CITIZENS BUDGET COMMISSION
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TESTIMONY DELIVERED TO THE
Economic Development Committee of the New York City Council
Re: New York State Empire Zone Program: Should it be Preserved, Reformed or Eliminated?
November 24, 2009

Testimony of Carol Kellermann

The Citizens Budget Commission is a nonpartisan, nonprofit civic organization that since 1932 has been devoted to influencing constructive change in the finances and services of New York State and New York City government. We appreciate the opportunity to submit our comments on the future of the Empire Zones Program.

In December 2008, the Citizens Budget Commission (CBC) released a report entitled, *It's Time to End New York State's Empire Zone Program* (attached), which concluded that the Zones have proliferated to such an extent that the mission has been lost, the program's objectives are not measured consistently, local agencies do not hold firms accountable for the economic commitments they make, and the program is failing to meet the targets firms set when they are approved for benefits. Our findings were consistent with numerous audits and reports from within the state government and from the watchdog community.

In response, last April the State enacted legislation to decertify beneficiaries that do not generate more economic benefits than the tax benefits they receive and to disallow new entrants to the program at the sunset of the program, which was accelerated from the end of the 2010-11 state fiscal year to the end of 2009-10. The steps taken by state leaders last year presaged an opportunity to phase out the Empire Zone program and determine what the State can do to make its economic development efforts more effective.

We favor elimination of the Empire Zone program for three reasons supported by our research.

1. CBC's report determined that the Empire Zone program must ultimately be ended because it has proven impervious to reform. All attempts to reform the program in the past have either not been enforced or have been sidestepped by loopholes. For example, a few short months after the April legislation was passed, the state Legislature enacted legislation to allow companies with more than one location in an Empire Zone the option to aggregate the wages, benefits, investments and tax credits to determine if they should be decertified. Additionally, the current law states that Empire State Development may consider "other economic, social and environmental factors when evaluating the costs and benefits of a project to the state and whether continued certification is warranted based on such factors." Thus, even the most recent reforms intended to hold Zone credit recipients accountable may easily be sidestepped.

2. The Empire Zone program has moved well beyond its original mission to increase economic activity in economically depressed areas. CBC's report found that New York firms now enjoy 18 different ways to qualify for Empire Zone credits, as compared to one set of criteria when the program was created in 1986. In addition, changes to the law in

2005 allow municipalities to confer Empire Zone benefits on projects outside of the Zones by declaring them "Regionally Significant Projects." Since then, the New York City Council has used this designation to extend benefits to the Flying Food Group, Aesthetonics, Bronx Westchester Tempering Corporation, and Bimmy LLC. Moreover, this past summer, the City Council voted to expand the geographic boundaries of the Chinatown/Lower East Side Empire Zone in order to include the East River Science Park in its jurisdiction. While such projects may be deserving of public assistance, these expansions of the program increase the state's financial obligations to a program that has not been proven to work. From 2000 to 2008, the program's cost grew from $30 million to $580 million, registering an average annual growth rate of 45 percent. This is unsustainable. The seriousness of this unsustainable growth trend is heightened by the state's steep decline in tax receipts and the prospects of large budget gaps for the foreseeable future.

3. The benefits from this large and growing program are not distributed in a systematic manner. While the median benefits per job for program participants is $2,200, a handful of firms receive significantly more. For instance, in New York City, Manhattan Nursing Home Realty received $690,000 in 2006 for adding a single job. CBC further found that fully 58 percent of firms in the program fell short of either their job targets or investment targets by more than 60 percent. In New York City, nearly 79 percent of the 570 Empire Zone beneficiaries failed to meet their targets.

In the current economic and budgetary climate, New York deserves effective economic development initiatives – not a wasteful catalogue of lucrative tax breaks for firms sophisticated enough to take advantage of them. The Empire Zone program should be allowed to phase out and should be replaced – when state fiscal conditions allow – with a program or programs that would have a better chance at attracting the kinds of firms and sectors the State and the City will need to secure their economic future. CBC has highlighted key practices that will need to be changed if New York is to improve in this area. New programs should be:

- Aligned with a clear and overarching economic development strategy for New York State that articulates goals, objectives, and the metrics needed to measure performance. Reporting and disclosure of cost-benefit calculations for all economic development subsidies should be improved.
- Newly focused efforts should be targeted toward growth industries (such as the development and manufacturing of new technologies). Subsidies aimed at retention in manufacturing and other sectors should be clearly delineated and paired with appropriate measurements of their success or failure.
- Firms should be held accountable. The best way to ensure outcomes is to base program payments on performance post-facto rather than on projections made upon approval. Any new program should be based on what firms actually achieved retrospectively.
- Program management should be consolidated under a statewide or regional board structure. The combination of local/state management of the program has not worked. Local boards vary in their ability to administer the program successfully. More central administration is critical to improving outcomes by improving and standardizing practices.

Thank you for the opportunity to submit testimony. Please do not hesitate to contact me or my staff if we can further aid your deliberations.

Respectfully Submitted,

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