



Fiscal Reform for New York State

*Improving Accountability, Transparency
and Fiscal Responsibility*

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New York State
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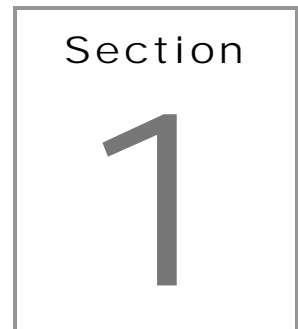
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Introduction

Over the past several months, the Office of the State Comptroller has canvassed best fiscal practices of other states and New York City and compared those best practices to New York's process.¹ Through this analysis, the Office of the State Comptroller has developed a comprehensive agenda consisting of more than 20 reform measures to strengthen New York's fiscal management practices, including legislative and constitutional, as well as procedural changes that do not require legislation to be enacted. Together, these measures will enhance financial reporting, increase transparency of financial transactions and provide a framework for understanding the true fiscal issues facing the State.

In its role as the State auditor, the Office of the State Comptroller finds again and again that when nobody is watching—or in the case of New York's historic budget practices, when information is not available to allow for informed analysis—the opportunity for mismanagement is significantly increased. New York City in the 1970s is the quintessential example; Erie County is a more recent example. The common factors among most cases of poor management are a lack of information, little to no transparency and inadequate accountability.

The weaknesses may be in information gathering or in record-keeping or in cash management techniques—but the result is that the requisite information is not available for informed decision-making. Reforms proposed by the Governor, as well as a series of proposals advanced by Speaker Silver and Majority Leader Bruno and by outside groups, demonstrate that New York's budget need not reach crisis proportions before agreement can be reached that it is time to improve its practices.

¹ See Appendix 1, "Characteristics of Highly Rated States," and Appendix 2, "Reform in New York City."

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Prior efforts to reform the State's budget process have foundered on issues related to the separation of powers between the Governor and the Legislature. Those debates have served to clarify for this Office that there is another part to the reform of New York State's fiscal planning process. The Comptroller's suggestions are designed to improve how the Legislature, the Governor and the public actually work together to design and implement the State's budget. My assumption is that the budget process does not end with passage of a budget but is, in fact, a year-round responsibility for both the Governor and the Legislature.

A comprehensive reform package must improve the monitoring of the State's finances by changing the manner in which the State reports its finances, saves money and plans for the future. These recommended changes must be applied to all phases of the budget-making process, including the finally Enacted Budget adopted by the Legislature. For its part, the Office of the State Comptroller will use the additional information made available through these reforms to provide periodic reports on the fiscal condition of the State in a way that is understandable and useful to the public and other monitoring organizations. By raising the standards for the State's budgeting and planning functions, and increasing the capacity for analysis, enacting a comprehensive reform package would result in an improved fiscal condition for the State.

Much needed improvements to the financial condition of the State are achieved through greater accountability in cash management and financial planning, and through enhanced transparency and disclosure in all aspects of the State's finances. Each of the 21 proposals recommended in this package makes improvements in at least one of the following areas:

Provide the Public with Better Information

- Require more Personal Service information.
- Tie appropriation bills to the financial plan.
- Modify the capital plan to include detailed financing and debt service information.
- Require a Gap-Closing Report.
- Require a Local Government Impact Report.

Improve Fiscal Responsibility

- Require a balanced Enacted Budget.
- Improve out-year financial planning.
- Modify the Tax Stabilization Reserve Fund by removing the caps and enacting minimums on the balance and the deposit.

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- Require monthly cash flow reporting for each of the government fund types.
- Certify year-end obligations to allow a statement of the size of the surplus.

Lengthen the Budget Deliberation Process

- Change the fiscal year.
- Establish quarterly fiscal status meetings.
- Lengthen the consensus revenue forecast timetable.
- Require the Comptroller to resolve revenue forecast deadlocks.

Enhance Accountability

- Require a more detailed legislative analysis of the budget before and after passage.
- Require quarterly reporting on the allocation of lump-sum appropriations.
- Eliminate messages of necessity on budget bills, to require a three-day aging period.
- Require public authorities to report how they spend money.

Foster Public Participation

- Expand the Executive's budget hearing process.
- Constitutionally create a New York State Independent Budget Office.
- Require posting of information on the Internet.

With these tools in place, we can make great strides toward creating a timely and more accountable budget at every phase of the process for the taxpayers, local governments, school districts and not-for-profit organizations that depend on support from a fiscally sound State government.

Why Do We Need Reform?

The most obvious symptom of the State's inadequate fiscal processes is the 20 consecutive years of late budgets. While the 2005-06 Budget was enacted before the start of the current fiscal year, a trend line of one—a single on-time budget—does not imply that the problems creating the 20 years of late budgets have been resolved. The problems that remain, and which continue to present challenges to the adoption of all future budgets, include:

Abbreviated Budget Deliberation Process. New York is one of four states whose fiscal year does not begin July 1. Of the other 46, the shortest period of time between the Executive Budget submission and the start of the fiscal year is more than four months.² New York's Executive Budget submission is due, at the earliest, two and one-half months before the fiscal year begins. This truncated schedule impairs New York's ability to enact a timely budget.

Lack of Agreement on Revenues. Budgeting, or the work of allocating the State's resources, cannot begin without knowing the value of resources available. While negotiating agreement on revenues for the upcoming year has proven a difficult task, determining the size of the budget must be the first step in passing a responsible and timely budget.

Deficient Communication Among Leaders. Outside of the current budget deliberation period (January through March), there are no regularly scheduled meetings among the people charged with crafting the budget and ensuring that the State's finances meet its needs—the Executive and

² According to the National Association of State Budget Officers, "Budget Processes in the States," January 2002, nine states with a July 1 fiscal year start require the Executive Budget submission no later than February: Connecticut, Illinois, Louisiana, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania and Rhode Island.

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the Legislature. Meetings tend to be scheduled on a crisis basis, making decisions vulnerable to political disagreements. One of the leading credit rating agencies, Moody's, cites as one of the risks to New York's credit rating the "long history of political polarization and lack of compromise on budget and financial policy matters."³

Lack of Uniformity in Data Reporting. The financial plan is the State's guiding fiscal authority; the appropriation bills are merely authorizations to spend money. The financial plan and appropriation bills should naturally be related, but a third set of data which ties the two together is not available to the Legislature or the public. The true spending plan for each appropriation should be public, so that the financial plan balance is protected and can be monitored by the public, advocates for fiscal responsibility and good government watchdog groups—as well as by the legislators who are responsible for enacting a budget.

Limited Capacity for External Monitoring. Few organizations outside of the Division of the Budget have developed monitoring capacity, largely because the financial information required for ongoing analysis throughout the fiscal year is either limited or unavailable. While the Division of the Budget regularly provides more data than the minimum required by law, broadening the level of data would allow outside, independent entities the ability to conduct sophisticated analyses of the State's fiscal condition as well.

Short-Term Planning. Within New York's current budget and fiscal system, the principles of transparency and accountability—along with punctuality—tend to be low priorities. Information is scarce, often withheld, and its presentation is vulnerable to manipulation.

While New York is an adequate manager of its fiduciary responsibilities, and while the State has not been plagued by threats of bankruptcy or default, New York is statutorily required to conduct only limited medium- and long-term financial planning. This creates an unnecessary risk that can be mitigated by financial reports that offer full disclosure in their presentation of the State's financial condition—including the projected condition in the out-years.

Ongoing Involvement and Monitoring of the State's Finances. While one goal of this reform package is to improve New York State's fiscal condition itself, an equally important goal is to improve the monitoring of that fiscal condition. As currently structured, the agency with the information and capacity to monitor the State's financial plan throughout the year is the same agency charged with developing and controlling the

³ Moody's Rating Report, February 24, 2005.

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financial plan—the Division of the Budget. Neither the Legislature, the Office of the State Comptroller nor the public have unfettered access to the day-to-day or even month-to-month supporting data which details the progress of the State's fiscal year.

Without continuous oversight from multiple entities, the State could be headed down a precarious fiscal course for months without other levels of government or the public being aware, until only drastic actions can prevent disaster. In addition to reporting improvements, the need for more responsible long-term planning in the development and enactment stages of the budget process is also a key component of any successful fiscal reform package.

Timely disclosure of relevant information to all interested parties is paramount to fiscal health. These proposals take great strides toward that goal.

Other Calls for Reform

As the State reached two decades of late budgets, many outside observers began to call for an overhaul of the State's budget system. Starting in 2003, a reform movement had begun to take hold around the State, with budget reform one of several factors identified as necessary to improve New York's government.

