



**NEW YORK
STATE SENATE**
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New York State Senate
Albany, NY 12247



Save the Date

Education Town Hall with State Education Commissioner David Steiner and a panel of experts
Tuesday, September 21st, 6:00PM—8:30PM
Lighthouse International, 111 East 59th Street, between Lexington and Park Avenues



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ALBANY UPDATE SUMMER 2010

Reporting to residents of Midtown and the East Side on how the sausages are made in the State Capitol



If you want more regular updates, please join my email list by sending a message to lkrueger@senate.state.ny.us with "join lizlist" in the subject line.

Dear Friend,

This update serves as my end-of-session report, though as you may have noticed, nothing ever really seems to be over in Albany. In early August, the Senate reached agreement on the revenue bill, the final piece of the budget. However, there remain other important issues, such as tenant protection and environmental legislation, which I will be pressing my colleagues to address before the legislative year ends.

With the budget, as with everything else in the Senate, the challenge is always getting the 32 votes we need to pass anything, given the close partisan divide. Unfortunately, with the minority choosing to block-vote against almost everything, it has proven very difficult to pass important legislation. But one thing I have learned in the last couple of years in Albany is that the environment can change rapidly, creating opportunities to move beneficial legislation. In the days ahead I will be keeping a close watch for those opportunities.

Despite all the problems we faced there were a number of important bills passed this session that will improve the lives of New Yorkers in significant ways. In this newsletter I will first offer a brief update on the status of the State budget, then discuss some of the legislative achievements of the past session.

Liz

THE BUDGET: IS IT DONE YET?

In June the Legislature passed pieces of the expenditure budget totaling \$135.7 billion—just a two percent increase over the 2009-10 budget, less than the rate of inflation—and we technically closed most of the \$9.2 billion budget gap. Despite across-the-board cuts to agencies, some significant costs such as debt service and Medicaid spending increases were beyond our control, and offset these cuts.

After both houses passed these spending bills, the Governor promptly vetoed all the Legislature's additions, including \$600 million that the Legislature restored to K-12 education funding. This happened primarily because the Governor and Legislature were unable to reach agreement over two key issues: a contingency fund to deal with the possible loss of Federal funds for Medicaid (known as "FMAP" funds), and other programs which, as of yet, have not been finalized by Congress; and the Governor's proposal to grant greater independence to the State and City University systems, including the ability to set their own tuition rates with differential amounts by college and major.

I do not expect that the Senate can override any of the Governor's vetoes, since the minority has indicated that none of their members will contribute to the 42 votes (2/3 majority) needed to override a veto. I continue to urge a serious negotiation of the differences between the Governor's and the Legislature's plans, including consideration of a number of revenue-raising

proposals, such as allowing the sale of wine in grocery stores and the tax on drinks with added sugar (neither of which are included in the current legislative revenue proposal).

I was pleased that we were able to reach a budget agreement with the MTA and New York City to prevent cuts to the student MetroCard program and continue to provide students access to reduced-fare transit. Under the agreement, the State will pay \$25.3 million to fund the program, with the City also making a contribution. The MTA will cover the remaining costs. All students who were eligible for reduced-fare MetroCards during the previous school year will continue to receive the benefit this September.

This brings me to the final piece of the budget: the revenue bill, which includes changes to taxes and fees necessary to support the budget. The revenue bill was delayed in the Senate because a number of Democrats have indicated they won't support it without the Governor's SUNY and CUNY proposal. In our closely divided Senate, any one member can block something likely to draw a party-line vote, and the budget is a perfect example of this. This logjam broke in early August, and this final piece of the budget passed the Senate with exactly the 32 votes it needed, all provided by the majority.

While I am pleased the budget is done, I know there remain many outstanding issues, and I expect I will be returning to Albany in the not-too-distant future.

LEGISLATIVE ACCOMPLISHMENTS

While the budget has justifiably dominated headlines, there was significant progress on many other key pieces of legislation this year, including addressing some issues that the Legislature has been unwilling to deal with for years. Among the legislative accomplishments I think were most important this year are:

NO FAULT DIVORCE

Both houses of the Legislature passed bills which fundamentally restructure matrimonial law to improve the process and outcome of divorces for all New Yorkers—particularly women and children, who are often left vulnerable in dissolving marriages. Currently, New York State Law forces individuals who wish to divorce to place fault for dissolving the marriage on one spouse. With the passage of this bill, New York is finally modernizing our long-outdated divorce laws. In fact, this makes us the last State to adopt some form of no-fault divorce. After being stalled in both houses for many years, the new no-fault divorce legislation package includes:

- ▶ Establishing post-marital income guidelines for maintenance awards (§7740A);
- ▶ Ensuring that all parties can afford counsel from the beginning of divorce proceedings (§4532A); and
- ▶ “No Fault Divorce” (§3890A), which provides individuals with the ability to seek a divorce without litigating fault.

