Michigan Economic Development Corporation
Key Economic Development Legislation Passed in 2008

In her 2008 State of the State speech, Governor Jennifer Granholm outlined various initiatives that would bolster the state's economy and change the face of economic development in Michigan. The MEDC was assigned to lead the implementation of several of these initiatives and was directly impacted by additional goals led by other state departments. Most of the initiatives required legislation to implement. The following is a list of legislation passed pre-LameDuck 2008 representing goals assigned to the MEDC.

1. MEGA (Michigan Economic Growth Authority) Program Improvements
2. Defense Contracting MBT Jobs Tax Credit
3. Anchor Company Credits
4. Anchor Zones Credits
5. Brownfield MBT Improvements
6. Brownfield Redevelopment Tax Increment Financing (TIF) Improvements
7. Renaissance Zone Program Improvements
8. MSF (Michigan Strategic Fund) Act Amendments to Expand Marketing Program
9. Centers of Energy Excellence
10. Choose Michigan Fund – 21st Century Loan Enhancement Program
11. Senate Downtown Development Package
12. Film and Digital Media Incentives
13. Mandated Renewable Portfolio Standards (RPS)

1. **MEGA Program Improvements - SBs 1187 (Stamas), 1188 (Gilbert), 1189 (Clarke), 1190 (Hunter), 1367 (Allen):** The MEGA tax credit <u>must</u> address a <u>competitive disadvantage</u> for expanding or locating a business in Michigan, as well as:
    a. A standard project must create at least 50 new jobs; a rural project must create 5 new jobs in the first year and 25 within 5 years. Employees must work at least 35 hours per week to be eligible for the credit.
    b. The project must create employment opportunities for Michigan and strengthen the state's economy.
    c. A company awarded this incentive cannot begin construction of the project before the MEGA credit is announced. This is done at monthly MEGA Board meetings in Lansing; the turnover for application and award can be very fast, and in one case (Business Intelligence Associates) this process was completed in just 72 days.
    d. The project will require a repayment provision should the company move new jobs from the state during the term of the credit.
    e. The new jobs <u>must be in addition to</u> those existing during the year preceding application for the credit; existing jobs must be maintained for the life of the credit.

In addition to these requirements, the statute also states that the Board must consider the following factors in granting a company a MEGA incentive:

a. Local government or local economic development financial or economic contribution to the project.
b. Overall capital investment by the company.
c. Average wage and employer-paid health care benefits relative to other companies within the county in which the project will locate.
d. The number of jobs to be created and/or retained.
e. The cost differential to the business between expanding, locating or staying in Michigan and a site outside of the state.
f. Whether the project would occur in Michigan without the credit.

Key changes to the MEGA Incentives are:

a. Adds tourism companies/endeavors as eligible businesses as long as they attract a substantial number of customers from another state. (explained further)
b. Eliminates requirement for the creation of 100 qualified new jobs for an out-of-state company and makes the requirement consistent for in-state companies which is 50 qualified new jobs.
c. Adds repayment requirement for all MEGA awards if company closes an incented Michigan operation and relocates jobs to another state or country.
d. Requires every MEGA job to be at least 150% of federal minimum wage. ($9.83/hour).
e. Allows for costs of health benefits paid by the company to be included in the calculation of MEGA tax credits.
f. Removes the following requirements and makes them Board considerations (**not** requirements):
    i. "But For"
    ii. Local Commitment
    iii. Financial Statements
    iv. Reuse of Property
g. Rewrites the Retention MEGA definition to include broader language which will help to eliminate single company retention definitions that have become common.
h. Requires an investment of at least $50,000 per incented retained job.
i. Creates a sliding percentage based on investment up to $100,000 a job. (Example: If job qualifies at $70,000/year, the credit will be 70%).
j. Rewrites language to allow for 400 credits years to be awarded annually for standard MEGAs.
k. Eliminates anniversary date requirement and rewrites language to allow more flexibility in earning the credit.

l. Allows *High-Technology MEGA* of 200% for the first three years of a MEGA credit, but not for longer than seven years.
m. Creates *High-Wage MEGA* for companies who pay 300% of federal minimum wage ($19.65/hour) along with a guarantee of 5 jobs in the first year and up to 25 jobs for the first 5 years.

