

Appendix 4: Program Penalty Provisions

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Alabama	Alabama Industrial Development Training	Discretionary penalties allow for termination of the contract in the case of companies that do not comply with the job creation requirement.
	Enterprise Zone Credit	Because subsidies are not awarded until after jobs have been created, there are no penalty provisions.
	Film Production Rebates	If a production company does not achieve the required minimum expenditures, the subsidy is not available. However, the Alabama Film Office can make an exception for expenditures close to the required minimum. If expenditures are less than predicted but more than the required minimum, the subsidy is recalibrated. The subsidy can be terminated or suspended if a biannual review shows that there is not progress toward completion of the project.
	Income Tax Capital Credit	If a company does not meet job creation, wage and investment requirements by the end of the first year of a project's operation, it loses eligibility for the subsidy; after that recapture is allowed for certain noncompliant companies. During the life of a credit (20 years), a company can fall below minimum job and wage requirements for up to 3 years; after that it is removed from the program.
	Industrial Development Grant Program	The program does not provide any financial assistance until after a development project is completed.
Alaska	Alaska's Clear and Equitable Share/ Oil and Gas Production Tax Credits	No tax credits are awarded until after the recipient meets program requirements.
	Commercial Fishing Revolving Loan Program	None.
	Development Finance Program	None.
	Film Industry Tax Credit	No tax credits are awarded until after a producer submits an application detailing the qualified expenditures made.
Arizona	Arizona Job Training Program	If contracted employers do not meet all contract terms and conditions, the state will reduce, cancel, or require repayment of the subsidies.
	Quality Jobs Tax Credit Program	This new program requires that no dollars will be awarded prior to performance, and clawback provisions and independent audits will ensure that companies meet all promised obligations.
	Research and Development Income Tax Credit	None.
Arkansas	Arkansas Advantage Income Tax Credit	Recipients that fail to meet the program's payroll threshold within two years of signing a financial incentive agreement must repay all funds, plus interest. However, the Department of Finance Administration is flexible in allowing extensions and may grant exceptions from penalties based on economic conditions or other factors.
	Business and Industry Training Program	None.
	InvestArk Sales and Use Tax Credits	The Department of Finance Administration recaptures any tax credits (plus interest) granted to companies that fail to meet the investment requirement (at least \$5 million within four years).
	Targeted Business Incentives	Failure to meet payroll or expenditure requirements results in the recapture of subsidies received.

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Arkansas	TaxBack Sales and Use Tax Refund	There is a process for initiating clawbacks against companies that receive subsidies under the program but fail to meet the investment threshold (\$100,000 within four years). However, according to the Department of Finance, the investment threshold is so low that no company has failed to meet it, meaning that clawbacks have never been used.
California	Employment Training Panel	Contracted companies that move a facility out of state or close a facility up to three years after the end of the subsidy contract may be required to return training funds at the discretion of the state. Some companies may be exempted from repayment for providing job placement assistance and providing transitional health care benefits.
	Enterprise Zone Program	None.
	Film and TV Production Tax Credit	None.
	Research and Development Tax Credit	None.
Colorado	Colorado FIRST/Existing Industry Training Program	None.
	Enterprise Zone Program	The state requires employment growth from EZ businesses to claim credits. If companies cannot demonstrate growth, credits are canceled for that year.
	Job Growth Incentive Tax Credit	Tax credit agreements will be cancelled and companies are required to repay the value of the credits if jobs are not maintained for one year or job quality standards are not maintained. Exceptions are made for unforeseen business circumstances.
	Strategic Fund	Subsidy agreements may be cancelled or the state may recapture funds at its discretion from companies that fail to meet performance benchmarks for job creation and investment targets or maintain job quality standards. Exceptions may be made for unforeseen business circumstances.
Connecticut	Enterprise Zone and Urban Jobs Tax Credits	Penalties tied to job creation targets and employment levels that must be maintained over time; rescission occurs if targets go unmet.
	Film Tax Credits (Industry, Infrastructure, Digital Animation)	Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include subsidy recalibration or rescission.
	Jobs Creation Tax Credit (aka New Jobs Creation Tax Credit)	Recapture occurs if recipient fails to maintain the number of jobs claimed in the first year during a five-year period.
	Manufacturing Assistance Act	Most deals are structured as forgivable loans. Recapture, recalibration, or rescission can occur depending on whether a recipient fails to meet or maintain contract terms such as job targets, fails to keep the facility open or leaves the state. Penalties are discretionary, can be deferred, and vary depending on the likelihood of success.

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Connecticut	Urban and Industrial Site Reinvestment Tax Credit	Penalties include recapture, recalibration, and rescission tied to failing to maintain or create jobs, meet investment targets, or maintain operations in the state. Recalibrations are tied to job shortfalls. If the company leaves the state, the law requires DECD to charge a minimum 5% penalty in addition to recaptures; however, the state frequently charges 7.5%. The state may renegotiate contracts and exempt recipients from meeting some of the performance benchmarks.
Delaware	Bank Franchise Tax Credits	No tax credits are awarded until the recipient establishes that it has complied with job creation and investment requirements.
	Blue Collar Jobs Tax Credits	The subsidy is canceled if the recipient does not meet job creation and investment requirements during the initial 12-month period of the 10-year agreement. If during subsequent years the company no longer meets the job creation requirement, the subsidy is reduced; if the investment is sold or moved out of state, the subsidy agreement is terminated.
	Blue Collar Training Grant Program	Generally, the Department of Workforce Development will award part of the money up front and the rest upon completion of the training. If the company fails to train the agreed upon number of employees, the remainder of the subsidy will be withheld but the agency does not clawback any funds that were already provided. Companies may be exempt from penalties in some circumstances, such as an economic downturn.
