



**Presentation
to the
Senate Budget and Taxation Committee
Local Government Briefing
January 21, 2010**

Thank you for the opportunity to speak with you today regarding the state of county finances, including our concerns regarding State budgetary reductions. The following individuals will present their perspectives on the pressing issues facing local jurisdictions, and respond to questions.

Wayne Cooper, President, Charles County Board of Commissioners
Richard M. Pollitt, County Executive, Wicomico County
Todd Mohn, Director of Public Works, Queen Anne's County
Michael Sanderson, Executive Director, MACo
Andrea Mansfield, Associate Director, MACo

Maryland's local jurisdictions have a direct impact on the everyday lives of individuals, yet they face challenges to meet the needs of their constituencies. Significant funding reductions in FY 2010 forced local governments to make very difficult decisions. These reductions have been carried over into the Governor's FY 2011 budget. As indicated in the budget documents, most local aid programs have been "flat funded" with each jurisdiction receiving funding at roughly the final adjusted level for FY 2010. Some jurisdictions however, are experiencing declines due to formula adjustments. In addition, many jurisdictions are already projecting shortfalls in FY 2011.

Although funding is not at the level we would like to see in the Governor's Budget, MACo and its members understand the fiscal challenges facing the State. However, we ask that you not misconstrue "flat funding" to mean funds to county governments have not been reduced. In fact, what "flat funding" really means is that approximately \$400 million in reductions is being carried over from the prior fiscal year. The magnitude of this reduction becomes more apparent when examining prior fiscal years.

State general and special fund aid to county and municipal governments has been reduced by 63% since FY 2007. The majority of these reductions have been made in Highway User Revenue (HUR). In FY 2007, HUR was funded at \$562.1 million. After being reduced 90% from what was approved by the General Assembly in April 2009, the FY 2011 HUR is funded at \$140.5 million. Significant reductions have also been made in the areas of health, public safety, land preservation, and direct county and municipal grants. When examining funds from all sources for FY 2007 to FY 2010, direct funding for County and Municipal Governments has declined by more than \$520 million while funding for Education and Libraries, Entitlements, and State agencies has increased by more than \$1 billion each. Education funding alone has increased by over \$1.3 billion. No area of State government has faced spending reductions approaching the magnitude suffered by local governments.

An area of frustration for many local officials is that while the State has protected education aid from reductions, the calculated percentage reduction to local government aid includes education. "Aid to Local Governments" is frequently said to be 40% of the State General Fund budget. However, looking more closely, approximately 38% is funding for education and a far smaller share of the General Fund

is direct funding to local governments. The counties continue to support education; most counties put more money into education than all other budget categories combined. However, when roughly half of every county budget has been taken off the table for reductions, it results in a jurisdiction being forced to take reductions in critical program areas, such as public safety, even though some efficiencies could have been achieved in the education area.

Compounding this frustration is county concern over the Maintenance of Effort (MOE) waiver process. When the General Assembly codified the waiver process in statute, the counties believed that it would provide a balanced process for a financially stressed county to waive all or part of its MOE requirement. However, based on the State Board of Education's summary denial of all three waiver requests earlier this year, MACo feels that the waiver process is neither objective nor balanced and must be reformed.

As local jurisdictions try to cope with the cuts already taken, there is fear that State aid may be cut even more in FY 2011. State aid reductions, those taken by the General Assembly and the Board of Public Works, combined with depletions in local government revenues caused by the economic slowdown have already forced local governments to make the same range of difficult decisions the State has had to make over the last year.

- Eighteen counties are not providing cost of living adjustments (COLA) to employees
- Twelve counties have enacted layoffs
- Nine counties have enacted furloughs or salary reductions
- Eighteen counties are eliminating positions
- Seventeen counties have dipped into Rainy Day or other reserve funds
- Twenty counties have cut department budgets with amounts ranging up to 25%

Most, if not all, jurisdictions face significant shortfalls in their FY 2011 budgets. These shortfalls are expected to continue over the next few years due to decreases in property tax assessments for commercial and personal property. Local governments are already planning additional reductions in staff and agency budgets to make ends meet. Further reductions in State aid will exacerbate this shortfall, forcing jurisdictions to make drastic reductions in services or raise property taxes. Regardless of the approach, this could put our local officials in a very difficult position and jeopardize citizen services during the next few years.

