



MEMORANDUM

Legislative Post Audit

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To: Members, Legislative Post Audit Committee
From: Kristen Rottinghaus, Deputy Post Auditor
Date: December 12, 2022
Subject: Evaluating New Economic Development Incentive Programs Created in 2021

State law (K.S.A. 46-1137) requires us to evaluate all new economic development incentive programs defined in K.S.A. 74-50,226 the year after they begin. The Kansas Legislature created 3 tax credits and an economic development fund during the 2021 session that meet this requirement. State law requires the evaluations to include several components: a description of the incentive including its history and goals, a literature review including a comparison to other states, and an estimate of each incentive's economic and fiscal impacts. This memo is intended to satisfy these statutory requirements.

There was little data for us to review about these incentives because they're so new. That also limited the review and evaluation we could do of the new incentives. We expect to be able to evaluate these incentives more thoroughly once they've operated longer.

Eisenhower Foundation Tax Credit

- Description: Under K.S.A. 79-32,274, Kansas taxpayers can claim a state income tax credit equal to 50% of their donations to the Eisenhower Foundation. The foundation is located in Abilene and maintains a museum for and preserves the legacy of President Eisenhower. Individual residents can earn up to \$25,000 per year in tax credits. Corporations can earn up to \$50,000 per year in tax credits. The total amount of credits available each fiscal year is limited to \$350,000. These tax credits cannot be carried forward or transferred. The tax credit is available in tax years 2021 through 2025. After that, it will be unavailable unless extended by the Legislature.
- Statutory Goals: State law doesn't identify a goal for this tax credit. The director of the Eisenhower Foundation told us the goal of the credit is to increase donations to the foundation. The foundation plans to use additional revenues to build a new building and expand its education programs.
- History: This tax credit was included in 2021 Senate Bill 47. It went into effect on May 27, 2021.
- Economic and Fiscal Impacts: In tax year 2021, Kansas taxpayers earned

\$121,225 in tax credits for donating \$242,450 to the Eisenhower Foundation. To date, taxpayers have only used \$1,050 of those credits against their tax liabilities. The cost to the state so far is therefore minimal. These amounts aren't final because state law gives taxpayers up to 3 years to amend tax returns.

- Literature Review: We reviewed academic research about the effects of tax credits for charitable contributions. That literature found tax credits for charitable contributions may attract contributions to targeted entities, but it could decrease contributions to other entities that aren't targeted by tax credits. The literature also found these types of tax credits aren't always efficient. That is, a tax credit for charitable contributions may cause additional donations, but it might not cause enough additional donations to offset its cost to the state.
- Comparison to Other States: 28 other states offer tax credits for charitable financial contributions. But only 1 state, Iowa, has a tax credit for contributions to a presidential library.

Friends of Cedar Crest Association Tax Credit

- Description: Under K.S.A. 79-32,275, Kansas taxpayers can claim a state income tax credit equal to 50% of their donations to the Friends of Cedar Crest Association. The association helps preserve and promote public knowledge of Cedar Crest, the Kansas Governor's residence in Topeka. Annual credit limits are the same as they are for the Eisenhower Foundation tax credit (\$25,000 per individual, \$50,000 per corporation, total limit of \$350,000). These tax credits also can't be carried forward or transferred. The tax credit is available in tax years 2021 through 2025. After that, it will be unavailable unless extended by the Legislature.
- Statutory Goals: State law doesn't identify a goal for this tax credit. The president of the Friends of Cedar Crest Association told us the goal of the credit is to increase donations to the association. The association plans to update the residence's furnishings and hopes to start an endowment.
- History: This tax credit was included in 2021 Senate Bill 47. It went into effect on May 27, 2021.
- Economic and Fiscal Impacts: In tax year 2021, Kansas taxpayers earned \$34,750 in tax credits for donating \$69,500 to the Friends of Cedar Crest Association. To date, taxpayers have only used \$350 of those credits. As with the Eisenhower Foundation tax credit, the cost to the state so far is minimal. But these amounts also aren't final because state law gives taxpayers up to 3 years to amend tax returns.
- Literature Review: We reviewed academic research about the effects of tax credits for charitable contributions. That literature found tax credits for

charitable contributions may attract contributions to targeted entities, but it could decrease contributions to other entities that aren't targeted by tax credits. The literature also found these types of tax credits aren't always efficient. That is, a tax credit for charitable contributions may cause additional donations, but it might not cause enough additional donations to offset its cost to the state.

