Testimony on the Next Michigan Development Act Legislation
Transportation Committee
Michigan House of Representatives
Thursday, September 24, 2009
Anderson House Office Building, Room 307
Lansing, Michigan

Robert A. Ficano – Wayne County Executive

Good Morning. Thank you Chairperson Byrnes and the entire Committee for allowing us to testify today before this distinguished committee. I'd also like to thank the Committee for addressing the economic opportunity that the Next Michigan Development Act legislation presents to the entire State of Michigan.

The current state of our economy has taught us that we must cooperate and collaborate if we are going to diversify and create jobs for our citizens. With declining tax revenues and budget constraints, it is critical that we find ways to leverage our existing assets into new opportunities. These assets include idled factories, our robust transportation system, the talent produced in our world-class universities, and our world-class airport system.

The Next Michigan Development Act legislation is about both cooperation and economic self-sufficiency. The legislation encourages cooperation between local units of governments, counties, and the State of Michigan to develop sound business strategies for our state's unique or distressed assets. It also provides an opportunity to aggressively market these assets and compete on a global basis through predefined incentives.

As this Committee is aware, our initiative's primary focus is bringing investment to the Aerotropolis region. For the Aerotropolis, the legislation allows us to capitalize on Michigan's strategic position in the North American and global market by providing incentives to attract new

air-commerce related businesses. Our studies show that we can create over 60,000 jobs and $10 Billion in annual economic activity in the Aerotropolis region over the next few decades.

As Michigan's economy transforms and we become leaders in advanced battery and alternative energy technology as well as life sciences and defense, we must be able to deliver these goods quickly and efficiently to the market. We have worked closely with the Detroit Regional Chamber and other stakeholders in advancing the Southeast Michigan region as a global trade hub. With a new border crossing on the horizon and other planned investments to improve rail and access along the St. Lawrence Seaway, we are enhancing the infrastructure to solidify our position in the world economy. To truly take advantage of these enhancements, we must also have the incentives to attract private investment and to help export the next generation of Michigan-made goods.

Our competition is stiff and moving ahead quickly. In just the past week, new rail investments are being made in Cleveland, a city that is also planning to transform their airport into an Aerotropolis development. Chicago is planning a 3rd airport for cargo and passenger travel, and Columbus has already transformed their airport into an inland hub for freight. If we do not adopt this package of legislation and give the Aerotropolis a chance to succeed, you will continue to see goods and people leave Michigan. We simply cannot wait any longer.

We have done our homework as a region to show that we have a unique economic opportunity to create jobs through our world-class airport system. We have shown our unity as a region by adopting an intergovernmental agreement to work together and share ownership in our economic future. We have worked with stakeholders in surrounding cities and counties to put together a legislative package that they can take advantage of as they attempt to build off of their unique economic assets. And we recognize that we still have work to do in making sure our

economic opportunity provides the widest-ranging benefits possible to all citizens within Michigan.

I appreciate the opportunity to speak with you today, and I truly hope that we can work together to advance the State of Michigan through this legislation.

Robert Guenzel – Washtenaw County Administrator

Hello and thank you for having me here to testify in support of the Next Michigan Development Act legislation. Thank you Chairperson Byrnes and the Transportation Committee for making time for this legislation during this busy budget season.

I want to echo Bob Ficano's thoughts on the need for our cities, counties, and the State of Michigan to cooperate during these challenging economic times. I am proud to have worked with Executive Ficano, our local partners, and with the State of Michigan in promoting job creation and putting forth a positive message about the future of our economy.

To me, this legislation promotes unity by our government leaders, and it promotes job creation. It also promotes cooperation with the private sector, especially as we work together to transform idled plants and abandoned industrial areas statewide into engines of economic growth. Such economic tools are critical to promoting reuse of distressed assets including assets like Willow Run Airport, which has lost significant business due to the auto industry decline.

