# Nassau County Legislature
# Office of Legislative Budget Review

## Fiscal Year 2008 Outlook &
## Review of the Updated Multi-Year Plan

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**May 9, 2008**

The County's 2008 Adopted Budget contained numerous risky items. Many of those items remain at risk and some definitely will not be achieved. For example, for the second straight year the budget included $4.1 million in State aid reimbursement for payments the County makes to Fashion Institute of Technology in New York City (FIT) for Nassau County residents who attend the Institute. Since the funding for the FIT Reimbursement initiative was not included in the Adopted State 2008 – 2009 Budget, OMB has removed the associated $4.1 million in revenue from its 2008 projections.

OMB is projecting a near break-even position for year end, and without any actions, OLBR is projecting a deficit of $23.6 million as demonstrated in Table 1. The Office of Legislative Budget Review (OLBR) has taken a more conservative approach to salary expenses and new revenue initiatives. However, through fiscal management, the use of reserves, and perhaps the recognition of some non-recurring revenue the Administration may be able to end the year with a small surplus. In addition, after we receive the results of the arbitration awards for SOA and CSEA the projections may be slightly revised.

**Table 1: Summary of Major Funds**

| Adopted Budget vs. Projections | | | |
|---|---|---|---|
| | **Adopted Budget** | **OMB Projections** | **OLBR Projections** |
| **Revenues** | | | |
| Fund Balance | $10,000,000 | $10,000,000 | $10,000,000 |
| Non-Tax Sources | 356,996,580 | 352,214,401 | 353,432,352 |
| Federal Aid | 120,396,948 | 120,947,680 | 118,437,923 |
| State Aid | 220,965,546 | 219,366,554 | 203,533,826 |
| Sales Tax | 1,042,557,825 | 1,042,557,825 | 1,042,557,825 |
| Property Tax | 773,371,054 | 773,371,054 | 776,227,616 |
| Other Taxes | 34,233,495 | 33,928,495 | 33,958,495 |
| **Total Revenues** | **$2,558,521,448** | **$2,552,386,009** | **$2,538,148,036** |
| | | | |
| **Expenses** | | | |
| PS | $1,260,374,688 | $1,266,593,366 | $1,274,962,180 |
| OTPS | 445,978,691 | 430,324,849 | 431,388,718 |
| Direct Assistance | 537,441,231 | 541,546,251 | 541,546,251 |
| Debt Service | 314,726,838 | 313,894,838 | 313,894,838 |
| **Total Expenses** | **$2,558,521,448** | **$2,552,359,304** | **$2,561,791,987** |
| | | | |
| **Surplus/Gap Projection** | **$0** | **$26,705** | **($23,643,951)** |

The major areas where OLBR and OMB differ are as follows:

1. State initiatives worth $15.5 million. Nassau County is seeking State approval on numerous items that will increase County revenue, many of which are included as potential gap closers. Foremost amongst the State Legislative items was the Uniform Filing Fee bill. If passed, Nassau County would have been able to opt into the higher fee schedule.
2. The Advertising, Market Based Revenue Initiative budgeted at $4.5 million for Parks to date has not been realized. According to Parks, two proposals and presentations were

received this year. A committee is currently reviewing and will rate the proposals in the near future.

3. OLBR is projecting $3.1 million less in County Clerk revenue due to the housing market.
4. Other significant areas where OLBR is projecting less revenue are TPVA, Consumer Affairs, federal inmates and investment income.
5. On the expense side, OLBR's worker's compensation and overtime expenses are greater.
6. It should be noted that funding will be available to offset the Correctional Center deficit from the 2005, 2006 and 2007 accruals, which exceeds the actual cost of the award by approximately $12.3 million. OMB is reflecting this as reduced expenditures and OLBR is recognizing it as revenue as per the Comptroller.

The County should achieve some savings as they relate to the SOA and CSEA based on the wage pattern established in the PBA and DAI awards and the ShOA MOA. However, since those awards and MOA fell short of their aggressive goals, the same can be expected for SOA and CSEA.