While it took New York too long to get here, the upside is that we were able to learn from other States. This package will ensure that the rights of both spouses will be well protected throughout divorce proceedings. I was proud to be a co-sponsor of these bills, which will undoubtedly help people during the difficult divorce process and make it easier for them to get on with their lives.

DIGNITY FOR ALL STUDENTS ACT

Another piece of legislation that passed the Senate for the first time this year is the “Dignity for All Students Act” (§1987B), which first passed the Assembly in 2002. This legislation aims to provide all students with a school environment that is safe and conducive to learning by ending harassment and discrimination based on (but not limited to) race, color, weight, national origin, ethnic group, religion, disability, sexual orientation, gender or sex. We can no longer ignore the fact that harassment and bullying have become serious and dangerous problems within our school systems. With the passage of the Dignity for All Students Act we are stating in no uncertain terms that harassment and violent behavior cannot and will not be tolerated. Our students deserve a positive, safe environment to learn in and I believe this act will help ensure that is what they have.

PROTECTING THE ENVIRONMENT

CLEANER HEATING OIL

The Legislature passed S1145C which will require the use of low-sulfur heating oil in New York State. When number two home heating oil is burned, sulfur dioxide, a known greenhouse gas, is released into the atmosphere. Estimates have shown that reducing the sulfur content of home heating oil is an important and critical step in curbing greenhouse gas emissions. Buildings account for 40 percent of total pollution, a problem only exacerbated in densely developed areas such as the East Side and Midtown. Home heating oil is one of the largest sources of sulfur dioxide in the air, second only to power plants. By taking action to reduce sulfur content, we will lead the country in eliminating one of the causes of global warming and improving the health of those suffering from respiratory and other conditions as a result of unclean fuel.

BATTERY AND ELECTRONICS RECYCLING

S3593B, legislation I introduced to require New York State residents to recycle rechargeable batteries instead of disposing of them as solid waste, passed in both the Senate and Assembly. This bill requires rechargeable battery manufacturers to work in partnership with New York retailers to set up a free, easily accessible recycling network for residents. It extends a program adopted in New York City to the entire State. Additional electronic recycling legislation (S6047A) also passed both houses, and requires the recycling, reuse and safe handling of electronic equipment sold in the state of New York. E-waste currently represents the fastest growing category of waste in the municipal solid waste stream.

SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT

The Legislature passed Smart Growth legislation (S5560B) to promote economic development while preserving land, protecting water and air quality, and reclaiming already-developed land. It is a blueprint for reinvesting in existing infrastructure, reclaiming historic buildings and revitalizing New York’s communities. Smart growth practices promote economic expansion and investment, while protecting open space and natural resources.



In June Mary Silver was one of the honorees at the Senate’s Annual Women of Distinction Awards. Mary has been a leader in the fight to support and improve public education, both as a PTA President at PS116 and as First Vice President of Community Education Council District 2.

PROTECTING AFFORDABLE HOUSING



Last month I joined colleagues, city officials and advocates at a rally in support of illegal hotels legislation that will help protect affordable housing in the City by ensuring residential units are not illegally converted into hotels.

CRACKING DOWN ON ILLEGAL HOTELS

Legislation I introduced (§6873) to ensure residential apartments are not illegally converted into hotels has become law. For years, illegal hotels have been springing up throughout the City because landlords have exploited ambiguities in the law by renting apartments as hotel rooms for more money than rent laws allow. This technique is also used to empty out a building for a co-op or condo conversion. The proliferation of illegal hotel operations has removed thousands of apartments from an already tight housing market, disrupted the lives of the buildings' permanent residents and decreased the City's tax base. Furthermore, because illegal hotels do not comply with local building, fire, and housing codes for buildings zoned for transient occupants, they pose a serious threat to public safety. For example, in some apartments, owners placed multiple bunk beds, converting the units into hostels and creating a serious fire hazard. The passage of this legislation is a real win-win for New York City residents and visitors. Residents will no longer see their apartment buildings overrun by tourists, and

visitors will no longer have to worry about arriving to find that their "hotel" is actually an apartment building.

