



Candidate Questionnaire  
Local Candidates Committee  
NYS Elections 2018

Citizens Union appreciates your response to the following questionnaire related to policy issues facing New York State, and our interest in reforming state government. **Please return the questionnaire to us as soon as possible, and no later than July 20<sup>th</sup>.** Responses to these questions will be one of several factors Citizens Union uses to evaluate candidates running for Governor of New York State, and to issue our preference for the Primary and endorsement for the General Election. Please feel free to affix any additional information such as a résumé, campaign brochure, or issue statements.

If you seek our support, we will also need to schedule an interview with you as part of the evaluation process. **Please contact us if you wish to be interviewed.**

We plan to make responses to this questionnaire public on our website, printed voters directory, and other appropriate venues.

We thank you very much for your response.

**Biographical Information**

Candidate Name:	<b>Marc Molinaro</b>		
Party Affiliation(s):	<b>Republican, Conservative, Reform</b>	Age:	<b>42</b>
Education:	<b>Associates of Arts, DCC, Graduate</b>	<b>PACE Land Use Law Center Community Leadership Alliance</b>	
Office Sought:	<b>Governor, New York State</b>		
Occupation/Employer:	<b>County Executive, Dutchess County</b>		

Previous Offices, Campaigns and Community/Civic Involvement:

**Mayor, Village of Tivoli; County Legislator, Dutchess;**

*(Please feel free to affix any additional information such as a résumé, campaign brochure, or issue statements.)*

**Campaign Contact Information**

Campaign Manager Name:	<b>Lynn Krogh Casale</b>	Additional Staff Contact:	
Address:	<b>290 Main Street, Poughkeepsie, NY 12601</b>		
Telephone:	<b>845-475-8070</b>	Fax:	
Website:	<b>Molinaroforny.com</b>	Email:	<b>Molinaro2018@gmail.com</b>
Twitter:	<b>Twitter.com/marcmolinaro</b>	Facebook:	<b>Facebook.com/marcmolinarony</b>

**I. AFFIRMATIONS**

Have you completed required campaign finance filings?	<input checked="" type="radio"/> YES / NO
Are you willing to be interviewed by CU's Local Candidates Committee?	<input checked="" type="radio"/> YES / NO

*(Please note: interviews are prerequisites for Citizens Union endorsements.)*

Signature of Candidate:	Date: <b>10/3/18</b>
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## II. CANDIDATE QUESTIONS

Please state whether you support or oppose the following reform measures, and feel free to may elaborate in the space provided at the end or on additional paper.

### 2018 PRIORITY ISSUES:

#### ETHICS

1. Limit outside compensation earned by state legislators and statewide officials to 25% of their salaries, while enacting a salary increase and eliminating stipends.	Support <input checked="" type="radio"/> Oppose <input type="radio"/>
2. Reform the Joint Commission on Public Ethics to eliminate the ability of one party to veto an investigation and to increase disclosure of its decision-making.	Support <input checked="" type="radio"/> Oppose <input type="radio"/>

#### ELECTIONS AND VOTING

<p>3. Do you support or oppose the following changes to the state's current registration and voting system?</p> <ul style="list-style-type: none"> <li>a. Early voting</li> <li>b. No-excuse absentee voting</li> <li>c. Election Day voter registration</li> <li>d. Re-enfranchisement of people on parole automatically <u>through legislation</u>, without requiring a Certificate of Good Conduct or Relief</li> <li>e. Automatic voter registration, unless the potential voter opts out</li> <li>f. Consolidated state and federal primaries</li> <li>g. Electronic poll books</li> </ul>	<p>a. Support <input checked="" type="radio"/> Oppose <input type="radio"/></p> <p>b. Support <input checked="" type="radio"/> Oppose <input type="radio"/></p> <p>c. Support <input checked="" type="radio"/> Oppose <input type="radio"/></p> <p>d. Support <input type="radio"/> Oppose <input checked="" type="radio"/></p> <p>e. Support <input type="radio"/> Oppose <input checked="" type="radio"/></p> <p>f. Support <input checked="" type="radio"/> Oppose <input type="radio"/></p> <p>g. Support <input checked="" type="radio"/> Oppose <input type="radio"/></p>
4. Reform the special election process, utilizing a nonpartisan special election for state legislative seats and eliminate delays in filling vacancies.	Support <input type="radio"/> Oppose <input checked="" type="radio"/>

#### CAMPAIGN FINANCE

5. Establish public financing of campaigns for state legislative and statewide offices using a <del>method similar to New York City's Campaign Finance Law</del>	Support <input checked="" type="radio"/> Oppose <input type="radio"/>
6. Close the LLC loophole to ensure that limited liability companies have the same contribution limits as corporations, rather than the higher limit for individuals.	Support <input checked="" type="radio"/> Oppose <input type="radio"/>
7. Drastically reduce campaign contribution limits and reduce them even further from registered lobbyists and those who do business with the state.	Support <input checked="" type="radio"/> Oppose <input type="radio"/>

## BUDGET PROCESS

8. Require full disclosure of grants and contracts issued by the state, including the budget lines from which the spending is made and reporting on the results of each grant or contract over a certain amount.	<input checked="" type="radio"/> Support / <input type="radio"/> Oppose
9. Provide for adequate online disclosure and itemization of spending from elected officials' lump sum appropriations, including reporting on potential conflicts of interest and how the funds are spent.	<input checked="" type="radio"/> Support / <input type="radio"/> Oppose

## POLICE ACCOUNTABILITY

10. Repeal Civil Rights Law, Sec. 50-a, which shields from public view the disciplinary records of police officers, correction officers, and firefighters.	Support / <input type="radio"/> Oppose
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## ELECTION ADMINISTRATION

11. Restructure the state Board of Elections to abolish the strict two-party division of governance and operation and putting in place professional, nonpartisan administration.	Support / <input checked="" type="radio"/> Oppose
12. Empower the attorney general to investigate and prosecute election law malfeasance and cases of public corruption.	<input checked="" type="radio"/> Support / <input type="radio"/> Oppose

## HOME RULE

13. Make mayoral control of city schools permanent, with a governance system that provides for accountability, transparency, parent engagement, and democratic participation.	<input checked="" type="radio"/> Support / <input type="radio"/> Oppose
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14. How would you seek to further restore the public's trust in government? What other steps would you take to expand transparency of state government, including the Executive Chamber?

**I have introduced the 2019 Albany Accountability Act (AAA):**

**New York is the most corrupt state in America. It needs vibrant new leadership that's willing to do more than pay lip service to reform. Governor Cuomo lacks the commitment to see reform policies through and to free New York from the cost of corruption.**

**Systemic and structural failures allow bad actors to thrive in New York. They incentivize corrupt behavior. That is why we have introduced a bold, new and far-reaching proposal that will make New Yorkers #believeagain in their State government.**

**The "2019 Albany Accountability Act" is organized around five central goals to restore trust between New Yorkers and their elected leaders in Albany:**

- 1. Creating a Government "of the People, by the People, and for the People"**
- 2. Opening the Doors of Government and Providing Real Transparency**
- 3. Taking Big Money Out of Politics**
- 4. Holding Politicians Accountable and Providing for Independent Oversight**
- 5. Rethinking and Rightsizing our Economic Development Programs**

**Please visit <https://molinarofornny.com/policy/> to read my entire plan, the Albany Accountability Act.**

15. How do you view the budget process with respect to timeliness, effectiveness, fairness, and public accountability? What improvements, if any, would you make?

**New York State's budget process is deeply flawed and self-serving. The brief view the public get into the process via public hearings and conference committees are a small improvement, they are overshadowed by the typical "three men in a room" negotiating process that has plagued New York For too long. What ends up happening every year is major decisions being made in a closed room with the little input of rank and file legislators and any involvement of the minority conferences. The late nights, the rushing to meet the deadlines that require messages of necessity to circumvent both procedural rules and common sense provide the public and many elected officials without the time to properly review the final budget prior to voting.**

To address these issues, I would focus on beginning the process sooner, engaging all members of the Senate and Assembly, and work in a much more open and transparent manner to achieve final passage of the budget. I would only use a message of necessity in the case of an emergency not so I could pat myself on the back about an on-time budget. I would bring the leaders of the minority conferences to the table for budget discussions as well as engage more directly with critical committee chairs and ranking members. In addition to these reforms I have suggested many other specific and structural reforms in my Albany Accountability Act, such as:

**1. Increasing Lump Sum Appropriation Transparency**

**\*Banning allocations from lump-sum appropriations to any entity that donated money to the elected official requesting the allocation, or employs a family member/cohabitant of an elected official**

**\*Requiring greater conflict of interest protections**

**\*Requiring greater details regarding recipients of funding originating from lump-sum appropriations**

**2. Creating a Unified Economic Development Budget (UEDB)**

**\*Enacting bipartisan legislation that requires the Division of the Budget (DOB) to prepare a UEDB to detail the amount of assistance, the recipients of assistance, and the total jobs created/retained**

**\*Working to include a UEDB as part of the standard budget process.**

16. Further to your responses to questions 5, 6, and 7, related to campaign finance, in the previous section, what is your view about measures to limit the role of money in elections and politics? If elected, would you set an example on campaign finance reform by voluntarily (even unilaterally) limiting the size of campaign contributions you receive by an amount significantly less than the current limit, should reforms not be enacted? If not, why not?

**I think many of these reforms are necessary. In my Albany Accountability Act, I propose:**

**1. Ending Albany's "pay-to-play" Culture by Banning Political Contributions from Individuals and Entities Pursuing Government Contracts**

**2. Closing the LLC Loophole**

**\*Subject LLCs to the same \$5,000 aggregate limit placed on corporations and require LLCs making political contributions to disclose the identity of all owners and their proportional ownership interest.**

17. What is your view of the state's current financial situation? Are there specific programs or revenue sources that you would consider increasing, decreasing, eliminating or creating? How will you deal with the recent federal tax law changes that limit the tax deductibility of state income and property taxes to \$10,000?

I have opposed the SALT cap since it was proposed, and I will continue to urge my federal colleagues to reverse the policy before it sunsets at the end of 2025. Local and state governments need money to educate our children, maintain infrastructure, and provide for the safety and security of our residents. This money primarily comes via state and local taxes; and although I strongly believe New York State's taxes are far too high, I do not believe that the federal government has the right to dictate how localities and states generate their needed revenue and how much revenue they should or should not raise. The SALT cap flies in the face of the underlying principles of federalism and undermines local control.

Despite the federal policy's many faults, merely complaining about it will not help New Yorkers who are negatively impacted by the change. Complaining also completely misses the reason why this policy change impacts New Yorkers so disproportionately: our taxes are far too high. If the state had lower taxes, capping SALT deductions would have had a minimal impact on New York. I have proposed an ambitious plan to cut taxes in New York that will mitigate the impact of the federal tax law changes - The Empire State Freedom Plan. The plan includes critical mandate relief as well as access to additional revenue to help drive down property taxes. It also proposes ending the regressive "tax benefit recapture" provision for middle-class families, which requires that taxpayers subject to higher income tax brackets pay a flat tax at the highest marginal rate applicable to their income level on their entire income, instead of just their income above a given bracket threshold. This proposal could half of the negative impact of losing the federal SALT deduction.

These changes would necessitate more cautious and more efficient spending. Every dollar New York State spends should be attached to an actual outcome or an intended outcome supported by evidence. One area that would be drastically reduced is New York's inefficient and ineffective economic development funding. The nearly \$4 billion in annual economic development funding comes with few results but many corruption trials. We need to reassess this spending. State government really has three primary purposes: 1- Providing for the safety and health of its residents 2 - Providing a sound, basic education to all 3 - Aiding those most in need. We often forget those purposes or apply them too broadly. We forget that we serve the people of this state and we can only do so by supporting those primary tasks.

18. What would be your approach to education? How would you ensure the provision of funding needed to ensure a sound basic education under the Campaign for Fiscal Equity decisions to all of New York's school districts? What is your view on the use of standardized tests?

My general approach to education would be to devolve control back to local school districts. The Board of Regents and the State Education Department, which is woefully understaffed, should be the leader defining the outcomes (e.g. 75 percent of students must graduate on-time or 75 percent of minority students should be at standard proficiency level). They should not dictate every action, every word, and every moment in a classroom. The state should provide guidance, work closely with struggling school districts to provide needed support and define what success is and hold school districts and their leaders, administrators, and teachers accountable. Standardized assessments do play some role in providing for that accountability, but as of late they have played an outsized role. Standardized assessments should be only as long as needed and work to provide metrics to educators and parents so they can help students improve, not as a high-stakes, stress-inducing measure of a student's future or a teacher's career. They should be used to guide and build. The use of a portfolio assessment which provides a fuller picture of a student's overall knowledge, such as those used by the members of the New York Performance Standards Consortium, may be a welcome and beneficial change. A change this big and potentially this radical would have to involve state, local, and federal partners.

As to funding, I strongly believe that public education is a right of every citizen in a democracy. I also believe a quality education is a right, but I have seen little proof that funding is the sole or even the most important facet of educating a child. Quality teachers, dedicated administrators, and engaged parents/guardians are the most critical determinants of the quality of a student's education. New York State is proof of this. In 2016, New York State spent more per pupil than any other state (\$22,366), but saw a graduation rate in the 2014-15 school year that was lower than the national average (79.2% vs. 83.2% respectively). Despite spending more per year than the national average and far more than most of our high-cost neighbors New York consistently has lower National Assessment of Educational Progress scores. Generous funding will most certainly be a part of my administration's education but it will not be viewed as a panacea for all of public education's shortcomings and unfulfilled potential.

19. How do you plan to address the systemic failures of the Metropolitan Transit Authority and New York City's transportation infrastructure? What is your view of congestion pricing, both in general and as a source of revenue?

**From the time Andrew Cuomo was sworn in as Governor of New York in 2011, the average on-time performance for New York City subways has declined from 85.4 percent to an embarrassing 58.1 percent. I have put forward a concrete plan to put people first and get the transit system Back on Track. Corruption and petty politics are ruining this great state and its systems, and New Yorkers don't have to put up with it anymore.**

**We released a comprehensive plan to address the massive challenges of the MTA and its millions of annual riders, entitled "Back on Track: Revitalizing the MTA for the 21st Century. The link to the full plan is below and some highlights include:**

- Reduce Costs on Large Projects**
- Support Byford's Fast Forward Plan**
- Reducing Operating Costs**
- Increase Accountability, Transparency, and Efficiency**
- Achieve a State of Good Repair**
- Increase On-Time Performance**
- Change the MTA's Culture**
- Make Public Transit Accessible to All**

**<https://molinaroforny.com/wp-content/uploads/2018/08/Back-on-Track-Final.pdf>**

20. What is your plan for ensuring that New York State's economy is effectively positioned in the years ahead to create economic opportunity and address income inequality, and with regard to the growth of the upstate economy?

**New York can no longer survive or thrive as one of the highest taxed states in the nation. Our future relies upon us charting a different course by first creating a more business and growth-friendly environment and secondly by embracing our strengths as a diverse, educated, and inventive state. It is time that we utilize our highly educated workforce, reform our bloated and corrupt economic development programs, invest in our citizens and unleash their potential, revitalize our aging infrastructure, and make New York a place where people from around the nation and the world flock. New York State can once again be the global capital of innovation building on the dynamism of Downstate and the immense potential of Upstate.**

**As stated this process begins with creating a more business and growth-friendly environment. I have suggested specific policies on how I would go about creating a better tax climate in my Empire State Freedom Plan. In addition to these policies, I propose rolling back burdensome regulations that burden small businesses and family farmers. I would support a stronger vocational education system that provides opportunities for individuals to gain skills and to help fill the middle skills gap. I would invest not only in making higher education not only cheaper but better for its students - increasing on-time graduation, career learning, and academic/career counseling. The biggest change is to reorient our job creation policies to be less focused on space specific paradigms like the Buffalo Billion and more focused on people specific programs that help individuals develop skills, support and grow small businesses, and encourage innovation.**

**A better economy should mean a better economy for all. That is why we need to remove the barriers to work by passing licensing reform, reducing the benefit cliffs present in poorly designed social service programs that make it hard for people to take on a job, increasing the state's EITC benefit, and expanding the EITC benefit for childless workers.**

21. What is your view of recent federal policies as they affect New York? What should New York's Governor do, going forward, to address those issues?

**The national environment has sadly become negative and overly partisan.**

**As elected officials, our job is to stand up for the people of the New York State regardless of party affiliation.**

**I've always been know as an independent, willing with cross party lines and do what is right and in the best interest of all.**

**Bobby Kennedy said "Hand in hand with freedom of speech goes the power to be heard, to share in the decisions of government which shape men's lives."**

**He also said, "Everything that makes man's life worthwhile - family, work, education, a place to rear one's children and a place to rest one's head - all this depends on the decisions of government; all can be swept away by a government which does not heed the demands of its people, and I mean all of its people."**

**Elected officials must hold themselves to a high standard. We cannot fight anger with anger. We must be a responsive government who not only listens to its people, but hears them.**

### III. CAMPAIGN PROMISES MADE TO VOTERS (PAST AND CURRENT)

In addition to evaluating stances on the issues above, Citizens Union also assesses candidates on their current campaign promises and goals, and how they intend to approach them.

What are the top five promises you are making to the voters during this campaign?

Please feel free to use additional paper if the space provided is not sufficient, and to affix additional information such as a résumé, campaign brochure, or issue statements. We thank you very much for your response.

#### TOP FIVE 2018 CAMPAIGN PROMISES OR GOALS

##### **CUT TAXES & STIMULATE JOB GROWTH**

**I have a real plan to reduce property taxes by nearly 30%. The Empire State Freedom Plan is a historic tax reduction plan, that will make New York more affordable for all.**

**The plan includes a state takeover of Medicaid ensuring the state pays its fair share and will end the practice of the state pushing spending down onto counties and municipalities. The plan also includes a doubling of the retirement exemption and will expand a zero tax rate to all New York manufacturers.**

**We will also streamline NY's government making it more efficient and effective and make New York more business friendly, especially for existing and small business.**

**By making New York more affordable, we will stop outmigration and focus on keeping our young people and families here.**

##### **END CUOMO's CORRUPTION**

**I have introduced the 2019 Albany Accountability Act (AAA) to once and for all end the corruption that plagues and embarrasses our state government. The AAA will enact term limits for all statewide and legislative offices. I am also committed to leading by example and will start with myself, by imposing a term limit of 2 4-year terms or eight years.**

**The plan also abolishes cash giveaways to corporations and bans all pay-to-play donations.**

**Most importantly we will restore honor and integrity to the Governor's Office and our state government.**

#### **CONTINUE ADVOCATING FOR THOSE WITH SPECIAL NEEDS**

In 2015, we launched the "ThinkDIFFERENTLY" in Dutchess County initiative that seeks to change the way individuals, businesses, organizations and communities relate to our neighbors with special needs.

"ThinkDIFFERENTLY" is a call to action, a genuine challenge to determine if we have it within ourselves to look past our differences and treat others the way we would hope to be treated. Too often, too many with special needs are overlooked and their unique abilities ignored. Instead, we seek to lift each other up and embrace all residents of all abilities.

This is a personal mission and one that over 100 communities across New York have adopted. My daughter inspires me, everyday to ThinkDIFFERENTLY and I know that many New Yorkers are now Thinking Differently, as well.

## IV. ETHICAL REPRESENTATION OF CONSTITUENTS

Citizens Union believes that all New Yorkers deserve to be represented by officials who work for the public interest and honor the public trust. With the corruption conviction of recent legislative leaders, we seek to endorse a candidate who will demonstrate that she/he will honor the full commitment of the oath of office, and always represent the public interest above all else.

Please tell us how you have and would continue to conduct the political affairs of this office in an upright manner, and maintain the public trust.

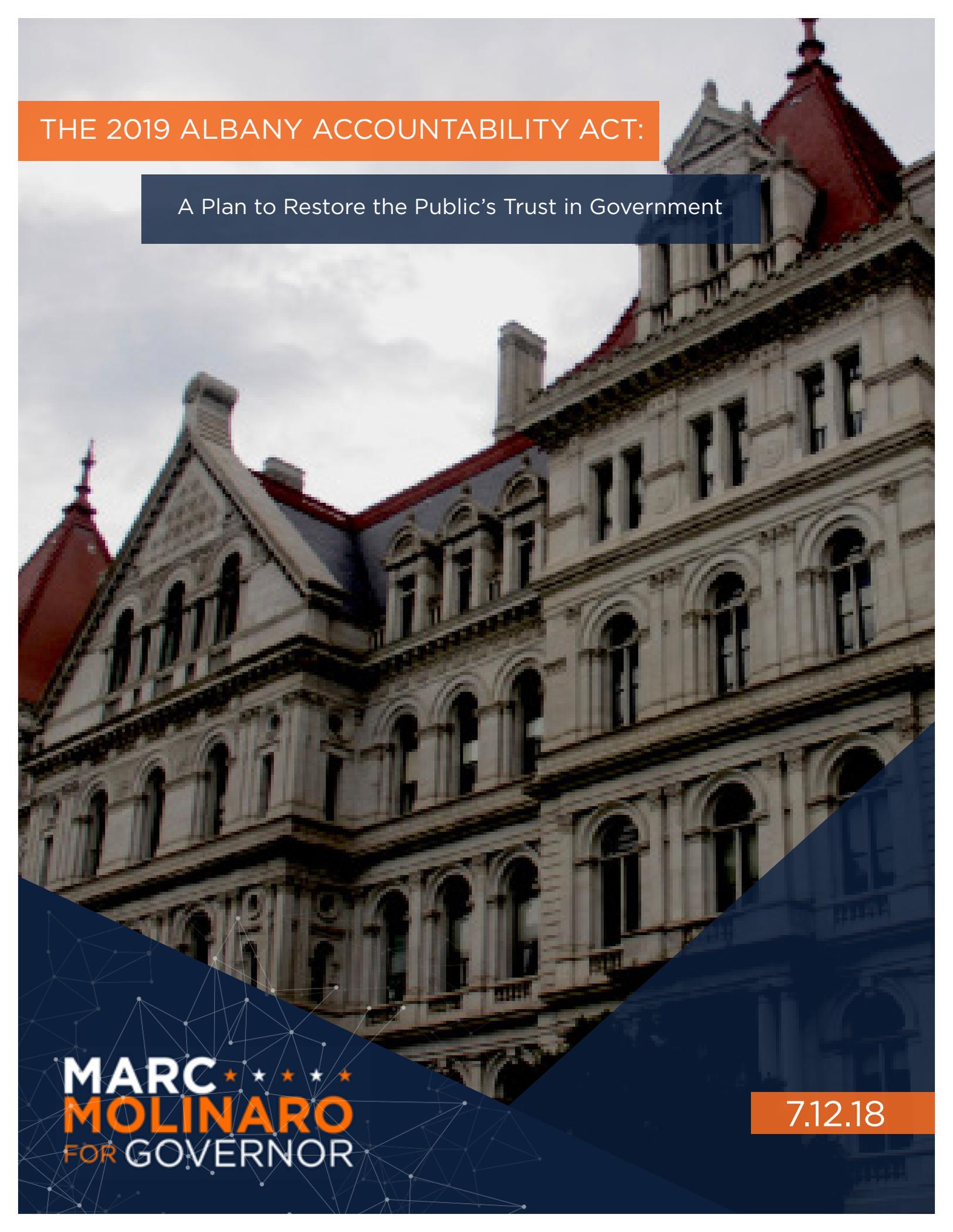
**As mentioned, I have introduced the 2019 Albany Accountability Act (AAA):  
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- 4. Holding Politicians Accountable and Providing for Independent Oversight**
- 5. Rethinking and Rightsizing our Economic Development Programs**

**Please See attached or visit <https://molinaroforny.com/policy/> to read my entire plan, the Albany Accountability Act.**



THE 2019 ALBANY ACCOUNTABILITY ACT:

A Plan to Restore the Public's Trust in Government

**MARC** ★ ★ ★ ★ ★  
**MOLINARO**  
FOR GOVERNOR

7.12.18

## Introduction

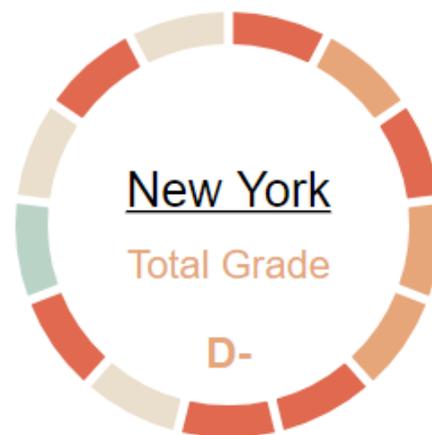
It is neither unfair nor inappropriate to suggest that New York is one of the most corrupt states in the nation. In 2015, FiveThirtyEight ranked states using various metrics for corruption (total number of convictions, convictions per capita, reporter ranking, and lack of stringent laws), New York ranked in the top 15 for most corrupt in every category.<sup>1</sup> That same year the Center for Public Integrity gave New York a “D-minus” on an assessment of state government accountability and transparency earning it the rank of 31st in the nation. Also in 2015, Politico named New York the most corrupt state in the country.<sup>2</sup> These rankings are not surprising to anyone who watches the local news or reads the daily papers, as it is hard to recall a time in recent memory when Albany wasn’t being “rocked” by the latest corruption trial or newest scandal.

