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1 NEW YORK STATE SENATE
2
3 Select Committee on Budget and Tax Reform
4
5 Improving Transparency, Forecasting
6 and Flexibility in New York State's Budget Process
7
8 12:30 p.m..
9 December 17, 2009
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11 250 Broadway
12 New York, New York
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2 B E F O R E:
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4 SENATOR LIZ KRUEGER, Chairperson
5 SENATOR BILL PERKINS
6 SENATOR KEVIN PARKER
7
8 SPEAKERS
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10 E.J. McMAHON
11 GEORGE SWEETING
12 RON DEUTSCH
13 CAROL O'CLEIREACAIN
14 ELIZABETH LYMAN
15 DICK DADEY
16 RACHEL FOSS
17 SALLY ROBINSON
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2 P R O C E E D I N G S

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4 SENATOR KRUEGER: My name is Liz
5 Krueger, I'm a State Senator from the
6 26th District and I also chair the
7 Senate Select Committee on Budget and
8 Tax Reform, and we are hoping to be
9 joined by a couple of my colleagues,
10 obviously it's a late in December time
11 of year to have a hearing, but I thought
12 it was particularly important to have
13 this hearing at this time because of the
14 fact that we are walking into, perhaps,
15 one of the most extremely complex and
16 difficult budget years New York State
17 will ever have.

18 I do want to welcome everyone who
19 is here and I want to remind everyone that
20 the New York State Senate now televises
21 all of our hearings and has it on our
22 website so that you can be watching from
23 anywhere in the state, and you can
24 download to watch our hearings at any time
25 in the future, as well as the fact that we

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1 put the testimony of our hearings up on
2 the select committee's websites, so we
3 hope that our new model of technology with
4 the Senate is allowing more and more New
5 Yorkers to participate in what's going on
6 in the state and learning where the
7 legislature is moving now and in the
8 future.

9 The weeks long slog that concluded
10 earlier this month with the legislature's
11 approval of a \$2.8 billion deficit
12 reduction plan if anything made one thing
13 abundantly clear, New York State's fiscal
14 planning process continues to be
15 inefficient, shortsighted and anything but
16 transparent.

17 Although the legislature and former
18 Governor Elliott Spitzer two years ago
19 passed a series of budget reforms intended
20 to improve this process, their impact so
21 far at best have been marginal.

22 Even with slightly improved
23 transparency and revenue forecasting, New
24 York still has a political environment
25 where the Governor and the legislature use

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1 budget negotiations into a costly game of
2 chicken.

3 Too often the public and rank and

4 file elected officials are left guessing
5 what their leaders are doing behind closed
6 doors and who will flinch first.

7 In January 2007 when the
8 legislature and Governor Spitzer announced
9 their agreement on the budget reforms, the
10 Governor called them common sense
11 measures.

12 He said they were an excellent
13 first step towards opening up New York's
14 budget process.

15 These measures required, among
16 other things, quick start budget
17 discussions held each November to achieve
18 revenue forecast consensus and the
19 itemization of member items and plain
20 language fiscal impact statements.

21 As the Citizen's Union report -- as
22 the Citizen's Union report released last
23 month highlighted, the legislature and the
24 executive have stumbled even in taking
25 these steps.

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1 For example, earlier this year no
2 conference committees were reformed to
3 resolve budget bill disputes and the
4 Governor did not submit all budget
5 amendments within the required 21 days
6 after submitting his executive budget.

7 In the Citizen's Union assessment
8 the end result has been a process that
9 remains opaque and rushed.

10 This is not to say the Senate made
11 no progress earlier this year on budget
12 reforms.

13 Along with satisfying the three day
14 review period for final budget documents,
15 the Senate also issued user friendly
16 spreadsheets detailing member items.

17 However, now is not the time to
18 confuse the steps toward budget reform for
19 the entire journey.

20 Albany has managed to operate,
21 albeit dysfunctionally, in this opaque and
22 rushed environment for decades, but the
23 recession's long term impacts on revenues
24 particularly those from Wall Street,
25 threaten to expose the State's budgets

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1 structure and process to debilitating
2 levels of stress.

3 Before we begin to look at
4 prospective budget reforms that can help
5 the State relieve this stress, let's just

6 refew a few points.

7 In the years leading up to the 2007
8 budget reform changes, one of the
9 legislators' key approaches towards budget
10 reform revolved around wresting budget
11 writing powers away from the executive.

12 In 2004, former Senate Majority
13 Leader Joe Bruni and Assembly Speaker Joe
14 Silver introduced legislation proposing to
15 move the start of the fiscal year to May
16 1st.

17 They also proposed to create an
18 independent budget office and to impose a
19 contingency budget based on the previous
20 year's spending if a budget is not passed
21 by the start of the fiscal year.

22 Remember we had 20 years of late
23 budgets in a row.

24 Former Governor George Pataki in
25 November of '04 vetoed the legislation

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1 saying it would incentivize the
2 legislature to delay passage of a fiscal
3 plan further and threaten the State's
4 ability to cover its financial
5 obligations.

6 Around the same time the New York
7 Court of Appeals delivered rulings in two
8 cases involving Governor Pataki, the
9 Assembly and Senate, the court said that
10 while Governor -- while the Governor
11 should not put into appropriation -- into
12 an appropriation bill essentially
13 nonfiscal or non-budgetary legislation,
14 the legislature had little recourse if he
15 did, aside from passing, rejecting or
16 reducing the amount of the appropriation.

17 The ruling did little to halt the
18 process in which the Governor includes far
19 reaching policy initiatives into
20 appropriation bills, a continuing major
21 sticking point in Albany.

22 Despite the outcome of the
23 lawsuits, the legislature in 2005 passed
24 its first on time budget since 1984.

25 At least half the annual budgets

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1 during this 20 year period were over 100
2 days overdue, peaking at 208 days late in
3 2002. That was my first year in the
4 legislature, so I remember it well.

5 Also in 2005 to address the court
6 of appeals' decision, the November ballot
7 featured a proposal to amend the State

8 Constitution.

9 Proposal 1 would have empowered the
10 legislature to draft appropriation bills
11 if it did not act on the Governor's budget
12 bills by the start of the fiscal year.

13 This proposal would have reversed
14 part of the executive budget process that
15 Governorrral Smith won with a
16 Constitutional amendment in 1927 and
17 former Governor Franklin Delano Roosevelt
18 defended two years later in court.

19 The voters of New York State
20 rejected this proposal by an almost 2 to 1
21 ratio, meaning that for all its faults,
22 New Yorkers largely approved of the
23 executive budget process as it now exists.

24 This outcome suggests that budget
25 reforms we pursue should mostly stay

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1 within this framework similar to the 2007
2 measures, but hopefully stronger.

3 Clearly a next step for budget
4 reform is necessary.

5 New York's budget process needs
6 improved transparency, forecasting and
7 flexibility.

8 Can this be achieved as others have
9 proposed through measures such as
10 implementing a multi-year planning
11 process?

12 How about adopting the generally
13 accepted accounting principles, moving the
14 start of the fiscal year back, or creating
15 an independent budget office or a fiscal
16 control board similar to what New York
17 City has in place?

18 These are all good questions and I
19 hope that we will be addressing some of
20 them and additional recommendations as we
21 listen to people who have come here to
22 testify today.

23 But before we get ahead of
24 ourselves, we need to ensure that
25 procedural changes the legislature has

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1 already approved are being properly
2 implemented.

3 So we have convened here this panel
4 of experts, we look to you for ideas on
5 completing this first step, or taking the
6 second step to propose additional changes
7 in our budget process.

8 I want to thank you all for coming
9 to the select committee's public hearing,

10 I look forward to listening to you, and,
11 again, I am looking forward to some of my
12 colleagues joining us within a short
13 period of time.

14 The first person to testify is
15 going to be E.J. McMahon, Director of the
16 Empire Center for New York State Policy.

17 MR. McMAHON: Good afternoon.
18 Thank you, Senator Krueger.

19 I am just putting a stopwatch on
20 just so you don't think I'm reading my
21 phone.

22 Thanks for the opportunity to
23 testify today.

24 New York's 85 year old executive
25 budget law, which is rooted in Article 7

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1 of the Constitution, has stood the test of
2 time in many respects, but some glaring
3 holes in the law have become more and more
4 evident over the past couple of decades as
5 you have noted.

6 As a result the severity of New
7 York's latest fiscal crises has been
8 compounded by a lack budgetary discipline,
9 transparency and accountability.

10 There is also insufficient notice
11 given to long term planning and long term
12 consequences of fiscal decisions.

13 Specifically, I point to the
14 following problems, there are no binding
15 limits on State spending or date, the
16 Governor lacks permanent Constitutional
17 authority to take the steps he deems
18 necessary to maintain a balanced budget
19 during the fiscal year, even in the face
20 of what he deems a cash flow crisis.

21 The legislature is not presented
22 with and does not generate an
23 authoritative updated financial plan at
24 the time it votes on appropriations bills,
25 revenue bills and supporting legislation.

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1 The failure to require such
2 disclosure before legislative action was a
3 significant shortcoming of what was in
4 many respects a disappointing 2007 budget
5 reform law.

6 Last, but not least, the current
7 fiscal calendar is poorly aligned to
8 revenue collection and spending patterns.

9 New York needs a more open,
10 predictable and fiscally disciplined
11 budget process, and here are three steps

12 that could be taken in that direction
13 fairly quickly by statute.

14 Step one, impose a 72 hour rule,
15 that is three days notice, requiring that
16 key information about the budget be
17 publicly available three days in advance
18 of the final vote.

19 This information would include an
20 updated, fully updated multi-year
21 financial plan proposed by the Division of
22 the Budget in consultation with the
23 legislature or perhaps by some other body
24 which I'll get to later in my testimony.

25 And also a joint report in a

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1 uniform format for both houses detailing
2 the fiscal impact of changes to the
3 Governor's proposed appropriation and
4 revenue bills.

5 Step 2 would be to mandate
6 budgetary balance according to generally
7 accepted accounting principles which would
8 disallow much of the timing-related
9 gimmickry that can occur under our current
10 cash basis budgetary accounting.

11 Three, shift the start date of the
12 fiscal year from April 1 to July 1
13 matching the norm for most other states,
14 budget makers would have additional vital
15 information on the April personal income
16 tax settlement, among other things, and
17 would allow more time for deliberations
18 and negotiations.

19 Other essential reforms that I
20 would suggest are necessary ultimately
21 require Constitutional amendments, these
22 would include the following, first impose
23 a binding and air-tight cap on State
24 spending growth.

25 Second, require voter approval of

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1 all State debt, with important exceptions
2 for A, a small amount of State facility
3 upgrade debt, B, borrowing supported by
4 specific project revenues, such as tolls,
5 rents and transit fares.

6 In contrast the current law voters
7 could be asked to approve more than one
8 bond proposition in a single referendum.

9 Third step, shift to a two year
10 budgeting cycle that's a bi-annum with the
11 main budget adoption occurring in
12 nonelection, that is odd numbered years.

13 The draft resolution prepared by

14 the Senate would do the job, except I
15 think that it fails to specify that the
16 cycle should begin in an odd numbered
17 year.

18 Fourth, mandate the State budget be
19 GAAP balanced at the time of its
20 presentation and adoption and that it be
21 kept in balance on a quarterly basis
22 throughout the bi-annum.

23 Fifth, last but not least, under
24 the circumstances, empower the Governor
25 under limited circumstances to make

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1 uniform reductions in appropriations with
2 exceptions for services deemed essential
3 to health and safety in the event the
4 legislature first refuses to act on a plan
5 for completely closing deficits projected
6 by the Budget Division during a fiscal
7 year.

8 Now, Constitutional amendments, of
9 course, need voter approval and can only
10 be placed on the ballot after approval by
11 two separately elected legislators, thus
12 the earliest these reforms could go to the
13 voters, assuming legislative approval next
14 year for the first time would be November
15 2011, but some of these changes need not
16 wait for an amendment to be put virtually
17 into effect.

18 For example, the next elected
19 Governor could and should effectively
20 inaugurate a two year budget in 2011 by
21 presenting a complete set of two year
22 appropriations bills along with a
23 financial plan reflecting their amounts on
24 an annual basis.

25 As you know, Governor Patterson has

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1 as asserted statutory authority to amend
2 local aid payments based on the so-called
3 certification provision which has been
4 inserted in appropriation bills for the
5 past 14 years.

6 Now in my opinion he has a
7 compelling argument, but no matter how the
8 courts decide on the challenge that's now
9 been filed to this action, in the absence
10 of a Constitutional provision giving the
11 Governor the power to enforce deficit
12 reductions by the legislature, needed
13 discipline could still be instilled into
14 the process by amending our standard State
15 bond covenants to the effect that failure

16 to correct projected budget imbalances or
17 to retain budget balance on a quarterly
18 basis would, in effect, constitute a
19 default event which is sort of a doomsday
20 scenario that I think would be powerful
21 attention grabber for all concerned.

22 A final comment relating to the
23 flaw in the 2007 budget reform bill that I
24 mentioned earlier, that bill focused
25 primarily on increasing the amount of

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1 budget and financial plan information
2 disclosed to the public and the
3 legislature by the executive.

4 But much of that information in
5 question was already available on an
6 informal basis or through custom, and in
7 any case, the executive portion of the
8 budget process in my experience has,
9 especially over the last 14 years, been
10 the most transparent and predictable
11 element of the budget process.

12 Having even more data required from
13 EOD is certainly not a bad thing, I
14 personally found it useful, but a greater
15 problem, I believe, is a longstanding lack
16 of discipline and openness on the part of
17 both houses of the legislature, even when
18 legislative conference committees were
19 working at their supposed best in recent
20 years, the process was secretive and
21 unpredictable at key junctures.

22 The Senate and the Assembly are not
23 only unaccustomed to sharing information on
24 key budget issues with the public, they
25 are not accustomed to sharing key

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1 information with their own members, and
2 this needs to be change.

3 Changing the fiscal year which will
4 allow more time for budget consideration
5 and negotiations should remove one excuse
6 for this lack of transparency, there is a
7 semi-legitimate excuse to the things get
8 pretty rushed when you are looking at an
9 April 1 deadline, and alleged reform would
10 be to improve the legislature's own staff
11 analysis and staff approach to the budget.

12 This can be accomplished by
13 replacing the current system of separate
14 partisan fiscal committee staffs in each
15 house with a professional and nonpartisan
16 legislative budget office modeled on the
17 Congressional budget office in Washington

18 to serve as an authoritative economic
19 forecaster and budgetary score keeper.
20 Now, I would differentiate between
21 this proposal and those calling for an
22 independent budget office.
23 While the IBO model in many
24 respects has been a useful and effective
25 one for the City, there are differences

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1 between the City and the State that I
2 think make it not an appropriate model for
3 Albany.

4 I think a new professional budget
5 office will not be effective, indeed will
6 be a waste of money, unless the Assembly
7 and Senate embrace it institutionally as
8 their own.

9 As Congress has embraced the CBO,
10 which, by the way, was created by Congress
11 after an impoundment crisis that pitted
12 them against the President.

13 I will gladly discuss these rules
14 and/or implications for improving the
15 budget process during any question
16 periods.

17 Thank you very much.

18 SENATOR KRUEGER: Thank you very
19 much, and while you were testifying we
20 were joined by my colleague Senator Bill
21 Perkins; welcome.

22 Did you have any opening
23 statement and/or questions for this
24 testifier?

25 Actually, I do have several

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1 questions, so starting with the closing
2 comments you made working backwards, so
3 the independent budget office that New
4 York City has you said the model works
5 for New York City but it might not work
6 for Albany, I assume that is because
7 there is one entity, a City Council,
8 one mayor, not a bicameral legislature,
9 but then you said but then the
10 Congressional budget office does work.

11 So what I have thought about,
12 having an independent budget office for
13 New York State and, in fact, I have
14 carried a bill to do that, I had the
15 allusion that we could actually get one
16 to work like the CBO works in
17 Washington.

18 Why couldn't we?

19 MR. McMAHON: Well, I think the

20 name, among other things, matters.
21 I think you do have to explicitly
22 provide that you are not going to continue
23 to have four separate fiscal staffs doing
24 analysis, grading, forecasting and scoring
25 the budget.

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1 The key with CBO, let's look at
2 the recent health reform debate in
3 Washington to show how authoritative
4 it's been become, and this is different
5 from the IBO in New York, which I
6 respect very much and has done a lot of
7 valuable work, but there is rarely --
8 I'm not sure any case -- there may be
9 rare cases in New York where an
10 important policy or legislative
11 proposal is being addressed or debated
12 and everybody stops and says we have
13 got to wait to see the scoring by the
14 IBO.

15 That's just not the case.

16 That's what you want to have as
17 the case. Ideally if you look in
18 Washington, despite the very great
19 importance of the health reform issue
20 to all concerned, very high stakes, in
21 fact that debate has ground to a halt
22 while everybody waits with baited
23 breath to see because the CBO is
24 credible, authoritative and honest, how
25 will the CBO score this?

