Association of Towns of the State of New York (AOT)

Service and Representation for the 932 Town Governments of New York

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PUBLIC HEARING
on
2017-2018 Executive Budget

Presented to
Senate Finance Committee
and
Assembly Ways and Means Committee

Hearing Room B, Legislative Office Building

Presented by

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Greeting and Preliminary Statement

Good Afternoon, it is my pleasure to be with you today. My name is Gerry Geist. I am the Executive Director of the Association of Towns and a former town board member in the Town of North Castle, Westchester County. Thank you for the opportunity to appear today on behalf of the Association of Towns to discuss the impact the Executive Budget will have on town budgets and services. With me today are: Rebecca Haines, Town Clerk, Town of Ellery, Chautauqua County; Ed Theobald, Supervisor, Town of Manlius, Onondaga County; and Bill Moehle, Supervisor, Town of Brighton, Monroe County.

The Association of Towns was formed in 1933 by town officials to help towns obtain greater economy and efficiency. Towns are located in every county except those counties contained within New York City. Approximately 8.7 million people (46 percent of the state’s population) live in towns. Our Association serves town governments by providing training programs, research and information services, technical assistance, legal services, insurance programs and advocacy.

Trust in Local Government

Several trusted state and national polls have asserted that American citizens believe in their local governments. For the last 15 years, Gallup has found that Americans have the most trust and confidence in their local governments (“Trust in Government Highest at Local Level” Public Affairs Council IMPACT May 2015 page 7), including a 2016 Gallup poll that showed an overwhelming majority of Americans – 70 percent – have trust and confidence in local government leaders (McCarthy “Americans Still More Trusting in Local Over State Government” | Gallup September 2016). In 2015, the Siena Institute found that that a similar number of New Yorkers say “local government is better at understanding and responding to voter needs,” (“Trust in Government Highest at Local Level” Public Affairs Council IMPACT May 2015 page 7).

State of Town Finances

Finances: Reserve Funds and Fiscal Stress

Towns are doing a great job. They are in a much better position to be able to respond to fiscal emergencies, natural disasters and unforeseen events than they were a few short years ago. While towns are still 16 percent below the levels of adjusted, unallocated reserves held in 2006, that gap has narrowed by 45 points since 2011, the most recent low point. Furthermore, the most recent Fiscal Stress Monitoring report from the Comptroller’s Office found that just two towns were under significant fiscal stress. It should be noted that both towns (and two others) have consistently been on the comptroller’s list, signifying that they may not be getting the assistance they need. The vast majority of towns, 98 percent, have not been designated as facing even moderate fiscal stress. Again, towns are doing a great job.

- Recovered Liquidity: Unallocated Fund Balances
  - Unallocated fund balances have returned to pre-Great Recession levels in unadjusted dollars.
  - In 2011, unallocated reserves were 30 percent below the 10-year average, but in 2015, such reserves
were 16 percent above the 10-year average.
  - When adjusted for inflation, however, unallocated funds are 84 percent of what they were in 2006.

- Fiscal Stress: None for Most, Transient for a Few, Consistent for Four
  - Towns listed in Fiscal Stress Monitoring reports generally move off that list within a year or two.
  - The two towns most recently designated as under significant fiscal stress have been on the comptroller’s list of distressed municipalities every year for the last four years.
  - Two additional towns on the most recent listing have also faced some level of fiscal stress for the last four years and are currently under moderate fiscal stress.
    - This suggests that these particular towns may not be getting the assistance they need.

Operating Successes: Employees and Shared Services

The trend of towns replacing full-time equivalent employees with part-time equivalent employees continues. Where the town workforce used to be made up of 17 percent part-time equivalent/83 percent full-time equivalent workers, for the last four years, the split generally has been 26/74. In 2016, 27 percent of town workers were part-time equivalent, which is a full percentage point higher than the prior year. And 2017 median part-time and full-time equivalent wage has declined slightly from last year’s amounts. Since 2009, the median part-time equivalent wage has fallen by more than $1,100. Towns are doing more with less and are paying workers less to do it.

![Town Workers: % Part-Time Equivalent](chart)

Local governments in New York State have a long history of sharing services. When local government services were divided into 29 categories, New York’s local governments, on average, shared 27 of them with other
localities. The average length of these sharing agreements was 18 years. Such efforts bear fruit. In 2015, the Division of the Budget estimated that property taxpayers would save $2.4 billion as a result of just the efficiencies accounted for in the Tax Freeze Efficiency program over three years.

