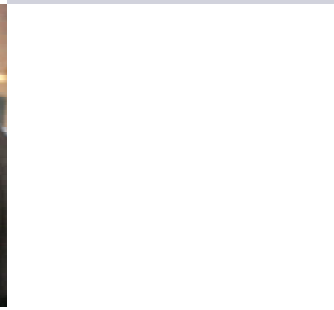
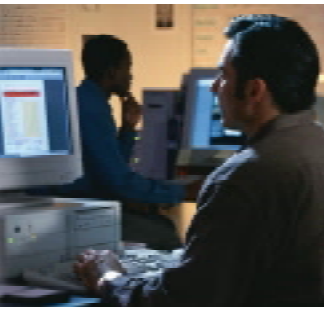
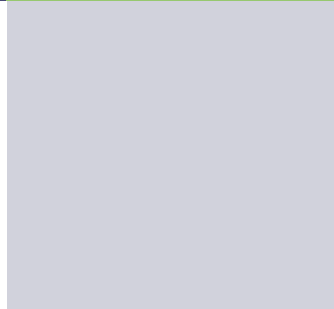




The logo for UPSTATE.COM features a dark blue silhouette of the state of New York. The word "UPSTATE" is written in large, bold, white letters across the silhouette, and ".COM" is in green to the right. Above "UPSTATE" is the word "UNSHACKLE" in green. Below the logo is the tagline "Tell Albany the state we're in." in a smaller green font.



## EXECUTIVE SUMMARY

New York lags the nation in economic strength and population growth. And where the state as a whole is faltering, Upstate is sinking. Job growth is anemic, incomes are nearly stagnant and people are leaving for more promising locales. Upstate's population grew more slowly than every state but North Dakota and West Virginia during the 1990s. Job growth wasn't much better, inching up 3 percent in Upstate metropolitan areas between

1990 and 2004, compared to 21 percent for the nation. Upstate lost 33 percent of its manufacturing jobs during that time.

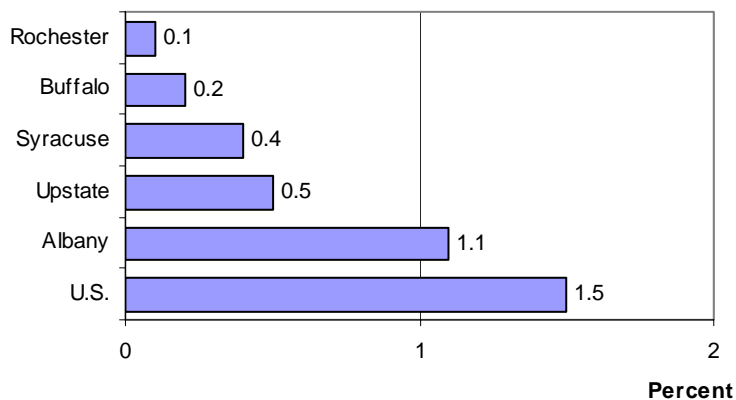
The state's business climate gets much of the blame. Taxes and spending remain high, and other costs to business are similarly uncompetitive, from electricity prices to worker's compensation expenses to business insurance. State and local taxes per capita remained highest in the nation at \$4,645 in 2002. That's 48 percent

higher than the national average.

The efforts of business lobbying groups to change state policies have run up against powerful special interests. So New York continues to have unique rules such as the Scaffold Law holding contractors absolutely liable for construction falls and expensive programs such as the nation's most generous Medicaid health insurance program for the poor, elderly and disabled.

State spending for economic development isn't getting the job done either. It's not for lack of funding. This year alone, New York leaders have \$1.7 billion in taxpayer funding to devote to economic programs and community projects to boost the economy. And \$775 million of that sum is tax-supported

**Average Annual Private-Sector Job Growth,  
1994-2005**



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borrowing for capital projects, adding to the state's crushing debt burden.

Despite significant and prolonged tax-supported spending, the impact on the state's economy has been meager. With the exception of localized achievements, New York's employment statistics demonstrate that the state economy has not responded to massive injections of taxpayer funds.

Upstate can't afford the status quo. It needs the freedom to opt out of state policies that hurt business and the authority to spend taxpayer money devoted to economic development on projects that will truly help our communities. Decentralizing decision-making and putting power in the hands of local authorities is the best hope for turning state government into a partner in rather than an obstacle to Upstate's economic success.

We propose that New York:

- ❖ **Recognize the state's economic diversity.** Economic development policy and funding allocation needs to be grounded in a detailed understanding of each region's strengths and weaknesses.
- ❖ **Focus community and economic development funding on investment, not consumption.** State taxpayer dollars earmarked for economic and community development should go to the projects with the most promise for lifting Upstate out of its malaise. Expenditures should promote long-term economic expansion, not short-term consumption, and be reflective of regional priorities.
- ❖ **Shift spending authority to the regions.** The NYS Science, Technology and Innovation Foundation (NYSTIF), established during the 2006 budget process, should be expanded and implemented. The emphasis of NYSTIF on regional boards under private sector oversight is laudable, although implementation has proceeded at a glacial pace. The NYSTIF mission should be broadened to encompass more than technology development and additional funding should

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be shifted to NYSTIF from less focused economic and community development funding pools.

- ❖ **Unshackle Upstate from anticompetitive laws and regulations to cut taxes and business costs.** All of New York State would benefit from reform of these onerous laws and reduction of taxes. If statewide reform is impossible, the NYS Legislature should enact legislation exempting Upstate separately from certain laws and policies.