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1 That is what value or fiscal
2 impact will they put on this proposal?
3 Now, that's an exceptional
4 example of what is a good thing about
5 the CBO.

6 There was an interesting
7 presentation given at a Citizens'
8 Budget Commission forum on these topics
9 a few years ago, I think you may have
10 attended it, Senator, by Doug Holtz
11 Egans who now is affiliated with the
12 Manhattan Institute who had been a CBO
13 director for several years, earlier in
14 the decade he talked about the history
15 of the CBO and he talked about the
16 vital importance of the fact that the
17 CBO was created as Congress' own, that
18 they had a certain point, this is the
19 Congressional budget office, this is
20 how we exercise our authority and our
21 power over this budget.

22 We have an important role, we
23 have asserted that role and actually in
24 Washington at that time over and above
25 President Nixon's role, no, we are in

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1 charge, there was a budget reform law,
2 we need an entity to do this in a way
3 that's credible.

4 They created CBO and CBO has
5 worked pretty well, even though some
6 partisan feelings run pretty strong,
7 but it works pretty well.

8 I think that you need -- your
9 proposal I think needs to be revised in
10 some respects to make it clear that
11 this is -- what you are proposing here
12 is the legislative budget office,
13 professional, nonpartisan, appointed in
14 a way similar to the CBO, but it's not
15 some independent party that's out there
16 to answer questions from the likes of
17 me, to "inform the public."

18 It's about -- it would act
19 transparently, if you look at the CBO's
20 work, their work is shared with the
21 public immediately, it's very easy to
22 find when the CBO releases a report, we
23 all get it, they put out their own
24 independent report as IBO on budget
25 cutting options and the economic

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1 forecast.

2 So as a matter of course they
3 communicate very well, they are
4 transparent in revealing what their
5 findings are, but the fact is they
6 would be your staff, so in other words
7 if you have a dispute going on over the
8 scoring of a bill with the Governor,
9 you're talking about, you're differing
10 on your economic projections with a lot
11 of mutual finger pointing really about
12 what are the bonuses going to be, how,
13 when they will they come in, how will
14 it affect cash flow.

15 Well, there are four different
16 entities doing that kind of forecast
17 for the legislature and I think that it
18 needs to be the legislature's budget
19 office and, in fact, that word
20 independent, which is so attractive to
21 us would be political reformers in many
22 other ways is not actually the word you
23 want at the front of it, if ideally you

24 set it up to run the right way.
25 SENATOR KRUEGER: Okay, thank
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1 you. As you jumped me right into what
2 my second question was going to be, you
3 are proposing GAAP budgeting, which I
4 have always applauded and agree with you
5 and you said in your testimony balance
6 at the time of its presentation and
7 adoption that kept in balance on a
8 quarterly basis throughout the bi-annum
9 assuming a two year budget, quarterly
10 updates.

11 Our revenue doesn't come in
12 evenly on the quarterly clock, and so,
13 in fact, are you actually suggesting
14 that every quarter you would have to
15 adjust your budget if your revenues
16 were down?

17 As we know, December is an
18 exceptionally low revenue month for the
19 State of New York, and January, please,
20 is a better revenue month for the State
21 of New York.

22 MR. McMAHON: No, I would not say
23 that, I would say you would be looking
24 at, and there is a system in the City
25 which I think you have the IBO director
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1 testifying, there is in the City Charter
2 and in the City's fiscal practices there
3 are procedures and provisions in law
4 that deal with the situation in the City
5 when you're in danger of falling into a
6 deficit mode within a year and it would
7 roughly mirror that.

8 By the way, my research on this
9 issue, which I will admit has not been
10 like in a matter of weeks and
11 extraordinary depth, but one thing I'm
12 struck by is the very many situations
13 in which I think in many states and
14 political entities where nobody, where
15 this shoe of empowerment authority or
16 what are you doing when you run short,
17 is not addressed simply because no one
18 ever anticipated a situation where
19 somebody wouldn't do something about
20 the cash running out.

21 It's thought of as something
22 that's so obviously required as action
23 that there is not necessarily
24 provisions for dealing with it.

25 And the more you think about how

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1 such a provision would be written, the
2 harder it is to try to anticipate every
3 single situation and preserve the
4 proper balance of power.

5 So I don't suggest it's an easy
6 thing, but something has to be done at
7 the end of the day, somebody has to be
8 the person who says look, there is a
9 significant risk, in my view, that cash
10 will not last until December 31st, it
11 will last until December 27th and we
12 may have a problem here and I feel I
13 need to do this.

14 I think it's a complicated area
15 that could be the subject of a hearing
16 on its own, but I think that control, a
17 control mechanism is needed and as I
18 said, an alternative that I think would
19 drive everybody to making sure it just
20 never even got close, which effectively
21 is what makes the City serious about
22 these things, the City worries about
23 control, several different Comptrollers
24 or reComptrollers, it worries about the
25 bond market, it worries about violating

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1 its own charter and it has still the
2 memory of being in a position of
3 virtual default.

4 I think something involving the
5 word default perhaps will be enough to
6 bring us to the point where nobody even
7 gets close to it, where one way or
8 another there is a resolution between
9 the Governor and the legislature
10 because it simply can't get that close.

11 SENATOR KRUEGER: Thank you.

12 MR. McMAHON: You are welcome.

13 SENATOR KRUEGER: Senator Perkins

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15 SENATOR PERKINS: Thank you very
16 much.

17 Am I on? I guess so.

18 Thank you so much for the testimony
19 and the work that you do.

20 You know, I can't agree with you
21 more about some of the observations you
22 have made about the shortcomings of the
23 process that we go through.

24 As you know, I served for a
25 while in the City Council and had the

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1 opportunity to experience the IBO.

2 While it may not be quite the
3 CBO authority that you point out, I
4 have found it nevertheless to be
5 growing significantly in authority.

6 I know, for instance, just from
7 my own personal experience in terms of
8 the lead paint poisoning legislation
9 that was ultimately passed, there was a
10 lot of yielding to the analysis that
11 the IBO gave to sort of factor in
12 exactly how much it would cost.

13 So I think it has become not
14 exactly what you have in mind, as the
15 CBO is, but I think it's growing to
16 become much more respected in that
17 regard, and I just wanted to point that
18 out.

19 But I do want to say this, there
20 is nothing worse about this process
21 than what you point out in terms of the
22 sharing of information with the
23 members.

24 As the new kid in this process,
25 I find I almost feel as if people are

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1 conspiring against me in terms of
2 information, even as we have -- now I
3 kind of expected that when I was in the
4 minority, so to speak, because the
5 design of the system is such that the
6 majority runs everything, but even in
7 the majority I find that we could do
8 significantly better in providing them
9 a bunch of information and analysis.

10 So I just want to make sure that
11 I let you know you are right on as far
12 as that's concerned, as far as I know
13 that I have experienced it, and I'm
14 sort of a greedy person about this type
15 of -- about this process, so I like to
16 know, and I can tell when I'm not
17 getting what it is I need to know, I
18 don't know if it's purposeful, or if
19 it's just a tradition or the way, but
20 it's not a good way, and I think that
21 individual members have a lot more to
22 contribute and we can do a lot better
23 representation for our constituents and
24 the State if we were better engaged
25 with this information.

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1 I wanted to ask you, though,
2 having said that, where are the places,
3 the States where some of these

4 improvements have been made?

5 There may be a CBO type
6 authority that helps them?

7 MR. McMAHON: There are quite a
8 few states, although I would point out
9 this is an interesting point that I
10 debated whether to put it at the end of
11 my written testimony or I will just
12 point it out in speaking here today,
13 some of the states with good systems and
14 writing, and, in fact, traditions of
15 more orderly processes and sharing of
16 information with members are nonetheless
17 a mess, and so one answer to your
18 question is California.

19 Okay?

20 California has much, not all, of
21 what I've been talking about, and
22 California is, of course, in awful
23 shape and really -- now California --

24 SENATOR KRUEGER: But they knew
25 it early.

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1 MR. McMAHON: They did.
2 California's situation is complicated by
3 a statutory framework that is really,
4 really ugly and messy and much worse
5 than ours in terms of things that are
6 jury rigged into the budget that have
7 made it that have tied their hands in
8 all sorts of ways.

9 But California has it, New
10 Jersey has -- does have some of these
11 things, New Jersey has a central
12 LBO-CBO type organization, I have not
13 examined how effective some of these
14 organizations are, anecdotally some are
15 better than others.

16 I think that in New York, to go
17 over the question, you talked about
18 members and you are spoiled, of course,
19 because you were in the City Council,
20 and as a matter of course you had a --
21 certain basic information was available
22 to you, it was actually a fairly
23 relaxed process even when it was it was
24 technically late in the sense you had
25 everything laid out to you.

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1 I think it's benign that the New
2 York State legislature has never gotten
3 in the habit of doing this.

4 I don't think it's -- it is
5 let's figure out to make this as dense

6 and as impossible as it can be for
7 members.
8 I think the previous generation
9 of members, earlier generations in both
10 houses first of all were more resigned
11 to dealing with things this way.
12 The so-called three men in a
13 room negotiations were actually more
14 routine and clockwork and effective in
15 an era where that was less transparent
16 in general, that has simply carried
17 over.
18 I think a lot of what we are
19 talking about to improve the New York
20 State legislative process is not just a
21 matter of the systems we put in place,
22 because as I have observed in the case
23 of California, that doesn't guarantee
24 good results.

25 It's a matter of habits, of just
0035 developing institutional habits like
1 you have in the City Council, as you
2 know especially once the new Charter
3 was in place, there is certain
4 ingrained habits, dates, everybody
5 knows them, we have to do this now,
6 okay, we will do it, it's Thursday, and
7 that kind of got ingrained in the
8 system.
9

10 That has yet to happen in
11 Albany, there is no if this is
12 Thursday, we must be doing this kind of
13 mind-set, and I think -- and I want to
14 also add that I agree with you very
15 much on the IBO.

16 In my 10 years of experience
17 more closely watching New York City, I
18 have seen the IBO become more effective
19 and more influential with each passing
20 year and the lead paint issue is a good
21 example.

22 But as you also know from having
23 been in the State legislature, there
24 are other differences between our
25 budget process, not just the

0036 bicameralism, but the significantly
1 additional greater authority the
2 legislature has in budgeting matters
3 that I think argue, and the much larger
4 size and diversity of the legislature
5 that I think argue for that system
6 here, but I do agree with what you're
7

8 saying about the IBO and New York City.
9 SENATOR PERKINS: Thank you.
10 It's interesting that you almost
11 said that the model is the City Council.
12 MR. McMAHON: I know, which you
13 probably think is crazy, having seen the
14 bad side of that.
15 SENATOR PERKINS: I wouldn't go
16 that far, I just wanted to appreciate
17 that, in fact, I guess the reform of the
18 Council has made some sense that we
19 might want to look at.
20 MR. McMAHON: I would agree.
21 SENATOR PERKINS: Nothing wrong
22 with looking at that.
23 MR. McMAHON: Yes, I would agree.
24 SENATOR KRUEGER: Any further
25 questions?

0037

1 SENATOR PERKINS: No, thank you.
2 SENATOR KRUEGER: Thank you very
3 much for your testimony and your very
4 good recommendations.
5 See, we have been talking all about
6 the IBO and our next speaker is George
7 Sweeting, the Deputy Director of the
8 Independent Budget Office of New York
9 City.

10 Hi, George.
11 MR. SWEETING: Good afternoon,
12 Chairman Krueger and Senator Perkins.
13 I'm George Sweeting, I'm the deputy
14 Director of the New York City Independent
15 Budget Office, and I would like to thank
16 the committee for the invitation to
17 testify before you on this critically
18 important subject.

19 Despite some recent reform
20 initiatives, New York State is faced
21 with a double conundrum, a budget
22 process that no longer provides the
23 fiscal discipline needed to ensure
24 sustainable budget outcomes, coupled
25 with an enormous multi-year budget gap

0038

1 that will require major readjustments
2 of fiscal priorities to resolve.

3 Hopefully your efforts can help
4 in beginning to address these
5 challenges.

6 While the IBO does not generally
7 make policy recommendations, we have
8 chosion to make an exception for
9 questions of budget process.

10 And therefore I will offer the
11 following suggestions with limited time
12 and a full panel of experts to hear
13 from, I will confine my comments today
14 to two areas, both of which are close
15 to our own home turf, we don't claim to
16 be experts on the State budget process.

17 But they are improving the
18 State's revenue forecasting process,
19 and seeking a State Independent Budget
20 Office.

21 While a State IBO would help in
22 providing impartial information and
23 analysis, an even more critical need is
24 to build more discipline into the
25 budget process.

0039

1 One area is setting revenue
2 estimates. Obviously settling on how
3 much money will be available is
4 fundamental to making a budget.

5 Here there are several ideas to
6 consider, the first is to move the
7 first day of the fiscal year to July
8 1st.

9 Even more important than adding
10 time for the legislature to consider
11 the Governor's executive budget, after
12 all moving the due date for the
13 executive budget earlier would also
14 give them more time, this change would
15 give budget makers additional
16 information about spring tax receipts
17 and therefore a sounder revenue
18 estimate.

19 New York State is heavily
20 dependent on personal income tax
21 revenue, and tax forecasters use the
22 information from final returns that are
23 due on April 15th and taxpayers
24 accompanying initial estimates of
25 liability for the current year to

0040

1 update their forecasts of PIT revenue.

2 Moving the fiscal year date to
3 July 1st, which is the most common date
4 among the other 49 states, would allow
5 New York State's budget makers to
6 incorporate this new information when
7 making their final budget decisions.

8 Such a change would require
9 adjustments in the budgeting process
10 for local school districts.

11 A second suggestion is to

12 strengthen the State's consensus
13 revenue estimating process, the goal is
14 to remove the revenue estimate from the
15 politics of budgeting.

16 One model which is used in New
17 York City is to give the executive sole
18 control over the estimate.

19 A more common alternative is to
20 have the legislature, the executive and
21 perhaps other organizations,
22 independently forecast revenues and
23 then have a process to force a
24 consensus on a single estimate that
25 will be used throughout the budget

0041

1 process.

2 New York City uses a flavor of
3 revenue consensus forecasting, except
4 that we leave out the last step,
5 forcing all parties to use the
6 consensus number.

7 Consensus forecasting was
8 introduced in the 1996 budget reforms
9 which mandated a meeting between the
10 legislative budget committees and the
11 Governor's budget office in early
12 March, followed by a consensus revenue
13 estimate later in March.

14 Unfortunately the 1996 reforms
15 did not include provisions to ensure
16 that the consensus revenue forecast was
17 used.

18 Moreover, in at least some years
19 the consensus revenue report did not
20 actually include a consensus forecast
21 but rather discussions of each of the
22 principals' own forecasts.

23 The 2007 budget reforms made
24 some improvements to this process,
25 first the revenue estimating now gets

0042

1 started in November, through quick
2 start meetings of the legislative
3 fiscal staff with the Governor's budget
4 staff and the Comptroller's office,
5 each office participating in the quick
6 start produces a forecast by early
7 November followed by a meeting open to
8 the public where differences with
9 forecasts are discussed.

10 And on November 15th, the
11 legislature and the Governor's budget
12 office produce a joint report on the
13 findings.

14 At this point in the process it
15 is not required that there would be a
16 consensus, instead the objective is to
17 have the forecasters exchange
18 information about the outlook.

19 The quick start meetings have
20 been held in 2008 and 2009.

21 Also under the 2007 reform the
22 consensus revenue conference that had
23 been held in March was moved up to
24 February and the due date for the final
25 report was accelerated to March 1st in

0043

1 order to provide the budget makers
2 additional time to get the budget
3 completed by the April 1st deadline.

4 If the legislature and the
5 Governor cannot come to a consensus,
6 the 2007 reform requires that the
7 Comptroller issue a revenue estimate by
8 March 5th.

9 However, the law did not provide
10 an effective mechanism to make the
11 Comptroller's estimate binding.

12 While the 1996 and 2007 reforms
13 made some changes to the established
14 process, they did not fundamentally
15 change the revenue estimating dynamic
16 for the State.

17 The three parties still spend
18 much of the time leading up to the
19 adoption fighting over how much money
20 will be available before turning to the
21 spending priorities for the budget.

22 In many other states, the
23 revenue estimate is the product of a
24 much less politicized process.

25 Some states rely on estimates

0044

1 from panels of outside vendors or an
2 New York State IBO where the
3 Comptroller might play that role, other
4 states begin with the forecast from the
5 legislature and the Governor, but
6 settle on a single estimate through a
7 defined process that usually involves
8 other parties and outside experts.

9 Some states use an arbitration
10 process when consensus fails with the
11 arbitrator picking one of the two
12 forecasts submitted by the legislature
13 and the Governor.

