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MEMORANDUM

February 9, 2015

TO: Members of Senate and Assembly Fiscal and Economic Development Committees

FROM: Brian McMahon, Executive Director

RE: Comments on the FY 2015-2016 Executive Budget

Chairman DeFrancisco, Chairman Farrell, members of the Senate and Assembly Finance, Ways and Means, and Economic Development Committees, thank you for the opportunity to testify this afternoon on the Governor's proposed State Budget.

I am Brian McMahon, Executive Director of the New York State Economic Development Council, New York's principal professional development association representing local and regional economic development organizations and private sectors firms involved in providing services to local projects.

Five years ago, New York's economy was a mess. The state had endured a decade of annual spending increases nearly three times the rate of inflation. Taxes and fees were routinely raised to pay for new spending. Key economic development programs were eliminated. And, tax incentives that had been awarded to businesses were delayed – and in some cases taken away. Simply put, New York had lost credibility with the private sector.

Since then, the legislature and Governor have held state spending growth to less than two percent four years in a row, which has nearly eliminated the state's $10.5 Billion deficit. Business taxes have been reduced. In fact, income taxes for manufacturers have been eliminated. Increases in real property taxes have been capped. New programs, such as Start-Up NY have elevated the role of colleges and universities in the economic development process.

The energy, work ethic, and optimism that defined New Yorkers through much of the 20th century, is returning, and progress that seemed impossible five years ago is now being made. New York is on the way back, but there is much more to do.

In upstate however, progress has been less pronounced. Unemployment rates are declining, but virtually all reductions are attributable to a shrinking workforce. While manufacturing employment is growing across the country, it continues to shrink in upstate. Wages have tracked the national average.

The Governor's budget continues the fiscal discipline of the past four years and would keep state source spending increases under 2 percent.

Upstate Revitalization fund

The Governor's budget includes several proposals that would direct funds into regional economic development initiatives. The largest of these is the $1.5 Billion Upstate Revitalization Fund. NYSEDC commends Governor Cuomo for committing this amount of the bank settlement funds for regional economic development transformational projects. We believe there is an important investment role in economic development for state and local government, and this proposal has the potential to leverage significant private sector investment and job creation.

The Governor has proposed awarding these funds on a competitive basis from among seven REDC regions, with Western NY and downstate regions excluded. Three "winners" would be awarded $500 Million each.

Unlike REDC funds, the URF money is not reauthorized on an annual basis. It is a one-time award. Consequently, the four "losing" regions would never get another opportunity to challenge for these funds, in spite of having both needs and opportunities for investing such funding.

NYSEDC believes the URF should be competitive on a project basis, instead of on a regional basis. We fully agree with the Governor that the funds should be awarded to regionally transformative projects that lead to significant increases in private sector jobs and investment. We would place a priority on capacity building initiatives, such as infrastructure, technology park development, development of cluster-based workforce initiatives, urban core revitalization projects, and incentives for large private sector technology projects.

Employee Incentive Training Program

NYSEDC supports the proposed new $10 million employee Incentive Program at ESD. The program would be part of the Excelsior Jobs Tax Credit Program and would equal 50% of eligible training costs, up to ten thousand dollars per employee receiving eligible training. Eligible businesses would have to make a minimum capital investment in New York State of $1 million to qualify.

Importantly, this program would train workers or upgrade their skills for available jobs in strategic industry sectors.

Meeting the technical worker needs of businesses that are investing and growing in New York State is a key competitive factor. New York has few programs that can be targeted to meet individual business needs. Those that do exist are not administered by the state's economic development arm.

This proposal, while modest in dollar amount, would allow ESD to meet technical worker needs of an attraction or expansion project as it negotiates incentives to leverage capital investment. Often, meeting skilled worker needs is more important that financial incentives in attracting facility expansion projects. This is an important program and deserves your support

Restrictions and new requirements on IDAs

NYSEDC opposes provisions in the Governor's budget that would require approval by ESD for IDAs to convey state tax exemptions.

This proposal would result in the surrender of considerable control of local economic development to the state, shift local project decision-making from local governments to Albany, violate New York's long history of Home Rule, delay the economic development process by requiring additional approvals by ESD and the Department of Taxation & Finance before an IDA could convey state tax exemptions, and, add uncertainty to businesses as to the tax benefits they could receive for investing in our communities. Any one of these outcomes would harm local economic development efforts.

