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**MEMORANDUM**

February 1, 2017

**TO:** Members of the Senate Finance and Commerce, Economic Development and Small Business Committees; Members of the Assembly Ways & Means and Economic Development, Job Creation, Commerce & Industry Committees

**FROM:** Brian McMahon and Alison Lands

**RE:** Comments on the FY 2017-2018 Executive Budget

Thank you for the opportunity to provide the following comments on the proposed Executive Budget on behalf of the New York State Economic Development Council.

New York State continues to be a tale of two regions. New York City and most of downstate (Westchester County and south), grew private sector jobs at approximately the same rate as the rest of the nation (1.6 percent vs 1.7 percent) from September 2015 to September 2016. However, the only upstate metro areas to grow faster than the national average were Ithaca and Kingston. Binghamton, Elmira, Glens Falls, and Utica-Rome all lost private sector jobs during this 12 month period. Albany and Syracuse saw no growth in private sector jobs, and Buffalo and Rochester grew modestly at 0.3 percent; well below the national average.

Additionally, forty-one counties in upstate lost population between 2010 and 2015. During that same time, total employment for upstate grew at about 22 percent of the national average and about 23 percent compared to downstate, according to the Federal Reserve Bank of New York.

These are not short term trends. Rather, the trend line has been heading in this direction for the last six decades. Changing outcomes will not happen overnight, either. But, it can occur with a long term commitment to tax reduction, regulatory reform, and building capacity to support and encourage future economic growth.

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**Life Science Initiative:** NYSEDC supports this proposal, which seeks to leverage New York's strength in this important technology sector.

New York's life science sector accounts for 54,752 direct jobs and 186,788 supported jobs. The average compensation paid to a life science industry worker in New York State is \$101,000, and those employees pay more than \$822 million in NYS taxes. The economic output of the life science industry in NYS is \$34 billion annually.

Life science is clearly an important sector for NY's economy.

Governor Cuomo has proposed to invest \$650 million to spur New York's life science industry cluster. \$300 million would be for the administration of the initiative; \$250 million would be provided through tax incentives; and \$100 million in private sector investment.

Enhanced tax credits for the life science initiative under this proposal include:

- 15 percent of R&D investment for up to five years, if the qualified company employs more than 10 people
- 20 percent of R&D investment for up to five years, if the qualified company employs less than 10 people
- If the business is accepted into the Excelsior Business Program and creates at least 5 new jobs, the business would be eligible for enhanced Excelsior Jobs Program tax credits.

Additionally, \$200 million in capital grants would be made available to life science businesses over 20 years.

The Governor's announcement of this initiative indicated that Excelsior Business Program space at 45 colleges will be made available for life science lab space. NYSEDC recommends allowing all private and public colleges and universities that participate in the Excelsior Business Program to make space available for this purpose. The program is capped by tax credit amount. It should not be limited by selecting colleges and universities that can participate in supporting the life science industry.

**Excelsior Business Program:** NYSEDC is concerned with proposed changes to the Start-Up NY program. Key features of the revamped and renamed program (Excelsior Business Program) include the following:

Qualifying business criteria:

- New or existing business
  - 5 or less years in operation
  - Not publicly traded
  - R&D phase
  - Pre-income
  - 25 or fewer employees
- Business must create 1 net new job over five years.
- Benefits are same under Start-Up NY, except if business creates 5 net new jobs, it will qualify for Excelsior Jobs credits for each net new job.
  - It may qualify for other Excelsior Jobs credits, including the Excelsior ITC, RPT credit, and the R&D credit.

The process for being admitted into the program would remain the same.

To date, 41 colleges and universities have generated 220 Start-Up NY projects.

The overall effect of these changes would be to limit entry into the program to just small businesses (fewer than 25 employees) and start-ups that are in an R&D and pre-income phase. These changes would make it very difficult for community colleges and four-year institutions to participate in the revised program. These institutions often don't have the research capacity to work with businesses that meet the qualifying criteria of the revised program. Research universities, on the other hand, that do have human, equipment, and facility capacity to work with R&D-stage start-ups, will continue to excel in the program.

NYSEDC has been a strong partner with SUNY since the inception of the program; not because we believe Start-Up NY would be a "game changer" for NY's economy, but because we thought it could become an important program in our economic development tool box. And it has.

Recently, NYSEDC partnered for the third time with SUNY to conduct five regional Start-Up NY forums. Their purpose was to bring together stakeholders together (SUNY campus reps, economic

development leaders, ESD regional office staff) to discuss how to more effectively collaborate at the local level, discuss and develop best practices, and present case studies of successful projects. The most important take-a-way from these forums is that expertise has grown exponentially among campus representatives since our first regional forums three years ago, including and especially by two and four year colleges. The result is that project pipelines for these institutions are starting to flow.

