Money-Back Guarantees for Taxpayers

Clawbacks and Other Enforcement Safeguards in State Economic Development Subsidy Programs

GOOD JOBS FIRST

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Money Back Guarantees for Taxpayers:

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Executive Summary

States and localities in the United States spend an estimated $70 billion per year on economic development subsidies, also known as incentives. Yet the companies receiving that assistance do not always deliver as many jobs or other public benefits as promised; many deals, such as the heavily subsidized computer plant in North Carolina shut down by Dell, fall short. As states and cities enter their fourth consecutive year of severe fiscal stress, they must confront the issue of underperformance by economic development subsidy recipients.

Every state engages in at least some minimal enforcement of its subsidy performance standards. But 10 percent of major state programs still do not require companies to report to state agencies on job creation and other outcomes, and many more programs are seriously deficient in how they monitor recipients. Even states that monitor adequately often fail to act decisively in dealing with cases of non-compliance. No state has sound, consistent procedures in all of its major programs.

These are the broad findings of *Money-Back Guarantees for Taxpayers*, a follow-up to the December 2011 Good Jobs First report *Money for Something*, which looked at the extent to which states have adopted provisions in their key economic development subsidy programs requiring recipients to meet job-creation or other quantifiable performance standards, including rules relating to minimum pay and benefit levels for their workers. We again look at the most significant subsidy programs in all 50 states and the District of Columbia—238 programs in all, which together cost taxpayers more than $11 billion a year.

The programs include corporate income tax credits (for job creation, capital investment, film production, and/or research & development), cash grants, low-cost or forgivable loans, enterprise zones, reimbursement for worker training expenses and other types of company-specific state assistance. (Subsidies that are enabled by state law but whose costs are borne by local governments, such as property tax abatements, are not among the programs examined unless they are combined with state subsidies.)

We rate each of the 238 programs on the scope and rigor of its procedures for monitoring the performance of subsidy recipients and for dealing with cases of non-compliance on job creation, job quality and other standards.

Using these criteria, we rate each program on a scale of 0 to 100. We average the scores of each state's programs and rank the states and the District of Columbia by their averages. To avoid rewarding states for strong enforcement of weak requirements, we take into account the assessments of our *Money for Something* report. Each program's final score is derived half from our enforcement score and half from its *Money for Something* performance standards score. In other words, for a state to receive a high score it has to have strong performance standards and a strong system for enforcing those standards.

Enforcement is the third essential element of subsidy accountability. It is inseparable from recipient disclosure (which we examined in our December 2010 report *Show Us the Subsidies*) and job creation/job quality (the focus of *Money for Something*, issued in December 2011).

Extensive Reporting But More Limited Verification

- Ninety percent (215 of 238) of the programs we examined require companies receiving subsidies to report to state government agencies on job creation or other outcomes. Yet in 67 (or 31 percent) of those 215 programs, an agency does not independently verify the reported data.

- The 67 programs that require reporting but not verification are concentrated in 35 states, of which 19 have more than one program with that shortcoming. Remarkably, both the District of Columbia and South Carolina have no performance verification in any of their five major programs in our sample.

Insufficient Penalty Provisions and Too Many Loopholes

- About three-quarters (178) of the programs we examined contain a penalty provision of some kind, including recapture of benefits already provided and the recalibration or termination of future subsidies. An additional 41 programs are "performance-based," meaning that the company does not receive benefits until it has satisfied program requirements. This leaves 19 programs (or 8 percent) with little or no recourse against companies that fail to deliver on their job creation and other promises.

- The penalty provisions in 84 of the 178 programs with penalties are weakened by the fact that their implementation is discretionary rather than mandatory or by the presence of various exceptions. Appendix 4 of the report has summaries of the penalty provisions used by the programs we examined.

Very Limited Disclosure of Enforcement Activity

- We treat the disclosure of enforcement data as a prime indicator of whether an agency is serious about dealing with non-compliance. We find that: only 21 programs in a dozen states publish aggregate enforcement data (i.e., without company names or other deal specifics); only 38 programs disclose the names of companies deemed to be out of compliance; and only 14 disclose the names of companies which have been penalized (and the dollar amounts).

Grading the States and their Programs: Much Room for Improvement

Weighting the states' raw enforcement scores with their scores for job creation and job quality generates our final *Money-Back Guarantees for Taxpayers* scores.

- The states with the highest program scores are: Vermont (79), North Carolina (76), Nevada (74), Maryland (70), Iowa (69), Virginia (69), and Oklahoma (64). The states with the lowest averages are: the District of Columbia (4), Alaska (19), North Dakota (30), and South Dakota (34). Twenty-two states score above 49, which is the average for all the states. Below is a table with each state's score and rank.

- By ranking last, the District of Columbia has now rated worst in all three of our "report card" studies. It shared last place with 13 states for having no online disclosure in our *Show Us the Subsidies* report and ranked 51st in our *Money for Something* report for lacking job creation and job quality standards.

- The states that benefit the most from our weighted scoring system—i.e., those whose relatively weak enforcement practices are buoyed by stronger underlying standards—are Florida (up 23 places from its enforcement-only ranking), Rhode Island (up 20), Georgia (up 19), Mississippi (up 17), and Nevada (up 17). Conversely, the states that suffer most from the weighting—i.e., those whose relatively strong enforcement practices mean less because they apply to weaker underlying standards—are Oregon (down 29 places), Massachusetts (down 21),

Wyoming (down 20), California (down 15), and Illinois (down 15). See Appendix 3 for the enforcement-only averages for each state.

- While every state engages in at least minimal enforcement, there are great variations among the weighted program scores within many states. Fifteen states have divergences of more than 50 points between their highest and lowest-scoring programs. The biggest state divergences are: Iowa (78), Maine (75), Maryland (73), Louisiana (69), and Nebraska (64). At the other end is New York, with a divergence of only 8 points among its programs, which all score poorly in the 30s.

- Clearly, states know very well how to apply rigorous enforcement techniques but often fail to do so consistently across their entire portfolio of subsidy programs.

- State economic development policies typically evolve over many years, so current administrations do not deserve all the credit or blame.

Policy Recommendations

To assist economic development policymakers and practitioners in improving their subsidy enforcement practices, we offer the following policy recommendations:

- All recipients in all programs should be required to report to agencies on job creation, wages, benefits and other performance benchmarks. Recipient reporting data should be disclosed online at least annually as part of a state's disclosure system.

- All reported information should be verified by agencies using techniques such as auditing and cross-checking of company claims against separate reliable data sources such as unemployment insurance records.

- Agencies should penalize recipients found to be out of compliance, employing techniques such as recapture (clawbacks), recalibration of future benefits and rescission/termination of subsidy agreements. Programs that are performance-based should operate without penalties only if recipients are required to fulfill all programs requirements before receiving any subsidies.

- Penalty systems should be straightforward and consistent and not weakened by various exceptions or by giving agency officials discretion on whether to implement them.

- Agencies should publish detailed data on their enforcement activities, including the names of the recipients found to be non-compliant and those penalized (including the penalty amounts).

