West Virginia Tax Credit Review and Accountability Report - 2015

Economic Opportunity Tax Credit
Strategic Research and Development Tax Credit
Manufacturing Investment Tax Credit
High-Growth Business Investment Tax Credit

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Submitted by:
West Virginia State Tax Department
Mark W. Matkovich
State Tax Commissioner

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Executive Summary

In 2002, the West Virginia Legislature enacted comprehensive investment tax credit reform legislation per the recommendations of a tax incentive evaluation report jointly prepared by the West Virginia Department of Revenue and the West Virginia Development Office. Thirteen existing investment tax credits were repealed and replaced with three new investment tax credits. The repealed investment tax credits included the Business Investment and Jobs Expansion Credit (Super Credit), the Research and Development Projects Credit, the Coal-Based Synthetic Fuels Credit, the Aerospace Industrial Facilities Credit, the Colin Anderson Employment Credit, the Value-Added Wood Manufacturing Operations Credit, the Value-Added Agricultural Products Credit, the Value-Added Steel Manufacturing Operations Credit, the Value-Added Aluminum or Polymer Manufacturing Operations Credit, the Residential Housing Development Projects Credit, the Convenience Food Store Security Tax Credit, the Increased Generation of Electricity From Coal Tax Credit and the Coal Coking Facilities Credit. The new investment tax credits included the Economic Opportunity Tax Credit (EOTC), the Strategic Research and Development Tax Credit (SRDTC), and the Manufacturing Investment Tax Credit (MITC). The new law required a periodic tax credit review and accountability report evaluating the cost effectiveness of the three new investment tax credit programs, to be performed every three years beginning in 2006. The first evaluation report issued in 2006 contained minimal feedback due to the lack of significant data on the new investment tax credit programs. With more extensive historical information now available, the recent reports provide a more broad evaluation of the EOTC, SRDTC, and MITC programs.

Statutory changes enacted in years subsequent to 2002 added a temporary venture capital tax credit, the High-Growth Business Investment Tax Credit, for investors who invested in qualified small research and development companies between July, 2005, and June, 2008. In addition, a temporary refundable tax credit option was made available to qualified small research and development firms related to SRDTC investments made between July, 2004, and December, 2007. Economic Opportunity Tax Credits were made available under slightly modified rules to qualified high-technology manufacturers and qualified businesses creating fewer than 20 new jobs. Comprehensive business tax reforms were enacted between 2006 and 2008 -- phasing out the Business Franchise Tax by 2015, requiring mandatory combined reporting for unitary corporations beginning in 2009, providing a nonrefundable tax credit equal to local West Virginia property taxes paid on manufacturing inventory beginning in 2009 and gradually reducing the Corporation Net Income Tax rate from 9.0 percent to 6.5 percent by 2014. Finally, the Strategic Research and Development Tax Credit was repealed as of January 1, 2014.

The 2015 *West Virginia Tax Credit Review and Accountability Report* provides updated fiscal information on four separate economic incentive tax credit programs for the period between 2003 and 2012. The four tax credit programs under review include the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit, the Manufacturing Investment Tax Credit and the High-Growth Business Investment Tax Credit.

The costs of the four credit programs through tax year 2012 are as follows:

Tax Year	Economic Opportunity Tax Credit	Strategic Research and Development Tax Credit	Manufacturing Investment Tax Credit	High-Growth Business Investment Tax Credit
2003	$60,163	$637,702	$121,404	$0
2004	$358,911	$1,374,894	$469,527	$0
2005	$937,300	$1,191,316	$882,718	$491,574
2006	$2,708,337	$1,483,875	$2,167,649	$176,860
2007	$4,235,849	$3,446,527	$2,472,541	$341,371
2008	$5,692,211	$2,725,191	$4,640,641	$115,044
2009	$5,111,708	$1,888,234	$4,382,174	$14,460
2010	$777,501	$637,784	$5,466,406	(D)[1]
2011	$6,036,493	$4,508,077	$4,969,532	(D)[2]
2012	$6,049,711	$16,221,306	$3,933,602	$0

In addition to program costs, the other major report findings include the following:

- Total tax credit expenditures for the initial years of these programs were relatively small because of carryover benefits from terminated tax credit programs, a learning curve for the new programs, lack of full compliance regarding the credit application requirement, and the existence of a bonus depreciation deduction for new investment.

- In the case of the Economic Opportunity Tax Credit program, the cost of the credit per job was fairly modest, often comparable to employee withholding tax associated with such new jobs.

- Employees of firms receiving tax credit benefits generally benefitted from employer-provided health insurance and pension plans.

- The Business Investment and Jobs Expansion Tax Credit and the Economic Opportunity Tax Credit have certain structural similarities which allow the State Tax Department to make projections of Economic Opportunity Tax Credit costs with reasonable confidence. Statistical data retrieved from the sun-setting Business Investment and Jobs Expansion Tax Credit Program indicate an expected annual credit expenditure cost of no more than $7-$10 million for a mature Economic Opportunity Tax Credit. Through the 2003-2012 period, Economic Opportunity Tax Credit claims grew from roughly $60,000 to $6.0 million.

- The amount of tax credit claimed on tax returns will generally be less than the amount of available tax credit due to the tax liability limits of the Taxpayer. Future tax credit claims

[1] (D) – Not applicable to disclose due to Taxpayer confidentiality
[2] (D) – Not applicable to disclose due to Taxpayer confidentiality

will be further limited by the recent elimination of the Business Franchise Tax and reductions in the Corporation Net Income Tax rate.

