

Making Government Work

A Preliminary Report
of the
Senate Task Force on Government Reform

Sen. Joseph L. Bruno
Senate Majority Leader

Sen. Dale M. Volker
Co-chairman

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THE SENATE
ALBANY, NEW YORK

Dear Senate colleagues:

A vibrant, open and effective legislative process has always been critical to maintaining citizens' trust and support for our democratic system of government. The Senate, under the leadership of Majority Leader Joseph L. Bruno, has consistently worked to encourage citizen access and participation and improve the way government operates in our state Capitol.

The most obvious example is the Senate's tireless effort to reform our broken state budget process, an effort that led to the adoption of historic budget reform legislation during the 2004 session. As a result, voters will have their say as soon as November 2005 on a Constitutional Amendment to forever end the spectacle of late state budgets, and help improve New York's fiscal health.

The Senate fought to enhance government integrity and accountability by strengthening lobbying oversight and, because government works best when citizens become more involved, embraced sweeping electoral reforms that made it easier for citizens to seek and hold public office.

The Senate's efforts at Medicaid reform have sought not only to protect local property taxpayers from the program's soaring costs, but also to improve the health of our poor and vulnerable elderly through better integrated care and less expensive alternatives to hospitals and nursing homes.

The Senate has taken careful aim at its own operations as well, resulting in reforms that have made the legislative process more efficient, open and accessible to the public than ever. For example, New Yorkers can now watch Senate proceedings as they happen -- from anywhere in the world or right in their own living rooms -- by tuning in to the Senate's state-of-the-art website or their local cable access channel. Detailed expenditure reports allow citizens to see for themselves how the Senate spends tax dollars to support its own operations. And the use of joint conference committees and an end to late-night sessions has helped erase the perception that all elected leaders want to cloak state government in secrecy.

The Senate Majority Task Force on Government Reform created by Senator Bruno this year will seek to build on these accomplishments and, much more, to continue to deliver better

“For more than 10 years, the Senate has been working to improve the way government operates in our state Capitol.”

government to the citizens of the state, enhance their understanding of issues, and encourage more participation in the governmental and lawmaking process.

The Task Force's findings will be shared with Governor Pataki and Assembly Speaker Silver in an effort to generate bipartisan support for reform.

In announcing the Task Force, Senator Bruno said, "I became the Majority Leader 10 years ago by promising to reform the way the Senate operates and, with the help and support of the Conference, I delivered those reforms. Now is the time to take a close look and seek input on how we can not only update and improve the legislative process, but also to review other areas of state government that can be changed to increase responsiveness and accountability."

This preliminary report, the first by the Senate Task Force on Government Reform, seeks to catalog the tremendous change that already has taken place in the Senate and the Legislature. These reforms will serve as the foundation for the work of the Senate Task Force on Government Reform as it moves forward to examine legislative operations, procurement lobbying, public authority reform and review the interaction between local and state governments.

Sincerely,

Sen. Dale M. Volker
Co-chairman

Sen. Frank Padavan
Co-chairman

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Embracing Change in New York Government

The issue of government reform has come to the forefront for many New Yorkers whose frustration with the process has been fueled by 20 consecutive years of late state budgets. More and more, significant policy issues have become intertwined with negotiations over the budget, increasing government gridlock. Reform aimed at separating budget negotiations from unrelated issues and passing a budget by the beginning of the state's fiscal year has been an enormous priority for the Senate for more than 10 years. This year, the Senate finally succeeded in winning passage of budget reform legislation, but the need for reform goes beyond the budget process.

The Senate Majority Task Force on Government Reform was established by Senate Majority Leader Joseph L. Bruno in response to an overwhelming call from members of the Senate Majority to identify the additional areas of government dysfunction and to propose solutions that improve government efficiency, openness and accountability, Senator Bruno said,

"I became the Majority Leader 10 years ago by promising to reform the way the Senate operates and, with the help and support of the Conference, I delivered those reforms. Now is the time to take a close look and seek input on how we can not only update and improve the legislative process, but also review other areas of state government that can be changed to increase responsiveness and accountability. Most reform suggestions so far deal with the committee process; we need to go further than that.

"We are always looking for ways to improve the legislative process and state government as a whole and the Senate Majority Government Reform Task Force will focus on how we can do that."

In addition to late budgets, critics of New York state government have focused on other aspects of legislative and government operations. Notably, one recent study analyzed the role of

Senate and Assembly committees in reshaping and deliberating legislative issues prior to their moving to the floor for enactment.

