

# The \$7,000,000,000 Wager:

New York State's Costly  
Gamble in Economic  
Development



## THE \$7,000,000,000 WAGER: NEW YORK STATE'S COSTLY GAMBLE IN ECONOMIC DEVELOPMENT

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**ALIGN's** mission is to create good jobs, vibrant communities, and an accountable democracy for all New Yorkers. Our work unites worker, community, and other allies to build a more just and sustainable New York. Visit [www.ALIGNny.org](http://www.ALIGNny.org) for more information.

The Getting Our Money's Worth Coalition is a broad coalition of public policy experts, government watchdogs, labor unions, community and religious organizations, and concerned small business owners, workers and taxpayers. The statewide coalition is anchored by ALIGN, the Buffalo-based Coalition for Economic Justice and Long Island Jobs with Justice. Visit [www.GettingOurMoneysWorth.org](http://www.GettingOurMoneysWorth.org) for more information.



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# Executive Summary

New York spends approximately \$7 billion annually on economic development. Dozens of different economic development programs issue subsidies such as tax exemptions, tax credits, grants, tax-exempt bonds, and discounted land to corporations, ostensibly in the name of job creation, economic growth and an improved quality of life for all New Yorkers. At such a high price tag, New Yorkers deserve to know: how is this money being spent, and what return are taxpayers getting from this investment? Are these programs actually creating good jobs and community benefits?

This report attempts to answer these questions by analyzing New York's fifteen largest economic development initiatives and putting a price tag on each program and the system as a whole. While this report is not exhaustive, it begins the task of identifying key problems in New York's economic development system and proposing solutions to make it better serve our businesses and communities.

Our findings show that New York's current spending on economic development is more of a gamble than an investment. Few programs require recipients of subsidies to set performance goals such as job creation; few require project-specific reporting or monitor the success of projects; and few allow for adequate public review or recourse when corporations fail to live up to their agreements. This opaque and unaccountable system makes it impossible for the public or policymakers to determine if our \$7 billion investment is working for New York.

New Yorkers need our investment to work for us now more than ever. Our recovery from the Great Recession has been slow and uneven. Unemployment and underemployment are still high, and incomes for the vast majority have stagnated, even as corporate profits have rebounded. Working families and the middle class are the engines of the economy, and we will not see a full recovery until more people have good jobs that allow them to contribute to their local economies. It is critical that New York's job creation programs actually create the jobs that New Yorkers need.

Economic development programs should also respond to New York's environmental needs. Hurricane Irene and Superstorm Sandy have revealed that New York has not done enough to reduce our carbon emissions or prepare our state for extreme weather events. With climate change-induced extreme weather events the "new normal," we must improve the resiliency of communities throughout New York State. Using economic development tools to reduce sprawl and encourage energy efficiency in buildings will not only save costs in the long run, but will reduce emissions and prepare our communities for future climate events.

Since the Great Recession, localities across New York have also suffered severe fiscal crises. A report by the New York Division of Budget found that one-third of assessed localities were in fiscal distress.<sup>1</sup> In response, cities have reduced spending for public safety; counties have reduced spending for health, cultural and recreational programs; towns have reduced spending for garbage collection; and villages have reduced spending for transportation.<sup>2</sup> New York's \$7 billion in economic development spending should help localities to address the fiscal crunch by creating good jobs and increasing the tax revenue base. Instead, it has often served to exacerbate the revenue crisis. In several counties throughout New York State, local property tax exemptions offered through Industrial Development Agencies (IDAs) removed 6% to 15% of taxable property from the tax rolls. In Greene County, 25% of taxable property is exempt from local taxes due to its IDA.<sup>3</sup>

New York cannot afford to squander public resources; instead, it should marshal economic development resources to address our most pressing economic and environmental challenges head on. In the last few decades, economic development programs have proliferated, but performance evaluations have not.<sup>4</sup> While some individual programs have made important strides toward greater accountability and transparency, New York's approach towards economic development remains scattershot, and there are still no universal performance measurements with which to evaluate the success or failure of our \$7 billion annual investment.

Instead, reforms have been piecemeal. For example, recent reforms aimed at IDAs have improved reporting in some localities, such as New York City's Local Law 62 (2010), but have failed to prioritize performance.<sup>5</sup> For example, there is no obligation that IDAs establish job retention or job creation goals for subsidy recipients. Of the 4,486 current IDA projects, 1,161 of them do not promise to create a single job.<sup>6</sup> For the projects that do aim to create jobs, we found that 56% of these IDA projects failed to meet their job creation targets in 2011. For the rest of the economic development programs in New York State, we cannot analyze job creation data because comprehensive data is simply not available.

While we now have limited data allowing us to track the successes and failures of IDA projects, IDAs are only one small piece of the economic development puzzle. IDAs' net tax exemptions make up only 7% of the \$7 billion system, and therefore are only a small part of the problem. New York could leverage this \$7 billion to improve the quality of life for all New Yorkers, but such an endeavor cannot be undertaken without a full accounting of these expenditures.

New Yorkers need a concrete way to monitor the success of economic development spending to ensure the system is creating good jobs, increasing opportunity, and fostering a clean, prosperous economy. To ensure we get our money's worth from economic development, New York should:

- > **Prioritize Performance.** Economic development programs should prioritize a set of performance metrics that can be used to evaluate and monitor the success of spending in relation to key goals, including local job creation and carbon emissions benchmarks.
- > **Increase Accountability.** New Yorkers need increased accountability to ensure that subsidy recipients deliver on their promises and actually create jobs and community benefits.
- > **Show Us the Jobs.** Communities must be able to easily monitor and assess the performance of their investments.

## Highlights of New York State's \$7 Billion in Spending

### PERFORMANCE:

**Three programs establish performance goals that are annually benchmarked and monitored.**

- > The Excelsior Jobs Program, for example, requires job creation for every recipient, depending on the type of industry. These goals are benchmarked and reviewed annually.

**Twelve programs either do not establish performance goals, do not establish annual benchmarks, or do so for only some of their subsidies.**

- > The Production and R&D Tax Credit program, for example, does not establish performance goals for recipients. Instead, a business must simply make qualified investments in R&D related products and services during the tax year.

### ACCOUNTABILITY:

**Three programs require clawback provisions for nearly every subsidy recipient, so that public money can be recaptured when corporations fail to live up to their performance goals.**

- > Empire State Development Corporation has several programs that require clawback provisions. They have recaptured over \$32 million since 2001.

**Twelve programs do not have a clawback policy, allow for too much discretion on behalf of board members in applying the policy, or apply clawbacks ad hoc.**

- > Few as-of-right programs, such as NYC's ICAP/ICIP and CEP/CRP, have clawback provisions. While the NYCIDA includes mandatory clawback provisions in industrial and civic facility projects, it gives the IDA board complete discretion on clawback provisions for commercial projects.

### TRANSPARENCY:

**Four programs have company-specific and publicly-available annual reporting.**

- > Industrial Development Agencies (IDAs) annually report detailed, project-specific data through the Public Authorities Reporting Information System (PARIS). This data is then compiled into an Excel database, and is placed online. Data includes a project description, identifies any bonds received, breaks down the subsidy into property, sales and mortgage recording tax exemptions received in current year, and includes jobs promised and current jobs.

**Eleven programs either do not provide company-specific reporting, provide very little information, or do not make such information publicly available.**

- > The Investment Tax Credit program is only reported as a total program expense through the State Tax Expenditure Report. There is no project-specific data available online, and Freedom of Information Law (FOIL) requests are denied.

New York needs a comprehensive package of policy reforms that address the performance, accountability, and transparency of our economic development system. We have a \$7 billion resource that if focused on a key set of performance goals that are benchmarked, with transparent reporting and money-back guarantees, can incentivize strong and sustainable economic growth, benefiting communities and the environment throughout New York.

# Sticker Shock: New York State's \$7 Billion for Economic Development

## What is economic development?

Economic development is broadly defined as a process by which the government, community, and business work to build up the economic capacity of a local area to improve its economic outlook and the quality of life for all.<sup>7</sup>

Economic development is often divided into two categories, public and private. Public economic development typically takes the form of policies and programs designed to develop infrastructure, such as building highways and mass transit systems, managing parks and open space, and developing clean water and sewer infrastructure. This is often referred to as "public works."

Private economic development typically takes the form of government policies and programs designed to create and retain jobs, create economic opportunity, and improve the business climate through business subsidies, marketing, neighborhood development, real estate development and more.<sup>8</sup> This report will focus on how New York's private economic development system functions.

## Who Is Spending Our Money?

New York's \$7 billion annual spending on economic development subsidies is distributed through dozens of different programs and initiatives, which are administered by hundreds of public and quasi-public entities. In 1989, experts described New York's economic development system as "a dizzying array of programs and an alphabet soup of agencies that confound the public and frustrate firms seeking business development support."<sup>9</sup> Since that time, little has changed, except that even more programs and agencies have sprung up.

Subsidies in New York are offered by both local and state entities. At the local level, IDAs are the primary vehicle for tax exemptions. At the state level, Empire State Development Corporation (ESDC) is the primary vehicle. Both entities are public authorities, meaning that they have all the powers of government to provide financial assistance to businesses, but have little oversight or accountability. For example, their board members are typically appointed rather than elected.

The \$7 billion price tag for New York's private economic development system is an approximation, and likely represents a minimum annual expenditure. Several programs have no comprehensive reporting requirement, making it difficult, if not impossible to determine the

## Two Broad Categories of Subsidies

**As-of-right subsidies**, also known as entitlement subsidies, are automatically available to any company that meets a certain set of criteria. While a business must still apply for the subsidy, there is no public participation, negotiation of benefits, or board decision-making. The Excelsior Jobs Program and Brownfield Tax Credits are examples of as-of-right programs.

**Discretionary subsidies** are awarded on a case-by-case basis through individually-negotiated deals between economic development programs and companies. There may be no specific criteria for eligibility, there may be very specific criteria, or something in between. The lack of defined criteria gives officials discretion in determining whether a company is eligible for a subsidy, the size of subsidy provided, and any performance goals that the company must meet in return for receiving the subsidy. IDAs provide discretionary tax exemptions and bonds, and ESDC provides discretionary grants and bonds.

actual price tag. In addition, few programs calculate the cost of issuing tax-exempt bonds in terms of forgone revenue, leaving a sizable subsidy out of the total price tag. At the same time, some expenditures might be double-counted in this report. This might occur where an IDA or Local Development Corporation (LDC) is a flow-through for funding from ESDC or another economic development entity. There is also the potential for some overlap with funding for public works in cases where reporting is insufficient to determine the final use of funds.

We have been as thorough as possible to avoid duplication, and emphasize that this number is an approximation. This data problem can only be remedied by more accurate and publicly-available data. The \$7 billion cost was calculated by analyzing responses to information requests made under the New York Freedom of Information Law (FOIL), and reviewing annual audits, annual reports, investigative reports and state oversight publications.

We have arranged New York's economic development programs below by highest annual spending in the last available reporting year.<sup>10</sup> Most are organized by the entity that administers the programs, although some are standalone initiatives, with only an oversight agency to monitor implementation.

Rank	Program	Annual Spending (in millions)	Year of Data	State or Local Program	Type of Subsidy
1	Empire State Development Corp.	\$1,021	2011	State	Grants, Bonds, and other spending
2	NYC's As-Of-Right Programs: ICIP/ICAP; REAP; CEP/CRP; & MSG	\$758	2013	Local	Tax Exemptions and Tax Credits
3	NYC Economic Development Corporation	\$757	2012	Local	Grants, Bonds, Loans, and other spending
4	Production and R&D Credits	\$654	2012	State	Tax Credits
5	Public Authorities: NYPA, NYSERDA, and others	\$593	2012	State	Grants, Bonds, Tax Exemptions and other spending
6	Brownfield Cleanup Program	\$500	2012	State	Tax Credits
7	Industrial Development Agencies	\$490 <sup>11</sup>	2011	Local	Tax Exemptions and Bonds
8	Local Government Spending: Counties, Cities, Towns, Villages, excluding NYC	\$476	2011	Local	Grants and other spending
9	Empire Zones	\$420	2012	State	Tax Credits
10	Regional Economic Development Councils	\$409 <sup>12</sup>	2012	Regional	Grants, Bonds and Tax Credits
11	Empire State Film Credits	\$369	2012	State	Tax Credits
13	Commercial Airlines Tax Exemptions	\$192	2012	State	Tax Exemptions
13	Excelsior Jobs Program	\$185 <sup>13</sup>	2012	State	Tax Credits
14	Local Development Corporations	\$185	2011	Local	Grants, Loans, Bonds, and Tax Exemptions
15	Investment Tax Credit	\$144	2012	State	Tax Credit
<b>Total</b>		<b>\$6.903 billion<sup>14</sup></b>			

## New York's Economic Development Incentives

**Tax exemptions** reduce or eliminate the taxes a company pays to state and/or local governments. Commonly used exemptions include reductions in property tax, sales tax, and mortgage recording tax. IDAs provide approximately \$500 million in tax exemptions each year.

**Tax credits** reduce or eliminate state corporate income taxes by allowing a company to deduct a certain percentage of a specific kind of expense from what it would normally owe. Examples include credits for research and development, spending on new equipment, and employing hard-to-hire workers. The Production and R&D Tax Credit program spent \$654 million in tax credits in 2012.

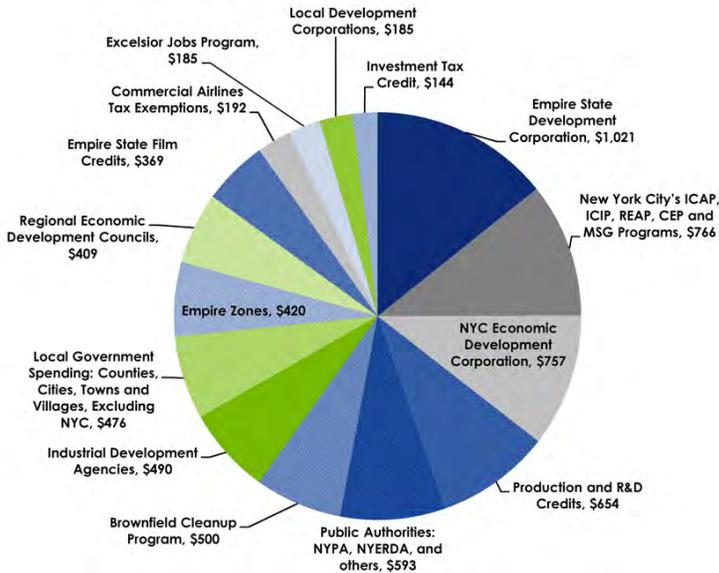
**Grants** are subsidies given as cash to companies. ESDC provided \$888 million in grants in 2011.

**Tax-exempt Bonds**, also known as Industrial Revenue Bonds, are bonds issued to finance private development. The interest income is tax-free and these bonds typically have lower interest rates than taxable bonds. Few programs make public the calculation of revenue lost on tax-exempt bonds as part of the subsidy total. ESDC's annual audit includes this calculation, while state-level IDA data does not. IDAs average \$29 billion in outstanding tax-exempt bonds, so it is likely that the tax exemption value would run in the hundreds of millions of dollars.

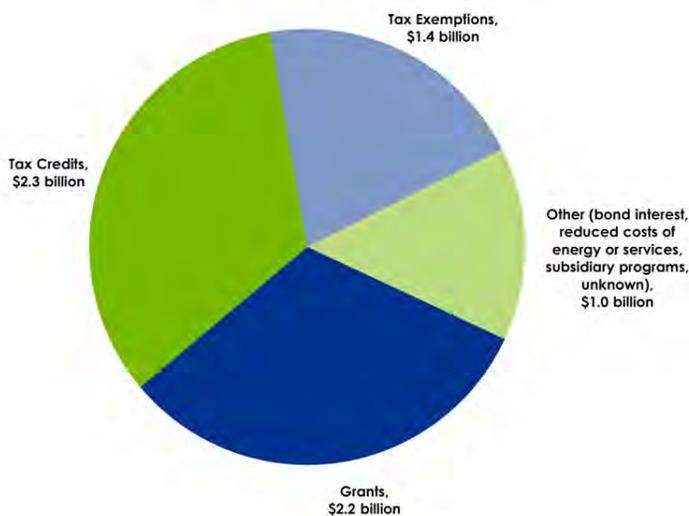
**Infrastructure assistance** lessens the price of construction by shifting the cost of improvements or expansions of roads, sewers, water lines, or other utilities to local governments. Improvements may be made on the project site (e.g. bulldozing existing structures or preparing land), or off-site (e.g. adding a stoplight to reroute traffic or rebuilding a bridge to accommodate heavy trucks). There is currently no publicly available calculation of these costs in New York's subsidy initiatives.

**Land-price write-downs** reduce the cost of purchasing land. A public authority often buys land and then transfers it to a private developer for a price below the authority's acquisition cost. The local government may also pick up the costs of eminent domain, demolition and clearance, and environmental cleanup. The NYCEDC, a local development corporation in New York City, reports on the parcels of land that have been transferred and the actual cost of the sale or lease, but does not analyze the cost relative to its actual market value.

**Annual Spending by Program (in millions)**



**Annual Spending by Subsidy Type**



## Are New York's Economic Development Efforts Creating Good Jobs and Great Communities?

Our review of New York's 15 largest programs indicates that there is not an effective strategy for economic development. With hundreds of overlapping agencies and programs, there is no coherent or unified plan for sustainable economic growth and job creation. There are no unifying goals or performance metrics that help us understand if our economic development dollars are benefiting all New Yorkers. An annual investment of this size should be properly monitored and adjusted to maximize the return on investment, and should have express performance goals to ensure quality outcomes.

Unemployment and climate change are two significant challenges facing New Yorkers. The state has nearly one million unemployed residents, and over three million New Yorkers live under the federal poverty line.<sup>15</sup> The Great Recession has been followed by "the weakest recovery since the 1930s."<sup>16</sup> While the stock market is thriving again, unemployment remains stubbornly high—higher than the national average—and wages are stagnant for the vast majority of New Yorkers.<sup>17</sup> In every region of the state, the cost of living is rising faster than the median income; and in every region, low-wage sectors of the economy are the fastest growing sectors.<sup>18</sup> Without benchmarked performance goals, there is no way to evaluate the role our economic development system plays in creating good jobs for New Yorkers, or increasing opportunity for low-wage, underemployed and unemployed community members.