The Citizens Budget Commission, an independent civic organization that monitors government finances and offers recommendations on budget and policy matters, organized a two-day conference in November 2003 to discuss New York State's fiscal challenges. The conference resulted in a February 2004 report (*The Palisades Principles*, see Appendix 3) that cited five problems that hurt New York State:

- New Yorkers are the most heavily taxed Americans.
- New York's debt burden is among the highest in the nation.
- New York has large and recurring budget gaps.
- New York's budget process lacks timeliness, transparency and responsibility.
- Improvements in fiscal practices are hampered by unresponsive governmental institutions.⁴

⁴ Citizen's Budget Commission. *The Palisades Principles: Fixing New York State's Fiscal Practices*. February 2004. Also see Appendix 3, "Citizen's Budget Commission's Palisades Principles."

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In June 2003, the *New York Times* began a two-year long series of editorials called "Fixing Albany," which publicized a wide range of failings from late budgets and the Legislature's internal procedural workings to unregulated lobbying and toothless campaign finance restrictions.

The Brennan Center for Justice at the New York University School of Law offered its opinion in a July 2004 report presenting New York State with the dishonor of having "the most dysfunctional Legislature in the nation." Its list of 22 proposals aimed at making the New York State Legislature "more faithful in its representation, more deliberative and effective in its exercise of legislative powers, more accessible and accountable to the voters, and more efficient in its legislative work."⁵

From January through April 2004, the Office of the State Comptroller offered major reform legislation in the areas of public authorities, debt, procurement, school district finance and pension fund investments. During this same period, local government officials, specifically the New York State Association of Counties, also offered several financial reforms for the State's Medicaid program. Finally, the State's good government community continued to offer proposals in the areas of campaign finance, public ethics and election redistricting.

Amid this maelstrom of demands for reform, the Legislature took action to place a set of constitutional amendments on the ballot in November 2005.⁶ Appearance of a measure on the ballot generated significant public debate about its potential value with some calling it inadequate reform and others classifying it as too much reform. Ultimately, voters defeated the ballot initiative, maintaining New York's Executive-driven budget process. A second set of constitutional amendments has passed the first of the required two passages by consecutive Legislatures and could appear on the ballot as early as November 2007.

Individual legislators have also submitted reform proposals of their own. Some such bills have been filed annually for over ten years. In the 2005 Legislature alone, dozens of resolutions were introduced to amend the Constitution in order to improve budgeting in New York State.⁷

⁵ Creelan, Jeremy M. and Laura M. Molton. "The New York Legislative Process: An Evaluation and Blueprint for Reform." Brennan Center for Justice at the New York University of Law. July 21, 2004.

⁶ S. 1 of 2005. second passage May 4, 2005. First passage (S. 7317 of 2004) May 24, 2004.

⁷ See Appendix 3, "Citizens Budget Commission's Palisades Principles."

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The 2006-07 Executive Budget, released January 17 provided financial information not previously available to the public. In addition to this more comprehensive reporting, the Governor put forth a number of reform initiatives aimed at providing more information on the budget and the State's fiscal outlook to the public in the future. A few days after the release of the Executive Budget and associated bills, on January 20, Governor's program bills were offered to enact legislative and constitutional changes to implement these reforms.

It is clear that the time is right for meaningful fiscal reform.

Accountability

The classic governmental example of accountability is Harry Truman's desk sign "The Buck Stops Here." Accountability is the clear assignment of responsibility to someone for an action, and it is a central facet of a representative government. Elected officials are accountable to voters for their actions; they must answer to the electorate about the choices they make in the name of the public.

In addition to concern over enacting late budgets in 20 of the past 21 years, there is criticism over the lack of detail in the Enacted Budget and, often, the circumstances of its passage. Most observers object to the practice of passing budget bills in the middle of the night with no time for review or public debate. Legislators themselves are among the critics of the lack of information on new or modified appropriations or other changes to the Executive Budget appearing for the first time in the Enacted Budget.

This dynamic creates challenges for holding New Yorkers' elected representatives accountable for budget-making, arguably the most important non-crisis function of government. Legislators are often unable to make informed decisions concerning fiscal matters, simply because the necessary information is not available or is not available along multiple dimensions. Specifically:

- Legislators must vote on budget bills that have no discernable relation to the State's financial plan.
- While budget bills are technically available for analysis and debate before the vote, as a result of late-night negotiations, legislators often only have a matter of minutes to absorb thousands of pages of appropriation detail before a vote.

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- Even if time allows a proper analysis of the budget bills, the bills themselves may not fully represent the true spending plan to the public. A comprehensive accounting of the Enacted Budget may be obscured through the use of blank-check appropriations—lump-sum appropriations allowing decisions on allocations to be postponed until after enactment of bills—opaque financing mechanisms, unexplained transfers and fund shifts, and other fiscal gimmicks, such as asset sales, spin-ups, slowdowns or deferrals to future fiscal years.⁸

Comptroller's Proposals to Increase Accountability

These concerns leave many legislators compelled to make budgeting decisions in the dark, eliminating any sense of accountability to the public. A straightforward set of changes to the budget documents and financial reports could immeasurably increase New York's accountability to the voters, and the public's ability to judge the performance of their government on how tax dollars are spent. The following four proposals provide for full disclosure on enacted appropriations.

1. Require a More Detailed Legislative Analysis of the Budget Before and After Passage

The Legislature will be required to publish a summary, which details changes, including reductions and increases, to the Executive Budget. This summary report must be available online for three calendar days prior to the bills being voted on by the Legislature.

The Legislature's final report on the Enacted Budget, commonly referred to as the Green Book, lacks certain details on changes from the Executive's proposal. This recommendation is aimed at offering the public a more comprehensive report on the legislative changes to the Executive Budget. The report must include a series of specific analyses, including: each appropriation change and its impact on the financial plan and on out-year gaps, changes to the Local Government Impact Report, changes to the Gap-Closing Report, and any implementing language different from the Executive's proposed budget.⁹

2. Require Quarterly Reporting on the Allocation of Lump-Sum Appropriations

Millions of dollars of appropriations are allocated each year through various Memorandums of Understanding (MOUs) at the sole discretion of the Governor, the Temporary President of the Senate and the

⁸ See, for example, Appendix 4, "MOUs Among the Governor and the Legislative Leaders in the 2005-06 Enacted Budget."

⁹ See page 19 for details of the proposal relating to changes to the Local Government Impact Report and changes to the Gap-Closing Report.

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Speaker of the Assembly. Over \$1 billion was appropriated in this manner in the State fiscal year 2005-06 budget, and the entire \$2.9 billion Transportation Bond Act will be allocated this way. At the time of enactment, these appropriations are authorized by the Legislature and the Executive with no sub-schedule in bill copy or any public document describing the intended allocation of these appropriations.

This proposal would require that the parties named in each MOU, guiding the allocation and disbursement of these appropriations list the intended recipients of the lump appropriations at the time of enactment and provide quarterly lump-sum updates on the allocations of each such appropriation.¹⁰

3. Eliminate Messages of Necessity on Budget Bills, to Require a Three-Day Aging Period

Section 14 of Article III of the Constitution sets forth the aging process and creates the exception to the three-day requirement: Bills that have not aged three days may be passed with a message of necessity from the Governor. Assembly Rules require that such messages "must be accepted by an affirmative vote of a majority of all the members of the Committee on Rules." Senate Rules prohibit bills from being passed "pursuant to a message of necessity unless a majority of the Senators vote to approve the use of such message."

As a late budget is finally negotiated and printed, waiving the three-day aging requirement and allowing an immediate vote helped speed enactment, but shortened the time allotted for public scrutiny. In fact, legislators at times would have no more than minutes to absorb thousands of pages of budget language appropriating billions of dollars.

This proposal would amend Section 14 of Article III of the Constitution to prohibit Messages of Necessity on bills submitted as part of the Executive Budget.

4. Require Public Authorities to Report How They Spend State Money

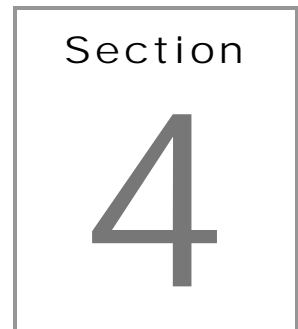
Currently many appropriations to public authorities are disbursed to parties whose use of these public funds is not subject to pre-approval by any independent oversight body. It has become commonplace for the budget to appropriate a lump sum to a public authority, which the public authority then disbursed to various organizations and businesses for services or grants. In these cases, neither the Office of the State

¹⁰ See the series published in the *Syracuse Post Standard*, October 17, 18, 19, 20, 21, 2004.

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Comptroller nor any other independent oversight entity is part of the contract approval process or the pre-audit and payment process, as would be the case for payments by State agencies pursuant to appropriations.

This recommendation would require any public authority receiving State appropriations to report regularly to the State Comptroller's Office on subsequent allocations of those funds. It would provide for the extension of oversight by the Office of the State Comptroller to cover not only the appropriations to the public authority, but also the subsequent distribution of those funds by the authority.



Transparency

Transparency is full disclosure of all relevant fiscal information in a timely and systematic manner; it requires the government to be explicit about long-term objectives and short-term intentions and to regularly report on all matters affecting the government's fiscal condition.