In closing, MACo and its members understand the challenge of balancing the FY 2011 budget and the expectation that all entities receiving funds from the State share in this challenge. However, we would like to note that State aid to local government is only one piece of the puzzle and not a major driver, as pointed out in a DLS presentation from the fall of 2009. MACo believes that local governments have already paid their fair share towards balancing the State's budget and respectfully requests that they not be subjected to more reductions.

Thank you for the opportunity to speak with you today.

Exhibit 1

State Aid to County and Municipal Governments - Recent Actions and Trends

| <u>Area of Support</u> | <u>FY 2007 funding</u> | <u>FY 2011 funding</u> | <u>Percent Change</u> | <u>Budget Actions This Term</u> |
|---|----------------------------|----------------------------|---------------------------|--|
| Transportation | 562.1 | 147.7 | -74% | Highway User Formula reduced \$18m/yr - 2007 special session Highway User Revenues reduced \$162 million - 2009 regular session Highway User Revenues permanently reduced - 2009 regular session Highway User Revenues reduced by 90% for most - 2009 BPW |
| Public Safety (including local jail reimbursements) | 130.5 | 88.0 | -33% | Local jail reimbursements eliminated for FY 2010 - 2009 regular session Local jail reimbursements reduced permanently - 2009 regular session Police Aid reduced by \$20.5m - 2009 BPW |
| Land Preservation | 135.6 | 15.3 | -89% | Local POS funds diverted to support state parks - 2007 special session |
| Direct County & Municipal Grants | 149.3 | 113.0 | -24% | Electric utility grant eliminated - 2007 special session Disparity grants "capped" permanently - 2009 special session Disparity grant reduced \$24.4 million - formula calculation |
| Total | 977.5 | 364 | -63% | Direct county funding rolled back to approximately the 1984 level |

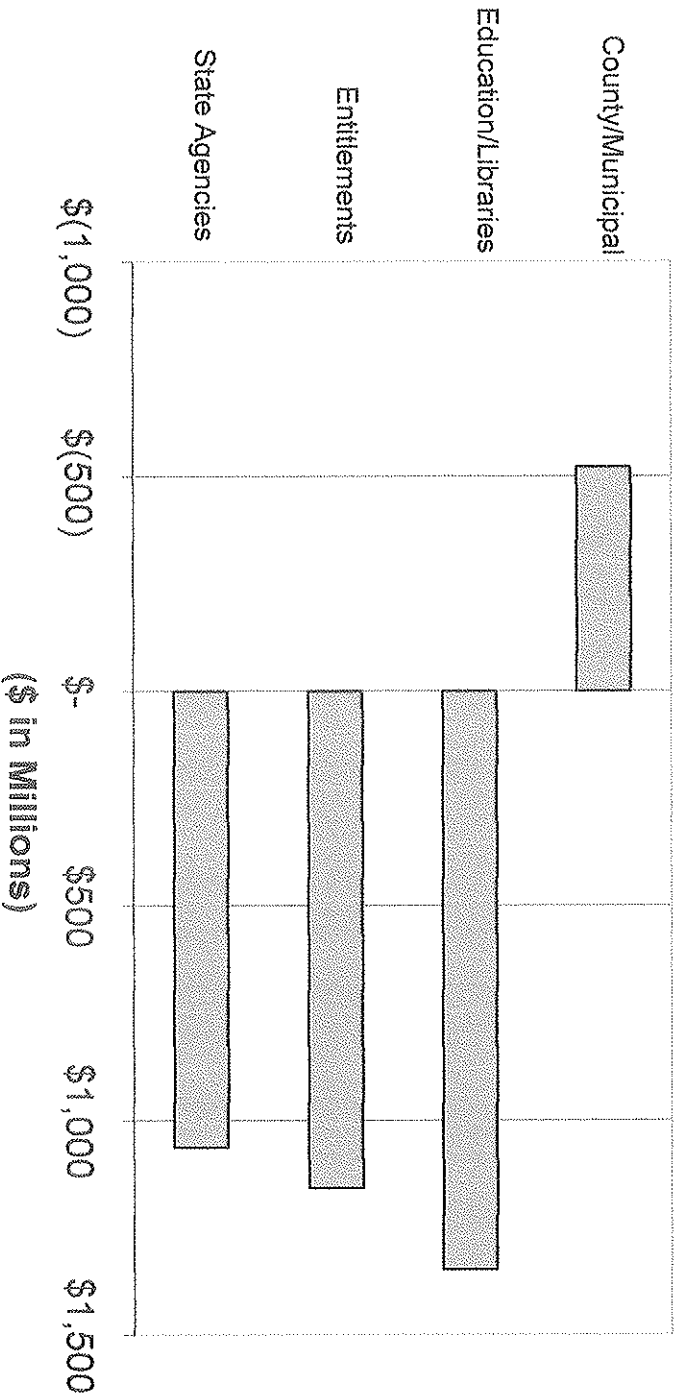
Source: Department of Budget and Management; Department of Legislative Services

