



The
Business Council
of New York State, Inc.

2006 LEGISLATIVE PROGRAM

Following is The Business Council's 2006 Legislative Program. It identifies priority issues to be addressed by the Committees and Councils during 2006.

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Construction

Staff Contact: [Nick DuBray](#)

Safety and Liability

Create a fair and equitable civil justice system by:

- Supporting efforts to encourage the availability and affordability of liability insurance.
- Supporting amendments to Sections 240 and 241 of the Labor Law to clarify the responsibilities and liabilities of owners, contractors and others in the construction process.

- Creating a statute of repose for engineers, architects and contractors.

Also, support legislation and regulation which would:

- Promulgate comprehensive written rules and regulations implementing the Voluntary Safety Program (established through the 1996 Workers' Comp Reform Act) which would increase workplace safety by allowing employers with premiums greater than \$5,000/year and safety mods below 1.3 who voluntarily establish certified safety and loss prevention programs to be eligible to receive a 5 percent premium credit for up to two years.
- Support legislation which would allow all industries (including construction) to be eligible for the Safety Premium Credit program. This program allows companies to take 5 percent of their investment in new technologies and apply it as a credit against workers' comp premiums up to 15 percent of their total premium for three years.
- Support legislation which would allow safety groups insured through the State Insurance Fund to be eligible for safety incentive credits.

Workforce Development and Apprenticeship Training Programs

Encourage public and public/private endeavors to meet the employment demands of the industry by preparing our future workforce through workforce development programs. This would include:

- Establishing fair and equitable state support of pre-apprentice and trainee programs.
- Requiring the state approve qualified unilateral apprentice programs even where the employer is a participant in a Joint Apprenticeship Training Committee.
- Encourage grant programs administered by private sector grantees.

Infrastructure Investment

- Encourage the use of prudent bonding for "hard dollar" construction. Such bonding should be financed with specific revenue sources not impacting the State's general fund obligations.
- Ensure that sufficient capital dollars are invested to maintain a safe, environmentally sound infrastructure, conducive to economic development.

Regulatory and Administrative

- Support the promulgation of comprehensive rules and regulations implementing the premium payroll cap that was established by legislation in 1998. Also, produce a compliance manual for affected employers.
- Require the Department of Labor to promulgate reasonable and equitable comprehensive written rules, regulations, and definitions for Section 220 of the Labor Law.
- Encourage better definition of sales tax exemptions and when are they applicable. Also, production of a "how to comply" manual for employers.
- Support the promulgation of comprehensive written rules, regulations, and definitions for what an "Independent Contractor" is.

Workers' Compensation

- Support legislation which would cap the length of time an injured worker can collect permanent partial disability benefits.
- Support prohibiting of workers' compensation benefits if an employee is intoxicated from alcohol and/or an illegal substance, or is in the act of committing a crime at the time of injury.
- Support the adoption of objective medical guidelines.

Fair Contracting

- Support legislation which would require public owners to pay contractors for delay damages upon documentation that public owners' action led to damages.
- Ensure that payments due contractors by public owners be expedited regardless of untimely budgets and insist that budgetary appropriations be regarded as promissory. If need be, pursue a legislative fix to the problem to ensure that contractors are paid for their work.
- Enhance the process by which payments are made upon the completion of public works projects. Encouragement of "quick payment" to contractors through technological advances, i. e. electronic transfer of funds.
- Oppose the extension of retainage beyond substantial completion.
- Support legislation which would require public owners to provide expeditious dispute resolution.
- Support legislation which would result in an alternative dispute resolution process between contractors and public owners that is fair, independent and timely.
- Insist that the contract processes be expedited upon award.

Competitive Bidding/Government Competition/Preferential Bidding

- Oppose the expanded use of state and municipal agencies' staff in the construction management profession, and in their associated construction trades. Maintain, if not strengthen, the competitive bidding laws by ensuring that procurement policy not be adversely affected.
- Oppose legislation which would increase the incidence of unfair competition.
- Oppose legislation which would create preference through: domicile requirements, preferred bid lists, licensure requirements, percentage of lowest bid, or any other mechanism which allows preferential treatment of one class of bidder over another on public works contracts.
- Oppose legislation that authorizes alternative project delivery systems on public work without objective criteria that preserves a fair and open process. Oppose public entities attempting to circumvent the competitive bidding process through the use of "contracting in" and "force account" within the construction industry. Ensure that the continued and expanded use of emergency contracts does not circumvent the competitive bidding process. Support limiting the use of inmates or other taxpayer funded entities on public works projects, other than for minor maintenance work.
- Support the selection of private sector architects and engineers on all public works projects

based on Section 136-a of the State Finance law.

Affirmative Action

- Support capital project appropriations which would establish mentoring, training, and/or revolving loan programs to allow equal access to the construction, and related trades, of minority, women, and small business entrepreneurs. Support efforts which would encourage increased opportunities for participation of available and competitive minority, women, and small owned business enterprises as well as economic opportunity for minority, women, (M/WBEs) and small business enterprises (SBEs) in the construction industry.
- Encourage uniform statewide implementation of Article 15-A, which promotes use of minority and women-owned business enterprises on public contracts.

Other Issues

- Support legislation which would permit mechanic's liens to be filed against the real property when private improvements are situated on publicly owned property. Oppose legislation which would require "wrap-up" insurance and surety bonds on public works projects.
- Oppose onerous mandates or unnecessary licensing requirements.

Consumer

Staff Contact: [Nick DuBray](#)

- Support labeling and packaging requirements for food, drug and products be done at the federal level.
- Support necessary warranty requirements be imposed at the federal level to ensure nationwide consistency.
- To ensure nationwide consistency, oppose legislation which amends New York State's Fair Credit Reporting Act beyond the standards established by the federal Fair Credit Reporting Act.
- Oppose legislation which restricts the release or sale of names on consumer lists.
- Oppose legislation that would impose additional government mandated restrictions on the terms of franchise agreements.

Contract Procurement

Staff Contact: [Ken Pokalsky](#)

- Support reform and permanent extension of the Procurement Stewardship Act. TBC supported reforms would:
 - increase the threshold for discretionary purchasing by state agencies and municipalities.
 - assure a more timely approval of contracts by: increasing the threshold for Office of State Comptroller's pre-audit of state contracts reducing the time period for OSC pre-audit reviews, and by clarifying responsibilities of agencies, OGS and OSC in the permit review process.
 - provide for a centralized vendor responsibility database that required periodic updates and a reasonable scope of inquiry regarding past legal compliance and contract performance.