- Companies participating in one or more of these tax credit programs generally outperformed their peers in the area of net job creation over the report period.

- The credit programs may help some individual business Taxpayers, but the overall impact of the credit programs on economic growth is arguable.

- The cost of the new business tax credit incentive programs is relatively small in comparison to both the overall state budget and other state and local tax expenditures.

- Business tax credits complicate the Tax Code, and result in additional compliance costs for Taxpayers and additional administrative costs for the State Tax Department.

- The West Virginia State tax burden for the manufacturing sector is generally competitive with surrounding states because of the 60% tax break[3] offered by the Manufacturing Investment Tax Credit. Local taxes are not part of this equation.

- Local taxes are a larger potential impediment to economic growth than are West Virginia State business taxes. Local property taxes on machinery and equipment represent a significant component of the total tax costs for West Virginia manufacturing businesses. Investment tax credits for the manufacturing sector offset a small portion of these total State and local tax costs.

- The Manufacturing Property Tax Adjustment Tax Credit, enacted in 2008 and applicable for tax years beginning on or after January 1, 2009, provides some additional relief to manufacturers for Property Tax paid on inventories.

- As the Economic Opportunity Tax Credit, Strategic Research and Development Tax Credit, and Manufacturing Investment Tax Credit programs have matured, compliance with the respective tax credit application requirements has improved.

- Current law allows Taxpayers to file their annual tax credit application forms with their annual tax return, including those returns filed with an extended due date. Tax returns often exceed 100 pages. If tax credit application forms are filed with such large returns, the application forms can sometimes get lost in the paperwork. As a result, penalties for failure to timely file an application may be imposed one or more years later, to the detriment of the Taxpayer. This problem also hinders the State Tax Department's efforts to timely measure accountability.

- The Strategic Research and Development Tax Credit Act terminated on January 1, 2014, and

[3] For tax years beginning before January 1, 2009, the Manufacturing Investment Tax Credit could be used to offset up to 50% of eligible taxes.

no credit is available to any taxpayer for any qualified investment or expenditure made on or after that date (W.Va. Code §11-13R-13). Taxpayers who received this credit prior to January 1, 2014, may still apply the Strategic Research and Development Tax Credit to their Corporation Net Income Tax liability, Business Franchise Tax liability (prior to 2015), or Personal Income Tax liability. States offering Research & Development (R&D) Tax Credits scored poorly on Tax Foundation's State Business Climate Index, because such programs add significant complexity to the Tax Code and effectively place tax administrators in an uncomfortable role of arbiter in making decisions as to what constitutes qualified research.[4]

[4] *2015 State Business Tax Climate Index* by Scott Drenkard and Joseph Henchman, Tax Foundation, page 25.

Introduction

In 2002, the Legislature created three new tax credit programs applicable to investment placed in service or use on or after January 1, 2003. The three new credits were the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit and the Manufacturing Investment Tax Credit. In 2004, an additional new credit, the High-Growth Business Investment Tax Credit, was enacted. The enacting legislation for each of the aforementioned credits includes provisions for the State Tax Commissioner to submit to the Governor, the President of the Senate and the Speaker of the House of Delegates, a tax credit review and accountability report evaluating the cost effectiveness of each tax credit program. The first report was due February 1, 2006, with subsequent reports due on February 1 every third year thereafter. The first report covered credits related to tax years ending in 2003. The report released in 2009 provided information on the tax credits applicable to tax years 2003 through 2006. This report covers credits related to tax years 2003 through 2012. Although all tax year 2013 tax returns should have been filed by the fall of 2014, not all returns were available for electronic or manual review as of mid-January, 2015. Also, most tax year 2014 returns are not due until after the due date of this report.

A description of all investment tax credits subject to evaluation in this report can be found in Appendix A. Copies of tax credit application forms for the Economic Opportunity Tax Credit, Strategic Research and Development Tax Credit, and Manufacturing Investment Tax Credit may be found in Appendices B, C, and D, respectively. Data for this report is generally extracted from both tax credit application forms and tax returns. Finalized changes resulting from tax audits and other review efforts by the State Tax Department are incorporated in the results of this report.

Economic Opportunity Tax Credit

The intent of the Economic Opportunity Tax Credit (EOTC) as stated in West Virginia Code §11-13Q-2 was as follows: "The Legislature finds that the encouragement of economic opportunity in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage greater capital investment in businesses in this state and thereby increase economic opportunity in this state, there is hereby enacted the economic opportunity tax credit." In order to claim the Economic Opportunity Tax Credit, eligible Taxpayers must create a minimum number of new jobs. With the termination of the Business Investment and Jobs Expansion Tax Credit (Super Credit), the Economic Opportunity Tax Credit is West Virginia's primary job creation tax incentive. The major enhancement of the Economic Opportunity Tax Credit, compared to the Super Credit, was a reduction in the number of new jobs required to qualify for the credit from 50 to 20. Also, the complexity of the Business Investment and Jobs Expansion Tax Credit required a fourteen-page form to claim the credit. The Economic Opportunity Tax Credit is much simpler, and the form for claiming the credit is only two pages.

As enacted in 2002 and applicable for tax years beginning on or after January 1, 2003, the Economic Opportunity Tax Credit had three components. The first component required qualifying Taxpayers to create at least 20 new jobs. The second component, directed towards small businesses, required the creation of at least 10 new jobs, while the third component, the corporate headquarters relocation provision, required businesses to establish their headquarters in West Virginia and create at least 15 new jobs. Subsequently, two additional Economic Opportunity Tax credit components, the specified high-technology manufacturer and additional jobs options, were added in 2007 and 2008, respectively.