Shared service agreements can range in size from the large (e.g. 14 municipalities joining together to protect a 100,000-acre watershed) to the small (e.g. the towns of Holland and Wales in Erie County sharing a dog control officer). In fact, Erie County surveyed its constituent municipalities on shared services to reveal more than 440 distinct arrangements. A listing from the established joint activity districts in the state illustrates the breadth of the subjects covered through these shared activities: airports and aircraft safety, ambulance service, building and fire code enforcement, cable franchises, coordinated assessments, drug abuse prevention, economic development zones, environmental commissions, firehouses, fuel farms, golf courses, health insurance, landfills, lighting districts, mass transit, municipal buildings, solid waste transfer stations, parks, planning, police, recreation arenas, recreation commissions, senior programs, sewer service, swimming pools, water service, waterfront management and youth programs.

When facing fiscal stress, local governments are as likely to explore additional shared service arrangements as they are to consider personnel cuts; they are three times more likely to initiate additional shared service arrangements than eliminate services. Shared service is not just a standard model of operation during good times; it is a lifesaver when times are tough. Sharing services is a fundamental aspect of town operations.

Lowering Property Taxes Through State Action

Real Property Tax Exemption Reform

We believe the state has an opportunity with this budget and this legislative session to provide property tax relief. One way the state can address rising property taxes is to address property tax exemptions. As highlighted in the recent Gannett news series, 31 percent of New York’s land value is tax exempt (see Jon Campbell, *Taxed off: Tax-free properties mean you pay more*, lohud The Journal News, October 30, 2016). This takes $866 billion off of the tax rolls. In less than 20 years, religious exemptions have nearly doubled from $14 billion in 1999 to $26 billion in 2015 (see Adrienne Sanders, *New York religious property tax breaks soar heavenward*, lohud The Journal News, October 26, 2016). Even though tax-exempt properties do not pay taxes, they still receive services, which must

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2. Ibid.
4. Canandaigua Lake Watershed Council membership includes the City of Canandaigua, towns of Bristol, Canandaigua, Gorham, Hopewell, Italy, Middlesex, Naples, Potter, and South Bristol and the villages of Naples, Newark and Rushville, and the Wayne County Water and Sewer Authority.
be paid for by homeowners, small businesses and farmers. Real Property Tax Law § 420-a exemptions for the moral and mental health of men, women and children have increased by more than 300 percent since 1982, while educational nonprofit organizations receiving exemptions increased by more than 150 percent (see Evaluating the Needs for and Costs of New York State Property Tax Exemptions, 2009 Report of NY Senate Select Comm. on Budget and Tax Reform at 4). These figures exist despite a 1993 panel’s finding that “exemptions are now a significant source of fiscal stress for (local) taxing units’ in New York,” (see Interim Report, December 1993 Report of Governor’s Panel on Real Property Tax Exemption and Classification Issues at 4, quoting John K. Mullen, Property Tax Exemptions and Local Fiscal Stress, National Tax Journal, December 1990). In fact, the overextension of property tax exemptions for such properties was addressed in 1975 by a state commission, which found that the courts were extending the benefit to properties associated with private, entrepreneurial activity, which presented both a fiscal liability to local governments and provided a source of local irritation (see id. at 29, quoting The Real Property Tax, 1975 Report of the Temporary State Commission on State and Local Finances, Vol. 2 at 126). That is, the systemic erosion of the tax base has been an issue for more than 40 years, and yet, the number of exemptions continues to climb.

