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Legislative Tax Expenditure Committee

December 4, 2013

MEMBERS PRESENT:

Senator Joe Bolkcom, Co-chairperson
Senator William Dotzler, Jr.
Senator Herman Quirmbach
Senator Roby Smith

Representative Thomas Sands, Co-chairperson
Representative Chris Hagenow
Representative Jo Oldson
Representative Steven Olson
Representative Sharon Steckman

MEETING IN BRIEF

Organizational staffing provided by: Michael Duster, Legal Counsel, (515) 281-4800

Minutes prepared by: Michael Mertens, Legal Counsel, (515) 281-3444

I. Procedural Business

Call to Order. The Legislative Tax Expenditure Committee was called to order at 10:07 a.m. on December 4, 2013, in Room 103 of the State Capitol.

Adjournment. Upon conclusion of the presentations and discussion by the committee, the meeting was adjourned at 2:53 p.m.

II. Review of the Endow Iowa Tax Credits

Ms. Peggy Russell, Economic Development Authority (EDA), provided an overview of the Endow Iowa Tax Credit Program. The Endow Iowa Tax Credit is a charitable giving incentive administered by the EDA to encourage individuals, businesses, and organizations to make investments in their communities through contributions to Endow Iowa qualified community foundations, which are tax-exempt, nonprofit, publicly supported philanthropic organizations operated in this state with long-term goals of building permanent, named funds for broad-based public benefit of the residents of a given area, and which substantially comply with the national standards for U.S. community foundations.

Endow Iowa qualified community foundations also serve as host foundations to provide investment and administrative expertise to community affiliate organizations, which are groups of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in the state with the intention of establishing community affiliate endowment funds. Community affiliate organizations receive numerous benefits from their relationships with Endow Iowa qualified community foundations, including information, support, training, and the ability to operate under their tax-exempt status and be part of their annual independent audit. Iowa currently has over 130 community foundations and affiliates operating throughout the state.

Community foundations and their affiliates establish permanent endowment funds, which are funds held to provide benefit to charitable causes in the state of Iowa. Permanent endowment funds are intended to exist in perpetuity and intended to not spend more than 5 percent of their assets annually. Permanent endowment funds operate by using a portion of their annual income to support a variety of local nonprofit agencies, programs, and projects in fields such as education, health, human services, the arts, community development, historic preservation, and the environment.

Ms. Russell next discussed EDA's collaboration with the Iowa Council of Foundations (ICOF). Since 2004, the EDA has designated ICOF as the lead philanthropic entity for the purpose of encouraging the development of Endow Iowa qualified community foundations in the state. ICOF is a statewide, nonprofit organization with community, corporate, and private membership. ICOF serves as a liaison between EDA and the Endow Iowa qualified community foundations statewide. EDA staff work with ICOF as a resource for answering technical questions related to the program, charitable giving vehicles, and community foundations. ICOF helps EDA distribute communications, gather required annual board resolutions, and gather information needed to create the annual report to the Legislature and Governor.

Ms. Russell next discussed the tax credit component of the Endow Iowa Tax Credit Program. The Endow Iowa Tax Credit equals 25 percent of an endowment gift made to an Endow Iowa Qualified Community Foundation Fund. The credit is nonrefundable and nontransferable, but may be carried forward for a period of five tax years. The amount of the endowment gift is not deductible for Iowa tax purposes. For tax years prior to 2012, the aggregate amount of tax credits that could be issued per year was limited to a certain statutory amount depending on the tax year ($3.5 million in 2011) plus a certain percentage of gaming tax revenues. For the 2012 tax year and subsequent tax years, the aggregate amount of tax credits awarded per year cannot exceed $6 million, with no tie to gaming tax revenues. Ms. Russell opined that the removal of gaming tax revenues from the calculation of the tax credit cap has provided stability and predictability to the program. The tax credit is also limited by the size of the gift and the amount that may go to any one taxpayer. Not more than 5 percent of the annual aggregate cap, or $300,000, may go to any one taxpayer. Ten percent of the aggregate cap, or $600,000, shall be reserved for endowment gifts of $30,000 or less. However, if by September 1 of any calendar year the entire 10 percent has not been distributed, the remaining credits are available to other applicants. Credits are awarded on a first-come, first-served basis. If the number of applications exceeds the annual cap, EDA establishes a wait list to be fulfilled in subsequent years.

