

Chapter One

A BROAD IMPACT

The sun rises on the Empire State each day at Montauk Point.

Here, at the eastern end of Long Island, New York State government gets an early start. Montauk Point State Park — 1,276 acres of woods, beaches, nature trails, and picnic areas — attracts 1 million visitors a year. They explore the historic Montauk Lighthouse, enjoy surf-fishing on the beach, and ski cross-country trails in the winter.

From sunrise to sunset, 365 days a year, employees of the state Office of Parks, Recreation and Historic Preservation are at work welcoming, guiding, educating, and cleaning up after the visitors.

Elsewhere across New York, state government is busy through the night. State police officers are on the road. In institutions, small group homes, and other residential settings, state workers and employees of private agencies funded by the state care for some 40,000 individuals with developmental disabilities and mental illness. The lights are also on 24 hours a day at 69 state prisons.

As the sun rises in the sky across Suffolk and Nassau counties, hundreds of thousands of cars, trucks, and school buses crowd the Long Island Expressway, Southern State Parkway, and other state highways on their way to work and the classroom. These roads, like many in other regions of the state, were built and are maintained by the New York State Department of Transportation.

Tens of thousands of Long Island commuters, joined by additional thousands from New Jersey to the west, cross into Manhattan via

bridges, tunnels, and rail lines operated by the Port Authority of New York and New Jersey, and the Metropolitan Transportation Authority and its subsidiaries. Each of these agencies is controlled entirely or largely by New York State. Throughout the city's five boroughs, state government plays the major role in bringing hundreds of thousands of commuters to work and to school.

The skyscrapers of New York City are known around the world. From 1973 until September 11, 2001, the tallest in the city — and, for a time, the highest-reaching structures on earth — were the twin towers of the World Trade Center. The center was owned by, and redevelopment will be significantly controlled by, the Port Authority. Another state-controlled public corporation, the Hugh L. Carey Battery Park City Authority, developed the neighborhood immediately west of the World Trade Center that is home to scores of businesses and some 9,000 residents.

A few blocks away in downtown Manhattan are the main offices of the state Banking Department and Insurance Department — regulatory agencies whose influence is felt nationwide and around the world.

Into New York Bay flows the Hudson River, perhaps the single most important element in the economic and social history of the city and state of New York. At the mouth of the river, and along its 240 miles of shoreline to the north, state workers monitor the condition of the water and regulate the municipalities, businesses, and individuals who use the Hudson for drinking, waste disposal, transportation, recreation, and industrial purposes.

A northbound traveler, driving the New York State Thruway or riding the state-subsidized Amtrak train, soon comes to Albany, the state capital. Here, government is the key player in the local economy. Some 50,000 state employees work in and around the capital city at sites including the Governor W. Averell Harriman State Office Campus and the Nelson A. Rockefeller Empire State Plaza.

North of Albany lies Saratoga Springs. It is home to the world-renowned Saratoga Race Track, a magnet for 1 million visitors during a typical recent season. Gambling at the track is conducted under license of — and is heavily regulated by — state government. Just a few miles still farther north is the southern boundary of the Adirondack Park, which totals 5.8 million acres. The state owns huge swaths of land here, some 2.5 million acres in all; it tightly regulates use of the rest. Some 4,800 residents here work for the state — as prison guards, forest

rangers, helping to run the taxpayer-owned ski centers at Whiteface and Gore mountains, or in other jobs. State government represents roughly 12 percent of total employment, compared to 3 percent statewide. State government also supports tourism, the largest private-sector industry, through taxpayer-funded marketing and strict regulation of forestlands and waterways.

On a line west of Albany lies the string of cities and towns once thought of as the Erie Canal Corridor, and now as the Thruway Corridor. Utica, Rome, Syracuse, Rochester, and Buffalo all were built, in part, to handle merchandise and passenger traffic on the Erie Canal. The artificial waterway — which led to development of not only Upstate New York but much of the American interior — was built by New York State government.

Near Syracuse, the New York State Fair attracts 1 million or so visitors over 12 days in late summer. The Fair is an activity of the Department of Agriculture and Markets.

Some 35 miles to the southwest is the city of Auburn, home to the 190-year-old Auburn Correctional Facility. It's the longest-operating of 69 Department of Correctional Services facilities scattered throughout the state that, together, house some 63,000 state prisoners.

The beautiful Finger Lakes region boasts, among other attractions, a wine industry that is increasingly respected nationally. State government assists the industry — with promotion and research into areas such as vineyard productivity — through the New York Wine and Grape Foundation.

A few miles from where the original Erie Canal ended is the campus of the University at Buffalo, the largest of the State University of New York's 64 colleges and university centers. In a typical year, SUNY and the state-supported City University of New York together enroll more than half of the state's post-secondary students. Those who attend private campuses also benefit from scholarships and other assistance funded by state taxpayers; many live in buildings financed by the state Dormitory Authority. Buffalo is home, too, to Roswell Park Cancer Institute. The world's first cancer research facility and a pre-eminent treatment center, Roswell Park was for decades part of the state Health Department and is now operated by an independent state authority.

At the northwestern boundary of the Empire State is the world-renowned Niagara Falls. The American Falls is part of Niagara Reservation State Park, the oldest state park in the country. In addition to

attracting visitors from around the world, the Falls produces 2,400 megawatts of electricity, which the New York Power Authority sells at low cost to businesses and residents.

An Increasingly Important Role

From one end of New York to the other, state government directly affects the lives of virtually every resident. Its broadest functions are at work in every part of the Empire State:

- Guiding and helping pay for the education of some 3 million children in public schools (and, to a lesser extent, overseeing private schools that educate another 500,000 or so young New Yorkers).
- Providing the courts that serve as arbiters, and finders of guilt or lack thereof, in more than 3.5 million civil and criminal cases each year.
- Paying for health insurance for the poor, and nursing homes and other long-term care for the elderly, at a cost of some \$45 billion a year.
- Regulating the products and services provided by banking, insurance, telecommunications, and electric companies, and regulating every company's relationships with its employees.
- Telling local government officials much of what they must do, and how they must do it.
- Raising the money to pay for all these services — and allocating those dollars by program and by region.

In sum, there is barely an area of life that New York State government does not touch. To be sure, state governments throughout the country play an increasingly important role as governments at all levels assume more responsibilities, and as the federalist balance of power between Washington and the states continues to shift.

At the founding of America, states retained most governmental power; the 10th Amendment to the national Constitution provided

strong protection for states' rights. The 14th Amendment, enacted in the wake of the Civil War, helped propel a significant shift of authority to the federal government. Creation of the federal income tax and new regulatory agencies, and Washington's enactment of wide-ranging social legislation in the first two-thirds of the 20th century, further shifted the balance of power.

At the start of the 21st century, the federalist system that divides power between the national government and the states is shifting more power to the latter in major areas such as welfare and transportation. In at least one key area, education, Washington is flexing its muscles as never before. In the newly conceived area of homeland security, both federal and state governments — and some large municipal governments — are assuming new challenges as well.

The role of state government is especially important in New York. The tax dollars citizens pay to the state and its localities (which are largely creatures of state government) constitute a bigger share of the economy in New York than in any other state. To put it another way, New Yorkers have historically assigned more responsibilities to their state government than residents of many other states. For instance, the state takes a significantly greater role in paying for health care and providing transportation. On the other hand, other state governments provide some services, such as running liquor stores, that New York leaves to the private sector.