As a result of the number of exempt properties throughout the state, local governments are forced to shift the tax burden of hundreds of billions of dollars in equalized value onto non-exempt taxpayers (see Evaluating the Needs for and Costs of New York State Property Tax Exemptions, 2009 Report of NY Senate Select Comm. on Budget and Tax Reform at 2). There are municipalities in the state with as much as 88 percent of the tax base exempt from taxation (NYS Dept. of Taxation and Finance, Exemptions from Real Property Taxation in New York State: 2010 County, City and Town Assessment Rolls [accessed January 27, 2017]); this means that the remaining 12 percent of taxpayers are required to assume 100 percent of the tax burden. These numbers are staggering and unsustainable. We recognize that some exemptions are constitutionally derived, but the courts have expanded those ideals to the detriment of homeowners, small business owners and farmers. We know you have studied this issue, and we would like to work with you to address this inequity and get to the real root of New York State’s property tax issues.
Reduce Property Taxes by Increasing State Aid to Local Governments

General Purpose Revenue (AIM Funding)

General purpose revenue sharing is currently provided through the Aid and Incentives to Municipalities program (AIM). AIM was cut in 2009 and again in 2010 and has been flat since 2011. The cuts alone represent a 7 percent reduction, and when inflation is factored in, AIM has fallen 11.5 percent. To make cities, towns and villages whole for the amount of AIM lost to inflation and the early recession cuts would be an additional $133.4 million, so our members are requesting a 50 percent increase in AIM funding over a multiyear period. Town taxpayers are well overdue for an increase in AIM funding; unfortunately, the Executive Budget again proposes no increase in AIM funds. This represents another missed opportunity to use a proven property tax reduction tool to its fullest potential. Municipalities will again share $714.7 million dollars in AIM funding: Towns will share $47.9 million (6.7 percent of the total); villages will share $19.7 million (2.5 percent of the total); and cities will share $647.1 million (90.5 percent of the total) (Aid to Localities Budget Bill S2003/A3003 page 1060).

Even more concerning than the flat AIM funding, the Governor has proposed to condition the distribution of AIM funding on the adoption of another local government efficiency program (Aid to Localities Budget Bill S2003/A3003 page 1060). According to the New York State Department of State’s Local Government Handbook, “General purpose assistance can be defined as financial aid for the support of local government functions without limitation as to the use of such aid and without the substantive program and procedural conditions that are routinely attached to categorical grants-in-aid.” AIM funding is not a categorical grants-in-aid program such as the Municipal Restructuring Fund, the Local Government Performance and Efficiency Program or even the Consolidated Local Street and Highway Improvement Program. Rather, the purpose of AIM funding is to provide “flexible equitable and predictable” funding to local governments, (McCall “A Brief History of General Purpose State Aid to Local Governments” Office of the State Comptroller, March 1998). So, this condition goes against the very purpose of general purpose assistance. We simply cannot support placing conditions on AIM funding, and are not alone in our concern. A recent editorial in the Schenectady Daily Gazette raised a call to arms to reject this proposal: “The Legislature should cross that line out of the budget before the ink dries, or face a revolt like they’ve never seen. Make sure your local representative in the Assembly and the Senate knows how you feel,” (“Don’t tie local aid to new mandate Consolidation and sharing of services is worthy goal, but...” The Daily Gazette Editorial January 25, 2017).

Efficiency, Cooperation and Consolidation

The Executive Budget continues funding for various existing consolidation and efficiency programs administered by the Department of State. The Municipal Consolidation and Efficiency Competition (MCEC) ($20 million), the Municipal Restructuring Fund ($25 million), the Local Government Performance and Efficiency Program ($4 million), Citizen Empowerment Tax Credits and Citizens Reorganization Empowerment Grants (CREG) (share $35 million). In addition to continuing funding for existing efficiency, cooperation and consolidation programs, the Governor’s budget proposes a new short-term, unfunded, county-wide shared services mandate, which largely
affects middle-class taxpayers.

**New County-Wide Shared Services Property Tax Savings Plan**

This new efficiency program would be in effect for 2017 and 2018. The Governor’s budget proposes to amend the Municipal Home Rule Law (adding a new §39) to create a new county-wide shared services property tax savings plan requirement. If adopted, each county executive/manager outside of New York City would be required to develop a property tax savings plan for shared, coordinated and efficient services among the cities, towns and villages located within the county, seeking input from the public at a public hearing, as well as from the town supervisors and city and village mayors within the county before submitting the plan to the county legislative body. The property tax savings plan must be submitted to the county legislative body by August 1, 2017, along with a certification of the tax savings, which must also be submitted to the Division of Budget. The county legislative body has the authority to modify the plan upon its submission, without input from the impacted municipalities, community leaders or the public. The plan must be then finalized by the county executive/manager by September 15, 2017 and disseminated to the public, to then be voted upon at the 2017 general election. If approved, the plan must be implemented by January 1, 2018. If the vote fails, the county executive/manager must go through the process again and resubmit it to the voters at the 2018 general election. Implementation requires compliance with article 9 of the New York State Constitution, the Municipal Home Rule Law, Statute of Local Governments, article 5-g of the General Municipal and other applicable laws. There is no direct funding appropriated to assist local governments in the compliance of these requirements. In addition, this program does not include school districts or the City of New York.

