Testimony on

The Executive Budget for 2008-09

Joint Legislative Budget Hearing on
Economic Development and Taxes

Presented by

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Introduction

Good afternoon. On behalf of our more than 3,000 members – businesses large and small all across the state – I would like to thank both the Senate and Assembly for this opportunity to provide you with our comments on the Executive Budget proposal and to offer our input.

As the state's leading business organization we begin our testimony this year as we do every year – with a reminder that our state's fiscal policy must achieve that delicate balance between a healthy private sector economy and government's need to raise revenue to provide services.

And with a struggling national economy, and the slowdown in the financial services and real estate sectors right here in New York, that balance is now especially precarious.

Let us remember a basic economic fact: it is the private sector that creates wealth, drives the economy and enables government to function in the first place.

New York's business community of 553,000 private sector employers and their 7.3 million workers is undeniably the core of our economy.

Certainly, government taxes and regulates the private sector, but, as it depends on it for revenue to assure an orderly and prosperous society, it does not control it – it is subordinate to it.

The governor's announcement just yesterday that he was revising his proposed budget in light of new forecasts that show a reduction in revenue of $500 million a year is one clear reminder of this delicate balance.

The mission of the Business Council is to create economic growth, good jobs and strong communities across New York State.

In our view, this should also be a major goal in creating the state's budget for 2009.

To promote economic development and job creation, especially Upstate, we have to find ways to reduce obstacles to private sector growth, especially the high costs of health insurance, taxes and energy.

We need to promote new investment in existing businesses and in the emerging industries of our innovation economy.

And we need to avoid budget actions that add to our cost structure, and further erode our attractiveness and competitiveness as a state.

With these assumptions in mind, let's take a closer look at the Governor's proposed budget for Fiscal Year 2009.

State Spending

Even with the recent revisions, state spending is still projected to rise by 4.8 percent. In our view, this is too much.

It is too much because this growth in spending requires raising taxes and fees on private sector employers by some $1.3 billion during an economic downturn.

This will increase costs for businesses large and small at a time when they can least afford it.

Add this new burden to the growing obstacles already faced by business owners in New York State and consider its effect on economic development. Raising taxes and fees at a time like this sends the wrong message to those who might think of starting or expanding a business here.

Let's face it: The problem is spending. Per capita government spending in New York – state and local spending combined – was $11,836 in 2005. That's the highest in the nation, after Alaska.

Clearly, we have a spending problem.

But we do not actually have a revenue problem. State tax revenues are not down; they are up – way up.

The latest projections from the Division of Budget show that total state tax receipts are up $2.2 billion this fiscal year and will grow another $2.4 billion in 2008-09 without any change in our tax code or regulatory fees.

The Executive Budget would allow state spending to grow at about the rate of long-term growth in personal income, which is now about 5.3 percent.

But we don't think that is a sufficiently aggressive spending target. We strongly prefer a limit in spending growth that is more closely in line with the projected rate of inflation, which – as measured by the CPI - was about 2.8 percent in 2007.

To achieve this limit, it is essential that we identify and enact new controls on state spending. I will suggest some ways to do this in a few moments.

For now, let's focus on these new proposed taxes and fees and their potential impact on our economy.

Proposed New Taxes and Fees

New York should have a tax code that supports a competitive economic climate, provides for fair tax administration and stable state revenues, and that avoids significant unintended consequences (i.e. "loopholes").

However, we believe a number of proposed revenue measures fail to advance these objectives, and instead would damage the state's fragile economic climate by imposing significant new tax liabilities on key sectors.

Let me cite several examples that we oppose:

1. Employee health insurance is the most significant cost of doing business issue faced by our members. Therefore, we are very concerned that the Executive Budget includes two significant tax increases on health care coverage:

    a) An increase in the HRCA covered lives assessment, which would raise this overall levy by $190 million per year, from $850 million to $1.040 billion per year;

    b) And a change in the taxation of for-profit HMOs, which would result in another $300 million in annual health insurance taxes.

2. These health insurance tax increases will increase premiums and likely force many small business owners to reduce or eliminate coverage for their workers, driving up the ranks of the state's uninsured.

