Looking Behind the Curtain

Unveiling the Problem of Tax Expenditures in Iowa

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Iowa Fiscal Partnership

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Iowa Fiscal Partnership

The Iowa Fiscal Partnership is a joint initiative of the Iowa Policy Project and the Child & Family Policy Center, two nonprofit, nonpartisan Iowa-based organizations that cooperate in analysis of tax policy and budget issues facing Iowans. IFP reports are available on the web at http://www.iowafiscal.org.

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Formed in 2001, the Iowa Policy Project uses promotes public policy that fosters economic opportunity while safeguarding the health and well-being of Iowa's people and the environment. Based in Mount Vernon, IPP's principal office is at 120 N. Dubuque St. #208, Iowa City, IA 52245.

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Established in 1989 to "better link research and policy on issues vital to children and families and to advocate for evidenced-based strategies to improve child outcomes," the Child & Family Policy Center works at the community, state and national levels on child and family policy issues. CFPC is located at 1021 Fleming Building, 218 Sixth Ave., Des Moines, IA 50309.

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By Victor Elias and Charles Bruner

Economic development has been a major focus of state policy for many years in Iowa. The state has expended hundreds of millions of dollars for economic development efforts. These investments are made through appropriations programs such as the Iowa Values Fund, and through special provisions in the state tax code such as the research activities credit. While large and costly, the effectiveness of these expenditures through the tax code is difficult to evaluate, given that there are almost no reporting requirements and the individual recipients of these tax breaks remain confidential.

■ In 2002, an anonymous Iowa firm received a check from the Iowa treasury for $11 million as part of its claim for a research activities tax credit initially projected to be a small cost to the state.

■ In 2004, the General Assembly adopted tax provisions making businesses retroactively eligible for bonus depreciation on investments already made, with a potential cost to the state in the tens of millions of dollars.

These represent two examples of tax breaks enacted by the General Assembly that have provided very large benefits to specific Iowa businesses, essentially at other taxpayers' expense. In both instances, Iowa law provides for no public disclosure of the beneficiaries of these tax breaks nor any ongoing review and accounting for whether the breaks have produced any public benefits. Policy makers and the public do not even know what the state spends on such tax incentives each year because incentives have not been tracked and do not require annual appropriations. There is no annual review or requirement for reauthorization. Once enacted, these tax breaks become entitlements and continue unabated until the General Assembly acts to change or repeal them. Increasingly, the Iowa General Assembly has sought to promote economic development through the tax code, which makes disclosure and accountability regarding these tax expenditures even more essential.

The lack of scrutiny applied to tax expenditures stands in sharp contrast to the process for reviewing state government expenditures. The state's annual budget process begins with state departments submitting and justifying appropriations requests to the Governor, who then prepares and submits a budget to the General Assembly. These appropriations requests are reviewed and studied by seven budget appropriations subcommittees, and the full appropriations committees of both the House and Senate. In their review of these appropriations, legislators question the state departments about these appropriations requests. They also receive assistance and analysis from the nonpartisan Legislative Services Agency Fiscal Division in examining appropriations.

Economic development tax expenditures, on the other hand, are an example of another form of state government expenditure known as tax expenditures that do not go through the appropriations process. In its report "Iowa Tax Expenditures 2000, Phase I Report," the Iowa Department of Revenue described tax expenditures as "preferential provisions in tax law that produce reductions in tax from that which would be imposed without the provision. They take the form of special exclusions, exemptions, deductions, credits, and deferrals." The Department of Revenue also points out that tax expenditures are generally targeted to a limited group of taxpayers. As a tool for economic development, tax expenditures are often enacted in an attempt to generate economic activity that would not have occurred otherwise.

Most tax expenditures are permanent changes to the tax code. The revenue impacts are usually estimated by the Iowa Department of Revenue during legislative deliberations in what is known as a Fiscal Note issued by the Legislative Services Agency Fiscal Division. Once enacted into law, however, these preferential tax provisions are rarely reviewed, either to see if they are costing more than was anticipated, or to see if they are accomplishing their economic development goals. Unless the General Assembly takes specific action, tax expenditures continue indefinitely.

