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Job Creation, Commerce and Industry
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Thank you for the opportunity to testify at this hearing, which is both well timed and urgently needed.

In the name of promoting economic development and job creation, New York State has significantly expanded taxpayer-financed subsidies to private businesses and developers—and to the numerous contractors, consultants and labor unions benefitting from such projects.

To expedite its most highly touted, high-tech mega-projects, the state under Governor Cuomo has taken the additional, unprecedented step of financing, building and equipping factories for private companies—through unaccountable, off-budget, quasi-public non-profit development corporations controlled by the SUNY Polytechnic Institute's Colleges of Nanoscale Science and Engineering.

State construction and continuing ownership of factories on behalf of private businesses creates additional financial risks for taxpayers and is an inappropriate use of public funds.

Also unprecedented is the projected level of spending for these and similar purposes. In the 2017 fiscal year, on-budget disbursements for economic development are projected to increase by $844 million—more than doubling the fiscal 2016 figure. This reflects the continued implementation of programs including the Buffalo Billion, Upstate Revitalization Initiative, Regional Economic Development Councils, the Nano Utica facility, and SUNY and CUNY 2020 Challenge Grants. Most of these initiatives didn't exist as recently as 2010.

From 2017 through 2021, the Empire State Development Corp. is expected to spend more than $6.6 billion on these and other programs, with roughly three-quarters of the money generated by backdoor borrowing. In addition, a portion of the $1.54 billion appropriated for the discretionary capital fund known as the State and Municipal Facilities Program will be distributed, through the Dormitory Authority, to "economic development" projects that claim to claim to generate new employment.

At least a half-billion more will be spent during this period on the Excelsior Jobs Program. And another $420 million a year in refundable tax credits will flow into the pockets of film and TV producers and production companies—plus $50 million a year in newly created music and video game development tax credits.

A highly publicized federal investigation, focused initially on the Buffalo Billion and related projects, has cast a pall of alleged corruption over New York State's economic development programs. However, quite apart from whether the probe uncovers any official wrongdoing, it's time to confront some basic policy questions about the state's increasingly costly approach to economic development.

What are we getting for the money? In some cases, the results are painfully obvious. The shuttered Muller Quaker Dairy plant in Batavia. The empty "film hub" in Syracuse. A mysterious halt to construction of a computer chip manufacturing facility in Albany. Or, in the case of the START-UP NY program, a grand total of 408 jobs.

The state's track record in ensuring returns on investment for the taxpayers is questionable. Consider the $12.5 million ESD grant given to General Electric to create jobs at its Durathon subsidiary in Schenectady. After Durathon wound down operations, GE placed workers in existing vacancies elsewhere in the company, while still claiming it had met the grant's job creation requirements.

When it comes to START-UP NY, there's one silver lining: since the program is not actually accomplishing much, it is also not costing us much—marketing expenditures aside. Nonetheless, despite its financial insignificance, START-UP NY has come to symbolize two perennially nagging features of our increasing costly economic development model: over-promising and under-delivering.

Fewer than half the 107 initial participating firms in START-UP NY are true start-ups. In a normally functioning free-enterprise system, many if not most of these companies can be expected to fail within a few years, contributing to the cycle of "creative destruction" essential to growth and progress. So even the current, modest job creation projections for these firms probably are unlikely to be met.

START-UP NY is an economic development tactic presented as grand strategy—surrounded by excessive expectations created by promotional hype. Far more troubling, because of its size and scope, is the model used by the Cuomo administration to advance the mega-projects approved as part of the Upstate Revitalization Initiative—starting with the SolarCity "gigafactory" that is the centerpiece of the Buffalo Billion.

In a recent report co-published by the Empire Center, former ESD senior official John Bacheller cited a number of problems and shortcomings with the Buffalo Billion project.[1] His key findings were as follows:

- State taxpayers will be exposed to an unusually high degree of risk by the unprecedented structure of the SolarCity deal, under which Fort Schuyler Management Corp. (FSMC), a non-profit subsidiary of the State University's Colleges of Nanoscale Science and Engineering (CNSE), is building the factory for the company, and will retain ownership. SolarCity's up-front capital investment in the project is thus limited, weakening its incentive to remain in Buffalo after its dollar-a-year lease of the building expires in 10 years.
- The project's net employment impact has been greatly overstated. Some of the promised 5,000 new jobs to be generated in New York by the SolarCity project will be sales and installation positions that would be created in the state even if the same factory was successfully constructed and operated anywhere else in the world, while others will be jobs at other companies that are not parties to the jobs agreement between SolarCity and FSMC.
- The relationship between CNSE/FSMC and Empire State Development leaves a number of open questions around the job requirements associated with the project and the responsibility for ensuring that job creation promises will be met.
- Although FSMC is a state-created entity, controlled by the State University and CNSE, it lacks fundamental mechanisms to ensure transparency and public accountability, including publicly disclosed decision processes, criteria, and analyses of project fiscal and economic benefits and costs.