	Delaware Strategic Fund	Standards considered in individual agreements include, but are not limited to, job creation, wages and the effect of the project on the tax base. The Delaware Economic Development Authority may determine at its discretion appropriate clawback provisions for each recipient under which the recipient may be required to repay some or all financial assistance granted under the agreement.
District of Columbia	Discretionary Property Tax Breaks	None.
	Discretionary Sales and Use Tax Exemptions and Abatements	None.
	New E-Economy Transformation Act of 2000 (NET 2000)	None.
	Payments-In-Lieu-Of-Taxes (PILOTs)	None.
	Tax Increment Financing (TIF)	None.
Florida	Capital Investment Tax Credit	If a company does not meet job or investment requirements, it loses eligibility for the credit for that year.
	Economic Development Transportation Fund	Local governments, which receive the grants on behalf of a company, are responsible for monitoring and verification of company performance. Local authorities may or may not incorporate penalties in their specific contracts.
	Enterprise Zone Program	Subsidies based on wages paid to new workers are available only after the jobs are created and maintained for 3 months.
	Qualified Target Industry Tax Refund	If a company does not comply with the job creation requirement over a specified period of time, the subsidy is terminated. A company can apply for an "economic recovery extension" based on a downturn in the economy, a natural disaster, or an act of terror.

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Florida	Quick Action Closing Fund	If a company does not meet job creation, wage, and/or investment requirements, it has to repay a portion of the subsidy, plus interest. The repayment amount depends on how far the company is from meeting the requirements. A company can apply for a one-year extension to meet the requirements.
Georgia	Investment Tax Credit	If a company does not meet the investment requirement, it is not eligible for the credit.
	Job Tax Credit	The credit is not available for a year in which the number of jobs at the company falls below the required level.
	Mega Project Tax Credit	When a company fails to maintain required job creation, payroll, or investment levels during the recapture period (5 years after meeting the job creation requirement), it is not eligible for the tax credit and is responsible for 20% of past credits, plus interest. If a company receiving a subsidy derived from its employees' personal income tax payments does not maintain required job creation, payroll, or investment levels during the recapture period, it is responsible for the full amount of past credits. A company can apply for a waiver from these obligations based on force majeure.
	OneGeorgia EDGE (Economic Development, Growth and Expansion) Fund Program	If a company meets, on average, less than 70% of its job creation and investment requirements, then it must repay a prorated portion of the grant received. A company can apply for an extension based on a downturn in the economy or an "act of God."
	Quality Jobs Tax Credit	The subsidy is rescinded for a year in which it fails to maintain the required number of jobs. If a company applies for a higher credit but fails to maintain required wage levels, a smaller credit for any additional jobs created still applies.
Hawaii	Capital Goods Excise Tax Credit	Failure to maintain the property for at least 3 years results in the recapture of some or all of the subsidy.
	Employment and Training Fund Statewide Training Grants	The agency may cancel the contract for nonperformance or unsatisfactory performance by the training provider or employer or for failing to meet expenditure requirements or any other contractual obligations. Action may be initiated for the recoupment of funds. Non-performing companies may be exempt from penalties if they failed to meet performance requirements due to an economic downturn, unforeseen business circumstances or bankruptcy.
	Enterprise Zones	The company cannot claim the benefits of the program for any year that it hasn't met the hiring requirement.
	Film & Digital Media Income Tax Credit (Act 88)	No tax credits are awarded until the recipient establishes that it has complied with expenditure requirements.
	High-Technology Tax Credits (Act 221/ACT 215)	If a recipient company fails to qualify as a qualified high tech business or is sold, or if the taxpayer's investment in the high tech business is wholly or partially withdrawn, the recipient is subject to a recapture equal to 10% of the total tax credit claimed in the preceding 2 years.
Idaho	3% Investment Income Tax Credit	If a taxpayer sells or otherwise disposes of subsidized property before five years have passed, the state may recapture or recalibrate the value of the tax credit based on the amount of time that has passed.
	New Jobs Income Tax Credit	Employers that do not maintain employment levels on which the credit was computed will be subject to recalibration of future credits.

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Idaho	Production Equipment and Supplies Sales Tax Exemption	None.
	Research and Development Activity Income Tax Credit	At its discretion, the state may cancel the credits allowed to a company if the recipient has failed to maintain adequate records.
	Workforce Development Training Fund Program	None.
Illinois	Economic Development for a Growing Economy (EDGE) Tax Credit	Penalties include recapture and rescission tied to job targets, continued employment levels, investments, job quality standards laid forth in agreements, and failure to submit compliance reporting. The DCEO Director may grant an exception to penalties under extenuating circumstances.
	Enterprise Zone Program	Recipients may undergo rescission if they fail to continue to meet benchmarks tied to job creation and employment levels.
	Film Production Services Tax Credit	Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include subsidy recalibration or rescission.
	IDOT Economic Development Program	The program requires the municipality to sign an agreement with the recipient requiring job creation targets and levels for 5 years. Failure to meet targets can result in a recapture.
	Large Business Development Assistance Program	Recaptures or rescissions occur if recipient fails to meet job creation targets, maintain employment levels, make required capital investments, or meet other standards. The state may also take collateral, like land, buildings, and equipment, if the company fails to meet benchmarks. The DCEO Director may grant an exception from penalties under extenuating circumstances.
Indiana	Economic Development for a Growing Economy (EDGE) Tax Credits	Recaptures, recalibrations, or rescissions occur if recipients fail to meet job targets, maintain employment levels, meet job quality standards or remain in the state.
	Enterprise Zone Program	Local economic development agencies may impose rescissions on a case-by-case basis if a recipient fails to meet job quality requirements. Penalties may be waived at the discretion of IEDC.
