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Testimony Submitted To The New York State Joint Legislative Public Hearing On 2018-2019 Executive Budget: Taxes

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Testimony submitted by Greg Biryla, executive director, Unshackle Upstate

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Unshackle Upstate is an education and advocacy coalition made up of Upstate New York's large regional chambers of commerce, trade associations, employers and taxpayers from all parts of Upstate New York. Its leadership team is comprised of The Buffalo Niagara Partnership, The Greater Rochester Chamber of Commerce, The North Country Chamber of Commerce, The Greater Binghamton Chamber of Commerce and The Empire State Chapter of Associated Builders and Contractors.

Since Unshackle Upstate's founding in 2006, one of our primary areas of focus and continued concern has been the disproportionately high level of taxation imposed by New York State in contrast to the rest of the nation. Our concerns are supported by the nonpartisan Tax Foundation's 2018 State Business Tax Climate Index, which ranks New York as the second worst state in the nation for Business Tax Climate.

New York State's high tax burden is felt more acutely in Upstate New York, where our economy continues to struggle when compared with that of the New York City metropolitan region. Upstate also must contend with population loss and the collapse of the manufacturing sector that once stabilized its economy.

High taxes contribute to many of the economic challenges confronting Upstate communities:

- Since 2011, six of the state's ten federally designated Metropolitan Statistical Areas (MSA) have economically contracted: All of them Upstate, according to federal Bureau of Economic Analysis. During that same time frame, the New York City-Newark-Jersey City MSAs real GDP grew by 7.6 percent.
- Since the 2010 census, New York State has lost more than 1 million residents to other states. Our "net domestic migration" exceeds that of any other state.
- Upstate New York's total aggregate population has actually decreased by 60,000 people since the 2010 census and decreased by more than 23,000 residents in 2015.
- Of every 1,000 private-sector jobs that New York State added during the past 10 years, 981 were Downstate. Only 19 were generated Upstate, according to recent data from the U.S. Bureau of Labor Statistics' Quarterly Census of Employment and Wages (QCEW).

Said another way, 98.1 percent of the state's newly-created private sector jobs over the last decade can be found in the downstate region. Just 1.9 percent were created in Upstate.

Part 1: Testimony Relating To NYS 2018-19 Executive Budget Proposal

Some notable efforts to ease Albany's burden on taxpayers have occurred in recent years. Enacting a property tax cap and effectively reducing the state's corporate tax rate, taxes paid by manufacturers, personal income tax reductions and reforms to the estate tax were all positive steps to making New York more affordable for taxpayers and more competitive for employers. However, continued and additional positive action is required if New York State ever hopes to stop or reverse the aforementioned negative economic trends.

Unfortunately, the recently released 2018-19 executive budget proposal seeks to increase the state's tax burden, imposing some $1 billion in new taxes, fees, surcharges and assessments while making no serious effort to curtail state spending.

Fiscal Responsibility

According to the New York State's Assembly's analysis of the Executive Budget proposal for State Fiscal Year 2018-19 (the Yellow Book), New York State's all funds spending is projected to be $168.2 billion, a spending growth increase of 2.3 percent. The state funds portion of the budget is projected to increase 3.2 percent, totaling $112.4 billion.

The executive budget appears to hold State Operating Funds spending ($99.9 billion) below the previously adhered to 2 percent spending cap. However, an analysis by the Citizens Budget Commission finds that the State Operating Funds portion of the executive spending plan – through a series of budgetary gimmicks – actually increases State Operating Funds spending 4.1 percent ($102.8 billion).

During the past 7 years, Governor Cuomo and the Legislature have laudably tried to curtail state spending growth by subjecting it to a voluntary 2 percent spending cap. Holding the line on spending increases below 2 percent needs to again be a priority in this budget process.

Protect Middle-Class Taxpayers

As part of 2016's enacted state budget, personal income taxes were cut for middle-class taxpayers. The tax reductions are scheduled to take effect this year. If implemented as enacted, the 2016 tax cuts will save taxpayers $6.6 billion during the first four years and will result in $4.2 billion in annual savings when full implementation is complete in 2025. It is imperative that this tax relief is protected and implemented as originally enacted.

In addition to preserving agreed to and planned-for tax reductions, this year's budget proposal's dependence on new taxes should be rejected in favor of spending reductions, or structural reforms to New York State government that will lower cost of important programs, projects and services without forcing funding reductions.

Reject New Taxes, Fees, Surcharges and Assessments

New taxes proposed on health insurers and pharmaceutical manufactures will undoubtedly inflate the price of health care for all consumers; including the cost borne by employers and small businesses who seek to provide health insurance for their workers. Every year, Unshackle Upstate's chamber and association partners rank the cost of health insurance as a primary concern for their employer members.

Applying "highway right of way" use and occupancy fees for landline, wireless and broadband providers seeking to install fiber-optic cable across New York will stifle investment and further delay deployment of high speed internet service across Upstate communities.

