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Sent via email to: director@gasb.org

RE: Project No. 19-20E

Mr. David R. Bean, CPA
Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Dear Mr. Bean:

This letter is to comment on the Governmental Accounting Standards Board's (GASB) Exposure Draft on "Tax Abatement Disclosures," Project number: 19-20E. We are writing especially to alert you to a serious gap regarding consumption tax abatements for economic development in the definitional coverage of the Exposure Draft in its current wording.

The co-signatories to this letter, Arise Citizens' Policy Project (Arise) in Alabama and Mississippi Economic Policy Center (MEPC), are non-profit, non-partisan organizations that work on fiscal policy issues in their respective states.

Arise, founded in 1994, is a statewide nonprofit, nonpartisan coalition of 150 congregations and community groups and hundreds of individuals united in their belief that low-income people are suffering because of state policy decisions. A state budget that provides adequate services (such as education, child care, health care and transportation) for low-income people is one of our long-term policy goals. Since the landmark Mercedes-Benz deal that occurred in our state the year before our founding, we have sought better information on the true long-term costs of such deals. Arise has also used the State of Alabama's CAFRS to track state revenue and expenditures both for specific fiscal years and over time. We share this information with our members, state media, and the public in the form of policy briefs and our widely-used Alabama Tax & Budget Handbook. Additional, and more transparent, data on tax expenditures would be very helpful to us in our efforts to understand and communicate the actual costs and benefits of economic development projects supported by state and local government tax abatements.

MEPC conducts independent research on public policy issues affecting working Mississippians. Through public outreach efforts, policy maker education and engaging the media, MEPC uses its analysis to ensure that the needs of low and moderate-income Mississippians, in particular, are considered in the development and implementation of public policy with the ultimate goal of improving access to economic opportunity. MEPC is managed by the Hope Enterprise Corporation (HOPE), a regional financial institution and community development intermediary dedicated to strengthening communities, building assets and improving lives in economically distressed areas in the Mid South. The Mississippi Economic Policy Center is always looking for reliable, comprehensive data on tax abatement measures and we look forward to using the new data collected to inform Mississippians of their fiscal effects.

We applaud GASB for acting to make state and local economic development tax expenditures more transparent. We are certain that the new data that will result from these Tax Abatement Disclosures rules will provide a wealth of information that our organizations will analyze to better understand spending priorities and fiscal conditions of our state and local governments.

However, we see a major gap in your Exposure Draft: on their face, the proposed rules would likely exclude from their coverage sales tax diversions or rebates or other consumption-tax based abatements that are used as economic development tax abatements in our states and many others. These diversions and rebates are of sales taxes paid by customers at retail establishments and by visitors to tourism attractions.

Section B12 of the Exposure Draft defines “tax abatements” as “resulting from an agreement…in which (a) one or more governmental entities promise to forgo revenues from taxes for which the taxpayer otherwise would have been obligated…” The sales taxes that we are flagging to you, however, are not retailers’ tax obligations; they are taxes paid by customers and tourism visitors. Instead of going to state or local governments’ coffers, those taxes go to private companies to incentivize their economic development activity.

We are not referring here to what is called the sales tax “vendor discount,” wherein a sliver of sales tax is kept by retailers as a sort of processing fee for collecting and remitting sales taxes on behalf of a locality or a state. Nor are we referring here to sales tax increment financing (although we believe STIF should also be covered by your tax abatement definition). Rather these sales tax diversions are individually negotiated between a company and a governmental entity as incentive deals intended to stimulate economic development activity. Typically, these sales tax diversions reimburse retailers for the construction costs of a new store and are sometimes the result of a competition between localities for a store (the fiscal prize being the local incremental sales tax revenues that are not diverted to the retailer).

Consider these examples to demonstrate the scale on which these abatements have been used in our respective states.