- provides for broader use of leasing by state agencies.
 - provide for on-line distribution of the state Contract Reporter.
 - provide for post-award debriefings for unsuccessful bidders.
- Support amendments to the 2005 Procurement Lobbying Act to establish a more reasonable definition of procurement lobbying activities, to clarify prohibitions on contingent contracts, and eliminate inconsistencies between the Legislative Law and State Finance Law. %%Support either the repeal of Executive Order 127, or incorporation of certain provisions of EO 127 into the Procurement Lobbying Act.
 - Oppose legislation that imposes undue new restrictions on state contracts, including prohibitions on the use of out of state or "offshore" resources to service contracts; unreasonable criteria for state personal service contracts; and requirements for vendors to submit their employee data to the state.
 - Support the use of "cost of ownership" criteria in any use of "aggregate purchasing" by the Office of General Services.
 - Support adoption of reasonable general contract conditions by OGS that avoid imposing unreasonable obligations or liabilities on vendors.
 - Support legislation that exempts homeland security-related procurement that is federally funded from OSC pre-audit requirements.

E-Commerce **Staff Contact: [Elliott Shaw](#)**

Mission statement

The explosion of technological innovation has allowed consumers and businesses to expand their interactions on the web. Some of these expansions lead to uncharted territory and raise issues of privacy, taxation, free-speech and security. The Business Council supports balanced and sensible legislation and regulations to protect consumers and businesses from unscrupulous practices on the web, without jeopardizing the legitimate commerce interests of the vast majority of users.

- Support the enforcement of existing laws against fraudulent and deceptive marketers.
- Support a moratorium on taxation of Internet services.
- Oppose restricting access to vital information businesses use to determine credit-worthiness.

Economic Development **Staff Contact: [Ken Pokalsky](#)**

- Adopt broad-based reform measures, as detailed under other Legislative Program headings, that will produce a more competitive economic climate in New York State. These include, but are not limited to: business tax reforms; workers' compensation reform; reducing the cost of health care; reducing the cost of, and assuring the supply of, electric power and natural gas.
- Reform, integrate and extend existing state electric power programs, including Power for Jobs and the Economic Development, High Load Factor and MDA power programs, with a focus on energy-intensive business sectors, and with criteria including but not limited to job retention, capital investments, improvements in efficiencies, and others.

- Expedite full implementation of the NYS Foundation for Science, Technology and Innovation and its Regional Partnership Program - as authorized in Chapter 59, Laws of 2005.
- Explore additional opportunities to support region-based economic development efforts.
- Support creation of a refundable state credit for real property taxes (similar to the Empire Zone RPT benefit) that would apply statewide to manufacturers making significant capital investments for the purpose of improving their productivity and competitiveness and retaining existing employment.
- Promote creation of broad business tax credits for energy efficiency investments, including but not limited to investments in new process equipment, systems, heating/cooling/insulation, lighting, on and off road vehicles, transportation activities and others.
- Support legislation to adopt a "prudent investor standard" for the New York State Common Retirement Fund (CRF), in part to facilitate additional CRF investments in their alternative investment portfolio/private equity investments.
- Support full funding of key Empire State Development Corporation programs, including but not limited to: "Jobs Now," Empire State Economic Development Fund, Regional Technology Development Centers, and business marketing programs.
- Support increased state support for incumbent worker training and training programs that target employer needs.
- Support legislation that would further promote the in-state commercialization of technologies developed through New York's university-based technology investment programs.
- Oppose legislation that imposes either excessive expansion of, or places undue restrictions on, the use of eminent domain authority for economic development purposes.
- Support the development and adoption of reasonable land use and development planning initiatives. Oppose legislation which restricts economic growth in New York under the guise of promoting "smart growth."

Education and Job Training **Staff Contact: [Margarita Mayo](#)**

- Continue to support high standards and the Regents graduation requirements and oppose any legislation that would undermine them.
- Support the establishment of a Math and Science scholarship program to fund up to 500 competitive scholarships of up to \$20,000 a year to New York college students who commit to major in science or math, and then to obtain teacher certification and teach in New York public schools for a minimum of five years.
- Support the provision of a 50 percent tax credit for individual or corporate contributions to scholarships in Math, Science and Engineering given to New York students attending New York colleges.
- Support funding for Just4kids.org and the establishment of a state Pathfinder Award for most improved schools.
- Support expanding the Liberty Partnership program to include a focus on encouraging students

to get into math, science and engineering programs and ultimately jobs.

- Support maintaining high standards for career and technical education.
- Support the removal of the statutory cap on the creation of more charter schools
- Support pre-kindergarten programs for disadvantaged children.
- Support the use of technology to improve instruction, to ensure that children are technologically literate, to offer a wider range of courses through on-line learning, and to streamline administrative and management functions.
- Support making it easier for parents to choose which school they send their child to by supporting tax credits educational expenditures made by parents including tuition expenses.
- Support the establishment of public private partnerships to promote higher student achievement and linkages to the workforce.
- Support extending the school day and school year and professional development for teachers that is directly related to increasing student achievement of the state standards.
- Support differential pay for teachers in the high demand areas of math and science.
- Support the elimination of mandates and improvement in the ability of management to more cost-effectively utilize taxpayer dollars by repealing the Wicks Law and Triborough amendment to the Taylor Law.
- Support measures that make tenure laws more rational relative to teacher competence and that streamline the 3020-a processes.
- Support improvement in the equity and accountability of the school aid formula.
- Support improving special education reimbursement methodology to make it revenue neutral with regard to the placing or labeling of students in special education programs.

Higher Education

- Support SUNY Excelsior Research Faculty Initiative to reward universities for new gains in securing federal research grants by providing a 20 percent research match from state dollars and strongly support a similar program for independent research universities.
- Support predictable tuition increases in SUNY and CUNY senior and community colleges that don't exceed the Consumer Price Index.
- Support enabling SUNY and CUNY to charge differential tuition between campuses and/or programs.
- Support allowing SUNY and CUNY campuses to use any tuition increase revenues to continue their efforts to raise quality standards.
- Support restoration of unrestricted aid to independent colleges and universities (commonly known as Bundy Aid) and continued improvements and funding enhancements in the Tuition Assistance Program. Part of any tuition increases should also be devoted to offset the higher tuition costs for needy students.
- Support merit scholarships and any expansion of such scholarships.