Importantly, Start-Up NY has elevated the role and importance of colleges and universities in economic development, where they have historically trailed their counterparts in other states. It has required these institutions to collaborate with economic development and business organizations in order to effectively operate in the Start-Up NY program.

The current program has also generated important academic benefits, including student internships and scholarships, jobs for graduating students, industry-sponsored research, curriculum development, clinical trials, and licensing agreements, to name a few. These benefits have been spread across the spectrum of academic institution that have participated in the Start-Up NY program.

NYSEDC is concerned that these important economic and academic outcomes will be lost for most colleges and universities if the revised program criteria are adapted.

**“Buy American:”** The Executive Budget proposes to require all state contracts to impose requirements on vendors to source products that are assembled or manufactured in the United States, and further require that 60 percent of such component and sub-components are manufactured in the United States. NYSEDC opposes this proposal.

Every Regional Economic Development Council strategic plan recommends expansion and attraction of businesses that engage in exporting and cross-border trade. In fact, foreign direct investment is a major contributor to NY’s economy.

- U.S. subsidiaries of global companies play a vital role in New York’s economy, insourcing 411,700 jobs; writing paychecks to 6 percent of New York’s private-sector workforce.
- New York ranks 3rd in the nation in the total number of jobs at U.S.
- More than 64,800 insourcing jobs are in the manufacturing sector.
- New York ranks 13th in the nation in the number of manufacturing industry jobs at U.S. subsidiaries.
- 1,530 insourcing companies have operations in New York.  
(Primary source: Bureau of Economic Analysis)

NYSEDC opposes domestic content restrictions in state procurement practices. Such requirements would drive-up the cost of state contracts, and therefore increase costs to taxpayers; result in retaliatory practices by other countries that want to keep U.S. and NY businesses out of their markets; and impose burdensome regulatory requirements on small businesses and multi-national companies that rely on global supply chains to operate and grow their businesses.

**Ride sharing:** New York cannot be considered an innovative state if it prevents disruptive ideas and technologies, such as ride sharing, from being adopted. NYSEDC supports extending ride sharing throughout the entire state.

### **Proposals we would like to see in a final budget agreement**

**\$50 million over four years to develop “shovel-ready” sites:** New York has many important economic development assets and strengths. One of its most glaring economic development deficiencies is the lack of shovel-ready sites. Shovel-ready sites are commercial and industrial sites that have completed the planning, zoning, surveys, title work, environmental studies, soils analysis and public infrastructure engineering prior to putting the site up for sale or lease and are under the legal control of a community or other third party.

Shovel-ready sites reduce the time it takes for a business to begin construction on a new facility, which allows them to become operational and provide job opportunities to local residents sooner.

The availability of buildings or shovel ready sites is always a top site selection factor in surveys of corporate real estate directors and site location consultants. And the reason is clear: time is money for businesses, and the longer they must wait to secure state and local approvals, the longer it will take them to begin operations, make products, and generate income at the location. This is especially true for industry sectors, such as advanced manufacturing, warehouse/distribution, and multi-tenant office projects, which tend to seek certified industrial or business park properties.

Late last fall, NYSEDC surveyed its members to identify potential shovel-ready sites. The survey sought specific information and data on the following site characteristics:

- \* Site address or GPS location or general description of site location:
- \* Distance to nearest NYS highway and route #:
- \* Distance to nearest Interstate highway and route #:

- \* Number of acres:
- \* Public Water and expected capacity (GPD or size of line in inches or both); name of water provider:
- \* Public Sewer and expected capacity (GPD or size of line in inches or both); name of sewer provider:
- \* Electric and expected capacity [line/voltage size (13.2kV distribution, 34.5kV sub-transmission, 115kV or higher transmission and if available MW on the circuit(s))] and name of energy distribution company:
- \* Natural Gas and expected capacity [line size in inches and pressure in psi (if available) and line available capacity in Mcf (if available)] along with name natural gas provider:
- \* Broadband telecommunications available at the site/nearby

NYSEDC's survey identified 42 sites in the state that meet the above criteria.

Importantly, ESD has a shovel-ready site certification program now. It just lacks resources to support any sites that could become shovel-ready.

