City of Albany, NY

Commission on Public-Private Budgetary Cooperation

Preliminary Report: Non-Profit Revenue Assessment

Fall 2013

The PFM Group

Contents

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Public Financial Management Inc. provided technical and analytical support to the Commission.

[1] Patricia Salkin resigned from the Committee on May 11, 2012.

Foreword

While the City of Albany shares similarities with other Northeastern urban center, strong investment by educational and healthcare institutions and continued governmental partnerships have contributed to a strong economic climate. Albany has seen more than $9 billion of investment over the past 10 years and has enjoyed an unemployment rate lower than most other upstate cities.[2] However, the city is also burdened with pockets of aging infrastructure, crime and poverty -- surrounded by more middle-class suburban areas that are home to much of the City's daytime workforce. But, in other ways, Albany is unique. As the seat of government for New York State, Albany is subjected to significant costs to supply service and protect government buildings and employees, while getting little compensation in return.

Like many capital cities, this situation has left Albany with a structural budget imbalance that the City has struggled to close year after year. In earlier analysis of City finances and operations, PFM concluded that the cause for the budget imbalance was largely revenue-related. Accordingly, in this report, PFM discusses the City's options for broadening its revenue base to include reasonable and legitimate revenues from the City's large inventory of tax-exempt property.

Introduction

In April 2010, the City of Albany's Common Council passed unanimously Ordinance Number 42.31.10, amending Chapter 42 of the code of the City of Albany to create the City of Albany Commission on Public-Private Budgetary Cooperation (herein after referred to as "the Commission"). The Commission's powers and duties consist of providing a report with findings and recommendations. The Commission is charged with providing the following:

- The costs associated with providing certain essential City services to the exempt entities. The city essential services shall be for police protection, fire protection, EMS services, street and highway construction, maintenance and lighting, snow removal, and water and sewer services. The Commission shall attempt to identify these costs by category of exempt entity based upon the total assessed value of real property owned by such entity which is wholly or partially tax exempt and the scope of use of such essential city services by such exempt entity;

- Financial and programmatic contributions made by the exempt entities to municipalities in selected cities nationwide, including best practices in public-private partnerships in effect in such municipalities. The Commission shall identify whether these contributions are made to such municipalities pursuant to written voluntary contribution agreements, implementation

[2] http://www.albanyny.gov/Businesses/EconomicDevelopment.aspx

of financial options authorized by federal tax provisions or pursuant to mandate imposed by state or local law;

- Recommendation of a standard level of financial and programmatic contributions to be met by all large-scale exempt entities in Albany;

- Identification of all necessary or advisable City and State legislation;

- Consideration of how other state capital cities are reimbursed for exempt properties;

- Review of any additional means to mitigate the impact of exempt entities to the City's tax base, and to establish a fair and equitable approach to generating revenue to support City services.

In the course of developing this Ordinance, it became clear that the Commission would require outside professional assistance in order to fulfill its mandate.

Scope of Work

In August 2012, Public Financial Management, Inc. (PFM) was contracted to provide technical support and memorialize best practice research and the findings of the Commission. As part of this scope of work, the Project Team was charged with the following:

1. Collect, organize and present data and information gathered by the Commission.

2. Review and format for presentation and submission the analytical work and data produced by the Commission and City of Albany staff.

3. Collect and memorialize best practice research developed by the Commission and City staff and supplement with additional information where necessary.

4. Through interviews with key stakeholders and review of existing documentation, articulate the Commission's findings

5. Based on the articulation above, develop preliminary recommendations consistent with the direction taken by the Commission.

6. Prepare a draft report for submission to the Commission. After incorporating comments and feedback from the Commission, PFM will prepare a brief report synthesizing information collected and findings or recommendations as described above, along with other materials suitable for presentation.

7. Be available for attendance and presentation of the report and materials to the Commission and other stakeholders as needed. This scope anticipates three (3) such meetings, one of which to be held with the Commission prior to public release of the report.

This report is a collaborative effort between Commission members and the PFM Project Team. Using feedback from members, research previously done by experts in this field, and publicly available data from the State and City, this report intends to begin a conversation on the development of an equitable and amenable system of revenue generating opportunities between the City and the non-profit organizations within it.

Background

Constrained Revenue Sources

In examining the revenues of the City of Albany, it becomes clear why it is so highly-reliant on Real Property Taxes. First, the City is currently limited to collecting a portion of sales tax revenues as collected by Albany County and the State of New York. Of the total 8 percent sales tax levy in the County – half of which is remitted to the State - the City is projected to collect $32.1 million in 2013, which represents 13 percent of the County's projected $244 million in sales taxes for the 2013 Budget Year.[3] Since the City is reliant on a countywide sales tax and has no additional City sales tax, this amount can vary significantly year to year.

Second, unlike many major metropolitan areas nationwide which have a high influx of non-residents working in the area during the day, the City does not currently have a Commuter Tax. However, creation of such a tax for Albany would require City and State legislation that is not currently considered feasible.

Additionally, in recent years the City has relied more heavily on "spin up" payments from the State for ongoing maintenance and upkeep of the Empire State Plaza. The Enacted 2013 Budget includes $22.85 million from these payments, which is $7.8 million more than the originally scheduled $15 million as enacted in Section 19-A of the Public Lands Law of the State of New York. Although these increases represent only 4.5 percent of the total $171.6 million in anticipated revenue for 2013, it will reduce payments in the final years of the agreement by a corresponding value. The payment in lieu of taxes (PILOT) provided under section 19-A is unique to Albany and requires annual payments to the City through 2033. However, the PILOT amount was scheduled to be significantly reduced starting in 2013-14, and despite receiving a spin up for the 2013 fiscal year, there appears to be little appetite from the state legislature to change the significant decrease in 19-A payments going forward—something the city will need to be prepared to address.

As a matter of policy, the City aggressively pursues grants, reimbursements, corporate sponsorships and fines, and receives monies from its landfill operations, but it has strived to minimize fees for public services and programs – especially its outstanding recreation venues and activities.

[3] Based on revenue projections in the City's 2013 Enacted and County's 2013 Executive Budgets

A major element of the City economy is the education and medical services sector. Like many other cities in the Northeast, the so-called "Eds and Meds" economic sectors have become major drivers of local residential occupancy and employment. This phenomenon is often seen in State capitals, such as Boston or Columbus, where major regional trauma centers, medical research facilities and non-profit colleges and universities join the many charitable and advocacy organizations that migrate to capital cities. The result is a property tax base that is riddled with exemptions – often while generating significant demand for city services.

The result is fiscal a conundrum that has pushed capital cities like Harrisburg and Trenton to the brink of bankruptcy – a city that generates extraordinarily high service demand and unusually low revenue.

Accordingly, while Albany has done what it can, it simply isn't enough. The City cannot continue to bear the triple burden of being an undercompensated seat of government and an undercompensated urban area; while at the same time providing a high level of services to a largely tax-exempt property base and shouldering the cost of city services centrally so that they are available to even the poorest resident.

Without a change in the State's approach to funding for Albany, the City's fiscal outlook is bleak. There will be no way to provide a balanced budget without dramatic cuts in programs and services, layoff of city personnel, and increases in real property taxes. These actions would not only be detrimental to Albany but to the viability of the State – which presumably has a vested interest in the sustainability of its Capital City.

In 2010, the City of Albany commissioned PFM to conduct a Revenue Impact Analysis of New York State Aid and the level of real property that is exempt from taxation, with a focus on the effect of both factors on the long-term sustainability of the City's finances.

The report noted that, while the City receives a payment for the Empire State Plaza, other properties are uncompensated, including the Capitol building, the sprawling Harriman Office Campus, SUNY Administration, the State Education Building, the University at Albany and its massive public-private partnership high-tech Nanotechnology facilities, and most other State and County buildings, parking facilities and properties. At the same time, these facilities drive enormous – and largely uncompensated – service and infrastructure demands.

It was noted that, given the City's revenue structure, it receives little economic benefit from the presence of thousands of daytime workers. While there is undoubtedly some minimal sales tax generated, these receipts are sent to the County and the City receives a fixed percentage.

The report documented the fact that the State has recognized the plight of its upstate urban centers and created the AIM program to assist them. However, the bulk of the base funding was "grandfathered" from previous revenue sharing programs in which funding levels were set by the political process – a process that all too frequently rewarded cities in fiscal distress and punished cities that were effectively managed. Also, since its adoption in 2005, the AIM funding formula has only been followed in one State budget cycle. Albany persists in receiving a fraction of AIM per capita funding of other major upstate cities.

In addition to recommending a more equitable PILOT payment in recognition of revenue lost from the tax-exempt State properties, PFM offered the following recommendations:

- Increased AIM equity payments from the State to compensate for gross inequities in per capita AIM funding;
- A Capital City Grant from New York State to compensate Albany for municipal services provided to state-owned property;
- A more aggressive fee-for service schedule for City services (Discussed in Recreation and DGS analyses); and
- Service charges assessed on tax-exempt properties in the City, also as payment for services provided.

In this report, PFM focuses on the final recommendation and discusses recommended approaches for achieving fair and equitable revenue from the not-for-profit sector.

<u>Limits under New York State Law</u>

Article XVI, Section 1 of the New York State Constitution states,

> "…..Exemptions from taxation may be granted only by general laws. Exemptions may be altered or repealed except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit."

Moreover, Section 420 of the NYS Real Property Tax Law (RPTL) states,

> "§ 420-a. Nonprofit organizations; mandatory class 1. (a) Real property owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational, or moral or mental improvement of men, women or children purposes, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association or by another such corporation or association as hereinafter provided shall be exempt from taxation as provided in this section."

Like most other tax statues, Section 420 goes on for pages describing exceptions and special cases. However, it is clear that, for all intents and purposes, most of the property currently listed as exempt from taxation based on the value of its real property.

The City of Albany hosts numerous corporations and associations which own real property and which are organized or conducted exclusively for charitable, medical or educational purposes. This also includes state owned entities and which are exempted by law in whole or part from paying real property taxes.

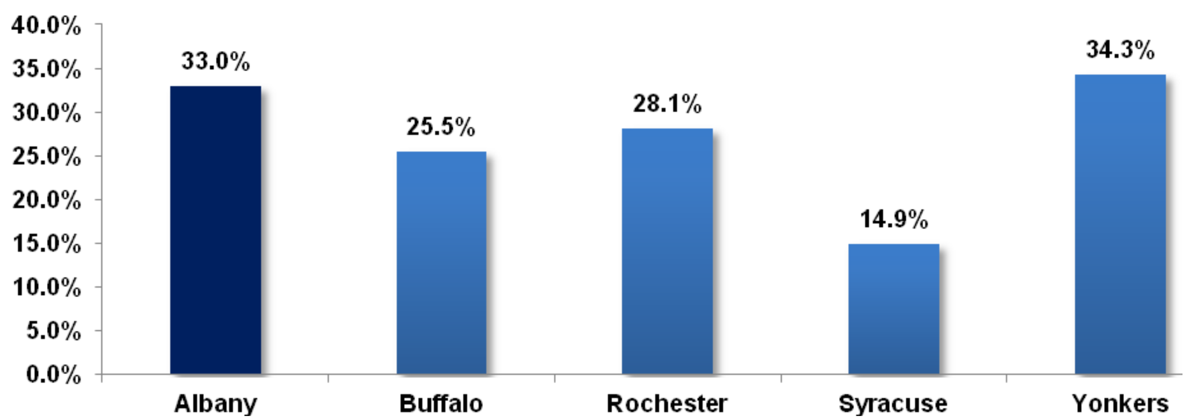
The National Economy and Effect on Albany

The prolonged national economic downturn, one in which comparable severity has not been seen since the Great Depression, resulted in substantial reductions in state aid to the City and an alarming and recurring reduction in historical levels of sales tax revenues which threatened to necessitate severe reductions in vital municipal services. In addition to these recent and significant financial difficulties, the City's financial burden has been exacerbated by severely increasing pension contributions to City employees' state retirement systems and the ever growing cost of insurance for City employees. In light of these rising costs, the City of Albany faces significant financial challenges in upcoming years.

