

New York State Assembly

Carl E. Heastie

Speaker



Committee on
Oversight, Analysis and Investigation

Ellen C. Jaffee

Chair

2016

ANNUAL REPORT



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

ELLEN C. JAFFEE
Assemblymember 97th

CHAIR
Committee on Oversight, Analysis
and Investigation
COMMITTEES
Environmental Conservation
Children and Families
Health
Higher Education
Economic Development, Job Creation,
Commerce and Industry
Mental Health
Steering Committee

December 15, 2016

The Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Speaker Heastie:

It is with pleasure that I present you with the 2016 Annual Report of the Assembly Standing Committee on Oversight, Analysis and Investigation. Contained within are summaries of the Committee's initiatives and activities during the 2016 legislative session, as well as an outlook for 2017.

Government oversight is crucial to an efficient and responsible government. An important role of the Oversight, Analysis and Investigation Committee is to analyze the implementation of the law and investigate whether State agencies are acting effectively, efficiently, and in compliance with legislative intent.

As a former educator, I know firsthand how critical early childhood development and education is. In 2016, the Committee continued its examination of several issues impacting children, including ways to improve the implementation of the Early Intervention Program (EI) and reviewing state policies to ensure families are able to obtain affordable quality child care.

I have been honored to chair this Committee as it endeavors to strengthen the accountability and efficiency of government in New York State and help to ensure all New Yorkers are being well served by government.

I would like to thank you, your staff, and the Committee members for their continued support and guidance. I look forward to continuing the work of the Committee during the upcoming 2017 legislative session.

Sincerely,

Ellen Jaffee
Chair, Assembly Committee on Oversight, Analysis and Investigation

2016 ANNUAL REPORT

OF THE NEW YORK STATE ASSEMBLY

STANDING COMMITTEE ON OVERSIGHT, ANALYSIS AND INVESTIGATION

Ellen Jaffee
Chair

COMMITTEE MEMBERS

William Magnarelli
Fred Thiele, Jr.
Michael Kearns
Michael Montesano
Peter Lawrence

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LEGISLATIVE OVERSIGHT

The Role of Legislative Oversight

Every year, the Legislature and Governor enact hundreds of new laws. Legislative oversight enables policymakers to examine how those laws are implemented and ensure that the intent of the Legislature is being followed.

Article III of the State Constitution provides the New York State Legislature with the authority to conduct oversight activities. The Constitution permits the Legislature to appoint committees to investigate matters relating to the property and affairs of government and the state. The Constitution also empowers the Legislature to modify existing roles and assign new functions and powers to Executive departments.

Several laws and rules reinforce the Legislature's authority to perform oversight. For example, the Legislative Law and Civil Rights Law provide legislative committees with the authority to require the appearance of witnesses at hearings, and the State Finance Law requires the enactment of legislative appropriations before any state monies are spent.

The Assembly's oversight role was strengthened when its rules were amended to provide standing committees more ability to focus on oversight. Specifically, Assembly Rule IV, §1(d) was revised to require every standing committee to "devote substantial efforts to the oversight and analysis of activities, including but not limited to the implementation and administration of programs, departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within its jurisdiction." Also, Rule IV, §4(b) was amended in 2005 to provide that standing committees conduct at least one public hearing after adoption of the state budget. "The purpose of such public hearing shall include, but not be limited to, the impact, if any, of the state budget on the implementation and administration of the programs within such entities' jurisdiction."

Activities of the Committee on Oversight, Analysis and Investigation seek to help shed light on governmental and non-governmental actions and promote integrity and efficiency in the administration of laws. The role of the Committee is in part to identify whether programs operate as intended and if state funds are effectively spent. Oversight is the foundation for making sound policy decisions.

The Function of the Oversight, Analysis and Investigation Committee

The Oversight, Analysis and Investigation Committee contributes a number of important roles in furthering the Assembly's oversight activities. The Committee:

- **Reviews implementation and effectiveness of laws and programs**

The Committee often reviews the implementation and effectiveness of laws and programs to ensure compliance by governmental agencies. Through its work with other standing committees and lawmakers, and its own investigative activities, the Committee seeks to determine whether programs operate as intended and whether program funds are spent effectively and efficiently.

- **Conducts program and budget reviews**

The Committee conducts targeted program and budget reviews, both jointly with other Committees and individually, pursuant to recommendations of the Speaker, the Committee Chair, individual members, other governmental sources, or the public. Projects can be short-term or in-depth, and may involve financial and

historical data collection, field investigations, on-site state agency visits, and public hearings and roundtables.

- **Helps to create a climate for change**

The outcome of investigations, hearings, and other oversight activities are often compiled in reports or memoranda and distributed publicly to help create a climate for change. Recommendations may be incorporated into the lawmaking process through the budget, legislation, or administrative recommendations to the Executive.

- **Acts as a resource to other Assembly standing committees**

The Committee directs much of its attention to research and data collection. The Committee acts as a resource to other Assembly standing committees, lawmakers, and staff by providing assistance and guidance during program reviews. The Committee's report "A Guide to Legislative Oversight," explains how effective oversight reviews are conducted and sets forth the Assembly's authority to perform oversight activities.

COMMITTEE INITIATIVES

New York State Early Intervention Program

The Early Intervention Program (EI), which is implemented by the Department of Health (DOH), offers a variety of services to infants and toddlers with disabilities or developmental delays. The Committee appreciates how vital early childhood development and education is and wants to ensure that EI is functioning in a manner that results in the best possible delivery of services to the children of this state.

