Let the Sunshine In
Making New Jersey’s Budget More Transparent

BY MARY E. FORSBERG

Produced for the Association for Children of New Jersey
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Research Director

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For additional copies of this report, contact:
New Jersey Policy Perspective
145 W. Hanover St.
Trenton, NJ 08618
Phone 609-393-1145   Fax 609-393-1146
Email njpp@njpp.org
Visit our web site at www.njpp.org

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NJPP is a nonprofit and nonpartisan research and educational organization established in 1997 with the mission of promoting broad, vigorous debate about important issues facing the people of New Jersey. Our goal is a state where everyone can achieve to his or her full potential in an economy that offers a widely shared, rising standard of living.

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Foreword

This report marks the second time that New Jersey Policy Perspective and the Association for Children of New Jersey have collaborated on a project aimed at helping citizens deal with the state budget process. In 2001, we published An Advocate’s Guide to the Budget, which centered on understanding how the budget is put together. As we noted at the time, “knowledge is power.”

We received a lot of positive feedback from people who found the book useful, and only a handful of copies remain from a large press run.

But knowledge of how the process works isn’t enough if the process itself is in need of repairs.

So in this companion volume we focus our attention not on how things work, but on how to make things work better—specifically to make the budget and budget process more transparent. Doing so can only serve the state and its people.

Making the process more accountable and meaningful is not an end in itself but a means for delivering dollars to where they are needed most and insuring there is vocal, informed debate on state priorities.

We are grateful for the financial and conceptual support of ACNJ on this project as well as technical assistance from the Center on Budget and Policy Priorities and the efforts of the author, NJPP’s Research Director, Mary E. Forsberg. For 14 years, Mary worked on the state budget for the nonpartisan state Office of Legislative Services. The lessons she learned there will pay off for anyone reading this.

The assistance provided by Sheldon Presser, Budget Policy Analyst for the Association for Children of New Jersey, was timely and insightful. He made many important comments on how to present the work of this report.

We appreciate the time that many people now or formerly involved with the budget spent answering questions and offering ideas. This work draws on many suggestions that have been made on how to improve both the budget information that is available and the budget process. Previous work by the Center on Budget and Policy Priorities, the Association for Children of New Jersey, the Assembly Task Force on Fiscal Responsibility and numerous other state level organizations has helped to inform this report.

— Jon Shure
In order to understand—and influence—public policy, citizens must be able to find out which governmental functions their taxes support and how much they cost if they are to believe their money is well spent and their input is important in setting society’s priorities. Nor is it enough that the information simply exists. It is essential that it be clear and accessible; that the budget process be responsive to individuals who are willing to invest the time and energy to educate themselves.

States that provide accurate, timely, meaningful information regarding tax and budget issues in a straightforward, easily accessible manner are said to have budget processes that are transparent. People have a clear view of the fiscal choices before them and the consequences of the decisions that are made. A more transparent budget process can have a demonstrable impact on a number of vital elements of state finance, including:

**FISCAL STABILITY**
Poor state financial decisions are sometimes less a function of ill intent than a product of insufficient information. The state might, for example, adopt a policy that is affordable in the short run, but disastrously expensive in the long run—like a tax cut during a period of windfall revenues or enactment of a new program whose future costs will grow faster than available revenues. If the time frame in which the tax cut or new expenditure is analyzed does not include later years, the state might create a situation that will undermine the ability to maintain the level of future services.

**INFORMED DEBATE**
Meaningful citizen participation in debates over public funds requires both information about public funds and sufficient access to the policymaking process. Well-presented, understandable budget information allows people and groups to independently analyze state issues, bringing more perspectives and analyses of fiscal matters into the public realm. For those without access to traditional channels of political communication and influence, an open budget process might be the only means of effectively participating in the fiscal decision-making process.

**ACCOUNTABILITY**
Effective democracy requires that elected officials be answerable to their constituents. But this cannot happen unless citizens can accurately evaluate decisions that have been made. The media and non-governmental institutions can facilitate public understanding of government decisions by using budget information to independently perform and disseminate analyses of fiscal information. Crucial aspects of public policy often lie in the details of public finance. Without access to detailed, clear budget and fiscal information, citizens are unable to fairly and independently judge the decisions of their elected representatives.

This report offers a number of recommendations for improving the budget process in New Jersey to maximize the potential for public participation and for decision-making that has the state’s long-term interests in mind.

**EXECUTIVE BRANCH**
Set up a central location where printed copies of all state documents are available to the public.

Include as an appendix to the Governor’s budget proposal information on all state authorities and commissions.

Provide in the budget more information about revenues collected and programs supported by such alternative resources as the Lottery and New Jersey Transportation Fund.

Include in the budget a list of all diversions from trust funds.

Eliminate from the Governor’s proposed budget the meaningless “requested” column of data and replace it with information for the current fiscal year.

**LEGISLATIVE BRANCH**
The Office of Legislative Services should make public testimony at budget hearings available online.

Put departmental responses to budget discussion points on the OLS Web site.

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**Executive Summary**

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**LEGISLATIVE BRANCH**
The Office of Legislative Services should make public testimony at budget hearings available online.

Put departmental responses to budget discussion points on the OLS Web site.
TAX EXPENDITURE REPORTING
Produce an annual report as an appendix to the Governor’s proposed budget to show how much money the state foregoes through various tax breaks, recognizing that tax expenditures are as much a part of the budget as appropriations.

FISCAL INCIDENCE REPORTING
Enact a law requiring an analysis every two years of how the overall burden of state taxes falls on taxpayers of various income levels. This analysis should also be prepared for any tax or fee that raises more than $1 million a year and for any bill or proposal that would increase, decrease or redistribute taxes by more than $10 million.

CURRENT SERVICES BUDGET
Require New Jersey to project the future cost of providing services now in the budget, taking into account expected changes in demand for particular programs as well as prices.

FEDERAL AND DEDICATED FUNDS
Identify each revenue source and expenditure individually and by the same name in both the Governor’s proposed budget and the actual appropriations act to make it easier to understand which revenues support which programs.

AVAILABILITY OF INFORMATION AND DOCUMENTS
The Governor’s budget and the appropriations act should do a better job of identifying the source in law for all programs in the budget so that the public can distinguish between programs that sound alike.

Prepare all reports as directed by law, making the findings available on the state’s Web site. If information is not yet available the Web site should say so and indicate when a report is expected to be available.

TRACKING SPENDING, SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS
Include in the Governor’s budget and online a one-page summary of current-year supplemental appropriations, showing how much money each department received and why.

Identify in the Governor’s budget the program and fund connection for every language provision in the budget.

The state should make available online no later than October 1 a close out document for the current fiscal year—making spending trends available about six months earlier than they currently are now. In this document would be included the original appropriation for each program included in the state budget, all supplemental appropriations and transfers and a brief explanation of why such actions were taken.

STATE REVENUE FORECASTING
Formalize the role of the Office of Legislative Services in revenue forecasting and require each outgoing Governor to publicly re-certify state revenues before the end of his or her term.

PUBLIC INPUT
Hold additional budget hearings at two points—prior to agency submission of their budget request to the Governor and prior to the Governor’s submission of his or her budget request to the Legislature.
Introduction

What is Transparency and Why Does it Matter?

A budget is arguably the most important document a government can produce. Through the budget, elected representatives and the officials they appoint set public priorities by determining what programs, services and other activities will be funded; what resources will be used to fund those programs; and how much money they will receive. For the most part, what is not in the budget will not be done. And anything that is in the budget but not adequately funded will have insufficient staff and resources to provide services, administer programs and enforce laws.

A state budget is both a document and a process. And it is important that both be understandable. In order to understand—and influence—public policy, citizens must be able to find out which governmental functions their taxes support and how much they cost if they are to believe their money is well spent and their input is important in setting society’s priorities. Nor is it enough that the information simply exists. It is essential that it be clear and accessible; that the budget process be responsive to individuals who are willing to invest the time and energy to educate themselves.

The inclination to know about what is in the budget and how it got there is not enough. Understanding the budget and the budget process takes time and perseverance. It is not easy. Indeed, as the problems requiring public attention grow more complex, understanding the budget is more difficult than ever—and more important.

In 1964, the New Jersey state government spent just under $1 billion in state and federal funds. By 1984 the amount rose to $10.3 billion. The state budget put forth early in 2004 called for spending $38.8 billion—including $26.3 billion in state funds and another $12.5 billion in federal and other funds. But while the pressure to do—and spend—more mounts, the availability of resources does not always keep pace. After strong growth throughout the 1990s, the increase in state revenues in the next decade fell to the lowest level in a decade. As in most states, this slowdown in the economy created a serious budget situation that forced policymakers to grapple with increasingly difficult financial circumstances. Cuts and freezes in spending as well as increases in taxes and fees have been and continue to be debated as a multitude of demands compete for increasingly scarce resources.

In this environment, it is particularly important for citizens and policymakers to have access to accurate, timely, meaningful information regarding tax and budget issues. States that provide such information in a straightforward, easily accessible manner are said to have budget processes that are transparent: people have a clear view of the fiscal choices before them and the consequences of the decisions that are made.

A transparent budget process facilitates discussion of the costs and benefits of government activities, allows long-term analysis of the effect of changes in taxes and other revenues on a state’s fiscal health and gives lawmakers the ability to make rational, informed decisions on behalf of their constituents. Budget transparency means both access to needed information and the opportunity to provide input at crucial points in the policy development process.