Other areas of concern are as follows:

- Through the checks received as of May 9, sales tax has grown by 2.2% compared to 2007. At that rate, unless the economy and housing market dramatically improve in 2008, revenue from sales tax has the potential of being overstated by $6.2 million.
- Police overtime is estimated to be over budget by $5.3 million. The number will grow if there is any slippage in the hiring plan.
- For 2008 there is $42.3 million included in the County's major funds for utility expense, of which approximately $31.5 million is allocated towards energy costs. At this time OMB is still projecting the utility line to be on budget. However, in a March 28 Newsday article, Kevin Law, LIPA chief executive, was quoted as saying a rate increase due to rising fuel costs this year was "certainly possible." In light of that possibility, this budget component may be at risk.

Debt service is projected to remain on target for FY 08. The County was exposed to a potential risk of nearly $6.0 - $8.0 million due to the breakdown of the Auction Rate Securities (ARS) market. However, NIFA plans to restructure maturing debt (on non-ARS bonds) in order to offset the higher ARS expenses. As a result, there will be no impact on the County's 2008 budget.

## Updated MYP

The out-year gaps estimated by the Administration have been increased since the MYP was adopted. The gaps as illustrated in Table 2 are $134.3 million in FY 09, $174.6 million in FY 10 and $194.6 million in FY 11.

**Table 2: Changes to Adopted FY 08 – FY 11 MYP**
($'s in millions)

| | 2009 | 2010 | 2011 |
|---|---|---|---|
| **Adopted Surplus/Gap Projection** | ($124.8) | ($174.6) | ($197.6) |
| **Revenues** | | | |
| Fund Balance | $0.0 | $0.0 | $0.0 |
| Non-Tax Sources | 4.0 | 4.0 | 4.0 |
| Federal Aid | 0.8 | 0.8 | 0.9 |
| State Aid | 1.0 | 1.1 | 1.2 |
| Sales Tax | 0.0 | 0.0 | 0.0 |
| Property Tax | 0.0 | 0.0 | 0.0 |
| Other Taxes | (0.3) | (0.3) | (0.3) |
| **Total Revenues** | **$5.5** | **$5.6** | **$5.8** |
| **Expenses** | | | |
| Salaries | $15.2 | $7.5 | $3.1 |
| Fringe Benefits | ($0.9) | ($1.1) | ($1.2) |
| OTPS | (3.6) | (5.3) | (3.9) |
| Direct Assistance | 4.3 | 4.5 | 4.7 |
| Debt Service | 0.0 | 0.0 | 0.0 |
| **Total Expenses** | **$15.0** | **$5.6** | **$2.7** |
| **Updated Surplus/Gap Projection** | **($134.3)** | **($174.6)** | **($194.6)** |

### Salaries

The main cause for the increase in the gap is due to the change in the estimate for salaries. The Updated MYP reflects greater salary expense of $15.2 million in FY 09, $7.5 million in FY 10 and $3.1 million in FY 11. The wage deferments contained in the various labor agreements and shortfall in achieving the targeted labor savings has resulted in the recalculations by the Administration.

The Correctional Center salaries are increasing from the Adopted MYP by $9.5 million in 2009, $4.7 million in 2010 and $3.1 million in 2011. This is to address overtime expenses which the administration projects to be over budget in 2008 by $4.4 million and a ShOA contractual savings shortfall of $4.4 million. Police salaries have been adjusted in both funds to reflect the recent labor awards and new hiring plan. Police salaries in the Police District fund are increasing from the Adopted MYP by $4.9 million in 2009, $3.6 million in 2010, and $2.6 million in 2011. Salaries in the Headquarters fund are decreasing by $34,279 in 2009, $1.7 million in 2010, and $3.5 million in 2011.

