NEW YORK STATE Economic Development Council

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MEMORANDUM

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TO: Legislative Fiscal and Economic Development Committees

FROM: Brian McMahon and Michael Stamm

RE: 2013 – 2014 Executive Budget

Good morning Chairman DeFrancisco, Chairman Farrell, Senator Smith, Chairman Schimminger, Chairman Valeski, and members of the Senate and Assembly Finance and Economic Development Committees. I am Brian McMahon, Executive Director of the New York State Economic Development Council. Thank you for allowing me to testify today. Joining me is Michael Stamm, President and CEO of Tompkins Area Development and Chairman of NYSEDC.

For the past three decades, the top priority of New York's business community has been to limit state spending to sustainable levels so the tax burden placed on people and businesses can, over time, begin to be reduced. Too often over the years, state spending was increased by many times the inflation rate creating systemic budget deficits that were closed with higher taxes and more debt.

This is the third budget that Governor Cuomo has proposed that holds state spending increases to less than 2 percent. This is a remarkable achievement for which the Governor and legislature deserve considerable credit. This fiscal prudence has created stability that is recognized by and resonates with business leaders throughout the world, and will benefit NY taxpayers for years to come.

More work needs to be done, however. New York's unemployment rate is 8.2 percent compared to 7.9 percent for the nation. NY is ranked 37th among all states. In the past year, non-farm jobs in the 10 county downstate region increased by 1.9 percent, compared to the nation which grew at 1.7 percent. Most of this was fueld by growth in NYC, which grew private sector jobs grew by 2.4 percent. The suburban downstate counties grew by only half of the national average. The 52 county Upstate region however, grew by only .2 percent, or one-eighth the national average.

Importantly, New York continues to lose manufacturing jobs, while the nation is increasing jobs in this sector. In the last year, the nation gained about 100,000 manufacturing jobs, while New York lost 5,100. Since 2000, New York has lost more than 40 percent of its manufacturing jobs.

We want to direct our comments to three specific issues. We will be brief and look forward to your questions.

Excelsior Jobs Program. The Excelsior Jobs Program is the state's signature economic development program. It replaced the Empire Zones program, which was ended four years ago. To qualify, a business must align with one of seven industry sectors and create a significant number of net new jobs or make a significant capital investment.

The program is structured to allow $50 million in new tax credits to be awarded each year. Those credits can be extended for each recipient business for up to 10 years.

Since its launch three years ago, it is our understanding that ESD has awarded 28 percent of eligible credits to businesses recipients. The average award is 42 percent of the maximum possible award.

The under utilization of the program is a concern and to address this, NYSEDC recommends the following revisions to the program:

1. **Lower the threshold for net new jobs qualifying standards.**
The net new job standards reflect criteria for larger projects. Threshold standards should be lowered to reflect the economies in our communities. For example, the average manufacturing business in New York employs 23 workers and is family or privately owned. NYSEDC recommends the following revised standards:

Sector	**Current standard**	**Proposed revised standard**
Manufacturing	25 net new jobs	10 net new jobs
Agriculture	10 net new jobs	5 net new jobs
Financial services data center	100 net new jobs	50 net new jobs
Scientific R&D	10 net new jobs	5 net new jobs
Software development	10 net new jobs	5 net new jobs
Back office operations	150 net new jobs	50 net new jobs
Distribution center	150 net new jobs	75 net new jobs

2. **Real Property Tax Credit eligibility**
The current program provides a refundable RPT credit only to qualifying businesses located in an old EZ Investment Zone, or to businesses determined to be regionally significant projects. Areas formally served only by county-level, or Development Zones, are not eligible. Currently only 22 of 167 Excelsior

certified businesses are in Investment Zones receiving the Real Property Tax benefit. Since this credit was enhanced in the budget two years ago by extending its maximum term from 5 to 10 years, the loss of this incentive harms those areas not eligible to an even greater degree. NYSEDC recommends allowing any project located in a distressed census track to be eligible for the refundable RPT credit. This would adhere to the intent of allowing the benefit in Investment Zones, which must be tangent to a distressed area, and provide an important Excelsior Jobs Program incentive to primarily rural areas which do not have an Investment Zone.

3. **Pro rate benefits if project reaches 75 percent of projected job or investment goals**

The current program requires project owners to reach 100 percent of job projections or lose 100 percent of its Excelsior Jobs benefits. So, if a project projects it will create 200 jobs, but creates only 199 jobs, it will lose all of its benefits for that year under the program. Many reasons beyond its control could prevent a business from attaining 100 percent of job projections. NYSEDC recommends pro rating benefits if a business achieves 75 percent of its job goals. This represents a significant good faith effort by the business, but would only provide a benefit equal to the proportion of job goals met over 75 percent. Failure to reach 75 percent would result in the business losing all benefits for that year.

4. **Investment Tax Credit**

The 2 percent refundable ITC is relatively ineffective for expanding projects. The regular ITC is 5 percent, half of which is refundable for businesses new to New York. Consequently, since a business cannot claim both the regular ITC and the Excelsior ITC, the regular ITC is more valuable for most businesses. NYSEDC recommends increasing the Excelsior ITC to 5 percent and continuing to make it a refundable credit. Or, alternatively, allow the Excelsior ITC to be taken in conjunction with the existing ITC. This would give ESD an enhanced ability to negotiate higher incentives for high value projects, yet would not increase the cost of the program beyond its statutory hard cap.

