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Cities: Competition for Inward Investment Proceedings of the Canada-United States Law Institute Conference on Multiple Actors in Canada-U.S. Relations: Cities: Competition for Inward Investment

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CITIES: COMPETITION FOR INWARD INVESTMENT

Nathan V. Green[†]
U.S. Speaker

Thank you all for coming today and thank you for inviting me. I am glad I could make it on short notice. As Jamie said, I work now for the Cleveland Cuyahoga County Port Authority. I am going to talk about briefly how Port Authorities are involved in this game. I want to talk more from the perspective of when I was with the state and how incentives worked at the state level and the incentives we have available. As Jamie noted, I am going to try also to mention why we have incentives, what the reasons are, and the like.

Incentives are programs designed to provide an inducement to make a project go forward that otherwise may not go forward. When I say otherwise may not go forward, incentives are sometimes the last item that companies think of, but it is the element that makes the project go forward, where otherwise, they would choose to stay where they are or do something else. Obviously, it lowers operating costs, reduces risk in doing the project or maximizes available capital.

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In the development world, there really are only four types of incentives. Those are taxes incentives, financing, infrastructure grant programs, and training programs, which are typically grant programs as well. I am going to go through Ohio programs, because I worked with them and I know them very well, and talk about those a little bit.

First off, let me talk about why we need incentives. First, they enhance Ohio's competitiveness. If you look at Ohio without incentives, we are at the bottom of the list of business competitiveness among the 50 states. If you look at Ohio with incentives, we rank fifth among business competitiveness.¹ When I was at the State, the legislatures got into debates all the time about taxes, how businesses treat taxes, how they look at taxes. Actually, right now, there is an Ohio House Committee, looking at restructuring Ohio's tax code.²

Whether that restructuring will go anywhere or not, I have no idea. It is talked about all the time, but Ohio is not seen as a friendly tax state. However, we do offer incentives, and in an attempt to make Ohio a business friendly state and a place where businesses want to grow and where businesses want to locate.

Further, there are several incentives with several motivations. We do it to remain competitive. Jamie discussed that incentives in most states receive criticism from time to time about when they are used and who uses them and how often they are used. Occasionally, I think incentives are criticized as going too far. However, studies have shown that incentives do really make a difference in companies' decisions and have a positive net economic effect on the chosen community when they are used.

The major factor concept, this is something that is unique to Ohio, it may not be unique among other states, but one thing we always try to say, incentives are designed to be used to induce a project, not to subsidize a project. What the State of Ohio always uses and this is our defense for critics, if it were not for the incentive, the project would not likely occur at that location.

We have found that incentives are discussed typically in the final analysis. They are not the first thing that companies look at. As Jamie pointed out very clearly, location, location, location is why we are going to come up first anyway.

Incentives are going to be somewhere down the line and are going to tip the scales, hopefully, in Ohio's favor. Jamie and Don can talk about that from the private sector more than I can. In most of my dealings with companies at the state level, we were typically brought in at the end of the project.

¹ Ron Starnier, *North Carolina's Three-Peat Sets Benchmark*, SITE SELECTION, Nov. 2003, available at: <http://www.siteselection.com/issues/2003/nov/p658/> (last visited Sept. 30, 2004).

² Debra Jasper and Spencer Hunt, *Taft Pushes Tax, Lawsuit Reform to Add Jobs*, Mansfield News Journal, Jan. 29, 2004, at 7A.

They needed something to tip the scale in Ohio's favor versus Michigan, Illinois, North Carolina, South Carolina, Kentucky, Tennessee. Incentives were brought in at the end to make site location decisions easier for the company to make.

Jamie, made an interesting comment about who makes these decisions in companies. I would tend to back up what he said about who you meet with, and if it is a financial decision versus an emotional decision. In the case of meeting with engineers, they needed to have people that were well trained and well educated and you meet with a different set of decision makers than when a financial decision is being made. When you know the project is very important to the company they bring out the President and CEO. That has happened numerous times.

Many times, a company is making financial decision and you meet with the CFO and controller, and that is who makes the decision and brings it to the President or CEO. On the project I am dealing with now, the company in question is here in Cleveland. They are debating between Ohio and Canada, the decision is going to be solely made by the CFO. That is purely an economic decision. We really have not even begun to discuss incentives. In my role at the Port Authority, we do financing; and currently, we are just discussing financing, if it makes financial sense for them to do it here rather than in Canada, then we will get into incentives later. Nevertheless, that will be a pure economic decision this company will make.