Tourism MEGA: A tourism company is defined as a cultural or historical site, a recreation or entertainment facility, an area of natural phenomena or scenic beauty, or an entertainment destination center as determined by the MEGA Board. In addition to the tourism destination, a lodging facility can receive this credit. The facility must constitute a portion of a tourism attraction facility and represent less than 50% of the total cost of the tourism attraction facility, and/or lodging facilities are to be located on recreational property owned or leased by municipal, state, or federal government.
Not eligible for this incentive are facilities, other than an entertainment destination center, that are primarily devoted to the retail sale of goods, a theme restaurant destination attraction, or a tourism attraction where the attraction is a secondary and subordinate component to the sale of goods. Also, recreational facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the facility, and lastly, casinos, gaming facilities and/or professional sports stadiums do NOT qualify.
In making a determination, the MEGA Board will consider (but not require) all of the following:

a. Whether the facility will actually attract tourists.
b. Whether 50% or more of the persons using the facility reside outside a 100 mile radius.
c. Whether 50% or more of the gross receipts are from admissions, food, or nonalcoholic drinks.
d. Whether the facility offers a "unique" experience.

2. **Defense Contracting MBT Jobs Credit – SB 1188 (Gilbert):** There is now a Defense MEGA-like credit, which is focused on incenting companies who are awarded Department of Defense, Department of Energy, and Department of Homeland Security contracts. The company awarded this incentive can claim up to 4.35% of MBT for new job payroll created as a result of the contract; a minimum of 25 new jobs must be created. The MEGA Board can award 10 of these credits per year.

3. **Anchor Company Credit – SB 1115 (Allen)**: An Anchor Company is designated and incented as a business that has influenced a new qualified supplier or customer to open, locate, or expand in Michigan. The new qualified supplier or customer must sell a critical or unique component or technology necessary for the anchor company to market a finished product or buy a critical or unique component from the Anchor Company.
    a. The company can claim a MBT credit for up to 5 years.
    b. Includes a MEGA-like Jobs MBT credit (up to 4.35% of new jobs payroll of supplier/customer goes to the Anchor Company).

c. The MEGA Board can designate 5 companies per year.
d. Companies can get multiple credits (including other MEGA incentives).
e. Company must create more than 10 new jobs.
f. An investment of at least $1 Million is required by the Anchor Company.

4. **Anchor <u>Zone</u> Credit - HB 5858 (Clemente)**: Creates an Anchor Zone Investment Tax Credit for clustered industries that are attracted by Anchor Company. An Anchor Company may claim a credit against the MBT up to 5% of taxable value (2.5% if supplier/customer gets a PA 198 abatement). The taxable property must be located within 10 mile radius of the Anchor Company. The MEGA Board can designate 5 Anchor companies per year.

5. **Brownfield MBT Credit - HB 5511 (Clemente)**: Creates a refundable Brownfield Tax Credit which moves to 85% of the value of the property. The legislation also:
   a. Increases the credit from 10% to 12.5%. Soft costs have been removed from the calculation; now only hard costs are eligible.
   b. Allows up to 20% credit for Urban Redevelopment Area Projects (for core communities, of which Detroit is one).
   c. Large credits increased from 15, then to 17, and now to 20 per year.
   d. Combines "Small" and "Mini" into $40 Million allocation.

6. **Brownfield Redevelopment TIF Improvements - HBs 4711 (Huizenga), 4712 (Clemente) and SBs 534 (Richardville), 539 (Sanborn)**: Extended the sunset on Brownfield Packages, and allows the program to be more efficient and flexible. Some nuances include:
   a. Extends use of Demolition/Lead and Asbestos Removal State-wide.
   b. If the Brownfield Redevelopment Authority (BRA) pays interest on approved activities, so will the Michigan Department of Environmental Quality (MDEQ).
   c. Allows for continued use of taxes levied for school operating purposes (MDEQ and MEDC approved projects) through 2012.

7. **Renaissance Zone Improvements – HBs 4950 (Dean), 5600 (Sak) and SBs 1206 (Allen):** Allows for extensions and new subzones to be created, as long as there is county approval for the project, for all those which will expire after 2011. It also creates 4 new floating zones, and allows the MSF Board to delay beginning date in new location. Includes wind and solar-based projects as renewable energy facilities, as well as agricultural crops and processed products from agricultural crops. Also allows for the addition of property to an existing tool and die renaissance recovery zone under the same terms as the existing recovery zone if specific conditions are met.

8. **MSF Marketing Amendments – HBs 5865 (Ebli), 5866 (Brown), 5867 (Horn) and SBs 1223 (Allen), 1224 (Stamas):** Allows the MEDC to use Tobacco Settlement funds to finance the Tourism Promotion Program and Business Marketing. The radio/TV/print ads that feature "Pure Michigan" and "Upper Hand" are included in this allocation ($60 million total; $50 million to be used in 2008 and 2009, with $10 million set aside for 2010).

