

HOUSE BILL No. 2788

By Committee on Commerce, Labor and Economic Development

Requested by Representative K. Williams

2-9

1 AN ACT concerning government transparency; requiring cities and
2 counties to report certain local economic development incentive
3 program information to the secretary of commerce; defining such
4 programs; requiring the secretary of commerce to post such information
5 on the economic development incentive program database maintained
6 by the secretary and requiring certain other changes to that database
7 regarding the presentation of search results; providing for a summary
8 report by the secretary of commerce to summarize economic
9 development incentive program data from the several statutorily-
10 required reports on such programs; directing the secretary of
11 administration to include on the Kansas taxpayer transparency act
12 website certain information concerning grants, grant awardees and
13 grant applications; amending K.S.A. 74-72,123 and K.S.A. 2023 Supp.
14 74-50,226 and 74-50,227 and repealing the existing sections.
15

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

17 New Section 1. (a) The secretary of commerce shall prepare a
18 summary report to the legislature that shall summarize information
19 provided pursuant to statutorily required reports, as defined in subsection
20 (c), by the secretary regarding economic development incentive programs.
21 The purpose of the summary report shall be to provide the legislature with
22 a readily accessible reference for reviewing the state's investment in
23 economic development incentive programs. The summary report shall be
24 provided by the end of the second week of the 2025 regular legislative
25 session and the end of the second week of each regular legislative session
26 thereafter.

27 (b) The summary report shall include the following information:

28 (1) The total number of businesses and individuals who have
29 participated in economic development incentive programs in the prior
30 year, categorized by each economic development incentive program;

31 (2) the total amount of benefits provided for each economic
32 development incentive program and a total of such benefits for each of the
33 prior 10 years. The summary report shall note if benefits have been
34 provided by a program that are prohibited from disclosure by law. For any
35 such benefits, the reporting period shall include the most recent 10 years of

1 benefits available for disclosure shall be reported as provided in this
2 paragraph;

3 (3) the maximum amount of remaining economic development
4 incentive program obligations to benefit recipients, categorized by each
5 economic development incentive program; and

6 (4) a summary of a return-on-investment analysis, categorized by
7 each economic development incentive program. Such summary report
8 shall include a discussion of the total amount of capital investment, jobs to
9 be created or other requirements required by the program for an applicant
10 business to receive benefits.

11 (c) As used in this section, "statutorily required reports" includes:

12 (1) Any new report required by law enacted on or after July 1, 2024,
13 for an economic development incentive program administered by the
14 secretary of commerce that provides annual benefits of more than \$50,000;
15 and

16 (2) the reports required by the secretary of commerce pursuant to:

17 (A) K.S.A. 74-5049, and amendments thereto;

18 (B) K.S.A. 74-50,151(g), and amendments thereto;

19 (C) K.S.A. 74-50,216, and amendments thereto;

20 (D) K.S.A. 74-50,224(c), and amendments thereto;

21 (E) K.S.A. 74-50,320(a), and amendments thereto;

22 (F) K.S.A. 74-8135(b), and amendments thereto; and

23 (G) K.S.A. 2023 Supp. 74-8136(c), and amendments thereto.

24 Sec. 2. K.S.A. 2023 Supp. 74-50,226 is hereby amended to read as
25 follows: 74-50,226. As used in K.S.A. 2023 Supp. 74-50,226 and 74-
26 50,227, and amendments thereto:

27 (a) "Administering agency" means the state agency or department
28 charged with administering a particular economic development incentive
29 program, as set forth by the program's enacting statute or, where no
30 department or agency is set forth, the department of revenue.

