AN ACT concerning economic development; relating to evaluations of economic development incentives; creating the legislative post audit economic development incentive review subcommittee.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in sections 1 through 6, and amendments thereto:
(a) "Economic development incentives" means state programs, statutory provisions, or tax expenditures, including tax credits, tax exemptions, tax deductions, grants, loans or workforce programs, that are intended to encourage economic development in Kansas or to incentivize businesses to locate, expand, invest or remain in Kansas, to hire or retain employees in Kansas or otherwise directly facilitate economic development in Kansas.
(b) "Evaluation" or "evaluation report" means an evaluation of an economic development incentive conducted under the direction of the subcommittee with the approval of the legislative post audit committee in accordance with the provisions of sections 1 through 6, and amendments thereto, and under the legislative post audit act and shall be included within the meaning of "audit" or "audit work" as used in and for purposes of the provisions of the legislative post audit act.
(c) "Firm" means any individual, firm, partnership, corporation, association or other legal entity qualified to perform evaluations of economic development incentives as determined by the post auditor. A "firm" shall have experience and expertise in performing evaluations of economic development incentive programs but shall not be required to be permitted by law to engage in practice as a certified public accountant.
(d) "Subcommittee" means the economic development incentive review subcommittee of the legislative post audit committee established in section 2, and amendments thereto.

Sec. 2. (a) There is hereby established the economic development incentive review subcommittee of the legislative post audit committee. The subcommittee shall be composed of six members of the legislative post audit committee as follows:
(1) The chairperson of the legislative post audit committee, or the chairperson's designee;
(2) the vice-chairperson of the legislative post audit committee, or the
vice-chairperson's designee;
(3) one member selected by the president of the senate;
(4) one member selected by the speaker of the house of representatives;
(5) one member selected by the minority leader of the senate; and
(6) one member selected by the minority leader of the house of representatives.
(b) Preference may be given in the selection of members to legislators who serve or have served on the senate committee on assessment and taxation, the senate committee on commerce, the house committee on taxation or the house committee on commerce, labor and economic development, or their successor committees.
(c) The chairperson of the legislative post audit committee, or the chairperson's designee, shall serve as the chairperson of the subcommittee.
The vice-chairperson of the legislative post audit committee, or the vice-chairperson's designee, shall serve as vice-chairperson of the subcommittee.
(d) The purpose of the subcommittee shall be to direct evaluations of economic development incentive programs and perform other duties as provided by sections 1 through 6, and amendments thereto, under the legislative post audit act and with the approval of the legislative post audit committee. Subject to the approval of the legislative post audit committee, the subcommittee is hereby authorized to direct the post auditor to perform evaluations of economic development incentive programs, or to direct a firm or firms to perform such evaluations, as provided in sections 1 through 6, and amendments thereto. In conducting such an evaluation, the post auditor and the division of post audit, or any firm or firms engaged to conduct such evaluation, shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, to the same extent permitted under K.S.A. 46-1106(e), and amendments thereto, and any firm or firms engaged to perform such evaluation shall be subject to the same duty of confidentiality as the post auditor and the officers and employees of the division of post audit under the legislative post audit act.
(e) Subject to the approval of the legislative post audit committee, the post auditor and the division of post audit shall provide the subcommittee assistance with the subcommittee's other duties as provided in section 3, and amendments thereto, as directed by the subcommittee.
(f) The subcommittee shall have authority to introduce legislation in connection with its duties.
(g) The subcommittee may meet at any time and at any location in the state on the call of the chairperson or a request to the chairperson by a majority of the subcommittee. A quorum of the subcommittee shall be four members. All actions of the subcommittee shall be taken by a majority of
Sec. 3. (a) On or before July 1, 2020, the subcommittee shall develop policy guidelines, eligibility requirements and criteria for enacting sales tax exemptions under K.S.A. 79-3606, and amendments thereto, requested by businesses or nonprofit, religious or charitable organizations. The subcommittee shall submit its recommendations to the house committees on taxation and commerce, labor and economic development and the senate committees on assessment and taxation and commerce, or their successor committees. The subcommittee may introduce legislation to implement its recommendations.

(b) On or before January 1, 2021, the subcommittee shall develop an inventory of all Kansas economic development incentives. In determining whether a program is an economic development incentive, the subcommittee may consider legislative intent, whether the program is promoted as an incentive by any state agency and other factors deemed relevant by the subcommittee. The subcommittee shall annually update this inventory.

