

New York State Assembly - Sheldon Silver, *Speaker*

2006

ANNUAL REPORT

Committee On
Oversight, Analysis and Investigation
Sam Hoyt, *Chair*

THE NEW YORK STATE ASSEMBLY

**COMMITTEE ON OVERSIGHT, ANALYSIS
AND INVESTIGATION**

Sam Hoyt,
Chairman

THE 2006 ANNUAL REPORT

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December 31, 2006

The Honorable Sheldon Silver
Speaker of the Assembly
Room 932, Legislative Office Building
Albany, New York 12248

Dear Speaker Silver:

It is with great pride that I present you with the 2006 Annual Report of the Assembly Standing Committee on Oversight, Analysis and Investigation. Contained within this report are summaries of the Committee's major projects during 2006, as well as previous project reviews and planned future activities.

Oversight is crucial to an efficient and responsible government. The Oversight Committee analyzes and investigates whether State agencies are acting efficiently, responsibly and in compliance with legislative intent.

Oversight projects for 2006:

- Investigated delays in the granting of Medicaid funds for people with severe disabilities and issued a report
- Introduced legislation to make consumer rebate checks easier to redeem
- Held hearings to examine ways to improve accountability within the State's child welfare system
- Medicaid Fraud system investigation and legislation
- Held hearings to examine how to improve the economy of upstate New York
- Explored development of wind energy in New York State
- Reviewed state agencies' compliance with the Personal Privacy Protection Law
- Introduced legislation to improve public access to state agencies' records

I have been honored to lead this Committee as it fulfilled its mandate to strengthen the accountability and efficiency of New York State government.

Sincerely,

Sam Hoyt, Chair,
Assembly Committee on Oversight, Analysis and Investigation

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LEGISLATIVE OVERSIGHT

The Role of Legislative Oversight

Every year the State Legislature and Governor enact hundreds of new laws, and legislative oversight is one of the most effective means of enforcing legislative intent, ensuring that the laws are working, and promoting sound policy decisions.

Oversight investigations shed light on governmental and non-governmental actions to promote honesty and efficiency in the administration of laws. The oversight process considers whether programs operate in a manner consistent with the requirements placed upon them and whether funds are effectively spent. By providing insight on program performance and spending, oversight lays the foundation for making sound policy decisions.

The power of the New York State Legislature to conduct oversight activities is inherent in Article III of the State Constitution. The Constitution allows the Legislature to appoint Committees to investigate matters relating to the property and affairs of government and the State. The Constitution empowers the Legislature to modify and assign new functions and powers to executive departments.

Several laws and rules reinforce the Legislature's mandate to conduct oversight. Legislative and Civil Rights laws allow a legislative committee to require the appearance of witnesses at a hearing. The State Finance Law reinforces the Legislature's "power of the purse" by requiring legislative appropriations before any State monies are spent and by limiting the ability of the Executive to move money from within and between agencies.

The Assembly's oversight role was strengthened when its House rules were amended to allow standing committees more time to focus on oversight. Specifically, House Rule IV, §1(d) was revised to require all standing committees to "...devote substantial efforts to the oversight and analysis of activities, including but not limited to the implementation and administration of programs, of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within its jurisdiction." Additionally, House Rule IV §4(b), was revised in 2005 to require all standing committees to call at least one public hearing after the adoption of the state budget. "The purpose of such public hearing shall include, but not be limited to, the impact, if any, of the state budget on the implementation and administration of the programs within such entities' jurisdiction."

The Function of the Oversight, Analysis and Investigation Committee

The Oversight, Analysis and Investigation Committee plays a number of important roles in furthering the Assembly's oversight activities. The Committee:

- **Reviews implementation and adequacy of laws and programs:**

The Committee is charged with reviewing the implementation and adequacy of laws and programs to ensure compliance by the public and state governmental agencies. Through its assistance to standing committees and lawmakers and its own investigative activities, the Committee seeks to determine whether programs operate as required and whether program funds are spent effectively, efficiently and in accordance with legislative intent.

- **Conducts program and budget reviews:**

The Committee conducts targeted program and budget reviews both jointly with other Committees and individually based on suggestions of the Speaker, the Committee Chair, individual members, governmental sources, or the public. Projects can be short-term, involving only a few telephone calls, or in-depth, requiring legislative, financial and historical data collection, field investigations, on-site State agency visits, interviews, and public hearings.

- **Helps create a climate for change:**

Findings are often compiled in a report or memorandum and are often distributed publicly to generate support and help create a climate for necessary change. Recommendations to put a program back on track may be incorporated into the law-making process through either the budget or legislation, or simply through administrative recommendations to the Executive.

- **Acts as a resource to other Assembly standing committees:**

The Committee has incorporated oversight activity into the legislative process. With expertise in research and data collection, the Committee acts as a resource to other Assembly standing committees, lawmakers and staff by providing technical assistance and guidance during program reviews. Additionally, each lawmaker is provided with a copy of the Committee's "A Guide to Legislative Oversight," which explains how effective oversight reviews are conducted and sets forth the Assembly's authority to perform oversight activities. The Committee also acts as a repository of other information critical to the Legislature's oversight function: Comptroller's audits, state agencies' 90-day responses and reporting requirements mandated by law.

COMMITTEE PROJECTS IN 2006

The Committee's oversight efforts help to ensure state statutes are implemented, by governmental and non-governmental entities, as the Legislature intended and that they are effective. With this goal in mind, the Committee on Oversight, Analysis and Investigation is charged with evaluating programs in New York State.

During 2006, the Committee was involved in a number of diverse projects, some of which had begun in prior years. Investigations were sparked by new stories, Committee chair interest, tips from the public or other Assembly members, and some investigations were done in conjunction with other Assembly Standing Committees and Commissions. Legislation was introduced and recommendations to improve state operations advanced to address problems identified during these investigations.

AN INVESTIGATION AND REPORT ON DELAYS IN GRANTING OF MEDICAID FUNDS FOR EQUIPMENT USED BY PEOPLE WITH SEVERE DISABILITIES

In July 2006, the Oversight Committee, along with the chairs of the Health Committee, Cities Committee and the Task Force on People with Disabilities, issued a report documenting the Department of Health's failure to provide Medicaid funds for equipment for people with the most severe disabilities.

The report — Delaying Necessities Denying Needs: An Assembly Investigation of New York State's Handling of Medicaid Durable Medical Equipment Claims — identifies many problems with and delays in the granting of "prior approvals" for durable medical equipment (DME) needed by people with Cerebral Palsy and other severe disabilities. DME includes items such as customized power wheelchairs with tilt mechanisms and custom seating.

After holding two public hearings in 2005 and conducting a more intensive review, the Committee Chairs found that DOH failed to comply with state regulations and to properly support Medicaid recipients with severe disabilities. The Chairs charged that DOH's use and misuse of legal and bureaucratic means to unfairly prevent people with severe disabilities from getting necessary equipment hurts the most vulnerable state residents and likely costs the state more money in the long term.

Among the problems uncovered in the Assembly investigation was that, despite having installed a new, costly computer system (\$375 million, with a recently announced \$276 million addition), DOH does not track the time it takes to process all prior approval requests even though it is mandated to issue determinations within 21 days. And the department seemed to be engaging in deliberate measures to "stop the clock" by sending out multiple requests for more information — often irrelevant, redundant and otherwise unreasonable — which can add months onto the process.

The report also includes charges that:

- DOH violated many of the state regulations that guide this process;

- DOH failed to issue clear guidelines needed to inform applicants about what information to provide when requesting funding to pay for medical equipment or other health-care items;
- DOH reviewers often denied medically necessary items, and regularly changed requested items to less expensive, inappropriate ones that may have been ill-suited for patients;
- Applicants waited up to a year or more for DOH to reach determinations, and some patients simply gave up;
- DOH was either unable or unwilling to provide the Assembly committees with much of the information the Assembly requested.

The report offers recommendations to improve the durable medical equipment prior-approval system and ensure taxpayer dollars are spent more efficiently, and suggests areas for future inquiry (for specific findings and recommendations see section entitled COMMITTEE PUBLICATIONS ISSUED IN 2006, page 13).