31 (b) "Economic development incentive program" means:

32 (1) Any economic development incentive program administered
33 wholly or in part by the secretary of commerce;

34 (2) any tax credit program, except for social and domestic tax credits,
35 regardless of the administering agency;

36 (3) property that has been exempted from ad valorem taxation under
37 the provisions of section 13 of article 11 of the constitution of the state of
38 Kansas;

39 (4) property that has been purchased, acquired, constructed,
40 reconstructed, improved, equipped, furnished, repaired, enlarged or
41 remodeled with all or any part of the proceeds of revenue bonds issued
42 under the authority of K.S.A. 12-1740 through 12-1749a, and amendments
43 thereto, that is exempt from ad valorem taxation under K.S.A. 79-201a

1 *Second*, and amendments thereto; ~~and~~

2 (5) any economic development fund, including, but not limited to, the
3 job creation program fund established by K.S.A. 74-50,224, and
4 amendments thereto, and the economic development initiatives fund,
5 established by K.S.A. 79-4804, and amendments thereto; *and*

6 (6) *commencing January 1, 2026, "economic development incentive*
7 *program" shall include additional active city-based or county-based local*
8 *economic development programs, including, but not limited to:*

9 (A) *Community improvement districts, K.S.A. 12-6a26 et seq., and*
10 *amendments thereto;*

11 (B) *tax increment financing, K.S.A. 12-1770 et seq., and amendments*
12 *thereto;*

13 (C) *business improvement districts, K.S.A. 12-1781 et seq., and*
14 *amendments thereto;*

15 (D) *self-supported municipal improvement districts, K.S.A. 12-1794*
16 *et seq., and amendments thereto;*

17 (E) *neighborhood revitalization act, K.S.A. 12-17,114 et seq., and*
18 *amendments thereto;*

19 (F) *downtown redevelopment act, K.S.A. 12-17,121 et seq., and*
20 *amendments thereto;*

21 (G) *transportation development districts, K.S.A. 12-17,140 et seq.,*
22 *and amendments thereto;*

23 (H) *public improvement districts, K.S.A. 12-17,152 et seq., and*
24 *amendments thereto;*

25 (I) *STAR bonds, K.S.A. 12-17,160 et seq., and amendments thereto;*

26 (J) *industrial development bonds, K.S.A. 12-3801 et seq., and*
27 *amendments thereto;*

28 (K) *qualified manufacturer act, K.S.A. 19-4106 et seq., and*
29 *amendments thereto; and*

30 (L) *federal enclave redevelopment districts, K.S.A. 19-4901 et seq.,*
31 *and amendments thereto.*

32 (c) "Enterprise" means a corporation, limited liability company, S
33 corporation, partnership, registered limited liability partnership,
34 foundation, association, nonprofit entity, sole proprietorship, business trust
35 or other entity engaged in business.

36 (d) "Recipient" means the enterprise that is the original applicant for
37 and that receives proceeds from an economic development incentive
38 program directly from the administering agency. "Recipient" includes an
39 enterprise that is no longer solvent due to bankruptcy and a recipient with
40 respect to an economic development project that has failed.

41 (e) "Social and domestic tax credits" means the adoption credit
42 created pursuant to K.S.A. ~~79-202a~~ 79-32,202a, and amendments thereto,
43 the earned income tax credit created pursuant to K.S.A. 79-32,205, and

1 amendments thereto, the food sales tax credit created pursuant to K.S.A.
2 79-32,271, and amendments thereto, the child and dependent care tax
3 credit created pursuant to K.S.A. 79-32,111c, and amendments thereto, and
4 the homestead property tax refund created pursuant to K.S.A. 79-4501 et
5 seq., and amendments thereto.

6 (f) "Tax credit program" means any credit allowed against the tax
7 imposed by the Kansas income tax act, the premium or privilege fees
8 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
9 privilege tax as measured by net income of financial institutions imposed
10 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and
11 amendments thereto.