**Fringes**

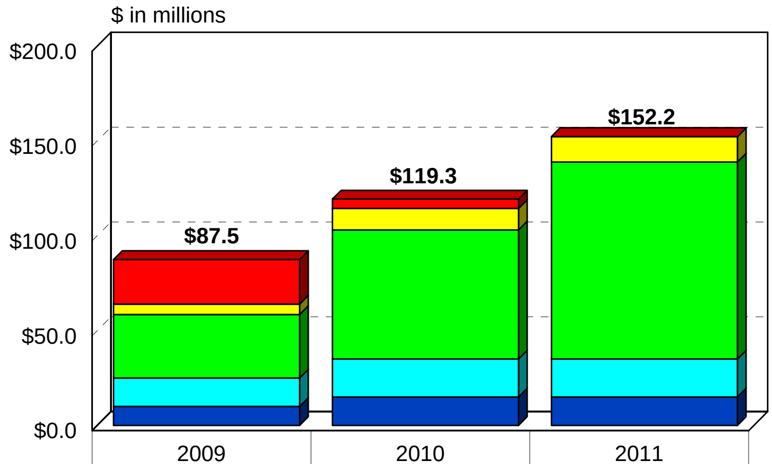
Fringe benefits costs have been reduced from the Adopted Multi-Year Plan by $904,000 in FY 09, $1.1 million in FY 10 and $1.2 million in FY 11 as reflected in Table 2. The reductions result from lowered active and retired health insurance costs, dental insurance costs, Medicare Part B reimbursement costs and fringe savings. These reductions are partially offset by increased social security costs. Social security costs have increased by $3.4 million in FY 09, $3.6 million in FY 10 and $3.9 million in FY 11. Social security costs have been revised to correspond with increased projected salary costs in the Updated Multi-Year plan.

Following are the other major changes in assumptions shown in Table 2:

- Non-tax sources has been increased by $4.0 annually from FY 09 to FY 11. This reflects increased revenue expected from housing Suffolk County inmates, ambulance billing and from actions by the County Attorney. The revenue is being slightly offset by reduced expectations from OTB profits.
- Federal Aid reimbursement is increasing by $770,000 in 2009, $810,000 in 2010 and $890,000 in 2011 due to increasing expenses for day care, TANF, and Safety Net.
- State Aid reimbursement is increasing in the out years by $1.0 million in 2009 and $1.1 million in 2010 and $1.2 million in 2011. There are a number of factors that are increasing the reimbursement including increasing expenses for early intervention, day care, TANF, and Safety Net. This is being partially offset by lower projected salaries, reduced reimbursement for part of the PINS expenses being contracted out, and a two percent reduction across the board for programs excluding Medicaid, TANF and Safety Net expenses.
- Other taxes is decreasing as a result of reduced estimated revenue from the entertainment tax and the OTB surcharge due to the economy
- The change in OTPS expenditures reflects the decrease in contingency reserves included in the County's out-years' baseline, as well as utility expenses.
- Direct Assistance has been increased because:
    1. Early intervention is increasing in the out-years from the Adopted MYP by $2.7 in 2009, $2.9 million in 2010 and $3.0 million in 2011. This is due to an increase in the base expected after a review of the 2007 final expense for this program.
    2. Recipient Grants are increasing by about $0.5 million in each of the out-years due to a higher than originally anticipated caseload for TANF and Safety net recipients.
    3. Purchased services are increasing by about $1.0 million in the out-years due to a 2.2% increase in the market rates for daycare that was not anticipated in Adopted Plan.

The County Executive has proposed five major items to help reduce the projected out-years' gap. The plan encompasses a two-pronged approach. The first part is illustrated in Chart 1.

**Chart 1: Updated Gap Closing Measures 2009 -2011**




| | 2009 | 2010 | 2011 |
|---|---|---|---|
| Tobacco Proceeds/Reserves | $23.5 | $5.0 | $0.0 |
| Initiatives | $5.5 | $11.3 | $13.4 |
| Property Tax/New Construction | $33.5 | $68.1 | $103.9 |
| Health Insurance Savings | $15.0 | $20.0 | $20.0 |
| Workforce Management | $10.0 | $15.0 | $15.0 |

The components of the gap closing measures are the same as in the Adopted MYP, except that the impact from the initiatives has been reduced as reflected in Table 3. The smart government initiatives only include two proposals that will require approval from the State. They are the commercial tax grievance filing fee and the lost handicapped permit fee. The commercial tax grievance filing fee has appeared in previous MYP's and continues to be considered a risk.

