# BUSINESS TAX EXPENDITURES: MOVING TOWARD TRANSPARENCY AND ACCOUNTABILITY IN WEST VIRGINIA

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### What are tax expenditures?

- WV Code § 11-10-5s(c) defines tax expenditures as "exclusions, deductions, tax preferences, credits and deferrals designed to encourage certain kinds of activities or to aid taxpayers in special circumstances."
- Examples of Business Tax Expenditures:
  - Examined Business Tax Credits: Economic Opportunity,
     Manufacturing Investment, Strategic Research & Development, and High-Growth Business Investment.
  - Unexamined Business Tax Credits and Expenditures: Film Industry Investment (up to \$11m), Qualified Capital Additions to Manufacturing Facilities (\$8.6m), Natural Gas Industry Jobs Retention Credit (\$?), Thin-Seamed Coal Tax Credit (\$75m), Manufacturing Property Tax Credit (\$11m), etc.



### Tax Expenditures vs. Direct Spending

• "...because they [tax expenditures] result in the loss of revenue that would otherwise be collected by the government—they are equivalent to direct government expenditures. That's why tax and budget experts refer to them as "tax expenditures."

Martin Feldstein, Harvard Economist and Romney Advisor





### Simpson/Bowles on Tax Expenditures or "backdoor spending"

"America's tax code is broken and must be reformed. In the quarter century since the last comprehensive tax reform, Washington has riddled the system with countless tax expenditures, which are simply spending by another name. These tax earmarks — amounting to \$1.1 trillion a year of spending in the tax code — not only increase the deficit, but cause tax rates to be too high."





# WV Tax Credit Review & Accountability Report

- Reviews four business tax credits:
  - Economic Opportunity Tax Credit
  - Strategic Research and Development Tax Credit
  - Manufacturing Investment Tax Credit
  - High-Growth Business Investment Tax Credit
- Published once every three years.
- Reviews number of businesses claiming the credit, amount of credit, jobs created by businesses receiving the credit, credit per job created, and job growth of industry and tax credit recipients.



# Shortcomings of WV Tax Credit Review & Accountability Report

- Does not provide data or analysis to determine if tax credits led to additional jobs or economic impact.
- Does not provide demographic information about workers hired.
- Does not provide timely information. The data is three years old and it is only published once every three years.
- Includes only four business tax credits.
- Does not disclose recipients or location of tax credits.
- The findings of the report are repeated (15 of the 18 major findings of the 2012 report appeared in the 2009 report and seven of those findings are repeated from the initial 2003 report).
- Findings are inconclusive and provide virtually no evidence if tax credits are "working".



#### WV Tax Credit Disclosure List -11-10-5s(b)

- Provides name, address, and value range of credit received of every business receiving the following credits:
  - Industrial Expansion and Revitalization Credit
  - Aerospace Industrial Facility Credit
  - Capital Company Credit
  - Coal Loading Facility Credit
  - Economic Opportunity Credit
  - Historical Rehabilitation Building Credit
  - Manufacturing Investment Credit
  - Research and Development Credit
  - Residential Housing Credit
  - Strategic Research and Development Credit
  - Super Credit (Business Investment and Jobs Expansion)
  - Telephone Low Income Credit
  - Utility Low Income Credit
- Value ranges: \$0-\$50K, \$50K-\$100K, \$100K-\$250K, \$250K-\$500K, \$500K-\$1MM, and \$1MM and over.
- Published once every five years (2007 data is published in 2012).



### Shortcomings of the WV Tax Credit Disclosure List

- While the report provides company-specific information, it does not provide the exact value of the credit – just a range.
- It is not available on the WV Tax Department's website.
- Information is highly out of date.
- Does not include other significant expenditures, for example:
  - Thin-seam coal tax credit (\$75 million)
  - Qualified Capital Additions to Manufacturing Facilities (\$8.6 million)
  - WV Film Tax Credit (up to \$11 million)
- Mostly includes terminated investment tax credits.



#### WV Tax Expenditure Study 11-10-5s(c)

- Includes all tax expenditures, including expenditures on sales and use, excise, B&O, personal & corporate income, business franchise, property, business registration, and special business taxes.
- Published once a year, but on a three-year rotating basis.
- Provides a description of the expenditure, the value, and the rationale behind the expenditure.