Why This Book?

The premise of a democratic government is that elected leaders and the officials they appoint carry out the will of the people, at least in broad terms. To hold government accountable, citizens must, at a minimum, know enough so they can develop informed opinions about its performance. Beyond that minimum level of knowledge, those who best understand government are best equipped to influence it if they so desire. The unusually large role that state government plays in the economic and social life of the Empire State makes such an understanding especially important for New Yorkers.

Current and future public managers may profit from learning broadly about the state's governance, including areas beyond their immediate responsibilities. The same is true of rank-and-file employees

who deliver services and represent the state in most face-to-face dealings with citizens.

Understanding what happens in Albany and in the other reaches of state government can be useful for non-New Yorkers as well. Historically, the Empire State has often been a national leader in developing public policy. Examples abound: universal, free public schools; civil service based on merit; government-owned electrical service; a strong chief executive office, including dominance over the budget process; and a broad-based tax structure. Even where they have made mistakes or gone too far — many would argue that examples include high taxes and an overly complex civil service system — leaders in Albany have achieved national recognition for taking steps toward reform.

Finally, as leaders in Washington, D.C., continue to debate the idea of returning power to the states in areas from social services to environmental regulation, an understanding of government in a major state such as New York becomes more important to understanding national issues as well.

A Key Question: What Does State Government Do?

A central purpose of this book is, simply, to describe *what state government does* in New York. A complete description of every activity could fill an encyclopedia, of course; fully explaining New York State's role in any one of numerous areas would require a book larger than this. Still, it is possible to capture, in relatively brief form, the state's most important and far-reaching activities. While doing so, the book offers ways to think about the activities of New York State government — context of why things are as they are, how they came to be this way, and how they might change.

This book is written on the assumption that citizens *should* know what their government does. Yet most New Yorkers will learn little about that subject from news reports, which tend to focus on politics and process to the exclusion of policy. Because understanding how the institutions of government became what they are today is essential to seeing where they might go in the future, each chapter includes some historical perspective on the topic at hand.

One way to summarize what New York State government does is to say that it:

- *Makes the rules.* Most of the laws governing relationships among individuals and organizations — marriages, business incorporations, contracts — are state enactments, rather than federal statutes or local ordinances. The same is true of most criminal laws.
- *Provides certain basic services, and supervises others.* States are the primary governmental actors in key areas of social policy such as education and health care. Although candidates for national office routinely talk, for example, about education, most broad policies regarding curriculum, graduation requirements, and schools' business arrangements are still made in Albany and other state capitals — and the overwhelming majority of dollars spent on public schools come from taxes collected within the state, not by Washington. (Even after major increases in recent years, federal funding accounted for less than 8 percent of revenues for K-12 public schools in New York in 2004.) State government takes care of many who cannot take care of themselves, such as developmentally disabled individuals. In other cases, it makes sure that someone else provides key services — such as requiring counties to inspect restaurants and other public food sources for cleanliness. Other vital services that state government generally does not handle directly, such as fire protection and water and sewer service, are provided by local governments with some oversight and assistance from the state.
- *Raises money and decides how to allocate it.* Many would argue that this function — the collecting and spending of taxpayer dollars — is the most important role state government plays, especially in New York. “The intentions of governments are written in their budgets,” former Assemblyman Arthur O. Eve has written. Budget negotiations produce decisions on major programmatic as well as fiscal issues. This book will examine where our tax dollars come from and where they go. It will also look at how the budget process works, so that those seeking to understand or influence its contents will know how to make a difference.

How does government in New York go about *accomplishing* its tasks? The book will address that question as well. State government is not only big but highly complex — more so than all but the largest private corporations. Its complexity means, among other things, that many different individuals play important roles. The governor, legislative leaders, and the chief judge oversee the three major branches of state government, making decisions that affect all the wide-ranging services described above. Still, the imprint of these individuals on the overall organization has its limits; activities of mid-level managers and “line” workers have enormous impact as well. Closest to home for most New Yorkers, state government is the tens of thousands of individuals who plow the roads, care for the disabled, run the prisons, and process the paperwork that makes the bureaucracy operate. Because the subject is complex, the text touches on some key topics more than once. For instance, the state Constitution’s protection of forestlands as “forever wild” is discussed in both the chapter on the Constitution and that on the environment.

Government Responds

Government changes dramatically over time, both reflecting and shaping the society it serves. As Thomas Jefferson wrote in the Declaration of Independence, people create governments for certain purposes. New York State government continually evolves in response to the will of the people and the goals of its elected leaders. In recent years, Albany has expanded its role in some areas (Medicaid and other health coverage, for instance) while reducing its role in some other areas (such as regulation of the electric industry).

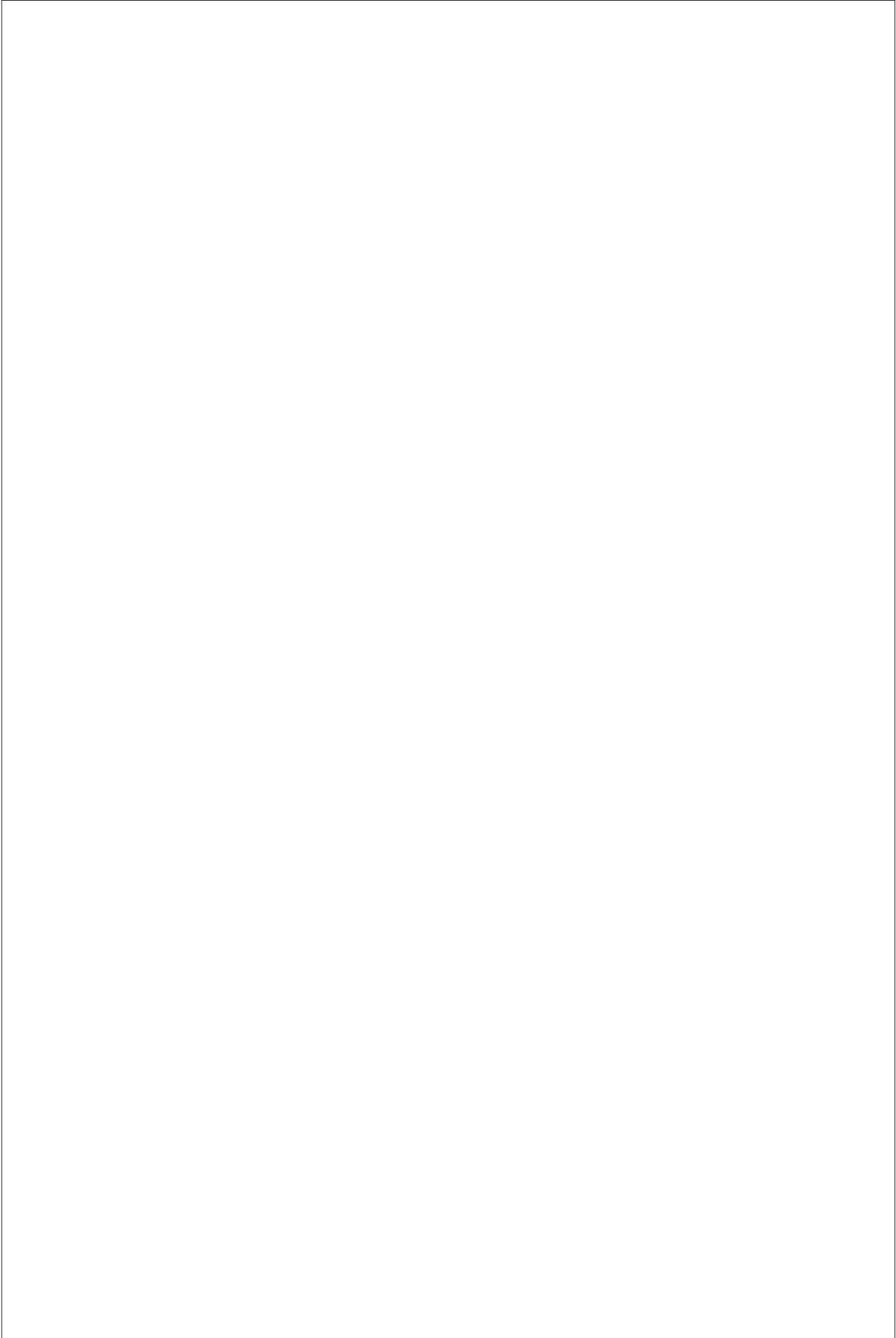
Why does government do certain things in particular ways? *What* makes it change? The answers to the two questions are identical: individuals and institutions. From the 20th century alone, it’s easy to identify major reforms that occurred because of the first governor, Theodore Roosevelt, or the century’s last, George E. Pataki (*see Chapter Three*). Individuals outside of government, sometimes working through organizations and sometimes almost alone, have also made a difference. In every case, these men and women set their minds to changing something about New York State government and used its institutions to do so.

