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2 Penn Plaza • 5th Floor • New York, New York 10121

Testimony to the New York State Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry

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Hello, and thank you for the opportunity to testify today. I am David Friedfel, Director of State Studies for the Citizens Budget Commission (CBC). For those of you not familiar with our work, CBC is a nonprofit, nonpartisan organization, dedicated to achieving constructive change in the finances and services of New York City and New York State government. We have written extensively on state and local economic development programs.

Today I will focus on START-UP NY, the Excelsior Jobs Program, and project-specific appropriations. However, before addressing these programs I begin with the guidelines we believe should be followed by any economic development program, as discussed in our report, [“Bigger Not Better: New York’s Expanding Economic Development Programs.”](#)

These guidelines are relevant to two of the State’s economic development programs, START-UP NY and the Excelsior Jobs Program and to project-specific appropriations.

START-UP NY

START-UP NY has three elements ripe for reform.

First, its geographically limited zones are a poor design element. While there is justification for utilizing the resources available at State Colleges and Universities to promote economic development, the need to provide generous tax incentives is less obvious. Offering free rental space and creating innovative college internship programs would likely be worthwhile for certain nascent high-tech companies, college students, and the universities as well. However, geographic boundaries for economic development incentives distort economic activity. By using tax incentives to encourage businesses to locate in specific START-UP NY zones, businesses are being steered away from other locations that may be more desirable based on proximity to consumers, access to transportation, or other factors.

Arguably, one benefit of geographically limited zones for economic development is to limit the financial impact of such programs. However, we have already seen expansion of zones beyond their original scope to include regional airports (Stewart and Republic) and other locations. Recent reports detail how Empire State Development (ESD) proposed creating a new zone in order to lure a company from out-of-state. Shifting boundaries to benefit specific companies

undermines the financial benefits of zones while simultaneously highlighting the fundamental flaw in artificial geographic limitations.

Second, the reporting requirements are inadequate. Although private investments and tax benefits are disclosed, improved wage reporting would provide a clearer picture of who benefits from the program. Specifically, total wages paid and the number of employees should be reported.

Third, the personal income tax (PIT) benefits are poorly designed. It is not clear if the intended beneficiary is the employee or the employer. If the intent is to decrease the cost of doing business by allowing businesses to pay their employees less since they will be exempt from tax, the PIT benefit should be converted into a business tax credit based on wages paid. Also, there is no cap on the maximum salary that could be exempt from tax until year six. Therefore, an employee making millions of dollars per year could be exempt from the State's personal income tax for five years. This is inequitable and not a prudent use of limited state resources.

While much criticism has been leveled at the advertising expenses of START-UP NY and other economic development programs, advertising is a necessary aspect of many State programs, including economic development. However, these costs should be appropriately allocated among programs and included when evaluating the effectiveness of the State's economic development programs.

Excelsior

When the Excelsior Program was first adopted in 2010, it was a vast improvement over its predecessor, the Empire Zones Program. While recent changes have been a cause for concern, the overall structure of the program is still comparatively well-crafted. By targeting specific industries, there is an increased likelihood of fostering technological clusters, and the state can ensure that regional assets are being maximized. However, recently added industries (notably music and entertainment) should be excluded from the program, as they do not require state assistance in order to be economically viable.

Predetermined eligibility criteria for the scale of investments and job creation ensure only significant employers get benefits and increase the likelihood that eligibility for individual companies will be determined based on objective criteria. Similarly, performance-based credit amounts ensure that the State is providing subsidies only for investments and wages that have actually been expended. Economic development programs and grants should not provide benefits based on promises alone, putting the State in an untenable position of trying to recapture benefits. All economic development should follow the Excelsior model: pay-for-performance.

According to an [Office of the State Comptroller](#) report, ESD, the agency administering Excelsior, has faced challenges ensuring that all investment and employment goals are documented¹. But

¹ New York State Office of the Comptroller, *Performance of the Excelsior Jobs Program; Empire State Development* (July 2016), www.osc.state.ny.us/audits/allaudits/093016/15s15.pdf.

this not caused by program design; the remedy is in better administration, not legislative reform. These implementation issues should be remedied by ESD as soon as possible.

