

Corporate Transparency in the State Budget: Model Legislation

I. Findings and Purpose

The Legislature finds that, although the state and its local government units have granted numerous economic development subsidies, awarded several public contracts and distributed enormous tax breaks in the last 25 years, the real wage levels and health care coverage of working families have declined.

The Legislature further finds that some programs providing economic development subsidies lack measurable job creation goals, and in some cases, businesses have closed, relocated or outsourced facilities or jobs for which subsidies were provided to sites outside of the State.

The Legislature further finds that some contractors do not fulfill intended savings goals, which places a great burden on taxpayers.

The Legislature further finds that citizen participation in economic development and the contracting process has been impeded by a lack of readily accessible information regarding expenditures and outcomes.

The Legislature further finds that data collected by the federal government indicate that state corporate income taxes represent a declining share of state tax revenue and that the effective rate at which states are taxing corporate profits has fallen sharply in recent decades. Numerous state studies have found that a majority of corporations filing income tax returns have zero liability, even in years in which the economy is growing and corporate profits are healthy;

The Legislature further finds, research conducted by leading academics suggests that the causes of state corporate tax base erosion include such factors as greater corporate aggressiveness and sophistication in exploiting loopholes and structural weaknesses in state corporate income tax laws, state conformity to federal tax law changes that reduced state corporate tax revenues as well, the enactment of tax cuts and special credits aimed stimulating in-state job creation and other desired corporate behavior, and corporate implementation of federal corporate income tax shelters that also reduce state corporate tax payments;

The Legislature further finds data extracted from state corporate income tax returns and then published in an aggregated form that averages results for corporations falling within certain income or asset-size categories are extremely limited in their capacity to illuminate the source of state corporate income tax base erosion. Such data do not, for example, permit an examination of whether corporations that reported losses on their state income tax returns reported profits to their shareholders in the same year;

The Legislature further finds to determine whether a) [State]'s corporate income tax is structured in such a way as to ensure that all corporations doing business here are paying their fair share and b) whether tax incentives enacted to encourage corporations to invest and create jobs here are effective, it is necessary to begin requiring corporations to publicly disclose the amount of corporate income tax they pay to [State], the amount of economic development tax incentives they receive, the number of employees they have in this state, and additional, limited information drawn from their tax returns needed to understand the major factors that determine their corporate income tax liability;

Therefore, in order to augment the effectiveness of expenditures for economic development and ensure the State is achieving savings when using contractors, and improve the social, economic, and fiscal outcomes for taxpayers and working families in this state, the Legislature finds it necessary to collect, analyze and make publicly available information regarding those expenditures and to enact certain safeguards for their use. Furthermore, by providing concrete, real-world examples of the operation of [State]'s corporate income tax, such company-specific disclosure will facilitate both understanding of and interest in critical corporate tax policy issues confronting [State] on the part of policymakers and interested citizens alike.

II. Definitions

For the purposes of this Act,

- a. "Corporate parent" means any person, association, corporation, joint venture, partnership, or other entity, that owns or controls 50 percent or more of a recipient corporation.
- b. "Consulting services" means work that a person other than a regular employee of a state contracting agency or local contracting agency does for or on behalf of the agency in return for compensation provided under the terms of a public contract. The work may include, but is not limited to:
 1. Performing or providing research, analysis, assessments, data processing or computer programming, training or education, accounting, audits or evaluations, treatment or security;
 2. Giving professional advice or recommendations;
 3. Designing business or communications processes, procedures, methods or strategies; or
 4. Other work related to the functions of the state contracting agency or local contracting agency.
- c. "Contract" means any expenditure of public funds of at least \$25,000.00 for the purpose of establishing an agreement, outlining a transaction between an entity and a government body to perform a specific service for compensation.
- d. "Contracting agency" means any agency of the state or a local government unit that awards contracts.
- e. "Contractor" means any person other than a regular employee of a state contracting agency or local contracting agency who performs work for or on behalf of the agency in return for compensation provided under the terms of a public contract
- f. "Corporation" means any entity subject to the tax levied by [reference state corporate income or franchise tax statute] or by Section 11 of the Internal Revenue Code of 1986 as amended, except that "qualified personal service corporations," as defined in section 448 of the Internal Revenue Code of 1986, as amended, shall be exempt from this Title.
- g. "Date of subsidy" means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation provided, however, that where the subsidy is for the installation of new equipment, such date shall be the date the corporation puts the equipment into

service and provided, further, that where the subsidy is for improvements to property, such date shall be the date the improvements are finished, or the date the corporation occupies the property, whichever is earlier.

h. "Development subsidy" means any expenditure of public funds with a value of at least \$25,000.00 for the purpose of stimulating economic development within the state, including but not limited to bonds, grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, grants, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.

i. "Doing business in this state" means owning or renting real or tangible personal property physically located in this state; having employees, agents, or representatives acting on the corporation's behalf in this state; making sales of tangible personal property to purchasers that take possession of such property in this state; performing services for customers located in this state; performing services in this state; earning income from intangible property that has a business sites in this state; engaging in regular and systematic solicitation of sales in this state; being a partner in a partnership engaged in any of the preceding activities in this state; or being a member of a limited liability company engaged in any of the preceding activities in this state.

j. "Full-time job" means a job in which an individual is employed by a recipient corporation for at least 35 hours per week.

k. "Granting body" means any agency, board, office, public benefit corporation or authority of the state or a local government unit that provides a development subsidy.

l. "Local government unit" means an agency, board, commission, office, public benefit corporation, or public authority of a political subdivision of the state.

m. "Part-time job" means a job in which an individual is employed by a recipient corporation for less than 35 hours per week.

n. "Project site" means the site of a project for which any development subsidy is provided.

o. "Property-taxing entity" means any entity which levies taxes upon real or personal property.