Finally, Ms. Russell discussed the Endow Iowa Tax Credit Program's return on investment and described several specific foundations throughout the state and the work of those foundations. According to Ms. Russell, the availability of the credit has spurred new investment into endowment funds, and in turn the income from those funds has spurred community growth. Iowa's community foundation network now represents over $650 million in total assets, and has used the Endow Iowa Tax Credit Program to leverage more than $119 million in permanent endowment fund gifts. Ms. Russell noted that the true impact of the program is seen through the people, organizations, and opportunities affected through grants and through leadership taking place in communities. The program has resulted in support for after-school programs, scholarships, historical restoration, innovative community leadership programs, food pantries, transportation solutions for the disabled, and other causes. Ms. Russell cited specific examples including the Greater Des Moines Botanical Garden undertaken by the Greater Des Moines Community Foundation, the Crescent Community Health Center undertaken by the Community Foundation of Greater Dubuque with an endowment from the family-owned Crescent Electric Supply Company, and Kirkwood Community College Scholarships and the National Czech and Slovak Museum and Library support provided by an endowment from Frank and Cheryl Mitvalsky to the Greater Cedar Rapids Community Foundation.

Discussion. The committee inquired about the notification provided to donors regarding the eligibility of a donation for an Endow Iowa Tax Credit, and whether the EDA will exhaust its $6 million tax credit cap in calendar year 2013. Ms. Russell answered that the forms used for making donations to community foundations alert taxpayers that their donation may be eligible for a tax credit. She was unsure whether or not the $6 million cap in 2013 would be exhausted, but was confident total eligible donations would be close to that amount.

Ms. Angela Gullickson, Iowa Department of Revenue (IDR), provided data and other information on the Endow Iowa Tax Credit. Apart from Iowa, only Kentucky, Montana, and North Dakota also offer similar tax credits. The tax credit is nonrefundable in all four states, and only Kentucky currently allows the donation to be claimed as both a tax credit and an itemized deduction.

Since its inception in 2003, there has been a total of $119,689,318 in donations made to Endow Iowa qualified community foundations, with $9,969 being the average donation. As a result of these donations, 14,264 Endow Iowa Tax Credits have been issued totaling $23,729,963, with $1,874 being the average tax credit award. Since the tax credit's inception, only 13 taxpayers have made donations that met or exceeded the annual per-taxpayer cap.

Ms. Gullickson next provided data on the tax credit awards for the last several years according to the taxpayer's age, county residence, persistence, household adjusted gross income (AGI), timing, and other measurements. The average donor age from 2006 to 2011 is greater than 55 years old. From 2006 to 2011, there were a total of 4,803 taxpayers who made donations, 70.5 percent of whom were one-time donors. During that period of time, 1,416 taxpayers made donations in more than one year, and 40 taxpayers gave all six years. Information was also provided on the distribution of tax credits awarded and claimed from those donations according to household AGI. She noted that 45.06 percent of tax credit awards and 54.51 percent of tax credit claims were made by households with an AGI of $1 million or more, yet those households only comprised 5.92 percent of the households with tax credit awards and 7.89 percent of the households with tax credit claims. She also noted that from 2006 to 2012, the total of the 25 largest donations in each year comprised only 1.7 percent of the total tax credit awards issued, but made up 50.82 percent of the value of those awards. When the Endow Iowa Tax Credits are analyzed according to the timeframe in which the tax credits were claimed, 64.81 percent were claimed in the first year of issuance, and the percentage declined dramatically in years two through five. After the five-year carryforward period has expired, an average of 17.75 percent of tax credits remain unclaimed. Ms. Gullickson concluded her presentation by providing data on the after-tax cost of a $1,000 donation in 2010 according to household AGI. She noted that higher income households have more state tax liability and a higher federal income tax rate, so they benefit more from the state tax credit and the federal charitable contribution itemized deduction. The average after-tax cost of a $1,000 donation by a household with an AGI of less than $20,000 was $987, while the average after-tax cost of the same donation by a household with an AGI of over $1 million was $405.

The committee expressed thanks to Ms. Gullickson for her presentation and expressed interest in seeing additional data regarding donations and tax credit awards according to counties within the state.

III. Review of Redevelopment Tax Credits

Mr. Matt Rassmussen, EDA, presented a report to the committee detailing the Brownfield and Grayfield Redevelopment Tax Credit Program which provides an investment tax credit for redevelopment projects in Iowa that meet the definition of either a brownfield or grayfield site.