The Senate Task Force on Government Reform not only will examine reforms of the legislative process, but also will study additional aspects of government dysfunction. The examination will include, but not be limited to, practices related to procurement lobbying, The role of lobbyists and their interaction with the legislative and executive branches of government, and the public's right to know how policies may be impacted through lobbying, also will come under scrutiny.

In addition, the Task Force will examine the operation of the state's public authorities, agency operations and procurement, such as that involving technology, and the impact of the multiple layers of local government on local property taxes.

It is the role of this Task Force to review the diverse concerns and recommendations of advocates, elected leaders and citizens, and devise proposals to improve government efficiency, transparency and accountability. Every idea will be considered, every proposal will be studied and everything is on the table. The goal of this panel is to devise proposals to improve government efficiency, transparency and accountability, and end Capitol gridlock.

The Task Force is headed by two veterans of the Legislature with intimate knowledge of the inner workings of state government, including service in both the Senate and Assembly that spans the administrations of four Governors. The Task Force includes every member of the Senate Majority Conference.

This report details Senate initiatives already put in motion to improve government efficiency, transparency, accessibility and accountability. It is designed to serve as a foundation for continuing efforts of the Task Force to study, recommend and implement additional reforms.

Budget Reform

In recent months, calls for reforming the way government works in Albany have grown louder, reflecting the public's increasing frustration with 20 years failure to enact a state budget on time, by the start of the new fiscal year.

The Senate long ago recognized the damage caused by the annual budget stalemate, from the uncertainty it creates for local governments, schools and nonprofit agencies that rely on state funding, to the impact on the creditworthiness of government agencies, and on citizens' perception of, and support for government.

Beginning with Senator Bruno's 1995 election as Majority Leader, the Senate has made reform of the budget process its highest priority. This decade-long effort resulted this year in the passage of historic budget reform legislation, including a Constitutional Amendment that is expected to be before voters for approval in November 2005.

20 years of late budgets *Budget adoption dates since 1984:*

2004 - Aug. 11	1993 - April 5
2003 - May 2	1992 - April 2
2002 - May 16	1991 - June 4
2001 - Aug. 3	1990 - May 19
2000 - May 5	1989 - April 19
1999 - Aug. 4	1988 - April 20
1998 - April 14	1987 - April 11
1997 - Aug. 4	1986 - April 5
1996 - July 13	1985 - April 5
1995 - June 7	1984 - March 31
1994 - June 8	

The landmark legislative budget reform plan provides greater transparency and accountability in both the Executive Budget submission and in the Legislature's final action. The reform plan also creates additional time for deliberation and public input through its provisions for earlier submission to the Legislature. The change in the start of the state fiscal year from April 1 to May 1 addresses New York's distinction of having the shortest budget deliberation period of any state.

Finally, the budget reform package ensures that a budget will be in place at the beginning of every fiscal year through the creation of a contingency budget.

If, for any reason, budget agreement cannot be met by the deadline, the contingency budget becomes the operating budget of the state until a final budget plan is enacted. The contingency budget would be a continuation of the prior year's spending and appropriation levels. Spending could not exceed the prior year's level for each appropriation; no new contracts would be authorized, and no new initiatives already in law could move forward. Other key components of the Legislature's historic budget reform plan include:

Efficiency

- **Changing the Fiscal Year** -- The legislation would change the start of the state fiscal year from April 1 to May 1, effective with the 2006-07 State Fiscal Year (SFY).
- **Early Budget Submission** -- The proposed constitutional amendment would require earlier submission of the Executive Budget by January 15 (February 1 for a newly elected Governor), and shortens the amendment period from 30 days to 21 days to allow additional time for legislative review.
- **Accelerated Approval Process** -- Under the enhanced fast start plan, discussions between the Executive and the Legislature on forecasts of tax revenues, of Medicaid disbursements, school aid disbursements, and of public assistance caseloads would begin on or before December 5 of each year.
- **Guaranteed On-Time Budget** -- If a new budget is not adopted by May 1, an automatic contingency budget would continue the previous year's budget for the ensuing fiscal year. The contingency budget would provide the same appropriations, reappropriations, spending and revenue provisions as enacted for the preceding fiscal year, with the exception of certain federal funds. The contingency budget remains in effect until both houses pass a single multiple appropriation bill which alters the contingency budget.

Transparency

- **Public Disclosure of Agency Budget Requests** -- The constitutional amendment requires that all state agency budget submissions would be made public prior to submission of the Executive Budget. These requests currently are submitted to the Governor in the Fall, but not released publicly.
- **HCRA on Budget** -- Beginning in SFY 2006-07, the budget reform bill would require the Executive Budget to include all spending related to the Health Care Reform Act, which accounts for \$1.5 billion in state spending, and is not currently included in the Executive Budget.
- **Three-Year Spending Projections** -- The future cost of state spending decisions often remains hidden from public view. The proposal requires a three-year projection by the Executive of the financial impact of any changes to the Executive Budget.

