



The
Business
Council

FIX NEW YORK

The 2016 Legislative and Regulatory Agenda

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

YOUR VOICE, OUR VOICE, ONE VOICE.



Fix New York – **The 2016 Legislative and Regulatory Agenda**

I am pleased to present The Business Council's 2016 Legislative and Regulatory Agenda, which was developed through extensive conversation and collaboration with our diverse statewide membership. The following pages contain specific policy ideas that, if enacted, will help promote new private sector investment and spur job creation. The Business Council has also identified several proposals that would inflict unnecessary harm on our state's economy and we will actively oppose them becoming law.

The 2015 legislative session was successful on a number of fronts. Both the final state budget and the end-of-session negotiations produced pro-business reforms, while avoiding significant, adverse measures that would impose new costs, restrictions, or mandates on the private sector. A fifth consecutive on-time, low-growth budget included a variety of tax and program reforms and dedicated a significant portion of "windfall" funds to economic development projects.

The 2016 legislative session, and subsequent elections in November, will no doubt shape the future of our state. We look forward to working with the Executive and the Legislature to ensure the progress we've made over the past five years – particularly in achieving sustained spending controls – continues.

Heather C. Briccetti, Esq.
President and CEO

The Business Council's 2016 Advocacy Priorities

- 1. Maintain Budget Discipline** – Adopt a sixth-consecutive on-time state budget that keeps state operating spending growth under two percent. New York's fiscal discipline has allowed the state to adopt important tax reforms and avoid the significant budget challenges – and pressures for new or increased taxes – faced by a number of other states.
- 2. Small Business Tax Reform** – Following on state and New York City corporate tax reform adopted in 2014 and 2015, adopt business tax reductions for small businesses organized as pass-through entities, including Sub-S corporations, LLCs and partnerships, by increasing the business income tax exemption under the personal income tax and decreasing the corporate franchise tax rate for small businesses.
- 3. Workers' Compensation Reform** – Fully realize the cost savings of duration caps on permanent partial disability benefits, by generally commencing duration caps at two years after an injury. Finalize and implement administrative updates to medical guidelines on scheduled loss of use awards, and mandate the use of panel providers for the first ninety days of medical treatment. Reform indexing of maximum benefits to reflect regional average weekly wages.
- 4. Infrastructure Investments** – Dedicate the nearly \$2 billion in remaining financial settlement "windfall funds" to infrastructure programs, including roads, bridges, water and sewer projects. Assure a fully funded road and bridge program in conjunction with adopting a five-year MTA capital plan. Increase funding for the Environmental Protection Fund to support important programs including pollution prevention, agricultural business projects, green energy and others.
- 5. Energy Assessment** – Repeal Section 18-a energy gross receipts assessment, effective 1/1/16, avoiding the collection of an additional \$200 million from business and residential ratepayers. Adopt measures to provide price protection to large energy consumers from energy assessments. Adopt a self-directed energy program with a cap on percentage energy assessments as a percentage of energy assessments. Exclude large energy consumers from the cost associated with residential customer system upgrades associated with the Reforming Energy Vision.
- 6. Education and Workforce Development** – Maintain the state's commitment to enhanced education standards; continue to expand the New York State P-TECH program; provide funding for incumbent employment training; and continue to develop CTE and STEM education initiatives.
- 7. Non-CPA Ownership** – Support legislation authorizing minority non-CPA ownership in public accountancy firms.
- 8. Energy Infrastructure Investment** – Expand access to natural gas for manufacturing facilities, including: dedicate state energy assessment resources to pipeline extensions; expedite the state review of applications for expansion of natural gas infrastructure; authorize real property tax exemptions for the increased assessed value attributable to new natural gas distribution facilities; and repeal the outdated requirement that the Department of Transportation creates certified LNG transport routes.
- 9. SEQRA** – Adopt legislative reforms to the State Environmental Quality Review Act 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.
- 10. Scaffold Law Reform** – Reform the antiquated Scaffold Law by adopting a standard that assigns comparative negligence similar to that in place for other forms of liability.
- 11. Transportation Alternatives** – Support legislation authorizing transportation network companies to operate statewide; addressing key issues such as insurance coverage, while avoiding a patchwork of local regulatory regimes.
- 12. UI Experience Rating** – With the state's UI fund returning to long term solvency, we would like to see restoration of the five UI tax table rungs repealed in Chapter 57, Laws of 2013, to reflect the lower costs imposed by stable employers. These applied to employers with positive account percentages above 10.75 percent.
- 13. Contract Procurement** – Update and extend the "Procurement Stewardship Act;" adopt reforms that provide post-award debriefings for unsuccessful bidders; streamline MWBE certification and recertification process and revisit the net worth threshold.
- 14. Reject Wage/Benefit Mandates** – Oppose new pay mandates, including significant additional increases in the minimum wage; authorization for municipal-level minimum wages; extension of public works prevailing wage to private sector activities; new paid leave mandates.

