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ECONOMIC DEVELOPMENT ACCOUNTABILITY LAWS

Introduction

As part of an overall economic development strategy, state and local governments have provided a variety of financial incentives to attract new businesses or encourage existing firms to remain or expand. The ultimate goal of these incentives is to increase employment, investment, and economic activity. Incentives can be in the form of preferential tax treatment (tax exemptions) or through the provision of services, such as job training or industrial site preparation. Incentive programs may be provided to specific firms or aimed more broadly at industries perceived to have desirable characteristics, such as high-wage jobs.

Several cities and states have passed legislation intended to provide greater accountability concerning the extent to which incentive programs meet desired economic development goals. Three broad, and often overlapping, approaches to economic development accountability can be identified in these laws.

- Frequently, businesses must meet specific conditions to qualify for economic development incentives. *Qualifying conditions* may include requirements to create a minimum number of new jobs, meet a minimum level of new investment, or remain at a site for a minimum number of years. Businesses may also be required to meet “job quality standards,” such as creating jobs with wages at or above a specified level or providing workers with health care benefits.

- *Disclosure* laws require businesses benefiting from incentives to provide certain types of related information, ranging from the amount of tax relief received to the number of new jobs created. The type of information disclosed is often used to measure business compliance with qualifying conditions.

- Finally, *enforcement* provisions identify government actions that will be taken if businesses receiving financial incentives do not meet the relevant qualifying conditions. Enforcement provisions range from “clawbacks” that require repayment of all or part of the incentive to loss of future economic development incentives.

Qualifying Conditions

As noted above, economic development incentives, whether they are tax exemptions or targeted government services, are intended to enhance state economies and increase employment. To make this linkage explicit, state and local governments frequently require businesses to take specific actions as a condition of receiving financial benefits.

Job Creation. Increasing employment is generally considered to be one of the major goals of economic development activities (Fisher & Peters, 1998, 7; Bartik, 1991, 1). Many cities and states tie financial incentives to creating a specified number of new jobs. In some cases, the number of new jobs a business must create to qualify for financial incentives varies by company size, local unemployment or poverty rates, and industry. Exhibit 1 provides examples of job creation requirements that states have considered or enacted.

Exhibit 1

Examples of Job Creation Requirements to Qualify for Economic Development Incentives

State	Law or Bill	Job Creation Requirement
Alabama	Business Investment Tax Credit (Act No. 95:187)	20 new jobs; 15 if small business
Georgia	Job Tax Credit Program (Georgia Code 48:7:40:40.1)	5 to 50 new jobs, depending on local unemployment, poverty, and income levels
Mississippi	Senate Bill 2320, 1995	10 to 20 new jobs, depending on industry
Pennsylvania	Job Enhancement Act (House Bill 2668, PN 3934, June 1996)	25 new jobs or increase workforce by 25 percent

Source: Adapted from Business Incentive Reform Clearinghouse, 1999.

New Investment. Some states require businesses to make specified levels of new investment to qualify for tax reductions. The rationale for this policy is that reducing taxes on investments in new plant and equipment will encourage new business relocation and existing business expansion, both of which should lead to greater economic activity and employment. In some cases, businesses are required to meet specified levels of new investment and increase hiring to qualify for tax reductions. Exhibit 2 provides examples of state requirements for new investment.

Exhibit 2

Examples of New Investment Requirements to Qualify for Economic Development Incentives

State	Law or Bill	Job Creation Requirement
Maine	Jobs and Investment Tax Credit (MRS Title 36, Part 8, Chp 822 sec. 5215)	Invest at least $5 million and create 100 new jobs over following two years
Nebraska	Employment and Investment Act (LB 775,1987)	Invest $3 to $20 million and create 0 to 100 new jobs (various tax exemptions for different investment and employment combinations)
Washington	High Technology Sales Tax Deferral for Research and Development Investment (RCW 82.63)	Sales taxes deferred on qualified R&D or pilot manufacturing investments; no repayment required if investment use requirements are met for eight years

Sources: Breslow, 1999; Goss and Phillips, 1999; Department of Revenue, 2003, 5–7.