Accountability

- **Increased Reserve Funds** -- Two reserve funds, equal to 3 percent of the General Fund and 3 percent of State Funds, would be created to provide funds for May and June school aid payments, and to cushion against unexpected economic downturns, revenue shortfalls, and natural disasters. Expanded reserve fund provisions are included in both the bill and the constitutional amendment.
- **Independent Oversight** -- A new Independent Budget Office (IBO) would be created to provide the Legislature with detailed information related to the budgetary process, including an annual economic and revenue forecast, a three-year fiscal outlook, quarterly reports on state revenues, as well as fiscal impact statements on proposed legislation. All reports of the IBO would be made available to the public.
- **Additional Financial Reporting** -- The budget reform plan would require additional detail and financial reporting in the Executive Budget relating to the financial plan.

- **Two-Year Education Funding** -- The bill requires the Governor to include a two-year appropriation for aid to education in the Executive Budget. The submission would be two separate appropriations for education, one for the succeeding fiscal year and one for the next succeeding fiscal year.

Legislative Reform

Much of the focus of recent criticisms of New York's state government has centered on the operations of the state Legislature, i.e., how bills are reviewed, debated and voted upon. In recent years, the Senate has made major strides in improving its efficiency, public accessibility and accountability, including the use of joint conference committees, televised sessions and public reporting of operating expenditures.

Joint Conference Committees

Senator Bruno introduced the use of Joint Conference Committees to the Legislature in 1995, beginning with the issue of increasing the state speed limit on select highways to 65 mph. As a result of the Conference Committee process, drivers have enjoyed the higher speed limit on more than 1,300 miles of the state highway system, including most of the New York State Thruway.

New York's use of the Joint Conference Committee process is modeled on the practice of the US Congress. Under this model, both the Senate and Assembly pass legislation ; a Conference Committee comprising members of each house gathers in a public forum to negotiate differences between the two competing bills and arrive at an agreement.

In addition to the 65 mph speed limit, Conference Committees have been convened by the Leaders of the Senate and Assembly to discuss these issues:

- **Breast Cancer/Pesticide Registry (Ch. 27, L. 1996)** -- The Conference Committee agreement requires reporting and analysis by the state Department of Health on the incidence of breast cancer in communities throughout the state.

- **48-Hour Maternity Stay (Chap. 56, L. 1996)** -- The Conference Committee agreement ends the practice of “revolving door” deliveries by requiring hospitals to provide a minimum 24 hours of care following birth.
- **Small Cities School Budget Voting (Ch. 171, L. 1996)** -- The Conference Committee agreement requires annual school budget votes in small cities.
- **Expansion of “Power for Jobs” (Ch. 316, L. 1997)** -- The Conference Committee agreement creates the new “Power for Jobs” program to provide 400 megawatts of low-cost energy for economic development.
- **Women’s Health and Wellness (Ch. 554, L. 2002)** -- The Conference Committee was an integral part of the agreement to expand access to prevention and treatment of women’s health issues.
- **Rockefeller Drug Reform (S.1441)** -- The Conference Committee considered measures to alter sentencing and consider treatment options for drug offenders. Negotiations continue on this issue.
- **Budget Reform (S.7317, Constitutional Amendment, First Passage (S.7615-A)** -- As discussed earlier, a Conference Committee negotiated the historic reform of the state budget process to end late state budgets and provide additional accountability in the state’s spending decisions.
- **Help America Vote Act (multiple bills)** -- The Conference Committee considered numerous measures to improve ballot security and simplify voting to encourage increased participation. Negotiations are ongoing.

In 2001, Senator Bruno authorized live, continuous televised coverage of Senate sessions, allowing citizens to watch proceedings as they happen over the Internet and on cable television public access broadcasts throughout New York, becoming one of the first legislative bodies in the country to do so. (According to the National Conference of State Legislatures, the majority of states still do not offer live video coverage of legislative sessions.) The Assembly followed suit shortly thereafter.

Timeliness and Efficiency

The Senate has virtually made late-night and all-night sessions a thing of the past, and has made a deliberate effort to start sessions on time, according to the session calendar that is published and distributed publicly each January. Committee chairmen are encouraged to start and end their regularly scheduled meetings on time, as well. Timeliness not only improves the efficiency of the Senate, it contributes to better public understanding and participation in the legislative process.