12 Sec. 3. K.S.A. 2023 Supp. 74-50,227 is hereby amended to read as
13 follows: 74-50,227. (a) The department of commerce shall collect
14 incentive data from economic development incentive programs that
15 provide more than \$50,000 of annual incentives from administering
16 agencies as required by this section. Such data shall be collected from
17 administering agencies and be stored in a database that is available to the
18 public in a digital format. The database shall contain information from
19 multiple years and must be searchable, printable and available to access
20 over the internet on the department of commerce's website on a
21 permanently accessible web page that may be accessed via a conspicuous
22 link to that web page placed on the front page of the department's website.
23 Information included in the database shall be updated by the department of
24 commerce on an annual basis and such update shall be completed prior to
25 the end of the following fiscal year in which such incentive was earned or
26 distributed. *The database shall be comprehensive of all information*
27 *required by this section. The database shall permit the user, on one web*
28 *page and by means of an easily accessible drop-down menu or other*
29 *prompt, to select to search by keyword or phrase within separately*
30 *identified categories of economic development incentive program, county*
31 *or business name. The result of a search shall include all applicable*
32 *information required by this section for such incentive program, county or*
33 *business in one printable report, categorized as provided by subsection*
34 *(c). In addition to such comprehensive report, the database shall be*
35 *configured to provide a summary report in response to a search when*
36 *requested.*

37 (b) *Cities and counties shall provide the department of commerce*
38 *with all applicable information required by this section for all active*
39 *economic development programs of such city or county that provide more*
40 *than \$50,000 of annual incentives. Such information shall be provided for*
41 *all such active programs on January 1, 2026. Notwithstanding any other*
42 *provision of law, providing such information shall be a condition of*
43 *commencing any economic development incentive program by a city or*

1 county on and after January 1, 2026, and shall be provided to the
2 department of commerce within 30 days of the commencement of an
3 economic development incentive program. The city or county shall provide
4 updates of all applicable information required by this section to the
5 secretary of commerce at least annually or as required by the secretary of
6 commerce.

7 (c) The database required to be created by subsection (a) shall contain
8 the following information ~~or shall contain a link by which the user can~~
9 ~~access such information:~~

10 (1) User information for each economic development incentive
11 program, including the:

12 (A) Names and addresses, including county, of recipients receiving
13 benefits from the program and, ~~for sales tax and revenue bonds issued~~
14 ~~under the STAR bond financing act, K.S.A. 12-17,162 et seq., and~~
15 ~~amendments thereto,~~ the names of principals and officers for each:

16 (i) *Recipient that is a project developer for a STAR bond project,*
17 *pursuant to K.S.A. 12-17,162, et seq., and amendments thereto; and*

18 (ii) *recipient receiving benefits from any economic development*
19 *incentive program if the recipient is organized as a limited liability*
20 *company;*

21 (B) annual amount of incentives claimed, distributed to or received
22 by each recipient and any remaining balance of the total amount of
23 incentives claimed or awarded to the recipient;

24 (C) qualification criteria for the economic development incentive
25 program, including, if available, qualification criteria specific to the
26 recipient. Qualification criteria shall include, but not be limited to, any
27 requirements regarding the number of jobs created or the amount of initial
28 or annual capital improvement;

29 (D) required benchmarks for continued participation in the economic
30 development incentive program and progress made toward the
31 benchmarks; ~~and~~

32 (E) years for which the recipient has received benefits under the
33 economic development incentive program; *and*

34 (F) *if incentives provided by an economic development incentive*
35 *program are transferable, disclosure shall be made of the transferor, the*
36 *specific benefit and value of such benefit transferred, the transferee and*
37 *the annual and total economic benefit for both the initial recipient and*
38 *subsequent transferee or transferees. This information shall be searchable*
39 *by name of either the transferor or transferee;*

40 (2) descriptive information for each economic development program,
41 which shall include:

42 (A) A description and history of the program, including its inception
43 date;

1 (B) the purpose or goals of the program and the criteria for
2 qualification;

3 (C) applications for the program, if any, and relevant resources or
4 contacts;

5 (D) the program cost and return on investment, including
6 assumptions used to calculate the return on investment;

7 (E) the program compliance rate;

8 (F) annual reports, if required by statute; and

9 (G) evaluations of the program, if any; and

10 (3) annual data, which shall be organized by recipient, county and
11 program and shall include the:

12 (A) Total amount of annual incentives from a program claimed or
13 received by a recipient;

14 (B) total amount of incentives received by recipients in each county;
15 and

16 (C) total amount of incentives distributed by each program.