*“The culture of corruption in Albany must change. It’s time to restore the public’s trust in State Government. It’s time to believe again.”*



## Introduction Cont.

The three most recent governors were either personally embroiled or directly connected to a scandal. Add to this tally, five recent Senate Majority Leaders and the man once thought to be the true power in Albany, former Assembly Speaker Sheldon Silver. When 2018 is finished, five high-profile corruption trials will have been completed including the retrials of Dean Skelos and Sheldon Silver as well as the trials of Governor Cuomo's close friend and former aide Joe Percoco, key economic development figure Dr. Alain Kaloyeros, and former Erie County Democratic Chairman Steve Pigeon.<sup>3</sup>



At some level, corruption is not a problem that can be legislated away. There will always be bad actors willing to distort, twist, and break the law to utilize the levers of government to serve themselves. However, there are systemic and structural failures that allow bad actors to thrive and too often perversely incentivize corrupt behavior. These failures must be addressed. Consider the contribution limit loophole enjoyed by limited liability companies, political careerism, the lack of transparency and independent oversight, and the overall transactional nature of the State's economic development policy - these are all failures that can only be addressed by changing the law, policy approach, and culture of New York State Government.

Corruption for many often seems abstract and people often, rightfully, wonder how it impacts their daily lives - my answer to them is there is an insidious cost to corruption that every taxpayer, voter, and resident pays.

## The Cost of Corruption

Every New Yorker pays a "corruption tax" to cover the costs of the never-ending stream of corruption trials and misspent economic development dollars doled out to buy votes or worse yet to curry favor with campaign donors. It is hard to put a dollar amount on it, but a good place to start is \$4 billion or roughly the cost of the State's economic development efforts which are rife with corruption and incompetence. New Yorkers also pay for corruption in countless other ways as Albany diverts time and energy away from worthy causes like actually creating sustainable long-term economic growth, repairing

<b>Public Access to Information</b>	GRADE: F(55)	RANK: 11 <sup>th</sup>
<b>Political Financing</b>	GRADE: D-(62)	RANK: 24 <sup>th</sup>
<b>Electoral Oversight</b>	GRADE: F(39)	RANK: 49 <sup>th</sup>
<b>Executive Accountability</b>	GRADE: D+(68)	RANK: 15 <sup>th</sup>
<b>Legislative Accountability</b>	GRADE: D-(62)	RANK: 26 <sup>th</sup>
<b>Judicial Accountability</b>	GRADE: F(43)	RANK: 48 <sup>th</sup>
<b>State Budget Processes</b>	GRADE: F(52)	RANK: 50 <sup>th</sup>
<b>State Civil Service Management</b>	GRADE: C-(72)	RANK: 1 <sup>st</sup>
<b>Procurement</b>	GRADE: F(49)	RANK: 48 <sup>th</sup>
<b>Internal Auditing</b>	GRADE: B+(89)	RANK: 1 <sup>st</sup>
<b>Lobbying Disclosure</b>	GRADE: C+(77)	RANK: 5 <sup>th</sup>
<b>Ethics Enforcement Agencies</b>	GRADE: F(51)	RANK: 38 <sup>th</sup>
<b>State Pension Fund Management</b>	GRADE: C+(77)	RANK: 10 <sup>th</sup>

Source: Center for Public Integrity<sup>4</sup>

our aging infrastructure, fixing the New York City subway system, providing safe and affordable housing, and educating our children. It is so omnipresent in New York, that every late train, failed education reform, or lost job is tied to the culture of corruption in Albany. A recent study offered proof of the far-reaching costs of corruption, as state-level corruption was tied to decreases in private firm value.<sup>5</sup>

Worse yet is the cost to our democratic institutions and beliefs. Without the public's trust, democratic governments cannot function. Without at least a basic level of understanding that, in general, government is working in your best interest, democratic government cannot function. We must address corruption and root it out for the sake of our state and for the preservation of democracy.

## Goals

This document contains policy proposals to combat the persistent and destructive culture of corruption gripping New York State government. I fully support these proposals and will energetically advocate for them as a citizen, candidate, and as Governor of the Empire State. The various component proposals of my plan are organized around five goals:

1. **Creating a Government “of the People, by the People, and for the People”**
2. **Opening the Doors of Government and Providing Real Transparency**
3. **Taking Big Money Out of Politics**
4. **Holding Politicians Accountable and Providing for Independent Oversight**
5. **Rethinking and Rightsizing our Economic Development Programs**

These goals speak to principles - transparency, voter participation, public trust, and accountability - that are an intrinsic part of any functioning democracy. I believe the proposals put forward here will allow New York State government to live up to its rich history and its responsibility to the people of this great state.

The proposals contained within are admittedly not all original ideas. Legislation to close the LLC loophole, restore Comptroller oversight of contracts, or create a “database of deals” have been languishing in Albany. This makes the problem of corruption in Albany all the more frustrating - ideas to alleviate the systemic and structural failures that allow corruption to occur are out there, but they have not been a priority of those in power.

Governor Cuomo has time and time again exercised his rhetorical muscles calling for ending the LLC loophole and putting forward legislation to enact term limits. Yet the contributions continue to flow and members continue to serve for over twenty years. One can only surmise that either he lacks the skills to negotiate with the legislature or that he simply lacks the commitment to see these policies through and free New York from the costs and embarrassment of corruption.

The following is my plan to meet the goals that I have set and to end corruption and alleviate the burden it places on every New Yorker.

## 1. Creating a Government “of the People, by the People, and for the People”

New Yorkers deserve a government that is accessible and responsive to their needs and concerns. The influence of special interests, the power of incumbency, the siren call of political careerism and self-preservation, and the ubiquity of non-competitive elections have driven a wedge between voters and elected officials, while at the same time rendering Albany inert, unaccountable, and rife with corruption. The democratic contract between elected leaders and their constituents needs to be rewritten. We need to go back to our founding principles and create a government “of the people, by the people, and for the people” by:

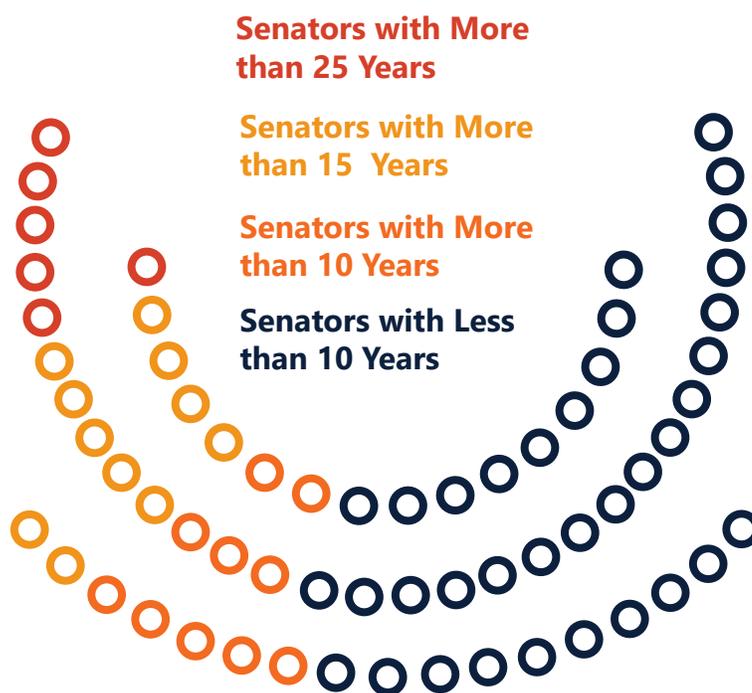
### ***A. Limiting the Governor, Attorney General, and State Comptroller to Two 4-year terms and State Senators and Assembly Members to Six 2-year terms***

New York State has no set term limits for governor, attorney general, comptroller, or for members of the Senate and Assembly. Term limits offer the best way to infuse Albany with fresh faces and to sever cozy, long-standing relationships between special interests and key legislative players. Fifteen states have some form of term limits for state legislators, 36 states term limit governors, and 16 states term limit attorney generals.<sup>6 7 8</sup>

As Governor, I would hold myself to my personal pledge to serve only two terms and make amending the constitution to include term limits for state elected politicians a day-one priority. In order for term limits to go into effect, a proposal must be referred to the Attorney General for an opinion, once an opinion has been rendered it must be passed by two separately elected legislatures (ex. first Passage in 2020 and second passage in 2022) and then offered to the voters on the ballot. Term limits would, if approved by the voters, finally take effect on January of the year following voter approval.

Governor Cuomo has routinely included as part of his Executive Budget a freestanding proposal to enact term limits. Unlike Governor Cuomo, I plan to make enacting such a proposal or one of similar-effect a prerequisite for signing any budget legislation. I would prefer to work with the members of the legislature to pass a reform as momentous as term limits, but if necessary, I will judiciously exercise my authority as governor and use the power of the bully pulpit to make my case statewide to ensure that term limits become a reality in New York State.

#### YEARS OF SERVICE - NEW YORK STATE SENATE



Term limits are not a cure-all for Albany's many ills, but they are an important step to a more responsive, citizen-focused, and less corrupt state government. Term Limits would:

- Reinvigorate the State Legislature** - The current State Legislature is comprised of nine State Senators and 28 Assembly members who have served for over 20 years. Many of these long-standing members control critical policy pipelines and have an outsized impact on the direction of New York. As the average length of service in the current legislative body is roughly 11 consecutive years, limiting legislators to six two-year terms would phase out long-standing members without losing critical institutional knowledge and policy expertise. Other states have experimented with more restrictive limits, however, they posed or continue to pose serious practical and institutional constraints. For example, in 2012, California raised the number of years members of their state legislature may serve from six years to 12 years for Assembly members and from eight years to 12 years for Senate members in response to issues of diminishing legislative engagement, expertise, and effectiveness. The 12-year restriction would force both houses to adopt a merit-based system for determining committee assignments and leadership positions, create opportunities for new members which may in-turn entice even more talented people to run for office, and engender a spirit of change in the halls of the Capitol.
- Strengthen our Democracy** - In 2014, the Gotham Gazette found that nearly 35 percent of races for seats in the New York State Legislature featured a candidate running without an opponent.<sup>10</sup> This lack of competitiveness is typical throughout the nation, a Ballotpedia analysis found, in regards to state legislative elections, that "since 1972, the win rate for incumbents has not dropped below 90 percent—with the exception of 1974, when 88 percent of incumbents were re-elected to their seats."<sup>11</sup> Electoral races without legitimate challengers fail to draw voters to the booth and undermine a citizen's ability to hold their elected officials accountable. Term limits would not eliminate the incumbency advantage as members may still serve six terms and other problems such as gerrymandering persist, but term limits would serve to mitigate the negative effects of incumbency by effectively guaranteeing open seat elections for each seat every twelve years.



90%

The minimum win rate for incumbents since 1972, excluding only 1974 when 88% of incumbents were re-elected to their seats.

### ***B. Providing Voters with the Power of Initiative and Referendum***

Empowering citizens to have a more direct and active role would serve to increase participation and give voters an avenue to effect change. Currently, New Yorkers do not have the right to propose laws, constitutional amendments, or repeal laws. Twenty-seven states grant their citizens the power of initiative and/or referendum.<sup>9</sup>

I propose New York joins these states by amending the State Constitution to allow for:

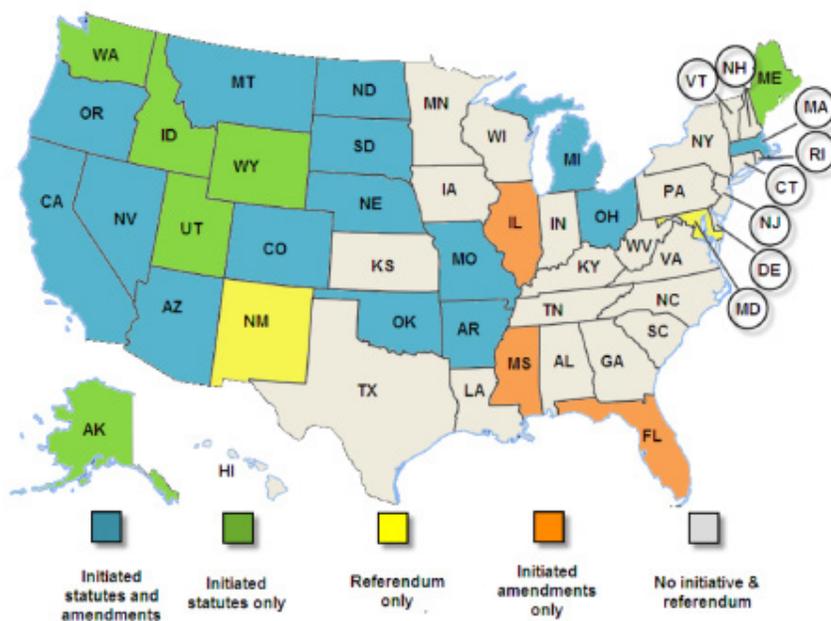
- **Initiative** - Granting New Yorkers the power to petition to place a measure before the legislature to amend state law or the constitution. Such measures would be required to address a single issue and, among other restrictions, may not seek to:
  - constrain individual rights afforded by federal law;
  - call for elections;
  - appropriate funds, except for a single object or purpose;
  - name an individual to hold office; or
  - grant any power or duty to any private entity or direct such an entity to perform a function.

In order for a citizen-proposed statute or constitutional amendment to be placed before the legislature, the following requirements would need to be met:

- submit a proposal to the State Attorney General bearing at least 300 signatures for the preparation of a petition and measure summary;
- submit said proposal to Legislative Bill Drafting Commission for comment and technical support;
- in the case of a statute, circulate a petition to be signed by a number of voters equal to or greater than five percent of the total votes cast in the most recent gubernatorial election; and/or
- in the case of an amendment to the constitution, circulate a petition to be signed by a number of voters equal to or greater than eight percent of the total votes cast in the most recent gubernatorial election.

If these requirements are met, the proposal would be placed before the legislature where they may vote to adopt, reject, or refer such a proposal to the voters in the form of a ballot measure. If the measure is amended by the legislature it would be required to go before the voters at the next general election. If a measure is not voted upon or referred to the voters within six months, a subsequent petition would be circulated to allow such a measure to go directly before the voters at the next general election.

**CHART OF POWER BY STATE**



Source: *Ballotpedia*<sup>12</sup>

- **Referendum** - Granting New Yorkers the authority to petition to have a measure placed on the ballot at the next general election to vote to approve or disapprove an act of the legislature. In order for such a referendum measure to be placed on the ballot, the petition must be signed by a number of voters equal to or greater than 5 percent of the total votes cast in the most recent gubernatorial election and must be submitted within 90 days of passage of the legislation for which the referendum is sought. If the petition is successful, the law in question would not take effect until after the measure has been voted on and the voters have approved the law. If the voters do not approve the act, the law would be voided and shall not take effect.

### ***C. Encouraging Competitive Elections and True Representation through Independent Redistricting***

As previously argued, the incumbency advantage in the New York State Legislature is strong and persistent. Although term limits will help address this issue, I believe it is necessary at this juncture to once again revisit independent redistricting with the 2020 census looming. Independent redistricting is a means to mitigate the incumbency advantage and to more strictly adhere to the one-person, one-vote principle.

A 2014 report endorsed by Common Cause, Effective NY, and the New York Public Interest Research Group (NYPIRG) found that many State Senate district populations deviated from the average by greater than two percent and a minority of all legislative districts fell within +/- one percent of the average.<sup>13</sup> The same report noted that Congressional districts within New York had nearly no population difference and California, Washington and Wisconsin had population deviations of less than one percent of the average while Illinois had no deviation.

In 2014, New York voters approved a constitutional amendment with the hopes of a new process that would address the State's unequal and gerrymandered districts. Sadly, the new process is flawed. The commission created by the amendment consists of ten commissioners, eight of which are appointed directly by the various legislative leaders (Minority and Majority), as well as two commissioners, who may be enrolled in neither major political party, appointed by the other commissioners. The established process would require the legislature to vote on the the commission's redistricting plans and if two separate plans are rejected, the legislature may then alter such plans.

I would suggest a completely different process, as follows:

- Form a commission comprised of an equal number of appointees enrolled in the two major parties as well as a set number of appointees not affiliated with either major party.
- To qualify to serve on such a commission, an individual must have been enrolled with their current party for at least five years prior to their appointment.
- The Chief Judge of the State Court of Appeals would appoint a panel consisting of one member registered with the State's largest party, one registered with the second largest party, one member who is not registered as a member of either major party. This panel would compile a list of eligible candidates from which the legislature can choose individuals to appoint to the commission by a separate vote in each chamber of the State legislature.

- The commission would submit a plan for an up/down vote by the legislature. If the legislature rejects two separate plans, the most recent version of the plan would go before the voters for approval as a ballot measure in the following general election.

Currently, six states utilize an independent redistricting commission to draw their state and congressional political districts. I believe a similar reform in New York would create a more representative legislative body.

## 2. Opening the Doors of Government and Providing Real Transparency

Former Supreme Court Justice Louis D. Brandeis famously stated "Sunlight is said to be the best of disinfectants...", and it is in the spirit of those immortal words that we should throw open the doors of government and let the light shine throughout the halls of power. The following are a compilation of needed reforms to make New York State Government more open and transparent:

*"Sunlight is said to be the best of disinfectants..."*

Justice Brandeis

### **A. Creating a "Database of Deals" that Allows Individuals to Search all State Economic Development Benefits and Subsidies**

According to the Citizens Budget Commission:

*"For the last year in which full spending data is available, fiscal year 2016, New York spent \$4 billion on economic development programs, including \$2.4 billion in tax breaks. Local governments and authorities spent \$4.6 billion of their own dollars in addition to this amount."*

Over \$8 billion in economic development support flows to business entities from different levels of government and numerous programs. Adding to the complexity is that this funding also comes in multiple forms (e.g. direct subsidies, tax expenditures, and State grants). One of the most critical and widely supported reforms to provide more oversight, accountability, and transparency, as it relates to this spending, is to create a "Database of Deals" which will allow individuals to search all State subsidy and economic development benefits. Many states and cities including Florida, Maryland, Indiana and even New York City utilize similar databases.<sup>14</sup> Both the Senate and Assembly included a "Database of Deals" in each of their one-house budget proposals, but disappointingly this critical reform was not included in the final budget agreement. The New York State Senate unanimously passed legislation to establish such a database (62-0), while in the Assembly, legislation has failed to receive a vote despite having over 50 sponsors.

As Governor, I would sign the legislation passed by the Senate which:

- Required the Urban Development Corporation (UDC) to create and maintain a searchable State subsidy and economic development benefits database that would include:

- name and location of the participant;
  - time span of received economic development benefits;
  - type of benefit received;
  - total number of employees at all sites of a project;
  - number of jobs a participant is obligated to retain and create during the project;
  - amount of economic development benefits received for the current reporting year; and
  - statement of compliance indicating if any other State agency has reduced, canceled or recaptured economic development benefits from a participant.
- Provided that the database must be searchable by individual fields, be able to be downloaded entirely or in parts, allow contract and award agreements to be downloaded, and provide definitions for every search field term and summary of each available economic development benefit available.
  - Required UDC to provide quarterly updates.
  - Defined economic development benefits to include:
    - State grants, loans, loan guarantees, loan interest subsidies, and/or subsidies allocated through the Urban Development Corporation; and
    - tax credits, tax exemptions or reduced tax rates and/or benefits which are applied for and preapproved or certified by a state agency.

This legislation has both widespread support in the legislature as well as the support of 20 budget and good government watchdogs, a full list of groups supporting this proposal, can be found in Reinvent Albany's release on widespread support for a "database of deals."<sup>15</sup>

However, I would also seek support for a more comprehensive proposal expanding on the above-referenced legislation, to include **all** direct subsidies, tax expenditures, and spending by authorities within the definition of economic development benefits. In addition, my proposed legislation would require such a database include benefits from Industrial Development Agencies (IDAs) and Local Development Corporations (LDCs). Legislation that requires an accounting of **all** spending, including local spending, provides citizens and policymakers with a more complete funding picture.

Creating a "database of deals" is a necessary reform that will allow for increased understanding of what efforts are working and what investments are paying off. Such a database would also provide independent entities greater ability to track benefits and potentially uncover corruption.

### ***B. Empowering an Independent Auditor to Review all State Government Contracts***

In order to ensure that State funds are being spent properly, I would empower an independent auditor to make sure that taxpayer money is being spent ethically and responsibly. The need for an independent auditor has sadly been shown time and time again during the last eight years, from the numerous economic development related scandals, to the sky-high costs of MTA construction that have contributed to the horrendous condition of the MTA. This independent auditor would serve under the supervision of the State Comptroller, and would assist the Office of the State Comptroller (OSC) in ensuring that taxpayer money is being spent correctly.

## Did you know?

\$800  
Million



The United States Attorney alleged that \$800 million in **state contracts were rigged** to benefit campaign contributors of Governor Cuomo.

