



Andrew Cuomo

**The New NY Agenda:
A Plan for Action**

THE NEW NY AGENDA

The people of New York deserve a government that works, for a change — not a government paralyzed by partisan politics and plagued by ethical scandals.

We love New York and are willing to fight for the fundamental reforms necessary to restore competence and integrity in government and regain the public's confidence.

We are Democrats, Republicans and Independents. But we are New Yorkers first, foremost and always.

Today, I join with my fellow New Yorkers to actively support Andrew Cuomo's New NY Agenda. I pledge to vote in the upcoming elections, to urge my local elected officials to support this Agenda, and to organize and mobilize my community in November—and next year—to make a "New NY" a reality.

- 1. Clean Up Albany.** We must restore honor and integrity to government, with tough new ethics standards, expanded disclosure requirements, independent investigators to root out and punish corruption, and an overhaul of campaign finance laws. We must remove legislative redistricting from partisan elected politicians and place it in the hands of an independent commission that works only for the people. And we must hold a constitutional convention — A People's Convention — to rewrite the Constitution and make these changes immediately because we cannot wait any longer for the state legislature to act.
- 2. Get Our Fiscal House in Order.** We must get our State's fiscal house in order by immediately imposing a cap on state spending and freezing salaries of state public employees as part of a one-year emergency financial plan, committing to no increase in personal or corporate income taxes or sales taxes and imposing a local property tax cap. We must also eliminate mandates that make it impossible for school districts and localities to contain costs.
- 3. Rightsizing Government.** Government in New York is too big, ineffective and expensive. We must enlist the best private sector minds to help overhaul our more than 1,000 state agencies, authorities and commissions and reduce their number by 20 percent. We must make it easier to consolidate or share services among our more than 10,000 local governments.
- 4. NY Works.** We must make New York the jobs capital of the nation and get unemployed New Yorkers back to work. We will give businesses a tax credit of up to \$3,000 for each unemployed New Yorker hired for a new job. We must also replace New York's ineffective economic development efforts with a new strategy organized around regional industry clusters; reduce the high costs of doing business in the state; and support small businesses by increasing access to capital and streamlining regulatory barriers.
- 5. NY Leads.** New York has been a national leader in protecting and advancing individual rights and safeguarding the future of its citizens. To remain so, we must protect a woman's right to choose, achieve marriage equality, enact tough anti-discrimination laws, truly regulate Wall Street, attract the best and the brightest to government, leave our children a cleaner and greener world, and continue to oppose the death penalty.

Sign the pledge today at www.AndrewCuomo.com

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Andrew Cuomo

The New NY Agenda: A Plan for Action

I have the great honor to serve you, the people of our State, as your lawyer, your advocate, your Attorney General. Every single day for the past three years, I have gone to work with one mission: to represent the people and fight for you, no matter how powerful the foe, no matter how long the odds.

You have welcomed me into your homes. I have met your families. I have learned about your problems and your challenges. I understand that we are in a difficult time, even a frightening time. The economic collapse has wreaked havoc in too many lives. Life savings have been lost, jobs are shaky, home values have plummeted, and with it dreams for retirement, college tuitions, and a nest egg to rely on.

Reckless bankers exploit the economy and working families are paying the price. Now Wall Street gets bonuses and taxpayers get the bill.

It's just not right and it's not fair.

To make matters worse, Manhattan's Wall Street debacle is matched only by Albany's State Street debacle. Our state government in Albany is disreputable and discredited.

New York State is upside down and backwards; high taxes and low performance.

The New York State government was at one time a national model. Now it's a national disgrace. The corruption in Albany could make Boss Tweed blush.

Politicians of both parties, Democrats and Republicans, share the blame. Both are guilty of partisan politics and bringing New York to the brink.

Because I believe so deeply in the mission of government, I am so troubled by its failure.

The Declaration of Independence says when government fails, the people have the right to replace it.

Well my friends, New York State government has failed and the people have the right, indeed the people have the obligation, to act.

My campaign is this simple: I represent the people of the State of New York and we want our government back.

If we are smart, we grasp the opportunity presented by this crisis — seize the day, *carpe diem* —and finally develop the political will to reform Albany. We must use this moment to reorganize the government, reform its ethics and restructure its finances, to solve the problems we have ignored for too long.

The path we must follow is clear. The time for baby steps is over. We must make New York State the economic capital of the world once again. We must overhaul our government, clean it up, pare it down and make it work.

I have a bold new approach I call the **New NY Agenda**. It is a plan based on hard economic realities, a demand for performance, insistence on a clean government and a mobilized citizenry to make it happen.

We need to get the State's economy running and to do that we need to make the government function again. Gridlock and partisanship must give

way to competence and integrity. My ***Clean Up Albany Plan*** will enact strict new ethics laws, require full disclosure of all legislators' outside income, and have a real independent monitor, because self-policing is an oxymoron. I will also propose new campaign finance laws and an independent redistricting commission so incumbent politicians actually face competition. The influence of lobbyists and their special interests will be drastically reduced with new contribution limits. I will also spearhead a Constitutional Convention — a People's Convention — to rewrite the rules, because we are just plain tired of waiting for the State Legislature to act.

At the same time, we need a ***Plan to Get the State's Fiscal House in Order*** so we can start living within our means. Government is not immune from the slowing economy. Just like every company and family in the State has done, the government must cut costs. Raising taxes is not an option — period. Sometimes the answer is “no”. People will vote with their feet and leave. We are in a financial emergency. We must act that way and get our fiscal house in order. My plan will cap state spending and freeze

state taxes. I also propose to freeze salary increases for state workers. I respect them and I respect their unions, but we simply can't afford to pay benefits and pensions that are out of line with economic reality.

Reducing State spending is the first step. We must also stop the crush of local government spending by imposing a cap on rising property taxes. My cap would be lower than current state proposals at two percent or the rate of inflation, whichever is less.

Taken together, these steps would be a major effort to right the financial ship of the State.

Next, the world has changed. The economy has transformed. My ***Rightsizing Government Plan*** will resize government to be rightsized for today. Every company and family has done it. Government must spend less and operate better. There is plenty of waste to cut and service to improve. Not since 1927, with Governor Al Smith, have we really overhauled our government. I want to try a different approach. I want to bring in the best private sector minds to reorganize the state's 1,000 agencies, authorities and commissions with a mandate of at least a 20 percent

reduction and reinvent our government for a new century. I want to work to consolidate the 10,000 local governments in the State — the towns, villages and special districts — that drive our home property taxes through the roof with their duplication and waste.

We need to make New York the jobs capital of the country, putting New Yorkers back to work now and maximizing opportunities in the innovation economy. Our economy is hurting everywhere, but we especially need to address the long-term problems of Upstate New York. To help put New Yorkers back to work, I propose the ***New York Works Plan***, which includes a new jobs tax credit to give corporations a tax credit of up to \$3,000 for every unemployed New Yorker hired into a new job. I also propose reorganization of our economic development efforts. We have spent billions in tax benefits and grants through dozens of programs and a myriad of uncoordinated state agencies. Once again, we are not getting our money's worth. We must restructure our approach into coordinated regional strategies investing in cluster economies. I will create a State

infrastructure bank to help fund and better coordinate public works investments in our State. I will orient our health care institutions and academic institutions to be high tech job generators in the innovation economy. And we will make New York more competitive by reducing the high costs of doing business in our State. The essential job of government is to facilitate, not frustrate, job development.

We also must appeal to Washington. Senator Daniel Patrick Moynihan was right. We still contribute more in tax dollars than we get back. While we respect our role in Federalism, Washington must understand Wall Street was our financial engine and now we need help.

I do not support the current plans for the state to borrow as much as \$6 billion over three years to pay operating expenses. It totally misses the point of this critical moment. We must reduce costs. I also oppose the current proposal to appoint a financial review board. Democracy works because citizens elect officials who are accountable to the people. I

will not delegate my responsibility to make the tough, but essential, financial decisions.

I will be discussing new policy directions for the State over the next several months. My ***New York Leads Plan*** will focus on new education, environment and energy policies, among others. We need substance, not rhetoric; reality based, not politically based, proposals; and someone who can get it done in Albany. There is no more time for talk and posturing. It's time for action and progress.

I want you to know my beliefs.

I am fiscally prudent and socially progressive.

I believe in protecting a woman's right to choose.

I believe in marriage equality.

I believe Wall Street needs serious ongoing regulation.

I believe public education is the new civil rights battle and I support charter schools.

I believe global warming and climate change are real threats to our planet.

I am against the death penalty.

I believe discrimination still exists in society and we must fight it in every form.

I believe women still face a glass ceiling that must be shattered.

I believe we need to attract a new generation of the best and brightest to public service and that government can be a source of inspiration, not degradation.

I believe government can be a positive force for change. I have been part of governments that made this State and this nation better. I believe we can do it again.

My full New NY Agenda is online at **www.AndrewCuomo.com**. I hope you will take a look and join us. It's time to act and action starts with you.

Mine is a much different approach to New York government, and I want a different kind of campaign.

I want to be the candidate of the people. Let my opponents play their old style politics with party bosses and endorsement deals. I will run my campaign the way I ran my office for the past three years — I work for you, directly. I will reach out and

engage reasonable Democrats, Republicans, and Independents; people turned off and tuned out to politics.

I will use this campaign to build a coalition for change and change comes from the people — a coalition that wins a campaign in November and changes our government in January. I will reach out to people of all parties and stripes to sign on to my New NY Agenda. We are not first Democrats, Republicans or Independents. We are first New Yorkers and we must act that way.

While I believe we need radical reform and the status quo has got to go — on both sides of the political aisle — I also believe there are many good people currently in state government who will respond to new, principled leadership. As Attorney General, I have brought together Democrats and Republicans to pass groundbreaking legislation attacking a critical issue — the proliferation of over 10,000 local governments across New York State. They had been trying to pass that law for 20 years. We actually did it.

Let's learn from the past. If we polarize during the campaign, we only doom the next government to gridlock. Let's stop the cycle. I want to generate a positive dialogue and a unifying approach. I don't wage a campaign against anyone or anything, but rather, a campaign for something: for competence, for integrity, for reform, for the people.

It's not going to be easy. This decay didn't happen overnight and it won't be fixed in a day.

We will be taking on very powerful special interests with much to lose. We must change systems and cultures long in the making. But I know we can do it. We have taken on powerful forces before and won. I promised you when I was elected that I would fight corporate fraud on Wall Street and government fraud in Albany —and we did. Together we have done pretty well fighting for the people. Look at what we have accomplished over the last three years in the Attorney General's Office.

We brought fairness to the big bankers who were going to take outrageous bonuses paid for by taxpayers after bringing our economy to its knees.

We took on the abusive health care companies ripping off billions of dollars from consumers.

We reformed the nation's student lending industry.

We took on wasteful school districts on Long Island and the \$500,000 school superintendents.

We brought sunlight to Albany pork barrel spending.

We cleaned up decades of corruption in our state pension fund, where we recovered over \$100 million.

Last year, we led the nation with the best Medicaid Fraud Unit.

We took on corrupt politicians in Albany — Democrats and Republicans alike.

We fought the good fight and we won. For me it's all about getting results, getting things done. Not just talking about it, but doing something about it.

As I hope you have seen, I don't run from a problem. I run at it. In my 20s, I started a new approach to deal with the homeless problem. I built housing and provided support services that gave the homeless the help they needed and saved money for

the taxpayer. In my 30s, I took on the challenge of reinventing the Department of Housing and Urban Development (“HUD”) — the most dysfunctional Federal Agency — and brought competent management to a \$30 billion bureaucratic mess. I’ve passed numerous laws with the United States Congress. I’ve been in private business, worked all over the world and I know how to get things done. I know how to manage. I know how to bring people together. I know the people of this State. And I know we can make New York a great comeback story, leading the nation once again.

And sure it’s hard to comeback. I saw it in my own life. A few years ago I ran for Governor and lost, and I then went through a very difficult time in my personal life. It was a public humiliation. People said it was over for me, my public service career was finished; there was no way I could come back. Some days even I thought they were right. Well, it wasn’t easy, but I acknowledged my problems, worked hard. And with the help of true friends and my family I built back. With the compassion and empathy of New Yorkers, you gave me a second chance.

So yes, I know it will be hard but I also know we can do it. And I certainly know one thing for sure: we won't make excuses, we won't take no for an answer, we won't turn on our own, and we won't give up. It's not what we do because it's not who we are. We are New Yorkers.

We will make New York State the Empire State again. We won't fail. There are 19 million reasons why we can't fail.

I have three great reasons at home — Cara, Mariah, Michaela — my three girls (15, 15 and 12). I want New York to work for them as it worked for me. I don't want them to move away to find their future. I want to leave them a home that is better, fairer, stronger, safer, and sweeter than ever before. And their home is New York.

I think I can help and that's why I am running for Governor of the State of New York.

My campaign is not going to be about me — but we. We the people formed the government. We the people must reform the government. I need you to join the team to change Albany. I will be all over this state in each of our 62 beautiful counties to

organize a citizen coalition to take back our government.

My friends, this State is at a crossroads.

Sometimes to see the future we must remember the past. Today we must remember who we are as New Yorkers. Remember first the great assets of New York. As HUD Secretary, I worked in every state in the nation and I've seen what all the other states have to offer. Not one has anything over New York State:

our history, our diversity, our beauty — the Adirondacks, Long Island beaches, Thousand Islands, Finger Lakes;

our legacy of leadership — from Hamilton to Roosevelt;

our history of reform—from the women's movement to the environmental movement; and,

our superb academic, health care, manufacturing, finance and agriculture industries.

We do it all and we have it all.

Remember, as New Yorkers, our strength is in our unity. Yes, this is a vulnerable moment for our State. Yes, we have real problems. But it is our response to these problems that will determine our

destiny. I know we are frustrated and maybe angry and there will be those who seek to exploit our fears — voices of darkness and division. But I also know that this is the time to be smart, not angry; positive, not negative; and to unify, not divide.

Yes, we are diverse as a State — racially, religiously, geographically. And yes, that proves challenging at times. But our diversity is also our source of strength, not weakness. Our State was founded on inclusion, not exclusion. *E Pluribus Unum* — out of many, one — is our founding premise and our enduring promise. Let's use this moment to appeal to each other's better angels. Don't let them divide us. Let us come together stronger than ever before. We've done it before, we will do it again.

In closing, my friends, remember that it was not always this way. There was a time when New York State government was a symbol of integrity and intelligence and a source of pride. There was a time when this State led the nation in job development and new economies; a time when we dreamed big and acted smart; and a time when we believed in us. That time doesn't have to be our yesterday. It can be our

tomorrow, if we start building a New NY today — a New York that shines brighter still, for my family and for yours. I know we can do it, I know we will do it — together.



10 TROUBLING NEW YORK FACTS

1. New Yorkers pay the highest property taxes in the nation. When property taxes are measured as a percentage of home value, the top sixteen counties in the nation are all in New York State. Property tax levies in New York grew by 73 percent from 1998 to 2008—more than twice the rate of inflation during that period.
2. New York has the second highest combined state and local taxes in the nation and the highest local taxes in America as a percentage of personal income — 79 percent above the national average.
3. From April 2008 through December 2009, New York lost 352,700 private sector jobs, while unemployment hit a 26-year high of almost nine percent.
4. Two million New Yorkers have left the State over the past decade and the State leads the nation with net out-migration of 20 to 35 year olds—the most critical demographic group for economic growth and community vitality.
5. New York public schools spend more per student than any other state — fully 71 percent more than the national average—yet New York ranks 40th in rate of high school graduation. Only 67 percent of New York's students graduate from high school and only 58 percent of these students receive a four year college degree by the age of 26.

6. New York spends more than twice the national average on Medicaid on a per capita basis and spending per enrollee is the second highest in the nation, yet New York ranked 21st out of all states for overall health system performance, and 50th in the category of avoidable hospital use and costs.
7. The cost of pensions and health benefits for active and retired employees will grow from \$1.3 billion in 1998-99 to \$6.2 billion in 2013-14 — almost a 500 percent increase.
8. There are more than 10,500 local governmental entities and the numbers have increased dramatically over the past decades. For example, the number of special districts increased from approximately 2,000 in 1940 to more than 7,000 today.
9. There are more than 1,000 state agencies, authorities and commissions. For example, the Department of Health alone has at least 87 statutorily created administrative units, including 46 councils; 17 boards; 6 institutes; 6 Committees; 5 facilities; 2 task forces; 2 offices; 2 advisory panels and a work group.
10. Since 2000, State legislators were more likely to resign while under ethics investigations, or after pleading guilty to or being convicted of a crime, than they were to lose in a general election.

1

Clean Up Albany: Restoring Trust and Accountability

New York State government was once a national model, but now it is plagued by dysfunction, scandal and gridlock, resulting in deep distrust and cynicism. And now, when New Yorkers most need government to function well — to get our fiscal house in order, reduce taxes, and get people back to work — government cannot answer the call.

The problem is that government too often is beholden to the special interests and unaccountable to the people; critical decisions are made behind closed doors without public input or adequate deliberation; and our most cherished institutions have been weakened by scandal and corruption. We must clean up Albany and reform how government operates to restore trust and accountability, so that

government can once again be a part of the solution to the many challenges we now face.

As Attorney General, Andrew Cuomo has been steadfast in his determination to restore the public trust by investigating corruption and bringing transparency to our government. For example he:

- Expanded the Attorney General Office’s Public Integrity Unit into a stronger and more potent force against public wrongdoing and Albany corruption, initiating investigations at the highest levels of State government that have:
 - led to indictments and guilty pleas of former officials of the State Comptroller’s Office who used their positions for personal gain at the expense of the State’s retirement fund, and the recovery of public funds from such crimes; and,
 - revealed improper use of the State Police by Former Governor Spitzer’s administration to discredit the Former Senate Majority Leader Joe Bruno.
- Recovered millions of taxpayers’ dollars lost when school district employees “double-dipped” by collecting pensions and salaries simultaneously.

- Cracked down on the abuse of Legislative “member items” –the allotments of funds distributed to individual legislators for projects or organizations in their districts – by establishing a review procedure to police abuses of those payments and stop corruption.
- Created “Project Sunlight”—an innovative website designed to promote New Yorkers’ right to know by allowing citizens to track their elected representatives’ campaign contributions and decision-making.

As Governor, Andrew Cuomo will build a coalition of New Yorkers and elected officials who are willing to change the status quo and reform our State government. It is not enough to rail against the Legislature or other public officials and hope for the best. Now is the time for action, because we can no longer afford to wait; we must restore trust and make the government function effectively again. The specific proposals that follow set forth the plan of action for doing just that. It is time now to make them a reality.

Reforming New York's Ethics Laws

In the past decade, New York State's elected officials were more likely to resign while under investigation or due to criminal conviction than to lose in a general election.¹ In fact, in the last few years alone, several lawmakers and public officials have faced charges or been convicted of felonies related to abuses of their office. Yet aside from action by prosecutors, the Legislature has been the only body responsible for policing the actions of its members.



In the past decade, New York State's elected officials were more likely to resign while under investigation or due to criminal conviction than to lose in a general election.

We must reform not only the substantive rules of conduct, but also the enforcement of those rules. Andrew Cuomo will work to enact comprehensive ethics reform to restore public trust in our State government.

Independent Monitoring and Enforcement of Ethics Laws

Self-policing is rarely effective. Currently, our State government's ethics laws are policed by several separate entities, each without the independence necessary to ensure that violations are fully and fairly investigated and prosecuted. In particular, the Legislature essentially polices itself rather than making its members subject to investigation by an independent body. To restore public confidence and address this potential and actual conflict of interest, Andrew Cuomo will fight to eliminate the existing oversight bodies and establish an independent state ethics commission with robust enforcement powers to investigate and punish violations of law by members of both the executive and legislative branches.²

Outlaw "Pay to Play"

We must address the inappropriate influence that companies and individuals that do business with the State have over our elected representatives. All too often we see campaign contributors "pay" officials

for the opportunity to “play” with the government. Accordingly, New York must severely limit campaign contributions from public contractors and lobbyists and prohibit the award of state contracts to contributors who have exceeded limits in order to end the “pay to play” practices of Albany. Specifically, the following measures must be enacted:

- **Low Contribution Limits for Public Contractors and Lobbyists.** Set low limits on contributions to candidates (for all state and local offices) and party “housekeeping” accounts from lobbyists and public contractors, owners and senior managers of such lobbyists, and contractors and their immediate family members, and political committees controlled by any of these entities or persons.³ Numerous other states have these kinds of pay-to-play limitations on government contractors.⁴
- **Immediate Disclosure of Contributions.** Lobbyists and public contractors and their immediate family members, and political committees controlled by them, should be required to report contributions to candidates and party housekeeping accounts made within 36 days of an election no later than 48 hours after the contribution is made.

- **Prohibit Public Contracts with Contributors that Have Exceeded Statutory Limits.**

Prohibit the State, its counties, and municipalities from entering into contracts with individuals and entities that have made political contributions exceeding the limits discussed above.⁵

It is only through such aggressive reform of the “pay to play” practices in Albany that we can remove the excessive influence that certain companies and individuals have over our elected representatives through campaign contributions and other payments.

Disclosure of Outside Income Sources and Clients

Voters cannot have complete faith in their elected representatives if they cannot assess where else those representatives are earning money. While New York’s part-time Legislature allows professionals from diverse industries and backgrounds to serve the public as members, without adequate disclosure rules it also allows members to earn outside income that is all but immune from public scrutiny. We must require greater disclosure. Accordingly, we must require our elected

representatives in Albany to disclose the sources and clients that produce any significant outside income they receive.

Reform New York State's Campaign Finance Laws

In order to restore trust and accountability in government, we must reform the very foundation of democracy — the ballot box. Therefore, we must change our antiquated campaign finance laws. Our current laws amplify the voices of wealthy individuals and special interests and entrench incumbents at the public's expense.

Individuals can now contribute up to \$55,900 to candidates for statewide office. Corporations that are barred from donating one penny to federal candidates may donate directly to state candidates and use subsidiaries and LLCs to avoid New York's limits. Unlike federal law, New York allows unlimited "soft money" contributions to party "housekeeping" accounts by individuals and corporations, and leaves unrestricted transfers between PACs and parties and candidates. In addition, unlike New York City's campaign public financing system that has expanded

the diversity of candidates and enhanced the voices of small donors, New York fails to provide voluntary public financing of any kind. Moreover, elected officials can use campaign funds for personal expenses that are unrelated to their campaign costs.

In short, the State's campaign finance laws fail to prevent the dominance of wealthy contributors and special interests in our government and force our representatives to be more concerned with how their contributors will react to a particular policy than with whether that policy is the right thing to do.

Therefore, as Governor, Andrew Cuomo will work to fundamentally reform our system of financing elections that achieves three core goals: transparency, integrity, and participation. Such a system must include public funding of elections. Coupled with redistricting reform (discussed below) this will truly yield meaningful improvement of our system. However, until such fundamental reforms are in place, the alternative is to lower contribution limits, close loopholes in the campaign finance law and allow for more enforcement of New York's campaign finance law.

Institute a Voluntary System of Public Funding of Election Campaigns

Fundamental campaign finance reform must include a system of public funding of elections. Like New York City, New York State needs a system of public campaign financing to allow limits on campaign spending and to increase participation by qualified candidates who lack the means or connections to raise significant campaign funds.⁶ Candidates should also be required to agree to participate in debates in order to receive public financing.

Limit Soft Money

We must take necessary steps to achieve transparency by limiting soft money donations. Unlike federal law, New York State allows donations of an unlimited amount to party “housekeeping” accounts. The housekeeping loophole allows individuals and corporations to contribute unlimited funds to a political party.⁷ Political parties’ housekeeping accounts should no longer be exempted from contribution limits and, as discussed below, those limits should be lowered significantly.

Reduce Sky-High Campaign Contribution Limits

Individuals in New York are permitted to contribute up to \$94,200 annually to political parties and a total of \$55,900 to the primary and general election campaigns of statewide candidates, \$15,500 to state senate candidates, and \$7,600 to assembly candidates. New York must limit the amount that candidates can raise in primary and general elections. Together, with a system of public financing, these reforms will dramatically expand the talent pool for our elected offices, increase competition, and reduce the impact of particular donors on an elected representative's policy agenda.

Close Corporate Subsidiary and LLC Loopholes

We must close loopholes that make meaningful campaign finance reform difficult. To that end, donations from corporate subsidiaries and related limited liability companies should be counted as donations from the affiliated parent company so that the limit for corporations of \$5,000 per year is meaningful.

Tighten Inadequate Reporting Requirements

Contributors in New York should be required to reveal their occupations and the names of their employers, like they are required to do under federal law.

Restrict Fundraisers during Legislative Session and Prohibit Personal Use of Campaign Funds

Albany-area fundraisers and lobbyist campaign contributions should be restricted during the legislative session and timely disclosure of contributions made during session required.⁸

Moreover, campaign contributions should not be used for personal expenditures. New York's vague prohibition on the use of campaign funds for personal expenditures has resulted in their use for such non-campaign related expenses as country club memberships, purchases of television sets and personal wardrobe items. Permissible and non-permissible uses of campaign funds must be clarified, and non-campaign related, personal uses of any kind prohibited and enforced.

