

ECONOMIC DEVELOPMENT ACT OF 2005

– EXPLANATORY PAPERS –

TABLE OF CONTENTS

- I. ISSUE DESCRIPTION/ BILL SUMMARY
- II. BILL Q & A
- III. LETTER FROM SUPPORTING ORGANIZATIONS
- IV. TALKING POINTS
- V. STATE LIST OF CREDITS BY TYPE
- VI. NEWSPAPER ARTICLES:
 - a. *Wall Street Journal*, Tax Break to Lure Employers is Attacked, 11/29/04
 - b. *Star Tribune* (Minneapolis, MN), Suit Challenges JOBZ, Biotech Plans; Plaintiffs Say Programs Grant Tax Exemptions Illegally, 3/19/05
 - c. *The Detroit News*, Mich. Battle to Keep Kmart is Threatened; A U.S. Court Ruling that Halts Tax Breaks may Derail Efforts to Close the Deal, 11/14/04
 - d. *The New York Sun*, The Legality of 'Empire Zones', 2/22/05
 - e. *Winston-Salem Journal* (Winston Salem, NC), Attorney: Dell Deal Could Face Challenge, Court Overturned Ohio Tax Breaks for Plant, 12/10/04
 - f. *The News & Observer* (Raleigh, North Carolina), Incentives on Trial, 1/23/05
 - g. Sen. Voinovich (R-OH) Editorial: *Crain's Cleveland Business*, Court Wrong to Threaten States' Tax Incentives, 11/11/04
 - h. Rep. Chandler (D-KY) Editorial: *Atlanta Journal-Constitution*, Removal of Tax Incentives will Take Toll on Job Creation, 1/32/05
 - i. National Law Journal, Court Rejects Ohio's Use of Tax Credit; Dozens of States that Lure Businesses with Tax Credits Could be Affected, 9/13/04
 - j. *Omaha World-Herald* (Nebraska), Officials say Ohio Ruling on Credits Needs Study Opponent of Nebraska's Tax Incentives Law Says the Decision Signals the End of LB 775, 9/04/04

ECONOMIC DEVELOPMENT ACT OF 2005

Guiding Principle

It is the proper role of Congress to respond to the Sixth Circuit Court of Appeals by (1) affirming that states have the authority to use tax incentives to foster economic development and (2) providing certainty to states and to taxpayers as to those tax incentives that are consistent with the free trade principles of the Commerce Clause.

The Problem

In order to encourage DaimlerChrysler Corporation to expand its Jeep manufacturing plant, the State of Ohio, City of Toledo and the local school districts provided a package of investment tax incentives that was relied upon by DaimlerChrysler in its decision to invest \$1.2 billion and create 5,000 new jobs.

On September 2, 2004, the U.S. Court of Appeals for the Sixth Circuit, in Cuno v. DaimlerChrysler, ruled that Ohio's Investment Tax Credit ran afoul of the Commerce Clause of the U.S. Constitution by discriminating against interstate economic activity. The Cuno court agreed with the plaintiff's argument that the investment credit resulted in differential tax treatment between an Ohio business that expands within the state and an Ohio business that expands out of state. This differential, it reasoned, imposes a greater burden on economic activity that occurs outside the state and, therefore, violates the nondiscrimination prong of the Commerce Clause.

Although the decision is limited to the states in the 6th Circuit (Kentucky, Michigan, Ohio and Tennessee), the ruling has spawned nationwide concern because it substantially blurs the line between tax activity that is consistent with the free trade principle of the Commerce Clause versus impermissible, discriminatory tax treatment. Should other courts follow the broad legal analysis applied in Cuno, thousands of tax incentives could be struck down. The Cuno ruling and its potential impact have created tremendous uncertainty for states looking to promote economic development within their borders and for businesses trying to make investment and hiring decisions.

Unless Congress exercises its Commerce Clause powers the Cuno decision is certain to be used to challenge long-standing incentive programs in other states. Similar challenges to tax incentives are pending in Minnesota and Wisconsin and suits are expected to be filed soon in Nebraska and North Carolina. By enacting the Economic Development Act of 2005, Congress can save states and taxpayers from the needless waste of resources required by endless litigation.

The Solution – The Economic Development Act of 2005

The Economic Development Act of 2005 responds to the concerns of governors, state and local elected officials, and businesses by affirming that states can

continue to offer tax incentives for economic development purposes and providing that businesses can rely on those enacted state laws when making their investment decisions.

What the Act “Does” and “Does Not” Change

The Economic Development Act **does:**

- Affirm that a State (including its subdivisions, the District of Columbia, and any territory or possession of the United States) has the authority to provide tax incentives for economic development purposes. This grant of authority is limited in scope to ensure that existing U.S. Supreme Court decisions regarding unconstitutional discrimination are preserved.
- Make clear that tax incentives not explicitly authorized by this Act shall continue to be subject to judicial review.

The Economic Development Act **does not:**

- Require a State to offer tax incentives, nor does it endorse or condemn the use of tax incentives. The Act affirms that the States are in the best position to evaluate these issues based on the needs of their citizens.
- Prohibit any tax incentive. Incentives falling outside of the scope of this Congressional authorization are subject to judicial review under the Commerce Clause, as is the case today.
- Prohibit a State from enacting more stringent limitations regarding the use of tax incentives within their political borders.
- Supersede other Federal statutes that protect taxpayers engaged in specified businesses from select State taxing provisions, e.g., Federal statutes that prohibit state tax discrimination against railroads, out-of state purchases of electricity, national banks, federal savings and loan associations, air carriers, and motor carriers.

It is the proper role of Congress to respond to the Sixth Circuit Court of Appeals and provide certainty by adopting the Economic Development Act of 2005.

The Economic Development Act of 2005: Questions & Answers

Is my state tax incentive protected under this Act?

Is the state “tax incentive” provided for “economic development purposes”?

- The definitions of “tax incentive” and “economic development purposes” were written broadly so that most, if not all, state tax incentives fall under the Congressional grant of authority to states to provide tax incentives (Sec. 2. of the Act). The scope of that grant of authority is limited, however, to ensure that existing U.S. Supreme Court precedents regarding unconstitutional discrimination are preserved (Sec. 3 of the Act).
- If your state tax incentive falls within the definition of a “tax incentive” for “economic development purposes”, and it falls outside of the scope of the limitations in Sec. 3 of the Act, then your state tax incentive is protected under this Act.
- If your state tax incentive falls within the scope of one or more of the limitations in Sec. 3 of this act, then your state tax incentive is not protected by this Act. That does not mean, however, that your state tax incentive is prohibited by this Act. (Please see Question #2.)

Does the tax incentive run afoul of any of the limitations under Section 3?

- For example, Ohio’s Investment Tax Credit (ITC) which was at issue in the *Cuno* case, and is one of the most common types of tax incentives in the states, does not fall within the scope of any of the limitations in Sec. 3 of this Act. Therefore, the Ohio ITC is protected by this Act.

Does the Act prohibit any tax incentives?

- No, the Act does not prohibit any tax incentive. If a tax incentive is not protected under this Act (i.e., it has eligibility requirements that fall within the scope of the limitations in Sec. 3), then the tax incentive will stand or fall based on the U.S. Supreme Court’s interpretation of the Commerce Clause.
- For example, suppose state imposed a sales tax of 5% on TVs purchased in the state, but applied an 8% use tax¹ on the same TVs purchased out-of-state and brought into the state, and justified the lower sales tax as a “tax incentive” for “economic development purposes”. This “tax incentive” would fall within the limitation in Sec. 3 (5) and thus would not be protected by the Act. Any challenge to this tax incentive would be based on the U.S. Supreme Court’s traditional Commerce Clause jurisprudence.

¹ Use tax is the counter part to the state sales tax for items purchased out of state.

April X, 2005

The Honorable George Voinovich
United States Senate
Washington D.C. 20510

DRAFT

Dear Senator Voinovich:

The undersigned companies and organizations endorse the "Economic Development Tax Act of 2005" and applaud you for your leadership on this important issue.

As you know, on September 2, 2004, the U.S. Court of Appeals for the Sixth Circuit, in Cuno v. DaimlerChrysler, struck down Ohio's Investment Tax Credit as discriminating against interstate commerce. This ruling has created uncertainty nationwide by opening the door to additional lawsuits targeting economic development incentives in almost every State. States that have looked to such incentives to encourage their economic growth and businesses that have reasonably relied upon such incentives in their investment decisions are now taking a second look. The inevitable result will be less future investment and lower U.S. economic growth until this issue is resolved.

Congress has the power to affirm States' right to use tax incentives to increase and enhance economic development within their borders and the Economic Development Act of 2005 does just that. Your bill strikes the right balance between States' tax rights and long-established court protections against truly discriminatory practices.

The business community looks forward to working with you to enact this important economic development legislation that restores certainty to States and taxpayers by affirming States' ability to design their own tax systems for encouraging economic growth here in the United States.

Sincerely,

Alcoa
Altria
Associated Industries of Massachusetts
Associated Oregon Industries, Inc.
Association of Commerce & Industry of
New Mexico (ACI)
AMT - The Association for Manufacturing
Technology
Bristol-Myers Squibb Company
The California Manufacturers & Technology
Association
Colorado Association of Commerce &
Industry
CommScope
ConocoPhillips
Council On State Taxation
DaimlerChrysler
Eastman Kodak
EDS

Emerson
The Employers' Association
E.I. du Pont de Nemours and Company
Ford Motor Company
General Electric Company
Illinois Chamber of Commerce
Industrial Fasteners Institute (IFI)
Iowa Taxpayers Association
Jackson Area Manufacturers Association
Johnson & Johnson
Kansas Chamber of Commerce
Lockheed Martin
Maryland Chamber of Commerce
Metal Treating Institute
Michigan Chamber of Commerce
Michigan Manufacturers Association
Microsoft Corp.
Mississippi Manufacturers Association
Montana Chamber of Commerce

National Association of Manufacturers
National Paint and Coatings Association
Nebraska Chamber of Commerce &
Industry
Nissan North America
North Carolina Citizens for Business and
Industry
Ohio Chamber of Commerce
Ohio Manufacturers Association
Ohio Taxpayers Association
Oklahoma State Chamber of Commerce &
Industry
Pennsylvania Chamber of Business &
Industry
Pfizer Inc.

Randolph Economic Development Corp.
Reynolds American Inc.
Software Finance and Tax Executives
Council
Specialty Equipment Market Association
(SEMA)
Taxpayers' Federation of Illinois
Time Warner
Union Pacific Railroad
United Technologies Corporation
Utah Manufacturers Association
Verizon Wireless
West Virginia Manufacturers Association
West Virginia Business and Industry
Council

Talking Points

In Support of the Economic Development Act:

- 1) The Congress is not debating whether incentives do or do not work. The question is whether the Congress should affirm the authority of the States, and not the federal courts, that set state tax policy.
- 2) Regardless of whether one supports or opposes state tax incentives, any debate regarding them is properly held in State Legislatures.
- 3) Sen. Voinovich's legislation affirms that State Legislatures have the authority to provide tax incentives like that provided in Ohio, should a state legislature so choose.
- 4) Sen. Voinovich's legislation would not require any State to offer any tax incentive, nor would it prohibit any state from offering any tax incentive. It would merely say to the States (and the courts) that the States have the authority to provide tax incentives.

Why Congress:

- 1) The U.S. Constitution reserves exclusively for Congress the power to regulate interstate commerce. The courts act only in instances where Congress has not spoken. It is not reasonable to ask that Congress defer to the courts on an issue squarely within the Congress' purview.
- 2) In cases decided on Commerce Clause grounds, the U.S. Supreme Court has previously explicitly asked Congress to intervene and provide guidance for States, taxpayers and the courts (see *Quill* regarding sales tax nexus standards).
- 3) Why should Congress intervene unless/until the U.S. Supreme Court acts on *Cuno*? By historical standards, it is very unlikely that the Court will hear the case. Even if it does, a decision is unlikely to be issued until Spring 2006 or later. In the meantime, suits have been filed in other states (MN, WI) – and are expected in more (NE, NC, OK) – that are based, in part, upon the rationale used in *Cuno*. By asking that Congress not act until after the U.S. Supreme Court does, requires states to defend themselves in state courts against federal constitutional claims that could readily be disposed by Congress.

