

**COMPTROLLER
MARK J.F. SCHROEDER**



TO: THE COMMON COUNCIL

DATE: May 10, 2012

Hon. Richard A. Fontana - Council President, Lovejoy District
Hon. Demone A. Smith - Majority Leader, Masten District
Hon. Bonnie E. Russell - President Pro-Tempore, University District
Hon. Joseph Golombek, Jr. - North District
Hon. Darius G. Pridgen - Ellicott District
Hon. David A. Franczyk - Fillmore District
Hon. Michael J. LoCurto - Delaware District
Hon. David A. Rivera - Niagara District
South District Council Member – To be determined

FROM: THE DEPARTMENT OF AUDIT & CONTROL

SUBJECT: Comptroller's Budget Response – 2012-2013

As required by Section 20-7 of the City Charter, I am filing with your Honorable Body my assessment of the Mayor's proposed budget for 2012-13. Our discussion and review does not include the Board of Education funds.

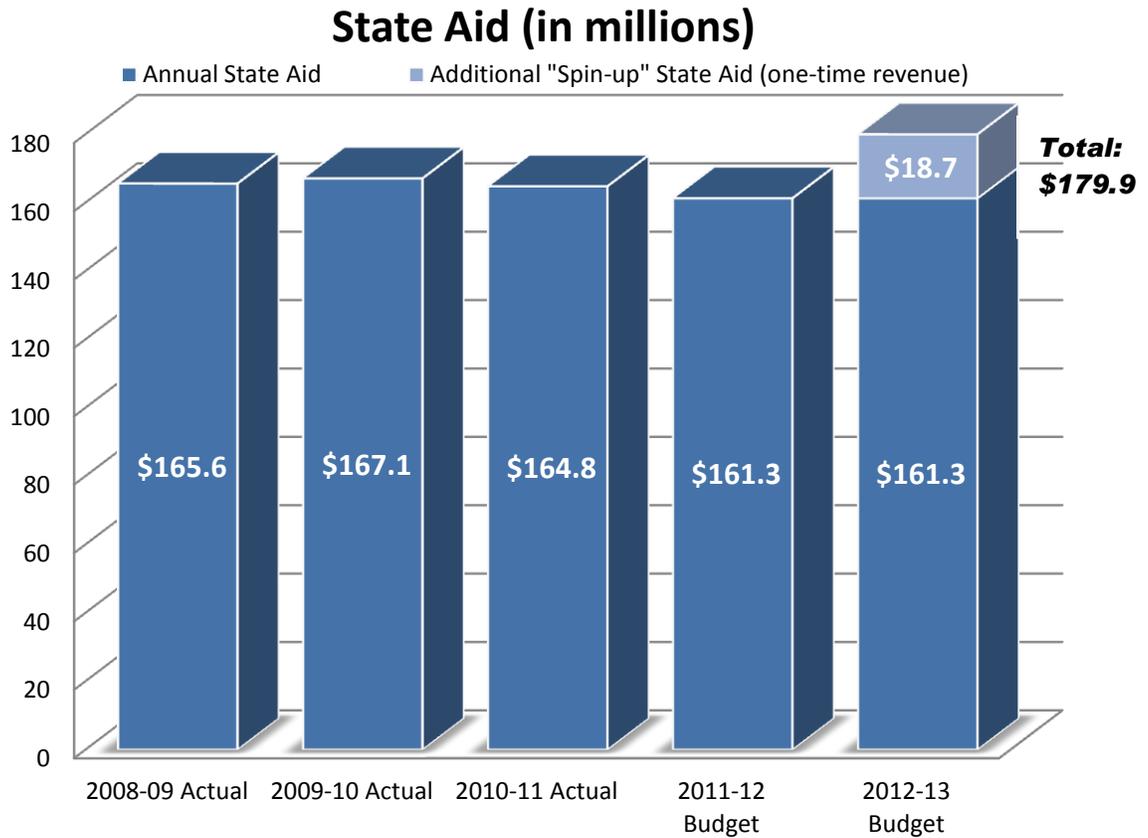
GENERAL FUND:

REVENUES:

Revenues in the Mayor's 2012-13 budget total \$471,098,850 (not including the \$11,522,772 of fund balance used to balance the budget), which is an increase of \$18,491,955, or 4.0%, over the 2011-12 revised budget of \$450,000,493. Major revenue changes include increases in state aid and sales tax, and a decrease in property taxes.

