

THE LEGISLATURE - STATE OF NEW YORK

134796

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Legislative Commission On Expenditure Review

Annual Report to the Legislature

134796

1990 Program Audits
and 180 - Day
Agency Responses



MAR 2 1992

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STATE OF NEW YORK
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ON EXPENDITURE REVIEW

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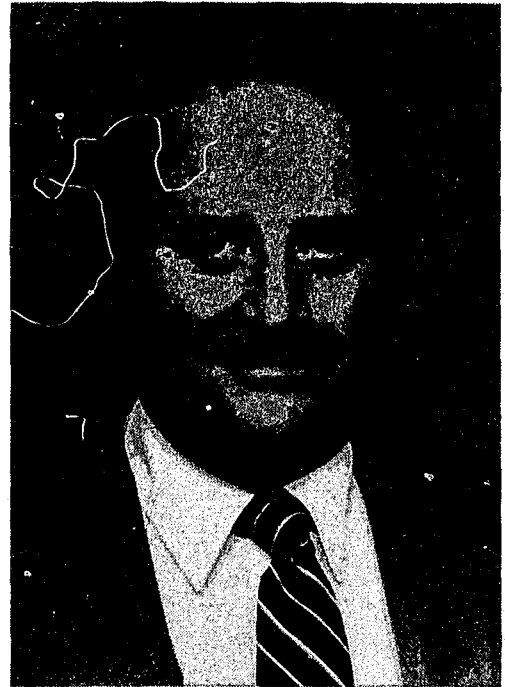
Dear Colleagues:

We are pleased to present this report on the work of the Legislative Commission on Expenditure Review during the last year. It summarizes our program audits published during 1990 emphasizing audit results based upon statutory agency responses 180 days after publication of the report; LCER staff substantiated the responses through review of associated documentation. Also included is a synopsis of the oral interim reports presented by our staff to alert legislative decision makers on matters germane to adoption of the 1991-92 budget. Finally, a complete listing of all LCER evaluations categorized by subject is presented on page 26. Please let us know if you would like to obtain any of these informative reports on State government programs.

During 1990 LCER staff prepared 14 audit reports for publication and made oral presentation on ten audits. Also 1990 marked the beginning of LCER's third decade in providing reports on State government programs that include information on operating efficiency, effectiveness and related issues.



Senator Tarky Lombardi, Jr.



Assemblyman Saul Weprin

The effectiveness of the Legislature and executive agencies has been enhanced as a result of the work of the Commission. Information available through LCER reports has been used to formulate budget and statutory policy and to improve services, reduce costs and foster other changes and improvements in program and operations.

The Commission and its staff appreciate the cooperation and assistance of executive agencies and local government units which have been the subjects of our oversight. Particular thanks is extended to members of the Legislature, their staffs, and others who have suggested topics and provided guidance on audit issues of interest.

A handwritten signature in cursive script that reads "Saul Weprin".

Assemblyman Saul Weprin
Chairman for 1990

A handwritten signature in cursive script that reads "Tarky Lombardi, Jr.".

Senator Tarky Lombardi, Jr.
Chairman for 1991

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LEGISLATIVE COMMISSION ON EXPENDITURE REVIEW

OBJECTIVES AND PROCEDURES

The Legislative Commission on Expenditure Review (LCER) was established by Chapter 176 of the Laws of 1969 as a permanent legislative agency. LCER's primary objective is to determine whether State departments and agencies carry out their programs efficiently and effectively in line with legislative intent and authorization.

LCER Organization and Program

The chairmanship of the 12 member Commission alternates annually between the Chairman of the Senate Finance Committee and the Chairman of the Assembly Ways and Means Committee.

LCER has a full-time professional staff. The director is appointed by the Commission and the director appoints all other staff members. The bipartisan commission structure and nonpartisan appointment of the director and staff emphasize the objectivity of the research role.

In conducting evaluations, LCER does not limit itself to single organizational or jurisdictional boundaries but carries out program wide reviews. Whenever program purposes overlap or divide between agencies, special attention is paid to the impact each has on the overall program objectives.

The program audits are conducted by interdisciplinary research teams. These teams include persons who have graduate degrees in public administration, business administration, criminal justice, political science, economics, planning, sociology, accounting, education, social work and statistics.

Agencies Response

Agencies subject to audit have an opportunity to respond to the draft audit reports orally and in writing. Written agency responses are printed as an appendix to each report, thereby providing multiple points of

view about the program. Guidelines for these replies were issued to agencies in the executive branch of government by the Division of the Budget and are included in its *Budget Policy and Reporting Manual*. Additionally, the Division of the Budget coordinates executive agency responses to LCER audits.

Audit Distribution

As a matter of Commission policy, each published audit is distributed to every legislator and the press. Audits are also provided to department, agency, or local officials who were subject to audit or who participated in research and to libraries throughout the State. A limited number of published audits are available to the public.

Utilization

Legislative program evaluation may influence the conduct of programs in many ways. For the Legislature, it provides information to assist in the development or revision of policy. For the executive agencies, it may alert them to the need for internal improvements and serve as a catalyst for change. For the public, it provides information about services bought with tax dollars or other revenues.

180 Day Response

The 180 day response allows an audited agency a second opportunity to reply to the audit. More importantly, the responses permit agencies to fulfill their requirements under Chapter 58 of the Laws of 1980, by indicating those actions taken as a result of the audit. In turn, the 180 day response allows LCER to continue legislative oversight by developing an analysis of that reply and an audit closure report for the Commission. When the 180 day response is deemed inadequate, the Commission may request further documentation from the audited agency.

REPORTS PUBLISHED IN 1990

MEDICAID FRAUD AND ABUSE

March 10, 1990

Medicaid is a joint federal/state program involving reimbursement to health care providers for the cost of services to eligible low-income families. New York State administers the largest Medicaid program in the country — with nearly three million recipients and over 40,000 health care providers. From 1983 to 1987 Medicaid expenditures increased 58 percent, from \$5.7 to \$9 billion, while the number of recipients increased only about five percent. An important aspect of program administration, in controlling these expenditures, is to ensure that billings for services are legitimate and eligible for Medicaid reimbursement. For this purpose the Department of Social Services (DSS) is responsible for auditing activities to identify and investigate suspected instances of fraud and abuse of the program by service providers.

This audit reviews DSS' program procedures and activities with respect to its auditing for Medicaid fraud and abuse.

LCER presented an oral interim report on this audit to legislative staff during the spring of 1989.

Findings and Recommendations

DSS, the State's administrative agency for Medicaid, receives State and federal appropriations, including \$23 million in 1989-90, to conduct audits for fraud and abuse by ambulatory health care providers — legislatively mandated in the 1977 State Medicaid Fraud and Abuse Program. The Medicaid Fraud and Abuse Program is administered by DSS' Bureau of Provider Audits, of the Office of Audit and Quality Control (A&QC), with regional operations in New York City, Albany and Syracuse. Our audit of the program identified problems in its administration with respect to detecting, investigating and sanctioning Medicaid providers.

Program Coordination. We found a lack of program coordination in detecting potential fraud and abuse cases within DSS — resulting in case processing duplication and delay — due to the involvement of two DSS

units, including A&QC and a unit of the Division of Medical Assistance. Further, LCER found inconsistency in the procedures followed by the respective regions for conducting fraud and abuse audits.

Program Procedures. We also found inadequacies in A&QC's investigative procedures, which emphasized reviewing billing documentation, while other procedures, such as facility inspections, interviewing Medicaid providers and recipients and validation of ownership and licensure, were used less frequently. These other procedures have been used effectively in cases where fraud and abuse determinations were made even though billings appeared to be valid. Further, DSS did not conduct follow-up investigations to determine if improper billing practices had been changed after a determination and does not consistently provide training for its auditors.

Program Enforcement. DSS is authorized to initiate enforcement action in cases where fraud and abuse are found — including restitution, monetary sanctions and interest on amounts owed, as well as case referrals to the Special Prosecutor for Medicaid Fraud Control. However, DSS seeks restitution at the statistical low point instead of the mean. This results in considerable discounts from what providers potentially owe to the Medicaid program — estimated by LCER as an average discount of 49 percent (see chart). DSS collection activities were hindered by excessive delays — only 34 percent of the amount owed during the period 1986 through 1988, had been collected within one year of the determination. Additionally, DSS seldom imposed interest charges on the amounts owed — which is tantamount to providing interest free loans.