IDAs were given authority to convey state tax exemptions in 1969, when the authorizing statute was enacted. The Governor's budget would take away that authority and instead vest it with an executive agency to decide when such exemptions could be conveyed to local projects. New York State has a strong history of Home Rule, which this proposal violates.

When UDC takes title to property for large development projects, it exempts not only local Sales and Mortgage Recording Taxes, but Real Property Taxes, as well. There are no requirements that it seek permission from local governments before exempting such taxes.

Part W would also prohibit the awarding of state tax exemptions if a project is deemed to compete with another business in the community. Economic development organizations across the state work every days to create clusters of industries in their communities. Industry clusters connect supplier chains to key customers and establish networks of talent for which businesses in the targeted clusters compete. This drives up wages and contributes to a strong tech-based local economy. This provision could, prevent, for example, an IDA from assisting a bio science firm in Buffalo, the Hudson Valley, or NYC; areas that are developing strong clusters in this sector. The Governor's office recognizes the importance of cluster initiatives, which is why he has directed the regional economic development councils to include cluster initiatives in this year's round of REDC funding. This proposal directly conflicts with that directive.

Part W would require IDAs to complete its approval process before seeking permission from ESD to provide state tax exemptions. ESD could approve in 45 days, or send back the application if it desires any additional information. This would delay the economic development process by a minimum of 45 days, preventing IDAs from responding to investment and job opportunities on a timely basis.

Part W would add enforcement powers to the Authority Budget Office that were never contemplated and that would apply only to IDAs. The ABO was established to be an independent overseer of all state and local public authorities. This proposal inserts the ABO into the IDA statute and imposes unique enforcement powers on one class of local public authorities.

The proposal would impose "clawback" requirements on IDAs that are more restrictive than those contained in ESDC incentive contracts.

Two years ago, the Governor proposed prohibiting IDAs from exempting the state portion of the Sales Tax unless the project receiving the abatement is eligible to receive Excelsior Jobs tax credits. Authority to provide the exemption would have had to be approved by the Regional Economic Development Council and ESD. This proposal was rejected by the legislature, which did agree to re-impose restrictions on retail projects that had been in effect prior to 2008.

The process of attracting private sector investment to New York is highly competitive and must be done in "real time." In other words, IDAs must be able to respond in a time frame that meets the requirements of business customers. Adding restrictions or additional requirements to this process would add delays, make New York less competitive, and hurt our ability to attract job-creating projects.

Just as New York is one state but has 10 economic development regions, each region has many different economies within it. For example, the economy of Cattaraugus County is vastly different than the economy in Erie County, yet they are both in the Western NY economic development region. The economy in Madison County is very different than the economy in Onondaga County. And the Otsego County economy is quite different than that in Oneida County.

And, IDAs work effectively and efficiently in creating jobs and investment. According to the State Comptroller's most recent annual report, IDAs are assisting 4521 active projects that have created 114,000 new jobs with total investment exceeding $73 Billion. The average cost/job created was

$2,588/job. Importantly, IDAs generated nearly $800 million in new revenue in 2013 for local taxing jurisdictions.

In a highly competitive global economy, IDAs exist to respond to the unique economic challenges and opportunities of the local communities they serve. To be effective, they must be able to respond in a timely manner with credibility to businesses – new or existing – that want to invest in our communities. This proposal would increase the time frame in which IDA boards can act to respond to investment and job opportunities, and would remove any certainty as to what an IDA can, in fact, offer to induce such investment and job creation.

The proposals also fly in the face of a "bottom-up" model of economic development, which New York had been moving toward. In fact, these proposals would centralize control of local economic development in Albany, make New York less competitive, and result in fewer jobs being created that bolster local economies.

NYSEDC urges you to reject these proposals.

Brownfield Cleanup Program
The Governor's budget would extend the Brownfield Clean-Up Program for an additional 7 years to 2022. It would allow projects admitted into the program to receive Certificates of Completion by the close of 2025. It would also restrict eligibility criteria and limit expenses that qualify for both the remediation and tangible property tax credits. NYSEDC strongly supports extension of the BCP for 10 years. This would provide certainty to program participants and communities and residents adversely affected by brownfield sites.

NYSEDC also encourages the Executive and legislature to craft qualifying criteria for the Remediation and Tangible Property Tax credits that simultaneously protects public health and the environment while encouraging the clean-up of all polluted properties, wherever located, and the development of new projects, investment, and new jobs on those properties.