Job Training

- Support the provision of additional state dollars and support directing federal training dollars for incumbent worker training through employer consortium training programs.
- Support increased funding for community colleges to provide employer-specific training to individual employers on a contract course basis.
- Support individual training vouchers, based on income and circumstances, for individuals choosing short term non-degree training programs.
- Support expansion of the EPP (Employment Preparation Program) aid for adults who lack the basic skills needed to be successful in the job market. Allow employers to access such funds for on site GED programs. Support providing more basic skills training in the workplace.
- Support programs that provide teachers, guidance counselors and other educators with more information about careers and employer's skill requirements and expectations.
- Support requiring the state to approve qualified unilateral apprentice programs even where the employer is a participant in a Joint Apprenticeship Training Committee.
- Support year-round youth programming that is focused on the exploration of high demand career opportunities, that motivate students to stay in school and meet and exceed the state's academic standards.
- Support the utilization of federal training and TANIF funds to enable employers to hire and "tryout" persons who have a history of multiple barriers to employment to overcome.

Energy

Staff Contact: [Anne Van Buren](#)

The following list of priorities was adopted on Dec 6, 2005.

1. Extend/Restructure New York's economic development power programs.
2. Continued emphasis on energy infrastructure development in New York State (generating plants, transmission, pipelines, LNG facilities, etc.)
3. Systems Benefit Charge (SBC)
4. Renewable Portfolio Standard (RPS)
5. Continuation/preservation of energy tax reductions/cuts.

Mission Statement

Support a statewide policy that encourages a safe, secure, reasonably priced, reliable and diverse supply of energy. Actively promote changes to the state's legislative, regulatory and tax structures to reflect increased competition in New York's energy industry, promote increased economic development, and expedite the siting and construction of new generation (e.g. under Article X of the Public Service Law and in other areas) and other energy infrastructure facilities (e.g. Article VII of the Public Service Law).

Tax Issues

- Promote the creation of broad business tax credits for energy efficiency investment including,

but not limited to, new process equipment, systems, heating/cooling/ insulation, transportation activities and others.

- Oppose legislation that would re-impose or increase energy taxes or fees, including local gross receipts taxes.
- Support elimination of state and local sales tax on the gas and electric commodity.
- Support legislation that would immediately eliminate Article 9 gross receipts taxes (§186-a of the New York State Tax Law) for all remaining customers.
- Support the well-established, but occasionally ignored principle that the real property tax assessments of energy companies should not exceed those of corporations with real property assets of like value.
- Support legislation which eliminates the State's Petroleum Business Tax (PBT) in all its applications.
- Support legislation which unifies all petroleum-related taxes on motor fuels into one single excise tax, collectable on a cents per gallon basis.
- Support the elimination of special assessments on energy companies for funding state agencies.
- Support legislation that would enforce the collection of taxes on motor fuel sales by native American nations to non-native Americans.

Policy Issues

Electricity and Natural Gas

- Support initiatives to facilitate the development of new electric generating capacity, electric and natural gas transmission and distribution facilities and other energy infrastructure. Such initiatives would include, but not be limited to, supporting the introduction of a new, streamlined siting statute that would encourage the development of safe, secure, reasonably priced, reliable and diverse supplies of electricity.
- Oppose regulations or legislation that would reduce SO₂, NO_X, CO₂, and mercury emissions from electric generating plants to levels that would result in increased energy costs for consumers or that would create competitive disadvantages from the cumulative effect of environmental regulations. Any proposed emissions standards must not impose any adverse effects (cost or otherwise) on the business community, on other users of electricity, or on the economic development of the state -- including the retention and expansion of jobs.
- Oppose efforts to require energy companies to locate jobs and/or facilities within certain geographic locations.
- Oppose legislation that would allow a municipal corporation to recover damages from utilities for their costs in responding to power outages and other emergencies.
- Support the Power Authority's efforts to utilize low-cost energy for job creation; job retention; and job and capital expansion purposes. These allocations should be utilized for maximum economic benefit.
- Support legislation that would facilitate the allocation of low cost electricity to large consumers with provisions that hold providers and distributors harmless.

- Support legislation and initiatives that would reimburse energy companies fully for the cost of relocating, supporting, and protecting facilities in conjunction with federal, state and/or local government infrastructure projects such as state Department of Transportation projects.
- Support market driven emissions trading policies.
- Oppose the legislative appropriation of funds for the System Benefits Charge (SBC) and Renewable Portfolio Standard (RPS) programs.
- Oppose legislation that would require the provision of market sensitive information to state agencies.
- Support legislation which would provide state agencies with the necessary flexibility to exempt certain sensitive information such as maps, architectural drawings, or other detailed information relating to electric, natural gas, steam or telecommunications systems or infrastructure from public disclosure while maintaining the existing appeals process for gaining access to such information.
- Oppose legislation that seeks to restrict the use of certain outdoor lighting installations thus resulting in less effective and less safe illumination of roadways and other public spaces.
- Oppose legislation that would restrict or prohibit the construction of natural gas infrastructure within certain distances of schools or any other designated facilities.
- Oppose legislation that mandates specific technologies for electricity generating facilities.
- Oppose legislating programs which raise the cost of electricity and natural gas to customers, including proposals that unduly subsidize alternative supply strategies.

Petroleum

- Oppose legislation which imposes geographical limitations on the location of retail gasoline service stations.
- Oppose legislation that would require the divorcement / divestiture of retail gasoline stations operated by producers, refiners or distributors of petroleum products.
- Oppose legislation which regulates franchise agreements and mandates open supply for gasoline service stations.
- Support legislation which would increase penalties for gasoline tax evasion and expand the same provisions to include diesel motor fuel.
- Oppose legislation that would prevent petroleum companies from utilizing geographical zone pricing of gasoline as a marketing technique.
- Oppose legislation and/or regulations which set state or local gasoline standards which vary from federal standards.
- Oppose legislation which would prohibit volume minimums in motor fuel franchise agreements.
- Oppose legislation that would permit lessee dealers of gasoline service stations to alter the service station property.

