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MINUTES

Tax Expenditure Committee

December 3, 2014

MEMBERS PRESENT:

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

Representative Tom Sands, Co-chairperson
Representative Chris Hagenow
Representative John Landon
Representative Jo Oldson
Representative Sharon Steckman

MEETING IN BRIEF

Organizational staffing provided by: Michael Mertens, Legal Counsel, (515) 281-3444

Minutes prepared by: Doug Adkisson, Senior Legal Counsel, (515) 281-3884

I. Procedural Business

Call to Order. The first and only meeting of the 2014 Tax Expenditure Committee was called to order at 10:00 a.m. on Wednesday, December 3, 2014, in Room 103 (Supreme Court Chamber) at the State Capitol Building in Des Moines by Co-chairperson Sands. The meeting was adjourned at 3:15 p.m.

II. Charge, Welcome, Remembrance, and Well Wishes

Charge. In 2010, the Legislative Tax Expenditure Committee was established pursuant to Iowa Code sections 2.45(5) and 2.48. The committee is required to conduct regular reviews of all tax credit, withholding credit, and revenue division programs. The committee may review any tax expenditure at any time but is required to review specific tax expenditures during specified years. In 2014, the committee is required to review the qualifying business and community-based seed capital fund tax credits, the historic preservation and cultural and entertainment district tax credits, the wind energy production tax credits, the renewable energy tax credits, the ethanol promotion tax credits, the E-85 gasoline promotion tax credits, and the biodiesel blended fuel tax credits.

Welcome. Co-chairpersons Sands and Bolkcom welcomed members of the committee and asked them to introduce themselves.

Remembrance. Members of the committee, staff, participants, and attendees paused for a moment of silence to remember Representative Dwayne Alons who passed away on November 29, 2014.

Well wishes. Members of the committee extended well wishes and a hope for a rapid recovery to Senator Joe M. Seng.

III. Qualifying Business and Community-Based Seed Capital Fund Tax Credits

Ms. Kristin Hanks-Bents, Program Manager, Iowa Economic Development Authority (IEDA), Mr. Timothy Whipple, General Counsel, IEDA, and Ms. Angela Gullickson, Senior Fiscal and Policy Analyst, Iowa Department of Revenue (DOR), were invited to present testimony.

Ms. Hanks-Bents presented a report on the qualifying business and community-based seed capital fund tax credits, colloquially referred to as the “angel investor tax credits.” The angel investor tax credit is equal to 20 percent of an investor’s equity investment in a qualifying business or community-based seed capital fund. The credits are limited to a total aggregate amount of $2 million per fiscal year. The credits are also limited per taxpayer to $50,000 per investment in a qualifying business, and cannot be granted for more than five investments. Taxpayers are generally required to wait three years after making a qualifying investment to claim a credit, unless the investment was made in a qualifying business in calendar year 2014 or later, in which case the credit may be redeemed any time after December 31, 2015. The definitions of “qualifying business” and “community-based seed capital fund” were explained. Ms. Hanks-Bents reviewed IEDA’s proposed changes to the angel investor tax credits for 2015, including increasing the credit to 25 percent from 20 percent, making the credits refundable but not transferable, focusing the credits on individual angel investors and not institutions, streamlining eligibility, eliminating community-based seed capital funds, capping the individual credit level at $100,000 per taxpayer per year, and reducing the carryforward period from five years to three years.

Ms. Gullickson provided background information and statistical analysis of the angel investor tax credits. Ms. Gullickson also provided information on similar programs in other states. The data provided by Ms. Gullickson included the total number and amount of investments made and tax credits issued and claimed. Ms. Gullickson also provided data on the residency status of tax credit award recipients, the timing of the tax credit claims, the number and amount of unclaimed tax credits, and the investment amounts by business type. Finally, Ms. Gullickson provided data on differences in firm survival between venture capital firms that received qualifying investments and those that did not receive qualifying investments.

