



Bill Number: S.B. 1144

Farley Floor Amendment

Reference to: FINANCE Committee amendment

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- **Modifies the Joint Legislative Tax Expenditure Review Committee's (Committee) review schedule for income tax credits from a five-year period to a 10-year period.**
- **Requires the Committee to review all other tax expenditures no later than the tenth full calendar year following the date these expenditures were reviewed.**
- **Requires the Committee to compile and adopt a 10-year review schedule for the tax expenditures by December 15, 2017.**
- **Exempts wholesale-related tax expenditures from review.**

Amendment explanation prepared by Fareed Bailey

3/6/2017

FARLEY FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1144
(Reference to FINANCE Committee amendment)

1 Page 1, before line 1, insert:

2 "Page 1, between lines 1 and 2, insert:

3 "Section 1. Section 42-2003, Arizona Revised Statutes, is
4 amended to read:

5 42-2003. Authorized disclosure of confidential
6 information

7 A. Confidential information relating to:

8 1. A taxpayer may be disclosed to the taxpayer, its
9 successor in interest or a designee of the taxpayer who is
10 authorized in writing by the taxpayer. A principal corporate
11 officer of a parent corporation may execute a written
12 authorization for a controlled subsidiary.

13 2. A corporate taxpayer may be disclosed to any principal
14 officer, any person designated by a principal officer or any
15 person designated in a resolution by the corporate board of
16 directors or other similar governing body.

17 3. A partnership may be disclosed to any partner of the
18 partnership. This exception does not include disclosure of
19 confidential information of a particular partner unless
20 otherwise authorized.

21 4. An estate may be disclosed to the personal
22 representative of the estate and to any heir, next of kin or
23 beneficiary under the will of the decedent if the department
24 finds that the heir, next of kin or beneficiary has a material
25 interest that will be affected by the confidential information.

1 5. A trust may be disclosed to the trustee or trustees,
2 jointly or separately, and to the grantor or any beneficiary of
3 the trust if the department finds that the grantor or
4 beneficiary has a material interest that will be affected by
5 the confidential information.

6 6. Any taxpayer may be disclosed if the taxpayer has
7 waived any rights to confidentiality either in writing or on
8 the record in any administrative or judicial proceeding.

9 7. The name and taxpayer identification numbers of persons
10 issued direct payment permits may be publicly disclosed.

11 B. Confidential information may be disclosed to:

12 1. Any employee of the department whose official duties
13 involve tax administration.

14 2. The office of the attorney general solely for its use
15 in preparation for, or in an investigation that may result in,
16 any proceeding involving tax administration before the
17 department or any other agency or board of this state, or
18 before any grand jury or any state or federal court.

19 3. The department of liquor licenses and control for its
20 use in determining whether a spirituous liquor licensee has
21 paid all transaction privilege taxes and affiliated excise
22 taxes incurred as a result of the sale of spirituous liquor, as
23 defined in section 4-101, at the licensed establishment and
24 imposed on the licensed establishments by this state and its
25 political subdivisions.

26 4. Other state tax officials whose official duties require
27 the disclosure for proper tax administration purposes if the
28 information is sought in connection with an investigation or
29 any other proceeding conducted by the official. Any disclosure
30 is limited to information of a taxpayer who is being

1 investigated or who is a party to a proceeding conducted by the
2 official.

3 5. The following agencies, officials and organizations, if
4 they grant substantially similar privileges to the department
5 for the type of information being sought, pursuant to statute
6 and a written agreement between the department and the foreign
7 country, agency, state, Indian tribe or organization:

8 (a) The United States internal revenue service, alcohol
9 and tobacco tax and trade bureau of the United States treasury,
10 United States bureau of alcohol, tobacco, firearms and
11 explosives of the United States department of justice, United
12 States drug enforcement agency and federal bureau of
13 investigation.

14 (b) A state tax official of another state.

15 (c) An organization of states, federation of tax
16 administrators or multistate tax commission that operates an
17 information exchange for tax administration purposes.

18 (d) An agency, official or organization of a foreign
19 country with responsibilities that are comparable to those
20 listed in subdivision (a), (b) or (c) of this paragraph.

21 (e) An agency, official or organization of an Indian
22 tribal government with responsibilities comparable to the
23 responsibilities of the agencies, officials or organizations
24 identified in subdivision (a), (b) or (c) of this paragraph.

25 6. The auditor general, in connection with any audit of
26 the department subject to the restrictions in section 42-2002,
27 subsection D.

