



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007-2008

Annual Report

COMMITTEE ON
OVERSIGHT, ANALYSIS AND INVESTIGATION

THE NEW YORK STATE ASSEMBLY

**COMMITTEE ON OVERSIGHT, ANALYSIS
AND INVESTIGATION**

Sam Hoyt
Chair
January-February 2007

Adriano Espaillat
Chair
March-May 2007

Joan L. Millman
Chair
June 2007-December 2008

THE 2007-08 ANNUAL REPORT

COMMITTEE MEMBERS

MAJORITY:

Ginny Fields
William B. Magnarelli
Daniel J. O'Donnell
Annette Robinson
Mark J. F. Schroeder

MINORITY:

George Amedore

COMMITTEE STAFF:

Thomas J. Fox, Chief Counsel
Kathleen Fazio

December 31, 2008

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 2007-08 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 2007 and 2008, as well as previous project reviews and planned future activities.

I am submitting a two-year review of Oversight Committee work. In this time, the Committee has had three different chairs. In mid-2007, I succeeded Chair Adriano Espaillat, who followed the chairmanship of Sam Hoyt.

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.

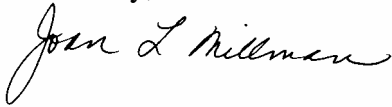
For 2007-08, the Committee:

- Held public hearings on the increasing foreclosure rate and subprime and nontraditional mortgages in 2007 and again in 2008 with the Assembly Banks Committee and worked with that Committee to introduce the Responsible Lending Act of 2008, which is helping to stem the foreclosure rate and prevent predatory lending.
- Analyzed the Higher Education Services Corporation's contingency plans for handling the possibility of a tight credit market and new federal student loan rules during the summer 2008 borrowing cycle.
- Followed up on the work of previous chairs, continuing to pursue changes in the State Department of Health's processes for issuing Medicaid funds for equipment needed by people with disabilities. This included a roundtable — with the Health Committee and the Task Force on Disabilities — to resolve outstanding issues and review the significant changes made by the Department.
- Investigated the Council on Children and Families implementation of Billy's Law (Chapter 392 of the Laws of 2005; A.8923-A, Millman), which aims to keep children with disabilities from being sent to out-of-state programs and schools, and to build up in-state resources.

- Held a hearing with several other Assembly Standing Committees — Tourism, Arts and Sports Development, Ways and Means, and Environmental Conservation — to examine the Office of Parks, Recreation and Historic Preservation’s capital spending of \$75.5 million (as was enacted in the 2008-09 State Budget).
- Continued investigating banning aversive therapies on New York State students, including submitting testimony supporting better control of aversive therapies in the state of Massachusetts.
- Re-issued “The Guide to Legislative Oversight in April 2008” — reviewing legislative oversight principles and methods to be used as a resource for other standing committees and Assembly members — and forwarded this resource to all Assembly members.
- Filed formal comments in the Public Service Commission cases considering the merger of National Grid and KeySpan. The PSC’s final order approving the merger did include safeguards, as recommended, for upstate ratepayers, particularly as to service quality.

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,

A handwritten signature in cursive script that reads "Joan L. Millman". The signature is written in black ink and is positioned below the word "Sincerely,".

Joan L. Millman, Chair,
Assembly Committee on Oversight, Analysis and Investigation

TABLE OF CONTENTS

LEGISLATIVE OVERSIGHT	1
• The Role of Legislative Oversight	
• The Function of the Oversight, Analysis & Investigation Committee	
COMMITTEE PROJECTS IN 2007 AND 2008	3
• Subprime market and help to those facing foreclosure	
• Federal student loans and a tight credit market	
• Medicaid funding for equipment needed by people with severe disabilities	
• Council on Children and Families on implementation of Billy’s Law	
• Aversive therapies	
• Office of Parks, Recreation and Historic Preservation’s capital spending	
• Guide to Legislative Oversight	
• Merger of National Grid and KeySpan	
COMMITTEE PUBLICATIONS	14
COMMITTEE HEARING TRANSCRIPTS	24

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 for examining how those laws are working, enforcing legislative intent, and promoting sound policy decisions.

