ROCKVILLE, MARYLAND

May 3, 2010

Mr. James H. DeGraffenreidt, Jr.
President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Mr. DeGraffenreidt:

Pursuant to Section 5-202(d)(7) of Maryland Code, Education Article, Montgomery County requests a waiver from the State's Maintenance of Effort (MOE) requirement as defined under Section 5-202(d)(1)-(6). The following will demonstrate not only that the County's fiscal condition significantly impedes it from funding the MOE requirement[1], but that it's fiscal condition is unique from the general economic crisis that affects all counties in the State.

Fueled by steep increases in income tax revenues, the County has, for many years, invested local funds in K-12 education above that required by the State MOE law[2]. This investment has paid handsome dividends in improving the educational results achieved by Montgomery County Public Schools (MCPS). Unfortunately, beginning in FY10, the County has endured a steep decline in its income tax revenues, which "significantly impedes" the County's ability to fund MOE. This loss of revenue is attributable to a disproportionately high decline in high income taxpayers that is unique to Montgomery County.

Despite being unable to meet its MOE target in FY11, the County has made every effort to minimize the impact of this decline in revenue on K-12 education. The County has proposed to proportionately take steeper budget reductions in County government and other County funded agencies such as the Maryland National Park and Planning Commission (M-NCPPC) than the County has proposed for MCPS. There is no reasonable alternative to making these painful cuts. As will be explained below, all reasonable avenues for increasing taxes are already being pursued in the FY11 budget.

Montgomery County Requests Waiver to Provide MCPS Appropriation of $1.415 billion.

The County Executive's Recommended FY11 Operating Budget includes local funding of $1,415,085,344 for K-12 public education. Montgomery County requests a waiver of its MOE requirement to permit local funding at the level of $1,415,085,344.

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[1] [1] Md. Code Ann., § 5-202 (d) (7).

[2] See MOE table, page 2; Income Tax Revenue table, page 5.

This amount is below the County's MOE requirement by either $138,848,943 (8.9 percent of the total MOE amount) or $58,043,862 (3.9 percent of the total MOE amount). The latter amount reflects advice rendered by Assistant Attorney General Bonnie Kirkland in a February 26, 2010 letter to Senator Richard Madaleno; in that letter Ms. Kirkland advised that $79.5 million in debt service appropriated to MCPS in FY10 should not be counted in calculating the County's MOE requirement for FY11. A copy of Ms. Kirkland's advice is attached. A final resolution of this issue, however, is not necessary for the purpose of resolving the County's request for an MOE waiver for FY11 because the waiver can be quantified at the local funding level of $1,415,085,344.

The County Executive's total FY11 Recommended Operating Budget for MCPS including local funding, State education aid, federal grants, and other revenues is $2,125,542,225. [3]

Montgomery County Has a History Of Consistently Exceeding MOE Requirements.

With the exception of FY92, when Maryland permitted a State-wide waiver of the MOE requirement, and arguably FY10, Montgomery County has not only met its MOE requirement but significantly exceeded it. In the last ten years, Montgomery County has increased its local contribution to K-12 Education by nearly $660 million to over $1.4 billion. This represents an 75.6 percent increase in local funding – an average annual increase of 5.8 percent – that has enabled Montgomery County to reduce class size, raise test scores, and meet the needs of the growing number of students eligible for FARMS and ESOL services.

Maintenance of Effort (MOE)
and Local Funding
(in millions)

Fiscal Year	MOE	App. Budget	$ Difference	% Difference
FY01	884.1	959.8	75.7	8.6%
FY02	983.0	1,029.7	46.7	4.8%
FY03	1,050.7	1,079.2	28.5	2.7%
FY04	1,101.6	1,136.4	34.8	3.2%
FY05	1,144.3	1,217.2	72.9	6.4%
FY06	1,224.2	1,285.8	61.6	5.0%
FY07	1,290.3	1,384.7	94.4	7.3%
FY08	1,373.7	1,456.9	83.2	6.1%
FY09	1,452.5	1,531.5	79.0	5.4%
FY10	1,529.6	1,529.6	0.0	0.0%
TOTAL			576.8	

Montgomery County Invests In Education Outside of MOE.

The County Executive's Recommended FY11-16 Capital Improvements Program (CIP) budget includes over $1.2 billion in locally supported funding for school construction, renovation, information technology, and other capital improvements in support of K-12 public education.

