The Business Council

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Testimony to

Senate Finance Committee and Assembly Ways and Means Committee

Joint Legislative Public Hearings on the 2012-2013 Executive Budget Proposal

Presented by

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Economic growth, driven by new private sector investment and jobs, is the only long term means for improving the well being of New Yorkers and assuring adequate state resources for investments in education, social services and public infrastructure.

We are here to express our broad support for Governor Cuomo's Executive Budget for FY 2013, as it supports our shared goal of renewed fiscal stability and economic growth, and builds on many of the spending and program reform initiatives the legislature adopted last year.

The proposed a budget has "all funds" spending $225 million or 0.2 percent below last year's levels, and a state tax supported spending growth of 1.9 percent or $1.7 billion.

A projected $3.5 billion gap for the new budget year is closed in part by nearly $2 billion in net spending reductions ($1.1 billion from state operations, and $750 million from local assistance). The budget leaves a relatively small structural deficit of $700 million for Fiscal 2014, but a combined gap of nearly $7 billion for the next two budget years.

Importantly, the proposal contains no new taxes or fees. In addition to important business tax reductions, including reductions for small business, last November's tax reform package is helping commitments made last year for a 4 percent increase in state school aid (an increase of $805 million, to $20.3 billion) and a 3.1 percent increase in state spending on Medicaid (a $650 million increase, to $21.8 billion) in Fiscal 2013. Important, additional program reforms are proposed for both primary education and Medicaid.

The following provides our specific, detailed comments on the Executive Budget. It highlights those funding and policy recommendations that we support, and raises concerns regarding some proposals and offers alternatives where appropriate.

We look forward to discussing these and other budget related issues with members of the Legislature today, and welcome additional opportunities to discuss our comments and concerns with individual legislators as you continue your review of the Executive Budget.

Continued Fiscal Reform – Bringing the state's fiscal situation under control was an essential first step toward long term improvements in the state's economic competitiveness. The Business Council has been a long-standing supporter of broad state fiscal reforms, and we were very encouraged to see significant progress on this reform agenda in 2011.

In 2012, the fiscal reform discussion rightfully focuses on pubic pension reform. New York has one of the highest pension burdens in the nation — second only to Alaska — and it is about to get worse. State taxpayers-financed costs for pensions will skyrocket from its current level at $1.5 billion to $2 billion in 2014. Our pension system is simply unsustainable long term. The Empire Center has calculated that the state and local, teachers and New York City pension funds have combined funding shortfalls of nearly $200 billion when their liabilities are measured using private-sector accounting rules.

We support the proposal for a new Tier VI pension plan for newly hired state employees, plus the ability for new employees to opt into an alternative defined contribution plan. This new tier will increase the full benefit retirement age, prohibit early retirements, increase the vesting period, increase employee contributions, decrease the pension multiplier for each year of credited service and allow a defined contribution option. Overtime and certain other lump sum payments would not be included in the earnings used to calculate pension benefits. These reforms are projected to save state and local governments more than $100 billion over the next 30 years.

Local Mandate Relief – In addition to pension reform, the Governor's local mandate relief package includes a phased state takeover of county Medicaid administrative responsibilities, reforms to special education programs, and extended local government efficiency and consolidation grants.

The Business Council, along with other business, local government and education groups, has advocated for pension reform and other local mandate relief, through the "Let NY Work Coalition." In November, the coalition set forth a six-point agenda for real mandate relief that included:

The six-point plan includes:

- making the pension system predictable and affordable,

- redefining compulsory arbitration,

- controlling the costs of construction on public/private projects,

- freezing step increases upon expiration of public employee contracts, in part to level the playing field between public employers and employees in negotiating new contracts,

- establishing minimum health insurance contributions level for employees and retirees, and

- avoiding any new unfunded mandates.

The Council agrees that significant relief from state-imposed mandates is essential for local governments to reclaim control over their own finances, manage their budgets under the new real property tax cap, and lower the combined state and local tax burden on individuals and businesses.

We urge that pension reform be included in the final budget agreement, and that the legislature consider the remainder of the "Let NY Work" reform package during the 2012 session.

Economic Development – The Executive Budget's proposed economic development funding will support critical investments in business and public infrastructure.

We believe the regional council process will result in long term economic gains for New York. Among other things, the strategic planning process created a new level of awareness of existing business opportunities and opportunities for collaboration both within and among regions of the state.

Under the Executive Budget, another $200 million in tax credits and capital assistance will be awarded through the Regional Council process. Last year's single award date made sense for the first year of this new approach. However, to avoid interjecting new delays in the state's project approval process, ESDC needs to establish a workable, transparent timeframe for the awarding of state assistance. Regular and frequent applications and approvals within the state's major economic development programs will help promote new private sector capital investment and job growth.