p. "Recipient contractor" means any person, association, corporation, joint venture, partnership or other entity that is awarded a contract bid.

q. "Recipient corporation" means any person, association, corporation, joint venture, partnership or other entity that receives a development subsidy.

r. "Small business" means a corporation whose corporate parent, and all subsidiaries thereof, that employed fewer than twenty full-time employees or had total gross receipts of less than one million dollars during the calendar year.

s. "State" means an agency, board, commission, office, public benefit corporation or public benefit authority of the state.

t. "Subsidy value" means the face value of any and all development subsidies provided to a recipient corporation.

u. "Tax expenditure" means a statutory provision, however denominated, that exempts certain persons, property, goods, or services, in whole or in part, from the operation of a tax

v. "Tax expenditure budget" means a compilation of information about the state's tax expenditures that includes data from the previous, current, and upcoming fiscal year.

v. "Temporary job" means a job in which an individual is hired for a season or for a limited period of time.

Title I: Applicant and Recipient Corporation Reporting

Sec. 1: Application for Economic Development Subsidies

a. Each granting body, together with the applicant for a development subsidy, shall complete an application for the subsidy on a form prepared by [the state Department of Economic Development]. The information required on the application shall include the following:

1. An application tracking number for the granting agency and the project;
2. The name, street and mailing address, and phone number of the chief officer of the granting body;
3. The name, street and mailing address, and phone number of the chief officer of the applicant's corporate parent;
4. The name, street and mailing address, and phone number of the chief officer of the applicant;
5. The name, street and mailing address, and phone number of the granting agency official responsible for monitoring the subsidy;
6. The street address of the project site;
7. The name, type, and description of the economic development subsidy;
8. The three-digit North American Industry Classification System number of the project site;
9. The total number of individuals employed by the applicant at the project site on the date of the application, broken down by full-time, part-time, and temporary positions;
10. The total number of individuals employed in the state by the applicant's corporate parent, and all subsidiaries thereof, as of December 31 of the prior fiscal year, broken down by full-time, part-time and temporary positions;
11. The development subsidy or subsidies being applied for with the granting body, and the value of such subsidy or subsidies; the name of any other granting body from which



development subsidies are sought or obtained, and the aggregate value of all development subsidies requested or received from all sources;

12. The number of new jobs to be created by the applicant at the project site, broken down by full-time, part-time and temporary positions;

13. The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time and temporary positions, and further broken down by wage groups as follows: \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and \$14.01 or more per hour;

14. The type and amount of health care coverage to be provided by the applicant within ninety days of commencement of employment at the project site, including any costs to be borne by the employees;

15. The number of current employees provided health benefits;

16. The number current employees and anticipated new employees represented by a collective bargaining;

17. For project sites located in a Metropolitan Statistical Area, as defined by the federal Office of Management and Budget, the average hourly wage paid to non-managerial employees in the state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;

18. For project sites located outside of Metropolitan Statistical Areas, the average weekly wage paid to non-managerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

19. Whether or not the project will be LEED-certified and if so, provide the rating;

20. The start and end dates for the economic development subsidy;

21. The project site's proximity to mass transit, regional rail line, or a major highway off-ramp;

22. A statement as to whether the development subsidy may reduce employment at any other site controlled by the applicant or its corporate parent, within or without of the state, resulting from automation, merger, acquisition, corporate restructuring or other business activity;

23. A statement confirming the subsidy applicant's past legal compliance, including minimum wage, employee rights, and affirmative action laws;

24. A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be;

25. The projected net tax revenue accruing to the local agency as a result of the economic development subsidy;

26. Inclusion of any material documents, such as insurance policies, rating agency reports, or other pertinent documents, that are necessary to ensure the subsidy is reasonably crafted and geared towards its public interest within a co-financed or leveraged project;
 27. Projected subsidy value; and
 28. A certification by the chief officer of the applicant as to the accuracy of the application.
- b. If the granting body shall approve the application, it shall send a copy to [the state Department of Economic Development] within fifteen days of such approval. If the application is not approved, the granting body shall retain the application in its records.
- c. Before granting an economic development subsidy, each local agency shall provide public notice and a hearing regarding the economic development subsidy. A public hearing and notice under this subdivision is not required if a hearing and notice regarding the economic development subsidy is otherwise required by law.

Sec. 2: Application for Contract Bid

- a. Each contracting agency, together with the applicant for a contract bid, shall complete an application for the contract on a form prepared by [the state Budget Department]. The information required on the application shall include the following:
1. An application tracking number for the contracting agency and the contract;
 2. The name, street and mailing address, and phone number of the chief officer of the contracting agency;
 3. The name, street and mailing address, and phone number of the chief officer of the applicant's corporate parent;
 4. The name, street and mailing address, and phone number of the chief officer of the applicant;
 5. The name, street and mailing address, employer and employment category or job description of each person that will provide consulting services under the contract, including subcontractors.
 6. The name, street and mailing address, and phone number of the contracting agency official responsible for monitoring the contract;
 7. The three-digit North American Industry Classification System number of the entity applying for a bid;
 8. Type of service required by contract;
 9. The total number of individuals employed by the applicant on the date of the application, broken down by full-time, part-time, and temporary positions;



