



**The
Business
Council**

2

Testimony to

**Senate Finance Committee and
Assembly Ways and Means Committee**

***FY 2017 Executive Budget: Economic Development, Business
Climate and Business Taxation Issues***

Presented by

**Kenneth J. Pokalsky
Vice President**

February 2, 2016

As always, we appreciate this opportunity to address members of the Senate Finance and Assembly Ways and Means Committee on Executive Budget issues of importance to the state's business community. In our testimony today, I will focus on those issues most directly related to the state's economic development efforts and those with the greatest potential impact on the state's business climate.

Overview - The Business Council supports the Executive Budget's continued commitment to fiscal discipline. The past five state budgets, as approved by the Senate and Assembly, have significantly improved New York's fiscal condition, resulting in balanced budgets and projected operating surpluses at a time when a number of other states in the U.S. are facing budget deficits.

In 2014, we were strong advocates for modernizing the state's corporate franchise tax, which you adopted, and that will be fully implemented for the 2016 tax year saving business an estimated \$600 million annually, while reducing the complexity of business tax compliance, filings and audits. In 2015 we supported, and you adopted, legislation bringing New York City's general business tax into conformance with state reforms, again reducing compliance burdens. This year the focus is appropriately on small business tax relief, and we support the two-part reform package proposed in the Executive Budget, recommending only that it be more inclusive of small business with incomes up to at least \$500,000.

The most significant new business cost that would result from the Executive Budget is its proposed minimum wage increase; in fact, it may be the single most costly legislative proposal ever considered by the state legislature, with a projected fully implemented cost of \$15.7 billion. As such, its cost will significantly exceed the annual value or benefit of recent business climate reforms such as business tax reform, the real property tax cap, UI deficit restructuring, RechargeNY and others.

No matter how well-intentioned the \$15 minimum wage legislation might be, it will have unintended, adverse job impacts, especially in upstate New York, where some regional economies are still struggling to recover jobs lost in the 2009 recession. It would result in a \$14,400 per job per year cost increase, on a full time equivalent basis, when you consider the direct payroll cost increases (20 and 31 percent, respectively), as well as the resultant increases in federal social security and Medicare taxes, and the increased costs of mandated state-level unemployment taxes and workers' compensation coverage. This proposal could also have a significant cost to the state budget, caused by increased reimbursement rates in the health and social services areas, and these and other impacts do not seem to be reflected in the proposed budget or fiscal plan.

We have similar concerns with the Executive Budget's proposal for paid family leave. While the direct cost impact to business will be less, the proposal will impose both workforce and administrative challenges on employers.

The following comments provide further information on these issues, and address a number of additional Executive Budget issues as well. As always, we welcome your comments and questions as we continue to review and respond to the Executive Budget proposal.

Economic Conditions – The general perception of New York State's economy is that jobs are up and unemployment is down, and that the state's job performance compares very favorably to the United States. While accurate, it provides an incomplete picture of what is happening in the state's regional economies.

As shown in the table below, private sector job growth in New York has outpaced national growth since 2000, since pre-recession peak employment in 2008, and over the past several years. However, when you look at that part of New York State outside of the New York City metropolitan area, and outside of major cities upstate, job growth remains weak and/or in the negative. Many parts of the state have yet to recover jobs lost in the 2009 recession, and have lagged well behind downstate New York, and the U.S. as a whole, in private sector job creation.

% Change in Private Sector Jobs

	Since 2000	Since 2008	Since 2012
US	7.9%	4.7%	7.0%
NYS	9.0%	7.4%	6.2%
NYC	16.1%	13.2%	9.4%
LI	8.1%	5.1%	5.1%
Orange/Rockland/Westchester	8.5%	3.5%	4.3%
Major Upstate Urban Areas	1.6%	2.8%	3.5%
Rest of Upstate	-1.7%	-0.5%	0.9%

It is against this backdrop that the state legislature needs to consider future economic climate issues as well as proposals for new cost burdens such as the minimum wage increase, paid family leave and others.