General

- Support the full and expedited recovery of expenses incurred by energy companies in the wake of the World Trade Center attacks. Significant repairs were necessary to restore the electric, gas and steam systems in response to the September 11, 2001 terrorist attacks and hundreds of millions of dollars were spent in emergency utility services, site cleanup, replacing and relocating facilities and equipment, and enhancements in the security of such services. In August 2002, the President and Congress allocated \$750 million of Federal aid, a significant amount of which is dedicated toward reimbursing utilities for these costs. To date only a small portion of the promised aid has been disbursed.
- Oppose legislation which would require the New York State Public Service Commission to review the compensation and benefits paid to certain officers, directors, and high level employees of the companies it regulates.
- Oppose legislation which further erodes the statutory protection afforded to the business records of corporations which are affiliates of public utility corporations.
- Support legislation and initiatives that authorize municipalities, in the conduct of public works projects, to use appropriate mechanisms for reducing public inconvenience, project delays and costs, including but not limited to treating the cost of utility facility relocations, support and protection work as part of the public project bid.
- Support efforts to continue the development of competitive markets in New York.
- Support efforts to ensure that the costs of additional security at energy-related facilities are fully recoverable.
- Oppose legislation which would impose redundant "whistleblower" reporting requirements.
- Support the continued operation of all existing, economically viable, base-load electric generating facilities, including nuclear plants, as a means of ensuring stable and competitive prices and supply diversity.
- Support a statewide energy planning process that encourages a safe, secure, economic, reliable and diverse supply of energy.

Environmental Conservation

Staff Contact: [Ken Pokalsky](#)

- The Business Council will be proposing legislation to address several adverse impacts related to hazardous waste fees, including:
 - assure no retroactive imposition (prior to 4/1/05) of special assessments based on the Appellate Division's decision in CWM v. Roth.
 - re-establish a special assessment exemption for all remedial wastes, and eliminate "double taxation" of process wastes generated and disposed of within New York State (this issue depends on outcome of Court of Appeals review of CWM v. Roth.)
 - continue to roll back the 2003 program fee surcharges by: repealing the \$6,000 surcharge on generation of hazardous wastewater; exempting all recycled hazardous wastes from hazardous waste program fee surcharges.
- The Business Council will be proposing legislation to amend the state's "chemical facility security" act (Section 714 of the Executive Law) to:
 - limit the scope of facility upgrades that can be required to address potential acts of terrorism, and

- reassign the authority to require security improvements from the Department of Environmental Conservation to the Office of Homeland Security.
- We will also be responding to legislative proposals to adopt new state-level anti-terrorism requirements for other sectors (e.g., transportation.)
- Continue to work with the DEC to assure reasonable amendments to the state's "new source review" regulation (Part 231), and assure that any newly adopted state-level PSD regulation include all available federal reforms (i.e., use of past actual to future potential test; extension of base-line period; adoption of pre-existing exemptions for routine maintenance).
- Continue to address issues related to the remediation of hazardous waste/hazardous substance disposal sites, including:
 - establishment of a reasonable state policy for assessing and responding to vapor intrusion impacts.
 - respond to DEC's proposed restructuring of Part 375 affecting state superfund cleanups, implementation of the state's brownfield program, and establishment of soil cleanup standards for brownfield sites.
- Assure continuation of reasonable Title V air emission fee program, and effective implementation of the Title V permit programs.
 - oppose any unreasonable changes to the Title V fee program. Last year, the Executive Budget proposed to increase the fee cap to \$58 per ton, and impose a minimum \$1,250 permit fee.
- Reportable Quantities - Amend Part 597 "reportable quantities," to make New York State's program more consistent with federal release reporting requirements.
- Oppose legislation that allows towns to adopt local 2% real property transfer tax for purpose of open space preservation account.
- Oppose legislation that extends NYS's freshwater wetlands regulatory program to all wetlands over one acre in size.
- Oppose legislation to extend the bottle bill to wide range of non-carbonated beverages and captured unclaimed deposits for state spending through the "Environmental Protection Fund."
- Support statutory and regulatory changes to streamline the DEC's project review process, including: clarifying the standard for when a permit application is "complete;" heighten the standard for adjudication of issues through permit hearing process; mandatory comment and review timetables; time limits concluding the application and hearing process; and a 'fast-track' process for applications that improve environmental performance.
- Support legislation and/or regulatory measures to encourage the use of environmental management systems, including incentives related to enforcement and penalties, compliance flexibility, regulatory oversight, and reporting requirements.
- Support legislation that allows the waiver (or reduction) of civil penalties in instances where minor violations are quickly identified, reported and remedied.
- Oppose adoption of state-level "citizen suit" legislation.
- Oppose new restrictions on the safe, lawful use of pesticides, such as mandatory phase-out of pesticide use, and state-level bans on federally-approved specific pesticide products.
- Oppose legislation that would impose restrictions on the use of specific chemicals or

compounds in the manufacturing process, or impose new product labeling and/or product "takeback" requirements based on production materials.

- Support legislation that provides a FOIL exemption for material submitted to the Environmental Facility Corporation's multimedia compliance assistance program.
- Support legislation that makes small business environmental compliance efforts eligible for state financial assistance programs.

Financial Services **Staff Contact: [Anne Van Buren](#)**

- Oppose efforts to eliminate the deductibility for banks and other corporations of dividends received from REITs (Real Estate Investment Trusts).
- Oppose legislation that would place restrictions on the ability of businesses to engage in either outsourcing or offshoring activities.
- Oppose efforts to limit ATM access fees.
- Oppose changes in the Tax Law that single out the banking industry for unfair taxation.
- Oppose the requiring of emergency 911 buttons on ATMs.
- Oppose legislation which regulates fees and charges associated with gift cards and gift certificates.
- Support policies and practices that safeguard customer privacy and penalize identity theft.
- Support compliance with recently enacted federal law regarding vicarious liability.
- Support an extension of the Bank Tax without amendment.

