Testimony of Reinvent Albany for the Joint Legislative Hearing On Economic Development

February 16, 2022

Reinvent Albany advocates for transparent and accountable government. Thank you for allowing us to submit written testimony for this hearing.

First, we thank Senators Krueger, Skoufis and Kaplan for holding the excellent January 14 hearing on the effectiveness of business subsidies and tax incentives in New York State. The testimony of experts such as Tim Bartik at the Upjohn Institute and Marilyn M. Rubin of Rutgers University detailed why business subsidies are bad fiscal and tax policy. We hope the Senate and Assembly leadership will use the insights provided by leading experts to set better economic development policies in New York State.

Our testimony today will cover the following:

A. Legislation to pass as part of the budget

1. **Require Empire State Development to create and maintain a Database of Deals – S5711 (Comrie) / A8325 (Wallace).**
2. **Close NY's Opportunity Zone tax break loophole – S6800 (Gianaris) / A8081 (Dinowitz).**
3. **Restore the Comptroller's pre-audit powers in statute.**
4. **Prohibit non-disclosure agreements in economic development deals – S1196 (Gianaris) / A9092 (Solages).**
5. **Bar IDAs from approving tax abatements unless they are approved by the school board affected by them.**
6. **End $330M a year in state subsidies to the oil and gas industry – S7438 (Krueger) / A8483 (Cahill).**

B. Requested changes to the executive budget

1. **Increase the budget of the Authorities Budget Office (ABO), a crucial subsidy watchdog, to $5 million.**
2. **Reject 3-year extension of Film tax credit (Revenue budget Part M).**
3. **Reject PBT tax exemption for tugboats (Revenue budget Part T).**

4. **Reject TED budget provisions expanding Dormitory Authority powers (Parts DD through HH of TED bill).**

C. **Eliminate some state subsidies to horse racing by passing S7260 (Salazar) / A7745 (Rosenthal L) during session.**

First, economic development does not equal state subsidies to businesses. A vast body of impartial research clearly shows that business subsidies are an extremely expensive, corruption-prone and wasteful way for any government – including New York State – to encourage job growth.

Our testimony is informed by multiple studies that show government subsidies to businesses are bad policy and basically do not work:

- In 2018, Tim Bartik, an internationally prominent labor economist at the W.E. Upjohn Institute collated 30 studies that collectively show business subsidies sway business decisions at best 25 percent of the time.

- A 2020 evaluation of $30 billion in discretionary business subsidies across 50 states by Cailin Slattery (Columbia University) and Owen Zidar (Princeton) found that 30% of all firms opening offices in new locations with over 1,000 employees receive firm-specific subsidies while less than 0.2% of firms under 250 employees do.

- A report written for the 2013 Governor's New York State Tax Reform and Fairness Commission by Marilyn M. Rubin (then at John Jay College) and Donald J. Boyd (then at Rockefeller Institute of Government) found that there is "no conclusive evidence from research studies conducted since the mid-1950s to show that business tax incentives have an impact on net economic gains. Business tax incentives violate principles of good tax policy and tenets of good budgeting."

We hope you use the studies and testimony from the Senate's January hearing to sharply reduce New York States roughly $5B a year in tax abatements and other subsidies to businesses.

A. Legislation to pass as part of the budget

1. Require Empire State Development to create and maintain a Database of Deals by passing S5711 (Comrie) / A8325 (Wallace).

New York State spends roughly $5 billion a year on business subsidies, but we know little about who is receiving these subsidies, how much, or whether or not these subsidies are creating jobs. Though Empire State Development did establish a Database of Economic Incentives (DOEI) last year, the DOEI does not include incentives established prior to 2018 and fails to meet 12 of 20 criteria for a Database of Deals.

The state can close the gap by establishing the Database of Deals in statute. This legislation will require the DOEI to include *all* incentives administered by ESD, differentiate between types of jobs (full-time, part-time, construction, etc.), and list the programs through which recipients are receiving benefits. Once the state has this data, it can finally do a comprehensive analysis of which programs are creating jobs and which are wasting taxpayer dollars.

2. Close NY's Opportunity Zone tax break loophole – S6800 (Gianaris) / A8081 (Dinowitz).

Last year, New York partially eliminated its Opportunity Zone tax break by passing in Part DDD of budget bill S2509-C part of S1195 (Gianaris)/A5701 (Dinowitz), which was supported by over 25 watchdog groups and unions, including 1199SEIU, NYSUT, RWDSU, CWA District 1, and PSC-CUNY.

Unfortunately, an omission in the budget language created a loophole that could cost New York $420 million a year from 2029, according to the Citizens Budget Commission. Under the Opportunity Zone program, investors can receive several tax breaks by investing their capital gains in low-income/high-poverty census tracts. New York has saved an estimated $90 million a year by eliminating one of the tax breaks, which reduces and defers taxes on the reinvested capital gains. However, the budget language left in the more costly tax break, which allows investors to pay *no* taxes on appreciation in their new investments after ten years. This could begin costing New York State $280 million and New York City $140 million annually from 2029.

As the New York Times, Wall Street Journal, and Bloomberg News have documented, the Opportunity Zone program is a boondoggle that benefits Trump allies and high-end real estate, not communities. Jared Kushner and Trump donor Richard LeFrak have reportedly benefited from the program, and properties receiving the tax break include a yacht marina and luxury apartment with a pet spa.

If not addressed, this Trump handout could cost New York billions in the next decade. We urge the Legislature to close the loophole by including S6800 (Gianaris)/A8081 (Dinowitz) in the budget.