(c) The post auditor shall complete an initial one-time study, to be completed by July 1, 2021, to determine the purpose of each incentive, the data available, and what additional information may be needed to facilitate future high-quality evaluations. The study results shall be provided to the subcommittee at the first meeting of the subcommittee following the completion of the study.

(d) Upon completion of the inventory as provided in subsection (b), the subcommittee, in consultation with the post auditor and as approved by the legislative post audit committee, shall develop a schedule ensuring that economic development incentives are evaluated at least once every five calendar years, subject to appropriations therefor. The schedule shall include all economic development incentives, except those exempted by the subcommittee from evaluation. The schedule may be adjusted and updated as necessary by the subcommittee, subject to the approval of the legislative post audit committee. Evaluations shall commence in calendar year 2021 pursuant to the schedule, except that in 2021, such evaluations shall be limited to no more than two.

Sec. 4. (a) The subcommittee shall determine for each evaluation whether to use the services of the post auditor, the services of a firm or firms or the combined services of the post auditor and a firm or firms, subject to approval of the legislative post audit committee and appropriations therefor. The subcommittee shall select the candidate firm or firms and the firm or firms finally selected to perform the evaluation,
and shall direct and monitor the firm or firms in the performance of the
evaluation with the assistance of the post auditor and the contract audit
committee, but contracts shall otherwise be procured, entered into and
administered by the contract audit committee and the post auditor as
provided in K.S.A. 46-1123 and 46-1126, and amendments thereto, as
applicable.
(b) The subcommittee shall accept the written economic development
incentive evaluation report of the post auditor. If a firm or firms have been
selected to perform an evaluation, the firm or firms shall submit a written
evaluation report at the conclusion of the evaluation to the post auditor,
who shall distribute the complete evaluation report to members of the
subcommittee. The evaluation report shall be provided to the agency or
agencies responsible for administration of the economic development
incentive under evaluation, and the agency or agencies shall be given
opportunity to respond or comment. The subcommittee shall hold a public
hearing on each evaluation report completed.
(c) The subcommittee shall approve and submit the written economic
development incentive evaluation report to the legislature for each
evaluation following the completion of the public hearing. The
subcommittee may include recommendations and comments on the
evaluations or the incentives under review in the evaluation report. The
subcommittee may require the post auditor or a firm or firms to conduct
further investigation or inquiry based upon the initial evaluation report and
to issue a supplemental evaluation report to the subcommittee, and if so,
the subcommittee may defer submitting the initial evaluation report to the
legislature. Upon receipt of any supplemental evaluation report from the
post auditor or a firm or firms performing the supplemental evaluation, the
subcommittee shall accept the supplemental evaluation report, conduct a
public hearing on the supplemental evaluation report and approve and
submit the initial evaluation report and the supplemental evaluation report,
including any recommendations or comments by the subcommittee, to the
legislature.
Sec. 5. As directed by the subcommittee, an evaluation may include:
(a) A description of the history of the incentive and its goals;
(b) a literature review of the effectiveness of this type of incentive,
including an inventory of similar incentives in other states;
(c) an estimate of the economic and fiscal impact of the incentive.
This estimate may take into account the following considerations in
addition to other relevant factors:
(1) The extent to which the incentive changes business behavior;
(2) the results of the incentive for the economy of Kansas as a whole,
including both positive direct and indirect impacts and any negative effects
on other Kansas businesses; and
(3) a comparison with the results of other incentives or other economic development strategies with similar goals;
(d) an assessment of whether adequate protections are in place to ensure that the fiscal impact of the incentive does not substantially increase beyond the state's means or expectations in future years;
(e) an assessment of whether the incentive is being effectively administered;
(f) an assessment of whether the incentive is achieving its goals;
(g) recommendations for how the state can more effectively achieve the incentive's goals;
(h) recommendations for any changes to state policy, rules and regulations or statutes that would allow the incentive to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goals of the incentive;
(i) an analysis of economic impact data utilizing direct, primary source or auditable data, to the extent such data is reasonably available, and excluding any tertiary or indirect effects of the economic development program;
(j) an analysis of multiplier effects and a critique of the multiplier effect determination methodologies utilized in the evaluation report, including any determinations made using standard industry software models, and any respective potential effects of such methods on outcomes; and
(k) any other information the post auditor, the firm or firms or the subcommittee deems necessary to assess the effectiveness of the incentive and whether it is achieving the goals of the incentive.
Sec. 6. Sections 1 through 6, and amendments thereto, shall be a part of and supplemental to the legislative post audit act.
Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.