\$8.6  
Billion



In 2016, State and Local economic development plan spending totaled \$8.6 billion.

\$2.8  
Billion



Empire State Development's 2017-18 budget of \$2.768 billion is **eight times larger** than the 2012-13 budget of \$335 million.

*Photo by: Hector A. Diaz @beacon\_transpar*

### ***C. Granting the Committee on Open Government the Power to Enforce Freedom of Information Law (FOIL) and Open Meetings Law (OML)***

The Committee on Open Government provides an invaluable service to the residents of New York State by helping various levels of government throughout the State meet the requirements of both the Freedom of Information Law (FOIL) and Open Meetings Law (OML). Although the Committee's role is primarily advisory, offering advisory opinions and guidance, their actions have supported the cause for greater transparency and public engagement. I believe we should continue to explore ways to increase transparency, and one way to accomplish that is by providing the Committee on Open Government with the power to enforce Freedom of Information Law (FOIL) and Open Meetings Law (OML). This would be a major change in the operation of the Committee and would require a change of law. Providing such authority is complex, so it would be my intention as Governor to consult with good government groups, local governments, interested legislators, state agency personnel, and the Committee's Executive Director Bob Freeman prior to laying out a specific proposal.

### ***D. Extending Open Meetings Law and Strengthening Freedom of Information Law (FOIL)***

As many citizens of this State have discovered over the past eight years, it is extremely difficult to access information about their government. When citizens and reporters file FOIL requests, it frequently takes several months for the State to get back to them, and the information that they respond with is frequently not quite what the individual was seeking in the first place. Similarly, citizens who wish to observe the decisions that are made that impact their communities frequently run into problems with Open Meetings Law, which result in them being shut out from the meetings where decisions are made. This lack of transparency contributes to people distrusting their government. This is why it is critically important for New York's Freedom of Information Law and Open Meetings Law to be addressed in such a way that results in New Yorkers feeling increased trust and confidence in their government.

One way to remedy this would be to reform and expand New York's Freedom of Information Law. One approach that has been supported by good government groups, specifically Reinvent Albany, is the creation of a simple website to serve as a portal for FOIL requests. Thankfully, after nearly eight years in office, the Cuomo Administration finally launched a FOIL Portal in late June. While this is certainly a welcome (if delayed) step, this portal will not be as valuable a tool for citizens as it has the potential to be unless other changes are made to fix FOIL. These changes must include reforming the process to ensure that citizens get the information that they are seeking in a timely manner. Additionally, as a result of the scandals that have plagued this Administration's Economic Development programs, subjecting all State economic development entities to Open Meetings Law and FOIL would provide an important level of transparency that would help to restore trust in those programs, and ensure that any future projects are completed in an open and honest manner.

Another way to provide New York's citizens with the information and transparency that they deserve would be to expand FOIL to the State Legislature. While the Legislature has pushed back on the expansion FOIL to include them in the past, according to Reinvent Albany, 23 states, as well as the New York City Council and the legislatures of other New York local governments are already subject to Freedom of Information laws.<sup>16</sup> Other legislatures have not found this added transparency has made their jobs more difficult, and taking this action on the State level would help regain the public trust.

### ***E. Increasing Lump Sum Appropriation transparency***

A recent Citizens Union report estimated that the FY 2019 Enacted Budget included at least \$12.7 billion in funds “set out in the budget with no real criteria for spending, no indication of who controls funding decisions, and little reporting requirements to tell whether money has been well spent - or spent at all.”<sup>17</sup> According to the same report, over \$2 billion of the funds identified are lump-sum appropriations for which elected officials control disbursement. There is a distinct lack of transparency that inhibits the public from determining if the legislator requesting such funds has a conflict of interest, such funds were used for their intended purpose, and/or if the funded projects were completed. It is also unclear how any of this funding, whether it is controlled specifically by elected officials or it is more broadly categorized as economic development and/or infrastructure funds, fits into the overall economic development strategy.

As Governor, I would bring transparency and accountability to this chaotic and haphazard spending by requiring:

- a legislative resolution detailing the recipients, requested amount, and reason for requests of a lump sum appropriation be approved by a majority vote of each the Assembly and the Senate before such an appropriation may be disbursed;
- members of the legislature and the executive to attest in writing that the appropriation is for a lawful purpose, no conflict of interest exists, and that the elected official requesting the allocation is in compliance with all financial disclosure requirements set forth in Public Officers Law (This requirement has been championed by Citizens Union);
- the Division of the Budget to issue a report detailing the recipient, disbursing agency, actual amounts disbursed, amounts spent by funding recipient, project status, and purpose of funding request; and
- banning a lump sum allocation to any entity that donated money to the elected official(s) requesting such an allocation and to any entity that is owned or operated by an elected official or employs a family member or cohabitating individual of any elected official(s) requesting such an allocation.

Many of these steps or similar concepts have been proposed by good government advocates like Citizens Union.

Such steps would make lump sum appropriations more transparent and provide for increased accountability of elected officials and funding recipients. Although I believe these measures to be a good start, however, examining the entire practice of utilizing lump sum appropriations is a worthwhile endeavor. If such reforms were unable to pass, I would also consider signing legislation as part of a comprehensive reform package that required all such unallocated funds “to be subject to allocation pursuant to a competitive process with clear, measurable, public and objective criteria defined in statute or by regulation” as supported by Comptroller DiNapoli.<sup>18</sup>

### ***F. Creating a Unified Economic Development Budget***

The “database of deals” will show where economic development funding goes, but a Unified Economic Development Budget (UEDB) will clearly delineate where economic development funds come from and how much is really being spent.

According to the Citizens Budget Commission, which has repeatedly called for the creation of UEDB, State and local economic development spending totals over \$8 billion.<sup>19</sup> The Commission compiles such data utilizing spending amounts published for past years. Senator Liz Krueger, the sponsor of legislation that would require the creation of a UEDB which unanimously passed the Senate, characterized the situation perfectly:

***“Coming up with a complete accounting of all the programs is extremely difficult. New Yorkers need to know how much money is being given away in the name of economic development, and, more importantly, whether that investment is actually creating meaningful jobs for New Yorkers, or is just wasteful corporate welfare.”<sup>20 21</sup>***

Senator Krueger’s bill is imperfect in my eyes, but if presented with the opportunity, I would sign the legislation as it is an important step towards providing greater transparency and accountability. The Senator’s bill requires the Division of the Budget to prepare a UEDB that, among other provisions, aggregates economic development assistance amounts, recipients of said assistance, and total jobs created and/or retained related to said assistance. I believe we can build on the spirit of this legislation by including a UEDB as part of the Executive Budget and the Enacted Budget so that legislators and the public have a full accounting and comprehensive view of economic development efforts including the cost to the State of tax expenditures provided as incentives.

### **G. Letting the Sunlight into the Governor’s Office**

As Governor, I would focus on leading by example. If I want the halls of government to be basked in the cleansing light of public scrutiny then I must be willing to make my future office transparent and hold myself to a high standard. I would seek to pass legislation requiring the governor’s office post online daily a schedule of official meetings including the participants and general purpose of such meetings. Additionally, I would make fully available my travel and visitor records.

I would seek to strengthen my relationship with the press and accept their role as a pillar of democracy. I would direct my press office to hold scheduled bi-weekly briefings for reporters. My goal in general is to be as regularly available to the press as my schedule would permit. I would ensure my use of executive state aircraft, including itinerary and passengers, would be available to the press via a standard FOIL request.

Speaking of state aircraft and the use of state resources, as Governor, I would restrict the use of State resources including the use of state facilities for political purposes and via executive order change the code of ethics to restrict the use of state aircraft to only official duties - not commuting to a private residence.

These changes are representative of my philosophy of governing - I want to embrace the press and the public, not keep them at arm’s length.

### 3. Taking Big Money Out of Politics

Politics is never going to be free of the influence of money. The best we can hope for is a system that discourages money from being the primary or sole driver of public policy. We have yet to truly devise a system that can both provide voters the ability to exercise their right of free expression and donate to political candidates of their choosing while at the same time restrict the outsized influence of moneyed-interests. This problem is exacerbated in New York by the transactional nature of all relationships in Albany and the view that political giving is not a matter of free expression, but a means to gain influence. Companies consider political contributions a cost of doing business in New York, an investment in the “pay-to-play” culture that is corroding public trust and undermining efforts to address the needs of New Yorkers. We must work to take big money out of politics to provide a voice to everyday New Yorkers and to restore the public’s trust in state government.

#### ***A. Ending Albany’s “pay-to-play” culture by banning political contributions from individuals and entities pursuing government contracts***

One thing that has served as a common thread between all of the scandals that have taken place in Albany in recent years is a corrosive “pay-to-play” culture. This culture empowers bad actors, wastes taxpayer money, and reduces New Yorker’s faith in their government. Therefore, it is vital that we tackle this problem head on to make sure that New Yorker’s have a government that works for them instead of well-connected donors.

This pay-to-play culture is so strong that in order to get anything done, even State entities feel that they need to lobby the State to receive any attention. Every year over \$8 million is spent on government to government lobbying in New York.<sup>22</sup> It is unacceptable that this practice goes on, and we need to reform our State so that our government can do the People’s business without feeling the need to inject money into the process.

In the summer of 2016, Politico New York reported that in the prior July financial disclosure period, of the \$5 million that Governor Cuomo raised, a whopping 90 percent of this money, over \$4.5 million was donated by entities with business before the State.<sup>23</sup>



According to good government groups, the US Attorney has brought charges over roughly \$800 million of State contracts that were rigged in favor of donors to the Governor.<sup>24</sup> Additionally, there is currently an ongoing federal and county investigation into over \$25 million of grants that went to a healthcare company that donated heavily to Governor Cuomo.<sup>25</sup> What makes this case even more troubling is that the company in question had already started construction on this project months earlier, and was going to continue this project regardless of State funding. One of the ways to stop corruption cases like these from happening is to ban companies and individuals with business before the State from donating to the sitting Governor. This reform will ensure there is additional integrity in State contracting, and that projects are being awarded based on the value they provide to the taxpayers.

## ***B. Closing the LLC Loophole***

In 1996, the State Board of Elections issued an opinion, breaking from previous practice and federal law, determining that, for the purposes of political contributions, a Limited Liability Company (LLC) shall be treated as an individual, and as such may contribute up to \$150,000 in any given year (\$60,800 per candidate in a statewide race). It was on this day that the so-called LLC loophole was born. Since then, the loophole has been at the center of controversy and the calls to close the loophole have been constant - even its biggest beneficiary, Governor Cuomo, has vowed to address this long-standing problem.

The LLC loophole has allowed nearly unfettered donations from powerful interests and created an environment ripe for corruption. Scandal after scandal involve groups who use said loophole to curry favor with political leaders. 2018, the year of public corruption trials, has been chock full of examples of the negative impact of the LLC loophole. Consider the example of Glenwood Management, the development firm and notorious exploiter of the loophole frequently used LLCs to funnel over \$10 million to politicians since 2005 through 26 different LLCs.<sup>26</sup> The development firm and its head Leonard Litwin, highlighting the nexus between LLC giving and corruption, popped up in the retrials of former Senate Majority Leader Dean Skelos and Former Assembly Speaker Sheldon Silver. Mr. Litwin was named as a co-conspirator in the original Skelos' trial and was one of two developers Silver was involved with in a clear pay-to-play scheme involving pushing business to law firms for a fee in exchange for supporting legislation critical to Glenwood Management's operations. During Governor Cuomo's first term, Glenwood was the Governor's largest supporter providing nearly \$1 million in funding. More recently, another incident came to light in the trial of Governor Cuomo's friend and former aide, Joe Percoco, which uncovered that Todd Howe had encouraged COR development to use LLCs to contribute to Cuomo to avoid media attention and exploit the loophole.<sup>27</sup>

Despite these cases and the attention focused on the loophole, little has been done. The Governor has proposed several pieces of legislation, but as many good government advocates have noticed there is little urgency on the part of the Governor to get them passed. Contrary to his protestations that the Senate Republicans are the primary roadblock to closing the loophole due to the number and amount of contributions they receive, Mr. Cuomo himself is by far the loopholes biggest exploiter and beneficiary. According to Politico New York's Bill Mahoney, Cuomo has raised nearly \$17 million since taking office from LLC contributions whereas Senate Republicans have received only \$6.4 million from such contributions.<sup>28</sup> The reality is the Governor is too close to this issue and it is hard to take his rhetoric about closing the loophole seriously as it belies the reality of the benefit it provides him.

In 2018, legislation closing the LLC loophole once again passed the Assembly with bipartisan support 123-11.<sup>29</sup> The legislation has failed to pick up steam in the Senate. This legislation would subject LLCs to the same \$5000 aggregate limit placed on corporations. In addition, the legislation would constrain those seeking to funnel money through multiple LLCs by requiring all LLCs which make a political contributions to disclose the identity of all owners as well each owner's proportion of ownership interest, and that all contributions made to a campaign or political committee shall be attributed to the LLC as well as each owner in proportion to their ownership interest. I would sign this legislation and work to build support in the State Senate through good-faith negotiations while also considering addressing this issue in a more comprehensive reform package.

As part of this effort, it would be necessary to provide modest additional support to the Board of Elections' Finance and Enforcement Unit for the purposes of increasing staff to handle additional enforcement duties.

#### **4. Holding Politicians Accountable and Providing for Independent Oversight**

Editorial boards, advocates, citizens, and reform-minded political leaders know creating independent ethics oversight and investigatory bodies are critical in the effort to reduce and root out corruption. For too long Albany insiders have been left to run free in the halls of power without a watchdog that is not beholden to their authority. It is time to dig deeper into Albany's corrupt underbelly and provide true independent oversight by:

##### ***A. Convening a Moreland Commission to Investigate Public Corruption***

In 2013, Governor Cuomo launched a Moreland Commission with the intention of rooting out corruption in Albany, before disbanding the Commission in 2014 before it's work had been finished. The New York Times reported that Larry Schwartz, the Secretary to the Governor, had intervened in the work of the Commission to prevent prosecutors from looking into organizations with ties to the administration.<sup>30</sup> Then United States Attorney Preet Bharara took over the investigations of the Commission, which ultimately led to the indictments of the Speaker of the Assembly and the Majority Leader of the Senate. Many consider this brief convening of the Commission a failure, yet to me it demonstrated the potential of such a Commission which despite the intervention of a self-interested politician still contributed to major corruption indictments. That is why as one of my first acts as Governor I will convene a Moreland Commission to investigate public corruption. Further, I will seek legislation amending the State Executive Law to require that any time such a commission is formed, the Governor shall fix a set period for said commission's existence, extendable by the Governor in consultation with the Attorney General and the Chief Judge of the New York State Court of Appeals.

##### ***B. Establishing a Five-member Truly Independent Oversight Committee that would Assume the Duties of the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission (LEC)***

There remain critical structural issues that inhibit Albany's ethics oversight bodies. Primary among these issues is the fact their members are appointed by the very people they oversee. Further, the division of the jurisdiction to investigate and the jurisdiction to review and recommend sanction renders both JCOPE and LEC impotent in their efforts to curtail corruption. It is necessary to start from scratch and create a new entity.

I will support any effort or lead an effort to create a truly independent oversight body as long as the goal is to create a new body:

- that merges the current authority and duties of JCOPE and the LEC;
- appointed by either the Chief Judge of the Court of Appeals and the Presiding Justices of each of the four Appellate Divisions of the Supreme Court or by members of all branches of government with at least a majority of the members not appointed by authorities they will oversee;

- appointed in a non-partisan fashion;
- acting via a majority vote of the members thereby ending the current practice which allows as few as two members to block an investigation or adverse finding;
- which prohibits members from being removed by their appointing authority; and
- that has a separate and set funding source.

The necessity for such a body is so great that I will support any proposal within reason which meets these goals whether enacting such a proposal via a constitutional amendment or through traditional legislation. The New York City Bar Committee on Government Ethics and State Affairs and the Committee to Reform the NY Constitution supports a comprehensive constitutional amendment that accomplishes several of the goals listed above, I would be supportive of that measure or another of similar quality and purpose.

### ***C. Strengthening the State Code of the Ethics including making Sexual Harassment an Ethics Violation***



The Code of Ethics is something which should constantly and consistently be reviewed as a matter of course. As Governor, I will convene a commission comprised of representatives from each conference within the State Legislature, the Governor's Office, the Office of the Attorney General, OSC, and various good government advocacy groups to write a report recommending alterations to the State Code of Ethics. Such recommendations will go before the legislature in the form of a properly prepared bill for a vote.

In addition to this effort, there are a few critical changes that I believe deserve immediate action. One, legislation should be passed and signed into law that makes sexual harassment a violation of the Code of Ethics. Currently, sexual harassment does fall within the scope of JCOPE's jurisdiction, however, it is not specifically enumerated in the Code of Ethics. Additionally, a new ethics violation of a failure

to report misconduct by any employee falling within JCOPE's jurisdiction should be adopted to ensure timely and comprehensive reporting of misconduct. Lastly, I would seek to require any policy-making employee seeking a leave of absence to submit such a request to JCOPE for opinion on allowable activities during such leave. These are small but powerful changes that will strengthen the Code of Ethics while at the same time providing for a safer work environment and a more accountable state government.

## 5. Rethinking and Rightsizing our Economic Development Programs

A 2017 report from the nonpartisan W.E. Upjohn Institute for Employment Research, found that New York State’s economic development programs were the most expensive in the nation.<sup>31</sup> Further analysis by the Citizens Budget Commission found that “when compared to the 10 largest states by population, economic development incentives cost New York as much as the next 3 states combined.”<sup>32</sup> New York’s expansive and expensive economic development efforts require state and local development agencies, authorities, and other entities to distribute direct grants, tax credits, property tax abatements, and other incentives to select industries. Such an approach fosters a purely transactional relationship where corporate interests must ply their influence in an effort to gain direct material benefit and where political donations are a prerequisite to gaining state support.

“When compared to the 10 largest states by population, economic development incentives cost New York as much as the next 3 states combined.”

The more programs designed to benefit specific businesses, corporations, and/industries, picking the winners and losers to borrow a commonly used phrase, the more you have people willing to find any means necessary to gain a competitive edge. More money, more complexity, more corruption. The best strategy to address this problem is a wholesale rollback of many of the State’s numerous economic development programs. We need to evaluate these programs, consolidate the ones that work, increase transparency and accountability, set strategic goals and measure our success against those goals, and finally pay for results not for promises. The following are proposals that will immediately address the intersection of economic development and corruption:

### **A. End the Practice of Providing Direct Grant Funding to Private Corporations and Focus on Cultivating an “Environment of Growth”**

At the heart of New York’s bloated and ineffective economic development efforts is the practice of providing direct and discretionary funding to private corporations. This practice, more than any other, contributes to the transactional relationship between government and private businesses in New York State. As was previously mentioned, there are companies that consider political contributions a normal cost of doing business while at the same time there are businesses that believe direct payments are their right. Even more troubling yet is that direct spending continues to expand, the Citizens Budget Commission offered the following analysis:

*“The State allocated \$4 billion to economic development in 2016. The State’s overall spending remained virtually flat between 2014 and 2016, but State tax expenditures decreased from \$2.7 billion to \$2.4 billion, while State direct spending increased from \$1.3 billion to \$1.6 billion. This shift away from as-of-right tax expenditures and toward direct grants to businesses is not well justified. In addition, changes have expanded programs during the past two years without sufficient evidence of an adequate return on investment of taxpayer dollars.”<sup>33</sup>*

As the Citizens Budget Commission points out, these programs are expanding without evidence. In many cases it is not only a problem of a lack of results, it is also a case of not having any evidence at all. A 2017 audit performed by OSC, found that the Empire State Development Corporation (ESD) “failed to meet more than half of the reporting requirements for tax credit and job creation programs.”<sup>34</sup> This finding is consistent with an overall economic development approach that is directionless, opaque, and lacking results.

While not all funding categorized as direct spending flows directly to private industries, a good chunk of it does, and it is this funding we must cease. Just this year Governor Cuomo and the other members of the Public Authorities Control Board approved \$1million in ESD funding for Cadillac’s New York City headquarters. The rationale is a bit confusing unless you consider that a PAC run by General Motors, Cadillac’s parent company, has “pumped \$31,500 into Cuomo’s campaign coffers since he was elected, and divvied \$155,000 among other lawmakers since 2010.”<sup>35</sup> It is clear that this practice offers few positives while contributing to the “pay-to-play” culture of Albany.

It is time to rethink our economic development strategy starting with ending the practice of providing direct grants to private businesses. Any funding provided to business should be on pay for performance basis demanding recipients invest in creating jobs and ending funding if businesses fail to meet performance metrics. Economic development funds should be redirected to focus on broad pro-growth reforms such as regulatory reform and people-centric policies like job training and education rather than place-centric policies. We need to rethink all of our assumptions and allow data to drive our future efforts.

More information about how I will rightsize and rethink our economic development efforts will be coming soon.

### ***B. Temporarily Halt Economic Development Funding***

In an effort to correct the problems and scandals plaguing New York’s economic development programs and to protect the taxpayer’s money, it would be necessary to first halt current economic development efforts by restricting the disbursement of any funding not currently part of a contract, agreement, or any other formalized understanding between the State and an outside party. Funding would be halted until the following anti-corruption proposals, long advocated for by members of the legislature and good government groups, are implemented:

- **Establishing a “Database of Deals”** - Allowing citizens to easily see where State economic development incentives have been awarded. See the previous section on the “database of deals” for more information.
- **The New York State Procurement Integrity Act** - Passing this legislation would:
  - restore OSC’s authority to review and approve SUNY, CUNY, and OGS centralized contracts previously eliminated in 2011 and 2012;
  - authorize OSC to oversee the procurement process of contracts in excess of \$1 million awarded by the SUNY Research Foundation;
  - prohibit state contracting through state-affiliated not-for-profit (NFP) entities unless explicitly authorized;

- require agencies to place a notice of all requests for an exemption from advertising procurements in the Procurement Opportunities Newsletter 15 days prior to seeking such an exemption and before they award a contract;
- require State authorities to adopt procurement guidelines that are consistent with those of State agencies; and
- strengthen ethics requirements for procurement officials by requiring state officials to recuse themselves from any conflict of interest in writing and include such a recusal in the procurement record.

This legislation would be a critical step toward curtailing corruption and I can say, unequivocally, that if the legislation were law eight years ago, many of the most recent scandals may not have been as costly as they were or even occurred in the first place. For instance, billions of dollars flowed through non-profits connected to SUNY Polytechnic and Dr. Kaloyeros.<sup>36</sup> These entities were used to skirt state procurement oversight in relation to scandals involving COR Development and the Buffalo Billion. If the Procurement Integrity Act were law, these entities would have been prohibited from participating in State contracting. Other provisions such as requiring procurement guidelines consistent with those of State agencies would have mandated guidelines that provide for competitive bidding when feasible, standardize advertising and evaluation criteria, and ensure vendors are in compliance with State law. It is clear how such provision could have reduced effort to direct funding to specific vendors.

These reforms will ensure that any future economic development projects will be handled ethically and transparently, enabling these projects to help our State's economy to grow without the risk of being engulfed in the type of scandals we have seen far too often over the last eight years. Once these reforms become law, then and only then will we once again begin to provide funding, albeit in a more targeted, efficient, and limited fashion.