The criteria for the review and accountability report for the Economic Opportunity Tax Credit, as stated in West Virginia Code §11-13Q-20, are as follows:

- The number of taxpayers claiming the credit.
- The net number of new jobs created by all taxpayers claiming the credit.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

Table 1 – Economic Opportunity Tax Credit Claims and Cost

Tax Year	Taxpayers Claiming the Credit	Cost
2003	7	$60,163
2004	13	$358,911
2005	20	$937,300
2006	22	$2,708,337
2007	20	$4,235,849
2008	20	$5,692,211
2009	20	$5,111,708
2010	13	$777,501
2011	15	$6,036,493
2012	13	$6,049,711

The Economic Opportunity Tax Credit can be used to offset Business and Occupation Tax liability, Business Franchise Tax liability (prior to 2015), Corporation Net Income Tax liability, and Personal Income Tax liability. Since electing small business corporations, limited liability companies, partnerships and other unincorporated organizations can allocate credit among the members, the count of taxpayers claiming the credit is greater than the number of businesses that made the investment and created the jobs. The Economic Opportunity Tax Credit may be claimed by the taxpayer over a ten-year period. Thus, taxpayers that made qualifying investment in tax year 2003 would be entitled to claim an annual allocation of the credit for tax years 2003 through 2012. There is also a 3-year credit carryover provision that could extend the application of the tax credit for up to 13 years. The number of taxpayers claiming the credit as presented above is not additive since some taxpayers are included in the counts for multiple years.

Provisions in the Economic Opportunity Tax Credit Law require the credit claimant to certify the actual number of new jobs created in West Virginia that are directly attributable to the qualified investment with the annual tax return filed for the third taxable year in which the qualified investment was placed in service or use. Where the return for the third tax year was not readily available, the new job information was extracted from the Application for Economic Opportunity Tax Credit (form WV/EOTC-A) filed by the credit claimants. A copy of the Application form is included in Appendix B. Based upon information from the credit schedules filed with third year tax returns and the credit applications, the number of new jobs created by Taxpayers claiming the credit was 7,230. In some cases, Taxpayers had increases in jobs that qualified for multiple levels of Economic Opportunity Tax Credit. For example, if a business created 20 or more new jobs over one three-year period and then created 20 or more new jobs over a subsequent three-year period, the taxpayer would be entitled to a separate Economic Opportunity Tax Credit for each period.

Over the ten-year tax period covered by this report, claims for the Economic Opportunity Tax Credit totaled $31,968,184. Based upon the projection of 7,230 new jobs, the cost of the credit through tax year 2012 was $4,422 per new job.

As part of the data collected via the Application for West Virginia Economic Opportunity Tax Credit (form WV/EOTC-A), applicants were asked to provide information on health plans and retirement plans provided to employees. The table below summarizes information reported on the applications of the credit claimants. While most applications included the requested information, a few did not. The values in the table below exclude missing values from the calculations.

Table 2 – Benefits Provided by EOTC Businesses

	Health Plan	**Retirement Plan**
Percentage of EOTC businesses providing 100 percent coverage	46.4	49.2
Weighted percentage of new jobs covered	94.6	97.2
Weighted average cost of benefit per employee	$6,631	$4,520

The final criterion for the Economic Opportunity Tax Credit review and accountability is a comparison of employment trends for the industry versus taxpayers within the industry that claim the credit. However, the total number of Economic Opportunity Tax Credit claimants compared to the total population of taxpayers or employers is relatively small. Thus, the following statistics may not provide meaningful information. The manufacturers among the Economic Opportunity Tax Credit claimants projected that the number of West Virginia jobs after three years following the investment for the credit would increase by 53.1 percent over the pre-investment level. Similarly, the non-manufacturers projected a 29.5 percent increase. As shown in the table below, the three-year growth in jobs of the Economic Opportunity Tax Credit businesses was significantly greater than the best three-year job growth Statewide through 2012.

Table 3 – Comparison of Employment Growth Trends

	Manufacturers	Non-Manufacturers
Economic Opportunity Tax Credit Businesses – 3-Year Job Growth	53.1%	29.5%
Statewide -3-Year Job Growth	------------------------	------------------------
2002-2005	-9.4%	3.0%
2003-2006	-5.5%	5.1%
2004-2007	-6.2%	4.1%
2005-2008	-9.3%	3.2%
2006-2009	-17.0%	-0.5%
2007-2010	-17.0%	0.3%
2008-2011	-12.4%	-0.1%
2009-2012	-3.2%	3.0%

The State Tax Department monitors all Economic Opportunity Tax Credit claimants to ensure that the statutory job creation requirements are met over the life of the tax credit benefit. Taxpayers who fail to meet the job creation requirements set forth in the Statute lose entitlement to the Economic Opportunity Tax Credit for any year of non-compliance.

Strategic Research and Development Tax Credit

As stated in Code §11-13R-2, the Strategic Research and Development Tax Credit (SRDTC) was enacted "to encourage research and development in this state and thereby increase employment and economic development." The Strategic Research and Development Tax Credit essentially replaced the Research and Development Projects Credit. The previous credit was primarily for manufacturers and producers of natural resources. For purposes of the Strategic Research and Development Tax Credit, research and development "means systematic scientific, engineering or technological study and investigation in a field of knowledge in the physical, computer or software sciences, often involving the formulation of hypotheses and experimentation, for the purpose of revealing new facts, theories or principles, or increasing scientific knowledge, which may reveal the basis for new or enhanced products, equipment or manufacturing processes."