The hearings, widespread media coverage of the report and meetings with DOH have produced some gradual improvement within DOH but much more needs to be done. The Oversight Committee plans to pursue these matters with newly elected Governor Spitzer and the incoming Administration.

LEGISLATION TO MAKE CONSUMER REBATE CHECKS EASIER TO REDEEM

Based on consumer complaints, the Committee researched the issue of consumer rebates (for products such as televisions and computers) and the difficulty consumers have identifying and redeeming them. To address the problems identified, the Committee developed legislation, which was introduced by the Committee Chair.

Among the problems the Committee identified, rebate checks were often mailed in a form that looked like junk mail, and as a result, were often tossed in the garbage, rather than cashed by the consumer. Additionally, original sales receipts were often required as a condition for processing the rebate, denying the consumer the ability to keep the original receipt for other purposes, including warranty enforcement. Further, original receipts were often requested to satisfy more than one rebate item, making compliance with the rebate requirements impossible to satisfy.

About 40 percent of rebates never get redeemed, according to research done by a consulting group cited in a March 4, 2006 New York Times article called "A Growing Anger Over Unpaid Rebates." Vericours Inc. estimates that on personal computers alone, one of the most common products for which big rebates are offered, manufacturers are saving \$10 billion in unpaid rebates.

These obstacles identified by the Committee were addressed in legislation introduced by the Oversight Committee Chair in 2006 (A.10892-A/S.7577-A). (Some of the issues were addressed in reform legislation passed by both houses in 2005 (Chapter 574).) Assembly bill 10892 seeks to expand consumer protections regarding the application and redemption of consumer rebates and creates an avenue for consumers to receive

compensation if their rebates are wrongly denied or not received. Specifically, the bill requires that rebates should be identified as such and should prominently state the product which was purchased to obtain them. This should help consumers identify the rebate check as just that, a check, and not junk mail to be discarded.

To address the problem of requiring original sales receipts, the legislation requires that businesses provide the consumer with a duplicate sales receipt, allowing the consumer to retain proof of purchase while simultaneously satisfying the requirements of the rebate.

In addition, companies sometimes require consumers to send in the original receipt (with the UPC bar code) more than once for multiple rebates associated with a single purchase or a single multi-component product (i.e. computer system). Obviously, it is not possible to satisfy such terms. That requirement is prohibited in this legislation.

The bill authorizes the Attorney General to bring an action, on behalf of the consumer, in court to seek damages for the face amount of the rebate and to seek an injunction against further violations if violations of these provisions are found.

HEARINGS AND LEGISLATION TO IMPROVE ACCOUNTABILITY WITHIN NEW YORK'S CHILD WELFARE SYSTEM

Hearings to evaluate the oversight and accountability of the child welfare system and to evaluate the ability of the child welfare system to protect abused children were held on February 9, 2006 in Albany; February 10, 2006 in New York City; February 16, 2006 in Buffalo; March 2, 2006 in Syracuse.

Protection of children is one of the paramount responsibilities of government. New York State upholds that responsibility through its child welfare system and in the care and protection of children who have been abused or neglected. The highly publicized deaths of four children whose families were known to NYC's Administration for Children's Services raised serious concerns about State's systems and the quality of care being provided to children that are under the supervision of or known to the child welfare system.

One of the major complaints heard at the Assembly hearings was that the State's automated child welfare computer system, CONNECTIONS, was still not working well and that bugs in the system were preventing front-line case workers from seeing children. CONNECTIONS, which was first installed in 1995 and has cost the state well over a half billion dollars, was supposed to help child welfare workers better track children suspected of being abused and in foster care. Oversight staff was familiar with CONNECTIONS. In fact, the Oversight Committee and the Committee on Children and Families released a joint report in March 2001: *Too Much, Too Little, Too Late: An Assembly Investigation of CONNECTIONS—New York's Statewide Child Welfare Computer System*, which detailed the many problems with the CONNECTIONS computer system (See Appendix A.).

Later in 2006, staff from the Committees visited the Schenectady County Department of Social Services to see first hand how well CONNECTIONS was working, and found that many of the problems identified in the 2001 report still existed.

In an effort to get a handle on total costs to date, the two Committee chairs sent a letter to the OCFS Commissioner, requesting a breakdown of all costs associated with CONNECTIONS since 2003 (the last time they got an accounting of costs). While OCFS did respond, an accurate number was not reached by the end of 2006 as some information was excluded from the agency's accounting.

As a result of the hearings and the Assembly review in 2006, legislation was introduced and passed in the Assembly. The Child Protective and Abuse Prevention Package includes:

Family Court Access To Abuse Records This bill would provide child protective investigators 24-hour access to family court so that they will have the tools they need to get an order to gain access to children named in a child abuse report when the parents have denied an investigator access to the child and the investigator suspects the child's life or health are in immediate danger ([A.11852-A](#) / S. 8344; Chapter 740);

Educational Neglect Reporting This bill would require the Office of Children and Family Services (OCFS) and the State Education Department to create model policies and procedures for the reporting and investigation of educational neglect by April, 2007 and that local districts provide written policies and procedures regarding the reporting and investigation of educational neglect in their districts to OCFS ([A.11571-A](#) / S.8183; Chapter 543);

Child Protective Services (CPS) Training The bill would require all CPS workers complete six hours of continuing education annually, that all CPS supervisors receive enhanced supervisory training and that the OCFS sets standards for educational and field experience in order to qualify for a position as a CPS supervisor ([A.11574-A](#) / S.7816-A; Chapter 525);

Fatality Review The bill would expand the scope of child fatality review to include fatalities of all children involved in the child welfare system; expands the members of the team; requires an annual report from each fatality review team; and requires that autopsy reports for all children for whom a fatality review is conducted to be provided to the appropriate entities ([A.10023-B](#) / S.6703-B; Chapter 485);

Child Protective Services Reports The bill would require that certain reports of child abuse and maltreatment be referred to the appropriate local law enforcement and that certain investigations be conducted by an approved multidisciplinary investigative team or jointly with local law enforcement where a county does not have an approved multidisciplinary team ([A.11854](#)/ S.7042-A; Chapter 494);

Child Abuse Zero Tolerance Campaign This bill would establish an educational campaign to increase public awareness about the signs of child abuse and what can be done to prevent the maltreatment of children. ([A.11635](#) / S.8131; Chapter 539)

Loss Of Parental Rights This bill would allow for the termination of parental rights on the grounds of homicide of a parent or a sibling of the child ([A.11582](#) / S.5392B; Chapter 460);

One Family, One Judge The bill would ensure "one family, one judge" in court proceedings, such as adoption, surrender and termination of parental rights. This bill would establish continuity in cases where the court aims to provide children in foster care with a permanent home through adoption or return to their families. ([A.8655-A](#) / S.7888; Chapter 185)

INQUIRY INTO MEDICAID FRAUD

A series of articles in *The New York Times* in July 2005 revealing serious instances of fraud and abuse of New York's Medicaid system prompted an Assembly inquiry into the issue. On September 19, 2005, the Assembly Health, Codes, Judiciary and Oversight Committees held a hearing on this subject.

Key issues examined at the hearings were:

- The level of coordination among state agencies and the effectiveness of their fraud-prevention efforts;
- The numerous information systems that the State has paid for and operates (both directly and under contract with different vendors) to assist in identifying fraudulent activities;
- The adequacy of staffing levels to identify and pursue enforcement efforts against violators;
- Departmental bills proposed by the Department of Law to establish a False Claims Act and a Whistleblower Law.

Following the hearings, the Assembly Members requested and received detailed follow-up information from the Departments of Health and Law.

In 2006, Joint Conference Committees were held in an effort to resolve differences between Assembly and Senate legislation to combat Medicaid fraud. One of the most contentious areas of disagreement was the length of the term of the office and qualifications of the Medicaid inspector general. Under the Senate bill, the Medicaid inspector general would serve a two-year term. Under the Assembly bill, the Medicaid inspector general would serve at the pleasure of the governor, as is the case with the majority of similar positions in New York State.

Agreement by both houses allowed passage of A.12015 sponsored by Assemblyman Richard N. Gottfried and S.8450 sponsored by Senator Dean G. Skelos. On July 26, 2006, Chapter 442 was signed into law, establishing the Office of Medicaid Inspector General within the Department of Health. The Medicaid Inspector General will be appointed by the Governor with the advice and consent of the Senate and serve at the pleasure of and report directly to the Governor.