Anti-Relocation. The competition among states for employers is intense, a point borne out by the recent “bidding process” to determine the production site for the Boeing Company’s 7E7 airliner (Pfleger & Gates, 2003; Burstein & Rolnick, 1995). As a result, states offering economic development incentives to businesses have reasonable concerns about how long those companies will remain before being tempted to move elsewhere.

These concerns are frequently addressed by requiring businesses to agree not to move out of state as a condition of receiving financial incentives. These “anti-relocation” conditions generally require a business to remain at the same site for a particular number of years. Exhibit 3 displays three state provisions that address anti-relocation conditions.

Exhibit 3
Examples of Anti-Relocation Requirements to Qualify for Economic Development Incentives

State	Law or Bill	Job Creation Requirement
Connecticut	All Business Incentives (Public Act No. 93:218)	Business cannot relocate out of state for ten years or term of subsidized loan; cannot relocate within state unless employees offered jobs at new site
Iowa	Community Economic Betterment Program (Iowa Code 261:22.13)	Business may not change structure of business, sell business, shut down, or relocate without permission of department
Ohio	Corporate Franchise and State Income Tax Credits (sec. 122.17)	Business must maintain operations at project location for twice the duration of credits

Source: Adapted from Business Incentive Reform Clearinghouse, 1999.

Job Quality Standards. Job quality standards require businesses to meet specific employment criteria as a condition of receiving tax exemptions or other financial incentives. The most common job quality standards relate to wages. In several cases, wage standards are market-based (for example, based on average manufacturing wages). Other wage standards relate to the federal poverty level, the federal minimum wage, or to fixed dollar amounts.

Employee benefits and primarily health insurance are another focus of job quality standards. Some cities and states have explicit requirements to provide health insurance, while others mandate that the combined value of wages and employee benefits meet a specific dollar amount.

Exhibit 4 provides examples of job quality standards that have been considered or implemented by states, counties, and cities.

Exhibit 4

Examples of Job Quality Standards to Qualify for Economic Development Incentives

State	Law or Bill	Job Quality Standards
Mississippi	Mississippi Business Investment Act Program (Miss. Code Ann. § 57:6:1)	Wages: Interest rates on subsidized loans reduced 1/2 percent for each dollar the company's hourly wage is above the state average manufacturing wage
Nevada	Sales and Use Tax Abatement (NRS 374, Sec. 1)	Wages and Benefits: 80 percent average industrial wage; medical insurance
Ohio	Job Creation Tax Credit (Ohio Revised Code § 122.17 and 718.15)	Wages: The average wage of all new employees must be at least 150 percent of the current federal minimum wage
Washington	Business and Occupation Tax Credit for New Jobs (RCW 82.62.030)	Wages and Benefits: Tax credits of $4,000 for each qualified job with wages and benefits of $40,000 or more per year; tax credits of $2,000 for other qualified jobs

Source: Adapted from Business Incentive Reform Clearinghouse, 1999.

Disclosure

The 1995 Minnesota Business Subsidy Law was the first economic development accountability law passed in the United States (Nolan & LeRoy, 2003).[1] In the most recent report on government financial assistance provided to businesses, the Minnesota Department of Trade and Economic Development states that the disclosure provisions of the law provide "a mechanism for taxpayers to learn about state and local funds used for business subsidies and financial assistance" (Minnesota Department of Trade and Economic Development , 2003). A survey of local Minnesota economic development directors and an analysis of Minnesota newspapers suggest that the Business Subsidy Law may have increased citizen and media attention toward economic development assistance provided to businesses in the state (Nolan and LeRoy).

Since 1995, at least eight other states (Connecticut, Illinois, Louisiana, Maine, Nebraska, North Carolina, Ohio, and Texas) have passed disclosure requirements linked to economic development incentives. Besides requiring businesses to provide data on the value of tax relief and other government benefits received, these disclosure laws frequently call for companies to report on information related to qualifying conditions, such as number of new jobs created, wages and benefits provided to new workers, and dollar value of new investment.