As we cautioned in *Money for Something* with regard to performance requirements, the fact that a state adopts strong enforcement procedures does not guarantee that any given subsidy program or deal is a good use of taxpayer funds. Some programs may simply offer too much assistance to companies, so that benefits will never outweigh costs. Others may have become so deregulated that they are windfalls rather than incentives. For such programs, abolition rather than accountability is the correct policy, especially in times of severe budgetary stress.

Yet as long as a program is in operation, taxpayers have a right to demand both strong performance requirements (including job creation and job quality standards) and aggressive enforcement of those requirements. When a company is given subsidies without strings, that is a handout rather than economic development.

A summary of state scores and ranks is on the following page.

State Enforcement Scoring by Rank and Alphabetically (Weighted by Performance Standards Score)

Rank	State	Average	Grade
1	Vermont	79	B-
2	North Carolina	76	B-
3	Nevada	74	B-
4	Maryland	70	B-
5 (tie)	Iowa	69	C+
5 (tie)	Virginia	69	C+
7	Oklahoma	64	C+
8 (tie)	Colorado	60	C+
8 (tie)	Kansas	60	C+
8 (tie)	Missouri	60	C+
8 (tie)	Wisconsin	60	C+
12	Arizona	59	C
13	Rhode Island	57	C
14 (tie)	Florida	56	C
14 (tie)	Nebraska	56	C
16	Texas	54	C
17	New Jersey	53	C
18 (tie)	Delaware	52	C
18 (tie)	Illinois	52	C
18 tie)	Michigan	52	C
21	Georgia	51	C
22	Connecticut	50	C
23 (tie)	Indiana	49	C-
23 (tie)	Minnesota	49	C-
23 (tie)	Mississippi	49	C-
23 (tie)	Ohio	49	C-
23 (tie)	Utah	49	C-
28	Arkansas	48	C-
29 (tie)	Tennessee	47	C-
29 (tie)	West Virginia	47	C-
31	Louisiana	46	C-
32 (tie)	Kentucky	45	C-
32 (tie)	New Hampshire	45	C-
34 (tie)	Alabama	44	C-
34 (tie)	Massachusetts	44	C-
36 (tie)	California	43	C-
36 (tie)	Pennsylvania	43	C-
38 (tie)	Idaho	42	C-
38 (tie)	South Carolina	42	C-
40	Oregon	41	C-
41	Maine	40	C-
42	Montana	38	D+
43 (tie)	Hawaii	37	D+
43 (tie)	Washington	37	D+
45 (tie)	New Mexico	35	D+
45 (tie)	New York	35	D+
45 (tie)	Wyoming	35	D+
48	South Dakota	34	D+
49	North Dakota	30	D+
50	Alaska	19	D-
51	District of Columbia	4	D-

State	Average	Grade	Rank
Alabama	44	C-	34 (tie)
Alaska	19	D-	50
Arizona	59	C	12
Arkansas	48	C-	28
California	43	C-	36 (tie)
Colorado	60	C+	8 (tie)
Connecticut	50	C	22
Delaware	52	C	18 (tie)
District of Columbia	4	D-	51
Florida	56	C	14 (tie)
Georgia	51	C	21
Hawaii	37	D+	43 (tie)
Idaho	42	C-	38 (tie)
Illinois	52	C	18 (tie)
Indiana	49	C-	23 (tie)
Iowa	69	C+	5 (tie)
Kansas	60	C+	8 (tie)
Kentucky	45	C-	32 (tie)
Louisiana	46	C-	31
Maine	40	C-	41
Maryland	70	B-	4
Massachusetts	44	C-	34 (tie)
Michigan	52	C	18 (tie)
Minnesota	49	C-	23 (tie)
Mississippi	49	C-	23 (tie)
Missouri	60	C+	8 (tie)
Montana	38	D+	42
Nebraska	56	C	14 (tie)
Nevada	74	B-	3
New Hampshire	45	C-	32 (tie)
New Jersey	53	C	17
New Mexico	35	D+	45 (tie)
New York	35	D+	45 (tie)
North Carolina	76	B-	2
North Dakota	30	D+	49
Ohio	49	C-	23 (tie)
Oklahoma	64	C+	7
Oregon	41	C-	40
Pennsylvania	43	C-	36 (tie)
Rhode Island	57	C	13
South Carolina	42	C-	38 (tie)
South Dakota	34	D+	48
Tennessee	47	C-	29 (tie)
Texas	54	C	16
Utah	49	C-	23 (tie)
Vermont	79	B-	1
Virginia	69	C+	5 (tie)
Washington	37	D+	43 (tie)
West Virginia	47	C-	29 (tie)
Wisconsin	60	C+	8 (tie)
Wyoming	35	D+	45 (tie)

Letter grading system: A+ (97 and above); A (93-96); A- (89-92); B+ (83-86); B (80-83); B- (70-79); C+ (60-69); C (50-59); C- (40-49); D+ (30-39); D (20-29); D- (1-19); F (0)

Chapter 1: Introduction and Methodology

On October 7, 2009 the residents of North Carolina were shocked to hear that computer-maker Dell was going to shut down its assembly plant in Winston-Salem and lay off its 900 workers as part of a plan to outsource its U.S. production to offshore operations run by contractors. It was bitter news for a state that had been hard-hit by textile and furniture factory shutdowns and then paid dearly to stimulate new jobs: only five years earlier, state and local officials had assembled a subsidy package potentially worth about $280 million to lure the Dell plant.

Along with expressions of disappointment and anger, there were vows to get even. Gov. Bev Perdue declared that her administration had made it clear to Dell that "every red cent of incentive money had to come back to the people of North Carolina."[1]

But multiple subsidies were involved, and the fine print was not so tidy. It was unclear how much could be recovered of the fraction of the $280 million the company had already received. Some of the subsidies were lump-sum grants while others were tax credits to be awarded over time, tied to employment levels and output at the plant. In the end, Dell repaid about $26 million in local subsidies and a $1.5 million state grant, but it refused to return an estimated $6 million it had received in state job-creation tax credits.[2]

A similar controversy erupted in Massachusetts in January 2011 after Evergreen Solar, saying it could not compete with low-cost competitors in China, announced that it would shut down a solar panel manufacturing plant that had received a $58 million subsidy package from the state. Massachusetts said it would be able to recoup only $3 million of the $21 million that Evergreen had already received in direct grants.[3]

These high-profile episodes are just two of numerous instances in which companies that received subsidies and then failed to deliver on jobs were compelled to repay all or part of the financial assistance they had received. Along with cases involving failed individual deals, entire programs and agencies have been found to have widespread underperformance among their recipients. Such findings have been made many times by state auditors, non-profit groups and investigative journalists. For example:

- An investigation by Gannett found that only 60 percent of companies in Wisconsin that completed job-creation tax credit contracts during the past five years ended up hiring as many people as they had promised.[4]

- The *Des Moines Register* published a similar investigation that discovered an increase in the number of Iowa companies failing to deliver on job promises they made to receive tax breaks from the state.[5]

- WTHR-TV in Indianapolis investigated deals made by the Indiana Economic Development Corporation (IEDC) and found numerous subsidized companies that had big job shortfalls, or had even closed down. It found that a large portion of the roughly 100,000 new jobs claimed by IEDC had not materialized.[6]

- The Minneapolis *Star Tribune* found that one-fifth of the companies receiving subsidies in Minnesota from 2004 to 2009 did not meet their hiring commitments.[7]

- After reviewing data released by Florida officials on subsidy deals dating back to 1995, the *Orlando Sentinel* calculated that only about one-third of the projected jobs had actually been created.[8]

All this indicates that companies often fail to comply with the conditions placed on the estimated $70 billion a year that U.S. states and localities spend each year on corporate tax credits, property tax abatements, sales tax exemptions, cash grants, reimbursement for worker training and other forms of financial assistance given to companies to promote job-creation and expansion of business activity.[9] This report seeks to evaluate how states deal with this problem of non-compliance.

