



Public Policy Forum
A Window of Opportunity
to Reform New York State

Presented by
Alan G. Hevesi

April 6, 2006

Brian T. Stenson:

Good afternoon. I'm Brian Stenson, Deputy Director of the Rockefeller Institute of Government. I would like to welcome everybody here today to our public policy forum. We are honored to have State Comptroller Alan Hevesi join us in discussing this important topic. Mr. Hevesi was elected State Comptroller in 2002 and before that he served two terms as New York City Comptroller. Before that, he spent 22 years in the State Assembly. Comptroller Hevesi earned a Ph.D. in public law and government from Columbia and has taught at Queens College and Columbia.

I think it's fair to say that Comptroller Hevesi has redefined the role of the State Comptroller. He has been aggressive in auditing and overseeing the financial affairs of public authorities and school districts. And speaking from my experience at the State University, I know he has put in place a new rigor in contract reviews and audits performed by his office. Comptroller Hevesi has also been outspoken in his efforts to push broader governmental and fiscal reforms in New York State. He recently released an agenda for reform, including proposals affecting public authorities, school district

finances, state debt and state procurement, campaign finance, and redistricting among other areas.

This session is part of a series of forums we present on public policy issues. Recent forums have focused on such topics as the judicial nominating process and lobbying regulations. Our web site contains transcripts of previous sessions and a list of future events. Thank you very much and now, Comptroller Hevesi.

Alan G. Hevesi:

The podium is tilted to the right as we face front; I don't know if that's symbolic or not. Not as far right as David Schaefer because the only reason he's not further to the right is that there's a wall there. Brian, thank you very much. I appreciate the opportunity to speak with you.

There is a large agenda here and we did go public on Friday with a 265-page report called "A Reform Agenda." Internally we call it The Manifesto; no ideology intended. But it's a broad agenda for reform ideas that we have initiated, that the Attorney General has initiated, the Legislature has initiated, and there is some from the Governor, a whole range, which is sort of a checklist. And let me come to you about my bias. I have a lot of ground I would like to cover to make this case, particularly in the arenas where we have been active. But the case to be made is that reform is not about late budgets alone. As a matter of fact, the use of the word reform — some language drives me nuts. Every time I hear a sports reporter talking about a basketball team, the New York Knickerbockers have a philosophy to slow down the game. Pat Riley's philosophy is to have Shaquille O'Neal rebound and then throw out to the wings for a fast break. Neither of them has a philosophy. Montesquieu had a philosophy, Rousseau had a philosophy. Jeff Van Gundy has a tactic and a strategy. So it drives me nuts. So I hear the word "reform" used interchangeably with the word "change." Reform is not necessarily change. It is supposed to be, in its most generic sense, change that improves. I have a second definition, which is change that I support. But everybody uses it in the same way.

So, let me make this case. The Brennan Center got huge publicity to reestablish the bottom-line truth about New York State when it printed its analysis of the Legislature as dysfunctional. So the word is “dysfunctional.” Well, the truth is New York State is not competitive in a lot of ways. Its practices, culture, and decision-making need to be reformed. The focus of the reform movement was a focus on the late budgets as both a reality and a symbol of the inability of the state to respond appropriately. And that’s a serious issue but, interestingly, in the politics of the last couple of years, driven by a variety of factors — editorial boards, opinion makers, good government groups, even some academics, I have a special place in my heart for academics, it’s where I come out of, Rockefeller included.

The last two budgets have been passed on time without a great deal of structural change. Now, as to what happened politically, I give some credit to Tom Suozzi, who I think has been a very good county executive. I am not supporting him for Governor. This is nonpolitical, but I want to make sure in a nonpolitical way I put that on the record. Tom is a friend. I’m supporting the other guy who is a friend too. But the bottom line is that Suozzi decided that one of his contributions would be to start a campaign called Fix Albany and, in a sense, to put his money where his mouth is in order to fix Albany as he defined it — which was late budgets, Medicaid reform. Focusing on the Legislature, he ran a town councilman who was an ally and friend of his in Nassau County in Glen Cove against an incumbent assemblyman, David Sidikman, and beat him on the issue of reform. Now, Sidikman was not an evil person; he just happened to be there. But he was defeated. And then when David Valesky defeated Nancy Lorraine Hoffman, a Republican Senator up in Syracuse, on the issues of reform, people started to lean back a little bit. When a bunch of legislators in western New York who normally would win by 80 percent of the vote won by 55 percent against reformers, all of a sudden there was a whole new atmosphere because the late budgets had a consequence. They were a sign of the overwhelming influence of politics and the culture of the Legislature on decision making. The end result was the last two budgets have been passed on time. Whether they’re good budgets or not is a separate debate.

There has to be legislative reform, budget reform. Our staff has put out a 21-point program for fiscal reform. I don't think there's another state, correct me if I'm wrong, but I don't think there is another state that has an April 1st fiscal year. You submit your budget in January and 10 million decisions have to be made to pass it by April 1st, which is unrealistic. Most states have a July 1st beginning of the new fiscal year and the Congress once moved to July 1st and then in 1974, the budget and accounting act reforms pushed off the federal fiscal year to October in order to have enough time to consider.

A second structural issue is just with budgets and I throw this in because it partly defines who we are. Very interestingly, when the political disputes over a budget cause delay, they're political, but they hide behind a structural problem that's fairly unique to New York State, certainly as against New York City. Before you can do a budget you have got to do revenue estimates and you have to have a number. When I was city comptroller in New York, we would have a number, always correct, obviously, and the council would have a number, which was always higher and the mayor would have a number. Even if the mayor's number was absurd and had no relation to reality, it doesn't matter, it was the number. You couldn't say that there would be delay, that we didn't have a revenue estimate at the right time early in the process so you could do the negotiations.

Here the political disputes lead to a dispute over revenue estimates because the law in New York State states all three leaders, the Governor, the Senate Majority Leader, and the Speaker have to agree. All of them will have a different revenue estimate, which will cause a delay because all three could be right. Revenue estimates are just predictions, very expert predictions, of out-year revenue activity starting 14 months before the end of the next fiscal year. You're predicting how much revenue will come in. I mean, how many Christmas gifts are you each going to buy next Christmas? This is now April and if normally you buy 23 and this year it's 27, extrapolate it a million times into the decisions of the budget, we're having a boom. And if instead of 23, you have 18, we're in a deep recession. So all three can have numbers within the credible range. There is some

predictability that the Senate's number will be higher than the Governor's and the Assembly's number will be higher than the Senate's. But they all could be correct.

