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## **2021: A Changing Landscape for New York in Washington & Albany**

Donald Trump's campaign and election energized, empowered, and emboldened New York's Progressives and, in turn, transformed New York State politics. It helped power a blue wave in the 2018 midterm elections, ending decades of almost uninterrupted Republican control of the New York State Senate. Unified Democratic control in Albany meant radical change across the state, especially regarding:

- Voting (early voting, registration changes);
- LGBTQ rights (Gender Expression Non-Discrimination Act);
- Immigrant protections (Green Light Law);
- The environment (the Climate Leadership and Community Protection Act);
- Workers (farmworkers' right to unionize, prevailing wage requirements);
- Criminal justice reform (bail reform, public review of police discipline records);
- Housing (tenant protections);
- And so on.

What impact will Joe Biden's election have on the electorate? . . . on progressives? Will rolling back Trump policies and incremental change be enough for progressives? Much will depend on what happens in Georgia tomorrow (more on that later). However, the center/moderate versus progressive/far left dynamic is one of the biggest things we are watching in 2021.

### **Left vs. Left**

While Democrats were (or are) unified *against* President Trump, there is less agreement on what they support. That was on full display during the primary season but it exploded in November after a disappointing and discouraging performance in Congressional elections. Moderates in competitive districts—like Rep. Conor Lamb in Pennsylvania—blamed Progressive posturing and positioning (“defund the police!”) while Progressives like Member of Congress Alexandra Ocasio-Cortez blamed Democrats losses on not being progressive enough.

### **The Political Cycle**

The two giants of New York State politics—Governor Andrew Cuomo & Senator Chuck Schumer—are “in-cycle.” That means their re-election campaigns have begun. Both are traditional Democrats who are viewed with various degrees of skepticism by progressive activists.

The ability of both men to “pivot” or to emphasize their progressive bona fides will be complicated—Cuomo by the devastating impact of COVID on New York's economy and state budget while



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Schumer has to navigate a Senate Democratic Conference (and potential voters in swing states across the country) that are much less progressive than our state's electorate. Furthermore, both are more vulnerable to a primary challenge (some are talking up Rep. Alexandria Ocasio-Cortez as a challenger to Schumer) than to any Republican opposition. As a result, we expect to see more progressive proposals, positioning, and politicking from Cuomo and Schumer.

A good example is Schumer's recent partnership with Elizabeth Warren's to cancel student debt and Cuomo's focus on equity in the distribution of COVID vaccines and investigating racial disparities in COVID-19 deaths.

Both are excellent politicians and both, especially Cuomo, have effectively used Trump as a foil. We are watching to see how they will interact with the Biden Administration, especially on policies that are important to New York, like a repeal of the SALT cap.

A few footnotes:

1. The Democratic primaries for Governor and Senator will be in May 2022. That means ballot access begins in thirteen months (petitions start in February 2021).
2. One major difference between the two: Schumer has maintained a strong relationship with the Working Families Party, including encouraging New Yorkers to vote for Biden/Harris on the Working Families Party line (helping the WFP maintain their ballot access) while Gov. Cuomo's relationship with the Working Families Party is sort of like Dorothy and the Wicked Witch of the West (which one is the witch is, of course, in the eye of the beholder).
3. Gov. Cuomo and Sen. Schumer established a sort of détente early in Cuomo's gubernatorial tenure. That was strained by Cuomo's criticism of Schumer (and the rest of the delegation) on the repeal of SALT deduction in 2019 as well as Cuomo's criticism on the level of on aid to states in COVID relief.
4. Gateway: one of the biggest transportation issues in the country is the Gateway Project. Cuomo and Schumer (along with unified, bipartisan delegations from New York and New Jersey) have pushed for the \$13 billion project and the election of "Amtrak Joe" has provided hope. However, following his "reinventing" of the L train tunnels, Cuomo is proposing a different fix. This project is so big, and so important, that it is worth watching: for what it means for New York and for how Cuomo and Schumer handle their differences.

## Legislature

In New York, first Primary Day and then Election Day brought wins for progressives across the board—including numerous wins for progressives in the Legislature. A great example, the Working Families Party shot past the 130,000 votes needed to maintain ballot access, receiving close to 250,000 votes.



