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Thank you, Senator Kruger, for inviting me to testify today on how to improve New York State's budget process.

New York's 80-year-old Executive Budget law, rooted in Article VII of the state Constitution, has stood the test of time in many respects. But some glaring holes in the law have become more and more evident over the past couple of decades. As a result, the severity of New York State's latest fiscal crisis has been compounded by a lack of budgetary discipline, transparency and accountability.

Specifically, I would point to the following problems:

- While the governor must propose a balanced budget, and the Legislature is now required by statute to pass at least a balanced general fund plan, the governor lacks the statutory or constitutional tools to ensure the budget remains balanced throughout the fiscal year.
- The Legislature is not presented with and does not generate an authoritative, updated state financial plan at the time it votes on appropriations, revenue bills and supporting legislation.
- There are no binding limits on state spending or debt.
- The current fiscal calendar is poorly aligned to revenue collection and spending patterns.

Some of these shortcomings have been highlighted in the past few weeks. Governor Paterson announced the state was facing a \$3.2 billion deficit and proposed a Deficit Reduction Plan (DRP) for eliminating it. However, the Legislature ultimately produced a plan worth only \$2.7 billion. To avoid running out of cash at the end of the year, the governor took the unprecedented step of temporarily withholding \$750 million in scheduled aid payments from school districts and other local governments.

The governor's power to act in this manner has been challenged on constitutional grounds. But there should not any ambiguity on this important point. If the chief executive of New York State lacks the legal authority to slow, defer or impound expenditures *even when confronted by an imminent cash flow crisis*, then perhaps it is high time he did.

New York needs a more open, predictable and fiscally disciplined budget process. Here are three steps in that direction:

1. Shift the start date of the fiscal year from April 1 to July 1, matching the norm for other states. Budget-makers would then have additional vital information on the April personal income tax settlement.

2. Mandate budgetary balance according to Generally Accepted Accounting Principles (GAAP), which would disallow much of the timing-related gimmickry that can occur under New York's current (and atypical) cash-basis budgetary accounting.
3. Impose a "72-hour rule" requiring that key information about the budget be publicly available three days in advance of a final vote. This information would include
 - a. an updated multi-year financial plan prepared by the Division of the Budget in consultation with the Legislature, and
 - b. a memo – in a uniform format for both houses – detailing the fiscal impact of changes to the governor's proposed appropriations and revenue bills.

Other essential reforms would ultimately require constitutional amendments. These would include:

- Shifting to a two-year budgeting cycle (biennium) with the main budget adoption occurring in non-election years. The draft resolution supplied for comment at this hearing would do the job, except that it fails to specify that the cycle should begin in an odd-numbered year.
- Capping spending by limiting of revenues that can be spent in a given fiscal biennium, and limit the use of surpluses to funding tax rebates and building a larger budget stabilization fund. An example of such an approach would be the Tax Expenditure Limitation amendment proposed in 2006 by Senator Raymond Meier and Assembly Schimminger, a copy of which is attached to my testimony.
- Requiring that the state budget be balanced in all funds at the time of its presentation and adoption, and that it be kept in balance on a quarterly basis throughout the biennium.
- Empowering the governor under limited circumstances to make uniform, across-the-board reductions in appropriations, with exceptions for services essential to health and safety, in the event the Legislature first refuses to act on a plan for completely closing deficits projected by the Budget Division during a fiscal year.
- Requiring voter approval of almost all debt, with important exceptions for (a) a small amount of state facility upgrade debt, and (b) borrowing supported by specific project revenue such as tolls, rents and transit fares. In contrast to current law, voters could be asked to approve more than one bond proposition in a single election.

Constitutional amendments need voter approval and can only be placed on the ballot after approval by two separately elected Legislatures. Thus, the earliest these reforms could go before voters, assuming legislative approval in 2010 and 2011, would be November 2011.

Some of these changes need not wait for an amendment, however. For example, the next elected Governor could – and should – effectively inaugurate a two-year budget in 2011 by presenting a complete set of two-year appropriations bills along with a financial plan reflecting their amounts on an annual basis.

In the absence of a constitutional provision giving the governor the power to enforce deficit reductions by the Legislature, the state's future bond covenants could be rewritten to include a statement to the effect that failure to correct a projected budget imbalance within a 30-day period would constitute a default event. Presumably this kind of doomsday scenario would be enough to compel both the governor and the Legislature to take swift corrective action in such a situation.