State Aid:

The largest revenue increase in the 2012-13 budget is an additional \$18,651,186 in state aid, which totals \$179,936,419. This increase results from state legislation whereby aid previously scheduled to be received in March 2014 will be paid to the City by the State in June 2013. This change in payment date gives the City a onetime budgetary revenue increase while not requiring the State to appropriate any additional funds in their fiscal year. While this is additional aid in the 2012-13 fiscal year, we want to caution that the State Aid in subsequent fiscal years will revert back to the 2011-12 levels absent of any additional funds appropriated by the State in 2013-14.



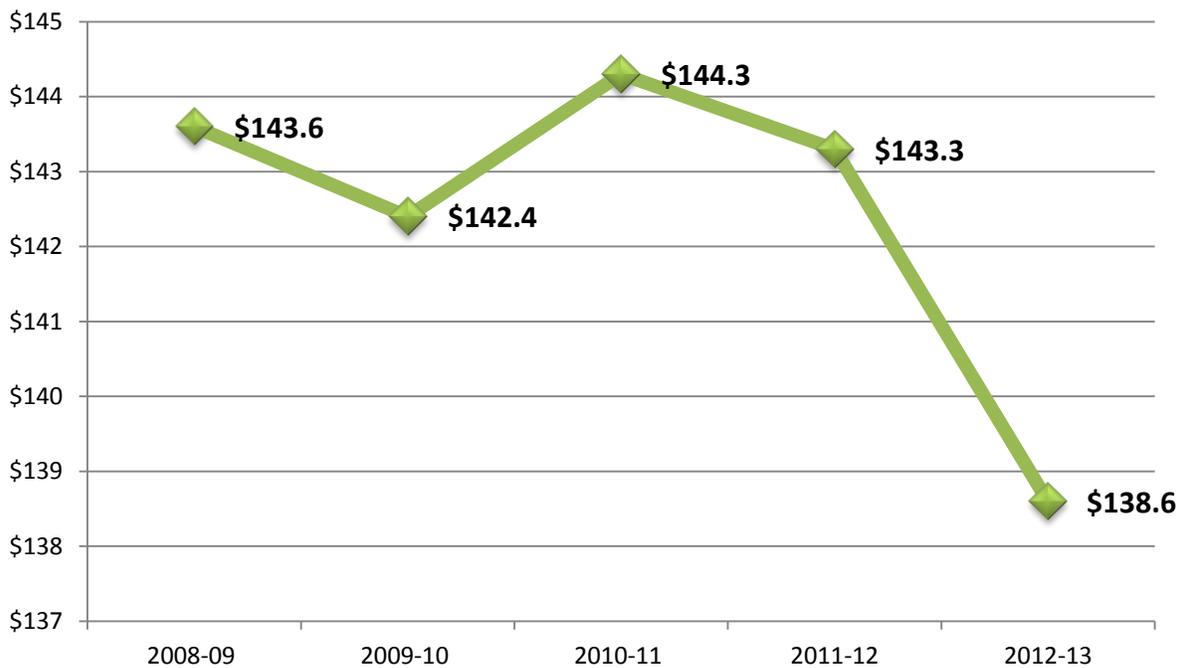
Sales Tax:

The budget also includes an increase in sales tax revenue of \$6,143,871, or 8.5%, over the 2011-12 budget, or a 5.4% percent increase over the 2010-11 actual results. This percentage increase seems high based on historical trends. The 2010-11 actual results were impacted by the mid-year sharing percent change, based on the loss of population in the City of Buffalo as a result of the 2010 census. Our 2011-12 projection showed flat growth for 2011-12, though economic indicators are predicting an increase in spending in Erie County, especially due to Canadian shoppers, but the percent of growth used in the 2012-13 budget appears to be overly optimistic.

Property Taxes:

The Mayor's recommended budget includes a decrease of \$4,547,531 in property tax revenues as a result of the Mayor's promise to not increase property taxes to homeowners. While the 2012-13 budget was able to absorb this revenue decrease, the City's budgets will be challenged in future years, especially in light of the New York State's 2% property tax cap, whereby annual property tax levy increases will be limited.