## Conclusion

Contained within this document are nearly 20 pages of proposals to address corruption in New York... this is just the beginning. The following are other proposals worth exploring as we attempt to end the culture of corruption in Albany:

- increasing support for the Authorities Budget Office (ABO);
- creating an independent policy and budget analysis office;
- requiring authorities to disclose to the Public Authorities Control Board (PACB) information including job commitments, security interests, and clawback provisions on proposed projects;
- banning former Governors and Members of the State Legislature from lobbying for life;
- requiring unspent campaign contributions of elected officials convicted of a felony offense related to his or her official duties to be returned to donors or donated;
- amending state law to recognize modern relationships as many other states have done and require disclosures of significant others;

- end the practice of the Attorney General distributing settlement funds with little oversight— an estimated \$1 billion has been diverted from the State treasury;<sup>37</sup>
- providing the State Board of Elections with the resources to institute real time reporting of all campaign contributions over \$500; and
- requiring members and employees of an entity handling State contracting or the disbursement of economic development funds to receive good government training.

The policies proposed in this plan are not a panacea for all of Albany's ills, but I truly believe they will help root out the problem and alter the systemic and structural failures in a way that will curtail corruption in Albany. I believe that by closing the LLC Loophole we can begin to mitigate the disproportionate impact of monied-interests. I believe that by ending Albany's "pay-to-play" culture and making our economic development programs more transparent, we can alter the transactional relationship of state government and business while at the same time broadening and bettering our approach to economic development. I believe that by enacting term limits and encouraging voter participation through direct democracy, we can rewrite the relationship between politicians and the people they serve. I believe in comprehensive reforms to end corruption and I believe that by enacting such reforms, we can make New Yorkers once again believe in government. I urge you to believe again in the power we each have to encourage reform and create a home for all New Yorkers that is free of the crushing costs of corruption.

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BACK ON TRACK:

Revitalizing the MTA for the 21st Century



**MARC** ★ ★ ★ ★ ★  
**MOLINARO**  
FOR GOVERNOR

8.28.18

***“The future of a city, a region, and the people that live within it are at stake - we must work together, put aside our differences, own the problem, and fix the MTA.”***

## Introduction

Every day, millions of New Yorkers step onto subway cars, commuter trains, paratransit vehicles, and buses headed to their jobs, their schools, to visit loved ones, or to see the sights. They rely on this vast public transit system to connect them with the myriad opportunities offered by the New York City metro area. For them, the roar of the trains, the screech of the rails, and the hum of the crowd of fellow riders is how they begin and end each day — it is part of their routine; part of their lives.

For too many, this daily pattern has become anything but routine, with daily delays, gridlock, and broken escalators and elevators turning their typical travels into an odyssey. They stand shoulder-to-shoulder, crammed on overcrowded platforms or stuffed into broken-down subway cars watching the time tick by as they run later and later for meetings or job interviews, or they

sit sullenly as they realize they are going to miss their college graduation or a promising first date. There is a human toll to the crisis faced by the Metropolitan Transportation Authority (MTA); for some, it is a missed opportunity and for others, it is a lost job or derailed train.



## Introduction (cont.)

The viability and livability of a region the size and density of the New York City metro area are contingent upon a reliable, safe, fast, and well-organized public-transit system. Such a system is a key component of the dynamism that breathes life into the metropolis and draws in travelers, dreamers, fortune-seekers, skilled professionals, artists, and immigrants. The economic and social well-being of New York City and the surrounding suburbs depends on the transit system. **The future of a city, a region, and the people that live within it are at stake — we must work together, put aside our differences, own the problem, and fix the MTA.**

The content of this document relies heavily on the independent work of the Regional Plan Association, the Manhattan Institute, the Citizens Budget Commission, and many others. **It is clear we do not suffer from a lack of expert analysis and good ideas, but rather the political will and leadership to turn good ideas into real solutions.**

## Problem Statement

When Andrew Cuomo was sworn in as Governor of New York **in January 2011, the New York City subway had an average on-time performance of 85.4 percent.**<sup>1</sup> Eight years into his administration, **that number now stands at an embarrassing 58.1 percent.**<sup>2</sup> How could this have possibly happened?

Many factors, including incompetence and neglect, played a major role in this decline. For more than five decades, the state of New York has held the key responsibility for overseeing the MTA. Yet, the Governor has shown far more interest in picking petty fights with the Mayor of New York City than in ensuring that the subway is in a state of good repair.

The Governor's messaging on his role in the MTA has been highly contradictory. During a New Year's Eve gala with dignitaries and donors at the end of 2016, celebrating the opening of the first phase of the Second Avenue Subway (which on a per-mile basis was the most expensive subway in world history), the Governor acted as if he was the only person responsible for the completion of the project. Just a few months later, however, during the so-called "Summer of Hell" that impacted riders of both the commuter rail system and the subway, the Governor acted as if he was no more than a bit player in the MTA's decisions.

When you look at the many scandals that have plagued the Cuomo administration and the governor's actions regarding the MTA, it is easy to draw the conclusion that he cares far more about deep-pocketed donors than he cares about everyday New Yorkers. However, misplaced priorities, poor management, and a lack of foresight have also played a major role.



For years, rolling-stock replacement, tunnel conditions, storm damage, and other state-of-repair issues have been neglected while priority has been given to high-exposure expansion projects. The politics and mismanagement driving the neglect of our subways and commuter rails is the most direct cause of the current crisis of congestion, delays, and cancellations. Every late train undermines riders' trust in the system, contributing to a nearly **two-percent drop in subway ridership between 2015 and 2017**.<sup>3</sup> The riders are responding to declining on-time performance and deteriorating station and car conditions by finding alternative, and often less efficient and more expensive, modes of travel.

Riders are not the only ones suffering. The cascading effects of the subway crisis, once relegated to the subterranean realm, have spilled onto the streets in the form of traffic congestion as traffic speeds on Manhattan's streets have hit a record modern low.<sup>4</sup> The crisis seeped from underground tunnels to New York's economy: the New York City Comptroller found that **New York City Transit (NYCT) delays cost the City's economy almost \$400 million per year**.<sup>5</sup> In a city as interconnected as New York, no one is immune from the grinding gears of a struggling public transit system.

These problems come at a time when the organization charged with fixing the problem — the MTA — seems stuck in stasis; an "independent" organization firmly in the grasp of its political masters and trapped by its own inertia. Although there are many who will hide behind the expensive nature of the metropolitan region, the MTA has done little to address **project costs which often outpace international global-city norms by a factor of six**.<sup>6</sup> The cost of construction has driven the MTA to bond more to cover project costs, driving up debt service payments, and thus contributing to increasing operational costs which are stressing the Authority's revenue streams. All the while, the MTA continues to be hamstrung by politicians who have pressed billions of dollars of debt on to the institution and diverted its attention away from maintenance and on-time performance to their own pet projects.<sup>7</sup>

6X

Global project  
cost norms

\$400  
Million

The annual estimated  
**economic cost** of NYCT delays

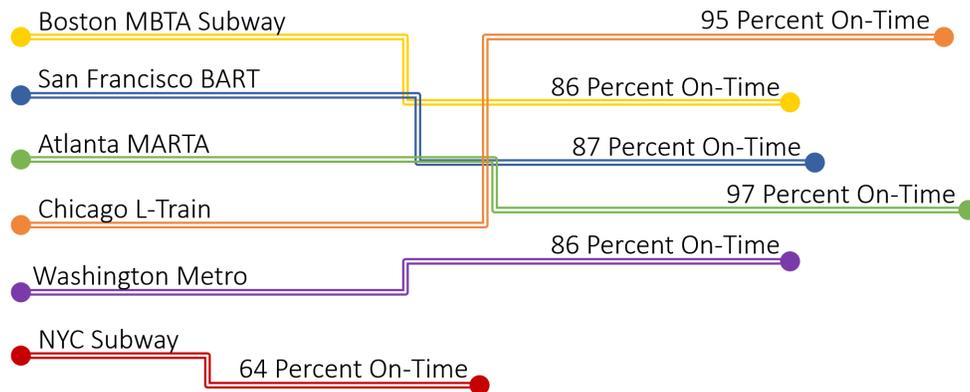
2%

Decline in  
ridership

Despite the political pressure and the structural constraints, there is a sliver of light on the horizon. The head of NYCT, Andy Byford, has proposed a bold and visionary plan to restore the subway and lead his agency into the 21st century. **The Fast Forward plan is a great starting point, but it will only truly work, and it will only be sustainable, if some of the most troubling structural issues are addressed, such as unsustainable construction and operation costs.**

The current crisis is unfortunate for many reasons, but one reason has to be the interrupted momentum of the system. Despite the persistent problems plaguing the MTA, and more specifically NYCT, in

2015, subway ridership hit its highest level since 1948.<sup>8</sup> The subway was contributing to increases in workforce-participation rates and making some neighborhoods more appealing; and although ridership has declined, some of these large-scale trends still hold true.<sup>9</sup> Until we address the system's many problems, it will be unable to expand and we will be unable to align service with burgeoning populations and changing needs.



At the end of the day, we need a system that provides value to its riders and to New York's taxpayers. **Despite spending billions on project costs, and often because we spend billions, "New York is the only major city in the world with fewer miles of track than it had during World War II."**<sup>10</sup> The New York City subway **"has the worst on-time performance of any major rapid transit system in the world,** according to data collected from the 20 biggest."<sup>11</sup> Service has expanded little, and quality has decreased; it is no wonder some riders, taxpayers, and experts are wary of providing the MTA with new revenue sources like congestion pricing. That is why **the first step in the process should be to repair the MTA's image by improving on-time performance, rationalizing and reducing costs, creating a system that serves riders of all abilities, and finally, providing value for every dollar spent.**

With a transit crisis at hand, it is vitally important that the next governor of New York has the willpower and vision to solve the problem. New Yorkers are currently paying far too much for the MTA while getting far too little in return. We need to make sure that New York is affordable for everyday New Yorkers, and fixing the MTA is a vital part of that goal.

## The Plan

This plan to fix the MTA and end the current crisis focuses on a combination of short-term measures to address acute needs and long-term cultural and structural changes aimed at creating a stable and sustainable public transit system. Although the plan addresses many systemwide issues and touches on all aspects of the MTA's services, including Access-a-Ride, the bus system, and commuter rails, it focuses primarily on the most acute problem: the subway crisis. The plan is built around eight goals:

1. **Reduce Costs on Large Projects such as the Second Avenue Subway's Second Phase**
2. **Support Byford's Fast Forward Plan**
3. **Reduce Operating Costs**

4. Increase Accountability, Transparency, and Efficiency
5. Achieve a State of Good Repair
6. Increase On-Time Performance
7. Change the MTA's Culture
8. Make Public Transit Accessible to All

By meeting these goals and following through on the various proposals put forth, New York can get the MTA back on track.

## 1. Reduce Project Costs

New York Times reporter Brian Rosenthal concluded in his widely cited piece on the excessive cost of transit construction:

*“The leaders entrusted to expand New York’s regional transit network have paid the highest construction costs in the world, spending billions of dollars that could have been used to fix existing subway tunnels, tracks, trains and signals.”<sup>80</sup>*

New York’s transit project costs are not just the highest in the world, they are anomalous in their excessiveness. For example, **cost of the East Side Access project hit a record high of roughly \$3.5 billion per new mile of track, which is seven times the global average.**<sup>12</sup>

Ignoring these costs or writing them off as part of New York City’s special status, although convenient to those unwilling to make the tough decisions, is short-sighted and does not comport with the facts. New York City’s uniqueness may explain why three of the four most expensive per-kilometer rail projects in the United States were built right here in the Big Apple, but it does not fully explain why those same three projects were the three most expensive in the world.<sup>13</sup> Throughout Europe and in Japan, underground rail projects typically cost between \$200-\$500 million per kilometer of track — a fraction of the costs of many of the MTA’s large-scale projects.

There is not a singular explanation as to why New York City transit projects are such outliers. Rather, several factors contribute to the exorbitant costs of transit projects, including:

- Unnecessarily long project timelines;
- High labor costs and poor workforce efficiency;
- Regulatory barriers, including procurement constraints;
- Mismanagement; and
- A lack of proactive public engagement.

It is necessary to address these factors — not only to save taxpayers dollars, but to also enable the MTA to grow and prosper. As previously mentioned, in 2015, ridership hit a 60-plus year high and, despite

recent declines in ridership due to service quality issues, demand is likely to increase in the future. The subway system has barely expanded since 1937, leaving many growing neighborhoods without proper service.<sup>14</sup> The subway, commuter rails, and bus service provided by the MTA are a critical component of the city, state, and region's future. Excessive project costs threaten that future by damaging public trust, straining the MTA's budget, and limiting the opportunity for expansion. It is necessary to take the following steps to reduce project costs:

### **A. Provide Longer Work Windows**

Too often, projects are extended to avoid short-term disruptions in rail service and/or to mitigate surface-level impact, thereby requiring construction and repair work to be performed during small, inefficient windows over long periods of time and/or necessitating the use of less effective techniques. For example, workers adding portals to the Harold Interlocking as part of the "East Side Access" project are required to break down their site every day so that rail service can quickly be restored or continued. This greatly reduces the time spent on construction to just four to five hours.<sup>15</sup>

We should explore work plans and techniques that prioritize efficiency and speed. Although service delays should be avoided and mitigated, it should not be at the expense of speed and productivity. The MTA should consider longer-term shutdowns to allow for concentrated and consistent work that will both shorten the project delivery timetable and decrease costs. The MTA should also use the most efficient techniques available and not restrict their use simply due to surface level disruption.

These strategies would require the MTA to proactively engage with the community on the short-term disruptions and long-term benefits of such practices. Such strategies would also require the State to cooperate with the City in a far more constructive manner than under the current administration; for example, the State could work with the City to dedicate entire lanes on major avenues to bus service that arrives every minute to replace a subway line shut down for long-term work. Shorter projects are less expensive projects.

### **B. Reduce High Project Labor Costs by Addressing Workforce Efficiency Issues**

Although shortening project timetables will reduce employment costs, the MTA has myriad other employment cost issues resulting from poor management, anachronistic work rules, and bad labor contracts. As a rule, New York City, where nearly all of the MTA's major construction projects take place, is an expensive city, with increasing construction demand and consistently high labor costs. However, even by New York City standards, labor costs on MTA projects are high, driven by bad deals and bad policies.

Collective bargaining arrangements should recognize modern technological advancements and adjust staffing needs and patterns accordingly. Tunnel-Boring Machines (TBMs) have replaced the need for large numbers of manual laborers; yet, **in New York, 25 employees are required to operate a TBM, more than double the number of workers required in other cities.**<sup>16</sup> *The New York Times* cited an internal report from the consulting firm Arup which found "underground construction employs approximately four times the number of personnel as in similar jobs in Asia, Australia, or Europe," a troubling and costly truth. One of the most egregious examples,

**"200 workers  
being paid  
\$1,000 per day  
without any  
discernible  
role..."**

as reported by *The New York Times*, had 200 workers being paid \$1,000 per day without any discernible role in the East Side Access Project. Although the workers were eventually let go, no one knows how long they were employed.<sup>17</sup> Overstaffing is unsustainable.

Overstaffing is but one of the many workforce inefficiencies plaguing the MTA's construction projects. The union labor pool is also highly specialized with individual roles having specific tasks and hours all governed by union rules from a bygone era. These rules complicate scheduling, increase costs, and hinder the adoption of best practices and advanced technologies. In addition to the complexity and productivity issues created by these practices, the proliferation of rules often leads to conflicts between separate unions, as well as between management and unions, which can impede the progress of a project and cause delays.

One frequently cited troublemaker of a rule is not from an outside labor union but from the MTA's own unionized labor:

*"Megaprojects are required to use workers from the MTA's operating workforce for a range of jobs. This can result in worker shortages and delays at the construction site, and blur the distinction between operating tasks and capital programming."<sup>81</sup>*

This type of crossover is rare and runs counter to common sense and good judgment; it must be addressed during future negotiations.

The MTA needs to eliminate or curtail these costly rules and reduce the inflated workforce. To achieve this goal, the MTA should actively seek to involve itself in labor negotiations between unions and contractors and represent their interests as the party that will ultimately pay the bills. With only contractors and labor in the room, there is no party concerned about the bottom line. Additionally, the MTA should explore project-specific labor agreements instead of routinely relying on the labor agreements negotiated by the unions and the General Contractors Association.

No matter the avenue to a labor contract for a project, the MTA should not only negotiate to eliminate unnecessary work rules and staffing, it should also work to establish reasonable overtime provisions (overtime reform as it pertains to the MTA workforce will be addressed in a separate section). The RPA has suggested in their report "Building Rail Transit Projects Better for Less" that overtime rates should only be offered after an individual has worked 40 hours in a given week and separate reasonable premiums should be set for weekend and night shift work.

Labor costs are not only being driven by bureaucratic rules, a lack of cost sensitivity on the part of contractors and labor, and/or overstaffing — scarcity and demand are also increasing costs. New York City is in the midst of a construction boom driving up the demand for skilled labor. The MTA can do little to mitigate the market forces driving up labor costs, but it can work harder to not compete with itself. The MTA should make a concerted effort to not overlap too many megaprojects and manage their capital projects portfolio in such a way that avoids projects competing over an already-sparse labor pool.

Riders and taxpayers can no longer afford for MTA capital projects to be treated as job programs. By making changes to the work rules, eliminating redundant staff, and following staffing practices

typical in Asia, Australia, and Europe, it is possible that the “East Side Access” project could have cut \$1 billion from its estimated \$4.4 billion in labor costs.<sup>18</sup> Cutting labor costs could significantly reduce the construction cost of transit projects in New York. The MTA should seek to work collaboratively with contractors and unions to drive down costs by fixing anachronistic rules, unbalanced contracts, workforce overstaffing, and inefficiency.

### **C. Fix the Environmental Review Process**

Simply put, the environmental review process is broken, not truly protecting the environment while at the same time creating project delays, forcing byzantine processes, and generally driving up costs. The RPA has suggested two fixes — rationalizing the review timeline and requiring construction costs to be an equally weighted portion of the review process.

**Environmental reviews in the United State average around seven years, while in many European countries, they are completed in as little as 18 months.**<sup>19</sup> These countries achieve these much shorter reviews “by separating public outreach, a business case for the project, and preliminary engineering from the environmental review process.”<sup>20</sup> The RPA suggests that performing these tasks, separately but in parallel would reduce the bureaucratic logjam and speed up these reviews.

The RPA also makes a strong argument for including “constructability” and project costs as a co-equal component of an environmental review. Too often this consideration is pushed aside and short-term environmental and community impacts are weighted more heavily than long-term environmental and community benefits provided by reduced costs and expedited projects. They suggest:

*“Federal, state, and local environmental reviews should commission an independent analysis to weigh the potential costs and disruption to surrounding communities against the costs, both financial and environmental, of the most cost-effective construction plan.”<sup>22</sup>*

One example of the impact of this short-sightedness was the outcome of the East Side Access project’s environmental review, which pushed all work in Manhattan underground. This stipulation differed from the Second Avenue Subway extension which utilized more surface level facilities and automated machinery. The MTA Construction Corporation (MTACC), a subdivision of the MTA that manages “mega-projects-system expansion and Lower Manhattan transit infrastructure projects,” believes that if a process similar to the Second Avenue Subway were used that “at least \$75 million in schedule-related costs” could have been saved.<sup>21 22</sup>

New York State should do its part to improve the environmental review process, and the federal government should be urged to undertake similar efforts. In the meantime, the MTA, when appropriate, should mimic the #7 Extension project where “innovative finance, permitting, and approval processes cut years and perhaps several hundred million dollars from the construction costs and schedule.”<sup>23</sup>

### **D. Increase Public Engagement/Transparency**

The environmental review process does include public outreach. However, it is often highly structured, limiting a fuller, more informative conversation with community members and riders. The MTA should expand its outreach efforts and provide riders and the community with a clearer understanding of its

goals, ongoing projects, and future plans. In an effort to be more open and avoid costly and time-consuming legal actions, the MTA should engage the public earlier on in the planning process and stay engaged throughout the entirety of the process, holding forums, providing tours, and opening information centers.

More generally, the MTA suffers from a public trust deficit which can have a direct impact on a project's schedule and cost. To build trust and legitimacy, the MTA should be more open and transparent. The RPA suggests utilizing a 10-year plan for megaprojects to account more accurately for the timetable of projects, assure contractors, and provide a more robust explanation of a project's feasibility to the public.<sup>24</sup> Such a plan and, all other plans, should include honest project costs and realistic schedules. Unrealistic projections not only undermine the public's trust and fuel resentment but when cost overruns occur, they require lengthy reviews and approvals, delaying projects and thus increasing costs. Without clear benchmarks, it becomes difficult for the press and the public to determine if a project is successful or not. This has been a frequent criticism of the \$836 million Subway Action Plan that was intended to stabilize the subway.<sup>25</sup>

### ***E. Procurement Reform and Fostering Competition***

The MTA is in desperate need of procurement reform that simplifies and expedites the process without losing critical oversight or inviting corruption. The MTA should also seek to foster greater competition, as fewer bids results in lower quality and higher costs. On signal-modernization projects, for example, the MTA has relied on the same two contractors despite missteps and delays that mean it takes nearly a decade to modernize the signals on just one subway line.

One issue is the piecemeal nature of procurement "in which each project phase is often awarded to a separate consultant and contractor — despite the MTA not being required by law to break projects apart or follow the Wicks Law division of contracts."<sup>26</sup> Sadly, this is not the only case of the MTA following inefficient rules or laws that don't govern them. According to the RPA, the



# Did you know?

\$3.5  
Billion



The East Side Access project cost hit a record high \$3.5 billion per new mile of track, which is **seven times the global average**.

58%  
On-Time



When Andrew Cuomo was sworn in as Governor in 2011, average on-time performance was 85.4 percent. **That number now stands at an embarrassing 58.1 percent.**

\$40  
Billion



As of 2015, the MTA was saddled with **more than \$40 billion in debt**, which is greater than the debt held by over 30 nations.

*Photo by: Hector A. Diaz @beacon\_transplan*

MTA, despite being under no obligation to do so, continues to select contractors based on the lowest responsible and responsive bidder. This practice often leads to picking low-quality bidders, canceled contracts, rebidding, change orders, and subsequent project delays. The MTA has the authority to move to a value-based approach utilizing a Request-for-Proposal (RFP) process. This would allow bids to be evaluated on a number of criteria, including bidder history, price, and creativity. Further, it could expedite the process by allowing for the prequalifying of contractors based on “their competency and performance, including on-time delivery.”<sup>27</sup>

The MTA must also be given the tools to address issues related to procurement. Design-build has yet to catch on in the transit industry, despite being used in other public construction sectors (e.g. Tappan Zee Bridge). The RPA believes utilizing this project delivery mechanism on megaprojects, for which it is better suited, than the current design-bid-build process, could potentially speed up the time it takes to complete projects by integrating design and construction teams, mitigating constructability issues in design, and fostering creativity. State action must be taken to expand the opportunity for MTA to utilize design-build on large-scale projects.

