NEW YORK STATE LEGISLATURE

2010-2011 JOINT BUDGET HEARING

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LOCAL GOVERNMENT/GENERAL GOVERNMENT

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Mayor Michael R. Bloomberg
Testimony Before the State Senate Finance and Assembly Ways and Means Committees
January 25, 2010

Good morning. Thank you, Chairman Farrell, Chairman Kruger, my own State Senator Vice Chair Liz Krueger, and members of the committees. Seated with me are Mark Page, the City's director of Management and Budget, and Micah Lasher, our Director of State Legislative Affairs.

All of us, at all levels of government, face difficult decisions this year. You and the Governor have the task of balancing a budget that has a $7.4 billion gap between revenues and spending. Projections are for even greater deficits next year and the year after that.

The Governor has presented what he calls a "budget of necessity." We all know that hard budget choices are necessary – but so are fair ones. I regret to say that this budget – which would impose a total of $1.3 billion in cuts on New York City and leave us with close to 19,000 fewer City employees to perform basic services – utterly fails the test of fairness.

And that is why I am here this morning – to tell you that the people of New York are counting on you in the Legislature to help create a budget that is both responsible and equitable. We expect you to hold every budget decision this year to standards of fairness and fundamental reform. True fairness for all New Yorkers, Upstate and Downstate. True fairness in how State and local governments share the burden of closing the budget gap – a burden that is now heavily shifted to local shoulders. But for sure, fairness that in particular doesn't penalize New York City for what our 8.4 million people, voters, and taxpayers have done to keep our own fiscal house in order. That includes the hard but prudent decisions we've made to reduce agency expenses as well as raise property and sales taxes.

And we also ask you to seize this budget season as an opportunity: An opportunity to at last make the kind of fundamental reforms that put the taxpayers ahead of the special interests. And also an opportunity to end the postponing of facing fiscal reality that will only make the next budget that much more calamitous for our state and its citizens.

I want to thank the Legislature for acting fairly and wisely on the City's behalf in the past – by, for example, ensuring our fair allocation of State revenue sharing funds and, last year, by enacting the tax provisions we requested. We expect you to act with the same wisdom and fairness this year, too.

Although our criticisms of the budget are substantial, we also want to acknowledge its positive aspects. Let me begin by commending Governor Paterson for his resolve to close the budget gap more by reining in spending than by raising revenues. And the new revenue initiatives in the budget are themselves far-sighted. That includes, for example, the proposed penny per ounce tax on sugared beverages.

Today, more than half the residents of New York City, and nearly 40% of our public school students, are overweight, many of them seriously so. That puts them dangerously on track to contracting diabetes, high blood pressure, heart disease, asthma, depression, and other serious health problems later in their lives. It's in the interest of us all to prevent that from happening now – and the surest pathway to changing behavior is through the wallet.

I also support the proposed $1 per pack increase in State cigarette taxes. Our own experience in New York City shows that increasing the cost of cigarettes strongly discourages smoking – and that young people are especially sensitive to such pricing disincentives.

So together, these two revenue measures will not only provide some $650 to $700 million annually; they will also improve health and save lives across our state.

We also commend the Governor's proposed, long overdue clampdown on unstamped tobacco sales originating on New York's Indian reservations. This is a step the City has long urged the State to take, and we're delighted to see action on it at last. It will close an unwarranted loophole and prevent thousands of New Yorkers from becoming addicted to tobacco. Once new regulations are promulgated, it also will begin to raise up to $1 billion annually in State and City revenues.

I also want to commend three other revenue provisions of the proposed budget that will benefit New York City.

The first would extend the State mortgage recording tax to loans used to finance co-op purchases. This will finally treat all home mortgages the same, and the City portion of this reform will raise $50 million in revenues annually.

The second would end a requirement that the City pay extraordinarily inflated 9% interest to plaintiffs on court-ordered civil judgments. Today, no one gets 9%. The fairer, Treasury-bill-pegged rate the Governor proposes would save the City at least $1 million a year.

And the third provision we endorse would permit the City to create a sinking fund for principal on federally subsidized school construction bonds. The reduction in borrowing costs that we realize would permit us to build and repair more City schools.

That's basically the good news – and then, unfortunately, the inequities begin.

For starters, the executive budget cuts imposed on localities, including New York City, are nearly three times greater than those State agencies would face. For New York City, those cuts amount to $1.3 billion in the next fiscal year. This truly adds insult to injury, because we've already imposed seven rounds of budget belt-tightening on City agencies since the fall of 2007. That includes the 4% expense reduction we instructed them to make last November for the current fiscal year, and the 8% reduction they're making for Fiscal 2011, which begins July 1st. So the State is effectively saying to localities: We're going to fix our budget problems by starving your agencies.

Let me tell you, the cuts the State's fiscal mess will cause us to make will not sit well with New York City residents – particularly when they realize the State's budget is balanced on our workforce's back to protect the State's own workforce.

The executive budget claims to provide budgetary relief for local governments through a four-year moratorium on unfunded mandates imposed by Albany. But here are the facts from where I sit. First, the Governor's catalogue of proposed mandate relief measures would, in reality, have very little impact on New York City. Second, cost shifts in the budget actually add up to tens of millions of dollars of new unfunded mandates at the local level.

Let me cite two examples: special education and homelessness.

The State is proposing to shift some $51 million in the cost of summer special education classes from their budget to ours. But let's be clear: Our schools are under Federal mandate to provide these services, no ifs, ands, or buts. So this is not a cut in spending; it's a cost shift, pure and simple. And it ought to be understood as an unfunded mandate.

There's a similar cost-shift in the area of homelessness. In the majority of cases, providing shelter to homeless individuals is mandated either by the courts or by the State. Yet the State proposes to eliminate its annual appropriation for homeless adults in shelters, many of whom have physical or mental illnesses. The bottom line for the City's Department of Homeless Services will be a shortfall of $55 million in the next fiscal year.

The third major way the budget fails to provide mandate relief is the biggest-ticket item of them all: Our ever-mounting pension costs.

Last fall's special session created a new State-level pension tier for State employees, and for the City's public school teachers. That was a vital first step. Now I urge you and the Governor to take the next one, and enact comprehensive local pension reform. Specifically, New York City needs a new pension Tier V covering all new uniformed and civilian City employees. And incidentally: We need it this year! Today, uniformed services employees can and often do retire with full benefits while they are still in their 40s, creating an intolerable burden on City expenses.

On a related subject: The Governor recognizes that the rising cost of health care premiums for current and retired State employees is unsustainable. And for that reason, the executive budget would require State retirees to pay a portion of those premiums. Local governments face precisely the same grave problem – and we urgently need leadership from the State in addressing it. The State must include us in that requirement.

Similarly, we're disappointed that, so far, the Governor has failed to incorporate other cost-saving reforms we've proposed to him. That includes a full elimination of the burdensome and antiquated Wicks Law that greatly adds to public construction costs for New York City and other localities. And it includes the kind of common sense tort reforms already on the books in many states, which would save our city more than $140 million a year in civil judgments.

Not only does the budget impose new mandates without real mandate relief. And not only does it impose unfair burdens on City agencies compared to those placed on State agencies. It also eliminates – let me say that again, eliminates – State revenue sharing for New York City, and New York City alone.

This is the third executive budget in the past four that has included this provision, which makes any justification that "desperate times call for this desperate measure" a true non-starter. Because in good times and bad, one Governor after another has been all too willing to raid New York City's portion of this State aid. This year, other cities and towns would see revenue sharing from the State reduced from one to five per cent. But only New York City would have the dubious distinction of being cut off completely. That's right. Cuts of one to five per cent in 57 counties, and cuts of 100 per cent in Bronx County, Queens County, Kings County, Richmond County, and New York County. Want to guess how that's going to sit with taxpayers? Let me tell you, the voters of New York City aren't going to take it!

The executive budget cuts revenue-sharing statewide by some $349 million. We would absorb 94 per cent of that cut or $328 million; that's 15 times the cut for the rest of the municipalities in the state combined. If you're going to cut revenue sharing by that much, you should treat each locality accordingly – which would make New York City's annual cut $105 million, not $328 million. And just to put that in perspective: The cut we face goes even deeper than the Governor's budget makes it appear. Payments would be lost in both our current and coming City fiscal years – for a total of close to $656 million. As I'm sure you know, New York City produces roughly half of all State tax revenues. So eliminating these $656 million in State funds would worsen an already very pronounced imbalance of payments between New York City and Albany. It would, moreover, seriously aggravate an already difficult budget season in our city, which will begin when we present the preliminary budget for the next fiscal year this Thursday.

Now as to education funding.

Cuts in education operating funds are the biggest single element in the Governor's plan to balance the State's budget. And our city's schools would face a cut of some $500 million. While this is not out of line with the cut in aid that schools across the state are experiencing, it would have huge consequences in New York City, and would lead to 8,500 fewer teachers for this coming September.

You'll notice that we identify our cut as $500 million, not the $418 million in the executive budget. This is, however, misleading accounting. The Governor's budget counts school construction aid against the cut in formula-based school aid that the City is receiving. But the resolution of the Campaign for Fiscal Equity lawsuit clearly included a commitment from the State that building aid for New York City schools must be counted separately. This year, with the stakes so high in how we budget State and local funds for our schools – with the consequences so potentially dire in terms of layoffs – let's not muddy the waters. Let's shoot straight with the people, and with one another. You cannot count building aid as operating aid.

And before leaving the subject of education, let me add this: We're disappointed that full funding for student MetroCards has not been restored in the executive budget, as the Governor promised it would.

For years, the City, State, and MTA had an agreement to fund student MetroCards. This year, the State has dramatically cut its share of the funding, which could force children and their families to pay thousands of dollars a year in school transportation costs. This would not be right, especially since the State provides aid for student public transportation in other districts. The State is balancing its budget by raiding that of the MTA – the organization that provides our mass transit. Do you really think it's fair for our kids to suffer while other State agencies are protected? Make no mistake about it, the City cannot and will not make up the difference out of its meager resources. Despite our budget difficulties, the City is upholding its part of the bargain and funding its share of student MetroCards. The State needs to honor its commitment too, and pay its full share.

The executive budget also continues to impose unreasonable costs on the City for placing young people in State juvenile institutions.

Over the past eight years, we've reduced our placements in these clearly failing and dangerously dysfunctional institutions by more than half. Nevertheless, the State charges us more each year – more per capita, and more in the aggregate. We're paying 180% more today, per kid, per diem, than in 2002. In short, we're doing the right thing by keeping more kids in their home communities – and getting financially clobbered in the process, to the tune of a projected $64 million in the next fiscal year. Talk about no good deed going unpunished! At a time when the State is for good reason re-examining its juvenile justice system, let's look at this financing structure, too, and find a way to divert funds from failing institutions to proven, effective, community-based alternatives to placement. If you want to send money to Upstate counties, you write them a check. We can't afford to do so.

I also want to say a few words about the Governor's proposed alterations to the STAR school tax relief program. Unfortunately, his proposal would exacerbate already unfair treatment of New York City.

Here are the facts: STAR was set up as a homeowner tax exemption – and because the majority of New York City residents are renters, they were left out. So to make STAR more fair, a Personal Income Tax component was incorporated into the program for New York City. But now, STAR would be substantially curtailed in New York City. In fact, 79% of the statewide cut in STAR would be in New York City, even though we receive only 27% of STAR property and income tax relief. This would be an effective tax increase of at least $200 million annually for New York City taxpayers. I think that under the general heading of fairness, we can and should do better than that.

As I said at the top of my testimony: The $1.3 billion in cuts included in this executive budget would have devastating effects on essential services in New York City. I've already described the loss of 8,500 teachers that would result from the $500 million cut in State education funds. The executive budget imposes some $800 million in other cuts spread across other City agencies. And this is on top of the reductions in City spending needed to close our own multi-billion dollar deficit, a plan we will present on Thursday, in our preliminary budget for the next fiscal year.

These State-imposed cuts – let me repeat that so everyone knows where they're coming from – these State-imposed cuts would, if they're permitted to stand, lead to the loss of more than 10,000 City employees, in addition to the loss of 8,500 New York City teachers. And the consequences would be appalling.

We would, for example, have to lay off 3,150 police officers – reducing the NYPD's operational strength to 1985 levels. Some 1,050 firefighters would be laid off, and the firehouses where they work would be closed. We'd also have to lay off close to 900 City correction officers – which is only possible if we simultaneously reduce our daily inmate population by almost 1,900 prisoners. That's something we can't do without unprecedented reform of how the State-run judicial system adjudicates criminal cases in our city.

Today, our children's services workers keep tabs on almost 9,000 at-risk children; under these cuts, 2,700 children would lose that sometimes life-saving protection. Street cleaning and litter basket collection would be cut in half, and most curbside garbage collection would be reduced by a third. Close to 19% of parks personnel, almost 500 people, would face layoffs – the equivalent of closing all pools, beaches, and recreation centers, citywide. We'd have to eliminate City funding for 500 soup kitchens that feed thousands of hungry New Yorkers. And we'd have no choice but to close 15 senior centers.

Such budget cuts would inevitably damage the quality of life in the city that drives the economy of the entire state. It's in your power to prevent many of those dire consequences – simply by giving the people of New York City a fair deal.

Stopping the proposed elimination of revenue-sharing is key to that. If there were a fair distribution of revenue-sharing cuts statewide, it would spare some 3,400 uniformed employees and nearly 2,500 civilian employees in New York City. Given the State's finances this year, we would accept a cut of our fair share of revenue sharing reductions. We will not accept a total elimination of revenue sharing, necessitating such disastrous service cuts and State-sponsored layoffs.

Before taking your questions, let me briefly review other important elements of the City's legislative agenda for this session that have budgetary implications.

Topping that agenda is the need for pension reform. Over the past decade, the City's pension costs have increased by more than $5 billion – and they're still growing. This simply can't go on – and this year of budget austerity is the time to draw the line and create a new City pension tier.

The prospect of layoffs in our schools also adds urgency to our proposed reform of the "last in, first out" teacher layoff policy. Clearly the only thing worse than having to lay off teachers would be laying off great teachers instead of failing ones. So we need you to empower us to objectively and transparently evaluate teachers, and then make personnel decisions based on what that tells us about what matters most: Success in the classroom. We also need reform of the absurdly difficult, expensive, and lengthy process of firing incompetent teachers.

And let's also lift the State's cap on charter schools. The success of charter schools is indisputable; charter school students continue to consistently outpace their age-mates on the State's standardized math and reading proficiency tests. Our failure to reach agreement on this question in time to include it in the State's application for "Race to the Top" Federal education funds was disappointing. But I am hopeful that during this legislative session we can work together to raise the current cap on charter schools in our city. This morning, there remain some 36,000 New York City children on charter school enrollment waiting lists. Let's not make them wait any longer for a first-rate education.

And finally, I also urge you to enact legislation – before the March 17th deadline set by the Department of Housing and Urban Development – enabling us to qualify for Federal funds for much-needed improvements to the city's public housing developments.

Members of the Legislature: I know full well that making budget decisions isn't easy even under the best of conditions. And the conditions we face in New York today are far from the best. But many of the worst consequences of the budget cuts I've testified to this morning can be avoided by treating New York City fairly compared to other towns and cities, and compared to State government itself.

That's what we're expecting you to do now. So let's work together to pass a budget that's fair to our city.

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OFFICE OF THE NEW YORK CITY COMPTROLLER

TESTIMONY BY
JOHN C. LIU
NEW YORK CITY COMPTROLLER

Budget Testimony in Response to the New York State Budget

Before Members of the New York State Assembly Ways & Means Committee &
New York State Senate Finance and Local Government Committees

January 25, 2010

Thank you Chairmen Farrell and Kruger for inviting me to submit testimony today to the members of the State Assembly Ways and Means Committee, and Members of the Senate Committee on Finance and Local Governments.

Governor Paterson is grappling with a $7.4 billion budget gap in the coming fiscal year, a daunting challenge in a wretched economic environment. Balancing the State Budget will continue to force painful choices in subsequent years when $4.4 billion in gap-closing assistance from the Federal stimulus package is lost in State Fiscal Year 2011-2012 and more than $3 billion from a temporary personal income tax surcharge disappears in State Fiscal Year 2012-2013.

Because many of those choices have a direct impact on local governments, the pain will be felt not only in Albany but in city and county government offices and schools across New York State.

Making the difficult choices ahead of us will require cooperation and trust. That is why I am here to argue that fairness in how these painful decisions are made is critical. In the Governor's proposed budget, while I see painful choices, I do not see fairness to New York City.

The State FY 2010-11 Executive Budget could reduce support to the City's budget by nearly $1.2 billion across City fiscal years 2010 and 2011. The key components of this shortfall are revenue sharing and school aid, which together comprise nearly $1.1 billion. In addition, proposed cuts in welfare services could reduce support by $67 million based on State Division of Budget estimates. Revenue actions, including mortgage recording tax for co-ops, may provide modest offsets to the overall impact on the City's financial plan.