I wanted to talk about how Port Authorities get involved. I do not know how many of you are from Ohio and how many of you are from Canada. Ohio is unique among other states in the United States in how we use our Port Authority.³

Port Authorities are formed under Ohio Revised Code.⁴ They are under the Ohio Constitution, and we are a government entity, and we can do many of the same things that municipalities and counties can do, but we can do it a little bit easier, because we are a separate government than the county or the city.⁵ We have a Board of Directors that makes all decisions and they have to answer then to the City or County.⁶

Some of the things we can do; Port Authorities can own assets and lease to a private company using revenue bonds.⁷ We have done that in numerous locations here in northeast Ohio. The Port Authority owns and financed the

³ Elizabeth Carvlin, *Deal in Focus: Unique Ohio Financing Paves Way for Future Development*, THE BOND BUYER, July 7, 2004, at 32.

⁴ OHIO REV. CODE ANN. §§ 4582.01–.59 (2004).

⁵ See <http://www.portofcleveland.com/about/faq.asp> (last visited Sept. 20, 2004).

⁶ See <http://www.portofcleveland.com/about/governance.asp> (last visited Sept. 20, 2004); see also OHIO REV. CODE ANN. §§ 4582.03, .27 (2004).

⁷ OHIO REV. CODE ANN. §§ 4582.06, .31 (2004).

Office Max facility.⁸ We own and finance Applied Industrial Technologies, they used to be Bearings.⁹ We own and financed the MTD Consumer Products Facility in Medina County.¹⁰ Those are some of the examples of what Port Authorities can do.

Through financing and through leasing structures, we have the ability to own facilities, lease them back to companies through operating leases, capital leases and through synthetic leases. That is something we have done and we can do in the future. One of the big benefits Port Authorities offer to private companies, when the Port owns the facility and leases it back, we do not pay sales tax on construction materials, which is a big benefit to the companies building, and it may tip the scales as an incentive.¹¹ We have issued bonds based on the credit of a company; there is no maximum amount to that.¹² We can do an issue up to a billion dollars if we had to, if the company behind it could support the debt.

The Port Authority is an industrial revenue bond program that we have credit enhanced that we can issue bonds and loan the proceeds to companies. We can finance 100 percent of a project, which for many companies may be a big deal, because if they are dealing with a developer, the developer will not finance 100 percent of it.¹³ They will require an equity injection and do bank financing. We can do the entire deal.

Let me just quickly try to go through the state incentives. I am not going to get too detailed. Again, as we go through these, remember why we do this. We do this to make Ohio more competitive. We do it to help the company make a decision to do the project here, rather than some other place, make it so they can make money, they can grow, they can do the things, create jobs that we need them to do.

First, I want to talk about tax credits and exemptions. The flagship program of the Ohio Department and Development, it has been since its inception and still is today, is the job creation tax credit.¹⁴ The job creation tax

⁸ See http://www.wcpn.org/news/2002/04-06/0506issue_10.html (last visited Sept. 20, 2004).

⁹ See <http://www.portofcleveland.com/development/projects.asp> (last visited Sept. 20, 2004).

¹⁰ See http://www.auditor.state.oh.us/AuditSearch/Reports/2004/Cuyahoga_Port_Authority_03-Cuyahoga.pdf (last visited Sept. 25, 2004).

¹¹ See http://www.cincinnatiport.org/pa_pg3.html (last visited Sept. 30, 2004).

¹² See <http://www.portofcleveland.com/about/overview.asp> (last visited Sept. 30, 2004).

¹³ See <http://www.portofcleveland.com/development/overview.asp> (last visited Sept. 30, 2004).

¹⁴ See <http://www.odod.state.oh.us/EDD/jctc> (last visited Sept. 20, 2004); http://www.odod.state.oh.us/EDD/Tax_Credit.htm (last visited Sept. 20, 2004); THE URBAN CTR., *An Assessment of the Costs, Benefits, and Overall Impacts of the State of Ohio's Economic Development Programs: Final Report for the Economic Development Study Advisory*

credit is a tax credit provided to companies off their corporate franchise tax or their state income tax based on the amount of new jobs they create.¹⁵ They get a credit on the income taxes that their employees are paying. Therefore, if each employee pays \$1,000 and we give them a 50 percent credit, they get \$500 credit for a term between five and ten years for each new job they create. This is a great program. The ODOD offers this one all the time. As I said, it is the ODOD's flagship. Many companies in northeast Ohio northwest, all over Ohio, use this program.

