



The Philip Weinberg Forum Perspectives on New York Governmental Reform

Panelists:
Richard P. Brodsky
John Faso
Dan Walsh
Blair Horner
Tom Kriger

Moderator: Richard P. Nathan



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Richard P. Nathan:

Thank you all for coming. My name is Dick Nathan and I am proud to be the moderator today and director of the Rockefeller Institute. I think that we've got just the right people here at just the right time. They've all agreed that the best way to do this is to make it interactive, to encourage the speakers to talk to each other, and then to allow some time for them to talk to you. Let me just tell you, once when I worked at the Brookings Institution in Washington I had an editor. Every time I would run something at the beginning of a paper or book, he'd cross off the first five pages. He said, "That's just throat clearing." So I'm doing a little throat clearing first so that people can get their seats and get comfortable. You don't have to listen, but you may want to.

Let me tell you how we're going to do this and we're going to try to have it go in an orderly way. The first speaker is Assemblyman Brodsky, who is sitting on my far

right. Each speaker is going to have five minutes. We're going to try and gently encourage you to stick to that schedule. Then each speaker is going to have three minutes to react to what the others have said. And then we're going to have a little more time for the speakers to speak to each other because we have just the right people here, I think, for



today's meeting. Then we're going to open it up to the audience. Let me also indicate that we are going to make a transcript of today's event and very likely publish it.

The Rockefeller Institute is the public policy research arm of the State University of New York. This is a good topic for us to bring people together and think in careful ways about important public policy issues. I'm not sure where we're going to go from here on this exciting, important subject. But it's of great interest to us and for a lot of people. We would be pleased to get your thoughts about a good role for the Rockefeller Institute to take. I think what I should do is introduce quickly all of the speakers and then Mr. Brodsky can start off with his remarks.

Richard Brodsky is a member of the Assembly. He is from Westchester County. He's chairman of the Standing Committee on Corporations and formerly served as chair of the Committee on Environmental Conservation. Of course, he's been active and has a lot of ideas about state government reform. John Faso is a partner of Manatt, Phelps & Phillips. He was a member of the Assembly and was minority leader during 1998 and 2002. He's been very active on fiscal issues and, as you know, ran statewide as comptroller. Dan Walsh for 15 years was a member of the Assembly and eight years as majority leader. He joined the New York State Business Council in 1987 and became president of the Council the next year. Blair Horner is the legislative director of the New York Public Interest Research Group (NYPIRG). He's been with NYPIRG for 25 years and he's been very active and thoughtful on the subjects that are set for discussion today. Tom Kriger is the assistant to the president of the United University Professionals (UUP),

the nation's largest higher education union. For the past six years, he's been director of research of UUP.

We'll have five minutes for each person to say what do they think about state government reform. Where are we now? Where should we be going? I turn to you Assemblyman Brodsky.

Richard P. Brodsky:

Thank you, Dick, and thank you to the Institute for its continuing efforts to engage serious people in serious discussions about serious issues. Today is part of what I have been hoping to see emerge as a grand conversation in New York about the situation in state government and remedies. To have the opportunity to do this with these distinguished panelists and audience is incredibly important. That there is a breakdown in the operations of the branches of government in New York seems to me to be beyond the need to prove. Large, significant issues of education policies and criminal justice reform are not being resolved in a timely and appropriate way. Great public attention was focused upon the considerable difficulty in enacting a budget in a timely fashion and a budget that reflects reasonable fiscal priorities. The difficulty, of course, is to figure out what we do about it. There is a coterie of people across the state that have performed a very useful function in running around yelling, "The sky is falling," that things need to be different. We need change. The Peter Finch model, "I'm mad as hell and I'm not going to take it anymore." That's great to start the conversation, but doesn't get you any further down the road.



There are three models out there for discussion. The first is the "do-nothing" model. That is based on a perception that these issues are essentially inside the editorial boards and political class. That people tend to be more focused on the substance of the debate. What's

your position on education, not when did you come to it? The recent election establishes this may not be one of the highest priorities among the people to change the way in which government functions as long as, in the end, they feel that the government is doing roughly the right thing on the merits.

The second model is the “it’s all the Legislature’s fault.” A lot of the Peter Finch rhetoric attaches to that. There you guys go again, three men in a room. There’s nobody with any power except the leaders. Change the rules of the Assembly and the Senate and the dysfunctional elements of state government will disappear. That strikes me as a dangerous doctrine only because there is some truth to it. But it completely exonerates the executive branch from any reasonable participation in the problem. If people think getting conference committees and the people out of their seats to vote will change the fundamental dysfunction of state government, I think they are underestimating this problem.

The last model is the model I have been pushing forward, which is the “constitutional” model. Understand what the problem is. As I ask folks to do, take a brief look at the opening part of the analysis here. The logical syllogism here seems to be this: The great heart of the dysfunction is the budgetary breakdown. The reasons the budget doesn’t get done are many: ideological, personal, and political. But at its core, as the courts have said, the constitutional inability of the Legislature to amend the governor’s proposed budget, combined with the Legislature’s very strongly held view that we set policy and the governor executes it, are what is at the heart of that breakdown. And only a remedy to that problem can remedy the budget process as a whole. Again, I refer you to the document only because it’s not just me saying it; it’s the courts saying that. The only power of the Legislature has under our current system is to create stalemate. Included with that is a variety of other institutional forms, such as reapportionment reform, ethics reform, and abolition of the state authority system, which is an element of Albany dysfunction that does not get thrown into this debate by the Legislature-only folks. A set of budgetary requirements (balanced budget, IBO and debt reform), which I think is the

critical part of anything that we do as a functional matter of rearranging the institutions of the government.

In the end, I am persuaded that since the problem is weighty and substantive, the remedies have to be. I do not ask people to adopt each and every idea here, but I do suggest that the sound bites, the snippets of an accusatory tone that has accompanied much of this debate, is simply not appropriate or helpful. We need an elevated conversation where ideas are respected, where neither the governor nor the Legislature is held up to personal criticism and where we work to see if we can provide an intellectual basis to move the system along. I think that's what this document does and I look forward to further consultation.

Richard P. Nathan:

Thank you very much. John Faso?

John Faso:

Thank you, Dick. It is my pleasure to be here along with my fellow panelists. I appreciate everyone coming out this morning. The topic of reform has gotten a lot of attention in Albany. The question of whether or not it has gotten sufficient attention so that it permeates the consciousness of vast numbers of people in this state I would dispute. I think that perhaps the crescendo would have to get about five times louder before the average person throughout the State of New York, upstate and downstate, really begins to see this as an issue affecting them. Some see the issue of reform simply as process issues: changing the budget process, budget deadlines, changing committee rules in the state Legislature, etc. I think frankly it's more than that. My ideas of reform relate to the way in which the dysfunctional government in Albany contributes to the overall health or lack thereof of state of the New York economy and the lack of political competition throughout the state, particularly in the City of New York, which breeds conditions which are adverse to the state's wellbeing. I see the problem as too many taxes, too much debt

entered into willy-nilly, too little accountability, too many mandated costs, primarily Medicaid.