That is why NYSEDC urges the legislature and Governor to provide \$50 million of funding over four years. The program should have the following characteristics:

1. The program should be multi-year. The need is much greater than a one-off program, and it will take communities a while to ramp-up to know what they need to do to become shovel-ready.
2. Make certain that NY's definition of shovel-ready" is the same as that of leading site location consultants, who indicate that many states and communities in other states claim to have shovel-ready sites, but, upon investigation, the sites don't meet the consultants' standards.
3. Funding should be used to get sites to shovel-ready status; not get them partially there. The current ESD criteria is very extensive, takes a while to complete, and is expensive to finish. State resources should be the leverage to get quality sites certified. That is why ESD should prioritize sites that can meet targeted sector requirements and can, in a reasonable time, complete all necessary steps to become a shovel-ready site.
4. NYSEDC's recommendation would be to keep a shovel-ready program separate from the REDC process. With finite funding, sites will need to be prioritized based on targeted sector requirements and

ability to become shovel-ready in a reasonable period of time. Also, because the steps to become shovel-ready are very extensive, these important capacity-building initiatives don't easily fit into an annual funding cycle.

**\$75 million to fund Round V of RESTORE NY grants.** Two years ago, the legislature added \$25 million to the final state budget to fund a new round of RESTORE NY grants. On January 26, 2017, Governor Cuomo announced the awarding of \$40 million of RESTORE NY grants to 75 municipalities.

Governor Cuomo and the legislature have appropriately made downtown revitalization a top economic development priority. Last year, the Governor created a \$100 million Downtown Revitalization initiative. A city or town in each region competed to “win” \$10 million to support its revitalization efforts. He has again proposed another \$100 million competitive round in his Executive Budget.

Investment in downtowns increases property values, creates jobs, and helps communities achieve broader economic development objectives of attracting outside investment. After all, technology and other companies, whose success depends on their ability to attract talent, want to locate in communities with attractive and diverse downtown.

The Restore New York Communities Initiative provides municipalities with financial assistance for revitalization of commercial and residential properties. The program encourages community development and neighborhood growth through the elimination and redevelopment of blighted structures.

The RESTORE NY Communities initiative requires planning and directs funding where it is most needed: for projects involving the demolition, deconstruction, rehabilitation and or reconstruction of

vacant, abandoned, condemned and surplus properties. There is also a strong emphasis placed on projects from economically distressed communities.

In 2006, the RESTORE NY program received funding for \$300 Million, which was allocated over a three-year period.

The \$75 million that NYSEDC is recommending would fund a fifth round of RESTORE NY grants and would continue the success of the program.

### **PILOTs and the Real Property Tax Cap**

The New York State Economic Development Council (NYSEDC) is committed to the design and implementation of thoughtful economic development policy to enhance New York State's business climate. Our 900+ members represent local economic development organizations (EDOs), educational and workforce development institutions, and Industrial Development Agencies (IDAs), who work in collaboration to attract and stimulate investment statewide.

It is with this eye towards holistic economic development practice that the Council seeks the legislature's support of 2016 legislation - S.1151 (O'Mara)/A.3611 (Morelle) - that would eliminate a longstanding challenge to coordinated efforts at the local level: the inclusion of assessed properties subject to a Payment In Lieu of Tax (PILOT) agreement to be factored into the calculation for determining the local Tax Base Growth Factor, which governs how much a local taxing jurisdiction can increase its tax levy.

Typically, IDAs take "bare" title to property and extend their tax-exempt status to the beneficial owners of the project property. The IDA then enters into a PILOT agreement with the project owner, which generates new revenue for local taxing jurisdictions. However, new growth that is subject to an IDA PILOT agreement is excluded from the calculation for determining a jurisdiction's Quantity Change Factor, and thus its Tax Base Growth Factor. Consequently, communities that are successful in attracting new economic growth through incentives provided by an IDA are penalized, thereby preventing taxing jurisdictions – especially school districts – from factoring this growth into the calculation for determining the tax levy limit.

The adverse impacts to local jurisdictions are substantive and cumulative over time. Using a simplified example of a community with a \$1 Billion tax base and a 2% tax rate (\$20 per \$1000 assessed value), that is considering a \$10 Million project, the adverse effect of an IDA incentive on local tax levy growth of \$20 Million is as follows:

#### **Maximum Current Year Tax Levy**

<b>Year</b>	<b>No PILOT</b>	<b>With PILOT</b>	<b>Adverse impact</b>
1	\$20,400,000	\$20,400,000	\$0
2	\$21,016,080	\$20,808,000	\$208,080
3	\$21,436,402	\$21,224,160	\$212,242
4	\$21,865,130	\$21,648,643	\$216,486
5	\$22,302,432	\$22,081,616	\$220,816