	Hoosier Business Investment Tax Credit (HBITC)	Recaptures or rescissions occur if recipient fails to make required capital investments or meet job quality standards. Penalties may be waived at the discretion of IEDC.
	Skills Enhancement Fund (SEF)	Recapture or rescission occur if recipient fails to conduct training or maintain operations. Penalties may be waived at the discretion of IEDC.
	Twenty-First Century Research and Technology Fund (21 Fund)	Rescission occurs at the discretion of the agency depending on whether the business continues to develop or receive follow-on funding.
Iowa	Enterprise Zone (Business Only)	If a company fails to maintain job or investment requirements (or closes any of its facilities or lays off any of its workers in the state), the company has to repay all or a portion of the subsidy; interest or penalties may apply. If a company fails to meet wage and benefit requirements, it does not receive the subsidy that year. If a business is approved for the subsidy, but before receiving it lays off workers or closes any facility in the state, then the subsidy may be reduced or terminated. A company can receive an extension to meet the requirements and can negotiate penalties.

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Iowa	High Quality Job Creation Program	If a company fails to meet and maintain job or investment requirements (or lays off workers or closes any of its facilities in the state), the subsidy is not available in the noncompliance year and the company has to repay all or a portion of the subsidy; interests or penalties may also apply. If a business is approved for the subsidy, but before receiving it lays off workers or closes any facility in the state, then the subsidy may be reduced or terminated. A company can receive an extension to meet the requirements and can negotiate penalties.
	Industrial New Jobs Training Program (260E)	If a company fails to meet job creation and wage requirements, it must repay the portion of the subsidy that is not covered by the funds diverted from its new employees' income taxes. If a company goes bankrupt or closes down, a clawback provision applies.
	Research Activities Credit (RAC)	The program does not provide any financial assistance until after a company has made qualified expenditures.
Kansas	Business Machinery and Equipment Credit	No tax credits are provided until the recipient substantiates its purchases of commercial and industry machinery and equipment.
	High Performance Incentive Program (HPIP)	No tax credits are provided until the recipient establishes that it has complied with wage and expenditure requirements.
	Investments in Major Projects and Comprehensive Training Program (IMPACT)	If a company fails to meet the program requirements (usually hiring/training targets), it must repay the corresponding percentage of the subsidy. "Gross funded cost penalties" (essentially the administrative costs of creating and administering the financial incentives) may also be passed along to the offending company, and the Department of Commerce reserves the right to terminate the contract. The Secretary of the Department of Commerce has the final say over penalties and may pardon a company.
	Kansas Economic Opportunity Initiatives Fund	If a company leaves Kansas or goes out of business, it is required to pay back any incentives, plus possible penalties. If a company does not meet original job and wage commitments, it must repay a portion of the incentive.
	Promoting Employment Across Kansas (PEAK) Program	Failure to meet job creation targets and/or wage requirements results in the termination of the agreement and requires the recapture of payroll withholding taxes received under the program. Each agreement has a 30-day grace period for non-compliant companies to get back into compliance.
Kentucky	Bluegrass State Skills Corporation	The amount of the preliminary approved Skills Training Investment Credit is reduced for each job that was not maintained for 90 days after the training. If the level of employment drops below what was initially approved, the Grants-in-Aid are reduced on a pro-rated basis. When a company that receives the subsidy before the end of the training fails to maintain the required number of jobs and train the required number of employees, it has to repay a portion of the subsidy.
	Coal Used in the Manufacture of Electricity	The program does not provide any financial assistance until after a company has made qualified expenditures.

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Kentucky	Kentucky Business Investment (KBI) Program	If job creation, investment, wage, and benefit requirements are not met by the "activation date" (no later than 2 years after project approval), the agreement is canceled and the company is no longer eligible for the subsidy. If during the "term of the agreement" a company meets less than 90% of job and wage requirements, the subsidy is reduced by a percentage representing the difference. Termination of a contract is mandatory at the "activation date" but discretionary during the "term of the agreement."
	Kentucky Enterprise Initiative Act	If a company fails to meet the minimum investment requirement, the subsidy is not available in that year.
	Machinery for New and Expanded Industry and Certain Industrial Machinery	The program does not provide any financial assistance until after a company has made qualified expenditures.
Louisiana	Enterprise Zones	If a company fails to meet the job creation requirement within the specified time, the contract is terminated and the company has to repay all credits and refunds received, with penalties and interest. A company can apply for a 2-year extension to comply with the job creation requirement.
	Industrial Tax Exemption Program	If a discretionary "final verification" indicates that a company has not met investment requirements, or that the facility is not used for manufacturing, the Board may conduct a hearing to reconsider, terminate, or modify the contract. A company can apply for an extension of up to 6 months to reach the investment requirements.
	Motion Picture Investor Tax Credit	If a company does not make the minimum amount of qualified expenditures, it cannot apply for and receive the subsidy.
	Purchases of Manufacturing Machinery and Equipment Exemption	The program does not provide any financial assistance until after a company has made qualified expenditures.
	Quality Jobs Program	If a company does not meet job creation and payroll requirements within 3 years, the contract is canceled and any rebates received have to be repaid. If job or payroll levels are not maintained at any other time during the 10-year life of the rebate, the subsidy is suspended for that year. If a company received the subsidy but it is later determined that the company did not qualify for it, future rebates will be reduced by the amount received.
Maine	Business Equipment Tax Reimbursement Program	None
	Employment TIF	If a company does not create 5 jobs within 2 years or falls below that job figure in later years, the subsidy is not allowed. If the State Tax Assessor determines that a company was overpaid, the Department of Revenue can recoup the difference from future subsidy payments to the company. Penalties are discretionary.