- Comparison to Other States: 28 other states offer tax credits for charitable financial contributions. But we didn't identify any other states that have a tax credit for contributions to organizations that maintain governors' residences.

Qualified Charitable Distribution Credit

- Description: K.S.A. 79-32,283 provides a tax credit against state income or privilege tax liabilities to technology-enabled fiduciary financial institutions (TEFFIs). The credit is equal in value to the qualified charitable donations a TEFFI makes during a tax year.

TEFFIs are a new type of asset management service provider that the Kansas Legislature created in 2021. They provide fiduciary services for alternative assets that aren't publicly traded (e.g., private debt and natural resources).

Under state law, a TEFFI must meet a variety of requirements to operate in the state. As part of this, a TEFFI must make charitable distributions equal to 2.5% of the value of its transactions in each tax year. These distributions must go to the Department of Commerce and to charities that meet certain qualifications. For example, charities must promise to report annually to Commerce about the distributions they've received. In exchange for these distributions, a TEFFI can claim a tax credit. A TEFFI can carry the credit forward (i.e., use it) in up to 5 tax years after the year it earned the credit, but it cannot transfer the credit.

- Statutory Goals: Statute doesn't identify a goal for this tax credit. But based on legislative testimony and the statutes governing TEFFIs, we think it's clear that one goal is to promote rural economic development.
- History: This tax credit was part of 2021 Senate Substitute for House Bill 2074. That bill also enacted the TEFFI Act, which created TEFFIs and established the requirements they must meet. The bill also created a TEFFI pilot program. That pilot program is still ongoing and allows only 1 TEFFI, Beneficient, to operate in the state. According to the Office of the State Bank Commissioner, which oversees the pilot program, Beneficient hadn't met all requirements for its application and was operating under a conditional charter at the time we did our work. But based on December 1, 2022 testimony to the Joint Committee on Fiduciary Financial Institutions Oversight, the pilot program may be ending soon.
- Economic and Fiscal Impacts: The Department of Revenue told us no one has

claimed this tax credit yet. Therefore, there is no cost to the state to date.

The TEFFI statutes are complicated and raise numerous questions and concerns that we didn't resolve as part of this work. Multiple state agencies are involved and their roles aren't clear, which increases the risk there may be holes in oversight especially if the program grows. For example, state law doesn't appear to make an agency responsible for overseeing the charitable distributions TEFFIs are required to make. Therefore, no agency could tell us how much in qualified charitable distributions Beneficient has made. Given the lack of available data and complications with the TEFFI pilot program, we can't say what this credit's impacts might be.

- Literature Review: We didn't find any literature related to TEFFIs. This makes sense because TEFFIs are a new phenomenon unique to Kansas.
- Comparison to Other States: We didn't find any other states with tax credits like the credit Kansas offers TEFFIs.

Technology-Enabled Fiduciary Financial Institutions Development and Expansion Fund

- Description: K.S.A. 9-2324 authorizes the Technology-Enabled Fiduciary Financial Institutions Development and Expansion Fund. The Department of Commerce administers the fund. The fund supports economic development projects in economic growth zones (small communities in rural counties) and TEFFI operations in Kansas. A portion of TEFFIs' qualified charitable distributions are credited to the fund.
- Statutory Goals: Under K.S.A. 9-2324, the fund should be used to support economic development projects in rural communities. It can also be used to promote the TEFFI industry in Kansas. State law doesn't identify more specific goals.
- History: The fund was created as part of the 2021 TEFFI Act in 2021 Senate Substitute for House Bill 2074.
- Economic and Fiscal Impacts: There is no cost to the state to date. So far, Beneficient has distributed about \$3 million to the TEFFI fund. This is the benefit to the state to date. Commerce officials told us they are using the fund to support a new program, the Strategic Economic Expansion and Development (SEED) program. It will give grants of up to \$50,000 to small rural communities. We can't say what the effects of the SEED program or the TEFFI fund have been so far because they're still too new.
- Literature Review: We didn't find any literature related to TEFFIs. This makes sense because TEFFIs are a new phenomenon unique to Kansas.

- Comparison to Other States: We didn't find any other states with funds that receive contributions from TEFFIs.