

ERIE COUNTY LEGISLATURE
MEETING NO. 11
JUNE 8, 2006

The Legislature was called to order by Chairman Marinelli.

All members present.

Mr. Mazur read the poem Fire and Ice by Robert Frost.

The Pledge of Allegiance was led by Legislator Mills.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meetings.

Item 3 – MS. WHYTE moved for the approval of the Minutes for Sessions 8 and 9. MR. KOZUB seconded. MR. RANZENHOFER voted in the negative.

CARRIED (14-1)

Item 4 - No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – MR. WEINSTEIN presented a resolution Honoring 20 WNY Participants in the 2006 Transplant Games.

Item 6 – MR. LOUGHRAN presented a resolution Honoring Joe Calaman for his Contributions to our Community.

Item 7 – MS. KONST presented a resolution Honoring Clayton Schmitt for Achieving the Rank of Eagle Scout.

Item 8 – MS. LOCKLEAR presented a resolution In Memory of Mary Jane Bueme.

Item 9 – MS. IANNELLO presented a resolution In Memory of Raymond Verrall.

Item 10 – MS. IANNELLO presented a resolution Honoring Grand Island Teacher's Association 2006 Pride of the Island Award Winner Katlyn Holt.

Item 11 – MS. IANNELLO presented a resolution In Memory of Kathryn Chatfield.

Item 12 – MS. MARINELLI presented a resolution Recognizing Team WNY Transplant Athletes of Buffalo & WNY - Competition June 16-21 in Louisville, Kentucky.

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Item 13 – MS. MARINELLI presented a resolution Honoring Outstanding Young Woman 2006 - Woman Focus Awardee Alex Verdi.

Item 14 – MR. SMITH presented a resolution Honoring Rev. Dr. James A. Lewis III.

Item 15 – SMITH & HOLT presented a resolution In Memory of Bishop Nathan S. Halton.

Item 16 – MR. MILLS presented a resolution Honoring Police Officer John Payne on His Receipt of the 2006 Pathfinder Award for Blazing a Trail Between Education and Business.

Item 17 – MS. LOCKLEAR presented a resolution In Remembrance of Mary Jane Bueme.

Item 18 – HOLT & SMITH presented a resolution In Memory of Aloma Johnson.

Item 19 – HOLT & SMITH presented a resolution Recognizing Knickle City Films for the Debut of "The Forgotten City: The Truth About Buffalo" on June 10, 2006 at the Market Arcade Theatre.

MS. WHYTE moved for consideration of the above fifteen items. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to amend the the above fifteen items by including Et Al Sponsorship and adding one from Legislator Iannello and one from Holt & Smith.

CARRIED UNANIMOUSLY.

MS. WHYTE moved for approval of the above seventeen items. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 20 - CHAIRMAN MARINELLI directed that Local Law No. 7 (Print #1) 2005 remain on the table.

GRANTED.

Item 21 – CHAIRMAN MARINELLI directed that Local Law No. 12 (Print #1) 2005 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

COMMITTEE REPORTS

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Item 22 – MS. LOCKLEAR presented the following report and moved for immediate consideration and approval. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 157

MAY 30, 2006

HEALTH COMMITTEE
 REPORT NO. 8

ALL MEMBERS PRESENT.

1. RESOLVED, the following item is hereby received and filed:
 - a. INTRO 9-5 (2006)
IANNELLO & REYNOLDS: Resolution for Commissioner Billitier to Appear Before Legislature Re: Bird Flu Pandemic
 (4-0)

CYNTHIA E. LOCKLEAR
CHAIRMAN

Item 23 – MR. LOUGHRAN presented the following resolution and moved for immediate consideration and approval. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 158

MAY 30, 2006

ENERGY & ENVIRONMENT COMMITTEE
 REPORT NO. 10

ALL MEMBERS PRESENT.

ALL ITEMS ARE HEREBY TABLED.

THOMAS J. LOUGHRAN
CHAIRMAN

Item 24 – MR. HOLT presented the following resolution and moved for immediate consideration and approval. MR. REYNOLDS seconded. MR. RANZENHOFER and MR. WEINSTEIN voted in the negative.

CARRIED (13-2).

RESOLUTION NO. 159

JUNE 1, 2006

GOVERNMENT AFFAIRS COMMITTEE
 REPORT NO. 9

ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 1E-5 (2006)
WEINSTEIN: Suggestions for Charter Revision Commission
 (4-0)
 - b. COMM. 8E-1 (2006)
COMPTROLLER: Audit of Wireless Devices
 (4-0)
 - c. COMM. 9E-1 (2006)
COUNTY EXECUTIVE: Response to Wireless Audit
 (4-0)
 - d. COMM. 10E-1 (2006)
COUNTY EXECUTIVE: Response to Wireless Device Audit
 (4-0)
2. COMM. 7E-15 (2006)
COUNTY EXECUTIVE

WHEREAS, funds have been received from the New York State Legislature to the Erie County Fire Chief's Association for the Department of Central Police Services/Emergency Services to conduct Individual Fire Company Training, until all funds have been utilized for its intended use, and

WHEREAS, this grant will be used to retain County Fire Instructors to conduct this Individual Fire Company Training, and

WHEREAS, this grant will also be used to re-establish and to re-hire a part-time laborer to make sure the three training facilities are cleaned and ready for each training session, and

WHEREAS, these funds will be utilized in 2006 for their intended use,

NOW THEREFORE BE IT

RESOLVED, that the County Executive, on behalf of the Department of Central Police Services/Emergency Services, is hereby authorized to revise and extend the provisions of #16E-9 which totals \$50,000.00 from the New York State Legislature through the Erie County Fire Chief's, and be it further

RESOLVED, that authorization is granted to retain County Fire Instructors to conduct Individual Fire Company Training and to also re-establish and re-hire a part-time laborer (B100 # 1942) to keep the 3 training facilities clean and ready to reuse for 2006 until all funds are utilized for its intend use, and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Division of Budget, Management and Finance, the Office of the Comptroller, and the Department of Central Police Services/Emergency Services.
 (4-0)

3. INTRO 9-2 (2006) **AS AMENDED**
COUNTY EXECUTIVE

WHEREAS, Now in its 116th year, the Broadway Market is a cultural gem that continues a time-honored tradition of selling farm fresh, exotic and unusual products in an “ethnic Old World shopping atmosphere” on Buffalo’s East Side; and

WHEREAS, Steeped in Eastern European tradition, the Broadway Market and its family owned and operated poultry, butcher, fruit/vegetable stands and bakeries have long served this community with the utmost pride, distinction and heritage; and

WHEREAS, As the yearly pilgrimage of tens of thousands of people during the Easter Holiday season attests, the Broadway Market continues to be a treasure of cultural tourism, both for local residents as well as for people from far away; and

WHEREAS, While the Broadway Market thrives during the Easter Holiday season, it is also a vital source of fresh and nutritious foods for nearby residents for everyday shopping needs throughout the year; and

WHEREAS, Over the past several years, the Broadway Market has struggled to maintain its viability amid raising costs associated with operating the facility, maintaining a strong tenant base, and encouraging out-of-the-area shoppers to come to the market throughout the year; and

WHEREAS, In order to strengthen the market’s financial position, its Board of Directors has undertaken some initiatives that they believe do not alter the market’s mission, but which others have said do conflict with its traditional role, thus causing disagreement; and

WHEREAS, Recently the Broadway Market lost a \$97,000 federal grant that had been secured by the continued assistance of Representative Louise M. Slaughter, following Congresswoman Slaughter’s successfully bringing \$140,000 in federal aid to the market in 2005; and

WHEREAS, The Broadway Market had planned to build a community demonstration kitchen with the \$97,000 federal grant, but unfortunately Congresswoman Slaughter has withdrawn the grant amid concerns that the Broadway Market Board of Directors had plans underway to add a retail (not limited to clothing) establishment to the market, which subsequently was withdrawn; and

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WHEREAS, To be sure, Congresswoman Slaughter has maintained a strong and positive relationship with the Broadway Market, and understandably has been recognized for her valued help and assistance to the market; and

WHEREAS, To the delight of Broadway Market supporters, Congresswoman Slaughter had discussions with economic development agencies, farm bureau experts and local universities to find ways to help the market survive and thrive; and

WHEREAS, Congresswoman Slaughter's vision for the Broadway Market had been consistent with maintaining the heritage of an Old World public market, while strengthening its financial position. She described the market as "the star of Buffalo," and pledged to turn it "into one of the finest public markets in New York State;" and

WHEREAS, Unfortunately the proposed retail establishment conflicted with the Old World market that the congresswoman wanted to maintain, leading to the withdrawal of the federal funding; and

WHEREAS, The congresswoman clearly held a vision for the market's new community kitchen, one that envisioned this valuable new asset to be utilized by vendors, neighborhood chefs, and cooking classes as a way to enhance the Broadway Market.

NOW, THEREFORE, BE IT

RESOLVED, That the Erie County Legislature does hereby go on record in support of the Broadway Market, for its continued viability, for its legacy as a cultural treasure, and for it being a source of pride and heritage to local residents and people from far away; and be it further

RESOLVED, That this Legislature respectfully recommends that the Board of Directors at the Broadway Market reach out to United States Congresswoman Louise M. Slaughter in a spirit of cooperation to rekindle the past relationship that was so successful for the market in the past; and be it further

RESOLVED, That this Legislature encourages Congresswoman Slaughter to reconsider her decision to withdraw federal funding slated to build a community demonstration kitchen at the market due to concerns that market officials had planned to lease market space to a retail clothing establishment and thus jeopardizing the traditional role of the Broadway Market; and be it further

RESOLVED, That this Legislature further goes on record recognizing and strongly appreciating the congresswoman's previous solid partnership with the Broadway Market, which resulted in federal grant dollars clearly strengthening the market in its struggle for continued viability; and be it further

RESOLVED, That this body acknowledges that with the withdrawal of the retail establishment at the center of this matter, that a favorable outcome for all involved is within reach; and be it further

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RESOLVED, That this body extends to all parties involved in this matter an offer to be a mutual friend to mediate any outstanding conflicts and concerns in hopes of returning the strong friendship that had been established between market officials and Congresswoman Slaughter - hopefully leading to the successful acquisition of federal funding to establish a community demonstration kitchen at the Broadway Market; and be it further

RESOLVED, that certified copies of this resolution be forwarded to United States Congresswoman Louise M. Slaughter, the Broadway Market's Executive Director and Board of Directors, and Buffalo Common Councilmember David A. Franczyk.
 (4-0)

4. COMM. 10E-17 (2006)

COUNTY EXECUTIVE

WHEREAS, at the time of the 2005 budget cuts, extreme cuts were made to the Division of Buildings and Grounds, and

WHEREAS, many of those cuts involved supervisory personnel, and

WHEREAS, one such position was the Asbestos/Air Quality Coordinator (JG12) position, and

WHEREAS, minor asbestos abatement continues on a weekly basis within the Division of Buildings and Grounds, and

WHEREAS, the CSEA Union filed a grievance and it was ruled that the former incumbent is working out of title, and

WHEREAS, a B-100, being number 1987, has been prepared to create one Asbestos/Air Quality Coordinator (JG 12) and delete one Chief Stationary Engineer (JG 9) position (the current title of the person who will receive the Asbestos/Air Quality Coordinator title).

NOW, THEREFORE, BE IT,

RESOLVED, that the Erie County Legislature authorizes the creation of the position of Asbestos/Air Quality Coordinator (JG 12) and the deletion of one Chief Stationary Engineer (JG 9) position, and be it further,

RESOLVED, that the additional funding for this creation will come from Buildings and Grounds salary line being SAP account number 500000, and be it further,

RESOLVED, that two certified copies of this resolution be forwarded to the Commissioner of Public Works and one copy each to the Office of the County Executive, the Division of Budget, Management & Finance, the Commissioner of Personnel, and the Office of the Comptroller.

GEORGE A. HOLT, JR.
CHAIRMAN

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Item 25 – MR. KENNEDY presented the following report and moved for immediate consideration and approval. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 160

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ECONOMIC DEVELOPMENT COMMITTEE
 REPORT NO. 9

ALL MEMBERS PRESENT.

1. COMM. 10E-16 (2006)
COUNTY EXECUTIVE

WHEREAS, the Erie County Road Repair Reserve Fund has been established pursuant to Tax Law Section 1432 and General Municipal Law, Section 6-d, and

WHEREAS, the Road Repair Reserve Fund has \$2,265,758 available for repairs of roads and bridges in the County during 2006, and

WHEREAS, appropriations from the Road Repair Reserve Fund may be made only following public hearing.

NOW, THEREFORE, BE IT

RESOLVED, that a Public Hearing be held by this Legislature on Thursday, June 22, 2006 at 2:00 p.m., in the Legislative Chambers, 4th floor of the Old County Hall, 92 Franklin Street, in the City of Buffalo, and be it further

RESOLVED, that the subject of such public hearing shall be the appropriation of \$2,265,758 from the Erie County Road Repair Reserve Fund for the following projects during 2006.

2006 TRANSFER TAX PROJECTS

OIL & CHIPPING

Back Creek Road
 Belcher Road
 Bley Road
 Boies Road
 Buckwheat Road
 Cain Road
 Cattaraugus Street
 Church Street
 Concord Road
 Crittenden Road
 Davison Road
 East Blood Road

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Eastwood Road	
Fish Hill Road	
Fletcher Road	
Hunters Creek Road	
Keller Road	
Lennox Road	
Lotus Point Road	
Lower East Hill Road	
Maple Hill Road	
Middle Road	
Mileblock Road	
Moore Road	
Mortons Corners Road	
North Road	
Old Lower East Hill Road	
Rapids Road	
Shadagee Road	
Shirley Road	
Stage Road	
Three Rod Road	
Utley Road	
Versailles Plank Road	
Warner Hill Road	
Whitney Road	
Williston Road	
Woodside Road	
Zoar Valley Road	
TOTAL	\$1,837,500
<u>CRACK FILLING</u>	
Various Roads	\$ 250,000
<u>PAVEMENT SAFETY ENHANCEMENTS</u>	\$ 100,000
<u>BRIDGE MAINTENANCE/REPAIR</u>	\$ 78,258
<u>GRAND TOTAL</u>	\$2,265,758

and be it further

RESOLVED, that the Clerk of the Legislature is directed to publish a Notice of Public Hearing once in each of the official newspapers of the County, at least six days prior to the date of the Public Hearing, and be it further

RESOLVED, that a certified copy of this resolution be forwarded to the County Executive, Joel A. Giambra; Budget Director, Kenneth Vetter; Public Works Commissioner, John C. Loffredo; County Attorney's Office; and the Erie County Comptroller's Office.

