



KANSAS LEGISLATIVE  
**DIVISION** *of*  
**POST AUDIT**

An Economic Development Incentive Evaluation Presented to the Legislative Post Audit Committee

# Evaluating the Alternative Fuel and Community Service Tax Credits

December 2024

Report Number: R-24-015

# Introduction

This audit satisfies requirements of K.S.A. 46-1137 that were in effect on December 12, 2022. The Legislative Post Audit Committee directed us to evaluate the alternative fuel and community service tax credits at that meeting.

## *Objectives, Scope, & Methodology*

State law (K.S.A. 46-1137) requires us to include 3 components in our evaluations of economic development incentives: a description of the incentive, a literature review, and an estimate of the incentive's economic and fiscal impact.

State law includes many options for evaluating incentives' economic and fiscal impacts. We chose to evaluate the alternative fuel tax credit's use by taxpayers and achievement of its goals per K.S.A. 46-1137(d)(3)(F). We did this primarily to understand why this credit is so infrequently used. We chose to evaluate the community service tax credit's use by taxpayers and whether the Department of Commerce administers it effectively per K.S.A. 46-1137(d)(3)(E). We did this primarily to evaluate how Commerce selects projects to receive credits. As such, our audit objective was to answer the following questions:

1. How and why has the use of the alternative fuel tax credit changed over time?
2. How many projects has the Department of Commerce awarded community service tax credits to in recent years, and how did they make those decisions?

To answer these questions, we talked to officials and reviewed documentation and data from the Departments of Revenue and Commerce. This included both credits' overall trends since their creation as well as more detailed information about their use in recent years. For the alternative fuel tax credit, we compared these things to national changes in the alternative fuel vehicle market. For the community service tax credit, we also reviewed the design and implementation of Commerce's process for reviewing and selecting projects to receive credits.

More specific details about the scope of our work and the methods we used are included throughout the report as appropriate.

## *Important Disclosures*

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

Audit standards require us to report our work on internal controls relevant to our audit objectives. They also require us to report any deficiencies we identified through this work. In this audit, we evaluated Commerce's controls for ensuring the community service tax credit's effectiveness. We weren't able to fully review these controls because Commerce didn't provide documentation showing important parts of its process for reviewing and approving proposed community service projects.

Legislative Post Audit Committee rules require us to report when an agency fails to respond to a recommendation or responds negatively. The Department of Commerce rejected our recommendation.

Our audit reports and podcasts are available on our website [www.kslpa.gov](http://www.kslpa.gov).

## **The alternative fuel tax credit has rarely been used since 2007 because of statutory changes that limited its usefulness.**

### **Background**

**The alternative fuel tax credit provides credits to corporations for 40% of the incremental cost of alternative fuel vehicles or 40% of fueling stations' installation cost.**

- State law (K.S.A. 79-32,201) defines “alternative fuel” as fuel derived from sources like grain, biomass, or biogas. This includes fuels like ethanol or biodiesel. This definition excludes electricity, so electric and hybrid vehicles and related fueling stations are ineligible for this credit.
- The credit is available for both alternative fuel vehicles and fueling stations.
  - For a vehicle, the credit equals 40% of the cost difference between the alternative and conventional fuel vehicles of the same make and model. Alternatively, the credit could equal 40% of the cost to modify a conventional fuel vehicle to run on alternative fuel.
  - For a fueling station, the credit equals 40% of the installation cost, up to \$100,000 per station.
- The credit is only available to corporations. Individual taxpayers are ineligible. The Department of Revenue reviews and approves corporate taxpayers' credit claim forms (K-62). Taxpayers submit these forms when they file their taxes.
- The credit isn't refundable or transferable. But credits for vehicles can be carried forward for up to 3 years, and credits for fueling stations can be carried forward for up to 4 years.

**The most notable amendments made to the credit since 1995 eliminated both electricity as an eligible fuel and individuals as eligible recipients.**

- The Legislature created the credit in 1995. Initially, it was available to both individuals and corporations. It also included electricity because it referenced the federal definition of “alternative fuel” (42 U.S.C. § 13211), which includes electricity. Individuals and corporations had to own fleets of 10 or more vehicles to qualify, and fueling stations weren't eligible at all.
- In 1999, the Legislature expanded the credit to include fueling stations. The credit covered 50% of the installation cost, up to \$200,000 per station. The vehicle fleet requirement was eliminated that year, too.
- In 2007, the Legislature changed the definition of “alternative fuel” to exclude electricity.

- Finally, the Legislature excluded individual taxpayers in 2012. This was part of a wider effort to modify the tax code, including eliminating several individual income tax credits.

**The credit's goal appears to be to encourage alternative fuel vehicle use for economic and environmental purposes.**

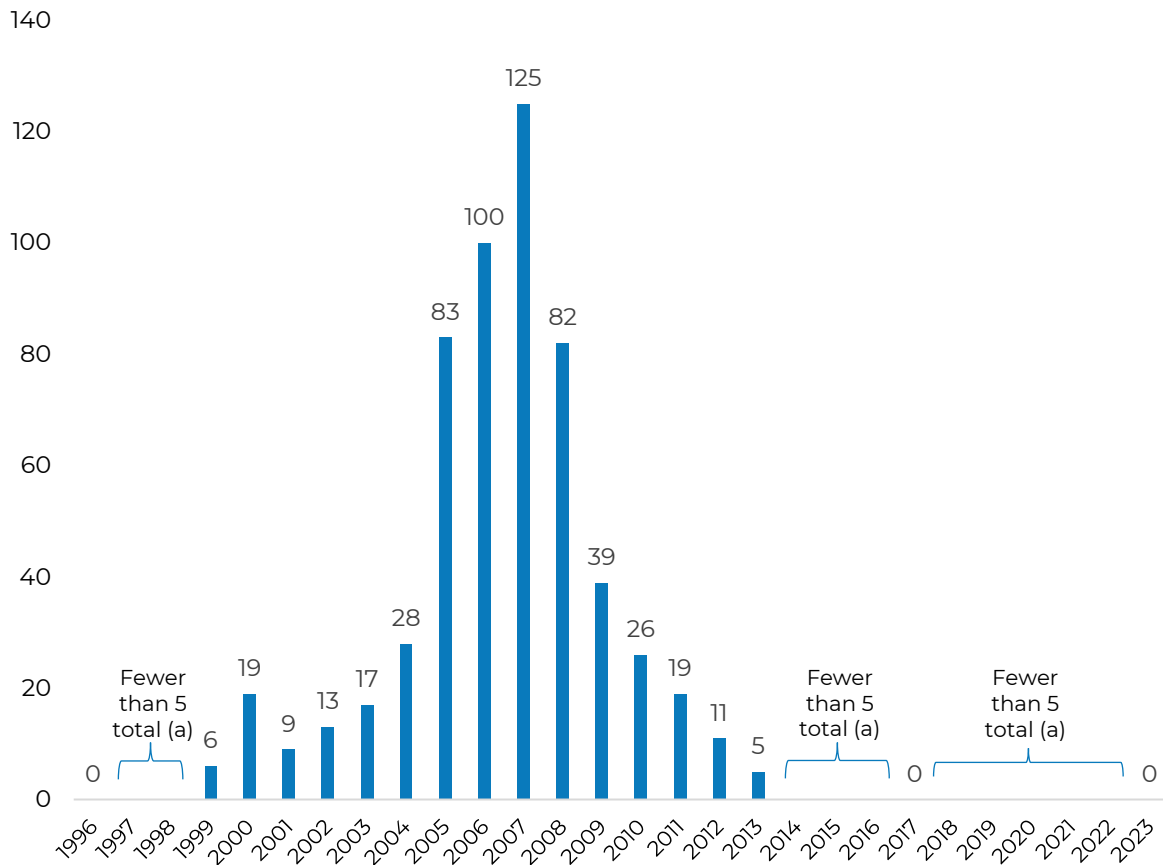
- State law doesn't state the credit's goals. It also doesn't provide benchmarks for measuring its success, such as numbers of vehicles or fueling stations.
- The implied goal seems to be to encourage alternative fuel vehicle use for economic and environmental purposes. In 2003, the Legislature issued a resolution noting ethanol and biodiesel's economic and environmental benefits, especially for agricultural communities.