The criteria for the review and accountability report for the Strategic Research and Development Tax Credit, as stated in West Virginia Code §11-13R-11, are as follows:

- The number of taxpayers claiming the credit.
- The net number, type and duration of new jobs created by all taxpayers claiming the credit and wages and benefits paid.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

Table 4 – Strategic Research and Development Tax Credit Claims and Cost

Tax Year	Taxpayers Claiming the Credit	Cost
2003	10	$637,702
2004	15	$1,374,894
2005	17	$1,191,316
2006	20	$1,483,875
2007	20	$3,446,527
2008	17	$2,725,191
2009	24	$1,888,234
2010	17	$638,784
2011	17	$4,508,077
2012	11	$16,221,306

Similar to the Economic Opportunity Tax Credit, prior to 2015, the Strategic Research and Development Tax Credit can be used to offset Business Franchise Tax liability, Corporation Net Income Tax liability, and Personal Income Tax liability. Since electing small business corporations, limited liability companies, partnerships and other unincorporated organizations can allocate credit among the members, the count of taxpayers claiming the credit is greater than the number of businesses that conducted research and development activities. Additionally, qualifying research and development expenditures or investment qualifying for the Strategic

Research and Development Tax Credit often entitles the taxpayer to claim a portion of the tax benefit over a multiple-year period. The number of taxpayers claiming the credit as presented above is not additive since some taxpayers are included in the counts for multiple years. Additionally, a number of small businesses applied for the Strategic Research and Development Tax Credit for purposes of attracting investment. Taxpayers making investment in certain qualified research and development businesses could potentially qualify for an allocation of the High-Growth Business Investment Credit (a credit covered in a later section of this report). The qualified research and development businesses often had little or no tax liability of their own against which to apply earned Strategic Research and Development Tax Credit.

Although job creation is not a requirement for the Strategic Research and Development Tax Credit, information on new jobs is part of the report criteria. As shown on the Application for West Virginia Strategic Research and Development Tax Credit (form WV/SRDTC-A) in Appendix C, potential credit applicants were asked to provide information on employment in West Virginia. Based upon information from the credit applications, the number of new jobs created by Taxpayers claiming the Strategic Research and Development Tax Credit was 7,808. However, that number is inflated somewhat by jobs created by taxpayers who qualify for the Economic Opportunity Tax Credit in addition to the Strategic Research and Development Tax Credit. A number of the credit claimants reported no new jobs were created or a decline in jobs. For tax years 2003 through 2012, the total Strategic Research and Development Tax Credit cost was $34,115,906, or roughly $4,369 per new job created.

Table 5 – Benefits Provided by SRDTC Businesses

	Health Plan	**Retirement Plan**
Percentage of SRDTC businesses providing 100 percent coverage	47.7%	40.6%
Weighted average cost of benefit per employee	$7,310	$43,809

The year to year employment changes for Taxpayers claiming the Strategic Research and Development Tax Credit (Research Credit) reflect changes in employment only for those firms claiming the tax credit in the year of measured change. No single Taxpayer claimed Research Credit in every year from 2003 thru 2012. Some Taxpayers may only have a single claim over this period and others may have claims in most years, but not all years. Therefore, each annual measurement should be read in isolation. A valid measurement of total employment gain from 2003 thru 2012 is not possible given the changing mix of participating firms.

Table 6 – Comparison of Employment Growth Trends

Tax Year	Change in WV Total Employment	Change in Jobs of SRDTC Applicants
2003	-0.79%	9.23%
2004	1.33%	10.02%
2005	1.23%	4.76%
2006	1.44%	8.20%
2007	0.43%	8.57%
2008	0.18%	12.44%
2009	-2.35%	68.93%
2010	-0.09%	4.41%
2011	1.38%	99.68%
2012	1.26%	1.43%

Manufacturing Investment Tax Credit

The Manufacturing Investment Tax Credit (MITC) was the third new credit enacted in 2002 applicable to investment placed in use or service on or after January 1, 2003. As stated in West Virginia Code §11-13S-2, the intent and purpose of the Manufacturing Investment Tax Credit was stated as follows -- "The Legislature finds that the encouragement of the location of new industry in this state, and the expansion, growth and revitalization of existing industrial facilities in this state is in the public interest and promotes the general welfare of the people of this state." The new credit essentially replaced the Industrial Expansion and Revitalization Credit (IERC) for manufacturers. The Industrial Expansion and Revitalization Credit was retained only for electric power producers. Although the percentage used in determining the amount of credit available from qualifying investment was reduced for the Manufacturing Investment Tax Credit, the credit can now be used to offset Corporation Net Income Tax liability. Additionally, the definition of "manufacturers" was narrowed in comparison to the definition used for the Industrial Expansion and Revitalization Credit.

The criteria for the review and accountability report for the Manufacturing Investment Tax Credit, as stated in West Virginia Code §11-13S-10, are as follows:

- The numbers of taxpayers claiming the credit.
- The net number, type and duration of new jobs created by all taxpayers claiming the credit and the wages and benefits paid.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

The Manufacturing Investment Tax Credit essentially replaced the Industrial Expansion and Revitalization credit. One common feature of the two credits was that the total credit attributable to a qualifying investment was to be allocated evenly over a ten-year period. For example, an investment for the Industrial Expansion and Revitalization Credit made in the year 2004 would provide an annual credit amount for tax years 2004 through 2013. Since many manufacturers make annual upgrades to machinery and equipment, the available credit is often attributable to ten different yearly investments. From reviewing the credit claims of taxpayers applying for the Manufacturing Investment Tax Credit, it was frequently noted that the taxpayer used accumulated Industrial Expansion and Revitalization credit to offset the maximum tax liability possible without having to use earned Manufacturing Investment Tax Credit. However, due to the permitted application of the Manufacturing Investment Tax Credit against the Corporation Net Income Tax, some taxpayers were able to use Industrial Expansion and Revitalization Credit to reduce their Business Franchise Tax liability and Manufacturing Investment Tax Credit to reduce their Corporation Net Income Tax liability. The following charts show the relative usage of Manufacturing Investment Tax Credit and the relative usage of the Industrial Expansion and Revitalization Credit for tax years 2003 through 2012.