A “brownfield” site includes an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A “grayfield” site includes an industrial or commercial property that is at least 25 years old and that meets one of several conditions relating to vacancy, assessed value, or use.

Under the program, an owner’s equity investment in a grayfield project can receive a tax credit of up to 12 percent of the qualifying investment, or up to 15 percent of the qualifying investment if the project meets the requirements of a green development. A brownfield project can receive a tax credit of up to 24 percent of the qualifying investment, or up to 30 percent of the qualifying investment if the project meets the requirements of a green development. “Qualifying investment” means costs that are directly related to a qualifying redevelopment project and that are incurred after the project has been registered and approved by the EDA Board and only includes the purchase price, the cleanup cost, and the redevelopment costs.

Mr. Rassmussen provided a history of the program in Iowa. The program was enacted in 2008 with a $1 million statewide program cap and a per project cap of 10 percent of the total credits ($100,000). In 2011, the statewide program cap was raised to $5 million, an independent audit of projects was required, and an automatic program sunset date was established on June 30, 2021. Most recently in 2013, the statewide program cap was raised to $10 million.

Mr. Rassmussen detailed the application and review process and provided examples of how the program is being utilized throughout the state. Program applications are accepted throughout the year and are considered on a first-come, first-served basis by the Brownfield Advisory Council. A recommendation is then made by the council to the EDA Board, and following that the applicant and the EDA enter into a contract for completion of the project. After the project is complete, a claim is submitted to the EDA, a site visit is performed, and a tax credit certificate is issued.

Mr. Zhong Jin, IDR, provided background information and statistical analysis of the Brownfield and Grayfield Redevelopment Tax Credit Program and discussed other states’ brownfield tax credit programs. Nine states, including Iowa, have established tax credit programs dedicated to the cleanup and redevelopment of brownfield or polluted properties. Iowa’s program is the only one that includes grayfield properties. Among all the states, Missouri has the highest top tax credit rate at 100 percent. Iowa’s top tax credit rate of 30 percent is the third lowest. Of the nine states with brownfield tax credit programs, only New York allows the credit to be refundable.

Mr. Jin detailed the amount of credit transfers administered by IDR and the number and amount of credit claims under the program over the last three fiscal years. During this time, 12 tax credit certificates were transferred totaling $1,732,256. These transfers represent 88 percent of the total awards issued. Also, 24 tax credit claims were made from which a total of $481,611 in credits were applied to current tax liability and a total of $219,876 in credits were carried forward to future tax years. Of these 24 tax credit claims, 11 were for brownfield projects and 13 were for grayfield projects. Also, of these 24 tax credit claims, 20 were claimed against income tax and four were claimed against the franchise tax or insurance premiums tax.

Mr. Jin next analyzed the economic impact of the various projects undertaken on the basis of assessed valuation increase and job growth. In fiscal year 2009-2010, a total of 12 projects were undertaken, which incurred $14,027,310 in qualified expenses. These projects produced a 315 percent increase in total assessed property value and an 845 percent increase in median assessed property value. A large majority of qualified expenses and assessed value increase was incurred or experienced at grayfield properties. The 12 projects undertaken in fiscal year 2009-2010 also produced a 138 percent increase in employment and a 119 percent increase in wages at the properties. Most of the employment gain and wage increase resulted from retail properties.

Discussion. The committee engaged in a discussion of the program, including whether many of the projects undertaken as part of the program would have occurred without the tax credit assistance provided by the program. It was noted, however, that it would be difficult to determine whether the property would be redeveloped or simply demolished. Committee members asked whether projects can qualify for tax credits under both the Brownfield and Grayfield Tax Credit Program and the Historic Preservation and Cultural and Entertainment District Tax Credit Program. Mr. Rassmussen confirmed the ability to receive both types of credits and added that up to 75 percent of the projects receive both credits. Committee members also inquired about the discount at which tax credits are sold to other parties. Mr. Rassmussen indicated that the tax credits are often sold at a discount of approximately 15 percent. The committee also discussed the role financial need of a person undertaking a project plays in approving projects and awarding tax credits. Mr. Rassmussen noted that financial need plays a small role in the program because credits are awarded on a first-come, first-served basis. Some committee members expressed the desire to incorporate financial need as a factor in awarding credits, while others expressed reservation about such action because the projects by definition already have an expressed need for assistance. Mr. Rassmussen suggested that if such a factor was required, it could be based upon comprehensive community need, instead of solely on financial need.