Recommendations. Based on the problems identified, we recommended that DSS:

- Establish a single, integrated detection and review unit and prioritize categories of abuse for its investigative operations;
- Assess reimbursement at the statistical mean point and offer a discount below that level for prompt payment;
- Consistently apply and collect interest charges on amounts owed; and

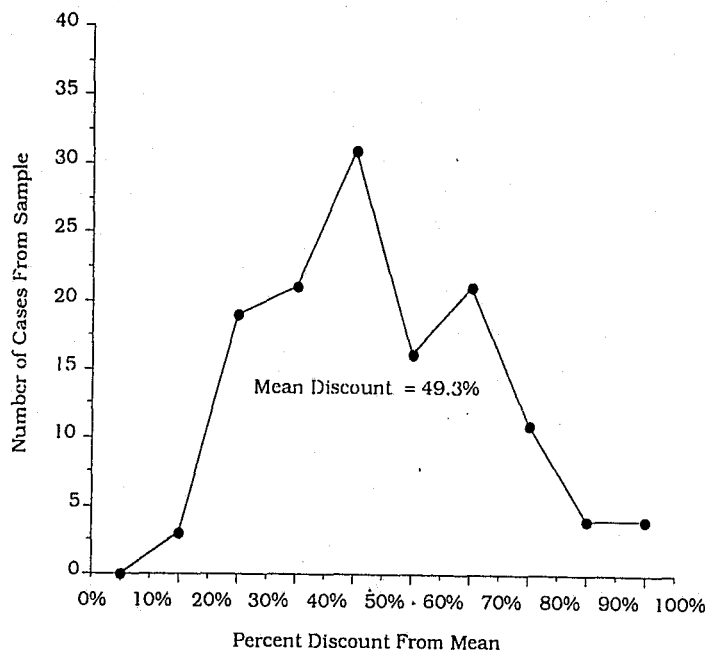
- Increase its collection efforts and develop a monthly aging schedule to highlight potential problems.

A number of proposals for possible legislative action are outlined in the report related to DSS' reporting to the Legislature on the status of audits; increasing the amount of penalties DSS can impose; and changes in procedures, including intercepting tax refunds, to improve the rate of collections.

Agency's 180 Day Response

DSS, while taking exception to all of LCER's findings, has taken actions, corresponding to some of the recommendations contained in the report. The department established a single provider detection and review unit and has started monitoring previously audited providers. However, DSS has not changed its method for determining the amounts owed.

DSS MEDICAID FRAUD & ABUSE STATISTICALLY IDENTIFIED RESTITUTION PERCENT DISCOUNT FROM MEAN



N = 130

Source: LCER sample of provider cases from 1987 workload.

Other Post-Audit Developments

The Legislature, by statute, has provided DSS with increased authority to improve its rate of collections from providers and mandated that DSS establish a comprehensive audit reporting system — including reports to the Senate Finance and Assembly Ways and Means Committees.

CORRECTIONAL OFFICER PRE-SERVICE TRAINING

March 12, 1990

The Department of Correctional Services (DOCS) instituted programs to screen and train recruits for positions as Correctional Officers (CO) in 1972. Previously, training for that purpose was virtually nonexistent. That part of the screening component which consists of psychological evaluations is mandated by the Legislature. For a two year period, 1987-88 and 1988-89, program costs were approximately \$28.3 million, including direct training costs and those for recruitment and screening.

This audit evaluates the CO screening and training programs administered by DOCS, including the use of psychological testing, and their costs.

Findings and Recommendations

DOCS' training program for Correctional Officers includes psychological testing to identify factors that could impair an officer's job performance in a correctional facility, formal academy training after successfully completing screening examinations and on-the-job training subsequent to completion of the academy program.

Psychological Testing. Psychological testing results were the major basis for disqualifying applicants as CO candidates during the period 1985 through November 1989. Of 13,701 recruits tested during the period, 25 percent were disqualified by the psychological tests. However, one quarter of those who were disqualified successfully appealed that determination.

The use of DOCS' psychological screening was found to constitute a discriminatory employment practice as reflected on some New York State Civil Service lists for appointment as COs. Based on federal guidelines, an employment procedure is considered discriminatory if the selection method used results in disqualifications

for any given group (e.g., by race or sex) that exceed an established percentage compared to the group with the highest selection rate. In those cases the selection method is considered to have an adverse impact. It was found that psychological screening had an adverse impact on Black and Hispanic males on the second Civil Service Correctional Officers' list. However, as of November 1989 there was no evidence of such adverse impact on the lists in use at that time.

Training Effectiveness. Our survey of CO recruits found that 99 percent rated their academy training as useful or very useful and 91 percent considered OJT training as useful. The recruits noted the need for some improvements, e.g., providing part of academy training at a correctional facility. Our review of OJT operations found that, contrary to DOCS regulations, recruits did not train in all facets of the facilities' operations and, in some instances, worked alone on the 11 pm to 7 am shift. Further, none of the facilities complied with requirements to complete evaluation forms every day for every recruit.

Training Costs. From 1987-88 through 1988-89, total training costs for CO recruits were \$28.3 million (see chart), including over \$2 million for rental of the Harriman training facility. Over 53 percent of the recruits were trained at that facility during the two years.

Recommendations. Several recommendations to address problems identified in this audit are presented. We recommended that DOCS should:

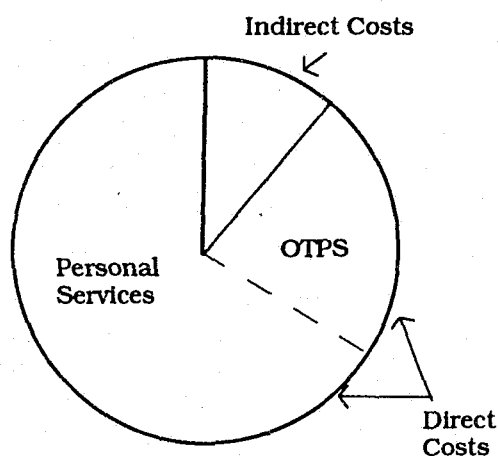
- Provide the Legislature with information related to the causes of adverse impact in the CO selection process and changes that will made to correct those problems;
- Adopt measures to improve job performance evaluations;
- Ensure that facilities comply with OJT training requirements; and
- Reassess the use of leased facilities for the initial training of new personnel.

Agency's 180 Day Response

Six months after release of the audit, DOCS indicated that it had adopted a number of LCER's recommendations. DOCS reported that it had:

- Identified, but not implemented, measures to minimize adverse impact;

DIRECT AND INDIRECT COST OF TRAINING RECRUITS 1987-88 AND 1988-89



Total = \$28,325,513

	1987-88	1988-89	Total
Direct			
Personal Services	\$9,576,142	\$9,300,103	\$18,876,245
OTPS	2,802,359	3,464,551	6,266,910
Subtotal	\$12,378,501	\$12,764,654	\$25,378,501
Indirect	1,680,735	1,501,623	3,182,358
Total	\$14,059,236	\$14,266,277	\$28,325,513

Source: Department of Correctional Services.

- Instituted training for interviewers to increase their awareness of the limitations of psychological testing;
- Proposed pilot projects to improve measuring job performance through evaluations; and
- Introduced a plan to improve the OJT component, but has not addressed the issue of using recruits during the 11 pm to 7 am shift.

While agreeing with LCER's recommendation to study the acquisition of the Harriman facility, DOCS stated that State budget restraints preclude making an acquisition at this time.

The Department reports that, as of October 1991, DOCS Psychological Screening Unit and Applicant Investigations Unit are temporarily out of operation. DOCS has not begun to recruit additional COs. However, the Department is in the process of hiring COs who graduated from the last recruit class.

INDEPENDENT LIVING CENTERS PROGRAM

March 16, 1990

Supported through State and federal funding, as well as from other sources, Independent Living Centers (ILCs) have been established throughout New York to provide services to the disabled — assisting them to live independently within their communities. As of 1988-89 ILCs received a total of over \$7 million in funding, of which 92 percent were State funds. The State Education Department (SED), by statute, must monitor, evaluate and encourage the development of ILCs.

The focus of this program audit is on the effectiveness of SED's monitoring and evaluation activities and documentation of the ILCs' programs and operations.

Findings and Recommendations

The number of ILCs in New York increased from a total of seven in 1982 to 34 in operation during 1988. The Centers operate as community-based, non-profit, non-residential programs. The ILCs' boards of directors, by law, consist of a simple majority of disabled persons, and, in that respect, differ from other, similar types of service providers, because the disabled clientele have a higher degree of self-determination in the programs' planning and administration.

SED's responsibilities involve monitoring the program to ensure compliance with regulations and evaluating program effectiveness. We found problems with SED's monitoring and evaluation — particularly with respect to the reliability of information that is available from the ILCs for these purposes.

Monitoring and Evaluation. Our testing and verification of information maintained by SED and individual centers, indicates inadequate recordkeeping — raising questions about the accounting and use of funds. We also found that SED:

- Did not have guidelines to structure its inspection visits to the centers;
- Failed to routinely verify the reliability of the ILCs' statistical data;
- Used non-representative samples of clientele for user surveys; and
- Based its profiles of the types of clientele served on voluntarily completed intake forms.

ILC Services and Sources of Funding. Based on information obtained to profile the types of services provided and sources of funding obtained through ILCs, we found some degree of variation among the ILCs.

We found that, while there were variations in the ILCs' services, they include those required by the clientele such as peer counseling, housing assistance, attendant care services and skills training.

The major source of funds for program activities was the State grant for independent living. While centers formed after 1986 were almost entirely funded by SED, those established prior to that time obtained funds, as well, from other sources, including grants from the federal government, foundations and other private sources, fees for services, earnings on investments and income from fund raising activities.

Recommendations. To improve administration of the program we recommended that SED:

- Prepare guidelines for service documentation and routinely monitor center recordkeeping practices to ensure program accountability and to provide uniform and reliable data for evaluation purposes;

- Develop guidelines to structure site selection and written site visit reports and routinely verify center service statistics;
- Collect and report data on the entire consumer population; and
- Develop and implement procedures to ensure that evaluations of program services are statistically valid.