Local government officials believe in working cooperatively and have utilized their authority to share services, equipment, facilities and operations for generations. In fact, local governments often work cooperatively to address new regulatory requirements. For example, many communities collaboratively responded to new training, public outreach and reporting requirements associated with the federal MS4 stormwater regulations. Local governments in Erie and Niagara counties have joined together to respond to the MS4 regulations through the formation of the Western New York Stormwater Coalition (Rossi “Western New York Stormwater Coalition: Compliance through Collaboration” Erie County; Buffalo State College - SUNY (2009)). A similar approach was replicated across the state (e.g. Monroe County Stormwater Coalition; Central New York Stormwater Coalition; Stormwater Coalition of Albany County; Jefferson County Stormwater Coalition; Chemung County Stormwater Coalition; Ontario-Wayne Stormwater Coalition; Broome Tioga Stormwater Coalition; Saratoga County Intermunicipal Stormwater Management Program).

In 2005, before Governor Cuomo was in office, Broome County hosted a shared services summit. Through this
effort, the participating municipalities identified 170 different instances of shared services, an average of nearly eight services per local government. These services included sharing highway equipment and snow removal, parks and recreation activities, firefighting, animal control, economic development, police records and investigations, and financial and legal services (Sinclair, “Broome County Shared Services Summit Final Report” (2005)). More recently, Dutchess County has created a shared services program where the county facilitates discussion about sharing of services and even awards funding to help implement the ideas. For example, Dutchess County provided funding to the towns of Clinton, Milan, Red Hook and Rhinebeck to share a compact excavator for ditch cleaning and culvert pipe replacement, thereby reducing costs by eliminating the need for individual towns to rent equipment annually. More examples are available on the Duchess County Website (www.co.dutchess.ny.us/CountyGov/22380_22384.htm).

Municipalities work together both formally and informally to reduce purchasing costs. For example, several counties and other local governments created the Hudson Valley Municipal Purchasing Group to save costs and improve the administration of their purchasing needs. In 2013, several regional municipal purchasing groups joined together to form the Empire State Purchasing Group, which is a statewide purchasing cooperative that includes, towns, cities, villages, counties, school districts and BOCES, among others (http://legacy.empirestatebidsystem.com). In addition to the statewide purchasing cooperative formed by local governments, municipalities can piggyback off of contracts let by the Office of General Services and several national government purchasing cooperatives. Many town highway departments purchase their salt and sand through OGS or the county. Even with numerous opportunities for local governments to engage in cooperative purchasing activities, according to a 2014 Empire Center report, sometimes, a local government can get a better price on its own (Hoefer and Wright “Municipal Cooperation: Sharing Services in NY” Empire Ideas Reports (2014)). Towns that choose not to piggyback off an OGS contract or participate in a purchasing cooperative do so not because they do not wish to work with other local governments or to save taxpayer money but simply because they have evaluated their options and decided that the commodities purchased individually will better meet their needs.

In addition, to all of the organically generated shared services, local governments are currently implementing the efficiencies and shared service ideas identified in the recent tax freeze program, which are not even required to be fully implemented until 2019. Sixty-five percent of towns participated in the tax freeze efficiency plan program, and more would have liked to participate if time, resources and results permitted. While we would appreciate additional funding to help create and implement shared service agreements, we do not believe that it is necessary to establish another state-imposed initiative to encourage town officials to talk to each other and work together. If the state would like to facilitate and encourage collaboration, we would be happy to work with you to find ways to make it easier for local governments to share services and work cooperatively. Eliminating barriers to cooperation might also spark some new ideas. Providing more tools to get local governments started would be helpful. For example, how-to guides such as the State Comptroller’ LOCAL GOVERNMENT MANAGEMENT GUIDE on Shared Services provides a blueprint to starting and managing shared services. In addition, the technical assistance provided by the Division of Local Government at the Department of State is also helpful in facilitating local cooperation. Additional funding with a streamlined application process would also be helpful. The Restructuring Local Government initiative at Cornell University has produced some reports on shared services including one
authored by Xiaomeng Li titled “Barriers to Intermunicipal Service Sharing in NYS,” which outlines several ways to improve our ability to share services. If, through your negotiations with the Governor, you determine that a new state program is warranted, we are eager to work with you to create a program that works for local governments and taxpayers while ensuring access to quality services.