Campaign Finance Reform

STAFF CONTACT: ken.pokalsky@bcnys.org

- Supports the fair and equal treatment of all participants in political advocacy with regard to the ability to generate and use resources.
 - Supports adoption of four-year legislative terms as a means to reduce campaign spending and fundraising, as an alternative to more onerous “reform” proposals that would limit political advocacy.
 - Opposes taxpayer financing of campaigns.
 - Opposes proposals to impose significantly disparate rules on participants in political advocacy.
 - Opposes proposals to use enforcement-related revenues to support public campaign financing.
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Consumer Affairs

STAFF CONTACT: sonia.lindell@bcnys.org

- Supports legislation addressing the issue of “organized retail theft crime,” to allow for crimes committed in contiguous counties to be prosecuted in a single county.
 - Opposes legislation imposing state-specific mandates, restrictions, labeling requirements or similar requirements on goods and products sold in interstate commerce.
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Contract Procurement

STAFF CONTACT: sonia.lindell@bcnys.org

- Supports clarification that the “restricted period” on communication begins at time of first formal public notification related to an act of procurement, not at an agency’s earliest “determination of need.”
 - Supports creation of a state information technology innovation center.
 - Supports substantial revisions to the Appendix B information technology products and services template.
 - Supports reforms to and streamlining of the Procurement Stewardship Act, when extending the act past its July 2016 sunset date.
 - Supports streamlining MWBE certification and recertification process and revisiting the net worth threshold.
 - Supports the leasing of technology equipment by state and municipal government entities.
 - Opposes legislation to prohibit state contracts from being awarded to a vendor if they require employees to engage in arbitration instead of litigation for alleged Title VII violations.
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Corporate Governance

STAFF CONTACT: cate.tully@bcnys.org

- Opposes mandates for remote shareholder participation and proxy voting at shareholder meetings.
- 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.

Economic Development

STAFF CONTACT: johnny.evers@bcnys.org

- Supports lowering the thresholds for the Excelsior Jobs program's "regionally significant manufacturing projects" to the creation of ten jobs and capital investment of \$1 million or more (current thresholds are 50 new jobs and \$5 million investment).
 - 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 in-state pharma clinical trials through tax and financial incentives.
 - Supports legislation authorizing transportation network companies to operate statewide.
 - Opposes the amendment of eminent domain laws that would apply new, broad definitions of "blight."
 - Opposes legislation that would impose significant new procedural requirements on economic development assistance provided by state and local public authorities.
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Education/Workforce Development

STAFF CONTACT: sonia.lindell@bcnys.org

- Supports the alignment of the STEM incentive and Masters-in-Teaching scholarship programs to include private colleges and universities.
 - Supports continued implementation of higher education standards and aligned assessments.
 - Supports continued development of alternative pathways to graduation (i.e., CTE, STEM).
 - Supports the expansion of the NYS P-TECH program.
 - Supports providing funding to ensure low-income students have access to cost-free AP STEM exams and expand access to the PSAT in 10th grade.
 - Supports the adoption of incentives for STEM companies entering into partnerships with local schools.
 - Supports amendments to the Urban Youth Works Tax Credit.
 - Supports metrics that measure the effectiveness of existing state workforce training investments in meeting regional workforce needs.
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Energy

