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2022: A New Normal in New York State?

This year marks Governor Kathy Hochul's first budget and first legislative session. It is also the first go for the New York State Independent Redistricting Commission, creating an untested process to establish new district boundaries. As we speed towards consequential 2022 primary elections in June, the Legislature and the Governor will have to decide how to allocate historic federal infrastructure investments, fight a pandemic while attempting to shape New York's post COVID landscape, and deal with thornier conversations like single payer healthcare, next steps on climate change, and criminal justice reform.

Governor Hochul has exceeded expectation in her early months, climbing to strong approval ratings despite the backdrop of Omicron and economic uncertainty. The decision by Attorney General Tish James to run for re-election makes the Governor's race hers to lose. Hochul has consistently offered a vision of a "new Albany:" one with empowered Commissioners, sunlight in the Capitol, and a focus on restoring faith in the policymaking process.

However, now comes the real test. Former Governor Andrew Cuomo wielded the Executive Chamber-friendly budget process in New York State like a cudgel, constantly besting the Legislature and getting his way on *almost* every issue for the better part of a decade. Hochul will immediately face formidable negotiating partners in Senate Majority Leader Andrea Stewart-Cousins and Assembly Speaker Carl Heastie—who were seasoned during Governor Cuomo's reign—at the negotiating table.

Beyond the State Budget Process, the past few years have brought some of the most productive legislative sessions in recent memory, in large part due to a symbiotic relationship between the "dynamic duo" of Heastie and Stewart-Cousins. The Legislature and Governor Cuomo—despite increasingly frayed relations—were able to produce signature wins on LGBTQ+ rights, climate change, criminal justice reform, and a mountain of legislation that had long been stalled in Albany.

What's next? And can Governor Hochul and the Legislature keep up the pace?

Let's take a look at what might be on the horizon for 2022.

Redistricting

First and foremost with elected officials is re-election and that starts with redistricting. The political calendar comes into focus with the potential for petitions, and perhaps the primaries themselves, to be delayed significantly. Petitions are scheduled to begin in March with primaries set for June 28. However, district maps may not even be settled until March. New York's Independent Redistricting Commission is required to provide a map on or by January 15, 2022. If that map is rejected by the Legislature, the Commission has until February 28, 2022 to provide a second map. Only when both maps have been rejected, and rejected by a 2/3 majority of the Legislature, is the Legislature



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empowered to draw its own lines. Doing so, even with the best will in the world, takes time. Even without COVID concerns, this puts that primary calendar in doubt. With an April 1st start to New York State's Fiscal Year and a June 2nd end of legislative session, the Independent Redistricting Commission's calendar will make for interesting dynamics for members across the State and has already drawn skepticism that either the political or government calendars will hold firm.

COVID-19

Another major question: How will COVID-19 impact the budget process and session? It has been roughly two years since we have all been in the Senate and Assembly Lobbies—or even in the Capitol for that matter (though it was open to the public this summer). Governor Hochul signed an Executive Order to allow for remote session through January 15th, which many expect will be extended incrementally. Furthermore, despite bringing the State of the State address to the Assembly Chamber for the first time in over a decade, it will be under strained conditions: instead of presenting to the entire Legislature, only Legislative Leaders and their deputies are expected to be in attendance.

Left vs. Center Left

Since Democrats took the State Senate in 2018, we have seen a wave of progressivism in Albany. For better or worse, a fully blue Albany for the past few years has brought some of the most productive budget processes and legislative sessions in recent history. We have seen substantial movement on policies long stalled in the Republican-controlled Senate. Last year, New York State enacted an Adult Use Cannabis Program, Mobile Sports Betting, and unprecedented revenue raisers on the backs of the State's wealthiest individuals, while 2019 and 2020 brought bail reform, the Climate Leadership & Community Protection Act (CLCPA), LGBTQ protections including the Gender Expression and Non-Discrimination Act (GENDA), the Child Victims Act, immigrant protections like the Green Light Law, worker protections like the farmworkers right to unionize and the HERO Act, and voter protections like early voting and registration changes.

However, the central question in the Democratic Party is *how to define progress?* Nationwide, the battle for the heart of the Democratic Party will be fierce on the road to the 2022 Midterms. Already, a top member of the Democratic Leadership in the House has formed a political committee to protect his colleagues from primary challenges from the far left while the “Squad” is busy recruiting those challengers. All of this has only been escalated by the failure (so far) of the Build Back Better Act. A good example of the inner struggles was the dynamics on display in Buffalo Mayor Byron Brown's resounding win by almost 20-points as a write-in candidate over progressive challenger (and Democratic Primary winner) India Walton (who received the endorsements of Statewide Leaders like Senate Majority Leader Chuck Schumer, Senator Kirsten Gillibrand, as well as key Democrats in the State Senate like Deputy Majority Leader Mike Gianaris), the fight for the Democratic Party will be front and center in 2022. That will play out throughout the legislative session.