**Funding for Roads and Bridges**

Crumbling roads and bridges will not attract businesses or tourists to New York and will prevent our children from arriving safely to school. Numerous studies and capital plans have shown the need for increased funding for local roads and bridges. The Executive Budget continues funding with no increases for CHIPs ($438.1 million) and the Municipal Streets and Highways Program (Marchiselli) ($39.7 million). In addition, $100 million is proposed for year three of the PAVE NY program, and funding is also maintained for the Bridge NY program. CHIPs, Marchiselli and other funding sources for highway improvements are not merely an aid to reduce property taxes, but are an investment in our business community that also ensures the safety of children busing to school and parents commuting to work.

**Funding Environmental Stewardship**

The Executive Budget proposes to fund the Environmental Protection fund (EPF) at $300 million. We support the state’s continued commitment to partner with local governments to protect our natural resources. In addition, we support the Governor’s proposal to increase the state match for the Local Waterfront Revitalization Program from 50 percent to 75 percent.

**Funding to Provide Clean Drinking Water**

Thank you for your continued investment in clean drinking water through the Infrastructure Investment Act of 2015 (WIIA). We have joined others calling for the Infrastructure Investment Act of 2015 (WIIA), which is scheduled to sunset after SFY2017-18, to make this program permanent, and we are optimistic that this discussion will lead to much-needed focus on our aging water and wastewater systems. We appreciate the Senate’s recent work on this issue and the recommendation for a Clean Water Bond Act to help local governments finance needed system upgrades. In addition, we appreciate the continued work of the Assembly with respect to legislation introduced to help municipalities address aging infrastructure (e.g. A2250).

The Executive Budget contains a new Clean Water Infrastructure Act (TED S2008/A3008). The Governor proposes $2.5 billion in funding to be appropriated over five years ($400 million annually). These funds may
be used for clean water initiatives such as addressing municipal water and wastewater infrastructure needs, replacing lead pipes, protection of drinking water sources and environmental remediation. As part of this initiative, the Executive Budget proposes a new Solid Waste and Drinking Water Response Account – this fund will be established in accordance State Finance Law, §97-b.

The Executive Budget contains some new monitoring, testing and environmental remediation requirements for which grants and matching funds are proposed, subject to annual appropriation. Although we support additional funding to ensure clean drinking water, some of the new testing and remediation requirements put forth in the Executive Budget are not fully funded, or the funding that is provided may lapse in future years, leaving local governments with limited resources to address the new requirements. One way to ensure continued funding for clean drinking water would be to establish a new, recurring dedicated funding program similar to the CHIPs program for roads and bridges. Sens. Tedisco and Boyle and Assemblymember Steck are working on legislation to establish such a program that will provide local governments with reliable funding to help maintain and modernize their water, wastewater and stormwater infrastructure. Reliable funding is crucial to comprehensive planning and proper infrastructure management. We encourage you to enact and fund their proposals.

**Mandate Relief Provided in the Budget**

The Executive Budget provides some mandate relief that we hope will improve government services while lowering costs. We encourage you to approve Part F of the Revenue Article VII Legislation, which authorizes the partial payment of real property taxes unless a town has opted out. This legislation also grants towns the authority to set the parameters of the partial payments and impose a surcharge not to exceed $10 for each partial payment. This is an example of the kind of relief towns need: it helps us help our residents by enabling them to make partial payments of taxes while solving practical issues. Taxpayers that don’t have the ability to pay their tax bill outright can now chip away at their bill, ensuring its full payment. At the end of the day, all we want to do is provide the best service possible to our residents, and legislation like this enables us to meet these goals.