Meanwhile, climate change events like Superstorm Sandy are having a devastating effect on all New Yorkers, particularly low-income residents. Forty-three percent of the 518,000 households seeking federal aid after Superstorm Sandy reported annual incomes of less than \$30,000. Sixty-eight percent of renters filing claims were low-income. Floodwaters damaged 402 public housing buildings with more than 35,000 units in New York City, which amounts to "more public housing units than the entire stock of any other public housing authority in the country."<sup>19</sup> Even in regions of the state that have not suffered extreme weather events related to climate change, greenhouse gas emissions have led to poor air quality and increased health risks for residents. New York established a carbon emissions reduction goal, known as 80x50, which requires 80% emissions reductions below 1990 levels by 2050. However, an implementation strategy was never completed, leaving New York with no clear, comprehensive agenda for meeting its climate goals. Additionally, no major program in the economic development system, aside from some of New York State Energy Research and Development Authority (NYSERDA)'s programs, monitors or attempts to address carbon emissions. With so little of our economic development system geared towards our 80x50 goal, there is little incentive for businesses to address the climate crisis.

We must monitor and evaluate our economic development system in order to ensure that it meets quality job creation and emissions reductions goals. Most economic development programs were formed to address specific needs identified to strengthen and protect New York's economy and communities. For example, IDAs were formed in 1969 to support manufacturing in the state, and Empire Zones were formed in the 1980s primarily to tackle the decline and disinvestment from urban centers. Today's economic development system must be responsive to New York's current problems and priorities.

Several steps must be taken to transform New York into a leader that invests strategically in economic development:

- > **Prioritize Performance.** Economic development programs should prioritize a set of performance metrics that can be used to evaluate and monitor the success of spending in relation to key goals, including local job creation and carbon emissions benchmarks.
  - **Set Goals.** More streamlined and consistent subsidy applications and financial assistance agreements, with clear benchmarks for job creation, local hiring and environmental sustainability.
  - **Protect Local Jobs.** Strengthen anti-piracy provisions to prevent companies from gaming the system by shifting jobs within the state instead of creating new jobs. Require local hiring and apprenticeship programs in return for large subsidies.
  
- > **Increase Accountability.** New Yorkers need increased accountability to ensure that subsidy recipients deliver on their promises and actually create jobs and community benefits.
  - **Involve Community Stakeholders.** Improved public notice and comment periods, more diverse labor and community representation on economic development decision-making bodies, and approval by local taxing jurisdictions.
  - **Money-back guarantee.** All subsidy deals must have provisions to recapture public money when companies fail to live up to agreed-upon performance goals.
  
- > **Show Us the Jobs.** Communities must be able to easily monitor and assess the performance of their investments.
  - **Online Reporting.** Website with detailed annual reporting on companies that receive subsidies, including how well they are measuring up to their agreements and how they are benefiting communities in terms of job quality and greenhouse gas emissions.
  - **Show Subsidy Spending in the Budget.** A yearly accounting of economic development spending by program that will shed light on our economic development system and inform decision-makers during the budget process.

## A Survey of Current Practices and Proposed Solutions

### Prioritize Performance

#### THE PERFORMANCE PROBLEM

Despite an enormous \$7 billion annual investment, New Yorkers have little idea what we are getting in return for our money. Few performance goals are set, and they often fail to align with core needs, such as local job creation and climate change prevention. New York's economic development system has no universal goals for creating or retaining jobs, and no way to tell if the jobs have decent salaries and benefits, or if job opportunities go to New Yorkers or to workers from outside of New York. There is also currently no way to measure whether economic development subsidies are moving us towards New York's carbon emissions reduction goal.

The annual price tag of economic development subsidies is high, but it is even higher when other economic, social and environmental costs are taken into consideration. Taxpayers often end up paying for subsidies two or three times over: once for the subsidy itself; another time for public assistance to workers who don't earn enough to meet their basic needs; and a third time for the sprawl, hidden infrastructure costs, congestion, environmental degradation, and extreme climate events that result from unsustainable development.

## HOW IT WORKS IN PRACTICE

### The Application

The application is the first step in the subsidy process. It provides the key information used by an economic development program to determine if a business is eligible for funding. For discretionary benefits, this information provides the basis for funding negotiations and subsequent accountability mechanisms such as “clawbacks.” However, many applications fail to ask the right questions.

For example, New York’s 113 Industrial Development Agencies (IDAs) are not obligated to ask the same core set of questions, so each IDA’s application varies. Most IDA applications ask about the number of jobs expected to be created and retained, but only a few ask about the quality of jobs to be created. No IDA asks whether a project fits within New York’s smart growth criteria, or asks about the projected carbon emissions from the project.<sup>20</sup> For example, the Brownfield Tax Credit program application asks detailed questions about environmental contamination, but does not ask about job creation or retention, planned financial investment, or other environmental criteria, such as smart growth.<sup>21</sup>

### The Agreement

Financial assistance agreements set out the terms of the subsidy. Without such an agreement, it is nearly impossible to determine the subsidy amount, or any performance goals that a business must meet in return for the subsidy. LDCs have a mixed track record on financial assistance agreements, with some creating detailed agreements, and others no written agreement at all. In addition, some subsidy agreements lack a clear definition of the amount of subsidy to be provided, and do not establish any performance goals.

### Annual Performance Benchmarks

Performance benchmarks take the performance goals identified in the application and agreed upon in the financial assistance agreement, and place them into an annual calendar. At the end of each year, the subsidy program staff reviews each business to determine if it has met its annual benchmarks. If the goals are not met, then clawback provisions are triggered.

Many of New York’s economic development programs do not benchmark their performance goals. However, ESDC’s direct loan program benchmarks performance goals and conducts an annual review for compliance.<sup>22</sup> Regional Economic Development Council projects may have annual performance benchmarks, but the goals are not identified in the annual report, and therefore the public cannot determine whether a business is being held accountable to its agreement.<sup>23</sup>

### Job Creation

Almost all of New York’s economic development programs describe job creation as their main purpose. Yet surprisingly few economic development programs have job creation requirements, and no programs require that the jobs created are good jobs. A few IDAs encourage local job creation, but these appear to be aberrations from the norm.

In practice, the evidence shows that even those programs that do require job creation or retention are failing to meet this goal. Of the 4,486 current IDA projects, 1,161 of them do not promise to create a single job. Sixty-eight percent of the 407 IDA projects that ended in 2011 lost jobs, did not create jobs, or did not meet their job creation targets; falling a total of 32,153 jobs below their targets.<sup>24</sup> In addition, the NYCIDA is the only economic development entity that reports on local hiring, making it impossible to calculate whether the rest of New York’s programs

are actually creating employment for local people. The ICAP program in New York City requires no job creation, only economic investment, which may indirectly lead to job creation, but does not guarantee it.<sup>25</sup>

### **Job Piracy**

Governor Cuomo has recently spoken out for more accountable economic development. In February 2013, he said, "I'm not interested in using tax dollars to move the same job around town or move the same job from town to town."<sup>26</sup> However, the practice continues to be all too common. Competition among local economic development entities to attract businesses can result in the looting of businesses and jobs from each other, at the expense of taxpayers. This is primarily an issue among local economic development entities, such as IDAs. The law governing IDAs prevents piracy, but loopholes in the law allow it to happen without consequence.

### **Environmental Sustainability**

Currently, the \$7 billion economic development system has no strategy to be a part of New York's carbon emissions reduction plan. In fact, there is not any data related to the role our \$7 billion investment is playing in climate change. Similarly, no program requires a recipient to abide by smart growth laws, although there is a state smart growth law that encourages agencies to do so.

## **THE PERFORMANCE SOLUTION**

### **Set Goals**

New York should develop standard application questions for all economic development programs. These questions lay the foundation for smart decision-making for discretionary programs and annual performance benchmarking and review. Applications should include: detailed project description; amount of subsidy requested; number of permanent and temporary jobs to be created and retained by year; whether new jobs are actually new to New York or simply shifted within the state; local hiring commitments; wages and benefits by job classification; whether the proposed project meets New York's smart growth criteria; and information necessary to benchmark the project's carbon emissions.

The Consolidated Funding Application, an online application developed for Regional Economic Development Councils, approaches what is needed in New York. While there are different questions asked of certain businesses depending on the type of project proposed, all applicants are asked the same set of basic questions, such as how the project fits the regional economic priorities, and the number of jobs to be created and retained.<sup>27</sup> The Consolidated Funding Application provides a useful example for a streamlined application process that could be adapted for all economic development programs. This one-stop application can save significant administration costs while making it easier for businesses to navigate New York's myriad subsidy programs.

Beyond the application, there should be a written agreement with annual performance benchmarks. Financial assistance agreements should be written, and include clearly-identified performance goals for the following items: financial investment; job creation or retention; local and targeted hiring; benchmarking and tracking carbon emissions; and identifying compliance with New York's smart growth criteria. These performance goals should be benchmarked and reviewed annually for compliance.

Performance goals simply allow New Yorkers to determine whether our investment in economic development is paying off. A formal assessment of the impact public dollars are having on our

communities and on our climate will facilitate strategic decision-making and prioritize investments that make a positive impact in New York.

The REAP program in New York City is an example of a performance-based program, as it requires subsidy recipients to create jobs, and bases the amount of tax credits on the number of jobs created.<sup>28</sup>

### **Protect Local Jobs**

New York taxpayer funded projects should generate jobs for New Yorkers. Recipients of large subsidies should be obligated to offer jobs first to New Yorkers, and to utilize union apprenticeship programs that provide job pipelines for New Yorkers into skilled trades. Some IDAs, such as the Monroe County IDA, already have a policy that requires local hiring.<sup>29</sup> The Rockland County IDA encourages the use of local contractors at the prevailing rate.<sup>30</sup>

In order to reduce job piracy in New York, subsidy applicants should be required to show clear and convincing evidence that they are actually seeking to move out of New York. In order to skirt the law prohibiting job piracy, a business simply needs to state that it is considering moving outside of New York. Improved evidentiary standards would help to reduce the abuse of this provision. In addition, approval of the shifting of jobs financed by public dollars should be obtained from affected taxing jurisdictions.

## **Increase Accountability**

### **THE ACCOUNTABILITY PROBLEM**

Decisions on economic development often are made by a narrow set of board members, without adequate representation from taxing jurisdictions, and labor and community stakeholders. The subsidy-granting process often limits public participation—even when members of the public are allowed to attend meetings and comment on proposed projects, notice of meetings and documentation on applicants are inadequate. Additionally, too many programs lack any form of clawback mechanism, leaving taxpayers with no remedy when performance goals are not met.

### **HOW IT WORKS IN PRACTICE**

#### **Board Representation**

Discretionary economic development programs typically have appointed boards, which make decisions about who receives subsidies, how much they receive, and whether there are any performance goals. Boards of local economic development entities are typically appointed by the elected representative of the district in which the board sits. For example, the Saratoga County IDA board members are appointed by the Saratoga County Board of Supervisors.<sup>31</sup> Boards of state economic development entities are typically appointed by the governor with the advice and consent of the Senate.

These boards are rarely representative of the communities in which they are located. While there is no comprehensive data on the makeup of the boards of economic development entities, evidence shows that they lean heavily towards representation by business leaders, with little representation from other community leaders. For example, Empire State Development Corporation's (ESDC) current six-member board consists of four business leaders, one government official, and the ESDC director.<sup>32</sup> Representatives from local taxing jurisdictions, such as school boards, are rarely represented on economic development boards, although the tax exemptions granted through these boards have a direct impact on their budgets.

## **Public Participation**

The meetings in which decisions about the granting of subsidies are made are open to the public, but in ways that limit public participation. Before an IDA grants financial assistance of \$100,000 or more to a business, it must have a public hearing and give the public ten days advance notice.<sup>33</sup> Notice, however, does not require providing information about the subsidy, such as the application and cost-benefit analysis. Instead, information on the applicant often is posted online the day of the hearing, or provided in print at the hearing. Thus, while the public can attend a hearing on a subsidy and have the opportunity to speak, there is insufficient time to read through the information and develop an informed position on the issue.

ESDC is subject to the New York Open Meetings Law. This law requires providing notice one week prior to the meetings, and making "agency records...available, upon request therefor, to the extent practicable as determined by the agency or the department."<sup>34</sup> This means that the agency has no obligation to provide information prior to a hearing, making informed participation difficult.

## **Clawbacks**

Clawbacks, also known as subsidy recapture mechanisms, hold subsidy recipients accountable by "clawing back" public dollars from corporations that fail to meet their benchmarked performance goals. Some of New York's economic development programs have clawback policies, others apply them ad hoc, while others lack them completely.

About half of IDAs have clawback provisions.<sup>35</sup> However, many of these same IDAs set very low performance goals, so businesses rarely fail to meet these goals. In addition, most IDAs with recapture policies give their board of directors discretion as to whether they should apply the clawback provision. For example, the NYCIDA, while having one of the strongest clawback policies in New York for industrial and civic facility projects, gives complete discretion to the IDA board to determine whether and to what degree a clawback should apply to commercial growth projects."<sup>36</sup>

Few tax credit programs have clawback provisions. This is because tax credits are provided based on prior performance, meaning that if a business has met the requirements of the program at the end of the year, it is eligible for the credits. However, even with tax credit programs there are times when a business may collect tax credits and subsequently be determined to have been ineligible. A clawback provision would protect against such occurrences. The Excelsior program is an example of a tax credit program with clawback policies.

## **THE ACCOUNTABILITY SOLUTION**

### **Set Goals**

New York's economic development programs should designate board member representation for leaders of community-based, faith, labor, environmental, workforce development, and other organizations. Public hearings should be required for all subsidies, with 30 days' notice. All application materials and cost-benefit analyses should be made available at that time. Board decisions on discretionary subsidies should be made several days after the public hearing to ensure public comments are taken into account.

The NYCIDA has the strongest public participation policies in New York. The NYCIDA provides notice of public hearings at least 30 days prior to a hearing and posts application information online, including the cost-benefit analysis, 12 days prior to the hearing. It sends email notification

to impacted community boards and elected officials, provides live audio broadcasts of meetings, and makes broadcasts available on its website for three days after a meeting.<sup>37</sup>

### **Money-Back Guarantee**

New York should require clawback policies for all economic development programs, providing for some discretion on behalf of program administrators to account for circumstances outside the control of the subsidy recipient. However, the waiver of clawbacks should only occur after a public hearing. The Excelsior Jobs Program, which is a tax credit program, has a subsidy recapture provision as an added layer of protection for these public investments.<sup>38</sup> ESDC has clawback provisions for its grant recipients, and since 2001, has clawed-back over \$32 million.<sup>39</sup>

## **Show Us the Jobs**

### **THE TRANSPARENCY PROBLEM**

Information on economic development subsidies is obscure, hard to find, and often simply unavailable to the public. Project-specific reporting is even less accessible. Freedom of Information Law (FOIL) requests are often denied, or responded to only partially after long delays. The State Tax Expenditure report provides a partial accounting of economic development spending. Legislators use this report during the budget process, but without a complete accounting of lost revenue, budgeting occurs without full knowledge of the extent of New York's economic development spending.

### **HOW IT WORKS IN PRACTICE**

#### **Publicly-Available Subsidy Information**

There is no single website for the public to access information on all subsidy programs and subsidy recipients. Because each program has its own reporting requirements, information is inconsistent across programs. The public is often unable to determine which businesses are funded through which programs, as some programs report no data, while others report data with varying degrees of accuracy.<sup>40</sup> Additionally, businesses may receive subsidies from multiple programs, making a full accounting of subsidies nearly impossible. Accordingly, there are several barriers to monitoring the approximately \$7 billion spent on subsidies each year.

The Public Authorities Reporting Information System (PARIS), jointly managed by the Authorities Budget Office (ABO) and the New York State Comptroller (OSC), is the most comprehensive reporting system in New York. However, not all subsidy programs must report into the system. Currently, all IDAs, some LDCs, and ESDC report into PARIS. Some LDCs avoid reporting annual data by claiming they are not local authorities according to the legal definition.<sup>41</sup> For example, the Bronx Overall Economic Development Corporation, an LDC in New York City, has failed to comply with public disclosure, reporting and corporate governance provisions of Public Authorities Law, and as a result has received a letter of censure from the Authorities Budget Office.<sup>42</sup> The amount of information reported in PARIS varies as well, with IDAs reporting on specific project-level information, and ESDC only reporting on broad program-level information. The OSC produces an annual Excel database on IDAs that provides project-specific data, but they do not produce a similar database for ESDC spending.<sup>43</sup>

Some as-of-right programs, such as the Production and R&D Tax Credit program, do not produce any project-specific reports. The Brownfield Tax Credit program has an annual project-specific report, but the report is not comprehensive, lacking several points of data that are currently reported on by IDAs.<sup>44</sup>

## THE TRANSPARENCY SOLUTION

### **Online Reporting**

A one-stop website with annual program-wide and project-specific reporting by all economic development entities should be made available to the public. The website could include all benchmarked performance goals and whether they have been met, as well as other key data, such as wages and benefits provided by job classification, and carbon emissions benchmarks. Information should be available for download in a non-proprietary database format, and links should be made available to each project application, cost-benefit analysis, and financial assistance agreement.

A comprehensive one-stop reporting system would reduce administrative costs for many economic development entities. The NYCIDA currently produces two reports on its spending, creating an unnecessary administrative burden for the IDA. One report is known as the PARIS report, and is generated for the ABO and OSC's statewide IDA database. The other report is known as the Local Law 62 report and has much more stringent reporting requirements than the PARIS report. A single report that is standard across all programs and managed by the state would lessen overlapping reporting requirements for local economic development entities, reducing administrative costs and improving efficiency of program operation.

### **Show Subsidy Spending in the Budget**

With more consistent reporting, it would be easy to annually compile program-wide economic development spending alongside the Tax Expenditure Report, to reference during the state budget process. This report would identify all spending on economic development, generating an informed conversation about the role that this spending plays in New York's budget.

