



The
Business
Council

2019 LEGISLATIVE ADVOCACY AGENDA

Blueprint for a Better New York

Working to create economic growth, good jobs
and strong communities across New York State.



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2019 will be another challenging year for New York's employer community. In addition to addressing a wide range of social issues, the Legislature will consider many proposals with the potential for adverse impacts on individual employers and the state's economic competitiveness.

Even so, we strongly believe that economic growth is crucial for addressing the state's most significant issues — expanding economic opportunity, improving the education system, upgrading our public infrastructure, and others. We believe we can find common cause with the Governor, Senate and Assembly on legislation that improves the state's economic climate and supports private sector investment and job growth, while providing the resources to address other compelling state interests.

The challenges are significant:

- Even with a relatively strong economy and tax revenue growth, the state still faces annual billion dollar-plus structural budget deficits.
- Even with recent record levels of spending on transit and transportation infrastructure, the MTA is projecting capital needs of as much as \$60 billion over the next ten years, with similar needs projected for statewide road, bridge, water and sewer infrastructure.
- Even with continuing national and state-level job growth, and historic low unemployment rates, economic growth in New York remains uneven, with much of upstate seeing little in the way of new jobs and new investments.
- Even with recent reductions in middle-class income tax rates, and limited property tax increases under the statewide cap, New York continues to lose residents to other states.

While this all may sound discouraging, we believe this confluence of circumstances provides New York a real opportunity to pursue fundamental reforms in the way the state is run. We need to evaluate why our Medicaid expenses exceed those of Texas and Florida combined. Similarly, we need to reassess our education spending and determine why New York is one of the leaders in per-pupil spending, yet falls toward the bottom in most assessment rankings.

Lawmakers must also look at areas where we have policies that stifle economic growth, innovation and job creation. We need to adopt reforms that will put us on more equal footing with other states. We also call on our leaders at the state and national levels to demand that New York receive more of its fair share of federal spending, especially for infrastructure. Currently, we are the largest donor state, contributing nearly \$50 billion more in taxes to Washington than we receive in the form of federal spending.

The following pages lay out The Business Council's "Blueprint for a Better New York," reflecting the opportunities and concerns expressed by our diverse membership. We aren't saying we have all the answers. However, we are certain that taking a critical look at our state's legacy of high spending and examining whether we are truly receiving outcomes deserving of that level of investment will benefit all New Yorkers. New York has many great things to offer, including world class public and private higher education institutions, a diverse workforce, abundant water resources, and much more. By removing unnecessary barriers, we are well-positioned to compete against our fellow states.

Heather C. Briccetti, Esq.

President and CEO

The Business Council of New York State, Inc.

Proactive Growth Agenda

Significant issues on our proactive Legislative Agenda for 2019 include:

- Adopt additional legislation decoupling state tax law from provisions of federal tax reform that unintentionally increase state-level tax liability of New York businesses.
- Adopt a permanent extension of the two percent real property tax cap.
- Expand and update New York State’s energy infrastructure by expediting state review and approval of new transmission capacity, and providing for the extension of natural gas service, to help meet the state’s energy needs and promote private sector investments.
- Fully implement the state’s \$89 million commitment for “flexible” workforce development program to address current and projected needs of New York State employers.
- Eliminate sector-specific barriers to growth such as restrictions on CPA firm ownership, among others.
- Adopting broad-based labor law reforms, including standards for pay periods and methods of pay, workable standards for defining employees and contractors, workable provisions for employee scheduling (with state preemption), limits on Department of Labor wage order authority, restoration of full “experience rating” in Unemployment Insurance tax tables, and others.
- Continuing support for education policies and initiatives that promote college and career readiness.
- Updating and reforming the State Environmental Quality Review Act (SEQRA) and other project review programs and requirements in order to promote new private sector investments.

Significant Areas of Concern

Each session, the state’s business community faces a large number of adverse proposals that impose costs, restrictions or mandates on private sector employers. Issues of significant concern for 2019 include:

- Proposals for a state-level single-payer health plan that would require as much as \$200 billion in new state revenues.
- Extreme measures to restrict carbon emissions or limit in-state economic activity.
- Imposition of public works prevailing wage standards on private sector projects receiving state or local economic development assistance.
- New revenue measures related to a state budget deficit and/or federal tax changes.
- “Pay-equity” related mandates, and other additional labor law mandates, including those on scheduling, screening, benefits and others.
- Unworkable cyber security mandates.
- Extension of the state’s minority and women-owned business contracting program without meaningful reforms.