# Shortcomings of WV Tax Expenditure Study

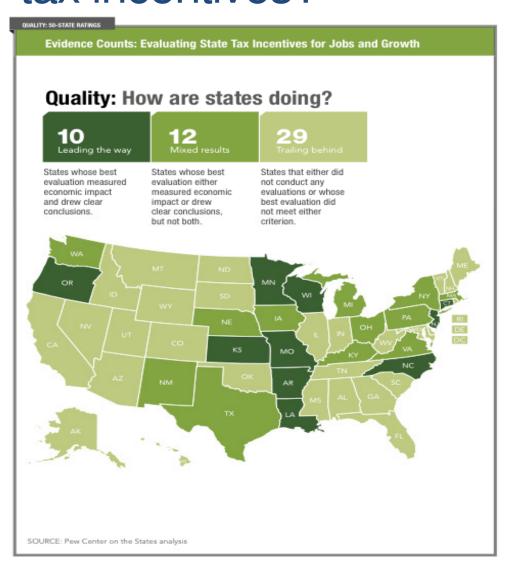
- Not incorporated into the budget process.
- Does not report value of all tax expenditures separately.
- Only published once every three years.
- Does not evaluate tax expenditures.
- Does not include number and description of recipients.
- Does not include year of enactment.
- Does not show distribution of benefit by income level.

#### Other important considerations

- What about local business tax expenditures?
  - When local governments reduce property taxes it directly impacts the state budget via school-aid-formula (Pubic School Support Program).
    - Examples:
      - Property tax abatements (Macy's)
      - Leasing of equipment and machinery (GeStamp)
      - Tax Increment Financing (Macy's and Cabela's)
- Disclosure of recapture or "claw-back" for companies receiving credits that fail to meet job or benefit agreements.
  - While the Tax Department has the authority to conduct audits and require refunds for noncompliance, this information is not published.



### How does WV rank in evaluating business tax incentives?



2012 Pew Center on States
Report: "Evidence Counts:
Evaluating State Tax Incentives
for Jobs and Growth"

West Virginia is among 29 states "trailing behind" in evaluating business tax incentives.

West Virginia fails to evaluate all tax incentives, review them on regular basis, measure there economic impact, or determine if they are achieving the state's goals.

Center on

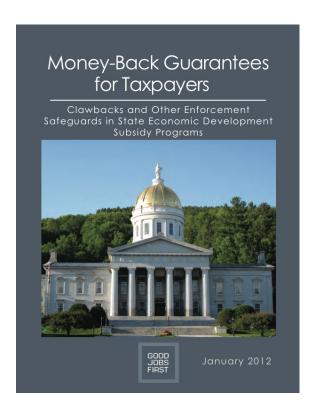
**Budget & Policy** 

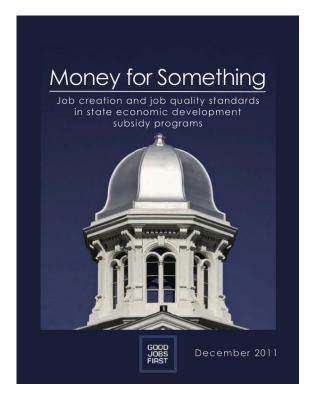
#### Good Jobs First: West Virginia Ranks Below Most States in Transparency and Accountability of Economic Development Subsides

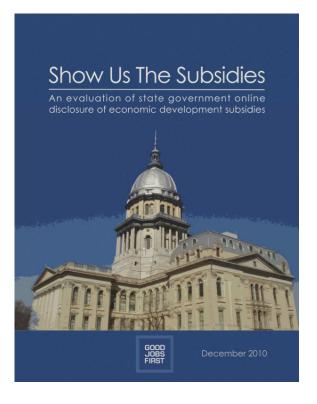
Money for Something: 26<sup>th</sup>

Show Us The Subsidies: 33<sup>rd</sup>

Money-Back Guarantees for Taxpayers: 29<sup>th</sup>







# Moving toward transparency and accountability

- 1. Publish the WV Tax Credit Review and Accountability Report, Tax Expenditure Study (complete), and WV Tax Credit Disclosure List on an annual basis.
- Disclose company-specific information pertaining to tax credits and incentive programs, including the recipients, amounts, demographics, and job-related outcomes.
- 3. Publish all reports in an online, easily accessible, searchable database.
- 4. Publish information identifying amounts of subsides subject to redetermination and recapture and ensure that all major business tax incentives are subject to these provisions.
- 5. Consider a unified state economic development budget that includes local economic development deals.
- 6. Consider "sunset" provisions for tax expenditures.