## A Performance Report of New York's Economic Development Programs<sup>45</sup>

Entity	Performance	Transparency	Accountability
<b>Empire State Development Corporation (ESDC)</b>	<u>Good</u> Most ESD programs have benchmarked performance goals, although none relate to environmental sustainability. While the Economic Development Fund benchmarks certain performance criteria, it does not mandate job creation or environmental sustainability.	<u>Fair</u> Annual, project-specific reporting is minimal. ESDC produces an annual Operations and Accomplishments report, which only provides project highlights and is not comprehensive. ESDC responded favorably to a FOIL request.	<u>Good</u> All ESDC programs have, and apply where applicable, recapture provisions. However, of the 52 non-compliant projects, only 12 were assessed penalties. The remainder had waivers or contract renegotiations, without any public process.
<b>NYC's ICIP/ICAP program; REAP program; CEP/CRP program; &amp; MSG</b>	<u>Fair</u> REAP has clear performance goals for job creation, while the other programs have no such job creation goals, but simply require a business to locate or remain in a locale. There are no environmental sustainability goals, unless a project receives over \$10 million in city funding, in which case a recipient must meet several environmental regulations.	<u>Poor</u> There is no project-specific reporting for any program. ICIP provides the addresses of recipients, but not the name of recipient or the amount received.	<u>Poor</u> No program has subsidy recapture provisions.
<b>NYC Economic Development Corporation</b>	<u>Fair</u> Performance goals are not set for all NYCEDC programs. For example, neither the NYC Entrepreneurial Fund nor the Sales Tax Exemption for Manufacturers set performance goals for recipients. Only projects that receive over \$10 million in City funding are required to meet environmental goals.	<u>Fair</u> There is project-specific reporting for some of EDC's grants, but it lacks detail and does not report on the bulk of its grant funding. The report on lease and sale of land does not account for the cost to the city, if any, of these transfers.	<u>Poor</u> It appears no EDC program has a clawback policy.
<b>Production and R&amp;D Credits</b>	<u>Poor</u> There are no performance goals for this program.	<u>Poor</u> There is no project-specific reporting for this program and FOIL requests were denied.	<u>Poor</u> There is no clawback policy for this program.
<b>Public Authorities</b>	<u>Fair</u> NYPA's ReCharge New York program takes job creation and retention into consideration in its criteria for allocating low-cost power. No other program establishes job creation goals. Many of NYSERDA's programs encourage or require performance goals for environmental sustainability.	<u>Poor</u> No program provides a project-specific report.	<u>Fair</u> One of NYSERDA's programs, the New York State Biofuel Distributor Program, has a clawback policy. NYPA's ReCharge New York program allows the discontinuing of low-cost energy, but does not recapture the value of the subsidy.
<b>Brownfield Cleanup Program</b>	<u>Fair</u> The BCP establishes performance goals for the remediation of on-site contamination, although it does not establish similar goals for job creation, local hiring, or other environmental standards. Participants in the BOA program often must meet local hire and job creation goals.	<u>Good</u> NYS Department of Tax and Finance produces an annual Tax Credit report, including the name of each recipient, the credit earned, and information identifying the project.	<u>Good</u> Tax credits cannot be claimed until the cleanup is certified as complete. If a Certificate of Completion is subsequently revoked, all tax credits must be returned.

Entity	Performance	Transparency	Accountability
<b>Industrial Development Agencies</b>	<u>Fair</u> There are no universal performance goals, such as job creation or local hiring, for IDAs. Individual IDAs occasionally implement performance goals related to jobs. No IDAs require environmental sustainability goals.	<u>Good</u> IDAs must provide project-specific annual reports to the ABO and OSC, which are compiled in an Excel database. Information includes project descriptions, subsidy amounts, bond amounts, job promises and current jobs. The NYCIDA has an even more expansive reporting process.	<u>Fair</u> About half of IDAs have subsidy recapture policies. Many of these policies aren't enforced, however, due to loopholes that allow significant discretion by IDA boards.
<b>Local Government Spending: County, City, Town &amp; Village, excluding NYC</b>	<u>Poor</u> There are no universal performance standards for local government spending.	<u>Poor</u> There are no project-specific reports produced to track this spending.	<u>Poor</u> There are no universal clawback provisions for local government spending.
<b>Empire Zones</b>	<u>Fair</u> Job creation or capital investments are required to be eligible for the program. There are no environmental sustainability requirements.	<u>Poor</u> There is no project-specific report available online. Some project-specific data is available through a FOIL request, though data is limited.	<u>Poor</u> There are no clawback provisions in this program.
<b>Regional Economic Development Councils</b>	<u>Fair</u> While job creation and environmental sustainability are not required, in nearly every region these goals are part of the selection criteria. New York City's REDC prioritizes projects that create jobs, and Western NY's REDC prioritizes projects that meet smart growth criteria.	<u>Good</u> REDCs provide an annual progress report that includes information on each project funded during the prior year. This report includes project descriptions and award amounts, but does not indicate whether there are benchmarks and if they were met.	<u>Fair</u> Subsidy recapture provisions are included in all ESDC funded REDC projects. However, there is no universal requirement that all REDC funds, such as state agency funds, have accountability provisions.
<b>Empire State Film, Commercial &amp; Post-Production Credits</b>	<u>Good</u> 75% percent of a film's production costs must be spent in New York. Job creation is encouraged through increased tax credits that are partly based on higher payroll. Environmental sustainability is not a consideration.	<u>Fair</u> There is an annual report on project-specific expenditures for Film Tax Credits. However, names of recipients are not included in the report. Limited access to recipients' names can be obtained through a FOIL request.	<u>Poor</u> There are no subsidy recapture provisions in this program.
<b>Commercial Airlines Tax Exemptions</b>	<u>Poor</u> There are no performance targets in this program.	<u>Poor</u> There are no annual reports on this program.	<u>Poor</u> There are no subsidy recapture provisions in this program.
<b>Excelsior Jobs Program</b>	<u>Good</u> There are clear performance goals that each recipient must meet in order to be eligible for this program. However, these goals only extend to job creation, and do not account for local hiring, or environmental sustainability.	<u>Good</u> A quarterly and annual report on project-specific expenditures is available to the public. It provides data on job commitments and performance to date, but does not include project descriptions, nor links to applications or cost-benefit analyses.	<u>Good</u> All Excelsior tax credits are subject to recapture.
<b>Local Development Corporations</b>	<u>Poor</u> LDCs are widespread and largely unregulated, leading to exceedingly different programs and practices across the state. There are no universal performance standards for all LDCs.	<u>Fair</u> LDCs produce an annual report under the PARIS system. However, the report does not cover all LDCs. The data that is reported lacks project descriptions.	<u>Poor</u> We were unable to identify any LDCs with clawback provisions.
<b>Investment Tax Credit</b>	<u>Poor</u> There are no performance targets in this program.	<u>Poor</u> There are no annual reports on this program.	<u>Poor</u> There are no subsidy recapture provisions in this program.

## Conclusion

Prioritizing the performance of New York's \$7 billion in spending on private economic development requires setting performance standards and monitoring them annually. Such a system would allow policymakers to determine whether this money is generating the return on investment that justifies the expense.

Economic development is not simply a financial decision. The use of public funds for private economic development should carefully track the needs of New York's businesses and communities. There are a core set of performance goals that are essential for determining a return on investment. These include the number and quality of jobs created and retained, whether the project is built with smart growth criteria in mind, and the potential carbon emissions from the project.

Through a combination of setting goals, monitoring performance, and increasing accountability, New York can streamline its economic development spending by focusing on those programs that actually generate results, and scaling back or eliminating programs that fail to deliver a return on investment. Our current system simply does not calculate performance, and as a result there is no clear sense of whether economic development spending is working for New York. Consistent review of clear performance goals will lead us to the proper identification of success and failure. Without such a system in place, we are gambling with \$7 billion. Let's not gamble, let's invest in New York.

# APPENDIX: A Closer Look at New York State's 15 Largest Economic Development Programs

## Empire State Development Corporation (ESDC)

\$888 million in grants, \$133 million in subsidiary programs, \$9.1 billion in outstanding bonds in 2011

### WHAT IS ESDC?

ESDC is a state-level public authority that subsidizes economic development.<sup>46</sup> Its mission is to promote business investment and growth that leads to job creation and prosperity.<sup>47</sup> ESDC provides around \$1 billion per year in grants and capital spending, which are allocated to ESDC each year through the budget process. ESDC also manages several dozen programs, some of which provide tax exempt financing. Some of the largest of these tax exemption programs are the Empire Zone Program, the Excelsior Jobs Program, the Brownfield Tax Credit Program, and the Regional Economic Development Councils.<sup>48</sup> These programs are addressed elsewhere in this report and are not included in ESDC's \$1 billion in annual spending.

ESDC oversees various subsidiaries including the Harlem Community Development Corporation, New York Convention Center Development Corporation, Moynihan Station Development Corporation, Erie Canal Harbor Development, New York Empowerment Zone Corporation and more.<sup>49</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

Job creation requirements vary by program. The JOBS Now program requires job creation and bases the grant size on the number of jobs created.<sup>50</sup> ESDC's direct loan program requires that the applicant identify certain performance goals, and these goals are benchmarked and reviewed annually. However, other programs, such as the Economic Development Fund, which has provided \$367 million in grants to its current recipients, do not require similar benchmarked performance goals.<sup>51</sup> No ESDC program bases the eligibility of an applicant on the quality of jobs it will create.

#### Local and Targeted Hiring

ESDC has no targeted hiring or local hiring performance goals for subsidy recipients. The New Market Tax Credit program, which is intended to create jobs in low income communities, includes local hiring as a "tertiary" priority in selecting applicants for funding.<sup>52</sup>

#### Environmental Sustainability

There are no specific environmental standards for ESDC programs. State law does require every project requiring discretionary approval to complete a standard environmental assessment statement, and the state smart growth law encourages all government entities to abide by smart growth criteria.<sup>53</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

There is no universal recapture requirement for all ESDC spending. However, several of ESDC's programs have recapture provisions. All ESDC grants are subject to recapture if certain criteria are not met by the recipient. ESDC's annual report on jobs and employment, which is provided once a year during a meeting of the board of directors, presents key findings related to recaptured funds. This report does not provide project-specific data on subsidy recapture, although the report did note that "since 2001, ESDC has recaptured over \$32 million in grant monies."<sup>54</sup>

#### Decision-Making Process

ESDC's board of directors is appointed by the Governor with the advice and consent of the State Senate. The current board is comprised of six members (it is authorized to have seven), including four business leaders, one government official, and the ESD director.<sup>55</sup> All funding decisions are made by the board during monthly meetings. The Open Meetings Law for New York governs the process for ESDC meetings. This law requires

providing notice one week prior to the meetings, and making agency records available upon request "to the extent practicable as determined by the agency or the department."<sup>56</sup>

## SHOW US THE JOBS

### Transparency

ESDC does not produce a single annual report that covers all of its project-specific subsidies. A bi-annual independent audit of ESDC provides information on the overall expenditures of ESDC. However, it does not look at individual programs or projects.<sup>57</sup> Under the Public Authorities Reform Act, ESDC provides program-wide information, but again lacks project-specific data.<sup>58</sup> ESDC reports on its operations and accomplishments, which provides more detailed project-specific data, but is selective in its reporting, focusing primarily on program successes.<sup>59</sup>

### Total Spending by ESDC<sup>60</sup>

Year	Number of Businesses Receiving Grants	Spending on grants (in millions)	Spending on Subsidiary Programs and Bond Interest (in millions)	Total Spending (in millions)	Percentage Change in Total Spending
2011	164	\$888	\$133	\$1,021	-26%
2010	212	\$947	\$424	\$1,371	55%
2009	189	\$709	\$175	\$884	16%
2008	264	\$583	\$176	\$759	14%
2007	304	\$435	\$233	\$668	
<b>Total</b>	<b>1,133</b>	<b>\$3,562</b>	<b>\$1,141</b>	<b>\$4,703</b>	

### Top 10 Recipients of ESDC Grants Since 2002<sup>61</sup>

Rank	Company	Grant Total (in millions)	Project Description	Program
1	Bank of New York <sup>62</sup>	\$40	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
2	Deutsche Bank Working Capital	\$34.5	Unavailable	JOBS Now
3	American Express	\$25	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
4	Goldman Sachs	\$25	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
5	NY Board Of Trade Working Capital	\$23.3	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
6	Agro Farma	\$18	Unavailable	New Market Tax Credit
7	Morgan Stanley	\$16	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
8	OSI Pharmaceuticals Working Capital	\$15	Unavailable	Jobs Now
9	Deloitte & Touche	\$13	Unavailable	World Trade Center Job Creation and Retention Program: 9/11 Grant Program
10	Adelphia Communications	\$12.4	Unavailable	Jobs Now

## New York City's ICAP, ICIP, REAP, CEP and MSG Programs

\$758 million in tax exemptions and tax credits in 2013

### WHAT ARE NEW YORK CITY'S TAX EXEMPTION AND TAX CREDIT PROGRAMS?

#### ICAP/ICIP: \$667 million in 2013.

The Industrial and Commercial Abatement Program (ICAP) replaced the Industrial and Commercial Incentives Program (ICIP) in 2008, although existing recipients of ICIP exemptions will continue to receive benefits.<sup>63</sup> The purpose of these programs is to encourage construction or rehabilitation of commercial, industrial, or mixed-use structures in New York City by providing property tax exemptions for up to 25 years.<sup>64</sup> ICIP was replaced in part because of criticism that the program facilitated the development of retail, particularly fast food, throughout New York's outer boroughs, while it unnecessarily financed retail in midtown Manhattan.<sup>65</sup> The ICAP program is more streamlined than ICIP, although it still allows certain types of retail development. Eligible commercial development is restricted to certain areas outside of Manhattan's central business district. ICIP spent \$662 million in 2013, while ICAP spent \$5 million. The programs are administered by the NYC Department of Finance.

#### REAP: \$23 million in 2013.

The Relocation and Employment Assistance Program (REAP) provides a tax credit to commercial and industrial businesses that locate in New York City, but outside of Manhattan's central business district.<sup>66</sup> The business must relocate from outside of New York City, or from below 96<sup>th</sup> Street in Manhattan.<sup>67</sup> The program provides a \$3,000 business tax credit for each job created by the relocated business, for up to 12 years.<sup>68</sup>

#### CRP and CEP: \$51 million in 2013.

The Commercial Revitalization Program (CRP) and Commercial Expansion Program (CEP) were created by the State to provide tax exemptions for commercial development in New York City.<sup>69</sup> CRP provides property tax abatements for leases of office or retail spaces in Lower Manhattan, as well as commercial rent tax relief and energy subsidies through the Energy Cost Savings Program. The program is intended to increase office and retail occupancy in Lower Manhattan. CEP provides property tax abatements in all manufacturing districts and most commercial areas outside Manhattan's central business district, and in all of the outer boroughs. The program is intended to encourage businesses to locate in New York City but outside of the city's primary business district.<sup>70</sup>

#### MSG: \$17 million in 2013.

The Major League Sports Facilities, Madison Square Garden (MSG) program provides a full property tax exemption for Madison Square Garden. The exemption was authorized in 1982, and at the time most people believed that it was a 10-year exemption. The tax exemption is still in place today.<sup>71</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

The REAP program provides tax credits based on the number of jobs created, and an eligible business must move at least one employee from outside the REAP area into the REAP area.<sup>72</sup> None of the other programs have a job creation or retention requirement. There are no job quality requirements for any of the programs.

#### Local and Targeted Hiring

None of the programs have local hire or targeted hiring requirements.

#### Environmental Sustainability

There are no environmental standards that specifically apply to these programs.

### INCREASE ACCOUNTABILITY

#### Clawbacks

No program has a clawback provision. For New York City's tax credit programs, such as REAP, the benefits are not available until the business actually makes the investments necessary to claim a credit.

## Decision-Making Process

All of the programs are as-of-right, meaning that if a business is eligible for the program, it automatically receives the subsidies at a predetermined level. These programs are monitored by the New York City Department of Finance.

## SHOW US THE JOBS

### Transparency

The New York City Department of Finance releases an annual ICIP exempt-properties list. Though the data is in an Excel format, it does not provide the names of the recipients of the tax exemption, nor the amount of abatement received. There is no similar property-specific list for the ICAP program.<sup>73</sup> The other New York City tax exemption programs do not release project-specific reports.

### Annual Spending by NYC's As-of-Right Economic Development Programs<sup>74</sup>

Year	ICIP/ICAP Tax Exemptions Total (in millions)	REAP Tax Credits Total (in millions)	CRP/CEP Tax Exemptions Total (in millions)	MSG Tax Exemptions Total (in millions)	Total (in millions)	Percentage Change
2013	\$667	\$23	\$51	\$17	\$758	-1%
2012	\$682	\$22	\$47	\$15	\$766	8%
2011	\$623	\$23	\$48	\$15	\$709	12%
2010	\$568	\$17	\$35	\$14	\$634	13%
2009	\$500	\$17	\$34	\$12	\$563	11%
2008	\$484	N/A	\$11	\$12	\$507	9%
2007	\$410	\$8	\$34	\$12	\$464	9%
2006	\$401	N/A	\$12	\$12	\$425	-1%
2005	\$372	\$7	\$38	\$12	\$429	14%
2004	\$316	\$6	\$44	\$11	\$377	25%
2003	\$250	\$6	\$34	\$11	\$301	
<b>Total:</b>	<b>\$4,606</b>	<b>\$106</b>	<b>\$337</b>	<b>\$126</b>	<b>\$5,175</b>	

### 10 Largest Recipients of ICIP in 2012<sup>75</sup>

Rank	Company	Project Address	Net Tax Exemption in 2012 (in millions)
1	Rego II Borrower LLC	61-01 Junction Blvd, Queens	\$8.9
2	Manufactures Hanover	270 Park Ave, Manhattan	\$8.1
3	Blackhawk Acquisition	1095 Avenue of the Americas, Manhattan	\$6.5
4	Forest City Myrtle Ave	115 Myrtle Ave, Brooklyn	\$6.1
5	Triangle Equities	2201 Nostrand Ave., Brooklyn	\$4.8
6	200 Fifth Owner LLC	1097 Broadway, Manhattan	\$4.6
7	Macrich Inc.	57-15 92 St., Queens	\$4.1
8	Macerich Queens Ltd	90-15 Queens Blvd, Queens	\$3.8
9	Hearst Communication	959 8th Avenue, Manhattan	\$3.2
10	Name Unavailable	131-07 40th Rd., Queens	\$3.2

## New York City's Economic Development Corporation (NYCEDC)

\$757 million in economic development costs in 2012

### WHAT IS THE NYCEDC?

The NYCEDC is a not-for-profit corporation that provides grants, issues low-interest loans, purchases, sells and manages city-owned properties, facilitates commercial and industrial development, and staffs the New York City IDA.<sup>76</sup>

The NYCEDC has sold 29 city-owned properties since 2005, ranging from a sale price of \$1 for Seaview Senior Living Corporation, to \$110 million for 270 Greenwich Street Associates LLC.<sup>77</sup> The NYCEDC actively leases 73 properties in New York City, with lease costs ranging from \$1 per year for several locations, to \$5.5 million for the Atlantic Center Mall in Brooklyn.<sup>78</sup>

The NYCEDC also develops, negotiates and manages the NYCIDA's 623 active subsidized projects. The largest of the currently reported subsidies is \$114 million for Chase Manhattan Bank's building at 4 Metrotech Center in downtown Brooklyn.<sup>79</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

There are no job creation requirements across all NYCEDC programs. Until recently, there were no job quality standards for recipients of NYCEDC financial support.<sup>80</sup> Two recently-passed laws in New York City require that projects receiving over \$10 million in City funding, including NYCEDC funding, must pay a prevailing wage to building service workers and a living wage to retail workers.<sup>81</sup>

#### Local and Targeted Hiring

The NYCEDC does not require local or targeted hiring as a condition of receiving financial support.

#### Environmental Sustainability

There are no universal environmental goals for NYCEDC funded projects. However, where a business receives over \$10 million in city funding for a project, that project must meet certain energy efficiency and water use reduction goals.<sup>82</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

The NYCEDC may require subsidy recapture in certain cases for its grants and loans, although annual reporting shows that none of the recipients have job creation goals. The lack of performance goals renders recapture policies ineffectual.