Washtenaw County is successful not only because of our universities and people, but because of the historical success of our surrounding region. We recognize that a strong economy in Detroit, Oakland County, Monroe County, and everywhere else in Michigan benefits our County. That is why we think this legislative package will benefit us regardless of where the incentives are utilized.

When businesses search for places to locate, they look at many factors. They look at the transportation infrastructure around them, access to talent, and land available for development or redevelopment. These are things we possess here in Michigan already. But they also look at the bottom line cost of locating in a region and incentives. As our world economy continues to go global, we are forced to think inwardly about what our competitive advantage is, and when I say

"**our**," I do not mean Washtenaw County but rather the State of Michigan. This legislation would make the State of Michigan more competitive for jobs, and it will make regions more self-sufficient in building their economic future.

With regards to the Aerotropolis, Wayne and Washtenaw counties already operate as a region. Thousands of workers commute between our counties each day, and we are permanently linked by our transportation corridors including I-94 and Michigan Ave. And the hope is that we will further unite our economies through the creation of commuter rail service and other direct transit connections.

The Aerotropolis partners recognize that we have a better chance of succeeding as a region if we work together, which is why our nine governments formed the Aerotropolis Development Corporation. We all recognize that new economic activity will benefit our citizens and businesses, and that by pooling our resources and speaking with one voice, we are in a better position to attract business and work with other governments in Southeast Michigan to achieve common economic goals.

Again, I appreciate the opportunity to speak with you today about the need for the Next Michigan Development Act legislation and I hope that this Committee will do what it takes to support regional cooperation and economic development in our State. Thank you.

Statement Before House Transportation Committee
Regarding Next Michigan Development Act Bill Package
September 24, 2009

Good morning, Madame Chair and members of the Committee. My name is Michael McGee. I am a public finance lawyer and managing director with the law firm of Miller, Canfield, Paddock and Stone.

County Executive Ficano and County Administrator Guenzel have described for you the vision for the Next Michigan Development legislation, and the high degree of local government cooperation among the 9 local government parties who have already negotiated and approved an interlocal agreement in the hope that this legislation will be passed.

My role here is to describe briefly the technical aspects of the bill package before you. Before going into the specifics of each bill, however, permit me to describe the overall legal framework. The main legal point is that this package does not create any brand-new or previously unheard-of economic development incentive. Instead, the package uses existing laws and existing incentives in a more focused way. Our goal was not to reinvent the wheel. Therefore, of the 6 bills before you, 5 amend existing economic development laws with which the Committee is already familiar – the Renaissance Zone Act, the MEGA Act, the Local Development Financing Act, Act 198, and the General Property Tax Act.

What's new about this package is the coordination of these existing tools in pursuit of intergovernmental economic development.

There are three questions that any economic development legislation must address:

First, what specific incentives are we talking about?

Second, who gets the incentives, that is, what businesses are eligible to apply?

Third, who administers the program? Who is the regulator?

Of the 6 bills in the package before you, 4 of them, HBs **5347, 5348, 5349, and 5350**, answer the first question of what incentives we are talking about, namely different forms of tax reductions for businesses, and tax increment financing (or "TIF").

One bill, HB **5351**, answers the question of who gets to apply for the incentives by incorporating a definition of "eligible business."

And one bill, HB **5346**, answers the question of who administers the program, namely a "Next Michigan Development Corporation" created by interlocal agreement among local governments, at least 1 of whom must be a county.

So let me take the bills in that order, starting with the incentive bills.

HB 5347 would amend the Local Development Finance Act, 1986 PA 281. The Local Development Finance Act is one of the several so-called "TIF" acts currently on the books. It provides development incentives by capturing taxes from new development, and using those taxes to pay for infrastructure to attract more development. Tax increment financing has been successfully used for economic development in Michigan for over 30 years. It has a proven track record. While there is some limited intergovernmental cooperation authorized in the current statute, that cooperation must be within 1 county. This bill therefore amends Act 281 to permit cooperation among more than 1 county – such as Washtenaw and Wayne – and therefore provides that a new Local Development Finance Authority may be created across county lines. The bill also mimics the "SmartZone" provisions presently in Act 281 and would permit the limited capture of education taxes by the intercounty authority, subject always to the discretionary approval of the State Treasurer, as under current law. In other material respects the intercounty authority would operate like a normal LDFA: The intercounty authority would adopt development and TIF plans as under current law, would capture the tax increment paid by new development within the development areas, and use the tax increment to spur additional development, again as under current law.