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Investment Tax Credit						
Alabama	Capital Tax Credit	X				
Alabama	NEW: State Industrial Development Authority Credits	X				
Alaska	NEW: Limited Investment Tax Credit (1990) (Pre-1990)	X				
Arizona	Alternative Fuel Vehicles and Equipment Tax Credits (1994-1998)	X				
Arizona	Agricultural Water Conservation System	X				
Arizona	Building Construction Materials Credit	X				
Arizona	Environmental Technology Facilities Credit	X				
Arizona	Alternative Fuel Vehicles and Equipment Tax Credits (1999 and thereafter)	X				
Arizona	Correctional Facilities Investment Tax Credit	X				
Arizona	Recycling Equipment Tax Credit	X				
Arizona	Pollution Control Equipment Credit	X				
Arizona	MINIMAL OPPORTUNITY - Agricultural Pollution Control Equipment Credit	X				
Arizona	MINIMAL OPPORTUNITY - Energy Tax Credits	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Arkansas	Economic Development Incentives Credit	X	X			
Arkansas	Sales and Use Tax Refund (Tax Back)		X			
Arkansas	Sales and Use Tax Credit or Retention Tax Credit (formerly InvestArk or MIC)		X			
Arkansas	Investment/Income Tax Credit (ArkPlus)					
Arkansas	Industrial Revenue Bonds					
Arkansas	Sales and Use Tax Refund for Targeted Businesses		X			
California	Manufacturers Investment Tax Credit					
Colorado	Investment Tax Credit	X				
Connecticut	New or Renovated Manufacturing Facilities Credit	X			X	
Connecticut	Machinery & Equipment Expenditures Credit	X			X	
Connecticut	Fixed Capital Investment Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - New Manufacturing Facilities Credit	X			X	
Delaware	New or Expanded Business Credit	X				
Delaware	MINIMAL OPPORTUNITY - New Business Facility Credits (On or Before July 23, 1997)	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Georgia	Optional Investment Tax Credit					
Georgia	Investment Tax Credit	X				
Hawaii	Capital Goods Excise Tax Credit	X				
Idaho	Investment Tax Credit	X				
Illinois	Replacement Tax Investment Tax Credit	X				
Illinois	EDGE Tax Credit	X				
Illinois	High Impact Business Credit	X				
Indiana	Economic Development for a Growing Economy Tax Credit ("EDGE Jobs Credit")	X				
Indiana	Hoosier Business Investment Tax Credit					
Kansas	Machinery & Equipment Credit	X				
Kansas	Business & Job Development Credit	X				
Kansas	Swine Facilities Credit	X				
Kansas	Telecommunications Credit	X				
Louisiana	Recycling Equipment Tax Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Louisiana	MINIMAL OPPORTUNITY - Louisiana Capital Investment Tax Credit				X	
Maine	Machinery and Equipment Investment Tax Credit	X				
Maine	High Technology Investment Tax Credit	X				
Maine	Jobs & Investment Tax Credit	X				
Maryland	One Maryland Economic Development Tax Credit	X				
Maryland	MINIMAL OPPORTUNITY - Telecommunications Credit	X				
Massachusetts	Investment Tax Credit	X			X	
Michigan	Investment Tax Credit					
Michigan	MEGA Credit					
Minnesota	Job Opportunity Building Zone (JOBZ) Credits	X	X	X		
Missouri	New or Expanded Business Facility Credit					
Missouri	MINIMAL OPPORTUNITY - Infrastructure Facilities Loans Credit	X				
Montana	Recycling Credit	X				
Montana	New or Expanded Industry Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Montana	Infrastructure Loan Credit	X				
Nebraska	Employment and Investment Growth Act Credit	X				
New Jersey	Urban Enterprise Zone Credit	X				
New Jersey	High Technology Business Investment Tax Credit	X				
New Jersey	Manufacturing Equipment and Employment Investment Tax Credit					
New Mexico	Enterprise Zone Building Rehabilitation Credit	X				
New Mexico	Technology Tax Credits					
New York	Economic Development Investment Tax Credit	X			X	
New York	Eligible Business Facility Credit	X			X	
New York	Investment Tax Credit	X			X	
New York	MINIMAL OPPORTUNITY - Credit for Purchasing Defibrillators	X			X	
New York	MINIMAL OPPORTUNITY - Retail Enterprise Tax Credit	X			X	
New York City	Credit For Sales And Use Tax Paid On Electricity Used In Manufacturing					
North Carolina	MINIMAL OPPORTUNITY - Business Property Tax Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Carolina	MINIMAL OPPORTUNITY - Construction Credit for Homes for Handicapped	X				
North Carolina	MINIMAL OPPORTUNITY - Peat Facility Construction Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Photovoltaic Equipment Facilities Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Power Plants Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Poultry Facilities Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Recycling Facilities Credit	X			X	
North Carolina	MINIMAL OPPORTUNITY - Recycling Reinvestment Credit	X				
North Carolina	MINIMAL OPPORTUNITY- Credit for Property Taxes Paid on Farm Machinery by an "S Corporation"					
North Carolina	MINIMAL OPPORTUNITY - Credit for Investing in Machinery and Equipment					
North Carolina	MINIMAL OPPORTUNITY - Credit for Technology Commercialization					
North Carolina	Credit for Substantial Investment in Other Property					
North Dakota	Sales Tax Exemptions		X			
Ohio	Manufacturers Investment Tax Credit	X			X	
Ohio	MINIMAL OPPORTUNITY - • Manufacturing Machinery and Equipment ITC (Original 20% Credit)	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Ohio	MINIMAL OPPORTUNITY - • Manufacturing Machinery or Equipment ITC (Alternative 20% Credit)	X			X	
Ohio	MINIMAL OPPORTUNITY - Manufacturing Property Tax Credit (Prior Law)	X			X	
Oklahoma	Advanced Small Wind Turbine Manufacturers	X				
Oklahoma	Credit for Investment in Agricultural Processing Cooperatives, Ventures, and Marketing Associations	X				
Oklahoma	Manufacturer's Gas Credit	X				
Oklahoma	Investment/New Jobs Credits	X				
Oklahoma	MINIMAL OPPORTUNITY - Enterprise Zone Job and Investment Credits	X				
Oklahoma	Credit for Electricity Produced by Zero-Emission Facility	X				
Oklahoma	Ad Valorem Tax Exemption			X		
Oklahoma	Refund of Sales Tax Paid on Construction Materials		X			
Oregon	Fish Protective Devices Credit	X				
Oregon	Alternative Fueling Station Credit	X				
Oregon	Pollution Control Facility Credit	X				
Oregon	Business Energy Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Oregon	MINIMAL OPPORTUNITY - Fish Habitat Credit	X				
Oregon	MINIMAL OPPORTUNITY - Non-Urban Enterprise Zones Credit					
Pennsylvania	Enterprise Zone - Neighborhood assistance credit for investment	X				X
Rhode Island	Investment Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Hydroelectric Power Generating Facility Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Industrial Mill Building Interest Tax Credit	X				
South Carolina	Infrastructure Contribution or Improvement Credit	X				
South Carolina	MINIMAL OPPORTUNITY - • Economic Impact Zone Investment Credit	X				
South Carolina	MINIMAL OPPORTUNITY - • Tire Manufacturer's Development Credits (1999 and Thereafter)					
South Dakota	Energy Systems or Facilities Credit			X		
South Dakota	QUEST Credit					
Tennessee	Enterprise Zone Investment Credit (Repealed)					
Tennessee	Industrial Machinery Tax Credit	X				
Tennessee	MINIMAL OPPORTUNITY - • Industrial Machinery Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Tennessee	MINIMAL OPPORTUNITY - Medical Supplies and Equipment Credit	X			X	
Texas	Credit For Sales Tax Paid On Manufacturing Property (Expired)	X			X	
Texas	Tax Refund for Economic Development	X	X			
Texas	Enterprise Zone Capital Investment Tax Credit	X				
Texas	Strategic Investment Area Capital Investment Tax Credit	X				
Utah	Energy Systems Credit	X				
Utah	Recycling Market Development Zone Credits	X				
Utah	Clean Fuel Vehicle Tax Credit	X				
Utah	MINIMAL OPPORTUNITY - Research Tax Credit for Machinery and Equipment	X				
Virginia	Enterprise Zone Real Property Tax Investment Credit	X				X
Virginia	Credit for Recyclable Materials Processing Equipment	X				
Washington	Cogeneration Facility Credit	X				
West Virginia	Tax Credit for New Steel Manufacturing Operations	X			X	
West Virginia	Credit for Industrial Expansion and Industrial Utilization				X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
West Virginia	Business Investment and Jobs Expansion Super Tax Credit	X			X	
West Virginia	Agricultural Equipment Tax Credit	X				
West Virginia	Economic Opportunity Tax Credit					
West Virginia	Manufacturing Investment Tax Credit					
Wisconsin	Community Development Zone Investment Credit	X				
Wisconsin	Manufacturers Sales Tax Credit	X				
Wisconsin	Development Zones Credit	X				
Wisconsin	Community Development Zone Sales Tax Credit	X				
Wisconsin	Community Development Zone Location Credit	X				
Wisconsin	Technology Zones Credit	X				
Wisconsin	Manufacturing Investment Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Research and Development						
State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Arizona	Research & Development Credit	X				
Arizona	MINIMAL OPPORTUNITY - Credit for Research Expenses (2001 and Thereafter)	X				
Arkansas	Research and Development Income Tax Credit - Research and Development with Universities	X				
Arkansas	Research and Development Income Tax Credit - In House Research	X				
Arkansas	Research and Development Income Tax Credit - In House Research by a Targeted Business	X				
Arkansas	Research and Development Income Tax Credit - Research Area of Strategic Value	X				
California	Research & Development Credit	X				
California	MINIMAL OPPORTUNITY - Clinical Testing Expenses Credit	X				
Connecticut	Research and Development Credit for Grants to Institutions of Higher Education	X			X	
Connecticut	Research & Development Expense Credit	X			X	
Connecticut	Credit For Incremental Increases In Research & Development Expenses	X			X	
Connecticut	MINIMAL OPPORTUNITY - • Small Business R&D Credit Exchange	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Delaware	Research and Development Credit	X				
Georgia	Research & Development Credit	X				
Illinois	Research & Development Credit	X				
Indiana	Research Expense Credit					
Iowa	New Jobs And Income Program Research Credit	X				
Iowa	MINIMAL OPPORTUNITY - Research Activities Credit	X				
Kansas	Research & Development Credit	X				
Louisiana	MINIMAL OPPORTUNITY - Credit for Biomedical Research and Development Park	X			X	
Louisiana	MINIMAL OPPORTUNITY - Credit for University-Affiliated Research and Development Park	X			X	
Maine	Research and Development Super Tax Credit	X				
Maine	Research Expense Tax Credit	X				
Maryland	Research and Development Tax Credit	X				
Michigan	High Technology Credit					
Minnesota	Research & Development Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Mississippi	Research & Development Jobs Skills Credit	X				
Missouri	Research & Development Credit	X				
Montana	MINIMAL OPPORTUNITY - Qualified Research Expense Credit	X				
New Jersey	Research & Development Credit	X				
North Carolina	Research & Development Credit	X			X	
North Dakota	Research & Development Credit	X				
Ohio	Edison Center Credit for Research and Development Investors	X			X	
Ohio	Credit for Qualified Research Expense					
Ohio	Credit For Borrower's Qualified Research and Development Loan Payments					
Oklahoma	Credit for New Jobs in Computer, Research and Development Businesses	X				
Oklahoma	Ad Valorem Tax Exemption			X		
Oregon	Research & Development Credit	X				
Oregon	MINIMAL OPPORTUNITY - • Research Tax Credit	X				
Pennsylvania	Research & Development Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Rhode Island	Research & Development Credit (Property and Expenses)	X				
Rhode Island	MINIMAL OPPORTUNITY - Research Expense Credit	X				
South Carolina	Research and Development Credit					
Texas	Research and Development Credit	X				
Utah	Research & Development Credit	X				
Utah	MINIMAL OPPORTUNITY - Research Tax Credit for Machinery and Equipment	X				
Vermont	Research & Development Tax Credit	X				
Washington	High Technology Tax Credit	X				
West Virginia	MINIMAL OPPORTUNITY - High Tech 2000 Research Zone Tax Credits	X			X	
West Virginia	MINIMAL OPPORTUNITY - Neighborhood Investment Program Credit	X			X	
West Virginia	Strategic Research and Development Tax Credit	X			X	
Wisconsin	Research Facilities Credit	X				
Wisconsin	Research Credit	X				
Wisconsin	Community Development Zone Research Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Employee Training Credit						
Alabama	Enterprise Zone Training Tax Credit (Pre-1990)	X			X	
Arkansas	Existing Workforce Training Program (EWTP)	X				
Arkansas	Tuition Reimbursement Program Credit	X				
Arkansas	Business and Industry Training Program					
Colorado	School-to-Career Investment Credit	X				
Colorado	Enterprise Zone Training Credit	X				
Connecticut	Apprenticeship Training Tax Credit	X			X	
Connecticut	Human Capital Investment Credit	X			X	
Connecticut	Employee Training Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Apprenticeship Training Tax Credits (Before 1997)	X			X	
Connecticut	MINIMAL OPPORTUNITY - Work Education Credit	X			X	
Dist of Columbia	QHTC - Retraining costs for qualified disadvantaged employees	X				
Dist of Columbia	QHTC - Employment Relocation Cost	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Georgia	Adult Basic Skill Education Credit	X				
Georgia	Retraining Tax Credit	X				
Illinois	Training Expense Credit	X				
Illinois	Youth Vocational Program Credit	X				
Iowa	MINIMAL OPPORTUNITY - Career Education Training Program Job Credits from Withholding	X				
Kansas	High Performance Incentive Program (HPIP) Credit	X				
Kentucky	Skills Training Investment Tax Credit	X				
Louisiana	Neighborhood Assistance Tax Credit	X				
Louisiana	Basic Skills Training Credit	X			X	
Maryland	Work-Based Learning Program Credit	X				X
Michigan	Apprentice Training Credit					
Minnesota	Job Training Credit					
Mississippi	Research & Development Jobs Skills Credit	X				
Mississippi	Basic Skills and Retraining Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Missouri	Neighborhood Assistance Program Tax Credit (Contribution)	X				
Missouri	MINIMAL OPPORTUNITY - Individual Job Training Credit	X				
Missouri	MINIMAL OPPORTUNITY - Mentoring Program Credit	X				
North Carolina	Worker Training Credit	X			X	
North Dakota	New Jobs Training Assistance	X				
Ohio	Job Training Tax Credit					
Oklahoma	Training For Industry Program (TIP)					
Oklahoma	Workforce Investment Credit					
Oregon	Youth Apprenticeship Training Credit	X				
Rhode Island	Adult Education Credit	X				
Rhode Island	Educational Assistance and Development Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - • Job Training Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Job Development Tax Incentive	X				
South Carolina	MINIMAL OPPORTUNITY - Job Retraining Credit					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Vermont	Employee Training Credit	X				
Vermont	Workforce Development Credit	X				
Virginia	Worker Retraining Credit	X				
Washington	Distressed Area Jobs Tax Credit	X				
Washington	Training Credit					
West Virginia	MINIMAL OPPORTUNITY - Agricultural Products Jobs Training Tax Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Enterprise/Empowerment Zone						
Alabama	Enterprise Zone Training Tax Credit (Pre-1990)	X			X	
Alabama	Enterprise Zone Investment Tax Credit (Pre-1990)	X			X	
Alabama	Enterprise Zone Income Tax Credit (Pre-1990)	X			X	
Arizona	Enterprise Zone Jobs Tax Credit	X				
Arizona	Employment In Military Reuse Zones Credit	X				
Arkansas	MINIMAL OPPORTUNITY - Enterprise Zone Credit (Act of 1989)	X				
Arkansas	Tax Increment Financing					
California	Local Agency Military Base Recovery Area (LAMBRA) Sales & Use Credit	X				
California	Local Agency Military Base Recovery Area (LAMBRA) Jobs Credit	X				
California	Targeted Tax Area Sales & Use Tax Credit	X				
California	Los Angeles Revitalization Zone (LARZ) Sales & Use Credit	X				
California	Los Angeles Revitalization Zone (LARZ) Jobs Tax Credit					
California	Enterprise Zone Sales Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
California	Manufacturing Enhancement Area Hiring Credit	X				
California	MINIMAL OPPORTUNITY - Enterprise Zone Sales Tax Credit (Before 1997)	X				
California	MINIMAL OPPORTUNITY - EZ Credit for "Qualified Disadvantaged Individuals" (Before 1997)	X				
California	MINIMAL OPPORTUNITY - Job Credit in Enterprise Zones (1996)	X				
California	MINIMAL OPPORTUNITY - Job Tax Credit	X				
California	MINIMAL OPPORTUNITY - LARZ Construction Hiring Credit	X				
California	MINIMAL OPPORTUNITY - LARZ Hiring Credit	X				
California	Enterprise Zone Qualified Wages					
Colorado	Enterprise Zone New Business Facility Jobs Tax Credit	X				
Colorado	Enterprise Zone Investment Tax Credit	X				
Colorado	Enterprise Zone Vacant Building Rehabilitation Credit	X				
Colorado	Enterprise Zone Research & Development Credit	X				
Colorado	Enterprise Zone Training Credit	X				
Colorado	Credit for Contributions to Enterprise Zone Administrators	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Colorado	MINIMAL OPPORTUNITY - New Business Facility EZ Credits	X				
Connecticut	Hartford Financial Services Export Zone Exemption	X				
Connecticut	Credit for Investment in Urban Reinvestment or Industrial Site Investment Projects					
Connecticut	Enterprise Zone Credit for Qualifying Corporations	X			X	
Connecticut	MINIMAL OPPORTUNITY - Distressed Municipality Manufacturing Facility Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Neighborhood Assistance Program Credits	X			X	
Delaware	Neighborhood Assistance Tax Credit	X				
Dist of Columbia	Economic Development Zone Workers Compensation Credit	X				
Dist of Columbia	Economic Development Zone Wage Credit	X				
Dist of Columbia	Enterprise Zone Tax Employment Credit	X				
Dist of Columbia	Economic Development Zone Child Care Center Credit	X				
Florida	Rural Area Jobs Tax Credit					
Florida	Enterprise Zone Property Tax Credit	X				
Florida	Targeted Industry Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Florida	Brownfield Redevelopment Credit					
Florida	Community Contributions Tax Credit	X				
Florida	Enterprise Zone Jobs Tax Credit					
Florida	MINIMAL OPPORTUNITY - Enterprise Zone Pilot Project Job Credit	X				
Hawaii	Enterprise Zone Credit	X				
Illinois	Enterprise Zone Investment Tax Credit	X				
Illinois	Enterprise Zone Jobs Tax Credit	X				
Indiana	Military Base Recovery Tax Credit					
Indiana	Industrial Recovery Tax Credit					
Indiana	Community Revitalization Enhancement District Credit					
Indiana	Enterprise Zone Loan Interest Credit					
Indiana	Enterprise Zone Qualified Wages Employment Expense					
Iowa	Enterprise Zone Housing Credit	X				
Iowa	MINIMAL OPPORTUNITY - • Enterprise Zone Tax Credits					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Iowa	Enterprise Zone Quality Jobs Investment Tax Credit	X				
Iowa	Quality Jobs Enterprise Zone Research Credit	X				
Kentucky	Kentucky Industrial Development Act	X				
Kentucky	Kentucky Rural Economic Development Act	X				
Kentucky	MINIMAL OPPORTUNITY - Enterprise Zone Jobs Credit	X				
Kentucky	MINIMAL OPPORTUNITY - Kentucky Industrial Revitalization Act (KIRA) Credit	X				
Louisiana	Credit for Vessels operated in Certain Waters	X			X	
Louisiana	Enterprise Zone Credit	X	X			
Louisiana	MINIMAL OPPORTUNITY - Enterprise Zone Low-Income Housing Credit	X			X	
Maryland	Heritage Area Tax Credit	X				
Maryland	Neighborhood Partnership Program Tax Credit	X				
Maryland	Enterprise Zone Employment Tax Credit	X				
Maryland	One Maryland Economic Development Tax Credit	X				
Massachusetts	Brownfields Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Massachusetts	Economic Opportunity Area Investment Tax Credit	X			X	
Michigan	Renaissance Zone Credit					
Michigan	Brownfield Credit					
Michigan	Enterprise Zone Credit					
Michigan	Distressed Company MEGA					
Minnesota	Disparity Reduction Credit			X		
Minnesota	Border City Enterprise Zone Credits	X	X	X		
Minnesota	Rural Job Creation Credit	X				
Minnesota	Enterprise Zone Incentive Grants	X				
Minnesota	Border City Development Zone Credits	X				
Minnesota	Border City New Industry Credit	X				
Minnesota	Tax Incentives Outside BCDZs	X				
Minnesota	Job Opportunity Building Zone (JOBZ) Credits	X	X	X		
Mississippi	MINIMAL OPPORTUNITY - Economic Development Project Credit (Bonds Issued After July 1, 1997)	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Mississippi	MINIMAL OPPORTUNITY - Economic Development Project Credit (Bonds Issued Before July 1, 1994)	X				
Missouri	Enterprise Zone Tax Credit	X				X
Missouri	Enterprise Zone Income Tax Exemption	X				X
Missouri	Neighborhood Assistance Program Tax Credit (Contribution)	X				
Missouri	MINIMAL OPPORTUNITY - • Rebuilding Communities Tax Credit Program	X				
Missouri	MINIMAL OPPORTUNITY - • Renovated Commercial and Industrial Property ("Brownfields")	X				
Missouri	MINIMAL OPPORTUNITY - • Transportation Development Credit	X				
Nebraska	Employment Expansion and Investment Incentive Act Credit	X				
Nebraska	Rural Economic Opportunities Credit					
New Jersey	Redevelopment Authority Project Tax Credit	X				
New Jersey	Urban Enterprise Zone Credit	X				
New Mexico	Intergovernmental Business Tax Credit					
New Mexico	Enterprise Zone Building Rehabilitation Credit	X				
New Mexico	Rural Jobs Tax Credit					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
New York	Economic Development Zone Equivalent Area Wage Tax Credit	X			X	
New York	Economic Development Zone Wage Tax Credit	X			X	
New York	Economic Development Investment Tax Credit	X			X	
New York	Eligible Business Facility Credit	X			X	
New York	Mortgage Recording Tax Credit	X			X	
New York	Economic Development Zone Capital Tax Credit	X			X	
New York	MINIMAL OPPORTUNITY - • EDZ Capital Corporation Credit (Pre-1994)	X			X	
New York	MINIMAL OPPORTUNITY - • EDZ Employment Incentive Credit	X			X	
New York	MINIMAL OPPORTUNITY - EDZ Wage Credit (Equivalent Areas) (Before 2001)	X			X	
North Carolina	MINIMAL OPPORTUNITY - Credit for Development Zone Projects					
North Dakota	Renaissance Zone Credits	X				
Ohio	Brownfield Site Clean-up Tax Credit	X			X	
Ohio	Enterprise Zone Employee Tax Credit (Tier II Training Credit)	X			X	
Ohio	MINIMAL OPPORTUNITY - Enterprise Zone Day Care Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Ohio	Exclusions from Property and Payroll Factors	X				
Ohio	MINIMAL OPPORTUNITY - Enterprise Zone New Jobs Credit	X			X	
Oklahoma	Rural Capital Investment Credits	X				
Oklahoma	MINIMAL OPPORTUNITY - Enterprise Zone Job and Investment Credits	X				
Pennsylvania	Enterprise Zone Credits - Neighborhood Organization Contributions	X				X
Pennsylvania	Enterprise Zone - Neighborhood assistance credit for investment	X				X
Pennsylvania	Enterprise Zone Credits Jobs in Keystone Opportunity Zones	X				X
Pennsylvania	Enterprise Zone Credits - Keystone Opportunity Zone Business Activity	X			X	
Rhode Island	Enterprise Zone Credit - Interest Income Credit	X				
Rhode Island	Enterprise Zone Credit - Tax Credit for Donations	X				
Rhode Island	Enterprise Zone Credit - Business Investment Wage Tax Credit	X				
South Carolina	MINIMAL OPPORTUNITY - Enterprise Zone Hiring Credit (1995-1996)	X				
South Carolina	MINIMAL OPPORTUNITY - • Economic Impact Zone Investment Credit	X				
South Carolina	MINIMAL OPPORTUNITY - • Tire Manufacturer's Development Credits (1999 and Thereafter)					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
South Carolina	MINIMAL OPPORTUNITY - Tax Moratorium					
Tennessee	Enterprise Zone Jobs Tax Credit (Repealed)					
Tennessee	Enterprise Zone Investment Credit (Repealed)					
Tennessee	Jobs Tax Credit	X				
Tennessee	Enterprise Zone School Contribution Credit (Repealed)	X				
Tennessee	Industrial Machinery Tax Credit	X				
Texas	Strategic Investment Area Job Creation Tax Credit	X				
Texas	Tax Refund for Economic Development	X	X			
Texas	Texas Tax Base Deductions Defense Readjustment Projects	X				
Texas	Enterprise Zone Capital Investment Tax Credit	X				
Texas	Enterprise Zone Job Creation Tax Credit	X			X	
Texas	Strategic Investment Area Capital Investment Tax Credit	X				
Utah	Enterprise Zone (Employment) Credits	X				
Utah	Enterprise Zone (Depreciable Property) Credits					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Utah	Enterprise Zone (Targeted Business) Credits					
Utah	Enterprise Zone (Aerospace and Aviation Development) Credit					
Utah	Enterprise Zone (Contribution to Nonprofit Corporation) Credit					
Utah	Enterprise Zone (Employee Health Insurance) Credit					
Virginia	Enterprise Zone Business Tax Credit	X				
Virginia	Enterprise Zone Real Property Tax Investment Credit	X				X
Virginia	MINIMAL OPPORTUNITY - Enterprise Zone Unemployment Tax Credits	X				
Washington	Distressed Area Jobs Tax Credit	X				
Washington	MINIMAL OPPORTUNITY - Distressed Areas Job Creation Credit	X				
Washington	MINIMAL OPPORTUNITY - Help Desk Services Credit	X				
Washington	MINIMAL OPPORTUNITY - Rural High Tech Job Credit	X				
West Virginia	MINIMAL OPPORTUNITY - Enterprise Zone Credit	X				
Wisconsin	Community Development Zone Environmental Remediation Credit	X				
Wisconsin	Community Development Zone Investment Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Wisconsin	Community Development Zone Day Care Credit	X				
Wisconsin	Community Development Zone Jobs Tax Credit	X				
Wisconsin	Development Zones Credit	X				
Wisconsin	Community Development Zone Sales Tax Credit	X				
Wisconsin	Community Development Zone Location Credit	X				
Wisconsin	Community Development Zone Research Credit	X				
Wisconsin	Development Zone Capital Investment Credit	X				
Wisconsin	Technology Zones Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Employee Hiring Credit						
Arizona	Defense Contractor Employment Credit	X				
Arizona	Enterprise Zone Jobs Tax Credit	X				
Arizona	Employment In Military Reuse Zones Credit	X				
Arizona	Employment of Temporary Assistance for Needy Families Recipients	X				
Arizona	Correctional Facilities Investment Tax Credit	X				
Arizona	MINIMAL OPPORTUNITY - Summer School Jobs Credit	X				
Arkansas	Youth Apprenticeship Program Credit	X				
Arkansas	MINIMAL OPPORTUNITY - Supplemental Apprentices Credit	X				
Arkansas	Job Creation Income Tax Credit (formerly Enterprise Zone Program or Advantage Arkansas)	X				
Arkansas	Payroll Rebate (Create Rebate Program)					
Arkansas	Job Creation Income Tax Credit for Targeted Businesses	X				
California	Targeted Tax Area Hiring Credit	X				
California	MINIMAL OPPORTUNITY - Credit for Qualified Employees (Before 1997)	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Colorado	MINIMAL OPPORTUNITY - Colorado Works Program Credit	X				
Connecticut	Credit for Displaced Workers Hired by Electric Suppliers	X			X	
Connecticut	Financial Institutions Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - New Manufacturing Facilities Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Tax Credit for Hiring Public Benefits Recipients					
Delaware	MINIMAL OPPORTUNITY - Bank Employment Tax Credit	X				
Dist of Columbia	Economic Development Zone Wage Credit	X				
Dist of Columbia	Enterprise Zone Tax Employment Credit	X				
Dist of Columbia	QHTC - Wages to qualified employees credit	X				
Florida	Capital Investment Credit	X				
Florida	Rural Area Jobs Tax Credit					
Florida	Targeted Industry Tax Credit	X				
Florida	Urban Jobs Tax Credit					
Florida	Enterprise Zone Jobs Tax Credit					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Florida	MINIMAL OPPORTUNITY - Enterprise Zone Pilot Project Job Credit	X				
Florida	MINIMAL OPPORTUNITY - • ENTRY Tax Incentive					
Georgia	Jobs Tax Credit	X				
Hawaii	Credit for Employment of Vocational Job Referrals	X				
Idaho	New Employees Credit	X				
Illinois	Enterprise Zone Jobs Tax Credit	X				
Illinois	Youth Vocational Program Credit	X				
Indiana	Economic Development for a Growing Economy Tax Credit ("EDGE Jobs Credit")	X				
Iowa	New Jobs And Income Program Investment Tax Credit	X				
Iowa	MINIMAL OPPORTUNITY - New Jobs Credit	X				
Iowa	New Jobs And Income Program Research Credit	X				
Iowa	New Jobs and Income Program New Jobs Credit	X				
Iowa	Enterprise Zone Quality Jobs Investment Tax Credit	X				
Iowa	Quality Jobs Enterprise Zone Research Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Kansas	Business & Job Development Credit	X				
Kentucky	Kentucky Jobs Development Act	X				
Kentucky	MINIMAL OPPORTUNITY - Enterprise Zone Jobs Credit	X				
Kentucky	MINIMAL OPPORTUNITY - Unemployment Tax Credit	X				
Louisiana	Re-Entrant Jobs Tax Credit	X				
Louisiana	Credit for Employment of Previously Unemployed	X			X	
Louisiana	Credit for Employment of Certain First-Time Drug Offenders	X				
Louisiana	MINIMAL OPPORTUNITY - Louisiana Capital Investment Tax Credit				X	
Louisiana	Louisiana Quality Jobs Program Credit	X	X		X	
Louisiana	MINIMAL OPPORTUNITY - New Jobs Credit	X				
Maine	Jobs & Investment Tax Credit	X				
Maryland	Disability Employment Tax Credit	X				
Maryland	Enterprise Zone Employment Tax Credit	X				
Maryland	Businesses that Create New Jobs Tax Credit	X		X		X