Oversight investigations shed light on governmental and non-governmental actions and 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, 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 2007 AND 2008

Subprime mortgages

In the spring of 2007, the Oversight Committee joined several other Assembly Committees — Judiciary, Banks, Consumer Affairs and Protection, and Housing — to investigate issues relating to subprime mortgages and the high rate of home foreclosures. As a result, legislation, described below, was enacted. In December 2008, the Oversight and Banks Committees and the Subcommittee on Regulated Mortgage Lenders held a follow-up hearing to see how well the new law was working.

The Foreclosure Prevention and Responsible Lending Act of 2008 (Chapter 472 of the Laws of 2008) aims to help homeowners in default and foreclosure and to prevent abusive lending practices. The legislation does the following to help homeowners in pre-foreclosure:

- requires lenders to provide notice to the homeowner at least 90 days before the initiation of a foreclosure proceeding
- requires lenders to provide borrowers with a list of approved housing counselors
- serving the homeowner's area
- requires a mandatory settlement conference (and provision of a court-appointed, if needed) for homeowners with certain subprime loans
- requires lenders to demonstrate they have proper legal standing to carry out a foreclosure action
- requires written contracts
- prohibits upfront fees for servicers

The law includes the following provisions to address prospective lending:

- requires subprime lenders verify that borrowers can afford to repay their loans even after the interest rate may adjust
- requires subprime lenders to escrow taxes and insurance payments for at least the first year of the loan
- prohibits predatory lending practices, including negatively amortizing loans, prepayment penalties and the refinancing of loans to a borrower's detriment
- creates legal duty for mortgage brokers to act in the borrower's best interest by offering loans which are most beneficial to the borrower
- requires all entities servicing loans in New York to register with the Banking Department
- regulates distressed property consultants
- establishes mortgage fraud as a crime under Penal Law

Additionally, the Legislature allocated in the 2008 budget \$25 million to non-profit agencies to provide direct housing counseling and legal services to homeowners with subprime loans. This funding was distributed by the NYS Department of Housing and Community Renewal (DHCR).

Although many of the law's provisions had just gone into effect two months prior to the December 2008 hearing, the Committee Chairs felt that because of the gravity of this

issue and the devastating impact it could have on families and the state as a whole, they should try to determine how well the law was working.

The hearing was chaired by the Oversight and Banking Committee Chairs, Joan L. Millman and Darryl Towns, respectively, on December 8, 2008 in New York City. At that time, far fewer subprime loans were being granted, probably because of a lack of investor interest as well as industry pullback, even for the most credit-worthy borrowers. Foreclosure filings were up 42 percent over the prior year. However, in the third quarter of 2008 — when the notice requirements and mandatory settlement conferences became effective — there was a slight decline, which may or may not have been related to the law.

Most witnesses concurred that the Banking Department was implementing the law as intended, and worked efficiently with DHCR to distribute the \$25 million grants to not-for-profit and housing counselor agencies. Most also agreed that it may still have been too early to see how well the law was working.

The Banking Department testified that it held a series of forums around the state, bringing together thousands of delinquent borrowers and housing counselors, lenders and servicers. And, the department now lists on its website housing counselors and index rates used to determine whether a particular loan is covered by the legislation. The department is also planning public service announcements and working to stem fraud and ensure compliance with the legislation.

The NYS Bankers Association noted that few homeowners are participating in mandatory conferences. However, consumer groups cited a variety of reasons, including that it is still too early; that homeowners are having enormous trouble reaching servicers (lenders who work out loan modifications) to make loan modifications; and, foreclosure attorneys are often showing up without payment histories. Consumer groups said that, until servicers cannot make money from collecting aggressively, they are not going to work with borrowers to work out a modification.

