STATE OF RHODE ISLAND

Governor Daniel J. McKee

STATE OF RHODE ISLAND

DEPARTMENT OF REVENUE

Economic Development Tax Incentives Evaluation Act:

Evaluation of Jobs Development Act

(R.I. Gen. Laws Chapter 42-64.5)

Tax Years 2016 Through 2018

Office of Revenue Analysis

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Foreword

The evaluation of the "Jobs Development Act" program, *Tax Years 2016 through 2018* was prepared at the request of Paul L. Dion, Ph.D., Chief of the Rhode Island Department of Revenue, Office of Revenue Analysis in accordance with Rhode Island General Laws § 44-48.2-4. Madiha Zaffou, Ph.D., Chief Economic and Policy Analyst in the Office of Revenue Analysis was project leader for the production and writing of this report, under the guidance of Mr. Dion. Ms. Zaffou was assisted by Emily Fazio, Senior Economic and Policy Analyst in the Office of Revenue Analysis.

Much of the information needed to complete the analysis contained in this report was provided by the Rhode Island Department of Revenue, Division of Taxation, under the direction of Neena Sinha Savage, State Tax Administrator. The compilation of the data that was provided to the Office of Revenue Analysis was due to the tremendous efforts of Tracy Wunder, Data Analyst III in the Division of Taxation. Tracy was assisted in this task by Donna Dube, Chief Revenue Agent, Forms, Credits, and Incentives.

The Office of Revenue Analysis is appreciative of the efforts made by the Division of Taxation to provide us with the best information available at the time this report was written.

Executive Summary

This report is the second evaluation of the "Jobs Development Act" program conducted by the Department of Revenue, Office of Revenue Analysis (ORA) in accordance with Rhode Island General Laws (R.I. Gen. Laws) Chapter 44-48.2.[1] The report provides an estimate of the economic and fiscal impacts of this tax incentive for tax years 2016 through 2018. ORA relied primarily on data provided by the Department of Revenue, Division of Taxation (Taxation) to conduct the analysis. The following is a summary of this evaluation:

The Tax Incentive Provision:

The *Jobs Development Act* (JDA) provides for a reduction in the taxes paid by a business under R.I. Gen. Laws Chapters 44-11 (entitled "Business Corporation Tax"), 44-14 ("Taxation of Banks") and 44-17 ("Taxation of Insurance Companies"), or on its gross earnings pursuant to Chapter 44-13 ("Public Service Corporation Tax"). The tax benefit is equal to a tax rate reduction for each new unit of employment that is added to a company's previously established base employment. In addition to hiring new employees, companies that qualified for the JDA tax incentive prior to July 1, 2009 had to pay each new employee 150 percent of the Rhode Island hourly minimum wage. There were no requirements for these companies to provide health and retirement benefits. For companies that qualified for the JDA tax incentive on or after July 1, 2009, new full-time equivalent active employees are employees that work at least 30 hours per week and are paid 250 percent of the hourly minimum wage as prescribed by Rhode Island law at the time the employee was first treated as a full-time equivalent active employee. Companies that qualify for the JDA tax rate reduction on or after July 1, 2009 must also provide to each full-time equivalent active employee "healthcare insurance benefits and retirement benefits."

The Main Goals and Objectives of the Tax Incentive:

Statutory and programmatic goals and the intent of the tax incentive are not defined in the enabling statute.

The Report's Key Findings:

- According to Taxation, an average of five companies received the JDA tax rate reduction with an average tax savings amount of $13,000,196 over tax years 2016 through 2018.
- Taxation reported an average of 12,225 employees working for JDA beneficiary firms across four different industries over tax years 2016 through 2018.
    - This total exceeds the required number of FTE active jobs created or retained to receive the tax rate reduction by 4,563.
    - The reported total FTE active jobs created or retained is 61.5% above the number of FTE active jobs created or retained required to receive the tax rate reduction.
    - The employees of JDA tax rate reduction beneficiaries earned an average median annual wage of $63,430.

[1] The first evaluation of the "Jobs Development Act" program was published on May 14, 2018 and covered Tax Years 2013 through 2015.

- ORA conducted a "break-even" analysis to estimate the minimum percentage of the net economic activity created by the JDA tax rate reduction beneficiaries that would have to be new to the Rhode Island economy, and thus, would not exist without the tax benefit, in order for the JDA tax rate reduction to "pay" for itself.
    - ORA estimated these minimum percentages as follows:
        i. With respect to Rhode Island net general revenues, the JDA tax rate reduction program breaks even if at least 79% of the economic activity directly related to the provision of the tax rate reduction would not have occurred without the tax incentive.
        ii. With respect to Rhode Island Gross Domestic Product, the JDA program breaks even if at least 5.0% of the economic activity directly related to the availability of the tax rate reduction would not have occurred without the tax incentive being available.
        iii. With respect to Rhode Island total employment, the JDA program breaks even if at least 5.5% of the economic activity directly related to the tax rate reduction's utilization would not have resulted except for the tax incentive.

- The JDA tax rate reduction incentive has been closed to new applicants since July 1, 2015 as specified in R.I. Gen. Laws § 44-48.3-12, of the *Rhode Island New Qualified Jobs Incentive Act of 2015*. In addition, a disproportionate amount of the tax rate reduction savings associated with the JDA program accrue to two firms, both of which qualified for the JDA tax rate reduction in the 1990s. The fact that no new firms can qualify for the JDA program calls into question the equity of retaining the program. Effectively, the JDA program can serve as a barrier to entry to the Rhode Island economy for firms that must compete for resources with current JDA tax rate reduction recipient firms. New entrants to the Rhode Island economy are likely at a substantive financial disadvantage vis-à-vis JDA recipient firms due to the tax savings received by the latter that are unobtainable by the former.

Part I: Introduction

Pursuant to Rhode Island General Laws (R.I. Gen. Laws) § 44-48.2-4, titled *Rhode Island Economic Development Tax Incentives Evaluation Act of 2013,* the Chief of the Office of Revenue Analysis (ORA) is required to produce, in consultation with the Director of the Economic Development Corporation (now the Rhode Island Commerce Corporation), the Director of the Office of Management and Budget, and the Director of the Department of Labor and Training, a report that contains analyses of economic development tax incentives as listed in R.I. Gen. Laws § 44-48.2-3(1). According to R.I. Gen. Laws § 44-48.2-4(1), the report "[s]hall be completed at least once between July 1, 2014, and June 30, 2017, and no less than once every three (3) years thereafter".

The additional analysis as required by R.I. Gen. Laws § 44-48.2-4(1) shall include, but not be limited to the following items as indicated in R.I. Gen. Laws § 44-48.2-5(a):

1) A baseline assessment of the tax incentive, including, if applicable, the number of aggregate jobs associated with the taxpayers receiving such tax incentive and the aggregate annual revenue that such taxpayers generate for the state through the direct taxes applied to them and through taxes applied to their employees;
2) The statutory and programmatic goals and intent of the tax incentive, if said goals and intentions are included in the incentive's enabling statute or legislation;
3) The number of taxpayers granted the tax incentive during the previous twelve-month (12) period;
4) The value of the tax incentive granted, and ultimately claimed, listed by the North American Industrial Classification System (NAICS) Code associated with the taxpayers receiving such benefit, if such NAICS Code is available;
5) An assessment and five-year (5) projection of the potential impact on the state's revenue stream from carry forwards allowed under such tax incentive;
6) An estimate of the economic impact of the tax incentive including, but not limited to:
    i. A cost-benefit comparison of the revenue forgone by allowing the tax incentive compared to tax revenue generated by the taxpayer receiving the credit, including direct taxes applied to them and taxes applied to their employees;
    ii. An estimate of the number of jobs that were the direct result of the incentive; and
    iii. A statement by the Chief Executive Officer of the Commerce Corporation, as to whether, in his or her judgment, the statutory and programmatic goals of the tax benefit are being met, with obstacles to such goals identified, if possible;
7) The estimated cost to the state to administer the tax incentive if such information is available;
8) An estimate of the extent to which benefits of the tax incentive remained in state or flowed outside the state, if such information is available;
9) In the case of economic development tax incentives where measuring the economic impact is significantly limited due to data constraints, whether any changes in statute would facilitate data collection in a way that would allow for better analysis;

10) Whether the effectiveness of the tax incentive could be determined more definitively if the General Assembly were to clarify or modify the tax incentive's goals and intended purpose;
11) A recommendation as to whether the tax incentive should be continued, modified, or terminated; the basis for such recommendation; and the expected impact of such recommendation on the state's economy;
12) The methodology and assumptions used in carrying out the assessments, projections and analyses required pursuant to subdivisions (1) through (8) of this section.

The current report is one part of a series of reports for each one of the tax credits to be analyzed according to R.I. Gen. Laws § 44-48.2-3(1). This report concerns R.I. Gen. Laws § 42-64.5-3 entitled "Jobs Development Act: Tax rate reduction" (JDA) and measures the economic impact associated with the tax rate reduction during tax years 2016 through 2018.[2] This analysis is performed at the micro level using information provided by Taxation.

This report is divided into five sections. Section I provides a detailed description of the tax incentive and its statutory programmatic goals and intent. Section II presents some background regarding this tax incentive. Section III presents a description of the data provided and used in the analysis by ORA. Section IV assesses the economic impact generated under the JDA program. Section V discusses relevant policy recommendations that could help in the decision process as to whether the tax incentive should be continued, modified, or terminated.

1. Description of the Incentive

The *Jobs Development Act (JDA)* provides for a reduction in the tax rate paid by a business under R.I. Gen. Laws Chapters 44-11 (entitled "Business Corporation Tax"), 44-14 ("Taxation of Banks") and 44-17 ("Taxation of Insurance Companies"), or on its gross earnings pursuant to Chapter 44-13 ("Public Service Corporation Tax"). The tax benefit is equal to a tax rate reduction for each new unit of employment that is added to a company's previously established base employment.[3] A unit of employment consists of 10 new full-time equivalent employees for companies with base employment levels of 100 or fewer full-time employees or 50 new full-time equivalent employees for companies with base employment of more than 100 full-time employees.

Under the original terms of the Jobs Development Act, a qualifying company received a 0.25 percentage point reduction in the statutory tax rate for each unit of employment added up to a maximum reduction of six percentage points. These parameters applied to all tax types other than the tax on the gross earnings of public service corporations for which the maximum tax rate reduction is one percentage point. Following the implementation of mandatory combined reporting for business corporation tax filers, which included a reduction of the business corporation tax rate from 9% to 7% effective January 1, 2015, the amount of the JDA tax rate reduction was adjusted

[2] This is the second evaluation of the JDA tax incentive. The first evaluation covered tax years 2013 through 2015 and was released on May 14, 2018.
[3] Refer to Appendix A for detailed description and illustrative example of the process by which a firm qualified for the Jobs Development Act tax rate reduction.

from 0.25 to 0.20 percentage points per unit of employment and the maximum reduction adjusted from six to four percentage points.

Prior to July 1, 2009, a full-time equivalent active employee was any employee who worked at least 30 hours per week or two or more part-time employees whose combined weekly hours totaled at least 30 hours per week. In addition to hiring new employees, companies that qualified for the JDA tax rate reduction prior to July 1, 2009 had to pay each new employee 150 percent of the Rhode Island hourly minimum wage at the time the employee was first treated as a full-time equivalent active employee. For companies that qualified for the rate reduction prior to July 1, 2009, there were no requirements to provide health and retirement benefits.

For companies that qualified for the Jobs Development Act tax rate reduction on or after July 1, 2009, new full-time equivalent active employees are employees that work at least 30 hours per week and are paid 250 percent of the hourly minimum wage as prescribed by Rhode Island law at the time the employee was first treated as a full-time equivalent active employee. Companies that qualified for the rate reduction on or after July 1, 2009 must also provide to each full-time equivalent active employee “healthcare insurance benefits, and retirement benefits.” It should be noted, that all full-time equivalent active employees who are designated as fulfilling the required jobs under the Jobs Development Act and who have a start date for employment on or after July 1, 2009 must meet the wage and benefits criteria outlined in this paragraph.

Effective July 1, 2015, the Jobs Development Act tax rate reduction was discontinued unless a company had qualified for the tax rate reduction prior to July 1, 2015. This provision, contained in Rhode Island General Laws § 44-48.3-12, essentially grandfathers in recipients of the JDA tax rate reduction who qualified prior to July 1, 2015 while denying any new companies that might otherwise qualify for the JDA tax rate reduction from being approved for it.

2. Statutory and Programmatic Goals and Intent of the Tax Incentive

This information is unavailable. Statutory and programmatic goals and the intent of the tax incentive are not defined in the enabling statute.

Part II. JDA Background and Historical Usage

ORA began the analysis of the Jobs Development Act tax rate reduction by compiling as much data as possible regarding Jobs Development Act program usage since it was enacted in 1994. The following table provides the JDA amounts received by each beneficiary firm for the period of fiscal years 2011 through 2020:

Jobs Development Act Tax Rate Reduction Amounts by Beneficiary Firm

(Thousands of Dollars, Fiscal Years 2011 - 2020)

Beneficiary Firm	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Avg.	Total
Inquest Technologies, Inc.	$0.3										$0.3	$0.3
Cadence, Inc.	$12.3										$12.3	$12.3
AAA Southern New Eng. & Subs.	$91.9	$108	$24.5	$69.5							$73.5	$294
CVS Pharmacy, Inc.	$13,439	$15,447	$14,450	$6,532	$19,056	$10,489	$1,846	$1,463	$1,538	$1,406	$8,567	$85,666
Electric Boat Corporation	$207	$602	$583	$624	$679	$966	$3.1	$3.8	$2.6		$408	$3,670
Rite-Solutions, Inc.	$5.4	$8.4	$9.90	$8.0	$1.80	*	$10.1	$9.5	*	$6.1	$7.4	$59.2
Citizens Bank & Subsidiaries	$260	$120	$85.0	$120	$3,372	$11,941	$7,074	$6,448	$9,957	$18,091	$5,747	$57,469
United Natural Foods, Inc.	$62.6	$109	$131	$167	$238	$136	$20.2	$21.1	$20.1		$100.6	$905
Count of Beneficiary Firms	**8**	**6**	**6**	**6**	**5**	**4**	**5**	**5**	**4**	**3**	**5**	**8**
Total JDA Rate Reduction	**$14,078**	**$16,395**	**$15,284**	**$7,520**	**$23,347**	**$23,533**	**$8,954**	**$7,946**	**$11,517**	**$19,504**	**$14,808**	**$148,078**

Notes:

- Asterisk (*) indicates fiscal year with no reported JDA usage, with usage reported in the following year.