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(4-0)

2. COMM. 10E-26 (2006)
COUNTY EXECUTIVE

WHEREAS, Erie County was included in a national declaration of disaster after the heavy rains in Spring 2004, and

WHEREAS, Erie County through Communication 25E-42 of November 18, 2004 approved the local financing for the Department of Public Works to undertake the design and construction of the damaged sites, and

WHEREAS, bids were taken for Project No. FEMA 226-2-8-06, FEMA Projects on Vermont Street (CR 226), in the Town of Holland, Erie County on May 4, 2006, and the low bidder was Kandey Company of West Seneca, New York, at a low bid amount of \$384,000.00, and

WHEREAS, a contract was previously awarded for design and engineering services for the above noted project to the engineering firm of Hatch Mott MacDonald and it has been determined that the contract must be increased to include construction inspection and engineering services, and

WHEREAS, Erie County is due to be reimbursed for 75% of the project cost by FEMA and 12.5% by the NY State Emergency Management Office (SEMO) provided the projects are completed in a timely fashion, and

WHEREAS, the projects are scheduled to take place between June 26, 2006 and September 1, 2006, between the 2005-2006 and 2006-2007 school years, to minimize interference with school transportation, and

WHEREAS, Legislative approval of the award is required prior to the Contractor submitting a Performance Bond and Proof of Insurance for review and approval by the County Attorney's office, and

WHEREAS, approval of the Performance Bond and Proof of Insurance by the County Attorney's office is required before a Notice to Proceed can be issued to the Contractor, and

WHEREAS, in accordance with Section 105 of New York State General Municipal Law the Contractor may withdraw his bid if the contract is not awarded within 45 days of the May 4, 2006 bid opening, which date is June 18, 2006, and

WHEREAS, in order to meet the schedule outlined above a Notice to Proceed must be issued to the Contractor as soon as possible.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to execute a contract for Project No. FEMA 226-2-8-06, FEMA Projects on Vermont Street (CR 226) in the Town of Holland, between the County of Erie and the low bidder Kandey Company at its low bid amount of \$384,000.00, and be it further

RESOLVED, that an amount of \$384,000.00 be allocated for construction, and that an amount of \$38,400.00 be allocated for a construction contingency fund with authorization for the Commissioner of Public Works to approve change orders in an amount not to exceed \$38,400.00 from the 2004 FEMA Flood Damage Program (SAP B.00136), and be it further

RESOLVED, that an amount of \$44,307.00 be allocated from the 2004 FEMA Flood Damage Program (SAP B.00136) for a change order to the contract for engineering services with Hatch Mott MacDonald, and be it further

RESOLVED, that the total project fund budget appropriation and revenue be increased equal to the cost of the total project, the amount of \$466,707.00, and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward three (3) certified copies of this resolution to the Deputy Commissioner-Highways, Department of Public Works and one copy each to the County Executive, the Commissioner of Public Works, the Division of Budget Management & Finance, and the County Comptroller.

(4-0)

3. COMM. 10E-30 (2006)

COUNTY EXECUTIVE

WHEREAS, Erie County was included in a national declaration of disaster after the heavy rains in Spring 2004, and

WHEREAS, Erie County through Communication 25E-42 of November 18, 2004 approved the local financing for the Department of Public Works to undertake the design and construction of the damaged sites, and

WHEREAS, bids were taken for Project No. FEMA 356/334-06, Reconstruction of Flood Damage, Four Rod Road (CR 356) Culverts EC 356-1, EC 356-2 & EC 356-4 and Stolle Road (CR 334) Embankment, in the Towns of Elma, Marilla and Wales, Erie County on May 4, 2006, and the low bidder was UCC Constructors, Incorporated of West Seneca, New York, at a low bid amount of \$ 487,811.00, and

WHEREAS, a contract was previously awarded for design and engineering services for the above noted project to the engineering firm of Bergmann Associates and it has been determined that the contract must be increased to include construction inspection and engineering services, and

WHEREAS, Erie County is due to be reimbursed for 75% of the project cost by FEMA and 12.5% by the NY State Emergency Management Office (SEMO) provided the projects are completed in a timely fashion, and

WHEREAS, the projects are scheduled to take place between June 26, 2006 and September 1, 2006, between the 2005-2006 and 2006-2007 school years, to minimize interference with school transportation, and

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WHEREAS, Legislative approval of the award is required prior to the Contractor submitting a Performance Bond and Proof of Insurance for review and approval by the County Attorney's office, and

WHEREAS, approval of the Performance Bond and Proof of Insurance by the County Attorney's office is required before a Notice to Proceed can be issued to the Contractor, and

WHEREAS, in accordance with Section 105 of New York State General Municipal Law the Contractor may withdraw his bid if the contract is not awarded within 45 days of the May 4, 2006 bid opening, which date is June 18, 2006, and

WHEREAS, in order to meet the schedule outlined above a Notice to Proceed must be issued to the Contractor as soon as possible

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to execute a contract for Project No. FEMA 356/334-06, Reconstruction of Flood Damage, Four Rod Road (CR 356) Culverts EC 356-1, EC 356-2 & EC 356-4 and Stolle Road (CR 334) Embankment, in the Towns of Elma, Marilla and Wales, between the County of Erie and the low bidder UCC Constructors, Incorporated, at its low bid amount of \$ 487,811.00, and be it further

RESOLVED, that an amount of \$487,811.00 be allocated for construction, and that an amount of \$48,781.00 be allocated for a construction contingency fund with authorization for the Commissioner of Public Works to approve change orders in an amount not to exceed \$ 48,781.00, from the 2004 FEMA Flood Damage Program (SAP B.00136), and be it further

RESOLVED, that an amount of \$77,997.00 be allocated from the 2004 FEMA Flood Damage Program (SAP B.00136) for a change order to the contract for engineering services with Bergmann Associates, and be it further

RESOLVED, that the total project fund budget appropriation and revenue be increased equal to the cost of the total project, the amount of \$614,589.00, and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward three (3) certified copies of this resolution to the Deputy Commissioner-Highways, Department of Public Works and one copy each to the County Executive, the Commissioner of Public Works, the Division of Budget Management & Finance, and the County Comptroller.

(4-0)

TIMOTHY M. KENNEDY
CHAIRMAN

Item 26 – MR. SMITH presented the following report and moved for immediate consideration and approval. MR. KOZUB seconded. MR. RANZENHOFER and MR. WEINSTEIN voted in the negative.

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CARRIED (13-2).

RESOLUTION NO. 161

JUNE 1, 2006

FINANCE & MANAGEMENT COMMITTEE
 REPORT NO. 9

ALL MEMBERS PRESENT. LEGISLATOR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following item is hereby received and filed:

a. COMM. 9E-24 (2006)
COUNTY EXECUTIVE: 2005 Year End Budget Balancing Amendmen
 (5-0)

2. COMM. 2D-3 (2006)
BUDGET, MANAGEMENT & FINANCE

WHEREAS, the Erie County Director of Real property Tax Services has received applications for corrected tax billings and or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556 and

WHEREAS, the Director has investigated the validity of such applications (see attached listing)

NOW, THEREFORE BE IT

RESOLVED, that petitions numbered 206175 through 206187 inclusive be hereby approved or denied based upon the recommendation of the Director of Real Property Services and be charged back to the applicable towns and / or cities.

FISCAL YEAR	2006	Petition No.	206175
	OWNER	Cancel	\$224.35
S-B-L	89.80-1-17.2	140200	BUFFALO
	Acct. No. 112	\$224.35	County
	Acct. No. 132	\$0.00	Town/SpecialDist/School
<u>Charge To :</u>	140200	BUFFALO	\$0.00

CANCEL - UNLAWFUL ENTRY PARCEL WAS ACQUIRED ON JUNE 8, 2005 BY THE US GOVERNMENT. THE 2005 TAX WILL BE PRORATED FROM DATE OF ACQUISITION IN THE AMOUNT OF \$81.91 DUE. THE 2006 TAX OF \$ 162.10 WILL BE CANCELLED. Rptl 550(7)a & 401

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FISCAL YEAR 2006 Petition No. 206176

OWNER Cancel \$699.69

S-B-L 111.45-4-1.1 140200 BUFFALO

Acct. No. 112 \$699.69 County

Acct. No. 132 \$0.00 Town/SpecialDist/School

Charge To : 140200 BUFFALO \$0.00

CANCEL - UNLAWFUL ENTRY, THE FEDERAL GOVERNMENT ACQUIRED THESE PARCELS ON JUNE 13, 2005. THESE PARCELS BECAME WHOLLY EXEMPT ON THE DATE OF ACQUISITION. RPTL 550(7)A & 401.

FISCAL YEAR 2006 Petition No. 206177

OWNER Cancel \$210.31

S-B-L 133.30-5-39 140200 BUFFALO

Acct. No. 112 \$210.31 County

Acct. No. 132 \$0.00 Town/SpecialDist/School

Charge To : 140200 BUFFALO \$0.00

CANCEL - CLERICAL ERROR, THIS PARCEL IS VACANT LAND ONLY. THE ASSESSED VALUE WAS 46,700 AND SHOULD BE 5,700. RPTL 550(3)A

FISCAL YEAR 2003 Petition No. 206178

ASSESSOR Refund \$393.96

S-B-L 14.12-1-5 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$393.96 Town/SpecialDist/School

41854 BASIC STAR EXEMPTION \$393.96

Charge To : 142289 AMHERST \$0.00

REFUND - CLERICAL ERROR, THE BASIC STAR EXEMPTION IN THE AMOUNT OF 30,000 WAS OMITTED FROM THE PARCEL IN ERROR. RPTL 550(2)C
CHECK FOR: RICK SMOYER SWEET HOME

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FISCAL YEAR 2004 Petition No. 206179

ASSESSOR Refund \$414.74

S-B-L 14.12-1-5 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$414.74 Town/SpecialDist/School

41854 BASIC STAR EXEMPTION \$414.74

Charge To : 142289 AMHERST \$0.00

REFUND- CLERICAL ERROR, THE BASIC STAR EXEMPTION IN THE AMOUNT OF 30,000 WAS OMITTED FROM THE PARCEL IN ERROR. RPTL 550(2)C
CHECK FOR: RICK D SMOYER SWEET HOME

FISCAL YEAR 2005 Petition No. 206180

ASSESSOR Refund \$446.37

S-B-L 14.12-1-5 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$446.37 Town/SpecialDist/School

41854 BASIC STAR EXEMPTION \$446.37

Charge To : 142289 AMHERST \$0.00

REFUND - CLERICAL ERROR, THE BASIC STAR EXEMPTION IN THE AMOUNT OF 31,870 WAS OMITTED FROM THE PARCEL IN ERROR,. RPTL 550(2)C
CHECK FOR: RICK D SMOYER SWEET HOME

FISCAL YEAR 2004 Petition No. 206181

ASSESSOR Refund \$369.12

S-B-L 82.05-3-3 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$369.12 Town/SpecialDist/School

Charge To : 142289 AMHERST \$369.12

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REFUND - CLERICAL ERROR, PARCEL USES A PRIVATE CONTRACTOR FOR
 GARBAGE PICKUP. THE REFUSE TAX WAS PLACED ON THE PARCEL IN ERROR.
 RPTL 550(2)E

CHECK FOR: WILLIAM A STAHLKA

FISCAL YEAR 2006	Petition No.	206182
ASSESSOR	Cancel	\$71.08

S-B-L 80.08-4-41 142201 WILLIAMSVILLE

Acct. No. 112	\$0.00	County
Acct. No. 132	\$71.08	Town/SpecialDist/School
<u>Charge To :</u>	142201 WILLIAMSVILLE	\$71.08

Relevy Village	\$71.08	Village of WILLIAMSVILLE
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CANCEL - CLERICAL ERROR, THE ASSESSED VALUE WAS ENTERED INCORRECTLY
 ON THE TAX ROLL. THE ASSESSMENT SHOULD BE 85,000 NOT 100,000. RPTL 550(2)A

FISCAL YEAR 2005	Petition No.	206183
ASSESSOR	Refund	\$389.40

S-B-L 82.05-3-3 142289 AMHERST

Acct. No. 112	\$0.00	County
Acct. No. 132	\$389.40	Town/SpecialDist/School
<u>Charge To :</u>	142289 AMHERST	\$389.40

REFUND - CLERICAL ERROR, THE PARCEL HAS A PRIVATE CONTRACTOR TO
 REMOVE THE GARBAGE. GARBAGE TAX PLACED ON PARCEL IN ERROR.
 RPTL 550(2)E

CHECK FOR: WILLIAM A STAHLKA

FISCAL YEAR 2006	Petition No.	206184
ASSESSOR	Cancel	\$444.42

S-B-L 170.00-2-25.2 144889 HAMBURG

Acct. No. 112	\$89.63	County
Acct. No. 132	\$354.79	Town/SpecialDist/School
48027 FIRE D#3 SCRATON	\$21.12	
<u>Charge To :</u>	144889 HAMBURG	\$333.67
Relevy School	\$201.96144804	FRONTIER CENTRAL

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CANCEL – UNLAWFUL ENTRY, PARCEL IS OWNED BY NEW YORK STATE DEPARTMENT OF TRANSPORTATION AND IS WHOLLY EXEMPT FROM TAXES UNLESS THEY RECEIVE A BENEFIT AND THIS PARCEL IS VACANT LAND. RPTL 550(7)A

FISCAL YEAR 2006 Petition No. 206185

ASSESSOR Refund \$123.02

S-B-L 289.05-1-2.1 145889 NORTH COLLINS

Acct. No. 112 \$0.00 County
 Acct. No. 132 \$123.02 Town/SpecialDist/School

Charge To : 145889 NORTH COLLINS \$123.02

REFUND - CLERICAL ERROR, THIS PARCEL WAS CHARGED FOR TWO UNITS OF GARBAGE TAX. THIS SHOULD ONLY BE ONE UNIT. RPTL 550(2)E
 CHECK FOR: ANDREA C DEMAIORIBUS

FISCAL YEAR 2006 Petition No. 206186

ASSESSOR Refund \$127.23

S-B-L 303.00-4-6.12 145889 NORTH COLLINS

Acct. No. 112 \$127.23 County
 Acct. No. 132 \$0.00 Town/SpecialDist/School

Charge To : 145889 NORTH COLLINS \$0.00

REFUND - CLERICAL ERROR, THE DISABILITY EXEMPTION IN THE AMOUNT OF 25,055 (50%) FOR COUNTY TAX WAS OMITTED FROM THE TAX ROLL. RPTL 550(2)
 CHECK FOR: DAWN RIORDAN

FISCAL YEAR 2006 Petition No. 206187

ASSESSOR Refund \$335.94

S-B-L 185.00-4-19.1 146089 ORCHARD PARK

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ERIE COUNTY LEGISLATURE

	Acct. No. 112	\$335.94	County
	Acct. No. 132	\$0.00	Town/SpecialDist/School
<u>Charge To :</u>	146089 ORCHARD PARK	\$0.00	

REFUND - CLERICAL ERROR, THE SENIOR EXEMPTION IN THE AMOUNT OF 45,420 (20%) WAS OMITTED FROM THE PARCEL IN ERROR. RPTL 550(2)C
 CHECK FOR: ROBERT J & BEVERFLY ABLE
 (5-0)

3. COMM. 10E-3 (2006)

COUNTY EXECUTIVE

WHEREAS, year end budget balancing amendments are necessary to close the County's books and prepare financial statements for review by the County's independent auditors for the 2005 fiscal year, and

WHEREAS, amendments were identified in cooperation with the Erie County Comptroller's Office and in consultation with departmental accountants based on account status information produced by the Comptroller, and

WHEREAS, 2005 funding within the County Attorney's Risk Retention Fund, the Department of Senior Services, Mental Health, and Youth Bureau, is designated for reappropriation into 2006, and

WHEREAS, the amendment require no additional funding, as unanticipated revenues are used to balance expense budgets.

NOW, THEREFORE, BE IT

RESOLVED, that authorization is provided to designate available 2005 funding within the County Attorney's Risk Retention Fund in the amount of \$2,867,425, the Department of Senior Services in the amount of \$108,590, the Board of Elections in the amount of \$118,600, Social Services \$98,416, Mental Health \$59,209, and the Youth Bureau for \$23,910, to be reappropriated into 2006, and be it further

RESOLVED, that authorization is provided to increase funding to the Convention Center based on the receipt of unanticipated Hotel Occupancy Tax revenue, as follows:

Fund Center Revenue	Department	Account	Budget Increase
14010	County-wide Accts. Budget	402300	Hotel Occupancy Tax \$375,368
Expense			
1331030	Convention Center	516000	Cnt Pmts-Non-Pro Sub \$375,368

And be it further,

RESOLVED, that the Division, Management and Finance is hereby authorized to adjust the 2005 Budget in order to facilitate the completion of 2005 financial statements, based on the attached schedule, and be it further,

RESOLVED, that the Director of Budget, Management and Finance is authorized to make any further 2005 Budget adjustments that may be required based on adjusting entries identified by the County's independent auditors, said adjustments would be made in conjunction with the Office of the Comptroller in preparation of their final financial statements, and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward certified copies of this resolution to the County Executive, the County Attorney, the Office of the Comptroller and the Division of the Budget, Management and Finance.