10. The total number of individuals employed in the state by the applicant's corporate parent, and all subsidiaries thereof, as of December 31 of the prior fiscal year, broken down by full-time, part-time and temporary positions;
11. The bids being applied for with the contracting agency, and the value of such contract or contracts; the name of any other contracting agencies from which bids are sought or obtained, and the aggregate value of all bids requested or received from all sources;
12. The number of contractors or subcontractors needed to perform required services, broken down by full-time, part-time and temporary positions;
13. The types of services the contractor, subcontractor, and any contract employees provide;
14. The average hourly wage to be paid to each contractor, subcontractor, and contract employee, broken down by full-time, part-time and temporary positions, and further broken down by wage groups as follows: \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and \$14.01 or more per hour;
15. The number of hours each person, including each subcontractor and contract employees, is expected to work in providing consulting services to the agency under the terms of the contract;
16. The total compensation of each contractor and subcontractor;
17. The type and amount of health care coverage to be provided by the applicant within ninety days of commencement of the contract, including any costs to be borne by the employees;
18. The number of contractors or subcontractors associated with the contract represented by a collective bargaining;
19. For applicants based in a Metropolitan Statistical Area, as defined by the federal Office of Management and Budget, the average hourly wage paid to non-managerial employees in the state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;
20. For applicants based outside of Metropolitan Statistical Areas, the average weekly wage paid to non-managerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;
21. The start and end dates for the contract;
22. A statement confirming the applicant's past legal compliance, including minimum wage, employee rights, and affirmative action laws;
23. Projected savings accruing to the contracting agency;
24. Projected total cost of contract;

25. A certification by the chief officer of the applicant as to the accuracy of the application.

b. If the contracting agency shall approve the bid, it shall send a copy to [the state Budget Department] within fifteen days of such approval. If the application is not approved, the granting body shall retain the application in its records.

c. Before approving a contract bid, each contracting agency shall provide public notice and a hearing regarding the contract bid. A public hearing and notice under this subdivision is not required if a hearing and notice regarding the contract bid is otherwise required by law.

Sec. 3: Private Enforcement Action

If a granting body or contracting agency fails to enforce any provision of this Title, any individual who paid personal income taxes to the state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action in state court to compel enforcement under this statute. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

Sec. 4: Public Record Disclosure

All records required to be prepared or maintained under this Title, including but not limited to applications, cost analyses, audits, progress reports, and any other records or proceedings relating thereto, shall be subject to disclosure under the state's Open Records Act.

Sec. 5: Pre-emption

Nothing in this chapter shall be read to require or authorize any recipient corporation to reduce wages or benefits established under any collective bargaining agreement or state or federal prevailing wage law.

Sec. 6: Separability

If any provision of this Title is determined to be unenforceable in a court of law, such determination shall not affect the validity or enforceability of any other provision of this Act.

Sec. 7: Effective Date

This Title shall take effect within sixty days of its enactment, except where otherwise provided.

Title II: Reports on Subsidies and Contracts

Sec. 1: Establishment of Measurable Standards

a. Before entering into a public contract, a contracting agency shall establish measurable standards for assessing the quality of the goods or services, personal services, personal property, public improvements or public works, alterations, repairs or maintenance that a contractor will provide or perform under the contract. The contracting agency may develop the quality standards applicable to the public contract in cooperation with or as a result of negotiations with the contractor to which the contracting agency has awarded the public contract. Unless the contracting agency for good cause specifies otherwise, the quality standards may not be less than the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services, personal services, personal property, public improvements, public works, alterations, repairs or maintenance.

b. If a contracting agency performs a cost analysis before a procurement for goods or services with an estimated contract price that exceeds \$25,000, that analysis will be shall be subject to disclosure under the state's Open Records Act. The contracting agency shall provide a comparison of the findings of the cost analysis with the actual cost of the contract in its annual and biannual report described in Section 3 of this Title.

Sec. 2: Report on Economic Development Subsidies

a. Annual reports

1. Each granting body, together with the recipient of the subsidy, shall complete a report for the subsidy on a form prepared by [the state Department of Economic Development] no later than 30 days after the start of the fiscal year. The report shall include the following information:

- i. The application tracking number;
- ii. The name, street and mailing addresses, phone number and chief officer of the granting body;
- iii. The name, street and mailing addresses, phone number, and chief officer of the recipient corporation;
- iv. The name, street and mailing address, and phone number of the contracting agency official responsible for monitoring the subsidy;
- v. A summary of the number of jobs required, created and lost, broken down by full-time, part-time and temporary positions;
- vi. The name, type, and description of the economic development subsidy;
- vii. The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time and temporary positions, and further broken down by wage groups as follows: \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and \$14.01 or more per hour;
- viii. Location of employees by zip code;
- ix. The type and amount of health care coverage provided to the employees at the project site, including any costs borne by the employees;
- x. The number of current employees represented by a collective bargaining;
- xi. Whether or not the project will be LEED-certified and if so, provide the rating;



- xii. The start and end dates and schedule for the economic development subsidy;
- xiii. The project site's proximity to mass transit, regional rail line, or a major highway off-ramp;
- xiv. The comparison of the total employment in the state by the recipient's corporate parent on the date of the application and the date of the report, broken down by full-time, part-time and temporary positions;
- xv. A statement as to whether the use of the development subsidy during the previous fiscal year has reduced employment at any other site controlled by the recipient corporation or its corporate parent, within or without of the state as a result of automation, merger, acquisition, corporate restructuring or other business activity;
- xvi. A statement as to whether any affordable housing has been displaced by the project;
- xvii. A statement as to whether or not the project has involved the relocation of work from another address and if so, the number of jobs relocated and the address from which they were;
- xviii. Identification of all sources of public and private financing in relation to the project;
- xix. Inclusion of any cost analysis or feasibility study that may have been conducted by the state or granting agency before the subsidy was awarded;
- xx. Inclusion of any material documents, such as insurance policies, rating agency reports, or other pertinent documents, that are necessary to ensure the subsidy is reasonably crafted and geared towards its public interest within a co-financed or leveraged project;
- xxi. The net tax revenue accruing to the local agency as a result of the economic development subsidy;
- xxii. Total subsidy value;
- xxiii. Record action, if any, the granting agency has taken against potential non-compliance;
- xxiv. A signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.