Source: Division of Taxation *Tax Credits & Incentives Reports*

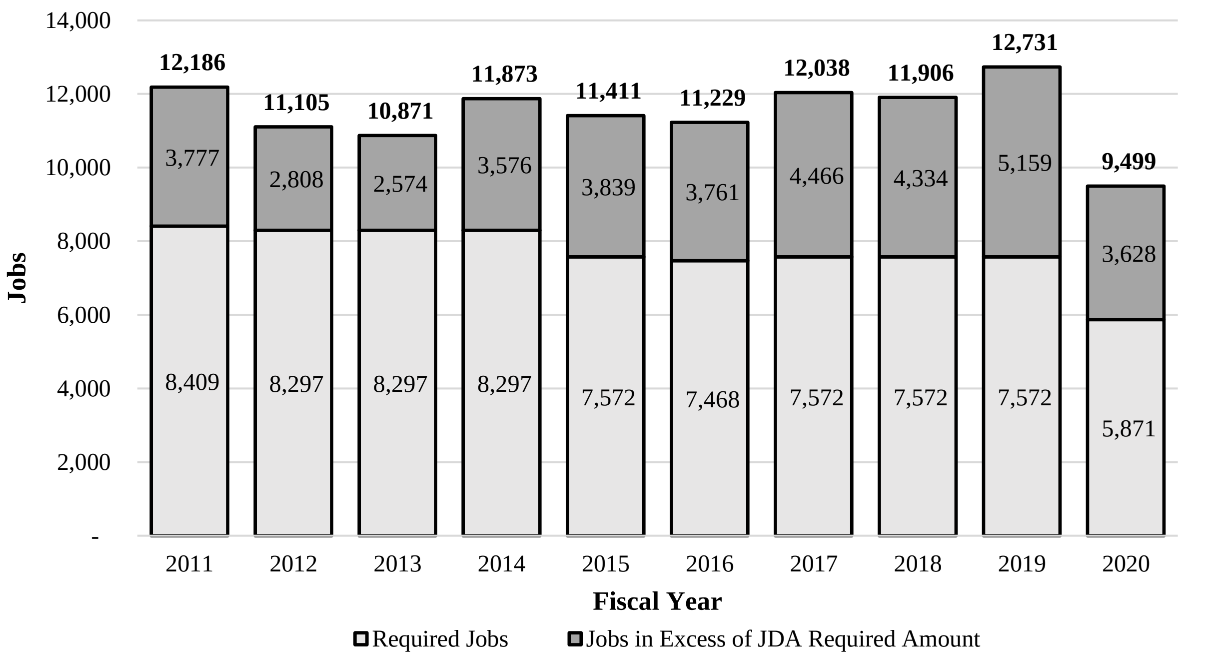
The table above illustrates significant heterogeneity with respect to the total value of the tax rate reduction utilized by each JDA beneficiary. CVS Pharmacy, Inc. and Citizens Bank & Subsidiaries stand out with the highest usage over the time period displayed, each claiming an average of over $5 million per year, totaling more than $50 million each over this ten-year period.[4] These firms are responsible for multiple times the usage of the next highest JDA beneficiary both in terms of average annual amount and total lifetime usage. It should be noted, that while CVS and Citizens Bank report the highest tax savings from the tax rate reduction usage, the corporations also report the highest levels of JDA-qualifying Rhode Island employment. The remaining six beneficiary firms claimed average annual amounts under $1.0 million per year.

[4] Effective for tax years beginning on or after January 1, 2015, Rhode Island switched to a mandatory combined reporting tax system with single sales factor (SSF) apportionment and a statutory tax rate of 7% for business corporation tax filers (R.I. Gen. Laws Ch. 44-11). Under SSF apportionment, the proportion of a C-corporation's U.S. net income that is subject to Rhode Island tax is equal to the portion of the firm's total sales that took place in Rhode Island relative to its total U.S. sales. Prior to January 1, 2015, Rhode Island used a single entity reporting system with three-factor apportionment and a statutory tax rate of 9%. The change to a mandatory combined reporting tax regime reduced the potential amount of tax owed by Rhode Island-based C-corporations, thereby reducing the tax savings generated from the JDA tax rate reduction. This effect on savings from the JDA tax rate reduction can be readily seen in the table. It should also be noted that annual rate reductions changed dramatically over time. Trends over time are discussed below (on page 13) in relation to the table labeled "JDA Rate Reduction per Required Employee by Beneficiary Firm."

Average annual employment by JDA beneficiary firms frequently exceeds 11,000 full-time equivalent active employees as shown in the following chart. Using the employment data provided on the Rhode Island 9261A forms submitted by JDA recipient firms to Taxation, ORA can differentiate between the minimum required employment level necessary for the JDA recipient firm to qualify for the program and the total reported employment level. The "required employment" count is the number of jobs necessary to maintain the rate reduction after the conclusion of the expansion period. Many firms continue to grow following the conclusion of their expansion period, and report "excess employment" above the minimum required employment level. The following chart distinguishes between these two components of JDA employment over ten fiscal years[5].

Jobs Development Act Required, Excess, and Total Reported Employment

(Fiscal Years 2011 - 2020)



Note: Jobs defined according to Jobs Development Act "full-time equivalent active employee" counting methodology as specifed in R.I. Gen. Laws §42-64.5-2(7). The figues provided above each bar represent the total jobs (equal to the sum of required jobs and excess jobs) among firms for each fiscal year.

Source: Rhode Island Form 9261A as reported in annual Unified Economic Development Reports published by the Rhode Island Department of Revenue.

Note that the number of employees at each JDA-recipient firm varies significantly. The following table provides additional detail, showing the three-year average count of required, excess, and total jobs per beneficiary firm for tax years 2016 through 2018.

[5] A more detailed discussion and explanation of the JDA employment breakdown is provided in Appendix A.

Average Annual Employment Reported by JDA Recipient Firm

(Three-year Average, Tax Years 2016 - 2018)

Beneficiary Name	Required	Excess	Total
CVS Pharmacy, Inc.	3,430	2,178	5,608
Electric Boat Corporation	1,501	1,166	2,667
Rite-Solutions, Inc.	104	48	152
Citizens Bank & Subsidiaries	2,337	822	3,159
United Natural Foods, Inc.	200	439	639
Total	**7,572**	**4,653**	**12,225**

Source: Rhode Island Form 9261A as reported in annual *Unified Economic Development Reports* published by the Rhode Island Department of Revenue, Office of Revenue Analysis and assigned to tax year according to ORA assumptions

To provide insight into the cost per job of the JDA tax rate reduction savings, ORA calculated the JDA tax rate reduction savings per required employee for each JDA beneficiary firm by dividing the total JDA tax savings dollar amount received by the number of required employees for each firm in each tax year. Note that the count of employees used in this calculation is the count of *required* employees. This count of required employees consists of a portion of employees that existed prior to the award of the JDA tax rate reduction, the employment of which it could be argued are not attributable to the availability of JDA tax incentive. Excluding the "base" employment and dividing the JDA rate reduction by the count of "new" employees would result in a significantly higher cost per employee.[6]

Additionally, this calculation excludes "excess" employment above the required level. Including these employees would have resulted in a lower cost per employee than is shown in the table. Furthermore, ORA was unable to determine whether the excess employment was an exhaustive count of JDA-qualifying employees at each firm. For example, it is possible that firms with employment greater than the required level only report employment on the Rhode Island Form 9261A at a level to demonstrate compliance with JDA requirements rather than to document their *entire* workforce. The following table provides the results of dividing the annual JDA rate reduction amount by the count of required jobs:

[6] Further discussion regarding the differentiation between "base" and "new" employment can be found in Appendix B.

JDA Rate Reduction per Required Employee by Recipient Firm

(Dollars, Tax Years 2016-2018)

Recipient Name	2016	2017	2018	AVG.
CVS Pharmacy, Inc.	$538	$427	$448	$471
Electric Boat Corporation	$2	$3	$2	$2
Rite-Solutions, Inc.	$97	$91	$58	$82
Citizens Bank & Subsidiaries	$3,027	$2,759	$4,260	$3,349
United Natural Foods, Inc.	$101	$105	$101	$102
Total Reported Jobs	**$3,766**	**$3,385**	**$4,870**	**$4,007**

Note: Shading scale highlights indicate relative cost of JDA rate reduction per required employee for each beneficiary firm by year. Darker regions indicate higher value of rate reduction claimed.
Source: ORA calculations utilizing Rhode Island Department of Revenue *Unified Economic Development Reports* and Division of Taxation *Tax Credits & Incentives Reports* assigned to tax year according to ORA assumptions.

The table above highlights the disparity in JDA rate reduction cost per employee among beneficiary firms. The cost per required employee is measured in the thousands of dollars per employee for Citizens Bank & Subsidiaries, while it is measured in the hundreds or tens of dollars per employee for the remaining four firms. This table highlights the variability and change in the cost of the rate reduction per required employee over the evaluation period. For example, the value of the rate reduction ranges from *de minimis* levels (*e.g.*, $2 per required employee for Electric Boat Corporation in TY 2016 and TY 2018) to significant levels (*e.g.*, $4,260 per required employee for Citizens Bank in TY 2018).

Because the count of required employees remains constant for each firm over time, it can be assumed that fluctuations in rate reduction per employee are generally correlated with a firm's taxable income. However, a detailed analysis of this relationship is not possible as the tax liability of a firm or small group of firms is considered confidential information by Taxation.

While the JDA tax rate reduction may have had an instrumental role in a firm's hiring and location decisions at the time it was first awarded, it is far more difficult to evaluate whether such preferential tax treatment remains justified years later. There has been no determination made that jobs at a high cost of tax rate reduction firm are economically more beneficial to the state than jobs at a low-cost of tax rate reduction firm.

Logically, it would follow that a tax benefit intended to incentivize employment should reduce the marginal cost of employment. This is particularly important for states in the northeast, where labor costs are higher than in other parts of the country. The Employment Cost Index (ECI) is a quarterly economic measure detailing the changes in the costs of labor for businesses in the United States. As is evident from the table below, New England has the highest ECI for total compensation, which includes wages and salaries and benefits (i.e., paid leave, supplementary pay, insurance, retirement savings and legally required benefits). The higher ECI is largely driven by wages and salaries, which is similarly elevated in New England.

Employment Cost Index for Private Industry Workers

(2020 Q2, Not Seasonally Adjusted, 2005Q4=100)

Area	Total Compensation *	Wages and Salaries only
United States	140.1	140.9
Northeast	142.6	142.7
New England	145.7	147.8
Middle Atlantic	141.5	140.8
South	138	139.7
South Atlantic	140.3	142.2
East South Central	136.9	137.8
West South Central	134.7	136.2
Midwest	137.6	137.9
East North Central	136.1	136.3
West North Central	141.3	142
West	143.1	144.3
Mountain	140.5	141.8
Pacific	144.3	145.5

Note:

The Employment Cost Index (ECI) is a quarterly measure of changes in total labor costs and their wage-and-salary and benefits components.

* Includes costs for wages and salaries and benefits.

Source: U.S. Bureau of Labor Statistics, Employment Cost Trends

To compete on a national scale, and with nearby and lower cost Middle Atlantic states, every New England state has implemented some form of job creation tax incentive to help reduce employment costs. While many states offer tax incentives for job creation, most are in the form of tax credits or cash grants, rather than tax rate reductions. Nevertheless, these tax incentives all reflect an effort by states to reduce the marginal cost of labor to entice businesses to increase employment and invest in their labor force.

With regard to the Jobs Development Act tax rate reduction, while the initial tax rate reduction offered by the program may have incentivized hiring by reducing the marginal cost of employment during the recipient firm's initial expansion period, years later the tax rate reduction has no further impact on a firm's marginal cost of labor relative to other inputs. The JDA beneficiaries do not receive a tax rate reduction for their excess employment although it may be the case that the excess employment is an agglomeration effect from the initial new employment that was required to be added in order to receive the JDA tax rate reduction.