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Democrats increased their majorities, winning 43 seats in the state Senate: giving the conference a supermajority while maintaining one in the Assembly. Many of the newly elected members will join progressive conferences that already drove the Legislature to left over the past two years.

While the Assembly has always been perceived as the Progressive House of the Legislature, moderates from the outer boroughs (many of whom lost reelection in progressive primary challenges last June) have always placed significant pressure on the Speaker and brought the House to the middle. For a long time, the working relationship with the Republican Senate had also brought the House to the middle. In 2018, that changed with a progressive Democratic landslide in the Senate. Throughout 2019 and 2020, the Assembly actually looked like the more moderate of the two, with insurgents like Senators Jessica Ramos, Julia Salazar, Zellnor Myrie and Alessandra Biaggi driving the conversation to the left.

Expect the Assembly to mirror the swing to the left of the Senate last Session. Folks like Assembly Codes Committee Chair Joe Lentol who had been in the Assembly since 1972 (and Chair of the powerful Codes Committee since 1992) representing Brooklyn and Michael DenDekker, who had represented Assembly District 34 in Queens since 2008, lost reelection to progressive challengers who will place pressure on the Speaker to drive policy leftward.

In short, expect Senate Majority Leader Andrea Stewart-Cousins and Speaker Carl Heastie to take much stronger stances (even than 2019's record start to session). Emboldened by supermajorities, legislative leadership is sure to force the Governor's hand early in session.

### **Local Elections in 2021**

Throughout the state, local elections will also take centerstage in 2021.

- New York City
  - While a lot will change between now and next November, most of the action in heavily-Democratic New York City will be in the Democratic primaries set for June.
  - 2021 will also see the launch of ranked-choice voting in New York City, for special and party primary elections only.
  - New York City Mayor Bill de Blasio is term limited opening the seat up to crowded field of contenders that includes City Comptroller Scott Stringer, Former United States Congressman for Staten Island Max Rose, Bronx Borough President Eric Adams, Brooklyn City Council Member Carlos Menchaca, and former Presidential Candidate Andrew Yang.



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- Key New York City Council Races
  - There will be a mass exodus from the New York City Council in 2021. After serving two consecutive four-year terms, 34 council members out of 51 districts are term-limited and will have to leave office at the end of 2021.
  - Special Elections—New York City will also have Special Elections for the City Council: Rory Lancman’s seat in Queens City District 24—February 2, 2021; Donovan Richard’s Seat in Queens City Council District 31—February 23, 2021
- In Buffalo, Mayor Byron Brown is running for an unprecedented fifth term.
- In Syracuse, Mayor Ben Walsh plans to seek reelection next year, even if he doesn’t yet know how he’ll get on the ballot. Walsh, a political independent, ran and won in 2017 without the backing of a major political party—only the second person in Syracuse history to do so. Now, at the beginning of his third year in office, he’s beginning to think about how he can pull off a similar victory in 2021.
- In Rochester, the felony indictment of Mayor Lovely Warren weighs heavy. She has not resigned or been convicted, and she plans to run in 2021. No challengers have announced yet.
- In Albany, Mayor Kathy Sheehan is running for re-election, saying the challenges of 2020 have led her to seek a third term. The City's first female mayor made it official in campaign kickoff video released Monday night.

## **2022 Redistricting Cycle**

Even though New York created a 10-member Commission to limit the impacts of partisan control in Albany on redistricting through a Constitutional Amendment in 2014, supermajorities in both Houses mean that Democrats control redistricting. The map in 2022 will be even less favorable to Republicans—especially in the State Senate—wiping out many safer suburban seats across the State.

Looking at the current numbers, New York State is slated to lose one—possibly two—seats in the House of Representatives. However in September, New York State Attorney General Letitia James won her lawsuit against President Donald Trump to have undocumented immigrants counted in the 2020 Census, which could help New York bolster its numbers.



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## Policy: what to watch for in 2021?

