



CITIZENS UNION
NEW YORK STATE BUDGET REFORM REPORT CARD:
2012 AN IMPROVEMENT BUT STILL AN INCOMPLETE
April 2012

With no messages of necessity used to pass the state's final budget bills for the first time in years, and the budget enacted one day ahead of the deadline, New York State's budget process saw some welcomed improvement in the 2012 budget process compared to recent years. Though progress was made, the entire state budget process still fell short; the state did not fully meet the modest improvements of the budget reforms of 2007, and there was no action on further reforms, leaving in place a process that is still too opaque, complicated and rushed.

This report card reviews the state budget process as conducted in 2012, 2011 and 2010, and their respective adherence to elements of the 2007 reforms. It also points out areas where additional reform is needed to improve the process. This report card builds upon previous Citizens Union reports on state budget reform, including a report card on the 2008 and 2009 cyclesⁱ, and a December 2008 Issue Brief and Position Statement on New York State Budget Reform.ⁱⁱ

The 2007 reforms included, among other items, "quick-start" budget discussions and a March 1st deadline for revenue consensus; itemization of certain lump-sum appropriations and prohibition of legislative lump-sum additions; a requirement for the legislature to pass rules regarding the formation of joint conference committees and issuance of a schedule of dates for public hearings and meetings; provision of fiscal impact statements on legislative changes before any vote; executive multiyear financial plans; and authorization of a new "Rainy Day" fund at up to three percent of General Fund spending.

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This report card finds mixed results regarding implementation of major aspects of the 2007 reforms and no action to enact further reforms, resulting in a budget process that, while improved, continues to be flawed.










Our findings are listed below, which highlight the most recent budget adoption cycle that concluded at the end of March in 2012.

















1. While **no messages of necessity were used** for budget bills in 2012, unlike in 2010 and 2011, other major pieces of legislation with large fiscal impacts were unfortunately passed with such messages prior to the adoption of the budget, including the Tier 6 Pension legislation in March 2012 and the income tax overhaul of December 2011.
2. The **unfulfilled requirements of the 2007 Budget Reform Act** during this year's budget process were: missing the deadline for the start of the "quick-start" budget negotiations in November 2011, the exempting of certain lump-sum appropriations from itemization in joint resolutions of the senate and assembly, and the lack of fiscal impact statements for certain budget bills in both houses prior to votes.
3. There continues to be **no movement on other widely-supported measures to improve the budget process**, such as incorporating performance measurement, requiring the use of Generally Accepted Accounting Principles (GAAP), and the creation of an Independent Budget Office.
4. The **state budget continues to lack adequate transparency**, with budget documents hard to decipher for the general public, and no release of budget data in user-friendly formats such as spreadsheets to allow for independent analysis.
5. While no new state funds have been provided for member items for the last few years, **discretionary funds continue to be available and the legislature proposed redirecting funds to new organizations through leftover monies in the Community Projects Fund**. The Governor has since vetoed this funding to new organizations. Additionally, other funds have been treated like member items such as the "bullet aid" for school districts, and have largely lacked needed public scrutiny.











The spirit and legal requirements of the 2007 reforms must be met and additional budget reforms are still needed if New Yorkers are to hold state government accountable and trust in the decisions it makes – especially in continued trying fiscal times when tough decisions need to be made about taxes and spending. Citizens Union urges the Governor and State Legislature to enact Citizens Union's reform proposals contained in this report card to enhance budget integrity, improve transparency, and increase efficiency of the budget process.









KEY









-  Thumbs up – progress was made
-  Thumbs down – reforms were ignored or process continued to be broken (text in italics)
-  Mixed – some progress or adherence to law, but more work to do
- Further action needed – Citizens Union recommendations










REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
Use of Conference Committees	<p> State law was amended to require that the legislature adopt joint rules to establish joint budget conference committees.</p> <p> The Senate and Assembly adopted joint rules establishing conference committees.</p>	<p> <i>No conference committees were formed. There was no public discussion of smaller pieces of the budget. The legislative leaders' meeting, therefore, was the only forum where the budget was discussed publicly.</i></p>	<p> Conference committees were used to reconcile some of the different budget proposals of each house, though meetings were brief, limiting the role of rank and file members. Budget negotiations continued behind closed doors, largely driven by leadership.</p>	<p> Conference committees were convened and used to reconcile the different budget proposals. There continued to be a sentiment, however, that major decisions were made behind closed doors.ⁱⁱⁱ</p>	<p><input checked="" type="checkbox"/> Enact changes to the law to explicitly require the creation of joint conference committees and joint public conference committee meetings, and ensure rank-and-file members have a meaningful role in the process.</p>
Creation of an Independent Budget Office	<p> <i>Reforms did not create an Independent Budget Office.</i></p>	<p> <i>In spite of several legislative proposals, no reforms were enacted.</i></p>	<p> <i>In spite of several legislative proposals, no reforms were enacted.</i></p>	<p> <i>In spite of several legislative proposals, no reforms were enacted.</i></p>	<p><input checked="" type="checkbox"/> An independent budget office should be established to conduct economic analyses and provide nonpartisan projections of the state's revenues and expenditures.</p>












REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Increased Legislative Deliberation</p>	<p> Law amended to require earlier “Quick Start” budget discussions among the Executive, Assembly and Senate in November, as well as a March 1st deadline for revenue consensus between the three parties.</p>	<p> Governor Paterson released the executive budget on January 19th, the Constitutional requirement for mid-term governors.</p> <p> “Quick Start” budget discussions held in fall 2009.</p>	<p> Governor Cuomo released his executive budget on February 1st, the Constitutional requirement for the first term of a new governor.</p> <p> “Quick Start” budget discussions held in fall 2010.</p>	<p> Governor Cuomo released the executive budget on January 17th, the Constitutional requirement for mid-term governors.</p> <p> <i>“Quick Start” discussions took place later than required in 2011; leaders cited volatile markets for the lack of revenue forecasts, and some advocates disagreed with the level of uncertainty.^{iv}</i></p>	<p><input checked="" type="checkbox"/> There should be full public availability of all final budget bills before a scheduled vote that will allow sufficient time for analysis, discussion, and debate, as well as provide better opportunities for public participation and review by rank-and-file members.</p> <p><input checked="" type="checkbox"/> Establish a later start date for the fiscal year in order to provide more time for deliberation, and a more accurate accounting of tax receipts.</p>
	<p> Law amended to require the governor to make all practical efforts to submit all budget amendments within 21 days after the submission of the Executive Budget.</p>	<p> Amendments to the executive budget were made within 21 days.</p>	<p> Amendments to the executive budget were made within 21 days, but additional amendments were made 30 days after introduction.</p>	<p> Amendments to the executive budget were made within 21 days, but additional amendments were made 30 days after introduction.</p>	
	<p> <i>Reforms did not alter the total amount of time available for public and legislative evaluation during the various stages of the budget process.</i></p>	<p> <i>In spite of delayed passage of state budget, some messages of necessity were used, limiting legislative review.</i></p>	<p> <i>Nearly all votes on final budget bills occurred within a day of amendment due to messages of necessity.</i></p> <p> <i>The Senate Rules amended, allowing budget bills to go directly to the floor, bypassing the Rules Committee; floor debate was reduced to 2 minutes per member.</i></p>	<p> <i>In spite of various legislative proposals to establish a later fiscal year start date, no action occurred.</i></p>	











REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Discretionary Funding/Member Items</p>	<p> State law was amended to require that member items be itemized in resolutions if not in budget bills (for a discussion of other funds required to be itemized, see the section ‘Lump Sum Appropriations’).</p>	<p> While new member items were not included in the budget, the legislature reappropriated past funds, which were vetoed by Governor Paterson.^v</p>	<p> While new member items were not included in the budget, the legislature reappropriated past funds, which were vetoed by Governor Cuomo.^{vi}</p>	<p> No new state funds have been provided for member items, yet funds from previous years exist in the Community Projects Fund and for capital projects. The legislature redirected this money to new projects, which were vetoed by the Governor.^{vii}</p> <p> <i>Discretionary funding continues to exist in New York State through other means, such as the “bullet aid” for school districts, and Regional Economic Councils funds.^{viii} The process of awarding these funds has received little public scrutiny (for more information, see the ‘Lump Sum Appropriations’ section).</i></p>	<p><input checked="" type="checkbox"/> Sponsoring legislators’ names should be listed along with the itemized member items they sponsored in budget appropriation bills during the normal budget process before they are passed, standards should be developed for their distribution, and reporting should be required on their usage.</p> <p><input checked="" type="checkbox"/> Member items should be equitably distributed to all members, along with increased transparency and accountability.</p>
	<p> No requirement for equitable distribution of member items.</p> <p> No requirement that legislators’ names be listed with their sponsored member items in appropriations bills.</p>	<p> In spite of the introduction of reform legislation to require equal distribution of funds to members and increased accountability and transparency, no reforms have been enacted.</p>	<p> In spite of the introduction of reform legislation to require equal distribution of funds to members and increased accountability and transparency, no reforms have been enacted.</p>	<p> In spite of the introduction of reform legislation to require equal distribution of funds to members and increased accountability and transparency, no reforms have been enacted.</p>	

REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Use of Messages of Necessity^{ix}</p>	<p> <i>Budget reforms did not address messages of necessity.</i></p>	<p> <i>Messages of necessity were used in both houses for all twelve budget extenders, though only for certain budget bills in the regular budget process: in both houses, the deficiency budget, and in the Assembly the Public Protection & General Government and Transportation, and Economic Development Environmental Protection (TED) bills.</i></p> <p> <i>In spite of legislative proposals, no reforms were enacted.</i></p>	<p> <i>Messages of necessity were used in both houses for nearly all budget bills, excluding the debt service appropriation bill.</i></p> <p> <i>In spite of legislative proposals, no reforms were enacted.</i></p>	<p> No messages of necessity were used for budget bills, which aged the full three days.</p> <p> <i>Major pieces of legislation with large fiscal impacts, however, were passed with messages of necessity, such as the enactment of Tier 6 and other pension reforms in March 2012 and the revision of the tax code in December 2011.</i></p> <p> <i>In spite of legislative proposals, no reforms were enacted.</i></p>	<p><input checked="" type="checkbox"/> The use of messages of necessity should be limited to when it is evident that a delay in the Legislature's action would have significant adverse consequences and the governor presents documentation of such need.</p>

REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Use of Performance Budgeting to Tie Funding with Results</p>	<p> Budget reforms did not address performance budgeting.</p>	<p> Most state funds lack any real measure of performance and accountability for their usage, except for education funding through Contracts for Excellence.</p> <p> In spite of several legislative proposals, no reforms were enacted.</p>	<p> Most state funds lack any real measure of performance and accountability for their usage, except for education funding through Contracts for Excellence.</p> <p> In spite of several legislative proposals, no reforms were enacted.</p>	<p> Most state funds continue to lack any real measure of performance and accountability for their usage, except for limited education funding.</p> <p> New efforts regarding performance for education funding focus largely on cost-savings and efficiency rather than performance. Examples include performance measurement for teachers in exchange for federal funds, and competitive grants for education.^x</p> <p> In spite of several legislative proposals, no reforms were enacted.</p>	<p><input checked="" type="checkbox"/> Performance budgeting and outcome measurement should be used to help policymakers determine whether programs are meeting stated goals and promote a more rational appropriation of state funds.</p>

REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Lump-sum Appropriations</p>	<p> Law amended to require itemization of funds for Temporary Assistance for Needy Families (TANF), Medicaid, and the Environmental Protection Fund.</p> <p> Loophole remains to allow lump-sum additions by the legislature in budget legislation provided they are itemized in joint resolutions passed after the normal budget process.</p>	<p> Legislative additions can still be made in lump sum appropriations except in categories denied by the 2007 budget reforms.</p>	<p> Legislative additions can still be made in lump sum appropriations except in categories denied by the 2007 budget reforms.</p>	<p> Several lump-sum appropriations were exempted from the 2007 reform law, allowing the Senate and Assembly to pass separate resolutions reminiscent of member items. Examples of such lump sums include the new “bullet aid” to schools totaling nearly \$30 million, and smaller pots of domestic violence prevention and other local law enforcement funds.^{xi}</p>	<p><input checked="" type="checkbox"/> Lump-sum appropriations should disclose the detailed purposes and criteria set forth for their distribution.</p> <p><input checked="" type="checkbox"/> A time limit for the reappropriation of lump-sums should be instituted to decrease slush funds and the use of such funds as “one-shot” budget gap fillers.</p> <p><input checked="" type="checkbox"/> There should be regular reporting on lump-sum appropriations that includes detailed information regarding funds distributed and their recipients, and remaining funds.</p>
	<p> The reforms did not establish criteria for distributing lump-sum appropriations or require reports on their usage.</p>	<p> No criteria for distribution of or reporting required for lump-sum appropriations.</p>	<p> No criteria for distribution of or reporting required for lump-sum appropriations.</p>	<p> No criteria for distribution of or reporting required for lump-sum appropriations.</p>	

REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p align="center">Increase Integrity in Budgeting</p>	<p> Law amended to require fiscal impact statements on changes before any vote, executive multiyear financial plans, monthly cash flow projections, and assessment of impact on local governments and state workforce levels.</p> <p> Reforms did not require budget documents to list the full financial obligations of the state with regard to public authorities or the impact on localities.</p>	<p> No fiscal impact statements or summary documents were used for legislative changes to the budget prior to adoption.</p> <p> Twelve budget extenders which enacted cuts and policy changes were used in the absence of an on-time budget through June 2010, all passed using messages of necessity.^{xii}</p>	<p> While fiscal impact statements and summary documents outlining changes to the budget legislation were largely on members' desk at the time of the budget's passage in the Senate, one of the budget bills was passed through committee without documents available and changes were described on the floor of the Senate.</p>	<p> Members of the Assembly Minority Conference criticized the lack of fiscal impact statements for the Assembly one-house budget legislation.^{xiii} Fiscal impact statements were not made available on the Senate floor for approximately half of the budget bills.</p> <p> The Governor proposed language regarding the unilateral transfer of funds in the state operations budget which was met with widespread criticism. The final language allowed transfers for only back office operations.</p>	<p><input checked="" type="checkbox"/> The Governor should submit a budget presentation book that contains a complete and clear financial picture of state operations and fiscal responsibilities, including those of public authorities.</p> <p><input checked="" type="checkbox"/> Budget presentations should integrate information regarding the expense of tax expenditures projected under current law and off-budget items which are financial obligations of the state, but not currently presented as part of the state's budget.</p> <p><input checked="" type="checkbox"/> The Governor and Legislature should examine models for the NYC budgeting process regarding consolidations of services and functions, including submission of a reorganization plan and required legislative approval of transfers over a certain threshold.^{xiv}</p> <p><input checked="" type="checkbox"/> Generally Accepted Accounting Principles (GAAP) should be used as the state's basis for accounting.</p>
	<p> Reforms did not require the use of Generally Accepted Accounting Principles (GAAP).</p>	<p> In spite of several recommendations and proposals regarding the use of GAAP, no reforms were enacted.</p>	<p> In spite of several recommendations and proposals regarding the use of GAAP, no reforms were enacted.</p>	<p> In spite of several recommendations and proposals regarding the use of GAAP, no reforms were enacted.</p>	<p><input checked="" type="checkbox"/> Generally Accepted Accounting Principles (GAAP) should be used as the state's basis for accounting.</p>

REFORM	BUDGET REFORMS OF 2007	ACTION IN 2010	ACTION IN 2011	ACTION IN 2012	CITIZENS UNION RECOMMENDATIONS
<p>Transparency and Ease of Public Understanding</p>	<p> Law amended to require the legislature to issue a budget schedule for: (a) public hearings, (b) joint budget conference committees and (c) the issuance of final reports.</p>	<p> <i>Joint conference committees were never formed, meaning that the public had little knowledge of budget discussions or opportunity to comment.</i></p> <p> <i>The use of budget extenders passed via messages of necessity limited public and legislative review.</i></p>	<p> <i>With the goal of passing the budget one day early, the budget was largely passed via the usage of messages of necessity which provided little opportunity for public and legislative review.</i></p> <p> <i>The public was temporarily shut out of the viewing galleries of the legislative chambers during the budget debate.</i></p>	<p> The Governor developed an online engagement website, Citizens Connect, which included information about budget meetings and hearings, held online chats and solicited general input, but did not attempt to provide user-friendly summaries of the budget and budget process.^{xv}</p>	<p><input checked="" type="checkbox"/> There should be ample advance notice prior to scheduling or cancellation of budget hearings and meetings.</p> <p><input checked="" type="checkbox"/> All budget documents should facilitate and encourage public and legislative review by being presented in user-friendly and consistent formats.</p> <p><input checked="" type="checkbox"/> The Legislature should present changes to the Governor's appropriations bills in a comparable format with updated financial plan tables and projections.</p> <p><input checked="" type="checkbox"/> The adopted budget bills should be reported in the same format as proposed in the executive budget presentation.</p>
	<p> <i>Reforms did not address user-friendliness of budget documents.</i></p>	<p> <i>Format and presentation of budget bills and other documents was largely not user-friendly. The executive budget summaries provided only broad overviews, and documents were not provided in formats, such as spreadsheets, that allowed for independent analysis.</i></p>	<p> <i>Format and presentation of budget bills and other documents was largely not user-friendly. The executive budget summaries provided only broad overviews, and documents were not provided in formats, such as spreadsheets, that allowed for independent analysis.</i></p>	<p> <i>Format and presentation of budget bills and other documents was largely not user-friendly. The executive budget summaries provided only broad overviews, and documents were not provided in formats, such as spreadsheets, that allowed for independent analysis.</i></p>	

