

ARIZONA STATE LEGISLATURE
Fiftieth Legislature – Second Regular Session

JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE

Minutes of Interim Meeting
Thursday, December 6, 2012
House Hearing Room 3 -- 2:00 p.m.

Co-Chairman Yarbrough called the meeting to order at 2:05 p.m. and attendance was noted by the secretary.

Members Present

Senator Steve Yarbrough, Co-Chairman
Senator Paula Aboud
Senator Ron Gould

Representative Javan Mesnard, Co-Chairman
Representative Tom Chabin
Representative Rick Gray
Representative Ted Vogt

Members Absent

Senator Jack Jackson, Jr.
Senator Lori Klein

Representative Steve Farley

**OPEN SESSION – CONSIDERATION OF INCOME TAX CREDITS ON THE 2012
REVIEW SCHEDULE**

Richard Stavneak, Director, Joint Legislative Budget Committee (JLBC), provided a handout describing the tax credits to be reviewed by the Committee (Attachment 1). Six tax credits will be reviewed in Open Session and three tax credits will be reviewed in Executive Session. He gave a powerpoint presentation (Attachment 2), explaining that the purpose of the Committee is to annually review tax credits to determine the original purpose, establish standards for evaluating and measuring the success or failure of the tax credits and recommend changes.

In response to a question, he related that statute authorizes the Department of Revenue (DOR) to disclose confidential statistical information to the Committee and JLBC staff since, in prior years, there was no information on some tax credits. Executive Session is necessary for three of the tax credits under review because credit information is considered confidential if the credits were claimed by three or fewer taxpayers, or if a single taxpayer received 90 percent of the dollar value of the tax credit. There is a concern that it may be possible to identify the taxpayer, which DOR cannot disclose according to the taxpayer confidentiality statutes.

A.R.S. § 43-1073 – Family Income Tax Credit

Hans Olofsson, Joint Legislative Budget Committee (JLBC), provided an overview of the Family Income Tax Credit designed to reduce the tax burden on low-income households, which cost \$5.8 million in tax year (TY) 2011 and involved 516,800 claims at an average of \$11 (Attachment 3). This tax credit has the effect of raising the disposable income of low-income households, which in theory, will increase consumer spending and spur economic activity. Since the total amount of the tax credit claimed is small (less than \$6 million), the impact on the Arizona economy is likely minimal. He added that there are no statutory or potential performance measures for this tax credit. It was last reviewed in 2007, at which time a recommendation was made to adjust the income limits to inflation, but legislation that was introduced was never heard.

A.R.S. §§ 43-1085 and 43-1164 – Credit for Solar Energy Devices; Commercial and Industrial Applications

Jon Stall, Joint Legislative Budget Committee (JLBC), provided an overview of the Commercial Solar Device Energy Tax Credit designed to promote development of Arizona's solar energy industry, which cost \$129,500 in 2010 for the corporate credit and \$51,400 in 2011 for the individual credit (Attachment 4). There is no data on the number of new jobs created from purchases related to this credit; however, studies show Arizona's total solar-related employment recently increased, which could be impacted by numerous items. There are no performance measures currently in statute; three potential performance measures include:

- Total megawatt hours of electricity generated from solar energy devices
- Total megawatt hours of electricity conserved from non-renewable energy sources
- Number of persons employed in businesses that manufacture, install or service residential energy solar devices

Mr. Stall indicated that this tax credit was not previously reviewed by the Committee. In response to a question, he stated that the carry forward is available to use after the credit expires in 2018.

A.R.S. § 43-1086 – Credit for Donation to the Military Family Relief Fund

Jon Stall, Joint Legislative Budget Committee (JLBC), provided an overview of the Military Family Relief Fund Tax Credit designed to encourage contributions to relieve the financial hardship of families of military service members (Attachment 5). The cost was \$996,700 in TY 2011, with 3,007 claims averaging \$331. The credit is available through 2018 and is capped at \$1 million per year. There is a \$20,000 grant cap to eligible families and in fiscal year (FY) 2012, grants totaled \$562,100. With the \$1 million cap, the economic impact to Arizona is small and the tax credit temporarily raises the income of families of service members. Potential performance measures include the number and dollar amount of donations, and the number and dollar amount of grants. This credit was not previously reviewed.

