**STATEMENT BY HONORABLE BRIAN C. WAHLER,
MAYOR, PISCATAWAY TOWNSHIP AND
PRESIDENT, NEW JERSEY STATE LEAGUE OF MUNICIPALITIES
CONCERNING THE PROPOSED NEW JERSEY STATE 2015-2016 BUDGET
PRESENTED TO THE ASSEMBLY BUDGET COMMITTEE
MEETING IN TRENTON, NEW JERSEY
TUESDAY, MARCH 24, 2015**

Thank you, Chairman Schaer. I am Brian Wahler, Mayor of Piscataway and President on the New Jersey League of Municipalities. It is a privilege to be here today to discuss the impact of the Governor's budget proposal on local governments, and local property taxpayers, all around our Garden State. And I thank you and all the members of this Committee for your consideration of our concerns.

The Governor's proposal would provide $12.7 Billion in School Aid, $2.2 Billion in aid to Higher Education and $1.5 Billion in municipal property tax relief funding.

The municipal property tax relief funding figures represent a $3.1 million reduction from last year. This includes a shift of $18.3 million shift from the Transitional Aid account to combined Energy Tax and Consolidation Municipal Property Tax Relief Aid (CMPTRA), which will provide most municipalities with no less property tax relief funding than was received last year. The proposal would fund the Transitional Aid program at $107 million, down from $121.5 million last year; eliminate the $7.3 million Meadowlands Adjustment Payments Aid program; provide level funding in Open Space PILOTs (at $6.5 million); provide level Highlands Protection Fund Aid (at $4.4 million); and the Consolidation Implementation program would be funded at $4 million, down from $8.5 million.

Two programs provide the bulk of relief - the Energy Tax Receipts Property Tax Relief (ETR) program and the Consolidated Municipal Property Tax Relief Aid (CMPTRA) program. CMPTRA was created by the Whitman Administration, when it decided to 'consolidate' a number of previously discrete municipal property tax relief programs. Each of CMPTRA's component parts was distributed according to state established formulas. And many of those parts were extensions of taxes that had once been assessed and collected at the municipal level. Among its many components, CMPTRA includes the Financial Business Tax, the Business Personal Property Tax Replacement, the Railroad Class II Property Tax, the Insurance Franchise Tax, the Corporation Business Tax on Banking Corporations and a big chunk of State Payments In Lieu Of Taxes (PILOT) payments, that had been under-funded for many years, prior to being folded into the Consolidation. These are, or were, all municipal revenue replacement programs.

They were not, properly speaking, State aid. They were not meant to make things better for municipal property taxpayers. They were only intended to keep things from getting worse.

In 1997, the ETR replaced the Public Utility Gross Receipts and Franchise Tax (PU-GRAFT). That was a tax on regulated public utilities originally assessed and collected at the municipal level. In the early 1980s, for its own benefit and for the convenience of the tax paying utilities, the State became the collection agent for this assessment. The law that effected this change promised that the proceeds would be distributed back to the municipalities, which provide services to utility facilities and from whence come utility profits. The State of New Jersey neglected that commitment, immediately repurposing large and growing portions of the proceeds to its own general fund. Modernization and deregulation led to a major reform of utility taxes in the mid-Nineties. That reform law validated and, supposedly, capped the State's annual percentage.

At the League's urging, ETR municipal property tax relief funding was protected by the, so-called, poison pill. The "Poison Pill" provides that, if the State does not appropriate and distribute Energy Tax Receipts Property Tax Relief (ETR) funding, in any year, in accordance with statutory requirements, then the State forfeits the right to collect the corporation business tax (CBT) from all corporate taxpayers that are not public utilities for that tax year.

Chapter 168, P.L. 1999, required that the amount of State aid paid to municipalities under the two largest State aid programs be indexed annually for inflation and be used for municipal property tax rate relief. The Consolidated Municipal Property Tax Relief Aid (CMPTRA) program beginning in the next fiscal year, and the Energy Tax Receipts Property Tax Relief Fund program beginning when that program's aid growth was scheduled to end in State Fiscal Year 2002, would be increased annually to adjust for the annual change in inflation measured by the government purchasing price deflator.