**Alternative Fuel Tax Credit Use**

**Taxpayers have claimed the credit 612 total times for \$2.2 million since 1996, but fewer than 5 total corporations have claimed it since 2014.**

- We reviewed data and talked to officials from Revenue to determine the credit's use since 1996. The Legislature created the credit in 1995, but it became effective in 1996.
- During 1996-2023, the credit was claimed 612 total times for \$2.2 million in total allowed tax credits. A taxpayer can make more than 1 tax credit claim at a time, such as if they buy more than 1 vehicle in a year.
- **Figure 1** shows the annual number of credit claims. As the figure shows, annual claims peaked in 2007 at 125 claims. This year represents 20% of all claims made since 1996.
- Since 2014, fewer than 5 total corporations have claimed the credit 26 total times for \$390,000 in total allowed tax credits. In 2020, for instance, just 1 corporation claimed credits, according to Commerce's economic development incentive transparency database.

Figure 1. Annual credit claims peaked in 2007, and the credit has hardly been used since 2014.



(a) The Department of Revenue requires data for years in which there are fewer than 5 filers to remain confidential.

Source: LPA analysis of Department of Revenue data (audited).

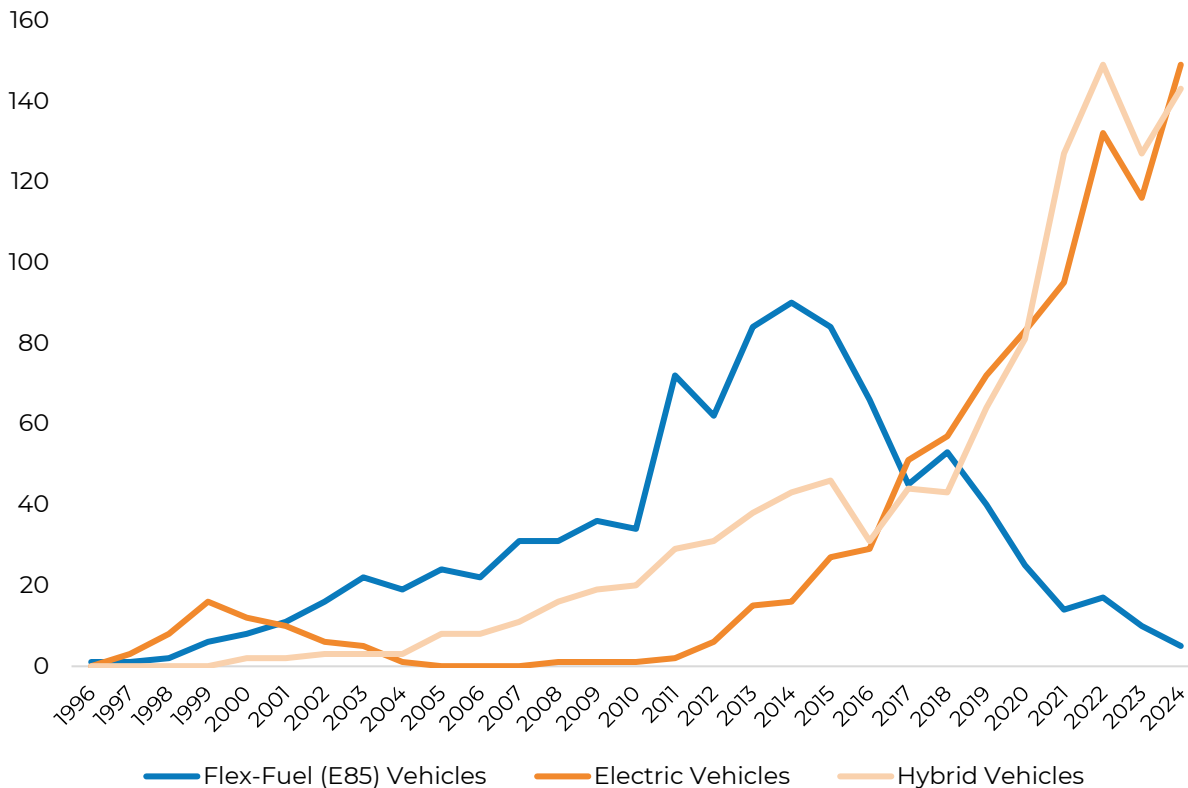
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**Eliminating electricity as an eligible alternative fuel in 2007 limited the credit’s usefulness as the alternative fuel vehicle market evolved in the following years.**

- We reviewed data from the U.S. Departments of Energy and Transportation to understand the evolution of the alternative fuel market. We compared this to how the alternative fuel tax credit has changed.
- Eliminating electricity as an eligible fuel in 2007 made the credit less useful in the following years. That’s because vehicles that use electricity as fuel have dominated the alternative fuel vehicle market since then.
  - For example, flex-fuel vehicles can run on either gasoline or an up to 85% ethanol blend (E85), which is a credit-eligible fuel. Vehicles that use electricity as fuel include electric vehicles and hybrid vehicles.

- **Figure 2** shows how many flex-fuel, electric, and hybrid vehicle models were available for sale each year during 1996-2024. As the figure shows, electricity became the dominant alternative fuel nationwide in these years. Flex-fuel vehicle availability peaked in 2014, when 90 different models were on sale. But vehicles that use electricity as fuel surpassed flex-fuel vehicles in the following years. By 2024, just 5 flex-fuel models (2% of the alternative fuel vehicle market) were available for sale, whereas 292 electric and hybrid vehicle models (91% of the market) were available.

Figure 2. The number of electric and hybrid vehicle models available for sale has increased in the last 10 years, whereas flex-fuel vehicle models have decreased.

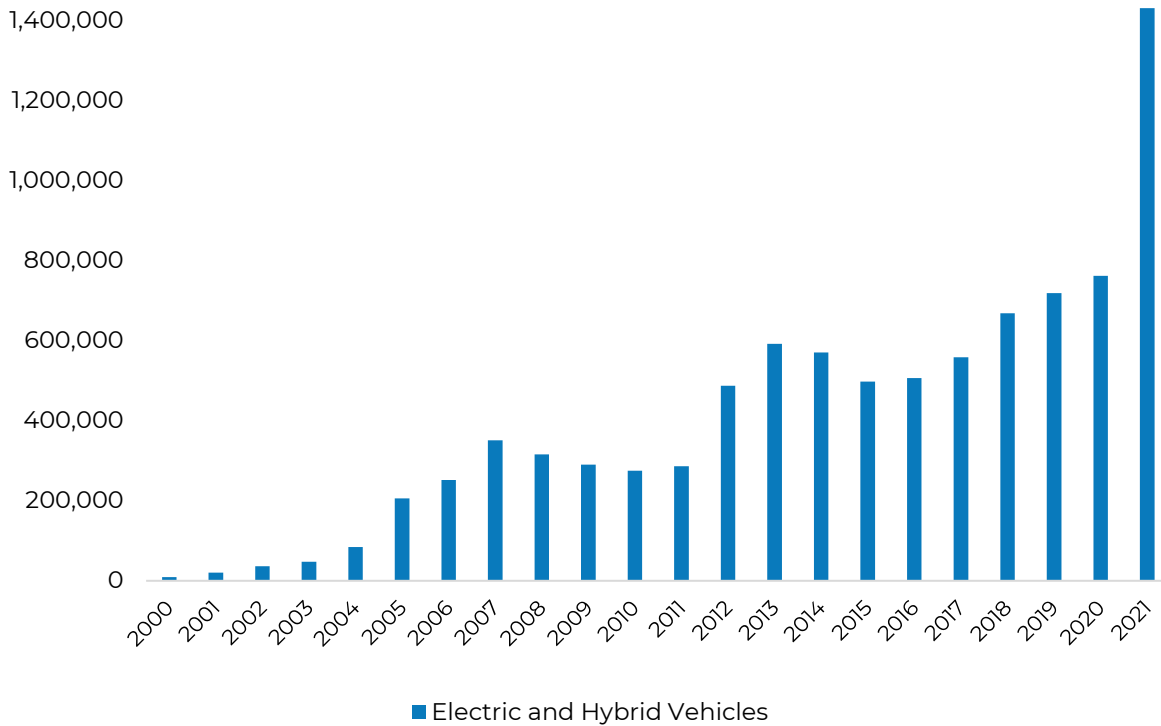


Source: LPA analysis of U.S. Department of Energy data (unaudited).

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- **Figure 3** shows annual nationwide sales of vehicles that use electricity as fuel during 2000-2021. As the figure shows, sales of electric and hybrid electric vehicles increased dramatically in these years. In 2000, only 9,500 such vehicles were sold. But in 2021, 1.4 million were sold, nearly double the year before. We didn't have data showing sales for vehicles meeting the current statutory definition of "alternative fuel."

Figure 3. Nationwide sales of vehicles that use electricity as fuel increased dramatically during 2000-2021.



Source: LPA analysis of U.S. Department of Energy data (unaudited).