Program Universe and Rating Methodology

Money-Back Guarantees for Taxpayers is the third in a series of reports in which Good Jobs First reviews the accountability provisions of major subsidy programs in each of the 50 states and the District of Columbia. In *Show Us the Subsidies* (December 2010) we assessed programs on whether they provide online disclosure of which companies are receiving assistance, the amounts received, and the key outcomes (such as job numbers and wage rates). In *Money for Something* (December 2010) we rated the programs on whether they include quantifiable requirements relating to job creation and standards on job quality (wage and benefit levels). Here we evaluate the same

programs on their enforcement of those job creation and job quality requirements.[10] Our analysis focuses on the statutory and administrative rules and verifiable practices of the various programs— not on outcomes or on cost-benefit or fiscal break-even considerations.

As in *Money for Something*, we gathered information on each program's enforcement procedures by, first, carefully analyzing its enabling legislation and the state regulations governing its operation. We also consulted other material on state agency websites. Once we had absorbed all that information, we then contacted the state agency overseeing the program to confirm our interpretation of what we had read and to request additional details. We then applied the findings for each program to a scoring system we developed focusing on whether the program has:

- Requirements for recipient companies to report their outcomes to the agency;
- Procedures for verifying the information reported by the recipients; and
- Penalties of various kinds for dealing with non-compliant recipients.

Having heard of numerous episodes over the years in which states failed to apply penalties, we initially set out to measure the willingness of the agencies overseeing each program to hold non-compliant companies accountable. We requested data on the application of penalties and asked agency officials to characterize their approaches to enforcement.

Neither of these efforts produced satisfactory results. A large number of agencies claimed not to have data on enforcement or were unwilling to share it with us. Numerous officials were also reluctant to even characterize their practices in general terms, and for those who did there were indications that some were deliberately overstating or understating their rigor. Some apparently felt it was important to appear tough even when that may not have been the case, while others apparently worried about projecting a hard-nosed image lest it undermine the state's "business climate."

For these reasons we were forced to employ a diagnostic proxy: the online disclosure of enforcement data, whether in aggregate terms or on a company-specific basis. Based on our long experience looking at subsidy practices, we believe that the willingness of an agency to post information about its enforcement activity is a good measure of whether it takes enforcement seriously.

Our scoring system assigns points to aspects of reporting, verification, and disclosure of penalties and enforcement, and then rates each program on a scale of 0 to 100. The following section contains more details on our scoring system and summarizes our overall findings. Scoring details for each state can be found in the online state appendices at: www.goodjobsfirst.org/moneyback.

Viewpoint: Clawbacks Are a Proven Solution to Prevent Subsidy Abuse

by Greg LeRoy
Founder and Executive Director, Good Jobs First

Before there were clawbacks, there was litigation—and a lot of acrimony. From the mid-1980s through the early 1990s, there was a rash of lawsuits: cities or states suing companies for leaving with jobs that taxpayers had subsidized. Cases such as Playskool/Hasbro in Chicago, Otis Elevator in Yonkers, Diamond Tool in Duluth, General Motors in both Ypsilanti Township (Michigan) and Norwood (Ohio), and Newell Corporation in Clarksburg (West Virginia) were evidence of enormous frustration among public officials, who risked their "business climate" images with such adversarial moves. The lawsuits attracted high media attention and the attention of contract-law scholars.[11]

In the wake of these disputes, states and cities moved to enact clawbacks, and their related remedies rescissions (or the cancellation of future years of a subsidy) and recalibrations (or the revision of the terms of a subsidy, making it less costly to taxpayers to reflect a smaller public benefit, i.e., fewer jobs).

To document this positive development, I wrote *No More Candy Store: States and Cities and Making Job Subsidies Accountable*[12] in 1994, based upon my decade of consulting against plant closings and subsidy abuse. It is the first collection of clawbacks, plus other safeguards such as disclosure and job quality standards. Since Good Jobs First's launch in 1998, we have promoted clawbacks, and in 2007 we published *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar.*[13] Written by economic development contract experts Rachel Weber and David Santacroce, it shows how clawbacks have become an established best practice.

Although some business advocates have occasionally tried to argue that clawbacks are harmful to a state or city's "business climate," there is no evidence of such harm, and the number of states and cities employing them has only grown. Indeed, to oppose

clawbacks is to say in effect: governments should allow companies to take taxpayer money and run. Public officials confronted with a high-profile deal that fails quickly realize that doing nothing is the surest way to create a public outcry for the end of a program, an agency—or an elected official's term in office.

Using clawbacks is also essential to maintaining the perceptions of small businesspeople that economic development programs are fair, since it is the largest deals with multistate companies that involve the most-publicized disputes.

Although public officials, out of "business climate" timidity, don't usually announce it when they claw back, there have been many large recaptures over the years. Philips Semiconductor paid back $13 million to Albuquerque in 2002 when it closed a microchip plant. New York City recaptured $24.7 million from Pfizer in 2010 after it moved jobs to two other states. Wal-Mart repaid $1.7 million to Ohio in 2009 for closing an eyeglass factory. United Airlines, Cabela's, Alliant Techsystems, ABB, Genzyme, Alcoa, and Humana have also paid back due to shortfalls, as have many lesser-known companies. Instead of litigation, there were good contracts and clear regulations. Companies clearly understood their obligations, and public officials protected taxpayers.

Finally, clawback activity very likely increased during the nation's economic downturn. Precisely how much it increased cannot be quantified because, as we document here, far too many states fail to disclose their clawback activity. But for those states that do disclose and for multiple programs (such as Illinois and Texas), we know that clawback activity did increase. Yet no state claimed any harm to its economic development efforts (especially Texas with its job "miracle").

At their core, then, clawbacks are sound best practices in economic development. They reduce ambiguity and litigation between the public and private sectors. They sustain public and small business confidence. And they enable states and cities to re-deploy scarce dollars to other deals that really pay off for taxpayers.

Chapter 2: Findings

Most state economic development programs monitor the performance of the companies receiving financial assistance and in many cases penalize those that fail to meet employment or other targets. Yet these fundamental accountability practices are missing from a significant number of programs. We find a great deal of discrepancy both among states and among programs within states. Below we detail our findings by state, by program and by the criteria we used in our assessment.

As in *Show Us the Subsidies* and *Money for Something*, we developed a scoring system to rate the most important subsidy programs in each state and the District of Columbia. We based our evaluation of state enforcement practices on whether there are requirements for subsidy recipients to report to the agency on their performance, whether the agency verifies such reports, and whether a state imposes penalties on those recipients that fail to meet the program's requirements. Assigning point values to these and related criteria, we rate each program on a scale of 0 to 100. See Appendix 1 for a sample scoring sheet.