14 Such an approach creates an
15 incentive for the estimates to

16 converge.
17 Regardless of the means of
18 settling on a consensus forecast, New
19 York will need to find a way to make it
20 truly binding, something that the 1996
21 and 2000 reforms failed to do.

22 While statutory changes may
23 address some loopholes, the budget
24 making culture presumably plays a large
25 role as well.

0045

1 In New York City it took the
2 1970s fiscal crisis, which brought a
3 combination of mandated change from a
4 higher authority, the State, and the
5 shock of losing access to credit
6 markets, to create a budget making
7 culture that works relatively well.

8 Hopefully the State can find a
9 way to shift its culture without
10 undergoing a similar crisis.

11 Turning to a State IBO, the idea
12 of creating a State Independent Budget
13 Office has regularly surfaced in recent
14 years, although it was not part of the
15 final 2007 budget reform package.

16 With all due modesty, I believe
17 that creating a truly Independent
18 Budget Office for the State would be a
19 helpful step for improving New York's
20 budget environment.

21 Such an office would increase
22 public understanding about the State's
23 fiscal condition by producing reports
24 that are clear and accessible for the
25 lay reader.

0046

1 It would also serve as a
2 nonpartisan source of impartial revenue
3 and expense numbers and policy analysis
4 for those engaged in the budget
5 process.

6 Based on the experience of the
7 City's IBO, I suggest that if you were
8 to recommend such an office for the
9 State, you focus on the first initial
10 in the name if you want it to be
11 effective.

12 The independence of the City's
13 independent -- of the City's IBO
14 depends on two factors, first, the
15 Director is appointed to a fixed four
16 year term by a group that includes all
17 of the elected officials that are our

18 clients.
19 Thus we are not beholden to any
20 single individual or office.
21 Second, our budget is guaranteed
22 in the City Charter as a percentage of
23 the budget for the mayor's budget
24 office, which isolates us from the
25 annual appropriations process.

0047

1 While the structure might need
2 to be tailored to fit the State
3 structure, some similar arrangements
4 would be necessary to ensure that a
5 State IBO has the independence to
6 command credibility for its estimates
7 and analysis.

8 Thank you, and I would be happy
9 to answer any questions.

10 SENATOR KRUEGER: Thank you.

11 Would you like to go first?

12 SENATOR PERKINS: So, what would
13 you suggest are some of the shortcomings
14 of the IBO that would cause us in our
15 efforts to create a similar State-wide
16 effort?

17 MR. SWEETING: I think -- I
18 wouldn't necessarily disagree with what
19 E.J. said before in terms of having a
20 budget office that was effectively a
21 legislative budget office.

22 SENATOR PERKINS: So instead of
23 an IBO would be like an LBO?

24 MR. SWEETING: An LBO.

25 I think it's important that there

0048

1 be a process that the -- for creating a
2 credibly independent selection process for
3 the Director and the staff so that it be
4 seen as something independent from the
5 current legislative committees and current
6 legislative staffs that are working on
7 budget process.

8 I think one of the things that the
9 CBO in Washington does not control the
10 revenue estimate, they do the scoring on
11 the expense items, they don't control the
12 revenue estimate.

13 Now, that's less important since
14 they can run deficits.

15 In the City you absolutely cannot
16 do that, and the State has ways of dealing
17 with it.

18 So I think you might not want to go
19 all the way to a CBO model, because

20 presumably one of the things you want to
21 do in dealing with the problems of the
22 State budget process is to take care of
23 the revenue estimate and get a process in
24 place that really gets a good, workable,
25 reliable number that everyone starts with.

0049

1 SENATOR PERKINS: Two other quick
2 questions.

3 I remember the funding was not
4 as adequate as it could have been.

5 I mean obviously there is never
6 enough, but I vaguely remember, I do
7 remember that the projects had to kind
8 of be delayed to some extent because of
9 this funding.

10 Are there funding issues that
11 you experienced that you would warn us
12 about in terms of if we were to move in
13 the same direction on a State level,
14 because resources, we have to have the
15 staff and the whatnot to do the work
16 and sometimes it delays the product
17 from being available.

18 MR. SWEETING: We have definitely
19 faced questions we have been asked to do
20 that we had to say no, or we can't do
21 them yet, we will get to them, given
22 resource constraints.

23 No matter what number you
24 picked, there ultimately would be some
25 resource constraint you would bump

0050

1 into.

2 SENATOR PERKINS: But did you
3 start off with enough?

4 I know you are going to be fair
5 about this, I just want to be sure, could
6 it have been a little bit better?

7 MR. SWEETING: Yeah, I think it's
8 a little hard to answer that at this
9 point because what we have become has
10 been shaped by the knowing that we
11 were -- we are ten percent of OMB and we
12 are now 12.5 percent with the education
13 responsibility.

14 SENATOR PERKINS: Why did you
15 grow from 10 to 12?

16 MR. SWEETING: We grew from 10 to
17 12.5 just in the last three or four
18 years when the State legislature -- when
19 the school governance extension added to
20 our responsibilities and also gave us an
21 additional 2.5 percent of OMB's budget.

24 State general fund.
25 SENATOR KRUEGER: Right.
0053

1 MR. SWEETING: That it would be
2 useful to have consolidated into your
3 overall budget picture.

4 So I think you would want to
5 make, if you are creating either,
6 either in terms of additional reporting
7 you might mandate that you would want a
8 more consolidated report, and if you
9 are considering where you put your GAAP
10 balanced budget, GAAP balance
11 requirement, whether it be just on the
12 general fund or whether it be on a
13 broader definition, broader basis of
14 governmental funds, I think the
15 broader, the more useful it is, even
16 though it makes the work even more
17 complicated, but I think if you create
18 areas outside if nothing else it
19 invites dodging whatever controls you
20 create by moving out into those areas.

21 SENATOR KRUEGER: It also results
22 in when we think we have finally gotten
23 to a budget each year, then we get into
24 the debates about how much did we
25 increase the budget, what is the budget,
0054

1 well, there is the general fund or there
2 is this or there is that at different
3 rates of growth.

4 So I think you are right, we at the
5 State level definitely don't have our arms
6 around how you both visualize this and
7 explain it to the public or even to other
8 legislators what dollars and cents we are
9 really talking about.

10 The City has no public authority
11 parallel?

12 MR. SWEETING: In terms of --
13 well, there are things that the City has
14 put off budget, for a long time the City
15 carried the Transitional Finance
16 Authority off budget so that the PIT tax
17 revenue that was going to service those
18 bonds, as well as the debt service that
19 was paid out annually did not appear in
20 the City's most comprehensive -- excuse
21 me, most commonly used presentation of
22 the budget.

23 Our office -- actually we always
24 restated the mayor's budget and would
25 produce our own tables, we treated TFA

0055

1 as part of the City budget.

2 And we put that back in along
3 with some of the other prepayment
4 adjustments the City makes each year.

5 And now the City actually has
6 gone, the City has now put TFA back
7 into the budget, and that just happened
8 in the November plan that was released
9 a few weeks ago.

10 SENATOR KRUEGER: And it was
11 voluntarily they decided to do that?

12 MR. SWEETING: Yes.

13 SENATOR KRUEGER: You also talked
14 about the revenue estimates and that
15 there are lots of different ways to do
16 it and that certainly at the State it
17 always ends up being political
18 basketball.

19 In 2007 when we were working
20 towards budget reform some of us did
21 think that it was reasonable to have
22 the Comptroller be the arbiter, so to
23 speak, if we couldn't agree on a
24 revenue estimate to have the
25 Comptroller do so.

0056

1 I'm just trying to compare City
2 and State, does the City Comptroller do
3 revenue estimates?

4 MR. SWEETING: The City
5 Comptroller does, the City Comptroller
6 is required to produce some analyses of
7 the mayor's budget and in the process of
8 doing that, they will generally, at
9 least, comment upon the mayor's revenue
10 forecast.

11 The only party in the City budget
12 structure other than the mayor that's
13 required to do and publish a revenue
14 forecast is the IBO.

15 SENATOR KRUEGER: But the mayor
16 singularly has the power of revenue
17 estimate, is that right?

18 MR. SWEETING: The mayor, when it
19 comes time to set the final budget, the
20 mayor tells the Council what the revenue
21 will be from all of the taxes other than
22 the property tax and the City Council
23 actually has the right to set the
24 property tax at whatever level it wants
25 in order to bring the budget into

0057

1 balance, and that if the Council wanted

2 to, that would be a lever for the
3 Council to change budget priorities,
4 because it could decide we are willing
5 to raise the property tax in order to
6 fund additional things that the mayor is
7 not funding.

8 The practice has been for the
9 counsel basically to accept a flat --
10 accept an overall average property tax
11 rate that doesn't change year to year,
12 so effectively they have ceded that
13 leverage that they might have had.

14 SENATOR KRUEGER: So the City
15 model then is basically to have one
16 person, the mayor, determine the
17 projections.

18 Based on your length of stay at the
19 IBO, how good is his or her -- I can't say
20 her average, because we haven't had any
21 woman mayor, how good are the averages
22 of --

23 MR. SWEETING: You have had women
24 heads of OMB.

25 SENATOR KRUEGER: That's correct.

0058

1 MR. SWEETING: You can say it
2 there.

3 I think their numbers are pretty
4 good. We tend to differ from them.

5 There is no consistent pattern,
6 we are often above them, but not
7 always, sometimes we are, I believe
8 right now we are slightly below them
9 on -- we certainly were last spring, we
10 were below them.

11 SENATOR KRUEGER: My reason for
12 asking is because the State has a
13 politicized process and the City has by
14 definition a non-politicized process, so
15 I was just wondering over time does a
16 politicized process get you a better or
17 worse outcome.

18 MR. SWEETING: Right, I think
19 overall the last time we looked, anyway,
20 and I'm sure different people might
21 score it differently, we concluded that
22 our estimates were slightly better than
23 OMBs, but no office has done -- none of
24 us have been shining stars in terms of
25 predicting, particularly the explosion

0059

1 of revenue from roughly 2004 through
2 2007.

3 We all missed on that.

4 We missed a little less, but --
5 SENATOR KRUEGER: Thank you very
6 much for your testimony today, I
7 appreciate it.

8 Our next testifier is Ron
9 Deutsch the Executive Director of New
10 Yorkers for Fiscal Fairness.

11 MR. DEUTSCH: Thank you, Senator
12 Krueger, for holding this hearing today
13 in New York City and getting me out of
14 the Capitol, so I would like to call it
15 two square blocks surrounded by reality.

16 When I was first asked to give
17 testimony here today on ways to improve
18 and/or reform the budget process I gave
19 serious thought to only submitting my
20 testimony as two words, which would be
21 have one, because I think it's hard to
22 call something a process that changes
23 from year to year and really to a great
24 degree is at a whim of the leadership
25 and really does -- from year to year we

0060

1 don't really know what type of process
2 we are going to have.

3 So I think with that said, what
4 I would like to do is outline a few
5 ways that I think the process could be
6 improved, and I think one of the key
7 things that needs to be improved is
8 that rank and file legislators
9 themselves need to be included in this
10 process.

11 And I think to a great degree
12 rank and file legislators have been
13 largely excluded from this process, and
14 it always disturbs me to think that
15 when warm budget bills are put on desks
16 you are voting on them in three hours
17 or so with a message of necessity
18 attached and have been briefed by the
19 leadership on what's in that budget
20 bill and what the highlights are.

21 But really, as you know, the
22 devil is always in the details, and
23 there are an awful lot of details in
24 the 1,000 plus pages of budget bills.

25 So what I want to do, I started

0061

1 off my testimony by talking about the
2 2007 reforms, clearly we have a long
3 way to go before we get to successfully
4 implementing many of those reforms, but
5 one of the things I want to start off

6 in terms of my testimony is the use of
7 conference committees, because I think
8 that is essential.

9 And clearly the use of
10 conference committees has been minimal
11 since the 2007 reforms have been put in
12 place, and I think that in the earlier
13 part of the decade, much better use was
14 made of those conference committees, at
15 least they were used.

16 I would recommend that
17 conference committee members be
18 appointed at the beginning of the
19 legislative satisfaction.

20 This will provide time for
21 legislators to become better acquainted
22 with the issues that they are going to
23 be working on and that they are going
24 to have to deal with in their budget
25 conference subcommittees.

0062

1 So also each budget conference
2 subcommittee should be charged with
3 ironing out all the differences between
4 Assembly appropriations bills and
5 language bills in their jurisdictional
6 areas.

7 The budget conference, some
8 committee members should also be
9 providing the public and its members
10 with clear side by side comparisons of
11 the differences between the Senate and
12 the Assembly appropriations bills and
13 language bills so that everybody had as
14 a clear understanding what the
15 differences are and what needs to be
16 done to resolve those issues.

17 I have watched these committees
18 work in the past and many critics have
19 said, and appropriately so, to a
20 certain degree, that much of this is
21 window addressing.

22 And by that, what I'm saying
23 basically is the fact that I often
24 watch the economic development budget
25 conference committee and they were

0063

1 assigned these table targets from the
2 "mothership" which was the leadership
3 conference committee, so each budget
4 conference subcommittee would receive a
5 table target, so economic development
6 received, I think, \$30 million out of
7 how many billions do we in the name of

8 economic development?

9 So wouldn't it make more sense
10 to kind of mirror the Congressional
11 process here and start using conference
12 committees the way that they do, where
13 they take their bills, they look at the
14 differences between the bills, and the
15 bills encompass all the spending within
16 that jurisdictional area.

17 So I'm sure that certainly
18 within the economic development realm
19 that there is a lot of money being used
20 for things that maybe it shouldn't be
21 used for, or in a time when we have
22 limited State resources and we really
23 need to set priorities, that priorities
24 can be set.

25 And certain programs because

0064

1 just because they have been there for a
2 long time may or may not be used, I
3 look at things like the Jobs Now
4 program and certain programs like that
5 and think that yeah, it's been around
6 for a long time, but that doesn't mean
7 it's effective and we need to start
8 rethinking the way we use our limited
9 resources.

10 So towards the end I also think
11 it's really one of the only ways to
12 shed some sunshine on that process and
13 show the public how that the sausage
14 making process really works.

15 I also think that while the
16 Constitution requires the Governor to
17 submit with his executive budget one or
18 more bills containing the
19 appropriations recommended in the
20 executive budget, that what he does is
21 basically package these into four
22 different bills, each governing broad
23 functional area of executive branch
24 operations and the two smaller bills
25 covering the legislative and judiciary.

0065

1 These groupings have no
2 resemblance to what we should be doing
3 in terms of the conference committee.

4 So in a sense wouldn't it make
5 more sense for the Governor to be
6 submitting appropriations bills that
7 would then mirror what conference
8 committee jurisdictional areas would
9 be, that to me would be a better way to

10 kind of submit the executive budget in
11 the sense that it would deal with those
12 specific issue areas.

13 Also the legislative hearing
14 process is another one of those
15 processes that has always kind of stuck
16 in my craw, the fiscal committees hold
17 these joint hearings, budget hearings.

18 Inevitably they include very
19 long presentations from an agency head,
20 then rather lengthy questioning of that
21 agency head by members of the
22 legislature, and then oftentimes half
23 the panel of legislators leaves the
24 room and the rest of us, the "special
25 interests," I guess that exist in

0066

1 Albany, or independent operators, get
2 to give our take on how the budget is
3 impacting various constituency groups
4 across the State.

5 But unfortunately we are kind of
6 resorted to having a couple of minutes
7 at the end to make some very valid and
8 critical points.

9 So I think that that process
10 needs to be changed, and how would I
11 change that?

12 Well, I would recommend that the
13 Senate and Assembly fiscal committees
14 hold sort of hearings on the big
15 picture, and what I mean by that, it
16 would cover overall revenue and
17 spending levels and forecast economic
18 conditions, and other issues dealing
19 with the overall financial plan.

20 Then basically the budget
21 subcommittees after they have been
22 created in each house and having again
23 their jurisdictions corresponding to
24 the way I would like to see the
25 executive budget submitted with those

0067

1 appropriation bills corresponding
2 to those jurisdictions, I would like to
3 see the budget conference subcommittees
4 hold hearings on those particular
5 issues, because those legislators would
6 then have the ability to determine
7 what's important and what's not, what
8 the priorities are in those functional
9 areas and would have greater control
10 over how that money is spent.

11 So that I think would be a

12 better way and wouldn't be as devilized
13 as the current process is and there
14 would be a better division of labor.

15 Moving to late budgets and/or
16 contingency budgets, I think one of the
17 things that we had pushed and many of
18 these reforms that I'm talking about we
19 were pushing in the mid '90s and early
20 2000s, so this is really nothing new,
21 but unfortunately still has yet to be
22 put in place.

23 So one of the things with late
24 budgets and reforming budgets and/or
25 forming budgets, the legislature should

0068

1 include for each major program within
2 each agency an estimate for the amount
3 necessary to maintain current services,
4 this would be the current services
5 budget.