	Pine Tree Development Zones	If a company fails to hire at least 1 employee within 2 years, the company does not receive the subsidy.
	Research Expense Tax Credits and Super R&D Tax Credit	No subsidy is awarded to any company that does not meet the minimum expenditure requirements.
Maryland	Enterprise Zone - Real Property Tax Credits	Local economic development agencies may impose rescissions on a case-by-case basis if a recipient fails to meet investment requirements.
	Job Creation Tax Credit	Recapture occurs if recipient fails to maintain 95% of the required number of jobs within a three-year period.

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Maryland	Maryland Economic Development Assistance Authority Fund, MEDAAF 1 & 2, Significant Strategic Economic Development Opportunities & Local Economic Development Opportunities	Recapture, recalibration, or rescission occur if recipient fails to meet and maintain employment benchmarks or capital investment requirements. If the subsidy is structured as a loan, the interest rate may increase as a result of failing to meet metrics. Penalties (typically 3%) may also be added to recaptures.
	One Maryland Tax Credit	Rescission or recalibration occurs if job targets or levels go unmet, the recipient leaves the state, or fails to meet job quality standards.
	Sunny Day Fund	Recapture, recalibration, or rescission occur if recipient fails to meet and maintain employment benchmarks, capital investment requirements, or job quality standards.
Massachusetts	Economic Development Incentive Program	At its discretion, the Economic Assistance Coordinating Council may elect to recapture or disallow any credits or tax benefits allowed after independent investigation determines that the business is materially at variance with its project proposal. When the actual number of employees is less than 50% of the projected employment figures, the business is considered materially at variance, and its certification for tax benefits may be revoked.
	Film Tax Credit	None.
	Investment Tax Credit (Manufacturing)	If a company transfers out of state the equipment used to claim the tax credit, the state will recapture the value of the credits.
	Life Sciences Investment Tax Credit	At its discretion, the state may recapture or cancel credits provided to companies that fail to meet 70% of job creation targets in the first year.
	Research Tax Credit	None.
Michigan	Brownfield Redevelopment Credits (aka Brownfield Zone Credits)	Recapture, recalibration, or rescission could occur if capital investment requirements are not met or if cleanup does not occur.
	Film Tax Credits	Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include subsidy recalibration or rescission.
	Michigan Economic Growth Authority (MEGA) Tax Credits	Recapture, rescission, or recalibration occur if recipient fails to meet or maintain job targets or leaves the state. Additional penalties of up to 10% may also be imposed.
	Michigan's Advanced Battery Credits (MABC)	Recapture, rescission, or recalibration occur if recipient fails to meet or maintain job targets or make capital investments.
	Renaissance Zone Program	Local development agencies may impose penalties on a discretionary basis, including recapture, recalibration, or rescission for failing to meet or maintain job benchmarks or make capital investments.
Minnesota	Business Development Public Infrastructure Grant Program	Recapture or rescission occur if recipient fails to finish the project within 5 years or make adequate capital investments. Recipients may be exempted due to unforeseen circumstances.
	Job Opportunity Building Zones (JOBZ)	Recapture or rescissions occur if recipient fails to meet or maintain job targets, meet job quality standards, or leaves the zone or the state. Recipients may be exempted due to unforeseen circumstances.

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Minnesota	Job Skills Partnership Program	Rescission or recalibration occurs if recipient fails to conduct training as stipulated when approved. Recipient may receive a temporary extension to meet goals.
	Minnesota Investment Fund	Recapture or rescission occurs if recipient fails to meet or maintain job benchmarks over a 2-year period.
	Research and Development Tax Credits	None.
Mississippi	Advantage Jobs Incentive Program	If a company does not comply with job creation, wage or benefit requirements at any time after the first subsidy payment, the subsidy stops until the company meets the requirements again for a full quarter. If a manufacturing company does not create 3,000 jobs in 48 months, the subsidy is terminated and there are no further payments.
	Jobs Tax Credit	If a company does not maintain the required number of jobs for a year, the credit is not available until the company again meets the job creation requirement. If a company was accepted to the program but then laid off workers or closed a facility, the company cannot apply for the credit again for 5 years.
	Major Economic Impact Act	If a company relocates, closes down, or does not fulfill the required obligations, it is required to repay the subsidy.
	Manufacturing Investment Tax Credit	If a company receives a tax credit on property that is sold, disposed of, or converted to a non-business use later that year, it must repay 100% of the credit; if this occurs in the second year, the company must repay 50% of the credit.
	Rural Economic Development (RED) Credits	If employment levels decrease below the required level, the subsidy is recalibrated.
Missouri	Business Use Incentives for Large-scale Development (BUILD)	If a company fails to meet the minimum job, investment, or wage requirements by the 1st "Test Date" (3 years after bond closing), any credits received must be returned, or if used, repaid. If non-compliance occurs after the 1st "Test Date," credits are reduced, suspended or terminated. A company can apply for an extension to meet the requirements due to an economic downturn. Even though the penalties are discretionary, they are frequently used.
	Film Production Tax Credit	If a production company does not make the minimum amount of qualified expenditures, it is not eligible for the credit. However, after the Department of Economic Development determines that fact, the company will be given an opportunity to submit additional documentation to prove the required amount of expenditures.
	New Jobs Training	If a company does not create the required number of jobs within 2 years and maintain them for 5 years, the subsidy may be terminated, reduced, or repaid on a pro-rated basis.