Department		Account		Budget Increase
General Fund				
Revenue – Fund 110				
14010	Cty-wide Acct. Budget	402120	.25% Sales Tax	14,511,931
		415250	ETASC Proceeds	56,563,601
	Cty-wide Acct. Budget			71,075,532
	Total			
12750	Special Needs	405500	State Aid Education Hand. Children	2,737,662
120	DSS	407290	State Aid Local Admin	8,598,499
Total Available Revenue General Fund				82,411,693

Department		Account		Budget Increase
Expense – Fund 110				
100	Legislature	500010	Part Time – Wages	29,977
		500020	Regular PT – Wages	171,4225
		502000	Fringe Benefits	818,946
		504990	Reductions Per Srv	200,000
	Legislature Total			1,220,348
105	DISS	500000	Full Time – Salaries	43,413
		500010	Part Time – Wages	24,467
		500020	Regular PT – Wages	5,383
		501000	Overtime	23,658
		502000	Fringe Benefits	730,471
		515000	Utility Charges	181,010
	DISS Total			1,008,402
116	Jail Management	500010	Part Time - Wages	20,378
		500020	Regular PT Wages	19,686
		500300	Shift Differential	147,982

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		500320	Uniform Allowance	36,500
		500330	Holiday Worked	96,677
		500340	Line-up Pay	21,147
		501000	Overtime	5,251,270
		502000	Fringe Benefits	5,336,047
		516020	Pro Ser Cnt and Fees	14,160
	Jail Management Total			10,943,847
120	DSS	500020	Regular PT – Wages	1,033
		500300	Shift Differential	5,975
		500330	Holiday Worked	22,293
		501000	Overtime	188,578
		502000	Fringe Benefits	7,095,529
		510000	Local Mileage Reimbursement	10,223
		525060	Safety Net Assistance (SNA)	257,206
		525070	Emerg Assist To Adults	149,162
		525080	Ed Handicapped Child	36,499
	DSS Total			7,766,498
163	Senior Services	500010	Part Time – Wages	1,157
		502000	Fringe Benefits	33,318
	Senior Services Total			7,766,498
164	Parks	500010	Part Time – Wages	58,385
		500300	Shift Differential	1,320
		500330	Holiday Worked	29,011
		501000	Overtime	13,837
		502000	Fringe Benefits	432,735
	Parks Total			535,288
500	ECMC	502000	Fringe Benefits	5,336,758
510	Erie County Home	502000	Fringe Benefits	2,146,822
10110	County Executive's Office	500010	Part Time – Wages	5,457
		500020	Regular PT – Wages	3,706
		502000	Fringe Benefits	108,148
	County Executive's Office			117,311
10210	Budget, Mgmt. & Fin.	500000	Full Time – Salaries	106,073
		500020	Part Time – Wages	7,004
		502000	Fringe Benefits	512,417
	Budget, Mgmt. & Fin. Total			625,494
10410	Comm. Status Women	502000	Fringe Benefits	4,291
10610	Bureau of Purchase	500000	Full Time – Salaries	60,422
		500010	Part Time – Wages	3,002
		502000	Fringe Benefits	27,631
	Bureau of Purchase Total			218,618

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10710	Fleet Services	500000	Full Time – Salaries	60,422
		500010	Part Time – Wages	3,002
		502000	Fringe Benefits	27,631
	Fleet Services Totals			91,055
10810	Eq. Emp. Opportunity	500000	Full Time – Salaries	1,448
		502000	Fringe Benefits	109,639
	Eq. Emp. Opportunity Totals			111,087
112000	Comptroller	500000	Full Time – Salaries	135,058
		500330	Holiday Worked	1,459
		500350	Other Employee Payments	13,303
		502000	Fringe Benefits	728,844
		516020	Reductions Per Srv.	144,739
	Comptroller Total			1,023,403
11310	Registrar Division	500000	Full Time – Salaries	13,184
		501000	Overtime	2,647
		502000	Fringe Benefits	675,176
		504990	Reduction Per Srv.	431,023
	Registrar Division Total			1,122,030
11320	Auto Bureau Division	500000	Full Time – Salaries	54,620
		501000	Overtime	2,713
		502000	Fringe Benefits	538,241
		504990	Reduction Per Srv	431,023
	Auto Bureau Division Total			1,026,597
11400	District Attorney	500010	Part Time – Wages	1,483
		500350	Other Employee Payments	5,580
		502000	Fringe Benefits	731,575
	District Attorney Total			738,638
11510	Sheriff Division	500000	Full Time – Salaries	30,366
		500010	Part Time – Wages	13,620
		501000	Overtime	448,542
		502000	Fringe Benefits	2,557,884
	Sheriff Division Total			3,050,412
12210	Commissioner	500000	Full Time – Salaries	193,709
		500010	Part Time – Wages	11,003
		500020	Regular PT - Wages	1,224
		502000	Fringe Benefits	210,157
	Commissioner Total			416,093
12220	Building & Grounds	500000	Full Time – Salaries	202,023
		500300	Shift Differential	55,065
		500330	Holiday Worked	64,775
		500350	Other Employment Payments	12,443
		501000	Overtime	198,952

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		502000	Fringe Benefits	2,073,249
		516010	Cnt Pmts – Non Pro Pur	494,939
		575040	I/F Expense - Utility	1,398,463
	Building & Grounds Total			4,499,909
12230	Weights & Measures	502000	Fringe Benefits	153,017
		575040	I/F Expense – Utility	1,239
	Weights & Measures Total			154,256
12410	MH – Program Admin.	500010	Part Time – Wages	5,000
		502000	Fringe Benefits	76,776
	MH – Program Admin. Total			81,776
12420	Forensic MH Services	500010	Part Time – Wages	8,000
		500350	Other Employee Payments	7,785
		502000	Fringe Benefits	129,951
	MH – Program Admin. Total Total			139,736
12610	Probation Divn	500020	Regular PT – Wages	8,204
		501000	Overtime	15,838
		502000	Fringe Benefits	1,149,539
		516020	Pro Ser Cnt And Fees	1,293
		559000	County Share – Grants	309,800
	Probation Divn Total			1,484,674
12620	Youth Detention	500020	Regular PT – Wages	63,752
		500330	Holiday Worked	17,304
		501000	Overtime	181,561
		502000	Fringe Benefits	815,015
		575040	I/F Expense - Utility	10,690
	Youth Detention Total			1,088,322
12630	Youth Bureau	502000	Fringe Benefits	12,542
12700	Health Division	500010	Part Time – Wages	54,963
		500020	Regular PT - Wages	343,267
		500300	Shift Differential	2,182
		500330	Holiday Worked	5,412
		500350	Other Employee Payments	6,555
		502000	Fringe Benefits	2,151,325
		510000	Local Mileage Reimbursement	12,686
		545000	Rental Charges	14,294
	Health Division Total			5,590,684
12720	EMS	500000	Full Time – Salaries	10,517
		500300	Shift Differential	14,556
		500330	Holiday Worked	23,651
		500350	Other Employee	8,270

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			Payments	
		501000	Overtime	21,305
		502000	Fringe Benefits	178,457
	EMS Total			256,756
12730	Public Health Lab	502000	Fringe Benefits	149,492
12740	Medical Examiner	500000	Full Time – Salaries	1,207
		500300	Shift Differential	6,726
		500330	Holiday Worked	4,874
		500350	Other Employee	83,043
			Payments	
		502000	Fringe Benefits	149,203
		510000	Local Mileage	1,792
			Reimbursement	
	Medical Examiner Total			246,845
12750	Special Needs	500010	Part Time – Wages	12,125
		502000	Fringe Benefits	235,289
		528000	Svcs To Hndcd Chldrn	1,923,500
	Special Needs Total			2,170,914
13000	Veterans’ Services	500000	Full Time – Salaries	12,290
		502000	Fringe Benefits	36,501
	Veterans’ Services Total			48,791
14014	Cty –wide Acct Budget	502000	Fringe Benefits	2,449,262
		504990	Reduction Per Srv	15,973,812
		511000	Control Board Expense	1,151,530
		530000	Other Expenses	162,132
		530100	Uncollected Taxes	1,438,657
		530110	Net Inc Deferred Rev	5,208,265
	Cty –wide Acct Budget Total			26,383,658
14020	Inter-Fund	570000	Interfund Transfers Subsidy	1,898,702
14030	Community College	550110	Bond Issue Costs	3,927
15000	Board of Elections	500000	Full Time – Salaries	53,656
		500020	Regular PT – Wages	25,354
		500300	Shift Differential	1,794
		500330	Holiday Worked	20,785
		502000	Fringe Benefits	677,644
	Board of Elections Total			779,233
16010	Law Division	502000	Fringe Benefits	313,218
		516020	Pro Ser Cnt and Fees	12,305
	Law Division Total			325,523
162000	Env. & Planning Divn.	500000	Full Time – Salaries	44,351
		502000	Fringe Benefits	348,039
		559000	County Share - Grants	39,846

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	Env. & Planning Divn.			432,236
	Total			
16222	East Side Transfer	500000	Full Time - Salaries	7,433
16440	Buffalo City Parks	500030	Seasonal Emp. Wages	4,604
		500300	Shift Differential	24,880
		501000	Overtime	20,813
		502000	Fringe Benefits	286,773
		504996	Reductions for Retirement	60,000
	Buffalo City Parks Total			
16500	Central Police Srvcs	500010	Part Time – Wages	26,434
		500300	Shift Differential	1,294
		502000	Fringe Benefits	554,546
		559000	County Share - Grants	137,180
	Central Police Srvcs Total			719,546
16700	Emergency Services	500000	Full Time – Salaries	10,716
		500350	Other Employee Payments	5,922
		502000	Fringe Benefits	124,002
		530000	Other Expenses	1,500
		559000	County Share – Grants	1,369
	Emergency Services Total			143,509
1650060	Traffic Safety/DWI	502000	Fringe Benefits	18,639
	Total Expense			82,411,693
	Adjustment General Fund			

Sewer Districts

	Department	Account		Budget Increase (Decrease)
	Expense – Fund 220			
18010	Sewer Management	500000	Full Time – Salaries	(30,019)
		500030	Seasonal Emp. Wages	13,792
		500350	Other Employee Payments	1,200
		502000	Fringe Benefits	15,027
	Sewer Management Total			-

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18110	Sewer District 1,4, 5	500300	Shift Differential	6,846
		500350	Other Employee Payments	5,258
		502000	Fringe Benefits	72,950
		506200	Maintenance & Repair	(85,054)
	Sewer District 1,4, 5			-
18210	Sewer District 2	500330	Holiday Worked	18,876
		500350	Other Employee Payments	4,508
		502000	Fringe Benefits	64,873
		575040	I/F Expense Utility	49,951
		506200	Maintenance & Repair	(100,000)
		516020	Pro Ser Cnt And Fees	(37,708)
	Sewer District 2 Total			-
18310	Sewer District 3	500010	Part Time – Wages	1,429
		500020	Regular Part Time – Wages	1,772
		500330	Holiday Worked	34,197
		500350	Other Employee Payments	6,540
		502000	Fringe Benefits	40,249
		506200	Maintenance & Repair	(84,187)
	Sewer District 3 Total			-
18610	Sewer District 6	500330	Holiday Worked	11,134
		500350	Other Employee Payments	3,893
		502000	Fringe Benefits	36,459
		516020	Pro Ser Cnt And Fees	(51,486)
	Sewer District 6 Total			-

Department		Account	Budget Increase	
Utility Fund				
Revenue – Fund 140				
12110	Utility Fund	460100	Natural Gas Charges	2,500,000
		460200	NFG Pace Credit	800,131
		460500	Electricity Charges	1,200,000
	Total Available Revenue			4,500,131
Utility Fund				
Expense – Fund 140				
12110	Utility Fund	500000	Full Time – Salaries	19,807
		502000	Fringe Benefits	4,582

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		515000	Utility Charges	4,475,742
	Total Expense Adjustment		Utility	4,500,131
	Fund			
Debt Service Fund				
Revenue – Fund 310				
17200	General Fund	445031	Int & Earn – Cap Inv	160,528
		475030	Bond Proc – Adv Refund	51,610,000
	Total Available Revenue		Debt Service Fund	51,770,528
Expense – Fund 310				
17200	General Fund	550000	Principal – Bonds	160,528
		550120	Pay Refund Bond Escr	51,610,000
	Total Expense Adjustment		Service Fund	51,770,528
Downtown Mall				
Revenue – Fund 240				
102	Downtown Mall	400050	Int&Pen on R P Taxes	46,983
Expense – Fund 240				
102	Downtown Mall	516010	Cnt Pmts-Non Pro Pur	46,983
	Department		Account	Budget Increase
Road Fund				
Revenue – Fund 210				
123	Highways	450000	Interfund Revenue Non-Subsidy	335,825
Expense – Fund 210				
123	Highways	520060	Town/Village Snow Contracts	702,462
		575040	I/F Expense – Utility	172,892
		506400	Highway Supplies	62,221
		505600	Auto Tr & Hvy Eq Sup	(50,927)
		515000	Utility Charges	(32,444)
		980000	ID DISS Services	(518,379)
	Total Expense Adjustment		Debt Service Fund	335,825
(5-0)				

4. COMM. 10E-9 (2006)

COUNTY EXECUTIVE

WHEREAS, the County of Erie currently owns in excess of 700 unimproved parcels of real property which were previously acquired through County tax foreclosure, and

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WHEREAS, while the vast majority of these County-owned tax foreclosure “inventory” properties appear to be of little monetary value, mainly consisting of relatively small, narrow and/or landlocked abandoned parcels from subdivision developments, and

WHEREAS, a list of County owned properties was compiled and distributed to appropriate Erie County departments for the purpose of evaluating eligibility to be sold at a public auction, and

WHEREAS, a list of County owned properties has been provided to the County Advisory Review Committee for their pending approval, and

WHEREAS, the County Administration has developed an innovative program to sell-off County-owned but unused tax foreclosure inventory properties as well as County owned properties no longer needed for County purpose, and

WHEREAS, the goals of the program are to return County-owned properties to the tax rolls and to generate revenue for the County, and

WHEREAS, while the program’s two major objectives are both worthy, an additional benefit from the program will be to reduce the County’s liability risks as a property owner, not only exposure to liability for any personal injuries that may take place on the properties, but also exposure to liability for clean-up costs arising out of any illegal dumping that may take place on the properties, and

WHEREAS, the proposed program, which was developed by the Division of Budget, Management and Finance, Real Property Tax unit, aims to utilize private sector expertise to assist the County in selling-off County-owned tax foreclosure “inventory” properties as well as County Owned properties no longer needed for County purpose at no cost to the County, and

WHEREAS, all administrative fees retained by the vendor for each parcel sold, as well as all closing and transfers costs, will be paid by the new owner in addition to the purchase price of the property, and

WHEREAS, under the County Administration’s timetable, the auction of County-owned tax foreclosure “inventory” properties as well as County Owned properties no longer needed for County purpose will be held June 13, 2006, and

WHEREAS, Cash Realty & Auctions, the selected vendor, will be assisting the County in preparing bid packages and in making arrangements for advertising County-owned tax foreclosure “inventory” properties to potential buyers, and

WHEREAS, special efforts will be undertaken by the vendor to notify adjacent property owners of the auction date so as to allow such property owners to expand the boundaries of their properties and thereby resolving existing neighborhood ownership disputes while simultaneously meeting the County’s overall objectives.