### Federal

Despite President Joe Biden's win, Election Day was far from the sweeping mandate Democrats had hoped for. Democrats lost several key swing seats in the House, including places they picked up in the Blue Wave in 2018, and in the Senate—despite big expectations—they only picked up one seat. Control of the Senate will come down to tomorrow's Georgia run offs (which we will discuss in our Senate preview below), but first... let's take a look at what will likely happen no matter who controls the Senate: *Infrastructure & Earmarks*.

(And of course, it is worth watching Senator Ted Cruz and 11 Senate Republicans' challenge of the certification of the Electoral College this Wednesday, because as another New Yorker—Yogi Berra—put it; “it ain't over til it's over.”)

### **The Biden Infrastructure Plan**

Labor leaders, transportation advocates, municipalities, and stakeholders across the County alike have looked to President-elect Joe Biden and his former Senate colleague Mitch McConnell for possible action next year on a long sought after and overarching infrastructure package.

Under his \$2 trillion Build Back Better proposal for reviving the U.S. economy, Biden envisions investing in schools, water systems, municipal transit and universal broadband. However, actually moving that through Congress will likely prove difficult. It would require extensive cooperation with Republicans, especially Senate Majority Leader McConnell—who since May has spurned a comparably sized pandemic relief package pushed by House Speaker Nancy Pelosi.

With a one-year extension of highway funding to expire next year, union leaders and transportation advocates still see reason for hope. They're looking to the prospect that McConnell and Biden—who served seven terms in the U.S. Senate—could rediscover the bipartisan mojo that they used to seal deals during Obama administration.

### **Possible Legislative Earmarks**

A return of Congressionally directed spending seems likely in 2021. In-coming Appropriations Chair Rose DeLauro (D-Ct) as well as House Majority Leader Steny Hoyer (D-Md) support a return to the practice that has been banned from House Rules since 2011. Senate Republicans made their earmark prohibition permanent last year, but several party members, including Appropriations Chairman Richard C. Shelby, R-Ala., support bringing the practice back.



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The House Select Committee on Modernization released their final 97 recommendations in September 2020 and amongst them was the Community-Focused Grant Program (earmarks). The framework sketches out a big picture on how the funds will be allocated:

- Non-profit entities, hospitals, higher education institutions, state, local, and tribal governments would submit applications to a member of Congress;
- Legislators would choose which projects to endorse and would submit those the relevant congressional committee.
- A standardized grant application would be developed, but individual representatives would be given latitude to develop their own processes for vetting the requests submitted to their offices.
- Members would be encouraged to establish procedures that would engage local elected officials and stakeholders, such as economic development groups, and to collaborate with their colleagues on requests that would affect multiple districts.
- Requests would be submitted via a common, publicly-accessible website to the relevant congressional committee—such as the Committee on Transportation and Infrastructure for highway projects—and committees would be directed to balance the needs of rural and urban districts in awarding grants in the legislation they oversee.
- The proposal also includes requirements for transparency and for an overall cap on the amount of federal spending that could be allocated via these new grants.

### **Looking ahead to the 117<sup>th</sup> Congress Committee Leadership**

In the Senate, control is yet to be decided. Republican Senators David Perdue and Kelly Loeffler are both on the ballot tomorrow in runoff elections because neither got enough votes November 3rd to win outright. Democratic challengers Jon Ossoff and Raphael Warnock have raised staggering sums as they try to capitalize on President-elect Joe Biden's narrow victory in Georgia over GOP President Donald Trump.

Also at stake are Biden's nominees for the cabinet. Republicans plan to make Biden's nominees run the gauntlet. If they maintain control of the upper house, expect the early months of the 117<sup>th</sup> Congress to be dominated by gridlock. If Republicans maintain control, Some of the nominees already announced by the president-elect will face a steep climb in their confirmation process. For instance, Neera Tanden, Biden's pick to lead the White House Office of Management and Budget, was the target of broadsides from congressional Republicans who attacked past tweets from the chief of the liberal Center for American Progress.