2019 Legislative/Regulatory Program

The following provides our detailed legislative and regulatory program agenda for 2019.

Campaign Finance, Ethics & Election Reform

In the wake of additional scandals involving state officials, there have been increased calls for reforms in the way that elections are run and financed, and in the oversight of public officials. Many proposals to “fix corruption” focus on creating a taxpayer-funded campaign finance system, similar to New York City’s, and do not address changes necessary for true reform and parity amongst all parties impacted by elections.

The Business Council:

- Supports the fair and equal treatment of all participants in political advocacy with regard to the ability to generate and use resources. We oppose proposals to impose significantly disparate rules and/or limitations on participants in political advocacy, such as more stringent contribution limits for private sector entities and new mandates on corporate political advocacy.
- Supports adoption of four-year legislative terms as a means to reduce campaign spending and fundraising and as an alternative to more onerous “reform” proposals which would limit private sector political advocacy.
- Supports the end of fusion voting, a provision used by few states that allows political candidates to appear on multiple ballot lines through the use of cross-endorsements.
- Opposes proposals to use enforcement-related revenues to support public campaign financing.
- Opposes taxpayer financing of campaigns using newly imposed taxes or assessments.

Construction

Significant investment in public infrastructure is necessary to ensure the efficient flow of goods, services and people. Rebuilding New York’s aging infrastructure requires alternatives to the standard approach of financing, constructing and operating our transportation systems.

The Business Council:

- Supports the commissioning of a new state disparity study prior to reauthorization of Article 15-A of the Executive Law, and supports amendments to the state’s Minority and Women’s Business Enterprises (MWBE) program to ensure that it includes realistic, attainable participation targets and provides for waivers that are fairly applied.
- Supports continued upstate/downstate parity in state spending on transportation infrastructure.
- Supports a statutory definition of “public work” that applies to projects that are owned by public entities and/or that primarily serve a public purpose.
- Supports adoption of a comparative negligence standard under Labor Law Sections 240/241.
- Will monitor state public works letting levels to ensure timely letting on contracts and payment schedules.

- Supports expansion and permanent extension of the design-build method of project delivery.
 - Supports reforms to ensure that “prevailing wage” determinations accurately reflect regional private sector wage levels.
 - Supports efforts to expand workforce development in the skilled trades.
 - Opposes any mandatory Project Labor Agreement (PLA) requirement.
 - Opposes extension of prevailing wage mandates to private sector activities.
 - Opposes additional performance mandates on state bidders and contractors.
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Consumer Affairs

New York needs to promote its consumer marketplace and avoid imposing undue state-level restrictions on materials, goods and services in interstate commerce. The Business Council:

- Opposes legislation imposing state-specific mandates, restrictions, labeling requirements (e.g., beverage warning labels) or similar requirements on goods and products sold in interstate commerce.
 - Opposes legislation creating a new “right of publicity,” which creates a new property right for persons’ name, voice, signature and “likeness,” including but not limited to “gesture(s) and mannerism(s),” and subject others to litigation and damage claims for improper use.
 - Opposes legislation that would prohibit the zone pricing of gasoline.
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Contract Procurement

The process of selling goods and services to state government is becoming increasingly cumbersome, with many businesses, including MWBEs, bypassing this significant business opportunity. Several business-friendly reforms to the procurement process have been adopted in recent years. However, there is more work to be done. To make the procurement process more efficient, The Business Council:

- Supports, as part of legislation to extend Executive Law Article 15-A, the development of accurate MWBE capacity studies; requiring contracts to consider local capacity in setting contract-specific targets; and the adoption of workable requirements for workforce utilization reports by contractors and subcontractors.
- Supports streamlining the MWBE certification and recertification process.
- Supports legislation allowing agencies to undertake competitive negotiations in cases where two or more offerors are deemed acceptable for being selected, when the agency has determined that using a competitive negotiation will maximize the agency’s ability to obtain the best value.
- Supports amending the Lobby Act definition of “restricted periods” to match newly amended State Finance Law amendments; streamlining the Lobby Act’s provisions related to procurement lobbying; and opposes legislative or regulatory restrictions on the existing commissioned salesperson exemption.
- Supports the leasing of technology equipment by state and municipal government entities.

