



NEW YORK STATE SENATOR

Thomas K. Duane

June 2010 Community Report

THOMAS K. DUANE July 20, 2010

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Dear Neighbor:

The following is a summary of some of my office's activities since my last community report:

Albany Update:

State Budget Report:

The last week of June marked the official "end" of the 2010 New York State Legislative Session – yet the work is far from over. 2010 was a unique year at the Capitol since the bulk of New York's Fiscal Year 2010-11 budget was enacted through a series of a dozen one-week budget extenders.

After the April 1 budget deadline came and went, it became necessary for the State Legislature to pass weekly extender bills to prevent a government shutdown. The New York State Constitution grants the Governor the ability to send to the Legislature appropriation bills for its consideration. The Legislature may vote for the Governor's bills or refuse to

consider them. The Legislature does not have the power to amend these bills – it cannot add or take away anything. The vote must be strictly up or down.

For over twelve weeks, the Legislature decided to vote for the Governor's extenders to prevent New York State's government from shutting down. Each week the Governor raised the stakes by adding more and more to his extenders. As a result, the majority of the FY 2010-11 budget was enacted through the extender process.

By the last week of June, the State Senate and Assembly agreed to act together and refuse Governor Paterson's final budget extender. As a result, a two-way budget agreement between the Senate and Assembly was reached for the outstanding portions of the budget – Education, Labor and Family Assistance (ELFA) and Health and Human Services (HHS), which included:

- * Increases in education spending (including \$177 million in restorations for New York City)
- * Restoration of the State's higher education Tuition Assistance Program (TAP)
- * Increased funding for City University of New York (CUNY) and State University of New York (SUNY)
- * Significant funding to assist the unemployed such as the Unemployment Insurance Benefit Program, job service programs, workforce investment programs and employability development programs
- * Restoration of shelter and services funding for homeless adults

Governor Vetoes

Within hours of the Legislative vote, Governor Paterson vetoed millions of dollars of school

aid restored by the Legislature – putting into doubt the validity of the education portion of the State Budget. The Governor also vetoed hundreds of "member item" appropriations given by individual members of the Legislature to local non-for-profit organizations – many of which heavily rely on the funding. It is unclear if the Senate has the votes necessary for an override since every Senate Republican voted against the original package.

Senate Refuses to Vote on Revenue Package

In order to have a balanced budget (which is required by the State Constitution) a revenue package, containing taxes, fees and other revenue generating measures, must be passed by the Legislature to offset the appropriation portions of the State Budget. Until this is done, the State Comptroller cannot approve the budget.

While the State Assembly voted for a revenue package in the last week of Session, the Senate had serious concerns regarding the package and did not vote for the measure.

The Senate believes that it would be irresponsible to approve a revenue plan that does not take into account the contingency that the Federal government could withhold over \$1 billion in promised Federal Medical Assistance Percentage (FMAP) money. Further, there are outstanding issues regarding SUNY/CUNY autonomy.

At the present time, both Governor Paterson and the State Assembly have indicated their refusal to participate in revenue negotiations. It appears likely that the Senate will return to Albany to address the matter sometime this month.

The negotiations surrounding this year's State Budget are complicated, and indeed

confusing. It is clear that the process is not yet over. If you have any questions or concerns about the budget, please do not hesitate to contact my office. I will continue to update you on the budget process as information becomes available.

Legislative Achievements:

I regret that the State Budget is not yet enacted, and I am very disappointed that the State Senate did not take up comprehensive tenant protection legislation. This is unacceptable. I am continuing my efforts to ensure that repeal of vacancy decontrol, protections for former Mitchell-Lama and Section 8 tenants and other key tenant protection legislation are addressed, and I won't stop fighting for their passage.

I am nonetheless proud of a number of significant legislative achievements by the State Senate in the final weeks of the Legislative Session:

Providing All Students With A Safe Learning Environment

On June 22, the State Senate overwhelmingly passed my bill, the Dignity for All Students Act, to protect our youth, including transgender youth, from being bullied in schools. It prohibits discrimination, bullying, and harassment against students in public schools based on, but not limited to, real or perceived race, color, weight, national origin, ethnicity, religion, religious practice, disability, sexual orientation, gender identity or expression and sex. In addition, all public schools, K-12, will be required to create policies to foster a bullying- and harassment-free environment. Once the bill is enacted, it will be the first time protections for New York's transgendered community are enshrined in state law. Dignity is a victory for all public school children and families and is yet another step in the fight for safety and equality for all New Yorkers.

Mandating the Offer of Voluntary HIV Testing in All Health Care Settings

On June 25, I had a milestone victory when the State Senate overwhelmingly passed my legislation requiring the routine offering of HIV tests to individuals ages 13-64 in all health care settings. The following week, Assembly Member Dick Gottfried carried the bill to unanimous passage in the State Assembly. The bill maintains statutory protections that require informed consent for HIV testing, but greatly simplify and streamline New York's HIV testing procedures. Previous efforts at amending the State's Public Health Law with respect to HIV testing had stalled but I was able to successfully negotiate a compromise bill that will dramatically increase the number of New Yorkers who know their HIV status and get the early treatment they need if they are HIV-positive.

Expanding Birthing Options for Women Across New York State

In the last week of June, both houses of the State Legislature passed the Midwifery Modernization Act, legislation Assembly Member Gottfried and I introduced in our respective houses in order to expand access to licensed midwives' services and give New York State's women more birthing options.