Improve Enforcement of Campaign Finance laws

The New York State Board of Elections (“Board”) is limited by law in its ability to investigate and punish election law scofflaws. The Board’s Campaign Finance Unit is a bottleneck for all potential civil or criminal enforcement proceedings because it must review and refer a potential violation to the Board’s Enforcement Counsel Unit or to the district attorney’s office prior to any action being taken. In turn, the three-person Enforcement Counsel Unit can bring a court proceeding, but it has neither sufficient resources nor any requirement that it do so even in cases where a violation has been shown. Moreover, the civil penalties for violations of campaign finance laws are minimal or, in many cases, non-existent.⁹

Accordingly, reforms must include (1) granting the Attorney General full concurrent jurisdiction to investigate and prosecute civil and criminal violations of the laws; (2) authorizing the Enforcement Counsel Unit to act without referral from the Campaign Finance Unit and prohibiting the Board itself from overruling the Enforcement Counsel Unit’s decision

whether to investigate an alleged violation; (3) requiring the Board of Elections to publish the names and entities found to have violated campaign finance laws, as the New York City Campaign Finance Board is required to do; and (4) significantly increasing the penalties for violations of campaign finance laws across the board.

Reform Redistricting

New York has had some of the worst gerrymandering in America. For decades, the two major parties collaborated in drawing district lines in such a way that almost every election result is foreordained. Since 1970, in fact, only 40 incumbent State legislators have lost their seats in an election — out of more than 4,000 races.¹⁰ Studies show that the longer legislators stay in office, the less their policy choices conform to public opinion in their districts.¹¹



***Since 1970, only 40 incumbent state
legislators have lost their seats in an election
— out of more than 4,000 races.***

Unlike in many other states, in New York it is the elected representatives themselves who decide what the districts should look like. New York law creates a legislative “task force” responsible for preparing data and submitting draft redistricting plans for the Legislature’s approval. The task force is a creature of legislators or those picked by legislators: four members of the Legislature, majority and minority, and two citizens handpicked by the Legislature’s leaders.¹² The plans approved by the Legislature have usually been developed with input from individual legislators, often drawing their own districts to exclude challengers. As a result, the line-drawing process is antithetical to fair and accountable representation.

An Independent Redistricting Commission

As Governor, Andrew Cuomo will fight for the creation of an independent redistricting commission. The commission, rather than the Legislature, would produce the new district maps for New York State after each Census. Because the members of the commission would not be motivated by self-interest, they would be free to focus on the values that should

drive redistricting, including population equality, contiguity, compactness, preservation of communities of interest, preservation of pre-existing administrative boundaries, minority representation, and competitiveness. New York would finally have districts drawn by neutral umpires, not biased insiders.

Moreover, the commission would work transparently. It would hold numerous public hearings throughout New York, soliciting comments from interested individuals and organizations all over the State. Its proposed district maps would be subject to extensive comment and revision before being finalized. All of its votes would take place at public meetings, and transcripts of its meetings and hearings would be publicly disseminated.

Like New York itself, the membership of the commission must also be diverse in every sense of that word.

Legislation introduced by Assemblyman Michael Gianaris—and sponsored in the Senate by Senator David Valesky—would create an independent redistricting commission.¹³ This legislation, coupled

with the recent effort by citizens groups—led by former Mayor Ed Koch—illustrates that the time is ripe for action.

Reform Process or Veto the Plan

Talk of reform on this critical issue is not enough. As Governor, Andrew Cuomo will veto any redistricting plan in 2012 that reflects partisan gerrymandering and ensure that the State has set itself on a path to reforming the process itself.

Codify and Expand AG Reforms of Legislative “Member Items”

Last year’s State budget included approximately \$200 million in member items.¹⁴ Member items — known as “earmarks” in Congress — are public funds given to legislators to distribute to organizations in their districts. In many cases, member items fund valuable local organizations or projects that might not otherwise be funded. But the process by which such funds are distributed and used needs dramatic reform. There have been numerous examples where member items have been abused in Albany, facilitating corruption or outright theft.¹⁵

In Andrew Cuomo's first Executive Budget, he will reform the member item process, by imposing tough standards and procedures that mandate transparency and fairness, and ban the kinds of conflicts of interest that have resulted in so much abuse. If the Legislature ignores the process, those member items will be vetoed.

As Attorney General, Andrew Cuomo established for the first time a review and certification process to help curb abuses in the award and spending of member item funds. That process should be codified into permanent law and expanded in several ways.

Specifically, the following procedures to clean up the member item process should be implemented:

- **Forbid conflict of interests in granting member items.** On too many occasions, it has been revealed that legislators have funneled member items to organizations with which they have a personal involvement and, in certain instances, a financial relationship. Neither the legislative sponsor of the member item, nor his/her family or staff should be employed or receive any money from the organization receiving the funds and should

not be involved in the decision-making or operations of the organization.

- **Increase transparency before award is made.** The amount of the member item, and the names of the recipient and the sponsoring legislator, should be made public in advance of budget approval to allow for public comment, and member items should be fully itemized in the budget. Once approved, the details of the member item should be posted on the internet for public review.
- **Ensure recipients of grants are legitimate.** Any organization that expects to receive a member item should be pre-certified by the Attorney General to verify the legitimacy of the organization's tax status and other aspects of its activities. In addition, all organizations that receive member items should be required to certify that they have properly used their funds, and to detail how the funds were spent.
- **Require state agencies to oversee the spending of the allocated funds.** The applicable state agency that has substantive jurisdiction over the area in which the recipient of a member item operates should be authorized and required to oversee the spending of the allocated member item funds.
- **Crack down on member item abuse.** Both the Attorney General and the newly proposed

independent ethics commission should be granted the authority and mandate to investigate alleged violations of these new rules. In addition, the State Comptroller should be required to conduct random periodic audits of recipients of member items to uncover any improper expenditure.

Reform Administration of the State Pension Fund

As Attorney General, Andrew Cuomo commenced an investigation into allegations of fraud, abuse and misconduct relating to State pension funds. The investigation focused on a range of issues, including self-dealing, “pay to play” and conflicts of interest in the State pension system. Several criminal convictions resulted from the investigation and over \$100 million have been recovered from investment firms.¹⁶



New York is one of only three states that entrust the management of a state public retirement pension fund—a \$129 billion fund—to a single person.

Currently, the State pension fund, known as the Common Retirement Fund, is a single trust

consisting of the assets of the New York State and Local Employees' Retirement System and the New York State Local Police and Fire Retirement System.¹⁷ Currently, all of the assets and income of State's pension fund are held by the Comptroller as sole trustee. The Fund, valued at about \$129 billion, is one of the largest pools of investment capital in the world.

New York is one of only three states that entrust the management of a state public retirement pension fund to a single person.¹⁸ The vast majority of such funds are governed by boards of trustees, as opposed to a single trustee. Moreover, other New York public pension funds are successfully managed by boards of trustees, including the New York State Teachers Retirement System and the New York City Employees' Retirement System. Similarly, several other states' pension funds are governed by boards of trustees whose members are appointed by elected officials and elected by beneficiaries.¹⁹

Create a Board of Trustees to Manage the Pension Fund

We must continue working to restore the public trust over the State's largest public pension

fund. As Governor, Andrew Cuomo will work to pass legislation to create a board of trustees of financial and management experts to manage the State's pension fund. A board of trustees will increase checks and balances by increasing the number of people who set policy and review investment decisions; reduce the potentially corrupting influence of politics and political contributions to the Comptroller and other elected officials by sharing decision-making with trustees who are not directly subject to political campaign pressures; and provide representatives of the members and beneficiaries of the pension fund — the people who are most directly affected by the fund's performance — with direct input and oversight of investment operations.

End “Pay to Play” in the Pension Fund

In addition to creating a board of trustees to manage the State's pension fund, the Cuomo Administration will work to enact tough laws to prevent conflicts of interest in the pension fund. Such measures would:

- Prohibit investment firms that directly or indirectly make campaign

contributions, charitable contributions or gifts to the Comptroller or the trustees of the fund.

- Eliminate “pay to play” and other apparent and actual conflicts of interests, including banning placement agents.
- Increase overall transparency in the investment decision-making process, and require that investment firms doing business with the fund make rigorous, ongoing disclosure of information relating to campaign contributions, the identities, responsibilities and qualifications of investment fund personnel responsible for communicating with the pension fund and any payments by investment firms to third-parties in connection with State pension fund matters.
- Impose a higher standard of conduct for investment firms doing business with the pension fund that avoids even the appearance of impropriety and prohibits improper relationships between retirement system officials/employees and an investment firm’s personnel or agent; “revolving door” employment by investment firms of former pension fund officials and employees; and improper gifts by

investment firms to employees and officials the pension fund.

- Institute comprehensive and tough enforcement provisions. Self-policing is an ineffective means to safeguard State pension funds. It is imperative that an effective enforcement scheme and deterrent exist. Therefore, we must create tough new civil, criminal and disciplinary penalties and sanctions.

Reform New York's Succession Laws

We must also protect a right that ranks “among our most precious freedoms”— the right of popular election.²⁰ Today, four of the six people who hold statewide-elected office—the Governor, the Lieutenant Governor, the Comptroller and a U.S. Senator — were not elected to the offices they now hold. They obtained their offices through succession or appointment — not by the people’s choice — and will serve in them for lengthy periods of time.

In each of these situations, the voters were deprived of any role in choosing a replacement through a special election. Under existing law, when there is a vacancy in the offices of Governor, Lieutenant Governor, Comptroller and Attorney General, there is no special election to fill the vacancy.²¹ As a consequence, we are witnessing a time in State history where multiple persons hold our highest offices, literally for years, without so much as a single vote having been cast for them.



We are witnessing a time in State history where multiple persons hold our highest offices, literally for years, without so much as a single vote having been cast for them.

New York's succession laws for these offices must be re-written to ensure that the voters choose who governs them. Never again must the State face the specter of having two thirds of its statewide-elected offices held by unelected officials. To that end, upon taking office, Andrew Cuomo will propose and fight for new succession laws that will ensure

prompt elections to fill vacancies for statewide offices.

Amending the New York State Constitution — A Process for Reform

In order to achieve lasting reform in many areas, we need to amend our State's Constitution. Specifically, a Cuomo Administration work to enact into law important reforms at a constitutional convention including an overhaul of our redistricting process, ethics enforcement, and succession rules, among others.



Past constitutional conventions have resulted in transformative change in times of crisis...A new constitutional convention could be the vehicle for critical reforms to our State government.

Past constitutional conventions have resulted in transformative change in times of crisis. For example, the 1777 Convention, convened in the midst of the Revolutionary War, yielded New York State's first Constitution, a document that predates the United States Constitution by a decade. Similarly, the

1938 Convention, held in the wake of the Great Depression, produced amendments protecting the rights of working men and women and recognizing that aid for the needy is a constitutional right. A new constitutional convention could be the vehicle for critical reforms to our State government.

At the same time, prior to the constitutional convention it is widely agreed that the delegate selection process must be reformed to prevent such a convention from simply mirroring the existing political party power structure rather than the diversity of people of New York State. Many fear as well that a constitutional convention would allow damaging changes to be made to existing protections in the Constitution for civil rights, the environment, and educational rights. Before we convene a convention, these concerns must be addressed fully to ensure that the desire for reform in certain areas does not lead to the loss of past reforms in other areas.

As Governor, Andrew Cuomo will address the many necessary reforms to our Constitution in the following ways:

First, we must reform the delegate selection process and then immediately convene a constitutional convention. Through relaxed ballot access requirements, public campaign financing, limitations on legislators, lobbyists, and party officials from serving as delegates, and other reforms, the convention delegate selection process must be improved. Once that has occurred, we should convene a constitutional convention to address the many areas of reform that cannot be addressed by statutes alone.

Second, prior to the constitutional convention, we should create a constitutional commission to help define the constitutional convention and issues that need to be addressed, including recommending amendments for passage. That blueprint will then provide the starting point for both the constitutional convention and any amendments made via voter approval at the ballot box. While less well-known than constitutional conventions, these commissions have been key tools used to amend our Constitution. In the words of New York State Constitution scholar Peter Galie, “the constitutional commission has a long

and vital history as a means of proposing meaningful and necessary reform within the state. Some of the most significant constitutional revision in New York has been the product of such commissions....”²²

Created by an executive order or with the Legislature by statute, this commission will include the best and the brightest of reformers, legal experts, and statespersons and will be independent from those who created the commission.

Together, they will secure public input to develop and draft the reforms addressed in this book to create a precise blueprint for constitutional reform.

2

Get Our Fiscal House In Order

New York is in the middle of a fiscal crisis that demands emergency action. The State faces budget gaps of \$30 billion over the next three fiscal years, even after closing the budget gap of approximately \$9 billion for the fiscal year beginning April 1, 2010. At the same time, many localities face severe financial difficulties and other critical programs, such as mass transit, face huge budget gaps too.



The State faces budget gaps of \$30 billion over the next three fiscal years, even after closing the budget gap of approximately \$9 billion for the fiscal year beginning April 1, 2010.

Tough and decisive measures are needed to address these challenges. We need an Emergency Financial Plan to freeze taxes and cap both State spending and local property taxes. New York can no longer afford the size of government it has amassed

over the past several decades, nor can we burden already-struggling New Yorkers with rising taxes to pay for it. We must — and we will — find a way to provide high quality health care, education, transportation and other government services at a price that the State and its citizens can afford. Before describing what we must do to address these challenges, it is worth reviewing how we got here.

New Yorkers Already Bear a Heavy Tax Burden Because of Government Over- Spending

We cannot tax our way out of the current crisis. New York already has the second highest combined state and local taxes in the nation and the highest local taxes in America as a percentage of personal income — 79 percent above the national average.²³ New York's highest personal income tax rate of 8.97 percent is higher than all but six other states.²⁴ New York's combined State and local sales tax rate of 8.45 percent is higher than all but four other states.²⁵ When property taxes are measured as a percentage of home value, the top sixteen counties in the nation are all in New York State.²⁶

If the comparison is in absolute dollars, the amount of property taxes for an average household in Westchester, Nassau and Rockland counties are among the five highest counties in the nation (1st, 3rd and 5th).²⁷ Local property tax levies in New York grew by 73 percent from 1998 to 2008, more than twice the rate of inflation during that period.²⁸ And New York — especially Upstate New York — continues to lose population and jobs at a rate greater than the national average.



Local property tax levies in New York grew by 73 percent from 1998 to 2008, more than twice the rate of inflation during that period.

New York is in this predicament because the State made promises that it could not keep when revenues failed to continue to grow at very high levels. From fiscal year 2003-04 until the current fiscal crisis began in 2008-09, State Operating Fund spending increased at an annual of 7.9 percent²⁹ — more than twice the inflation rate during those years.

<u>Table 1. Highest Property Taxes in the Nation as a Percentage of Home Value, 2006-2008*</u>
1. Orleans County, New York
2. Niagara County, New York
3. Allegany County, New York
4. Monroe County, New York
5. Wayne County, New York
6. Montgomery County, New York
7. Genesee County, New York
8. Cortland County, New York
9. Chautauqua County, New York
10. Seneca County, New York
11. Onondaga County, New York
12. Erie County, New York
13. Livingston County, New York
14. Oswego County, New York
15. Wyoming County, New York
16. Cayuga County, New York

***Source: Tax Foundation**

Our State government failed to take the hard, but necessary, steps to control spending during the years when the economy was strong. Government refused to say “no” to any powerful special interest group and used financial gimmicks to hide problems or kick them down the road. When the financial bubble burst two years ago, it became clear that the State had been making promises it couldn’t keep and spending money it didn’t have.



Government refused to say “no” to any powerful special interest group and used financial gimmicks to hide problems or kick them down the road.

A key to understanding how New York can provide high quality services at a lower cost is to recognize how much more New York spends on its government than other states. In area after area, a comparison of New York State’s spending shows we spend dramatically more than comparable states, without better outcomes to show for it. New York’s Medicaid program is the most expensive in the nation, by far. New York spends more than twice the

national average on Medicaid on a per capita basis³⁰ and spending per enrollee is the second highest in the nation.³¹ At the same time, New York still performs



New York ranks 21st out of all states for overall health system performance, including ranking New York 50th in the category of avoidable hospital use and costs.

poorly on many key health quality indicators. For example, the federal Agency for Healthcare Research and Quality rates New York State as average for overall

health care quality performance compared to all other states. Similarly, in 2009, The Commonwealth Fund ranked New York 21st out of all states for overall health system performance, including ranking New York 50th in the category of avoidable hospital use and costs.

In education, New York public schools spend more per student than any other state — fully 71 percent more than the national average, yet New York ranks 40th in the rate of high school graduation.³² Spending on salaries and benefits for teachers and other school district employees are also the highest in


the nation.³³ Yet only 67 percent of New York's students graduate from high school,³⁴ and only 58 percent of these students receive a four year college degree by the age of 26.³⁵



New York public schools spend more per student than any other state — fully 71 percent more than the national average—yet New York ranks 40th in rate of high school graduation.

One of the main reasons New York spends so much more than comparable states is State mandates that dramatically increase the cost to school districts and local governments of providing a high quality education and other governmental services.³⁶ The State has used a variety of financial gimmicks and one-shot revenues that hide the fact that spending is growing at an unsustainable rate. New York used to fund routine maintenance costs on roads and bridges on a pay-as-you-go basis. Now it is almost entirely funded with State borrowing — hiding the cost in the short run while increasing the cost in the long-run. Dedicated funds established for vital needs like

transportation were used to pay for general State agency expenses and other costs—disguising the real and unsustainable growth in spending.³⁷ Pension costs were allowed to spiral out of control with the costs hidden by a rising stock market, while obligations for retiree health benefits were left both unchecked and unfunded. As a result, the cost of pensions and health benefits for active and retired employees will grow from \$1.3 billion in 1998-99 to \$6.2 billion in 2013-14 — almost a 500 percent increase.³⁸



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Enact an Emergency Financial Plan

We must get New York's fiscal house in order. It will not be easy and will require sustained effort, seriousness of purpose and the ability to build a coalition for making the hard decisions the State's crisis demands.

We must immediately enact an emergency financial plan that includes the following measures:

Freeze Salary Increases of State Employees

Contracts for 96 percent of the State workforce are up for renegotiation beginning April 1, 2011. We must freeze salary increases for state workers for one year as part of our emergency financial plan. We will freeze salaries while the State takes other measures to get spending in line and recover from the current financial emergency.

Freeze Taxes

Because New Yorkers — already among the most taxed in the nation—cannot afford to pay more taxes than they do already, Andrew Cuomo will freeze taxes: he not raise and will veto any increase in personal or corporate income taxes or sales tax.

Impose a State Spending Cap

In order to address the financial crisis and permanently control State spending, a statutory and constitutional spending cap that requires the Governor to propose, and the Legislature to enact, a budget that limits State Operating Funds growth to the rate of inflation is necessary to make the State live

within its means.³⁹ Only in the event of extraordinary circumstances may the Governor, with the agreement of a two-thirds supermajority of both houses of the Legislature, authorize spending in excess of the cap.

Impose a Local Property Tax Cap

Spending must also be controlled at the local level. While others have proposed a cap on just school property taxes, the fact is all local property taxes are going up at rate much faster than inflation. For the five years from 2002 to 2007, inflation ran at 2.9 percent annually, whereas property tax revenues increased at higher rates for every major class of local governments. For counties, the average annual increase in property taxes was 5.7 percent; for cities it was 5.1 percent; for towns 5.6 percent; for

Table 2. Avg. Inflation Rate v. Avg. Property Tax Increase (2002 to 2007)	
<i>Rate of Inflation</i>	2.9%
County Tax Increase	5.7%
City Tax Increase	5.1%
Town Tax Increase	5.6%
Village Tax Increase	6.2%
School Tax Increase	7.5%
Fire District Tax Increase	7.6%

villages 6.2 percent; for school districts 7.5 percent; and the highest rate of increase was actually for fire districts, at 7.6 percent.⁴⁰

The local property tax cap would apply to all school districts and local governments and would be set at the lower of the inflation rate or two percent.

The cap would work as follows:

- Any property tax levy increasing above the inflation rate would be prohibited, unless endorsed both by the local governing board and by a 60 percent majority vote. For schools, this would be part of their regular budget voting process. For other municipalities and special districts, a referendum would be required on an exception basis, in circumstances warranting a property tax increase above the cap, preserving local control and an appropriate escape valve. These budget votes by municipalities would be similar to current requirements for voter approval to establish and spend from certain reserve funds.
- Only limited exceptions would be allowed for the cap, such as one-time needs for large legal settlements or extraordinary capital expenditures.

- Counties would also be covered, but with appropriate exceptions for state mandated social service programs that are not capped (as Medicaid is), and which represent a major share of their budgets. State agencies overseeing such programs would have to annually report on increases in spending in those programs and be charged with finding ways to control costs and local contributions for the programs to ensure that their growth rates are below the cap.
- All local governments would be covered, including fire and other special districts. The cap would apply directly to independent special districts and to town or county component special districts as part of their parent municipalities' tax levy. Thus, towns would be responsible for special service districts that they control, but not for those that can independently set their own levies.
- Exceptions or adjustments would apply to consolidations of services (so that the cap would not discourage a county or town from taking on consolidated services from other localities or special districts). In fact, the cap may well encourage cost saving consolidations,

where existing arrangements prove to be too expensive for the new discipline.

Address the Root Causes of High Spending

Restructure State Operations

The State now spends more than \$20 billion annually on state operations, including more than \$15 billion for salaries and non-personal services costs. We must rightsize State operations and the State bureaucracy to make government more efficient and productive. Much as the private sector has done—and as Andrew Cuomo did as Secretary of Housing and Urban Development (“HUD”)—we must restructure how we approach providing government services. This approach is described in more detail in the chapter “Rightsizing Government,” and includes reducing the number of State agencies, authorities and commissions by at least 20 percent through consolidation or outright elimination.

This restructuring effort must also put into place a strong system of performance management, so that we can measure and improve the quality and efficiency of providing services. We must take

advantage of developments in technology to increase productivity and take full advantage of innovations such as open source software that can reduce costs. And we must review work rules and procurement requirements that increase the cost of providing services without providing sufficient offsetting benefits. Not all savings will be easy, but with willingness to change and a determination to find a better way of operating government, significant savings can be achieved without sacrificing quality.

Make Medicaid More Efficient

New York will spend almost \$52 billion on Medicaid in 2010-11, including federal, State and local funding. State operating funds spending on Medicaid is projected to grow by another \$1.8 billion in the 2011-12 fiscal year. New York must find a way to bring its Medicaid costs more in line with that of other states if we are to control overall State spending. New York State spends 69 percent more per beneficiary than the national average.⁴¹ New York's Medicaid program suffers from spiraling costs, inadequate outcomes and widespread inefficiency. We've allowed a senseless, patchwork system to

develop, where every provider tries to maintain market share by offering every service, whether needed or not. Meanwhile, a small percentage of individuals with complex, chronic health conditions account for a vastly disproportionate share of spending because of a lack of focus and coordination of their services.



New York must find a way to bring its Medicaid costs more in line with that of other states if we are to control overall State spending. New York State spends 69 percent more per beneficiary than the national average.

We need a fundamental restructuring of Medicaid that looks to achieve long term efficiencies and focuses on services that actually improve the health outcomes of New Yorkers. Among the measures that such a fundamental restructuring should include are the following:

First, the State must do a much better job of controlling over-utilization of Medicaid services. An important element of this is having the State take over responsibility for administration of Medicaid

from the counties. Once the State capped the counties' Medicaid costs, counties lost all incentive to control costs in the program.

Second, we must shift authority for setting reimbursement rates from the current politicized system, in which the Legislature micromanages rate changes, to a non-political administrative system managed by the Department of Health. One way that a reformed reimbursement system will both reduce costs and improve health outcomes will be by ensuring that procedures take place in the most appropriate setting.

Third, we must control costs through programs that identify those individuals whose complex needs utilize many expensive resources and more carefully manage and coordinate their services.

Fourth, we must work with the federal government to develop a unified program that improves the care of those eligible for both Medicare and Medicaid and shares the savings realized from providing appropriate and coordinated care.

Fifth, we can take advantage of the enormous buying power of New York State to reduce costs of

pharmaceuticals by aggregating purchases of the State, local governments and school districts and even eligible private businesses and labor unions into a massive pharmacy benefit management agency that would reduce costs and share savings.

Make Education More Efficient

Since 2003-04, school aid has increased at more than twice the rate of inflation.⁴² The State's fiscal crisis makes it impossible for this rate of increase to be sustained. As part of reining in the growth of spending on education, the State must ensure that school aid is targeted and fair. Districts with the greatest educational need and the least ability to locally fund education



Since 2003-04, school aid has increased at more than twice the rate of inflation.

must not bear the full brunt of any school aid cuts. Building aid and other forms of "reimbursable" aid must be scrutinized so that they do not distort a school district's incentives to control costs. We should direct scarce dollars first to basic educational program needs before allowing expense-based

reimbursements for building aid and support functions to escalate in an uncontrolled way. For example, even in districts where enrollment is in decline, “building aid” encourages construction and renovation. Expense-based reimbursements for “transportation aid” and other rules can discourage efficiencies or regional collaboration. A recent study from the State Comptroller’s Office estimated \$145 to \$365 million in potential annual savings from consolidation of school “back office” services.

The State can cushion the impact of slowing the rate of growth in school aid by eliminating mandates that dramatically increase the cost of providing a quality education and by encouraging smaller school districts to achieve efficiencies through shared services and consolidation. While educational mandate reform must be an important part of the State’s education and fiscal agenda, this cannot mean sacrificing quality. Instead, educational mandate reform should focus on what matters for student performance and in the process loosen the bureaucratic grip of procedurally focused rules that do not improve education. For example, many

educators decry seat-time requirements that must be met for certain programs, whether they are effective or not. As Governor, Andrew Cuomo will convene a group of educators, school management professionals, parents and others to evaluate the many mandate relief options already on the table.

With mandate reform in many areas, local districts will be better able to reduce costs, including personnel costs which account for over 70 percent of school district expenses.⁴³ School district personnel costs have been growing at a rate of close to 6 percent annually. Cutting that growth rate in half would enable school districts to save approximately \$1 billion annually, while freezing personnel costs would generate approximately \$2 billion in savings from projected growth rates.⁴⁴

Use Budget Surpluses for Direct Tax Relief

As Governor, Andrew Cuomo will use budget surpluses produced by controlling State spending to provide additional tax relief while building reserves that can be used to cushion the impact of any future fiscal crises.