3. The Executive Budget would eliminate the current $1 million cap on corporate franchise tax liability based on a taxpayer's in-state capital. The $100 million – or more – in new tax liability imposed by this change would hit sectors such as financial services that may have significant cyclical changes in their net income, but not in their in-state capital.

4. The Budget proposes to establish a "financial nexus" for out-of-state credit card operations where no physical in-state nexus exists.

This proposal would impact several major in-state financial sector employers that happen to have out-of-state credit card operations -- entities that were also adversely impacted by the state's revenue actions in last year's budget agreement.

The Executive Budget also includes several significant non-tax energy-related revenue measures that we believe will have adverse economic effects.

For example:

1. The Executive Budget proposes to increase the cap on Title V air permit fees to $80 per ton, and to eliminate the current 6,000-ton fee cap per contaminant class.

    These changes could impose an additional $19 million per year in additional costs primarily on the state's energy and manufacturing sectors. We support the continued use of alternative measures to assure adequate Title V program funding.

2. The Budget would impose two other fees that target the state's energy sector; NYSERDA assessments on gas and electric utilities and new charges on nuclear power plants, that together would add another $30 million to state energy costs.

   We are concerned that the combined impact of Regional Greenhouse Gas Initiative emission allowance costs, existing energy taxes, increased permit fees and these new assessments will make already uncompetitive energy costs even more so, and further erode our economic competitiveness, especially in energy-intensive sectors.

Promoting Economic Development and Innovation

Instead of raising taxes, we urge the Legislature to champion tax reforms that promote capital investment, job growth and job retention.

Recent experience with targeted tax credits – such as the Film Production Tax Credit and the emerging technology company credit – clearly illustrate their positive impact on business investment, creation and retention of jobs, increased economic activity and, ultimately, increased state and local revenues.

To continue to promote new investments, The Business Council makes the following recommendations for your consideration:

1. Let businesses realize the full value of investment tax credits (ITCs) that are nearing expiration by using them to offset new capital investment in the state. Under this approach, old ITCs could be used to offset 50 percent of the cost of new investments, and 90 percent of the cost of new R&D spending.

   To increase the value of this incentive, unusable credits would be treated as refundable overpayment of taxes. This proposal – called "E.R.I.C" -- has been identified as a priority issue for The Business Council's Innovation Committee.

   We appreciate that the Senate has passed this "economic resurgence" credit in both 2007 and 2008, and that similar legislation has been introduced in the Assembly.

2. Extend the investment tax credit for the securities industry and for security-related investments in the banking industry.

   The investment tax credit for security and commodity brokers and dealers, investment advisory services, investment-related lending activity, and security exchanges, as well as the Article 32 ITC for banking corporations, are all set to expire on October 1, 2008.

   By failing to extend this program, investment incentives would be reduced by $35 million in FY 2009 and by $75 million in FY 2010.

The Business Council believes that the state needs to continue to support new investment in the financial services sector and recommends extension of this important investment incentive.

3. Expand eligibility for, and increase the value of, the “qualified emerging technology company” investment credit. We support an increase in the credit for tangible property investments from 18 percent to 30 percent for research and development property; an increase in the credit for related expenses from 9 to 15 percent for “qualified research expenses”; as well as increases in the credit cap and expanded eligibility.

4. Provide telecommunication providers with an exemption from real property taxes for equipment installed for the purpose of distributing broadband technology equal to 100 percent of the assessed value for tax years one thru five after installation, 80 percent in year six, 60 percent in year seven, 40 percent in year eight, 20 percent in year nine and zero in year ten.

Economic Development Initiatives

It is encouraging to see broad support for significant new investments in economic development, both in the Executive Budget and in the Senate’s Upstate Now package.

The Business Council continues to assess the Governor’s Investment Opportunity Fund and Omnibus Economic Development Act, and will be providing both the Administration and the Legislature additional detailed comments in the very near future.

Today, I would like to provide comments on several economic development proposals included in the Executive Budget itself:

First, we are encouraged by a proposal for a multi-year program to deliver economic development power to energy-intensive businesses.

Recent one-year extensions, and a diminished Power for Jobs benefit for many program participants, have significantly lessened the value of this economic development tool.

The Business Council supports a new program with longer term contracts, and with broadened program eligibility that considers both the creation and retention of jobs, new investments, and other key measures of a business’ commitment to New York State.