Property Tax Levy (in millions)

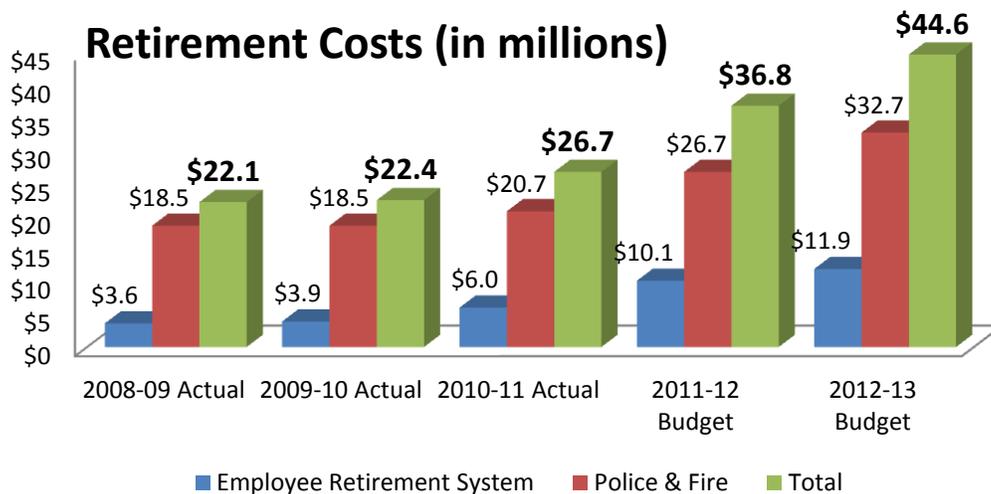


APPROPRIATIONS:

Appropriations in the Mayor’s 2012-13 recommended budget total \$482,621,621, which is 4.6%, or \$21,405,216, higher than the 2011-12 revised budget as of May 1, 2012. All of the accounts with significant growth in the budget are included in fringe benefits. Fringe benefits increased 16.4%, or \$20,046,165, to \$142,008,720, with the major increases in pension costs and health insurance. In addition, the budget included an appropriation for unsettled union contracts.

New York State Retirement:

The appropriation for employee retirement increased \$1,756,420, or 17.3%, while the police and fire retirement increased 22.4%, or \$5,977,152. These rates were determined by the New York State Retirement System based on actuarial information as of March 31, 2010. The retirement system is predicting a reduction of the rates in the future. In addition, new tiers have been added, whereas new employees are required to make contributions to the retirement system, which will reduce the employer’s contribution percent over time. Therefore, pension costs should stabilize over the next few years.



Health Insurance:

Health insurance for both employees and retirees has increased \$3,233,557, or 5.4%. The City is now self insured for prescriptions, and we are anticipating a savings as result of this change. Therefore, the proposed budget should be sufficient to cover anticipated costs.

Unsettled Union Agreements:

For the first time, the budget includes an estimate for unsettled union contracts. In accordance with generally accepted accounting principles, the audited financial statements have included an estimate of this liability each year since the wage freeze was lifted. The Mayor has included \$9,000,000 in the 2012-13 budget, which will put the budget in line with the year-end accounting. The Comptroller’s office has been recommending this change for a few years, and we feel this is another step towards conservative budgeting.

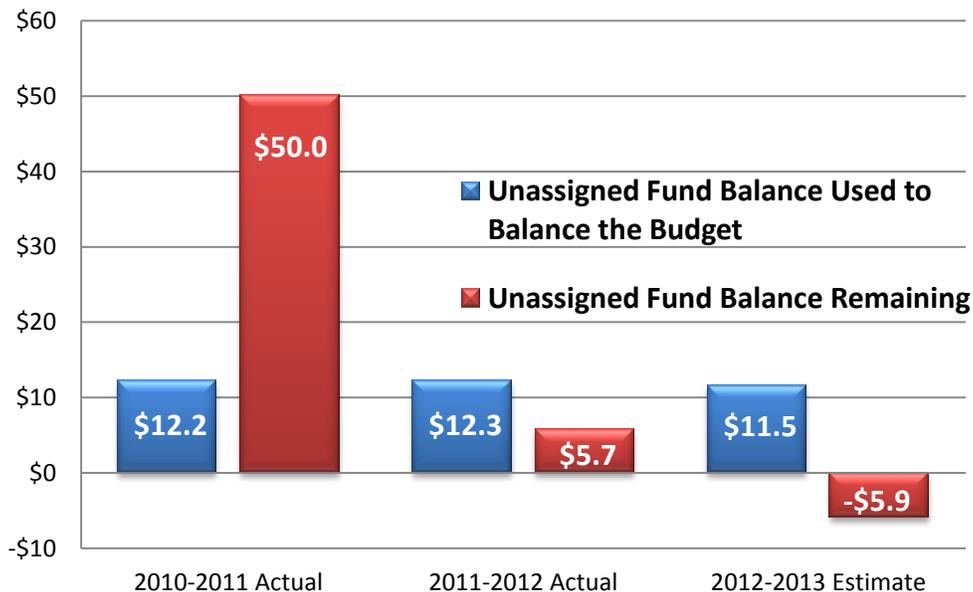
FUND BALANCE:

The Mayor has included the use of \$11,522,772 of fund balance in the 2012-13 recommended budget. Both the use of, and amount of, fund balance used to balance the budget are of concern. The City has received upgrades in our credit rating recently because of our ability “to accumulate a very strong reserve position,” according to Standard & Poors. The continued use of reserves to balance the budget could reduce our fund balance to an amount which would have a negative impact on our credit rating. For a budget to be structurally balanced, current year revenues are expected to cover current year expenditures. In addition, the maximum amount of fund balance that should have been used was \$5,652,877. This was the amount of unassigned fund balance as reported on the June 30, 2011 audited financial statements. The amount included in the recommended budget is based on a prediction of the amount of fund balance that will be available at June 30, 2012. We feel this is a risky practice and may hurt our reputation for adhering to conservative budget practices with the rating agencies.

***“WHAT COULD
MAKE THE
RATING GO
DOWN:
Continued use of
reserves beyond
what is currently
expected”***

-Moody’s Bond
Rating Report for
the City of Buffalo
4/9/2012

Unassigned Fund Balance

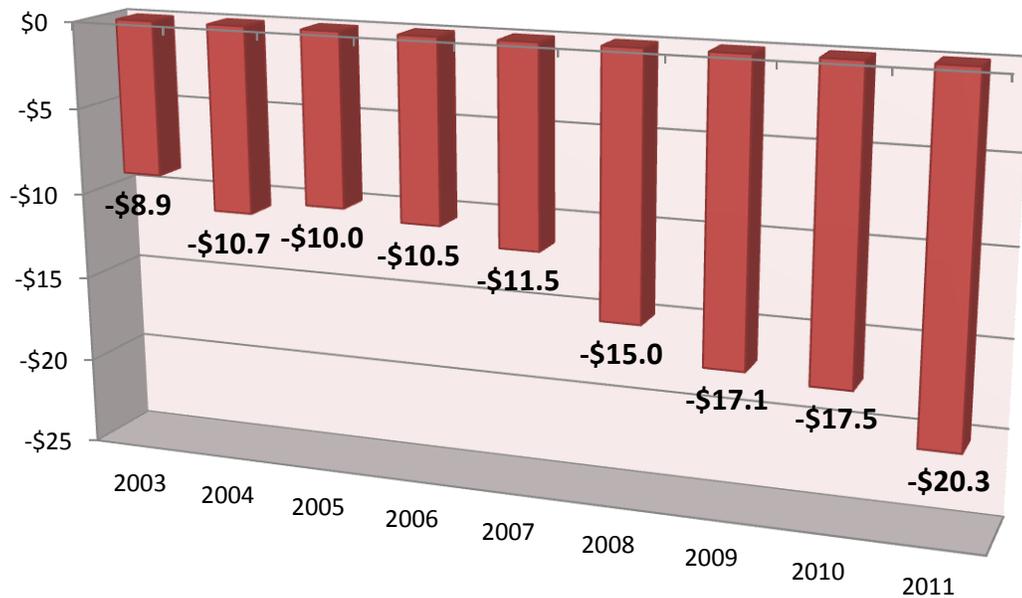


ENTERPRISE FUNDS:

Solid Waste:

As of June 30, 2011, the Solid Waste Enterprise Fund had an accumulated deficit of \$20,262,843. The amount of this deficit, and annual operating losses over the past five years in this fund, have resulted in the City's independent auditors reporting a significant deficiency in internal controls and recommending that, in accordance with the City Charter, rates should be established to generate sufficient revenue to support the program. They also recommend that a formal plan be established to repay the general fund for cash advances. The 2012 -13 budget, as presented, continues to depend on an operating transfer from the general fund of \$3,200,000, and there is no plan in place to repay the \$14,792,453 cash advance. Additionally, the property taxpayers are bearing a higher percentage of the costs of this fund, which was established to spread the costs over all the entities that benefit from the service, both property taxpayers as well as the other entities utilizing this service.