The State's budget, as always, siphons resources from NYC to the rest of the State under the pretext that the City has more resources than other localities. It is true that the City's economy is the engine driving the downstate economy and we have fared better in this downturn than many other large cities across the country. Indeed, the strength of the City's economy leads to a disproportionate contribution from the pockets of City residents, workers and businesses to the State's coffers – at last count by the Center for Governmental Research, the City contributed $11 billion more in tax revenue than it gets back in services and assistance from the State.

Let me point out that the City also engages in more "self-help" than other localities through its tax system. In fact, the City levies 21 taxes ranging from the bank tax to taxi medallions– in addition to licenses, permits and over 100 different permit fees -- and the City's tax burden is among the highest of any local government in the country. In short, the City is straining under the burden of balancing not only its own budget but the State's budget as well. It doesn't stop there – the State uses revenues from the City to help other localities balance their budgets.

The latest figures from the State Department of Labor show that New York City's unemployment rate rose to 10.6 percent in December, the worst unemployment rate the City's residents have suffered since 1993. By contrast, the statewide unemployment rate was 9 percent. The latest figures also show that with 42 percent of the State's population, New York City's unemployed residents made up almost half of the total number of people unemployed in the State.

Nonetheless, the Executive Budget would eliminate Aid to Municipalities paid to New York City completely, while making only minor reductions in payments to other local governments. This would cost the City $350 million in our current fiscal year, and another $328 million next year. The Governor's position is that this is a small amount in the context of the City's overall budget. Well, it is even smaller as a percent of the State's budget. In any case, the relevant metric is its share of the City's budget gap. Since this year's budget was balanced, one could argue that this cut will become 100 percent of the current year's budget gap.

This sort of maneuver is proposed under the cloak of "progressivity." Normally I favor progressivity, but in fact the State's approach reduces New York City's ability to provide services to low-income New Yorkers who are concentrated disproportionately within the City's borders.

As the Legislature is aware, it took years of fighting and a lawsuit to gain a commitment from the State to ensure that sufficient resources be provided to New York City so that our children can receive an adequate education. Now, the Governor has proposed that the State freeze Foundation Aid at the prior year level and extend the full phase-in of the Education Investment Plan to ten years. On one hand the City's treatment in the education budget appears proportionate to other school districts; however, most of those other districts had not started from a deficit in State funding.

Furthermore, the proposal to freeze Foundation Aid is disingenuous since it does not take into account a bottom-line Gap Elimination Adjustment of $442 million that effectively reduces the City's Foundation Aid receipts by a like amount.

The Executive Budget proposals also introduce a new reimbursement cap for the summer school special education program, lowering the State's share of these costs from 70 percent to less than 50 percent. This initiative would lower support to the City by $51 million, raising the overall impact of the school aid cuts to almost $500 million in FY 2011 for the Department of Education.

Since the adoption of the Educational Investment Plan in 2007, the City's formula-based school aid streams will have increased by only $1.2 billion under the Executive Budget, a far cry from the $3.2 billion increase earmarked in the original plan for State Fiscal 2010-11. For the second time in as many years, the Governor has called for an extension in the implementation timeline of the aid increases. While we harbor no illusions over promises made during better fiscal times, to deviate so far from the original path raises serious doubts whether the City will ever receive the full education aid increase that it fought so hard to achieve. It took the Campaign for Fiscal Equity 13 long years to accomplish its mission, now it appears it could take just as long for the State to fulfill its commitment.

The outlook for the City's schoolchildren is daunting. In addition to the proposed State aid cuts, the DOE is facing a reduction of over $300 million from the City in its upcoming executive budget. Beyond FY 2011, the Department's prospects become even more grim as Federal Stimulus funds are due to expire, carving a hole of $1 billion in its budget. Given this forecast, I urge the Legislature to enact a State budget that would provide fair and equitable education funding to New York City.

This brings me to my next point: how are our children expected to get to their underfunded classrooms? In New York City, some middle-school and most high-school students rely on public transportation to get to and from school each day. The MTA's budget woes are far beyond the subject of this hearing, and I have expressed my criticisms of the Authority's budgeting practices many times in the past. However, the MTA should not be expected to provide this service at such a deep discount. The State and City both need to fulfill their responsibilities to fund student transportation.

The Executive Budget also proposes some reforms to current programs and tax initiatives. Again, within these proposals lurks the assumption that New York City is a cash cow for the rest of the State. For example, the Governor has proposed to devote a portion of future budget surpluses to relieving the tax burden of State residents through a property tax circuit breaker. This is an appealing idea.

However, the mechanism for providing relief is biased against City residents because more than two-thirds of New York City households rent and will not benefit from circuit breaker initiative – in fact, their tax dollars will help pay for it. Furthermore, because City property taxes tend to be lower than in jurisdictions who do not burden their residents with 20 other taxes, City homeowners would receive less circuit breaker benefit.

The Governor has proposed to reform the STAR exemption, which includes a personal income tax reduction for New York City residents, by capping the benefit for those earning more than $250,000. This proposal does not have an immediate bottom-line impact on New York City's budget but it certainly has one on our tax base. It would result in a noticeable tax increase on the

City's high-income residents and make more difficult any future efforts by the City to impose a temporary tax surcharge to address its own budget woes.

The Governor's plan also anticipates savings close to $1.9 billion from health care initiatives. While the plan contains certain actions that are sensible, such as the cigarette tax increase and Medicaid fraud prevention, there are other actions that could threaten the fiscal viability of health care providers in the City. Specifically, the proposals have targeted almost $460 million in cuts for hospitals, nursing homes, personal and home care. These actions include increasing assessments on providers, eliminating trend factors in the calculation of reimbursement rates, and reducing indigent care reimbursement. Based on the City's share of these claims, the impact could reduce reimbursement by more than $300 million to these health care providers in the metro area.

The timing cannot be worse as many hospitals and nursing homes are already facing serious financial troubles and are struggling to stay afloat. Last year, HHC served 450,000 uninsured patients at a cost of $850 million. In March, HHC announced the closure of programs that treated more than 11,000 patients, including four school-based mental health programs and a hospital-based one for adults. In July, the agency also closed HIV/AIDs programs at Jacobi and Harlem Hospitals, and closed or cut back primary care services in Sheepshead Bay, Highbridge and Tremont.

If enacted, the proposed cuts would lead to further declines in services and quality of care, as well as significant job loss for health care workers. Further cutbacks in primary care services or the closure of additional hospitals serving safety-net populations would have disastrous implications for the health of our most needy New York City residents, with potentially tragic results. For that reason, I urge the Legislature to look closely at ways to maximize the flow of Medicaid dollars intended to defray the costs of uncompensated care to safety-net providers.

Social services funding reductions are also going to have serious and negative impacts on the City. From the elimination of support for adult shelters and non-residential domestic violence programs to cuts in youth services, these measures will cause real and lasting pain for many of those we serve. If our fiscal circumstances are dire, the straits in which many of our residents find themselves can be even more so and it is critical that as public servants we insist on protecting our neediest.

There are some ways in which we can help our State during these tough times. I will do all in my power as New York City Comptroller to help root out wasteful spending among New York City's agencies, which are facing looming budget cuts as a result of this proposed plan. In addition, I will continue to help revamp the City contractual process as it relates to the use of no-bid contracts and job-creation standards in the vendor selection process. By ensuring that contracts are a means to help spur job growth, we can take a proactive approach to put New Yorkers back to work.

I urge all my fellow elected officials to take a similar attitude and look closely at how our government operates, and where we can make savings that will help offset some of the painful cuts that affect all of us.

We also must ensure that our Wall Street firms and banking institutions do more to invest the profits they have reaped as a result of taxpayer bailout funds back into our communities. By utilizing the profits earned to open up lines of credit to small business, Wall Street would be contributing to the success of Main Street. In addition, my office will seek ways to use our City's and State's purchasing power to help reinvigorate our economy.

And lastly, we must ensure that all is being done to help the small business owners all across our State. I am a strong supporter of providing federal tax credits to small business owners as an incentive to create jobs, and am proud to have stood with Senator Gillibrand when she announced her tax credit proposal last week. It seems as if we are moving in the right direction, as President Obama has recently come out in support of such a program. We must realize that while Wall Street is a driving force in our economy, it is Main Street that keeps us going.

I do want to commend the Governor for presenting a budget that – despite its flaws - does not resort to excessive new one-shots or gimmicks. The State has a long history of bad budgeting practices and I hope that the higher standards of recent years are upheld in the future.

Thank you again for the opportunity to share my views on the Governor's Executive Budget submission.

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TESTIMONY
of Christine C. Quinn, Speaker
New York City Council
on the Fiscal Year 2010 – 2011 Executive Budget

New York State Assembly Ways and Means and Senate Finance Committee

January 25, 2010

Good afternoon, Chairman Farrell, Chairman Kruger, and members of the Ways and Means and Finance Committees.

I am joined this year by my colleagues Domenic M. Recchia, Jr., of Brooklyn, the new chair of the Council's Finance Committee, and Helen Diane Foster, from the Bronx, the new chair of the Council's State and Federal Legislation Committee.

We recognize the difficulty and the urgency of the task ahead of you as you consider the State budget for fiscal year 2010-2011. As you consider and debate the Governor's proposals, the City Council asks two things of you:

- The first is to not balance the State budget disproportionately on NYC. We understand that putting the State's finances on the right track for the long-term good of all New Yorkers will require sacrifice by everyone. And we are prepared to bear our fair share – but no more than our fair share. Unfortunately, the Executive Budget contains more than the City's fair share of cuts, and hits the City in some particularly unfair ways.
- The second is that we ask that you listen to our concerns and suggestions over the coming weeks. Last year the Legislature listened to the City Council's concerns with attention and respect, and we felt the outcome was a State budget that was generally fair to the City. We are deeply grateful for that, and we will endeavor to be at least as respectful and constructive in our input again this year – and we hope that the outcome will be at least as fair.

I will touch on a few specific items today that are of particular concern to us. Let me start with two that we feel hit New York City particularly unfairly.

One proposal that will hit New York City's budget especially hard this year is the elimination of not just one, but essentially two year's worth of revenue-sharing in a single City fiscal year. While it is true that New York City is not as reliant on AIM as other cities, $680 million, even in New York City's budget, is still a tremendous hole – the equivalent of 8,500 City jobs. In addition, the Executive budget would <u>permanently</u> eliminate a critical City revenue stream, based on <u>temporary</u> economic circumstances.

Another proposal that we feel unfairly impacts the City is the failure to fully restore funding for reduced-fare student MetroCards on City subways and buses. Hundreds of thousands of families rely on student MetroCards every day in the City. Many will simply not be able to afford to shell out the extra $89 at the beginning of each month that would be required for a family with two kids in school. I have vigorously opposed the MTA's proposal to begin eliminating reduced student fares – and I have also said that the City's contribution is something I am open to discussing. But I cannot and will not do so until the State is also willing to honor its commitment to match the City's contribution.

Let me raise a couple of other areas of concern to us in the Executive Budget.

The first concerns the Governor's proposal to allow CUNY and SUNY schools to set their own tuition rates. This is a serious proposal that deserves consideration. I am concerned, however, that it may ultimately weaken public funding for these critical institutions of higher learning. Moreover, the proposal comes in conjunction with $37 million in cuts in base aid to CUNY's community colleges, and 20 percent reductions in Tuition Assistance Program (TAP) awards. The CUNY community colleges are bursting at the seams with new enrollment, which is expected to rise by another 8,000 students next year. Together these proposals compromise CUNY's historical mission as the gateway to a better future for all New Yorkers.

A number of proposed cuts and savings in health care, human services, and other areas are also problematic and short-sighted. Let me flag a few in particular:

- The establishment of new Early Intervention Parental Fees, ranging from $45 up to as much as $540, would discourage many low- and moderate-income families from taking advantage of critical EI services. We have worked very hard in the City Council to educate parents on the importance of early intervention, and have provided funding for testing. Fees that discourage early testing and intervention will only result in more and larger costs later on.
- The discontinuation of TANF funding for the Summer Youth Employment Program (SYEP) strikes a major blow at a highly successful program. The expansion of SYEP this year with federal ARRA funding was welcome, but still did not keep pace with the growing number of applications, which reached a record of almost 140,000 last summer. At a time when teen unemployment is over 40% in New York City, we must find a way to fund this critical program.
- The proposal to cap funding for indigent defense in New York City at $40 million annually — $6 million below last year's level — unfairly limits funding to the City. Moreover, it runs directly counter to last year's law setting caseload caps for indigent defense, which is critical to ensuring that poor New Yorkers receive the equal treatment under the law to which they are constitutionally entitled. Last year the Council provided $11.3 million in funding for criminal legal defense as a bridge until the caseload cap law took effect. As we said repeatedly last year, this is not a level of effort we will be able to sustain. We will also be looking closely at the proposal to replace current aid formulas and maintenance of effort requirements with a new grant program to ensure that New York City will be treated fairly.

Finally, I want to mention our particular concern about New York City's public hospitals. We are still studying the impact of the Executive Budget on HHC, but we are very concerned about their continued ability to serve NYC's uninsured. We'd like to come back and have further discussions with you about this, taking into account the larger context of health reform and the budget. This is obviously a complex area, and we want to make sure that we don't inadvertently do something that would compromise HHC's core mission.

There are a number of provisions in the Executive Budget for which we urge your support, including proposed investments in alternatives to incarceration programs; and protecting payments to human services providers.

We are also pleased to see proposals for a Small Business Revolving Loan Fund targeted in particular at M/WBE businesses, and the New Technology Seed Fund to help researchers develop marketable products. This is an area that we have identified as critical to re-building the City's economy. Last year I proposed and with your help we enacted a Biotechnology Tax Credit for the City, modeled on the successful State credit, and this year I will again be making proposals aimed both at supporting small businesses, and at encouraging the growth of high value-added growth sector businesses and jobs in the City.

Finally: the Governor has included a provision in the Article VII Revenue bill that would allow same-sex partners legally married in other jurisdictions to file their personal income taxes jointly, treating same-sex marriages — at least for tax purposes — the same as other married couples. As you may have heard, I was and am a strong supporter of gay marriage as a fundamental matter of equal rights for LGBT people, and I urge your support of this measure. Let us at least take this step in the direction of justice and equality for all New Yorkers.

I want to conclude today by again emphasizing the urgency of setting the State's fiscal house in order. Getting the State budget on the path to long-term balance is critical to the future economic health of all parts of the State. Without real solutions, it is going to be increasingly difficult to get companies to invest in NY and families to live in NY. We do not underestimate the difficulty of the task ahead of you — but we cannot overstate its importance.

Together the Mayor and the City Council have managed the City's finances prudently in both good times and bad – restraining spending growth during the boom years, and making the painful choices during the lean years. We should not be punished for our good management by budgetary choices that permanently alter State/City fiscal relations to our detriment. Any changes must be made in a way that treats the City fairly, recognizing its unique role in the State economy, and that reflects the needs and priorities of all City residents. On both these measures, the Executive Budget falls short. We look forward to working with you over the coming weeks to craft a fair State budget for the coming year.

Thank you, and we would be happy to answer any questions you may have.

New York State County Executives Association

PRESIDENT, Hon. Edward A. Diana,
Orange County
EXECUTIVE DIRECTOR, Stephen J. Acquario, Esq.

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Hon. Edward Diana, Orange County Executive
President of the NYS County Executives Association
2010-11 Executive Budget Testimony
January 25, 2010

Good afternoon, my name is Ed Diana. I am the Orange County Executive and serve as the President of the NYS County Executives Association. I would like to focus my testimony on the revenue decline at the local level and re-emphasize the importance for this state to attract new business investment and to create jobs.

The New York State Department of Taxation and Finance recently reported fourth quarter 2009 and year end (total year) sales tax collections. 52 of the State's 57 counties outside NYC are seeing continued decline in sales tax receipts—13 of them with double digit decreases over the same period last year. For 2009, Orange County sales tax revenue was down nearly 5% compared to 2008.

New York counties rely heavily on two forms of revenue to fund local operations and to deliver state services locally: sales taxes and property taxes. Deep and prolonged declines in sales tax revenue put pressure on counties to raise property taxes, cut services or layoff workers in order to keep our budgets balanced. These latest figures represent five straight quarters of decline in sales tax revenue.

Last week, the State Labor Department released monthly employment report for December. Unemployment rose in December to 9%, a level matching a 26-year high. For December 2009, the unemployment rate rose in every single county in the state from the prior month, except one which remained flat. These numbers are a stark indication of New York's inability to create and retain jobs.

In the 10 year period between 1997 and 2007 New York State created just under 570,000 new private sector jobs, a number that ranked 34th in the nation.

The Labor Department's employment numbers reveal that in the 2 years since the onset of the national recession in December of 2007, New York State has lost over 259,000 private sector jobs, a job loss number equivalent to almost 46% of the total number of private sector jobs created in this state in the previous 10 years.

This can be attributed in part, to New York's ranking as one of the most expensive states in the nation in which to do business by almost all business organizations and publications.

