Ladies and Gentlemen:

You have requested our opinion as to whether the enactment on August 7, 1997 of Chapter 389 of the Laws of 1997, providing, inter alia, for the elimination of sales and compensating use tax (collectively, "Sales Tax") on the sale of clothing costing less than $100 per article of clothing (the "Legislation") would constitute an event of default under the Corporation's First General Bond Resolution, adopted July 2, 1975, as amended and supplemented to the date hereof, its Second General Bond Resolution, adopted November 25, 1975, as amended and supplemented to the date hereof and its 1991 General Bond Resolution, adopted February 6, 1991, as amended and supplemented to the date hereof (the First General Bond Resolution, the Second General Bond Resolution and the 1991 General Bond Resolution are herein defined, collectively, as the "Resolutions").

In rendering this opinion letter, we have examined the Resolutions, the Legislation and such records, other documents and matters of law as we have deemed necessary and relevant.

The Legislation amends §1115 of the Tax Law to provide for an exemption from State Sales Taxes for clothing costing less than one hundred dollars per article of clothing, for the period commencing September 1, 1997 and ending September 7, 1997, and for the period commencing September 1, 1998 and ending September 7, 1998. The Legislation also provides that any city having a population of one million or more in which taxes imposed by §1107 of the Tax Law are in effect (relating to temporary municipal assistance sales and compensating use taxes), acting through its local legislative body by enactment of a resolution in the form provided by the Legislation, is authorized and empowered to elect to provide an exemption from such Sales Taxes for the same clothing exempt from State Sales Taxes, and for the same foregoing periods of time applicable to the State Sales Taxes.
In addition, the Legislation amends §1115 of the Tax Law to provide an exemption not limited in duration from State Sales Taxes for clothing costing less than one hundred dollars per article of clothing. The Legislation also amends §1210 of the Tax Law to authorize and empower any city having a population of one million or more in which taxes imposed by §1107 of the Tax Law are in effect, acting through its local legislative body by enactment of a resolution effective no earlier than December 1, 1999 and in the form provided by the Legislation, to elect to exempt from such Sales Taxes clothing costing less than one hundred dollars per article of clothing for so long as the comparable clothing exemption from State Sales Taxes provided for in §1115 of the Tax Law remains in effect.

We have been provided by the Corporation with a resolution of the City Council of the City of New York (the "City") adopted on August 5, 1997 in the form provided by the Legislation providing for the exemption from local Sales Taxes imposed pursuant to §1107 of the Tax Law for the period commencing September 1, 1997 and ending September 7, 1997, and estimates of the revenue impact on the City of the Legislation, both of which were furnished to the Corporation by the City’s Office of Management and Budget ("OMB"), together with additional information furnished by the Corporation relating to the effect of the Legislation on the Corporation’s revenues and debt service coverages. The OMB estimates project the revenue loss to the City for the respective one-week clothing exemptions and, assuming adoption of a resolution in the form provided in the Legislation, the permanent clothing exemption. Such estimates anticipate that for each of the City’s Fiscal Years ending June 30, 1998 through June 30, 2001, inclusive, the Legislation would result in a reduction of annual local Sales Tax collections of $7 million in each of the Fiscal Years 1998 and 1999 (attributable to the one-week exemption in each year) and a reduction of annual local Sales Tax collections of $107 million and $189 million in the Fiscal Years 2000 and 2001, respectively (attributable to the permanent exemption). The $189 million in lost Sales Tax revenue for Fiscal Year 2001 represents the first instance in which the exemption would be in effect for a full Fiscal Year.

The Corporation has advised us that OMB’s baseline projection of local Sales Taxes for Fiscal Year 2001 is $3,419 million. Of this amount, 96%, or $3,282 million, is the Sales Tax payable to the Corporation. A reduction of $189 million from such amount payable to the Corporation would constitute a reduction in Sales Taxes of 5.8%. The Corporation has estimated its total revenue for Fiscal Year 2001 to be $8,185 million. A revenue loss of $189 million would constitute a reduction in total revenues of 2.3%. Assuming the foregoing estimates, the Corporation has estimated its debt service coverage ratios, calculated by dividing total available revenues by debt service for a corresponding year. For those Fiscal Years in which the exemption would be applicable for the entirety of such Fiscal Years, the Corporation’s
debt service coverage ratios would range from a low of 14.70 times in Fiscal Year 2003 to a high of 15.53 times in Fiscal Year 2009.

Based upon the foregoing, we are of the opinion, as we have previously informed you orally, that the Legislation does not constitute an event of default under the Resolutions.

Very truly yours,

HAWKINS, DELAFIELD & WOOD
MEMORANDUM

September 26, 1997

To: Evan M. Drutman, Esq.

From: Bernard J. Kabak

Re: Sales Tax Exemption on Clothing: Effects on Revenue and Coverage

A. Summary

Chapter 389 of the Laws of 1997 provides in sections 114—118a for the exemption from the sales tax of certain items of clothing priced under $100 commencing December 1, 1990. You have asked MAC to estimate the effects on its revenue and on its debt service coverage of this exemption. We estimate that the effects would be as follows:

Revenues: Sales tax reduced by 5.8%
All revenues reduced by 2.3%

Coverages: Low: 14.70 times (f.y. 2003)
High: 15.53 times (f.y. 2009)

The assumptions and methodologies behind these estimates are described below.

B. Assumptions and Methodologies

1. Revenues.
   a. We use City O.M.B.’s projection of $189 million in lost sales tax revenue in fiscal year 2001, the first time the exemption will be in effect for the full fiscal year. We note that City O.M.B. projects an additional f.y. 2001 cost to the City of $9 million resulting from the M.T.A.- recoupment feature of the legislation. We exclude this additional amount from the calculations, however, because, as I read the legislation, this recoupment feature leaves the MAC sales tax untouched.

   b. City O.M.B.’s baseline projection of sales tax revenues for f.y. 2001 is $3,419 million. Of this, 96%, or $3,282 million, is the MAC sales tax. A loss of $189 million from the MAC sales tax would constitute a reduction of 5.8%.

O.M.B.’s projected $3,282 million in MAC sales tax in f.y. 2001, an increase of $468 million over the actual figure of $2,814 million for f.y. 1997, implies an average annual compounded growth over the next four years of 3.9%. (By way of comparison, the corresponding growth rate over the four years most recently past, f.y. 1994—f.y. 1997, was 5.2%.) Rather than to make the conservative assumption of no growth in the sales tax as we do for the stock transfer tax (see next paragraph), we use O.M.B.’s projection of $3,282 million. The reason is that O.M.B.’s revenue-loss projection of
$189 million comes off that number. Were we to use a lower number for the f.y. 2001 MAC sales tax, we would also have to use a lower number for the projected revenue loss. which number, moreover, would not have the virtue of having been officially published by O.M.B.

c. We assume the stock transfer tax remains unchanged from the $4,368 million figure for the most recent fiscal year (ended 6/30/97). This is a conservative assumption, given the stock transfer tax’s history of growth: the tax has grown in 14 of the past 15 years, the sole exception being f.y. 1989, the fiscal year following the stock market crash of October 1987.

Here is how the stock transfer tax has grown over the past year, five years, and 15 years:

<table>
<thead>
<tr>
<th>Base Yr. &amp; Amnt.</th>
<th>F.Y. '97 Amnt</th>
<th>Period</th>
<th>Compounded Avg. Annual Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>F.Y. '96: $3,715</td>
<td>$4,368</td>
<td>1 year</td>
<td>18%</td>
</tr>
<tr>
<td>F.Y. '92: 2,281</td>
<td>4,368</td>
<td>5 years</td>
<td>14%</td>
</tr>
<tr>
<td>F.Y. '82: 1,401</td>
<td>4,368</td>
<td>15 years</td>
<td>8%</td>
</tr>
</tbody>
</table>

d. Per capita aid is assumed to remain $535 million, the same as for fiscal year 1997 and the level at which per capita aid has been held for many years.

c. Total estimated revenues for fiscal year 2001 are:

- Sales tax $3,282 million
- Stock transfer tax 4,368 million
- Per capita aid $535 million
- Total $8,185 million

A loss of $189 million from MAC’s total estimated revenues would constitute a reduction of 2.3%.

2. Coverage.

a. Coverage for any particular year is calculated by dividing available revenues by debt service for that year. Available revenues are total revenues less operating expenses and prior claims on per capita aid.

b. Beginning with fiscal year 2001, the most debt service payable by MAC in any fiscal year is $552.967 million (f.y. 2003), while the least amount payable is $523.59 million (f.y. 2009). These figures reflect the Series L refunding and are unaudited. The figures are based on the conservative assumption that MAC’s $498 million principal amount of variable-rate bonds bear interest at the rate of 12%.
c. MAC's operating expenses are assumed to remain at $17 million, the figure for fiscal year 1997. This is a conservative assumption: given that f.y. 1997 was an atypically active year for financings, operating expenses are likely to be less in future years.

d. We assume that prior claims on per capita aid hold at the figure for fiscal year 1997 of $37 million. Again, this is a conservative assumption, given that such claims have been steadily declining:

Prior Claims on Per Capita Aid
($ Millions)

<table>
<thead>
<tr>
<th>As of 9/30</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>$57.5</td>
</tr>
<tr>
<td>1993</td>
<td>57.3</td>
</tr>
<tr>
<td>1994</td>
<td>51.3</td>
</tr>
<tr>
<td>1995</td>
<td>48.9</td>
</tr>
<tr>
<td>1996</td>
<td>37.4</td>
</tr>
</tbody>
</table>

e. Available revenues ($ millions)

Total revenue
Less: Operating expenses $17
Prior claims, p.c.a. 37

Net Total

$ 8,185
$ 8,37
$54

$ 8,131

f. Coverages:

8,131/552.967 = 14.70 times (f.y. 2003)
8,131/523.590 = 15.53 times (f.y. 2009)

copies: James Dubin, Esq.
Saul Finkelstein, Esq.
Ladies and Gentlemen:

You have requested our opinion as to whether pending state legislation calling for the elimination of sales and compensating use tax on the sale of clothing and footwear costing less than $500 (the "Pending Legislation"), if enacted into law, would constitute an event of default under the Corporation’s Second General Bond Resolution, adopted November 25, 1975, as amended and supplemented to the date hereof and the 1991 General Bond Resolution, adopted February 6, 1991, as amended and supplemented to the date hereof (the 1991 General Bond Resolution, together with the Second General Bond Resolution, the "Resolutions").

In rendering this opinion letter, we have examined the Resolutions and such records, other documents and matters of law as we have deemed necessary and relevant.

We have assumed with your permission the facts and circumstances described below as contained in the official statement for the Corporation’s $398,000,000 Series K Bonds, dated May 12, 1997 (the "Official Statement"). We would note, however, that we have made no independent investigation as to such facts and circumstances. Capitalized terms used but not defined herein shall have the meanings set forth in the Official Statement and in the Resolutions.

State and City officials have discussed amending the Sales Tax to eliminate its application to the sale of clothing and footwear costing less than $500. Legislation to that effect has been introduced in the State Senate and has been passed by the State Assembly. The Mayor of the City has supported such an amendment and the Financial Plan of the City, dated January 30, 1997, reflects its elimination effective December 1, 1997. Such Financial Plan anticipates that for each of the City’s fiscal years ending June 30, 1998 through June 30, 2001, inclusive, the amendment would result in a reduction of annual Sales Tax collections of less than $300 million. The City has advised the Corporation that
if such an amendment had been in full effect during its 1996 fiscal year, Sales Tax collections would have been reduced by an estimated $256.3 million, which is approximately 9.5% of the Sales Tax collected during such fiscal year and approximately 3.76% of the total revenues available to the Corporation during such fiscal year from the Sales Tax, Stock Transfer Tax and Per Capita Aid. Assuming that an exemption from the Sales Tax for the sale of clothing and footwear costing less than $500 had been in effect for the twelve months ended December 31, 1996 and resulted in a reduction of Sales Tax collection of $264 million, the coverage ratios on all outstanding bonds of the Corporation would range from a high of 18.27 times in the fiscal year ending June 30, 1998 to a low of 12.08 times in the fiscal year ending June 30, 2000. The Corporation believes that the enactment of an amendment to such effect would be consistent with the provisions of both the Second General Bond Resolution and the 1991 General Bond Resolution and would not constitute an "event of default" under either Resolution.

Similar description of facts and circumstances, differing from the quoted language only in ways not material to the opinion rendered below, appeared in the Corporation's official statements for its Series H Bonds and Series I Bonds, dated February 27, 1997, and for its Series J Bonds, dated April 24, 1997.

Based upon the foregoing, we are of the opinion, as we have previously informed you orally, that the Pending Legislation, if duly enacted into law, would not constitute an event of default under the Resolutions.

Very truly yours,

HAWKINS, DELAFIELD & WOOD

169921.1 018391 OPN
April 19, 1995

To:
Distributees Listed Below

From:
Bernard J. Kabak

Re:
Sales Tax Exemption on Clothing Purchases

On March 29, I sent you Senate Intro. 1613-A for your evaluation. I have now learned that New York City, whose proposal this is, does not expect it to go anywhere. Accordingly, there is no need to devote further attention to this matter.

Distributees:

Craig Beazer, Esq.
James M. Dubin, Esq.
Saul H. Finkelstein, Esq.
Robert R. Grew, Esq.
John J. Keohane, Esq.
Donald J. Robinson, Esq.
Mr. Pasquale V. Santivasci
April 18, 1995

Jeffrey L. Sommer
First Deputy Director
Financial Control Board
270 Broadway
21st Floor
New York, NY 10007

Dear Jeff,

Thank you for your excellent analysis of the City’s proposed sales tax exemption. I’m not sure where this proposal is going, but your report will be invaluable in the debate over its merits.

Also, let me congratulate you on the fine job you did as Acting Executive Director during the recent months. I thought you conducted yourself admirably in your public comments and the agency’s reports issued under your leadership maintained the FCB’s high standards for meticulous research and penetrating insight.

Best wishes,

Quentin B. Spector
April 18, 1995

Ms. Rosemary Scanlon
Assistant Deputy State Comptroller
Office of State Deputy Comptroller
270 Broadway
Room 2207
New York, NY 10007

Dear Rosemary,

Thank you for your excellent analysis of the City’s proposed sales tax exemption. I’m not sure where this proposal is going, but your report will be invaluable in the debate over its merits.