- Supports standardizing the FOIL process, which varies greatly among agencies.
- Supports clarification that a request for information (RFI) does not trigger a restricted period on communications.
- Opposes legislation to prohibit state contracts from being awarded to vendors using arbitration for alleged Title VII violations.
- Opposes creation of a Chief Procurement Officer (CPO) position within the Executive Branch and/or supports implementation of strict timeframes for CPO contract review.

Corporate Governance

It is critical that the state promote public confidence in corporate governance while avoiding mandates that make New York uncompetitive with other states. The Business Council:

- Supports legislation providing boards of directors the discretion to hold virtual shareholder meetings; opposes mandates for remote shareholder participation and proxy voting at shareholder meetings.
- Supports legislation allowing New York-incorporated businesses to adopt bylaws that provide for changes in the number of directors, rather than establishing a fixed number of directors.
- Supports updating the Business Corporation Law with respect to veil-piercing provisions, notice requirements for LLCs, age requirements for incorporators and rules for naming a corporation.
- Opposes new compliance burdens on New York State businesses, such as requiring companies to obtain majority shareholder approval for political donations or communications on public policy issues.
- Opposes legislation that would provide that a non-New York business or non-profit that secures authorization to conduct business in New York could be sued in New York State courts for an action completely unrelated to its activities in New York (i.e., be subject to the general jurisdiction of the state's courts).

Economic Development

As New York works to improve its overall business climate, The Business Council backs measures that support new investments in strategic industries. The Business Council:

- Supports an increased focus on improving the state's overall economic climate and reducing state-imposed business costs, and urges that major policy initiatives include consideration of any impact on the state's economic competitiveness.
- Supports streamlined standards and procedures for state and local project approvals.
- Supports legislation that assure that any requirements for additional reporting by recipients of economic development incentives be explicit with regard to covered programs and assure that reporting provisions are directly related to the underlying incentive program.
- Supports continuation of the Regional Economic Development Council approach to encourage local input into state investments in regional economic development, public facilities, and public infrastructure.

- Supports adoption of a new refundable research and development investment tax credit, with a component for both capital investments and for non-depreciable expenses.
- Supports increased funding for the state's Centers for Advanced Technology and Centers of Excellence, which drive public private partnerships in research and development.
- Supports legislation authorizing ownership of multiple licenses for the sale of alcoholic beverages, to expand consumer choices and help support the state's beverage industry.
- Supports clarifying industrial development agencies' authority to provide financial assistance in the form of loans and grants.
- Supports legislation to adjust the "tax base growth factor" under the real property tax cap to include value of property subject to PILOT agreements.
- Supports in-state pharmaceutical clinical trials through tax and financial incentives.
- Opposes legislation to impose significant new procedural requirements or wage mandates (such as public works' prevailing wage) on economic development assistance provided by state and local public authorities.
- Opposes any amendment of eminent domain laws that would apply new, broad definitions of "blight."

Education/Workforce Development

Innovative education models that better prepare students for entrance into college and career are key to our state's future success.

The Business Council:

- Supports full and effective implementation of new, employer-oriented workforce development funding program as authorized in the FY 2019 state budget.
- Supports state funding for scalable "best practices" established and used by local employers and education and workforce development providers.
- Will evaluate the impact of proposals, such as those expanding access to child care, implementing criminal justice reform, and promoting affordable housing, for positive impacts on the ability of New Yorkers to participate fully in the job market.
- Supports resources to sustain and expand new and existing NYS P-TECH programs and similar career pathway-oriented secondary education programs.
- Supports maintaining high education standards and expanding STEM curriculum for career and college readiness.
- Supports funding for a statewide workforce development data center to inform regional community college and workforce development programs.
- Supports the development of metrics to determine the effectiveness of existing state workforce training investments in meeting regional workforce needs.