The question of budget transparency might seem at first like a debate among only dedicated observers of the driest of topics—like the quality of lengthy financial reports, the scope of analytic time frames and the accessibility of legislative subcommittees. But this perception only emphasizes the value of increasing transparency. High quality budget information
should be accessible to the many, not the few. A truly transparent process will not merely produce marginal changes in obscure areas; a more transparent budget can have a demonstrable impact on a number of vital elements of state finance, including:

**Fiscal Stability**

Poor state financial decisions are sometimes less a function of ill intent than a product of insufficient information. The state might, for example, adopt a policy that is affordable in the short run, but disastrously expensive in the long run—like a tax cut during a period of windfall revenues or enactment of a new program whose future costs will grow faster than available revenues. If the time frame in which the tax cut or new expenditure is analyzed does not include later years, the state might create a situation that will undermine the ability to maintain the level of future services.

**Informed Debate**

Meaningful citizen participation in debates over public funds requires both information about public funds and sufficient access to the policymaking process. Well-presented, understandable budget information allows people and groups to independently analyze state issues, bringing more perspectives and analyses of fiscal matters into the public realm. For those without access to traditional channels of political communication and influence, an open budget process might be the only means of effectively participating in the fiscal decision-making process.

**Accountability**

Effective democracy requires that elected officials be answerable to their constituents. But this cannot happen unless citizens can accurately evaluate decisions that have been made. The media and non-governmental institutions can facilitate public understanding of government decisions by using budget information to independently perform and disseminate analyses of fiscal information. Crucial aspects of public policy often lie in the details of public finance. Without access to detailed, clear budget and fiscal information, citizens are unable to fairly and independently judge the decisions of their elected representatives.

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**What Criteria are Important for Transparency?**

The Center on Budget and Policy Priorities (CBPP) has created a format to analyze whether budget information and processes are available and understandable. Among issues addressed are the availability of tax and revenue information; basic financial information; and data to put this information into context. Other important concerns focus on whether the state has an open and reliable budget process and whether key financial information is available during the decision-making process.

The format the CBPP developed creates a system that enables comparisons to be made of the transparency of state budgets and the processes that enact them. New Jersey was one of the early participants in this process. Part of the function of this report is to take shortcomings that were identified by the CBPP and suggest improvements.

States vary greatly as to how they address their budget requirements. Most states have balanced budget requirements, but, in effect, 50 different ways exist to get to that balanced budget. For example, 30 states have annual budgets while the rest produce two-year budgets.

Only 18 states enact a budget through a single appropriation bill. At the other extreme is Arkansas, where in 2003 some 1,164 separate pieces of legislation had to be filed in order to fund the state’s operations and infrastructure projects.

Estimating how much revenue a state can expect to receive over the budget period is done by consensus in 22 states, while 17 leave that responsibility solely to the executive branch.

In 28 states the appropriations bill is drafted by the executive branch, not the legislative, and almost every state gives its governor some sort of power to veto items from the budget.
Although most states require a simple majority vote of the legislature to pass a budget, in California and Rhode Island it takes approval of two-thirds of the body, and in Arkansas three-fourths.

Six states have no provision for public input on the budget.

This diversity in budget formulation means that understanding budget processes across the entire United States is obviously a big undertaking. It complicates state-by-state comparisons, which are then further exacerbated when information is either not available or not understandable. So it is just about impossible to say that a state has the “best” or “worst” budget system. But transparency should be a goal in and of itself, a way to bring to budget documents and the budget process more public capacity to understand how tax dollars are used and to articulate and advocate for priorities.

The Center on Budget and Policy Priorities and other budget experts have set forth important criteria to help promote transparency. They include:

- A published budget document, readily and inexpensively available to the public that facilitates citizen understanding of the broad areas of state government activity and also provides detailed information about how the state plans to raise and spend money and the reserves that will be on hand when the budget period is over.

- Projections into the future of how much revenue the current tax law will raise and what would be needed to maintain the existing level of state service in the years to come, known as a “current services budget.”

- Future projections of the state’s revenues, expenditures and financial reserves if the proposed budget is enacted.

- Readily available data on revenues and expenditures for past years that are comparable to the categories in both the budget itself and in other longer-range projections, so that long-term spending and revenue trends can be understood.

- Published information on the economic and demographic assumptions underlying both the proposed budget and forecasts of taxes and spending.

- An ability to track changes in tax and expenditure policy as the proposed budget moves through the legislative process, through either fiscal notes or fiscal impact statements which accompany bills whose provisions will have a financial impact on government resources prepared by an independent, nonpartisan fiscal analysis agency.

- Publication of the enacted budget as well as reports on changes made to that budget in legislative sessions leading up to its enaction.

- Analyses of how the state’s current tax system and any proposed changes to it affect people at various income levels.

- Information on revenue the state foregoes—called tax expenditures—in the form of tax reductions, credits or exemptions from the standard or normal structure of the state’s major taxes given to particular individuals or entities.

- Tax and spending analyses and forecasts prepared by an agency independent of the executive branch and partisan legislative committees.

- Processes that allow adequate time for legislative and public review of, and input on, the budget.
New Jersey’s Budget

According to data compiled by the National Council of State Legislatures (see Table 1 on pages 33-34), New Jersey is:

- One of 30 states that enacts a budget annually.
- One of 17 states in which the Governor has primary responsibility for developing the official state revenue forecast.
- One of 29 states where the official state revenue forecast must be used in formulating the budget.
- One of 18 states where a single appropriations bill is produced.
- One of 15 states where a nonpartisan office drafts the appropriations bill.
- One of 14 states where bills that differ between one house of the Legislature and the other do not go to a conference committee for resolution.
- One of 47 states that pass the budget with a simple majority vote.
- One of 43 states that allow the governor to veto funding for a particular line item and an entire program or agency.
- One of 43 states that permit public input in the budget process.

Each year the Governor proposes a plan for how to raise revenues to finance the state government for the 12-month period that begins the next July 1. In recent years, this document has been over 700 pages and divided into nine sections including revenues, expenditures, debt service, special language and special funds. Every line item in the budget shows the previous year’s expenditure and the current year’s, as well as how much is proposed to be spent in the year ahead.

The budget also contains what is called evaluation data—for example, the average number of households participating in the Food Stamp Program, the number of NJ SAVER rebate checks issued, the number of state employees performing a particular function or the number of students attending Rutgers University. There are four years of such data: the two past years, the current year and year covered by the proposed budget.

Preceding the actual budget is a shorter publication called the Budget in Brief, a narrative that promotes the Governor’s budget plan by highlighting key programs and initiatives.

New Jersey makes these documents available via the Internet and in published form. The documents are extensive and detailed and include supporting graphic and text information. The first section of the Governor’s proposed budget is a user’s guide, which provides basic information about how New Jersey state government is organized; what the state budget process is; how the budget itself is put together; and how to read budget tables. It also includes a glossary of terms to help the uninitiated understand much of the jargon used in budgets.

Although the budget is available online, downloading a 700-page document from the Internet is expensive and time-consuming. However, to get a bound copy of the budget, one must go to the State Treasurer’s office, which is not the same place as many other state publications can be obtained. A more transparent budget process would mean greater ease in picking up all state documents.
In New Jersey, the spending plan recommended by the Governor and the subsequent appropriations act passed by the Legislature is a single document that includes all revenues and appropriations for all state departments, transportation funding, all state-appropriated capital expenditures and debt service. It is the only bill in New Jersey adopted each year that takes a comprehensive look at New Jersey state government in its entirety and every program that requires funds.

Unlike in some states, new laws are never enacted through New Jersey’s annual appropriations act. A new program initiative can be funded one year at a time through the appropriations act but for a program to become permanent, it must be enacted through separate legislation. The purpose of the budget is to fund existing programs and short-term initiatives and not to change laws permanently.

Not included in New Jersey’s annual budget are the spending plans of such state authorities and commissions as the New Jersey Sports and Exposition Authority and the Economic Development Authority. Only if the state makes an appropriation or gives spending authority to these organizations are they mentioned. While, technically speaking, money spent by authorities and commissions is not part of the New Jersey state government in its entirety and every program that requires funds. A transparent budget process would recognize this reality.

Many state programs are supported by trust funds that are set up using earmarked revenue sources—taxes that are levied for a specific purpose. It has become common practice to divert these earmarked funds for purposes not specified directly by what is called enabling legislation. Since 1992 over $4.3 billion has been diverted from the Unemployment Insurance Trust Fund; since 1994, $363 million has been diverted from the Temporary Disability Insurance Fund and since 1999, $85 million from the Workers’ Compensation

In addition to the state funds used to support public programs, other resources such as proceeds from the state Lottery and New Jersey’s share of the settlement with tobacco companies are available. For example, Lottery funds are available by law in New Jersey to support education and institutions. Included each year at the back of the Governor’s proposed budget is a list of programs to which these funds can be provided, but the need is significantly greater than the available funds. On page H-60, the Governor’s FY 2005 budget estimates that the state will collect $795 million, which will support only a portion of the almost $2 billion needed for educational and human services needs.

Information on New Jersey Transportation Trust Fund Authority expenditures is included on page H-61. The Authority uses dedicated motor fuels taxes, petroleum products gross receipts taxes, sales and use taxes and bonds to fund state highway, bridge and public transportation projects. In FY 2005 the Governor’s budget recommends Department of Transportation expenditures of $1.2 billion and Transportation Trust Fund expenditures of $2.4 billion. Nowhere is the connection between these expenditures explained.