Best wishes,

[Signature]

Quentin B. Spector
In your memorandum of March 29, 1995, you requested assistance from us in evaluating Senate Intro. 1613-A, a city initiative that would reduce revenue dedicated to the Municipal Assistance Corporation by effectively exempting most clothing purchases under $100 from the city's 4 percent sales tax. However, only one percent of the four percent reduction would actually be made in the city's part of the sales tax dedicated to MAC. The remaining reduction of three percent would be in the State's 4 percent sales tax. The legislation proposes to reimburse the state with city personal income tax proceeds and reimburse MAC with most of the city sales tax revenue not now dedicated to MAC.¹

In your memorandum you request that we provide estimates of the reduction in sales tax revenue now dedicated to MAC and the amount of replacement sales tax revenue that this proposal would generate for MAC.

MAC Revenue Reduction

Like the city's, our estimate of the revenue loss is based primarily on data from the Taxable Sales and Purchases series produced every six months by the New York State Department of Taxation and Finance. The most recent survey is for the period ending in February 1994.

The survey categorizes taxable retail sales by type of store rather than by type of good. Two store types, apparel stores and department stores, are known to dominate the apparel trade and together generated taxable sales of $7.7 billion in New York City during the 12 months ending in February 1994, as Table 1 shows. The city reasonably assumes that apparel items account for all apparel stores sales and 65 percent of department store sales, yielding total taxable apparel sales in the city of $6.4 billion.

More difficult is the task of estimating the volume of taxable clothing purchases under $100. Clearly, merchants will attempt to make the most of the tax cut by seeing to it that as many sales as possible fall below the $100 threshold. Because of this and uncertainty surrounding the current average cost of apparel purchases, the city

¹ Since the creation of MAC, the city's sales tax base has been broadened to cover new services, such as those provided by credit and collection agencies. Tax revenue from these new services, which accrues to the city and not to MAC, amounts to about $110 million annually.
consulted other jurisdictions with sales tax exemptions. It found that depending on the threshold, the sales tax exemption cut apparel sales by between 50 and 80 percent and so reasonably assumed that 70 percent of all apparel sales in the city would be exempted from the city’s four percent tax. Based on this assumption, we estimate that during the 12 months ending in February 1994, clothing purchases in the city falling below the $100 threshold amounted to some $4.5 billion.

### TAXABLE SALES FROM MARCH 1993 TO FEBRUARY 1994 FOR NEW YORK CITY

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>($ in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SALES IN APPAREL-RELATED STORES</strong></td>
<td></td>
</tr>
<tr>
<td>General Merchandise Stores</td>
<td>$3,825</td>
</tr>
<tr>
<td>Apparel Stores</td>
<td>$3,879</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$7,704</strong></td>
</tr>
<tr>
<td><strong>APPAREL SALES</strong></td>
<td></td>
</tr>
<tr>
<td>General Merchandise Stores (65% of the above)</td>
<td>$2,486</td>
</tr>
<tr>
<td>Apparel Stores (100% of the above)</td>
<td>$3,879</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6,365</strong></td>
</tr>
<tr>
<td><strong>TAXABLE APPAREL SALES UNDER $100 (70% of the above)</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$4,456</td>
</tr>
<tr>
<td><strong>ADDENDUM: TOTAL TAXABLE SALES IN ALL STORES</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>$55,767</strong></td>
</tr>
</tbody>
</table>

Source: *Taxable Sales and Purchases Subject to the Use Tax By County and Industry, December 1994, NYS Department of Taxation and Finance*

Having estimated the reduction in taxable sales, the next step is to estimate the revenue loss. The $4.5 billion in taxable apparel sales under $100 account for 8 percent of the $55.8 billion of total taxable sales in all stores in the city for the year ending in February 1994. To shift to a FY 1994 time frame, we take 8 percent of the city’s $2,451 million in FY 1994 sales tax receipts, a calculation which yields $196 million. This represents the amount of sales tax revenue that would have been lost in the city during FY 1994 by the full four percent reduction in the sales tax rate. Because the proposal calls for cutting the MAC sales tax rate by only one percent, the revenue MAC would have lost in FY 1994 would have amounted to a quarter of this sum, or $49 million. Thus, we estimate that the city needs to replace some $50 million in MAC tax revenue with new revenue sources.

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2 In Massachusetts, for example, where all apparel purchases below $175 are exempt from sales tax, taxable apparel sales were reduced by 80 percent.
Replacement Revenue

To compensate for the revenue loss, the proposed legislation calls for dedicating to MAC alternative sales tax proceeds that now bypass MAC and accrue directly to the city. All non-MAC (Article 29) city sales tax revenues, except the 8 percent surcharge on parking in Manhattan, would be dedicated to MAC. Table 2 shows that in FY 1994, non-MAC city sales tax receipts amounted to $109 million, of which the 8 percent surcharge on parking in Manhattan generated $39 million. Therefore, under the proposed legislation, some $70 million would have been dedicated to MAC in FY 1994, substantially exceeding the $50 million that it would be giving up. This surplus is large enough to easily offset errors that might be incorporated in the method used to estimate the revenue loss.

**NEW YORK CITY’S FY 1994 NON-MAC SALES TAX COLLECTIONS, INCLUDING REVENUE FROM PARKING IN MANHATTAN**

<table>
<thead>
<tr>
<th>($ in millions)</th>
<th>Non-MAC City Sales Tax</th>
<th>8% Sales Tax From Parking in Manhattan</th>
<th>Revenue Available To MAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>$108.9</td>
<td>$39.0</td>
<td>$69.9</td>
<td></td>
</tr>
</tbody>
</table>

Source: NYS Taxation and Finance

Beyond FY 1994, it is of course more difficult to be certain about whether MAC will receive in replacement revenue at least as much as it is giving up. To a considerable degree this concern is mitigated by the FY 1994 surplus of new revenue over old. Moreover, over time, the $100 threshold will be eroded by inflation, causing an even larger proportion of purchases to exceed the limit. Consequently, revenue lost from the sales tax cut on apparel purchases is likely to grow slowly, minimizing the likelihood that the replacement revenue might prove to be inadequate.

If fuller assurance on the adequacy of the revenue exchange is required, amending the legislation to include protection for MAC that the proposal now provides the state might be considered. Such protection involves periodic calculations by the State Department of Taxation and Finance of the value of the state portion of the tax cut and repayment of this amount to the state by intercepting city personal income tax proceeds. My feeling, however, is that such a mechanism is not necessary for MAC since replacement revenue should substantially exceed the revenue lost due to the tax cut.
Per your request, we have reviewed Senate Intro. 1613-A that would exempt certain clothing purchases from the sales tax currently dedicated to MAC. This memorandum summarizes our estimates of the reduction in sales tax revenues and the replacement sales tax revenues the bill proposes.

We conclude that the City’s estimates on both counts, as indicated in David Rubenstein’s Feb. 10, 1995, memo to Quentin Spector, appear to be reasonable. In the case of the sales tax reduction resulting from exempting clothing purchases under $100, our own independently derived estimate for the combined four percent reduction (combining both the MAC one percent and the State three percent), as detailed below, is remarkably similar to the City’s estimate. For FY 1997, the first full year for the clothing exemption, our estimate is $197.5 million compared to the City’s $198 million estimate. This would make the MAC portion in our estimate $49.4 million for FY 1997. The closeness of the estimates is interesting considering that we took a different path in developing our estimate than did City OMB. As you requested, we have provided a summary of our methodology and attach the relevant worksheets.

Senate Intro. 1613-A proposes to dedicate to MAC certain sales tax revenue charged by the City that now goes directly to the City treasury. This includes sales taxes on credit and collection services, protective and detective services, decorating and designing services, cleaning and maintenance services and miscellaneous services. As Table 1 indicates, over the last four years, during which time all of these taxes have been fully in effect, the combined collections for the sales tax in these five areas has ranged from $63.5 million in FY 1992 to $71.0 million in FY 1993. While we cannot claim an intimate familiarity with these specific taxes, after reviewing the historical collection pattern and given
the fairly limited downward volatility during the sharp early 1990's recession, we would say it is not unreasonable to expect the combined revenues in these areas to continue at approximately $70 million on a fiscal year basis. According to OMB, for FY 1996 (Senate 1613-A has an effective date of 12-1-95), MAC would receive seven monthly electronic funds transfer (EFT) payments, which would result in slightly more than half of the full fiscal year revenues from these taxes.

Summary of OSDC Estimate of Under $100 Clothing Sales Tax Exemption

1. Taxable sales in New York City were estimated for FY 1993 for three broad clothing and footwear product categories: men's and boys' clothing; women's, girls' and infants' clothing; and footwear.

To do this we utilized data from the New York State Department of Taxation and Finance for the two broad retail store segments selling such merchandise -- General Merchandise Stores (SIC 53) and Apparel and Accessory Stores (SIC 56) -- and applied line of merchandise ratios from the latest completed Census of Retail Trade (1987) for the portion of SIC 53 and SIC 56 sales in each of the three product categories. Tax and Finance data for the period from September 1992 through August 1993 were used as the closest approximation possible to City FY 1993.

2. We then estimated FY 1993 taxable sales for 15 detailed clothing and footwear product categories, e.g., men's suits, coats and jackets, women's dresses, boys' and girls' footwear (see attached worksheet for a full listing). This was done to provide a more precise basis for estimating the portion of sales within each category comprised of items priced at under $100.

To estimate sales for the 15 detailed product areas, relative importance weights were taken from the clothing and services component of the New York area Consumer Price Index (CPI-U) published by the U.S. Bureau of Labor Statistics. The weights are based on consumer expenditure surveys.

3. For each of the 15 product categories we made assumptions, based on our staff's informed assessments, of the portion of sales comprised of items priced at under $100.
4. We added sales for sewing and fabric stores since noncommercial clothing materials such as fabrics, thread, knitting yarn, etc. are covered by the proposed exemption.

Since sales data for this category of retail store are not broken out by the State, we adjusted sales data from the 1992 Census of Retail Trade by the 1992-to-1993 change in sales for general merchandise and apparel and accessory stores. We assumed 100 percent of the sales in sewing and fabric stores would qualify for the exemption.

5. Our combined estimate for taxable clothing, footwear and noncommercial clothing materials for FY 1993 is $166.38 million. To carry this forward, we applied a 5.1 percent growth factor in FY 1994 (the average of roughly first half growth in SIC 53 and SIC 56 taxable sales and full fiscal year growth in total sales tax revenues) and our expected growth factors for total sales tax revenues for FY 1995 through FY 1997. The FY 1995-97 growth factors are based on our adjustments to City OMB forecasts (we expect higher growth in FY 1995 and somewhat slower growth in FY 1997); these growth factors are FY 1995, 4.8 percent, FY 1996, 3.5 percent, FY 1997, 4.1 percent. This produces a taxable clothing, footwear and clothing materials sales estimate for FY 1997 of $197.45 million. The result is only slightly different if the City’s sales tax growth forecasts are used for FY 1995-97: $196.87 million.

A Note on OMB’s Methodology

OMB’s approach differs from ours in two key respects: they did not separately estimate sales for the 15 clothing and footwear product categories we looked at or for noncommercial clothing materials, and their assumption about the portion of sales less than $100 was a judgement based on discussions with state tax officials from Massachusetts and Connecticut, both states that have a clothing sales tax exemption. For Massachusetts, which exempts clothing under $175, tax officials estimated that 80 percent of total clothing sales were exempt. For Connecticut, where the exemption is for sales under $75, officials estimated that 50-75 percent of sales were exempt from the sales tax. OMB settled on a 75 percent assumption and applied that to 100 percent of taxable apparel and accessory store sales and to 65 percent of general merchandise stores (the 65 percent proportion was drawn from external discussions). OMB applied their sales tax forecasts to the FY 1993 estimates to carry them forward.
Risks to Our Estimates

The main risk that our estimate of taxable clothing and footwear sales is on the high side stems from the possibility of continued steep discounting among clothing retailers. A number of factors, among them, continued very high growth in durables purchases, little fashion stimulus, and over-stocking by retailers in anticipation of a consumer switch to non-durables purchases, contributed to extensive price cutting in 1994. In fact, the apparel component of the all cities Consumer Price Index actually declined by 0.19 percent in 1994 (measured from December to December). This trend was even more pronounced in the New York City area where the apparel component of the regional CPI-U declined by 2.4 percent in 1994, compared to a 2.38 percent gain in the overall area price index. While the increased presence of discount retail chains in New York City may contribute further to price discounting, we would expect most retailers to more closely manage inventories to avoid having to resort to more mark-downs.

Our estimates may be on the low side if the presence of several new stores helps draw consumer clothing spending back into the City (assuming that increased unit sales are not fully washed out through price cutting). Another development that would result in our estimate coming on the low side is if there is a pronounced cyclical shift back to nondurables, including clothing, from durables spending. This shift typically occurs as an expansion matures: pent-up demand for autos and appliances is temporarily satisfied, consumer debt burdens have risen and higher interest rates dampen interest in borrowing to finance big-ticket purchases. Assuming a recession is averted, consumers shift spending to nondurables, including clothing. For example, WEFA's forecasts through 1997 reflect this cyclical shift with purchases of clothing and shoes expected to rise relative to consumer durables purchases. For each one percent that clothing sales increase above our growth assumptions for FY 1995-97, four percent of clothing and footwear sales would amount to about $6 million. We consider it highly unlikely that sales could grow more than two percent a year above our present assumptions.

Our modeling for this project did not include forecasting the increase in New York City clothing sales that may result from reducing the sales tax on clothing, footwear and clothing materials.