Local property taxes in New York are the highest in the nation and are a major contributor to our overall business cost burden. We simply cannot continue to make this situation worse by cost shifting state mandated program costs to local governments and the taxpayers we serve.

Despite the major impediments to economic growth our cost of doing business imposes, there are unique assets that our state possesses which can be built upon.

The Executive budget proposal contains a series of new initiatives to capitalize on our higher education assets (like Orange County Community College) which are uniformly rated as one of our states greatest assets by the same business organizations and publications that decry our business costs.

These initiatives build upon programs championed by the legislature and enacted in prior years such as the Centers for Advanced Technology and the Centers for Excellence programs.

Our higher education institutions provide us with the building blocks to become the birthplace of the businesses of the future. We look forward to partnering with SUNY to raise the profile and importance of economic development and job creation through the commercialization of university-based research and development programs.

As Orange County's executive and a resident of the Hudson Valley, I consider it my duty as an elected official to address the outrageous manner in which the bailout of the MTA was handled by New York State government.

The payroll tax that impacts every level of government and every business entity in the Hudson Valley is without a doubt the most unfair, regressive and counter- productive measure I have seen in my thirty one years of government service.

The disparity in the tax dollars we send to the MTA for the amount of service we receive is obscene. This new tax, takes an additional $15 million from Orange County residents who already send $90 million while receiving only $60 million a year in services.

Add to this the latest round of service cuts announced to our region just this past Friday and you can understand the anger of Hudson Valley residents and the belief that we are viewed as nothing more than a cash cow to support the MTA- a system that services around 4% of our commuter population.

To be blunt, the people of our region and state are tired of paying for services they cannot use, see little value in and have been built up over time as mini- empires within the Empire State.

Only in New York would you be required to pay for the full cost of a service while receiving only a ¼ vote representation on that board.

This truly is taxation without representation!

Finally, the Governor proposes an end to the Empire Zone Program replacing it with a new Excelsior Jobs program which creates 3 new tax incentives targeted at emerging high growth industries such as clean-tech, information systems, biotechnology and renewable energy.

It is estimated the state currently spends $600 Million a year on Empire Zone credits. This economic development incentive would be reduced to $50 Million in 2011 growing to a capped amount of $250 Million in 2015.

While we continue to review and analyze the impact of the Excelsior Program on the targeted industries, we will also need to assess the impact the elimination of the Empire Zone program may have on other industries not included in this targeted program.

In order to emerge from this recession, the state and counties must and should partner with each other to create the atmosphere necessary to attract and retain both small and large businesses. These industries become the lifeline of opportunity enabling New Yorkers to work and raise a family and provide the resources necessary to stimulate the economy.

We must work closely together to lower our property tax burden, and reduce the overall cost of doing business in New York State.

We pledge to work with the state legislature to structure an economic development plan that addresses our current and future goals of growing our economies and making New York State a better place in which to live, work and raise a family.
Thank you for the opportunity to present our views.

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MAYOR BYRON W. BROWN
CITY OF BUFFALO, NEW YORK

TESTIMONY BEFORE
NEW YORK STATE JOINT
LEGISLATIVE FISCAL COMMITTEES
REGARDING
GOVERNOR'S 2010-11 RECOMMENDED STATE BUDGET

SUBMITTED
Monday January 25, 2010
ALBANY, NEW YORK

As Mayor of the City of Buffalo, I appreciate the opportunity to represent the residents of New York's second largest city. And, while I understand and appreciate the magnitude of the deficit facing New York State, I would not be fulfilling my responsibilities as Mayor of the state's third poorest city if I did not ask for restoration of the Governor's recommended reductions in state aid.

Specifically, on behalf of the resident's of Buffalo, I am requesting,

1. Extension of the RESTORE NY Program
2. Preservation of funding for youth employment
3. Restoration of a $3.4 million reduction in Buffalo's efficiency grant, appropriated by the legislature in 2007-08 to aid Buffalo in its fiscal recovery and restoration of the $4.2 million cumulative year to year reduction of Buffalo's AIM (Aid Incentives to Municipalities) funding.
4. Sales tax sharing to be maintained.

The RESTORE NY program has been perhaps the most transformative program in the past decade in terms of revitalizing neighborhoods in the City of Buffalo. Buffalo has lost nearly 50% of its population since 1950 leaving vacant manufacturing, industrial and residential structures throughout the city.

As you may know, the City of Buffalo has the one of the highest rates of vacant property in the nation with over 23,000 vacant units, many of which are blighted and unsalvageable. These structures destabilize neighborhoods bringing down the quality of life for our residents and are often the sites of arson and criminal activity. Moreover, blight deters private investment in neighborhoods and on commercial strips, especially when boarded-up properties are found on otherwise healthy blocks.

Targeted building rehabilitation and strategic demolitions are key components in a successful neighborhood revitalization strategy in Buffalo.

In 2007, I put into place an aggressive demolition and rehabilitation program, the "5 in 5" Plan which is on target to meet its goal of demolishing 5,000 structures and rehabilitating an additional 500 vacant units over five years.

With the help of RESTORE funding and my decision to invest sizeable amounts of federal block grant and city general fund resources into our demolition program, we have been able to demolish over 2,500 blighted vacant structures and rehabilitate 591 structures since 2006.

The City of Buffalo is fortunate to have motivated and capable community partners to work together to revitalize its challenged neighborhoods. For example, The Jeremiah Partnership is a collaboration of eight faith-based organizations committed to community development on the East Side of Buffalo. They collaboratively work as agents of change in some of Buffalo's most distressed neighborhoods with initiatives to create affordable housing and commercial investment. With city and state support through Restore NY, three Partnership projects to renovate vacant buildings into a Head Start facility, a conference center and a shared services business incubator are underway.

RESTORE NY has also been an important component of Buffalo's ongoing economic revitalization.

Restore NY funding has allowed the Buffalo Niagara Medical Campus to move forward on renovations of the former four-story Trico windshield wiper building. This expansion will help grow local biotech companies while at the same time trying to attract companies from Canada, overseas, and across the country to the BNMC.

RESTORE NY also enabled Uniland Development to convert the former Dulski Federal Building into a state-of-the-art mixed-use facility. The recently completed, 400,000 square foot building is located in the heart of downtown Buffalo. Avant covers an entire city block and created 350 construction-related jobs and over 100 permanent jobs in a formerly vacant building; $2 million of Restore NY funding provided gap financing to enable this $80 million project to come to fruition.

The Buffalo Development Corporation is currently working to rehabilitate and redevelop the historic landmark property known as the Curtiss Building into a fifty-seven (57) room high-end boutique hotel.

But, as significant as this progress has been it represents only a portion of the problem, which could only increase unless we are able to stem the population loss in the city.

Our progress will be substantially reduced without the support of RESTORE NY funding and the restoration of state aid. We are seeking other sources of funding such as our federal block grant dollars but these will only go a small way to addressing the loss of state assistance.

High on the list of my top three priorities is the extension of the RESTORE NY program.

An equally compelling priority is restoration and support for employment programs. One of the best ways to lift individuals and families out of poverty is through gainful employment. The Governor's Budget unfortunately recommends the elimination of the TANF Summer Jobs Program. With U.S. youth employment participation rates the highest in 60 years, this program, which gives real job experience and real income to some of the poorest in our city, cannot be eliminated. In addition we have used these funds, in combination with significant city resources and federal stimulus funding to employ over 4,000 of the city's poorest young people in meaningful employment programs.

With sizeable city funding matches to both RESTORE NY and the TANF youth program, you can see how important we view these programs and how important it is to have sustained state support.

We are pleased to see federal, state, and private sector sponsored public works projects underway in the city such as those occurring on the Buffalo Niagara Medical Campus and through the UB2020 plan. But, the loss of state aid for youth and the absence of real pathways to jobs hinder our abilities to provide employment opportunities to low income youth.

Unless we can sustain, and even increase, our support for giving our most disadvantaged the opportunity to work and access any jobs emerging from these projects, we will never lift our city from its standing as one of the poorest in the nation.

I am grateful that the state has recognized our disproportionately high dependence on state aid and lessened the impact of its reduction on cities such as Buffalo.

Nonetheless, Buffalo continues to face a precarious fiscal future without predictable, recurring revenue sources to address our structural imbalance, which in times of state fiscal stress like we are presently facing, makes the city vulnerable and hinders our continued fiscal recovery.

With budget growth consistently under inflation, a 25% reduction in workforce since 2000, and continued sacrifice by our employee unions, Buffalo has already made tough choices and tightened our belts. We continue to do more with less, have implemented scores of efficiency measures, and have put in place rigorous accountability tools such as CitiStat Buffalo, to ensure that we are delivering city services in as cost-effective and efficient manner as possible.

Yet, despite our conservative spending practices, we continue to face structural challenges because unless we raise our property tax levy, which I continue to resist, there are no other growing sources of revenue. In the past, growth in state aid has filled our gaps and allowed us to negotiate contracts with some of our bargaining units.

However, our police and firefighter unions have continued to be without contracts. Unless state aid is restored and, in fact grows, I do not believe we can convince Buffalo's control board to approve any contractually negotiated salary increases that are not wholly offset with unprecedented union concessions.

And while some may point to Buffalo's sizeable fund balance as the source for contract costs, much of these resources have been earmarked to balance our four-year plan. And, of critical importance, we must recognize that these resources are not recurring. Using them for recurring expenses such as salary increases, would most certainly set the stage for another fiscal crisis in Buffalo.

Over the past four years, my message to you has been simple and it remains so today: give us the tools and we will make Buffalo one of the best cities in the nation to live, work, raise a family and visit. The foundation that we have worked so hard over the past four years to solidify and prepare for future growth and investment must not be endangered by the loss of key state funding. I hope this testimony has convinced you of this fact and I wish you success in the budget deliberations ahead.

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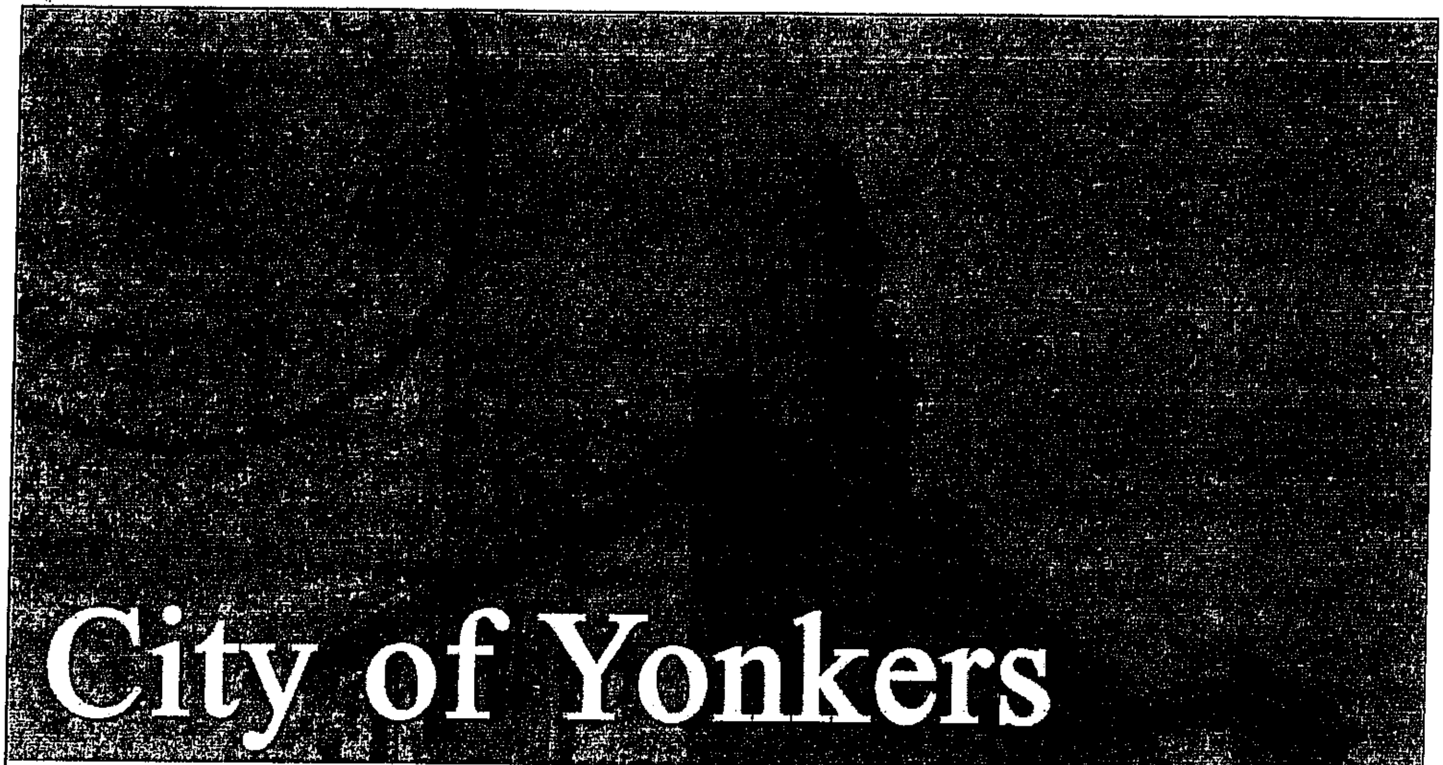

City of Yonkers

Mayor Philip A. Amicone

Testimony on FY 2010 – 11 Executive Budget

Joint meeting of the Assembly Ways and Means & Senate Finance Committees

January 25, 2010

yonkersNY.GOV

Good afternoon Chairman Kruger, Chairman Farrell and members of both committees. Thank you for inviting me here today.

The main reason for my testimony today is to present you with our analysis of how the Executive Budget for Fiscal Year 2010 – 11 will affect the City of Yonkers and our 200,000 residents. But before I comment on the budget, I want to take a few minutes to give you a quick rundown of the city's finances, particularly our painstaking efforts to keep the city solvent in the midst of recession.

I don't think it will come as a surprise to any of you to know that the past year has been a tough one for the City of Yonkers. Like every place else in this state, and indeed this country, Yonkers is experiencing the ill effects of a broken economy. Every revenue category is down across the board. As you know, Yonkers' budget year runs from July through June, so that means revenues are underperforming even our conservative estimates that were put into the city's budget over this summer when we already knew the economy was bad. Mortgage and real estate transfer taxes are down significantly, reflecting a housing market that shows no sign of recovery any time soon. Even property taxes are lagging behind. And although sales taxes are not dropping as sharp as last year, they too are down.. We are hopeful that these trends will reverse soon, but right now there is no indication that will be the case.

So we have done locally, what you have done here in Albany: we've cut back, made sacrifices and tough choices. A little more than a year ago, I sent layoff notices to more than 150 full and part time city employees, which amounted to a six percent reduction in our total workforce. These were police officers, firefighters, sanitation workers and other essential personnel. Thankfully, with the help of most of our unions whose members made concessions in pay and some benefits, we were able to rehire most of these workers, but not all. And we enacted these layoffs after we had already instituted a citywide purchasing freeze, reopened vendor contracts and made cutbacks to core programs and services, cutting millions of dollars worth of non-personnel related discretionary expenses from our budget. Additional redeployments mainly in our police, fire and public works departments---those three departments make up more than 80% of our workforce---are helping to keep expenses under control, but overtime spending is still a problem.

I'll put this as simply as I can. Yonkers city government is operating on a barebones budget. We have significantly fewer employees than when I took office more than six years ago, and a lot of the priorities we've set forth have had to be reconsidered and some put on hold indefinitely. The point is we have cut everywhere we can; the only thing left is to cut more personnel who provide critical services.

As trying as these decisions have been, we are doing what is necessary to keep Yonkers solvent. Just like families in these tough times, government agencies must learn to push each dollar further and do more with less—the same tough choices that you face with the state budget. But as you do so, I must impress upon you the need to do so fairly and wisely, which brings me to the central focus of my remarks today.

As bad as the situation is I just presented, the governor's proposed budget makes it worse for Yonkers next year. As you are aware, the governor has proposed more municipal and education funding cuts statewide and certainly our city was not spared. While it would be reasonable to ask residents in the city of Yonkers to bare their fare share of the burden, that's just the problem: we are not starting out on a level playing field. Every opportunity I've had to address this legislature, I have made the same argument. The state education funding formula has chronically and systematically shortchanged Yonkers residents and school children for decades. We receive the lowest per pupil state funding while our local tax payers pay more pre pupil than any other big city in New York and it's not even close. There is no subjectivity to this assertion; the numbers are there in black and white. I'm not here to point fingers, but the fact is this state government has failed to address this fundamental and indisputable inequity. That's an important word: inequity. I know that this is a familiar charge, but collectively New York's state government is not listening---or at least not doing anything about a problem that any objective person would agree needs to be fixed. So, in part I've traveled here today to ask a you a question: when will this body act to fix the problem? It's a fair question to which Yonkers students and taxpayers deserve an answer.