Recommendation: Set up a central location with an office and phone number where printed copies of all state documents are available to the public in a timely way. And it should be possible to order a bound version of the budget from the state’s Web site.

Recommendation: To present a more complete picture of the state’s available resources and potential liabilities, include as an appendix to the Governor’s proposed budget information on all authorities and commissions—whether they receive a state appropriation or not. This information should include but not be limited to a listing of the resources they have available to them, their staff and salaries and programs they administer.

Recommendation: Provide in the budget more information about revenues collected and programs supported by such alternative resources as the Lottery and the New Jersey Transportation Fund. In the case of the State Lottery Fund, the budget should be more explicit in explaining which programs will be supported when needs are greater than the resources. Because transportation expenditures are supported by dedicated taxes, the Transportation Trust Fund display should indicate how much is collected and dedicated from each of those sources for transportation needs. In each case, information from the prior year should be provided.
Fund. Each of these diversions has been accompanied by enabling legislation; however, sometimes language is included in the annual budget directing the action.

For example, $325 million from employer and employee contributions that would have otherwise been earmarked for the Unemployment Insurance Trust Fund was diverted in FY 2004 to help support health care programs; $30 million was diverted from the State Disability Benefits Fund to the General Fund for use by no particular program; and $4 million was transferred from the Catastrophic Illness in Children Relief Fund to help support the Early Childhood Intervention Program. No language is included in the budget for the first diversion but language was included for the latter two. Because of this seemingly arbitrary decision about what language to include and what not to include, it is often difficult to follow the money. In FY 2004, the budget’s index included no reference to the Unemployment Insurance Trust Fund, the State Disability Benefits Fund or the Catastrophic Illness in Children Relief Fund. With no clues on where to find these programs, locating this information can be very time consuming.

**Recommendation:** Include in the budget a table listing all diversions from trust funds—including where the funds come from and go to, and the reason for the diversion. All language in the Governor’s budget should include an account number—as the Appropriations Handbook does—to make it easier to identify the impact of language on a program’s funding.

States vary according to who writes the appropriations bills that are introduced in their legislatures. In about half of the states, the executive branch drafts the appropriations bill; in 15 states a nonpartisan fiscal office writes the bill; and in another 13 legislative committee staff draft the bill. In New Jersey the nonpartisan Office of Legislative Services drafts the bill under the direction of the legislative budget committee chairs.

In New Jersey the power to appropriate public funds is strictly legislative. But the state Constitution provides for sharing responsibility between the Legislature and the Governor. As with any law, the budget is enacted through the combination of two events taking place: passage of a bill by the Legislature and the Governor’s signature on the final product.

There are two significant limitations on the Legislature’s role in the budget process. One is that the New Jersey Constitution states that appropriations made by the Legislature cannot exceed the total amount of revenue on hand as certified by the Governor—that the budget must be balanced. When the Governor signs the appropriations act at the end of June, he or she is not just signing a bill into law, but also certifying the amount of revenue the Governor predicts the state will take in over the course of the fiscal year. The figure might turn out to be overly optimistic or pessimistic, but in the end the Governor alone gets to determine the number.

After the budget bill is passed by the Legislature and sent to the Governor’s office for his or her signature, the second limitation on the Legislature comes into play. The Governor can at that time change the bill using the line-item veto power which allows him or her to eliminate any program or language, and to cut—but not increase—any spending.

Even though the President of the United States is denied line-item veto power by the U.S. Constitution, the governors of 43 states and Puerto Rico have some form of line-item veto power according to the National Association of Budget Officers. New Jersey is one of only three states where that power can be used to actually change the Legislature’s intent. For example, the Governor of New Jersey can remove the word not and in so doing reverse what legislators wanted to do. Line item veto power keeps the balance of power in New Jersey with the Governor because he or she can eliminate entire programs added by the Legislature. If that happens, the Legislature’s only recourse is to override the veto, which can be done only by a two-thirds majority vote in each house.

**Legislative Branch**

“Governor McGreevey’s proposed 2005 spending plan will take effect July 1 after tinkering by the Legislature.” (By Joe Donahue, Star-Ledger, Feb. 23, 2004, italics added)

This is how a veteran newspaper reporter described the budget process in New Jersey the day before the Governor presented his FY 2005 spending plan to the Legislature. The combination of powers granted to the Governor in New Jersey reveals the appropriateness of the article’s verb choice. Although the Legislature has the power to draft an entirely new budget if it chooses, this almost never happens. Nor is it likely to happen without considerable change in the process. In some states, the legislature receives the budget from the governor and ignores it. This is not the case in New Jersey.
For various reasons, including the Governor’s line-item veto power, his power to certify revenues and the power inherent in being New Jersey’s only statewide elected official other than the two U.S. Senators (most states elect at least one other statewide official, usually a lieutenant governor plus the attorney general and often other cabinet heads), the budget enacted by the New Jersey Legislature is substantially similar to that proposed by the Governor.

Although it is understood during legislative hearings that the Governor’s proposed spending plan is the reference against which discussion takes place, the Legislature does not ever introduce the Governor’s actual proposed spending plan as a bill—but the bill that is introduced is usually very similar. Budget hearings take place only in the two budget committees and, because there is no actual bill to reference, there are no amendments to the bill.

In New Jersey, new state programs and policies that appear in the budget are generally executive branch initiatives. Although the Legislature today, as opposed to a generation ago, has the staff capability to initiate and analyze policies, it often still lacks access to the information necessary to make significant, well-informed changes in what the Governor has proposed. Indeed, staff people who have moved from the legislative to executive branch often remark about how much more information is available to them in their new jobs. And sometimes the Governor’s initiatives—such as securitizing future revenues or public pension adjustments—are so large in terms of their revenue implications and so difficult to explain that legislators simply go along because they feel they have no alternative. This leaves legislators to tinker around the edges, often confining their activities to trying to add specific appropriations desired by the constituents they represent back home.

But while the Legislature’s involvement with the budget is more limited than that of the executive branch, the period of review is a more public process. More than four months elapse between the Governor’s budget address—where he outlines his spending plan—and actual introduction and passage of a bill by the Legislature. During this time, the Senate and Assembly Budget Committees hold hearings and review the Governor’s proposal. As part of this process, they listen to citizens in a series of public sessions in various locations throughout the state, hear testimony from the State Treasurer and the Office of Legislative Services on revenue projections and question most state department heads about proposed programs and expenditures.

In New Jersey, the task of analyzing the Governor’s proposed budget and drafting the Legislature’s product falls to the staff of the nonpartisan Office of Legislative Services. They independently examine and forecast revenues and make these estimates available at the public budget hearings. They also write analyses of each department’s expenditures, which are available at the public hearings and on the OLS Web site.

In addition to the Legislature’s nonpartisan analysts, the Democrats and Republicans in each house have their own budget directors and staff, who guide the budget through public hearings and help legislators make policy decisions that determine what is funded and how the budget process progresses.

Except for the requirement that New Jersey’s budget be a single, annual, balanced document, no constitutional or statutory standards or rules determine the content or format of the annual appropriations bill. Much is done simply by custom. Traditionally, the content of the bill is set up to conform to the general organization of the Governor’s proposed budget—making it easier to compare the documents.

The comparison still is not easy. The Governor’s budget organizes information by department and division and the total for the department includes both dedicated and federal funds. The appropriations act focuses at the division level; does not include dedicated funds at all; and includes federal funds only as a separate section at the end. These differences make it challenging to understand the budget’s bottom line. An additional problem in understanding the budget’s impact is that the appropriations act does not include evaluation data showing the impact of legislative changes.

Although the organization of the budget has changed over time, the general format and content have remained consistent. Prior to FY 2000 the Governor’s proposed budget sepa-
rated expenditures by fund (General Fund versus the Property Tax Relief Fund, Casino Revenue Fund and Casino Control Fund) and purpose (general operations, state aid, grants-in-aid, debt service and capital). Starting in FY 2000, all appropriations were grouped according to the responsible department, no matter what the funding source or purpose. This change permits people to more easily see the full level of funding provided to programs that are supported by several sources—such as various programs for senior citizens that are funded by revenues from both the General Fund and Casino Revenue Fund.

The budget committees of the Legislature, either jointly or separately, hold public hearings, generally one each in northern, central and southern New Jersey. At these sessions, members of the public are permitted to critique the Governor’s budget, request funds for a special project and offer spending alternatives. These hearings are organized by the Legislative Budget and Finance Office (LBFO) of OLS within weeks of the Governor’s budget address.

In 2004, the Senate budget committee held two public hearings and the Assembly budget committee held three. Some 149 people testified at the Assembly hearings and 131 at the Senate hearings, with many speaking at both. An additional 37 people who did not attend the hearings submitted testimony. This compares less favorably to the 210 people who testified at the three public hearings held by the Senate and the 55 people who submitted testimony in 2003. These hearings can influence the way resources are allocated. Indeed, there have been cases where one person’s testimony was so compelling that a need was recognized and funded. In addition, the information provided by informed members of the public can be useful.

The LBFO has recently made this written testimony available to legislators in CD format. And OLS has made participation in hearings easier by allowing registration to be done online or by phone. But further steps could be taken to improve access to the process.