Well, to solve the problem structurally, the governor, although he and I are the only Hungarians in state government, we constitute, to my knowledge, the entire Hungarian caucus. But he is a Republican and I am not, although as Comptroller, we are impeccably nonpartisan, I swear to God. I'll get to that in a second. But he comes to me with Joe Bruno and Shelly Silver, not quite as enthusiastic, and Shelly and I have been friends for 20 years, to have the Comptroller do the revenue estimates if they don't agree by a certain moment in time. And they did that last year. I should just say parenthetically how this business is. They said, "If we can't decide by March 1, by March 10 would you do that?" We said, "Here's the condition. We're not interested in doing it." This is no great benefit to the comptroller to have to get into the budget process. Don't forget, if you come up with a lower number, everybody's yelling at you because they want more money, all their constituent groups. So we said, "Here's the deal. We're not going to provide you a fourth number. We're going to be the number and you are going to have to contractually agree to that with the understanding that if we do this, our number is the number. Period. You go on and negotiate a budget." They agreed. And then we told them, "You guys are stupid politically if you don't agree even now that you have given this assignment to us, you still could agree so you're not admitting your own failure." And they agreed.

So we got the best of all worlds. We got invited on a bipartisan basis because we're the professionals and then we didn't have to do the job. Same thing happened this year, the same deal. So there are changes. But it's really about a political culture in the Legislature in which each of the three parties defines their own constituencies and has to deliver to them. And the constituencies are made up of groups of people who, like the Little League in somebody's district, ask for \$10,000 for the uniforms and get it and then they say thank you. But they don't say thank you and go away. They say thank you and next year they're back for \$25,000 to build a new clubhouse. And there is a constant flow of demand by constituent groups. I'm talking about Little League. There are also

enormously substantive, critically important, life-saving expenditures for health care and the State University, education, and so on. So that's that. We have a fiscal program of reform for them that has, thematically, a series of recommendations that require full transparency. That's what's missing in this process.

So we would require in our recommendations that, number one, in law, in the constitution, that the Governor submit a balanced budget be retained. But maybe we should add that at the end of the budget process after the Legislature has acted, that it also be balanced. There is no requirement that the final product be balanced so I think that's a little silly. And, number two, that if the legislative budget makes changes in the Governor's presentation, that's reported. And that there's a separate report to local governments, what the budget will do for local governments, good and bad. Itemize it in plain language, along with a whole series of requirements. You know, if you have lump sums like member items, there's a quarterly report defining what's in them, what the appropriations are, and what they're being spent for. There are ten different obligations and reports, so there is full transparency in the budget, as the state requires through financial control boards for New York City, Troy, Nassau County, Erie County, and Buffalo.

There is a certain delicious irony that the state under certain circumstances imposes control boards on local governments. In Buffalo and Erie since I became Comptroller, we did the analyses that said they need control boards. We sent in the control boards and they imposed fiscal discipline on the localities that does not exist for the state. New York City is a great example. Before 1975, New York City had the worst financial management anywhere of any visible local entity. Their paper files were rotting in the basements of buildings where water had seeped through. They had no idea in 1975 during the fiscal crisis how many people worked for New York City and they borrowed every month for operating expenses, which is the worst sin in financial management and went bankrupt. The City of New York went bankrupt. As a result, with all that history, the City has the best financial reporting probably of any locality in the country. I don't know about all of the one million localities, but of all the big cities, it is open and

transparent and there is one other thing that the City has that the state does not, which is a monitoring community, partly by law and partly by practice and culture. The emergency financial control board created to save the City is now the financial control board. It's not an emergency. I'm a member. The Governor is a member, as are three appointees of the Governor, Mayor, and the City Comptroller. We comment and we monitor. And so does the State Comptroller independently, the City Comptroller independently, and the Independent Budget Office and the Citizens' Budget Committee and the rating agencies. So you have six different centers of monitoring and there is a whole community that builds a consensus so there is no lying in the City budget. There is no finagling, no hiding and so on. The state does not have that. The only monitor, and this is not even in law, of the state budget is us. And we haven't issued our report yet because we don't have all the information. We haven't read all the bills. It will take a couple of weeks. So that's budgeting and fiscal policy.

The real point is reform is not just financial and fiscal. That's critically important. If we don't take care of procurements, if we don't deal with the state's debt, if we don't fix the public authorities, and if we don't deal with a variety of the process issues such as campaign finance, redistricting, ethics and so on, you don't have reform. This is the opportunity. What this big report does is set down a score sheet: what's the background, what's the history. It's done by my crack staff. They really are good. They love doing these long-term reports.

And also what the nuances are, and it doesn't mean that this is the answer. People can disagree. And it also acknowledges up front that there has been some change. In this atmosphere of reform, we don't know how long it's going to go. It may be driven by elections statewide, because I think every candidate for statewide office is going to be a reformer, some more sincerely than others.

The bottom line is that this is an agenda and stuff has been done, first steps with authorities and with the finances of the state and open committee meetings. My son got elected to the Assembly and has to be at his desk to vote. It doesn't bother him but all the old-time members say, "What the hell is that? Why is that necessary?" And they have

open meetings and discussions and so on. So let me go through this agenda and talk about some stuff from our point of view.

We have also changed the Comptroller's Office in some respects. I should get into this briefly too. The greatest political strength of the Comptroller's Office other than our professionalism or expertise and, I swear to God, our nonpartisanship, is the fact that no one has any idea what we do. That is a resource that we should husband because they don't yell at us, they don't call us names. When they do call us names, they don't know what they're talking about. It's great stuff.

But we're a big office. We have almost 2,500 employees; all professionals. We combine in New York what is divided into three different offices in California: treasurer, comptroller, and a separate pension fund manager, because that's a pretty big responsibility that we have. And our culture is to be nonpolitical and professional, and I have reinforced that. I'm not naïve about this stuff. I was a floor leader in the New York Assembly. My job was to beat up Republicans. Their job was to beat me up and we went out to dinner. So that's how you define issues in the Legislature. We have been impeccably nonpartisan. We have praised Republicans and trashed Democrats, and the reverse, and we don't care. And we don't get into a fight unless we're right.