#### Decision-Making Process

The NYCEDC has a 27-member board of directors. The Mayor appoints 16 members. Five of the 16 board members are recommended by the Borough Presidents (one each), and five by the Speaker of City Council. The Partnership for NYC, a powerful business lobby, must be consulted prior to the appointment for the Chair of the Board, and the Chair of the Board appoints 10 members from a list supplied by the Mayor. Appointments by the Chair cannot be a public official or a person prominent in the labor community.<sup>83</sup>

The NYCEDC's own portfolio of spending, which amounts to \$757 million annually, is not subject to the same degree of accountability as the NYCIDA. Although board meetings are open to the public to attend, there is no opportunity for public comment at these meetings.<sup>84</sup>

### SHOW US THE JOBS

#### Transparency

The NYCEDC produces two annual project-specific reports. One uses the state PARIS reporting system and the other is a more detailed report required by the New York City's Local Law 62. The PARIS report does not cover funds that are provided through the NYC capital budget; accordingly, it lists only 59 grant recipients for a total of just over \$100 million, which is only one-fifth of the NYCEDC's total grant spending.<sup>85</sup>

To comply with Local Law 62, NYCEDC generates an annual report on leases and property sales, providing the name of the company and the cost of the sale or lease, but it does not indicate the fair market value of the land.<sup>86</sup> The NYCEDC produces an annual Operations and Accomplishments report, but it only lists a few recipients of funding and does not state the amount received. It also produces an annual Authority Performance Measurement report, which lacks project-specific information.<sup>87</sup>

**Annual Spending by the NYCEDC<sup>88</sup>**

Year	Grants (in millions)	Spending on Other Activities (in millions) <sup>89</sup>	Total Spending (in millions)	Percentage Change
2012	\$498	\$259	\$757	-3%
2011	\$534	\$247	\$781	-3%
2010	\$515	\$293	\$808	5%
2009	\$552	\$219	\$771	-8%
2008	\$620	\$214	\$834	
<b>Total:</b>	<b>\$2,719</b>	<b>\$1,232</b>	<b>\$3,951</b>	

**Top 10 recipients of NYCEDC Grants in 2012 (data available for only 1/5 of funding portfolio)<sup>90</sup>**

Rank	Company	Address	Project Description	Grant Amount (in millions)
1	Empire State Development Corporation	752 Pacific St, Brooklyn, NY 11238	Land Acquisition/Development /Infrastructure Costs	\$20.4
2	Sims Municipal Recycling of New York LLC	South Brooklyn Marine Terminal, Brooklyn, NY 11232	Commercial Property Construction/ Acquisition/ Revitalization/ Improvement	\$18.9
3	Brooklyn Academy of Music, Inc.	30 Lafayette Ave & 321 Ashland Pl, Brooklyn, NY 11217	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$18.9
4	Greater Jamaica Development Corporation	90-04 161st Street, Jamaica, NY 11432	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$7.5
5	Yankee Stadium, LLC	1 East 161 St, Bronx, NY 10452	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$6.4
6	Battery Park City Authority	One World Financial Center, NY, NY 10281	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$5.2
7	American Museum of the Moving Image	36-01 35th Ave, Astoria, NY, 11106	Education/Training	\$4
8	Federation of Italian-American Organizations	8703 18th Ave. Brooklyn, NY 11214	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$2.9
9	Basketball City USA, LLC	299 South Street, NY, NY 10002	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$2.6
10	Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (SAGE)	305 7th Ave, NY, NY 10001	Commercial Property Construction/Acquisition/ Revitalization/Improvement	\$2.1

## Production and R&D Tax Credits

\$654 million in tax credits in 2012

### WHAT ARE THE PRODUCTION AND R&D TAX CREDITS?

The Production and Research and Development (R&D) tax credits are state sales tax credits that businesses can claim at the end of each year to offset their tax liability for purchases related to R&D. These credits can apply to business expenses such as gas and electricity used in R&D, property used for R&D, machinery and equipment used in production, or services for production equipment.<sup>91</sup>

### PERFORMANCE

#### Jobs

The Production and R&D Tax Credit program does not require job creation or job retention. In addition, there are no job quality standards for credit recipients.

#### Local and Targeted Hiring

The Production and R&D Tax Credit program does not require targeted or local hiring.

#### Environmental Sustainability

The Production and R&D Tax Credit program does not require any environmental standards.

### INCREASE ACCOUNTABILITY

#### Clawbacks

There are no subsidy recapture mechanisms built into this program. However, as a tax credit program, the credits are not available until the business actually makes the investments necessary to claim a credit.

#### Decision-Making Process

This is an as-of-right program, meaning that if a business meets the criteria for production and R&D, and claims the proper exemptions at the end of each year, the business automatically receives the tax credit. The program is monitored by the New York State Department of Tax and Finance.

### SHOW US THE JOBS

#### Transparency

There is no annual report or project-specific reporting for this program. All information on these credits has been obtained through the New York Tax Expenditure Report, which has a brief description of the tax credits and a line item for the cost of the credits. A Freedom of Information Law request for detailed information to the New York Department of Taxation and Finance was declined, citing New York secrecy laws.

#### Annual Spending by the Production and R&D Tax Credit Program<sup>92</sup>

Year	Production and R&D Tax Credits Amount (in millions)	Percentage Change
2012	\$654	3%
2011	\$636	11%
2010	\$573	-1%
2009	\$581	-7%
2008	\$627	-2%
2007	\$639	2%
2006	\$626	8%
2005	\$581	1%
2004	\$574	6%
2003	\$544	
<b>Total:</b>	<b>\$6,035</b>	

## Public Authorities

\$593 million in spending in 2012

### WHAT ARE PUBLIC AUTHORITIES?

Public authorities, also known as public benefit corporations, are entities created by state or local government with the broad purpose of benefiting the public. There are currently 553 known state and local authorities. Forty-six are state authorities and 507 are local. The large majority of local authorities are IDAs (114) and LDCs (270).

Many authorities only finance public infrastructure projects, such as the Bridge and Tunnel Authority. These entities issue debt to pay for large-scale projects, and then contract with private entities to construct and sometimes operate the facilities. Our analysis focuses only on public authorities that offer subsidies for private economic development. Since LDCs and IDAs are dealt with elsewhere in this report, this section will only focus on the few state public authorities that finance private economic development. These include the New York Power Authority (NYPA), the New York State Energy Research and Development Authority (NYSERDA), and several smaller state authorities.<sup>93</sup>

Public authorities have many options for financing private economic activity. These include tax-exempt bonds, mortgage, sales and property tax exemptions, grants and loans.<sup>94</sup> Combined, state and local public authorities spent more than \$53.4 billion in 2011. Much of this spending consists of proceeds from the sale of bonds. There are more than 3,000 board members governing these authorities, and more than 100,000 staff.<sup>95</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

NYPA's ReCharge New York program, which replaced the Power for Jobs Program, retains an emphasis on job creation and retention, but also considers several other factors in the allocation of low-cost power. These other factors include total payroll, capital investment, impact on the regional economy and coordination with state and local economic development efforts.<sup>96</sup> None of the other programs require job creation or retention as a condition of the receipt of financial incentives. No program considers the quality of the jobs to be created or retained in its funding allocation decisions.

#### Local and Targeted Hiring

There are no targeted or local hiring standards for any programs offered by these public authorities.

#### Environmental Sustainability

NYSERDA's primary emphasis is environmental sustainability. Under its purposes and powers, it is required to "develop and implement new energy technologies consistent with economic, social and environmental objectives, [and] to develop and encourage energy conservation technologies."<sup>97</sup> Therefore, much of NYSERDA's economic development portfolio is directed towards these ends.<sup>98</sup> NYPA, on the other hand, does not have such a specific orientation towards environmental conservation, aside from the mandate "to preserve and enhance the scenic beauty of the Niagara Falls and river."<sup>99</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

NYSERDA includes subsidy recapture provisions in several of its programs. For example, the New York State Biofuel Distributor Program, which provides incentives for gas stations to offer biofuels, includes a subsidy recapture provision for those who benefit from the subsidy but do not actually sell biofuels.<sup>100</sup> It is unclear if all NYSERDA programs include such provisions. NYPA does not have clawback provisions, although the ReCharge New York program allows the discontinuation of low-cost energy for recipients that become ineligible.

#### Decision-Making Process

NYSERDA has a 13-member board, including the Commissioners of the Department of Transportation, the Department of Environmental Conservation, the Public Service Commission, and the New York Power Authority, all serving ex-officio. Nine members are appointed by the Governor, with designated board representation for

an engineer or a research scientist, an economist, a member of a not-for-profit environmental group, a member of a not-for-profit consumer group, an officer of a utility primarily engaged in the distribution of gas, and an officer of an electric utility. The Governor must approve all decisions by NYSERDA's board.<sup>101</sup>

NYPA has a board consisting of seven trustees, all of which are appointed by the Governor with the advice and consent of the Senate. The trustees select a chairman from among themselves.<sup>102</sup>

## SHOW US THE JOBS

### Transparency

The Public Authorities Reform Act requires that all public authorities submit an annual report to the Authorities Budget Office.<sup>103</sup> In addition, NYPA and NYSERDA are both required by law to submit annual economic development reports to the Governor, with details on the recipients, and the number and type of jobs created. However, the reports that are available to the public do not include the same detailed information. For example, recipients of NYPA subsidies report the total jobs at the location, but not the number of jobs they agreed to create or retain. Thus it is impossible to determine from such a report if the recipient is living up to any agreement.<sup>104</sup>

### Annual Spending by Public Authorities<sup>105</sup>

Year	NYSERDA (in millions) <sup>106</sup>	NYPA (in millions) <sup>107</sup>	Other Public Authorities (in millions) <sup>108</sup>	Total (in millions)	Percentage Change
2012	\$84	\$479	\$30	\$593	-14%
2010	\$144	\$479	\$67	\$690	
<b>Total:</b>	<b>\$228</b>	<b>\$958</b>	<b>\$97</b>	<b>\$1,283</b>	

### NYPA Economic Development Programs<sup>109</sup>

Program	Purpose	Number of Recipients	Largest Recipient	Value of Subsidy
Economic Development Power Program	Allocate lower-cost power to certain businesses in New York	46	JP Morgan Chase (NYC): 24,000 kW	Unknown
Expansion Power Program	Allocate 250 MW of hydroelectric power as "Expansion Power" to businesses located near the Niagara Power Project	74	Occidental Chemical Corp in Niagara Falls: 39,000 kW	Unknown
Replacement Power Program	"Replacement Power" provides 445 MW of hydropower from Niagara Falls to businesses within 30 miles of the area	72	Olin Corp in Niagara Falls: 79,000 kW	Unknown
Preservation Power Program	Allocates hydropower within Jefferson, St. Lawrence and Franklin counties from that previously sold to Alcoa and GM Powertrain from the St. Lawrence-FDR Power Project.	8	Alcoa (West) and Reynolds Metals Co (both in Massena): 239,000 kW each	Unknown
High Load Factor Power Program	Allocates 96 MW to energy-intensive industries throughout the state.	8	SCA Tissue North America LLC in South Glens Falls: 20,000 kW	Unknown
Power for Jobs (replaced by Recharge NY in 2011)	Provides low-cost power to businesses and not-for-profits in exchange for job retention or job creation commitments.	388	Several received 5,000 kW, including Citigroup and Verizon (NYC), and Luvata Buffalo Inc. and Ford (Buffalo).	Unknown
Recharge New York Power Program	Makes 910 MW of discounted power available to eligible applicants to attract new businesses and retain and expanding existing businesses.	1,010 applicants	Unknown	Unknown
Industrial Incentive Awards	Rate discount available to companies in New York State, including those that are at risk of closure or relocation to another state.	10	Erie Canal Harbor Development Corporation: \$3.7 million	\$12.5 million

## The Brownfield Cleanup Program (BCP)

\$500 million in tax credits in 2012

### WHAT IS THE BROWNFIELD CLEANUP PROGRAM?

In 2003, the Brownfield Cleanup Program (BCP) was created to encourage the remediation of brownfields, which are abandoned or underused properties where redevelopment is complicated by environmental contamination. These sites blight communities, pose health threats, and are a fiscal burden on local government.<sup>110</sup>

The BCP offers tax credits, known as Brownfield Tax Credits (BTC), as a site remediation incentive. The tax credits are available for three distinct components of a project: site preparation; tangible property costs; and on-site groundwater remediation.

Corporations have gamed the program, which reimbursed a developer up to 22% of the total value of the redevelopment.<sup>111</sup> Thus, large developments were able to claim tens of millions in tax credits under the program, while spending only a fraction of that amount on the actual remediation. The Carousel Center Mall/Destiny USA in Central New York claimed \$50 million in tax credits, while the actual cleanup of the brownfield cost the developer less than \$1 million.<sup>112</sup> Legislative improvements in 2008 capped tangible property credits, but many businesses were accepted into the program prior to 2008 and will continue to cash in on excessive subsidies.

### PRIORITIZE PERFORMANCE

#### Jobs

Job creation is not a requirement for eligibility in the BCP, although a project located in a high-poverty and high-unemployment "En-Zone" can qualify for additional tax credits, which are calculated by factoring the number of workers hired.<sup>113</sup> The quality of the jobs that are created is not a consideration in the BCP.

#### Local and Targeted Hiring

There are no local or targeted hiring requirements in the BCP. However, through a related program known as the Brownfields Opportunity Areas (BOA) program, applicants may receive up to 2% in additional Brownfield Tax Credits for following a plan developed through BOA, which may include local and targeted hiring goals.<sup>114</sup>

#### Environmental Sustainability

Recipients must properly remediate the brownfield site, according to specific remediation standards. Recipients are not required to benchmark or reduce greenhouse gas emissions or energy use. The BOA program has been used as a tool to generate smart growth, as it promotes revitalization of an entire area and encourages infill rather than sprawl.<sup>115</sup> However, admission into BOA is not a prerequisite for accessing the Brownfield Tax Credits.

### INCREASE ACCOUNTABILITY

#### Clawbacks

Tax credits are granted only after a Certificate of Completion has been granted to the project, which means the remediation plan has been completed and approved by the State.<sup>116</sup> If the Certificate of Completion is subsequently revoked, all tax credits must be returned.<sup>117</sup>

#### Decision-Making Process

The Brownfield Cleanup Program is administered by the New York Department of Environmental Conservation (DEC). Applicants submit their remediation and development plans to the DEC, which determines whether the site qualifies for the program.<sup>118</sup> There is a 30 day public comment period, after which the DEC then may enter into a Brownfield Cleanup Agreement (BCA) with the applicant. Eligible taxpayers may file for the tax credits once remediation is certified as complete.<sup>119</sup> The New York Department of Taxation and Finance monitors the tax credits.

## SHOW US THE JOBS

### Transparency

As a result of the 2008 amendments to the program, the NYS Department of Tax and Finance produces a Brownfield Credit Report by January 31st of each year, which includes the name of each recipient, the credit earned, and information identifying the project.<sup>120</sup>

The New York State Brownfields Advisory Board is a 15-member board that was created to monitor and evaluate the State's implementation of the BCP. The Board must provide the Governor and Legislature with an annual assessment of the implementation, available funding, and resources of the program.<sup>121</sup> However, this board has never met, and no reports have been released.<sup>122</sup>

### Annual Spending by the Brownfield Tax Credit Program<sup>123</sup>

Year	Number of New Projects Funded in Current Year <sup>124</sup>	Total Tax Credits (in millions)	Percentage Change
2012	N/A	\$500	-9%
2011	13	\$549	-12%
2010	14	\$624	76%
2009	9	\$355	39%
2008	29	\$255	88%
2007	N/A	\$136	17%
2006	N/A	\$116	87%
2005	N/A	\$62	
<b>Total:</b>	<b>65</b>	<b>\$2,038</b>	

### Top 10 Recipients of Brownfield Tax Credits in 2011<sup>125</sup>

Rank	Company	Project Description and Location	Located in an En-Zone?	Tax Credit in 2011 (in millions)	Tax Credits Received Since 2007 (in millions)
1	River Place II Holdings / West 42 <sup>nd</sup> St. Gas Works	Residential rental development; Manhattan	Yes	\$91.8	\$101.6
2	Empire Gen Holdings / South 40 Site	Natural gas fired electric generation plant; Rensselaer	No	\$87	\$87
3	Flushing Town Center	1.3 million square foot mixed-use development; Queens	No	\$60.6	\$98
4	Courtlandt Corners I & II	Two large residential condominium complexes; The Bronx	Yes	\$21.2	\$21.2
5	Tiago Holdings / East River Plaza	500,000 square foot multi-level big box retail facility; Manhattan	Yes	\$5.1	\$63.1
6	Master TF / Queens West Waterfront Corp	Seven residential towers, retail, etc; Long Island City	No	\$4.4	\$4.4
7	BTM Development Partners / Gateway Center at Bronx Terminal Market	1 million square foot retail development; The Bronx	No	\$1.9	\$1.9
8	SDB Holdings / Buffalo Color Corp Site	Western Railway Historical Society and the Steel Plant Museum plan a Heritage Discovery Center; Buffalo	Yes	\$1.4	\$1.4
9	LHL Holdings / West 61 <sup>st</sup> St	Residential tower; Manhattan	No	\$1.1	\$18.4
10	Pass & Seymour / P&S Boyd Ave.	Electrical and information networking business; Solvay, Onondaga County	No	\$.7	\$.7

## Industrial Development Agencies (IDAs)

\$490 million in tax subsidies in 2011

### WHAT IS AN IDA?

An IDA is a public authority created to foster local economic development through providing state and local tax exemptions, issuing tax-exempt bonds, and buying, selling, and leasing land. IDAs provide discretionary financial assistance, which means that the amount of assistance is negotiated between the business and the IDA board and is subject to a final vote by the board.<sup>126</sup> There are 113 IDAs in New York State. Some are county IDAs, other are city, town or village IDAs. Erie County alone has six IDAs.