Please do not hesitate to contact James Parrott (417-5438) for further information on this.
**TABLE 1**

<table>
<thead>
<tr>
<th>Year</th>
<th>CREDIT &amp; PROTECT COLLECT &amp; DETECT</th>
<th>DEC &amp; DESIGN</th>
<th>CLEANING &amp; MAINT</th>
<th>MISC SERVICES</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 85</td>
<td>0.11</td>
<td>13.73</td>
<td></td>
<td>10.56</td>
<td>24.40</td>
</tr>
<tr>
<td>FY 86</td>
<td>0.24</td>
<td>12.71</td>
<td></td>
<td>11.89</td>
<td>24.84</td>
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<tr>
<td>FY 87</td>
<td>0.10</td>
<td>17.83</td>
<td></td>
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<td>0.30</td>
<td>17.99</td>
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<td>18.19</td>
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<td>FY 90</td>
<td>-0.11</td>
<td>21.76</td>
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<td>1.20</td>
<td>20.90</td>
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<td>0.30</td>
<td>20.76</td>
<td>2.81</td>
<td>25.49</td>
<td>69.85</td>
</tr>
</tbody>
</table>
Worksheet: Eliminating the Sales Tax on Clothing Items Under $100

(sales in millions of $)
general merchandise sales FY93 (A) = 3610.710
men's + boys (B) = 599.110
women's + girls + infants (C) = 1094.045
footwear (D) = 155.261

apparel sales FY93 (A) = 3719.692
men's + boys (B) = 1026.635
women's + girls + infants (C) = 1975.156
footwear (D) = 647.226

<table>
<thead>
<tr>
<th>relative importance (C)</th>
<th>1993 GM sales</th>
<th>1993 app sales</th>
<th>1993 total sales</th>
<th>1993 total sales under $100</th>
</tr>
</thead>
<tbody>
<tr>
<td>% &lt; $100 (D)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>mens + boys</td>
<td>1.243</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>men's suits etc.</td>
<td>0.348 50.00%</td>
<td>177349</td>
<td>357629</td>
<td>534978 267489</td>
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<tr>
<td>men's suits etc.</td>
<td>0.182 95.00%</td>
<td>90585</td>
<td>186861</td>
<td>275226 265265</td>
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<tr>
<td>mens' shirts</td>
<td>0.158 95.00%</td>
<td>60688</td>
<td>12709</td>
<td>243396 231227</td>
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<tr>
<td>men's slacks</td>
<td>0.151 95.00%</td>
<td>177010</td>
<td>155275</td>
<td>223277 220603</td>
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<tr>
<td>boys' apparel</td>
<td>0.159 95.00%</td>
<td>81057</td>
<td>183535</td>
<td>244632 220169</td>
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<tr>
<td>total</td>
<td>1994.045</td>
<td>1975.156</td>
<td>5008701</td>
<td>1025809 1534510 1204612</td>
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<tr>
<td>women's + girls + infants</td>
<td>2.583</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>women's coats etc.</td>
<td>0.096 33.00%</td>
<td>100736</td>
<td>192638</td>
<td>298434 98813</td>
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<tr>
<td>women's dresses</td>
<td>0.133 60.00%</td>
<td>145280</td>
<td>262284</td>
<td>407483 244538</td>
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<tr>
<td>women's hosiery, etc.</td>
<td>0.274 70.00%</td>
<td>290454</td>
<td>543625</td>
<td>640080 586050</td>
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<td>women's nightwear, etc.</td>
<td>0.134 95.00%</td>
<td>168175</td>
<td>304341</td>
<td>472916 449270</td>
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<tr>
<td>women's slacks</td>
<td>0.052 50.00%</td>
<td>56757</td>
<td>102466</td>
<td>159223 79612</td>
</tr>
<tr>
<td>girls' apparel</td>
<td>0.212 90.00%</td>
<td>232109</td>
<td>419042</td>
<td>651151 586036</td>
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<tr>
<td>infants apparel etc.</td>
<td>0.078 95.00%</td>
<td>65135</td>
<td>153700</td>
<td>239835 226933</td>
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<tr>
<td>footwear</td>
<td>0.010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>mens</td>
<td>0.000 60.00%</td>
<td>46575</td>
<td>143168</td>
<td>240746 144448</td>
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<td>boys and girls</td>
<td>0.193 50.00%</td>
<td>30028</td>
<td>125178</td>
<td>156206 130686</td>
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<tr>
<td>women's</td>
<td>0.503 80.00%</td>
<td>78142</td>
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<td>403889 323111</td>
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<td>total</td>
<td>134749</td>
<td>645093</td>
<td>799841</td>
<td>607245</td>
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<td>sewing &amp; fabric stores 1992 sales (E)</td>
<td>74327</td>
<td>1993 growth (F)</td>
<td>0.13%</td>
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<td>1993 growth (F)</td>
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<td>157494</td>
<td>3646058 54035525 4159504</td>
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<tr>
<td>grand total</td>
<td>1757494</td>
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<td>4159504</td>
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<tr>
<td>4 % tax</td>
<td></td>
<td></td>
<td></td>
<td>166380</td>
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growth of clothing sales tax, FY93 to FY97 (D)

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<thead>
<tr>
<th>assume 3% annual growth</th>
<th>assume OSMC growth</th>
<th>assume OSMC growth</th>
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</thead>
<tbody>
<tr>
<td>FY93</td>
<td>16638</td>
<td>16638</td>
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<tr>
<td>FY94</td>
<td>17137</td>
<td>17487</td>
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<tr>
<td>FY95</td>
<td>17651</td>
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<td>18181</td>
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<tr>
<td>FY97</td>
<td>18720</td>
<td>19745</td>
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</table>

Sources:
(A) State Taxation & Finance, Taxable Sales 9692-8993
(B) Retail Sales from 1997 Retail Census, NY PMSA, US Bureau of the Census
(D) OSMC assumptions.
(E) OSMC sales, 1992 Retail Census, NYC.
(F) growth from source (A) for general merchandise and apparel sales.
MEMORANDUM

TO:        Bernard J. Kabak
FROM:      Richard J. Krainin
DATE:      April 7, 1995

RE:        Senate Bill No. 1613--A

In connection with your March 29th request to Rosemary Scanlon for an estimate of the effect of the above-captioned bill on sales tax revenues, you asked for any comments we might have on other aspects of the bill. The following is a short list of issues, which I am sure you have already considered and addressed:

- Could the reduction in the sales and use taxes imposed by Section 1107 of the Tax Law be construed as violating the State's pledge in Section 3015 of the Public Authorities Law not to impair the rights of MAC bondholders?

- Would any MAC bond covenants be affected by the City sales and use tax reduction?

- Why isn't the rate of the State sales and use taxes imposed by Sections 1105(a) and 1110 of the Tax Law being eliminated for qualifying clothing sales; thereby avoiding the need to reduce the City sales and use tax?

  Additionally, is the reference in proposed Subdivision 4-a of Section 92-d of the State Finance Law to "paragraph two of subdivision (c) of section twelve hundred sixty-one of the tax law" correct?

Because a portion (1%) of the state sales tax is already pledged to the Local Government Assistance Corporation.
NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI, § 1

()- Memo on original bill
()- Memo on amended bill

SENATE BILL #: S.

ASSEMBLY BILL #: A.

SENATE SPONSOR(S): Mr. Goodman

ASSEMBLY SPONSOR(S):

TITLE:

AN ACT to amend the tax law, the state finance law and the
administrative code of the city of New York, in relation to
taxing certain sales and uses of articles of clothing, non-
commercial clothing materials and footwear within a city of one
million or more to the municipal assistance corporation created
for such city, providing for reimbursement to the state for
revenues lost as a result of such reduction in state sales and
use tax rates and eliminating the expiration date to repeal
section 4 of chapter 880 of the Laws of 1995 relating to the
imposition of taxes in the city of New York, relating to the
expiration date applicable to certain taxes imposed by such city.

SUMMARY OF PROVISIONS:

The purpose of this bill is to exempt certain sales and uses
of articles of clothing, non-commercial clothing materials and
footwear from the four percent New York City sales and use taxes
imposed by Section 1107 of the Tax Law. However, since the
proceeds if those taxes are pledged as security for the
repayment of obligations of the Municipal Assistance Corporation
for the City of New York, this goal is accomplished in the manner
described below.

Section 1 of the bill adds to the Tax Law a new section
1105-C, which provides that, on and after December 1, 1995,
retail sales and uses in the City of the articles described in
that section will be taxed at reduced rates. For purposes of the
State sales and use taxes imposed by Section 1105(a) and 1110 of
the Tax Law, the rates will be reduced from four percent to one
percent, and for purposes of the City sales and use taxes imposed
by Section 1107 of the Tax Law, the rates will be reduced from
four percent to three percent, for total reduction of four
percent.

These reduced rates will apply to articles of clothing or
footwear intended to be worn on or about the human body where
cost to the purchaser is less than $100. The lower rates will
not apply to special clothing or footwear primarily designed for athletic activity or protective use, or to articles such as jewelry, handbags, luggage, umbrellas, wallets and watches which are not worn on the body in the manner characteristic of clothing or footwear intended to be subject to the reduced rates. The reduced rates will also apply to purchases by a noncommercial purchaser of common clothing materials intended to be incorporated into clothing as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers.

To replace the revenue lost to the Municipal Assistance Corporation as a result of the one percent reduction in the rate of the tax imposed under Section 1107 of the Tax Law to provide the revenues from special City sales taxes imposed under the authority of paragraphs (2) and (3) of subdivision (a) and subdivision (f) of section 1212-A of the Tax Law shall be paid to the Municipal Tax Fund established by Section 92-d of the State Finance Law. These special taxes are imposed on beauty, barbering and certain other personal services, credit rating and reporting services, protective and detective services, interior decorating and designing services and certain interior cleaning and maintenance services. To ensure the continuation of this revenue stream, Section 3 of the bill amends Section 1212-A by adding a new subdivision (b), which suspends the City's authority to repeal, reduce the rate of, or otherwise amend any of these taxes. Several of these taxes contain sunset provisions which call for their expiration at the end of 1995. Sections 2, 4 and 5 of the bill eliminate these sunset provisions. Sections 7 and 8 of the bill amend Section 92-d of the State Finance Law, relating to the Municipal Assistance Tax Fund, to provide for payment of the revenue from these special City sales taxes into the special account established within such Fund for the New York City Municipal Assistance Corporation. This revenue is to be utilized and disposed of in the same manner as the revenue from the taxes imposed by Section 1107 of the Tax Law.

In order to replace the revenue loss to the State as a result of the three percent reduction in the rates of the sales and use taxes imposed by Section 1105(a) and 1110 of the Tax Law, Section 10 of the bill amends section 1313 of the Tax Law, relating to the deposit and disposition of the revenues from the city personal income tax imposed under the authority of Article 30 of the Tax Law and the City nonresident earnings tax imposed under the Article E of the General City Law. The amendment directs the New York State Commissioner of Taxation and Finance, who is responsible for administering and collecting the City personal income tax and nonresident earnings tax, to withhold and pay into the State treasury from the proceeds of those taxes such amounts as are necessary to reimburse the State for its lost sales tax revenue. The Commissioner of Taxation and Finance is to make monthly estimates of the State's losses and withhold moneys based on those estimates. Following the end of each sales tax quarter, the Commissioner is to determine the actual
losses and make any necessary adjustments to the estimated amounts previously withheld. To ensure the continuation of this revenue source, Section 9 of the bill amends Section 1301 of the Tax Law by adding a new subsection (f), which suspends the City's authority to repeal, suspend or reduce the rates of the City personal income tax or nonresident earnings tax.

JUSTIFICATION:

This proposal is intended as economic development initiative. It will assist NYC retailers by reducing the sales tax imposed on certain clothing purchases, thereby making the City a more competitive location for consumers to shop. Currently, clothing purchases are completely exempt from sales taxation in New Jersey; in Connecticut, purchases of clothing items costing less than $50 are exempt. This proposal will lower the sales tax imposed on eligible clothing purchases in NYC to four and one-quarter percent from eight and one-quarter percent, reducing the disparity in sales tax treatment of clothing purchases between NYC and adjacent jurisdictions.

The measure will also lessen the regressivity of the sales tax by exempting from taxation only those clothing items which can generally be classified as household necessities, which make up a greater proportion of overall taxable purchases by lower income than their wealthier counterparts. Articles of clothing or footwear costing $100 or more will not be eligible for the exemption. In addition, special clothing or footwear designed for athletic or protective use and accessories, such as jewelry, handbags, luggage, umbrellas, wallets and watches, will not be eligible. Such items will remain fully taxable.

FISCAL IMPLICATIONS:

The cost of this proposal is projected to be $98 million in FY 1996 and $135 million in FY 1997, the first full year in which it will be effective.

EFFECTIVE DATE:

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.

LEGISLATIVE HISTORY:

1994 - S.8615 - Referred to Senate Rules Committee.

a:8615.1.ras
From: Bernard J. Kabak
Memo to: File
Date: 3/29/95
Re: A. 6269, a proposal by Assembly Speaker to exempt certain clothing purchases from the sales tax, passed the Assembly, but was not expected to be adopted by the Senate, per Brian Downes (518) 455-4026. An Assembly Ways & Means Committee staff member.
TAXLA*  
(Elminates the sales tax on certain items of clothing)

AN ACT

To amend the tax law, in relation to eliminating the sales and compensating use tax on receipts from the sale of certain items of clothing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1) Single house bill (introduced separately in either or both houses): sign 2 copies, same names of co-sponsors and deliver to the introduction clerk of the house together with 4 copies of the introducer's memorandum.

2) Joint bill (introduced simultaneously in both houses and printed as one bill): Senate and Assembly introducer sign the same copy of the bill, circle the names of co-sponsors and return it to the introduction clerk of either house with the remaining copy and 4 copies of the introducer's memorandum.
Section 1. The tax law is amended by adding a new section 1105-C to read as follows:

§ 1105-C. Reduced tax rate on clothing. Notwithstanding any other provisions of this article, but not for purposes of the taxes imposed by section eleven hundred seven or eleven hundred eight or eleven hundred nine or authorized pursuant to the authority of article twenty-nine of this chapter, the taxes imposed by subdivision (a) of section eleven hundred five of this article on receipts from the retail sale of items of fabricated clothing and footwear, other than fur, that cost less than five hundred dollars per item shall be paid at the rate of zero percent. For purposes of this section, clothing shall not include jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing intended to be worn on or about the human body.

§ 2. Paragraph 3 of subdivision (a) of section 1210 of the tax law is amended by adding a new subparagraph (v) to read as follows:

(v) Notwithstanding any other provision of law to the contrary, any city or county, except a county wholly within a city, may by local laws, ordinances or resolutions exempt from the tax imposed pursuant to this subdivision, by such city or county the receipts from the retail sale, of items of fabricated clothing and footwear, other than fur, that cost less than five hundred dollars per item. For purposes of this section, clothing shall not include jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing intended to be worn on or about the human body.