Minimum Wage - We oppose the Executive Budget's proposal to raise the minimum wage to \$15 per hour, by 2018 in New York City and 2021 in the rest of the state. No matter how well intended, this proposal will have unintended, adverse job impacts. This proposal would result in a \$13,400 per job per year cost increase, on a full time equivalent basis, when you consider the direct payroll cost increase, as well as the resultant increases in federal social security and Medicare taxes, and workers' compensation coverage.

Impact of Minimum Wage Increase for FTE Position

Hourly Wage	\$7.25	\$9.00	\$15.00
Payroll Cost	\$14,500	\$18,000	\$30,000
Social Security	\$899	\$1,116	\$1,860
Medicare	\$210	\$261	\$435
Workers' Comp	\$598	\$743	\$1,239
Total (2000 hours/year)	\$16,208	\$20,120	\$33,534
Increase from \$7.25		\$3,912	\$16,326
Increase from \$9.00			\$13,413

To accommodate these increased costs, business have limited choices: they can increase prices, divert resources from other purposes, attempt to become even more "efficient," or purchase less labor, meaning either a reduction in hours or elimination of jobs for some workers.

While relatively few New York employers and employees were directly affected by the 2013 wage increases, this year's proposal would affect far more employers, for more business sectors, and far more occupation categories. As example, data shows that more than 25 percent of all occupation categories, with 2.6 million employees, have median wages under \$15 that will be significantly affected by this proposal. And while these affected sectors include expected job categories –

food preparation and service, retail sales and store clerks, cashiers, and others – it also includes occupations as diverse as pharmacy aids, electronic equipment assemblers, and industrial truck/tractor operators. The direct impact has been estimated at \$15.7 billion, but the actual impact will be significantly greater, as increased wages for entry level jobs force up wage scales in other positions.

We also believe the current minimum wage proposal will prove counter-productive to the state's broader economic development efforts. Based on a significant amount of input from our members, we expect the greatest impact to be on job opportunities for young, inexperienced workers – an outcome directly opposite of the goals of minimum wage advocates.

Neither is the minimum wage a particularly efficient poverty fighter. The left-leaning Economic Policy Institute found that almost half of the benefits of the minimum wage nationwide goes to households earning more than \$40,000, and 30% to households earning more than \$60,000 (the median household income in the U.S. was \$52,000 in 2013), and recognized the "earned-income tax credit" as a far more efficient, focused program, with federal and state tax benefits distributed solely on family size and family income. We agree with that analysis.

As Heather Briccetti, the Council's President and CEO has recently said, a more sustainable way to reduce poverty and expand the middle class is for the state to focus more on workforce development, especially for "middle skills" jobs that do not require a four-year college degree. These types of jobs are in the nursing, computer science and high-tech manufacturing sectors, but New York employers cannot find the workers they need.

We will continue to focus on the economic impact of a \$15 minimum wage and discuss alternative approaches with the Executive and legislature.

Taxation and Tax Credits – The Executive Budget contains several important tax reform proposals, and we are recommending a number of additional reform proposals and technical amendments that will address unintended consequences in the state's tax code and – in general – will have minimum impact on projected state revenues.

Small business tax rate reduction – We support the Executive Budget proposal (S.6409/A.9009, Part R) for small business tax relief under both the corporate franchise tax and the personal income tax. This proposal would:

- reduce the entire net income based tax rate for small business under the corporate franchise tax from 6.5% to 4%, effective for the 2017 tax year. This rate reduction applies to incorporated small businesses with less than 100 employees and less than \$1 million in capital, and with a business income base

under \$290,000. The rate reduction phases out for taxpayers with business income base under \$390,000.