- Supports increasing access to advanced coursework that is crucial for college and career preparation in school districts with limited resources, including Advanced Placement, International Baccalaureate, dual enrollment, and early college high school programs, all of which allow students to earn college credits in high school.
- Supports providing funding to ensure low-income students have access to cost-free AP exams, and expand led access to AP computer science courses.
- Supports a uniform AP credit policy for all public New York higher education institutions.
- Supports fully funding the Tuition Assistance Program (TAP) without restrictions that would make it more difficult for students to qualify.
- Supports increasing the aid-eligible salary for Boards of Cooperative Educational Services (BOCES) Career and Technical Education (CTE) instructors and increasing the amount of special services aid provided to the Big 5 School Districts for CTE programs.
- Support continued funding for charter schools, including facility aid funding for charter schools outside New York City.
- Opposes significant increases in state education funding without improvement in education outcomes.
- Opposes further restrictions on the establishment of charter schools.

Energy

Promoting adequate and diverse energy supplies and reducing energy costs — especially costs driven by state policies, including assessments — will help support economic growth. With those goals in mind, The Business Council:

- Supports enhancing the value of NYPA economic development programs by providing that the price of ReCharge New York market power shall be at least eight percent lower than the utility default rate for electricity provided to similarly-situated customers, and allowing customers' full allocation of ReCharge New York hydropower to be billed first before any ReCharge New York market power or supplementary market power.
- Supports a significant reduction in ratepayer assessments imposed by the Public Service Commission (PSC). Ratepayer funds should support the adoption of more cost effective and market driven solutions to achieving social objectives.
- Supports adoption of measures to reduce electric customer impacts from the Clean Energy Standard (CES), including but not limited to; exemptions, tax hedges, and self-directed programs.
- Supports repeal of the statutory requirements for state approval of transportation routes for Liquefied Natural Gas (LNG).
- Supports expanded access to natural gas for employers, including dedicating state energy assessment resources to pipeline extensions; expediting the state and local review of applications for expansion of natural gas lines; and authorizing real property tax exemptions for the increased assessed value attributable to new natural gas distribution facilities.

- Supports the adoption of solutions to transmission congestion including building or upgrading transmission lines to address congestion that adds to the costs of electricity and leads to the curtailment of renewable energy.
- Supports standardized property tax assessments for distributed generation.
- Supports efforts to study and address power quality issues by NYSEERDA and the PSC. Power quality is the quality of the voltage in an electrical circuit or the fitness of electrical power to consumer devices. Poor quality can have a material effect on advanced manufacturing processes.
- Supports streamlining the regulatory process for the approval of new energy infrastructure. The Clean Energy Standard obligates the state to significantly increase renewable energy, which will require additional energy infrastructure. The Business Council supports efforts to build needed energy infrastructure in a timely and economically efficient manner.
- Supports the expansion and permanent extension of the provisions of Chapter 475 of the Laws of 2013, which provide a uniform process of taxation of certain utility-owned properties throughout the state. Expand the coverage of existing law to include privately held public utility mass real property that is used in energy transmission and distribution.
- Supports the continued deployment of Residential Advanced Metering Infrastructure (AMI), which has the potential to transform how utilities, customers, and third-party providers manage electricity generation, delivery, and use.
- Opposes legislation creating a “Citizen Utility Board” and providing utility assessment-based intervenor funds in rate cases, which create a duplicative and costly consumer advocate function within the Department of Public Service.

Environment

New York has a stringent environmental regulatory program that protects the state’s natural resources and quality of life, but also imposes costs and operational restrictions on businesses and impedes capital investment and job growth. To improve the state’s environmental regulatory climate, The Business Council:

- Supports efforts to reduce the carbon intensity of the state’s economy without reducing economic growth.
- Supports the Brownfield Cleanup Program (BCP) which has proven to be a catalyst for private-sector investment in the cleanup and redevelopment of contaminated properties. The BCP was established to allow for the voluntary clean up and redevelopment of real property, the reuse of which was complicated by the presence or potential presence of a contaminant.
- Supports maintaining current levels of funding for the Environmental Protection Fund (EPF) to promote economic development; the promotion of “smart” state capital investments that protect the state’s air, land, water and natural resources; and the expansion of recreation opportunities.