I realize times are tough. State revenues, like our local revenues, have evaporated leaving you with little choice but to heed Governor Paterson's warning to tighten the purse strings. But no matter how large or small the pot of money is, the maxim of fairness should always apply. A public school student in Yonkers should not be worth thousands of dollars less than a student in Buffalo or Rochester or New York City, and yet that's exactly how New York State treats the 24,000 students who come to school every day in our city. I simply ask that you treat them with fairness and with equity when you begin the important work on the budget that's now before you.

I promise you this. Your equitable investment in our schools will prove to be a good investment. Over the past several years, we have made substantial progress in transforming the Yonkers Public Schools into a real gem that is now on par with many of the better school districts around Westchester County. In fact, Yonkers Public Schools have posted the single largest gains among kindergarten-to-eighth graders in reading and mathematics of any urban school district in the state since 2003. Last year our graduation rates made another double digit gain. SAT scores and college bound graduating seniors are the highest they've been in a decade. And people are noticing. The Yonkers International Baccalaureate Program was ranked 37th in the America by Newsweek magazine—higher than any other school in Westchester County. Also, Saunders and Yonkers High Schools were ranked by US News and World Report among the top 1,000 high schools in the country. Every where you look in the district, you can see success. That's why I believe that the standards of performance and accountability, if applied fairly, will work in Yonkers' favor, not against us. The great progress we have made should give you assurance that Yonkers' schools are worth investing in.

I'd now like to give you a quick update you on our ongoing efforts to rebuild Yonkers and continue the redevelopment renaissance that has taken a firm hold on our city—a goal that New York State has become an integral partner in achieving. I hope this "progress report" will leave you with the right context for our discussion about the state budget and how you as legislators can help put us in the best position to succeed.

As we speak, water, approximately 500 workers are erecting steel and concrete structures at the 81-acre, $900 million Ridge Hill Village development on the New York State Thruway. I had an opportunity to tour the constructon site last month and, despite the down economy, work is going full speed ahead. In fact, Forrest City Ratner has already secured lease agreements with major national retailers to occupy space there including Sacks Fifth Avenue, L.L. Bean, Whole Foods, and a nationally known cinema operator among many others. Once completed next year, this mixed use development will generate more than $62 million in combined state and local taxes, $25 million will go to the City of Yonkers alone.

Construction has also well underway on the $250 million renovation of the Cross County Shopping Center, Westchester County's largest retail facility. In a few weeks we will break ground on the second phase of our $180 million Ashburton Avenue urban redevelopment program, an effort that is transforming one of the oldest and poorest areas of Yonkers with new housing opportunities. And by the way, the first phase is already open and has provided new homes to nearly 200 families.

But most importantly, the $1.5 billion Struever Fidelco Cappelli development in the heart of Yonkers' downtown has received all of its final approvals from the city. When the banks start lending again, the SFC project will completely remake our city's downtown with thousands of new residential units, millions of square feet of office, retail, dining and entertainment. The first phase alone will generate more than $35 million in combined state and local revenue. Next year at this time, I expect to be here reporting on the construction progress on this landmark project.

New York State has played a major role in the past in creating economic conditions that have encouraged and fostered the resurgence in Yonkers. In particular the Empire Zone benefits available to small, medium and large sized businesses that employ thousands of people in our city have been integral. Today there are more than 450 businesses in Yonkers that have received economic incentives through the Empire Zone program, and I can say with absolute certainty that many of them would not be in business without those needed benefits. Scrapping this program, as is being proposed, would be a huge mistake. You must understand that making things better for New Yorkers begins with not making them any worse. Critical economic development tools like the Empire Zone Program and the Brownfields Tax Credit Program that have played a major role in encouraging and fostering job creation in Yonkers must be preserved. Because the cost of doing business in New York is so high, cities like Yonkers desperately need economic investment tools to spur new growth. Without them, our city and many others will find it much, much harder to succeed.

Members of both committees, we have found willing partners here in Albany before, even when times have been tough. There's no denying that, although more can and should be done, this state government has played a significant role in Yonkers' resurgence to date and I thank you for those efforts. But the decisions you will make over these next few weeks and months will be even more difficult. The choices you make and how you make them will have far reaching and lasting consequences for New York's families and businesses. To ensure that these consequences play out favorably over time, you must be mindful of that fact and seek to make those decisions fairly and equitably.

As always, I look forward to working with you closely this year to meet these difficult challenges together.

And now I am happy to answer your questions.

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New York State Conference of Mayors and Municipal Officials

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<u>The 2010-2011 Executive Budget</u>

Testimony of the New York State Conference of Mayors

Peter A. Baynes
Executive Director

Before the
Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee
Hon. Carl Kruger, Chairman

Assembly Ways and Means Committee
Hon. Herman D. Farrell, Jr., Chairman

January 25, 2010
Albany, New York

Thank you for affording NYCOM the opportunity to express the views of our 593 member cities and villages regarding the 2010-11 Executive Budget. I am Peter Baynes, Executive Director of the NYS Conference of Mayors. Let me begin by saying that NYCOM commends the Governor for his leadership in making the tough choices necessary to address the state's significant budget gaps – choices that, in most cases, display sensitivity to the dangers of shifting the state's fiscal problems onto municipal property taxpayers. While many difficult decisions had to be made in the development of this plan, the Governor went to great lengths to protect municipalities and their taxpayers as they struggle to deal with the current economic climate that is affecting us all. The combination of local aid, relief from state mandates and expanded revenue options will go a long way toward helping our struggling communities.

AIM Funding

Our mayors recognize the severity of the state's fiscal crisis and further understand that everyone has a role to play in the economic recovery of New York. Challenges of this magnitude require sacrifices. Given that the last time the state faced a similar fiscal crisis in the early 1990s aid to local governments was cut by nearly 50%, the reductions in AIM proposed as part of the 2010-11 Executive Budget are not as dramatic as they could have been, since the most a city (other than the City of New York) or village would lose is 5% of its AIM allocation in the upcoming year. But let me be clear, the AIM cuts proposed in this Executive Budget, if enacted, will negatively impact the provision of essential municipal services and the level of municipal property taxes.

Our local leaders have proven that the long overdue AIM increases provided in recent years have gone a long way toward reducing the reliance on the already overburdened property tax. Consequently, I must point out that at a time when other local revenues – particularly the sales tax and mortgage recording tax – are declining as a result of the state's languishing economy, any reductions in AIM funding, no matter how small they may be portrayed, will most certainly translate into an increase in local property taxes. Particularly hard hit will be property taxpayers in those cities whose AIM was already cut by $31.6 million as part of December's DRP reductions. Many of the state's largest and most fiscally strapped cities are included in this group.

Consequently, it is imperative that the Senate and Assembly restore the $15 million reduction in AIM funding for cities, villages and towns. We recognize the serious fiscal situation that the state is confronting, but we urge you to consider the minimal benefit the $15 million in cuts would yield for the State budget, compared to the harm this would inflict at the local level.

NYCOM is also strongly opposed to the fact that under the Governor's plan, the City of New York would be eliminated from the AIM program, losing $302 million in its upcoming fiscal year and beyond. Every municipality – big or small, village or city – contributes to the overall well-being of New York and, in return, deserves to benefit from a strong fiscal partnership with the state. New York City should not be singled out. In fact, when you consider the essential role the City of New York plays in the state's economic strength, one could argue that the City should be the least likely candidate for elimination from the state's only unrestricted municipal aid program. We strongly encourage both houses of the State Legislature to seriously consider the dramatic impact that this cut would have on the City of New York, home to more than 8 million New Yorkers.

CHIPS Funding

NYCOM supports the Executive Budget's proposal to maintain CHIPS funding at current year levels. Local governments are responsible for 85% of New York's roads, highways and bridges, many of which are in need of significant repair. At a time when improving our local infrastructure is essential to the recovery and revitalization of our communities and our state, the need for adequate resources for this purpose is more critical than ever. Furthermore, New York's efforts to secure additional infrastructure aid from the Federal government would be severely undermined if we are decreasing our commitment at the state level.

Mandate Relief

At times like these when revenues are scarce, it is imperative that local governments be given the tools and flexibility to be as efficient as possible, thereby reducing their expenses. NYCOM has long argued that there are numerous unnecessary restrictions and requirements affecting how local governments operate and deliver essential services, and which drive up costs at the local level. In fact, we went so far as to create a website – www.StopTheTaxShift.org – to help state leaders, the media and the public better understand precisely how these restrictions and requirements impact local governments.

In December 2009, the Legislature and the Governor took a step toward easing the municipal property tax burden by enacting into law a bill containing several mandate relief initiatives. The most significant provisions finally allow local governments to be treated the same as private defendants when determining the impact of collateral source payments in tort claims for personal injury. Specifically, the new law puts an end to the "windfall of double recoveries" to plaintiffs by allowing public employers to offset injury awards with payments from collateral sources, such as insurance. In addition, Chapter 494 of the Laws of 2009 increased the local competitive bidding threshold on public works contracts from $20,000 to $35,000, reduced the number of municipal entities (from 5 to 3) required to form cooperative health benefit plans, and eliminated certain restrictions governing highway shared services agreements among municipalities and between municipalities and State agencies.

The 2010-11 Executive Budget contains certain mandate relief items, which, if enacted, would go even further to enhance efficiency at the local level. First is the proposed four-year moratorium on legislatively enacted unfunded mandates. Though it must be noted that relief from the numerous state mandates that already exist is essential to reducing New York's exorbitant local property tax burden, halting the expansion of mandates will certainly help control local property tax growth. Enactment of this proposal would send a clear message to New Yorkers that the Governor and state legislators understand the direct relationship between state mandates and local property taxes.

NYCOM also fully supports the Governor's proposal to establish a reasonable market-based method of calculating interest in court judgments similar to the method used in judgments involving the Federal government. In addition, we support those initiatives to facilitate procurement flexibility including increasing competitive bidding limits for local governments from $35,000 to $50,000 for public works projects and from

$10,000 to $20,000 for commodities, as well as giving local governments the ability to conduct reverse auctions, piggyback off of other state and certain federal contracts, publish bid notifications in the statewide electronic Contract Reporter, require bids to be submitted electronically, and allow contracts to be awarded on the basis of "best value" rather than lowest bid. Each of these items represents another way of easing the burdens placed upon local governments while allowing for the more economical delivery of municipal services.

Enhanced Revenue Options and Investment Flexibility

As you know, municipal budgets are plagued by rising costs and limited revenue-raising opportunities. As a result, local governments are continuously trying to overcome the imbalance between their fiscal capacity and the cost of providing essential services. And now, when even these limited revenue options are experiencing declines as a result of their economic sensitivity, it is more important than ever that the state find no-cost ways to enhance local governments' ability to generate additional resources.

We are pleased that the Executive Budget contains several local revenue options, outside the property tax, that NYCOM requested as a means to help our members deal with increasing expenditures, especially those associated with municipal employees, over which they have little control. Included among these is a proposal to allow cities and villages, at local option, to increase the local gross receipts tax rate on utilities from 1% to 3%, similar to the rate currently imposed by the cities of Rochester, Buffalo and Yonkers. Since this tax is more broadly based than the property tax, we believe it is a more equitable means of funding these rising municipal costs. The Division of the Budget estimates that this proposal could generate up to an additional $53 million for cities and $57 million for villages. At a time when local governments are facing some of their greatest fiscal challenges, proposals that have the potential to deliver this magnitude of additional revenue must be given serious consideration.

In addition, the Governor's Budget would permit municipalities to charge for accident reports at amounts up to those charged by the State Police. Currently, police and fire departments provide valuable services and generate reports from which automotive insurance companies benefit at little or no cost to them. The expense associated with conducting such investigations and compiling such reports is borne by the municipal police department, and in turn, local taxpayers. The State Police charge a $15 search fee for such reports, $15 for a copy of the report and $25 for any related photos or contact sheets. Municipalities should be authorized to charge the same for the reports they generate at the local level.

The Executive Budget would also permit local governments to charge fees for ambulance services, including emergency medical services, provided by their fire companies or fire departments. Currently, local governments can only charge such fees if they have a free-standing ambulance company. It is important to note that these charges will, more often that not, be paid by the insurance company and not the individual receiving such services. Another revenue proposal included in the Budget would give local governments the authority to charge for the provision of additional police protection at paid-admission events. Currently, when a special event is held within the geographic area served by a municipal police department and requires extraordinary police services, the municipality is precluded from imposing a fee upon the sponsoring individual or organization, regardless of whether an admission fee is charged. Without such authorization, municipal taxpayers must fully fund the cost of providing police officers, frequently called back to work at overtime rates, to cover such events.

Finally, the Executive Budget would provide local governments with the opportunity to increase their interest earnings by allowing them to deposit municipal funds in savings banks, credit unions and savings and loan associations. Under current law, originally enacted in 1909, the only banking institutions that are permitted to accept deposits from local governments are commercial banks and trust companies. In fact, New York is one of only a handful of states that do not allow other banking institutions to accept municipal deposits. Consequently, the cash management needs of local governments in New York State, which are estimated to be $6 to $8 billion, all must be handled by commercial banks, effectively giving them a monopoly over the deposit of public funds.

Limiting the number of depository options precludes municipalities from taking advantage of the best available interest rates, thereby decreasing their ability to earn greater returns on their investments without increasing their investment risk. The more local governments can increase money on interest earnings, the more they can decrease their reliance on property taxpayers. Furthermore, not only might these institutions offer a better rate of return, but since many of them are local institutions, the money they take in is more likely to be reinvested in the local community. In addition, municipalities in rural and economically diverse areas will likely be better served by non-commercial banks, since commercial banks are not always in a location that is convenient to the municipality that is depositing funds. This issue has only been exacerbated by the many bank mergers that have taken place recently, not only adding to the inconvenience but also leaving municipalities with fewer and fewer local depository options. We would like to note, however, that the Executive Budget proposal, as currently written, would only allow localities to use state chartered credit unions – of which there are just 22 – and not federally chartered credit unions. Amending this language to allow local governments to deposit municipal funds in federally chartered credit unions as well, would give municipalities another 440 from which to choose.

If enacted, the proposals I outlined above would both increase local revenue and permit investment flexibility, two things that are sorely needed and would provide a tremendous benefit to local governments at no cost to the state. While there is no doubt these initiatives will have their critics, NYCOM urges you to consider what the alternatives may be to not giving municipalities the options and flexibility necessary to generate additional resources on their own.

One last initiative for which NYCOM requests your support is the proposal to allow local governments to amortize a portion of their pension costs during the next six years. As you know, in September 2009, the State Comptroller announced that pension costs would rise sharply in 2011, with average increases of 61% for non-uniformed employees and 21% for uniformed employees, and further increases in subsequent years. You and the Governor are to be commended for your efforts to reduce pension costs in the future by creating a new retirement tier. However, local governments need options available to them in the short-term as well. While we recognize that the amortization of pension costs is not a panacea, it will help provide cash-flow relief necessary to avoid excessive property tax increases in the coming years.

Conclusion

Let me conclude by saying that, from the perspective of municipal governments and their property taxpayers, this Executive Budget does make a significant effort to empower local officials. Unfortunately, though, the new and expanded local revenue options, along with a limited measure of relief from existing mandates, would, in many cases, be more than offset by cuts in AIM funding, especially as it relates to our struggling cities.

You, as state legislators, have the ability in this budget to strengthen your partnership with local governments when it is needed the most. Rather than merely taking a *quid pro quo* approach, NYCOM urges you to enact the Governor's revenue option and mandate relief proposals, AND also restore the cuts in AIM. Many of our state's largest cities – as important engines in our state economy – are already bearing the burden of AIM reductions included in December's DRP and would be cut further in this Executive Budget. The City of New York – clearly our economy's central driving force – would lose its entire $302 million AIM allocation in 2010-11. As local governments struggle with the ill fiscal effects of a continuing recession, it is no time to be reducing the state's commitment to its cities and villages. Protecting AIM funding, expanding local non-property tax revenue options, and enacting significant mandate relief will, together, begin to rejuvenate our communities and our state and we implore you to take this balanced and proactive approach to budgeting.