This Medicaid Anti-Fraud law also authorizes and directs the Department of Health to upgrade the information technology necessary to detect Medicaid fraud; creates new health care fraud offenses to facilitate criminal prosecution; and enables local social services districts to receive up to 15 percent of the gross amount collected for participating in criminal fraud cases referred to the Attorney General.

HEARINGS TO EXAMINE HOW TO IMPROVE THE UPSTATE NEW YORK ECONOMY

Hearings to investigate the causes of and share effective solutions for the challenges faced by cities in upstate New York were held on June 2, 2006 in Buffalo; October 11, 2006 in Rochester; October 13, 2006 in Syracuse; and December 4, 2006 in Binghamton.

Upstate cities are a vital cornerstone of the New York State economy. They have unfairly felt the brunt of the shift in manufacturing jobs to areas to the south and west as well as overseas, resulting in decreased population and property values. This has caused considerable increases in expenditures which have nearly exhausted many cities' tax and debt limits. The compromised fiscal health of upstate cities has the unfortunate effect of attracting fewer businesses and residents, in turn contributing to their economic decline.

New York State has provided these cities with increased unrestricted aid in recent years as a step towards renewing their financial health.

In 2003 the Assembly Committee on Cities and the Oversight Committee held "City Summit" hearings throughout the State to receive input on some of the challenges facing New York's cities. The 2006 hearings were part of a series of hearings which were designed to gain a fresh perspective from community leaders on what other steps the state can take to aid upstate cities.

EXPLORATION OF PUBLICLY-OWNED WIND POWER IN NEW YORK STATE

In an effort to reinvigorate upstate New York's troubled economy, the Oversight Committee is investigating alternative energy solutions to encourage investment with the lure of less expensive energy costs, especially in the Buffalo and Erie County area.

The Oversight Committee explored, in depth, the economic viability of publicly-owned wind-powered generators. The Committee Chair presented an overview of this proposal at a meeting of environmental organizations in upstate New York in the fall of 2006.

There are two key elements to this idea. The City of Buffalo and Erie County have several excellent sites for what could be the first utility-sized wind facility in an urban area. The second key element of the idea is that, in order to maximize local economic benefits, the public would own this wind farm, rather than a private corporation.

The economics of wind energy show great promise. The Oversight Committee will continue to explore this environmental and economic development option throughout 2007.

REVIEW OF STATE AGENCIES' COMPLIANCE WITH THE PERSONAL PRIVACY PROTECTION LAW

New York's Personal Privacy Protection Law (PPPL), set forth in Public Officers Law §91-99, requires state agencies to document and secure their systems of records containing New York State residents' personal information.

Oversight conducted a joint review — along with the Chairs of the Assembly Administrative Regulations Review Commission (ARRC), the Governmental Operations Committee and the Consumer Affairs and Protection Committee — requesting information from 70 state agencies and authorities to assess their compliance with PPPL. More specifically, they requested the following:

Privacy Impact Statements and/or Supplements: The PPPL requires the preparation of one or more types of documents that contain information on the authority for and the operation of each system of records an agency maintains.

Standard Notification: The PPPL requires that, upon initial requests for personal information that will become part of a system of records, the agency must provide the data subject with a notification providing information on the system of records, including the uses that will be made of this information and the effects of not providing the information.

Policies on staff responsibilities: The PPPL requires that each system of records be supported by written policies on responsibilities of staff for development and operation of the systems of records.

Agency Compliance Officer: Each agency must designate an agency employee who shall be responsible for ensuring compliance with the PPPL.

The Assembly also requested information about agency policies governing the sale or exchange for compensation of records containing personal information. Several follow-up letters were sent to many of the agencies to clarify and increase comprehensiveness of agencies' responses.

LEGISLATION INTRODUCED TO IMPROVE PUBLIC ACCESS TO STATE AGENCIES' RECORDS

The New York State Assembly's Oversight, Analysis and Investigation Committee and the Administrative Regulations Review Commission released a report entitled Needle in a Haystack in August 2005. The report exposed state agencies' failures to meet legal minimum standards to maintain a reasonably detailed 'subject matter list' pursuant to the Freedom of Information Law.

Needle in a Haystack examined state agency compliance with FOIL's requirement that an agency maintain a reasonably detailed current list by subject matter of all records in the possession of the agency. Such a list helps those interested in requesting records, by identifying what kinds of records are maintained by an each state agency.

In response to the report's findings, the Committee Chair introduced legislation to improve implementation of this law:

A.10347 (Same as S.7806) **Subject Matter List guidance.**

This bill provides that the Committee on Open Government (COG) may offer general guidance to help state agencies develop and maintain current and reasonably detailed subject matter lists of their records. Such guidance may include model subject matter lists, dissemination of best practices and similar tools. This bill passed the Assembly on May 3, 2006 and was referred to the Senate Investigations and Government Operations committee.

A.10349 (Same as S.7807) **Posting Subject Matter Lists online.**

This bill requires every state agency to post its subject matter list on its website and link it to COG's website. In addition to providing the public with ready access to an agency's subject matter list, it will also be apparent if an agency's posted list is substantially incomplete or outdated. This bill passed the Assembly on May 3, 2006 and was referred to the Senate Investigations and Government Operations committee.

A.10348 (Same as S.7792) **Online FOIL Information.**

This legislation will make information on the Freedom of Information Law (FOIL) more accessible to the public by requiring that an agency's FOIL officer, and the times and places FOIL records are available for inspection and copying are posted online. This bill passed the Assembly on May 3, 2006 and was referred to the Senate Investigations and Government Operations committee.

COMMITTEE PUBLICATIONS ISSUED IN 2006

Delaying Necessities, Denying Needs: An Assembly Investigation of New York State's Handling of Medicaid Durable Medical Equipment Claims - July 2006

In July 2006, Oversight Committee Chair Sam Hoyt released this report detailing the failure of the New York State Department of Health (DOH) to comply with state regulations and to properly support Medicaid recipients with severe disabilities.

Jointly issued with Richard N. Gottfried, Chair of the Committee on Health, Amy Paulin, Chair of the Task Force on People with Disabilities, and James Brennan, former Chair of the Oversight Committee, the report's major finding was that DOH had been systematically depriving poor people with severe disabilities, many of them children, of wheelchairs and other "durable medical equipment" needed to help reduce their pain, preserve their health, and enable them to live more productive lives.

The report was a culmination of a year-long review of the management of the "prior approval" program, which included two public hearings and a more intensive review of DOH's prior approval process under Medicaid. According to lawmakers, DOH uses and misuses legal and bureaucratic means to unfairly prevent people with severe disabilities from getting necessary equipment. The result is that vulnerable people are hurt and programs may face greater spending.

Among the problems uncovered in the investigation is that, despite having installed a new, costly computer system (more than \$600 million), DOH does not track the time it takes to process all prior approval requests even though it is mandated to issue determinations within 21 days. And DOH seems to have been engaging in deliberate measures to "stop the clock" by sending out multiple requests for more information — often irrelevant, redundant and otherwise unreasonable — which can add months onto the process.

The report also includes charges that:

- DOH has violated many of the state regulations that guide this process;
- DOH does not have clear guidelines so applicants know what information to provide when requesting funding to pay for medical equipment or other health-care items;
- DOH reviewers often overstep their authority and deny medically necessary items, and regularly change requested items to less expensive, inappropriate ones that are ill-suited for the patient;
- The prior approval program for durable medical equipment is badly managed and is rife with inefficiencies;

- DOH does not know how many prior approval requests come in the door, yet claims to be approving 95 percent of them (which is clearly a misrepresentation);
- Applicants wait up to a year or more for DOH to reach determinations, and some simply give up;
- DOH does not do enough to determine whether patients get the equipment for which they were funded. This undermines the prevention and detection of fraud and abuse.
- DOH has not resolved a problem which often precludes people who are dually eligible for both Medicaid and Medicare from getting either insurance, even though several administrative law judges have pointed out remedies.
- The number of fair hearings has decreased by 50 percent in the past few years, which does not square with the rising level of complaints. Also, DOH regularly ignores decisions made by Administrative Law Judges, which reverse DOH decisions about 50 percent of the time.