The highlighted items reflect the initiatives whose values have changed.

**Table 3: Smart Government Initiatives**

| Responsible Dept. | Initiative Name | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| CC | Electronic Court Appearances | $0 | $500,000 | $520,000 |
| PD | Police Academy Adjunct Instructors | 445,329 | 463,587 | 482,595 |
| PD | Radio Tower Usage Fee | 768,000 | 791,808 | 816,354 |
| Health | Day Camp Inspection Fees | 78,000 | 78,000 | 78,000 |
| Health | Pre-Demolition Site Inspection Fees | 67,000 | 67,000 | 67,000 |
| Health | Realty Subdivision Fee | 25,000 | 25,000 | 25,000 |
| Health | Tanning Salon Fees | 4,000 | 4,000 | 4,000 |
| Physically Chal. | Lost Handicapped Permit Fee | 25,000 | 25,000 | 25,000 |
| OHIA | New York State Empire Zones Program | 2,000,000 | 4,000,000 | 6,000,000 |
| Social Services | Persons in Need of Supervision PINS | 0 | 0 | 0 |
| OMB | Risk Management | 75,000 | 175,000 | 175,000 |
| OMB | Revenue Options | 942,557 | 1,195,469 | 1,240,630 |
| OMB | Energy Efficiency | 1,064,130 | 546,128 | 546,128 |
| County Attorney | Commercial Tax Grievance Filing Fee | 0 | 3,400,000 | 3,400,000 |
| | **Total MYP Updated Initiatives** | **$5,494,016** | **$11,270,992** | **$13,379,707** |
| | Total From Adopted MYP | 9,794,114 | 11,799,482 | 13,928,351 |
| | **Change in Impact from Initiatives** | **($4,300,098)** | **($528,490)** | **($548,644)** |

The **electronic court appearances** initiative uses audio/video technology to allow inmates to participate in court proceedings or to meet with their attorneys via teleconferencing. It is anticipated that overtime can be reduced as the number of inmates transported to hearings and attorney conferences at District Court are reduced. There is some risk as the initiative would require a legislative amendment to the Criminal Procedure Law and approval is required by the Office Court of Administration. Based on the experience of New York City, revenue is not anticipated until 2009 due to the time it takes to set up the system. In the Adopted MYP this initiative was expected to begin saving $500,000 in FY 09, $520,000 in FY 10, and $540,800 in FY 11. The Updated MYP moves the $500,000 savings out a year to FY 10 and the $520,000 savings to FY 11. The Administration has stated that the initiative has required more analysis than originally anticipated.

The **Persons In Need of Supervision (PINS)** initiative is related to a statewide effort to reduce the placement of persons in need of supervision in detention facilities through increased diversion services. Diversion services include respite centers and cooling off locations. These alternatives are less costly than residential placement, and are more appropriate for the less serious cases. Savings are reflected as reduced expenses in the emergency vendor payments line of DSS. Although the Adopted MYP projects savings of $50,343 in FY 08 and $103,204 in the out years, this initiative was removed from the Updated MYP because savings in 2007 was much greater than expected in both 2007 and 2008. While it is difficult to separate out the amount of cost reduction that is due to this initiative, the total cost for PINS emergency services did decline from $17.1 million in 2006 to $15.7 million in 2007.

The **revenue options initiative** increases fees in various departments, with adjustments for inflation after two years. The departments under consideration are CASA, Consumer Affairs, County Attorney, Civil Service, Police, Planning, Public Works, and Treasurer. The fees to be increased include the contract processing fee, document translations, citizenship applications, home improvement permits and licenses, bank ATM, entry and promotional exam fees, and physicals. The County Legislature will have to approve the proposed fee levels. Another aspect of this initiative is to utilize the Accounts Receivable Module in FAMIS, the County's financial system, to ensure prompt collection and resolution of old outstanding items.

