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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1694

03/10/2015 Authored by Barrett, Mahoney, Gunther and Norton

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; requiring the legislative auditor to evaluate
1.3 economic development incentive programs; appropriating money; proposing
1.4 coding for new law in Minnesota Statutes, chapter 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [3.9755] EVALUATION OF ECONOMIC DEVELOPMENT
1.7 INCENTIVE PROGRAMS.

1.8 Subdivision 1. Definitions. For purposes of sections 3.9755 to 3.9759, the terms
1.9 defined in this section have the meaning given them.

1.10 Subd. 2. Exclusive incentive. "Exclusive incentive" means a state program,
1.11 statutory provision, tax expenditure, or section of a general incentive, including tax
1.12 credits, tax exemptions, tax deductions, grants, or loans, that is intended to encourage a
1.13 single specific entity, project, or associated projects to locate, expand, invest, or remain in
1.14 Minnesota or to hire or retain employees in Minnesota.

1.15 Subd. 3. General incentive. "General incentive" means a state program, statutory
1.16 provision, or tax expenditure, including tax credits, tax exemptions, tax deductions, grants,
1.17 or loans, that is intended to encourage businesses to locate, expand, invest, or remain in
1.18 Minnesota or to hire or retain employees in Minnesota. To be a general incentive, a state
1.19 program, statutory provision, or tax expenditure must be available to multiple entities,
1.20 projects, or associated projects or include eligibility criteria with the intent that it will be
1.21 available to multiple entities, projects, or associated projects.

1.22 Sec. 2. [3.9756] REVIEW SCHEDULE.

2.1 Subdivision 1. **Review cycle.** By January 1 of each year, the legislative auditor shall
2.2 develop a four-year schedule for evaluating economic development incentive programs.

2.3 Subd. 2. **Identification of general incentives.** Each schedule shall include a list of
2.4 all general incentives in the state. In determining whether a program is a general incentive,
2.5 the legislative auditor may consider legislative intent and may also consider whether a tax
2.6 incentive is promoted as a business incentive by any state agency.

2.7 Subd. 3. **General incentive schedule criteria.** Except as exempted in subdivision
2.8 4, the legislative auditor shall ensure that each general incentive is evaluated at least once
2.9 every four years, and is prioritized for evaluation based on what the incentive will cost
2.10 state and local governments in actual spending and forgone revenue currently or projected
2.11 into the future. For general incentives with statutory expiration dates, the auditor shall,
2.12 to the extent practicable, schedule the incentives to be evaluated prior to their expiration
2.13 date to allow the legislature to consider the evaluations when deciding whether to extend,
2.14 modify, or end the incentives.

2.15 Subd. 4. **General incentive exemption from evaluation.** The legislative auditor
2.16 may exempt from evaluation a general incentive that is otherwise statutorily required to be
2.17 evaluated if an alternative evaluation is deemed to be substantially similar to the required
2.18 evaluation under this section. The legislative auditor may exempt lower priority general
2.19 incentive evaluations from the regular four-year schedule if the Office of the Legislative
2.20 Auditor has inadequate staffing to evaluate all general incentives on a four-year schedule.

2.21 Subd. 5. **Exclusive incentive schedule.** The legislative auditor's schedule shall
2.22 ensure that at least once every four years the legislative auditor will complete an analysis
2.23 of best practices for exclusive incentives as described in section 3.9757, subdivision 3.

2.24 Subd. 6. **Commission input.** The legislative auditor shall provide the schedule to
2.25 the Legislative Audit Commission, including a list of general incentives exempted from
2.26 evaluation. The Legislative Audit Commission may provide input on how to adjust the
2.27 schedule and which incentives should be exempt from evaluation.

2.28 **Sec. 3. [3.9757] EVALUATIONS.**

2.29 Subdivision 1. **Evaluation and report.** By November 15 of each year beginning in
2.30 2016, the legislative auditor shall evaluate all incentives scheduled for review that year
2.31 and shall provide the results to the Legislative Audit Commission in a written report.