6 Should also contain actual
7 expenditures for each of the previous
8 three years and also information on
9 work loads, outputs and outcomes.

10 So a current services budget
11 which should be released with the
12 executive budget could be certified by
13 the Comptroller to determine its
14 accuracy within 30 days of the release
15 of the executive budget, and then the
16 Assembly and Senate providing they put
17 together resolutions and/or
18 appropriations bills outlining their
19 positions on how State dollars should
20 be spent, should pass a current
21 services budget with their budget
22 resolutions and then that day, April 1
23 comes, we don't have to do kind of the
24 run around where we do emergency
25 appropriations bills to keep government

0069

1 running, rather we would move to the
2 current services budget that we know
3 would maintain the current level of
4 services that are being provided
5 throughout the State.

6 So that's another potential
7 change in the way we currently operate.

8 Also I would say that I would
9 like to see an Independent Budget
10 Office in New York State.

11 I know that we have heard some
12 pros and cons on doing that, but I do
13 think that there need to be this

14 independent nonpartisan office and
15 would it have that instant credibility
16 that the CBO has or the New York City
17 IBO has?

18 It wouldn't, but I think the
19 hope would be over time it would gain
20 that credibility and would be seen as a
21 real, credible, nonpartisan entity that
22 can provide credible analysis and
23 forecasts and expenditure and revenue
24 projections.

25 And I think that right now the

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1 current process between DOB, the Senate
2 Finance Committee, the Assembly Ways
3 and Means Committee, the Comptroller, I
4 think it's mired in politics to a
5 degree, and I think a nonpartisan
6 budget office would just simply make
7 more sense.

8 Also, quickly to finish up, I
9 know I don't have much time, but moving
10 the start of the fiscal year I think to
11 May 1 also makes sense for reasons that
12 have already been articulated,
13 especially in terms of being able to
14 get a better sense of the actual
15 revenues that are coming into the State
16 makes a good deal of sense.

17 As long as many of the
18 intermediate steps I have identified
19 are put into place and work is not
20 simply put off to a future of last
21 minute.

22 Also member item disclosure. I
23 think, again, as the Citizens' Union
24 pointed out in their report card, we
25 made some strides, I think the Senate

0071

1 did a good job submitting it in a
2 searchable database type of format,
3 that made a lot of sense, but again
4 when it comes to member items, it's one
5 person's pork is another person's
6 program, and I have gone both ways, I
7 have certainly been a critic of the
8 member item process, but I also
9 understand that many of the programs
10 and services that I fight for on a
11 daily basis would not get funded if it
12 were not for member items.

13 But I think in reality these
14 programs and services deserve to be
15 part and parcel of the executive budget

16 proposal, and to be included in those
17 proposals, especially longstanding
18 programs that year after year get
19 included as member items, whether it be
20 by the Senate Assembly majority or the
21 Senate majority because those are
22 programs they know work and are
23 supportive of, but yet somehow get
24 excluded from the executive budget
25 proposal.

0072

1 So I think that yes, one
2 person's pork is another person's
3 program and should we be funding Boy
4 Scott troops, Girl Scout troops, little
5 leagues?

6 One of my personal favorites was
7 always the Parrot Rescue Program, which
8 there is a constituency out there for
9 parrots, apparently, I haven't seen
10 their lobbyists around the State house.

11 The other problem I see with
12 member items is they are certainly
13 controlled by the majority in both
14 houses without question.

15 And I think that, in effect,
16 what they do become is kind of this
17 incumbent re-election fund and when you
18 have these tight races in marginal
19 areas, you certainly see that member
20 getting a lot more in member items to
21 kind of bolster his standing in that
22 community and make sure that people
23 know that that Senator can bring home
24 the bacon.

25 To me that's not a good use of

0073

1 State dollars. While these programs
2 are certainly worthwhile and deserving,
3 I think we need to re-evaluate the
4 process by which we allocate those
5 funds.

6 So I will stop there.

7 SENATOR KRUEGER: Thank you very
8 much.

9 While Bill Perkins gets himself
10 situated and reads your testimony, I
11 will ask a couple of questions.

12 So this current services budget
13 proposal, how is that different than
14 what the legislature did each year for
15 20 years where a contingency budget was
16 put into effect which was current
17 service spending?

18 MR. DEUTSCH: Right, generally
19 passed in a piecemeal fashion through
20 appropriations bills, this would make
21 sure there is a perfect continuum that
22 if for some reason you can't agree on a
23 budget by April 1st, that no one member
24 could potentially hold up the
25 appropriations to continue State

0074

1 government from running.

2 So I think if you pass a current
3 services budget along with a -- well, it's
4 submitted with the executive budget and
5 passed by the Senate and Assembly when
6 they adopt their resolutions, that that
7 would ensure a continuity of services
8 without any kind of disruption, not that
9 there has been any type of tremendous
10 disruption in services when there are late
11 budgets.

12 SENATOR KRUEGER: I would
13 actually disagree, we have seen school
14 boards having to go and borrow money and
15 not be sure what their budget will be
16 for hiring for September.

17 MR. DEUTSCH: That's true.

18 SENATOR KRUEGER: We have seen
19 not for profits not know whether or not
20 they are going to continue to receive
21 contracts through the State and have the
22 difficult problem of knowing whether or
23 not they have to lay people off or
24 continue to pay people on the hope and
25 prayer that later on the State will

0075

1 reimburse them.

2 That's why I was particularly
3 interested in that proposal.

4 Is the assumption that the current
5 services budget would continue until such
6 time as there was an actual State budget?

7 MR. DEUTSCH: Yes.

8 SENATOR KRUEGER: Now, in years
9 where there is growth in budget under
10 the historical reality that budgets only
11 go up, not go down, you could do this.

12 What would happen if you were
13 facing a year, say, like 2010-11 where
14 there is an assumption that we may not
15 have any growth in the budget, in fact
16 just the opposite, what would a continuing
17 services budget model do to us in that
18 situation?

19 MR. DEUTSCH: I think it would

20 continue the operations and the current
21 level of services until the legislature
22 could finish their deliberations and
23 determine what their priorities, in
24 fact, are.

25 So if priorities do change, then

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1 obviously funding adjustments would be
2 made and perhaps there would be a
3 reduction in the current level of
4 services provided to any particular
5 program.

6 But the legislature would be
7 able to make that decision.

8 SENATOR KRUEGER: You recommended
9 going to a May 1st budget, I think
10 previously we heard proposals of moving
11 to a July 1st budget.

12 We are being joined by Senator
13 Kevin Parker.

14 Hi, Senator.

15 SENATOR PARKER: Hello.

16 SENATOR KRUEGER: I think most
17 people agree April 1 to be too early,
18 why May 1 versus June 1 or July 1.

19 MR. DEUTSCH: I think May 1st
20 because I would like to see -- I think
21 it can be done by May 1st, an additional
22 30 days I think would provide more time,
23 but also give us an accurate picture of
24 the revenues that the State has to spend
25 for the coming year.

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1 So I think that's why I would
2 choose May 1st.

3 But I also think we have to be
4 mindful that there is other business
5 that the State legislature has to
6 conduct and also needs some time given
7 the fact that it would have then about
8 two months to complete any and all
9 other business not necessarily related
10 to the State budget.

11 SENATOR KRUEGER: Going back to
12 your sort of tie in sort of what's wrong
13 with the conference committees or could
14 be right with conference committees
15 versus not having them, we didn't
16 actually have them last year, when I
17 observed them in the few years before,
18 and even though I was a legislator I
19 actually thought it was not particularly
20 good theater as opposed to actual
21 substantive analysis of the budget.

22 So I find it very interesting
23 that you are proposing a conference
24 committee would actually have the
25 entire budget in the context of the

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1 topic of the committee to be discussed
2 in evaluating and negotiating, that
3 certainly seems like a far more logical
4 assignment for the conference
5 committees.

6 Is it just tradition that
7 conference committees are divvied up in
8 certain topic areas while the
9 Governor's appropriations bills are
10 broken up in another way?

11 Is there, do we know, is there
12 any mandate that the Governor submit
13 the budget in the format he does?

14 MR. DEUTSCH: No, I don't think
15 the Governor has to, it's just been kind
16 of a tradition. I don't know when it
17 first started occurring, but it
18 certainly, as long as I've been around,
19 that's the way it's been happening and
20 I've been observing this for about 16
21 years now, so I think if there was
22 agreement between the executive and the
23 legislative branch that we are going to
24 have conference committees, these are
25 the jurisdictional areas of the

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1 conference committees and that the
2 Governor will then submit his executive
3 budget proposal and the attached
4 appropriations bills to conform to those
5 jurisdictions, I think it would go a
6 long way to improve the process and
7 certainly be more inclusive and
8 informative and give the legislature
9 certainly a broader and more substantive
10 role in the process.

11 SENATOR KRUEGER: If you couldn't
12 technically bring the mountain to
13 Mohammed, is that good generally?

14 I don't know. If the Governor
15 wasn't prepared to change the model of how
16 he submitted his budget and his
17 appropriation bills, could you envision
18 your conference committee model working
19 where there were fewer conference
20 committees but they, in fact, matched with
21 the historical existing appropriations
22 breakout?

23 Do you think that would work?

24 MR. DEUTSCH: I think that could
25 work, I mean it wouldn't be -- in my
0080
1 opinion it wouldn't be as appropriate as
2 what I've already outlined, but I think
3 it's certainly a step forward and I
4 would support anything that helps to
5 include the legislators more in the
6 process.
7 SENATOR KRUEGER: Thank you.
8 Bill, you had to be out when Ron
9 was testifying, do you have any
10 specific questions?
11 SENATOR PERKINS: Just two quick
12 ones I just want to get.
13 What is fiscal fairness?
14 MR. DEUTSCH: It's in the eye of
15 the beholder, I believe.
16 No, you mean my organization?
17 SENATOR PERKINS: Well, you use
18 it in your title, so I just thought that
19 you must have given it some thought that
20 maybe was worthy of sharing.
21 MR. DEUTSCH: I think fairness is
22 one of those terms that's in the eye of
23 the beholder.
24 What I deem fiscally fair I don't
25 think E.J. McMahon would deem fiscally
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1 fair.
2 SENATOR PERKINS: What would you
3 deem fiscally fair?
4 MR. DEUTSCH: I would deem
5 fiscally fair --
6 SENATOR PERKINS: Because that's
7 what this whole thing is about, to some
8 extent.
9 MR. DEUTSCH: Well, in terms of
10 the budget process?
11 SENATOR PERKINS: The whole
12 reform. We want to be fair, that's at
13 least one of the values we want.
14 MR. DEUTSCH: I would say a tax
15 system and system of government whereby
16 people pay based on their income levels,
17 and if you are one of the lucky people
18 to be in the top 1 percent, 5 percent, I
19 believe that taxes should be based on
20 your ability to pay them and that, in
21 fact, whether we are talking about the
22 property tax, the income tax, sales tax,
23 we need to look at this in a holistic
24 fashion and find out who's paying these
25 taxes, who's carrying the most burden

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1 and is it, in fact a fair system.
2 If the burden false
3 disproportionately on those with the least
4 ability to pay, then it's not a fair
5 system, I would suggest.

6 SENATOR PERKINS: Okay, secondly
7 you mentioned something about the
8 problem with member items is not
9 necessarily disclosure, but rather the
10 fact that they exist at all.

11 MR. DEUTSCH: Yes.

12 SENATOR PERKINS: What do you
13 mean by that?

14 MR. DEUTSCH: My point to that,
15 which I was trying --

16 SENATOR PERKINS: I don't
17 necessarily agree, I just want to get a
18 sense of what you find to be a problem.

19 MR. DEUTSCH: What I find to be
20 the problem is that member item funding,
21 for instance, goes to many, many
22 worthwhile programs and services that
23 are essential, and these programs and
24 services should be part and parcel of
25 the executive budget proposal, and

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1 should not be doled out in a piecemeal
2 fashion where organizations can't rely
3 from year to year on how much they are
4 going to get. It's a constant struggle
5 for them to try and obtain member items.

6 If a program and service is that
7 vital and important it should be
8 included in the overall budget.

9 So, I'm not saying that I don't
10 think member item funding going to
11 these programs is not important, I
12 think it is important, and I think it's
13 the life line that the Assembly and/or
14 the Senate and members like yourself
15 provide to many of these programs
16 because they are not part of the
17 executive budget proposal.

18 And I think when we had -- for
19 instance, when Governor Pataki was in
20 office he would try and exclude all
21 sorts of different programs from the
22 executive budget proposal because
23 philosophically he was opposed to them,
24 yet the legislature saw the value in
25 them so included them in the budget in

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1 the form of member items.

2 But, in this time of fiscal
3 austerity, where we really have to
4 prioritize how funding should be spent,
5 I don't necessarily think that
6 providing money to Boy Scout troops or
7 Girl Scout troops or little leagues, or
8 one of the examples I put in here was
9 parrot rescue programs, I don't
10 necessarily think that those are the
11 types of things that we need to be
12 funding at this point in time.

13 And I would suggest that since
14 member items are controlled by majority
15 members of both houses to a very great
16 degree, that they are, in fact, a kind
17 of public financing of election
18 campaigns for incumbents.

19 SENATOR PERKINS: So like what
20 about the educational programs, like for
21 like after school, tutorial things of
22 that nature?

23 MR. DEUTSCH: I think those
24 should be included in the budget.

25 I think you as a legislator,

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1 especially if you adopt a conference
2 committee process, can figure out what the
3 priorities should be and what should and
4 shouldn't be included in the budget.

5 SENATOR PERKINS: So your point
6 is just put it straight ahead in the
7 budget without necessarily a member
8 having the opportunity to have some
9 discretion as to where that money should
10 go.

11 MR. DEUTSCH: I think members
12 would have discretion if there was more
13 of a conference committee process and
14 members were more included in the budget
15 process itself.

16 SENATOR PERKINS: I agree.

17 Thank you.

18 MR. DEUTSCH: And I think my
19 concern always is so many of these
20 programs, I watch them fight year after
21 year for funding that is critical.

22 SENATOR PERKINS: I don't
23 necessarily agree about that solution,
24 per se, but when it comes to the
25 members' participation, I think that

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1 that is something that I would applaud
2 100 percent as far as I'm concerned.

3 But we need to figure out how to do

4 that.

5 SENATOR KRUEGER: Sorry, do you
6 have anything else?

7 SENATOR PERKINS: Thank you, I'm
8 fine.

9 SENATOR KRUEGER: Senator Parker.

10 SENATOR PARKER: First of all,
11 good afternoon everybody, let me
12 apologize to my colleagues about being a
13 little tardy, I had a challenging
14 schedule this morning but I'm sorry -- I
15 had a chance to be here, sorry,
16 Mr. Deutsch, I actually missed your
17 testimony, but I have it in front of me
18 and I will be sure to read it.

19 MR. DEUTSCH: I'm sure you hear
20 from me.

21 SENATOR PARKER: A lot, I
22 actually am compelled, I guess, to
23 respond and I agree with many of the
24 comments made by Senator Perkins about
25 these issues, although I missed your

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1 initial comments about member items I
2 thought there were a couple of of things
3 I wanted to get on the record that
4 seemed to be important.

5 One of which is that once you
6 include something in the regular part of
7 the budget, which in an ideal world it
8 would be really nice to have the stuff
9 imparted in the regular budget and have an
10 agency actually fund something, it
11 actually made me cringe when you started
12 saying we shouldn't, in fact, fund a Boy
13 Scout troop or like a youth development
14 program in the district, many of which are
15 the primary things that get funded in our
16 communities by legislators exactly because
17 they don't get funded by executives.

18 The other problem if you put it, in
19 fact, in part of the regular budget, what
20 would literally happen is you may allocate
21 it but then the Governor who then could
22 decide not to fund it on the back end, a
23 la what we are seeing the Governor do now
24 with education.

25 Despite the fact that the

0088

1 legislator has allocated money to
2 education, the Governor is now impounding
3 that money for my opinion and from what I
4 can read Constitutionally and I think I
5 will be borne out, my opinion will be

6 borne out by a lawsuit, against the Will
7 of the Constitution, he's impounding those
8 funds.

9 That being said, we all wish that
10 things were different, but unfortunately
11 they are not, we live in a world where
12 politics is the order of the day.

13 I'm not seeing a time when that, in
14 fact, is not going to be different and I
15 don't mean that in a pejorative, politics
16 in a pejorative way, but simply the values
17 and the goals of myself as a legislator
18 who represents the 21st Senatorial
19 District may be a very different one even
20 than other districts, even ones I like so
21 much, like Liz Krueger, but they also
22 would be very different than a Governor
23 who may be looking around not just for a
24 possible re-election, but looking at what
25 his priorities are State-wide.

0089

1 So until we come up with a
2 different process that then can guarantee
3 that when I put something in the budget
4 that, in fact, is going to stay in the
5 category in which I have determined, that
6 it's going to stay in and actually get
7 spent by those groups.