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**Further, eliminating individual taxpayers' eligibility in 2012 significantly reduced the pool of potential claimants.**

- We talked to Revenue officials about how many corporate and individual taxpayers file taxes in Kansas each year.
- Eliminating individuals' credit eligibility in 2012 made 98.5% of Kansas tax filers ineligible. Revenue officials told us they receive 1.6 million individual income tax filings each year. By contrast, they receive just 24,000 corporate tax filings each year.
- Because there are so many more of them, individuals would be more likely to claim the credit if they were eligible. But given how the alternative fuel vehicle market has changed since 2012, individuals would likely only claim the credit in large numbers if vehicles that use electricity as fuel were eligible, too.



**No other state has a credit designed as restrictively as the alternative fuel tax credit, and no literature about it exists.**

- We reviewed data and documentation from the U.S. Department of Energy and National Conference of State Legislatures to identify states with similar credits.
- As of July 2021, 47 states and the District of Columbia have incentives for alternative fuel vehicles and infrastructure. These include tax credits, rebates, fee reductions, and utility rate reductions.
- But none of these other states' incentives exclude both electricity and individual taxpayers for both infrastructure and vehicles, like Kansas does. Only Oklahoma also excluded electricity as an eligible fuel for vehicles, but that state's credit is available to individual taxpayers. As a result, we couldn't find literature on the effectiveness of credits like the Kansas credit.
- Other states have generally moved toward incentivizing electricity rather than fuels like ethanol and biodiesel in recent years. For instance, Colorado and Kansas had very similar credits in the 1990s. They covered the same types of fuels. Kansas went on to eliminate electricity as an eligible fuel, whereas Colorado limited its credit to electricity only.

**Commerce awarded \$8.2 million in community service tax credits during 2023 and 2024 but didn't fully document their selection decisions.**

**Background**

**The community service tax credit provides credits to individuals, corporations, banks, and insurance companies for donating to certain community service projects.**

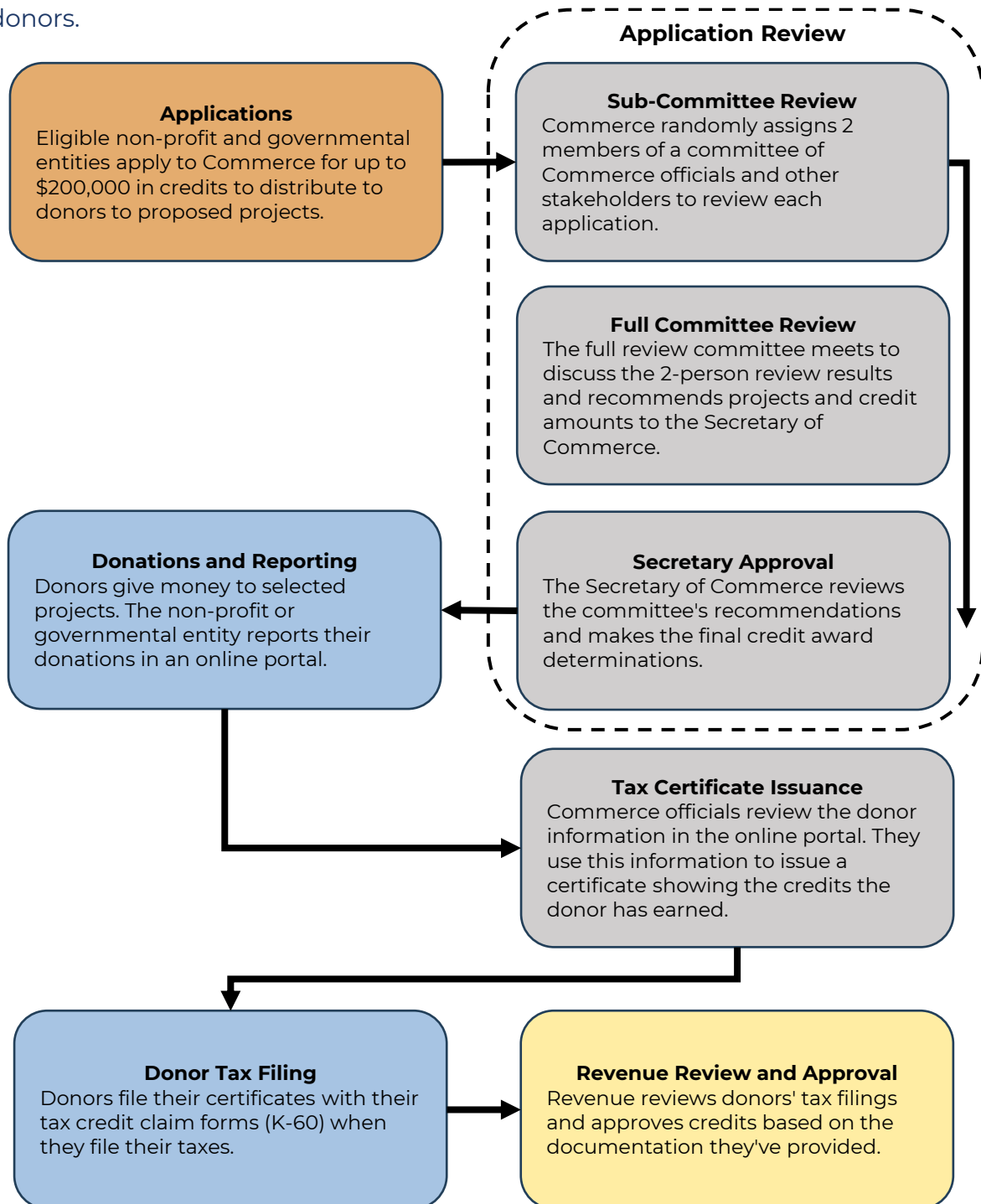
- The community service tax credit is an income, premium, or privilege tax credit available to individuals, corporations, banks, and insurance companies. Taxpayers receive credits for donating to certain projects undertaken by non-profit or governmental entities.
- To be eligible for the credit, state law (K.S.A. 79-32,195) requires projects to fall into 4 areas:
  - Community service. This includes any activity that meets a demonstrated community need and will achieve improved educational and social services for Kansas children and their families. Example projects include building shelters for people experiencing homelessness or upgrading libraries or museums.

- Crime prevention. These projects require local government endorsement. Example projects include providing substance abuse treatment to inmates.
- Youth apprenticeship and technical training. This includes projects like purchasing equipment for use in technical trade classes.
- Healthcare services. This includes projects like expanding nursing homes or purchasing defibrillators for hospitals.
- The credit is worth 50% of the donation in areas with populations of 15,000 or more and 70% in areas with populations below 15,000. It's refundable if the donor owes less in Kansas taxes than they have in credits. The credit is also transferable, which allows the donor to sell the credit to someone who owes Kansas taxes.

**Each year, Commerce awards credits to non-profit and governmental entities to distribute to project donors.**

- State law (K.S.A. 79-32,197) limits total annual credits to \$4.13 million. Commerce determines which projects receive credits and how much they'll be awarded. **Figure 4** shows the credit application, approval, and distribution process. We focused on evaluating the application review process, shown in the dashed box in the figure. We didn't evaluate the other processes.
- As the figure shows, non-profit and governmental entities apply to Commerce to propose a specific project donors will receive credits for supporting. In practice, governmental entities include things like local hospital authorities, rather than cities or counties.
- A committee reviews the applications to decide which proposed projects will be awarded credits. This committee includes stakeholders like Commerce officials and academics in relevant fields. Each selected project can receive up to \$200,000 in credits to distribute to donors. We describe the application review process in more detail later.
- Entities that are awarded credits use them to encourage donors to support their projects. These entities enter information about the donors who give money to their selected projects into an online portal. Commerce staff review this information and produce a certificate for the donor. This certificate shows how much they should receive in credits because of their donation.
- Finally, Revenue reviews donors' credit claim forms (K-60). Donors submit these forms when they file their taxes. Revenue officials said they base their approval decisions largely on the certificates donors get from Commerce.

Figure 4. The community service tax credit application and distribution process involves 2 state agencies, non-profit and governmental entities, and project donors.



Source: LPA review of documentation from and interviews with Department of Commerce and Revenue officials.