STAFF CONTACT: darren.suarez@bcnys.org

- Supports the repeal of Section 18-a energy gross receipts assessment effective 1/1/16, avoiding the collection of an additional \$200 million from business and residential ratepayers.
- Supports the significant reduction of the nearly \$1 billion in current ratepayer assessments collected to fund Energy Efficiency Portfolio Standard (EEPS) and System Benefits Charge (SBC) and the Renewable Portfolio Standard (RPS) through the adoption of more cost effective and market driven solutions to achieving social objectives.
- Supports the 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 the authorizing of real property tax exemptions for the increased assessed value attributable to new natural gas distribution facilities.

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- Supports the continued operation of Indian Point, which provides 11 percent of the state’s electric power.
 - Supports efforts to study and address power quality issues by NYSERDA 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.
 - Opposes legislation creating a “Citizen Utility Board,” and intervenor funds in rate cases, which create a duplicative and costly consumer advocate function within the Department of Public Service, funded by additional utility assessments.
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Environment

STAFF CONTACT: darren.suarez@bcnys.org

- Supports the adoption of legislative reforms to the State Environmental Quality Review Act (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 the correct application of statutory and regulatory standards.
 - Supports the adoption of incentives for asbestos abatement in redevelopment projects.
 - 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 update the reportable qualities for release reporting.
 - Supports efforts to reduce the carbon intensity of our economy without reducing economic growth.
 - Supports increasing funding for the Environmental Protection Fund (EPF) to promote economic development; promote “smart” state capital investments that protect the state’s air, land, water and natural resources; and expand recreation opportunities.
 - Opposes expanded and unwarranted state-level chemical and product use restrictions.
 - Opposes mandates to require divestiture of holdings in traditional energy companies.
 - Opposes efforts to impose new taxes on motor vehicle fuel carbon content or other carbon dioxide emission taxes.
 - Opposes state-level efforts to mandate specific biodiesel content requirements in heating oil, while supporting market incentives for the use of bioheat.
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Financial Services

STAFF CONTACT: cate.tully@bcnys.org

- Supports legislation authorizing minority non-CPA ownership in public accountancy firms.
- Supports no-fault insurance reform.
- Supports the adoption of workable standards for use of pay cards by employers.
- Supports expedited foreclosure legislation, focused on abandoned property.
- Supports legislation authorizing transportation network companies to operate statewide.
- Opposes any expansion of the Martin Act, including but not limited to, provisions allowing pension fund initiation of enforcement actions.

- Opposes post-Sandy disaster insurance reforms.
 - Opposes the Whistleblower Protection Act.
 - Opposes new state level regulatory authority over “virtual currencies.”
 - Opposes so-called Secure Choice Savings Program legislation imposing additional compliance burdens on business related to retirement savings accounts.
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Health

STAFF CONTACT: lev.ginsburg@bcnys.org

- Supports transparency in rate-setting by DFS and a reexamination of the use of prior-approval in the state, in an effort to promote a healthy insurance market.
 - Supports efforts to ensure that the DFS adheres to state laws, specifically the State Administrator Procedure Act (SAPA), and does not utilize non-SAPA documents and guidelines to implement policy.
 - Supports reductions in New York Health Care Reform Act taxes as ACA implementation eliminates the need for bad debt/charity care support.
 - Supports the empaneling of the New York State Health Care Quality and Cost Containment Commission, established in statute in 2007, and that it begins analyzing the impact on health-insurance costs of proposed legislative mandates. In addition to analyzing proposed legislation, we support an agenda of “smart review” and evidence based plans of care, wherein existing health plan mandates are revisited to determine efficacy and medical necessity based on sound medical evidence.
 - Supports legislation that will enable savings for employers in the various efforts associated with Medicaid Redesign and the State Innovation Model on the private insurance side.
 - Opposes any new taxation or fees for the benefit of sustaining New York’s health insurance exchange/marketplace.
 - Opposes any unfunded mandates on private insurance that lead to cost increases, including mandated compensation levels for providers and staff ratios for nurses.
 - Opposes unnecessary and duplicative state efforts to regulate FDA-regulated products, such as the imposition of mandatory warranties on medical devices.
 - Opposes increases in the minimum wage that would have a disastrous effect on the availability of home-health and health aids across the State.
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Infrastructure (Transportation/Construction)

