Testimony of Reinvent Albany for the Joint Legislative Hearing On Taxes

February 27, 2025

Thank you for the opportunity to provide testimony on tax policy budget issues. Reinvent Albany advocates for open, accountable New York government and fact-based policy making, including fair tax policy.

Today, we are asking the Legislature to do seven things to create a fairer, more rational tax system:

1. **End New York's $424 million a year Opportunity Zone (OZ) tax break by passing S3340 (Gianaris) / A3247 (Dinowitz) – stop subsidizing out-of-state and in-state luxury housing.**
2. **Support S132 (Ryan) / A4297 (Bronson) – prevents IDAs from abating tax revenue otherwise going to schools.**
3. **Properly classify reimbursable tax credits as on-budget expenses.**
4. **Phase out the $700 million year film/TV tax credit and other entertainment subsidy boondoggles.**
5. **Pass S4662 (Skoufis) to require more detailed reporting from ESD on film/TV subsidies.**
6. **End $330 million a year in state subsidies to the oil and gas industry by passing S3606 (Krueger) / A3675 (Simon).**
7. **Eliminate some horse racing subsidies by passing S157 (Salazar) / A3063 (Rosenthal).**

1. End New York's $424 million a year Opportunity Zone (OZ) tax break – stop subsidizing out-of-state and in-state luxury housing. Pass S3340 (Gianaris) / A3247 (Dinowitz).

We urge the Senate and Assembly to put S3340 (Gianaris) / A3247 (Dinowitz) into your one-house budgets, which would end the State's Opportunity Zone (OZ) tax break.

In the federal 2017 Tax Cuts and Jobs Act, the Trump administration established Opportunity Zones, which give capital gains tax breaks to some investments in areas with low household incomes. Though supposedly intended to help disadvantaged people, there is overwhelming evidence that the biggest beneficiaries are the very wealthy and high-end real estate. Importantly, New-York-based investors can receive state and city capital gains tax breaks for investing in an Opportunity Zone anywhere in the USA. This means New York tax dollars are potentially underwriting everything from gun distributors in Florida and oil rigs in Texas to luxury developments in North Carolina.

As we noted in our economic development testimony, the lobbyists who helped write the original OZ program have urged the U.S. Treasury Department to pass a regulation reinterpreting the law so that investors do not need to hold their OZ investments for 10 years – they can sell them, reinvest in a different OZ, and still pay no taxes on their gains (emphasis ours):

> *Under the OZ incentive, investors are required to hold their investments in a QOF for a minimum of 10 years to qualify for exclusion of the capital gains created by their investments. In regulations, Treasury has interpreted current law to say that any capital gains recognized by a QOF prior to 10 years are generally taxable to its investors, unless the taxpayer reinvests the gain in a QOF. As such, if an OZ fund sells property within 10 years, any capital gain from that sale is generally fully taxable to its investors. This discourages many investors and investment fund managers with a shorter-period investment hold strategy from participating in the OZ incentive.* ***A far better result would be to treat gains from the sale of OZ property by an OZ fund similarly to Section 1031 gains whereby an OZ fund that reinvests 100% of the proceeds from a sale into OZ property would not recognize the gain.*** *This modification would allow OZ funds to capitalize on successful investments and inject additional investments into even more low-income communities.*

If the Treasury does pass such a regulation – as seems likely – New York will not be able to collect benefits from capital gains that occur under this proposal. Citizens Budget Commission originally projected that OZs will cost NYS up to $284 million and NYC up to $140 million annually from 2029 – but in fact, that day could come in 2026.

2. Prohibit IDAs from abating school tax revenue. Pass S132 (Ryan) / A4297 (Bronson).

With new threats to school funding from the federal government, it's more urgent than ever that NYS pass S132 (Ryan) / A4297 (Bronson) and prohibit Industrial Development Agencies from abating the portion of property tax revenue intended for schools.

Good Jobs First found in 2023 that NYS schools lost [$1.8 billion to tax breaks] in 2021. These losses tend to be higher in districts with higher numbers of historically disenfranchised students such as racial minorities.

Public officials justify these handouts by saying that they're necessary to boost the local economy, but renowned scholar Tim Bartik has found that tax breaks only affect business location decisions [2 to 25% of the time]. States and localities get much more bang for the buck when they make investments in education, job training, or public infrastructure.

3. Properly classify reimbursable tax credits as on-budget expenses.
New York State calls them "reimbursable tax credits," but entertainment industries like the Film/TV production credits have nothing to do with taxes. They are direct state reimbursements of eligible expenses submitted by individuals or businesses producing a film, TV show, Broadway show, or computer game. For example, a business or person submits a reimbursement request for up to 30% of a TV show's production cost and the State writes them a check. It is highly misleading to the public and fiscally dishonest to have these direct expenses camouflaged in the tax code and thus not included in the budget. (Tax credits are theoretically subtracted from consensus revenue estimates, but that accounting is not publicly available and may not be accurate.)

4. Reject $1.8 billion in NEW cash subsidies for film/TV producers.

- $1.4 billion from extending the existing film/TV credit for two years per $700 million x 2 years.
- $400 million from new Production Plus and Independent Film subsidies per $100m/year x 4 years.

Three Things about Film/TV Subsidies
First, if you approve these new subsidies, New York taxpayers will pay Hollywood producers $9.5 billion from 2024 through 2036.

Second, the film/TV tax credit cost NY [$75,000] for one full-time job for one year in the first two quarters of last year – this is incredibly inefficient.

Third, despite their name, "reimbursable tax credits" are functionally off-budget state grants. They are payments from the state to employers based on their expenses, not tax liability. It does not matter if a movie makes a billion dollars or one dollar. Reimbursable tax credits are subtracted from state revenue before they are transferred to the General Fund for appropriation. This is not free money.

5. Pass S4662 (Skoufis) to require more detailed reporting from ESD on film/TV subsidies.
Industry lobbyists like to claim that the film/TV tax break is revitalizing upstate by pointing to the handful of productions that take place upstate. However, ESD does not provide detailed reporting on how much of its subsidies go where, making it difficult to assess the overall impact of the program.

We encourage the Legislature to include in your one-house budgets new legislation by Senator James Skoufis that will require ESD to report on a quarterly basis:

1. Qualified Costs incurred by each individual production project and in aggregate
2. Days of principal photography by each individual production and in aggregate
3. Total hires
4. Credit eligible hours
5. Amount of state credits issued

What limited data ESD does provide does not paint an encouraging picture for upstate investment: Of 371 productions listed in ESD's recently published 2018-2022 film/TV data, only 60 primarily took place outside NYC.

6. End $330 million a year in state subsidies to the oil and gas industry by passing S3606 (Krueger) / A3675 (Simon).
We again urge the Legislature to include in the budget the Fossil Fuel Subsidy Elimination Act, which will end $336 million in oil and gas subsidies that benefit corporations. Eliminating these tax breaks will help New York meet its goals under the Climate Leadership and Community Protection Act (CLCPA). It makes no sense for NY to subsidize fossil fuels while simultaneously trying to reduce emissions.

7. End subsidies for horse racing. Pass S157 (Salazar) / A3063 (Rosenthal).
The *Times Union*'s Emilie Munson has documented how since 2008, the state has provided at least $2.9 billion for horse racing, an industry with a proven history of animal abuse that provides minimal benefit to the public.

The state can start ending the subsidies by passing S157 (Salazar) / A3063 (Rosenthal), which would end subsidies for the purchase of race horses, as well as horses brought into NYS for racing.

Thank you for your consideration.