	Quality Jobs Program	If a company does not meet the minimum requirements within 2 years, it is removed from the programs. In later benefit periods, if the company does not meet the job creation, average wage, or benefit requirements, the company is not eligible for the subsidy for that period. However, if a company withheld more tax than it should, those taxes must be repaid with interest and/or penalties. The subsidy may also be recalibrated to reflect any reduction in the number of employees or new payroll. If a "high impact" company does not meet the requirements for a higher subsidy, it can continue as a "small/expanding" project as long as it meets the requirements for this category.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Missouri	Rebuilding Communities	None
Montana	Big Sky Economic Development Trust Fund	Recipients do not receive any subsidies until they meet performance requirements, and if they fail to meet the requirements, their contract is terminated.
	Oil and Natural Gas Production Tax Exemptions	None
Nebraska	Primary Sector Workforce Training Grant	Penalties are rarely required because the subsidies are reimbursement-based. However, if a company dissolves or goes out of business, the contract may be terminated and any training funds provided may be recaptured. Each case is reviewed individually, and companies may be exempt from penalties under certain circumstances.
	Qualified Research Credit	No tax credits are provided until the recipient substantiates that it has made qualified research expenditures.
Nevada	Customized Job Training	Subsidies are awarded only after documentation proves that the recipient has complied with performance requirements.
	Employment and Investment Growth Act	Full or partial recapture occurs for recipients that fail to meet or maintain the required job creation or investment levels within the required time period. Exceptions exist for an "act of God" or national emergency.
	Manufacturing Machinery and Equipment Exemption	A penalty occurs when equipment is not primarily used for manufacturing purposes. Program violations result in the recapture of the sales tax exemption plus interest and a 10% penalty.
	Nebraska Advantage	If the recipient fails to meet employment or investment requirements, all or part of the subsidy is recaptured or disallowed. The recapture shall not occur if the failure to maintain the required levels of employment or investment was caused by an "act of God" or national emergency.
Nevada	Modified Business Tax Abatement	The state requires recapture of tax benefits value, plus interest, from businesses that are not maintained "at the approved level" for five years.
	Personal Property Tax Abatement	The state requires recapture of tax benefits value, plus interest, from businesses that are not maintained "at the approved level" for five years.
	Sales and Use Tax Abatement	At its discretion, the state may recapture the value of tax benefits, plus interest, from businesses that are not maintained "at the approved level" for five years.
	Train Employees Now	Companies that do not meet all program criteria set out in their application for five years in the state may be subject to full or partial recapture at the state's discretion.
New Hampshire	Community Development Investment Program (Investment Tax Credit)	Failure to adhere to contractual obligations, including job creation commitments, may result in a penalty requiring the prorated repayment of tax credits granted.
	Economic Revitalization Zone Tax Credits	No subsidies are provided until after the recipient meets investment and job creation requirements.
	Job Training Fund	Companies are not reimbursed for their training costs until after they meet the minimum expenditure requirement. Additionally, the agency withholds 10% of the subsidy until the company completes a final report on the impact of the training, and that 10% is forfeited if the company never completes the final report.

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New Hampshire	Research and Development Credit	No tax credits are awarded until a recipient shows that it has made qualified manufacturing research and development expenditures.
New Jersey	Business Employment Incentive Program (BEIP)	The state will recapture funds from recipients that do not maintain jobs for 1.5 times the term of the BEIP agreement or companies that fail to materially meet agreement terms. The state may also cancel or recalibrate awards. Companies have two calendar years to create eligible positions. Companies that go bankrupt are exempt from recapture.
	Business Retention and Relocation Assistance Grant (BRRAG)	Recapture is pursued for companies that move out of state after receiving BRRAG awards, but the state may also cancel or recalibrate subsidy awards.
	Economic Redevelopment and Growth (ERG) Grant Program	None.
	Research and Development Tax Credits	Companies that do not maintain operations in New Jersey for five years after receiving R&D tax credits are subject to recapture of the value of the tax credits.
	Urban Enterprise Zone Program	Participating businesses are subject to rescission of UEZ tax benefits if they cannot demonstrate employment growth or capital investment. Exceptions are made for businesses that make "good faith effort."
New Mexico	Film Tax Credit	None.
	High Wage Jobs Tax Credit	None.
	Industrial Revenue Bonds	At its discretion, the bond-granting jurisdiction may require repayment of the value of tax abatements associated with the subsidized facility. This is most common for closure of the facility.
	Manufacturer's Investment Tax Credit	None.
	Tax Increment Development Districts	None.
New York	Brownfield Cleanup Program	The state can recapture the credits if the recipient's Certificate of Completion is revoked because of failure to comply with the terms of the remediation project.
	Empire State Film Production Credit	No subsidies are awarded until after the film company incurs the qualified expenditures and fulfills the reporting requirements.
	Empire Zone Program	A recipient can, at the discretion of state officials, be decertified for poor job performance, thus rescinding the contract.
	Excelsior Jobs Program	Failure of a recipient to meet minimum job creation or investment requirements would disqualify it from receiving future subsidies and could result in recapture of benefits received. The program is new, but it appears that these penalties will be applied on a discretionary basis.

State	Program	Penalty Provisions
New York	Industrial Development Agencies	Numerous (but far from all) local agencies claim to employ recapture and recalibration but do not disclose details. The New York City IDA, on the other hand, uses recaptures and reports on these in an annual report. Examples of the provisions can be found in Bank of America's subsidy agreement for its 1 Bryant Park offices and the NYCIDA's \$24 million recapture of subsidies from Pfizer. The Empire State Development Corporation's "Annual Report on Jobs Created and Retained" includes details of recaptured funds from firms participating in programs not examined in this report. ESDC also recaptured grants from non-compliant recipients of the Job Creation and Retention Program allocated to various Lower Manhattan firms after the attacks of September 11, 2001. See the website of our affiliate Good Jobs New York (www.goodjobsny.org) for details.