Many witnesses asked the Legislature to:

- Expand the subprime foreclosure prevention program to support counseling of all foreclosure cases regardless of whether they are subprime or high-cost loans.
- Extend mandatory conferences to all who apply for mortgage foreclosure proceedings, not just those with high-cost loans.
- Look at the quality of loan modifications that are given out to make sure they are clear and that there is not a pattern of failure, i.e. that they are not resulting in borrowers going into default again six months later.
- Prohibit the same lenders or brokers responsible for today's mortgage crisis from being approved as Federal Housing Administration (FHA) lenders. The FHA guidelines are too flexible and allow for abuse.

Federal Student Loans and a Tight Credit Market

Worried that the national credit crisis might affect college student borrowing, the Oversight Committee joined with the Assembly Higher Education Committee in analyzing the New York State Higher Education Services Corporation's (HESC's) contingency plans for dealing with a tight credit market and new federal student loan rules before the summer 2008 borrowing cycle.

HESC guarantees federal education loans, offers loan management services, and provides guidance for college planning. The agency establishes contingency plans with specific lenders to ensure that student loans continue to be available through those lending partners.

The Oversight and Higher Education Committee Chairs, Joan L. Millman and Deborah H. Glick, respectively, wrote to HESC in May 2008, asking what problems it foresaw relating to student lending as well as what preparations were underway relating to the administration of the Federal Family Education Loan (FFEL) program.

The Chairs promptly received a response, which assured the chairs that HESC had, in fact, been properly preparing contingency plans for a tight credit market.

Medicaid Funding for Equipment for People with Disabilities

After public hearings, an intensive review, a Committee report and continued meetings, the Department of Health (DOH) has made significant changes in its processing of Medicaid claims to pay for equipment for people with disabilities.

In 2005, the Oversight Committee — joined by the Health Committee and the Task Force on People with Disabilities — held two public hearings to examine DOH's processing of claims for equipment such as power wheelchairs with custom seating and other generally expensive and custom-made items.

DOH requires that applicants submit extensive documentation, which is manually reviewed by DOH prior to approval. After a thorough review of this "prior approval" process, the Committees issued in July 2006 the report "Delaying Necessities, Denying Needs: An Assembly Investigation of New York State's Handling of Medicaid Durable Medical Equipment Claims," which was highly critical of DOH.

The report detailed the Committees' findings, chief among them being the enormous amount of time — sometimes a year or more — for beneficiaries to get approval from DOH for funding of needed durable medical equipment (DME). These types of equipment help many people with disabilities, including children, live more independent lives. The delays were often caused by DOH's numerous requests for additional information, which, upon inspection by Committee staff, were frequently determined to be irrelevant or redundant. Another major complaint was the lack of guidance DOH provided to those submitting prior approval requests. Additionally, DOH did not follow

its own regulations as it did not track the length of time it took to issue prior approval responses, and it did not have a medical doctor on staff to deny or change claims.

The Committees' report won the 2006 Notable Documents Award issued by the New York Library Association, and the 2007 Notable Documents Award (for the category of Public Policy) issued by the National Conference of State Legislatures.

In 2007, the Committee chairs reached out to former Governor Spitzer and then to Governor Paterson, as well as to the newly-appointed Health Department Commissioner, Richard F. Daines, M.D., to make them aware of the problems with the prior approval process.

The Committees also continued to attend meetings of the DME Workgroup, which was formed to fix the DME process and was comprised of representatives from DOH, consumer groups, providers, clinicians, and DME vendors. This workgroup was the result of requests from advocacy groups and, possibly, the attention that the Assembly had brought to the matter. In May 2008, a New York City newspaper ran a series about a little girl who needed a wheelchair but was waiting an inordinate amount of time.

On November 6, 2008 the Committee chairs held a roundtable in New York City to discuss with DOH, providers, vendors, beneficiaries, clinicians, and other medical staff what changes DOH had made and what more needed to be done to help people with disabilities get the equipment they need.