It is really a great incentive to get a company to do a project where they otherwise would not. It is not only a credit it is also refundable. Therefore, if a company has no net income that year, they do not pay any taxes; but they can get a refund. It is a real dollar for dollar benefit.

I would like to discuss a sample job creation tax credit calculation. Ninety-seven jobs at nine dollars an hour. They are each paying \$411 per year, total annual withholding of each of those employees is almost \$40,000. They get a 60 percent credit. They get \$23,000 for eight years. Over that eight-year period, that credit is worth \$190,000 to a company, which is real money. It is real money to a company that is creating ninety-seven jobs. To a larger public company, it might not be, but \$23,000 is a lot of money and can really make that project happen, where it would not otherwise.

Another credit we have in place is the manufacturer's machine and equipment tax credit (hereafter "M&E"). This is a credit they get for buying machinery and equipment in the State of Ohio. They get a 7 1/2 percent credit of the equipment they bought and they can use it over a seven-year period.¹⁶ This is something they get by buying equipment as long as there is a baseline, there is a calculation for it, but it is an incentive to get companies to buy new machinery and equipment every three to five years.¹⁷ Again, this is a sample calculation of what they would get through the M & E tax credit. If they made a 2 million dollar investment, they would get a credit of about \$34,000 per year over a 7-year period.

A new credit that is just like the M & E tax credit is the research and development tax credit (hereafter "R & D"). It is the same principle as the machinery and equipment tax credit I just mentioned. However, it is used for,

Committee (May 28, 1999), at <http://www.obm.ohio.gov/media/articles/ohedps.pdf> (last visited Sept. 25, 2004).

¹⁵ *Id.*

¹⁶ See http://www.odod.state.oh.us/EDD/Tax_Credit.htm (last visited Sept. 20, 2004); The Urban Center, *An Assessment of the Costs, Benefits, and Overall Impacts of the State of Ohio's Economic Development Programs: Final Report for the Economic Development Study Advisory Committee* (May 28, 1999), at <http://www.obm.ohio.gov/media/articles/ohedps.pdf> (last visited Sept. 25, 2004).

¹⁷ See <http://www.odod.state.oh.us/edd/itc/FAQ.pdf> (last visited Sept. 25, 2004).

specifically, research and development equipment.¹⁸ This program is specifically designed to go after research and development companies. The state over the last two or three years decided they need to focus on R & D type companies, R & D type operations, which makes sense, a lot of other states are doing this, this is a way to entice them to do those investments here.

I am not going to go into the enterprise program. That is a local program that Jamie was talking about that he sits on is the Tax Incentive Review Council, of which he is a member. It is a local incentive.

CRA is Community Reinvestment Area Abatement of real property investments. It is similar to the enterprise program.¹⁹

Something that we do in Ohio is called tax increment financing (hereafter "TIF"). We take the new property tax increment that a project would bring and use that increment to finance public improvements.²⁰ Here in northeast Ohio, we have done it a few times. Actually, we just did a TIF in downtown Cleveland in relation to the Plain Dealer's building on Superior Avenue. We are going to do streetscape all along Superior Avenue, which, otherwise would not happen because the City of Cleveland does not have the money. So they are taking the increased revenue that they get in property taxes from the Plain Dealer being there, parlaying that into building out streetscape. Ultimately, the Plain Dealer gets a great benefit, they get a new streetscape out in front of their building, and the City of Cleveland gets streetscape where they otherwise would not be able to do it, and that exemplifies the use of the program all over the State of Ohio.²¹

I am going to talk a little bit about financing programs. Something that is unique to Ohio is our bond fund. The Ohio Enterprise Bond Fund is a program that is available through the State of Ohio's Department of Development.²² It can be used for manufacturing R & D, distribution, corporate headquarters, really anything you can think of that is not retail. In the Port of Cleveland's case, we can also use it for non-profits and governments. The benefit of our program is we provide long-term, fixed rate financing. We can

¹⁸ See http://www.odod.state.oh.us/EDD/Tax_Credit.htm (last visited Sept. 17, 2004).

¹⁹ See

http://tax.ohio.gov/divisions/tax_analysis/tax_data_series/real_property/pe3/pe3cy87.stm (last visited Sept. 25, 2004).

²⁰ See Jen Melby and Joshua C. Hall, *Tax Increment Financing: An Infrastructure Financing Solution*, The Buckeye Institute, available at:

http://www.buckeyeinstitute.org/Articles/2003_07_11HallMelby.htm (last visited Sept. 25, 2004).