Specifically, one of the qualifying criteria for the Tangible Property Credit is that the project must be "upside down," meaning the cost of investigation and cleanup must exceed the appraised value of the property, absent environmental contamination. The environmental condition of property affects its market and appraised value and should be taken into account when determining if a project is "upside down," or not. Sites that are not "upside down" will not otherwise qualify for the Tangible Property Credit, and losing the Tangible Property Credit will cause those willing to take on such contaminated sites to then look for other easier-to-develop sites, including greenfield sites – thus encouraging sprawl, and leaving contamination and public health threats in the ground. This result is in opposition to the purposes for which the BCP was established.

Also, another eligibility criterion is that a project must be in an En-Zone. Designation of En-Zones is limited to eligible census tracts with a poverty rate of at least 20% according to the 2000 Census and an unemployment rate of at least 125% of the New York State average, or a poverty rate of at least double the rate for the county in which the tract is located. This definition often excludes brownfield sites in suburban or rural areas. NYSEDC recommends changing the definition of an En-zone to include a census track where the poverty rate is 20 percent OR has an unemployment rate of at least 125% of the New York State average. This would allow for additional contaminated sites that threaten public health, to potentially be eligible for the Tangible Property Credit thus encouraging more private sector remediation of contaminated sites.

The Brownfield Cleanup Program is the only program available which encourages developers and business owners to voluntarily clean-up and redevelop contaminated properties, while simultaneously protecting public health and welfare. Over the years, proposed BCP reforms, neglect the "protecting public health and welfare" aspect of the BCP because focusing on tax credits is easier than quantifying public health benefits. The BCP is the state's most important Smart Growth Program that simultaneously discourages sprawl, remediates blight, eliminates public health threats, increases real property taxes, and creates jobs. Its only fault is that it has been too successful, and the NYSEDC recommends that changes to the BCP do not also decrease the viability of the BCP program. For in the absence of the BCP, the number of contaminated sites and threats to public health far outnumber other state sponsored remediation programs.

The Brownfield Cleanup Program is the only program available which encourages developers and business owners to voluntarily clean-up and redevelop contaminated properties, while protecting the public health and welfare. It is the state's most important Smart Growth Program.

High tech initiatives

NYSEDC supports $5 million in funding for both the Innovation Hot Spot and Certified Business Incubator programs. These programs were merged in last year's budget, and that funding represented the first categorical program funding for these initiatives beyond grants available through the REDC process. The addition of these two programs has made a difference in the ability of business incubators to meet recognized best practice standards for business incubation. And the Innovation Hot Spots are becoming a focal point for entrepreneurial activity in the regions where they have been established.

The Governor and legislature have made important programmatic improvements to the State's entrepreneurial climate in recent years. Programs such as HotSpots, Start-Up NY, and the growth of campus and non-campus based incubators is creating an environment for innovation and entrepreneurship. We would like to commend the legislature and Governor for establishing these programmatic assets, and would further encourage you to work together more effectively to tie together these and other initiatives into a comprehensive, statewide strategy. The tech-based economic development inroads we are making are significant, but there are many more to be made.

Broadband expansion

The Governor's budget proposes to invest $500 million in broadband expansion, which would be matched by private sector providers. The proposal would require not just the provision of broadband, but the deployment of high speed broadband. Broadband is an economic development infrastructure requirement, and the availability of high speed broadband is an important competitive factor. Many areas of the state are not being served because of low population density, which makes the investment in broadband economically unfeasible for private providers. This proposal would provide an economic incentive to close the digital divide where it exists in the state. Those areas not served or underserved by high speed broadband have little opportunity to compete for business investment. Importantly, these areas, which may otherwise have a great quality of life, cannot attract "work-at-home" professionals without high speed broadband capacity. This is an important and rapidly growing economic development opportunity and includes professionals engaged in R&D, the arts and entertainment, and internet-based businesses. This is an important initiative, and we urge your support.

2014 Regulatory Reform Commission

Finally, last year, one of the most important proposals enacted in the Executive Budget was the creation of a Regulatory Reform Commission. This followed on the heels of the Senate holding a series of hearings across the state on regulatory reform. New York's tax burden may be surpassed by its regulatory burden, and too often the state's uncertain regulatory climate kills projects before development professionals have a chance to talk to companies about New York's many assets that support investing and creating jobs. NYSEDC encourages the legislature and Governor to convene this commission in 2015.