28 7. Any person to the extent necessary for effective tax
29 administration in connection with:

30 (a) The processing, storage, transmission, destruction and
31 reproduction of the information.

1 (b) The programming, maintenance, repair, testing and
2 procurement of equipment for purposes of tax administration.

3 (c) The collection of the taxpayer's civil liability.

4 8. The office of administrative hearings relating to taxes
5 administered by the department pursuant to section 42-1101, but
6 the department shall not disclose any confidential information:

7 (a) Regarding income tax or withholding tax.

8 (b) On any tax issue relating to information associated
9 with the reporting of income tax or withholding tax.

10 9. The United States treasury inspector general for tax
11 administration for the purpose of reporting a violation of
12 internal revenue code section 7213A (26 United States Code
13 section 7213A), unauthorized inspection of returns or return
14 information.

15 10. The financial management service of the United States
16 treasury department for use in the treasury offset program.

17 11. The United States treasury department or its
18 authorized agent for use in the state income tax levy program
19 and in the electronic federal tax payment system.

20 12. The Arizona commerce authority for its use in:

21 (a) Qualifying renewable energy operations for the tax
22 incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

23 (b) Qualifying businesses with a qualified facility for
24 income tax credits expenditures under sections 43-1083.03 and
25 43-1164.04.

26 (c) Fulfilling its annual reporting responsibility
27 pursuant to section 41-1511, subsections U and V and section
28 41-1512, subsections U and V.

29 (d) Certifying computer data centers for tax relief under
30 section 41-1519.

1 13. A prosecutor for purposes of section 32-1164,
2 subsection C.

3 14. The state fire marshal for use in determining
4 compliance with and enforcing title 37, chapter 9, article 5.

5 15. The department of transportation for its use in
6 administering taxes, surcharges and penalties prescribed by
7 title 28.

8 16. The Arizona health care cost containment system
9 administration for its use in administering nursing facility
10 provider assessments.

11 C. Confidential information may be disclosed in any state
12 or federal judicial or administrative proceeding pertaining to
13 tax administration pursuant to the following conditions:

14 1. One or more of the following circumstances must apply:

15 (a) The taxpayer is a party to the proceeding.

16 (b) The proceeding arose out of, or in connection with,
17 determining the taxpayer's civil or criminal liability, or the
18 collection of the taxpayer's civil liability, with respect to
19 any tax imposed under this title or title 43.

20 (c) The treatment of an item reflected on the taxpayer's
21 return is directly related to the resolution of an issue in the
22 proceeding.

23 (d) Return information directly relates to a transactional
24 relationship between a person who is a party to the proceeding
25 and the taxpayer and directly affects the resolution of an
26 issue in the proceeding.

27 2. Confidential information may not be disclosed under
28 this subsection if the disclosure is prohibited by section
29 42-2002, subsection C or D.

1 D. Identity information may be disclosed for purposes of
2 notifying persons entitled to tax refunds if the department is
3 unable to locate the persons after reasonable effort.

4 E. The department, on the request of any person, shall
5 provide the names and addresses of bingo licensees as defined
6 in section 5-401, verify whether or not a person has a
7 privilege license and number, a tobacco product distributor's
8 license and number or a withholding license and number or
9 disclose the information to be posted on the department's
10 website or otherwise publicly accessible pursuant to section
11 42-1124, subsection F and section 42-3401.

12 F. A department employee, in connection with the official
13 duties relating to any audit, collection activity or civil or
14 criminal investigation, may disclose return information to the
15 extent that disclosure is necessary to obtain information that
16 is not otherwise reasonably available. These official duties
17 include the correct determination of and liability for tax, the
18 amount to be collected or the enforcement of other state tax
19 revenue laws.

20 G. If an organization is exempt from this state's income
21 tax as provided in section 43-1201 for any taxable year, the
22 name and address of the organization and the application filed
23 by the organization on which the department made its
24 determination for exemption together with any papers submitted
25 in support of the application and any letter or document issued
26 by the department concerning the application are open to public
27 inspection.

28 H. Confidential information relating to transaction
29 privilege tax, use tax, severance tax, jet fuel excise and use
30 tax and any other tax collected by the department on behalf of
31 any jurisdiction may be disclosed to any county, city or town

1 tax official if the information relates to a taxpayer who is or
2 may be taxable by a county, city or town or who may be subject
3 to audit by the department pursuant to section 42-6002. Any
4 taxpayer information released by the department to the county,
5 city or town:

6 1. May only be used for internal purposes, including
7 audits.