Like many other capital cities that are primarily dependent on government for their economic bases, Albany has found it more and more difficult to maintain fiscal balance without help from the State government. The recent recession and the impending increase in pension and health care contributions have brought the City to a fiscal crossroads.

The City relies more heavily on property taxes for budget balancing than its peer cities. However, as the seat of government, Albany has a higher level of exempt property. Due to this reduced property tax base, the City is forced to rely on a narrow property tax base that has a damaging effect on its ability to remain competitive in a frail economic climate.

Percentage of Revenue Derived from Real Property Taxes (2011)[4]



[4] Based on data provided in Proposed or Adopted 2012-13 City Budgets

State AIM Payments to Albany

In 2005, recognizing the plight of its upstate urban centers, the State created the Aid and Incentives for Municipalities, or AIM as it is commonly referred to. However, the bulk of the base funding was "grandfathered" from previous revenue sharing programs in which funding levels were set by the political process – a process that all too frequently rewarded cities in fiscal distress and punished cities that were effectively managed. Also, since its adoption in 2005, the AIM funding formula has only been followed in one State budget cycle. Albany persists in receiving a fraction of AIM per capita funding of other major upstate cities.

The 2012-13 Enacted Budget provided $12.6 million in AIM funding for the City, remaining flat from 2011-12 levels and a 2 percent decrease from the 2010-11 level of $12.9 million. Compared to other major urban areas in Upstate, the City receives significantly less than the largest – Buffalo at $161.3 million in 2012-13 – and only $1.4 million more than the City of Schenectady.

New York State AIM Funding for Major Upstate Urban Areas, 2010-11 to 2012-13

City	2010-11	2011-12	2012-13	3 Year Change
Buffalo	$164,576,768	$161,285,233	$161,285,233	-2.0%
Yonkers	$110,423,958	$108,215,479	$108,215,479	-2.0%
Rochester	$90,035,167	$88,234,464	$88,234,464	-2.0%
Syracuse	$73,223,045	$71,758,584	$71,758,584	-2.0%
Utica	$16,439,258	$16,110,473	$16,110,473	-2.0%
Albany	***$12,865,125***	***$12,607,823***	***$12,607,823***	***-2.0%***
Schenectady	$11,434,688	$11,205,994	$11,205,994	-2.0%

On a per capita basis, using the 2010 American Community Survey three year estimates, Albany's AIM funding would be $128.80 per resident, trailing all major Upstate cities significantly.

New York State AIM Funding Per Capita for 2012-13

City	ACS 3-Year Population	2012-13 AIM	AIM Per Capita
Buffalo	263,334	$161,285,233	$612.47
Yonkers	195,351	$108,215,479	$553.95
Syracuse	145,025	$71,758,584	$494.80
Rochester	211,240	$88,234,464	$417.70
Utica	62,023	$16,110,473	$259.75
Schenectady	65,796	$11,205,994	$170.31
Albany	***97,884***	***$12,607,823***	***$128.80***

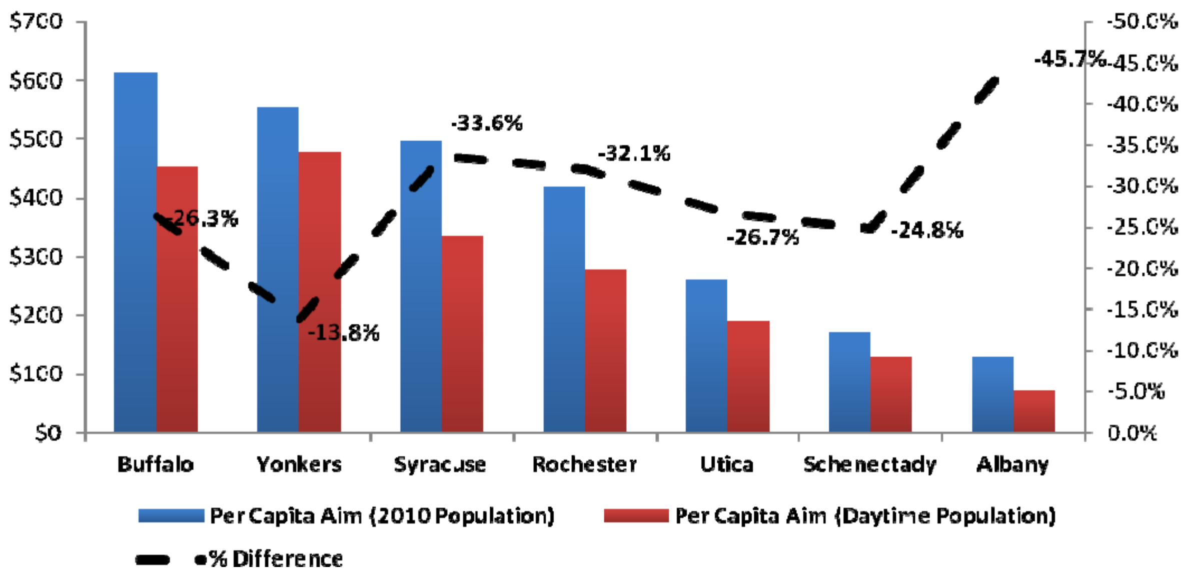
However, when the daytime population of an urban area, including workers commuting into the city for their jobs is factored in, the disparity in funding is exacerbated, reducing it to $70 per individual.[5] Based on data from the U.S. Census Bureau, the City's daytime population swells to 180,000 – almost double the resident population.

New York State AIM Funding Per Capita - Inclusive of Daytime Population for 2012-13[6]

City	Daytime Population	2012-13 AIM	Per Capita
Buffalo	357,181	$161,285,233	$451.55
Yonkers	226,671	$108,215,479	$477.41
Syracuse	213,686	$71,758,584	$335.81
Rochester	318,110	$88,234,464	$277.37
Utica	84,673	$16,110,473	$190.27
Schenectady	87,521	$11,205,994	$128.04
Albany	***180,113***	***$12,607,823***	***$70.00***

Albany's per capita aim is reduced 46% when including daytime population, the greatest decrease of all the other major upstate cities.

Per Capita Aim (2010 Population) vs. Per Capita Aim (Daytime Population)



[5] According to the US Census Bureau, the concept of the daytime population refers to the number of people who are present in an area during normal business hours, including workers. This is in contrast to the "resident" population present during the evening and nighttime hours. Information on the expansion or contraction experienced by different communities between nighttime and daytime populations is important for many planning purposes, including those dealing with transportation, disaster and relief operations.
http://www.census.gov/hhes/commuting/data/daytimepop.html

[6] Daytime population is calculated by adding the total resident population and total workers working in the area, less any workers who also live in the area.

Tax-Exempt Property in Albany

Although Albany is the fifth largest city in Upstate New York, it has a higher exempt value as a percentage of total value than the top 4 cities, the second-highest equalized exempt value and the highest exempt value per capita.

Exempt Value as Percent of Total Value, 2010
City, County and School Purposes

City	Total Parcels	# of Parcels with Exemptions	%	Equalized Value ($000s)	Exempt Equalized Value ($000s)	%
Albany	***30,080***	***16,660***	***55.4%***	***$11,476,238***	***$6,432,212***	***56.0%***
Buffalo	95,585	51,281	53.6%	$10,064,558	$4,621,415	45.9%
Rochester	66,589	37,246	55.9%	$8,120,119	$3,081,474	37.9%
Syracuse	42,042	23,605	56.1%	$8,546,697	$4,743,168	55.5%
Yonkers	36,324	24,753	68.1%	$26,894,983	$11,973,092	44.5%

The City of Albany is certainly not the only municipality that has to face the challenges of a decreasing tax base and increasing obligations and liabilities. Based on 2010 Property Tax Data from the NYS Department of Tax and Finance and 2010 Census information, the following table illustrates the significance of the value of property that is not taxable in city limits:

Exempt Property Value vs. Total Population, 2010[7]

City	# of Exemptions	Equalized Exempt Value ($000)*	2010 Population	Exempt Value per Resident
Albany	20,907	6,938,154	97,884	$70,881
Buffalo	65,016	4,621,845	263,334	$17,551
Rochester	44,127	3,109,202	211,240	$14,719
Syracuse	30,726	4,743,251	145,025	$32,706
Yonkers	30,475	11,973,091	195,351	$61,290

When compared to the four largest cities in upstate New York, Albany has by far the highest exempt value per resident with $70,881. The next closest city is Yonkers at $61,290. Rochester is the lowest at $14,719.

Foregone Tax Receipts

According to the City's 2012 Property Assessment Rolls, there are over 30,000 properties or "entries" accounted for. Many of these properties claim exemptions of a variety of degrees which reduce their property tax liability to some extent. However, there are a select number of properties – **2,869** – which have no property tax liability whatsoever. However, those 2,869 exemptions

[7] Most recent year of comparable data available.

account for $6.7 billion in total assessed value. This figure accounts for all state owned properties, including the Empire State Plaza and various other state offices and landmarks. Net of state properties, there are 2,328 properties totaling $1.9 billion in assessed value.

Number of Properties with No Tax Liability and Total Assessed Value, 2012

Class Code	Category	# of Exempt Entries	Total Assessed Value, Exempt Properties
100	Agricultural	0	$0
200	Residential	431	$49,191,500
300	Vacant Land	1,154	$394,609,150
400	Commercial	548	$1,280,375,609
500	Recreation & Entertainment	62	$112,167,300
700	Industrial	4	$13,690,200
800	Public Services	28	$51,530,800
900	Wild, Forested, Conservation Lands & Public Parks	101	$43,359,200
	Total	***2,328***	***$1,944,923,759***

Not included in the above chart is the "600" classification related to Community Services and government owned property. With 541 exempt entries totaling over $4.7 billion in assessed value, this includes the state offices located at the Empire State Plaza and the adjoining buildings including the Capitol and the State Education Department, both located on Washington Avenue. It also includes the Court of Appeals and State Supreme Court buildings and City Hall, all located on Eagle Street. Additionally, of the ten most valuable properties within the city, nine are from the 600 classification and exempt from property tax responsibilities. These nine properties account for 65 percent of total assessed value for all 600 class entities in the City.