If New York adheres to a strict spending cap equal to the rate of inflation, existing tax revenues should generate substantial surpluses that can be used for tax relief. Based on current estimates in the Governor's Executive Budget, a surplus of approximately \$1.1 billion could be generated in 2011-12 alone by adhering to a two percent inflation rate cap. This surplus will be used for tax relief and to bolster the State's "Rainy Day" fund.

Two-thirds of the surplus will be used for tax relief, with a substantial amount of that dedicated to a progressive property tax "circuitbreaker" that provides relief to middle class homeowners whose property taxes are high relative to their income. Andrew Cuomo understands the importance of providing more property tax relief to hard pressed homeowners, who have seen their property tax relief cut by a total of \$1.5 billion over the last two years, and renters who face rising rents due to high property taxes.

A circuitbreaker can be designed in a number of ways to ensure that it provides meaningful relief to the people who need it most. An example of the type

of approach that should be considered is the proposed legislation that would provide circuitbreaker relief for homeowners based on their income and overall property taxes paid (some renters would also be eligible, based on a property tax equivalent calculation). Under this proposed legislation, relief would be targeted to middleclass taxpayers with property tax bills exceeding six percent of their income, with slightly higher thresholds for taxpayers in higher income brackets (up to \$250,000 annually).⁴⁵

Bolster the State's "Rainy Day" Fund

One-third of the surplus will be used to increase the State's Rainy Day Fund until the Rainy Day Fund is fully funded at five percent of State Operating Funds spending, after which all surpluses will be used to provide tax relief or to reduce the State's excessive debt load.

Help Localities Control Health Insurance Costs

One of the most important ways the State can help local governments reduce costs and maintain services within a strict property tax cap is by helping

to reduce their health care costs. Local health costs are one of the fastest growing government expenses.⁴⁶ As Governor, Andrew Cuomo will take a number of steps to help reduce these costs. First, the State must do a much better job of managing the New York State Health Insurance Program (“NYSHIP”), which provides health insurance coverage to State and local government employees, retirees and their dependents. The State Comptroller recommended that NYSHIP return up to \$600 million to State and local government employers and employees, in the form of reduced monthly premiums for 2010 for past overpayments,⁴⁷ while the New York Association of Counties has estimated that up to \$200 million could be saved annually through better administration of this program.⁴⁸

The State can also help reduce local health care costs by easing barriers to the creation of municipal cooperative health benefits plans and allow small municipalities to join multiple employer trusts that have lower costs by being experience rated.⁴⁹

These measures, together with increased employee contributions to health insurance plans,

could significantly reduce the burden of healthcare costs to localities.

Reduce Pension Costs by Creating a New Tier VI Pension System

Pension costs are one of the fastest growing expenses for both the State and local governments. The recent pension reforms creating a new Tier V for new employees was a step in the right direction, but did not go far enough. We must re-evaluate what benefits the State provides and to whom, including increasing employee contributions.

Moreover, we still have dramatic abuses being uncovered, and in many areas it is routine for employees near retirement to dramatically increase retirement benefits by manipulating overtime schedules. A new Tier VI would control “spiking”, “padding”, and overtime issues that drive up pension costs.

Mandate Relief

To provide a high quality education and local government services at a more affordable cost, school districts and localities must be given the ability to rein in costs in a way that is made almost impossible

today by unfunded State mandates. A Cuomo Administration will undertake a comprehensive review of such mandates and State laws that otherwise limit the ability of school districts and localities to contain costs. We will immediately move to eliminate unnecessary mandates and propose a “sunset” bill requiring all unnecessary unfunded mandates be re-evaluated within a two-year period of time and automatically eliminated unless the mandate is affirmatively renewed.

Furthermore, Andrew Cuomo will veto legislative or regulatory mandates, unless they provide a complete accounting of the fiscal impact on school districts or local governments that includes full documentation, local government input and proposed revenue sources to fund the new mandates. Any new unfunded mandates should contain a “sunset” provision to ensure that the mandate does not continue to apply after its usefulness has passed. We will also insist on mandate accountability through an annual report from the State Comptroller that includes the cumulative cost to localities of complying with all new regulatory and legislative mandates.

Budget Reforms

Lieutenant Governor Ravitch has offered a plan to reform New York State's budget process and deal with the State's current budget deficit. The Ravitch Plan is a well-intentioned and serious effort to deal with the State's fiscal problems. A Cuomo Administration would endorse a number of the proposals to improve the budgeting process, including ensuring that budgets are balanced on a State Operating Funds basis (rather than just balancing the more easily manipulated General Fund), changing the State's fiscal year to start July 1 and transitioning to GAAP accounting from the current cash basis of accounting.

There are other aspects of the Ravitch Plan, however, that Andrew Cuomo would not support as Governor. He would not support borrowing to fund operating expenses. If the State were to borrow \$6 billion over the next three years to fund operating expenses as contemplated by the Ravitch Plan, the debt service costs to pay interest and to repay that debt would cost the State almost \$900 million a year for ten years—pushing today's problems down the

road and making future taxpayers pay for today's mistakes. The Ravitch Plan also calls for watering down legal tools a Governor has to control spending by the Legislature—which will make fiscal responsibility even harder than it is today.

Finally, the Ravitch Plan calls for appointing a “Financial Review Board,” having broad powers and with fixed terms that are longer than those of our elected statewide officials. While using an unelected board to make hard decisions may seem tempting in light of the gridlock in Albany, it is undemocratic and would fail to gain the public's trust. As Governor, Andrew Cuomo would make clear to the public and the Legislature the hard choices that are necessary and build consensus for implementing them. He would not delegate that responsibility to an unelected body not answerable to the public.

Collectively, these and other changes will make a significant difference in the cost of providing a high quality education and other local government services. School districts and local governments must still do their part in taking on hard issues. But for the

first time, New York State government will be working with them, not against them, in this effort.

3

Rightsizing Government

Government provides important services and serves critical public functions. But the simple truth is that New York's State and local governments have become too big, too expensive, and too ineffective. In fact, there now are more than 1,000 State agencies — an ever proliferating tangle of boards, commissions, councils, departments, divisions, offices, task forces and public authorities. Likewise, New York's antiquated system of local government today consists of more than 10,500 governmental entities. This oversized and inefficient bureaucracy is a luxury taxpayers cannot afford.

Rightsizing State Government

To restructure and rightsize the current bureaucratic tangle, a Cuomo Administration will establish a gubernatorial commission, called the Spending and Government Efficiency Commission ("SAGE Commission") to conduct a comprehensive

review of every aspect of State government. The SAGE Commission will be directed by business leaders with experience in restructuring complex organizations and its charge will be simple: reduce the number of agencies, authorities, commissions and the like by 20 percent in the interest of saving taxpayers' money, increasing accountability, and improving the delivery of government services.



There now are more than 1,000 State agencies — an ever proliferating tangle of boards, commissions, councils, departments, divisions, offices, task forces and public authorities.

To ensure that the SAGE Commission's recommendations are implemented, a Cuomo Administration will also seek immediate passage of a "State Government Reorganization Act" that will empower the Governor to eliminate, transfer and consolidate state agencies without further legislative approval. Numerous Governors around the nation have this power, and New York's Governor must also

have this authority to ensure that special interests cannot block the governmental rightsizing we need.

Structural Waste and Inefficiency in State Government

The State bureaucracy did not grow to its current unmanageable proportions overnight. It was the product, rather, of over 80 years of accumulation. Since the last comprehensive reorganization of the Executive Branch was completed in 1927, the State has taken on a multitude of new functions, enlarged its workforce from 29,000 to more than 195,700, and increased its budget from \$239 million to \$135 billion.⁵⁰ Habitually, with each new function assumed by the State, the Legislature added new government machinery to perform it. It was politically easy to create new agencies and difficult to abolish old ones, even when their functions had all but evaporated. The Legislature, in creating new agencies, often gave little thought to their place in the total structure of State government. Each new agency acquired its own mode of organization and procedure, its own bureaucracy and its own constituencies who resist any effort to change it.



Since the last comprehensive reorganization of the Executive Branch was completed in 1927, the State has taken on a multitude of new functions, enlarged its workforce from 29,000 to more than 195,700, and increased its budget from \$239 million to \$135 billion.

There are numerous examples of duplicative and inefficient layers of government bureaucracy. Consider, for example, the Department of Health. In just this one single agency, the Legislature has inserted at least 87 statutorily created administrative units, including 46 councils,⁵¹ 17 boards,⁵² 6 institutes,⁵³ 6 Committees,⁵⁴ 5 facilities,⁵⁵ 2 task forces,⁵⁶ 2 offices,⁵⁷ 2 advisory panels⁵⁸ and a work group.⁵⁹

A similar bureaucratic proliferation can be seen in numerous other State agencies. The Education Department is responsible for or supports as many as 32 boards,⁶⁰ 13 schools,⁶¹ 6 councils,⁶² panel,⁶³ and an institute,⁶⁴ not to mention the State Library,⁶⁵ State Museum,⁶⁶ and State Archives.⁶⁷

Table 3.Example of Structural Waste and Inefficiency in State Government	
Department of Health	46 councils
	17 boards
	6 institutes
	6 committees
	5 facilities
	2 task forces
	2 offices
	2 advisory panels
	1 work group
	87 Total Entities

Likewise astounding is the growth of the Executive Department. In 1927, the Legislature created the Executive Department, subject to the constitutional limitation that the State has no more than 20 departments.⁶⁸ As originally conceived, the Executive Department was intended to assist Governors in the performance of their duties of budgeting, supervision and coordination of the Executive Branch, and consisted of four “staff” units: (1) Division of the Budget; (2) Division of Standards

and Purchase; (3) Division of State Police; and (4) Division of Military and Naval Affairs. In 1959, however, the 20th department was created. And, when new agencies were thereafter needed to implement public programs, the Legislature often circumvented the constitutional limitation by placing the agencies in the Executive Department. Thus established as a “holding company in effect”, the Executive Department grew to unmanageable proportions.⁶⁹ It now consists of at least 75 administrative units, almost all frozen in statute, including 18 commissions,⁷⁰ 18 offices,⁷¹ 14 divisions,⁷² 13 councils,⁷³ 8 boards,⁷⁴ 2 cabinets,⁷⁵ an agency,⁷⁶ and a committee.⁷⁷

Predictably, the practice of lumping a potpourri of agencies into a single department has resulted in inefficient groupings of unrelated activities that interferes with departments’ efforts to achieve flexibility in administration, complicates their ability to perform core agency functions, and promotes inefficiency and waste.⁷⁸

Rightsizing Public Authorities

Accompanying the explosive growth in the Executive Branch of Government has been the emergence of New York’s so-called “Fourth Branch of Government” — public authorities. First established in New York in 1921, authorities were created primarily as a means to circumvent the Constitutional requirement of voter approval of State debt.⁷⁹ Today, the State has several hundred or more public authorities created either by statute or as subsidiaries of other authorities.⁸⁰ These entities perform thousands of services previously provided by State agencies and/or local governments, such as mass transit, economic development and housing.⁸¹ Authorities are responsible for approximately 93 percent of the State’s indebtedness and the ownership and operation of 85 percent of the State’s infrastructure.⁸²



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Although many authorities deliver essential public services, they exist outside the checks and balances that apply to other levels of government. Run by hundreds of unelected board members, authorities are responsible neither to the governor nor legislature. Many currently operate outside of their original purpose and engage in imprudent practices, such as excessive “backdoor borrowing.” While the recently-enacted Public Authorities Reform Act of 2009⁸³ will enhance accountability and increase public awareness of authority operations, it will not eliminate the inherent problems that result when so many vital public functions are operated by authorities.⁸⁴

Rampant Redundancy in State Government

Another characteristic feature of State government is redundancy. There are numerous agencies with duplicative and overlapping jurisdictions, wasting taxpayers’ money and impeding the State’s ability to formulate and implement public policy.

For example, in 1987, the Legislature created the Department of Economic Development and gave

its commissioner explicit authority to create state economic development-related policy and coordinate State activities.⁸⁵ The law stressed the integration of services among the State's economic development-related agencies.⁸⁶ But that never occurred. Today, economic development efforts are balkanized across as many as 28 separate agencies⁸⁷ and hundreds of public entities with economic development missions, including at least 618 local development corporations, 115 local industrial development agencies, 72 local Empire Zone boards, 50 business improvement districts, 49 urban renewal agencies and community development agencies and 10 regional planning councils.⁸⁸



Economic development efforts are balkanized across 28 separate agencies, at least 618 local development corporations, 115 local industrial development agencies, 72 local Empire Zone boards, 50 business improvement districts, 49 urban renewal agencies and community development agencies and 10 regional planning councils.

Similarly, in 1967, the Legislature created the Department of Transportation for the purpose of

developing a “comprehensive, balanced transportation policy . . . for the state”⁸⁹ But today transportation policy is not developed by a single State agency. Instead, it is fragmented among more than 54 public authorities, ranging from the enormous Metropolitan Transportation Authority to 34 far smaller local entities operating public parking garages.⁹⁰

In theory, the Division of Housing & Community Renewal (“DHCR”) bears “responsibility for the supervision, maintenance and development of affordable low- and moderate-income housing in New York State.”⁹¹ In actuality, housing policy is formulated and administered on an *ad hoc* basis by four State authorities⁹² and 192 local public housing authorities, along with DHCR.⁹³

These are among the areas that will be reviewed by the SAGE Commission to address how the State can, by consolidating overlapping agencies, save taxpayers money and improve government services. Also illustrative of such a consolidation would be the combination of the regulatory functions of the State Banking Department and the State

Insurance Department into a single agency capable of regulating the increasingly complex and interrelated products of the modern financial services industry.

The Need for Retrenchment and Reorganization

The proliferation of State government agencies results in overlap, duplication and waste. It stands in the way of giving the public the best service at the lowest cost. Maintaining the infrastructure also imposes a staggering burden on taxpayers and businesses, which are leaving the State in droves.⁹⁴

Clearly, the time has come to bring New York government into the 21st century. The scope and complexity of the problems facing the State require an administrative structure capable of solving them. In response to fiscal realities, agencies must find ways of doing more with less even as an increasing number of New Yorkers require — and deserve — access to governmental services.

Thus, fundamental retrenchment and reorganization is needed to improve the government's capacity for coherent design and efficient implementation of public policy. All the more is this so, given that, unlike the private sector,

government is not subject to real competition and revenues are guaranteed through taxation. Whereas the private sector is constantly forced to innovate and improve efficiency to stay ahead of competitors, such discipline must be self-imposed in government.

In sharp contrast to New York's seeming indifference to the issue, numerous states have recently undertaken comprehensive reexaminations of their spending habits and government operations. States which have initiated such reviews include: Arizona (2003; "Governor's Efficiency Review"); California (2004; "California Performance Review"); Colorado (2007; "Government Efficiency and Management Performance Reviews") Georgia (2003; "Commission for a New Georgia"); Iowa (2003; "Iowa Reinvention"); Kentucky (2004; "Restoring Hope Initiative"); Massachusetts (2003; "Executive Branch Reorganization"); Michigan (2009; "Legislative Commission on Government Efficiency"); Missouri (2005; "Missouri State Government Review Commission"); Nevada (2008; "Nevada Spending and Government Efficiency Commission"); New Mexico (2003; "New Mexico Performance Review"); North

Carolina (2002; “Governor’s Commission to Promote Government Efficiency and Savings on State Spending”); Rhode Island (2003; “Fiscal Fitness Initiative”); South Carolina (2003; “Governor’s Commission on Management, Accountability and Performance”); Texas (2003; “Texas Performance Review “Limited Government, Unlimited Opportunity”); Virginia (2002; “Governor’s Commission on Efficiency and Effectiveness”); and Washington (2009; “Government Reform Package”).⁹⁵

But New York need only look to its own history for guidance in undertaking a comprehensive review, reassessment, and reprioritization of what the State government does and how it does it. In 1919, in the wake of World War I, Governor Alfred E. Smith established a Reconstruction Commission on Retrenchment and Reorganization in State Government (“the Commission”) to develop a plan to reform every aspect of State government.⁹⁶ Then, as now, the State was a hodgepodge of boards, bureaus, councils, commissions, and other agencies.

Governors before Smith had sought unsuccessfully to bring order to the chaos. But Smith

was determined to succeed where others had failed. He appointed to the Commission the best and brightest minds of his day — leaders in every major field of endeavor and every political persuasion. In less than a year the Commission produced a masterful report that heralded a new era.⁹⁷ They recommended that over one hundred State agencies be consolidated into a series of departments organized into a cabinet; a prohibition on the creation of any new departments; elimination of duplicative agency functions; and the adoption of a central executive budget. In time, these recommendations were incorporated into the structure of State government.

The realization of the Commission's recommendations was an extraordinary achievement in its day. Other states modeled their reorganization directly on New York's, which helped establish our reputation for solving the nation's problems here first while setting an example for others to follow.

Ninety years have passed since Al Smith initiated a comprehensive retooling of the State's structures and processes for governing. It is long past

time for another such comprehensive review, and the SAGE Commission will be charged with performing it.

The State Government Reorganization Act

The reports and recommendations produced by the SAGE Commission must not be allowed to collect dust on a library shelf, like the work product of so many blue ribbon panels. The State Constitution confers reorganization authority upon the Legislature, subject to the Governor's veto.⁹⁸ Decades of evidence, however, proves that the Legislature is incapable of exercising such authority in other than a piecemeal fashion.

Thus, the next Governor must have the power to significantly reduce the size of the Executive Branch of government and enhance its efficiency. In numerous states, governors are granted legal authority to re-organize their governments. In fact, according to one recent survey, governors in 31 states have this power.⁹⁹

One regional example of gubernatorial reorganization authority is New Jersey's Executive Reorganization Act of 1969 ("the Act"). The Act authorizes the Governor to prepare a reorganization

plan that calls for the consolidation, transfer or abolition of state agencies, and then submit the plan to the Legislature.¹⁰⁰ The plan takes effect unless, within 60 days, both houses of the Legislature pass a concurrent resolution “stating in substance that the Legislature does not favor the reorganization plan.”¹⁰¹ Unless voted down by the Legislature, the plan “shall have the force and effect of law.”¹⁰² All laws or parts of laws inconsistent with an adopted “reorganization plan . . . are, to the extent of such inconsistency . . . repealed”.¹⁰³

New York has long been an outlier when it comes to empowering its chief executive to reorganize those agencies within his or her charge. Given the Legislature’s historic suspicion of the Executive and the recognition that changes in the formal structure of the Executive Branch may alter the relationship between the two branches, the Legislature has rarely delegated authority for matters of reorganization to the Governor.¹⁰⁴

However, in light of current trends and increasing fiscal challenges — and the concomitant need for swift and decisive executive action — the

case is clear for immediately granting the Governor statutory reorganization authority. “The Governor, as chief executive, is primarily responsible for, and is better equipped than the Legislature to oversee administration and, therefore, should have authority — subject to legislative veto — to reorganize the administrative units under his direction.”¹⁰⁵ Simply put, if Governors are to have the responsibility of running the State’s agencies, they should have the power and authority to do so.

Ensure Results by Recruiting Restructuring Experts

The SAGE Commission and a State Government Reorganization Act are necessary, but not enough to make New York a true 21st Century government. Abolishing and consolidating State agencies is a complex business. Such measures raise challenging issues, often requiring financial, human resource, legal and technological expertise.

To be successful, a comprehensive retooling of State Government will require the services of reorganization experts to assist SAGE and the Governor at every stage of the process. Accordingly,

the Cuomo Administration will recruit from the private sector distinguished individuals with expertise in all aspects of re-structuring organizations. These experts will be assigned to study potential reorganizations of State agencies and develop concrete implementation plans and strategies.

Address the State's Human Capital Crisis

The State's ability to effectively address the challenges before it is dependent on a well-trained and highly engaged State workforce. Yet, at the precise moment the public needs government to perform at maximum capacity, experienced public employees are retiring at a record rate and the pipeline of talent available to replace them continues to thin.

Indeed, the State workforce is at a tipping point. It is composed primarily of a generation, the Baby Boomers, who were born between 1946 and 1964. 61 percent of New York's public employees are 45 years of age or older. The average age of a State employee is 47 and only 14 percent are under the age of 35.

The impact of the aging Baby Boom generation on State government is profound. Over 37,000 employees have retired in the past six years. Tens of thousands are likely to retire soon, given that 42 percent of the State workforce is eligible to retire in the next five years.¹⁰⁶ And, as noted, there is no meaningful “back bench” to replace these retiring workers. Many of the employees who would traditionally be in the position to replace the retiring workers are the same age or older than those who are retiring.



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Therefore, the “retirement tsunami” hitting State government will result in a devastating loss of experience and talent. No less damaging is the relative dearth of young people in the public sector. Young people can play an important role in transforming government. Because they are not

constrained by traditional ways of thinking, young people are well-suited to challenge bureaucracy and the status quo. As Bill Gates has put it, “they haven’t yet completely absorbed the ‘right’ way to do things, so they are free to pursue ideas that seem impossible to those of us with more experience.”¹⁰⁷

Restore the Reputation of Public Service

The State’s human capital crisis is compounded by the fact that the reputation of public service has been tarnished. Innumerable scandals, coupled with a litany of public figures convicted of criminal wrongdoing, all have taken their toll. Popular culture often depicts government officials in an unflattering light. Time and again, too, particularly at the national level, elected leaders have run against the governments they sought to lead. The rhetoric of “ask not what your country can do for you” was displaced by “government is not the solution to the problem, government is the problem.”

Thus, a top priority for Andrew Cuomo will be to restore prestige to public service and inspire a new generation to serve and transform the way government works. As Governor, he will focus not

just on policy objectives, but also on ensuring that the government has the talented and engaged State workforce necessary to effectively implement those policies. To do otherwise could mean that government will eventually lack enough skilled workers to root out drug traffickers, ensure the safety of our roads and bridges, or do many other tasks that keep the State running and moving forward.

To attract the best and the brightest to government, a Cuomo Administration will, among other things, create a scholarship program for undergraduate and graduate students in mission-critical fields of study that agree to make a State service commitment. Eligible students would be required to obtain a degree in high-skill, underserved fields, including nursing, physical therapy, social work, speech pathology, education, engineering, medicine, information technology and public health. Scholarship recipients would receive tuition, support for room and board and a small stipend. In return, these scholars would commit three years of service in a mission-critical position in State government.¹⁰⁸

Rightsizing Local Government

Our system of local government was constructed hundreds of years ago and is the product of historical accumulation.¹⁰⁹ As a result, at the local level there exists overlap and duplication, resulting in high taxes, inefficiency and waste.¹¹⁰ In fact, there are more than 10,500 local governmental entities — including 62 counties, 932 towns, 555 villages and more than 7,000 special districts — imposing taxes and fees across New York State.¹¹¹ As Professor Gerald Benjamin recently observed, “starting from scratch, no expert or group of experts would design for a state the “system” of local government operating in New York State today . . . it is difficult to imagine a rationale for such a system.”¹¹²



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For years, academics, commissions, government officials, good government groups and

informed citizens have recognized the inherent problems in New York's local government system.¹¹³ In 1935, for example, the New York State Commission for the Revision of the Tax Laws (known as the "Mastick Commission") noted that there "were too



In the 1940s there were less than 2,000 special districts; today there more than 7,000 special districts.

many units of local government, resulting in the duplication of functions, overlapping areas, overlapping authority and overlapping debt."¹¹⁴ Moreover, these problems have only grown in size and dimension over the ensuing years. For example, since the time of the Mastick Commission's findings in 1935, the number of special districts has grown from less than 2,000 to more than 7,000 today.¹¹⁵

Conventional wisdom holds that there are functional distinctions between counties, cities, towns and villages. However, as a recent report from the Comptroller's Office aptly stated, "Our municipal structure is not only highly complex, it no longer provides a rational differentiation based on

population densities and settlement patterns, as it did when the classifications were originally made.”¹¹⁶ The original construction of local government was envisioned in a time that was vastly different from today — before transportation systems, cell phones and the Internet.¹¹⁷ Local government is not proportionate to population; it’s not proportionate to geography; it’s not separated by discrete functions. It’s just a question of how governments evolved in that area. Nobody ever sat down and designed the system at one time; it simply evolved, little by little, over hundreds of years.

Local Taxes Are High In Part Because There Are Too Many Governments

Therefore, when the question, “Why are taxes so high in New York?” is posed, part of the answer is simple: we have too much duplicative government. The result: New York has the nation’s highest local taxes. Our local tax burden is over 79 percent higher than the national average.¹¹⁸ We can no longer afford it. Accordingly, we need to fundamentally reorganize local government for the 21st Century to establish

greater government efficiency, economic opportunity and tax savings.



New York's local tax burden is over 79 percent higher than the national average.

The Government Reorganization and Citizen Empowerment Act

That is why, this past year, as Attorney General, Andrew Cuomo authored a law that was overwhelmingly passed by the Legislature entitled, the Government Reorganization and Citizens Empowerment Act (“Empowerment Act”) to help restructure our antiquated system of local government and to reduce the tax burden and find greater efficiencies.¹¹⁹ The Empowerment Act eliminated anachronistic legal barriers to government mergers, simplified the process for local government officials to reorganize local government, and most importantly, gave citizens the power to reorganize their local governments by dissolving or merging the

many taxing layers that have contributed to New York having the nation's highest local taxes.¹²⁰

Prior to the enactment of the Empowerment Act, multiple impediments stood in the way of local government reorganization and citizens were often prohibited from initiating the process.¹²¹ For different types of local government entities there were different consolidation and dissolution rules and procedures, many of which were inconsistent.¹²² Now, under the Empowerment Act, citizens and local governments have a one-stop streamlined process to ease the process of government reorganization. However, now that local government and citizens have a tool to reorganize local government, we must provide the financial means to make local government modernization a success.