These changes should help revitalize Upstate's economic climate and make it competitive with large states. The objective is to boost the region's job-growth rate to the point where it meets or exceeds the median for the 10 largest states by 2015. Unshackling Upstate provides benefits to all, from newly created jobs to a strengthened tax base able to support social services and quality of life programs.

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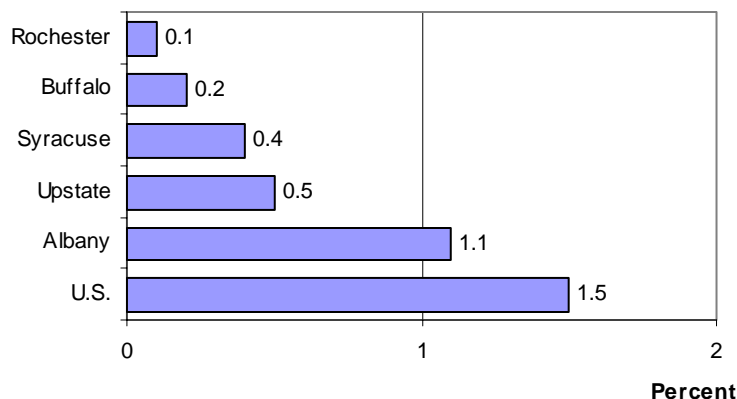
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## New York's economic performance, particularly Upstate, lags that of the nation

New York State, once the driving force of the nation, now fights to maintain its economic position. Upstate is mired in decline despite a proud history as a center of innovation and manufacturing.

During the 1990s, job growth was paltry. Nationally, the number of private-sector jobs grew 21% between 1990 and 2004, but in Upstate metro areas just 3%. Had Upstate metros grown at the same rate as the nation, there would have been 420,000 additional jobs by 2004. Upstate was also hit especially hard by the downturn in manufacturing employment, losing 33% of its manufacturing jobs during the period, compared to a 19% drop for the nation. Had Upstate maintained pace with the nation there would have been about 72,000 additional manufacturing jobs in 2004. Each manufacturing job stimulates additional employment—perhaps three jobs are lost in other sectors for every four jobs lost in manufacturing.

**Average Annual Private-Sector Job Growth, 1994-2005**



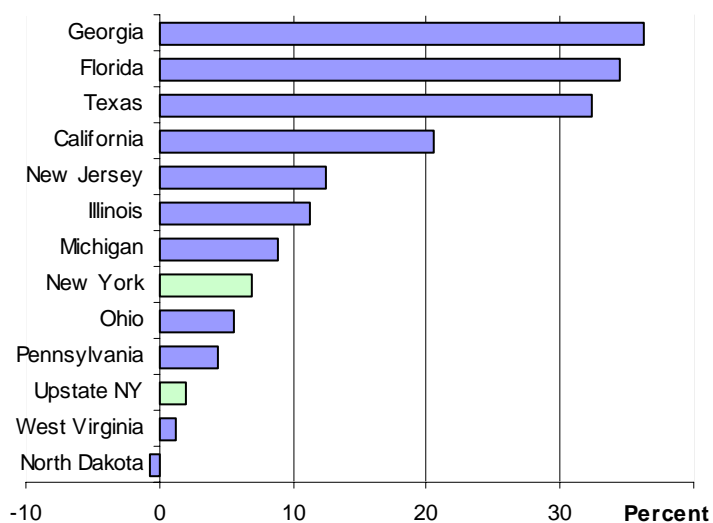
What growth we did experience centered in government, health care and social assistance, all taxpayer-supported sectors that arguably drain resources from the private sector. Employment in those areas rose 14% from 1990 to 2003.

Income growth, particularly Upstate, has also lagged the nation's. While per-capita income grew 18% in the nation from 1990 to 2001, it rose 17% in New York State, 12% in Western New York and Central New York, and just 9% in the Rochester-Finger Lakes region. Government and service industries that are growing tend to pay lower wages than manufacturing and other areas that are shrinking. For example, the Finger Lakes region lost more than 5,000 jobs from 2000 to 2002 in chemical manufacturing, where average wages are nearly \$61,000, while it

gained 3,300 jobs in government, where the average wage is \$35,000.

In a nation with residents as mobile as those of the United States, the underlying health of the economy is reflected in population

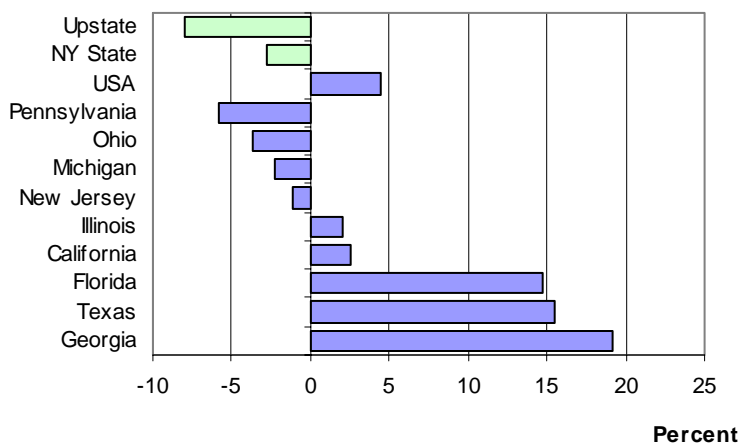
### Population Change, 1990-2004



trends. If it were its own state, Upstate would rank third from the bottom in population growth in the 1990s, below every state but North Dakota and West Virginia. Upstate gained just 1% in population in the decade, compared to 5% for all of New York, 9% for New York City and 13% for the nation. Upstate had the lowest growth in a comparison with the 10 biggest states.