Each IDA has its own guidelines for what must be included in a subsidy application. The NYCIDA has the most complete application requirements of all IDAs. The NYCIDA requires the applicant to provide the following information: project description and sources of financing; current and projected workers to be created and retained; quarterly and annual wage data; and unionization and labor violation information.<sup>127</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

There is no universal job creation requirement across IDAs. However, some individual IDAs have policies that require job retention and/or job creation. The County of Monroe IDA, for example, has an incentive program called JobsPlus, which requires recipients to create a certain number of jobs in the first three years of the subsidy, or be subject to subsidy recapture.<sup>128</sup> There is no standard for job quality across all IDAs. A few IDAs have their own policies to encourage the payment of prevailing wage to workers. The Rockland County IDA, for instance, requires the construction work to be done at a prevailing rate.<sup>129</sup>

#### Local and Targeted Hiring

There is no targeted hiring or local hiring requirement across all IDAs, but some IDAs have passed their own policies to encourage local hiring. The Niagara County IDA requires businesses to engage in “best efforts” to hire construction workers locally. The Niagara County IDA also requires that businesses first consider job applicants who face serious barriers to employment.<sup>130</sup>

#### Environmental Sustainability

There are no universal environmental performance goals that prevent IDAs from financing certain types of environmentally-destructive activities, or that prioritize projects that reduce New York’s carbon emissions. State law does require every project requiring discretionary approval to complete a standard environmental assessment statement, and the state smart growth law encourages all government entities to abide by smart growth criteria.<sup>131</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

Sixty-five of the 113 IDAs in New York have a clawback policy.<sup>132</sup> The Town of Babylon IDA in Long Island, for example, has a subsidy recapture provision that must be included in every financial assistance agreement. However, recapture is not automatic, but rather subject to the discretion of the IDA board.<sup>133</sup> The NYCIDA has a very clear recapture policy for all industrial and civic facility projects, whereas for commercial growth projects, the staff of the IDA is given sole discretion to determine recapture on a project by project basis.<sup>134</sup>

#### Decision-Making Process

Each IDA is made up of a board appointed by the local executive. This could be a mayor, in the case of an IDA authorized by a city, or a county executive, in the case of an IDA authorized by a county. An IDA, unless by special designation, must have at least three but no more than seven members. The New York City IDA (NYCIDA) is a notable exception, with 15 members.<sup>135</sup> There is no universal obligation that boards of IDAs represent the local community, or that they have designated labor, environmental and community representation. Before an IDA grants financial assistance of \$100,000 or more to a business, it must have a public hearing on the assistance and give the public and affected tax jurisdictions notice ten days prior to the hearing.<sup>136</sup>

## SHOW US THE JOBS

### Transparency

IDAs must report annually to the Authorities Budget Office (ABO) and the Office of the State Comptroller (OSC) through the Public Authorities Reporting and Information Center (PARIS).<sup>137</sup> IDAs report on the status of projects undertaken during the prior year, including the names of the recipients, the amount received during the year, the number of jobs promised to be created or retained, the current number of jobs, and more.<sup>138</sup> Once the IDA data is reported to the ABO and OSC, it takes nearly a full year for the information to be placed online in a downloadable Excel format, although prior to this the data is available through a FOIL request. The most recent IDA data available online at the writing of this report in May 2013 is from FY 2011.

### Annual Spending by New York State's IDAs<sup>139</sup>

Year	Number of Businesses Subsidized	Net Tax Exemptions (in millions)	Percentage Change
2011	4,486	\$490	1%
2010	4,444	\$483	-3%
2009	4,581	\$496	-23%
2008	4,471	\$645	9%
2007	7,134	\$593	30%
2006	3,813	\$455	17%
2005	3,683	\$390	1%
2004	3,474	\$388	
	<b>Average: 4,511</b>	<b>Total: \$3.94 billion</b>	

### Top 10 Recipients of IDA Net Exemptions in 2011<sup>140</sup>

Rank	Company	Project Description	IDA and Region	Net Tax Exemption in 2011 (in millions)	Net Tax Exemptions Received Since 2007 (in millions)
1	Athens Generating Co LLP	Building a natural gas powered energy generation facility in Athens	Greene County IDA Capital Region	\$25.8	\$129.4
2	Global Foundries U.S., Inc.	Construction of a chip manufacturing plant in Malta	Saratoga County IDA Capital Region	\$25.0	\$41.2
3	Sithe Energies	Expansion of a co-generation plant at Independence Station Industrial Park in Oswego	Oswego County IDA Central NY	\$15.0	\$76.5
4	Covanta Hempstead Company	Expansion of a waste incineration plant in Westbury	Hempstead IDA Long Island	\$12.6	\$30.5
5	National Broadcasting Company (NBC)	Renovation and upgrading of Rockefeller Center studios	New York City IDA New York City	\$12.1	\$33.4
6	Metropolitan Life Insurance Co.	Construction of insurance data center	Rensselaer County IDA Capital District	\$11.9	\$22.9
7	Besicorp-Empire Power Co. LLC	Construction of energy generation facility in Rensselaer	Rensselaer County IDA Capital Region	\$10.6	\$33.4
8	Neptune	Construction of electrical transmission cable for county-wide power project	Nassau County IDA Long Island	\$10.5	\$13.7
9	Ridgehill Village	Mixed use development	Yonkers IDA Metro North	\$8.5	\$20.9
10	Avalon on the Sound East (Phase II)	Construction of high rise luxury rental housing in New Rochelle	New Rochelle IDA Mid-Hudson Valley	\$8.0	\$29.8

## Local Government Spending

\$476 million in spending in 2011

### WHAT IS LOCAL GOVERNMENT SPENDING?

Cities, counties, towns and villages spend money on private economic development in their localities. These expenditures include, among other items, economic development grants, the administration of economic development programs, and the nebulous area of "miscellaneous economic development."<sup>141</sup> Money for local economic development is appropriated through the budget process, although there is no uniform allocation process for the provision of grants to corporations. Urban Renewal Agencies and Regional Planning Boards are also included in the category of local government spending.<sup>142</sup> New York City is excluded from this section. New York City data can be found in the section on NYCEDC.

### PRIORITIZE PERFORMANCE

#### Jobs

There is no requirement across all local governments that spending on economic development create jobs. Economic development standards are at the behest of the budget legislation and the entities that distribute the individual grants.

#### Local and Targeted Hiring

There is no requirement across all local governments that this spending on economic development must lead to local or targeted hiring.

#### Environmental Sustainability

There is no requirement across all local governments that this spending on economic development include environmental sustainability goals.

### INCREASE ACCOUNTABILITY

#### Clawbacks

There are no subsidy recapture provisions that are uniform across all local government spending on economic development.

#### Decision-Making Process

Broad funding allocations are made during the budget process by local elected officials. Individual economic development grants, however, can be issued in many different ways, including by individual elected officers within their districts, by a local economic development agency, or by legislation.

### SHOW US THE JOBS

#### Transparency

Spending by local governments is reported to the Office of the State Comptroller, where it is compiled in a spreadsheet and distributed publicly. This report lists only the amount spent; it contains no project-specific reporting.<sup>143</sup>

#### Total Economic Development Spending by Local Governments (excluding NYC)<sup>144</sup>

Year	Total Local Government Grants (in millions)	Percentage Change
2011	\$476	-8%
2010	\$516	5%
2009	\$493	2%
2008	\$482	5%
2007	\$457	-3%
2006	\$470	22%
2005	\$386	-19%
2004	\$479	3%
2003	\$464	-2%
2002	\$474	
<b>Total:</b>	<b>\$4,697</b>	

## Empire Zones Program (EZ Program)

\$420 million in tax credits in 2012<sup>145</sup>

### WHAT IS THE EMPIRE ZONE PROGRAM?

The Empire Zone (EZ) Program is a tax credit program created to encourage economic development and job creation within areas across New York with pervasive poverty, high unemployment and general economic distress.<sup>146</sup> There are 90 Empire Zones in New York and eligible businesses can receive tax credits for 10 years.

The program was discontinued in 2010 after years of controversy and allegations of abuse, although projects approved prior to 2010 continue to receive credits.<sup>147</sup> The program was criticized for several reasons. EZ boundaries were steadily expanded to include wealthy areas, undermining the targeted nature of the program. Some companies changed names to continue receiving tax breaks, and many businesses were failing to invest at least \$1 for every \$1 in tax credits received.<sup>148</sup> After a review by the State, over 500 EZ recipients had their tax credits revoked.<sup>149</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

To be eligible for the Empire Zone program, a business must make a commitment to either job creation or capital investment. A wage tax credit is also available of \$1,500 per employee, or \$3,000 for employees from targeted groups, such as those who are on public assistance. There is no requirement that jobs created be good jobs, although there is a slight increase in wage tax credits available for jobs created that pay more than \$40,000 per year.<sup>150</sup>

#### Local and Targeted Hiring

Eligible businesses must post job openings with the Department of Labor, which facilitates local hiring. There are increased tax credits available for hiring employees from targeted groups, such as those on public assistance. In the application, the applicant must list the average number of jobs in the designated Empire Zone for the proceeding four years, annual wages and benefits in an average year in those zones, projected employment and the number of employees above or below \$40,000 per year in annual wages.<sup>151</sup>

#### Environmental Sustainability

There are no environmental performance goals in the program, although the state smart growth law encourages all government entities to abide by smart growth criteria.<sup>152</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

The Empire Zone program does not have a clawback policy.

#### Decision-Making Process

Each of the 90 Empire Zones is governed by Local Zone Administrative Boards. The Boards monitor and report on the program, and pass along applications to ESDC for a final determination on eligibility. However, this is an as-of-right program.<sup>153</sup> Accordingly, there are no public hearings on EZ tax credit applicants.

### SHOW US THE JOBS

#### Transparency

Each Empire Zone's Local Zone Administrative Board submits an annual report to ESDC and to the New York State Department of Taxation and Finance. However, there is no publicly available project-specific report posted online. Program-wide annual spending is available through the New York State Division of the Budget's Tax Expenditure Report, and project-specific information must be requested through a FOIL to ESDC.

### Annual Spending by the Empire Zones Program<sup>154</sup>

Year	Number of Businesses Funded in Reporting Year	Total Amount Spent on Tax Credits (in millions)	Percentage Change
2012	N/A	\$420	-17%
2011	N/A	\$503	-9%
2010	3,231 <sup>155</sup>	\$554	-9%
2009	N/A	\$607	4%
2008	N/A	\$581	4%
2007	N/A	\$558	2%
2006	N/A	\$546	25%
2005	N/A	\$438	34%
2004	N/A	\$326	14%
2003	N/A	\$287	
<b>Total:</b>		<b>\$4,820</b>	

### Top 10 Recipients of Empire Zone Tax Credits Since 2001<sup>156</sup>

Rank	Company	Project Description	Tax Credit in 2010 (in millions)	Tax Credit Total Since 2001 (in millions)
1	NRG Energy, Inc. Dunkirk & Tonawanda	N/A	\$26	\$144
2	International Business Machines Corp.	N/A	\$0	\$127
3	GEICO General Insurance Comp. & Indemnity Comp.	N/A	\$12	\$108
4	Erie Boulevard Hydropower L.P. Potsdam & Albany County	N/A	\$11	\$94
5	Astoria Generating Company, L.P.	N/A	\$15	\$85
6	Solvay Paperboard, LLC	N/A	\$1	\$75
7	Philips Semiconductor Manufacturing, Inc.	N/A	Decertified - Out of Business	\$71
8	Carousel Center Company, L.P.	N/A	\$9	\$69
9	Huron Real Estate Associates, LLC	N/A	\$7	\$65
10	Nucor Steel Auburn, Inc.	N/A	\$.056	\$52

## Regional Economic Development Councils

\$409 million in tax credits and grants in 2012

### WHAT ARE REGIONAL ECONOMIC DEVELOPMENT COUNCILS?

In July 2011, Governor Cuomo created Regional Councils to spur private-sector investment and job creation, and to better coordinate existing economic development efforts. There are ten Regional Councils in New York State representing different regions.

Regional Councils spent much of the first year in 2011 crafting long-term strategic plans for each region and drafting their own performance metrics for judging applicants. After completing their strategic plans, Regional Councils assess project proposals according to their plans, and make recommendations regarding which projects should be funded.<sup>157</sup> There is a competitive component to the allocation of state funds to Regional Councils. Those Councils with the best strategic plans, as decided by ESDC, were offered larger awards than others.

In 2012, Regional Councils provided funds from four different sources: \$178 million in ESDC grants; \$70 million in Excelsior Jobs Program tax credits; \$161 million in state agency grants; and \$350 million in tax-exempt financing from the Industrial Development Bond Cap allocations.<sup>158</sup> Much of this funding is accessed through the Consolidated Funding Application (CFA), which allows businesses to propose projects to multiple state agencies with one application.

### PRIORITIZE PERFORMANCE

#### Jobs

Some Regional Councils have made job creation part of their regional strategic plan.<sup>159</sup> However, this is only one consideration among many in the selection process, and therefore is not a requirement for receiving a subsidy. At the same time, recipients of capital grants that are overseen by ESDC must agree to a five year job commitment, although there is no minimum job creation standard.<sup>160</sup>

Some Regional Councils have made quality job creation part of their regional strategic plan. New York City's Regional Council, for example, states that "only projects that directly or indirectly create and/or retain jobs receive priority, with special consideration for the quality of jobs as measured by wage levels and benefits, permanence, and/or access to longer-term career advancement opportunities."<sup>161</sup>

#### Local and Targeted Hiring

No Regional Council requires that all projects hire locally or engage in targeted hiring, however, such considerations are taken into account among several REDCs. The New York City REDC, for example, states that "priority for support will go to projects that provide opportunities for training and skills development and create improved opportunities for communities and individuals in conditions of economic distress."<sup>162</sup>

#### Environmental Sustainability

Some Regional Councils have made environmental sustainability a part of their regional strategic plan. The Western New York Regional Council, for example, states that "a project should adhere to smart growth principles to integrate economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments."<sup>163</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

There is no universal requirement that all Regional Council funds have subsidy recapture provisions. Capital funds that are passed from ESDC to Regional Councils require five-year job commitments from recipients. Projects that do not meet these commitments are subject to subsidy recapture.<sup>164</sup>

#### Decision-Making Process

All Regional Councils are chaired by the Lt. Governor. They have two Vice-Chairs, one from business and one from academia. Each Regional Council consists of about 20 members, generally including one labor and one

community representative.<sup>165</sup> Regional Councils are staffed by ESDC. Most Regional Council meetings are open to the public and provide an opportunity for public comment.

Regional Councils endorse projects through a scoring mechanism based on the strategic plan. These endorsements account for 20% of the funding decision. The remaining 80% comes from the relevant agencies that ultimately manage the funds, including ESDC, DEC, and others. The final award is based on a composite of the State agency or ESDC review and the Regional Council endorsement. The Citizens Budget Commission notes that “no consistent relationship exists between agency scores and Council scores for the projects awarded grants...Many projects highly rated by agencies were not scored highly by Council members.”<sup>166</sup>

## SHOW US THE JOBS

### Transparency

Each Regional Council must submit an annual progress report.<sup>167</sup> The report lists the name of each project funded, the amount of funding awarded, and provides a brief project description. The report does not state whether or not each project is meeting its performance benchmarks.

### Annual Spending by Regional Councils<sup>168</sup>

Year	Number of Businesses Funded	REDC Grants <sup>169</sup> (in millions)	Excelsior Tax Credits	State Agency Grants <sup>170</sup>	Total Funding Distributed <sup>171</sup> (in millions)	Percentage Change
2012	725	\$178	\$70	\$161	\$409	-6%
2011	755	\$213	\$64	\$159	\$436	
<b>Total:</b>	<b>1,480</b>	<b>\$391</b>	<b>\$134</b>	<b>\$320</b>	<b>\$845</b>	

### Top 10 Recipients of Regional Council Funds Since 2011

Rank	Recipient	Region	Award Year	Project Description	Funding Source	CFA Award (in millions)
1	Hunts Point Terminal Produce Co-Op	NYC	2011	Construction of 2 warehouses, conversion of another into rail receiving facility.	State Capital Funds, Regional Council Capital Fund & Excelsior Jobs Program, ESDC	\$28.5
2	Ft. Schuyler Management Corp	Mohawk Valley	2011	Build facility for offices and laboratories to be owned by FSMC for System-on-a-chip devices	Economic Transformation Program – Grant, ESDC	\$15
3	City of Albany IDA	Capital District	2012	Renovation of a 179-unit affordable senior housing development	ESDC	\$11.5
4	Taystee Create LLC	NYC	2011	Revitalize former Taystee Bakery complex in Harlem into mixed-use facility	State Capital Funds & Regional Council Capital Fund, ESDC	\$10
5	Mohawk Valley Edge	Mohawk Valley	2011	Construct industrial access road to Marcy Nanocenter at SUNYIT; replace sewer collection pipe	Economic Transformation Program – Grant, ESDC	\$10
6	Newburg Housing Authority	Mid-Hudson Valley	2012	Purchase and renovation of 126 units of existing affordable low-income senior rental housing units	ESDC	\$10
7	Albany Port District Commission	Capital District	2011	Replace a wharf on the Hudson River to increase capacity at Rensselaer Port.	Rail and Port Bond Project, DOT	\$9.9
8	New Rochelle IDA	Mid-Hudson Valley	2012	Preservation and rehabilitation of Maple Terrace, a 100-unit low-income senior housing facility	ESDC	\$9.5
9	St. Lawrence County IDA	North Country	2011	The IDA will rehabilitate 46 miles of railroad track on the Newton Falls line in Jefferson, Lewis and St Lawrence counties	Regional Council Capital Fund, ESDC	\$8.7
10	Southern Tier High Technology Incubator	Western NY	2012	Construct a high-technology incubator in Binghamton	ESDC	\$7

## Empire State Film, Commercial and Post-Production Credits

\$369 million in tax credits in 2012

### WHAT ARE THE EMPIRE STATE FILM TAX CREDITS?

The Empire State Film, Commercial and Post-Production Credits are administered by the Governor's Office for Motion Picture and Television Development (MP/TV). The program offers tax credits for the production of film and commercials in New York State, generally equal to 30% of qualified production costs.

Feature length films, or television films, pilots, or series qualify for the Film Production credit, while the Commercial Film credit is available for the production of commercials. To be eligible, at least 75% of production expenditures must be spent at a qualified film production facility in New York State, and at least 10% of the total principal photography shooting days must be spent at the qualified facility. Costs that are eligible for the tax credit are limited to tangible property or services used or performed within New York State.<sup>172</sup>

When first enacted in 2004, the credit was limited to \$25 million annually and was scheduled to expire in 2008. Beginning in 2006, the program has expanded, and today is authorized to spend \$420 million annually, although in practice, credits allocated have been less than that amount.<sup>173</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

Job creation is not required. However, the salaries of employees can be included as qualified costs that are eligible for credits, effectively providing more tax credits to productions that have large crews and higher salaries.<sup>174</sup>

#### Local and Targeted Hiring

There are no targeted or local hiring requirements in the Film Tax Credit program. However, the program requires that seventy-five percent of the production expenditures occur at a qualified film production facility in New York State.<sup>175</sup>

#### Environmental Sustainability

There are no environmental performance goals in the Film Tax Credit program.

### INCREASE ACCOUNTABILITY

#### Clawbacks

There are no subsidy recapture policies in this program. However, tax credits are granted annually after a business has shown that it has met the eligibility requirements. Therefore, if the business does not meet such requirements, tax credits are not issued.