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### **If Democrats flip the Senate...**

While it is unlikely that Warnock and Ossoff both win tomorrow, first and foremost, Democratic control of the Senate would bring unprecedented opportunities on infrastructure and overall spending & appropriations. Budget reconciliation would allow Democrats to avoid a filibuster in the Senate to pass sweeping infrastructure package, COVID relief, and other items. It is designed for deficit reduction, but in recent years it has been used to pass enormous items like the Republican's 2017 tax overhaul and the 2010 Affordable Care Act.

- At the very top it would mean New York wins big with Majority Leader Chuck Schumer leading the Senate.
- It would also mean that Progressives like Sen. Elizabeth Warren, Vice Chair of Conference, and Sen. Bernie Sanders, Chair of Outreach, will pull Democratic Leadership decidedly to the left.
- On the Fiscal front, the Green Mountain State is at the center of the conversation with Vermont and former progressive Presidential Candidate Senator Bernie Sanders leading the Budget Committee, and Senator Pat Leahy leading the Appropriations Committee.

### **If Republicans maintain control of the senate...**

Even if the Republicans retain control of the Senate tomorrow, the Senate is poised for a large shakeup on several committees—including key Committees like Banking, Finance, and Judiciary. In the Senate, we will be watching for a potential for bipartisanship on Committees that remained gridlocked for much of the 116<sup>th</sup> Congress. It will remain to be seen whether or not at the Committee level a razor-thin majority will promote a collegial environment for Chairs and Rankers that is generally expected of the Upper House.

### **Senate Committee Shakeups**

- Senator Richard Burr of North Carolina, who temporarily gave up his Intelligence Committee chairmanship while under investigation for his stock trades amid the pandemic, is in line for the Senate Health committee if he wants to take it. Current chairman Sen. Lamar Alexander (R-Tenn.) is retiring and Burr is interested in the job, though has made no final decision. If he passes on it, the post would go to Sen. Rand Paul (R-Ky.), a libertarian-leaning senator who has clashed with infectious disease expert Anthony Fauci over the government's coronavirus response.
- Republican Senator John Barrasso of Wyoming could leave the Environment and Public Works chairmanship for leadership of the Energy Committee, where Lisa Murkowski of



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Alaska is term-limited. Barrasso is undecided according to sources in D.C. If he did swap gavels, Sen. Shelley Moore Capito (R-W.Va.) would be next in line for the Environment panel.

- Sen. John Boozman (R-Ark.) is expected to helm the Agriculture Committee with Sen. Pat Roberts (R-Kansas) retiring.
- The Senate Homeland Security Committee will also see a change, with Sen. Rob Portman (R-Ohio) poised to replace Sen. Ron Johnson (R-Wis.), who has used his perch to investigate former Vice President Joe Biden's son Hunter. Portman is expected to shift the focus of the committee to issues like cybersecurity, oversight over the government's response to coronavirus, the addiction epidemic, human trafficking and national security.
- Sen. Chuck Grassley (R-Iowa) is set to return to the Senate Judiciary Committee, after giving up the gavel for two years to chair the Finance Committee. The current chairman of Judiciary, Lindsey Graham (R-S.C.), is presumed to helm the Senate Budget Committee. Sen. Mike Crapo (R-Idaho), meanwhile, is in line to replace Grassley on Finance while Sen. Pat Toomey (R-Pa.) is expected to take over the Banking Committee from Crapo.
- *Bipartisanship on Banking?*
  - Pennsylvania Republican Senator Pat Toomey is expected to take over the Senate Banking post from Idaho Republican Senator Mike Crapo. When he does he will be faced with one of the most gridlocked Committees in the Senate. Can he work with likely Ranking Member Democrat and Progressive Ohio Senator Sherrod Brown on a capital markets package?
    - January will be a telling month for the Committee that has been gridlocked since passing the Economic Growth, Regulatory Relief, and Consumer Protection Act of S. 2155 that pitted moderates like Montana Senator Jon Tester against the likes of progressives on the Committee like Massachusetts Senator Elizabeth Warren. The Committee has long been working on a second capital markets package, we will have to see whether there is enough bipartisan appetite





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## House

In the House, Speaker Nancy Pelosi will open the 117<sup>th</sup> Congress with one of the smallest majorities in history (222-211). Election day—where Democrats once were thought to have an opportunity to pad their numbers—turned into a nightmare: They lost two seats in South Florida, at least two in California, and here and there across the country in places they had gained in 2018. They failed to pick up seats in Texas, Ohio or Florida, which they had targeted. We also count some 26 seats so far that Democrats won with 52% of the vote or less, despite a huge fund-raising advantage. The result will be the smallest House majority since 1919, and it's especially shocking as Democrats reclaimed the White House. Furthermore, three house members, including New Mexico Rep. Deb Haaland, will departing to join the Biden Administration, if confirmed.