Exhibit 2
FY 2010 Highway User Revenues

Statutory Funding to Final Appropriation
(Figures include municipal share of each county's distribution)

| County | Statutory (Governor's) | | Legislative | | August BPW | | August 2009 Final | | % Reduction |
|-----------------|------------------------|------------------------|----------------------|----------------------|----------------------|-------------|-------------------|--|-------------|
| | Budget | Legislative Reductions | Appropriation | Reduction | Appropriation | | | | |
| Allegany | \$6,277,828 | 2,150,846 | \$4,126,982 | 3,714,284 | \$412,698 | -93% | | | |
| Anne Arundel | 27,405,756 | 17,055,894 | 10,349,862 | 9,314,876 | 1,034,986 | -96% | | | |
| Baltimore | 36,865,441 | 19,658,194 | 17,207,247 | 15,486,522 | 1,720,725 | -95% | | | |
| Calvert | 6,091,755 | 2,970,551 | 3,121,204 | 2,809,084 | 312,120 | -95% | | | |
| Caroline | 4,360,245 | 1,576,303 | 2,783,942 | 2,505,548 | 278,394 | -94% | | | |
| Carroll | 12,310,764 | 5,231,233 | 7,079,531 | 6,371,578 | 707,953 | -94% | | | |
| Cecil | 6,822,270 | 2,994,712 | 3,827,558 | 3,444,802 | 382,756 | -94% | | | |
| Charles | 8,835,512 | 4,129,168 | 4,706,344 | 4,235,710 | 470,634 | -95% | | | |
| Dorchester | 4,820,963 | 1,726,739 | 3,094,224 | 2,784,802 | 309,422 | -94% | | | |
| Frederick | 16,239,067 | 7,311,497 | 8,927,570 | 8,034,813 | 892,757 | -95% | | | |
| Garrett | 5,458,897 | 1,942,885 | 3,516,012 | 3,164,411 | 351,601 | -94% | | | |
| Harford | 14,296,940 | 6,321,792 | 7,975,148 | 7,177,633 | 797,515 | -94% | | | |
| Howard | 13,573,627 | 7,162,732 | 6,410,895 | 5,769,806 | 641,089 | -95% | | | |
| Kent | 2,450,207 | 953,961 | 1,496,246 | 1,346,621 | 149,625 | -94% | | | |
| Montgomery | 38,505,000 | 23,323,610 | 15,181,390 | 13,663,251 | 1,518,139 | -96% | | | |
| Prince George's | 33,545,193 | 15,388,358 | 18,156,835 | 16,341,152 | 1,815,683 | -95% | | | |
| Queen Anne's | 5,045,478 | 2,154,251 | 2,891,227 | 2,602,104 | 289,123 | -94% | | | |
| St. Mary's | 6,782,382 | 2,926,073 | 3,856,309 | 3,470,678 | 385,631 | -94% | | | |
| Somerset | 2,912,595 | 957,884 | 1,954,711 | 1,759,240 | 195,471 | -93% | | | |
| Talbot | 4,015,447 | 2,139,692 | 1,875,755 | 1,688,180 | 187,575 | -95% | | | |
| Washington | 10,445,267 | 4,396,889 | 6,048,378 | 5,443,540 | 604,838 | -94% | | | |
| Wicomico | 8,141,477 | 2,944,652 | 5,196,825 | 4,677,143 | 519,682 | -94% | | | |
| Worcester | 5,982,463 | 3,666,660 | 2,315,803 | 2,084,223 | 231,580 | -96% | | | |
| Subtotal | \$281,184,574 | \$139,084,576 | \$142,099,998 | 127,890,001 | \$14,209,997 | -95% | | | |
| Baltimore City | 189,215,424 | 22,834,424 | 166,381,000 | 31,612,390 | 134,768,610 | -29% | | | |
| Total | \$470,399,998 | \$161,919,000 | \$308,480,998 | \$159,502,391 | \$148,978,607 | -68% | | | |