**The credit's goal appears to be to encourage donations to certain types of community service projects.**

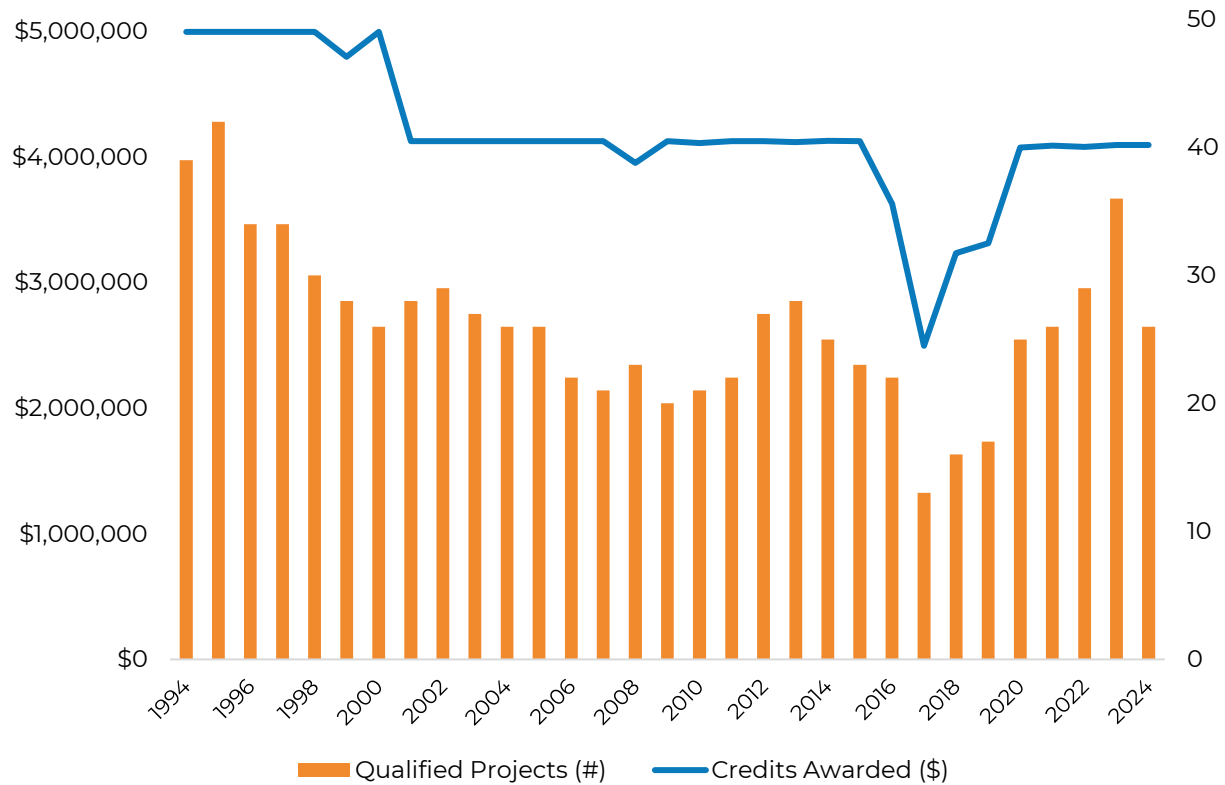
- State law (K.S.A. 79-32,194, et seq.) doesn't state the credit's goals. It also doesn't provide benchmarks for measuring its success, such as numbers of community service projects.
- The implied goal seems to be to encourage donations to the 4 types of projects eligible under state law. Commerce program guidance notes that the credit makes it easier for organizations to raise funds for such projects. That's because donors essentially get part of their donation returned.

**Commerce's Project Selection Process**

**Since 1994, Commerce has awarded \$130 million in total credits to support 811 projects.**

- The Legislature created the credit in 1994. We reviewed Commerce data showing the credits awarded to non-profit and governmental entities each year since then.
- **Figure 5** shows the credits Commerce awarded to entities with selected projects each year. It also shows how many projects received credit awards. As the figure shows, Commerce awarded the full amount state law authorized in most years. The cap started at \$5 million, but the Legislature reduced it to \$4.13 million in 2001. On average, 26 projects received an award each year, totaling 811 since 1994.

Figure 5. Commerce has generally awarded the full amount of credits state law allowed each year since 1994.



Source: LPA analysis of Department of Commerce data (audited).

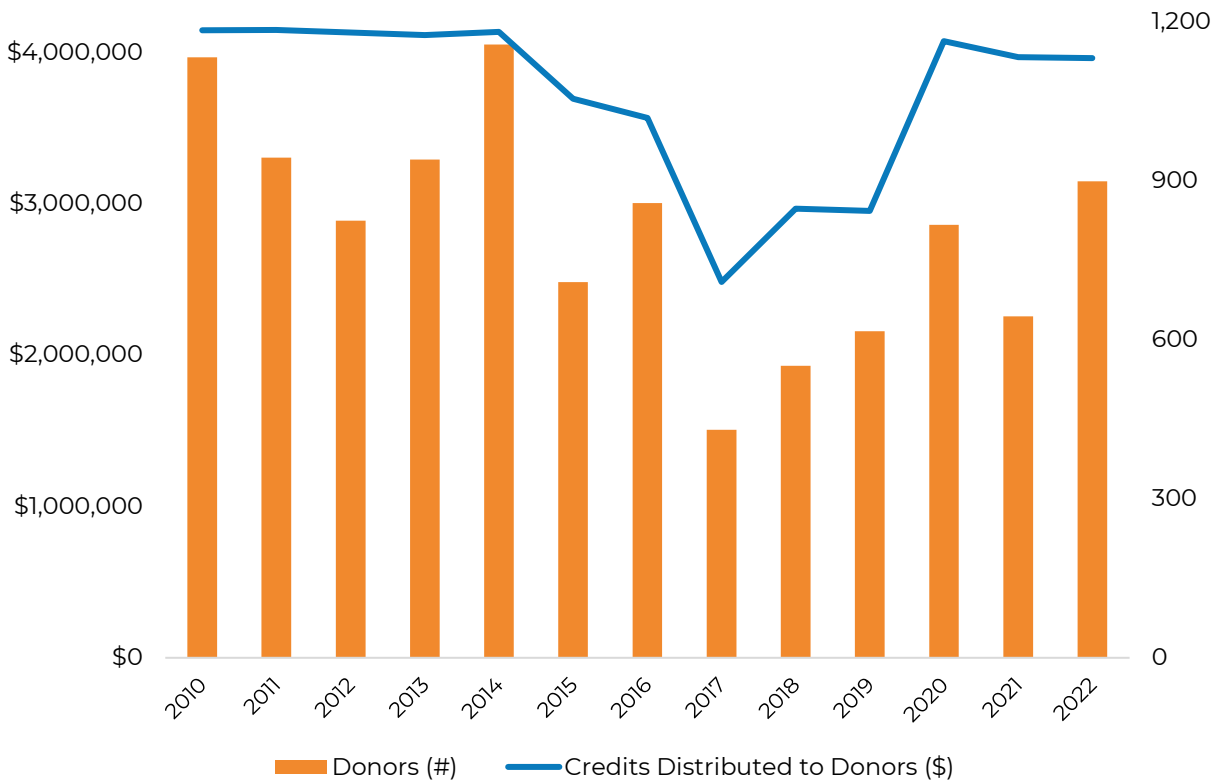
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- Since 1994, the Legislature has authorized \$134 million in total credits. Commerce has awarded \$130 million to selected projects, including 95%-100% of the authorized total in 27 out of 31 years. However, Commerce only awarded 61%-88% of the authorized total each year during 2016-2019. Agency officials told us the Division of the Budget had informally asked them to award less in these years because of the state’s financial difficulties.
- Since 1994, each project has received \$160,000 in credits on average. The annual average has fluctuated between \$114,000 per project in 2023 and \$207,000 per project in 2009. Commerce officials said they capped each project’s award at \$200,000 in 2023 so they could support more projects.
- Finally, Commerce’s data showed they awarded more than the \$4.13 million in tax credits state law authorized in 2014. Commerce exceeded the cap by \$2,000. Agency officials told us current program staff weren’t at Commerce during this year and didn’t know why this might have happened. This is not an ongoing issue.

**Since 2010, 10,523 total donors to selected projects have received \$48 million in credits.**

- We reviewed Commerce data showing how many donors have received credits for supporting selected projects each year since 2010. It's based on the certificates donors received from Commerce's online portal. This is the earliest year for which data about donors was available.
- **Figure 6** shows the amounts of credits donors received each year. It also shows how many donors received credits.
  - As the figure shows, non-profit and governmental entities distributed between \$2.5 million and \$4.15 million in tax credits to donors each year during 2010-2022. This is an average of \$3.7 million per year.

Figure 6. Non-profit and governmental entities distributed between \$2.5 million and \$4.15 million in tax credits to donors each year during 2010-2022.



Source: LPA analysis of Department of Commerce data (audited).

