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On Behalf Of:  
Committee: Joint Committee On Tax Expenditures  
Measure: HB2569

SB 2569 Weakens our Sunset/Review process  
Joint Tax Expenditures – Chuck Riley – 3.31.2023

As you look at this bill which disrupts our sunset/review process you might ask “Do sunsets of tax expenditures work?”

Placing sunsets on tax expenditures has proven a good tool for examining tax expenditures. Upon review by policy committees and the Joint Tax Credit Committee, some provisions saw refinements and a couple were merged.

Twenty-six of the original 51 provisions given sunset dates in HB2067 in 2009 were not retained when reviewed upon their sunsets:

- Alternative energy devices (residential)
- Alternative fuel stations
- Biofuel consumer credit
- Biodiesel used in home heating
- Business Energy Facilities (BETC)
- Child and Dependent Care (moved into another tax credit)
- Contributions of computer equipment
- Costs of nursing home care
- Diesel Truck (new)
- Diesel Truck (retrofit and repower)
- Electronic Commerce Zone
- Employer provided dependent care assistance
- Energy conservation lender’s credit
- Farmworker housing lender’s credit
- Fire Insurance
- Long term care insurance
- Loss of limbs
- Production or collection of biomass
- Qualified research activities
- Qualified research activities (alternate)

- Reforestation
- Riparian land removed from farm production
- TRI care health care providers
- Water transit vessel manufacturing
- Workers Comp assessments
- Youth Apprenticeship sponsorship

Interestingly, a number of the tax exemptions created since the 2009 law have also not outlived their sunsets. We noticed these which have been enacted and let sunset since 2009:

- Bovine Manure
- Contributions to the Office of Child Care
- Employee training
- Energy conservation
- Low Income Community Jobs (NMTC)
- Renewable energy development construction
- Renewable energy manufacturing
- Transit projects

Under current law, the Legislative Revenue Office assists in the review process by providing a document each biennium which provides more analysis than the Tax Expenditure Report of those tax credit provisions facing sunsets. Additional tax expenditures that are not tax credits have been given sunset dates, but LRO isn't charged with including them in the tax credit review document they prepare. It would be helpful if LRO were given the responsibility of providing analysis for them. Some upcoming examples, most of which are actually being considered for extension this session and their sunset dates:

- Enterprise zone (standard and long term rural) 6/30/2025
- Construction in process in an enterprise zone 6/30/2025
- Federal land under recreation facility 6/30/2024
- Gain share
- New industrial property in rural areas 1/1/2024
- New single unit housing 6/30/2025
- Vertical development housing zone 12/31/2025

Given the success of the sunset/review process in refining and eliminating tax breaks that legislators found needed changes or were no longer necessary, it seems prudent

for the legislature to add additional tax expenditure provisions to the state's sunset/review process.

The current Tax Expenditure Report includes 368 provisions. We think a bill adding additional measures, including those around which there have been questions, is due. That list would include provisions such as the mortgage interest deduction and the strategic investment program, and lesser known provisions such as the farm and forest homesites and logging equipment, and tough issues like the exemption of all social security income and the absence of taxation on like-kind exchanges.

The existence of the actual sunset, not just the review, has proven critical in the process of making decisions about our tax expenditures. We encourage you to keep the current program in place and encourage you to add additional provisions to the sunset/review process.