Because other states far outpaced New York in population growth, New York lost representation and clout in Congress in the 2000 redistricting process. The state's delegation in the House of Representatives fell from 31 to 29. New York was the largest state in the nation for 130 years until California surpassed it in 1963. Now, New York's third-place status is set to fall to Florida.

### Change, 18-44 population, 1990-2000



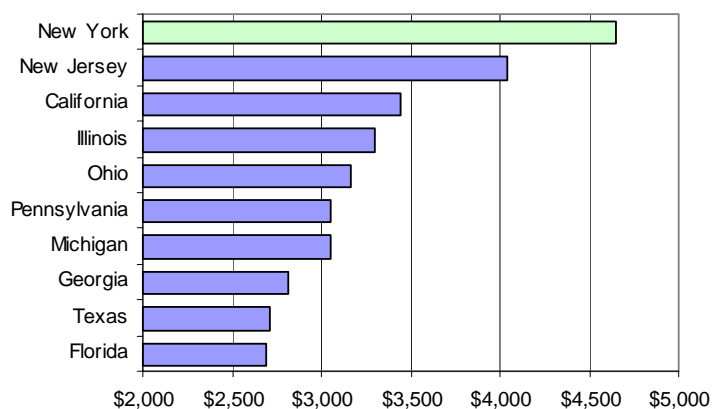
These factors detract from a locale that should be highly attractive to businesses, families and individuals. There are many benefits to living in Upstate New York, including short commutes and affordable housing. We have a highly educated workforce, strong health care and many

good schools, not to mention dozens of impressive institutions, attractions of historical significance and natural beauty to spare.

## New York's business climate is unfriendly to business

Upstate has cold winters, but it is the business climate that chills investors and entrepreneurs. New York is consistently viewed as an expensive, high-tax, burdensome state, and Upstate's relatively low cost-of-living fails to compensate for those shortcomings.

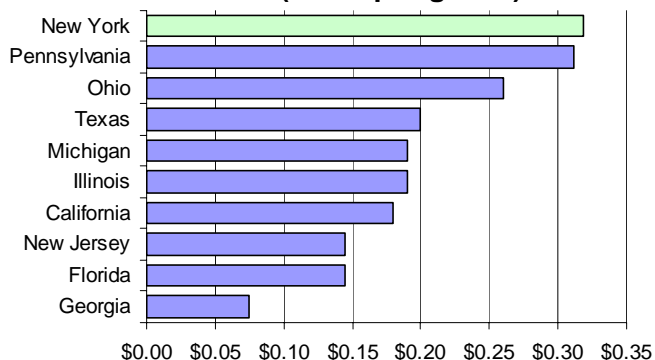
**State and Local Taxes per Capita, 2002**



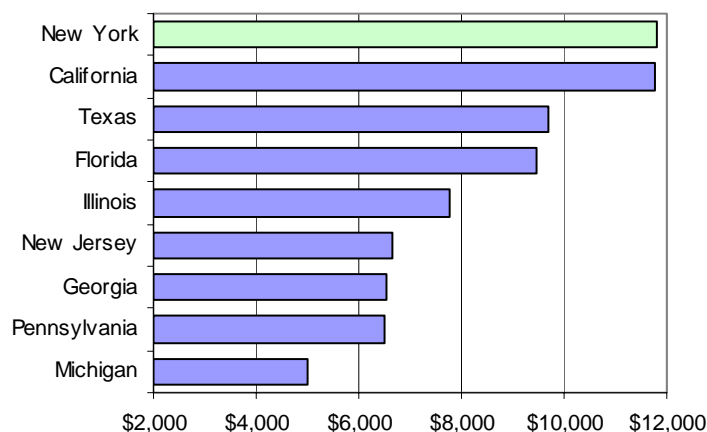
Tax-cutting at the state level has done little to change the state and local tax burden. Taxes per capita remained the highest in the nation at \$4,645 in 2002, 48% higher than the national average. Looking separately at Upstate, state income taxes are 22% higher than the national average, local property taxes 55% higher and local sales taxes twice as high. Upstaters would pay \$5 billion to \$6 billion less in taxes if they lived somewhere with more typical tax collections, according to the Public Policy Institute. New York also ranks highest among 10 large competitor states when it comes to some individual types of taxes, such as the gasoline tax.

Taxes are high because spending is high. New York is second highest in the nation in government spending per capita, behind only Alaska. It has the second-highest state and local government employee salaries and ninth-highest number of public employees per 1,000 residents.

**Gasoline Tax (cents per gallon)**



Beyond taxes, costs for employers in New York are high in many other areas compared to other states. The cost of an average worker's compensation case is second highest in the nation and the highest among large states, as illustrated in the graph. Electricity costs are third-highest for commercial users and 11<sup>th</sup> highest for industrial users.

**Workers Comp Case, Average Cost, 2002**

For these reasons, New York is at the bottom of most state rankings on business climate and economic competitiveness. While rankings can be overly simplistic, if nothing else they indicate how the state is perceived by those promoting business interests. The Tax Foundation ranked New York 49<sup>th</sup> in business tax climate in 2004 for above-average rates, high overall burdens and complex tax codes.