- expand the personal income tax business income exclusion from 5% to 15%, makes the exclusion available for members, partners, and shareholders of LLCs, partnerships and sub-S corps in addition to sole proprietors. It is applicable for taxpayers with net business or farm income under \$250,000 and where the income is derived from an entity with gross business income under \$1.5 million (or \$250,000 for a farm business.)

Combined these two components would provide about \$300 million in annual tax relief to small business.

We support this approach, and agree with its basic structure. However, we would recommend increasing the income cap under both proposals, to at least \$500,000. This proposal is a necessary next step in business tax reform. The 2014 CFR reforms, and the 2015 New York City conformance legislation mostly addressed tax issues affecting public traded corporations. Most small business are set up as pass-through entities that pay the bulk of their business income tax under the personal income tax.

CFR Technical Amendments - The Business Council was a strong supporter of the corporate franchise tax reform and restructuring legislation adopted in 2014. That legislation, when fully implemented in the 2016 tax year, will streamline compliance obligations for business, and lower business taxes by an estimated \$600 million per year.

As taxpayers gain experience in filing under the new regime, the need for several technical amendments has been identified. Importantly, for most of these, there is no additional revenue loss for the state, because the provisions of concern are having unintended consequences that were never envisioned to generate revenues for the state.

We support the Executive Budget provision (S.6409/A.9009, Part Y) to amend the definition of "qualified financial instrument," which excludes stock that generates "other exempt income" and is not market to market. When 2015 Article 9A amendments modified the definition of QFI to include certain stock not marked to market, the amendments excluded stock that qualifies as investment capital but did not include stock that generates other exempt income. This could include stock of a subsidiary that could not be included in a combined report that generates dividend and/or subpart F income. This proposed amendment would assure that such income is treated as exempt investment income rather than taxable business income.

We also urge that several other technical amendments be adopted as part of the final budget.

- Amend the Article 9-A definition of "investment income" that limits investment income to eight percent of a taxpayer's entire net income. In 2015, the legislature adopted a provision in both Article 9-A and the revamped New York City general corporation tax that limited non-taxed "investment income" to eight percent of "entire net income" as a means to limit potential revenue loss to New York City. While this proposal was expected and intended to apply to a very limited number of taxpayers, its practical impact is far broader, imposing increased liability on taxpayers that were never intended. We have proposed several alternative fixes, including making the cap applicable only to taxpayers meeting the definition of "financial corporation" included in the 2015 New York City conformance legislation (e.g., combined group with total assets over \$100 billion with more than 50% of receipts allocated to the [state]). This approach would provide compliance relief to taxpayers hit with unintended restrictions on their treatment of investment capital and investment income, and avoids imposing any adverse tax consequence on other taxpayers.

- Modify or repeal the requirement that, to be considered as "investment capital," stock must be identified on the day of its purchase as being held for investment purposes consistent with IRC Section 1236(a)(1). This specific provision is unnecessary given other criteria in the definition of investment capital, and repealing it will avoid unintended, adverse tax consequences for taxpayers. The 2014 Article 9-A reforms eliminated the state's unique exemption for subsidiary income, and replaced it with a more typical regime of taxable business income and exempt investment income, with a narrow definition of investment income that limited the exemption to income from stock holdings. This definition applies a five part test, the first four tests being that the stock must meet the IRC definition of capital asset, the stock must be held for more than one year, proceeds from stock sales must be treated as long term gains or losses, and were not held for sale to customers. The fifth prong requires that, for stock purchased after October 1, 2015, the taxpayer identify it as being held for investment purposes by the close of the business day on which the stock was purchased, and is the most problematic. As example, if a taxpayer does not take this step on the date of purchase, that stock is categorically precluded from ever being treated as investment capital regardless of its compliance with the other four criteria, and the statute provides no remedy to address any such oversight. Likewise, if a New York taxpayer purchases a non-New York taxpayer business that owns investment capital, the law provides no mechanism for such investment

capital to be recognized as such. Similarly, a business that is not a New York taxpayer on the date of a stock acquisition but becomes a New York taxpayer by moving into or otherwise creating nexus with New York would be unable to take advantage of the investment capital provisions.