8 I mean the reality is that from
9 50,000 feet up it is nice to be looked
10 down and say yeah, we ought to be doing
11 these things, but I represent a district
12 where the Boy Scout troop in my district
13 is extremely important, and because I know
14 that when the troop is not there, and when
15 for instance Sesame Fliers is not doing
16 the work that they do, which is a group in
17 my district, when you don't have the
18 Flatbush YMCA and the Madison Square Boys
19 and Girls Club on Madison Avenue doing the
20 work they do in my district, that means
21 the already high gang population is much
22 higher.

23 I'm just saying that I'm all for --
24 I think what, \$132.4 billion I guess now
25 it's \$129 billion or so budget, I think

0090

1 that there is a way to, in fact, fund
2 public education, healthcare, housing and
3 making sure that Boy Scout Troop 254 also
4 gets funded.

5 And I don't --

6 SENATOR PERKINS: And Girl Scout
7 troops.

8 SENATOR PARKER: And Girl Scout
9 troops, sorry. I was just using Boy
10 Scout troops because he said Boy Scout
11 troops.
12 I think that they are not mutually
13 exclusive, I think there is not a
14 necessarily given our budget to create
15 those kinds of false dichotomies, and so
16 hopefully we can come to a place where we
17 can have the kind of fairness that you
18 talked about, I'm certainly all about, but
19 also provide the kind of services that
20 government needs to provide.

21 SENATOR KRUEGER: Thank you,
22 thank you very much, Ron, I appreciate
23 your testimony.

24 Our next testifier is Carol
25 O'Cleireacain, who is now Senior Fellow

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1 of the Brookings Institution down in
2 Washington, D.C. I assume, but has a
3 long history in budget issues here in
4 New York.

5 Thank you. Carol.

6 MS. O'CLEIREACAIN: I'm glad you
7 arrived, Senator Parker, because now
8 there is somebody who I hadn't met on
9 the panel across from me, so I want to
10 thank you for the invitation to speak to
11 you about what we all know is an urgent
12 issue, the State's budget.

13 I am Carol O'Cleireacain, currently
14 Senior Fellow, nonresident, at the
15 Brookings Institution and an economic
16 consultant.

17 And I'm speaking to you today as
18 someone who came here from London in 1976
19 at the depth of the City's fiscal crisis,
20 became immersed in it as Victor Godbaum's
21 chief economist at D.C. 37 asked me, spent
22 the early 1990s as mayor David Dinkins'
23 Finance Commissioner and Budget Director
24 and the late 1990s steeped in the District
25 of Columbia's fiscal crisis.

0092

1 And I was also Deputy Treasurer of
2 the State of New Jersey during the first
3 year of Governor Corzine's administration.

4 My experience has given me both a
5 special interest and expertise on fiscally
6 distressed governments.

7 Unfortunately there have been many
8 of them.

9 As different as they may seem, New

York City's and Washington's stories were essentially the same.

Lenders eventually lost trust in their ability to pay their debts and so the credit markets closed on them.

This happened in seemingly rich places, but these governments behaved badly over an extended period of time, not least because they did not pay attention to the consequences of their actions.

As a result the governments which had earlier granted them home rule were forced to step in with cash and loans to save the day and with financial oversight and budget reform to ensure that there would be no repeat.

This background has everything to do with the budget of the State of New York today.

For decades regardless of the strength of the committee, recurring revenues have been insufficient to sustain ongoing spending.

This is the definition of a structural imbalance.

The imbalance is getting worse, since the combination of high spending and a volatile revenue structure has not been addressed.

Instead New York struggles to get one year's budget to balance temporarily through heavy dependence on one shot actions, making the next year's balancing even harder.

Clearly budget balance has not been sustainable in recent decades for the State of New York.

According to the Division of the Budget, the annual growth path for State spending averages about 7.5 percent a year now, while revenues are growing now at

about 3.5 percent a year.

The 4 percentage point annual difference between the growth of spending and the growth of revenue generates the large multi-billion dollar budget gaps that must be closed permanently to achieve a sustainable budget path.

In addition, the State is going to need to build up some significant reserves to serve as a cushion over time.

It's not realistic that such an

12 ongoing gap can be closed in one fell
13 swoop.

14 And it will not be easy to change
15 the learned behavior that's generating
16 these persistent and growing gaps.

17 There needs to be a new way of
18 doing business in Albany when it comes to
19 budgeting. The imposition of new rules
20 and discipline carrying with it the threat
21 of shame and strong punishment for
22 failure.

23 Let me list some of the changes
24 that I believe will be necessary. One is
25 a multi-year financial plan process and I

0095

1 emphasize the word process.

2 In cities this process has been
3 initiated by statute and overseen and
4 enforced by an independent control board
5 until the standards, rules, procedures,
6 documents and analyses have been
7 internalized by the elected officials and
8 staff.

9 Once there is evidence that there
10 is a new way of doing business and then it
11 becomes realistic to expect that taxpayer
12 and investor trust will be restored.

13 Essential to a multi-year financial
14 plan is a budget balanced according to
15 generally accepted accounting principles
16 otherwise known as GAAP.

17 With GAAP budgeting you cannot use
18 next year's revenue to pay this year's
19 expenses, and you cannot roll expenses
20 from this year to the next and claim that
21 this year is balanced.

22 Both, as you know, are common
23 practices in Albany.

24 Another essential is a mandatory
25 revenue estimate for the budget year.

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1 You've had much discussion on that
2 already this morning.

3 An integral part of the process,
4 the multi-year financial plan process, is
5 mandatory quarterly revisions, requiring
6 spending and revenue actions by the
7 executive and the legislature to keep the
8 annual budget in balance and to make
9 explicit the implications of the changes
10 for the out years.

11 The executive budget presentation
12 is one of those quarterly revisions.

13 A multi-year financial plan

14 counters the all too human preference for
15 the short term by making visible and
16 ongoing the consequences of policy
17 decisions.

18 New programs, collective bargaining
19 agreements, tax changes. Policy actions
20 are examined through the lens of their
21 ongoing out year impact.

22 Such a plan provides some
23 incentive, some, to pair one time revenues
24 with one time spending actions.

25 But the process is designed to

0097

1 present the implications of a worsening
2 situation in time to take actions to
3 prevent disaster.

4 Finally, most New Yorkers probably
5 are not aware that the Division of the
6 Budget produces tables forecasting base
7 line spending and revenue for the
8 following three years.

9 Their estimate of the out year
10 budget gap approaches \$20 billion in
11 fiscal '13-'14.

12 For all the hard work they put into
13 this effort, it received scant
14 recognition.

15 These tables do not function as a
16 four year financial plan, they are not
17 used in making budgets, and there is no
18 mechanism now to act on them.

19 Adopting a multi-year financial
20 plan process would provide you as
21 legislators with the information and tools
22 to break out of the constrained budgeting
23 that you have been doing.

24 You would have a clear road map of
25 the drivers that are generating the

0098

1 growing structural imbalance which would
2 present you with the opportunity, a great
3 opportunity to reshape significantly the
4 major programs.

5 In closing, I want to assure you
6 that I know that this date is not the same
7 as a city verging on bankruptcy.

8 You have the sovereignty. No one
9 can impose a control board on you.

10 If you are to adopt a multi-year
11 financial plan process with a budget and
12 reporting discipline that it involves, you
13 will have to do it yourselves because you
14 are convinced that you can no longer
15 continue on the current path.

16 You will have to live this
17 discipline and you will have to accept the
18 serious penalties for failure.

19 You would do it to change Albany's
20 culture for the better.

21 The culture around cash accounting
22 is one of fiscal manipulations as long as
23 payments to creditors can be deferred and
24 as long as cash can be found somewhere.

25 However, money runs out.

0099

1 The global financial crisis has
2 shown us the catastrophic failures that
3 occurred when funding sources dry up.

4 As a result, it has produced a move
5 towards greater discipline, regulation and
6 transparency in a wide range of our public
7 and private institutions.

8 New York State cannot risk being
9 left behind, because capital markets are
10 unforgiving in their judgments.

11 Thank you, and I am happy to take
12 any questions.

13 SENATOR KRUEGER: Thank you very
14 much.

15 I think probably we all have
16 questions, I will start with --

17 MS. O'CLEIREACAIN: I may have no
18 answers but I will give it a shot.

19 SENATOR KRUEGER: That's okay.

20 You pointed out that the model of a
21 financial control board can't be mandated
22 on New York State, although we did mandate
23 it on the City of New York at one time, we
24 have one now for Buffalo.

25 How would we "voluntarily" mandate

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1 it?

2 Would it require legislation?

3 Would it require the legislature
4 and the Governor sitting down and saying
5 here are the standards that are used by
6 financial control boards, this is how they
7 have been set up, let's just go ahead and
8 do it?

9 MS. O'CLEIREACAIN: I think it's
10 going to require that and more. I think
11 it's going to require probably that you
12 make this promise that you put in
13 legislation in some way that binds you
14 so that the legislation can't, and the
15 agreement can't be rescinded.

16 I think you are going to have to
17 make some binding commitments. And none

18 of this is going to be easy, everything I
19 have laid out here, even GAAP, right, even
20 though the Comptroller issues now reports
21 based on GAAP, they have not budgeted to
22 that, and frankly my perception of what
23 goes on in Albany is that the cash
24 manipulation has been a way of doing
25 business for so long that this is what

0101

1 people know.

2 People are going to fight really
3 hard on this, so none of this is going to
4 be easy, but yes, it's going to need an
5 agreement, it's going to need ultimately
6 legislation for sure, it will need an
7 agreement between both branches and it
8 will need promises to be made, and it will
9 need triggers that you are willing to
10 accept as kind of the hammer that's
11 hanging over your head to make sure it
12 gets done and gets done year by year by
13 year.

14 SENATOR KRUEGER: Now, you talked
15 about the DOB, the State does do a
16 number of projections for out years and
17 yet it's not actually a financial -- a
18 multi-year financial plan and process,
19 so maybe I should understand this, but
20 I'm not totally clear.

21 MS. O'CLEIREACAIN: It is, it's
22 just a forecast.

23 SENATOR KRUEGER: In a multi-year
24 financial plan process, how does that
25 mandate us to stick to something over

0102

1 multiple years?

2 MS. O'CLEIREACAIN: Because you
3 would see very directly what -- let's
4 just take the out year gaps which they
5 do now forecast, but nobody is under any
6 obligation to pay any attention in the
7 current year to what you do, to whether
8 what you do makes those gaps larger or
9 smaller.

10 SENATOR KRUEGER: Right.

11 MS. O'CLEIREACAIN: Four months
12 from now you'll see another forecast
13 printed and you will discover oh, we
14 actually made this worse by \$14 billion
15 or something, right?

16 But you didn't look at it at the
17 time you were making your decision and
18 you saw -- and you made no connection
19 between changes in the annual budget

20 and bringing down your deficit problem
21 in ongoing years.

22 And that is what the financial
23 plan process is supposed to do for you.

24 In addition, the DOB does not
25 now put out in any way a number of

0103

1 reforms in programs that would help
2 close the gap between growth rate of
3 revenues and the growth rate of
4 spending, and nobody forces them to.

5 And this process would.

6 SENATOR KRUEGER: Would a
7 bi-annual budget help us with this
8 process?

9 MS. O'CLEIREACAIN: You know,
10 that's a very good question, and you
11 guys can probably answer it better than
12 I can.

13 I'm not a legislator and I have
14 never functioned as a legislator, so I
15 don't know.

16 I think there are a lot of people
17 in Albany who believe that a bi-annual
18 budget would be a good thing to do, I have
19 to be agnostic because I just don't have
20 that expertise and I wouldn't want to
21 mislead you because I really don't feel
22 like I know enough.

23 But I believe that there are people
24 who think that a bi-annual budgeting of
25 which I gather a number of states do, and

0104

1 also a number of states do it because of
2 the part-time nature of their legislators,
3 and it makes it easier to go and not have
4 to be in session all the time, which is a
5 real hardship for a part-time legislator,
6 and I understand that.

7 So I think that there are some
8 places where it has worked well.

9 SENATOR KRUEGER: One more
10 question, then I will pass it to both my
11 colleagues.

12 You have worked in a lot of places
13 and as you self described you dealt
14 with --

15 MS. O'CLEIREACAIN: That's why I
16 described it.

17 SENATOR KRUEGER: That sort of
18 dealt with the fiscal crises.

19 Before one of our testifiers
20 answered that some of the states that have
21 set up models that look better were

22 California and New Jersey, although they
23 both at this moment in time certainly
24 don't reflect better fiscal outcomes than
25 New York.

0105

1 Who would you recommend we look
2 at as states that, perhaps, are models
3 for where we need to try to get to?

4 MS. O'CLEIREACAIN: Yeah, and I'm
5 not sure there is a State.

6 I think on this one I am more
7 where E.J. was on the CBO.

8 Which I, because -- the only one
9 of these State operations I have ever
10 seen in operation from the legislative
11 end, and again I was in the executive
12 branch, so this was hand to hand
13 combat, as it were, was New Jersey.

14 I didn't consider it a -- it
15 wasn't a game changer, is the best way
16 to put it, it wasn't a game changer.

17 Nor was it an operation that
18 carried a level of respect and
19 authority that I think you need in the
20 kind of situation you are in in New
21 York, and the CBO is such an entity.

22 And in part it's such an entity
23 because of the way in which it was put
24 together. In part it's such an entity
25 because of the talent it attracts and

0106

1 the professionalism with which it
2 operates appearing, and I think that is
3 tough -- that's the toughest nut to
4 crack, frankly, at the State level,
5 because most State capitols are not
6 places where either the largest center
7 of population, don't have more than one
8 let's say university, it's hard to draw
9 the talent you may want to draw to this
10 and I think you are going to have to
11 look at that.

12 The geography may make it easier
13 for you to get it, but I think that
14 running a professional budget office is
15 tough and I think that what ends up
16 happening, or at least I believe what
17 happened in New Jersey, is the entire
18 focus was on the revenue estimate and
19 in effect that office didn't do much
20 else.

21 Once the entire focus becomes on
22 the revenue estimate, it becomes
23 political by definition.

24 SENATOR KRUEGER: Senator
25 Perkins.
0107

1 MS. O'CLEIREACAIN: And then
2 nothing else they do matters, is what I
3 mean.
4 SENATOR PERKINS: Your interest
5 is in the CBO, it seems, I think that
6 you just said that?
7 Could you elaborate a little more?
8 MS. O'CLEIREACAIN: It wasn't in
9 my testimony, and I hadn't addressed
10 myself to it because I was really
11 focused on the four year financial plan
12 process, and I said in passing you are
13 going to need a mandated revenue
14 process, there is no doubt, a revenue
15 estimate and the model I know best is
16 New York City where it's the mayor's
17 number.
18 I would support, I would --
19 amending something that Mr. Sweeting
20 said about the IBO produces a number
21 and they are the only one, yes, but the
22 State Comptroller -- the City
23 Comptroller puts out a risk analysis
24 and what he doesn't agree with with the
25 mayor, and the State Comptroller does
0108

1 the same thing, and the financial
2 control board does the same thing.
3 So you basically have in New
4 York City a whole range of an estimate
5 on revenue.
6 Now, you know, even if the
7 numbers are so big that even if you're
8 a half a percent off, you are talking
9 bucks, big bucks that can be important
10 to a legislature.
11 I don't understand at the level
12 with which you understand what your
13 appropriation needs are and what
14 information you have to have when you
15 appropriate.
16 But as E.J. put it, or somebody
17 else mentioned, the CBO doesn't make
18 any revenue estimate, instead the CBO
19 costs programs and they have to cost
20 them to five years and 10 years.
21 And if that's all you asked of
22 your legislative budget office, it
23 would be a real step forward, because
24 it would be contributing to the
25 multi-year financial plan process that

0109

1 you are trying to get into.

2 It would be a real change, a
3 real change in the mind-set and the way
4 you do business to not look at what
5 is -- what does this piece of
6 legislation cost next year, or what
7 does it cost over its lifetime.

8 What am I binding myself to?
9 What resources am I going to have to
10 have five years from now in order to
11 keep doing this program.

12 SENATOR KRUEGER: That played a
13 very important role in the discussion
14 and to some degree fights that we had of
15 creating a tier 5 pension system of
16 evaluating what the actual cost
17 obligations to the State were projected
18 to be 20 and 30 years out.

19 MS. O'CLEIREACAIN: And did you
20 feel you had an adequate ability to do
21 that?

22 SENATOR KRUEGER: No.

23 MS. O'CLEIREACAIN: To make that
24 assessment?

25 SENATOR KRUEGER: No, I don't

0110

1 think the legislature did, but
2 ultimately we got that bill passed.