Reducing Costs

Beginning in 1995, the Senate lowered spending for its own operations, reducing the number of Senate staff by 357 employees, closing 20 satellite offices, restricting travel, and limiting newsletters and other legislative mailing expenses. The Legislative Budget has increased at just one-fourth the rate of inflation since 1990, including an increase of only 0.06 percent in SFY 2004-05 over the 2003-04 Legislative Budget, which itself was reduced by 3 percent.

Legislative Expenditure Reports

Twice each year, the Senate releases detailed expenditure reports to allow the public to track spending by Senate member and office.

Citizen Access to Government

In addition to focusing on improving the legislative process, the Senate has sought to expand citizen participation in government decision-making. Comprehensive Election Law reforms sought to streamline ballot access provisions to encourage increased voter and political participation by voters. These reforms include reducing the number of signatures required to seek elective office and stricter campaign finance disclosure rules, with enhanced penalties for Election Law violations.

The 2000 Senate Majority Special Task Force on Voter Participation studied new technology and other measures to simplify voting, make elections more fair and enhance public confidence in poll results.

Initiative and Referendum

In 24 states, citizens currently have the right to initiate action on issues either directly or by forcing their Legislature to consider measures. On Nov. 2, voters in 18 states decided 62 issues -- from bans on same-sex marriage to new limits on welfare benefits -- through their states' initiative and referendum processes. Thirty-four such measures were approved. Some examples of citizen initiative from the 2004 election include:

ARIZONA

Proposition 200 -- Arizona Taxpayer and Citizen Protection Act (Passed)

Summary: Require registrants applying to vote in Arizona to submit evidence of their United States citizenship with the application. This Act also requires state and local governments and their agencies that administer state and local benefits that are not federally mandated to verify applicants' identity, immigration status, and eligibility.

CALIFORNIA

Proposition 61 -- Children's Hospital Projects-Grant Program-Bond Act (Passed)

Summary: Authorizes \$750,000,000 in general obligation bonds, to be repaid from state's General Fund, for grants to eligible children's hospitals for construction, expansion, remodeling, renovation, furnishing and equipping of children's hospitals.

Proposition 63 -- Mental Health Services Expansion and Funding (Passed)

Summary: Provides funds to counties to expand services and develop innovative programs and integrated service plans for mentally ill children, adults and seniors.

Proposition 64 -- Limitations on Enforcement of Unfair Business Competition Laws (Passed)

Summary: Limits individual's right to sue by allowing private enforcement of unfair business competition laws only if that individual was actually injured by, and suffered financial/property loss because of, an unfair business practice.

Proposition 66 -- Limitations on "Three Strikes" Law-Sex Crimes-Punishment (Failed)

Summary: Amends the "Three Strikes" law to require increased sentences only when current conviction is for specified violent and/or serious felony.

Proposition 69 -- DNA Samples-Collection-Database-Funding (Passed)

Summary: Requires collection of DNA samples from all felons, and from adults and juveniles arrested for or charged with specified crimes, and submission to state DNA database; and, in five years, from adults arrested for or charged with any felony.

COLORADO

Amendment 36 -- Selection of Presidential Electors (Failed)

Summary: The proposed amendment eliminates the current system in which the presidential candidate receiving the most votes gets all of the state's electoral votes and allocates Colorado's electoral votes based on the percentage of votes for each presidential candidate.

FLORIDA

Constitutional Amendment 7 -- Patients' Right to Know - Adverse Medical Incidents (Passed)

Summary: Current Florida law restricts information available to patients related to investigations of adverse medical incidents, such as medical malpractice. This amendment would give patients the right to review, upon request, records of health care facilities' or providers' adverse medical incidents, including those which could cause injury or death. Provides that patients' identities should not be disclosed.

MAINE

Question 1 -- An Act to Impose Limits on Real and Personal Property Taxes (Failed)

Summary: Do you want to limit property taxes to 1 percent of the assessed value of the property?

MONTANA

I-149 -- 2004 Healthy Kids, Healthy Montana Tobacco Tax Increase Act (Passed)

Summary: This initiative increases tobacco taxes by approximately 140 percent, to \$1.70 per pack of cigarettes, 85 cents per ounce of moist snuff, and 50 percent on all other tobacco products, and changes the use of these revenues. The initiative reserves approximately 45 percent of these revenues for additional enrollment in the children's health insurance program.

NEVADA

Ballot Question 1 -- Education First (Passed)

Summary: Shall the Nevada Constitution be amended to require the Nevada Legislature to fund the operation of the public schools for kindergarten through grade 12 before funding any other part of the state budget for the next biennium?