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Housing

One of the most pressing and immediate policy conversations early in session will be on housing. The 2020 eviction moratorium that has prevented landlords from evicting tenants during the COVID-19 Pandemic is set to expire on January 15th, just two weeks into session. Hochul could extend the moratorium, but has not yet signaled that she will extend it.

In addition to an extension, progressives are pushing for a *Good Cause Eviction Bill* would only allow landlords to deny a lease renewal under very limited circumstances and would cap rent increases for almost half of the state's renters to 3% annually. "We are in a crisis and don't blame just COVID, because it was a housing crisis decades ago. A crisis of capitalism and putting profits over people. But people across the state are rising up and we are seeing in city after city after city good cause measures being passed," said Senator Jabari Brisport.

Stakeholders on the other side of the issue are fighting equally as hard to put an end to moratoriums, and have fought hard in the past to keep a lid on Good Cause Eviction discussions. As Housing Court Judge Patrick Carney in Buffalo, who oversees eviction cases put it "[Hochul's] got really, really great hardships on both sides of this issue... no matter what she does, I guarantee you people are going to get hurt."

2022's primary season will add a political layer to these conversations. State Senate Housing Committee Chair Brian Kavanagh (who is toward the left of the current Senate Democratic Conference in his own right) is facing a primary challenge from progressive Assembly Member Yuh Line Niou, and a potential second challenger from the Democartic Socialists of America—mental health social worker Illapa Sairitupac—who had declared for the race, and still may run alongside Yuh Line Niou. His perceived success—or failure—on these issues could have deep implications on his reelection to represent the increasingly diverse Manhattan State Senate District 26, which he has served since 2017.

Infrastructure & Economic Development

For years, Governor Cuomo's bread and butter was infrastructure and economic development. His popular refrain throughout the early COVID-19 Pandemic was "New York will build back better" which of course is also the name of a certain bill in Washington. The irony of his untimely departure just before federal decision makers agreed to a bipartisan trillion dollar infrastructure package that will pump tens, if not hundreds, of billions of dollars in funding for broadband, port infrastructure, water and wastewater treatment, hazard mitigation to combat climate change, bridges, roads, highways, and the energy grid in New York State is enough to make many a capital wag chuckle.



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Governor Kathy Hochul is left with enormous decisions on how to spend the money and where the State's priorities will be. She has already cancelled several of Cuomo's pet projects, including notably the LaGuardia AirTrain. The Governor will have significant leeway to build back New York as she sees fit. Most importantly, there will be an entirely different cast of characters in the driver seat than we have come to know doing the building.

Furthermore, we will have to wait and see what changes Hochul makes to the Cuomo's Regional Economic Development Council (REDC) process, known colloquially throughout the State as the "Hunger Games." The former Governor had drastically reshaped Empire State Development and the awards of economic development funding throughout his decade as Governor. The process culminated each year in his December REDC awards where his Office effectively announced everything from capital funds for economic development projects to grants for critical water infrastructure. Hochul's push toward a more collaborative Albany could tweak the process to make it more transparent and partnered with key local decision makers as well as members of the Legislature.

Other Economic Development Issues to Watch

An omnibus proposal to amend and extend the State's Brownfield Cleanup Program (BCP)—which is set to expire December 31, 2022—is being led by sponsors Senator Tim Kennedy and Assembly Majority Leader Crystal Peoples-Stokes. The BCP has been essential to incentivizing redevelopment throughout underserved regions across the State, particularly in Upstate New York. Developers and key stakeholders in the Program throughout the State are currently working with the Legislature and the Executive Chamber to make it a key issue for the 2022 Budget Process and Legislative Session.

One of the main economic development fights for Governor Hochul will be a new stadium in Western New York that would keep the Bills in Buffalo for the long haul. The cost of the new stadium is roughly \$1.5 billion. Based on similar negotiations across the NFL, New York State could wind up bearing much of that cost. With negotiations heating up, and the Governor—a Bills fan herself—pushing to "lock it down" as soon as possible, expect it to be a large part of this year's budget negotiations. State and Erie County Legislators have expressed frustration at the lack of transparency in negotiations between Empire State Development and the Pegulas, but do not expect those dynamics to change any time soon.