Create Incentives to Expand on the Government Reorganization and Citizens Empowerment Act

To be sure, the Empowerment Act now provides citizens with necessary tools to reorganize local governments. To ensure these tools are frequently utilized, however, adequate financial incentives and expert resources should be made

widely available to the public. To that end, a Cuomo Administration will adopt the following measures:

Citizens Re-Org Empowerment Grants

Under the Empowerment Act, citizens may easily petition and vote on whether to reorganize local governments. However, voters often lack the information they need to evaluate a potential consolidation or dissolution. The Cuomo Administration will make available “Citizens Re-Org Empowerment Grants” that will cover all or part of the costs of merger studies. These Empowerment Grants would automatically be awarded from the Department of State’s Local Government Efficiency Grants (“LGEG”) for up to \$100,000 to communities that successfully petition to reorganize, merge or dissolve their local government. The funding would be used to develop the comprehensive reorganization plan.

The Empowerment Grants would not require additional money in the State budget; it simply would apportion existing funding for a new purpose. Currently, the State offers Local Government Efficiency Grants for communities wishing to share

services or merge or dissolve governmental entities.¹²³ However, under the current LGEG program local communities must apply, and there is no guarantee that applications will be approved. The Citizen Empowerment Grant program would automatically grant money to communities that successfully petitioned to merge or dissolve local governmental entities.¹²⁴

In total, the Department of State has invested more than \$40 million in shared services and consolidation projects with savings to local governments projected to be more than \$350 million.¹²⁵ In other words, small appropriation of grants — resulting in government mergers — is money well spent.

Citizen Empowerment Tax Credits

Every municipality in New York receives unrestricted local aid from the state called Aid and Incentives to Municipalities (“AIM”).¹²⁶ Part of the AIM program includes additional state aid when municipalities merge or dissolve.¹²⁷ However, the increased aid does not have to be used for a particular purpose. Therefore, the “Citizen Empowerment Tax

Credit” program should be created. The program would mandate that a portion of the increased AIM funding which results from a local government consolidation or dissolution be directly given to taxpayers for immediate tax relief. Under this program, 50 percent of such additional aid would have to be used for direct reductions of real property taxes.¹²⁸ Therefore, if municipalities merge or dissolve citizens would be guaranteed that, at least, 50 percent of the total increased AIM aid would go directly to property tax relief.

A Local Reorganization Knowledge Network

Various commissions have exposed the underlying problems of the current dysfunctional structure of local government in New York. However, a well-developed, long-term network has never existed. As Governor, Andrew Cuomo will facilitate the creation of a Local Reorganization Knowledge Network to help local communities use the new Empowerment Law to merge and dissolve layers of government.

The Knowledge Network will include experts from across New York, in our academic institutions,

financial sector and legal community, to support citizens and local governments and put plans in place that maximize efficiencies and tax savings through consolidation and dissolution. The Knowledge Network will build on the local government “Connecting New Yorkers” network developed by Andrew Cuomo as Attorney General.¹²⁹ Communities often lack the resources to develop a sophisticated plan, so the taskforce would work directly with communities to develop a plan to find savings and efficiencies.

Eliminate Remaining Legal Barriers to Mergers and Shared Services

Andrew Cuomo’s landmark Empowerment Act brought down many legal barriers stopping the modernization of local government. However, there are still other barriers to local government reorganization that must also be reformed.

Eliminate Legal Barriers to Municipal Services

There are various legal barriers prohibiting certain local governmental entities from undertaking key government functions. For example, unlike cities

and villages, towns cannot provide fire services. Towns must rely on contractual arrangements with other service providers or must rely on independent fire districts for fire service.¹³⁰ Such prohibitions result in the increase in the number of governmental entities, inefficiency and unnecessary duplication. These types of barriers should be eliminated.

Standardize Elections for Local Governments and School Districts

Historically, turnout for local elections has been low. In certain sanitary districts voter turnout rates ranged from a high of 13.9 percent to a low of 1.8 percent.¹³¹ Only 66 out of a possible 11,500 people voted in a water district vote in the Town of Huntington, for example.¹³² Another study found that in a majority of all fire districts, fewer than 100 people voted.¹³³

One of the reasons for low turnout is that local elections are held at various times, making it difficult for voters to get to the polls. A recent study of election dates for the sanitary, water and library districts operating within Nassau County found that there are 24 different special district election dates,

and not a single special district election is held on the date of the general election in the fall when voter turnout is typically highest.¹³⁴ As Governor, Andrew Cuomo will introduce legislation creating uniform election dates in order to increase voter turnout and democratic participation.

4

New York Works

Too many New Yorkers today are unemployed or do not earn enough to make ends meet. Over the past decade, many regions of New York have experienced sustained job losses, especially Upstate. But New York's employment statistics since the beginning of the current recession are staggering. From April 2008 through December 2009, New York lost 352,700 private sector jobs, while unemployment hit a 26-year high of almost nine percent.¹³⁵ The so-called "underemployment" rate — counting people whose hours have been cut along with those working part time for lack of full-time positions — averaged 14.3 percent in 2009, meaning almost one out of every six New Yorkers was unemployed or underemployed.¹³⁶



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Every region of the State is suffering. Upstate continues to witness the crumbling of its manufacturing employment base, which has declined 32 percent over the past decade,¹³⁷ with an overall job loss of approximately 22 percent over the same period. Unemployment in New York City is even higher — 10.6 percent, with even higher unemployment rates in many parts of the City.¹³⁸ In New York City, communities of color are hit especially hard. Unemployment of African Americans and Hispanics exceeds 15 percent in many neighborhoods.¹³⁹



Two million New Yorkers have left the State over the past decade.

In addition, many fear that we are close to a tipping point in terms of population loss. Two million New Yorkers have left the State over the past decade.¹⁴⁰ New York leads the nation with net out-migration of 20 to 35 year olds, the most critical

demographic group for economic growth and community vitality.¹⁴¹ Decisive action must be taken now to reverse this trend.

State Government Policies Have Contributed to our Economic Problems

New York State government has failed to respond to these economic challenges, and, in some cases, has made things worse.

Our Economic Development Policies Are Wasteful, Fragmented and Ineffective

The challenges businesses in New York face are compounded by an economic development bureaucracy and policies that are too often wasteful, fragmented and ineffective. New York State spends vast sums on economic development. The problem is taxpayers don't get enough bang for their buck because of the way economic development dollars are allocated.

The main levers of New York's economic development efforts have been the Empire Zone tax credit program, the Brownfields tax credit program, IDA-created tax exemptions and a substantial amount of economic development capital allocated through a

highly politicized process. It's estimated that by 2012-13, New York will spend almost \$2 billion annually on inefficient and untargeted tax credits, along with the debt service costs on legislatively directed capital programs. In addition, over the past decade, New York State has authorized nearly \$7 billion to support various discretionary and legislatively approved economic development capital programs and projects. These tax credit programs and capital grants are poorly targeted, inefficient in terms of job creation and (along with IDA tax exemptions) often pit one New York community against another in a zero sum competition for jobs that do not lift New York State as a whole, while expending scarce public resources in the process.



It's estimated that by 2012-13, New York will spend almost \$2 billion annually on inefficient and untargeted tax credits, along with the debt service costs on legislatively directed capital programs.

New York State has not adopted the best practices used in other states to compete for jobs.

Many of these other states offer more generous but more targeted tax and other financial incentives to businesses that agree to relocate there. For example, New Jersey offers targeted businesses a tax credit based on a percentage of the income tax withheld from employees holding new jobs in the state. Because the tax credits are only given to companies that otherwise would not have located in New Jersey, the program pays for itself.¹⁴² New York can no longer sit on the sidelines while our neighbors and states in the South and West poach companies and jobs from us.

Despite the billions of dollars in economic development capital grants and hundreds of millions of dollars a year in other types of economic aid,¹⁴³ we have relatively little to show for our investment. Moreover, there is almost no transparency about whether these investments are paying off and therefore little accountability for results. One reason for this ineffectiveness is the balkanization of our economic development efforts across as many as 28 separate agencies¹⁴⁴ and hundreds of other public entities with economic development missions,

including over 600 local development corporations,¹⁴⁵ 115 local industrial development agencies,¹⁴⁶ 72 local Empire Zone boards,¹⁴⁷ 50 business improvement districts,¹⁴⁸ 49 urban renewal agencies and community development agencies¹⁴⁹ and 10 regional planning councils.¹⁵⁰ Moreover, within this multitude of agencies, departments and authorities are countless economic development incentives that fragment the process further.¹⁵¹

Table 4. New York's Balkanized Economic Development System	
Government Agencies	28
Industrial Development Agencies	115
Local Development Corporations	618
Empire Zones	72
Business Improvement Districts	50
Urban Renewal Agencies	49
Regional Planning Councils	10

New York's High Business Costs Thwart Job Growth

The Empire State was once an economic giant. We still are the home of many great companies and the center of vital industries such as financial services

and media. But New York is failing to keep pace with increased global and regional competition in large part due to the high cost of doing business here. Businesses in New York face the second highest tax burden in the nation,¹⁵² the second highest “cost of doing business index”,¹⁵³ the second most negative business climate,¹⁵⁴ among the highest health insurance costs and the second highest energy rates in the nation.¹⁵⁵

New York’s Infrastructure is Obsolete

Great infrastructure projects, from the Erie Canal to the New York State Thruway, have played a critical part in making New York an economic power. Our roadways, railways, telecommunications systems were once among the crown jewels of the State. Today, our infrastructure is becoming obsolete and increasingly unable to meet the needs of our economy.¹⁵⁶ Major projects from the Peace Bridge in Buffalo to the World Trade Center in Manhattan are stalled. New York’s infrastructure, like much of the nation, lags behind our competitors in Europe and Asia.¹⁵⁷



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Pieces of the Lake Champlain Bridge—once an important connection between New York and Vermont—are floating in the waters below. The Tappan Zee Bridge is almost a decade past its useful life. The MTA system — the largest network of mass transit connections in the world — is teetering on the edge of financial collapse. Our aging air traffic control system causes the worst delays in the country, costing the region \$2.6 billion every year in lost economic activity. High speed rail is still only something we read about in China and Europe. Our energy infrastructure is outdated, costly and inefficient. And a small businessman in South Korea can still access the Internet ten times faster at half the price than a businessman in the Southern Tier.

We Must Make New York the Jobs Capital of the Country by Replacing Ineffective Tax Credit Programs with Targeted Programs

Getting New Yorkers back to work and building the foundation for a strong and growing economy will be an unrelenting focus of a Cuomo Administration. The problem of high unemployment will be immediately addressed by enacting an emergency tax credit for hiring unemployed New Yorkers, while developing a coherent and focused long-term economic development strategy that addresses the wide range of challenges and opportunities businesses face in New York.

In a time of fiscal crisis, New York cannot afford the wasteful, fragmented and ineffective approach to economic development and job creation we have been pursuing. This must be replaced with targeted programs with real accountability for results.

A New “Jobs Now” Tax Credit for the Unemployed

While a long-term strategy for economic development is necessary, we cannot ignore the

painful fact that almost one out of every six New Yorkers is either unemployed or underemployed. Therefore, a Cuomo Administration will work with the Legislature to enact an emergency two year \$300 million “Jobs Now” tax credit program to encourage employers to hire unemployed New Yorkers. Any business that increases its employment by hiring for a full-time job a New York resident who has been unemployed for at least sixty days and keeps that person employed in the job for at least one year will receive a refundable credit equal to the employer portion of the payroll tax for that worker up to a maximum credit of \$3,000 per worker. Based on metrics developed by the Economic Policy Institute¹⁵⁸, this “Jobs Now” tax credit would create over 165,000 jobs over two years.¹⁵⁹

Expand “Work Sharing” Programs to Reduce Lay-Offs

Our first priority must be expanding the number of full-time and good paying jobs. But while we are waiting for the economy to recover, we should promote the use of the New York Department of Labor’s “Work Sharing” program to reduce layoffs

and enable companies to keep their skilled workforce intact. Under “work sharing” programs, participating companies reduce the hours and pay of some of their workers, but keep them employed—with benefits. The State Unemployment Insurance Fund then allows workers to receive some of the money that would otherwise be paid out in unemployment insurance benefits to compensate them for a portion of their lost earnings. We should expand and actively promote this program, which is a “win-win” that enables companies to keep their skilled workforce intact for when the economy recovers and keeps New Yorkers in good jobs with benefits instead of joining the ranks of the unemployed.

Create “Move to NY” Jobs Incentives

Two-thirds of the more than \$500 million in annual subsidies under the current Empire Zone tax credit program have gone to real estate development, utilities, retail and professional services firms — types of businesses that have done little to generate economic growth.¹⁶⁰ The first step in developing a new economic development strategy for New York is the long overdue elimination of this inefficient

program, which should be allowed to sunset in June 2010

A Cuomo Administration will replace the Empire Zones program with an aggressive program that will incentivize businesses to move into New York for the first time or expand existing operations by adding jobs. Under our “Strategic Jobs Incentives” program, selected businesses in key industries will be granted tax credits for creating new jobs. The program would work as follows:

- Businesses will be eligible for a rebate of up to 80 percent of the amount of New York State personal income tax withheld on the qualifying additional jobs they create in the State for up to 10 years;
- In order to qualify, a business must sign an agreement with New York State under which the business commits to creating a specific number of jobs, and demonstrates that the tax credit incentive was a material factor in making its decision to relocate to or expand in New York; and,
- The net new jobs must last at least 10 years or the tax benefit will be clawed back by the State on a pro rata basis for each job that is promised but not created or maintained.

Reform the Existing System for Legislatively Directed Capital Funding

Since 1997, nearly \$3 billion has been authorized by the Legislature to support various discretionary programs, which are governed by “Memorandums of Understanding” with funding split three ways among the Executive branch (the only branch of government with an economic development infrastructure capable of effectively managing economic development decisions), the State Senate and the Assembly. Under this system, the State Assembly and the State Senate were *each* allocated \$873 million dollars to be dispensed at the direction of the leadership of each house. This system — in which legislative leaders control 60 percent of discretionary economic development capital — lacks transparency and accountability. More important, it has proven to be inefficient in creating good, high-paying jobs for New Yorkers and needs to be reformed.

Restructure New York’s Economic Development Strategy around a Regional Industry “Cluster” Approach

New York must replace the current wasteful, fragmented and ineffective approach to economic development with a coherent long-term strategy based on a regional industry “cluster” approach.

Consolidate Authority for Economic Development Programs in a Single Office Directly Reporting to the Governor

As part of this new coordinated strategy, we must consolidate the efforts of fragmented economic development entities. All economic development programs will be coordinated by one office that is accountable directly to the governor. As Governor, Andrew Cuomo will not only be directly involved in implementing the State’s economic development initiatives, but also will ensure that projects are evaluated on an ongoing basis with critical benchmarks and performance assessments.

Almost 20 years of economic development research and experience point to refocusing the State’s efforts in strategically helping regional

industries or “clusters” to grow. Businesses in a cluster have similar interests, provide goods and services to each other, share a workforce, face comparable market pressures, and collaborate on projects. These regional business clusters tend to grow up around a common theme, such as a university, research institution, natural resource, or particular environmental conditions. Businesses grow exponentially faster when they form in clusters, sharing common resources and competing in common markets.

Illustrative of this dynamic is the explosive economic growth which occurred in recent years in Silicon Valley and Napa Valley, California. Look further back and that was the story of the Garment District in Manhattan and the steel industry in Buffalo. In 2025, a cluster approach will allow us to look back and say that this was the story of the Finger Lakes wine region, nanotechnology in the Hudson Valley, and the Downstate Biotech Corridor in Long Island and Manhattan that grew to global-class industries in the first quarter of the 21st century.¹⁶¹

The key elements of cluster-based strategy include: (a) forming or tapping industry or trade cluster associations to analyze competitive strengths, opportunities, and needs of the cluster; (b) crafting tailored, ground-level policies to address specific needs of cluster in order to “upgrade” each cluster to compete globally; and (c) search for nascent clusters to grow and support in the same way. The approach is bottom-up, and designed to use State government to unleash the untapped potential of emerging clusters.

This approach is powerful because economic growth would occur in a bottom-up fashion — focusing on regional strengths. As Secretary of the U.S. Department of Housing and Urban Development (“HUD”), Andrew Cuomo developed national expertise in using government to support the growth of private-sector industries through this type of bottom-up approach. At HUD, he worked to develop the Empowerment Zones program that used tax incentives and targeted federal grants and loan guarantees to spur economic growth in a particular region or neighborhood. Indeed, by the end of his

tenure as Secretary, HUD's economic development programs created or maintained hundreds of thousands of private-sector jobs across the country. A Cuomo Administration's economic development programs will do the same in New York.

Create Regional Economic Councils to Coordinate the Cluster Approach

In order for the "cluster" economy to work, it is necessary to reform the State's local governmental efforts to spur economic growth under the bottom-up regional model. Therefore, we must transform industrial development agencies ("IDAs") from agencies that too often use public funds to foster intra-state competition for jobs into important contributors to a cluster-based economic strategy. To do so, temporary regional councils will be established to analyze the most significant business clusters in their area. The councils will be required to include representatives from local governments and IDAs, businesses, labor, and other local organizations of significance to the future of each region. The State's economic development officials will also participate to chair and to assist the council's work. Each council

will have six months to assess the competitive needs and opportunities of each cluster, and to develop a strategic regional cluster plan for the State to implement.

Reduce New York's High Business Costs

Businesses will not create jobs in New York if they do not believe that New York State government will rein in spending and hold the line on taxes. That is why the measures outlined earlier in the “Plan to Get Our Fiscal House In Order” to control State spending, veto State tax increases and cap local property taxes will be a critical part of our economic development strategy.

In addition to lowering the tax burden that businesses face, a Cuomo Administration will take steps to address many of the other sources of the high cost of doing business in New York. These measures include following through on Worker's Compensation reform to ensure that the more than \$1 billion in annual savings in Worker's Compensation premiums that New York businesses have realized from reform are maintained. We must make health insurance

more affordable, especially for small businesses, by restoring prior approval of health insurance premiums, capping broker commissions to reduce administrative expenses, and establishing a commission to review insurance mandates. We must also address high energy costs and enact and a permanent Power for Jobs program, so manufacturers have access to low cost power on a predictable basis.

Expand Access to Capital and Reducing Regulatory Barriers for Small and Medium Sized Businesses

New York has more small businesses than any state except California,¹⁶² representing over 98 percent of New York State's private employers and employing 55 percent of the private sector labor force.¹⁶³ Many of these small businesses are now struggling, in part because they have not received the capital that is the lifeblood of any business. From 2006 through 2009, the number of loans to small business in New York State declined 54 percent; for loans under \$100,000 the decline was approximately 63 percent.¹⁶⁴ Without access to credit, many small

businesses struggle to finance their daily operations, making it difficult for these businesses to survive.¹⁶⁵ The consequences are striking: small business bankruptcies are up 34.5 percent since 2008.¹⁶⁶



From 2006 through 2009, the number of loans to small business in New York State declined 54 percent...The consequences are striking: small business bankruptcies are up 34.5 percent since 2008.

It is essential that we get capital flowing again to small and medium-sized businesses. In addition to using the Governor's "bully pulpit" to encourage large financial institutions based in New York to increase lending to credit-worthy small and medium-sized businesses, a Cuomo Administration will pursue other direct programs to increase lending, including these:

Expand the Linked Deposit Program and Create a New York Version of "CalCAP"

A Cuomo Administration will expand an innovative but underutilized program known as the Linked Deposit Program by which New York State

assists small businesses with low-rate loans to modernize facilities and operations, access new markets, develop new products and improve overall competitiveness. Under the Linked Deposit Program, these loans are made possible by corresponding “linked” deposits made by New York State.¹⁶⁷

Additionally, we will create a New York version of California’s “CalCAP” program, which encourages banks and other financial institutions to make loans to small businesses that fall just outside of most banks’ conventional underwriting standards.¹⁶⁸ CalCAP is a form of loan portfolio insurance which may provide coverage on certain loan defaults. The maximum loan amount is \$1.5 million and can be used to finance the acquisition of land, construction or renovation of buildings, the purchase of equipment, other capital projects and working capital. Any federal or state-chartered bank, savings association or credit union is eligible to participate in CalCAP.

Create the New York Business Express

To reduce regulatory burdens for small and medium sized businesses, we will implement, on a state-wide basis, a version of New York City's Business Express¹⁶⁹ project — an online, one-stop shop for required permits and documentation for all state agencies. The site will easily guide and help a person start a business in New York State; apply online for new licenses, permits, and certificates; obtain a customized list of typical State requirements for any business and use an 'Incentives Estimator' to obtain a customized list of incentives for which that business might be eligible. This program will allow a business to have easy access to the number of financial incentives in various State agencies. It will also offer a job creation hotline (by telephone, email and through an express website) through which small business owners can get answers about how to navigate the state bureaucracy and gain access to all available federal and State incentives.

Make Critical Transportation Infrastructure Investments for the 21st Century

Even during the current fiscal emergency, we must continue to make long-term investments in our critical transportation infrastructure. But we also need to be honest about the funding challenges we face, and explore new ways to finance and build our major infrastructure projects.

Develop a State Infrastructure Bank to Stretch Our Infrastructure Dollars

Too much of our infrastructure spending today is misdirected because it is managed within competing silos of State government. In order to better coordinate our infrastructure efforts and stretch limited funds, we will create a State Infrastructure Bank to better coordinate spending and take advantage of federal programs that enable states to complement traditional transportation grant programs and provide states with flexibility to offer many types of financial assistance. The State Infrastructure Bank will enable the State to undertake projects that would otherwise go unfunded or experience substantial delays.

***Make High Speed Rail a Key Component of
our Infrastructure Plans***

High Speed Rail is an example of the type of infrastructure investment that could be transformative for New York, with the potential to revitalize the Upstate economy with construction jobs now and permanent jobs created by the new high speed rail links to New York City, Toronto, and Montreal in the future. As Governor, Andrew Cuomo will upgrade our rail system at reasonable cost to enable a reliable service that averages 100 miles per hour between New York City and Albany (making this a reliable two hour trip) and then Albany to Buffalo and points in between. Furthermore, the federal government is now making a major financial investment in building a high speed rail system for the United States. The President recently announced the recipients of \$8 billion in stimulus grants as the first step in the development of a US high-speed rail network. However, New York received only \$151 million of the grants out of the \$561 million applied for, ostensibly because these projects were not “shovel ready”. A Cuomo Administration will ensure

that New York has done the work necessary to put itself in a position to win more of these critical federal grants.¹⁷⁰

Improve our Air Traffic Infrastructure

As identified by the New York City Partnership and the Regional Plan Association, flight delays caused by air traffic congestion at the three New York City airports were responsible for more than \$2.6 billion in losses to the regional economy in 2008. The future of the region as a center of global commerce, finance and innovation requires an air transportation system that is efficient and universally accessible.

As Governor, Andrew Cuomo will institute a 21st Century transportation infrastructure policy that addresses this issue including next generation air traffic control systems, improvement of ground traffic management and expanding the use of Stewart International Airport in the Hudson Valley.¹⁷¹

Leverage New York's Higher Education Institutions to Create Jobs

We must also leverage the economic potential of our institutions of higher education in ways that have been frequently discussed but infrequently implemented. The State's public education systems, SUNY and CUNY, have 730,000 students (440,000 in four-years schools and 330,000 in community colleges) and the State's more than 100 private colleges and universities with more than 520,000 students are among the largest employers and sources of economic activity in the State. The 70,000 foreign students in New York State by themselves add an estimated \$2 billion annually to New York's economy.



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We must do more to promote Industry-University partnerships to turn more research into

new businesses and jobs. New York universities rank second nationally in total research spending, yet New York still lags other states in finding ways to commercialize that research. A wide range of policies that involve more a change of focus and priorities than money can be adopted to improve the State's technology transfer programs and similar efforts that will lead to commercializing the research being done in New York's colleges and universities. As part of this effort, to the extent possible given current budget constraints, New York should support programs that expand access to early-stage capital for the commercialization of advanced science and technology research. Another way New York can help to commercialize university developed technologies is to support new business incubators located on college campuses, such as the University of Buffalo's Center for Entrepreneurial Leadership that assists local businesses.

Moreover, encouraging graduates — whether originally from New York or out of state—to stay here is critical, and communities across the State have launched creative initiatives aimed at retaining the

brainpower of new college graduates. The use of internships or “co-op education” is one way to connect students to businesses in a way that may lead to full-time employment following graduation. As suggested by the Public Policy Institute of the New York State Business Council, one way to encourage these programs would be to amend the existing R&D Qualified Emerging Technology Company training tax credits to facilitate allowing small companies to recover up to \$4,000 for interns during each of the company’s first few years.¹⁷²

Skilled Workforce Training Partnerships

The State’s numerous workforce training initiatives should be focused on building the skills of employees for the types of jobs where employers need more workers, especially in targeted industry clusters of each region of the State. To help ensure that training focuses on skills and knowledge transferable directly to the workplace, a Cuomo Administration will align responsibility for workforce training with agencies that have the best understanding of the needs of both business and

labor, as New York City did by moving its workforce training to its Department of Small Business Services.

We also need to closely link our workforce training efforts with community colleges. A successful example that should be replicated throughout the State is the initiative of Hudson Valley Community College, which works with technology employers and educational institutions to prepare high school graduates and community college students for entry level jobs in the technology sector.

Clean Energy, Clean Jobs

New York spends approximately \$65 billion annually on energy, of which 53 percent or close to \$35 billion leaves the State to pay for energy imports. The strategy of reducing energy costs and our dependence on out-of-state sources of energy provides many opportunities to create new jobs.



