NEW YORK
STATE
SENATE
ALBANY, NEW YORK 12247

February 9, 2011

The Honorable Mark Poloncarz
Erie County Comptroller
Room #1100 – Rath Building
95 Franklin Street
Buffalo, NY 14202

Dear Hon. Poloncarz:

Please accept this correspondence as a means to further the discussion regarding your recent request for my office to introduce legislation extending Erie County's "temporary" one percent sales tax, which is set to expire this year. As you are aware, the one percent sales tax was enacted in 1985 and has been regularly reauthorized through legislative extensions for the past 26 years. Before considering the introduction of such legislation, we should be absolutely sure that the one percent sales tax is still completely necessary.

Toward that end, I directed my office to examined the one percent sales tax and the impact from its resulting revenue in relation to the operation of County government. In 2011 the one percent sales tax is projected to bring in $138,543,491 of total revenue. Even after the first $12,500,000 of this sum is allocated to the towns, villages, and cities of Erie County in accordance with current law, the one percent additional sales tax accounts for over 10 percent of total County revenue. Given the County's sizable surplus and the County Executive's plan to close out-year budget gaps without drawing down from this fund, it appears the extension of the full one percent sales tax may not be necessary at this time.

Section 2605.b of the Erie County Charter requires the County to keep five percent of the total county budget in reserve. The *County Executive's Budget Message & Summary* of 2011 calculates this five percent from the 2011 County Share Operations Budget of $679,406,992. The resulting required minimum fund balance is thus $33,970,350. At the same time, the *County Executive's Budget Message & Summary* of 2011 finds the County to have surpluses totaling $131,989,342. This consisted of $74,044,894 from the Audited Undesignated General Fund Balance (as of 12/31/2009), $11,629,407 from the Board of Elections re-spread, $9,791,351 from the community college re-spread, and $33,970,350 of collectable tax liens. The Audited Undesignated General Fund balance is the only figure that is significantly out of date, however recent projections place it between $73 and 78 million. Together, these figures put the current excess above the five percent minimum fund balance between $97-102 million. It is also of note that there are unresolved legal issues surrounding the County Executive declaring legislative reductions to his 2011 executive budget null and void, which could add an additional $8 million to the surplus. With all of these factors in mind, it appears that the excess fund balance for 2011 beyond the five percent minimum totals between $97-110 million.

The *County Executive's Four Year Plan* for 2011-2014 does not call for using any of the fund balance to close baseline gaps for 2012-14 of $20,387,080; $13,822,627; and $20,505,394 respectively. Instead these gaps will be closed by (1) savings resulting from the implementation of Lean Six-Sigma; (2) State funded efficiency grants; (3) additional reform initiatives similar to those used in the 2011 budget; and (4) savings generated from State Medicaid reform. Even if the County executive is unable to realize any of these savings, and is forced to draw down the fund balance there would still be a reserve fund balance in excess of the five percent minimum of $42-55 million at the end of 2014.

Based on the information available in the County Executive's Budget Message & Summary for 2011 and The County Executive's Four Year Plan for 2011-14, it appears that County financial obligations can be met while extending the temporary sales tax at a reduced rate of ***three-quarters (.75) of one percent*** *for 2012.*

While one-quarter of the one percent sales tax revenue to the County is expected to total $35,674,949 in 2012, it is likely that the net loss of revenue to the County will be appreciably less than this figure. Most of the money consumers will save from paying a reduced tax rate will be spent on other purchases that will be subject to the remaining 4.5% County sales tax. Further, increased cross-border consumption from Canada is likely to occur. Reducing our sales tax will make goods purchased here even less expensive relative to the same goods in Ontario, which will likely increase purchases subject to the remaining County sales tax.

Even if we do not assume any additional purchases, there are more than adequate excess County reserves to cover the forgone revenue that would result from reducing the one percent sales tax to a rate of three-quarters of one percent for 2012, regardless of whether the County is able to realize all of the cost savings projected in the *The County Executive's Four Year Plan.* If the County is unable reduce these out-year budget gaps, the tax could be reinstated at one percent for 2013 and 2014, which would still leave the County with a sizable excess surplus of $6 to $19 million going into 2015. If instead, the County Executive is able to realize all or some of the cost savings he projects, the tax can be extended further at the reduced rate of three-quarters of one percent or at a slightly higher rate, if necessary, dependent on the level of these savings.

Such a reduction would be a significant first step towards finally ending the "temporary" one-percent sales tax, and there is no better time than now to begin such a reduction. This "temporary" sales tax has been extended again and again for a quarter of a century, and, instead of it fading away as a "temporary" sales tax should, two more "temporary" sales taxes have been added to it. It is fortuitous that such a reduction can begin during a time when it is so dearly needed. A sales tax cut will help address the problems of stagnate wages and high joblessness that are plaguing Erie County. Reducing sales taxes have the most benefit for those with lower levels of income, who live paycheck-to-paycheck, spending nearly every dollar they make to provide the basics for their families. This is as far as one can get from a "tax cut for millionaires". Additionally, one of the recent bright spots in Erie County's economy has been its role as a retail destination for Canadians fleeing Ontario's 13% sales tax, at a time when the two dollars are near parity. Reducing Erie County's sales tax will only further incentivize cross boarder shopping, bolster local retail sales, and allow these businesses to hire additional employees. Even if the reduction of the sales tax turns out to be temporary, because the County Executive's projected savings do not materialize, the Erie County residents who most need it will get a slight reprieve from the highest sales tax in Western New York, and Erie County businesses will get a boost in consumption. All of this can be done while keeping the County's required reserves above the five percent minimum mandated by the Charter, thanks to the excess reserves Erie County has been able to accumulate.

Please do not hesitate to contact my office with any questions you may have. While I have no intention of placing Erie County under unnecessary fiscal strain, the aforementioned analysis suggests an opportunity may exist to meaningfully decrease the tax burden for local consumers and provide an injection of much needed economic activity into the local retail sector. I look forward to your review and response.

Very Truly Yours,

PAT

Patrick M. Gallivan
Senator – 59th District

Cc: Erie County Executive

Erie County Legislature

Erie County Fiscal Stability Authority

Senator Michael Ranzenhofer

Senator Mark Grisanti

Senator Tim Kennedy