NOW, THEREFORE, BE IT

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RESOLVED, that the County Legislature does hereby authorize the County Division of Budget, Management & Finance to hold a public auction on June 13, 2006, and be it further

RESOLVED, that the County Legislature does hereby authorize the County Executive to extend the contract with Cash Realty & Auctions, 1325 Main Street, Buffalo New York 14209, as provided in the original contract that was authorized by the Erie County Legislature in 2003 for real estate auction and bid services relating to the sale of County-owned tax foreclosure "inventory" properties as well as County Owned properties no longer needed for County purpose, and be it further

RESOLVED, that said contract shall provide that the vendor's compensation for all services rendered there under will be fixed at 10% of the successful bid for each parcel sold, said percentage to be charged to and paid by the purchasers of the County-owned tax foreclosure "inventory" properties as well as County Owned properties no longer needed for County purpose sold, in addition to the bid price, transfer, documentation fee(s) and closing costs, and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, the County Attorney, the Director of Budget, Management and Finance, the County Comptroller and the Finance Department.

(5-0)

DEMONE A. SMITH
CHAIRMAN

Item 27 – MR. MAZUR presented the following report and moved for immediate consideration. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 162

JUNE 1, 2006

HUMAN SERVICES COMMITTEE
 REPORT NO. 7

ALL MEMBERS PRESENT EXCEPT LEGISLATOR WEINSTEIN.

1. COMM. 10E-12 (2006)
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has already authorized the County Executive to accept donations from the public for senior services programs as described in Resolve Number 53 in the 2006 adopted budget book, and

WHEREAS, the Department of Senior Services (Department) has reviewed the grant designations for various donations and desires to expand and/or match the donations with revised program funding sources, and

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WHEREAS, the Department requests that donations received from individuals for disease prevention and health promotion be accepted in the Disease Prevention and Health Promotion grant, and that donations received for caregiver education and services and adult day care services be accepted in the Elder Caregiver Support Program grant.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to accept donations received from individuals for disease prevention and health promotion in the Disease Prevention and Health Promotion grant, and that donations received for caregiver education and services and adult day care services in the Elder Caregiver Support Program grant, and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive's Office, the Division of Budget, Management and Finance, the Comptroller's Office and the Department of Senior Services.

(3-0)

2. COMM. 10E-15 (2006)

AS AMENDED

COUNTY EXECUTIVE

WHEREAS, the Department of Social Services is required to maintain records related to the administration of Medicaid, Food Stamps and Temporary Assistance programs consisting of eligibility documents and benefit disbursement detail, and these records are maintained on an optical imaging system to enable sound security and ready access, and

WHEREAS, the preparation and imaging of paper documents is a time consuming and labor intensive process that the Department has been unable to sustain and for which a serious backlog of nearly 2 million pages exists, and

WHEREAS, in recognition of the inability to sustain the current operation, the Department included an amount of \$535,000 in the Adopted Budget for 2006 for contracted services, and a Request for Proposals for imaging services was released and evaluated, and

WHEREAS, based on a comprehensive review of factors including quality, qualifications, technical merit and cost the Department has selected Biel's Information Technology as the contractor of choice, and

WHEREAS, there is no fiscal impact to this resolution, and

WHEREAS, no reduction in current work in effected areas.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive and the Commissioner of Social Services are authorized to execute necessary contracts and agreements with Biel's Information Technology Systems Corporation for optical imaging services, at a rate of 5.1 cents per image, there being sufficient funds for this purpose in the 2006 Professional Services Contracts and Fess appropriation (Account 516020) in the budget of the Department of Social Services, and be it further

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RESOLVED, that efforts will be made to develop an in-house system of optical imaging for county-wide usage; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, the Commissioner of the Department of Social Services, the Erie County Comptroller and the Director of the Division of Budget, Management and Finance.

(3-0)

3. COMM. 10E-24 (2006)

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has already appropriated funds for the Community Services for the Elderly (CSE) and Expanded In-Home Services for the Elderly Program (EISEP) grants for the period April 1, 2005 to March 31, 2006, the Weatherization Referral and Packaging Program (WRAP-SOFA) for the period October 1, 2005 to September 30, 2006, and

WHEREAS, the New York State Office for the Aging has notified the Department of Senior Services (Department) that the EISEP grant has been extended through May 31, 2006, and

WHEREAS, the Department has reviewed the grant budgets and actual costs of carrying out each program's objectives and desires to maximize use of State and Federal funds, and

WHEREAS, the grant budgets for CSE, EISEP and WRAP-SOFA are in need of revision.

NOW, THEREFORE, BE IT

RESOLVED, that the budget for the CSE grant, 163CSE0506, be revised as follows:

		CURRENT		AMENDED
		BUDGET	CHANGES	BUDGET
APPROPRIATIONS				
Account	Description			
502000	Fringe Benefits	\$41,550	\$7,000	\$48,550
516010	Contractual-St. Augustine Center	123,374	-2,000	121,374
530000	Other Expenses	2,515	-1,000	1,515
561440	Motor Vehicles	42,700	-4,000	38,700
TOTAL CHANGE			<u>\$0</u>	

and be it further

RESOLVED, that the budget for the EISEP grant, 163EISEP0506, be revised as follows:

		CURRENT		AMENDED
		BUDGET	CHANGES	BUDGET
APPROPRIATIONS				

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Account	Description			
500000	Full Time Salaries	\$408,790	-\$30,000	\$378,790
502000	Fringe Benefits	130,512	37,750	168,262
505000	Office Supplies	4,500	-3,400	1,100
516020	Professional Services-Home Care	154,325	53,350	207,675
516020	Professional Services-Adult Day Care	40,000	-19,000	21,000
	Professional Services-Software			
516020	Support	28,000	-28,000	0
516020	Professional Services-PERS	15,000	-6,600	8,400
530000	Other Expenses	9,930	-7,500	2,430
980000	ID DISS Services	18,000	3,400	21,400
	TOTAL CHANGE		<u>\$0</u>	

and be it further

RESOLVED, that the budget for the WRAP-SOFA grant, 163WRAP-SOFA0506, be revised as follows:

		CURRENT		AMENDED
		BUDGET	CHANGES	BUDGET
APPROPRIATIONS				
Account	Description			
500000	Salaries	\$177,815	-\$3,800	\$174,015
502000	Fringe Benefits	71,131	3,600	74,731
505000	Office Supplies	1,500	-1,150	350
	Local Mileage			
510000	Reimbursement	3,000	3,950	6,950
510100	Out of Area Travel	500	-500	0
980000	ID DISS Services	5,000	-2,100	2,900
	TOTAL CHANGE		<u>\$0</u>	

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive's Office; the Division of Budget, Management and Finance; the Comptroller's Office and the Department of Senior Services.

(3-0)

THOMAS J. MAZUR
CHAIRMAN

MR. MAZUR moved to separate Item No. 2 and approve the balance of the report. MS. IANNELLO seconded. MS. LOCKLEAR voted in the negative.

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CARRIED (14-1).

CHAIRMAN MARINELLI directed that Item No. 2 be referred to the HUMAN SERVICES COMMITTEE for further consideration.

GRANTED.

Item 28 – MS. IANNELLO presented the following report and moved for immediate consideration and approval. MR. MAZUR seconded. MR. RANZENHOFER, MR. WEINSTEIN and MR. MILLS voted in the negative.

CARRIED (12-3).

JUNE 1, 2006

COMMUNITY ENRICHMENT COMMITTEE
 REPORT NO. 8

ALL MEMBERS PRESENT EXCEPT LEGISLATOR RANZENHOFER.

1. RESOLVED, the following item is hereby received and filed:
 - a. INTRO 7-3 (2006)
MINORITY CAUCUS: Development of Student Housing on ECC's South Campus in Hamburg, NY
 (5-0)

MICHELE M. IANNELLO
CHAIRMAN

Item 29 - CHAIRMAN MARINELLI directed that the following item be referred to the COMMUNITY ENRICHMENT COMMITTEE.

GRANTED.

INTRO 11-1 from SMITH Re: Support for the Arts Council of Buffalo & Erie County

Item 30 – CHAIRMAN MARINELLI directed that the following item be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

INTRO 11-2 from KOZUB Re: Acknowledging Times Beach Nature Preserve and the Times Beach Oversight Committee

Item 31 – CHAIRMAN MARINELLI directed that the following item be referred to the GOVERNMENT AFFAIRS COMMITTEE.

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GRANTED.

INTRO 11-3 from LOCKLEAR, KONST & IANNELLO Re: Implementing Transparency Reforms Applicable to the Legislature

Item 32 – CHAIRMAN MARINELLI directed that the following item be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

INTRO 11-4 from LOCKLEAR, IANNELLO, KONST, MARINELLI, WHYTE, KOZUB & REYNOLDS Re: Implementing "Best Practices" Reforms to Support the Legislature

Item 33 – CHAIRMAN MARINELLI directed that the following item be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

INTRO 11-5 from WHYTE Re: The Erie Canal

Item 34 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MS. LOCKLEAR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 164

RE: Supporting the Town of West Seneca in their Request to Secure a NYS Grant for the Proposed "Buffalo Creek Fishing and Boating Public Access Park" (INTRO 11-6)

**A RESOLUTION TO BE SUBMITTED BY
 LEGISLATORS LOCKLEAR AND MARINELLI**

WHEREAS, at the May 22, 2006 meeting of the West Seneca Town Board, members unanimously adopted a resolution authorizing the filing of an application to the New York State Office of Parks, Recreation and Historic Preservation for a \$280,000 grant for a town fishing and boating park at Buffalo Creek near Mineral Springs Road; and

WHEREAS, the Town of West Seneca has, as one of its natural resources, the Buffalo Creek, and a parcel of land adjacent to the creek off Mineral Springs Road near Harlem; and

WHEREAS, this town-owned property has been previously identified in the Buffalo River Watershed Greenway Plan as a high priority area for habitat protection, floodplain preservation, and public access; and

WHEREAS, there is no other park in West Seneca or neighboring towns with the unique characteristics of providing a water-based recreation area as well as a Lake Erie access point; and

WHEREAS, with the filing of a grant application, the Town of West Seneca aims to construct a fishing and baiting park on the site.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby go on record in support of the Town of West Seneca in their efforts to secure state and federal grant funding for the construction of the proposed Buffalo Creek Fishing and Boating Public Access Park; and be it further

RESOLVED, that this Legislature respectfully requests that the New York State Office of Parks, Recreation and Historic Preservation approves this worthy project on West Seneca Town-owned land to provide residents with a park offering water-based recreation and Lake Erie access; and be it further

RESOLVED, that this body further acknowledges that no other park located in the Town of West Seneca or surrounding towns currently offers water access or such water-based recreational opportunities uniquely qualifying this proposed public access park as an endeavor that would gain wide public support and enthusiastic utilization; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the local delegation to the United States Congress and the New York State Legislature, the Town of West Seneca Town Board, and the New York State Office of Parks, Recreation and Historic Preservation.

Item 35 – MR. SMITH presented the following resolution and moved for immediate consideration and approval. MS. WHYTE seconded. MR. RANZENHOFER voted in the negative.

CARRIED (14-1)

RESOLUTION NO. 165

RE: Amendment to NYS Family Court Act to
 Establish Kinship Guardianship (INTRO 11-7)

**A RESOLUTION SUBMITTED BY
 LEGISLATOR SMITH**

WHEREAS, situations exist in the lives of parents that sometimes impair their ability to adequately provide a safe and nurturing environment for their child; and

WHEREAS, these children often end up in an already overcrowded foster care system or fall through the cracks of the child welfare administration; and

WHEREAS, at present, nothing in a statue allows the family court to grant such alternative placement (kinship guardianship) for these children; and

WHEREAS, an amendment to the family court act would increase the capacity of the family court to place children requiring out of home placement by their natural parent with a family relative able to adequately care for such child; and

WHEREAS, placing a kinship foster child with a kinship guardian would allow families to remain intact while reducing further trauma for children placed in the foster care system; and

WHEREAS, "Kinship Foster Child" shall mean a child placed with a social services official pursuant to section one thousand fifty-five of the Social Services Law who is placed either as a kinship foster child pursuant to regulations of the office of children and family services or as a foster child and who has been placed by the social service official or other authorized agency in the home of a relative within the third degree, and

WHEREAS, a kinship foster parent or a social services official may file a petition with the family court which placed the child pursuant to section one thousand fifty five of the Social Service Law to have the kinship foster parent appointed as kinship Guardian for the child, and

WHEREAS, the petition shall allege that the child was placed pursuant to section one thousand fifty five of the Social Service Law, that more than eighteen months have passed since the date of the order pursuant to section one thousand fifty-five of this article, and

WHEREAS, the parents of the child are presently and for the foreseeable future unable to provide and adequate care for the child, notwithstanding the authorized agency's diligent efforts to encourage and strengthen the parental relationship, and

WHEREAS, the Kinship Guardians consent to the appointment and that the child has resided with them for more than eighteen months, and that it would be in the best interests of the child for the petition to be granted, and

WHEREAS, if the court finds that the elements of the petitions have been proven by a fair preponderance of the evidence or upon the consent of parties, the court shall grant the petition, and

WHEREAS, an order appointing a person as a kinship Guardian shall award custody of the child to the kinship Guardian, the Kinship Guardian shall have the same authority as a parent to consent on behalf of a child, except that a kinship guardian shall not consent to the adoption or surrender of a child, and

WHEREAS, the social service official with whom the child was placed pursuant to section one thousand fifty five of this article shall make monthly payments to the kinship Guardianship as if the child had been placed under sections four hundred fifty – three and four hundred fifty – four of the social services Law, and subject to the procedure limitations, and minimum payments of such sections, and

WHEREAS, the appointment of a Kinship guardian shall not affect or impair the visitation rights of a parent, and

WHEREAS, a parent may apply for an order vacating the appointment of the Kinship Guardian, upon a showing by the parent that he or she is able to provide proper and adequate care for the child, at such time the court shall vacate the appointment and award custody of the child to the parent.

NOW, THEREFORE BE IT

RESOLVED, that the Erie County Legislature requests the New York State Legislature to amend the social service law by adding a new section to define and establish provision within the family court bestowing kinship guardianship of a child to an approved kinship foster parent when the natural parent is unable to provide proper and adequate care for such a child, and be it further

RESOLVED, that the Clerk of the Erie County Legislature be directed to send copies of this resolution to the Western New York State Delegation, County Executive and Commissioner of Social Services.