After the sessions where members of the public are allowed to speak, members of the Governor’s cabinet appear before the committees to represent their department’s budget. Some years ago, commissioners were given more latitude to represent what they felt were the needs of their department. More recently commissioners appear before the Legislature to justify what the Governor has recommended for the department—after prioritizing the needs of all programs.

The current format of the Governor’s budget includes more spending data than is useful for the proposed fiscal year but does not include enough information on the current fiscal year—which serves as the basis usually for the proposed appropriation. The budget includes two columns of data for the proposed fiscal year—the amount requested by each department and the amount recommended for it. In the past, these numbers were not the same, with the difference reflecting what a commissioner felt was needed to achieve his or her department’s objectives.

Currently the information presented in the two columns—requested and recommended—is generally the same and commissioners in their testimony defend the Governor’s recommendation. Given that the two figures are virtually identical, the budget format could be changed to be more meaningful by including additional information on current budget expenditures.

One of many examples is shown below. In FY 2003, the Legislature appropriated $26.4 million as State Aid to the Early Childhood Intervention Program in the Department of Health and Senior Services. Because the amount was inadequate, a $15 million supplemental appropriation was passed—increasing the amount available for that program to $41.4 million. Additional discussion on supplemental appropriations follows on page 27.

Current format:

<table>
<thead>
<tr>
<th>Health and Senior Services – State Aid</th>
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<tbody>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Early Childhood Intervention Program</strong></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td>Early Childhood Intervention Program</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Note: See page D-185, Governor’s Budget, FY 2003-2004. The “s” represents a supplemental appropriation for this program.
Under the current format, $42.9 is both requested and recommended in FY 2004. This program is described as a federal mandated entitlement which provides services for infants and toddlers up to age three who may be developmentally disabled. But it is difficult for someone not familiar with this program to find out how many children are served and what services are offered. In fact it is very difficult to tie evaluation data with the funds appropriated. And nowhere is there an explanation of why the program needed or received a $15 million supplemental appropriation.

The proposed format would include two columns for the current year budget and would tie the 2003 appropriation to the number of people served by the funds appropriated by the Legislature, with an adjustment for the number of people served by the supplemental funds. The funds recommended would continue to show the number of people served by the amount recommended in the proposed budget.

Proposed Format:

<table>
<thead>
<tr>
<th>Health and Senior Services – State Aid</th>
<th>2003</th>
<th>2004</th>
<th>2003 Adj.</th>
<th>2004 Recommended</th>
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</thead>
<tbody>
<tr>
<td>Prog Class</td>
<td>Approp.</td>
<td>Approp.</td>
<td>$000</td>
<td>$000</td>
</tr>
<tr>
<td>Early Childhood Intervention Program</td>
<td>02</td>
<td>26,446</td>
<td>15,000</td>
<td>42,946</td>
</tr>
</tbody>
</table>

OLS provides the budget committees with analyses of each department’s budget for each of the hearings. These analyses contain a description of the department’s programs and the new spending and language initiatives. Also included are discussion points that analysts feel are important because of their fiscal impact on the state or because of other policy considerations. Commissioners are required to respond to these points in writing prior to their budget hearings.

The Legislative Budget and Finance Office recently has been making the responses to comments available to members of the public on request. Their usefulness in clarifying inadequate or confusing information sometimes can improve the public’s understanding of how state resources are used.

Recommendation: Eliminate from the Governor’s proposed budget the “requested” column of data for the proposed fiscal year and replace it with a second column for the current fiscal year: one column showing the amount appropriated in the bill passed by the Legislature, the second showing all adjustments to that amount—including those that have taken place and those that are expected to take place by the end of the current fiscal year. This change would make it easier to understand where additional funding has been needed in the current fiscal year, where additional funding comes from and would make current year spending decisions more transparent. Each supplemental appropriation(s), transfer(t) and salary program allocation(a) should include a footnote briefly explaining the source of and rationale for the additional funds.

The availability of useful information varies by department and by the demands of the budget committee chairs. Committee chairs can request OLS to write analyses on any topic of interest to them. When Rep. Rodney Frelinghuysen was in the Legislature and chaired the Assembly Appropriations Committee, he held briefings prior to each department’s hearing for legislators and requested special reports on topics ranging from pension reform, labor issues and state aid. All of these reports were available to the public.

Because the Governor’s budget is never prepared as a bill, no actual legislation exists as budget hearings take place—so there are no amendments to the budget bill and there is no way to track changes. Often the Governor’s budget requires enacting tax and fee changes which must be introduced as bills separate from the budget and passed by the Legislature at the same time as the budget in order for the budget to be balanced.

The appropriations bill is generally drafted by OLS in June under tight time pressure. And because OLS work products are confidential, the appropriations bill is not public until its sponsor introduces it in committee. At that point, most of the decisions on the appropriations act have been made through a negotiating process between legislative leaders and the Governor.
New Jersey is one of 14 states where bills never go to a conference committee because only one appropriations bill is ever considered. The majority party essentially drafts one bill that is then introduced in each house’s budget committee more or less as a finished document. Each house then votes on that bill. Members of the minority party often verbally express objections to provisions in the bill and do not vote for it, but they are very unlikely to introduce their own bill.

During the budget process, the Office of Legislative Services prepares the Final Budget Summary: Appropriations and Language Changes that tracks changes in appropriations and language and is available shortly before each budget committee meets to consider the appropriations bill. The report lists these changes by department, showing the Governor’s budget message, legislative additions and deletions included in the appropriations bill and the difference. It is a quick reference for the changes made in the bill and is usually in the legislative bill room before the bill itself is actually available. It is available online but generally only after the budget bill has been signed by the Governor.

The following is an example from the FY 2004 Final Budget Summary: Appropriation and Language Changes. The report shows that the Legislature increased the FY 2004 appropriation for the Division of Youth and Family Services (DYFS) Reform Initiative by $10.5 million, from $14.3 million to $24.8 million; that the change in funding was accompanied by language; and that the language allows the administration to determine how child welfare funds actually will be spent with no legislative oversight. If this language were not included, either the department would have to list a specific appropriation for each program in the budget or it would have to get approval from the Legislature to transfer funds among the programs.

### Final Budget Summary: Appropriations

<table>
<thead>
<tr>
<th>Comparison of Budget Amounts</th>
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</table>

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Synopsis</td>
<td>Lang</td>
</tr>
<tr>
<td>DYFS Reform Initiative</td>
<td>Yes</td>
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</table>

### Final Budget Summary: Language

<table>
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<th>Comparison of Budget Amounts</th>
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<tbody>
<tr>
<td>DYFS Reform Initiative Transfer Flexibility Language:</td>
<td></td>
</tr>
<tr>
<td>HUM50#55#75700:</td>
<td></td>
</tr>
<tr>
<td>Notwithstanding any other law to the contrary, amounts may be transferred from the DYFS Reform Initiative account to the Family Support Services, Child Abuse Prevention, Foster Care, Subsidized Adoption, and Residential Placements and Other Residential Placements grant-in-aid accounts, subject to the approval of the Director of the Division of Budget and Accounting.</td>
<td></td>
</tr>
</tbody>
</table>

Source: http://www.njleg.state.nj.us/legislativepub/budget/finalchn04.pdf
Because the appropriation act is not a public document before it is introduced and few changes are made after it is introduced, all final budget decisions are made behind closed doors without public access.

Normally the bill is introduced for the first time seven days before the final floor vote at the end of June. In New Jersey the Governor can sign the bill on the same day it is passed in the Legislature or a few days later, depending on how close to the June 30 deadline the final vote occurs. And, although occasionally the Legislature has “stopped the clock” for up to 12 hours in order to pass a budget bill (in effect, simply pretending the time has not passed), New Jersey has never missed the June 30 deadline—unlike New York and California which have missed their deadlines by days, weeks and even months.

The appropriations act always includes many pages of additional appropriations for local projects, programs and initiatives—known as Christmas tree items—which help to build goodwill with local constituents. The party in power receives a larger share of the funds available for such purposes.

From what has been presented so far it might seem that all that is needed to make New Jersey’s budget process more transparent is some tweaking here and there. And it is true that many procedures that are followed are relatively clear-cut. But serious complications arise from insufficient data, inability to interpret existing data, failure to understand interrelationships between funds and programs and a budget process that can at key points be hard to follow.

We turn now to areas where more can be done to improve the quality and quantity of information available and to facilitate understanding of state services and how they are financed.

Tax Expenditure Reporting

The most commonly understood form of government expenditure is a simple transaction: the government pays someone to do something, buys a particular item or gives out the dollars that start or maintain a program. But in addition to direct payments there also are forms of government spending administered through the tax code. Basically, any money the government did not take in because it provided some form of tax break is called a tax expenditure. As with other spending, granting a tax expenditure reflects the government’s priorities. If a state chooses not to impose sales taxes on prescription medicine or grants a tax credit to certain types of small businesses, it is making choices just as if it were choosing to fund or not to fund a program. As this plays out in budgetary matters, a tax expenditure report provides a comprehensive list of revenues that a state does not collect because of tax policy decisions.

The federal government, 36 states, and the District of Columbia recognize the validity of knowing and making public the revenue foregone through the tax code. The federal government has produced tax expenditure budgets since 1975. California was the first state to do so in 1976. State reports range from a two-page list to a 200-page analysis.

New Jersey is one of the 14 states that do not produce some form of regular, detailed report of all revenues lost as a result of exemptions, credits and deductions.