Exhibit 5 provides a brief summary of state disclosure law provisions.

[1] The Business Subsidy Law is contained in Minnesota Statutes sections 116J.993 through 116J.995.

Exhibit 5

Economic Development Subsidy Disclosure in the States

State	Program	Statute
Connecticut	Economic development assistance to a business with 25+ full-time employees in the state. For $250,000 or more, annual reporting includes company-specific data on actual jobs created, projected jobs created, number of jobs at initial application, and amount of assistance.	94 PA 231 - §32-450 through 32 457 (2000 statutes)
Illinois	Tax credits and tax exemptions: company-specific information of the type and amount of development assistance, the projected and actual number of jobs created or retained, and the average wages paid by job classification.	Public Act 93-0552
Louisiana	Industrial property tax exemptions: company-specific information including jobs created (both permanent and construction), 10-year value of exemption, company's investment amount, and taxes paid.	Records of the state's tax exemption board
Maine	Company-specific information for all deals over $10,000; includes number of jobs by occupational type, wage and benefit levels of jobs created or retained, any changes in employment levels, total amount of assistance and details about type and purpose of each form of assistance. Also includes disclosure on whether the deal was a relocation within the state.	5 §13070-L and K
Minnesota	Company-specific information for all deals over $25,000: includes number of jobs, amount of subsidy, hourly wage of each job created (listed in dollar ranges), sum of hourly wages and cost of health insurance broken down by wage level, statement of goals identified in subsidy agreement, date by which job and wage goals will be met, reason for relocating from within in Minnesota if applicable, and list of all financial assistance received. On the Web at www.dted.state.mn.us/01x00f.asp go to "Publications," then "Business and Economic Development," then look in the "General" section for 2000 Business Assistance Report.	§116J.994
Nebraska	Detailed disclosure of incentives under the Employment and Investment Growth Act (various property, sales, and income tax breaks). The State Tax Commissioner must make an annual report to Legislature listing agreements signed that year, agreements still in effect, identity of each taxpayer, and location of each project; and report by industry group with incentives applied for under Employment and Investment Growth Act, refunds allowed, credits earned, credits used for individual and corporate income tax, credits used to obtain sales and use tax refunds, number of jobs created, total employees at reporting dates, capital investment, wage levels of new jobs, tax credits outstanding, and value of personal property exempted in each county. Aggregated disclosure: For incentives under the Employment Expansion and Investment Incentive Act, the State Tax Commissioner must prepare a report identifying the amount of investment, number of equivalent jobs created, including amount of credits claimed in aggregate. If companies claiming credits under this act are in an enterprise zone, the Commissioner must report the amount of such companies' investment, number of jobs created, and average hourly wage or average salary of new jobs created in each zone.	Employment and Investment Growth Act: §§77-4101–77-4112) Reporting requirement: §77-4110 Employment Expansion and Investment Incentive Act: §§77-27,187–77-27,196. Reporting requirement: §77-27,195