Top Ten Most Valuable Properties, City of Albany, 2012 Assessment

Rank	Owner	Property Class	Total Assessed Value	Tax Exempt?	Address
1	Albany County	600	$876,862,100	Yes	64 Eagle St
2	State of New York	600	$663,950,900	Yes	1200 Washington Ave
3	State of New York	600	$400,000,000	Yes	1400 Washington Ave
4	St. Peter's Hospital	600	$347,393,900	Yes	632 New Scotland Ave
5	State University at New York	600	$241,000,000	Yes	251 Fuller Rd
6	Albany County	600	$184,601,900	Yes	304 Madison Ave
7	Albany Housing Authority	400	$180,027,200	Yes	1-2 Lincoln Square
8	Albany Medical Center	600	$129,224,100	Yes	47 New Scotland Ave
9	State of New York	600	$116,984,900	Yes	132 S Lake Ave
10	National Grid	800	$114,466,860	No	N/A
		Total	**$3,254,511,860**		

Analysis of the Assessment Rolls reveals that there is a substantial amount of foregone revenue from City property taxes due to the exemptions upon the nonprofit organizations in Albany. Using the proscribed methodology for determining a property tax liability, the following calculation was applied to all properties:[8]

$$\frac{\textit{Property Tax Rate} \times \textit{Taxable Assessed Value}}{\textit{1,000}}$$

Applying this calculation to the total assessed value of all 2,869 fully exempt entries on the property tax rolls would result in an additional $92.2 million in revenue. This is almost double the $55.6 million the City has budgeted for revenues from property taxes alone in 2012-13.

Foregone Revenue Due to Exemptions[9]

Class Code	Type of Property	Total # of Entries	Total Assessed Value, Exempt Properties	# of Exempt Entries	Forgone City Tax Receipts Due to Exemptions[10]
100	Agricultural	1	$0	0	$0
200	Residential	21,328	$49,191,500	431	$489,628
300	Vacant Land	3,975	$394,609,150	1,154	$5,459,970
400	Commercial	3,762	$1,280,375,609	548	$17,715,789
500	Recreation & Entertainment	84	$112,167,300	62	$1,551,992
600	Community Services	571	$4,732,466,200	541	$65,480,295
700	Industrial	28	$13,690,200	4	$189,423
800	Public Services	166	$51,530,800	28	$713,001
900	Wild, Forested, Conservation Lands & Public Parks	102	$43,359,200	101	$599,935
	Total	***30,017***	***$6,677,389,959***	***2,869***	***$92,200,033***

Since revenue cannot be generated from municipal, school, and county owned properties and more importantly state owned property[11], this total revenue stream should be discounted significantly. However, even when this funding is excluded, there still remains a significant amount of revenue foregone by the City due to tax exemptions. After removing foregone receipts specific to Community Services, or "600", classified properties, the value would be approximately $26.7 million.

[8] The City of Albany qualifies for a homestead provision. The homestead tax is based on the share of property taxes paid by the residential class of property owners in the year before the new assessments from the revaluation project are used. According to the New York State Department of Taxation and Finance, a homestead provision "is a local option to establish two separate property tax rates: a lower tax rate for residential property owners (homestead tax), and a higher rate for all other property owners (non-homestead tax)." An example would be a home valued at $250,000. By applying the 2012 homestead rate of $9.9535 per $1,000 of assessed value, the tax liability would be $2,488.38. http://www.tax.ny.gov/pdf/publications/orpts/homested.pdf

[9] It should be noted that this assumes there are no erroneous exceptions to the rule and that the data provided is accurate. The analysis herein should not be considered as a panacea for potential revenue. It is a hypothetical calculation based on fixed variables which may vary considerably based on unique situations.

[10] Tax is calculated using the 2012 Homestead rate of $9.9535per $1,000 of assessed value for residential properties (200 series) and the Non-Homestead rate of $13.8364 per $1,000 of assessed value for all other property classes.

[11] The City currently receives annual subsidies from the City to compensate for the costs related to maintenance and upkeep of the Empire State Plaza. The 2012-13 Adopted Budget includes $22.85 million for this purpose, which includes a $7.8 million "spin-up" payment on the current lease agreement between the City and the State.

The result of these numerous exemptions for various reasons results in a significantly limited number of properties and residents from which the City can increase, let alone maintain, current tax revenues. This sober fact is a catalyst for a simple discussion – as the cost of providing essential services and a reasonable quality of life for residents and visitors alike continues to increase, should those properties which enjoy tax exemptions for various reasons be expected or asked to contribute in other ways to the continued prosperity and growth of the City, or should the burden be carried solely by those non-exempt individuals and businesses? This question is the key driver of this analysis and report. Of those two choices, the more equitable option would be for all organizations and individuals who reside in the City to contribute, rather than laying the responsibility solely on a small subset of organizations and individuals.

State Assessment Methodology

It should be noted that the methodology for computing the value of the State's exempt property is prescribed by the State Office of Real Property Tax Services. If alternative valuation methods were employed, especially for unique properties such as the Empire State Plaza (ESP) and University at Albany Nanotech, higher exempt value is likely to result in driving the ratio of exempt property even higher.

For example, the current ORPS-required methodology for valuing the Empire State Plaza requires the facility to be valued either using its current commercial value or the depreciated value of its construction cost. However, neither method accounts for the unique characteristics of the Plaza facility. As a mixed-mission campus, the ESP is part office complex, part theater/entertainment venue and part park.

As such, the property's footprint takes an enormous amount of prime commercial real estate land, but contains only a fraction of the beneficial improvements that would be present if it were to be developed by a commercial landlord.

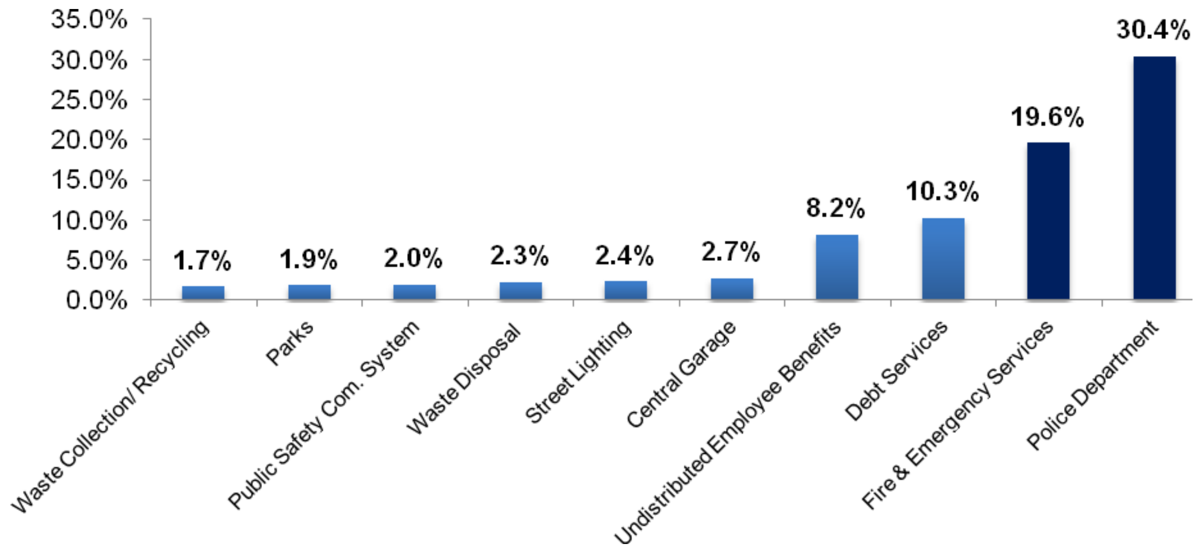
If a commercial developer built out the same 40-50 square blocks of downtown Albany, the value of the real estate built would be multiples of the assessed value of the ESP – using the allowable methods.

In unique cases like these, the foregone property tax revenue on the facility is not just its book value, but the value of the taxable property that would have been built in the same location.

Major Cost Drivers in the City

The Adopted 2012-13 City Budget provides a total of $171.6 million in appropriations. Of this amount, ten major departments and categories account for $139.5 million, or 81.3 percent, of total appropriations. The following chart and descriptions outline the details of these appropriations.

Albany's Top Ten Expenditures, by Category, 2012-13 Adopted City Budget



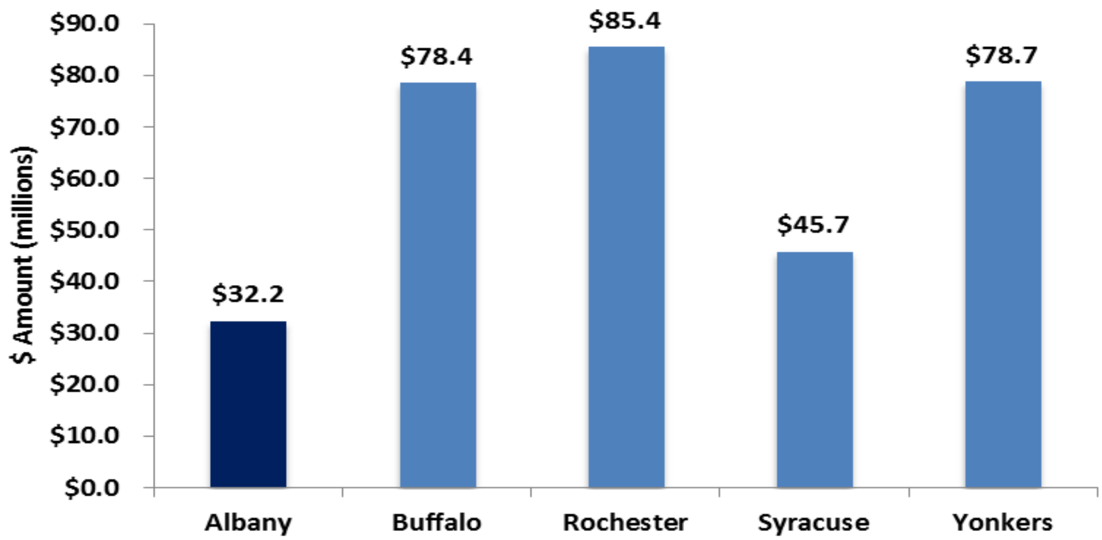
Of these "top ten" categories of spending, the Police Department and the Fire & Emergency Services account for $85.7 million, or 50 percent of total spending in the Adopted Budget. This does not include the Police Department's and Fire & Emergency Services' share of undistributed employee benefits, which totaled $14.1 million in the 2013 budget. Compounding this is the fact that the entire revenue generated from property taxes - $55.2 million – would only be able to cover the total expenses of the Police Department ($52.2 million) alone.

Police Department

The Adopted 2013 Budget for the City of Albany provides approximately $52.2 million in General Fund appropriations. Of this total, $30.5 million – or 58 percent - is devoted to personal service expenditures. Total funding for the Department represents a 7.7 percent increase over 2012 enacted amounts and accounts for 30.4 percent of total 2012-13 General Fund appropriations, the largest single share in the entire budget.