House Speaker Nancy Pelosi will be faced with difficulty on multiple fronts in 2021. First and foremost, she will have a razor thin 11-seat majority. While she manages a majority the leaves almost zero margin of error, the Speaker will also have to deal with a growing schism within her own Conference. The big questions amongst insiders:

- Will the divide amongst a majority the leaves little room for bargaining lead to gridlock?
- Or will it lead to a better working relationship with Senate Republicans?

## House Committee Shakeup

- Who replaces Nita Lowey as Chair of Appropriations?
  - Rosa DeLauro (D-CT), long-time Democratic lead of the Labor, Health and Human Services Subcommittee won a three way race with Congresswoman Debbie Wasserman Schultz (D-FL) who had the support of the Congressional Black Caucus members due to her commitment to incorporate social justice reforms as part of the appropriation process, and the more senior Marcy Kaptur (D-OH) who had chaired of the Energy and Water Subcommittee. Perhaps the biggest loser is New York State, who will lose a key figure in appropriations negotiations with Hudson Valley Rep. Nita Lowey's retirement.
- Who replaces Eliot Engel as Chair of Foreign Affairs?
  - New Yorker and Queens Rep. Gregory Meeks was selected as the next chairman—and the first Black Chairman—of the House Foreign Affairs Committee, after a rare three-way race for the influential congressional leadership post that will play an outsized role in helping shape U.S. President-elect Joe Biden's foreign policy from Capitol Hill.



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- Will Rep. Richard Neal's progressive primary pull the powerful House Ways & Means Committee to the Left?
  - After a hard fought bid for reelection, that saw key progressive groups like AOC's new PAC, Justice Democrats, and the Sunrise Movement endorse his opponent, we will see the impacts on the normally moderate Rep. Neal, who has not backed progressive priorities like the Green New Deal or Medicare for All.
- House Democrats have chosen New Yorker Rep. Sean Patrick Maloney to lead their campaign arm in 2022. Maloney defeated California Rep. Tony Cárdenas in the race to chair the Democratic Congressional Campaign Committee, leveraging his knowledge of the committee's inner workings and his own experience running in a competitive district.
- For a full list of House Committee chairs, [click here](#).

## **New York State**

Democrats picked up seats in the State Senate bringing them to a 43 seat supermajority. Supermajorities in both Houses will give Speaker Carl Heastie and Majority Leader Andrea Stewart Cousins more ability to flex their muscle with the threat of veto overrides.

Before we get to the policy, there are also a few intra-Conference Dynamics that will be all new for Leadership this year. One of the side effects of 2018's blue landslide was a sudden loss of influence for Buffalo, Rochester, and Syracuse. This year will change that. Democrats had major wins throughout the "90 Corridor," Including John Mannion in Central New York Syracuse Senate District 50, Jeremy Cooney in Rochester Senate District 56, Sean Ryan in Buffalo Senate District 61, and Samra Brouk in Rochester Senate District 55. These members are expected to coalesce around Senior State Senator Tim Kennedy to form a formidable "Upstate Caucus" that will bring Upstate Issues—including infrastructure funding—to prominence in Albany this Session.

*A look at the priorities...*

This year's budget process and Legislative Session are going to be like none other on record—the State will simultaneously address racial inequity, social justice, and improving the State's Healthcare system, all while plugging an enormous deficit. As the Dems took the Presidency, the Feds will likely help plug that deficit with a monstrous deficit with an ambitious Coronavirus relief package including aid to States and localities. However, expect to see Majority Leader Andrea Stewart-Cousins and Speaker Carl Heastie drive a number of progressive priorities, emboldened by their bolstered majorities.