9. **Centers of Energy Excellence (COEE) – SB 1380 (Allen):** Creates performance-based grants for companies that are engaged in creating new technologies for energy: Battery and Biofuels. The concept is based on Sweden's Triple Helix of Private Sector/Academic Institution/Government (defined): *Surround the base company with the necessary economic foundations in order to grow and sustain the industry. This includes private sector companies, such as capital providers, service providers, suppliers, customers, trade groups, and competitors; Academic institutions, such as universities, national labs, schools, and training centers, that can develop next generation research and workforces; and government assistance in the form of economic incentives, streamlined permitting/regulations, and policies that promote industry growth.*
   As of November 2008, <u>SIX COEEs have been awarded</u>:
   a. Swedish Flint Biogas (Flint)
   b. Sakti3 (Ann Arbor)
   c. Mascoma (Kinross, eastern UP)
   d. A123 Systems (Ann Arbor)
   e. Working Bugs (East Lansing, Webberville)
   f. American Process, Inc. (Alpena)

10. **Choose Michigan Fund – HB 6208 (Clemente):** Allowed for two forgivable loans under the Choose Michigan Loan Fund program of no less than $500,000 for 10 years with a 1% interest rate, to companies that were considering locating in Michigan. Born out of our competition to bring Volkswagen to Michigan, this legislation sunset in September 2008.

11. **Downtown Development Package**: Some of the finer points of the legislation include:
    a. Allows Downtown Development Authority (DDA) to operate retail business incubators. SB 970 (Allen)
    b. Allows DDA to create and operate loan fund for building façade improvements. SB 972 (Hunter)
    c. Allows MEGA credit incentives for businesses that agree to occupy historic property located in a downtown district. SB 1189 (Clarke)
    d. Reactivates Commercial Redevelopment Act to allow new tax abatements for a new or replacement facility in a redevelopment district on property zoned for mixed-use. SB 974 (Richardville)

e. Allows NEZ located in a qualified downtown revitalization district to contain fewer than 10 platted parcels if the parcels together contain 10 or more facilities. SB 975 (Kahn)

f. Allows NEZ Act to be used on new structure or portion of new structure that is rented or leased (or available for rent or lease) and is a mixed use building that contains retail business space at street level. SB 976 (Gilbert)

g. Requires Natural Resources Trust Fund Board to give additional consideration to trails that intersect downtowns when determining funding priorities. SB 978 (Stamas)

h. Allows eligible local assessing districts to exempt new personal property owned or leased by an eligible business located in distressed parcels from taxes under the General Property Tax Act. SB 980 (Pappageorge)

i. Amends SmartZone statute to allow MEDC to designate three new SmartZones and allows a community without a SmartZone to piggyback on a SmartZone in another community. SB 1203 (Richardville) and HB 5609 (Simpson).
The three new SmartZones were designated in October 2008: Jackson Technology Park SmartZone (Blackman Township); Macomb Technology Advancement SmartZone (Sterling Heights); Sault Ste. Marie SmartZone (Sault Ste. Marie)

12. **Film and Digital Media Incentives:** Provides for an up to 42% refundable tax credit, based on the spend, for any film company that creates a movie in Michigan, using Michigan talent and filming in a core community. It also allows for free use of state and local property.
The signed legislation includes: HBs 5841 (Meisner), 5842 (Young), 5844 (Johnson), 5848 (Robert Jones), 5852 (Hildenbrand), 5853 (Kathleen Law), 5854 (Clemente), 5855 (Miller)
SBs 1173 (Clarke), 1174 (Gilbert), 1176 (Birkholz), 1177 (Allen), 1178 (Hunter), 1183 (Stamas)

13. **Renewable Portfolio Standards (RPS) – SBs 213 (Birkholz), 1048 (Birkholz) and HB 5524 (Accavitti):** Establishes new energy efficiency standards and updates state regulation of electric power companies.
Renewable Energy and Energy Optimization:

a. Major utilities (Consumers Energy & DTE) must generate 10% of electricity using alternative means by 2015: includes solar, biomass, wind, hydro, geothermal, municipal solid waste and landfill gas.

b. Energy Optimization Plan is established to reduce the future cost of provider service to customers.

c. Up to 10% of the RPS requirement can be met with credits from Energy Optimization or Advanced Cleaner Energy (ACE) technologies such as coal gasification, industrial cogeneration or other technologies still in development.

d. Surcharges for RPS development are allowed with costs for implementing the RPS capped at $3 per month for residential, $16.58 for commercial secondary and $187.50 for commercial primary for industrial.