Solid Waste Fund - Total Deficit (in millions)



Parking:

In contrast, the Parking Enterprise Fund, which has had significant surplus recently, is transferring \$3,200,000 to the general fund for the second consecutive year. Enterprise Funds are established to be self-sustaining and any excess revenue should be used for the purpose the revenue is generated. In this case funds could be used to reduce the debt service costs on future parking ramps, rather than subsidize the general fund.

CONCLUSION AND FOUR-YEAR PLAN

With the exceptions of the items already noted, we feel that the 2012-13 recommended budget is adequate, but we have major concerns with the four year plan and the ability for the City to generate significant revenues to cover anticipated expenditures going forward. On the revenue side, considering the fiscal condition of New York State, and the relative state of the New York and national economy, we don't think an increase in state aid is realistic. In addition, fund balance will not be available as a resource in the future. The tax cap will limit our ability to raise property taxes, and we have very few recurring revenues that can generate any significant growth. On the expenditure side, all of the major union agreements have expired, and it is unrealistic to expect no additional costs when they are eventually settled. In addition, many of our expenditures will increase based on inflation.

In conclusion, we want to remind you that preparing balanced budgets will be difficult going forward, and that is why it is important to set standards so that the City does not make short-term decisions that will weaken the City's financial position in the future.

In an effort to establish such standards, the Comptroller's office has drafted the **Buffalo Fiscal Integrity Act**, a proposed amendment to the City Charter designed to ensure the financial health of the city for years to come. If enacted, this legislation would require annual four-year financial plans, as well as implement policies to protect the City's fund balance, including establishing appropriate uses for the "Rainy Day Fund."

This legislation is needed in order to continue the great progress Buffalo has made in improving its fiscal outlook, which has resulted in the highest bond ratings in the City's history. Buffalo is in the "A" category with all of the "Big Three" credit rating agencies. Moody's upgraded the city's bond rating to "A1" last month, and we have an "A+" with Fitch and an "A" with Standard & Poor's.

Buffalo's improved credit rating has allowed the City to sell bonds at record low interest rates and without bond insurance, saving significant taxpayer dollars on interest costs and bond insurance premiums.

It is crucial that there is a framework of fiscally sound policies to guide the city moving forward, especially if the control board votes to shift to an advisory role. This legislation will give Buffalo the tools to protect its finances, with or without the control board. In their reports, the credit rating agencies view the control board as an asset. We must show Wall Street that the City has its own financial controls in place.

On the following pages you will find an Executive Summary of the **Buffalo Fiscal Integrity Act**, as well as the draft language of the proposed amendment. Also included is a Board of Education resolution in support of a four-year financial plan for the City's school district.

THE BUFFALO FISCAL INTEGRITY ACT

AN EXECUTIVE SUMMARY OF THE LOCAL LAW, PROPOSED BY COMPTROLLER SCHROEDER,
INSTITUTING POLICIES AIMED AT PROTECTING THE CITY OF BUFFALO'S FINANCES

Purpose:

This bill would ensure the financial stability of the City of Buffalo by requiring annual four-year financial plans and establishing appropriate fund balance policies.

Summary of Provisions:

Section 1 - Article 20 of the Charter of the City of Buffalo is amended by requiring the Mayor to submit a four-year financial plan to the Common Council each year.

Within Section 20-3, a new subdivision B is added to create and require the submission of an annual four-year financial plan.

Section 20-6 includes the four-year plan in the Mayor's budget message.

To ensure that the financial plan meets the requirements of the Charter, Section 20-7 allows the Comptroller to offer an opinion on the sufficiency of the plan.

Cash flow projections and remedial recommendations are added to the quarterly budget reports required under Section 20-17.

The fund balance policy in Section 20-17.1 is refined to determine how it can be replenished.

The new Section 20-32 breaks down the content and regulations for the implementation of the four-year financial plan as it relates to the City's annual budget process. It takes into account various aspects of the City's budgetary scope, including accounting principles, revenue and expenditure projections, cash balances and budget amendments.