North Carolina	Credit for qualifying expenses of a production company	If a company does not make the required amount of expenditures, it is not eligible for the subsidy.
	Job Development Investment Grants (JDIG)	If a company fails to meet on average 90% of job creation/retention, investment, and wage requirements, the subsidy may be reduced or terminated. Under some circumstances, a company may be granted additional time to comply with the requirements. However, the company is no longer eligible for the subsidy if it does not comply in 3 consecutive years. If a company does not stay at the project location for at least 150% of the grant term, recapture applies.
	One North Carolina Fund	To claim the assistance, the company has to meet on average 90% of job creation, wage, and health benefit requirements. Additionally, every One North Carolina Fund agreement includes recapture provisions for nonperformance.
	Tax Credits for New and Expanding Businesses (Article 3J Credits)	If a company does not comply with job, benefit, and investment requirements in the agreed upon time period, or if during an audit a company cannot provide documentation that shows it meets the requirements, the subsidy is terminated and recapture applies. Based on general Department of Revenue policy, a company can apply for a penalty waiver once within 3 years based on having a "good compliance record."
	William S. Lee Quality Jobs and Business Expansion Act (Article 3A)	Each of the credits available through the program has specific penalty provisions. However, in each case the subsidy is terminated when a company is no longer an eligible business type, does not meet the required number of jobs, or stops providing health insurance to its employees. If during an audit a company cannot provide documentation showing it meets the requirements, recapture applies. Based on general Department of Revenue policy, a company can apply for a penalty waiver once within 3 years based on having a "good compliance record."
North Dakota	Development Fund – PACE loans and Regional Rural Revolving Loan Fund	The Pace program requires that the borrower "shall demonstrate that within one year there will be a minimum of one job created and retained for every \$100,000 of total loan proceeds. Otherwise, the interest buydown will be prorated to reflect any partial fulfillment."
	Income Tax Exemption for New or Expanding Businesses	Businesses that do not fulfill employment commitments for both the construction and operational phases of the business are subject to the revocation of the balance of their income tax exemption from the date of the breach of the agreement. The penalty can be waived at the discretion of the State Tax Commissioner.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
North Dakota	New Jobs Training	As long as the minimum job creation threshold is met, there is no penalty for failing to create the number of jobs agreed to in an individual agreement. However, if the company does not meet the minimum job creation threshold, the subsidy is canceled and the company must pay back any upfront loan it received for jobs that were not created.
	Renaissance Zones	If the recipient fails to meet investment requirements, the credit is disallowed and any previously claimed credit must be repaid. Exceptions from penalties are at the discretion of the Tax Commissioner.
	Wage and Salary Credit	No subsidies are provided until after the recipient substantiates that it has made qualified expenditures.
Ohio	Community Reinvestment Area (CRA) Program	At their discretion, local jurisdictions that provide CRA tax abatements may recapture the value of those abatements for failure to create jobs or meet payroll targets. CRA status may also be revoked from property owners that fail to fulfill agreement obligations.
	Job Creation Tax Credit	At its discretion, the Tax Credit Authority can cancel or recalibrate the tax credit benefit level for failure to create the agreed upon number of jobs or meet job quality standards. If the recipient moves operations away from the project location before the term of the tax credit agreement is over, the state may require repayment of the value of the credits.
	Job Retention Tax Credit	At its discretion, the Tax Credit Authority can cancel or recalibrate the tax credit benefit level for failure to create the agreed upon number of jobs or meet job quality standards. If the recipient moves operations away from the project location before the term of the tax credit agreement is over, the state may require repayment of the value of the credits.
	Ohio Workforce Guarantee	None.
	Rapid Outreach Program	At its discretion, the state may collect on Rapid Outreach loans and grants for failure to create or maintain jobs.
Oklahoma	21st Century Quality Jobs	If a company does not meet the wage or job requirements within 3 years, the subsidy is terminated; if it does not maintain required job and wage levels quarterly, it is not eligible for the subsidy for that quarter; if the company does not meet job and wage requirements for 4 consecutive quarters, it is not eligible for any further subsidy payments.
	Investment/New Jobs Tax Credit	If a company does not meet the job and/or investment requirements within 3 years, it cannot claim the tax credit. After the first three years, if the company does not maintain the required job and investment levels, it is not eligible for the subsidy in that year.
	Opportunity Fund	Reporting, verification and specific penalties are negotiated and defined in an individual contract. However, the statute requires a company to repay the subsidy with interest if the money is not used by the date stated in the contract, or if the assets for which the subsidy was received are sold (any profit from the sale has to be shared with the state).
	Quality Jobs	If the payroll requirement is not met for one of any 4 consecutive quarters within the first 3 years, the subsidy is terminated; the wage requirement must be met each quarter.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Oklahoma	Training for Industry	The program does not provide any financial assistance until after the training is over. If a company's total employment drops below the agreed upon level, to qualify for the program in the future, the company has to first return to the required employment level. If a company lays off workers, the layoff must be at least 1 year before a company can again receive the subsidy.
Oregon	Employer Workforce Training Fund/Governor's Strategic Training Fund	The state will cancel the contract or recapture funds from any recipient that does not "make a satisfactory commitment to using the funds to their desired outcomes."
	Oregon Production Investment Fund	None.
	Research Tax Credit	None.
	Strategic Investment Program	The state may subject SIP recipients that substantially fail to meet agreement obligations to recapture of the value of tax benefits. Exceptions are made for unforeseen business circumstances.
Pennsylvania	Film Production Tax Credit	Film production companies that fail to incur the amount of expenses agreed to may be required to repay the value of the credits, at the discretion of the state.