#### Decision Making Process

Applications for the as-of-right tax credit are sent to the Governor's Office for Motion Picture and Television Development (MP/TV). If it is determined that the applicant meets the eligibility requirements for the program, the applicant is conditionally accepted into the program. After the production is complete, the applicant submits a final application to MP/TV detailing actual expenditures both within and outside of New York. This application must demonstrate that the required thresholds were met. MP/TV then determines the amount of credit earned by the applicant and provides a tax credit certificate.<sup>176</sup>

### SHOW US THE JOBS

#### Transparency

The Commissioner of Taxation and Finance, in conjunction with the Director of the MP/TV, must issue an annual report evaluating the effectiveness of the tax credit in stimulating the growth of the film industry in the state.<sup>177</sup> The report does not list recipients by name. There is no analogous report for the post-production credit, or the commercial production credit. The annual Tax Expenditure Report by the NYS Division of the Budget calculates total expenditures for all of the tax credits.<sup>178</sup> FOIL requests generate some the names of recipients, but only where a business has received multiple subsidies.

**Annual Spending on the Empire State Film Production Tax Credit<sup>179</sup>**

Year	Number of Businesses Funded	Total Production Hires	Total Amount Spent on Tax Credits (in millions)	Percentage Change
2012	N/A	N/A	\$369	3%
2011	26	22,393	\$359	176%
2010	23	30,783	\$130	8%
2009	43	44,019	\$120	67%
2008	47	55,014	\$72	71%
2007	57	59,006	\$42	68%
2006	65	80,448	\$25	0%
2005	37	42,997	\$25	0%
2004	15	21,978	\$25	
<b>Total:</b>	<b>283</b>	<b>356,638</b>	<b>\$1,129</b>	

**Top 10 Recipients of NYS Film Production Tax Credits<sup>180</sup>**

Rank	Company (company names withheld in reporting)	Project Description	Total Film Production Tax Credit (in millions)
1	NBC Studios, Inc.	Saturday Night Live, Thirty Rock, etc.	\$77.6
2	Universal Network Televisions LLC	Law and Order	\$67.8
3	Warner Bros. Televisions Productions, Inc.	Gossip Girl, Fringe	\$14.2
4	Columbia Pictures Industries, Inc.	Taking of Pelham, Julie and Julia, Bounty Hunter, etc.	\$55
5	Canterbury Productions, Inc.	Rescue Me, Love Monkey, Damages, etc.	\$46.1
6	ABC Studios, Inc	Ugly Betty, Cupid	\$39
7	Twentieth Century Fox Film Corp	Devil Wears Prada, Life on Mars, Blue Blood, etc	\$26.3
8	Open 4 Business Productions, LLC	Royal Pains, A Legal Mind, etc	\$24.9
9	TMV Productions, Inc.	White Collar, Lights Out	\$23.8
10	CBS Productions, Inc.	Good Wife, Beautiful Life	\$18.1

## Commercial Airlines Carriers Tax Exemptions

\$192 million in tax exemptions in 2012

### WHAT IS THE EXEMPTION FOR COMMERCIAL AIRLINE CARRIERS?

Commercial airline carriers in New York State are exempt from state sales and use taxes for the purchase of food, fuel, property, equipment and services.<sup>181</sup> Accordingly, the food and fuel sold to airlines for use on planes, as well as equipment purchased for use by the airlines, and any services rendered in the use of the exempt property, is exempt from sales tax.<sup>182</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

There are no job creation or retention requirements for this program.

#### Local and Targeted Hiring

There are no local or targeted hire requirements for this program.

#### Environmental Standards

There are no environmental standards for this program.

### INCREASE ACCOUNTABILITY

#### Accountability

There are no subsidy recapture mechanisms built into this sales tax exemption program.

#### Decision-Making Process

This is an as-of-right program, meaning that the tax exemptions are automatic for airline carriers that meet the definition of a commercial airline and who purchase goods covered under the tax exemption.

### SHOW US THE JOBS

#### Transparency

There is no project-specific reporting for this program.

#### Annual Sales Tax Exemptions for Commercial Airlines

Year	Annual Sales and Use Tax Exemptions (in millions)	Percentage Change
2012	\$192	8%
2011	\$177	10%
2010	\$161	40%
2009	\$115	-15%
2008	\$135	9%
2007	\$124	18%
2006	\$105	7%
2005	\$98	15%
2004	\$85	5%
2003	\$81	
<b>Total:</b>	<b>\$1,273</b>	

## Excelsior Jobs Program

\$185 million in tax credits in 2012

### WHAT IS THE EXCELSIOR JOBS PROGRAM?

The Excelsior Jobs Program was designed to be a more targeted and accountable successor to the Empire Zones program, which ended in 2010. Excelsior targets firms in biotechnology, pharmaceutical, high-tech, clean-technology, green technology, financial services, agriculture and manufacturing. Excelsior was initially conceived as a much smaller program, but was amended soon after its creation to allow up to \$500 million in tax credits per year. In each year from 2011 through 2015, ESDC may commit up to \$500 million in tax credits to eligible businesses. The Program's total lifetime value is \$2.25 billion.<sup>183</sup>

Excelsior is an as-of-right program, meaning that if a business meets the standards for industry type, investment and/or job creation, the tax credits are applied automatically.<sup>184</sup> Excelsior offers all eligible businesses a Jobs Tax Credit, an Investment Tax Credit, and an R&D Tax Credit. Only certain categories of businesses are eligible to apply for a Real Property Tax Credit.

### PRIORITIZE PERFORMANCE

#### Jobs

Businesses that receive the Excelsior tax credit must either create jobs, or retain jobs and commit to significant capital investment. The job creation requirements differ depending on the industry. For example, scientific research and development firms can receive the credit after creating ten net new jobs, while back office firms must create at least 150 net new jobs.<sup>185</sup> However, any firm that promises to create 300 net new jobs and invest at least \$6 million is also eligible, regardless of industry.<sup>186</sup> Businesses that are on Excelsior's "investment track" must meet a cost-benefit ratio of at least \$10 of investment to \$1 of tax credit, while retaining at least 50 jobs.<sup>187</sup> There are no job quality standards in the Excelsior program.

#### Local and Targeted Hiring

There are no local or targeted hiring performance goals in the Excelsior program.

#### Environmental Sustainability

There are no environmental performance goals in the Excelsior program.

### EMPOWERING LOCAL COMMUNITIES

#### Clawbacks

The Excelsior program has subsidy recapture provisions that allow ESDC to recapture tax credits received in a prior year if a businesses' program eligibility is revoked.<sup>188</sup>

#### Decision-Making Process

Businesses apply to the Excelsior program through a Consolidated Funding Application (CFA). ESDC holds monthly board meetings that are open to the public, though board information is often only available to the public the day of the hearing.<sup>189</sup>

### SHOW US THE JOBS

#### Transparency

The Quarterly Excelsior Program Investment Report, produced by ESDC, provides data on Excelsior investments. The report provides data on job commitments and performance to-date. It lacks detailed project descriptions, and also does not provide links to applications or cost-benefit analyses.<sup>190</sup>

### Annual Spending by the Excelsior Jobs Program

Year	Number of Businesses Funded	Net New Jobs Promised	Tax Credits Committed (in millions) <sup>191</sup>
2012	164	13,649	\$184.8
2011	4	36	\$.175
<b>Total:</b>	<b>168</b>	<b>13,685</b>	<b>\$185</b>

### Top 10 Largest Excelsior Tax Credit Commitments as of 2012<sup>192</sup>

Rank	Company	Project Type	Region	Tax Credits Committed (in millions) <sup>193</sup>	Job Promises (report does not calculate jobs created to date)
1	Fresh Direct	Distribution facility	NYC	\$18.3	946 new jobs
2	Pearson, Inc.	Education services	NYC	\$9	628 new jobs
3	Agro Farma, Inc.	Dairy product manufacturer	Southern Tier	\$8.5	450 new jobs
4	Atlas Air, Inc.	Back office operations	Mid-Hudson Valley	\$8.5 million	50 new jobs
5	Mediacom Communications Corp.	Back office operations	Mid-Hudson Valley	\$6.5	140 new jobs
6	Linuo Group Co., Ltd.	Glass product Manufacturer	Mid-Hudson Valley	\$6	596 new jobs
7	First Niagara Financial Group	Financial Services	Multi-Region	\$5.7	500 new jobs
8	Macy's HQ	Retail HQ	NYC	\$5.4	371 new jobs
9	Acorda Therapeutics	Scientific R&D	Mid-Hudson Valley	\$5.2	190 new jobs
10	ACS Commercial Solutions LLC	Back office operations	Finger Lakes	\$5	500 new jobs

## Local Development Corporations (LDCs)

\$182 million in grants, \$9 billion in bonds, \$114 million in loans in 2011

### WHAT IS AN LDC?

LDCs are not-for-profit local development corporations, formed throughout New York, primarily for economic development purposes. LDCs can be established for many reasons, such as to reduce unemployment, to instruct or train individuals for work, or to “lessen the burdens of government.”<sup>194</sup> LDCs can have many different names. Some of the most common, aside from LDC, are Economic Development Corporation (EDC), Industrial Development Corporation (IDC), Land Development Corporation (LDC) and Capital Resource Corporation (CRC).

LDCs have many powers, including the ability to acquire property from a municipality and sell or lease it to a private entity without public bidding or fair market value consideration, issue loans capitalized with public money, offer grants and tax exemptions, and issue debt for projects that cannot be undertaken by IDAs, such as for civic facilities. As of 2012, there were approximately 270 LDCs that meet the definition of a local authority. New York City has 23, Monroe County has 15, and Suffolk County has 10. One hundred and sixty-eight of the 270 LDCs did not exist 13 years ago. Since the statutory power of IDAs to finance not-for-profit and civic facilities expired in 2008, the ABO has identified at least 40 LDCs incorporated primarily to provide the financing that IDAs are unable to provide.<sup>195</sup>

### PRIORITIZE PERFORMANCE

#### Jobs

There are no universal job creation requirements for LDCs, and we were unable to locate any LDC that evaluates and prioritizes job quality. While job creation and retention are part of the purpose of LDCs, they do not need to generate employment in order to finance a project.<sup>196</sup> Some individual LDCs have performance goals related to job creation. The Lower Manhattan Economic Development Corporation’s Job Creation and Retention program provides grants to companies that commit to creating at least 75 new jobs or retain at least 200 jobs in Lower Manhattan.<sup>197</sup>

#### Local and Targeted Hiring

There are no universal performance goals for targeted hiring or local hiring across all LDCs, and we were unable to locate any LDC with its own relevant local hiring policy.

#### Environmental Sustainability

There are no environmental standards that apply to all LDCs. State law does require every project requiring discretionary approval to complete a standard environmental assessment statement.<sup>198</sup>

### INCREASE ACCOUNTABILITY

#### Clawbacks

There is no universal clawback provision for LDCs. The Lower Manhattan Development Corporation’s Job Creation and Retention program will recapture grant funds if job levels are not maintained.<sup>199</sup>

#### Decision Making Process

LDCs have boards that make decisions on grants, bonds, tax exemptions and more. These boards are appointed by the governing body of the local municipality. However, some LDCs fill vacancies to the board through an election by sitting board members.<sup>200</sup> LDCs that fall within the purview of the Public Authorities Reform Act are subject to New York’s Open Meetings Law, ABO oversight, public hearings and financial disclosure.<sup>201</sup>

### SHOW US THE JOBS

#### Transparency

LDCs must report annually to the ABO and the OSC through the Public Authorities Reporting and Information Center (PARIS). This information is self-reported and often incomplete. Not all LDCs report, as some, legitimately or not, claim they are not local authorities and thus are not subject to the reporting law.<sup>202</sup> For example, the Bronx Overall Economic Development Corporation, an LDC in New York City, has failed to comply with public

disclosure, reporting and corporate governance provisions of Public Authorities Law, and as a result has received a letter of censure from the Authorities Budget Office.<sup>203</sup>

#### Annual Spending by LDCs<sup>204</sup>

Year	Number of Businesses Funded	Net Tax Exemptions (in millions)	Outstanding Bonds (in billions)	Outstanding Loans (in millions)	Grants (in millions)	Percentage Change (Grants)
2011	Data unavailable	Data unavailable	\$8.4	\$118	\$185	-7%
2010	Grants: 108 Bonds: 64 Loans: 764	Data unavailable	\$7.9	\$133	\$199	-23%
2009	Grants: 245 Bonds: 28 Loans: 764	Data unavailable	\$7	\$137	\$257	
		<b>N/A</b>	<b>Average: \$7.8 billion</b>	<b>Average: \$128 million</b>	<b>Total: \$638 million</b>	

#### Top 10 Recipients of LDC Grants since 2009<sup>205</sup>

Rank	Company	Project Description	Region	LDC	2009-2011 Grant Amount (in millions)
1	Lincoln Center Development Project, Inc.	Commercial Property Construction / Acquisition / Revitalization / Improvement	NYC	NYCEDC	\$201.9
2	Empire State Development Corporation	Same as above	NYC	NYCEDC	\$46.0
3	American Museum of the Moving Image	Same as above	NYC	NYCEDC	\$43.7
4	Queens Ballpark Company, LLC	Same as above	NYC	NYCEDC	\$27.4
5	City Center for Music and Drama Inc.	Same as above	NYC	NYCEDC	\$25.2
6	Bronx Parking Development Co. LLC	Same as above	NYC	NYCEDC	\$23.8
7	ARE - East River Science Park, LLC	Same as above	NYC	NYCEDC	\$20.1
8	Brooklyn Academy of Music, Inc.	Same as above	NYC	NYCEDC	\$16.2
9	Museum for African Art	Same as above	NYC	NYCEDC	\$14.4
10	Sephardic Community Youth Center, Inc.	Same as above	NYC	NYCEDC	\$14.0

## Investment Tax Credit (ITC)

\$144 million in tax credits in 2012

### WHAT IS THE INVESTMENT TAX CREDIT?

The Investment Tax Credit (ITC) consists of two different credits – the Investment Tax Credit and the Investment Tax Credit for the Financial Services Industry. The tax credits can be applied to personal income tax, corporate franchise tax or the bank tax.<sup>206</sup> The credits are available for qualified investments in R&D, as well as investments in property used for financial service operations.

### PRIORITIZE PERFORMANCE

#### Jobs

The Employment Incentive Credit, a component of the ITC, provides additional tax credits if an employer increases its average employment in New York State to at least 101% of its base year employment. This means that employment gains are rewarded, but not necessary in order to receive the ITC.<sup>207</sup> There are no job quality requirements for the ITC program.

#### Local and Targeted Hiring

There are no targeted or local hiring requirements for the ITC program.

#### Environmental Sustainability

There are no environmental standards for the ITC program.

### EMPOWERING LOCAL COMMUNITIES

#### Clawbacks

When property no longer qualifies for the ITC, a portion of the credit can be recaptured.<sup>208</sup>

#### Decision-Making Process

This is an as-of-right program, meaning that if a business meets the criteria for R&D and claims the proper investments at the end of each year, the business automatically receives the tax credit. The program is monitored by the New York State Department of Tax and Finance.

### SHOW US THE JOBS

#### Transparency

There is no project-specific reporting for this program. A Freedom of Information Law (FOIL) request for such information to the New York Department of Taxation and Finance was declined, citing New York secrecy laws.

#### Annual spending on the Investment Tax Credit program<sup>209</sup>

Year	Total Amount Spent on Net Tax Exemptions (in millions)	Percentage Change
2012	\$144	7%
2011	\$134	12%
2010	\$120	7%
2009	\$112	9%
2008	\$103	-30%
2007	\$147	-7%
2006	\$158	11%
2005	\$142	-20%
2004	\$178	-19%
2003	\$219	
<b>Total:</b>	<b>\$1,457</b>	