Here we are at the Rockefeller Institute. I've long felt that the single worst decision of Nelson Rockefeller's governorship was imposing the cost of Medicaid on the counties and the City of New York, because it separates the level of government which is responsible for conferring the benefit from the level of government which is responsible for footing the bill and raising the taxes to pay for the benefit. I think that the whole issue of reform can really be broken down into three areas that are worthy of discussion: legislative, budget and political. Having served in the Legislature for 16 years and been a legislative leader for four of those years, there are certain things that are internal to the Legislature that perhaps could be considered and should be done. Perhaps term limits for legislative leaders; ending the system of stipends, which rewards members often with titles that have little real responsibility; and greatly reduce the number of committees that a member can serve on, so that committees become more functioning entities and members develop actual expertise in the committees that they do serve on. I would also, especially speaking as a former minority leader, call for equal funding for members and committees, whether they are in majority or minority status.

On budget, we have an annual argument over how much the revenue number is. I think there is some legitimacy to moving the timing of the fiscal year perhaps to July 1. But I think that we should end the annual argument as to how much money we have. I think the simple way to do it is to simply use the governor's number. He's the only person among the statewide elected officials who has accountability here. Indeed there is the question, "Do we need to set up a separate CBO-type office in order to deal with this?" Frankly, I don't think after the taxes are in and we know what the revenue forecast and picture is, we need to add to layers of government to argue. Quite frankly, we could

use the system that the state imposed on the City of New York. The mayor's numbers are the ones that are used. The City Council deals with it and they happen to be able to pass a budget on a timely basis. I also would say we need to greatly reform the backdoor borrowing and end the lump sum pork barrel discretionary funding of both pork barrel cash and pork barrel capital. The legislative effort on budget reform, I think, is going to be ineffectual and will not really result in the kind of change that we need.

Then there is the political area. Clearly, redistricting is a must. There is not a competitive election process in many instances throughout the state. Also, the media coverage of Albany is basically barren and pathetic. I've long called for a C-SPAN-type entity for Albany to provide citizens with real live, real-time coverage of the State Legislature. To the question, "Was '04 the beginning of reform?" I think maybe there's a faint breeze starting to blow. The real question will be whether or not the '06 election around the governor's race can be harnessed to bring about the necessary reform of the political and governmental processes in the state. The question is still an open one. The question remains.

Richard P. Nathan:

Thank you, John. Dan Walsh?

Dan Walsh:

Mr. Brodsky says that we're not supposed point fingers and John just called the press barren and pathetic. So I have to figure a way to get in between those two there.

Richard P. Brodsky:

I don't agree with you. I'm not pointing fingers.

John Faso:

I said the coverage was barren and pathetic. I love the press, particularly the ones that are here.

Dan Walsh:

From the town of Glenmont, I spend an hour in the morning listening to “Imus in the Morning.” Coming here to the Rockefeller Institute to have a discussion on the subject of public policy, it’s a real culture shock. I’m going to go back a ways. I was born in, I don’t think a different era but in a different time frame, when people did what they were supposed to do and on time. The issues were no different. In dealing with public policy today, you’ve got to go back to trying to deal with an era when the president of the United States said to New York City, “Drop dead.” I totally disagree with those people who think that this is not a personality driven situation. There is a perception in this town that the governor, the Senate majority leader, and the Speaker can’t get along. My answer to that is to disprove it. They haven’t yet.

We have one of the biggest decision that this state has ever had, other than New York City’s bankruptcy issue, coming down the pike — the one judge and three referees on education financing — sometime in this month. It may not get finalized in 2004 and it may get further litigation, but I guarantee you that the debate that will surround that particular decision by the Supreme Court judge and his recommended decision of the three referees will basically split this state in three parts. That’s already been out there. If there’s going to be window of opportunity for legislative reform via the committee process or what have you, we have about 30 days to have people agree to do it.

But I’ll tell you one thing. You can talk about a constitutional convention, which we did in 1996. We not only supported it, we put money out on the street. We had a very lonely group of people with us. We had Governor Pataki, Governor Cuomo, and the Citizens Union. And Mr. Brodsky. I’m sorry, I forgot, that’s five groups. He has his own group. But if you take a look at the groups that were away from that cause in 1996, 62

percent of the vote was against it. Just about every group that was opposed to it is supporting reform today. Now, somewhere in the middle is a reversal of at least the opinion of what's going on down the street.



I don't deny the fact that there is a dysfunctional process, but I honestly believe that it's personality driven more than anything else. You can talk about all the reforms you want but there's a critical date, an actual drop-dead date, and it is April 1, 2005. If you can't pass a budget on time the next time around then the entire political process ought to come down on their head. You can talk all you want about constitutional reform. You can talk all you want about committee reform. We hope the governor vetoes the budget resolution bill in the forum now because it makes no sense. But even if he signs it and then we go for second passage, if there's another late budget in April 1, 2005, the public will basically come down on the system even harder than where they were. I think that's what the real problem was.

Very quickly, in 1974, twenty-one seats changed hands in the legislative process. Perry Durrhea went to bed as the speaker and he woke up the minority leader. Stanley Steingut went to bed as the minority leader and woke as the speaker. The issue was Watergate. The question is, "Has the dysfunctional issue in Albany reached a point where it is taking political seats and putting them into jeopardy?" To a certain extent, I think it exists in one house and doesn't exist in the other, to a great extent, but the seeds are there. That's why I think April 1, 2005, is a very, very critical date in this town. That's when the public really gets behind the issue and they bring it all down or they support it and applaud. We'll see.

Richard P. Nathan:

Thank you, Dan. Blair Horner?

Blair Horner:

Good morning. Certainly, it's our view that Albany is a mess and that it needs reform. The hallmarks of it are too much secrecy, too much insider deal making, too often the political minorities have their rights run roughshod over by the majorities, and too often a callous disregard for ethics. But none of this is new. I've been here for a little over 20 years. It's always been leadership dominated. It's always been secret. I've always complained about it. The district lines have been rigged. In the 1980s, the Ferrick Commission issued blistering reports two decades ago about how Albany operates. But what I was told then was, "Well, you know it's like sausage. If you like to eat it don't watch how they make it. And things get done. If you don't like the process, the outcome justifies the process." Well, the system has evolved and through evolution of both the powers of the executive and the legislative, we now have a situation where the process doesn't work. So you have a combination of the worst of both worlds. A world where it's too secret, where the power of the Legislature — of the majority over the minorities — allows them to run rampant over the minority rights. The governor pays lip service to reform but he doesn't do anything.

We've had in this last session, in my opinion, the worst session in the 20 years I've been here. The latest budget after 20 years of late budgets. One elected Assembly member off to jail, a state Senator off to jail, a labor commissioner off to jail — that has not happened in the 20 years I've been here. So, it's bad.



I think there have been opportunities to change things in the past. In 1999, as a result of the Philip Morris lobbying scandal, Senator Bruno advanced legislation to deal with gifts and changing oversight of lobbying for government contracts. The governor killed it. In 2002, during redistricting,

there were widespread calls on the governor to use his leverage to approve the district lines and add reform to the package. He didn't do it. There have been unprecedented scandals that have led to imprisonments of elected officials and top policymakers among others and yet, still, when the opportunity for reform came forward in 2003 and 2004, the governor not only opposed it but he got Senator Bruno to kill the legislation in negotiation. There are serious problems and that's where we are now. For 20 years the budget has been late, the system continues to be rigged. In the last election last week, 54 incumbents ran unopposed, 20 plus more didn't face major party opponents. So, when you hear the comments that the public is not reacting, there's no opportunity for them to do it. The campaign finance system is ridiculous and has ridiculously high limits, so-called. It has lousy enforcement and disclosure. The ethics restrictions are weak. The legislative process is secretive and unfair.