17 (c) Data collected pursuant to this section must be aggregated and
18 provided by program, recipient and county.

19 (d) Except as otherwise provided in this subsection, and
20 notwithstanding any information publication requirements listed in this
21 section, no information shall be disclosed by the secretary of commerce
22 under this section if such disclosure would:

23 (1) Violate any federal law;

24 (2) violate the confidentiality provisions of any agreement executed
25 before July 1, 2019;

26 (3) in the discretion of the secretary of commerce, be detrimental to
27 the development of a STAR bond project or jeopardize an economic
28 development incentive program or project; or

29 (4) disclose the names or other personally identifying information of
30 individuals who have made contributions or investments pursuant to the
31 provisions of an economic development incentive program for the purpose
32 of receiving a tax credit.

33 Information that is otherwise publicly available shall not be considered
34 confidential and shall be subject to publication as provided in this section.

35 (e) (1) The secretary of commerce shall report in writing to the
36 standing committee on commerce, labor and economic development of the
37 house of representatives and the standing committee on commerce of the
38 senate any information not disclosed by the secretary pursuant to
39 subsection (d)(3) and the reason the information was not disclosed. Any
40 testimony or oral presentation before the committee or discussion by the
41 committee with respect to the report shall be considered the discussion of
42 data relating to financial affairs or trade secrets of corporations,
43 partnerships, trusts, and individual proprietorships pursuant to the

1 provisions of K.S.A. 75-4319(b)(4), and amendments thereto, for purposes
2 of the Kansas open meetings act, and shall be closed to the public.

3 (2) The report of the secretary pursuant to subsection (e)(1) shall be
4 confidential and shall not be subject to the provisions of the Kansas open
5 records act, K.S.A. 45-215 et seq., and amendments thereto. The
6 provisions of this paragraph shall expire on July 1, 2024, unless the
7 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
8 and amendments thereto, prior to July 1, 2024.

9 Sec. 4. K.S.A. 74-72,123 is hereby amended to read as follows: 74-
10 72,123. (a) As used in the Kansas taxpayer transparency act:

11 (1) "Searchable website" means a website that allows the public to
12 search and aggregate the information identified in subsection (b) including
13 requirements that the website offer the public the ability to efficiently
14 search and display data, and ascertain the total amounts of revenues and
15 expenditures of:

16 (A) ~~of~~ Funds established within the state treasury in an aggregate or
17 summary form in a manner determined by the secretary of administration;;

18 (B) ~~of~~ compensation paid to public employees employed by state
19 agencies; and

20 (C) ~~of~~ bond debt as specified in this act.

21 (2) "Agency" means any entity or instrumentality of the state of
22 Kansas as defined in K.S.A. 75-3701, and amendments thereto, and any
23 other entity or instrumentality delegated statutory authority by the
24 legislature to issue bonds and to collect revenue for the purpose of
25 repaying bonds issued under authority delegated by statute.

26 (3) "Board" means the public finance transparency board.

27 (b) ~~No later than March 1, 2009,~~ The secretary of administration shall
28 develop and operate a single, searchable website accessible by the public
29 at no cost to access, that includes:

30 (1) Annual expenditures, as determined by the secretary of
31 administration and as available within the central accounting system and
32 state payroll system, shall include, but not be limited to:

33 (A) Disbursements by any state agency from funds established within
34 the state treasury;

35 (B) bond debt payments;

36 (C) salaries and wages including, but not limited to, compensation
37 paid to individual employees of state agencies;

38 (D) contractual services including, but not limited to, amounts paid to
39 individual vendors;

40 (E) commodities including, but not limited to, amounts paid to
41 individual vendors;

42 (F) capital outlay including, but not limited to, amounts paid to
43 individual vendors;

1 (G) debt service including, but not limited to, amounts of bond
2 interest paid and sources of funds paid for individual bond issues;

3 (H) aid to local units including, but not limited to, amounts paid to
4 individual units of government for individually identifiable aid programs;

5 (I) other assistance and benefits;

6 (J) capital improvements including, but not limited to, amounts of
7 bond principal paid and sources of funds paid for individual bond issues;
8 and

9 (K) tax expenditures as reported by the secretary of revenue in the
10 annual tax expenditure report.

