THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

March 9, 2010

The Honorable Robert Andrews
Chairman, Subcommittee on Health, Employment, Labor, and Pensions
United States House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Price
Ranking Member, Subcommittee on Health, Employment, Labor, and Pensions
United States House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 413 - Public Safety Employer-Employee Cooperation Act of 2009

Dear Chairman Andrews and Representative Price:

I am writing to express my serious concerns about legislation before your committee that could alter the current state of collective bargaining between the City of New York and a number of its unions. The legislation has the potential to harm both New York City and New York State labor relations.

As you are aware, the Public Safety Employer-Employee Cooperation Act of 2009, H.R. 413, is a bill that would significantly expand the jurisdiction of the Federal Labor Relations Authority ("FLRA") into the labor relations between state and local governments and their public safety officers. Though the bill may be well-intentioned, its fundamental problem, from the point of view of New York, is that it does not clearly distinguish states that have long provided a range of collective bargaining rights to their employees from states that have not.

For over forty years, the New York City Collective Bargaining Law and the New York State Public Employees' Fair Employment Act (also referred to as the Taylor Law) have provided a legal framework for public sector collective bargaining in the City of New York. Under H.R. 413, states like New York, with long histories of collective bargaining, face the risk of having their labor relations with public safety officers "federalized" and long-established bodies of law undermined.

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One major problem with the bill is that it gives the FLRA the authority to decide what must be collectively bargained. New York has a long-standing legal precedent regarding what are mandatory, permissive, and prohibited subjects for collective bargaining. Under Section 4 of H.R. 413, this precedent could be overturned by the

FLRA in the course of its decision whether the City "substantially provides" for the vaguely defined rights and responsibilities listed in Section 4(b). A notable example is that disciplinary procedures for police officers and firefighters, including due process, are provided for in the New York City Charter and Administrative Code and are prohibited subjects of bargaining. The New York Court of Appeals confirmed as recently as 2009 that these procedures may not be subjects of bargaining.

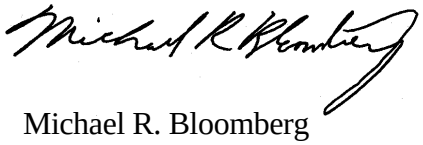
A decision by the Police Commissioner, for example, as to whether discipline should be brought against a police officer involved in a shooting incident, or the circumstances in which drug testing must be performed, is something for which he remains fully accountable to the public. It is of grave concern to the City that it could be forced to bargain over such procedures as a result of an improper finding—by the FLRA or a court—that the City did not "substantially provide" for the "rights and responsibilities" set forth in the law. As such, public accountability for the nation's largest municipal police force would be lost.

There are other significant concerns, which stem from the bill's troubling micromanagement of labor relations in ways that go beyond its broad purpose and that threaten to disrupt essential activities of public agencies in New York City and the nation. The bill does not sufficiently preserve state legislation concerning prevention of unlawful strikes, and confusingly prohibits "lockouts" by public employers of public safety employees, an unclear concept in the public arena.

In the final analysis, the bill could significantly affect the ability of the City of New York to ensure the safety of the public and the integrity of essential government services and, at a minimum, is likely to involve the City in costly and disruptive litigation in federal court. Informal assurances that the bill is not intended to target unionized jurisdictions like the City of New York are not sufficient when the legislative text could improperly be read otherwise.

Given the serious concerns the proposed bill raises for the City of New York, I oppose the bill in its current form. Thank you for your consideration of this important matter.

Sincerely,



Michael R. Bloomberg
Mayor

cc: Members of the Subcommittee on Health, Employment, Labor, and Pensions