- Supports SEQRA reform that provide more certainty in project reviews, including: clarifying the standard for complete applications; heightening the standard for issues to be subject to administrative adjudication; making adherence to state review timetables mandatory; and assuring the correct application of statutory and regulatory standards.
- Supports the simplification and ease of regulatory compliance by ensuring the state conforms with federal regulations wherever possible.
- Supports reforming air emission regulations, including Part 212 regulation of air toxins, and updating the reportable qualities for release reporting.
- Supports drinking water standards and remediation decisions that are based upon the weight of best available scientific evidence and can be shown to be addressed in a technically and economically feasible manner.
- Supports educating the public about recycling, including the shortcomings of “aspirational recycling,” with the goal of increasing the economic value and environmental benefit of recycling.
- Opposes adoption of the so-called “precautionary principle” in setting environmental standards.
- Opposes expanded and unwarranted state-level chemical and product-use restrictions, including legislation which would mandate the state implement a complex chemical review process for which it does not have the staff, resources or expertise.
- Opposes mandates to require state retirement fund divestiture of holdings in traditional energy companies.
- Opposes efforts to impose new taxes on motor vehicle fuel carbon content.
- Opposes legislation that would establish a “self-executing right” that each person shall have a right to clean air and water, and a healthful environment, as this would create an unwarranted threshold level of standing for litigation absent accompanying legislation. A direct right of action under the state constitution to remedy an environmental condition is unnecessary as there are numerous adequate remedies available under current state law.
- Opposes adoption of state higher level citizen suit legislation.

Financial Services

In order to promote continued growth and economic activity in the financial services industry, The Business Council:

- Supports legislation authorizing non-CPA ownership in public accountancy firms.
- Supports no-fault insurance reform.
- Supports promotion of the financial technology sector in New York State through the initiation of a “Regulatory Sandbox.”
- Supports amending the Mortgage Foreclosure Chapter Law of 2016.
- Opposes limiting the use of arbitration clauses in financial service agreements.
- Opposes any expansion of the Martin Act, including but not limited to, provisions allowing pension fund initiation of enforcement actions.

- Opposes changes to no-fault insurance serious injury thresholds.
 - Opposes “bad faith” actions and new or expand private rights of action.
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Health Care and Health Insurance

The cost of health care remains a top concern for most Business Council members. During a time of unknown federal policy changes in healthcare, we are committed to guaranteeing that any New York State response to changes on the federal level is done in a way that will not harm the financial viability of our members. The Business Council:

- Supports rational policies for cannabis legalization that preserves employer rights and ability to address workplace impairments, and that direct tax revenues to expanding healthcare access.
- Supports efforts to ensure that the Department of Financial Services (DFS) adheres to state laws, specifically the State Administrative Procedure Act (SAPA), and does not utilize non-SAPA documents to implement the law. To that end, we support amending SAPA to require that prior to publication of a proposed rulemaking, the agency head must attest in writing that true stakeholder outreach, economic impact and job impact analyses have occurred.
- Supports efforts to amend the Insurance Law Section 311(b)(1) to require that DFS draft reports on insurance companies expressly state whether a penalty or regulatory action will be imposed as a result of DFS’ examination, as well as the specific amount of any penalty and/or the nature of the regulatory action.
- Supports decreases in health care costs through expanded use of flexibility in benefit design and other measures.
- Supports transparency in rate-setting by DFS.
- Supports a comprehensive review of New York Health Care Reform Act (HCRA) taxes and repeal those which are no longer used for their intended purposes.
- Opposes any attempt to create a single-payer health insurance system in New York.
- Opposes any unfunded mandates on private insurance that lead to cost increases; including mandates on nursing staff ratios and physician reimbursement mandates.
- Opposes any attempt by the state to force a private business to unnecessarily divulge trade secrets and proprietary information, especially in order to impose further price controls on those same private employers. This includes opposition to DFS’ methods of prior approval for health insurance premiums as well as opposition to measures which seek to require private industries, including prescription drug manufacturers, to report proprietary pricing information.
- Opposes unnecessary and duplicative state efforts to regulate FDA-regulated products such as the imposition of mandatory warranties on medical devices.
- Opposes state price controls on pharmaceuticals.

