



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the New York State Senate Select Committee on Budget
and Tax Reform on Improving New York State's Budgetary Process
December 17, 2009

Good morning Senator Krueger and other members of the Select Committee on Budget and Tax Reform. My name is Dick Dadey, and I am the executive director of Citizens Union of the City of New York and I am joined by my colleague Rachael Fauss, policy and research associate for the organization. Citizens Union is an independent, nonpartisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. We thank you for holding this public meeting and giving us the opportunity to present Citizens Union's thoughts regarding the 2007 budget reforms and how to further improve the state's budgetary process.

As New York State finds itself in the midst of a fiscal crisis, it is extremely important for the state to examine its budget processes to determine how best to provide for greater transparency to ensure that the public can understand and has sufficient knowledge to process the tough decisions that lie ahead. We know that this is not an easy subject to tackle so we applaud you for holding this hearing to provide a forum on this issue. Given the state's worsening fiscal condition, we recognize that the Governor and the Legislature will be faced with making tough budgetary decisions, which will be difficult for the public to accept without greater transparency about the decision-making process and an opportunity to both understand and weigh-in on proposed cuts or expenditures.

Citizens Union believes that the 2007 reforms to the state's budget process represented an incremental step toward budget process that is more transparent in its consideration and the decisions that are made, efficient in the way in which it is reviewed and adopted, and clearer for the public to know and understand – the three principles which Citizens Union believes should guide your budget reform. The 2007 reforms included, among other items: (i) "quick-start" budget discussions and a March 1st deadline for revenue consensus; (ii) itemization of certain lump-sum appropriations and prohibition of legislative lump-sum additions; (iii) 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; (iv) provision of fiscal impact statements on legislative changes before any vote; (v) executive multiyear financial plans; and (vi) authorization of a new "Rainy Day" fund at up to three percent of General Fund spending.

As you may know, Citizens Union in December 2008 released its Issue Brief and Position Statement on New York State Budget Reform, believing that additional budget reforms were needed beyond those enacted in 2007. Following up on this report, Citizens Union released a Budget Reform Report Card (Report Card) in November 2009 which measured state government's progress, or lack thereof, in implementing the 2007 reforms, and laid out additional actions we believe are necessary to reform the budget process; both of which have been submitted with our testimony for your review. While some progress was made in 2007, the report card found mixed reviews for implementation of the 2007 reforms and little action since to improve upon them. We will address nine areas in need of reform in turn, which mirror the analysis in our Report Card.

1. Use of Conference Committees to Resolve Budget Differences between the Senate and Assembly

The 2007 budget reforms required that the legislature adopt joint rules to establish joint budget conference committees, and the Senate and Assembly formally adopted such rules. While conference committees were used in 2008, the schedule of meetings that was issued was not followed, and conference committees were not used in 2009. Citizens Union was disappointed that they were not formed in 2009, because there was no public discussion of smaller pieces of the emerging budget agreements. The legislative leaders' meetings, therefore, were the only forums where the budget was publicly discussed and that was only of large budget items. Without conference committees, there was also no formal role for rank-and-file members to engage in substantive policy discussions regarding expenditures and taxes. Citizens Union supports tightening the law to explicitly require the creation of joint conference committees and that they hold meetings.

2. Increased Legislative Deliberation

New York State has one of the smallest windows of legislative consideration of the budget in comparison to other states, with an unusual fiscal year start date of April 1st. Coupled with a process that is leadership driven, Citizens Union believes that robust legislative deliberation is lacking in New York. The 2007 reforms did little to address this issue, though they amended the law to require earlier budget discussions in November and required the governor to make all "practical efforts" to submit all budget amendments within 21 days after the submission of the Executive Budget. While Governor Paterson made amendments within 21 days in 2008, he did not do so in 2009 – though the budget was presented early in December. The overall amount of time for legislative review, therefore, did not change significantly. To extend the amount of time available for review, Citizens Union recommends that a later start date for the fiscal year be established – which would also result in a more accurate counting of tax receipts. Additionally, to increase legislative deliberation we believe 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.

3. Discretionary Funding/Member Items

The 2007 reforms addressed the process of adopting member items, rather than how they are allocated or reported. If passed as a lump-sum appropriation in the budget, the 2007 reforms required that member items later be itemized in a resolution before appropriation. In 2009, the Assembly passed itemized member items as part of the budget bills, while the Senate used a lump-sum appropriation and later passed an itemized resolution. Additionally, while both houses released their member items to the public with information regarding the sponsors, the Senate's version was presented in a more user-friendly manner, as it was exportable as a spreadsheet that allowed for independent analysis.