Section 2 – Stipulates that the provisions of this local law shall be controlling if they are inconsistent with any other local law or act.

Section 3 – Provides when the legislation will become effective.

Justification:

The City of Buffalo has made great progress in improving its fiscal outlook, which has resulted in the highest bond ratings in the City's history. This has allowed Buffalo to sell bonds at record low interest rates, saving significant taxpayer dollars on interest costs and bond insurance premiums.

In order to protect the City's finances, especially in the event that the Buffalo Fiscal Stability Authority transitions from a "control period" to an "advisory period," it is crucial that the City has its own fiscal controls in place. This legislation is based on sound fiscal policies that were successful in other communities in New York State, as well as some of the controls the Buffalo Fiscal Stability Authority has implemented. These policies include an annual four-year financial plan, as well as measures aimed at protecting the City's fund balances. The proposed fund balance policies establish appropriate uses for the "Rainy Day Fund," also known as the "committed" fund balance. Under this legislation, the "Rainy Day Fund" could only be used for unexpected, non-recurring expenses, such as those resulting from mid-year cuts in state aid or natural disasters like the October 2006 snowstorm.

While cost savings to the City are expected, the primary goal is to instill and formalize a level of discipline into the budget process that did not exist previously within the City Charter. By following the example provided by the Buffalo Fiscal Stability Authority Act, this local law puts into place a framework for fiscal stability going forward.

By:

City of Buffalo

Local Law No. ____ (2012)

Introductory No. _____ (2012)

A LOCAL LAW amending the Article 20 of the Charter of the City of Buffalo instituting annual four-year financial plans and establishing appropriate fund balance policies.

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF BUFFALO AS FOLLOWS:

Section 1: That Article 20 of the Charter of the City of Buffalo, adopted pursuant to law, is hereby amended as follows:

ARTICLE 20 BUDGETING

§ 20-3. Mayor's Budget.

A. On or before the first day of May each year, the mayor shall submit to the council a budget containing a complete plan of proposed expenditures and estimated revenues for the next fiscal year. Therein he shall set forth in detail and summary:

- (a) Estimates of the expenditures necessary in his judgment for carrying on the city government for the ensuing fiscal year, separately stating the estimates of expenditures necessary for school purposes and for all other purposes and stating in total the amount necessary to accomplish every separate function of each administrative unit or other purpose.
- (b) Estimates of the receipts of the city during the ensuing fiscal year under laws existing at the time of the budget is transmitted and also under the revenue proposals, if any, contained in the budget, and shall allocate separately the estimates of receipts to be credited for school purposes and for all other purposes.
- (c) The expenditures and receipts of the city during the last completed fiscal year.
- (d) Estimates of the expenditures and receipts of the city during the current fiscal year.
- (e) The balanced statements of the condition of the treasury at the end of the last completed fiscal year and the estimated condition of the treasury at the end of the current fiscal year.
- (f) All essential facts regarding the bonded and other indebtedness of the city.
- (g) Such other financial statements and data as in the mayor's judgment are necessary or desirable in order to make known in all practicable detail the financial condition of the city.

- (h) Any recommendations of the mayor to the council with respect to new sources of revenues.
- (i) For each separate function of each administrative unit or other purpose:
 - i an outline of the administrative organization for the performance of the function;
 - ii a summary of the expenditures, estimated fringe benefits and other unallocated indirect costs, and net cost or gain to the city of such function during the last two completed fiscal years, as estimated for the current fiscal year, and as budgeted for the ensuing fiscal year;
 - iii a summary explanation of any major changes in revenues or expenditures and any non-recurring revenue or expenditure;
 - iv a summary of the objectives of such function during the ensuing fiscal year, the services to be provided to the residents or government of the city, and to the extent reasonably practicable the number of units and the unit cost of each such service.
- (j) A statement estimating the fiscal impact of any condition that may be reasonably foreseen as likely to cause a deficit in the ensuing year or to require a tax increase or reduction of services in order to avert a deficit in the ensuing year or in the year following the ensuing year.

B. Four-Year Financial Plan.

In support of the Mayor's budget and to assist the Common Council in its review as provided pursuant to this article, commencing with the City's 2013-2014 Fiscal Year and continuing in each subsequent fiscal year, the Mayor shall prepare and submit to the Common Council a four-year financial plan. The financial plan shall contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. The details of such plan shall be as further described in section 20-32 of this article.