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**Cost of Doing Business  
Milken Rank, 2005**

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New York	2
California	4
New Jersey	7
Michigan	10
Illinois	13
Pennsylvania	18
Florida	22
Ohio	26
Texas	27
Georgia	31

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New York was 34<sup>th</sup> in the Beacon Hill Institute's State Competitiveness Report in 2001, brought down by a dead-last ranking in government policy and second-to-last ranking in tax policy. The Entrepreneurial Hot Spots report for 2001 ranked New York 42<sup>nd</sup> for having relatively few start-up firms and young, growing companies. In a recent survey, two-thirds of Rochester's top CEOs said excessive state taxes and regulation were the biggest obstacles to job growth.

New York claimed second place in the Milken Institute's 2005 Cost of Doing Business ranking, which considers tax burden and costs for wages, electricity and rent.

Eliminating these burdens will provide benefits to all, by creating new jobs and strengthening the tax base available to support social services and quality of life programs.

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## UNSHACKLE UPSTATE

Despite recent setbacks, Upstate communities are justifiably proud of their competitive workforce, dynamic new business firms, vibrant educational institutions, and energetic and talented community leaders.

Upstate's resurgence will *not* come from new programs designed and managed from Albany. We must UNSHACKLE Upstate by shifting authority and resources to the regions.

This is not an exercise in administering corporate welfare. Without a vibrant economy and growing tax base, New York governments cannot afford to make the investments needed in education, health care, infrastructure and social programs needed to take care of its residents, especially those most vulnerable.

We propose that New York State's government:

- ❖ **Recognize New York State's economic diversity in its economic development policy:** New York State's economic diversity demands flexible and regionally focused economic development policy.
- ❖ **Focus community and economic development funding on investment, not consumption:** State taxpayer dollars earmarked for economic and community development should go to the projects with the most promise for lifting Upstate out of its malaise. Expenditures should promote long-term economic expansion, not short-term consumption, and be reflective of regional priorities.
- ❖ **Shift spending authority to the regions:** Give regional boards under private sector control authority for spending some of the money targeted by the state for economic development and community infrastructure. This should be done by allocating \$125 million more in state funding to the NYS Science, Technology and Innovation Foundation

(NYSTIF) and expanding the foundation's mission to encompass economic development generally.

- ❖ **Unshackle Upstate from anticompetitive laws & regulations to cut taxes and business costs:** All of New York State would benefit from reform of these onerous laws and reduction of taxes. If statewide reform is impossible, the NYS Legislature should enact legislation exempting Upstate separately from certain laws and policies. Upstate economies are tied down by taxes that cannot be sustained by Upstate's weakened economy.

## **Recognize economic diversity of NYS**

The economic diversity of New York State trumps that of each of America's states and nearly every nation in the world. In New York State, Wall Street meets Main Street, the NYS Thruway and the Midtown Tunnel coexist with trackless Adirondack wilderness, and nanoscale manufacturing and fabulous scientific discovery stand side-by-side with wines that achieve and surpass centuries-old European standards.

The diversity is more than a simple Upstate/Downstate dichotomy. New York's leaders are accustomed to the dramatic difference between Upstate and Downstate economies. NYC competes with international metropolises such as London, Frankfurt and Tokyo. Buffalo, Syracuse and Rochester compete with cities more on the scale of Raleigh-Durham, Tampa, and Cleveland. Of course, both New York City and Upstate have to contend with global competition. And both regions face many similar problems, such as providing the right incentives to redevelop abandoned, contaminated lands in blighted areas.

In addition to the Downstate/Upstate differences, Upstate's metros are very different from one another. In fact, they only appear uniform when viewed from New York City's unique vantage point.

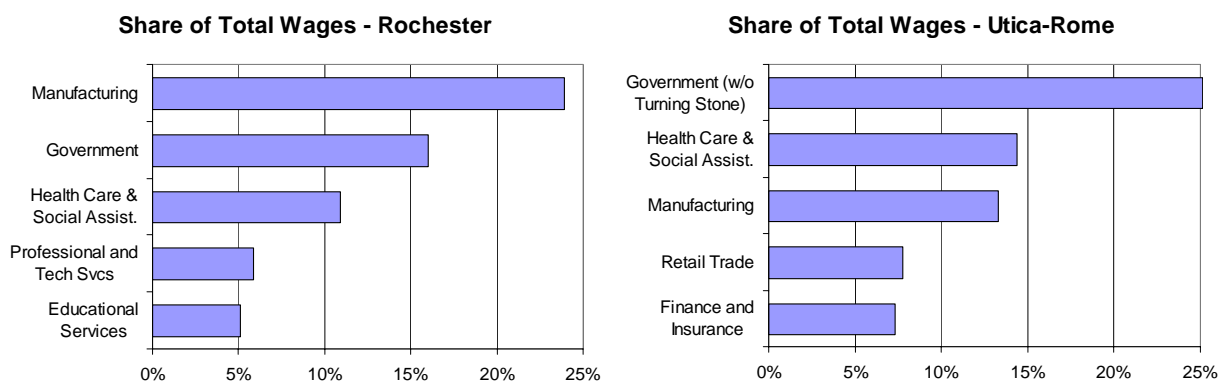
As of 2004, for example, manufacturing in Rochester was the largest source of payroll—50% larger than government and more

than twice “health care & social assistance.” The three top private industries\*—representing about 55,000 workers (11% of the total)—employ highly skilled employees earning an annual average of \$59,000.