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Maryland	Employment Opportunity Tax Credit	X				
Maryland	MINIMAL OPPORTUNITY - Job Creation Tax Credit	X				
Maryland	Long Term Employment for Ex-Felons Tax Credit					
Massachusetts	Full Employment Credit	X			X	
Minnesota	Aircraft Maintenance Base Hiring Credit	X				
Minnesota	Border City Enterprise Zone Credits	X	X	X		
Minnesota	Rural Job Creation Credit	X				
Minnesota	Enterprise Zone Incentive Grants	X				
Minnesota	Border City New Industry Credit	X				
Mississippi	Financial Institution Net Gain In Employment Credit	X				
Mississippi	Jobs Tax Credit	X				
Mississippi	Temporary Assistance for Needy Families (TANF) Credit	X				
Nebraska	Quality Jobs Credit	X				
Nebraska	Employment Expansion and Investment Incentive Act Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Nebraska	Employment and Investment Growth Act Credit	X				
New Hampshire	Jobs Tax Credit	X				
New Jersey	Redevelopment Authority Project Tax Credit	X				
New Jersey	Urban Enterprise Zone Credit	X				
New Jersey	New Jobs Investment Tax Credit	X				
New Jersey	Manufacturing Equipment and Employment Investment Tax Credit					
New Mexico	Rural Jobs Tax Credit					
New York	Economic Development Zone Equivalent Area Wage Tax Credit	X			X	
New York	Economic Development Zone Wage Tax Credit	X			X	
New York	Employment Incentive Tax Credit	X			X	
New York	MINIMAL OPPORTUNITY - Credit for Disabled Employees	X			X	
New York	MINIMAL OPPORTUNITY - • EDZ Employment Incentive Credit	X			X	
New York	MINIMAL OPPORTUNITY - EDZ Wage Credit (Equivalent Areas) (Before 2001)	X			X	
New York	MINIMAL OPPORTUNITY - Emerging Technology Hiring Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Carolina	MINIMAL OPPORTUNITY - Job Creation Tax Credit	X			X	
North Dakota	Credit For Hiring The Disabled Or Mentally Ill	X				
North Dakota	New Industry Tax Credit	X				
North Dakota	MINIMAL OPPORTUNITY - New Jobs Credit from Withholding	X				
Ohio	Jobs Tax Credit	X			X	
Ohio	Enterprise Zone Employee Tax Credit (Tier II Training Credit)	X			X	
Ohio	MINIMAL OPPORTUNITY - Enterprise Zone New Jobs Credit	X			X	
Oklahoma	Credit for Commercial Space Industry Jobs					
Oklahoma	Small Employer Quality Jobs Incentive					
Oklahoma	Investment/New Jobs Credits	X				
Oklahoma	MINIMAL OPPORTUNITY - Enterprise Zone Job and Investment Credits	X				
Oklahoma	MINIMAL OPPORTUNITY - Quality Jobs "At Risk" and "High Impact" Project Incentives					
Oklahoma	Quality Jobs Program					
Oklahoma	Workforce Investment Credit					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Oregon	Farm Worker Housing Credit	X				
Oregon	MINIMAL OPPORTUNITY - First Break Program Credit	X				
Pennsylvania	Employment Incentive Payment Credit	X				X
Pennsylvania	Jobs Creation Tax Credit	X			X	
Pennsylvania	Enterprise Zone Credits Jobs in Keystone Opportunity Zones	X				X
Rhode Island	Enterprise Zone Credit - Business Investment Wage Tax Credit	X				
Rhode Island	Employment Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Employment Tax Incentives	X				
Rhode Island	MINIMAL OPPORTUNITY - Industrial Mill Building Wage Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Juvenile Restitution Credit	X				
South Carolina	Jobs Tax Credit	X				
South Carolina	Jobs Credit For Hiring Employees OF Former Military Installations	X				
South Carolina	MINIMAL OPPORTUNITY - Enterprise Zone Hiring Credit (1995 1996)	X				
South Carolina	MINIMAL OPPORTUNITY - Job Development Credit					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
South Carolina	Credit for Hiring Family Independence Recipient					
Tennessee	Enterprise Zone Jobs Tax Credit (Repealed)					
Tennessee	Jobs Tax Credit	X				
Tennessee	MINIMAL OPPORTUNITY - Job Tax Credit (July 1, 1999 and Thereafter)	X			X	
Texas	Tax Refund For Wages Paid To Employees Receiving Financial Assistance	X	X			
Texas	Strategic Investment Area Job Creation Tax Credit	X				
Texas	MINIMAL OPPORTUNITY - Tax Credit for Wages Paid to Inmates or Former Inmates	X				
Texas	MINIMAL OPPORTUNITY - Tax Credit for Wages Paid to Children Committed to Texas Youth Commission	X				
Texas	Enterprise Zone Job Creation Tax Credit	X			X	
Utah	Enterprise Zone (Employment) Credits	X				
Utah	Disabled Employee Hiring Credit	X				
Vermont	Payroll Tax Credit	X				
Virginia	TANF Hiring Credit	X				
Virginia	Employers of Disabled Individuals Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Virginia	MINIMAL OPPORTUNITY - Clean Fuel Vehicles Job Creation Tax Credit	X				
Virginia	MINIMAL OPPORTUNITY - Enterprise Zone Unemployment Tax Credits	X				
Washington	International Services Jobs Credit	X				
Washington	MINIMAL OPPORTUNITY - Distressed Areas Job Creation Credit	X				
West Virginia	Military Incentive Credit	X				
West Virginia	Credit for Value-Added Wood Manufacturing Operations					
West Virginia	Business Investment and Jobs Expansion Super Tax Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Aluminum or Polymer Manufacturing Jobs Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Colin Anderson Center Tax Credits	X			X	
Wisconsin	Community Development Zone Jobs Tax Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Credits for Specific Industries						
Arizona	Defense Contractor Employment Credit	X				
Arizona	Defense Contractor Property Tax Credit	X				
Arkansas	Credit for Emerging Technology Development	X				
Arkansas	Biotechnology Credits	X				
Arkansas	Credit for Tourism Attraction Projects	X				
Arkansas	Tourism Development Sales Tax Credit		X			
California	Farmworker Housing Credit	X				
California	MINIMAL OPPORTUNITY - Farmworker Housing Development Credit.	X				
California	MINIMAL OPPORTUNITY - Joint Strike Fighter Property Credit	X				
California	MINIMAL OPPORTUNITY - Joint Strike Fighter Wage Credit	X				
California	MINIMAL OPPORTUNITY - Rice Straw Credit	X				
California	MINIMAL OPPORTUNITY - Salmon and Trout Habitat Credit	X				
Connecticut	Credit for Displaced Workers Hired by Electric Suppliers	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Connecticut	Insurance Company Investment Credit	X			X	
Connecticut	Electronic Data Processing Credit	X			X	
Connecticut	Financial Institutions Credit	X			X	
Delaware	MINIMAL OPPORTUNITY - Bank Employment Tax Credit	X				
Delaware	Public Utility Rebate					
Florida	Defense Contractor Tax Program	X				
Florida	Health And Life Insurers Tax Credit	X				
Florida	Health Maintenance Organizations Credit	X				
Florida	MINIMAL OPPORTUNITY - Banks and Savings Associations Tax Credit	X				
Georgia	MINIMAL OPPORTUNITY - Port Traffic Credits	X				
Hawaii	Hotel Construction and Remodeling Tax Credit					
Hawaii	Fuel Tax Credit for Commercial Fishermen	X				
Iowa	Family Farm Credit			X		
Iowa	Agricultural Land Credit			X		