*“True competition requires transparency.”*

- Marc Molinaro

Other statutory changes must also be made, such as allowing the MTA to opt-out of Buy American rules when robust domestic markets do not exist for certain products, equipment, and materials. Such restrictions make it difficult to leverage competition to reduce costs while ensuring quality. The problems caused by these rules are often exacerbated by custom or design features or construction techniques that are too specific and detailed. The MTA should opt for efficient designs that obviate the need for customization. Further, the MTA should explore joint procurement efforts while standardizing equipment and supply chains across the entire authority as has been adopted by Transport for London (TfL).<sup>28</sup>

One example mentioned in the RPA’s report on MTA megaprojects highlights the difficulties of both Buy American rules and overly specific procurement — the design of the Second Avenue Subway station entrances required expensive custom-made granite pieces. Additionally, the MTA was required to purchase the granite domestically due to Buy America rules, even though there are only a small number of vendors in the United States capable of providing such materials. The detailed procurement needs, as necessitated by shortsighted design, and the restrictions of Buy America rules contributed to the exorbitant \$1.74 billion price tag on the Second Avenue Subway’s station construction costs.<sup>29</sup>

The MTA should also seek to foster more competition among bidders. MTA projects rarely attract a bounty of bids. The Second Avenue Subway, for example, only attracted two bidders resulting in a contract 20 percent above the original estimate.<sup>30</sup> According to *The New York Times*, their “analysis of roughly 150 contracts worth more than \$10 million that the authority has signed in the past five years found the average project received just 3.5 bids.”<sup>31</sup> The use of a 10-year plan for megaprojects instead of the current five-year plan could induce more bids by providing more funding stability, thereby making MTA projects more appealing.

Finally, contractors are required to take on a great deal of risk when working with the MTA. The

contractors often take responsibility for delays that fall outside of their control, such as those resulting from site access issues and late change orders. This incurs costs on the contractor causing them to preemptively drive up bids or to not bid on MTA projects at all. The MTA should share the risk with the contractors and take responsibility for their role in delaying projects.

### **F. Construction Costs Test Case**

Whenever an article is published that draws attention to the insanely high costs of constructing new transit options in New York City, there is an inevitable backlash which blames exorbitant costs on special factors that are unique to New York City. In order to determine if there is any truth to this argument, we should undertake a pilot program in which current New York laws and work rules are notwithstanding. International companies would be encouraged to offer bids for a typical resignalling or expansion project under the laws and labor agreements of another state, country, or the European Union, to ascertain if there are actually any unique New York costs, or if the costs are really attributable to poorly thought out work rules, policies, and laws.

### **G. Other Construction and Cost Saving Measures**

The following are additional ideas to reduce and control MTA project costs:

- **Reduce the Frequency and Scope of Change Orders** - Change orders can delay projects and add costs. To reduce the number of change orders and to mitigate their impact, the authority should:
  - utilize a design-build process;
  - streamline and simplify project design;
  - institute more active and authoritative project management that can stem the flow of change orders from the operators (NYCT, Metro-North, and LIRR); and
  - reduce approval time for change orders by examining internal processes.
- **Evaluate Cost of Megaprojects** - The RPA suggests the MTA undertake and publicly publish a “post-mortem review” of megaprojects like other cities’ transit organizations (Los Angeles, Denver, Madrid, and London).<sup>32</sup> These reviews will provide the MTA with the opportunity to evaluate both internal and external conditions, rules, and relationships that contribute to high costs.
- **Adopt the RPA’s Recommendation to Create a New Subway Reconstruction Public Benefit Corporation** - As part of its Fourth Regional Plan, the RPA recommended a new public benefit corporation with the sole responsibility of rebuilding the subway in 15 years.<sup>33</sup> Such a corporation would be designed to be nimble, flexible, and problem-solving. The idea is to create an entity free of the anachronisms, complexities, burdensome regulations, and structural constraints of the MTA that slow progress, drive up costs, and avoid accountability. The corporation would serve at the pleasure of the Governor and be overseen by a board of directors. This is not a cure-all, as both revenue and cost issues must be addressed. This new entity does provide the potential to accelerate project timelines and reduce costs. The entity should function and exist only until such time as its mission has been achieved.

There are numerous issues contributing to the high costs of the MTA’s transit projects, many of which

have been discussed in detail. The topics mentioned in this section are by no means a complete list of all the factors and solutions needed to reduce construction costs; rather, they represent opportunities, identified by experts and interested parties, to reduce the excessive cost of MTA projects.

## **2. Support Byford’s Fast Forward Plan**

In May of 2018, the head of New York City Transit (NYCT), Andy Byford, released a proposal on how to fix the New York City subway in ten years, titled “Fast Forward - The Plan to Modernize New York City Transit.” Mr. Byford is an internationally renowned expert on transit, who has worked in London, Australia, and Toronto. The Plan starts by outlining the many issues currently confronting NYCT, including an antiquated subway signal system, old bus routes that have not been updated in decades, and a bureaucracy that is not able to address the problems that the system faces.

While the Plan is elaborate and will be expensive, it serves as a good base to work from as we move forward to fix the subway. Even though this plan was developed by an individual who was hired by the Cuomo administration, this Governor has shown time and again that he does not value the subway, and cannot be trusted to oversee its repair. Trusting Governor Cuomo to fix the subway would be like trusting Emperor Nero to rebuild Rome after burning it to the ground. These concerns can be seen in the plan itself. Indeed, it has been reported the original cost estimate was removed from the Plan after “very very high level discussions” with Governor Cuomo.<sup>34</sup>

The Plan contains important proposed technical fixes to the system, many of which are mentioned in different sections of this report. One of the most important parts of Fast Forward is not technical, but rather deals with changing the culture of NYCT and putting an emphasis on customer service. The following proposals put forward by Mr. Byford in this area are of utmost importance:

### ***A. Improve Communication***

Provide regular updates on system improvements and time-bound commitments. Report customer satisfaction scores on bus, subway, and paratransit service by the end of 2018.

### ***B. Improve Customer Interaction***

Deploy a new Website and App. In addition to these technological changes, reduce MetroCard refund processing time by 50 percent in 2018, and reduce call center hold times by 25 percent in 2018. Install customer information screens at 50 subway stations and on 1,000 buses in 2018 and in all stations and on 3,000 additional subway cars over the next 5 years.

### ***C. Increase Transparency***

Biannual public reporting on the progress of this Plan starting in January 2019. “Meet the Manager” sessions with customers starting in 2018. More accurately estimate costs, and improve project efficiency.

### ***D. Better Project Management***

Establish a single point of contact responsible for project scope, schedule, and budget. This would include better planning and design procedures, with the goal of implementing new internal processes and procedures early in 2019.

### E. Improve Customer Service and Amenities

- Creating a culture of customer service, where all employees of NYCT feel responsible for customer service.
- Improving restroom availability and servicing, starting with immediate improvements at five key station complexes. Twenty-five (25) locations completed by end 2019.

### F. Change and Improve Employee Experience

One of the most important parts of Fast Forward relates to changing the employee experience at NYCT. This includes:

- Commending employees more for good work;
- Modernizing organization by reducing layers of bureaucracy, changing structures, and redefining roles by 2019;
- Improving hiring practices, including recruiting high-quality candidates for employment;
- Working with organized labor to ensure that the discipline structure for poorly behaving employees is more effective;
- Creating a “One Team” culture, which includes better communication throughout the organization;
- Valuing employee input; and
- Increasing the number of career advancement and skill development opportunities for employees.

## 3. Reduce Operating Costs

One of the main issues that has plagued the MTA is the massive growth in operating costs. According to Nicole Gelinias of the Manhattan Institute, **over the past 12 years, operating costs, excluding annual debt service, have increased 53 percent above inflation.**<sup>35</sup> This growth has consumed additional revenue sources made available to the MTA and made it more challenging for the MTA to pay for critical maintenance. For example, the annual revenue, over a billion dollars per year, from the Metropolitan Commuter Transportation Mobility Tax (MCTMT), which was passed less than a decade ago in 2009, is consumed entirely by increased employee benefit costs.<sup>36</sup> While there are many steps that can be taken to address this problem, we should immediately focus on the following:

### A. Collective Bargaining Reform

We must engage with our union partners at the MTA to ensure that collectively bargained benefits and work rules reflect the financial reality of the modern MTA, with the MTA, as well as its workforce, sharing the savings from any long-term labor savings. According to the *Wall Street Journal*, as of 2014,



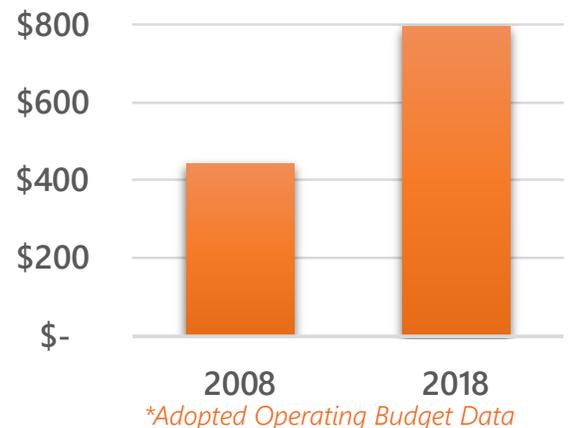
“For each ride, the MTA paid \$3.06 in overall personnel costs in 2014, compared with \$1.05 for Paris and 75 cents for London. Nearly \$1 of every MTA ride goes to health care, pension and retirement costs.”<sup>37</sup> This massive gap between the MTA and the transit systems in other global cities shows that changes need to be made. During the next round of contract negotiations, we must find a deal that works for both the MTA and our unions, to curb these costs. We should look at the lessons learned from the establishment of Tiers 5 and 6 at the State level, as we determine the contributions future MTA employees should make towards their healthcare and retirement.

**B. Overtime Reform**

As part of our collective bargaining negotiations, we must discuss overtime reform. **In 2017, the MTA spent a record \$1.2 billion on overtime, an increase of 20 percent from 2016.**<sup>38</sup> These high overtime costs contribute to future pension issues, as it is a common practice for overtime to be given to senior employees that are close to retirement. This results in those employees having a larger final average salary, which results in them receiving a larger pension, thus increasing the costs to the MTA. We should examine policies to reduce overtime costs, including better planning to limit the need for overtime and restricting overtime opportunities to a certain percentage of an employee’s salary, unless there is a critical need for a certain employee’s skill set that is approved by multiple supervisors. If we can reduce the total by a significant margin, it would free up billions of dollars for critical repairs over the next decade.

**OVERTIME**

(\$ MILLIONS)



**C. Address The Growth of Healthcare Costs**

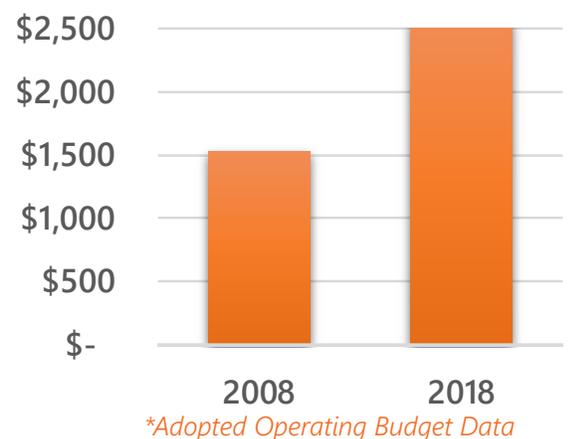
One of the primary drivers of the increased cost of MTA operations has been the growth of healthcare costs. The cost of healthcare for current and former employees is currently \$1.9 billion and is projected to grow to \$2.6 billion by 2022.<sup>39</sup> This growth follows a current unfortunate trend, as these costs were well below a billion dollars just over a decade ago.<sup>40</sup> We should look at innovative models, such as the health care practices of the Hotel Trades Council, and at lessons learned from the 2014 labor agreement that Mayor DeBlasio signed (which required unions to reduce healthcare costs), to determine what works best, and how we can reduce costs without negatively impacting employees.<sup>41</sup> Savings could be shared by both the unions and the MTA.

**D. Tackle Debt Service Issues**

Another factor that both contributes to, and results from, the growth of MTA operating costs is debt service. Since so much of the MTA’s revenue pays for operating costs, the authority has had to heavily rely on debt issuances to fund capital improvements and repairs. In turn, the large issuances of debt results in debt service payments that contribute to escalating operating costs. **As of 2015, the MTA held more debt than over 30 nations and has seen it balloon to over \$40 billion.**<sup>42</sup>

**DEBT SERVICE**

(\$ MILLIONS)



<sup>43</sup> As a result, debt service accounts for 16 percent of the MTA's operating costs.<sup>44</sup> We must better manage MTA debt and fund more capital projects with cash instead of debt to ensure that debt service makes up a smaller portion of MTA operating costs.

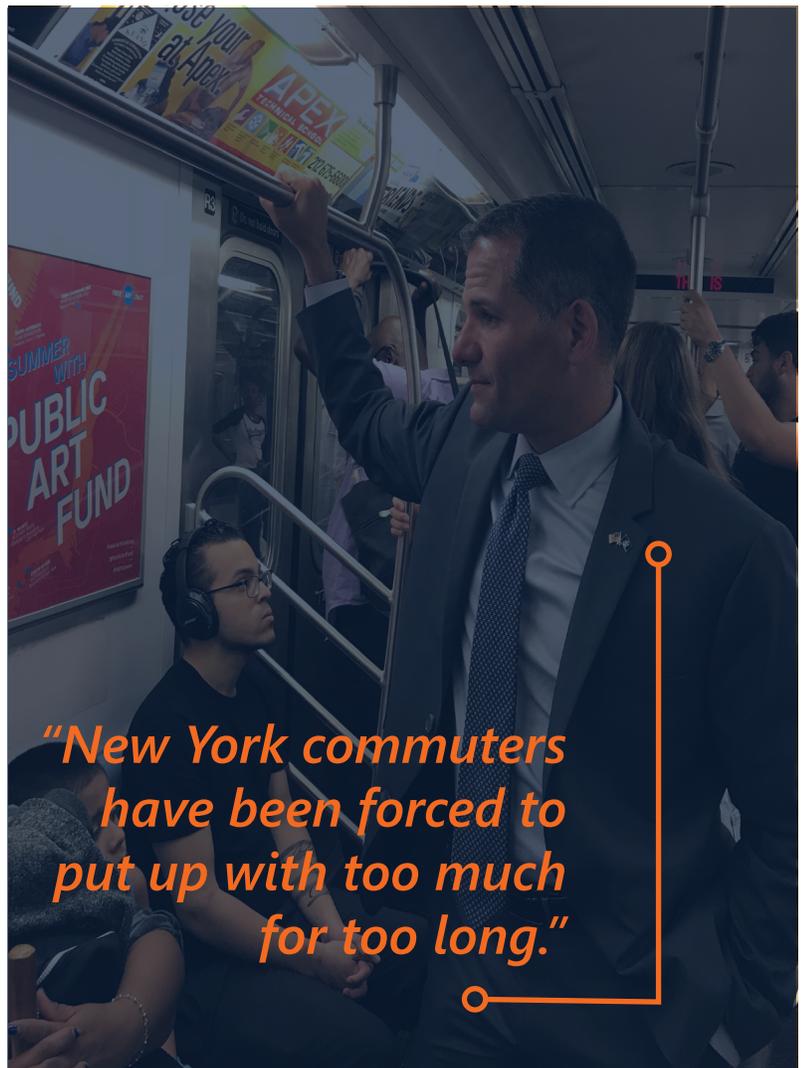
This problem has been further exacerbated as the MTA's credit rating has been downgraded twice in the last five months, from AA- to A.<sup>45</sup> This will result in a higher cost for borrowing money, which will make new debt service even more expensive. The state should also spend more of the revenues it receives from one-time windfalls, such as large settlements between state regulators and large financial firms, on MTA capital projects, thereby reducing the need for debt.

#### 4. Increase Accountability, Transparency, and Efficiency

Yet another issue that has plagued the MTA is a lack of accountability and transparency. Far too often, the public, and even the board of the MTA, are kept in the dark on the planning and progress of projects undertaken by the MTA. This lack of transparency makes it far too easy for the individuals who are responsible for actions that result in projects being delayed and going over budget to escape accountability. Starting next January we will address these problems by taking the following actions:

##### A. Forensic Audit

The Office of the State Comptroller has conducted, and continues to conduct, illuminating and important audits on portions of the Metropolitan Transportation Authority's operations, including overtime spending, the accuracy of financial plans, subway station safety, and the authority's real estate portfolio. Many of these reports uncovered troubling findings that spurred real reforms and increased transparency. It is more important than ever to continue shining a light on the practices of the MTA by conducting a forensic audit of the entirety of the MTA's operations. Such an audit would uncover any inappropriate use of taxpayer money and/or financial mismanagement. It would lay bare the roots of the MTA's current crisis and provide the information needed to move towards fixing the system. Furthermore, it would hold the governing board members accountable for their actions by uncovering any decisions that were made counter to their obligation to act in the best interest of the MTA and the public. A forensic audit is not a panacea; but it would be a critical step forward, as it would provide us with the information we need to address the problems that the system faces.



*"New York commuters have been forced to put up with too much for too long."*

## ***B. Full Needs Assessment***

Currently, a needs assessment is done every five years prior to the release of the capital plan and a long-term 20-year assessment is also performed. However, these analyses take into consideration development priorities and funding realities, which is understandable but leaves policymakers, taxpayers, and users without a full understanding of the complete needs of the system. There is a clear need to produce a report detailing all the needs of the system, as former Chairman Richard Ravitch did in the early 1980s. Such a full accounting of the needs to bring the system to a state of good repair would allow for better strategic planning and long-term funding. The Citizens Budget Commission suggests following the model of New York City's Asset Information Management System Report, or AIMS. An AIMS report "includes a full inventory of all agencies' capital assets, including for each component, the date of construction or reconstruction, original cost, and a professional assessment of its remaining useful life and replacement cost," as well as a "schedule of the costs of activities necessary to maintain each asset and prevent its deterioration."<sup>46</sup>

## **5. Achieve a State of Good Repair**

One of the primary goals of any plan intending to address the issues facing the MTA is to bring the subway to a state of good repair. This would be achieved by focusing on the following:

### ***A. Implement Preventive Maintenance Measures at Pre-2010 Levels***

One of the ways we achieve a state of good repair is by implementing a preventive maintenance schedule aiming to keep the system at pre-2010 levels of repair. Preventive maintenance measures introduced in 1999 nearly doubled "the average distance that that subway cars would run before failing — from 80,000 miles to 153,000 miles — in 10 years."<sup>47</sup> The measures ended in 2010 due to budget constraints but were re-established in 2017. The current unacceptable state of the MTA is largely the result of not properly maintaining the system, which resulted in increased breakdowns which have contributed to trains not arriving on-time. Once we move forward with repairs to the system, we must make sure that appropriate time and money is spent on preventive maintenance to ensure the system never again falls into its current state.

### ***B. Focus on Repair Instead of Vanity and Highly Visible Projects***

For decades, and especially under the Cuomo Administration, vanity projects have been prioritized over ensuring that vital repairs are done. Recent examples of this alarming phenomenon include the MTA wasting up to \$30 million on tiles colored to match the New York State color scheme that the New York Post reports was ordered directly by Governor Cuomo. Another project that was explored by the Cuomo Administration was a multi-million dollar plan to light up MTA bridges and tunnels with LEDs, ostensibly to increase tourism in what is already the most visited city in the United States. Millions of dollars have been wasted by these and similar vanity projects that do not contribute to better service for New Yorkers. We will adjust our priorities to make sure that funds are used to fix the subway instead of being wasted on extravagant and needless vanity projects.

### ***C. Ensure Capital Projects Provide Value to System***

Far too many times we have seen projects announced that cost a massive amount of money but fail to

provide real value for the cost. A recent example of this is the Cuomo Administration's proposed AirTrain to LaGuardia Airport. While many would argue that a rail link to the airport would be a substantial benefit to travelers, the route that was selected has resulted in significant criticism, would cost \$1.5 billion or more, and would result in a longer travel time than the current bus service.<sup>48 49</sup> We should re-examine other proposed routes to LaGuardia to determine if we should continue to pursue a rail expansion to the airport and, if so, what route would make the most sense.

## 6a. Increase On-Time Performance - New York City Transit

**Since Governor Cuomo has been in office, on-time performance at NYCT has fallen from 85.4 percent to a pitiful 58.1 percent.** Anyone who frequently rides the subway can likely tell a horror story about a time their train experienced a serious delay. It is critically important we improve on-time performance. We will achieve this goal in the following ways:

### A. Communication-Based Train Control

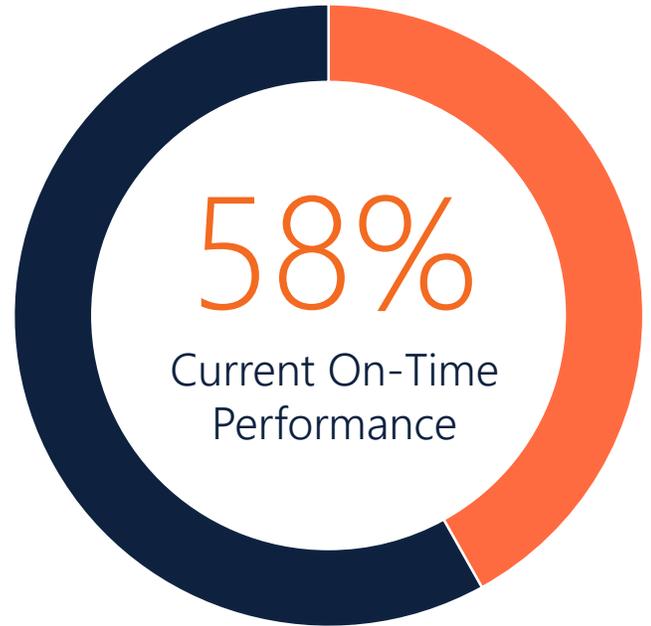
The Great Depression-era signal system that the MTA currently utilizes is a significant factor in the poor on-time performance of the system. Communication-Based Train Control (CBTC) is a telecommunications-based signaling system that is currently used by most major transit systems in the world. The MTA should move towards replacing its current signaling system with CBTC, which would allow for trains to run more efficiently and at a higher frequency. For example, the L Train, which is the only line that utilizes CBTC in NYC, is one of the subway's busiest and most congested lines, yet it has the fewest delays.<sup>50</sup>

### B. Modernize Subway Car Fleet (CBTC Equipped and Open-gangway Cars)

In addition to improving the signaling system of the NYCT, we must modernize our fleet of subway cars. The MTA recently began purchasing a limited number of open-gangway (also known as articulated) subway cars, but we should move further and require that all future rolling stock purchases be open-gangway subway cars.<sup>51</sup>

Open-gangway cars are currently used by transit systems around the world, and they can accommodate almost 10 percent more riders in the same amount of space as traditional train cars.<sup>52</sup> This would allow for increased capacity on congested lines, which would result in better service for riders.