The bill eliminates the requirement that licensed midwives secure a written practice agreement with a hospital or physician, which too often is an obstacle to midwifery care, not only in rural communities, where there may not be hospitals or physicians available and willing to sign such agreements, but in urban areas as well. As I have noted in previous reports, when St. Vincent's Hospital closed in April, midwives affiliated with the hospital or its physicians had to scramble for new arrangements, and many of the home-birth midwives have still not been able to negotiate new written practice agreements. Provided the Governor signs this bill into law, licensed professional midwives will be able to practice

independently and deliver babies in home and hospital settings across New York State.

Helping Sex Trafficking Victims Get a Second Chance

On June 15, the State Senate passed my bill which would allow sex trafficking survivors to clear their records of prostitution-related crimes by vacating their arrest records. Victims of sex trafficking who have escaped coercive circumstances deserve to have a second chance at life without the stigma and barriers that come with a prostitution-related criminal record. The bill, a brainchild of the Urban Justice Center's Sex Worker Project, was led to passage in the State Assembly by Assembly Member Gottfried and will now go to Governor David Paterson.

Requiring New York State to Address the Impact of Hospital Closings on Communities

Also at the end of June, both houses of the State Legislature passed the "Hospital Closure Planning Act," which would require the New York State Department of Health (DOH) to hold a public forum and report on the impact of any future hospital's closure on the surrounding community's access to medical care. The legislation comes in response to the recent closings of St. Vincent's hospital and Mary Immaculate and St. John's hospitals in Queens. While I and my colleagues in government are working with Lower Manhattan's Community Boards, DOH and advocacy organizations to ensure the former St. Vincent's catchment area's health care needs are assessed and addressed, this legislation would require DOH to both consult with affected communities and inform them of steps being taken to sustain access to health care services once a hospital closure is announced.

Legislating an End to Illegal Hotels

On June 24, the State Senate passed legislation, introduced by Senator Liz Krueger and Assembly Member Gottfried and sponsored by most of our local elected officials including myself, that would clarify that Class A multiple dwelling residential buildings may only be used as long-term residential housing, and not as transient, "illegal" hotels. For the past five years, I have worked with other elected officials, Mayor Bloomberg's Office of Special Enforcement and tenant advocates to fight the intractable proliferation of illegal hotels in my Senate District and across New York City. This sensible and carefully-crafted legislation will finally enable us to effectively shut down dishonest operators, who create hazardous conditions for permanent residents and tourists alike, reduce our affordable housing stock, and undercut the legitimate hotel industry that is such an important part of our economy.

Enabling Same-Sex Partners to Jointly Adopt

On June 24, the State Senate passed my Intimate Partners Adoption bill, which changes New York's Domestic Relations Law to specify that two unmarried intimate partners may adopt a child together. It also replaces current references in the law to "husband" and "wife" with the gender neutral term "married couple" so that the law applies to all married couples. Until now, same sex couples who wanted to jointly adopt in New York State have had to rely on their jurisdiction's interpretation of judicial precedent and language in the State regulations, which may not be the same in Potsdam and Jamestown as in Manhattan and Brooklyn. Assembly Member Linda Rosenthal subsequently carried the bill to passage in the State Assembly and it will go to Governor Paterson.

Expanding Safe, Legal Access to Needle Exchange Programs

On June 16, the State Senate passed my bill adding language to the penal law to make it

explicit that a person is not criminally liable for possessing syringes and drug residue in or on syringes and that the person has a right to possess such syringes based on his or her participation in New York's Expanded Syringe Access Program or Syringe Exchange Program. This bill will expand protections for users of public health syringe access programs, prevent unlawful harassment and arrest of syringe exchange participants, and as a result, reduce transmission of HIV and other blood-borne pathogens.

Fighting the Rent Guidelines Board's Proposed Rent Increases

On June 17, 2010, I submitted testimony to the New York City Rent Guidelines Board (RGB) opposing any rent increases for rent regulated apartments as well as for lofts, hotels, rooming houses, single room occupancy buildings and lodging houses. It is an outrage that the RGB ultimately approved rent increases of 2.25% for one-year and 4.5% for two-year rent stabilized leases. Such increases are an unfair and unnecessary hardship for tenants already reeling from the worst economic recession since the 1930s, and will not only further burden many rent-regulated tenants, but could potentially force them out of New York City. The approval of these increases is further evidence that the RGB system, which I am fighting to reform, is broken and unjust.

Expressing Concerns about NYCHA's 2011 Draft Annual Plan

On June 30, I submitted testimony to the New York City Housing Authority (NYCHA) on its Fiscal Year 2011 Draft Annual Plan. Although I was still in Albany, my staff also participated in a press conference organized by the New York City Alliance to Preserve Public Housing – a new coalition of residents, advocates and elected officials – calling on NYCHA to adhere to the recommendations outlined in the Alliance's position paper on the Draft Annual Plan. As

the State Senator representing seven NYCHA developments, I have significant concerns about certain aspects of the plan, particularly those relating to transparency and accountability.

Honoring Harry Wieder's Legacy

In late June, I sent a letter to New York City Department of Transportation (DOT) Commissioner Janette Sadik-Khan echoing recently deceased Manhattan Community Board 3 member, disabilities and transportation activist Harry Wieder's call for DOT to initiate a formal review process through which to analyze the projected impacts of agency initiatives on the accessibility of the affected areas, and to either reverse policies that would impinge upon the mobility of disabled people or implement mitigations. As I concluded, "We can honor Harry's life of advocacy by working together to ensure that all New Yorkers, from drivers to cyclists to pedestrians, disabled and non-disabled, can use thoroughfares safely, seamlessly, and with convenience."