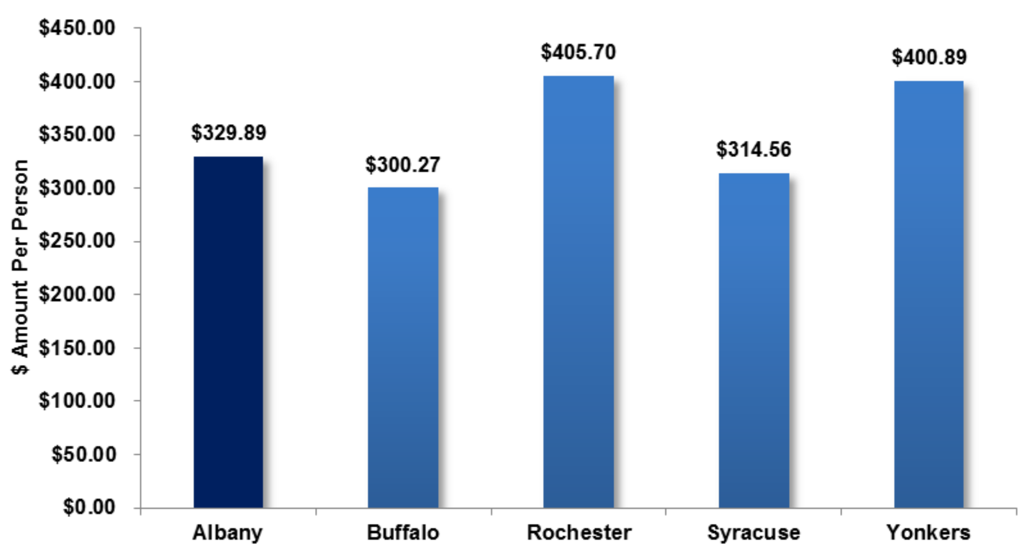
Compared to the upstate peer cities, Albany spends 55.3 percent less than the average of the other four cities.

Proposed or Adopted 2012-13 General Fund Appropriations, Police Departments[12]



On a per capita basis, Albany spends 7.2 percent less than the average per capita spending of the peer cities.[13]

Proposed or Adopted 2012-13 General Fund Appropriations Per Capita, Police Departments



[12] For comparison purposes total spending does not include major fringe benefit expenditures such as retirement and health insurance costs due to different methods used by the peer cities for detailing these costs (e.g., often these costs are not allocated to the individual departments).

[13] It should be noted that all cities were compared at a General Fund level. Each municipality is unique in funding structure and an aggregate All Funds analysis may yield varied results. Also, the scope of services provided by police departments in cities may vary as well.

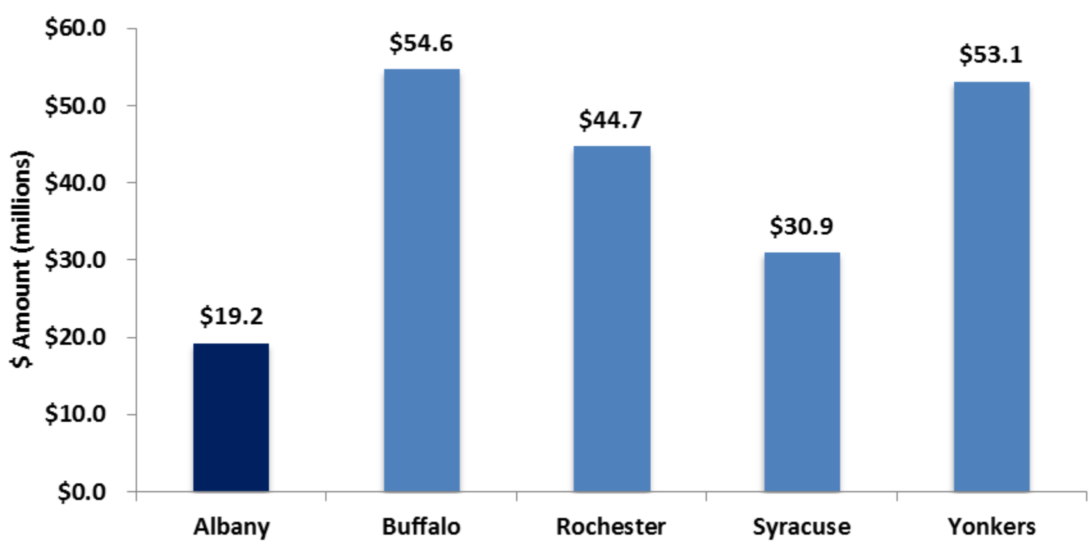
It should also be considered that the City has a significantly higher daytime population and has added law enforcement responsibilities related to the influx of State employees and the infrastructure related to State agencies and organizations. If the daytime population of Albany was included in the calculation, Albany would be spending $179.01 per person, the lowest amount of the comparable group.[14]

Fire & Emergency Services

The 2013 Adopted Budget provides $33.6 million in funding for fire and emergency services. This is a 4.9 percent increase from 2012 funding levels and represents 19.6 percent of the total Adopted Budget. Of this amount, $17.8 million or 53.0 percent is devoted to personal service.

The same trends with funding for police departments in upstate cities holds true for fire and emergency service budgets. The $19.2 million total funding (not including fringe benefits) is 58.2 percent less than the average amount budgeted by the other four large upstate cities.

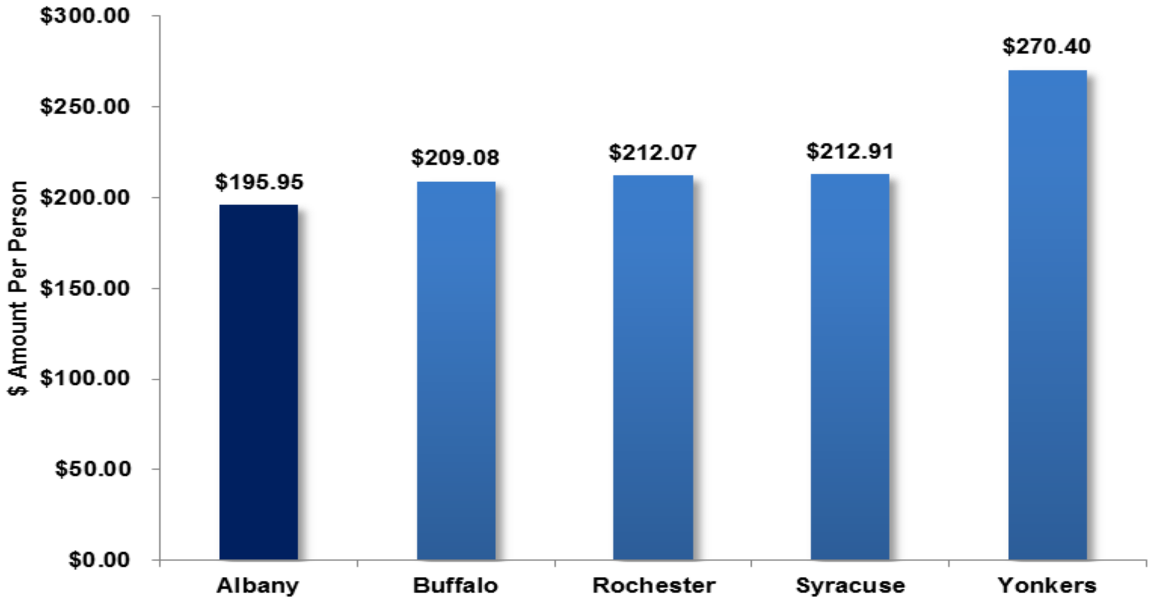
Proposed or Adopted 2012-13 General Fund Appropriations, Fire & Emergency Services[15]



On a per person expenditure, Albany spends 13.3 percent less than the $226 per person average for the other four cities.

[14] Population based on 2010 US Census data.
[15] For comparison purposes total spending does not include major fringe benefit expenditures such as retirement and health insurance costs due to different methods used by the comparable cities for detailing these costs (e.g., often these costs are not allocated to the individual departments).

**Proposed or Adopted 2012-13 General Fund Appropriations Per Capita,
Fire & Emergency Services**



As with the calculation for the per capita law enforcement costs to the City, this does not include the influx of non-residents who work in the City during the day and use the essential services that the Fire Department provides. When factoring in the daytime population of Albany, the City would be spending $106.33 per capita.

Other Public Works Areas

Although the Fire and Police departments make up a significant majority of the City's budget, public works programs that provide essential municipal services to both the residents of the City as well as commuters and visitors make up a large portion as well. These programs include sanitation services such as recycling and trash collection; snow removal during the winter months; street and highway maintenance; street lighting; and water and sewer treatment programs.

Public Works	$ Amount
Water & Sewer	$25,927,000
Trash Collection	$6,796,994
Street Lighting	$4,050,000
Street / Highway Maintenance	$2,022,856
Snow Removal	$1,011,500
Total Expenditures	**$39,808,350**

However, it should be noted that the water and sewer services are provided by the Albany Water Board (AWB) and Albany County Water Authority (AWFA). Funding for this public authority is not included in totals for the 2012-13 Adopted Budget. However, the Adopted Budget calls for $25.9 million in both revenues and expenditures.

Water & Wastewater Services, FY 2012	$ Amount
Revenues	
Contract with AWB & AWFA	$25,927,000
Expenditures	
County Sewer Charges	$6,200,000
Special Items	$3,400,000
Transmission & Distribution	$4,734,450
Purification	$2,538,728
Sewer Maintenance	$2,437,255
Source of Supply, Power, and Pumping	$1,309,583
Water & Sewer Capital Expenditures	$2,000,000
Administration	$1,110,203
Undistributed Employee Benefits	$1,651,000
Pumping Stations	$545,781
Total Expenditures	**$25,927,000**

Since each local government has unique circumstances and organizational structures, a one-for-one comparison of these services is difficult to quantify. Additionally, many of these expenditures are related to the management of various geographic areas and are not represented well as a per person expenditure.

The Cost per Assessed Value

Using the 2012-13 Adopted City Budget and the most recent Assessment Roll, a fee "per $1,000 Assessed Value" was calculated. The following table shows the above costs on a per $1,000 assessed value fee structure.

Category	$ Amount	Total Assessed Value, All Properties	Per $1,000 Assessed Value
Police Department	$52,159,597		$4.43
Fire & Emergency Services	$33,584,282		$2.85
Street Lighting	$4,050,000	**$11,780,883,731**	$0.34
Street / Highway Maintenance	$2,022,856		$0.17
Snow Removal	$1,011,500		$0.09
Total Expenditures	**$92,828,235**		**$7.88**

However, this calculation includes all properties and does not factor in exempt properties. When removing the number of fully exempt properties, the total expenditure fee on a per $1,000 assessed value would increase by approximately $10.31 per $1,000 of assessed value.