2. The granting body will then compile the data specified in subsection (a)(1) of this section and file a progress report with **[the state Department of Economic Development]** for each project for which a development subsidy has been granted, no later than 60 days after the start of the fiscal year.



3. On all subsequent annual progress reports, the granting body shall indicate whether the recipient corporation is still in compliance with its job creation, wage and benefit goals, and whether the corporate parent is still in compliance with its state employment requirement.

4. Granting bodies and recipient corporations shall file annual progress reports for the duration of the subsidy, or not less than five years, whichever period is greater.

b. Two-Year Report

1. No later than fifteen days after the second anniversary of the date of subsidy, the granting body shall file with [the Department] a two-year progress report including the same information as required under subsection (a) of this section. The recipient corporation shall certify as to the accuracy of such report.

2. The granting body shall state in the two-year report whether the recipient corporation has achieved its job creation, wage and benefit goals, and whether the corporate parent has maintained 90% of its employment in the state.

c. [The Department] shall compile and publish all data from the progress reports in both written and electronic form, including the [Department]'s web site. [The Department]'s website shall provide an easily accessible, searchable database of the specified data.

d. The local agency shall provide a final report at the conclusion of each economic development subsidy that shall contain the information described in subsection (a) of this section, in written form available to the public, and through its Web site. The local agency's website shall provide an easily accessible, searchable database of the specified data.

e. The granting body and [the Department] shall have access at all reasonable times to the project site and the records of the recipient corporation in order to monitor the project and to prepare progress reports.

f. A recipient corporation that fails to provide the granting body with the information or access required under subsections (a) and (b) of this section shall be subject to a fine of not less than \$500 per day, if they have not provided the agency with necessary information 30 days after the start of each fiscal year.

Sec. 3: Report on Contracts

a. Annual reports

1. Each contracting agency, together with the contract recipient, shall complete a report for the contract on a form prepared by [the state Budget Department] no later than 30 days after the start of the fiscal year. The report shall include the following information:

i. An application tracking number for the contracting agency for the service;

ii. The name, street and mailing address, and phone number of the chief officer of the contracting agency;



- iii. The name, street and mailing address, and phone number of the chief officer of the applicant's corporate parent;
- iv. The name, street and mailing address, and phone number of the chief officer of the applicant;
- v. The name, street and mailing address, employer and employment category or job description of each person that provided consulting services under the contract, including subcontractors.
- vi. The name, street and mailing address, and phone number of the contracting agency official responsible for monitoring the contract;
- vii. The three-digit North American Industry Classification System number of the entity applying for a bid;
- viii. The procedure the agency used to solicit and award the contract. The record should note whether the procedure involved competitive bidding or competitive proposals and summarize the extent to which the procedure sought to and succeeded in soliciting bids or proposals from minorities, women or emerging small businesses;
- ix. Type of service required by contract;
- x. The total number of individuals employed by the applicant on the date of the application and the date of the report, broken down by full-time, part-time, and temporary positions;
- xi. The total number of individuals employed in the state by the applicant's corporate parent, and all subsidiaries thereof, as of December 31 of the prior fiscal year, broken down by full-time, part-time and temporary positions;
- xii. The bids applied for with the contracting agency, and the value of such contract or contracts; the name of any other contracting agencies from which bids were sought or obtained, and the aggregate value of all bids requested or received from all sources;
- xiii. The number of contractors, subcontractors, and contract employees who performed required services, broken down by full-time, part-time and temporary positions;
- xiv. The types of services the contractor, subcontractor, and any contract employees provide;
- xv. The average hourly wage paid to each contractor, subcontractor, and contract employee, broken down by full-time, part-time and temporary positions, and further broken down by wage groups as follows: \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and \$14.01 or more per hour;



- xvi. The number of hours each person, including each subcontractor, works in providing consulting services to the agency under the terms of the contract;
- xvii. The total compensation of each contractor, subcontractor, and any contract employees;
- xviii. A summary of each amendment to the contract that changed the contract term, the contract price or estimated total value, the nature of the consulting services or the identity of a person providing consulting services under the contract, including the identity of subcontractors;
- xix. The type and amount of health care coverage provided by the applicant within ninety days of commencement of the contract, including any costs to be borne by the employees;
- xx. The number of contractors or subcontractors associated with the contract represented by a collective bargaining;
- xxi. For applicants based in a Metropolitan Statistical Area, as defined by the federal Office of Management and Budget, the average hourly wage paid to non-managerial employees in the state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;
- xxii. For applicants based outside of Metropolitan Statistical Areas, the average weekly wage paid to non-managerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;
- xxiii. The start and end dates for the contract;
- xxiv. A statement confirming the applicant's past legal compliance, including minimum wage, employee rights, and affirmative action laws;
- xxv. The savings accrued to the contracting agency;
- xxvi. Total cost of contract;
- xxvii. Inclusion of cost analysis, if previously conducted by state or contracting agency;
- xxviii. A comparison of the actual cost with the findings of a cost analysis, if previously conducted by the contracting agency;
- xxix. A copy of the actual contract and any revisions or amendments;
- xxx. A certification by the chief officer of the applicant as to the accuracy of the application.