The ethos is — or the instruction is — the culture is that I want people who disagree with our office in a public policy debate or a debate over the budget, over numbers, to fear us. Not because we will kneecap them or not because we will fire anybody, but because you'll be wrong and we'll be right. If we're not right, we're not getting into the debate. If we don't run the numbers 37 times, I don't want to hear about it.

So, as much as humanly possible, people will find that our currency is our credibility. And it has worked. We have been in a lot of contentious situations, including with criminal matters, auditing, and contract reviews. We are human and we make mistakes but 99 point whatever percent of the time we are right. So when we issue an audit, almost always now, the target of the audit says, "We'll fix it." Sometimes when

they don't like the audit, they will say, "It's election year. I'm running too. Oh, he's just being political." That is the standard answer for those who have no substantive answers to whatever the issue is. So that's our culture. That's who we are.

We've changed in another way. Operating on the presumption that there is a truism that is grounded in common sense, for which we now can provide evidence. And that truism is, if nobody's watching there will be a substantial increase in mismanagement and corruption in private agencies, in nonprofits and in government. If no one is watching Cendant, Adelphia, Tyco, Global Crossing, Enron, WorldCom, and the 150 other corporations that committed corporate fraud, then you're going to have corporate fraud. You may never get rid of it, but if nobody is watching or the people who are supposed to watch are in collusion and have been bought off, you're going to have difficulty. I'm into this area too as sole trustee of the pension fund. Is this self-serving? How much of this speech will not be self-serving, I wonder? The pension fund was at \$95 billion when I took office in 2003, in March of 2003 at the end of the fiscal year we were at \$95 billion, and we're at \$140 billion now. So we have done very well in the markets and we are 99.7 percent fully funded. And the contribution rates did go up in 2004 to 12 percent of payroll but that was still below the average of 16 percent of payroll. And we've come down about 10 percent over the last two years, from 12 to 10.7 percent in the fiscal year that ended last week, and the new fiscal year it's 10 percent. So we're doing okay with the pension fund. And if somebody wants to have a debate about the defined benefit plans, I'll be glad to do that.

But we operate on the presumption when nobody's watching, there are problems. You know, in Enron, the auditor, the accounting firm, was paid \$25 million to audit the books and records of Enron and \$26 million at the same time to be a consultant. My characterization is they were paid to beat the audit, and they have been sued as well as the underwriters at Enron. I'm the lead plaintiff at WorldCom. We settled WorldCom for a world record \$6.15 billion, not against WorldCom, which doesn't exist, but against the underwriters and the directors, and I ordered my lawyers, for the first time in anybody's

memory, that the directors have to pay out of their pockets because the fraud was so open and blatant.

At Enron, by the way, the directors, we wouldn't have pursued them except up to the level of their insurance. Because at Enron, there was a scheme and they could have been the victim of the scheme, creating these off-balance-sheet companies to hide Enron's liabilities to keep the value of the shares high for the stock options for a period of time and keep the company alive even though it was a fraud until it all collapsed. Tens of thousands of people lost their jobs and their retirements and the supplier companies, what a catastrophe. WorldCom was bigger, it's the biggest of them all, \$11 billion in fraud, \$75 billion in restatements, and a \$6 billion settlement from the underwriters. You know, Jack Grubman was telling everybody to buy WorldCom but telling everybody at Citigroup, "Don't touch it." And it was blatant on its face. So the directors paid 20 percent of their net worth after removing one house and retirements. We are very serious about this stuff.

Well, then comes the public authorities in New York State. There is a whole system of government outside of the state agencies, of independent agencies. Many of them are authorities although they have another name, like the New York Racing Association, local industrial development agencies, local housing agencies, a total of 740 authorities or subsidiaries that they create without anybody watching. Like the Thruway Authority has a canal corporation. And what's the problem with them? They are critically important; we have to have them. The big ones particularly provide all of our transportation — the MTA, the Bridge Authority, the Port Authority, the Long Island Power Authority, the Thruway, and so on. We have to have them, but they are not subject to monitoring. It's the same principle: If nobody is watching, then the end result is going to be mismanagement and corruption. And it's all a question of degree because some of them are really well managed.

The Dormitory Authority just took a beating in the papers because they have been assigned the task of borrowing money for the state so that the state doesn't have to submit borrowing to the voters as the constitution says you have to. They found a legal way, the

courts have approved, borrowing through the back door. The Dormitory Authority has nothing to do with dormitories. It has to do with borrowing. It's a finance agency. And it's a well-run, well-managed, excellent agency. But many of them are not, and there's no way to know.

Let me give you an example. My favorite is the MTA. If you look at the universe of agencies that are not monitored, some of them will still be well-managed, some will be mismanaged, some will be corrupt. MTA is all three. Think about that. A lot of what they do, we fixed some of that. My first run-in with the MTA was a month into office in 2003, where their budget, which had been balanced in November, in an election year for governor, became a deficit of \$2.7 billion. I thought that was quite remarkable. And then, without my involvement, the New York City Independent Budget Office (IBO) says, "It can't be \$2.7 billion. We ran the numbers. In worst case, it's \$900 million."

What caught my eye was the response of the MTA when they said, "Oh, no, no, the \$2.7 billion is the gross deficit and the \$900 million is the net deficit." I said to myself — and my senior staff — I was on Ways and Means for 18 years, I was City Comptroller for eight years, and I never heard of a gross deficit. It was an invention of their PR office. So we said, "We'll look at your budgets," and found out that they had a culture of arrogance, that they were not going to respond. They sent us annual reports with none of the details and, finally, after a little contention, we issued subpoenas. They delivered on the subpoena, first of all, 18 cartons of material and, secondly, they delivered themselves to give testimony. And we found out that they had cooked the books. They had two sets of books. There is a second set of books — and Kalikow doesn't like me to say this, for those of you who know who the players are downstate — but I have the second set, I keep it in my desk, in which \$512 million was just hidden and not told to the public and not reported or anything else.

