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Dear Legislator:

I write to convey the Citizens Budget Commission's recommendations for legislative action on the Governor's Executive Budget for fiscal year 2017. Our recommendations cover four proposals that deserve your support, five proposals that should be modified, and four proposals that should be rejected.

Proposals To Support

Continued Spending Discipline: The Executive Budget increases state-funded spending less than 2 percent with agency spending held flat. The two largest items, Medicaid and school aid, would be close to their growth caps, increasing by 3.4 percent and 4.3 percent, respectively. Spending on agency operations will be relatively flat compared to the current year, as the Executive-controlled workforce will decrease slightly in fiscal year 2017 and will be down 10 percent since 2010. The Governor maintains his commitment to a 2 percent spending cap in future years, but has yet to specify how the necessary savings will be achieved; without these savings, general fund budget gaps would grow from $1.1 billion to $3.6 billion in fiscal years 2018 to 2020.

Increased Retiree Health Insurance Premium-Sharing: Retiree health care costs are forecast to grow from $1.3 billion to $1.6 billion in fiscal years 2016 to 2020. To curtail these costs, the Executive Budget proposes to decrease reimbursements for retiree Medicare Part B premiums and create a tiered system for retiree health insurance based on years of service. These proposals will save the State $10 million in fiscal year 2017 and as much as $40 million in fiscal year 2020.

While most employers—public and private—do not reimburse retirees for the cost of Medicare Part B premiums, New York State not only pays for the standard premium (currently $122 per month), but also the Income Related Monthly Adjustment Amounts (IRMAA) levied on high-income retirees (for example, couples with incomes in excess of $170,000 per year). Under the Governor's proposal, the State would cap the amount retirees are reimbursed at $105 per month and discontinue its IRMAA reimbursements for those most able to afford the costs of healthcare.

The proposal to create tiered premium contributions based on years of service would allow employees to pay a smaller share of premiums in retirement with each additional year of service. Retirees with 30 or more years of service would pay the same percentage of premiums as current retirees.

STAR Modifications: STAR (School Tax Relief) is a poorly designed program intended to lower the burden on homeowners of property taxes supporting school districts. It costs state taxpayers approximately $3.4 billion annually. This is the second year that the Executive Budget has proposed to freeze STAR benefits at current levels and convert the property tax exemption into a personal income tax (PIT) credit. Freezing the benefit will stem the growth of this poorly targeted program and ensure that additional benefits do not accrue to school districts that increase taxes. Converting the STAR exemption into a PIT credit would have two substantial benefits: It would allow property taxpayers to see changes in their school district's tax levy more clearly, and it would provide another administrative mechanism to prevent taxpayers from receiving the STAR benefit on multiple homes or when they are not primary residents of the State of New York.

Rational Tuition Plan for CUNY and SUNY: In 2011 the Governor signed legislation implementing the NYSUNY 2020 and NYCUNY 2020 programs. These five-year programs introduced a rational and predictable tuition plan and a commitment to maintain State financial support to public universities. Prior to this program, tuition increases at SUNY and CUNY had been inconsistent. During recessions, tuition was raised sharply to compensate for reduced state aid, while during periods of relative economic stability, tuition remained flat. SUNY and CUNY tuition rates are lower than other states' public institutions; incremental tuition raises will not endanger New York's ability to attract students.

These tuition programs are scheduled to end on July 1, 2016. The Executive Budget extends them for an additional five years. The SUNY and CUNY systems would have to demonstrate efforts to reduce spending in order to justify further tuition increases.

Proposals To Modify

Use of One-Time Financial Settlements: The State's current year $2.5 billion in one-time financial settlements should not be used to support ongoing operating expenses; these funds should be used to provide long-term benefits such as pay-as-you-go capital investments that replace borrowing, enhanced reserves, or accelerated debt payments.[1] The proposal to dedicate $590 million to capital housing projects is appropriate, as is allocating $215 million to reserves. However, the use of settlements funds to support the operation of roads and bridges (such as underwriting highway toll freezes) and economic development projects with unquantifiable returns on investment should be rejected.

[1] Carol Kellermann, "What NY Should Do With $4B: Five ways the state can spend the money to benefit taxpayers," *Crain's: New York Business* (July 24, 2014), www.cbcny.org/sites/default/files/OPED_07242014.pdf.

