

***BUDGET TRANSPARENCY:***  
**NO MORE UNDISCLOSED "PORK"; PUBLIC ACCESS TO "UN-SPUN" BUDGET NUMBERS;**  
**TIME TO READ AND ADVOCATE ON THE BUDGET BILLS**

New York State needs a new way to make budgets – budgets that are not only timely, but also are understandable (to the public AND to the legislators) and allow voters to hold lawmakers accountable for their budget decisions.

**What's wrong with the budget process?**

1. **Not enough reliable, objective information at the time it's needed.** We know now that New York State legislators can approve a budget on time (although this simple goal eluded them for two decades) but the debate over the numbers continues. **Budget analysis and reporting at every stage from revenue consensus to the final override vote is highly politicized.** While the budget books that describe and advocate for the Governor's proposals have become more detailed and voluminous, the actual appropriations bills on which the Legislature must act have become more opaque, as the Governor has used a series of court decisions regarding his constitutional budget making powers in ways that tend to obfuscate budget details and make the Legislature's work harder. **As the appropriation bill format has evolved, it has become harder for the public to understand either the Governor's budget proposals or the Legislature's actions on those proposals.** This is why the "three men" have all been able to assign different dollar values to the size of this year's legislatively-adopted budget without fear that outside analysts or interested citizens can figure out what is really going on. **In addition, the legislative leaders regularly make decisions that further exacerbate the information problem.** Joint conference committees (themselves a welcome addition to the process) have been allowed to announce their decisions the same day that the related bills are printed, and the "message of necessity" device has been used to circumvent the constitutional requirement that legislation (including budget bills) must be given three days between introduction and passage.
2. **Abuse of "member items" and other lump sum appropriations.** Member items are lump sums of State funding in the budget (often funded through borrowing as part of the capital budget) that the Governor and legislative leaders agree to allocate later at their discretion. Other lump sum appropriations are allocated totally at the discretion of the executive branch without clear standards established by law or even agency rule. State Comptroller Alan Hevesi identified more than \$1 billion in the fiscal year 2005-06 budget that was appropriated subject to Memoranda of Understanding (MOUs) among the Budget Director and the two houses (arguably, involving legislative branch officials in what is properly an executive function) – funds for which there was no public documentation as to the intended use. Most member items benefit the districts of individual members and not necessarily the greater public; what little is known about the process shows sharp disparities between legislative districts and regions of the state, and inconsistent or nonexistent standards for selection and prioritization. The Manhattan Institute's Empire Center for New York State Policy uncovered nearly 23,000 grants amounting to a total of more than \$470 million. Using a broader definition of what could be considered "pork" on the capital side of the budget, the Center for Governmental Research (CGR) put the cumulative figure at \$3.2 billion authorized in capital budgets since 1997.

**Actions:**

The Governor, the Senate and Assembly should make the budget process more transparent:

- Expose "member items" and other lump sum appropriations to full, bright sunshine.
- Create a new entity to provide independent and non-partisan budget analysis.
- Simplify structure and format of the appropriations bills submitted by the Governor.
- Formalize the practice of passing budget and budget-related bills without resorting to a message of necessity.

**What can be done about lump sum appropriations?** CGR found that other states allow legislators to steer funding to favored capital projects, but some – including Massachusetts and Louisiana – put the governor in the role of gate-keeper. While there is favoritism and horse-trading under such systems, they tend to cost less than New York's system of borrowed "pork" because legislative leaders don't enjoy free rein. The legislative branch stays out of budget implementation. Also, the results are transparent; taxpayers can see what projects are listed in the budget and which ones ultimately get funded.

At the very least, the choices made about how to spend this money should be made public, so New Yorkers can examine who is benefiting and weigh the costs and advantages for themselves. The Comptroller has proposed that the intended recipients of lump sum appropriations be identified at the time of enactment and that quarterly reports be issued on lump-sum

## ISSUE: BUDGET TRANSPARENCY

allocations. Senate Democrats have also proposed mandatory disclosure of MOU details. CGR has insisted that the state should provide annual reports to the public, accessible via the Internet, on which projects are selected for funding, who did the picking, and what was the basis for their selection. The Empire Center's comprehensive set of sunshine proposals includes:

- State grant and contract awards should be based on clear program criteria and linked to performance standards set forth in enabling legislation.
- Grants and contracts should be awarded on a competitive basis, and grants should require some level of matching funding from the recipient.
- Contractual details for all grants and contracts – including the name, address and name of the principal officers of the recipient organization – should be made publicly available on the Internet, and updated at the time a contract is awarded.
- State agencies should issue quarterly updates on all programs they administer pursuant to lump sum appropriations.
- The state comptroller should conduct random audits of community projects grants.

**What can be done to improve the quality and timeliness of information available to legislators and the general public? Establish a nonpartisan legislative budget office.** Much of the chronic confusion and uncertainty concerning the meaning and impact of the proposed and enacted budgets could be reduced by the creation of a bicameral, non-partisan budget office responsible for producing authoritative fiscal “scoring” of revenue and spending proposals. Models for such an agency would include the Congressional Budget Office (CBO), California's Legislative Analyst, and New Jersey's Legislative Budget and Finance Office. These agencies all serve to forecast revenue and analyze budget policies from a thoroughly professional manner, from a non-partisan perspective. They derive their effectiveness from their formal involvement in the budget process.

What could a non-partisan Legislative Budget Office, or LBO, do for New York State? The LBO would provide fiscal and programmatic expertise and analyses of the state's budget. It would also provide reports on of agency's budget spending and other similar reports to legislators. Using standard, widely accepted methodologies, it could also develop a regularly updated revenue forecast that can be used by both houses of the Legislature to develop credible responses to the Governor's budget proposals. Such an agency would allow all legislators, the media and taxpayers to “keep score” at every stage of the budget process.

Another model for a non-partisan budget office is the New York City Independent Budget Office (IBO). The IBO has been in existence since 1996 and is responsible for analyzing the city's budget, which at over \$50 billion is larger than most state budgets. The IBO's principal “clients” are the City's Comptroller, the Public Advocate, the members and committees of the City Council, the Borough Presidents, the city's 59 community boards, the media, and the civic and community organizations of New York. The IBO's director is chosen in a “non-partisan” manner: a screening panel makes recommendations to an appointing committee of city governmental leaders (except the Mayor). The City charter requires that the director possess demonstrated expertise in fiscal matters.

**What can be done to inform the public at the late stages of the budget process?**

- The Executive can and should draft the appropriations bills in a format that reasonably groups appropriations into programmatic categories, facilitates comparison to past years' spending and expected spending, and ties cash to appropriations. And, the Legislature's changes to the Governor's appropriations bills should be presented in this same format and should be accompanied by updated financial plan tables and projections. This approach would give the public much more easily understandable information. The improved format of the appropriations bills could be established by statute or in a constitutional amendment.
- The Legislature and the Governor should forego use of the message of necessity device. Either party could unilaterally decide to impose this reform. Or, messages of necessity could be prohibited (at least for budget bills) through a constitutional amendment. Alternatively, the standards for documenting the need for a message of necessity could be improved.
- A longer-term fix to the problem requires structural change in the budget calendar. New York is the only one of the 50 states that begins its fiscal year before July 1. The advantage of the more conventional calendar is added time for legislative deliberation; the quicker start of the fiscal year in New York shortens the time for budget debates. The ten weeks in which New York legislators can consider the governor's proposals before the fiscal year begins is shorter than most other states allow.