There are very few legitimate reasons to withhold information about the New York State financial plan from the public. Specific areas where the State may arguably have an interest in limiting disclosure might include reserves for personal service expenses to finance labor contracts still being negotiated or for planned payouts for pending judgments against the State. But beyond discrete items such as these, the State should disclose most financial plan elements. Furthermore, the public should have the ability to continuously monitor the State's finances throughout the year.

Comptroller's Proposals to Enhance Transparency

To achieve desired openness and transparency, the Office of the State Comptroller recommends five initiatives aimed at providing the public with more detailed and comprehensive information throughout the entire budget process.

1. Require More Personal Service Information

The true personnel costs to the State and the actual number of contract employees assuming the role of a State employee is unknown because costs for such contract employees are often hidden in non-personal service appropriations. Engineering services within the Department of Transportation may be the best example of this practice. Over the years, as engineers have retired or resigned, they have been replaced with contract employees. While it may appear that the number of State

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employees and attendant costs have declined, the reality is that costs have been shifted and supported by means which are not apparent in the current budget construct.

Modeled after New York City's approach to reporting on personal service, a new supplementary schedule would be required to be published with the Executive Budget and with the Executive's report on the Enacted Budget. This schedule will detail employment levels for each department, division or office for the prior, current and next fiscal year with separate schedules for the general fund, special revenue funds, federal funds and capital projects. The schedule would also require an enumeration of personnel costs of all contractual services within non-personal service appropriations.¹¹

2. Link Appropriation Bills to the Financial Plan

This proposal requires a supplementary schedule to be published along with the Executive Budget and with the Executive's report on the Enacted Budget that links the budget bill appropriations directly to financial plan disbursements. Such schedule will show three years of disbursements by appropriation. The Executive will be required to revise the schedule with the mid-year update.¹²

3. Modify the Capital Plan to Include Detailed Financing and Debt Service Information

This initiative would require the Division of the Budget to publish a comprehensive project listing, which details by project, funding sources, including pay-as-you-go versus bond proceeds, and timelines for individual projects, including project start dates and estimated completion dates.

These provisions would also require the Executive to provide supporting detailed and summary schedules for debt service for existing and proposed new debt broken out by principal, interest and related expenses by category of debt and by payment date. The information contained in the Capital Program and Financing Plan would provide this type of data for all bond series through maturity of the bonds. This would apply to all outstanding debt, as well as any proposed new debt to be issued. In instances where payments are estimated, then an explanation of underlying factors on which such payments are estimated would be required.

¹¹ To its credit, the 2006-07 Executive Budget proposes "analyzing personal service contracts to isolate where State workers, rather than private-sector providers, could be utilized to generate savings." This important exercise could provide the basis for more thorough reporting in the future. Also see Office of the State Comptroller, "Use of Consulting Engineers" (97-S-12 and 2000-F-25).

¹² See Office of the State Comptroller, "Dedicated Highway and Bridge Trust Fund," December 2005.

4. Require a Gap-Closing Report

Historically, the budget has included only minimal information about gap-closing measures for either prior years or the current budget year. Also modeled after New York City's reporting, this proposal would require a supplementary schedule along with the Executive Budget describing all such measures taken during the prior two fiscal years and showing their fiscal impact by agency and program for each of the prior two fiscal years, the current year and the next three ensuing fiscal years. This provision replicates a schedule within New York City's supplementary budget information, which includes a table showing how each year's budget gap is filled by detailing expenditure reductions and revenue increases by agency.

5. Require a Local Government Impact Report

Due to a lack of detailed data required by law, local governments often have difficulty assessing or understanding specifically how certain provisions in the Executive and Enacted Budgets affect them. As a result, local government officials have difficulty planning their budgets, since the level of State support and the manner in which certain provisions of the budget are implemented may affect the projected impact on local budgets. In addition, a local impact estimate requirement would ensure an appropriate focus by decision-makers on the impact of State Budget actions on local governments.

To assist local governments in assessing the State budget impact, this package would require the Executive to provide a supplementary schedule along with the Executive Budget and with the Executive's report on the Enacted Budget that details, by class of government, all fiscal and legal provisions having any effect (financial or otherwise) on local governments. These estimates would have to show the impact on local budgets (i.e., rather than being show on a *State* fiscal year basis), show the fully implemented impact and explicitly describe any assumptions being made about local response or implementation.

Fiscal Responsibility

Fiscally responsible practices have clear lines of accountability and are honest and transparent. Fiscal responsibility demands that budgeting be not simply an annual exercise in matching receipts to disbursements, but that each decision be considered within the larger context of the State's on-going fiscal condition.

For New York State to adapt to its ever-changing financial climate, it is necessary to establish a sound, fiscally responsible approach to managing its finances.¹³ Adopting such principles should provide the State a mechanism for spending funds, and more importantly, saving resources in times of prosperity so that resources are available during times of fiscal distress.

The following five recommendations are focused on improving the State's financial position through better planning for emergencies and increased reporting in which to monitor the State's fiscal health.

Comptroller's Proposals to Enhance Fiscal Responsibilities

1. Require a Balanced Enacted Budget

While the Executive is required to submit a balanced budget to the Legislature, there is no constitutional or statutory requirement for a balanced Enacted Budget. Maintaining a structurally balanced budget is a "fundamental rule of responsible fiscal management."¹⁴ To bring parity to all phases in the process, this recommendation would constitutionally require the Legislature, too, to produce a balanced budget. Should the

¹³ Schanberg, Sydney, "Lies, Damned Lies and Campaign Promises," *Village Voice*, April 30-May 6, 2003.

¹⁴ Alan G. Hevesi, quoted in *The Journal News*, July 27, 2005.

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Legislature act on the Executive Budget, it must do so in a balanced manner. This requirement would apply to all governmental funds, not just the General Fund.

2. **Improve Out-Year Financial Planning**

Based on many other states and the New York City model, this provision would move the State from a three-year plan to a four-year plan, and each of the governmental fund types would be included in the plan. Lengthening the planning horizon will show more clearly the effect of structural gaps—when expenditures exceed revenues on a permanent basis.

3. **Modify the Tax Stabilization Reserve Fund to Require a Minimum Balance and Minimum Deposits and to Restrict Use of the Fund**

The maximum size of the current Tax Stabilization Reserve Fund and the annual contribution into the Fund are both extremely limited, giving the Fund negligible fiscal value. In the last two fiscal years, the State had surplus cash even after making the maximum legal contribution, because of the statutory limit on both the annual contribution and balance. This proposal would change the dynamic of the Fund by eliminating the current fund balance limit of 2 percent of General Fund disbursements and the 0.2 percent maximum contribution, and instead requiring a minimum balance in the Fund with no cap on the annual contribution.

The current repayment structure is maintained: any withdrawal must be repaid in no fewer than three annual payments within the six years following the withdrawal.

The minimum balance to be maintained in the Tax Stabilization Reserve Fund would be 1.5 percent of certain prior-year Governmental Fund receipts (Governmental Funds less bond proceeds and federal funds), calculated once annually. A deposit would be required to raise the balance to the minimum.

Currently, there is approximately \$872 million held in the Fund. Based on the current fiscal year's Governmental Fund revenues, this Fund would grow to just over \$1 billion after the 2005-06 fiscal year ends. To avoid undue pressure in any one particular fiscal year, reaching the 1.5 percent minimum balance would be phased in over three years.

An additional deposit would also be required in any fiscal year that follows a fiscal year which ended with Governmental Fund receipts (less bond proceeds and federal funds) higher than the original estimate as first published in the Executive's report on the Enacted Budget. The

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required deposit would be 5 percent of that excess in actual Governmental Fund receipts over the original forecast.

Money in the Fund may be used only upon certification by the Governor and the Legislature of an emergency. "Emergency" is defined as either (1) projected Governmental Fund receipts (less bond proceeds and federal funds) dropping at least 1.5 percent below the original forecast or (2) a natural disaster, terrorist attack or other unforeseen emergency resulting in expenditures to increase at least 1.5 percent above the original receipts forecast as first published in the Executive's report on the Enacted Budget.

In years when Governmental Fund receipts (less federal funds and bond proceeds) are less than originally projected, money in the Fund in excess of the minimum required balance may be withdrawn for the following uses: cost-effectively defeasing debt, capital projects and certain one-time expenditures.

4. Require Monthly Cash Flow Reporting for Each of the Government Fund Types

By law, the Division of the Budget is required to present quarterly financial plans for "governmental fund types." With the State's ever-increasing reliance on other funds to support State spending, it is important to have cash flow projections for all governmental fund types to ascertain the stability of those funds and the ability to support intended spending. This provision would expand the required cash flow projections to include monthly projections for all governmental fund types.