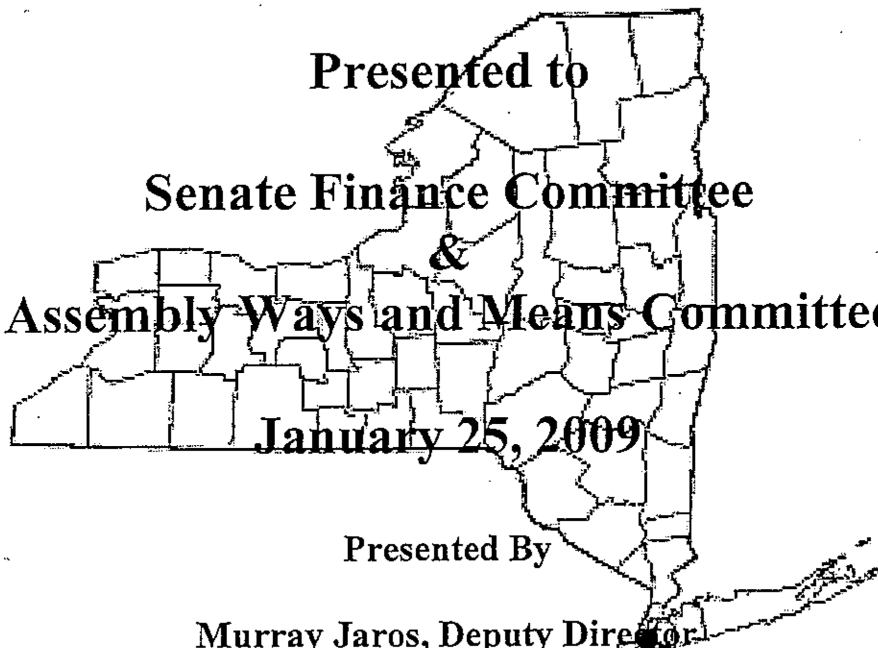
NYCOM looks forward to providing your committees with additional input as the budget making process continues. Thank you for the opportunity to testify as this important hearing, and I would be happy to respond to any questions.

9

THE ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK

TESTIMONY

2010-2011 EXECUTIVE BUDGET



Presented to

Senate Finance Committee
&
Assembly Ways and Means Committee

January 25, 2009

Presented By

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Serving Town Officials since 1933

AOTSNY Budget Testimony
2010-2011 State Fiscal Year

Greeting

Good Day, Chairmen and Members of the Senate Finance and Assembly Ways and Means Committees. I'm Murray Jaros, Deputy Director for the Association of Towns. With me here today is Congressman Mike McNulty. Thank you for the opportunity to appear here today to discuss the Association's views on the proposed Executive Budget for State Fiscal Year 2010-2011. It is a pleasure to sit before you once again to discuss the needs of people who live and work in New York's towns.

The Association of Towns was formed in 1933 to help towns obtain greater economy and efficiency. Towns provide necessary and valuable services for many New Yorkers. According to the latest Federal Census, approximately 46% of the State's population lives in towns. Although towns vary widely in size and population, all of them offer core government services, such as road maintenance, snow removal, public safety, emergency services, and land use management, among others. While, the town tax accounts for only a small portion of the overall real property tax burden (on average 12% of the real property tax dollar is attributed to town services), towns rely heavily on property taxes to fund the services that they provide. Approximately fifty percent of a town's revenue comes from real property taxes; the remainder is made up through mortgage recording taxes, user fees, state aid and sales taxes.

We begin our testimony today by thanking you for enacting a new Tier V in the New York State and Local Government Retirement System, as well as some mandate relief measures. Chapter 494 of the Laws of 2009 reduced from five to three the number of municipalities needed to participate in a cooperative health benefit plan; requires a health insurance provider to supply claims experience up to three years in a small group health insurance plan. Clarified shared service arraignments between DOT and local government. Increased competitive bidding thresholds for public works projects to $35,000. Authorized the State Bond bank Agency to issue bonds in order to purchase municipal bonds that are issued to finance projects that are eligible under the American Recovery and reinvestment Act (ARRA). Finally this bill included some tort reform measures by municipalities on equal footing with the private sector through collateral source reform. Not only do we thank you for these measures we also thank you for increasing CHIPS revenue in the 2009-2010 Enacted State Budget and not reducing CHIPS or AIM funding to towns during the deficit reduction plan.

We come before you again to address the fiscal needs of New York's deteriorating infrastructure. The State has historically shared in the expense of funding our critical transportation, water wastewater and environmental infrastructure. Spending our limited taxpayer resources on repairing, maintaining and in some cases rebuilding our aging infrastructure and environmental resources will be rewarded with increased tax revenues, jobs and an improved quality of life.

Highway and Bridge Funding

CHIPS and Marchiselli

We begin with our greatest financial need namely roads and bridges. Local governments own and maintain over 97,000 centerline miles (of which towns are responsible for 58,279) and over 8600 highway bridges. Local highways account for over 67 billion vehicle miles, or 48 percent of total travel vehicle miles in New York, traveled annually. Travel on local roads is increasing at a rate of almost 2.5 percent per year. Locally owned infrastructure surpasses State owned infrastructure accounting for more than 87% of New York's roads, 52% of New York's bridges and 48% of vehicle mileage logged in New York State. [i]

In 2008, even though local tax receipts are down, towns spent over $1.3 billion to maintain local transportation infrastructure. According to the State Comptroller's Office the average town spent over twenty percent of its budget on transportation related costs. [ii] We estimate in smaller towns that the amount spent on transportation costs is actually closer to fifty percent. Towns locally fund nearly seventy-five percent (75%) of their transportation cost with local taxes - with the remaining twenty-five percent (25%) funded through the State Consolidated Local Street and Highway improvement Program (CHIPS) and the Municipal Street and Highway Program (Marchiselli).

Even thought towns are spending considerable resources on local infrastructure there is a critical need to spend more. According to data from the U.S. Department of Transportation, roughly one-third of the 8,535 bridges maintained by New York's local governments are structurally deficient or functionally obsolete. According to this data, the number of bridges structurally deficient or functionally obsolete increased slightly between 2002 and 2007 from 2,966 to 3,006 bridges. [iii] However, more recent data collected by the New York State Department of Transportation indicates that the number of deficient bridges will increase by 1,500 in the next few years. [iv] This means that more than half of all local bridges will be in need of repair during the next decade. [v] Towns are keenly aware of the lack of resources available to meet our infrastructure demands. A 2007 report from the New York State Association of Town Superintendents of Highways estimated that the local need over the next twenty years is actually more like $45.7 billion which translates into about $2.28 billion annually (state share would be $1.2 billion annually) for local bridge and highway funding needs.[vi]

State funding programs are in place to assist real property taxpayers with the enormous expense of maintaining and repairing our aging infrastructure. The CHIPS and Marchiselli programs are intended to assist localities with maintaining that portion of the State's transportation infrastructure that is locally owned. CHIPS provides financing for the construction, reconstruction or improvement of local highways, bridges, highway-railroad crossings and/or other local facilities. The Marchiselli provides three-quarters of the required local match to Federally funded projects. The 2010-2011 Executive Budget (S. 6605/A. 9705 Part A) proposes to keep local highway aid flat, with $363.1 million for CHIPS, and $39.7 million Marchiselli, Last year, the 2009-2010 Enacted State Budget included $363 Million for CHIPS and $39.7 million for Marchiselli. We thank the Legislature for increasing local highway funding in the

2009-2010 Enacted State Budget. We believe the Governor is aware of the needs and we commend him for his foresight.

We respectfully request that the Legislature keep in mind the needs of our crumbling transportation infrastructure as well as the economic benefits which may be realized when authorizing transportation aid. There is no shortage of information available regarding the dire state our New York's roads and bridges. Two recent State Agency reports highlighted the critical state of New York's failing infrastructure. First, the DOT's 2010/2015 Five Year Capital Plan [vii] recommends that New York State invest $2.2 billion ($440 million annually) in federal aid for local transportation and $2.4 billion ($4.8 million annually) for CHIPS and Marchiselli programs over the next five years. In order to meet critical local infrastructure needs, the 2010/2015 Five Year Capital Plan recommends a 40-60% growth in CHIPS and Marchiselli assistance over the next five years. The 2010-2011 Executive Budget instead proposes to keep funding levels flat. Second, the Office of the State Comptroller in a 2009 report noted "[t]he diminishing commitment of State and federal dollars to help fund such projects in recent years has resulted in local governments having to bear a disproportionate share of this growing burden." [viii] We cannot expect New York to prosper without safe and reliable roads and bridges.

Dedicated Highway and Bridge Trust Fund

The 2010-2011 Executive Budget (S. 6605/ A. 9705) once again relies upon the Dedicated Highway and Bridge Trust Fund (DHBTF) to finance state DMV operations rather than using all of that revenue to finance actual highway and bridge projects.

The DHBTF was created by Chapter 329 of the Laws of 1991 primarily as a pay-as-you-go capital projects fund, the purpose of which was to account for dedicated funds used both for transportation-related capital projects and for debt service payments on certain New York State Thruway Authority bonds. It was significantly amended by Chapter 56 of the Laws of 1993, which created a substantial borrowing component to the DHBTF, essentially shifting it from a pay-as-you-go capital fund to a debt-financed capital fund. The DHBTF was amended again by Chapter 151 of the Laws of 2001, which authorized payments for operating expenses of the Department of Motor Vehicles and of the Department of Transportation's snow and ice removal program.[ix]

In his October 2009 report "The Dedicated Highway and Bridge Trust Fund: Where Did the Money Go?" State Comptroller DiNapoli found that "from the Fund's inception through SFY 2008-09, the Fund has collected more than $33.2 billion from all revenue sources, including $20.5 billion in taxes and fees, more than $10.2 billion in bond proceeds, $713 million in miscellaneous receipts and $1.8 billion in transfers from other funding sources. However, of all this revenue, just over one-third has been spent for capital construction through SFY 2008-09. State Operations expenses account for 37.7 percent of the Fund's expenditures, and debt service accounts for 27.4 percent." [x]

Reliable transportation infrastructure means jobs and industry for New York. Therefore, we need to provide a reliable means of transportation funding. Unfortunately, New York has not utilized this resource for its intended purpose and as a result we once again find ourselves with insufficient funds to meet the needs of our transportation infrastructure. It is not too late to address this problem by fully funding our infrastructure needs and securing the DHBTF for its intended purpose, namely direct infrastructure funding.

Spending money to maintain, repair and improve our local transportation network will bring jobs and industry to New York. Protecting the DHBTF is one measurable step towards securing the necessary funding to improve our transportation infrastructure. The transportation construction industry generates more than $200 billion in economic activity and helps sustain 2.5 million jobs in the United States each year. Studies estimate that every dollar invested in the Nation's highway system generates $5.70 in economic benefits, including reduced delays, improved safety and reduced vehicle operating costs. In addition, the transportation construction industry benefits through jobs and the community benefits through increased economic activity. [xi] It is a critical investment in our future.

Aid for Ailing Infrastructure

Water and Wastewater Infrastructure

Our next greatest financial need comes in the form of rebuilding our aging water and wastewater infrastructure. New York cannot prosper without clean and plentiful drinking water. Regrettably, our water and wastewater infrastructure is aging out as well and in need of considerable and immediate financial support. The 2010-2011 Executive Budget (S.6605/A.9705 pages 177-178) proposes $269.9 million for CWSRF and $89 DWSRF funding. This record level of funding was made possible in part by the recent EPA appropriations bill signed on October 30, 2009, which approved $2.1 billion for Clean Water State Revolving Loan Funds (CWSRF) across the nation, along with another $1.38 billion for Drinking Water State Revolving Loan Funds (DWSRF). Based on the traditional federal funding formulas, New York will receive $228.9 million for clean water and $88.6 million for drinking water. [xii] Through this proposal and existing funds EPF will have roughly $700 million to fund water and wastewater projects. We thank the Federal Government, the Governor and EPF for renewing their commitment to assist struggling real property taxpayers fund necessary water and wastewater projects. We encourage the Legislature to maintain or preferably (if revenues allow) increase these funding levels in the Enacted 2010-2011 State Budget.

Despite record levels of funding there is still a great unmet need -- due to a lack of necessary funding, approximately, 95 % of projects submitted for DWSRF funding will remain unfunded. One of the primary reasons, our water and wastewater infrastructure's needs are so great is due in part to the age of our infrastructure – much of it has exceeded its useful life. [xiii]

While, funding New York's aging water and wastewater infrastructure is a daunting task, every dollar invested to protect our water bodies and ensure clean drinking water is an investment in New York's economic recovery. Not only do infrastructure improvement projects provide good paying jobs to design, build and repair our aging water and wastewater infrastructure, they also support private industry and manufacturing through the purchase of commodities and attract/retain other businesses.

We are encouraged by the Federal commitment to increase funding and respectfully request that the Legislature preserve and if possible increase the $269.9 million for CWSRF and $89 DWSRF funding levels set forth in the 2010-2011 Executive Budget.

Environmental Protection Fund

Finally, we need to spend our limited resources on protecting our environment. Without a clean and functioning environment our quality of life will decrease and our health care costs will increase. The 2010-2011 Executive Budget includes a proposal to provide $143 million in EPF funding which represents a $79 million reduction in funding from the 2009-2010 Enacted State Budget. Specifically, the Solid Waste Management programs will see a $4.5 million reduction with proposed funding at $13 million. Parks & Recreation will see a $2.1 million reduction with proposed funding at $67 million. Finally, Open Space programs will see the biggest cut, $72.3 with proposed funding of $62.9 million. These programs were already reduced in the mid year deficit reduction plan.

In addition to a reduction in funding, the 2010-2011 Executive Budget (S. 6605/A. 9705 Part FF) includes a proposal to reduce the amount of real estate transfer tax revenue deposited into the Environmental Protection Fund. This bill would reduce the amount of real estate transfer tax (RETT) revenue deposited into the Environmental Protection Fund (EPF) beginning in fiscal year 2010-11 from $199.3 million to $132.3 million. Any RETT receipts in excess of the amount deposited into the EPF are deposited into the Clean Water/Clean Air Fund. Such receipts in excess of amounts required for debt service on bonds authorized by the Clean Water/Clean Air Bond Act of 1996 would then be available for transfer to the General Fund pursuant to State Finance Law § 97-bbb.

In another economic recession, New York created the Environmental Protection Fund to establish a dedicated funding source to protect our natural resources, preserve open space and establish parks. Funding is dependent upon the budget process. The EPF has consistently been underfunded since its inception in 1993. [xiv] Consistent with past practice, this year the 2010-2011 Executive Budget proposes to decrease spending on parks, open space and solid waste management. While $143 million seems like a lot, particularly during a lean economy, investment in our natural environment will improve our quality of life, attract/retain business and in return lower our property taxes. In 2008 Hudson Valley Economic Development Corporation [xv] surveyed 2,000 corporate executives, site-selection consultants and real estate brokers who noted that "scenic beauty" and quality of life are key factors to locating a business in New York's Hudson Valley. Therefore, while we understand that we all must share in the sacrifice to get New York on firmer financial ground we respectfully recommend utilizing RETT for their intended environmental purpose rather than sweeping unappropriated RETT receipts into the General Fund.

We support the 2010-2011 Executive Budget (S. 6605/A. 9705 Part DD) proposal to extend the Waste Tire Management and Recycling Fee and expand the authorized purposes of the Waste

Tire Management and Recycling Fund. In addition, the fund would be renamed the Waste Management and Cleanup Fund.

Finally, the 2010-2011 Executive Budget (S. 6605/A. 9705 Part GG) proposes changes to the Navigation Law, §79-b (3) which will reduce the authorized reimbursement rate paid to governmental entities that voluntarily enforce the Navigation Law from 75 percent to 50 percent. We understand the need to reduce State spending where necessary and therefore respectfully request that when State revenues are restored that the proposed reduction in voluntary enforcement.

AIM Funding

State of New York Towns' Fiscal Health

New York Towns primarily rely upon property taxes, mortgage recording taxes, sales taxes and state aid to fund town services and operations. Unfortunately, these funding sources have been dramatically impacted by the recession and prolonged fiscal stress. The State Comptroller's Office recently reported that sales tax collections through September 2009 were down 8.9 percent from the same period in 2008, and this trend holds for all regions of the State. In addition, many towns are reporting significant decreases in mortgage recording tax revenue (down 42.4 percent from their peak in 2004). Finally, rising foreclosure rates and plummeting home values have lead to lower real property tax revenues. [xvi]

While some towns are fiscally solvent others are in deficit financing. Many towns continue to confront difficult choices - such as whether to cut services, increase taxes and fees, reduce salaries or benefits, delay needed capital repairs or even layoff town workers. Regrettably this recession demands difficult decisions and shared sacrifice.

Just as towns are forced to ask town residents, property tax payers and workers to sacrifice, we understand that the State must do the same. One way in which the State is asking towns to sacrifice is in the form of a reduction in Aid and Incentives for Municipalities (AIM) funding. The 2010-2011 Executive Budget proposes to share $734.6 million in AIM funding to towns, cities and villages outside New York City. AIM is the only remaining unrestricted general revenue sharing program that provides direct aid to cities, towns and villages. Towns will collectively receive $49.2 million which is 6.7% of the $734.6 million allocated for AIM in the 2010-2011 Executive Budget. Although, towns will collectively receive $49.2 million this allocation actually represents a five percent (5%) decrease in AIM funding from the enacted 2009-2010 budget.

A five percent reduction in AIM funding coupled with other reductions in program funding and technical assistance will have a negative impact on many voters whether in the form of reduced services, shorter library hours, fewer recreation programs, local layoffs, and/or higher local taxes and fees. While town residents understand that our State's financial resources necessitate shared sacrifice, we respectfully request that any sacrifice made today be remembered and restored when the State's resources return. Towns have already enacted their 2010 budgets and cannot look back to fill holes created by decreases in AIM funding and other state funding/service programs. One way in which the State can assist local taxpayers in dealing with the proposed cuts is to enact the proposed mandate relief measures put forth in the 2010-2011 Executive Budget.