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New York State already has ambitious goals to improve energy efficiency and increase the use of renewable fuels, but not nearly enough is being done to meet those goals. To make more rapid progress, the New York State Power Authority and the Long Island Power Authority must be made full partners in advancing energy related projects that will create jobs and grow the economy. Their efforts should include both major wind-power projects and making possible smaller “distributed generation” renewable energy projects by allowing net metering.

A Cuomo Administration will also take advantage of a budding solar energy industry in the State — from small companies like Solartech Renewables in the Town of Ulster that plans to create 100 new jobs there within the year and as many as 300 more over the next five years — to solar energy research backed by some of the State’s most prominent research universities.

One positive development we cannot allow to languish is the Green Jobs/Green New York Act that was signed into law in October 2009.¹⁷³ As Governor, Andrew Cuomo will strongly support this program,

which will create immediate jobs in weatherizing homes and commercial buildings, while allowing families and businesses to save money on their energy bills.

Support New York State's Farmers

The farm economy generates over \$4.5 billion, annually.¹⁷⁴ As Governor, Andrew Cuomo will support our State's agricultural industries to maintain and strengthen their vital position in our economy. Our farmers now face a perfect storm of high costs and low prices. It is essential that we support farmers who are struggling to keep their land in agricultural production. As part of that effort, we must combat suburban sprawl and support farmland protection programs.

The growing trend in favor of locally grown and raised food presents a great opportunity for New York's farmers to find new markets. We must expand opportunities for local farmers to market and sell their produce directly to residents of New York City and other cities around the State, including through building a major wholesale 'farmers market' at Hunts

Point in the Bronx and pursue innovative ideas such as encouraging our colleges and universities to purchase more of their food from local producers.

New York's farmers must be able to share in the benefits of emerging technologies. Alternative energy sources—ranging from wind to biomass—can create new economic opportunities for farmers. Affordable access to broadband will help connect farmers and other rural residents to the world economy. And we must continue to invest in agriculture research and development at Cornell and elsewhere.

We must also fight for farmers at the federal level. As Governor, Andrew Cuomo will work to strengthen the Milk Income Loss Contract ("MILC") program, that is such an important safety net for New York dairy farmers, and push to further tighten restrictions on milk protein concentrate that food companies import into the United States for use in dairy products and which unfairly compete with New York dairy farmers. Moreover, New York should get its fair share of federal stimulus funds for expanded broadband Internet access, so that rural New Yorkers

get affordable access to this critical source of economic opportunity.

5

New York Leads

New York has a deep commitment fighting for individual rights and justice — economic, social, environmental and racial. Throughout history, when communities in need cried out for relief, our government responded. When the rights of others were being violated, New York State government always responded — serving as a model for the rest of the nation.



New York is home to the women’s rights movement, the worker’s rights movement, the gay rights movement and the environmental movement.

Indeed, New York is home to the women’s rights movement — hosting the first ‘Woman’s Rights’ Convention in Seneca Falls in 1848 — that gave birth to the fight for suffrage, equality and fairness.¹⁷⁵ We are home to the worker’s rights movement, where, from the ashes of the horrific

Triangle Factory fire in 1911, a host of labor protections were instituted, and a movement was forged.¹⁷⁶ When reformers decried the slums that plagued our cities,¹⁷⁷ we reduced the slums to rubble and rebuilt safe and affordable housing.¹⁷⁸ At Stonewall, individuals stood up for their rights and the gay rights movement was transformed.¹⁷⁹ And, when a utility company threatened to ravage the natural beauty of Storm King Mountain in order to build a power plant, a community united to fight, and modern environmentalism was born.¹⁸⁰

Many important rights have been enshrined in our State Constitution including providing “aid, care and support of the needy”¹⁸¹; “protection and promotion of health”¹⁸²; “care and treatment of persons suffering from mental disorder”¹⁸³; “low rent housing and nursing home accommodations for persons of low income”¹⁸⁴; preserving our environmental landscape by keeping certain land “wild forest lands”¹⁸⁵; the creation of a system of free “common” (public) schools¹⁸⁶; and labor rights, including firmly stating that human labor is “not a commodity”, protecting the right to organize,

collective bargaining,¹⁸⁷ and workers' compensation.¹⁸⁸

We need to continue to protect individual rights and strive for justice. With the leadership of Andrew Cuomo, New York will once again lead the nation in fighting for individual rights and justice.

Protect the Neediest New Yorkers

New York was one of the first states in the nation to create a strong social safety net so that even our most vulnerable and needy did not fall through society's cracks. These are difficult times. Families are stretched beyond their limits. Many families, often for the first time, find that they may have to rely on the social safety net to survive¹⁸⁹ and our most vulnerable members of society have become even more vulnerable. Fiscal constraints have required tough choices, and many states have made deep cuts to programs that serve the most vulnerable in society need the most.¹⁹⁰ Today the safety net is showing strain, when it needs to be strong enough to support a population in need.¹⁹¹

Especially in times of crisis, we must continue to provide social safety net services, such as food and

shelter to those in need. It is a moral imperative.

To be sure, as discussed in earlier chapters, New York State must address the fiscal crisis that is upon us and will have to make hard decisions in doing so. But even as we get our fiscal house in order, we must preserve the social safety net for the most vulnerable among us. As Governor, Andrew Cuomo will ensure that key programs receive adequate funding to protect vulnerable children and families.¹⁹²

Protect Consumers by Regulating Wall Street

Over the past year, New Yorkers have endured the worst financial crisis since the 1930s. Many have lost their homes, jobs and life savings. At the same time, they have witnessed the very people and institutions that caused this nightmare receive unconscionably large bonuses and billion dollar bailouts. As part of this effort and to increase governmental efficiency, as Governor, Andrew Cuomo will consolidate the regulatory functions of the Banking Department and the Insurance Department into a single regulatory agency capable of regulating modern financial services organizations. A primary mission of this new agency will be to stand up for

consumers, protect them against predatory lending, and provide access to good, honest and capable financial services at competitive rates.

Keep People in their Homes

The current economic crisis has resulted in numerous home foreclosures. Moreover, housing discrimination is widespread and exacerbates the housing crunch.¹⁹³ As Governor, Andrew Cuomo will help people remain in their homes, by working to end housing discrimination, supporting programs to make housing more affordable, and fighting tenant harassment.¹⁹⁴

Enact Marriage Equality

The State has been surpassed by many other countries which have legalized same sex marriage including the Netherlands, Belgium, Spain, Canada, South Africa, Norway, Sweden and Portugal; as well as by many states which have also done so including Massachusetts, Connecticut, Iowa, Vermont and New Hampshire.¹⁹⁵

Marriage equality is a question of principle and the State shouldn't discriminate against same-sex couples who wish to get married. Barring marriage

equality denies same-sex couples and their families over 1,000 federal and 700 state rights and responsibilities.¹⁹⁶ For instance, spouses have hospital visitation rights and can make medical decisions in event of illness or disability of their spouse; employers offer spouses sick leave, bereavement leave, access to health insurance and pension; and the law provides certain automatic rights to a person's spouse regardless of whether or not a will exists. None of these rights exist automatically for same-sex couples in the absence of marriage.

As Governor, Andrew Cuomo will not stand for such discrimination.¹⁹⁷ He will fight to make sure all couples have equal marriage rights under the law.

Protect Reproductive Rights

Andrew Cuomo will continue to vigorously protect a woman's right to choose and will fight for passage of the Reproductive Rights Act,¹⁹⁸ which will protect the fundamental right of reproductive freedom and a woman's right to make private health care decisions. A woman facing an unplanned or problem pregnancy should have the opportunity to

make the best decision for herself and her family, whether her decision is continuing the pregnancy, adoption, or abortion. The Reproductive Health Act will ensure that the rights of individuals to make difficult and personal health care decisions will be preserved.

Support Minority and Women-Owned Businesses

Minority and women-owned businesses (“MWBEs”) have come to constitute a large percentage of businesses in New York. MWBEs are an increasingly crucial part of the State's economy, and contribute vastly to its growth.¹⁹⁹ Despite these advances, however, MWBEs continue to face barriers in government contracting and getting their fair share of government contracts.²⁰⁰

Andrew Cuomo will ensure that MWBEs have the opportunity to earn their fair share of the State's business. He will expand opportunities by alleviating the burden of excessive performance bonds for small businesses and certified MWBEs for smaller contracts and will require that all state contracting agencies comply with MWBE reporting requirements.

Fight Hate Crimes

In 2000, New York became the forty-fourth state to enact Hate Crime legislation.²⁰¹ The New York State Hate Crimes Act imposes enhanced penalties on bias-motivated crimes — crimes in which a victim is targeted because of his or her race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation. A central part of the law is reporting. The Division of Criminal Justice Services (“DCJS”) is charged with collecting and analyzing all hate crime data. DCJS then provides the data to the federal government.

The Hate Crimes Act was intended to protect New Yorkers from bias-related crimes. However, more must be done to ensure that the law serves its intended purpose. Victims often do not report crimes at all. Moreover, New York State does not have accurate information²⁰² that would aid law enforcement officials in spotting trends or allow them to focus their attention on specific geographical areas and groups who are likely targets. In addition, elected officials do not have the information they

need to make meaningful policy decisions that could help to prevent hate crimes from taking place.

As Governor, Andrew Cuomo will direct DCJS to (1) improve relationships between communities that are susceptible to hate crimes and law enforcement authorities; (2) train law enforcement officers to identify hate crimes as such, and (3) improve the system for tracking and reporting these crimes.

A Cleaner and Greener New York

New York is home to some of the greatest natural resources in the world. We need to protect our environment to make sure that we leave our State clean and inhabitable for generations to come. As Governor, Andrew Cuomo will continue to be an environmental champion, by:

- Ensuring that, as the State's fiscal position improves, the Environmental Protection Fund ("EPF") — a dedicated fund to protect the environment and enhance our communities — will again be used only for the purpose for which it was created;
- Making sure health and environmental risks are comprehensively studied before natural

gas exploration in New York's Marcellus Shale formation occurs;

- Ordering greater focus on environmental justice to identify adverse human health effects on racial and ethnic minority and low-income populations and to develop strategies to eliminate practices, which have a disproportionate impact on such groups; and,
- Pushing to find alternative sources of energy generation to replace Indian Point nuclear facility because it is too dangerous to continue operating.

Protect New York's Immigrant Communities

We are a nation of immigrants and many of our forefathers and mothers came through Ellis Island in the hope and promise of a new beginning. It is critically important that we not allow the exploitation of immigrant communities. We must continue to fight immigration fraud, like those individuals and companies who exploit and target vulnerable immigrants by providing unauthorized and fraudulent immigration services. Moreover, we must continue to make sure that these communities do not

face discrimination and receive fair wages and a safe workplace.

Keep Our Communities Safe from Gun Violence

We must keep our communities safe. Gun violence remains one of our most serious problems. We must enact commonsense gun safety laws, such as requiring the microstamping of guns. Microstamping — a pro-law enforcement²⁰³, low cost method of expanding the ability of police to identify guns used in illegal activities — would require all new semiautomatic handguns to be equipped with microscopic identifying markings, which are transferred to each cartridge case when the firearm is fired.²⁰⁴

Combat Domestic Violence

Every day, four women die in this country as a result of domestic violence. In New York alone domestic violence resulted in 91 homicides in 2008 — a 25 percent increase from the previous year.²⁰⁵ According to the New York State Office for the Prevention of Domestic Violence, there were 17,177 domestic violence assaults in New York alone in 2008.²⁰⁶

We must bring domestic violence out of the shadows. Far too often, people believe that such violence is a private family matter since it most often occurs in the home, but this is a dangerous misconception. Domestic violence is a crime just like any other; only this crime is often executed on those individuals who are the most vulnerable.

As Governor, Andrew Cuomo will work to protect those citizens who cannot protect themselves. He will strengthen the penalties for repeat domestic violence offenders, improve enforcement of orders of protection and guarantee that victims have a safe place to go by putting an end to housing discrimination against victims of domestic violence.

Win the Race to the Top in Education

New York must be the leader when it comes to education reform. This starts with the increasing the charter school cap from 200 to 460. But increasing the cap won't result in more charter schools if we too tightly restrict where they can be located or how they can be approved. We believe that public review and consultation are important—especially when charter

schools will be co-located with traditional public schools—but this cannot become a poison pill that prevents opening new charter schools.

As Governor, Andrew Cuomo will also oppose arbitrarily limiting the number of charter schools that can operate in a school district. And because SUNY has done a good job in approving and monitoring charter schools, we should continue to allow SUNY to have shared authority for approving charter schools with the Board of Regents—which to its credit has become more supportive of charter schools in recent years.

As a strong supporter of charter schools, Andrew Cuomo understands how important it is to retain high standards and strong accountability. Charter schools that fail to perform at the levels promised at the time the charter school application was granted should be closed. Andrew Cuomo also supports provisions that will require charter schools to increase their enrollment of special education and ELL students—so that they are comparable to levels of neighboring schools.

Finally, in order to win the race to the top in education means being committed to the four education reform principles that underlay the federal Race to the Top process: (1) a commitment to rigorous standards and assessments; (2) recruiting, preparing and supporting great teachers and school principals; (3) building instructional data systems that measure student success and inform teachers and principals how they can improve their teaching practices; and (4) turning around struggling schools.

The New NY Agenda Plan for Action represents an ambitious agenda, but one that is needed to meet the challenges New York faces today. This Plan is not intended to be comprehensive. There are many other issues of importance to New York. This Plan will be followed by other substantive policy recommendations for a New NY.

The New NY Agenda: A Plan for Action

Summary Of Policy Proposals

The above pages detail the **New NY Agenda: A Plan for Action**—a comprehensive plan to clean up Albany and restore trust and accountability to our government, respond to the State’s current fiscal emergency, rightsize government, put New Yorkers back to work, and continue our commitment to protecting and advancing individual rights. Below is a summary of this Action Plan for the New NY Agenda.

CHAPTER 1: Clean Up Albany: Restoring Trust & Accountability

Reform New York’s Ethics Laws

- **Independent monitoring and enforcement of ethics laws.** Currently, our State government’s ethics laws are policed by separate entities without the independence necessary to ensure that violations are fully and fairly investigated and prosecuted. In particular, the Legislature essentially polices itself rather than making its members subject to investigation by an independent body. As Governor, Andrew Cuomo will fight to eliminate the existing oversight bodies and

establish an independent State ethics commission with robust enforcement powers to investigate and punish violations of law by members of both the executive and legislative branches.

- **Outlaw “pay to play.”** We must address the inappropriate influence that companies and individuals that do business with the State have over our elected representatives by setting low limits on campaign contributions; restricting the extent of personal business activities that lobbyists and public contractors can undertake with candidates; prohibiting public contracts with contributors who have exceeded statutory contribution limits; and requiring lobbyists and public contractors and their immediate family members, and political committees controlled by any of them, to report contributions to candidates and party housekeeping accounts promptly.
- **Disclose outside income sources and clients.** Voters cannot have complete faith in their elected representatives if they cannot assess where else those representatives are earning money. While New York’s part-time Legislature allows professionals from diverse industries and backgrounds to serve the public as members, without adequate disclosure rules it also allows members to earn outside income that is all but immune from public scrutiny. We must require greater disclosure.

Accordingly, our elected representatives in Albany should be required to disclose the sources and clients that produce any and all outside income they receive.

Reform New York State's Campaign Finance Laws

As Governor, Andrew Cuomo will work to fundamentally reform our system of financing elections, including public funding of elections. Coupled with redistricting reform this will truly yield meaningful improvement of our system. However, until such fundamental reforms are in place, the alternative is to lower contribution limits, close loopholes in the campaign finance law and allow for more enforcement of New York's campaign finance law.

- **Institute a voluntary system of public funding of election campaigns.** New York State needs a system of public campaign financing similar to the system in New York City to allow limits on campaign spending and to increase participation by qualified candidates who lack the means or connections to raise significant campaign funds. Candidates should also be required to agree to participate in debates in order to receive public financing.
- **Limit soft money.** Unlike federal law, New York State allows donations of an unlimited amount to party "housekeeping" accounts. The housekeeping loophole allows individuals and

corporations to contribute unlimited funds to a political party. Political parties should not be allowed to raise money outside of the contribution limits. Political parties' housekeeping accounts should no longer be exempted from contribution limits and those limits should be lowered significantly.

- **Reduce sky-high campaign contribution limits.** Individuals in New York are now permitted to contribute up to \$94,200 annually to political parties and a total of \$55,900 to the primary and general election campaigns of statewide candidates, \$15,500 to State Senate candidates, and \$7,600 to Assembly candidates. New York must lower the amount candidates can raise from each contributor in primary and general elections.
- **Close corporate subsidiary and LLC loopholes.** Close loopholes that make meaningful campaign finance reform difficult. To that end, donations from corporate subsidiaries and related limited liability companies should be counted as donations from the affiliated parent company so that the limit for corporations of \$5,000 per year is meaningful.
- **Tighten inadequate reporting requirements.** Contributors in New York State should be required to reveal their

occupations and the names of their employers, as they are required to do so under federal law.

- **Restrict fundraisers during legislative session and prohibit personal use of campaign funds.** Albany-area fundraisers and lobbyist campaign contributions should be restricted during the legislative session, and timely disclosure of contributions made during session should be required. Permissible and non-permissible uses of campaign funds should be clarified, and non-campaign related, personal uses of any kind prohibited and enforced.
- **Improve enforcement of campaign finance laws.** The New York State Board of Elections is limited by law in its ability to investigate and punish election law scofflaws. Among other steps, reforms must include (1) granting the Attorney General full concurrent jurisdiction to investigate and prosecute civil and criminal violations of the laws; (2) authorizing the Enforcement Counsel Unit to act without referral from the Campaign Finance Unit and prohibiting the Board itself from overruling the Enforcement Counsel Unit's decision whether to investigate an alleged violation; (3) requiring the Board of Elections to publish the names and entities found to have violated campaign finance laws, as the New York City Campaign Finance Board is required to do; and (4) significantly increasing the penalties for

violations of campaign finance laws across the board.

Reform Redistricting

- **An independent redistricting commission.** Rather than relying on the Legislature, create an independent redistricting commission charged with producing the new district maps for New York State after each Census. Because the members of the commission would not be motivated by self-interest, they would be free to focus on all the values that should drive proper redistricting: population equality, contiguity, compactness, preservation of communities of interest, preservation of pre-existing administrative boundaries, minority representation, and competitiveness. Moreover, the independent commission's proposals would be subject to public hearings across the State.
- **Reform process or veto the plan.** Will veto any redistricting plan in 2012 that reflects partisan gerrymandering and ensure that the State has set itself on a path to reforming the process itself.

Codify & Expand AG Reforms of Legislative “Member Items”

As Attorney General, Andrew Cuomo established for the first time a review and certification process to help curb abuses in the award and spending of Legislative “member item” funds. That process should be codified into permanent law and expanded in several ways including:

- **Forbid conflicts of interests in granting member items.** Neither the legislative sponsor of the member item, nor his/her family or staff should be employed or receive any money from the organization receiving the funds and should not be involved in the decision-making or operations of the organization.
- **Increase transparency before award is made.** The amount of the member item, and the names of the recipient and the sponsoring legislator, should be made public in advance of budget approval to allow for public comment, and member items should be fully itemized in the budget. Once approved, the details of the member item should be posted on the internet for public review.
- **Ensure recipients of grants are legitimate.** Any organization that expects to receive member items should be pre-certified by the Attorney General to verify the legitimacy of the

organization's tax status and other aspects of its activities. In addition, all those that receive grants should be required to certify that they have properly used their funds, and to detail how the funds were spent.

- **Require state agencies to oversee the spending of the allocated funds.** The applicable state agency that has substantive jurisdiction over the area in which the grantee organization operates should be authorized and required to oversee the spending of the allocated member item funds.
- **Crack down on member item abuse.** Both the Attorney General and the newly form independent ethics commission should be granted the authority and mandate to investigate alleged violations of these new rules. In addition, the State Comptroller should be required to conduct random periodic audits of grantees of member items to uncover any improper expenditures.

Reform Administration of the State Pension Fund

- **Create a board of trustees to manage the State pension fund.** Introduced legislation creating a board of trustees of financial and management experts to manage the State's \$129 billion pension fund in order to increase the checks and balances in place by increasing the number of people who set policy, and

review investment decisions; reduce the potentially corrupting influence of politics and political contributions to the Comptroller and other elected officials by sharing decision-making with trustees who are not directly subject to political campaign pressures; and provide representatives of the members and beneficiaries of the pension fund — the people who are most directly affected by the fund’s performance — with direct input and oversight of investment operations.

- **Eliminate “pay to play” in the pension fund.**

In addition to creating a board to manage the pension fund, additional protections of the State retirement fund are needed, including elimination of “pay to play”; banning placement agents; higher standards of conduct for investment firms doing business with the pension fund; prohibitions against “revolving door” employment by investment firms of former pension fund officials and employees; and a ban on improper gifts by investment firms to employees and officials the pension fund.

Reform New York’s Succession Laws

- New York’s succession laws must be rewritten to ensure that the people choose who governs them. To that end, upon taking office, Andrew Cuomo will propose and fight for new

succession laws that will ensure prompt elections to fill vacancies for statewide offices.

Amending the New York State Constitution—A Process for Reform

- **A Constitutional Convention.** To reform areas where statutory changes will not suffice, we must push for an early constitutional convention (“Con Con”) prior to the next scheduled in convention 2017. First, however, we must reform the delegate selection process to ensure that it would truly be a “People’s Convention.” Through relaxed ballot access requirements, public campaign financing, limitations on legislators, lobbyists, and party officials serving as delegates, and other reforms, the convention delegate selection process will be improved. At that convention, many of the critical reforms addressed in this book must be made, including an overhaul of our redistricting process, ethics enforcement, and succession rules, among others.
- **A Constitutional Commission.** Although not well known, constitutional commissions have performed a critical function in the State’s past. Prior to the constitutional convention a commission will help to define the “Con Con” and issues that need to be addressed. That blueprint will then provide the starting point for both the constitutional convention and any amendments made via voter approval at the ballot box.

CHAPTER 2: Get Our Fiscal House in Order

Enact an Emergency Financial Plan

- **Freeze salary increases of State employees.** Freeze salary increases for State workers for one year as part of an emergency financial plan and tightly control growth of wage and benefit costs thereafter.
- **Freeze Taxes.** Will not raise and will veto any increase in personal or corporate income taxes or sales tax.
- **Impose a State spending cap.** Enact a statutory and constitutional spending cap that limits growth to the rate of inflation. Only in the event of extraordinary circumstances, may the Governor, with the agreement of a two-thirds supermajority of both houses of the Legislature, authorize spending in excess of the cap.
- **Impose a property tax cap.** Propose a cap on property taxes for all school districts and local governments, set at the lower of the inflation rate or two percent, whichever is lower, with a 60 percent majority vote override.

Address the Root Causes of High Spending

- **Restructure State Operations.** Much as the private sector has done—and as Andrew

Cuomo did as Secretary of HUD—we must restructure how we approach providing government services. This restructuring effort must also put into place a strong system of performance management, so that we can measure and improve the quality and efficiency of providing services. We must take advantage of developments in technology to increase productivity and take full advantage of innovations such as open source software that can reduce costs. And we must review work rules and procurement requirements that increase the cost of providing services without providing sufficient offsetting benefits.

- **Control costs by making Medicaid more efficient.** Fundamentally restructure Medicaid by controlling over-utilization of Medicaid services; shifting authority for setting reimbursement rates from the current politicized system, where the Legislature micromanages rate changes, to a non-political administrative system managed by the Department of Health; controlling costs through programs that identify those individuals whose complex needs utilize many expensive resources and more carefully manage and coordinate their services; work with the federal government to develop a unified program that improves the care of those eligible for both Medicare and Medicaid and shares the savings realized from providing appropriate and coordinated care; and take

advantage of the enormous buying power of New York State to reduce costs of pharmaceuticals by aggregating purchases of the State, local governments and school districts and even eligible private businesses and labor unions into a massive pharmacy benefit management agency that would reduce costs and share savings.

- **Make providing a high quality education more affordable.** As part of reining in the growth of spending on education, the State must ensure that school aid is targeted and fair. Districts with the greatest educational need and the least ability to locally fund education must not bear the full brunt of any school aid cuts. Building aid and other forms of “reimbursable” aid must be scrutinized so that they do not distort a school district’s incentives to control costs. The State can cushion the impact of slowing the rate of growth in school aid by eliminating mandates that dramatically increase the cost of providing a quality education and by encouraging smaller school districts to achieve efficiencies through shared services and consolidation.
- **Use budget surpluses for direct tax relief.** Budget surpluses produced by controlling spending will be used for property tax relief under a “circuitbreaker” plan.

- **Bolster the State's "Rainy Day" fund.** Build reserves that can be used to cushion the impact of any future fiscal crises.
- **Help localities control their health insurance costs.** The State must do a much better job of managing the New York State Health Insurance Program ("NYSHIP"), which provides health insurance coverage to State and local government employees, retirees and their dependents; In addition, we can reduce local health care costs by easing barriers to the creation of municipal cooperative health benefits plans and allow small municipalities to join multiple employer trusts that have lower costs by being experience rated. These measures, together with increased employee contributions to health insurance plans, could significantly reduce the burden of healthcare costs to localities.
- **Reduce pension costs by creating a new Tier VI pension system.** The recent pension reforms creating a new Tier V for new employees was a step in the right direction, but did not go far enough. A new Tier VI is needed that will re-evaluate what benefits the State provides and to whom, including increasing employee contributions. A new Tier VI will also control pension "spiking", "padding" and overtime issues that drive up pension costs.