STAFF CONTACT: frank.kerbein@bcnys.org

- Support upstate/downstate parity in state investments in transportation infrastructure.
- Supports expansion and permanent extension of the design-build method of project delivery.
- Supports reform in the method for determinations of public work prevailing wage rates.
- Supports the NYS Emergency Responder Act.
- Supports dedicating the nearly \$2 billion in remaining financial settlement “windfall funds” to infrastructure programs, including roads, bridges, water and sewer projects.
- Opposes any mandatory Project Labor Agreement (PLA) requirement.
- Opposes extension of prevailing wage mandates to private sector activities.

Labor/Human Resources

STAFF CONTACT: frank.kerbein@bcnys.org

- Supports the use of voluntary best practice flexible workplace arrangements.
 - Supports reforms to ensure that “prevailing wage” determinations accurately reflect regional private sector wage levels.
 - Supports legislation exempting the Niagara Frontier Transit Authority (NFTA) from bond issuance charges.
 - Opposes new pay mandates, including an increased minimum wage, allowing municipal-level minimum wage, and any extension of public works prevailing wage to private sector activities.
 - Opposes proposals for mandated leave, including paid family leave, sick time, vacation time and other time-off.
 - Opposes legislation creating specific staffing ratios for nurses and other direct care staff in hospitals and nursing homes.
 - 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 imposing restrictions or pay mandates on the use of “on-line scheduling.”
 - Opposes restrictions on an 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 and others.
 - Opposes legislation mandating expanded employee access to personnel records.
 - Opposes legislation imposing new notification and acknowledgment provisions if employers electronically monitor employees in the course of business.
 - Opposes new paperwork and record retention provisions and enhanced liability for employment agencies and the businesses that use them.
 - Opposes legislation that requires public transit authorities and their employees to submit all unresolvable contract negotiations to binding arbitration.
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Lawsuit Reform

STAFF CONTACT: lev.ginsburg@bcnys.org

- Supports reforming the antiquated Scaffold Law by adopting a standard that assigns comparative negligence similar to that in place for other forms of liability.
- Supports limiting The New York False Claims Act to ensure that it cannot be used to prosecute against reasonable interpretations of the law.
- Supports the adoption of a \$250 million appeals bond cap regarding the Master Settlement.
- Opposes legislation establishing “consent-based” general jurisdiction of New York State courts over businesses registered to do business with the Secretary of State.
- Opposes legislation amending the CPLR to allow a plaintiff to obtain an indirect recovery from a third party-defendant when that plaintiff’s judgment against an original defendant was not satisfied within thirty days of the judgment being served.
- Opposes any legislation creating new private rights of action.

Taxation

STAFF CONTACT: ken.pokalsky@bcnys.org

- Supports the adoption of 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 the improvement and streamlining of real property tax administration, including: providing for the escrow of challenged tax payments; county-level assessments; fixed reassessment cycles; uniform, full market value assessments for all property classes; and reforming the assessment challenge process.
 - Supports amending the Article 9-A definition of “investment income” that limits investment income to eight percent of a taxpayer’s entire net income.
 - Supports the adoption of additional estate tax reform by extending the Article 22 prohibition of considering charitable contributions to estate tax; and by adopting a true tax threshold below which the value of an estate is exempt from estate tax liability.
 - 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.
 - Opposes legislation imposing sales tax collection mandates on “marketplace providers.”
 - Opposes excessively broad legislation to address “sales tax avoidance schemes.”
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Technology/Telecommunications

STAFF CONTACT: johnny.evers@bcnys.org

- Supports legislation that would expedite the approval of wireless facility upgrades.
- Supports legislation promoting computer science education in high school curriculum.
- Supports legislation that would prohibit the state from imposing new regulations on phone services that use Voice over Internet Protocol (VoIP) technology.
- 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 Data Security Legislation.
- Opposes Kill Switch Legislation.
- Opposes the creation of the Office of the Utility Consumer Advocate.