The Update to the MYP has revised the revenue totals that were in the Adopted MYP, discounting them by 30%.

The **commercial tax grievance filing fee initiative** will attempt to obtain State authorization to allow the County to impose a $225 per parcel grievance filing fee on those commercial property owners who challenge their assessments. This is consistent with the fee that the State Legislature assigned to obtaining the index numbers for tax certs in the court system. The revenue estimate is based upon 15,000 grieved parcels, yielding $3,375,000.

State legislative approval is necessary for the implementation of the commercial tax grievance filing fee initiative. In the Adopted MYP it was assumed that revenue would be generated in 2009, but the Updated MYP has changed the initial implementation to FY 10.

The largest component of the gap closing measures is **Property Tax/New Construction**, with a value of $103.9 million in FY 11. The increase from property taxes is based on an annual CPI-related increase of 3.9% in the total property tax levy of the Major Funds in each year of the Plan worth $92.2 million in FY 11. The additional $11.7 million is the estimated value of property taxes that could be added from new construction.

The second largest gap closing component of the Plan comes from **Health Insurance Savings**. The County continues to seek alternatives to reduce the cost of both active employee and retiree health insurance. This item is worth $15 million in 2009, $20 million in 2010 and $20 million in 2011. The Administration has put together a work group to explore health insurance savings options. They will look at a myriad of options ranging from shared cost reductions, self-insurance and the possible benefit of a change in provider. It appears that based on the rates the County is paying there is an opportunity for savings. However, since many of the changes that the Administration is considering will require the approval of the unions and perhaps NYSHIP as well, this item is a risk.

The Administration expects to achieve **Workforce Management Savings** through evaluation of every hire request against performance measures established for each department. It is assumed that with attrition the County will save $10.0 million in 2009, $15 million in 2010 and $15 million in 2011. The assumptions are reasonable.

There are two gap closing measures that will further exhaust the County's reserves. The plan is to use $23.0 million in 2009 and $5.0 million in 2010 from the tobacco proceeds. Also, the County will draw down the balance of $0.5 million from the Pension Contribution Reserve Fund in 2009.

The Administration will continue to use the MYP to demonstrate its commitment to gradually include the payment for ordinary judgments and settlements in the operating budget. As shown in Table 4, the County will allocate $5 million in 2009, $10 million in 2010 and $15 million in 2011 for judgments and settlements. After this action, coupled with the gap closing measures, the County is left with a gap of $51.8 million in 2009, $65.3 million in 2010 and $57.4 million in 2011. The Administration plans to address this remaining gap with the options listed in Table 4. These are exactly the same options that were presented in the Adopted MYP.

**Table 4: Options to Close Remaining Gap**
($'s in millions)

| | 2009 | 2010 | 2011 |
|---|---|---|---|
| **Estimated Baseline Gap (Table 2)** | **($134.3)** | **($174.6)** | **($194.6)** |
| Total Gap Closing Measures (Chart 1) | 87.5 | 119.3 | 152.2 |
| PAYGO Judgments & Settlements | (5.0) | (10.0) | (15.0) |
| **Deficit After Gap Closing Measures** | **($51.8)** | **($65.3)** | **($57.4)** |
| **Options to Close Remaining Gap** | | | |
| Video Lottery Terminals | 20.0 | 20.0 | 20.0 |
| Cigarette Tax | 28.4 | 28.4 | 28.4 |
| Red Light Cameras | 7.0 | 7.0 | 7.0 |
| Discretionary Programming Reductions | 7.5 | 7.5 | 7.5 |
| Debt Restructuring | 0.0 | 5.0 | 5.0 |
| Residential Energy Tax | 21.0 | 21.6 | 22.3 |
| **Total Options** | **$83.9** | **$89.5** | **$90.2** |
| **Surplus/(Deficit) if All Successful** | **$32.1** | **$24.2** | **$32.8** |

If all the options could be successfully implemented the County would have a surplus of $32.1 million in 2009, $24.2 million in 2010 and $32.8 million in 2011. While even the Administration does not expect this to happen, it is very questionable if any of them will materialize.