2. Each contracting agency shall compile the data specified in subsection (a)(1) of this section and file a progress report with [the state Budget Department] for each contract, no later than 60 days after the start of the fiscal year.
3. On all subsequent annual progress reports, the contracting agency shall indicate whether the recipient corporation is still in compliance with its savings, wage, and benefit goals, and have met the measurable standards set by the agency, subsection (a) of Sec. 1 of this Title.
4. Contracting agency and recipient contractors shall file annual progress reports for the duration of the contract, or not less than five years, whichever period is greater.

b. Two-Year Report

1. No later than fifteen days after the second anniversary of the date of contract, the contracting agency shall file with [the Department] a two-year progress report including the same information as required under subsection (a) of this section. The recipient contractor shall certify as to the accuracy of such report.
2. The contracting agency shall state in the two-year report whether the recipient contractor has achieved its savings, wage, and benefit goals, and have met the measurable standards set by the agency, subsection (a) of Sec. 1 of this Title.

c. [The Department] shall compile and publish all data from the progress reports in both written and electronic form, including the [Department]'s web site. [The Department]'s website shall provide an easily accessible, searchable database of the specified data.

d. The contracting agency shall provide a final report at the conclusion of each economic development subsidy that shall contain the information described in subsection (a) of this section, in written form available to the public, and through its Web site. The local agency's website shall provide an easily accessible, searchable database of the specified data.

e. The contracting agency and [the Department] shall have access at all reasonable times to the project site and the records of the recipient corporation in order to monitor the project and to prepare progress reports.

f. A recipient contractor that fails to provide the contracting agency with the information or access required under subsections (a) and (b) of this section shall be subject to a fine of not less than \$500 per day, if they have not provided the agency with necessary information 30 days after the start of each fiscal year.

Sec. 4: Contract Audits

a. The Secretary of State has authority to audit a contractor's performance under a public contract into which a state contracting agency enters. The audit shall use generally accepted accounting principles and may:

1. Examine the contractor's books, papers, correspondence and other records related to the public contract;

2. Assess whether the contractor has met the quality standards set forth in the public contract under Sec. 1 of this Title;
3. Determine whether the contractor has met commercial standards of good faith and fair dealing in the contractor's course of dealing with the contracting agency;
4. Examine other issues that the Secretary of State deems germane to assessing the contractor's performance under the public contract.

b. A state contracting agency may request the Secretary of State to audit a contractor's performance under a public contract for any reason and at any point during which the public contract is in effect or for a period of six years after the date on which the public contract terminates.

c. The terms of a public contract shall require a contractor to keep books, papers and other records and to document the contractor's performance under the terms of the public contract, with particular reference to the contractor's compliance with the quality standards set forth in the public contract, in as much detail as will enable the Secretary of State to conduct an audit under this section. The contractor shall keep the records described in this subsection for a minimum period of six years after the date on which the public contract terminates.

d. A local contracting agency shall designate a person that will have the authority to audit contractor performance under a public contract into which the local contracting agency enters. The person the local contracting agency authorizes to conduct the audit shall do so in accordance with the standards prescribed in this section and shall follow as closely as practicable the procedures employed by the Secretary of State.

e. The contracting agency and the contractor shall cooperate with the auditing agency in all respects and shall permit full access to all information that the auditing agency deems necessary for a true and complete review.

Sec. 5: Private Enforcement Action

If a granting body or contracting agency fails to enforce any provision of this Title, any individual who paid personal income taxes to the state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action in state court to compel enforcement under this statute. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

Sec. 6: Public Record Disclosure

All records required to be prepared or maintained under this Title, including but not limited to applications, cost analyses, audits, progress reports, and any other records or proceedings relating thereto, shall be subject to disclosure under the state's Open Records Act.

Sec. 7: Pre-emption

Nothing in this chapter shall be read to require or authorize any recipient corporation to reduce wages or benefits established under any collective bargaining agreement or state or federal prevailing wage law.

Sec. 8: Separability

If any provision of this Title is determined to be unenforceable in a court of law, such determination shall not affect the validity or enforceability of any other provision of this Act.

Sec. 9: Effective Date

This title shall take effect within sixty days of its enactment, except where otherwise provided.

Title III: Unified Reporting**Sec. 1: Unified Tax Expenditure Budget**

a. No later than sixty days after the end of the fiscal year, [the state Budget Department] shall compile a tax expenditure budget for the previous fiscal year and present the tax expenditure budget, including an analysis of tax expenditures, to the governor and the Legislature. The tax expenditure budget shall report on tax expenditures with revenue impacts equal to or greater than \$5,000 in the aggregate for a specific tax expenditure, and shall include:

1. The amount of uncollected state tax revenues resulting from every tax credit, abatement, exemption and reduction provided by the state or a local governmental unit including but not limited to gross receipts, income, sales, use, raw materials, excise, property, utility, and inventory taxes;
2. The name of each corporate taxpayer which claimed any tax credit, abatement, exemption or reduction under subdivision (1) of any value equal to or greater than \$5,000, together with the dollar amount received by each such corporation;
3. A projection of the costs of tax expenditures for all significant general fund revenue sources;
4. Identification of each tax expenditure and its statutory basis, purpose, year of enactment and date of repeal, if any;
5. Identification, to the extent possible, of the beneficiaries of each tax expenditure, including the number of businesses that used the tax expenditure and the number of businesses that potentially qualified for but failed to use the tax expenditure;
6. Identification of any unintended consequences of the tax expenditure that have come to the attention of the department;
7. Provide an estimate of total state revenue distributed for tax expenditures in the current fiscal year;
8. Provide an estimate of total state revenue to be distributed for tax expenditures in the upcoming fiscal year;
9. All state-appropriated expenditures for economic development, including line-item budgets for every state-funded entity concerned with economic development, including but not limited to State Department of Commerce, State Department of Employment and Training, vocational education programs, state university research programs, manufacturing extension service, Workforce Investment Boards, Economic Development Commissions, Industrial Development Authorities, Regional Development Authorities, and Finance Authorities. [The Budget Department] shall additionally include a comprehensive presentation of the costs of all

development subsidies to the State during the prior fiscal year, an estimate of the anticipated costs of development subsidies for the current fiscal year and an estimate of the costs of all development subsidies for the fiscal year of the requested budget, including, but not limited to:

- i. The total cost to the State of tax expenditures resulting from the development subsidies, the costs for each category of tax expenditure, and the amounts of tax expenditures by geographical area;
- ii. The cost to the State of all appropriated expenditures for development subsidies, including line-item budgets for every State funded entity concerned with economic development.