We believe that a four criteria test is sufficient, and the day of purchase identification criteria can be repealed with no loss of intended state revenues and no significant diminution of the Department's audit authority, and with significant easing of taxpayer compliance hurdles. Note that these same concerns, and same recommendations, apply to a comparable provision in New York City's revamped general corporation tax.

- Allow a taxpayer to elect to compute its base business allocation percentage ("BAP") for the prior net operating loss conversion subtraction amount ("PNOL") based on an average BAP over a prior period (ten to fifteen years) ending with the 2014 tax year as an alternative methodology of calculating the PNOL. This is in response to circumstances where a taxpayer's 2014 business allocation was a significant departure from typical prior years. One of the more complicated provisions of the 2014 reforms was the conversion of pre-2014 net operating losses into post-reform NOL credits, or PNOLs (prior net operating loss conversion subtractions). Some conversion provisions was necessary to allow for the applicability of NOLs created under one tax regime to income generated under a significantly revised regime, and the legislature adopted provisions that used a taxpayer's "business allocation percentage" or BAP, for the 2014 tax year as the basis for calculating the future credit value of pre-2014 net operating losses. For taxpayers whose 2014 apportionment was not typical of its business presence during the years in which the operating losses were incurred, this calculation results in the unintended loss of value for these deferred tax assets. To address this concern, we recommend the adoption of an election for a taxpayer to apply an alternative BAP based on their average allocation over a multi-year period.

Urban Youth Jobs Tax Credit Program – We support the proposal (S.6406/A.9006, Part L) to increase the credit amount for "urban youth jobs program tax credit" with an additional \$30 million in tax credit authority for both 2016 and 2017, along with authorization that in each year up to \$10 million in credits can be applied anywhere in the state. This program has provided valuable support to employer's efforts to provide job opportunities for at-risk youth. Not only does this proposal increase to total state resources available for the program, but it also makes funding available to areas of the state previously excluded from eligibility.

Estate Tax - We support the Executive Budget proposal (S.6409/A.9009, Part Y) that would prohibit the consideration of contributions to New York State charitable organizations in determining domicile under the Estate Tax. A similar prohibition was adopted under the state's personal income tax law more than twenty years ago. These proposals are intended to eliminate a potential disincentive against continued financial support of New York charities and organizations by New Yorkers' that have relocated out of state. We have heard from tax practitioner that this issue has come up in estate tax cases, even though consideration of charitable contributions is contrary to Tax Department policy. This statutory amendment would eliminate any ambiguity, and would avoid the chance of unintended disincentives against the support of New York State charities.

Other Tax Reform Proposals - We have several other tax reform recommendations for consideration in the development of the FY 2017 state budget.

- We support a repeal of legislation adopted in 2010 that extends the state's "false claims act" to certain tax cases (i.e., when the taxpayer has net income of at least \$1 million and the alleged violation is valued at \$350,000 or more.) The problem with the false claims act is that it allows a private party to pursue a tax claim even in cases where the Department of Taxation and Finance, and the state Attorney General, have not found a reason to pursue a case. As result, a private party has a significant financial interest (up to 30 percent of any recovery) in pursuing a claim. Give the Department of Taxation and Finance's extensive legal authority and staff resources to conduct audit and enforcement actions, we see no valid reason for this extension of the false claims act into the Tax law.

- We are proposing to repeal language (Tax Law § 1134) that can be the basis for imposing sales tax nexus on a non-New York taxpayer business based solely on their having purchasing agent travel to New York State to purchase products for resale. This provision states that ". . . every person purchasing . . . tangible personal property for resale . . . shall file with the commissioner a certificate of registration [as a sales tax vendor]." As we see other states affirm that purchasing agent presence alone is an insufficient basis for imposing sales tax collection obligations on a business, this provision of New York's tax law can be a disincentive for an out of state business to purchase goods from New York manufactures.