Research Activities Credit

The research activities credit is a prime example of a tax expenditure justified on economic development grounds. This credit, originally enacted in 1985, allows businesses to claim an income tax credit equal to 6.5 percent of increased spending on research activities. The history of this credit reveals that fiscal impacts were consistently underestimated, and illustrates the importance of ongoing accountability.

In 1994, new legislation (HF2180) created the Quality Jobs Enterprise Zone aimed at the IPSCO company in Muscatine County. This bill doubled the credit to 13 percent and made it fully refundable for businesses in enterprise zones.[1] The fiscal note issued for HF2180 said that while IPSCO would qualify for the credit, IPSCO was not expected to receive any additional benefit from HF2180 and thus the bill would have no fiscal impact. Two years later, HF2481 made the research activities credit under the New Jobs and Income Program a refundable credit. The fiscal note for this provision said that due to the lag time in the application and development process the fiscal impact on the state in FY1997 and FY1998 would be negligible. The fiscal note did not estimate the costs of this provision for the years beyond 1998. HF2560 adopted in 2000 allowed an alternate method for calculating the research and activities credit and made it refundable for all tax filers. It went on to make these provisions retroactive to January 2000. In addition, HF2560 doubled the research and activities credit for the New Jobs and Income Program, and for the Quality Jobs Enterprise Zone Program. The fiscal note estimated that the impact of these changes in HF2560 would result in a cost to the state general fund of $3 million in FY2001 and $3.1 million in FY2002. It did not estimate the cost to the state general fund for the fiscal years beyond 2001.

These estimates have proved to be considerably off base. The state has lost over $208 million in revenue to general fund since the inception of the research activities credit. For the last five fiscal years (2002-06), the general fund lost almost $32 million per year due to this tax

1 A credit, unlike a deduction, directly reduces your tax by the amount of the credit. With a refundable credit, if the credit is more than the tax you would owe without the credit, the excess credit is refunded to the business.

expenditure. Moreover, there is no way to know what these research activities are, who is receiving them, or if they are adding growth to Iowa's economy that would not otherwise have occurred. If claimed by multistate corporations doing business in Iowa, the actual research activities that trigger the credit may or may not be occurring in Iowa.

Table 1. Research Activities Credit Claimed on Corporate Returns

Fiscal Year of Claim	Number of Claims	Research Activity Credit Claimed
Pre FY1998	1,297	$ 19,293,368
FY1998	118	2,869,120
FY1999	108	5,437,168
FY2000	128	8,584,568
FY2001	126	13,204,187
FY2002	125	13,642,257
FY2003	204	30,257,782
FY2004	248	50,655,606
FY2005	178	29,570,291
FY2006	189	34,975,937
Total	2,721	208,490,284

Source: Iowa Department of Revenue and Finance

Iowa Department of Revenue staff reported that a single corporate tax filer received a research and activities credit of $11 million that covered several tax years. An $11 million appropriation to spur economic development, or to conduct any public activity for that matter, would receive intense public scrutiny. Yet this $11 million grant to one corporation through the tax code remains confidential because Iowa does not have transparency in its tax credit reporting.

Bonus Depreciation

Bonus depreciation is another tax expenditure enacted on the premise of spurring economic development. HF2581, passed during the special legislative session in September 2004, adopted bonus depreciation, which tied Iowa's corporate tax depreciation to the accelerated depreciation schedule adopted by Congress two years previously. Bonus depreciation allowed businesses to depreciate up to 50 percent of certain assets acquired after Sept. 11, 2001, and placed into service by the end of 2004.[2] Iowa did not elect to adopt the accelerated bonus depreciation schedule at the time it was adopted by Congress because Iowa could not afford to lose the revenue.