- **Review existing mandates.** We will immediately move to eliminate unnecessary mandates and propose a “sunset” bill requiring all unnecessary unfunded mandates be re-evaluated within a two-year period of time and automatically eliminated unless the mandate is affirmatively renewed.
- **No new unwarranted mandates.** Will veto legislative or regulatory mandates, unless they provide a complete accounting of the fiscal impact on school districts or local governments that includes full documentation, local government input and proposed revenue sources to fund the new mandates. Any new unfunded mandates should contain a “sunset” provision to ensure that the mandate does not continue to apply after its usefulness has passed.
- **Budget reforms.** As Governor, Andrew Cuomo would endorse a number of the proposals to improve the budgeting process, including ensuring that budgets are balanced on a State Operating Funds basis (rather than just balancing the more easily manipulated General Fund), changing the State’s fiscal year to start July 1 and transitioning to GAAP accounting from the current cash basis of accounting. However, Andrew Cuomo would not support borrowing to fund operating expenses; would oppose watering down legal tools a Governor has to control spending by

the Legislature—which will make fiscal responsibility even harder than it is today; and would not abdicate that responsibility to an unelected body not answerable to the public.

CHAPTER 3: Rightsizing Government

Rightsizing State Government—Reorganization and Reduction of the 1,000 State Agencies, Authorities and Commissions

- **Spending and Government Efficiency Commission.** Establish a Spending and Government Efficiency Commission (“SAGE”) to conduct a comprehensive review of every aspect of State Government. SAGE will be led by business leaders with experience in restructuring complex organizations and its charge will be simple: reduce the number of agencies, authorities and commission by 20 percent, in order to save taxpayers’ money, increase accountability, and improve the delivery of government services.
- **State Government Reorganization Act.** Push for passage of a law empowering the Governor to eliminate, transfer and consolidate State agencies without further legislative approval. Numerous Governors around the nation have this power, and New York’s Governor must have this authority to ensure that special

interests cannot block the governmental rightsizing we need.

- **Address the State’s human capital crisis and restore the reputation of public service.** The State should create a scholarship program for undergraduate and graduate students in mission-critical fields of study that agree to make a State service commitment as a way to restore the reputation of public service.

Rightsizing Local Government—Reorganization and Reduction of the Over 10,000 Local Governments

Create Incentives to Expand on the Government Reorganization and Citizens Empowerment Act

As Attorney General, Andrew Cuomo authored the Government Reorganization and Citizens Empowerment Act which empowers citizens to put on the ballot whether or not to consolidate or dissolve local government, in order to restructure our antiquated system of local government, reduce the tax burden and find greater efficiencies. We need to build on this important law by providing incentives to citizens to use the law including:

- **Citizen re-org empowerment grants.** Automatically award grants of up to \$100,000, to communities which successfully petition to reorganize, merge or dissolve their local government under the Government

Reorganization and Citizens Empowerment Act.

- **Citizen empowerment tax relief.** When municipalities merge or dissolve, they are eligible for additional state aid. Under the new “Empowerment Tax Relief,” 50 percent of the additional aid would be given directly to the taxpayers in the affected communities for immediate tax relief.
- **Local reorganization knowledge network.** Create a network of academic institutions, financial sector and legal community to provide the tools to support citizens and local governments to put plans in place to maximize efficiencies and tax saving through consolidation and dissolution.

Eliminate Remaining Legal Barriers to Mergers and Shared Services

- **Eliminate legal barriers to municipal services.** Eliminate provisions in law, such as the legal prohibition that towns cannot provide services, that result in increased costs and unnecessary duplication
- **Standardize local elections.** Currently, local elections are held at different times, resulting in low voter turnout. Therefore, we must standardize local elections to encourage participation in the democratic process.

CHAPTER 4: New York Works

Make New York the Jobs Capital of the Country by Replacing Ineffective Tax Credit Programs with Targeted Programs

- **Create a new “Jobs Now” tax credit to help get unemployed workers back on the job.** Enact an emergency two year “Jobs Now” tax credit designed to put more than 165,000 unemployed New Yorkers back to work by offering up to \$300 million annually in tax credits to encourage employers to hire these unemployed New Yorkers. Any business that increases its employment by hiring a New York resident who has been unemployed for at least sixty days and keeps that person employed in the job for at least one year will receive a refundable credit equal to the employer portion of payroll tax of that worker up to a maximum credit of \$3,000 per worker.
- **Expand “work sharing” programs to reduce lay-offs.** We should promote the use of the New York Department of Labor’s “Work Sharing” program to reduce layoffs and enable companies to keep their skilled workforce intact. Under “work sharing” programs, participating companies reduce the hours and pay of some of their workers, but keep them employed—with benefits. The State Unemployment Insurance Fund then allows

workers to receive some of the money that would otherwise be paid out in unemployment insurance benefits to compensate them for a portion of their lost earnings. We should expand and actively promote this program, which is a “win-win” that enables companies to keep their skilled workforce intact for when the economy recovers and keeps New Yorkers in good jobs with benefits, instead of joining the ranks of the unemployed.

- **Create “Move to NY” jobs incentives.** The Empire Zone program should be replaced with an aggressive program that allows State officials to act in a targeted way to incentivize businesses to move into New York for the first time, or expand their operations here by adding jobs. Under the Strategic Jobs Incentive program, selected businesses that are identified as being strategically important for New York’s future growth will be granted tax credits for creating new jobs.
 - These businesses will be eligible for a rebate of up to 80 percent of the amount of New York State personal income tax withheld on the qualifying additional jobs they create in the state for up to 10 years.
 - In order to qualify, a business must sign an agreement with the State of New York in which the business commits to creating a specific number of jobs in the state, and demonstrates that the tax

credit incentive was a material factor in making its decision to relocate to or expand in New York.

- The net new jobs must last at least 10 years or the tax benefit will be clawed back by the State on a pro rata basis for each job that is promised but not created or maintained.
- **Reform the existing system for legislatively directed capital funding.** Since 1997, nearly \$3 billion has been authorized by the Legislature to support various discretionary programs, which are governed by “Memorandums of Understanding” with funding split three ways among the Executive branch, the State Senate and the Assembly. Under this system, the State Assembly and the State Senate were each allocated \$873 million dollars to be dispensed at the direction of the leadership of each house. This system — in which legislative leaders control 60 percent of discretionary economic development capital — lacks transparency and accountability. More important, it has proven to be inefficient in creating good, high-paying jobs for New Yorkers and needs to be reformed.

Restructure New York’s Economic Development Strategy around a Regional Industry Cluster Approach

- **Consolidate development for economic development programs in a single office directly reporting to the governor.** As part of this new coordinated strategy, we will consolidate the efforts of the State’s fragmented economic development entities. All economic development programs will be coordinated by one office that reports to, and is accountable directly to, the Governor.
- **Create regional economic councils to coordinate the cluster approach** We will reform the State’s local governmental efforts to spur economic growth. We must transform IDAs from agencies that too often use public funds to foster intra-state competition for jobs, into important contributors to a cluster-based economic strategy. To do so, temporary regional councils will be established to analyze the most significant business clusters in their area. The councils will be required to include representatives from local governments and IDAs, businesses, labor, and other local organizations of significance to the future of each region as well as State economic development officials. Each council will have six months to assess the competitive needs and opportunities of each cluster, and to develop a

strategic regional cluster plan for the State to implement.

Reduce New York's High Business Costs

- **Maintain fiscal responsibility.** Businesses will not create jobs in New York if they do not believe that State government will reign in spending and hold the line on taxes. That is why the measures outlined earlier in the “Plan to Get Our Fiscal House in Order” to control State spending, veto State tax increases and cap local property taxes will be a critical part of our economic development strategy.
- **Reform regulations that drive up business costs.** In addition to lowering the tax burden that businesses face, we must address the other high costs of doing business in New York. These measures include following through on Worker’s Compensation reform to ensure that the more than \$1 billion in annual savings in worker’s comp premiums that New York businesses realized from reform are maintained. We must make health insurance more affordable, especially for small businesses, by taking such steps as restoring prior approval of health insurance premiums, capping broker commissions to reduce administrative expenses and establishing a commission to review insurance mandates.

Expand Access to Capital and Reducing Regulatory Barriers for Small and Medium Sized Businesses

- **Expand the Linked Deposit program and create a New York version of “CalCAP”.** A Cuomo Administration will expand an innovative but underutilized program known as the Linked Deposit Program by which New York State assists small businesses with low-rate loans to modernize facilities and operations, access new markets, develop new products and improve overall competitiveness. Under the Linked Deposit Program, these loans are made possible by corresponding “linked” deposits made by New York State. Additionally, we will create a New York version of California’s successful “CalCAP” program, which encourages banks and other financial institutions to make loans to small businesses.
- **Reduce regulatory barriers through the NYS Business Express.** To reduce regulatory burdens, we will create a version of the New York City’s Business Express project—an online one-stop shop for required permits and documentation for all state agencies. The site will easily guide and help a person start a business in New York State; apply online for new licenses, permits, and certificates; obtain a customized list of typical State requirements for his/her business; and use an ‘Incentives

Estimator' to obtain a customized list of incentives for which the business might be eligible.

Make Critical Transportation Infrastructure Investments for the 21st Century

- **Develop a state infrastructure bank to stretch our infrastructure dollars.** Create a State Infrastructure Bank to better coordinate spending and take advantage of federal programs that enable states to complement traditional transportation grant programs and provide states with flexibility to offer many types of financial assistance. The State Infrastructure Bank will operate similarly to a private bank, offering a range of loans and credit options to help finance eligible projects and enabling the State to undertake projects that would otherwise go unfunded or experience substantial delays.
- **Make high speed rail a key component of our infrastructure plans.** Our rail system can be upgraded at reasonable cost to enable a reliable service that averages 100 miles per hour between New York City and Albany and then Albany to Buffalo and points in between.
- **Lead effort to improve our air traffic infrastructure.** Address flight delays due to traffic congestion that includes next generation air traffic control systems (as is being

considered by the federal government), improvement of ground traffic management and expanding the use of Stewart International Airport in the Hudson Valley.

Leverage New York's Higher Education Institutions to Create Jobs

- **Commercialize university research.** New York universities rank second nationally in total research spending, yet New York still lags other states in finding ways to commercialize that research. A wide range of policies that involve more a change of focus and priorities than money can be adopted to improve the State's technology transfer programs and similar efforts that will lead to commercializing the research being done in New York's colleges and universities.
- **Encourage students into research and development careers.** The use of work-study internships or "co-op education" connects students to businesses in a way that helps lead to full-time employment following graduation. One way to encourage these internships is to amend the existing R&D Qualified Emerging Technology Company training tax credits to facilitate allowing small companies to recover up to \$4,000 for employing interns during each of the companies' first few years.

Skilled Workforce Training Partnerships

- The State's numerous workforce training initiatives should be focused on building the skills of employees for the jobs where employers need workers, especially in the targeted industry clusters of each region of the State. To help ensure that training focuses on skills and knowledge transferable directly to the workplace, we will align responsibility for workforce training with agencies that have the best understanding of business and labor needs, as New York City did by moving its workforce training to its Department of Small Business Services.

Clean Energy, Clean Jobs

- **Accelerate efforts to achieve energy efficiency and expanded sources of renewable energy.** To make more rapid progress towards these goals, the New York State Power Authority and the Long Island Power Authority must be made full partners in advancing energy related projects that will create jobs and grow the economy. Their efforts should include both major wind-power projects and making possible smaller "distributed generation" renewable energy projects by allowing net metering.
- **Support a solar energy cluster.** We should also take advantage of a budding solar energy

industry in the State—from small companies like Solartech Renewables to solar energy research backed by some of the State’s most prominent research universities.

- **Maximize Green Jobs.** One positive development we cannot allow to languish is the Green Jobs/Green New York Act that was signed into law in October 2009. The Cuomo Administration will strongly support this program, which will create immediate jobs in weatherizing homes and commercial buildings, while allowing families and businesses to save money on their energy bills.

Support New York State’s Farmers

- The farm economy generates over \$4.5 billion, annually. We must support our State’s agricultural industries to maintain and strengthen their position in our economy by expanding opportunities for local farmers to market and sell their produce directly to residents of New York City and other cities around the State; encouraging the use of emerging technologies such as alternative energy sources—ranging from wind to biomass; and increasing affordable access to broadband which will help connect farmers and other rural residents to the world economy. We must also fight for farmers at the federal level. As Governor, Andrew Cuomo will work to strengthen the Milk Income Loss

Contract (“MILC”) program, that is such an important safety net for New York dairy farmers, and push for further tighten restrictions on milk protein concentrate that food companies import into the United States for use in dairy products and which unfairly compete with New York dairy farmers.

CHAPTER 5: New York Leads

Protect the Neediest New Yorkers

- In difficult economic times we must protect key social programs including funding for housing, healthcare, children’s programs and combating hunger. There are fiscally prudent ways to balance a growing budget deficit without gutting the programs for the neediest and most vulnerable New Yorkers. We must ensure that critical programs receive adequate funding to protect vulnerable children and families.

Protect Consumers by Regulating Wall Street

- As part of this effort and to increase governmental efficiency, as Governor, Andrew Cuomo will consolidate the regulatory functions of the Banking Department and the Insurance Department into a single regulatory agency capable of regulating modern financial services organizations. A primary mission of this new agency will be to stand up for consumers, protect them against predatory

lending, and provide access to good, honest and capable financial services at competitive rates.

Keep People in their Homes

- Continue to work to end housing discrimination, support programs that make housing more affordable and fight tenant harassment. We must actively work to increase the supply of affordable housing units and promote home ownership where possible. A home is often a family's most important asset both financially and in terms of social stability.

Enact Marriage Equality

- Marriage equality is an issue of principle: the State shouldn't discriminate against same sex couples who want to get married. Domestic partnerships and civil unions are not good enough.

Protect Reproductive Rights

- Enact the Reproductive Rights Act — protecting the fundamental right of reproductive freedom and a woman's right to make private health care decisions.

Support Minority and Women-Owned Businesses

- Expand the opportunities for MWBEs to have a fair share of the State's business by providing greater contracting opportunities.

Fight Hate Crimes

- Direct DCJS to improve relationships between communities and law enforcement, train law enforcement to identify hate crimes as such, improve the system for tracking and reporting these crimes, and educate the public about the law.

A Cleaner and Greener New York

- Use the Environmental Protection Fund for its intended purpose; make sure that natural gas drilling does not occur in a way that threatens the environment; focus on environmental justice by identifying disproportionately adverse human health effects on racial and ethnic minority and low-income populations that result from various policies and develop strategies to eliminate such practices; and find alternative sources of energy to replace the Indian Point nuclear power plant.

Protect New York's Immigrant Communities

- Continue to fight immigration fraud, by prosecuting individuals and companies who target vulnerable immigrants by providing

unauthorized and fraudulent immigration services and continue make sure that immigrants do not face discrimination and receive fair wages and a safe workplace.

Keep Our Communities Safe from Gun Violence

- Enact microstamping of guns—a pro-law enforcement, low cost method of expanding the ability of police to identify guns used in illegal activities. Microstamping would require all new semiautomatic handguns to be equipped with microscopic identifying markings, which are transferred to each cartridge case when the firearm is fired.

Combat Domestic Violence

- Protect those citizens who cannot protect themselves by strengthening the penalties for repeat domestic violence offenders; improve enforcement of orders of protection; and guarantee that victims have a safe place to go by putting an end to housing discrimination against victims of domestic violence.

Win the Race to the Top in Education

- New York must be a leader when it comes to education reform. This starts with the increasing the charter school cap from 200 to 460. But increasing the cap won't result in more charter schools if we too tightly restrict where they can be located or how they can be

approved therefore Andrew Cuomo will oppose arbitrarily limiting the number of charter schools that can operate in a school district and supports SUNY's role in approving and monitoring charter schools.

- As a strong supporter of charter schools, Andrew Cuomo understands how important it is to retain high standards and strong accountability. Charter schools that fail to perform at the levels promised at the time the charter school application was granted should be closed. Andrew Cuomo also supports provisions that will require charter schools to increase their enrollment of special education and ELL students—so that they are comparable to levels of neighboring schools.
- Finally, in order to win the race to the top in education means being committed to the four education reform principles that underlay the federal Race to the Top process: (1) a commitment to rigorous standards and assessments; (2) recruiting, preparing and supporting great teachers and school principals; (3) building instructional data systems that measure student success and inform teachers and principals how they can improve their teaching practices; and (4) turning around struggling schools.

NOTES

CHAPTER 1: Clean Up Albany: Restoring Trust and Accountability

¹See Reform NY: The Brennan Center Blog on New York *available at* <http://reformny.blogspot.com/2009/12/3-men-in-cell.html>.

²Thirty-nine states provide external oversight of their State government officials through an independent ethics commission that has statutory authority and staffing that are independent of the rest of State government. Ethics commissions in only six states, including New York, do not have jurisdiction over state legislators. Such unified authority residing in a truly independent body not only ensures that the laws are interpreted in the same manner regardless of which type of public official is being considered, but also that the regulating officials do not look the other way to protect their colleagues at the expense of the public's interests.

³Connecticut has a complete ban on contributions during the contract period. The restriction has been challenged (*see Green Party of Connecticut v. Garfield*) and the case is currently pending in the Second Circuit Court of Appeals.

⁴See <http://www.cleanupwashington.org/documents/pay>

[toplay2009.pdf](#). At the time of Public Citizen's report, New Jersey's law was a proposal. Information regarding NJ's restrictions, which appear substantially similar to Public Citizen's account are *available at*

<http://www.nj.gov/treasury/purchase/Chapter51RecentQ&A.shtml>;

<http://www.nj.gov/treasury/purchase/execorder134.shtml>.

⁵This is similar to the proposal made by advocates in a proposed "Ethics in Government Act of 2006" that was not adopted. *See*

http://www.brennancenter.org/page/-/download_file_8611.pdf.

⁶ New York City was one of the first to enact a public financing system in the 1980s. *See* the New York City Campaign Finance Board website *available at* <http://www.nyccfb.info/act-program/program-act.aspx?sm=candidates> 40. In addition, some form of public financing has been instituted in several other states and localities including Arizona, Connecticut, Maine, Massachusetts, New Jersey, New Mexico, North Carolina, Vermont, Albuquerque and Portland. *See* Citizen Action of New York's, *New Yorkers Pay When Big Money Plays: The Case for Public Financing of Elections* (May 26, 2009) at 20 *available at*

<http://citizenactionny.org/2009/05/new-yorkers-pay-when-big-money-plays-the-case-for-public-financing-of-elections/739>.

⁷A 2006 study by Common Cause showed that over \$53.2 million was contributed to housekeeping accounts in the eight-year period ending in 2006. See Common Cause, *The Life of the Party: Hard Facts on Soft Money in New York State* (August 2006) available at

http://www.commoncause.org/atf/cf/%7BFB3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/SOFT_MONEY_REPORT.PDF.

⁸Twenty-nine states impose certain restrictions on campaign fundraising during the legislative session. See the National Conference of State Legislatures' website available at <http://www.ncsl.org/default.aspx?tabid=16544>.

⁹ See Suzanne Novak and Seema Shah, *Paper Thin: The Flimsy Façade of Campaign Finance Laws in New York State*, Breenan Center for Justice at the NYU School of Law, available at http://brennan.3cdn.net/20b4bbcf6a61b5bc_kfm6b5l2q.pdf.

¹⁰See Jill Terreri, "N.Y. Senate promises change, but will upstate be left in the dust?", *Rochester Democrat and Chronicle* (July 12, 2009). <http://www.rochesterbusinessalliance.com/core/contentmanager/uploads/PDFs/News%20articles/0712%20Senate%20DANDC.pdf>. Since 1970, a total of 4,013 legislative seats have been up for re-election. In that time, only 40 incumbents have lost their seats in an election.

¹¹ Joseph P. Kalt and Mark A. Zupan, "The Apparent Ideological Behavior of Legislators: Testing for Principal Agent Slack in Political Institutions," *Journal of Law and Economics* 33 (1990): 118-20, 126; see also Steven D. Levitt, "How Do Senators Vote?," *American Economics Review* 86 (1996): 436 (first-term senators are more than twice as responsive to voter preferences than later-term senators).

¹²See the New York State Legislative Task Force on Demographic Research and Reapportionment *available at* <http://www.latfor.state.ny.us/>.

¹³ See N.Y. A.B. 5279-A /S.B. 1614 of 2009-10. The bill has over 30 co-sponsors in the Assembly and over 10 co-sponsors in the Senate.

¹⁴See Assemblymember Sandy Galef's "Assemblywoman Sandy Galef Offers Proposals to Reform the "Member Item" Distribution System" (May 8, 2008) *available at* <http://assembly.state.ny.us/mem/?ad=090&sh=story&story=27302>.

¹⁵ For example, Assemblyman Brian McLaughlin was prosecuted for illegally taking money from a Little League organization funded by his own member item funds to pay his personal expenses. See NYPolitics (May 16, 2009) *available at* <http://www.nypolitics.com/2009/05/16/brian-mclaughlin-sentencing-stirs-up-political-storm/>.

¹⁶Allegations of corruption in the State Pension fund are not a new phenomenon. *See generally, Governor's Task Force on Pension Fund Investment, Our Money's Worth* (June 1989). For years, academics, commissions, government officials, good government groups and informed citizens have recognized the need to reform the pension fund's governance structures in order to protect its members and beneficiaries.

¹⁷N.Y. Retire. & Soc. Sec. Law §§ 13(b), 422(1).

¹⁸Reformers have long argued in favor of creating a board of trustees to manage CRF. *See M. Moss, The Next Scandal, N.Y. Times*, Nov. 12, 2006. Over the years, there have been various legislative proposals calling for the creation of a board of trustees to manage the pension fund. For example, in 1993, the State Assembly enacted legislation that would have created a multi-member board of trustees to manage CRF. *See N.Y. Assembly Journal*, 216th Sess., vol. 1, pp. 859 (1993) (stating that on May 17, 1993 the Assembly, by a vote of 86 to 57, passed A. 2454-B, "An act to amend the retirement and social security law, in relation to the creation of a board of trustees for the common retirement fund"). Although the State Senate did not pass the bill, the Senate Majority Leader countered the Assembly proposal with his own version of a board of trustees. *See Ralph J. Marino, Letter to the Editor, Viewpoints: Protecting Retirement Funds, Newsday*, June 15, 1993, at 85 (proposing multi-member board of trustees which would include the Comptroller and members

appointed by the Governor and leaders of the Senate and Assembly).

¹⁹ Such states include Alabama, California, Colorado, Georgia, Hawaii, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, North Dakota, Ohio, Rhode Island and Texas.

²⁰ *Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (stating that the rights of individuals to associate for the advancement of political beliefs and the right of qualified voters to cast their votes effectively “rank among our most precious freedoms”).

²¹ Letter to Secretary to the Governor from Committee on Election Law of the Association of the Bar of the City of New York, dated July 1, 2008, at 2, *available at* [http://www.nycbar.org/pdf/report/Governor re Suc cession.pdf](http://www.nycbar.org/pdf/report/Governor_re_Suc%20cession.pdf) .

CHAPTER 2: Get Our Fiscal House in Order

²² Peter J. Galie, *The Constitutional Commission in New York: A Worthy Tradition*, 64 Alb. L. Rev. 1285 (2001).

²³ NYS Office of the State Comptroller, *Financial Condition Report 2009*, at 2 *available at* [http://www.osc.state.ny.us/finance/finreports/fcr09 .pdf](http://www.osc.state.ny.us/finance/finreports/fcr09.pdf).

²⁴ California 10.55

Hawaii 10

Iowa 8.98

New Jersey 10.75

Oregon 11

Rhode Island 9.9

Source:

http://www.taxadmin.org/fta/rate/ind_inc.pdf.

²⁵Fiscal Policy Institute, “New York Taxes Fall Hardest on Middle Class” (November 18, 2008)

available at

<http://www.fiscalspolicy.org/WhoPays2009NewYork.pdf>.

²⁶ Tax Foundation, Property Taxes on Owner-Occupied Housing by County, Ranked by Taxes as Percentage of Home Value 2006-2008 (3-Year Average), *available at*

http://taxfoundation.org/files/propertytax_county_bypercentagehv_average2006-08-20091027.pdf. This

link shows data for 1,822 counties nationally (with populations of at least 20,000), listing the top 16 counties as Orleans, Niagara, Alleghany, Monroe, Wayne, Montgomery, Genesee, Cortland, Chautauqua, Seneca, Onondaga, Erie, Livingston, Oswego, Wyoming and Cayuga (in that order), New York counties also represent 26 of the top 30 counties. Tax Foundation, Property Tax on Owner-Occupied Housing, by County, Ranked by Property Taxes Paid, 2006-2008 (3-Year Average), *available at*

http://taxfoundation.org/files/propertytax_county_bytaxespaid_average2006-08-20091027.pdf.

²⁷ See Francesca Levy, “Where Americans Pay Most in Property Taxes” *Forbes* (January 15, 2010) available at <http://www.forbes.com/2010/01/15/property-taxes-high-lifestyle-real-estate-counties-assessment-taxes.html>.

²⁸ NYS Office of the State Comptroller, *Financial Condition Report 2009* at 23 available at <http://www.osc.state.ny.us/finance/finreports/fcr09.pdf>.

²⁹ See NYS Division of Budget, *2010-2011 Executive Budget Briefing* at 9 available at <http://publications.budget.state.ny.us/eBudget1011/2010-11ExecutiveBudgetPresentation.pdf>.

³⁰ NYS Division of Budget, *2010-2011 Executive Budget Briefing* at 11 available at <http://publications.budget.state.ny.us/eBudget1011/2010-11ExecutiveBudgetPresentation.pdf>.