- Last, but certainly not least, the state should avoid the final \$200 million cost on business and residential taxpayers under the "Section 18-A" assessment. We recommend repealing the final .73% assessment for 2016. Repealing this assessment effective January 1, 2016 will avoid the final round of what is, in

effect, a gross receipts tax on energy sales and a direct pas through to utility customers.

In addition, we are also opposing the addition energy assessment proposed in S.6408/A.9008, Part J. This would authorize the Public Service Commission to establish an assessment up to \$19.7 million on gas and electric customers. The funds collected would be transferred to the New York State Energy Research Development Authority (NYSERDA) for research, development and demonstration, policy, planning and the NY Fuel Program; Department of Environmental Conservation (DEC) climate change program; and the University of Rochester laboratory for laser energetics. This special assessment is in addition to the Section 18-a assessment and others.

Economic Development/Business Climate Issues – The Executive Budget includes a number of proposals that will impact the state’s economic climate, for better or worse. The following provides comments on the most significant of these Article VII proposals.

Workers’ compensation reforms – New York employers are again being burdened with un-competitively high workers’ compensation costs, driven by a significant increase in maximum benefits, and the failure of statutory reforms to provide significant, offsetting cost savings.

The Business Council generally supports the workers’ compensation reforms included in the Executive Budget, including the extension of time for providing care under preferred provider organizations and the repeal of the mandatory “aggregate trust fund” deposit by commercial carries. A notable exception is our opposition to the proposed penalties for “frivolous appeals” (S.6405/A.9005, Part G, Section 8) that we believe will pose an unwarranted disincentive for carriers to challenge legitimate claims issues.

However, this package fails to address our priority comp reform issue – assuring the effective application of permanent partial disability benefit (PPD) duration caps that were adopted as part of the 2007 reform package, adopted with the support of business and organized labor alike. To do this, The Business Council strongly supports inclusion of language to provide that any payment of temporary disability payments made to an injured worker after two years from the date of injury be credited to the employer in its payment of PPD claims under the ten year durational cap. This approach addresses a glaring deficiency of the 2007 reform package, which has resulted in significant delays in the classification of PPD claims, adding years to the intended ten year benefit limits. The delay in classification is not based on medical reality, rather a desire to prolong temporary benefits before the imposition of a duration cap. Reducing these delays would produce substantial savings in the workers’ comp system.

Workers' comp board assessment "sweep" – At a time when the state needs to be adopting reforms to reduce the cost of workers' compensation coverage, it is simply counterproductive to propose the transfer of revenues from the Workers' Compensation Board's assessments on carriers and self-insured employers to the General Fund. The Executive Budget proposes to sweep up to \$375 million in "surplus" assessment revenues over four year period. Under current law, excess assessments would be in effect returned to carriers and employers through future year downward adjustments in assessments. We strongly recommend against this assessment sweep.

CPA Firm Ownership – We strongly support the proposal (ELFA, Part H) that allows public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants. This practice is currently allowed in forty-seven states. New York's outdated restrictions in-state firms at a disadvantage when it comes to recruiting and retaining top talent, such as IT experts, data analysts and others that complement a firm's accountancy practice. This amendment will put New York firms on a level playing field with neighboring and competing states.

Paid family leave – We have a number of concerns with the Executive Budget proposal on paid family leave (S.6405/A.9005, Part H.) It represents a significant departure from the federal Family Medical Leave Act by applying to all employers. Congress, when contemplating the FMLA, gave great consideration to the burdens such a law would put on small employers. The reinstatement provisions alone – holding a job for up to 12 weeks – were deemed too burdensome for small employers. Congress wisely settled on a 50-employee threshold. Small employer operations would certainly be severely disrupted by providing such lengthy leave. Likewise, definitions provided in the bill are inconsistent with those in the FMLA. Specifically the definitions regarding "family member" and "serious health condition" would require an employer of 50 or more to, in a sense, manage multiple programs with different rules in order to remain in compliance.