The bonus depreciation provision was enacted in September 2004 as part of a compromise between the Governor and the General Assembly that included a high priority of the Governor's, the Iowa Values Fund. Since both the Governor and the General Assembly agreed upon this tax provision, there was very little public discussion or analysis of its impact and no fiscal note was issued for this legislation at the time. During the next legislative session in 2005, HF102 was adopted. HF102 allowed taxpayers to claim bonus depreciation on their next year's tax return instead of filing an amended return as required in HF2581. The fiscal note for HF102 estimated that HF102 would cost the state $2.25 million in FY2005, and $1.25 million in FY2006. It also said that the estimated costs of the original provisions of HF2581 would cost the state $87.2 million over fiscal years 2005 and 2006.

2 Bonus depreciation was adopted by the federal government as part of the Job Creation and Worker Assistance Act in 2002, and was expanded under the Jobs and Growth Tax Relief Reconciliation Act in 2003. Assets covered by bonus depreciation include property with a recovery period of 20 years or less, some computer software, automobiles, aircraft, office equipment, furniture, and fixtures.

It is very hard to make a case for bonus depreciation as an economic development tool. Businesses had only a few months after its enactment in September 2004 special legislative session to put equipment in service by the end of December. Given the time required for planning any major investment, any equipment purchased in those few months was no doubt already planned, and at best accelerated from 2005 to late 2004. Since bonus depreciation was retroactive to Sept. 11, 2001, most of the benefits of the bill went to businesses for investments that had already been made prior to enactment of the bill. Further, Congress did not renew federal bonus depreciation when it expired in 2005.

According to the Iowa Department of Revenue, there is no way to precisely identify how much was deducted by taxpayers for bonus depreciation or how much it really cost the state general fund. Under current law, there is certainly is no way to determine who were the beneficiaries of the tax break.

Range of Economic Development Tax Expenditures in Iowa

Both the research activities credit and the bonus depreciation allowances are representative of an increasing array of tax credits and incentives that have been enacted by the General Assembly over the last decade with the goal of promoting economic development. These tax provisions are shown in the table below. Collectively, they are estimated to cost the state treasury over $155 million annually. This huge annual expenditure occurs without any public disclosure as to beneficiaries of the tax breaks or any required review of their purpose and effectiveness. Once enacted, no reauthorization is required to continue them.

Table 2. Economic Development Tax Credit Programs in Iowa

Year	Program	Amount
FY2005	New Jobs and Income Program	$ 45.5 million
FY2005	Iowa New Jobs Credit (under 260E)	2.4 million
FY2005	New Capital Investment Program	18.4 million
FY2003	Research Activities Credit	31.8 million
FY2005	Enterprise Zone Program	45.8 million
FY2005	Housing Enterprise Zone Program	10.5 million
FY2006	Venture Capital Credit — Investments in Qualifying Business and Seed Capital Funds	0.3 million
FY2006	Venture Capital Credit — Investments in Venture Capital Funds	0.2 million
FY2005	Venture Capital Credit — Investments in Iowa Fund of Funds	NA
Total		$154.9 million
New Program	Wage-Benefit Tax Credit	10.0 million
New Program	Economic Development Region Revolving Fund Tax Credit	2.0 million
New Program	High Quality Job Creation Program	NA

Source: Legislative Services Agency, Fiscal Division, 2004 Fact Book

Accountability for Economic Development Tax Expenditures: Model and Neighboring State Provisions

The first tool for holding tax expenditures accountable is adequate public disclosure. This would include requirements for public reporting of the beneficiaries of these tax expenditures. While tax records in general are confidential and there are good reasons for retaining confidentiality of individual tax filer records, a number of states have adopted provisions that make public the tax claims and benefits that are derived from specific tax expenditures. For instance, the public would be able to identify the firm that received the $11 million benefit from the Iowa research activities credit.

The second tool for holding tax expenditures accountable is a regular review of their benefits to the state to determine the merit of their continuation. This can include sunset clauses (expiration dates) and regular reviews by a tax expenditure commission. It can also involve reporting requirements for tax filers regarding their expected economic impact.

Model legislation recommended by Good Jobs First sets out some of the key ingredients of a good accountability program that applies both to state and local tax expenditures:

■ Full and public disclosure of the costs and benefits of all economic development incentives, including but not limited to tax expenditures and appropriations.