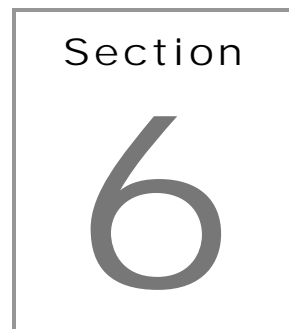
5. Certify Year-End Obligations to Allow a Statement of the Size of the Surplus

Historically, the size of the year-end surplus has been minimized by "reserving" moneys transferred from one fiscal year to the next for a variety of reasons. These include, but are not limited to, tax refunds or unpaid liabilities from the ending fiscal year as offset by pre-payments of expected liabilities from the ensuing year. These liabilities are lumped together into a single deposit, which the Commissioner of the Department of Taxation and Finance directs the Comptroller to make on March 31 from the General Fund into the Refund Reserve Fund.

This proposal would require the Executive to enumerate and certify within five days of the end of the fiscal year each item of disbursement that is included in the financial plan attributable to the fiscal year that is ending, which will be paid during the balance of the year. The Division of the Budget would be required to certify the several specific amounts (and their uses) reserved on the last day of the fiscal year out of the

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transfer of money from one fiscal year to the next. Any remaining cash above the unpaid (planned) liabilities would then be considered the surplus.



Lengthen the Budget Deliberation Process

Another contributing factor to the State's dysfunctional budget process is the short period the Legislature and Executive have to deliberate the final spending plan. Moreover, once the budget has been enacted, there is little statutory authority for ongoing Legislative monitoring and oversight throughout the fiscal year.

The following recommendations modify three major areas of the budget process, including: revenue forecasting, financial plan monitoring and extending the start of the fiscal year.

Comptroller's Proposals to Lengthen the Budget Deliberation Process

1. Change the Fiscal Year

New York State's budget timetable is too short to allow sufficient time for deliberation, solicitation of public comment, legislative debate and consideration of alternatives. The Governor submitted the 2006-07 Executive Budget on January 17, 2006, a total of 73 calendar days (29 scheduled legislative workdays) before the fiscal year begins on April 1. This provides analytical time equal to about \$1.5 billion per calendar day, or \$3.8 billion per legislative day.

As mentioned above, the closest any state comes to such a short timeframe is in the nine states whose Executive Budgets are submitted in February for a July 1 fiscal year.¹⁵ Legislatures in another 11 states

¹⁵ See Appendix 6, "Timelines of the States with July 1 Fiscal Year Starts."

LENGTHEN THE BUDGET DELIBERATION PROCESS

with July 1 fiscal years receive the Executive Budget in November or December, providing six to seven months of time for analysis and review.¹⁶ The Governor in Texas submits a budget in January for a September 1 fiscal year start.

The Comptroller recommends a May 1 deadline for budget adoption and a July 1 fiscal year start. This schedule would provide timely information on State aid to the more than 700 school districts across New York and 11 cities with July 1 fiscal years.¹⁷

2. Establish Quarterly Financial Plan Status Meetings

At its most basic, a state's financial plan is an outline of the state's revenue-generating capacity and the use of those resources. A fundamental goal of financial plans is to prevent surprise. This can be achieved through regular periodic reviews and revisions, along with robust short-, medium- and long-term outlooks.

To better prepare and plan for the subsequent fiscal years, this proposal would require the Division of the Budget to hold open and public meetings with the legislative fiscal committee chairs and the Office of the State Comptroller following the release of each financial plan update. Specifically, these meetings are intended to provide a forum for the presentation of more detailed information about discrete portions of the financial plan. This will result in a significant improvement in the ability of the Legislature, the Comptroller's Office, the financial markets and various fiscal watchdogs to assess the State's fiscal condition and to track adjusted surplus or deficit forecasts.

3. Lengthen the Consensus Revenue Forecast Timetable

One of the first steps to an on-time budget is a consensus between the Executive and Legislature on revenues and certain spending category estimates. While critics have called for an independent arbiter to step in when consensus cannot be reached, an equally difficult problem with the process is the short deliberation period in which the three parties have to reach agreement. Currently, the State is required to hold a revenue forecasting conference and reach consensus no later than

¹⁶ The 11 states with July 1 fiscal years and November or December Executive Budget submissions are Alaska, Arkansas, Colorado, Hawaii, Mississippi, North Dakota, South Dakota, Utah, Virginia, Washington and Wyoming. (National Association of State Budget Officers, "Budget Processes in the States," January 2002.)

¹⁷ Prior efforts to change the fiscal year date to May 1 are unacceptable. See Office of the State Comptroller, "2005-06 Budget Analysis: Review of the Executive Budget," February 2005, p. 8. and Appendix 8, "December 2004 Letter to Leaders."

LENGTHEN THE BUDGET DELIBERATION
PROCESS

March 10 of each year.¹⁸ New York State's leaders, historically, have failed to agree on revenue estimates in a timely manner.

The lack of consensus year after year can be attributed to the fact that there is no requirement for the legislative leaders and the Governor to discuss revenues and spending on an ongoing basis during the fiscal year. The first time a public debate on revenues enters the process is in early March, leaving little time for meaningful debate and resolution. Probably more than any other factor, the failure to achieve revenue consensus is responsible for the 20-year legacy of late budgets.

Revenue estimating processes vary dramatically among the other 49 states, with roughly half the states using a consensus process, and half the states using a unilateral determination. The split between states that are bound by the estimates and states which are not bound is also roughly equal, with 30 states operating under a binding revenue forecast.

**Characteristics of
Revenue Forecasts**

	Binding (30 states)	Not Binding (20 states)
Consensus (24 states)	15	9
Not consensus (26 states)	15	11

Source: National Association of State Budget Officers, "Budget Processes in the States," January 2002.

Note: By these measures, New York is counted as having a binding consensus forecast.

In an effort to promote a public dialogue on revenues and spending throughout the year, this recommendation would require that, following the November Fiscal Status Meeting, the fiscal committees and the Division of the Budget jointly issue a report on each of the parties' preliminary estimates for the closeout of the current fiscal year.

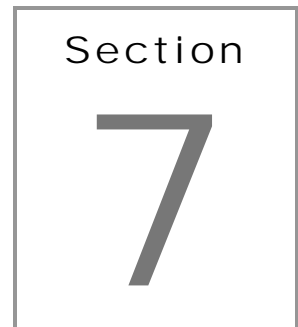
¹⁸ State Finance Law, Section 23(6)(b) (Chapter 209 of the Laws of 1996): "On or before March tenth in each year, the director of the budget and the secretary of the senate finance committee and the secretary of the assembly ways and means committee shall issue a joint report containing a consensus forecast of the economy and of receipts for the current and the ensuing state fiscal year. The report shall include, but shall not be limited to, the following information, presented on the cash basis of accounting: expected tax receipts on an all-funds basis, projected lottery receipts, and anticipated miscellaneous receipts to be received in the general fund."

LENGTHEN THE BUDGET DELIBERATION PROCESS

Lengthening the deliberation process and requiring the Legislature and the Governor to continually report and monitor the progress of the State's finances in a public forum throughout the fiscal year would set the stage for a forecast that truly reflects the revenue outlook for the State and actual consensus.

4. **Require the Comptroller to Resolve Revenue Deadlocks Created by Legislative and Executive Failure**

The Comptroller is pleased that the Governor has confidence in this Office's expertise, objectivity, professionalism and non-partisan approach in determining the amount of State revenues in the event that the parties fail to reach agreement. While the Comptroller urges the legislative leaders and the Governor to reach agreement and avoid an impasse that would refer this task to this Office, he is prepared to help in the event of a true impasse. It is essential, however, that this Office serve as part of the solution, not as another level of dysfunction. Should the Comptroller need to intervene, it is mandatory that this Office's findings be binding. This reform measure would require the Comptroller to establish a binding revenue forecast by March 20 if the March 10 deadline passes without a consensus from the Executive and legislative leaders.



Foster Public Participation

Public participation is a measure of people's relationship with their government. It implies a more active concept of citizenship than simply voting for representatives. New York's current fiscal and budget practices present significant barriers to public participation in two ways:

- First, the public participation in the development of the Executive Budget is very limited. The Legislature holds hearings after the submission of the Executive Budget. While this affords members of the public an opportunity to testify, the Governor is not required to provide any opportunity for public input into the development of his spending or revenue proposals.
- Second, the financial information that the State makes public is insufficient and often incomprehensible, so that New Yorkers who would otherwise be inclined to stay informed may be unable to understand the issues. Many of the other proposals in this package are targeted directly at providing more information in an understandable manner.

Comptroller's Proposals to Foster Public Participation

The three proposals detailed below work toward removing one or both of these barriers.

1. Expand the Executive Budget Hearing Process

Current law provides that the Executive hold annual public hearings on the capital needs of the State, at which State agencies shall present an assessment of the needs of their capital programs.¹⁹ These hearings are not necessarily tied to the development of the budget. The

¹⁹ Section 22(c)(2) of the State Finance Law.