By contrast, the largest source of payroll in the Utica-Rome MSA is government—nearly twice the size of manufacturing (even without counting workers at tribal-owned Turning Stone casino, whom the federal government includes as government workers). “Health care and social assistance” is in second place. The three top private industries in Utica†—representing about 14,000 workers (also 11% of the total)—reflect a much lower skill level, earning an annual average of \$39,000.

Nor are the differences between Rochester and Utica-Rome unusual. Any pairing—Buffalo and Albany, Syracuse and Poughkeepsie, Binghamton and Niagara Falls—reflects diverse economic assets and needs.

**An effective and realistic economic development policy must be grounded in a detailed understanding of each region’s unique strengths and weaknesses.** Significant differences in



\* Industry aggregations are reported for NYS metropolitan areas by the NYS Department of Labor. The three largest in Rochester are Chemical Manufacturing, Professional & Technical Services and Machinery Manufacturing

† Ambulatory Health Care Services, Insurance Carriers & Related Activities, Hospitals

the industrial base and the role of local institutions (such as colleges and universities) among Upstate metros call for economic development strategies that are regionally directed.

### **Empower regions to guide economic destiny**

Despite significant and prolonged tax-supported investments in community and economic development, the impact has been meager. With the exception of localized achievements, New York's employment statistics demonstrate that the economy has not responded to massive injections of taxpayer funds.

**More money is not the answer.** It is time to empower local regions to re-direct funding to more effective targets.

### *Funds in current budget*

The 2005-06 enacted budget includes more than \$1 billion for economic and community development projects from several different pots. (See Appendix A) Operating money includes:

- ❖ \$130 million for programs administered by the Empire State Development Corporation and the New York Office of Science, Technology and Academic Research (NYSTAR).
- ❖ \$600 million on tax credits to spur business, if the \$603 million paid out in 2004-05 is any guide.
- ❖ \$200 million in a "Community Projects Fund" used for an array of projects chosen by individual legislators and the Governor. In recent years, the Assembly and Senate each spend \$85 million at the discretion of the Speaker and Majority Leader and the Governor controls the remaining \$30 million.

### *Borrowed project funding*

In recent years, the state has developed a tradition of borrowing to supplement these funds. Like the Community Projects Fund, this money is allocated by legislative leaders through a political process. Here are the components of this year's \$775 million in borrowed funding for economic development:

- ❖ \$350 million for Upstate projects, a sum authorized in 2004 as an Upstate "match" for \$350 million dedicated to expansion of the Jacob Javits Convention Center in New York City.

- ❖ \$350 million proposed in 2005 by Governor George Pataki. Pataki had proposed that the money be distributed by the newly created New York State Foundation for Science, Technology and Innovation. But the Legislature decided to distribute it through agreement among the three leaders.
- ❖ \$75 million for Upstate economic development projects added at the end of the 2005 legislative session as an Upstate quid pro quo for \$150 million to be spent in NYC on stadia for the Mets and Yankees.

*Political impact  
trumps economic  
impact*

The state's explicit economic development initiatives—programs like Jobs Now, the Centers for Advanced Technology and the Empire Zone program—have established criteria stated in legislation passed by a vote of the NYS Legislature and an auditable trail that demonstrates funded projects meet economic development standards.

But the \$200 million spent out of the Community Projects Fund and an additional \$775 million in tax-financed debt is distributed without reference to impact criteria and with little oversight. No agency assesses whether they create jobs. While some legislators attempt to monitor the effectiveness of programs to which they direct funds, there is no systematic statewide oversight.

*Establish criteria for  
project funding that  
emphasizes economic  
growth*

The record suggests the bulk of funds has been spent on projects with immediate political appeal. The dynamics of electoral politics force officials to look to projects with a short-term payback.

Since 1997, the state has borrowed \$1.4 billion for large-scale projects. Certainly many make significant and lasting contributions to local economies. The largest of these projects was a grant of \$96 million for Buffalo's football stadium. Borrowed funds also provided \$1 million to renovate the Catholic cathedral in Albany and \$2 million for a new marquee and electrical improvements to Albany's Palace Theatre. The Community Projects Fund provided \$2 million for the Putnam Community Foundation—serving one of the state's wealthiest areas—and \$1 million for the New York

State Federation of Taxi Drivers—headed by a politically connected activist. (See Appendix B)

State taxpayer dollars earmarked for economic and community development should go to the projects with the most promise for lifting Upstate out of its malaise. Expenditures should promote long-term economic expansion and reflect regional priorities.

*Create regional partnerships for economic growth: Implement NYSTIF legislation*

The State of New York should **shift significant authority for economic and community development funding to regional entities** under the oversight of private sector boards. A strong connection to the local business community and local economic conditions would improve the likelihood that policies and spending would have the maximum impact.