Agency's 180 Day Response

SED's 180 day response generally agreed with our findings and noted that these steps were taken to address our recommendations:

- Established standards for Independent Living Centers to improve accountability and provide a framework for monitoring and evaluation;
- Established a monitoring protocol to ensure consistent data collection and reporting, and to improve consumer service evaluations; and
- Established a site visit schedule and developed a site visit report form to ensure adequate coverage of centers.

REDUCING CUSTOMER WAITS AT DMV OFFICES

April 9, 1990

An important objective of the Department of Motor Vehicles (DMV) is to reduce the length of time customers wait to complete registration and licensing transactions at its offices throughout the State. For this purpose DMV has instituted initiatives designed to expedite transactions processing. The importance of this objective was recognized by the Legislature through appropriations specifically to reduce customer waiting times at DMV offices on Long Island and in New York City and Queens.

This audit reviews programs that are intended to reduce customer waiting times and assesses the effectiveness of those programs — with a primary focus on DMV's office operations in New York City and Long Island, where waiting times are longer than the upstate offices.

Findings and Recommendations

DMV operates over 20 field offices within New York for licensing and registrations, among other transactions. It has established standards for the average length of time a customer should wait to complete transactions at those offices and has introduced program changes to reduce waiting time. We examined many of DMV's programs, including those that keep customers out of the offices; (e.g., through using the mail or telephone for transactions) and those which improve service to the walk-in customer (e.g., instituting evening hour services).

Legislative Appropriations. Recognizing the importance of DMV's efforts to reduce the time required to process transactions, the Legislature appropriated funds specifically designated for that purpose — including \$150,000 for both 1987-88 and 1988-89 for DMV offices on Long Island and in New York City and \$75,000 in 1988-89 designated for Queens. However, DMV could not account for the use of those legislative appropriations specifically addressed to reducing waiting times in New York City and on Long Island.

Program Impact. Analysis of DMV's data showed that waiting times have increased in the New York, Bronx, Queens, Brooklyn and West Haverstraw offices. Waiting times during peak periods in the Richmond and Hempstead offices consistently exceed DMV's 30 minute standard.

We noted that DMV's process for locating new or relocating offices did not involve the use of relevant, prioritized factors for selecting appropriate locations. However, according to the results from an LCER survey, customers are sensitive to the location of DMV offices.

Recommendations. Based on the problems identified in this audit, we recommended that DMV:

- Modify its financial reporting system to enable it to account for specific uses of appropriations;
- Improve data collection related to waiting times to enhance the information that is available to management;
- Improve its public information system to disseminate information on alternative means of transacting business programs;

- Continue its efforts to create attractive and efficient office environments and expand its on-plant motor vehicles program to other business facilities;
- Consider options for improving its photo licensing process to reduce the number of in-person visits; and
- Establish systems of comprehensive planning related to both methods for determining office locations and for evaluating its customer services programs.

Agency's 180 Day Response

DMV's 180 day response noted that the following actions were taken in response to LCER's recommendations:

- A tracking system has been established to account for the use of future legislative appropriations directed at reducing waiting times;
- Plans have been made to implement a system, by 1992, that will enable DMV to create duplicate and renewal licenses without an office visit; and
- Plans have been made to establish a customer service advocate position at the executive level — involving overall responsibility for the planning of renovations or relocations of existing offices.

OUTSIDE HOSPITAL CARE PROGRAM OF THE OFFICE OF MENTAL HEALTH

April 12, 1990

The Office of Mental Health (OMH) receives legislative appropriations to support a program referred to as Outside Hospital Care (OHC). OHC is used for the payment of medical/surgical services obtained through outside providers for OMH's psychiatric facility in-patients. These are for services that are not available through the respective facilities in-house medical services staffs. Total OHC expenditures during the period 1987-88 through 1988-89 were \$13.1 million.

This audit examines the administration of OHC, including program utilization and management.

Findings and Recommendations

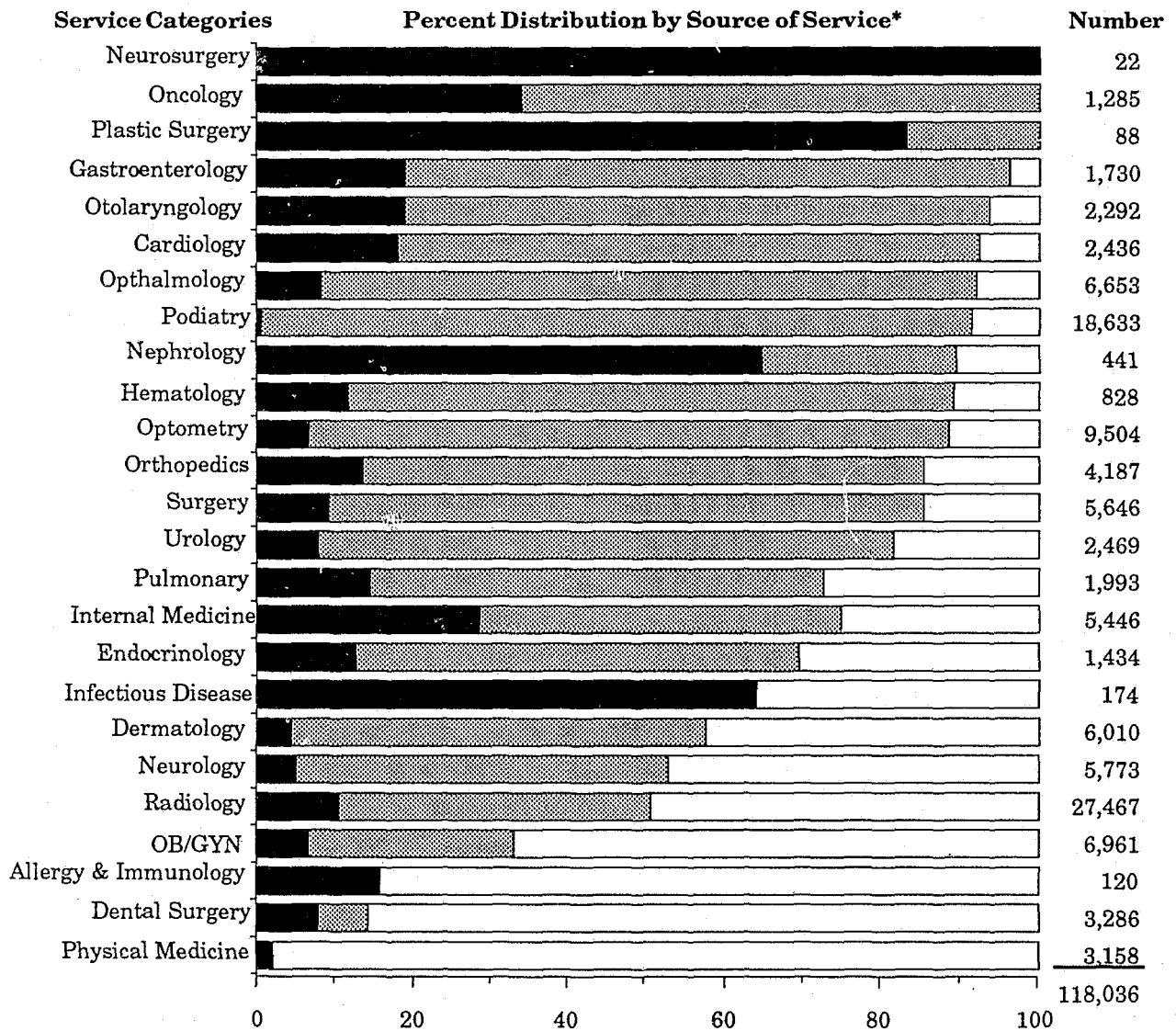
Administration of OMH's medical services program at its in-patient facilities is decentralized — including decisions for access to medical care through in-house medical and community providers. And, while OMH has central staff who have monitoring responsibilities related to such services, information was not available at the central office level that would enable that staff to effectively perform a monitoring role.

Source of Services. In general medical care that requires specialized services is obtained through community medical care providers. The proportion of specialized medical procedures performed by OMH's staff compared to that performed by community providers during 1988 at 21 of OMH's in-patient facilities is shown in the chart. Approximately two-thirds of approximately 118,000 procedures for 25 different medical services were performed by community providers. However, we found that, while the majority of medical procedures are obtained from outside providers, 89 percent of medical care expenditures at those 20 OMH in-patient facilities were for in-house costs. This disparity is attributed to the requirement to have medical staff available to in-patients at all times, which means that a large proportion of in-house medical care consists, essentially, of maintenance costs compared to the incidence of medical procedures performed by community providers for those facilities' in-patients.

Medical Care Expenditures. Regarding total medical care costs at the in-patient facilities, we found considerable variations among 20 OMH facilities based on average per patient expenditures — ranging from a low of \$1,418 at Pilgrim to \$4,341 at Hutchings — including the cost of services from in-house and community providers. These variations in total per patient costs were not explained by differences in the proportion of geriatric in-patients at those facilities. Further, two of seven in-patient facilities with medical surgical units had among the highest proportion of OHC expenditures in relation to total medical costs among the 20 OMH facilities. It might be expected that facilities with medical surgical capabilities would require, proportionately, less medical care from community service providers than those facilities without those in-house services.