Table 7 – Manufacturing Investment Tax Credit Claims and Cost

	Claims Against Tax Liability			Credit Claimed			
Tax Year	Business Franchise Tax	Corporation Net Income Tax	Severance Tax	Business Franchise Tax	Corporation Net Income Tax	Severance Tax	Total
2003	29	(D)[5]	(D)	$84,910	(D)	(D)	$121,404
2004	48	(D)	(D)	$208,327	(D)	(D)	$469,527
2005	57	22	9	$452,785	$358,343	$71,590	$882,718
2006	74	26	12	$926,190	$617,858	$623,601	$2,167,649
2007	91	19	7	$1,518,426	$397,931	$556,184	$2,472,541
2008	108	(D)	(D)	$3,241,871	(D)	(D)	$4,640,641
2009	103	16	12	$3,197,398	$421,747	$763,029	$4,382,174
2010	115	16	10	$3,621,294	$938,626	$906,486	$5,466,406
2011	121	21	8	$3,102,027	$979,633	$887,872	$4,969,532
2012	107	19	8	$1,895,376	$1,204,008	$834,218	$3,933,602

Table 8 – Industrial Expansion and Revitalization Tax Credit Claims[6] and Cost

Industrial Expansion and Revitalization Credit

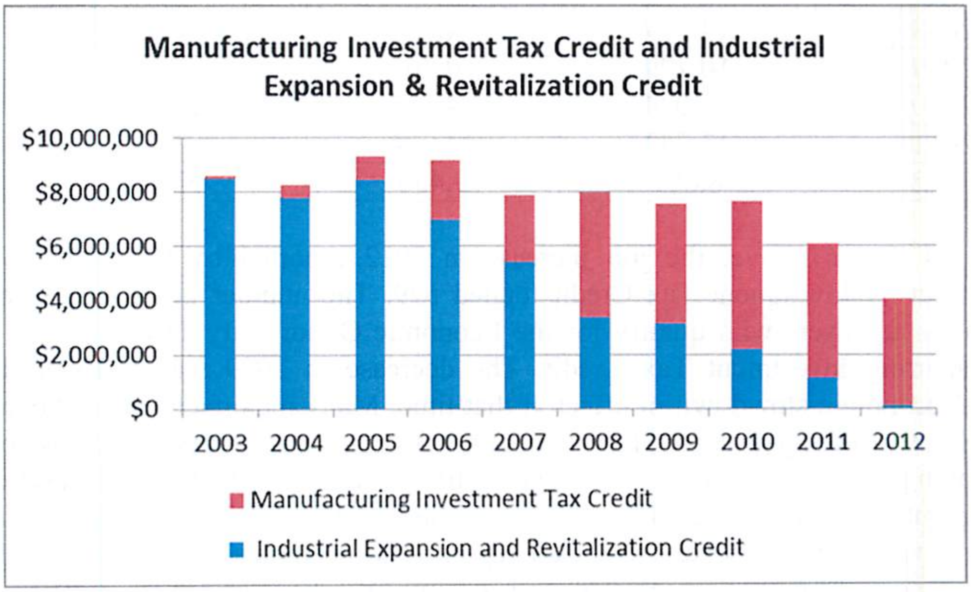
Tax Year	Business Franchise Tax	Severance Tax	Business Franchise Tax	Severance Tax	Total
2003	201	43	$6,922,944	$1,589,315	$8,512,258
2004	177	42	$6,489,165	$1,333,698	$7,822,864
2005	160	37	$7,302,418	$1,165,046	$8,467,464
2006	145	35	$6,012,366	$984,849	$6,997,215
2007	125	33	$4,487,717	$944,029	$5,431,746
2008	119	12	$2,866,613	$499,367	$3,365,980
2009	103	17	$2,692,986	$474,288	$3,167,274
2010	78	11	$1,861,264	$320,113	$2,181,377
2011	(D)[7]	(D)	(D)	(D)	$1,146,036
2012	(D)	(D)	(D)	(D)	$110,043

The combined total of Manufacturing Investment Tax Credit and Industrial Expansion and Revitalization Tax Credit (exclusive of the credit claimed on Business and Occupation Tax returns {primarily electric power generators}) over the ten tax years covered in this report has

[5] (D) – Not applicable to disclose due to Taxpayer Confidentiality.
[6] Does not include Industrial Expansion and Revitalization Credit claims against the Business and Occupation Tax.
[7] (D) – Not applicable to disclose due to Taxpayer Confidentiality.

only ranged from $4.0 million to $9.4 million. As the tables above and the figure below show, utilization of the Manufacturing Investment Tax Credit has been increasing while the utilization of the Industrial Expansion and Revitalization Tax Credit has been falling. In 2008 the Manufacturing Investment Tax Credit surpassed the Industrial Expansion and Revitalization Tax Credit. The Manufacturing Investment Tax Credit has continued to surpass the Industrial Expansion and Revitalization Tax Credit.