FOSTER PUBLIC PARTICIPATION

Constitution does require that the Governor shall hold hearings on agency budget requests, but the Governor “may” require the attendance of department heads, and the language specifies only that “representatives” of appropriate legislative committees shall be entitled to attend the hearings and make inquiries.

How the Constitution and the State Finance Law are interpreted in current practice does not provide the public much opportunity for input into the Executive’s budget-making process. The public should be offered an opportunity to participate in all phases of the budget preparation process. Currently, meaningful public participation is limited to the legislative review process. By establishing a formal venue for the public to provide input into the process of crafting a budget, the Executive Budget may be much more reflective of the public’s needs. So in addition to broadening public participation, this proposal also increases the Governor’s accountability to the voters.

The Comptroller’s proposal is to amend the State Finance Law to require the Governor, through the Division of the Budget, to hold a series of at least ten public hearings where any interested party may testify on the agency budget requests, beginning no earlier than October 15 and ending no later than November 15. The programmatic areas must include, but not be limited to: education, social services, health and Medicaid, environment, mental hygiene, transportation, public protection, government operations, local government and economic development.

2. Establish an Independent Budget Office

The second barrier to public participation is the incomprehensibility of the information available to the average citizen. The sheer volume is intimidating. What is generally referred to as the 2006-07 Executive Budget comprises nearly 5,000 pages:

- 1,985 pages in the five-volume overview and financial plan
- 1,500 pages in the six appropriations bills
- 1,264 pages in the six language bills
- 154 pages in the six bill memos explaining the six language bills

With 73 days between the submission of the Executive Budget and the beginning of the fiscal year, it is reasonable to assume that few members of the public are able to process this massive amount of information to be able to develop informed opinions about the State’s fiscal condition and the Governor’s proposals. Public opinion is then entirely reliant on the Governor’s interpretation. While legislative fiscal staffs in New York have developed enormous expertise in their analytical roles, their responsibility is directly to the Legislature, not to

FOSTER PUBLIC PARTICIPATION

the public at large. The Office of the State Comptroller has attempted to fill this void by issuing reports annually on both the proposed Executive Budget and the budget that is finally enacted. While the resulting reports are valuable to many constituencies, the Office of the State Comptroller does not presently have the resources to make these reports comprehensive.

Like the Office of the State Comptroller, while numerous organizations have developed the capacity to analyze the State budget—the ability to distill complicated financial reports into relevant information—their access to data is limited and the financial costs of staff capacity-building is significant.

Following the success of the New York City Independent Budget Office, the Comptroller proposes to establish a State-level Independent Budget Office (IBO). This entity would be independent from the Governor and the Legislature, so it will be insulated from the more political parts of State government. The IBO will have full access to all financial records, data, information and reports relating to the State's finances.

Reinforcing its independence from the political process, funding for the IBO will be set constitutionally at a certain percentage of the money allocated to the Division of the Budget.

Further strengthening its independence is the appointment of the director by a five-member board, which meets once every four years and solely for the purpose of appointing the director. The Comptroller will appoint the board members to staggered five-year terms after consideration of suggestions submitted by the Legislature and the Governor.

The mission of the IBO is to illuminate and elucidate the State's fiscal condition. Its role in the State's budget process is to analyze and report. Much like the New York City IBO, the vision for the New York State IBO is to be a resource of fiscal and budgetary expertise for the media, for policymakers, for advocates and for the public at large.

3. Require Internet Posting of Information

Every report described within this report would be required to be posted on the public website of the responsible agency. Public participation is a critical component of democratic governments, and the Internet clearly provides a tool to facilitate public awareness and participation.

Numerous bills have been introduced addressing electronic dissemination of public information about the budget, but none have so far been enacted.

Characteristics of Highly Rated States

Standard & Poors released a research document in January 2006 listing the top ten management characteristics of highly rated entities. Most of the characteristics are among the goals of the Comptroller's fiscal reform package. The ten qualities cited by Standard & Poors are:

1. An established rainy day/budget stabilization reserve, "to provide financial flexibility to react to budget shortfalls or other unforeseen circumstances in a timely manner."
2. Regular economic and revenue reviews to identify shortfalls early, a "formal mechanism to monitor economic trends and revenue performance at regular intervals."
3. Prioritized spending plans and established contingency plans for operating budgets because it is "good public policy to have contingency plans and options to address budget imbalance when it occurs."
4. A formalized capital improvement plan in order to assess future infrastructure requirements.
5. Long-term planning for all government liabilities.
6. A debt affordability model in place to evaluate future debt profiles.
7. A pay-as-you-go financial strategy as part of the operating and capital budget.
8. A multiyear financial plan to consider affordability of actions and plans before they are part of the annual budget.

CHARACTERISTICS OF HIGHLY RATED STATES

9. Effective management and information systems.
10. A well-defined and coordinated economic development strategy.

Seven states have the highest possible bond ratings from Fitch, Standard & Poors, and Moodys: Delaware, Georgia, Maryland, Missouri, South Carolina, Utah and Virginia. A brief survey of the fiscal processes in these triple-A states shows commonalities among them and differences from New York.

DELAWARE

- Budget Reserve Account (constitutional): Automatic deposit from previous year's unencumbered funds; only 98 percent of revenues may be appropriated by the budget. Balance capped at 5 percent of estimated General Fund revenues. Withdrawal by appropriation to cover budget deficit, required by 3/5.
- Balanced budget: Constitution and statute require the Governor to submit a balanced Executive Budget and to sign a balanced Enacted Budget.
- Budget cycle: Executive Budget in January, fiscal year begins July 1. Agency requests to Governor by November.
- Revenue estimates: Executive (Economic and Financial Advisory Council), binding.

GEORGIA

- Revenue Shortfall Reserve (statutory): Deposit based on year-end surplus. Balance capped at 3 percent of net revenue collections. Withdrawal by appropriation.
- Balanced budget: Constitution requires the Governor to submit a balanced Executive Budget and to sign a balanced Enacted Budget.
- Budget cycle: Executive Budget in January, fiscal year begins July 1. Agency requests to Governor by September.
- Revenue estimates: Executive (Office of Planning & Budget), binding.

CHARACTERISTICS OF HIGHLY RATED STATES

MARYLAND

- Revenue Stabilization Account (statutory): Minimum deposit of the lesser of \$50 million or the amount needed to raise the balance to 5 percent of estimated General Fund revenues. No cap on the balance. Withdrawal by appropriation.
- Balanced budget: Constitution requires the Governor to submit a balanced Executive Budget; Constitution requires the Governor to sign a balanced Enacted Budget (although the budget becomes law upon passage by the Legislature).
- Budget cycle: Executive Budget in January, fiscal year begins July 1. Agency requests to Governor by August.
- Revenue estimates: Mixed (revenues from Board of Revenue Estimates—the Comptroller, the Governor-appointed Budget Secretary and the General Assembly-elected State Treasurer—and expenditures from the Executive’s Department of Budget and Management), not binding.

MISSOURI

- Budget Stabilization Fund (statutory): Deposit by appropriation. Minimum balance of 7.5 percent of General Fund revenues. Withdrawal by appropriation to the Governor to meet budget shortfalls or upon authorization by the Governor to fulfill authorized expenditures in the event the Governor would otherwise need to withhold appropriated funds.
- Balanced budget: Constitution requires the Governor to submit a balanced Executive Budget and to sign a balanced Enacted Budget.
- Budget cycle: Executive Budget in January, fiscal year begins July 1. Agency requests to Governor by October.
- Revenue estimates: Executive (Budget Office), not binding.

SOUTH CAROLINA

- Capital Reserve Fund (statutory): Deposit by appropriation equal to 2 percent of actual General Fund revenue. No cap on the balance. Withdrawal by appropriation when year-end revenues are less than authorized expenditures; or by two-thirds vote to finance pay-as-you-go

CHARACTERISTICS OF HIGHLY RATED STATES

- capital projects, to defease debt, for capital improvements or for other non-recurring purposes.
- Balanced budget: Constitution requires the Governor to submit a balanced Executive Budget and to sign a balanced Enacted Budget.
- Budget cycle: Executive Budget in January, fiscal year begins July 1. Agency requests to Governor by October.
- Revenue estimates: Board of Economic Advisors (one each appointed by the Governor, the chair of the Senate fiscal committee and the chair of the Assembly fiscal committee), not binding.

UTAH

- Budget Reserve Account (statutory): Deposit equal to 50 percent of General Fund surplus. Balance capped at 6 percent of General Fund and Uniform School Fund appropriations.
- Withdrawal by appropriation for operating deficits or retroactive tax refunds.
- Balanced budget: Constitution requires the Governor to submit a balanced Executive Budget.
- Budget cycle: Executive Budget in December, fiscal year begins July 1. Agency requests to Governor by September.
- Revenue estimates: Executive (Office of Planning & Budget and the Tax Commission), binding.