Management Information. OMH's central office did not monitor the in-patient facilities' medical services' programs with respect to either the types or sources of services. For example, inter-facility expenditure patterns for medical services raised questions

**PERCENTAGE OF SERVICES
RECEIVED BY OMH PSYCHIATRIC FACILITY IN-PATIENTS
BY SOURCE OF SERVICE, 1988**



*Useable responses from 21 of 31 OMH in-patient psychiatric facilities' responses.

Source: LCER survey of OMH in-patient psychiatric facilities.

concerning differences in the level of care available to inpatients by facility. OMH's central office was not able to explain those differences. In contrast, we found that other State agencies, including the Department of Correctional Services and the Division for Youth, with comparable responsibility for providing medical services to facility residents, had implemented centralized management information systems to monitor resident care.

Recommendation. Based on our evaluation of OMH's administration of OHC, we recommended that OMH establish a central office capability to monitor the program.

Agency's 180 Day Response

OMH's six month response indicated that it had initiated steps to implement a centralized management information system for OHC. The system is based on the Comptroller's records of payments to OHC providers and will facilitate monitoring OHC by OMH's central office staff. Staff training for the new system was completed in April 1991 and the first report was prepared in July 1991.

OVERVIEW OF LONG-TERM CARE

June 26, 1990

New York State provides a wide range of services for people requiring different types of long-term care. These long-term care clients have total or partial incapacitating conditions preventing them from living independently. Eight State agencies administer at least 53 long-term programs — covering a wide range of disabilities and involving expenditures of approximately \$7.4 billion. However, there is no consolidated source of information concerning these programs' services and profiles of their respective clientele.

This research report was undertaken to examine issues related to coordination of data related to services and clientele that could be used to enhance policy analysis and program development.

Findings and Recommendations

The characteristics of the programs, combined, can be broadly defined in terms of numbers and types (categories) of clients served, types of services provided, the service delivery methods and the costs for those services.

We used these program elements to identify similarities among the programs for purposes of major program groupings.

Methods of Service Delivery. The programs' services are delivered in a variety of settings and through both government and non-government sources. The eight State agencies use various sources for delivering services, including State and local government agencies as well as voluntary (not-for-profit) and proprietary organizations.

The chart on page 12 shows that services are provided at residential facilities, in day treatment (non-residential) settings and homes.

Populations Served. As reflected in the chart, the 53 programs, annually, provide services to 1.3 million clients in their homes, almost one million in nonresidential settings and over 300,000 in residential settings.

Age and sex designations were used to classify the programs' clientele.

Cost of Services. Estimated total long-term care program expenditures, also shown in the chart, were over \$7.4 billion during 1988. Comparative evaluations to determine variations in costs for different treatment modalities for similar types of services among the programs are not conducted by the agencies.

Major Program Groupings. Population characteristics, settings of care, services provided and eligibility requirements provide a basis for grouping programs that have some of these elements in common. For example, long-term care programs overseen by the Department of Health (DOH), the Department of Social Services (DSS), and the State Office for the Aging (SOFA) generally serve an elderly, female population many of whom have obtained services from several of those programs. The Office of Mental Health (OMH), the Division of Alcoholism and Alcohol Abuse (DAAA), and the Division of Substance Abuse Services (DSAS) administer programs with similarities in terms of services, methods of delivery and clientele characteristics (young males). The State Education Department's Office of Vocational Rehabilitation's (OVR) program serves long-term care clients of the Office of Mental Retardation and Developmental Disabilities (OMRDD), OMH, DAAA and DSAS clients. With the exception of serving OVR clientele, OMRDD's long-term care programs are independent of the others — providing a broad range of services to individuals who generally remain within the system.

Recommendations. We recommended that the Legislature consider designating a State agency with responsibility for establishing an interagency long-term care management information system to enhance planning and policy making for those programs.

Agencies' 180 Day Responses

While agency specific recommendations are not contained in the report, agencies' comments were solicited concerning major issues that LCER identified through its research, including:

- The need for program cost studies,
- Identifying comparable interagency program data, and
- An interagency approach to improve long term care management information capabilities.

With respect to the agencies' views on these issues, there was generally concurrence that interagency data could be useful — particularly for conducting cost studies and for the purposes of identifying program duplication and gaps in services. However, there was a consensus that implementing such an approach would be difficult.

Post-Audit Developments

Within six months of the report's release the following actions, generally supporting LCER's research conclusions, were taken:

- OMH, OMRDD and DAAA issued a Consolidated Fiscal Report which includes consistency in the data base for those agencies' long-term care programs;
- The Governor's Office proposed to coordinate long term care services for the elderly (Managed Access to Aging Services); and
- OVR's long-term care program was transferred to OMRDD.

INTERSTATE SANITATION COMMISSION

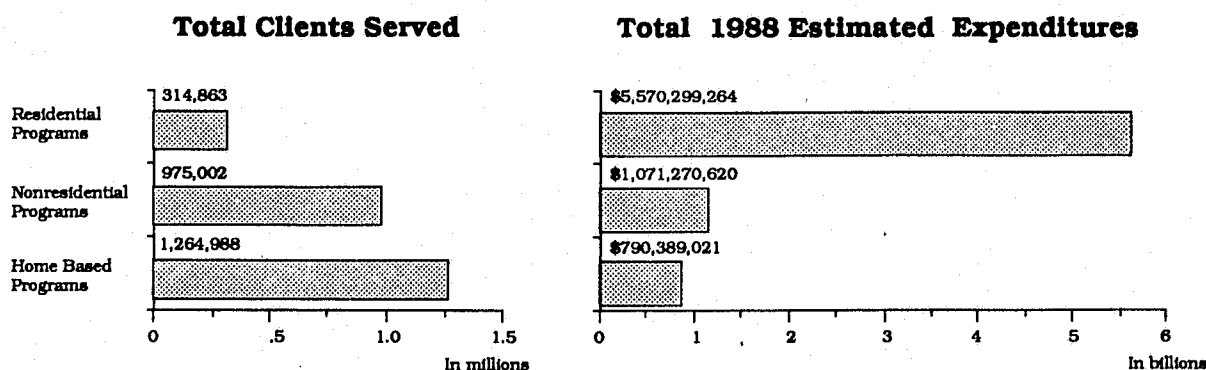
September 25, 1990

Four different agencies regulate and enforce water quality standards for the tidal waters in the New York City Metropolitan area. These are the state environmental departments of New York, New Jersey and Connecticut and the Interstate Sanitation Commission (ISC). ISC operates, based on authority derived from a compact among the three states, as a regulatory and enforcement agency. However, problems have resulted because the jurisdictional authority of ISC and the respective states' environmental agencies overlap.

The focus of this audit is on the operations of ISC and conflicts with the states' environmental agencies related to those operations — particularly with respect to water quality enforcement activities.

LCER presented an oral interim report on this audit, as of February 1990, to legislative staff.

TOTAL CLIENTS SERVED AND DOLLARS EXPENDED DURING YEAR



Findings and Recommendations

ISC was formed in 1936 as an interstate compact between New Jersey and New York while Connecticut joined in 1941. Its original mandate is to prevent and abate water pollution in the tidal waters of the New York City Metropolitan Area. ISC's authority includes establishing and enforcing water quality regulations, developing classifications for using the district's coastal, tidal and estuarial waters and assisting the states in developing water pollution control plans. In addition, in 1961 ISC was authorized to conduct air pollution research but was given neither regulatory nor enforcement authority for related environmental activities.

Overlapping Jurisdiction. Enforcement of water quality regulations for sewage discharges in the New York Metropolitan area has resulted in jurisdictional conflicts involving ISC and the states' environmental agencies. Some measure of the degree of this problem is shown in the table — reflecting the incidence of ISC's and DEC's inspections during 1989 at the same facilities within relatively short period of time.

The problem became more serious in 1986 when ISC began enforcing its regulations — reflected in three major water quality enforcement actions that it initiated. This represented a change in ISC's policy, which previously emphasized its monitoring role. The state environmental departments, especially DEC, took exception to ISC's enforcement as a departure from what they considered its more appropriate role, i.e., monitoring. According to ISC officials, the change in emphasis was due to perceptions of inadequate state and federal enforcement and requests from legislators in New York and New Jersey to increase its enforcement efforts. Because of those activities, the state environmental agencies supported reductions in ISC's 1989-90 budget requests.

Impact of the Conflict. Problems have resulted from budget cut backs and ISC's emphasis on enforcement. These problems are reflected in a 57 percent reduction in ambient monitoring activities and a two-thirds drop in sewage treatment plant inspections during the period 1986 through 1989 by ISC. The conflict has had particularly significant consequences in New York where the DEC has taken action to reduce ISC's role.

OVERLAP IN TIMING 1989 DEC AND ISC INSPECTIONS

Facility Type	Percent of Facilities With Both DEC and ISC Inspections		Percent of ISC Inspections Within 30 Days		Average Days Between Inspections	
Municipal	93.3	(45) ^a	55.6	(72) ^b	35.9	(72) ^b
Private/Commercial/ Institutional	35.0	(20)	57.1	(7)	54.3	(7)
Industrial						
Non-Toxic	5.6	(54)	33.3	(3)	66.7	(3)
Toxic	2.8	(36)	0.0	(1)	220.0	(1)
Nonsignificant ^c	13.5	(74)	40.0	(10)	62.4	(10)
Total	27.5	(229)	52.7	(93)	43.1	(93)

^aTotal number of facilities upon which percentage is based.