The relative influence of the governor and the Legislature over state spending varies over the course of decades, and sometimes from year to

year. As the 20th century ended, the office of attorney general assumed a major new source of power through lawsuits filed with other state attorneys general against tobacco companies and other businesses. On an operational level, state agencies now commonly use computer technology to make information and some services — such as renewal of motor vehicle registrations, and reservation of state campground space — available online 24 hours a day, seven days a week.

Citizens should know how government *decides* things — which jobs to take on and which to leave to the private sector; how to accomplish the tasks it sets for itself; how to raise and spend taxpayer dollars; and so on. The book examines the structure of governance in the Empire State — similar in some ways to our national government and those of other states, yet different in key ways as well. An understanding of the structure and process of government is based on the written law — which, in turn, starts with our state Constitution. (For instance, the Constitution makes the office of governor in New York far more powerful than those in most states.) Also influential are the folkways and traditions of how institutions and individuals in government work.

In New York as elsewhere, average people often feel disconnected from government. That need not, and should not, be the case. Individuals change the course of government every day. Citizens who know more about what their government does, and how it works, will be more capable of making it better.



Chapter Two

REFORM: IS THIS THE TIME?

Key points:

- A popular new governor promises to bring dramatic change to Albany; the state Constitution grants the chief executive extensive powers to initiate and carry out reforms.
- This chapter examines four major categories of process-related reforms: the budget process, the legislative process, the influence of money in campaigns and lobbying, and legislative redistricting.
- Those issues will have to compete for priority attention with substantive policy reforms in, for example, Medicaid, education, economic development, and tax law.
- In pushing for structural and legal changes, reformers often ignore the role leaders play in making government work better.

While campaigning for governor, Eliot Spitzer proclaimed that “everything” would change starting on the first day of his administration. Given the power that New York’s Constitution grants to the governor, a new chief executive starts with significant political capital — particularly if elected with a large margin, as Spitzer was on November 7, 2006. Unofficial results showed Democrat Spitzer defeating Republican John Faso with some 69 percent of the vote, a modern record. Spitzer carried nearly every county, including many that generally vote Republican. Although Republicans retained control in the Senate, and Democrats in the Assembly, several incumbents lost — an unusual development in Albany.

With the advent of a new governor for the first time in 12 years, there was a widespread sense in Albany that dramatic changes may well be coming. Interest groups with varied perspectives were energized and in many cases a bit nervous over the prospect.

This chapter reviews major proposals for process reforms that have arisen in Albany over the last decade, starting with key areas identified by the new governor. It also examines the question of whether fundamental reform — major change to the state Constitution — is needed or likely in the near future. Some topics that frequently enter the discussion of reform in New York State are discussed in more detail in other chapters, such as those on Medicaid, the Upstate economy, the judiciary, the state budget, and debt and public authorities.

Talk of systemic reform in Albany has been building for years — at least since 1997, when voters last considered calling a constitutional convention. Given the dominant role of the governor’s office, though, major change is most likely to emerge when an incoming chief executive has campaigned on reform themes. A year before Election Day 2006, at the Rockefeller Institute of Government in Albany, candidate Spitzer gave a detailed presentation on his vision for government reform.¹ Having built a national reputation by driving structural changes in major financial-services industries, Spitzer declared: “In Albany — as it was on Wall Street — the status quo is a system that lacks accountability. It is a system that is controlled by special interests. It is a system that is not efficient, is not open and transparent.” Promising dramatic change, he added: “What happened on Wall Street ... can also happen on State Street here in Albany.”

1 “Government Reform,” remarks at the Nelson A. Rockefeller Institute of Government, Albany, NY, November 21, 2005.

The address touched on many of the major issues facing the state. For instance, Spitzer called for:

- “Accountability” reforms such as banning campaign contributions to state candidates from those who “do business with” the state. Other proposals included “a dramatic reduction” in maximum campaign contributions; public financing for some campaigns; and a nonpartisan commission to redistrict the Legislature.
- “Efficiency” concerns such as limiting overall state debt, enacting a “false claims act” for Medicaid, and appointing “the best people” to run the state’s public authorities.
- Changes to the court system, promoting the “rule of law” with reforms such as merit appointment rather than election of judges; consolidation of the “Balkanized” system of trial courts; and creation of more integrated courts to reduce costs and improve the quality of judicial decisions.

Even given the extensive powers of New York’s gubernatorial office, there are limits on how much a new governor can achieve. Which reforms are more important — those that change the process in Albany, or those that change major state policies in education, taxation, regulation, economic development, health care, and other areas? Candidate Spitzer argued that the two go together:

(I)n order to improve opportunity for all New Yorkers, we need reform in many substantive areas — from job creation to education to health care.... But the key for success in all these areas is having a government that is seen as a catalyst, not an impediment to change.²

Rising Calls for Reform

New Yorkers are known for political disputes based on Upstate-Downstate rivalries and other competing interests. Traditional disagreements on issues such as education funding, the level and distribution of taxes, and treatment of criminals show no sign of fading away. But many New

² Eliot Spitzer remarks, November 21, 2005.

Cornerstones of Governmental Reform

It is helpful to think of four key aspects of governmental reform — process, people, policy, and results.

Process reforms address such issues as campaign finance, internal operational rules for the Legislature, reporting requirements for public authorities, and administrative-procedure requirements for state agency regulations. Such steps do not directly influence public services or policies, but supporters say they make government more accountable, responsive, and inclusive. Thus, such changes may make public policies more reflective of popular will and increase confidence in government. Process reforms are most valuable when they reduce the power of narrow, entrenched interests. Examples are civil-service laws that reduced cronyism in state appointments and the Executive Budget system that initiated more responsible use of taxpayer dollars.