b. Any tax credit, abatement, exemption or reduction received by a corporation of less than \$5,000 each shall not be itemized. [The Budget Department] shall report an aggregate dollar amount of such expenditures and the number of companies so aggregated for each tax expenditure.

c. [The Department] is authorized to request from a state agency or a local government agency official information necessary to complete the tax expenditure budget required by this section. An agency or official shall comply with a request made pursuant to this section by the department.

d. Before the conclusion of any tax expenditure under subdivision (1) of subsection (a) of this section of any value equal to or greater than \$5,000, [the Department] shall submit a report to the Legislature and Governor to assess whether or not to reappraise the particular tax credit, abatement, exemption or reduction, which includes:

1. A statement of the purpose served by the tax expenditure;
2. An appraisal of the tax expenditure's effectiveness in serving its purpose;
3. An evaluation of whether the tax expenditure serves a public need;
4. An evaluation of whether other statutes have enhanced or impeded the tax expenditure's effectiveness in serving its purpose;
5. An appraisal of whether the tax expenditure promotes economic growth and development;
6. An estimate of the amount of revenue lost each fiscal year because of the tax expenditure;
7. A recommendation as to whether the tax expenditure should be allowed to expire or be renewed; and
8. Any other relevant information.

e. [The Department] shall compile and publish all data from the report in both written and electronic form, including the [Department]'s web site. [The Department]'s website shall provide an easily accessible, searchable database of the specified data.

Sec. 2: Unified Reporting of Contracts

a. For the aggregated total of public contracts, each contracting agency must provide a comprehensive report to [the Budget Department], no later than three months after the end of the fiscal year detailing:

1. The total number of contracts that the local contracting agency or each state contracting agency awarded in the previous fiscal year, along with the total expenditures for all such contracts up until the date on which the agency produced the report, including, but not limited to:

- i. Consulting;
- ii. Construction;
- iii. Equipment;
- iv. Grants;
- v. Leases;
- vi. Miscellaneous services;
- vii. Printing;
- viii. Repayment agreements;
- ix. Intergovernmental agreements; and
- x. Goods.

2. The total workforce of the agency;

3. The total number of persons, including subcontractors that provided consulting services to the agency;

4. A calculation of contractors as a percent of total agency workforce;

5. The total number of minorities, women or emerging small businesses that provided consulting services to the agency;

6. The total number of bids or proposals the agency received in connection with each contract;

7. Description of the types of contracts the agency awarded;

8. The frequency of contracts awarded during the previous fiscal year arranged by the number of bids or proposals and the source selection method;



9. The number of contracts disapproved by the agency during the previous fiscal year and the reasons for disapproval arranged by state agency and source selection method, and the number and outcome of bid protests;
10. The total compensation the agency paid to each person, including subcontractors that provided consulting services to the agency under all contracts the agency awarded to the person;
11. Average wages paid;
12. Total savings agency accrued from using contractors;
13. Estimated number and costs of contracts to be awarded in the following fiscal year;
14. The total cost of all contracts awarded;
15. A comparison of the number of contracts the agency solicited and awarded independently to the number of contracts the agency solicited and awarded in connection with a cooperative procurement process. This must also show the sum of the contract prices or estimated dollar values of the contracts solicited and awarded independently, together with the sum of the agency's expenditures for the contracts up until the date on which the agency produced the report, compared to the corresponding sums for contracts solicited and awarded in connection with cooperative procurements.

b. [The Budget Department] shall compile the data in subsection (a) of this section and provide to the Legislature and Governor, a comprehensive presentation of the data in subsection (a) of this section as well as the costs of all contracts to the State during the prior fiscal year, an estimate of the anticipated costs of contracts for the then current fiscal year and an estimate of the costs of all contracts for the fiscal year of the requested budget.

c. [The Department] shall compile and publish all data from the report in both written and electronic form, including the [Department]'s web site. [The Department]'s website shall provide an easily accessible, searchable database of the specified data.

Sec. 3: Unified Reporting of Property Tax Reductions and Abatements

a. Each property-taxing entity shall annually submit a report to [the state Budget Department] regarding any real property in the entity's jurisdiction that has received a property tax abatement or reduction during the fiscal year. The report shall contain information including but not limited to: the name of the property owner; the address of the property; the start and end dates of the property tax reduction or abatement; the schedule of the tax reduction; each tax abatement, reduction and exemption for the property; and the amount of property tax revenue not paid to the taxing entity as a result of the reduction or abatement.

b. Each property-taxing entity shall also submit a report to [the Department] setting forth the total property tax revenue not paid to such entity during the fiscal year as a result of all property tax reductions and abatements in the entity's jurisdiction.

c. The reports required under subsections (a) and (b) of this section shall be prepared on two forms prepared by [the Department], and shall be submitted to [the Department] by the property-taxing entity no later than three months after the end of the fiscal year.

d. [The Department] shall annually compile and publish all of the data contained in the reports required under subsections (a) and (b) in both written and electronic form, including [the Department]'s web site. [The Department]'s website shall provide an easily accessible, searchable database of the specified data.

e. If a property-taxing entity fails to submit its reports to [the Department] within the prescribed time, [the Department] shall notify the State Comptroller, whereupon the Comptroller shall withhold further tax reductions or abatements to the delinquent entity until the entity files its reports with [the Department].

Sec. 4: Private Enforcement Action

If a granting body or contracting agency fails to enforce any provision of this Title, any individual who paid personal income taxes to the state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action in state court to compel enforcement under this statute. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

Sec. 5: Public Record Disclosure

All records required to be prepared or maintained under this Title, including but not limited to applications, cost analyses, audits, progress reports, and any other records or proceedings relating thereto, shall be subject to disclosure under the state's Open Records Act.