General Counsel **Staff Contact: [Larry Justice](#)**

- Support comprehensive civil justice reform.
- Support restructuring the unified court system.
- Support changes to Labor Law 240/241.
- Support the extension of Court of claims jurisdiction to include claims by or against any local government or by or against any public officer or government employee.
- Oppose awarding pre-judgment interest in personal injury actions.
- Oppose awarding damages for bereavement, emotional loss and mental anguish in wrongful death actions.
- Support expansion of the Commercial Division of New York Supreme Court.
- Oppose legislation which restricts the use of protective orders to keep discovery exchanged in civil litigation confidential.

Health

Staff Contact: [Elliott Shaw](#)

Support initiatives that can reduce health-care costs in New York State:

- allowing employers to maximize use of Health Savings Accounts created by the federal Medicare Modernization Act, by also allowing them to purchase a consumer-driven health insurance plan. Such an initiative can be found in Freedom Health Plan legislation - which allows for higher deductibles and fewer insurance mandates - sponsored by Senator Seward and Assemblyman Morelle.
- enacting medical liability and pharmaceutical tort reform.
- lending support to the work of the Commission on Health Care Facilities in the 21st Century, to restructure and rightsize the hospital system in New York to make it more affordable for employers and taxpayers and financially stronger as a whole.
- restricting the state from off-loading the cost of general health programs onto health insurance premiums.

Support initiatives that improve the delivery of quality health-care:

- utilizing HEAL NY funding for health information technology initiatives such as, electronic health records, e-prescribing and e-imaging.
- developing pay for performance programs that reward measurable quality outcomes.
- designating centers for excellence which recognize that certain providers excel at delivering higher-quality health-care.

Support further Medicaid reform:

- expediting the implementation of disease state management programs.
- assisting local governments who desire more information technology tools to examine Medicaid expenditure patterns, which can leading to cost-saving opportunities.
- allowing waivers from New York's prescriptive requirements, so that they are able to design a more cost-effective model.
- implementing more aggressive fraud prevention and detection programs.
- designing a benefit package that more closely reflects the benefits offered by private sector and government employers.

Oppose initiatives that make health insurance more expensive:

- oppose play or pay proposals that call for steep, punishing new taxes on businesses that can not afford to purchase health insurance for their workers.
- oppose new health insurance mandates.
- oppose cost-shifting from the direct pay market to the small group market.

- oppose off-loading the cost of general health programs onto health insurance premiums.

Insurance
Staff Contact: [Anne Van Buren](#)

General

- Support measures to reform New York State's tort system.
- Support reduction in premium taxes on the insurance industry in New York.
- Oppose the excessive sub-allocation of funds from the Insurance Department budget to other agencies, which are funded by assessments on insurance carriers.
- Oppose legislation to place limitations on policy or coverage exclusions.
- Establish performance standards for the Department of Insurance Fraud Unit including an annual report on the activities of the unit.
- Support the reform of Sections 240 and 241 of the Labor Law.
- Support legislation repealing joint and several liability.
- Oppose any further prohibition, restrictions or penalty for the use of statistically valid risk indicators.
- Support reasonable standards to promote insurance company solvency and oppose unreasonable restrictions and burdensome reporting requirements on investment powers of the insurance industry.
- Ensure that identity theft and social security number restriction legislation continues to permit insurers to use SSNs and credit reports for necessary business functions.
- Oppose the use of fines and penalties for specific revenue purposes.
- Support legislation to make permanent the law allowing the expanded use of derivative and replication transactions as part of an insurer's investment plan.

Health & Life

- Support the continuation of the streamlined process for file and use policy forms with the insurance department.
- Support "speed-to-market" initiatives and the Interstate Compact Proposal which will serve to expedite uniform product approval processes, as set forth by the National Association of Insurance Commissioners (NAIC), the National Conference of Insurance Legislators (NCOIL) and the National Conference of State Legislatures (NCSL).
- Oppose increases in the premium tax or the imposition of any new taxes on insurers.
- Support legislation to regulate viatical and life settlements provided such legislation does not impose unreasonable requirements on life insurers.
- Oppose the inclusion of variable life insurance and variable annuities within the definition of

"security" in the Uniform Securities Act as proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL).

- Support health plan flexibility to market products that increase cost sharing through flexible copayments of specific services or providers.
- Support legislation which would authorize designation of funeral firms as beneficiaries of certain life insurance policies and allow for the payment of commissions on such policies to funeral directors who are also licensed life insurance agents.
- Oppose efforts to limit health insurer/HMO ability to recover overpayments, incorrect payments, etc., from health care providers without having to demonstrate fraud.
- Oppose efforts to limit or prohibit insurer/HMO subrogation rights when a subscriber is awarded damages from a third party, including health care costs, for services paid for by a health insurer/HMO.
- Oppose efforts to broaden the standard of liability and increases in damages on health plans and providers.
- Oppose further expansion of mandatory and make-available health insurance coverage of specific benefits and services, and support the requirement of a fiscal analysis of all insurance mandates prior to legislative consideration.
- Oppose universal health insurance measures which require employers to either provide health insurance or pay financial assessments.
- Support the adoption of health plans risked based capital standards or increased reserve requirements.
- Support the adoption of the Medicare 95% standard used to determine if a health plan is compliant with statutory prompt payment requirements.
- Oppose efforts to change existing utilization management and prompt payment requirements that would prevent proper investigation of fraud and abuse.
- Support increased funding for report card and other quality measurement tools to provide more meaningful information and accountability to group purchasers.
- Encourage managed care for all applicable lines while opposing legislation which impedes the growth of managed care including "any willing provider" and "unitary pricing" proposals.
- Support increasing the capacity for international investments by life insurers.
- Support legislation that will make permanent the revision to the formula establishing surplus limits for certain domestic life companies.

Property & Casualty

- Support voluntary market solutions to insurance market availability problems, including but not limited to coastal insurance issues.
- Support rate and form modernization to promote market based solutions.
- Support legislation reforming the Workers Compensation system that results in cost savings to the system.

- Support proposals to deter no-fault fraud.
- Support long-term reform of state guaranty fund system to help secure stability and solvency of the guaranty fund.
- Support legislation amending the Standard Fire Policy to eliminate coverage for "fire following" a terrorist event.