Ballot Question 5 -- Stop Frivolous Lawsuits and Protect Your Legal Rights Act (Failed)

Summary: Shall the Nevada Constitution be amended to penalize lawyers willfully involved in vexatious and frivolous litigation, and to prohibit changes to limits on recovery of monetary damages?

SOUTH DAKOTA

Initiated Measure 1 -- An Act to Exempt Food from Sales and Use Taxes (Failed)

Summary: The state collects a sales and use tax on the sale of food. Many cities and towns also collect a municipal sales and use tax on the sale of food. Initiated Measure 1, if adopted, would exempt food from state and municipal sales and use taxes, and eliminate this source of revenue.

UTAH

Initiative 1 -- Bonds for Natural Resources, Environmental Protection, Communities (Passed)

Summary: Shall a law be enacted to authorize the state to borrow up to \$150 million by issuing bonds and to use bond proceeds for projects that preserve or enhance lakes, rivers, and streams, wildlife habitat, farms and ranches, trails, historical sites, parks, open space, and water and air quality; facilitate growth management; build park, wildlife, or trail facilities; and build local community facilities and improve natural history and cultural museums?

WASHINGTON

Initiative 872 -- Establishing a Top-Two Primary (Passed)

Summary: This measure proposes a new system for conducting primaries for partisan offices. This proposal continues current practice of permitting voters to vote for any candidate for any office in primary and general elections, without limitation based on party. The two top candidates with the most votes in the primary advance to the general election. Candidates continue to designate their party.

Source: National Conference of State Legislatures, November 8, 2004

Here in New York, the Senate is the only legislative body to pass a bill to allow citizen Initiative and Referendum. Senate bill 3682-A (1996) allows citizens to petition the Legislature for consideration of issues and initiatives. Senate bill 7306 (2002) would allow direct Initiative in which citizens could place proposals directly on the ballot for approval.

In each case, the bills require support of 5 percent of the population voting in the prior gubernatorial election (approximately 250,000 voters) for a measure to be considered in a voter referendum and restricts the Legislature from amending or negating any initiative approved by a referendum for a period of two years. The Senate's Initiative and Referendum measure also establishes a similar system for local governments, including cities, counties, towns and villages initiatives.

Constitutional Convention

Some reform advocates have cited the need for a constitutional convention to effect real change in Albany government. Issues decided at a constitutional convention must be ratified by the electorate, and do not need the approval of the state Legislature.

Under the existing Constitution, the state's voters are asked during the General Election every 20 years, "Shall there be a convention to revise the constitution and amend the same?" Voters answered in the negative in 1957, 1977 and 1997.

The Legislature may also place the question on the ballot at any time, as it did in 1965. That year, voters agreed to a convention. The Legislature appropriated \$10 million to pay the

costs for the convention. (In 1992, it was estimated that a constitutional convention would cost between \$40 million and \$50 million). The resulting proposals dealing with taxpayer funding for private schools, among other issues, were defeated in the 1966 General Election.

Issues to be considered by a constitutional convention could be broad-ranging, from budget and electoral reforms to creation of a unicameral legislature of the type now in place in just one state, Nebraska.

Lobbying Reform

The Senate has been the leading proponent of strengthening New York's lobbying laws to provide better, more complete disclosure of lobbyists' activities at the Capitol. Provisions of the Senate's lobbying reform included a requirement for more detailed reporting, increased penalties for violations and a virtual ban on gifts to legislators and Executive agency staff.

In 1999 the Senate Majority approved historic lobbying reform (S.6184) that would:

- Expand lobbying disclosure;
- Extend the lobbying laws to cover lobbying of State agencies with respect to procurement;
- Increase the penalties for violators, and
- Ban gifts over \$25 in value.

The Lobbying Act of 1999 included many of these provisions and authorized random audits of lobbyists' filings to ensure accuracy (Chapter 2, L. 1999).

Continuing its earlier efforts, the Senate in 2004 again passed lobbying reform legislation (S. 7628) that would extend provisions of the Lobbying Law beyond the Legislature, to include Executive agencies, the Judiciary and municipal procurement contracts. The legislation would also make the Lobbying Law more comprehensive and effective, and make the investigation process more open and fair for all. Key provisions of the bill include:

- Requiring the Lobbying Commission to refer willful violations to the district attorney for possible prosecution;

- Expanding the definition of “lobbying” to include efforts to influence the awarding of contracts;
- Requiring additional reporting on procurement activities;
- Prohibiting contingent-retainers or “success fees,” and
- Increasing funding and adding additional members to the Lobbying Commission to support expanded responsibilities.

Medicaid Reform

Medicaid is the fastest growing portion of the state budget, consuming more than \$44 billion in tax dollars -- more than 40 percent of all funds spending -- to pay for health care services for the poor.