The Byford Plan includes plans to purchase 3,600 new subway cars and update over 1,000 others. The MTA's rolling stock has been severely neglected in recent years, receiving only 23 cars annually between 2011 and 2017 when it required 125 cars per year.<sup>53</sup> This neglect has led to more breakdowns; **between 2011 and 2016 the Mean Distance Between Failure (MDBF) for NYCT's subway car fleet declined by 35 percent.**<sup>54</sup> A more reliable car fleet reduces the number of breakdowns and allows more of the fleet to be used during peak hours. The Byford plan offers a path toward a more reliable and modern fleet.



### *C. Maximize Route Design and Efficiency*

As part of their Fourth Regional Plan, the RPA suggested an “untangling” of subway routes in an effort to ensure maximum efficiency.<sup>55</sup> This approach has pros and cons (such as the potential elimination of certain transfer-free train trips). Therefore, before the MTA moves forward with such a plan, the current routes should be carefully analyzed by experts at NYCT. Any alteration to current routes should be done with the public’s involvement and input.

### *D. Renovate and Modernize Stations*

As part of his recent Fast Forward plan, NYCT head Andy Byford laid out a plan to renovate and modernize subway stations. One of the best things we can do when fixing the MTA is to make subway stations more accessible. In addition to improving accessibility, modernized stations will allow riders to better exit and enter their train, which will improve on-time performance.

### *E. Expand and Maximize Bus Service*

While we must work on fixing the subway, it is also vitally important that we improve bus service. The bus system is often the forgotten spoke in the transit system that moves New Yorkers. For one, buses serve many parts of the City not served or underserved by the subway system - often low-income neighborhoods. Also, an unreliable bus system contributes both to traffic congestion and subway overcrowding. When one spoke of the transit system falters, more pressure is placed on the other spokes.

The main issues plaguing the MTA’s bus system are speed and reliability: New York City’s buses simply run too slowly and do not adhere to their schedules; **they are the slowest in the nation.**<sup>56</sup>

We can speed up service and improve efficiency by redesigning our bus routes in order to ensure that the routes are serving the most riders possible. Fast Forward proposes better aligning routes based on demonstrated customer need and the New York City comptroller has suggested adopting “a more rapid, direct, and grid-like bus network.”<sup>57 58</sup> The Byford plan also proposes rationalizing bus stops (i.e. eliminating low-volume stops and consolidating stops that are close together), utilizing all-door boarding, and increasing the use of traffic management features (queue jumps, dedicated bus lanes, and traffic signal priority).<sup>59</sup> All-door boarding for instance, which is made feasible by tap and go fare payment, allows for quicker loading and unloading, meaning less time at bus stops.

Additionally, the MTA should continue to explore ways to deploy and better utilize Select Bus Service routes by coordinating with the New York City Department of Transportation and law enforcement. Dedicated bus lanes are not properly enforced, leading to obstructions in the lanes forcing buses to merge in and out of the dedicated lanes slowing them down and creating traffic safety concerns. Enforcing these lanes, specifically during high volume hours, is critical to increasing the reliability and speed of buses.

The improvements to bus service will be extremely important to riders as we make vital repairs on the subway, and by providing riders with additional options for their commutes. Improving bus service means helping New York City’s most vulnerable; it means serving neighborhoods often underserved

by the subway system; and it means helping the totality of the MTA's transit system function more efficiently and effectively.

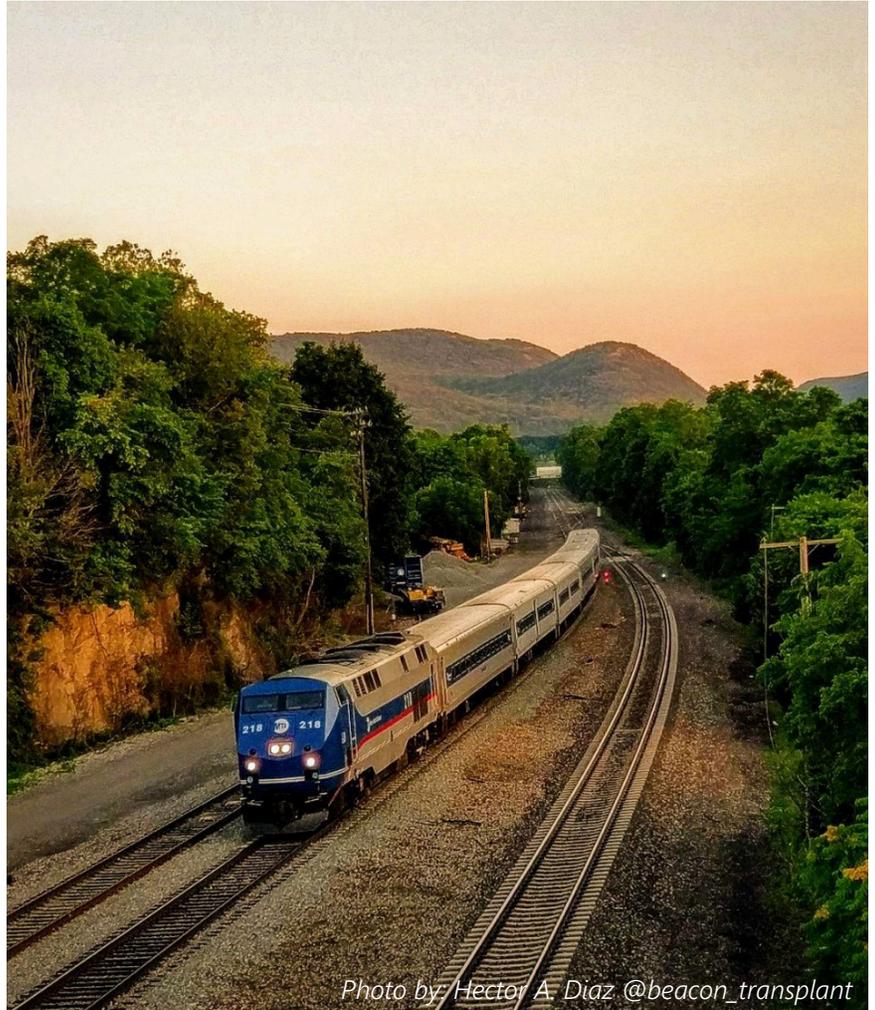
## 6b. Increase On-Time Performance - Commuter Rail

In addition to the drastic drop in on time performance of the subways, the Long Island Railroad has also experienced a significant decrease in on-time performance during Governor Cuomo's tenure. In fact, the **on-time performance of the Long Island Railroad in 2017 was worse than any year since 1999, and got even worse in 2018.**<sup>60</sup>

The commuter rail systems suffer from many of the same problems as the subway, such as poor track maintenance and aging rolling stock. However, these systems have other unique challenges. Commuter rail tracks are more often than not exposed to certain cruelties of Mother Nature, such as wind, ice, and snow storms. To mitigate the impact of such events, the MTA should invest resources in preventative measures like tree clearing and maintenance. Downed trees on tracks can cause massive delays and strain the MTA's, and especially MetroNorth's, workforce.

Poor planning in general is a major contributing factor to poor on-time performance. An August 2018 audit of the Long Island Rail Road by the Office of the State Comptroller, found that poor planning for contingencies contributed to delays.

In order to ensure that this is not a constant problem moving forward, both the Long Island Railroad and Metro-North should work with commuter rail experts to look at the causes of delays over the past several years and come up with a set of plans for dealing with the different types of incidents that both railroads have faced or might face in the future. This will ensure that employees of the railroads know how to deal with future problems ahead of time, and react in a timely manner. After any future incident, a review should be conducted to determine if the developed plan was followed, how effective it was, and if changes need to be made to either the plan or its execution moving forward.



*Photo by Hector A. Diaz @beacon\_transplant*

## 7. Change the MTA's Culture

In addition to the culture changes at NYCT that are outlined in Fast Forward, there are organizational changes to the MTA culture that should be adopted. These include:

### **A. Leadership**

We should take a comprehensive look at MTA leadership to ensure that the top of the organization is heading in the right direction. If we come to the conclusion that it is not, we should move to cast a wide net when looking for the next leaders of the MTA. This should include not only international experts (like Mr. Byford,) but also individuals that have worked their way up through the MTA. Regardless of background, the individuals selected should not be satisfied with the status quo and should possess the expertise to lead the transformation of the MTA into a world-class organization that is befitting of the City and region that it calls home.



Part of this process should be a permanent separation of the roles of Chairman and CEO. While this type of separation was announced when Joe Lhota was hired, an official separate CEO has yet to be hired. We should move to ensure that these positions are separate, with the Chairman appointed by the Governor, and the CEO hired by the Board. The CEO should be an individual with experience at managing a complex transportation system, and who has a track record of success. The Chairman should be appointed to a four-year term that runs concurrently with the term of the Governor that appointed him/her, while the CEO will be hired to a six-year term, so that the work of the CEO does not directly overlap with political appointments, and offers a level of independence from political pressures.

As part of the process of changing the culture of the MTA, we must take a serious look with all impacted stakeholders at the governing structure of the authority. Far too often, the management structure is more useful as a mechanism to deflect blame for failures of the MTA, rather than a tool for

actually solving its problems. It is important that elected officials in the City of New York, including the mayor and city council, and elected officials in the parts of the State served by commuter rail, are truly partners in the governance of the MTA.

### **B. Workload Measures, Rules, and Expectations**

Another vitally important step we must take involves what our employees are tasked with, what work rules exist, and what are the general expectations of employees. We must work with our union partners

to ensure that workloads and work rules make sense and do not make it more difficult than is necessary to accomplish tasks. Additionally, employees should know that they are expected to always keep customer service in mind, and to ensure that the system maximizes the available resources.

## 8. Make Public Transit Accessible to All

One of the most promising parts of Fast Forward was an emphasis on accessibility that has sadly been lacking at the MTA. Despite spending close to a billion dollars on Governor Cuomo’s “Enhanced Stations Initiative”, which also ended up “enhancing” fewer stations than initially planned due to cost overruns, there was no effort made to make the selected stations compliant with the Americans With Disabilities Act. This situation has led to lawsuits.<sup>61</sup> It is simply unacceptable that less than a quarter of stations are currently wheelchair accessible. As we move forward in repairing the subway, we must make sure that the improvements to the system benefit New Yorkers of all abilities. The bus system must also be updated with accessibility in mind and Access-A-Ride service must be greatly improved as part of an effort to create a transit system that is accessible to all.

Making the transit system accessible is not only about serving those with mobility concerns, but also making sure that individuals of all socioeconomic levels have the ability to access the services and opportunities offered by the transit system.

### A. Update and Modernize Stations

As proposed in Fast Forward, within five years, we should make more stations accessible and ensure that no one has to travel than two stations to be at an accessible station.

### B. Reform Access-A-Ride Services

Access-A-Ride, the MTA-run paratransit service, is another one of the MTA’s services in crisis. This critical service allows those with mobility limitations to travel the City, get to work, attend meetings, make appointments, etc. Riders report long wait times, meandering routes, general lack of reliability and flexibility, and an overall poor quality of service. This all despite a price tag of over \$500 million. It does not seem users and taxpayers are getting their money’s worth.<sup>62</sup>

The first step to fixing Access-A-Ride is taking the pressure off the system by ensuring the subway and bus systems are accessible to individuals of all abilities. The Byford Plan has made a number of suggestions on specific fixes to Access-A-Ride, including:

- expanding the current on-demand ride-hailing pilot program that partners with the Taxi and Limousine Commission;
- modernizing scheduling and dispatch to ensure more efficient and flexible routes;
- launching an all-in-one accessible app to allow for vehicle tracking, ride scheduling, and customer feedback; and
- allowing Access-A-Ride vehicles to use the bus lanes.

In addition to these worthy reforms, the MTA and NYCT should:

- explore partnerships with taxi cab companies as well as Transportation Network Companies

(TNCs; e.g. Uber, Lyft);

- require all drivers to receive special training on serving individuals of all abilities; and
- continue to find ways to utilize technology to enhance service.

### **C. Provide Staff with Training on Aiding Individuals with All Levels of Ability and Hire Individuals with Disabilities**

Another proposal of Fast Forward that we should make a reality is to require all NYCT personnel to undergo sensitivity training and require those who may come into contact with disabled passengers to be trained on how to assist them. Additionally, the authority should look to employ more individuals with disabilities as part of becoming an agency that is sensitive to the needs of all of its riders.

### **D. Ensure Newly Purchased Trains and Buses are Accessible**

As we add new trains and buses for New York City Transit and our commuter rail system, we should only purchase trains and buses that are fully accessible.

### **E. Keep Up with Escalator and Elevator Maintenance and Availability**

In 2017, the New York City Comptroller found that the MTA did “not perform all scheduled preventive maintenance on nearly 80 percent of the sampled escalators and elevators.”<sup>63</sup> Elevators and escalators need to be maintained and available to passengers with mobility impairments. Recently, New York City Transit reached an elevator availability average of 97.2 percent, but Transit Center, an urban mobility advocacy foundation, suggested a goal of 99 percent — a mark set by the Massachusetts Bay Transit Authority (MBTA).<sup>64</sup>

### **F. Fair Fares**

The MTA’s services, specifically the subway, are engines of opportunity connecting individuals to educational institutions, jobs, and each other. Nicole Gelinias, of the Manhattan Institute, recently found:

***“As the number and share of New Yorkers in the labor force have grown, the number and share of those workers who rely on mass transit—especially the subway system—to get to their new jobs have also grown.”<sup>65</sup>***

It is because of this relationship that the spirit of New York City’s efforts to provide subsidized MetroCards for New Yorkers living below the federal poverty should be applauded as it provides those in need with access to economic opportunities. If the City or suburban counties in the MCTD would fund such programs, we will support them in their efforts.

The current “Fair Fares” program funded in the City’s budget provides individuals living below the federal poverty line with access to half-price Metrocards. This program could potentially serve roughly 800,000 people. The State should budget \$200 million in funding to extend this program to individuals living below 200 percent of the federal poverty line, thereby doubling the number of individuals eligible (1.6 million), according to a Community Service Society report.<sup>65</sup> Additionally, it would be beneficial to provide matching funds to local and county governments that offer similar programs to low-income rail commuters.

To fund such a program it would be necessary to eliminate the State's Film Tax Credit and repurpose a portion of the funding to support "Fair Fares." The tax credit costs New Yorkers more than \$400 million per year, and largely subsidizes projects (such as Saturday Night Live) that would have filmed in the State without the incentive. This particular tax credit provides a low return-on-investment. Supporting half-price Metrocards, reduced-rate commuter rail tickets, and local infrastructure Upstate is a far better use of taxpayer dollars.

## Fiscal Needs and Implications

While most would agree that it is vitally important to fix the subway, it is important that we transparently address the elephant in the room: the cost of the plan and how it is financed. When Andy Byford released the Fast Forward plan, there was a notable lack of a cost estimate. According to reports, **the Cuomo Administration ordered that the \$37 billion cost projection be removed from the plan.** While this is clearly a large number, there is no silver bullet in regards to funding the necessary projects. Thankfully, with proper planning and well-conceived policy, we can substantially lower these costs by at least 25 to 33 percent<sup>66</sup> and in the process, fix the subway by taking the following steps:

- **Cost Reductions from Efforts put forth in the Plan**

While the cost of the Byford Plan is high, with proper planning and reform, we can reduce the cost of the Plan. By passing Scaffold Act reform, we should be able to reduce the total cost of the Plan by several billion dollars. Additionally, by reforming work rules and looking at alternative shutdown patterns for repair work, such as shutting down sections of subway lines for several weeks until work is done, it could be possible for us to further reduce costs by ensuring that projects are finished as quickly as possible.

- **State, Feds, and Local Agreement on Contributing**

One of the defining characteristics of the Cuomo Administration has been the generally hostile relationship between the Governor and the Mayor of New York. The current crisis at the MTA requires a different approach; and it is vitally important that New York State works with the City and our partners in the federal government to ensure that all entities with the ability to pay for MTA repairs contribute a fair amount.

- **Explore the Feasibility of Public Private Partnerships**

Public Private Partnerships (often referred to as PPPs or P3s) are an alternative delivery method where a public entity contracts with a private company for certain services. While it has been argued that there is limited value in this on the subway, we should nonetheless explore its feasibility. Among the questions are: What (if any) value is added by using a P3 for bus service, and is there viability in the building of new subway stations if a private company is interested in operating retail space in the new station after completion?<sup>67</sup> These questions are best answered on a case-by-case basis.

- **Innovative Law Changes to Reduce Costs**

We should explore legal avenues to change antiquated laws that contribute to the high costs of projects. Chief among these is the Scaffold Act, which establishes absolute liability

to an employer for any gravity-related accident on a job site. While many other states used to have similar laws, New York is the only state that has not repealed its law after Illinois repealed theirs all the way back in 1996. This has led to fewer and fewer companies being willing to insure projects in New York State. The result has added tens of millions of dollars of costs to MTA projects.<sup>68</sup> We should seriously look into reforms, which would not only improve construction costs at the MTA, but would also greatly help businesses throughout the State.

In addition, we should seek to change the way the prevailing wage is calculated. **A 2017 Empire Center for Public Policy study found that in New York City, the location of most of the MTA's major construction projects, prevailing wage increased construction costs by 25 percent (although this report focused on building construction, it does highlight the general cost concerns).**<sup>69</sup> New York State is the only state in the nation that applies the union wage when 30 percent of "workers, laborers or mechanics in the same trade or occupation in the locality where the work is being performed" are covered by a union contract.<sup>70</sup> We should adopt the federal standard of 50 percent, as in 26 other states.<sup>71</sup> In addition, "a statistically valid survey of the private construction sector in each metropolitan area of the state to determine the share of a trade's workers covered by a collective bargaining agreement, as required by law" should be conducted to provide a basis for an accurate calculation of the prevailing wage.<sup>72</sup> We should actively address the excesses of the prevailing wage to drive down all public project construction costs. These added costs hurt taxpayers and inhibit the MTA's ability to fix and grow the transit system.



- **Protect Dedicated MTA Revenue Sources**

Over the course of the Cuomo Administration, hundreds of millions of dollars have been "raided" from the MTA and used for State costs. The list of such money grabs is long, and range from purposes such as paying state debt service, to sending Upstate ski resorts almost \$5 million to help them deal with the impact of a warm winter.<sup>73 74</sup> On top of that, in 2013, Governor Cuomo vetoed a transit lockbox bill, which would have prevented the executive from making these raids, that had passed the Legislature unanimously. This year the legislature passed the same bill, which has not yet been signed by Governor Cuomo.<sup>75</sup> While we all hope that he makes the right decision and signs the bill, if he vetoes it again, I will sign the bill if the Legislature passes it next year, and my Administration will halt the practice of raiding the MTA.

- **Explore New Revenue Streams While Reassessing Current Revenue Sources**

Although many of the fiscal problems that the MTA is facing can be directly linked back to poor management and runaway operational cost growth, which we intend to address,

it is necessary to explore new potential revenue sources.

Before considering specific new revenues, the State should work with the City, the northern and eastern suburbs, and other stakeholders on a full-scale audit of the MTA's existing tax revenues. Since the early 1980s, the MTA has benefitted from an expanding array of taxes, ranging from taxes on petroleum to retail sales to payrolls to real-estate transfers. The State, City, and suburbs should analyze each of these taxes to determine whether it fits today's needs; for example, the region might consider increasing the tax on petroleum, which is a carbon tax, in order to decrease the tax on payrolls, particularly for lower-income and middle-income earners.

Some potential revenue sources include:

- **Use of Value Capture**

The expansion of the 7 Line utilized value capture, an assessment on property whose value is increased as a result of the subway expansion. This concept has been used successfully around the world but is best used for new construction. Alex Armlovich, of the Manhattan Institute, recently proposed a value capture plan that would promote the construction of additional units of housing while, in his estimation, adding approximately \$54 billion for the MTA over the next decade.<sup>76</sup> This plan should be further examined and discussed by the state and city because even if the revenue gained is significantly lower than Armlovich estimates, the potential to add billions in funding to the MTA while also adding housing stock to a city that is in desperate need of it, is too important to ignore.

- **Congestion Pricing**

Another new source of revenue is so-called "congestion pricing." While many different proposals exist, we support assessing a fee on vehicles traveling within the core of Manhattan. A congestion pricing system is part of the future of the MTA, but only in combination with major reform efforts to decrease operation and construction costs.

- **MTA Commuter Payroll Tax**

With new revenues and reforms to curb the growth of MTA operations, we should take another look at the misguided MTA Commuter Payroll Tax. Payroll taxes make it more expensive for employers to hire people, which limits economic growth. Additionally, in the decade since the tax was put into place, operational cost growth has eaten up the entire revenue garnered by the tax, meaning riders are not getting any additional benefit from the revenue.<sup>77</sup> By exploring new revenue sources, and making reforms to current MTA spending, we can move toward phasing out the MTA Commuter Payroll Tax.

- **Ensuring any Future Settlement Dollars are Spent on Infrastructure and not on Vanity Projects**

As previously mentioned, a significant amount of money has been wasted on vanity projects. By continuing to focus on core infrastructure repairs and improvements, we can ensure that resources are properly utilized.

- **View MTA/Subway as Economic Development Engine**

While the Cuomo administration has wasted billions of dollars on “economic development” projects that have substantially underperformed, the Administration has underinvested in the MTA; this is especially unfortunate since the MTA is the most important economic development engine in State government. The value that is added by allowing individuals who live on Long Island, the Hudson Valley, and various parts of New York City to commute to their jobs adds billions of dollars to the State economy.

The State must reorient its economic development programs to focus on people and broad pro-growth policies. Infrastructure fits perfectly into this focus, as it is the foundation upon which economic growth is built.

## Future Goals and Considerations

Once we address the current crisis, there is additional work that still must be done to make the MTA into a truly world-class transit system. This will include modernization and expansion of the system. Several ideas are worthy of consideration once we get to that point:

- **Triborough Extension**

The RPA has proposed to use existing rail rights-of-way to connect Bay Ridge in Brooklyn with Co-op City in the Bronx, which would provide a transit option for residents in Brooklyn, Queens, and the Bronx who currently lack an option that does not involve travel through Manhattan.<sup>78</sup> Due to the existing right-of-way already being owned, this project could be completed at a lower cost than would be required if a tunnel must be bored. As a result, this is an expansion option that must be strongly considered when the resources are available.

- **NJ/NY Regional Rail**

Another proposal that should be strongly considered is to negotiate with New Jersey to find a way to link NJ Transit commuter rail service with Long Island Railroad and Metro-North Service.<sup>79</sup> By providing true regional commuter rail, we can run far more trains per hour, which would better serve the residents of the New York City suburbs. This is a potential expansion project that can be undertaken at the same time that repairs are made to the rest of the system.

- **Transit Link from Staten Island to Manhattan**

Since the time of Robert Moses, the idea of a transit link from Manhattan to Staten Island has been considered; but, unfortunately, no project has yet been undertaken. During the last significant push for a project to achieve these goals, it was determined that it would cost approximately \$3 billion to establish such a link.

- **Focus on Subway Deserts and Underserved Areas**

One of the most important things we can do as we look to improve the system is to expand into “subway deserts” and underserved areas in the City. Together with our partners in the communities, we need to look at what areas currently lack subway service, and determine the feasibility of expansion to provide opportunities to the people living there.