We have cleaned that up. They have a new executive director, Katie Lapp; she's excellent. She made dramatic changes and fired the budget director. Then we imposed on them, for the first time this has happened, budget regulations that mimic New York City's

budgets: out-year transparent budgets, out-year projections, GAAP accounting, all the right rules, and we imposed that on the MTA.

We also did that with the Long Island Power Authority, that's in 2003-2004. And as a result, we have now imposed, without the Legislature — we told the Legislature to stay out of it — the same budget rules on public authorities, all 215 of the state authorities that are not bi-state, that we can put into a legal category. So all of them now, through the Administrative Procedures Act, have budget rules that are open and transparent and so on, and in the next budget cycle, if they don't provide this information, they will be in violation of our regulations and there will be consequences.

So the problem with the MTA, using them as an example, however, was not their budget. No one was watching 2 Broadway, a building that they leased for their new headquarters with a very good idea to sell their Manhattan headquarters and the air rights, because they're very valuable, and move down to 2 Broadway. Great! The cost of the rehab of the building was \$135 million. The cost now is over \$450 million because of overruns and they don't have the money to pay for it, so they're borrowing to pay off the \$450. With the amortization, with the interest, it's \$850 million. Why? Why did the \$700,000 elevators get built for \$6 million? Because the Mob came in and bribed MTA officials. And four of them at least have pleaded guilty and gone to jail, and Mob guys have gone to jail. That's what I'm talking about.

Not every agency; I don't want to overstate this, but the executive director of the Bridge Authority has gone to jail. The Canal Corporation did a no-bid contract. You remember this one; this was public. The 524-mile Erie Canal, with both banks that's doubled to 1,048 miles, I think. I have people who know numbers, I don't know the numbers. To develop all of that, they issued an RFI, a Request for Interest. Thirty-six firms said we'll build residential, we'll do some commercial. They sent 18 of them a thank-you letter. I don't know why they didn't say thank you to all 36, and then they never heard from them again. That was in 1996. And then four years later, they came up with the Alpine Plan, and to have a competitive process, they advertised it on page 62 of the Contract Reporter, which is a \$175-a-month newsletter for the construction industry.

Page 61 is a whole page of advertisements for mops. They took the advertisement and Xeroxed it and sent it to one guy named Hutchins, who was one of the 36, and he bid and he won. He got the right to develop billions of dollars worth of shore of the Erie Canal for \$30,000. Richard Brodsky points out you can't buy a used bus for \$30,000. It was a no-bid contract. Actually, a newspaper exposed this; that's how it came to our attention, *The Syracuse Post Standard*. Brodsky held hearings.

What got my attention was the defense, which was, "Oh, the Comptroller approved it." I said "What? No, it wasn't me." It was a predecessor. We checked it out, and we did approve it, because all the filings were phony, lies. They perjured themselves on the filing that they had a full competitive process and put down all kinds of phony information. And I canceled the contract. I don't know if there are some lawyers here who will know under contract law where we can cancel contracts. But we did it. That's what I'm talking about.

And then there's the New York Racing Association. We have reformed the New York Racing Association pursuant to an indictment and a federal monitor put in by the U.S. Attorney for the Eastern District. Spitzer has indicted 21 people for stealing from NYRA. Twenty were convicted or pleaded guilty and one died before that happened. And then the U.S. Attorney for the Eastern District indicted the whole agency for tax fraud. The recommendation we made, they put in a monitor, which you put in mobbed-up companies to save the company and clean it up. They put in a federal monitor and then assigned the monitor to report to me, to the Comptroller, because we have all kinds of audit staff and forensic accountants and so on. And the end result is that there is a huge reform in the current operations. They have no money. But they no longer have horse doping because they have created isolation for the horses. There were offshore accounts for betting by rebate shops, which were really money laundering operations. It made money for the track; they've canceled it. Other tracks have not. They have truly cleaned up their act. Our game plan is that the asset of the reformed NYRA will be valuable in the bidding that comes when their franchise ends in 2007. There are companies that want to

buy them at rock-bottom prices but this is a state asset. So that's it, but a corrupt agency in the past, beyond belief.

And then there are the school districts. I don't want to belabor this but the school districts, nobody was watching. A deal was made 30 years ago that the State Comptroller would not audit school districts because of budget cuts and so we'll focus on local government and focus on state agencies, and the school districts will hire their own accounting firms. Like Enron did. And the end result was a scandal at Roslyn. A whistle blower broke that story. We went in and audited on our own and documented, after eight months, a team of 15 auditors reviewing 57,000 transactions, and 17 subpoenas, have determined that \$11.2 million was stolen that we could prove irrevocably. As a result, six people have gone to jail. They pleaded guilty to a variety of felonies, including the superintendent, who stole a couple of million dollars. He carried 19 credit cards and got the district to pay the bills, including thousands of dollars in cash withdrawals. Anybody know what the Mandalay Bay is? Nobody in academia goes to Vegas to gamble? He would get cash from his 19 credit cards at will and pay for everything he wanted on the credit cards — a couple of million dollars worth and the district paid. And the Assistant Superintendent for Business, Pamela Gluckin, had the district pay for the mortgage on her home every month in Bellmore, Long Island, and her daughter's home up the block in Bellmore, Long Island, and because now they had access to resources, her other home in West Hampton and her other home in Florida. A million dollars a year. And furniture and computers and jewelry and travel and everything you can think of, including a \$450 superintendent's parking spot at his Manhattan apartment, paid for by the district, including a \$1.95 cup of coffee at Starbuck's. That was the rip-off. They're all going to jail.

And now we're auditing all of the school districts on Long Island; what do we find? The first group of 21 districts, seven are well-managed anyway, and six or seven, I'm not quite sure of the number, have management problems. We fixed them. They don't have a policy for their credit cards; they don't have good internal controls. And there are arrests in six other districts besides Roslyn. And in the Hempstead district, \$5.1

million is misappropriated. A couple of people have gone to jail; that's ongoing with vendors, bribes, and so on. And it's worse in Hempstead than Roslyn because Roslyn was rich kids and, you know, if they needed a French tutor they got it, if they needed an advanced placement, they got it; if they needed to get a recommendation to Brown, they got it, and 95 percent went to college. Hempstead is poor kids, black kids, immigrant kids, and it's an awful mess. And arrests were made in a bunch of other districts. So now, under the mandate of the Legislature, we now have 89 new staff, 85 auditors to do only school districts and four support staff. We're going to do them around the clock, regularly. Immediately we do six in every region to start, and in Voorheesville, right here in the Capital District, we found, before we even started the audit, the superintendent and the assistant superintendent for business paying themselves \$216,000 for vacation time they're not entitled to. You get the idea. So that's school districts.