DOH reported that it had either made or was planning significant changes, based on recommendations by the Workgroup and the Committees' report, including:

- Shortening the length of time it takes to approve a request.
- Aggregating its data to examine the prior approval process and to learn the reasons for delays. DOH estimated the entire process — from making the first appointment for an evaluation to getting equipment — can take about 211 days. one of the Committee's criticisms. Also, DOH planned to develop vendor report cards (not to be made public) to monitor vendor performance.
- Issuing guidelines for seating and positioning and developing a sample template to assist clinicians in completing written wheelchair evaluations.
- Moving more items out of the prior approval process and to the Dispensing Validation System (DVS), a telephone system which generally approves more off-the-shelf and less expensive items immediately. In 2005, DME requiring prior approval represented \$15 million. As of October 2008, that dollar amount dropped to \$5.2 million.
- Holding educational meetings for providers and providing prior approval staff with customer service training and information about new technologies from manufacturers and vendors to learn about new technologies.

- Hiring a dedicated medical director specifically for the prior approval unit. Previously, unqualified staff were denying and modifying prior approval applications, also a criticism in the report.
- Calling or e-mailing vendors or providers for missing information. In the past, DOH would often mail several rounds of missing information letters, which could delay approval for many months.
- Sending copies of all correspondence with vendors to beneficiary and treatment team members.
- Revising its wheeled mobility pricing to reflect the Medicare fee schedule, and revising the power wheelchair codes to improve specificity and make pricing more accurate.
- Publishing criteria for obtaining “back-up” or rental wheelchairs.
- Issuing a revised policy (effective January 2009) for people who are dually eligible for Medicare and Medicaid, who in the past would often end up with coverage from neither insurer. The changes will allow beneficiaries to apply for Medicaid (the payer of last resort), without having first been rejected by Medicare, if certain conditions are met, such as the item is not covered by Medicare.

The November 2008 roundtable also provided a forum for consumer groups, providers, vendors and clinicians to talk to DOH about unresolved issues, such as:

- 1) Vendors said DOH had not been approving requests for equipment normally dispensed through DVS that is medically necessary but the coverage criteria is not met. They said they would like to submit such requests through the prior approval system, and DOH said it would consider such requests, as long as they provide the necessary paperwork.
- 2) DME vendors expressed concern about liability on post-audit for items obtained through DVS, as DVS does not require medical review and prior approval. DOH recommended vendors keep on record evidence of medical necessity provided by a doctor or clinician in case should they get audited.
- 3) Roundtable members argued that DOH does not allow enough reimbursement for certain items, like upper extremity support systems, and therefore they limit the availability of sturdy equipment. DOH urged vendors to bring to the department’s attention any reimbursement concerns when they arise.
- 4) Consumer groups complained about access to clinics and providers, which often takes about 90 days to get an appointment. This problem may be the result of fewer wheelchair clinics and vendors who provide custom chairs and do repairs. DOH said it will look into this issue.

- 5) Vendors and consumer groups complained that DOH does not reimburse for evaluations. DOH said it will look into the reimbursements for evaluations in all settings.

Implementation of Billy's Law

In 2008, Committee staff examined the Council on Children and Families implementation of Chapter 392 of the Laws of 2005 (A.8923-A, Millman). This law is more familiarly known as Billy's Law and was enacted in response to a case of a child alleged to have been abused in an out-of-state facility.

That same year, the Council on Children and Families issued a report on out-of-state placements, finding that:

- New York State agencies have limited control and only limited oversight or resource capacity to monitor the quality of care at out-of-state residential schools and programs.
- Sending children out of state, means tuition dollars leave New York, and for some that means more than \$200,000 per year.
- The estimated cost to send children out of state is \$200 million annually.
- From 1998 to 2005, the number of out-of-state placements increased from about 700 to 1,400.