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- The \$4.15 million awarded in these years exceeds the \$4.13 million in tax credits state law authorized. Each year during 2010, 2011, and 2014, Commerce approved between \$3,000 and \$16,000 more in total credits

than state law authorized. Again, agency officials said current program staff weren't at Commerce during these years and didn't know why this might have happened. This is not an ongoing issue.

- As the figure also shows, between 430 and 1,157 donors received credits each year during 2010-2022, totaling 10,523. This is an average of 809 donors per year. On average, each donor received \$4,600 in credits.
- However, Revenue didn't provide data showing how many donors claimed credits on their taxes or how much in credits they claimed in time for us to include these things in our report. Commerce's data is based on the certificates donors received from Commerce's online portal. This is the maximum amount donors could've claimed when they filed their taxes. The data Revenue provided showing how much donors claimed on their taxes initially had errors. Revenue officials said the errors were caused by a mistake in the report staff used to pull the data from their database. Revenue couldn't provide corrected data in time for us to include it in this report.

**During 2023 and 2024, Commerce awarded \$8.2 million in total credits to 62 projects in 33 counties.**

- We reviewed Commerce documentation and data showing non-profit and governmental entities' applications in 2023 and 2024 for more detailed analysis. This included both projects awarded and not awarded credits, the amount of credits entities requested for each project, and what the projects entailed.
- Overall, Commerce received applications for 113 proposed projects in 50 Kansas counties during the 2 years we reviewed. Of these, Commerce awarded credits to 62 projects in 33 counties. Thus, roughly half of the applicants were not awarded credits because there weren't enough funds for all of them. **Appendix B** lists the projects that were awarded credits in the years we reviewed.
- Commerce awarded projects in Sedgwick County the largest share each year, totaling 18% of all credits awarded in 2023 and 16% of all credits in 2024. These percentages generally reflect how many applicants came from Sedgwick County in these years. On average, other counties' projects received less than 5% of each year's total.
- Of the 4 eligible purposes in state law, projects in the "community service" category received the most in credits. 42 of the 62 projects awarded credits (68%) fell into this category, totaling \$6 million of the \$8.2 million total (72%). Some projects fell into both this and 1 other category, such as healthcare services. By contrast, 1 crime prevention project received credits, totaling \$58,000.

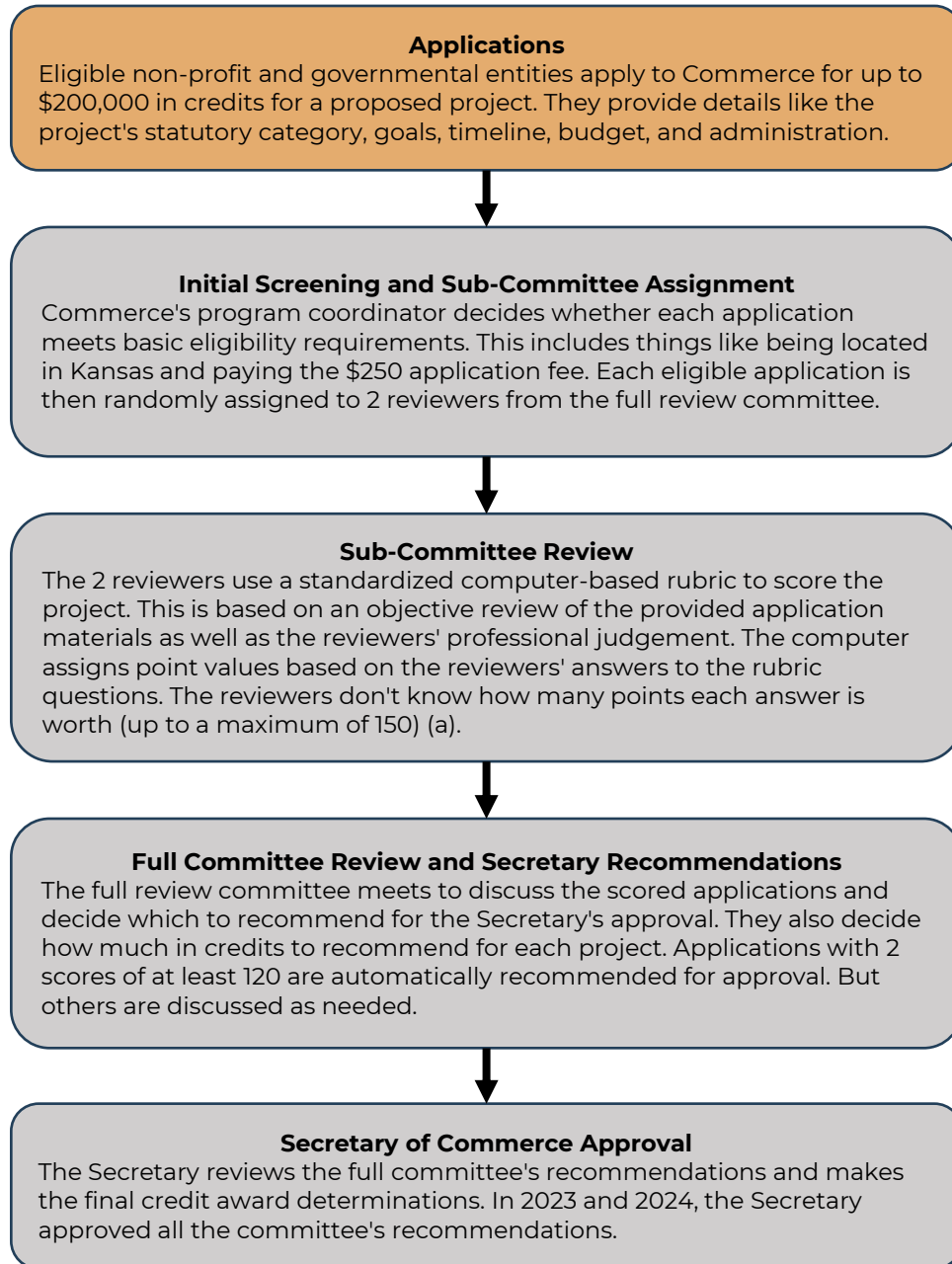
- On average, each project received \$132,000 in credits during 2023 and 2024. Commerce set a limit of \$200,000 per project in 2023, which would limit them to approving a maximum of 20 projects per year. Agency officials told us they generally award a portion of what the applicant requested so they can support more projects.

**During 2023 and 2024, Commerce reviewed proposed projects based on a scoring process including application materials and reviewers' professional judgment.**

- We reviewed documentation and talked to officials from Commerce to determine their process for reviewing proposed projects. The documentation we reviewed included things like application materials and scoring rubrics. Commerce officials said the current process has been in place since 2023.
- **Figure 7** shows Commerce's process for reviewing proposed projects. As the figure shows, this process includes both an objective evaluation of application materials and reviewers' professional judgment. It begins with a basic eligibility decision and culminates with the Secretary deciding which projects will receive credits.
- Commerce officials told us their process starts with a review of each proposed project's basic eligibility. The program coordinator who oversees the credit conducts this review to decide whether projects meet the basic requirements. This includes things like ensuring the project is in Kansas and the entity applying for credits has paid the \$250 application fee. It also includes verifying the proposed project hasn't received credits before. Commerce doesn't award credits to the same project more than once.
- 2 reviewers are randomly assigned to review the proposed project and answer questions about the application. The standardized computer-based scoring rubric they use interprets their answers and scores the application out of 150 possible points. The 2 reviewers' scores are averaged to determine the applicant's final score. The reviewers don't know how their answers translate into points.
  - 83 of the 150 total possible points (55%) come from an objective review of the application materials. This includes things like whether the application includes the required budget information, financial support letters, and community support letters. It also includes things like whether the application outlines a project timeline and administrative controls.
  - 67 of the 150 total possible points (45%) rely on the reviewers' professional judgment. This includes things like whether the proposed project is innovative, likely to meet the identified need, or likely to distribute all the awarded credits. It also includes the quality of the application materials.



Figure 7. Commerce's process for reviewing proposed projects includes multiple steps and draws on reviewers' professional judgment.



(a) In 2023, the maximum possible points total was 160.

Source: LPA review of documentation from and interviews with Department of Commerce officials.

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- Commerce officials told us the full review committee meets for a final assessment meeting after all applications have been scored.

- During this meeting, the committee decides which projects to recommend for the Secretary’s final approval. It also decides how much in credits to recommend for each project. Applicants request a specific amount of credits, and agency officials told us the committee often applies a consistent percentage to every approved project’s requested amount.
- Each application with 2 scores of at least 120 points is automatically recommended for approval. But the committee could consider any project at this meeting. For instance, they could consider lower scoring projects to better balance urban and rural projects or meet a known regional need.