In addition to the County's direct local contribution to MCPS and its funding of capital projects, the County Government also funds over $37 million to operate several programs in support of the Public Schools' mission, including:

[3] The Executive's Recommended Budget for MCPS does not include funding for debt service reimbursements. The Council has not completed work on the FY11 Operating Budget. The Council will communicate any relevant results of its deliberations at or before the State Board's May 25, 2010 public hearing.

- School Safety: Providing 173 Crossing Guards, 5 support staff, and 7 Police Officer positions, at a cost of $5.5 million;
- School Safety: Providing 33 Police Officers as Educational Facility Officers assigned to 25 Public High Schools and 2 Middle Schools, at a cost of $3.5 million;
- School Health: Providing 314 positions including nurses and health room technicians, at a cost of $19.2 million;
- Wellness: Funding for various wellness programs, including School Suspension programs; reading, tutoring and mentoring programs; Infant and Toddlers programs; and Pre-Kindergarten programs, at a cost of $3.9 million;
- Linkages to Learning: Providing early intervention services to students and families of elementary and middle school communities with the highest indicators of poverty to address non-academic issues that may interfere with a child's success at school, at a cost of $4.8 million; and
- Stormwater Facility Maintenance: To comply with the terms of the State issued Municipal Separate Storm Sewer System permit, the County Government invests $717,000 in maintenance of the School system's stormwater facilities.

Dividends Received On County's Investment In MCPS.

In 2009, the MCPS graduation rate of 80.7 percent was tied for first among the nation's large school districts. A historic high of 28,575 Advanced Placement (AP) exams were taken by MCPS students in 2009. Students scored a 3 or higher on 72.3 percent of AP exams taken, compared with 61 percent for Maryland and 57 percent for the nation. In 2009, nearly 48 percent of AP exams taken by African American students scored a 3 or better, significantly higher than the 28 percent for Maryland and 25 percent for the nation. The percentage of African American and Hispanic graduates in the class of 2009 with at least one AP score of 3 or higher surpassed the national average of 15.9 percent for all graduates. The class of 2009 scored a 1615 average combined SAT score surpassing both national and state averages. Nearly 50 percent of graduates in the MCPS classes of 2001-2004 earned a bachelor's degree within 6 years, compared with 27.5 percent nationwide. More than 90 percent of kindergartners have met or exceeded reading targets in each of the past 3 years, essentially closing the achievement gap by race, ethnicity, and socioeconomic status at this grade level. Nearly 55 percent of Grade 5 students took advanced math in 2008-2009.

Denying A Waiver Will Discourage The County From Exceeding MOE In The Future And Is Contrary To The Intent Of The MOE Law.

In denying Montgomery County's MOE waiver request for FY10, the State Board stated that it "must consider carefully the full implications of that request, not only at the local level, but statewide as well, because any crumbling in the cornerstone of the State/local share formula for funding education can affect the structural soundness of the education formula going forward." But by the Board's taking a "narrow" view of the waiver criteria as a basis for denying the County's FY10 MOE waiver request, the Board has undermined the "cornerstone of the State/local share for funding education."

If a County that experiences a dramatic decline in tax revenues as the result of a deep, broad based recession cannot count on obtaining a waiver during lean years, a strong fiscal incentive is created to not fund local education above the MOE mark. The reason is simple: from the County's

perspective, its strong support of local education by exceeding MOE over the years is punished by eliminating budget flexibility when a MOE waiver for a County the size and complexity of Montgomery is virtually impossible to obtain. Surely, this is not the outcome the General Assembly intended when it gave the Board the authority to waive MOE.

In approving HB 223 - Maintenance of Effort Penalty, it would appear that the General Assembly validated Montgomery County's rationale for its MOE waiver request. Also, while HB304/SB310 - Education-Maintenance of Effort Requirement – Process and Factors was not approved by the General Assembly for technical, not substantive reasons, it was clear there was significant support for the involvement of the State Superintendent in evaluating waiver requests as well as revised criteria including:

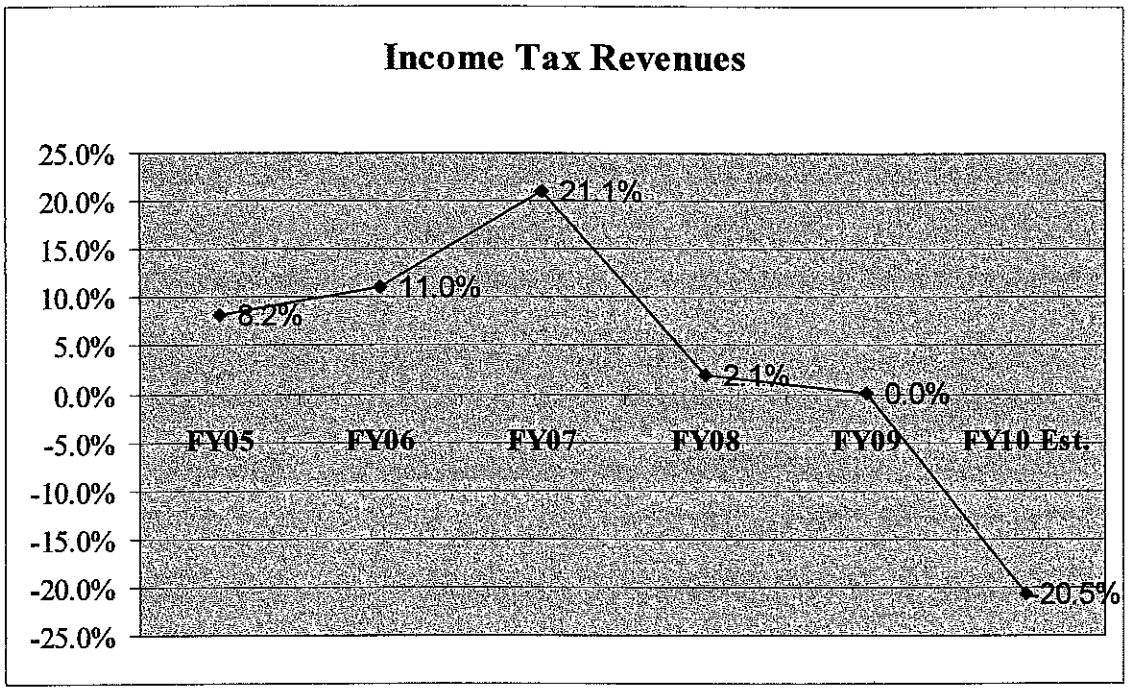
- a county governing body's history of exceeding the required maintenance of effort amount;
- the existence of an agreement between a county governing body and a county board that a waiver should be granted;
- significant reductions in State aid to a county and municipalities of the county for the fiscal year for which a waiver is applied;
- external environmental factors such as a loss of a major employer or industry affecting a county or a broad economic downturn affecting more than one county;
- a county's tax bases;
- rate of inflation relative to growth of student population in a county; and
- maintenance of effort requirement relative to a county's statutory ability to raise revenues.

Montgomery County's Projected Fiscal Condition for FY2011 Continues to Deteriorate Rapidly. This Deterioration is Attributable to a Decline in Income Tax Revenue that is Unique to Montgomery County.

In developing the County's FY11 operating budget, Montgomery County was faced with closing a budget shortfall of $975 million (over 26 percent of the County's tax-supported budget). This serious shortfall resulted from the national economic recession which caused tax revenues, especially income tax revenues, to decline dramatically. Since May 2009, when the County Council approved the FY10 operating budget, the County has revised its FY10 and FY11 tax-supported revenue projections downward by over $494 million. Montgomery County's net taxable income declined by over $4.6 billion in tax year 2008, which has contributed to reducing income tax collections down by over $265 million in the current year.

Subsequent to the County's March 31 waiver request letter, the County Executive was required to substantially amend, and reduce, his original recommended FY11 budget to account for a write-down of revenues of $168 million. Part of this write-down included a reduction of $24.5 million in the expected distribution of income tax revenues from the Comptroller's Office in March of 2010. As noted by staff in the Comptroller's Office: "...the distribution for Montgomery County fell substantially, greater than the total $12.6 million decline [for the entire state]. There appear to be several factors at play ***which are unique to the county*** and are currently under investigation; we are working with county officials to explain the situation (*emphasis added*)."

A top priority in the County Executive's post March 31 amendments to the operating budget was to restore a greater amount of funds to reserves to protect against further deterioration in the County's revenue streams and preserve the County's AAA bond rating. The Chart below shows not only the volatility in the County's income tax revenues, but also the dramatic reduction in these revenues over the past three years.