Labor/Human Resources

Employers need a stable Labor Law environment and the ability to design pay and benefit programs that fit their industry, size, location, profitability and competitive environment. To achieve these objectives, The Business Council:

- Supports a comprehensive update and reform of the state's Labor Law, including: workable rules for use of pay cards and other forms of employee payment; reasonable standards for employee scheduling; and allowing employers of any size to have biweekly payrolls for manual workers; among others.
- Supports workable regulations and standards for implementation of the 2016 Paid Family Leave Law; assuring that DFS rules provide that 100 percent of premium costs are collected through employer wage withholdings.
- Supports additional reforms to limit NYS Department of Labor wage order authority.
- Supports legislation adopting workable definitions of employee and independent contractor to reflect practical issues relative to workers in the "sharing economy."
- Supports a limited expansion of paid family leave to include bereavement leave for the death of immediate family members, and opposes other expansions of paid family leave.
- Supports legislation limiting the use of employee non-compete provisions that is consistent with existing federal and state case law standards.
- Opposes legislation or wage orders imposing restrictions or pay mandates on the use of "on-call scheduling."
- Opposes increases in benefit levels under the state's mandatory disability benefit program for non-workplace injuries.
- Opposes burdensome restrictions on employer's ability to conduct reasonable and relevant background checks in the employment process; these include proposals to limit the use of credit checks, criminal backgrounds, prior wages and others.
- Opposes automatic, annual increases in the state's wage threshold for overtime exempt employees above the federal threshold.
- Opposes proposals for mandated leave including sick time, vacation time and other paid time-off.
- Opposes legislation to impose expansive new workforce demographic reporting requirements on state contractors.
- Opposes legislation authorizing the Department of Labor to enforce conditions of contracts with independent contractors.
- Opposes legislation to extend state labor law provisions on collective bargaining, overtime and disability to farm employees.
- Opposes legislation that allow an "employee's lien" for claims of "wage theft."
- Opposes adoption of legislation that provides for a right of a public enforcement action by private individuals or organizations and places restrictions on the use of arbitration agreements in wage disputes.
- Opposes the "NYS Fair Pay Act" and other "comparable worth" and pay equity mandates.

- Will monitor and respond to implementation of the “Secure Choice” retirement program (for which enrollment is supposed to open after April 2020).
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Legal Reform

A state’s framework and policies for dealing with lawsuits and legal issues can have a significant impact on its overall business climate. To ensure the state’s legal climate is designed to maximize investment and growth, The Business Council:

- Supports reforming the antiquated Scaffold Law by adopting a standard that assigns comparative negligence, similar to the standard in place for all other forms of liability under New York State law.
 - Supports legislation which creates transparency between asbestos trust claims and asbestos tort actions by requiring the disclosure of all past, pending, and anticipated asbestos trust claims by a plaintiff.
 - Supports legislation regulating the practice of lawsuit lending.
 - Opposes any legislation creating new private rights of action.
 - Opposes any further expansion of the Martin Act.
 - Opposes expansion of general jurisdiction of the state’s courts for actions involving non-New York companies in activities completely unrelated to their activities in New York.
 - Opposes legislation allowing indirect recovery from third-party defendants.
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Manufacturing

The manufacturing sector remains a critical component of the state’s economy. It is incumbent on lawmakers to enact policies and regulations that promote growth within this sector. With that in mind, The Business Council:

- Supports expanded access to natural gas for manufacturing facilities, including: dedicating state energy assessment resources to pipeline extensions; expediting the state review of applications for expansion of natural gas infrastructure; authorizing real property tax exemptions for the increased assessed value attributable to new natural gas distribution facilities; and repealing outdated requirements that the Department of Transportation create certified LNG transport routes.
- Supports the adoption of measures to provide price protection to large energy consumers from energy assessments, and adoption of a self-directed energy program. Exclude large energy consumers from the costs associated with residential customer system upgrades associated with Reforming the Energy Vision (REV).
- Supports the adoption of a new, refundable, two-part research and development tax credit with a component for capital investments modeled on existing Article 9A ITC language and a component for non-depreciable expenses based on the federal R&D credit, using current year R&D spending.
- Supports the continued expansion of the P-TECH program, where a number of schools provide an advanced manufacturing career pathway; an increase in funding for summer youth employment in manufacturing and advanced manufacturing occupations; and funding for incumbent manufacturing employment training.