^bTotal number of inspections upon which percentage is based.

^cThese are private/commercial/institutional and industrial plants which are deemed by DEC to pose a minimal water quality risk.

Source: LCER review of 1989 inspections of surface water dischargers, Interstate Sanitation District, March 1990.

Recommendations. As a result of the problems identified in the audit, we recommended:

- That the Legislature consider: (1) appointing the State Commissioner of Health as an ex-officio member of ISC and (2) convening a regional conference to address questions pertaining to the role of ISC and its operating relationship with the states' environmental agencies;
- That the ISC and DEC staff should cooperate with respect to inspections, including sharing discharge inspection plans, and jointly determine the both the timing types of facility inspections to be done by each and that ISC should inform DEC orally of significant problems after the inspection; and
- That ISC should adopt policies with respect to situations in which action by the Executive Committee, rather than the full ISC, is appropriate.

Agencies' 180 Day Responses

Responses from both ISC and DEC concurred with some of our recommendations but took exceptions to others. They agreed that a conference should be used to clarify ISC's role. Guidelines have been developed, but not implemented, to improve coordination of discharge inspections. ISC agreed with the need to separate its budget from that of DEC's.

DEC did not agree with our finding that it was not cooperating with ISC on its water pollution control activities.

In addition, an ad hoc ISC committee, with State environmental department representation, is considering appropriate use(s) of ISC's Executive Committee.

URBAN DEVELOPMENT CORPORATION PROJECT ACCOUNTABILITY

September 30, 1990

The Urban Development Corporation (UDC) promotes economic development in New York through loans and grants to businesses and other entities — with outstanding loan balance of \$90.1 million as of March 31, 1990. For 1989-90 UDC's appropriations totalled \$20 million and an additional \$177.6 million in

reappropriations. For a program of this magnitude, it is important to provide the Legislature with sufficient information on project status and related funding to ensure that appropriations are not excessive and to determine if UDC has excess cash for projects that are no longer active. The information UDC provided was not sufficient for the Legislature's review for these purposes.

This LCER audit ascertains the status of UDC project funds, including balances, the accuracy of data and the adequacy of UDC's system for monitoring the status of projects, including project delays.

LCER presented an oral interim report on this audit, as of February 1990, to legislative staff.

Findings and Recommendations

UDC has a broad legislative mandate to fund for an array of projects related to economic development and is also authorized to finance the construction of correctional facilities and civic and community projects. Funding for economic development projects is confined to four program categories — defined by goals — for industrial, regional, minority and women-owned businesses, and downtown and commercial development. Reporting to the Legislature on the status of UDC project funding has been deficient in a number of respects, including:

- Limited information on projects in the early stages;
- Ambiguity about the extent of excess funds available in either appropriations, reappropriations or corporate cash; and
- Unclear status of projects.

Project Status and Fund Balances. We analyzed UDC funding requirements, as of November 30, 1989. Of more than 500 UDC projects, 25 had \$3.9 million in excess cash. Further, a total of \$5.2 million in funding was not needed for 12 other projects that were either dormant or completed. The remaining 493 projects were active.

UDC Report to the Legislature. A number of deficiencies in UDC's reporting to the Legislature were identified, including: (1) the lack of sufficient data on project balances by program, status and fiscal year; and (2) inadequate information concerning repayments of loans to the State.

UDC Project Tracking System. UDC's information system shows the status of projects during the various major stages of development. While useful information is maintained during the active stage of project development, we found that limited information was maintained on projects prior to Board approval. Such information would be useful to both UDC management and the Legislature, including the proposed program and financing for the projects. In addition, UDC's tracking system did not have the capacity to identify the reasons for project delays.

Recommendations. Based on our review of UDC's reporting and tracking system, we recommended that UDC improve:

- Reporting of project status, including fund balances, to the Legislature;
- Reporting of repayments of loans to the State; and
- Tracking of projects not yet approved by the UDC Board as well as those approved but not yet closed and the reasons for project delays.

Agency's 180 Day Response

UDC's response to LCER's recommendations noted actions taken, including:

- Based on an agreement with the Division of the Budget and the Office of the State Comptroller, UDC's appropriations will be reduced corresponding to amount of its excess funds. UDC may then apply these excess funds to projects from the same programs as the original project;
- UDC now provides extensive project-level information, including status and balance, to the Legislature; and
- UDC has improved its tracking systems, including additional information for projects that are approved but not yet closed. Also, the status of pre-approved projects is now presented to the Legislature.

OFFICE OF RURAL AFFAIRS

October 5, 1990

The Office of Rural Affairs (ORA), established by the Legislature in 1986, provides services to rural areas of the State, defined as counties with less than 200,000

in population. The Office's mandate includes acting as a catalyst to engender cooperation among State agencies and providing technical assistance for rural areas. For each of the fiscal years since its inception, legislative appropriations for ORA's operations have totalled less than \$775,000, excluding small amounts received from a special revenue fund.

Our program review consists of determining if ORA is fulfilling its legislatively mandated functions, consisting of 19 different objectives (shown in the chart), and whether the services that it performs are unique or, conversely, are duplicated by other State agencies.

LCER presented an oral interim report on this audit, as of February 1990, to legislative staff.

Findings and Recommendations

The Office of Rural Affairs was established to provide assistance in meeting the needs of New York State's rural communities. The methods used to accomplish that mandate include providing information and technical assistance for State and federal government rural programs. While ORA has not developed a long-range plan, it has implemented various programs to accomplish its objectives, including: operating a computer based system containing a compendium of rural programs; coordinating governmental services by initiating contacts with other government agencies and providing conferences; and through educational resources for technical assistance and information.

Information System. As a means of accomplishing its objectives, ORA established the Rural Assistance Information Network (RAIN). This is a computerized directory of State and federal financial and technical assistance programs — including major program requirements and contacts for further information. The system can be accessed at any time at various sites throughout the State and ORA is working to increase its accessibility. Based on the results of our user survey to determine the effectiveness of RAIN, a preponderance of respondents rated the service as good or excellent.

Liaison Activities. The Rural Affairs Act specifies that each agency with rural interests designate staff as liaison to the Office of Rural Affairs. Based on a survey of those so designated, 95 percent of the agency liaisons rated ORA's quality of communication as positive. Other information obtained through that survey indicates a majority of the respondents favor regular meetings between the Office and all agencies' liaison staffs and

OFFICE OF RURAL AFFAIRS EFFORTS TO ADDRESS REQUIRED FUNCTIONS

	RAIN	Rural Service Institutes	Annual Conferences & Rural Showcases	Financial Services Study*	Liaison Contact	Review of Roles & Regulations	Comments on Legislation	Grant Application (ORA & Assists Locals)	Office of Rural Affairs Regulations	Other Contacts
1. Be a clearinghouse	●	●								
2. Assist development and cooperative responses	●	●		●			●		●	
3. Maintain program listings of state, federal, private programs	●									
4. Encourage responsiveness, grant alternatives, cooperative approaches, technical assistance		●		●	●				●	
5. Review application procedures				●	●					
6. Encourage private assistance			●	●			●			
7. Give legal help to local government										
8. Help the Governor & Legislature make policy & plans						●				
9. Facilitate cooperative responses									●	
10. Provide legal advice, comment on proposed legislation						●				
11. Apply for and receive grants							●			
12. Adopt rules								●		
13. Help the Governor coordinate agency activities				●	●					
14. Inform the Governor of problems & help formulate policies						●				
15. Referrals to solve particular problems	●	●		●						
16. Develop pilot programs make studies			●							
17. In-service training, information available	●	●	●							
18. Consult & cooperate with agencies		●	●	●						
19. Do all things necessary to accomplish these functions	●	●	●	●	●	●	●	●	●	●

● = Activity addresses the specified function.

*The Financial Services Study was mandated in 1987.

Note: Bold print indicates areas not addressed by the Office of Ruiral Affairs.

Source: LCER staff.

most consider ORA's functions to be unique in serving the needs of rural areas exclusively.

Voluntary Services. Rural Services Institutes (RSI) were established through ORA's initiatives at 14 educational institutions throughout the State. The purpose of the RSIs is "to establish a network of regionally based organizations which will provide services — technical assistance, training, information, referral, etc., — to the rural areas of the State."

RSIs operate on a voluntary basis without State funding under a memorandum of understanding between the RSI and ORA. Our survey of RSI contacts found that, generally, there has been an increase in public and community-focused work since the inception of RSI. However, about one-third of the respondents noted that RSIs are not significantly different from activities conducted prior to their inception.

Recommendations. We recommended that the Office of Rural Affairs:

- Develop a long range strategic plan, including clarification and prioritizing mandated functions and an implementation plan;
- Prepare an annual plan that identifies its priorities for the year and time frame for accomplishing those priorities;
- Institute an annual meeting of all State agency liaisons to ORA; and
- Take actions to increase awareness of the Rural Services Institutes.

