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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

03/26/2015 Adoption of Report: Amended and re-referred to the Committee on State Government Finance

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; requiring reports by the
1.4 commissioner of management and budget; appropriating money; amending
1.5 Minnesota Statutes 2014, sections 3.979, subdivision 3; 16A.11, by adding
1.6 subdivisions; proposing coding for new law in Minnesota Statutes, chapter 3.

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

1.8 Section 1. **[3.9735] EVALUATION OF ECONOMIC DEVELOPMENT**
1.9 **INCENTIVE PROGRAMS.**

1.10 Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this
1.11 section have the meanings given them.

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

1.19 (b) "Exclusive incentive" means a state program, statutory provision, tax
1.20 expenditure, or section of a general incentive, including tax credits, tax exemptions, tax
1.21 deductions, grants, or loans, that is intended to encourage a single specific entity, project,
1.22 or associated projects to locate, expand, invest, or remain in Minnesota or to hire or retain
1.23 employees in Minnesota.

1.24 Subd. 2. **Selection of general incentives for review; schedule for evaluation;**
1.25 **report.** Annually, the legislative auditor shall submit to the Legislative Audit Commission

2.1 a list of three to five general incentives proposed for review. In selecting general
2.2 incentives to include on this list, the legislative auditor may consider what the incentive
2.3 will cost state and local governments in actual spending and foregone revenue currently or
2.4 projected into the future, the legislature's need for information about a general incentive
2.5 that has an upcoming expiration date, and the legislature's need for regular information on
2.6 the results of all major general incentives. Annually, the Legislative Audit Commission
2.7 will select at least one general incentive for the legislative auditor's evaluation. The
2.8 legislative auditor will evaluate the selected general incentive or incentives, prepared
2.9 according to the evaluation plan established under subdivision 4, and submit a written
2.10 report to the Legislative Audit Commission.

2.11 Subd. 3. **Exclusive incentive schedule.** The legislative auditor's schedule shall
2.12 ensure that at least once every four years the legislative auditor will complete an analysis
2.13 of best practices for exclusive incentives.

2.14 Subd. 4. **Evaluation plans.** By February 1, 2016, the Legislative Audit Commission
2.15 shall establish evaluation plans that identify elements that the legislative auditor must
2.16 include in evaluations of a general incentive and an exclusive incentive. The Legislative
2.17 Audit Commission may modify the evaluation plans as needed.

2.18 Sec. 2. Minnesota Statutes 2014, section 3.979, subdivision 3, is amended to read:

2.19 Subd. 3. **Audit data.** (a) "Audit" as used in this subdivision means a financial audit,
2.20 review, program evaluation, best practices review, evaluation of an incentive program or
2.21 exclusive incentive program under section 3.9735, or investigation. Data relating to an
2.22 audit are not public or with respect to data on individuals are confidential until the final
2.23 report of the audit has been released by the legislative auditor or the audit is no longer
2.24 being actively pursued. Upon release of a final audit report by the legislative auditor, data
2.25 relating to an audit are public except data otherwise classified as not public.

2.26 (b) Data related to an audit but not published in the audit report and that the
2.27 legislative auditor reasonably believes will be used in litigation are not public and with
2.28 respect to data on individuals are confidential until the litigation has been completed or is
2.29 no longer being actively pursued.

2.30 (c) Data on individuals that could reasonably be used to determine the identity of an
2.31 individual supplying data for an audit are private if the data supplied by the individual were
2.32 needed for an audit and the individual would not have provided the data to the legislative
2.33 auditor without an assurance that the individual's identity would remain private, or the
2.34 legislative auditor reasonably believes that the subject would not have provided the data.

3.1 (d) The definitions of terms provided in section 13.02 apply for purposes of this
3.2 subdivision.

3.3 Sec. 3. Minnesota Statutes 2014, section 16A.11, is amended by adding a subdivision
3.4 to read:

3.5 Subd. 3d. **Consideration of general incentives.** In supplement to, and under the
3.6 same deadline as, the governor's budget submission under subdivision 3, the commissioner
3.7 shall submit a report identifying each general incentive for which an evaluation was
3.8 completed under section 3.9735 in accordance with this section since the governor's
3.9 previous budget submission. For each evaluated incentive, the commissioner's report shall
3.10 include a recommendation for whether the incentive should be continued or modified,
3.11 or whether the state would be better served by using other incentives or strategies to
3.12 achieve the incentive's goals. The commissioner's report must include the rationale for
3.13 each recommendation.

3.14 Sec. 4. Minnesota Statutes 2014, section 16A.11, is amended by adding a subdivision
3.15 to read:

3.16 Subd. 3e. **Consideration of best practices for exclusive incentives.** If a new
3.17 analysis of best practices for exclusive incentives under section 3.9735 has been
3.18 completed since the governor's previous budget submission, the commissioner's report
3.19 under subdivision 3d shall include recommendations for when and how Minnesota should
3.20 offer and manage exclusive incentives in the future and how they should be structured.
3.21 The commissioner's report must include the rationale for each recommendation.

3.22 Sec. 5. **APPROPRIATION.**

3.23 \$..... in fiscal year 2016 and \$..... in fiscal year 2017 are appropriated from the
3.24 general fund to the Office of the Legislative Auditor for purposes of section 1.