Change in Spending - All Funds FY 2010 over FY 2007



Notes: County/Municipal does not include community colleges and health; Totals include BPW reductions from July and August 2009
 Source: Department of Legislative Services, 90 Day Report; Department of Budget and Management

2009 Interim Recommendations of the Joint Legislative Workgroup to Study State, County, and Municipal Fiscal Relationships Regarding Maintenance of Effort Waiver Process

Make adjustments to the current maintenance of effort (MOE) waiver process

Alter the deadlines:

1. County application deadline: Seven days following the end of session or May 1, whichever is earlier
2. State Board of Education decision deadline: June 1 or 45 days after receipt, whichever is earlier

Codify in State law the following eight factors to be considered by the State Board of Education in deciding whether to grant a waiver::

1. external environmental factors such as a loss of a major employer or industry
 2. tax bases
 3. rate of inflation relative to growth of student population
 4. maintenance of effort requirement relative to the county's statutory ability to raise revenues
 5. history of exceeding required MOE amount
 6. agreement between county government and school board
 7. broad economic downturn
 8. significant reductions in State aid to counties and municipalities
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MACo Recommendations for Additional MOE Adjustments

1. General Relief for the Difficult Year Ahead

Leaving a budget-breaking decision like Maintenance of Effort unresolved until May or later leaves counties with inadequate flexibility to manage a tough budget year. Given the deep cuts proposed in the State budget, counties should receive a statutory waiver from MOE in FY 2011

2. Remedy Perplexing FY 2010 Denials

Counties who sought relief during the FY 2010 budget, including working to a resolution with school boards, now face a loss of State school funding. Full funding should remain intact.

3. Create an "Economic Waiver" Process for the Toughest Situations

Counties facing the very toughest fiscal situations – actual declines in overall revenue sources – should be able to rely on MOE flexibility as part of their responsible budget planning. An "objective" waiver (even one capped at a certain amount) would provide needed certainty.

4. Honor Local Agreements

The State Board should not simply "consider" a local agreement between the school board and county on local funding, they should honor it and approve any necessary accompanying waiver.

5. Create a Right of Appeal Following Waiver Decisions

Current law does not provide any grounds for an appeal following a decision of the State Board of Education – effectively denying a county seeking a waiver some degree of due process. A timely and impartial appeal before an appropriate body would allow a fuller consideration of these budget-driven

Maintenance of Effort (MOE) WAIVER REFORM NEEDED

CURRENT WAIVER PROCESS IS BROKEN AND NEEDS REFORM!