New York's unique cost-splitting arrangement with counties and New York City has been blamed for rising local property taxes. While Medicaid expenditures have grown significantly in the past few years, other factors contributing to the state's high local property tax burden include required pension payments and employee health care costs, as well as the vast number of local government services and payroll costs.

The Business Council of New York State, in its August 2004 report, "How High is the Upstate Tax Burden -- and Why," states that residents and businesses in counties excluding the New York City metropolitan area ("Upstate" New York) pay up to \$5 billion more in state and local taxes per capita when compared to the national average. The report found that state income taxes in the region were \$800 million above the national average, but local property taxes exceeded the average by 55 percent or \$3 billion. Local sales taxes are \$1.3 billion above the national average.

The bulk of this added tax burden -- \$4 billion or more -- was due not to Medicaid spending, but rather higher number of local government employees per capita relative to the rest of the nation, primarily due to the numerous layers of government throughout the State.

Proposals to shift the entire cost of Medicaid to the state without simultaneously embracing cost containment would only exacerbate the problem by forcing Upstate residents to pay for New York City's disproportionate share of the Medicaid program expenses.

Meanwhile, the debate over Medicaid funding distracts from concerns over quality of care and the fact that many New Yorkers continue to receive inadequate care or, in some cases, no care at all, for serious, debilitating and chronic illness and disabilities.

In response to the growing Medicaid crisis, the Senate Medicaid Reform Task Force was established in 2003 to analyze New York's health care system and develop recommendations to improve the system's efficiency and cost effectiveness. After several hearings throughout the state, the Task Force recommended that New York adopt guiding principles for its Medicaid program, which should include the following:

- Increase efficiency and improve patient care through the use of disease management practices;
- Transform the current Medicaid management system from one designed solely for paying bills into one which effectively organizes and plans the delivery of care, using information technology and care utilization review practices;
- Aggressively pursue federal waivers, accompanied by state regulatory and program reform, to develop a consumer centered, rational long-term care system, which provides a spectrum of options;
- Dismantle the existing overly prescriptive regulatory and funding systems, which often push both providers and patients toward nursing homes and other institutional care settings;
- Insist on a greater sense of personal and financial involvement in health care for those who have the wherewithal to do so, and
- Provide fiscal relief to local governments while avoiding future cost shifting.

The Task Force report included more than 40 recommendations to reform the health care system in New York and to develop a more effective Medicaid Program. Highlights of the Task Force's recommendations include:

- State assumption of the local share of the costs of the Family Health Plus Program. This state takeover of the program would be phased in over a two-year period and will provide fiscal relief to counties of \$49 million for SFY 2004-05, growing to \$404 million in SFY 2005-06;
- Changes to the Medicaid pharmaceutical program, in an effort to reduce the cost of prescription drugs and ensure their most effective utilization, including the establishment of a Preferred Drug List (PDL) and Prior Authorization Program; expanding the use of generic drugs; and further use of the 340-B Federal Drug Program, which would offer eligible drug purchasers outpatient drugs at discounted rates;
- Changes to the Family Health Plus (FHP) Program, including establishing co-payments for individuals who receive services; establishing an asset eligibility test; altering benefits offered under the program to more closely resemble the benefit package of the Healthy NY Program; and establishing a crowd-out provision that would prevent employees of large businesses from being eligible for the Family Health Plus Program;
- Reform of New York's long-term care system. In SFY 2003-04, the gross Medicaid cost for nursing homes and home care is expected to reach \$10.5 billion. As New York's senior population continues to grow, the long-term care system will place severe financial burdens on the Medicaid program. Therefore, the Task Force recommendations include several initiatives to expand private long-term care coverage options, while reforming current estate planning practices by extending the look back period for asset transfers and restricting "spousal refusal" to pay for long-term care services;
- Development of a more seamless and coordinated long-term care delivery system, by expanding existing Federal waivers, exploring improvements to case management,

implementing a “cash and counseling” demonstration program, and authorizing controlled “right-sizing” for nursing homes, and

- Establishment of disease management programs, along with a comprehensive utilization review process, and expanded use of technology.