8 2. May not be disclosed to the public in any manner that
9 does not comply with confidentiality standards established by
10 the department. The county, city or town shall agree in
11 writing with the department that any release of confidential
12 information that violates the confidentiality standards adopted
13 by the department will result in the immediate suspension of
14 any rights of the county, city or town to receive taxpayer
15 information under this subsection.

16 I. The department may disclose statistical information
17 gathered from confidential information if it does not disclose
18 confidential information attributable to any one taxpayer. The
19 department may disclose statistical information gathered from
20 confidential information, even if it discloses confidential
21 information attributable to a taxpayer, to:

22 1. The state treasurer in order to comply with the
23 requirements of section 42-5029, subsection A, paragraph 3.

24 2. The joint legislative ~~income~~ tax ~~credit~~ EXPENDITURE
25 review committee, the joint legislative budget committee staff
26 and the legislative staff in order to comply with the
27 requirements of section 43-221.

28 J. The department may disclose the aggregate amounts of
29 any tax credit, tax deduction or tax exemption enacted after
30 January 1, 1994. Information subject to disclosure under this
31 subsection shall not be disclosed if a taxpayer demonstrates to

1 the department that such information would give an unfair
2 advantage to competitors.

3 K. Except as provided in section 42-2002, subsection C,
4 confidential information, described in section 42-2001,
5 paragraph 1, subdivision (a), item (ii), may be disclosed to
6 law enforcement agencies for law enforcement purposes.

7 L. The department may provide transaction privilege tax
8 license information to property tax officials in a county for
9 the purpose of identification and verification of the tax
10 status of commercial property.

11 M. The department may provide transaction privilege tax,
12 luxury tax, use tax, property tax and severance tax information
13 to the ombudsman-citizens aide pursuant to title 41, chapter 8,
14 article 5.

15 N. Except as provided in section 42-2002, subsection D, a
16 court may order the department to disclose confidential
17 information pertaining to a party to an action. An order shall
18 be made only on a showing of good cause and that the party
19 seeking the information has made demand on the taxpayer for the
20 information.

21 O. This section does not prohibit the disclosure by the
22 department of any information or documents submitted to the
23 department by a bingo licensee. Before disclosing the
24 information the department shall obtain the name and address of
25 the person requesting the information.

26 P. If the department is required or permitted to disclose
27 confidential information, it may charge the person or agency
28 requesting the information for the reasonable cost of its
29 services.

30 Q. Except as provided in section 42-2002, subsection D,
31 the department of revenue shall release confidential

1 information as requested by the department of economic security
2 pursuant to section 42-1122 or 46-291. Information disclosed
3 under this subsection is limited to the same type of
4 information that the United States internal revenue service is
5 authorized to disclose under section 6103(l)(6) of the internal
6 revenue code.

7 R. Except as provided in section 42-2002, subsection D,
8 the department of revenue shall release confidential
9 information as requested by the courts and clerks of the court
10 pursuant to section 42-1122.

11 S. To comply with the requirements of section 42-5031, the
12 department may disclose to the state treasurer, to the county
13 stadium district board of directors and to any city or town tax
14 official that is part of the county stadium district
15 confidential information attributable to a taxpayer's business
16 activity conducted in the county stadium district.

17 T. The department shall release to the attorney general
18 confidential information as requested by the attorney general
19 for purposes of determining compliance with or enforcing any of
20 the following:

21 1. Any public health control law relating to tobacco sales
22 as provided under title 36, chapter 6, article 14.

23 2. Any law relating to reduced cigarette ignition
24 propensity standards as provided under title 37, chapter 9,
25 article 5.

26 3. Sections 44-7101 and 44-7111, the master settlement
27 agreement referred to in those sections and all agreements
28 regarding disputes under the master settlement agreement.

29 U. For proceedings before the department, the office of
30 administrative hearings, the board of tax appeals or any state
31 or federal court involving penalties that were assessed against

1 a return preparer, an electronic return preparer or a payroll
2 service company pursuant to section 42-1103.02, 42-1125.01 or
3 43-419, confidential information may be disclosed only before
4 the judge or administrative law judge adjudicating the
5 proceeding, the parties to the proceeding and the parties'
6 representatives in the proceeding prior to its introduction
7 into evidence in the proceeding. The confidential information
8 may be introduced as evidence in the proceeding only if the
9 taxpayer's name, the names of any dependents listed on the
10 return, all social security numbers, the taxpayer's address,
11 the taxpayer's signature and any attachments containing any of
12 the foregoing information are redacted and if either:

13 1. The treatment of an item reflected on such return is or
14 may be related to the resolution of an issue in the proceeding.