Upon return from FMLA leave, an employee must be restored to his or her original job, or to an "equivalent" job, which means virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions. Again, the Governor's proposal of reinstatement to a "same or comparable" position may conflict with long-established FMLA definitions and result in duplicative administrative burdens.

The Executive Budget proposes that the paid leave "should" be funded by employee payroll contributions. The proposal, however, gives great discretion to the Department of Financial Services to determine the type and cost of insurance coverages available and the employee contribution to the cost. There is no guarantee there will not be future employer costs for providing this benefit.

Finally, under this proposal, an employee would be eligible for full paid benefits after just four weeks of employment. Again, Congress – in considering the FMLA – identified that a longer period of employment should be required to demonstrate employee commitment to the job and the employer. It applies a one year (1,250 hour) employment requirement.

DOH “critical drug” program Pharmaceutical Mandates – We strongly oppose the proposal in S.6407/A.9007, Part B that would direct the Department of Health to impose price controls on targeted “critical drugs,” and allow the Department to demand to disclosure of detailed business information on research, development and production costs. In many cases, this information is highly confidential, and contracts often prohibit companies from disclosing such information. Neither the U.S. Department of Health and Human Services (HHS) nor the Food and Drug Administration (FDA) is permitted to disclose this type of information, even if requested. This proposal will negatively impact biopharmaceutical research in New York, which benefits patients, jobs, and New York’s economy, while providing no significant public health benefits.

Upstate Infrastructure – In general, we support the Executive Budget’s proposal to invest in Upstate transportation infrastructure. The budget proposes a \$22 billion transportation infrastructure plan, including \$1 billion for state and local bridges, \$1 billion for road paving, and a \$500 million Extreme Weather Infrastructure Hardening program. The Business Council has supported increased state infrastructure funding, and the use of financial settlement “windfall” resources to one-time capital investments.

“Excelsior Jobs” program – The budget proposes (S.6409/A.9009, Part O) that any amount of tax credits under the Excelsior program’s credit cap that remain unallocated at the end of 2024 can be allocated it tax years 2025 through 2029, including a significant volume of credits that were unallocated in the program’s initial two years.

We have been concerned about the low level of allocation of Excelsior credits, and that the program’s design is limiting its potential impact on new investment and job growth, but we believe this proposal is the wrong approach to fixing the problem of unallocated credits.

As an alternative, we recommend two Excelsior program amendments. First, we recommend that any unallocated credits in one year become immediately available for allocation in the succeeding and subsequent years. It makes no sense to us to allow projects go unsupported now for lack of additional credit cap room. Second, the state should reduce the job creation and capital investment thresholds for eligibility, e.g., lower the thresholds for “regionally significant manufacturing projects” to creation of 10 jobs and capital investment of \$1 million or more, compared to current thresholds are 50 new jobs and \$5 million

investment. Importantly, even under these amendments, the allocation of credits remains at the discretion of ESDC. However, these amendments will give additional projects one more opportunity for state support, and more accurately reflect the significant small business presence in many economic sectors.

Canal Corporation – We do not support the transfer of the Canal Corporation to the New York Power Authority. NYPA is responsible for supporting a number of important economic development programs and we are concerned that the financial obligations of this transfer will impair the authority's ability to support existing obligations. We recognize the economic value of the Canal Corporation, but believe that its support is more appropriately a General Fund obligation.

PACB – The Executive Budget proposes (S.6408/A.9008, Part R) to require Public Authority Control Board approval of projects using tax exempt private activity bonding. Not only is this approach contrary to the state's efforts to increase local input in economic development efforts through the regional economic development councils, it will add additional time delays and uncertainty to the project approval process. Moreover, given the per capita criteria for use of private activity bonds, we do not see the need for a new mechanism to address geographic distribution on bonded projects. We do not support this proposal.