The notion of regional oversight of economic development is not new. In the 2005-06 legislative session, the New York State Legislature created a new entity to facilitate the growth of jobs and prosperity through the commercial application of new ideas. The NYS Science, Technology and Innovation Foundation (NYSTIF) will create regional partnerships among the sources of new ideas (such as universities, corporate R&D facilities and the centers of excellence) and business development organizations.\*

Implementation has stalled, however. The idea is sound, although it should be expanded to encompass more than technology (for regions with a less technology-focused economic base) and funding should be expanded. The \$75 million proposed would have little impact. Funds from community and economic development pools that are not as clearly focused on economic

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\*The legislation envisions partnerships that would “[a]ct as regional facilitators for collaborations, programs and initiatives by and among the foundation, technology enterprises, economic development organizations, the corporate community, academic research institutions, government, workforce development organizations and other interests working collectively to advance economic growth. Each partnership should stress the use of information technology as a necessary means to link such entities together in a cohesive and effective manner.” The New York State Foundation for Science, Technology and Innovation Act of 2005, S. 3669, A. 6843

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expansion should be diverted to fund NYSTIF. As a starting point for discussion, we propose the following allocation of funds totaling \$200 million annually:

- ❖ Albany-based strategic direction/administration: \$10 million
- ❖ Base funding for each of ten regions: \$5 million
- ❖ Population-based funding for each of ten regions: \$70 million
- ❖ Need-based funding allocated according to relative economic performance: \$70 million

The partnerships are to further economic growth, promote advances in science, technology and innovation, and facilitate the commercialization of innovations by:

- ❖ Working with universities to encourage academic research in cutting-edge scientific fields;
- ❖ Developing new or improved methods of production;
- ❖ Facilitating job growth and business expansion;
- ❖ Coordinating economic development efforts with regional partnerships, businesses, not-for-profit organizations, academic and research institutions, community colleges and regional and state governments, to enhance strengths and assets of the regions.

Our notion of regional partnerships would have a broader scope beyond innovation, embracing the role of workforce development and all types of businesses that can help expand the size of the regional economy. As we envision it, each region would make its own decisions about the right mix of spending on new and existing businesses. Support for new businesses could include:

- ❖ Support of academic programs in research and training;
- ❖ Support of research university technology transfer programs;
- ❖ Community resource for business plan development, including mentoring, technical assistance and networking;
- ❖ Angel/seed funding network development and administration;

- ❖ Incubator sites;
- ❖ Development of venture/second state funding, including marketing and promotion of opportunities.

Support for existing business could include venture funding, later stage funding such as loans and equity investments, infrastructure improvements, training grants and tax credits.

The partnerships would provide a single point of contact for new and existing businesses to guide them through various governmental programs and processes. They would improve coordination among local governments and between local and county entities. In addition to the above, funds could also go to community development projects.

### *Regional control & oversight*

We propose that the regional partnership form an oversight board consisting of the board chairs and executive leaders of partnership organizations plus key elected officials. This board would select a single entity to serve as the coordinating partner. The coordinating partner should ideally have economic development as its principal purpose and be managed by a board with majority control resting in the private sector.

This is, admittedly, an extension of the role envisioned for the regional partnership by the state “Foundation for Science, Technology and Innovation” legislation. Yet as technology must be the centerpiece of the state’s economic development future, this is a logical and, we believe, necessary extension.

This may not be the right vehicle for every region of the state. We believe the principle of allowing regions to develop their own strengths and chart their own destinies should determine the structure of these organizations, not a desire to fit them into a government-prescribed form.

### *Regional development plan*

In keeping with the “Foundation for Science, Technology and Innovation” legislation, the coordinating entity would develop a strategic plan that identifies key assets and needs of the region.

The legislation describes the nature of the plan and specifies that the Foundation will support the regional partnerships in developing strategies, will coordinate statewide marketing and research activities, and will help find other funding sources.\*

## **Cut taxes & business costs**

The efforts of regions to jump-start their economies will have a much stronger chance of success if they are accompanied by statewide policy reforms.

**A dramatic reduction in both the level of taxation and the cost of starting & operating a business is New York's best hope for economic revitalization.** New York's tax burden is the #1 drawback to site selectors and business leaders seeking a location for expansion or relocation.

State leaders must begin to rein in spending. There is much to be done to eliminate fraud and abuse and cut costs in the state Medicaid program, and to ferret out waste in other state agencies and programs. There may also be opportunities to cut spending in education on programs without a proven track record and in aid to the wealthiest school districts. But identifying places to trim costs is not the focus of this report.

## *Free New York from government-imposed burdens*

The tax reductions and reforms of state policies hampering business that we endorse (listed below) should be enacted statewide. Surely what would benefit Binghamton's economy would also boost that of the Bronx. Syracuse *and* Staten Island would both benefit from more competitive business conditions, ultimately expanding economic opportunity statewide.

But if statewide reform is politically impossible, as it has been for years, lawmakers should allow exemptions for Upstate only. Downstate's economy is less sensitive to differentials in the cost of doing business. By imposing Downstate's cost structure on

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\* The New York State Foundation for Science, Technology and Innovation Act of 2005, S. 3669, A. 6843.

Upstate economies, Upstate's dependence on Downstate tax revenue will only increase. Upstate's residents and businesses are eager to stimulate a level of economic activity that will equalize or reverse the flow of state funds between these two regions of NYS.

While it might not seem appropriate to treat workers in these regions of the state differently; it is ultimately worker-related cost drivers—workers compensation, liability rules and others—that make Upstate uncompetitive. It is true that the immediate and direct impact of many of these proposed changes would be to change the level of benefits or protections afforded individuals. Yet if long term trends for the Upstate economy are not reversed, its residents will be injured far more significantly by the continued, relentless decline in relative opportunity. The exodus from Upstate will continue apace, increasing tax burdens as the costs of maintaining the social and physical infrastructure are shared among fewer residents and fewer businesses.

*“Let Upstate Be  
Upstate”*

New York's high taxes, labor costs and insurance rates cripple the competitive position of existing business and deter branch plant expansion and new business formation. Our state leaders must be willing to test new tactics and strategies for reducing the high costs of doing business, especially Upstate.