The footprint of the Jobs Development Act tax rate reduction recipients occupies a sizable chunk of the state's workforce and economy. While a number of the early participants in the Jobs Development Act program have forfeited previously earned JDA tax rate reductions for not maintaining the required level of employment, the firms that continue to receive a JDA tax rate reduction are among the state's longest standing, highest paying, and largest employers – some of which have national headquarters located in Rhode Island.[7] The loss of one of the larger JDA firms, particularly a major Rhode Island-headquartered firm, would have a major negative impact on the Rhode Island economy. The following table describes the economic footprint of JDA beneficiary firms in terms of wages, workforce, and personal income:

Economic Footprint of JDA Recipient Firms
(Three-year Average, Tax Years 2016 - 2018)

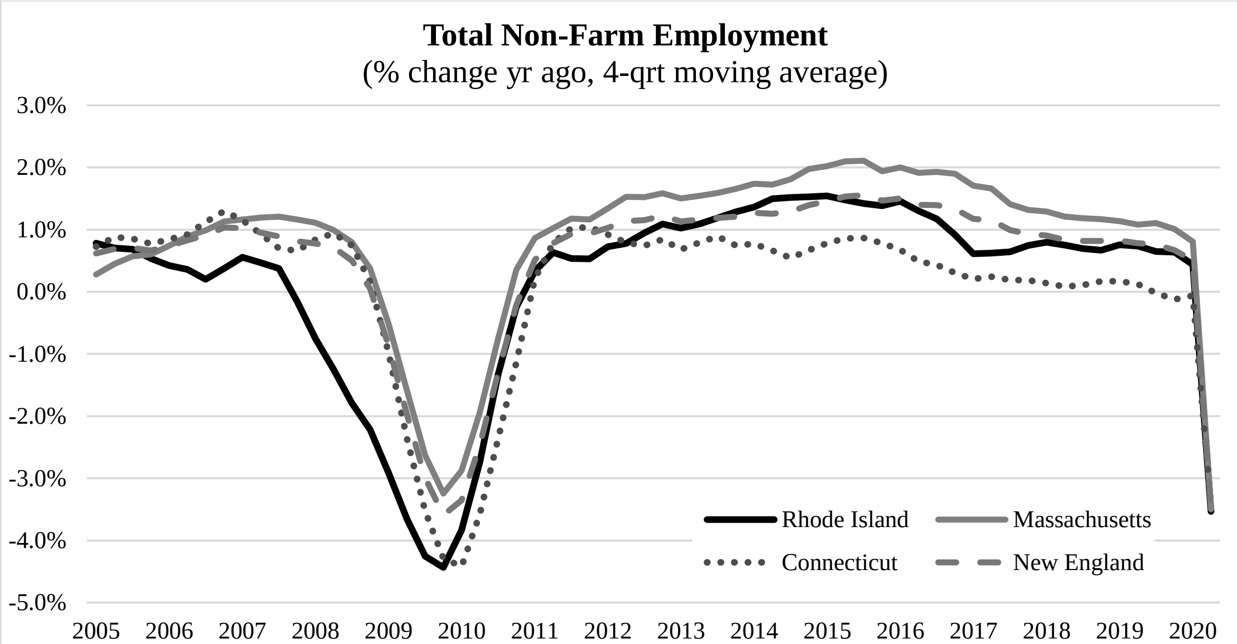
	JDA Beneficiaries [1]	**Statewide [2, 3]**
Average Hourly Wage	$43.54	$25.62
Annual Wages	$94,619	$50,735
Size of Workforce	More than 11,400 direct employees (2.1% of total RI labor force)	553,618 RI labor force
Personal Income	More than $1.2 billion average annual direct wages (5.9% of total RI personal income)	$18.5 billion average annual personal income
Size of Employer	➢ CVS reports 5,543 direct jobs ➢ Citizens reports 2,958 direct jobs ➢ EB reports 2,549 direct jobs ➢ UNFI reports 573 direct jobs ➢ Rite-Solutions reports 152 direct jobs	➢ 0.08% of total employers in RI employ greater than 1,000 employees ➢ 1.5% of total employers in RI employ 250 employees or more ➢ 2.8% of total employers in RI employ 100 employees or more

Sources:
[1] ORA calculations utilizing Rhode Island Form 9261A, average tax years 2016 through 2018.
[2] Bureau of Labor Statistics, average calendar years 2016 through 2018.
[3] Bureau of Economic Analysis, average calendar years 2016 through 2018.

The data in the table above indicate that 2.1% of the Rhode Island labor force and 5.9% of Rhode Island personal income are associated with full-time equivalent jobs at JDA recipient employers. If it is true that the JDA had a deciding impact on these firms' choice to locate or remain located in Rhode Island, then the leveraged positive impact of the Jobs Development Act is potentially as high as several percent of the state's economy. However, the hypothetical question of whether a firm would have chosen to remain headquartered in Rhode Island is not neatly answered by economic analysis, especially considering the passage of many years since the JDA was first implemented and the lack of any goal or purpose in the enabling statute. Even if a firm were to relocate its national headquarters to an out-of-state location, it is possible that not all jobs would be lost, and some employment and operations may remain in the state.

Employment in Rhode Island recovered from losses during the 2007-2009 recession, surpassing its prerecession peak in mid-2017.

[7] Bank of America and AAA Southern New England and Subsidiaries, among others, received JDA tax rate reduction benefits in the past but no longer receive these tax savings presumably due to their inability to maintain the necessary required level of employment.



Source: U.S. Bureau of Labor Statistics

While Rhode Island employment growth has kept pace with the regional average, it has consistently underperformed regional peers such as Massachusetts. At the same time, the Ocean State has fared better against neighboring Connecticut, particularly since 2012. Rhode Island experienced steady job gains between mid-2010 and the end of 2019, during which time year-over-year job growth averaged 1.0%. However, with the onset of the COVID-19 pandemic and the resulting recession in early 2020, year-over-year job growth slowed dramatically in the new year and labor markets suffered steep contractions in the second quarter of 2020. In the second quarter of 2020 Rhode Island employment was 15.3% lower than in the same quarter the previous year. While the Jobs Development Act may not drive stronger near-term hiring, it may help to keep large employers in the state while the economy gets back on track, preventing further losses.

Part III: Report Data Description

The analysis of the Jobs Development Act in this report required an analysis of micro-level taxpayer data. In order to gain sufficient access to data while respecting confidentiality concerns, ORA entered into Memoranda of Understanding (MOU) with the Rhode Island Department of Revenue, Division of Taxation (Taxation), Rhode Island Department of Labor and Training (DLT), and Rhode Island Commerce Corporation (CommerceRI). These MOUs sought to preserve the confidentiality of individually identifiable taxpayers consistent with the statutory mandates regarding secrecy and confidentiality of taxpayer information. In this context, ORA relied on data provided by credit recipients to Taxation for tax years 2016, 2017, and 2018, to the extent such information were provided, as required by R.I. Gen. Laws § 44-48.2-5(b). The data provided by Taxation to ORA consist of the following:

- Self-reported firm data as submitted by firms within Rhode Island 9261A forms and provided by Taxation's Forms, Credits, and Incentives Section;

- Withholding tax payment records on file provided by Taxation in each tax year subject to the current analysis;
- Credit amounts as reported by Taxation testimony at the May 2021 Revenue Estimating Conference (REC); and
- Cost of administration of the tax incentive.

ORA made no attempt to verify the accuracy of the data provided and made minimal corrections to the data to be able to execute specific calculations for the report. The data included in this report are unaudited and reported as compiled.

The focus of this report is on the period encompassing tax years 2016 through 2018. Some tables include additional data outside this period when additional years of data were available and where ORA determined these additional data to be informative, timely, and reliable.

1. Number of Taxpayers Granted Tax Incentive

According to Taxation, five companies received a tax rate reduction under the Jobs Development Act in tax years 2016 through 2018, with a total value of $38,997,369 and an average value of $12,999,123 during the three tax years[8]. The following table provides a description of the number of recipients of the JDA tax rate reduction and the corresponding tax savings amounts received in each tax year:

Jobs Development Act Incentive Recipients

(Tax Years 2016 – 2018)

Tax Year	Number of Recipients	Total Benefit Received
2016	5	$7,945,856
2017	5	$11,527,525
2018	5	$19,523,988
Total	**5**	**$38,997,369**
Average	**5**	**$12,999,123**

Source: Division of Taxation

Note: The total number of recipients represents the sum of distinct companies receiving the credit in tax years 2016 through 2018 as the same companies appear to take the JDA tax rate reduction every year.

2. Value of Tax Incentive Granted by NAICS Code

During tax years 2016 through 2018, the total amount of revenue forgone by the State from the JDA tax rate reduction was $38,997,369. ORA matched each recipient firm to its corresponding industry code according to the North American Industry Classification System (NAICS). The following table depicts the amount of revenue forgone from the JDA tax rate reduction received by firms in each industry during tax years 2016 through 2018:

[8] It should be noted that subsidiaries of parent companies that qualified for a tax credit/tax benefit are reported with the parent company and count as one recipient.

<u>Jobs Development Act Amount of Revenue Forgone by NAICS Industry</u>

(Tax Years 2016 – 2018)

Industry Description (NAICS Code)	Three-Year Total	Three-Year Average
Monetary authorities - central bank; Credit intermediation and related activities; Funds, trusts, & other financial vehicles (523)	$34,496,693	$11,498,898
Management of companies and enterprises (44-45)	$4,468,544	$1,489,515
Professional, scientific, and technical services (54)	$25,690	$8,563
Miscellaneous manufacturing (3364-3369)	$6,441	$3,221
All Industries	**$38,997,368**	**$13,000,196**

Source: Assignment of beneficiary firms into NAICS classifications based on ORA assumptions. Tax rate reduction savings amounts based on Division of Taxation data.

3. Cost of Administration

ORA surveyed the Division of Taxation to ascertain the cost for the administration of the JDA tax rate reduction program. The table below provides information on the direct cost incurred by Taxation during tax years 2016 through 2018 to administer the tax incentive.

<u>Jobs Development Act Cost of Administration</u>

(Tax Years 2016 – 2018)

Cost-Incurring Entity	TY16	TY17	TY18	Total	Average
Division of Taxation	$2,432	$2,449	$2,576	**$7,456**	**$2,485**

Source: Division of Taxation

4. Number of Aggregate Jobs

Based on wages and employment data submitted by the Jobs Development Act recipients to Taxation, ORA was able to compile the total number of employees for each recipient firm. The following table provides a breakdown of employment under the Jobs Development Act in tax years 2016 through 2018. Required jobs denote the number of full-time equivalent active jobs as defined in R. I. Gen. Laws § 42-64.5-2(7) created or retained that a recipient of the Jobs Development Act tax rate reduction must achieve in order to receive the tax benefits. Reported jobs represent the number of full-time equivalent active jobs as submitted by each JDA program recipient.

<u>Jobs Development Act Employee Count by Recipient Firm</u>
(Tax Years 2016 – 2018)

	TY 2016		TY 2017		TY 2018	
Recipient Name	**Required**	**Reported**	**Required**	**Reported**	**Required**	**Reported**
CVS Pharmacy, Inc.	3,430	5,593	3,430	5,533	3,430	5,697
Electric Boat Corporation*	1,501	2,584	1,501	2,658	1,501	2,760
Rite-Solutions, Inc.	104	134	104	170	104	151
Citizens Bank & Subsidiaries	2,337	3,148	2,337	2,843	2,337	3,487
United Natural Foods, Inc.	200	579	200	702	200	636
Total	**7,572**	**12,038**	**7,572**	**11,906**	**7,572**	**12,731**

Source: ORA Calculations based on Rhode Island Form 9261A.

Notes:

*****Electric Boat did not receive a JDA tax rate reduction in TY 2018 despite submitting their Rhode Island Form 9261A. ORA is unable to provide any further explanation.

Employee count uses “full-time equivalent active employee” Act "full-time equivalent active employee" counting methodology as specified in R.I. Gen. Laws §42-64.5-2(7).

5. Direct Taxes Paid by Recipients

Due to statutory confidentiality mandates under R.I. Gen. Laws §§ 44-1-14, 44-19-30, 44-11-21, 44-14-23 and 44-30-95(c) and the risk of disclosure of taxpayer information, Taxation is unable to approve disclosure of information by ORA as required by R.I. Gen. Laws § 44-48.2-5(a)(1) as it pertains to the “the aggregate annual revenue that such taxpayers generate for the state through the direct taxes applied to them.”

6. Direct Taxes Paid by JDA Recipient Firms’ Employees

Taxation provided ORA with data on personal income tax (PIT) paid by all the employees of the Jobs Development Act recipient firms for tax years 2016 through 2018. The following table describes the breakdown of this information by taxpayer’s residency status.

Jobs Development Act
Personal Income Taxes Paid by Recipient Firms' Employees
(Tax Years 2016 – 2018)

	TY 2016	TY 2017	TY 2018 †	Average
RI Residents				
Count of Taxpayers	13,895	14,727	9,539	12,720
Taxes Paid *	$28,941,741	$30,057,853	$24,349,228	$27,782,941
Avg Taxes Paid	$2,083	$2,041	$2,553	$2,225
Non-Residents				
Count of Taxpayers	4,419	4,771	4,014	4,401
Taxes Paid ^	$14,631,585	$16,264,906	$13,623,067	$14,839,853
Avg Taxes Paid	$3,311	$3,409	$3,394	$3,371
Total				
Count of Taxpayers	18,314	19,498	13,553	**17,122**
Taxes Paid	$43,573,326	$46,322,759	$37,972,295	**$42,622,793**
Avg Taxes Paid	$2,379	$2,376	$2,802	**$2,519**

Source: Division of Taxation

Note:

* Taxes Paid for RI Residents are calculating by dividing the Federal AGI by Wage data for the employees of the Credit Recipients and applying the calculated ratio to "Total tax and Contributions" minus "Property Tax Credit" minus "RI earned income credit" minus "Lead Pain Credit"

^ Taxes Paid for Non-Residents are calculating by dividing the Federal AGI by Wage data for the employees of the Credit Recipients and applying the calculated ratio to "Total Tax and Contributions" minus "RI earned income credit"

† The number of taxpayers declined in TY 2018 compared to the previous years due to a change in the number of companies receiving the JDA tax rate reduction.

7. Additional Data Analysis

ORA analyzed data provided by Taxation on employment and wages paid to the employees of the JDA program recipients.

<u>Employees of JDA Recipient Firms:</u>
<u>Industry and Wages of JDA Recipient Employees</u>
(Tax Years 2016-2018)

NAICS Industry Description	Tax Years	Avg. Number of Jobs	Sum of Wages	Average Wage	Median Wage
Management of companies and enterprises (44-45)	2016-2018	5,259	$1,827,049,078	$115,797	$73,767
Miscellaneous manufacturing (3364-3369)	2016-2017	3,497	$407,620,518	$58,290	$55,018
Monetary authorities - central bank; Credit intermediation and related activities; Funds, trusts, & other financial vehicles (523)	2016-2018	4,528	$1,018,704,955	$74,987	$57,453
Professional, scientific, and technical services (541)	2016-2018	127	$28,872,784	$75,981	$67,481
Total	**2016-2018**	**13,411**	**$3,282,247,335**	**$81,264**	**$63,430**

Source: Rhode Island Department of Revenue, Division of Taxation

In tax years 2016 through 2018, employees working for a JDA recipient firm earned an average median annual wage of $63,430, which is 150.9% of the annual median wage of $42,040 in 2018 for all occupations in Rhode Island.[9] Employees working for the JDA recipient firm(s) that are classified as operating in the management of companies and enterprise industry earned the highest annual median wage, at $73,767, which is 175.5% greater than the annual median wage for all occupations in Rhode Island. Those working for the JDA recipient firm(s) classified as operating in the miscellaneous manufacturing industry earned a median wage of $55,018, 130.9% of the annual median wage for all occupations in the state, the lowest among industries with JDA recipients.