People — individual leaders in elected and appointed positions in the public sector — make a huge difference in what government does and how it works. Elections matter. So do appointments to key posts. Individuals who serve in public office respond to different constituencies, have different priorities, and pursue them with varying levels of dedication to the broader welfare. “Good-government” groups, which set much of the agenda for what constitutes reform, seek to maintain a nonpartisan image. As a result, they too often ignore the obvious role of specific individuals, and focus instead on improving processes. When former Senator Alfonse D’Amato earned a \$500,000 lobbying fee for influencing a decision by the Metropolitan Transportation Authority, for instance, critics said it showed the need for more legal restrictions on public authorities. Such changes may be justified, but the “pay for play” aspect of the incident primarily reflected the express or implied approval of Governor Pataki, whose direct or indirect appointees responded favorably to D’Amato’s phone call.

Policy decisions by those individuals determine whether taxes go up or down; whether the government executes criminals or restricts abortion; the nature of our children’s education; our markets for electricity; and the size and quality of our health-care system. Discussions of reform too often ignore policy implications. That’s partly because “good-government” groups and the news media are reluctant to be perceived as taking sides on many policy questions.

Results count. Do programs work? Are their outcomes good or bad? Recent discussion of New York's vast Medicaid system, for instance, has focused on the program's cost and problems with fraud. Those issues deserve close attention. But equally important are questions about the value that New Yorkers receive for their \$45 billion Medicaid program — improvement in health outcomes for poor families, the impact on privately insured individuals, and the quality of life for older residents of the state, to name just a few. Such questions about the performance of the program receive very little attention outside government, and too little attention at the Capitol. (For more on performance measurement, see Chapter Twenty.)

Yorkers of differing perspectives agree on one thing: They don't like the way state government works.

In a January 2006 poll for the Empire Center for New York State Policy, the Siena College Research Institute found that 58 percent of surveyed voters were dissatisfied with Albany's performance. A similar percentage said interest groups "such as labor unions, trial lawyers and business organizations" have too much influence on elected officials in state government.³ A Marist Institute for Public Opinion poll sponsored by the Center for Governmental Research found residents giving Albany mostly negative ratings for 18 of 20 high-priority issues related to the economy, taxes, health care, and other areas.⁴

Some criticisms of Albany are longstanding. Each year from 1985 through 2004, the Legislature failed to act on the budget until days, weeks, or even months after the start of a new fiscal year. Other criticisms are newer, or have grown in intensity — for instance, the complaint that state leaders have done too little to strengthen the struggling Upstate economy (see Chapter Three).

By 2004, relatively poor economic conditions combined with frustration at years of late budgets and increasing criticism of Albany from opinion leaders to heighten public attention to problems in state government.

Advocates at various points on the ideological spectrum saw reason to hold Albany in contempt. For those who support more spending on programs such as education, it was the failure of Governor Pataki and

3 *Ready For Change: A Statewide New York Voter Survey*, available at www.empirecenter.org.

4 Press release, May 25, 2006, available at www.newyorkmatters.org.

the Legislature to act on a court order that they provide billions of dollars in new funding to New York City's schools (*see Chapter Thirteen*). Taxpayers who chafe under New York's tax burden, the highest in the nation by many measures, decried above-inflation spending increases, continuing growth in state debt, and the Legislature's decision in 2003 to impose \$2 billion in new taxes (*see Chapter Ten*).

The 2004 elections provided some additional evidence of voter unrest, as several incumbent legislators lost primary- or general-election challenges. To be sure, such losses were not entirely driven by discontentment with Albany. For instance, state Senator Nancy Lorraine Hoffmann, a member of the Republican majority, lost her seat to Democrat David J. Valesky, who had campaigned on a reform theme. But Hoffmann had emphasized reform issues as well, and more traditional party politics may have been the chief factor in Valesky's narrow, 742-vote victory. A third candidate, Thomas V. Dadey, Jr., took 13,234 votes, more than 11 percent of the total, on the Independent and Conservative lines. The new Working Families Party played a role, too, delivering 2,771 votes for Valesky.

Whatever the cause, incumbent losses in Albany are unexpected. Many news accounts portrayed the handful of incumbent losses as portents of broader change. The state's risk-averse political establishment took the 2004 developments as a warning from voters. The bottom line was additional impetus for reform in 2005. In September 2006, five incumbent legislators lost primary elections. There was little evidence, though, that any of those losses indicated general unhappiness with state government.

Four Categories of Process Reform

From late budgets to legislative "dysfunction," many of the most common criticisms of Albany in recent years have focused on the processes of state government. In these areas, reform may require elected leaders to change the structure of the process, change the way that they use the process, or both.

The Budget Process

For typical voters, Albany's most noticeable failure was its inability for 20 years in a row to enact an on-time budget. Voters tend to see this is-

sue as a simple matter: Elected officials are failing to do their job on time.

In 1984, Governor Cuomo and the Legislature completed action on the 1984-85 budget on March 31. The next year, final action did not occur until April 4. In 1986, final legislative action was five days late; in the next two years, delays stretched to 10 days, and then 20. By 2004, the Legislature completed its budget work on August 11, after more than one-quarter of the fiscal year had passed.

Voters who read newspapers regularly can hardly fail to notice when the state budget is late. Most newspapers outside New York City report on budget developments once or twice a week while negotiations continue; editorials criticize the legislature year after year for failing to adopt the budget on time. In recent years, some newspapers have editorialized on the issue half a dozen times or more each year, as the statutory budget-making period of three months or so stretched into six months or more. (Such criticisms had limited impact. As with most editorials that take “the Legislature” to task, those criticizing late budgets seldom mentioned the names of Senate and Assembly members in the newspapers’ own locales.) Over time, because it was consistently seen as a governmental failure and because of its status as a process issue on which critics from various perspectives could agree, late budgets became well known as the preeminent example of Albany’s dysfunction.

One other development, near the end of 2004, added even more momentum for change: The Court of Appeals’ split decision in a case involving the division of budget powers between the governor and the Legislature.

In *Pataki v. Assembly*,⁵ the court held that Governor Pataki did not overstep his Constitutional budget powers in writing statutory language into an appropriation bill; and that the Legislature did go beyond Constitutional limits on its powers in amending such proposals in the Executive Budget bills. The Senate and Assembly had argued that the state Constitution does not explicitly give governors the power to include extensive lawmaking in appropriation bills, and that allowing such action by the chief executive weakens the Legislature’s position as the originator of changes to the laws of the state.

5 The Court of Appeals decision actually covered two related cases. *Pataki v. Assembly* grew out of disputes involving the 2001 budget; *Silver v. Pataki* emerged from the 1998 budget negotiations.

Voter Opinions and the Economy

Public opinion on whether the governor and legislators are doing a good job (and thus whether major reform is needed) is strongly influenced by the economy — a factor that, in the short run at least, is largely driven by forces outside Albany's control. Public opinion polls by Zogby International and the Marist College Institute for Public Opinion found more than half of New Yorkers saying the state was heading "in the right direction" in every poll taken from 1997 into mid-2002. Only a third, at most, said the state was headed in the wrong direction.