## Video Lottery Terminals

The Administration has estimated that the County could receive $20 million annually starting in 2009 from the installation of video lottery terminals (VLT's) at Belmont Raceway as an option to close the remaining gap. Former Governor Spitzer stated that, "The recommendation to the legislature does not contemplate development of a VLT facility at Belmont Park".[1] He signed a Memorandum of Understanding, (MOU), with the New York Racing Association, (NYRA), recommending that they be awarded the State's racing franchise to operate Aqueduct Racetrack, Belmont Park and Saratoga Race Course.

There have not been any actions since then to suggest that anything will change in the near future. Even if the State leaders change their position on Belmont, it does not necessarily mean that any revenue would go to the County government, it could just as easily go to the school districts.

[1] "State Seeks Experienced Gaming Operator For VLT Facility At Aqueduct", http://www.ny.gov/governor/press/index.html, September 12, 2007.

**Cigarette Tax**

Starting in 2009 the Administration has included $28.4 million annually from the imposition of a $2 per pack cigarette tax. This item requires State approval which the County has sought unsuccessfully in the past. Of the various municipalities in New York, only New York City has been approved for a tax, none of the counties. Therefore this option would appear to be very optimistic. Also, as consumption continues to decrease the revenue estimate should be lowered.

**Red Light Cameras**

Revenue projected for red light cameras depends directly on State authorization. There is a proposed bill in the State Senate (S4296) and Assembly (A7181) that would empower the County to install and operate traffic-control signal photo violation-monitoring devices at no more than 50 intersections within the County. Nassau County could supplement its law enforcement capacity by installing a red light camera system to identify vehicles that run red lights. New York City has had this system in operation since 1994. While the Administration has promoted this measure as a public safety initiative, it is estimating that the County will earn $7.0 million annually in net revenue. The State Senate approved the legislation April 30, 2008, but it still awaits action by the Assembly.

**Discretionary Programming Reductions**

The only item that is in the sole control of the County Executive is discretionary programming reductions valued at $7.5 million annually starting in 2009.

**Residential Energy Tax**

In recent plans the Administration has included implementing a residential energy tax. They have estimated the County could earn $21.0 million in FY 09, $21.6 million in FY 10 and $22.3 million in FY 11. Members of the County Legislature have expressed displeasure with this item in the past and while the amounts in the MYP are less than half of what has been proposed in previous years, this proposal will probably continue to face great resistance.

**Debt Restructuring**

The Administration has included $5 million in 2010 and 2011 from savings from a possible debt restructuring in the future. Market forces at the time will dictate if this gap closing item is feasible.

## Conclusion

The 2008 budget that was adopted in October 2007 was flawed. It strayed from the conservatism that was prevalent in the past. It was based upon the dubious assumption of numerous optimistic revenue estimates and the drawing down of a significant percentage of the County's reserves. The former conservative budgeting practices provided a cushion against unforeseen expenses or revenue shortfalls, while helping to generate budget surpluses each year.

These thoughts were echoed by FitchRatings when it revised the County's rating outlook to Stable from Positive. Fitch believes that the county's 2008 budget and 2008-2011 multi-year financial plan (MYP) are less conservative than in past years, exhibiting continued reliance on speculative cost saving measures, many of which require state legislative approval. Further, the out-years of the MYP rely on the assumption that recurring revenues will be raised through property tax increases, which the county has deferred for the last several years. Fitch notes however, that the county has been successful in closing the forecasted budget gaps in each MYP submitted since fiscal 2002, primarily through much improved financial management, achieving labor concessions, and a state-imposed cap on annual growth in Medicaid expenses.[2]

The ability to achieve the gap closing measures in the out-years is very questionable. Some answers will be provided from whatever actions the State takes regarding the County's legislative agenda. Ultimately the success of the County will require a fundamental change in what services are provided and how they are provided to the citizens. The County cannot continue to fund its expenses with the limited growth in revenues.

[2] FitchRatings, Fitch Rates Nassau County, New York's $125MM GOs 'A+'; Outlook to Stable January 4, 2008.