■ Quality job standards that require family supporting wages with health-care benefits to avoid hidden costs to taxpayers for social safety net programs.

■ Clawback provisions to recapture funds, either appropriations or tax breaks, from companies that do not accomplish the agreed-upon goals.

■ Regular unified development budgets to ensure expenditures made either through the tax code or through appropriations are transparent and accountable to the public.

The National Education Association is in the process of drafting tax expenditure accountability model legislation, which at this time includes provisions very similar to those of Good Jobs First.

As of September 2005, 12 states, including Iowa's neighbors Illinois, Minnesota and Nebraska, had enacted legislation that requires disclosure of economic development subsidies (see attached table). Seven of these states require disclosure by individual recipient.

Illinois' legislation (Public Act 552-93 of 2003) requires annual progress reports on the amount and type of assistance provided, including tax expenditures. These reports include information on job creation and retention broken down by job classification and average wage levels. The reports are available online at www.corpacctportal.Illinois.gov/ProgressReport.aspx. Illinois also requires the State Department of Revenue to produce an annual Unified Economic Development Budget.

Minnesota requires company-specific information on all state and local economic development deals, including grants and tax breaks, indicating the type of assistance, its public purpose, amount of subsidies, the hourly wage of each job broken down by dollar ranges, and the sum of hourly wages and health insurance broken down by wage level. The reports also require a statement of the goals set forth in the subsidy agreement and an update on their completion. Every other year the state publishes a Business Assistance Report that lists the names of the companies, the amount of the subsidy, the granting jurisdiction, and whether or not the company has achieved its goals. These reports can be found online at www.deed.state.mn.us/Community/subsidies.index.htm.

Nebraska's Employment and Investment Growth Act requires the State Tax Commissioner to send an annual report to the Legislature, although that report does not release company-specific information on subsidies. However, the report includes information by industry on incentives, refunds, individual and corporate income tax credits, sales and use tax refund credits, the number of jobs created, wage levels of new jobs, and tax credits outstanding.

Holding Economic Development Tax Expenditures Accountable: Recommendations for Iowa

Currently Iowa has no state requirement for full disclosure of all of the costs of its economic development tax expenditures. Iowa has issued only one tax expenditure report (in 2000). In 2005 the General Assembly did require the Iowa Department of Revenue to develop a system to track and analyze tax credits. The Department's December 2005 progress report on that effort states that its goal is to have the first preliminary status reports and program effectiveness evaluations ready for the Legislature by the end of December 2006.

Under the Iowa Department of Revenue's tax credits tracking and analysis system, all business tax credits that serve an economic development purpose will be tracked and consolidated by taxpayer for the first time. This includes credits reported by C-corporations and credits claimed on individual tax returns as a result of business income received from a pass-through entity such as an S corporation or an LLC. While the taxpayer-specific data will remain confidential, useful reports will be possible from this data, summarizing the total annual cost of the credits by a variety of factors, including the type of credit, the industry or size of the firm (by assets, income or employment), and the domicile of the corporation (Iowa or out-of-state). Most importantly, this data will permit effectiveness evaluations, because the receipt of credits can be tied to the subsequent record of the corporation in terms of the creation of new jobs or the maintenance of Iowa employment levels.

Development of a system to track and analyze tax credits is an important first step in creating a comprehensive system of accountability for Iowa's economic development tax expenditures. While it will make evaluation of tax expenditures possible, it will not make it required. Iowa needs to go beyond this and adopt legislation similar to that adopted in 2003 by Illinois, which made information on company-specific economic development packages public, and required a unified economic development budget that includes tax expenditures.

Like Illinois, and the Good Jobs First model act, Iowa legislation should include the following provisions regarding tax expenditures for economic development purposes:

■ Within three months of the close of each fiscal year the Iowa Department of Revenue and the Department of Management should submit an annual Economic Development Tax

Expenditure Report to the General Assembly including all types of economic development tax expenditures, provided during the previous fiscal year, including but not limited to:

❖ The amount of uncollected or diverted state and local tax revenue resulting from each type of economic development assistance provided in the tax statutes for state and local governments as reported to the Iowa Department of Revenue and the Iowa Department of Management on tax and budget forms filed during the fiscal year.