³¹ E.J. McMahon and Josh Barro, *Blueprint for a Better Budget: A Plan of Action for New York State*, Empire Center for New York State Policy (January 2010) at 8.

³² United States Census Bureau, *Public Education Finances* (July 2009) available at <http://www2.census.gov/govs/school/07f33pub.pdf>. For state-by-state high school graduation rates see the National Center for Education Statistics,

“Averaged freshman graduation rate for public high school students and number of graduates, by state: School years 2000–01 through 2005–06” *available at* <http://nces.ed.gov/programs/coe/2009/section3/table-scr-1.asp>.

³³ NYS Division of Budget, *2010-2011 Executive Budget Briefing* at 23, *available at* <http://publications.budget.state.ny.us/eBudget1011/2010-11ExecutiveBudgetPresentation.pdf>.

³⁴ National Center for Education Statistics, “Student Effort and Educational Programs” *available at* <http://nces.ed.gov/programs/coe/2009/section3/table-scr-1.asp>.

³⁵ See NCHEMS Information Center, “Graduation Rates 2007” *available at* <http://www.higheredinfo.org/dbrowser/?level=nation&mode=graph&state=0&submeasure=27>.

³⁶ For example, the Wicks Law, which requires multiple construction contracts instead of a more efficient general contractor structure, costs school districts alone an estimated \$200 million in capital costs annually. NYS Division of Budget, *2010-2011 Executive Budget Briefing* at 31, *available at* <http://publications.budget.state.ny.us/eBudget1011/2010-11ExecutiveBudgetPresentation.pdf>.

³⁷ See, *The Dedicated Highway and Bridge Trust Fund: Where Did the Money Go?*, Office of the State

Comptroller, (October 2009) *available at* <http://www.osc.state.ny.us/reports/trans/dhbt102809.pdf>.

³⁸ See NYS Division of Budget 21 Day Amendments *available at* http://publications.budget.state.ny.us/eBudget1011/1011_21DayAmendments.html.

³⁹ The mechanism for measuring inflation may be the average rate of inflation over the previous three years or some other measure. Because providing property tax relief is technically as spending—and we want to encourage an increase in property tax relief—this cap will exclude any growth in property tax relief that is counted as spending.

⁴⁰ NYS Office of the State Comptroller, 2009 Annual Report on Local Governments, pages 49-66.

⁴¹ See Carol Kellermann, “Citizens Budget Commission recommendations for the fiscal year 2009-10 budget to State Legislators”, (February 2, 2009) *available at* [http://www.cbcny.org/Letter to the Legislature 02022009.pdf](http://www.cbcny.org/Letter%20to%20the%20Legislature%2022009.pdf).

⁴² See NYS Division of Budget, “2010-11 Executive Budget press release” *available at* http://www.budget.state.ny.us/pubs/press/2010/pressRelease10_eBudget01.html.

⁴³New York State Commission on Property Tax Relief, *Final Report*, (December 1, 2008) at 34 available at http://www.cptr.state.ny.us/reports/CPTRFinalReport_20081201.pdf.

⁴⁴This is based on the following calculation: Estimates of growth rates from 06-07 and 07-08 from the New York State Commission on Property Tax Relief's *Final Report* (see page 35); Total school spending is assumed to be about \$50 billion—exact figures needed. $3\% \times 0.7$ (for the percent of spending accounted for by personnel costs) produces savings of \$1.05 billion on a \$50 billion base.

⁴⁵See N.Y. A.B. 8702/S.B. 4239-a of 2009-2010.

⁴⁶The *Commission on Local Government Efficiency and Competitiveness* proposed requiring local government and school district employees to contribute, at a minimum, 10 percent (for individual coverage) and 25 percent (for dependent coverage) toward the cost of health insurance. See the New York State Commission on Local Government and Competitiveness, *Final Report: 21st Century Local Government*, (April 2008) at 53 available at http://www.nyslocalgov.org/pdf/LGEC_Final_Report.pdf?pagemode=bookmarks.

⁴⁷ Office of the NYS Comptroller, *Department of Civil Service: Management of the Health Insurance Fund Balance*, (Report 2009-S-48) at 8 available at

<http://www.osc.state.ny.us/audits/allaudits/093009/09s48>.

⁴⁸ See New York State Association of Counties “Budget Recommendations” *available at* <http://www.canys.org/pdf/2008/nysac.pdf>.

⁴⁹ See the New York State Commission on Local Government and Competitiveness, *Final Report: 21st Century Local Government*, (April 2008) at 54 *available at* http://www.nyslocalgov.org/pdf/LGEC_Final_Report.pdf?pagemode=bookmarks.

CHAPTER 3: Rightsizing Government

⁵⁰ Compare William J. Ronan, *Proposed Reorganization of the Executive Branch of New York State Government* (December 29, 1959), reprinted in *Public Papers of Governor Nelson A. Rockefeller: Fifty-Third Governor of the State of New York 1960* 1336 (1960), with New York State Division of Budget, *2010-2011 Executive Budget — Briefing Book*, *available at* <http://publications.budget.state.ny.us/eBudget1011/fy1011littlebook/StateWorkforce.html>.

⁵¹ AIDS Advisory Council (Public Health Law § 2778); AIDS Research Council (Public Health Law § 2777); Breast and Cervical Cancer Detection and Education Program Advisory Council (Public Health Law § 2407); State Camp Safety Advisory Council

(Public Health Law § 1390); Advisory Council on Children's Environmental Health and Safety (Laws of 2006, Ch. 178, § 2); Coordinating Council for Services Related to Alzheimer's Disease and Other Dementias (Public Health Law § 2004-a); Early Intervention Coordinating Council (Public Health Law § 2553); New York State Emergency Medical Services Council (Public Health Law § 3002); State Health Research Council (Public Health Law § 800); State Council on Home Care Services (Public Health Law § 3604); State Hospital Review and Planning Council (Public Health Law § 2904); Council on Human Blood Transfusion Services (Public Health Law § 3121); Advisory Council on Immunization (Laws of 1994, Ch. 521, § 10); New York State Advisory Council on Lead Poisoning Prevention (Public Health Law § 1370-b); Maternal and Child Health Services Block Grant Advisory Council (Laws of 1982, Ch. 884); Minority Health Council (Public Health Law § 243); Osteoporosis Advisory Council (Public Health Law § 2707); Ovarian Cancer Information Advisory Council (Public Health Law § 2409 (5)); New York State Palliative Care Education and Training Council (Public Health Law §§ 2807-n(6)-(7)); New York State Advisory Council on Physician Assistants and Specialist Assistants (Public Health Law § 3702); Prostate and Testicular Cancer Detection and Education Advisory Council (Public Health Law §§ 2415, 2416); Public Health Council (Public Health Law § 220); New York State Emergency Medical Services Council (Public Health Law § 3002); Regional Emergency Medical Councils (Public Health Law § 3003; there are 18 such councils); State Emergency

Medical Advisory Council (Public Health Law § 3002-a); Shared Health Facilities Advisory Council (Public Health Law § 4714); Tick-Borne Disease Research Council (Public Health Law § 2799); Transplant Council (Public Health Law § 4361); Traumatic Brain Injury Services Coordinating Council (Public Health Law § 2744). *See also* The Hepatitis C Advisory Council (http://www.health.state.ny.us/press/releases/2008/2008-03-05_hepatitis_c_advisory_council_draws_praise.htm).

⁵² Agricultural Health and Safety Advisory Board (Public Health Law § 3907); State Board for Professional Medical Conduct (Public Health Law § 230); Drug Utilization Review Board (Social Services Law § 369-bb); Empire State Stem Cell Board (Public Health Law § 265-a); Environmental Laboratories Advisory Board (Public Health Law § 502(7)); Funeral Directing Advisory Board (Public Health Law § 3402); Board of Examiners of Nursing Home Administrators (Public Health Law § 2895-a); Health Research Science Board (Public Health Law § 2410); Pesticide Control Board (Public Health Law § 1603); Radiologic Technologist Advisory Board (Public Health Law § 3503); Spinal Cord Injury Research Board (Public Health Law § 250); Tobacco Use Prevention and Control Advisory Board (Public Health Law § 1399-ii(3)(a)); Boards of Visitor for DOH's 2 Hospitals (Public Health Law §§ 420-425); Boards of Visitors for DOH's 3 Homes for Veterans (Public Health Law § 2631).

⁵³Acquired Immune Deficiency Syndrome Institute (Public Health Law § 2775); Birth Defects Institute (Public Health Law § 2731); Burns Care Institute (Public Health Law § 2751); Kidney Disease Institute (Public Health Law § 2711); Mary Lasker Heart and Hypertension Institute (Public Health Law § 2721); Tick Borne Disease Institute (Public Health Law § 2797).

⁵⁴ Empire State Stem Cell Funding Committee (Public Health Law § 265-b); Medical Records Access Review Committee (Public Health Law § 18(4); New York State Occupational Health Clinics Oversight Committee (Public Health Law § 2490); Recombinant DNA Advisory Committee (Public Health Law § 3222(4)); Tick-Borne Disease Advisory Committee (Public Health Law § 2799-a); Sharps Regulations Technical Advisory Committee (Public Health Law § 1399-uu).

⁵⁵Helen Hayes Hospital (Public Health Law §§ 2600-2602); Roswell Park Cancer Institute (Public Health Law § 2420); Veterans' Home at Batavia (Public Health Law § 2630); Veterans' Home at Oxford (Public Health Law § 2630); Home at St. Albans (Public Health Law § 2630). *See also* Public Health Law § 403(1) (listing hospitals in the Department of Health).

⁵⁶Task Force on Health Effects of Toll Plaza Air Quality in New York City (Public Health Law § 1200); New York State Toxic Mold Task Force (Public Health Law § 1384).

⁵⁷Office of the Medicaid Inspector General (Public Health Law § 30); Office of Minority Health (Public Health Law § 241).

⁵⁸Special Advisory Review Panel on Medicaid Managed Care (Social Services Law § 364-jj); State Advisory Panel on HIV/HBV Infected Health Care Workers (Public Health Law § 2760).

⁵⁹ Adult Daycare Workgroup (Laws of 1992, Ch. 41, § 2).

⁶⁰ Advisory Board of Visitors of the New York State School for the Deaf (Education Law § 4353); Advisory Board to the Legislative Institute (Education Law § 5904); Albert Shanker National Board for Professional Teaching Standards Certification Grant Program (Education Law § 3004-a); and 29 boards for the professions, including boards for Chiropractic Care, Massage Therapy, Psychology, Clinical Laboratory Technology, Acupuncture, Occupational Therapy, Speech-Language Pathology and Audiology, Certified Shorthand Reporting, Architecture, Landscape Architecture, Public Accountancy, Nursing, Respiratory Therapy, Pharmacy, Midwifery, Medicine, Dietetics and Nutrition, Veterinary Medicine, Athletic Training, Medical Physics, Ophthalmic Dispensing, Physical Therapy, Podiatry, Mental Health Therapy, Social Work, Dentistry, Optometry, Engineering & Land Surveying, and Interior Design. *See The New York Red Book: One Hundredth Edition* 652-53 (2009) (listing state boards for the professions).

⁶¹ The School for the Blind
(<http://www.vesid.nysed.gov/specialed/nyssb/>);
The School for the Death
(<http://www.vesid.nysed.gov/specialed/nyssd/>); *The
New York Red Book: One Hundredth Edition* 654
(2009) (listing 11 state-supported schools).

⁶² Advisory Council on Gifted Pupils (Education
Law § 4453); Regents Advisory Council on
Institutional Accreditation
([http://www.highered.nysed.gov/ocue/accred/hand
book/advisorycouncil.htm](http://www.highered.nysed.gov/ocue/accred/handbook/advisorycouncil.htm)); Regents Advisory
Council on Libraries
(<http://www.nysl.nysed.gov/libdev/adviscns/rac/>);
Proprietary School Advisory Council
(<http://www.highered.nysed.gov/bpss/advisory.htm>
); Advisory Council on Registered Business and
Licensed Trade Schools (Education Law § 5010);
Rehabilitation Council
([http://www.vesid.nysed.gov/src/council_compositi
on.htm](http://www.vesid.nysed.gov/src/council_composition.htm)).

⁶³ A Commissioner's Advisory Panel for Special
Education Services (Education Law § 4403(6)).

⁶⁴ Legislative Institute (Education Law § 5901,
et seq.).

⁶⁵ See www.nysl.nysed.gov.

⁶⁶ See www.nysm.nysed.gov.

⁶⁷ See <http://www.archives.nysed.gov>.

⁶⁸ N.Y. Const. Art. 5, § 2 (“There shall be not more than twenty civil departments in the State government, including those referred to in this constitution.”).

⁶⁹ See Joseph F. Zimmerman, *The Government and Politics of New York State* 167 (2d ed. 2008); Sarah F. Liebschutz, et al., *New York Politics and Government: Competition and Compassion* 109, 112-13 (1998).

⁷⁰ Civil Defense Commission (McK. Unconsol. Laws § 9120(1); Commission on Correction (Correction Law § 41); Disaster Preparedness Commission (Executive Law § 21); Empire State Plaza Art Commission (Arts and Cultural Affairs Law § 4.05); Martin Luther King, Jr. Commission (Executive Law § 329); Commission on Quality of Care for the Mentally Disabled (Mental Hygiene Law § 45.03); Regional Park and Recreation Commissions (there are 11; Parks, Recreation and Historic Preservation Law § 7.01; *The New York Red Book: One Hundredth Edition* 526-27 (2009) (listing the commissions)); New York State Commission on Sentencing Reform (<http://www.criminaljustice.state.ny.us/legalservices/sentencingreform.htm>).

Office for the Aging (Executive Law § 535); Office of Business Permits and Regulator Assistance (Executive Law § 877); Office of Children and Family Services (Executive Law § 501); Office of Community

Renewal

(<http://www.dhcr.state.ny.us/AboutUs/Offices/CommunityRenewal/>); Office of Cyber Security & Critical Infrastructure Coordination (<http://www.cscic.state.ny.us>); Office of Long Term Care Ombudsman (<http://www.ltcombudsman.ny.gov/whatis/indexwhatis.cfm>); Office for the Prevention of Domestic Violence (<http://www.opdv.state.ny.us/>); Governor's Office of Employee Relations (Executive Law § 652); Office of Homeland Security (Executive Law § 709(1)); Inspector General's Office (Executive Law § 52(1)); Governor's Office for Motion Picture and Television Development (<http://www.nylovesfilm.com/index.asp>); Office of Parks, Recreation and Historic Preservation (PRHPL § 3.03); Office of Real Property Services (RPTL § 201(1)); Governor's Office of Regulatory Reform (<http://www.gorr.state.ny.us>); State Office of Rural Affairs (Executive Law § 482(1)); State Emergency Management Office (Executive Law § 21(2)); Office of Urban Revitalization (Executive Law § 896); Office of Taxpayer Accountability (<http://www.taxpayer.ny.gov>); Office for Technology (Technology Law § 102(1)).

⁷² Division of Alcoholic Beverage Control (Executive Law §§ 31(7), 270 et seq.); Division of Budget (Executive Law §§ 31(1), 180 et seq.; State Finance Law § 20); State Civil Defense Commission (Executive Law § 31(12)); Division of Criminal Justice Services (Executive Law §§ 31(9), 836); Office of General Services (Executive Law §§ 31(3), 200);

Division of Housing and Community Renewal (Executive Law §§ 31(6), 260; Public Housing Law §§ 10, 226); Division of Human Rights (Executive Law §§ 31(8), 293(1)); Division of Military and Naval Affairs (Executive Law §§ 31(2), 190); Division of Parole (Executive Law §§ 31(5), 259(1)); Division of Probation and Correctional Alternatives (Executive Law § 240(1)); Division of State Police (Executive Law §§ 31(4), 210); Office for Technology (Executive Law §§ 31(13)); Division of Veterans' Affairs (Executive Law §§ 31(10)); Division for Youth (Executive Law § 501).

⁷³ Council on the Arts (Arts and Cultural Affairs Law § 3.03); Council of Environmental Advisers (Environmental Conservation Law § 7-0101); Council on Children and Families (Social Services Law § 483(1)); Coordination of Police Services to Elderly Persons (Executive Law § 844-b); Citizens Policy and Complaint Review Council (<http://www.scoc.state.ny.us/mrbcpccrc.htm>); Developmental Disabilities Planning Council (Executive Law § 450(1)); Early Childhood Advisory Council (<http://www.ccf.state.ny.us/Initiatives.htm#ecac>); New York State Heritage Areas System Advisory Council (Parks, Recreation and Historic Preservation Law § 33.01); Hudson River Valley Greenway Communities Council (ECL § 44-0105(1)); Medical Education Advisory Committee (Executive Law § 942(6)); State Council of Parks, Recreation and Historic Preservation (Parks, Recreation and Historic Preservation Law § 5.01); Council on Professional

Career Opportunity (Executive Law § 941(1)); Temporary Advisory Committee on Restoration and Display of New York State's Military Battle Flags (Executive Law § 191); Council on Shared State Services Operation (http://www.state.ny.us/governor/press/press_0615091.html).

⁷⁴ State Consumer Protection Board (Executive Law § 550); Correction Medical Review Board (<http://www.scoc.state.ny.us/mrbcpccrc.htm>); Crime Victims Compensation Board (Executive Law § 622(1)); New York State Board of Elections (Election Law § 3-100(1)); Board for Historic Preservation (<http://nysparks.state.ny.us/newsroom/meeting-notices/notice.aspx?n=50>); New York State Racing and Wagering Board (Pari-Mutual Wagering and Breeding Law § 101(1)); Board of Real Property Services (RPTL § 200); State Board of Social Welfare (Executive Law § 740).

⁷⁵ Governor's Children's Cabinet (<http://www.ccf.state.ny.us/Initiatives/CabHome.htm#back>).

⁷⁶ Adirondack Park Agency (Executive Law § 803).

⁷⁷ New York State Committee for the Coordination of Police Services to Elderly Persons (Executive Law § 844-b).

⁷⁸William J. Ronan, *Proposed Reorganization of the Executive Branch of New York State Government* (December 29, 1959), reprinted in *Public Papers of Governor Nelson A. Rockefeller: Fifty-Third Governor of the State of New York 1960* 1348 (1960).

⁷⁹ See N.Y. Const. Art. 7, § 11 (prohibiting the State from contracting a debt unless the debt shall be authorized for some single work or purpose by the people at a general election).

⁸⁰ Lynn Wilson and Clayton Eichelberger, *New York State Public Authority Reform: Where We Have Come From and Where We Need to Go*, 11 N.Y.S.B.A. Gov't, Law & Policy J. 15, 16 (2009).

⁸¹ See generally, Citizens Budget Commission, *Public Authorities in New York State* (April 2006)(describing problems caused by the State's extensive reliance on public authorities), available at http://www.cbcny.org/Authority_Reform_CBC.pdf.

⁸² See Scott Fein, *Introduction: Public Authority Reform*, 11 N.Y.S.B.A. Gov't, Law & Policy J. 5, 5 (2009).

⁸³ See L. 2009, c. 505 and 506.

⁸⁴ See generally, Citizens Budget Commission, *Public Authorities in New York State* (April 2006) (describing problems caused by the State's extensive

reliance on public authorities), *available at*
[http://www.cbcny.org/Authority Reform CBC.pdf](http://www.cbcny.org/Authority_Reform_CBC.pdf).

⁸⁵ See L. 1987, c. 839.

⁸⁶ See Economic Development Law §§ 100-101.

⁸⁷ See A. T. Kearney, *Delivering on the Promise of New York State: A Strategy for Growth & Revitalization* 12 (2007) (report prepared for Empire State Development), *available at*
[http://www.nycp.org/publications/2007_0717 ATKearney_report.pdf](http://www.nycp.org/publications/2007_0717_ATKearney_report.pdf).

⁸⁸ See N.Y.S. Commission on Local Government Efficiency and Competitiveness, *Report on Local Government Economic Development*, at 2-3, *available at*
[http://www.nyslocalgov.org/pdf/Local Economic Development.pdf](http://www.nyslocalgov.org/pdf/Local_Economic_Development.pdf); Number of Local Governments, *available at*
[http://www.nyslocalgov.org/pdf/Local Government Count.pdf](http://www.nyslocalgov.org/pdf/Local_Government_Count.pdf); and A. T. Kearney, *Delivering on the Promise of New York State: A Strategy for Growth & Revitalization* 12 (2007) (report prepared for Empire State Development), *available at*
[http://www.nycp.org/publications/2007_0717 ATKearney_report.pdf](http://www.nycp.org/publications/2007_0717_ATKearney_report.pdf).

⁸⁹ Transportation Law § 14(1).

⁹⁰ See Charles Brecher, *What Happened to Authority Reform?*, 11 N.Y.S.B.A. Gov't, Law & Policy J. 25, 25 (2009).

⁹¹ See <http://www.dhcr.state.ny.us/AboutUs/AgencyDescription.htm> (website of the Division of Housing and Community Renewal).

⁹² The Affordable Housing Corporation (<http://www.nyhomes.org/index.aspx?page=50>); Dormitory Authority (<http://www.dasny.org>); Housing Finance Agency (<http://www.nyhomes.org>); and Housing Trust Fund Corporation (http://www.dhcr.state.ny.us/aboutus/htfc/about_hfc.htm).

⁹³ Charles Brecher, *What Happened to Authority Reform?*, 11 N.Y.S.B.A. Gov't, Law & Policy J. 25, 25 (2009); Public Housing Law §§ 400- 575.

⁹⁴ See A. B. Laffer, S. Moore & J. Williams, *Rich States, Poor States: ALEC-Laffer State Economic Competitiveness Index* 123 (2d ed. 2009) (noting that from 1998-2007 New York experienced a cumulative domestic migration of 1,936,126).

⁹⁵ See Maine Office of Fiscal and Program Review, *A Sampling of Streamlining Activities in Other States* (July 22, 2009), available at http://www.maine.gov/legis/ofpr/appropriations_committee/materials/streamlining_initiative/Streamlining-OtherStates.pdf; National Governors Association,

Management Brief: State Government Performance & Efficiency Reviews (Jan. 2005), available at <http://www.nga.org/Files/pdf/05010MCTSTATEPERFORM.PDF>.

⁹⁶ See Paula Eliot, *Governor Alfred E. Smith: The Politician as Reformer* 33-76 (1983); Robert A. Caro, *The Power Broker: Robert Moses and the Fall of New York* 95-108 (Vintage Books Ed. 1975).

⁹⁷ See Reconstruction Commission, *Report of Reconstruction Commission to Governor Alfred E. Smith on Retrenchment and Reorganization in the State Government* (issued October 10, 1919).

⁹⁸ See N.Y. Const. Art. V, § 3 (“Subject to the limitations contained in this constitution, the legislature may from time to time assign by law new powers and functions to departments, officers, boards, commissions or executive offices of the governor, and increase, modify or diminish their powers and functions. Nothing in this article shall prevent the legislature from creating temporary commissions for special purposes or executive offices of the governor and from reducing the number of departments as provided for in this article, by consolidation or otherwise.”).

⁹⁹ See The Council of State Governments, *The Book of the States: 2009 Edition* 190-91 (2009).

¹⁰⁰ N.J.S.A. § 52:14C-4.

¹⁰¹ N.J.S.A. § 52:14C-7(a).

¹⁰² N.J.S.A. § 52:14C-7(9).

¹⁰³ N.J.S.A. § 52:14C-11.

¹⁰⁴ 14 Temporary State Commission on the Constitutional Convention, *State Government* 129 (March 31, 1967).

¹⁰⁵ *Id.*

¹⁰⁶ See New York State Civil Service Commission, *2009 New York State Workforce Management Report*, at 2-3, 17, available at <http://www.cs.state.ny.us/hr/docs/2009.pdf>.

¹⁰⁷ Bill Gates, *What's Right With Young People Today*, The Globe and Mail, March 20, 2009, available at <http://www.theglobeandmail.com/report-on-business/article668686.ece> .

¹⁰⁸ At the Federal level, a bi-partisan group of Senators and House members are seeking the establishment of just such a program, called the Roosevelt Scholars program, named after New York Governor and U.S. President Theodore Roosevelt. See E.J. Dionne, *We Need a Civilian ROTC*, Real Clear Politics, Nov. 16, 2009, available at http://www.realclearpolitics.com/articles/2009/11/16/we_need_a_civilian_rotc_99159.html.

¹⁰⁹See Department of State, *Local Government Handbook*, (2009, 6th Edition) available at <http://www.dos.state.ny.us/lgss/pdfs/Handbook.pdf>. In some instances, portions of our local governmental structure, like sheriffs, date back to English precedent that is over 1,000 years old. See *Local Government Handbook* at 2.

¹¹⁰For instance, Hamilton County has only 5,379 people, while the Village of Hempstead has a population over 56,000. There is no rhyme or reason to the current system.

¹¹¹There is no definitive study on how many local governments New York actually has. The Department of State, the Office of the State Comptroller and most recently, the New York State Commission on Local Government Efficiency and Competitiveness (known as the “Lundine Commission”) has arrived at different numbers. A survey by the New York State Attorney General’s Office found 10,521 total local governments. A breakdown of that number can be found at [http://www.ag.ny.gov/bureaus/legislative/government consolidation/govs.html](http://www.ag.ny.gov/bureaus/legislative/government%20consolidation/govs.html).

¹¹²See Gerald Benjamin, *The Evolution of New York State’s Local Government System Prepared for Local Government Restructuring Project Nelsen A. Rockefeller Institute of Government Albany, New York* (October 1990) at 3. Throughout the State there are large pockets of overlapping taxing entities. Erie County alone has 1,044 such entities, including 3

cities, 25 towns, 15 villages, 32 fire districts and 939 special districts. Likewise, Nassau and Suffolk Counties combined have over 340 special districts. In Hamilton County — a county with only approximately 5,300 people and smaller than many villages, there exists one layer of government for every 132 people.