We also oppose new taxes on certain internet sales transactions, new vehicle registration fees and other new or expanded surcharges fees and assessments.

New York State government does not have a revenue problem, it has a spending problem.

Protect Preserve Economic Development and Community Revitalization Tax Credits

Because of the high tax nature of New York State (as previously and repeatedly mentioned), it is often a practical necessity to incentivize economic development, particularly in economically-challenged Upstate. The executive budget proposal seeks to defer the use of and refund of certain business tax credits that exceed $2 million, including, the Investment Tax Credit, the Brownfield Redevelopment Tax Credit, and the Historic Rehabilitation Tax Credit, among others. These economic incentives (and others not listed) have delivered tangible benefit to Upstate New York's economy and communities.

The Brownfields Redevelopment Tax Credit and Historic Rehabilitation Tax Credit have been invaluable tools for the redevelopment of Upstate's communities. Long vacant, abandoned or underutilized properties that are difficult to affordably remediate have instead been redeveloped, returned to the tax rolls and been a driving force in revitalizing neighborhoods and downtowns.

Control Spending and Reform Government:

Unshackle Upstate and its partners understand that New York State faces budget challenges in SFY 2018-19 but raising taxes, leveling new fees and surcharges, and stifling proven economic development programs is not in the best interests of New York's economy or taxpayers.

Challenges present opportunities. New York State should seize this opportunity to fundamentally reform state bureaucracies, mechanisms, statutes and regulations that structurally and unnecessarily elevate costs in New York State. Reforming outdated, poorly-administered state government functions and expense-drivers like Prevailing Wage, Scaffold Law, Workers Compensation, Public Pensions and others can save New York billions – now and in the future. This can be done without threatening programs and services state government provides and residents across New York utilize.

Part 2: Testimony Related to NYS Department of Taxation And Finance's "Preliminary Report on the Federal Tax Cuts and Jobs Act"

Federal tax reform enacted in December will likely benefit many individual and employer taxpayers in New York State. We also understand that changes in deductibility of state and local taxes (SALT) presents challenges to a certain number of select taxpayers in New York State and raises concerns about the stability of state finances moving forward.

The New York State Department of Tax and Finance released a preliminary report in January that outlines several proposed tax policy changes and structural shifts in the way New York State collects revenue. The report devised these options with four key objectives in mind:

- Promote fairness for New York's taxpayers.
- Protect the progressivity of New York's tax system and the investment and services that benefit New Yorkers.
- Protecting and enhancing the competitiveness of New York's economy.
- Maintaining New York's revenue base in both the short and long term.

The professionals who researched and produced this report should be acknowledged and thanked for their effort and insight.

However, it could easily be argued that New York's current tax structure falls far short of promoting "fairness for taxpayers" or "enhancing our economic competitiveness."

Rather than provide clarity to the state's finance and revenue intentions, the report presents a Chinese restaurant menu of choose-your-own tax policy adventures, all of which seem to be impractical to apply, fraught with seen and unseen consequences, and full of potential negative economic concerns for employees, individual taxpayers, independent businesses, large employers, not-for-profits and local governments, and ultimately, New York's economic competitiveness.

The proposals to create new state-oriented vehicles to receive still tax-deductible charitable donations in lieu of paying personal income taxes, and/or local property taxes are legally questionable.

The proposals to eliminate all or part of the personal income tax and replace it with a still-deductible Employer Compensation Expense Tax or "payroll tax" on employers would place a wholly new and unique tax burden on New York State businesses that employers in other states do not have to contend with. There are serious doubts about whether the progressivity of the state's personal income tax could ever be replicated in a new payroll tax structure. Most design options presented in this preliminary report rely upon the questionable presumption that employees must accept a decrease in wages or employers must accept a sizable new tax burden. The preliminary report also raises the issue of employees whose wages cannot be easily reduced; those governed by contracts and collective bargaining agreements, or those subject to minimum or prevailing wage standards.

Another set of options presented in the preliminary report would institute some form of Unincorporated Business Tax (UBT) to be applied to certain kinds of pass-through businesses and the state would in turn provide individual owners of the pass-through business with an income tax credit corresponding to the value of the UBT.

The UBT proposed option also creates a new and unique tax imposed on certain types of employers. Even if narrowly tailored in its application and refundable, creating a new statewide tax vehicle will contribute to New York's reputation as hostile to business. A hypothetical UBT also creates opportunities for additional future taxation if applied broader by future administrations or legislatures.

One action the state can take to protect taxpayers and preserve state revenues is to decouple various state tax structures from the now altered federal internal revenue code legislation they are linked to.

This could be applied to personal income taxes, and certain business-based taxes to ensure deductibility remains at the state level for these taxpayers.

Ultimately, if New York State wishes to limit the negative impacts of its high state and local property taxes in response to changes in federal deductibility of SALT, New York State needs to actually address its high state and local property taxes. As mentioned, this budget proposal unfortunately does not put New York on a better path.

Your time, consideration and attention to our comments are much appreciated.

With regards,

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