We then average the program score in each state (and the District) and rank them according to those averages. Here, unlike in our previous studies, we add another step. Enforcement of standards cannot be meaningfully evaluated without consideration of those standards themselves. It would be misleading to give a state a high score for aggressively enforcing weak standards. In the same way, it would be inaccurate to unduly penalize states that were less aggressive in enforcing stronger standards.

To account for those issues, we take our raw state enforcement scores and weight them according to the strength of the standards we found in *Money for Something*. Specifically, we derive our *Money-Back Guarantees for Taxpayers* final scores by adding half of a state's raw enforcement score and half of its *Money for Something* score. In other words, for a state to receive a high score it has to have strong performance standards and a strong system for enforcing those standards.

Top and Bottom States

The states with the highest scores are: Vermont (79), North Carolina (76), Nevada (74), Maryland (70), Iowa (69), Virginia (69), and Oklahoma (64). The states with the lowest scores are: the District of Columbia (4), Alaska (19), North Dakota (30), and South Dakota (34). Below is a table with each state's weighted score and rank.

As in *Money for Something*, we also provide a system of letter grades that diverges from the usual system used in schools. We limit the failing grade of F to states with no enforcement provisions at all (none, it turns out), and we stretch out the range for the lower passing grades (see the note at the bottom of the table).

Even with this generous grading system, no state gets better than a B-minus, given to Vermont, North Carolina, Nevada and Maryland. Seven states get a C-plus; 11 get a C; 19 get a C-minus; and 8 get a D-plus. Only Alaska and the District of Columbia receive a D-minus.

The states that benefit the most from the weighting—i.e., those whose relatively weak enforcement practices but stronger underlying standards—are Florida (up 23 places from its enforcement-only ranking), Rhode Island (up 20), Georgia (up 19), Mississippi (up 17), and Nevada (up 17). Conversely, the states that lose the most from the weighting—i.e., those whose relatively strong enforcement practices mean less because they apply to weaker underlying standards—are Oregon (down 29 places), Massachusetts (down 21), Wyoming (down 20), California (down 15), and Illinois (down 15). Among the top ten states, the following states are there only because of the weighting: Nevada, Iowa, Oklahoma, Missouri and Wisconsin. See Appendix 3 for the unweighted averages for each state.

State policies have evolved over many years in most cases, so current administrations do not deserve all the credit or blame.

The following table summarizes the weighted state averages, grades and ranks:

State Enforcement Scoring by Rank and Alphabetically (Weighted by Performance Standards Score)

Rank	State	Average	Grade
1	Vermont	79	B-
2	North Carolina	76	B-
3	Nevada	74	B-
4	Maryland	70	B-
5 (tie)	Iowa	69	C+
5 (tie)	Virginia	69	C+
7	Oklahoma	64	C+
8 (tie)	Colorado	60	C+
8 (tie)	Kansas	60	C+
8 (tie)	Missouri	60	C+
8 (tie)	Wisconsin	60	C+
12	Arizona	59	C
13	Rhode Island	57	C
14 (tie)	Florida	56	C
14 (tie)	Nebraska	56	C
16	Texas	54	C
17	New Jersey	53	C
18 (tie)	Delaware	52	C
18 (tie)	Illinois	52	C
18 tie)	Michigan	52	C
21	Georgia	51	C
22	Connecticut	50	C
23 (tie)	Indiana	49	C-
23 (tie)	Minnesota	49	C-
23 (tie)	Mississippi	49	C-
23 (tie)	Ohio	49	C-
23 (tie)	Utah	49	C-
28	Arkansas	48	C-
29 (tie)	Tennessee	47	C-
29 (tie)	West Virginia	47	C-
31	Louisiana	46	C-
32 (tie)	Kentucky	45	C-
32 (tie)	New Hampshire	45	C-
34 (tie)	Alabama	44	C-
34 (tie)	Massachusetts	44	C-
36 (tie)	California	43	C-
36 (tie)	Pennsylvania	43	C-
38 (tie)	Idaho	42	C-
38 (tie)	South Carolina	42	C-
40	Oregon	41	C-
41	Maine	40	C-
42	Montana	38	D+
43 (tie)	Hawaii	37	D+
43 (tie)	Washington	37	D+
45 (tie)	New Mexico	35	D+
45 (tie)	New York	35	D+
45 (tie)	Wyoming	35	D+
48	South Dakota	34	D+
49	North Dakota	30	D+
50	Alaska	19	D-
51	District of Columbia	4	D-

State	Average	Grade	Rank
Alabama	44	C-	34 (tie)
Alaska	19	D-	50
Arizona	59	C	12
Arkansas	48	C-	28
California	43	C-	36 (tie)
Colorado	60	C+	8 (tie)
Connecticut	50	C	22
Delaware	52	C	18 (tie)
District of Columbia	4	D-	51
Florida	56	C	14 (tie)
Georgia	51	C	21
Hawaii	37	D+	43 (tie)
Idaho	42	C-	38 (tie)
Illinois	52	C	18 (tie)
Indiana	49	C-	23 (tie)
Iowa	69	C+	5 (tie)
Kansas	60	C+	8 (tie)
Kentucky	45	C-	32 (tie)
Louisiana	46	C-	31
Maine	40	C-	41
Maryland	70	B-	4
Massachusetts	44	C-	34 (tie)
Michigan	52	C	18 (tie)
Minnesota	49	C-	23 (tie)
Mississippi	49	C-	23 (tie)
Missouri	60	C+	8 (tie)
Montana	38	D+	42
Nebraska	56	C	14 (tie)
Nevada	74	B-	3
New Hampshire	45	C-	32 (tie)
New Jersey	53	C	17
New Mexico	35	D+	45 (tie)
New York	35	D+	45 (tie)
North Carolina	76	B-	2
North Dakota	30	D+	49
Ohio	49	C-	23 (tie)
Oklahoma	64	C+	7
Oregon	41	C-	40
Pennsylvania	43	C-	36 (tie)
Rhode Island	57	C	13
South Carolina	42	C-	38 (tie)
South Dakota	34	D+	48
Tennessee	47	C-	29 (tie)
Texas	54	C	16
Utah	49	C-	23 (tie)
Vermont	79	B-	1
Virginia	69	C+	5 (tie)
Washington	37	D+	43 (tie)
West Virginia	47	C-	29 (tie)
Wisconsin	60	C+	8 (tie)
Wyoming	35	D+	45 (tie)

Letter grading system: A+ (97 and above); A (93-96); A- (89-92); B+ (83-86); B (80-83); B- (70-79); C+ (60-69); C (50-59); C- (40-49); D+ (30-39); D (20-29); D- (1-19); F (0)

Top and Bottom Programs

The importance of adjusting the raw enforcement scores to reflect the rigor of performance standards is evident when looking at the results by program. We found that some of the programs with the best scores in pure enforcement terms were ones that had scored quite poorly in our assessment of performance standards in *Money for Something*. For example, Michigan's Film Tax Credits got a raw enforcement score of 90, yet it received a meager 13 for performance standards. Two Illinois programs, the EDGE tax credit and Large Business Development Assistance, each had a raw enforcement score of 85 after scoring only 35 for their performance standards. The same numbers apply to the Texas Enterprise Fund. Results such as these were behind our decision to weight the enforcement results according to each program's performance standards.

