Introduction

According to the Tax Foundation, New York State taxpayers bear among the highest state and local tax burdens in the United States.\(^1\) 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.\(^2\) 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.\(^3\) 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
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.

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.
Empire State Freedom Plan

- 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.5

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.6 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).

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

Source: Tax Foundation
• 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.

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. 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.
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. 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.

- **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.

- **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. 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.

- **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.¹³

- **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.¹⁴ 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).¹⁶ 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.¹⁷ 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.¹⁸ We should adopt the federal standard of 50 percent, as 26 other states do.¹⁹ 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.20

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.21 22 23

    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).24 This level of spending is second only to the over $80 billion California spends on Medicaid, despite having twice as many enrollees.25

    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.26

    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.”27 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.\(^{28}\) 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.\(^{29}\)

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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.*\(^{30}\)

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. 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. 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.

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.34 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 $718,858.35 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.

- **“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. 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. 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. 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. 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.\textsuperscript{40} 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:

\textit{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.}\textsuperscript{41}

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

\textit{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.}\textsuperscript{42}

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.”\textsuperscript{43}

- 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.\textsuperscript{44}
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. 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).46

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.47 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._48

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._49

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 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.50

I suggest New York offer an expanded benefit for childless workers and non-custodial parents. As governor, I will task the Department of Taxation in 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.51 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.52 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. 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. 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.” 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.”

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. 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.
Endnotes

5. https://www.sciencedaily.com/releases/2016/03/1603311124537.htm
10. https://taxequitynow.nyc/about/
27. https://www.empirecenter.org/publications/shifting-shares/
33. https://www.nysenate.gov/sites/default/files/article/attachment/fy_19_whitebook_final_1_0.pdf
44. https://cbcnyc.org/research/practical-policy-challenging-circumstances
48. https://scholars.unh.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1295&context=carsey
49 https://www.irp.wisc.edu/publications/dps/pdfs/dp134108.pdf
53 https://www.osc.state.ny.us/finance/fcr/2017/implications.htm
54 https://www.osc.state.ny.us/press/releases/july17/072817.htm
57 https://cbcny.org/advocacy/state-budget-keeps-wasting-economic-development-cash