Figure 1 Manufacturing Investment Tax Credit and Industrial Expansion and Revitalization Tax Credit



Because of the ten-year credit allocation, the Industrial Expansion and Revitalization Credit continued to be used through 2012. Some taxpayers who gained entitlement to a ten-year Industrial Expansion and Revitalization Credit stream with investment made prior to the termination date have not applied for or used Manufacturing Investment Tax Credit. Further review of the returns of these affected taxpayers may be necessary to determine whether they are reporting current investment under the pre-2003 provisions or whether they have deliberately not applied for the Manufacturing Investment Tax Credit.

Although job creation is not a requirement for the Manufacturing Investment Tax Credit, information on new jobs is part of the report criteria. Similar to the previous credits included in this report, potential Manufacturing Investment Tax Credit claimants were required to file an application before claiming the credit. A copy of the Application for West Virginia Manufacturing Investment Tax Credit (form WV/MITC-A) is included in Appendix D. Based upon information from the credit applications, the number of new jobs created by Taxpayers applying for the Manufacturing Investment Tax Credit over the period under review is shown in the table below.

Table 9 – Change in Jobs of Manufacturing Investment Tax Credit Applicants

Year	Total West Virginia Jobs Prior to Investment	Total West Virginia Jobs Year Investment Placed in Service	Net Change in West Virginia Jobs	Median Change in West Virginia Jobs
2003	18,627	18,660	33	0
2004	16,491	16,753	262	1
2005	11,127	11,346	219	2
2006	16,034	16,832	798	3
2007	18,636	19,635	999	0
2008	14,579	14,679	100	0
2009	10,799	10,463	-336	-2
2010	13,024	14,115	1,091	0
2011	13,753	14,974	1,221	1
2012	8,871	9,450	579	0

As shown above, the job increase in 2012 reported by taxpayers applying for the Manufacturing Investment Tax Credit totaled 579. The number is inflated somewhat by jobs created by taxpayers who qualify for the Economic Opportunity Tax Credit in addition to the Manufacturing Investment Tax Credit. The decrease in 2009 was likely attributable to the national economic slowdown in effect at that time. Many manufacturers make annual upgrades to machinery and equipment. Thus, although many businesses were shedding jobs, some were still making some investment that would qualify for the Manufacturing Investment Tax Credit. Throughout the period covered by this report, the median job change was zero or very close to zero, indicating that for every applicant reporting a job increase there was likely an applicant reporting no new jobs were created or a decline in jobs. For tax year 2010, Manufacturing Investment Tax Credit claims totaled $5,466,406, roughly $5,010 per new job created. For tax year 2011 claims totaled $4,969,532 roughly $4,070 per new job created. For tax year 2012, Manufacturing Investment Tax Credit claims totaled $3,933,602, or roughly $6,794 per new job created.

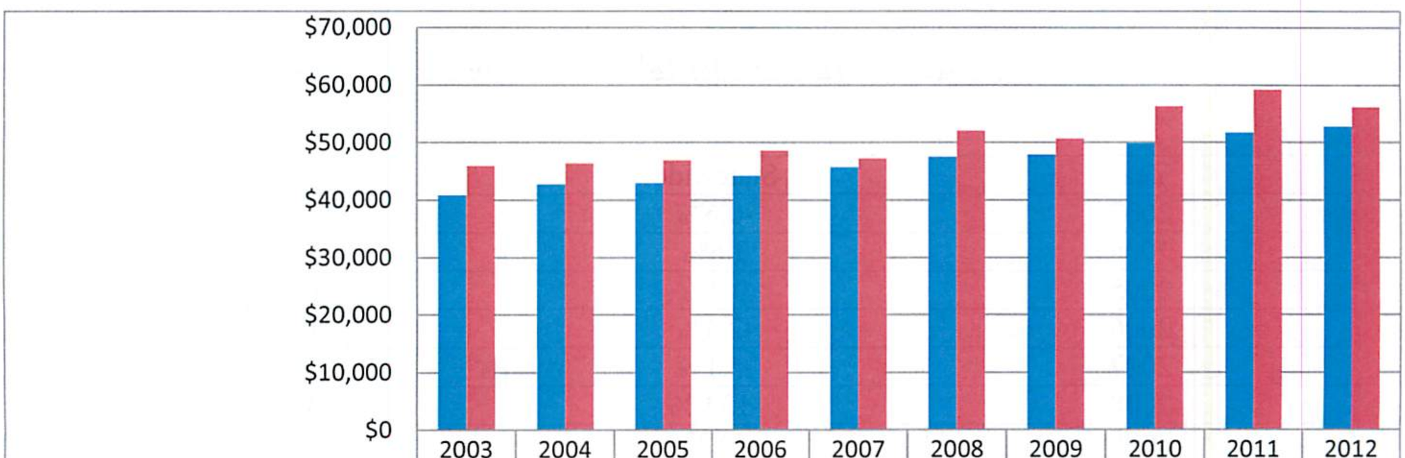
As part of the data collected via the Application for West Virginia Manufacturing Investment Tax Credit (form WV/MITC-A), applicants were asked to provide information on health plans and retirement plans provided to employees. The table below summarizes information reported on the applications. While the Applications are completed in their entirety by most businesses, a few were filed with one or more data elements missing. The values in the table below exclude applications with missing data for the benefits from the calculations.