The table below shows the highest ranking programs after the application of the weighting. One program scores above 100 (thanks to the weighting of extra credit points from *Money for Something*) and 22 others score above the highest state average (Vermont's 79).

Table: Highest Ranked Programs (Weighted)

State	*Program*	*Weighted Score*
VT	Vermont Employment Growth Incentive (VEGI)	102
MD	MEDAAF 1 & 2	98
MD	Sunny Day Fund	98
NC	One North Carolina Fund	98
IA	High Quality Job Creation Program	96
NC	Job Development Investment Grants (JDIG)	95
VT	Economic Advancement Tax Incentives (EATI)	93
IA	Enterprise Zone (Business Only)	90
KS	Promoting Employment Across Kansas (PEAK) Program	89
VA	Governor's Opportunity Fund (GOF)	89
VA	Virginia Investment Partnership (VIP) & Major Eligible Employer Grant (MEE)	88
LA	Quality Jobs Program	87
OK	21st Century Quality Jobs	87
MO	Quality Jobs Program	85
VA	Virginia Economic Development Incentive Grant (VEDIG)	85
VT	Vermont Training Program	85

At the same time, there are many programs with very low weighted scores: ten with zero (i.e., they completely fail on both job standards and enforcement) and another 14

with scores below 25. Four of those programs scoring zero are in the District of Columbia, two are in Alaska, and there is one each in Maine, Montana, New Mexico and South Dakota.

Both weighted and unweighted scores for each program can be found in Appendix 2.

Why Vermont and North Carolina Rate Best

Vermont ends up with the top weighted average for several reasons: all five of its major subsidy programs have reporting requirements; four of the five have independent verification of what is reported; four of the five have mandatory penalties with no exceptions; two of the programs have three types of penalties; and four of the five have at least one form of enforcement disclosure (two have all of the categories we consider).

Second place North Carolina has reporting requirements in all five of its major subsidy programs; three have independent verification; three have mandatory penalties with no exceptions; two have mandatory penalties with some exceptions; and two have full enforcement disclosure.

Vermont was first even before we applied our weighting system, while North Carolina rose from fifth place to second thanks to that system.

We found a great deal of unevenness within individual states. Fifteen states have divergences of more than 50 points between their highest and lowest-scoring programs. The biggest state divergences are: Iowa (78), Maine (75), Maryland (73), Louisiana (69), and Nebraska (64). At the other end is New York, with a divergence of only 8 points among its programs, which all score poorly in the 30s.

States might claim that wide divergences in scores relating to performance standards reflect the substantive differences among the programs in our sample. But that argument would not apply to the divergences in the enforcement scores. There is no good reason why many state agencies are failing to apply uniform enforcement procedures to subsidies of all types.

Disclosure vs. Performance Standards vs. Enforcement Practices

Now that we have evaluated roughly the same universe of state subsidy programs in terms of disclosure, performance standards and enforcement practices, we can compare how states do by these various accountability measures. The table below shows the top ten states in each of our three reports, with only the unadjusted scores shown for the current study. Given that *Money-Back Guarantees for Taxpayers* scores are an amalgam of ratings of performance standards and enforcement, we use the raw enforcement results for this comparative analysis.

Only one state, North Carolina, makes the top ten in disclosure, performance standards and enforcement. Three other states—Connecticut, Illinois and Michigan—rank in the top tier for disclosure and enforcement but not performance standards. Maryland, Virginia and Vermont are in the top ten for performance standards and enforcement but not disclosure.

Table: Highest Ranked States for Accountability Standards Across Good Jobs First Studies

Highest Ranked States in ***Show Us the Subsidies*** (disclosure)			Highest Ranked States in ***Money for Something*** (performance standards)			Highest Ranked States in Enforcement Scores (unadjusted)		
Rank	*State*	*Score*	*Rank*	*State*	*Score*	*Rank*	*State*	*Score*
1	IL	82	1	NV	82	1	VT	81
2	WI	71	2	NC	79	2	VA	76
3	NC	69	3	VT	77	3	IL	75
4	OH	66	4	IA	70	4	MI	73
5	MO	56	5	MD	68	5 (tie)	AZ	72
6	CT	48	6	OK	66	5 (tie)	NC	72
7	MI	47	7	VA	62	7	MD	71
8	IN	46	8 (tie)	FL	58	8 (tie)	CO	69
9	KY	45	8 (tie)	RI	58	8 (tie)	CT	69
10 (tie)	LA	43	10	TN	54	10	KS	68
10 (tie)	PA	43						
10 (tie)	TX	43						

Results by Scoring Component

Reporting Requirements

Public officials cannot enforce performance standards unless they know how subsidy recipients are performing. Surprisingly, state agencies do not always require companies

to report on their job creation, capital investment, training and/or other outcomes that may be mandated in subsidy agreements.

We award 20 points to those programs that require recipients to report such information to the agency and no points to those that do not. Because our concern here is whether public officials have the data they need to engage in enforcement, we do not make a scoring distinction between those programs whose outcomes are disclosed to the public and those whose outcomes remain confidential. (One of the categories in our *Show Us the Subsidies* study is whether a program makes data on outcomes available online.) For tax credit programs, we award points if a company is required to complete a compliance form as part of its state tax return (even if there is no reporting to the economic development agency). Such forms can be reviewed by revenue department officials to check for compliance.

Of the 238 programs in our sample, 215 (or 90 percent) require recipients to report to a state agency on their outcomes. The following is a list of the 23 programs with *no* reporting provisions:

Table: Programs with No Reporting Provisions

State	*Program*
AK	Commercial Fishing Revolving Loan Program
AK	Development Finance Program
AR	Business and Industry Training Program
DC	Discretionary Property Tax Breaks
DC	Discretionary Sales and Use Tax Exemptions and Abatements
DC	Payments-In-Lieu-Of-Taxes (PILOTs)
DC	Tax Increment Financing (TIF)
GA	Investment Tax Credit
IA	Research Activities Credit (RAC)
KY	Coal Used in the Manufacture of Electricity
LA	Purchases of Manufacturing Machinery and Equipment Exemption
ME	Business Equipment Tax Reimbursement Program
MN	Research and Development Tax Credits
MT	Oil and Natural Gas Production Tax Exemptions
ND	Income Tax Exemption for New or Expanding Businesses
ND	Renaissance Zones
ND	Wage and Salary Credit
NE	Manufacturing Machinery and Equipment Exemption
NM	Tax Increment Development Districts
SC	readySC
SD	Pooled Bond Program
TN	Jobs Tax Credit
WY	Sales and Use Tax Exemption for Purchases of Manufacturing Equipment (HB 44)

For the most part, programs require recipients to report on *all* the relevant outcomes. Yet among the 215 with reporting provisions, 26 apply those rules only to *some* outcomes.

Among those 215 programs, 146 require reporting on an annual basis and 23 mandate it on a more frequent basis. Sixty-four ask for reporting at other intervals, usually once at the completion of a project.

Verification of Reported Information

It is not sufficient for agencies to simply require reporting—they must also take steps to ensure that the reported outcomes are accurate. In the words of Ronald Reagan: trust, but verify.