The state's economy, like the nation's, was performing well for most of the period. Most regions of the state were adding jobs — a condition that, fairly or not, tends to reflect well on incumbent officials. With Wall Street enjoying extraordinary growth, Albany's revenues were rising sharply. Governor Pataki and legislators were able to enact popular measures such as a state funded reduction in school property taxes, major expansion of taxpayer-funded health programs and billions of dollars in funding for local projects.

The issue that helped crystallize voter and editorial-page anger — late budgets — seemed to matter little to voters during the 1997-2002 period. Not a single budget was completed on time, and several stretched more than two months into the new fiscal year. Yet New Yorkers seemed to accept the status quo when they entered the voting booth. Governor Pataki won re-election easily in 1998 and 2002, and the few losses for legislators were widely perceived as reflecting local factors rather than budget issues.

Voters' perception of "right track" or "wrong track" also appears to track differences in regional economies. In Marist's September 2005 poll, more than half of New York City and downstate suburban residents said the state was on the "right track." Fewer than one-third of Upstate residents said so, with 62 percent seeing New York on the "wrong track." Downstate, job growth was strong, while most of Upstate continued to struggle economically.

Economic conditions may have played a role in regional votes on Proposal One, the 2005 Constitutional amendment that would have changed the budget process. Critics of the proposal argued it would result in higher taxes and hurt the state's economy. Erie County, suffering long-term economic stagnation, rejected the proposal by nearly 4-to-1, a far greater margin than in prosperous Nassau, Suffolk and Westchester counties.

Senators and Assembly members reacted with outrage to the court decision. Speaker Sheldon Silver said the decision “reduced New York’s budget process to a one-sided charade” and “has sounded the death knell for public education.”⁶

The years of criticism over late budgets and the *Pataki v. Assembly* decision helped lead to two new developments in 2005: a mostly on-time budget for the first time in two decades and the Legislature’s proposal to change the budget process under the state Constitution.

Just three weeks after finalizing the 2005-06 budget, the Senate gave final legislative approval to a proposed constitutional amendment that was to spark a bitter debate between the governor and legislative leaders, and among supporters of each side. Both houses had already given first passage to the budget-powers amendment in 2004. Proposal One, as the amendment was known, represented the most dramatic change to the budget process since voters approved the Executive Budget system in 1927. But when the Legislature’s amendment went on the ballot in 2005, voters rejected it overwhelmingly. (*See Chapter Ten.*)

The Legislature has advanced a related amendment that could go to voters in 2007. That proposed amendment — much less complex and likely to be less controversial than the 2005 Proposal One — amends the existing Article VII to specify that the governor may not include legislative language in appropriation bills. Both houses gave first passage to the amendment in 2005, and could give the required second passage as early as 2007. Governor-elect Spitzer is believed to oppose that amendment and to prefer making any changes to the budget process in statute and practice rather than constitutional amendments. Meanwhile, Comptroller Hevesi and others are arguing for another constitutional amendment to restrict state borrowing (*see Chapter Eleven*).

Aside from constitutional rules relating to state finances, critics point to the increasing use of grants that are allocated by the governor and legislative leaders outside the normal budget process. Such targeted funding gives elected officials maximum political benefit with minimal accountability. In September 2006, for instance, the *Albany Times Union* reported that Senate Republicans and Assembly Democrats were secretly distributing some \$85 million a year to favored school districts

6 Assembly press release, December 16, 2004, available at <http://www.assembly.state.ny.us/Press/20041216/>.

under a funding program called General Legislative Operations Programs, or GLOP.⁷

As both a Constitutional issue and a question of legislative practice, budget reform appears likely to remain on Albany's agenda for some time.

Legislative Process

After years of late budgets had left many voters cynical about New York's state government, several major new voices emerged in 2004 to demand broad change in Albany.

In July 2004, scholars at New York University extended popular criticism of Albany from the budget to the internal workings of the Senate and Assembly, attacking the Legislature as "the most dysfunctional in the nation." A detailed report issued by the Brennan Center for Justice at NYU Law School did not quantify such a finding, but did report measurements such as these, for the Legislature's activity from 1997 to 2001:

- Fewer than 5 percent of the "major" bills passed by the Assembly or Senate were debated on the floor of the respective chambers.
- During the same period, only 0.5 percent of the major bills passed by the Assembly, and only 0.7 percent of the major bills passed by the Senate, received a committee hearing.
- The Senate voted on 7,109 bills, and the Assembly took action on 4,365 from 1997 to 1999. Not a single bill was voted down in either house, the report found.⁸

The report's specific findings were new, but its conclusions echoed what most observers of Albany had recognized for years: The Legislature's operational practices keep individual members from playing meaningful roles by concentrating authority in the legislative leaders, and thus limit real representation in Albany. Newspapers around the state, long critical of the Legislature's leadership-driven processes, rallied even more strongly to the cause.

7 James M. Odato, "GLOP fills up pork barrel," *Times Union*, Albany, NY, September 17, 2006.

8 See www.brennancenter.org.

In early 2004, Nassau County Executive Tom Suozzi announced a political committee called Fix Albany that would pressure state legislators to reform New York's Medicaid program, which contributes to high property taxes on Long Island and elsewhere in the state. Suozzi later claimed credit for helping a legislative challenger defeat an incumbent member of the Assembly from Nassau County in November 2004. News media paid special attention to the county executive's proposals for change because he was a likely candidate for governor.

Another new voice for reform was a Central New York businessman, Mark Bitz, who attacked both Albany's governmental processes and its policies that affect businesses. Bitz, who created his own pro-reform website, endorsed the Brennan Center proposals for internal legislative changes. He also criticized the state's heavy tax burden, and higher-than-average costs for energy and workers' compensation. Bitz warned that he and other business owners were considering leaving the state to find more hospitable locations elsewhere. In numerous op-eds and on his political website, Bitz estimated that his company, Plainville Farms, spent \$600,000 more annually on such costs than it would if it were located in a competing state.⁹ Such criticism hit home in much of Upstate New York, where employment and population trends remain among the most discouraging in the nation.

The Brennan Center report, and the concurrent efforts by others such as Suozzi and Bitz, galvanized critics from varied perspectives. Supporters of the Brennan Center proposals demanded procedural changes that would force more meaningful policy debates in the Legislature, disperse authority from leaders to rank-and-file members, and make enactment of new policies more likely. In its report, the Brennan Center said legislative dysfunction had blocked action on issues such as a minimum-wage increase, gay and lesbian rights, reform of costly rules governing public construction, and mandated inclusion of mental-illness treatment in health-insurance policies. Chambers of commerce, nonprofit groups representing social-service agencies, and other interest groups endorsed the Brennan Center proposals. The report's criticisms became campaign issues in some 2004 legislative campaigns.

After those campaigns resulted in several losses by incumbents, Senate and Assembly members returned to Albany in January 2005 to announce that the time for reform had come. Both houses adopted new internal rules that responded to some of the criticisms in the Brennan

9 The site is www.freenys.org.

Center report. The Assembly began requiring that members be physically present to have votes counted; creating open meetings of the powerful Rules Committee; and requiring that committees engage in oversight of executive-branch agencies. The Senate banned “empty-seat” voting for nonroutine bills, among other changes. Both houses agreed to more regular use of open conference committees, instead of closed leaders’ meetings, to negotiate two-house differences on legislation.