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Health

This year will be significant for health policy in Albany. One of Hochul's most notable early appointments was former New York City Health Commissioner Dr. Mary Bassett to lead the State Department of Health. Bassett's appointment, in contrast to Cuomo's former Health Commissioner Howard Zucker, has received high praise from community based organizations and safety net providers across the State. Many stakeholders believe her appointment represents a departure from the Department's focus on conservative cost containment measures throughout the Medicaid system that will put "people over the bottom line."

Furthermore, Assembly Health Chair Dick Gottfried, who has been in the Legislature since 1970 and chaired the Health Committee since 1987 announced his retirement earlier this year. For over three decades, he has been one of the most influential voices on healthcare policy in New York State. In his final year, expect Gottfried—who takes great pride in his legislative accomplishments in Albany—to fight to leave his mark on New York's healthcare system.

Perhaps most notably, Gottfried is the Legislature's most vocal advocate for the New York Health Act, which would implement single payer healthcare system in New York State. He has passed the bill through the Assembly several times, even when it was considered a non-starter with both the Cuomo Administration and the Republican Senate. Progressive members in the Senate Democratic Conference, including Senate Health Chair Gustavo Rivera have begun to take up the mantle as well. While the monumental task of implementing a single payer system—not to mention the economics of doing it in just one State and not others—make it an unlikely feat for 2022, expect it to drive large parts of the health policy conversation, including shifts to Fee for Service of key elements of the Medicaid Program.

Another area to watch is whether or not Bassett and the Legislature take aim at any of the provisions enacted from 2020's Medicaid Redesign Team II's recommendations. Amidst hurried budget negotiations in the thick of the first wave of the Coronavirus Pandemic at an empty Capitol two years ago, 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. Last year, legislators (and the OD&A team in many cases) fought to undo or delay the implementation of many of those recommendations, expect those fights to continue this session.

Of course, all of this is with the backdrop of COVID and the recent surge. How Hochul and her team handles this, and the success (or failure) of her Winter Surge Plan 2.0, will go a long way to defining this year.



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We also expect new proposals from Hochul's State of the State, and from the Legislature, to address the continuing healthcare disparities that the pandemic has laid bare.

Climate

The landmark Climate Leadership & Community Protection Act (CLCPA), which became law in 2019, created ambitious goals for the State on renewable energy and greenhouse gas emissions reduction and a Climate Action Council charged with developing a scoping plan to meet those targets. The Climate Action Council released its 861 page draft scoping plan in December ([Read it here](#)).

What comes next is *implementation*. Senate Energy & Telecommunications Committee Chair Kevin Parker is leading the charge for a "CLCPA II" which will put into statute some of the ideas—like power plant retirement and site reuse, strategies for development of renewable energy, and how to meet the necessary demand response of the grid with renewable energy, transmission, and distributed storage—of the Climate Action Council into action. This could be in part modeled off his [Climate & Community Investment Act](#).

We also expect Governor Hochul to go heavy on climate change policy proposals in her Executive Budget. She has already announced a regulation to require a transition to [Zero-Emissions Trucks in the State](#), and [contracts to deliver renewable energy from Canada and Upstate New York to New York City](#) (whose energy mix is currently one of the most fossil fuel reliant in the Country).

One of the proposals that could be prioritized this Session will be the Clean Fuel Standard or "CFS" ([currently outlined in a bill sponsored by Senator Kevin Parker and Assembly Member Carrie Woerner](#)), which would require manufacturers and importers of "high-carbon intensity fuels" like gasoline and diesel to either reduce the carbon intensity of their fuels or purchase credits from low-carbon intensity fuel manufacturers and importers, such as operators of electric bus fleets like public transit agencies. [A coalition of key environmental advocates—like the New York League of Conservation Voters—pushed hard for the implementation of a CFS at the end of Session last year, and are likely to push again throughout the Budget Process/Legislative Session this year.](#)

Criminal Justice Reform

The landmark win for progressives on bail reform in 2018 has generated intense discussion throughout the State. It was the one of the main issues in the races for Nassau County Executive and District Attorney on Long Island—where Democrats lost in both instances. [Furthermore, New York City Mayor Eric Adams—a former NYPD Officer—says the State should revisit it, including potentially adding a "dangerousness standard."](#) While revisiting the law is unlikely this session, expect it to drive a number of peripheral conversations on the road to 2022's elections.