Agency's 180 Day Response

The Office of Rural Affairs noted actions in response to LCER's recommendations, including:

- An annual plan was prepared, including a listing of the goals and objectives of the Office that will serve as a basis for long range planning;
- Annual meetings of agency liaisons will be conducted, with other meetings held on an as-needed basis; and
- Various efforts are being made to increase awareness of the activities of the RSIs.

EXPEDITED FOOD STAMPS

November 2, 1990

To ensure that particularly needy persons obtain food stamps on a timely basis, State and federal regulations require expediting their applications. While for routine categories of food stamp recipients processing can take up to 30 days, for those who qualify for expedited benefits applications must be processed within a much shorter period of time. Those who are eligible for expedited benefits constitute a significant proportion of food stamp participants — including, as of April 1990, 41 percent of participating households within New York City and an average of 28 percent for participants in the rest of the State.

The focus of this audit is on the extent to which State and local administering agencies of the food stamp program are meeting expedited application deadlines and the effectiveness of the methods that are used to monitor the program.

We presented a legislative oral interim report on our audit in the Spring of 1990.

Findings and Recommendations

The entire food stamp program in New York involves average annual federal government expenditures of \$900 million for more than 649,000 households (consisting of almost 1.5 million persons). Administration of the program within New York State is carried out by the Department of Social Services (DSS) and local agencies (social service districts). DSS' responsibilities include formulating policies and monitoring the districts' administration. DSS regulations stipulate that all applicants for that service must be screened for eligibility for expedited services.

Those individuals who qualify for expedited benefits must have their applications processed by the first business day following the date of their application.

Our review of the program identified a number of problems related to the lack of appropriate information to determine compliance with State regulations, a significant proportion of eligible households that are not receiving benefits within the stipulated time frame and failure on the part of DSS to implement effective screening procedures within all local districts.

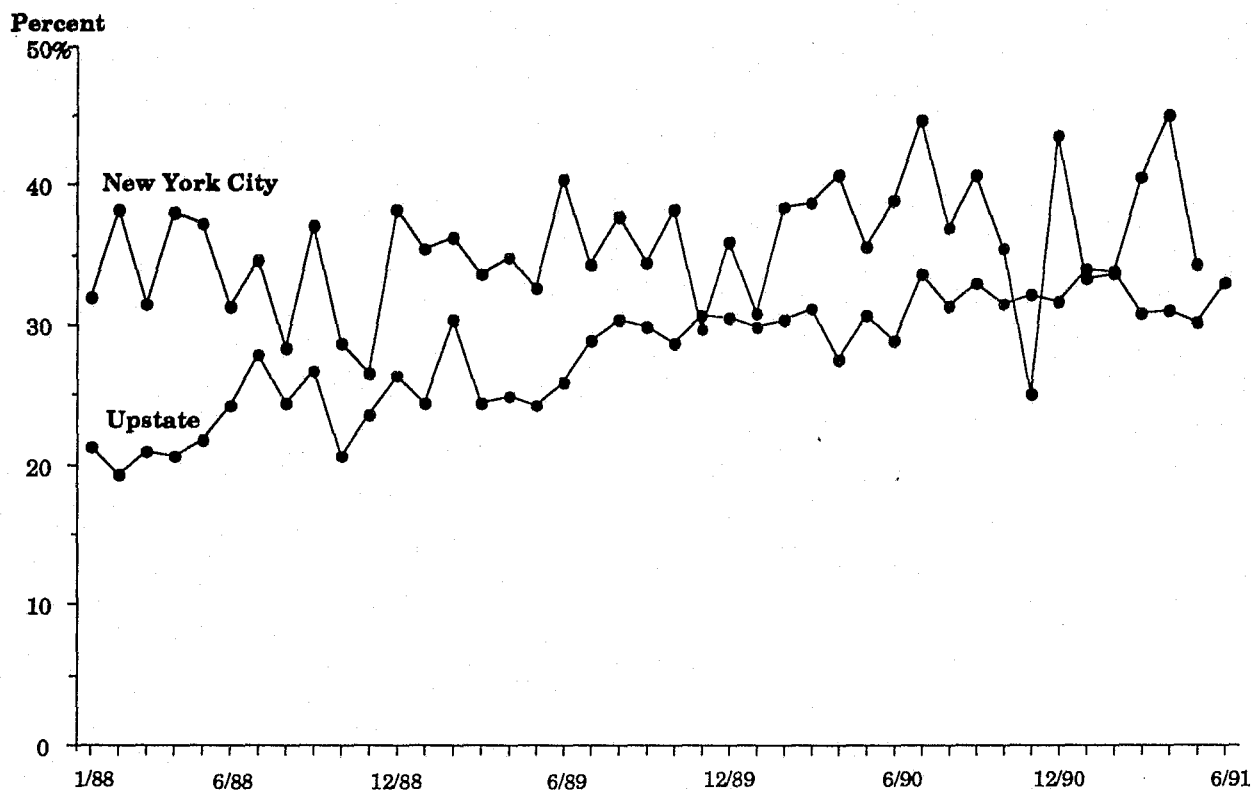
Program Scope. The percent of food stamp recipients eligible for expedited services increased consider-

ably from November 1987 to April 1990 — with an increase from 14 to 28 percent for non-New York City households and from 30 to 41 percent for those in New York City. The chart indicates that in upstate counties the average monthly number of recipients who were eligible for food stamps and who received expedited service increased from 28 percent in 1989 to 31 percent in 1990 to 32 percent during the first five months of 1991. The comparable figures for New York City were 35 percent, 38 percent, and 37 percent, respectively. Thus both areas showed slight increases for this period, with the gap between upstate counties and the City narrowing somewhat.

Eligibility and Application Processing. Approximately three-quarters of the applicants in counties outside New York City are receiving expedited service within the one day standard. However, in New York City, as of July 1989, only one-fifth of eligible applicants did so.

DSS has taken steps to ensure that all applicants are screened for expedited benefits and to see that eligible households receive expedited service within the regulatory standards. However, many individuals, particularly in New York City, where most food stamp recipients live, still do not receive expedited benefits in

**PERCENT OF FOOD STAMP ELIGIBLE APPLICANT HOUSEHOLDS
WHICH RECEIVED EXPEDITED BENEFITS
IN NEW YORK CITY AND IN UPSTATE COUNTIES, 1988-1991**



Source: LCER staff from NYS Department of Social Services, Food Stamp Bureau, December 1989, January, March, June 1990, and August 1991, and NYC Human Resources Administration, June 1990 and August 1991.

a timely fashion. In addition, in upstate districts about one-fifth of those applicants eligible for expedited benefits did not receive them. Comparable data for New York City were not available.

Monitoring. We found deficiencies in DSS' management information system that is used to monitor the expedited food stamp program and in its efforts to oversee the system to ensure adherence to regulations by local districts. DSS' management information system is unable to provide either what proportion of eligible recipients are denied benefits or the time required for issuing expedited benefits. Further, while DSS has taken steps to ensure that all applicants for expedited benefits are screened, it has not required that all districts use a screening sheet that is the most effective method for this purpose.

Recommendations. We recommended that DSS:

- Routinely conduct site reviews in all districts found to have low percentages of expedited food stamp issuance;
- Enforce compliance with DSS regulations in those districts that consistently fall below the statewide average; and
- Make improvements in its management information system to enable it to determine the proportion of individuals in New York City who, while eligible, do not receive expedited services.

Agency's 180 Day Response

While DSS' response indicated that some actions had been taken in accordance with LCER recommendations, exceptions were made with others.

DSS indicated that there is a need for regular site visits in districts that have low percentages of issuance of expedited services and has mandated the use of its screening sheet for all such districts. However, for those districts that fall below statewide averages, DSS contends that technical assistance, rather than other means, such as sanctions, is needed to improve those districts' understanding of the department's regulations and that, due to the lack of resources, it is unlikely that improvements can be made in its management information system for the expedited food stamp program.

QUALITY CONTROL OF THE FOOD STAMP PROGRAM

November 9, 1990

The federal government's food stamp program is administered by the states. While the total costs of food stamps, and a large percentage of the administrative costs, are reimbursed by the federal government, the states are held accountable for errors in eligibility and allowance determinations. For this purpose the U.S. Department of Agriculture establishes guidelines for dollar error rates and levies penalties against states whose rates exceed the guidelines. To avoid the penalties, quality control, involving procedures to minimize errors, is an important administrative part of the food stamp program. New York, which has a quality control program, has, nonetheless, failed to meet the guidelines during four years within a five year period ending September 1989. As a consequence, the State may be required to pay substantial penalties.

Our program audit reviews the development of New York's quality control system, the causes of food stamp errors, and describes actions that have been undertaken to address problems related to administration of the system. In addition the audit includes a status report on pending food stamp error-related penalties.

We presented a legislative oral interim report on this audit in the Spring of 1990.

Findings and Recommendations

The U. S. Department of Agriculture's (USDA) food stamp program provided over \$928 million in food stamps within New York during 1989. The State's responsibility for program coordination and oversight is vested in the Department of Social Services (DSS) which oversees the actual determinations of eligibility and allocations of amounts through local social service districts. Quality control of the program, to ensure distribution of food stamps in accordance with established eligibility criteria, is a major part of the department's administrative/oversight responsibility.