IV. Review of Child Dependent Care and Early Childhood Development Tax Credits

Ms. Mandy Jia, IDR, provided background information and statistical analysis of the Iowa Child and Dependent Care (CDC) Tax Credit and the Iowa Early Childhood Development (ECD) Tax Credit. Ms. Jia first provided the committee general data about child care in Iowa. In 2011, the average cost of child care for a four-year-old child was $7,551 per year, compared to the average cost of college tuition and fees of $7,562 per year. Iowa ranks third in the United States on the basis of the percentage of children under the age of six with both parents in the labor force. In fiscal year 2012-2013, the State of Iowa spent $61 million on child care assistance.

Ms. Jia next briefly described the ECD Tax Credit and provided a detailed description of the CDC Tax Credit. Taxpayers can claim only one of the two Iowa credits per tax year. The ECD Tax Credit equals 25 percent of first $1,000 of eligible early childhood development expenses per child between ages three and five from families with an Iowa net income of less than $45,000. The Iowa CDC Tax Credit equals between 30 and 75 percent of the federal CDC Tax Credit for families with an Iowa net income of less than $45,000. Unlike the federal CDC Tax Credit, the Iowa CDC Tax

Credit is refundable. The nonrefundable federal CDC Tax Credit equals between 20 and 35 percent of the eligible child care expenses for qualifying children under age 13 or disabled dependents. To claim the federal and Iowa CDC Tax Credit, a taxpayer must be working or seeking employment.

Ms. Jia next provided a history of the Iowa CDC Tax Credit. The Iowa CDC Tax Credit was enacted in 1977 at 5 percent of the federal CDC Tax Credit. Iowa's credit percentage was increased to 10 percent of the federal credit in 1983, and then to 45 percent of the federal credit in 1986. In 1990, Iowa's credit percentage was set at a sliding percentage of the federal credit. In 1993, the Iowa credit was limited to net incomes of less than $40,000. That limit was later increased to $45,000 in 2006. Finally in 2012, in response to taxpayer protests, the IDR's administrative rules were amended to specify that the Iowa CDC Tax Credit is to be calculated using the amount of the federal CDC Tax Credit actually received by the taxpayer, not the total amount for which the taxpayer was eligible to receive. As a result, taxpayers with no federal tax liability can no longer receive the Iowa CDC Tax Credit.

Ms. Jia next provided information on recipients of the Iowa CDC Tax Credit, including income distribution, marital status, age, county of residence, and length of time the credit is received. According to Ms. Jin, the biggest reason taxpayers stop claiming the Iowa CDC Tax Credit is because Iowa net income rises above $45,000. Ms. Jia concluded her presentation on the CDC Tax Credit by describing possible changes to the Iowa CDC credit, including modifying the credit to allow it regardless of federal tax liability, indexing the credit to increase with inflation in the future, and increasing the percentage of the credit.

Discussion. Several committee members expressed concern about IDR's 2012 administrative rule change that has resulted in fewer taxpayers qualifying for the Iowa CDC Tax Credit, and suggested that legislation to address the issue may be considered. Committee members also expressed interest in expanding the credit in other ways to provide a larger credit benefit or to benefit more taxpayers.

V. Review of Disaster Recovery Housing Tax Credits

Mr. Wes Peterson, Iowa Finance Authority (IFA), addressed the current status of the Disaster Recovery Housing Project Tax Credit Program. The program was established in 2009 to provide tax credits for qualifying investments in disaster recovery housing projects in an area declared to be a disaster area by the Governor or President of the United States from May 1, 2008, through August 31, 2008. The amount of the credit is equal to 75 percent of the taxpayer's qualifying investment incurred on or after May 12, 2009, and prior to July 2, 2010. The tax credits are not refundable or transferable. During the administrative rulemaking process, IFA received requests for substantive changes to the legislation. Final rules for the program were never adopted and no applications for the credits have been received by IFA. Committee members inquired as to why the program was never utilized. Mr. Peterson opined that the program's lack of use was due to other funding sources for such projects, including federal funding for these projects that was readily available. IFA recommended the repeal of the program due to its lack of use.

