



memo

TO: Government Affairs Committee Members
FROM: Heather Briccetti
SUBJECT: **Looking Ahead to 2010**
DATE: 9/25/09

In anticipation of the 2010 legislative session, each of The Business Council's action committees will be meeting to generate 2010 legislative priorities. The committee process should be completed by mid-December so that we can begin the 2010 session with a complete legislative agenda to be approved and circulated in time for our Legislative Reception in January.

Concurrent with the committee activity to develop the legislative agenda, we are developing proposals to present to the Governor and the Division of Budget as they put together the Fiscal 2010-11 Executive Budget. With deficits exceeding \$4 billion anticipated for next fiscal year, it will be very important that we offer support and assistance to the Administration in developing a budget that does not include tax and spending increases.

We have already met with Governor Paterson; Robert Megna, the Director of the State Budget Division; Ahmed Diomande, the Senate Finance Secretary; and Acting Lieutenant Governor Richard Ravitch to discuss how to balance the state budget without resorting to further taxes and fees. We will continue these conversations throughout the budget-making cycle.

Government Affairs staff continue to monitor a variety of legislative and regulatory issues that were raised in the 2009 legislative session and that will likely remain on the front-burner in the 2010 legislative session.

The following is an outline of what the Government Affairs staff sees as likely key issues for next year.

We appreciate your input.

Contract Procurement – The Legislature passed and the Governor signed a short-term extension of the Procurement Lobbying Law through early March, 2010. The Legislature has expressed strong interest in more substantive modifications to the Procurement Lobbying Law, in particular, language which would require reporting on and limiting the use of consultants, particularly in the realm of IT consulting, by state agencies which they believe “supplant” state workers.

Corporate Governance - The Business Council opposes legislation that would require certain corporations to permit shareholders to attend meetings via remote communication and to be deemed present for voting purposes.

Economic Development – 2010 will see expiration of two major economic development programs. The ability to certify new Empire Zone companies, or to add or modify Empire Zones, expires on June 30th, 2010. Likewise, the most recent temporary extension of Power for Jobs expires in May, 2010. The Business Council's economic development advocacy will center on long term replacements of these key incentive programs.

Energy – Our 2010 energy agenda will include long-term extension of the state's economic development power programs. It will also address needed investment in transportation and generation infrastructure. We will also attempt to roll-back recently-imposed energy taxes and assessments. On the other hand, we will be fighting against numerous proposals ranging from broad new greenhouse gas emission restrictions, restructuring of energy markets, and others.

Financial Services - The Business Council will continue to support legislation implementing a comprehensive regulatory framework for the life settlement business including: licensure, disclosure reports, clear compensation guidelines, educational requirements, examinations, comprehensive consumer protections and prohibition on stranger-originated life insurance transactions for a person with no insurable interest. In collaboration with members and other trade associations, we will continue to oppose legislation creating a new private right of action for a public retirement system, mutual fund, or other institutional investor pursuant to violations of the Martin Act. The Business Council will strongly oppose legislation that would grant credit unions the authority to accept municipal deposits. Finally, we will oppose legislation that requires mortgage lenders and brokers to provide the consumer with a Mortgage Bill of Rights brochure which must be signed by the consumer prior to mortgage application.

Health Care & Health Insurance – With all eyes focused on federal health care reform efforts, and with the Governor's stated support for Medicaid expansion as a means of bringing New York's uninsured population under a coverage umbrella, we expect the budget to continue to identify revenue sources to fund the various subsidized pools available in NYS. On November 9, the Council's Health Care and Health Insurance Committee is hosting a day-long forum on the impact of proposed federal health reform on New York's businesses and how they can position themselves for change.

Labor - We will continue to oppose legislation that imposes a prevailing wage mandate on certain off-site custom fabrication for related public work projects. With a new proposal in 2009 mandating a job guarantee for certain employers and stepping up the maximum disability benefit payment to almost \$600/week over four years, we expect Paid Family Leave to be active during the 2010 session.

Taxation – The Department of Taxation and Finance is considering significant business tax changes, including a merger of the Corporate Franchise Tax and the

Bank Tax. They have proposed “worldwide unitary” reporting, taxation of subsidiary and foreign income, new alternative minimum taxes and restrictions on the use of tax credits in exchange for an unspecified reduction in the corporate tax rate. Their proposal would also provide “customer sourcing” and single sales factor apportionment available to businesses currently taxed under the Article 32 bank tax. Our Tax Committee is currently reviewing an outline of this proposal. In addition, with a structural deficit of \$4 billion or more going into Fiscal 2011, we will undoubtedly be reacting to a number of other tax, fee and other revenue proposals.

Tort Reform - The Business Council supports a real cure for medical malpractice insurance with a reasonable cap on non-economic damages. The Council strongly opposes proposals that impose tax hikes on liability insurance to subsidize medical malpractice insurance for physicians. We will continue to support reforming New York’s “scaffold law” by substituting a comparative negligence standard rather than strict liability, for actions arising under Labor Law sections 240 and 241, respecting elevation related claims asserted by recalcitrant workers. Finally, we will oppose legislation creating a private right of action for improper debt collection procedures that would allow plaintiff’s to recover punitive damages and reasonable attorneys’ fees.

Unemployment Insurance - Both the Legislature and the Executive were seeking to increase the maximum unemployment benefit in each of the next four years and paying for that benefit increase with an increase in the taxable wage base. The Governor’s proposal, never formally introduced, also proposed modifications in the UI tax tables along with other changes to eligibility. This issue remains on the priority agenda for both houses and, with federally-funded extended benefits set to expire in December, a renewed push for early action on a benefit increase is likely.

Workers’ Compensation – A number of issues related to self-insured trusts, their solvency, and the assessments being levied by the Workers’ Compensation Board remain active, for which legislative action is necessary to resolve.