Widespread complaints by patients, their families and service providers were all factors prompting the Assembly's investigation. Together with the intensive press scrutiny that contributed to the exposure of DOH's failures in managing this program, the Committees' actions have produced some gradual improvement within DOH but much more needs to be done.

The report offers recommendations to improve the durable medical equipment prior-approval system and ensure taxpayer dollars are spent more efficiently.

- DOH must comply with its own regulations, especially in regard to: the definition of "medically necessary."
- DOH must comply with its regulation regarding overruling the opinions of ordering practitioners only if the reviewer is within the same medical profession. To the extent that the language of the regulation lacks clarity, it should be clarified either by amending the regulation, or by statute, if necessary.
- DOH should promulgate clear and concise criteria for prior approval applications.
- DOH should aggregate and use the data in its system to figure out where the delays are.
- DOH should hire appropriate staff with appropriate credentials and experience in seating, positioning, and mobility, and/or provide appropriate training.

- DOH should require reviewers to identify their professional titles on responses to prior approval requests.
- DOH must assure that people who are dually eligible for both Medicaid and Medicare are entitled to the same coverage as Medicaid-only recipients.
- DOH should notify the applicant every time a request (in entirety or in part) is pended, denied, rejected, voided, inactivated or omitted, and notify them as to whether the determination applies to all or part of a request so that the applicant is always informed of his or her right to a fair hearing.
- DOH should install an online status reporting system.
- DOH should conduct post-audits to ensure: 1) recipients get the proper equipment for which they were awarded funding; and, 2) the equipment is working properly and meeting recipients' needs.
- Enact legislation requiring DOH to institute a comprehensive, aggressive program of enlisting Medicaid recipients and the public in preventing and uncovering Medicaid fraud, waste, and abuse.
- DOH should improve the quality of "explanations of medical benefits" (EOMBs) — which DOH sends to recipients to ensure Medicaid payments were accurate — and consider increasing the number sent since each Medicaid recipient might receive one every 65 years.
- The New York State Office of Temporary and Disability Assistance (OTDA) should systematically examine the fairness of its "fair hearings."
- OTDA should create a publicly accessible fair hearing database enabling users to break out, on a case-by-case basis, the dollar amount, who represented the recipient and the item requested.
- Establish the DME Workgroup as a permanent body and give it a substantial oversight role.

PUBLIC EYE #11: An Examination of the Department of Health's Process for Durable Medical Equipment.

The Public Eye reviews, from time to time, the activities of the Assembly Standing Committee on Oversight, Analysis and Investigation. This particular issue examined just one topic: the State Department of Health's management of the prior approval process for durable medical equipment.

Public Eye #11 summarizes the Committee's investigation which revealed the State's failure to properly manage this particular Medicaid program, and thereby deny many

people with severe, long-term disabilities the equipment they need to sit up, stand, move, and achieve small degrees of independence.

COMMITTEE HEARINGS IN 2006

Hearings on the Economy of Upstate New York

Hearings to investigate the causes of and share effective solutions for the challenges faced by cities in upstate New York were held on June 2, 2006 in Buffalo; October 11, 2006 in Rochester; October 13, 2006 in Syracuse; and December 4, 2006 in Binghamton.

Upstate cities are a vital cornerstone of the New York State economy. They have unfairly felt the brunt of the shift in manufacturing jobs to areas to the south and west as well as overseas, resulting in decreased population and property values. This has caused considerable increases in expenditures which have nearly exhausted many cities' tax and debt limits. The compromised fiscal health of upstate cities has the unfortunate effect of attracting fewer businesses and residents, in turn contributing to their economic decline.

New York State has provided these cities with increased unrestricted aid in recent years as a step towards renewing their financial health. In 2003 the Assembly Committee on Cities and the Oversight Committee held "City Summit" hearings throughout the State to receive input on some of the challenges facing New York's cities. The 2006 hearings were part of a series of hearings which were designed to gain a fresh perspective from community leaders on what other steps the state can take to aid upstate cities.

Hearings on the Child Welfare System

Hearings to evaluate the oversight and accountability of the child welfare system and to evaluate the ability of the child welfare system to protect abused children were held on February 9, 2006 in Albany; February 10, 2006 in New York City; February 16, 2006 in Buffalo; March 2, 2006 in Syracuse.

Protection of children is one of the paramount responsibilities of government. New York State upholds that responsibility through its child welfare system and in the care and protection of children who have been abused or neglected. The highly publicized deaths of four children whose families were known to NYC's Administration for Children's Services raised serious concerns about State's systems and the quality of care being provided to children that are under the supervision of or known to the child welfare system.

One of the major complaints heard at the Assembly hearings was that the State's automated child welfare computer system, CONNECTIONS, was still not working well and that bugs in the system were preventing front-line case workers from seeing children. CONNECTIONS, which was first installed in 1995 and has cost the state well over a half billion dollars, was supposed to help child welfare workers better track children suspected of being abused and in foster care. Oversight staff was familiar with CONNECTIONS. In fact, the Oversight Committee and the Committee on Children and Families released a joint report in March 2001: *Too Much, Too Little, Too Late: An Assembly Investigation of CONNECTIONS—New York's Statewide Child Welfare*

Computer System, which detailed the many problems with the CONNECTIONS computer system (See Appendix A.).

Later that year, staff from the Committees visited the Schenectady County Department of Social Services to see first hand how well CONNECTIONS was working, and found that many of the problems identified in the 2001 report still existed.

In an effort to get a handle on total costs to date, the two Committee chairs sent a letter to the OCFS Commissioner, requesting a breakdown of all costs associated with CONNECTIONS since 2003 (the last time they got an accounting of costs). While OCFS did respond, an accurate number was not reached by the end of 2006 as some information was excluded from the agency's accounting. Committee staff plans to work this out in 2007. As a result of the hearings and the Assembly review in 2006, legislation was introduced and passed in the Assembly.

OUTLOOK FOR 2007

Durable Medical Equipment legislation and executive actions:

As described earlier in this annual report, the Assembly report “Delaying Necessities, Denying Needs: An Assembly Investigation of New York State’s Handling of Medicaid Durable Medical Equipment Claims” documented significant problems with the distribution of Medicaid dollars for people with severe disabilities. The report received statewide media attention, and the Committees continued to hear complaints from vendors, providers and lawyers who represent Medicaid patients about ongoing as well as new problems with this process. The Oversight Committee staff also continued to attend DME Workgroup meetings and met with DOH officials in the fall of 2006.

In early January 2007 — along with Health Committee Chair Dick Gottfried, the Committee on Cities Chair Jim Brennan and Chair of the Task Force on People with Disabilities Amy Paulin — Oversight Committee Chair Sam Hoyt will be reaching out to Governor Eliot Spitzer informing him of these ongoing problems and offering an opportunity to meet and discuss the problems identified and possible remedies.

Throughout the 2007 Session, Committee staff will continue to monitor state agency actions and pursue legislative and/or administrative solutions.

APPENDIX A:

COMMITTEE REPORTS

DELAYING NECESSITIES, DENYING NEEDS: An Assembly Investigation of New York State's Handling of Medicaid Durable Medical Equipment Claims – July 2006 (see COMMITTEE PUBLICATIONS ISSUED IN 2006).

NEEDLE IN A HAYSTACK – August 2005

New York State Assembly's Oversight, Analysis and Investigation Committee, and the Administrative Regulations Review Commission, released a report in August, 2005 which exposed State agencies' failures to meet legal minimum standards regarding the Freedom of Information Law's requirement that a FOIL 'subject matter list' must be available to the general public.

Needle in a Haystack examined state agency compliance with FOIL's requirement that an agency maintain a reasonably detailed current list by subject matter of all records in the possession of the agency. Such a list helps those interested in requesting records by identifying what kinds of records are maintained by an agency. This subject matter list serves the same purpose as a store directory in a supermarket. Shoppers don't walk in expecting to see a sign telling them where to find the Macintosh apples or the chicken noodle soup, but shoppers do expect a sign directing them to the produce section or the soup aisle, making it easier to locate the products they want.