15 2. Such a return or the return information relates or may
16 relate to a transactional relationship between a person who is
17 a party to the proceeding and the taxpayer that directly
18 affects the resolution of an issue in the proceeding.

19 3. The method of payment of the taxpayer's withholding tax
20 liability or the method of filing the taxpayer's withholding
21 tax return is an issue for the period.

22 V. The department and attorney general may share the
23 information specified in subsection T of this section with any
24 of the following:

25 1. Federal, state or local agencies for the purposes of
26 enforcement of corresponding laws of other states.

27 2. A court, arbitrator, data clearinghouse or similar
28 entity for the purpose of assessing compliance with or making
29 calculations required by the master settlement agreement or
30 agreements regarding disputes under the master settlement
31 agreement, and with counsel for the parties or expert witnesses

1 in any such proceeding, if the information otherwise remains
2 confidential.

3 W. The department may provide the name and address of
4 qualifying hospitals and qualifying health care organizations,
5 as defined in section 42-5001, to a business classified and
6 reporting transaction privilege tax under the utilities
7 classification.

8 X. The department may disclose to an official of any city,
9 town or county in a current agreement or considering a
10 prospective agreement with the department as described in
11 section 42-5032.02, subsection F any information relating to
12 amounts subject to distribution required by section 42-5032.02.
13 Information disclosed by the department under this subsection:

14 1. May only be used by the city, town or county for
15 internal purposes.

16 2. May not be disclosed to the public in any manner that
17 does not comply with confidentiality standards established by
18 the department. The city, town or county must agree with the
19 department in writing that any release of confidential
20 information that violates the confidentiality standards will
21 result in the immediate suspension of any rights of the city,
22 town or county to receive information under this subsection.

23 Y. Notwithstanding any other provision of this section,
24 the department may not disclose information provided by an
25 online lodging marketplace, as defined in section 42-5076,
26 without the written consent of the online lodging marketplace,
27 and the information may be disclosed only pursuant to
28 subsection A, paragraphs 1 through 6, subsection B, paragraphs
29 1, 2, 7 and 8 and subsections C and D of this section. Such
30 information:

1 1. Is not subject to disclosure pursuant to title 39,
2 relating to public records.

3 2. May not be disclosed to any agency of this state or of
4 any county, city, town or other political subdivision of this
5 state."

6 Renumber to conform"

7 Page 1, between lines 2 and 3, insert:

8 "Line 12, strike "INCOME"; strike "CREDIT" insert "EXPENDITURE""

9 Line 6, strike "2." insert "3."

10 Lines 23 and 25, after "~~credit~~" insert "TAX"

11 Line 26, after "corporate" insert "INCOME"

12 Line 29, after "~~credit~~" insert "TAX"

13 After line 30, insert:

14 "C. THE COMMITTEE SHALL ADOPT AND REVIEW THE TAX EXPENDITURES UNDER
15 TITLE 42, CHAPTER 5 ACCORDING TO A TEN-YEAR REVIEW SCHEDULE."

16 Reletter to conform

17 Page 2, line 9, after "AND" strike remainder of line

18 Line 10, strike "TAX CREDITS,"; strike "credit" insert "TAX EXPENDITURE"

19 Line 11, after "43-222" insert "OR THE SCHEDULE FOR REVIEWING TAX EXPENDITURES
20 UNDER TITLE 42, CHAPTER 5 ADOPTED PURSUANT TO SUBSECTION C OF THIS
21 SECTION"; after the period insert:

22 "G. FOR INDIVIDUAL AND CORPORATE INCOME TAX CREDITS,"; after "year"
23 strike remainder of line

24 Line 12, strike "CREDITS"; strike "the fifth" insert "NOT LATER THAN THE
25 TENTH"

26 Line 13, after the period insert "FOR ALL OTHER TAX EXPENDITURES, THE NEXT
27 REVIEW YEAR SHALL BE NOT LATER THAN THE TENTH FULL CALENDAR YEAR FOLLOWING
28 THE DATE THE TAX EXPENDITURE WAS REVIEWED.
29 H."

30 Line 19, strike "E." insert "~~E.~~ I."

1 Page 2, line 21, strike "F." insert "J."; after "MEANS" insert ":

2 1."