Error Rates. USDA guidelines, established annually, are based on a percentage of the dollar value of food stamps issued in error, regardless of the cause of the error. For the federal fiscal year ending September 30, 1989, New York's error rate exceeded the USDA allowable rate by 14 percent of the dollar value of food stamps issued and by 28 percent of the cases. Forty-nine percent

of those errors were caused by incorrect information provided by the food stamp recipients.

DSS Monitoring System. DSS monitors the error rate in the food stamp distribution system through elaborate and extensive sampling methods. Food stamp error rates are computed for each of the State's eight largest social services districts outside New York City through supplemental quality control audits. A separate rate is computed in a sample for New York City. USDA reaudits based on a subsample. In determining the State's food stamp error rate, DSS audits against federal policy and its Food Stamp Source Book. USDA does not approve state food stamp manuals, and, therefore, audits only against federal policy, and its interpretation of that policy, set forth in its manuals. Some errors are therefore inherent in the program. These differences have been difficult to resolve.

Development of Corrective Action Plans. Corrective action plans have been developed to reduce the error rates. However, because of delays in both developing and implementing these plans, the State's error rate was not reduced in a timely fashion. As a consequence, the error rates are still above the level allowed by the federal government. However, as shown in the chart, in 1990 error rates declined in both New York City and in upstate counties.

Status of Penalties. While federal legislation, adopted after completion of this audit, eliminated penalties for two of the four years during which New York's food stamp error rates exceeded federal guidelines, penalties for the other two remain. The State is in the process of appealing the sanctions that may still be imposed — averaging \$15 million for each year.

Recommendations. To address the deficiencies identified in the audit, we recommended that:

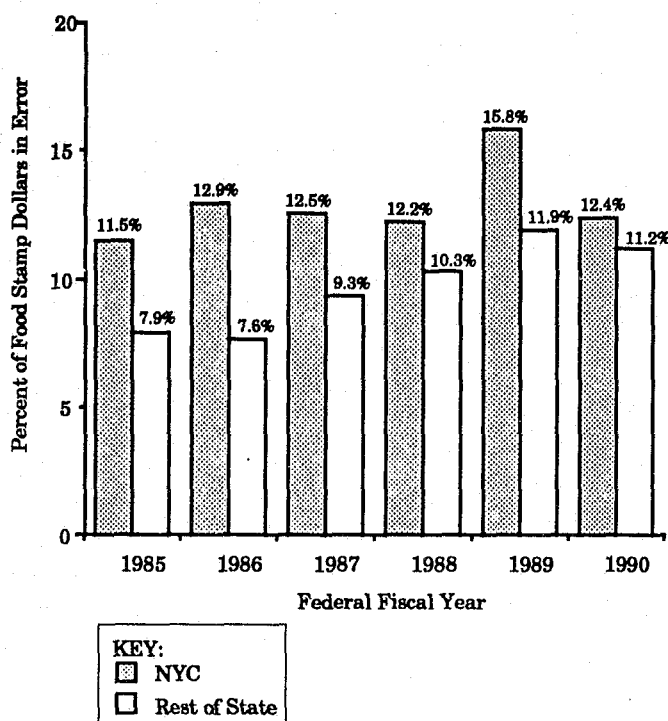
- DSS should establish minimum initial and ongoing training guidelines for case examiners in districts and mandate that districts send workers to participate in institutes and regional conferences; and
- The Commissioner of Social Services should petition the U. S. Department of Agriculture to study the development of a single food stamp source manual for all states to provide a uniform base against which states can be held accountable for errors in processing and in issuing food stamps.

Agency's 180 Day Response

DSS concurred with our findings, but disagreed with the implementation of recommendations — indicating that it lacks the authority to mandate training and conferences. However, DSS noted it is working with local districts on training, for a pilot program, designed to reduce food stamp errors in both New York City and upstate counties.

DSS, while agreeing that a uniform manual would be useful, indicated that it was impractical due to the different needs of each state. DSS' response did not address any potential alternative proposals.

NEW YORK STATE FOOD STAMP DOLLAR ERROR RATES: NEW YORK CITY AND REST OF STATE FEDERAL FISCAL YEARS 1985-1990



Source: LCER staff from DSS, Data Analysis Reports: Overissuances, Underissuances, Ineligibles.

STATE ADMINISTRATION OF THE ECONOMIC DEVELOPMENT ZONE PROGRAM

November 29, 1990

The Legislature enacted the Economic Development Zone Program in 1986 to improve economic conditions in extremely distressed areas of the State. Consisting of a number of elements, including State aid, tax incentives and local initiatives, the program is intended to stimulate private investments and create jobs in zone designated areas. The Legislature also stipulated that independent evaluations of the Zone program be undertaken by LCER and other State government agencies, including the Department of Economic Development (DED), the Department of Taxation and Finance, and the Office of the State Comptroller.

Our audit addresses issues related to various program elements including administration and effectiveness within the first ten areas that received zone designation.

Findings and Recommendations

We concluded that most of the legislative requirements have been fulfilled and economic development seems to be underway — while noting that this conclusion should be qualified as it is based on information confined to the initial stage of program development. Improvements in economic development, reported by the zones during a one year period, include: \$98 million in investments and the creation of 1,304 jobs — 28 percent for targeted individuals; 125 businesses had begun operations or relocated into the first ten zones as of May 1, 1990; and other, more intangible, improvements in production, the general business climate and coordination of government programs.

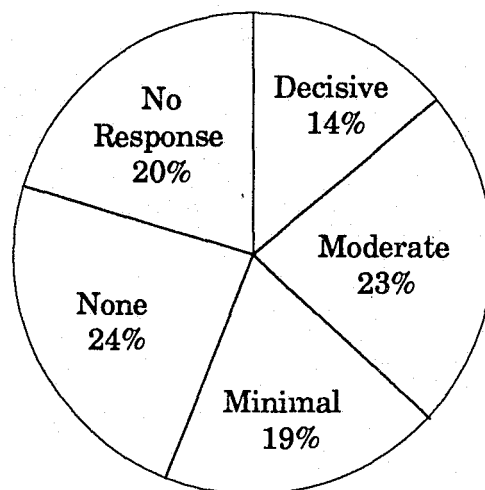
Zone Designation and Administration. Responsibility for overall coordination and administration of the Economic Development Zones program at the State level is vested in the Department of Economic Development, while other state agencies are responsible for review, approval and certification functions for various program aspects. Within the zones, administration is generally the responsibility of local development corporations, including small staffs, and an advisory Zone Administrative Board, required by statute. Zone designation results from a competitive selection process, involving an application from the area requesting designation that includes a proposed economic development pro-

gram. The Act authorizes 40 economic development zones — of which ten areas were selected after the first round of applications, completed as of July 1987, and as of October 1991 nine more had been selected.

Impact of Business Development Incentives. Incentives are included in the program to encourage business participation, including wage tax credits for hiring disadvantaged zone residents, investment tax credits, sales tax exemptions and utility rate reductions. In our survey of businesses investing in the zones, and as reflected in the chart, 56 percent reported that the zone incentives had some impact on their decision to participate in the program.

Employment in the Zones. Job creation and employment of the areas' disadvantaged residents is the primary goal of the program. As with other aspects, our evaluation of this component was restricted by the available data—including the number of persons trained, referred and placed. Problems identified with respect to implementation include failure to list jobs with local Department of Labor (DOL) offices, complaints from participating businesses of inadequate DOL screening of those referred for employment, and reluctance to hire the referrals due to poor work habits and the lack of appropriate skills. Failure to coordinate among existing programs was found to result in a fragmented approach

IMPACT OF ZONE PROGRAM ON BUSINESS INVESTMENT/JOB CREATION DECISIONS



Note: Includes only businesses that reported making an investment and/or creating new jobs.

to training — thereby failing to ensure that the needs of the targeted population were being met.

Business Certification. Certification, based on various eligibility factors, is required for a business to qualify for program participation. Problems were identified with the available data bases to ensure eligibility for certification — including problems of verification in accounting for job creation and loss.

Recommendations. LCER's recommendations are designed to address problems identified in this audit:

- DED should assess the cost-benefits and effectiveness of incentives and recommend changes, as appropriate, to the Legislature;
- DOL should ensure that the terms of the agreements with the local zones are comprehensive;
- DED should monitor the zones to ensure that the goals of the program are being met with respect to training and employment of zone residents and targeted individuals;
- DED and DOL should assume responsibility for oversight of the job creation/business development portion of the program and develop a coordinated method for obtaining related — accurate, consistent and verifiable — data;
- DED should evaluate the effectiveness of the business certification process as a means of bringing businesses into the program and simplify that process as well as businesses' annual reports and ensure that the information obtained meets statutory criteria; and
- The Department of Taxation and Finance, prior to reporting information on tax expenditures, should verify the reliability the information provided by zone businesses.

Agencies' 180 Day Responses

DED, DOL and the Department of Taxation and Finance and each responded to the audit. DOL agreed with our recommendations and, in most cases, reported taking the first steps toward improving program administration. A summary of actions taken to address LCER recommendations, as reported in the agencies' 180 day responses, include:

Department of Economic Development

- Planned to establish an Economic Development Zone Human Service Task Force to work on issues related to services and coordination of programs for targeted zone residents.
- Proposed changes in the Wage Tax Credit intended to stimulate employment of targeted residents.
- Proposed changes in concert with the Economic Development Zones Review Commission to improve the effectiveness of business incentives.
- Simplified the business certification process.
- Implement improvements in verifying business annual employment data.
- Reduced zone reporting requirements while increasing monitoring of administration, including the development of criteria for program evaluation.