§ 3. Subdivision (d) of section 1210 of the tax law, as amended by chapter 708 of the laws of 1993, is amended to read as follows:
(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or exempting from such tax the clothing and footwear described in subparagraph (v) of paragraph three of subdivision (a) of this section or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen must go into effect only on one of the following dates: March first, June first, September first or December first. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three shall also apply.

§ 4. Subdivision (b) of section 1107 of the tax law is amended by adding a new clause 9 to read as follows:
(2) Any city in which the taxes imposed by subdivision (a) of this section apply, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions exempting from such tax the clothing and footwear described in subparagraph (v) of paragraph three of subdivision (a) of section twelve hundred ten of this chapter. When such local law, ordinance or resolution is effective, such city shall make payments, due the last day of each January, April, July and October, to the comptroller, for deposit and disposition in the municipal assistance tax fund established by section ninety-two-d of the state finance law, of amounts equal to the cost of such exemption, as determined and certified by the comptroller prior to the last day of each March, June, September and December, who shall not be held liable for any inaccuracy with regard to such certifications. The comptroller shall make such certifications for the period of time that such a local law, ordinance or resolution is in effect and taxes imposed by subdivision (a) of this section have not been terminated by subdivision (d) of this section.

§ 5. Subdivision (b) of section 1108 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) Any city in which the taxes imposed by subdivision (a) of this section apply, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions exempting from such tax the clothing and footwear described in subparagraph (v) of paragraph three of subdivision (a) of section twelve hundred ten of this chapter. When such local law, ordinance or resolution is effective, such city shall make payments, due the last day of each January, April, July and October, to the comptroller, for deposit and disposition in the municipal assistance tax fund established by
section ninety-two-d of the state finance law, of amounts equal to the
cost of such exemption, as determined and certified by the comptroller
prior to the last day of each March, June, September and December, who
shall not be held liable for any inaccuracy with regard to such certifi-
cations. The comptroller shall make such certifications for the period
of time that such a local law, ordinance or resolution is in effect and
taxes imposed by subdivision (a) of this section have not been termi-
nated by subdivision (c) of this section.
§ 6. Section 1109 of the tax law is amending by adding a new subdivi-
sion (f) to read as follows:
(f) (1) Notwithstanding any other provision of law to the contrary,
when any city or county, except a county wholly within a city, which is
within the territorial limits of the metropolitan commuter transporta-
tion district and, by local law, ordinance or resolution, enacts the
exemption pursuant to subparagraph (v) of paragraph three of subdivision
(a) of section twelve hundred ten of this chapter, clause nine of subdivi-
sion (b) of section eleven hundred seven of this article, or paragraph
six of subdivision (b) of section eleven hundred eight of this article,
such exemption shall be applicable within the territorial limits of such
city or county for purposes of the tax imposed pursuant to this section.
(2) When such local law, ordinance or resolution is effective, such
city or county shall make payments, due the last day of each January,
April, July and October, to the comptroller, for deposit and disposition
in the mass transportation operating assistance fund established by
section eighty-eight-a of the state finance law to the credit of the
metropolitan mass transportation operating assistance account therein,
of amounts equal to fifty percent of the cost of such exemption, as
determined and certified by the comptroller prior to the last day of
each March, June, September and December, who shall not be liable for
any inaccuracy with regard to such certifications. The certifications
shall equal the annual collection from the retail sale of clothing and
footwear described in subparagraph (v) of paragraph three of subdivision
(a) of section twelve hundred ten of this chapter, divided by four, from
the last full calendar year that such exemption was not allowed by such
city or county. The comptroller shall make such certifications for the
period of time that such a local law, ordinance or resolution is in
effect and taxes imposed by section twelve hundred ten of this chapter,
subdivision (a) of section eleven hundred seven of this article or
subdivision (a) of section eleven hundred eight of this article have not
been terminated by subparagraph (v) of paragraph three of subdivision
(a) of section twelve hundred ten of this chapter, subdivision (d) of
section eleven hundred seven of this article, or subdivision (c) of
section eleven hundred eight of this article.

(3). When such local law, ordinance or resolution is effective, the
comptroller will deduct an amount, on the last day of each January,
April, July and October, equal to the amount certified by the comp-
troller pursuant to paragraph two of this subdivision, from the general
fund, for deposit and disposition in the mass transportation operating
assistance fund established by section eighty-eight-a of the state
finance law to the credit of the metropolitan mass transportation oper-
ating assistance account therein.

§ 7. This act shall take effect immediately and shall apply to quar-
terly sales tax periods, as set forth in subdivision (b) of section 1136
of the tax law, beginning on or after March 1, 1996.
06269
NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF THE LEGISLATION
submitted in accordance with Assembly Rule III, section 1 (e)

Bill Number: Assembly _____ Senate _____

Memo on original draft of bill
Memo on amended bill

Sponsors: Members of Assembly: SILVER, BRAGMAN, FARRELL

Senators:

Introduced at the request of:

Title of Bill: AN ACT to amend the tax law, in relation to eliminating the sales and compensating use tax on receipts from the sale of certain items of clothing and footwear

Purpose or General Idea of Bill:

This bill would exempt clothing and footwear purchases of under $500 from the current four percent state sales tax and give localities the option of eliminating their local tax on apparel sales as well.

Summary of Specific Provisions:

Section one adds a new section 1105 c of the Tax Law that sets the state sales tax rate to zero on clothing and footwear costing less than $500.

A new subparagraph (v) is added to paragraph 3 of subdivision (a) of section 1210 of the Tax Law subdivision (d) of section 1210 of the Tax Law is amended, by section two, to provide local governments the option of matching the state's sales tax rate on clothing and footwear with a value less than $500.

In section three, subdivision (d) of section 1210 is amended to include this exemption within the ninety day minimum notice requirements.

Sections four and five amend sections 1107 and 1108 of the Tax Law to allow cities, who have a portion of their sales tax collections be disbursed to a municipal assistance corporation, the option of matching the state's sales tax rate on clothing and footwear with a value less than $500.

Section six adds a new subdivision (f) to section 1109 of the tax law to allow, where a city or county, within the Metropolitan Commuter Transportation District, has opted to match the state's sales tax rate on clothing and footwear, that clothing and footwear also be exempt against the sales tax for the Metropolitan Commuter Transportation District, for the territorial are of such city or county only. A hold-harmless clause is provided to ensure no revenue loss to the Metropolitan Mass Transportation Operating Assistance Account, contained within the Metropolitan Transportation Operating Assistance Fund.
Section seven is the effective date.

Justification:

Eliminating the State sales tax would make New York State more competitive within the retail clothing and apparel industries. Thousands of New Yorkers, especially those who live near borders of other States that have no sales tax on clothing and footwear, shop in these states. This results in a loss of sales to New York merchants.

This bill will help in bringing shoppers and jobs back to New York, while reducing the tax burden on the middle and lower income classes. Taxing the sale of clothing and footwear imposes a regressive hardship on low and middle income consumers.

Prior Legislative History:

New.

Fiscal Implications for State and Local Governments:

State loss of revenue for State Fiscal Year 1995-96 is ($12-$16) million. Local loss of revenue is dependent upon those localities that opt to match the State's action.

Effective Date:

This act shall take effect immediately and shall apply to quarterly sales tax periods beginning on or after March 1, 1996.
March 29, 1995

To: Richard Halverson

From: Bernard J. Kabak

Re: Sales Tax Exemption on Purchases of Clothing

We are requesting your assistance in evaluating Senate Intro. 1613-A, a proposal that would exempt certain purchases of clothing from the sales and compensating use taxes currently dedicated to the Municipal Assistance Corporation. A copy of S.1613-A is enclosed along with supporting and explanatory memoranda.

We would like to have your Office's estimates of (a) the reduction in the sales tax revenues now dedicated to MAC that this proposal, if enacted, would effect, and (b) the amount of replacement sales tax revenues newly dedicated to MAC that this proposal would provide in substitution.

S.1613-A, is an initiative of the Giuliani Administration. If you need a City contact person, let me suggest David Rubenstein of O.M.B. at 788-5970.

While we are looking to you primarily for an estimate of the effect of the bill on sales tax revenues, we would welcome any comments you might have on other aspects of the legislation. If you need any further clarification or assistance, please let me know.

Incidentally, I have just learned that an Assembly bill proposed by Speaker Silver, which also would have carved out a sales tax exemption for certain clothing purchases, is not expected to pass in the Senate.

We are grateful for your help.
Date: March 29, 1995

To: Rosemary Scanlon

From: Bernard J. Kabak

Re: Sales Tax Exemption on Purchases of Clothing

We are requesting your assistance in evaluating Senate Intro. 1613-A, a proposal that would exempt certain purchases of clothing from the sales and compensating use taxes currently dedicated to the Municipal Assistance Corporation. A copy of S.1613-A is enclosed along with supporting and explanatory memoranda.

We would like to have your Office's estimates of (a) the reduction in the sales tax revenues now dedicated to MAC that this proposal, if enacted, would effect, and (b) the amount of replacement sales tax revenues newly dedicated to MAC that this proposal would provide in substitution.

S.1613-A, is an initiative of the Giuliani Administration. If you need a City contact person, let me suggest David Rubenstein of O.M.B. at 788-5970.

While we are looking to you primarily for an estimate of the effect of the bill on sales tax revenues, we would welcome any comments you might have on other aspects of the legislation. If you need any further clarification or assistance, please let me know.

Incidently, I have just learned that an Assembly bill proposed by Speaker Silver, which also would have carved out a sales tax exemption for certain clothing purchases, is not expected to pass in the Senate.

We are grateful for your help.
March 29, 1995

Leonard Lowell

Bernard J. Kabak

Sales Tax Exemption on Purchases of Clothing

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Incidently, I have just learned that an Assembly bill proposed by Speaker Silver, which also would have carved out a sales tax exemption for certain clothing purchases, is not expected to pass in the Senate.

We are grateful for your help.
Sec. 3 & rec. 4 suspends authority of the City to repeal, reduce the rate of, or in any way amend certain taxes imposed by the local legislative body. It is well known that a locality can impose a tax only if authorized by the State. This new provision states once the City imposes a certain tax it’s stuck with it. In other words, the State requires the Municipality to maintain a locally imposed tax, i.e., a State-mandated local tax. So there sound legal authority for this? Note S. 1613-A, p. 3 like 18 speaks about any tax imposed by a City.

Note 1. 1975 Ch. 880, which is an imposition by the State of a City sales tax on certain services. Sec. 1 of Ch. 880 is a legislative finding of an emergency. Applicability is that a State imposed local tax is an extraordinary measure requiring the finding of an emergency.

The solution to the problem outlined above may be to require a Home Rule Message for this bill.
Ch. 879  LAWS OF NEW YORK 1975

of one million or more to impose an estate tax;” 1 is hereby imposed by
the city of New York.
1 1975 McKinney Session Laws, Chapter 878, § 1.

§ 3. This act shall expire on December thirty-first, nineteen hundred
eighty or upon the termination of any federal guarantee of any obliga-
tions of the city of New York, of any obligations of the municipal assis-
tance corporation for the city of New York, or of any other obliga-
tions issued in connection with the financial emergency declared in
section two-a of the New York state financial emergency act for the city
of New York, 1 whichever is later.

§ 4. This act shall take effect immediately and shall apply to the
estates of decedents dying on or after December first, nineteen hundred
seventy-five.

New York City—Services—Sales Tax

CHAPTER 880

An Act to amend the administrative code of the city of New York, in
relation to imposing a sales tax on certain services in any city
with a population of one million or more.

Approved Nov. 26, 1975, effective as provided in section 5.
Passed on message of necessity. See Const. art. IX, § 2(b)(2), and
McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and
Assembly, do enact as follows:

Section 1. Legislative findings and declaration of purpose. The
legislature hereby finds that the grave public financial emergency
existing in the city of New York for the past several months has grown
significantly more critical.

Serious and drastic steps have and will continue to be taken by the
city and the state to eliminate the causes of this crisis and to restore
the city to financial health pursuant to legislation enacting the New
York state municipal assistance corporation act, 1 the municipal assis-
tance corporation for the city of New York act, 2 the New York state
financial emergency act for the city of New York 2 and the New York
state emergency moratorium act. 1 It is apparent, however, that these
acts have not been in effect for a sufficient duration to allow the city
to regain access to the financial markets.

Unless the city obtains such access immediately the effect on the city
and its inhabitants will be devastating: i.e. city employees will be un-
paid; venders and suppliers will refuse to sell their goods and services
to the city; and unpaid recipients of public assistance will be unable to
provide themselves with the basic necessities of life. This inability to
provide municipal services will effectively cause the city to stop operat-
ing as a viable governmental entity and will create a clear and present
danger to the health, safety and welfare of its inhabitants.

The legislature further finds that the city cannot regain access to the
financial markets without federal assistance and that indications that
such assistance would be made available have been conditioned upon
the enactment of state legislation raising additional revenues through
taxation for such city.

Therefore, it is the solemn declaration of the legislature that munici-
pal services must be maintained in the city of New York and being
cognizant of the consequences of failure to do so, the legislature hereby
determines that it is imperative that it exercise the basic fundamental
sovereign powers of the state to immediately enact legislation raising
such crucial additional revenues by imposing on behalf of and for the
benefit of such city the tax hereinafter imposed by this act for the tem-
porary period provided for hereinafter.

It is the intent of the Legislature that the revenues derived from the
taxes imposed by this Act shall be applied, in accordance with applicable
law, solely for the payment of safety, health, education and social ser-
vice provided for in the expense budget of the city of New York, there-
by reducing any deficits in such expense budget.

1 Public Authorities Law § 3001 et seq.
2 Public Authorities Law § 3050 et seq.
3 1975 McKinney Session Laws, Chapter 888, § 2.
4 1975 McKinney Session Laws, Chapter 874, § 2.