In addition to providing taxpayers with more options to pay their bills, the Executive Budget proposes to lower the interest that we have to pay on damage awards. Part R (S2005/A3005) seeks to amend section 3-a of the General Municipal Law to lower interest rates paid on damage awards. Pursuant to General Municipal Law, §3-an interest paid by municipal corporations on judgments and accrued claims can be as high as 9 percent. Such artificially high interest rates discourage claimants from seeking to promptly resolve outstanding claims against municipal
corporations, resulting in extreme hardship on municipal budgets. The Association of Towns urges the Legislature to adopt amendments to Section 3-a of the General Municipal Law.

**Financial Disclosure**

The Association of Towns has long been a strong proponent of ethics in local government. However, we cannot support the proposal in the budget that would require elected officials making $50,000 annually from the municipality in which they serve to file an annual financial disclosure statement with the joint commission on public ethics (JCOPE). First, having a state agency oversee this aspect of local government undermines the very essence of home rule, and the Legislature has already given financial monitoring authority to municipalities. Specifically, those towns, villages, cities, and counties with a population of 50,000 or more are already required to file financial disclosure statements with their local ethics board (see General Municipal Law § 812), and even those that do not meet the population threshold have the authority to create a financial disclosure statement and require officials or employees to file them with the local ethics board (see General Municipal Law § 811 [a-1]). In creating these rules, the Legislature recognized that financial disclosure issues are best left at the local level so that municipalities can create rules that are responsive to the needs and wants of their community and have potential issues reviewed by an independent local body familiar with both state ethics laws and local ethics codes. Respectfully, a state agency will not be familiar with the particular concerns of a community or the local code, nor is it likely to have the enforcement resources to effectively monitor every municipality in New York State; therefore, financial disclosure issues and review should remain at the local level.

The Association of Towns also has significant concerns that, rather than addressing conflict of interest issues as intended, the proposed financial disclosure requirements would have a chilling effect on people considering running for public office. Holding public office of course means being subject to a certain level of scrutiny, but it is not hard to imagine someone who wants to run for office to help and serve their community who is also unwilling to disclose personal financial information, particularly when the position does not involve significant fiscal control or authority. It is difficult to understand what purpose it would serve to have that individual and their spouse file with the state a financial disclosure form that lists, for example, any source of income in excess of $1,000, something that is required under Public Officers Law §73-a and may be required under the proposed legislation.

Rather than discourage individuals from running for public office, any ethics rules should foster the high level of integrity that already exists in local government and deter those who would abuse positions of power. We do not believe the Governor’s proposal accomplishes those goals. We are happy to work with the Legislature and other interested parties in creating practical and effective ethics reform and look forward to collaborating on this issue.

**Cemeteries**

Cemeteries are currently owned and operated by a variety of entities including nonprofit cemetery corporations, family cemetery corporations, religious corporations and local governments. Unfortunately, over the passage
time, the boards of directors of nonprofit cemetery corporations dwindle and the family members of the deceased become deceased, leaving no one to care for these cemeteries. While the courts have determined that care for the deceased is a proper public purpose, there are few statutory safeguards in place to address the need. Towns are required to care for abandoned nonprofit cemeteries within their borders (Town Law, §291).

The cost of caring for abandoned cemeteries can be overwhelming for small towns and challenging for larger towns. While the state provides some initial funding to address the cost to assume the care of an abandoned cemetery the funding is insufficient to meet future costs. In addition to caring for traditional burial grounds envisioned in Town Law, §291, the Division of Cemeteries has interpreted the law to require towns to take over abandoned mausoleums and crematoriums, adding to the obligation and expense. There are approximately 1,800 regulated not-for-profit cemeteries in New York, many of which are underfunded; 74 percent of New York’s large cemeteries are underfunded, and 66 percent of New York’s small cemeteries are underfunded. The average cost to town taxpayers to maintain an abandoned cemetery is $2,500 per acre, and the expense to maintain an abandoned mausoleum or crematorium is considerably more. This year, the Executive Budget proposes $939,000 to provide funding assistance for abandoned cemeteries. While this funding assistance sounds substantial, it actually fails to meet the need. We would like to encourage you to look at ways to improve the operation and funding of nonprofit cemeteries as well as ways to assist towns in addressing this expense.

**Conclusion**

Thank you for the work that you do and for the time that we were afforded today to share with you our perspective on the Governor’s budget proposal. We look forward to working with you this legislative session.