PROTECTING NYCHA HOUSING

The Legislature acted to protect New York's 400,000 residents of public housing by passing §6430A, making the New York City Housing Authority (NYCHA) eligible for an immediate infusion of \$400 million in capital funding. Under the legislation, New York City's deficit-plagued housing authority will also be able to draw \$75 million annually in Federal funds in perpetuity. NYCHA has been underfunded by all levels of government for decades. By allowing NYCHA to "federalize" its City- and State-built developments, there will be an immediate windfall for the cash-strapped agency to use for desperately needed building repairs.

EXPANDING THE DISABLED RENT INCREASE EXEMPTION PROGRAM

Legislation I introduced (§3539A) expands eligibility for the Disability Rent Increase Exemption (DRIE) program, which would enable people with disabilities and incomes up to \$29,000 to qualify. This is the same income

level used by the Senior Citizens Rent Increase Exemption program. This bill passed the Senate but has yet to be taken up by the Assembly.

PROHIBITING MANDATORY ELECTRONIC BILLING

Another bill I introduced (§7811) that passed in the Legislature prohibits landlords from requiring tenants to pay their rent bill electronically. Mandatory use of electronic or internet billing for rent payments can create difficulties for seniors or people on limited incomes who may not use electronic banking systems. This legislation preserves the option of using an electronic rent payment system should a tenant consent to using one, while eliminating required usage of them as a means for landlords to inconvenience and harass tenants into vacating units.

INCREASING ROLE OF TENANTS IN HOUSING COURT EVALUATION

My bill to provide a greater voice for tenants in Housing Court (§7621) has also passed both houses of the Legislature. Housing Court is often a difficult and unfriendly venue for tenants. This legislation will provide greater balance to the Housing Court Advisory Council, which evaluates potential housing court judge candidates, by adding an additional tenant representative to the Council.

HOUSING FOR PEOPLE WITH HIV/AIDS

The Legislature also passed §2664, which provides overdue protections for New York renters who are living in poverty and have AIDS or HIV. The bill will humanely limit the percentage of household income which can be paid in shelter costs to 30% of their income. The benefit applies to those who live in emergency shelter facilities or reside in housing which receives financial assistance.

SAFE STREETS

"COMPLETE STREETS"

"Complete Streets" legislation (§5711B), which also passed the Senate, directs the State Transportation Department to consider bicycle and pedestrian accommodations in the planning and development of transportation facilities and programs. Accommodations would include measures such as bicycle lanes, "share the road" signage, crosswalks, pedestrian control signals, curb cuts and ramps, and lane striping and paved shoulders suitable for use by bicyclists. Keeping pedestrians and cyclists protected on City streets has become

a growing concern in New York, especially among the elderly.

BICYCLES AND PEDESTRIAN SAFETY

Legislation I introduced (§4528A) to curtail the threat of commercial bicyclists' reckless cycling in New York City passed the Senate this session. This legislation provides for liability to be shared between the operator of the bicycle and the business employing or affiliated with the cyclist. The intent of this bill is to address the problem of sidewalks in New York City's most crowded neighborhoods being taken over by

speeding delivery bicyclists. By riding on sidewalks instead of the streets, these delivery bicycles pose a serious risk for community residents on foot—particularly seniors and young children. Currently the police can only ticket the bike rider, however under the new law, businesses that employ these reckless riders will face fines. When a business has a monetary interest in its employees following the "rules of the road," they will be motivated to ensure that their delivery people follow the law. This will act as a very strong deterrent against reckless activities that can injure and sometimes kill pedestrians.

EXPANDING ACCESS TO HEALTHCARE

THE FAMILY HEALTH CARE DECISIONS ACT

s3164 empowers family members and others close to the patient to make medical decisions for incapacitated patients. Currently, only 20 percent of individuals sign a health care proxy, leaving an overwhelming majority of patients without any guarantee that decisions will be made on their behalf by those closest to them. This legislation was passed by both houses and has been signed by the Governor.

PRIOR APPROVAL FOR HEALTH INSURANCE RATE INCREASES

The Legislature and Governor also reached agreement on legislation to restore the State Insurance Department's authority to review health insurance rate increase proposals prior to the increase going into effect (s8088). This power had been stripped from the Department during the Pataki administration. Under the new rules, insurance companies will be required to demonstrate that rate increases are financially justified. The legislation also raises the percentage of premiums that must be devoted to healthcare, as opposed to administrative costs, to 82 percent. Previous rules allowed between 75 and 80 percent of collected premiums to be directed toward care. According to the advocacy group Health Care for All New Yorkers, health care premiums rose statewide by 81 percent between 2000 and 2007, while median wages rose by only 11 percent. This legislation will help control healthcare costs for every New Yorker with private insurance.