3 We have a --

4 MS. O'CLEIREACAIN: But it showed
5 you what you were missing.

6 SENATOR KRUEGER: Exactly. Even
7 in the situation when we do bills that
8 aren't budget bills that come before the
9 Senate and the Assembly, they supposedly
10 have fiscal notes attached to what they
11 will cost, and it's a classic situation
12 that there is not a fiscal note provided
13 to the legislature or fiscal notes are
14 analyzed simply as this year it will
15 cost nothing because, in fact, the way
16 the legislation is written it doesn't go
17 in effect until the next income year, so
18 of course it has a cost, but we don't
19 even look at that kind of questioning.

20 MS. O'CLEIREACAIN: Could you
21 mandate a two year fiscal note at
22 minimum?

23 SENATOR KRUEGER: I think we
24 could.

25 MS. O'CLEIREACAIN: Even without

0111

1 a two year budget, even without a

2 bi-annual budget.
3 SENATOR KRUEGER: Yes.
4 MS. O'CLEIREACAIN: That might be
5 something you want to look at.
6 SENATOR PERKINS: I know that in
7 the City there is always a fiscal impact
8 statement in the legislation, automatic.
9 You have to ask in the legislature and
10 more often than not you won't get it.
11 And also I know that in the City
12 the mayor's number was not always a
13 good number.
14 MS. O'CLEIREACAIN: No, I think
15 you want.
16 SENATOR PERKINS: The opposite,
17 the mayor's number always sort of held
18 back for special projects that the mayor
19 wanted to make sure that went through.
20 MS. O'CLEIREACAIN: It would not
21 surprise me.
22 SENATOR PERKINS: I want to ask
23 you, where do special interests groups
24 come to play?
25 Because we are not really the
0112 ones that are very often crafting the
1 budget.
2 We are not the only once in this
3 process, there are other players that
4 come to play, and very often are
5 dominant in the outcomes.
6 MS. O'CLEIREACAIN: Senator
7 Perkins, you were my City Council
8 member, you represented me.
9 SENATOR PERKINS: I remember.
10 MS. O'CLEIREACAIN: You know
11 where they came to you.
12 You can bet I've been in the
13 executive branch, they are all over the
14 executive branch.
15 So they are coming in in the
16 base line financial plan, or the base
17 line budget.
18 In my concept here the four year
19 financial plan is going to come in from
20 the executive branch, you are going to
21 have it at your end, I think the best
22 way I could -- the only difference I
23 see about what I am proposing and what
24 you do on that is much more
0113 transparent, right, it's much more
1 transparent and the long term
2 implications of a little favor that's
3

4 being asked, right, cannot be escaped.
5 SENATOR PERKINS: Okay.
6 Thank you. Thank you.
7 SENATOR KRUEGER: Senator Parker.
8 SENATOR PARKER: Thank you,
9 Carol, for being here. I wanted to talk
10 about reserves.

11 Both you and Ron before you in his
12 testimony talked about a reserve fund.

13 And one of the -- kind of what
14 was your sense about how much reserves
15 we should have?

16 MS. O'CLEIREACAIN: I don't know.
17 I know that there has proved to be an
18 inadequate level of mandated reserve in
19 New York City.

20 When the fiscal crisis came in they
21 made it \$100 million. Now \$100 million is
22 a rounding error in the kinds of numbers
23 we are dealing with.

24 So the executive, this mayor
25 anyway, mayor Bloomberg has upped it to

0114

1 \$300, then they have found other ways to
2 reserve.

3 I don't think it's so much the
4 level of reserve as the rules as to how
5 you use the reserves.

6 SENATOR PARKER: That was going
7 to be my next question.

8 MS. O'CLEIREACAIN: So the
9 reserves do not get dissipated and there
10 is some automatic refilling of reserves,
11 which nobody ever wants to do because
12 it's never a good time to just stash the
13 money in a reserve fund.

14 So on that one, and it's gotten
15 away from me a little bit on that one,
16 I would recommend that somebody might
17 want to look at the District of
18 Columbia, because their State, as it
19 were, is the federal government, is the
20 Congress, actually it's not the federal
21 government, it's the actual Congress
22 and they have now at least three
23 separate kinds of reserves from which
24 they can draw under different
25 circumstances.

0115

1 This was a big issue, at first
2 they kind of took the New York model
3 where they only had one sort of
4 relatively small reserve, and then Kay
5 Bailey Hutchison, who had been

6 Treasurer of the State of Texas, became
7 I won't say a maniac, but she really
8 has a thing about reserve funds.

9 And they have worked up
10 additional reserve funds there which,
11 in any that sense the District is more
12 like a State than New York City is,
13 it's more like a State than a city, and
14 they pay a lot of attention to what is
15 their accumulated fund balance.

16 And things get triggered by the
17 level and growth of their accumulated
18 fund balance.

19 I would think that since you
20 have been on a cash system, you guys
21 have never paid the slightest bit of
22 attention to your fund balance, right?
23 And in New York City they don't pay any
24 attention to their fund balance.

25 But here they strive to get a
0116 fund balance of a certain amount. If
1 you don't have it, you have to --
2 whatever you get, whatever you get from
3 revenue you have to put in the reserve
4 first, then they have worked out a
5 mechanism, sort of, that is not a GAAP
6 mechanism, but allows them to transfer
7 under certain circumstances from the
8 reserve into the next year, which GAAP
9 makes very difficult because GAAP does
10 not let you recognize a transfer like
11 that as a revenue.

12 But they have written it, they
13 have written their own rules, and it's
14 something you might want to look at and
15 I dare say now that it's something I'm
16 probably going to have to go back and
17 look at, but there are ways of doing
18 this and there are ways of denoting the
19 circumstances under which you have to
20 add to a reserve and the limitations on
21 when you can take out from a reserve.

22 SENATOR KRUEGER: We sort of have
23 a secret model for reserve, so we have
24 all these public authorities we have
25 created, and then they end up with all

0117 these funds, very often seemingly
1 secret, or most people don't know about
2 it, then when we are desperate you sweep
3 them.
4 MS. O'CLEIREACAIN: But you sweep
5 the cash and that's what you have

6 MS. O'CLEIREACAIN: But you sweep
7 the cash and that's what you have

8 consistently done and cash let's you do
9 all those great little tricks.

10 SENATOR KRUEGER: Other states
11 have public authorities, how do they --
12 I mean there are logical arguments to
13 have public authorities, I could make
14 some of them, but are other states
15 playing that game with their off budget
16 money?

17 MS. O'CLEIREACAIN: Depends how
18 cash and how GAAP --

19 SENATOR KRUEGER: How do you do
20 it if you live in the GAAP accounting
21 world.

22 MS. O'CLEIREACAIN: There are
23 different mechanisms, but you can, if
24 you really want to, yes, you can do
25 things under GAAP.

0118

1 But I am trying to remember, I'm
2 sure they all play this game, I'm sure
3 they all play this game.

4 SENATOR KRUEGER: Do you think
5 it's a bad game or do you think there
6 is --

7 MS. O'CLEIREACAIN: I think it's
8 in excess, I think in Albany it's in
9 excess and that cash allows you to do it
10 in excess.

11 Because if you sweep the cash
12 now, you have got it and then who
13 worries about whether -- let's say you
14 take it from the highway and bridge
15 fund, and that doesn't leave any money
16 in the highway and bridge fund and a
17 bridge needs repair and you don't do
18 it, so you don't do it, then the bridge
19 falls down, then you have to bond, so
20 it has an implication.

21 Moving this cash around and
22 taking it, stealing it in a sense, has
23 an implication on going into debt.

24 You may not be directly thinking
25 that what you are doing here when you

0119

1 are -- the revenue growth path is not
2 as good as the spending, not as high as
3 the spending growth path and you have
4 to fill this gap, you sort of keep
5 taking it from yourself.

6 You have the illusion in cash is
7 that you are just taking it from
8 yourself, but ultimately you are
9 borrowing it from some place.

10 SENATOR KRUEGER: Right, right --
11 Kevin, I cut you off.

12 SENATOR PARKER: That's okay, I
13 think that there was, I think this is
14 somewhat connected to this idea that I
15 wanted to address also, it's kind of my
16 last point, is about one shots, and I
17 hear constantly budget experts come up
18 and say oh, you shouldn't do these one
19 shots, you shouldn't do these one shots,
20 I heard some interesting things, last
21 year actually during our budget hearings
22 last year, which is I don't remember who
23 said it, but it somewhat made sense to
24 me, I wanted to hear your take on it,
25 was that kind of given the size of New

0120
1 York State and its budget and all that
2 we do, that inevitably you are always
3 going to have one shots, and so that it
4 is not, in fact, as inappropriate to use
5 one shots as kind of an ongoing ways to,
6 in fact, deal with the crisis as some
7 folks may suggest, I'm not suggesting we
8 should base our whole budget on one
9 shots, but I also think that in the
10 context of something like we just did,
11 which was a deficit readjustment package
12 where we are adjusting the budget in the
13 middle of the budget cycle, that doing
14 things like sweeping of accounts and
15 other opportunities to do "one shots"
16 are more appropriate than always finding
17 structural changes in the midst of a
18 fiscal year.

19 And I just wanted to hear your
20 take on that.

21 MS. O'CLEIREACAIN: I think it's
22 easy to justify, and the closer you are
23 to the end of the fiscal year, the
24 easier it is to justify.

25 I think I agree most with your

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1 first comment, the beginning of your
2 comment which was in a budget this
3 size, there is always going to be some
4 one shot that appears.

5 It would be nice -- but you
6 could say that on both sides of the
7 ledger, that there are some times that
8 just a one shot piece of spending that
9 you have to do and you would like to be
10 able to tie those two things together,
11 match them and not use it as a

12 justification to keep doing one shots.
13 Having said that, it's hard for
14 a budget Director to turn down any
15 source of revenue.

16 You would like to improve your
17 behavior, you would like to have some
18 rules that give you -- that remind you
19 that you ought not be doing this.

20 So I can't defend -- I think in
21 the normal course of business in a
22 normal sort of situation and place
23 there is a role for some small amounts
24 of one shots, whether it's \$200
25 million, \$300 million, \$400 million

0122

1 given the size of your budget.

2 SENATOR PARKER: \$1 billion.

3 MS. O'CLEIREACAIN: It is not --
4 I think I have a list here somewhere,
5 it's not \$4 billion, which is what it
6 was one year, according to the
7 Comptroller, we can go through the list,
8 it's not that.

9 That's not what we should be
10 talking about.

11 All it does -- I mean one shots
12 of that magnitude, you have to
13 understand, that one shots when they
14 rise to that magnitude, you are just
15 digging -- you just take that mountain
16 that you just built and its exactly
17 equal to the hole waiting for you the
18 next year.

19 Right? It's like as if you have
20 just shoveled it and you have moved it
21 from there to there, and you've got the
22 mountain here, and it satisfied you in
23 the, cash and you have managed to
24 settle it, then you are going to fall
25 right back into that hole.

0123

1 You don't want to use numbers
2 that big.

3 Could you say in a budget this
4 size there are enough things that kind
5 of slosh around or occur at one time
6 rather than another time in the \$100,
7 \$200, \$300 million range, you bet.

8 Not in the several billions.

9 SENATOR PARKER: Okay.

10 SENATOR KRUEGER: Thank you very
11 much for your testimony.

12 And I'm sorry we have been
13 running behind, because we are all so

14 interested in what's being discussed.

15 Our next testifier is Elizabeth
16 Lyman, Deputy Research Director at
17 Citizens Budget Commission.

18 Good afternoon, Elizabeth.

19 MS. LYMAN: Good afternoon, thank
20 you for having me.

21 As you said, I am from the Citizens
22 Budget Commission, I am the Deputy
23 Research Director and the Albany Director.

24 So I wanted to talk with you
25 first a little bit about -- I am going

0124

1 to do two things in my testimony, first
2 I am going to talk a little bit about
3 the 2007 budget reform package, because
4 that was the question specifically
5 asked for this hearing, then I am going
6 to make some suggestions about things
7 that might be improved.

8 And I think our basic assessment
9 in 2007, as you know the CBC has long
10 worked on budget reform and I was very
11 active in formulating a number of
12 public agendas through our Palisades
13 conference and Palisades principles
14 work and again in 2006 in Armonk we
15 have had retreats on it, so in 2007
16 when you did your package we were very
17 supportive and very happy to see some
18 of the things put forward in that
19 package and said very good things about
20 it at the time.

21 So, we are very glad to have the
22 opportunity to look back now and say
23 how have these things worked, because
24 that's obviously an important part of
25 what you have to take a look at.

0125

1 So I'm going to put the reforms
2 into three groups, the first is a set
3 of things around timing.

4 The late budget became kind of
5 the emblem of budget dysfunction, and
6 so there was a lot of pressure about
7 getting that under control, moving that
8 time line from August closer to the
9 start of the fiscal year on April 1.

10 So the first thing you did, and
11 you know all this, so I will try to
12 kind of briefly go through it and just
13 get to the assessment parts, but the
14 quick start process which moved things
15 into November, one of the sticking

16 points had always been the revenue
17 forecast and trying to get those
18 consensus numbers together in March.

19 It's very close to the start of
20 the fiscal year and it was often a very
21 difficult process, so that was moved to
22 November.

23 And in general we think the new
24 milestone has been helpful in the time
25 line just getting things out on the

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1 table a little bit sooner, but
2 unfortunately we still think that the
3 timing gets very crunched towards the
4 end of the fiscal year and that has
5 been causing the shortening of the
6 conference committee process which was
7 also mandated in the budget act.

8 So last year we had seen the
9 Governor put out the budget in December
10 and still the negotiations took place
11 right up until the start of the fiscal
12 year.

13 And also the conference
14 committee process was abandoned last
15 year, and in the interest I think of
16 that timing and of other issues, of
17 course that were going on, but the
18 conference committees, they were used
19 in two years out of the three and as I
20 said, not last year, so that's a
21 partial implementation and even in the
22 two years they were used we thought it
23 was very much a truncated and
24 foreshortened process.

25 Really too abbreviated to allow

0127

1 for that legislative participation that
2 I think is the goal of a conference
3 committee structure.

4 The impact reports which were
5 supposed to be for legislators to
6 understand the bills, one of the
7 problems with the bills is that they
8 don't cross-walk very well to the
9 executive budget structure, there is a
10 cash disbursement plan that's different
11 from the actual structure of the
12 appropriations, so the idea was to have
13 a set of reports that legislators and
14 people could use to assess what was
15 being added, what was being -- what was
16 being sort of suggested around the
17 budget bills when they were in final

18 form.
19 And these have not been used
20 very well, this past year was the first
21 year that they were put out with any
22 time at all before the vote, but still
23 again that very truncated March,
24 February, two or three week period.

25 And, again, there isn't any
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1 mandate here that they be released to
2 the public, which we think is an
3 oversight, and it's very important that
4 you have that public aspect of
5 transparency so you can have some
6 discussion, and not just have it for
7 legislators, because in one of the
8 years they used it very quickly right
9 before the budget vote, the legislators
10 were given the summary, and it was not
11 released, so that was too much of a
12 private process, and so that's kind of
13 the problem, we think.

14 The lump sum appropriation
15 prohibition, I think this was designed
16 to get at member items which had been
17 going under large MOUs and in lump sums
18 and decided later, that's been
19 something that we think has largely
20 been complied with, they have been
21 lined out.

22 There was one exception in an
23 economic development issue a couple of
24 years ago, but for the most part that
25 has been complied with.

0129
1 Now, there is sort of two
2 critiques we have of these reforms, the
3 first is that they are partially
4 implemented and the second is that they
5 are too narrow.

6 So in this regard the lump sum
7 appropriation reforms we think were too
8 narrow in their focus.

9 If the idea is to get at the
10 legislative additions or the other
11 kinds of things that are in there, you
12 still need that summary overview, that
13 larger picture rather than just going
14 through the budget and finding the 100
15 line items in the bills that are
16 usually where they are added.

17 So that's too narrow, as far as
18 we are concerned.

19 The budget balance and

20 reporting, they did a longer financial
21 plan, they moved to a three year model
22 adding a year to the financial plan, so
23 actually when you take the current
24 fiscal year and the next three years,
25 you are really looking at a four year

0130

1 financial plan right now and that's
2 been very helpful.

3 The local impact statements that
4 were added, those are helpful as well,
5 although there is often dispute between
6 New York City and New York State in
7 terms of what's on that sheet, there
8 can be some issues that come up, but
9 nevertheless you can look at that and
10 say, you know, on the whole this is
11 what the State thinks it's doing to its
12 localities this year, at that one point
13 in time.

14 And the off budget presentation
15 that went on budget, which included
16 some of the capital funds that had been
17 used through the schools, the Excell
18 program, so on coming on budget that
19 has also been helpful, the picture of
20 debt in the budget is much fuller.

21 So that's kind of a bird's eye,
22 the last category I would say has to do
23 with fiscal stability, and this is
24 where you were talking about reserves a
25 few minutes ago, but the expended rainy

0131

1 day fund that's been added brings the
2 State's ability, it's top cap on its
3 reserves to 5 percent, which brings us
4 in line with other states.