So, that's big reform. Monitoring and reviewing. Not to intrude on the authorities, for example, on their business plan or their independence, but that they're not ripping off the system. And I'll give you one other example that sort of ties into the final point I want to make, because I'm not going to go through 14 categories.

Every state agency negotiates contracts with private vendors. The total of those last year, the fiscal year that just ended, was 13,707 new contracts and about 28,512 — I think, I'm not sure of the number — 28,000 contract amendments, 42,000 transactions, for a total of \$28 billion. Every one of those comes to my office, our contracts review office. And we have the absolute authority to cancel a contract if there's a problem, or go to the next vendor, or fix it. So if the vendor is mobbed up or they're corrupt, or they didn't pay taxes, or didn't perform well in the past, or there's not enough money in the vendor to really do the job or whatever, we can move on.

So three months ago, we canceled the contract that had been won in an open, good competitive bid by the Thruway to the Worth Construction Company for \$46 million to help connect the Thruway to I-84. Some of you drive down to Newburgh. The two big highways don't connect; you have to get off it. We canceled Worth because the principal in Worth was an unindicted co-conspirator with one of the Gambinos. They're

under investigation by the feds in Connecticut; they were debarred by the School Construction Authority. No one knew it. Now everybody's going to know it because we've put in a system called the VendRep System, again, by regulation. We didn't ask anybody. We are requiring every state agency to certify that they have done a responsibility review of the vendor looking at what I'm talking about, and they have to certify that to us. And we're going to give them the system to help them do it, a computer system called VendRep, which will keep all of this information. And that's a done deal. That's completed.

Here's the point, the public authorities also do billions of dollars in contracting. They report to nobody. And the authorities borrow money on the state. Let me make my final segment here unless you *really* want me to keep talking.

On state debt, here are the numbers. The State of New York, right now, as we speak, has a debt obligation of \$2,509 for every single New Yorker, woman, man, and child, a total of \$48.2 billion of state debt. Obligations already incurred will raise that in the year 2010 to \$56.6 billion. That's done. That doesn't include the obligations that have been added on to that by the budget that has now been passed but not quite done. It's not passed because there may be vetoes, and they're negotiating and so on. So that's going to go up a lot because apparently there is a lot of debt in the budget. I say "apparently" because we have our process. We don't comment until it's done.

Of the \$48.2 billion that's obligated right now, the constitution says, and I mentioned this before, you have to go to the voters, like the transportation bond issue, to get approval. The transportation bond issue was \$2.9 billion. It was the right debt for the right purposes, gone to the voters, no objection to that. Debt is not bad. You need debt to build and to repair. It's excessive debt and improper debt that is getting us into deep trouble. Of the \$48.2 billion, \$44.3 billion was done back door, which is a policy process issue through the authorities. So the authorities, like the Dormitory Authority, borrow \$44.3 billion for the State of New York as part of the \$48.2 billion. But then the authorities borrow their own money for their own purposes, \$81 billion right now. And the \$48.2 billion and the \$81 billion are the face value of debt. That's not what it costs

when you pay off the interest, and with interest right there is \$200 billion before you're done.



We are number two in the country after California in total state debt. And we're only number two after California because two years ago California had a collapse of its economy and borrowed \$15 billion for the state and \$12 billion for the schools and that moved them ahead of us into the number one position. And

to come at this another way, because I love to mention this number, if you add state and local debt together per capita, per person, we're also second, ahead of California, ahead of Texas, ahead of Florida, ahead of everybody except Alaska. We're number two to Alaska. Why Alaska? Because Alaska does a lot of borrowing. It's a very big state. They have road building. They borrow money. They repay it with their oil. They don't bother the taxpayers and they have no people. So when you divide their total expenditures by no people, you get a higher number per capita than when you do it by 18 or 19 million people. That's a real problem.

And here's the further problem. Portions of our debt are for improper purposes. Most dramatically, there are hundreds of millions of dollars in member items that are amortized. Some of them are capital; they should be. That's dramatic. You know what a member item is. It's when a legislator puts in an appropriation. Nothing wrong with that. They're just as smart as deputy superintendents and deputy commissioners. But it's hidden. The number items are in a lump sum. You don't know what they are. There is a good rationale for that, which is when they were itemized, the Republican governor vetoed Democratic member items but not Republican member items. That's the rationale, but it's bad governance. And then to borrow for member items... Even in my day, I had a

couple of member items, but you didn't advertise it. So our children can pay for the Little League uniforms.

What's really bad is what happened in New York City, borrowing for operating expenses. We borrow for operating as well. In the year 2000, the Legislature, addressing the debt problem — and the Governor — passed a debt reform bill. It's the law. And on paper it looks great. It sets statewide personal income as the base and 4 percent of the total personal income of the state would be the cap on how much you could borrow in a given year. And that's great. Between then and now, from \$36 billion to \$48.2 billion, those are our measurements. They borrowed \$12.2 billion between 2000 and today. And of the \$12.2 billion, two-thirds of it, \$7.7 billion, was exempted from the cap. You put a cap in a statute in the year 2000 and you pass a bond issue this year by law, which says notwithstanding the cap, this doesn't count, we're going to do this borrowing.

Worse, the same \$7.7 billion in the three big borrowings were for operating expenses. It was the tobacco bond deal, \$4.6 billion over two years, which closed the deficit. Which means you borrowed from a steady stream of tobacco revenues, half a billion dollars a year that went to health programs. You borrow 12 years of that, \$4.6 billion with interest at 6.7 percent to close a \$4.6 billion deficit over two years. And in the next year, the debt is gone. You owe the remainder, with interest a total of \$6.7 billion, but what you paid for was recurring. So, we were back in a deeper hole with interest. Just stupid. Bad governance.