Exhibit 5, continued

Economic Development Subsidy Disclosure in the States

State	Program	Statute
North Carolina	Starting March 31 2002, the Department of Revenue must publish annual, company-specific disclosure of tax credits for training, research and development, and machinery and equipment. The data is also to be broken down geographically for those three activities by "enterprise tier area," a system the state uses for ranking regions by level of economic need. The Department's data must also show the number of new jobs created in development zones (enterprise zones), and how many of those new jobs went to zone residents.	§105-129.6.(b)
Ohio	Company-specific disclosure: Cities and counties must submit all enterprise zone agreements to the Department of Development, including number of employees at site before agreement, number of employees at end of reporting year, property value, relocation information, new payroll, property taxes paid, property taxes exempted, and total employment. State tax commissioner must submit an annual enterprise zone report with this information to the governor and legislature. Ohio's enterprise zone reports online: www.odod.state.oh.us/ez/ Aggregate disclosure: property tax abatement agreements must be submitted to state development and local school districts, reporting number of employees, number of agreements in effect, compliance reviews, compliance status, and change in employment. Department of Revenue maintains data on property tax abatements and tax increment financing by county. Publications: www.state.oh.us/tax/publicationstds_proPertv.html	§5709.68 §5709.88.2
Texas	Comptroller must maintain centralized registry for reinvestment zones and tax abatement agreements, with description of zone and copy of tax abatement agreements. The forms used by the comptroller are available on the web. Data can be obtained by contacting the comptroller's office.	Tax Code §312.005
West Virginia	Tax credits must be reported in State Register. Reports include company, address, type of credit, and dollar value of credit, though only in quarter-million and half-million dollar ranges. This reporting started in 1991, and applies to several types of tax credits (mostly related to economic development). Codes for covered tax credits: 13-C through 13-H and 5E.	§11-10-5s(b)(1)

Source: Good Jobs First, <http://www.goodjobsfirst.org/pdf/disclosure.pdf>.

Enforcement

The discussion above provides examples of how states are attempting to create greater accountability regarding economic development incentives. Qualifying conditions mandate desired economic outcomes that businesses are expected to provide in return for lower taxes or other benefits. Disclosure provisions enable citizens and policymakers to monitor business compliance with qualifying conditions and to see how state and local economic development dollars are being spent.

Enforcement provisions enable cities and states to impose penalties on businesses that do not meet the qualifying or disclosure conditions required for the receipt of economic development benefits. Enforcement provisions are often in the form of "clawbacks" that require businesses to

repay some or all benefits received, sometimes with interest, if they fail to meet qualifying conditions. In some cases, failure to meet qualifying conditions results in loss of future economic development or other benefits. Exhibit 6 provides examples of enforcement mechanisms that have been considered or implemented by states.

Exhibit 6

Examples of Penalties Imposed on Businesses for Failing to Meet Economic Development Incentive Conditions

State		Penalty
Colorado	Office of Business Development FIRST training program policies	Partial repayment (typically 15 percent) of benefits if business fails to meet job creation and wage projections
Connecticut	All Business Incentives (Public Act No. 93:218)	Full repayment of benefits plus 5 percent interest if business leaves state
New Jersey	Multistate Industrial Retention Commission (State Assembly, No. A:1339)	Companies committing detrimental relocations barred from state contracts, state subsidies, and pension fund investments
Pennsylvania	Pennsylvania Industrial Development Authority, Statement of Policy (Sections 303.61 to 303.65)	Penalties: Increase subsidized interest rate as much as 3 percent if employment goals not met; increase subsidized interest rates as much as 4 percent if wage levels not met
Washington	High Technology Tax Credit for Research and Development (RCW 82.04.4452)	Full repayment of tax credits plus interest if research and development spending goals not met

Source: Adapted from Business Incentive Reform Clearinghouse, 1999.

Policy Goals of Accountability Measures

Two important goals of economic development accountability measures are (1) to ensure that businesses receiving economic development incentives create new jobs and new economic activity, and (2) to provide greater information on how economic development dollars are spent and the overall benefits that economic development expenditures provide. How well do accountability measures achieve these goals?

Creation of New Jobs and New Economic Activity. Even under the best of circumstances, where businesses satisfy job creation and other qualifying conditions and disclose all required information, the impact of economic development incentives is difficult to measure. This is because of the difficulties in separating changes in employment or investment which would have *occurred in the absence of the economic development incentive* from those that were *caused by the economic development incentive*.

In other words, an expanding economy will lead to generally increasing employment and investment, while a contracting economy will generally lead to declining employment and investment. When economic development incentives are enacted, we want to identify the

additional employment growth (or reduction in job loss if the economy is contracting), if any, caused by those incentives.