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# Empire State Freedom Plan



**MARC** ★ ★ ★ ★ ★  
**MOLINARO**  
FOR GOVERNOR

9.28.18

## Introduction

According to the Tax Foundation, New York State taxpayers bear among the highest state and local tax burdens in the United States.<sup>1</sup> While this ranking is unlikely to surprise any hard-working New Yorker, it is also completely unacceptable and a major reason why many New Yorkers and businesses are fleeing our state. Since the 2010 Census, Upstate's population has declined by over 60,000, while the state's overall population growth of 2.4 percent was far outpaced by the national rate of 5.5 percent.<sup>2</sup> It is vitally important that we address this massive tax burden head-on and work toward making New York affordable for its citizens and competitive for its job-creating businesses.

The following plan addresses New York's worst-in-the-nation tax climate while respecting basic objectives of tax reform as summarized by the Urban Institute in 1995: simplification, efficiency, and fairness.<sup>3</sup> Simplicity is achieved by making it easier for individuals and businesses to pay their taxes. Efficiency is gained when tax reform results in a broader tax base and mitigates taxation's distortive impact on economic decisions. Finally, fairness means making sure that taxpayers are treated equally to other taxpayers in similar circumstances.

The following plan, when fully phased in, will provide over \$13 billion in annual property tax savings and

*"New Yorkers pay more in state and local taxes than residents of any other state in the nation. It's time to provide meaningful tax relief to the residents of this great state."*



## Introduction (cont.)

cost avoidance, in addition to over \$4 billion of other tax savings, bringing the total savings and avoidance in the plan to \$17 billion.

## Addressing the Impact of the 2017 Federal Tax Cuts and Jobs Act

In December 2017, the federal government passed the Tax Cuts and Jobs Act, which made significant changes to the federal tax code. While many of these changes, including lower tax rates, expanding the tax brackets, and doubling the standard deduction, will positively impact New York taxpayers, other changes, such as the capping of state and local tax (SALT) deductibility at \$10,000 will result in some New York taxpayers paying higher taxes. According to the Institute on Taxation and Policy, roughly 76 percent of New Yorkers will see a tax cut as a result of the Tax Cuts and Jobs Act, while roughly 13 percent will see an increase, the largest share of which make over \$900,000 per year.<sup>4</sup>

I have opposed the SALT cap since it was proposed, and I will continue to urge my federal colleagues to reverse the policy before it sunsets at the end of 2025. Local and state governments need money to educate our children, maintain infrastructure, and provide for the safety and security of our residents. This money primarily comes via state and local taxes; and although I strongly believe New York State's taxes are far too high, I do not believe that the federal government has the right to dictate how localities and states generate their needed revenue and how much revenue they should or should not raise. The SALT cap flies in the face of the underlying principles of federalism and undermines local control.

Despite the federal policy's many faults, merely complaining about it will not help New Yorkers who are negatively impacted by the change. Complaining also completely misses the reason why this policy change impacts New Yorkers so disproportionately: our taxes are far too high. If the state had lower taxes, capping SALT deductions would have had a minimal impact on New York.

We cannot afford to sit around and wait for Washington politicians to change their minds and save us ... we must instead take proactive action. This action should be serious and thoughtful tax reform, not "charity"-based gimmicks that are too clever by half and will continue to meet legal resistance from the federal government.

In addition to advancing much-needed tax cuts, we should also take care to ensure that state taxes in New York are not increased as a result of federal tax changes. While the Enacted Budget for 2018 contained an income tax decoupling provision that was initially proposed by the Senate Majority, the Senate also passed several additional proposals that would have prevented tax increases on businesses that were not advanced by the Assembly or the Governor. These proposals included:

- Preventing an unintended state corporate tax increase on financial institutions as a result of the loss of Federal Deposit Insurance Corporation (FDIC) premium deductions.

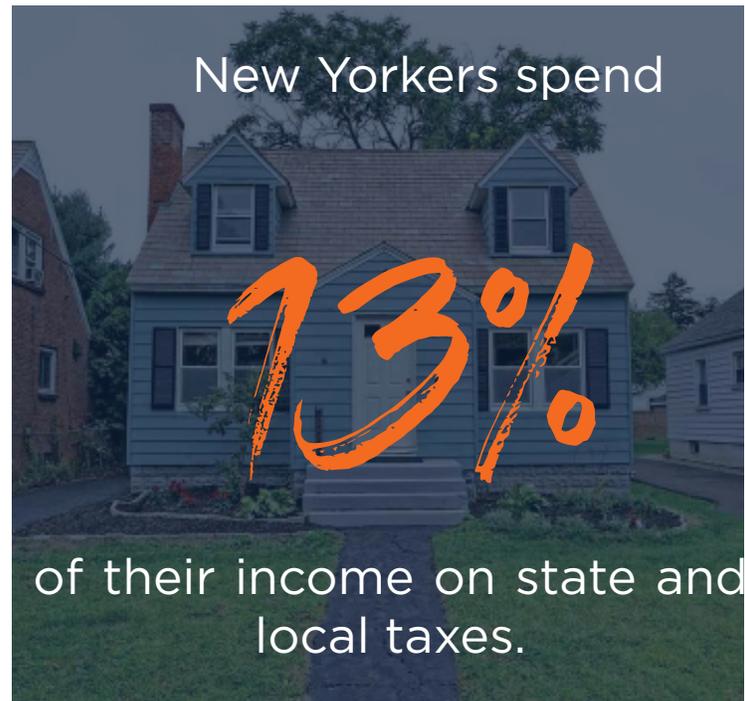
- Preventing an unintentional tax increase on the financial services industry – one of New York’s largest industries – by preserving the State’s treatment of controlled foreign corporation (CFC) income that has been in place for decades.
- Preventing an unintentional tax increase on partnerships by decoupling partnerships from the federal transition tax and preserving the state’s treatment of partnerships by ensuring that income will not be subject to state taxation until it is received by the partner.
- Preventing an unintended new tax on businesses as a result of the loss of deductions of business interest expenses. Although New York is already decoupled from federal bonus depreciation, the proposal would ensure that New York’s businesses are not subject to a higher state tax liability as a result of the interest deduction cap.

My first Executive Budget will contain these proposals, and any additional adjustments necessary to ensure the state does not receive a windfall of higher tax revenue as a result of the federal tax changes.

## Ending the Corruption Tax

Every New Yorker pays a “corruption tax” to cover the costs of the never-ending stream of trials and misspent economic development dollars doled out to buy votes, or worse yet, to curry favor with campaign donors. It is hard to put a dollar amount on it, but a good place to start is \$4 billion, or roughly the cost of the state’s economic development efforts which are rife with corruption and incompetence. New Yorkers also pay for corruption in countless other ways as Albany diverts time and energy away from worthy causes like actually creating sustainable long-term economic growth, repairing our aging infrastructure, fixing the New York City subway system, providing safe and affordable housing, and educating our children. It is so omnipresent in New York, that every late train, failed education reform, tax bill, or lost job is tied to the culture of corruption in Albany. A recent study offered proof of the far-reaching costs of corruption, as state-level corruption was tied to decreases in private firm value.<sup>5</sup>

I previously announced a plan to end the “corruption tax” - The Albany Accountability Act - which can be found here: <https://molinaroforny.com/policy/>.



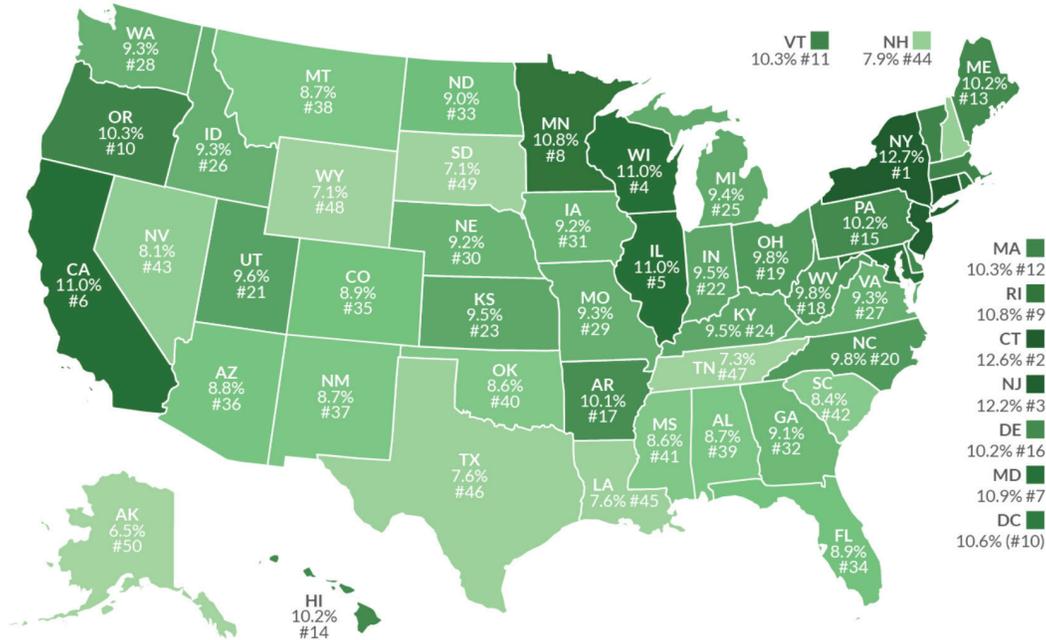
## Reducing Property Taxes

One of the primary drivers of New York’s highest overall tax burden is the fact that New Yorkers pay the nation’s fourth-highest property taxes.<sup>6</sup> In 2017, the total statewide property tax levy was \$60 billion, with school property taxes accounting for nearly 63 percent (\$37.6 billion) of the total . Taxpayers outside

of New York City were on the hook for over \$35 billion (59 percent), and New York City taxpayers were burdened with a total levy nearing \$25 billion (41 percent).

### State-Local Tax Burdens by State

State-Local Tax Burdens as a Percentage of State Income, FY 2012



Note: As a unique state-local entity, Washington, DC is not included in rankings, but the figure in parentheses shows where it would rank.  
 Source: Tax Foundation calculations, U.S. Census Bureau, Rockefeller Institute, Bureau of Economic Analysis, Council on State Taxation, and Travel Industry Association.

Source: Tax Foundation

High property taxes make it harder to live, work, run a business, and own a home in New York. Over the years, a great deal of effort has been made to reduce property taxes; most notable and successful have been the establishment of a property tax cap and the state takeover of the growth of Medicaid costs. While these two accomplishments should be lauded, other attempts to provide relief have been ineffective and inefficient. Too often, the state has turned to gimmicks that give the illusion of relief, but in reality this relief has been temporary, expensive, and ineffective at addressing the root causes of increasing property taxes.

We can't travel back in time, but we can learn from our mistakes. In this section, I propose a course correction -- no more gimmicks. Instead, we need real solutions aimed not only at providing relief, but also at rationalizing our property tax system. To address the issue in a realistic and comprehensive manner, we must:

- Curtail the future growth of property taxes
- Eliminate unnecessary unfunded mandates
- Provide meaningful mandate relief
- Enhance alternative revenue streams for local governments
- Ensure property taxes are assessed and administered in an equitable manner

- Provide incentives for municipalities to implement efficiencies

To help achieve these goals and to finance considerable mandate relief, I propose repurposing inefficient tax relief spending, as well as modernizing the sales tax, to ensure it is equitably applied to all purchases, whether at a local store or via the Internet. Additionally, I will empanel a commission to eliminate unnecessary and unproductive mandates with set savings targets and the power to bring their recommendations directly to the State Legislature for a vote. All efforts to provide mandate relief, eliminate unfunded mandates, and enhance local government revenue streams will come with the expressed understanding and requirement that any realized savings and new revenue will be used to reduce New Yorkers' property tax burden.

Phasing in the policies enumerated in this section over the next five years could generate over \$7.8 billion in annual savings and cost avoidance for property taxpayers outside of New York City, which equates to over 35 percent of residential real property taxes levied outside the city. For those living in New York City, the plan, when fully phased in, could generate nearly \$5.5 billion in annual property tax savings and cost avoidance. Total property tax savings statewide could potentially reach upwards of \$13 billion annually or 32 percent of total projected statewide residential property tax revenue when fully phased-in. Cumulative savings and costs avoidance over the life of the plan (from 2019-20 to 2023-24) could reach over \$35 billion.

“...property tax savings statewide could potentially reach upwards of

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The following section lays out in detail the policy proposals that will generate over \$13 billion in total annual property tax savings and avoidance.

- **Make Property Tax Cap Permanent**

In 2011, the Legislature passed, and Governor Cuomo signed, a temporary cap that limits property tax growth to 2 percent or the rate of inflation, whichever is less. Prior to this cap, property taxes had grown on average by over 5 percent per year from 2001 to 2011.<sup>7</sup> Over the last six years, the cap has saved New Yorkers over \$20 billion. While this is an important first step, the current cap is set to expire in 2020. We must make this cap permanent, and take additional steps to address the problem of sky-high property taxes.

A clear example of the need for making the property tax cap permanent can be found next door in Massachusetts. New York's property tax cap was largely based on the property tax cap that Massachusetts put in place in the 1980s. At that time, Massachusetts had a state and local tax burden of 10.7 percent, which was the second-highest in the United States.<sup>8</sup>

Today, nearly 40 years after the imposition of the property tax cap, Massachusetts has the 12th-highest state and local tax burden at 10.3 percent, which is only 0.4 percent above the national average, and 2.4 percent below New York.

- **New York City Property Tax Reform**

In addition to making the property tax cap permanent, we must also take actions to ensure that homeowners in New York City are not subject to substantial increases in property taxes and/or that property taxes are not unfairly shifted to commercial properties and renters. According to New York City Comptroller Scott Stringer, property taxes in New York City have almost doubled since 2005, growing at an average rate of 6.4 percent annually.<sup>9</sup> To address this substantial increase, I will take the following actions:

- **Support Tax Fairness for New York City Residents**

Over time, New York City's property tax assessment system has become increasingly arbitrary, inconsistent, and unfair to many communities, including low income and minority neighborhoods. Despite decades of analysis and discussion, the city and the State Legislature have failed to fix the system. I therefore broadly support the goals of a pending lawsuit, filed in 2017 by a coalition of homeowners, renters, rental property owners, and civic organizations, that would force the city and state to finally take action.<sup>10</sup>

- **Expand the Property Tax Cap To New York City**

My first Executive Budget will include bipartisan legislation sponsored by Senator Andrew Lanza and Assemblyman Michael Cusick (S.1214-A/A.1090-A), which would extend the property tax cap to New York City. According to the Senate Finance Committee, if this cap had been put in place when the statewide cap was enacted, city residents would have saved almost \$17 billion through CFY 2017.<sup>11</sup>

- **Establish New York City Property Tax Reform Study Commission**

Another important step to reign in property taxes and ensure they are equitable is establishing a New York City Property Tax Reform Study Commission. This Commission will take a detailed look at the complex property tax system in New York City, including the four classes and assessment methodologies, and provide comprehensive options for reforming the system. This proposal (S.1379-D) has passed the State Senate with overwhelming bipartisan support in recent years (60-0 in 2017, 55-4 in 2018).

- **Address Unfunded Mandates**

Unfunded mandates placed on local government by Albany and Washington are a major contributing factor in New York's high property taxes. According to the New York State Association of Counties, these costs frequently account for up to 80 percent of a county's budget.<sup>12</sup> As a County Executive, I have first-hand experience dealing with unfunded mandates, and know the challenges that counties and other localities face as a result of these mandates. Albany spends far too much time mandating actions or initiatives and far too little time focusing on outcomes. As governor, I will work to provide school districts and local governments with the flexibility to solve the problems faced by their students and communities while demanding positive outcomes and efficient service delivery.

Any and all of these efforts to provide mandate relief and produce savings will be coupled

with a requirement to reduce property taxes. If commensurate property tax reductions are not achieved, the state will act to reduce or withhold state aide equivalent to the costs of taking over said costs and providing mandate relief.

o **Establish the Unfunded Mandate and Cost Reduction Commission**

Albany insiders have been talking about reforms for years without any results. Now it's time for action. As part of my first Executive Budget, I will propose the creation of an Unfunded Mandate and Cost Reduction Commission modeled on the federal Base Realignment and Closure Commission (BRAC) to evaluate mandates placed on local government and school districts. After identifying and evaluating the costs, benefits, and effectiveness of each significant mandate, the Commission will have unprecedented authority to propose a package of specific statutory changes that will be placed before the Legislature for a single, mandatory up-or-down vote. To the extent that any changes involve the state absorbing the local cost of a mandate, the affected localities would be required to return at least 90 cents of every dollar of savings to their property taxpayers. The Commission will be given a savings target of \$400 million in FY 2021, \$ 800 million in FY 2022, and increase to \$1.2 billion the following year and then hit \$1.6 billion in FY 2024.

Three proposals that should immediately be included in the recommendations:

- **Repeal the Scaffold Act** - New York is the only state in the nation that still has a “scaffold law” on the books, which places absolute liability on a contractor and property owner for any gravity-related accident on a construction site, regardless of who is at fault. This leads to insurance costs far higher than in the rest of the country. The Rockefeller Institute estimated in 2013 that the Scaffold Act adds \$1.2 billion in annual costs to New York’s local governments and school districts.<sup>13</sup>
- **Repeal the Wicks Law** - The Wicks Law requires the hiring of four contractors for public projects above a certain threshold - a general contractor and separate contractors for electrical, plumbing, and HVAC. The law creates project management inefficiencies which cause delays and drive up costs. A 1987 study performed by the New York State Division of Budget found that the law cost taxpayers \$300 million a year.<sup>14 15</sup> In addition to the excessive and unnecessary added costs, the law is not universally applied as New York City and downstate have a far higher threshold and certain school districts are completely exempt (e.g. New York City, Buffalo, Syracuse).<sup>16</sup> This costly, inefficient, and unnecessary law must be repealed.
- **Fix Prevailing Wage** - I will address the excesses of the prevailing wage to drive down all public project construction costs. A 2017 Empire Center for Public Policy study found that in New York City, the location of most of the MTA’s major construction projects, prevailing wage increased construction costs by 25 percent.<sup>17</sup> New York State is the only state in the nation that applies the union wage when 30 percent of “workers, laborers or mechanics in the same trade or occupation in the locality where the work is being performed” are covered by a union contract.<sup>18</sup> We should adopt the federal standard of 50 percent, as 26 other states do.<sup>19</sup> In addition, “a statistically valid survey of the private construction sector in each metropolitan

“...prevailing wage increased construction costs by 25%...”

area of the state to determine the share of a trade’s workers covered by a collective bargaining agreement, as required by law” should be conducted to provide a basis for an accurate calculation of the prevailing wage.<sup>20</sup>

I will also propose using a similarly designed commission to place recommendations before the state legislature to reduce New York’s regulatory burden on small business owners, farmers, and everyday New Yorkers.

#### ○ Limit New Unfunded Mandates

My first Executive Budget will include Senator Joe Griffo’s and Assemblyman Anthony Brindisi’s bipartisan proposal (S.2323/A.2922 of 2017) to prohibit new mandates that are not funded by the state. Additionally, I would seek legislation to require every piece of legislation come with a fiscal impact statement, including the impact on businesses and everyday New Yorkers.

#### ○ Takeover the Local Share of Medicaid

New York’s practice of shifting Medicaid costs onto local governments is unique, inefficient, and regressive. The local share of Medicaid is roughly \$7.6 billion, with \$5.3 billion coming from New York City and \$2.3 billion from the rest of the state, which is by far the highest local contribution of any of the 18 states that require a local share.<sup>21 22 23</sup>

Moreover, New York’s Medicaid program is also exceedingly expensive. The program costs roughly \$60 billion, a year or approximately 32 percent of New York’s total spending (or roughly 17 percent of total spending if you consider only the state and locally funded share).<sup>24</sup> This level of spending is second only to the over \$80 billion California spends on Medicaid, despite having twice as many enrollees.<sup>25</sup>

Recent steps to improve quality and control costs (use of managed care plans, global spending cap, and state takeover of Medicaid costs growth) have helped, yet the requirement for localities to contribute to the cost of Medicaid persists, standing in contrast, and often in opposition to, many of these reform efforts.

The answer is for the state to take over the local share of Medicaid costs over 10 years for localities outside of New York City and over 15 years for New York City. To cover the costs of such a takeover, the state should build on the success of the global cap on Medicaid cost growth and tighten the cap to achieve the savings necessary to pay for the state to take over the local share of Medicaid. As currently constituted, the cap does not cover the services offered by the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), and the Office of Alcoholism and Substance Abuse Services (OASAS). By 2022, the cap will only cover 88 percent of Medicaid spending.<sup>26</sup>

To achieve the savings necessary, the Empire Center’s resident health policy expert, Bill Hammond, has suggested truly tying the cap to the rate of medical inflation (3.1 percent; currently the cap is tied to the medical component of CPI, yet year to year Medicaid spending increases are over 4.2 percent due to spending exempt from the current cap) and expanding the cap to “cover all Medicaid spending, including the portions managed by OMH, OPWDD and OASAS and minimum wage-related costs for all providers.”<sup>27</sup> Additionally, Mr. Hammond suggests supplementing the current cap with a per-recipient cap to control spending as enrollment dips or remains steady.

Curbing waste and abuse is also necessary to slow the growth of Medicaid costs. A recent audit conducted by the New York State Office of the State Comptroller found that nearly \$1.3 billion in Medicaid premiums payment were made on behalf of individuals who had concurrent comprehensive third party health insurance.<sup>28</sup> To address waste, focused administrative procedures and controls should be put in place immediately to avoid such waste.

I believe these changes are necessary to slow cost growth and to enable the state takeover of the local share of Medicaid costs. However, any effort to slow cost growth will take great care not to disadvantage or harm our most vulnerable populations, especially individuals with disabilities.

Since a principal objective of the state takeover is reducing property tax burdens, localities will be required to pass on their savings to property taxpayers by reducing the levy amount from the current year equal to the reduction in Medicaid spending, prior to calculating the cap for the next year.<sup>29</sup>

	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
<b>Savings from Tightening Global Spending Cap</b>	\$584,000,000	\$1,008,000,000	\$1,181,000,000	\$1,576,000,000	\$1,999,000,000
<b>Outside of NYC Phase-In Amount</b>	\$230,000,000	\$460,000,000	\$690,000,000	\$920,000,000	\$1,150,000,000
<b>NYC Phase-in Amount</b>	\$354,000,000	\$548,000,000	\$491,000,000	\$656,000,000	\$849,000,000

Although cutting property taxes is an important goal in and of itself, a state takeover also provides an opportunity to more equitably and efficiently serve the people of New York State. As the Citizens Budget Commission has noted:

*Financing burdens should be aligned with administrative control over the program to encourage cost containment, and current [funding] arrangements place a disproportionately large and inequitable burden on taxpayers in localities with more poor residents and greater social welfare costs.<sup>30</sup>*

Since 2010, the state has taken steps to move to a full administrative takeover of Medicaid. The funding structure should follow this trend and reside at the level of government that has the greatest amount of administrative control, as well as the greatest opportunity and capacity to reduce costs.