On the downside, however, the Senate Rules enacted on July 15, 2009 for the first time codified a ratio that allows for the majority conference to control up to 66% of member items. Although this ratio is very disproportionate, it is an improvement over the historic funding ratio. Citizens Union recommends that member items be itemized in the budget bills before passage with the sponsoring member's name listed, and that there also be reporting regarding the usage of such funds. The organization also supports the equalization of member item funds to all members. We are currently examining additional ways to make the process more fair and transparent, such as creating standards for their distribution, and will share our thoughts with you as we finalize our position.

4. Use of Messages of Necessity

The 2007 budget reforms did not address the use of messages of necessity, which allow for bills to be passed immediately without aging for three days. Messages of necessity were used for nearly all budget bills in 2008, but on the upside were used less frequently in the 2009 regular budget adoption process. Citizens Union is concerned, however, by their usage in 2009 during special budget cutting sessions, as they were used outside of the normal budget process which has statutory requirements that make it more transparent. While they are intended for emergency situations, they can also be used to stop debate once leadership has reached an agreement, meaning that rank-and-file members may not be aware of the details of the budgets they are about to vote on. While Citizens Union believes that messages of necessity should generally be preserved, they 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.

5. Use of Performance Budgeting to Tie Funding with Results

The 2007 reforms also did not address the use of performance budgeting. Although some efforts have been made, such as through the Contracts for Excellence for state education aid, most state funds lack any real measure of performance and accountability for their usage. Citizens Union recommends that performance budgeting and outcome measurement be used to help policymakers determine whether programs are meeting stated goals and promote a more rational appropriation of state funds. One possible model that should be examined is New York City's use of the Mayor's Management Report and Preliminary Management report, which include performance indicators and statistics.

6. Creation of an Independent Budget Office

In spite of several legislative proposals to create an independent budget office at the state level, no reforms in this area have yet been enacted. We believe that an independent budget office should be established to conduct economic analyses and provide nonpartisan projections of the state's revenues and expenditures.

7. Lump-sum Appropriations

The 2007 reforms addressed the use of lump-sum appropriations in several areas other than member items, including Temporary Assistance for Needy Families (TANF), Medicaid and the Environmental Protection Fund. However, as discussed earlier for member items, a loophole remains to allow lump-sum appropriations in budget legislation provided they are itemized in resolutions. Citizens Union is also concerned by the reappropriation of past years' funds containing lump-sum appropriations, as it allows such funds to be used as slush funds and "one-shot" budget gap fillers. We believe that a time limit for the reappropriation of lump-sums should be instituted, and that any lump-sum appropriations in budget bills should disclose the detailed purposes and criteria set forth for distribution. There should also be regular reporting on lump-sum appropriations that includes detailed information regarding funds distributed and their recipients, and remaining funds.

8. Increase Integrity in Budgeting

The 2007 reforms required fiscal impact statements be provided on legislative changes before any vote. In 2008, it is unclear as to whether these were provided, though in 2009, it appears that fiscal impact

statements were used. Additional ways to provide more complete financial information are to require the governor to submit a budget presentation book that contains a complete and clear financial picture of state operations and fiscal responsibilities, including those of public authorities, and to have budget presentations include information regarding 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.

9. Transparency of Budget Process and Ease of Public Understanding

In addition to some of the other ways previously outlined to improve transparency, such as reinstating conference committees and providing more complete financial information, Citizens Union recommends that there be improvements to the format of all budget documents to improve ease of public use. All budget documents should facilitate and encourage public and legislative review by being presented in user-friendly and consistent formats. The legislature should present changes to the governor's appropriations bills in a comparable format with updated financial plan tables and projections prior to adoption. The adopted budget bills should also be reported in the same format as proposed in the executive budget presentation. Lastly, we believe that there should be 24-hour advance notice prior to cancellation of budget hearings and meetings.

We believe that these reforms will provide transparency to the state's budget process, for both legislators and the public, as well as provide more complete information regarding the state's fiscal condition. Taken together, these will allow the state to more responsibly address budget shortfalls. Thank you for holding this important public meeting and for allowing Citizens Union the opportunity to present our views. We look forward to continuing to work with you as you consider and implement further budget reforms.