If statewide reform is not imminent, state leaders should exempt Upstate as a whole from these mandates using the region's economic troubles as the legal basis for differentiating policies. This idea was first proposed by the Public Policy Institute in its report *Could New York Let Upstate Be Upstate\**, which suggests that the diversity of the state's economies be reflected in explicit state policy by adopting business-friendly reforms for Upstate.

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\* As stated in Page 2 of the Public Policy Institute report, “... the high costs of doing business in New York—high taxes on people, heavy burdens on businesses—have gotten less attention in the drive to restart Upstate. Those high costs probably do more damage Upstate than they do in and around New York City, which has a unique position in the global economy that Utica, say, cannot match.”

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If a regionwide solution is not possible, the state should grant counties the freedom to “opt-out” of a host of state law mandates currently on the books.

Where to start? The best place is with seven key business-friendly reforms currently under discussion in Albany. The first three should have a direct impact on tax rates by lowering the costs of government programs. They are listed in order of importance to reducing taxes.

- ❖ **Medicaid:** For many years, the Medicaid program has been the single most expensive and problematic State mandate for localities. New York has, by far, the largest Medicaid program in the nation, and the State requires its localities to pay a greater share of Medicaid costs than any other State. In the past two years, the State has capped annual increases in the local share of Medicaid, and taken over the local share of Family Health Plus. While these are important reforms, much work remains to be done in Medicaid. Potential reforms include: Closing current loopholes in Medicaid eligibility that allow “middle class” seniors to have Medicaid pay for the cost of their long-term care; and granting waivers allowing local officials to redesign Medicaid programs to make them more efficient, such as efforts in Chemung County to expand the use of managed care and primary care physicians as gatekeepers.
- ❖ **Binding Arbitration:** In 2005, the compulsory arbitration statute was extended for 2 years for the 15<sup>th</sup> time. This costly State mandate requires localities to resolve their contract disputes with certain employees before a binding arbitration panel that is not responsible for paying the award and is not accountable to taxpayers. This system has resulted average salary increases for police and fire departments that exceed inflation every year from 1994 to 2003, a contributing factor in driving up tax rates, according to the state Conference of Mayors. Possible reforms include: Outright repeal of binding arbitration, or at least requiring binding arbitration panels to give primary consideration to localities’ “ability to pay” without resorting to new or increased taxation.

- ❖ **Wicks Law:** Under the notorious Wicks Law, localities are required to hire multiple contractors for a single building project, in effect requiring the local government to serve as general contractor on most every government project. The state School Boards Association, which has lobbied for repeal, estimates that the law boosts the costs of construction 20 to 30 percent. A 1999 PricewaterhouseCoopers study of New York City estimated savings of \$192 million because school districts in the Big Apple are exempt from the Wicks Law. Potential reforms include: Outright repeal of the Wicks Law, or at least raising the current exemption from \$50,000 to \$2 million per project.

The next four reforms are key strategies for reducing costs to business to boost economic activity and create jobs.

- ❖ **Workers' Compensation:** It has now been over 10 years since the Governor and Legislature last enacted comprehensive workers' comp reform, and costs are once again out of control. New York State has the 2<sup>nd</sup> highest average comp claim cost in the nation. The average claim cost is 72% above the national average, and nearly twice as high as our neighbors in Massachusetts, Pennsylvania and New Jersey. Workers' comp rates in New York are 8<sup>th</sup> highest in the nation -- \$31.30 per \$1,000 of payroll. The State should impose a 10-year time limit on benefits for injured workers with permanent partial disabilities. Under state law, such injured workers can receive unlimited lifetime benefits. Approximately 40 other states impose a reasonable time limit in such cases. In New York State, where there is no time limit, lifetime awards in permanent partial disability cases account for over 75% of the total costs in the workers' compensation system, even though they represent only about 12% of total claims.
- ❖ **Scaffold Law:** Under the outdated and unfair "Scaffold Law," owners and contractors in New York are absolutely liable for "gravity related" worksite injuries, regardless of whether the employee was negligent. New York is the only state that imposes absolute liability in such cases, and it has created a liability insurance crisis in this State. The cost of insurance

coverage for such claims has skyrocketed by approximately 250% to 500%. Even worse, many contractors cannot find an insurance carrier that will sell them a policy to cover such claims. Possible reforms include: Outright repeal of the Scaffold Law, or at least creating a “comparative negligence” standard for recalcitrant workers, such as those who fail to use safety devices or are injured as a result of drug or alcohol impairment.

- ❖ **Brownfields:** Under the current state law, New York has the most stringent cleanup standards in the nation. In addition, New York has post-cleanup liability provisions that leave redevelopers and future site users exposed to significant future liability, even if they did not cause the contamination and they cleaned up the site in accordance with a plan approved by the state. New York should adopt post-cleanup liability provisions that do not expose redevelopers and future site users to expensive cleanups in the future.
- ❖ **Energy:** Reduce the cost of energy in Upstate New York through two actions:
  - ◆ Eliminate state taxation and reduce local taxation of electricity and natural gas. New York’s energy taxes are among the highest in the nation.
  - ◆ Pool available hydropower generated at New York Power Authority (power that is unallocated or allocated but not committed to a particular customer) and use this inexpensive power to spur upstate economic development. NYPA now sells excess low-cost power in the wholesale market managed by the New York Independent System Operator at a significant profit. A better use of this power or the profits from its sale would be to reduce energy costs to upstate businesses.