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Iowa	MINIMAL OPPORTUNITY - Limited Franchise Tax Credit	X				
Iowa	Livestock Production Tax Credit Refund	X				
Kansas	Swine Facilities Credit	X				
Kansas	Agricultural Loan Interest Rate Reduction Credit	X				
Kansas	Telecommunications Credit	X				
Kentucky	MINIMAL OPPORTUNITY - Credit for Air Carrier Expansion of Facilities	X				
Kentucky	MINIMAL OPPORTUNITY - Farming Projects Credit	X				
Louisiana	Motion Picture Investment Credit	X				
Louisiana	Inventory Tax Credit	X			X	
Louisiana	MINIMAL OPPORTUNITY - Credit for Biomedical Research and Development Park	X			X	
Louisiana	MINIMAL OPPORTUNITY - Motion Picture Jobs Credit	X				
Maine	High Technology Investment Tax Credit	X				
Maine	MINIMAL OPPORTUNITY - Financial Institutions Franchise Tax Credit				X	
Maine	MINIMAL OPPORTUNITY - Shipbuilding Facility Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Maryland	Electric and Gas Credit	X				
Maryland	MINIMAL OPPORTUNITY - Multijurisdictional Electric Company Credit	X				
Maryland	MINIMAL OPPORTUNITY - Telecommunications Credit	X				
Massachusetts	Federal Harbor Tax Credit	X			X	
Michigan	Farmland Property Tax Credit	X				
Michigan	High Technology Credit					
Michigan	Small Business Tax Credit					
Michigan	Insurance Company Credit	X				
Michigan	MINIMAL OPPORTUNITY - Public Utility Property Tax Credit	X				
Michigan	Pharmaceutical Based Activity Credit					
Michigan	Distressed Company MEGA					
Minnesota	Aircraft Maintenance Base Hiring Credit	X				
Minnesota	High Voltage Transmission Line Credit			X		
Mississippi	Finance Company Privilege Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Mississippi	Financial Institution Net Gain In Employment Credit	X				
Mississippi	Insurance guaranty Association Assessment Credit	X			X	
Missouri	Agricultural Product Utilization Contributor Credit					
Missouri	Dry Fire Hydrant Credit					
Missouri	MINIMAL OPPORTUNITY - Agricultural Products Contributions Credit	X				
Missouri	MINIMAL OPPORTUNITY - Film Production Company Credit	X				
Missouri	MINIMAL OPPORTUNITY - Grape and Wine Producers Credit	X				
Montana	Contractor's Gross Receipts Tax Credit	X				
Montana	Infrastructure Loan Credit	X				
Montana	MINIMAL OPPORTUNITY - Interest Differential Credit	X				
Nebraska	Special Premiums and Assessments Credit	X				
Nebraska	Beginning Farmer Tax Credit					
New Jersey	High Technology Business Investment Tax Credit	X				
New Mexico	Technology Tax Credits					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
New York	Industrial and Manufacturing Business (IMB) Credit for Energy Taxes					
New York	Agricultural Property Tax Credit	X			X	
New York	MINIMAL OPPORTUNITY - Credit For Servicing Certain Mortgages	X			X	
New York	MINIMAL OPPORTUNITY - Retail Enterprise Tax Credit	X			X	
New York City	Credit For Sales And Use Tax Paid On Electricity Used In Manufacturing					
North Carolina	Gleaned Crop Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Credit for Distributing North Carolina Wine	X				
North Carolina	MINIMAL OPPORTUNITY - Poultry Facilities Credit	X				
North Carolina	MINIMAL OPPORTUNITY - S and L Supervisory Fees Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Wharfage Tax Credit	X				
North Carolina	MINIMAL OPPORTUNITY- Credit for Property Taxes Paid on Farm Machinery by an "S Corporation"					
North Carolina	MINIMAL OPPORTUNITY - Credit for Manufacturing Cigarettes for Exportation					
North Carolina	MINIMAL OPPORTUNITY - Credit for Technology Commercialization					
Ohio	MINIMAL OPPORTUNITY - Credit for Savings and Loan Association Fees	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Ohio	MINIMAL OPPORTUNITY - Grapeland Credit	X			X	
Oklahoma	Technology Transfer Income Tax Exemption	X				
Oklahoma	Credit for Investment in Air Transportation Establishments	X				
Oklahoma	MINIMAL OPPORTUNITY - Locomotive Fuel Property Credit (Repealed July 1, 1993)	X				
Oklahoma	Credit for Commercial Space Industry Jobs					
Oklahoma	Credit for Investment in Agricultural Processing Cooperatives, Ventures, and Marketing Associations	X				
Oklahoma	Credit for Qualified Space Transportation Investment	X				
Oklahoma	Credit for Tourist Attraction Development	X				
Oklahoma	Agricultural Commodity Processing Facility Income Tax Exemption	X				
Oklahoma	Oklahoma Film Act	X				
Oklahoma	Ad Valorem Tax Exemption			X		
Oregon	Fish Protective Devices Credit	X				
Oregon	MINIMAL OPPORTUNITY - Fish Gleaning Credit	X				
Oregon	MINIMAL OPPORTUNITY - Fish Habitat Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Rhode Island	Enterprise Zone Credit - Interest Income Credit	X				
South Carolina	MINIMAL OPPORTUNITY - • Motion Picture Credit	X				
South Carolina	MINIMAL OPPORTUNITY - • Tire Manufacturer's Development Credits (1999 and Thereafter)					
Tennessee	Hospital Company Tax Credit					
Tennessee	HMO Gross Premiums Tax Credit	X			X	
Tennessee	MINIMAL OPPORTUNITY - Medical Supplies and Equipment Credit	X			X	
Utah	Enterprise Zone (Aerospace and Aviation Development) Credit					
Vermont	Financial Services Credit	X				
Virginia	Fertilizer and Pesticide Application Equipment Credit	X				
Virginia	Agricultural Best Management Practices Credit	X				
Washington	MINIMAL OPPORTUNITY - Help Desk Services Credit	X				
Washington	MINIMAL OPPORTUNITY - Rural High Tech Job Credit	X				
West Virginia	Financial Organization Property Tax Credit					
West Virginia	Tax Credit for New Steel Manufacturing Operations	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
West Virginia	Aerospace Investment Credit	X			X	
West Virginia	Financial Organization Tax Credit	X			X	
West Virginia	Credit for Value-Added Wood Manufacturing Operations					
West Virginia	Agricultural Equipment Tax Credit	X				
West Virginia	Management Information Services Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Agricultural Products Jobs Training Tax Credit	X				
West Virginia	MINIMAL OPPORTUNITY - Aluminum or Polymer Manufacturing Jobs Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Special Credit for Utilities (Telephone)	X				
West Virginia	MINIMAL OPPORTUNITY - Value Added Agricultural Products Tax Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - • Wood Product Manufacturers Tax Credit					
Wisconsin	Farmland Tax Relief Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Environmental Credits						
Arizona	Alternative Fuel Vehicles and Equipment Tax Credits (1994-1998)	X				
Arizona	Agricultural Water Conservation System	X				
Arizona	Environmental Technology Facilities Credit	X				
Arizona	Alternative Fuel Vehicles and Equipment Tax Credits (1999 and thereafter)	X				
Arizona	Recycling Equipment Tax Credit	X				
Arizona	Corrective Action Costs for Underground Storage Tanks	X				
Arizona	Pollution Control Equipment Credit	X				
Arizona	MINIMAL OPPORTUNITY - Agricultural Pollution Control Equipment Credit	X				
Arizona	MINIMAL OPPORTUNITY - Energy Tax Credits	X				
Arizona	MINIMAL OPPORTUNITY - Motor Vehicles: Alternative Fuel Delivery Systems Credit	X				
Arizona	MINIMAL OPPORTUNITY - Motor Vehicles: Fuel Emissions Level Credit (Repealed)	X				
Arizona	MINIMAL OPPORTUNITY - Motor Vehicles: Refueling Apparatus Credit	X				
Arkansas	Water Conservation and Control Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Arkansas	Waste Reduction and Recycling Equipment Credit	X				
Arkansas	MINIMAL OPPORTUNITY - Water Use, Control, and Restoration Credits (1985-1995)	X				
California	Low Emission Vehicle Credit (Expired)	X				
California	MINIMAL OPPORTUNITY - Commercial Solar Energy Credit	X				
California	MINIMAL OPPORTUNITY - Recycling Equipment Credit	X				
Colorado	Credit for Alternative Fuel Refueling Facilities					
Colorado	Alternative Fuels Credit	X				
Colorado	Postconsumer Waste Equipment Credit	X				
Colorado	Plastic Recycling Credit	X				
Colorado	MINIMAL OPPORTUNITY - Credit for Residential Energy-Related Loans	X				
Connecticut	Alternative Fuel Vehicles And Equipment Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Air Pollution Abatement Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Industrial Waste Treatment Facilities Credit	X			X	
Delaware	Reduction in Waste Release Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Delaware	Use of Recycled Materials as Raw Materials Credit	X				
Delaware	Processing of Waste Materials Credit	X				
Delaware	Collection and Distribution of Recycled Materials Credit	X				
Florida	Hazardous Waste Facility Tax Credit	X				
Florida	MINIMAL OPPORTUNITY - Contaminated Site Rehabilitation Credit	X				
Florida	MINIMAL OPPORTUNITY - Gasohol Development Tax Credit	X				
Georgia	Alternative Fuel Credit	X				
Georgia	MINIMAL OPPORTUNITY - • Water Conservation Credit					
Hawaii	Energy Conservation Credit	X				
Idaho	Credit for Equipment Using Post Consumer Waste	X				
Idaho	Natural Resource Conservation Credit	X				
Idaho	MINIMAL OPPORTUNITY - Gasohol Manufacturing Credit	X				
Idaho	MINIMAL OPPORTUNITY - Special Fuels Tax Credit	X				
Illinois	Environmental Remediation Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Illinois	MINIMAL OPPORTUNITY - Coal Research Donation Credit	X				
Kansas	Alternative Fuel Credit	X				
Kansas	MINIMAL OPPORTUNITY - Solid Waste Management Credit	X				
Kentucky	Recycling Credit	X				
Louisiana	Recycling Equipment Tax Credit	X			X	
Maine	Solid Waste Reduction Investment Tax Credit	X				
Maine	Clean Fuel Conversion Credit	X				
Maine	MINIMAL OPPORTUNITY - Reclaimed Wood Waste Credit	X				
Maryland	Clean Energy Incentive Tax Credit - Solar Water Heating Property or Photovoltaic Property	X				
Maryland	Water Quality Improvement Credit	X				
Maryland	MINIMAL OPPORTUNITY - Clean Fuel Motor Vehicles Credit	X				
Maryland	MINIMAL OPPORTUNITY - Water Quality Improvement/Commercial Fertilizer Credit	X				
Maryland	Clean Energy Incentive - Electricity Produced from Qualified Energy Sources	X				
Maryland	Green Building Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Mississippi	Reforestation Credit	X				
Montana	Recycling Credit	X				
Montana	Wind Energy Credit	X				
Montana	Alternative Fuel Motor Vehicle Credit	X				
Montana	MINIMAL OPPORTUNITY - Interest Differential Credit	X				
Nebraska	Ethyl Tertiary Butyl Ether Credit	X				
New Jersey	Recycling Equipment Tax Credit	X				
New York	MINIMAL OPPORTUNITY - Alternative Fuels Credit	X			X	
New York	MINIMAL OPPORTUNITY - • Pollution Control Property Credit	X			X	
North Carolina	Renewable Energy Property Credit					
North Carolina	Solar Energy Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Fuel Ethanol Distillery Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Hydroelectric Generator Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Peat Facility Construction Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Carolina	MINIMAL OPPORTUNITY - Photovoltaic Equipment Facilities Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Power Plants Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Recycling Facilities Credit	X			X	
North Carolina	MINIMAL OPPORTUNITY - Recycling Reinvestment Credit	X				
North Dakota	Geothermal, Solar, or Wind Energy Credit	X				
North Dakota	Alternative Fuel Motor Vehicle Credit	X				
Ohio	Recycling and Litter Control Credit	X			X	
Oklahoma	Credit for Hazardous Waste Control	X				
Oklahoma	MINIMAL OPPORTUNITY - Locomotive Fuel Property Credit (Repealed July 1, 1993)	X				
Oklahoma	Advanced Small Wind Turbine Manufacturers	X				
Oklahoma	Credit for Investment in Qualified Clean-Burning or Electric Motor Vehicle Fuel Property	X				
Oklahoma	Recycling Credit (Repealed 1993)	X				
Oklahoma	Energy Conservation Assistance Fund Credit	X				
Oklahoma	MINIMAL OPPORTUNITY - • Recycling Facilities Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Oklahoma	MINIMAL OPPORTUNITY - Solar Energy System Credits (1990)	X				
Oklahoma	Credit for Electricity Produced by Zero-Emission Facility	X				
Oregon	Alternative Fueling Station Credit	X				
Oregon	Pollution Control Facility Credit	X				
Oregon	Business Energy Tax Credit	X				
Oregon	Reclaimed Plastics Credit	X				
Oregon	Pollution Prevention Credit	X				
Oregon	MINIMAL OPPORTUNITY - Energy Conservation Measures Credit	X				
Oregon	MINIMAL OPPORTUNITY - Underground Storage Tank Loans Credit	X				
Pennsylvania	Coal Waste Removal and Ultraclean Fuels Tax Credit	X			X	
Pennsylvania	Used Tire Recycling Credit					
Rhode Island	Alternative Fuels Credit	X				
Rhode Island	Renewable Energy Systems Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Energy Conservation Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Rhode Island	MINIMAL OPPORTUNITY - Hydroelectric Power Generating Facility Credit	X				
South Carolina	Energy Conservation and Renewable Energy Production Credit	X				
South Carolina	Water Resources Credit					
South Carolina	MINIMAL OPPORTUNITY - Habitat Management Credit	X				
South Carolina	MINIMAL OPPORTUNITY - Recycling Credit	X				
South Carolina	MINIMAL OPPORTUNITY - Scenic Rivers Credit	X				
South Carolina	MINIMAL OPPORTUNITY - Credit for Energy Conservation and Renewable Energy					
South Dakota	Energy Systems or Facilities Credit			X		
Texas	MINIMAL OPPORTUNITY - Deduction of Solar Energy Device from Tax Base	X				
Utah	Energy Systems Credit	X				
Utah	Recycling Market Development Zone Credits	X				
Utah	Clean Fuel Vehicle Tax Credit	X				
Virginia	Conservation Tillage Equipment Credit	X				
Virginia	Waste Motor Oil Burning Equipment Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Virginia	Recyclable Materials Processing Equipment and Alternative Recycling Credit	X				
Virginia	MINIMAL OPPORTUNITY - Alternative Credit for Recyclable Materials Processing Equipment	X				
Virginia	MINIMAL OPPORTUNITY - Clean Fuel Vehicles Job Creation Tax Credit	X				
Virginia	MINIMAL OPPORTUNITY - Clean Fuels Credit	X				
Virginia	MINIMAL OPPORTUNITY - Coal Cogeneration Credit	X				
Virginia	Credit for Recyclable Materials Processing Equipment	X				
Washington	Cogeneration Facility Credit	X				
West Virginia	MINIMAL OPPORTUNITY - Alternative Fuel Motor Vehicles Tax Credit	X				
Wisconsin	Community Development Zone Environmental Remediation Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Correctional Facilities/Prison Inmate Credits						
Arizona	Correctional Facilities Investment Tax Credit	X				
California	Prison Inmate Credit	X				
Indiana	Research Expense Credit					
Indiana	Prison Investment Credit					
Louisiana	Credit for Conversion to Alternative Fuel Usage	X				
Maryland	Long Term Employment for Ex-Felons Tax Credit					
Texas	MINIMAL OPPORTUNITY - Tax Credit for Wages Paid to Inmates or Former Inmates	X				
Texas	MINIMAL OPPORTUNITY - Tax Credit for Wages Paid to Children Committed to Texas Youth Commission	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Basic Materials Production Credit						
Alabama	Coal Production Credit	X				
Alaska	NEW: Mining Exploration Credit	X				
Alaska	NEW: Special Industrial Incentive ITCs	X				
Alaska	Oil & Gas Exploration Credit	X				
Arizona	Coal Tax Credit	X				
Colorado	Coal Credit	X				
Colorado	MINIMAL OPPORTUNITY - New or Expanded Mining or Milling Operations Credit	X				
Illinois	Coal Research and Coal Utilization Investment Credits	X				
Illinois	MINIMAL OPPORTUNITY - Coal Equipment Credit	X				
Illinois	MINIMAL OPPORTUNITY - Coal Research Donation Credit	X				
Kansas	Abandoned Oil & Gas Wells Credit	X				
Kansas	MINIMAL OPPORTUNITY - Oil Lease Property Tax Credit	X				
Kentucky	Coal Conversion Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Kentucky	Coal Incentive Tax Credit					
Maryland	MINIMAL OPPORTUNITY - Credit for Maryland-Mined Coal	X				
Missouri	Wood Energy Producers Credit	X				
Missouri	MINIMAL OPPORTUNITY - • Charcoal Products Credit	X				
Montana	Exploration Incentive Credit	X				
Montana	Alternative Fuel Motor Vehicle Credit	X				
Nebraska	Ethyl Tertiary Butyl Ether Credit	X				
Oklahoma	Manufacturer's Gas Credit	X				
Oklahoma	Coal Credits	X				
Texas	New Field Discoveries					
Utah	Steam Coal Credit	X				
Utah	Mineral Production Withholding Credit	X				
Virginia	Coalfield Enhancement Tax Credit	X				
Virginia	MINIMAL OPPORTUNITY - Coal Cogeneration Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Virginia	MINIMAL OPPORTUNITY - Qualifying Steam Producers Tax Credit	X				
West Virginia	Coal Loading Facilities Credit					
West Virginia	MINIMAL OPPORTUNITY - Coal-Based Liquids Production Facilities Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Coal Coking Facilities Credit					
West Virginia	MINIMAL OPPORTUNITY - Severance Tax Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Low Income Housing Credit						
Arkansas	Affordable (Low Income) Housing Credit	X				
California	Low-Income Housing Credit	X				
Connecticut	Employer Assisted Housing Credit	X			X	
Connecticut	Housing Program Contribution Credit	X			X	
Dist of Columbia	Housing Credit	X				
Dist of Columbia	QHTC - Employment Relocation Cost	X				
Florida	Housing Tax Credit	X				
Hawaii	Low Income Housing Credit	X				
Iowa	Enterprise Zone Housing Credit	X				
Louisiana	MINIMAL OPPORTUNITY - Enterprise Zone Low-Income Housing Credit	X			X	
Missouri	Low Income Housing Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Local Telephone Service Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Credit for Low-income Housing					