ENSURING COVERAGE FOR AUTISM

Setting the bar for a new standard for autism treatment and services, the Legislature passed groundbreaking legislation to protect children with autism. The legislation (s7000B) requires insurers to cover early screening, diagnosis and treatment for autism spectrum disorders, saving families facing autism thousands of dollars per year. Despite research demonstrating that early intervention and intensive behavioral therapies can yield significant improvement in the quality of life for those with autism, diagnosis and treatment have been excluded from coverage by health insurance carriers in New York. This much needed legislation will make New York the 21st State to require such coverage.

CHILDREN'S HEALTH

The Senate acted to promote health and nutrition in early childhood by passing legislation (s4057B) creating

the Child Health Plus and School Meals Enrollment Coordination Act of 2011. This legislation requires coordination among Child Health Plus, Medicaid and School Meals programs to ensure that children who receive free and reduced price school meals are also enrolled in Child Health Plus or Medicaid.

PROTECTING CONSUMERS FROM UNWARRANTED INSURANCE CANCELLATION

Under newly passed legislation (s6263B), patients will finally be protected from the egregious insurance industry practice of denying coverage to businesses and individuals who have been paying for insurance. Existing law currently protects consumers by banning insurance companies from dropping them due to their claims experience or health status. However, there is currently a loophole which allows insurance companies to drop coverage for an entire class of policyholders due to one high cost individual.

This legislation is known as Ian's Law and was named for Ian Pearl, a victim of that loophole. Mr. Pearl requires 24-hour nursing care due to muscular dystrophy, a benefit that his insurance company stopped covering. This bill will provide an enforcement mechanism for the current law, which states that no one shall lose their insurance coverage due to their claims experience or health status, or that of another person insured in their class of policies.

EPIC PRESCRIPTION DRUG PROGRAM EXPANSION

The Senate passed legislation to make thousands more seniors eligible for the EPIC program. This legislation (s1839) would increase income eligibility levels in the EPIC program from \$35,000 to \$50,000 for unmarried residents and from \$50,000 to \$75,000 for married residents. The historic expansion of EPIC eligibility would ease the financial burden on the tens of thousands of seniors across New York who rely on costly prescription drugs. Drug costs have become the largest single source of out-of-pocket healthcare costs for seniors. At present, the Assembly has yet to act on this bill.

PRESCRIPTION DRUG COST CONTROL

Legislation I introduced (s4786) prohibiting insurance companies from requiring copayments that exceed the usual and customary cost of a drug passed both houses of the Legislature. This legislation protects consumers by making sure that they do not end up paying more than the actual cost of a drug because of their insurance company's copayment policy.

FINANCIAL FLEXIBILITY FOR NON-PROFITS

In an effort to provide some economic relief for not-for-profits that are struggling under the strains of the downturned economy, I introduced s4778, the Uniform Prudent Management of Institutional Funds Act. The bill passed both houses in June. This bill will provide sensible methods for non-profits to access their funds in order to keep jobs in place and programs running, while keeping donor intent paramount. Currently, not-for-profit agencies, which include colleges and universities, museums, and other cultural institutions, cannot access an endowment until it is over the "historic dollar value," which is the value of the gifts when they were originally given. Therefore, during tough economic times, when many endowments have shrunk, not-for-profits are unable to access important funds that could be used to continue key programs, save jobs or provide student scholarships. To ensure that the donors' original intent is still met, the bill will ensure that not-for-profits can utilize their endowment funds in furtherance of their created purpose, protecting both the assets and donors' intent, while also assisting cash-strapped charitable organizations at no cost to the State.

ANIMAL PROTECTION

Two bills I carry to improve animal protections advanced this legislative session. s7162A, which requires shelters to report on animal intakes and dispositions, passed both houses. By requiring shelters that receive State funding to reveal this information, this legislation will promote transparency and accountability. This may in turn lead to improved animal care and reduced reliance on euthanasia.

s7812B prohibits the sale and possession of videos which depict animal cruelty, including so-called "crush videos." This bill which passed the Senate will discourage the market for these disturbing videos while addressing free-speech concerns.

While I obviously wish we had accomplished more, and there is plenty of room for improvement in Albany, I do believe some very significant, and in many cases long-delayed, legislation passed this year. I hope we can address the dysfunction in the days ahead and continue to advance a legislative agenda that meets the needs of New Yorkers. The details on all this legislation can be found online at www.nysenate.gov.