VIRGINIA

- Revenue Stabilization Fund (statutory): Deposit from undesignated General Fund surplus. Balance capped at 10 percent of income and sales tax collections. Withdrawal by appropriation of up to one-half the balance for up to one-half the projected shortfall.
- Balanced budget: The Governor is required to ensure that actual expenditures do not exceed actual revenues by the end of the appropriation period.

CHARACTERISTICS OF HIGHLY RATED STATES

- Budget cycle (biennial): Executive Budget in December, fiscal year begins July 1. Agency requests to Governor by June.
- Revenue estimates: Executive (Department of Taxation), binding.

Reform in New York City

New York City's budget and fiscal processes have become a gold standard in municipal finance. Many of the reporting requirements proposed in this package borrow from New York City's mandated reports. Reforming New York State, however, is politically more difficult than reforming New York City: it is a governmental version of the "physician, heal thyself" problem. While municipalities are compelled to obey State directives, there is no comparable authority covering the State.

Following the New York City fiscal crisis of 1975, Governor Carey and the Legislature enacted the New York State Financial Emergency Act for the City of New York. This Act created oversight authority vested in a new Financial Control Board, and it instituted comprehensive standards governing the City's fiscal affairs. These fundamentally changed the way the City conducts its business.

1. The Financial Control Board has powers and responsibilities of oversight and review. Certain fiscal triggers (such as a \$100 million operating deficit or a default) will lead to the reinstatement of the Financial Control Board's approval powers (suspended since 1986) over the City's financial plan and borrowings.
2. The Office of the Special Deputy Comptroller for the City of New York was created to provide assistance to both the Financial Control Board and to the State Comptroller (who is also a member of the Financial Control Board) in the furtherance of the Comptroller's constitutional function to supervise the accounts of political subdivisions.
3. The Municipal Assistance Corporation (MAC) was created as a distinct and separate entity to issue short-term debt for New York City and then to help finance its capital program. The sales tax revenues backing MAC's revenue bonds were, in the first instance, dedicated to MAC debt

service. Only the excess was then transferred to City control. So, while MAC had no authority over New York City, New York City was precluded from accessing the substantial revenue stream that flowed directly to MAC. This provided assurance to bondholders that poor fiscal management at City Hall would not affect them. With last year's retirement of the last of the MAC bonds, sales tax revenues are no longer diverted, and MAC no longer has a functional role.

4. The Financial Information Services Agency (FISA) operates the integrated financial system, which guarantees that all accounting, budgeting and forecasting functions are based on the same fundamental data. Joint control by the Mayor and the City Comptroller over FISA ensures that all interested parties have access to the same financial information.

Over time, a group of independent monitors has evolved that has created a culture of accountability and public disclosure regarding New York City finance. The New York State Financial Control Board, Office of the State Deputy Comptroller for New York City, New York City Comptroller's Office and New York City Independent Budget Office all comment routinely on the Mayor's budget and financial disclosures. The entities, along with the City Council's budgeting role, are all required by statute to carry out these functions. The efforts of good government groups, such as the Citizens Budget Commission, add to the ongoing, robust debate regarding the City's finances.

There is no statutory review or oversight entity for the State's budget process.

Citizens Budget Commission's Palisades Principles

- Strengthen the accountability of public authorities
- State assumption of local governments' share of Medicaid costs
- Eliminate off-budget accounts
- Require a four-year financial plan with quarterly updates
- Authorize a larger Tax Stabilization Reserve Fund
- Require performance assessments of State expenditures
- Prepare a clear-language version of the State budget
- Use a binding consensus revenue-estimating process
- Balance the budget in accordance with Generally Accepted Accounting Principles (GAAP)
- Strengthen the legislative committee process

Appendix
4

MOUs Among the Governor and the Legislative Leaders in the 2005-06 Enacted Budget

Appropriations Requiring MOUs Among the Governor and the Legislative Leaders 2005-06 Enacted Budget	
Department of Criminal Justice Services	\$6,000,000
Department of Criminal Justice Services	\$3,000,000
Department of Criminal Justice Services	\$3,000,000
Member Items	\$200,000,000
Department of Health	\$8,500,000
Department of Health	\$8,500,000
Department of Environmental Conservation	\$15,000,000
Department of Transportation	\$633,000,000
Department of Transportation	\$150,000,000
Department of Transportation	\$9,000,000
Department of Transportation	\$10,000,000
Department of Transportation	\$15,000,000
Department of Transportation	\$27,000,000
TOTAL	\$1,088,000,000

Note: Table includes capital projects appropriations.

Legislative Reform Proposals Introduced in 2005

- Referendum & Initiative
- Redistricting
- Term limits
- Requiring conference committees
- Creation of a nonpartisan legislative budget office
- Creation of a unicameral legislature
- Requiring a statewide election among the three proposed budgets
- Default/automatic/austerity/contingency budget
- Current services budget
- Binding revenue forecast from Office of the State Comptroller
- Appropriation bills must age three days
- Appropriation bills must age ten days
- Dedicating surplus revenues
- Prohibiting lump sum appropriations
- Summary report on Enacted Budget before voting
- Require a balanced Enacted Budget
- If a budget is late:
 - Prohibit legislators from leaving the Capitol
 - Prohibit action on any appropriation bill
 - Prohibit action on any bill other than the budget bills
 - Prohibit collection of per-diems
 - Forfeiture of legislators' salary
 - Forfeiture of Governor's and Lt. Governor's salaries
 - Forfeiture of Comptroller's salary
 - Prohibit all State-elected officials from collecting speaking engagement compensation

TIMELINES OF 46 STATES WITH JULY 1
FISCAL YEAR STARTS



Timelines of 46 States with July 1 Fiscal Year Starts

	Governor's Budget Guidelines Sent to Agency	Agency Budget Requests Submitted to Governor	Submission of Executive Budget to the Legislature	Fiscal Year Begins
Alabama	September	November	February	October 1
Alaska	July	October	December	July 1
Arizona	June	September	January	July 1
Arkansas	March	July	September/December	July 1
California	May/November	September	January	July 1
Colorado	June	August	November	July 1
Connecticut	July	September	February	July 1
Delaware	August	October/November	January	July 1
Florida	June	September	January	July 1
Georgia	May	September	January	July 1
Hawaii	July/August	September	December	July 1
Idaho	June	September	January	July 1
Illinois	September	October/November	February	July 1
Indiana	May	August	January	July 1
Iowa	June	October	January	July 1
Kansas	June	September	January	July 1
Kentucky	July	October	January	July 1
Louisiana	September	November	February	July 1
Maine	July	September	January	July 1
Maryland	June	August	January	July 1
Massachusetts	August	October	January	July 1

TIMELINES OF 46 STATES WITH JULY 1
FISCAL YEAR STARTS

	Governor's Budget Guidelines Sent to Agency	Agency Budget Requests Submitted to Governor	Submission of Executive Budget to the Legislature	Fiscal Year Begins
Michigan	October	November	*	October 1
Minnesota	May/June	October	January	July 1
Mississippi	June	August	November	July 1
Missouri	July	October	January	July 1
Montana	January/August	May/September	January	July 1
Nebraska	July	September	January	July 1
Nevada	May/June	September	January	July 1
New Hampshire	August	October	February	July 1
New Jersey	July/August	October	January	July 1
New Mexico	July	September	January	July 1
New York	July	September	January	April 1
North Carolina	January	August	February	July 1
North Dakota	March	June/July	December	July 1
Ohio	July	September/October	February	July 1
Oklahoma	July	October	February	July 1
Oregon	January/July	September	January	July 1
Pennsylvania	August	October	February	July 1
Rhode Island	July	October	February	July 1
South Carolina	August	October	January	July 1
South Dakota	June/July	September	December	July 1
Tennessee	August	October	January	July 1
Texas	March	July/November	January	September 1
Utah	July	September	December	July 1
Vermont	September	October	January	July 1
Virginia	April/August	June/October	December	July 1
Washington	April	September	December	July 1
West Virginia	July	September	January	July 1
Wisconsin	June	September	January	July 1
Wyoming	May	September	December	July 1

Source: National Conference of State Legislatures, "Legislative Budget Procedures" (June 1998).



December 23, 2005 Memo Outlining Comptroller's Proposals

AC 809-A (Rev. 1/81)

OFFICE OF THE STATE COMPTROLLER

INTER-OFFICE MEMORANDUM

To: Comptroller Hevesi

Date: December 23, 2005

From: Christine Rutigliano &
Jennifer McCormick

Subject: Fiscal Reform

The Office of the State Comptroller (OSC) fiscal reform working group has identified several opportunities for improving the State's budgeting and fiscal processes. In pursuit of the goal of full disclosure of the State's financial condition, this working group has drawn on staff expertise from many divisions within OSC. In consultation with you, the working group has developed a set of proposals designed to enhance financial reporting, to increase transparency of financial transactions, and to better our understanding of the true fiscal issues facing the State. With these tools in place, we can make great strides toward achieving a timely and more accountable budget process for the taxpayers, local governments, school districts, and not-for profit organizations who depend on support from our State government.