Labor/Human Resources
Staff Contact: [Tom Minnick](#)

Employee Benefits

- Oppose any government mandated employee benefits, especially the use of Disability Insurance payments for paid leave or paid time off.
- Support legislation which makes it easier for business to offer dependent care program options.
- Support the implementation of reasonable, objective medical guidelines, a maximum 500 week payment schedule for non-scheduled partial impairments for workers' compensation cases and a reduction in the "Second injury fund" assessment from 150% to 110%.
- Oppose the effort to prohibit different co-pays for mail order and non-mail order employee drug prescription programs.

Employment

- Support the doctrine of "employment at will" and oppose any attempt to undermine an employer's right to employ and terminate employment.
- Support legislation which protects an employer's ability to create a drug-free workplace and excludes current drug and alcohol abuse from protection under the Human Rights Law.
- Support legislation which would provide limited liability to employers who provide good faith employment reference information.

Human Rights

- Support legislation which facilitates employer actions to eliminate sexual harassment and domestic violence and discourage additional mandates and remedies under the Human Rights and Labor Laws.

Labor Relations

- Oppose the use of a "union only" workforce in public and private projects and continue support of New York's competitive bidding laws.
- Oppose any attempts to limit an employer's right to operate during a labor dispute.

Pay Administration

- Support the concept of "equal pay for equal work" and oppose the doctrine of comparable worth in both the public and private sectors.
- Oppose the living wage concept.

Miscellaneous

- Support amendments to the Public Health Law allowing the use of employee smoking rooms in the workplace.
- Support a civil mediation process to serve as a first resolution effort prior to litigation and oppose any limitations to employer or agency Alternative Dispute Resolution procedures.
- Support amendments to the Industrial Homework Law that give employers flexibility to allow workers the ability to work from home.
- Oppose legislation that mandates studies, policy development and training in workplace violence prevention.

Regulatory

- Support the continuing activities of the state and local Workforce Investment Boards.

Manufacturing **Staff Contact: [Ken Pokalsky](#)**

- Support additional tax reforms to promote increased competitiveness, including allowing the application of the Research & Development-based ITC against the article 9-a minimum tax bases, and reducing the minimum income tax from article 9-a taxpayers from 2.5% to 2.0%.
- Support legislation to reduce the cost of workers' compensation insurance, including limits on "permanent partial" disability awards, objective medical standards for assessing partial disabilities, and others.
- Support legislation to reduce the cost of group health insurance plans by: limiting state-imposed coverage mandates; reducing state charges on hospital bills; and other reforms.
- Support measures to reduce the cost of electric power, and to assure reliable and adequate power supplies. These include the development of new electric generating and transmission capacity in New York State that is necessary to assure adequate supplies and to achieve more competitive markets.
- Reform, integrate and extend existing state electric power programs, including Power for Jobs and the Economic Development, High Load Factor and MDA power programs, with a focus on energy-intensive business sectors, and with criteria including but not limited to job retention, capital investments, improvements in efficiencies, and others.
- Reduce and reform hazardous waste-related fees imposed on manufacturers; eliminate any "double taxation" of process wastes generated and disposed of within New York State; exempt all recycled wastes from waste end assessments and surcharges.
- Expand the sales tax exemption for energy used in manufacturing processes to include: computers and software used predominantly in manufacturing processes or in related research and development; reconditioning of manufacturing tools; energy costs related to maintaining a

controlled manufacturing environment.

- Support tort reform legislation that: repeals "joint and several" liability; caps non-economic damages; establishes a "statute of repose" to limit the period in which a manufacturer can be held liable for damages attributable to its product; allows consideration of plaintiff's negligence; and limits contingency fees.

Occupational Safety & Health

Staff Contact: [Nick DuBray](#)

- Support legislation to license occupational safety and hygiene professionals.
- Continue to assist in the development of homeland security issues as they relate to the business community.
- Respond to mold related legislation to ensure that the public is protected and to ensure that safety and health professionals are recognized as qualified to oversee mold remediation activities.
- Strongly oppose any effort by the state to develop and implement its own state OSHA plan.
- Oppose legislation that would place restrictions on the use of, or set state-level equipment standards for VDT's in the workplace.
- Oppose legislation that would impose state-level regulations in areas pre-empted by the federal Occupational Safety and Health Act. For example, oppose legislation that would mandate that employers provide medical monitoring services for all employees within broad occupational categories.
- Propose and support amendments to the state's asbestos abatement law to make it more risk-based by exempting from regulation those activities and materials which do not pose a threat.
- Support amendments to sections 240 and 241 of the labor law to create a comparative negligence standard on third party suits.
- Continue to monitor activities of the New York State Occupational Health Clinics Network and to promote business participation on local OHCN advisory committees.

Small Business

Staff Contact: [Nick DuBray](#)

Fundamental Changes

- Support initiatives to make health insurance more affordable by a) allowing employers to purchase a foundation health plan similar to Healthy New York, b) opposing new mandates and creating a cost-benefit commission, c) allowing flexibility and choice in benefit design by encouraging consumer-driven health plans, and d) opposing cost-shifting from the direct pay market to the small group market.
- Strongly oppose "play or pay" proposals that call for steep, punishing new taxes on small businesses that can not afford to purchase health insurance for their workers.
- Support comprehensive legislation reforming New York State's costly civil justice system.

- Support Repeal of the Estate Tax.

Other Changes

- Reduce employers' costs by enacting major reforms to the worker's compensation system, such as amending the Worker's Compensation Law to reduce costs of permanent partial disability cases by establishing scheduled awards, implement objective medical guidelines for the determination of disability cases, and reduce assessments that support the second injury fund.
- Continue to monitor the Unemployment Compensation Trust Fund and advocate and support the most economical option for employers' responsibility to finance the UC Trust Fund.
- Support a requirement that chambers of commerce be allowed to market and administer Healthy New York and sole proprietor health insurance policies.
- Support electronic commerce, but oppose any mandates on all businesses.
- Oppose legislation that places smaller businesses at a competitive disadvantage with bigger businesses.
- Support the collection of state and local taxes on tobacco and motor fuels sold by Native American tribal stores to non-Native Americans.

Taxation

Staff Contact: [Rich Schwarz](#)

All Supported

Corporate Article 9-A Tax

- Maintain as scheduled the implementation of the "single sales factor" method for apportionment of taxable income.
- Apply Research & Development-based Investment Tax Credit to the alternative minimum tax bases.
- Reduce the Minimum Taxable Income tax rate from 2.5% to 2.0%.
- Expensing of capital assets.
- Provide for the sale of earned, but unused, Investment Tax Credits.
- Apply carried forward Investment Tax Credits against the Sales & Use Tax.
- Expensing of investments as an Investment Tax Credit alternative.