Committee questions and comments. Mr. Whipple responded to a number of questions and comments by committee members, including the extent to which IEDA has collected data regarding job creation and the lack of readily available data. Mr. Whipple described the history of the tax credits, and described the objective as being to entice individuals to make investments in Iowa companies. He and committee members discussed methods to streamline the process of allowing individuals to invest in start-up companies including businesses that participate in incubator programs. Committee members and Ms. Gullickson noted that a number of individuals did not claim the tax credit and discussed the low survival rate of start-up companies and the corresponding risks to investors.

IV. Historic Preservation and Cultural and Entertainment District Tax Credits

Mr. Steve King, Deputy State Historic Preservation Officer, Iowa Department of Cultural Affairs (IDCA), and Mr. Zhong Jin, Fiscal and Policy Analyst, DOR, were invited to present testimony.

Mr. King discussed the environmental, cultural, and economic benefits of preservation, and provided an update on the historic preservation and cultural and entertainment district tax credit program that was substantially modified during the 2014 Legislative Session. Mr. King stated that administrative rules are being created and are targeted for release in April 2015. Regarding the program’s transition away from the practice of reserving tax credits up to three years in advance, Mr. King stated that approximately $28 to $32 million of previously reserved, but unclaimed tax credits have been voluntarily declined by taxpayers. These declined tax credits are now eligible to be awarded to projects by IDCA through the new registration process scheduled to begin on January 26, 2015. To date, IDCA has held 51 preapplication meetings with prospective owners and developers in anticipation of this new registration process. A handful of these prospective applicants have been able to begin rehabilitation work prior to formal registration. Applications under the new registration process will be accepted electronically, which, according to Mr. King, will improve the efficiency and transparency of the program.

Mr. Jin provided background information and statistical analysis of the historic preservation and cultural and entertainment district tax credit and similar tax credits offered by other states and the federal government. The Iowa tax credit equals 25 percent of the qualified rehabilitation expenditures for the preservation of historic properties located in Iowa. The tax credit awards are limited to a total aggregate amount of $45 million per fiscal year. Mr. Jin detailed the tax credit awards by reservation year and county, the tax credit claims and transfers by tax type, and the tax credit claims and refunds by tax year. Mr. Jin provided results from a tax credit survey that gathered information on project types, funding, size, and expenditures. Mr. Jin used those results and other data to analyze the impact of the credit in terms of employment, average wages, and sales tax revenues at project properties.

Committee discussion. Mr. Jin responded to questions by committee members who commented upon the number of communities benefiting from the tax credit and methods to analyze the program's success, the use of a refundable rather than transferable tax credits, the market value of a tax credit, the effect the program has on revitalizing a community, the prolonged period to adopt administrative rules necessary to implement recently enacted legislation, and state moneys reserved to support future tax credits.

V. Data Center and Web Search Portal Business Tax Incentives

Mr. Whipple and Ms. Victoria Daniels, Public Information Officer and Legislative Liaison, DOR, were invited to present testimony.

Mr. Whipple provided background information on the various tax incentives available to data centers and web search portal businesses through IEDA's programs. There is no particular IEDA program dedicated to data centers and web search portal businesses, so these projects have been financed through IEDA's High Quality Jobs Program. The High Quality Jobs Program provides income tax credits, sales and use tax refunds on construction materials, and value-added property tax exemptions to eligible businesses that create jobs and make substantial capital investments in Iowa. The property tax exemptions must be granted by the local communities where the project is located. Mr. Whipple provided data on the relevant data center and web search portal businesses that have participated in the High Quality Jobs Program, including company name, location, project cost, capital investment, tax benefits awarded, qualifying wage, total jobs, and duration.