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- **Cuomo Emergency Powers**— On March 3, with the threat of COVID-19 looming over New York, state lawmakers passed a \$40 million coronavirus relief bill. That program bill enabled a massive expansion of Governor Andrew Cuomo’s executive powers, allowing him to “suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, of any agency” unilaterally. A month later, amidst the first wave of the Coronavirus and facing a massive multibillion dollar deficit with no end in sight, the State Budget allowed the Governor even more unilateral powers by slashing funds without any consultation from the Legislature.

In the seven months since, Cuomo has withheld around \$2.2 billion in allocated funds. He’s also signed more than 90 executive orders, more than three times more than he signed last year. As a result, many lawmakers are saying it is time to revisit Cuomo’s absolute authority. However, through most of 2020, it was hard to challenge the immensely popular Governor who gained popularity with each briefing and witty joke about Jim Malatras’ power points. As the dust settles, expect Majority Leader Andrea Stewart-Cousins and Speaker Carl Heastie to begin to assert themselves taking back powers for the Legislature and demanding their “co-equal” seats at the table.

- **“Revenue Raisers”**—Amidst record unemployment, New York’s financial sector posted \$27.6 billion in profits over the first six months of 2020 (an 82% increase over 2019). Key members of both the Senate and Assembly Majority Conferences like Senators Jessica Ramos and Brad Hoylman, Assembly Member Linda Rosenthal and Yuh-Line Niou have been driving proposals for the past few years that could pick up steam. Progressives are pushing a menu of fifteen “revenue raisers”. Governor Cuomo has been reticent to enact tax hikes—calling them “Option C” and often quietly booting them from budget negotiations. However, this year, among renewed progressive vigor, he may not be able to...

Here’s a look at some of the higher profile proposals:

- **Personal Income Tax Increase**—New York State lawmakers and the Governor alike have said they will act early in 2021 to raise taxes on high-income people, but there is disagreement on whom: Majority Leader Andrea Stewart-Cousins is willing to impose new levies on New Yorkers reporting \$2 million or more in annual income, while Assembly negotiators are willing to increase taxes on people reporting annual income of at least \$1 million.
- **Pied-a-Terre**—In 2018, a tax on second homes was shot down amid fierce opposition from the real estate industry and concerns over how it would jive with the city’s property tax system. The “pied-à-terre” tax has been floated for years as a revenue driver in New York City. It most recently was billed as a way to pay for upgrades to New York City’s public transit—proposed as an annual levy on properties valued at \$5



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million or more at a sliding rate beginning at 0.5 percent and rising to 4 percent on homes valued at \$25 million and above. Senator Brad Hoylman has been continuously retooling the proposal and has continued to push leadership to move it.

- **Stock Transfer Tax**—Led by Democrats Senator James Sanders and Assembly Member Phil Steck, the proposal would remove an electronic rebate of the stock transfer tax, collect 100% of this tax and dedicate the funds to the state general fund commencing with the fiscal year and ending March 31, 2023, after which 100% of the funds collected with the deposited into the following: the Metropolitan Transportation Authority (MTA), the maintenance and repair of state highways and bridges (NYSDOT), the New York City Housing Authority (NYCHA), the infrastructure, maintenance and development of passenger rail lines for AMTRAK in the northeast corridor, the Consolidated Local Street and Highway Improvement Program (CHIPS), the municipal aid and incentives program (AIM), the safe water and infrastructure action program, the downstate and upstate transits systems and the clean energy fund.
- **Worker Bailout Fund**—Senator Jessica Ramos is the main senate sponsor of one of the more controversial options: a tax on billionaires that supporters say could raise billions of dollars for a “worker bailout fund.” New Yorkers who have been unable to tap state and federal assistance would receive \$3,300 a month, retroactive to April. Recently incarcerated New Yorkers would also be eligible for the money.
- **Infrastructure**—Governor Cuomo’s bread and butter throughout his tenure has been investing in infrastructure and economic development—whether it’s the Regional Economic Development Councils or pumping millions into projects through the Buffalo Billion or the Upstate Revitalization Initiative. The Governor has continuously cited the need for New York to “build back better.” **Expect that prioritization of economic development to continue in 2020.**
  - The Governor plans to include the largest infrastructure plan “in the State’s history” that will be overarching and include investment in green infrastructure and renewables—including electric vehicles—as well as investment in energy initiatives throughout SUNY, NYPA, and NYSERDA; rebuilding airports throughout the state—including continued improvements at JFK and LaGuardia.
- **Marijuana Regulation & Taxation Act**—In 2018, Cynthia Nixon’s credible primary challenge prodded the Governor toward his support of legalization of “Adult Use” marijuana. The Governor’s version of the bill legalizing recreational marijuana and creating the Office of Cannabis Management has failed in the budget process two years in a row and the politics on Long Island made it a non-starter as a standalone bill. However, the State’s desperate need for revenue could open the door a little wider this year. "I’ve tried to get it done the last couple