And then there was the state taking over the remainder of New York City's borrowing from the fiscal crisis. The MAC debt that created the Municipal Assistance Corporation because the city went bankrupt, it borrowed money. There was a remaining \$2.5 billion, \$500 million for five years. And the Legislature gave the City a gift, my city, I guess to compensate for the commuter tax that was repealed, which was about the same amount of money. The state is taking over that \$2.5 billion and refinancing it over 30 years for a total of \$5.1 billion. So the \$4.6 billion from tobacco and the new \$5.1 billion and then several hundred million for school aid, all of it borrowed, all for operating

expenses. The \$5.1 billion is operating expenses for the City of New York from the 1970s.

I opposed it. The Governor and I went to court on the same side against Mayor Bloomberg and all my Democratic friends. What I was grateful for was, when my Democratic friends from New York City who were violently against what the Governor and I did, they only attacked Governor Pataki. I thought that was fair. He was more visible than I was. For whatever reason, it worked for me.

The debt is very critical. And I think there comes a point where it really buries us. And along comes this budget, and I'm not supposed to talk about it precisely, but it gives every appearance that we're just piling debt on top of it. We have to reform that. We have a reform program, a constitutional amendment. It's 5 percent of personal income and it's absolute and there is no borrowing for operating. And we require that next year's borrowing is 5 percent lower than this year's. And the next year after that is 95 percent of the last year. And it's reduced each year until you get down to your cap and there are no loopholes. You don't do backdoor borrowing except for the lower threshold, you know, under \$1 billion. And there's even an affordability committee so, for the given year, even though you have met the other goals, if you don't have the money, you borrow less. And what that says to you is, if you have to do Campaign for Fiscal Equity (CFE) borrowing, if you follow this pattern for a number of years, you haven't put yourself in such a deep hole that you can't afford to take care of a court mandate.

So, debt reform and procurement reform, so that we have somebody monitoring procurement so we have competitive bidding that's real, that all the agencies follow their own rules of the law or have rules, which some of the authorities don't. It's fiscal reform. It's budget reform. It's campaign finance. You get the idea. This is our opportunity. This is really our opportunity, this election year. And I'm telling every editorial board, go after every elected official, get them to sign on. All of them will. Not all of them will be sincere. And some will try to do what even happened with some minimal authority's reform.

We passed a 165-page authorities reform bill that does a lot of things that should be done. We wrote it. Spitzer signed on to it. Brodsky carried it in the Assembly. Leibell, who's a good reformer, in the Senate. But it was watered down so on a piece of it, we're having a debate. I say it's 10 percent of what we needed, and I saw a memo that said no, it's 41 percent. I want to see how you quantify it to get the 41 percent. It's a made-up number. But some pieces were carried. Real good piece: No lobbying during authority procurements — agency procurements. That was Leibell's idea. We had all kinds of regulations. Why is Al D'Amato calling anybody if it's a competitive bid? That's not fair. So they banned it.

And then they created what was intended to be an independent budget office for authorities and an independent inspector general for authorities. Great idea. We endorse that. Except they ended up not being independent. To get the Governor's signature, the inspector general works for the Governor. They already have an inspector general for the whole state so I'm not sure what you bought. And, originally, the independent budget office would be truly independent, selected by the Comptroller and a bunch of others, but it's now an agent of the Division of the Budget. So we're not so relaxed about it. So it's who is sincere and who isn't sincere.

Anyways, I'm sick of me. So I can only imagine what you've gone through. Let me stop there. But please, you're opinion-makers. You have constituencies. Let's get them all on board. This is the season. We are becoming less competitive in New York. We are losing population because of the upstate economy for the most part. In the last census, there were a million more people in the downstate area than the last census and we lost two Congressional seats, because upstate lost 600,000 people. No jobs. There are huge issues in the state and you can't deal with them if your process, if your debt, if your procurements are not focused on being ethical and fair and open. You can't deal with tax policy or how to fix the schools or how to decide what health institutions get reimbursed and what don't. Or even get rid of the Medicaid problem, which has a huge amount of waste, and even fraud in Medicaid, unless all of these institutions are on board.

Anyway, I thank you for the opportunity. I feel much better. I don't know about you guys.

Robert MacCarone:

I'm Robert MacCarone, the State Director of Probation. I actually have a question on the private side, being invested in WorldCom. Do you think Sarbanes-Oxley will do it?

Alan G. Hevesi:

I think Sarbanes-Oxley is doing it. There is some excess in Sarbanes-Oxley. But that's what happens when you have no regulation and the pendulum swings. It doesn't stop where we can all agree; it swings a little farther. So the 99 percent of corporate leaders who are honest are now burdened by Sarbanes-Oxley-type regulations, which is a natural thing. So now every CEO has to certify under pain of prosecution. So the answer is, I think Sarbanes-Oxley works. I worry that it gets watered down. And give me a second on this. The corruption scandals probably cost, I think, 15 percent of the deficit of every local government in New York State is ascribable to the corruption scandals. If you're interested in a little analysis, I will tell you why I think that.

When Enron broke, or earlier, which, by the way, starts in 2000. This is all the last five years, the revelations. When they broke, the average reader, the average citizen, the average investor, and there were a lot more in 2002-2003 than there had been before because of the boom of the 1990s. Middle-class people had money. They bought mutual funds, they got a laptop, they gambled a little bit in the markets, the financial services industry boomed. The pension funds, we were all geniuses. I was a genius as a city comptroller because our actuarial presumption was 8 percent return and actually we were earning 22 and 24 percent and all the taxpayers' contributions went down to zero. It was great! And then it all fell apart. It fell apart because of 9/11, the tech stock drop, the corruption scandals. But here is connecting the dots. If you read about Enron, you're attitude was, "Oh, that's awful! Those people lost their jobs, some people lost their pensions! Terrible! Terrible! Supplier companies went out. What's for dinner?" Like it

didn't affect me. When WorldCom finally hit, you know, the 40th revelation, and it was the biggest, and this is now measured, the five months in 2002, March, April, May, June, July of 2002, when they made the revelations — they never said, “Oh hi, it's Monday. \$11 billion was fraud.” “It's \$2 billion, it's another...” They leak it out. In those five months, it's measured that the stock market really took a hit. And that was critical mass in the public mind. Like a TV commercial for Elliot Spitzer or Tom Suozzi or maybe Bill Weld one day if he's the nominee, or Faso, they know that when they put on a TV ad, it's not going to have an effect even if it's massive buy, for three weeks, four weeks, five weeks until it hits critical mass in the mind and opinions start to show. WorldCom was the opinion shifting.