The Brennan Center and its supporters welcomed the changes to internal legislative rules, but said they did not go far enough. For instance, the center said, majority- and minority-party legislators should receive equal funding for staff and office space, and conference committees should be called at the request of bill sponsors, rather than by the leaders. Such steps would reduce the majority-party members’ ability to deliver politically attractive funding to their home districts, and bring significant shifts of power from the legislative leaders to individual members. Neither house acted on those proposals, and as of 2006 there was no apparent public pressure for them to do so.

The internal legislative rules changes appeared to make little, if any, difference from a policy perspective. None of the issues that the Brennan Center suggested were being ignored because of an unaccountable Legislature were acted upon as a result of the rules changes. The Legislature enacted a minimum-wage increase after release of the report, but that action was driven more by traditional concern about the pending legislative elections than by changes in the houses’ internal rules. In October 2006, the Brennan Center issued a follow-up report declaring that “some has changed, but not enough” in Albany. The new report added:

On the other hand, New York is on the edge of major change. Nearly all candidates for statewide offices speak of reform. A new governor will enter office. Voters have made clear they want action. Rarely will the political planets align for reform as they will over the next year.

The Role of Money in Lobbying

As long as there has been a New York State government, individuals in positions of power have been known to use public office and taxpayer dollars to help friends and political supporters. DeWitt Clinton, the most important governor in the state’s early decades, used political pa-

tronage to build and maintain influence. Martin Van Buren did the same from positions as governor (briefly, in 1829) and U.S. Senator before being elected president. Other examples are too numerous to list.

Government in Albany has grown larger and more powerful in recent decades. So, too, has the lobbying industry. Organizations and individuals whose mission is to influence the executive and legislative branches of state government play a larger role than ever in shaping budget actions, legislation, and regulations.

At the start of the 21st century, such efforts have become highly specialized. In addition to long-established organizations that represent broad-based interests — education, health care, business, labor, environmental groups, and so on — Albany is home base for an increasing number of lawyers and former high-ranking government officials who represent various individual clients. (*See Chapter Twenty for further discussion.*)

Lobbyists who have close personal relationships with state leaders have drawn particular attention. The son of Senate Majority Leader Joseph L. Bruno and the top staff assistant to Assembly Speaker Sheldon Silver both became highly paid lobbyists. One example of their high-profile clients was Cablevision, a corporation that owns Madison Square Garden in New York City. The company strongly opposed a 2004 proposal by New York Mayor Michael Bloomberg to build a stadium on Manhattan's West Side that would be used for the Jets football team and, the mayor hoped, for the 2012 Olympics. Cablevision saw the new stadium as a threat to its own interests and spent more than \$13 million lobbying against the proposal, according to the state Lobbying Commission. Firms established by Kenneth Bruno, son of the majority leader, and Patricia Lynch, former top aide to the speaker, received consulting contracts with Cablevision for \$10,000 a month in 2005.¹⁰ Close associates of Governor Pataki, such as political adviser Kieran Mahoney and former Public Service Commission Chairman John O'Mara, also became successful lobbyists.

In May 2002, *The New York Times* reported on problems in the development of a new headquarters for the Metropolitan Transportation Authority. The article mentioned that former U.S. Senator Alfonse D'Amato had earned \$500,000 for lobbying the chairman of the author-

¹⁰ Details on lobbying contracts are available from the Temporary State Commission on Lobbying's website, www.nylobby.state.ny.us.

ity in relation to a contract for financing of the project.¹¹ The former senator, who had lost a reelection bid in 1998, was a close political ally of the MTA chairman, E. Virgil Conway; and of Governor Pataki, who appointed the MTA chairman and several other board members. Some months later, other news media revealed that the \$500,000 fee was for a single telephone call. Editorialists and “good-government” groups used the story as the basis for new criticisms of political favoritism in Albany.

The D’Amato-MTA story embodies, and helped stimulate debate over, three strands of the modern “reform Albany” movement:

- Political favoritism in lucrative lobbying deals.
- Public authorities, the “fourth branch of state government,” which are less accountable to the Legislature than traditional state agencies.
- And the increasing use of high-paid lobbyists not only to persuade the Legislature with regard to legislation, but to persuade executive agencies regarding the awarding of valuable procurement contracts.

Widespread criticism of the D’Amato deal helped prompt state leaders to broaden the state Lobby Law in 2005 to include procurement contracts within the scope of the law. Both houses voted unanimously to approve the changes, and Governor Pataki signaled its high priority by signing the bill as Chapter 1 of the Laws of 2005.

“Bidders and potential bidders often attempt to influence procurement contract decisions by hiring lobbyists to advocate on their behalf before procurement officials,” the legislative memo in support of the bill stated. “Contacts in the context of the procurement process should be regulated by the Lobby Commission to ensure that there is public disclosure of such arrangements and that they are subject to the same restrictions placed on lobbyists who appear before government on other policy matters.”

Much of the criticism that led up to passage of procurement reform focused on the merits of the Lobby Law and of public authorities. But such critiques may be misdirected if they ignore the governmental

¹¹ Charles V. Bagli, “Sweet Deal for M.T.A. Home Turns Sour, Beset by Cost Overruns and Indictments,” *The New York Times*, May 29, 2002.

leaders whose decision-making processes are already covered by the Lobby Law, and who create and oversee the authorities. Major decisions at the MTA, for instance, are seldom made without approval of the governor. If the MTA and other public authorities have worked well in the last decade, much of the credit goes directly to Governor Pataki — not simply to the earlier generation of leaders who created the authority's structure. If the authorities do not function properly at any given time, much of the blame lies with the governor as well.

The Role of Money in Campaigns

In Albany, as in many other centers of government, individuals and organizations typically contribute to political campaigns for one primary reason: to help elect candidates whose policies already are, or might become, favorable to the donors. As a corollary, donors tend to give most to incumbents and likely winners who will be able to repay the favor in some way. In 2002, for example, Governor Pataki spent more than \$45 million, nearly triple the amount raised by his challenger, H. Carl McCall. In 2006, political observers were virtually unanimous in expecting a big win by Attorney General Spitzer. He ultimately raised more than \$40 million, some ten times the amount donors gave to Republican candidate John Faso.

Such trends in contributions tend to reinforce already strong candidates, creating even bigger disparities with those who have few resources. Numerous critics of the current campaign system have proposed addressing such disparities by reducing the maximum donation levels for candidates seeking state office. Governor-elect Spitzer called for “a dramatic reduction” in contribution limits, to help create “a level playing field.”¹² To be sure, limits on cash contributions would leave untouched some other ways that Albany insiders use big money to influence policy — for instance, the multimillion-dollar ad campaigns by health-care and teacher unions. Many observers agree, though, that reducing contribution limits is at least worth consideration; such proposals will likely be on the table in 2007.

Spitzer and others have also called for public financing of state-level campaigns, in the form of matching grants for candidates who attract a certain level of private contributions. New York City has such a system in place, tied to candidates' acceptance of limits on overall spending.

12 Remarks at the Rockefeller Institute.

Under rulings from the U.S. Supreme Court, such spending limits must be voluntary. Michael Bloomberg, for instance, chose to forego spending limits and public funding in his successful 2001 and 2005 campaigns for mayor. Critics of public campaign financing argue such systems tend to result in wealthy candidates running for office. Supporters say public financing enhances democracy by reducing candidates' reliance on special-interest donors.