Table 10 – Benefits Provided by MITC Businesses

	Health Plan	Retirement Plan
Percentage of MITC businesses providing 100 percent coverage	38.0	37.1
Weighted average cost of benefit per employee	$7,900	$3,630

The final criterion for Manufacturing Investment Tax Credit review and accountability analysis is a comparison of employment trends for the industry and for taxpayers within the industry that claim the credit. As shown in the figure below, the average wage of employees of applicants for the Manufacturing Investment Tax Credit was greater than the Statewide average wage for all manufacturing jobs for all periods covered by this report.

Figure 2 Average Wage - Manufacturing Statewide and Manufacturing Investment Tax Credit Applicants



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Average Manufacturing Wage Statewide	$40,922	$42,775	$43,020	$44,234	$45,762	$47,563	$47,937	$49,965	$51,728	$52,789
Average Wage MITC Applicants	$45,993	$46,409	$46,939	$48,618	$47,237	$52,069	$50,741	$56,440	$59,266	$56,273

As shown in the table below, Statewide manufacturing jobs declined for every year covered by this report except for 2011 when manufacturing employment improved 0.8%, a net gain of 387 jobs from the prior year.

Table 11 – Statewide Manufacturing Employment

Year	Total Manufacturing Employment	Change in Manufacturing Employment
2003	64,587	-5.9%
2004	63,014	-2.4%
2005	62,219	-1.3%
2006	61,003	-2.0%
2007	59,124	-3.1%
2008	56,460	-4.5%
2009	50,648	-10.3%
2010	49,066	-3.1%
2011	49,453	0.8%
2012	49,039	-0.8%

The tables below show Statewide and Manufacturing Investment Tax Credit applicant employment trend comparisons for selected North American Industry Classification System codes.

Table 12 – Employment Trends: 321-Wood Product Manufacturing

Year	Statewide	MITC Applicants
2003	-0.6%	7.6%
2004	2.6%	4.2%
2005	0.2%	1.3%
2006	-2.4%	4.5%
2007	-5.1%	-3.0%
2008	-13.9%	-4.8%
2009	-20.2%	-17.3%
2010	-4.5%	-0.2%
2011	-5.5%	-9.8%
2012	-5.6%	11.4%

Table 13 – Employment Trends: 325-Chemical Manufacturing

Year	Statewide	MITC Applicants
2003	-5.4%	-3.8%
2004	-5.3%	-1.3%
2005	-5.8%	-5.5%
2006	-2.0%	10.1%
2007	-1.4%	-9.3%
2008	-0.5%	-0.1%
2009	-3.9%	-3.4%
2010	-2.0%	3.9%
2011	1.9%	-2.0%
2012	-0.2%	-11.6%

Table 14 – Employment Trends: 327-Nonmetallic Mineral Product Manufacturing

Year	Statewide	MITC Applicants
2003	-15.9%	10.2%
2004	-1.3%	10.9%
2005	-3.5%	6.9%
2006	-3.8%	3.9%
2007	-5.5%	0.1%
2008	-7.1%	-4.5%
2009	-11.3%	2.9%
2010	-1.3%	8.2%
2011	-6.5%	0.6%
2012	3.6%	0.9%

Table 15 – Employment Trends: 331-Primary Metal Manufacturing

Year	Statewide	MITC Applicants
2003	-7.4%	6.2%
2004	-10.3%	1.5%
2005	-2.5%	9.8%
2006	-10.5%	2.1%
2007	-2.3%	-2.5%
2008	-1.9%	-6.0%
2009	-19.7%	5.7%
2010	-4.2%	-4.5%
2011	-0.7%	-1.3%
2012	-2.5%	-5.3%

Table 16 – Employment Trends: 332-Fabricated Metal Product Manufacturing

Year	Statewide	MITC Applicants
2003	-7.7%	-5.1%
2004	0.0%	0.7%
2005	1.1%	3.3%
2006	-2.1%	-1.0%
2007	-0.3%	1.5%
2008	1.3%	13.9%
2009	-7.5%	-6.1%
2010	-5.0%	3.1%
2011	4.3%	9.2%
2012	-1.5%	-4.7%

Table 17 – Employment Trends: All Other Manufacturing

Year	Statewide	MITC Applicants
2003	-4.9%	-3.6%
2004	-1.1%	0.6%
2005	-0.3%	4.9%
2006	1.0%	4.8%
2007	-3.6%	10.5%
2008	-4.9%	2.3%
2009	-8.4%	1.2%
2010	-2.8%	-3.7%
2011	2.3%	9.2%
2012	-0.1%	1.0%

High-Growth Business Investment Tax Credit

The last of the four credits that are the subjects of this report is the High-Growth Business Investment Tax Credit (HGBITC), enacted in 2004 and terminated in 2008. The Legislative intent stated at West Virginia Code §11-13U-2 is as follows: "The Legislature finds the encouragement of investment in potentially high-growth research and development businesses in this state is in the public interest and promotes economic growth and development for the people of this state. In order to encourage investment in start-up, growth-oriented, research and development businesses in this state and thereby increase employment and economic development, there is hereby provided a high-growth business investment tax credit."

The criteria for the review and accountability report for the High-Growth Business Investment Tax Credit, as stated in West Virginia Code §11-13U-8, are as follows:

- The numbers of eligible taxpayers claiming the credit.
- The net number, type, and duration of new jobs created by all qualified research and development companies in which taxpayers claiming the credit made investment in and the wages and benefits paid by such companies.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

As stated previously, each of the four credits included in this report entails that taxpayers file an application and be approved before claiming the credit. For the Economic Opportunity Tax Credit, Strategic Research and Development Tax Credit, and the Manufacturing Investment Tax Credit, the State Tax Department received and reviewed the application, while for the High-Growth Business Investment Tax Credit, the application process was administered by the West Virginia Economic Development Authority.