11 (2) Annual revenues, as determined by the secretary of administration
12 and as available within the central accounting system, shall include, but
13 not be limited to:

14 (A) Receipts or deposits by any state agency into funds established
15 within the state treasury;

16 (B) taxes including, but not limited to, compulsory contributions
17 imposed by the state for the purpose of financing services;

18 (C) agency earnings including, but not limited to, amounts collected
19 by each agency for merchandise sold, services performed, licenses and
20 permits issued, or regulation;

21 (D) revenue for the use of money and property including, but not
22 limited to, amounts received for compensation for the use of state-owned
23 money and property;

24 (E) gifts, donations and federal grants including, but not limited to,
25 amounts received from public and private entities to aid in support of a
26 specific function or other governmental activity;

27 (F) other revenue including, but not limited to, receipts not classified
28 elsewhere; and

29 (G) non-revenue receipts including, but not limited to, all receipts that
30 do not constitute revenue.

31 (3) Annual bonded indebtedness which shall include, but not be
32 limited to the amount of the total original obligation stated in terms of
33 principal and interest, the term of the obligation, the source of funding for
34 repayment of the obligation, the amounts of principal and interest
35 previously paid to reduce the obligation, the balance remaining of the
36 obligation, any refinancing of the obligation, and the cited statutory
37 authority to issue such bonds.

38 (4) *Any grant awarded by any agency using state or federal funds,*
39 *including the grant awardee, applications and a list of all applicants who*
40 *applied for such grant. The list of all such applicants shall include: (A)*
41 *Such applicant's organization name; (B) the county where the proposed*
42 *project is located; (C) a brief description of the proposed project in such*
43 *application; (D) the dollar amount requested in such application; and (E)*

1 *the date that the above agency received such application. Information*
2 *required to be included on the website pursuant to this paragraph shall be*
3 *posted within 30 business days of the date of awarding the grant.*

4 (5) Any other relevant information specified by the secretary of
5 administration after consulting with and seeking the advice of the public
6 finance transparency board as established in K.S.A. 74-72,124, and
7 amendments thereto.

8 (c) The single website provided for in subsection (b) ~~of this section~~
9 shall include data for fiscal year 2003 and each fiscal year thereafter. The
10 website shall be designed so that such data shall be retained on the single
11 website for not less than 10 years and shall include data for the most recent
12 fiscal years. Data that is available in the central accounting system and
13 state payroll system shall be on the single website as soon as possible, but
14 not later than 45 days after the last day of the preceding fiscal year. The
15 secretary of administration shall develop policies and procedures to make
16 data available from any other source. Nothing in this act shall require the
17 secretary of administration to provide information on the website that is
18 not available in the central accounting system and the state payroll system
19 at the time of initial implementation of the website. After implementation
20 of the initial website, the public finance transparency board shall advise
21 the secretary of administration on incorporating additional information
22 described by this act from any other source of information available to the
23 secretary of administration including information submitted by state
24 agencies pursuant to subsection (d) ~~of this section~~.

25 (d) Any state agency shall provide, at the request of the secretary of
26 administration, such information as is necessary to accomplish the
27 purposes of this act.

28 (e) Nothing in this act shall permit or require the disclosure of
29 information which is considered confidential by state or federal law.

30 Sec. 5. K.S.A. 74-72,123 and K.S.A. 2023 Supp. 74-50,226 and 74-
31 50,227 are hereby repealed.

32 Sec. 6. This act shall take effect and be in force from and after its
33 publication in the statute book.