In response to questions, Mr. Stall related that when the credit expires in 2018, excess funds will be transferred to the Veterans' Donations Fund to be used for veterans' memorials and other

veterans' causes. Discussion followed about ensuring that excess funds are used to provide financial relief to families of military service members rather than for memorials.

A.R.S. § 43-1089 – Credit for Contributions to School Tuition Organization (STO)

Steve Schimpp, Joint Legislative Budget Committee (JLBC), provided an overview of the Private School Tuition Organization Credit designed to assist parents with the cost of private school tuition (Attachment 6). The cost was \$43.2 million in TY 2010 and involved 62,941 claims with average contributions of \$686. Fifty-three STOs received contributions in calendar year (CY) 2012. It is estimated that about 24,000 students received scholarships from this program. Over 26,400 awards were distributed in 2010 at an average of \$1,791. He noted that there are no performance measures in statute. Potential performance measures include the percent of STO revenues retained for administrative costs and percent of private school tuition paid for with award funding.

A.R.S. § 43-1089.01 – Tax Credit; Public School Fees and Contributions; Definitions

Steve Schimpp, Joint Legislative Budget Committee (JLBC), provided an overview of the Public School Extracurricular Activity Fee Credit designed to assist parents with the cost of extracurricular activities (Attachment 7). The cost in TY 2011 was \$48.4 million with 250,210 claims averaging \$194.

He stated that legislation in 2011 required schools to report spending categorized by specific extracurricular activity, most of which in FY 2011 was for athletics and field trips. This requirement increases school and DOR administrative duties. The legislation also allowed schools to use up to 50 percent of unencumbered contributions received prior to FY 2011 to buy short-term capital items, which must be reported annually to JLBC; most FY 2011 spending was on technology, furniture and equipment. There are no performance measures in statute. Potential performance measures include student participation in extracurricular activities and character education programs, and funding by type of activity.

In response to a question, Mr. Schimpp replied that the Committee reviewed the private and public school credits six years ago and recommended their continuation.

Discussion followed about administrative costs.

A.R.S. §§ 43-1090 and 43-1176 – Credit for Solar Hot Water Heater Plumbing Stub Outs and Electric Vehicle Recharge Outlets Installed in Houses Constructed by Taxpayer

Jon Stall, Joint Legislative Budget Committee (JLBC), provided an overview of the Solar Hot Water Heater Plumbing Stub Outs and Electric Vehicle Recharge Outlets Tax Credit for which the purpose is not defined in statute (Attachment 8). The cost in TY 2009 was \$1,600 with 16 claims averaging \$98. There are no performance measures in statute and there have been no corporate credits claimed since 2000. There is no economic development impact at the level of credit usage and the cost of administering performance measures exceeds the tax expenditure. This tax credit was reviewed in 2006 when the Committee recommended elimination, but no legislation was introduced.

Co-Chairman Mesnard moved that the Committee resolve into Executive Session. The motion carried.

EXECUTIVE SESSION CONVENED AT 3:05 P.M.

EXECUTIVE SESSION ADJOURNED AT 3:28 P.M.

OPEN SESSION RECONVENED AT 3:29 P.M. WITH ALL MEMBERS PRESENT EXCEPT SENATOR JACKSON, SENATOR KLEIN AND REPRESENTATIVE FARLEY.

PUBLIC TESTIMONY

Ariel Shoshan, representing self, expressed appreciation for the opportunity to send his six children to schools of his choice. He related that his family is a direct beneficiary of the Private School Tuition Organization (STO) Tax Credit as well as donors. His children are receiving an education he believes in, including outstanding college preparation. There are many people in the Jewish community who benefit directly from this tax credit, and the community is admired by others because the opportunities present in Arizona are not available in other Jewish communities. The Jewish community has grown as a result of this tax credit.

Robert Glazer, Executive Director, Agudath Israel of America, thanked the Legislature for providing opportunities to have STOs in Arizona so families have the ability to choose the best place to send their children. He said he has seen an increase in the number of individuals moving into his community, and one of the reasons is the ability to choose the appropriate school for their children. The program in Arizona has been used to promote similar legislation in other states.