²¹ Press Release, Mayor Campbell Joins Community Partners To Launch Superior Avenue Streetscape Project, (April 20, 2004) available at:

http://www.city.cleveland.oh.us/mayor/press/2004/200404/04_20_2004.html (last visited Sept. 25, 2004).

²² See http://www.odod.state.oh.us/EDD/Loans_Grants.htm (last visited Sept. 25, 2004).

finance up to 90 percent, and the difference between this program and many other states is that we provide credit enhancement for the company.²³

Typically, in other states, they may have bond funds, but companies have to go out and get a letter of credit on 100% of the project. We provide a program where they have to get a ten percent letter of credit. It gives them a level predictable payment for the life of that loan.

The state has a 166 Direct Loan Program, which is a low interest loan program.²⁴ They will do up to a million dollars for new construction, acquisition of machinery and equipment, renovation, or to purchase a building. This is a low interest financing that is a true incentive. The bond funds are not true incentives. They are additional financing that companies cannot find at their bank. The Direct Loan Program is an incentive that may help to tip the scales because it is low interest and it reduces the capital the company has to put out through that interest rate.²⁵

The R & D Loan Fund with the tax credit is something that the Ohio Department of Development has created. Its intent is to loan up to 25 million dollars to companies that are going to make very large R & D investments.²⁶ We have yet to seen many of these. This has only been on line for six months, but the State is starting to develop more of these programs and more of these projects will come our way.

Let me talk about ODOD grant funds. The CDBG Program is a Federal program that the State administers. They can provide a grant up to \$400,000 for, typically, infrastructure, sewer and water, those types of things.²⁷

There is also the Business Development 412 Account, which is typically used for sewer and water public improvements, but it has also been used as an incentive to get companies to move here, by providing money to buy machinery equipment, or a building. This is really the Department of Development's fund to put the state above other states by putting real money into a project.²⁸

²³ See <http://www.oregonohio.com/econdev/finance.htm> (last visited Sept. 30, 2004).

²⁴ See http://www.odod.state.oh.us/EDD/Loans_Grants.htm (last visited Sept. 25, 2004).

²⁵ *Id.*

²⁶ See Fiscal Note and Local Impact Study for Am. Sub. H.R. Bill 1 (enacted) 125th G.A. (Oh. 2003) available at: <http://www.lbo.state.oh.us/fiscal/fiscalnotes/125ga/HB0001EN.HTM> (last visited Sept. 25, 2004).

²⁷ CDBG refers to the Community Development Block Grant Programs and are administered to states by the Department of Housing and Urban Development (HUD). "HUD distributes funds to each State based on a statutory formula which takes into account population, poverty, incidence of overcrowded housing, and age of housing." See <http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm> (last modified May 19, 2004). See also <http://www.odod.state.oh.us/cdd/ohcp/edp1.htm> (last visited Sept. 18, 2004).

²⁸ Press Release, Taft Announces Grants to Businesses and Communities, Apr. 19, 2004 (on file with Ohio Department of Development) available at:

We also have the Road Work Development, the 629 Account. It is for public road improvements. Many times if a company were constructing a new building in an industrial park, anything like that, we use this to build up that roadwork infrastructure.²⁹

There is also a training grant, which is program that helps companies to pay for their cost-related to training of new employees and employees that they currently have. It does not pay for their wages, but it pays for training that is related to any of those new employees.³⁰

MR. SISTO: So the State of Ohio has armed itself to compete against other states, to compete against presumably other provinces and to make it attractive.

One thing that I will ask Nate when we get back to this, whether it is an apples to apples comparison? In other words, are incentives made to make us more competitive, the base upon which they are calculated is often something that we have to work with companies to define. In other words, we are not giving you incentives on your tax because our tax is lower in this area than the other states.

The premise to all these programs is you have to present competition. You cannot just walk in and say, "I want to grow my company, what can you give me? I want to grow my company and I am thinking about another state and I am thinking about another country."

MR. GREEN: And that is a major factor that I talked about, it would not happen otherwise, and that is the competition factor.

<http://www.odod.state.oh.us/newsroom/releases/964.asp> (last visited Sept. 30, 2004).

²⁹ See *Fiscal Year 2003 Consolidated Plan*, 14 (2003), <http://www.odod.state.oh.us/cdd/ohcp/FY2003ConsolodatedPlan.pdf> (last modified July 15, 2003).

³⁰ "The Ohio Investment Training Program (OITP) provides financial assistance and technical resources for customized training involving employees of new and expanding Ohio businesses." See <http://www.odod.state.oh.us/oitp.htm> (last visited Sept. 15, 2004).