Sec. 6: Pre-emption

Nothing in this chapter shall be read to require or authorize any recipient corporation to reduce wages or benefits established under any collective bargaining agreement or state or federal prevailing wage law.

Sec. 7: Separability

If any provision of this Title is determined to be unenforceable in a court of law, such determination shall not affect the validity or enforceability of any other provision of this Act.

Sec. 8: Effective Date

This Title shall take effect within sixty days of its enactment, except where otherwise provided.

Title IV: Corporate Tax Disclosure

Sec. 1: Tax Disclosure Statement Required

a. The following corporations, if doing business in this state, shall file with the Secretary of State the statement described by Section 2 of this Title:

1. All publicly traded corporations, including corporations traded on foreign stock exchanges; and
2. All corporations 50 percent or more of the voting stock of which is owned, directly or indirectly, by a publicly traded corporation.

Sec. 2: Content of Tax Disclosure Statement

a. The statement required by Section 1 of this Title shall be filed annually in an electronic format specified by the Secretary of State no more than 30 days following the filing of the tax return required by [reference to state corporate income or franchise tax statute], or, in the case of a corporation not required to file such a tax return, within 90 days of the filing of such corporation's federal tax return, including such corporation's inclusion in a federal consolidated return. The statement shall contain the following information:

1. The name of the corporation and the street address of its principal executive office;
2. If different from (1), the name of any corporation that owns, directly or indirectly, 50 percent or more of the voting stock of the corporation and the street address of the former corporation's principal executive office;
3. The corporation's 4-digit North American Industry Classification System code number;
4. A unique code number, assigned by the Secretary of State, to identify the corporation, which code number will remain constant from year to year;

[Note: The following (b) and (c) are applicable to non combined-reporting states]

b. The following information reported on or used in preparing the corporation's tax return filed under the requirements of [reference state corporate income or franchise tax statute], or, in the case of a corporation included in a state consolidated tax return, reported on or used in preparing the state consolidated tax return filed under the requirements of [reference state corporate income or franchise tax statute], or, in the case of a corporation not required to file a tax return under the requirements of [reference to state corporate income or franchise tax statute], the information that would be required to be reported on or used in preparing the tax return were the corporation required to file such a return:

1. Total receipts; [Note: or substitute state term for total gross income]
2. Total cost-of-goods-sold claimed as a deduction from gross income;
3. Taxable income prior to net operating loss deductions or apportionment;
4. Property, payroll, and sales apportionment factors; [Note: as applicable to State]
5. Calculated overall apportionment factor in the state;
6. Total business income apportioned to the state;
7. Net operating loss deduction, if any;
8. Total non-business income and the amount of non-business income allocated to the state;
9. Total taxable income;

10. Total tax before credits;
11. Tax credits claimed, each credit individually enumerated; [Note: individual enumeration might be limited to credits reducing pre-credit liability for all corporations taxable in the state collectively by more than 5–10 percent]
12. Alternative minimum tax; [if applicable]
13. Tax due;
14. Tax paid;
15. Amount of tax due paid under protest, if applicable.

c. The following is additional information:

1. Total deductions for management services fees, for rent, and for royalty, interest, license fee, and similar payments for the use of intangible property paid to any affiliated entity that is not included in the state consolidated income tax return, if any, that includes the corporation, and the names and principal executive office addresses of the entities to which the payments were made;
2. The sales factor that would be calculated for this state if the corporation [or consolidated group] were required to treat as sales in this state sales of tangible personal property to the Federal Government and sales of tangible personal property shipped or delivered to a customer in a state in which the selling corporation is neither subject to a state corporate income tax or state franchise tax measured by net income nor could be subjected to such a tax were the state to impose it; [Note: only to be reported in states not having in effect the standard “throwback rule” under the Uniform Division of Income for Tax Purposes Act]
3. A description of the source of any nonbusiness income reported on the return and the identification of the state to which such income was reported;
4. A listing of all corporations included in the consolidated tax return that includes the corporation, if such a return is filed, and their state identification numbers assigned under the provisions of this section;
5. Full-time-equivalent employment of the corporation in the state on the last day of the tax year for which the return is being filed and for the three previous tax years;
6. In the case of a publicly traded corporation incorporated in the United States or an affiliate of such a publicly traded corporation, profits before tax reported on the Securities and Exchange Commission Form 10–K for the corporation or the consolidated group of which the corporation is a member for the corporate fiscal year that contains the last day of the tax year for which the return is filed;



7. The property and payroll factors for this state calculated as required by the Uniform Division of Income for Tax Purposes Act as embodied in Article IV of the Multistate Tax Compact and Multistate Tax Commission regulations applying thereto; [Note: this provision to be included in single sales factor formula states only]

8. Accumulated tax credit carryovers, enumerated by credit.

[Note: The following (d) and (e) are applicable to combined-reporting states]

d. The following information reported on or used in preparing the corporation's tax return filed under the requirements of [reference state corporate income or franchise tax statute], or, in the case of a corporation not required to file a tax return under the requirements of [reference to state corporate income or franchise tax statute], the information that would be required to be reported on or used in preparing the tax return were the corporation required to file such a return:

1. Total receipts of the unitary group of which the corporation is a member; [Note: or substitute state term for total gross income]

2. Total cost-of-goods-sold claimed as a deduction from gross income by the unitary group of which the corporation is a member;

3. Taxable income of the unitary group of which the corporation is a member prior to net operating loss deductions or apportionment;

4. Property, payroll, and sales apportionment factors of the corporation as calculated on the combined report; [Note: as applicable to state]