The Executive Budget directs $700 million to the Thruway Authority and $340 million for a tax credit for Thruway tolls. More specificity is needed about how the allocation to the Thruway Authority is to be used. Explicitly subsidizing drivers who most frequently use the Thruway system is egregious; it rewards additional driving for a narrow set of vehicle owners. The proposal to use $170 million for losers of last year's Upstate Revitalization Initiative (URI) should also be rejected as an unjustified economic development program.

School Aid Distribution: The Executive Budget increases school aid $991 million on a school year basis – raising total school aid 4.3 percent to $24.2 billion. Of this increase, only $266 million, or 27 percent, is foundation aid, while $189 million, or 19 percent, would partially restore the Gap Elimination Adjustment, and $407 million, or41 percent is expense-based aid.[2] The entire funding increase should go to foundation aid, which targets aid to districts with the highest need and least ability to pay. As proposed, the fiscal year 2017 budget would provide the wealthiest decile of districts with a larger percentage increase in aid (4.9 percent) than the neediest (4.6 percent).[3] State aid should give priority to districts with the greatest need and fewest resources.

Public-Private Partnerships: The Executive Budget extends design-build authorization for the Penn Station rehabilitation and Jacob Javits Center expansion. Only a few State agencies and authorities currently have this authorization, which allows an entity to offer a combined design and construction request for proposals (RFP), as opposed to one RFP for design and a subsequent RFP for construction. Design-build is widely praised for saving time and money and has demonstrated positive results in New York.[4] The budget goes further for the Metropolitan Transportation Authority, enabling it to enter into more complex contracting arrangements, known as public-private partnerships (PPPs), which take maintenance and operations into account as well.[5] PPPs are used extensively in other states and countries; authority to pursue such arrangements should be extended to all State agencies and the City of New York.

Binding Arbitration: As part of the Executive Budget, the Governor proposes to extend the current statute authorizing binding arbitration for contract disputes with some collective bargaining units for three years. The statute was amended in 2013 to specify that an arbitrator must consider the municipality's ability to pay based on full value property tax rate and fund balance if a municipality is in the bottom quartile on these measures. While this amendment was

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[2] Another $100 million would be dedicated to creating "Community Schools" and $28 million would go toward new competitive grants.
[3] Tammy Gamerman and David Copeland, "A Poorly Targeted State Aid Proposal," Citizens Budget Commission Blog (January 22, 2016), www.cbcny.org/cbc-blogs/blogs/poorly-targeted-state-school-aid-proposal.
[4] Maria Doulis, "Don't Block Design-Build," Citizens Budget Commission Blog (March 16, 2015), www.cbcny.org/cbc-blogs/blogs/dont-block-design-build.
[5] Maria Doulis, "The Dos and Don'ts of PPPs," Citizens Budget Commission Blog (December 5, 2011), www.cbcny.org/node/1499.

laudable, the changes did not go far enough. Arbitrators should account for the full cost of a decision, including retroactive pay and the impact on fringe benefits, without increasing taxes, making service cuts, or employing fiscal gimmicks. These more specific criteria should be applicable to all local governments, not just those in the bottom quartile of tax rates and fund balances.

Private Activity Bond Allocation Act of 2016: This proposal requires that all allocations of private activity bonds be approved by the Public Authorities Control Board (PACB).[6] Clearly, the State has a legitimate interest in ensuring that private activity bonds provide a net benefit for the State, as opposed to providing a tool for one local government to lure businesses from another. However, a substantial portion of such bonds are allocated within the City of New York for housing projects. Including housing projects in this proposal will not increase public scrutiny of the economic development process and is unlikely to improve the types of projects selected. The New York City Housing Development Corporation, which allocates these bonds for housing in New York City, is subject to the open meetings law and is generally respected for its transparency. The goal of this proposal should be to subject the use of such bonds for economic development to statewide oversight; accordingly the PACB review should be limited to bonds for that purpose.

Proposals to Reject

Tax Credits: The Executive Budget includes two tax credits that should be rejected: The Education Scholarship and Program Tax Credit (ESPTC) and the Thruway Toll Tax Credit (TTTC). The ESPTC would provide as much as $1 million per taxpayer, equal to 75 percent of a donation to a public or private school with a $70 million cap for the program.[7] It is an inappropriate and unnecessary subsidy to private and parochial schools. Donations of this nature are already deductible as charitable contributions. Changing this particular type of charitable donation to a credit may also set a precedent for other types of charities to press for a credit.