Estimates of tax expenditures provide a measure of the economic benefits that are provided through the tax laws to various groups of taxpayers and sectors of the economy. These estimates are useful in determining the relative merits of achieving specific public goals, either through direct appropriations or by providing tax benefits. It is difficult to make a rational
decision about whether a program is useful or not if no record exists of how much revenue is foregone through the tax code.

Tax expenditures take many forms, including the simple fact that we tax some things and not others. In some instances a specific reason exists. The federal government wants to encourage home ownership so it allows homeowners to deduct mortgage payments and real estate taxes from their personal taxable income. Because this lowers homeowners’ taxable income, the federal government loses a substantial amount of potential revenue.

Similarly, local governments lose property tax revenue because the state has determined that certain classes of property—church, educational, nonprofit—should not pay property taxes. More than 75 percent of Newark’s property is tax exempt. The sales tax, too, yields examples of tax expenditures. If you rent a room at a bed and breakfast in Cape May you pay sales tax; if you rent a studio apartment without maid service you pay no sales tax. Another type of tax expenditure is represented in the tax credits, deductions and exemptions given to individuals and businesses to encourage certain types of investments or in return for a business deciding to locate in New Jersey.

Because tax expenditures are part of the tax code, they tend to be invisible—which protects them during difficult economic times when revenues are lacking. Once in place they receive little scrutiny because few know their cost and they often need no reauthorization.

Take for instance tax-exempt property. According to the 2001 Abstract of Ratables, state law exempts $74.2 billion in schools, churches, graveyards and public buildings from local taxation—no local property taxes are collected on these properties although they all use local services to some extent. The simple effect of this is to raise taxes on other property and in effect subsidize the property that is not taxed.

Some states’ tax expenditure reports show how much local governments lose by exempting property and what the impact is on taxpayers. While it is possible taxpayers might want to continue the status quo, if they do not know the additional taxes they pay because not all property is taxed equally, they cannot make an informed decision. Knowing that local governments could collect substantial additional revenues by disqualifying certain classes of tax exempt property is important.

Comprehensive state budget documents would show that these decisions have a financial cost to the state. But while the New Jersey budget includes the traditional line items that show money spent, it makes no provision for tax expenditures. With effort, it is possible to understand how much money is appropriated directly to most programs. But no amount of effort will tell someone reading the state budget how much money is foregone due to different kinds of tax policy.

Recommendation: Produce an annual tax expenditure report as an appendix to the Governor’s proposed budget to provide a fuller accounting of the fiscal decisions the state makes.

This report would include a comprehensive list of these expenditures. It would, for example, estimate how much more property tax municipalities would collect if certain property were not tax exempt; how much the state could collect if people renting a house at the shore for a week paid sales taxes on that rental; how much the state’s research and development tax credit for businesses is costing; how much the state could collect by imposing a sales tax on products and services currently not taxed. It is particularly important to show these costs because they recur automatically, unlike budget items that exist only if they are reauthorized annually. Tax expenditure reports should cover both state taxes and the cost of conforming to federal tax laws. Both past and projected future costs should be provided.

In most states, the reports contain a list of all tax expenditures, the authorizing statute, an explanation of what each expenditure does and an estimate of its cost. Some state reports also include the purpose of each preference, an assessment of the expenditure’s effectiveness in achieving its purpose and analysis of the quantity and socio-economic status of people benefiting from the tax expenditures.
Oregon’s detailed report, available online, includes the purpose of each tax expenditure, who it benefits, an evaluation of whether the expenditure is achieving its purpose in the most fiscally effective way and a listing of exemptions by program or function. The tax expenditures are grouped by category: education, human resources, economic and community development and transportation. The Oregon tax expenditure report contains recommendations from the governor about whether to extend tax expenditures or eliminate those that have a set time to expire unless they are renewed. Oregon’s most recent report estimated that it would lose approximately $20 billion from 293 tax expenditures. An example from the Oregon report appears on page 20.

Delaware’s tax expenditure report looks at vertical and horizontal equity: how the breaks affect different people and firms who make the same amount of money, and how they differ among firms in different lines of work. The report also deals with simplicity, economic efficiency, whether the preference promotes economic growth and whether it has any inadvertent effects. The chapter on personal income tax preferences tries to determine whether people at middle and high-income levels are benefiting from tax expenditures intended for poor people. The chapter on corporate income tax examines whether preferences given to businesses provide incentives for behavior they would engage in even without the breaks.

In one section of its report, Louisiana compares its tax expenditures to those of other states in its region. The legislature in Arizona reviews each income tax credit every five years and recommends whether the expenditure should be amended or repealed based on whether the credit is accomplishing its purpose and whether it is unnecessarily complicated.

Michigan, Minnesota, Montana and Texas provide information about the number of taxpayers or households benefiting from each tax break and from what income level the beneficiaries come. Michigan also includes information about how property tax credits are distributed among counties. The tax expenditure budget in Michigan has been published annually since 1978 as a 100-page appendix to the governor’s budget. Michigan estimated it would lose approximately $27 billion in Fiscal Year 2004 from exclusions, deductions, exemptions, credits, deferrals or lower tax rates given to businesses and individuals.

The governor of Washington reviews tax expenditures every four years and makes recommendations to the legislature if any should be repealed. The state recently released a report estimating that the state foregoes almost $65 billion annually through the 503 tax expenditures identified in its report.

California actually produces two tax expenditure reports—one written by the Legislative Analyst’s Office; the other by the Office of Fiscal Analysis in the executive branch.

A good explanation of the need for this kind of reporting appears in the 2001 Delaware Tax Preference Report (p. I-2):

“When viewed in isolation, a tax preference may have considerable merit and may be motivated by the best of intentions. But ad hoc preferences incrementally add to the complexity of the tax code and may threaten its fairness, distort decision-making, and gradually erode the tax base. Before long, the fundamental objectives of a tax system – equity, efficiency, simplicity and adequacy – may become compromised. Periodic review is necessary because time can dramatically alter the complexion of tax preferences. Tax breaks for a select and small group of people can grow quickly into expensive entitlements as demographic and/or economic conditions on which the preference is based change over time.”
Earned Income Credit

Oregon Statute: 315.266
Sunset Date: None
Year Enacted: 1997

<table>
<thead>
<tr>
<th></th>
<th>Corporation</th>
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<tbody>
<tr>
<td>2001–03 Revenue Impact:</td>
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<tr>
<td>2003–05 Revenue Impact:</td>
<td>Not Applicable</td>
<td>$17,200,000</td>
<td>$17,200,000</td>
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**DESCRIPTION:** A personal income tax credit is allowed for families that are eligible for the federal earned income credit. The state credit is equal to five percent of the federal earned income credit but is nonrefundable. No carryover is allowed for unused amounts that exceed tax liability.

The amount of the federal credit allowed declines as the amount of total earned income, both taxable and nontaxable, increases. For taxpayers without a qualifying child, some credit is allowed for total earned income up to $10,710 in 2001. For taxpayers with one qualifying child, some credit is allowed for total earned income up to $28,281 in 2001. For taxpayers with two or more qualifying children, some credit is allowed for total earned income up to $32,121 in 2001.

**PURPOSE:** To increase after-tax incomes of low-income working families and individuals, to offset the burden of Social Security taxes, and to provide an incentive to work for those with little or no earned income.

**WHO BENEFITS:** In 1998, about 156,000 full-year resident taxpayers claimed an average credit of $64. In 2000, the number of claimants declined to 148,000 while the average claim increased to $66. Because many of the families claiming the credit do not have sufficient tax liability to use the full amount of the credit, the average tax benefits for 1998 and 2000 were $45 and $46, respectively.

<table>
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<tr>
<th>Income Group (Quintiles)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
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<tr>
<td>Below $10,000</td>
<td>52,399</td>
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<td>$10,000 - $22,000</td>
<td>62,472</td>
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<tr>
<td>$22,000 - $37,000</td>
<td>33,235</td>
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<td>$37,000 - $63,000</td>
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</tr>
<tr>
<td>Above $63,000</td>
<td>0</td>
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</tr>
<tr>
<td>Total</td>
<td>148,106</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

**EVALUATION:** This tax credit allows low-income families to retain needed income to meet needs that otherwise may go unmet or cause them to return to public assistance. Many of these at risk families have income below the income level where they must pay taxes, and therefore do not benefit from this credit. By providing this credit, families with income exceeding the income level where taxation begins will retain more resources to better ensure their continued self-sufficiency.

W\textsuperscript{h}ile it is not difficult to figure out which people, groups or businesses directly benefit from any particular program or government expenditure, experts in public finance recognize it often is difficult to determine who bears the ultimate burden of a tax or a tax expenditure. The effort to find this out is called incidence analysis.

The federal Treasury Department and Congress’s Joint Committee on Taxation provide information on how major federal tax proposals affect taxpayers at a variety of economic levels. States have been less willing to embrace this concept, with only a handful having developed the capacity. Only Colorado, Maine, Minnesota, Oregon, Texas and Utah require that a distributional analysis of their tax laws, formally called a tax incidence study, be conducted. Although Delaware does not do a separate tax incidence analysis, its tax expenditure report tries to determine who benefits and who loses from the state’s various taxes and expenditures.

In some cases fiscal incidence reports are triggered by law when there is a proposal to raise or lower taxes by a certain amount. In Texas, the law requires the state Comptroller to provide estimates prior to each regular legislative session. In Minnesota the commissioner of revenue must report to the legislature by March 1 of each odd-numbered year.