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years," Cuomo continued. "There are a lot of reasons to get it done, but one of the benefits is it also brings in revenue, and all states — but especially this state — we need revenue and we're going to be searching the cupboards for revenue. And I think that is going to put marijuana over the top."

- **Mobile Sports Betting**—The desperate need for revenue could also drive legalization of mobile sports betting—not tied to bricks and mortar at Casinos. While there are some hairier details like skins, how servers will be located, Governor Cuomo and Gaming Chairs Senator Joe Addabbo and Assembly Member Gary Pretlow support the idea in concept.
- **Data Privacy**—Behind the SHIELD Act, which the Legislature passed in 2019, there are a host of data privacy issues. Senate Consumer Protection Chair Kevin Thomas and leaders on the issues like Senator Brad Hoylman and Assembly Member Clyde Vanel have signaled that they would like to tackle these issues in 2021.
  - The proposed **New York Privacy Act** (NYPA), if enacted in its current form, would be even more expansive than California's 'nation leading' California Consumer Privacy Act (CCPA), providing consumers with even greater control over their personal information, while at the same time being much more onerous for businesses to comply with. The bill was heading toward more serious consideration in 2020 before it was sidelined by COVID-19, central staff and leadership alike say NYPA and other data privacy legislation will be a priority in 2021.
- **Criminal justice reforms**—Left-leaning lawmakers and activists have a new "justice roadmap" that includes outstanding legislation that would impose new limits on solitary confinement, make more elderly prisoners eligible for parole and other changes to the criminal justice system. Such proposals are likely to face resistance from moderate lawmakers and the Governor, who were instrumental earlier this year in amending 2019 reforms to cash bail and other parts of the pretrial system. Ongoing opposition from unions representing corrections officers adds additional friction to the legislative process. That suggests a tough road for reforms this year, though lower-profile bills that aim to raise the minimum wage in state prisons and keep more young adults out of prisons by making them eligible for "youthful offender" status could succeed after falling short this past year.
- **New York Health Act**—A single payer system in New York State is a priority for both Legislative Health Committee Chairs Richard Gottfried and Gustavo Rivera. However, it is a non-starter for the Governor. Furthermore, it would be unprecedented—the thornier issues, like how the State would interact with Medicare—are immense. The Legislature does have a veto override, but a vote to override on single payer would be risky for more moderate members throughout the State as the framework does not hold much support outside of New York City.



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While seeing single payer is unlikely, the Legislature is likely to use its weight in several other areas of healthcare to push back on the Governor.