**Commerce followed its process for scoring applications but didn’t document its eligibility checks for the 6 proposed projects from 2023 and 2024 we reviewed.**

- We reviewed 6 of the 113 projects proposed during 2023 and 2024 to determine whether Commerce followed its application review process. We judgmentally selected 3 projects that were awarded credits and 3 projects that were not awarded credits. Our selection varied in terms of geographic location, project type and application score. The results aren’t projectible to other projects but are sufficient to show whether issues may exist.
- **Figure 8** shows the 6 proposed projects we reviewed, their scores, and whether they were approved or not. As the figure shows in the middle column, Commerce followed its scoring process during application review. This includes both the objective review of application materials and the reviewers’ professional judgment of the application materials.
  - All 6 proposed projects followed Commerce’s process for the objective review of application materials. The reviewers’ scores for the objective elements of the applications were supported by the application materials we reviewed. For example, reviewers said applicants had the required financial support letters when they did. We also saw evidence reviewers downgraded applications for missing required materials such as community support letters or Commerce’s budget template.
  - All 6 proposed projects also followed Commerce’s process for reflecting reviewers’ professional judgment of the quality and strength of the application materials. For example, reviewers downgraded projects they didn’t see as innovative, replicable, or likely to succeed. Conversely, they awarded points to applications that did things like clearly outline a critical community need and fundraising plan. Reviewers frequently explained these decisions by adding comments to the rubric.
- However, Commerce didn’t document the basic eligibility decisions it made for the 6 proposed projects, as shown in the middle column of **Figure 8**. This means we couldn’t determine whether Commerce followed this part of its application review process. For instance, we didn’t see documentation that the program coordinator had ensured the applicants wouldn’t be receiving

credits for 2 consecutive award years and the projects hadn't ever received credits before. Commerce officials told us they completed these checks for all 6 projects we reviewed.

Figure 8. Commerce followed its application scoring process for 6 proposed projects we reviewed but didn't document its eligibility checks or award decision making.

Year	Applicant	Final Outcome		Application Review		Decision to Award	
		Final Score	Review Outcome	Basic Eligibility Check	Scoring Rubric	Recommendation Decision	Final Award Decision
2023	Kiowa District Hospital	150.5	Approved	✗	✓	✗	✗
2023	High Point Advocacy and Resource Center	134.0	Approved	✗	✓	✗	✗
2024	Community Living Opportunities	116.5	Not Approved	✗	✓	✗	✗
2024	Fort Hays State University Foundation	106.0	Not Approved	✗	✓	✗	✗
2024	Rawlins County Dental Clinic Fund	96.5	Approved	✗	✓	✗	✗
2023	The Opportunity Project Schools	93.5	Not Approved	✗	✓	✗	✗

Source: LPA review of documentation from and interviews with Department of Commerce officials.

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**We identified a few risk areas in Commerce’s application review process, but they wouldn’t have changed the award outcomes we reviewed.**

- The current process invites reviewer discretion. Although some professional judgment is appropriate, too much discretion can create risks for inconsistencies across reviewers. We saw an example of this in the projects we reviewed. But Commerce’s process caught this inconsistency, and the project didn’t receive credits.

- The assigned reviewers scored applications consistently for 5 of the 6 projects we reviewed. For example, the 2 reviewers' total scores for each project were within 7 points of each other.
- However, the 2 reviewers' scores varied by 64 points for 1 project we reviewed. 1 of the 2 reviewers awarded this project 118 total points, whereas the other awarded it just 54 points. 43 of this 64-point difference came from the questions reflecting the reviewers' professional judgment. Commerce officials told us the full review committee discussed this discrepancy and found the lower score to be more appropriate. The higher-scoring reviewer hadn't realized they were biased.
- Further, the computer-based scoring rubric Commerce used to score applications was missing important controls.
  - It didn't require reviewers to score every question. A reviewer skipped a 5-point question on the application scoring rubric for 1 of the projects we reviewed. Commerce officials told us skipping a question awards zero points for that question. They said the program the scoring rubric is in can be set to force reviewers to answer every question, but this control wasn't activated. A couple of questions are worth 10 points, and 1 question is worth up to 20 points of the 150-point total. This creates a risk that projects could be not awarded credits based on human error when questions are skipped inadvertently.
  - Further, it didn't total up applications' scores as expected. For 1 of the projects we reviewed, the scoring rubric awarded 115 points when the answers to each individual question only added up to 114. Commerce officials didn't know how this happened. This creates a risk that projects could be either approved or not approved based on mathematical errors.

**However, we couldn't review how Commerce decided which of the 6 proposed projects to award credits because it didn't document these decisions.**

- We also reviewed the 6 proposed projects to determine whether Commerce followed its process for determining whether to approve projects for credits and how much in credits they should receive. In our sample, 3 projects received credits, and 3 projects didn't. As the right-hand column in **Figure 8** shows, we couldn't review how Commerce made key award decisions on the 6 proposed projects we looked at. Commerce officials said these steps occurred, but they don't have a process for documenting them.
- Commerce didn't document the final assessment meetings for either 2023 or 2024. Agency officials said they don't have a process for doing this. This is the meeting where the full review committee decides which proposed projects to recommend for the Secretary's approval. This includes deciding how much in credits to recommend for each project. We don't know which projects the

committee discussed during this meeting, how they talked about them, or how they decided which ones to recommend for approval.

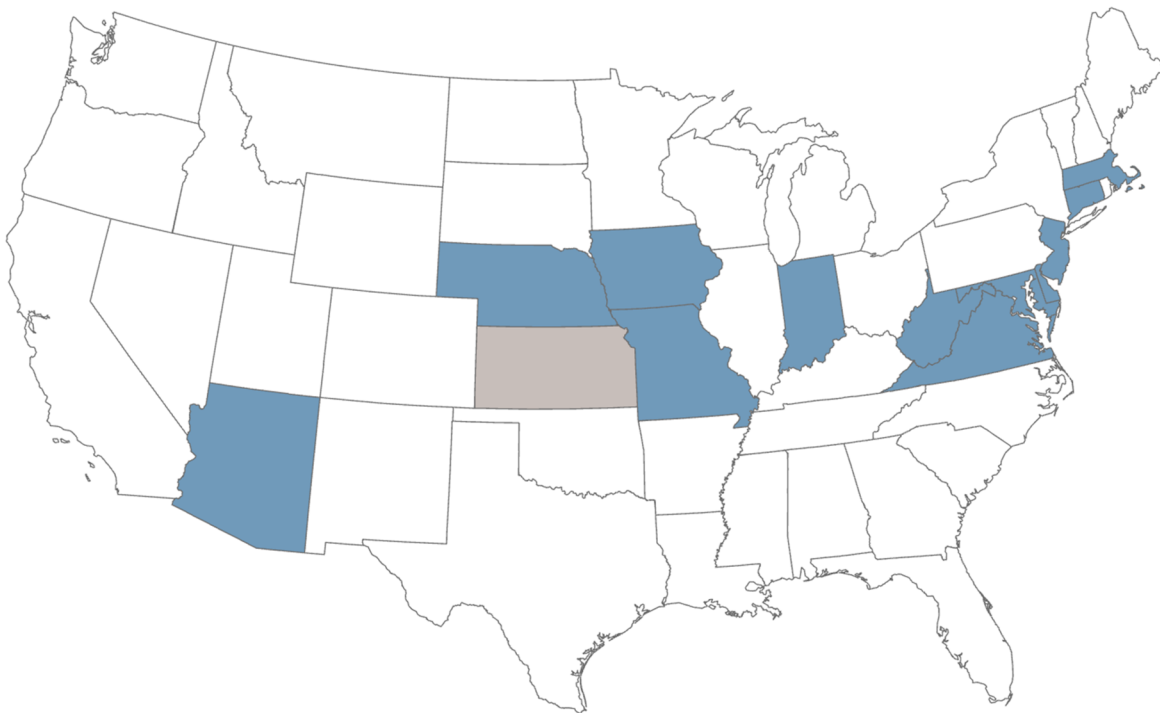
- Commerce also didn't document the Secretary of Commerce's final award decision. Agency officials said the Secretary approved the committee's recommendations in the years we reviewed. But without documentation, we don't know which projects the Secretary considered or why he selected the projects he did.
- We would have expected the review team to discuss at least 2 projects we reviewed and document the rationale for their decisions.
  - As shown in **Figure 8**, 1 project from 2024 was awarded credits despite the reviewers' average score (96.5 points) and individual scores being well below 120 points. 17 other projects received higher scores but were not awarded credits in that year. Commerce did not have documentation explaining the reason why a higher scoring project wasn't chosen. Commerce officials said they chose this project because they had selected a low-scoring project in an urban area and wanted to balance this with a low-scoring project in a rural area. They also thought the low-scoring project met an important regional need and would likely succeed.
  - Another project we reviewed received significantly different scores from the 2 reviewers (a 64-point difference). We would have expected Commerce to document the discussion, the reasons for the inconsistent scores, and the rationale for committee's final recommendation. Commerce officials said the higher scoring reviewer was biased, so documenting this meeting would allow confirmation of the committee's objectivity.
- Despite these issues, deciding whether to award credits was straightforward for 4 of the 6 projects we reviewed. That's because both reviewers' scores were consistent and both scores were above or below Commerce's award threshold of 120 points. The review team may not have needed to discuss whether to approve them at the final assessment meeting.
- Ultimately, Commerce is administering a competitive process to decide how to award millions of dollars in credits each year. As such, it should clearly and completely document its decision making. Without documenting the final assessment meeting in particular, no one can determine how projects were selected and whether these decisions were objective. This limits the program's public transparency.