5 5 percent is kind of a minimum
6 acceptable level for states and we are
7 there, but we are not the top -- we
8 have only put in the new reserve, there
9 was one deposit of \$175 million, so
10 fiscal conditions change and there is
11 no rule about having to contribute to
12 it.

13 Is, you know, you obviously have
14 not been able to, the budget has been
15 tight, and so that's gone by the
16 wayside, so it remains funded under the
17 5 percent level in general.

18 And in a State like New York,
19 with the volatility we have and the
20 dependence on the personal income tax,
21 5 percent is probably, if it were fully

22 in there, a minimum amount.
23 So we are now at that scenario
24 where we feel like there was some
25 progress and a start on it, but not

0132

1 fully implemented yet and certainly
2 there is some more work that could be
3 done on that.

4 Now, you know it's always a
5 tradeoff, you don't want to have too
6 much in reserve because taxpayers get
7 angry if you are keeping their money
8 and they don't -- so there is a
9 balance, but probably I submit that in
10 New York there would be no amount that
11 would be satisfactory to the taxpayers
12 that would actually help you fill the
13 kinds of gaps we see when the personal
14 income tax goes kerplunk the way it has
15 done this past year.

16 So let me turn to a couple of
17 points of improvement.

18 Now, we are saying for lots and
19 lots we can talk about -- we studied
20 fiscal impact notes, you brought that
21 up, we have looked at a lot of these
22 different issues over time, but I
23 wanted to put two thoughts forward
24 today that are really more than on the
25 conceptual side and more difficult.

0133

1 One of the things that was so
2 hard for us in preparing this testimony
3 is that when you look at the package
4 that was done in 2007, although it has
5 its limits, if people aren't complying
6 with it and if things are partially
7 implemented it's hard to see how making
8 new rules will really help as much as
9 one would like to believe that they
10 could.

11 So I picked two things today
12 that are a little harder, a little
13 tougher, but perhaps more teeth to them
14 so that it's just food for thought, but
15 I would be happy to talk about any of
16 the others or any of the other ones
17 that have come up today.

18 Okay, so the first thing I would
19 like to talk about is the development
20 of broader and more accurate measures
21 of State spending.

22 I think one of the major
23 problems you had with the 2007 package

24 that's become more and more clear, it
25 was based on the general fund.

0134

1 The State budget is \$121.6
2 billion and in the general fund's
3 portion is \$54.6 billion, including
4 transfers.

5 So when you talk about the
6 general fund, you are talking about 45
7 percent of the total.

8 What we had seen throughout the
9 process since 2007, for example, is you
10 guys might agree on a revenue number
11 and come out with something, DOB will
12 put out a little memo, \$500 million,
13 \$545, whatever their target is, then
14 somebody comes out with a list of other
15 revenues that are meant to support
16 spending, but they are over the general
17 fund.

18 So that kind of throws everybody
19 off and you start arguing again about
20 the revenue number which was supposed
21 to be settled earlier in the process,
22 and now you are settling it later in
23 the process.

24 So that is a function of that
25 general fund focus, and I think the

0135

1 State needs to move off of that.

2 The Governor accounting boards,
3 GABs, which sets the accounting rules,
4 they have moved to a unified
5 governmental presentation.

6 The general fund is increasingly
7 obsolete a measure in terms of what is
8 out there.

9 In the financial plan the
10 general fund is a diminishing factor,
11 you really do look at things like STAR,
12 for example, originally the general
13 fund was your main line hit on taxpayer
14 as well.

15 There are lots of ways that
16 taxpayers are being asked to contribute
17 in these other special revenue funds
18 that are very directly affecting them.

19 So, again, that general fund
20 focus is just overly narrow.

21 So it would eliminate some of
22 the trouble you have with the budget
23 reform issues if you moved to a more
24 larger presentation.

25 Now, maybe you wouldn't want to

0136

1 go to an all fund picture because then
2 you have your federal aid in the mix
3 and that kind of goes up and down with
4 State spending anyway.

5 So we suggest as an interim
6 measure the State operating funds
7 piece, which has been picked up by DOB
8 in the last couple of years, and what
9 that is is State funds minus your
10 Capitol, so that's another suggestion
11 we have, is that the Capitol budget
12 when you look at the total kind of
13 throws the whole picture off, you have
14 your debt service on the operating side
15 and your Capitol money and the Capitol
16 budget right now is subsumed in that
17 larger budget document and has its own
18 issues in terms of project specificity
19 and so on that needs to be cleared up.

20 So one suggestion we would have
21 is do a separate Capitol budget, take
22 that Capitol budget out and make it a
23 separate process and a separate
24 document, a series of programatic
25 detailed types of appropriations that

0137

1 can really link up with specific
2 agencies.

3 And then in that document you
4 could encompass some of the activities
5 of your public authorities, because the
6 State, obviously, is not the only one
7 spending Capitol money, you have a huge
8 number of public authorities also doing
9 Capitol investment.

10 So if you had more of a unified
11 picture on the Capitol side that was
12 separate, you could try to plan in a
13 larger sense for those investments as
14 well.

15 And then you would be left with
16 on your State budget, annual budget, is
17 just your annual operating commitments
18 actually, not what you're using with
19 bonded funds or anything else.

20 And that presentation would get
21 the special revenue side in there,
22 because I don't know if you've ever
23 tried to reconcile HCRA, you know,
24 Healthcare Reform Act expenditures
25 against the general fund, the transfers

0138

1 in and out are completely maddening.

2 So that's the broader sort of
3 sense that we would like to suggest.
4 Move off the general fund, go to
5 State operating funds and within that
6 there is a longer transition that needs
7 to be noted that has to happen for the
8 State.
9 And that is this concept of
10 going toward a GAAP accounting,
11 generally accepted accounting
12 principles' view.
13 And right now the State is
14 required to report on GAAP for the
15 general fund, but its missing reporting
16 in all funds and State funds for the
17 out years, so you could make a larger
18 reporting requirement so at least you
19 know your year-end results and you also
20 could when you look at the
21 reconciliation, another hard thing to
22 reconcile is the GAAP to cash plan that
23 they do do in the executive budget.
24 The crosswalk is virtually
25 impossible and it's very hard to find

0139
1 the actual delayed payments and things.

2 Part of what's advantageous
3 about GAAP is that you have to record
4 your revenue when it comes in as a
5 revenue, and when your spending
6 commitments are incurred, they are also
7 recorded, it's unlike cash, cash as you
8 were talking just a minute ago, you can
9 really manipulate cash.

10 So to give you an example, we
11 looked at the Comptroller's financial
12 statement for last year and the State
13 actually ran a \$13.5 billion GAAP
14 deficit.

15 And when you sit down and try to
16 figure out how can they be balanced,
17 this cash and cash you were saying you
18 had a fund balance of \$1.9 billion so
19 how do you go from \$1.9 billion to
20 \$13.5 billion deficit and to do that
21 reconciliation it's almost impossible.

22 And the main issue is what
23 happened with the personal income tax
24 receipts at the end of the year. A lot
25 of spending payments were postponed and

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1 so on the cash basis you tag the bottom
2 line at the last minute and postpone
3 it, but on a GAAP basis you already

4 told people you are going to spend the
5 money, so you have this enormous
6 disparity that is growing and that's
7 contributing to this year's gap and
8 next year's gap, because you're talking
9 about two year scenarios now, not just
10 your annual structure, your annual
11 balance, and that makes it very easy to
12 hide a deficit, and it's very hard for
13 people to actually untangle what's
14 happening.

15 So the gap picture is where the
16 State needs to go.

17 Most states use cash, so we are
18 not suggesting that you would put in a
19 GAAP balance requirement like the City
20 has, because GAAP can be manipulated,
21 it's not perfect, we see the City roll
22 surplus from year to year in GAAP and
23 then they have to balance to the penny
24 and according to their charter on a
25 GAAP basis.

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1 So it's not that you can't
2 manipulate GAAP, it's just it's harder
3 to, and so we are suggesting just a
4 fuller reporting and accounting and
5 explanation of those GAAP numbers so
6 that when you see that huge deficit you
7 don't say holy mackerel, how can we
8 have \$2 billion in the bank cash and
9 \$13.5 billion in the hole in our
10 financial statement?

11 That's the picture. Also when
12 you are doing that you would move more
13 towards a governmental -- a wide
14 financial statement.

15 Again, as you are transitioning
16 toward GAAP and looking at GAAP
17 reporting, moving away from that
18 general fund focus into this government
19 where you cap your your business
20 enterprise activities under public
21 authorities and so on, it's the new
22 FASB standards require you to, the
23 Comptroller has already done this in
24 the financial plan, the financial
25 statements, he has to, so the State's

0142

1 budget needs to move in that direction
2 too, so it's walkable back and forth.

3 SENATOR KRUEGER: Right.

4 MS. LYMAN: That's sort of the
5 GAAP style I will sort of skip through.

6 So that I talked about the
7 relationship between cash disbursements
8 and the appropriations bills.

9 We think a simpler structure is in
10 order -- one that makes it easier for
11 people to read it and actually know what
12 they are voting on that matches the cash,
13 so you don't need a translator to go
14 figure that.

15 Lots of states have simpler
16 appropriations structures than we do.

17 Okay, so the second major sort of
18 thematic idea I would like to put before
19 you is performance measurement reporting
20 and again this is not the kind of thing
21 people tend to be implementing when there
22 is a fiscal crisis on, but it is a
23 paradigm shift I think almost that would
24 help think about these things in a
25 different way for the State.

0143

1 This would really be trying to take
2 a look at what you're getting for the
3 money.

4 How much bang is in the buck for
5 the State.

6 It's something that New York has
7 been doing for a long time with the
8 mayor's management report and there is an
9 active role for the legislature in that,
10 the City has to have hearings on it, they
11 call in commissioners, they ask what
12 happened to their numbers?

13 And that's something that had been
14 started under the last year of the Pataki
15 administration, but it was a very
16 disparate and diffuse effort.

17 So we think that as things begin to
18 improve, New York has a lot of catch up to
19 do there, some states are in their second
20 and third generation of systems already,
21 and not that this is a panacea for
22 anything, because these metrics are hard
23 to develop and there can be a lot of
24 agency time required, but in a sense if
25 you don't start thinking about the quality

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1 of services that you are getting, it's
2 very hard to leverage that cost
3 effectiveness and get more for your money,
4 which we need to be thinking about.

5 Obviously as we are closing these
6 budget gaps without slashing the services
7 and without having that maximum hit that

8 we don't want to have on services.
9 So with that I'll close and I'm
10 happy to, as I said, talk about anything
11 else you would like to.
12 SENATOR KRUEGER: Thank you very
13 much.
14 Starting from the end, I also agree
15 that evaluating what government is
16 actually doing is critically important and
17 it's done by the City of New York and
18 people have many -- argue the pluses and
19 minuses and mayors have changed their
20 indicators over years, but, in fact, it
21 gives you a base line to even argue about
22 how you are evaluating what services and
23 how they should be evaluated, and New York
24 State doesn't do that at all.

25 So I'm working on legislation to
0145
1 create a parallel model for New York, we
2 would love to get your input on that,
3 because again, where I think you are
4 absolutely right, bad economic times is
5 when this government goes well, how can we
6 take on new responsibilities at the same
7 time as if we had this system in place,
8 then we as the legislature, the public and
9 the Governor could, in fact, be saying
10 these programs are working better, these
11 programs are working worse, these programs
12 should be defined as a higher priority,
13 and right now we don't have any systemic
14 way within government to do that, and I
15 can't remember which testifier earlier
16 made the argument you should do across the
17 board cuts.

18 I'm not a believer in across the
19 board cuts, legislators and Governor's end
20 up defaulting to that whenever --

21 MS. LYMAN: They don't know what
22 else to do, right.

23 SENATOR KRUEGER: When they don't
24 know what else to do, because they don't
25 actually have "any model" for doing the

0146
1 tough analysis and thinking about which
2 are successful programs, which are the
3 programs you get more bang for the buck,
4 what are indicators of what should be
5 highest priority and lowest priority in
6 government spending.

7 So I think that it does all fit
8 together and it reflects to some degree
9 how we have gotten here as well.

10 I also have to say I agree
11 completely with the frustration of just
12 trying to use the general fund numbers
13 sometimes, but then everything else
14 sometimes, then when we sweep and we
15 suddenly say yippee, we have got money,
16 it's over here, and then everybody fights
17 over that's not what the number was,
18 that's not what the number was, well, in
19 fact everybody can be right because there
20 is no standard at all.

21 So I think even for following up on
22 what the previous testifier was talking
23 about, Carol, having the discipline to at
24 least agree what reality is sort of forces
25 you to confront the hard questions and as

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1 long as you have ways to get out of not
2 having the discipline, all knowing that we
3 are talking the same language, it gives
4 everybody an excuse to flunk the test.

5 MS. LYMAN: Right and HCRA, for
6 example, you look at the budget gap
7 numbers which are often presented on the
8 general fund, and you will see there is
9 a gap closing action in the general fund
10 and you say aha, then you look, it's
11 really an increase in the covered lives
12 assessment in a special revenue fund.

13 So across the whole picture you are
14 raising the revenues on the one side and
15 saying oh, that's closing a gap, which it
16 is in the broadest sense, but its like a
17 transfer in that looks like it came from
18 nowhere, when really it came from
19 companies that are going to be paying it.

20 So it is a very artificial problem
21 with this general fund right now.

22 And when the STAR program was
23 started it was in the general fund, and
24 that's mainly personal income revenues, so
25 you think it would stay in the general

0148

1 fund, but it was such a rapidly growing
2 program that at some point it was moved
3 over and designated a special revenue
4 fund, so even your personal income tax
5 right now is split into these different
6 sections and special revenue funds, when
7 technically it really -- I mean that
8 shouldn't have been done.

9 So it is not the right way to look
10 at it right now.

11 SENATOR KRUEGER: Thank you very

12 much.

13 Senator Parker?

14 SENATOR PARKER: No questions.

15 Thank you so much.

16 MS. LYMAN: Thank you very much.

17 SENATOR KRUEGER: Again, we are a
18 little behind, about half an hour.

19 Dick Dadey, Executive Director of
20 the Citizens Union of the City of New
21 York.

22 SENATOR KRUEGER: And you are
23 joined by?

24 MR. DADEY: I am here with Rachel
25 Foss, who is our public policy research

0149

1 associate.

2 So good afternoon, thank you for
3 holding this hearing and giving us the
4 opportunity to present Citizens Union's
5 thoughts regarding the 2007 budget reforms
6 and how to improve the State's budgetary
7 process.

8 As New York State finds itself in
9 the midst of a fiscal crisis, it's
10 extremely important for the State to
11 examine its budget processes, to
12 understand, to determine how best to
13 provide for greater transparency to ensure
14 that the public can understand and has
15 sufficient knowledge to process the tough
16 decisions that lie ahead.

17 We know that this is not an easy
18 subject to tackle, so we applaud you for
19 holding this hearing to provide a forum on
20 this issue.

21 Given the State's worsening fiscal
22 condition, we recognize that the Governor
23 and the State legislature will be faced
24 with making tough budgetary decisions
25 which will be difficult for the public to

0150

1 accept without greater transparency about
2 the decision-making process and an
3 opportunity to both understand and weigh
4 in on the proposed cuts or expenditures.

5 I am going to skip around a bit,
6 I'm not going to read the whole testimony.

7 Jumping down to the next paragraph
8 as you may know, Citizens Union in 2008,
9 December 2008 released its issue brief and
10 position statement on New York State
11 budget reform, believing that additional
12 budget reform were needed beyond those
13 enacted in 2007.

14 Following up on this report,
15 Citizens just released a budget reform
16 report card in November 2009 which I
17 understand has been mentioned earlier in
18 this hearing, so thank you, which measured
19 State budget's progress or lack thereof in
20 implementing the 2007 reforms.

21 And laid out additional actions we
22 believe are necessary to reform the budget
23 process, both of which have been submitted
24 with our testimony for your review.

25 While some progress was made in
0151
1 2007, the report card found mixed reviews
2 for implementation of the 2007 reforms and
3 little action since to improve upon them.

4 We will address nine areas of
5 needed reform in turn which mirror the
6 analysis in our report card.

7 Number one, use of conference
8 committees to resolve budget differences
9 between the Senate and the Assembly.

10 The 2007 reforms required that the
11 legislature adopt joint rules to establish
12 joint budget conference committees and the
13 Senate Assembly formally adopted these
14 rules.

15 While conference committees were
16 used in 2008, the schedule meetings issued
17 was not followed and conference committees
18 were not used in 2009.

19 Citizens Union was disappointed
20 that they were not formed in 2009 because
21 there was no public discussion of smaller
22 pieces of the emerging budget agreements.

23 The legislative leaders meetings
24 therefore were the only forums where the
25 budget was publicly discussed, and that

0152
1 was only of large budget items.

2 Without conference committees there
3 was also no formal role for rank and file
4 members to engage in substantive policy
5 discussions regarding expenditures and
6 taxes.