Category	$ Amount	Total Assessed Value, Non-Exempt Properties	Per $1,000 Assessed Value
Police Department	$52,159,597		$10.22
Fire & Emergency Services	$33,584,282		$6.58
Street Lighting	$4,050,000	**$5,103,493,772**	$0.79
Street / Highway Maintenance	$2,022,856		$0.40
Snow Removal	$1,011,500		$0.20
Total Expenditures	**$92,828,235**		**$18.19**

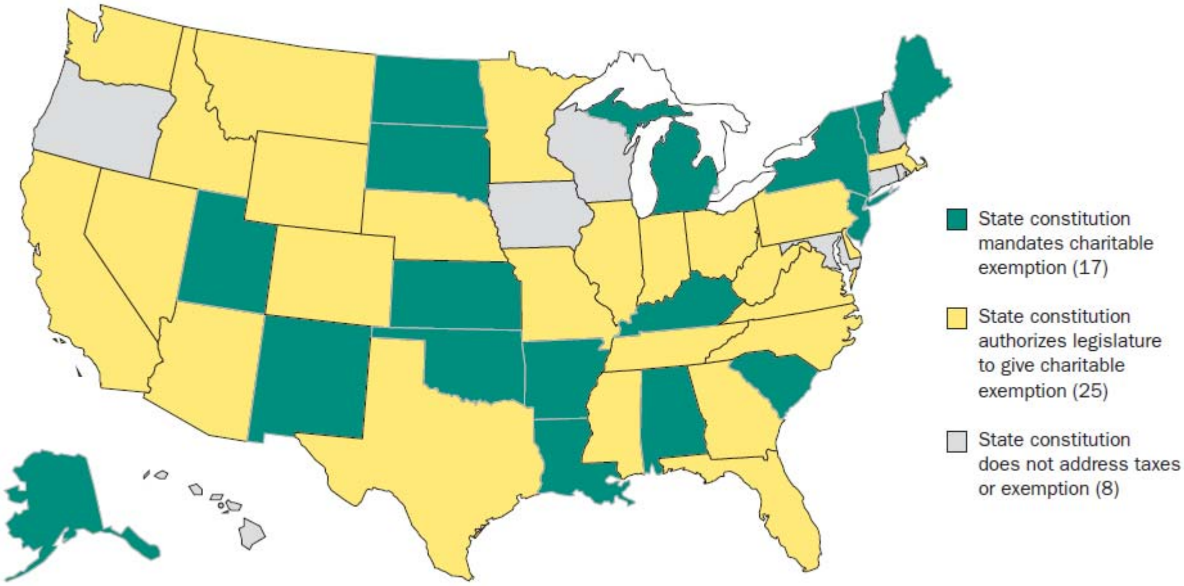
Total assessed value of exempt properties in the City is $6.7 billion. A per $1,000 assessed value fee for major city expenditures would result in exempt properties paying $7.88 per $1,000 of assessed value, providing $52.6 million in fee revenue, which is currently shifted to non-exempt properties.

Category	$ Amount	Total Assessed Value, Exempt Properties	Per $1,000 Assessed Value	Total $ Amount
Police Department	$52,159,597		$4.43	$29,563,993
Fire & Emergency Services	$33,584,282		$2.85	$19,035,528
Street Lighting	$4,050,000	**$6,677,389,959**	$0.34	$2,295,535
Street / Highway Maintenance	$2,022,856		$0.17	$1,146,552
Snow Removal	$1,011,500		$0.09	$573,317
Total Expenditures	**$92,828,235**		**$7.88**	**$52,614,926**

Taxation of Nonprofits

In all 50 states as well as the District of Columbia, nonprofit organizations enjoy tax free status. In 27 of these states, federal designation as a 501(c) (3) organization is required. However, as Kenyon and Langley found in their 2010 report "Payment in Lieu of Taxes: Balancing Municipal and Nonprofit Interests", there are narrower exceptions provided for in many state constitutions.[16] However, the approach to implementing these tax exemptions varies considerably based on state law. The following map illustrates this more clearly.[17]

[16] From "Payment in Lieu of Taxes: Balancing Municipal and Nonprofit Interests". Daphne A. Kenyon and Adam H. Langley. Lincoln Institute of Land Policy. 2010. Page 11.
[17] Ibid



New York State is one of seventeen states that have a constitutional mandate against the taxation of charitable organizations. As the State constitution has not been amended since 1938[18], the ability to extract property tax revenue from nonprofits is highly unlikely. However, the City can explore opportunities to work collaboratively with nonprofit organizations and come to mutually agreed upon levels of contribution, whether these are through in-kind services in lieu of taxes (SILOTs) or the traditional payment in lieu of taxes (PILOT).

[18] The 1938 Constitutional Convention sought to make a total of 57 separate amendments to the State Constitution. When put forward for the people to vote, they were combined into nine separate ballot questions, of which six were approved. http://www.nycourts.gov/history/constitutions/1938_convention.htm

Tax Exempt Bonds

One of the many advantageous tax provisions for non-profit institutions is the ability to issue tax exempt bonds. Tax exempt bonds are valid debt obligations of state and local governments where the interest accrued is tax-exempt. This means that the interest paid to bondholders is not included in their gross income for federal income tax purposes. Qualified uses of tax-exempt bonds include the financing of property owned by either an exempt organization or a governmental unit.

According to Internal Revenue Service's Compliance Guide for Tax-Exempt Bonds for 501(c) (3) Charitable Organizations, Section 1.145-2(a) of the Treasury regulations provides that a qualified 501(c) (3) bond issue can lose its tax exempt status if a deliberate action is taken, subsequent to the issue date, which causes the issue to either fail the ownership test or meet both of the private business tests. A deliberate action is any action taken by the issuer or 501(c) (3) organization that is within its control. Intent to violate the ownership, use or payment tests is not necessary for an action to be deliberate.

Additionally, Section 1.145-2(a) of the Treasury regulations provides that certain prescribed remedial actions described under section 1.141-12 of the Treasury regulations are available to cure uses of proceeds that would otherwise cause the 501(c)(3) bonds to lose their tax-exempt status. Such remedial actions can include redemption or defeasance of bonds, alternative use of disposition proceeds and alternative use of bond-financed facilities.

In circumstances such as this, a litmus test known as the "five percent rule" is used. Under the rule, a nonprofit organization must not devote more than five percent of fixed assets financed with tax exempt bonds – such as buildings and office space – to a for-profit venture. An example of this would be a 15,000 square foot building hosting a for profit franchise venture, i.e. a McDonald's or Starbucks, which was 750 square feet or larger.

In addition to Federal guidelines related to tax exempt bonds for non-profits, Section 420-a of the New York State Real Property Tax law states that "if any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion shall be exempt."[19] In many cases, nonprofit organizations and charitable institutions may act as hosts to for-profit organizations. Purposes and rationale for such an arrangement may include business incubators and organizations that work towards advancing the goals of the nonprofit, such as a lobbying firm or consulting organization. Relationships such as these are somewhat common, particularly in seats of state government such as Albany. However, if the relationship is entered into in a direct effort to circumvent tax liability, it is an issue that should be examined further and dealt with accordingly.

[19] NYS Real Property Tax Law, Section 420(a)(2)

Contributions of Organizations & Best Practices

The nonprofit sector, specifically those organizations with 501(c) (3) designations, is one of the fastest growing economic sectors in the United States. According to the Urban Institute, between 2001 and 2011 the number of nonprofits has grown by 25 percent, a growth rate surpassing both the government and private sectors. In 2010, nonprofit organizations contributed $779 billion to the nation's gross domestic product (GDP), or 5.4 percent of total GDP. These nonprofit organizations are also major employers nationally, accounting for 9 percent of the economy's wages and over 10 percent of overall employment in 2009.[20]

Although these institutions do provide employment and economic vitality to many municipalities nationwide, those same municipalities face a significant burden in replacing foregone revenue while continuing to provide basic municipal services to their residents, both taxpaying and tax exempt.

In the 2012-13 Adopted City Budget, total PILOTs are budgeted at $26.29 million. Of this amount, $22.85 million is expected to be received from an amendment to Section 19-A of the Public Lands Law of the State of New York.[21] The remaining balance of $3.44 million – or 2 percent of total revenue – is nominal in relation to the significant amount of potential revenue that the City foregoes as a result of tax exemptions for nonprofit organizations.

The creation of a responsible and equitable PILOT program is one that the City will need to explore deeply and work with all stakeholders to reach a solution. The Commission and the City are committed to doing this very thing. When embarking upon a new program, prior experiences and best practices nationally should be identified and emulated.

As each city is unique, so too are its PILOT programs. Daphne Kenyon, economist and visiting fellow at the Lincoln Institute of Land Policy, has found that there is no uniform structure to these payments. Instead, each program relies on voluntary participation. The level and amount of participation varies significantly as shown in the following table:[22]

City	Year	PILOT Revenue ($)	City Budget ($ millions)	Property Tax ($ millions)	PILOTs as % of City Budget	PILOTs as % of Property Tax
Baltimore, MD	FY11	$5,400,000	$2,936.0	$765.7	0.18%	0.71%
Boston, MA	FY10	$17,432,359	$2,394.0	$1,528.7	0.73%	1.14%
Bristol, RI	FY09	$181,852	$43.8	$32.5	0.42%	0.56%
Cambridge, MA	FY08	$4,508,000	$466.7	$238.7	0.97%	1.89%
Lebanon, NH	FY10	$1,280,085	$42.3	$17.2	3.03%	7.44%
New Haven, CT	FY10	$7,500,000	$648.6	$206.8	1.16%	3.63%
Pittsburgh, PA	FY11	$2,800,000	$507.8	$130.6	0.55%	2.14%
Princeton Borough, NJ	FY10	$1,180,496	$24.7	$10.4	4.78%	11.35%
Providence, RI	FY10	$3,686,701	$444.5	$284.5	0.83%	1.30%
Worcester, MA	FY11	$590,000	$506.1	$215.2	0.12%	0.27%

[20] Information directly taken from the Urban Institute's website, accessed electronically at http://urban.org/nonprofits/more.cfm
[21] 2012-13 City of Albany Adopted Budget, page vi
[22] "The Charitable Property-Tax Exemption and PILOTs". Evelyn Brody, Mayra Marquez and Katherine Toran. The Urban Institute Center on Nonprofits and Philanthropy. August 2012. Page 8.

Two recent examples have proven to be effective measures taken by municipalities to ensure equitable contributions from its nonprofit community while also allowing for the programs to continue to be voluntary. These examples are the Cities of Boston, Massachusetts and Providence, Rhode Island, both of which are the capital cities of their respective states.

Boston, Massachusetts

Boston is home to some of the most prestigious and well respected educational and medical organizations in the nation. Due to the number of institutions, as well as the total assessed value of these institutions, a significant portion of property tax revenue is foregone. In its place, the City receives voluntary PILOTs and SILOTs from many of these organizations. However, as both the City and nation grappled with the linger effects of the economic downturn beginning in 2008, the City sought to find more efficient and ultimately more advantageous agreements with these institutions.

As part of a broader effort to understand potential revenue enhancements and right sizing government, Mayor Thomas Menino commissioned a Task Force to examine the current PILOT structure and provide recommendations to augment or modify the existing structure.

As a result of many task force meetings, analysis and input from key stakeholders the Task Force issued its final report in December 2010. In the report, the Commission recommended the following:

- The PILOT Program remains voluntary, as a statutory mechanism would be impractical and result of a prolonged legal battle.

- The PILOT Program would be applied to all nonprofit groups, not just medical and educational institutions.

- The PILOT payment should be based on the value of the real estate owned by an institution, consistent with the approach taken for taxable properties. Those institutions owning property valued in excess of $15 million would be included in the program. Those institutions under the threshold would not be asked to participate.

- Participating institutions should continue to contribute community benefits that directly benefit the residents of Boston and would support the City's mission and priorities.

Following the release of the report and the program's inception, the impact has been a positive one. As a result of the new guidelines, 45 private institutions from the educational, medical and cultural institutions were identified as owning tax exempt properties in excess of the $15 million threshold established in the PILOT guidelines.[23] In FY 2012, the first year of the new program in effect, the City received $19.5 million in PILOT contributions, a 28.4 percent increase over what would have been contributed under the prior program's guidelines. This amount was over 90 percent of the $21.5 million goal the City set forth upon the inception of the program.[24]

[23] Description of the City of Boston's PILOT Program, City of Boston website, www.cityofboston.gov/assessing/PILOTProgram.asp
[24] Ibid.

Providence, Rhode Island

In the last two decades Providence has experienced a surge in the growth of tax-exempt institutions. Over 23,000 people are currently employed in the non-profit sector with the highest fraction in higher education and health care. The City's seven largest tax-exempt institutions have an assessed property value of nearly $3.1 billion. If they were taxable at commercial rates, the revenue for the city would equal $112 million annually.