Montgomery County's revenue structure is highly, and for a local government, unusually dependent on income tax revenues which as recently as FY09 comprised 33.5 percent of the budgeted resources, but in FY11 are only 28 percent of those resources. This change reflects not only the significant volatility of this revenue source, but also indicates the disruption a revenue write down of this magnitude will have on the County's capacity to fund services to the local community including K-12 education. The County's ability to fund and even significantly exceed MOE in the past was dependent on a high level of income tax revenues. The County's proportion of high net worth individuals is higher than other jurisdictions in the State. The recent recession and changes in the State's tax code have adversely impacted Montgomery County disproportionately. As the table below shows, the County's net taxable income declined by over $4.6 billion in tax year 2008 with over $4 billion of that decline coming from tax payers with incomes exceeding $500,000 a year. This is the equivalent of the loss of a major employer or industry in the County (COMAR 13A.02.05.04C.2a).

Range of Taxable Income	Net Taxable Income		Change	%Change
	2007	2008		
$1 - 1,000	$5,242,542	$2,156,741	(3,085,801)	-59%
$1,001 - 2,000	$15,454,542	$6,788,395	(8,666,147)	-56%
$2,001 - 3,000	$24,462,619	$12,171,670	(12,290,949)	-50%
$3,001 - 150,000	$17,688,803,084	$17,307,287,601	(381,515,483)	-2%
$150,001 - 300,000	$4,583,476,473	$4,669,495,527	86,019,054	2%
$300,001 - 500,000	$2,149,744,636	$2,018,594,698	(131,149,938)	-6%
$500,001 - $1,000,000	$3,254,721,956	$2,870,497,029	(384,224,927)	-12%
$1,000,001 or more	$9,755,275,833	$5,989,456,954	(3,765,818,879)	-39%
Total	**$37,477,181,685**	**$32,876,448,615**	**(4,600,733,070)**	**-12%**

As the table below indicates, of all of the State's urban jurisdictions, Montgomery County experienced a disproportionately large share of the loss in the amount of net taxable income and the reduction in the number of income tax returns for individuals with income of $500,000 or more.

Maryland Adjusted Gross Income (Tax Returns >= $500,000)

	No. of Returns		No. of Returns	
	Tax Year 2007	Tax Year 2008	Change: TY08-TY07	Share of Reduction
Montgomery	*9,272*	*7,719*	*(1,553)*	*49.0%*
Prince George's	361	306	*(55)*	*1.7%*
Frederick	580	447	*(133)*	*4.2%*
Anne Arundel	2,099	1,723	*(376)*	*11.9%*
Howard	1,581	1,385	*(196)*	*6.2%*
Baltimore County	3,589	2,922	*(667)*	*21.0%*
Baltimore City	941	752	*(189)*	*6.0%*
Total All Counties	**18,423**	**15,254**	**-3,169**	

	Tax Year 2007	Tax Year 2008	Taxable Income	
	Taxable Income	Taxable Income	Change: TY08-TY07	Share of Reduction
Montgomery	*$13,183,902,115*	*$9,395,525,221*	*($3,788,376,894)*	*52.4%*
Prince George's	$416,008,227	$312,117,404	($103,890,823)	*1.4%*
Frederick	$635,916,083	$480,120,174	($155,795,909)	*2.2%*
Anne Arundel	$2,564,890,087	$2,201,800,543	($363,089,544)	*5.0%*
Howard	$1,902,931,623	$1,454,650,901	($448,280,722)	*6.2%*
Baltimore County	$5,524,234,911	$3,536,499,251	($1,987,735,660)	*27.5%*
Baltimore City	$1,273,720,212	$892,663,783	($381,056,429)	*5.3%*
Total All Counties	**$25,501,603,258**	**$18,273,377,277**	**($7,228,225,981)**	

In addition to the loss in income tax revenues, non-K-12 education aid has been reduced by over $18 million in FY10 by the Board of Public Works and by nearly $32 million in FY11 due to proposed changes in funding formulas in the Governor's budget. In fact, Highway User Revenues have been reduced from $36.6 million in FY08 to less than $1 million in FY10. During FY10, State support for the County's Health and Human Services programs was reduced by nearly $5 million, including reductions to health services, homeless services, drug and alcohol treatment, and other critical safety net services.