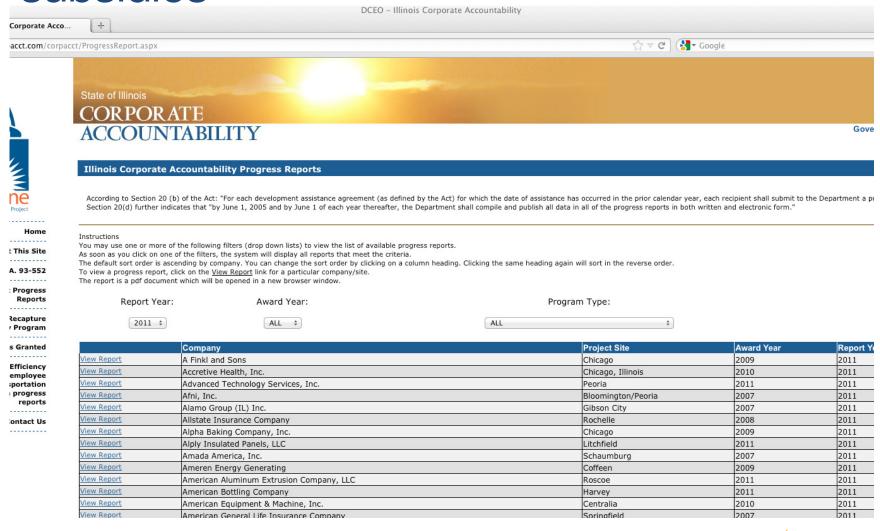


# Best Practices: Illinois Corporate Accountability for Tax Expenditure Act

- Requires that all recipients of corporate tax incentives to report annually on their progress in achieving state investment and employment goals, including wages and health benefits.
- The 2003 Act requires state agencies to issue annual reports
  disclosing the number of tax subsidies issued as well as the number
  of organizations and corporations failing to meet their obligations.
- The state's searchable online database provides access to PDF reports submitted by companies. The database reveals which companies got subsidies, where the company located, how much it received, and what the results were in terms of job creation and wages.



### Illinois web portal for corporate tax subsidies



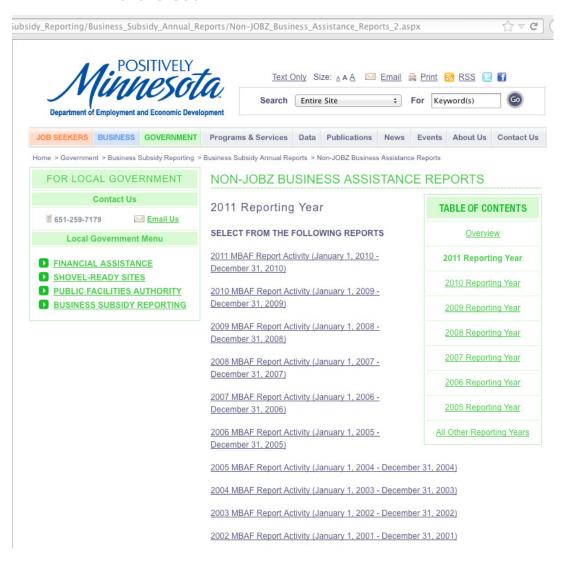


### Best Practices: Minnesota & Local Business Tax Incentives

- 1995 Minnesota Business Subsidy Law
  - Requires all state agencies and local governments (in towns with populations over 2,500) that provide financial assistance to businesses and other organizations to file annual reports that include the recipient's name and the number and value of all subsidies.
  - This information is then consolidated in a comprehensive statewide report, which compares data over the most recent four years and comments on the state's progress in achieving its economic development goals.
  - The Minnesota Department of Employment and Economic Development makes this information available online.
- Minnesota Jobs Opportunity Building Zone Program (JOBZ) requires a statement from the business that it would not have located, relocated, or expanded with the benefits provided under JOBZ.



### Website portal of Business Assistance Reports in Minnesota



Reports include number of jobs by occupation type, wage and benefits, statement of goals in subsidy agreement, reason for relocation and a list of all financial assistance received.



# Best Practices: Unified Economic Development Budget

- It would compile all on-budget and off-budget economic development spending into a single document.
- Enables policymakers to see how subsidies are distributed from various public agencies between regions, industries, and companies.
- Without a unified economic development budget, it makes it difficult for policymakers to target subsidies.
- Five states, Rhode Island, New Jersey, Vermont, Texas, and Illinois, have enacted some type of unified economic development budget.



### Best Practices: Reviewing Business Tax Expenditures

- Create Sunset Dates:
  - In 2009, Oregon put expiration dates of six years for most tax credits.
     Similarly, the Nevada State Constitution stipulates that all newly enacted tax expenditures include an expiration.
  - Ensures a thorough and regular review by the legislature a dynamic that is missing from the current budget process.
- Include tax expenditures in Governor's Budget:
  - On budget spending is approved each year, but most tax expenditures have no effective termination date.
- Properly Evaluate Business Tax Expenditures
  - Minnesota's legislative auditor found that 79 percent of the jobs reported from it JOBZ Program would have been created with the incentives.
  - The Massachusetts Department of Revenue analyzed the impact of the state's film-industry tax incentives and found that it was paying \$300,000 per job created.



#### Questions?