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Conversely, progressive groups and advocates of criminal justice reform say there is **more** to be done on criminal justice reform. Some of the priorities include the *Clean Slate Act*, which would seal criminal records and only failed during end of session negotiations due to a drafting error; and the *Less is More Act*, which restricts the use of incarceration for non-criminal technical parole violations, bolsters due process in parole hearings, requires parole hearings take place within a specified time, and provides earned time credit for parole.

Other Key Issues

Adult Survivors Act—A bill that would grant sexual assault survivors the chance to sue their abuser after the statute of limitations has passed (modeled after the recently enacted Child Victim’s Act) has languished in Albany for the past two years. The collapse of former Governor Cuomo’s Administration amid a litany of harassment allegations is both giving new urgency to the bill and clearing a potential hurdle for its ultimate adoption. Several prominent women’s rights groups have called on Governor Hochul—the state’s first female Governor—to prioritize the Adult Survivors Act this year.

Data Privacy—Behind the SHIELD Act, which the Legislature passed in 2019, Senate Consumer Protection Chair Kevin Thomas and Assembly Member Linda Rosenthal introduced the proposed New York Privacy Act (NYPA), which if enacted in its current form, would be only the nation’s fourth set of comprehensive state-level data privacy regulations. It would be even more expansive than California’s ‘nation leading’ Consumer Privacy Act (CCPA), providing consumers with even greater control over their personal information, including the nation’s only opt-in framework for consumers’ data. At the same time, these regulations are much more onerous for businesses to comply with, drawing the ire of many companies doing business in New York State who have spoken in favor of waiting for an overarching federal standard. Alas, amongst clear federal inaction, the bill was heading toward more serious consideration before it was sidelined by COVID-19. A watered down proposal in Governor Cuomo’s 2021 Executive Budget Proposal—the NYDATA Act—also failed to gain traction. Senator Kevin Thomas has made it clear with leadership that he intends to pass the bill in 2022.

Gig Economy—Legislation dealing with the classification of workers in the “Gig Economy”—which includes, most notably, ridesharing services—has been continuously tabled in New York State since it first came into focus in nationwide policy discussions a few years ago. Expanding labor rights to “gig workers” will likely be a flashpoint once again this year. The ride-hailing company Uber has released a new poll earlier this month showing its drivers do not want to be reclassified from the independent contractor status they currently have. Supporters of the expanded employee status have said the move would benefit a large sector of the under-employed economy for people who do not receive what have become standard private-sector benefits for the last 70 years.



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Downstate Casinos—Since New Yorkers approved commercial gaming throughout the State in 2013, there has been politically charged discussion on three downstate casino licenses that were included in the measure, which are slated to be issued in 2023. However, in the name of COVID-19 recovery, a number of lawmakers began pushing for the licenses to be awarded sooner, citing the positive impacts on a New York City hospitality industry that has been devastated by the Pandemic. Last year's state budget included a Request for Information process for Downstate Casino licenses, an informal process that does not include any commitments or awards. The Gaming Commission received over 30 responses throughout the Downstate region to the RFI. Discussions around creating a process for an RFP will follow, expect that to take center stage in this year's budget process.

Host of Anti-Cuomo Bills—Even though he is gone, the Legislature's ire for former Governor Andrew Cuomo and the toxic environment he created over the past decade remains strong. Legislators have introduced a host of "Anti-Cuomo" bills that would prevent some of the scandals that plagued Cuomo throughout his final months. One of the main focuses has been cracking down on "volunteering" of official State employees on unofficial work, like Cuomo's book. "No government employee should be 'volun-told' to do work outside their official duties that personally enriches their superior," said State Senator Todd Kaminsky. Other key proposals would limit how elected officials can spend campaign dollars while another would require any elected officials who face impeachment to forfeit any remaining campaign funds.

An effort by JCOPE to force Cuomo to return his \$5.1 million pay day for his book as well as continuing investigations into possible violations of the Public Officers Law, both in writing the book and in securing Covid tests for family and friends remain on-going and will be worth watching in 2022.

JCOPE Reform—One of the first things Governor Hochul said after taking office was "I want to blow up JCOPE." She made the remark on New York State's Ethics Oversight body, which has often been criticized for doing little to prevent major ethics violations throughout former Governor Andrew Cuomo's tenure (and was created by a 2011 law pushed by the former Governor), while speaking with a number of good government groups. There have since been conversations between the Hochul Administration and Senator Liz Krueger—who is pushing a constitutional amendment that would do away with JCOPE and replace it with a body where the majority of members would be appointed by the State Judiciary (not state lawmakers). While a constitutional amendment would take years, Krueger and Hochul have both indicated they are interested in making similar changes this Legislative Session.