UNCHARTERED WATERS: A Study of Compliance with New York laws governing water supply emergency planning – February 2004

This report was issued after a year-long review by Committee staff on the efforts of water suppliers to comply with Chapter 405 of the Laws of 2002. This law requires water suppliers statewide to update their emergency plans to include an analysis of the threat of terrorism.

SHOPPING FOR ASTHMA DRUGS: A SURVEY OF PRICES IN NEW YORK CITY – August 2004

This report was issued after Oversight Committee staff visited 148 pharmacies in New York City to find the average "market basket" price of ten asthma drugs. Only 66% of the pharmacies complied with the Drug Price List Law.

FOR THE SAKE OF SECURITY: An Assessment of New York State Government Cyber Security – June 2003

The Oversight Committee's release of "For the Sake of Security: An Assessment of New York State Government Cyber Security" detailed the Committee's investigation of New York State government computer security. Government computers store information about the state's critical infrastructures, personal data, infectious diseases, criminal

records, financial documents and more. Violations of computer security can cost millions of dollars, can be life threatening and can erode the trust between government and the citizens it serves. This report detailed the Office for Technology's (OFT) failure to release a statutorily required computer inventory and how its use of outdated software and standards puts state computers at risk. Release of the report led OFT to replace outdated technology standards with new standards, upgrade to supported software and add Information Security Officers where required.

NO ROOM IN THE PLAYGROUND: A Report Examining Playground Space in New York City Elementary Schools – September 2003

Chairman Klein directed the Oversight staff to investigate New York City's compliance with the New York Education Law §2556 (5) which states, in part, that "it shall be unlawful for a schoolhouse to be constructed in the city of New York without an open-air playground attached to or used in connection with same." This report revealed that inadequate outdoor recreation space was available to New York City's elementary school children, and that State and City agencies failed to consider outside playground space as both a priority and a mandatory requirement for active and healthy children. Temporary Classroom Units (TCUs), used to alleviate overcrowded classrooms, often take up a school's entire playground area and in some instances, remain for as long as eight years. The report recommended that the State Education Department step up its current authority over playground sites, maintain current data, annually review placement of TCUs and expand the Joint Operating Playground program to provide more facilities to schools suffering from insufficient outdoor playground space.

TIME TO CHANGE THE CHANNEL: Cable Television Prices in New York State – March 2003

In response to rising cable TV prices, the Oversight Committee conducted a survey in 2003 of cable prices throughout New York State. This report set forth specific prices for each of the cable companies, and compared their rates and programming offerings in different parts of the State. Based on the report's recommendations, legislation was introduced in 2004 to require that cable companies supply rate and programming information in plain language and that such information should specify consumer premium and pay-per-view options and rates.

NYC WATER INFRASTRUCTURE: Is Security Water-Tight – May 2002

The Oversight Committee began its investigation of compliance with security measures for New York City's water infrastructure system in August 2001. Following the September 11th attack, the Committee accelerated its review because of the belief that New York City's water supply could be considered a target for terrorism. As a result of this investigation, the report offered suggestions for upgrading security at water facilities in order to bring them into compliance with State Department of Health and Federal Environmental Protection Agency recommendations.

ADULT HOMES IN CRISIS: Plan for Reform – June 2002

The Oversight Committee joined with the Assembly Committees on Health, Mental Health and Aging to investigate the poor conditions and inappropriate health care provided to residents of adult homes. An in-depth investigation included meetings with the State Commission on Quality of Care for the Mentally Disabled, the State agency responsible for investigating complaints regarding quality of care, advocates and State agency officials; detailed information requests to the Departments of Health and Mental Health; and public hearings. Many of these investigative activities, along with proposed reform legislation, were reflected in this report from all four Committee Chairs.

CONNECTIONS: An Investigation of New York's Statewide Child Welfare Computer System – March 2001

The Oversight Committee and the Committee on Children and Families released their joint report: *Too Much, Too Little, Too Late. An Assembly Investigation of CONNECTIONS—New York's Statewide Child Welfare Computer System*. This report marked the culmination of a two-year investigation of the flawed computer system, which was supposed to help child welfare workers better track children in foster care.

Too Much, Too Little, Too Late details the Committees' findings related to: problems with the CONNECTIONS system and their impacts on children and families; procurement issues; State agency management and administration of the CONNECTIONS contracts; and costs and fiscal impacts. The report also presents administrative, budget, and legislative recommendations. It is hoped that these recommendations will help get the project back on track, strengthen legislative oversight of the project and related costs, and ensure that similar problems do not recur with future large information technology projects. The report won the 2001 Notable Documents Award, in the category of Public Policy, from the National Conference of State Legislatures.

LOSING OUR CHILDREN: An Examination of New York's Foster Care System – May 1999

The Oversight and Children and families Committees released "Losing Our Children: An Examination of New York's Foster Care System," a report which detailed the Committees' findings identifying factors that have contributed to the breakdown of the State's foster care system. Specifically cited in the report were issues related to State Oversight, the implementation of State laws, child welfare financing, State agency administration, and the provision of child welfare services. The report won the 2000 Notable Documents Award by the New York Library Association.

WHO'S MINDING THE STORE? Is New York State's Governmental Accountability, Audit and Internal Control Act Working? – October 1997

The study was initiated due to the impending sunset of the Act on January 1, 1999. In addition, the years preceding the report had seen large-scale, top-level personnel changes as well as the elimination, consolidation, and downsizing of agencies. The report concentrated its analysis on the 34 agencies considered by the Division of Budget to be at the highest risk.

The report studied internal control programs and internal auditing practices for the years 1994, 1995, 1996 and the first half of 1997. The report found that:

- Overall, internal control programs were a low priority and widely neglected.
- Turnover and vacancies in the position of Internal Control Officer (ICO) were widespread.
- Unclear chains of command existed with 65% of ICO's not reporting to an agency head.
- IC officers performed duties conflicting with the responsibility to monitor internal controls.
- Compliance with the Act is declining and Certification integrity has been compromised.
- Overall, the internal audit process was inadequate. In many cases, Audit units were not established, directors were not named, and new audit directors were under-qualified.

Of the 34 agencies examined:

- Internal Auditors frequently did not report directly to the agency head. The auditor's role was often compromised by conflicting responsibilities.
- The internal audit staff was undermanned and conducted too few audits.
- Agencies' internal audit programs were not in compliance with the law and professional standards.
- Internal audit recommendations were disregarded by many agencies.

PUTTING THE PIECES TOGETHER...A Report Examining Computer Technology in New York State's Public Schools – May 1996

Given substantial expenditures on computers and other technology resources in schools, this report examines the numerous funding streams which support technology. It also begins to assess both schools and the State Education Department's efforts to plan for technology. The report concluded that, for the most part, the computer is not integrated within the curriculum. The causes of this deficiency include: a lack of proper oversight of schools and BOCES Regional Information centers by the State Education Department (SED); 75% of computers are out-dated despite annual increases in computer expenditures; telecommunication costs for rural districts are prohibitively high; deficient infrastructure in many - chiefly urban - schools precludes computer installation; SED does not properly track several State aid funding streams; teacher training/staff development and technical assistance is under-funded; and there is inadequate planning for school technology.

To better realize the goal of computer integration into the education process, the report makes several recommendations. (1) SED should develop a long-range plan to overcome a persistent inequity in resources among schools and the inadequate levels of staff development/teacher training. (2) SED should improve its oversight of and outreach to schools, by creating a widely accessible clearinghouse of education technology resources, and statewide technology standards for schools. (3) The State needs to have a better handle on how technology resources are being utilized. The State should then look to more effective allocation plans, perhaps merging numerous funding streams.

**THE CABLE PICTURE — Assembly Oversight, Analysis and Investigation
Committee Staff Report Examining the Industry and Regulators** – November 1994

Committee staff issued a comprehensive report on the performance and regulation of the cable television industry in New York. The Cable Picture provides in-depth analyses of the past, present and future of the cable industry in New York State, its finances, growth and practices, and the governmental bodies that regulate the cable industry. The report includes numerous recommendations for the State and municipalities to strengthen oversight efforts, and ways for the State to prepare for and regulate the emerging telecommunications industry.