2.32 Subd. 2. **Analysis of general incentives.** Evaluation of a general incentive shall
2.33 include the following:

2.34 (1) a statement of the goals of the incentive;

2.35 (2) an assessment of whether the incentive is being administered effectively; and

3.1 (3) an estimate of the economic and fiscal impact of the incentive, which shall take
3.2 into account the following considerations in addition to other relevant factors:

3.3 (i) the extent to which the incentive changes business behavior;

3.4 (ii) the results of the incentive for the economy of Minnesota as a whole, including
3.5 both positive direct and indirect impacts and any negative effects on other Minnesota
3.6 businesses;

3.7 (iii) a comparison to the results of other general incentive evaluations or other
3.8 economic development strategies with similar goals;

3.9 (iv) an assessment of whether adequate protections are in place to ensure the cost of
3.10 the incentive does not increase substantially beyond the state's expectations in future years;

3.11 (v) an assessment of the fiscal impact of the incentive on the budgets of local
3.12 governments, if applicable;

3.13 (vi) an assessment of whether the incentive is achieving its goals;

3.14 (vii) recommendations for how Minnesota can most effectively achieve the
3.15 incentive's goals, including recommendations for whether the incentive should be
3.16 continued or modified, or whether the state would be better served by using other
3.17 incentives or strategies to achieve the incentive's goals; and

3.18 (viii) recommendations for any changes to state policy, rule, or statute that would
3.19 allow the legislative auditor to more easily or conclusively evaluate the incentive in the
3.20 future, including any changes to data collection, reporting, and sharing, and clarifications
3.21 to the goal of the incentive.

3.22 Subd. 3. **Analysis of best practices for exclusive incentives.** (a) Each analysis of
3.23 best practices for exclusive incentives shall include:

3.24 (1) aggregate information and a description of trends related to Minnesota's
3.25 previous exclusive incentives, which may include analysis of their structure, performance
3.26 standards, and economic and fiscal impact;

3.27 (2) recommendations for how exclusive incentives should be structured or in what
3.28 circumstances they should be offered to ensure they change business behavior in a
3.29 beneficial way;

3.30 (3) recommendations for how exclusive incentives should be structured or in what
3.31 circumstances they should be offered to maximize positive direct and indirect impacts on
3.32 Minnesota's economy and minimize negative effects on other Minnesota businesses;

3.33 (4) recommendations for how exclusive incentives should be structured or in what
3.34 circumstances they should be offered to ensure that they represent a cost-effective
3.35 approach compared to other economic development incentive programs or other economic
3.36 development strategies;

4.1 (5) recommendations for what protections exclusive incentives should include to
 4.2 ensure their costs do not substantially exceed the state's expectations;

4.3 (6) recommendations for how exclusive incentives should be structured or in what
 4.4 circumstances they should be offered to avoid adverse impacts on the fiscal stability of
 4.5 local governments; and

4.6 (7) recommendations for the types of performance standards that should be included
 4.7 in exclusive incentives, how these standards should be structured, and how they should
 4.8 be monitored.

4.9 (b) To complete best practices analysis, the legislative auditor may consult experts
 4.10 on economic development, consult Minnesota businesses and state and local officials,
 4.11 review best practices identified by other states or organizations, and engage in other
 4.12 appropriate research techniques.

4.13 **Sec. 4. [3.9758] CONSIDERATION BY THE GOVERNOR.**

4.14 Subdivision 1. **Consideration of general incentives.** The governor's budget
 4.15 submission as required under section 16A.11, shall identify each general incentive for
 4.16 which an evaluation was completed in accordance with sections 3.9755 to 3.9759 since
 4.17 the governor's previous budget submission. For each evaluated incentive, the governor's
 4.18 budget submission shall include a recommendation for whether the incentive should
 4.19 be continued or modified, or whether the state would be better served by using other
 4.20 incentives or strategies to achieve the incentive's goals. The budget submission must
 4.21 include the rationale for each recommendation.

4.22 Subd. 2. **Consideration of best practices for exclusive incentives.** If a new
 4.23 analysis of best practices for exclusive incentives has been completed since the governor's
 4.24 previous budget submission, the governor's budget submission as required under section
 4.25 16A.11 shall include recommendations for when and how Minnesota should offer and
 4.26 manage exclusive incentives in the future and how they should be structured. The budget
 4.27 submission must include the rationale for each recommendation.

4.28 **Sec. 5. [3.9759] DATA SHARING.**

4.29 At the request of the legislative auditor, state agencies must provide any records,
 4.30 information, data, or data analysis necessary for the legislative auditor to fulfill
 4.31 responsibilities under sections 3.9755 to 3.9759. The legislative auditor may not disclose
 4.32 or release any data received from other state agencies, except as permitted under law.

4.33 **Sec. 6. APPROPRIATION.**

5.1 \$..... in fiscal year 2016 and \$..... in fiscal year 2017 are appropriated from the
5.2 general fund to the Office of the Legislative Auditor for purposes of sections 1 to 5.