## Other Findings

### **12 states have credits similar to the community service tax credit.**

- We reviewed documentation from the Council for Community and Economic Research, The Pew Charitable Trusts, and other states to identify states with similar credits.
- **Figure 9** shows other states with similar credits as of September 2024. As the figure shows, 12 states had credits like the community service tax credit. Missouri's was the most similar. The same types of organizations were eligible to apply, and it provided the same 50% and 70% credit amounts. But it also allowed businesses to receive credits for donations to other businesses doing community service. It wasn't limited to non-profit or governmental entities.
- The other 11 states with similar credits focused on at least 1 of the same types of projects, such as youth apprenticeship and technical training. But many also prioritized things like awarding credits to projects in low-income areas.

Figure 9. As of September 2024, 12 other states had credits similar to the community service tax credit.



Source: LPA review of state statutes and documentation from the Council for Community and Economic Research and Pew Charitable Trusts.

## **Some studies we reviewed said community service tax credits increase donations and allow states to target specific needs.**

- We reviewed academic literature and state evaluations of similar credits to determine whether they effectively incentivize donations.
  - The studies we reviewed showed mixed results about similar credits' effectiveness. For instance, we reviewed a national study that evaluated a variety of 46 tax credits in 23 states. This included credits similar to the community service tax credit, as well as other credits meant to incentivize donating. It found little evidence these credits increased donations.
  - But we saw several state-specific studies that produced more positive results than the national study. For example, an Indiana evaluation found their credit allowed the state to target donations to certain areas of need. A Michigan evaluation found their credit increased donations by more than \$40 million. Finally, a study of Iowa's credit found it increased donations by 125%.
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## **Conclusion**

The alternative fuel tax credit has been used very rarely in recent years. In fact, fewer than 5 total taxpayers have claimed the credit in the last 10 years. This raises questions as to the usefulness of having this credit in its current form and tracking its use. On the other hand, the community service tax credit is a popular program with more demand than the credit can meet. Credits are awarded to community service projects through a discretionary process with about a 50% award rate in recent years. Much of the Department of Commerce's decision-making process is not documented. As such, no one can determine how projects were selected and whether these decisions were objective, which limits public transparency.

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## **Recommendations**

1. The Department of Commerce should clearly and completely document how it determines the basic eligibility of proposed projects as well as how it determines the final list of projects to award community service tax credits.
  - Agency Response: Commerce administers a transparent, thorough and effective tax credit award process. The agency will continue to look for ways to improve that process like with any program that we administer.

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## Agency Response

On November 22, 2024 we provided the draft audit report to the Departments of Commerce and Revenue. We made several changes to our findings based on both departments' feedback. The Department of Commerce also chose to respond to the audit. Its response is below. In its response, Commerce disagreed that their review process could be better documented. We reviewed their concerns but chose not to make additional changes for the reasons described below. Commerce also rejected our recommendation.

- **Commerce contends they fully document their community service tax credit eligibility and decision-making process.** We stand by our conclusions because we think there's an important difference between documenting the outcome of the process and documenting the process itself. The documentation Commerce provided only shows outcomes. For instance, the list of recommended projects and credit amounts given to the Secretary for review shows the outcome of the final assessment meeting. As we state in the report, however, this documentation doesn't show the review committee's rationale to lead to this outcome. For example, none of Commerce's documentation shows whether and how the committee discussed its options during the final assessment meeting and decided upon its list of recommendations for the Secretary. This includes critical decisions such as awarding credits to a low-scoring project or identifying and throwing out a biased project application review.

### **Department of Commerce Response**

Dear Ms. Chris Clarke:

The Department of Commerce (Commerce) has reviewed the Performance Audit Report titled, "Evaluating the Alternative Fuel and Community Service Tax Credits". Commerce is only responding to the portion of the audit regarding Community Service Tax Credits. The agency refers to this program as the Community Service Program Tax Credits (CSP). The primary goal of the program is to amplify the fundraising efforts of nonprofit organizations across the state. CSP has been wildly popular; specifically, it has been oversubscribed (i.e., more requests than available tax credits) by more than \$6 million in 2023 and \$5.6 million in 2024.

While we appreciate the time and effort that went into the review, Commerce has concern over the audit's determination that the review process lacks documentation. The standard for documentation was arbitrarily defined by the auditors. Specifically, the audit identifies two areas that are alleged to lack adequate documentation: the eligibility review and the final determination meetings.

### **Eligibility Review**



The eligibility review component is the first step in the review process for CSP. To complete this component of the review, the program manager reviews each applicant to ensure that all eligibility requirements have been met within the online application platform. The program manager verifies that the necessary documentation is present in the application and consults with the agency's financial team to ensure that the applicant has paid the application fee. If the program manager finds any eligibility requirement to be missing or noncompliant, the applicant is identified as "withdrawn" in the system and not assigned to the two reviewers. These steps are conducted within the system. While a checklist can be created to further document this component in the review process, the current process is more than sufficient as demonstrated by no application reviewed by LPA being found to be ineligible.

#### Final Determination Meeting

The audit alleges that Commerce does not document the final determination during both the review committee meeting and the meeting with the Secretary. Notwithstanding that no level of "documentation" is required, Commerce has full documentation of the review process. Both meetings utilize a spreadsheet with the applicant information including the scores. This spreadsheet documents the final decisions. As our policy states, the final determination may take project diversification and project location into consideration. The applications that were awarded followed the recommendation of the review committee and this is documented through the spreadsheet and award announcements. It is unclear what further documentation is needed in these situations and seems to be based on the personal preference and biases of the auditors.

Commerce administers a transparent, thorough and effective tax credit award process. The audit does share that during the in-depth review of six applications, the auditors found that the agency appropriately follows our established policies regarding what the audit identifies as the "objective review" and "professional judgement review". We appreciate this recognition as the agency takes the responsibility of awarding tax credits and funding with the utmost regard and works diligently to ensure that communities, nonprofits and local government entities understand the process and participate in our funding opportunities. We look forward to continuing to administer this program for the betterment of Kansas communities.

Sincerely,

David C. Toland  
Lt. Governor and Secretary

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## **Appendix A – Cited References**

This appendix lists the major publications we relied on for this report.

1. Charitable Tax Credits: Boon or Bust for Nonprofits? (July, 2004). *Carol J. De Vita and Eric C. Twombly.*
2. Do Tax Credits Increase Charitable Giving? Evidence from Arizona and Iowa (April, 2016). *Daniel Teles.*
3. The Effectiveness of Tax Credits for Charitable Giving (July, 2018). *Nicolas J. Duquette, et al.*
4. Indiana Tax Incentive Evaluation (2019). *Indiana Office of Fiscal and Management Analysis.*
5. Robbing Peter to Pay Paul: Understanding How State Tax Credits Impact Charitable Giving (May, 2020). *National Bureau of Economic Research.*
6. State Policies Promoting Hybrid and Electric Vehicles (August, 2023). *Austin Igleheart.*
7. Tax Credits and Charitable Contributions in Michigan (October, 2003). *Naomi E. Feldman and James R. Hines, Jr.*
8. Tax Expenditures Compilation Report (September, 2022). *Colorado Office of the State Auditor.*

## Appendix B – 2023-2024 Approved Projects

This appendix lists the projects awarded community service tax credits during 2023 and 2024.