Accountability and transparency should be the goals of everyone who is involved in protecting and improving the fiscal condition of the State government. Each of our 21 proposals, in some way, improves public understanding of New York's budget or fiscal condition. The 21 proposals can be categorized into five broad categories of reform:

DECEMBER 23, 2005 MEMO OUTLINING
COMPTROLLER'S PROPOSALS

- Provide the public with better information
- Improve fiscal responsibility
- Lengthen the budget deliberation process
- Enhance accountability
- Foster public participation

PROVIDE THE PUBLIC WITH BETTER INFORMATION

There are very few legitimate reasons to withhold information about the New York State financial plan from the public. Specific areas where the State may arguably have an interest in limiting disclosure might include reserves for personal service expenses pursuant to labor contracts still being negotiated or for planned payouts for pending judgments against the State. But beyond discrete items such as these, the State should disclose most financial plan elements. Furthermore, the public should have the ability to continuously monitor the State's finances throughout the year.

To achieve this openness, we propose five initiatives aimed at providing the public with more detailed and comprehensive information throughout the entire budget process.

1. Require More Personal Service Information

A new supplementary schedule will be required to be published with the Executive Budget and with the Executive's report on the Enacted Budget. This schedule will detail employment levels for each department, division or office for the prior, current and next fiscal years with separate schedules for the general fund, special revenue funds, federal funds and capital projects. The schedule will also require a breakout of contractual services within non-personal service appropriations.

2. Tie Appropriation Bills to the Financial Plan

Require a supplementary schedule along with the Executive Budget and with the Executive's report on the Enacted Budget that links the budget bill appropriations directly to financial plan disbursements. Such schedule will show three years of disbursements by appropriation. The Executive will be required to revise the schedule with the mid-year update.

3. Require a Unified, Statewide Comprehensive Capital Projects Report

DOB will be required to publish a comprehensive project listing detailing, by project, funding sources (including pay-as-you-go versus bond proceeds) and timelines.

4. Require a Gap-Closing Report

Require a supplementary schedule along with the Executive Budget describing the gap-closing measures taken during the prior two fiscal years and showing their fiscal impact by agency and program for each of the prior two fiscal years

and the next three ensuing fiscal years. This provision replicates a schedule within New York City's supplementary budget information, which includes a table showing how each year's budget gap is filled by detailing expenditure reductions and revenue increases by agency.

5. Require a Local Government Impact Report

Require the Executive to provide a supplementary schedule along with the Executive Budget and with the Executive's report on the Enacted Budget that details, by class of government, all fiscal and legal provisions having any effect (financial or otherwise) on local governments.

IMPROVE FISCAL RESPONSIBILITY

While New York State, generally, is an adequate manager of its fiduciary responsibilities, and while we have not been plagued with bankruptcy or threatened default, New York State conducts very limited medium-term and long-term financial planning. Official financial reports rarely approach full disclosure in their presentation of the State's financial condition. The following five recommendations are focused on improving the State's financial position through better planning for emergencies and increased reporting in which to monitor the State's fiscal health.

1. Modify the Tax Stabilization Reserve Fund to Require a Minimum Balance and Minimum Deposits, and Restrict Use of Fund

The minimum balance in the Tax Stabilization Reserve Fund is 1.5% of Governmental Fund revenues (less Federal Funds, Fiduciary Funds, and bond proceeds). The process of reaching the 1.5% minimum balance would be phased-in over three years. Deposits: 5% of any excess of actual Governmental Funds above the originally forecast Governmental Funds must be deposited into the Tax Stabilization Reserve Fund. Withdrawals: Any balance in excess of 1.5% of the prior-year Governmental Fund revenues may be withdrawn in any fiscal year where current Governmental Fund revenues are estimated to be no more than equal to the prior-year Governmental Fund actual revenues. Such withdrawal may be used for capital projects, to pay down certain debt, or to fund other non-recurring expenses. Any balance below 1.5% of prior-year Governmental Fund revenues may be withdrawn upon a joint resolution by the Legislature, initiated by the Governor, certifying either a fiscal emergency (when Governmental Funds are projected to drop at least 1% below the forecast) or a terrorist attack or a natural disaster that will result in additional spending equal to at least 1% of Governmental Funds revenues. Such withdrawal must be repaid in no fewer than three annual installments within the ensuing six years.

2. Require Monthly Cash Flow Reporting for Each of the Government Fund Types

DECEMBER 23, 2005 MEMO OUTLINING
COMPTROLLER'S PROPOSALS

Expand the required cash flow projections to include monthly projections for all governmental fund types, not solely the General Fund. Currently, cash flows for all governmental fund types are on a quarterly basis.

3. Certify Year-End Obligations to Allow a Statement on the Size of the Surplus

Require the Executive to enumerate and certify within five days of the end of the fiscal year each item of disbursement that is included in the financial plan for the fiscal year ending but which will be paid in the ensuing fiscal year. DOB would be required to certify the several specific amounts (and their uses) reserved on the last day of the fiscal year out of the transfer of money from one fiscal year to the next. Any remaining cash would then be considered the surplus.

4. Improve Out-Year Financial Planning

Move from a three-year plan to a four-year plan and include each of the governmental fund types in the plan. Lengthening the planning horizon will show more clearly the effect of structural gaps -- when expenditures exceed revenues on a permanent basis.

5. Require a Balanced Enacted Budget

Constitutionally require the Legislature to pass only a balanced budget. If the Legislature acts on the Executive Budget, it must do so in a balanced manner. This requirement applies to all governmental funds, not just the General Fund. As with the existing constitutional requirement that the Executive submit a balanced budget, there is no appointed authority required to certify that the Enacted Budget is balanced.

LENGTHEN THE BUDGET DELIBERATION PROCESS

New York is one of four states for which the fiscal year does not begin on July 1. Of the 46 states for which the fiscal year does begin on July 1, the latest month the Governor's budget submission is due is February. New York's abbreviated schedule is not likely the only cause of 20 consecutive years of late budgets, but it certainly may be a contributing factor.

The following four recommendations begin the budget debate earlier, extend the fiscal year, and expand existing timetables for revenue consensus. Together, they should provide an improved framework for the Legislature and the Executive to achieve on-time budgets in the future.

1. Establish quarterly Fiscal Status Meetings

The Division of the Budget will be required to hold open and public meetings with OSC and the fiscal committees following the release of each financial plan update. The purpose of these meetings is to provide a forum on more detailed information about discrete portions of the financial plan. This will be a

DECEMBER 23, 2005 MEMO OUTLINING
COMPTROLLER'S PROPOSALS

significant improvement in the ability of the Legislature, OSC, the financial markets, and various fiscal watchdogs to assess the State's fiscal condition and to adjust forecasted surpluses or deficits.

2. Lengthen the Consensus Revenue Forecast Timetable

Requiring regular quarterly meetings among the three parties is an opportunity to maintain continuous discussions on the upcoming fiscal year. Current law requires legislative staffs only to meet privately in December and discuss the next year's forecast report and then report in private to their individual leaders. This proposal additionally requires that, following the November Fiscal Status Meeting, the fiscal committees and DOB must jointly issue a report on each of the parties' preliminary estimates for the closeout of the current fiscal year.

3. Require the Comptroller to Resolve Revenue Forecast Deadlocks

The Comptroller will establish a binding revenue forecast by March 20 if the current March 10 deadline passes without a consensus.

4. Change the Start of the Fiscal Year.

Adopt a fiscal year beginning July 1, with a requirement that a budget be enacted by May 1.

ENHANCE ACCOUNTABILITY

In addition to critics voicing concern over the State enacting late budgets for 20 of the last 21 years, there is also disapproval of the lack of detail in the Enacted Budget. Specifically, many have raised objections to budget bills passed in the middle of the night with no time for review or debate. Others, including legislators, voice frustration about the lack of information on new or changed appropriations that the Legislature has crafted in its final budget.

These next four initiatives provide more transparency on how tax dollars are spent, and they push for full disclosure on enacted appropriations. Not only would these proposals provide the public with a better understanding of the contents of the Enacted bills, they would also help rank-and-file legislators vote responsibly.

1. Require a Legislative Report on the Budget Before Passage

The Legislature will be required to publish a summary which details changes to the Executive Budget (effectively eliminating Messages of Necessity for the budget). This summary report must be available online for three calendar days prior to the vote on the bills.

2. Require Quarterly Reporting on the Allocation of Lump-Sum Appropriations

The parties named in each MOU (typically the Governor, the Temporary President of the Senate, and the Speaker of the Assembly) guiding the

allocation and disbursement of these appropriations would be required to report quarterly on the allocations of each such appropriation.