Item 36 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 166

RE: Reducing Long Term Debt by Capping
 Borrowing (INTRO 11-8)

A RESOLUTION TO BE SUBMITTED BY LEGISLATORS
 MARINELLI, WHYTE, HOLT, IANNELLO,
 KOZUB and REYNOLDS

WHEREAS, the Erie County Legislature has authorized \$32 million in capital borrowing for the Erie County Medical Center for 2006 and 2007 as part of a Judicial Consent Decree which will allow ECMC to continue to provide vital medical services to the community and to become financially independent; and

WHEREAS, the expenditure of \$32 million was largely unanticipated and not part of the 4-year plan to fiscal recovery; and

WHEREAS, for the past 6 fiscal years the County has greatly increased borrowing of all kinds and has engaged in questionable financial practices, which has resulted in the ballooning of both long-term and short-term debt; and

WHEREAS, Erie County's current long-term capital debt has ballooned to approximately \$446.5 million; and

WHEREAS, as all money borrowed must be paid back with interest, Erie County taxpayers will pay \$19 million in interest on long term debt in 2006. The total debt service payment is upwards of \$53.7 million; and

WHEREAS, Erie County is at a crossroads where it can either continue with unchecked borrowing and structurally unbalanced budgets or it can reform its financial practices and embark on a path towards fiscal sanity and balanced budgets; and

WHEREAS, this Honorable Body is committed to fiscal reform and to putting the County on a path towards fiscal stability and balanced budgets; and

WHEREAS, the County Executive has requested legislative approval to add an additional \$22 million in borrowing to add to our already substantial debt; and

WHEREAS, the County Executive's \$22 million request is separated into 3 categories:

- Mandated/Contractual totaling: \$7.2 million
- Highway and Bridge Projects: \$7.9 million
- General/Other Projects totaling: \$7.0 million; and

WHEREAS, this Honorable Body believes that unfettered borrowing and the continued growth of debt is not consistent with fiscal reform and is not a sound fiscal practice.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature will cap all additional capital borrowing for 2006 at \$12 million and will not consider any bond resolution that is in excess of \$12 million; and be it further

RESOLVED, that the Erie County Legislature will only approve a bond resolution that allocates the addition capital spending as follows:

- Mandated/Contractual totaling: \$7.2 Million
- Highway and Bridge Projects: \$2.8 Million
- General/Other Projects totaling: \$2.0 Million;

and be it further

RESOLVED, that certified copies of this Resolution be sent to the Erie County Executive, Comptroller and the Fiscal Stability Authority.

MR. KENNEDY moved to amend the item. MR. SMITH seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: KENNEDY and SMITH. NOES: MILLS, RANZENHOFER, WEINSTEIN, HOLT, IANNELLO, KONST, KOZUB, LOCKLEAR, LOUGHRAN, MARINELLI, MAZUR, REYNOLDS and WHYTE.

FAILED (2-13).

DELETE the 1st and 2nd RESOLVED clauses.

ADD the following as the 1st RESOLVED clause:

RESOLVED, that the Erie County Legislature will authorize \$7.2 M in capital borrowing and will consider additional borrowing as necessary.

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MR. LOUGHRAN moved to amend the item. MR. KENNEDY seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: KENNEDY, LOUGHRAN, SMITH and WHYTE. NOES: MILLS, RANZENHOFER, WEINSTEIN, HOLT, IANNELLO, KONST, KOZUB, LOCKLEAR, MARINELLI, MAZUR and REYNOLDS.

FAILED (4-11)

DELETE the 1st and 2nd RESOLVED clauses.

ADD the following as the 1st RESOLVED clause:

RESOLVED, that the Erie County Legislature will cap all additional borrowing at \$7.2 M to be spent for mandated contractual responsibilities at this time.

MS. KONST moved to amend the item. MR. REYNOLDS seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: MILLS, WEINSTEIN, HOLT, IANNELLO, KENNEDY, KONST, KOZUB, MARINELLI, REYNOLDS and WHYTE. NOES: RANZENHOFER, LOCKLEAR, LOUGHRAN, MAZUR and SMITH. (10-5)

CARRIED

ADD the following after the Second (2nd) RESOLVED clause:

RESOLVED, that the Erie County Legislature will only authorize \$12 Million worth in bonds if the Comptroller's Resolution requesting the bonding is accompanied by a detailed breakdown for each and every item to be bonded; and be it further

AYES: MILLS, WEINSTEIN, HOLT, IANNELLO, KENNEDY, KONST, KOZUB, MARINELLI, REYNOLDS and WHYTE. NOES: RANZENHOFER, LOCKLEAR, LOUGHRAN, MAZUR and SMITH. (AYES: 10; NOES: 5)

CARRIED.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

Item 37 - MS. WHYTE moved to discharge the ENERGY & ENVIRONMENT COMMITTEE from further consideration of COMM. 10E-35. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 167

RE: Bond Reso - \$592,000 - ECSD No. 3

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RESOLUTION NO. 167-2006

BOND RESOLUTION DATED _____, 2006

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$592,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 3; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$592,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$592,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 3 TO SAID COUNTY.

(Introduced) _____, 2006

(Adopted) _____, 2006

WHEREAS, pursuant to proceedings had and taken in accordance with the provisions of Article 5A of the County Law and more particularly a resolution of this County Legislature dated May 11, 2006, an increase and improvement of facilities for Sewer District No. 3 has been approved at a estimated maximum cost of \$592,000, and

WHEREAS, it is now desired to provide for the financing of said costs,

NOW THEREFORE BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, as amended (the "Law"), and to the provisions of other laws applicable thereto, \$592,000 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of an increase and improvement of facilities for Erie County Sewer District No. 3, all as more fully described in the report and estimate of cost approved by the Board of Managers of said District on December 7, 2005 and filed with the County Legislature. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$592,000. The plan of financing includes the issuance of \$592,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County by assessment against the benefited areas in Erie County Sewer District No. 3 and the contracting communities.

Section 2. The period of probable usefulness for the specific objects or purposes for which said \$592,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the \$592,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by Section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Resolution, or a summary hereof, are not substantially complied with,

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and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Resolution shall take effect immediately upon approval by the County Executive.

MS. WHYTE moved to approve the item as amended. MR. REYNOLDS seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: MILLS, RANZENHOFER, WEINSTEIN, HOLT, IANNELLO, KENNEDY, KONST, KOZUB, LOCKLEAR, LOUGHRAN, MARINELLI, MAZUR, REYNOLDS, SMITH and WHYTE. (AYES 15; NOES: 0)

Item 38 – MS. WHYTE moved to discharge the ENERGY & ENVIRONMENT COMMITTEE from further consideration of COMM. 10E-36. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 168

RE: Bond Reso - \$1,000,000 - ECSTSTA

RESOLUTION NO. _____-2006

A RESOLUTION APPROVING AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE ERIE COUNTY-SOUTHTOWNS SEWAGE TREATMENT AGENCY IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) _____, 2006.

(Adopted) _____, 2006.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 3 of the County of Erie, New York, has heretofore been established and created on April 9, 1963 (the "District") to provide sewer services to the Village of Orchard Park, the north and central portions of the Town of Orchard Park, the northeast portion of the Town of Hamburg and the southerly portion of the Town of West Seneca, and

WHEREAS, the Erie County-Southtowns Sewage Treatment Agency (the "Southtowns Agency") has heretofore been created pursuant to an inter-municipal agreement dated December 30, 1974, as amended, (the "Southtowns Agreement") for the purpose of establishment, construction, operation, and maintenance of the Southtowns Advanced Wastewater Treatment Facility (the "Southtowns Treatment Facility") for the benefit of Erie County Sewer District No. 3, the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, Wanakah

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Sewer District No. 3, Mount Vernon Sewer District No. 2, the Village of Hamburg and the Village of Blasdell; and

WHEREAS, pursuant to the Southtowns Agreement the County, acting for and on behalf of Erie County Sewer District No. 3, was responsible for financing the total project costs for the Southtowns Treatment Facility; and

WHEREAS, in accordance with its responsibilities to maintain the Southtowns Treatment Facility pursuant to the Southtowns Agreement, the Southtowns Agency has duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the facilities of the District which report and estimate of cost have been approved by the Board of Managers of the Southtowns Sewer Management Agency on October 27, 2005 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District (Southtowns Sewage Treatment Agency), consisting of the replacement of three fuel oil tanks, as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$1,000,000, to be apportioned in accordance with the Southtowns Agreement among (i) Erie County Sewer District No. 3, (ii) the Town of Hamburg on behalf of the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, (iii) Wanakah Sewer District No. 3, (iv) Mount Vernon Sewer District No. 2, (v) the Village of Hamburg and (vi) the Village of Blasdell; each in accordance with their respective proportionate shares of equivalent dwelling units in their service areas, as determined pursuant to the Southtowns Agreement; and

WHEREAS, pursuant to Section 258 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the construction of said increase and improvement of facilities of the District because the cost thereof to the Typical Property (as defined in the County Law) does not exceed the Average Estimated Cost to the Typical Properties for similar types of expenditures, as computed by the State Comptroller; and

WHEREAS, said County Legislature duly adopted Resolution No. 61-2006 on March 2, 2006, calling a meeting of the County Legislature for the purpose of holding a public hearing on said increase and improvement of facilities in accordance with said report and estimate of cost; and

WHEREAS, such Resolution authorized and directed the Clerk of said County Legislature to publish the notice of public hearing and file a certified copy of such notice with the office of the State Comptroller; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 4th Floor, in Buffalo, New York, in said County, on April 6, 2006, at 1:30 o'clock P.M., Prevailing Time; and

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WHEREAS, notice of said public hearing was duly published and filed in the manner provided by law and proof thereof was submitted to said County Legislature; and

NOW, THEREFORE, BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to proceed with the expenditure for the increase and improvement of the facilities of Erie County-Southtowns Sewage Treatment Agency, all as more fully described in the preambles hereof, and such increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$1,000,000.

Section 2. The maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$1,000,000, to be apportioned in accordance with the Southtowns Agreement among (i) Erie County Sewer District No. 3, (ii) the Town of Hamburg on behalf of the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, (iii) Wanakah Sewer District No. 3, (iv) Mount Vernon Sewer District No. 2, (v) the Village of Hamburg, and (vi) the Village of Blasdell; each in accordance with their respective proportionate shares of equivalent dwelling units in their service areas, as determined pursuant to the Southtowns Agreement.

Section 3. This resolution shall take effect immediately.

MS. WHYTE moved to approve the item as amended. MR. REYNOLDS seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: MILLS, RANZENHOFER, WEINSTEIN, HOLT, IANNELLO, KENNEDY, KONST, KOZUB, LOCKLEAR, LOUGHRAN, MARINELLI, MAZUR, REYNOLDS, SMITH and WHYTE. (AYES 15; NOES: 0)

Item 39 – MS. WHYTE moved to discharge the ECONOMIC DEVELOPMENT COMMITTEE from further consideration of Comm. 10E-28. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 169

RE: Grover Cleveland Golf Course, Irrigation System, Contingency Fund Increase

WHEREAS, on July 15, 2004 your Honorable Body authorized the County Executive to enter into contracts for the installation of a new automatic irrigation system at Grover Cleveland Golf Course, and

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WHEREAS, the funding for said project included a \$70,000 construction contingency fund, and

WHEREAS, the automatic irrigation system design was based on 85 pounds of pressure at the street incoming to the golf course, and

WHEREAS, the current incoming pressure at the street now varies between 70 and 75 pounds, and

WHEREAS, the lower pressure does not allow for proper operation of the irrigation system, and

WHEREAS, the installed pumping equipment must be modified to increase pumping capacity, and

WHEREAS, the increased pumping capacity will provide the required water flow and, therefore achieve proper irrigation of the golf course.

NOW, THEREFORE, BE IT

RESOLVED, that the construction contingency fund be increased by \$12,000 from \$70,000 to \$82,000, with authorization for the Commissioner of Public Works to approve change orders, not to exceed the construction contingency, and be it further,

RESOLVED, that deduct change orders will result in funds being returned to the contingency account, and be it further,

RESOLVED, that the Comptroller's Office be authorized to make payment for the above from SAP Account A.09020, '03 Parks Master Plan, and be it further,

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget, Management & Finance, the Office of the Comptroller, and the Department of Parks and Recreation.

MR. KENNEDY moved to amend the item. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

DELETE the 4th RESOLVED clause and ADD the following as the new 4th and 5th RESOLVED clauses:

RESOLVED, the County Attorney is hereby requested to provide to the Legislature a written opinion on the ability of Erie County to take legal action against the original designer of the project for the cost of the equipment purchased to increase pumping capacity, and be it further

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RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy to the Office of the County Executive, the Division of Budget, Management & Finance, the Office of the Comptroller, the Department of Parks and Recreation, and the Office of the County Attorney.

MS. WHYTE moved to approve the item as amended. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 40 – MR. WHYTE moved to discharge the ECONOMIC DEVELOPMENT COMMITTEE from further consideration of INTRO 10-5. MR. KENNEDY seconded. MR. RANZENHOFER, MS. KONST and MS. LOCKLEAR voted in the negative.

CARRIED (12-3).

RESOLUTION NO. 170

RE: Big Box Retailers, Medicaid and the
Hidden Cost to Erie County Taxpayers

**A RESOLUTION SUBMITTED BY
LEGISLATORS WHYTE AND KENNEDY**

WHEREAS, the growing cost of Medicaid is a great strain on the finances of Erie County and is a major cost in the County's Budget, in 2005 the County spent over \$184 million of its share of Medicaid; and

WHEREAS, there are approximately 151,000 Medicaid recipients in Erie County;

WHEREAS, in Erie County there are thousands of residents who work in jobs that do not provide health care; and

WHEREAS, there is an added cost to Erie County taxpayers for each employed person that is added to the Medicaid rolls due to corporate practice; and

WHEREAS, the businesses that typically engage in these practices employ Medicaid recipients are often large, profitable corporations with headquarters outside of Western New York and often out of New York State; and

WHEREAS, these large corporate employers plan to pass the cost of employee health insurance on to taxpayers and have been known to provide Medicaid applications to their employees as part of the hiring process; and

WHEREAS, it is rightly the responsibility of these large corporate employers to pay the cost of health benefits for their employees; and

WHEREAS, employers that fail to provide health insurance not only deny their workers needed care, but impose great costs on the public; and

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WHEREAS, there are over 3,463 retail establishments in Erie County that employ a total of 53,725 workers. The bulk of the establishments are family run stores that employ less than 100 people. In fact 97% of these establishments employ less than 100 people; and

WHEREAS, there are 98 large corporate retail employers (3% of the total) in Erie County that employ more than 99 people. These large corporate establishments are often referred to as “big box” retailers; and

WHEREAS, these 98 large corporate retailers employ approximately 13,500 people in Erie County; and

WHEREAS, the failure of large corporate employers to provide health benefits to their employees is a low-road practice that is harmful to the economic health of Erie County; and

WHEREAS, several of the 98 large corporate retailers in Erie County, including Tops Supermarkets and Wegman’s Supermarket, engage in high road business practices and provide health care to their employees. The actions of these companies prove that it is economically feasible to provide employees with health care and not pass the cost on the taxpayers of Erie County; and

WHEREAS, the low-road business practice of failing to provide adequate health benefits creates unfair competitive pressure on other high-road businesses to reduce benefits, undermining our system of employer-sponsored healthcare and increasing the costs to Erie County taxpayers; and

WHEREAS, Erie County cannot bring its expenditures on healthcare under control as long as these low-road businesses continue to shift their costs to the taxpayer; and

WHEREAS, locally owned businesses and businesses with a strong history in Erie County are paying higher taxes and insurance premiums because of the failure of giant, national corporations to provide adequate health benefits; and

WHEREAS, businesses that provide insurance to their employees should not be penalized by being forced to subsidize healthcare for workers at businesses that fail to provide it; and

WHEREAS, Erie County owes it to its tax payers and its local businesses to conduct further inquiry to determine the true costs to the community of large businesses that do not provide adequate health care for its employees.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature determine the cost incurred by Erie County taxpayers by large businesses that fail to provide its employees adequate health benefits; and be it further

RESOLVED, that the Erie County Legislature determine the effect that the low-road business practices of not providing adequate health benefits has upon large businesses that adopt high-road practices and provide their employees adequate health benefits.

MS. WHYTE moved to amend the item. MR. KENNEDY seconded. MR. RANZENHOFER, MS. KONST and MS. LOCKLEAR voted in the negative.