Ms. Daniels provided background information on various tax incentives administered by DOR that are specifically targeted at data centers and web search portal businesses. These include a sales and use tax exemption for the sale or rental of computers, equipment, backup power generation fuel, and electricity; a limited sales and use tax refund for tax paid upon the purchase of electricity and fuel used to create power; and a property tax exemption for data center and web search portal business property other than land, buildings or other improvements. These three tax incentives are not awarded by DOR. Instead, a data center or web search portal business is automatically eligible for the tax incentives if it meets the statutory requirements. DOR estimated the value of several recent property tax exemptions using data obtained from county assessors, but stated that due to confidentiality rules and the manner in which the tax incentives are claimed, DOR cannot release or reliably quantify the value of the other tax exemptions and refunds.

Committee questions and comments. Mr. Whipple responded to questions by members regarding the total amount of incentives provided to persons participating in the programs, including sales tax revenues forgone by the state. Mr. Whipple stated that it was not possible to provide detailed information regarding tax information concerning a specific taxpayer and that information regarding electricity and water usage were considered closely guarded secrets by businesses. Members discussed both the need to determine the total amount of tax revenue forgone by the state and also the economic benefits accruing to a community that attracts a new industry.

VI. Wind Energy Production Tax Credits and Renewable Energy Tax Credits

Ms. Ellen Shaw, Utilities Analyst, Iowa Utilities Board (IUB), and Dr. Anthony Girardi, Tax Research and Program Analysis Section, DOR, were invited to present testimony.

Ms. Shaw presented a report on the wind energy production and renewable energy tax credits jointly administered by IUB and DOR. The wind energy production tax credit is available for 10 years to wind facilities and is equal to $0.01 per kilowatt-hour. The renewable energy tax credit is available for 10 years to wind, biogas, biomass, methane, solar, refuse conversion, and cogeneration facilities and is equal to $0.015 per kilowatt-hour of electricity, $4.50 per million British thermal units of heat for a commercial purpose or of methane gas or other gas used to generate electricity, or $1.44 per one thousand standard cubic feet of hydrogen fuel. Both credits have separate restrictions on a facility's placed-in-service date, and on the megawatt nameplate capacity of each facility and for all facilities. Ms. Shaw explained IUB's application process to establish eligibility for the tax credits.

Dr. Girardi provided background information and statistical analysis of the wind energy production and renewable energy tax credits and of similar programs offered by other states and the federal government. The data provided by Dr. Girardi included the number of operational projects approved for tax credits, the amount of generating capacity and share of wind energy capacity by energy sector, the total megawatt production from wind compared to the amount credited, and the median wind project generation efficiency. Dr. Girardi also analyzed tax credit awards by year according to amount, average award, residency of the recipient, percentage transferred, and tax type. Finally, Dr. Girardi provided data on the estimated property tax impact of tax credit projects.

Committee questions. In response to committee questions, Ms. Shaw and Dr. Girardi discussed persons eligible to participate in Iowa Code chapters 476B and 476C programs, the fluctuating number of persons applying to participate in the current program, the possible continuation of a federal tax credit, and that the program's purpose is to assist smaller projects.

VII. Biofuel Retailers' Tax Credits

Mr. John Good, Fiscal Policy Analyst, DOR, and Dr. Mandi Jia, Senior Fiscal and Policy Analyst, DOR, were invited to present testimony regarding various biofuel related tax credits, including the Ethanol Promotion Tax Credit (Iowa Code sections 422.11N and 422.33), the E-85 Gasoline Promotion Tax Credit (Iowa Code sections 422.11O and 422.33), the Biodiesel Blended Fuel Tax Credit (Iowa Code sections 422.11P and 422.33), and the E-15 Plus Gasoline Promotion Tax Credit (Iowa Code section 422.11Y).