Department of Labor

- Both DOL and DED will meet with newly certified businesses to discuss employment projections and link the business with services aimed at helping the firm meet job goals. Furthermore, agreements with the individual zones call for DOL to certify eligible employees as zone residents and/or targeted individuals.
- DOL is working on a computerized system, for completion by the fall of 1991, to track the progress of firms in the program, based on site visits and staff follow-up, to improve monitoring as recommended by LCER.

Department of Taxation and Finance

- The Department indicated that its tax expenditure data, based on a summary of tax returns, cannot, on a cost-effective basis, be verified by the agency.

Post-Audit Developments

A copy of this LCER report was provided to the Economic Development Zones Review Commission, mandated to make recommendations to the Governor and Legislature concerning the future of the Zone pro-

gram. The Commission in its findings and recommendations, paralleling LCER's in many respects, concluded that the program should be continued.

TAX PROCESSING BANKING ARRANGEMENTS

December 3, 1990

The Department of Taxation and Finance (T&F) uses banks for processing tax returns. Eight different banks were used for this purpose during 1989 — for 22 different taxes involving 19 million transactions that accounted for \$28 billion in revenue.

The focus of this audit is on issues related to the selection, oversight and reimbursement of banks that are used for tax processing services.

Findings and Recommendations

The banking services obtained by T&F involve processing returns and preparing related transactions data. More specifically, this includes reviewing returns for completeness, reconciling amounts remitted with what is reported, ensuring that checks are ready for deposit, depositing checks for clearance and preparing related transaction documentation.

We found deficiencies in T & F's arrangements with the banks in terms of methods of selection, the nature of the contractual arrangements and in the degree of oversight exercised in reviewing the processing services provided by the banks.

Selection. Competitive bidding is not used in selecting banks for tax processing services. Rather, banks are used that have provided these services in the past. Selections are based on recommendations from T&F and the approval of the Office of the State Comptroller (OSC). For most of the banks, the terms of services are based on a letter of agreement with T&F rather than a formal contract. In all cases the contractual arrangements do not stipulate conditions if a bank discontinues its services without advance notice.

Method of Compensation. Banks that provide services are reimbursed through an arrangement referred to as compensating balances. Under this method, State monies are held by the banks in non-interest bearing accounts. The banks invest this money and the interest earned on the investments constitutes compensation for the services. Based on our estimates, the cost of services,

using that method of reimbursement, totalled over \$12 million in 1989. The costs of using different methods of compensation have not been studied by T&F nor are these costs included as part of T&F's budget and are, therefore, not subject to legislative review.

Bank Oversight. Issues related to oversight and quality control of the work performed by the banks are important due to the fact that a major portion of the State's revenue is involved in this process. Department oversight has concentrated on the management information system, ensuring that data prepared by the banks are accurate and reliable, rather than on the process itself.

Transaction Verification. OSC is responsible for establishing the amounts needed in the non-interest bearing accounts to reimburse banks through compensating balances. For this purpose the number of transactions processed is important. While T&F is in a position to provide verification to OSC — i.e., reconciling the number of transactions for which reimbursement is made with the number actually processed — this is not done consistently.

Recommendations. We recommended that actions be taken to address problems identified in the audit:

- Continue implementing a plan which had been developed to competitively bid banking services and establish contracts with tax processing banks;
- Recognize the cost of compensating balances in the budget process;
- Continue to implement enhanced oversight and quality control measures through T&F's newly established Bank Services Management Bureau; and
- Establish a mechanism to verify that the number of transactions for which the banks are reimbursed are the same as the number performed.

Agency Responses

T&F and OSC filed a joint 180 day response, indicating that the following actions had been taken:

- Issued the first RFP — pursuant to T&F's competitive bidding and contracting plan with an anticipated completion time frame of 1996;

- Included two bank services' accounts in T&F's budget as part of an on-going pilot project to recognize compensating balances in the budget process;
- Improved oversight through T&F's Bank Services Management Bureau; and
- Initiated procedures providing for quarterly transaction reconciliation processes ensuring that banks are compensated for the actual volume of transactions processed.

Post-Audit Developments

While the Department of Taxation had taken exception to our conclusion that their oversight and quality control had not focused enough on tax processing, the results of their Bank Services Management Bureau's initiatives, including termination of services with one bank due to high costs and poor performance, supports our original conclusion.

CUNY MANAGEMENT FLEXIBILITY PROGRAM

December 31, 1990

Legislation in 1985 provided the City University of New York (CUNY) with more discretionary authority for matters related to budgeting, recruitment and purchasing. This program, referred to as Management Flexibility, parallels similar legislative action for the State University of New York (SUNY). The program gives CUNY the authority to transfer funds among accounts and to allocate mandated budget reductions without prior approval from the Division of the Budget (DOB).

The audit focus is on CUNY's budget execution performance. It assesses management flexibility's impact on CUNY's planning, purchasing, recruitment and research operations and compares SUNY's and CUNY's performance under this program.

LCER presented its findings on the impact of the *SUNY Management Flexibility Program* in a December 1989 program audit.

Findings and Recommendations

CUNY was successful in providing clear long term objectives that have guided the use of the management flexibility delegated by the Legislature and, generally,

has adhered to the revenue and appropriations limits by the Legislature. However, a \$19.7 million collective bargaining deficiency from 1985-86 and 1986-87 remain unresolved.

The principal shortcoming found was CUNY's failure to consistently provide the senior colleges with the authority necessary to manage their day-to-day fiscal operations. For example, CUNY limited the opportunities for the senior colleges' to execute budget transfers by delaying the processing of transfer certificates. CUNY also implemented the November 1988 State budget reduction through a budget freeze rather than authorizing colleges to allocate their respective reductions. Finally CUNY failed to hold colleges fiscally accountable for controlling energy consumption and instead, allowed them to use the funds, designated as energy conservation incentives, to protect against budget or revenue shortfalls.

Recommendations. Our principal audit recommendations were designed to address CUNY's overcentralization of fiscal controls:

- CUNY should adhere to the annual budget transfer schedule and maintain records to track the use of budget transfers.
- CUNY should provide fiscal incentives to encourage energy conservation and hold each senior college fiscally accountable for its energy consumption.

Agency's 180 Day Response

CUNY concurred with LCER's recommendations as noted, in its 180 day response, that the following actions had been taken:

- That it had developed and is adhering to an annual budget transfer schedule; and
- That it is working with the New York Power Authority to implement a demand side energy management program, involving college accountability for energy consumption and is developing, in coordination with DOB, fiscal incentives for conservation.

CUNY also submitted legislation to revise its purchasing statute, which, if enacted, would reduce requirements for formal bid advertising, for State Comptroller oversight and for required reporting on flexibility issues. No legislative action was taken on the CUNY proposals of July 1991.

1990 ORAL INTERIM AUDIT REPORTS AND INFORMATIONAL BRIEFINGS

CONTRACT COURSE PROGRAM

This LCER oral briefing included a description of the contract course activities of the State University of New York (SUNY) and the City University of New York (CUNY), including types of course offered and the types and sizes of organizations served through the program. The briefing also addressed program finance issues, including the potential impact of the State Comptroller's decision to place contract course aid within the 40 percent cap established for State aid to community colleges.

The program audit was published in April 1991.

THE DEPARTMENT OF TAXATION AND FINANCE'S COLLECTION EFFORTS

This LCER oral interim audit report provided a status report on the Department of Taxation and Finance's (T&F) special revenue project. The project increased staffing in the Tax Compliance Division to enhance revenue collections and reduce the backlog of compliance cases — particularly in T&F's downstate offices.

We found that, with two months remaining in the project's first year of operation, the goal of increasing revenue collections by \$88 million had been surpassed with projections of over \$123 million in collections by the end of that year. However, we also reported that, while exceeding its revenue collection goal, the size of the backlog of compliance cases had remained, essentially, the same.

Our program audit of this T&F project was published in February 1991.

OFFICE OF MENTAL HEALTH'S UNIFIED SERVICES PROGRAM

This oral interim audit report reviewed the impact of the Office of Mental Health's (OMH) Unified Services program. The audit consists of a comparison of Unified Services counties with counties that provide regular services in terms of funding, planning, service delivery and the impact of other community oriented mental health programs.

The presentation included information on revenues and expenditures, the number of clients served, the types and volume of services provided, and a description of the planning process with respect to the availability of services statewide and the use of State psychiatric centers.

SCIENCE AND TECHNOLOGY FOUNDATION'S NON-PROGRAM SPENDING

This LCER oral presentation concerned the status of the Science and Technology Foundation's non-program spending, defined as, "All those expenditures (excluding day to day operations) for initiatives, projects, programs or activities not specifically authorized by the Legislature by either statutory or appropriation bill language." Our review focused on non-program spending categories that have, in great part, been funded by the Foundation's income from investments, interest and fees. Issues addressed included the level, purpose and authority for the Foundation's non-program spending. Of particular concern was the use of those funds to support activities that were not authorized by the Legislature.

LEGISLATIVE COMMISSION ON EXPENDITURE REVIEW

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