Tax or fiscal incidence reports can show how the benefits of a particular tax policy are distributed among taxpayers at different income levels. With the exception of a fiscal incidence report prepared in 1987 by the New Jersey State and Local Expenditure and Revenue Policy Commission, this type of reporting is not done in New Jersey.

Incidence reporting takes into account that taxes have two direct economic effects. First, they alter the price of goods and services. For example, if two companies produce the same product and one company is taxed while the other is not for some reason, the first company may be able to sell its products for less money, attract more customers and make more money—but this would be at the expense of its competitor and might not serve the public interest. Second, to the extent that virtually every tax takes more income from some groups than others, it alters the distribution of income.

To make informed decisions about raising or lowering taxes, it is important to know the distribution of who pays or will pay the taxes. For example, a tax incidence study might show that the benefits of a new law enacted to reduce property taxes accrue disproportionately to wealthier owners of large homes, while lower-income persons who usually rent their housing receive a lower proportion of the benefits.

The closest New Jersey comes to regular incidence reporting is a law that took effect in 1980 and requires determining the
fiscal impact of a piece of legislation if the measure might increase or decrease either expenditures or revenues by the state or any political subdivision. About a third of the bills introduced have been certified for such fiscal notes. Although it is the responsibility of the executive branch to prepare these fiscal notes, in practice considerable variation exists among the departments. But this falls far short of a systematic analysis of how the burden of taxation falls on citizens and businesses, and whether tax policies are having the effect their supporters promote.

Recommendation: Enact a law requiring an analysis every two years of the overall incidence of the income tax, sales and excise taxes, corporate business tax and the property tax. This analysis should also be prepared for any tax or fee that raises more than $1 million annually. In addition, an analysis should be required for any bill or proposal that would increase, decrease or redistribute taxes by more than $10 million.

This type of analysis is valuable on two levels. First it is important to know how New Jersey as a state compares to other states in the amount it taxes and who pays these taxes. This comparison would include tax rates, income levels at which those tax rates change and what exemptions and deductions are allowed. Similarly, if New Jersey raises its gas tax, what percent of the new revenue collected is paid by New Jersey residents and what percent is paid by people who are simply driving through New Jersey? An incidence analysis would provide this information.

The second level of analysis tells within the state what income class bears the burden of tax and spending decisions. If state income tax rates are raised on households with incomes of $1 million or more to pay for property tax relief but property taxes are reduced for rich and poor alike, a fiscal incidence analysis can demonstrate who ultimately wins and loses. New Jersey does not levy a sales tax on food but in states where food is taxed, ultimately poorer people are hurt most because food purchases account for a larger proportion of their income than for wealthier people. But there have been proposals to levy a tax on food and set aside some of the revenue collected. This revenue could be used to provide a benefit to poor people that could more than offset sales taxes they pay.

A fiscal incidence analysis is yet another useful tool for determining whether state budget expenditures are equitable, appropriate and adequate.

Current Services Budget

It can be assumed that any governmental program worth having is worth having for as long as it is needed. This could be years or decades, but the decision on how much money to put into such programs occurs along a much shorter time frame. What is called a current services budget addresses this problem by estimating how much it would cost to continue to provide the current level of services to future populations at future prices. Such a budget would reflect the cost of maintaining existing service levels, taking into account anticipated changes in such factors as population and inflation. Alternatively, a current services budget would show the future impact on beneficiaries of government services of across-the-board funding cuts that sometimes are used to solve budget problems. This has the potential to promote better long term planning because it shows how resources might need to be allocated in the future. In some instances this can serve as a check against the priorities set by an administration.

For example, while state revenues might increase at five percent per year, a program that provides health services to the elderly might need to increase in cost at 10 percent per year. Why? Because the number of older Americans is projected to
increase as the baby boom generation retires, and health care costs are rising faster than the overall inflation rate. A long-term, current services budget would reflect these trends, and help ensure that enough money is allocated in the budget to accommodate them.

Current services budgets also allow an accurate assessment of budget priorities. For example, one might assume equal treatment in the budget of two day care programs—one for the elderly and one for children—if the budget recommends a five percent increase over the amount spent in the prior fiscal year. But if the number of elderly needing care is growing faster than the number of children needing care, the impact on these two groups will be quite different. A current services estimate could show that the true cost of maintaining existing service levels is not equal and that resources should be allocated differently.

Knowing the future cost of programs is particularly important for expanding potentially expensive programs. From the “big-picture” perspective, current services budgeting allows lawmakers to understand the total cost to the state of maintaining existing service levels in future years, recognizing that there is little that is static about public needs and the cost of meeting them.

The budget proposed by the Governor and ultimately passed in New Jersey is in some respects a combination of a current services budget and a wish list. Some evaluation data, such as the number of people incarcerated in state prisons, are consistent over time and can be trusted to provide a sense of the state’s need for such facilities. Since 1983, the amount of state money appropriated for the custody, care, treatment and training of inmates has grown 555 percent, from $203.5 million to $1.1 billion and the average number of inmates grew from 8,012 in 1983 to 24,315 in 2004.

Over the last 20 years, stiffer laws with stiffer penalties and mandatory minimum sentences for certain criminal offenses have contributed to the explosive growth in inmate population in New Jersey, which in turn has required the state to build more prisons and devote a larger share of state resources to the Department of Corrections—at the expense of other programs. A current services budget provides yet another way to look at the future costs of incarceration.

Sometimes data are simply difficult to interpret and a current services budget provides another way to look at the future. Take for example the state’s spending on tourism. In 1997 the state tourism budget was approximately $5.8 million. Evaluation data included in the budget would have us believe that in that same year tourism generated $26 billion in business and consumer spending. Contrast this to what is included in the Governor’s proposed FY 2005 budget, where the $9.6 million appropriated for tourism in 2004 has generated a mere $30 billion in spending and $2.5 billion in tax revenue. A comparison of these data should raise questions about the usefulness of increasing the state’s tourism budget by 65 percent over seven years if the returns on the investment seem to be almost identical.

While appropriations for tourism are not the potential budget busters that enacting mandatory minimum sentences has been on the corrections budget or that a huge growth in school age children would be on education funding, the example indicates that better quality information is needed to make informed budget decisions. And a current services budget is yet another tool which can only improve the state’s fiscal position.

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**Recommendation:** Enact a law requiring New Jersey to produce a current services budget annually that would project the cost of providing future services. Such a budget would allow actual need to be separated from the administration’s wish list.
Federal and Dedicated Funds

About a third of the $38.8 billion used to support programs in New Jersey in FY 2004 comes from either the federal government or other dedicated resources. As revenues, these funds are included in Schedule 2 of the Governor’s budget; as expenditures they are included throughout the budget as Federal Funds or All Other Funds, according to their programmatic designation.

More than 60 percent of $7.8 billion federal funds available went to support programs of the Department of Human Services. Another 10 percent was for educational programs and eight percent for transportation projects. Within Human Services, more than 40 percent of the departmental budget comes from federal funds, including salaries of 27 percent of the department’s employees. Programs in the Department of Human Services such as the Division of Disability Services, which gets almost 50 percent of its funds from the federal government, the Division of Developmental Disabilities, which gets 60 percent, the Division of Family Development, which gets which gets over 60 percent and the Division of Youth and Family Services, which gets 37 percent, are particularly tied to the vagaries of the federal budget.

Sixty-nine percent of the $2.5 billion dedicated funds were used for two programs—one a $466 million program in the Department of Human Services that supports such programs as NJ KidCare and NJ FamilyCare; the other, a $760 million program in the Department of the Treasury that distributes energy tax receipts to municipalities.

Tracking and accounting for these funds can be complicated. The system is confusing and it is often difficult to tell which revenues support which programs. Evaluation data indicate that 107,941 children and 89,937 families will receive subsidized private health insurance under the KidCare and FamilyCare programs in FY 2005.

These programs are supported by a combination of federal funds, state dedicated funds and payments by participating individuals. The budget’s evaluation data estimate that KidCare will cost $149.7 million—shared by the federal government ($92.6 million), state ($49.9 million) and participating individuals ($7.2 million); and FamilyCare will cost $266.2 million—shared by the federal government ($133 million), state ($130.8 million) and participating individuals ($2.3 million). Federal support is authorized under Title XXI of the federal Social Security Act; state support is provided by the Health Care Subsidy Fund.

Without the evaluation data it would be impossible to piece together the funding for these two programs. Even though evaluation data show KidCare will cost $149.7 million, only one $49.9 million source of revenue for the Children’s Health Insurance Program and no separate appropriations can be identified with the program. And although FamilyCare will cost $266.2 million, only one $120.8 million line item appropriation can be found and no funding source is identified for the remaining $10 million state share. Nowhere is a distinction made for why funds are appropriated by a line item for FamilyCare but not for KidCare. And matching revenues to expenditures is nearly impossible because the expenditures are buried in a much larger appropriation and are directed by language.

**Recommendation:** When federal and dedicated revenues are used to support state programs, identify each revenue source and each expenditure individually and by the same name in both the Governor’s proposed budget and the appropriations act to make it easier to understand which revenues support which programs. Evaluation data should reflect accurately the blending of these funds as they apply to service and administrative costs and should make it possible to differentiate between state and federal support for the beneficiaries of each program.
The New Jersey budget is a large and complex document, often confusing even to those who are familiar with the process. Explanations are few and information is often closely held by the Administration. Without access to people within the system, it can at times be impossible to understand how certain policy decisions and funding levels are determined.