Additionally, using data provided by Taxation through the annual *Tax Credit & Incentive Report*, ORA identified the following firms to be recipients of multiple incentive programs:

[9] According to the U.S. Bureau of Labor Statistics' May 2018 State Occupational Employment and Wage Estimates for Rhode Island the median annual wage for all occupations in Rhode Island was $42,040.

Other Tax Credits Received by JDA Recipient Firms

(Tax Years 2016 – 2018)

Tax Year	Company Name	Investment Tax Credit	Jobs Training Credit*	Total Other Credits
2016	Citizens	$1,612,069	-	**$1,612,069**
2016	CVS	-	$1,225,911	**$1,225,911**
2016	Electric Boat	$13,900	$1,162,843	**$1,176,743**
			2016 Total	***$4,014,723***
2017	Citizens	$13,826,344	-	**$13,826,344**
2017	CVS	$333,725	$627,374	**$961,099**
2017	Electric Boat	$2,448,711	$2,325,686	**$4,774,397**
			2017 Total	***$19,561,840***
2018	Citizens	$4,488,969	-	**$4,488,969**
2018	CVS	$585,387	$9,753	**$595,140**
			2018 Total	***$5,084,109***
			2016-2018 Total	**$28,660,672**
			3-Year Average	**$9,553,557**

Source: Division of Taxation, *Tax Credits & Incentives Reports*

Note: As noted in "Data Description" above, ORA assumes that credit usage reported in each fiscal year edition of Taxation's *Tax Credits & Incentives Report* corresponds with the tax year two years prior.

* The Jobs Training Tax Credit Act sunset effective January 1, 2018.

These data show that on average, beneficiaries of the Jobs Development Act receive $9,553,557 in other state incentives and credits each year *in addition* to the value of the JDA tax rate reduction. The fact that these firms received these additional tax benefits makes it inappropriate to attribute all the economic benefits associated with their presence in the state solely to the JDA because this would imply that these additional credits had zero economic impact.

Part IV: Evaluation of the Economic Impact of the Tax Credit

This section of the report addresses two major objectives defined in R.I. Gen. Laws § 44-48.2-5: first, to provide a projection of the potential impact of the Jobs Development Act on state revenues from projected future use and carryforward tax incentive amounts; and, second, to produce a breakeven cost-benefit analysis that can determine the net impact on state revenues resulting from the JDA.

1. Assessment and Five-Year Projection of Revenue

ORA assumes that the issuance of the Jobs Development Act business corporation and/or bank excise tax rate reduction under current law will follow historical issuance patterns. Therefore, ORA assumed a three-year moving average in the total amount of the tax incentive that would be assigned in future calendar years. Using Taxation testimony provided at the May 2021 Revenue

Estimating Conference, the following table provides the distribution of the anticipated amount of the Jobs Development Act corporate income tax rate reduction to be issued in each tax year.

Jobs Development Act: Revenue Projection

Tax Year	Projections
2016	$7,945,856
2017	$11,527,525
2018	$19,388,079
2019	$14,293,909
2020*	$15,115,141
2021*	$16,311,013
2022*	$15,240,021
2023*	$15,555,391
2024*	$15,702,142

Notes: Projection is constructed as a three-year moving average. Most recent three years of historical data included in moving average are tax years 2017 through 2019.

Source: ORA calculations based on Taxation testimony at the May 2021 Revenue Estimating Conference.

2. "Breakeven" Cost-Benefit Analysis

- *Introduction to "Breakeven" Cost-Benefit Analysis Methodology*

Pursuant to R.I. Gen. Laws § 44-48.2-5(6), ORA conducted a "breakeven" cost-benefit analysis to measure the fiscal impacts on the state economy resulting from the JDA tax rate reduction program under a variety of assumptions. To provide additional insight, ORA also produced breakeven analyses with respect to Rhode Island employment and Rhode Island gross domestic product (GDP).

To execute these cost-benefit analyses, ORA utilized Regional Economic Models, Incorporated's (REMI) 70-sector model of the Rhode Island economy via the REMI Tax-PI software platform to produce estimates of the total economic effects of the tax credits issued in tax years 2016 through 2018.[10] The dynamic capabilities of the REMI Tax-PI model allows one to estimate the impacts of exogenous shocks to the state's economy, including changes to public policy, shifts in consumer behavior and demand, and developments in industry. The REMI Tax-PI operationalizes these insights by augmenting REMI's base economic and demographic model, PI+, with a module that allows the user to enter a state's customized budget, to run fiscal and economic forecasts. Specifically, for each budget item, one can choose an "Indicator", which is the economic or demographic driver of that budget item (e.g., personal income for personal income tax revenue, or age 5-18 population for K-12 education spending), and a "Policy Variable", which is the economic

[10] Detailed documentation on the REMI Tax-PI v2.3.1 model employed in this analysis is available at: http://www.remi.com/resources/documentation

or demographic change associated with a change to the structure of that budget item (e.g., a change in consumer prices for a change in the sales tax).

The analysis is based on self-reported firm-level data on employment and wages provided by Taxation and publicly available historical data on the regional and national economies. Direct benefits are input into the REMI model as policy variables simulating changes in industry sales, exogenous final demand, employment, and compensation or wages. ORA assigned the three-year average JDA amount of $13,000,196 as the cost of the incentive. The benefits were input in the REMI Tax-PI model as changes in employment and compensation in the corresponding industries.

The "breakeven" approach developed for this report allows a reader to assume that the JDA tax rate reduction leveraged various levels of economic activity required of recipient firms. This assumption means that some varying portion of the economic activity required of recipient firms to receive the JDA tax rate reduction would not have occurred in the absence of the tax incentive. Under this assumption, firms made some portion of their long-term production decisions based on the availability of the tax rate reduction over time, and removal of the tax rate reduction in a particular year would undo all such decisions.

- *Modeling Costs*

ORA assumes that the forgone revenue resulting from the JDA tax rate reduction is funded by an equivalent reduction in state government spending – that is, when the state government forgoes revenue by allowing a tax rate reduction, there are fewer funds available for other spending priorities. ORA modeled these adjustments based on a comprehensive historical analysis of Rhode Island general fund expenditures for fiscal year 2018, which represent the most recent expenditure data at the time of the analysis. ORA compiled all state general fund expenditures and assumed that the level of these expenditures could be adjusted to maintain a balanced general fund budget. The breakdown of general fund expenditures by category is shown in the following table:

<u>Rhode Island General Fund Expenditures by NAICS</u>
(Fiscal Year 2018)

Industry Description	NAICS Code	Percent of Total
Ambulatory Healthcare Services	621	32.1%
Educational Services	61	30.5%
State Wages, Salary, and other Compensation	n/a (entered as "state/local govt. compensation" and "employment")	25.6%
Social Assistance	624	2.9%
Local Government Spending	n/a (entered as "local government spending")	2.9%
Professional, Scientific, and Technical Services	54	1.4%
Administrative and Support Services	561	1.5%
Wholesale Trade	42	0.6%
Remaining/Other	19 additional industries, and non-residential capital investment	2.6%
	Total:	**100.0%**

Source: ORA analysis of Rhode Island FY 2018 general fund expenditure data.

In addition, ORA decomposed the FY 2018 general fund expenditures data to look at spending by each state government agency, then ORA combined these agencies into different groups based on their functions and duties. The following table describes this breakdown:

Rhode Island General Fund Expenditures by Agency Groups
(Fiscal Year 2018)

Agency Groups *	Percent of Total
Elementary and Secondary Education	38.80%
Health Care Services (Medicaid)	37.78%
Behavioral Health and State Hospitals	5.15%
Children, Youth and Families	4.94%
Health and Human Services (Non-Medicaid)	2.78%
Higher Education	2.72%
General Government	2.31%
Corrections	1.81%
Economic Development	1.52%
Courts	0.69%
Public Safety	0.50%
Elected Officials	0.46%
Environment	0.45%
Other	0.10%
Grand Total	**100.00%**

Source: ORA analysis of Rhode Island general fund expenditure data.
Note:
*Breakdown of these groups can be found in Appendix C.

- *Modeling Benefits*

The Jobs Development Act (JDA) provides a reduction in the business corporation or bank excise tax rate for each new unit of employment that is added within an initial three-year measurement period to a company's previously established base employment. The cost-benefit methodology employed by this report modeled the $13,000,196 reduction in tax liability for the recipients of the JDA business corporation or bank excise tax rate reduction as a commensurate adjustment to industry employment and compensation.

ORA used the expansion period employment only to model the benefits of the JDA program. This is the portion of employment that was added during the three-year expansion period and it excludes base employment. The base employment existed prior to participation in the JDA program, and it is not reasonable to assume that the base employment would leave Rhode Island if the JDA recipient firm fell below the combined "base plus expansion" employment requirement needed to retain its JDA tax rate reduction. Additionally, excess jobs created by JDA recipients yield no additional tax benefits for the firm, and as a result, are not considered to be employment that was added directly due to the availability of the JDA tax incentive. Therefore, ORA used the expansion period employment, an average of 2,210 jobs in tax years 2016 through 2018, in this cost-benefit analysis.[11]

[11] In the 2013-2015 evaluation of the JDA tax rate reduction ORA modeled all required employment (base plus expansion period employment) of JDA tax rate reduction recipient firms as the benefit of the JDA program. ORA used this approach under the assumption that the actual marginal decision facing JDA tax rate reduction recipient firm managers on an annual basis is to maintain Rhode Island employment at or above the required employment level. Upon additional consideration of firms that received the JDA tax rate reduction in the past but have since forfeited the

In the REMI model, an "Industry Employment (Exogenous Production)" policy variable affects the industries that provide the goods or services demanded. This policy variable assumes that employment is related to exogeneous sources of demand, thus, the employment loss/gain will not be offset by local firms. In the case of the Jobs Development Act tax rate reduction, this policy variable assumes that the expansion period employees of the JDA recipient firms represent net new jobs to the Rhode Island economy. Hence, the analysis assumes that the availability of the JDA tax rate reduction impacted the recipient firms' decisions to undertake major investments in Rhode Island, by providing cost savings that tipped the balance in favor of adding employment in Rhode Island vs. some alternative location.

To apply the changes in industry employment and compensation discussed above, ORA matched each recipient firm to its corresponding industry code according to the North American Industry Classification System (NAICS) in order to accurately simulate direct shocks to the Rhode Island economy with the REMI model. The following sectors were selected: "Management of companies and enterprises" (NAICS 44-45), "Miscellaneous manufacturing" (NAICS 3364-3369), "Monetary authorities - central bank; Credit intermediation and related activities; Funds, trusts, & other financial vehicles" (NAICS 523), and "Professional, Scientific and Technical Services" (NAICS 54).

- *The "Breakeven" Approach*

A fundamental challenge in evaluating economic development incentives is determining the extent to which an incentive stimulated or attracted new economic activity rather than subsidized economic activity that would have been largely present even in the absence of the incentive. On one hand, the availability of a tax incentive might have a decisive influence on a firm's production decision. In this case it might be appropriate for an evaluator to attribute the entirety of the firm's economic activity to the incentive. On the other hand, an incentive program may simply reward or subsidize behavior that likely would have occurred anyway. In this case the tax credit might have an impact on a firm's marginal productivity, but it would be inappropriate to attribute the full economic activity of the firm solely to the availability of the tax incentive. Real world conditions often make it difficult or impossible for an evaluator to assess where on this continuum the impact of any given tax incentive falls.

In this context, ORA conducted a breakeven analysis. This analysis allows for the evaluation of an incentive program's performance under a wide range of assumptions regarding the level of economic activity that would have taken place if the program had not been available. Furthermore, the breakeven analysis specifies the proportion of economic activity associated with the incentive program recipient that one must assume to have been attributable to the incentive program in order for the total benefits to equal its total costs, where benefits and costs are measured as the impact

tax rate reduction, ORA saw a pattern that while these firms reduced employment below the required level, they did not remove all employees from the state. ORA considered this as in indication that some amount of base employment would likely remain in the state without the JDA tax rate reduction and therefore a JDA recipient firm's base employment level was not a benefit directly attributable to the availability of the tax rate reduction.

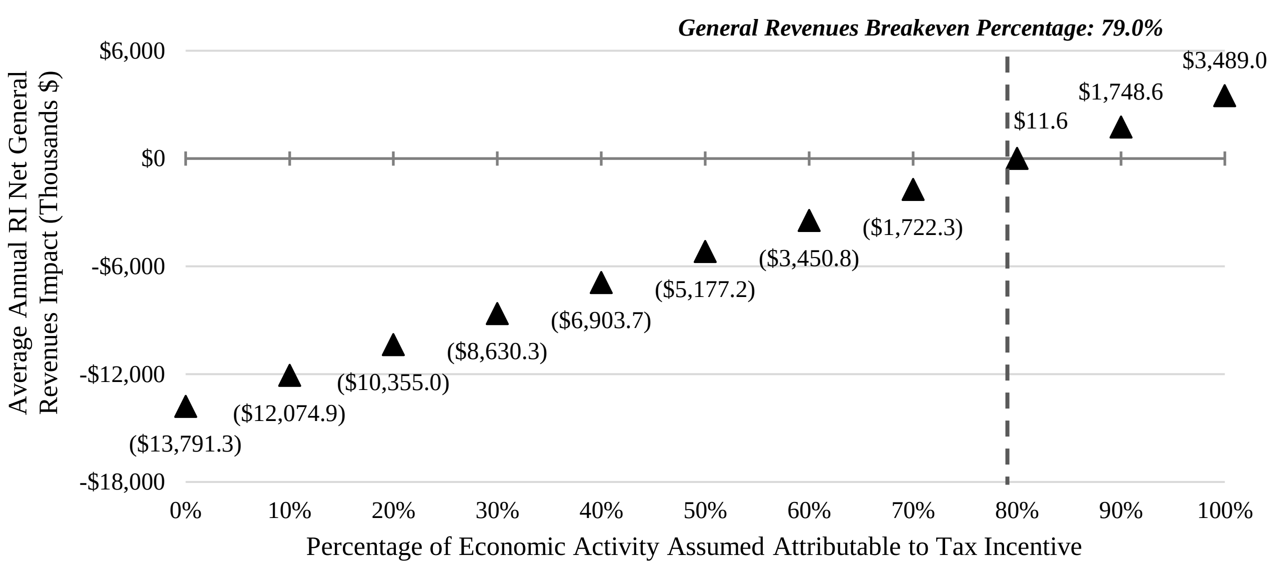
on state general revenues (i.e., the condition that must be satisfied for the incentive program to "pay for itself").

