The Economic Progress Institute

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Testimony in Support of Senate Bill 2472
Senate Finance Committee
Submitted by Douglas Hall, Ph.D.
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The Economic Progress Institute supports Senate Bill 2472 which sunsets/discontinues the Jobs Development Act (JDA) rate reduction as of July 1, 2018.

Since 2008, Rhode Island revenues have been depleted by more than $160 million as a result of JDA tax abatements, depriving the state Treasury of much-needed resources while our schools, bridges, and roads have fallen further into disrepair. Tax credits allocated during the first 13 years of the JDA were not required to be made public. (Figure 1).

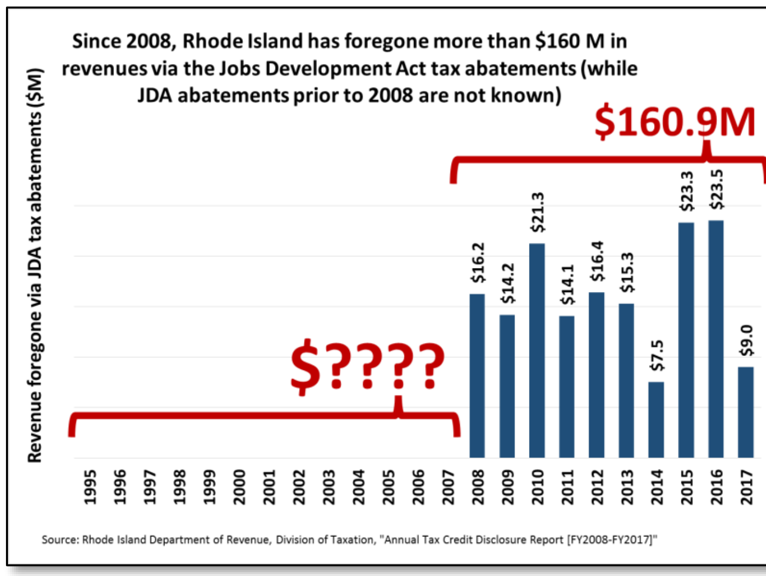

Figure 1

Five years after passage of the *Economic Development Tax Incentives Evaluation Act of 2013* we are beginning to see evaluations of the tax incentives required by that legislation. To date, the first two reports have been released, covering the Motion Picture Production Tax Credit and the Jobs Development Act.

As anticipated, these reports shed important light on the impact of these incentives on Rhode Island's economy and on the levels of employment in Rhode Island associated with these tax credits.

As reported in the *Economic Development Tax Incentives Evaluation Act*, annual employment levels reported by the recipients of JDA incentives averaged more than 11,000 between 2010 and 2016.[1] To put that employment level in context, the 11,669 jobs reported for tax year 2016 represented 2.4 percent of Rhode Island's July 2016 total employment.

The JDA has been closed to new applicants since 2015. According to the CEO of the Rhode Island Commerce Corporation, "[T]he next generation of investment tools--including the Qualified Jobs

[1] Rhode Island Department of Revenue, Office of Revenue Analysis, May 14, 2018. *Economic Development Tax Incentives Evaluation Act: Evaluation of Jobs Development Act*.

600 Mount Pleasant Avenue, Building #9, Providence, RI 02908 ph. 401-456-8512 f. 401-456-9550

Incentive—better serve the purpose of promoting economic development in a more effective and sensible manner."[2]

The Office of Revenue Analysis, responsible for the evaluation of the JDA, included several salient findings and related recommendations in their May 2018 report, included as an appendix to this testimony.

Finding 6 and its related recommendation is particularly relevant to the bill before this committee today, noting that the inclusion of sunset provisions in economic development tax incentive bills is considered a "best practice", and recommending the addition of a sunset provision for the JDA or a time limit on the length of time a company could be eligible to claim the rate reduction.

The Economic Progress Institute considers the ORA findings and related recommendations to be compelling, and urges this committee to fully weigh them as you consider this legislation.

Appendix: Office of Revenue Analysis Findings and Recommendations:

Finding #1 (page 26): The statutory goals of the JDA program are NOT defined in R. I. Gen. Laws Chapter 42-64.5. Therefore, it is not possible to measure performance against statutory objectives.
Related Recommendations:

- Policymakers should determine goals and objective of the tax incentive program in order to provide guidance to evaluators.

Finding #2 (page 27): While the design of the Jobs Development Act is inconsistent with current generally accepted best practices regarding the design of economic development tax incentives, the beneficiaries of the Jobs Development Act are among the state's largest, longest-established, and highest paying employers.
Related Recommendations:

- Policymakers should consider the efficacy of the Jobs Development Act and ensure that the Rhode Island economic and tax policy landscape remains competitive and attractive for current Jobs Development Act beneficiaries and all firms.

Finding #3 (page 28): Single sales factor apportionment of income subject to the Rhode Island business corporation tax for C-corporations has the potential to dramatically change the impact of the JDA rate reduction for certain types of firms.
Related Recommendations:

- Policymakers should discuss whether the JDA rate reduction remains justified as a result of this significant change in the Rhode Island tax environment.

Finding #4 (page 29): A rate reduction is an *unconventional* and *unwieldy* approach to incentivizing employment in which:

- The tax benefit awarded to JDA beneficiaries (value of the rate reduction) is not aligned with the incentivized behavior (employment).

[2] Statement from the CEO of the Commerce Corporation, in *Evaluation of the Jobs Development Act*, *ibid*. p. 25.

- Because the tax rate is an integral part of a firm's tax liability calculation, it is difficult to provide transparency and oversight with respect to Jobs Development Act beneficiaries without compromising taxpayer confidentiality.

Related Recommendations:

- Policymakers should discuss whether the JDA rate reduction remains relevant in response to the substantive change in the state's corporate tax environment.
- Consider whether the Jobs Development Act as designed fulfills the undefined purpose for which it was implemented. Ensure that any changes to the JDA meet the defined purpose for which it is being redesigned.

Finding #5: It is a positive finding that some annual reporting is required of JDA rate reduction beneficiaries; however, while data reporting forms and instructions may be sufficient for verifying statutory compliance, they are not well-suited to economic analysis.

Related Recommendations:

- Division of Taxation should revise annual reporting forms and instructions to improve consistency of data and to include key data points necessary for economic analysis.
- Legal authorities should be consulted to determine what if any legislative changes are necessary to overcome taxpayer confidentiality concerns.
- Publicly available reports such as the Division of Taxation's *Tax Credits & Incentives Report* should be revised to be more precise with respect to the tax year of credit usage, backwards revision of historical data, and confirming whether or not firms have satisfied all JDA rate reduction eligibility requirements.

Finding #6: A best practice of tax incentive design is the inclusion of a sunset provision. While the Jobs Development Act is closed to new participants, existing firms may continue to utilize the rate reduction indefinitely as long as they continue to fulfill participation requirements. The Jobs Development Act does not contain a sunset provision for these firms.

Related Recommendations:

- Add a sunset provision or limit the length of time that an individual firm may claim the rate reduction.