Are there solutions? I think we now have a possibility where there is opportunity for reform. If you were in a contested legislative race last week, you were talking about how great a reformer you were. If you were a challenger, you were talking about changing the system. So, I think there is voter interest in this and when the opportunity was given to them to express it, they did. So, in the short term, budget reform is right on the top of the list. The governor has had a budget reform proposal sent to him. He will either veto it or sign it. If he vetoes it, it's incumbent upon him to advance his own vision of what could be done. I would argue that lobbying reform should be on the agenda when the Senate gets back next week. There's a way to deal with the scandals, dealing with state agencies and authority contracts, and that's to put a cop on the beat — the Lobbying Commission. Rules reform is timely because rules have to be approved in early January. Longer term, we need nonpartisan entities on redistricting, elections enforcement, an independent budget office, greater transparency, ethics and fairness for legislative minorities, and that debate should begin. That's why I think today is important and other events like this are also important because it's critical that the public understands the range of issues that have to be addressed as well as the proposed solutions. I hope that today advances that reform agenda. Thank you.

Richard P. Nathan:

Thank you. Tom Kriger?

Tom Kriger:

Thanks, Dick. I want to thank everybody from the Rockefeller Institute for holding this. On behalf of our members at UUP, we think this is an important discussion. I want to talk a little about reform and then about the particular types of reform that has been proposed that we're discussing here this morning. The question before us should be reforming state government. I work for a union that represents the faculty and professional staff of the State University. For us, the answer is yes. We recognize the need for reform from our particular little corner of the world, although we're more concerned about good budgets than late budgets. But late budgets have an impact on the University. It certainly has an impact on students, not knowing what their tuition is going to be until into the semester. It has an impact on institutions. SUNY has been under-funded for, we've argued, 20 years. We hope that would be part of this reform conversation.

We commend the spirit and the motives of the reformers. We've read the reform proposals out there. Just to quote some of them, "a genuine conversation amongst people," an end to negative campaigning, competing views of the public good of all this basic Jeffersonian government, we agree with that. Where we have questions is over the process or how this reform is going to take place. Everybody knows that back in 1997, when constitutional reform was proposed, many people in the labor movement opposed it. We opposed it for a couple reasons. One of the reasons was that good things in the constitution, once you open up that process, could be reformed away. What are those good things? In our view, they are the prevailing wage provisions, education funding provisions, aid and care of the needy, and collective



bargaining protections. Once you open up that process our concern is now those things are up for grabs and our members could lose and the poor and needy of the state could lose those essential protections.

The way that these reforms have been proposed today is a little different than '97. I guess our basic take on this today is that we are willing to listen. We're not opposing it from the start and those are our concerns. The second major question we'd like to raise is that the revisions themselves might be detrimental to the rights of needy and working people, people in the labor movement. For example, some of the things that have been proposed or could be proposed in an initiative and referendum: lifting the ban on aid to religious schools in New York State; vouchers, right to work laws, and things that all of our members are opposed to. As a representative of the labor movement, we're here to listen. We'd like to hear more about it. We'd like to see how these questions are addressed in this conversation today as we move forward.

Richard P. Nathan:

Thank you very much, Tom. Thank you all on the panel for very good behavior. Tom just said we're going to have a conversation and that comes next. Richard Brodsky has time now to comment on what's been said and add and amend the comments he made. Then we'll go down the line with each person for three minutes.

Richard P. Brodsky:

Let me just say I thought there was enormous value in everybody's views, but let me pick on what I disagreed with as I heard it. John's comes with a social perspective — taxes are too high, investment is too high, debt is too high — and leads essentially into the defense of the executive as the consequence of this. For example, use the governor's number for the revenue estimate. Well if you just look historically, the most accurate revenue estimate over the last 50 years has been the Assembly's. The notion that the governor is to escape the reform amendment is at the heart of the debate about the Brennan Center report and about my concerns. I don't think either the right wing's or the left wing's

social perspective —spend more, invest more, or spend less, tax less — can tell you a lot about what we should do to reform the process because they seem to drive the process based on what they want the outcome to be. I think that’s a little dangerous.

Danny’s perspective is that it’s all personality. There’s a lot of truth to that and the hope that we get an on-time budget, which we all share, masks a problem. If we do get an on-time budget in 2005, does that mean the system is working? I think not. I think we need to again to dive below the surface of those personality matters to see if there is something more substantial. And Blair has done a fabulous job of yelling, “It’s all terrible.” Stipulate it, can we go on from there?

That brings me back to where I’ll finish my response by saying this, Danny’s right. Three men in a room worked brilliantly in 1975 — strong leadership, members attentive and involved. Now the same system is viewed as inherently dysfunctional. I’m not sure if that’s true. Something else has changed. I would argue it is consistent with the last two governors, a set of constitutional powers over the budget, and arguing that the Legislature cannot change what is proposed. That is to say, the governor presents us a budget that says school aid is \$1 billion but no school aid for Albany. The courts have said you can’t change it and amend it to say that Albany gets some. And you can’t reject it and then add your own that includes Albany. In the search for a diagnosis, you will find where your remedies ought to be. I maintain that the court language used in this document, which I’m going to briefly refer to without my glasses...

Dan Walsh:

Want me to read it for you?

Richard P. Brodsky:

No, I want it read accurately.

This a quote from the courts, “The Legislature can simply fail to enact the law of the governor’s appropriation bills and the resulting deadlock, if a compromise cannot be reached will cause public pressure to build to the point where these political questions will be settled in the voting booth and not through the courtroom.” That’s what we got. They told us that their constitutional iteration would cause this stalemate. If they’re right and I think they are in their prediction, not in their ruling, then I believe we must focus on the constitutional basis of the problem. The constitutional remedies, even though they are a little slow, are the only way in the end to fix the system.

Richard P. Nathan:

John Faso?

John Faso:

Well, let me amplify a couple things that I said and perhaps respond to what Richard has just said. Look at the results. I think it’s a mistake to look at this whole reform agenda simply from a process perspective. Yes indeed, as I said before, there are processes, which could and should be changed and reformed. But I think ultimately the dysfunction in state government is one that is adversely affecting the body politic of the state. It’s adversely affecting our economic prospects. Dan Walsh is fond of noting that 30 years ago, New York State had 43 members of the House of Representatives. Today, we have 29 members of the House of Representatives. We are failing, I think, to recognize the fact that we are noncompetitive with many of our competitor states for jobs and opportunity. So many of the people who are between 21 and 35 in this state have left our state. They’ve gone to other regions of the country. In essence, they’ve voted with their feet. They don’t really have any time or temperament or inclination to wait on these niceties of reform and these different agenda items in Albany.

I argue that the level of taxes, the level of debt, the dysfunctional process that engenders a lack of accountability and responsibility, goes to the heart of what ails the state’s economy. So, those are the overriding issues. To go back to the question that

Richard had raised in terms of the executive versus the Legislature, the Legislature worked its will on the budget this year and last year. We are left with a \$6 billion hole that we face in going forward. The Legislature has no responsibility to, at the end of their legislative considerations on the budget, come up with an out year projection of what it's actions have engendered. The question of the accuracy, which side has had more accurate revenue forecasts, I think is frankly a little irrelevant. If we change the fiscal year to July 1, we'll have ample time after the tax deadlines to know basically what the revenues are. And again the problem is not that the executives, whether they were Cuomo or Pataki, were proposing budgets that overspent. The problem has been Legislatures. Typically, I can remember first coming into the state Legislature and sitting in a Republican conference. Governor Cuomo would propose a \$200 million aid increase for K-12 education. Everyone would puff out their chests and say, "Not \$200, \$400." He would then propose \$300 and everyone would say \$600. It's mindless. There's no rhyme or reason to how we fund education or the legislative response to it. So, I would suggest that the problem is not that the executives have overspent. The problem has been that the Legislatures have frankly gone well beyond what the people of the state can afford.