The breakeven percentage should be interpreted as follows: if the reader believes the assumption to be plausible, that at least the amount of economic activity implied by the breakeven percentage can be attributed to the availability of the tax incentive, then one can infer that the incentive has a net positive impact on state general revenues. In the opposite case, if the reader believes that the amount of economic activity attributable to the tax incentive was less than the level implied by the breakeven percentage, then one can infer that the incentive had a net negative impact on state general revenues. Holding other factors equal, a lower breakeven percentage is more desirable than a higher breakeven percentage if the goal of an incentive program is to cost the state as little revenue as possible.

A tax incentive program fails to breakeven, under any counterfactual assumption, when the breakeven percentage is greater than 100 percent. This implies that even if 100 percent of the economic activity associated with the incentive recipient was assumed to have taken place strictly because of the incentive's availability, a net negative impact on state general revenues would have resulted.

The following chart provides results of the breakeven analysis with respect to Rhode Island general revenues:

Jobs Development Act:
Rhode Island Net General Revenue Breakeven Analysis
(Average Annual RI Net General Revenue Impact, Calendar Years 2016-2018)



Notes: Label accompanying each ▲ marker refers to the net general revenue impact associated with the percentage of economic activity that is assumed to be attributable to the tax incentive. The net general revenue impact is equal to the difference between state general revenues resulting from the direct, indirect, and induced economic impacts of the JDA tax rate reduction and the direct cost in foregone revenue to the State.

Source: ORA calculations utilizing REMI Tax-PI

The chart above shows the estimated new general revenue results for different scenarios regarding how much economic activity was caused by the JDA tax rate reduction. These results indicate that, under a best-case scenario, if 100% of economic activity associated with the JDA tax rate reduction, namely the addition of 2,210 full-time equivalent active jobs, is attributable to the availability of this tax incentive, ORA estimated a net revenue gain of $3.5 million. Under the worst-case scenario, if the addition of the 2,210 full-time equivalent active jobs by JDA recipient firms would have taken place without the tax incentive, the estimated net revenue loss is $13.79 million. These revenue estimates reflect an assumption that Rhode Island forgoes revenues and state government spending to provide the tax incentive to eligible companies.

The break-even point, where revenue losses from foregone state government spending are offset by revenue gains due to the tax incentive, is when 79% of economic activity generated by firms receiving a JDA tax rate reduction is caused by the tax incentive. In other words, the revenue breakeven percentage of 79% implies that the JDA has a net positive impact on Rhode Island net general revenues if at least 79% of the economic activity associated with the JDA-recipient firms would not have occurred but for the availability of the tax incentive.[12]

The following table provides more detailed information regarding the state general revenue impact resulting from the economic activity associated with JDA recipient firms strictly due to the availability of the JDA tax rate reduction. In other words, the table shows the detailed general revenue impact under the "best case" assumption that 100 percent of the economic activity associated with the JDA program was "caused" by the tax incentive:

[12] The breakeven percentage can also be considered in terms of jobs. If at least 1,746 full-time equivalent active employees of JDA-beneficiary firms, or 79% of the expansion period employment of 2,210 can be attributed solely to the availability of the tax rate reduction, then this cost-benefit analysis suggests that the tax incentive "pays for itself" in terms of state net general revenues.

<u>Rhode Island Jobs Development Act:</u>
<u>Detailed Revenue Impacts of "Best Case" Scenario</u>
(Average Annual RI General Revenue Impact, Calendar Years 2016-2018)

Item Description	**Amount**
General Revenue Generated by Incentive by Component	
Personal Income Tax	$6,064,446
General Business Taxes	$3,036,653
Sales and Use Taxes	$5,559,852
Other Taxes	$273,583
Total Departmental Receipts	$762,605
Other Sources	$792,049
Total General Revenue Generated by Incentive	**$16,489,187**
Forgone Revenue Due to Incentive	**$(13,000,196)**
Net Change in General Revenue, After Paying for Incentive	**$3,488,991**
New Revenues Generated for Every Dollar of Incentive	**$1.27**

Note: Revenue impacts under the "best case" scenario that assumes 100% of economic activity associated with the JDA program is attributable to the availability of the JDA tax rate reduction.

Source: ORA calculations based on historical Rhode Island revenue amounts and REMI Tax-PI simulations.

The table above provides the REMI Tax-PI simulation results after removing the $13.0 million cost of the JDA program from state government spending to account for the forgone revenue that the state incurs due to the issuance of the JDA tax rate reduction benefit, and simultaneously adding the expansion period jobs (the metric used to account for economic activity) gained by the state economy due to the availability of the JDA program.

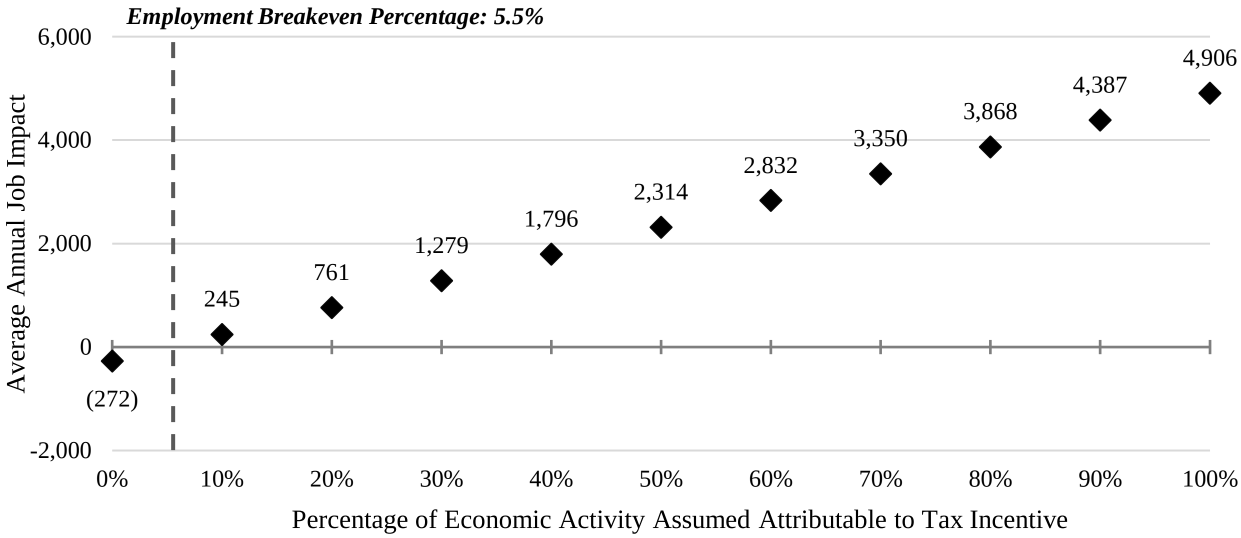
These results indicate that, if all the economic activity associated with the JDA program was "caused" by the tax incentive, then the JDA program generated a total $16.49 million of net state general revenues. The generated net general revenue of $16.49 million does not account for the $13.0 million cost of the tax incentive itself. To take into consideration the cost of the tax incentive, ORA subtracted the $13.0 million average cost of JDA in tax years 2016-2018 from the $16.49 million generated revenue. This is equal to an average annual net gain of $3.49 million in net general revenue. Expressed another way, for every dollar spent on the JDA program the state generates $1.27 of new revenue under this scenario.

This payback ratio shows that new revenues generated from the JDA-incentivized activity exceed the total costs of the JDA and add a new net positive revenue amount to the state under the assumption that 100 percent of the expansion period employment at JDA beneficiary firms would not exist in Rhode Island if not for the availability of the tax rate reduction. ORA cautions the reader that this payback ratio can drastically change if the ratio of the total cost of the JDA program and the number of jobs added changes. Additional detailed revenue results from different percentage of assumed benefits attributable to the JDA tax rate reduction are provided in Appendix E.

The breakeven framework can also be extended to Rhode Island total employment and Rhode Island GDP. In these contexts, the breakeven percentage can be interpreted as the percentage of economic activity associated with JDA recipient firms assumed to be attributable to the availability of the tax incentive necessary for the increase in total employment or GDP resulting from new economic activity to outweigh the employment or GDP losses resulting in the reduction in government spending necessary to fund the incentive.

The following chart shows the results of a breakeven analysis with respect to Rhode Island total employment[13].

Jobs Development Act:
Total Employment Breakeven Analysis
(Average Annual Rhode Island Jobs Impact, Calendar Years 2016-2018)



Notes: Label accompanying each ◆ marker refers to net job impact resulting from a cost-benefit analysis assuming the associated percentage of benefits that are attributable to the tax incentive. Employment is equal to the employment impact resulting from the direct, indirect, and induced effects of the JDA tax rate reduction in addition to the direct employment loss incurreed by the State.

Source: ORA calculations utilizing REMI Tax-PI

With the difficulty in determining the extent to which employment expansion decisions of JDA recipient companies were "caused" by the tax rate reduction, ORA tested a variety of assumptions regarding the level of economic activity taking place in Rhode Island due to the JDA tax rate reduction. The chart above shows the estimated new employment results for different scenarios on how much economic activity was caused by the JDA tax rate reduction. These results indicate that, under a best-case scenario, if 100% of economic activity associated with the JDA tax rate reduction is attributable to the availability of this tax incentive, ORA estimated a net gain of 4,906 economy-wide jobs. Under the worst-case scenario, if the JDA economic activity would have taken place regardless of the availability of the tax incentive, the estimated net loss is 272 jobs across the state economy. These job estimates reflect an assumption that Rhode Island forgoes state government spending and employment to provide the tax incentive to eligible companies.

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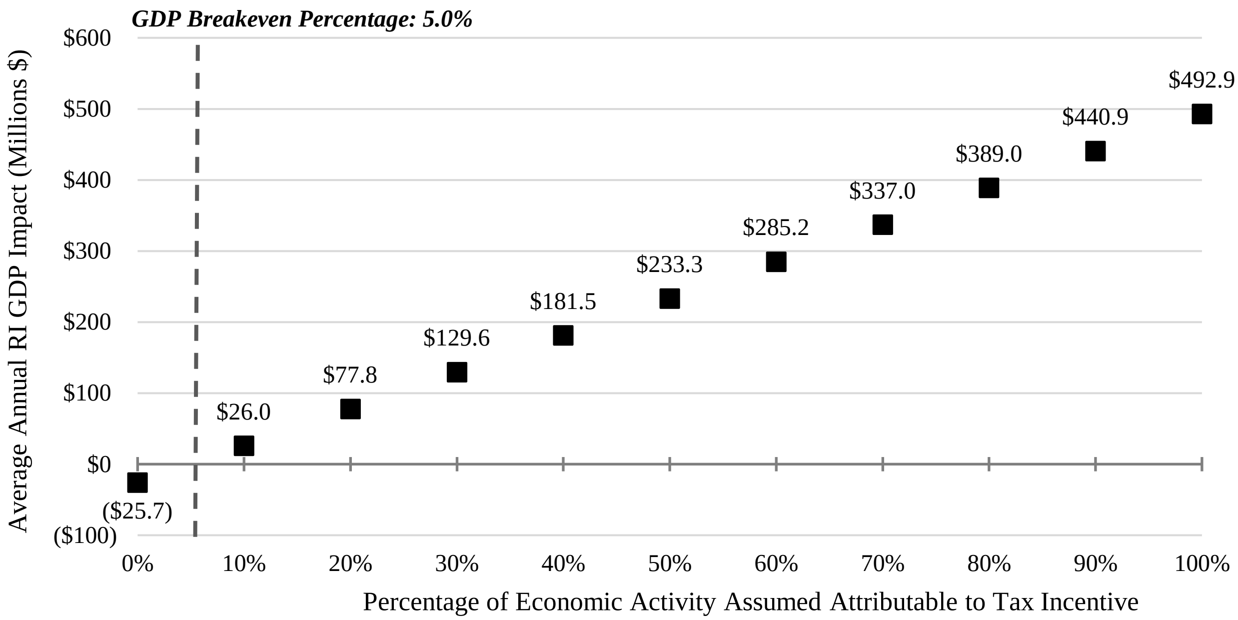
[13] Total employment represents the sum of private non-farm and government employment.

The break-even point, where job losses from foregone state government spending are offset by job gains due to the tax incentive, is when approximately 5.5% of economic activity generated by firms receiving JDA tax rate reductions is caused by the tax incentive. In other words, the employment breakeven percentage of approximately 5.5% implies that the JDA has a net positive impact on Rhode Island total employment if at least 5.5% of the economic activity associated with the JDA recipient firms would not have occurred but for the availability of the tax rate reduction.

The following chart shows the results of a breakeven analysis with respect to Rhode Island gross domestic product (GDP).

Jobs Development Act:
Rhode Island Gross Domestic Product (RI GDP) Breakeven Analysis
(Average Annual RI GDP Impact, Calendar Years 2016-2018)



Notes: Label accompanying each ■ marker refers to net RI GDP impact resulting from a cost-benefit analysis assuming the associated percentage of benefits that are attributable to the tax incentive. RI GDP is equal to the GDP impact resulting from the direct, indirect, and induced effects of the JDA tax rate reduction in addition to the direct GDP loss to the state from reduced State expenditures.

