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**VIA ELECTRONIC MAIL**

Breanna George  
Michigan Association of Construction Academies  
2154 Commons Parkway  
Okemos, MI 48864

Re: Effect of potential repeal of certain Michigan laws on Michigan's vocational students and non-union apprenticeship programs

Dear Ms. George:

The Michigan Association of Construction Academies supports trade schools that run, maintain, or sponsor U.S. Department of Labor (DOL), Bureau of Apprenticeship (BAT)-approved apprenticeship programs. Moreover, there are many institutions throughout Michigan with U.S. Department of Labor, B.A.T.-approved apprenticeship programs, including community colleges, labor unions, and workforce development organizations such as Michigan Works. All of these apprenticeship programs are highly-regarded, with an excellent track record of supporting skilled trades construction students in communities throughout the State of Michigan for decades. The US Department of Labor maintains the exact standards and requirements for all registered apprenticeship serving a diverse group of vocational students across all parts of Michigan.

We understand that the Michigan Legislature is contemplating a repeal of Michigan's Fair and Open Competition in Governmental Construction Act, *see* H.B. 4231—legislation that ensures neutrality and provides important safeguards for contractors, construction workers, and apprentices in connection with government-financed construction projects.

You have asked Miller Johnson for an assessment of the impact that a repeal of the Fair and Open Competition in Governmental Construction Act would have on US DOL registered apprenticeship programs, as well as apprentices themselves,. The short answer is that we believe that repealing this law could significantly harm these apprenticeship programs and would deny apprentices enrolled in these programs meaningful construction work opportunities.

As you may know, section 5 of the Fair and Open Competition law prohibits state or local government entities from requiring or prohibiting contractors from entering into a project labor agreement (PLA), or from otherwise discriminating against contractors on the basis of whether they've signed a PLA. MCL 408.875. Its purpose and impact ensure neutrality and facilitate equity among construction work opportunities for all citizens on taxpayer-funded construction projections. Because PLAs mandate that contractors comply with the terms of existing, union-negotiated collective bargaining agreements for specific trades in the specific locale where the construction project is based, they therefore restrict the employment of

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apprentices on covered projects to only apprentices who are members of union-sponsored apprenticeship programs. This is because unions only contemplate union-affiliated programs that are registered with the US Department of Labor, ignoring other DOL programs, even though such programs are subject to identical standards and apprenticeship requirements.

The Fair and Open Competition in Governmental Construction Act has guaranteed that students in apprenticeship programs across Michigan are not arbitrarily denied employment opportunities. By contrast, repealing these provisions would deny employment opportunities to students in these programs that aren't affiliated with a union and subject them to arbitrary discrimination—having the added disadvantage of making the well-established, DOL-approved apprenticeship programs less desirable even though the required programming is identical. Importantly, even if the terms of a PLA in some circumstances are negotiated, repeal nonetheless removes anti-discriminatory safeguards and allows the state and localities to penalize vocational students who exercise their federal statutory rights not to join a union or enroll in a union apprenticeship program. *See* 29 U.S.C. § 157.

To conclude, we believe that penalizing apprentices who are enrolled in Michigan trade school, community college, and workforce development provider apprenticeship programs registered with the US Department of Labor that are not affiliated with a labor union is inequitable, violative of their federal statutory rights, and would only contribute to the shortage of skilled workers in Michigan's construction industry—which in turn would limit Michigan's opportunities for economic growth.

To prevent a change in law that would upend existing safeguards that protect against potential exclusion and de facto blacklisting of numerous US DOL-registered apprentices from Michigan construction projects, we recommend the legislature maintains the policy of neutrality reflected in the Fair and Open Competition Act and that any legislative change guarantees equal employment opportunities to diverse apprentices across the state regardless of whether they chose to participate in a union or non-union DOL-approved apprenticeship program.

Please let us know if you have any questions on our assessment and opinion, or if you'd like to discuss this matter further.

Sincerely,

MILLER JOHNSON

By */s/ Keith E. Eastland*

Keith E. Eastland & Brett Swearingen