The enactment of Billy's Law attempted to keep youth in the state and build the state's infrastructure to provide services and beds for more children. Billy's Law requires:

- Interagency coordination, mainly through an out-of-state placement (OSP) committee — within the Council on Children and Families — comprised of seven state commissioners, including the two agencies sending the most youths out of state, the office of Children and Family Services (OCFS) and the State Education Department (SED).
- All in-state options be considered before sending a child out of state.
- The OSP Committee to develop rules for programs/schools to be included on a publicly-accessible registry of approved schools and programs, including:
 - the program must be inspected by at least one OSP member regularly
 - the program must hold a current license/charter from the host state
 - appropriate services and goals are established for each child placed
 - the host state has laws or regulations for investigation and resolution of allegations of abuse or neglect
 - care is consistent with NY law and agency regulations
 - notification of any abuse or neglect or loss of license

- The OSP Committee to recommend contractual language for out-of-state residential programs/schools to provide greater accountability of New York State children.
- The OSP Committee to establish model processes for reviewing alternative service options to avoid an out-of-home placement and to review all viable and least restrictive options for placing the child in-state.
- The OSP Committee to make reasonable efforts to:
 - coordinate the development and updating by member agencies of technical assistance resources, such as referral guides, directories, assessment tools, inventories of availability and capacity of state services, etc.
 - establish public awareness, training, and technical assistance initiatives to strengthen local service coordination and streamline placement processes and access to community-based services.
- The Council and OSP Committee (along with the Division of the Budget) to analyze aggregate data on children placed out-of-state and make recommendations to integrate funding for services for children with complex and/or multiply-diagnosed needs.
- The OSP Committee to report annually on progress concerning Billy's Law implementation.

Billy's Law also allows the OSP Committee to develop recommendations regarding:

- creating a common system for placement of children in out-of-state programs and facilities, in order to avert future placement
- returning children from out-of-state programs and facilities
- building or rebuilding the infrastructure of in-state programs and facilities
- redesigning the system to eliminate barriers and institute flexibility in funding so that children may be provided for in the most appropriate and least restrictive environments including the child's home
- enabling public funding for such services to follow the child
- requiring appropriate levels of accountability concerning the placement of children at all levels of public decision-making

In 2008, the Oversight Committee, along with Senator Martin J. Golden, inquired into the Council's and the OSP Committee's progress in meeting these goals, and they received the following answers.

- The OSP Committee had been established.
- The number of children in out-of-state placement declined from about 1,400 in 2005 to 723 in 2007. The agencies do not have accurate data on where these youths ended up after leaving out-of-state placement. SED does have data on NYC students. Of the NYC youths who left out-of-state schools and programs, about one-third had aged out of the system, and another third were transferred to

in-state schools. SED and OCFS are reportedly working together to send out surveys to determine the exact disposition of youths returning to NYS.

- OCFS has advised its local agencies to ensure all options are considered before sending a child out of state, but the decision remains a local one. SED continues “intensive gate-keeping,” which began in 2005. School districts must submit detailed applications and student profiles to SED prior to recommending out-of-state placement. If they do not, they get no state aid. Also, school districts can send youths only to schools approved by SED (those on the registry, regardless of whether they get aid or not).
- SED had established a registry of approved schools, but OCFS had not.
- OCFS had just begun visiting some of the 54 out-of-state residential programs it oversees, and SED had started site visits in 2005 and finished the first round in 2008. As a result of its visits, SED eliminated four schools from the agency’s approved list.
- SED created a special unit to oversee implementation of the law, and OCFS was considering doing so.
- The OSP Committee made no progress on recommendations to integrate funding and make it more flexible, but it is considering one regional example, which may serve to promote statewide solutions to better serve kids with cross-system needs, i.e., youth who require services of more than one state agency.
- The OSP Committee has finalized accountability guidelines.
- Agencies have made no progress in analyzing aggregate data on children placed out of state because of the many differences in data, software, policies, and regulations. SED and OCFS are trying to identify common data elements, and each agency is using its own data to help identify bed needs for the interagency bed development plan.
- The OSP Committee recommended contractual language, which OCFS adopted and forwarded to local agencies.
- SED made agreements with other states so that SED would be informed of any cases of abuse or neglect, loss of license, or similar infractions.
- The Council suggested that a part of the law that should not be implemented is the provision that the OSP Committee, in conjunction with DOB, determine the feasibility of charging fees to out-of-state programs and schools listed on the out-of-state placement registries. The OSP Committee determined that charging fees would not be feasible.