We also recommend improvements in the Consolidated Funding Application process. This process was developed quickly, out of necessity, and as a result was rolled out with some shortcomings. We look forward to working with the Administration to assure that the CFA is as user friendly as possible, provides necessary "help desk" functions, and maximizes participation by business of all sizes.

Finally, we recommend that several additional economic development initiatives be included in this year's budget agreement.

We applauded last year's adjustments to the Excelsior research and development tax credit, but we believe that the state should also adopt an enhanced, stand alone research and development tax credit to promote technological advancement and set the stage for investments and job growth in emerging business sectors.

And we urge the state to adopt an increased in the annual cap on Excelsior tax credits. Since its adoption, the $50 million cap on new credits in the state's flagship economic development program has been diverted to support regional council initiatives, and new regional proposals would remove additional credits from ESDC's statewide project assistance arsenal. We believe this cap increase can be accomplished by repurposing resources within the state's existing array of economic development programs.

Finally, we recommend that the legislature amend and reapprove a five year extender of the qualified emerging technology company facilities, operations and training tax credit ("QETC"), addressing the technical flaws that led to a gubernatorial veto of this legislation in 2011. We believe this legislation is an effective tool for supporting the startup and development of high technology business.

Infrastructure Investments – We welcome the Executive Budget's renewed focus on infrastructure investments, and look forward to working with the Administration and Legislature to promote both private and public investments.

To support the proposed New York Works Infrastructure Investment fund, the budget includes a total of $1.64 billion in capital funding, including $723 million from the state and $917 million from the federal government. Combined with $600 million in funding from existing state programs, it is intended to support nearly $12.8 billion of additional investments.

To maximize the benefit to the state from these new public dollars, and to maximize private sector investment, it is essential that we authorize increased flexibility in government procurement approaches, such as expanded "design build" authority, and reduce state-imposed costs by reforming the Wicks law and Labor Law sections 240 and 241, the scaffold law. We also need to streamline the state's project approval processes.

Providing increased certainty in the administrative processes and timeframe for project approvals will also promote both public and private investments. All ten Regional Economic Development Councils found that state and/or state and local project review programs were an impediment to economic growth in New York State, and called for reforms of SEQRA and related project review programs.

Health Care –Last session, our biggest disappointment in an otherwise productive session was adoption of four new group health plan coverage mandates, the most significant being the coverage mandate for autism spectrum disorder. While recognizing the public policy issue in addressing autism, the increased costs associated with each of these new mandates translates directly into increased premiums for individuals and employers in New York, making private pay health insurance less and less affordable.

Likewise, we oppose the Executive Budget proposal to mandate commercial health insurance include and reimburse Early Intervention service providers as part of their coverage networks. Early intervention services include a comprehensive array of therapeutic and support services to children under the age of 3 with confirmed disabilities or developmental delays, and this budget language merely shifts costs from Medicaid to commercial health insurance premiums. Early Intervention is an expensive program, with $650 million in annual costs, and New York's expansive service menu puts us in the top three nationally for the number of children receiving these services. Merely reforming the program by allowing insurance companies to participate in the meetings which determine services for children does not address the underlying issue: insurance companies do not "reimburse" for these services, employers and employees pay for these services through premiums.

Governor Cuomo's 2012-2013 Executive Budget continues the two-year Medicaid reimbursement cost control and spending cap enacted last year. The 4 percent growth in state spending under the Medicaid cap is used to address the state's continued growth in Medicaid enrollment, which increased by more than 100,000 enrollees over the past year alone. The state budget also proposes to cap the growth in the local share of Medicaid, and – as discussed above - to shift Early Intervention costs to the private insurance market without significant reforms to the program's design.

Hospitals, health systems, and other providers continue to pursue innovation and reform of health care delivery in their efforts to redesign Medicaid —from enhancing quality, to health care delivery efficiencies with the transition of more clients to Medicaid managed care, to partnerships with physicians and other providers. While the state's reimbursement system through Medicaid redesign has pushed this envelope, state agencies need to increase their efficiency and speed, eliminate obstacles to change, and establish modern regulations, policies, and procedures to help providers transform health care.

New York cannot achieve true Medicaid redesign solely through reimbursement cuts or the state absorbing some portion of the local share. Modernizing the regulatory system is essential, as health care providers incur losses on virtually every Medicaid service rendered. Those health care provider revenue losses are merely shifted to the private pay market, which pays for these inefficiencies through increased premiums and premium taxes. Health insurance and health care costs remain the number one concern of employers across New York and the work of the Medicaid redesign team must be coupled with an aggressive commitment for regulatory reform and stronger alignment toward evidence-based medicine.