### ○ Provide Additional Mandate Relief

In addition to Medicaid, there are numerous other mandates imposed upon local governments and thus local property taxpayers. Some of the most consequential include the provision of Indigent Legal Services, Preschool Special Education, and Early Intervention Services. These services are necessary and critical to the education of our children and the fairness of our criminal justice system. The entire cost of these services should be borne by the state. New York City has the benefit of a much larger and broader tax base, as well as its own income tax which reduces its reliance on its property tax. Therefore, I propose the state start with taking over the cost of the following programs beginning with localities outside of New York City:

- **Indigent Legal Services** - The state should gradually take over the cost to counties of providing indigent legal services. The current mandate shifts almost \$170 million in costs to counties outside of New York City.<sup>31</sup> In 2016, a bill (S.8114/A.10706) sponsored by Senator John DeFrancisco and Assemblymember Pat Fahy to fund the full local costs of indigent legal services passed both houses of the Legislature unanimously before being vetoed by Governor Cuomo. It is clear there is bipartisan support for such a proposal. I support New York State taking over the full costs of indigent legal services
- **Early Intervention** - The Early Intervention Program is an exceptionally important program that promotes the long-term well being and educational success of infants and toddlers with disabilities. The program offers a number of support services, including speech pathology and audiology, occupational therapy, and physical therapy, among many others. Currently, counties are responsible for administering the program and coordinating necessary services while the New York State Department of Health promulgates regulatory requirements. Counties are responsible for roughly \$80 million in program funding. Due to the critical nature of the program, I believe this program should be fully funded at the state level to align funding with regulatory oversight.
- **Preschool Special Education** - Preschool special education provides educational and support services to children ages 3 to 4, filling the gap between the provision of Early Intervention services and services directed by an Individualized Education Plan (IEP). Despite providing \$300 million to fully fund this important and effective program, counties play no role in administration. Once again, funding responsibility should be assigned to the level of government that has the most direct control over the costs of a program -- in this case, New York State.

### • Enhance Local Government Revenue Streams

As noted earlier, increasing fairness, simplicity, and efficiency are hallmarks of good tax reform. Currently, New York State's sales tax does not promote any of these principles. New York is not alone in having a flawed system and until recently, legal barriers existed to modernizing the sales tax. However, the favorable Supreme Court ruling in *South Dakota v. Wayfair* provides a once-in-a-generation opportunity to reform and re-align New York State's sales tax with the modern economy. I propose taking the following steps:

### ○ Sales Tax Modernization

Leveraging the Wayfair decision, New York should explore adopting an economic nexus model, similar to South Dakota's, that would impose sales tax obligations on remote sellers without a physical presence in New York State.<sup>32</sup> Based on projections generated for related provisions in the Executive Budget, it is fair to estimate that such actions would conservatively generate roughly \$159 million for New York State and an additional \$172 million for localities. According to estimates, growth between 15-20 percent a year is expected.<sup>33</sup>

As part of a broader modernization effort, New York State should examine means to broaden its sales tax base to account for larger shifts in the international, national and state economies and consumption since the mid-20th Century. In the main, this will require broadening our sales tax base to account for the emergence of the modern, service-based economy. Further, we should examine sales tax exemptions with a goal of eliminating costly exemptions that don't fulfill their intended goals such as the sales tax exemption on clothing and footwear purchased for less than \$110 (referenced in later section).

### ○ Devolving Sales Tax Extension Authority to the Local Level

As part of sales tax modernization, we must ensure that our localities are empowered to raise revenue in a way that is insulated from politics in Albany. Under current law, the State Legislature must approve and periodically renew local sales taxes above 3 percent, placing Albany in the middle of what should be a local decision-making process. We should authorize counties to impose a tax rate of up to 4 percent, subject to a two-year renewal by a county legislature.

### ○ Future Considerations

Finally, as a potential strategy for ensuring that local governments have access to a secure and stable local revenue base over the long run, I will direct the Division of the Budget and the Department of Taxation and Finance to examine and report on the feasibility of shifting a portion of the state's 4 percent share of the state-administered sales tax to counties and other localities over time, tied to binding limitations on increases in local property tax levies.

It is important to emphasize that any major structural change in the sales tax that results in increased revenue for localities should supplant property tax increases and be used to provide local property tax relief.

## Lowering Taxes on the Middle Class

We must reduce income taxes on middle-class New Yorkers. In addition to supporting the current middle class tax cuts already in the state's Fiscal Plan, I propose:

- **Doubling Retirement Exemptions to Help Seniors Keep More of their Pension**

Currently, retirees are allowed to exclude the first \$20,000 in private pension and retirement income from their taxes. I support a proposal by Senator Simcha Felder (S.414-A) which would help seniors by increasing the exemption to \$40,000 for single taxpayers and \$80,000 for married taxpayers over a three-year period. This would be the first increase of the exemption

since 1981, and it would help seniors who want to stay in New York during their retirement by providing them with roughly \$275 million in annual savings, when fully implemented. This proposal has received overwhelming bipartisan support in the senate, passing 61-1.

- **Help Middle Class Families Negatively Impacted By Federal Tax Changes**

New York is one of only four states with a “tax benefit recapture” provision, which requires that taxpayers subject to higher income tax brackets pay a flat tax at the highest marginal rate applicable to their income level on their entire income, instead of just their income above a given bracket threshold.<sup>34</sup> One way to help middle-class families negatively impacted by the capping of SALT deductions would be to eliminate this regressive flat tax on middle-class taxpayers. I propose the elimination of the tax benefit recapture for resident taxpayers with an adjusted gross income between \$107,650 and \$323,200. This would save middle-class taxpayers roughly \$650 million and have the added benefit of simplifying New York’s system.

Restoring tax progressivity will deliver significant targeted relief to middle class taxpayers. For example, consider a two-earner married couple in Westchester with \$200,000 in taxable income and paying the county’s average property tax of \$17,179 on an average Westchester home valued at \$718,858.<sup>35</sup> Assuming the couple files jointly and itemizes, and despite the recent drop in their federal income tax rate from 28 percent to 24 percent, the cap on SALT “costs” the couple \$1,723 in federal income tax. Under current New York tax laws, the couple pays \$13,225 in New York State income tax. Under the Empire State Freedom Plan, the couple would pay \$12,296, saving \$929 in New York taxes, offsetting more than half of the impact of losing the federal SALT deduction.

*“Together we can make New York a more affordable place to raise a family.”*



- **“Indexing” Personal Income Tax Brackets, the Standard Deduction, and Dependent Exemptions to Inflation**

Indexing New York’s income tax brackets, standard deduction, and dependent exemptions to inflation will substantially improve New York’s tax climate over time. New York indexed its

personal income tax from 2012 to 2014, when the provision sunsetted. This would prevent what is referred to as “bracket creep,” where over time inflation results in taxpayers moving into a higher tax bracket without any increase to their real income.<sup>36</sup> As EJ McMahon of the Empire Center noted in a 2011 article for the New York Post, the lack of indexing effectively serves as a “stealth tax increase” which led to median-income New Yorkers paying higher taxes in 2010 than they did in 1997, after the Pataki-era tax cuts had become fully effective.<sup>37</sup> Indexing ensures that individuals only get taxed if their income increases above the rate of inflation. This change would save New Yorkers roughly \$250 million in the first year and increase by \$250 million in every year thereafter.

## Fostering an Environment of Growth

While property, sales, and personal income taxes are critically important to New York families, no comprehensive tax reform can afford to ignore the role of taxes on businesses. The Tax Foundation currently ranks New York’s business tax climate 48th in the nation.<sup>38</sup> As empty facilities, shuttered businesses, and shattered communities across our state attest, this represents a looming and present disaster. It is no exaggeration to say that the future viability of New York requires that we take bold steps now to foster an environment that is more conducive to growth. Here are five strategies:

- **Energy Tax Reform**

Reducing taxes on energy would aid both individuals and businesses. Two actions that will lower energy taxes by roughly \$300 million annually are:

- **Eliminate the Two Percent Gross Receipts Tax on Utility Bills**

New York currently charges a 2 percent gross receipts tax on the transportation, transmission, and distribution of electricity and gas, which is passed on to ratepayers in the form of higher energy bills, costing New Yorkers \$210 million annually.

- **Eliminate the Underlying 18-A Assessment and Shift Costs of the Public Service Commission to the General Fund**

The Public Service Commission is funded by an assessment on utility bills, which costs New York ratepayers \$90 million annually. Eliminating this assessment and funding the Public Service Commission through the General Fund will help reduce New Yorkers’ energy bills. This proposal (S.8407) had broad bipartisan support in the Senate, where it passed 58-4.

- **Millionaires Tax**

In 2009, the Enacted Budget included a “temporary” additional tax on high income individuals that is commonly referred to as the “millionaires tax.” This tax was extended for three years in 2017.

Allowing this tax to sunset is critical to maintaining New York’s competitive position and long-term revenue base. Whether we like it or not, New York is now dangerously reliant on a handful of taxpayers - the highest-earning one percent of New Yorkers pay more than 40 percent of the state’s income tax, up roughly 15 percent since Mario Cuomo left office.<sup>39</sup> The problem is more acute when one considers that much of the state’s personal income and many of the state’s highest-earning jobs are concentrated in financial services, which supports over

450,000 or almost 10 percent of jobs in New York City.<sup>40</sup> With advances in technology, these jobs are ever more mobile. Maintaining uncompetitive tax rates makes it more likely that high-income earners who are already facing the loss of SALT deductions will leave our state, taking their tax dollars with them. In addition to increasing the risk of income and capital flight, the state's top-heavy revenue base is exceptionally volatile and thus vulnerable to extreme negative swings during the next economic downturn.

- **Estate Tax**

New York State is one of only 12 states that impose an estate tax (frequently referred to as the "death tax"). New York's estate tax is assessed on deceased state residents and on real and tangible personal property in New York State owned by deceased non-residents. This tax places stress on business owners and family farms, while factoring heavily in the decision of too many retiring New Yorkers to pack their bags and head to warmer and less punitive states. A 2007 survey conducted by the Connecticut Department of Revenue and Office of Policy Management of legal, accounting, and estate planning professionals on the impact of the estate tax found:

*About 77 percent of the respondents said they had clients who had moved out of Connecticut "partially" to avoid the state's estate tax, including 53 percent who indicated clients had moved "primarily" as a result of the tax.<sup>41</sup>*

The same study identified negative economic effects related to the estate tax:

*The same study compared economic growth indicators between 2004 and 2007 for states with and without added estate and inheritance taxes. It found that employment, personal income, real gross state product and population all grew faster during that period in the states without death taxes.<sup>42</sup>*

We must advance significant estate tax reform and eventual elimination. In my first budget, I will propose:

- An amendment to state tax law to fix the estate tax "cliff" which "results in a greater than 100 percent marginal rate on certain estates."<sup>43</sup>
- Increasing the estate tax exemption to the federal threshold so that New York is will not tax estates not being taxed by the federal government. According to the Citizens Budget Commission, this will reduce estate tax revenue by \$310 million.<sup>44</sup>



- Begin a 10-year phase-out of the exemption, beginning with the aforementioned exemption increase.

- **Supporting Small Businesses, Higher Wages, and Employment**

New York's recent minimum wage hikes are placing stress on small business owners who cannot leverage automation or pass along the cost of higher wages to their customers. To help mitigate this burden and make retaining or hiring workers more attractive, I propose "supersizing" employers' tax deductions for the cost of labor.

Under current state tax laws, employers can generally deduct 100 percent of the salary, wages, and other compensation they pay their employees as a cost of doing business. I propose to double this amount to 200 percent for wages that small businesses with 10 or fewer employees pay at the minimum wage level, with a phase-out for higher wages.

A well designed increase in the deduction for wages paid would boost small business owners' after-tax income and cash flow while providing a significant incentive to retain or hire employees on the books. My administration will be careful to structure the higher deduction to cost no more than \$200 million in foregone revenues.

- **Expand Zero Percent Tax Rate to All Manufacturers**

In 2014, manufacturers that were incorporated as a C corporation were granted a tax rate of zero percent. While this was a welcome development, New York State still has a long way to go to become a manufacturing friendly state. One reason is that taxing C corporation manufacturers at a zero-percent rate left many smaller and frequently family-owned manufacturers that are incorporated as S corporations at a disadvantage.

We should extend the zero-percent tax rate to all manufacturers, including manufacturers who operate their businesses as S corporations, LLCs, partnerships, and sole proprietorships, to ensure manufacturers operating in New York are taxed on an equal playing field, and our improved tax environment helps to make New York a place where businesses can thrive without the government picking winners and losers. When fully implemented, this will reduce taxes on New York State manufacturers by roughly \$90 million per year, and could create roughly 3,500 jobs according to a recent study by the Beacon Hill Institute.<sup>45</sup> This proposal (S.7561-A, by Senator O'Mara) received significant bipartisan support in the State Senate this year, where it passed 55-4.

## Supporting Families

As part of tax reform in New York, it is extremely important that we make sure that we take actions to help New York's families that are working hard to provide better opportunities for their children. This will be achieved by taking the following actions:

- **Increase the Empire State Child Tax Credit**

One of the positive components of the Tax Cuts and Jobs Act was that the federal child tax credit was doubled, providing significant additional support to families. New York's

Empire State Child Tax Credit was linked to the federal law, so this change would have resulted in New York's credit also doubling. Unfortunately, Governor Cuomo moved to decouple this provision to prevent the increase from occurring. As governor, I would re-link our refundable credit to the federal law, which would provide over \$500 million in additional relief for our hardworking families.



- **Expand the Earned Income Tax Credit**

The Earned Income Tax Credit (EITC), a refundable tax credit provided to low-wage workers, is a triumph of considered, well designed public policy. It is touted as one of, if not the most, important and successful anti-poverty measures ever devised -- responsible

for increasing work rates, reducing poverty rates, supporting families, and providing a number of additional positive effects (e.g. academic achievement and improved health outcomes).<sup>46</sup>

Building on the success of the EITC, 29 states and Washington D.C. offer state EITC benefits based on the percentage of a filer's federal EITC. New York State began offering this benefit in 1994, starting at 7.5 percent of the federal credit; it has since been increased six times to reach the current 30 percent level.<sup>47</sup> These credits truly build on the success of the federal credit. A recent study by the University of New Hampshire's Casey School of Public Policy found that:

*EITC programs in Washington, DC; New York; and Vermont reduce child poverty by more than a full percentage point, or proportional reductions of 4.3 percent, 8.3 percent, and 10.2 percent, respectively, due to their EITC programs.*<sup>48</sup>

The results of a 2008 study, funded in part by the Office of Temporary Disability Assistance, on the benefits of expanding New York State's EITC benefit, are summarized as follows:

*These results clearly demonstrate that expanding state EITC supplements will significantly increase the labor force participation of single mothers, increase the total income of low-income families, and reduce their risk of poverty.*<sup>49</sup>

It is time to further build on the success of this program by increasing the benefit and expanding eligibility. I propose:

- **Increasing the State EITC Benefit to 35 Percent of the Federal Credit**

New York offers one of the most generous benefits in the country, yet there is no evidence that the state's EITC benefit has hit a point of diminishing returns. Increasing the benefit to 35 percent of the federal credit will only help encourage work, support families, and reduce poverty.

- **Expanding EITC Eligibility for Childless Workers and Examining Additional Reforms to Increase Access and Efficacy**

The federal EITC primarily targets custodial parents. Yet there is strong rationale for expanding the credit to provide additional benefits to childless workers and non-custodial parents. At one point, both President Obama and Speaker Ryan had nearly identical proposals to expand EITC benefits for non-dependents without children. In 2006, New York State began offering an enhanced EITC for qualifying non-custodial parents, but the program helps only a small number of individuals. Montana and Washington D.C. have both implemented larger and broader benefits for childless workers.<sup>50</sup>

I suggest New York offer an expanded benefit for childless workers and non-custodial parents. As governor, I will task the Department of Taxation and Finance and the Office of Temporary Disability Assistance to form a working group to produce recommendations on expanding eligibility to the state's EITC benefit. This working group would be encouraged to look to New York City's Paycheck Plus pilot program, which is testing the effects of offering increased EITC benefits to childless workers. So far, the program has produced increases in employment, income, child support payments, and tax filing.<sup>51</sup> After completing its primary task, the work group would be directed to examine ways to increase the positive effects of the EITC benefit (e.g. installment payments, benefit cliff issues, addressing the shrinking value of the credit in light of recent changes to the minimum wage, etc.).

These proposals will be part of a larger effort to grow the economy, reduce poverty, and foster opportunities for ALL New Yorkers.

## Paying for the Tax Cuts

It is vitally important to balance the desire to cut taxes with fiscal reality and our responsibility to ensure that the Financial Plan is not put at risk.

- **Reforms to State Spending**

I am committed to the following strategies for keeping state spending under control and financing the tax cuts that are crucial to New York's future economic competitiveness:

- **Codify a State Spending Cap**

In the five years prior to the Great Recession, the New York State budget grew annually at a rate of almost 8 percent. The Cuomo Administration has attempted to deal with this growth by subjecting the state Operating Fund budget to a self-imposed 2 percent spending cap. Unfortunately, the results of this cap have been mixed. To the administration's credit, it has resulted in a rate of spending increase that has been lower than under previous administrations. On the other hand, the cap has numerous flaws: it has not been a true 2 percent spending cap (for example, according to the Office of the State Comptroller, actual State Operating Funds spending the FY 2019 Enacted Budget grew by **over five percent**, as \$1.4 billion from the MTA payroll tax was moved off budget); the administration has engaged in questionable practices to fit spending within the cap, such as classifying certain operating costs as capital expenses; and the vast majority of funding increases have gone to Medicaid and school aid, which has led to agencies being held flat or cut, regardless of the performance of their programs.<sup>52</sup> I strongly believe there are better ways

to achieve the goal of constraining the growth of state spending,

First and foremost, the spending cap should not be self-imposed, but instead should be codified in law to ensure that my administration and future administrations are held to this cap.

Second, the cap should be structured in such a way that increases to Medicaid and school aid do not monopolize the entire growth of the budget at the expense of state agencies and other spending programs. I would address this by setting a cap of **3 percent**, no more than two-thirds of which would be made up of increases to Medicaid and school aid (At 3 percent, this cap would be higher than the 2 percent cap for local property taxes in order to accommodate the state takeover of unfunded mandates as outlined previously.) This would also ensure that state spending growth could be constrained without gimmicks, and that agencies still have the ability to increase funding for successful programs. A 3 percent spending cap would provide for a decrease in year-to-year spending growth of approximately 1.2 percent (based on a three-year average of actual state spending increases).

Finally, in order to ensure adherence to the new spending cap, I would require that the Office of the State Comptroller certify that total spending growth is no more than 3 percent. In the event of an emergency that requires spending growth of above 3 percent, an emergency message will be sent to the Comptroller and the Legislature, which could pass a budget with spending above 3 percent with a supermajority.

#### ○ Require Supermajority to Pass Future Tax Increases

Another way that we can help ensure that future State spending is constrained is to require that any future tax increase be passed by a two-thirds supermajority of the State Legislature. This requirement will likely result in fewer large and ill-considered tax increases, which will in turn require our state government to find new and innovative ways to live within its means, instead of relying on tax increases to pay for inefficient practices. Requiring a supermajority to raise taxes can be achieved by amending the Legislative Law or by amending the State constitution. Legislation addressing both of these options passed the Senate with bipartisan support last session (S.8401 and S.8402; both were sponsored by Senator Serino).

#### ○ Establishing Guidelines for Future Settlement Funds

Since 2014, New York State has received over \$10.2 billion in legal settlements from financial institutions.<sup>53</sup> Instead of using this one-time revenue to address infrastructure and other non-recurring needs, the Cuomo Administration has used it to plug operating budget holes or allegedly to fund the Governor's personal political priorities. In 2017, the State Comptroller found that in the FY 2018 Enacted Budget, over half of all spending related to settlements had gone towards plugging operating fund holes instead of towards infrastructure or other one-shot initiatives.<sup>54</sup> After analyzing how the Governor had spent these funds, EJ McMahon of the Empire Center for Public Policy concluded that: "It's undisciplined capital spending, and I think he basically took an enormous amount of money and sliced it and diced it into numerous pieces largely to suit his political agenda."<sup>55</sup> When local officials asked for these funds to be used on vital infrastructure projects, the Governor responded by saying, "Show us how you will become economically stronger

and create jobs. Then you will fix your own pipes.”<sup>56</sup>

Using settlement funds of this magnitude to plug operating budget holes or to fund politicized priorities is totally unacceptable. Therefore, as part of my first Executive Budget, I will propose reforms to ensure that any future settlement money that is received by the state will go towards infrastructure or other one-time expenses. This spending will also not count towards the state spending cap, due to its non-recurring nature.

○ **Eliminate the Inefficient Clothing and Sales Tax Exemption**

The sales tax exemption for clothing and footwear costs the state over \$850 million a year. The concept, although well meaning, has provided little evidence of increased economic output and is poorly targeted to help families in need. The state could increase the Empire State Child Credit, and expand the EITC benefit for a little over the cost of the clothing exemption. Eliminating this exemption would also create a more efficient tax code by alleviating the distortive impact of taxation on economic decision-making and widening the tax base.

○ **Corresponding Spending Reductions**

The proposed tax cuts will greatly reduce the state and local tax burden on individuals and business. If these proposals are enacted, it will be necessary in the coming years to adapt to these major changes by reducing spending on programs, benefits, and tax expenditures that were designed to address the exceedingly high property and business taxes of the Empire State. The prime example of such an area that will need rightsizing subsequent to a major improvement in New York’s business climate is the state’s corrupt, inefficient, and ineffective economic development system. The nearly \$4 billion a year in economic development spending, including approximately \$2.4 billion in tax breaks should be first on the chopping block.<sup>57</sup> Additionally, as efforts to reduce the property taxes of residents are implemented and take effect, it will be appropriate to revisit programs designed specifically to mitigate the negative impact of such taxes.

## Conclusion

This plan recognizes that we can no longer continue to treat the symptoms of a government that taxes and spends with little regard for taxpayers and little concern about outcomes. As we move forward, there are number of ideas worth considering in addition to the specific proposals contained within this document, including:

- **Create a Congestion Pricing Tax Credit** if and when a comprehensive congestion pricing system is put in place, to relieve financial pressure placed on individuals living in New York City’s outer boroughs.
- **Continue to find ways to conform New York’s tax laws to the federal tax system.**
- **Explore actions to further broaden the tax base** to increase efficiency and fairness.
- **Evaluate the efficiency and effectiveness of all current tax expenditures** to ensure they are having their intended effect and producing outcomes that justify their cost.

- **Address high taxes on private health insurers** in an effort to increase health care quality and affordability.

We must face the problem and fix the underlying causes of unwarranted and unproductive taxation. This plan will provide tax relief to overburdened New Yorkers in a fiscally responsible and compassionate manner. Although this plan does not possess all the answers, it does signal my commitment to shift the paradigm in Albany: good governance does not require bloated budgets and excessive taxes; it requires responsible, rational, and reasoned leaders making decisions that benefit all New Yorkers.

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