Redistricting

As critics from varying perspectives note, members of the Senate and Assembly in New York have built one of the most effective incumbent-protection systems in the nation. Since the early 1980s, a key element has been the once-every-decade redrawing of legislative districts to favor majority-party incumbents, Republicans in the Senate and Democrats in the Assembly.

Under the current system, in New York as in many other states, legislators essentially choose their voters rather than vice versa. Reformers such as Citizens Union, the New York Public Interest Research Group (NYPIRG), and Mark Bitz have called for an independent redistricting commission to make legislative elections more competitive — and make legislators more accountable to voters.

Legislators have introduced some such proposals. In 2005, for example, Assemblyman Michael Gianaris and 22 colleagues introduced legislation (A.6287) based on redistricting procedures in Iowa. The bill would create a reapportionment commission whose members would be chosen by legislative leaders from candidates named by an appointment committee whose members would first be appointed by statewide elected leaders, legislative leaders, and the state's chief judge. The commission would recommend a redistricting plan that the Legislature could accept or reject without amendments. If legislators rejected two such proposals, the commission would then submit a third plan that the Legislature could amend before adoption.

While removing political considerations entirely from the redistricting process is impossible, NYPIRG and other groups favor the Iowa approach. The Brookings Institution's Thomas Mann finds that the Hawkeye State enjoys "timely completion of redistricting, no court challenges, mostly competitive seats, and no blatant incumbent or

partisan gerrymandering.” Mann suggests, though, that Iowa’s political culture plays a key role:

The legislature has never chosen to exercise its authority to draw its own maps, even when a majority believed that the neutral process had produced a partisan outcome. It appears that the “good government” norms in the state, and the popularity of the nonpartisan redistricting process, has constrained the self-interested behavior of incumbents and parties.¹³

Examination of cultural norms is a helpful reminder that constitutional and statutory rules are not the only things that affect the quality of government. Decisions by elected officials matter as well. Spitzer said during the 2006 gubernatorial campaign that if elected he would refuse to sign any redistricting bill that went too far in protecting incumbents. That would represent a major change from the recent practice of governors signing whatever reapportionment plan the Legislature adopted.

Policy Reforms

Beyond process reforms, major changes in the policies of New York State government will be debated intently in 2007 and beyond. Such changes may affect vitally important concerns such as the strength of the state’s economy and availability of good jobs; the quality of education for poor children in the state; and the size of the tax burden on individuals and businesses. While Albany has addressed each of these areas in recent years, the reform agenda will include discussion of proposals to:

- Balance spending and revenues consistently. The state has a structural budget gap in the billions of dollars, debt has soared in the last decade, and state leaders are expanding use of undesirable revenue sources such as state-sponsored gambling.
- Control the cost of, and effectively manage, the \$46 billion Medicaid program. Governor Pataki and the Legislature took steps to ease the burden on local governments, but costs

13 “Redistricting Reform: What is Desirable? Possible?” paper prepared for Conference on “Competition, Partisanship, and Congressional Redistricting,” April 16, 2004, available via www.brookings.edu.

continue to rise — and little is done to ensure maximum benefit from the nation’s most generous public health-care programs.

- Ensure new resources for New York City schools, as ordered by state courts. (The Court of Appeals has ruled the state doesn’t have to pay the whole cost itself; state leaders can require the city to spend more on schools if they so choose.) Albany’s traditional method of increasing education aid in one region is to do the same in all regions — but using that approach to resolve the Campaign for Fiscal Equity case would cost billions of dollars. The Court of Appeals also suggested greater accountability for education spending, with little response from state leaders.
- Make New York more competitive for new businesses and jobs. Spitzer has said he will implement “an aggressive strategy to reduce the cost of doing business in New York.” He called for reducing costs of workers’ compensation, energy, and health insurance while streamlining the state’s regulatory system.

Like beauty, reform is in the eye of the beholder. “Good-government” groups that strongly support proposals for limits on campaign spending, for instance, might not endorse his policies on reforming workers’ compensation. Business and other groups that argue for shrinking New York’s hospital system — a policy Spitzer has also endorsed — may have less interest in taxpayer financing of political campaigns. That change is coming to Albany is virtually certain. But what changes? The answer to that question will have to wait for a third edition of this book.

The State Constitution

In 1997, voters had an opportunity to demand major reform of state government by calling a constitutional convention. Advertising campaigns by public-employee unions and others helped persuade voters to reject the proposal. To be sure, dismissal of the call for a convention (which was placed on the ballot automatically, as happens every 20 years) was not unexpected. Aside from the well-financed campaign

urging rejection, times seemed relatively good. New York was participating in the national economic boom and even starting to catch up to its competitor states, if still lagging behind the nationwide job-growth rates in most years. Crime rates were falling, and new leadership in Albany was enacting popular tax cuts and new programs.

The automatic opportunity for voters to call a constitutional convention will appear on the ballot in 2017. The Legislature could place such a proposal on the ballot any year. However, that possibility seems remote; most legislators strongly opposed the 1997 question on calling a convention. A popular governor might be able to force legislative consideration of the issue. While Spitzer has called for some constitutional changes, he has said such reforms might occur more easily through legislative action on individual amendments rather than at a convention.

Since the 1938 Constitutional Convention, the last to propose changes that were ratified by the people, the Legislature and voters have approved more than 130 individual amendments. Some emerged as single-issue proposals; others came from the 1967 proposed Constitution that voters rejected; and still others were from a commission appointed by Governor W. Averell Harriman and chaired by future Governor Nelson A. Rockefeller. Today, some supporters of constitutional change urge creation of a new “blue-ribbon” commission to propose reforms in numerous sections of the state’s fundamental law.

With that backdrop, an issue that was last on the agenda almost a decade ago — the question of constitutional change — returned to the debate. New York State’s fundamental law has a number of major flaws. For example:

- Key provisions of Article III, the section of the Constitution that defines the powers of the Legislature, have been dead letters for 40 years. In the 1960s, the U.S. Supreme Court ruled that state legislative districts must be drawn to give approximately equal weight to each citizen’s vote. As has been true since New York’s first Constitution, the text of the present charter directs the drawing of state Senate districts in ways that limit representation in the most populous counties. It also guarantees almost every county at least one Assembly district, creating overrepresentation for residents of lightly populated regions. As a result of the federal and state court decisions, those provisions of the state Constitution are no longer in force. Making the Constitution relevant and under-

standable to today's citizens would mean stripping the dead letters from the state's fundamental law and, at a minimum, replacing the outmoded provisions with language reflecting the legal reality today. As mentioned above, many observers argue for a further, more far-reaching, change to Article III: taking the redistricting power from sitting legislators and giving it to an independent commission such as Ohio and some other states do.