Richard P. Nathan:

Dan Walsh?

Dan Walsh:

On reapportionment, everybody would like to do it, but they all want to sit on their couch and click the button that says "reapportionment" and be a part of this magnificent exercise. I came to Albany in the reapportionment years in 1970. I spent two years in the minority and then Richard Nixon basically screwed up the country and we went into the majority. Twenty-odd seats changed in a four-year cycle that is basically the foundation that is currently there, give or take another 18. I was part of the '80 reapportionment and I observed the '90 reapportionment. I'm not going to be around on the next one, folks. But I've got to tell you it's not an academic exercise. When you have 40-odd congressional seats and you're down to 29 and California has twice that of New York, that's your ball

game. Don't think that drawing lines in Jefferson County and Bedford Stuy is the big game. It isn't the big game. The big game is being played in another town. What we've got left is trying to protect what John just referred to. Those who are still here and we want to keep them here: that's where the game is. Take a look at the story in the last few days with all the reports that nobody paid any attention to during the election. We have five counties that are reaching their constitutional debt limit. That's serious stuff. That's *real* serious stuff. That's even bigger than reform. That's even bigger than dysfunctional. That's where it's all at.

Richard P. Nathan:

Thank you, Dan. Blair?

Blair Horner:

Well, let's see, where to begin. Let me just kind of mention a couple thematic comments on what I've heard so far. I would agree that the executive is a huge part of the problem. Let me just mention two topic areas for that: One is, John mentioned a little bit earlier about why we should have the governor's numbers be the budget numbers and we don't need another level of government bureaucracy that would be created by an Independent Budget Office. Some of you may recall in 2002, when Senator Bruno said, "the state's is facing a \$10 billion deficit," the governor kind of dismissed that saying, "Joe's a nice guy but he just doesn't really do math very well. We'll have the budget under control." We find out it was a \$12 billion deficit and in fact Senator Bruno was right. What you need, I think, in the part of the executive branch is an independent entity like the Congress has where the public can go and get real numbers. You don't have to go through the spin cycle to figure out what's going on.

Secondly, the executive also is a problem in the sense of ethics. I mean, Davis, Veleva, and McGowen went to jail for steering government contracts to their buddies. Where did the contracts come from? The state agencies. Now, it's a legislative problem too because they haven't dealt with it. But it's an executive problem and we need an



ethical cop walking the beat. Now, the Legislature also has its problems. It runs over the minorities as if they don't really deserve to be listened to and the system is rigged on redistricting and campaign finance. That's why we don't have essentially competitive elections. I know we've talked a little bit about redistricting

and the process but I would dispute a little bit with John saying in terms of the outcomes. I think in a democracy the process matters. The process is the way the decisions get made. You can't say, "We don't have to care about the process." The process does matter. It is the way that the Legislature addresses and the executive addresses the problems of taxation, debt, and population gains or losses.

I think it's important that we have this conversation. We've put forward our own package of reforms at www.nypirg.org if you want to read them. We put it out with the Citizens Union, League of Women Voters, Common Cause, and other groups. It lays out a series of things: Thematically, more transparency, more use of independent entities to monitor redistricting, campaign finance and the budget, and stricter ethical restrictions. There are things that can be done. There are things that should be done. There are opportunities that present themselves in the next week or two in the areas of budget, lobbying, contracting, and rules.

Tom Kriger:

I have four questions rather than comments, which I would like to hear the panelists address. First, we've heard discussions this morning of constitutional reform versus statutory reform. I'll get to my constitutional question in a minute but what did the Monticello panelists see as the most important statutory reforms that should be done and how should they be done? For the second question, these more or less relate to the constitutional convention and constitutional reform that's before us. One of the big

questions we had, and this has been addressed I think but I'd like to hear more about it, is the delegate selection process, which we raised back in '97. I'd like to hear a few words on that. Then the big one for us is what I raised in my earlier comments, how do you limit the constitutional reform? Is there a way to limit what issues are considered in that process? Then the last one is the process questions. As I said, we read the documents and things and the spirit of it is where it should be. It's good Jeffersonian government. It's a conversation among the people, but Jefferson doesn't own the *New York Post*. So how do you stop this from just becoming a kind of media-driven political process where the people's voice, the voice of working people, are lost?

Dan Walsh:

Let me take the first shot. When our board of directors in 1996 decided on where we were going to be on a call for a con con, we had this debate. We have a board of security representative of business around the state. Its not an unknown to get yourself self-involved in New York, were it to be a multinational company or state companies, in the issue of referendum. There are issues in California that are common-day things. They were well aware then that there are things that you can't control, but they also felt that the only way that you're going to get a process in New York, and the only way you're going to get a good public debate, was to have a call for a con con. My idea of a con con is that you get paid your basic expenses but no salary. So, you can't double dip. When the double dip occurred in '67, it was \$12,000 a year so nobody got overly excited about it. They'll get really excited about this one, if that was the case. You've got to get over that threshold issue. If it's a legislator, they get they're regular pay. If it's a public citizen, they come in and say, "Let's have a great discussion. Let's take this discussion today and magnify it with a con con."

Frankly, I've heard more debate in this room in the last hour than I've heard in the last five months in this town. That's the sad part. Why is everybody so opposed to having a con con? I think it's in your best interest to have it. I think you, among others, have a strong case to make on a lot of public policy issues — funding, the whole nine yards. Let's not have the Court of Appeals dictate what K-12 education levels ought to be in this

state. Get the courts out of it. Put it in the constitutional convention, that's where it belongs.

Richard P. Nathan:

There are a lot of good questions on the table: process versus substance; con con, yes or no?. We've got now about 20 minutes to hear some ying and yang from the members of the panel on the things they want to pick out to particularly respond to. Richard Brodsky, I saw you wanted to say something.

Richard P. Brodsky:

Well, I just wanted to answer this question directly. The problem with a constitutional convention process, it is alleged, is that the delegate selection process is lousy. What does that mean? The delegates are selected constitutionally by Senate district. Right now, Danny Walsh walks into his Senate district voting place, he votes for three people. Those top three vote getters of the 27 who are running, are the one's who get to go. We've reformed that statutorily within what the constitution can allow. The Senate district is still the appropriate constituent area, but when Danny goes in he votes for one person and the top three vote getters go. That sort of election reform is widely viewed as empowering disfavored groups, minorities, ending ticket voting, and allowing a much broader representation. That's the answer to question one.

Why do people fear this? I think they fear it because of the reasons Tom gave and I hear the concern. The loss of the good stuff is an important factor to consider after what you want to put in play. And the good stuff will tend to be less popular. We are at a point in our national and state history where poor people aren't any more beloved than they used to be. But in 1938, when this constitution was written, there were more of them and they were of a variety of ethnic backgrounds that gave a wide constituency. One of the great stories is a lot of those good stuff came into the constitutional convention because Republicans senators from Buffalo provided the key vote. But what people don't realize is those Republican senators from Buffalo had socialist party backing. It was a different

New York then. I think it's a risk worth taking. I agree with Dan. I think the people of the state can be trusted to be fair and sensitive to a variety of needs. But we don't have to go there because, rather than go through that process, if the amendments that are talked about —reapportionment and ethics changes, abolition of state authorities, abolition of backdoor borrowing, debt reform, and budget reform — are adopted by the Legislature in two consecutive sessions, then the people can decide absent the need for a convention.