Source: ORA calculations utilizing REMI Tax-PI

The chart above shows the estimated Rhode Island GDP results for different scenarios regarding how much economic activity was caused by the JDA tax rate reduction. These results indicate that, under a best-case scenario, if 100% of economic activity associated with the JDA tax rate reduction is attributable to the availability of this tax incentive, ORA estimated a net gain of $492.9 million of GDP in the state. Under the worst-case scenario, if the JDA economic activity would have taken place regardless of the availability of the tax incentive, the estimated net loss is $25.7 million of GDP across the state economy. These GDP estimates reflect an assumption that Rhode Island forgoes state government spending to provide the tax incentive to eligible companies.

The break-even point, where GDP losses from forgone state government spending are offset by GDP gains due to the tax incentive, is when approximately 5.0% of economic activity generated by firms receiving JDA tax rate reductions is caused by the tax incentive. In other words, The Rhode Island GDP breakeven percentage of approximately 5.0% implies that the JDA tax rate reduction has a net positive impact on Rhode Island GDP as long as at least 5.0% of the economic activity associated with the JDA recipient companies would not have occurred but for the availability of the tax incentive.

Part V: Discussion and Recommendations

1. Statement by the CEO of the Commerce Corporation

The Secretary of Commerce, who serves as Chief Executive Officer of the Rhode Island Commerce Corporation pursuant to R.I. Gen. Laws 42-64-1.1(b), provided the following statement pursuant to R.I. Gen. Laws § 44-48.2-5(a)(6)(iii):

Statement from the CEO of the Commerce Corporation:

In 2015 (under the current Commerce leadership team), The Jobs Development Act (JDA) was closed to new applicants via legislation. The Commerce Corporation continues to stand by that decision.

The Commerce Corporation believes that the state's current suite of investment tools, including the Qualified Jobs incentive (QJ), serves the purpose of promoting economic development in a more effective and sensible manner. As an example, QJ incorporates strong safeguards for taxpayers that were not included in JDA including requirements that credits would be derived from newly generated tax revenue directly tied to jobs created and would only be paid once those jobs are proven to have been created and are contributing taxes to the state treasury.

The Commerce Corporation agrees with ORA that further analysis of the JDA — even in its current, limited form (with only pre-existing recipients eligible for benefits) — is needed, provided that sufficient data can be collected for such analysis. This analysis should factor in the positive economic activity this report highlights and the implications any changes to the program would have on the Rhode Island economy.

2. ORA Recommendations

Finding #1: The statutory goals of the Jobs Development Act tax rate reduction are NOT defined in R.I. Gen. Laws Chapter 42-64.5 titled "Jobs Development Act." Therefore, the Office of Revenue Analysis is not able to measure performance against statutory objectives.

Related Recommendations:

- Policymakers should determine goals and objective of the tax incentive program to provide guidance to the Office of Revenue Analysis in measuring the performance of the incentive.

Discussion Supporting Finding #1:

R.I. Gen. Laws § 44-48.2-5(a)(10) requires the Office of Revenue Analysis to offer recommendations "as to whether the effectiveness of the tax incentive could be determined more definitively if the general assembly were to clarify or modify the tax incentive's goals and intended purpose." Such analysis is not possible with respect to the Jobs Development Act because no statutory goals exist.

The success of a tax incentive program is usually related to how much of its goals and objectives was achieved. In this context, the lack of statutory goals makes it very difficult to evaluate the Jobs Development Act given that the behavior the program is trying to incentivize is not defined under the program's governing statute.

A major ambiguity regarding the goals of the Jobs Development Act is the extent to which the tax rate reduction is intended to encourage firms to make marginal increases in the level of Rhode Island employment or to influence firms' location decisions of major business divisions or headquarters. If it is true that a JDA recipient firm would not have remained headquartered in the state but for the availability of the JDA tax rate reduction, then it may be appropriate to attribute a relatively large percentage of the firm's economic activity to the availability of the tax incentive. If it is true that a JDA recipient firm only made marginal increases to Rhode Island employment as a result of the JDA tax rate reduction, then it may be appropriate to attribute a relatively smaller percentage of the firm's economic activity to the availability of the tax incentive. However, the absence of statutory goals complicates the ability to make an informed judgement as to what the proper weighting of economic activity attributable to the JDA tax rate reduction should be.

Finding #2: While the design of the Jobs Development Act program is inconsistent with current generally accepted best practices regarding the design of economic development tax incentives, the recipients of the Jobs Development Act tax rate reduction are among the state's largest, longest-established, and highest paying employers.

Related Recommendations:

- Policymakers should consider the efficacy of the Jobs Development Act tax rate reduction and ensure that the Rhode Island economic and tax policy landscape remains competitive and attractive for not only current Jobs Development Act recipients, but also all other firms that operate in the state.

Discussion Supporting Finding #2:

Jobs Development Act recipient firms are among the largest and highest-paying employers in the state. The 12,225 total employees reported by JDA recipient firms on their Rhode Island 9261A forms comprise 2.2% of the state labor force and provide 5.9% percent of Rhode Island's total personal income. The hourly wage paid to employees reported by JDA firms of $43.54 is 70% more than the Rhode Island average hourly wage of $25.62 for the tax year 2016 through 2018 period covered by this report. Any action taken with respect to the Jobs Development Act should be made with thoughtful and deliberate concern over the fact that the economic activity related to JDA recipient firms comprises a substantial portion of the Rhode Island economy.

Despite the broad footprint of JDA recipient firms, it is not likely that the entirety of this economic activity would immediately disappear if the program were to be modified or even ended. In fact, examples exist of firms that maintain employment and operations in the state even after they were no longer eligible to receive tax rate reductions under JDA. Analysis of the incentive amount per required employee is less than $1,000 for most of the firms claiming a tax rate reduction for the three-year period of tax years 2016 through 2018 covered by this analysis. More recently, the value of the tax rate reduction per employee was less than $1,000 for most of the firms in tax year 2018. For some firms, the Jobs Development Act tax rate reduction provides only a token amount of tax benefit, which may not be sufficient to change the behavior of a firm.

Furthermore, some JDA recipients make extensive use of other Rhode Island tax credits and incentives. On average, JDA recipients annually claim $9,553,557 in additional tax credits and incentives based on data from tax years 2016 through 2018.[14] JDA recipient firms utilize other Rhode Island economic development tax incentive programs if eligible. Furthermore, the alternative uses of the resources dedicated to the Jobs Development Act should be considered. Revenue currently forgone via the JDA tax rate reduction could become available for other state government expenditure priorities including investments in education, workforce development, and broad-based tax reductions – all of which could make Rhode Island's economic environment more competitive for all businesses.

One option that could be considered is to allow continued use of the Jobs Development Act only for companies that have a corporate headquarters in Rhode Island. From the state's perspective, there is considerably more leverage associated with each dollar of tax rate reduction if the availability of the tax rate reduction has a deciding influence on a firm's decision to locate its corporate headquarters in Rhode Island. A headquarters represents a capital-intensive investment in the state that brings hundreds or thousands of highly paid, permanent jobs. It is far more likely that the Jobs Development Act breaks even with respect to state general revenues under the assumption that firms would choose to relocate headquarters locations outside of Rhode Island if not for the availability of the rate reduction.

Finding #3: Single sales factor apportionment of income subject to the Rhode Island business corporation tax for C-corporations under R.I. Gen. Laws Chapter 44-11 appears to have dramatically changed the impact of the JDA tax rate reduction for certain types of firms.

Related Recommendations:

- Policymakers should discuss whether the JDA tax rate reduction remains justified given this significant change in the Rhode Island business corporation tax.

[14] Other Rhode Island tax credits and incentives include the Investment Tax Credit (R.I. Gen. Laws Chapter 44-31), Research & Development Expense Tax Credit (R.I. Gen. Laws § 44-32-3), and the Jobs Training Tax Credit (R.I. Gen. Laws Chapter 42-64.6). The Jobs Training Tax Credit Act sunset on January 1, 2018, however, on average, over the period of tax years 2016-2018, this tax benefit accounted for 31.6% of the total additional tax benefits received.

Discussion Supporting Finding #3:

When the JDA was adopted, a three-factor formula for apportioning net income earned by a C-corporation operating in multiple states with nexus in Rhode Island based on property, sales, and payroll was used for purposes of assessing the business corporation tax under R.I. Gen. Laws Chapter 44-11. The proportion of a C-corporation's United States net income that was subject to tax was equal to the average of the proportions of a company's property, sales, and payroll that was located/took place in Rhode Island out of total U.S. amounts for the same factors. Under this tax regime, an increase in a company's Rhode Island payroll, holding other factors equal, would result in an increase in Rhode Island taxable net income. A tax regime whereby firms with higher payroll are subject to higher taxable net income had the potential to disincentivize Rhode Island employment. Providing a reward, in the form of a business corporation tax rate reduction, for firms with increased payroll could potentially mitigate this disincentive. It is unknown if this was the deliberate intent of the Jobs Development Act because the Jobs Development Act has no statutory purpose.

For tax years beginning on or after January 1, 2015, Rhode Island adopted a single sales factor apportionment formula for determining Rhode Island taxable income for C-corporations subject to the business corporation tax. Under this apportionment formula, the proportion of a C-corporation's United States net income that is subject to tax is equal to the portion of the firm's total sales that took place in Rhode Island relative to its total U.S. sales. This formula eliminated the potential negative consequence of the three-factor apportionment formula to discourage a multi-state firm from making property and payroll investments in Rhode Island. To the extent that the Jobs Development Act was justified on the assumption that three-factor apportionment discouraged multistate firms from making payroll investments in Rhode Island, the adoption of single sales factor apportionment has made this purpose unnecessary.

The adoption of single sales factor apportionment has had a significant impact on the Rhode Island corporate tax environment for multistate firms to such an extent that the Jobs Development Act tax rate reduction may no longer serve as a meaningful employment incentive for some or all firms. An example of the type of firm that is likely to benefit from the shift to single sales factor apportionment is a Rhode Island-headquartered corporation with a physical presence in many states. A large percentage of such a firm's payroll spending and property investment may take place at its Rhode Island corporate headquarters, but a relatively small percentage of its national sales are made to Rhode Island customers. In general, it is expected that such a firm would pay significantly less business corporation tax under single sales factor apportionment than had been previously paid under three-factor apportionment. While a JDA rate reduction would have had a substantial dollar value for such a firm under three-factor apportionment, it is likely that the JDA tax rate reduction would be far less valuable under single sales factor apportionment because the single sales factor apportionment formula has significantly reduced such a firm's Rhode Island apportioned taxable net income.

For example, CVS Pharmacy, Inc. (CVS), which is headquartered in Rhode Island, saw a large decrease in the value of the JDA tax rate reduction per required employee between tax year 2014 and tax year 2016.[15] In 2014 CVS received a JDA tax rate reduction equal to $5,556 per required employee. By 2016, that rate reduction dropped to $538 per required employee, a decline of $5,018 (See the <u>JDA Rate Reduction per Required Employee by Recipient Firm</u> table on page 12).

Finding #4: A tax rate reduction is an *unconventional* approach to incentivizing employment in which:

- The tax benefit awarded to JDA recipients (the value of the tax rate reduction) is not directly aligned with the incentivized behavior (increased employment).
- Because the tax rate is an integral part of a firm's tax liability calculation, it is difficult to provide transparency and oversight with respect to Jobs Development Act recipients without compromising taxpayer confidentiality.

Related Recommendations:

- Consider whether the Jobs Development Act as designed fulfills the undefined purpose for which it was implemented. Ensure that any changes to the JDA meet the defined purpose for which it is being redesigned.

Discussion Supporting Finding #4:

For a Jobs Development Act recipient firm that has passed the expansion period, there is no longer a direct relationship between the value of the tax rate reduction (the dollar value of the tax savings associated with the tax rate reduction) and the initial expansion in employment. Firm managers are free to use the tax savings to increase employment elsewhere, reduce prices to its customers, increase capital expenditures, or increase executive compensation – to list just a few examples. It is logical to consider that an employment-based tax incentive should provide a tax benefit that is proportional with the encouraged outcome (employment). This ensures that as much of the tax benefit as possible goes towards funding the desired outcome.

Structuring the Jobs Development Act as a tax rate reduction is possibly a well-intentioned attempt at ensuring that firms receive a benefit that is proportional to their total taxes paid. Furthermore, the tax rate reduction cap is seemingly intended to limit the benefit to only a portion of a firm's tax liability. However, confidentiality concerns and the fact that firms receive multiple credits simultaneously make it impossible to determine whether recipient firms have a net positive or negative Rhode Island tax liability. There are more straightforward ways of ensuring that a tax incentive program's benefits do not exceed a recipient firm's tax liability than a tax rate reduction. Because a tax rate is an integral figure in a firm's tax calculation, it is difficult to reveal the value of tax rate reduction and definitively state that the value of the tax benefit exceeds the taxes paid by the tax rate reduction recipient without also revealing other confidential taxpayer characteristics.

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[15] Required employment is the sum of a company's base employment and its expansion employment. It is employment level the company must maintain if it is to remain eligible to receive the JDA tax rate reduction it was awarded after the close of its expansion period.

Finding #5: It is a positive finding that some annual reporting is required of JDA tax rate reduction recipients; however, while data reporting forms and instructions may be sufficient for verifying statutory compliance, they are not well-suited to economic analysis.

Related Recommendations:

- The Division of Taxation should revise annual reporting forms and instructions to improve consistency of the data received and to include key data points necessary for economic analysis.
- A legal assessment should be made to determine what legislative changes are necessary to overcome taxpayer confidentiality restrictions.
- Publicly available reports such as the Division of Taxation's *Tax Credits & Incentives Report* should be revised to be more precise with respect to the tax year of credit usage, backwards revision of historical data, and confirming whether firms have satisfied all JDA tax rate reduction eligibility requirements.