❖ The number of new jobs created or retained, broken down by dollar ranges, and the sum of hourly wages and health insurance broken down by wage level, as a result of economic development tax expenditure incentives.

❖ An accounting of whether or not each economic development tax expenditure is reaching the agreed-upon goals.

■ All data contained in the Economic Development Tax Expenditure Report shall be public record in accordance with Iowa's Public Records law.

■ A searchable data base of economic development tax expenditures, by company, shall be available to the public online within three months of the close of the state's fiscal year.

■ Each economic development tax expenditure should have a sunset provision, or a date on which it will expire subject to renewal by the Legislature and Governor, to force review of its annual cost and to determine if it is accomplishing the intended public purpose.

■ Provisions should be adopted to recapture tax credits from businesses that do not accomplish the economic development goals for which they were designed.

Only with annual reporting and full disclosure of the full costs of all economic development tax expenditures – and the goals expected and attained or not attained – will Iowa's policymakers, and more importantly its citizens, fully be able to judge if these economic development tax expenditures are justified. This accountability is needed for tax expenditures every bit much as it is needed for general fund appropriations.

Company-Specific Subsidy Disclosure in the States

State	Programs Covered	Description and Data Sources	Statute
Connecticut	All economic development assistance with a cumulative value of $250,000 or more granted to a business with 25+ full-time employees in the state	Annual reporting includes company-specific data on actual jobs created, projected jobs created, number of jobs at initial application, and the amount of assistance. Information can be obtained by contacting the granting agency.	Public Act No. 93-382; Public Act No. 94-231
Illinois	All state subsidies	Yearly progress reports include the amount and type of assistance; whether the subsidy was used to reduce employment at another site in the state; and job creation and retention data, including information on promised and actual job creation, broken down into job classifications with average wage levels. All progress reports (beginning in 2004) are available online in a database searchable by report year, award year, and program type. The site also includes an annual report on recaptured subsidies by program and a listing of any waivers granted. Search the database online at: http://www.corpacct-portal.illinois.gov/ProgressReport.aspx	Public Act 55293 of 2003
Louisiana	Industrial property tax exemptions	Company-specific information includes jobs created (both permanent and construction), 10-year value of exemption, investment amount, and taxes paid. Information is collected from companies annually, but is not compiled by the state in any database form, nor is it made available on the web. A state official described the files as “a massive amount of documentation” and suggested that the only way for a researcher to peruse it would be to go to the office to view and copy it themselves.	Records of the state’s tax exemption board
Maine	All economic development deals over $10,000	Disclosed information includes company name; total amount of assistance; details about the type and purpose of each form of assistance; the number of jobs created by occupational type; the wage and benefit levels of jobs created or retained; any changes in employment levels; and	5 §13070-J

State	Programs Covered	Description and Data Sources	Statute
Maine, continued		whether the company relocated within the state. Information is released in an annual economic development incentive report, which can be obtained by contacting the Maine Department of Economic and Community Development (online at http://www.econdevmaine.com/) Company-specific information for some programs, including TIF, Employment TIF (ETIF), the Maine Research Expense Tax Credit can be found in the programs' annual reports, online at http://www.econdevmaine.com/resources/default.asp	
Minnesota	All state and local economic development deals over $25,000	Company-specific information includes the type, public purpose, and amount of subsidies received; the hourly wage of each job created (listed in dollar ranges); the sum of hourly wages and cost of health insurance broken down by wage level; a statement of the goals laid out in the subsidy agreement and an update on their completion; the date by which job and wage goals will be met; and the reason for relocation within Minnesota if applicable. Every other year the Department of Employment and Economic Development publishes a Business Assistance Report that lists the names of subsidized companies, the subsidy amount, the granting jurisdiction, and whether or not the company achieved its goals. The state also posts the reporting forms submitted by each company on the web as they are received. The information is not available in a searchable database format; forms are accessed by selecting the year of the report and then the city and company names. The most recent Business Assistance Report and an archive of business assistance forms dating back to 2000 is online at http://www.deed.state.mn.us/Community/subsidies/index.htm	§116J.994