The Council worked with the OSP Committee and the Oversight Committee Chair Millman and Senator Golden to develop legislation (A.11001-A, Millman/S.8196-A,

Golden) directing the OSP Committee to develop a residential bed plan that includes recommendations to address current and future programmatic and physical plant needs for renovated and new in-state capacity. Additionally, this legislation would have authorized the Dormitory Authority to provide up to \$30 million to finance identified projects. The bill was vetoed by the Governor for several reasons, including the high cost.

Aversion Therapies

Building on roundtables she hosted in 2005 and 2006, Oversight Committee chair Millman examined new state regulations which govern the use of aversion therapies on students. Also, in 2008, she submitted testimony to a legislative hearing in Massachusetts on two related bills.

In early 2007, the New York State Board of Regents revised state regulations regarding aversion therapies to prohibit their usage in all schools, except in child-specific exceptions, and without exception in all preschool programs. The Board defined aversion therapies as “any intervention intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, and to prohibit certain aversive interventions.” Unless a child has received the State Education Department’s approval for aversion therapies prior to June 2009, no child in the future can receive aversion interventions.

The Board also required all student intervention plans to include treatments that do not inflict pain, but make other adjustments to a student’s treatment, referred to in the regulations as positive behavior therapies.

The Committee Chair submitted testimony to the Massachusetts Legislative Joint Committee on Children, Families and Persons with Disabilities in January 2008 supporting better control of aversion therapies in Massachusetts. Approximately 90 students from New York are placed at the Rotenberg Center in Massachusetts, which uses aversion therapies. The hearing was held to address bills that would ban or impose stringent restrictions on the use of such therapies and govern how aversion therapies are implemented, designed, and supervised. The Oversight Committee chair’s testimony advocated better control of aversion therapies, to be used only as an absolute last resort.

Office of Parks Capital Plan

In December 2008, the Assembly Oversight Committee held a public hearing — with the Assembly Standing Committees on Tourism, Arts and Sports Development, Ways and Means, and Environmental Conservation — to examine the Office of Parks, Recreation and Historic Preservation’s (OPRHP) capital spending of \$75.5 million (as was enacted in the 2008-09 state budget).

The 2008-2009 State Budget appropriated \$95 million in capital dollars to be used by four agencies. The majority, \$75.5 million, went directly to the OPRHP, to spend on 213 state parks and historic sites throughout New York.

Facing a backlog of maintenance and health and safety problems at its facilities, OPRHP undertook a comprehensive inventory of all eleven state park regions and has put together a multi-year master plan. As a result, the agency identified a backlog of capital project needs approaching \$650 million. Over the 15-year period from 1992 through 2007, the state park system grew by 26 new parks and 70,000 acres (a 25 percent increase). But over this same period, the state parks' capital budget was cut by 50 percent, adjusting for inflation.

In 2008, the Governor and Legislature created a new State Parks Capital Initiative, which coupled with other funds OPRHP secured from federal, state, and private sources, enabled the agency to launch a \$100 million program to revitalize the state park system.

OPRHP has initiated more than 150 capital construction projects to remedy health and safety problems and rehabilitate deteriorated facilities in state parks and historic sites across the state — providing safe and affordable recreational and educational experiences for millions of New Yorkers.

Of the total \$95 million State Parks Capital Initiative appropriation, \$75.5 million was allocated to OPRHP. As charged by the Governor and the Legislature, the agency, within seven months, spent or encumbered 96 percent of the \$75.5 million. And, they initiated bidding and contract awards for the remaining \$3 million.

According to OPRHP, these capital investments support the equivalent of 1,000 full-time private sector construction and engineering jobs, mainly for small to medium-sized construction firms, businesses that are most impacted by the economic downturn.

