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| TO: | Members, New York State Legislature |
| FROM: | Ken Pokalsky, Vice President |
| SUBJECT: | Draft 2022 Legislative & Regulatory Priorities |
| DATE: | 2022 |

The following presents our legislative and regulatory priorities as we begin the 2022 state legislative session. It is an abbreviated list, compared to the more expansive legislative agendas we have published in prior years, with a focus on measures that should be adopted – or avoided – as we focus on promoting the statewide recovery of businesses and jobs from the COVID-induced recession. No doubt additional opportunities and challenges will present themselves as 2022 unfolds, and our advocacy efforts will extend beyond the issues discussed today. We look forward to working with the Administration, Senate and Assembly on these and other issues of importance to the state’s residents, workers and businesses.

**UI Benefits/Employer Taxes** **–** The COVID pandemic/recession and state-imposed restrictions resulted in an unprecedented increase in unemployment in 2020, with UI benefit payments overwhelming the state’s employer tax funded UI account, resulting in more than $9 billion in outstanding federal loans. With interest, this will impose more than $10 billion in increased payroll taxes on New York employers, subjecting them to elevated tax rates for the remainder of this decade. New York – like 31 other states – should apply a share of remaining ARPA funds to allow for reduced state UI tax rates, to pay interest on federal advances, and offset increased FUTA taxes on employers.

**Workforce Development –** With the need for skilled workers the most common concern among Business Council members, New York needs to expedite deployment of already authorized “flexible” workforce development funding, and to assure full and effective implementation of new, employer-oriented workforce development

funding programs. As part of this effort the state should provide new funding for regional chambers of commerce and similar organizations to develop sector-based training programs that meet the needs of multiple employers. These funds would support the hard work of coordinating regional and sector-based training and education programs with business leaders and education and training professionals. This would be a huge benefit particularly to smaller companies that may not have the hiring needs to support a training program alone but could benefit from a regional training program that meets the needs of multiple employers. This regional and sector-based approach is exactly the type of training programs that the State’s WDI should be supporting.

**Antitrust –** Proposed antitrust legislation, which unfortunately passed the Senate in 2021, is one of the most damaging proposals under consideration in New York. It would create a European Union-styled “abuse of dominant market position” standard under New York’s antitrust law, a drastic change in state law that could subject a wide range of businesses, large and small, to private and Attorney General-led litigation, regardless of any alleged consumer harm. This legislation would set New York well apart from federal and other state statues and would have a major negative impact on the state’s business climate.

**CCIA –** The Climate and Community Protection Act would impose up to $15 billion in taxes on all categories of carbon-containing fuels, with $5 billion dedicated to rebates for lower income households and some small businesses, and the remainder to be spent on a variety of carbon-reduction related projects. We are deeply concerned with the immediate impact this bill would have on New York business. As example, this would result in a $3.22 per ft3 increase in the cost of natural gas for New York manufacturers. With New York industrial prices in 2021 already 55 percent above national averages, this would drive in-state costs to 120 of the national average. Likewise, it would impose an additional 54 cents per gallon tax on gasoline, adding to retail prices that have already increased by nearly one dollar compared to the state’s pre-pandemic average. Finally, both the revenue and spending provisions of this bill are out of step with the CLCPA planning process currently moving to final stages.

**Expanded Producer Responsibility –** We strongly oppose this legislation that would shift all financing and operational responsibilities for municipal source separation and recovery programs to the private sector and newly created producer responsibility organizations. This proposal’s cost has been projected at $900 million or more annually. New York’s solid waste management programs are well advanced compared to other states but have seen little additional investment in recent years. We believe more targeted reforms, including funding and other incentives for secondary material market development, will produce significant improvements in program outcomes at far lower costs to New York businesses and consumers. We note that the level of EPF resources dedicated specifically to secondary material market development has dwindled, to just $200,000 in FY 2021 and 2022, down from $1 million as recently as FY 2017 (secondary market development funding peaked at $10.25 million in FY 2003).

**New York Health Plan –** This single-payer proposal is still looming, despite its annual price tag estimated to be as high as $250 billion, to be funded largely through new employer payroll taxes. This proposal to restructure a large share of the state health care industry is simply unnecessary given state data showing as high as 95 percent health insurance coverage for New Yorkers.

**Data Privacy –** To date, only a few states – California, Colorado, Virginia – have adopted broad data privacy programs. The current legislative proposal, S.6701 (Thomas) / A.680-A (L. Rosenthal), is of significant concern, as it deviates dramatically in key respects from programs adopted in other domestic and foreign jurisdictions and would result in significant compliance challenges. If the administration will be advancing privacy legislation (last year’s Executive Budget included a proposal), we strongly urge you to consider the Virginia legislation as a model. We believe that the Virginia statute provides a workable roadmap to meeting both consumer and business concerns. The state should strive for consistency with this approach, since most companies will be subject to multi-state mandates, and even minor state-to-state differences in definitions or requirements will result in significant additional compliance costs.

**Support Manufacturing and Reshoring –** We appreciate the Governor’s support for in-state manufacturing, and for promoting the reshoring of critical manufacturing, starting with PPE production. While we are typically skeptical of domestic content mandates, we support the targeted procurement preference for U.S. made PPEs adopted in the FY 2022 budget. But New York needs more than procurement policy changes to promote in-state manufacturing. The state should adopt a more robust investment credit for capital investments in new, expanded or upgraded manufacturing capacity; the state should also be supporting investments in the manufacturing sector necessary to support the state’s transition to a low carbon, electric-based economy.