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Oregon	Lending Institution Housing Development or Rehabilitation Loan Credit	X				
Oregon	MINIMAL OPPORTUNITY - Farmworker Housing Project Investment Credit	X				
Pennsylvania	Mortgage Assistance Fund Credit	X				
Utah	Low Income Housing Credit	X				
Virginia	Low-Income Housing Credit	X				
West Virginia	Credit For Eligible Housing Development Project				X	

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Headquarters Credit						
Georgia	Credit for Establishing Headquarters					
Mississippi	National and Regional Headquarters Credit	X	X			
North Carolina	Central Office Property Credit					
Oklahoma	Insurance Premium Tax Credit	X				
South Carolina	Corporate HQ Credit	X				
Virginia	Major Business Facility Jobs Tax Credit	X				X
West Virginia	Corporate Headquarters Relocation Credit	X			X	
West Virginia	Economic Opportunity Tax Credit For Corporate Headquarters Relocation					

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Charitable Contributions Credit						
Alaska	NEW: Education Tax Credit (? on industry) (Pre-1990)	X				
Arizona	MINIMAL OPPORTUNITY - Donated Vehicles Credit	X				
Arkansas	Private Wetland and Riparian Zone Creation and Restoration Incentive	X				
Arkansas	Credit for Contributions to Public Road Incentives Fund	X				
Arkansas	Donation to Schools of Equipment	X				
California	Donated Agricultural Products Transportation	X				
Colorado	MINIMAL OPPORTUNITY - Conservation Easement Credit	X				
Colorado	MINIMAL OPPORTUNITY - Crops and Livestock Contributions	X				
Connecticut	Research and Development Credit for Grants to Institutions of Higher Education	X			X	
Connecticut	Donation of Open Space Land Credit	X			X	
Connecticut	Credit for Donation of Computers to Local Schools					
Delaware	MINIMAL OPPORTUNITY - Personal Computer Donation Credit	X				
Florida	Community Contributions Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Idaho	Contributions to Nonprofit Youth and Rehabilitation Facilities	X				
Idaho	Educational Contributions Credit	X				
Indiana	Twenty-First Century Scholars Fund Credit					
Kansas	Community Service Contribution Credit	X				
Kansas	MINIMAL OPPORTUNITY - AFDC Contribution Credit	X				
Kansas	MINIMAL OPPORTUNITY - Wildlife Habitat Credit	X				
Louisiana	Playground Equipment Donations Credit	X			X	
Louisiana	Neighborhood Assistance Tax Credit	X				
Louisiana	Bone Marrow Donor Expense Credit	X				
Louisiana	Contributions to Educational Institutions Credit	X				
Louisiana	Employer tax Credits for Donation of Materials, Equipment, advisors, or instruments	X			X	
Louisiana	Credit for Contributions to the Dedicated Research Investment Fund	X				
Louisiana	MINIMAL OPPORTUNITY - Public Schools Donated Property Credit	X			X	
Maryland	Neighborhood Partnership Program Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Michigan	Charitable Contributions Credit					
Michigan	MINIMAL OPPORTUNITY - Community Foundations Credit	X				
Michigan	MINIMAL OPPORTUNITY - Food Banks Credit	X				
Minnesota	Conservation Tax Credits			X		
Missouri	Contribution to Family Development Accounts	X				
Missouri	Youth Opportunities Tax Credit (Contribution)	X				
Missouri	Higher Education Scholarship Tax Credit (Contribution)	X				
Missouri	Neighborhood Assistance Program Tax Credit (Contribution)	X				
Missouri	Contributions to Shelters for Victims of Domestic Violence	X				
Montana	Contributions to Qualified Endowments					
Montana	University Donation Credit	X				
Nebraska	Community Development Contributions Credit	X				
North Carolina	Land Conservation Tillage Equipment Credit	X				
North Carolina	Credit For Real Property Donated For Conservation Purposes	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Dakota	Higher Education Donation Credit	X				
North Dakota	Charitable Contributions to Nonprofit Private Educational Institutions	X				
Oregon	Credit For Contributions Of Computers Or Scientific Equipment	X				
Oregon	Crop Gleaning Credit	X				
Oregon	Reforestation Credit	X				
Oregon	Child Development Credit	X				
Pennsylvania	Educational Improvement and Scholarship Contributions	X				X
Rhode Island	Enterprise Zone Credit - Tax Credit for Donations	X				
South Carolina	Infrastructure Contribution or Improvement Credit	X				
South Carolina	MINIMAL OPPORTUNITY - Conservation Credit					
Tennessee	Enterprise Zone School Contribution Credit (Repealed)	X				
Texas	MINIMAL OPPORTUNITY - Tax Credit for Contributions to Before and After School Programs	X				
Utah	Credit For Contributions To Sheltered Workshops	X				
Utah	Credit For Equipment Donated To Schools	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Utah	Enterprise Zone (Contribution to Nonprofit Corporation) Credit					
Utah	Enterprise Zone (Employee Health Insurance) Credit					
Virginia	MINIMAL OPPORTUNITY - Land Preservation Credit	X				
Virginia	Land Conservation/Preservation Credits - Riparian Forest Buffer	X				
Wisconsin	Community Development Finance Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Employee Benefits Credit						
Arizona	Dependent Day Care Facilities Credit	X				
Arkansas	Child Care Facility Credit	X				
California	Employer Child Care Assistance Credit	X				
California	Child Care Contribution Credit	X				
California	Ridesharing Credit (Expired)	X				
Colorado	Child Care Center Investment Credit	X				
Colorado	MINIMAL OPPORTUNITY - Child Care Facilities Credit	X				
Colorado	Child Care Contribution Credit					
Connecticut	Traffic Reduction Programs Credit	X			X	
Connecticut	MINIMAL OPPORTUNITY - Child Day Care Credit (Before 1998)	X			X	
Delaware	Travelink Traffic Mitigation Credit	X				
Dist of Columbia	Economic Development Zone Child Care Center Credit	X				
Florida	Child Care Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Georgia	Federal Qualified Transportation Fringe Benefits Credit	X				
Georgia	Child Care Credit	X				
Illinois	Employee Child Care Tax Credit					
Illinois	Dependent Care Assistance Program Credit	X				
Kansas	Health Insurance Credit	X				
Kansas	Child Care Credit	X				
Kentucky	MINIMAL OPPORTUNITY - Health Insurance Premiums Credit	X				
Louisiana	Substance Abuse Treatment Program Credit	X				
Maine	Child Day Care Credit	X				
Maine	Credit for Dependent Health Benefits Paid	X				
Maine	Long Term Care Credit	X				
Maryland	Disability Employment Tax Credit	X				
Maryland	Commuter Tax Credit	X				
Maryland	Employer Provided Long-Term Care Insurance Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Maryland	Employment Opportunity Tax Credit	X				
Michigan	Disability Compensation Credit					
Minnesota	MINIMAL OPPORTUNITY - Employer Transit Pass Credit	X				
Mississippi	Child/Dependent Care Credit	X				
Missouri	Special Needs Child Adoption Credit	X				
Missouri	MINIMAL OPPORTUNITY - • Transportation Development Credit	X				
Montana	Disability Insurance Credit	X				
Montana	Dependent Care Credit	X				
Nebraska	Health Care Provider Tax Credit	X				
New Jersey	Neighborhood and Business Child Care Tax Credit	X				
New Mexico	Child Care Credit	X				
Ohio	Credit for Employers that Establish On-site Day-care Centers	X			X	
Ohio	Day Care Center Investment Credit	X			X	
Ohio	MINIMAL OPPORTUNITY - Day Care Expenses Credit.	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Ohio	MINIMAL OPPORTUNITY - Enterprise Zone Day Care Credit	X			X	
Oklahoma	Child Care Services Provider Credit	X				
Oklahoma	Employer Paid Health Benefits Credit	X				
Oklahoma	Credit for Employer Provided Child Care	X				
Oregon	Dependent Care Assistance Credit	X				
Oregon	Dependent Care Facility Credit	X				
Oregon	Dependent Care Information and Services Credit	X				
Oregon	MINIMAL OPPORTUNITY - Health Insurance Credit	X				
Rhode Island	Day Care Assistance Credit	X				
South Carolina	Child Care Credit	X				
Tennessee	Child Day Care Credit	X			X	
Texas	MINIMAL OPPORTUNITY - Tax Credit for Establishing Day-Care Center or Purchasing Child-Care Services	X				
Virginia	Day Care Facility Investment Credit	X				
Washington	Ride Sharing Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Wisconsin	Community Development Zone Day Care Credit	X				

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Investment in Domestic Enterprises/Entties Credit						
Arkansas	Capital Development Credit	X				
Arkansas	MINIMAL OPPORTUNITY - Credit for Purchase of County or Regional Industrial Development Corporation Stock	X				
California	Community Development Investment Credit	X				
Connecticut	Insurance Company Investment Credit	X			X	
Connecticut	Small Business Guaranty Fee Credit	X			X	
Florida	MINIMAL OPPORTUNITY - Export Finance Corporation Investment Credit	X				
Hawaii	High Technology Credits	X				
Indiana	Individual Development Account Tax Credit					
Iowa	MINIMAL OPPORTUNITY - Seed Capital Credit	X				
Kansas	Seed Capital Pool Credit	X				
Kansas	Venture Capital Credit	X				
Kentucky	Kentucky Investment Fund Tax Credit	X				
Kentucky	MINIMAL OPPORTUNITY - Commonwealth Venture Fund Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Louisiana	Capital Companies Tax Credit	X				
Maine	Seed Capital Investment Credit	X				
Michigan	Minority Owner Business Investment Credit	X				
Mississippi	MINIMAL OPPORTUNITY - Magnolia Venture Capital Fund Credit	X				
Missouri	Small Business Incubator Tax Credit (Contribution)	X				
Missouri	Missouri Development Finance Board Tax Credit (Contribution)	X				
Missouri	Seed Capital Tax Credit (Contribution)	X				
Missouri	Small Business Investment/Community Bank Tax Credit (Contribution)	X				
Missouri	Business Modernization & Technology Tax Credit (Contribution)					
Missouri	New Generation Cooperative Incentive Tax Credit	X				
Montana	Capital Company Credit	X				
Nebraska	Community Development Contributions Credit	X				
New York	MINIMAL OPPORTUNITY - Emerging Technology Company Capital Tax Credit	X			X	
North Carolina	MINIMAL OPPORTUNITY - Enterprise Corporation Investment Credit	X			X	

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Dakota	Credit For Investment In Nonprofit Development Corporations	X				
North Dakota	Small Business Investment Company Tax Credit	X				
North Dakota	Tax Credits for Investment by Financial Institutions and Insurances Companies					
North Dakota	Venture Capital Credit	X				
Oklahoma	Credit for Venture Capital Investment	X				
Oklahoma	Oklahoma Capital Investment Credit	X				
Oklahoma	MINIMAL OPPORTUNITY - Credit for SBA Financing	X				
Oklahoma	Credit for Investment in Small Business Ventures	X				
Oregon	MINIMAL OPPORTUNITY - Oregon Capital Corporation	X				
South Carolina	County Business Development Corporation Shareholder Credit	X				
South Carolina	Infrastructure Contribution or Improvement Credit	X				
South Carolina	Palmetto Seed Capital Credit	X				
South Carolina	Community Development Corporation Investment Credit					
Virginia	Neighborhood Assistance Act Credit	X				X