Personal Income Tax

- Adopt "single sales factor" apportionment for partnerships including LPs, LLPs, and LLCs treated as partnerships for Federal tax purposes.
- Expensing of capital assets.

New York City Corporate Tax

- Clarify that receipts for advertising appearing in magazines and periodicals are receipts from the sale of tangible personal property for City of New York tax purposes, thus rendering the publishing industry eligible for "double-weighting" of the receipts factor in corporate income apportionment.

Articles 21, 32, and 33 Tax

- Reduction of the Highway Use Tax (ton mileage tax) by another 25% of its pre-1998 level and conversion of the remaining tax into a 50% increase in registration fees for trucks subject to the Highway Use Tax.
- Extension of the Investment Tax Credit to leased equipment and to insurance operations.
- Establishment of permanency in (a) Article 32 itself, (b) ITC provisions in Articles 32 and 33, and (c) in the Financial Modernization Rules.
- Expensing of capital assets.

Telecommunications Tax Reductions

- Reduction of Section 186-e Telecommunications Utility Gross Receipts Tax to the lowest level possible.
- Removal of all telecommunications services from taxation under the Gross Earnings Tax (Section 184).
- Increased investment in New York by modernization of the Sales and Use Tax exemption on telecommunications equipment (Section 1115 Subdivision 12) to include ancillary equipment used in the provision of telecommunication services.
- Elimination of the §186-a Gross Receipts Tax on other income of telecommunications utilities.

Administrative and Miscellaneous Tax

- Enforcement of the Tax Law at the distributor level in order to assist in alleviation of the tax evasion problem with Native American tribes who sell gasoline, cigarettes, other goods, and services, tax-free to non-Native Americans.
- Reduction of the Alcoholic Beverage Tax twelve cents per liter on liquors with less than 24% alcohol and thirty cents per liter on liquors with greater than 24% alcohol.
- Elimination of the Estate Tax.

Real Property Tax

- Continue to support a dedicated judiciary as the trial court for Article 7 certiorari proceedings on parcels exceeding one million dollars outside the City of New York.
- Establishment of escrow payments of Article 7 disputed tax liability.

- Permission for the calling of the assessor for testimony in an Article 7 certiorari proceeding.
- Increase of the appeal period from 30 to 60 or 90 days.
- Limitation of the discrimination between "homestead" and non-"homestead" rates to 25% and a five-year "grandfather" phase-out for jurisdictions currently exceeding 25%.
- Exemption of newly deployed fiber optic lines from local property taxes.

Sales and Use Tax

- Exemption of utilities needed to maintain controlled manufacturing and research & development environments.
- Exemption of the "repair, installation and maintenance" (RIM) services on research and development equipment.

Telecommunications **Staff Contact: [Anne Van Buren](#)**

Mission Statement

Actively promote public policy, regulatory and tax reform to encourage increased investment and competition in New York's telecommunications and information technology industries.

Policy Issues

- Support clarifying language to affirm the Public Service Commission's (PSC) ability to grant freedom to companies to flexibly price services as required by the competitive markets, and to de-tariff optional, discretionary non-basic telecommunications services.
- Avoid onerous new statutory or regulatory burdens on landline and wireless telecommunications service providers (e.g., oppose TTY give-away programs, oppose free non-published directory listings for any customer, oppose reduced pricing for independent payphone providers, oppose service quality penalties, etc.)
- Support policies that promote unfettered access to multi-tenant buildings and the public right-of-way.
- Oppose legislation that would change the state right of way protections provided under state transportation corporation law.
- Oppose publicly funded, built and operated telecommunications networks.
- Support legislation that would set a uniform statewide process for municipal review of the siting and construction of wireless service facilities.
- Assure full recovery of expenses incurred by PSC-regulated entities in response to the September 11, 2001 terrorist attacks, including costs related to provision of emergency utility service, site cleanup, personnel expenses and the replacement of buildings, facilities and equipment, as well as costs necessary to enhance the security of utility services.
- Support legislation which makes it a felony for interfering with a person's ability to connect with an emergency service by intentionally damaging telecommunications facilities.

- Oppose legislation that attempts to secure Anti-Joint Bidding legislation.
- Support legislation which provides for "Joint-Bidding."
- Oppose legislation that would allow a municipal corporation to recover damages caused by acts of nature or similar unforeseen circumstances from telecommunication, wireless and cable companies.
- Support legislation that would establish an effective and cost-efficient statewide wireless emergency telecommunication system.
- Oppose legislation that would regulate service quality standards of telecommunication corporations.
- Eliminate restrictions applicable to promotional new product offerings by telecommunications companies.

Tax Issues

- Support incentives in the form of tax reforms for businesses that deploy fiber optic cables used in the deployment of broadband technology.
- Amend the gross receipts and sales taxes on telecommunications services to conform to national, uniform sourcing rules for determining in which jurisdiction a transaction occurs for tax purposes and clarify the tax treatment of charges for telecommunications aggregated with nontaxable charges for telecommunications.
- Support legislation that would apply existing statutory reductions of section 183-3 of the tax law to all telecommunications carriers. Current law penalizes corporations that pay dividends on the par value of capital stock in the amount of six percent or more and have more than one million access lines.
- Support the consolidation & simplification of remittance filings to streamline local tax payments.
- Continue expansion of the current Section 115 (12A) sales and use tax exemption for telecommunications equipment to include testing, training, billing and other ancillary equipment, and energy required for providing telecommunication services.
- Oppose legislation which increases or imposes new surcharges on telecommunications companies and their customers which fund social programs, and state or local government.
- Support legislation that eliminates the Gross Receipts Tax (GRT) - section 186a of Article 9 of the NYS Tax Law applicable to revenues of utilities subjected to the supervision of the Public Service Commission.
- Support legislation which would reform Article 9 taxation and reduce the tax burden on telecommunication customers.
- Property taxes paid by New York's telecommunication corporations are excessive when compared to parallel corporations in other states and other corporations within New York. Given the adverse impact of this disparity on New York's competitive position, we support appropriate legislation to ameliorate this unfair burden borne by telecommunication corporations and their customers to achieve equity and parity with other state's in the country.
- Support legislation which immediately removes all telecommunication services from taxation

under gross earnings (§184 of the New York State Tax Law).