The chart below shows the impact of the recession on the County's major tax supported revenue streams for FY10 and FY11:

Cumulative FY10 and FY11 Revenue losses relative to original projections

CATEGORIES	Total FY10+FY11
TAXES	
Property Tax	(46.9)
Income Tax	(407.6)
Transfer/Recordation Tax	(0.8)
Other Taxes	(11.4)
Total Local Taxes	**(466.7)**
Non K-12 State Aid	
Highway User	(30.2)
Other State Aid	(13.7)
Subtotal Non K-12	**(43.9)**
K-12 State Aid	**44.0**
Fees and Fines	**(21.6)**
Investment Income & Misc.	**(6.5)**
TOTAL REVENUES	**(494.7)**

Attached is a copy of the County's latest review of economic indicators. In addition, some pertinent facts provided below indicate how the recession has impacted Montgomery County residents and led to this sharp decrease in revenues:

- Since December 2007, Montgomery County's unemployment rate has more than doubled to 5.7 percent in March 2010. This is one of the highest unemployment rates in Montgomery County in 20 years of record keeping by the Bureau of Labor Statistics, U.S. Department of Labor, and the Maryland Department of Labor, Licensing and Regulation.
- Resident employment in 2009 was at its lowest level since 2004, with little or no increase in resident employment, despite the entry of thousands of residents into the job market.
- Average home sale prices have declined for two consecutive years: ↓8.4 percent in CY2008 and ↓13.8 percent in CY2009.
- The most recent residential assessments plummeted 19.4 percent.
- The value of new construction (~$600 million) in CY2009 was the lowest in over thirteen years.

These economic factors, coupled with the stock market plunge and the resulting loss of capital gains tax revenues, have dramatically decreased the County's revenue collections for income, transfer, and recordation taxes. Moreover, the Federal Reserve rate cuts have reduced estimated FY10 tax-supported investment income by 95.0 percent since FY08 and projected FY11 tax-supported investment income by 86.7 percent since FY08.

Recommended FY11 Budget Includes Major Reductions to All Agencies, With Nearly Level Funding for MCPS.

To close the budget deficit, produce a balanced budget as required by law, and fund essential services including K-12 education, the County Executive and the County Council have made a number of significant budget reductions for FY10, and the County Executive has also recommended major reductions for FY11, including the following:

- Total mid-year FY10 reductions of nearly $100 million in Montgomery County Government, Montgomery College, the Maryland-National Capital Park and Planning Commission, and MCPS;
- Total FY11 reductions of over $198 million across the same four agencies;
- The abolishment of 466 positions in Montgomery County Government, with over half of these positions filled. In fact, since FY08, the County Government has abolished 1,091 positions or approximately 10 percent of all positions.
- The elimination of all General Wage Adjustments and merit pay increases for all employees across all agencies of local government;
- A ten day furlough for all non-public safety employees in FY11 resulting in a nearly 4 percent wage reduction for these public employees;
- The elimination of the planned $64 million increase in pre-funding of retiree health insurance;
- A reduction of over $53 million in current revenue funding to the capital budget; and
- A withdrawal from the County's Rainy Day Fund to cover a projected County General Fund deficit of nearly $82 million.

The County made every effort to minimize the impact of the decline in revenues on the MCPS budget and reduce the size of the MOE waiver request. The County Government tax-supported budget, for example is recommended to be reduced by $96.1 million or 7.7 percent from FY10. All County Government departments and agencies were reduced from the FY10 budget levels including:

- County Executive's Office: -26.3 percent
- Housing and Community Affairs: -24.3 percent
- Transportation: -24.8 percent
- Libraries: -24.2 percent
- Maryland-National Park and Planning Commission: -15.1 percent
- Health and Human Services: -10.9 percent
- Transit Services: -8.1 percent
- Correction and Rehabilitation: -5.5 percent
- Police: -5.0 percent
- Montgomery College: -3.7 percent

These reductions included the following impact on critical County Government services:

- Eighteen Bus routes (three weekday, 10 Saturday and five Sunday) would be eliminated and another 16 restructured, saving $2.7 million
- Reduce bus route frequency on 16 weekday routes and 3 Saturday routes.
- Transportation vouchers to low income residents would be reduced in half
- One Fire and Rescue truck and one ambulance would be taken out of service and the a recruit class is cancelled
- Forty Police positions, including 24 sworn officers, would be eliminated including eliminating 16 of the 33 officers stationed in Montgomery County Public Schools.
- Four satellite police sub-stations would be closed.
- Thirty-three Corrections positions would be eliminated.
- Library Hours reduced by 8.7 percent and library materials reduced by over 40 percent

With all of these actions, the total County tax supported budget contracted by 4.9 percent. If the County were required to meet the MOE local contribution, it would mean unacceptable deeper reductions in locally funded services, including public safety, services to the most vulnerable residents, post-secondary education, library and recreation services, and other vital locally funded public programs. These damaging reductions would come at a time when local public safety needs are rising and the need for emergency assistance for individuals and families in crisis is steeply increasing. In 2009, for example, requests for Temporary Cash Assistance (TCA) and food stamps have each increased by 34 percent; Medicaid caseloads have grown by 17 percent; and the number of home energy assistance recipients grew by 18 percent. Further reductions simply cannot be made.