The City has a long history of partnerships with its largest universities and hospitals. Partnerships include joint projects to trigger business and entrepreneurship developments and a negotiated memorandum of understanding ("MOU") with four higher education institutions for a 20-year period through 2023. The voluntary agreement generated about $2 million in contributions in 2011; about half of which came from Brown University, the city's largest nonprofit landowner. In 2012, the agreement is generating an income of $4.2 million for the City.

However, decreasing financial support by the state, unfunded social welfare liabilities and rising unemployment in other sectors have put pressure on the City's elected officials to look for a more systematic approach for generating financial and programmatic contributions from non-profits.
In 2009, the City Council of Providence created a 'Commission to Study Tax-exempt Institutions' to evaluate the costs and contributions of tax-exempt institutions for the City.

The Commission stated the following five recommendations in their final report "A Call to Build the Capital Partnership for Economic Growth" (2010)[25]:

- Create Partnership agreements with universities, colleges and hospitals to trigger economic growth

- Share income increase of universities, colleges and hospitals with City through income and sales tax revenue and through a 'tax by use' policy

- Get full funding for the State PILOT at 27 percent for Providence

- Do not re-open negotiations about existing MOUs with universities and colleges earlier than one year before expiration (2023) and discuss new MOUs with other non-profits

- Maximize future revenue stream through redevelopment of Interstate 195 parcels (tax, MAU or revenue sharing with state)

The report is followed by mixed initiatives of elected officials to increase contributions of tax-exempt organizations. In the beginning of this year, the City asked non-profits to increase their total contributions by $7.1 million to close the budget deficit for 2012. Brown University agreed in May 2012 to pay $31.5 million over the next 11 years.

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[25] Commission to Study Tax-exempt Institutions. "A Call to Build the Capital City Partnership for Economic Growth." November 2010. See http://council.providenceri.com/webfm_send/40.

Furthermore, the City's House Finance Committee discussed a bill proposal in March 2012, which would tax the seven largest tax-exempt institutions at 25% of commercial tax rates and generate revenues of $28 million. Providence Mayor Angel Taveras suggested, however, that it is more likely that large health care institutions will take over services the City currently provides instead of cash contributions.[26]

Other Approaches

Although the PILOT program has been the most common response municipalities have implemented to mitigate the impact of high levels of tax exempt property, there are some alternative solutions that have been employed in recent years.

Embellishment Fees – Rochester, NY

Beginning in the early 1990s, the City of Rochester began a system of service charges based on benefits assessments. The principle of such benefits assessments is that charges are levied for "linear" services – those that can be charged according to defined measures such as frontage and dwelling, units and the subsequent amount of "benefit" received. Examples may include street and sidewalk repair, snow removal and street cleaning.

Rochester's system of fees, known as Embellishment Fees, is charged to the entire assessment base, including tax exempt properties.[27]

Rochester's Current Embellishment Fee Schedule – FY2012-13[28]

Service	Rate	Average Homestead Charge
Street Cleaning	$1.228	$49.12
Roadway Snow Plowing	$2.677	$107.08
Sidewalk Snow Plowing	$0.796	$31.84
Hazardous Sidewalk Repair	$0.544	$21.76
TOTAL	***$5.245***	***$209.80***

Using these fees as a starting point, the Commission conducted an analysis of potential revenue derived from a similar construct using property roll information from the 2012 City Assessment. The following table represents a summary level of this analysis:

[26] Nesi, Ted. "Mayor: Hospitals may not give Prov cash. Taveras backs charging them 25% of tax bill". WPRI. 29 Mar 2012. See http://www.wpri.com/dpp/news/local_news/providence/mayor-hospitals-may-not-give-prov-cash.

[27] Federal, State and public authority properties are exempt, as the City believes that the costs of collecting fees from such public entities would not be worthwhile.

[28] Based on fees published on the City of Rochester's website

Embellishment Fees - All Properties	Current Rate	Total Revenue	Number of Properties[29]	Average Per Property
Street Cleaning	$1.228	$1,847,415	30,017	$61.55
Roadway Snow Plowing	$2.677	$4,027,305		$134.17
Sidewalk Snow Plowing	$0.796	$1,197,510		$39.89
Hazardous Sidewalk Repair	$0.544	$818,399		$27.26
Total Embellishment Fee	***$5.245***	***$7,890,630***		***$262.87***

The analysis yields approximately $7.9 million in additional recurring revenue from an embellishment fee structure such as this. For all four potential embellishment fee components, Albany's average per property is significantly higher than those in Rochester. This assumes that the fees would be applied uniformly to all properties within the City, regardless of tax status, consistent with the City of Rochester's approach.

Embellishment Fees – Fully Exempt Properties	Current Rate	Total Revenue	Number of Properties	Average Per Property
Street Cleaning	$1.23	$257,228	2,869	$89.66
Roadway Snow Plowing	$2.68	$560,748		$195.45
Sidewalk Snow Plowing	$0.80	$166,737		$58.12
Hazardous Sidewalk Repair	$0.54	$113,951		$39.72
Total Embellishment Fee	***$5.25***	***$1,098,664***		***$382.94***

An alternative to this approach would be to reduce the property tax assessment on tax paying properties to a level proportional or equal to the embellishment fee. This would result in a significant loss in potential revenue. However, the offsetting reduction or credit would hold the total obligation from tax paying property owners constant, while also targeting those properties and owners that are tax exempt. When accounting for only fully exempt properties, the potential revenue from an embellishment fee program would be approximately $1.1 million.[30]

However, there are significant drawbacks and limitations to a system such as this. Since this fee structure is imposed upon the frontage of properties abutting City streets, it only includes those buildings directly on City highways and streets. It would not capture the value of those buildings that may be located on a university or hospital campus, which are not measured for frontage purposes at assessment time.

The projected $1.1 million in revenue from an embellishment fee system would almost cover the previously calculated $1.25 million net cost of essential municipal services. Therefore, an embellishment fee system is one that could be explored further. However, given the limitations and expected pushback for such a proposal, it should only be viewed as an alternative and not the first choice.

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[29] Based on data provided by the City of Albany

[30] This figure includes potential fees imposed upon Community Service organizations under classification code 600.

State Capital Subsidies – Harrisburg, PA and Hartford, CT

Along with Albany, other state capitals nationally receive state subsidies for services provided to them as well as all residents of the municipality. For example, **Harrisburg, Pennsylvania** shares many of the same issues as Albany. According to their 2011 Act 47 Recovery Plan, approximately half of the assessed property in the City, 41 percent of which is solely owned by the Commonwealth of Pennsylvania. If taxable, the projected revenue from Commonwealth-owned property alone would be approximately $4.1 million.[31] Although the Commonwealth does not pay these taxes, they do provide the city with an annual revenue stream to compensate for fire protection services for the Capital. However, this amount was decreased from $1 million to $500,000 in FY2012.

In **Hartford, Connecticut**, the city receives an annual PILOT from the state based on a statutory formula. In 2011, the State reimbursed the city $37.8 million. However, this is less than half of the $89 million it would have received if it followed the state formula.[32] In response to this significant decline in state funding and a $56.6 million budget gap, the city proposed a PILOT program that would seek revenue from 49 separate city institutions, mainly the largest educational and health related organizations in the City. However, the proposal was met with mixed and minimal participation, as the adopted 2012-13 City Budget forecasted only $1 million in voluntary PILOT payments.[33]

Direct Billing for Services & User Fees

In many cities and municipalities nationwide, there are a variety of approaches to direct billing for services provided by the government or user fees. The benefit of a user fee is that it compensates for lost revenue due to property tax exemptions while also targeting those who specifically have exemptions. Nonprofit organizations are not exempt from these types of fees.[34] Such fees are typically applied to garbage collection, water & sewer services and other municipal "quality of life" services that are provided by cities nationwide. One such example – the Rochester embellishment fee – is an effective revenue generator for the City. There are also other examples to turn to and brief discussions of examples nationally can be found in Appendix C.

Student & University Fees

Another alternative approach would be to require annual contributions from universities that the City hosts and provides essential services to. For example, in 2005, Yale University and the City of **New Haven, CT** reached an agreement to require the university to pay the City $250 per employee and per student annually over the course of the next 50 years.[35] This agreement replaced a previous agreement between the City and the University which called for a $2.3 million payment from Yale to

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[31] Municipal Financial Recovery Act Recovery Plan for the City of Harrisburg, PA. June 2011. Page 339.
[32] Rifkin, Jess. "City Asks For Cash From Nonprofits". The Harford Courant. July 23, 2012. http://articles.courant.com/2012-07-23/community/hc-hartford-tax-exempt-pilot-0724-20120723_1_taxable-property-property-taxes-city-assessor-john-philip
[33] Based on revenue forecast in 2012-13 Adopted City Budget, http://managementandbudget.hartford.gov/pdf/12_13_Budget%20Pages/Revenue_Estimates.pdf
[34] "The Property Tax Exemption for Nonprofits and Revenue Implications for Cities". Kenyon and Langley. November 2011. Page 5.
[35] The Brown Daily Herald, "In Yale-New Haven payment deal, school's students are worth $250 each." Published 4/21/05. Accessed electronically via http://www.browndailyherald.com/2005/04/21/in-yalenew-haven-payment-deal-schools-students-are-worth-250-each/

New Haven. Under this new agreement, the projected total contribution to the City over the course of the 50 year agreement is $470 million.

Another example would be in 2003, when Brown University and **Providence, RI** reached an agreement, in cooperation with other universities in the City, to provide a total of $50 million over the course of 20 years. This agreement resulted in a $1 million annual contribution from the University, with adjustments for inflation built in going forward.[36]

[36] Ibid.

Recommendations

Based on the research and discussion that the Commission has engaged upon during the course of this project, the following recommendations should be considered and continued discussion surrounding this issue should be maintained by all interested parties.

1. Review of Current Property Tax Exemptions

A regular, periodic review of properties and organizations receiving partial or full property tax exemptions is a practice that should be undertaken. Recently in January 2013, **Allegheny County** in Pennsylvania notified non-profit organizations to provide justification for a property tax exemptions currently being implemented. Under the Pennsylvania Institutions' of Public Charity Act, in order to qualify for an exemption, a non-profit must be a "purely public charity". Under the review, approximately 9,000 of the 26,000 estimated non-profits operating in the county will have to comply.[37]

2. Institute a voluntary PILOT program that accounts for an organization's ability to pay.

In order to obtain buy in and consensus from the nonprofit community within the City, the task force recommends that the City explore opportunities to work collaboratively with the non-profit community, starting with the larger organizations which act as job creators and create significant economic activity within the region. These organizations include the medical institutions, universities, and tax exempt organizations that work towards advancing particular causes and agendas within both State and local government.

In 2000, the City of Albany successfully brokered an agreement for the State of New York to pay a PILOT on the Empire State Plaza. Scheduled to be paid over 30 years, payments were originally scheduled to be $10 million per year, for an approximate total of $269 million. In 2006, this schedule was modified and increased, ramping up payments for five years beginning in 2006 of $22.85 million, and then dropping to $15 million annually through 2033, resulting in total payments of $507 million.[38] Additionally, in the most recent enacted budget, the City received an additional $7.8 million in payments made by the State related to the lease of the Empire State Plaza.