The Michigan Public Service Commission (MPSC) may designate an area of state likely to be most productive of wind energy as the primary wind energy resource zone and allow for the designation of additional wind energy resource zones.

Net Metering Law:

a. Net metering allows businesses and residents to sell renewable electricity that they produce at their businesses or homes back to their utility companies.

b. Electric companies do not have to grant net metering in excess of 1% of their in-state peak load.

State Government Energy Efficiency and Conservation: State government's goal is established to reduce grid-based energy purchases by 25% by 2015 when compared to energy use for the state fiscal year ending September 30, 2002:

a. The state's electric utility regulation legislation (PA 141 of 2000) is rewritten to limit the level of an electric utility's retail sales from non-utility providers to 10% annually. Currently, about 3% of the electricity sold in Michigan is provided by "alternative electric suppliers." This provision will provide enough market certainty in utility retail sales for the utilities to get financing and make investments in electric supply infrastructure and new and upgraded generation and distribution systems.

b. Electric rates are "deskewed" to offset the fact that residential customers historically have been subsidized by businesses. Deskewing is capped at 2.5% a year over five years.

c. The MPSC is required to approve special discounted rates or contracts for large industrial or commercial gas customers if requested by a gas utility to help it retain those customers.

In addition to the above, several MEDC legislative initiatives were passed in LameDuck, including:

1. **Choose Michigan Fund II - SB 1175 (Hardiman):** Extends the forgivable loan program that was established under HB 6208. It allows the MSF Board to make up to three forgivable loans under the Choose Michigan Loan Fund Program until September 30, 2009, and to waive the requirement that there be another loan made by a lead or co-lender. All other requirements established under HB 6208 remain the same.

2. **Advanced Battery/Plug-In Hybrid Vehicle Incentives - HB 6611 (Gonzales):** Amends the MBT Act to provide four incentives dealing with plug in hybrid vehicles and battery cell manufacturing. Credits would be refundable and be based on agreements with MEGA. A companion bill, HB 5977 (Moore), amends the MEGA Act to allow the MEGA Board to approve the credits.

3. **Brownfield MBT Modification – SB 982 (Allen):** Allows the MEGA Board to reconsider an "amended" project when making its determination of a qualified taxpayer's claim, on a previously approved project, for brownfield tax credits against the MBT. The changes will allow projects in

urban areas that were previously approved by the MEGA Board to proceed under the previously approved credit and eliminate the need for the Board to approve another credit for the project.

4. **Additional Historic Preservation Tax Credits – SB 973 (Brown):** In addition to the existing historic preservation tax credit, the legislation creates a new Tier 2 credit beginning in tax year 2009 for projects approved by December 31, 2013, for expenditures for $1 million or more. The Department of History, Arts and Libraries director and the MSF president (or designee) would have to approve. The legislation also establishes a limited number of high impact Tier 3 credits that would require the state treasurer's sign-off. It also allows an assignee to reassign a credit and makes other changes.

5. **Expand Use of PA 328 for Border Counties – SB 1281 (Brown):** Border communities meeting specific "non-sprawl" criteria can now use PA 328 if the state treasurer and the MSF president determine that granting the exemption is: (1) a net benefit to the state; (2) that the expansion, retention, or location of an eligible business will not occur in this state without this exemption; (3) that there is no significant negative effect on employment in other parts of this state as a result of the exemption.

6. **Expand Use of PA 198 for Border Counties – SB 146 (Brown):** The legislation allows a PA 198 certificate to be issued for property where at least 90% is used for warehousing distribution or logistic purposes in a county that borders another state or Canada. In addition, PA 198s are now available for communications centers of at least 100,000 sq ft.

7. **PA 198 Exemption Certificates – Permanent Mechanism to Correct Mistakes – SB 218 (Basham):** Creates a permanent mechanism to overcome mistakes made in applications for PA 198 industrial facility personal property tax breaks. The bill adds language giving authority to the <u>MEGA chair</u> to approve the application if that application would have otherwise met the criteria of the Act.

8. **Expand Renewable Energy Renaissance Zones for Cellulosic Biofuels – HB 5746 (Accavitti):** Amends the Michigan Renaissance Zone Act to allow the State Administrative Board to designate up to 15, rather than 10, renaissance zones for renewable energy facilities, and requires at least five renewable energy renaissance zones to focus primarily on cellulosic biofuels.

9. **Additional Tool & Die Recovery Zones – SB 1483 (Allen):** Increases the number T&D Zones the MSF Board may designate from 25 to 35 and allows the Board to consider companies with 75 or more employees.