§ 2. The opening paragraph of section 46-2.0 of the administrative
code of the city of New York, as amended by local law number twenty-
one of the city of New York of the year nineteen hundred seventy-four,
is hereby amended to read as follows:

On and after July first, nineteen hundred seventy-four, there is hereby
imposed within the city of New York and there shall be paid a tax
upon the receipts, rent, dues and charges specified in the following
subdivisions (a), (b), (c), (d), (e), and (f) at the rate of four percent
until and including June thirtieth, nineteen hundred seventy-five and
at the rate of three percent thereafter, and on and after September
first, nineteen hundred seventy, in addition to the foregoing tax, there
is hereby imposed within the city of New York and there shall be paid
a tax of six percent upon the receipts specified in the following subdi-
vision (c) and on and after March first, nineteen hundred seventy-six,
there is hereby imposed within the city of New York and there shall be
paid a tax of four percent upon the receipts specified in the follow-
ing subdivision (h):

§ 3. Section 46-2.0 of such code is hereby amended by adding thereto a new subdivision to be subdivision (h) to read as follows:

(h) Receipts from beauty, barbering, hair restoring, manicuring, pedic-
uring, electrolysis, massage services and similar services, and every sale
of services by weight control salons, health salons, gymnasiums, turkish
and sauna bath and similar establishments and every charge for the use
of such facilities, whether or not any tangible personal property is trans-
ferred in conjunction therewith; but excluding services rendered by a
physician, osteopath, dentist, nurse, physiotherapist, chiropractor,
podiatrist, optometrist, ophthalmic dispensor or a person performing
similar services licensed under title VII of the education law, as
amended,1 and excluding such services when performed on pets and other
animals.

1 Education Law § 6500 et seq.

§ 4. This act shall expire on December thirty-first, nineteen hundred
eighty or upon the termination of any federal guarantee of any obliga-
tions of the city of New York, of any obligations of the municipal as-
sistance corporation for the city of New York, or of any other obliga-
tions issued in connection with the financial emergency declared in

deletions by strikethrough

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main in full force and effect only until the date of such expiration
at which time the provisions of law amended by this act, shall be con-
tinued in full force and effect as they existed prior to the enactment
of this act.

1 1975 McKinney Session Laws, Chapter 880, § 2.

§ 2. This act shall take effect March first, nineteen hundred seventy-six except that certificates of registration may be filed and certificate of
authority to collect tax may be issued pursuant to section eleven hun-
dred thirty-four of the tax law prior to said date.

New York City—Income Tax

CHAPTER 881

An Act to amend the general city law and the tax law, in relation to the
imposition by a city having a population of one million or more
of a personal income tax and a city minimum income tax on residents and an earnings tax on nonresidents, the rates of such
taxes, the administration thereof and making an appropriation for
such administration; repealing subdivision (d) of section three-A
contained in section twenty-five-a of the general city law relating
to proration of taxes for fiscal years ending in nineteen hundred seventy-seven; and to amend the administrative code of the city
of New York, in relation to the exchange of tax information.

Approved and effective Nov. 30, 1975.

Passed on message of necessity. See Conal. art. IX, § 2(b)(2), and
McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and
Assembly, do enact as follows:

Section 1. The second unnumbered paragraph of section twenty-five-
a of the general city law, as amended by chapter four hundred eight of
the laws of nineteen hundred seventy-one, is hereby amended to read as
follows:

The tax authorized by this article may be imposed only if the general
city law authorizes the adoption of a city tax on the earnings of non-
residents and the city imposing the tax herein authorized also imposes
such tax on the earnings of nonresidents. The rates of such tax shall be
the rates contained in either section three or three-A of the model local
law and such rates may be reduced and increased, provided that the rates
shall not be fixed higher than those contained in section three-A of such
model local law and provided, further, in the event such rates are re-
duced or increased, there shall be a proportionate reduction or increase
in the rates of tax authorized by this chapter to be imposed by a city on
the earnings of nonresidents of the city.

§ 2. Subdivision (a) of section two of section twenty-five-a of such
law, as amended by chapter four hundred eight of the laws of nineteen
hundred seventy-one, is hereby amended to read as follows:

(a) Imposition of tax.—A tax determined in accordance with the
rates set forth in this local law is hereby imposed for each taxable
year, ending on or after July first, nineteen hundred sixty-six, but com-
mencing prior to January first, nineteen hundred seventy-six, on the city
taxable income of every resident individual, resident estate and trust.

§ 3. Subdivisions (a) and (b) of section three-A of section twenty-
five-a of such law, as amended by chapter four hundred fifty-six of the

Changes or additions in text are indicated by underline.
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(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 or a city resident head of a household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following table:

For taxable years beginning after nineteen hundred ninety-three ninety-five:

<table>
<thead>
<tr>
<th>City Taxable Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $12,000</td>
<td>1.35% of the city taxable income</td>
</tr>
<tr>
<td>Over $12,000 but not over $25,000</td>
<td>$162 plus 1.65% of excess over $12,000</td>
</tr>
<tr>
<td>Over $25,000 but not over $50,000</td>
<td>$377 plus 1.675% of excess over $25,000</td>
</tr>
<tr>
<td>Over $50,000</td>
<td>$796 plus 1.7% of excess over $50,000</td>
</tr>
</tbody>
</table>

§ 14. Section 11-1702 of the administrative code of the city of New York, as amended by local law number 77 of the city of New York for the year 1991, is amended to read as follows:

§ 11-1702 Minimum income tax

In addition to any other tax imposed by this chapter, a tax is hereby imposed for each taxable year on the city minimum taxable income of every city resident individual, estate or trust at the rate of two and one-half percent of such city minimum taxable income for taxable years beginning before nineteen hundred ninety-one and after nineteen hundred ninety-three ninety-five and at the rate of two and eighty-five hundredths percent of such city minimum taxable income for taxable years beginning after nineteen hundred ninety and before nineteen hundred ninety-four ninety-six. The provisions of subdivisions (e), (d) and (c) of section 11-1701 shall also apply for purposes of this tax.

§ 15. Subdivision (a) of section 11-1704.1 of the administrative code of the city of New York, as amended by local law number 77 of the city of New York for the year 1991, is amended to read as follows:

(a) In addition to any other taxes imposed by this chapter, there is hereby imposed for each taxable year beginning after nineteen hundred ninety but before nineteen hundred ninety-four ninety-six, an additional tax on the city taxable income of every city resident individual, estate and trust, to be calculated at the rate of fourteen percent of the sum of the taxes for each such taxable year determined pursuant to section 11-1701 and section 11-1704 of this chapter.

§ 16. The opening paragraph of subdivision (a) of section 11-2040 of the administrative code of the city of New York, as amended by chapter 273 of the laws of 1991, is amended to read as follows:

On and after September first, nineteen hundred seventy-five, there is hereby imposed within the city and there shall be paid a tax at the rate of four per cent upon the receipts from every sale, except for resale, of the following services, provided, however, that the tax hereby imposed shall not be imposed after December thirty-first, nineteen hundred ninety-three ninety-five, on receipts from sales of the services specified in paragraph one of this subdivision:

§ 17. The opening paragraph of section 1210 of the tax law, as amended by chapter 72 of the laws of 1983, is amended to read as follows:

Notwithstanding any other provision of law to the contrary, but subject to the limitations and exemptions in part II of this article,¹ any city in this state or county in this state, except a county wholly within a city, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing in any such city or county the following taxes, at the rate of one-half, one, one and one-half, two, and one-half or three percent, provided, however, that for the period beginning June first, nineteen hundred seventy-four and ending June thirtieth, nineteen hundred seventy-five, any such city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws imposing such taxes in any such city, at the rate of four percent.
March 29, 1995

To:
Distributees Listed Below

From:
Bernard J. Kabak

Re:
Sales Tax Exemptions on Clothing Purchases

I am sending for your evaluation Senate Intro. 1613-A, which would exempt certain purchases of clothing from the sales and compensating use tax. I am also enclosing supporting and explanatory memoranda. S.1613-A is an initiative of the Giuliani Administration.

I have learned that an Assembly bill concerning the sales tax on clothing, A.6269, which Speaker Silver authored, is not expected to pass the Senate.

Distributees:

Craig Beazer, Esq.
James M. Dubin, Esq.
Saul H. Finkelstein, Esq.
Robert R. Grew, Esq.
John J. Keohane, Esq.
Donald J. Robinson, Esq.
Mr. Pasquale V. Santivasci
AN ACT to amend the tax law, the state finance law and the administrative code of the city of New York in relation to taxing certain sales and uses of articles of clothing, noncommercial clothing materials and footwear within a city of one million or more at reduced rates for purposes of the sales and use taxes imposed by sections 1105, 1107 and 1110 of the tax law, dedicating revenues from certain taxes imposed by a city of one million or more to the municipal assistance corporation created for such city, providing for reimbursement to the state for revenues lost as a result of such reduction in state sales and use tax rates and eliminating the expiration date applicable to certain taxes imposed by the city of New York, and to repeal section 4 of chapter 880 of the laws of 1975 relating to the imposition of taxes in the city of New York, relating to the expiration date applicable to certain taxes imposed by such city, providing for reimbursement to the state for revenues lost as a result of such reduction in state sales and use tax rates and eliminating the expiration date applicable to certain taxes imposed by the city of New York, and to repeal section 4 of chapter 880 of the laws of 1975 relating to the imposition of taxes in the city of New York, relating to the expiration date applicable to certain taxes imposed by such city.

The purpose of this bill is to exempt certain sales and uses of articles of clothing, noncommercial clothing materials and footwear from the four percent New York City sales and use taxes imposed by Section 1107 of the Tax Law. However, since taxes are pledged as security for the repayment of obligations of the Municipal Assistance Corporation for the City of New York, this goal is accomplished in the manner described below.

Section 1 of the bill adds to the Tax Law a new section 1105-C, which provides that, on and after December 1, 1995, retail sales and uses in the City of the articles described in that section will be taxed at reduced rates. For purposes of the State sales and use taxes imposed by Section 1105(a) and 1110 of the Tax Law, the rates will be reduced from four percent to one percent, and for purposes of the City sales and use taxes imposed by Section 1107 of the Tax Law, the rates will be reduced from four percent to three percent, for a total reduction of four percent.

These reduced rates will apply to articles of clothing or footwear intended to be worn on or about the human body where the cost to the purchaser is less than $100. The lower rates will not apply to special clothing or footwear primarily designed for athletic activity or protective use, or to articles, such as jewelry, handbags, luggage, umbrellas, wallets and watches, which are not worn on the body in the manner characteristic of clothing or footwear intended to be subject to the reduced rates. The reduced rates will also apply to purchases by a noncommercial purchaser of common clothing materials intended to be incorporated into clothing as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers.

To replace the revenue lost to the Municipal Assistance Corporation as a result of the one percent reduction in the rate of the tax imposed under Section 1107 of the Tax Law, Section 8 of the bill amends Section 1261 of
the Tax Law to provide that the revenues from special City sales taxes imposed under the authority of paragraphs (a) and (3) of subdivision (a) and subdivision (2) of section 1212-A of the Tax Law shall be paid to the Municipal Assistance Tax Fund established by Section 92-d of the State Finance Law. These special taxes are imposed on beauty, barbering and certain other personal services, credit rating and reporting services, protective and detective services, interior decorating and designing services and certain interior cleaning and maintenance services. To ensure the \[...\] 1212-A by adding a new subdivision (h), which suspends the City's authority to repeal, reduces the rate of, or otherwise amend any of these taxes. Several of these taxes contain sunset provisions which call for their expiration at the end of 1995. Sections 2, 6 and 7 of the bill eliminate these sunset provisions. Sections 9 and 10 of the bill amend Section 92-d of the State Finance Law, relating to the Municipal Assistance Tax Fund, to provide for payment of the revenue from these special City sales taxes into the special account established within such Fund for the New York City Municipal Assistance Corporation. This revenue is to be utilized and disposed of in the same manner as the revenue from the taxes imposed by Section 1107 of the Tax Law.

In order to replace the revenue loss to the State as a result of the three percent reduction in the rates of the sales and use taxes imposed by Section 1105(a) and 1106 of the Tax Law, Section 5 of the bill amends Section 1313 of the Tax Law, relating to the deposit and disposition of the revenues from the City personal income tax imposed under the authority of Article 30 of the Tax Law and the City nonresident earnings tax imposed under the authority of Article 2-E of the General City Law. The amendment directs the New York State Commissioner of Taxation and Finance, who is responsible for administering and collecting the City personal income tax and nonresident earnings tax, to withhold and pay into the State treasury from the proceeds of these taxes such amounts as are necessary to reimburse the State for its lost sales tax revenue. The Commissioner of Taxation and Finance is to make monthly estimates of the State's losses and withhold money based on those estimates. Following the end of each three-month quarter, the commissioner is to determine the actual losses and make any necessary adjustments to the estimated amounts previously withheld. To ensure the continuation of this revenue source, Section 6 of the bill amends Section 1301 of the Tax Law by adding a new subsection (f), which suspends the City's authority to repeal, suspend or reduce the rates of the City personal income tax or nonresident earnings tax.

REASONS FOR SUPPORT

This proposal is intended as an economic development initiative. It will assist NYC retailers by reducing the sales tax imposed on certain clothing purchases, thereby making the city a more competitive location for consumers to shop. Currently, clothing purchases are completely exempt from sales taxation in New Jersey, in Connecticut, purchases of clothing items costing less than $50 are exempt. This proposal will lower the sales tax imposed on eligible clothing purchases in NYC to four and one-quarter percent from eight and one-quarter percent, reducing the disparity in sales tax treatment of clothing purchases between NYC and adjacent jurisdictions.

The measure will also lessen the regressivity of the sales tax by exempting from taxation only those clothing items which can generally be classified as household necessities, which make up a greater proportion of overall taxable purchases by lower-income household than their wealthier counterparts. Articles of clothing or footwear costing $100 or more will not be eligible for the exemption. In addition, special clothing or footwear designed for athletic activity or protective use and accessories, such as jewelry, handbags, luggage, umbrellas, wallets and watches, will not be eligible. Such items will remain fully taxable.