Mandate Reform and Office of Taxpayer Accountability Proposals

Comprehensive Mandate Reform

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part BB) includes a proposal for a four-year moratorium on new unfunded legislative mandates on local governments and school districts. Local government leaders have been talking about mandates (funded, under-funded or unfunded) for decades. There are a few major issues with respect to addressing the subject of mandates: (1) a commonly accepted definition of the term mandate and (2) a comprehensive inventory of mandates placed on local governments.

New York State continues to impose scores of unfunded or under-funded mandates on local governments. Examples of unfunded/under-funded mandates include: WICKS Law; Compulsory Binding Arbitration; Prevailing Wage; Mandatory leave time from work for public policy initiatives; training and equipment requirements for emergency services volunteers without regard to cost or need; and Medicaid. What seems like a sensible public policy initiative often results in higher costs, increased bureaucracy or decreased efficiency.

Recently, Governor Paterson took several significant steps to address unfunded mandates via Executive Order. Executive Order 17 of the year 2009 (signed April 27, 2009) wherein he defined the term "mandate" broadly to include "(i) any legal requirement that a local government provide or undertake any program, project or activity, or increase spending for an existing program, project or activity or (ii) any legal requirement that a local government grant any new property tax exemption, or broaden the eligibility or increase the value of any existing property tax exemption; or (iii) any legal requirement that otherwise would likely have the effect of raising property taxes." The Governor further ordered that any state agency program bill that contains mandates must include the fiscal impacts of such mandate, a cost-benefit analysis, documentation of input sought and received from affected local governments, and proposed sources of revenue to fund such mandate. In addition, Governor Paterson penned Executive Order No. 25 of the year 2009 (signed August 6, 2009) requiring all state agencies to undertake an in-depth review of agency regulations with an eye towards mandate relief. In addition, Governor Paterson established the Office of Taxpayer Accountability which he charged with addressing mandate reform.

In addition to Governor Paterson's Executive level efforts, we again thank the members of the State Legislature for passing mandate relief in the fall of 2009.[xvii]

We believe that the current fiscal climate necessitates comprehensive mandate reform. Many states have comprehensive mandate reform already -- regrettably, New York lags behind in this area. An Albany Law School Government Law Center study has found that 30 of the 50 states (60%) have some sort of authority dealing with mandates. This ranges from the simple requirement for pending legislation to contain fiscal impact statements; to complex methodologies for determining the cost of complying with mandates and the means for providing reimbursement. [xviii] Even the Federal Government has comprehensive approach to dealing with unfunded mandates. The Unfunded Mandates Reform Act of 1995 (UMRA; P.L. 104-4) requires Congress and federal agencies to consider the costs and benefits to state, local and tribal governments and to the private sector before imposing federal requirements that necessitate spending by these governments or the private sector. [xix]

This mandate reform proposal is temporary in nature and would provide the Legislature with the perfect opportunity to test the benefits of mandate reform. We support its inclusion in the 2010-2011 Enacted State Budget.

Fees for Municipal Police Accident Reports – parity with state police rates

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part HH) includes a proposal to amend the Public Officers Law to permit municipalities, at local option, to charge fees for accident report at rates not to exceed those authorized for the State Police. Since 1994, the State Police have had the authority to charge a $15 search fee for an accident or investigative report, an additional $15 fee for a certified copy thereof, and a $25 fee for any related photographs or contact sheets. Currently, towns are limited to the fees set forth in Freedom of Information Law §87(1)(b)(iii) which amounts to twenty-five cents per page. The committee on open government opined that "unless a statute, an act of the State Legislature, authorizes an agency to charge a different fee, an agency can charge no more than twenty-five cents per photocopy up to nine by fourteen inches, nor can it charge a fee for search or administrative costs." [xx] Municipal police personnel expend a similar amount of search time and effort in issuing copies of such reports and should be afforded the same revenue for their efforts.

Municipal Deposits in Credit Unions

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part HH, §2) includes a proposal to allow local governments at their option to use state chartered credit unions for municipal deposits. While we greatly appreciate support for this measure, the language, as written would only allow municipalities to deposit with state chartered credit unions - and not federally chartered credit unions. There are only 22 state chartered credit unions while there are 440 federally chartered credit unions across New York. We support this proposal and respectfully urge the Legislature to expand the use of credit unions for municipal deposits to include federally chartered credit unions as well as state chartered credit unions.

Putting municipal deposits in local credit unions lowers town operating expenses thereby saving the taxpayers money while simultaneously fostering economic development and providing consumers banking choice.

The General Municipal Law of the State of New York requires that local governments designate one or more banks or trust companies for the deposit of public funds. Many state and local governments throughout the United States expressly allow for the deposit of public funds in credit unions, savings banks, and savings and loan associations (hereinafter referred to as "thrift institutions"). The State of New York remains one of a few states where local governments are statutorily prohibited from using thrift institutions for municipal deposits. Town officials prefer to bank locally. Banking locally saves taxpayer dollars with respect to travel expenses and time away from town hall. In addition, town officials like the idea of local tax dollars helping their local economy by providing choice in community banking.

Most importantly, escalating real property taxes need to be addressed and providing towns with ways to reduce expenses is one way to help lower real property taxes. According to a recent economic study, allowing municipalities access to credit unions could save local governments $12 to $16 million annually.[xxi]

Like banks, credit unions are insured by the National Credit Union Insurance Fund, a federal agency comparable to the Federal Deposit Insurance Company so taxpayer dollars will be protected. In recognition of this sensible cost saving option, bills have been introduced over the years to provide choice in municipal depositing.[xxii]

User Fees for First Aid and Rescue Services provided by Fire Companies

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part HH, §8) includes a proposal to amend the General Municipal Law to permit local governments other than the City of New York to charge fees for ambulance services, including emergency medical services, provided by their fire departments or fire companies. Currently, local governments may charge fees for such services only if they have created a freestanding ambulance company separate and apart from their fire department or fire company (General Municipal Law, §122-b; Town Law, §198(10-f)). Fees generated for ambulatory care services are generally paid for by a beneficiary's insurance provider and can greatly offset municipal fiscal obligation and in some cases substantially reduce real property taxes that would have otherwise been charged to fund ambulance services. Alternately, towns could use these funds to provide paid staffing to provide coverage when volunteers are otherwise unavailable. Unfortunately, a municipality is prohibited by General Municipal Law, § 209-b(4) from imposing fees upon users of emergency or general ambulance services provided by a volunteer fire department and may not supersede the prohibition contained in General Municipal Law, § 209-b(4) pursuant to its home rule powers.[xxiii] This proposal will provide a much needed source of revenue to fund emergency services and we support its inclusion in the 2010-2011 Enacted State Budget.

Fees for Special Police Service at Private Events and Festivals

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part HH, §9) includes proposal to amend the General Municipal Law to authorize municipalities, at local option, to charge for the provision of additional police protection to paid-admission events. This section would permit municipalities, among other things, to determine which types of paid-admission events would incur such charges and to exempt not-for-profit-corporations. Currently, municipalities lack the authority to impose such charges. This bill would allow municipalities to reduce the burden of paid-admission events place on taxpayers. The cost of funding local police services is great and the authorization to have providers of paid admission events underwrite the cost of those services will provide relief to the real property taxpayer.

Elimination of the NYS Oil, Natural Gas and Solution Mining Advisory Board

The 2010-2011 Executive Budget (S. 6613 A. 9713, §82) proposes to repeal Section 23-0311 of the environmental conservation law thereby eliminating the NYS Oil, Natural Gas and Solution Mining Advisory Board.

Local governments currently dealing with the Marcellus Shale gas rush have identified several issues involving gas exploration and drilling such as public health concerns, air pollution, impacts on public water supplies, wastewater treatment systems, damage to roads, noise, traffic, quality of life, tourism, landscape preservation, property rights and local zoning/regulation. We believe there may be a more direct role that local governments can play in this process similar in nature to the role provided in the siting and permitting of mining activities via the Mined Land Reclamation Law (Environmental Conservation Law, Article 23 Title 27). Local governments are not the only entities concerned with the current process and pace at which natural gas exploration and drilling is occurring and potential consequences of such activities. We believe that NYS Oil, Natural Gas and Solution Mining Advisory Board provides a unique forum to get interested parties together to discuss issues, resolve conflicts, and examine needed regulatory and/or legislative changes and therefore do not support the elimination of this board.

Severance Tax

Part A of the Revenue bill proposes a 3 percent tax on the market value all natural gas severed from the Marcellus and Utica Shale formations, and specifically preserves the right of local governments receive real property tax from gas production in accordance with the real property tax law. As many towns located in the Marcellus Shale play have expressed concern with regard to the impact that gas drilling activity will have on their community, the Association of Towns believes that the revenue derived from this severance tax should be devoted to provide those agencies responsible for the permitting and general oversight of these activities, and those local governments who are uniquely impacted by the anticipated gas drilling, with the resources necessary to protect the health, safety and welfare of these communities.

Pension Amortization

Towns and other local governments are facing large increases in employer contributions to the pension fund in the current and future fiscal years. Part V of the PPGG bill gives local governments a new option for managing the anticipated cost increases by authorizing local governments to amortize a portion of these pension contributions over a 10 year period at an interest rate that represents a market rate. In addition, the minimum employer contribution would be increased to 5.5 percent.

In light of the expected pension costs increases, this new financing option would benefit those local governments who are unable to meet the anticipated employer contributions to the pension. Although amortizing payments over a period of time will lead to increased overall costs, this financing option will promote stability in town budgets by limiting the impact a sharp increase in pension costs will have on the budget and ultimately the real property taxpayers. The increase in the pension floor to 5.5 percent should similarly help smooth pension costs to local governments over time.

Dog Licensing

The 2010-2011 Executive Budget (S. 6605/A. 9705 Part T) includes a proposal to eliminate the State's role in dog licensing while allowing municipalities more flexibility in maintaining their own licensing programs. This proposal would substantially amend Article 7 of the Agriculture and Markets Law to eliminate the Department of Agriculture and Markets formal role in the licensing of dogs. Towns would still be required to license dogs but would now be able to set their own fees subject only to the common law limitations of reasonableness. This proposal would not take effect until January 2011, the delayed effective date will provide towns with sufficient time to draft new local laws and organize what they need to administer a local dog licensing program. Moreover, the Department of Agriculture and Markets has offered to work with towns to assist them in the development of new local laws and forms. The Association of Towns offers no objections at this time to this proposal.

Procurement Reform

The 2010-2011 Executive Budget (S. 6606/ A. 9706 Part PPGG-FF) includes a proposal to a procurement reform intended to reduce municipal compliance costs. This proposal increases the competitive bidding thresholds for public works contracts from $35,000 to $50,000 and commodities contracts from $10,000 to $20,000, while clarifying the existing rule against artificially dividing a contract to avoid the competitive bidding requirements. We support increasing the competitive bidding thresholds. We do not believe that the public will suffer from the ills of backroom dealing or that vendors will receive unfavorable treatment as a result of increasing these thresholds. All towns are required to have a procurement policy in place that addresses concerns of favoritism, improvidence, extravagance, fraud & corruption (General Municipal Law §104-b) and any contracts let that fall below the competitive bidding threshold must be let in accordance with local procurement plans.

In addition, the 2010-2011 Executive Budget (S. 6606/ A. 9706 Part CC) exempts school district project from WICKS compliance. In 2008, the State attempted to provide relief via WICKS reform by increasing the WICKS thresholds to $3 million in New York City, $1.5 million in downstate suburbs, and $500,000 upstate with an exemption for contracts that included a project labor agreement. These reforms, however, have not shown the anticipated cost savings in that most projects still fall within the new WICKS thresholds. Moreover, with 70% of construction workers not in union shops, the project labor agreement exemption has not provided significant relief. [xxiv] A few school districts previously received legislative relief from WICKS Law mandate. For example, New York City Schools have been exempt from the WICKS Law since 1988 and report a savings to the taxpayers of $192 million over a 10 year period. In addition, the study determined that construction time, without the Wicks mandate, would be reduced from 49 months to 24 months. . In addition to New York City, the Niagara Falls and Buffalo School

Districts have also obtained exemptions. In 1996, the Niagara Falls City School District reported a 15 percent cost savings to the taxpayers as a result of using a single prime contractor.

Moreover, a 1987 study done by the NYS Division of the Budget determined that taxpayers could save 20 to 30 percent on public works projects but for WICKS Law compliance. Not only does WICKS Law compliance increase real property taxes it also acts a deterrent to project development. Town Officials often report that projects simply don't get done due to the inflated costs associated with WICKS Law compliance. Towns could equally benefit from a WICKS exemption and we therefore respectfully request that the Legislature extend this mandate reform measure to all units of local governments.

In addition this proposal would amend General Municipal Law, §103 to add a new subdivision 1-b which would allow local governments to let contracts in accordance with "best value" principles currently afforded state agencies (New York State Finance Law §163 (1) (j)). Authorizing towns to purchase commodities using a best value approach will provide a basis for awarding contracts for services to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Services include technology (SFL§163(1)(j)). State agencies have been letting contracts in accordance with best value principles without incident since 1995 and there is no reason why towns should not be afforded the same procedures.

Local governments are also afforded another means to lower real property taxes by utilizing contracts let by the federal government, other state governments or other local governments. Currently, Towns are not authorized to utilize Government Services Administration (GSA) contracts, where allowed by the Federal Government, and other Government Group Purchasing Contracts such as the U.S. Communities Government Purchasing Alliance that bid contracts on a national basis to take advantage of the collective buying power of local governments to the benefit of their taxpayers. Currently only New York and New Jersey prohibit their local governments from utilizing U.S. Communities Group Purchasing Alliance contracts. New York is one of a handful of states that currently prohibits this practice. The 2010-2011 Executive Budget proposes to authorize towns to seek cost savings through piggybacking onto contracts competitively let by the Federal Government and other types of government purchasing cooperatives. We support this proposal and encourage the Legislature to authorize towns to utilize other contracts to meet local purchasing needs.

Finally, we support the 2010-2011 Executive Budget proposal to allow electronic bidding and publication of bid notices in the New York State Contract Reporter (NYSCR) The NYSCR is New York's official publication state procurement opportunities from state agencies, public authorities and public benefit corporations. The NYSCR is now free of charge for general access.

Justice Court Consolidation

Part L of the Public Protection and General Government Bill would amend the Uniform Justice Court Act to facilitate the sharing of court facilities and reduction of the number of town justices in adjacent towns that are looking to consolidate their courts. The intent of these amendments is to eliminate some of the existing impediments to court consolidation for those towns that are interested in so doing.

While the Association of Towns supports such voluntary, locally initiated cooperative efforts, we have recognized some technical problems in the proposed amendment that will make it impossible to implement as written. In particular, the proposed amendment, as does the provision it proposes to amend, requires that the terms of town justices remain staggered throughout the existence of the consolidated court operation. In essence, the language of the Uniform Justice Court Act as it currently exists, and as proposed to be amended, is designed to prohibit the terms of all of the justices of a town court from expiring in the same year, and thus avoid a complete turnover of the bench in these courts in particular election cycle.

The New York State Court of Appeals, however, has interpreted the state's Constitution (Art. VI, § 17) to require four year terms of office for all town justices without regard to when the justices were elected. Accordingly, whenever a term of office for a town justice is cut short due to death, resignation or otherwise, the town justice next elected serves for a full four year term, whether the vacancy was created in the middle of the existing term or upon the expiration thereof. Thus, if a town justice is elected to fill a vacancy in the middle of term that happens to coincide with the terms of the other justices in that court, all of the justices of that court would have the same election cycle. Although this result is prohibited by the Uniform Justice Court Act as written and as proposed to be amended, there is no mechanism to re-stagger the terms of office that is consistent with the New York State Constitution. In light of this constitutional requirement, there is no way to maintain staggered terms for town justices in perpetuity.

One simple remedy to this problem is to eliminate the requirement that town justices have staggered terms from the law as written and from the proposed amendment. Even with that remedy, however, the Association of Towns believes that the procedures set forth in the Uniform Justice Court Act §§ 106-a and 106-b are too cumbersome to utilized by towns looking to cooperate in the provision of these services. We believe that these two provisions of law can be replaced with a simpler process that would achieve the purpose of the proposed amendments and is consistent with the requirements of the Constitution.

Justice Court Mandates

The Association of Towns supports the Governor's efforts to increase the transparency of the judicial rule making activities that have an impact on local courts. All towns are required to have courts by the Constitution, and although the town justice courts are considered part of the unified court system, they are funded primarily by their host town. Any new mandated programs, trainings or increased levels of service thus translate directly into increased costs for the town government and ultimately, to the real property taxpayers.