- The Judiciary article creates a court system that a succession of judicial leaders, including Chief Judge Judith Kaye, have described as so complex and inefficient that it harms the cause of justice. Major elements of the system are three centuries old. Judge Kaye has asked the Legislature to make major changes, some of which would require constitutional change. The Legislature has refused most such proposals.
- State debt, among the highest in the country, continues to rise sharply. In the mid-1800s, concern over increasing state debt prompted constitutional restrictions on Albany's ability to borrow. Those restrictions, including a requirement that most borrowing be approved by voters, worked as intended for a century or so. The debt restrictions effectively acted to restrict state spending, given elected leaders' desire to avoid voter wrath by raising taxes too much. In the middle of the 20th century, Nelson A. Rockefeller and succeeding governors found the debt restrictions unacceptable. Rockefeller raised taxes sharply to pay for new programs such as expansion of the State University system and Medicaid, but the new tax revenue was not enough. Thus the state turned increasingly to borrowing carried out through its public authorities. Unless New Yorkers hold governors and legislators accountable for high and rising debt — or elected leaders decide of their own volition to change recent practices — the only way to limit future borrowing may be to update and strengthen the constitutional restrictions created in the Civil War era.

Numerous other proposals for constitutional change have emerged. Frustrated by the lack of legislative action on favored issues, advocates from various ideological perspectives have called for use of initiative

and referendum, which allow voters to place policy proposals directly on the ballot. Organizations concerned about the state's tax burden suggest a constitutional limit on taxes, state spending, or both. Supporters of greater flexibility for local governments urge prohibition against new state mandates on municipalities and school districts. While there are arguments for each of these proposals, there are also arguments against. None appear likely to attract strong support soon from the Legislature. Without legislative approval, any amendments would have to await a constitutional convention before going to voters.

The Political and Governmental Culture of Albany

Beyond particular issues such as those involving budgets and legislative operations, there is the broader question of whether the political and governmental culture of New York State serves the people well. Political scientists in New York and elsewhere have given little attention to such issues, but the topic may be gaining attention. A good way to view the governmental culture of the American states is

...the degree to which state governments have a serious and substantive commitment to the functions and activities of government on a basis that emphasizes community values and the public service, and on issues of consequence is capable of transcending narrow partisan and personal interests.¹⁴

Using the following definition, research by the Rockefeller Institute of Government surveyed experts on the governmental culture of 17 states.

States rank high ... for a good-government culture if they have leaders and leadership practices and traditions that are seen as transcending partisanship and calculations of personal political advantage, not on all matters, but in important situations such that substantive considerations are highlighted in the governmental process in a way that is widely recognized and accepted in the behavior of leading members of the legislature and leaders in the executive branch, and furthermore that this good-gov-

14 Richard P. Nathan, "Striking While the Iron is Hot: State and Local Transitions and the First 100 Days," in Udai Tambar and Andrew Rachlin, eds, *From Campaigning to Governing: Leadership in Transition*, Princeton, NJ: Princeton University, 2006, pp. 9-12.

ernment culture is reflected in the way state government is viewed by the public and in the way it is viewed and treated by the media.

The experts the Rockefeller Institute surveyed classified state governments in Maine, Michigan, South Dakota, Virginia, and Washington as having a tradition that emphasizes deliberative political processes focused in a serious way on the substance of government. All are also “relatively scandal free,” according to the survey.

While the concept of “scandal free” leaves plenty of room for interpretation, New York State’s government could hardly be considered in such a category. As noted in Chapter Four, Governor Cuomo initiated enactment of a state Ethics Law in 1987 after numerous scandals in both state and New York City government. A 2002 review of the law’s implementation, by the executive director of the state Ethics Commission, concluded that “for those citizens and government officials who thirst for integrity in government, they may reasonably view the glass of reform as half full.”¹⁵

As of 2006, nine members of the Legislature had been charged with bribery or other crimes within the past five years. All represented districts in New York City, where voters are particularly unlikely to be aware of their representatives in the Senate and Assembly — let alone the activities of those individuals. For these voters, state government is hardly “viewed by the public” at all. If democracy is designed to bring public pressure to bear on elected officials, it’s not surprising that lack of public scrutiny — or even awareness — may be associated with a lack of good-government culture.

Criticisms of the political-governmental culture in Albany go beyond prominent cases. As discussed above, high-paid, special-interest lobbying by political allies and former top staff to the governor and legislative leaders convinces many observers that “narrow partisan and personal interests” are too much at play in Albany. Observers in the public and the media believe that state government often acts (or decides not to act) based on other than substance factors.

15 Karl J. Sleight, “With the Benefit of Experience: An Examination of the Ethics in Government Act of 1987 and the New York State Ethics Commission,” in Patricia E. Salkin and Barbara F. Smith, eds., *Ethics in Government, The Public Trust: A Two-Way Street*, Albany, NY: New York State Bar Association, 2002.

The Road Ahead

Governments change over time because of the influence of two factors — institutions and individuals. Institutions include both organizational structures — political parties, legislative caucuses, interest groups — and legal structures, such as laws and regulations. The crucial human factor, individual leadership, is often overlooked in discussions of governmental reform. Ignoring it leaves a gap in our understanding of how government can and does change — for better or worse.

In the Legislature, calls for reform often focus on changing the operating rules of the Senate and Assembly. Yet legislators have proven that when they choose to do so, they can act the way voters want — for instance, by approving a budget on time — despite the presence of the same procedural framework that prevailed during 20 years of late budgets. The 2005 and 2006 budgets were adopted in a timely manner not because the Legislature changed its procedures, but because individual legislators and their leaders decided that timeliness was crucial.

In specific issue areas, elected leaders have been known to declare victory for “reform” by adopting new procedural rules, rather than new policies. Rising concern about Albany’s growing debt prompted Governor Pataki and the Legislature to enact the Debt Reform Act of 2000, which created statutory limits on most future borrowing. Rather than enact new rules, state leaders could have simply decided to reduce the level of new debt.

To be sure, legal and organizational institutions are important. Governor Smith initiated the Executive Budget system in the 1920s because he believed it would help him and other governors achieve important policy goals, including more responsible budgets. The legislative budgeting system he inherited made such results impossible, no matter how much political will and legislative wisdom Smith brought to bear. Yet even the Executive Budget system — widely regarded as one of the most important reforms in the state’s history — does not guarantee sound budgets. Individual governors and individual legislators still decide on the policies that the budget reflects.

A longtime observer of Albany, journalist Jay Gallagher, published a book-length explication of criticisms, linking governmental failure to weakness in New York’s economy, in late 2005.

...the Empire State has been slowly declining for the past half-century, losing much of its political and economic clout. Much of the blame ... can be laid at the feet of the men and women we send to the Capitol to serve us.

All too often they have acted in their own self-interest and that of the thousands of lobbyists who spent \$144 million last year trying to influence them and less for the general good.

New York's government, Gallagher wrote, "seems to be lacking the principle that should be its focus: a dedication to the prosperity and well being of its citizens."¹⁶ Many voters agree strongly with that sentiment.

All the criticisms of Albany, of course, do not change the fact that state government manages to accomplish enormous good every day. Children are educated; the elderly, poor, and incapacitated are cared for; the roads are paved and plowed. Citizens expect such services as the basics of government — and they pay for them. They reasonably expect that government will pursue its mission with appropriate standards of integrity, efficiency, and accountability. Rising demands for reform in recent years are based on widespread belief that Albany has not been meeting these standards.

16 Jay Gallagher, *The Politics of Decline: A Chronicle of New York's Descent and What You Can Do to Save Your State*, Albany, NY: Whitston Publishing Co. Inc., 2005.