Discussion Supporting Finding #5:

R.I. Gen. Laws § 44-48.2-5(a)(9) requires the Office of Revenue Analysis to offer recommendations "[i]n the case of economic development tax incentives where measuring the economic impact is significantly limited due to data constraints, whether any changes in statute would facilitate data collection in a way that would allow for better analysis." Discussion related to this topic is as follows:

The forms and accompanying instructions required of JDA recipient firms by the Rhode Island Division of Taxation demonstrate compliance with tax rate reduction eligibility criteria but are not well-suited to economic analysis. RI Form 9261A requires that JDA-beneficiary firms report annual employment for each fiscal year with identifying information such as name and social security number as well as start date and termination date if applicable, hourly wage, and hours worked per week as a condition of continued use of the tax rate reduction. From this documentation, most/all firms report employee-level documentation to prove at least the minimum required amount of employment.[16]

Furthermore, many firms report significant employment above the minimum required amount. It is unclear whether the employment provided in RI Form 9261A represents an exhaustive accounting of a firm's employees or only some portion. For example, it would be logical that a firm whose total employment well exceeds the required employment amount would only report enough jobs to qualify for continued use of the tax rate reduction and omit a portion of their workforce if it were an administrative burden to construct an exhaustive list. There are a variety of acceptable options as to how the instructions could be modified to clarify this inconsistency –

[16] As reported in many Unified Economic Development Reports, one firm, Rite Solutions failed to meet the minimum required job amount for several years while they continued to use the JDA tax rate reduction as reported on in the *Tax Credits and Incentives Report*. To the knowledge of ORA, this has been publicly reported since FY 2012 but not addressed.

the central recommendation with respect to data integrity is that the instructions should be clarified so that all firms report comparable groups of employees.

Additionally, RI Form 9261A does include hours worked per week and hourly wage of individual employees but does not include total wages paid. While total wages paid can be calculated using hours per week and hourly wage, it requires the Office of Revenue Analysis to make certain assumptions about work schedules and time off policies. A simple modification to RI Form 9261A is the addition of a total wages paid by individual employee field.

Finally, confidentiality concerns prevented the disclosure of certain metrics required by R.I. Gen. Laws § 44-48.2. Specifically, R.I. Gen. Laws § 44-48.2-5(a)(1) requires that "[A] baseline assessment of the tax incentive, including, if applicable, …the aggregate annual revenue that such taxpayers generate for the state through the direct taxes applied to them" be included as part of the tax incentive evaluation analysis conducted by the Office of Revenue Analysis (ORA). Given the relatively small number of JDA recipients, however, the Division of Taxation will not provide this information to ORA for inclusion in the evaluation of the Jobs Development Act tax rate reduction. The General Assembly should decide whether this information is relevant to their evaluation of the JDA program and, if so, make the necessary statutory changes so that the information can be disclosed.

Finding #6: A best practice of tax incentive design is the inclusion of a sunset provision. While the Jobs Development Act is closed to new participants, existing firms may continue to utilize the tax rate reduction indefinitely provided they continue to fulfill eligibility requirements. The Jobs Development Act does not contain a sunset provision for these firms.

Related Recommendations:

- Add a sunset provision or limit the length of time that an individual firm may claim the tax rate reduction.

Discussion Supporting Finding #6:

It is generally advisable to determine a specific timeline for the tax incentive program as a part of the original legislation. This will minimize the potential revenue losses suffered by the state that may occur in case the program fails to accomplish its targeted objectives and goals. A sunset provision provides a date certain at which lawmakers must reconsider whether the tax benefit program continues to meet statutory goals. It should be noted that while companies that have earned a tax rate reduction prior to July 1, 2015 are entitled to maintain their tax rate reduction as long as minimum employment requirements are maintained, no new companies can qualify for a tax rate reduction on or after July 1, 2015 per R.I. Gen. Laws § 44-48.3-12.

A disproportionate amount of the tax benefits associated with the JDA program accrue to two firms, both of which qualified for the JDA tax incentive in the 1990s. The fact that no new firms can qualify for the JDA program calls into question the equity of retaining the program. Effectively, the JDA program can serve as a barrier to entry to the Rhode Island economy for firms that must compete for resources with current JDA recipient firms. New entrants to the Rhode

Island economy are likely at a substantive financial disadvantage vis-à-vis JDA recipient firms due to the tax savings received by the latter that are unobtainable by the former.

3. ORA Conclusion and Overall Recommendation

R.I. Gen. Laws § 44-48.2-5(a) (11) requires the Office of Revenue analysis to make a recommendation "as to whether the tax incentive should be continued, modified, or terminated." These recommendations will help legislators make better-informed decisions. However, the recommendations above are the same as in the previous JDA evaluation as legislators have made no changes to the program, despite the identified deficiencies. Tax incentive evaluations cannot be documents that simply sit on a shelf, the Office of Revenue Analysis recommends that the Jobs Development Act be reconsidered according to the recommendations described in the previous section.

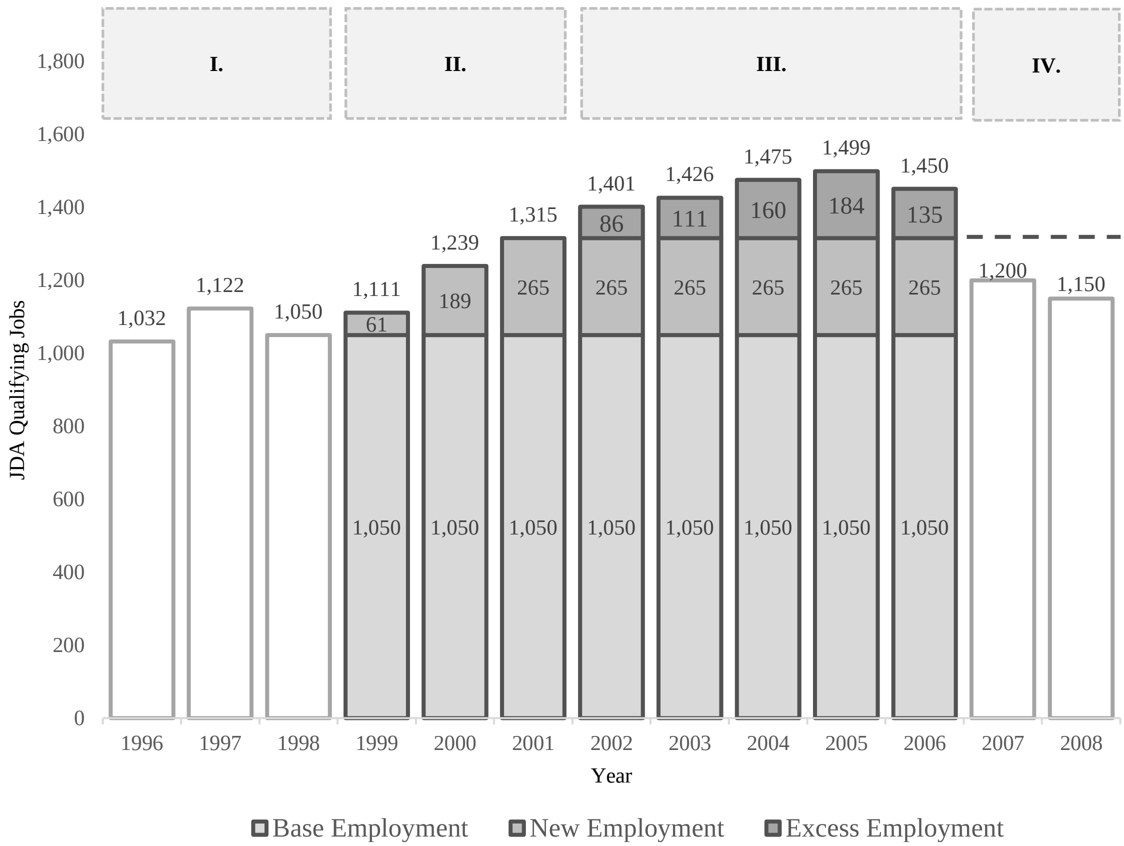
Appendices

Appendix A: Detailed Explanation of JDA Beneficiary Firms Employment

The chart below describes the employment levels of a typical JDA recipient firm over many years. This is a fictitious example meant to illustrate the mechanics of how a firm attains and loses the JDA tax rate reduction. All employment levels are completely fabricated. A fictional example is necessary because complete employment data of individual JDA recipient firms is either unavailable or unable to be shared due to taxpayer confidentiality limitations.

EXAMPLE:

How a Typical JDA Recipient Earns (and Loses) a Rate Reduction



Notes:

I. Pre 1999: Firm not yet participating in JDA.

II. 1999 - 2001: "Expansion Period" - Firm adds rate-reducing new employment units for any new qualifying employees.

III. 2002 - 2006: Firm continues to utilize rate reduction as long as employment remains at or above required level of 1,315; while the firm may report employment in excess of required amount, no additional employment units can be earned.

IV. Post 2006: Rate reduction permanently expires as a result of employment falling below required level of 1,315 in 2007

Source: ORA-constructed hypothetical example

Prior to participation in the JDA program in the years 1996 through 1998, this hypothetical firm had employment levels between 1,032 and 1,112 (labeled “I.”). In period I. the firm pays the statutory rate of tax on its apportioned taxable net income. In 1999 the firm enrolled in the Jobs Development Act program. Their application established a “base period” of 1998 and "base period employment" of 1,050, which is equal to the level of JDA qualifying employment measured as of December 31 in the year prior to their application.

As a participant in the JDA program, the firm was then able to earn a business corporation or bank excise tax rate reduction by increasing employment over the course of the three-year “expansion period” from 1999 through 2001 (labeled “II.”). In period II. the firm pays a decreasing rate of tax associated with its addition of units of employment on its taxable income. During this time, new employment is measured in terms of "units of new employment." Units of new employment can only be earned for new employment occurring during the expansion period. The rate reduction is capped in the third year following the base period, but the firm may continue to use the rate reduction in subsequent years as long as it maintains qualifying employment levels equal to or greater than that of the final year of the expansion period. The firm may report employment greater than the required amount, but it may not earn any further rate reduction from additional units of new employment. This example firm maintained the required employment to retain its tax rate reduction from 2002 through 2006 (labeled “III.”).

In period III. The firm pays the tax rate achieved at the end of period II. on its apportioned taxable net income. This firm’s rate reduction permanently ended when the qualifying employment fell below the required level of 1,315 in 2007 (labeled “IV.”). Thus, in period IV. the hypothetical firm once again pays the statutory rate of tax on its apportioned taxable net income. The horizontal dashed line in the figure above represents the required employment level of 1,315.

During the expansion period, the number of new jobs necessary to earn an additional unit of new employment is calculated according to the following rules:

Firm Type	**Definition**	**Employment Formula**
Small Business Concerns	Eligible business with less than 100 qualifying Rhode Island employees at time of base period election.	One unit awarded for every ten additional qualifying employees for the first 100 additional employees. One unit awarded for every fifty additional qualifying employees greater than 100.
All Other Businesses	Eligible business with 100 or more qualifying Rhode Island employees at time of base period election.	One unit awarded for every 50 additional qualifying employees

The percentage point tax rate reduction earned by each unit of new employment has changed throughout the history of the JDA program. When the JDA program was first established, the Rhode Island business corporation tax rate was 9.0 percent and each unit of new employment earned a 0.25 percentage point rate reduction. Effective for tax year 2015, the business corporation tax rate was reduced to 7.0 percent and the rate reduction earned by each unit of new employment was adjusted to 0.20 percentage points. To calculate the rate reduction in 1999, the first year of this firm's expansion period, consider the following. In 1999 the firm employed 1,111 qualifying workers, equal to 61 new jobs (i.e. 1,111 - 1,050) or one employment unit (i.e. 61 rounded down to nearest multiple of fifty, or 50; 50 ÷ 50 = 1). This unit of new employment was equal to a 0.25 percentage point rate reduction, bringing the firm's 1999 business corporation tax rate to 8.75 percent (i.e. 9.0% - 0.25%). The following table describes the units of new employment and tax rate reduction in the first several years of participation in the JDA program for the hypothetical firm featured in the previous chart.

Year	Base Employment	Total Reported Employment	New Employment	Employment Units Earned	Rate Reduction
1999	1,050	1,111	61	1	0.25 pts.
2000	1,050	1,239	189	3	0.75 pts.
2001	1,050	1,315	265	5	1.50 pts.

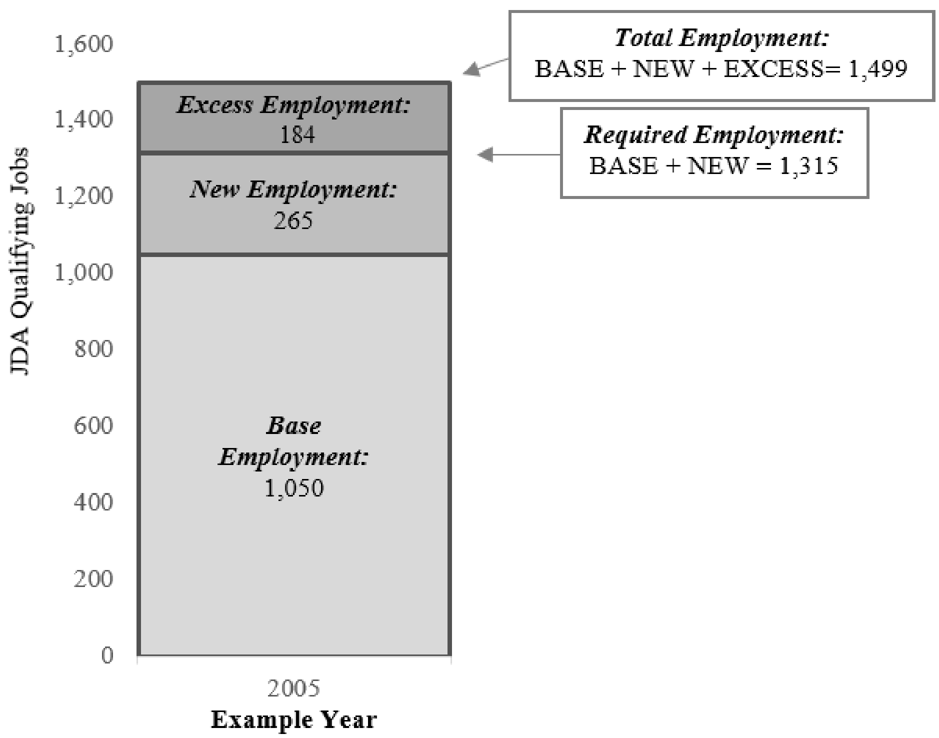
It should be noted that the tax rate reduction in any given year is always applied against the statutory tax rate in place for that year rather than the reduced rate that might have been awarded in the previous year. Thus, in 2000, this hypothetical firm would have a business corporation tax rate of 8.25 percent (i.e. 9.0% - 0.75%) not 8.0 percent (i.e. 8.75% - 0.75%).