	Job Creation Tax Credit	Companies that fail to meet job creation targets or fail to maintain operations in the state for five years are subject to recapture. Exceptions are made for circumstances outside of the control of the recipient company.
	Keystone Opportunity Zone (KOZ) Program	Companies that hire undocumented workers or move out of the KOZ within the first five years of receiving tax benefits may be subject to recapture or revocation of KOZ status, at the discretion of the state.
	Opportunity Grant Program	The state imposes clawbacks, and in some cases a 10% additional penalty, on companies that substantially fail to meet investment, job creation or retention goals. Exceptions are made for circumstances outside the control of the recipient company.
	Research and Development Tax Credit	R&D tax credits may be subject to recapture if the state determines the claimant is ineligible.
Rhode Island	Corporate Income Tax Rate Reduction for Job Creation	Rescission occurs if recipient fails to meet or maintain job benchmarks or meet job quality standards.
	Enterprise Zone Tax Credits	Recapture or rescission occurs if recipient fails to meet or maintain job benchmarks or meet job quality standards.
	Job Training Tax Credit	Recalibration or rescission occurs if recipient fails to make qualified training expenditures or fails to meet job quality standards.
	Manufacturing and High Performance Manufacturing Investment Tax Credits	Recapture or rescission occurs if recipient fails to meet job quality standards.
	Motion Picture Production Tax Credit	Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include subsidy recalibration or rescission.
South Carolina	Economic Impact Zone Investment Credit	Recapture applies when the property for which the subsidy was claimed is taken out of service or removed from the state before the end of a required period.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
South Carolina	Job Development Credits	If a company fails to meet investment or job creation requirements by the date stated in a contract, the agency may terminate the contract and reduce or suspend the subsidy; to claim the credit, the company has to maintain jobs for the entire quarter.
	Job Tax Credit	If a company does not maintain the required number of jobs, no subsidy is allowed that year.
	readySC	The program statute does not define any penalties and no readySC official responded to Good Jobs First requests for an interview.
	Research & Development Credit	The program does not provide any financial assistance until after a company has made qualified expenditures.
South Dakota	Pooled Bond Program	None
	Revolving Economic Development and Initiative (REDI) Fund	Subsidies are clawed back from companies that leave the state. Penalties are almost never undertaken for shortcomings in job creation or job quality standards built into contracts, although they are possible.
	South Dakota Agricultural Processing and Export Loan Program (APEX)	None
	Workforce Development Program	Failure to meet employment requirements typically triggers rescission of the subsidy and/or recalibration of future subsidies. Exceptions may be granted on a case-by-case basis.
Tennessee	FastTrack Job Training Assistance	If a company does not meet requirements agreed upon in a contract (jobs, investment, wages) the reimbursement might be reduced. If a layoff occurs, the subsidy might be suspended until the company returns to the previous employment level. Penalties are discretionary.
	Headquarters Tax Credit	If the minimum investment requirement for the Headquarters Sales and Use Tax Credit is not met within the "investment period" (up to 6 years), recapture applies. If the minimum investment level is not met for the Headquarters Franchise and Excise Tax Credit, the credit is not allowed; if a company fails to meet the required number of jobs during the "investment period" (up to 5 years), the company must pay back taxes related to those jobs. If the facility does not remain as a headquarters for 10 years after the end of the "investment period," recapture applies for both types of tax credits.
	Jobs Tax Credit	For the basic job tax credit, if companies other than convention or trade show entities do not meet the job creation and investment requirements within 36 months, no credit is allowed. The agency has discretion to lower the job creation requirement for individual applicants, in which case the subsidy is reduced proportionally.
	Sales and Use Tax Credit for Qualified Facility to Support an Emerging Industry	If the minimum job creation and investment requirements are not met, the credit is not available. If a company does not maintain the required number of jobs or if the facility is not used to support an emerging industry for at least 10 years, the company has to repay sales and use tax credits, plus penalties and interest.
	Tennessee Job Skills	The program statute does not define any penalties and the program administrator was unwilling to answer Good Jobs First's questions regarding the program.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Texas	Texas Economic Development Act (Ch. 313)	Local school districts may impose a recapture or rescission on a discretionary basis if recipient fails to meet or maintain job benchmarks, make capital investments, meet job quality standards, or remain in the state. Exceptions may apply due to force majeure.
	Texas Emerging Technology Fund (ETF)	The Office of the Governor may impose a recapture or a rescission based upon standards, such as an obligation to commercialize a product in Texas, included in individual contracts. Exceptions may apply in cases of force majeure.
	Texas Enterprise Fund (TEF)	Recapture, recalibration, or rescission occurs if recipient fails to meet or maintain job benchmarks or job quality standards set forth in agreements. Governor may modify contract agreements at his or her discretion to grant exceptions.
	Texas Moving Image Industry Incentive Program	The Texas Film Commission and the State of Texas may impose recaptures, recalibrations, or rescissions on a discretionary basis. Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include subsidy recalibration or rescission.
Utah	Economic Development Tax Increment Financing	At its discretion, the state may recapture subsidies from or cancel EDTIF contracts with recipients that substantially fail to meet job creation targets or other project agreement terms.
	Industrial Assistance Fund	At its discretion, the state may require repayment, plus interest, of these forgivable loans for failure to meet job creation targets or job quality standards.
	Industrial Assistance Fund (Economic Opportunity)	At its discretion, the state may require repayment, plus interest, of these forgivable loans for failure to meet job creation targets or job quality standards. The state may also cancel project agreements. Exceptions are made for unforeseen business circumstances.
	Motion Picture Incentive Fund (MPIF) & Other Film Incentives	The state is authorized to recapture and seek a 30% penalty from film production companies that fail to meet expenditure targets.