Programs included as line items in the budget often sound alike and sometimes it is difficult to tell one program from another. Take for instance, the various property tax rebate programs available to homeowners and tenants. Some are available to senior citizens, veterans and disabled individuals; others are available only to senior citizens; still others are available to anyone depending on income. For anyone who does not work with these programs, it is difficult to find out about the program without a reference to the specific law under which each was created. This is simple enough to include in the budget but often is not.

Recommendation: Do a better job in both the Governor’s budget and the appropriation act of identifying the source in law for all programs in the budget. For example, the Senior and Disabled Citizens’ Property Tax Freeze in the budget would be listed as follows: Senior and Disabled Citizens’ Property Tax Freeze, P.L. 1997, c.348. This would help to delineate the various programs that often sound alike in the budget.

Although the state budget includes a substantial amount of evaluation data every year, it is sometimes difficult to track expenditures and tie them to the evaluation data provided. The evaluation data itself are sometimes difficult to understand and the state produces few other reports that can be used to augment insufficient information. While the advent of the Internet has made more information available, it is often not the information needed to fully understand the spending implications of the budget.

Take for instance the Earned Income Tax Credit (EITC), an initiative begun in the FY 2001 budget. Information in the Department of the Treasury’s overview section indicated that $49 million was included for this initiative. Evaluation data for the Division of Taxation estimated that 237,290 people would be eligible to receive an average benefit of $320 annually. No actual line item appropriation was recommended but language in the budget directed that whatever funds were necessary were available subject to the approval of the Director of the Division of Budget and Accounting. No entry appeared in the budget’s index for this program.

The following year, the information was consistent with that included in the prior year. Language again directed that whatever funds were needed be available to provide an average of $481 to 237,290 beneficiaries at an estimated cost of $70 million. Again, no line-item appropriation for the program appeared (although a $140,000 EITC marketing initiative was included in the budget for the Division of Family Development in the Department of Human Services) and again no entry appeared in the index.

In FY 2003, the third year of the program, an entry was included in the index indicating that funding for the program was shifted to the Division of Family Development in the Department of Human Services. A line item appeared for the first time and it revised the earlier numbers. It indicated that the state spent nothing on the program in FY 2001, thought it would spend $10.35 million the next year and believed it would spend $70 million in Fiscal Year 2003. Although the appropriation appeared in the Department of Human Services, the evaluation data for this program remained in the Department of the Treasury. It said that 211,600 people received an average benefit of $233 in FY 2001 and that 220,000 were expected to receive $369 in FY 2002 and $408 in FY 2003.
This is just one small example in a budget that spends over $20 billion annually, but it illustrates how difficult it can be to track a program and get meaningful information on it. Type the letters “EITC” into the state’s Web site and the entry explains the program’s eligibility requirements, but nothing exists online to explain or support the amounts spent on or the number of people who benefit from the EITC in New Jersey.

Recommendation: Expand the budget’s index to include more programs. This will make it easier for members of the public to track programs and spending initiatives.

Some departments are more conscientious than others about the quality and quantity of data they provide. Budget documents would also be improved by including performance data that better illustrates the expected results of proposed expenditures. Granted the EITC is a relatively new program, but more information should be provided so more public debate can take place on the relative merits of such a program.

The annual spending plan proposed by the Governor of New Jersey includes evaluation data for each department, categorized according to program, operating and personnel data. Program and operating data include such information as the number of participants, design capacity, grants awarded, filings, hearings, investigations, permits and average tuition and fees. Personnel data show the number of people needed to fulfill the posted program and operating data.

The Governor’s spending plan includes four years of data: two years of actual program, the amount of service provided by the current year appropriation and the amount the Governor’s recommended appropriation would support. Some departments are known for presenting more accurate evaluation data than others.

Room exists for improvement in the area of underlying revenue and expenditure assumptions. The Governor’s proposed budget includes some discussion of economic assumptions that go into developing the state revenue forecast, but it does not show the specific data that produce the predicted revenue amounts. While appropriations are accompanied by demographic and caseload information, the proposed budget does not contain analyses of how expenditure estimates would vary using different demographic assumptions. Fiscal notes prepared by the executive branch for the LBFO would also benefit from providing more underlying data.

In FY 2003, $250,000 was appropriated for the Budget Efficiency Savings Team (BEST) Commission. Although the budget does not say this, this commission was established by Executive Order No. 2 of 2002 to undertake a “complete comprehensive and thorough examination of all aspects of the state’s spending practices to identify areas of waste, mismanagement, abuse, and unnecessary spending.” The BEST Commission was supposed to provide the Governor with a list of recommendations and was supposed to issue a final report of its findings. So far, no report has been issued and this is not the only report the executive branch has failed to prepare over the years.

Recommendation: Take better care to more accurately reflect a program’s participation, operating needs and funding requirements. The budget is an important source for someone who is tracking spending initiatives over time. If data included in the budget are inaccurate, it will be difficult to do this with confidence.

Recommendation: Prepare reports as directed by law. Make the findings and the reports of the state and all public commissions available on the state’s Web site. If reports are particularly long, information should be available on where to pick up a bound copy of the report. If information is not yet available, the state’s Web site should say so and should indicate when the report will be available.
Tracking Spending, Supplemental Appropriations and Transfers

In some respects, putting together a state budget differs little from members of a household hashing out their spending plan. Adjustments might be needed during the course of the year to respond to changing situations. Despite the best efforts of government officials to anticipate spending needs and revenue collections, the fact is that much can change over the 12 months that a budget is in effect. So the budget proposed by the Governor and adopted by the Legislature in New Jersey does not necessarily reflect the true needs and costs of a program. This could be a case of a new program having no history or more people than expected qualifying for eligibility. But underestimating costs is not always caused by inadequate information. Sometimes, programs are deliberately under-funded to make the budget appear smaller than it really is.

Like other states, New Jersey has mechanisms to make midstream adjustments. One tool is to enact legislation containing what is called a supplemental appropriation to fund a specific program during the course of the fiscal year. As with other measures, this requires a bill, a sponsor, an affirmative vote by the Legislature and approval of the Governor. Another method is to include text in the budget that authorizes state departments over the year ahead to spend, transfer and draw down dollars in addition to those specifically noted in the budget’s line items. Usually the latter takes place with less Legislative oversight than an actual bill would require.

As the budget year moves forward, executive branch departments request supplemental appropriations from the Legislature. The addition of these appropriations adjusts the size of the state budget. This also sets a new floor—the adjusted appropriation—against which the next budget is measured.

With some effort, it is possible to track current-year supplemental appropriations. And it is important to do so because an accurate depiction of current-year spending is crucial to determining how accurate the Governor’s recommended budget is the next year.

The availability of a separate report with evaluation data and an explanation of why each supplemental appropriation is necessary would help all interested parties to follow budget trends more easily and might have the added benefit of encouraging a more forthright budget document from the start.

The current-year adjusted appropriation that appears in the Governor’s proposed budget does include these supplemental appropriations. But because the budget does not include a column for the original appropriation, it is difficult to know whether the budget funded programs appropriately.

As noted above, one budget game is to under-fund a program, making the budget smaller, then take advantage later in the year of budget language that provides additional funding. Each year the Department of the Treasury eliminates funding for its collection activities in the Division of Taxation and the Division of Revenue. In FY 2004, the effect of this was to appropriate $11 million less to those divisions than they actually will spend in that year. This happens annually even though each year additional funds are made available for collection activities.

Recommendations: Include in the Governor’s budget and online a one-page summary of current-year supplemental appropriations, showing which department and program received how much money and why. The budget format itself should be changed to include the original appropriation and the supplemental appropriation for the current year budget to highlight changes made to the original budget.
New Jersey’s FY 2004 budget contained more than 1,000 language provisions that directed spending by allowing additional appropriations to be made without the bother of a bill. In some cases an amount was specified; in others, the amount was essentially “as needed” with the approval of the Director of Budget and Accounting and sometimes the Legislature. Of these, 925 were specific to departments. The three departments utilizing these provisions the most were Human Services (142), Treasury (135) and Health and Senior Services (119).

In addition to the language that appears throughout the bill and is specific to a department, the budget includes seven pages of general language provisions. These relate to various aspects of budget operations and allow the executive branch flexibility and the authority to carry out operations of the state budget plan. They allow the transfer of funds among departments and state agencies under certain circumstances with or without legislative approval.

In the Appropriations Handbook, language is identified by budget numbers that specify their associated department and program. The Governor’s proposed budget does not do this. Games are played with this language and, without an understanding of these provisions, it is difficult to track and fully comprehend spending trends in these departments.

For example, instead of simply including the following language, the Governor’s FY 2004 budget also would have included the program and the funding source. This format associates the language with its program (7540) and identifies the funding source as a dedicated fund (455). If the funding source were the General Fund it would be identified as 100; if it were the Property Tax Relief Fund it would be 495. The following is an example of a possible format:

7540-455 Premiums received from families enrolled in the NJ KidCare program (Children’s Healthcare Coverage Program) established pursuant to P.L. 1997, c.272 (C.30:41-1 et seq.) are appropriated for NJ KidCare payments.