The cost of this proposal is projected to be $38 million in FY 1996 and $195 million in FY 1997, the first full year in which it will be effective. Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

Respectfully submitted,

ROBERT M. HARDING
Legislative Representative
AN ACT to amend the tax law, the state finance law and the administrative code of the city of New York, in relation to taxing certain sales and uses of articles of clothing, noncommercial clothing materials and footwear within a city of one million or more at reduced rates for purposes of the sales and use taxes imposed by sections 1105, 1107 and 1110 of the tax law, dedicating revenues from certain taxes imposed by a city of one million or more to the municipal assistance corporation organized for such city, providing for reimbursement to the state for revenues lost as a result of such reduction in state sales and use tax rates and eliminating the expiration date applicable to certain taxes imposed by the city of New York, and to repeal section 4 of chapter 880 of the laws of 1975 relating to the imposition of taxes in the city of New York, relating to the expiration date applicable to certain taxes imposed by such city, providing for reimbursement to the state for revenues lost as a result of such reduction in state sales and use tax rates and eliminating the expiration date applicable to certain taxes imposed by the city of New York, and to repeal section 4 of chapter 880 of the laws of 1975 relating to the imposition of taxes in the city of New York, relating to the expiration date applicable to certain taxes imposed by such city.

The purpose of this bill is to exempt certain sales and uses of articles of clothing, noncommercial clothing materials and footwear from the four percent New York City sales and use taxes imposed by Section 1107 of the Tax Law. However, since the proceeds of those taxes are placed as security for the repayment of obligations of the Municipal Assistance Corporation for the City of New York, this goal is accomplished in the manner described below.

Section 1 of the bill adds to the Tax Law a new section 1105-C, which provides that, on and after December 1, 1995, retail sales and uses in the City of the articles described in that section will be taxed at reduced rates. For purposes of the state sales and use taxes imposed by Section 1105(a) and 1110 of the Tax Law, the rates will be reduced from four percent to one percent, and for purposes of the City sales and use taxes imposed by Section 1107 of the Tax Law, the rates will be reduced from four percent to three percent, for a total reduction of four percent.

These reduced rates will apply to articles of clothing or footwear intended to be worn on or about the human body where the cost to the purchaser is less than $100. The lower rates will not apply to special clothing or footwear primarily designed for athletic activity or protective use, or to articles, such as jewelry, handbags, luggage, umbrellas, wallets and watches, which are not worn on the body in the manner characteristic of clothing or footwear intended to be subject to the reduced rates. The reduced rates will also apply to purchases by a noncommercial purchaser of common clothing materials intended to be incorporated into clothing as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers.

To replace the revenue lost to the Municipal Assistance Corporation as a result of the one percent reduction in the rate of the tax imposed under Section 1107 of the Tax Law, Section 3 of the bill amends Section 1241 of...
the Tax Law to provide that the revenues from special City sales taxes imposed under the authority of paragraphs (2) and (3) of subdivision (a) of section 1122-A of the Tax Law shall be paid to the Municipal Assistance Corporation established by Section 92-d of the State Finance Law. These special taxes are imposed on beauty, barbering and certain other personal services, credit rating and reporting services, protective and detective services, interior decorating and designing services and certain interior cleaning and maintenance services. To ensure the continuation of this revenue stream, Section 3 of the bill amends Section 1221-A by adding a new subdivision (h), which suspends the City’s authority to repeal, reduce the rate of, or otherwise amend any of these taxes. Several of these taxes contain sunset provisions which call for their expiration at the end of 1995. Sections 2, 6 and 7 of the bill eliminate these sunset provisions. Sections 9 and 10 of the bill amend Section 92-d of the State Finance Law, relating to the Municipal Assistance Tax Fund, to provide for payment of the revenue from these special City sales taxes into the special account established within such Fund for the New York City Municipal Assistance Corporation. This revenue is to be utilized and disposed of in the same manner as the revenue from the taxes imposed by Section 1107 of the Tax Law.

In order to replace the revenue loss to the State as a result of the three percent reduction in the rates of the sales and use taxes imposed by Section 1105(a) and 1110 of the Tax Law, Section 5 of the bill amends Section 1313 of the Tax Law, relating to the deposit and disposition of the revenues from the City personal income tax imposed under the authority of Article 10 of the Tax Law and the City nonresident earnings tax imposed under the authority of Article 2-E of the General City Law. The amendment directs the New York State Commissioner of Taxation and Finance, who is responsible for administering and collecting the City personal income tax and nonresident earnings tax, to withhold and pay into the State treasury from the proceeds of those taxes such amounts as are necessary to reimburse the State for its lost sales tax revenue. The Commissioner of Taxation and Finance is to make monthly estimates of the State’s losses and withhold monies based on those estimates. Following the end of each sales tax quarter, the commissioner is to determine the actual losses and make any necessary adjustments to the estimated amounts previously withheld. To ensure the continuation of this revenue source, Section 4 of the bill amends Section 1301 of the Tax Law by adding a new subsection (f), which suspends the City’s authority to repeal, suspend or reduce the rates of the City personal income tax or nonresident earnings tax.

REASONS FOR SUPPORT
This proposal is intended as an economic development initiative. It will assist NYC retailers by reducing the sales tax imposed on certain clothing purchases, thereby making the City a more attractive location for consumers to shop. Currently, clothing purchases are completely exempt from sales taxation in New Jersey; in Connecticut, purchases of clothing items costing less than $50 are exempt. This proposal will lower the sales tax imposed on eligible clothing purchases in NYC to four and one-quarter percent from eight and one-quarter percent, reducing the disparity in sales tax treatment of clothing purchases between NYC and adjacent jurisdictions.

The measure will also lessen the regressivity of the sales tax by exempting from taxation only those clothing items which can generally be classified as household necessities, which make up a greater proportion of overall taxable purchases by lower-income households than their wealthier counterparts. Articles of clothing or footwear costing $100 or more will not be eligible for the exemption. In addition, special clothing or footwear designed for athletic activity or protective use and accessories, such as jewelry, handbags, luggage, umbrellas, wallets and watches, will not be eligible. Such items will remain fully taxable.

The cost of this proposal is projected to be $98 million in FY 1996 and $159 million in FY 1997, the first full year in which it will be effective.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

Respectfully submitted,

ROBERT M. HARDING
Legislative Representative

AH/sp
BIFTNZ
February 10, 1995

OMB TAX POLICY TASK FORCE

To: Quentin Spector
From: David Rubenstein
Re: Exemption of Clothing Purchases Under $100 and Tools Credit

The City Financial Plan tax program includes a proposal to exempt clothing purchases of under $100 in value from the City sales tax. This same proposal was made last year in the Mayor's FY 1995 Executive Budget. A draft of the bill is attached. (Note the draft bill calls for an effective date of 12/01/96. This is an error. It will be effective 12/01/95.)

The funding program for this tax cut is unique and involves a one percent reduction in the Municipal Assistance Corporation (MAC) base and a three percent reduction in the State sales tax on clothing purchases under $100 in the City. This complicated funding mechanism is necessitated by the dedication of the bulk of the City sales tax to MAC.

The proposed revenue loss to MAC will be offset by the dedication of all non-MAC City sales tax revenues (Article 29), except the eight percent surcharge on parking in Manhattan, to MAC. The components of the Article 29 sales tax to be dedicated to MAC include the sales taxes on credit and collection services, protective and detective services, decorating and designing services, cleaning and maintenance services and miscellaneous services. The sales taxes on these services yield $70 million annually and have done so for the past several years. This amount is well in excess of one quarter of the estimated cost of the sales tax exemption.

The other three percent, the three percent reduction in the State sales tax, will be reimbursed to the State through deductions to the City's personal income tax collections by the NYS Department of Taxation and Finance. The City sales tax and personal income tax are both administered by the NYS Department of Taxation and Finance.

The estimated cost of the exemption of clothing purchases under $100 is as follows ($ in millions):

<table>
<thead>
<tr>
<th></th>
<th>FY95</th>
<th>FY96</th>
<th>FY97</th>
<th>FY98</th>
<th>FY99</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAC 1% Portion</td>
<td>0</td>
<td>$24</td>
<td>$49</td>
<td>$50</td>
<td>$53</td>
</tr>
<tr>
<td>NYS 3% Portion</td>
<td>0</td>
<td>74</td>
<td>149</td>
<td>150</td>
<td>158</td>
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<tr>
<td>Total</td>
<td>0</td>
<td>98</td>
<td>198</td>
<td>200</td>
<td>211</td>
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</table>
The City Financial Plan tax program also includes a proposal to broaden the current exemption for purchases of machinery and equipment (including parts with a useful life of more than one year) used in the production of tangible personal property or in connection with the provision of certain utility services. This same proposal was also made last year in the Mayor's FY 1995 Executive Budget. The proposal would broaden the exemption to cover parts with a useful life of one year or less, tools and supplies, and services related to production machinery, equipment, parts, tools and supplies. The State already exempts this category of purchases from the sales tax. Attached is a copy of last year's bill.
STATE OF NEW YORK

1613--A

Cal. No. 99

1995-1996 Regular Sessions

IN SENATE

February 1, 1995

Introduced by Sen. GOODMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations, Taxation and Government Operations -- reported favorably from said committee to third reading, amended and ordered reprinted, retaining its place in the order of third reading.

AN ACT to amend the tax law, the administrative code of the city of New York and the state finance law, in relation to taxing certain sales and uses of articles of clothing, noncommercial clothing materials and footwear within a city having a population of one million or more at reduced rates, dedicating revenues from certain taxes imposed by a city having a population of one million or more to the municipal assistance corporation created for such city, providing for reimbursement to the state for revenues lost as a result of such reduction in state sales and use tax rates and eliminating the expiration date applicable to certain taxes imposed by the city of New York; and to repeal section 4 of chapter 880 of the laws of 1975 amending the administrative code of the city of New York relating to the imposition of a sales tax on certain services in any city with a population of one million or more, in relation to the expiration thereof.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The tax law is amended by adding a new section 1105-C to read as follows:

§ 1105-C. Reduced tax rates on certain articles of clothing, noncommercial clothing materials and footwear within a city of one million or more. (a) Notwithstanding any other provision of this article, but not for purposes of the taxes imposed by section eleven hundred eight or eleven hundred nine of this article or article two-nine of this chapter, on and after December first, nineteen hundred ninety-five the taxes imposed by subdivision (c) of section eleven hundred fifty-five of section eleven hundred seventy of this article on the receipts from the retail sales described in subdivision (c) of this section shall be paid, in the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ([ ]) is old law to be omitted.
case of the tax imposed by subdivision (a) of section eleven hundred five of this article, at the rate of one percent, and, in the case of the tax imposed by section eleven hundred seven of this article, at the rate of three percent.

(b) Notwithstanding any other provision of this article, but not for purposes of the taxes imposed by section eleven hundred eight or, eleven hundred nine of this article, or article twenty-nine of this chapter, on and after December first, nineteen hundred ninety-five the compensating use taxes imposed by section eleven hundred seven or eleven hundred ten of this article on the uses described in subdivision (c) of this section shall be paid, in the case of the compensating use tax imposed by section eleven hundred ten of this article, at the rate of one percent, and, in the case of the compensating use tax imposed by section eleven hundred seven of this article, at the rate of three percent.

(c) The retail sales or uses to which this section applies are:

(1) the retail sale or use within the territorial limits of a city having a population of one million or more of any article of clothing or footwear intended to be worn on or about the human body and the cost of which to the purchaser is less than one hundred dollars; provided, however, that for purposes of this paragraph, clothing or footwear shall not include (A) any special clothing or footwear primarily designed for athletic activity or protective use, and which is not normally worn except when used for the athletic activity or protective use for which it was designed, and (B) jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing or footwear intended to be subject to the reduced rates provided by this section; and

(2) the retail sale or use by a noncommercial purchaser within the territorial limits of a city having a population of one million or more of common clothing materials intended to be incorporated into clothing as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers.

(d) On and after December first, nineteen hundred ninety-five, the reduced rates of tax set forth in this section shall apply to receipts from all retail sales and uses described in this section made or occurring on or after December first, nineteen hundred ninety-five although made or occurring under a prior contract, if a delivery or transfer of possession of such property is made on or after such date. Nothing contained in this section shall be deemed to exempt from tax under sections eleven hundred five, eleven hundred seven and eleven hundred ten of this article any transaction which may not be subject to the reduced rates of tax set forth in this section in effect on December first, nineteen hundred ninety-five.

(e) The commissioner shall promulgate rules to carry out the provisions of this section and, in developing such rules, shall consult with the commissioner of finance of the city in which taxes are imposed pursuant to section eleven hundred seven of this article.