The issue of non-profit organizations and their ability to contribute equitably to the growth and maintenance of the City should not be ignored. Based on research conducted by this Commission, there is strong evidence nationally that voluntary agreements, brokered collaboratively between City officials and key stakeholders can be achieved. The successful programs in Boston and Providence should be models to focus on and that the City can build upon in the future.

Therefore, this Commission recommends that the City begin to engage with key stakeholders from the universities, hospitals, and various other non-profit entities in meaningful discussions to find a mutually agreed upon value of contributions that will benefit the City. As previously addressed in the report, the assumed cost of providing these services is approximately $900,000. Although this amount is small compared to the entire City Budget – amounting to 0.5 percent of total

[37] "County non-profits expected to justify tax breaks". The Pitt News, appearing online on 1-30-13 http://pittnews.com/index.php/newsx/70817-county-nonprofits-expected-to-justify-tax-breaks
[38] Mayor's Budget Message, 2012-13 City of Albany Enacted Budget, page IV

expenditures in 2013 – it would help mitigate the impact upon the City's finances. Those organizations that have the ability to do so, many of which are listed in the "Top Ten" table earlier in this report, should be approached and asked to work collaboratively with the City to find an amicable solution which benefits everyone involved.

3. Work collaboratively and cooperatively with nonprofits in the City to come to equitable agreements on size of PILOT payments

As clearly stated in the Lincoln Institute's report on PILOTs, "the best PILOT initiatives arise out of a partnership between the municipality and local nonprofit organizations."[39] The City of Albany should continue to strive to bring all vested interests to the table to come to equitable agreements upon what is an appropriate level of contribution. As previously shown, there are a number of organizations with significant financial resources, while others are small operations with a community service-first goal. These factors should be taken into consideration when pursuing PILOT agreements.

Where appropriate, the City should explore opportunities for SILOT agreements. Many organizations seek to improve the lives of all citizens of the City, and there would most likely be strong support for such initiative. However, the City should also be aware of the already tight budget constraints that organizations may operate under.

For example, **Boston's** PILOT Task Force recommended that the contributions should be based on the value of the real estate owned by an institution. This would "reflect the size and quality of the institution's real estate holdings and is consistent with the approach taken for taxable properties."[40] The Boston Task Force recommended that exemptions also be made for the City's smaller non-profits, exempting the first $15 million of tax-exempt assessed value from being a factor in determining the size of the contribution. This would eliminate smaller organizations from participation and lessen the impact upon institutions or organizations near the threshold.[41]

For those organizations with the ability to pay, the PILOT Task Force recommended a voluntary payment of 25 percent of what the payment would be if it were not exempt for non-profit purposes. Based on 2010 data, the most recent year available, non-profits contributed a total of $34 million in Fiscal Year 2010 to the City of Boston. The City of Albany should consider this approach as a viable way to increase revenues from tax exempt organizations.

In consideration of the financial and programmatic impact a new PILOT program would have on non-profit organizations in Albany, any recommended approach should be phased in over time and allow for organizations to adjust. Additionally, the City should be aware and comfortable with a scaling back of community initiatives provided by non-profits to mitigate the impact of increased monetary contributions to the City.

[39] (Kenyon & Langley, 2010)
[40] Boston PILOT Task Force Final Report, page 13.
[41] Ibid

4. Further Explore Tax Exempt Organizations Hosting For-Profit Organizations

Under Internal Revenue Service's Compliance Guide for Tax-Exempt Bonds for 501(c) (3) Charitable Organizations, Section 1.145-2(a) of the Treasury regulations, any tax exempt entity that has issued federal bonds for construction of capital resources which currently hosts for-profit entities that occupy more than five percent of total square footage are in violation. Also, as previously stated in the report, NYS Real Property Tax Law Section 420(a) also requires that for-profit entities that are hosted by non-profits shall not be deemed exempt. The City should further examine institutions and determine if there are violations present and seek appropriate action where those offenders have moved to such locations to evade property tax obligations.

Appendix A: Analysis of Foregone Property Tax Revenue

Exempt Property Analysis	Classification, by Assessed Value Range	# of Entries	Total Assessed Value, Exempt Properties	Avg Exempt Assessed Value	Foregone Property Tax Revenue
100	**Agricultural**	**0**	**$0**	**N/A**	**$0**
	Less than $100,000	*0*	*$0*	*N/A*	*$0*
	$100,000 - $250,000	*0*	*$0*	*N/A*	*$0*
	$250,000 - $500,000	*0*	*$0*	*N/A*	*$0*
	$500,000 - $1,000,000	*0*	*$0*	*N/A*	*$0*
	$1,000,000 - $2,500,000	*0*	*$0*	*N/A*	*$0*
	$2,500,000 - $5,000,000	*0*	*$0*	*N/A*	*$0*
	$5,000,000 - $10,000,000	*0*	*$0*	*N/A*	*$0*
	$10,000,000 or Greater	*0*	*$0*	*N/A*	*$0*
200	**Residential**	**431**	**$49,191,500**	**$114,133.41**	**$489,628**
	Less than $100,000	*273*	*$14,756,800*	*$54,054*	*$146,882*
	$100,000 - $250,000	*124*	*$19,156,600*	*$154,489*	*$190,675*
	$250,000 - $500,000	*29*	*$9,867,900*	*$340,272*	*$98,220*
	$500,000 - $1,000,000	*4*	*$2,745,000*	*$686,250*	*$27,322*
	$1,000,000 - $2,500,000	*0*	*$0*	*N/A*	*$0*
	$2,500,000 - $5,000,000	*1*	*$2,665,200*	*$2,665,200*	*$26,528*
	$5,000,000 - $10,000,000	*0*	*$0*	*N/A*	*$0*
	$10,000,000 or Greater	*0*	*$0*	*N/A*	*$0*
300	**Vacant Land**	**1,154**	**$394,609,150**	**$341,949.00**	**$5,459,970**
	Less than $100,000	*1,032*	*$10,148,050*	*$9,833*	*$140,412*
	$100,000 - $250,000	*43*	*$7,032,800*	*$163,553*	*$97,309*
	$250,000 - $500,000	*16*	*$5,897,800*	*$368,613*	*$81,604*
	$500,000 - $1,000,000	*14*	*$9,250,800*	*$660,771*	*$127,998*
	$1,000,000 - $2,500,000	*18*	*$30,840,100*	*$1,713,339*	*$426,716*
	$2,500,000 - $5,000,000	*11*	*$38,327,000*	*$3,484,273*	*$530,308*
	$5,000,000 - $10,000,000	*9*	*$55,606,500*	*$6,178,500*	*$769,394*
	$10,000,000 or Greater	*11*	*$237,506,100*	*$21,591,464*	*$3,286,229*
400	**Commercial**	**548**	**$1,280,375,609**	**$2,336,451.84**	**$17,715,789**
	Less than $100,000	*169*	*$5,666,044*	*$33,527*	*$78,398*
	$100,000 - $250,000	*133*	*$22,462,368*	*$168,890*	*$310,798*
	$250,000 - $500,000	*70*	*$24,979,878*	*$356,855*	*$345,632*
	$500,000 - $1,000,000	*45*	*$31,758,619*	*$705,747*	*$439,425*
	$1,000,000 - $2,500,000	*54*	*$83,494,950*	*$1,546,203*	*$1,155,270*
	$2,500,000 - $5,000,000	*23*	*$81,280,800*	*$3,533,948*	*$1,124,634*
	$5,000,000 - $10,000,000	*27*	*$196,507,850*	*$7,278,069*	*$2,718,961*
	$10,000,000 or Greater	*27*	*$834,225,100*	*$30,897,226*	*$11,542,672*

Exempt Property Analysis	Classification, by Assessed Value Range	# of Entries	Total Assessed Value, Exempt Properties	Avg Exempt Assessed Value	Foregone Property Tax Revenue
500	**Recreation & Entertainment**	**62**	**$112,167,300**	**$1,809,150.00**	**$1,551,992**
	Less than $100,000	*27*	*$676,300*	*$25,048*	*$9,358*
	$100,000 - $250,000	*10*	*$2,047,000*	*$204,700*	*$28,323*
	$250,000 - $500,000	*9*	*$3,191,500*	*$354,611*	*$44,159*
	$500,000 - $1,000,000	*7*	*$4,283,300*	*$611,900*	*$59,265*
	$1,000,000 - $2,500,000	*3*	*$4,630,200*	*$1,543,400*	*$64,065*
	$2,500,000 - $5,000,000	*4*	*$16,809,800*	*$4,202,450*	*$232,587*
	$5,000,000 - $10,000,000	*1*	*$8,733,800*	*$8,733,800*	*$120,844*
	$10,000,000 or Greater	*1*	*$71,795,400*	*$71,795,400*	*$993,390*
600	**Community Services**	**541**	**$4,732,466,200**	**$8,747,626.99**	**$65,480,295**
	Less than $100,000	*139*	*$2,044,600*	*$14,709*	*$28,290*
	$100,000 - $250,000	*79*	*$13,812,500*	*$174,842*	*$191,115*
	$250,000 - $500,000	*52*	*$17,044,000*	*$327,769*	*$235,828*
	$500,000 - $1,000,000	*72*	*$51,309,500*	*$712,632*	*$709,939*
	$1,000,000 - $2,500,000	*67*	*$100,637,100*	*$1,502,046*	*$1,392,455*
	$2,500,000 - $5,000,000	*43*	*$155,326,000*	*$3,612,233*	*$2,149,153*
	$5,000,000 - $10,000,000	*39*	*$265,944,900*	*$6,819,100*	*$3,679,720*
	$10,000,000 or Greater	*50*	*$4,126,347,600*	*$82,526,952*	*$57,093,796*
700	**Industrial**	**4**	**$13,690,200**	**$3,422,550.00**	**$189,423**
	Less than $100,000	*1*	*$0*	*$0*	*$0*
	$100,000 - $250,000	*0*	*$100,000*	*N/A*	*$1,384*
	$250,000 - $500,000	*0*	*$0*	*N/A*	*$0*
	$500,000 - $1,000,000	*0*	*$0*	*N/A*	*$0*
	$1,000,000 - $2,500,000	*0*	*$0*	*N/A*	*$0*
	$2,500,000 - $5,000,000	*3*	*$8,590,200*	*$2,863,400*	*$118,857*
	$5,000,000 - $10,000,000	*0*	*$5,000,000*	*N/A*	*$69,182*
	$10,000,000 or Greater	*0*	*$0*	*N/A*	*$0*
800	**Public Services**	**28**	**$51,530,800**	**$1,840,385.71**	**$713,001**
	Less than $100,000	*11*	*$219,300*	*$19,936*	*$3,034*
	$100,000 - $250,000	*2*	*$294,600*	*$147,300*	*$4,076*
	$250,000 - $500,000	*1*	*$307,200*	*$307,200*	*$4,251*
	$500,000 - $1,000,000	*4*	*$2,851,400*	*$712,850*	*$39,453*
	$1,000,000 - $2,500,000	*4*	*$6,102,500*	*$1,525,625*	*$84,437*
	$2,500,000 - $5,000,000	*2*	*$9,026,700*	*$4,513,350*	*$124,897*
	$5,000,000 - $10,000,000	*4*	*$32,729,100*	*$8,182,275*	*$452,853*
	$10,000,000 or Greater	*0*	*$0*	*N/A*	*$0*

