Senator Jason Crowell
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Subjecting Tax Credits to the Appropriations Process

This document addresses issues regarding the proposal to subject tax credits to the General Assembly's annual appropriations process each year. Specifically, it focuses on the proposal that was included in several versions of the economic development legislation from the 2009 session.

The proposal allowed the House Budget committee and the Senate Appropriations committee to annually set the caps on the majority of the active tax credit programs in Missouri. Each tax credit's dollar amount that could be authorized each year would be delineated in the appropriations bill dealing with public debt. Proponents of the tax credit programs that are subject to this appropriations process would have the opportunity to present their case to the committees for why the General Assembly should allocate tax credits to the programs, much like the current process for those who seek state appropriations dollars; this part of the proposal would effectively force an annual review of the tax credit programs. Under the proposal, each tax credit program would be given an allocation amount which could range from $0 up to the authorized cap of the program.

The following terms are helpful in providing an understanding of the proposal.

1. **Authorization**:
   Authorization occurs when an entity applies for credits, and the entity, or its contributors, is approved to receive up to a specified amount of credits, pending the entity performing the targeted activity, incurring qualified expenditures, or the qualified contributions occurring. The actual credits issued may ultimately be less than the authorized amount.

2. **Issuance**:
   The process where tax credits (in most cases provided in the form of Certificates) are provided to the recipients that meet the qualifications of the program making those credits available for use by the recipient.

3. **Redemption**:
   The process where the recipients of the tax credits use the tax credits to offset taxes owed to the state.

During debate of the legislation, many questions surfaced about the workings of the proposal. These questions and answers to these questions are outlined below.

Q: How does this proposal affect a tax credit that has been issued but has not yet been redeemed?

A: The proposal does not affect the ability of a possessor of a tax credit to redeem the credit against applicable state taxes. Tax credits that have been issued but not yet redeemed will still be able to be redeemed against the possessor's applicable taxes in the timeframe allowed by the credit.

Q: How does this proposal affect a tax credit that has been authorized, but has not yet been issued?

A: The proposal does not affect a tax credit that has been authorized, but has not yet been issued. If a credit has been authorized by the administering agency, and the targeted activity of the credit is performed by the applicant, and the applicant remains in compliance with the program's requirements, then the applicant will be issued the credit. The proposal's limits on tax credit authorizations are only forward-looking.

Q: Would the General Assembly be picking individual projects that receive an authorization for a tax credit?

A: No, the administering agencies of tax credit programs would still administer the tax credit programs. If a tax credit program is a discretionary program (meaning the administering agency chooses which projects or activities are awarded tax credits), the program would still remain a discretionary program; the administering agency would still maintain the ability to choose projects or targeted activities that would receive an authorization for a tax credit. For tax credit programs that are awarded on a first-come, first-serve basis, this method of awarding tax credits is maintained under the proposal. If the tax credit is awarded on a pro rata basis, then this method of awarding tax credits is maintained under the proposal. For tax credits included in this process that are currently entitlement programs, a cap is instituted on the program and tax credits are awarded on a first-come, first serve basis.

Q: How are tax credits that are given out over a number of years (streaming tax credits) treated under the proposal?

A: The General Assembly would allocate an authorization for a tax credit stream for the total amount of credits that would be awarded over the streaming period. For example, if a credit is structured so that the amount of tax credits issued is $5,000,000 each year over a 5 year period, then the General Assembly would authorize $25,000,000 in tax credits for that fiscal year.

Q: The appropriations process currently operates on a fiscal year basis. What happens to a tax credit that currently operates on a calendar year basis?

A: Under the proposal, tax credits that operate on a calendar basis that are included in this appropriations process are amended so that they operate on a fiscal year basis.

Q: What happens to tax credits that were allocated but remain unauthorized at the end of the year?

A: Tax credits that are allocated to a program but remain unauthorized expire on June 30 of each fiscal year.

Q: What tax credit programs are not affected by this proposal?

A: Under the proposal, tax credits that are not affected include the Senior Citizen Property Tax Credit Program, the Homestead Preservation Tax Credit Program (already subject to appropriation), the Railroad Rolling Stock Tax Credit (already subject to appropriation), the Bank Franchise Tax Credit, the Bank Franchise Tax Credit for S Corp Shareholders, the Insurance Exam Fee tax credit, the Property and Casualty Insurance Guaranty tax credit, the Health Insurance Pool tax credit, the Health and Life Insurance Guaranty tax credit, the Self-Employed Health Insurance Tax Credit, the Residential Treatment Agency Tax Credit, and the Community College New Job Training and Job Retention program.