2. Paragraph 3 of subdivision (a) of section 1212-A of the tax law, as amended by chapter 265 of the laws of 1993, is amended to read as follows:

(3) [for a period beginning no earlier than January first, nineteen hundred ninety and ending December thirty-first, nineteen hundred ninety-five,] a tax, at the same uniform rate, but at a rate not to exceed four per centum, in multiples of one-half of one per centum, on the receipts from every sale of any or all of the following services in
whole or in part: credit rating, credit reporting, credit adjustment and
collection services, including, but not limited to, those services
provided by mercantile and consumer credit rating or reporting bureaus
or agencies and credit adjustment or collection bureaus or agencies,
whether rendered in written or oral form or in any other manner, except
to the extent otherwise taxable under article twenty-eight of this chap-
ter; notwithstanding the foregoing, collection services shall not
include those services performed by a law office or a law and collection
office, the maintenance or conduct of which constitutes the practice of
law, if the services are performed by an attorney at law who has been
duly licensed and admitted to practice law in this state. The local law
imposing the taxes authorized by this paragraph may provide for exclu-
sions and exemptions in addition to those provided for in such para-
graph.
§ 3. Section 1212-A of the tax law is amended by adding a new subdivi-
section (h) to read as follows:
(h) Notwithstanding any other provision of law to the contrary, with
respect to any tax imposed by a city having a population of one million
or more pursuant to paragraph two or three of subdivision (a) or subdi-
vision (f) of this section, the authority of such city to repeal, reduce
the rate of, or in any other manner amend such taxes shall be suspen-
ded until the end of the last day of the month in which all the bonds and
notes of the municipal assistance corporation created under article ten
of the public authorities law for such city shall have been fully paid
and discharged, together with interest thereon and interest on unpaid
installments of interest. On the day following such last day such
repeal, reduce the rate of, or otherwise amend such
taxes shall be subject to the provisions of this section, without regard
to this subdivision.
§ 4. Section 1301 of the tax law is amended by adding a new subsection
(f) to read as follows:
(f) Notwithstanding any other provision of law to the contrary, the
authority of a city having a population of one million or more to
repeal, suspend, or reduce the rates of any of the taxes imposed pursu-
ant to this article or article two-E of the general city law is
suspended until such time as the comptroller is no longer required to
set aside revenues from such taxes pursuant to the provisions of
subsection (b) of section thirteen hundred thirteen of this article. At
such time and thereafter, the authority of such city to repeal, suspend,
or reduce the rates of such taxes shall be subject to the provisions of
this article and article two-E of the general city law, without regard
to this subsection.
§ 5. Section 1313 of the tax law, as amended by chapter 55 of the laws
of 1992, is amended to read as follows:
§ 1313. Deposit and disposition of revenues. (a) All revenue collected
by the commissioner [of taxation and finance] from the taxes imposed
pursuant to the authority of this article or article two-E of the gener-
al city law shall be deposited daily with such responsible banks, bank-
ing houses or trust companies, as may be designated by the state com-
troller, to the credit of the comptroller, in trust for the city of New
York except as otherwise provided in this section. Such deposits shall
be kept in trust and separate and apart from all other moneys in the
possession of the comptroller. The comptroller shall require adequate
security from all such depositories of such revenue collected by the
commissioner [of taxation and finance]. The comptroller shall retain in
his hands such amount as the commissioner [of taxation and finance] may
determine to be necessary for refunds in respect to the taxes imposed
pursuant to the authority of this article or article two-E of the gener-
cal city law and for reasonable costs of the commissioner [of taxation
and finance] in administering, collecting and distributing such taxes,
out of which the comptroller shall pay any refunds of such taxes to
which taxpayers shall be entitled under any law enacted pursuant to
the authority of this article or article two-E of the general city law. The
comptroller shall also retain in his hands the amount determined by the
commissioner pursuant to the provisions of subsection (b) of this
section, and shall dispose of such amount as provided in such subsection
(b). The comptroller, after reserving such refund fund and such costs
and such amount as determined pursuant to subsection (b) of this section
shall, on or before the fifteenth day of each month, pay to the chief
fiscal officer of the city the balance of such taxes collected, to be
paid into the treasury of the city to the credit of the general fund
except that he shall pay to the state department of social services that
amount of overpayments of the taxes imposed pursuant to the authority of
this article or article two-E of the general city law and the interest
on such amount which is certified to him by the commissioner [of tax-
tation and finance] as the amount to be credited against past-due support
pursuant to subdivision six of section one hundred seventy-one-c of this
chapter and except that he shall pay to the New York state higher educa-
tion services corporation that amount of overpayments of the taxes
imposed pursuant to the authority of this article or article two-E of
the general city law and the interest on such amount which is certified
to him by the commissioner [of taxation and finance] as the amount to be
credited against the amount of defaults in repayment of guaranteed
student loans pursuant to subdivision five of section one hundred seventy-
one-d of this chapter and except that he shall pay to the state
university of New York or the city university of New York respectively
that amount of overpayments of the taxes imposed pursuant to the author-
ity of this article or article two-E of the general city law and the
interest on such amount which is certified to him by the commissioner
[of taxation and finance] as the amount to be credited against the
amount of defaults in repayment of state or city university loans pursuant
to subdivision six of section one hundred seventy-one-e of this
chapter and except that, notwithstanding any provision of law, he shall
credit to the revenue arrearage account, pursuant to section
ninety-one-a of the state finance law, that amount of overpayments of
the taxes imposed pursuant to the authority of this article or article
two-E of the general city law and the interest on such amount which is
certified to him by the commissioner [of taxation and finance] as the
amount to be credited against a past-due legally enforceable debt owed
to a state agency pursuant to subdivision six of section one hundred
seventy-one-f of this chapter, and except further that he shall pay to a
non-obligated spouse that amount of overpayment of tax imposed pursuant
to the authority of this article or article two-E of the general city
law and the interest on such amount which has been credited pursuant to
section one hundred seventy-one-c, one hundred seventy-one-d, one
hundred seventy-one-e or section one hundred seventy-one-f of this chap-
ter and which is certified to him by the commissioner [of taxation and
finance] as the amount due such non-obligated spouse pursuant to para-
graph six of subsection (b) of section six hundred fifty-one of this
chapter, and he shall deduct a like amount which he shall pay into the
treasury to the credit of the general fund from amounts subsequently
payable to the department of social services, the state university of
New York, the city university of New York, the higher education services
corporation, or the revenue arrearage account pursuant to section nine-
ty-one-a of the state finance law, as the case may be, whichever had
been credited the amount originally withheld from such overpayment. The
amount deducted for administering, collecting and distributing such
taxes during such monthly period shall be paid by the comptroller into
the general fund of the state treasury to the credit of the state
purposes account therein. The first payment to such chief fiscal office
shall be made on or before March fifteenth, nineteen hundred seventy-six
and on or before the fifteenth day of each succeeding month
thereafter, and shall represent the balance of revenue with respect to
taxes collected the preceding calendar months. The amounts so payable
to the comptroller by the commissioner of taxation and finance or his
delegate, either of whom shall not be held liable for any inaccuracy in such certificate. Where the amount so paid over
to such chief fiscal officer is more or less than the amount then due
to the comptroller by the commissioner of taxation and finance or his
delegate, either of whom shall not be held liable for any inaccuracy in
such certificate. The amount of overpayment or underpayment shall be so
certified to the comptroller as soon after the discovery of the overpay-
ment or underpayment as reasonably possible and subsequently by
the comptroller to such chief fiscal officer shall be adjusted by
the amount of any such overpayment from, or by adding the
subtraction of such underpayment to such number of subsequent payments
amount of any such underpayment to such number of subsequent payments
and distributions as the comptroller and the commissioner of taxation
and finance shall consider reasonable in view of the amount of the
overpayment or underpayment and all other facts and circumstances.

(b) (1) For purposes of this subsection:

(A) The term "estimated state sales tax revenue loss" shall mean the
amount of the revenue loss that the commissioner estimates will be
incurred by the state as a result of the imposition of the state sales
and compensating use taxes upon the retail sales and uses described in
subdivision (c) of section eleven hundred five-C of this chapter at the
reduced rates specified in such section eleven hundred five-C rather
than at the rates specified in section eleven hundred five and section
eleven hundred ten of this chapter. The commissioner's determination of
such estimated state sales tax revenue loss may be based upon percent-
eges or other indices calculated based on the facts applicable to prior
periods or such other relevant information as is available to the
commissioner in making such determination, the commissioner shall
consult with the commissioner of finance of a city imposing the tax
authorized by this article and shall make available to such commissioner
of finance the information utilized in arriving at such determination.

(B) The term "actual state sales tax revenue loss" shall mean the
amount of the actual revenue loss that the commissioner determines has
been incurred by the state as a result of the imposition of the state
sales and compensating use taxes upon the retail sales and uses
described in subdivision (c) of section eleven hundred five-C of this
chapter at the reduced rates specified in such section eleven hundred
five-C rather than at the rates specified in section eleven hundred five
and section eleven hundred ten of this chapter. The commissioner may
require any person required to file a return pursuant to article twen-
ty-eight of this chapter to provide such information as the commissioner
determines to be necessary in order to calculate the amount of such
actual state sales tax revenue loss.
(2) On or before November fifteenth, nineteen hundred ninety-five and
on or before the fifteenth day of each month thereafter, the commissi-
er shall determine the amount of the estimated state sales tax revenue
loss for the immediately succeeding calendar month and shall certify
such amount to the comptroller and furnish a copy of such certification
to the commissioner of finance of a city imposing the tax authorized by
this article. Neither the commissioner nor the comptroller shall be
liable for any inaccuracy with regard to such certification. On the
twentieth and twenty-fifth days of the month for which such amount has
been determined, the comptroller shall set aside from the revenues
collected and deposited during such month from the taxes imposed pursuant
to this article and article two-E of the general city law such
portion of such amount of estimated state sales tax revenue loss as the
commissioner determines to be necessary to replace such lost revenue.
The moneys so set aside shall be deposited and disposed of pursuant to
section eleven hundred forty-eight of this chapter in the same manner as
the revenues from the taxes imposed by sections eleven hundred five and
eleven hundred ten of this chapter.
(3) On or before the fifteenth day of the third month following the
end of each sales tax quarterly period, commencing with the sales tax
quarterly period ending on February twenty-eighth, nineteen hundred
ninety-six, the commissioner shall determine the amount of the actual
state sales tax revenue loss for such sales tax quarterly period. If the
amount so determined is greater or less than the amount of the estimated
state sales tax revenue loss previously determined for such sales tax
quarterly period, the commissioner shall certify the amount of such
difference to the comptroller and the comptroller shall increase or
decrease, as the case may be, the amounts thereafter set aside pursuant
to paragraph two of this subsection in order to reflect the amount of
such difference. If, subsequent to the date of any such determination,
the commissioner shall redetermine the amount of the actual state sales
tax revenue loss for any such sales tax quarterly period, the commis-
sioner shall certify to the comptroller the amount of any adjustment
required as a result of such redetermination and the comptroller shall
make the appropriate adjustments to the amounts thereafter set aside
pursuant to paragraph two of this subsection. Neither the commissioner
nor the comptroller shall be liable for any inaccuracy with regard to
any certification made pursuant to this paragraph. The commissioner
shall furnish a copy of any certification made pursuant to this para-
graph to the commissioner of finance of a city imposing the tax author-
ized by this article.
§ 6. Section 4 of chapter 880 of the laws of 1975, amending the admin-
istrative code of the city of New York relating to the imposition of a
sales tax on certain services in any city with a population of one
million or more, is REPEALED.
§ 7. The opening paragraph of subdivision (a) of section 11-2040 of
the administrative code of the city of New York, as amended by chapter
265 of the laws of 1993, is amended to read as follows:
On and after September first, nineteen hundred seventy-five, there is
hereby imposed within the city and there shall be paid a tax at the rate
of four per cent upon the receipts from every sale, except for resale, of the following services, provided, however, that the tax hereby imposed shall not be imposed after December thirty-first, nineteen hundred ninety-five, on receipts from sales of the services specified in paragraph one of this subdivision;
§ 8. Subdivisions. (a) and (c) of section 1261 of the tax law, as amended by chapter 69 of the laws of 1976, are amended to read as follows:
(a) All taxes, penalties and interest imposed by cities, counties or school districts under the authority of section twelve hundred ten, twelve hundred eleven, twelve hundred twelve or twelve hundred twelve-A, which are collected by the [state tax commission] commissioner, shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the state comptroller, to the credit of the comptroller, in trust for the cities, counties or school districts imposing the tax, except as otherwise provided in this section. Such deposits and deposits received pursuant to subdivision (b) of section twelve hundred fifty-two shall be kept in trust and separate from all other monies in the possession of the comptroller. The comptroller shall require adequate security from all such depositories of such revenue collected by the [tax commission] commissioner, including the deposits received pursuant to subdivision (b) of section twelve hundred fifty-two.
(b) The comptroller, after reserving such refund fund and such costs shall, on or before the twelfth day of each month pay to the appropriate fiscal officers of the foregoing taxing jurisdictions the taxes, penalties and interest imposed by such jurisdictions under the authority of sections twelve hundred ten through twelve hundred twelve-A, collected by the [state tax commission] commissioner pursuant to this article during the next preceding calendar month, provided, however, that the comptroller shall on or before the last day of June and December make a partial payment consisting of the collections made during and including the first twenty-five days of said months to said fiscal officers of the foregoing taxing jurisdictions. However, notwithstanding anything to the contrary, (1) the taxes, penalties and interest from the additional one percent rate which the city of Yonkers is authorized to impose pursuant to section twelve hundred ten, after the comptroller has reserved such refund fund and such cost shall be paid to the special sales and compensating use tax fund for the city of Yonkers established by section nine-ty-two-f of the state finance law at the times set forth in the preceding sentence, and (2) the taxes imposed pursuant to paragraphs two and three of subdivision (a) and subdivision (f) of section twelve hundred twelve of this article during the period beginning December first, nineteen hundred ninety-five and ending on the last day of the period of suspension provided for in subdivision (b) of section twelve hundred twelve-A of this article, together with associated penalties and interest, after the comptroller has reserved such refund fund and such costs, shall be paid to the municipal assistance tax fund established by section ninety-two-d of the state finance law at the times set forth in the preceding sentence. The amount so payable shall be certified to the comptroller by the [president of the state tax commission] commissioner or his delegate, who shall not be held liable for any inaccuracy in such certificate. Provided, however, any such certification may be based on such information as may be available to the [tax commission] commissioner at the time such certificate must be made under this section and may be estimated on the basis of percentages or other indices calculated.
from distributions for prior periods. Where the amount so paid over to
any city, county, school district [or] the special sales and compensat-
ing use tax fund for the city of Yonkers or the municipal assistance tax
fund in any such distribution is more or less than the amount then due
to such city, county, school district or such fund, the amount of the
overpayment or underpayment shall be certified to the comptroller by the
[president of the state tax commission] commissioner or his delegate,
who shall not be held liable for any inaccuracy in such certificate.
The amount of the overpayment or underpayment shall be so certified to
the comptroller as soon after the discovery of the overpayment or under-
payment as reasonably possible and subsequent payments and distributions
by the comptroller to such city, county, school district [or] the
special sales and compensating use tax fund for the city of Yonkers or
the municipal assistance tax fund shall be adjusted by subtracting the
amount of any such overpayment from or by adding the amount of any such
underpayment to such number of subsequent payments and distributions as
the comptroller and the [president of the state tax commission] commis-
sioner shall consider reasonable in view of the amount of the overpay-
ment or underpayment and all other facts and circumstances.
§ 9. Section 92-d of the state finance law is amended by adding a new
subdivision 4-a to read as follows:
4-a. In addition to any other revenues required to be deposited in the
municipal assistance tax fund, there shall be deposited in such fund and
credited to the special account established therein for the municipal
assistance corporation created under article ten of the public authori-
ties law for a city having a population of one million or more the
revenues required to be paid into such fund pursuant to paragraph two of
subdivision (c) of section twelve hundred sixty-one of the tax law,
which revenues shall be appropriated (i) to such municipal assistance
corporation in order to enable such corporation to fulfill the terms of
any agreements made with the holders of its notes and bonds and to carry
out its corporate purposes, including the maintenance of the capital
reserve fund, and (ii) the balance, if any, to such city as provided in
this section.
§ 10. Subdivision 7 of section 92-d of the state finance law, as
amended by chapter 692 of the laws of 1978, is amended to read as
follows:
7. In the event that the amount of revenues in the special account
established for the municipal assistance corporation for the city of New
York in the municipal assistance tax fund which have been appropriated
to such corporation shall at any time be less than the amount which the
chairman of such corporation has certified to the comptroller as
required in order to comply with its agreements with the holders of its
notes and bonds and to carry out its corporate purposes, including the
maintenance of the capital reserve fund, then and in such event the
comptroller shall forthwith certify to the commissioner of taxation and
finance the amount of the difference between the revenues in such
special account and the amount so certified as required by such corpo-
ration and upon receipt of such certificate the commissioner of taxation
and finance shall approve a voucher for payment of the amount of such
difference into such special account in the municipal assistance tax
fund from the stock transfer tax fund established pursuant to subdi-
vision one of section ninety-two-b of this chapter at the next date for
payment from such fund as provided in subdivision four of such section,
anything in said section to the contrary notwithstanding. In the case
of every twelve month period commencing after June thirtieth, nineteen
hundred seventy-seven, the comptroller shall, before the last day of
September, December, March and June of each such period, certify to the
commissioner of taxation and finance the amount from the stock transfer
tax fund, if any, determined by the comptroller to be required during
the next following three months in order to provide the amounts certi-
fied by the chairman of the municipal assistance corporation for the
city of New York, or if no such amount is necessary, a statement to that
effect. The amount so determined shall be arrived at after taking into
account a statement, to be furnished by the commissioner of taxation and
finance to the comptroller, of such information, including revenue
collection and estimates of revenue collection for certain periods of
the taxes imposed by section eleven hundred seven of the tax law and of
the revenues specified in paragraph two of subdivision (c) of section
twelve hundred sixty-one of the tax law, as such commissioner is reason-
ably able to provide in order to aid such comptroller in making the
above determination with respect to disposition of revenues in the stock
transfer tax fund. Such commissioner shall not be held liable for any
inaccuracy of any such information provided in such statement. The
foregoing certificate or statement, as the case may be, of such comp-
troller shall be made regardless of the amount of revenues in the
special account established for the municipal assistance tax fund which
have been appropriated to such corporation.

