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**Testimony of Greg LeRoy**
**Executive Director, Good Jobs First**
**To the Michigan House of Representatives**
**Tax Policy Committee ~ March 11, 2020**

Thank you for the opportunity to comment today on several proposals to enhance Michigan's economic development programs. My name is Greg LeRoy; I founded and direct Good Jobs First, a non-profit, non-partisan research center that promotes transparency, accountability and equity in economic development incentive programs. Founded in 1998, we are based in Washington DC. I have been assisting states on economic development policy for more than 30 years and have written two books on the subject.

We recommend that the committee report out all of these pending proposals favorably.

**MEGA Disclosure:** On the proposal to provide company-specific disclosure of Michigan Economic Growth Authority (MEGA) program credits, this is a well-established practice in many states. And I regret to learn that there was ever a trade-off between aggregate program liability disclosure and company-specific disclosure. These two forms of disclosure are both necessary and complementary; they are not antagonistic.

As we recently documented in an updated blog[1], many states disclose company-specific tax credit records, including (but not limited to) Arkansas, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Missouri, North Carolina, Pennsylvania and Wisconsin. And as we have documented over time since 2007, every state plus the District of Columbia discloses some company-specific incentive award records, be they tax credits and/or grants, loans, tax exemptions, tax reductions, tax diversions, etc.[2]

The Governmental Accounting Standards Board (GASB) formally acknowledged economic development tax breaks as a salient financial variable for state and local governments five years ago when it issued Statement No. 77 on Tax Abatement Disclosures, and amendment to Generally Accepted Accounting Principles (GAAP). Indeed, economic development tax abatements remain the only form of tax expenditure ever codified by GASB.

Michigan, with its recurring budget issues created by MEGA, is top of mind as an example of why such accounting is necessary.

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[1] "Naming Tax Credit Names," Good Jobs First blog updated March 4, 2020, at: https://www.goodjobsfirst.org/blog/naming-tax-credit-names

[2] *Show Us the Subsidized Jobs: An Evaluation of State Government Online Disclosure of Economic Development Subsidy Awards and Outcomes,* Good Jobs First, January 2014, at: https://www.goodjobsfirst.org/showusthesubsidizedjobs

**Access before Approval:** We enthusiastically support this proposal based on local-government precedents. While we assume some state programs have such pre-notification rules (akin to rules requiring laws to be heard at multiple hearings, land-use proposals to be publicly announced in advance, etc.), we simply are not aware of any research on this safeguard.

In New York City, as a result of our Good Jobs New York project working there for 16 years, the Industrial Development Agency posts its monthly docket online 12 days before the public hearing — complete with project applications and cost-benefit studies. This process reform has made a sharp, demonstrable improvement in the level of civic engagement: more deals are supported, opposed and/or improved as a result of diverse community groups being enabled to intelligently participate. At first, the IDA leaders resented our accountability organizing. By the time we were able to close up shop, they were asking us for advance comments on press releases touting their advances in transparency and awarding us a recognition plaque. They had learned that transparency and public participation strengthened their effectiveness.

**Failure Notice and Recalibrations:** Even when the economy is healthy, it is not unusual for a fraction — even one fourth or more — of economic development deals to not pan out as originally planned. They may fall short of their original investment or hiring goals. Or they may fail to materialize altogether. This is nothing for an economic development agency to be ashamed of. Nor should an agency seek to hide individual-project shortfalls by aggregating them with successful projects.

Instead, such shortfalls, when they arise, should be made public in the same way the original awards are. And if circumstances and program rules allow it, a deal should be renegotiated — and recalibrated — to reflect both lower benefits and lower costs. This is just common-sense good government. The state would not contract for 100 miles of road resurfacing and allow a contractor to pave 50 miles and keep the original contract sum. Economic development should not be any different than procurement in this respect.

Many states use an equivalent safeguard — "performance-based incentives," or a back-loaded system — so that a company receives the subsidy (annually, for example) only after performing its obligation. If it falls short, it simply receives a proportionately smaller subsidy.[3] Such rules can also include a "cliff:" In our model legislation on clawbacks and recalibrations, we set forth a model in which a company that falls more than 25 percent short for three years in a row has its deal rescinded going forward.

If a deal needs to be renegotiated, it isn't quite the equivalent of a new deal, but the default should be publicly notified as should any application to renegotiate. To allow such events to take place in the dark is an invitation for mischief or worse.

Such disaggregation and disclosure is critical for program oversight and evaluation as well. That's because if there are specific problems with the way a program is designed or

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[3] *Money-Back Guarantees for Taxpayers: Clawbacks and Other Enforcement Safeguards in State Economic Development Subsidy Programs*, Good Jobs First, January 2012, at: https://www.goodjobsfirst.org/moneyback

functioning, deal-specific outcome analysis is usually the only way such problems can be detected. Finally, a failure to disclose shortfalls is unfair to companies that abide by their agreements.

At least 12 states already disclose their clawback activity, sometimes for multiple programs. We are not aware of any adverse side-effects for these disclosures.

**States that Disclose Clawback Activity**

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| Connecticut | Job Creation Tax Credit |
| Florida | Quick Action Closing Fund |
| Indiana | Economic Development for a Growing Economy |
| Indiana | Hoosier Business Investment Tax Credit |
| Indiana | Skills Enhancement Fund |
| Kentucky | Bluegrass State Skills Corporation Grant-in-Aid Program |
| Maryland | MEDAAF |
| Minnesota | Job Opportunity Building Zones (JOBZ) |
| Mississippi | Major Economic Impact Act |
| North Carolina | Job Development Investment Grant |
| North Carolina | One North Carolina Fund |
| Texas | Texas Economic Development Act (Ch. 313) |
| Texas | Texas Emerging Technology Fund |
| Texas | Texas Enterprise Fund |
| Vermont | Vermont Employment Growth Incentive (VEGI) |
| Virginia | Governor's Opportunity Fund |
| Virginia | Virginia Investment Partnership and Major Eligible Employer |
| Wyoming | Business Ready Communities Grants |

**Reversion:** We have not studied, and therefore offer no empirical position, on the proposal for monies clawed back or rescinded to revert to the state's general fund. We will say that such a model is wholly consistent with a growing left-right consensus that we see, calling for "back to basics." That is the belief that first and foremost, states should ensure that those public goods that benefit *all* employers — most notably education and infrastructure, but also public health and public safety — are adequately funded.

Thanks again for this opportunity and I look forward to your questions.