Recognizing that towns bear the fiscal burden of new regulatory programs for their courts, the Governor's proposal (PPGG, Part M) requires that no new mandates may be imposed on a local government without a public accounting of the fiscal impact on the local government. The public accounting would include a statement of the local fiscal impact, a cost-benefit analysis, the input sought from and received by the local government, and suggestions as to sources of funding for the mandate.

In recent years, the Office of Court Administration has been very active in proposing reforms to the town and village justice courts. Although many of these reforms are well intended, many towns simply lack the resources required to carry them out without putting further strain on their real property taxpayers. The measures proposed by the Governor would enable the Office of Court Administration to better understand the cost these mandates have on towns, while enabling local governments to work with the Office of Court Administration to implement any new programs or services at the lowest cost practicable to the town.

Real Property Tax Issues

ORPS Merger

Part W of the Public Protection and General Government bill includes a proposal to merge the Office of Real Property Services (ORPS) into the Department of Taxation and Finance. A newly created Office of Real Property Tax Services would be created within the Department of Taxation and Finance to carry out the functions and services currently performed by ORPS. In addition, the State Board of Real Property Services would be abolished and much of its responsibilities would be transferred to the Tax Appeals Tribunal.

The real property tax is single most important source of revenue for towns in New York State, and town assessors are responsible for setting assessments upon which town, county, school and special district taxes based. In order to make sure that these taxes are assessed and administered in an equitable and efficient manner, local assessors must work closely with ORPS and the State Board. Through models such as the pre-decisional collaboration process, ORPS has provided a high level of service to the local governments responsible for assessing. Due to the nature of this working relationship, there is a concern among the assessing community that these service-oriented aspects of ORPS' function as it is currently structured may be compromised. Although this may not appear to be an important aspect of ORPS function, the local assistance and services helped local governments equitably assess and collect approximately $45.9 billion in real property taxes that were levied in 2009. To the extent that reductions in staffing and diversion of resources away from these services will accompany this merger, towns and assessors will be directly impacted by the diminished support in administering the real property tax.

There is also concern about the ability of the Tax Appeal Tribunal to hear and adjudicate complaints regarding equalization rates, special franchise assessments and other matters in a timely manner. Having a separate board that is dedicated to real property taxation hear these complaints allowed these complaints to be decided in a timely manner. This is particularly important, as towns depend upon an accurate assessment roll when developing their budget and establishing tax rates. Delays in adjudication of matters affecting the assessment roll could create instability in municipal budgets, particularly where prior years' assessment rolls are amended.

The Office of Real Property Services has long been a service-oriented, accessible agency that worked closely with local governments to administer the real property tax. It would be most unfortunate, if, as the result of this merger, the service component of ORPS is consumed by the revenue-producing activities of the Department of Taxation and Finance.

Assessment Transparency

The proposed Assessment Transparency Act (PPGG, part X) creates a framework that requires assessors to transmit electronically to ORPS certain information relevant to developing the tentative assessment roll, which ORPS then puts into a report for each assessing unit. The report by ORPS must contain, among others, the preliminary assessment for each parcel, the level of assessment, the prior year's assessment information and the times and dates the assessor will be available to discuss the preliminary assessment prior to filing the tentative assessment roll. The report must be made available on ORPS website and publicized by ORPS, and municipalities must make the report available to the public at their municipal offices and on their website, if they have one. When an assessment on the tentative assessment roll is greater that the preliminary assessment for the parcel, the municipality must provide notice of the increase to the owner.

Although the Association of Towns supports an open and transparent assessment process, this proposal is unworkable because of the time frames involved. Assessors are required to submit to ORPS the information no later than 60 days prior to the date for filing the tentative assessment roll. Since the date for filing the tentative assessment roll is May 1, the last date for submitting the information to ORPS is March 1. The first day of March, however, happens to be the taxable status date for real property in cities and towns. That means that towns will not have all of the information needed to complete this report as of the date it is due, and will not have time to process information and date received shortly before the taxable status date at the time the information is to be forwarded to ORPS. Unless the time frame for submitting this information to ORPS is relaxed, town assessors will be hard pressed to comply with the requirements of this new law.

State Aid for Full Value Assessments

Part Y of the Public Protection and General Government bill restructures the existing triennial and annual state aid for local governments undertaking revaluations and maintaining assessments at 100 percent of value. Under the new proposal, state aid would be available upon the completion a revaluation at 100 percent of value pursuant to a plan. The plan must be for a period of at least four years, and require a revaluation at least every fourth year plan and an inventory every sixth year. The amount of aid available is five dollars per parcel for each year in which a revaluation takes place, and two dollars per parcel for each non-revaluation year pursuant to the plan. The non-revaluation aid paid to towns under the new program may be recaptured should a town withdraw or otherwise not maintain its assessments in accordance with the plan. This new aid program would replace the existing annual aid program which provided five dollars per parcel for each year assessments were maintained at 100 percent of value.

Many towns, particularly those with fewer resources, depend on this aid when deciding to conduct a revaluation or to keep their assessments levels at 100 percent. Cutting this aid diminishes the incentive to maintain assessments at this level. Of particular concern, however, is that the recapture provision does not contemplate any future cuts or restructuring of the state aid. Although the recapture provisions may make sense if the aid remains constant, if subsequent reductions to the amount of aid are made by the state force a town to withdraw from this program, the town would seemingly be required to pay back the non-revaluation year aid. This unjust result should be avoided. Lastly, although the Association understands the fiscal constraints the State currently faces, we urge the legislature to recognize that cutting aid from programs such as these amounts simply to a shift in these costs from the State to the real property taxpayer.

Closing

In closing, we understand that the State is in the midst of very challenging fiscal times and facing record deficits. Town budgets are strained as well. We are in this together. Your constituency and our constituency are the same - namely New Yorkers. The State's ability to recover from this recession is dependent upon local government services and infrastructure. A dependable transportation infrastructure system, plentiful clean dirking water, fresh air, quality schools and parks, and recreational and cultural opportunities attract businesses - business bring jobs, jobs bring economic recovery and increased tax revenue. In other words you have to spend money to make money. We need to work together to grow our economy. Whether the taxes are paid through personal income, sales or property, they are all paid by New Yorkers. The 2010-2011 Executive Budget includes approximately $360 million to address leaking water and sewer infrastructure and $403 million to address our crumbling roads and bridges. This proposal represents a great down payment on the investment needed to rebuild New York but we need a large state commitment to improve our quality of life and strengthen our economic future.

Investing tax dollars in our infrastructure today brings immediate well paying jobs in the form of design, management, construction, manufacturing and retail and fosters economic growth which interim creates new stable jobs. In addition to improving our economic outlook, investing tax dollars today will also improve the quality of life New Yorkers and attract others to stay or migrate to the Empire State. We are in this together. While we appreciate the funding levels put forth in the 2010-2011 Executive Budget studies show that our infrastructure needs are greater that then resources made available to fund them. We respectfully ask that when revenues are restored that our local infrastructure needs not be forgotten. The state can also assist local governments to weather this recession with mandate reform. The 2010-2011 Executive Budget proposes several mandate reform measures that will provide local taxpayers relief - not in the form of direct aid but in the form of lower costs.

We would also like to take this opportunity to offer our assistance with respect to identifying other ways in which the state can work with local government to improve our economic climate and quality of life for our shared consistency.

Lastly, we ask the Legislature to partner with local government so that we may all weather this turbulent financial storm together. We thank you for the opportunity to appear before you today and look forward to working with you and legislative staff to rebuild New York.

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[i] (Shufon "A 20 year Needs Assessment of Local Jurisdiction Highways and Bridges in New York State (December 2007) commissioned by the NYSAOTSOH).

[ii] (DiNapoli, 2009 Annual Report on Local Governments, Office of the State Comptroller Division of Local Government and School Accountability [November 2009]).

[iii] (OSC "Cracks in the Foundation: Local Government Infrastructure and Capital Planning Needs." (August 2009) citing U.S. Department of Transportation, Federal Highway Administration at http://www.fhwa.dot.gov/).

[iv] (OSC "Cracks in the Foundation: Local Government Infrastructure and Capital Planning Needs." (August 2009) citing Statement by Astrid C. Glynn, Commissioner of the New York State Department of Transportation, Submitted to The House Transportation and Infrastructure Committee, January 22, 2009).

[v] (OSC "Cracks in the Foundation: Local Government Infrastructure and Capital Planning Needs." (August 2009))

[vi] (Shufon "A 20 year Needs Assessment of Local Jurisdiction Highways and Bridges in New York State (December 2007) commissioned by the NYSAOTSOH).

[vii] (DOT, "Capital Program Proposal New York State Department Of Transportation 2010-2015" (October 2009)

[viii] OSC "Cracks in the Foundation: Local Government Infrastructure and Capital Planning Needs." (August 2009)

[ix] (New York State Office of the State Comptroller, Report on the Dedicated Highway and Bridge Trust Fund (2005)).

[x] (OSC, "The Dedicated Highway and Bridge Trust Fund: Where Did the Money Go?" (October 2009)).

[xi] (SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003 Section 18: The United States Senate (Feb 3, 2004) http://www.govtrack.us/congress/record.xpd?id=108-s20040203-18).

[xii] ("New York Receives More Federal Aid To Protect Water Infrastructure" - Gov Monitor - http://thegovmonitor.com – November 5, 2009).

[xiii] (DOH "Drinking Water Infrastructure Needs of New York State" (November 2008).

[xiv] (Environmental Advocates "The Tied Up In Knots, the Environmental Protection Fund (EPF) (2009))").

[xv] (http://www.hvedc.com/webpages/index.aspx)

[xvi] (OSC Local Government and School Accountability, "THE LOCAL GOVERNMENT CONNECTION" Winter 2009 page 4).

[xvii] Chapter 494 of the Laws of 2009

[xviii] (Paul D. Moore and Elizabeth Lyons "New York's Efforts to Provide Mandate Relief" Empire Page September 13th, 2009)

[xix] The Unfunded Mandate Reform Act consists of three components: revising congressional procedures regarding future mandates; adding new procedures for Federal agency regulatory actions; and studying existing mandates to evaluate their current usefulness. It required that congressional committees estimate the costs their actions would place on state and local government and private companies. If the expense was estimated to be above $50 million a year ($100 million for companies), a majority of Congress has to agree the benefit was worth the cost. The law did not eliminate any existing requirements; it merely restricted Congress' ability to create new ones. And it does not bar Congress from cutting funding to finance existing programs, leaving the state to pick up the slack. Despite the limitations, the Congressional Budget Office concluded that the number of bills containing mandates that would be covered under the law decreased by more than a third between 1996 and 2002. Many critics note, however, that this is a toothless tiger noting that costly unfunded mandates are still enacted such as Stormwater Phase II and No Child Left Behind.

[xx] (FOIL-AO-12409).

[xxi] (Municipal Cash Deposits in New York State Credit Unions (2006) Prepared for the New York State Credit Union League, Inc.).

[xxii] (A. 4319 Weisenberg (MS)/ S. 717 Johnson C; A. 4370 Heastie/ S.1782 Parker; A.8386 Towns (MS)/ S6221 Robach; A. 9079 Fields)

[xxiiixxiii] (Opns St Comp, 1994 No. 94-7)

[xxiv] Rebecca Meinking "Gov Paterson should fix Wicks Law Mistakes" Empire State Chapter of Associated Builders & Contractors (May 23, 2008).

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NYBA

TESTIMONY

OF

MICHAEL P. SMITH

PRESIDENT AND CHIEF EXECUTIVE OFFICER

NEW YORK BANKERS ASSOCIATION

BEFORE THE

SENATE FINANCE COMMITTEE AND

ASSEMBLY WAYS AND MEANS COMMITTEE

JANUARY 25, 2010

Chairman Kruger, Chairman Farrell and Members of the Committees, my name is Michael P. Smith and I am President and CEO of the New York Bankers Association. Our Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. Our almost 250,000 employees are located in virtually every city, town and village in the State, from Jamestown to Montauk.

I appear before you today to strongly support provisions of the Governor's Executive Budget which would authorize savings banks and savings and loan associations to accept and collateralize municipal deposits. However, our Association strongly opposes authorizing credit unions to engage in the same activity.

Why do we draw a distinction between thrift institutions and credit unions? The answer is simple. Savings banks and savings and loan associations are major contributors to the fiscal health of New York State through the income, sales, mortgage recording and other taxes that they pay. Credit unions do not pay these taxes. Last year alone, the State's banks and thrifts paid more than $1 billion in income taxes to New York State, $1.4 billion in income taxes to New York City, hundreds of millions in additional income taxes to Yonkers and the Metropolitan Transportation District, and further millions in sales and other taxes. Credit unions not only did not pay these taxes, they are exempt from the special additional mortgage recording tax, sought and received an exemption from the new MTA payroll tax that is shared by every other employer, including schools, and have actually filed suit in State Supreme Court to be relieved of paying other taxes. Whereas our community commercial banks and trust companies can compete with savings banks and savings and loan associations that pay similar amounts in tax, their tax exemptions give credit unions an enormous unfair advantage.

And the contributions of the State's banks and thrifts go far beyond paying taxes. As the principal small business lenders in New York, banks and thrifts provide the funding for millions of jobs that allow the State to grow. In addition to processing local government accounts, they frequently provide financial advisory and money management services to small communities that would otherwise cost many thousands of dollars. They are the first in line to fund local projects, from the underwriting and purchase of municipal bonds to providing reinvestment dollars for the rehabilitation of blighted neighborhoods. In virtually every local community across New York State, the local banker takes the lead in civic projects, in charitable contributions, and in released time programs to allow officers and employees to volunteer for needed local events.

A 2005 study conducted by Cornell University and funded by our Association demonstrated that municipal deposits serve as core deposits at many community banks, and that those deposits fund a myriad of community activities. Among the findings:

- Municipal deposits are a bank resource that broadens the base for community lending.

- New York's banks provide a broad array of banking services to their municipal customers. A strong majority of banks provide these services at no cost to municipal customers.

- New York's banks demonstrate a high degree of involvement in direct economic development.

- A strong majority of banks and their employees provide leadership, and administrative and financial support for community events, programs and needs.

The study also demonstrates that providing credit unions with public deposits would disproportionately affect the State's community banks. Although municipal deposits make up, on average, 4% of a bank's deposit portfolio, for community banks that figure rises to 11%.

By contrast, the State's credit unions pay only property taxes. Additionally, because they are exempt from income taxes, they have no reason to purchase tax-exempt municipal bonds, which pay a lower rate of interest than do non-tax-exempt obligations. In addition, only the State's 16 remaining State-chartered credit unions – out of the total of 461 credit unions in New York – are subject to the State's Community Reinvestment Act (CRA), which mandates that banks and thrifts serve the credit needs of the neighborhoods in which they are located. None are subject to the federal CRA, with its extensive record-keeping, examination and enforcement requirements. The New York State Legislature cannot change the federal CRA nor has it any authority to tax federal credit unions.

A number of studies have shown that credit unions do not have a positive track record in community reinvestment. The United States Government Accountability Office, at the request of Congress, studied credit union service to low-income communities and found that "credit unions lagged behind banks in serving low- and moderate-income households." GAO-07-29, November 2006. Another recent study, by Prochnow Educational Foundation, the research arm of the Graduate School of Banking at the University of Wisconsin-Madison, found that a majority of the $2 billion annual federal tax subsidy for credit unions is going to higher income individuals. According to the study, 61 percent of credit union benefits go to households with incomes over $95,000; 29 percent go to households with incomes of $35,000 to $95,000; and only 10 percent go to households making less than $35,000. The Woodstock Institute and the National Community Reinvestment Coalition have also issued reports showing that large credit unions are failing in their mission to serve people of modest means.

At a time when the State and City of New York are struggling with massive budget deficits, now would be the worst possible time to take local government deposits out of tax-paying banks and place them in non-tax-paying credit unions. For every dollar removed from a bank and placed in a credit union, a dollar in earning assets must be extinguished. The earnings on bank assets are taxed by the State and City of New York, while no earnings on credit union assets could be taxed. As a result, the State and New York City would lose potentially millions of dollars in tax revenue by allowing credit unions to take local government deposits away from the banking industry. The tax exemption of the State's credit unions now costs the State many millions in revenue every year. That revenue loss could be significantly increased if the State allows credit unions to drain public deposits and the earning, tax-paying assets they support, from the State's banks.

One of the reasons stated in the Governor's memorandum in support for providing credit unions with authority to accept municipal deposits would be to provide higher returns to local governments on those deposits. But the tax revenue lost by pulling those deposits from a tax-paying bank or thrift and providing them to a non-tax-paying credit union would almost certainly exceed whatever additional interest the credit union would provide on the deposit. Indeed, based on currently posted rates, there may be no increased rate of return available from local credit unions. In reviewing rates currently offered by some of the State's largest credit unions and those offered by some of the largest New York banks, we found that these credit unions were consistently paying 50 basis points (1/2 %) less than banks for savings accounts and money market accounts.