Counties are committed to education, exceeding MOE requirements by \$1.2 billion from FY 2004-09. Yet when counties need help, they are now being penalized for their prior efforts, as evidenced by the blanket waiver denials of Montgomery, Prince George's, and Wicomico Counties by the State Board of Education in 2009.

The current waiver process is overly subjective. In its opinion to Wicomico County, the State Board stressed the need for more collaboration with its local school board. Yet in its opinion to Montgomery County, which exceeded MOE by \$408 million for FY 2004-09 and had an agreement with its local school board, the State Board seemed to discount the county's collaborative efforts.

JOINT WORKGROUP RECOMMENDATIONS ARE A GOOD START BUT MORE IS NEEDED!

MACo supports the 2009 interim recommendations of the Joint Legislative Workgroup to Study State, County, and Municipal Fiscal Relationships on MOE waiver reform. The Workgroup recommends altering the application and decision deadlines for waivers and codifying eight factors that must be considered by the State Board of Education in deciding whether to grant a waiver. These include external environmental factors such as the loss of a major employer, tax bases, history of exceeding MOE, broad economic downturn, and significant reductions in State aid to counties and municipalities. But more is needed to fix the waiver process.

MACo SUPPORTS THE FOLLOWING ADDITIONAL REFORMS

Retroactive Fix to Address Montgomery and Prince George's Counties for FY 2010

After their waiver denials, both Montgomery and Prince George's Counties made good faith attempts to meet MOE while still addressing their significant budget challenges. A subsequent Attorney General's Opinion found that both counties failed to meet MOE. Corrective action is needed to ensure that millions of dollars of future school aid to these counties is not put at risk. Otherwise, Prince George's County could lose approximately \$27 million in aid and Montgomery County could lose \$45 million.

MACo supports the addition of uncodified language stating that for FY 2010 only, counties deemed to have failed to meet MOE are not required to comply with the MOE provisions of § 5-202(d) of the Education Article.

"Blanket" Waiver for FY 2011

Like the State, counties have been struggling with budget deficits and the economy. But, unlike the State which may be bottoming out in this economic downturn, counties will remain in decline over the next several years as falling property tax assessments are fully realized. Since FY 2007, State aid to local governments has declined by 60%, rolling direct county funding back to approximately the 1984 level, and more cuts are expected this Session. During the last major fiscal crisis in the early 90s, the General Assembly granted counties a "blanket" waiver. Counties again need a "blanket" waiver to address comparable budgetary challenges.

Exhibit 5

Right of Appeal

MACo believes that one way to reduce the subjectivity or arbitrariness of the current waiver process would be to allow for a statutory right of appeal to a neutral entity. In consideration of efficiency and time, only one appeal should be allowed and the appeal should be resolved as quickly as possible.

Economic Waiver Process

Another way to make the waiver process less subjective would be to automatically grant a waiver when certain statutorily defined objective criteria show that State or county revenues are in decline. A waiver equal to 5% of a county's MOE requirement should be granted to a requesting county if:

- (1) The Board of Revenue Estimates, in its December or March report, predicts that revenue from the individual income tax and sales and use taxes (adjusted for any changes in tax rate or application) will be lower in the upcoming fiscal year than was predicted for the current fiscal year in the previous March estimate; OR
- (2) The State Department of Assessments and Taxation determines the county's constant yield tax rate is higher than the county's current property tax rate.

A county would still have to request a waiver under the existing process. Capping the waiver at 5% provides a level of certainty to both county governments and local school boards. If a county seeks a larger waiver, it would have to still have to apply to the State Board.

Agreement Between County Government and County School Board

MACo believes that a waiver should also be automatically granted to a county if the county government and county school board agree on the waiver. This encourages collaboration between the two parties who are most in tune with local budget stresses and local education needs. The State should honor such local agreements.