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
West Virginia	Capital Company Investment Credit	X			X	
Wisconsin	Community Development Finance Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Other Credits						
Alaska	NEW: Limited Credit for Federal Tax Credits (? on industry) (Pre-1990)	X				
Arizona	Clean Elections Fund Credit	X				
Arkansas	Payment in Lieu of Taxes					
California	Disabled Access Credit	X				
Colorado	MINIMAL OPPORTUNITY - Historic Property Tax Credit	X				
Colorado	MINIMAL OPPORTUNITY - Rural Internet Access Credit	X				
Connecticut	Service Facility Credit					
Connecticut	MINIMAL OPPORTUNITY - • Historic Home Credit	X			X	
Delaware	Land and Historic Resource Conversation Tax Credit	X				
Florida	Alternative Minimum Tax Credit					
Florida	Emergency Excise Tax Credit					
Georgia	MINIMAL OPPORTUNITY - Sustained Income Growth Credit	X				
Idaho	MINIMAL OPPORTUNITY - Gasoline Tax Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Idaho	MINIMAL OPPORTUNITY - Special Fuels Tax Credit	X				
Illinois	EDGE Tax Credit	X				
Indiana	Historic Rehabilitation Tax Credit					
Indiana	Guaranty Association Credit					
Iowa	Motor Fuel Credit	X				
Iowa	Taxes Paid to Other States					
Iowa	Bad Debt Credit					
Kansas	Disabled Access Credit	X				
Kansas	MINIMAL OPPORTUNITY - Taxes Paid in Pre-1984 Corporation Liquidation	X				
Kansas	Historic Preservation Credit	X				
Kentucky	Kentucky Economic Opportunity Zone					
Kentucky	MINIMAL OPPORTUNITY - Limited Business Capitalization Credit				X	
Louisiana	MINIMAL OPPORTUNITY - Credit for Donation of Historical Property	X				
Louisiana	MINIMAL OPPORTUNITY - Credit for Insurance Company Premium Tax	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Louisiana	MINIMAL OPPORTUNITY - Credit for Utility Refunds	X				
Louisiana	Restoration Tax Abatement			X		
Maine	Credit for Rehabilitation of Historic Properties					
Maine	MINIMAL OPPORTUNITY - Financial Institutions Franchise Tax Credit				X	
Maryland	Heritage Area Tax Credit	X				
Michigan	Small Business Tax Credit					
Michigan	Insurance Company Credit	X				
Michigan	Historic Rehabilitation Credit					
Michigan	Minority Owner Business Investment Credit	X				
Minnesota	Sales or Use Tax Paid to Another State		X			
Minnesota	Taxes Paid to Another State	X				
Mississippi	Ad Valorem Inventory Tax Credit	X				
Mississippi	Insurance guaranty Association Assessment Credit	X			X	
Mississippi	Export Port Charges Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Mississippi	Business Finance Corporation Revenue Bond Service Credit (aka, Rural Economic Development Credit)	X				
Missouri	Lost and Unclaimed Property Tax Credit					
Missouri	Certified Historic Rehabilitation Credit	X				
Missouri	Business Use Incentives for Large-Scale Development (BUILD)	X				
Montana	Historic Buildings Tax Credit	X				
Nebraska	Special Premiums and Assessments Credit	X				
Nebraska	MINIMAL OPPORTUNITY - Nonhighway Motor Fuels Credit	X				
New Mexico	Cultural Properties Preservation Credit	X				
New York	Mortgage Recording Tax Credit	X			X	
New York	Historic Barn Renovation Credit	X			X	
New York	MINIMAL OPPORTUNITY - Annual Maintenance Fee Tax Credit for Foreign Corporations	X			X	
New York	MINIMAL OPPORTUNITY - Credit for Disabled Employees	X			X	
North Carolina	Historic Structures Credit	X				
North Carolina	MINIMAL OPPORTUNITY - Construction Credit for Homes for Handicapped	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
North Carolina	MINIMAL OPPORTUNITY - Local Telephone Service Credit	X				
Ohio	Credit for Taxes Paid by a Qualifying Pass-Through Entity	X			X	
Ohio	Credit For Investments In Qualified Subsidiaries	X			X	
Ohio	Export Sales Credit	X			X	
Ohio	MINIMAL OPPORTUNITY - Credit for Qualifying Affiliated Groups	X			X	
Ohio	MINIMAL OPPORTUNITY - Credit for Savings and Loan Association Fees	X				
Oklahoma	Hepatitis A Employee Immunization Credit	X				
Oklahoma	Historic Rehabilitation Tax Credit	X				
Oregon	Bone Marrow Donor Expense Credit	X				
Oregon	MINIMAL OPPORTUNITY - Health Insurance Credit	X				
Rhode Island	Small Business Tax Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Quality Standard Certificate Credit	X				
Rhode Island	MINIMAL OPPORTUNITY - Small Business Loan Guaranty Fee Credit	X				
South Carolina	Minority Business Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
South Carolina	MINIMAL OPPORTUNITY - Credit for Rehabilitation of a Certified Historic Structure					
South Carolina	MINIMAL OPPORTUNITY - Credit Against License Fee for Infrastructure					
Tennessee	Gross Premiums Tax Credit	X			X	
Tennessee	Credit for Hall Income Tax					
Texas	MINIMAL OPPORTUNITY - Title Insurance Holding Company Credit	X				
Utah	Off-Highway Agricultural Gas Or Gasohol Credit	X				
Utah	Historic Preservation Tax Credit	X				
Utah	Credit For Interest From State (and Federal) Securities	X				
Vermont	Rehabilitation Tax Credit for Older or Historic Buildings	X				
Vermont	Historic Building Rehabilitation Credit	X				
Vermont	Mobile Home Park Credit	X				
Virginia	Historic Rehabilitation Credit	X				
Virginia	MINIMAL OPPORTUNITY - Rent Reduction Program Credit	X				
Virginia	MINIMAL OPPORTUNITY - • Telecommunications Companies Credit	X				

Appendix A

State	Program Title	Income/ Franchise	Sales & Use	Property	Net-Worth	Premium
Washington	Small Business Tax Credit					
West Virginia	Electric and Gas Utilities Rate Reduction Credit	X				
West Virginia	Subsidiary Tax Credit				X	
West Virginia	Historic Buildings Tax Credit	X				
West Virginia	Small Business Credit	X			X	
West Virginia	MINIMAL OPPORTUNITY - Bank Shares Property Tax Credit					
West Virginia	MINIMAL OPPORTUNITY - Convenience Food Store Credit	X				
West Virginia	MINIMAL OPPORTUNITY - Special Credit for Utilities (Telephone)	X				
West Virginia	Economic Opportunity Tax Credit For "SMALL BUSINESS"					
Wisconsin	Supplement to Federal Historic Rehabilitation Credit	X				

The New York Sun February 22, 2005 Tuesday

Tax Break to Lure Employers Is Attacked **DaimlerChrysler Defends Ohio Incentive For Plant; Court Cites Free Flow of Trade**

By ROBERT S. GREENBERGER and MICHAEL SCHROEDER
Staff Reporters of THE WALL STREET JOURNAL
November 29, 2004; Page A4

A 94-year-old auto factory, where the original Willys Jeep that took U.S. soldiers to war was produced, is at the center of a legal battle over the tax breaks used by dozens of states to attract employers.

Back in 1998, [DaimlerChrysler](#) AG was considering shutting the Toledo, Ohio, factory. To keep the plant open, the city and state offered the auto maker a \$280 million tax break in exchange for a \$1.2 billion plan to expand the complex.

Then a group spearheaded by consumer advocate Ralph Nader filed a lawsuit attacking the package as illegal "corporate welfare." In a September ruling that is drawing shouts of protest from state capitals and corporate executive suites across the country, a U.S. appeals court in Cincinnati found that a key part of the plan violated the Constitution because it interfered with the free flow of trade among the states.

Business groups and state governments are now joining in an appeal of the ruling, warning that it could abolish the job-creating tax break in Ohio, Michigan, Kentucky and Tennessee, the states under the appeals court's jurisdiction. Moreover, they warn, the ruling could prod courts elsewhere into interfering with tax breaks for projects ranging from factories to football stadiums.

"This is a fundamental challenge to the constitutionality of state-provided tax credits," warns Quentin Riegel, vice president for litigation at the National Association of Manufacturers. "It has tremendous implications for states that want to attract jobs to their communities."

State and local governments have long used tax breaks to draw factories from other places in order to create jobs. Currently, about 40 states use breaks and other incentives similar to those given DaimlerChrysler to attract or keep employers.

Since 1995, Ohio has approved about \$2 billion of breaks for companies investing in the state, the state says. "The general fear is that if this decision became the law of the land, states could not take any action that would lead companies to locate in their state," said Chris Atkins, a lawyer at the nonpartisan Tax Foundation, a Washington, D.C., educational organization.

Critics of the breaks cite studies showing that tax incentives don't figure as prominently in business-location decisions as geography or the availability of labor. A two-year study tracking such decisions by Peter Fisher, a University of Iowa professor of urban and regional planning, found that in many instances tax breaks provided incentives "to a firm that would have relocated there anyway."

Ripples from the court decision already have been felt. Before [Kmart Holding](#) Corp.'s recently announced takeover of [Sears, Roebuck & Co.](#), Michigan had been negotiating for months with Kmart about replacing its old suburban Detroit corporate headquarters with a new facility in the state. But several weeks ago, the retailer told Michigan it wasn't ready to complete the tax-credit deal because of concerns about the impact of the appeals-court ruling. Now the merged retailers plan a joint headquarters in Illinois, while maintaining an office in Michigan.

In the 1998 deal, Ohio gave DaimlerChrysler a tax credit equal to 13.5% of the company's spending on certain qualified investments, including machinery. The credit was to be used to offset state taxes on corporate profits from that plant and from its other Ohio businesses.

The New York Sun February 22, 2005 Tuesday

Mr. Nader had been looking for a case to challenge what he sees as corporate welfare. About the time Toledo was making its deal with DaimlerChrysler, Mr. Nader read a lengthy article in the Harvard Law Review arguing against such incentives. He persuaded the author, Peter Enrich, a law professor at Northeastern University law school, to join the fight. Their first target was the New England Patriots of the National Football League, which was being lured to relocate to Hartford, Conn. The deal fell through before they assembled a case.

In the Toledo case, Mr. Nader says, he was particularly disturbed because the incentive package included 200 acres of land for expansion adjacent to the company's facility, forcing about 85 homeowners and 17 small businesses to sell their property. Twelve Toledo residents and three businesses, including some who were displaced, became plaintiffs.

Mr. Nader's forces lost in the lower court. But a three-judge panel of the U.S. Appeals Court for the Sixth Circuit ruled that the investment tax credit violated the Constitution's Commerce Clause. That clause gives Congress, not the states, the authority "to regulate commerce ... among the several states," and has been interpreted to restrict state taxes on interstate commerce.

The Supreme Court has ruled that this doesn't prevent states from structuring taxes to encourage economic development or from competing for a share of interstate commerce as long as state taxes don't "discriminatorily tax the products manufactured" in another state.

The Ohio tax break, the appeals court said, runs afoul of that rule. The tax break could be used to reduce state taxes levied not only on the Toledo plant, but on other DaimlerChrysler businesses in the state. To take advantage of these tax credits, the firm would have more reason to invest in Ohio than elsewhere. Agreeing with the plaintiffs, the appeals court said the tax credit "discriminates against interstate commerce by coercing businesses already subject to the Ohio franchise tax to expand locally rather than out-of-state."

The court, however, let stand a 10-year exemption from local property taxes that was part of the deal.

Business is responding with a massive counterattack. Last month, the Council on State Taxation, a nonprofit trade association, asked its 550 corporate members to contribute at least \$10,000 each to fund a coalition to "educate policymakers, members of the media and government affairs representatives." An official at the group estimated that it has raised about \$200,000 so far. The group plans to try to strengthen legislation offered recently by Ohio's two Republican senators to reverse the appeals court ruling.

Joining DaimlerChrysler in the fight are other major auto makers, the United Auto Workers union, the National Conference of State Legislatures and the U.S. Chamber of Commerce.

Chambers of commerce from Ohio, Kentucky and Tennessee argue that, unless reversed, the decision "will likely encourage businesses to move operations offshore, where labor costs and lack of regulation produce substantially lower costs."

DaimlerChrysler currently is appealing to the full court of appeals. If that fails, the state promises to take the matter to the Supreme Court.

The New York Sun February 22, 2005 Tuesday

Star Tribune (Minneapolis, MN)
March 19, 2005, Saturday, Metro Edition

Suit challenges JOBZ, biotech plans; Plaintiffs say programs grant tax exemptions illegally

Mike Meyers; Staff Writer

Charging that two high-profile state jobs programs favor a few companies over the interests of all taxpayers, a former Minnesota lieutenant governor has joined with a businessman in filing a lawsuit asking that the JOBZ and biotech zone programs be scrapped as unconstitutional.

The lawsuit, filed Friday in Ramsey County District Court, argues that the programs illegally grant income, sales or property tax exemptions to companies for up to 12 years in return for relocating or expanding in designated areas.

Alec Olson, a resident of Spicer who is a former Minnesota lieutenant governor, state senator and congressman, and Butterworth Limited Partnership, owner and operator of a mobile home park in Bloomington, are the plaintiffs in the suit.

"I just see an ongoing circumstance of just all kinds of loopholes and schemes of everybody getting a share of something that maybe they aren't entitled to," Olson said in explaining his participation in the case. "What's right is right, and I'm not in any position to be compromised."

Olson, a Democrat, is now a semi-retired farmer.

Bill Halverstadt, the principal partner in Butterworth, was not available for comment.

The suit says the state Constitution specifies that only the Legislature can draft tax policy and that "the power of taxation shall never be surrendered, suspended or contracted away." The JOBZ and biotech programs, begun at the urging of Gov. Tim Pawlenty, grant local and state officials the power to choose which companies receive tax breaks.

The jobs programs, approved by the Legislature in 2003, has offered benefits to more than 100 companies, and many more might yet sign up. The state has not revealed how many biotech companies have signed up for similar tax breaks.

John James, one of the attorneys pursuing the suit, contends that the number of companies involved - and the taxpayer cost - is proliferating.

More than 900 job zones have been approved under the JOBZ program.

"We've got 912 parcels looking for businesses to operate on them tax-free," James said. "If you're a business, how can you not ask for this?"

As of January, 125 JOBZ deals had been approved. According to the state, those deals retained or added nearly 5,000 jobs and induced \$165.8 million in capital investments.

Kit Borgman of the Minnesota Department of Employment and Economic Development said the agency would have no comment on the lawsuit until state officials and Attorney General Mike Hatch have studied it.

The New York Sun February 22, 2005 Tuesday

Economic development subsidies have come under attack in at least one other state. A federal court last fall struck down Ohio's subsidy program, which had granted DaimlerChrysler \$280 million in incentives to expand there.

"While we may be sympathetic to efforts by the city of Toledo to attract industry into its economically depressed areas, we conclude that Ohio's investment tax credit cannot be upheld under the commerce clause of the United States Constitution," a federal judge ruled in that case. The commerce clause bars any state from trying to win economic gains at the expense of another.

An estimated 40 other states have similar programs, and they, too, might be imperiled if other courts were to follow the Ohio ruling.

James said the plaintiffs want only to end programs that they believe discriminate against taxpayers who don't get the breaks of businesses that inhabit the job zones.

The lawsuit might be a step in that direction no matter what the courts decide eventually, James said.

"Now that we've got it on the table that these things are unconstitutional that might have a chilling effect on the proliferation of these deals," he said. "The governor and Legislature may be concerned about that.

"They may want to question whether they want to change or drop these programs because it isn't worth it."

The New York Sun February 22, 2005 Tuesday

The Detroit News
November 14, 2004 Sunday

Mich. battle to keep Kmart is threatened; A U.S. court ruling that halts tax breaks may derail efforts to close the deal.

BYLINE: R.J. King

TROY -- A deal between Michigan development officials and Kmart Holding Corp. to keep the discount retailer's headquarters in the state fell through last week after Kmart officials raised questions about whether the tax incentive agreement could withstand possible legal challenges.

The Michigan Economic Growth Authority, which oversees single business tax credits, was preparing to meet Tuesday in Lansing to finalize a \$45 million tax incentive package for Kmart, according to people familiar with the talks. But Kmart officials backed out at the 11th hour, citing an Ohio appeals court ruling in September.

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati deemed unconstitutional an Ohio program that gave DaimlerChrysler AG \$280 million in tax credits to build its Toledo Jeep Liberty plant.

Since the court has jurisdiction in Michigan, the ruling could affect the state's ability to use tax incentives to retain companies or attract business investment, legal experts said.

"It certainly opens up the possibility that taxpayers and others could challenge state tax incentive programs," said Ruben Acosta, a Detroit lawyer who works with businesses to identify incentive programs.