3. Improve the Legislative Report on the Budget After Passage

The Legislature's final report on the Enacted Budget (the Green Book) must include a series of specific analyses, including: each appropriation change and its impact on the Financial Plan and on out-year gaps, changes to the Local Government Impact Report, changes to the Gap-Closing Report, and any implementing language different from the Executive's proposed budget.

4. Require Public Authorities to Report How They Spend State Money

Require authorities receiving State appropriations to report regularly on subsequent allocations of those funds. Also, extend OSC authority to include not just the actual appropriations to the public authority, but also the subsequent distribution of those funds by the authority.

FOSTER PUBLIC PARTICIPATION

Public participation is a measure of people's relationship with their government. It implies a more active concept of citizenship than simply voting for representatives. The following three recommendations will generate greater opportunity for public access to information, which could result in improved voter participation.

1. Expand the Executive's Budget Hearing Process

Specify that DOB hold public budget hearings by functional area (e.g., health, transportation, etc.) between October 15 and November 15, where both agency heads and advocates testify on the agency budget requests. This provision would establish a venue for the public to provide input in the Executive's budget-making process and could help in crafting a budget that is more reflective of the public's needs.

2. Constitutionally Create a New York State Independent Budget Office

This is patterned closely after the New York City Independent Budget Office (IBO). The five-member advisory board will meet only once every four years (or in the event of a vacancy of the director's position) to appoint the director of the IBO. The advisory board is appointed by the Comptroller, after considering recommendations of five persons each by the Governor, the Temporary President of the Senate, and the Assembly Speaker.

3. Require Posting of Information on the Internet

Wherever possible, require that information be available electronically through the Internet.

CCR/tm

DECEMBER 23, 2005 MEMO OUTLINING
COMPTROLLER'S PROPOSALS

cc: Jack Chartier
Tom Sanzillo
Kathleen Dillman
Kim Fine
Mike Kupferman
Alan Lebowitz
Tom Mahoney
Matt Mullarkey
Tom Marks
Bill Murray
Diana Ritter
Roberta Rubin

December 2004 Letter to Leaders

ALAN G. HEVESI
COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

December 2, 2004

Honorable George E. Pataki
Governor
State Capitol
Albany, NY 12248

Honorable Joseph L. Bruno
Temporary President and Majority Leader
New York State Senate
Legislative Office Building, Room 909
Albany, NY 12247

Honorable Sheldon Silver
Speaker of the Assembly
New York State Assembly
Legislative Office Building, Room 932
Albany, NY 12247

Dear Governor Pataki, Majority Leader Bruno and Speaker Silver:

Citizens, elected officials, government employees and leaders of businesses and not-for-profit institutions all agree that the budget process in Albany must change. Yet months of study, discussion, drafting, negotiation and debate have resulted in impasse, the very situation that budget reforms must address.

We agree on the goals of budget reform:

- A process that provides for open and constructive debate on the issues and then reaches budget compromise on a predictable, timely schedule.
- A budget that is enacted before the beginning of a fiscal year, not halfway through the fiscal year.
- Complete information about the impact of a budget that is available to the public at the time of the budget's adoption, not weeks after it becomes law.

Pataki/Bruno/Silver

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- A balanced financial plan that meets the needs of New York's citizens with sensible revenue and spending actions, not by using debt, one-shots and off-budget spending to push problems out for future generations to solve at a higher cost.

Comprehensive budget reform legislation is needed to address these goals and to establish the framework to implement the constitutional amendment passed by both houses. After the veto of Senate Bill 7615, the work to enact budget reform legislation must continue. But under the best scenario, the constitutional amendment to reform the budget process will not be implemented before 2006. The need for change is acute. I am writing to urge you to use the authority of your respective offices to begin implementing changes now to improve the 2005 budget process. I am recommending a series of practical steps that can be taken at each stage of the budget process, without the need for legislation.

Financial Plan Monitoring and Executive Budget Development

In its Enacted Budget Report dated September 14 and in its Mid-Year Financial Plan Update dated November 1, the Division of the Budget included three-year projections of General Fund receipts and disbursements. Providing this additional information, which is not currently required by statute, is an example of a positive step to improve the budget process. I encourage the Executive to continue in this direction by including complete three-year financial projections and updated cash flows for the current fiscal year in all future quarterly updates.

The Division of the Budget should include off-budget spending on State programs (administered through public authorities, the Health Care Reform Act, etc.) in next year's Executive Budget submission. My Office recently issued a report showing spending from Health Care Reform Act (HCRA) pools outpaced revenues by more than \$1 billion over the last two fiscal years. With significant programs such as health care and capital grants provided through multi-billion dollar off-budget accounts, it is important to fully incorporate off-budget revenues and spending into the State's budget process, multiyear financial plan and system of fiscal controls.

My Office also found that the 2004-05 Executive Budget proposal included \$1.2 billion in revenue enhancements and budget cuts previously turned down by the Legislature. A total of \$1.1 billion of these actions was rejected again by the Legislature in 2004. As the Executive Budget proposal is developed for 2005-2006, the Division of the Budget should signal its intent to accelerate productive budget negotiations by amending or replacing budget proposals that have been repeatedly rejected by the Legislature.

Budget Negotiation

During the 2005 budget consideration period, the Legislature and Executive should make their March consensus revenue agreement specific and binding. A consensus forecast of specific revenue projections by tax or other source provides important information to citizens about the State's financial prospects and establishes the foundation for the next stage of budget negotiations. This year's consensus revenue report stated that total revenues for State fiscal years 2003-04 and 2004-05 would exceed the Executive Budget projections by a range of \$150 to \$500 million. This general finding did not resolve the question of how much revenue would be available to spend.

If agreement cannot be reached by March 10, a neutral party should determine the expected revenues by source to be used by the Legislature and the Executive to complete work on a budget and financial plan. The Legislature's budget reform package assigns this role to a new Independent Budget Office. Until an Independent Budget Office is established, my Office is ready to provide such a determination.

It is important, however, that the Legislature and Executive agree that the consensus revenue total will be a binding agreement for budget negotiation. Enacted spending should only exceed this total if additional revenue actions are agreed upon and publicly detailed. By resolving the issue of available revenues, negotiations on appropriations can proceed.

Budget Adoption

As Senate and Assembly members were voting on the 2004-05 budget, both houses made available detailed information explaining specific actions in the bills. Neither house, however, issued any public document that described the financial plan underlying the budget agreement. Information about the impact of the budget on local governments or the long-term impact of budgetary actions was difficult to compile, even after the budget was adopted.

Once a budget is agreed upon, I urge the Senate and the Assembly to adopt a financial plan as a joint resolution, providing a public statement of legislative intent. In addition, as the Senate and Assembly begin to vote on the budget bills, the Legislature should provide a local fiscal impact note that identifies the effect of the budget on different levels of local governments, as well as an overview of the budget's impact on the three-year financial projections provided with the Executive Budget.

Budget Reform Legislation

Although the steps outlined in this letter will improve the budget process in 2005, they do not replace needed statutory and constitutional reforms. The constitutional budget reform amendment first passed by the Legislature should be accompanied by the enactment of comprehensive budget reform legislation. I support the Legislature's initiatives to increase reserve funds, appropriate school aid for two years, bring HCRA on budget, improve financial reporting and lengthen the Legislature's budget deliberation period. However, instead of the Legislature's proposal for a May 1 fiscal year, I recommend a May 1 deadline for budget adoption and a July 1 fiscal year start. All but a few states begin their fiscal years on July 1.

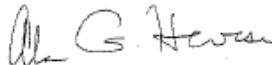
A May 1 fiscal year means that State fiscal year quarters will differ from federal fiscal year quarters by one month. This difference will add complexity and costs to State information system operations, since multiple reporting cycles will need to be developed and maintained. Adopting a budget by May 1 for a fiscal year beginning July 1 provides the advantage of supplying timely information on State aid to the 701 school districts and 11 cities with July 1 fiscal years, while reducing the costs of the fiscal year change.

While I support moving the fiscal year to July 1, it is important to recognize that any move will require systematic review and analysis of all the State's financial systems, both operating and reporting, to identify needed changes. The proposed timetable will cause delays in the much-needed replacement of the State's Central Accounting System and agency financial management systems. If the Legislature's budget reform constitutional amendment is approved by the voters in November 2005 and a 13-month transition year begins in April 2006, funding for these systems changes will be required in the 2005-06 fiscal year. To avoid unnecessary costs due to technical and implementation issues, my Office should be closely involved in developing the statutory language directing a fiscal year change.

In addition to the reforms passed by the Legislature, there are a number of technical amendments that should be adopted to conform the State Finance Law to recently updated government accounting standards and to correct inconsistencies. My staff will contact your offices to communicate these technical recommendations.

We share the goal of budget reform. The current process results in uncertainties and delays that reduce the effectiveness of government programs at all levels and erode public confidence. I look forward to working with you to effect these and other positive changes.

Sincerely,



Alan G. Hevesi

AGH:MMS/tm

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