Mr. Good and Dr. Jia presented a report on the Ethanol Promotion Tax Credit, E-85 Gasoline Promotion Tax Credit, E-15 Plus Gasoline Promotion Tax Credit, and the Biodiesel Blended Fuel Tax Credit. The report also included information on similar tax credits offered by other states. The Ethanol Promotion Tax Credit amount ranges from $0.04 to $0.08 per gallon of pure ethanol sold through December 31, 2020, depending on how close a retailer's biofuel distribution percentage is to the credit's biofuel threshold percentage. For both percentages, Mr. Good explained the formulas and provided data. A retailer that varies from the threshold percentage by 4 percentage points or more is not eligible for the Ethanol Promotion Tax Credit. The E-85 Gasoline Promotion Tax Credit is equal to $0.16 per gallon of E-85 gasoline (ethanol blends of E-70 to E-85) sold through December 31, 2017. The E-15 Plus Gasoline Promotion Tax Credit is equal to $0.03 per gallon of E-15 gasoline (ethanol blends of E-15 to E-69) sold through December 31, 2017. The E-15 Gasoline Promotion Tax Credit rate increases to $0.10 per gallon during the summer months (June 1 through September 15) to account for special blending requirements of the federal Environmental Protection Agency. The Biodiesel Blended Fuel Tax Credit is equal to $0.045 per gallon of fuel rated B-5 (5 percent ethanol) or higher sold through December 31, 2017. Mr. Good analyzed credit claims by year according to number, amount, and recipient, including the percentage of claims refunded. Mr. Good also provided data on the number of stations reporting E-85 sales by county, the registered flex fuel vehicles compared to end-of-year target goals, the number of registered vehicles compatible with E-15 fuel, and the percentage of stations reporting zero biofuel sales. Finally, Dr. Jia provided a forecast of future Iowa biofuel sales, tax credit claims, and distribution percentages.

Committee discussion. In response to committee questions, Mr. Good and Dr. Jia discussed the method of calculating various biofuel tax credits available to retail dealers, the effect of thresholds requiring increasing sales of biofuels in order to claim the Ethanol Promotion Tax Credit, and the comparatively slow rate of increase for ethanol blended gasoline sales compared to biodiesel sales. Members also commented upon differences in the per gallon price and miles per gallon of gasoline and ethanol blended gasoline.

VIII. Public Comment

The committee offered any member of the public in attendance to make comments. No member of the public took the opportunity to address the committee.

IX. Committee Discussion

The committee considered tax credits subject to review next year and possible methods to accomplish that review. The tax credits required to be reviewed include the Agricultural Assets Transfer Tax Credit (Iowa Code section 16.80), the Custom Farming Contract Tax Credit (Iowa Code section 16.81), the Claim of Right Tax Credit (Iowa Code section 422.5), the Reduction in Allocating Income to Iowa by S Corporation Shareholders (Iowa Code section 422.8), the Minimum Tax Credit (Iowa Code sections 422.11B, 422.33, and 422.60), the Assistive Device Corporate Tax Credit (Iowa Code section 422.330), the Charitable Conservation Contribution Tax Credit (Iowa Code sections 422.11W and 422.33), the Motor Vehicle Fuel Tax Credit (Iowa Code section 422.110), and the New Jobs Tax Credits (Iowa Code section 422.11A). The committee also considered the extent to which the Legislature could obtain more information regarding tax incentives available to data centers and web search portal businesses.

X. Materials Filed With the Legislative Services Agency

The 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 "Committee Documents" link on the committee's Internet page:
https://www.legis.iowa.gov/committees/committee?ga=85&groupID=594

1. Biofuel Retailers' Tax Credits — Department of Revenue.
2. Data Center Information — Economic Development Authority.
3. High Quality Jobs Report — Economic Development Authority.
4. Historic Preservation and Cultural and Entertainment District Tax Credits — Department of Revenue.
5. Iowa Utilities Board Handout.
6. Prepared Remarks to Committee by Steve King — Department of Cultural Affairs.
7. Qualifying Business and Community-Based Seed Capital Fund Tax Credits — Department of Revenue.
8. Qualifying Business and Community-Based Seed Capital Fund Tax Credits — Economic Development Authority.
9. Wind and Renewable Energy Tax Credits — Department of Revenue.
10. Wind and Renewable Energy Tax Credits — Iowa Utilities Board.
11. Wind and Renewable Energy Tax Credits Handout — Iowa Utilities Board.

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