Building on the Task Force recommendations, the Senate passed a Medicaid Reform Package (S. 7617) which would restructure the Medicaid program, making it more efficient, improving quality of care, and providing fiscal relief to local governments. The legislation would:

- Authorize the state to assume the local share of costs of the Family Health Plus Program, with this state takeover phased in over a two-year period, resulting in \$49 million in savings to local governments in SFY 2004-05, and \$404 million in SFY 2005-06;
- Create a Long-term Care Education and Marketing Program, and require the Department of Health (DOH), Division of Housing and Community Renewal, and Department of Insurance to cooperatively provide New York State residents with information on options for private financing of long-term care services;
- Establish a Nursing Facility Transition and Diversion Program, in order to assess nursing home recipients to determine whether they could be more appropriately cared for in the community;
- Implement, subject to Federal approval, mandatory Medicaid managed care in rural areas of the State;
- Double the state’s long-term care insurance tax credit to 20 percent, beginning in 2004, at a savings to taxpayers of \$20 million for SFY 2004-05;

- Require the Insurance Department and the Banking Department to study and develop long-term care investment products for insurance policy holders and homeowners;
- Create a single point of information for long-term care services;
- Authorize a Preferred Drug List (PDL) and Prior Authorization Program, in order to more efficiently manage the State's prescription drug expenditures in the Medicaid program by limiting reimbursement for drugs to those drugs which are on the preferred drug list or receive prior authorization;
- Implement changes to the Family Health Plus Program, including establishing co-payments for individuals who receive services; establishing an asset test, similar to the asset test for the Medicaid Program; establishing crowd-out provisions that would prevent employees of large businesses or employees from government agencies from being eligible for the Family Health Plus Program; modifying the benefit package to resemble that of the Healthy NY Program; and increasing the period during which an individual must be uninsured in order to be eligible for Family Health Plus, from six to 12 months;
- Establish a Disease Management Demonstration Program, and authorizes DOH to select up to six programs that would enhance the quality and cost effectiveness of care rendered to Medicaid-eligible persons with chronic health problems, on a voluntary basis, with services to include case management, social work, drug therapy, tele-health services, and other monitoring technologies, and
- Establish a Prescription Drug Discount Program, as authorized under Section 340B of the Federal Public Health Service Act, which would include at least three correctional facilities, work release facilities, or alternate correctional facilities, in order to improve health care services to inmates and reduce prescription drug costs to the State.

Public Authority Reform

The role of public authorities in the delivery of government services has become more expansive and complex in recent years as the state has sought innovative funding and organizational strategies to strengthen and enhance public services. The rise in the role of public authorities, however, has caused increasing concern about transparency, accountability, public disclosure, reform and legislative oversight.

In 2004, Senate legislation (S.7292-A) sought to overhaul public authority oversight to strengthen public confidence and improve efficiency. The bill would:

- Increase legislative oversight over the activities of public authorities and requires public disclosure and public hearings to increase openness, awareness and accountability. The Senate proposal would also mandate proven financial, audit administration, accounting and budget practices to guarantee fiscal integrity;
- Mirror public disclosure provisions, including elements of the federal "Sarbanes-Oxley Act of 2002," recently implemented in the private sector and corporate world. It would require all boards and commissions of public authorities to adopt written policies on procurement of goods and services, personnel, investments, travel, real estate acquisition and a codes of ethics, and
- Require any person or business that lobbies a public authority to register with the state Lobbying Commission and refrain from the appearance of any conflict. Every board member of an authority would be required to file annual financial disclosure statements and receive periodic training regarding their legal, ethical, accountability, and fiduciary responsibilities to the authority.

The Senate Standing Committee on Corporations, Authorities and Commissions, chaired by Senator Vincent L. Leibel, plans to continue its study of the role, function and structure of

New York's public authorities. It is expected that the committee's recommendations will be presented to the Task Force and considered as part of its deliberations and discussions.

Role of Local Governments

According to the state Comptroller, more than 4,300 local government units exist throughout the state, including 1,604 general purpose government units (counties, cities, towns and villages) and 2,700 special purpose units (library districts, housing authorities, urban renewal agencies, etc.). In addition, 7,000 improvement districts control water, sewer, power, trash hauling and other functions.

The Public Policy Institute in an August 2004 report estimated that excessive local government may add as much as \$4 billion or more annually to the tax bills of property owners outside New York City and its suburbs. The higher taxes are due to overlapping layers of government in those communities.

One solution to increased cost of local government is to address the problem of Medicaid spending, discussed above, which has been increasing rapidly without matching improvements in quality of care for Medicaid clients. County governments in New York share in the cost of the program.

Other solutions may lie in government streamlining or encouraging increased cooperation in provision of government services. The Department of State tracks efforts at intergovernmental cooperation that could serve as models for costs savings and deserve further review and study. Reports by the Comptroller and Attorney General also suggest cost-saving collaborations that could reduce the cost of local government to taxpayers and improve efficiency.

The Senate Standing Committee on Local Governments, chaired by Senator Betty O'C. Little, already has begun a review of the role of local governments and expects to make a report to this Task Force with recommendations on ways to improve service delivery and reduce costs to property taxpayers.