	Targeted Business Tax Credits	For each quarter that a business is determined to be in noncompliance with employment targets, the enterprise zone administrator will reduce the allowable credits by 25%.
Vermont	Economic Advancement Tax Incentives (EATI)	The agency may, at its discretion, require recapture or recalibration if recipient fails to meet or maintain job benchmarks or total payroll requirements.
	Vermont Employment Growth Incentive (VEGI)	Recapture, recalibration or rescission occurs if recipient fails to meet or maintain job benchmarks, job quality standards or make adequate capital investments.
	Vermont Training Program	Recapture or rescission occurs if recipient fails to make qualified training expenditures or meet job quality standards.
	VT Economic Development Authority loans	Recapture of the loan occurs if the recipient fails to make a repayment. If half or more of the jobs move outside the state, the loan immediately becomes due and must be repaid in full.
	Workforce Education and Training Fund	Recapture, recalibration or rescission occurs if recipient fails to maintain employment levels, meet job quality standards or complete training.
Virginia	Enterprise Zone Real Property Investment Grant	Recalibration or rescission occurs if recipient fails to make qualified capital investments after an extensive review and an audit.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Virginia	Governor's Opportunity Fund (GOF)	Recapture occurs if recipient fails to meet or maintain 90% of job benchmarks or capital investments. Recaptures are weighted 50% on jobs and 50% on capital investments.
	Major Business Facility Job Tax Credit	Recapture or recalibration occurs if recipient fails to maintain employment levels.
	Virginia Economic Development Incentive Grant (VEDIG)	Recapture, recalibration or rescission occurs if recipient fails to meet or maintain job benchmarks, payroll benchmarks, job quality standards or capital investment requirements. VEDP may grant an exception at its discretion.
	Virginia Investment Partnership (VIP) & Major Eligible Employer Grant (MEE)	Recapture, recalibration or rescission occurs if recipient fails to meet or maintain job benchmarks, job quality standards or capital investment requirements.
Washington	Aircraft Pre-production Expenditures B&O Tax Credit	None.
	High Technology B&O Tax Credit for R&D Spending	None.
	High Technology Sales and Use Tax Deferral/Waiver	Payment of deferred taxes is required if the state determines that the tax-deferred equipment has been used for purposes other than qualified purposes. Exceptions are made if the tax-deferred equipment has become operationally obsolete.
	New Jobs in Rural Counties and CEZ Tax Credit	The state requires payment of interest on tax credit value from recipients that fail to create the specified number of jobs. Total recapture is required from recipients deemed ineligible for the subsidy.
West Virginia	Economic Opportunity Tax Credit	Subsidies are fully or partially recaptured and future subsidies are recalibrated for companies that fail to meet investment and employment requirements. Exceptions exist for investment property that is stolen or damaged by fire, flood, storm or other casualty.
	Film Industry Investment Act	If the Film Office board determines that a company did not meet the investment threshold, the company will not receive the tax credit. If the board determines that the company did meet the investment threshold but not the job creation threshold, the company will only receive a 27% tax credit rather than a 31% tax credit.
	Governor's Guaranteed Work Force Program	No subsidy is granted until the recipient meets job creation and expenditure requirements.
	Manufacturing Investment Tax Credit	No tax credits are awarded until after the recipient meets investment requirements. However, the company forfeits any unused tax credits if it fails to maintain the property for its full useful life, as determined by the Tax Commissioner. The company also must re-determine the amount of the credit allowed for earlier years based on the amount of time the property was actually used for manufacturing activity and pay any additional taxes required. Exceptions exist for investment property that is stolen or damaged by fire, flood, storm or other casualty.
	Strategic R&D Tax Credit	No tax credits are awarded until after the recipient meets investment and expenditure requirements. However, if the property is disposed of prior to the end of its useful life or ceases to be used in a qualified research and development activity prior to the end of its useful life, the agency will claw back a portion of the credit and recalibrate future credits. Exceptions exist for investment property that is stolen or damaged by fire, flood, storm or other casualty.

<i>State</i>	<i>Program</i>	<i>Penalty Provisions</i>
Wisconsin	Customized Labor Training Fund	Recapture or rescission occurs if recipient fails to maintain employment levels or closes the facility within 5 years.
	Economic Development Tax Credit Program	Recapture or rescission occurs if recipient fails to meet or maintain job benchmarks, make capital investments or meet job quality standards or if it moves out of state.
	Film Tax Credit Program (Film Production Services & Production Company Investment Tax Credits)	Recipients must be pre-approved with a proposed budget before eligible activities begin; once production is finished, recipient must undergo an audit. If the recipient's audit shows that qualified spending was less than what was proposed or did not qualify, penalties can include recapture, recalibration or rescission.
	Major Economic Development Program (MED)	Recapture or rescission occurs if recipient fails to meet or maintain job benchmarks or make capital investments.
	Transportation Economic Assistance Program (TEA)	The Department of Transportation may, at its discretion, impose recapture, recalibration or rescission if recipient fails to meet or maintain job benchmarks.
Wyoming	Data Processing Center – Sales/Use Tax Exemption	If the purchaser does not meet investment and employment requirements, the sales or use tax must be paid.
	Film Industry Financial Incentive	If a production fails to make the required qualified expenditures, the contract is terminated and the funds reallocated to other qualified productions.
	Sales and Use Tax Exemption for Purchases of Manufacturing Equipment (HB 44)	A penalty occurs when equipment is not primarily used for manufacturing purposes. Program violations result in the recapture of 10% of the tax due.
	Workforce Development Training Fund	If an employee does not complete the training, the company must repay all funds issued for that training. If an employee does complete the training but is not retained for at least 90 days, then the company must repay 25% of the financial assistance provided for the training.