In Alabama:

- The City of Decatur, pursuant to power granted by state law, has agreed to remit back to Bass Pro, a large national retailer, $31 million in sales taxes generated at its future store and $14 million in lodging taxes generated by a proposed hotel. The abatements are to reimburse the company for the construction costs. The city also agreed to remit back to Genesis USA, the developer of the shopping center where Bass Pro will locate, $4.5 million in sales taxes generated by other retail tenants in the planned shopping mall.[1]

- In 2013, the City of Mobile, using the same state-granted authority, agreed to return back to a mall developer 1.4 cents of the city's 5-cent local sales tax increment from new sales generated within McGowin Park shopping center. Mobile County pledged an additional three-tenths of a cent out of its one-cent sales tax. Both sales tax diversions will last for 20 years, per the agreement. In October 2014, the city agreed to a similar abatement package for another shopping center, this time for 15 years.[2]

In Mississippi:

- The Mississippi Tourism Rebate Program allows 80 percent of state sales taxes paid by visitors to eligible tourism destinations to be paid back to the destination proprietors as reimbursement towards project construction costs. As of 2013, the state had under this program rebated $20.8 million in sales taxes, out of $55.5 million committed, to five deal-negotiated projects.[3] Year-by-year expenditure data are not available.

- Soon after the Mississippi Legislature expanded the Tourism Rebate Program's definition of a tourist attraction to include shopping malls, five shopping centers qualified for rebates totaling about $233 million from future sales taxes to be collected (if the malls are built, the state will rebate 80 percent of collected state sales taxes for 10 years, up to 30 percent of development costs). After just one year, the Legislature disqualified shopping centers from the tourism definition because of the unsustainably high costs of the program.[4] However, the enormous long-term liability of the state to the five qualified shopping centers still exists.

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[1] Fleischauer, Eric. "Council passes Sweetwater." The Decatur Daily (Alabama). April 7, 2014. Available online: http://www.decaturdaily.com/news/council-passes-sweetwater-incentives/article_7c9d93b4-bec2-11e3-acc3-0017a43b2370.html?mode=story

[2] Sharp, John. "Council approves tax incentives for west Mobile shopping center." Mobile Register (Alabama). October 15, 2014. Available online at: http://www.al.com/news/mobile/index.ssf/2014/10/tax_incentives_for_west_mobile.html

[3] Mississippi Development Authority. *Mississippi Incentive Report, FY 2013*, page 27. Available online at: https://merlin.state.ms.us/reports/FY2013%20Mississippi%20Incentives%20Report.pdf

[4] Amy, Jeff. "2 more Miss. malls approved for sales tax subsidy." Associated Press State & Local. July 14, 2014 Monday 10:53. Available online at: http://blog.gulflive.com/mississippi-press-news/2014/07/2_more_mississippi_malls_appro.html

This type of tax abatement is not unique to Alabama and Mississippi. A quick scan of news articles from across the country shows that government entities in several other states grant similar sales tax abatements to retail companies and/or tourism attractions. Those states include: Arizona, Colorado, Illinois, Kentucky, Missouri, and Texas.

The costs of those sales tax diversion-abatements, especially on at the local level, are often not easily discernible. Knowing how much revenue is lost to such economic development tax abatements would help not only our organizations but also state and local elected officials, taxpayers concerned about funding for public services, and other data users to better analyze economic and fiscal conditions of our states and localities.

To remedy the problem we document here, we suggest to GASB the addition of the following words: "resulting from an agreement…in which (a) one or more governmental entities promise to forgo revenues from taxes for which the taxpayer otherwise would have been obligated, *or which the taxpayer otherwise would have been obligated to remit to the government on behalf of others, including retail consumers, hotel guests, vehicle rental customers or other consumption or tourism taxpayers*" (new words in italics).

Also, to address the point we make here about large long-term liabilities having been incurred (such as the $233 million liability to the five Mississippi malls), we believe it is critical that the GASB standard require future-year accounting of tax abatements, not just current-year accounting.

We hope that GASB amends its language of the Exposure Draft to ensure that this lost revenue is fully captured and accurately characterized by the Tax Abatements Disclosures standard.

Sincerely,

Kimble Forrister

Kimble Forrister
Executive Director
Arise Citizens' Policy Project

Dr. Corey Wiggins
Director
Mississippi Economic Policy Center