Still another reason cited by the Governor for providing credit unions with this authority was that they would reinvest a larger percentage of municipal deposits in local loans. This argument also does not withstand analysis. In fact, the percentage of loans made in New York State by both federal and State-chartered credit unions is virtually identical to the loan-to-deposit ratio of the State's federally insured commercial banks and thrifts. According to the National Credit Union Administration, New York-headquartered credit unions' loans totaling almost $26 billion equal roughly 63% of their almost $41 billion in assets. By contrast, according to the FDIC, FDIC-insured banks and thrifts held net loans and leases totaling almost $279 billion, approximately 64% of their $432 billion deposit base.

With lower loan-to-deposit ratios, there is little likelihood that credit unions would make more local loans than do the banks that currently hold these deposits.

Other assertions supporting credit unions' push to accept municipal deposits also do not hold water:

- Credit unions state that New York is one of the few states that do not permit credit unions to accept municipal deposits. Attached is a chart showing that only 18 states authorize credit unions to accept public deposits, with no new authorizations in the last five years.

- Credit union leaders have stated that they are required to lend out any deposits they receive. The Federal Credit Union Act and the credit union provisions of the State Banking Law have no such requirement.

- Assertions have also been made that the credit union industry has not been as affected by the current market turmoil as the commercial banking and thrift institution industry. Yet, they, too, have gotten special deposit guarantees from their regulator, have a much higher premium increase for deposit insurance (even though they get to "double count" their premiums) and have suffered monumental losses through the failures of several very large corporate credit unions.

In summary, the New York Bankers Association strongly urges that the Legislature approve providing authority to accept public deposits to the State's tax-paying savings banks and savings and loan associations. We strongly oppose providing similar authority to credit unions. Taking deposits out of banks and thrifts would further deplete the State's revenue stream without in any way demonstrably improving service to the State's low- and moderate-income communities. In short, only institutions that pay taxes should be allowed to accept tax deposits.

Thank you for this opportunity to testify. I would be pleased to take any questions you might have.

Office of the General Counsel
American Bankers Association
June 16, 2005

STATES PERMITTING CREDIT UNIONS TO SERVE AS DEPOSITORIES FOR STATE FUNDS

State	Credit Unions as Depositories?	State	Credit Unions as Depositories?
Alabama	No; 41-14A-2	Montana	Yes; 17-6-101
Alaska	No	Nebraska	No; 77-2301
Arizona	No	Nevada	Yes; 356.005
Arkansas	No; 19-8-101	New Hampshire	No; 6:7
California	Yes	New Jersey	No; 17:9-41
Colorado	No; 11-10.5-103	New Mexico	Yes; 6-10-10
Connecticut		New York	No
Delaware	No	North Carolina	No; 147-78
Florida	No; 280.02	North Dakota	Yes; 21-04-03
Georgia	No	Ohio	No; 135.03
Hawai' i	Yes	Oklahoma	Yes; 62-71
Idaho	Yes; 57-111	Oregon	No;295.008, 706.008
Illinois		Pennsylvania	
Indiana	Yes	Rhode Island	Yes; 35-10.1-2
Iowa	Yes	South Carolina	No; 11-13-20
Kansas	No	South Dakota	Yes; 4-6A-1
Kentucky	Yes	Tennessee	No; 9-4-107
Louisiana	Yes; 33:2955, 39:1213	Texas	Yes;404.021Govt. Code
Maine	No	Utah	Yes; 51-7-3
Maryland	No; State Finance 6-205	Vermont	No; Title 32, Sec. 431
Massachusetts	No; Ch. 29, Secs. 34 and 34A	Virginia	No; 2.2-4401
Michigan	Yes	Washington	No; 39.58.010
Minnesota	No; 16A.271, 16A.272	West Virginia	
Mississippi	No; 7-9-12	Wisconsin	Yes; 34.01(5)
Missouri	No; 30-260	Wyoming	No; 9-4-803

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Credit Union
ASSOCIATION
New York

Testimony of

Credit Union Association of New York

William J. Mellin

President/CEO

Joint Legislative Hearing on the

2010-2011 Executive Budget Proposal

January 25, 2010

Hearing Room B –Legislative Office Building

Albany, New York

Good morning Chairmen Farrell and Kruger and other esteemed Senate and Assembly members. My name is William Mellin, I am the President and Chief Executive Officer of the Credit Union Association of New York (the "Association") and I am here on behalf of the 461 federal and state chartered credit unions across New York State. I would like to take this opportunity to comment on the Governor's proposed 2010 – 2011 Budget.

These are difficult times for all New Yorkers, too many of who have lost their jobs and many more of whom are making do with less. School superintendents remain committed to insuring our children receive a quality education in the face of reduced funding; mayors are striving to maintain basic services as federal mandates are claiming ever larger portions of their budgets; and citizens are legitimately concerned about rising property taxes.

Amidst this backdrop we should all look for ways to maximize resources for the betterment of New York and its citizens. Fortunately, credit unions have the potential to help state and local officials in a way that doesn't cost state or local taxpayers a dime, but instead will save them money and increase the range of options available to elected officials throughout the state.

In his 2010-11 budget proposal, the Governor has proposed that local governments be given the option of placing their municipal deposits in credit unions. By embracing the concept of municipal depository choice, the governor has provided to the legislature a cost-effective means of maximizing the tax dollars of New Yorkers and providing local governments much needed flexibility as they seek to save resources. Furthermore, whether it is Mayor Bloomberg proposing to deposit up to $25 million dollars or a fire district in Kingston seeking the best return on its investment, this is a proposal that could help all types of municipalities across the state.

While the Governor's proposal represents an important first step it currently does not apply to federally chartered credit unions. Excluding our 439 federal credit unions will greatly diminish the benefits that we believe can come from allowing municipal depository choice. We understand from conversations with staff in the Governor's office and Department of Budget that the omission of federal credit unions was unintentional and we request you join us in moving a 21-day amendment to insure that final legislation be extended to all credit unions. I need to emphasize that without inclusion of federal credit unions this legislation will ***NOT*** be effective in creating depository choice.

Currently, commercial banks enjoy a monopoly on municipal deposits, which had an estimated total value of between \$6 and \$8 billion.[1] They have this monopoly largely because municipal deposit laws pre-date the creation of credit unions. The majority of states, including California, Connecticut and New Jersey have long since rectified this anomaly. Authorizing credit unions to accept municipal deposits is such a common practice that the Federal Credit Union Act explicitly authorizes federal credit unions to accept these deposits. However, localities in New York State are statutorily prohibited from utilizing this option since the municipal deposit law limits the financial institutions into which they can place funds.

Under the Governor's proposal,[2] following the technical correction, federally and state chartered credit unions, as well as federally and state chartered savings and loan associations, would be authorized to accept municipal deposits in those municipalities where they have a headquarters or a branch office. In order to address potential concerns that taxpayer funds

[1] See Municipal Cash Deposits in New York State by Brian P. O'Connor Phd (May 2006)
[2] See Part HH Section Public Protection, 2010-11 Budget

are adequately protected, the local government would have the ability to negotiate both the form and amount of collateral to secure their funds; this is the same process currently in place to collateralize such deposits in commercial banks. The Governor's proposal does not require local governments to deposit funds in any particular type of financial institution. It simply gives those localities that wish to deposit funds in credit unions or savings banks the authority to do so.

Municipal deposit legislation is a targeted investment that would generate localized economic development. Credit unions are the last truly local financial institutions in this state. As such our deposits stay local, our lending is local, and our reinvestment is in our local community. There is no reason to doubt that public deposits in credit unions could have the same local impact. Because the Governor's proposal does nothing more than expand the options available to municipalities, no commercial bank would have to lose their deposits but all banks would have to price them mindful that they no longer have a monopoly in the market.

In proposing that the City of New York be permitted to deposit up to $25 million in New York City-based credit unions, as Mayor Bloomberg announced, during his State of the City last week, City funds would be leveraged locally and allow the credit union to make further investments in low-income communities, many of which we all know have been disproportionately hit by the economic downturn.

This model is in sharp contrast to the for-profit banking model. Bankers have a fiduciary obligation not to depositors, but to shareholders who want to see their investments maximized. While both models have their place in a capitalist system, if the last two years have shown us anything, it is the danger of a system in which profit becomes such an overriding goal that the needs of depositors becomes a distant concern. Once municipal deposits are given to a commercial bank, those funds may just as likely be used to support a construction project in Atlanta as they would be to support a small business in Elmira. Many local elected leaders want a local option for their banking business. That is why municipal depository choice is supported by the New York Conference of Mayors (NYCOM), New York State Association of Counties (NYSAC), Association of Towns (AOT), and Firemen's Association of the State of New York (FASNY).

Frankly, it is not a coincidence that commercial banks have needed close to $700 billion in federal bailout money while credit unions have not needed a cent. We live with the consequences of our investment decisions. Just as more and more individuals are discovering that credit unions represent a better alternative, local municipalities, anxious to maximize the public trust and the value of tax dollars contributed by financially-stressed New Yorkers, deserve that same opportunity and the same commitment to sound investments represented by the credit union philosophy.

Credit unions are qualified to accept municipal deposits. The majority of states already authorize their credit unions to accept these funds. We are insured to the same extent as commercial banks and will collateralize these deposits the as commercial banks. One need only compare the delinquency rates of credit unions in the current economic environment with commercial banks to see that credit unions are more than qualified to handle the public's money. The Credit Union National Association has reported that through September 2009 banks had a loan loss rate nearly twice as high as credit unions.[3]

[3] U.S. Credit Union Overview Member-Owned, Not-For-Profit, Financial Cooperatives as of September 2009. Sources: NCUA, CUNA.

The banking industry may claim credit unions are undeserving of municipal deposit authority because we do not pay taxes. Our opponents constantly misrepresent the true tax status of credit unions. The simple truth is credit unions do pay taxes, including property and payroll taxes. As not-for-profits which reinvest earnings into its member-owners, credit unions do not derive corporate income and therefore do not pay corporate income tax.

Ultimately, at a time when all taxpaying citizens have been forced to pay for the missteps of the banking industry, that same industry should not be opposing legislation that does nothing more than provide localities a further option in seeking to maximize taxpayer dollars.

Credit unions play a vital role in the New York State economy. Allow them to help local governments keep public funds local. Allowing local governments' municipal depository choice will help them increase revenue, create savings to taxpayers, and increase reinvestment in the local economy. I urge you to include savings banks and credit unions as eligible depositories for local governments.

Thank you.

Submitting only

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Chairmen Farrell and Kruger my name is Ray O'Conor and I am the CEO and President of Saratoga National Bank in Saratoga Springs, New York. I appreciate the opportunity to present testimony to you today in my capacity as Legislative Chairman of the Independent Bankers Association of New York State. I would like to express the strong opposition of community banks throughout New York State to the Article VII bill provisions which would permit credit unions to accept municipal deposits.

This issue has been fueled by the desire of credit unions to continue to expand their business model without the burden of state taxes. If this issue were to be measured only by interest group support, community banks would be overwhelmed by the credit unions in combination with the municipalities. Even Mayor Bloomberg is advocating for credit unions. There is however a sound public policy basis for not extending municipal deposits to credit unions. Recent events indicate that there are significant consequences when the operation of the banking and financial services are changed such as the repeal of Glass Steagall Act. We urge that you carefully weigh the consequences on community banks and the actual benefit of such action to the taxpayers of New York State.

There is no evidence or in fact any assertion that community banks have not been safely and soundly handling municipal funds. Credit unions are seeking municipal deposits not to benefit the commonweal but to increase their earnings for their members or to support their operations and to have more funding for increased ability to loan funds to its members. There is nothing wrong with their motivation; however, they were not established to service municipalities. Instead they are member cooperatives with restrictions on the amount of commercial loans which they can make. Most importantly credit unions do not pay any federal, state or local income taxes nor do they pay any sales taxes. Community banks on the other hand pay these taxes. To place a tax paying bank against a credit union for municipal deposits creates an uneven playing field. The credit union when pricing the interest payable to the municipality for their deposits does not have to factor the cost of paying taxes into the equation. This competitive advantage is compounded when the regulatory costs borne by banks are also factored into to their costs. Banks are required to comply with the Community Reinvestment Act. Credit unions have no such requirements.

What message does New York State send to taxpayers by rewarding non- tax-paying credit unions with municipal deposits? Especially when the State disadvantages its tax revenue because municipal deposits as earning assets are taxed when held in banks, whereas no earnings on credit unions are taxed. The shift in deposits to credit unions would likely reduce the profitability of community banks, creating a gap in the bank franchise tax payable to the State.

Municipal deposits are inconsequential to mega banks but are essential to many community banks. Municipal funds are a significant portion of community bank deposits in New York State ranging from between fifteen to thirty percent especially in non metropolitan banks. Loss of municipal deposits not only results in less tax revenue to New York State, it will negatively impact local lending which in turn negatively effects local economic development. Community banks have continued to provide credit to main street businesses in their communities during the recent financial crisis. In addition community banks have supported community activities. This is a critical component of any community banks business plan. Loss of municipal deposits will result in a decline in the business transacted by New York's local banking sector.

Municipal governments that support the credit union acceptance of municipal deposits are focused only on the potential of increased return on their deposits by credit unions. This attitude reflects the increased financial pressures that local governments are under. It does not reflect upon any of the consequences beyond increased returns for their coffers. It also ignores the impact on state revenues and the subsidy provided by the state.

There are inherent conflicts of interest in the receipt of municipal deposits by certain credit unions, for example where the credit union field of membership consists mainly of municipal unions or volunteer firefighters in the case of local fire districts. Such conflicts are not accounted for in this legislative proposal. There is also no provision in this proposal for the municipality to judge the safety or soundness of the credit union. There is a wide variation among credit unions. Many credit unions are larger than community banks however there are also many credit unions which serve a small number of members and have volunteer management. Such credit unions are not prevented from seeking municipal deposits. This raises important questions of safety and soundness of municipal funds.

The recent financial crisis has demonstrated the complexity of our financial system. Credit unions play an important role in our financial system but there is no imperative to expand that role to the detriment of community banks, which have been the cornerstone of economic development in New York State. Contrary to the portrayal by credit unions this is not about limiting competition. It is about maintaining a healthy financial services marketplace in New York State. Community banks compete against mega banks and large regional banks for municipal deposits without complaint. The fact is if credit unions paid taxes, there would be no reason to reject this legislation. In fact, community banks have no problem with thrifts accepting municipal deposits because they pay taxes and compete for deposits on a fair basis without a tax advantage.

Thank you for consideration of our position on this legislation.

Submission only

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January 25, 2010

**CITY COUNCIL FINANCE CHAIRMAN DOMENIC M. RECCHIA, JR.
STATEMENT TO THE STATE LEGISLATURE
ON THE 2010 EXECUTIVE BUDGET**

Good afternoon Chairman Farrell, Chairman Kruger, and members of the Ways and Means and Senate Finance committees. My name is Domenic M. Recchia Jr., and I am chairman of the New York City Council's Finance Committee. It is an honor and a pleasure to stand with the Speaker of the City Council, Christine Quinn, to testify about the impact the State Executive Budget has on New York City.

The boom years of the 2000s produced unprecedented growth in the financial service and real estate sectors. As Wall Street bonuses soared and real estate values climbed, municipal and state budgets were flush.

Unfortunately, those boom years did not last. The global financial crisis that has shocked the world economy over the last two years has been particularly devastating to New York City. Our unemployment rate exceeds the national average, and home prices throughout the city continue to drop.

Last year, New York City policy makers, lead by Speaker Quinn and Mayor Bloomberg, began the process of controlling costs and developing a budget that would protect vital services while laying the critical foundation for future economic growth.

This year's budget will require policy makers in both City Hall and the State Capital to make difficult choices. New York City has long been the economic engine of this State. It is critical that we provide support for suffering New Yorkers while preventing excessive taxation.

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At the same time we cannot create an unhealthy business environment that will drive investment to other parts of the country. To do this we must continue to invest in necessary programs and vital services while trimming the fat where it hurts the least, not where it hurts the most. And above all, we need to protect the people who we work for; our constituents.

I am particularly worried about the Governor's proposed cuts to education. The Governor said his budget cuts total $418 million in education funding, but because he is combining school aid and school construction aid, it looks like the cut is closer to $500 million. I do not believe this is an appropriate way to distribute education funding. They must be kept separate. Combining these numbers will have a hugely negative consequence for the 1.1 million school children in New York City, and will contribute to potential layoffs of teachers. In addition, the Governor's shift of $51 million in summer special education classes from the state's budget to the city's budget will further burden the city's already over-taxed and over-spent educational system. This is simply not acceptable.

Education funding is not a budget expenditure; it's an investment in the future of our economy. If we do not give our students the tools they need to compete in a global economy, we will only suffer in the long run.

Throughout the current financial crisis, we have tried to balance the requirements of our neediest constituents with the bleak realities of the current economic environment. It is vital that we adopt a budget that protects the most vulnerable New Yorkers without supporting the sort of unsustainable funding that will endanger New York's economic recovery.

I thank you for the opportunity to testify before you today and look forward to working together toward a budget that is fair and balanced to all New Yorkers, both upstate and downstate.