Year	County	Applicant	Project Title	Project Type	Score	Credits Awarded
2024	Barton	Great Bend Alive	IGNITE Innovation Center	Youth Apprenticeship, Community Service	120.0	\$166,600
2024	Comanche	Comanche County Hospital	Comanche County Hospital Physical Therapy Expansion Project	Healthcare Services	121.5	\$90,000
2024	Cowley	William Newton Healthcare Foundation	ABCs of D(efibrillators)	Healthcare Services	120.0	\$122,000
2024	Ellis	Hays Arts Council	For the Heart of Hays	Community Service	131.0	\$166,600

2024	Ellis	Victoria Community Coalition, Inc.	St. John's Place - Phase I Apartments	Community Service	120.0	\$166,600
2024	Franklin	Ottawa Library Endowment Fund, Inc.	Ottawa -- Next Generation Strong	Community Service	134.0	\$166,600
2024	Greenwood	Greenwood Preservation Society	Red Owl Main Street Multi-Purpose Center	Community Service	136.5	\$125,000
2024	Jackson	Beck Bookman Library	Beck Bookman Library Expansion and Renovation	Community Service	129.5	\$166,600
2024	Johnson	Inclusion Connections	BelongKC Supportive Living Community	Community Service	115.5	\$166,600
2024	Johnson, Franklin, and Miami	Midland Care Connection, Inc.	Johnson County PACE Expansion	Healthcare Services	123.0	\$166,600
2024	Lyon	Hetlinger Developmental Services, INC.	Sustainable Futures Initiative	Community Service	136.5	\$139,000
2024	McPherson	Lindsborg Old Mill & Swedish Heritage Museum	1904 World's Fair Swedish Pavilion Restoration & Improvement	Community Service	136.0	\$166,600
2024	McPherson	McPherson County Community Foundation (Cradle to Crayons)	Moundridge Community Child Care Center-Fire & Safety	Community Service	127.5	\$166,600
2024	Montgomery	The Midland Theater Foundation, Inc.	It Takes Guts - Midland Theater Coffeyville	Community Service	124.0	\$166,600
2024	Montgomery	Independence Community College Foundation	Inge Community Theatre Project	Community Service	123.5	\$166,600
2024	Nemaha	Centralia PRIDE Association	Securing the Future of the Centralia City Pool	Community Service	129.0	\$166,600
2024	Rawlins	Rawlins County Dental Clinic Fund	104 S 4th Project	Healthcare Services	96.5	\$166,600
2024	Riley	Flint Hills Discovery Center Foundation	Outdoor Classroom Renovation Project	Community Service	134.5	\$166,600
2024	Saline	Salina Educational Automotive Museum of America DBA The Garage	The Garage Expansion Project	Youth Apprenticeship, Community Service	122.0	\$166,600
2024	Sedgwick	Kansas Health Science Center	Biomedical Science Laboratory for Medical Student Research	Healthcare Services	144.5	\$166,600
2024	Sedgwick	HumanKind Ministries, Inc.	Forward Together Campaign	Community Service	139.5	\$166,600
2024	Sedgwick	Music Theatre Wichita, Inc.	Academy Education Project	Youth Apprenticeship, Community Service	133.5	\$166,600

2024	Sedgwick	Freedom Hooves Therapeutic Riding Center	Hope in Motion Therapy Project	Healthcare Services	127.0	\$166,600
2024	Shawnee	Friends of the Topeka Zoo, Inc.	My World	Community Service	128.0	\$166,600
2024	Shawnee	Kansas Children's Discovery Center	Building Discovery	Community Service	120.0	\$125,000
2024	Thomas	OPTIONS Domestic & Sexual Violence Services	Emergency Shelter for Domestic Violence Victims	Community Service	122.5	\$166,600
<b>2023</b>						
2023	Barber	Kiowa District Hospital	Kiowa District Hospital Childcare School-Age Building	Community Service	150.5	\$200,000
2023	Barton	St. John's Child Development Center	Elevating & Expanding Early Childcare Services - Ellinwood, Kansas	Community Service	134.5	\$160,300
2023	Chautauqua	Sedan City Hospital	X-ray Replacement	Healthcare Services	120.5	\$81,184
2023	Clay	Clay Center Community Improvement Foundation	USD 379 Early Learning Center (Childcare Facility)	Community Service	130.5	\$199,999
2023	Cowley	Etzanao Conservancy Inc	Etzanao Immersion Center	Community Service	143.0	\$115,600
2023	Geary	Sunporch of Smith Center, Inc	Sunporch of Smith County Expansion Project	Healthcare Services, Community Service	133.0	\$115,400
2023	Gray	Bluejay Education Foundation	Agriculture Career Technology	Youth Apprenticeship	130.0	\$42,295
2023	Harper	Medicine Lodge Daycare, Inc.	Medicine Lodge Daycare, Inc. Expansion	Community Service	130.0	\$40,000
2023	Harper	Attica Hospital District #1	Helping Hands: Super Make-Over	Healthcare Services	122.5	\$115,400
2023	Harvey	Bethel College (KS)	Bethel College Student Wellness Center	Healthcare Services	144.5	\$115,600
2023	Haskell	Rotary Club of Sublette	Sublette Kansas Splash Pad Project	Healthcare Services, Community Service	120.5	\$115,400
2023	Johnson	Friends of JCDS, Inc.	Affordable and Accessible Housing Options For Individuals with Intellectual and Developmental Disabilities	Healthcare Services, Community Service	134.0	\$41,580
2023	Labette	Labette Health Foundation	Independence Healthcare Center Equipment Project	Healthcare Services	133.5	\$84,000

2023	Lyon	Emporia Community Foundation (on behalf of the Olpe Community Committee)	Olpe Community Health & Wellness Initiative	Healthcare Services, Community Service	125.5	\$115,400
2023	Miami	Lakemary Center	40 Bed PRTF Expansion & Renovation	Healthcare Services	141.5	\$115,600
2023	Montgomery	FosterAdopt Connect, Inc.	Connecting the Dotte' Project	Community Service	154.0	\$115,600
2023	Montgomery	Coffeyville Regional Medical Center Foundation	Rural Health Clinic for SE Kansas	Healthcare Services	153.0	\$115,600
2023	Norton	Valley Hope Association	Valley Hope of Atchison Expansion	Healthcare Services	120.5	\$84,000
2023	Pratt	Pratt Health Foundation	Pratt Daycare Project	Community Service	142.0	\$200,000
2023	Reno	Buhler Sunshine Home, Inc.	Homes Plus Memory Care Center	Healthcare Services	136.0	\$115,400
2023	Riley	No Stone Unturned Foundation, Inc.	"No Need Unmet" Capital Campaign	Healthcare Services	152.0	\$115,600
2023	Riley	Wareham Hall Renovation Fund	Wareham Hall Renovation (Design & Architecture Fees)	Community Service	137.5	\$115,400
2023	Riley	Big Lakes Developmental Center, Inc.	Raise the Roof Capital Improvement Project	Community Service	135.0	\$115,400
2023	Rooks	Rooks County Healthcare Foundation	Rooks County Health Center (RCH) Campus Enhancement	Community Service	138.0	\$200,000
2023	Saline	Catholic Charities of Northern Kansas, Inc.	Hays Support Center Renovation	Community Service	124.5	\$115,400
2023	Sedgwick	Child Advocacy Center of Sedgwick County, Kansas, Inc.	OPEN-DOOR Project: A Campaign to Protect Children and Strengthening Families	Community Service	155.5	\$115,600
2023	Sedgwick	Wichita Public Library Foundation Inc.	LIBRARIES ARE FOR EVERYONE - Campaign for Branch Libraries	Community Service	144.0	\$115,600
2023	Sedgwick	Orpheum Performing Arts Centre, LTD	Second Century Project	Community Service	142.5	\$115,600
2023	Sedgwick	League 42 Foundation, Inc.	League 42 Foundation - KIDS FIRST Campaign	Community Service	139.0	\$115,600
2023	Sedgwick	Exploration Place, Inc.	EP2 Initiative	Community Service	134.0	\$84,000

2023	Sedgwick	Empower Evergreen, Inc.	Empower Incubation Hub	Community Service	124.0	\$115,400
2023	Sedgwick	The Kansas African American Museum, Inc.	TKAAM Museum & Cultural Center	Community Service	121.5	\$84,000
2023	Shawnee	Stormont Vail Foundation	Cardiovascular Procedure Center Expansion & Renovation at Stormont Vail Health	Healthcare Services	121.0	\$115,400
2023	Thomas	High Point Advocacy and Resource Center, Inc	Crime Prevention-Substance Abuse Treatment for Inmates in our Local County Jails	Crime Prevention	134.0	\$57,700
2023	Thomas	Citizens Foundation	Equipment for one OB Labor and Delivery Room	Healthcare Services	128.0	\$115,400
2023	Trego	Trego Hospital Endowment Foundation, Inc.	TCLMH Renovation and Expansion Project	Healthcare Services	123.0	\$115,400