CARRIED (12-3).

**A RESOLUTION SUBMITTED BY
LEGISLATORS WHYTE, KENNEDY, MARINELLI, REYNOLDS, LOCKLEAR,
IANNELLO, SMITH, LOUGHRAN, HOLT, KOZUB, MAZUR AND MILLS**

WHEREAS, the growing cost of Medicaid is a great strain on the finances of Erie County and is a major cost in the County's Budget, in 2005 the County spent over \$184 million of its share of Medicaid; and

WHEREAS, there are approximately 151,000 Medicaid recipients in Erie County; and

WHEREAS, in Erie County there are thousands of residents who work in jobs that do not provide health care and in some cases for national employers which intentionally exploit the availability of Medicaid to shoulder their health care burden; and

WHEREAS, there is an added cost to Erie County taxpayers for each employed person that is added to the Medicaid rolls due to corporate practice; and

WHEREAS, the businesses that typically engage in these practices and employ Medicaid recipients are often large, profitable corporations with headquarters outside of Western New York and often out of New York State; and

WHEREAS, these large corporate employers plan to pass the cost of employee health insurance on to taxpayers and have been known to provide Medicaid applications to their employees as part of the hiring process; and

WHEREAS, it is rightly the responsibility of these large corporate employers to pay the cost of health benefits for their employees; and

WHEREAS, employers that fail to provide health insurance not only deny their workers needed care, but impose great costs on the public; and

WHEREAS, there are over 3,463 retail establishments in Erie County that employ a total of 53,725 workers. The bulk of the establishments are family run stores that employ less than 100 people. In fact 97% of these establishments employ less than 100 people.

WHEREAS, there are 98 large corporate retail employers (3% of the total) in Erie County that employ more than 99 people. These large corporate establishments are often referred to as "big box" retailers; and

WHEREAS, these 98 large corporate retailers employ approximately 13,500 people in Erie County; and

WHEREAS, the practice of large corporate employers to exploit the availability of publicly funded social services are harmful to the economic health in Erie County; and

WHEREAS, several of the 98 large corporate retailers in Erie County, including Tops Supermarkets and Wegman's Supermarket, engage in high road business practices and provide health care to their employees. The actions of these companies prove that it is economically feasible to provide employees with health care and not pass the cost on the taxpayers of Erie County; and

WHEREAS, the practice of failing to provide adequate health benefits creates unfair competitive pressure on other high-road businesses to reduce benefits, undermining our system of employer-sponsored healthcare and increasing the costs to Erie County taxpayers; and

WHEREAS, Erie County cannot bring its expenditures on healthcare under control as long as these low-road businesses continue to shift their costs to the taxpayer; and

WHEREAS, locally owned businesses and businesses with a strong history in Erie County are paying higher taxes and insurance premiums because of the failure of giant, national corporations to provide adequate health benefits; and

WHEREAS, businesses that provide insurance to their employees should not be penalized by being forced to subsidize healthcare for workers at businesses that fail to provide it; and

WHEREAS, Erie County owes it to its tax payers and its local businesses to conduct further inquiry to determine the true costs to the community of large businesses that do not provide adequate health care for its employees.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature work with the following agencies to determine the cost incurred by Erie County taxpayers as a result of the exploitation of publicly funded social services: WNY Health Care Campaign, Cornell School of Industrial Labor Relations, WNY Council on Occupational Safety and Health, Fiscal Policy Institute, and the NYS Employment Project; and be it further

RESOLVED, that the Erie County Legislature determine the effect that this business practices of not providing adequate health benefits has upon large businesses that adopt high-road practices and provide their employees adequate health benefits; and be it further

RESOLVED, that the Erie County Legislature determine the impact on Economic Development in Erie County; and be it further

RESOLVED, that the Erie County Legislature does hereby support the adoption and passage of "Fair Share for Health Care" legislation entitled A. 10583 and S 7090; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the WNY Assembly and Senate Delegation and NYS Governor George Pataki.

10583

I N A S S E M B L Y

April 4, 2006

Introduced by M. of A. GOTTFRIED, GRANNIS, PERALTA, CAHILL, DelMONTE, DiNAPOLI, GORDON, LIFTON, PEOPLES, PRETLOW, P. RIVERA, TONKO, TOWNS -- Multi-Sponsored by -- M. of A. ABBATE, ALFANO, BARRA, BENEDETTO, BENJAMIN, BING, BOYLAND, BRADLEY, BRENNAN, BRODSKY, CAMARA, CARROZZA, CHRISTENSEN, CLARK, A. COHEN, COLTON, CONTE, COOK, L. DIAZ, R. DIAZ, DINOWITZ, EDDINGTON, ENGLEBRIGHT, FARRELL, FRIEDMAN, GALEF, GIANARIS, GREEN, GREENE, HEASTIE, HEVESI, HOOPER, HOYT, JACOBS, LAFAYETTE, LATIMER, LAVELLE, LAVINE, LENTOL, LOPEZ, LUPARDO, MAISEL, MARKEY, MAYERSOHN, McDONOUGH, McENENY, McLAUGHLIN, MILLMAN, ORTIZ, PAULIN, PERRY, PHEFFER, POWELL, J. RIVERA, ROBINSON, ROSENTHAL, SCARBOROUGH, SCHROEDER, SEMINERIO, SWEENEY, THIELE, TITUS, TOWNSEND, WALKER, WEINSTEIN, WEISENBERG, WRIGHT, ZEBROWSKI -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a fair share for health care assessment on large employers and providing for a credit for employers that pay a fair share of their employees` health care costs and to amend the state finance law, in relation to establishing the fair share for health care fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature finds and declares
 2 the following: All New Yorkers and their families deserve access to
 3 decent health care. But today more than 2.9 million state residents have
 4 no health care coverage. These uninsured New Yorkers often forego neces-
 5 sary care and are vulnerable to financial ruin as a result of medical
 6 debt. Overall, this lack of health care coverage seriously threatens
 7 the health status of the state`s residents.
 8 New York has led the nation in expanding public programs such as medi-
 9 caid, family health plus, child health plus, and indigent care subsidies
 10 under the health care reform act, to cover the state`s low-income unin-
 11 sured. And the state has begun developing new subsidized health care
 12 products, such as Healthy New York, to enable more small businesses to
 13 provide coverage for their employees. These approaches will remain key
 14 strategies for covering New York`s uninsured. The governor and the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD15397-06-6

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1 legislature should cut red tape and simplify procedures to ensure that
 2 the 1.3 million uninsured New Yorkers who are currently eligible for
 3 medicaid, family health plus and child health plus are enrolled. The
 4 state should expand affordable health care options for all employers and
 5 employees through premium assistance buy-in options for public health
 6 coverage programs such as family health plus.

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7 However, New York's success in expanding its public health care
 8 programs has resulted in little net reduction in the uninsured because
 9 of the steady erosion of employer-provided health care. Nearly eighty
 10 percent of New York's uninsured are working people and their dependents.
 11 Employees of large companies are one of the fastest growing groups of
 12 New York's uninsured and account for much of the expanded enrollment in
 13 New York's public health care programs, as fewer large employers offer
 14 affordable health care for their employees.

15 Even when uninsured employees do not enroll in public health care
 16 programs, the erosion of employment-based health care in the state's
 17 large companies drives up state health care costs in other ways. Many
 18 uninsured working families turn to emergency rooms when they are sick,
 19 and the uncompensated charity care that they receive results in higher
 20 costs for taxpayers and for public and private payers and providers
 21 throughout the health care system.

22 If the state is to protect the taxpayers, and employers who do provide
 23 employee coverage, from these growing costs, and afford to enroll the
 24 1.3 million eligible uninsured in public programs while expanding
 25 support for small businesses, it must ensure that the state's large
 26 employers do their fair share to pay for their employees' health care
 27 costs.

28 To do so, the state will impose an assessment on large employers with
 29 one hundred employees or more to cover the costs to the public health
 30 care system of caring for their workforce and their dependents. Those
 31 large employers that are continuing to help pay for their employees'
 32 health care costs will be allowed to deduct from the assessment the cost
 33 of any health care-related expenditures that they make to or on behalf
 34 of their employees and their families.

35 S 2. Short title. This act shall be known and may be cited as the
 36 "Fair Share For Health Care Act".

37 S 3. The public health law is amended by adding a new article 49-A to
 38 read as follows:

39 ARTICLE 49-A

40 FAIR SHARE FOR HEALTH CARE

41 SECTION 4920. DEFINITIONS.

42 4921. FAIR SHARE FOR HEALTH CARE ASSESSMENT AND CREDIT.

43 4922. REVENUE.

44 4923. EXEMPTIONS.

45 4924. IMPLEMENTATION.

46 4925. MISCELLANEOUS PROVISIONS.

47 S 4920. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
 48 CLEARLY REQUIRES OTHERWISE:

49 1. "ASSESSMENT" MEANS THE ASSESSMENT AS DETERMINED UNDER SUBDIVISION
 50 ONE OF SECTION FORTY-NINE HUNDRED TWENTY-ONE OF THIS ARTICLE.

51 2. "BUILDING SERVICE WORK" IS DEFINED AS IT IS IN SECTION TWO HUNDRED
 52 THIRTY OF THE LABOR LAW, EXCEPT THAT IT SHALL NOT BE LIMITED TO BUILDING
 53 SERVICE WORK PERFORMED UNDER CONTRACT FOR A PUBLIC AGENCY. A "LARGE
 54 BUILDING" IS ANY BUILDING THAT CONTAINS AT LEAST ONE HUNDRED THOUSAND
 55 SQUARE FEET OF OFFICE SPACE OR FIFTY RESIDENTIAL UNITS.

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1 3. A "CONTROLLED GROUP OF CORPORATIONS" MEANS ANY OF THE FOLLOWING
 2 GROUPS:

3 (A) PARENT-SUBSIDIARY CONTROLLED GROUP. ONE OR MORE CHAINS OF CORPO-
 4 RATIONS CONNECTED THROUGH STOCK OWNERSHIP WITH A COMMON PARENT CORPO-
 5 RATION IF: (1) STOCK POSSESSING AT LEAST FIFTY PERCENT OF THE TOTAL

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6 COMBINED VOTING POWER OF ALL CLASSES OF STOCK ENTITLED TO VOTE, OR AT
 7 LEAST FIFTY PERCENT OF THE TOTAL VALUE OF SHARES OF ALL CLASSES OF
 8 STOCK, OF EACH OF THE CORPORATIONS EXCEPT THE COMMON PARENT CORPORATION,
 9 IS OWNED BY ONE OR MORE OF THE OTHER CORPORATIONS; AND

10 (2) THE COMMON PARENT CORPORATION OWNS STOCK POSSESSING AT LEAST FIFTY
 11 PERCENT OF THE TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK ENTI-
 12 TLED TO VOTE, OR AT LEAST FIFTY PERCENT OF THE TOTAL VALUE OF SHARES OF
 13 ALL CLASSES OF STOCK, OF AT LEAST ONE OF THE OTHER CORPORATIONS, EXCLUD-
 14 ING, IN COMPUTING SUCH VOTING POWER OR VALUE, STOCK OWNED DIRECTLY BY
 15 SUCH OTHER CORPORATION.

16 (B) BROTHER-SISTER CONTROLLED GROUP. TWO OR MORE CORPORATIONS IF FIVE
 17 OR FEWER PERSONS WHO ARE INDIVIDUALS, ESTATES, OR TRUSTS OWN STOCK
 18 POSSESSING MORE THAN FIFTY PERCENT OF THE TOTAL COMBINED VOTING POWER OF
 19 ALL CLASSES OF STOCK ENTITLED TO VOTE, OR MORE THAN FIFTY PERCENT OF THE
 20 TOTAL VALUE OF SHARES OF ALL CLASSES OF STOCK, OF EACH CORPORATION,
 21 TAKING INTO ACCOUNT THE STOCK OWNERSHIP OF EACH SUCH PERSON ONLY TO THE
 22 EXTENT SUCH STOCK OWNERSHIP IS IDENTICAL WITH RESPECT TO EACH SUCH
 23 CORPORATION.

24 (C) COMBINED GROUP. THREE OR MORE CORPORATIONS EACH OF WHICH IS A
 25 MEMBER OF A GROUP OF CORPORATIONS DESCRIBED IN PARAGRAPH (A) OR (B) OF
 26 THIS SUBDIVISION, AND ONE OF WHICH:

27 (1) IS A COMMON PARENT CORPORATION INCLUDED IN A GROUP OF CORPORATIONS
 28 DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION, AND

29 (2) IS INCLUDED IN A GROUP OF CORPORATIONS DESCRIBED IN PARAGRAPH (B)
 30 OF THIS SUBDIVISION.

31 4. "COVERED EMPLOYEE" MEANS ANY EMPLOYEE OF A COVERED EMPLOYER EXCEPT
 32 ONE WHO IS BOTH EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE OR
 33 PROFESSIONAL CAPACITY AND MAKING IN EXCESS OF SIX HUNDRED DOLLARS PER
 34 WEEK.

35 5. "COVERED EMPLOYER" MEANS ANY EMPLOYER THAT EMPLOYS ONE HUNDRED OR
 36 MORE EMPLOYEES, AS DETERMINED UNDER SUBDIVISION THREE OF SECTION FORTY-
 37 NINE HUNDRED TWENTY-FOUR OF THIS ARTICLE, OR ANY EMPLOYER THAT PROVIDES
 38 BUILDING SERVICE WORK FOR A LARGE BUILDING.

39 6. "EMPLOYEE" MEANS ANY INDIVIDUAL WHO WORKS IN THE STATE FOR AN
 40 EMPLOYER FOR WAGES, SALARY, OR OTHER COMPENSATION ON A FULL-TIME, PART-
 41 TIME, SEASONAL, OR TEMPORARY BASIS. AN EMPLOYEE SHALL BE DEEMED TO WORK
 42 IN THE STATE IF FIFTY PERCENT OR MORE OF HIS OR HER WORK HOURS FOR THE
 43 EMPLOYER ARE PERFORMED AT A LOCATION IN THE STATE. AN EMPLOYEE SHALL BE
 44 DEEMED TO WORK IN A COUNTY IF FIFTY PERCENT OR MORE OF HIS OR HER WORK
 45 HOURS IN THE STATE ARE PERFORMED AT A LOCATION IN THE COUNTY, PROVIDED
 46 THAT THE CITY OF NEW YORK SHALL BE DEEMED TO BE A SINGLE COUNTY.

47 7. "EMPLOYER" MEANS ANY PERSON THAT HAS IN ITS EMPLOY ONE OR MORE
 48 INDIVIDUALS PERFORMING SERVICES FOR IT WITHIN THIS STATE. FOR PURPOSES
 49 OF THIS ARTICLE, ALL OF THE MEMBERS OF A CONTROLLED GROUP OF CORPO-
 50 RATIONS SHALL BE DEEMED TO BE A SINGLE EMPLOYER.

51 8. "FAIR SHARE FOR HEALTH CARE FUND" AND "FUND" MEAN THE FAIR SHARE
 52 FOR HEALTH CARE FUND ESTABLISHED UNDER SECTION EIGHTY OF THE STATE
 53 FINANCE LAW.

54 9. "FAMILY OF EMPLOYEE" MEANS THE SPOUSE OR DOMESTIC PARTNER, AS
 55 DEFINED UNDER SECTION TWENTY-EIGHT HUNDRED FIVE-Q OF THIS CHAPTER, AND
 56 EACH DEPENDENT OF SUCH EMPLOYEE.