*Enable reform by recognizing diversity*

While we believe that these business-friendly reforms would benefit the entire state, Downstate can continue to thrive without them. The Upstate economy, by contrast, desperately needs these reforms, and without them it will be unable to keep its existing businesses or to attract new ones. The time has come to target

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our business reforms to the region where they are needed most, and then build from there.

If reforms were adopted only for Upstate, lawmakers could exempt Upstate from laws and policies, either using population or indicators of economic health as the basis for differential treatment.\* It is not uncommon in New York to see laws that apply only to cities of more than 1 million (New York City being the only case). In this case, exemptions could apply to counties or cities below a population or job-growth threshold.

The Governor and Legislature have the legal power on their own to authorize these reforms (and the accompanying waiver of existing state law requirements). Medicaid reform is the one exception, and a federal waiver is clearly needed to allow Upstate to adopt such reform and opt-out of current Medicaid requirements in federal law.†

### **A rallying point for legislators**

With the right combination of efforts, New York could bring itself out of economic doldrums and into growth and prosperity. The plan presented here should serve as a rallying point for Upstate delegations, which should unite around the proposed agenda and make it a top legislative priority for the 2006 session. Our recommendations are broadly supported and achievable. Adopting these proposals will go a long way toward securing New York's economic future.

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\* The executive branch took this targeted approach in 2005 with the “single-sales factor” tax relief initiative. After several years of proposing the tax initiative statewide, the administration proposed it just for Upstate. In the end, the Legislature ultimately adopted it statewide.

† With respect to the Equal Protection clause (in both the state and federal constitutions), since the proposed differential treatment would be based on geography alone, the state would only need to demonstrate a “rational basis” for such differential treatment. Given the stark differences between the Upstate and Downstate economies (and the wealth of data, information and studies on the subject), the Legislature should be able to establish a “rational basis” for the differential treatment.

## APPENDIX A: ECONOMIC DEVELOPMENT FUNDING

<b>NYS Community and Economic Development Spending</b>	<b>Million Dollars</b>
<b>Programs Administered by Empire State Development &amp; NYSTAR</b> (2005-06 Enacted Budget as reported by Office of NYS Comptroller)	
Empire State Economic Development Fund	\$32.3
Jobs Now	\$32.1
Centers for Advanced Technology	\$15.0
Tourism advertising	\$11.0
Pipeline for Jobs/Water Infrastructure	\$6.3
Regional high tech initiative	\$6.0
High technology matching grants	\$5.0
Tourism Matching Grant program	\$4.8
Urban & Community Development	\$3.4
Minority & Women-owned Business	\$3.4
Empire Zone administration	\$2.3
Technology Development Organization matching grants	\$1.5
Manufacturing Extension	\$1.5
Plattsburgh Airbase infrastructure	\$1.4
Griffiss Airbase redevelopment	\$1.4
Industrial Technology Extension Service	\$1.0
Military base retention	\$1.0
<b>TOTAL ESDC &amp; NYSTAR Programs</b>	<b>\$130.0</b>
<b>Tax Expenditures</b> (estimates for 2004-05 from Office of Tax Policy Analysis & Division of the Budget)	
Empire Zone Program	\$437.5
Investment Tax Credit	\$103.6
Investment Credit for Financial Services Industry	\$37.8
Empire State Film Production Credit	\$25.0
<b>TOTAL Tax Credits</b>	<b>\$603.9</b>
<b>Community Projects Fund (“Member Items,” 2005-06 Enacted Budget)</b>	
Jacob Javits Center—Upstate match (2004)	\$350.0
Foundation for Science, Technology & Innovation (2005)	\$350.0
NYC Stadia—Upstate Match (2005)	\$75.0
<b>TOTAL Capital Expenditure for Economic Development</b>	<b>\$775.0</b>
<b>TOTAL</b>	<b>\$1,708.9</b>

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## APPENDIX B: PROJECT FUNDING

The following table shows examples of projects to which legislators allocated funds from the Community Projects Fund or borrowed pots of money for economic development.

Amount	Purpose	Year(s)
\$96,000,000	Improve Rich stadium in Buffalo	1998
\$4,200,000	Replace Carrier Dome roof	1998
\$4,000,000	Renovate National Museum of Catholic Art and History, Manhattan	2002, 2003
\$2,500,000	New stadium at SUNY Stony Brook	2002
\$2,000,000	New marquee and upgrades to Palace Theater in Albany	2003
\$2,000,000	Grants to Putnam Community Foundation	2001, 2002
\$1,700,000	Renovate Baseball Hall of Fame	2000
\$1,000,000	Renovate Albany cathedral	2001, 2002
\$1,000,000	New roof for Frontier Field in Rochester	1998
\$1,000,000	New parking garage in Saratoga Springs	1999
\$1,000,000	Recreation center, pools, ice rink in Skaneateles	2000, 2001
\$1,000,000	Grant to state Federation of Taxi Drivers	1997
\$300,000	10 new hangars at private airport	2004, 2005
\$280,000	Recreational fishing and aquaculture center in Babylon, Suffolk Co.	2000
\$250,000	Rehab Little League field in Nassau County	2003
\$250,000	New soccer fields in Queens	1999
\$250,000	Construction of Irish Park in Greene County	2001
\$100,000	Improve Soccer Hall of Fame	2002
\$50,000	New dog run on Staten Island	2004
\$35,000	Aquatic weed control for Lake Lauderdale Improvement Assoc.	2000
\$20,000	Improvements to snow-making equipment, Beartown Ski Area	1997
\$5,000	Venison donation for the Seneca Trail Conservation and Dev. Council	2003