In 2013, the state required DOH to transition to using third-party "fiscal agents" in the collection of payments for EI services. The fiscal agent routes claims from EI service providers to private insurance and Medicaid payers. In October 2015, the Committee, in collaboration with the Committee on Health, hosted a roundtable discussion amongst stakeholders in order to learn how the fiscal agent system is operating; what improvements service providers have experienced since the transition and what administrative, technical, or other obstacles remain; and whether the fiscal agent system is proving to be a wise investment of state funds that improves the rate of commercial insurance reimbursements and ultimately improves services to the children served by EI.

The Committee believes that the system of claims reimbursement should ensure that EI service providers are paid in a timely fashion and not burdened by administrative duties related to insurance regulations and will continue to seek legislative and other solutions to ensure this occurs.

A recommendation that came out of the EI roundtable was to add representation from managed care plans on the Early Intervention Coordinating Council (EICC). Chairperson Jaffee sponsored **A.9889**, which increases the number of members of the EICC from 27 to 30 and requires at least three members who are representatives of managed care plans or managed care plan trade associations familiar with how claims for EI services are managed. This bill was signed into law as Chapter 462 of the Laws of 2016.

Focusing on Quality Child Care

Oversight, Analysis and Investigation Committee Chairperson Jaffee has for many years had a keen interest in making sure every family has access to quality, affordable child care.

In February 2015, Chairperson Jaffee was honored to be named to the Assembly's Child Care Workgroup. This workgroup focused on examining measures that will ensure affordable, quality child care for the hardworking families throughout the state.

A piece of legislation championed by Chairperson Jaffee, **A.775-A**, would expand access to child care for working families. This bill would provide that parents and caretakers who are eligible for a child care subsidy would receive a subsidy when care is necessary to enable them to sleep eight hours because they work a late shift and have a child who is not yet in school. This bill passed the Assembly for the second time in 2106.

Every two years the Office of Children and Family Services (OCFS) conducts a market rate survey among child care providers to ascertain the amount child care providers are charging for child care. The data collected is then used to set a payment rate for subsidized child care. This market rate survey does not necessarily reflect the actual costs of providing child care. Child care providers often have many fixed costs such as maintaining adequate staff, complying with building codes, and complying with regulatory and licensing requirements that are not accounted for by this survey. If subsidy rates are not high enough, the quality of child care often suffers as providers struggle to make ends meet. Chairperson Jaffee sponsored **A.9900-A**, which would require a cost estimation model be utilized for each category of care for which a market rate is determined. A cost estimation

model would provide valuable data on the actual cost of providing child care, not just what price is charged to parents. Such information would then be used to determine the adequacy of the rate paid to providers. This bill was introduced and passed the Assembly in 2016.

Workforce Guidance and Information for Women

Women are increasingly responsible for the economic security of their families. Unfortunately, more than a quarter of women-headed households in New York live below the poverty level. Compounding this is the fact that working women in New York State earn 86% of what men earn, and jobs traditionally held by women pay significantly less than jobs predominantly employing men. Workforce training programs have the potential to narrow the wage gap through training for, and referral to, jobs that have a higher earning potential. Chairperson Jaffee sponsored **A.9755**, which provides new workforce training programs in New York to assist women job seekers with information and services that will help increase their earnings by encouraging them to seek higher paying jobs and careers. This bill was signed into law as Chapter 460 of the Laws of 2016.

Increasing Awareness and Education Related to Dense Breast Tissue

Dense breast tissue may increase a woman's likelihood of developing breast cancer as it makes it more difficult to identify indicators of breast cancer on a mammogram. Supplemental screening techniques exist and may be appropriate for women with dense breasts. In 2012, Chairperson Jaffee sponsored legislation that was signed into law mandating that women who undergo a mammogram be informed if the test indicates that they have dense breast tissue and encouraging women to discuss with their doctor whether supplemental screening may be appropriate. As a supplement to this law, Chairperson Jaffee introduced **A.5510-B**, which requires the Department of Health to establish a program to ensure the education and outreach to the public on the meaning and potential health consequences of having dense breast tissue, the impact of dense breast tissue on mammographic screening for breast cancer, and supplemental breast cancer screening techniques available, and to provide access to other educational websites regarding dense breast tissue and literature regarding risk factors. This bill was signed into law as Chapter 402 of the Laws of 2016.

PUBLIC HEARINGS

Minority- and Women-Owned Business Enterprise (MWBE) Program

The Committee, in collaboration with the Governmental Operations Committee, Small Business Committee, and the Subcommittee on Oversight of Minority- and Women-Owned Business Enterprises planned to hold a public hearing on the MWBE program on December 16, 2016. The purpose of the hearing was to obtain input and feedback from stakeholders involved in the State's various MWBE programs, and to examine the impact of funding for the programs included in the enacted State budget.

This hearing needed to be postponed. The Committee very much looks forward to participating in this hearing when it is rescheduled in 2017. The information from the hearing will be useful to help guide discussions on possible adjustments to the MWBE program as it is set to be renewed in 2017.

OUTLOOK FOR 2017

The Oversight, Analysis, and Investigation Committee will continue to examine and take an active role in the issues it explored in 2016, including monitoring the effectiveness and efficiency of the Early Intervention Program, fighting for quality and affordable child care, and ensuring women's health care needs are met.

In addition, the Committee will take an active role in the discussions regarding the renewal of the Minority- and Women-Owned Business Enterprises program and will advocate for adjustments to the program in order to achieve a high level of frequent and meaningful participation by minority- and women-owned businesses on state contracts.

The Committee will continue to strive to be informed of and engaged in the multitude of issues facing the Legislature in 2017.