An interesting example of this occurred in the Governor’s FY 2003 budget. Language was used to transfer $50 million from the University of Medicine and Dentistry’s (UMDNJ) Self Insurance Fund to the general fund. This appeared on the very last page of the budget document in an area totally unrelated to the higher education section of the budget. There was no other place in the budget—no obvious change in appropriations—that would suggest that this was going to happen.

Language in the budget can be powerful. It can be used to override provisions in permanent law for the period during which the budget is in effect. For example, a permanent law might contain a distribution formula for state aid to municipalities or school districts. Language in the budget can modify or suspend the provisions of the formula. Such an alteration would only be effective during the fiscal year and would not permanently change the state aid formula. But if the change were included every year, the effect would be to change permanent law.

Recommendation: Identify in the Governor’s budget the program and fund connection for every language provision in the budget. The system used in the Appropriations Handbook to tie language to its appropriate program should be used in the Governor’s budget as well. Wherever possible in both the Appropriations Handbook and the Governor’s budget, language included in the General Provisions section of the budget should also be so identified.

Once the appropriations act is signed, current year spending trends are available to the public only once—when they appear as the current year adjusted appropriation in the Governor’s proposed budget. At this time, half of the current fiscal year’s spending has taken place but the most difficult part—when the budget of each program must actually balance—is yet to happen. Because budgets are never exact and spending needs change over the 12-month cycle, funds must be reallocated among departments and programs. Often funds are transferred from a program that is spending less than anticipated to one that is spending more.

Such transfers change the way the state spends taxpayers money with virtually no public oversight. According to Human Services’ Commissioner James M. Davy such transfers account for the state’s failure to adequately fund its child welfare system. In his April 7, 2004 testimony at the Senate Budget and Appropriations Committee hearing he said, “Year after year, funding has been carved out of the DYFS budget to pay for initiatives and programs elsewhere in state government that, at the time were always deemed to be more important.”
As the state Constitution makes clear, only the Governor has authority to certify revenues. The Governor puts a revenue figure in the budget proposal and certifies it four months or so later by signing the budget measure approved by the Legislature. In most years the revenues included in the appropriations act are the result of informal consensus between the Governor’s office and the Legislature. And though there is no requirement for this consensus, the process seems to work in New Jersey most years.

As the state Constitution makes clear, only the Governor has authority to certify revenues.

But there are exceptions. A notable case occurred in FY 2002. Early in 2001, halfway through the fiscal year, Gov. Christine Todd Whitman resigned. The budget she proposed was enacted by her successor, Acting Governor Donald De-Francesco. He certified her revenue projections despite warnings that the revenue anticipated in the budget was too high. The executive and legislative branches both were controlled by the same party, which hoped to continue to fund popular programs.

Some observers felt that had Whitman remained in office she would have adjusted the revenues downward, especially in view of the fact that it was her last year as Governor. But there

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Recommedation: The state should make available online no later than October 1 a close out document for the current fiscal year—making spending trends available about six months earlier than they currently are now. In this document would be included the original appropriation for each program included in the state budget, all supplemental appropriations and transfers and a brief explanation of why such actions were taken.
has been little call for reforming the way in which revenues are certified. The Assembly Task Force on Fiscal Responsibility issued a report in which it said,

“It is likely that FY 2002 is not indicative of a seriously flawed process, but rather indicative of flawed use of the process.

“The Office of Legislative Services provided revenue estimates which were substantially lower than the Administration’s. The Legislature was free to use OLS’ estimates in the preparation of the Annual Appropriations Act. The Legislature could have rejected the Executive’s estimates. But they did not. It can be easily argued that FY 2002’s revenues were based on a consensus between the Executive and Legislative branches.”

It is certainly possible that a consensus forecasting model could be developed that would work more accurately than what exists currently. However, in New Jersey, this would mean taking a constitutionally mandated power away from a Governor whose status as perhaps the most powerful chief executive in the country derives in part from budget powers. Diluting or eliminating constitutionally endowed gubernatorial powers should not be done lightly.

In the early 1990s attempts were made in New Jersey to create a more formal independent process to analyze revenues and evaluate state economic conditions. In 1992 the State Revenue Forecasting Advisory Commission was established to make quarterly revenue forecasts for use by, and as a check against, those prepared by Legislature and the Governor. The following year the New Jersey Council of Economic Advisors was created to assist the Governor in the preparation of the annual budget message by providing forecasts of economic conditions. For whatever reason, neither of these advisory commissions has become an influential policy maker in Trenton.

In recommending that OLS’s professional, nonpartisan role in the revenue estimation process be formalized, the Assembly Task Force on Fiscal Responsibility’s report listed information that should be made available, including monthly detailed information about revenues and municipal-level data from the Statistics of Income for numbers of filers, gross income, taxable income and charged tax.

The same information provided by the Executive Branch to OLS should be available on New Jersey’s state government Web site.

But there is a further step that would still preserve gubernatorial powers while helping to avoid a situation like the one in 2001. In addition to formalizing the role of the Office of Legislative Services in revenue estimating, each outgoing Governor should publicly re-certify all state revenues before his or her term ends. The Governor of New Jersey takes office in January and is responsible for the last six months of the previous Governor’s predecessor’s budget. If the recertification indicates a drop in revenues of more than two percent, the outgoing Governor should include a detailed contingency plan for closing the gap.

**Recommendations:** Formalize the role of the Office of Legislative Services in revenue forecasting and require each outgoing Governor to publicly re-certify state revenues before the end of his or her term.
Public Input

Even if a state provides all the information discussed previously, it cannot have a truly transparent budget process unless citizens and advocates have the opportunity to provide their analyses of that information to decision-makers in a timely fashion. Otherwise, citizen involvement in the budget process becomes an exercise in observation, not participation.

Public hearings on budget issues in New Jersey are held only during the legislative session. But the process itself begins much earlier—when state agencies are preparing their budget proposals for submission to the Governor. Many important decisions are made before the budget proposal ever reaches the Legislature; citizens and interest groups should have an opportunity to voice their opinions at each stage of those deliberations.

On the executive side, the process of putting together the budget is a void. No public hearings are held. No attempt to elicit public input is made. The amount requested annually by each department is by and large determined by either the Office of Management and Budget or the Governor’s office. And in the printed budget document, the amount requested by the department and the amount recommended by the Governor have been substantially the same for a number of years.

The impact of this is to effectively decrease the amount of information available. Since all department commissioners are appointed by the Governor in New Jersey, a commissioner cannot make the case that the amount recommended for his or her department is inadequate because that request and the amount recommended are identical.

In some years the New Jersey Department of Human Services has provided a model for helpful interaction by conducting regional budget forums many months before its budget is formally submitted. The Department is in some ways unique in having advocacy groups who lobby to maintain services for children or disabled individuals who might not be able to lobby for themselves. It is likely that few people would turn out for hearings on some departments; for other hearings, however, such as one for the Department of Corrections, it might be useful to hear from former inmates or the families of inmates.

This practice should be extended to all other state agencies. Such hearings, as well as those held after agency budget development but prior to the submission of the Governor’s budget to the Legislature, should be held with ample prior notice to the public and include the opportunity to present public testimony and the routine presence of state legislators.

The state would benefit from public hearings that would take place before the Governor finalizes the proposed budget. These might help him or her formulate a budget more responsive to public priorities.

Recommendations: Hold additional budget hearings at two points—prior to agencies’ submission of their budget requests to the Governor and prior to the Governor’s submission of his or her budget request to the Legislature.
Conclusion

Interested people need to be given a clear view of the fiscal choices available. For this to happen, information must be made available. This report recommends that the state pass legislation to require regular tax expenditure studies, fiscal incidence analyses and other reports that provide the public with access to information.

The budget must be available—not just online but in print—from a central location that citizens can call, order and receive in a timely way. The state should develop a central distribution office for all reports much like the legislative bill room where any citizen can get them.

Citizens must be able to provide input at crucial times. The Legislature holds hearings early in its deliberative process. Legislators and their staffs will speak with interested citizens. It is important for citizens to know whom to lobby. On major policy issues, the executive branch drives the budget—partly because the Legislature itself does not always have sufficient information to make informed decisions. Legislators are better at small local appropriations that represent the interests of their constituents.

The New Jersey state budget is an intimidating document even if one has years of experience and a mind for numbers. Making it more open and accessible will not only allow the budget process to live up to its full potential, but also allow New Jersey’s citizens to live up to theirs.
Table 1 - State-by-State Budget Comparisons

<table>
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<tr>
<th>State</th>
<th>Responsibility</th>
<th>Annual Budget</th>
<th>Average Number of Approp Bills</th>
<th>Who Drafts Approp Bill introduced in the Legislature</th>
<th>Public Input</th>
<th>Conf Com on Approp Bill</th>
<th>Vote Required to pass the budget</th>
<th>Gubernatorial Veto Authority</th>
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NOTES:
1. C=Consensus; E=Executive; O=Other
2. E=Executive; S=Senate Approp Committee Staff; A=Assembly Approp Committee Staff; N=Non-partisan Fiscal Staff Office; O=Other
3. 6 states have no provisions for public input; The rest allow public input at various times, often at the discretion of budget committee chairs.
4. Y=Conference Committee can either take up any item or committee is restricted to a specific item; N=Bills rarely or never go to Conference Committee.
5. M=majority
6. Li=Line item; P=Program; L=Language; E=Entire bill only. In Maryland the Governor has no veto power over the budget bill.
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Source: Center on Budget and Policy Priorities, September 2004.