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1 10. "HEALTH CARE EXPENDITURE" MEANS ANY AMOUNT PAID BY A COVERED
 2 EMPLOYER TO A COVERED EMPLOYEE OR TO ANOTHER PARTY ON BEHALF OF, OR FOR
 3 THE BENEFIT OF, A COVERED EMPLOYEE FOR THE PURPOSE OF PROVIDING HEALTH

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4 CARE SERVICES OR REIMBURSING THE COST OF SUCH SERVICES FOR ITS COVERED
 5 EMPLOYEES AND THE FAMILIES OF ITS COVERED EMPLOYEES.

6 11. "HEALTH CARE SERVICES" MEANS HEALTH CARE SERVICES AS DEFINED IN
 7 RELATION TO THE FAMILY HEALTH PLUS PROGRAM UNDER PARAGRAPH (E) OF SUBDI-
 8 VISION ONE OF SECTION THREE HUNDRED SIXTY-NINE-EE OF THE SOCIAL SERVICES
 9 LAW, BUT WITHOUT REGARD TO ANY LIMITS ON QUANTITY OF CARE PROVIDED THER-
 10 EIN.

11 12. "PERSON" MEANS ANY NATURAL PERSON, INDIVIDUAL, TRUST, ESTATE,
 12 PARTNERSHIP, ASSOCIATION, UNINCORPORATED ASSOCIATION, CORPORATION,
 13 COMPANY, LIMITED LIABILITY COMPANY, PROPRIETORSHIP, JOINT VENTURE, FIRM,
 14 JOINT STOCK ASSOCIATION, OR OTHER LEGAL ENTITY.

15 13. "TAX YEAR" MEANS THE TAX YEAR DESIGNATED BY THE EMPLOYER UNDER
 16 SECTION SIX HUNDRED SEVENTY-FOUR OF THE TAX LAW, BEGINNING ON OR AFTER
 17 THE FIRST DAY OF JANUARY OF A PARTICULAR CALENDAR YEAR.

18 S 4921. FAIR SHARE FOR HEALTH CARE ASSESSMENT AND CREDIT. 1. EXCEPT AS
 19 OTHERWISE PROVIDED IN THIS ARTICLE, EVERY COVERED EMPLOYER SHALL PAY AN
 20 ANNUAL ASSESSMENT UNDER THIS SECTION. THE ANNUAL ASSESSMENT SHALL BE
 21 DETERMINED BY MULTIPLYING THE FAIR SHARE ASSESSMENT RATE BY THE TOTAL
 22 NUMBER OF HOURS WORKED IN THE STATE BY COVERED EMPLOYEES OF THE COVERED
 23 EMPLOYER EACH TAX YEAR. BEGINNING IN THE FIRST YEAR AFTER THIS SECTION
 24 TAKES EFFECT, THE FAIR SHARE ASSESSMENT RATE SHALL BE THREE DOLLARS PER
 25 HOUR. THE COMMISSIONER SHALL ADJUST THE FAIR SHARE ASSESSMENT RATE ANNU-
 26 ALLY TO REFLECT CHANGES IN THE COST OF HEALTH CARE. THE CHANGE IN THE
 27 COST OF HEALTH CARE SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF
 28 AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF
 29 THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX FOR MEDICAL CARE FOR URBAN
 30 CONSUMERS IN THE NORTHEAST REGION OR ITS SUCCESSOR INDEX AS PUBLISHED BY
 31 THE BUREAU OF LABOR STATISTICS WITHIN THE UNITED STATES DEPARTMENT OF
 32 LABOR OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE FAIR SHARE ASSESS-
 33 MENT RATE ROUNDED UP TO THE NEAREST MULTIPLE OF FIVE CENTS.

34 2. (A) A COVERED EMPLOYER REQUIRED TO PAY THE ASSESSMENT MAY CLAIM A
 35 CREDIT AGAINST THE ASSESSMENT IN THE AMOUNT OF THE EMPLOYER`S TOTAL
 36 HEALTH CARE EXPENDITURES MADE DURING THE SAME TAX YEAR. THE EMPLOYER MAY
 37 CLAIM A CREDIT FOR ANY PARTIAL AMOUNT OF THE ASSESSMENT, UP TO THE FULL
 38 AMOUNT OF THE ASSESSMENT. ANY HEALTH CARE EXPENDITURE MADE DURING THE
 39 TAX YEAR FOR ANY COVERED EMPLOYEE OR FAMILY OF A COVERED EMPLOYEE SHALL
 40 BE COUNTED WITHOUT LIMIT TOWARDS THE CREDIT.

41 (B) THE TOTAL CREDIT A COVERED EMPLOYER MAY CLAIM FOR HEALTH CARE
 42 EXPENDITURES MADE FOR COVERED EMPLOYEES EMPLOYED IN EACH COUNTY OR FAMI-
 43 LIES OF SUCH EMPLOYEES MAY NOT EXCEED THE PRODUCT OF THE FAIR SHARE
 44 ASSESSMENT RATE AND THE TOTAL NUMBER OF HOURS WORKED BY THOSE EMPLOYEES
 45 EMPLOYED IN THAT COUNTY THAT YEAR.

46 (C) AT ITS OPTION, A COVERED EMPLOYER MAY CREDIT TOWARDS THE PRECEDING
 47 TAX YEAR ANY HEALTH CARE EXPENDITURE MADE WITHIN THIRTY DAYS AFTER THE
 48 CLOSE OF THE TAX YEAR; PROVIDED, HOWEVER, THAT NO HEALTH CARE EXPENDI-
 49 TURE MAY BE CREDITED TOWARDS MORE THAN ONE TAX YEAR. NOTHING IN THIS
 50 ARTICLE SHALL PRECLUDE A COVERED EMPLOYER FROM MAKING HEALTH CARE
 51 EXPENDITURES GREATER THAN THE AMOUNT OF THE ASSESSMENT; HOWEVER, NO
 52 EMPLOYER IS ENTITLED TO A REFUND OF ANY ASSESSMENT OR A CREDIT IN A
 53 SUBSEQUENT TAX YEAR FOR SUCH ADDITIONAL EXPENDITURES.

54 3. AT ITS OPTION, AN EMPLOYER MAY EXCLUDE THE HOURS WORKED BY AN
 55 EMPLOYEE WHO HAS BEEN EMPLOYED FOR LESS THAN THIRTY DAYS FOR THE PURPOSE
 56 OF DETERMINING THE ASSESSMENT. IF THE EMPLOYER EXCLUDES THOSE HOURS,

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1 THEN IT SHALL NOT CLAIM ANY CREDIT FOR HEALTH CARE EXPENDITURES MADE FOR

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2 THE EMPLOYEE OR FAMILY OF THE EMPLOYEE DURING THAT PERIOD.
3 S 4922. REVENUE. REVENUE FROM THE ASSESSMENT SHALL BE DEPOSITED INTO
4 THE FAIR SHARE FOR HEALTH CARE FUND, TO BE USED TO PROVIDE SUBSIDIZED
5 HEALTH CARE COVERAGE TO COVERED EMPLOYEES, AND FAMILIES OF SUCH EMPLOY-
6 EES, OF COVERED EMPLOYERS WHO DO NOT HAVE HEALTH CARE BENEFITS FROM ANY
7 OTHER SOURCE, PURSUANT TO LAW SPECIFICALLY REFERRING TO THE USE OF THE
8 FAIR SHARE FOR HEALTH CARE FUND. A REASONABLE PORTION OF THE FUND SHALL
9 BE USED TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE.
10 S 4923. EXEMPTIONS. ANY COVERED EMPLOYER WHOSE EMPLOYEES IN THE STATE
11 ARE CHIEFLY ENGAGED IN MANUFACTURING OR AGRICULTURE SHALL BE EXEMPT FROM
12 THIS ARTICLE AND THE ASSESSMENT IMPOSED UNDER IT. THE COMMISSIONER SHALL
13 BY REGULATION ESTABLISH GUIDELINES FOR DETERMINING WHETHER A COVERED
14 EMPLOYER`S EMPLOYEES IN THE STATE ARE CHIEFLY ENGAGED IN MANUFACTURING
15 OR AGRICULTURE.
16 S 4924. IMPLEMENTATION. 1. THE COMMISSIONER SHALL INTERPRET, IMPLEMENT
17 AND ENFORCE THIS ARTICLE AND SHALL PROMULGATE ANY REGULATIONS REASONABLY
18 NECESSARY TO IMPLEMENT AND ENFORCE SUCH PROVISIONS.
19 2. THE COMMISSIONER, TOGETHER WITH THE COMMISSIONER OF TAXATION AND
20 FINANCE AND THE COMMISSIONER OF LABOR, SHALL PROVIDE FOR THE COLLECTION
21 OF THE ASSESSMENT USING PROCEDURES SIMILAR TO THOSE USED TO COLLECT THE
22 STATE UNEMPLOYMENT INSURANCE TAX OR USING SUCH OTHER PROCEDURES AS IT
23 DEEMS APPROPRIATE. AT LEAST NINETY DAYS PRIOR TO THE START OF EACH YEAR,
24 THE COMMISSIONER SHALL PUBLISH THE FAIR SHARE ASSESSMENT RATE FOR THAT
25 YEAR. EACH COVERED EMPLOYER SHALL PAY THE ASSESSMENT REQUIRED UNDER THIS
26 ARTICLE AS PROVIDED FOR BY THE COMMISSIONER.
27 3. WHETHER AN EMPLOYER QUALIFIES AS A COVERED EMPLOYER FOR A GIVEN TAX
28 YEAR SHALL BE DETERMINED BASED ON THE AVERAGE NUMBER OF EMPLOYEES THAT
29 THE EMPLOYER EMPLOYED IN THE STATE DURING THE PRECEDING TAX YEAR, AS
30 DETERMINED PURSUANT TO REGULATIONS PROMULGATED BY THE COMMISSIONER. FOR
31 PURPOSES OF DETERMINING THE NUMBER OF EMPLOYEES EMPLOYED BY AN EMPLOYER
32 IN THE STATE, ALL EMPLOYEES EMPLOYED BY THE EMPLOYER AT ANY LOCATION IN
33 THE STATE SHALL BE COUNTED TOGETHER.
34 4. THE COMMISSIONER SHALL MONITOR AND ENFORCE COMPLIANCE WITH THIS
35 ARTICLE FOLLOWING PROCEDURES AND IMPOSING PENALTIES SIMILAR TO THOSE
36 USED TO ENFORCE COMPLIANCE WITH THE UNEMPLOYMENT INSURANCE TAX, AND
37 OTHER PENALTIES PROVIDED FOR UNDER THIS CHAPTER.
38 5. ANY PERSON MAY FILE A COMPLAINT WITH THE COMMISSIONER CHARGING THAT
39 AN EMPLOYER HAS VIOLATED ANY PROVISION OF THIS ARTICLE. THE COMMISSIONER
40 SHALL PROMPTLY INVESTIGATE SUCH COMPLAINTS AND MAY INSPECT THE BOOKS AND
41 RECORDS OF ANY EMPLOYER IN RELATION THERETO AND TO DETERMINE WHETHER AN
42 EMPLOYER IS A COVERED EMPLOYER COVERED BY THIS ARTICLE AND TO MONITOR
43 COMPLIANCE. IN THE EVENT THAT A COVERED EMPLOYER FAILS TO PAY THE
44 ASSESSMENT REQUIRED UNDER THIS ARTICLE, IT SHALL BE REQUIRED TO PAY THE
45 ASSESSMENT OWED WITH INTEREST, AND MAY BE ORDERED TO PAY PENALTIES AS
46 ESTABLISHED BY THE COMMISSIONER.
47 6. ALL COVERED EMPLOYERS SHALL MAINTAIN ACCURATE RECORDS OF EACH
48 EMPLOYEE`S NAME AND THE DATES AND HOURS WORKED BY EACH EMPLOYEE. ALL
49 COVERED EMPLOYERS CLAIMING A CREDIT AGAINST THE ASSESSMENT SHALL ALSO
50 MAINTAIN ACCURATE RECORDS OF THE EMPLOYER`S HEALTH CARE EXPENDITURES
51 EACH TAX YEAR. PROVIDED, HOWEVER, COVERED EMPLOYERS SHALL NOT BE
52 REQUIRED TO MAINTAIN SUCH RECORDS IN ANY PARTICULAR FORM.
53 7. IT SHALL BE UNLAWFUL FOR A COVERED EMPLOYER OR ANY OTHER PERSON TO
54 RETALIATE OR TAKE ADVERSE ACTION AGAINST ANY PERSON BECAUSE SUCH PERSON
55 HAS TAKEN AN ACTION TO ENFORCE, INQUIRE ABOUT, OR INFORM OTHERS ABOUT
56 THE REQUIREMENTS OF THIS ARTICLE. TAKING ADVERSE ACTION AGAINST A PERSON

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1 WITHIN NINETY DAYS OF A PERSON'S ENGAGING IN ANY OF THE FOREGOING SHALL
 2 RAISE A REBUTTABLE PRESUMPTION THAT SUCH ACTION WAS RETALIATORY. ANY
 3 PERSON WHO HAS SUFFERED RETALIATION OR ADVERSE ACTION IN VIOLATION OF
 4 THIS SUBDIVISION MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDIC-
 5 TION AGAINST THE OFFENDING PARTY AND, UPON A DETERMINATION OF A
 6 VIOLATION, SHALL BE AWARDED LIQUIDATED DAMAGES IN THE AMOUNT OF TWO
 7 HUNDRED FIFTY DOLLARS FOR EACH DAY THAT THE VIOLATION OCCURRED OR
 8 REMAINS UNREMEDIED, ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF, AND
 9 REASONABLE ATTORNEY'S FEES AND COSTS INCURRED IN MAINTAINING THE ACTION.
 10 S 4925. MISCELLANEOUS PROVISIONS. 1. COVERED EMPLOYERS' OBLIGATION TO
 11 PAY THE ASSESSMENT PROVIDED FOR UNDER THIS ARTICLE SHALL COMMENCE WITH
 12 THE FIRST TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST OF THE YEAR AFTER
 13 THIS SECTION SHALL HAVE BECOME A LAW.
 14 2. THIS ARTICLE SHALL NOT BE CONSTRUED TO SUPERSEDE, LIMIT OR PREEMPT
 15 ANY STATE OR LOCAL LAW OR POLICY ESTABLISHING OTHER OBLIGATIONS FOR
 16 COVERED EMPLOYERS OR OTHER PARTIES.
 17 S 4. The state finance law is amended by adding a new section 80 to
 18 read as follows:
 19 S 80. FAIR SHARE FOR HEALTH CARE FUND. 1. THERE IS HEREBY ESTABLISHED
 20 IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF
 21 TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "FAIR
 22 SHARE FOR HEALTH CARE FUND".
 23 2. THE FAIR SHARE FOR HEALTH CARE FUND SHALL CONSIST OF ALL REVENUE
 24 COLLECTED PURSUANT TO THE ASSESSMENT UNDER SECTION FORTY-NINE HUNDRED
 25 TWENTY-ONE OF THE PUBLIC HEALTH LAW.
 26 3. MONIES IN THE FUND SHALL BE USED TO PROVIDE SUBSIDIZED HEALTH CARE
 27 COVERAGE TO COVERED EMPLOYEES, AND FAMILIES OF SUCH EMPLOYEES, OF
 28 COVERED EMPLOYERS UNDER ARTICLE FORTY-NINE-A OF THE PUBLIC HEALTH LAW,
 29 WHO DO NOT HAVE HEALTH CARE BENEFITS FROM ANY OTHER SOURCE, PURSUANT TO
 30 LAW SPECIFICALLY REFERRING TO THE USE OF THE FAIR SHARE FOR HEALTH CARE
 31 FUND. A REASONABLE PORTION OF THE FUND SHALL BE USED TO ADMINISTER AND
 32 ENFORCE THE PROVISIONS OF ARTICLE FORTY-NINE-A OF THE PUBLIC HEALTH LAW.
 33 S 5. Severability. If any section, subdivision, paragraph, sentence,
 34 clause, phrase, or other portion of law enacted by this act, including
 35 any requirement, assessment or credit established pursuant to such law,
 36 or any application thereof, is for any reason declared unconstitutional
 37 or invalid, in whole or in part, by any court, such portion or applica-
 38 tion shall be deemed severable, and such unconstitutionality or invalid-
 39 ity shall not affect the validity of the remaining portions or applica-
 40 tions of such law, which remaining portions or applications shall
 41 continue in full force and effect.
 42 S 6. This act shall take effect immediately.