The amount of State aid paid to municipalities in State fiscal year 1999 under the Consolidated Municipal Property Tax Relief Aid program equaled approximately $756 million. The law was intended to protect this current level of aid against inflationary pressures and the annual inflationary adjustments would be required to be used by municipalities for keeping property taxes down. The law also provided that the small number of municipalities that did not have a net distribution of Consolidated Municipal Property Tax Relief Act in 1998 (due to the Pension Offset) would have a distribution measured by future inflationary growth upon a base equal to the levels of all the municipal aid they received in fiscal year 1995 before the consolidation of those municipal aid programs.

The amount of ETR distributed in SFY 2002 was $755 million. Chapter 168, which has never been repealed or amended, calls for annual inflationary adjustments to total ETR appropriations and distribution AND for distributions to each individual municipality at, at least, the level each received in State Fiscal Year 2002. If those conditions are not met, the poison pill would apply.

Beginning almost immediately, State Treasurers began to comingle ETR and CMPTRA distributions; and, in order to avoid the poison pill, every dollar added to ETR calculations was subtracted from CMPTRA. The result was an apparent inflationary increase in ETR funding, only achieved by an actual reduction in CMPTRA.

The Fiscal Year 2015 appropriation for Consolidated Municipal Property Tax Relief Aid (CMPTRA) is unchanged from the Fiscal Year 2014 adjusted appropriation of $575.852 million. Several municipalities now receive a portion of their Transitional Aid to Localities awards from prior years as CMPTRA. Budget language provided for the transfer of $325.174 million from CMPTRA to the Energy Tax Receipts Property Tax Relief Fund to support fund the annual inflation increases in Energy Tax Receipts Property Tax Relief Aid, resulting in no change in combined formula aid distributed through these two programs.

Municipalities lost $331 million in combined Energy Tax and Consolidated Municipal Property Tax Relief Aid (CMPTRA) funding in Fiscal Years 2009, 2010, and 2011, while also being denied scheduled incremental funding. In each succeeding year, ‘level’ funding has been held at that lower level.

I know that the members of this Committee have heard this before. It is frustrating to have to repeat it, once more. And I thank those of you who have, in the past, supported restoration. We urge you, again, to acknowledge that the time has come to begin to restore to local budgets the millions in property tax relief that have been annually diverted to meet State needs.

Another matter of great importance to local leaders is transportation funding. No mention was made of the Transportation Trust Fund in the Governor’s speech. The printed Budget in Brief document simply states “The Governor’s budget supports the State’s ongoing Transportation Capital Program. The fiscal 2016 Program includes Transportation Trust Fund projects (inclusive of local highway projects) and Port Authority of New York and New Jersey-funded projects.” No specifics are provided.

And at a press briefing on the day of the speech, State Treasurer Andrew Sidamon-Eristoff is reported to have stated that the State would be able to issue about $600 million in debt that could be used to fund road, bridge, and rail projects, but there would be no “pay-as-you-go” component. That amount is well below the $1 billion the State currently commits, annually, to transportation projects. And it is woefully inadequate to address the estimated need for investments of $2 billion, annually, that would begin to assure New Jersey residents and business the first-class transportation infrastructure needed to support a first-world economy.

On June 30, it isn’t a pot hole that awaits the New Jersey’s Transportation Trust Fund. It is the end of the road. We have known this day was coming for well over a year. There have been public hearings. There have been press conferences. There have been editorials in the newspapers and interviews on radio and TV. It is frustrating to local officials to know that there has been no agreement on a sustainable solution to the problem.

In a recent report, the American Society of Civil Engineers reported that 651 of the 6,554 bridges in New Jersey (9.9%) are considered structurally deficient and 1,717 (26.2%) are considered functionally obsolete. That report also estimated that driving on roads in need of repair costs New Jersey motorists $3.476 billion a year in extra vehicle repairs and operating costs – $601 per motorist, and that 66% of New Jersey's roads are in poor or mediocre condition.

