

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

771W0401

SENATE BILL NO. 193

Introduced by: The Committee on Taxation

1 FOR AN ACT ENTITLED, An Act to provide for an annual evaluation of economic
2 development incentives.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 2-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Committee," the Government Operations and Audit Committee;

8 (2) "Incentive," a state program, statutory provision, or tax expenditure, including tax
9 credits, tax exemptions, tax deductions, grants, or loans, that are intended to
10 encourage businesses to locate, expand, invest, or remain in South Dakota or to hire
11 or retain employees in South Dakota.

12 Section 2. That chapter 2-6 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 During each interim, the executive board shall direct the committee, pursuant to § 2-9-4, to
15 analyze incentives and report the committee's findings and any associated recommended



1 legislation to the executive board.

2 By July 1, 2016, and by July first each year thereafter, the committee shall develop a
3 four-year schedule for evaluating each economic development incentive program. Each schedule
4 shall include a list of incentives in the state.

5 In developing the schedule, the committee shall ensure that each incentive is evaluated at
6 least once every four years, except any incentive the committee exempts from evaluation
7 pursuant to this section. To the extent practicable, the committee shall schedule incentives with
8 similar goals to be evaluated in the same year to facilitate a comparison between the
9 effectiveness of each incentive.

10 If the committee determines that the Department of Legislative Audit has inadequate staffing
11 to evaluate each incentive on a four-year schedule, the committee may exempt certain incentives
12 from evaluation. The committee shall prioritize for evaluation incentives that currently cost state
13 and local government the most money in terms of government spending or foregone revenue or
14 which are projected to cost the most in the future.

15 Section 3. That chapter 2-6 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 By October 1, 2016, and by October first each year thereafter, the committee shall evaluate
18 each incentive scheduled for review that year and shall hold public hearings to receive
19 information concerning the incentives. The committee shall provide the results of the
20 evaluations to the executive board in a written report by November 1, 2016, and by November
21 first each year thereafter. The committee shall hold a public hearing on the evaluation results
22 before it submits the evaluation results to the executive board.

23 Section 4. That chapter 2-6 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Each evaluation of an incentive shall include the following:

2 (1) A statement of the goals of the incentive;

3 (2) An assessment of whether the incentive is being administered effectively;

4 (3) An estimate of the economic and fiscal impact of the incentive. This estimate shall
5 take into account the following considerations in addition to other relevant factors:

6 (a) The extent to which the incentive changes business behavior in a beneficial
7 way;

8 (b) The results of the incentive for the economy of South Dakota as a whole. This
9 consideration includes both positive direct and indirect impacts and any
10 negative effects on other South Dakota businesses; and

11 (c) The net results relative to alternative uses of the state's resources. This
12 consideration may include comparisons to the results of other incentives or
13 other economic development strategies with similar goals;

14 (4) An assessment of whether adequate protections are in place to ensure the cost of the
15 incentive does not increase substantially beyond the state's expectations in future
16 years;

17 (5) An assessment of the fiscal impact of the incentive on the budgets of local
18 governments, if applicable;

19 (6) An assessment of whether the incentive is achieving its goals;

20 (7) A determination of whether the effectiveness of the tax incentive could be
21 ascertained more definitively if the Legislature were to clarify or modify the
22 incentive's goals and intended purpose;

23 (8) Recommendations for how South Dakota can most effectively achieve the incentive's
24 goals, including recommendations for whether the incentive should be continued or

1 modified, or whether the state may be better served by using other incentives or
2 strategies to achieve the incentive's goals; and

3 (9) Recommendations for any changes to state policy, laws, or rules that would allow the
4 committee to more easily or conclusively evaluate the incentive in the future. These
5 recommendations may include changes to data collection, reporting, and sharing, and
6 clarifications to the goal of the incentive.

7 Section 5. That chapter 2-6 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 At the request of the Department of Legislative Audit or the committee, state agencies shall
10 provide any records, information, data, or data analysis necessary for the committee to fulfill its
11 responsibilities pursuant to this Act. Neither the department, the committee, nor the executive
12 board may disclose or release any data received from other state agencies, except as required
13 by law.