The expansion period ends in 2001, the third year following the base period employment measurement. At this point, the firm is no longer eligible to earn any additional units of new employment but may continue to utilize the 1.50 percentage point rate reduction earned during the expansion period. Furthermore, to maintain eligibility for future tax rate reductions, the firm must maintain continued employment at or above the level reported at the end of the expansion period (*i.e.*, in the third year following the base period). If the JDA recipient's employment falls below this level in any year following the end of the expansion period, the tax rate reduction will permanently end. The firm may add jobs above the total in place at the end of the expansion period in future years, but this higher level of employment will not result in any additional rate reduction nor will it allow the firm to re-attain the rate reduction it had in place prior to its annual employment falling below the sum of its base and new employment.

Appendix B: Discussion of JDA-Beneficiary Employment and Assignment of Benefits

In defining the benefits of the JDA program for purposes of a cost-benefit analysis, it is necessary to determine the scope of which jobs to count as a benefit. When deciding the number of jobs attributable to the rate reduction, it is helpful to consider that in any given year, a firm's employment consists of base employment, new employment, and excess employment. Consider the employment reported by a hypothetical firm in 2005 as described below:

EXAMPLE:
Determining employment attributable to rate reduction



The base employment is the number of jobs established upon initial enrollment in the JDA program, representing the firm's "base period" employment level prior to receiving the benefit of the rate reduction. The expansion employment amount represents the count of jobs added during the expansion period. The "required employment" count is the number of jobs necessary to maintain the rate reduction after the conclusion of the expansion period. It is equal to the sum of the base employment and the new employment added during the expansion period. Many firms continue to grow following the conclusion of their expansion period, and report "excess employment" above the minimum required employment level.

There are several options as to which portion of employment should be considered attributable to the credit.

Assumed Portion of Employment Attributable to JDA	**Description**	**Underlying Assumption**
New Employment Only	This is the portion of employment that was added during the expansion period.	Excludes base employment under the assumption that because base employment existed prior to JDA participation, it was not "caused" by the rate reduction.
Required Employment = Base Employment + New Employment	The number of jobs statutorily required for the firm to continue utilizing the rate reduction after the conclusion of the expansion period.	The rate reduction may provide firms with a strong incentive to maintain minimum employment levels. If employment falls below this level in even a single year, the firm permanently loses the rate reduction. However, this approach excludes any excess employment because it does not earn any additional rate reduction amount.
Total Employment	Includes all jobs associated with the JDA-beneficiary firm.	Assumes that the firm would have ceased operations or left Rhode Island without the benefit of the rate reduction, therefore *all* employment can be attributed to the JDA.

There may be additional approaches to measuring the benefits of the JDA program – all or most of which are not possible due to data constraints. For example, JDA recipients could be compared, before and after receiving JDA benefits, with non JDA recipient comparison firms using a difference-in-differences approach. Another approach is to consider the rate reduction as a marginal reduction in productivity costs and allow the REMI model to calculate indirect and induced economic impacts (as was done in the "marginal approach" for the annual *Unified Economic Development Report*); however, this approach would completely ignore any impact that the JDA program had on firms' production or location decisions. Furthermore, this would define the benefits of the JDA program as a reduction in marginal productivity cost rather than an increase in employment. Because the assumed intent of the Jobs Development Act is to increase employment, ORA thought it was more faithful to the intent of the program to define the benefits of the JDA in terms of jobs rather than reduction in marginal productivity cost.

Appendix C: Agency Groups Breakdown

ORA Categorization	Agency Name
Behavioral Health and State Hospitals	•Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals •Office of the Mental Health Advocate
Children, Youth, and Families	•Department of Children, Youth, and Families •Office of the Child Advocate
Corrections	•Department of Corrections
Courts	•Judicial Department - Constitution •Office of Public Defender
Economic Development	•Department of Business Regulation •Department of Labor and Training •Executive Office of Commerce
Elected Officals	•Department of Attorney General •General Assembly •Office of Lieutenant Governor •Office of the Governor •Seretary of State •Treasury Department
Environment	•Coastal Resources Management Council •Department of Environmental Management

ORA Categorization	Agency Name
General Government	•Department of Administration •Department of Revenue
Health and Human Services	•Department of Health •Department of Human Services
Health Services	•Executive Office of Health and Human Services
Higher Education	•Community College of Rhode Island •Office of the Postsecondary Commissioner •Rhode Island Atomic Energy Commission •Rhode Island College •University of Rhode Island
Other	•Board of Elections •Commission on the Deaf & Hard of Hearing •Govrnor's Commission on Disabilities •Historical Preservation and Heritage Commission •Rhode Island Commission for Human Rights •Rhode Island Council of the Arts •Rhode Island Ethics Commission
Public Education	•Elementary and Secondary Education
Public Safety	•Department of Public Safety •Military Staff •Rhode Island Emergency Management Agency •State Fire Marshal

Appendix D: Rhode Island Form 9261A Annual Report

Form 9261A
Annual Report

State of Rhode Island and Providence Plantations
Division of Taxation
Jobs Development Act Rate Reduction - Annual Report
Due September 1, 2017

NAME OF ELIGIBLE COMPANY

ADDRESS

CITY | STATE | ZIP CODE

FEDERAL IDENTIFICATION NUMBER

BASE EMPLOYMENT LEVEL | NUMBER OF FULL TIME EQUIVALENT ACTIVE EMPLOYEES

BASE EMPLOYMENT DATE | QUALIFYING DATE

TOTAL PAYROLL - JULY 1, 2016 - JUNE 30, 2017

***** ALL INFORMATION IS REQUIRED FOR ALL EMPLOYEES *****

New Full Time Equivalent Active Employee (Y)	Employee Name	Social Security Number	Date of Hire	Termination Date (if applicable)	Hourly Wage as of 7/1/2017	Hours Worked Per Week Within Rhode Island	Health Insurance Y/N	Pension Benefits Y/N

If additional space is needed, please attach a separate sheet(s) with the additional information.

Under penalties of perjury, I declare that I have examined this return, and to the best of my knowledge and belief, it is true, correct and complete .

Signature of authorized officer | Date | Signature of preparer | Date

MAY THE DIVISION CONTACT YOUR PREPARER ABOUT THIS RETURN? YES ☐ NO ☐

Title | Telephone Number

07/2017 **MAILING ADDRESS: DONNA DUBE, RHODE ISLAND DIVISION OF TAXATION, FORMS, CREDITS & INCENTIVES SECTION, ONE CAPITOL HILL, PROVIDENCE, RI 02908**

Instructions for Form 9261A - Jobs Development Act Rate Reduction Annual Report

Complete all informational lines at the top of the form, including name, address, city, state and ZIP code, and federal identification number.

In addition, please provide your base employment level and base employment date, your active employment level and qualifying date, and your total payroll for the period of July 1, 2016 through June 30, 2017.

In the first column, please indicate with a yes if this is the first year the employee qualifies as a new full time equivalent active employee.

In the space provided, or on a separate sheet(s), provide the following information for each full-time equivalent active employee: name, **full social security number**, date of hire, termination date (if employee no longer works for the company, enter date the employee left), hourly wage as of July 1, 2017, and the number of hours worked per week within the State of Rhode Island by the employee.

In the last two columns, please indicate with either a yes or no, whether or not health insurance benefits and/or pension benefits are offered to the employee.

All information is required for all employees.

This form must be filed by September 1, annually.

This Annual Report is being sent as a guide. A fillable version can be found online. You may either complete the fillable version on-line, print it out and send it in; send the report as an Excel spreadsheet or a txt (csv) file (be sure to send in the file format) via CD-ROM or DVD; or you may send the file via secure ftp. In order to file via secure ftp, send an email to Donna.Dube@tax.ri.gov. You will then be sent an email containing the secure link.
Regardless of format, the report must contain all required information as shown on the Annual Report form.

A fillable version of this form is available online at: www.tax.ri.gov/taxforms/misc.php#reporting .

All Annual Reports, regardless of format, shall be submitted to Donna Dube by either:

mail: Rhode Island Division of Taxation
Forms, Credits & Incentives Section
One Capitol Hill
Providence, RI 02908
Attn: Donna Dube

or email: Donna.Dube@tax.ri.gov

Pursuant to RIGL 42-64.5-8, all eligible companies qualifying for a rate reduction pursuant to § 42-64.5-3 shall file an annual report with the tax administrator containing each full-time equivalent active employee's information as deemed necessary by the tax administrator.

Important Definitions:

"Base employment" means, except as otherwise provided in § 42-64.5-7, the aggregate number of full-time equivalent active employees employed within the State by an eligible company and its eligible subsidiaries on July 1, 1994, or at the election of the eligible company, on an alternative date as provided by § 42-64.5-5. In the case of a manufacturing company which is ruined by disaster, the aggregate number of full-time equivalent active employees employed at the destroyed facility would be zero, under which circumstance the base employment date shall be July 1 of the calendar year in which the disaster occurred. Only one base employment period can be elected for purposes of a rate reduction by an eligible company.

"Full-time Equivalent Active Employee - Eligible Company Qualifying for the Jobs Development Act Rate Reduction on or after July 1, 2009" means any employee of an eligible company who:

1) Works a minimum of thirty (30) hours per week within the state;
2) Earns healthcare insurance benefits
3) Earns retirement benefits
4) Earns no less than two hundred fifty percent (250%) of the hourly minimum wage prescribed by Rhode Island law at the later of:
   a: The time the employee was first treated as a full-time equivalent active employee during a tax year that the eligible company qualified for a rate reduction pursuant to section 42-64.5-3; or
   b: The time the employee first earned at least two hundred fifty percent (250%) of the hourly minimum wage prescribed by Rhode Island law as an employee of the eligible company.

"Full-time Equivalent Active Employee - Existing Eligible Company Qualifying for the Jobs Development Act Rate Reduction prior to July 1, 2009" means any **new** employee who replaces an existing "full-time equivalent active employee" of an eligible company and who:

1) Works a minimum of thirty (30) hours per week within the state;
2) Earns healthcare insurance benefits
3) Earns retirement benefits
4) Earns no less than two hundred fifty percent (250%) of the hourly minimum wage prescribed by Rhode Island law at the later of:
   a: The time the employee was first treated as a full-time equivalent active employee during a tax year that the eligible company qualified for a rate reduction pursuant to RIGL § 42-64.5-3; or
   b: The time the employee first earned at least two hundred fifty percent (250%) of the hourly minimum wage prescribed by Rhode Island law as an employee of the eligible company.

"Health Insurance Benefits" means any health insurance plan offered by the eligible company to its employees regardless of whether or not the employee takes advantage of the plan.

"Retirement Benefits" means any retirement plan offered by the eligible company to its employees regardless of whether or not the employee takes advantage of the plan. This could be in the form of a SEP, a SIMPLE, a 401K plan, a profit sharing plan, a defined benefit plan, a deferred compensation plan or any qualified employer plan.

"Qualifying Date" means the date the eligible company qualified for the Jobs Development Act Rate Reduction under RIGL § 42-64.5.

NOTE: An employee who is required to complete a reasonable probationary period to be eligible for healthcare or retirement benefits is deemed to have "earned" those benefits from day one of their employment.

Appendix E: Additional Breakeven Scenarios

The following table presents a sensitivity analysis of the Jobs Development Act. ORA ran different economic scenarios across which the input parameters are being varied accordingly to provide the reader with additional possible breakeven analysis outcomes.

"Jobs Development Act"

Detailed Economic & Revenue Impacts TY 2016 through 2018

	Policy Variable Percentage Assumed										
	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%	0%
	Economic & Revenue Impacts Calculated										
Total Employment	**4,906**	**4,387**	**3,868**	**3,350**	**2,832**	**2,314**	**1,796**	**1,279**	**761**	**245**	**(272)**
Gov Employment	**36**	**18**	**0**	**(18)**	**(36)**	**(53)**	**(71)**	**(89)**	**(107)**	**(124)**	**(142)**
Private Non-Farm Employment	**4,870**	**4,369**	**3,868**	**3,367**	**2,867**	**2,367**	**1,868**	**1,368**	**868**	**369**	**(130)**
Direct Employment	2,210	1,989	1,768	1,547	1,326	1,105	884	663	442	221	117
Indirect Employment	1,084	971	858	745	632	520	407	294	182	69	(44)
Induced Employment	1,576	1,409	1,242	1,075	909	743	577	410	244	79	(204)
Total GDP ($000)	**$492,943**	**$440,936**	**$388,968**	**$337,034**	**$285,157**	**$233,308**	**$181,461**	**$129,615**	**$77,795**	**$26,030**	**($25,692)**
Generated Revenues by Component ($000)											
Personal Income Tax	$6,064	$5,423	$4,783	$4,144	$3,506	$2,869	$2,232	$1,595	$959	$324	-$310
General Business Taxes	$3,037	$2,724	$2,412	$2,099	$1,787	$1,475	$1,164	$852	$540	$229	-$82
Sales and Use Taxes	$5,560	$4,972	$4,384	$3,798	$3,213	$2,629	$2,045	$1,461	$877	$296	-$285
Other Taxes	$274	$245	$216	$187	$158	$129	$101	$72	$43	$15	-$14
Total Departmental Receipts	$763	$680	$597	$515	$434	$353	$272	$192	$111	$30	-$49
Other Sources	$792	$706	$620	$535	$451	$367	$283	$199	$115	$32	-$51
Cost of Incentive ($000)	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**	**($13,000)**
Total Net Revenues ($000)*	**$3,489**	**$1,749**	**$12**	**($1,722)**	**($3,451)**	**($5,177)**	**($6,904)**	**($8,630)**	**($10,355)**	**($12,075)**	**($13,791)**

Source: ORA calculations based on historical Rhode Island revenue amounts and REMI Tax-PI simulations.

Note:

The total net revenues represent the difference between the sum of generated revenues and the cost of the tax incentive.