¹¹³There have literally been hundreds of reports, commissions and studies that have argued for comprehensive reform of local government including, but not limited to the Commission for the Revision of Tax Laws (1935), Temporary State Commission on the Powers of Local Government (1973), Local Government Restructuring Project (1990-92), Commission on Consolidation of Local Government (1990-1993), Commission on Local Government Reform (2002 & 2004) and Commission on Local Government Efficiency and Competitiveness (2007-08).

¹¹⁴Sixth Report of the New York State Commission for the Revision of the Tax Laws, at 15-16 (1935).

¹¹⁵See the Office of the New York State Comptroller, *Town Special Districts in New York: Background, Trends and Issues*, (March 2007) available at <http://www.osc.state.ny.us/localgov/pubs/research/townspecialdistricts.pdf>.

¹¹⁶Office of the New York State Comptroller, *Outdated Municipal Structures*, available at

<http://www.osc.state.ny.us/localgov/pubs/research/munistructures.pdf>.

¹¹⁷As Governor Al Smith said in 1935 that still rings true today, “Yet today the taxpayers are still saddled with a vast, unjust, and useless burden of tax dollars that must be collected and spent for the support of all these small governmental units now so completely unnecessary with our modern means of getting around the country and communicating with each other.” Alfred E. Smith, *The Citizen and His Government*, Harper Brothers, New York (1935) at 230-1.

¹¹⁸“Local Taxes in New York: Easing the Burden” *Citizens Budget Commission Conference* held at the Rockefeller Institute, Albany (December 6, 2007).

¹¹⁹Chapter 74 of the NYS Laws of 2009.

¹²⁰Notably, the Empowerment Act does not mandate the reorganization of local governmental entities where a majority of the citizens are opposed to it. The law will, however, facilitate consolidations and dissolutions throughout the State, by giving citizens, local officials and counties a readable roadmap to follow.

¹²¹For instance merger processes were scattered throughout the law including Article 5-B of the Town Law (town consolidation), Article 19 of the Village Law (villages), Town Law §§ 170-82 (fire

districts), Town Law §§ 170&183 (fire protection districts), Article 13 of the Town Law (commissioner-run special districts and Article 12 of the Town Law (town special districts).

¹²²There were many legal barriers to mergers, including property requirements. For example, in order to sign a petition or vote in a special town election on a proposition to consolidate water districts, a person must have owned real property. *See* Town Law § 206(7).

¹²³The program was started in 2005 to provide technical assistance and competitive grants local government for the development of projects that will achieve savings and improve municipal efficiency through shared services, cooperative agreements, mergers, consolidations and dissolutions.

¹²⁴In last year's State Executive Budget there was approximately \$13.5 million available for such grants and this year's budget appropriated \$11 million — though the current administration recently reduced that number to \$5 million in its 21-day Budget Amendments. *See* the Division of the Budget's 21-day Amendment webpage *available at* http://publications.budget.state.ny.us/eBudget1011/1011_21DayAmendments.html.

¹²⁵*See* New York State Department of State, Local Government Efficiency Program Annual Report, 2008-09 *available at*

http://www.dos.state.ny.us/lgss/pdfs/lge_annrpt08.pdf.

¹²⁶The AIM program was created in the 2005-06 Executive Budget by combining several revenue sharing funds. For an overview see the Office of the New York State Comptroller's "The Local Government Connection Newsletter" (Spring 2005) *available at* <http://osc.state.ny.us/localgov/pubs/newsletter/505.pdf>.

¹²⁷Under the AIM program, municipalities that merge or dissolve are eligible for additional funding in three ways: an increase in AIM equal to 15 percent of the combined property tax levy of the consolidating municipalities, continuing annually and is capped at \$1 million annually; a 25 percent increase in the AIM of the consolidating municipalities, continuing annually and is capped at \$1 million annually; and \$250,000 the first year after the consolidation, phased down in equal parts over the following four years (\$200,000 in the second year, \$150,000 in the third year, etc.), capped at 25 percent of the combined property tax levy of the consolidating municipalities. *See* overview on the Lundine's Commission website *available at* <http://www.nyslocalgov.org/funding.asp>. Although AIM has been cut as a result of the fiscal crisis, it is an important tool to provide long-term tax savings by incentivizing mergers and dissolutions of local government.

¹²⁸There have been similar proposals, such as the Regional Efficiency Aid Program (“REAP”) in New Jersey. See Chapter 61 of the New Jersey Laws of 1999.

¹²⁹See the Office of the Attorney General’s “Reforming Government” webpage *available at* <http://www.ag.ny.gov/bureaus/legislative/government-consolidation/links.html>.

¹³⁰See the New York State Commission on Local Government and Competitiveness, *Final Report: 21st Century Local Government* (April 2008) at 32. This process of relying on special districts became the norm post-World War II suburbanization. The Comptroller’s office has been critical of legal barriers that create the situation where municipalities must rely on the creation of new governmental entities to provide services. In the case of towns, the Comptroller’s office states, “In towns, many basic municipal services such as sewer, water, sanitation and fire protection are provided through “special districts,” which may be either a subcomponent of the town, or a separately governed municipal entity. These structures were created to provide services that towns could not directly provide. However, in today’s environment, where these services are provided throughout many towns, the use of special districts as a governance or tax allocation method is increasingly questioned.” *Outdated Municipal Structures* at 15.

¹³¹See the New York State Commission on Local Government and Competitiveness, *Final Report: 21st Century Local Government* (April 2008) at 43.

¹³²*Id.*

¹³³*Id.*

¹³⁴*Id.* Fire district elections for fire commissioners are held on the second Tuesday of December. Villages are generally held on third Tuesday in March, but villages may adopt a proposition to hold the elections on a different date. Elections for school board members are held on the third Tuesday in May and are conducted concurrently with school budget votes.

CHAPTER 4: New York Works

¹³⁵ New York State Department of Labor Statistics *available at* <http://www.labor.state.ny.us/stats/pressreleases/pruistat.htm>.

¹³⁶ *Id.* http://www.labor.ny.gov/stats/nys/alternative_measures.shtm.

¹³⁷ *Id.* From 2000-2008 upstate average total jobs have declined 22.1 percent, with a decline of 31.7 percent in manufacturing jobs. New York lost 28.9 percent of its total manufacturing jobs from 2000-2008.

¹³⁸ New York State Department of Labor Statistics *available at* <http://www.labor.state.ny.us/stats/pressreleases/pruistat.htm>.

¹³⁹ Patrick McGeehan, “A Localized Breakdown of Joblessness in New York,” *New York Times* (December 29, 2009). The analysis was based on a study by the Fiscal Policy Institute.

¹⁴⁰ See A. B. Laffer, S. Moore & J. Williams, *Rich States, Poor States: ALEC-Laffer State Economic Competitiveness Index* 123 (2d ed. 2009) (noting that from 1998-2007 New York experienced a cumulative domestic migration of 1,936,126).

¹⁴¹ See Public Policy Institute of New York State, *Transcending the Hamster Cage, Unfettering New York’s Static Innovation Economy* *available at* <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf> at IV-3.

¹⁴² See New Jersey’s Job Creation & Retention Incentive Programs *available at* http://www.state.nj.us/njbusiness/financing/incentive/beip_brrag.shtml.

¹⁴³ E.J. McMahon and Josh Barro, “Blueprint for a Better Budget: A Plan of Action for New York State,” *Empire Center for New York State Policy* (January 2010) at 24. They found that excluding capital projects, the state’s General Fund spends over \$183

million annually for economic development grants for the Department of Agriculture and Markets, Department of Economic Development, the Empire State Development Corporation and the Science and Technology Foundation.

¹⁴⁴ See A. T. Kearney, *Delivering on the Promise of New York State: A Strategy for Growth & Revitalization* 12 (2007) (report prepared for Empire State Development), available at http://www.nycp.org/publications/2007_0717_ATKearney_report.pdf. Agencies and authorities that perform economic development functions include but are not limited to, the Office for Technology (“OFT”), New York State Energy Research and Development Authority (“NYSERDA”), New York State Foundation for Science, Technology and Innovation (“NYSTAR”), Department of Environmental Conservation (“DEC”), Power Authority of the State of New York (“PASNY”), Long Island Power Authority (“LIPA”) and the Department of Agriculture and Markets.

The State’s primary economic development unit is Empire State Development (“ESD”)— an umbrella structure created in 1995 merging several departments and authorities. The ESD structure is itself confusing hierarchy. The ESD consolidated the functions of the Department of Economic Development (“DED”), a government department, the Urban Development Corporation (“UDC”), a public authority, along with other State economic development entities such as the Job Development Authority (“JDA”) and the Science and Technology Foundation (“STF”). Some functions of JDA and STF

were folded into DED and a new authority, the Empire State Development Corporation (“ESDC”).

Within the ESDC, there are “subsidiaries” operating as independent entities, with a board, president and staff, and each is associated with a large-scale development project. Currently, ESDC lists ten such subsidiaries although a recent audit by the Office of the Comptroller discovered over 200 subsidiaries. The Office of the Comptroller, however, recently found 202 subsidiaries. Office of the State Comptroller, *Empire State Development Corporation Oversight of Subsidiary Corporations*, Audit 2005-S-6 (May 2006).

¹⁴⁵ Local Development Corporations (“LDCs”) “are authorized under state law as not-for-profit corporations, *see Article 14 of the Not for Profit Law*, and are often used by municipalities to support particular public purposes. Municipally created LDCs have become an important tool in local economic development; their boards often include ex-officio municipal officers and they are often staffed by municipal employees.” *See* N.Y.S. Commission on Local Government Efficiency & Competitiveness, *Report on Local Economic Development*, at 2-3, available at http://www.nyslocalgov.org/pdf/Local_Economic_Development.pdf. *See also*, Number of Local Governments, available at http://www.nyslocalgov.org/pdf/Local_Government_Count.pdf

¹⁴⁶ Industrial Development Agencies (“IDAs”) “are public authorities established for a particular county or municipality to promote the general economic welfare in their respective areas. The 115 active IDAs in New York State generally attempt to attract, retain and expand businesses within their jurisdictions by providing financial incentives to private entities.” *Id.* at 2. IDAs can offer several benefits to private companies as inducements for them to relocate to, expand in or remain in their jurisdictions including the power to acquire, own and dispose of property; directly issue debt; real property owed by IDAs is exempt from property taxes and mortgage recording taxes and purchases made in support of approved projects are eligible for exemption from State and local sales taxes.

¹⁴⁷ “The Empire Zone program was developed to help economically distressed areas throughout New York State by providing a range of targeted tax incentives within a designated geographic area. EZ policies and projects are developed, coordinated and monitored by a local EZ administrative board that typically consists of at least six representatives from businesses, community organizations, organized labor, financial institutions, educational institutions and residents.” *Id.* at 3.

¹⁴⁸ Business Improvement Districts “are authorized under state law as a mechanism to provide general public improvements in downtown business areas, such as façade improvements,

benches, banners and other public amenities or events.” *Id.* at 4.

¹⁴⁹Community Development Agencies (“CDA”) and Urban Renewal Agencies (“URA”) “are public authorities established to assist a particular city, town or village in reconstructing and redeveloping urban areas; both were created to access various federal funding streams, and both are defined in NYS General Municipal Law. . . . The 23 CDAs and 26 URAs currently established under NYS law are authorized to issue debt and engage in a variety of activities to attract, retain or expand local business development and reduce urban blight.” *Id.* at 2.

¹⁵⁰Regional Planning Councils (“RPCs”) are authorized under state law. “[T]here are currently ten RPCs, which are sometimes also referred to as Regional Planning Commissions or Regional Planning Boards. RPCs are voluntary public organizations comprised of neighboring counties which engage in regional planning and economic development.” *Id.* at 3.

¹⁵¹For example, ESDC has a number of incentives such as Empire Zones, Manufacturing Assistance Program, RESTORE-NY, Empire State Technology Employment Incentive Program, Upstate Regional Blueprint Fund, Downstate Regional Blueprint Fund, Qualified Emerging Technology Tax Credit, and Investment Tax Credit; NYSTAR has the Technology Transfer Incentive Program, Gen*NY*sis, Faculty Development Program, and Small Business

Technology Investment Fund; NYSERDA has STEP, Focus on Colleges and Universities, Focus on Commercial Real Estate, and Look Upstate; OFT has the Broadband Development Council, and federal and state broadband stimulus grants; and the DEC has Brownfield Cleanup Program, Fuel Cell Electricity Generating Equipment Credit, to name a few.

¹⁵² See *Public Policy Institute of New York State, Transcending the Hamster Cage, Unfettering New York's Static Innovation Economy* available at <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf> at IV-3. This tax burden includes income taxes, sales and use taxes, real estate transfer taxes, property taxes, commercial rent taxes, utility taxes, other energy taxes, insurance and workers' compensation fees, and various assessments and rates.

¹⁵³ The "Milken institute 2007 cost-of-doing-business index" located on the Public Policy Institute of New York's website <http://www.ppiny.org/reports/jtf/costbusiness.html>.

¹⁵⁴ See the Public Policy Institute of New York State, "State Business Tax Climate Index, 2009" based on a Tax Foundation Study *available at* <http://www.ppiny.org/reports/jtf/2009/businessstaxclimate2009.htm>.

¹⁵⁵ See *Public Policy Institute of New York State, Transcending the Hamster Cage, Unfettering*

New York's Static Innovation Economy available at <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf> at IV-3.

¹⁵⁶ See Public Policy Institute of New York State, *Transcending the Hamster Cage, Unfettering New York's Static Innovation Economy* available at <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf>.

¹⁵⁷ Steven Cohen, Executive Director, the Earth Institute, Columbia University, "Under-taxed Americans are Too Broke to Finance Sustainability Infrastructure" *Huffington Post* (February 20, 2010). The article stated, "In Europe and in Asia you find high tech airports and high speed rail", but in New York you'll find a "run-down JFK Airport and the converted warehouse we call Penn Station".

¹⁵⁸ See Bartik, Timothy J. and John H. Bishop, "Complementing Recovery Policies with a Jobs Creation Tax Credit," *Economic Policy Institute, Policy Memo #150* (October 20, 2009) available at <http://www.epi.org/publications/entry/pm150/>.

¹⁵⁹ See Catherine Rampell, "Support is Building for a Tax Credit to Help Hiring" *New York Times* (October 6, 2009).

¹⁶⁰ See Citizens Budget Commission, *It's Time to End New York State's Empire Zone Program*, (December 2008) available at http://www.cbcny.org/Ending_Empire_Zones.pdf.

¹⁶¹ See Public Policy Institute of New York State, *Transcending the Hamster Cage, Unfettering New York's Static Innovation Economy* available at <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf> .

¹⁶² New York State Small Business Task Force, William Grinker, Chair, *Report and Recommendations* (December 2009) at 2.

¹⁶³ *Id.*

¹⁶⁴ See the New York State Department of Banking, *Review of Loans Made to Small Businesses and Agriculture Loans to Small Farms* (June 2008 & June 2009 reports). Loans declined from 466,400 in 2006 to 203,832 in 2009. In dollar amounts, the overall decline was from \$32.2 billion to \$21.5 billion, a drop of 33.2 percent; for small loans, the drop was from \$7.5 billion to \$3.3 billion, a drop of 56 percent.

¹⁶⁵ Catherine Clifford, "The lending crunch: 'It is very hard to survive'" *CNNMoney.com* (February 17, 2010) available at http://money.cnn.com/2010/02/17/smallbusiness/small_business_lending_falls/.

¹⁶⁶ New York State Small Business Task Force, William Grinker, Chair, *Report and Recommendations* (December 2009) at 2 available at http://205.232.252.104/pdf/Final_report.pdf.

¹⁶⁸ See the California State Treasurer’s website available at <http://www.treasurer.ca.gov/cpcfa/calcap.asp>.

¹⁶⁹ See the New York City Express Business Website available at <http://www.nyc.gov/portal/site/businessexpress>.

¹⁷⁰ Putting this all in perspective, China is committing \$300 billion to upgrade and expand its rail system. The train from Wuhan to Guangzhou runs at an average speed of 217 mph. Trains in other parts of Asia and Europe routinely travel at speeds of 185 mph. The U.S. is going for average speeds of 100+ mph—which we could hit routinely in the 1930’s.

¹⁷¹ “Grounded: The High Cost of Air Transportation”, The Partnership for New York City (February 2009) available at http://www.pfnyc.org/publications/2009_0225_airport_congestion.pdf.

¹⁷² “Transcending the Hamster Cage”, The Public Policy Institute of New York State at IV-5 available at <http://www.ppiny.org/reports/2010/TranscendingtheHamsterCage.pdf>.

¹⁷³ See L. 2009, c. 488.

¹⁷⁴ See the New York State Farm Bureau’s “Agriculture in New York” available at http://www.nyfb.org/about_nyfb/index.cfm.

CHAPTER 5: New York Leads

¹⁷⁵New York was home to the first Woman's Rights Convention where the first demand was made for suffrage and to secure the civil and political rights of women. *See The Concise History of Woman Suffrage: Selections from History of Woman Suffrage*, Mari Jo Buhle & Paul Buhle Eds (University of Illinois Press, 2005).

¹⁷⁶The Triangle Factory fire spurred a workers' rights movement in New York that resulted in many labor rights including that we take for granted including, adequate hot and cold washing facilities and limiting hours of labor of women and children. *See New York State Factory Investigating Commission, Fourth Report of the Factory Investigating Commission*, (1915. 5 vols.); *see also* Susan Lehrer, *Origins of protective labor legislation for women, 1905-1925* (Albany: State University of New York, 1987).

However, even before the Triangle Factory fire, New York was a leader. For example, it instituted an eight hour daily labor law in 1870. *See NYS Assm, 10th Annual Report of the Bureau of Statistics of Labor of the State of New York for the year 1892*, (116th Leg Session, Vol VII, Nos 43 & 44, Albany: James B. Lyon, 1893).

¹⁷⁷*See* Jacob A. Riis, *The Battle with the Slum*, (Dover Publications, 1998), originally published by Macmillan (1902).

¹⁷⁸Robert A. Slayton, *Empire Statesman: The Rise and Redemption of Al Smith*, (New York: The Free Press, 2001).

¹⁷⁹ See David Carter, *Stonewall: The Riots that Sparked the Gay Revolution*, (New York: St. Martin's Press, 2004).

¹⁸⁰In the 1960s Storm King mountain became the focus of a landmark environmental battle when local activists formed the Scenic Hudson Preservation Coalition (now known as Scenic Hudson) to fight Consolidated Edison from cutting away part of the mountain near the river to build a pump storage power generator. Con Ed finally abandoned the project in 1979, and settled a parallel lawsuit brought against their Indian Point facility by agreeing to endow the Hudson River Foundation with \$12 million. See Allan Talbot, *Power along the Hudson: the Storm King case and the birth of environmentalism* (Michigan: University of Michigan Press, 1972); see also Scenic Hudson's History available at <http://www.scenichudson.org/aboutus/ourhistory>.

¹⁸¹N.Y. Const. Art. XVII, § 1 Courts have ruled this section to mean a mandate, not simply a legislative power to act. See *Tucker v. Toia*, 43 N.Y. 2d 1, 400 N.Y.S. 2d 278 (1977).

¹⁸²N.Y. Const. Art. XVII, § 3.

¹⁸³N.Y. Const. Art. XVII, § 4.

¹⁸⁴N.Y. Const. Art. XVIII, § 1.

¹⁸⁵N.Y. Const. Art. XIV, commonly known as the “Forever Wild” Amendment.

¹⁸⁶N.Y. Const. Art. XI. The purpose is to confer benefits of free education upon an uneducated public. *See Donohue v. Copiague Union Free School District*, 64 A.D. 2d 29, 407 N.Y.S. 2d 874.

¹⁸⁷N.Y. Const. Art. I, § 17, providing, “Labor of human beings is not a commodity nor an article of commerce and shall never be so considered or construed. No laborer, worker or mechanic, in the employ of a contractor or sub-contractor engaged in the performance of any public work, shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency; nor shall he or she be paid less than the rate of wages prevailing in the same trade or occupation in the locality within the state where such public work is to be situated, erected or used. Employees shall have the right to organize and to bargain collectively through representatives of their own choosing.”

¹⁸⁸N.Y. Const. Art. I, § 18.

¹⁸⁹*See* Peter S. Goodman, “The New Poor Millions of Unemployed Face Years Without Jobs,” *New York Times* (February 20, 2010). Goodman states, “Call them the new poor: people long accustomed to the comforts of middle-class life who

are now relying on public assistance for the first time in their lives — potentially for years to come.”

¹⁹⁰See Erik Eckhold, “States Slashing Social Programs for Vulnerable,” *New York Times* (April 11, 2009).

¹⁹¹*Id.* For example, in Florida, support for home and community services was reduced by \$2 million in 2008, and Ohio is cut 75 percent of the child abuse investigators.

¹⁹² We must protect programs such as the Temporary Assistance for Needy Families (“TANF”), Family & Child Health Plus, Public Assistance Grants and Unemployment Insurance.

¹⁹³ According to a recent National Fair Housing Alliance study estimates that 3.7 million violations of the Fair Housing Act occur annually, with more than 99 percent of them going unreported *See* National Fair Housing, *2008 Fair Housing Trend Report*, (April 2008) *available at* <http://www.nationalfairhousing.org/Portals/33/reports/2008%20Fair%20Housing%20Trends%20Report.pdf>.

¹⁹⁴ As Attorney General, Andrew Cuomo’s groundbreaking \$1 million dollar settlement with Vantage Properties ended tenant harassment in more than 9,500 apartments throughout New York City. *See* http://www.ag.ny.gov/media_center/2010/feb/feb11a_10.html.

¹⁹⁵The State Assembly passed marriage equality on several occasions. *See* N.Y. A.B. 7732 of 2009 and N.Y. A.B. 8590 of 2008. In the State Senate, it reached the floor for the first time in 2009 but was voted down 38-24. *See* <http://www.nysenate.gov/news/democracy-now-ny-state-senate-defeats-bill-legalize-gay-marriage-gay>.

¹⁹⁶*See* Marriage Equality USA *available at* <http://www.marriageequality.org/index.php?page=why-marriage>.

¹⁹⁷ New York law has already recognized the legitimacy of committed same-sex relationships in numerous ways already, thereby undermining the argument for a state interest in preserving “traditional marriage.” The New York Court of Appeals has held that unmarried same-sex partners are protected against eviction and the New York Legislature has enacted numerous provisions barring discrimination on the basis of sexual orientation. *See Braschi v. Stahl Assocs. Co.*, 74 N.Y.2d 201, 211-213 (1989). The Legislature has enacted a number of provisions barring discrimination and enhancing penalties for crimes involving animus on the basis of sexual orientation. *See* N.Y. Civ. Rts. Law § 40-c(2); N.Y. Exec. Law § 296; N.Y. Educ. Law § 313; N.Y. Ins. Law § 2701(a); N.Y. Penal Law §§ 240.30(3), 485.05(1).

¹⁹⁸*See* N.Y. S.B. 5808 of 2009.

¹⁹⁹ There are over 1 million small businesses in New York State, comprising 99 percent of total businesses and employing over 55 percent of the State's workforce. Minority and women-owned businesses ("MWBEs") have come to constitute a large percentage of businesses in New York. According to the Census Bureau, New York ranks first in the number of black-owned firms (with 129,324), second in women-owned firms (505,134), and fourth in Hispanic-owned firms (163,639). New York State currently has one of the largest databases of certified firms in the nation. As of December 2007, there were 6,899 certifications of New York State Minority and Women-owned Businesses, including 2,578 MBEs, 3,627 WBEs, and 694 businesses that have dual certification. MWBEs, in New York, continue to experience growth rates of two to three times the national average.

²⁰⁰ Despite these advances, however, MWBEs continue to face barriers in government contracting and getting their fair share of government contracts. Recently, reports found only 3 percent of all State procurement contracts were awarded to businesses owned by women or minorities: 2 percent of those were minority-owned, including African-American, Hispanic and Asian; and a mere 1 percent belonged to women.

²⁰¹ See L. 2000, c. 107.

²⁰² Communities often do not trust that the data collected by DCJS accurately reflects the scope of

the problem. Their distrust makes sense in light of an estimate from the United States Department of Justice that nationwide 191,000 people are victimized by hate crimes each year, which far surpasses the number of such crimes reported and recorded by law enforcement. The top three reasons given by victims of hate crimes for not reporting were that they: dealt with it another way (40.9 percent), thought it was not important enough to report (26.1percent), and thought the police would either not help or could not do anything (21.9 percent). No similar study has been done in New York State. However, community leaders and advocacy groups working with New York communities that have been targeted by hate crimes all identify underreporting by victims as a significant problem.

²⁰³ Microstamping is supported by the New York Law Enforcement Council—composed of various law enforcement organizations throughout New York including the District Attorneys Association of the State of New York, the New York State Association of Chiefs of Police, the New York State Sheriffs’ Association, the New York City Criminal Justice Coordinator, and the Citizens Crime Commission of New York City. *See the Council’s “2010 Legislative Priorities” available at <http://www.nyslec.org/legislativepriorities.shtml>.*

²⁰⁴Microstamping is a new identification technology that significantly expands on current conventional ballistic fingerprinting. The basic technology involves using lasers to make precise

microscopic engravings on the firing pin or inside the firing chamber of a gun. As the gun is fired, information including the make and model of the gun is stamped onto the cartridge. Testing done by the California Assembly has shown that the technology works.

²⁰⁵See New York State Office for the Prevention of Domestic Violence, “Domestic Violence Dashboard Project, 2008 Data *available at* <http://www.opdv.state.ny.us/statistics/nydata/2008/nys2008data.pdf>.

²⁰⁶*Id.*



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