Officials in Ohio, Michigan, Kentucky and Tennessee have asked the full 12-judge appellate court to overturn the ruling.

Kmart officials said they wouldn't accept the single business tax credits offered by the state unless they could be sure a similar legal challenge wouldn't nullify the deal, said the people familiar with the negotiations.

Michael Shore, communications chief for the Michigan Economic Development Corp., which oversees tax incentive programs to retain and attract businesses, declined to comment on the status of the talks with Kmart but said the agency is reviewing the ramifications of the Ohio ruling.

"We are looking at ways to assure companies that apply for tax incentives that the deals will go through," Shore said. "Our attorneys don't believe the appellate decision will hold for the long term, but at the same time we are looking at alternatives that can withstand any potential legal challenge."

The 104-year-old retail giant born in Detroit has been scouting locations for a new headquarters, concentrating on several cities in Michigan and the metro Atlanta area. Kmart can no longer fill its headquarters campus on Big Beaver in Troy, which was built for some 5,000 workers. Steady downsizing has left Kmart with about 2,000 employees.

Michigan has offered \$45 million in tax breaks over 10 years if Kmart agrees to keep its headquarters and 1,500 jobs in state, while Georgia is offering about \$17 million in incentives, according to documents obtained from both states through Freedom of Information Act requests.

Had the agreement with Michigan gone through last week, Kmart still would have had to choose a location within Michigan. Troy, Pontiac, Royal Oak, Detroit, Ann Arbor and Grand Rapids have all expressed an interest in Kmart.

Gov. Jennifer Granholm has been outspoken about the possible implications of the Ohio ruling.

In a recent guest column in The News, she wrote that some scholars contend the Ohio ruling is not enforceable elsewhere. "But let's be clear: The ruling would undermine all of our efforts to bring ... new corporate investment to Michigan."

Kmart spokesman Steve Pagnani declined comment.

Tax credits give states a way to attract and retain jobs. But critics say the taxpayer dollars lost to corporate coffers could be used to lower taxes for all residents or businesses in a state.

Michigan officials say the programs have helped attract 450,000 jobs since 1995. The MEDC and its affiliates have approved close to \$300 million in tax breaks to about 240 companies since 1995.

The uncertainty surrounding the Ohio legal ruling could make Georgia more attractive to Kmart. E-mails between Georgia development officials reviewed by The News show Georgia officials believe Atlanta can offer a better business climate for Kmart.

"In general, we seem to have an advantage on wages, unemployment insurance, workers' compensation, education levels and airport access," Brenda Robbins, senior project manager for Georgia Power's community and economic development, wrote in an Aug. 31 e-mail to John Gilman, vice president of the Metro Atlanta Chamber of Commerce.

Courting Kmart

Michigan: The state could offer more than \$45 million to keep Kmart, while communities can offer numerous incentives such as no-interest loans, tax-free renaissance zones, training grants and reduced parking rates.

Metro Atlanta: Georgia has dangled \$17 million in tax incentives to attract Kmart. But a recent report by a state task force found that the state can't always tailor its incentives for companies.

The New York Sun
February 22, 2005 Tuesday
EDITORIAL & OPINION

The Legality Of 'Empire Zones'

By BRIAN MCGUIRE

Embarrassed by criticism over late budgets and secretive negotiations, state lawmakers this year have publicly embraced the idea of legislative reform. From open meetings to a new law that requires legislators to be present for floor votes, transparency has become fashionable at the Capitol.

Some of the most popular targets for reform are the public authorities that manage everything from highways to the Metropolitan Transit Authority. A recent report from the New York State comptroller, Alan Hevesi, found that 733 of these entities exist and operate largely free from legislative interference.

One such entity, Empire State Development Corporation, has come under particular scrutiny from Assemblyman Richard Brodsky, the chairman of the Assembly Committee on Corporations, Authorities and Commissions. Just last week, Mr. Brodsky gave a virtuoso performance in questioning ESDC chairman Charles Gargano on alleged abuses within the Empire Zone program.

Legislators reauthorized the program, which offers tax incentives to businesses that start or relocate in designated areas, last year on the condition of reforms. With reauthorization set to expire next month, Mr. Brodsky is now hinting that Empire Zones could be a key negotiating tool in coming budget talks. Governor Pataki's budget calls for a five-year extension.

A recent court ruling in Ohio, however, could scuttle those plans. In September, the 6th Court of Appeals ruled that economic development tools that pit states against states violate the Interstate Commerce Clause of the U.S. Constitution. The ruling is currently on appeal to the U.S. Supreme Court, which could find all such programs similarly unconstitutional.

"Features built into a tax break that are premised on having a certain number of employees in a certain location in a state are put under a serious cloud by this decision," said Peter Enrich, the Northeastern University law professor who argued the Ohio case. "The whole point of the commerce clause is to prevent states from discriminating in ways that favor in-state activity."

How Mr. Enrich made it from his Boston classroom to a Toledo courtroom is noteworthy. As the author of a 1996 Harvard Law Review article on tax incentives, Mr. Enrich caught the eye of consumer advocate Ralph Nader. Mr. Nader had long hoped to bring a tax-breaks case to court and, after reading the 96-page law review piece, enlisted Mr. Enrich in the cause.

The right opportunity presented itself when Messrs. Nader and Enrich learned of a deal in Ohio whereby the state had agreed to give German automaker DaimlerChrysler \$281 million in tax breaks to build a plant in Toledo rather than Michigan. Charging the state had unlawfully discriminated against Michigan, they won.

For Mr. Enrich, *Cuno vs. DaimlerChrysler*, was more than an academic exercise. Like Mr. Nader, he believes corporations are playing an economic shell game with states that could lead to the elimination of corporate income taxes altogether. Mr. Enrich describes the situation as America's "Second Civil War."

"These are the same problems we saw in the 1780s under the Articles of Confederation," Mr. Enrich said. "States imposing tariffs to protect local economies. It was ruining the national economy and causing all sorts of internal friction and one reason they called the Constitutional Convention was to fix it."

Particularly worrisome for proponents of the Empire Zone program is the fact that Mr. Enrich relied on legal precedents from New York to build his case against Ohio. He cited one case in which the state

offered accelerated depreciation on in-state property and another in which it gave tax breaks to companies that exported from in-state ports. The U.S. Supreme Court ruled both practices unconstitutional.

So why do lawmakers continue to craft such programs? Mr. Enrich cites pressure from constituents in places that have suffered from the loss of manufacturing jobs. "Politically this is tough stuff for legislators," he said. "The pressure they feel on this is enormous."

But another reason could be that legislators are simply unaware of the precedents. Mr. Brodsky, for instance, said he is unfamiliar with the Cuno case. And Assemblyman Charles Nesbitt, a chief backer of Empire Zones, said he is only vaguely aware of it.

On the flip side, Mr. Nader said he is also unfamiliar with Empire Zones. But, he said, any state action that uses tax credits to lure new clients or relocate existing businesses from other states would be unconstitutional under the Cuno decision.

"Each state is racing to outdo the other state, so everybody loses," Mr. Nader said. "The companies are playing the states against each other until all of them erode their tax base. It's basically a violation of capitalist principles."

Mr. Pataki has called Empire Zones the state's most important development tool, crediting them with the creation of 71,000 jobs. A constitutional blow would be devastating to his economic development plans, including a new program that provides economic assistance to upstate businesses.

But a Supreme Court decision upholding the Cuno decision could also hurt Democrats, who are as eager as Republicans to allay the economic concerns of constituents and who see in the Empire Zone program a powerful bargaining tool against their pro-business opponents.

Some national Democrats are still grumbling over Mr. Nader's impact on the 2000 presidential election. But his latest offensive appears capable of making him a spoiler to Democrats and Republicans in New York. And unlike his ill-fated run for the White House, this is a victory Mr. Nader could actually pull off.

The News & Observer (Raleigh, North Carolina)
January 23, 2005 Sunday

Incentives on trial; A court decision in Ohio, declaring illegal a generous incentive package offered to DaimlerChrysler, could have implications nationwide if the case goes to the U.S. Supreme Court. The crucial question: Does giving some companies tax breaks -- essentially requiring other taxpayers to subsidize them -- violate the constitution?

Amy Martinez, Staff Writer

Two days before North Carolina's lawmakers approved a record-breaking amount of economic incentives for the Dell computer company, Canaan Huie, a lawyer for the General Assembly, warned that they could be leaving the state open to a costly lawsuit.

In a letter to key legislative aides, Huie said the incentives would be vulnerable under the reasoning of a decision by the 6th Circuit Court of Appeals in Ohio.

The federal court declared that Ohio violated the U.S. Constitution when the state and local governments offered DaimlerChrysler nearly \$300 million in tax breaks to keep a Jeep plant in Toledo. Huie argued that although the decision was not binding in North Carolina, opponents of the Dell deal could file a similar lawsuit against the state.

He went on to suggest that such a suit, if successful, would carry a steep price for North Carolina.

The state, for instance, could be forced to give other businesses the same tax breaks as Dell.

No matter.

On Nov. 4, the General Assembly agreed to give Dell a \$242.5 million package of economic incentives if it built a computer assembly plant in the Triad.

North Carolina's reaction to the 6th Circuit decision is fairly typical.

It has been nearly five months since the decision, and even those states in the 6th Circuit -- Ohio, Kentucky, Tennessee and Michigan -- are carrying on as if nothing happened. Their economic developers say they intend to keep offering incentives.

"That ruling applies only to one specific program in Ohio, and our programs are distinguishable from that," said Hollie Spade, a lawyer for Kentucky's economic development agency.

Ohio, meanwhile, approved 413 tax breaks for new and expanding businesses in the three months after the court's Sept. 2 decision. That's a 14 percent increase from the previous three months.

Ohio was able to continue giving tax breaks because it appealed the decision in Cuno vs. DaimlerChrysler, first to the 6th Circuit itself. The September decision came from a three-judge panel, allowing Ohio to ask for a hearing with all 12 judges.

Last week, those judges affirmed the court's earlier decision. The state says it will take the case to the U.S. Supreme Court. It could also end up in Congress. Ohio's two Republican senators plan to introduce a bill legalizing the tax breaks.

Still, opponents of incentives say the 6th Circuit's decision should put other states on notice that such tax breaks could expose them to costly litigation.

"Justice will be served, and these companies will pay their fair share," said Kim Blankenship, a small-business owner in Toledo who is one of 15 plaintiffs in the Ohio case. (The case takes its name from Charlotte Cuno, another plaintiff, a homeowner who was forced to move because of the expansion.)

And it might not be long before Huie's warning plays out here. Bob Orr, a former N.C. Supreme Court justice who leads a new Raleigh nonprofit group, is considering suing state and local government over the Dell deal.

Dell was promised not only \$242.5 million from the state, but also \$37.2 million from Forsyth County and Winston-Salem, where the new plant is scheduled to open this year.

Orr, as head of the N.C. Institute for Constitutional Law, said he's talking with small-business owners in Forsyth who might be angry enough about the deal to join him in suing.

Small-business owners tend to be the most vocal critics of incentives. They say that's because incentives usually go to their larger competitors, forcing them to pick up the tab, either through higher taxes or reduced government services.

Art Pope, a former legislator who serves on the board of directors of the N.C. Institute for Constitutional Law, derides economic incentives as "corporate welfare."

"I resent having to pay taxes to subsidize my competitors," said Pope, president of Raleigh's Variety Wholesalers, which owns general merchandise chains such as Roses and Maxway. "Businesses are really trying to pit one state against another, one county against another, clearly in order to get as much taxpayer money as possible."

But some business groups say they will fight the 6th Circuit decision, warning that if states aren't allowed to offer job-creating tax breaks, they'll be even less competitive with countries with low-wage employees such as China than they are now.

The Council on State Taxation, a Washington trade association with 570 corporate members, including Dell, began seeking donations in November to lobby Congress to protect the tax breaks. The association has raised more than \$200,000. Its legal counsel, Kevin Thompson, said the Cuno case has far-reaching implications. The analysis in "that case could essentially apply to all economic incentives in other states," he said.

The debate made strange political bedfellows. Opponents to incentives include conservative Republicans such as Pope as well as consumer advocate Ralph Nader.

Nader heard about Ohio's efforts to keep DaimlerChrysler in 1998 and assembled the 15 plaintiffs, all of whom lived or owned businesses near the plant and were forced to move to make room for its expansion. A suit was filed two years later.

The plaintiffs lost in a lower-court ruling but appealed to the 6th Circuit in Cincinnati. They argued that the tax breaks violated the Commerce Clause of the U.S. Constitution because they interfered with the free flow of trade among the states.

To keep DaimlerChrysler in Toledo, Ohio gave the Jeep manufacturer millions of dollars in tax credits for new machinery and equipment needed for the plant's expansion. But those credits, which could be used to offset state taxes on profits, also applied to other DaimlerChrysler facilities in Ohio, providing a strong financial incentive for DaimlerChrysler to expand within the state, the appeals court said in its September ruling.

So far, North Carolina's economic developers are taking a business-as-usual approach. They say they have seen no decrease in companies asking about incentives. Likewise, they say they're not pulling back on incentives, despite last week's affirmation of the earlier 6th Circuit decision.

"Everyone has their eyes wide open, but I don't think it's affecting business decisions today," said Tony Copeland, assistant secretary of the N.C. Commerce Department.

Although states in the 6th Circuit downplay possible effects of the Cuno decision, it already appears to have hindered Michigan's effort to keep Kmart in suburban Detroit.

Michigan had been talking with Kmart about finding a new location for its headquarters, but those talks were put on hold shortly after Kmart announced a deal to buy Sears, Roebuck & Co. Kmart cited uncertainty surrounding the Cuno case for postponing a decision about its headquarters.

Aside from Kmart, Cuno has had no effect on business recruitment and retention, said Michael Shore, a spokesman for Michigan's economic development organization. Last month, the state gave General Motors \$28 million in incentives for a plan to spend \$400 million on new facilities in Flint. "I'm thinking General Motors has fairly decent legal counsel, and obviously they wouldn't go this route if they were

really concerned," Shore said.

But Peter Enrich, a law professor at Northeastern University, said businesses decide where to locate based on infrastructure and a skilled work force, not incentives. "Businesses decide where they're going to go, and then they get a deal," said Enrich, who filed the Cuno suit along with Nader. "If they get incentives, great. But they're not the decisive factor."

With the case stirring national debate, North Carolina and other states outside the 6th Circuit may find themselves facing similar suits. Enrich says: "As far as I can tell, the Dell package has many of the same features that made the Ohio investment tax credit unconstitutional."

Enrich, who spoke to Orr's group in Raleigh last month, said he has been in touch with opponents of economic incentives in at least six states who are seriously considering lawsuits. "This has a potential impact on every state," said Bill Teets, spokesman for Ohio's economic development agency. "If it's illegal here in Ohio, it should be illegal elsewhere in the country."

Tax incentives: Why care?

States have been using incentives for years to attract new or expanding businesses. Incentives include cash grants, funds for worker training, infrastructure improvements (roads and utilities, example), and tax breaks spread out over many years. Proponents say the tax breaks don't actually cost the state because they're tied to new jobs that otherwise would not be in North Carolina.

But opponents say the cost is very real. Dell, for instance, received \$242.5 million in incentives last year for promising to create at least 1,500 jobs at a new plant in Winston-Salem. Under the deal, Dell's state taxes will be significantly reduced for the next 20 years. Opponents say the taxes that Dell won't be paying is money that could be used to improve schools, crime prevention and roads. Opponents also say incentives eventually lead to higher taxes for everyone else.

Some of the most vocal criticism of job-creating economic incentives comes from owners of small businesses. They say that incentives usually benefit their larger competitors, leaving them to pick up the tab, either through higher taxes or reduced government services.

Winston-Salem Journal (Winston Salem, NC)

December 10, 2004

ATTORNEY: DELL DEAL COULD FACE CHALLENGE COURT OVERTURNED OHIO TAX BREAKS FOR PLANT

BY DAVID RICE JOURNAL RALEIGH BUREAU

North Carolina's incentives for Dell Inc. to build a plant in the Triad are vulnerable to the same sort of legal challenge that led a federal appeals court to overturn tax breaks that Ohio offered to win a Jeep plant, the lead attorney in the case said yesterday.