Data on the number of new jobs a business creates do not answer this question, because we do not know how many of these jobs are created solely due to general economic conditions. Likewise, it is possible that a business with job losses might have laid off additional workers in the absence of an economic development incentive (Howland, 1990; Heckman, LaLonde, & Smith, 1999).

Although there are statistical techniques that can at least partially address these issues, they require data collection for many businesses over several years (Brown & Nyaribo-Roberts, 2004; Faulk, 2002).[2] This means that determining whether a particular business created "new" jobs or made "new" investments due to an economic development incentive is difficult.

Information on Economic Development Spending. Information from two states with disclosure requirements, Maine and Minnesota, suggests that compliance with economic incentive disclosure reporting is fairly high. A 1999 analysis of Maine disclosure reporting found that among companies receiving economic development incentives, 167 firms had filed all required data, 20 firms had filed incomplete reports, and an estimated 117 firms failed to file reports. The 55 percent of companies with complete filing information also accounted for 84 percent of Maine economic development subsidies (Breslow, 1999).

Minnesota requires that businesses report information annually for two years after receiving economic development subsidies or until all subsidy-related goals and obligations are met. Of 330 businesses with subsidy agreements which originated between 1995 and 2000 and were required to file information in 2001, 50 businesses were reported to have met their goals and 179 additional businesses filed required reports in 2001 for a 69 percent filing rate.[3]

As noted above, disclosure of data related to economic development incentives is useful in providing taxpayers and policymakers with a better picture of how economic development funds are spent and who benefits from them. Although the job creation data provided through disclosure reporting do not directly answer the question of how many new jobs are attributable to economic development incentives, they can provide some helpful inferences.

For example, an analysis of Maine disclosure data compares employment growth among firms receiving economic development subsidies with statewide employment growth (Breslow, 1999). While not conclusive, these types of comparisons give some indication as to the overall impact of economic development incentives. At an industry level, additional comparisons of employment growth among firms receiving economic development incentives with regional and national trends could also provide some useful indicators of incentive impacts.

At the individual business level, disclosure information can be used to calculate the per-employee value of economic development incentives by business. Although they provide no direct

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[2] It is worth noting that the statistical techniques used in both of these studies are subject to some criticisms.
[3] Calculation based on data in Minnesota Department of Trade and Economic Development, 2003, 5–7; the 2001 filing rate equals firms that met their goals and those that filed reports as a fraction of all known business subsidy arrangements originating from 1995 to 2000. An additional 51 businesses that received subsidies prior to 2001 but had never filed previous reports also filed reports in 2001. It is unclear who bears responsibility for lack of report filing, as state and local agencies entering into business subsidy arrangements are responsible for obtaining business data and reporting to the Department of Trade and Economic Development.

information on why a business created new jobs, very small values of incentives per employee tend to suggest that new hiring is related to general economic conditions. On the other hand, relatively large values of incentives per employee suggest at least the possibility that a business created new jobs in response to economic development incentives (Fisher & Peters, 1998, 171–173).[4]

Conclusions

Cities and states have enacted accountability measures to better gauge whether job creation and other economic development goals are being met and to provide additional information on economic development spending. Accountability provisions can be grouped into three categories:

- Qualifying conditions: standards concerning job creation, new investment, relocation, and job quality that businesses must meet to qualify for economic development incentives.
- Disclosure: business reporting requirements concerning value of economic development incentives received and data relating to qualifying conditions.
- Enforcement: penalties imposed when businesses do not meet qualifying conditions for economic development incentives.

It is not uncommon for city and state accountability measures to include provisions in more than one of these categories.

Because of the difficulty in separating new jobs caused by general economic conditions from new jobs attributable to economic development programs, accountability measures do not guarantee that economic development goals are being met. However, disclosure requirements can provide data that give rough indications of the effect of economic development incentives as well as expanding the available information on economic development expenditures.

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[4] Fisher and Peters used similar reasoning when comparing differences in taxes for hypothetical firms across states. While not providing proof that business location is influenced by state taxes, large per-employee tax differences among states suggest that taxes are a potentially important issue in business location decisions.

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