We continue to evaluate the Administration’s proposals to restructure the state’s brownfield tax credits and brownfield program eligibility.

No doubt, the proposed increases in the tax credit percentage for cleanup costs and redevelopment costs would benefit certain projects.

However, we remain concerned about the impact that a fixed cap on brownfield site redevelopment tax credits could have on reinvestments in large industrial sites, particularly in upstate New York where there are numerous alternatives to brownfield sites.

Likewise, we think the proposed tax liability disclosure requirements are unrelated to efforts to better manage this program, and could discourage business participation in brownfield redevelopment efforts.

We are also concerned about the budget's implications for our state's unique pharmaceutical sector.

Efforts to achieve savings from the pharmaceutical industry through administrative actions undermine the state's ability to support New York's pharmaceutical and biotech industries and attract new investment.

Our concern here is that the more constraints we put on these industries - such as the proposal to expand bulk purchasing opportunities - the less likely these companies are to invest in New York.

These industries are economic and intellectual engines for New York's future, and we should work to support them.

Although not a budget issue, I feel compelled to comment on recent legislative activities on another important economic development tool – local industrial development agencies.

The Business Council is concerned that recent proposals to impose significant new costs on IDA-financed projects, such as prevailing wages for construction labor, and to impose new restrictions on IDA activities, will limit the state's economic development efforts.

Many significant private sector investments receive IDA support. We urge the legislature to move forward with an IDA reform package that promotes increased accountability and "transparency" of IDA activities without significantly weakening their economic development incentives.

How to Make it Work

Now, let's be fair. It would not be reasonable for me to come before you today and ask that you join us in opposing the new taxes and fees on New York State businesses included in the Governor's budget and also support economic development through targeted tax credits and other incentives needed to drive our innovation economy without suggesting ways to make the budget math work.

We know that we have a deficit and that the money, even if spending growth is reduced, still has to come from somewhere.

To that end, we propose reforming STAR, reducing the state workforce and further reductions in health care spending. And there are some new revenue sources proposed, such as new internet sales taxes, with which we have no quarrel.

In the interest of time, I just want mention our thoughts on STAR and property taxes. I also want to note our support for the Governor's new commission, chaired by Tom Suozzi, that is studying a property tax cap for New York State.

As I stated earlier, improving the state's economic climate is our top objective. We can think of no area more in need of significant reform than real property taxation.

And let's remember, the biggest tax on most businesses in New York State is the property tax.

While STAR sends state tax dollars back to lower- and middle-income New Yorkers, it imposes no controls on growth of school taxes.

The Comptroller's office says property taxes increased an average of 3 percent a year from 1995 to 2000, then an average of 7.1 percent a year from 2000 to 2005—more than double the rate of inflation, and more than double the rate of the previous five years.

Property taxes are a major economic burden, and a major drag on our economic competitiveness.

New York's local property taxes hit $37 billion in 2005.

Outside New York City, which levies a local income tax, property taxes averaged $2,303 per capita—the highest in the country and more than double the national average.

In addition, New York's businesses, which pay 30 percent of school property taxes, get no benefit from STAR.

The effective tax burden on business property is about $1 billion higher than it would be if it were taxed the same as residential property.

One alternative would be to cap both STAR and local property taxes. STAR could be capped at its 2006-07 level, for example, and local property taxes capped at 2.5 percent—about the rate of inflation.

A property tax cap would offset the impact of the STAR cap.

Freezing STAR at its 2006-07 level of $4 billion could save the state $1 billion in FY '08-09 and eliminate all consideration of tax increases in the new budget.

However, the key to a permanent solution is to adopt real mandate relief, and downsizing reforms, that will enable local governments to get by on less.

The legislature needs to roll back costly state mandates on local governments—and then help them consolidate, share services, downsize and realign their workforces to save taxpayer dollars.

Those reforms could include elimination of the Wicks law—requiring municipal governments to issue multiple contracts for construction projects drives up local construction costs by as much as 30 percent.

My comments this afternoon touch on several of the most significant issues and recommendations we have concerning the Executive Budget for Fiscal Year 2009.

We look forward to continuing this discussion with both the Administration and members of the State Legislature, and I look forward to responding to any questions you may have today.

Thank you very much for your time and attention