The project began under the chairmanship of Assemblyman Richard Brodsky, and was broadened by Chairman Anthony Genovesi to evaluate those telecommunications issues relating to privacy, and to make recommendations for legislative action, if necessary. The investigation included: detailed surveys of cable companies and municipal officials; on-site visits and discussions with municipal officials and cable operators; interviews with the State Commission on Cable Television (CCTV), other State agency officials, private consultants and telecommunications experts; and, analyses of Federal and State laws and regulations, municipal franchises, and voluminous amounts of data and written material.

**CLOSING REPORT ON NEW YORK CITY'S ATTEMPT TO AWARD A \$1.15
MILLION CONTRACT WITHOUT COMPETITIVE BIDDING** – July 1992

This report, a follow up to New York City's Attempt to Award a \$1.15 Million Contract Without Competitive Bidding (October 23, 1991), concludes the Committee's review of New York City's attempt to award a \$1.15 million contract without implementing the competitive bidding process. Based on meetings and information obtained from New York City government, the Committee determined that the City might have been able to follow accepted procurement procedures, instead of evading them, had it acted promptly to issue a request for proposals.

REQUIRED REPORTS LISTING – May 1992

This report compiles reporting requirements contained in statute and budget language from 1981 through 1991. The report was distributed to Assembly committee chairmen and staff and serves as another resource in evaluating program performance. The listing includes the legal citation (chapter or section of law, or both), which agency prepares the report, who should receive the report, when and how often the report is to be issued, and a brief summary of the report's subject.

STATE AGENCY REPORT FILING WITH THE NEW YORK STATE LIBRARY –
March 1992

After several failed attempts to obtain public documents from the New York State Library that were required to have been filed there, the Committee reviewed implementation of the State's document depository program. As of 1986, the State Library had only one third of all State documents, which restricts access for New York State citizens to documents that would help them better understand and follow the operations of State government.

Legislation was enacted, resulting from recommendations in this report, to improve government accountability through greater access to State government documents. (The report was awarded the New York Library Association's third annual Notable Documents Award.)

INVESTIGATION INTO NEW YORK CITY'S ATTEMPT TO AWARD A \$1.15 MILLION CONTRACT WITHOUT COMPETITIVE BIDDING – October 1991

This report charges New York City with attempting to award, without legally required competitive bidding, a \$1.15 million contract pursuant to the Safe Streets, Safe City Omnibus Criminal Justice Program. The contract was for a study to assess resource deployment at the New York City Fire Department (NYFD) and determine whether the NYFD should assume additional emergency response duties, and to determine where fire houses should be located. Although given clear instruction from the Legislature that the project is subjected to required procurement procedures, the City attempted to award the contract through the Research Foundation of the City University of New York, which is subject to less restrictive competitive bidding requirements than the City.

INTERIM REPORT EXAMINING CERTAIN ART MARKET PRACTICES – June 1991

This report details the findings and recommendations of an 18-month examination of New York's art market practices conducted by former Oversight Committee Chairman Richard Brodsky and former Tourism, Arts & Sports Development Committee Chairman Joseph Pillittere. The joint-Committee examination was initiated after it was learned that Van Gogh's "Irises," which sold for \$53.9 million in 1987, was financed by a major auction house that used the painting as collateral for the loan. This type of financing raised concerns about auction house financing practices as well as high costs and public access to art. Based on hearing testimony and research, the Chairmen determined that certain auction house practices fueled both an increase in the price of art and the transfer of art from public to private hands, as a result of museums selling off, or deaccessioning artwork. The Committee Chairmen identified key issues, some of which Assemblyman Brodsky is pursuing through the legislative process.

FAILED PROMISES: New York State Agencies' Environmental Record – March 1991

This report, issued by former Chairman Richard Brodsky and former Environmental Conservation Committee Chairman Maurice Hinchey, details the findings and recommendations of the Committees' examination of State agencies' environmental violations and the State Department of Environmental Conservation's enforcement of environmental laws against State agencies.

The Committee Chairmen initiated the investigation in response to the magnitude of environmental law violations attributed to State agencies, public authorities and public benefit corporations. The violations were listed in DEC's first annual audit, released in August 1989. The audit, required by Chapter 595 of the Laws of 1988, listed 440 environmental violations at 267 State agency facilities. While most of the agencies'

violations were for failure to obtain or renew permits or registrations, other included raw sewage released into drinking water above a sole source aquifer.

THE ABUSE OF THE PREVAILING WAGE LAW – February 1991

The Oversight and Labor Committees released this report after completing a year-long examination of implementation and enforcement of the State's prevailing wage law. The Committees' review was based on complaints about enforcement of the prevailing wage law and included extensive documentation of violations found through on-site field investigations, document reviews and a series of legislative hearings in 1990, at which witnesses from industry, labor and government testified.

AN INVESTIGATION OF THE PUBLIC SERVICE COMMISSION'S EXAMINATION OF WRONGDOING IN NEW YORK TELEPHONE COMPANY'S TRANSACTIONS WITH UNREGULATED NYNEX SUBSIDIARIES

– September 1990

This report charges the Public Service Commission (PSC) with failing to make full use of its investigatory and regulatory tools while considering a NYTEL rate increase request. Committee staff investigated the matter and found strong evidence indicating NYNEX, NYTEL's sole stockholder, had been using NYTEL as a cash cow. According to credible witnesses, NYNEX had been influencing NYTEL to buy goods and services, such as computers and software, at inflated prices from NYNEX's unregulated subsidiaries. NYTEL is regulated and NYNEX and its subsidiaries are not. Through this report and letters to PSC Chairman Peter Bradford, former Committee Chairman Richard Brodsky urged the PSC twice in 1990 to further investigate allegations of wrongdoing by NYTEL before granting NYTEL's requested rate increases.

The PSC did order an investigation of NYTEL's purchases from NYNEX subsidiaries. After many years of litigation and procedural wrangling, the presiding Administrative Law Judge in 1996 recommended that NYNEX refund \$300 million to consumers. In 1997, the PSC ultimately ordered a refund in the amount of \$83 million to compensate consumers for NYNEX's inflated prices.

STRUCTURAL DEFECTS: A Critical Review of the New York State Uniform Fire and Building Code – January 1989

Released by the Assembly Oversight and Governmental Operations Committees, Structural defects detail numerous problems with the enforcement and oversight of the Uniform Fire and Building Code Act by the Division of Housing and Community Renewal (DHCR) and the Department of State (DOS).

The Committees examined DOS and DHCR compliance with a 1981 law establishing a uniform fire and building code for the State. The Code, enacted following the 1980 Stouffer's Hotel fire in Westchester County that killed 26 people, was intended to better protect the public by establishing minimum safety standards throughout the State. DOS administers the Code and DHCR shares responsibility for ensuring compliance.

Through on-site inspections, interviews and a survey of all State municipalities (except New York City which is exempt), the Committees learned most localities adopted the Code and enforced it themselves, although the majority did not have a full-time employee for this function. Many municipalities engaged private contractors for this duty, and, in some cases, improperly delegated their "public power" function. The Committees' report made specific recommendations dealing with DHCR and the Code Council, and DOS's direct enforcement, handling of private contractors, training, financial assistance, oversight and the boards of review. Many of the Committees' administrative and regulatory recommendations have since been implemented.

SHOTS IN THE DARK; An Evaluation of New York's Target Crime Initiative Program – September 1989

This report, issued by the Oversight and Codes Committees, is based on an extensive examination of the Target Crime Initiative program (TCI), a comprehensive anti-crime package funded by the State to aid localities for the special handling of serious and/or repeat felony offenders. As of late 1989, the State had spent over \$618 million on these programs, including TCI.

Through surveys, site visits, agency files, and interviews with agency and local personnel, staffs of the two Committees found there was nothing very "targeted" about the TCI program in terms of either case type or case management. Localities were, for the most part, free to target any cases, in any manner, they desired. While not the original intent, the TCI program, as implemented, was little more than a mechanism to funnel non-targeted local assistance funding. To refocus the intent of this program, the Committee Chairmen recommended: codification of State-funded criminal justice programs; establishment of meaningful and measurable goals, objectives and priorities applying to each criminal justice component; creation of new reporting systems and steps to eliminate resource gaps; and creation of an intergovernmental working group.