HB 5348 would amend 1974 PA 198, or "Act 198" as it is commonly called. As you know, Act 198 generally allows local cities, villages and townships to grant property tax abatements to industrial facilities for up to 12 years. This bill would amend Act 198 to allow a Next Michigan Development Corporation to grant property tax abatements for "eligible businesses" as defined in the MEGA Act, which I will discuss in a few

moments. As proposed, the bill requires the State Treasurer and the President of the Michigan Strategic Fund to approve of the abatement.

HB 5349 amends the Renaissance Zone Act by creating a new class of renaissance zones to be known as "next Michigan renaissance zones." The tax credits and exemptions available to qualifying businesses within a next Michigan renaissance zone are the same as are available within traditional renaissance zones. Each Next Michigan Development Corporation is allocated a number of zones equal to the number of local government parties to its interlocal agreement, plus 1 additional zone for each county party, up to a maximum of 12 zones. Zones generally shall have durations of not less than 5 years nor more than 10 years, and may be extended for an additional 5 years with State approval. Businesses qualifying for the tax incentives are recommended by the Next Michigan Development Corporation and approved by the President of the Michigan Strategic Fund. It is important to note that not all businesses which are eligible to apply will be deemed "qualified" and only a "qualified" business within a zone will receive the tax incentives. Thus the incentive can be narrowly targeted and the degree of tax expenditure can be constrained. The incentives are granted to individual companies, not to every company within a zone.

It also is important to point out that the bill contains strong "no-poaching" provisions. I would direct your attention to page 7, lines 7 through 20, which prohibits a "qualified" business designation unless the applying business will locate in Michigan from elsewhere, open new locations in Michigan, or materially expand operations in Michigan.

If the principal economic effect of the expansion or location is simply to transfer jobs from one place in Michigan to another, the business may not be "qualified." The targeted incentive is to attract new outside investment, not to move jobs around within Michigan.

HB **5350** is a companion to HB 5348. It amends current law, the personal property tax abatement provisions of the General Property Tax Act, to permit a Next Michigan Development Corporation to grant personal property tax abatements to qualifying eligible businesses. As with HB 5348, HB 5350 as proposed requires the State Treasurer and the President of the Michigan Strategic Fund to approve of the abatement.

That is a summary of the tax incentives themselves. As you can see, there is nothing dramatically new here. Instead, the existing tools are made more flexible to accommodate specific private development proposals. Not every tool will be used in every situation, and not every business will receive every incentive. The incentives can be mixed and matched to fit the circumstances.

On to the question of who gets the incentives. The answer is addressed in HB **5351**. This bill amends the definition of "eligible business" in the MEGA Act. The MEGA Act currently defines "eligible business" generally as a business creating or maintaining jobs in sectors that produce something: manufacturing, mining, R&D, wholesale trade, film and media, certain high-tech and tourism businesses. To this list the bill adds the idea of not simply production, but also transport, supply-chain and shipment services. This definition reflects the current economic reality that it is not just production that counts –

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The bill as drafted allows for no more than 10 Next Michigan Development Corporations state-wide. The bill also directs the Strategic Fund to make NMDC designation determinations on the basis of the number of unemployed persons within the applicant's

territory, the number of local government parties to the interlocal agreement, the evidence of job creation potential, and the degree of public and private commitment to the applicant's program.

A Next Michigan Development Corporation is a public body, and is subject to the Open Meetings Act and to the Freedom of Information Act.