Here's what I like about this conversation. First of all, that the sincerity and genuine concern is palpable. Second of all, the notion that it is just about the internal rules of the Legislature does not seem to be gathering a lot of serious attention. Not because the rules can't be changed and approved. They can be. This is a bigger and more profound debate. I thought from 1997 and on I was one of the few on the left actually moving forward on the con con. Here's a package. There's stuff here that could be approved. There's stuff here that could be rejected. But if you don't like this, the obligation on you is to come up with a different and better set of ideas. And I think if we can get to that point in this debate, then maybe we can work out conflict without the convention and go right to the amendment and get the people in the state engaged in this conversation.

Richard P. Nathan:

Let me ask John and Blair if you want to speak about con con and the problems that some people see with the voting process and with alternatives like narrowing the scope of it.

John Faso:

I don't know that you could narrow the scope of a constitutional convention once convened by the people. I do think that a constitutional convention is worthy to consider, but I also think that in terms of the time frame, it's still a little bit distant in terms of making it possible.

I think the most salient fact is that we will have a gubernatorial election in '06 where, unlike the presidential election where people were necessarily focused on national and international issues, will afford the candidates and the parties and the people throughout the state the opportunity to weigh the various and sundry positions of gubernatorial candidates and legislative candidates in the context of reform. I would just simply reiterate that the process issues are nice, some of them are interesting and some of them could be meaningful in terms of changing the way Albany operates, but the overriding issues are the economic ones that affect our state and the policy ones.



Dan had mentioned the Court of Appeals deciding K-12. We have the sad situation right now where a Supreme Court judge sitting in Manhattan is attempting to assert jurisdiction over the entire K-12 financing. But part of the reason for that is that the Legislature through the years and the executive have in essence abdicated responsibility on this because we have perpetuated a system in K-12 education where the formula doesn't really matter. The formula is always rigged ahead of time to bring a predetermined outcome as to how the money should flow. Consequently, the parameters that are created within the formula are really wholly irrelevant to the process. I guess everyone in the Legislature, me included for the time I was there, and executives over the last number of decades have in essence brought about this situation.

One other point I would make is that democracy is messy. I'm always fond of recounting the Churchill quote where he says something to the effect, "Democracy is the worst form of government ever devised except for all the others." In New York, we truly have a messy democracy with a lot of conflicting interests and a lot of regional and other political interests that come to the fore. I think that in terms of getting the right and requisite amount public attention, it's going to take a gubernatorial election and it's also

going to take some concerted media attention on the issue in order for the people to get the information they'll need.

Richard P. Nathan:

This is a good dialogue and there's lots going on inside of it. What I'm going to do now is ask Blair and Tom to make a quick comment about a con con. Then I'm going to start back along the panel and ask each of the panelists to say what their number one reform they think ought to be at the top? Convention? Budget? Legislature? There has been a lot of things people have mentioned and people in this room know about in quite a lot of depth. Just a quick plug. We put out two books on the con con, which are still out and about. We still have a few copies. Then we'll open it up to audience.

Blair Horner:

Just a quick couple comments on the constitutional convention. For those of you who may not know, the state constitution says you elect three representatives per Senate district and then 15 statewide, which comes to 201 delegates. The concern that was raised in 1997 is that those three people per Senate district will be one Senator and two Assembly members. The theory was, well, if you're going to do that why don't you try to change the delegate selection process along the lines that Assemblyman Brodsky talked about. Change it statutorily to say you can only vote on one and then the top three winners would win. You could change it constitutionally by saying legislators can't run — but there are a lot of different ways you can approach it. From our perspective, it really comes down to the constitutional changes versus statutory changes. It's a question of tactics. I'm a lobbyist. I'm someone who tries to get things done as soon as you can. And going the constitutional route could take forever, if it ever happened. There are opportunities now. The focus, I think, should be on the things that can get done now. Budget reform is at the top of the list. The scandals around agency and authority contracts are at the top of the list. Rules are at the top of the list. I agree with former Assemblyman Faso, now fellow lobbyist Faso....

John Faso:

I'm a lawyer.

Blair Horner:

When is this going to come to a head? If you're running for statewide office in 2006 and unless something terrible happens, one of the top issues you're going to have to deal with is how do you make Albany work. People are going to have to come up with solutions. The responses I guess in the "con con" are tactical more than anything else. But if you're going to go the constitutional convention route, step one is do the best you can to fix the delegate selection process so the rank-and-file people have a shot at running.

Richard P. Nathan:

Tom, do you want to add to what you said about con con?

Tom Kriger:

Our basic take on reform, or what kind of reforms and how they're proposed, is the result, that's true. We want to see public education protected. Whatever happens, certainly, in budgetary reform would be on the top of our list. Particularly, the State University that's our arena, so we need to have some predictability so institutions can plan. There's been a great debate in the state, everyone knows, on K-12 education, but we'd like to see higher ed in that mix.

Richard P. Nathan:

What's number one? What do you take from this? What would like most to see happen?
Dan?

Dan Walsh:

The budget, pure and simple. With respect, I will have to disagree with my friend, John Faso, about July and the fiscal year. I think the closer you get to New York City's fiscal year, the closer you get to the school district's tax warrant, the more damage you're going to get. I think April 1 is fine. I think you just got to do it. I listened, like everybody else, for years about those who felt that later was better. They bought into that. They not only bought into it, they made it happen. And lo and behold, this year they're talking about a legislative reform package with a May 1 fiscal year, a contingency budget passed the bill. What do they do? They pass the budget in August. How do they expect anybody to have faith in the process by doing it that way? It's human nature. The process is driven by people who are locked into the Assembly and Senate districts. The governor and leaders are picked by a majority in each conference. They've got to basically prove that they can do what they are supposed do. I think that's one of the resentments that a lot of people have looked at in this election. They just don't believe anybody in Albany when they say anything. Well, the best way to correct it is to do something, pure and simple.

Richard P. Nathan:

I'm going to lawyer Faso and Richard Brodsky and then we'll go back to this side of the panel. Then we'll open it up to people in the audience for 30 minutes. John?

John Faso:

I would say the top of the wish list would be those things that affect our economy. Those would be debt reform, tax reform, Medicaid reform, and limit the ability of the state to impose mandated costs upon localities. And also, make it possible for localities to merge and consolidate governmental and service entities on an easy basis.

Richard P. Nathan:

Richard Brodsky?

Richard P. Brodsky:

The budget. For reasons that I've laid out, I hope, clearly, the problem with the budget process is constitutional. And although it is slightly longer than the statutory process, the amendment process is shorter than the constitutional convention process. Since my argument has been for constitutional change, it does not require a convention. It could be done in a much speedier amendment process but the budget fix would be the first and most important priority through constitutional change.

Richard P. Nathan:

Blair?

Blair Horner:

I would've said budget but someone else already said it and the Legislature is moving on it. They are actually in the position where you could have a budget reform constitutional change next fall. I'm going to say instead that lawmakers should react to the scandals. People went to jail in the last two years and somebody has to do something about it as compared to just ignoring it. I think that if it comes to a top reform, one way to instill faith with the public is to react to the fact that two sitting lawmakers went to jail, a third resigned, a cabinet-level member of the Pataki administration went to jail for steering contracts to their buddies. Clearly, whatever we have in place now doesn't work. One rule that doesn't get much talk though, but I did hear a little bit of it, would be a proposal that would create a C-SPAN. I think the public gets information from television. Let them see what goes on up here, not just gavel-to-gavel mind-numbing speeches on the floor, but the real thing that you see in Washington, where value gets added. Where there are roundtables and coverage so that everyone in the state can actually find out what's going on up here at the click of a button.