Filed Formal Comments on the Public Service Commission Merger of National Grid and KeySpan

In February 2007, then Committee Chair Hoyt filed formal comments on the Public Service Commission (PSC) cases considering the merger of National Grid and KeySpan. As a result of his comments, the PSC's final order approving the merger included safeguards for upstate ratepayers, especially for service quality.

The letter to the PSC concerned the following cases:

Case 06-M-0878-In the Matter of National Grid PLC and KeySpan Corporation - Proposed Merger

Case 06-G-1185-The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York – Gas Rates

Case 06-G-1186- KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery

National Grid USA was proposing to buy KeySpan for \$7.3 billion. National Grid USA would finance the purchase entirely with debt, in the form of bonds. Chairman Hoyt worried that, if the enhanced value of the companies did not generate cash to pay this debt, then National Grid might sacrifice service to ratepayers, including upstate New York ratepayers.

National Grid's overall service record was a cause of concern for all of the company's ratepayers. In 2006, the PSC fined National Grid for failing to meet minimum service quality standards — both on the frequency and duration of outages. Service quality had deteriorated since National Grid's 2002 purchase of Niagara Mohawk.

Chairman Hoyt expressed concern that the proposed merger might potentially exacerbate service quality problems throughout the upstate New York area served by National Grid. A fundamental cause for concern was that soon both Niagara Mohawk and the reconstituted KeySpan would be wholly owned subsidiaries of one company — National Grid USA. It was not clear that the terms of the proposed merger would include appropriate protections to ensure that cross-subsidy of other utility operations would not occur.

The Chair also expressed concern that the proposed merger could result in a reduction in National Grid's workforce in upstate New York, and thus would have a further negative effect on service quality. The chair speculated that the structure of the proposed merger would create a risk that National Grid resources would be allocated to meet Long Island and New York City standards to the detriment of service in upstate New York.

In light of the above, Chairman Hoyt recommended that the Commission attach four binding requirements to the approval:

1. National Grid must not lay off, or otherwise reduce, its upstate New York workforce, as result of this merger.
2. National Grid's service quality in upstate New York must be at least as good as the service quality for the Long Island and New York City region.
3. National Grid must meet its service quality standards.
4. National Grid must not increase rates for upstate New York ratepayers, as result of this merger.

The PSC's final order approving the merger did include safeguards for upstate ratepayers, especially for service quality. It also renewed a commitment to invest approximately \$1.4 billion over the next five years in the upstate service territory of Niagara Mohawk Power Corporation.

COMMITTEE PUBLICATIONS

Guide to Oversight – April 2008

Committee Chair Joan Millman issued a revised Guide to Legislative Oversight, which reviews legislative oversight principles and the many types of methods used to conduct oversight. The report is to be used as a resource for other standing committees and Assembly members.

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

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 used and misused legal and bureaucratic means to unfairly prevent people with severe disabilities from getting necessary equipment. The result was that vulnerable people are hurt and programs may face greater spending.

Among the problems uncovered in the investigation was that, despite having installed a new, costly computer system (more than \$600 million), DOH did not track the time it took 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 often added months onto the process.

The report offered recommendations to improve the durable medical equipment prior-approval system and ensure taxpayer dollars are spent more efficiently. The recommendations included: DOH must comply with its own regulations, especially in regard to: the definition of "medically necessary." The report also recommended that DOH promulgate clear criteria for prior approval applications, respond in a timely manner, use its data to see where applications are being held up, and communicate better with vendors and clinicians.

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.

Uncharted 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 Governmental Accountability, Audit and Internal Control 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 subject 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 "Iris," 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 details 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.

PUBLIC HEARING TRANSCRIPTS

Subprime mortgages – December 8, 2008, New York City

The Oversight and Banking Committee Chairs, Joan L. Millman and Darryl Towns, respectively, held a public hearing to assess implementation of the Foreclosure Prevention and Responsible Lending Act of 2008 (Chapter 472 of the Laws of 2008), which was enacted to help homeowners in default and foreclosure and to prevent abusive lending practices.