Contract Procurement – The Executive Budget proposes to extend the Procurement Stewardship Act and procurement lobbying provisions (S.6406/A.9006, Part D) without amendments.

We believe the expiration of these programs in 2016 provides an opportunity to further streamline the state's contract procurement processes, with the goal of promoting more participation in the state's bidding process, including by in-state business, small business and MWBEs. As example, The Business Council has supported procurement reforms including the use of competitive negotiations in cases where two or more offerors are deemed susceptible for being selected, when the agency has determined that using a competitive negotiation will maximize the agency's ability to obtain best value, and providing that unsuccessful offerors be given a reasonable opportunity for a discussion with agency personnel who were involved in and are knowledgeable about the procurement evaluation process and provide such offerors with certain information in the debriefing. Legislation adopting these and other procurement reforms were approved by the legislature in 2015, but were later vetoed. Likewise, the state's procurement lobbying statute should be amended to provide more clear compliance standards for bidders, such as mandatory public notice of the commencement of the restricted contact period applicable to specific procurement actions.

MTA utility relocation costs – The Executive Budget proposes (S.6408/A.9008, Part C) that would allow Metropolitan Transit Authority ("MTA") to force certain

public service companies to bear the cost of relocating utility facilities in order to accommodate an MTA construction project. If enacted, this provision will unfairly shift costs caused by MTA's construction activities onto public service companies, and thus eliminate the MTA's incentive to ensure that those costs are minimized. Likewise, in some cases, it could result in the cost of such projects to be shifted to the public services company's customers located outside of the MTA service territory.

LLC Restrictions – We oppose the proposal included in the Executive Budget (S.6411/A.9011, Part A) that, first, adds “limited liability companies” to the categories of entities generally prohibited from making campaign contributions under the Election Law, and, second, subjects LLC to the allowable annual, aggregate \$5,000 contribution limit imposed on corporations. Our most significant concern is that this is an example of strict limitations on political advocacy being imposed on just one category of entities. If nothing else, campaign contribution reforms need to be even handed, not designed to favor one category of political advocate over others.

Project labor agreements – While we support expanded design build authority and the proposal (S.6408/A.9008, Part H) to extend it to ESDC, the New York Convention Center Development Authority and their various subsidiaries, we oppose provisions that would require project labor agreements. PLAs are already authorized and used on construction projects in New York State. Authorizing agencies have a deliberative process to determine if a PLA should be used. This proposal would bypass the current process and require PLA use. PLAs require that virtually all workers hired on a project be union members. In contrast, approximately 75% of construction workers in New York State are not union members. Mandating PLAs in design-build projects precludes this significant majority of New Yorkers from work on these state-funded projects. Since most Minority and Women owned Business Enterprises (MWBES) are not unionized, most would be precluded from participation on design-build projects. Not only does this have a direct impact on (mostly small business) MWBEs, but it also makes achievement of the state's MWBE contracting targets more difficult. Moreover, no other state mandates PLAs on design-build projects.

Establishment of “limited service clinics” - We have long supported the establishment of limited services clinics in the state – as proposed in S.6407/A.9007, Part G, as a tool to both contain the ever rising costs of healthcare for employers and to deal with the growing shortage of primary care providers in the state. The use of limited care clinics provides a cost-effective alternative to expensive emergency room visits and serves as a needed access point that will encourage the use of primary care for the two million newly insured New Yorkers who will require care as part of health care reform.

Environmental Protection Fund – The Business Council has supported the Executive Budget proposal to increase the allocation to the Environmental Protection Fund to \$300 million. The EPF is funded by a portion of the state’s existing real property transfer tax. The Business Council is joining a number of member companies and trade associations in supporting increased funding for key programs of interest including pollution prevention, clean energy, waste management and others.