Agencies can verify recipient reporting in several different ways; the most reliable methods include formal program-specific audits of company records, cross-checking of employment figures with a separate reliable source such as unemployment insurance records, or, in the case of a qualified expenditure program, documentation of those expenses. In some cases, agencies do on-site inspections to verify company claims.

We award 20 points to those programs that engage in verification and no points to those that do not. We do not give credit if all the agency does is review company reports. We also do not give credit if recipients of a tax credit program are simply subject to the routine random auditing procedures that apply to all taxpayers.

Of the 215 programs in our sample with reporting requirements, more than three-fifths (148) engage in independent verification, while 67 do not. Twenty-seven states have more than one program without verification; among those are a dozen states and the District of Columbia with more than two. DC and South Carolina have no verification in any of their five major programs in our sample. The programs with reporting but no independent verification are listed below.

Table: Programs with No Independent Verification of Reported Claims

State	*Program*
AL	Alabama Industrial Development Training
AL	Enterprise Zone Credit
AL	Industrial Development Grant Program
CT	Enterprise Zone and Urban Jobs Tax Credits
DC	New E-Conomy Transformation Act of 2000 (NET 2000)
DE	Bank Franchise Tax Credits
FL	Enterprise Zone Program
GA	Job Tax Credit
GA	Quality Jobs Tax Credit
HI	Capital Goods Excise Tax Credit
HI	Enterprise Zones
HI	High-Technology Tax Credits (Act 221/ACT 215)
ID	Production Equipment and Supplies Sales Tax Exemption
ID	Workforce Development Training Fund Program
IL	IDOT Economic Development Program
IN	Enterprise Zone Program
IN	Twenty-First Century Research and Technology Fund (21 Fund)
KY	Machinery for New and Expanded Industry and Certain Industrial Machinery
LA	Industrial Tax Exemption Program
MD	Enterprise Zone - Real Property Tax Credits
MD	One Maryland Tax Credit
ME	Pine Tree Development Zones
ME	Research Expense Tax Credits and Super R&D Tax Credit
MI	Michigan's Advanced Battery Credits (MABC)
MI	Renaissance Zone Program
MN	Business Development Public Infrastructure Grant Program
MS	Advantage Jobs Incentive Program
MS	Jobs Tax Credit
MS	Manufacturing Investment Tax Credit
MS	Rural Economic Development (RED) Credits
MT	Qualified Research Credit
NC	Tax Credits for New and Expanding Businesses (Article 3J Credits)
NC	William S. Lee Quality Jobs and Business Expansion Act (Article 3A)

State	*Program*
NH	Economic Revitalization Zone Tax Credits
NH	Research and Development Credit
NJ	Economic Redevelopment and Growth (ERG) Grant Program
NM	Industrial Revenue Bonds
NY	Brownfield Cleanup Program
NY	Empire Zone Program
NY	Excelsior Jobs Program
NY	Industrial Development Agencies
OH	Community Reinvestment Area (CRA) Program
OK	Training for Industry
PA	Keystone Opportunity Zone (KOZ) Program
RI	Corporate Income Tax Rate Reduction for Job Creation
RI	Enterprise Zone Tax Credits
RI	Job Training Tax Credit
RI	Manufacturing and High Performance Manufacturing Investment Tax Credits
SC	Economic Impact Zone Investment Credit
SC	Job Development Credits
SC	Job Tax Credit
SC	Research & Development Credit
TN	FastTrack Job Training Assistance
TN	Headquarters Tax Credit
TN	Sales and Use Tax Credit for Qualified Facility to Support an Emerging Industry
TX	Texas Economic Development Act (Ch. 313)
TX	Texas Emerging Technology Fund (ETF)
VA	Major Business Facility Job Tax Credit
VT	VT Economic Development Authority loans
WA	Aircraft Pre-production Expenditures B&O Tax Credit
WA	High Technology B&O Tax Credit for R&D Spending
WI	Customized Labor Training Fund
WI	Economic Development Tax Credit Program
WI	Film Tax Credit Program (Film Production Services & Production Company Investment Tax Credits)
WV	Economic Opportunity Tax Credit
WV	Manufacturing Investment Tax Credit
WV	Strategic R&D Tax Credit

Types of Penalties

Assuming recipients have reported outcomes and the agency has verified the information, the next key question is what officials do when the data show that the company has not met its job-creation or other mandated performance requirements.

We analyzed our universe of 238 programs to determine, first, how many impose any kind of penalty for failing to meet a performance standard. About three-quarters (178) of the programs have such a provision; 60 do not. In fairness, it should be noted that some of the programs without explicit penalty procedures are structured in a purely "performance-based" way; i.e., companies do not receive financial benefits until *after* they have satisfied program requirements. Based on a careful examination, we put 41 programs in this category.

Table: "Performance-Based" Programs

State	*Program*
AK	Alaska's Clear and Equitable Share/ Oil and Gas Production Tax Credits
AK	Film Industry Tax Credit
AL	Enterprise Zone Credit
AL	Industrial Development Grant Program
AZ	Research and Development Income Tax Credit
CA	Film and TV Production Tax Credit
CA	Research and Development Tax Credit
CO	Colorado FIRST/Existing Industry Training Program
DE	Bank Franchise Tax Credits
FL	Enterprise Zone Program
HI	Enterprise Zones
HI	Film & Digital Media Income Tax Credit (Act 88)
IA	Research Activities Credit (RAC)
ID	Production Equipment and Supplies Sales Tax Exemption
ID	Workforce Development Training Fund Program
KS	Business Machinery and Equipment Credit
KS	High Performance Incentive Program (HPIP)
KY	Coal Used in the Manufacture of Electricity
KY	Machinery for New and Expanded Industry and Certain Industrial Machinery
LA	Purchases of Manufacturing Machinery and Equipment Exemption

State	*Program*
MA	Film Tax Credit
MA	Research Tax Credit
MN	Research and Development Tax Credits
MT	Qualified Research Credit
ND	Wage and Salary Credit
NE	Customized Job Training
NH	Economic Revitalization Zone Tax Credits
NH	Research and Development Credit
NJ	Economic Redevelopment and Growth (ERG) Grant Program
NM	Film Tax Credit
NM	Manufacturer's Investment Tax Credit
NY	Empire State Film Production Credit
OH	Ohio Workforce Guarantee
OK	Training for Industry
OR	Oregon Production Investment Fund
OR	Research Tax Credit
SC	Research & Development Credit
WA	Aircraft Pre-production Expenditures B&O Tax Credit
WA	High Technology B&O Tax Credit for R&D Spending
WV	Governor's Guaranteed Work Force Program
WY	Data Processing Center – Sales/Use Tax Exemption

This leaves 19 non-performance-based programs lacking penalties.