The High-Growth Business Investment Tax Credit, as enacted in West Virginia Code §11-13U-1 et seq., was effective on July 1, 2005, and applied only to qualified investment made on or after July 1, 2005. Other provisions for the High-Growth Business Investment Tax Credit included: a limit of $1,000,000 per fiscal year in tax credit that could be allocated by the West Virginia Economic Development Authority; the credit allocation to an applicant was equal to 50 percent of the qualified investment that was actually made; the tax credit could be applied to reduce the Business Franchise Tax, the Corporation Net Income Tax, or the Personal Income Tax; the total amount of tax credit that could be used in a tax year by a Taxpayer could not exceed $50,000, and, any unused credit could be carried forward. The Statute also provided for termination of the tax credit program on July 1, 2008. No entitlement to the High-Growth Business Investment Tax Credit could be gained from any qualified investment made after June 30, 2008. However, Taxpayers who gained entitlement to the tax credit prior to July 1, 2008 would retain the entitlement to the tax credit and can apply the credit to reduce the aforementioned taxes until the credit is exhausted.

As provided by the West Virginia Economic Development Authority, the number of approved High-Growth Business Investment Tax Credit certificates of entitlement and the total amount of credit authorized are shown in the following table.

Table 18 – Approved High-Growth Business Investment Tax Credit Entitlements

Fiscal Year	Approved Certificates of Credit Entitlement	Total HGBITC Authorized
2006	14	$500,000.99
2007	15	$187,500.00
2008	40	$510,754.38
Total	69	$1,198,255.37

The application of the High-Growth Business Investment Tax Credit to offset tax liability is shown in the following table.

Table 19 - High-Growth Business Investment Tax Credit Claims and Cost

Tax Year	Credit Claimants	Credit Cost
2005	24	$491,574
2006	16	$176,860
2007	27	$341,371
2008	13	$115,044
2009	5	$14,460
2010	1	(D)[8]
2011	1	(D)
2012	0	$0

Since the earliest certificates of entitlement were issued in FY2006 (i.e., the July 1, 2005 to June 30, 2006) period, some taxpayers were able to immediately apply the credit to their tax year 2005 return due in March or April of 2006 (or September or October of 2006, if the taxpayer received an extension to file).

The criteria for the review and accountability report for the High-Growth Business Investment Tax Credit include analysis of information on "the net number, type, and duration of new jobs created by all qualified research and development companies in which taxpayers claiming the credit made investment in and the wages and benefits paid by such companies." However, it appears that the number of qualified research and development companies in which High-Growth Business Investment Tax Credit investors made investment is below the level at which the State Tax Department releases statistical data extracted from returns. Also, the criteria include analysis of information on the cost of the credit per new job created and a comparison of employment trends. Release of this information is also precluded due to the limited number of qualified research and development companies in which High-Growth Business Investment Tax

[8] (D) – Not applicable to disclose due to Taxpayer Confidentiality.

Credit investors made investment. This tax credit will no longer be reviewed in future reports given that the program previously terminated in 2008 and all tax credits have since been claimed.

Conclusion

Since the enactment of various new tax credit programs in 2002, State policymakers greatly altered State tax policy with greater emphasis on broad-based tax relief rather than tax preferences for select businesses. The broad-based tax relief included the phase-out of the Business Franchise Tax and the reduction in the Corporation Net Income Tax rate from 9.0% in 2002 to 6.5% by 2014. These broad-base tax changes effectively lowered the potential future value of the offsetting tax credits such as those covered in this report.

The Economic Opportunity Tax Credit essentially replaced the Business Investment and Jobs Expansion Tax Credit, the Manufacturing Investment Tax Credit replaced the Industrial Expansion and Revitalization Tax Credit and the Strategic Research and Development Tax Credit replaced the Research and Development Tax Credit. These newer programs were analyzed in this accountability report. A relatively low number of applications for the Economic Opportunity Tax Credit to date is likely attributable to a number of factors. The primary reason for the paucity of applications is the advent of the Great Recession in 2007 and the slow rebound of the economy since then. For the 2003 through 2012 period covered by the report, employment by manufacturers fell every year. Additional applications for the Economic Opportunity Tax credit are expected as the economy improves.

In some cases, taxpayers filing an application and making the necessary investment or expenditure to gain entitlement to one of the new credits did not use any of the credit due to outstanding credit allowances for other credits, including the terminated credits. Some taxpayers with Business Franchise Tax liability or Corporation Net Income Tax liability and available Strategic Research and Development Tax Credit were able to use credit entitlement from terminated credits, including the Research and Development Projects Credit, to reach their maximum allowable tax offset. Similarly, some taxpayers with Business Franchise Tax liability or Severance Tax liability and available Manufacturing Investment Tax Credit used accumulated Industrial Expansion and Revitalization Tax Credit to offset the maximum allowable percentage of liability and did not have to use the Manufacturing Investment Tax Credit. Also, some additional credits (e.g., Manufacturing Property Tax Adjustment Tax Credit) have been enacted that do not require application before the credit can be used.

Each of the four credits discussed in this report required the taxpayer to file an application before the credit could be claimed. For the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit, and the Manufacturing Investment Tax Credit, the applications were due no later than the last day for filing the taxpayer's income tax return including any authorized extension of time for filing the return. In practice, the applications were often filed with a return claiming the credit. The review of tax returns for this report has found a small number of credit claims asserted without the required application having been filed, or by taxpayers not meeting the other eligibility requirements stated in the Statute. To the extent possible, the State Tax Department will recoup tax losses resulting from ineligible credit claims.