In addition, the structure of the Buffalo deal and similar upstate projects vests far too much discretion in key officials of SUNY Poly and in the Executive Chamber. In fact, as the Empire Center first reported in May, Fort Schuyler Management Corp appears to have violated state law by requiring SolarCity contractors to enter into a project labor agreement (PLA) with local unions without first conducting the required "due-diligence study" to determine whether a PLA would actually save money.[2]

What we know about the Buffalo Billion project suggests the need for several immediate reforms:

- The state should begin to unwind existing agreements between SUNY Poly subsidiaries and parties to ongoing projects, making ESD the lead agency on projects that are already underway.
- Once any binding contractual commitments are settled or transferred to ESD, the SUNY Poly development subsidiaries should be disbanded.
- The Legislature should prohibit the future creation of any similar development entities by SUNY or other arms of state government.

These steps are the minimum necessary to boost the transparency and accountability of these programs. But still more needs to be done.

At this point, I could conclude by recommending that you adopt a comprehensive system of rigorous, regularly updated and fully publicized performance measures be attached to all programs enacted by New York State in the name of economic development.

That would certainly mark an improvement over the current situation. But we need to go much further. It's time to more closely scrutinize the entire overblown premise of New York State's economic development programs.

Let's recognize, for starters, that in the words of economist Larry Summers, "government is a crappy venture capitalist." In fact, the state's 2011 experiment in acting as an actual venture capitalist had such poor results and promoted so much questionable conduct that it's now the subject of an investigation by the U.S. Treasury Inspector General.

Cutting-edge technologies may be cool and exciting, offering the promise of the next big thing. But Albany has no business betting our money on them.

In Buffalo, nonetheless, we have effectively become partners with the prominent billionaire Elon Musk in a money-losing enterprise that has never run a large-scale manufacturing facility. The Musk business empire, which includes Tesla Motors and Space X, has been kept afloat with some decidedly "unconventional" financial engineering, as the *Wall Street Journal* recently reported.[3]

The just-announced merger of SolarCity with Tesla Motors has drawn decidedly mixed reviews from financial analysts. If the deal succeeds—well, good for Mr. Musk and his shareholders. If it doesn't—well, New Yorkers will hold the keys to the world's largest, most advanced, *unused* solar panel factory.

Whether they involve financing an enormous, complex $750 million manufacturing plant—or, on the other hand, distributing five- and six-figure grants to countless craft breweries, farm distilleries and ice cream shops and other trendy micro-enterprises across the state—government economic development programs are no substitute for a better business climate. Unfortunately, more often than not, economic development programs actually serve to distract attention from the state's failure to improve that climate.

The Legislature and Governor Cuomo deserves credit for taking some solid, positive steps to improve that climate in recent years: including the elimination of state taxes on incorporated manufacturing firms and reduction in the corporate tax rate for other types of businesses, and reform of the state estate tax, which will benefit family-owned farms and small businesses.

The property tax cap is a truly significant structural reform that is saving homeowners and businesses alike billions of dollars a year.

But taxes aren't the only obstacle to business investment and job creation in New York. Businesses are also deterred by high costs in other categories.

Our energy rates, already among the nation's highest, will be boosted into the stratosphere by the so-called Clean Energy Standard adopted this week by the Public Service Commission. Indeed, the just-enacted energy plan might be called the highest tax increase in New York's recent history.

Our average workers' compensation insurance premium was already the fourth highest in the country, 48 percent above the 50-state median level, even before a recent 9.3 percent rate boost—which reflects the continuing failure to enact further needed reforms of the program.

The State Environmental Quality Review Act continues to add needless red tape, delays and uncertainty to much-needed private development projects.

While the head of ESD has suggested that START-UP is generating a positive "buzz" in the business community, the state also has produced a much more negative vibe with other high-profile actions, including the increase in minimum age to up to $15 an hour and the nation's most expansive paid family leave plan for all employees.

And the recent denial – on spurious grounds—of a required water quality permit for the Constitution gas pipeline in the Southern Tier threatens to deeply and negatively impact prospects for economic growth in what was already a struggling region of the state.

With its focus on Job Creation, Commerce and Industry, this committee can take the lead in scrutinizing and calling attention to the economically harmful impacts of some of the recent policy changes I've just outlined.

In past years, the governor and the Legislature have spent vast amounts of financial capital—backed by taxpayers—in the name of "economic development." But truly effective policies to promote economic growth will demand a greater expenditure of political capital on needed regulatory reforms and tax relief.

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[1] Bacheller, John, *Solar Subsidy: The Big Risk Embedded in Buffalo's Billion*, June 29, 2016, http://www.empirecenter.org/publications/solar-subsidy/

[2] "Is Buffalo Project Flouting Labor Law," blog post at NYTorch, May 17, 2016,

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http://www.empirecenter.org/publications/is-buffalo-project-flouting-labor-law/

[3] "Elon Musk Supports His Business Empire With Unusual Financial Moves," *Wall Street Journal*, April 27, 2016, http://www.wsj.com/articles/elon-musk-supports-his-business-empire-with-unusual-financial-moves-1461781962