3. Restore the Comptroller's pre-audit powers in statute.

In 2019, the Governor and Comptroller signed a Memorandum of Understanding (MOU) restoring most of the Comptroller pre-audit powers that existed prior to 2011. However, that MOU can be revoked with only 15 days notice, potentially allowing billions of dollars in state spending to escape Comptroller review.

It's time to restore the Comptroller's powers in statute. Passing S6809 (Reichlin-Melnick) / A7925 (Zebrowski) would restore the powers of the MOU. However, the state should go even further by restoring *all* of the powers that existed before 2011.

Governor Cuomo's removal of the Comptroller's powers led directly to the Buffalo Billion bid-rigging scandal of 2015, in which multiple Cuomo donors and allies were convicted of corruption. One of the best ways the state can prevent another scandal is to restore the Comptroller's pre-audit authority completely.

4. Prohibit non-disclosure agreements in economic development deals – S1196 (Gianaris) / A9092 (Solages).

New York has a history of secrecy in economic development deals, particularly when negotiating with Amazon to put HQ2 in Long Island City, when the State entered into a non-disclosure agreement with the company to keep the talks confidential.

We believe that NDAs are anti-democratic as they keep taxpayers from being able to evaluate how public dollars are being used. This is a disturbing national trend – in Kansas, for example, a company will be receiving $1.3 billion in funds from the state, but only a few public officials know who the company is, due to an NDA. While there's no evidence of an NDA, we note that New York is currently negotiating with an undisclosed company for a semiconductor plant.

New York can help end this practice by passing in the budget S1196 (Gianaris) / A9092 (Solages), which will prohibit NDAs in state and local contracts. This bill is one among many being pushed in state legislatures across the country. Passing this bill in the budget can make New York a leader on an issue of national significance.

5. Bar IDAs from approving tax abatements unless they are approved by the school board affected by them.

According to Good Jobs First, New York schools lost at least $377 million to business subsidies in 2019, and likely much more. New York can rescue much-needed school revenue by prohibiting Industrial Development Agencies from creating deals that redirect school revenue without approval from the local school board.

This is not a new idea. Louisiana did this statewide in 2016, and here in New York, the Town of Kingston is doing something similar. Expanding this proposal to the entire state would generate hundreds of millions in local revenue for schools every year.

6. End $330M a year in state subsidies to the oil and gas industry – S7438 (Krueger) / A8483 (Cahill).
We again urge the Legislature to include in the budget the Fossil Fuel Subsidy Elimination Act, which will end $336 million in oil and gas subsidies that benefit corporations. Eliminating these tax breaks will help New York meet its goals under the Climate Leadership and Community Protection Act (CLCPA). It makes no sense for NY to subsidize fossil fuels while simultaneously trying to reduce emissions.

B. Requested changes to the executive budget

1. Increase the budget of the Authorities Budget Office (ABO), a crucial subsidy watchdog, to $5 million.
The Governor's budget includes $2.8 million for the ABO, a crucial watchdog that oversees over 600 public authorities in New York State. This is a step up from the $2.05 that the ABO has been allotted over the past decade. The ABO is funded by a small portion of the assessment on authorities, so changes to its budget do not impact the General Fund.

We urge the Legislature to go much further and increase the ABO's budget to $5 million as requested by Reinvent Albany, Citizens Budget Commission and other watchdogs in a letter last October. The ABO's current staff of 11 full-time employees ETC is far short of the 30 it was originally envisioned to have, meaning that the ABO cannot hire counsel, policy analysts, or communications and administrative positions. Without adequate staff, the ABO is unable to complete basic duties such as conducting more investigations and reviews, modernizing its database, and ensuring compliance.

2. Reject 3-year extension of Film tax credit (Revenue budget Part M).
We oppose extending the film tax credit from 2027 to 2030 before there has been enough time to evaluate the program's effectiveness. New York State currently spends roughly $420 million a year on the Film/TV tax credit, which as we've noted does little to create long-term employment in the state. Other states have looked at the data and eliminated the tax credit. We encourage New York to slowly wean the industry off the credit by reducing the tax credit by 10 percent a year over the next decade.

3. Reject PBT tax exemption for Tugboats (Revenue budget Part T).
We urge the legislature to reject this proposal, which would exempt tugboats from paying the Petroleum Business Tax (PBT).

We understand the logic of this proposal, which is that some other commercial shipping, such as commercial fishing vessels are not subject to PBT. However, we strongly disagree that the solution to the problem is to expand the tax break. Instead the state should eliminate all such tax breaks by passing the Fossil Fuel Subsidy Elimination Act.

4. Reject TED budget provisions expanding Dormitory Authority powers, Parts DD through HH of TED bill.

Reinvent Albany opposes expanding the Dormitory Authority's lending powers to nonprofit organizations other than schools. Nonprofit organizations are already heavily subsidized through the tax code and government grants and contracts. We believe low-cost government loans to nonprofits invites conflict of interest and corruption and ultimately adds to the enormous state authority debt that New York State taxpayers backstop if debt payments are not made. We can easily foresee the governor and the legislature sponsoring debt forgiveness for politically favored nonprofits and otherwise pressuring the Dormitory Authority to help the politically privileged.

C. Eliminate some horse racing subsidies by passing S7260 (Salazar) / A7745 (Rosenthal L) during session.

Despite creating few if any jobs, the horse racing industry continues to receive substantial subsidies from NYS government. Many of these subsidies come directly from the General Fund, meaning that they would otherwise go to programs such as education. We urge the Legislature to pass during session S7260/A7745 to end some of the use tax subsidies the industry receives.

Thank you for the opportunity to submit written testimony. Please send any questions to Tom Speaker at tom [at] reinventalbany.org.