



Testimony of Reinvent Albany

**JOINT LEGISLATIVE HEARING ON ECONOMIC DEVELOPMENT
IN THE 2018-2019 EXECUTIVE BUDGET**

**Albany, New York
January 29, 2018**

Good afternoon members of the Joint Legislative Hearing on Economic Development
My name is John Kaehny, and I am the Executive Director of Reinvent Albany.

A few weeks ago, Reinvent Albany joined with leading budget watchdog and good government groups to call on you --- the legislature --- to reject the [over \\$3.2 billion in new economic development spending proposed in the Executive Budget](#) on economic development and business subsidies until major anti-corruption and transparency reforms are put in place.

Reinvent Albany has been very critical of the state's \$4 billion a year in economic development spending, which too often consists of largely unaccountable, opaque taxpayer handout to businesses that have not proven to be worthwhile and are at a high risk for corruption. This year the state's economic development process is under the microscope in two major federal corruption trials centered around the bid rigging of billions in state business subsidies.

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Reinvent Albany believes the state's economic development programs are severely flawed and need major reforms to increase accountability and transparency. Until that happens, the legislature should stop appropriating new funds for new discretionary economic development programs. No accountability -- no blank checks.

Before the legislature appropriates a dollar for economic development, it needs to answer three questions: First, does the legislature and public know how economic development funds are being spent? Second, do we know whether they are being awarded fairly and cleanly? Third, is the public getting a good return on their economic development investments? Unfortunately, at the moment, the answers to these questions is "no, no and no."

This is not free money. Bringing New York State's public clean water systems, roads, bridges, transit, schools and parks to a state of good repair would cost hundreds of billions of dollars and produce clear value to the public.

This is why economic development spending --- which is overwhelmingly subsidies to businesses --- needs to be based on facts and clear public value, not pay to play and appeasing favored constituencies. Our groups supports robust public investment and we even support at least on economic development program, NYSTARS, because it can be independently shown to be cost effective. NYSTAR programs get roughly \$60m a year or about 1.5% of state economic spending, and yet can be objectively shown to have created or retained tens of thousands of jobs and spur billions of investment.

Unfortunately, NYSTAR is an exception and New York's economic development spending badly needs major reforms to ensure it is transparent, accountable to independent oversight bodies and free from corruption. Over the course of the last year,

we have joined with a large coalition of budget, transparency and good government groups to call for a slate of Clean Contracting measures to be passed into law. Unfortunately, last session, the legislature did pass even one of the seven reforms that we recommended. Nor did the legislature come up with its own reforms that were comparable or exceeded what we asked for.

Today, we again ask the legislature to pass these Clean Contracting reforms:

1. Require competitive and transparent contracting for the award of state funds including authorities and affiliates;
2. Have the Empire State Development Authority (ESD) award all state economic development grants and contracts. Do not use SUNY or state controlled non-profits like Fort Schuyler Management for awarding and managing state economic development contracts;
3. Empower the Comptroller to pre-approve all SUNY and OGS central contracts over \$250k;
4. Prohibit all state-affiliated entities from doing business with their boards of directors;
5. Create a Database of Deals that shows the total value of subsidies awarded to a business, including job targets and “clawback” provisions;
6. Limit campaign contributions from anyone seeking a state contract to reduce potential conflicts of interest. The Governor’s proposal in the Executive Budget is one option worthy of review. Nineteen states and NYC have such laws; and
7. Require government affiliated not-for-profit organizations to follow FOIL and the Open Meetings Law;

The only thing the legislature did do in last year’s budget is write a check for \$1.8 billion in the extender budget passed in April, a blank check granted by the legislature to Governor Cuomo for economic development projects with no additional oversight.¹ \$500 million of those funds are for Buffalo Billion II, even while the first round of funds resulted in indictments of nine of the Governor’s senior advisors, campaign

¹See:

<https://www.politico.com/states/new-york/albany/story/2017/04/in-extender-cuomo-gets-money-for-his-economic-development-projects-110970>

contributors, and company officers doing business with the state. The first of these federal trials started January 22nd and the second will be held in June.

Reinvent Albany, along with our coalition partners Citizens Budget Commission, Fiscal Policy Institute, and other good government organizations, released a five point Clean Contracting proposal a year ago to ensure greater accountability and transparency for economic development subsidies and contracting, and reduce corruption. Comptroller Tom DiNapoli's program bill, S.3984-A (DeFrancisco) /A.6355-A (Peoples-Stokes), includes most of these proposals. DiNapoli's bill would:

- Reestablish comptroller authority to review contracts before they are executed for construction, materials and products bid out by SUNY and CUNY, their Construction Funds, and the SUNY Research Foundation. It would also allow for comptroller review of the Office of General Services' (OGS) centralized contracts. This authority was in place for a century before the Governor and legislature unwisely stripped it from the comptroller in 2011-2012;
- Requires state authorities to follow the specific and comprehensive procurement guidelines similar to those followed by state agencies;
- Prohibits state authorities from using state controlled not-for-profit organizations as contracting vehicles;
- Requires earlier notice of non-competitive source, procurements in the State's online Procurement Opportunities Newsletter (aka the NYS Contract Reporter); and
- Prohibits conflicts of interest for officers and employees of agencies and authorities, and board members for authorities.

Reinvent Albany and our colleagues have repeatedly called for a Database of Deals that reveals exactly which companies and entities are receiving economic development subsidies from the state, the dollar value of those subsidies, job and investment

commitments, whether those commitments are being met and, if not, whether clawbacks of benefits have occurred.

We thank Assemblymember Schimminger for introducing the Database of Deals legislation with Senator Croci and ask you to pass their bill (A.8175/S.6613-A). The bill advanced out of the Economic Development committee last session, and advanced to third reading on the calendar in the Senate. However, the bill did not pass either house though all it does is create the most basic transparency about how taxpayers money is spent on subsidies to businesses.

The Database of Deals is not rocket science. Journalists at the Investigative Post and Gannett created their own limited “Database of Deals” based on state records they got from Freedom of Information Law (FOIL). It is also worth noting the Public Authorities Reporting Information System (PARIS) already reveals subsidies to recipients receiving grants from local authorities, local development corporations (LDCs), and industrial development agencies (IDAs) but does not do so for state awards and grants.

Our groups also again call for the legislature to consider restrictions on campaign contributions by vendors doing business with the state, and the Governor did include this proposal in Part L of the Good Government and Ethics bill in his last Executive budget. The governor’s proposal is just a start. It would ban contributions by vendors to the executive branch from when an RFP has been issued to six months after a contract has been executed. Nineteen states and New York City have more robust “pay to play” laws but New York State does not. While there were discussions about this proposal in late 2016, it also was not enacted.

Reinvent Albany and the Committee on Open Government have additionally called for passage of A.5854-A (Schimminger)/S.4775-A (Boyle) requiring affiliated not-for-profit

organizations of government entities to be subject to FOIL and the Open Meetings Law, something already likely required as indicated by court decisions in New York and other states. This bill did not advance out of committee in either house last session but recently moved out of committee in the Senate.

In summary, while there are many proposals before the legislature that would make economic development subsidies more accountable, transparent and measurable, no action has been taken to address fundamental questions about economic development subsidies that we and many others have raised. The legislature and the public lack basic information about how billions in taxpayer dollars is spent - who receives economic development grants, whether recipients meet commitments made for taxpayer funds, and whether this is the best use of taxpayer dollars to grow the economy. The legislature should not award any more economic development money in this year's budget without passing at least some of the major reforms outlined in this testimony.