§ 11. This act shall take effect immediately.
Mike S. says City's sales tax proposal presents a technical problem for the State, since it affects timing of tax receipts and State budget is on a cash basis. City is affected differently, because its budget is on a GAAP basis.
January 31, 1995

Ms. Janet Penksa
Secretary
New York State Assembly
Ways & Means Committee
State Capitol Room 409
Albany, New York 12248

Dear Ms. Penksa:

Thank you for returning our call yesterday about Speaker Silver's proposal to exempt clothing from the State sales tax. I was pleased to know that you and your staff were already aware of the problem that a reduction in the State sales tax could pose to the Municipal Assistance Corporation and its bondholders. I have asked Bernard Kabak, our Counsel, to work with you in refining your legislative proposal so as to avoid harm to MAC and its bondholders.

Very truly yours,

Quentin B. Spector
Executive Director

cc Eugene J. Keilin, Chairman
James Dubin
Robert R. Grew
Joseph J. Lhota
Donald J. Robinson
Pasquale Santivasci
Marc V. Shaw
Assembly Speaker Sheldon Silver

Contact: Patricia Lynch (518) 455-3791
Charles Carrier (518) 455-3888

FOR IMMEDIATE RELEASE
January 25, 1995

SILVER PROPOSES 'REAL MIDDLE CLASS TAX CUT'
Would Promote Income Tax Fairness, Abolish Clothing Sales Tax
Prevent Property Tax Shift

Assembly Speaker Sheldon Silver (D-Manhattan) today unveiled a sweeping plan that would provide a middle class tax cut and end the sales tax on clothing without causing higher property taxes.

"I want the promise of the 1987 tax cut fulfilled in a way that treats our middle class and working poor families fairly and, at the same time, protects the property taxpayer from getting stuck with the bill," said Silver.

"To provide further tax relief and spur economic activity, I'm also proposing New York State eliminate its sales tax on clothing and give counties the option of dropping their clothing sales tax too," Silver said.

"The aim of this multi-pronged initiative is to increase job opportunities for all New Yorkers, while putting real disposable dollars in the pockets of our hard-working, yet struggling, middle-income families," Silver said.

Under the Silver proposal, a family of four with a $60,000 annual income, the package would provide a total yearly benefit of more than $725, depending on the amount of their property tax.

Silver announced what he called "a real middle class tax cut" program at a Capitol news conference surrounded by charts and graphs showing the current income tax reduction begun in 1987 would give the richest five percent of taxpayers 62 percent of the tax cut benefits in 1997, the year it's finally phased in.

"The existing phasdown uses most of the money from the remaining part of this tax cut to boost the income of the richest people in the state," Silver said. "That's simply not fair. The middle class deserves the biggest break and working poor families need help to stay on the job and off public assistance."

Silver said his proposal targets families earning less than $65,000 a year by cutting their income tax rate to seven percent or less from the current 7.875 percent. His plan would result in a family of four with a $40,000 annual income receiving a $402 tax cut, compared to a $152 cut under the final phase of the 1987 reduction. They'd also gain an annual benefit of more than $60 in estimated savings from the elimination of the state sales tax on clothing. He noted the same family earning less than $22,490 would pay no income tax at all, compared to the current $16,500 tax-free level.

He added that reshaping tax benefits in this way would cost the state no more than is already called for in the 1987 tax cut law and currently contemplated in existing financial plans.

-more-
End State Sales Tax On Clothing, Give Localities Same Option

Silver's plan also calls for exempting all clothing purchases from the current four percent state sales tax and giving counties the option of dropping their local tax on apparel sales as well. Under the proposal, localities would have to eliminate the entire amount of their sales tax on clothing, not just part of it.

"Combined state and local sales taxes are more than eight percent in some counties," Silver said. "Ending the four percent state sales tax on a necessity like clothing will provide a significant savings to families and boost local economic activity.

"Counties willing to follow the state lead and eliminate their sales tax on clothing as well, will be giving even greater benefits to their residents and businesses alike," Silver said. "Localities choosing this option will join the state in providing a helping hand to families and to local job creation and economic growth."

Property Tax Cap, Medicaid Takeover, Hold Harmless

"Tax cutting at the state level, however, shouldn't simply lead to property tax increases at the local level," Silver said. "We've dropped from 13th in the nation in state taxes to 22nd, but we're number one in local taxes.

"We've simply shifted taxes from the state to the local level, raising the burden on property owners. That won't happen under this proposal," Silver said.

Included in the plan is a cap on the revenue local governments generate from the property tax. Under the cap proposal, property tax rates could only rise to reflect increases in inflation.

"Capping property taxes simply means local governments must live within their budget the same as families and individuals," Silver said. "To help maintain essential local services, the Assembly remains committed to its promises on school aid, revenue sharing and a state takeover of Medicaid costs.

"For years, a bipartisan coalition of county executives has supported state Medicaid takeover legislation," Silver said. "Preventing a tax shift means state and local governments working as partners, and the Assembly will continue to be the allies of local officials in pushing for Medicaid takeover."

"Democracy requires a bond between people and their government," Silver said. "That bond is based on government fulfilling its promises, whether it's providing school aid to help meet the costs of educating our children or revenue sharing to help deliver essential services.

Joining Silver at the news conference were members of a task force he created to examine state and local tax issues. Silver praised their work in helping to develop the tax cut proposal and thanked them for their contribution.

The task force is chaired by Assembly Ways and Means Committee Chairman Herman D. Farrell, Jr., and includes Assembly members Peter Abbate, Carmen Arroyo, Frank Barbaro, James Brennan, Richard Brodsky, Joan Christensen, Gloria Davis, RoAnn Destito, Eileen Dugan, Steven Engelbright, Melinda Katz, Stephen Kaufman, Richard Keane, Vito Lopez, Martin Luster, Joseph Morellis, William Scarborough, David Sidikman, Paul Tokasz, Paul Tonko, Albert Vonn and Keith Wright.
A real break for the middle income New Yorkers

The Assembly's 1995 Tax Cut Plan

First things first ... a tax cut can't mean a tax shift.

No one doubts that New Yorkers need tax relief now. But New York's status as the highest taxed state in the nation is due primarily to its local taxes. The Assembly recognizes that if we are to achieve real tax relief, we must make sure that tax cuts we enact on the state level do not become tax hikes on the local level.

It's time to enact a fairer, more realistic tax cut.

We are adjusting the scheduled 1987 personal income tax cut to ensure that no New Yorker faces a tax bill increase. The scheduled cuts as promised by Governor Pataki would result in tax increases for about 1.5 million New Yorkers and allow 5% of the wealthiest New Yorkers to reap over 60% of the tax relief benefit.

The Assembly proposes the following changes in the personal income tax:

- change the income brackets so the top rate for married couples kicks in at the $65,000 income level rather than the current $37,500. Taxpayers with incomes of less than $65,000 face a top rate of 7% or less
- maintain the scheduled standard deduction increase from $6,000 to $7,500 for singles and from $9,500 to $13,000 for married couples
- restore the Household Credit eliminated in the scheduled tax cuts
- reduce the top rate from 7.87% to 7.75%

Under the Assembly's plan, a family of four with an income of $40,000 would see a tax cut of $402 rather than $152 and the same family earning $22,490 would pay no taxes at all (compared to the current income tax-free level of $16,500). This new level would be the second highest in the nation -- better than California, New Jersey and Michigan.

The Assembly's plan eliminates the state sales tax on clothing.

We also propose eliminating the state portion of the sales tax on clothing and giving local governments the option of cutting their portion of the sales tax on clothing.

Let's take the promise of tax cuts one step further.

New York's status as the highest taxed state in the nation is due primarily to its local taxes. The Assembly recognizes that if we are to achieve real tax relief, we must make sure that tax cuts we enact on the state level do not become tax hikes on the local level.

The Assembly plan includes:

Capping property taxes... The Assembly proposal stabilizes property taxes for New Yorkers by capping the levy — the total revenue generated from taxes by local governments. Local governments now must live within the same constraints as taxpayers.

Taking over Medicaid costs... To help localities manage within these new limits the Assembly will move forward with plans for a state takeover of Medicaid. By taking over all such costs by the year 2002, the state becomes an active partner in holding down property taxes for New Yorkers.

Maintaining school aid... Protecting taxpayers from school district tax increases, the Assembly pledges to maintain its commitment to school aid — ensuring that no district will raise taxes to make up for a cut in state aid.

Increasing revenue sharing... The Assembly stands by its promise to enact the second phase of the increase in revenue sharing aid passed last year.
A real break for middle income New Yorkers

The Assembly's 1995 Tax Cut Plan

Adjust the scheduled 1987 personal income tax by:

- changing the income brackets so the top rate for married couples kicks in at the $65,000 income level rather than the current $37,500. Taxpayers with incomes of less than $65,000 face a top rate of 7% or less
- maintaining the scheduled standard deduction increase from $6,000 to $7,500 for singles and from $9,500 to $13,000 for married couples
- restoring the Household Credit eliminated in the scheduled tax cuts
- reducing the top rate from 7.87% to 7.75%

Eliminate the state sales tax on clothing and give local governments the option of doing the same.

Cap property taxes.

Take over Medicaid costs.

Maintain school aid.

Increase revenue sharing.
Personal Income Tax Effective Rates

1994

Assembly Plan

1987 Final Phase

Income in Thousands
OVERALL STATE TAX REDUCTION CONTAINED IN ASSEMBLY PLAN
FAMILY OF FOUR

<table>
<thead>
<tr>
<th>INCOME</th>
<th>PERSONAL INCOME TAX CUT</th>
<th>SALES TAX CUT (EXEMPTION FOR CLOTHING)</th>
<th>TOTAL STATE TAX CUT</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20,000</td>
<td>-$394</td>
<td>-$60</td>
<td>-$454</td>
</tr>
<tr>
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<td>-$402</td>
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<tr>
<td>100,000</td>
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The Assembly Tax Plan would limit increases in local property taxes to the rate of inflation. If this cap was in place in 1987, property taxpayers would experience a tax bill that is 16% lower than what it is today.

The Assembly Tax Plan would allow localities to eliminate their local sales tax on clothing.

\(^{1}\text{Income represents NY Adjusted Gross Income}\)
# Two-Parent Families of Four

## New York Ranking Based on Assembly Tax Plan

### 1994 Tax Year

<table>
<thead>
<tr>
<th>Rank</th>
<th>State</th>
<th>Income Level</th>
<th>Income Level Above/Below Poverty Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Connecticut</td>
<td>$24,000</td>
<td>+9,286</td>
</tr>
<tr>
<td>2</td>
<td>New York</td>
<td>$22,700</td>
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</tr>
<tr>
<td>3</td>
<td>California</td>
<td>$21,700</td>
<td>+7,386</td>
</tr>
<tr>
<td>4</td>
<td>Rhode Island</td>
<td>19,200</td>
<td>+4,486</td>
</tr>
<tr>
<td>5</td>
<td>Minnesota</td>
<td>17,500</td>
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</tr>
<tr>
<td>6</td>
<td>Maryland</td>
<td>12,200</td>
<td>+2,486</td>
</tr>
<tr>
<td>7</td>
<td>Mississipi</td>
<td>15,900</td>
<td>+1,186</td>
</tr>
<tr>
<td>8</td>
<td>Arizona</td>
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<tr>
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<td>New Mexico</td>
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<tr>
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<td>Delaware</td>
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<tr>
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<td>Michigan</td>
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<tr>
<td>15</td>
<td>Virginia</td>
<td>8,300</td>
<td>-6,686</td>
</tr>
</tbody>
</table>

- The income tax-free level is the level of income above which a family begins owing state income tax.

- Source: Center on Budget and Policy Priorities

- The 1994 current income tax free level is $16,900, placing New York sixth highest in income tax free levels.