State	Programs Covered	Description and Data Sources	Statute
Nebraska	Employment and Investment Growth Act (LB 775) (includes various property, sales and income tax breaks)	The State Tax Commissioner sends an annual report to Legislature with a company-specific list of agreements signed that year, agreements still in effect, and the size and location of each project. Company-specific information about subsidies is NOT released. The report does include information aggregated by industry about incentives applied for, 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.	§77-4110.
	Invest Nebraska Act (LB 620) and Quality Jobs Act (LB 829)	The Department of Revenue must submit an annual report to the Legislature with a company-specific list of the agreements signed in the past year, the agreements still in effect, and the location of each project. The report also includes information aggregated by industry on the amount of wage benefit credits allowed, the number of jobs created, the amount of direct capital investment, the estimated wage of jobs created, an estimate of indirect jobs and invested created, and the projected future state and local revenue gains and losses from all revenue sources on account of the direct and indirect jobs and investment associated with the projects. The annual reports can be accessed online at http://www.revenue.ne.gov/incentiv/annl_rep.htm	§77-5542; §774933
North Carolina	William S. Lee tax credits	The Department of Revenue publishes annual, company-specific disclosure of tax credits generated and used for training, research and development, and machinery and equipment. The data are also to be broken down geographically for those three activities by “enterprise	§105-129.6.(b)

State	Programs Covered	Description and Data Sources	Statute
North Carolina, continued		tier area," a system the state uses for ranking regions by level of economic need. The data show the number of new jobs created in development zones (enterprise zones), and how many of those new jobs went to zone residents. Reports can be accessed online at http://www.dor.state.nc.us/publications/williamslee.html	
North Dakota	All state and local subsidies	State and local subsidy recipients must file annual reports detailing their progress towards job creation and wage goals. Reports must be filed for the first two years after receiving a subsidy or until goals are met, whichever is longer. The state will compile and publish this information beginning in 2007.	§54-60.1.
Ohio	Enterprise zones	Cities and counties must submit all enterprise zone agreements to the Department of Development, including information on the number of employees at the site before the agreement; the number of employees at the end of reporting year; property value; relocation information; new payroll; property taxes paid; property taxes exempted; and total employment. A database containing this information (searchable by company, county, school district, or enterprise zone) is online at http://www.odod.state.oh.us/ez/base/	§5709.68
Texas	Reinvestment zones and tax abatements	The Comptroller maintains a centralized registry for reinvestment zones and tax abatement agreements, with a description of the zone and a copy of agreements. Data can be obtained in electronic form by contacting the comptroller's office. See their website at http://www.window.state.tx.us/	Tax Code §312.005
Washington	High Tech B&O tax credit, High Tech deferral (sales tax), Rural deferral (sales tax), and Fresh Fruit & Vegetable Proces-	Company-specific information on subsidies granted under these programs can be obtained by contacting the state Department of Revenue. Information is available by request only, and is not summarized in a published report or available	§82.04.4552 (High Tech B&O tax credit); §82.63.020 (High Tech Deferral);

State	Programs Covered	Description and Data Sources	Statute
Washington, continued	sing incentive (sales and B&O tax)	Department of Revenue's website is http://dor.wa.gov/	§82.60.070 (Rural Deferral); §82.32.610 (Fresh Fruit & Vegetable Processing)
West Virginia	Tax credits	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. The State Register is published weekly. It is available on the web in PDF form, but as it is a scanned document, the text search function does not work. Electronic archives are available on the web dating back to March, 2000; paper versions of older issues can be requested from the state. Recent issues and information about the State Register are online at http://www.wvsos.com/adlaw/register/register.htm	§11-10-5s(b)(1)

Source: Good Jobs First, Updated September 2005

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