ENGINEERING DECISION-MAKING WITHIN THE NEW YORK CITY TRANSIT AUTHORITY – March 1988

The Oversight Committee and the Subcommittee on Mass Transit Finances and Operations of the Committee on Corporations, Authorities & Commissions (then chaired by Assembly member Brian Murtaugh and Catherine T. Nolan, respectively) examined the engineering and management practices of the New York City Transit Authority (NYCTA). The investigation was spurred by allegations that the safety of passengers was in jeopardy because NYCTA hired unlicensed engineers.

Through hearing testimony, documents and correspondence, the Committees concluded that the NYCTA, at the very least, was lax in its placement of professional engineers in its chain of command. In several instances NYCTA advertised a job requiring a professional engineer, but then hired an unlicensed individual. This situation also raised ethical concerns for licensed engineers, who could have potentially been placed under the supervision of unlicensed personnel.

LOST IN THE MAZE; New York State's Multiply Disabled –1988

The Oversight and Mental Health Committees examined the implementation of a 1977 law created to ensure a comprehensive and coordinated approach in serving the needs of the multiply-disabled. The multiply-disabled population includes those in State psychiatric and developmental centers, under treatment by local providers, or on the streets. From 1981 to 1987, the number of multiply-disabled patients with mental illness and substance abuse problems increased nearly 90 percent and the number of patients suffering from alcohol abuse and mental illness increased 45 percent.

The report documents the specific failures of the Inter-Office Coordinating Council and its four constituent State agencies -- the Offices of Mental Health and Mental Retardation and Developmental Disabilities and the Divisions of Alcoholism and Alcohol Abuses and Substance Abuse Services -- to meet the stated goal of assuring gaps in services to multiply-disabled were eliminated, and traces how the administrative agencies essentially ignored legal mandates. The report's recommendations were aimed at attaining better management.

BLEAK HOUSE: Division of Housing and Community Renewal At the Crossroads – June 1987

This report documents the Oversight and Housing Committee examination of the State Division of Housing and Community Renewal's (DHCR) administration of rent stabilization and rent control laws. When DHCR assumed responsibility for administration of the system in 1983, it inherited a backlog of 104,000 cases, and some statutory changes created an additional backlog.

Numerous complaints from both landlord and tenant organizations indicated that the agency and the system created to handle the regulations were chaotic and that the agency was systematically violating the rent regulatory statutes. The Committees examined actions DHCR took to reduce its backlog, including rent overcharges and major capital improvement requests, the administrative review process, and DHCR resolution of tenant complaints.

Testimony from over 80 witnesses and thousands of pages of documents and correspondence collected throughout the investigation were compiled into this report. The report also contains recommendations for DHCR to improve its service delivery, many of which have been implemented.

APPENDIX B:

PUBLIC HEARING TRANSCRIPTS

Hearings on the Economy of Upstate New York – June 2, 2006 in Buffalo; October 11, 2006 in Rochester; October 13, 2006 in Syracuse.

The purpose of these hearings was to investigate the causes of, and share effective solutions to the challenges faced by upstate cities.

Hearings on the Child Welfare System – February 9, 2006 in Albany; February 10, 2006 in New York City; February 16, 2006 in Buffalo; March 2, 2006 in Syracuse.

This hearing was held to evaluate the oversight and accountability of the child welfare system and to evaluate the ability of the child welfare system to protect abused children.

Hearings on Bridge Safety – March 6, 2006

This hearing was to question Department of Transportation witness regarding the Tonawanda Bridge.

Hearings on Governor’s Proposed Indian Land Claim, Casino and Tax Agreements

– March and April 2005 Syracuse, Albany and Monticello

In February, 2005, Assembly Speaker Sheldon Silver called for public hearings on legislation which Governor Pataki had proposed to settle Indian land claims in New York State and to expand to five the number of gambling casinos authorized for the Catskills.

The hearings examined the legal, governmental, economic and environmental implications of the proposed settlement agreements with the Akwesasne Mohawks, the Stockbridge-Munsee Community Band of Mohican Indians, the Oneida Tribe of Indians of Wisconsin, the Cayuga Indian Nation of New York and the Seneca-Cayuga Tribe of Oklahoma. On April 15, the Governor withdrew his proposed legislation for five casinos.

Hearing on Staten Island Firehouse – May 13, 2005 Staten Island

In 2001, the Giuliani Administration began construction of a large, modern firehouse in the Rossville area of Staten Island. However, as of April, 2005 the Bloomberg Administration was refusing to place an engine company in the new firehouse, citing cost reasons. A hearing was scheduled for May 13 requesting the appearance of the Fire Commissioner. On May 12, the hearing was postponed at the request of the FDNY. On May 15, Bloomberg Administration officials said that the Mayor will place an engine company in the Rossville firehouse within two weeks.

Examination of the Procurement Stewardship Act and Procurement Issues –

September 27, 2005 Albany

In 1995, the Procurement Stewardship Act (State Finance Law, Article 11) was enacted in order to consolidate, codify and update the procurement laws of New York State. In order to review the effectiveness of the Procurement Stewardship Act, public hearings were held in Albany on September 27, 2005. Sponsoring the hearing were Oversight Committee Chair Brennan, Governmental Operations Chair Destito, Local Governments Chair Sweeney, Small Business Chair Weprin, Environmental Conservation Subcommittee on Oversight Chair Bradley and Government Administration Chair

Millman. This 2005 hearing obtained information in order to review the impact of those changes.

Medicaid Fraud Hearings – September 19, 2005 Albany

A series of newspaper articles by *The New York Times* in July of '05 revealed serious fraud and abuse of New York's Medicaid system. On September 19, 2005, the Assembly Health, Codes, Judiciary and Oversight Committees held the first hearing on this subject.

Key issues examined by the Committees were: The level of coordination among state agencies and the effectiveness of their fraud-prevention efforts; the numerous information systems that the State has paid for and operates to assist in identifying fraudulent activities; and the adequacy of staffing levels to identify and pursue enforcement efforts against violators.

Durable Medical Equipment (DME) Hearings – July 19, 2005 NYC; November 15, 2005 Albany

In February 2005, The Chairs of the Oversight and Health Committees met with Department of Health (DOH) representatives to discuss reasons for the delays in funding for durable medical equipment (DME). The first hearing was held July 19, 2005 in New York City, and the second hearing was held November 15, 2005 in Albany. Medicaid funding of DME requires prior approval by DOH. The DOH Regional Medicaid Office in New York City, which handled all of the funding requests for New York City and Long Island, was closed in November 2004, with little public notice. Operations were moved to Albany. DOH admits it did not prepare its staff for this change. As a result, a large backlog of funding requests was amassed.

Throughout the fall of 2005, Oversight staff continued to work with the DME Workgroup to improve and clarify procedures, develop better communications between providers, vendors, clients and DOH. Oversight staff is currently reviewing all of the received testimonies and will continue to explore possible solutions

Hearings on Fire House Closings – (3/4/04 and 4/30/04)

On May 25, 2003, the NYC Fire Department closed six fire companies, ostensibly for budgetary reasons. Assembly hearings were held to investigate the effects of these closings on the affected neighborhoods. Statistical evidence emerged that suggested response time may have increased more than the Fire Department forecast. Actual response times were in excess of city estimates. While the City had predicted that average, citywide response times would rise by 1 second, they actually rose by 11 seconds in the ten-month period following the firehouse closings.

Statewide Wireless Network – (5/04)

The Oversight Committee joined with the Assembly Committees on Governmental Operations, Local Governments, Ways and Means, Codes and Corporations, Authorities and Commissions to review the process of the Statewide Wireless Network (SWN) procurement. The Office for Technology (OFT) issued a request for proposal on December 12, 2001. The initial cost estimate from OFT was approximately \$300-\$500 million. On April 30, 2004, OFT announced that a contract was awarded for a reported cost of over \$1 billion. Hearings were held to determine whether \$1 billion is a

reasonable and accurate cost estimate, why the disparity exists between the initial cost estimate and the reported contract award and when can the State expect to have a fully operational SWN.

There were no public hearings in 2003.