MS. WHYTE moved to amend the amendment by deleting Ms. Locklear's name as a Co-sponsor. MS. LOCKLEAR seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the item as amended. MR. KENNEDY seconded. LEGISLATORS MILLS, RANZENHOFER, WEINSTEIN, KONST and LOCKLEAR voted in the negative.

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CARRIED (10-5).

Item 41 – MS. LOCKLEAR moved to discharge the HEALTH COMMITTEE from further consideration of INTRO 9-1. MR. RANZENHOFER seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

AYES: MILLS, RANZENHOFER, WEINSTEIN, IANNELLO, KONST, KOZUB, LOCKLEAR, MAZUR and REYNOLDS. NOES: HOLT, KENNEDY, LOUGHRAN, MARINELLI, SMITH & WHYTE.

CARRIED (9-6).

RESOLUTION NO. 171

RE: Waiver of Health Dept. Section 11 Sanitary Code Fees for Charitable, Philanthropic, Religious and Municipal Corporations

**A RESOLUTION SUBMITTED BY
 LEGISLATORS RANZENHOFER, WEINSTEIN & MILLS**

WHEREAS, there are many charitable, philanthropic and municipal corporations in Erie County providing essential social and human services to the community; and

WHEREAS, these organizations are holding events to raise money for the community to provide important and essential social and human services; and

WHEREAS, since January 1994, Section 11 Sanitary Code fees, such as the fee for permits for temporary food service, established by the Health Department, were required to be waived for charitable, philanthropic, religious and municipal corporations by the Commissioner of Health; and

WHEREAS, on November 15, 2005 a resolution was passed by the Erie County Legislature by a two-thirds majority, to increase Health Department Sanitary Code fees, that included Temporary Food Service Permits, and to eliminate the waiver provision; and

WHEREAS, effective January 1, 2006 increased Section 11 Sanitary Code fees in the Health Department became effective and the waiver of fees for charitable, philanthropic, religious and municipal corporations was no longer in effect; and

WHEREAS, a temporary one-day food service permit can cost up to \$146.00 and defeats the purpose of charitable, philanthropic, religious and municipal corporations from meeting their fundraising goals to provide a benefit to our community by providing social and human services.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature wishes to encourage and promote charitable, philanthropic, religious and municipal corporations in their mission to provide social and human services; and be it further

RESOLVED, that the Erie County Legislature restores the waiver of Section 11 Sanitary Code fees for charitable, philanthropic, religious and municipal corporations; and be it further

RESOLVED, that the Section 11 Sanitary Code fees established by the Health Department shall be waived for charitable, philanthropic, religious and municipal corporations; and be it further

RESOLVED, that a certified copy of this resolution be sent to Anthony J. Billittier IV, Commissioner of Department of Health, and Joel A. Giambra, Erie County Executive.

MS. WHYTE moved to amend the item. MR. KENNEDY seconded. MS. LOCKLEAR and MR. KONST voted in the negative.

CARRIED (13-2)

ADD after the Third (3rd) RESOLVED clause as the new Fourth (4th) RESOLVED clause:

RESOLVED, that the Commissioner of the Department of Health work with the Budget Director to identify how the lost revenue will be recovered in the 2006 Health Department's Budget; and be it further

MS. LOCKLEAR moved to amend further the item. MS. KONST seconded.

CARRIED UNANIMOUSLY.

DELETE the Second (2nd) and Third (3rd) RESOLVED clauses and replace with the following:

RESOLVED, that the Erie County Legislature restores the waiver of Section 11 Sanitary Code fees for charitable, philanthropic, religious and municipal corporations relating to the one to three day "temporary food permit"; and be it further

RESOLVED, that the Section 11 Sanitary Code fees established by the Health Department shall be waived for charitable, philanthropic, religious and municipal corporations relating to the one to three day "temporary food permit", and this waiver shall be retroactive to January 1, 2006; and be it further

MR. RANZENHOFER moved on the approval of the item as amended. MR. MILLS seconded. MR. LOUGHRAN and MR. SMITH voted in the negative.

CARRIED (13-2).

Item 42 – MR. RANZENHOFER moved to discharge the FINANCE & MANAGEMENT COMMITTEE from further consideration of INTRO 10-1. MR. WEINSTEIN seconded.

CHAIRMAN MARINELLI directed that a roll-call vote be taken.

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AYES: MILLS, RANZENHOFER, WEINSTEIN, KONST and LOCKLEAR. NOES: HOLT, IANNELLO, KENNEDY, KOZUB, LOUGHRAN, MARINELLI, MAZUR, REYNOLDS, SMITH and WHYTE. (AYES: 5; NOES: 10)

SUSPENSION OF THE RULES

Item 43 – MS. WHYTE moved for a suspension of the rules to include an item not on the agenda.

GRANTED.

CHAIRMAN MARINELLI directed the item be received and referred to the PUBLIC SAFETY COMMITTEE.

GRANTED.

INTRO 11-9 from LEGISLATORS WHYTE and KENNEDY Re: Investment to Youth Programming

Item 44 - MS. WHYTE moved for a suspension of the rules to include an item not on the agenda.

GRANTED.

CHAIRMAN MARINELLI directed the item be received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

COMM. 11D-6 from the BUDGET DIRECTOR Re: Copy of Letter to BOE Commisioners Re: BOE Budget

Item 45 – MS. WHYTE moved for a suspension of the rules to include an item not on the agenda.

GRANTED.

CHAIRMAN MARINELLI directed the item be received and referred to the FINANCE & MANAGEMENT COMMITTEE.

COMM. 11M-8 from the ERIE COUNTY FISCAL STABILITY AUTHORITY Re: Letter to Marinelli Re: Reply to Letter

Item 46 – MS. WHYTE moved for a suspension of the rules to include an item not on the agenda.

GRANTED.

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CHAIRMAN MARINELLI directed the item be received and referred to the FINANCE & MANAGEMENT COMMITTEE.

COMM. 11M-9 from the ERIE COUNTY FISCAL STABILITY AUTHORITY Re:
 Certified Resolution Re: Capital Borrowing

Item 47 – MS. WHYTE moved for a suspension of the rules to include an item not on the agenda.

GRANTED.

CHAIRMAN MARINELLI directed the item be received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

COMM. 11E-18 from the COUNTY EXECUTIVE Re: Institutional Energy Services Performance Contracting Program - Award of Construction Work at ECC

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM THE COUNTY EXECUTIVE

Item 48 – (COMM. 11E-1) Copy of Letter to Municipalities Re: Sheriff's Patrol

Received and Filed.

FROM THE COUNTY CLERK

Item 49 – (COMM. 11E-2) Erie County Clerk's Report for 2005

Received and Filed.

FROM THE COMPTROLLER

Item 50 – (COMM. 11E-3) Moody's Rating

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 51 – (COMM. 11E-4) Health - Facilitated Enrollment Program - 1/1/06 - 12/31/06 - SAP #127FACENROLL2006

Item 52 – (COMM. 11E-5) Health - Medical Examiner Division: Division of Criminal Justice Services - National Forensic Sciences Improvement Act - 10/1/05 - 9/30/06 SAP 127NAFR0506

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The above two items were received and referred to the HEALTH COMMITTEE.

Item 53 – (COMM. 11E-6) 2006 STOP-DWI Budget - Revision for Go Safe Insurance

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 54 – (COMM. 11E-7) Land Control/Occupancy Agreement - Town of Amherst Re: Erie Canalway Trail

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 55 – (COMM. 11E-8) PILOT Agreement for Maryvale East Senior Housing Complex

Item 56 – (COMM. 11E-9) DPW - Map No. 4-C, Parcel No. 138 - Lakeshore & Bigtree Roads in the Town of Hamburg

The above two items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 57 – (COMM. 11E-10) ECSTSTA - Contract No. 6ST, HVAC - Contract Close Out - John W. Danforth Company

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE COUNTY CLERK

Item 58 – (COMM. 11E-11) Semi-Annual Report of Receipts and Disbursements of Mortgage Tax Monies

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 59 – MR. REYNOLDS presented the following resolution and moved for immediate consideration and approval. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 172

RE: Parks - Lifeguards for Wendt & Bennett Beach (COMM. 11E-12)

WHEREAS, the Erie County Department of Parks, Recreation & Forestry does not have funding in the 2006 budget for the staffing of lifeguards at Wendt or Bennett Beach, and

WHEREAS, all lifeguard positions were deleted in the 2005 budget, and

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WHEREAS, the Erie County Department of Parks, Recreation and Forestry presently has two accounts in the Trust Fund, with sufficient balances to fund these positions, and

WHEREAS, the Erie County Department of Parks, Recreation and Forestry would like to staff Wendt and Bennett Beach on weekends only during the summer months of July and August.

NOW, THEREFORE, BE IT

RESOLVED, that five seasonal lifeguard positions, job group 46 (\$8.16 per hour), and one seasonal lifeguard captain position, job group 50 (\$8.95 per hour), will be restored to the Parks Department, and be it further

RESOLVED, that lifeguards will staff Wendt and Bennett Beaches on weekends only during the summer months, and be it further

RESOLVED, that authorization is hereby provided to adjust the 2006 Budget of the Department of Parks, Recreation and Forestry in order to provide funding for lifeguard positions, there being funds in the Recreational Trust Fund which are hereby transferred for this purpose as follows,

Parks Department Fund Center 16410

Revenue Account

418590	Special Event Receipts	\$ 10,030
	Total Revenue	\$ 10,030

Expense Account

500030	Seasonal Salaries	\$ 8,358
502000	Fringe Benefits	\$ 1,672
	Total Expense	\$10,030

and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward certified copies of this resolution to the Department of Parks, Recreation and Forestry, the Erie County Executive, the Office of the Comptroller, and the Division of Budget, Management and Finance.

Item 60 – (COMM. 11E-13) 2006 Funding for Cultural Organizations

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

Item 61 – (COMM. 11E-14) Grant Programs - Authorization to Contract

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Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 62 – (COMM. 11E-15) Erie County Office of Public Advocacy - Office of the Disabled

Received and referred to the HUMAN SERVICES COMMITTEE.

Item 63 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 173

RE: Probation & Youth Detention Services -
 Adjustment in YDDP Youth Contracts
 (COMM. 11E-16)

WHEREAS, the Erie County Youth Division has \$7,500 in available appropriations in the 2006 Adopted Budget under YDDP reimbursement programming and also has \$5,000 in unallocated, but available state aid for youth initiatives, and

WHEREAS, the Youth Board recommends these available funds be awarded to the Community Action Organization and the Valley Community Association, and

WHEREAS, recognizing the additional state aid will enable the Youth Division to increase funding to YDDP contracts, and

WHEREAS, the YDDP funds are 50% state aid with the local required 50% match provided by the youth agency with no county share.

NOW THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to accept \$5,000 in YDDP state aid, and be it further

RESOLVED, that the appropriation for YDDP reimbursement programs is increased as follows and that the County Executive is hereby authorized to enter into contracts with Valley Community Association in the amount of \$5,000 and the Community Action Organization in the amount of \$7,500:

IN FUND 110, DEPARTMENT 12630

**YOUTH DEVELOPMENT DELINQUENCY PREVENTION
 REIMBURSEMENT PROGRAM**

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Increase Account #408020 State Aid YDDP Reimbursement \$5,000

APPROPRIATIONS:

Increase Account #516010 – Valley Community Association \$5,000

Net County Share -0-

and be it further,

RESOLVED, that the following YDDP Reimbursement Contracts are adjusted as follows:

Increase:

COMMUNITY ACTION PROGRAM 7,500

Decrease

TREMENDOUS TEENS- Earmarked funds Item #7 -- (7,500)

NET CHANGE: -0-

and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Office of the County Executive, the Division of Budget, Management and Finance, the Office of the Comptroller, and the Department of Probation and Youth Detention Services.

Item 64 – (COMM. 11E-17) Creation of Fully-Funded Position Within the Division of Building & Grounds

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE COUNTY ATTORNEY

Item 65 – (COMM. 11D-1) Transmittal of New Claims Against Erie County

Received and filed.

FROM BUDGET, MANAGEMENT & FINANCE

Item 66 – (COMM. 11D-2) BMR for 4/06

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Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 67 – (COMM. 11D-3) Niagara Power Project Relicensing Settlement Agreement

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM BUDGET, MANAGEMENT & FINANCE

Item 68 – (COMM. 11D-4) Letter to Legislator Smith Re: Gas Cap

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE PERSONNEL DEPARTMENT

Item 69 – (COMM. 11D-5) Hires/Separations 4/06

Received and Filed.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE TOWN OF NEWSTEAD

Item 70 – (COMM. 11M-1) Certified Resolution Re: Sales Tax Distribution Agreement

Received and Filed.

FROM THE NYS DEPT. OF AGRICULTURE & MARKETS

Item 71 – (COMM. 11M-2) EC Agriculture District No. 7

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE NFTA

Item 72 – (COMM. 11M-3) NFTA Board Minutes

Received and filed.

FROM THE CITY OF TONAWANDA – DEPT. OF RECREATION

Item 73 – (COMM. 11M-4) Copy of Letter to Iannello Re: Health Dept. Fees

FROM THE ECC FOUNDATION

Item 74 – (COMM. 11M-5) Copy of Letter to Iannello Re: Student Housing

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE ERIE NIAGARA REGIONAL PARTNERSHIP

Item 75 – (COMM. 11M-6) Copy of Agenda of 6/2/06 Meeting

Received and filed.

FROM CONGRESSMAN HIGGINS

Item 76 – (COMM. 11M-7) Receipt of Certified Resolution

Received and filed.

MEMORIAL RESOLUTIONS

Item 77 – Mr. Smith requested that when the Legislatures adjourns, it do so in memory of Olivia Johnson.

Item 78 – Ms. Iannello requested that when the Legislature adjourns, it do so in memory of Catherine Stetfield.

Item 79 – Ms. Iannello requested that when the Legislature adjourns, it do so in memory of Raymond Varrall.

Item 80 – Ms. Iannello requested that when the Legislature adjourns, it do so in memory of Cancer Victims.

Item 81 – Mr. Kozub requested that when the Legislature adjourns, it do so in memory of Serleis Watson.

Item 82 – Mr. Mazur requested that when the Legislature adjourns, it do so in memory of Billy Preston.

Item 83 – Ms. Locklear requested that when the Legislature adjourns, it do so in memory of Mary Jane Bueme.

ADJOURNMENT

Item 84 - At this time, there being no further business to transact, the Chairman announced that the Chair would entertain a Motion to Adjourn.

MR. KOZUB moved that the Legislature adjourn until Thursday, June 22, 2006 at 2 p.m. Eastern Standard Time. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

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The Chairman declared the Legislature adjourned until Thursday, June 22, 2006 at 2 p.m. Eastern Standard Time.

KEVIN M. KELLEY
CLERK