And what happened was, I think, about 12 million people stopped buying their mutual funds and stopped buying their stocks and bonds, or they held onto one mutual fund that the prior year had been worth \$62,000 and now was worth \$28,000 and it's like, “I'll presume it's all gone, it's like a savings account but I'm not doing this anymore.” And after those five months, 40,000 people on Wall Street lost their jobs, traders and executives, at an average salary of \$253,000. And there is econometric modeling that indicates that, for every one of those traders and executives, there are three support jobs, two in New York City and one in the suburbs. So if we lost 40,000 Wall Street jobs that's a total loss of 160,000. We lost that income. Financial services is either the biggest or the second biggest industry in New York after agriculture. Apples and financial services. It was a huge hit and we're just now recovering. In less than a year, we're recovering. But all that tax revenue was lost and surpluses became deficits all over the state. That's the connecting of the dots. A huge hit on us. We can't minimize that.

The answer is — here's the structural problem. I'm giving a short answer — this is one of the most long-winded responses, but you're academicians. Here's what I believe. I'm a capitalist. I'm measured by our investments, as an elected official, in the markets. We have done very well. We just announced \$140 billion, which is a record, for the fiscal year that ended last week, up from the \$95 billion. So the markets are doing well.

But I'm a capitalist who believes in a level playing field. I'm not one who believes in the laissez-faire, survival of the fittest. Liquor stores sell a fifth of scotch for \$15 and Macy's comes in and opens a liquor department and sells it for \$2 until they put everybody else out of business because they can support themselves with their clothing and their 3,000 other departments. And then when all the Mom and Pop stores are out of business, they don't raise it back up to \$15, they raise it up to \$35, and you have taken a total monopoly. I believe in some regulation of that.

And what happens is we regulate this industry not in the most effective way. If you believe in dealing with a societal problem like the Civil Rights Act of 1964, I believe in that, prohibiting discrimination on the basis of race in a variety of places. They created a civil rights division in the government, in the Justice Department. One assistant attorney general reports directly to the attorney general. Your job is to expend your energy for four years before you retire to a white-shoe law firm and do that job. Educate people, regulate, and prosecute the bad guys.

If you're not interested in having long-term regulation of an industry, create an independent regulatory commission. We have a lot of them — the Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission. Remember the head of the Federal Communications Commission said that television is a vast wasteland 40 years ago? These agencies were created, including the Securities and Exchange Commission (SEC), which for a while was the exception, to be there and to regulate but don't get too serious.

And I mean that in the following way: Why is there a commission to regulate the stock market? There are five members of the SEC. Anybody know their names? Anybody at all? I met them all, I don't know their names, but that's a separate issue. That's old age on my part. It's to diffuse responsibility. And if there's a scandal, they'll respond. Headlines of scandal — they'll do their thing. And then six months later, who cares? And when there's a new executive director, they've got to replace the commissioner, they've got to replace a new chair... Who do they put in? Who cares are the subcommittees of the Congress that will make the recommendation, and the industry being affected.

The academic literature, going back to Margaret Bernstein in the 1950s, will tell you that the industry captures that agency. So who was there when the scandals broke? Harvey Pitt was the chair of the Securities and Exchange Committee. He wasn't stupid. It didn't slip by him. He's a brilliant corporate lawyer. But ideologically and by profession, he doesn't believe that the government ought to be telling the free market what to do. So they looked away.

And when McDonald just left, who tried to be a reformer, they replaced him with Christopher Cox — this is how life is unpredictable — who offered a Sarbanes-Oxley that was the weakest, phoniest fig leaf imaginable, as a member of Congress. Except now he's the head of the SEC and is being denounced by the Chamber of Commerce for being too aggressive. But the point is, structurally, an SEC, an independent agency, is not how you do it. You know, we'll come back on Sarbanes-Oxley. Congress will get together and they'll work out a compromise and reduce some of the more onerous elements but maintain the essentials of it. I mean the notion that you hire an accounting firm to do consulting at the same time. You've got to fix that. You've got to avoid the conflicts. And, by the way, accounting firms have figured it out. They now have to do more accounting and they've tripled their fees. So they're getting it anyway. But they don't have the conflict.

The bottom line is that you need some regulation. I believe in it and thank you for allowing me to sound off on that. It wasn't your intention, but what the hell, I'm fleeing after this. Anybody else? I can answer a question yes or no.

John T. DeGraff, Jr.:

I'm with DeGraff, Foy, Kunz and Devine, LLP. When did the state budget first reach one billion dollars?

Alan G. Hevesi:

First reached a billion? I don't know. Do you know?

John T. DeGraff, Jr.:

No.

Alan G. Hevesi:

It was before I was elected to the Assembly.

John T. DeGraff, Jr.:

It went pretty far back then.

Alan G. Hevesi:

Pretty far back. Yes.

John T. DeGraff, Jr.:

How about one million?

Alan G. Hevesi:

I don't know, maybe in 1814. I was once on the floor of the Assembly, a young Assemblyman, and Will Stevens, the father of the current Assemblyman who is chair of Ways and Means, they had some program. I got up all full of vinegar, "It's outrageous that we're doing this! It's disgraceful! Do you know how many people are going to get hurt by this? This is just awful!" So he got up and he asked, "How many people will get hurt?" "Would you accept an estimate?" "Sure." "Seventeen percent. I don't know the answer."

What I discovered with that is that you could lie as long as everybody knows you're lying. So, I don't know the answer. But I remind myself that the \$5 trillion surplus of 2000 is now about a \$5 trillion deficit and a trillion is a thousand billion. So whatever

the debt problems of the state, think about the federal government. We're paying for the war in Afghanistan, the war in Iraq, the prescription drug program, Katrina, and massive tax cuts by borrowing. It's all borrowed money. Huge amounts of borrowed money and every wonderful program is borrowed money; there's no increase in revenues. And I think we're going to pay a terrible price for that. Yes?

Diana Hinchcliff:

I'm with the New York State Education Department I have a question about the pension system.