- Supports the adoption of legislative reforms to SEQRA to provide more certainty in project reviews, including: clarifying the standard for complete applications; heightening the standard for issues to be subject to administrative adjudication; making adherence to state review timetables mandatory; and assuring application of statutory and regulatory standards.
- Supports legislation exempting business income from manufacturing activity from taxation under the personal income tax for owners of manufacturing businesses that are organized as Sub-S corporations, LLCs or partnerships, in order to achieve parity with the entire net income tax rate imposed by manufacturers under the corporate franchise tax.

Taxation

New York State businesses are affected by an overall uncompetitive state and local tax structure. While recent state-level reforms have provided a streamlined corporate tax system and rate reductions, other provisions of the tax code need to be addressed. To improve the state's tax competitiveness, The Business Council:

- Supports additional decoupling from federal tax provisions that impose increase state-level tax liability on New York businesses, including an exemption for "Global Intangible Low Taxed Income" (GILTI), decoupling from the cap on business interest expense deductions, an exemption for "transition income" for pass-thru entities, provisions to maintain current "qualified New York manufacturers" status, and an exemption for economic development grants.
- Supports permanent extension of the two percent Real Property Tax Cap. The state's real property tax cap is linked to New York City rent control laws and as a result, it will expire on 6/15/20 unless NYC rent control is extended by 6/15/19.
- Supports extension of the minimum wage reimbursement credit (Tax Law §38), which expires after the 2018 tax year.
- Supports re-coupling with federal bonus depreciation for capital-intensive business sectors.
- Supports small business income tax reform by increasing the PIT business and farm income tax exclusion and allowing all small businesses and small farms to claim the exclusion, and decreasing the Article 9-A net income tax rate for small businesses.
- Supports additional Article 9A reforms and technical amendments, including "safe harbor" provisions for market sourcing hierarchy; the preservation of historic net operating losses in the calculation of Prior Net Operating Loss (PNOL) conversion subtractions; among others.
- Supports the adoption of a new, refundable, two-part research and development tax credit, with a component for capital investments modeled on existing Article 9A ITC language and a component for non-depreciable expenses based on the federal R&D credit.
- Supports the repeal of the extension of the state False Claims Act to tax controversies.
- Supports a sales tax exemption for sales of services between affiliated business entities.
- Supports legislation prohibiting the use of contingent fees for audits of local gross receipts taxes (and potentially other categories of taxes and fees).

- Supports the repeal of the Highway Use Tax.
- Supports single sales factor apportionment for resident members of partnerships and LLCs.
- Supports amendments to Article 9-A apportionment of trucking companies to eliminate taxation of “pass-through miles.”
- Supports requiring the Department of Taxation and Finance to use indices that reflect local economic conditions when determining the sales and use taxes due from vendors.
- Supports the improvement and streamlining of real property tax administration.
- Supports the restoration of the five unemployment tax table rungs repealed in Chapter 57, Laws of 2013, to reflect the lower costs imposed by stable employers.
- Supports the continuation of sales tax exemption for energy sales by energy service companies.
- Supports a PIT exemption for distributions from pass through manufactures.
- Will monitor and respond to any proposals for a state-level unincorporated business tax, which is being considered as part of the state’s response to federal tax reform.
- Will monitor and respond to any proposals to extend or modify “temporary” personal income tax rates.
- Will monitor and respond to any legislation in response to the U.S. Supreme Court’s Wayfair decision authorizing use of an economic nexus standard for sales tax liability.
- Opposes significant new and/or expanded taxes to support state operations spending, including but not limited to re-instatement of the stock transfer tax, tax surcharges on “investment management services” (ostensibly to offset the value of the federal treatment of carried interest), and others.
- Opposes legislation mandating daily submission of sales tax receipts by vendors.