VI. Presentation on Property Tax Revenue Divisions for Urban Renewal Areas

Mr. Jeff Robinson, Legislative Services Agency, Ms. Carrie Johnson, Iowa Department of Management (DOM), and Mr. Ted Nellesen, DOM, provided an update and compliance report to the committee on the urban renewal area (also known as tax increment financing or TIF) reporting requirements enacted by the General Assembly in 2012. The presenters noted that several changes were made to the reporting process and requirements to make reporting easier and to account for some information that was not required during the first year of reporting. Overall, the second year of reporting was described as being easier because local governments were able utilize information that was reported in the previous year. Ms. Johnson said DOM conducted two training webinars over the past year: one for first-time users and one for experienced users. Ms. Johnson also briefly explained the new reporting requirements for the second and subsequent years that included the itemization of nonrebate expenditures, the reporting of public building analysis, and the addition of a penalty for noncompliance with the reporting requirements.

Mr. Robinson provided aggregate data on the reporting status of the local governments, information on the number of taxing districts by purpose designation, data on the financial status of urban renewal area tax revenue, and data on the amount and type of debt reported by local governments. Mr. Robinson noted that the data presented to the committee was preliminary and that final numbers would be presented in the Legislative Services Agency's Annual Report in February 2014. As of the date of the committee meeting, only 21 of the 476 local governments had no data entered. Additionally, 433 of the 476 local governments had already completed and approved their annual report.

Mr. Tony Girardi, IDR, provided background information on Iowa's urban renewal law and a description of his ongoing research into the efficacy of tax increment financing (TIF). He described the use of tax increment financing in other states and noted differences in Iowa's urban renewal law. Currently, 49 states and the District of Columbia allow the use of TIF. Of those 49 states, 31 require a finding of blight prior to the establishment of a TIF district, seven require that TIF meet a "but for" test, 32 states (including Iowa) allow TIF financing through general obligation bonds, and 14 states provide some type of exclusion from TIF for overlapping school districts. While noting the limited research on tax increment financing, Mr. Girardi said that he hopes to address TIF's effectiveness, efficiency, and necessity through his research. To date, findings on TIF's economic impact are mixed, according to Mr. Girardi.

Mr. Girardi next provided statistical analysis of TIF in Iowa. From 2000 to 2012, TIF incremental valuation in Iowa has risen from approximately $4.4 billion to $9.5 billion. The majority of this incremental valuation belongs to the commercial property class, followed by residential, industrial, and finally agricultural. Also, the majority of this incremental valuation relates to TIF for economic development. From 1980 to 2012, property tax revenues dedicated to TIF have increased from approximately $2.5 million to approximately $300 million. Of the total property taxes collected during that same period, the percentage collected in TIF districts has increased from approximately 0.1 percent of the total revenues to 5.9 percent of the total revenues. TIF also has an impact on school funding and the school aid formula. From 2001 to 2012, school district property tax revenues diverted to TIF districts has almost doubled, and this increase has produced a corresponding increase in the amount of state aid to school districts. Mr. Girardi concluded his analysis by providing information relating to TIF increment valuation by county over the last decade, and by stating that the next step in assessing the economic effects of TIF are to address whether or not it leads to economic growth.

Discussion. Committee members expressed interest in being able to quantify whether or not TIF actually creates growth, but recognized that such a question may be difficult to answer. Committee members acknowledged that there is a statewide cost to TIF because the state replaced for schools certain amounts that are diverted to TIF development. Accordingly, it is possible for certain taxpayers to be paying for development for which they will never directly benefit.

VII. Public Comment and Committee Discussion

During the public comment period of the meeting, several members of the public addressed the committee on a variety of tax issues. The committee briefly discussed the presentations made during the meeting and discussed the tax expenditures that are scheduled for review in 2014.

VIII. Materials Filed With the Legislative Services Agency

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the link on the committee's website:
https://www.legis.iowa.gov/committees/meetings/documents?committee=594&ga=85

1. Tentative Agenda
2. Brownfield and Grayfield Redevelopment Tax Credit Program, Economic Development Authority
3. Child and Dependent Care and Early Childhood Development Tax Credits, Iowa Department of Revenue
4. Disaster Recovery Housing Tax Credit Presentation, Iowa Finance Authority
5. Endow Iowa Tax Credit, Economic Development Authority
6. Endow Iowa Tax Credit, Iowa Department of Revenue
7. Endow Iowa Tax Credit Program, Economic Development Authority
8. Preliminary TIF Reporting Data — FY 2012-2013, Legislative Services Agency
9. Property Tax Increment Financing, Iowa Department of Revenue
10. Redevelopment Tax Credit Program for Brownfields and Grayfields, Economic Development Authority
11. Redevelopment Tax Credit, Iowa Department of Revenue

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