Although many of the law's provisions had just gone into effect two months prior to the December 2008 hearing, and a tight credit market was inhibiting lending so some of the law's provisions could not be tested yet, the Committee Chairs felt that because of the gravity of this issue and the devastating impact it could have on families and the state as a whole, they should try to determine how well the law was working.

Testimony indicated that the Banking Department was implementing the law as intended, and was educating the public and bringing together thousands of delinquent borrowers and housing counselors, lenders and servicers (lenders who work out loan modifications). The New York Bankers Association noted that few homeowners are participating in mandatory conferences. However, consumer groups cited a variety of reasons, including that it is still too early; that homeowners are having enormous trouble reaching servicers to make loan modifications; and, foreclosure attorneys are often showing up without payment histories. Consumer groups said that, until servicers cannot make money from collecting aggressively, they're not going to work with borrowers to work out a modification.

Witnesses asked the Assembly to expand the subprime foreclosure prevention program to support counseling of all foreclosure cases regardless of whether they are subprime or high-cost loans. They also asked mandatory conferences be expanded to all who apply for mortgage foreclosure proceedings, not just those with high-cost loans.

Office of Parks Capital Plan – November 19, 2008, Albany

The Assembly Oversight Committee held a public hearing with several other Assembly Committees — Tourism, Arts and Sports Development, Ways and Means, and Environmental Conservation — to examine the Office of Parks, Recreation and Historic Preservation's (OPRHP) capital spending of \$75.5 million (as was enacted in the 2008-09 state budget).

The 2008-2009 State Budget appropriated \$95 million in capital dollars to be used by four agencies. The majority, \$75.5 million, went directly to the OPRHP to spend on some 213 state parks and historic sites throughout New York.

Facing a backlog of maintenance and health and safety problems at their facilities, OPRHP undertook a comprehensive inventory of all eleven state park regions and has put together a multi-year master plan. As a result, they agency identified a backlog of capital project needs approaching \$650 million.

The agency has initiated more than 150 capital construction projects to remedy the health and safety issues and rehabilitate deteriorated facilities in state parks and historic sites across the state—addressing health and safety concerns, and providing safe and affordable recreational and educational experiences for millions of New Yorkers.

Of the total \$95 million State Parks Capital Initiative appropriation, \$75.5 million was allocated to OPRHP. As charged by the Governor and the Legislature, the agency, within seven months, spent or encumbered 96 percent of the \$75.5 million. And, they initiated bidding and contract awards for the remaining \$3 million.

Hearings on the Economy of Upstate New York – June 2, 2006, Buffalo; October 11, 2006, Rochester; October 13, 2006, Syracuse; and, December 4, 2006, Binghamton

The Committee held hearings — along with the Assembly Standing Committees on Cities, Economic Development, Job Creation, Commerce and Industry, and Tourism, Arts and Sports Development — to investigate the causes of and share effective solutions for the challenges faced by cities in upstate New York.

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.

Hearing on Bridge Safety – March 6, 2006

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

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

The Committee held a series of 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.

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.

Hearings on Governor's Proposed Indian Land Claim, Casino and Tax Agreements
– March-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 schedule 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, a public hearing was 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 – March, 4, 2004, and April 30, 2004

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 – May 4, 2004

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 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 – May 10, 2002, and June 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 – November 7, 2001

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 – May 12, 2000, and May 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 – May 12, 1998

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 – March 3, 1998, March 5, 1998, and March 18, 1998

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 – March 18, 1996

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 – March 31, 1995, and February 27, 1996

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 – October 2, 1992

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 – October 7, 1991

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 – January 30, 1991

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 – February 28, 1991; March 1, 1991; March 12, 1991; and, March 14, 1991

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 – May 20, 1990

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 – March 23, 1990

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 – March 2, 1990, and March 7, 1990

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 – January 18, 1990, and January 24, 1990

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 – September 7, 1989

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 – April 19, 1989

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 – March 2, 1989

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 – August 11, 1987

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) – March 6, 1987, and March 13, 1987

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.