# Endnotes

- <sup>1</sup> Seiler, C. (2013). Spreadsheet: Is my locality in 'fiscal distress'? *Capitol Confidential*. Retrieved from <http://blog.timesunion.com/capitol/archives/177662/spreadsheet-is-my-locality-in-fiscal-distress/>, citing a New York Division of Budget report.
- <sup>2</sup> Office of the New York State Comptroller. (2012). New Fiscal Realities Challenge Local Governments. Retrieved from <http://www.osc.state.ny.us/localgov/pubs/fiscalrealities2012.pdf>
- <sup>3</sup> Office of the New York State Comptroller. (2011). Annual Performance Report on New York State's Industrial Development Agencies. Retrieved from <http://www.osc.state.ny.us/localgov/pubs/research/idaperformance2011.pdf>
- <sup>4</sup> Mauro, F. & Yago, G. (1989, Spring). State Government Targeting in Economic Development: The New York Experience. *Publius: The Journal of Federalism*.
- <sup>5</sup> New York City Council, Local Law 62, Int 0256-2010. (2010). Retrieved from <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=664304&GUID=F5FF1CB9-F783-45C6-9863-125A212F39CF&Options=ID|Text|&Search=>
- <sup>6</sup> Office of the New York State Comptroller. (2010). Local Government and School Accountability, Industrial Development Agencies Summary of Data, 2010. Retrieved from [http://www.osc.state.ny.us/localgov/datanstat/findata/index\\_choice.htm](http://www.osc.state.ny.us/localgov/datanstat/findata/index_choice.htm)
- <sup>7</sup> The World Bank. (2011). What is Local Economic Development (LED)? <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTURBANDEVELOPMENT/EXTLED/0,,contentMDK:20185186-menuPK:399161-pagePK:148956-piPK:216618-theSitePK:341139,00.html>
- <sup>8</sup> International Economic Development Council (IEDC). (2013). IEDC at a Glance: What Is Economic Development? Retrieved from <http://www.iedconline.org/web-pages/inside-iedc/iedc-at-a-glance/>
- <sup>9</sup> See Note 4, above.
- <sup>10</sup> We relied heavily on the work of the Citizens Budget Commission. Their report titled "Recommendations for the Next Round of Economic Development Council Awards" provided a template for making sense of New York's economic development spending. Retrieved from [http://www.cbcny.org/sites/default/files/REPORT\\_EconDev\\_10112012.pdf](http://www.cbcny.org/sites/default/files/REPORT_EconDev_10112012.pdf)
- <sup>11</sup> The Office of the New York State Comptroller's annual report on IDAs states that IDA's net tax exemptions in 2011 are \$560 million. However, ALIGN identified a data error that shows a single Orange County IDA project receiving nearly \$70 million in net tax exemptions in 2011, when it actually received \$0. Accordingly, we have reduced the overall net tax exemptions by \$70 million in this report, from \$560 million to \$490 million.
- <sup>12</sup> \$249 million of REDC spending is flow-through money: \$70 million is from the Excelsior Jobs Program and \$179 million is from ESDC grants. In order to avoid double-counting, we only include \$161 million of the remaining REDC spending to calculate total spending by New York's economic development system.
- <sup>13</sup> This number represents the total amount if all approved projects meet their projected job creation numbers. Because the Excelsior program is relatively new, the total is reported as a projection based on applications accepted, not on actual tax credits dispersed.
- <sup>14</sup> This number is approximate. Few programs calculate the lost revenue from tax-exempt bonds and low-interest loans, leaving a sizable subsidy out of this calculation. The annual revenue lost on the \$26.1 billion in current outstanding IDA-issued tax-exempt bonds runs in the hundreds of millions of dollars, but is not part of our calculation. We have been careful to avoid double-counting, which could result from one program being a flow-through for funding from another program. For example, we have not counted ESDC grants, or Excelsior Tax Credits that are passed through Regional Economic Development Councils in the total spending for New York's economic development programs, although we have retained these amounts in the Regional Council snapshot.
- <sup>15</sup> Fiscal Policy Institute. (2013, January). New York State Economic and Fiscal Outlook 2013-2014 (p. 19 and 45); Fiscal Policy Institute (2011 and 2012). State of Working New York. Federal Poverty Level: \$11,484 per year for an individual and \$17,916 for three-person households.
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- %20IDA%20Application.pdf; See also Jefferson County IDA (2013) Application to JCIDA. Retrieved from <http://www.jcida.net/IRBApplicant.pdf>
- <sup>21</sup> New York Department of Environmental Conservation. (2010, July). Brownfield Cleanup Program, Application. Retrieved from [http://www.dec.ny.gov/docs/remediation\\_hudson\\_pdf/bcpapplication.pdf](http://www.dec.ny.gov/docs/remediation_hudson_pdf/bcpapplication.pdf)
- <sup>22</sup> See Empire State Development Corporation. (2013). Job Development Authority, Direct Loan Program Quick Sheet. Retrieved from [http://www.esd.ny.gov/BusinessPrograms/Data/JDA\\_DirectLoan/JDADirectLoanProgram\\_QuickSheet.pdf](http://www.esd.ny.gov/BusinessPrograms/Data/JDA_DirectLoan/JDADirectLoanProgram_QuickSheet.pdf); See also Empire State Development Corporation. (2013), Economic Development Fund. Retrieved from <http://esd.ny.gov/BusinessPrograms/EDF.html>
- <sup>23</sup> Regional Economic Development Council. (2011). 2011 CFA Project Data. Retrieved from <http://www.nyscfaprojectdata.ny.gov/cfadatatable>
- <sup>24</sup> Office of the New York State Comptroller. (2011). Local Government and School Accountability, Industrial Development Agencies Summary of Data. Retrieved from [http://www.osc.state.ny.us/localgov/datanstat/finddata/index\\_choice.htm](http://www.osc.state.ny.us/localgov/datanstat/finddata/index_choice.htm)
- <sup>25</sup> NYS Real Property Tax Law, Sections 489-aaaa - 489-llll; 489-aaaaaa - 489-kkkkk; NYC Administrative Code, Sections 11-256 - 11-267; 11-268 - 11-276
- <sup>26</sup> Bragg, C. (2013, March 5). Clash over Cuomo plan to curtail subsidies. *Newsday*. Retrieved from <http://www.crainsnewyork.com/article/20130305/BLOGS04/130309963>
- <sup>27</sup> New York Regional Development Councils. New York Consolidated Funding Application, Program Questions. Retrieved from <https://apps.cio.ny.gov/apps/cfa/help.cfm?section=programquestions>
- <sup>28</sup> NYC Administrative Code. Sections 11-503(i), 11-604.17, 11-643.7, 11-1105.2 and Chapters 6-b and 6-c of Title 22.
- <sup>29</sup> Monroe County IDA, for example, requires local hiring for its Jobs Plus program: Monroe County IDA. (2012). Monroe County IDA, Uniform Tax Exemption Policy. Retrieved from <http://www.growmonroe.org/comida/files/file/Policies/2012/UTEP%20Jan12%20Revised.pdf>
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- <sup>31</sup> Saratoga County IDA. Board Members. Retrieved from <http://www.saratogacountyida.org/members.html>
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- <sup>33</sup> Laws of New York, General Municipal Law, Article 18-A, Title 1, Section 859-A.
- <sup>34</sup> Public Officers Law, Article 7, Open Meetings Law, Section 103. Retrieved from <http://www.dos.ny.gov/coog/openmeetlaw.html>
- <sup>35</sup> Office of the New York State Comptroller. (2012). IDAs with Subsidy Recapture Policies. Obtained from the Office of the New York State Comptroller by ALIGN and on file at ALIGN.
- <sup>36</sup> New York City Industrial Development Agency. (2010). Uniform Tax Exemption Policy (third amended and restated, August 2010), Section IV. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/NYCIDA/Financial\\_Public\\_Documents/NYCIDA\\_Statements\\_\\_Documents/NYCIDAUniformTaxExemptionPolicy.pdf](http://www.nycedc.com/sites/default/files/filemanager/NYCIDA/Financial_Public_Documents/NYCIDA_Statements__Documents/NYCIDAUniformTaxExemptionPolicy.pdf)
- <sup>37</sup> New York City Industrial Development Agency. (2010). 2010 Omnibus Resolution. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/NYCIDA/Governance\\_and\\_Policies/NYCIDA\\_REFORMS/2010OmnibusResolution.pdf](http://www.nycedc.com/sites/default/files/filemanager/NYCIDA/Governance_and_Policies/NYCIDA_REFORMS/2010OmnibusResolution.pdf)
- <sup>38</sup> Laws of NY, Economic Development Law, Excelsior Jobs Program Act. Article 17, Section 350(31)(f). Retrieved from [http://esd.ny.gov/BusinessPrograms/Data/Excelsior/050211\\_ExcelsiorStatutoryProvisions.pdf](http://esd.ny.gov/BusinessPrograms/Data/Excelsior/050211_ExcelsiorStatutoryProvisions.pdf)
- <sup>39</sup> Empire State Development Corporation. (2011). Annual Report on Job Creation and Retained on ESD Grant and Loan Programs. Retrieved from [http://esd.ny.gov/corporateinformation/data/12142011\\_boardmaterials/11\\_item112011employmentreport\\_121411.pdf](http://esd.ny.gov/corporateinformation/data/12142011_boardmaterials/11_item112011employmentreport_121411.pdf)
- <sup>40</sup> New York City's new ICAP program does not report on individual recipients. The ICIP program does report individual recipients by address (not by name) and does not provide the amount of the subsidy. ESDC programs provide varying degrees of information. The Excelsior Jobs Program provides quarterly reports on recipients and the amounts received, while the Empire Zones Program has no online project-specific data.
- <sup>41</sup> New York Authorities Budget Office. (2012, July 1) Annual Report on Public Authorities in New York State, July 1, 2012. Retrieved from <http://www.abo.ny.gov/reports/annualreports/ABO2012AnnualReport.pdf>
- <sup>42</sup> New York Authorities Budget Office. (2013, April 2) ABO Enforcement Actions, Bronx Overall Economic Development Corporation. Retrieved from <http://www.abo.ny.gov/enforcement/enforcement.html>
- <sup>43</sup> New York Authorities Budget Office. Information About the Public Authorities Reporting Information System (PARIS). Retrieved from <http://www.abo.ny.gov/paris/parisnotification.pdf>
- <sup>44</sup> NYS Department of Taxation and Finance. (2012). Brownfield Credit Reports. Retrieved from [http://www.tax.ny.gov/research/stats/statistics/special\\_interest\\_reports/brownfield\\_credit/brownfield\\_credit\\_reports.htm](http://www.tax.ny.gov/research/stats/statistics/special_interest_reports/brownfield_credit/brownfield_credit_reports.htm)

<sup>45</sup> How we determined performance:

Performance Goals	Transparency	Accountability
<p><u>Good</u>: Requires every recipient to establish performance goals and benchmarks related to job creation or retention, local hire, financial investment, environmental sustainability, or others.</p> <p><u>Fair</u>: Missing significant performance goals, such as environmental sustainability, or job creation.</p> <p><u>Poor</u>: Has no performance goals.</p>	<p><u>Good</u>: Annual program and project-specific reporting available online.</p> <p><u>Fair</u>: Must FOIL for data. Limited project-specific reporting.</p> <p><u>Poor</u>: Missing all significant transparency components. FOILs rejected.</p>	<p><u>Good</u>: Requires clawback provisions in every subsidy deal.</p> <p><u>Fair</u>: Requires clawback provisions in some of its subsidy deals or allows too much discretion on behalf of board members.</p> <p><u>Poor</u>: Does not require clawback provisions.</p>

<sup>46</sup> ESDC is an entity of many names. It is known as the Empire State Development Corporation (ESDC), Empire State Development (ESD), the Urban Development Corporation (UDC), the Jobs Development Authority (JDA), and the Department of Economic Development (DED). All of these entities are within the umbrella of ESD, are located in the same building, and have the same leadership. For the purposes of this report, all activities under the ESDC umbrella are referred to as ESDC activities.

<sup>47</sup> Empire State Development Corporation. (2013). Mission Statement and Performance Measures. Retrieved from [http://esd.ny.gov/CorporateInformation/Data/ESDCMissionStatement\\_PerformanceMeasures.pdf](http://esd.ny.gov/CorporateInformation/Data/ESDCMissionStatement_PerformanceMeasures.pdf)

<sup>48</sup> Empire State Development Corporation. (2013). Business Programs. Retrieved from <http://esd.ny.gov/BusinessPrograms.html>

<sup>49</sup> Empire State Development Corporation. (2013). Subsidiaries. Retrieved from [http://esd.ny.gov/Subsidiaries\\_Projects.html](http://esd.ny.gov/Subsidiaries_Projects.html)

<sup>50</sup> Empire State Development Corporation. (2013). JOBS Now. Retrieved from <http://esd.ny.gov/BusinessPrograms/JOBSNow.html>

<sup>51</sup> See Empire State Development Corporation. (2013). Job Development Authority, Direct Loan Program Quick Sheet. Retrieved from [http://www.esd.ny.gov/BusinessPrograms/Data/JDA\\_DirectLoan/JDADirectLoanProgram\\_QuickSheet.pdf](http://www.esd.ny.gov/BusinessPrograms/Data/JDA_DirectLoan/JDADirectLoanProgram_QuickSheet.pdf); See also Empire State Development. (2013). Economic Development Fund. Retrieved from <http://esd.ny.gov/BusinessPrograms/EDF.html>. Grant amounts obtained through a FOIL request to ESD and on file with ALIGN.

<sup>52</sup> Empire State Development Corporation. (2013). New Market Tax Credits. Retrieved from [http://esd.ny.gov/businessprograms/data/newmarket/fundingcriteria\\_process.pdf](http://esd.ny.gov/businessprograms/data/newmarket/fundingcriteria_process.pdf)

<sup>53</sup> Department of Environmental Conservation. (2000). State Environmental Quality Review. Retrieved from <http://www.dec.ny.gov/regs/4490.html>; Empire State Future. (2012). Smarter Growth: The Implementation of New York's Smart Growth Public Infrastructure Policy Act. Retrieved from <http://www.empirestatefuture.org/wp-content/uploads/PIPA-June-20121.pdf>

<sup>54</sup> Empire State Development Corporation. (2011, December 14). Annual Report on Job Creation and Retained on ESD Grant and Loan Programs, 2011. Retrieved from [http://esd.ny.gov/corporateinformation/data/12142011\\_boardmaterials/11\\_item112011employmentreport\\_121411.pdf](http://esd.ny.gov/corporateinformation/data/12142011_boardmaterials/11_item112011employmentreport_121411.pdf)

<sup>55</sup> Empire State Development Corporation. (2013). Board of Directors. Retrieved from <http://esd.ny.gov/AboutUs/ESDBoard.html>

<sup>56</sup> Public Officers Law, Open Meetings Law, Article 7, Section 103. Retrieved from <http://www.dos.ny.gov/coog/openmeetlaw.html>

<sup>57</sup> Empire State Development. (2012). New York State Urban Development Corporation and Subsidiaries, Consolidated Financial Statements and Independent Auditors' Report, March 31, 2011 and 2012. Retrieved from <http://esd.ny.gov/CorporateInformation/Data/FinancialDocuments/NYSUDC2012FS.PDF>; Laws of New York, Urban Development Corporation Act, Chapter 174 of the Laws of 1968.

<sup>58</sup> Empire State Development Corporation. (2011). Performance Measures Report, 2010 – 2011. Retrieved from [http://esd.ny.gov/CorporateInformation/Data/RequiredPostings/2011/ESDPerformanceMeasuresReportFY10\\_11.pdf](http://esd.ny.gov/CorporateInformation/Data/RequiredPostings/2011/ESDPerformanceMeasuresReportFY10_11.pdf)

<sup>59</sup> Empire State Development Corporation. (2011). A Description of the Corporation's Operations and Accomplishments, FY 10 – 11. Retrieved from [http://esd.ny.gov/CorporateInformation/Data/RequiredPostings/2011/2011\\_ESD\\_OpsandAccomplishments.pdf](http://esd.ny.gov/CorporateInformation/Data/RequiredPostings/2011/2011_ESD_OpsandAccomplishments.pdf)

<sup>60</sup> Empire State Development Corporation. (2007-2011). Urban Development Corporation and Jobs Development Authority, Financial Statements. Retrieved from <http://www.esd.ny.gov/CorporateInformation/FinancialDocuments.html>

<sup>61</sup> Data on grant recipients obtained through a FOIL request to ESD and on file at ALIGN.

<sup>62</sup> Some of this money has been recaptured by ESDC. See Good jobs New York. (2011, September). WTC JCRP program. Retrieved from [http://clawback.files.wordpress.com/2011/09/table-1\\_jcrp-recap1.jpg](http://clawback.files.wordpress.com/2011/09/table-1_jcrp-recap1.jpg). There is a discrepancy between the GJNY data and the ESDC FOIL data. We used the ESDC FOIL data here.

<sup>63</sup> NYS Real Property Tax Law, Sections 489-aaaa - 489-lllll; 489-aaaaaa - 489-kkkkk; NYC Administrative Code, Sections 11-256, 11-267 & 11-268, 11-276.

<sup>64</sup> New York City Department of Finance. (2012). Annual Report on Tax Expenditures: FY 2012 (p. 37-39). Retrieved from [http://www.nyc.gov/html/dof/html/pdf/12pdf/ter\\_2012\\_final.pdf](http://www.nyc.gov/html/dof/html/pdf/12pdf/ter_2012_final.pdf)

<sup>65</sup> Manhattan Borough President Scott Stringer. (2008, May). Senseless Subsidies: A Report on Tax Benefits Under the Industrial and Commercial Incentive Program. Retrieved from [http://www.mbpo.org/uploads/policy\\_reports/Senseless%20Subsidies.pdf](http://www.mbpo.org/uploads/policy_reports/Senseless%20Subsidies.pdf)

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- <sup>66</sup> New York City Economic Development Corporation. Relocation and Employment Assistance Program, Financing and Incentives. Retrieved from <http://www.nycedc.com/program/relocation-and-employment-assistance-program>; See also NYC Administrative Code, Sections 11-503(i), 11-604.17, 11-643.7, 11-1105.2 and Chapters 6-b and 6-c of Title 22.
- <sup>67</sup> REAP program description, New York City Department of Finance, [http://www.nyc.gov/html/dof/html/business/business\\_tax\\_programs\\_reap.shtml](http://www.nyc.gov/html/dof/html/business/business_tax_programs_reap.shtml)
- <sup>68</sup> New York City Department of Finance. (2013). Annual Report on Tax Expenditures: FY 2013 (p. 79).
- <sup>69</sup> NYS Real Property Tax Law, Sections 499a – 499h; Sections 499-aa through 499-hh.
- <sup>70</sup> New York City Department of Finance. (2013). Annual Report on Tax Expenditures: FY 2013 (p. 22 and 73).
- <sup>71</sup> NYS Real Property Tax Law, Section 429; See also New York City Department of Finance. (2013). Annual Report on Tax Expenditures: FY 2013 (p. 41); See also Dwyer, J. (2013, February 13). Vital City Revenue, Lost in the Fine Print. *New York Times*. Retrieved from <http://www.nytimes.com/2013/02/13/nyregion/vital-city-revenue-lost-in-the-fine-print.html>
- <sup>72</sup> NYC Department of Finance. (2013). Business Tax Programs, REAP. Retrieved from [http://www.nyc.gov/html/dof/html/business/business\\_tax\\_programs\\_reap.shtml](http://www.nyc.gov/html/dof/html/business/business_tax_programs_reap.shtml)
- <sup>73</sup> The ICIP report only indicates the address of the exempt property. NYC Department of Finance. (2012). 2012/2013 ICIP Exempt Properties, Industrial and Commercial Abatement Program. Retrieved from [http://www.nyc.gov/html/dof/html/property/property\\_tax\\_reduc\\_incentive.shtml](http://www.nyc.gov/html/dof/html/property/property_tax_reduc_incentive.shtml); NYC Department of Finance. (2012). The New York City Property Tax FY 2012 Annual Report (p. 28). Retrieved from [http://www.nyc.gov/html/dof/downloads/pdf/12pdf/nyc\\_property\\_tax\\_fy12.pdf](http://www.nyc.gov/html/dof/downloads/pdf/12pdf/nyc_property_tax_fy12.pdf)
- <sup>74</sup> New York City Department of Finance. (2003-2012). Annual Report on Tax Expenditures.
- <sup>75</sup> Data obtained through FOIL request to NYC Department of Finance, on file with Good Jobs New York.
- <sup>76</sup> New York City Economic Development Corporation. (2013). History. Retrieved from <http://www.nycedc.com/about-nycedc/history>
- <sup>77</sup> New York City Economic Development Corporation. (2012). Financial and Public Documents, Land Sales Spreadsheet. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>78</sup> New York City Economic Development Corporation. (2012). Financial and Public Documents, Leases List Spreadsheet. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>79</sup> New York City Economic Development Corporation. (2012). Financial and Public Documents, FY 2012 Project Info Spreadsheet. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>80</sup> See, for example, New York City Economic Development Corporation. (2012). FY 2012 NYCEDC PARIS Annual Report. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC\\_PARIS\\_Annual\\_Report\\_for\\_Web\\_FY12.pdf](http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC_PARIS_Annual_Report_for_Web_FY12.pdf)
- <sup>81</sup> Grynbaum, M. (2012, July 27). Bloomberg Sues Council to Overturn 2 Wage Laws. *New York Times*. Retrieved from <http://www.nytimes.com/2012/07/28/nyregion/bloomberg-sues-city-council-over-living-wage-and-prevailing-wage-laws.html>
- <sup>82</sup> Mayor's Office of Environmental Coordination. (2005). Local Law 86 of 2005: Basics. Retrieved from [http://www.nyc.gov/html/oec/html/green/ll86\\_basics.shtml](http://www.nyc.gov/html/oec/html/green/ll86_basics.shtml). Local Law 86 is known as the Green Building law. The annual report on LL86 does not show any private businesses being subject to the provisions of the law.
- <sup>83</sup> New York City Economic Development Corporation. (2012). Restated Bylaws of the New York City Economic Development Corporation, As amended through August 4, 2010. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/About\\_NYCEDC/Financial\\_and\\_Public\\_Documents/NYCEDC\\_Statements\\_Documents/NYCEDCByLaws.pdf](http://www.nycedc.com/sites/default/files/filemanager/About_NYCEDC/Financial_and_Public_Documents/NYCEDC_Statements_Documents/NYCEDCByLaws.pdf)
- <sup>84</sup> Public Officers Law, Open Meetings Law, Article 7(103). Retrieved from <http://www.dos.ny.gov/coog/openmeetlaw.html>
- <sup>85</sup> New York City Economic Development Corporation. (2012). FY 2012 NYCEDC PARIS Annual Report. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC\\_PARIS\\_Annual\\_Report\\_for\\_Web\\_FY12.pdf](http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC_PARIS_Annual_Report_for_Web_FY12.pdf); See also New York City Economic Development Corporation. (2012). Financial and Public Documents, Certified Financial Audits, 2012. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>86</sup> New York City Economic Development Corporation. (2012). Financial and Public Documents, Land Sales Spreadsheet & Leases List Spreadsheet. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>87</sup> New York City Economic Development Corporation. (2009 - 2012). Financial and Public Documents, Certified Financial Audits, 2009-2012. Retrieved from <http://www.nycedc.com/about-nycedc/financial-public-documents>
- <sup>89</sup> Other Activities include: Property Related Expenses; Utility Expenses; Personnel Services; Contract and Other Services to the City; and Office Rent and Other Expenses.
- <sup>90</sup> Does not include 4/5 of grant-funded projects that are not reported on by NYCEDC. Data obtained from New York City Economic Development Corporation. (2012). FY 2012 NYCEDC PARIS Annual Report. Retrieved from [http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC\\_PARIS\\_Annual\\_Report\\_for\\_Web\\_FY12.pdf](http://www.nycedc.com/sites/default/files/filemanager/Compliance/EDC/EDC_PARIS_Annual_Report_for_Web_FY12.pdf)
- <sup>91</sup> Consolidated Laws of NY. Tax Law Sections 1115(a)(10), (b)(ii), (c)(1); Section 1105-B(b); Section 1115(a)(12); See also New York State Division of the Budget. (2012). Annual Report on New York State Tax Expenditures, 2012-2013 State Fiscal Year (p. 141-166).
- <sup>92</sup> New York State Division of the Budget. (2012). Annual Report on New York State Tax Expenditures, 2012-2013 State Fiscal Year (p. 141-166).