Table: Programs Lacking Penalty Provisions (non-performance-based)

State	*Program*
AK	Commercial Fishing Revolving Loan Program
AK	Development Finance Program
AR	Business and Industry Training Program
CA	Enterprise Zone Program
DC	Discretionary Property Tax Breaks
DC	Discretionary Sales and Use Tax Exemptions and Abatements
DC	New E-Conomy Transformation Act of 2000 (NET 2000)
DC	Payments-In-Lieu-Of-Taxes (PILOTs)
DC	Tax Increment Financing (TIF)
FL	Economic Development Transportation Fund
ME	Business Equipment Tax Reimbursement Program
MO	Rebuilding Communities
MT	Oil and Natural Gas Production Tax Exemptions
NM	High Wage Jobs Tax Credit
NM	Tax Increment Development Districts
SC	readySC
SD	Pooled Bond Program
SD	South Dakota Agricultural Processing and Export Loan Program (APEX)
TN	Tennessee Job Skills

Penalties can come in various forms:

- Recapture (or clawback) provisions enable agencies to recoup funds (in whole or in part) from companies that received up-front payments or other subsidies early in a project and then failed to fulfill job-creation, job quality investment or other benchmarks.

- Recalibration provisions allow agencies to make downward adjustments to the formulas that determine the value of future subsidies.

- Rescissions allow agencies to cancel a subsidy agreement, thereby terminating future payments.

We award 10 points, the most in this category, to a program that has a recapture provision, since the ability to recover funds already paid out is the most thorough type of penalty. Separately, we award 5 points to programs with recalibrations and 5 to

those with rescissions. Programs with more than one kind of penalty can receive up to 20 points. We do not give points for penalties relating only to actions such as fraud, which, while important, are separate issues from underperformance.

Of the 178 programs with penalties, 124 have a recapture provision, 57 provide for recalibrations and 119 allow rescissions. Many have multiple remedies: here are the totals for the various combinations:

- Recapture only: 45
- Rescission only: 35
- Recalibration only: 4
- Recapture and Recalibration only: 10
- Recapture and Rescission only: 41
- Recalibration and Rescission only: 15
- All three: 28

As noted above, we recognize that some subsidies are structured in a way that might make penalty provisions less necessary. To avoid unduly penalizing such performance-based programs in this scoring category, we award them 5 points. Forty-one programs receive these points.

Scope of Penalties

The fact that a penalty is on the books does not necessarily mean that an agency will apply it in all cases of recipient non-compliance. In fact, many programs have provisions built in that all but ensure that some non-compliers will escape punishment. These provisions are of two kinds:

- The rules may provide that the imposition of penalties is discretionary rather than mandatory. This enables officials to forgo enforcement for certain recipients, thus weakening the entire penalty system and suggesting favoritism; or

- The rules may list specific circumstances in which non-performing recipients are exempt from the penalties. These may include vague terms open to subjective interpretation such as a “downturn in general economic conditions,” “unforeseen business circumstances,” “good faith effort” or an “act of God.”

We take the presence of such loopholes into account in our scoring system and give the maximum of 20 points in this category only to those programs whose penalties are mandatory and that do not have specified exceptions. (Temporary grace periods are not counted as exceptions.) We also give 20 points to the performance-based programs mentioned above.

We give 15 points in cases where the penalties are mandatory but there are exceptions; 10 points where the penalties are discretionary. For the latter we make no distinctions between those that have exceptions and those that do not. If the implementation of penalties is discretionary, the existence of exceptions is immaterial.

Of the 238 programs we examined, 94 receive the full 20 points for mandatory, exception-less penalties; another 41 get full points by virtue of being performance-based. Forty-three states are represented on this list of 94 but only two get the maximum points for all of their major programs: Mississippi and Rhode Island (counting performance-based programs, Oklahoma and Wyoming also get maximum points for all their programs). Six states get maximum points for all but one of their major programs: Georgia, Maryland, Michigan, Vermont, Virginia, and Wisconsin.

Thirty-one programs receive 15 points for having mandatory penalties but with exceptions. These programs come from 19 states. Those with the most penalties of this kind (covering three programs) are New Jersey and West Virginia.

Another 53 programs receive 10 points for having the weaker discretionary penalties, with or without exceptions. The remaining 19 programs get zero points because they have no penalties at all and are not performance-based.

Here's a breakdown of the number of programs with different types of exceptions (some have more than one):

- Downturn in general economic conditions: 10
- Unforeseen business circumstances: 15
- Bankruptcy of the company: 7
- "Act of God": 16
- Company made a good faith effort: 9

Others have exceptions for unusual circumstances such as riots (Kentucky's Bluegrass State Skills Corporation) or acts of terrorism (Florida's Qualified Target Industry Tax Refund).

Enforcement Practices

As explained in the previous chapter, we were unable to obtain useful data on the frequency with which state agencies actually implement penalty provisions. We thus decided to use a proxy measure: whether an agency posts enforcement data online. Based on our long experience, we believe the presence of such disclosure is a good indicator of which agencies are serious about enforcement.

We award 10 points to those programs for which online data is available on their overall enforcement activity, including aggregate information such as the number of recipients found to be non-compliant, the number penalized and the dollar amounts recaptured or otherwise collected. Separately, we award 5 points to programs that post the names of recipients found to be non-compliant and 5 points to those that post the names of recipients that have been penalized. Programs with more than one form of disclosure can receive up to 20 points in this category.

Of the 238 programs we examined, 21 (in 12 states) post aggregate statistics on enforcement activity.

Table: Programs with Published Aggregate Enforcement Statistics

State	*Program*
CA	Employment Training Panel
IA	Enterprise Zone (Business Only)
IA	High Quality Job Creation Program
IL	Economic Development for a Growing Economy (EDGE) Tax Credit
IL	Enterprise Zone Program
IL	Large Business Development Assistance Program
MD	Maryland Economic Development Assistance Authority Fund, MEDAAF 1 & 2, Significant Strategic Economic Development Opportunities & Local Economic Development Opportunities
MD	Sunny Day Fund
MI	Film Tax Credits
NC	Job Development Investment Grants (JDIG)
NC	One North Carolina Fund
NE	Employment and Investment Growth Act
NE	Nebraska Advantage
OH	Job Creation Tax Credit
TX	Texas Economic Development Act (Ch. 313)
TX	Texas Enterprise Fund (TEF)
VA	Governor's Opportunity Fund (GOF)
VT	Economic Advancement Tax Incentives (EATI)
VT	Vermont Employment Growth Incentive (VEGI)
VT	VT Economic Development Authority loans
WY	Workforce Development Training Fund

Thirty-eight programs in 18 states post names of recipients found to be not in compliance.

