years.

#### Credit for Agricultural Pollution Control Equipment

The Credit for Agricultural Pollution Control Equipment is offered to taxpayers to offset costs incurred from the purchase of real or personal property that is primarily used in the taxpayer's trade or business in Arizona to control or prevent pollution. To be eligible for the credit the taxpayer must be involved in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products. The credit is equal to 25 percent of the cost of the real or personal property, up to \$25,000. The credit is non-refundable and unused portions of the credit may be carried forward up to five taxable years.

#### Credit for Agricultural Water Conservation System

The Credit for Agricultural Water Conservation System is provided for the purchase and installation of an agricultural water conservation system in Arizona. The amount of credit a taxpayer may receive is equal to 75 percent of the qualifying expenses incurred during the taxable year. In order to qualify for the credit, the water conservation system must be primarily designed to substantially conserve water on land to: 1) produce crops, fruit or other agricultural products; 2) raise, harvest or grow trees; or 3) sustain livestock. The expense must be consistent with a conservation plan that the taxpayer has filed and that is in effect with the United States Department of Agriculture. The credit is non-refundable and unused portions of the credit may be carried forward up to five taxable years.

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### Credit for Qualified Facilities

The Credit for Qualified Facilities is offered for expanding or locating a qualified facility in Arizona. A *qualified facility* is a facility that devotes at least 80 percent of the property and payroll at the facility to qualified manufacturing, headquarters or research. At least 51 percent of the new full-time employment positions must be paid 125 percent of the median annual wage for production occupations in Arizona or 100 percent in rural locations. Companies must cover 65 percent of a new full-time employee's health insurance.

The credit is subject to an aggregate annual cap of \$70 million which is authorized on a first-come, first-serve basis by the Arizona Commerce Authority. The value of the tax credit is the least of the following: 1) 10 percent of the total qualified investment made at the facility; 2) \$20,000 per qualified job created at the facility; or 3) \$30 million per taxpayer per year. The credit must be taken in five equal installments. The credit is refundable.

### Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers

The Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers is offered to qualifying international operations centers (IOC) for investment in new renewable energy facilities that produce energy for self-consumption using renewable energy sources if the power is primarily used by the IOC. A qualifying IOC taxpayer must: 1) invest at least \$100 million in one or more renewable energy facilities in Arizona by December 31, 2018; 2) invest at least \$1.25 billion in new capital assets within 10 years after being certified as an IOC by the Arizona Commerce Authority; and 3) use at least 51 percent of the energy produced for self-consumption by the fifth year the IOC operates.

The credit is \$5 million per year for five years for each renewable facility. The credit per taxpayer cannot exceed \$25 million in total over five years. No new credits can be claimed for taxable years beginning after December 31, 2025. The credit is non-refundable and unused portions of the credit may be carried forward up to five consecutive years.

### Credit for Contributions to School Tuition Organizations for Displaced or Disabled Students

The Credit for Contributions to School Tuition Organizations for Displaced or Disabled Students is provided to corporations and insurers for voluntary donations to school tuition organizations (STOs). An STO is a nonprofit that is exempt from federal taxation and allocates at least 90 percent of its revenue for educational scholarships or tuition grants. STO scholarships from this program may be awarded only to students who have lived in foster care at any time prior to graduating from high school or obtaining a general equivalency diploma or who have been identified at any time as having a disability under Arizona law or federal law.

The total credits claimed statewide cannot exceed \$5 million annually. The scholarship or grant value is equal to the lesser of the private school tuition or 90 percent of the state funding that otherwise would go to that pupil had they remained in public school. The credit is non-refundable and unused portions of the credit may be carried forward up to five consecutive years.

***Recommendations by the Committee***

On December 19, 2019, the Committee recommended that:

- A.R.S. §§ 43-1076 and 43-1162, the Employment Credit for Healthy Forest Enterprises, should be repealed.
- A.R.S. §§ 43-1081.01 and 43-1170.01, the Credit for Agricultural Pollution Control Equipment, should be repealed.
- A.R.S. § 43-1084, the Credit for Agricultural Water Conservation System, should be returned to the income tax credit review schedule for 2024 and amended to include requirements to report on: 1) the reduction of water usage as a result of the installation of a qualified water conservation system; and 2) the number of states where taxpayers receive a comparable credit.
- A.R.S. §§ 43-1083.03 and 43-1164.04, the Credit for Qualified Facilities, should be returned to the income tax credit review schedule for 2024 and amended to include the following performance measures: 1) the number of employees hired by the Qualified Facility; and 2) the total capital expenditures invested as a result of the tax credit.
- A.R.S. § 1164.05, the Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers, should be retained and returned to the income tax credit review schedule for 2024.
- A.R.S. § 43-1184, the Credit for Contributions to School Tuition Organizations for Displaced or Disabled Students, should be retained and returned to the income tax credit review schedule for 2024.