Please note that nothing in the bill requires that an applicant to own an airport, be near an airport, or be related to air commerce. It is no secret of course that Wayne and Washtenaw Counties and their local government partners intend to use their airports, as Mr. Ficano and Mr. Guenzel noted, as the principal business attractors. But the bill again permits flexibility – individual areas of the State can craft an Act 7 entity in a fashion which suits individual needs. No regions are excluded.

Taken together, these bills refine and sharpen the existing economic incentives already on the books, and allow those incentives to work in combination to create a powerful hierarchy of incentives which will enable us to compete with others in a ruthlessly competitive global marketplace.

That is a brief summary of the bill package. I would be happy to answer any questions. Thank you, Madame Chair.

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THE RIGHT PLACE

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September 23, 2009

The Honorable Pam Byrnes
State Representative
Michigan House of Representatives
PO Box 30014
Lansing, MI 48909-7514

Re: Next Michigan Development Act Legislation

Dear Representative Byrnes,

I commend the Business Leaders for Michigan for the drafting of a legislation package to help revitalize business and real estate adjacent to and around the Detroit Metro Airport and Willow Run Airport.

The growth and redevelopment of these important economic assets will benefit all of Michigan, and I look forward to supporting those efforts as the legislative package moves toward enactment.

The package incorporates a reasonable economic support effort and would enable communities around the Gerald R. Ford International Airport to also apply for designation should we be inclined to do so.

If you have any questions regarding my support for the enactment of this legislative package, please feel free to contact me.

Sincerely,

Rick Chapla
Vice President Business Development

/rt

161 Ottawa Avenue NW, Suite 400 Grand Rapids, MI 49503 p 616.771.0325 f 616.771.0555 e info@rightplace.org

Michigan House of Representatives

Transportation Committee Meeting

Chair, Representative Pam Byrnes

September 24, 2009

The Genesee Regional Chamber of Commerce appreciates the opportunity to provide written testimony regarding HB's 5346 – 5351. These bills have the intent of creating up to ten (10) Next Michigan Development Corporations throughout Michigan, as well as amending several other existing Public Acts related to economic development incentives. These bills replace several House bills from the previous session related to the creation of Aerotropolis Development Corporations.

HB 5346 is the bill that actually provides for the creation of up to ten Next Michigan Development Corporation. On its face, this bill is much more palatable than the original Aerotropolis legislation in that it is more inclusive of communities throughout Michigan and not based on air passenger counts or proximity to an airport.

While we believe HB 5346 is better for all communities, we still have some issues with this bill as it is currently written. Section 5 (1) states the following: **The president of the Michigan strategic fund shall develop the form of application for designation as a next Michigan development corporation within 90 days of the effective date of this act provided that an application from an eligible act 7 entity which otherwise meets the requirements of this act may be filed with the board of the**

Michigan strategic fund prior to the promulgation of the application form, and any such application shall be considered by the board of the Michigan strategic fund under subsections (2) and (3).

This language would appear to give Wayne and Washtenaw Counties as well as certain communities within these the ability to file an application to create a Next Michigan Development Corporation prior to the Michigan Strategic Fund creating an application form to be used by all applying entities. This would certainly provide Wayne and Washtenaw Counties a huge advantage in the process. There is always the possibility that an application form created after the fact can hinder future applicants. All applicants should adhere to the same process(es). One should also be concerned about how many of these Next Michigan Development Corporations will be established in Wayne and Washtenaw Counties.

Section 5. (2)(d) states the following: **Whether the application is supported by public and private commitment and the degree of the commitment.**

This section is very vague with regard to what is public and private commitment and provides no guidance with regard to defining the "degree of the commitment". This information should be clarified by the Michigan Strategic fund while the application and process is being developed. This goes back to the previous point about all potential applicants playing by the same set of rules.