Table: Programs with Published Names of Noncompliant Recipients

State	*Program*
CA	Employment Training Panel
CO	Job Growth Incentive Tax Credit
CO	Strategic Fund
CT	Jobs Creation Tax Credit (aka New Jobs Creation Tax Credit)
CT	Manufacturing Assistance Act
CT	Urban and Industrial Site Reinvestment Tax Credit
IA	Enterprise Zone (Business Only)
IA	High Quality Job Creation Program
IL	Economic Development for a Growing Economy (EDGE) Tax Credit
IL	Enterprise Zone Program
IL	IDOT Economic Development Program
IL	Large Business Development Assistance Program
IN	Economic Development for a Growing Economy (EDGE) Tax Credits
IN	Hoosier Business Investment Tax Credit (HBITC)
IN	Skills Enhancement Fund (SEF)
MA	Life Sciences Investment Tax Credit
MD	Maryland Economic Development Assistance Authority Fund, MEDAAF 1 & 2, Significant Strategic Economic Development Opportunities & Local Economic Development Opportunities
MD	Sunny Day Fund
MI	Film Tax Credits
MI	Michigan Economic Growth Authority (MEGA) Tax Credits
MN	Job Opportunity Building Zones (JOBZ)
MN	Job Skills Partnership Program
MO	Quality Jobs Program
NC	Job Development Investment Grants (JDIG)
NC	One North Carolina Fund
NY	Empire Zone Program
OH	Community Reinvestment Area (CRA) Program
OH	Job Creation Tax Credit
TX	Texas Economic Development Act (Ch. 313)
VA	Governor's Opportunity Fund (GOF)
VA	Virginia Investment Partnership (VIP) & Major Eligible Employer Grant (MEE)
VT	Economic Advancement Tax Incentives (EATI)
VT	Vermont Employment Growth Incentive (VEGI)
VT	Vermont Training Program
WI	Customized Labor Training Fund
WI	Economic Development Tax Credit Program
WI	Major Economic Development Program (MED)
WI	Transportation Economic Assistance Program (TEA)

Only 14 programs in eight states post lists of which recipients have been penalized.

Table: Programs with Published Lists of Penalized Noncompliant Recipients

State	*Program*
IA	Enterprise Zone (Business Only)
IA	High Quality Job Creation Program
MD	Maryland Economic Development Assistance Authority Fund, MEDAAF 1 & 2, Significant Strategic Economic Development Opportunities & Local Economic Development Opportunities
MD	Sunny Day Fund
MI	Film Tax Credits
NC	Job Development Investment Grants (JDIG)
NC	One North Carolina Fund
OH	Job Creation Tax Credit
TX	Texas Economic Development Act (Ch. 313)
TX	Texas Enterprise Fund (TEF)
VA	Governor's Opportunity Fund (GOF)
VA	Virginia Investment Partnership (VIP) & Major Eligible Employer Grant (MEE)
VT	Economic Advancement Tax Incentives (EATI)
VT	Vermont Employment Growth Incentive (VEGI)

See Appendix 5 for a list of the web addresses for these disclosure sites.

Chapter 3: Conclusion and Recommendations

Our findings on the enforcement of performance requirements and job-quality standards suggest conclusions similar to those in our *Money for Something* report. On the one hand, we have come a long way from the days when states handed over large sums to companies and did nothing to ensure that they generated economic benefits for taxpayers. Both the imposition of requirements and the enforcement of those requirements are now common practice around the country.

On the other hand, many of the rules attached to subsidies are porous, and the enforcement practices of many states are discretionary and subjective. It is troubling that 23 programs still have no performance reporting requirements; 67 programs do not verify recipient claims; 19 programs have no penalties for non-compliers (and are not performance-based); many of those with penalty provisions weaken them by limiting their application; and only a small share of programs disclose data on their enforcement activities. Practices vary widely not just among states but even *within* them.

There has been long-term progress, but many states still have a great deal of work to do to ensure that their subsidy spending truly pays off for workers, communities and taxpayers.

To assist in that process, here are our policy recommendations with regard to enforcement:

- All recipients in all programs should be required to report to agencies on job creation, wages, benefits and other performance benchmarks. Recipient reporting data should be disclosed online at least annually as part of a state's disclosure system.

- All reported information should be verified by agencies using techniques such as program-specific auditing and the cross-checking of company claims against a separate reliable source such as unemployment insurance records.

- Agencies should penalize recipients found to be out of compliance, employing techniques such as recapture (clawbacks), recalibration of future benefits and rescission/termination of subsidy agreements. Programs that are performance-based should operate without penalties only if recipients are required to fulfill all programs requirements before receiving any subsidies.

- Penalty systems should be straightforward and consistent and not weakened by various exceptions or by giving agency officials discretion on whether to implement them.

- Agencies should publish detailed data on their enforcement activities, including the names of the recipients found to be non-compliant and those penalized (including the penalty amounts).

As we indicated in *Money for Something* with regard to performance requirements, the fact that a state adopts strong enforcement procedures does not guarantee that any given subsidy program or deal is a good use of taxpayer funds. Some programs may simply offer too much assistance to companies, so that benefits will never outweigh costs. Others may have become so deregulated that they are windfalls rather than incentives. For such programs, abolition rather than accountability is the correct policy, especially in times of severe budgetary stress. Yet as long as a program is in operation, taxpayers have a right to demand both strong performance requirements (including job creation and job quality standards) and aggressive enforcement of those requirements. When a company is given subsidies without strings, that is a handout rather than economic development.

Endnotes

[1] Quoted in James Romoser, "With Dell Done, What Does N.C. Get Back?" *Winston-Salem Journal*, October 10, 2009 (via Nexis).

[2] James Romoser, "Dell Balks at Tax Credits," *Winston-Salem Journal*, December 5, 2009 (via Nexis).

[3] Todd Wallack, "Evergreen Will Repay $3M of its State Aid," *Boston Globe*, January 19, 2011 (via Nexis).

[4] Jake Miller, "Tax Credits, Wisconsin's Main Incentive, Fail to Pay Off A Third of the Time," *Wausau Daily Herald*, November 13, 2011 (via Nexis).

[5] Lee Rood, "Iowa Firms Default on Job-Creation Pledge After Receiving Tax Credits," *Des Moines Register*, November 15, 2011 (via Nexis).

[6] Bob Segall, "Reality Check: Where Are the Jobs?" WTHR-TV at http://www.wthr.com/category/189918/reality-check-where-are-the-jobs

[7] David Shaffer and Glenn Howatt, "Where Are the Jobs?" Minneapolis Star Tribune, March 30, 2011; online at http://www.startribune.com/investigators/118656869.html

[8] Aaron Deslatte, "Firms Got $38M, Gave Us No Jobs," *Orlando Sentinel*, October 22, 2011 (via Nexis).

[9] Kenneth P. Thomas, *Investment Incentives and the Global Competition for Capital*. New York: Palgrave Macmillan, 2011, p.96.

[10] The Kansas Economic Opportunity Fund, which we included in *Money for Something*, expired since that report was published a few weeks ago, but we keep it in our sample in order to make the results of the two studies more consistent.

[11] See for example: Kary Moss, Esq., "The Privatizing of Public Wealth," *Fordham Urban Law Journal*, Vol. XXIII, No. 1, 1995.

[12] Greg LeRoy, *No More Candy Store: States and Cities Making Job Subsidies Accountable* (1997 printing) at http://www.goodjobsfirst.org/sites/default/files/docs/pdf/nmcs.pdf

[13] Rachel Weber and David Santacroce, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar*, (Good Jobs First, March 2007) at http://www.goodjobsfirst.org/pdf/idealdeal.pdf.

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Illinois PIRG
Institute on Wisconsin's Future
Iowa Policy Project
Maine Center for Economic Policy
Maryland Budget and Tax Policy Institute
MASSPIRG (Massachusetts)
Michigan League for Human Services
Mississippi Economic Policy Center
Mountain Association for Community Economic Development (Kentucky)
ND People (North Dakota)
New Jersey Policy Perspective
New Mexico Voices for Children
North Carolina Justice Center
North Dakota Economic Policy Project
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