ⁱ Citizens Union’s Budget Reform Report Card for 2008 and 2009 is available at:

<http://www.citizensunion.org/www/cu/site/hosting/IssueBriefs/CU%20Budget%20Reform%20Report%20Card%20November%202009.pdf>

ⁱⁱ Citizens Union’s 2008 Issue Brief and Position Statement on State Budget Reform is available at:

http://www.citizensunion.org/www/cu/site/hosting/issuebriefs/2008ib_statebudgetreform.pdf

ⁱⁱⁱ DeWitt, Karen. “Budget close down nears.” New York Now. March 26, 2012. Available at: <http://nynow.org/post/budget-close-down-nears>

^{iv} Gormley, Michael. “Governor Cuomo, New York State Legislature Miss Budget Deadline, City Economic Turmoil.” Associated Press. November 10, 2012.

http://www.huffingtonpost.com/2011/11/10/new-york-cuomo-misses-budget-deadline-2011_n_1086247.html

^v Bridenbach, Michelle. “NY Gov. David Paterson Vetoes Pork Barrel Grants to Dozens of CNY organizations.” Syracuse Post Standard. July 2010. Available at:

http://www.syracuse.com/news/index.ssf/2010/07/ny_gov_david_paterson_vetoes_p.html

^{vi} Benjamin, Liz. “Cuomo Vetoes Phantom Member Items.” April 2011. Available at: <http://www.capitaltonight.com/2011/04/cuomo-vetoes-phantom-member-items/>

^{vii} Nahmias, Laura. “Pork Resurrection.” March 20, 2012. City and State. Available at: <http://www.cityandstateny.com/pork-resurrection/> See also the Governor’s line item

vetoos for funds that were “new appropriation[s] mischaracterized as...reappropriation[s],” <http://www.governor.ny.gov/assets/documents/lineitemvetoes1129.pdf>

^{viii} Gershman, Jacob, and Fleischer, Lisa. “Pork Decried, Not Dead.” The Wall Street Journal. March 29, 2012. Available at:

<http://online.wsj.com/article/SB10001424052702303404704577312161276788318.html>

^{ix} Messages of necessity are issued by the governor to allow bills to be passed immediately without aging for three days.

^x For more information, see: <http://www.governor.ny.gov/BuildingaNew1/ny-students-first> See also the School District Management Efficiency Competitive Grant Program at

<http://www.p12.nysed.gov/funding/gc-12-010/>

^{xi} For more information, see the Aid to Localities Appropriations Legislation, S.6253 of 2012. The legislation exempts the funding from the 2007 reforms with the following language: “Notwithstanding any provision of law this appropriation shall be allocated only pursuant to a plan setting forth an itemized list of grantees with the amount to be received by each, or the methodology for allocating such appropriation...” Available at: http://assembly.state.ny.us/leg/?default_fld=&bn=S06253&term=&Summary=Y&Text=Y

^{xii} For more information on the use of budget extenders by Governor Paterson, see “Paterson Also Rises” by Reid Fillipant, NY Observer. March 29, 2011. Available at:

<http://www.observer.com/2011/politics/paterson-also-rises>.

^{xiii} Statement for Assemblymember Mark Johns, March 12, 2012. Available at: <http://assembly.state.ny.us/mem/Mark-Johns/story/46832/>

^{xiv} For more information see Citizens Union’s Position Statement on Budget Transfers, March 2012, available at:

http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Position_BudgetTransferLanguage_March2012.pdf

^{xv} See www.governor.ny.gov/citizenconnects/