The State Department of Transportation (DOT) reports that New Jersey's municipalities are responsible for 64 percent (28,539 center line road miles) of our roads. County governments are responsible for another 22 percent (6,649 center line road miles). Together, local governments are responsible for 39 percent of our bridges. Local roadways and bridges carry about 55 percent of all traffic.

Local officials know that investments in these assets must be made. Failure to do so can compromise the safety of the public, the economic vitality of our communities and the security of our neighborhoods.

In the first year of the Transportation Trust Fund (FY 1985), Local Aid funding represented almost 22 % of total Transportation Capital funding. By FY 1997, Local Aid was down to 16%. By FY 2004, we were down to 12%. In FY 2013 (the last year for which we have audited numbers, Local Aid represented 15% of the total. Average Local Aid funding over the 29 years was just under 15%.

We thank Speaker Prieto and Senate President Sweeney for their commitment to doubling Local Aid. And we thank Transportation Committee Chairman Wisniewski, and all the Members of that Committee, for their consideration of local transportation needs and concerns. We ask this Committee to address the need for investments this year. And, with local budgets due for adoption on April 24, we ask that you do so as soon as possible.

The bulk of the Governor's budget address focused on public employee pension and health benefits. Specifically, he focused on the recommendations released just before the speech began, by the Governor's Pension and Health Benefit Study Commission.

We have begun our review of the Commission's "Roadmap to Resolution" report. And we have asked the Governor, on behalf of local officials who have consistently met their responsibilities and fully funded their pension and health benefit responsibilities, to appoint a representative of the New Jersey League of Municipalities to serve on the Roadmap to Resolution Implementation Task Force, as proposed in the February 24 final report.

Implementation of the Roadmap will have a crucial impact on local budgets and property taxes this year and for years to come. In developing its conclusions and recommendations, the Study Commission evidently reached out to at least one public sector union. Regrettably, the League of Municipalities had not been contacted before the issuance of the report. We do appreciate that the Commission Vice Chair and Counsel have now met with the League and our affiliate organizations. We believe that local government concerns need to be carefully considered, as the State moves toward the June 30 deadline for action this year.

Based on our preliminary review of the Roadmap report, three obvious areas of concern are evident.

First, the Commission has recommended that the health benefits provided to public employees be "reset" and that the projected savings be used to offset the State's pension liabilities. In fact, the Commission believes that "local savings resulting from these proposed reforms would be more than sufficient to permit local governments, within their existing budgets, to fund the costs of local education retiree health benefits (currently a State obligation) and the new retirement plan for local education employees." It is frustrating to see a State Commission suggest that the local property taxpayer be asked to absorb a State liability and that projected municipal 'savings' be applied to reduce a state obligation.

Second, the Commission's report reads as if all public employees are union members, since it recommends the transfer of all pension system assets to public employee unions. The report states that this proposal would "allow those who receive the benefits to have the power and assume the risks … to ensure that the available funds are sufficient to pay for the provided benefits." In fact, many local members of the PERS are not union members. And, while all local PERS members currently have an elected representative on the PERS Board, this 'reform' would deny them any say on their retirement benefits.

Third, the proposal to freeze existing pensions, without qualification, could inspire the mass exodus of key local administrators and professionals, giving them no time to train and mentor their successors. This loss of experience and expertise would have a deleterious impact on the efficiency and effectiveness of local programs and services. The League's involvement will allow us to suggest alternatives, such as a phasing in of the transition to the "cash balance" plan.

We would sincerely appreciate the opportunity to help to move the Roadmap forward, in a way that would ensure that its implementation will maximize potential benefits to our property taxpaying citizens and businesses.

As the Committee and the Legislature move through the budget process, we want you, Chairman Schaer, and any member of your Committee know that the League of Municipalities is available to assist you in any way we can.

Thank you for all you do for the people and the future of our Garden State.