5. Calculated overall apportionment factor in the state for the corporation as calculated on the combined report;

6. Total business income of the corporation apportioned to the state;

7. Net operating loss deduction, if any, of the corporation apportioned to the state;

8. Total non-business income of the corporation and the amount of non-business income allocated to the state;

9. Total taxable income of the corporation;

10. Total tax before credits;

11. Tax credits claimed, each credit individually enumerated; [Note: individual enumeration might be limited to credits reducing pre-credit liability for all corporations taxable in the state collectively by more than 5-10 percent]

12. Alternative minimum tax; [if applicable]

13. Tax due;

14. Tax paid;
15. Amount of tax due paid under protest, if applicable.

e. The following is additional information:

1. Total deductions for management services fees, for rent, and for royalty, interest, license fee, and similar payments for the use of intangible property paid to any affiliated entity that is not included in the unitary combined group that includes the corporation and the names and principal office addresses of the entities to which the payments were made;
2. The sales factor that would be calculated for this state on the combined report if the corporation were required to treat as sales in this state sales of tangible personal property to the Federal Government and sales of tangible personal property shipped or delivered to a customer in a state in which the selling corporation is neither subject to a state corporate income tax or state franchise tax measured by net income nor could be subjected to such a tax were the state to impose it; [Note: only to be reported in states not having in effect the standard "throwback rule" under the Uniform Division of Income for Tax Purposes Act]
3. A description of the source of any non-business income reported on the return and the identification of the state to which such income was reported;
4. A listing of all corporations included in the unitary group that includes the corporation, their state identification numbers assigned under the provisions of this section, if applicable, and a listing of all variations in the unitary group that includes the corporation used in filing corporate income or franchise tax returns in any of the following states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Kansas, Maine, Minnesota, Montana, Nebraska, New Hampshire, North Dakota, Oregon, Utah, Vermont;
5. Full-time-equivalent employment of the corporation in the state on the last day of the tax year for which the return is being filed and for the three previous tax years;
6. In the case of a publicly-traded corporation incorporated in the United States or the affiliate of such a publicly-traded corporation, profits before tax reported on the Securities and Exchange Commission Form 10-K for the corporation or the consolidated group of which the corporation is a member for the corporate fiscal year that contains the last day of the tax year for which the return is filed;
7. Property and payroll factors for the corporation for this state calculated on the basis of combined reporting and as required by the Uniform Division of Income for Tax Purposes Act as embodied in Article IV of the Multistate Tax Compact and Multistate Tax Commission regulations applying thereto. [Note: this provision to be included in single sales factor formula states only]
8. Accumulated tax credit carryovers, enumerated by credit.

Sec. 3: Alternative Statement Option for Corporations Not Required to File Tax Return

a. In lieu of the statement described in Sec. 2, a corporation doing business in this state but not required to file a tax return under the requirements of [reference state's corporate income or franchise tax statutes] may elect to file a statement with the Secretary of State containing the following information:

1. The information specified in subsection (a) of Sec. 2, items (1) through (4), inclusive;
2. An explanation of why the corporation is not required to file a corporate income tax return in this state, which explanation may take the form of checking one or more possible explanations drafted by the Secretary of State;
3. Identification of which of the following ranges the corporation's total gross receipts from sales to purchasers in this state fell into the tax year for which this statement is filed:
 - i. Less than \$10 million;
 - ii. \$10 million to \$50 million;
 - iii. More than \$50 million to \$100 million;
 - iv. More than \$100 million to \$250 million;
 - v. More than \$250 million.

Sec. 4: Supplemental Information Permitted

Any corporation submitting a statement required by this Title shall be permitted to submit supplemental information that, in its sole judgment, could facilitate proper interpretation of the information included in the statement. The mechanisms of public dissemination of the information contained in the statements described in Section 6 of this Title shall ensure that any such supplemental information be publicly available and that notification of its availability shall be made to any person seeking information contained in a statement.

Sec. 5: Amended Tax Disclosure Statements Required

If a corporation files an amended tax return, the corporation shall file a revised statement under this section within sixty calendar days after the amended return is filed. If a corporation's tax liability for a tax year is changed as the result of an uncontested audit adjustment or final determination of liability by the [name state's administrative appeals body] as provided for in [reference administrative appeals portion of state statute] or by a court of law as provided for in [reference legal appeals portion of state statute], the corporation shall file a revised statement under this section within sixty calendar days of the final determination of liability.

Sec. 6: Public Access to Tax Disclosure Statements

The statements required under this Title shall be a public record. The Secretary of State shall make all information contained in the statements required under this Title for all filing corporations available to the public on an ongoing basis in the form of a searchable database accessible through the Internet. The Secretary of State shall make available and set charges that cover the cost to the state of providing copies on appropriate computer-readable media of the entire database for statements filed during each calendar year as well as hard copies of an individual annual statement for a specific corporation. No

statement for any corporation for a particular tax year shall be publicly available until the first day of the third calendar year that follows the calendar year in which the particular tax year ends.

Sec. 7: Enforcing Compliance

The accuracy of the statements required under this Title shall be attested to in writing by the chief operating officer of the corporation and shall be subject to audit by the [department of revenue] as the agent of the Secretary of State in the course of and under the normal procedures applicable to corporate income tax return audits. The Secretary of State shall develop and implement an oversight and penalty system applicable to both the chief operating officer of the corporation and the corporation itself to ensure that corporations doing business in this state, including those not required to file a return under the requirements of [reference state corporate income or franchise tax statute], shall provide the required attestation and disclosure statements, respectively, in a timely and accurate manner. The Secretary of State shall publish the name and penalty imposed upon any corporation subject to a penalty for failing to file the required statement or filing an inaccurate statement. The Secretary of State shall promulgate appropriate rules to implement the provisions of this Title under the rulemaking procedures described in [reference state administrative procedures act].

Sec. 8: Effective Date

This title shall take effect within sixty days of its enactment, except where otherwise provided.