Travel and Tourism

STAFF CONTACT: johnny.evers@bcnys.org

- Supports an increase in the discretionary program spending thresholds in the “I Love NY” program.
 - Supports the streamlining of brand label approval of alcoholic beverage control products to conform with Federal rules.
 - Supports legislation to clarify the treatment of service charges added to dining bills, as to when such charges are considered receipts versus gratuities.
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Unemployment Insurance

STAFF CONTACT: lev.ginsburg@bcnys.org

- Supports the restoration of the five UI tax table rungs repealed in Chapter 57, Laws of 2013, to reflect the lower costs imposed by stable employers. These applied to employers with positive account percentages above 10.75 percent.
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Workers’ Compensation

STAFF CONTACT: lev.ginsburg@bcnys.org

- Supports mandating that for PPD purposes, maximum medical improvement is achieved within two years of the date of injury, thus closing the durational cap loop-hole.
- Supports expanding current law to allow the use of panel providers for the first ninety days of medical treatment.
- Supports adoption of regional indexing for workers’ comp program maximum weekly benefits.
- Supports allowing apportionment of death benefits in cases where a non-compensable disability/injury is the basis of apportionment.
- Supports repealing the Aggregate Trust Fund Deposit mandate on commercial workers’ comp carriers.
- Supports the adoption and utilization of nationally-recognized standards for medical and impairment guidelines.
- Supports the creation of a mechanism by which an inactive, solvent trust can provide full and final releases to members in a deficit assessment plan.
- Supports the expedited repayment to solvent group trusts of any 50-5 assessments paid to cover the costs of defaulted group trusts.
- Supports the finalization and implementation of administrative updates to medical guidelines on SLU awards.
- Opposes any rollback of 2007 cost-savings measures, such as restrictions or delays in permanent partial disability classifications, restrictions on the use of pharmaceutical networks, lengthening SLU multipliers or others.



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 **1.800.358.1202** or visit our website **www.bcnys.org**.



Ken Pokalsky

Vice President

Government Affairs (GAC), Taxation

ken.pokalsky@bcnys.org



John T. Evers, PhD

Director of Government Affairs

Economic Development, Technology/Telecommunications, Travel and Tourism

johnny.evers@bcnys.org



Lev Ginsburg, Esq.

Director of Government Affairs

Health Care/Health Insurance, Legal Reform, Unemployment Insurance, Workers' Compensation

lev.ginsburg@bcnys.org



Frank Kerbein

Director, Center for Human Resources

Construction, Labor/Human Resources, Transportation

frank.kerbein@bcnys.org



Sonia Lindell

Manager of Government Affairs

Consumer Affairs, Contract Procurement, Education/Workforce Development

sonia.lindell@bcnys.org



Darren Suarez

Director of Government Affairs

Energy, Environment, Occupational Safety and Health (OSH)

darren.suarez@bcnys.org



Catherine M. Tully, Esq.

Director of Government Affairs

Financial Services (Banking, Insurance and Accountancy)

cate.tully@bcnys.org



Sara McDonnell

Government Affairs Administrator

sara.mcdonnell@bcnys.org

Not a member yet? Call us or visit us online.
1.800.358.1202 | www.bcnys.org



The Business Council of New York State, Inc.
152 Washington Avenue, Albany, New York 12210-2289
12 Corporate Woods Blvd., Albany, New York 12211-2390
518.465.7511 or 1.800.358.1202
www.bcnys.org

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