By way of comparison, the MCPS budget reflects a slight increase over the FY10 budget when adjusting for the debt service reimbursement of $79.5 million in FY10.

Montgomery County is Facing a Potential Bond Rating Downgrade

Because of the County's revenue volatility and significant reductions in the reserve levels noted above, the County has been placed on a watch list for a possible downgrade of its AAA bond rating by Moody's investor services. In taking this action, Moody's stated the following concerning the County's financial situation: "Placement on watchlist for possible downgrade ***reflects deterioration of the county's financial position driven primarily by income tax revenue shortfalls, which is expected to result in the use of a significant portion of the county's General Fund and Revenue Stabilization Fund as of fiscal 2010*** (year ends June 30th). Future rating reviews will factor (a) management's ability to mitigate the projected current year operating deficit, given identification of a number of potential gap closing measures that are largely non-recurring in nature; (b) steps taken in the 2011 budget to restore structurally balanced operations, and (c) development of a plan to restore financial flexibility to levels in keeping with the current rating category *(emphasis added)*."

Loss of the AAA bond rating will significantly increase the County's cost of borrowing and consequently impair its ability to provide local support for school construction services. In FY11 alone, the County is projected to allocate $187.8 million in General Obligation bonds for MCPS capital projects ($957.7 million for the FY11-16 MCPS Capital Improvements Program). Annual Debt Service costs for MCPS in FY11 will be $112.9 million. Additionally, higher debt service

payments in the future will adversely affect the County's ability to fund a variety of operating budget needs, including those for education.

Reserve Funds Are Not Available to Meet MOE

As the chart below indicates, the County is projected to end FY10 with a balance of zero in its General Fund. The only reason that the County will not end FY10 with a deficit of at least $82 million is because of a transfer of $82 million from the County's Revenue Stabilization (or Rainy Day Fund). The balance of the Rainy Day Fund at the end of FY10 after this transfer is only $37.7 million compared to annual General Fund disbursements of $2.5 billion – a reserve of only 1.5 percent. After the expenditure reductions discussed above and the tax increases to be discussed below, the County General Fund is projected to end FY11 with a balance of $121.5 million. The Rainy Day Fund is estimated to end FY11 with a balance of $92.8 million.

County General Fund and Revenue Stabilization Fund Ending Balances: Historical Trend

	FY07	FY08	FY09	FY10 Estimated
Cash Balance	$ 239,433,271	$ 86,743,201	$ 17,037,504	TBD
Unreserved/Undesignated	$ 140,650,260	$ 83,580,559	$ 28,853,996	$ -
Revenue Stabilization Fund	$ 119,647,620	$ 119,647,620	$ 119,647,620	$ 37,680,370

According to State law[4], the Rainy Day fund may only be used to support appropriations that have become unfunded. Moreover, even in the absence of State law, the County's General Fund Reserves and Rainy Day Fund should not be used to meet the MOE requirement because doing so would leave the County Government with practically no reserves to address unanticipated mid-year revenue declines and expenditure increases. The combined General Fund and Rainy Day Fund reserves are projected to be $214.3 million. The County's reduction in income tax revenues alone in FY10 is over $265 million. Snow removal costs in FY10 were approximately $60 million (approximately four times the amount normally expended for snow removal) due to the blizzards in December and February.

As noted above, this revenue volatility and need for enhanced reserves to provide improved flexibility in the County's finances were noted by all of the Bond Rating Agency's in their review of the County's finances. The absence of these reserves because of depletion to meet MOE requirements will almost definitely result in the loss of the County's AAA bond rating.

Federal ARRA Funds Will Not Make Meeting MOE Affordable

Montgomery County has benefited in several ways from funding received or expected to be received from the Federal Fiscal Stabilization Act and the American Recovery and Reinvestment Act (ARRA) of 2009. In FY11, MCPS will receive $5.9 million for Title I programs for disadvantaged children and $16.5 million for Individuals with Disabilities Education Act (IDEA) programs. This funding will provide 3 additional schools with Title I support and add 8 new full-day Head Start classes, so that all Title I schools that have Head Start classes can offer full-day

[4] Md. Code Ann., § 9-1201

Head Start classes. The Title I funding will also allow recipient schools to restore teacher positions to reduce class size, support reading and mathematics intervention, and provide ESOL support.