6	\$22,748,481	\$22,523,248	\$225,232
7	\$23,203,450	\$22,973,713	\$229,737
8	\$23,667,450	\$22,973,713	\$229,737
9	\$24,140,870	\$23,901,851	\$239,019
10	\$24,623,687	\$24,379,888	\$243,799

**TOTAL Adverse Impact During PILOT Term**                      **\$2,029,743**

Source: Camoin Associates Analysis 2012

Starting in Year Two and for each year thereafter, the community is adversely impacted by the exempted nature of the property under PILOT agreement, which suppresses the calculation of the Tax Base Growth Factor. Critically, even after the expiration of the PILOT agreement, the adverse impact continues because the value of the real property is not added to the Tax Base Growth Factor<sup>1</sup>. Therefore, this new tax base is forever “lost” to the community, weakening the impact of one of New York State’s primary tools for growing the local economy.

Given the hypothetical example above, one need only consider the 4,581 active projects across New York State’s ten regions<sup>2</sup>, whose average project value is approximately \$18 Million each, to extrapolate the sizeable impact to local taxing entities of this policy.

Adding to this impact is the inconsistency of not allowing property subject to a PILOT to be included in the Tax Base Growth Factor, but allowing property subject to 485-B of the real property tax law to be included. 485-b of the RPT law requires taxing jurisdictions that have not opted out of the program to provide an as-of-right 50 percent RPT exemption for any commercial investment greater than \$10,000. The exemption ramps down 5 percent a year for 10 years, at which time the property is fully taxable.

It is difficult to rationalize how property affected by similar exemptions is treated so differently for purposes of the Two percent RPT cap.

For these reasons, NYSEDC recommends amending the 2 percent RPT cap to require property subject to a PILOT to be included in the Tax Base Growth Factor, as contained in the O’Mara/Morelle legislation.

<sup>1</sup> Source: <http://www.tax.ny.gov/pdf/publications/orpts/capguidelines.pdf>, page 3, last line.

<sup>2</sup> Source: [http://www.osc.state.ny.us/localgov/pubs/research/ida\\_reports/2016/idaperformance.pdf](http://www.osc.state.ny.us/localgov/pubs/research/ida_reports/2016/idaperformance.pdf)

**Tools to Connect Workforce and Economic Development:** The availability of a skilled workforce is the number one site selection factor for businesses deciding where to locate facilities, according to Site Selection Magazine.

Companies considering New York as a place to invest (and the site selection firms they hire to represent them) work closely with NYSEDC's members to identify where and how to grow their footprint within our state economy. Based on our members' collective experience, we recognize that successful and sustainable economic development efforts require collaboration across multiple sectors of physical, economic, and workforce development. Imbalances within this portfolio prevent New York State from optimizing its investments in growth, which is why it is important to note that although site selection professionals have come to value the quality of a state's labor shed above all other locational factors<sup>3</sup>, New York state lacks a source of flexible workforce funding to bring economic and workforce development stakeholders together.

For example, New York State's Regional Economic Development Councils (REDC) invest only about 1% of available funds (currently NYS Department of Labor federal funds) to support job training.

Given the substantive resources devoted to site preparation, statewide marketing and attraction efforts, and structuring business incentive packages, the ability to invest in the "human capital" component of the location strategy equation would enhance and make more responsive New York's economic development toolset.

NYSEDC supports NYATEP's objectives of identifying flexible funds for sector-based workforce training that is connected to employment, as well as their goal of enhancing local cross-sector collaboration between economic and workforce developers to serve the changing needs of industry across New York. To this end, NYSEDC recommends directing an amount equal to 5 percent of the amount awarded to each region through the REDC process, to capitalize regional workforce development skills training funds. These flexible resources would be used to fund workforce solutions aligned with economic development projects at the regional level. Such funding could be administered by a not-for-profit provider in each region, with oversight from a regional Board of Directors consisting of local Workforce Investment Board leadership, as well as local Economic Development executives, who together possess intimate, meaningful insight into the skills gaps and employer needs at a localized level.

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<sup>3</sup> Source: <http://www.areadevelopment.com/skilled-workforce-STEM/Q4-2014/skilled-labor-critical-site-selection-factors-7221554.shtml>

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By permitting greater flexibility in the development of capital projects to accommodate the critical worker and labor shed components of economic development, citizens within New York's regions will be able to take an active role in the investments enacted through the REDCs, and will gain access to training that will not only improve their own earning capacity, but will also support the success of the economic development projects in-progress, while strengthening the draw of New York State as a place to do business in the future.