3 Line 25, strike "SUBTRACTIONS,"; strike ", ALLOWANCES"

4 Line 26, after the period insert "TAX EXPENDITURE DOES NOT INCLUDE DEDUCTIONS
5 UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 50, SECTION 42-5061,
6 SUBSECTION G OR THE OMISSION OF ANY BUSINESS ACTIVITY FROM THE TRANSACTION
7 PRIVILEGE TAX CLASSIFICATIONS UNDER TITLE 42, CHAPTER 5, ARTICLE 2.

8 2. INDIVIDUAL AND CORPORATE INCOME TAX CREDITS ESTABLISHED BY
9 CHAPTER 10, ARTICLE 5 AND CHAPTER 11, ARTICLE 6 OF THIS TITLE.

10 Sec. 4. Section 43-222, Arizona Revised Statutes, is amended to
11 read:

12 43-222. Income tax credit review schedule

13 The joint legislative ~~income~~ tax ~~credit~~ EXPENDITURE review committee
14 shall review the following income tax credits:

15 ~~1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,~~
16 ~~43-1088, 43-1089.04, 43-1167.01 and 43-1175.~~

17 ~~2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,~~
18 ~~43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.~~

19 ~~3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,~~
20 ~~43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,~~
21 ~~43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.~~

22 ~~4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,~~
23 ~~43-1168, 43-1170 and 43-1178.~~

24 ~~5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,~~
25 ~~43-1081.01, 43-1083.01, 43-1083.04, 43-1084, 43-1162, 43-1162.01,~~
26 ~~43-1164.01, 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019,~~
27 ~~sections 43-1083.03 and 43-1164.04.~~

28 1. FOR YEARS ENDING IN 1, SECTIONS 43-1074.02, 43-1083, 43-1083.02,
29 43-1167.01 AND 43-1175.

30 2. FOR YEARS ENDING IN 2, SECTIONS 43-1083.04, 43-1084, 43-1162,
31 43-1162.01 AND 43-1164.01.

1 3. FOR YEARS ENDING IN 3, SECTIONS 43-1073, 43-1085.01, 43-1164.02,
2 43-1164.03 AND 43-1183.

3 4. FOR YEARS ENDING IN 4, SECTIONS 43-1079, 43-1080, 43-1085,
4 43-1086 AND 43-1089.

5 5. FOR YEARS ENDING IN 5, SECTIONS 43-1089.01, 43-1089.02,
6 43-1089.03, 43-1090 AND 43-1164.

7 6. FOR YEARS ENDING IN 6, SECTIONS 43-1074.01, 43-1167, 43-1169,
8 43-1176 AND 43-1181.

9 7. FOR YEARS ENDING IN 7, SECTIONS 43-1081, 43-1168, 43-1170 AND
10 43-1178.

11 8. FOR YEARS ENDING IN 8, SECTIONS 43-1076, 43-1076.01, 43-1081.01
12 AND 43-1083.01.

13 9. FOR YEARS ENDING IN 9, SECTIONS 43-1164.05, 43-1170.01 AND
14 43-1184 AND, BEGINNING IN 2019, SECTIONS 43-1083.03 AND 43-1164.04.

15 10. FOR YEARS ENDING IN 0, SECTIONS 43-1079.01, 43-1087, 43-1088 AND
16 43-1089.04.

17 Sec. 5. Section 43-223, Arizona Revised Statutes, is amended to
18 read:

19 43-223. Requirements for new income tax credits established by
20 the legislature

21 Any new individual or corporate income tax credit that is enacted by
22 the legislature shall include in its enabling legislation:

23 1. A specific review year for the joint legislative ~~income~~ tax
24 ~~credit~~ EXPENDITURE review committee to review the credit. The specific
25 review year shall be the fifth full calendar year following the date the
26 credit is enacted.

27 2. A purpose clause that explains the rationale and objective of the
28 tax credit.

1 Sec. 6. Transaction privilege tax expenditure review schedule
2 Pursuant to section 43-221, subsection C, Arizona Revised Statutes,
3 as added by this act, the joint legislative tax expenditure review
4 committee shall compile and adopt a ten-year review schedule for
5 transaction privilege tax expenditures under title 42, chapter 5, Arizona
6 Revised Statutes, on or before December 15, 2017."
7 Amend title to conform

STEVE FARLEY

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02/22/2017
7:40 PM
C: dmt