Exempt Property Analysis	Classification, by Assessed Value Range	# of Entries	Total Assessed Value, Exempt Properties	Avg Exempt Assessed Value	Foregone Property Tax Revenue
900	**Wild, Forested, Conservation Lands & Public Parks**	**101**	**$43,359,200**	**$429,299.01**	**$599,935**
	Less than $100,000	*74*	*$1,376,900*	*$18,607*	*$19,051*
	$100,000 - $250,000	*12*	*$2,271,600*	*$189,300*	*$31,431*
	$250,000 - $500,000	*4*	*$1,314,200*	*$328,550*	*$18,184*
	$500,000 - $1,000,000	*2*	*$1,621,200*	*$810,600*	*$22,432*
	$1,000,000 - $2,500,000	*5*	*$6,594,300*	*$1,318,860*	*$91,241*
	$2,500,000 - $5,000,000	*2*	*$5,829,300*	*$2,914,650*	*$80,657*
	$5,000,000 - $10,000,000	*1*	*$8,525,600*	*$8,525,600*	*$117,964*
	$10,000,000 or Greater	*1*	*$15,826,100*	*$15,826,100*	*$218,976*

Appendix B: Meeting Minutes

City of Albany
Commission on Public Private Budgetary Cooperation

Minutes of March 7, 2012 meetings
200 Henry Johnson Boulevard
(Minutes for review by members of the commission)

Commissions members present: Marcus Buckley, Frank Commisso, Pamela Sawchuk Brown, Lee McElroy, Leonard Morganbesser, Jim Sano, Robert Ward, Michael Yevoli

Commission members excused: Reverend Kenneth Doyle, Patricia Salkin, Kevin O'Connor

City Staff Present: Daniela Weiss

Meeting began with approval of minutes from the last meeting. Mike Yevoli made a motion to appoint Marcus Buckley as a co-chair. Motion was passed.

Draft By-Laws were looked over and approved by the commission. Brief review of the scheduled meetings for time conflicts and review of contact sheet.

Mike Yevoli discussed revenue and expenditures of city budget. Commission members discussed the percentages of tax exemptions and percentages for certain entities, i.e. the state, city and health care.

Bob Ward discussed the possibility of having guest speaker Dr. Daphne Kenyon writer of the Lincoln report, come speak to the group.

Members of the group discussed what type of report they wish to issue and what type of properties they wish to focus on. Frank Commisso suggested that by the next meeting, March 20th, members look at the rational and the legal basis supporting the charitable exemption. Jim Sano noted that due to time constraints it would be difficult to be able to value all of the exempt properties, especially smaller ones.

Members agreed they want to produce a framework recommendation and be able to pick a particular path.

Questions arose as to what is the public opposition against POILTs.

Other suggestions on speakers to lecture- Tax Assessor, Dean Fulihan. Report issued by the city "Capital Punishment" would be beneficial to look at.

Frank Commisso stated that he would prefer to focus on nonprofit exemptions and not so much on governmental exemptions.

Robert Ward expressed his concern over how we are going to deal with the legal issues. Someone should reach out to Albany law center to see if they would be willing to help and corporation counsel's office.

Mike Yevoli expressed concern that various speakers would not be ready to speak at the next meeting but at April 3rd meetings.

Members agreed that a draft of the report should be done at least 1 month before the preliminary report is submitted.

Questions arose about the City's administrative procedures when it comes to making sure all the exempt properties are in compliance with proper forms and filings. Need to seek help from the tax assessor's office. Next meeting is on March 20th. The Commission hopes to place certain goals for each respective date.

City of Albany
Commission on Public Private Budgetary Cooperation

Minutes of March 20, 2012 meetings
200 Henry Johnson Boulevard
(Minutes for review by members of the commission)

Commission members present: Father Kenneth Doyle, Kevin O'Connor, Marcus Buckley, Frank Commisso, Pamela Sawchuk Brown, Jim Sano, Robert Ward, Michael Yevoli

Commission members excused: Patricia Salkin, Leonard Morganbesser

City Staff Present: Daniela Weiss

Meeting began with approval of minutes from the last meeting.

Confirmation of Daphne Kenyon to lecture at next week's meeting via telephone. Still working on other possible speakers, such as the city assessor.

Review of the enabling legislation which created the PPBC to go over the main duties and goals of the commission. Goal of the commission is to provide findings concerning costs associated with city services, best practices, develop methods for valuing the contributions made by nonprofits, be able to recommend legislation and look to see what other state capitals are doing.

Review of maps handed out representing tax exempt entities in the City of Albany, with and without the residential exemption represented. Eventually would like to see all of the data mapped.

Mike Yevoli reviewed the different types of exemptions on the handout which provided a count, land assessed value and total assessed value to the city.

Questions arose concerning the difficulty to appropriately assessing a property where the use has both profit and nonprofit functions. For example, OTB has a private restaurant, are they being taxed? This is something to look into.

Mike Yevoli mentioned that the City of Albany currently has PIOLT agreements with a few non-profits. Might be helpful to see what existing ones we have and to look at how they initially formed.

Commission changed topic to talk about the framework of the report itself. Frank Commisso suggested first we need to determine if there is any inequity and to determine what the base expenditures are. From there figure out what value to the community the nonprofits provide, however this might be difficult.

Father Doyle mentioned the method used by Boston- 25% of what they would have been required to pay.

Marcus Buckley suggested writing a letter to the nonprofits so they have an understanding of what the PPBC is trying to achieve.

Members discussed which of the nonprofits to focus on and what threshold to use when determining what entities they would elicit contributions from. Generally, the focus will be on the largest nonprofits with the highest ability to pay. (Alternatives-Most value to the city? Using most of city resources?) Perhaps the police and fire department would have the ability to provide us with the number of calls that were placed at the nonprofits in the city in order to determine which use most of the city's resources.

Bob Ward asked whether we would be seeking voluntary or involuntary contributions such as user fees. Talk of Schenectady's failed curb fee. Have to be careful because these types of fees are often looked at as taxes.

Mike Yevoli suggested the idea of reaching out to the nonprofits to potentially have a public hearing to get their input.

Bob Ward volunteered to write some of the report. It was suggested that Patricia Salkin reach out to Albany Law School students to see if someone would be willing to help write the actual report.

Suggested that the members on the commission who represent a nonprofit to come up with a position statement as to why they feel their tax exempt status should be maintained and what their benefits they provide to the City.

City of Albany
Commission on Public Private Budgetary Cooperation

Minutes of April 3, 2012 meetings
200 Henry Johnson Boulevard
(Minutes for review by members of the commission)

Commission members present: Father Kenneth Doyle, Kevin O'Connor, Marcus Buckley, Frank Commisso, Pamela Sawchuk Brown, Jim Sano, Robert Ward, Michael Yevoli

Commission members excused: Patricia Salkin, Lee McElroy, Leonard Morganbesser

City Staff Present: Daniela Weiss

Approval of minutes from the last meeting.

Daphne Kenyon presentation. See Power Point handout.

Questions- --

What success has there been in NYS? Cities such as Ithaca, Syracuse and Buffalo have several PIOLTS in place. Buffalo also uses a user fee for trash that applies to non-profits.

How do we decide on a percent goal --- Boston's was 25% over a five year phase in.

How are user fees set? Per Capita? In Rhode Island, they did it per-student.

Discussion arose over the Boston Universities. Most of the contributions from schools in Boston were from Private Universities, other Public schools expressed the fear that they may not have the authority to make a contribution.

Question: how to value the community benefit by a nonprofit when they provide a service instead of a payment contribution. "SILOT's" – Service in lieu of taxes. Boston has a task force of Community Benefit.

Members of the Commission agree that additional time is likely going to be required.

Brief review of the draft letter to non-profits.

Appendix C: PILOT Snapshots

State of Indiana: enacted right for municipalities to charge fees for police and fire services

State of Georgia: statewide 1.6% tax on hospital revenue resulting in $247.8 million from hospitals and $131 million from nursing homes

State of Colorado: in 2009 considered a 5.5% local charge on patient bills at all hospitals

State of Kansas: state proposal to revoke sales tax exemption for nonprofits especially re: water, electric and natural gas

State of Minnesota: enacted 1973 state law enabling municipalities to charge nonprofits for essential services (e.g. streetlights)

State of Pennsylvania: proposed to allow for "essential service fees" for nonprofits

State of Illinois: state Supreme Court upheld decision to deny tax exemption for local hospital

State of Hawaii: considering abolishing nonprofit tax exemption statewide

State of Connecticut: state reimburses municipalities annually for major percentage of revenues lost on nonprofit lands (New Haven receives ~$38 million annually)

Cuyahoga County, PA (contains Cleveland): unsuccessfully attempted to negotiate a systematic PILOT program

Allegheny County, PA (contains Pittsburgh): voted to impose $13 million in fees on nonprofits – vetoed by county executive who determined it was illegal

Pittsburgh, PA: collected $4.6 million annually pre- state law removal of right to challenge exemption–$600,000 after; new voluntary Public Service Fund donated $14 million from 2005-2007 and $5.5 million for2008- 2010

Scranton, PA: Univ. of Scranton pays $175,000/year in addition to $27,000/year other voluntary PILOTs; Scranton school board seeking additional PILOTs

Philadelphia, PA: received $12 million annually pre-state law while threatening exemption challenge; now receives $1 million annually voluntarily

Kingston, NY and Dutchess & Sullivan Counties: considering pay-as-you-throw and other essential service fees

Newburgh, NY: considering a public safety fee to be charged to nonprofits

Boston, MA: Systematic citywide PILOT voluntary 25% payment of assessed value collects ~$33 million annually / __% of budget

Boston, MA: proposed $100/semester out-of-city student tax in addition to PILOT system

Pewaukee, WI: deducted fire hydrant costs from local taxes and in turn charged blanket fee

Billings, MT: $40,000 PILOT on a female ex-offender residential and rehabilitation facility

Minneapolis, MN: requires elevator inspection, waste water, fire inspection and other fees

Minneapolis and Rochester, MN: increased nonprofit fees for streetlights

Athens, OH: proposed $25/semester charge for Ohio University students

Concord, NH: collects $665,000/year in PILOTs; ¼ of property is tax exempt

Keene, NH: PILOTs with five nonprofits including four housing authorities

Rochester, NH: hospitals negotiated $120,000/year 15-year PILOTs to settle exemption challenge

Baltimore, MD: employs several multi-year PILOTs with bulk of payment front-loaded and then phased down

New Orleans, LA: Mayor's task force on revoking nonprofit tax exemption abandoned efforts

St. Louis, MO: seeking voluntary PILOTs from large nonprofit institutions

Camden, NJ: current effort to levee $100 tax for each nonprofit employee

Morristown, NJ: suing for $1+ million back-taxes for private/for-profit leased space in hospital-owned property

Montclair, NJ: proposed a $100/year fee per student at Montclair State

South Orange, NJ: attempted a $50/semester charge per student enrolled

Princeton, NJ: renegotiating to increase Princeton's PILOT from $1.2 million annually with a one-time $500,000 payment

Palo Alto, CA: seeking $30 million from Stanford for infrastructure improvements

Yakima, WA: ended the exemption of all food booths at community events

New Haven, CT: five institutions (including Yale) pay $250/employee and per dorm/hospital bed annually (Yale total is$3.2 million)

Providence, RI: 20-year $40 million deal for PILOT from four colleges; new acquisition pays diminishing assessment