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**TESTIMONY OF
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**BEFORE THE
COMMITTEE ON ECONOMIC DEVELOPMENT
OF THE CITY COUNCIL
June 9, 2004**

Chairman Sanders and members of the Committee on Economic Development: thank you for inviting IBO to testify at this hearing on Intro. 373.

In 2001, IBO reviewed the Economic Development Corporation's annual reports on its business retention/economic development agreements. These reports, known as the Local Law 69 reports, are named for the 1993 legislation that mandated them. At a hearing of this committee two years ago, we testified on our findings, pointing to a number of significant shortcomings in the Local Law 69 reports. While EDC has addressed concerns about the timeliness and very limited distribution of the Local Law 69 reports, most of the critical problems with the report remain, and amending the City Charter to produce a better, more useful report would be in the public interest.

I believe that the ideal legislative change to the current law would address specific shortcomings of the reports as they are currently written, yet also provide the flexibility to make subsequent changes in the report without necessarily having to periodically amend the Charter. The current draft of Intro. 373 is an important first step, and we are happy to provide the following comments today, and offer whatever assistance we can provide as you refine the legislation.

Summary of IBO's past findings. In my testimony today, I'd like to first summarize our review of the current Local Law 69 reports before considering some of the specific features of the proposed legislation.

IBO's study found significant problems with how the fiscal costs and benefits of economic development agreements are estimated. Because costs tend to be understated and benefits tend to be overstated, the Local Law 69 report generally exaggerates the return on the city's investment in economic development agreements. To cite just a few of the reasons why the costs of the agreements are systematically underestimated:

- *Costs are not reported for all years.* The report only includes costs for the first eight years of each deal, although many benefits continue well beyond the reporting period. For example, property tax exemptions can last 15 to 20 years.
- *Some agreements are omitted.* The report only covers deals that cost the city more than \$250,000 or retain more than 25 jobs—smaller agreements are not included in the report and not reflected in the report's totals.
- *Some types of costs are excluded.* One significant type of foregone tax revenue—the tax exemption on interest income received by Industrial Development Agency bondholders—is omitted from the report.

Similarly, the reports routinely overestimate the benefits that flow from the agreements. The primary reason is that the report's methodology is based on the extreme assumption that if not for the deal, the firm, all of its employees, and many of its suppliers and their employees would leave the city. Under this assumption, even the property taxes paid by a firm on its land and its building are assumed to be lost without a deal—despite the fact that taxes are paid by property owners regardless of whether or not the space is occupied.

Beyond these problems of estimating costs and benefits, the employment data presented in the Local Law 69 report are unreliable and often inconsistent from one report to the next. This is particularly troubling because employment data are critically important to the oversight and evaluation of economic development deals. An accurate projection of the number of jobs expected to be retained or created as a result of any business retention deal is the basis for calculating the agreement's potential economic and fiscal benefits. And the actual employment level of the firms must be compared to these projections to determine whether the deal has generated the projected benefits—and if not, whether any "clawback" provisions should be enforced.

In sum, the data in the Local Law 69 reports simply do not provide a means by which the Council or the public can evaluate the effectiveness of the city's economic incentive deals and inform the oversight of the city's policies. Thus the main purpose of creating the report is stymied by the report itself.

Intro. 373. The current draft of the bill before you today is a very useful starting point toward addressing the weaknesses in the current law. The committee staff deserves a great deal of credit for its work in developing legislative language to address these issues.

Intro. 373 would greatly broaden the scope of the reports in important ways, most significantly by requiring that data on a specific deal be reported from the time an agreement is signed until all benefits cease, rather than only for the first eight years of assistance as is currently the practice.

Also, the legislation would require that the report present data for all deals. Data for the smallest deals would be aggregated and reported in summary tables.

The legislation would also more carefully specify what sorts of employment data are to be presented in the report. For example, the legislation would mandate the reporting of the number of jobs each firm is contractually obligated to create or retain in the city. This feature of the legislation, however, needs to be strengthened so as to require the report to identify for each deal whether the data refers to jobs created or jobs retained. The Intro. also dictates a more realistic method for calculating the additional property tax revenues resulting from city assistance to firms.

IBO's 2001 report also included a number of other recommendations, many of them concerning specific, technical issues of how fiscal costs and benefits are calculated in the Local Law 69 report. But we question whether that level of the report's detail should be addressed in the City Charter.

In considering the specifics of what information should be included in an ideal Local Law 69 report, it becomes difficult to imagine a law that would cover all the possible methodological issues and allow for flexibility as available data and needs change. For example, as the forms of assistance the city offers companies change over time, so too will the types of information needed to evaluate new deals. The law should be flexible enough to respond to this and other changes.

Rather than trying to cover all possible bases in the law itself, an alternative approach might be to provide for a panel of experts to regularly review the report's content and methodology and accordingly direct EDC to follow a specific set of guidelines. By allowing the report to change over time, the Council would gain the flexibility to respond both to problems and new needs that may be identified, without creating an overly detailed and burdensome legislative scheme.

Thank you.