5. **Excelsior Jobs Program funding**

The current program has a $50 million per year cap on new tax credits. Approximately $78 million of the $150 million of the available credits during the first three years were not used and will be lost. The loss of these credits is due primarily because:

1. The program was launched in October in its first year.
2. The state and country were in a jobless recession, so there were few large, job creating projects
3. Many of the state's growing businesses were still receiving Empire Zone benefits and not eligible for the Excelsior Jobs Program.

The loss of these tax credits, however, was a gain for the state's financial plan.

As the state and national economies slowly begin to recover, we expect deal flow of Excelsior-eligible projects to ramp-up. For this reason, NYSEDC recommends increasing the tax credit cap of the Excelsior Jobs Program from $50 million/year of new credits to $70 million/year. The larger cap would compensate for tax credits that have been forever lost from the program, and compensate for projects awarded larger incentives going forward due to the recommendations above.

Innovation.

Everything we know about New York's future economy suggests that we must accelerate the speed by which we transform regional economies based on mature industries to innovative economies based on strategic high technology sectors. Five primary factors will drive this transformation: reducing capital investment and operational costs for employers; meeting the skilled and technical workforce requirements of technology companies; making more seed and venture capital available for start-ups; continuing to invest in university research and development and technology transfer and commercialization; and maintaining and improving the quality of life that exists in most regions of New York.

Each of the Regional Council's strategic plans recognize this priority and includ strategies for accelerating tech transfer and technology start-ups, and helping existing businesses become more productive and competitive through the use of technology. Growing our innovation economies is organic in that strategies are implemented at the community level. They are not fulfilled by attracting new business investment. The key is to create environments in our communities that can nurture and support tech transfer and start-ups.

The Governor's proposed budget contains several proposals that would benefit innovation, tech transfer, and new technology start-ups. Key among these are the tax-free innovation "Hot Spots," that would be linked to university incubators, and the proposed $50 million Seed Venture Fund. NYSEDC supports these important initiatives and urges the legislature to enact them into law.

NYSEDC would recommend that with regard to the "Hot Spots" proposal that an advisory committee be appointed to guide the development of this program. Over time, adjustments to the program may be desirable, and a committee of experts in the field of tech transfer would be able to recommend mid-course corrections.

We would further encourage the legislature to work with the Executive to develop a comprehensive statewide policy to support incubators and accelerators throughout the state. Capital funding cannot be the end of the story for the state's economic development strategy. If there is a weakness in the state's current approach, it is that Empire State Development is not currently equipped by statute or budget with broad enough funding programs to support the deployment of best practices in business incubation. Relative to the support that capital projects receive in the ESD/REDC process, it remains far too difficult in NYS to raise funding to operate a truly excellent incubator program.

NYSEDC would also recommend revising and replacing the Qualified Emerging Technology Company tax credit program (QETC) that was allowed to sunset two years ago. The old program was not easily to understand and contained components that were not related. NYSEDC recommends:

1. Keeping the capital tax credit, but create a new program with just this component. The QETC capital tax credit was calculated as follows:
- 10% of qualified investments in certified QETCs with a useful life of 4 years; and
- 20% of qualified investments in certified QETCs with a useful life of 9 years.

2. Create another program that reflects the Excelsior Jobs Program's R&D credit (50 percent of businesses' federal R & D credit and capped at 3 percent of total eligible R&D investment in NYS), and establish it as a stand along R&D tax credit program targeted at R&D investment of smaller firms. We would recommend increasing the capped percent of total eligible R&D investment in NYS to 10 percent, instead of 3 percent, but keep the $250,000 maximum credit, and make it fully refundable or sellable if unused. Appropriate qualifying criteria should be established..

IDA State Sales Tax proposal

The Executive Budget proposal contains a provision that we believe would be detrimental to local economic development efforts, especially in rural areas and distressed downtowns. That provision, Part J of the Revenue Budget Bill, would prohibit IDAs from abating the state portion of the Sales Tax unless the project receiving the abatement is eligible to receive Excelsior Jobs tax credits. Even then, authority to provide the abatement would have to be approved by the Regional Economic Development Council and ESD. Furthermore, the abatement would be received in the form of a tax refund at a later date, instead of as a tax abatement at the time of a purchase.

The proposal hurts rural areas that too often cannot compete for projects in sectors that are Excelsior-eligible. Their economies are based in large part on tourism and small businesses.

The proposal would be detrimental to smart growth strategies since community development and adaptive reuse projects would be denied this important incentive.

Small technology businesses that cannot meet the "net new employment" criteria of the Excelsior Jobs Program could not benefit from the abatement of the state Sales Tax. Such businesses rarely have net income or real property, but typically need to purchase equipment to conduct R&D or prototype or small scale manufacturing.

During hurricane Sandy, the NYC IDA and some of the Long Island IDAs implemented programs to help small businesses accelerate rebuilding damaged facilities by abating the Sales Tax on purchases of construction materials. These programs would be denied the state Sales Tax under this proposal.

This proposal would delay or prevent developers or business owners from securing bank financing. At a minimum, it would drive-up costs for community development projects that are so important in creating places where businesses and their employees want to live and work.

NYSEDC has offered input and will continue to work with the Administration and legislature to address the above concerns.

We urge the legislature to remove this proposal from the final adopted budget.

Thank you for the opportunity to present our views on these issues, and we are happy to try and answer any questions you may have.