Richard P. Nathan:

Just a quick note on that. I will remove quickly myself as role as moderator for a second. I favor NYSPAN. We all wanted that. Something that would give peoples a way to tune in to state government. But when we tried to get it, CSPAN told us they would sue us. You can't call it NYSPAN. But it's a good idea. I'm stepping out of role and I'm now stepping back into role. Tom, you get a number one item to pick.

Tom Kriger:

Certainly the budget. We'll leave to the professionals the timing of the budget. Like I said before, we are more concerned with what's in the budget. We do a poll every year before the legislative session and we routinely find that 80 percent of New Yorkers think that the State University is a good thing. We would like to see more openness in the process so that gets reflected in state investment.

Richard P. Nathan:

Well, we're right on schedule. We've now got 30 minutes for people to speak. I would ask you when you stand up to speak to identify yourself. If you wish address a comment or question to a particular panelist and please since there are a lot of people here and a lot of good issues to consider make your comments carefully pointed and not long winded. Over here?

Joe Mahoney:



Hi, my name is Joe Mahoney from the *Daily News*. I'd like to make an observation on something that Blair Horner said about the fact that this was the worst year that we've had this past year because of the scandals where people went to jail. Just a quick note on

that. Roger Green did not go to jail. A guy below him, Bailey, went to jail, which is a scandal in itself. I would submit that perhaps a bigger issue that impacts taxpayers is these pieces of legislation that came through this broken process, namely the way that the casino bill was done. The way that the HICRA enhancements were done, which was a Cadillac to these Hoffa workers unions because certain politicians wanted to ingratiate themselves and get endorsements. Then the way the Cadillac pension system was done for government workers, again where politicians wanted to ingratiate themselves with powerful unions in order to get endorsements. That impacts taxpayers. Governor Pataki, at one point, said the process is the process. I forget the rest of the exact quote, but it was something to the effect that you have to look at the results. So he argued that even though things were done in this stealth-like way, you had to look at the results. But the results in the view of a lot of people are something to hold your nose over. So, anyway, I'm throwing that out to current lawmaker.

Dan Walsh:

Joe, is that question?

Joe Mahoney:

No, it's an observation.

Richard P. Nathan:

It brings us back to process/substance and that's been going through this whole conversation.

Dan Walsh:

Buried in this bill that's now before the governor for his signature or veto is a provision that puts HICRA back in the budget process. Now, for those of you who don't know anything about HICRA, don't take a lot of time trying to figure out what it is. Three men

in a room, a classic surcharge on the health care. The only state in the world that has a surcharge on health care and about a billion plus of it is unfunded. In other words, you can't find it, not under this rug, not under that rug. It's just waffling around in somebody's office to be distributed anywhere they want. Believe it or not, in that bill before the governor is to put the unemployment part of HICRA back in the budget. We've had two very close budget analyses by the Comptroller Alan Hevesi. I jokingly told Al after his first audit of HICRA that he came close to a full audit but it was basically a report. The second one that came out about a month ago is getting even closer, but the issue of where is a billion plus in the budget totally unaccounted for in the HICRA funds. That's part of what Joe's talking about.

On pension reform, I don't know whether you want to call it pensions reform that they basically put for one year the obligations to pay it. You can go back and revisit that issue, but the issue is the declining population and a pension system that's caught up like everybody else's 401K that went to a 201 or whatever. The market went down right quick but it's coming back. There are a lot of ways to look at the issues, but I think John's on target. This thing basically has to grow its way out of where it's at. One of the big stories yesterday and today is the unemployment puni-tax issue, a 21 percent increase for employers. That's a function of borrowing out of the federal fund for two years and not paying it back. The reason why that's in a deficit position is we're not growing, folks. We are not growing. We have 29 congressmen, California's got 58. Take a look at the red and blue lines. Have we forgotten where last Tuesday is? I mean, we've got Democrats in this state who are so spastic they're jumping on the flu bus to Canada. They don't know what the hell to do with their lives. But they've got to get their act together. John is helping them to buy the tickets.

Richard P. Brodsky:

Danny used to be a Democrat in the good ol' days.

Dan Walsh:

I used to enjoy Mr. Brodsky when he was younger and debatable.

Richard P. Nathan:

Let's hear from a variety of people who want to jump into this.

Chris Smith-Socarlis:

I'm Chris Smith-Socarlis of the New York Civil Liberties Union. It would be nice to reform, but really the results of the dysfunctional process are what need fixing. It seems to me this brings you to a point where you say, "Well, if everyone's got money in their pockets, who needs democracy?" Having represented



minorities and having led minority members for years, you saw first hand how disempowered minority legislators are. So what kind of process problems would rise to the level of needing redress in your opinion?

Richard P. Nathan:

Question for John Faso.

John Faso:

I don't mean my comments about process versus policy to denigrate the need to change certain procedural things that exist in the Legislature. I outlined a couple of them. I don't know how many committees there are in the state Assembly, but there are at least two

times as many as we need. Members often serve on five or six committees, which means they don't really have any chance to develop expertise in those areas. We all know that the number of committees and leadership titles exist in order to pay people more money, stipends. That's why they exist. A legislative reform that should take place should abolish half of these committees. Get rid of all the stipends and have a more efficient process whereby committees mean something. Those kinds of things were in the Brennan Center report.

I fought these issues through the years and ran myself around the state in 1991 and '92 trying to talk about the need for fair redistricting and meaningful legislative lines. We have one Assembly district in this state that has seven counties in it. It's impossible to affectively represent a constituency across that many counties. The Assembly majority two years ago, when they did redistricting, basically stole two extra seats into New York City that they're not entitled to by population. Those seats in New York City, on average, represent 121,000 people. You will have seats in Buffalo or in other place, like on Long Island, where the average is 126,000 or 128,000. If you do that 60 times over you get to a population where you can create two extra seats in the City of New York.

One of the problems that I mentioned before is there's no virtue on either side. Don't get me wrong. In terms of redistricting from a Republican or Democratic standpoint, William Safire has an acronym: MEGO, or My Eyes Glaze Over. You go out there and talk about redistricting to the public out there and it's a MEGO event. That's why I believe you have to focus on the dysfunctional affect of the process and some of the constitutional infirmities that I agree, shudder to think, with Richard on. The affect on some of those constitutional infirmities is there for all of us to see in 29 congressional seats: in population growth being faster in other competitor states; the loss of manufacturing jobs; in the redundancy in cost of local government; in the fact that special interests are hammer locked on the public till in this state and what that is doing is driving the productive, entrepreneurial people away from our state to other places. They're voting with their feet. That's what the body politic or the political leadership often fails to see. We are dealing with a smaller pie year in and year out relative to the

rest of the country. So, I'm come back to the fundamental issue in this state is the economy, how we're going to keep young people here, how we are going to prosper in going forward, and it just doesn't simply mean how to go to Albany to take an increasing share of the public's purse into the status quo. That's really why I think those issues are more important than the procedural ones.