The $340 million TTTC, backed with settlement funds, would encourage additional driving, putting further stress on the Thruway's infrastructure. As explained above with respect to the use of settlement funds, it should be rejected.

New Economic Development Funding: Over the last five years economic development spending has expanded greatly; recent initiatives include allowing certain companies to operate tax free

[6] The PACB has three members, each with veto authority. The Governor, Assembly Speaker, and Senate Majority Leader each have an appointment.
[7] Of the total, $20 million is for public school entities, school improvement organizations, or local education funds, and $50 million is for public or private scholarship funds.

for 10 years through START-UP NY, $600 million in capital grants through Regional Economic Development Councils, and $1.5 billion for the Upstate Revitalization Initiative (URI).[8] The Executive Budget would spend an additional $1 billion for economic development—including $110 million on SUNY/CUNY challenge grants and $200 million in total for the losers of the URI—despite an absence of evidence that such initiatives yield a worthwhile return.

In recent weeks, the Governor made additional announcements, allocating $200 million in taxpayer money to build a pharmaceutical factory in Chautauqua County and $22 million from the 2016 budget to subsidize a mall on Staten Island. Because private investment and the associated jobs frequently lag behind promised levels, these proposals, along with extension of the Excelsior Jobs Tax Credits, should be rejected. A moratorium should be declared on expansions in economic development spending until the benefits of existing programs can be examined carefully and unsuccessful programs terminated. [9]

Cost Shifts to New York City: The Executive Budget proposes shifting a portion of CUNY senior college costs from the State to New York City and rescinding the State's takeover of payments for Medicaid growth in New York City. Together these two proposals shift more than $2.3 billion in expenses from the State to New York City over three years. No other counties are required to contribute to senior colleges, and there is no apparent justification for treating CUNY differently. With respect to Medicaid, no other state requires local governments to pay as much toward Medicaid as New York, and this local burden is highly inequitable. Capping the growth of these expenses for local governments was the right thing to do, and rolling the cap back for New York City would be a giant step in the wrong direction.[10]

The Executive Budget also shifts over three years $600 million in sales tax revenue from the City to the State through a complex transaction relating to the Sales Tax Asset Receivable Corporation (STARC). The City and the State both have made imprudent use of this local development corporation, but the Governor's proposal is belated and punitive only for the City.

New York Design and Construction Corporation: The Executive Budget would create a new entity to review capital projects that exceed $50 million. This three-member gubernatorial board would have the power to direct any state agency, department, or public authority to take corrective or other action related to the project, including the termination of contracts. The

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[8] Tammy Gamerman, "Economic Development Bigger in State Budget, But Benefits Unclear," Citizens Budget Commission Blog (April 16, 2015), www.cbcny.org/cbc-blogs/blogs/economic-development-bigger-state-budget-benefits-unclear.

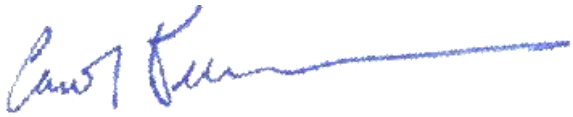
[9] Citizens Budget Commission, "An Assessment of Performance Reporting by Regional Economic Development Councils" (November 2015), p.12, www.cbcny.org/sites/default/files/REPORT_REDC_11302015.pdf. Confirming you are ok with citing policy briefs in this way.

[10] Like counties in the rest of the state, New York City's share of Medicaid expenses is based on its share in 2005. According to the most recent available data from the New York State Department of Health, Medicaid expenses grew 29 percent in New York City and 52 percent outside the City between 2006 and 2014.

Governor already has these powers over executive departments; this would be an additional level of supervision over public authorities and public benefit corporations which have their own boards. These boards have specified fiduciary duties under the Public Authorities Accountability Act of 2005. Creating this additional layer of oversight should be rejected because it would blur lines of accountability and give new powers to politically appointed individuals who do not have the same fiduciary and mission-related responsibilities as authority board members.

Thank you for considering CBC's recommendations. As always, my staff and I are happy to answer questions or discuss these issues.

Sincerely,



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