Next Steps

The Senate Task Force on Government Reform was formed to identify ways to enhance government efficiency, accountability and transparency, to increase public understanding and participation in government, and restore public confidence.

This report aims at setting out clearly the vast record of accomplishment so far, and serve as the basis for continued discussion.

The Task Force was charged with issuing a preliminary report prior to December 31, 2004. Through public forums and meetings, the Task Force hopes to gain insight and commentary on the broad range of government reform recommendations and make its own proposals, and plans to hold public meetings where more complete details of these plans will be made available.

Appendix I

A History of Senate Budget Reform Efforts

1985

- Legislation by Senator Joseph L. Bruno provides for a default budget if the Legislature fails to enact a new budget plan. Bruno plan also calls for an automatic reduction for every state department and agency, if a new budget isn't passed by April 1st. (S.677)

1991

- Senate enacts comprehensive budget reform legislation, establishing a schedule to achieve an on time budget, starting the process earlier, opening up agency budget requests to the public, and a constitutional amendment for a baseline budget to take effect if a new budget is not enacted by April 1st. The baseline budget would carry forward the previous year's budget, adjusted for mandates, contracts and debt and reduced until it meets the level of anticipated revenues. (S.5805)

1992

- Bill introduced to provide for previous year's budget, minus a 5 percent reduction, to continue if a new budget is not passed by April 15. (S.6952)

1993

- Legislation is introduced calling for previous year's budget, with a 5 percent reduction, to be implemented, if no budget agreement is reached by April 15. (S.1929)

1995

- Senate proposes budget reform plan that would:

Require submission of Executive Budget by Dec. 1, allowing up to seven additional weeks for legislative review and public input on spending proposal.

Extend 30-day amendment period to 45 days.

Require submission along with the Executive Budget of a four-year fiscal plan, to be updated 60 days after adoption of a new budget.

Simplify budget process by limiting the Executive Budget to seven fewer budget bills and no more than 10 Article 7 bills.

Require automatic enactment of an austerity budget, reducing spending 10 percent from prior year's levels in most cases, if new budget is not in place by April 1.

Require appointment of Joint Legislative Conference Committees by March 10.

Requires two-thirds "supermajority" vote to enact tax or fee increases in excess of \$50 million.

- Majority Leader Bruno proposed creation of a nine-member Conference Commission to develop budget reform recommendations.

1996

- Gov. Pataki endorses budget reform plan approved by the Senate. (S.5598, S.7980)

1997

- Senate approves constitutional amendment (S.2430) to enact the prior year's budget if a new plan is not in place by April 1.

1998

- Senate again approves budget reform constitutional amendment. (S.2430)

1999

- Senator Bruno proposes creation of an independent panel to be appointed by the Senate, Assembly and Governor to project revenues and set spending parameters for the new fiscal year, thus ending delays caused by dispute over available revenues.

2000

- Senate passes comprehensive seven-point budget reform plan to guarantee an on-time budget. (S.6, S.7)

2001

- Senate passes sweeping, eight-point budget reform plan that would guarantee an on-time budget. (S.6, S.7)

2002

- Senate passes 10 budget reform bills and challenges Assembly to pass any budget reform bill and go to a conference committee to resolve differences. Assembly refuses to act on budget reform. (S.6624, S.6625, S.6, S.7, S.535A, S.834, S.1585, S.2817, S.3339, S.6181)

2003

- Senate acts on comprehensive plan to reform every aspect of budget process to guarantee an on time budget. Plan includes early public submission of budget requests, early submission of Executive Budget, binding revenue forecast, public budget conference committees, May 1 fiscal year start and continuing previous year's budget if no agreement is in place. (S.1, S.2)

2004

- Senate reaffirms commitment to reforming the budget process by passing the Budget Reform Act of 2004 (S.1A & S.2A) and calling on the Assembly to pass their reform legislation so the different measures can be negotiated and a reform plan enacted into law.
- Senate passed legislation negotiated by a joint Legislative Conference Committee on Budget Reform to significantly reform the budget process and put an end to late budgets. The plan includes many provisions the Senate proposed included having a contingency budget automatically go into effect if a new budget is not adopted by the start of the fiscal year - changed to May 1 under the plan, and an enhanced fast start (Dec. 5) to budget discussions.
- Budget reform bills require a two-year school aid appropriation; the creation of an Independent Budget Office to provide financial information to the Legislature; and new reserve funds to make May and June school aid payments and to cushion against unexpected revenue shortfalls or economic downturns. The reform plan, which includes a change in state statute and a state constitutional amendment, would take effect in SFY 2006-07.