Richard P. Brodsky:

There's a danger in both Joe's question and this question and John's answer, the notion that pensions are too rich and school expenses are too high represents either good public policy or the political views of the majority people of the state. We should be investing in our infrastructure. We are about to face a collapse of the transit system in New York City, a school system that is widely viewed as under-funded at least constitutionally, a health care system that is up for renewal with a big commitment to paying healthcare workers \$12 an hour — that's an outrage right there. It's all going to come back in 2005. John is right and Danny is right to an extent in identifying that we know the process doesn't work because the outcomes aren't what they should be. But the notion that the only appropriate outcome is *New York Daily News* being outraged about pensions or the Business Council and the lobbying communities being outraged about tax levels is wrong. We're a progressive state, folks. And we like good schools and we like good colleges and we like poor people not sleeping on the street and we think we're willing to pay for it. So please, as we do discuss this process agenda and we do admit the substance of the problems we face, let us not assume that the answer is what is essentially a neo-con "cut public investment" response as we say, "That's the obvious way to fix all this."

Dan Walsh:

I'm so impressed. You ought to run for state office. I'll vote for you.

Richard P. Brodsky:

Write that down.

Richard P. Nathan:

More people want to get in. I see one, two, three over here. Howard?

Howard Shapiro:



My name is Howard Shapiro. I'm a lawyer and lobbyist. I've been watching this process for more than 35 years. Two things: One, I find it absolutely amazing how much I'm agreeing with not all, but a lot, of what Richard Brodsky is saying. This discourse is wonderful. It's terrific. I've heard it before for a lot of years. I expect I'm going to hear

it again for a lot of years.

The real question is how does the discourse turn into a solution or solutions? Constitutional conventions are great. They don't happen very often. I don't think they solve a whole lot. They become very politicized. I'm wondering what you would all think about having a private retreat, if you will, with all the interested parties. Even maybe some people from the media. People, men and women of good will, who will sit down and spend whatever it takes to identify what the problems are, then to issue some sort of report for people to react to. We have a two-block philosophy in our office. It happened a couple years ago when we were talking about the late budget. We went two blocks away from the Capitol and we asked a storeowner what he thought about the late budget and he said, "What budget are you talking about?"

I really wonder whether the mass of people in New York State even know about, much less care about, what's happening in Albany. You are all hopeful that there is this groundswell of support for reform. I would say that's a real question. I go back as a model, not the only model, to what Bill Bradley and Bob Packwood did on major tax legislation several years ago. I think it was in the 1980s. When people thought it couldn't

be done. I'm wondering what you all think about getting this kind of group, only expanded with all the right people of good will with the expertise, and say, "Let's come out with a report. What are the issues? What are the problems? What are the solutions?"

Richard P. Nathan:

I make my living that way. I don't know what to think. I think we should ask each speaker who wants to give a quick reaction to Howard about some kind of blue-ribboning of all this. Then we've got Bob over here and two other comments I know about. I want to keep the train on time.

Richard P. Brodsky:

It's a great idea, but not private. You can't do this around the people. In the end, the great virtue of the system is if you bring them in they will do the right thing. I agree there's not a great groundswell yet. I think John and Dan are right that the 2006 election will be....

Howard Shapiro:

I'm not going to debate, Richard, but I think you misunderstood what I said. Initially, private in terms of letting people let their hair down those who still have hair and get it out. Then subject it to the public process. But if you want honest dialogue about people with vested interests, I'm not sure you can do that in the hard-boil areas.

Dan Walsh:

Here again I'm agreeing with Richard. I don't know....

Richard P. Brodsky:

It's a sign of maturity.

Dan Walsh:

Unfortunately, he and I go back a long ways. I totally agree with him. You open the doors. You open the windows. You bring everybody in. I mean, if in fact your premise is correct, the public doesn't care about the budget. They don't know about the budget. Well, then we better get them involved. But I disagree with you on that one. You had to be involved in the process last August when it was coming up with tax warrants that didn't have the accurate numbers going out. That's touching home. If the legislative process and the leaders don't think that they are sitting on a ticking political time bomb, they are absolutely crazy. I think that moment has occurred. It hasn't reached the crescendo of the Watergate issue because it's not national, but I got to tell you there is a dysfunction junction added to this state that I have never heard before. Even though you can say that we've got a lot of legislative races that didn't have a opposing candidates, that's a function of the political process. Shame on a political party that didn't put somebody up against another person. That's not our fault. That's the political party's process. Its sort of cleansing that John Sweeney and congressmen for the Island are attacking their governor, pretty good. We used to do that all the time in the Democratic Party. Why not?

John Faso:

That's why they *were* the Democratic Party.

Blair Horner:

There have been blue ribbon panels. The Ferrick Commission did a great job but their reports ended up on the shelves of my office as far as I can tell. Two things have to happen. One is you have to pick your spots and I think there's a spot now. I think there is an ability to get things done now. We shouldn't miss that point. We shouldn't get distracted from the obvious things that can be done right away. Secondly, to the extent you can, develop a public discourse where I think you want to draw on as many people as possible to kind of permeate people's consciousness about what goes on in Albany. I

think that's a great thing. But ultimately that will come to a head in '06. Political campaigns are where these things get really debated. In '06, the gubernatorial race, unless something happens, it's going to be all about this.

Richard P. Nathan:

Bob Ward?

Robert Ward:

I have a quick comment for Mr. Brodsky and a question. On the issue of people sleeping on the streets, numerous studies have shown that New York not only spends more on a dollar basis, but far more on how much we spend related to the need that is out there. The old ACIR showed that a number of times. More recently, the



Federal Reserve Bank of Boston did so. My question for the assemblyman is: Is it a given at this point that you think that both houses will give second passage to the constitutional amendment on the budget powers next year? Or have there been....

Richard P. Brodsky:

I think they intend to do that. A lot depends on whether the governor vetoes the excellent statutory enactment before him, which would sort of discombobulate the constitutional remedy. That's a very good statute that deals with the consequences of stalemate. The constitutional amendments we proposed avoid the stalemate. That's the rational distinction that we made. I think both houses are deeply committed to reestablishing some sort of constitutional basis for budgetary policy to reside on the Legislature.

John Faso:

I think following on, Richard made the point a couple of times. I didn't respond but Bob had made the point about the cost of government. I can tell you just from my experiences as a member of the Buffalo Control Board, who supervises the finances of the City of Buffalo and the school district and other entities within the City of Buffalo, you cannot solve the problems of a place like Buffalo or Rochester or Syracuse or Schenectady. We read about the economic difficulties in trying to balance those budgets all the time. Or the counties where we see they're up to their debt limits and tax limits are approaching, unless you go at the underlying cost structures. To just give you a couple small examples, we in our work have looked at what drives the costs in the City of Buffalo. Under great duress, the unions in the city agreed to go from three health insurers to one. It saved \$7 million to the City of Buffalo in unnecessary expense providing the exact same health benefits that they currently have. We have asked the teachers union in this school district to do the same thing, saving \$6-8 million. The response of the teachers union is, "What are you going to give us for us to agree to that?" I mean they could save the school district \$7-8 million if they agree to this with no diminution in benefits. But there's this kind of mindset out there that somehow, "Oh, we got to get something in order to agree to that."