- **Medicaid Redesign Team II**—Amidst hurried budget negotiations in the thick of the first wave of the Coronavirus pandemic at an empty Capitol in April, the Medicaid Redesign Team II recommendations—which many Legislators, including Health Chair Dick Gottfried, say were less deliberative recommendations from the 21 person “team,” more Chamber priorities dusted off and forced through the process—were shoehorned into the budget. This has meant sweeping changes to Medicaid policy in New York State—including changes to Medicaid Drug Benefit reimbursement that will deeply impact safety net providers across the State. In short, we expect the Legislature to use their leverage to push back on a number of MRT II recommendations in this year’s budget before single payer even comes to the table.
- **Gig Economy**—Even though Californians overwhelmingly voted in favor of Proposition 22, which will allow companies to continue to classify “gig workers” as independent contractors rather than as employees, tackling the issue in New York State 2020 remains a priority for leaders in the Legislature like Senator Diane Savino and Governor Andrew Cuomo alike. Savino said she plans by the end of this month to introduce a bill that addresses those concerns without “casting too wide a net.” Savino led on the issue in New York in 2019, with a bill which would have created a new “dependent worker” class for app-based workers. Among its protections, the bill would have included the right to organize. The bill faced opposition from labor groups, however, for not offering gig workers the full protections of standard employment.
- **Education Funding**—New York spends 90 percent above the national average per pupil on its public schools, and state aid sent to districts has leaped 42 percent since 2012. Even so, the Governor, legislators, and education advocates are in a battle over how the money is distributed and how much more is needed to educate New York's roughly 2.6 million students. The rhetoric has again become heated in advance of the state's fiscal year. Cuomo has attacked school groups and questioned the high pensions of superintendents, and those groups fired back at the Democratic governor's proposals. “Andrew Cuomo has embraced the creed of educational equity with all the sincerity of a street corner con man,” the Alliance for Quality Education, a union-backed group, said in a January report.
- **Specialized High Schools**—Mayor de Blasio has already made sweeping changes to admissions at New York City’s eight specialized high schools over the schools significant underrepresentation of Black and Latinx students. However, the Legislature may push to get rid of the admissions exams altogether. There are a handful of competing legislative proposals and the conversation will likely pick up this year.



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- **NYC Mayor Control**— In 2002, newly elected Mayor Michael Bloomberg was granted mayoral control of the city's schools after making it a central issue to his campaign. This gave Bloomberg the power to appoint the city's schools chancellor and a majority of the members to the Panel for Educational Policy, which runs the city Department of Education. The mayor isn't guaranteed control over the school system in perpetuity. It's up to the state Legislature to renew the mayor's authority every year or two, and it's set to expire again in 2022. Amidst criticism of de Blasio's handling of schools during the Coronavirus, expect the conversation to be markedly more contentious this legislative session.
- **Carbon Tax and/or Green New Deal**—Progressives are also pushing New York to implement a carbon tax. While the State has committed ambitious goals on renewables in the Climate Leadership and Community Protection Act, many progressives say there is nowhere near enough funding committed to achieve these goals. The proposals have included a full Green New Deal with the State making revenue by increasing taxes on the State's highest earners or a Carbon Tax on fossil fuel emissions throughout the State.

### What is already introduced?

The Senate has already prefiled over 450 bills; and the Assembly over 650 bills—ranging from healthcare priorities to worker protections. We expect the flood of legislation to continue in the early weeks of the legislature with the priorities shaking out as the budget picture becomes clearer. Stay tuned!

### Conclusion: A Busy 2021

As Washington D.C. transitions away from the Trump Administration and Albany begins its first year of legislative work with a friendly Biden Administration, expect the 2021 State Legislative Session and the 117<sup>th</sup> Congress to have packed agendas early.

Even if Republicans win in Georgia tomorrow and retain control of the United States Senate, we expect there will be an increased workload at the Committee level, as well as major pushes on infrastructure and earmarks. While McConnell and Pelosi have differing opinions on what is needed to rebound from the Coronavirus Pandemic—whether the Republicans on liability reform for businesses or the Democrats on State and Local Aid—they agree that government has a large role to play in the road ahead.

Back in New York State, there will be an explosion of legislative activity, perhaps even more so than the historic start to the 2019-20 Legislative Session. With supermajorities in both Houses and progressive zeal, expect Senate Majority Leader Andrea Stewart-Cousins and Assembly Speaker Carl Heastie to push the envelope in the early months. And before we even get to the legislative



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conversation—agnostic of State & Local Aid coming from the Biden Administration—this year's State budget process is likely to be the most contentious and eventful on record; from an unprecedented infrastructure package coming from Governor Andrew Cuomo to the discussion on revenue, expect a jam packed early session and budget process.

**As always, thank you for being a part of the O'Donnell & Associates team. If you have any questions during the busy year ahead in State & Federal Government please do not hesitate to reach out.**