The IDEA funding will allow for the restoration of reductions originally proposed for the FY11 budget, including 20.5 special education teachers, 5 secondary intensive reading teachers, tuition for students in non-public placement, and special educational instructional materials. The IDEA funding will also allow the addition of hours-based staffing at 15 additional middle schools, technology to implement the Universal Design for Learning program, and other program improvements.

The additional funds from the Title I grants and IDEA grants, however, are targeted grants for specific purposes and do not represent general aid. Although a portion of this funding will allow MCPS to restore certain positions and activities that may have otherwise been eliminated in the FY11 budget, this aid generally did not have a positive or negative impact on meeting the State MOE requirement.

While we are still exploring other formula funding and competitive grant opportunities under the ARRA, Montgomery County Government and other local public agencies expect to receive approximately $36 million in funding for a variety of specific purposes, including transportation projects, bus replacement, workforce training, energy projects, public safety equipment, housing, weatherization, emergency shelter grants, Community Development Block Grants, homelessness prevention, and Community Services Block Grants. Since this funding is targeted for specific purposes and frequently carries standard Federal non-supplantation requirements, it cannot be used to supplement the County's local contribution or provide capacity for Montgomery County to increase its local contribution for K-12 schools.

MCPS also anticipates receiving $31.3 million in unrestricted federal aid as part of the State Fiscal Stabilization Fund (SFSF). This unrestricted revenue is used for general operating expenses. Although it reduces the burden on the State through FY11, the unrestricted ARRA aid will expire after FY11. Without further state or federal assistance, local governments will have to resume responsibility for these expenditures in FY12, called the "funding cliff." This looming responsibility makes it even more difficult for county government to increase its contribution to school aid in FY11.

Granting A Waiver Will Not Adversely Affect Educational Programs.

We are confident that granting this waiver request will not adversely affect the quality of our local public schools. In fact, the County Executive's recommended budget for FY11 would fund nearly 96 percent of the Montgomery County Board of Education's request (net of a request from the Board for $37.2 million in funding for a reserve account for future obligations). The reductions that would result from the County Executive's recommended level of funding include pre-funding for retiree health insurance ($42.9 million) and merit pay increases for employees ($25.8 million). The other reductions will be specified by the local Board of Education.

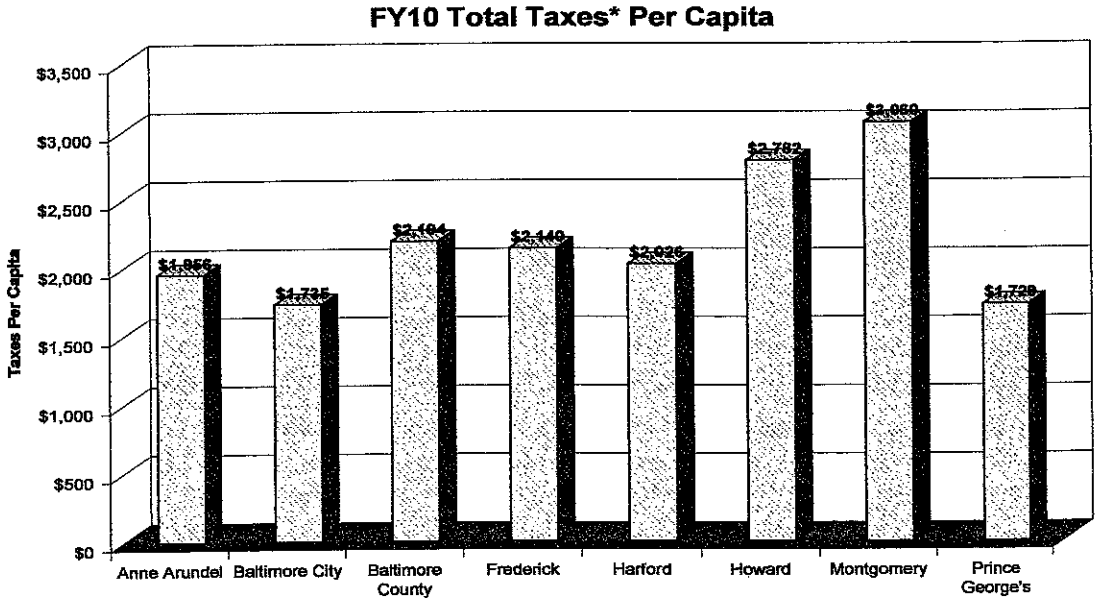
Finally, in this regard it is important to note that the Montgomery County Board of Education supports the County's request for a MOE waiver at the $1,415,085,344 level.