Technology/Telecommunications

To promote continued reinvestment in New York’s technology and telecommunications sectors, The Business Council:

- Supports an improved approach to cloud service procurement that more closely reflects industry practices.
- Supports legislation that would prohibit the state from imposing new regulations on phone services that use Voice over Internet Protocol (VoIP) technology.
- Supports the promotion of computer science curriculum in P-12 education.
- Opposes state-specific cyber security mandates or standards and other data security mandates.
- Opposes call center mandates.
- Opposes online consumer data restrictions.
- Opposes a ban on employer access of employee personal accounts in specific work-related circumstances.
- Opposes kill switch legislation.

- Opposes the creation of the Office of the Utility Consumer Advocate.
 - Opposes mandates for the sale of diagnostic and repair information to third parties.
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Transportation

To support the state's transportation industry and the statewide transportation infrastructure, The Business Council:

- Supports a workable policy to manage traffic congestion in lower Manhattan that avoids excessive fees on commercial and utility vehicles.
 - Supports legislation to eliminate the Highway Use Tax/Ton Mileage Tax.
 - Supports legislation that allows the operation of commercial vehicles directly engaged in a critical service business activity on state highways and parkways.
 - Supports legislation to exempt transit authorities from bond issuance charges.
 - Supports initiatives to improve passenger rail service and track projects that support both passenger and freight programs.
 - Supports the Emergency Responders Act which provide waivers in states of emergency for responder vehicles.
 - Will work with New York's congressional delegation to ensure New York receives its fair share of new federal infrastructure funding.
 - Opposes regulations to implement truck route restrictions across the state.
 - Opposes legislation that imposes mandatory infrastructure railroad investments without industry input and/or study.
 - Opposes state-level legislation that usurps federal railroad authority.
 - Opposes legislation that requires public transit authorities and their employees to submit all unresolvable contract negotiations to binding arbitration.
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Travel and Tourism

New York has a broad and highly-profitable tourism industry. To help this statewide industry's continued growth, The Business Council:

- Supports industry consensus legislation and/or regulations for home sharing.
- Supports an increase in the discretionary program spending thresholds in the "I Love NY" program.
- Supports the streamlining brand label approval of alcoholic beverage control products to conform to federal rules.
- Supports legislation to clarify the treatment of service charges added to dining bills, specifically addressing when such charges are considered receipts versus gratuities.

Unemployment Insurance

All employers pay for the state's unemployment insurance program. Reforms championed by The Business Council and enacted in 2013 have brought the state's UI fund back into solvency. To that end, The Business Council:

- Supports the reestablishment of the six lowest tax brackets in the state's UI tax table as eliminated in the FY 2014 budget (returning the tax rate for the most positive experienced-rated employers to 0.9 percent, from the current 1.5 percent).
 - Supports legislation to ensure that an employer will not be penalized for the dismissal of a temporary employee hired to fill-in for an employee who is taking paid family leave time.
 - Opposes legislation that expands the definition of involuntary separation for purpose of unemployment insurance eligibility.
-

Workers' Compensation

The 2017 session saw the passage of comprehensive workers' compensation reform spearheaded by The Business Council. As a result, New York employers have seen a reduction in workers' comp premium costs while preserving indemnity and medical benefits for claimants. Even so, New York workers' comp rates remain relatively high compared to other states. To continue to address this significant cost-competitiveness issue, The Business Council:

- Supports the full implementation of the cost-saving measures of the 2017 legislative reforms.
- Supports legislation mandating the use of panel providers for the first 120 of medical treatment.
- Supports legislation modifying workers' compensation attorney fees to allow claimants to keep more of their awards by ensuring that the amount of the legal fee will be commensurate with the services rendered, and having due regard for the financial status of the claimant.
- Supports the immediate repayment by the Workers' Compensation Board of all assessments levied upon private self-insured employers during the trust crisis.
- Supports repealing the Aggregate Trust Fund Deposit mandated deposits.
- Supports the adoption of an offset provision for claimants who begin to receive non-workers' compensation disability benefits similar to offset provisions for retirement already codified in the Workers' Compensation Law.
- Opposes any rollback of the cost-savings measures of the 2017 reform and any new attempts to expand benefits and costs.
- Opposes any further diminishment of an employer's right to due process in the workers' compensation hearing process.

The Business Council Government Affairs Team

The Business Council's government affairs team advocates for our members on both industry-specific and broad-based business issues. For additional information, please call **(518) 465-7511** or visit our website **www.bcnys.org**.



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