§ 20-6. Budget Message.

The mayor shall submit to the council with the proposed budget a budget message which shall:

- (a) describe the important features of the current budget with reference both to proposed expenditures and anticipated income and a general summary showing the current and capital requirements for the fiscal year, with supporting schedules;
- (b) exhibit the aggregate figures of the current budget in such manner as to show a balanced relation between the total proposed expenditures and the total anticipated income for the fiscal year covered by it;
- (c) compare these figures with the corresponding figures of the last completed fiscal year and the year in progress; and
- (d) outline a fiscal policy for the city and describe its relationship to the objectives of the mayor's annual management plan and report, [and]the four-year strategic plan and the four-year financial plan.

The message shall contain such comments with respect to the capital plan and budget as the mayor may deem advisable, including the probable effect thereof for each of the years involved.

The city clerk shall promptly publish the budget message in the city record and distribute a summary to the news media.

§ 20-7. Comptroller's Assessment of Accuracy of Revenue and Expenditure Assessments.

On or before the tenth day of May, the Comptroller shall submit to the council an assessment of the accuracy of the revenue and expenditure estimates of the budget and the four-year financial plan the mayor submits to the council. The Comptroller shall opine on the sufficiency of the financial plan and whether it contains sufficient data to support the outcomes projected.

§ 20-17. Budget Monitoring.

The director of the budget shall submit to the mayor and the council within 45 days of the close of the first, second and third fiscal quarters of the city's fiscal year a report:

- (a) summarizing the actual revenues and expenditures for such quarter as compared to such estimates in the budget;
- (b) projecting, based on generally accepted accounting principles any material revenue and expenditure trends or other factors that the director reasonably believes may influence the city's finances, probable fiscal year-end results as compared to the budget; and
- (c) projecting the impact of such trends or factors on the following fiscal year and such other future fiscal years as the director deems appropriate to consider;
- (d) updating quarterly cash flow projections of receipts and disbursements which compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation.

Prior to submitting the report to the mayor and the council, the director shall submit a draft report to the comptroller for review and comment. If in the comptroller's opinion the final report raises any substantial issue, the comptroller shall promptly submit to the mayor and the council a statement describing such issue. All quarterly reports shall be accompanied by recommendations from the mayor to the council setting forth any remedial action necessary to resolve any unfavorable budget variances including the overestimation of revenues and the underestimation of appropriations.

§ 20-17.1. Fund Balance Policy.

- [(a) Unreserved Fund Balance. Beginning in Fiscal Year 2007-08, the] The City of Buffalo shall set aside an amount of general fund [unreserved fund] balance (committed fund balance, commonly known as "Rainy Day" funds) equal to no less than 30 days of prior year expenditures pursuant to a fund balance policy. Said policy shall be approved by the Mayor

and Comptroller subject to a majority vote of the Common Council, and approved as to form by the Corporation Counsel. These “Rainy Day” funds shall be used for extraordinary operating or capital needs that could not be anticipated and cannot be funded with current budget resources. It shall be the Comptroller’s responsibility to submit to the Mayor and the Common Council the annual calculation that determines the amount to be placed in these funds. If during the fiscal year the City has non-recurring extraordinary operating or capital needs that could not be anticipated and cannot be funded with current budget resources, the City may utilize the “Rainy Day” funds provided there is a zero balance in unassigned fund balance in compliance with procedures described in Section 20-11. If the ‘Rainy Day’ funds fall below the established threshold, the City shall appropriate funds in the next and subsequent three years operating budgets such that the “Rainy Day” funds shall be replenished to its threshold with in a four-year period.

[(b) Reserved Fund Balance. Beginning in Fiscal Year 2007-2008, the City of Buffalo shall set aside a reserve of general fund balance in an amount of up to 15 days of prior year general fund expenditures, or as otherwise authorized by law. The reserve shall be for purposes allowed for in General Municipal Law, Section 6-c. It shall be the Comptroller’s responsibility to submit to the Mayor and the Common Council the annual calculation that determines the amount to be placed in these funds.]

§ 20-32. Budget and Financial Plan.