Alan G. Hevesi:

The best-run pension system in America? Ours?

Diana Hinchcliff:

Yes, exactly. There are estimates that within the next five or 10 years, there will be a lot of people of retirement age who are within the system. What kind of protections are you making for a hit on the pension system like that?

Alan G. Hevesi:

Well, there are 983,000 members of the system right now, a third of them retired and two-thirds will be retiring. The state government's personnel has gone up but it's not a lot. But the real issue is the demographics. People are living longer so when they retire, they don't live for another 12 years; they're going to live for 30 or 40 years. That's sort of a good thing in terms of humanity, and it will be a hit on the pension fund.

We started factoring that in last year, into the formulation. So when the market started to improve early last year, we would have the taxpayer representatives, local mayors, the Governor, saying "Okay. Drop the contributions." Well, yeah, because the

market's good but now we have these demographics, so I had a dispute with the Governor's office, which said, "Well, it's not a five-year cycle to review. Why are you putting in the demographic changes here?" I said, "Because people aren't living longer effective at the end of the five-year review cycle. It's started already. It's very inconsiderate of them." So we take that into consideration.

Pensions are going up but our average pension right now is \$16,000. That's all it is. Now, I don't mean to be deceptive. It includes people who retired 25 years ago. It includes people who worked for the government for a few years. They've matched it at five years, ten years, whatever it was, and they may have worked for ten years and they're collecting a pension.

But this whole debate of defined benefit and defined contribution, that it's over-generous, 70 percent of all retirees who are retired right now have pensions of under \$20,000 and the average is \$16,100 and something. It's going up but it's not a lot. And the ones above are either the very high-paying commissioners who worked in government for a long time, so their base salary is \$160,000, there is some of that. But, mostly by numbers, it's cops and firefighters, uniforms. Their average is about double, maybe more than double. Someone can give you the numbers. But that's because of public policy issues, so if you want to get rid of the defined benefit, you've got to say it directly, that means I don't want the cops to get a 20-year half pay. Or that we should pay them disability payments when a firefighter gets burned or a cop gets shot. That inflates it. Now, will these numbers go up? Yes, they'll go up.

Our system is fully funded. We'll take care of that. Half the public pension funds in America are not. Some of them are nearly insolvent. Because when the market was up everybody was in great shape. When the market dropped, they had to raise their contributions. We did that in New York. We never got near the average. From a base of zero we went up to 12 percent of payroll, 10 percent, and so on. We did that because the Legislature can't stop us from doing it.

In New York State, under law, if I say that the pension contribution rates for the state government and local government each year is 10 percent of payroll, number one, the Governor will say it should be 8. If I agreed with him at 8, he'd say 6. It's a dance we do. But if the Legislature passed a bill saying 8 and the Governor signed it and it's unanimous, and I say it's 10, it's 10. That's Court of Appeals already.

So we've kept our system pretty solvent. At the same time, we have lowered the contributions off the norm and in the last couple of years. So we're in good shape and the *Wall Street Journal* recognized that about three weeks ago. A nice big box of the five fully funded funds and we're one of the five. We're number three. In fact, the other two are in worse shape than we are even though they're more fully funded than we are because they're over 100 percent. That's an argument to cut them back. We're right where we have to be. Yes?

Sally Sorenson:

I'm with Catholic Charities. Does your office monitor and review the New York State Workers' Compensation Fund?

Alan G. Hevesi:

Anyplace that has public money, we have authority to go do audits.

Sally Sorenson:

Do you have performance on that at all?

Alan G. Hevesi:

I don't recall that we have looked at the Compensation Fund. I mean it's a public policy issue of how much you pay into the system. But we don't have to audit that. We know what those numbers are. We'll go in if there's a management issue or if there's a

corruption issue or a whistle blower or routinely. I don't know the last time we did the Workers' Compensation Fund. We've been doing lots of stuff.

Very often our auditors would find something smelly. The Cattaraugus County treasurer stole \$74,000. Nobody's watching. And what traditionally would happen is the auditors, they were doing management stuff, but they turned this piece of information into a local district attorney and that would be the end of it as far as we're concerned.

But sometimes an upstate small district attorney's office, if they didn't have the resources, they didn't pursue it. So we created a Division of Investigations in the Comptroller's office. Nobody else has that. There are 25 people there, headed by a former prosecutor; a bunch of prosecutors and police investigators. There are now 77 criminal cases that we have initiated as we speak. I was on the phone with Tom Spoda, the District Attorney of Suffolk County. We're partners with him. We can't prosecute, but we make the cases. We hand it over to them, they refine it, and we've done it all over the state. And of the 77, we have 36 convictions or guilty pleas so far. So we're very, very serious about this stuff. And now it's our own people making the cases.

Brian T. Stenson:

A quick question about where budget reform meets debt reform. You went through a couple of excellent examples of what the state did in the past few years to secure tobacco revenues and so on, and then you also alluded to California issuing deficit financing. Does your debt reduction plan have some sort of an escape valve for borrowing for operating purposes or borrowing because a deficit in the event of a crisis?

Alan G. Hevesi:

Yes. We have a definition of crisis but it's not in an emergency. It's got to be a terrorist attack or.... How do we define it, Christine?

Christine Rutigliano:

We've sort of built on what the constitution already had in terms of foreign affairs and we do say that if you need to go back to the Legislature and the Governor and have an agreement, that this is, in fact, how it's going to impact revenues for the future and it's right in the constitution....

Alan G. Hevesi:

Yes, we do allow for that but it should be implemented very, very rarely. And not until the culture has changed. By the way, the State of New York used to provide pay-as-you-go capital in substantial amounts. I'm not sure of the percentages. It was at one time 75 percent. It's now reversed. And even in the years we're flush with money, we borrow. Why the hell are we borrowing this year when we have surpluses?

Edith Allen:

I'm with the Public Service Commission, one of those commissions. I want to know about the process. You said there had to be a constitutional amendment for the debt. Is that why you're asking us all to get out because of the Legislature, we're going to have to act on...?

Alan G. Hevesi:

Yes. They have to act on a constitutional amendment with an election in between each vote and then it goes to the voters. And I don't have faith in the statute, because you could not withstand any statute.

Thank you all.