Senator Yarbrough thanked the Jewish community for its amicus brief in support of the defense in *Arizona Christian School Tuition Organization v. Winn* in the U.S. Supreme Court.

Representative Vogt announced that Jack Harper, representing self, provided the following statement:

“A measure should be referred to the ballot to have a 20-year moratorium on corporate income tax credits and corporate insurance premium tax credits. Arizona has too much debt to give special favors to the politically influential. The moratorium should not include credits already earned, but during the 20-year period, no other corporate income tax credits or insurance premium tax credits should be granted, deferred, accrued or passed down to corporate shareholders.”

Serena Unrein, Interim Executive Director, Arizona Public Interest Research Group, testified that the public deserves to know the amount of money the state is spending through the tax code and the results of the current tax credit programs. It is problematic that three of the tax credits were discussed behind closed doors, although it is required by statute, and she hopes that will be addressed during the next legislative session. It is also a problem that funding must be voted on and appropriated by the Legislature every year, yet these tax credits continue in perpetuity, in

some instances, without a vote by the Legislature. She suggested that legislation be passed to ensure that tax credits include a sunset provision so there is a chance, at some point in the future, to review the tax credits and see if they no longer serve their purpose or need to be expanded. Also, the performance measures recommended by JLBC should be enacted and publicly reported in an open forum. This review process is commendable and deserved, but it seems pointless if no further action is taken on the recommendations that are made. She asked the Legislature to take a serious look at reforms to make Arizona tax credits more transparent.

DISCUSSION AND RECOMMENDATIONS BY THE COMMITTEE

Family Income Tax Credit (Individual)

Co-Chairman Mesnard moved that the Joint Legislative Income Tax Credit Review Committee (Committee) continue and place the Family Income Tax Credit on the Income Tax Credit Review Schedule for 2017.

Senator Aboud noted that there are no recommended performance measures by Joint Legislative Budget Committee (JLBC) staff for this tax credit.

Question was called and the motion carried.

Credit for Solar Energy Devices; Commercial and Industrial Applications (Individual)

Senator Aboud suggested the inclusion of the performance measures outlined in the handout (Attachment 4). She noted that the environment is important and asked the Committee to keep that in mind. She said a new solar company is sitting idly in the east valley because of demand and asked that the credit be expanded to continue creating jobs. She added that she would like to include an additional performance measure to determine what kind of jobs are created, i.e., average wages paid to persons employed in businesses that manufacture, install or service residential energy solar devices.

Co-Chairman Mesnard moved that the Committee continue and place the Individual Credit for Solar Energy Devices; Commercial and Industrial Applications on the Income Tax Credit Review Schedule for 2017 and also recommend that the performance measures be enhanced as follows:

- **Total megawatt hours of electricity generated from solar energy devices**
- **Total megawatt hours of electricity conserved from non-renewable energy sources**
- **Number of persons employed in businesses that manufacture, install or service residential energy solar devices**
- **Average wages paid to persons employed in businesses that manufacture, install or service residential energy solar devices be reported**

The motion carried.

Credit for Donation to the Military Family Relief Fund (Individual)

Discussion ensued about restricting the use of excess funds upon reversion to the Department of Veterans' Services so it cannot be spent for monuments and statues.

Carolyn Speroni, Senate Director of Research, advised that the Committee could recommend that any funds transferred shall continue to be used for the same purposes.

Representative Chabin suggested striking language about reversion of funds, but Co-Chairman Mesnard indicated that unspent funds could potentially be swept by the Legislature. After further discussion, Senator Gould pointed out that the language does not have to be specific since the Committee is only making a recommendation.

Co-Chairman Mesnard moved that the Committee continue and place the Credit for Donation to the Military Family Relief Fund on the Income Tax Credit Review Schedule for 2017 and also recommend that the performance measures be enhanced as follows:

- **Number and dollar amount of donations be reported**
- **Number and dollar amount of grants be reported**
- **Accumulated monies be kept for the purposes of military family relief and not reverted to any other fund.**

The motion carried.

Private School Tuition Organization Credit (Individual)

Co-Chairman Mesnard moved that the Committee continue and place the Individual Private School Tuition Organization Credit on the Income Tax Credit Review Schedule for 2017.