A. Pursuant to the procedures contained in this section, each year the mayor shall develop, and from time to time modify, a four-year financial plan for all major operating funds of the City where as the first year of the financial plan will be the proposed budget as submitted on or before the first day of May each year. Each such financial plan and financial plan modification shall comply with the requirements of subdivision 2 of this section and shall conform to the following standards:

(1) For each fiscal year, the city’s budgets for all major operating funds covering all expenditures shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and would permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles. For this purpose, unassigned fund balance existing at the end of the prior fiscal year can be used as a resource and shall not be considered a deficit under generally accepted accounting principles when calculating the deficit. Fund balance in excess of the unassigned amount from the most recently completed audited financials may not be used as a resource in the four-year plan.

(2) The financial plan shall include (a) information related to projected employment levels, collective bargaining agreements and other actions related to employee costs, and such other actions to ensure that there are provisions made for such obligations in the plan; (b) information related to recurring expenditures and contracted obligations for utilities, services and supplies; (c) information related all revenue estimates and an explanation of any significant deviations from prior year actual results (for this purpose, a significant deviation is defined as an amount exceeding one percent (1%) of total revenues of the general fund as reported in the most recently

completed audited financials); (d) adequate reserves to maintain essential services in the event revenues have been overestimated or expenditures underestimated for any period; and (e) adequate cash resources to meet its obligations.

(3) The plan should include one year of cash flow projections of receipts and disbursements.

(4) The city shall issue no obligations which shall be inconsistent with the financial plan prepared in accordance with this section.

(5) Provision shall be made for the payment in full of the scheduled debt service on all bonds and notes of the city due in the applicable fiscal years of the four-year plan.

(6) All projections of revenues and expenditures contained in the financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the city to be conducted within the cash resources so projected.

(7). The amount of cash on hand at the beginning of any fiscal year shall be estimated in accordance with paragraph six of this subdivision, but in no event shall it be less than two times the average monthly cash disbursements of the last completed fiscal year.

(8) In the event that the operations during the preceding fiscal year have created a negative unassigned fund balance, the first fiscal year included in any financial plan shall make provision for the repayment of any deficit incurred by the city during the preceding fiscal year. If such deficit is in excess of two percent (2%) of the prior year real tax levy, a replenishment plan covering the four years of the plan may be implemented if agreed upon by the mayor, comptroller and president of the common council.

B. Notwithstanding any inconsistent provision of this charter, in the event of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the city, if the mayor, in consultation with the comptroller, determines that immediate compliance with such change will have a material effect on the city's budget over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the mayor may propose a method of phasing the requirements of such change into the budget over such reasonably expeditious time period as the mayor deems appropriate, subject to the approval of the comptroller.

C. The powers, duties, and obligations set forth in this section shall be subject to the powers, duties, and obligations placed upon the City by any state or local officer or agency, including but not limited to the Buffalo fiscal stability authority act, while such act remains in effect.

Section 2. Insofar as the provisions of this local law are inconsistent with the provisions of any other local law or act, the provisions of this local law shall be controlling.

Section 3. This local law shall take effect immediately.

BUFFALO BOARD OF EDUCATION RESOLUTION

Whereas, the City of Buffalo (the City) and its covered entities, including the Buffalo City School District (the District), have been under a hard control period of the Buffalo Fiscal Stability Authority (the Authority) since 2004; and

Whereas, due to the improved financial condition of both the City and the District, it is anticipated that the Authority will enter an advisory period in the near future; and

Whereas, during the hard control period, the City and the District annually prepared four year financial plans for approval by the Authority; and

Whereas, the Government Finance Officers Association (GFOA) recommends that all governments regularly engage in long-term financial planning; and

Whereas, the District recognizes the importance of long-term financial planning to provide insight into future financial capacity so strategies can be developed to achieve long-term sustainability considering the District's service objectives and financial challenges; and

Whereas, the District is committed to continuing the long-term financial planning originated during the hard control period; and

Whereas, as evidence of the District's commitment to long-term sustainability and financial planning;

Now therefore be it resolved, that commencing with the 2013-14 fiscal year and every year thereafter, the District shall adopt a four year financial plan; and

Be it further resolved that the details of such plan shall be described in a forthcoming Board Policy that shall include, but not be limited to contents of the plan, methods of estimation and process for subsequent changes.

We the Board of Education unanimously support the adoption of a four year financial plan, with a policy to follow, and will forward this resolution to the State Comptroller, City Comptroller, Common Council and Mayor.

DEPARTMENT HEAD:

Mark J.F. Schroeder

TITLE:

Comptroller

SIGNATURE OF DEPARTMENT HEAD: _____