Government Procurement - We support a number of the Executive Budget's proposals to provide state and local government more flexibility in contracting, including an expansion of best value procurement to include commodities; expanding the list of bids eligible for electronic submission; and allowing local municipalities, school districts, not for profits and others to piggy back on OGS and other state agency contracts for contracts over $500,000.

The proposed budget also includes $1.6 million to support the state's minority/woman-owned business initiatives. As we consider amendments to procurement participation by M/WBEs, we should also reassess the implementation of the 2010 statutory changes, whose regulations established elaborate, unworkable – and in some cases, counterproductive - compliance provisions.

While we appreciate its intent, we have concerns regarding the budget proposal – and Executive Order – that establish limits on reimbursement for the costs of executive compensation and administration for service providers funded by the state. It appears the term "provider" is intended to mean, at a minimum, those entities that provide health or human services on behalf of the State. It is unclear whether this would also apply to vendors who do not provide "care" services – e.g. information technology vendors, consultants, janitorial companies, etc. This needs clarification. Further, we question the compensation limits, as it fails to differentiate among service providers. While this is likely to have a larger impact on those providers who rely largely on funding from the State, as opposed to entities that also receive private or federal dollars, even for entities with multiple sources of revenue, the proposal creates significant allocation and reporting challenges.

Taxation – We appreciate the Governor's approach to balancing the FY 2013 budget with no additional proposals for new or increased taxes or fees.

In addition, we support the proposal to extend the MTA mobility tax reforms adopted last November to rates to professional employer organizations, an amendment that in effect will extend these reforms to an additional class of small businesses operating in the downstate region.

Moreover, we believe that the state needs to consider broader reforms to its key business taxes that will improve our business climate. These changes would simplify compliance, assure the usability of tax and loss credits, and eliminate disincentives to locate capital and jobs in New York.

Regulatory Reform – We have already shared our initial list of regulatory reform priorities with the Administration, and would be happy to share it with members of the legislature. Most of our recommendations will be addressed outside the budget process, although we urge early action on regulatory reforms – especially those related to the approval of capital investment projects – in order to reap the full benefits of the Regional Council initiative and new capital projects funding proposed in the Executive Budget.

We also support the Executive Budget provisions which would direct the Public Service Commission (PSC) to refrain from regulating the rates, terms and conditions on services delivered over Internet technologies such as VoIP (Voice over Internet Protocol). The rates, terms and conditions of VoIP service, which has been offered in New York State since the early 2000's, are currently not regulated. VoIP service is an optional service a customer may elect to take as an alternative to basic telephone service. This proposal will establish a framework that will foster VoIP innovation and growth in New York. VoIP brings increased efficiency, reliability, and functionality to voice communications. This bill could help rural consumers to benefit from voice competition, making broadband more affordable, and allow rural communities to connect to a new world of information and job opportunities. A number of states including New Jersey, Ohio, and Florida among others have already passed similar legislation.

Travel and Tourism – The Executive Budget includes $2.5 million in funding for the "I Love NY" programs and $3.8 million to the Matching Funds Program. The Governor has indicated that additional regional marketing will be conducted by "NY Open for Business" which will extend the impact of these marketing funds, however, the amount specifically allocated for tourism still needs to be clarified.

We also support $94 million in proposed improvements and repairs at State Parks and historic sites, including the Olympic Regional Development Authority facilities. These funds will support significant tourism destinations in New York, and bolster the travel and tourism industry.

Racing & Gaming – The Business Council supports the Governor's call for a Constitutional amendment to allow casino gaming. We urge legislative approval of this proposal in 2012, to set the stage for the issue to go before the voters next year. Expanding state regulated gaming will give the state's economy a much needed boost, with significant new private sector jobs and capital investment, and could produce up to $1 billion in new state tax revenues, according to Division of Budget estimates.

Casino gaming is already a multi-billion dollar industry in the state. The state's nine raceways and video lottery terminal locations employ an estimated 5,000 people and have contributed over $3.55 billion in state tax revenue.

Expanding casino gaming in New York will create thousands of jobs across the state and will also have a positive impact on our travel and tourism industry with an influx of new tourists from across the country and world that will stay in New York hotels, eat in New York restaurants, buy New York products and visit New York destinations.

While details concerning where casinos would be located and how they will be regulated still need to be looked into, the Business Council believes this amendment would help New York's economy by providing much needed jobs, tax revenues and investment in our local communities.

In closing, we greatly appreciate the Senate and Assembly's role in adopting key reforms during the 2011 legislative session. By bring the state's fiscal house in order, New York will be able to accommodate long needed investments in public infrastructure, and further tax reforms and other cost of doing business reforms that will encourage additional investment and jobs in New York State.

We look forward to working with Senators and Assembly members in moving forward with a pro-growth, pro-jobs agenda.

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