Discussion followed about inclusion of the performance measures recommended by JLBC. Co-Chairman Yarbrough noted that the percent of administrative funds is dictated in statute. The percent of private school tuition paid for with award funding will be determined by an independent study as opposed to trying to discern the information in some other fashion.

Sean Laux, Legislative Liaison, Department of Revenue (DOR), indicated that according to statute, the percent of School Tuition Organization (STO) revenues retained for administrative costs is already reported to DOR and available to the public.

Senator Aboud requested that Co-Chairman Yarbrough recuse himself since he has an interest in this issue.

Co-Chairman Mesnard assumed the Chair.

Senator Aboud asked why the potential performance measure relating to administrative costs was included as a recommendation if reporting is already required. Mr. Schimpp responded that it is one way the programs can be reviewed, but there is no law defining it as a formal performance

measure; adopting the performance measure by the Committee will not provide more information; it will only formalize the performance measure for the program.

Georganna Meyer, Chief Economist, Department of Revenue (DOR), in response to questions, related that STOs are not allowed by law to give any child more money than the amount of private school tuition. The percent of private school tuition paid for with award funding is not reported to DOR, which has oversight, but does not have adequate staff to check with each STO and compile the information. She acknowledged that the percent of STO revenues retained for administrative costs is reported to DOR and included in DOR's report on tax credits.

Senator Aboud moved that Co-Chairman Mesnard's motion be amended to include the percent of STO revenues retained for administrative costs as a performance measure. The motion failed.

Question was called on Co-Chairman Mesnard's motion that the Committee continue and place the Individual Private School Tuition Organization Credit on the Income Tax Credit Review Schedule for 2017. The motion carried.

Public School Extracurricular Activity Fee Credit (Individual)

Co-Chairman Mesnard moved that the Committee continue and place the Public School Extracurricular Activity Fee Credit on the Income Tax Credit Review Schedule for 2017.

Co-Chairman Yarbrough resumed the Chair.

Question was called and the motion carried.

Credit for Solar Hot Water Heater Plumbing Stub Outs and Electric Vehicle Recharge Outlets (Individual)

Co-Chairman Mesnard moved that the Committee eliminate the Individual Credit for Solar Hot Water Heater Plumbing Stub Outs and Electric Vehicle Recharge Outlets. The motion carried.

Credit for Increased Employment in Military Reuse Zones (Individual)

Co-Chairman Mesnard moved that the Committee eliminate the Individual Credit for Increased Employment in Military Reuse Zones.

Howie Fisher, Capitol Media Services, commented that he appreciates the fact that the Committee cannot provide information that could be used to identify individual taxpayers, but if a tax credit is going to be eliminated, an articulate reason should be provided to the public.

Co-Chairman Mesnard answered that the basis for his motion is lack of use of the tax credit.

A brief discussion followed about the legality and intent of the requirement for a two-thirds vote of the Legislature to eliminate a tax credit.

Question was called on the motion that the Committee eliminate the Individual Credit for Increased Employment in Military Reuse Zones. The motion carried.

Credits for Qualified Environmental Technology Facility (Individual and Corporate)

Co-Chairman Mesnard moved that the Committee eliminate the Individual and Corporate Credits for Qualified Environmental Technology Facility.

Co-Chairman Mesnard explained that the basis for his motion is general lack of use, with a few exceptions.

Question was called on the motion that the Committee eliminate the Individual and Corporate Credits for Qualified Environmental Technology Facility. Division was called and the motion carried by a hand vote of 5 ayes and 2 nays.

School Site Donation Credits (Individual and Corporate)

Co-Chairman Mesnard moved that the Committee eliminate the Individual and Corporate School Site Donation Credits.

Representative Chabin stated that Arizona will grow in the future and incentives should be created for private investors and builders of communities to create school sites.

Co-Chairman Mesnard related that he believes these tax credits are bad public policy.

Question was called on the motion that the Committee eliminate the Individual and Corporate School Site Donation Credits. Division was called and the motion carried by a hand vote of 4 ayes and 3 nays.

Co-Chairman Yarbrough complimented JLBC staff on the excellent material provided and their quality presentations.

Without objection, the meeting adjourned at 4:33 p.m.

Linda Taylor, Committee Secretary
December 7, 2012

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