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- <sup>93</sup> Other public authorities included in this analysis are the Agriculture and New York state horse breeding development fund (a public benefit corporation formed under the New York State Racing, Pari-Mutuel Wagering and Breeding Law, Article 3(330)), and the Racing and Wagering Board of New York.
- <sup>94</sup> See New York Public Authorities Law, New York State Energy Research and Development Authority, Purposes and Powers Specific to the Authority, Title 9, Sections 1854, 1861, 1862.
- <sup>95</sup> New York Authorities Budget Office. (2012, July 1). 2012 Annual Report on Public Authorities in New York State (p. 2-3).
- <sup>96</sup> New York Power Authority. (2013). ReCharge NY Program, Criteria for Evaluation of ReCharge NY Applications. Retrieved from <http://www.nypa.gov/rechargeny/criteria.htm>
- <sup>97</sup> See New York Public Authorities Law. New York State Energy Research and Development Authority, Purposes and Powers Specific to the Authority, Title 9, Section 1854.
- <sup>98</sup> The Saratoga Technology + Energy park (STEP) program is one example of NYSERDA's emphasis on sustainable economic development. NYSERDA owns this technology park and it works to "directly and materially advance the success and growth of companies located in STEP." The companies located in STEP are working on green technology product research and development. See NYSERDA. STEP, Vision and Goals. Retrieved from [http://www.nyserda.ny.gov/Saratoga-Technology-and-Energy-Park/About-STEP.aspx?sc\\_database=web](http://www.nyserda.ny.gov/Saratoga-Technology-and-Energy-Park/About-STEP.aspx?sc_database=web)
- <sup>99</sup> Laws of New York. Public Authorities, Power Authority of the State of New York, Title 1, Section 1001.
- <sup>100</sup> NYSERDA. New York State Biofuel Distributor Program, Program Opportunity Notice (PON) 2454.
- <sup>101</sup> Laws of New York. Public Authorities, NYSERDA, Title 9, Sections 1852, 1853.
- <sup>102</sup> Laws of New York. Public Authorities, Power Authority of the State of New York, Title 1, Sections 1003, 1004.
- <sup>103</sup> Laws of New York. Public Authorities, Section 2800, Annual Reporting by Authorities.
- <sup>104</sup> New York Power Authority. (2012, April). 2011 Report to the Governor and Legislative Leaders on Power Programs for Economic Development. Retrieved from [http://www.nypa.gov/services/economicdev/2011FinalReport/2011\\_Annual\\_Report\\_to\\_Gov.pdf](http://www.nypa.gov/services/economicdev/2011FinalReport/2011_Annual_Report_to_Gov.pdf)
- <sup>105</sup> Data derived from Citizens Budget Commission. (2012, October). Recommendations for the Next Round of Economic Development Council Awards. Table 1: Summary of Annual New York State and Local Government Economic Development Costs. Retrieved from [http://www.cbcny.org/sites/default/files/REPORT\\_EconDev\\_10112012.pdf](http://www.cbcny.org/sites/default/files/REPORT_EconDev_10112012.pdf)
- <sup>106</sup> NYSERDA data is derived from Citizens Budget Commission analysis, above note 106, which includes Energy and Research Development, STEP, Regional Greenhouse Gas Initiative revenues in excess of expenses, and the average annual portion of the Systems Benefit Charge dedicated to Research and Development.
- <sup>107</sup> The estimated cost of the programs operated by the New York Power Authority is from Citizens Budget Commission. (2009, September). Overhauling the New York Power Authority's Economic Development Programs. Retrieved from [http://www.cbcny.org/sites/default/files/report\\_nypa\\_09222009.pdf](http://www.cbcny.org/sites/default/files/report_nypa_09222009.pdf)
- <sup>108</sup> See Note 93, above.
- <sup>109</sup> See Note 104, above.
- <sup>110</sup> The Brownfield Cleanup Program is established under the New York Environmental Conservation Law, Article 27, Chapter 14, Collection, Treatment and Disposal of Refuse and Other Solid Waste, Brownfield Cleanup Program.
- <sup>111</sup> New Partners for Community Revitalization (2007, May). Brownfields Tax Credits, Missing the Target: Making Brownfields Tax Credits Work for Communities. Retrieved from [http://www.npcr.net/legislation\\_and\\_policy/tax\\_credits.html](http://www.npcr.net/legislation_and_policy/tax_credits.html)
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- <sup>113</sup> Environmental Advocates of New York. (2012). New York's Billion Dollar Brownfields. Retrieved from [http://www.eany.org/images/Reports/eany\\_brownfieldtaxcreditanalysis\\_06072012.pdf](http://www.eany.org/images/Reports/eany_brownfieldtaxcreditanalysis_06072012.pdf); New York Department of Environmental Conservation. (2004, May). Draft Brownfield Cleanup Program Guide. Retrieved from [http://www.dec.ny.gov/docs/remediation\\_hudson\\_pdf/DraftBCPguide.pdf](http://www.dec.ny.gov/docs/remediation_hudson_pdf/DraftBCPguide.pdf); Empire State Development Corporation. (2013). Brownfield Cleanup Program. Retrieved from <http://www.esd.ny.gov/BusinessPrograms/BrownfieldCleanup.html>
- <sup>114</sup> NYS Department of Environmental Conservation. Brownfield Opportunity Areas Program Fact Sheet. Retrieved from <http://www.dec.ny.gov/chemical/8650.html>
- <sup>115</sup> New Partners for Community Revitalization. (2011, January). Brownfields Tax Credits, Smart Growth Outlook 2011: Challenges and Opportunities in Brownfields, Area-wide Planning & Implementation. Retrieved from [http://www.npcr.net/legislation\\_and\\_policy/tax\\_credits.html](http://www.npcr.net/legislation_and_policy/tax_credits.html)
- <sup>116</sup> See Note 111, above.
- <sup>117</sup> Laws of New York, Tax Law, Article 1, Section 21(e), Brownfield Redevelopment Tax Credit.
- <sup>118</sup> New York State Department of Environmental Conservation, Eligibility. Retrieved from [http://www.dec.ny.gov/docs/remediation\\_hudson\\_pdf/bcp\\_eligibility.pdf](http://www.dec.ny.gov/docs/remediation_hudson_pdf/bcp_eligibility.pdf)
- <sup>119</sup> New York State Department of Environmental Conservation, Brownfield Cleanup Program. Retrieved from <http://www.dec.ny.gov/chemical/8450.html>; See also NYS Department of Environmental Conservation, Public Comment. Retrieved from <http://www.dec.ny.gov/chemical/60058.html>
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- <sup>122</sup> Communication with a board member of the New York State Brownfields Advisory Board, on file with ALIGN.
- <sup>123</sup> York State Division of the Budget. (2012). Annual Report on New York State Tax Expenditures, 2012-2013 State Fiscal Year (p. 207). Retrieved from <http://publications.budget.ny.gov/eBudget1213/fy1213ter/TaxExpenditure2012-13.pdf>
- <sup>124</sup> New York Department of Taxation and Finance. Special Interest Reports, Brownfield Cleanup Program. Retrieved from [http://www.tax.ny.gov/research/stats/statistics/special\\_interest\\_reports/brownfield\\_credit/brownfield\\_credit\\_reports.htm](http://www.tax.ny.gov/research/stats/statistics/special_interest_reports/brownfield_credit/brownfield_credit_reports.htm); Environmental Advocates claim that there were 114 projects funded since 2005. See Note 113 above.
- <sup>125</sup> NYS Department of Taxation and Finance, Brownfield Credit Reports, at [http://www.tax.ny.gov/research/stats/statistics/special\\_interest\\_reports/brownfield\\_credit/brownfield\\_credit\\_reports.htm](http://www.tax.ny.gov/research/stats/statistics/special_interest_reports/brownfield_credit/brownfield_credit_reports.htm)
- <sup>126</sup> Laws of New York, General Municipal Law, Article 18-A, Title 1, Section 858; See also New York Jobs with Justice and Urban Agenda. (2010). No Return on Our Investment: The Failure of New York's Industrial Development Agencies. Retrieved from [http://www.alignny.org/wp-content/uploads/2010/08/NoReturnOnOurInvestment\\_Final.pdf](http://www.alignny.org/wp-content/uploads/2010/08/NoReturnOnOurInvestment_Final.pdf); See also Office of the New York State Comptroller. (2011). Annual Performance Report on New York's Industrial Development Agencies, Fiscal Year 2011. Retrieved from [https://www.osc.state.ny.us/localgov/pubs/research/ida\\_reports/2013/idadperformance2013.pdf](https://www.osc.state.ny.us/localgov/pubs/research/ida_reports/2013/idadperformance2013.pdf)
- <sup>127</sup> For information on NYCIDA applications, see Good Jobs New York, Monthly Subsidy Alerts and its archive of NYCIDA subsidy applications. Retrieved from <http://goodjobsny.org/monthly-alerts>
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- <sup>131</sup> New York State Department of Environmental Conservation. State Environmental Quality Review. Retrieved from <http://www.dec.ny.gov/regs/4490.html>; Empire State Future. (2012). Smarter Growth: The Implementation of New York's Smart Growth Public Infrastructure Policy Act. Retrieved from <http://www.empirestatefuture.org/wp-content/uploads/PIPA-June-20121.pdf>
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- <sup>136</sup> Laws of New York. General Municipal Law, Article 18-A, Title 1, Section 859-A
- <sup>137</sup> New York Authorities Budget Office. Information About the Public Authorities Reporting Information System (PARIS). Retrieved from <http://www.abo.ny.gov/paris/parisnotification.pdf>
- <sup>138</sup> Laws of New York. Public Authorities, Section 2800, Annual Reporting by Authorities; See also New York Authorities Budget Office. PARIS Handbook. Retrieved from <http://www.abo.ny.gov/paris/PARISHandbook2011.pdf>
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- <sup>141</sup> Office of the NYS Comptroller. (2011). Local Government and School Accountability. *City, County, Town and Village Level 2, 2011*. Retrieved from [http://www.osc.state.ny.us/localgov/datanstat/findata/index\\_choice.htm](http://www.osc.state.ny.us/localgov/datanstat/findata/index_choice.htm)
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- <sup>144</sup> Ibid.
- <sup>145</sup> NYS Division of the Budget. (2003-2012). NYS Tax Expenditure Report, *Cross-Article Tax Expenditures, Empire Zone and QEZE Credits*; Company-specific data since 2001 obtained through a FOIL to ESD, on file with ALIGN; Annual Empire Zone data available from Syracuse Post Standard. (2012). Data Center, Empire Zone Tax Credits. Retrieved from <http://www.syracuse.com/data/empire-zones-2012/>; See also McAndrew, M. (2008, December 15). Gov. Paterson proposes Empire Zone reforms to save \$270 million, ending program in 2011. *Syracuse Post Standard*. Retrieved from [http://www.syracuse.com/news/index.ssf/2008/12/gov\\_paterson\\_to\\_propose\\_empire.html](http://www.syracuse.com/news/index.ssf/2008/12/gov_paterson_to_propose_empire.html)
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- <sup>147</sup> Breidenbach, M. (2012, April 29). Albany Rushes to Decide if Empire Zone Offenders Should Have their Millions in Tax Breaks Restored. *Syracuse Post-Standard*. Retrieved from [http://www.syracuse.com/news/index.ssf/2012/04/albany\\_rushes\\_to\\_decide\\_if\\_emp.html](http://www.syracuse.com/news/index.ssf/2012/04/albany_rushes_to_decide_if_emp.html); See also Associated Press. (2010, June

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- 161 New York City Regional Economic Development Council. (2011). Strategic Plan 2011 (p. 32). Retrieved from <http://regionalcouncils.ny.gov/themes/nyopenrc/rc-files/nyc/REDECFINALNYC.pdf>; The Finger Lakes Regional Council is another example of a Regional Council that prioritizes job creation and quality jobs.
- 162 Ibid.
- 163 Western New York Regional Economic Development Council. (2011). Strategic Plan, Project Criteria. This Strategic Plan notes that Smart Growth is not a "deal-breaker," however it is a criterion used in project selection.
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- 169 In 2012, Regional Council grants were allocated through the Empire State Development Corporation Grant Funds - \$174 million; Empire State Development Corporation Regional Tourism Marketing Initiative - \$3million; and the Empire State Development Corporation Environmental Investment Program - \$1 million.
- 170 State agencies include: Department of Agriculture and Markets - \$2 million; NYS Council on the Arts - \$4 million; NYS Canal Corporation - \$1 million; Department of Environmental Conservation - \$2 million; Homes and Community Renewal, Office of Community Renewal - \$41.2 million; Office of Parks, Recreation and Historic Preservation - \$16 million; Department of Labor - \$5 million; Department of State - \$15 million; New York State Energy Research and Development Authority - \$62 million; Environmental Facilities Corporation - \$13 million.
- 171 The total number excludes annual Industrial Development Bond Cap allocations of \$350 million. These bond allocations are tax exempt and are used to finance economic development, but must be paid back. Regional Councils do not calculate the lost tax revenue from these tax exempt bonds, nor the savings to recipients from reduced interest rates.

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- <sup>173</sup> Increases in tax credits are as follows: 2006: increased the cap to \$60 million; 2008: increased the credit rate from 10% to 30%, shortened the credit refund period from 50% over two years to 100% in one year, and increased the cap; 2009: increased the cap to \$350 million; and 2010: allocated \$2.1 billion (\$420 million annually) through 2014. NYS Laws: Chapter 60 (Laws of 2004); Chapters 61 & 62 (Laws of 2006); Chapter 57 (Laws of 2008, 2009 and 2010). The credit is available under Article 9-A, the Franchise Tax on Business Corporations, and Article 22, the Personal Income Tax.
- <sup>174</sup> See Note 172, above.
- <sup>175</sup> Ibid.
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- <sup>177</sup> NYS Law. Laws of 2004. Chapter 60, Part P, Section 8.
- <sup>178</sup> NYS Division of the Budget. (2012). NYS Tax Expenditure Report (p. 207).
- <sup>179</sup> See Note 172, above. See also NYS Division of the Budget. (2012). NYS Tax Expenditure Report.
- <sup>180</sup> Data obtained through a FOIL request by the Syracuse Post-Standard. Data is only reported on recipients that have received funding for multiple projects. Therefore, data is incomplete. Syracuse Post-Standard. NYS Film Tax Credits. Retrieved from <http://media.syracuse.com/news/other/ESDfilmfoil.pdf>; See also Note 172, above.
- <sup>181</sup> Laws of New York. Tax Law, Exemptions, Article 28, Section 1115(a)(21).
- <sup>182</sup> NYS Division of the Budget. (2012). NYS Tax Expenditure Report (p. 157-158).
- <sup>183</sup> Empire State Development Corporation. Excelsior Jobs Program Overview. Retrieved from [http://esd.ny.gov/BusinessPrograms/Data/Excelsior/101411\\_ExcelsiorJobsProgramOverview.pdf](http://esd.ny.gov/BusinessPrograms/Data/Excelsior/101411_ExcelsiorJobsProgramOverview.pdf)
- <sup>184</sup> Ibid.
- <sup>185</sup> Ibid.
- <sup>186</sup> Laws of New York. Economic Development Law, Excelsior Jobs Program Act, Article 17, Section 350. Retrieved from [http://esd.ny.gov/BusinessPrograms/Data/Excelsior/050211\\_ExcelsiorStatutoryProvisions.pdf](http://esd.ny.gov/BusinessPrograms/Data/Excelsior/050211_ExcelsiorStatutoryProvisions.pdf)
- <sup>187</sup> See Note 183, above. Full list of eligible industries and job creation requirements for the Excelsior Jobs Program: Scientific Research and Development firms - 10 net new jobs; Software Development firms - 10 net new jobs; Agriculture firms - 10 new jobs; Manufacturing firms - 25 net new jobs; Financial services customer service back office operations - 100 net new jobs; Back office firms - 150 net new jobs; Distribution firms - 150 net new jobs; Other firms - 300 net new jobs and investing at least \$6 million; or job retention and significant capital investment.
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- <sup>193</sup> See Note 191, above.
- <sup>194</sup> Laws of New York. Not-for-profit Corporation Law, Local Development Corporations, § 1411.
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- <sup>200</sup> Batavia Development Corporation. By-Laws. Retrieved from <http://bataviadevelopmentcorp.org/sites/bdc.internal.paramountcomputing.com/files/BDC%20ByLaws%202012.pdf>; See also Allegany County LDC. By-Laws. Retrieved from <http://www.acida.org/minutes/CRC%20BY-LAWS.pdf>
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- <sup>207</sup> See New York State Department of Taxation and Finance. Employment Incentive Credit. Retrieved from [http://www.tax.ny.gov/pit/credits/employment\\_incentive\\_credit.htm](http://www.tax.ny.gov/pit/credits/employment_incentive_credit.htm)
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