7 Citizens Union supports tightening
8 of the law to explicitly require the
9 creation and joint conference committees
10 and that they hold such meetings.

11 Rachel.

12 MS. FOSS: We are going to be
13 alternating a little bit to freshen it
14 up. I guess I am going to address
15 legislative deliberation.

16 As was discussed a little earlier,
17 New York State has one of the smallest
18 windows for consideration of the budget
19 compared to other states and has an
20 unusual fiscal year start date of April
21 1st.

22 Coupled with the process that is
23 leadership driven, we believe that robust
24 legislative deliberation is lacking in New
25 York.

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1 The 2007 reforms did little to
2 address this issue. Though they amended
3 the law to require earlier budget
4 discussions in November, it required the
5 Governor to make all practical efforts to
6 submit budget amendments within 20 days
7 after submission of the executive budget.

8 While the Governor made amendments
9 within 21 days in 2008, he did not do so
10 in 2009, though he did present the budget
11 early, so that was a little bit of a mixed
12 bag on that.

13 The overall amount of time for
14 legislative review did not change
15 significantly therefore.

16 To extend the amount of time
17 available for review we recommend that
18 there be a later start date for the fiscal
19 year, and I know this was discussed
20 earlier, we don't actually have a
21 particular date in mind, and I will just
22 add there is some considerations that
23 should be thought about with regard to
24 this.

25 For example school year budgets is

0154

1 one thing, that made it difficult for us
2 to determine an exact date, but we do
3 believe that they should be later,
4 particularly as it helps to provide a more
5 greater fiscal picture with the April 15th
6 returns.

7 MR. DADEY: Concerning
8 discretionary funding and member items,
9 the 2007 reforms addressed this process
10 and rather than how much they are
11 allocated and/or reported, if passed as
12 lump sum appropriations in the budget,
13 the 2007 reforms require that member
14 items later be itemized in a resolution
15 before appropriation.

16 In 2009 the Assembly passed
17 itemized member items as part of the

18 budget bills, while the Senate used a lump
19 sum appropriation and later passed an
20 itemized resolution.

21 Additionally, while both house
22 released member items to the public with
23 information regarding the sponsors, the
24 Senate's version was presented in a more
25 user friendly manner, so congratulations,

0155

1 as it was exportable as a spreadsheet that
2 allowed for independent analysis.

3 On the downside, however, the
4 Senate rules enacted on July 15, 2009 for
5 the first time codified a ratio that
6 allows for the majority conference to
7 control up to 66 percent of member items.

8 Although this ratio is very
9 disproportionate, it is an improvement
10 over the historic funding ratio.

11 We believe that member items should
12 be itemized in budget bills before passage
13 with the sponsoring member's name listed
14 and that there also be reporting regarding
15 the usage of such funds.

16 The organization also supports
17 greater utilization of member item funds
18 to all members regardless of political
19 party.

20 We are currently examining ways to
21 make the process more fair and
22 transparent, such as creating standards
23 for the distribution, we will share our
24 thoughts with you in the future.

25 MS. FOSS: Regarding the use of

0156

1 message of necessity, the 2007 budget
2 reforms did not address this issue.

3 As you know, they allow bills to be
4 passed immediately without the 3 day aging
5 requirement.

6 They were used for almost all
7 budget bills in 2008, it seemed in 2009
8 they were mostly not used, except for the
9 special budget cutting sessions.

10 And we were concerned by their
11 usage in the special budget cutting
12 sessions because they were outside of the
13 normal budget process, which was already a
14 less transparent process arguably than the
15 normal budget process.

16 While they are intended for
17 emergency session, they can also be used
18 to stop debate once leadership has reached
19 an agreement, meaning rank and file

20 members may not be aware of the details of
21 the budgets they are about to vote on, or
22 the budget case.

23 In the case of the special
24 sessions, while we believe they should
25 generally be preserved, they should be

0157

1 limited to whether it is evident that a
2 delay in the legislature action would have
3 significant adverse consequences and the
4 Governor presents documentation of such
5 need and we think that the standard of
6 what documentation should be provided
7 should be raised.

8 MR. DADEY: Regarding the use of
9 performance budgeting to tie fundings
10 with results, we believe that the
11 reforms did not address this issue,
12 although some efforts have been made,
13 such as through the contracts for
14 excellence, for State education, most
15 State funds lack any real measurable
16 performance and accountability for their
17 usage.

18 Citizens Union recommends that
19 performance budgeting and outcome
20 measurements be used to help policy makers
21 determine whether programs are meeting
22 stated goals and promote a more rational
23 appropriation for these funds.

24 One possible model that should be
25 examined is New York City's use of the

0158

1 mayor's management report and preliminary
2 management report which include
3 performance indicators and statistics.

4 MS. FOSS: I'm also going to
5 gloss over this one a little bit on the
6 Independent Budget Office, this was
7 discussed a lot earlier today and I
8 would just add that there are a lot of
9 legislative proposals that we have seen
10 and we are disappointed that they have
11 not been acted on and they weren't part
12 of the 2007 reforms, but we believe that
13 an IBO is necessary for both economic
14 analysis and nonpartisan projections of
15 expenditures and revenues.

16 MR. DADEY: The 2007 reforms also
17 addressed the use of lump sum
18 appropriations in several areas, other
19 than member items, but include
20 substantive and environmental protection
21 fund.

22 However, as discussed earlier, for
23 member items a loophole remains to allow
24 lump sum appropriations in budget
25 legislation, provided they are itemized in

0159

1 resolutions later.

2 Citizens Union is also concerned by
3 the reappropriation of past year's funds
4 containing lump sum appropriations as it
5 allows such funds to be used as slush
6 funds and one shot budget gap fillers.

7 We believe that at a time, we
8 believe that a time limit for the
9 reappropriation of lump sums should be
10 instituted and that any lump sum
11 appropriations in budget bills should
12 disclose the detailed purposes and
13 criteria set forth for their distribution.

14 There should also be regular
15 reporting on lump sum appropriations that
16 includes detailed information regarding
17 funds distributed and the recipients and
18 remaining funds.

19 MS. FOSS: The 2007 reforms
20 require fiscal impact statements be
21 provided on legislative changes before
22 any vote, and this also has been
23 discussed today, in 2009 they were used,
24 which was a good thing, and I can't
25 speak to whether they were detailed

0160

1 enough, having not seen them myself, but
2 I would add that there is a couple of
3 other ways to provide more complete
4 financial information and that would be
5 to require the government -- the
6 Governor to submit a budget
7 presentation that provides a clear and
8 complete financial state, and fiscal
9 responsibilities which would include
10 those of public authorities to have
11 budget presentations include information
12 regarding tax expenditures projected
13 under current law, and off budget items
14 which are financial obligations of the
15 State but not currently presented as
16 part of the budget.

17 MR. DADEY: Finally, in addition
18 to some of the other previously outlined
19 ways to improve transparency, Citizens
20 Union recommends that there be
21 improvements to the format of all budget
22 documents to improve ease of public use.

23 All budget documents should

24 facilitate and encourage public and
25 legislative review by being -- presented
0161

1 in a user friendly and consistent formats
2 the legislature should present changes to
3 the Governor's appropriations bills in a
4 comparable format with updated financial
5 plan tables and projections prior to
6 adoption, the adopted budget bill should
7 also be reported in the same format as
8 proposed in the executive budget
9 presentation.

10 Lastly, we believe that there
11 should be 24 hour notice prior to
12 cancellation of budget hearings and
13 meetings.

14 We believe that these reforms that
15 we have outlined will provide greater
16 transparency to the State's budget
17 process, both for the legislators and for
18 the public, as well provide more complete
19 information regarding the State's fiscal
20 condition.

21 We thank you very much for the
22 opportunity to testify before you today.

23 SENATOR KRUEGER: Thank you both
24 very much, and for all the attachments
25 you have made, I think that the reform
0162

1 report card is a very valuable tool for
2 evaluating where we got and where we
3 didn't get and, in fact, I'm on record
4 as actually agreeing with many of the
5 proposals you brought up today, and as
6 we already mentioned, we are exploring
7 how to do an equivalent of the mayor's
8 management report at the State level and
9 not over use the messages of necessity
10 and requiring information to be provided
11 both with enough time for everyone to
12 digest them, including the legislature
13 and the public, but also in, I think you
14 used the word standardized formats,
15 which you are right, it would be an
16 incredibly value if we all just agree
17 that A equalled A and B equalled B and
18 whether it was in the Governor's
19 proposal or in the legislative response
20 we were always having A and B be the
21 same thing it would be amazingly
22 valuable.

23 In the context of all of this, do
24 you have an opinion on whether going to a
25 two year budget would make sense, and I

0163

1 know you were here listening to at
2 least -- one of the two of you were here
3 listening to the previous testifiers on
4 the importance of both improving the
5 planning process and also again holding
6 ourselves to a greater level of
7 accountability for what we are passing.

8 Do you think that a two year model
9 would help us do that?

10 MR. DADEY: I think that it very
11 may well do that. We don't have a
12 formal position on a two year budget,
13 but we have discussed it internally
14 within Citizens Union and for the very
15 reasons you just outlined we think it's
16 a worthy proposal that should be
17 considered and, in fact, may help meet
18 some of these goals that we just
19 outlined here.

20 So we would support the very
21 serious consideration in that and may, in
22 fact, support that itself.

23 MS. FOSS: I would just add one
24 thing that was brought up was have the
25 budget adopted on a nonelection year, I

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1 think that would be particularly
2 interesting to look at.

3 SENATOR KRUEGER: Also if you
4 think about a new -- we run every two
5 years, obviously, so if you pegged that
6 you were doing a two year budget to
7 basically start the process in January
8 when a new session began, and
9 particularly for new members who might
10 be coming in, the concept that you show
11 up in Albany and that's what you are
12 doing, that you are doing the budget for
13 the entire two year period that you
14 technically may be in office.

15 So politically there is a logic to
16 having it the alternate year, but I think
17 also operationally it's logical to have it
18 the alternate year, so I think there is
19 good government and good politics reasons
20 for that as well.

21 So I appreciate your highlighting
22 that that came up earlier, I want to thank
23 you very much for your testimony and for
24 frankly always doing this work, and I am
25 glad that we are having the hearing also.

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1 And again, what I said when I

2 started the hearing was I think it's
3 critically important that we have the
4 hearing now, even though it's very late in
5 the year and lots of people are otherwise
6 engaged, because we are walking into
7 perhaps the toughest budget year we will
8 ever see, perhaps in my lifetime as a
9 Senator, and I don't know how much of this
10 we can get implemented this year, but it's
11 the right time for us to try to implement
12 some serious changes.

13 MR. DADEY: And even following
14 the 2007 reforms would be a great step
15 forward to complete that.

16 Thank you for your attentive
17 leadership to this, it's wonderful to see
18 you and your committee are really looking
19 at something that is long overdue.

20 SENATOR KRUEGER: Thank you.

21 Thank you very much for your
22 testimony.

23 Our last testifier is Sally
24 Robinson, Issues and Advocacy Vice
25 President, League of Women Voters of New

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1 York State, and as she comes up let me
2 just also highlight that New York Public
3 Interest Group, New York State Association
4 of Counties, the Business Council of New
5 York State and a Professor of Public
6 Financial Management at NYU have all
7 submitted testimony and that will be
8 available on the committee's website as
9 well.

10 MS. ROBINSON: Thank you.

11 Good afternoon, Senator Krueger.

12 As you said, I'm here representing
13 the New York State League of Women Voters.

14 The league has had a position on
15 improving the State budget process for
16 almost 17 years and it remains a priority.

17 We believe that any reforms of the
18 State budget process should aim for a
19 budget that is both timely in passage and
20 responsive to the State's various
21 constituencies.

22 The process itself should strive
23 for openness and citizen involvement.

24 Although the 2007 budget reforms
25 did cover some of what we have lobbied for

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1 over the past two decades, many of these
2 reforms have not been implemented.

3 We recognize that you and your

4 colleagues were not in the majority in the
5 2008 session, however the new democratic
6 majority during the 2009 legislative
7 session continued to fall well short of
8 achieving an open and transparent budget
9 so the public knows where its dollars are
10 going.

11 The league also has been adamant
12 that additional reforms are needed.

13 A clear, concise budget document
14 and public disclosure of off budget items,
15 an Independent Budget Office, mandated
16 joint conferencing and public meetings,
17 more accountability for member items and
18 limiting the use of messages of necessity.

19 One of the aims of the 2007 budget
20 reforms was to increase the time for
21 budget deliberations with quick start
22 budget discussions required each November.

23 We were encouraged when the
24 Governor released his 2009 executive
25 budget early in December allowing for

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1 earlier budget discussions.

2 Unfortunately in the end the
3 process lacked involvement by rank and
4 file legislators or the public.

5 Progress was made this year in
6 accordance with another 2007 reform that
7 called for fiscal impact statements for
8 legislative changes to the budget prior to
9 adoption.

10 Both legislative deliberation and
11 citizen involvement require a budget
12 document that is lucid, concise and
13 understandable.

14 The budget should clearly identify
15 nonrecurring revenues and allow for the
16 same degree of public disclosure and
17 scrutiny for off budget items as for the
18 executive budget.

19 We do believe it should be balanced
20 according to gap, however we do not
21 support a bi-annual budget.

22 In our view the single most
23 important reform not accomplished in the
24 2007 budget reforms was the creation of an
25 Independent Budget Office.

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1 Instead, the Comptroller is the
2 final arbiter for available State
3 revenues.

4 The Comptroller is an elected
5 official and does not have the same public

6 perception of objectivity, particularly in
7 election years.

8 Independent nonpartisan forecasting
9 and economic analysis would be one
10 important means of enhancing long term
11 planning capabilities and ensuring greater
12 fiscal stability.

13 The league has long urged the use
14 of joint conferences and public meetings
15 to facilitate the budget process and
16 increase public participation.

17 As many others have noted, despite
18 the rules changes, conference committee
19 were not even formed in 2009.

20 A deeply flawed process in
21 developing the budget left the public
22 without adequate information or input.

23 The law should be changed to
24 mandate the creation of joint conference
25 committees and adequately notice joint

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1 public meetings.

2 We believe that increased public
3 awareness of the budget and participation
4 in the budget process would result in more
5 accountability in the final budget.

6 With respect to member items, not
7 surprisingly we concur with our good
8 government colleagues from CU.

9 Although the 2007 budget reforms
10 did require that member items be itemized
11 in resolutions, both the Senate and
12 Assembly should go further in disclosing
13 the use of member items, listing the
14 legislator's names with sponsored member
15 items in any appropriation bills or
16 resolutions.

17 Member items should also be
18 distributed equitably and committed for
19 public purposes.

20 The league urges that the use of
21 messages of necessity during the budget
22 process be restricted to genuine instances
23 in which a delay would cause substantial
24 and irreparable harm.

25 Thank you, Senator for this

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1 opportunity to express our views on how to
2 improve New York State's budget process.

3 We look forward to working with you
4 during the next legislative session to
5 improve openness, transparency and
6 responsiveness during the budget process.

7 We would also urge you to include

8 more citizen involvement in this process
9 and empower rank and file legislators to
10 do the job that their constituents were
11 sent into Albany to do.

12 SENATOR KRUEGER: Thank you very
13 much.

14 And, Sally, in fact your testimony
15 to some degree was very consistent with
16 many of our other testifiers here today,
17 but said that the organization does not
18 support a bipartisan, we all support --
19 bi-annual, excuse me, bi-annual budget
20 process.

21 Why are you opposed to it?

22 MS. ROBINSON: That is in the
23 books dating from 1993, so I will try
24 and go back and do a little research and
25 talk to the people who worked on that,

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1 but I could not tell you why.

2 SENATOR KRUEGER: Okay.

3 MS. ROBINSON: That has been our
4 position since 1993.

5 SENATOR KRUEGER: If you wouldn't
6 mind going back and see whether we can
7 find some history about why, because
8 there may be perfectly legitimate
9 arguments against doing it, or, in fact,
10 we may find that given what has happened
11 with the New York State budget process
12 between '93 and 2009 that people might
13 not take the same position today as they
14 did then.

15 So, thank you very much for your
16 testimony.

17 MS. ROBINSON: Thank you.

18 SENATOR KRUEGER: And this
19 concludes our hearing of the Select
20 Committee on Budget and Tax Reform and I
21 appreciate everybody's testimony today.

22 And, again, all of the materials
23 from the hearing will be available on the
24 Senate website select committee and I
25 appreciate the people who came today and

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1 the people who have submitted their
2 testimony.

3 Thank you very much.

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C E R T I F I C A T E

I, STEPHEN J. MOORE, a Shorthand
Reporter and Notary Public of the State of
New York, do hereby certify:

That the proceedings as
hereinbefore set forth is a true and
accurate record of said proceedings.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I am
In no way interested in the outcome of
this matter.

Stephen J. Moore, RPR
CRR.