Quality of Care in Adult Homes – (5/10/2002 and 6/6/2002)

The Oversight Committee joined with the Assembly Committees on Health, Mental Health and Aging to investigate the poor conditions and inappropriate health care provided to residents of adult homes. Hearings were held in New York City and Albany where testimony was presented from government agencies, adult home operators, and advocacy groups representing adult home residents. Hearing testimony revealed the State had minimized fines imposed on adult home operators, halted enforcement actions and dragged its feet in bringing in temporary operators. Findings from the hearings were included in the Oversight Committee's June 2002 report ADULT HOMES IN CRISIS: Plan for Reform.

Charities Hearing – (11/7/01)

The September 11, 2001 terrorist attack on the World Trade Center created widespread need for financial assistance. In addition to the injury and deaths of thousands of people, the attack resulted in damage to property, unemployment, physical and emotional stress, loss of housing and business disruptions. As of the end of October, 2001, over \$1 billion had been donated to various charitable organizations in New York State. These organizations were then faced with the task of distributing the donations.

On November 7, 2001, the Assembly held a public hearing in Manhattan to learn about the planned uses and distribution of charitable donations made in response to the attack on the World Trade Center. Oversight Committee Chair Scott Stringer co-chaired the hearing, along with Speaker Sheldon Silver, and the Chairs of the Committees on Governmental Operations, Codes, and Judiciary.

The Speaker and Committee Chairs sought to learn: how much money had been pledged and received; how such contributions are restricted and how they can be used; what needs will be met by federal and State funds and charitable organizations; what unmet needs continue to exist in the community; to what extent are charities coordinating their efforts; how is eligibility for assistance and the amounts of awards determined; will charitable gifts affect eligibility for State and federal benefits and vice versa; how should any leftover money be used; to what extent have there been fraudulent charitable solicitations related to September 11; and what steps should be taken to protect the public and legitimate charities from abuse?

CONNECTIONS – (5/12/2000 and 5/23/2000)

The Committee held joint public hearings on the CONNECTIONS system in New York City on May 12, 2000 and in Albany on May 23, 2000 with the Assembly Children and Families and Governmental Operations Committees. During the course of the hearings the Committees found that: computer equipment was delivered before a contract was

signed; the Governor's office had direct involvement over the selection of contractors for the project; the hardware contract was amended 78 times after the contract was signed; providers have been frustrated by CONNECTIONS, referred to as "a costly boondoggle" by one provider; the Office of Children and Family Services had not properly overseen the development of the project; CONNECTIONS does not work as intended; and, children were potentially at risk because the system has been unable to accurately search for an alleged abuser's prior history of abuse.

Personal Privacy – (5/12/98)

The Committee conducted a joint hearing on how changes in technology, are reducing the amount of privacy that people have. Among those testifying were individuals whose privacy had been invaded, private investigators, privacy experts, public interest and consumer groups, the N.Y.S. Committee on Open Government, and representatives of the credit reporting, telecommunications, and information broker industries. The hearing was conducted jointly with the Assembly Committee on Consumer Affairs and Protection and with the Assembly Commission on Science and Technology.

Foster Care – (3/3/98, 3/5/98, and 3/18/98)

Joint hearings on factors that impact children's length of stay in foster care were held with the Assembly Committee on Children and Families. Hearings were held in Syracuse, New York City and Albany. Topics discussed included oversight by State and local agencies; the impact of the State block grant on services and length of stay; agency and family court administration; recently enacted State laws and their effects; staffing issues; existing and developing computer networks used by foster care providers; and federal legislation's potential impact on New York's foster care policies.

NY Inaugural '95 and NY Transition '95 – (3/18/96)

A joint hearing was called by the Oversight, Election Law and the Governmental Operations Committees to ask questions pertaining to Governor Pataki's 1995 Inaugural and Transition for-profit organizations. Unfortunately, representatives of the two organizations refused to attend. After the Committee Chairmen presented opening statements the hearings were concluded.

Municipal Competitive Bidding Hearings – (10/31/95 and 2/27/96)

As part of its review of the municipal procurement laws, the Committee held public hearings in 1995 and 1996 to examine whether the competitive bidding law is being violated and how compliance can be best assured. Testimony was heard from the State Comptroller's office, the Business Council of New York State, the General Building Contractors of New York State, the N.Y.S. Association of Municipal Purchasing Officials, and other statewide contracting associations, auditing firms, municipal officials, regional associations, and school associations.

Thruway Authority Hazardous Waste Site – (10/2/92)

Oversight, Analysis and Investigation Committee Chairman Richard Brodsky held a public hearing in October of 1992 in Tarrytown to explore the Thruway Authority's 1986 dumping of hazardous waste at a site under the Tappan Zee Bridge in Westchester County. The questioning focused on a number of issues relating to the site, including the TA's failure to test the area as agreed to with State Department of Environmental Conservation (DEC) in

1988. DEC was also questioned on its failure to issue two statutorily required State agency environmental audit reports due July 1, 1991 and September 1, 1992, respectively.

Beer Industry – (2/7/91)

The Committees on Oversight, Analysis and Investigation and Commerce, Industry & Economic Development held this hearing to examine documents received pursuant to subpoena and to explore whether consumers are well served by the current distribution system for beer in New York State.

Art Market Practices – (1/30/91)

The Committees on Oversight, Analysis and Investigation, and Tourism, Arts and Sports Development held this hearing to receive public comment about a number of issues pertaining to the art market and to explore potential legislative responses.

Prevailing Wage Legislation – (2/28/91, 3/1/91, 3/12/91, 3/14/91)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Labor held these hearings to receive comments on the recommendations contained in the joint-Committee report Abuse of the Prevailing Wage Law, and the legislation proposed in response to the joint-Committee investigation.

New York State's Beer Industry – (5/30/90)

The Committees on Oversight, Analysis and Investigation and Commerce, Industry & Economic Development held this hearing to examine whether consumers are well served by the current distribution system for beer in New York State.

New York Racing Association – (3/23/90)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Racing and Wagering held this hearing to inquire into the financial practices of the New York Racing Association (NYRA) because of forecasts of NYRA's financial position for 1990, which indicated an operating loss.

State Agency Environmental Audit – (3/2/90 and 3/7/90)

The Committees on Oversight, Analysis and Investigation and Environmental Conservation held this hearing to gather additional information from the public on State agency violations of New York's environmental laws; to determine what steps State agencies and the DEC take to ensure agency compliance and whether such steps are adequate; and to examine the Governor's budget process and the degree to which DEC played a role.

Prevailing Wage – (1/18/90; 1/24/90)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Labor held this hearing to examine and highlight the state-wide abuses and violations of the prevailing wage law Article 8 (§22 et seq) and consider remedies.

Proprietary School Roundtable – (9/7/89)

The purpose of this roundtable was to elicit comments and opinions on Assembly bill 7517 which was aimed at reforming the system of private vocational education in the State.

Cable Television – (4/19/89)

The Chairman of the Committee on Oversight, Analysis and Investigation held this hearing to determine the effect on consumers of the unavailability of the Madison Square Garden Network on cable systems and to explore appropriate legislative remedies.

Proprietary Schools – (3/2/89)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Higher Education held this hearing to examine the effects of chapters 680 and 681 of the laws of 1986 which revised standards for the State's private proprietary schools. More specifically, Chairmen Brodsky and Sullivan wanted to examine various issues, including the financial and recruiting practices and the educational quality of proprietary schools.

New York City Transit Authority – (8/11/87)

The Assembly Subcommittee on Mass Transit Finances & Operations of the Committee on Corporations, Authorities & Commissions and the Oversight, Analysis and Investigation Committee held this hearing to: consider the practice of engineering and its unique relationship to New York City Transit Authority (NYCTA) activities; determine the roles of the Office of Professional Discipline and the State Board of Engineering with respect to advising and overseeing the NYCTA's hiring, employment and job description practices; and, determine if the current management structure of the NYCTA has resulted in managers who are not licensed professional engineers controlling engineering decisions. The Car Equipment and the Track and Structures Departments were studied as examples.

Division of Housing and Community Renewal (DHCR) – (3/6/87 and 3/13/87)

The Chairpersons of the Committees on Oversight, Analysis and Investigation and Housing held this hearing to examine DHCR's administration of New York State's rent regulation system. The Committees originally planned only one hearing, but received more than 60 requests from landlords, tenants and community groups to testify and added another day.