The County's Ability To Raise Additional Revenue Is Limited.

Montgomery County's ability to raise further revenue from additional local taxes has two major constraints. First, Section 305 of the Montgomery County Charter (see attached) requires the unanimous vote of the nine members of the County Council to increase real property tax revenue beyond the rate of inflation (less new construction and other minor categories). We do not support such an increase in the property tax rate, since it would impose an additional burden on families and businesses during this difficult economic time, and also given the fact that the County exceeded the limits imposed by Section 305 of the Charter in FY09 (an increase of 13 percent). Second, Montgomery County's income tax rate is currently at the State-allowed maximum rate, 3.2 percent.

However, the County Executive is recommending an increase in the local fuel energy tax of 100 percent to raise $151.3 million in additional revenues. In addition, the Executive is recommending an increase in the monthly wireless phone tax from $2 per line per month to $3 per line per month to raise an additional $11.853 million. But even with these significant revenue enhancements, the County will be unable to avoid deep service reductions even if the MOE requirement is not fully funded.

In short, the taxpayers of Montgomery County have been "tapped out" by existing local tax rates, as well as, the additional revenue enhancements recommended by the County Executive. As the chart below indicates, based on information provided by the Maryland Association of Counties, Montgomery County residents pay the highest per capita taxes of any of the major urban jurisdictions in the State.



*Includes property, income, transfer and recordation, energy, phone, and admissions and amusement taxes; and solid waste fees.

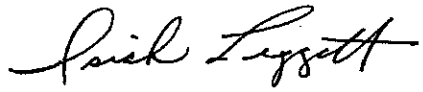
Source: Maryland Association of Counties. *Budgets, Tax Rates, & Selected Statistics Fiscal Year 2010*.

Conclusion.

In closing, we want to stress that education, especially K-12 education, is one of the most important priorities of Montgomery County. We are very proud of the accomplishments of our Public School system in reducing class size, significantly improving test scores, and preparing our children to be productive, well-educated, and responsible citizens. We are committed to investing the resources necessary to achieve these important results for our County and the State.

However, the severity and duration of the current economic recession and the consequent reduction in revenues leave us no responsible choice except to temporarily reduce the County's local contribution. The Montgomery County Board of Education voted on Monday, March 22, 2010 to support this waiver request (see attached resolution). We urge the State Board of Education to approve this request quickly in view of the County's fast-approaching budget deadlines. Thank you for your consideration.

Sincerely,



Isiah Leggett
Montgomery County Executive

Nancy Floreen, President
Montgomery County Council

IL/NN:jb

c: Anthony South, Executive Director, Maryland State Board of Education
Montgomery County Council
Patricia O'Neill, President, Montgomery County Board of Education
Jerry D. Weast, Ed.D, Superintendent, Montgomery County Public Schools
Richard S. Madaleno, Jr., Senator, District 18
Brian J. Feldman, Delegate, District 15

Attachments:

- Tax Supported Current Revenue FY09-FY11
- Revenues: Excerpt from County Executive's Recommended FY11 Operating Budget
- Section 305 of the Montgomery County Charter: Approval of the Budget; Tax Levies
- Overview of Economic Indicators and Revenues, Montgomery County Department of Finance, March 15, 2010
- Montgomery County Board of Education, Resolution in support of MOE Waiver, March 22, 2010
- Comprehensive Annual Financial Reports (Audited) FYs 2007-2009
- County Executive's Recommended FY11 Operating Budget
- Approved Montgomery County Operating Budget FY10
- Supplemental Information on County Fiscal Condition for FY10 and FY11:
  - Memorandum from County Executive Isiah Leggett, FY10 and FY11 Budget Adjustments, April 22, 2010
  - Memorandum from County Executive Isiah Leggett, Additional Revenue Write-down, April 13, 2010

- Memorandum from County Executive Isiah Leggett, March Income Tax Distribution and Rating Agency Feedback, April 5, 2010
- Memorandum from County Executive Isiah Leggett, Additional FY10 and FY11 Budget Actions, March 25, 2010
- County Fiscal Update to Montgomery County Council: February 23, 2010
- Memorandum from County Executive Isiah Leggett, FY10 Savings Plan Round II, January 7, 2010
- Memorandum from Joseph Beach, Director, Office of Management and Budget, Fiscal Plan Update, November 30, 2009
- Memorandum from County Executive Isiah Leggett on the FY10 Savings Plan Round I, October 28, 2009