The City of Buffalo is in dire financial straits. It cost more to clean the schools in the City of Buffalo per square foot than it does in New York City. Why can't we have the option for the city to privatize, to put out to competitive bid the cleaning services, the landscaping services? Unless you go at some of the existing structures, which perpetuate high costs, low-performing, noncompetitive structures within our state and local governments throughout the state, the response will be, "Well, we have this existing arrangement, spend more." So many people think \$30 billion in K-12 education is not enough and they simply think, "Well, the answer is spend more." Without analyzing how we are spending the \$30 billion now. I think it's irresponsible at our level, at any governmental level, to simply accept all the spending and assume that that is the base that you have to go forward from. But many in this state simply believe in K-12 education the

solution is to just spend more money without questioning the existing arrangements within it. The City of Buffalo has an early retirement incentive, which it doesn't need. It doesn't want. It can't afford for its schools. It paid last year \$7 million out in early retirement bonuses, which were in essence a \$35-50,000 good-bye kiss for teachers that they don't need and they don't want. And yet, you can't get rid of it because of state law.

Blair Horner:

I just want to quickly add a couple things on this. If the data are out there, we need to start looking at how services are delivered. But I largely put the blame on these kinds of discussions that John's focusing on and Bob raised on the government. You want to talk about privatization and yet we have government contracting practices that lead to people going to jail. You can't do it. You've got to come up with innovative ways to look at service delivery. Legislation passed, with NYPIRG and the Business Council in support in 1996 that looked at risk-adjusted outcome mortality rates for hospitals to see where quality health care was being delivered in New York. The law passed in 1996 but it still hasn't happened. Still hasn't happened eight years later. There is a statute saying to do it, but they don't do it. If you're going to look at the issues of services and costs and efficiency, you've got to start coming up with innovative ways to see that we're getting what we paid for. And you've got to come up with a system that evaluates the contracting practices so that you can reduce and eliminate scandal.

Richard P. Nathan:

We're going to get quick comments and questions. I just want to make a quick interjection here. If we had another panel, I would like it to be on the constitutional amendment, the bill that is before us now. We should explain things. I'd like to look at what the constitutional amendment does and what's the question that the appeals courts have next week on the bankers' case. There is some education needed on these various parts of the fiscal and budget issues that have been alluded to or directly spoken to by so many of you. What's going through my mind is maybe we should return to that issue or

another issue with panelists who have done as wonderful a job of educating us and interacting as this panel has done.

Barbara Bartoletti:



I'd like to return to the issue that the League of Women Voters has dealt with for more than 30 years now and that is the issue of redistricting. We've talked a little bit about that here today. I'd like to hear from the panelists. Everybody talks about the problems that arise out the way we redistrict. I'd like to hear your solution. We have been advocating a nonpartisan commission for redistricting and have been doing that for the whole 30 years or so. We know it works in Iowa. We know it works in Arizona. Our state is not Iowa. It's not Arizona. We understand that, but I'd like the panel to deal with how you would set up a redistricting commission that doesn't have inherent in it a basically political system as an incumbency protection program, which we know it is now.

Dan Walsh:

I disagree with her.

Richard P. Nathan:

Let's give everybody a shot at redistricting. When I was teaching in New Jersey, they had a commission of two Republicans and two Democrats and they select the chair.

Dan Walsh:

In all due respect to Barbara and the League of Women Voters, I don't think it's broken. I tracked reapportionment in the '70s, '80s, and '90s. All your changes that are coming

basically came out of the '70 reapportionment, a little bit out of the '80s. There's a big bleep on the '90 reapportionment. But my point is that I can give you any pencil you want and you can do the math on an office napkin before they discovered computers. The problem is it's very difficult to reapportion the state that's lost all the people that we have.

Barbara Bartoletti:

And you have no problem with, as NYPIRG has said, the "Abraham Lincoln riding on a vacuum cleaner" district? We have these designer districts that don't look even modestly....

Dan Walsh:

What do you want to do, annex Canada? Maybe that will help with your population levels.

Blair Horner:

She's talking about state legislators.

Barbara Bartoletti:

I'm talking about the state Legislature, which of course....

Dan Walsh:

I understand that, but you still have declining base. You're still operating with the same total. You got a guy with seven counties. All right, it's going to get bigger. I'll tell you what challenges reapportionment, putting aside the 29 to 58 because the next time you do it your large population gross is going to be in metropolitan New York. Then take a look at your upstate seats. Whether it's a red line/blue line, it's not who draws the races. The

only drawing of races that is blatantly political probably is the hooker seat, John's old seat, and maybe one or two down in Bed Stuy, maybe the Spano/Veella seat, but other than that you've got to really stretch to find blatant reapportionment politics.

Richard P. Brodsky:

I think there's enough truth in Danny's position for it to be a little dangerous. The fact of it is you couldn't reapportion this state, given its demographics and ideology, into a situation where the Democrats would hold anywhere else than 85-90 seats at worst case in the state Senate. And that's going to get more intense as the population increases downstate. The Senate is more artfully done....

Dan Walsh:

They got two more. If they stayed at 60, we may not be talking about it.

Richard P. Brodsky:

Clearly, the Senate lines are a problem. I have a proposal in the constitutional process to amend it. I don't think the Iowa system works because it empowers staff. With all due respect to whatever staff is here, that might draw the lines on how you do enrollment. The fact of the matter is that you could do a different reapportionment system. I don't think it would create the wave of change that people think it does. In the end, the state is fairly locked into its political....

Dan Walsh:

Here's another part. You better appropriate about probably \$10 million for this citizens group because you are going to spend that much time in court. The challenges that you have for your alliance is who's going to pay for the legal bills?

Richard P. Brodsky:

It's an issue. I have a proposal here....

Dan Walsh:

Is that in your proposal too? How many pages you got in that proposal anyway?

Richard P. Brodsky:

I can put you down for \$2 million personally.

Richard P. Nathan:

It's time to finish this up. Blair?

Blair Horner:

There are 212 state legislative districts. The way the lines are drawn probably no more than 30 of the districts have enrollments that are close. Admittedly, there are parts of the state where there are more cows than Democrats and there are parts of the state where there are more telephone poles than Republicans, but it doesn't have to look that way. Senate district 34, Senator Vellella's old district, looks like a bug hitting a windshield. Senator Seward's district looks like Abraham Lincoln riding a vacuum cleaner. Those districts look the way they do for a reason. It's not just because they decided that artwork was their second calling. It's the maximized majority power in both houses. It's the maximized incumbency retention effort. You can change it either by going the statutory route, which is the route to follow Iowa, that state has an independent staff develop district lines with the Legislature acting on them. But you have to change the state constitution, unless you want to leave it up to legislators. The state constitution says legislators have to do this. So you can either have Iowa, where you have independent staff, or amend the constitution as Assemblyman Brodsky has said.

Richard P. Nathan:

Final comments? John and Tom particularly on redistricting. Were out of time and we've used our time well. John?

John Faso:

I swore after 1992, I was never going to speak about redistricting again. I'm just going to try to leave it at that.

Richard P. Nathan:

Tom?

Tom Kriger:

Not on redistricting, but one final comment on the constitutional convention. It sounds good to say, as John said before, if we can get everybody to tighten their belts maybe the teachers have to take this. That's one of the reasons why we are concerned about this whole process. We have collective bargaining in the constitution and it should remain there. It was something that was fought for in the 1930s. Buffalo and the teachers bargained their way in there, they have to bargain their way out. That's our main concern about this whole process, to protect the protections that working people and poor people already have.

Richard P. Nathan:

Let me make some final quick comments. I want to thank David Wright at the Institute for a good job in organizing this program. I want to thank Michael Cooper for being a forceful timekeeper with a scowl. I want to thank you all for coming. Talk to David or me or Michael about things you think might be useful for us to do. In particular, I want like to thank our five panelists for doing a very good job.