- Support an investment tax credit to provide companies with a deduction for leased equipment.

Transportation

Staff Contact: [Tom Minnick](#)

- Support efforts that insure satisfactory levels of funding for New York's transportation programs, continued annual appropriations under the federal 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act and infrastructure investment encompassing all modes of transportation necessary for the economic success of New York State's businesses and industry.
- Support efforts to insure funding for projects contained in the state's five year transportation capital plan.
- Support legislation to reaffirm that monies from the Dedicated Highway Trust Fund be used only for the purpose of capital improvements to the state's transportation systems.
- Support design-build legislation and model public-private partnership projects but insure that private funds enhance not replace dedicated funds.
- Support elimination of New York State's truck mileage tax provided that the amount of dedicated highway funding be maintained at or above current levels to allow for continued transportation infrastructure projects.
- Support current funding allocations among road and bridges, rail, ports, aviation and mass transit.
- Support a capital funding program for railway infrastructure projects and port development and federal support for port dredging initiatives.
- Support legislation to promote the market penetration of advanced technology motor vehicles through incentive-based, market-driven strategies such as consumer tax credits, fueling infrastructure tax incentives, and research and development investment; oppose state legislation or regulations that would impose state-level limits or mandates on the emission of greenhouse gases from motor vehicles.
- Support the position that federal standards and requirements sufficiently provide for the safe transportation of hazardous materials.
- Support initiatives to continue to make New York's transportation system among the safest in the nation. Support homeland security efforts to insure that New York's international border crossings and bridges and all modes of transportation are efficient and secure and share in regional and national funding efforts.
- Oppose legislation that would increase the cost of shipping goods into New York, including legislation that would require the licensing by the state of federally licensed docking pilots.
- Oppose implementation of the Western Hemisphere Travel Initiative on terms which would restrict U.S.-Canadian border crossings by U.S. and Canadian citizens to those individuals with a passport, Border Crossing Card or similar federally issued travel ID. Acceptable ID must continue to include one or more forms of state/provincial ID which have purposes other than international travel. In addition, the current process must be amended to become bi-lateral in nature between the U.S. and Canada, with full engagement by stakeholder interests, U.S. states and Canadian provinces, and any and all proposals must be subjected to a meaningful,

independent economic impact analysis and to pilot trials in the field.

U.S. Borders and Trade

Staff Contact: [Tom Minnick](#)

- Oppose implementation of the Western Hemisphere Travel Initiative on terms which would restrict U.S.-Canadian border crossings by U.S. and Canadian citizens to those individuals with a passport, Border Crossing Card or similar federally issued travel ID. Acceptable ID must continue to include one or more forms of state/provincial ID which have purposes other than international travel. In addition, the current process must be amended to become bi-lateral in nature between the U.S. and Canada, with full engagement by stakeholder interests, U.S. states and Canadian provinces, and any and all proposals must be subjected to a meaningful, independent economic impact analysis and to pilot trials in the field.
- Following the successful 2005 Quebec-NYS summit, continued commitment by the New York State government to regular and substantive summits with the governments of Quebec and Ontario, with full private sector partnership. This should include an even deeper commitment to collaboration with Quebec and Ontario in the fields of transportation, technology sectors, education, economic development, tourism, sports, energy and security.
- Full and speedy implementation of the 30 point Canada -- U.S. "Smart Border Declaration", in order to establish and maintain a balance of physical and economic security along the entire NYS -- Canada border.
- Adequate (24/7) staffing, interoperability, and cross designation by US and Canadian authorities at NYS -- Canadian border crossings.
- Full deployment of NEXUS at all NYS commercial border crossings with adequate funding for effective marketing of the program on both sides of the border.
- Development and deployment of a preclearance system for cross border Amtrak and motorcoach passengers along the New York State-Canada border.
- Formal recognition of the Quebec-New York Corridor (I-87) as a "High Priority Corridor" by the federal government, along with full funding of the Champlain/Lacolle "Port of Excellence" project by 2006, and implementation of bilingual (English and French) signage along I-87 in NYS.

Unemployment Compensation

Staff Contact: [Rich Schwarz](#)

Support:

- Use of the principles of experience rating, necessity, lowest cost to the economy, and contemporary timing in the design of any revised funding of the UC Trust Fund and repayment of Federal advances at the lowest cost to employers. In 2006 this is equivalent to having a positive UC Trust Fund balance on December 31, 2006.
- Creation of separate General Accounts for taxable employers, reimbursable government employers, and reimbursable private employers.
- Increase of the requalification standards from five times a claimant's benefit level to ten times.

- Facilitation of communication of work interruptions to chargeable employers.
- Weekly communication of benefit charge notices to employers.
- Opposition to further increase of the taxable wage base above the Federal taxable wage base.

Workers' Compensation
Staff Contact: [Elliott Shaw](#)

- Support payment of comp benefits in a non-scheduled permanent-partial impairment case to a minimum of 250 weeks and a maximum of 500 weeks.
- Support adoption of objective medical guidelines to determine the degree of disability in permanent-partial disability cases. The guidelines should consider anatomic and functional disability and provide a standardized, replicable method for physicians to use to determine comprehensive, whole person impairment percentages.
- Support reduction in the assessment for the second injury fund from 150 percent of the prior year disbursements to 115 percent.
- Support partial benefit offset when the claimant begins to receive, or becomes eligible for, pension and/or social security benefits.
- Support payment of scheduled awards at one-half the claimant's total disability for periods that do not represent actual time lost.
- Support amendments to sections 240 and 241 of the labor law to create a comparative negligence standard on third party suits.
- Support prohibiting payment of benefits if the employee injures themselves during the perpetration of an illegal act or if the injury occurred under the influence of drugs or alcohol.
- Support changing the methodology for comp assessments for self-insured trusts (and safety groups and the State Fund, if they desire). After the change, the self-insured trusts should be responsible for collecting their same share of total assessments without shifting any of the responsibility to other insurers in the system.
- Support aggressive pursuit of fraudulent cases in the comp system.



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