Section 6. (1) states the following: **A next Michigan development corporation shall seek to attract eligible businesses to its next Michigan development district and may exercise all of the powers, privileges, and responsibilities granted to it under state law, including, but not limited to, the powers, privileges, and responsibilities granted in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, 1974 PA 198, MCL 207.551 to 207.572, and other relevant law as the same may be amended from time to time.**

Communities may be unwittingly giving up a lot of control over incentives to the governing body of the Next Michigan Development Corporation.

Section 9. states the following: **This act shall be construed liberally to effectuate the legislative intent and purposes of this act as found and stated in section 2 of this act. This act constitutes complete and independent authority for the performance of each and every act and thing authorized by this act, and all powers granted by this act shall be broadly interpreted to include any power reasonable and convenient to effectuate the intent and purposes of this act, and the language used in this act shall be read as grants of authority and not as limitations of powers to those expressed or necessarily implied.**

This section appears to give a lot of latitude (with little State oversight) to the Next Michigan Development Corporations.

As mentioned previously, HB 5346 would allow for the creation of up to ten (10) Next Michigan Development Corporations. The Genesee Regional Chamber of Commerce would like to see language added that would limit the number of Next Michigan Development Corporations to a maximum of two per county. This would serve to promote a more geographic dispersion of these Next Michigan Development Corporations, as is the apparent intent of this bill.

The Genesee Regional Chamber of Commerce took issue with the very narrow definition of an eligible business under the previous Aerotropolis legislation. This is not case with the definition of a qualifying business as provided in HB 5351 (Section 3 (g)). We are also encouraged with the addition of Section 3 (M) which states the following: **Multimodal commerce means the movement means the movement of products, information, and services via air, roads, rail, or water.** This will provide communities that are not reliant on the movement of products solely through the air the opportunity to potentially participate in a Next Michigan Development Corporation.

The Genesee Regional Chamber of Commerce would also like to get some clarification on what appears to be contradictory language in HB 5349. HB 5349 – Section 8 G (4) states the following: **A qualified eligible business in a next Michigan renaissance zone shall be granted renaissance zone status for the greater of up to 10 years or**

for the remaining term of the next Michigan renaissance zone within which the qualified eligible business is located. A qualified eligible business may have a different period of renaissance zone status than the next Michigan renaissance zone in which it is located or than another qualified eligible business in the same next Michigan renaissance zone. Section 8 G (7) states the following: **Upon request of the next Michigan development corporation, the president of the Michigan strategic fund may extend the duration of renaissance zone status for 1 or more portions of a next Michigan renaissance zone if the extension will increase capital investment or job creation, and the next Michigan development corporation and the city, village, or township in which that portion of the next Michigan renaissance zone is located consents to extend the duration of renaissance zone status. The president of the Michigan strategic fund may extend renaissance zone status for 1 or more portions of the next Michigan renaissance zone under this subsection for a period of time not to exceed 5 additional years as determined by the president of the Michigan strategic fund.** This Section makes no reference to a qualified eligible business as in Section 8 G (4). This Section also states that a renaissance zone extension shall not exceed 5 additional years, whereas Section 8 G (4) states a qualified eligible business in a next Michigan renaissance zone shall be granted renaissance zone status for the greater of up to 10 years or for the remaining term of the next Michigan renaissance zone. Does this not basically provide an extension for a portion of a next Michigan renaissance in excess of 5 years. We also have some concerns about the impact these newly created renaissance zones will have on Michigan's urban areas. Many of these new renaissance zones will more than likely

be located in greenfield areas. Michigan's older urban areas will have a tough time competing for new businesses with the Next Michigan Development Corporations.

In conclusion, the Genesee Regional Chamber of Commerce believes that HB's 5346 – 5351 represent a much better attempt at being more inclusive at the State level. However, at this time the Genesee Regional Chamber of Commerce cannot endorse or support this package of bills as currently written. We have provided the Transportation Committee with our concerns, and would like to see these concerns addressed in any future versions of these proposed bills.

We thank the Chair and the members of the Transportation Committee for opportunity to share our thoughts and concerns on this proposed legislation.

Contact information:

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