Annual caps on total Excelsior program costs limit the State's financial exposure. With lessons learned from the Empire Zones and Brownfields Redevelopment programs, where costs quickly skyrocketed beyond forecasts, Excelsior was capped. This ensures that the State will not face untenable financial impacts from the program, but it also provides a modicum of assurance for program participants that they will not see their benefits cut based on excessive overall costs.

On the other hand, the jobs credit in Excelsior is too generous at 6.85 percent of wages, with no cap on an individual salary. The State's taxpayers should not be subsidizing salaries that are vastly in excess of the State Median Household Income (about \$59,000 annually).

Project Specific Appropriations

Recent budgets have included substantial appropriations for specific economic development projects outside of established programs. This year's funding includes the SolarCity plant (\$486 million), Nano Utica (\$638 million), the Norsk Titanium plant at SUNY Polytechnic Institute in Clinton County (\$125 million), and incentive payments for the Buffalo Bills (\$6.8 million), among many others. Other economic development spending is lumped into large unspecified pools, to be determined by an agreement between state leaders.

These projects do not have to meet any of the criteria established for START-UP NY or Excelsior. There are no agreed upon standards for levels of investment or job creation, no caps on state subsidies, and reporting has been ad hoc, in response to FOIL requests, or non-existent. There are no pre-established criteria for participation, performance measures, or duration of benefits. Despite the flaws in START-UP NY and Excelsior, these programs provide considerably more transparency and accountability than project-specific appropriations. To highlight these differences, I offer a brief comparison between one economic development project under an established program and another project that is the result of a project specific appropriation.

A Tale of Two Subsidies:

- The Muller Quaker factory in Batavia was recently in the news after closing this past winter. The local community and other observers were upset that it had received \$560,000 in tax incentives through the Excelsior Jobs program, but closed after being in operation for less than three years. However, the company received benefits only after investing approximately \$200 million and employing an average of 143 employees for two and half years. The state had provided tax benefits to Muller Quaker based only on actual investments and wages, with a cost to the State per job per year of approximately \$2,000.
 - Based on industry reports, the company closed the factory due to market dynamics, and unfortunately, almost 200 New Yorkers lost their jobs. But economic development spending inevitably has

some risk. If the business was a guaranteed success, it would not need and ideally would not receive any state assistance. Muller Quaker was in line to receive Excelsior Benefits for eight more years, but will not because its promises were not fulfilled. Our hope is that the new owners of the plant will begin operations soon and the eliminated jobs will be restored.

- In contrast the State is currently paying almost \$1 billion to build a factory in Buffalo for SolarCity in exchange for a promise of 5,000 jobs at the end of 10 years – that's \$20,000 per job per year in a best case scenario or 10 times the cost per job of the Muller Quaker factory. If the economics of SolarCity falter and the factory does not open, New York State taxpayers are left holding the bag – an empty factory in this case. If SolarCity was a participant in the Excelsior Jobs program, it would be required to make investments in its factory and employ staff, with New York State providing tax credits to offset some of these costs after they were incurred. Instead, New York State will make the investment upfront on the assumption that SolarCity will fulfill its promises. The level of risk is too high, and the parameters of the agreement keep changing because there are no set criteria.

New York State spends too much on economic development without proper regional coordination, clear evaluation criteria, or predetermined eligibility criteria.

Established economic development programs have flaws, but ad hoc appropriations for specific economic development projects completely lack predetermined eligibility requirements. As projects move forward, the specifics of the agreements seem to evolve and evaluation criteria are hard to determine. Once money has been expended for a specific economic development project, it is very difficult politically and administratively to enforce any investment or employment requirements. Therefore, CBC recommends a cessation to project-specific appropriations for economic development at least until eligibility criteria are established and accountability mechanisms enhanced.

Thank you again for the opportunity to testify. I am happy to take any questions.