"The Dell package is precisely an example of such a provision - a provision that allows a company to reduce its income tax in North Carolina ... based on its placement of jobs, investment and computers within the state," said Peter Enrich, a law professor at Northeastern University who was the lead counsel in the case.

In *Cuno vs. DaimlerChrysler*, the 6th U.S. Circuit Court of Appeals ruled in September that the investment-tax credits that Ohio offered for a Jeep plant in Toledo violated the interstate-commerce clause of the U.S. Constitution by giving DaimlerChrysler tax breaks that discriminate against businesses in other states.

In North Carolina, the General Assembly approved an incentive package of at least \$242 million last month for Dell to bring 1,500 jobs to the Triad. The package consists mostly of credits that the company could claim against its corporate-income tax in the state.

"If *Cuno* remains, the Dell package cannot stand," Enrich said yesterday.

DaimlerChrysler has asked for all 12 judges to rehear the case, which is likely to go to the U.S. Supreme Court.

In a sign of the controversy surrounding economic incentives, Enrich spoke at a conference where almost 50 lawyers gathered yesterday to discuss legal challenges to incentive packages.

"With the *Cuno* decision and the Dell deal, the whole profile has ratcheted up," said Robert Orr, a former justice on the N.C. Supreme Court who heads the N.C. Institute for Constitutional Law, which was the host of the symposium.

Orr said he also expects someone to challenge the Dell incentive package under the "public purpose" clause in the state constitution, which says that state funds must be spent for a public purpose. Orr said that his group would probably help with the legal work.

"Some kind of challenge is going to come - and it will probably include these local incentives too," he said, referring to as much as \$37 million that Winston-Salem and Forsyth County have proposed for Dell as they compete with Guilford and Davidson counties for the plant.

William Maready, a Winston-Salem lawyer who waged a memorable but unsuccessful court battle against business incentives offered by Winston-Salem and Forsyth County in 1996, urged other lawyers to pursue similar challenges.

Maready questioned assertions that tax breaks for business help the economy and local government.

"How many of you have had your property taxes go down in the last 10 years? Obviously you haven't read those press releases about taking money out of the treasury and handing it over to corporate America," he said.

"The more we transfer the cost of government to individuals ... it's going to bite you where it hurts if we keep up the pace," Maready said.

Referring to the Dell deal, he said: "When you bring 500 workers into a community, you also bring in things like 1,000 kids... That's two elementary schools. I think the cost is something like \$10 million there."

Earnest Pearson, a partner in the Sanford Holshouser law firm who works with businesses and local governments on incentive packages, said that Dell is more likely to hire local workers than to bring new ones to the state.

But North Carolina could successfully recruit businesses if the bidding war stopped, Pearson said.

"This state fares well - quite well - when you measure us on the comparative benefits of being here as a corporation," Pearson said. "The problem is, no one is going to unilaterally stop."

He said that incentives do matter in business decisions on plant locations.

"It is a factor. It will not outweigh available labor. It will not outweigh the infrastructure you need. But when you have three or four sites on the table, it is a factor," Pearson said.

For state and local governments, "You can either get a certain percentage of something when you talk about tax dollars, or you can get 100 percent of nothing."

Pearson cited an unnamed mountain county that has lost two of its three manufacturing employers in the past three years and wants to be in the running for new business.

"They are desperate for jobs. People are losing their homes," he said. "When you see what it does for that county, you'll understand public purpose."

Jack Holtzman, a lawyer with the N.C. Justice Center, said that legislators or the courts need to define just how far the state can go in offering incentives that meet a public purpose.

And Art Pope, a former legislator whose family owns Variety Wholesalers Inc., said that existing industry in the state doesn't benefit from incentive packages the way new companies do.

With awards of big incentive deals, "In effect, we are subsidizing our competition," Pope said. "You are valuing new jobs - the ribbon-cuttings - over existing jobs that have been there for decades."

Enrich said that 45 states currently offer tax incentives for new business, and that a 1996 study found that almost \$50 billion in state tax breaks were claimed by businesses even eight years ago.

Incentives have little real effect in business decisions on where to build plants, he said, and they tend to hurt government's ability to provide schools, roads and other services on which businesses depend.

"We're seeing a race to the bottom where states are competing with one another ... in a way that is having a substantial deleterious effect on the way government services are operated," Enrich said.

"This is something that North Carolina really understood before 1996: If you really want to build your economy, build the best university system in the United States. Build good schools. It's not only good for the citizens - it's good for business," he said.

Even without incentives, states can lower corporate tax rates across the board or invest tax dollars in infrastructure and job training. "There's nothing that says ... they can't eliminate their corporate-income tax if they so choose," he said.

Crain's Cleveland Business
October 11, 2004, Monday

Court wrong to threaten states' tax incentives

BY: GEORGE VOINOVICH

If rising energy and health care costs, frivolous lawsuits and unfair international trade practices weren't enough for manufacturers to handle, now a new roadblock has emerged in the form of a recent federal court ruling that threatens to eliminate the authority of states to offer tax incentives to companies that want to expand and relocate. If allowed to stand, the ruling by the U.S. 6th Circuit Court of Appeals will not only blunt our efforts to bring more good jobs to Ohio - it could hit all states that offer manufacturing tax incentives.

At issue is whether states can use certain tax incentives to encourage companies to expand and relocate in their borders. Relying on a new legal theory previously untested in law, the three-judge panel ruled in its Sept. 2 decision in *Cuno v. DaimlerChrysler* that state incentive programs are barriers to interstate commerce and therefore unconstitutional.

In recent years, Ohio and other Midwestern manufacturing states have seen jobs go overseas, but have been able to encourage private investment and job creation from new and expanding businesses in large part with tax credit incentives. When I was Ohio governor, for example, the ability to offer tax investment credits helped me to convince DaimlerChrysler to build its new Jeep plant - with thousands of good jobs - in Toledo. Approximately 40 other states have similar tax incentive programs to spur job creation and help them compete with other states for new businesses.

Since the Ohio General Assembly created the Ohio Machinery and Equipment Investment Tax Credit program in 1995, nearly 16,500 businesses have been able to claim a total of \$1.9 billion in credits leveraging \$31.6 billion in new equipment investments across the state. Overall in Ohio, the manufacturing sector accounts for the second-highest weekly earnings of any economic sector and supports local communities and schools with more than \$1 billion in corporate franchise and personal property taxes. These are economic benefits that Ohio likely would not have been able to enjoy if I had not had the authority as governor to offer incentives to attract companies to Ohio.

Through their legislatures, state residents make all sorts of decisions about the programs and services they want to provide themselves with their own tax dollars, not the least of which are economic development programs. Highway funding, education funding, welfare funding and funding for seniors programs all vary from state to state because state legislatures, acting on behalf of their citizens, make choices and set priorities with their own tax dollars.

If states choose to prioritize economic development in an effort to create jobs and prosperity for their citizens, and, yes, attract business from other states, then that is not a violation of the interstate commerce clause - that's simply their choice. It is called federalism. It should not be denied by the courts.

Though our states have competed for businesses in the past and will again, I have joined with Republican and Democratic governors from Ohio, Michigan, Kentucky and Tennessee, and a wide range of diverse groups from across the nation, to petition the 6th Circuit Court to reconsider its ruling. We all realize that the right of states to make their own decisions about the programs and services they offer within their borders is their own and should not be taken away.

This is neither a partisan issue nor a regional issue. This is an American jobs issue. Unions and

management are standing shoulder to shoulder in urging the court to reconsider the harm it will cause both industry and labor. Groups like Detroit's NAACP and the Arab Community Center for Economics and Social Services have also joined us, as have the National League of Cities, the U.S. Conference of Mayors and many more.

Despite this show of support and the request for reconsideration, the appellate court might still rule unfavorably. That is why I am introducing legislation to clarify in law that the interstate commerce clause does not preclude states from using these types of incentives to provide economic development within their borders. Though only a few weeks remain in the congressional session, I am hopeful that the seriousness of this issue, and the severity of the ruling's possible ramifications, will allow us to see a quick and positive consideration of my bill.

The challenges that manufacturers and workers face today are daunting but surmountable. The last thing we need, however, is an artificial legal hurdle that threatens to trip us up. The court should reconsider its ruling so we can focus on additional solutions to put our manufacturing industries back on the road to recovery and prosperity.

Mr. Voinovich is a U.S. senator from Ohio.

The Atlanta Journal-Constitution
January 31, 2005
Editorial

Removal of tax incentives will take toll on job creation

BY: BEN CHANDLER

After more than 12 years in public office, I have learned that nothing is more important to the strength of our economy than making sure we create new and better jobs for our citizens.

For more than 20 years, more than 40 states have used tax incentives to attract business to their region and expand available job opportunities for local residents. These tax incentives have enjoyed bipartisan support and remain one of the most effective ways to bring prosperity to communities.

That is why I was shocked to learn last September that a federal appeals court in Ohio ruled against these tax incentives under the claim that they violate the interstate commerce clause of the U.S. Constitution. This ruling will have a chilling impact on job development across the country and I am working hard to introduce legislation in Congress that will resolve this situation immediately.

The critics who claim that such tax incentives crowd out investment in public schools and health care do not understand how the tax incentives that my bill addresses operate. The majority of state tax incentive programs are wisely structured to provide benefits only when businesses make their promised investments and create additional jobs.

Economic studies have shown that state tax incentives provide a significant return on investment --- in some cases, up to three times the value of the credit is generated in new revenue. Instead of draining state coffers, these tax incentives actually expand the tax base and provide more revenue for priority public sector investments such as education, health care, and crime.

With states facing budget crises, now is the time to protect revenue-enhancing tools that promote jobs and economic development.

U.S. Rep. Ben Chandler is a Democrat from Kentucky.

National Law Journal
September 13, 2004

Court rejects Ohio's use of tax credit; Dozens of states that lure businesses with tax credits could be affected.

By Gary Young Staff Reporter

State governments around the country may have to contend with a bombshell on tax credits recently dropped by the 6th U.S. Circuit Court of Appeals.

The court said that Ohio's investment tax credit-which allows corporations to offset their corporate franchise taxes in proportion to new machinery they bring to the state-violates the dormant commerce clause. *Cuno v. DaimlerChrysler Inc.*, No. 01-3960.

Some 40 other states have similar tax credits designed to lure corporations to invest within their borders, according to Peter D. Enrich, a Northeastern University law professor, who argued for the plaintiffs, a group of Ohio taxpayers.

And other states have taken notice.

"If this decision stands, it certainly provides precedent for challenging several of [Kentucky's] programs," said Hollie Spade, executive director of the Office of Legal Services in the Kentucky Cabinet for Economic Development.

She said that Kentucky, Tennessee and Michigan have all been in touch with Ohio, and may be filing amicus briefs when Ohio files for rehearing.

Enrich, a former general counsel to the Massachusetts Executive Office for Administration and Finance, laid the groundwork for the suit in a 1996 Harvard Law Review article that argued that investment tax credits allow corporations to play one state against another, to the detriment of all. That article caught the eye of Ralph Nader, who helped translate the idea into litigation, Enrich said. Enrich is in discussion with other lawyers about bringing similar suits outside Ohio, he said.

Enrich didn't get all that he wanted. The 6th Circuit refused to strike down certain kinds of preferential tax treatment that the city of Toledo used to lure DaimlerChrysler to the area, such as exemptions from property taxes, and suggested that direct subsidies to DaimlerChrysler in an amount equal to the investment tax credits would pass constitutional muster.

But critics of the decision warn that such distinctions could be swept aside by the force of the court's main holding.

"If this is the law [and I don't believe it can be], virtually every state tax incentive is challengeable on dormant commerce clause grounds as is virtually every routine state expenditure policy," wrote Professor Edward A. Zelinsky of Yeshiva University Benjamin N. Cardozo School of Law, a tax expert, in an e-mail message.

On its face, the commerce clause confers a power on Congress to regulate commerce. But courts have held that it also implicitly [or dormant] limits state action that would interfere with that power, including taxes found to discriminate against out-of-state economic activity.

Professor Brannon P. Denning of the Samford University Cumberland School of Law, the author of a treatise on the commerce clause, said, "I'm not sure what drag there is on interstate commerce if anyone can locate to the state to take advantage of the credit." Both Zelinsky and Denning conceded, however, that the 6th Circuit's decision is not without support in the Supreme Court's dormant commerce clause jurisprudence.

Denning said there is broad language in some of the Supreme Court decisions cited by the 6th Circuit that lend support to its holding. Zelinsky wrote, "I don't blame the 6th Circuit panel since, as it correctly notes, the U.S. Supreme Court has never given a coherent definition of a discriminatory tax-and I don't believe that such a definition exists."

The court has on its calendar a group of cases, dealing with state regulation of interstate wine shipments, that may clarify its current take on the doctrine, Denning said. [See Supreme Court Review story, Page 1.]

The Ohio Attorney General's Office, which represented the state, declined comment, and referred questions to the Ohio Department of Development. Bruce Johnson of the development department said that he urged the state attorney general to appeal the decision. He said that Enrich's theory overlooks the fact that the state is competing in an international marketplace, not just against other states. DaimlerChrysler spokeswoman Mary Gauthier said the company will appeal. She added, however, that the decision will not affect operation of its plant in Toledo.

At least one lawyer has filed a similar lawsuit independently of Enrich. Attorney John DeCamp of Lincoln, Neb.'s DeCamp Legal Services challenged Nebraska's investment tax credit on equal protection and commerce clause grounds in May in Lincoln. DeCamp v. Nebraska, No. CI041981 [Neb. 3d Dist. Ct.]. DeCamp, who owns restaurants and other small businesses, asserted that preferential tax treatment for big businesses subverts the free enterprise system. In light of Cuno, DeCamp is considering removing his suit to federal court, he said.

Omaha World-Herald (Nebraska)
September 4, 2004

Officials say Ohio ruling on credits needs study Opponent of Nebraska's tax incentives law says the decision signals the end of LB 775.

BY: Martha Stoddard

LINCOLN -- Whether an Ohio court case means the end of Nebraska's business tax incentives won't be known for some time, business and state leaders said Friday.

Opponents of the Employment and Investment Growth Act incentives, more commonly called LB 775, were celebrating nonetheless.

"I think the decision is dynamite beyond dynamite," said John DeCamp, a Lincoln attorney and former state senator who filed a lawsuit in May against the Nebraska tax break law. "I think it is a wooden stake through the heart of LB 775."

DeCamp argued in the Lancaster County District Court lawsuit that the incentives violate the equal protection clauses of the federal and state constitutions.

Now, he said, he is thinking of asking for a summary judgment in his favor, based on the 6th U.S. Circuit Court of Appeals decision striking down Ohio's investment tax credit program.

A three-judge federal panel unanimously ruled that the Ohio program violates the interstate commerce clause of the U.S. Constitution by giving tax breaks if companies make significant investments in Ohio but not if they make the same investments elsewhere.

Nebraska's LB 775 tax incentives provide sales and income tax credits and some property tax exemptions for businesses that make significant investments in the state.

Through 2003, companies had qualified for nearly \$ 2.4 billion worth of tax breaks, according to the Department of Revenue.

The program is available to companies that invest \$ 3 million and create 30 new jobs. Additional benefits are available for companies that either invest \$ 10 million and create 100 new jobs or invest \$ 20 million.

Sen. Ron Raikes of Lincoln, a member of the Legislature's Revenue Committee, called the Ohio case ruling interesting and said it bears "close examination."

Nebraska Tax Commissioner Mary Jane Egr agreed, saying there will be plenty of time to analyze the ruling. Nebraska is under the 8th Circuit Court of Appeals, so there isn't an immediate impact from the decision.

Ohio Gov. Bob Taft said the state would appeal to the full Circuit Court or the U.S. Supreme Court, a process that could take two or three years. .

The final outcome could have a profound effect on many states, as they try to compete with one another and with other countries, said Barry Kennedy, president of the Nebraska Chamber of Commerce and Industry.

A coalition of business groups, including the state chamber, already is trying to craft new incentives and tax policies that the coalition says could make Nebraska more competitive.

Natalie Peetz, a lobbyist for the Greater Omaha Chamber of Commerce, said the existing incentives have been valuable. "We certainly know firsthand how important these laws are to attract jobs and grow our economy," she said.