



THE PEOPLE'S BUDGET

Budget Equity XIX

By
**The New York State
Black, Puerto Rican, Hispanic
& Asian Legislative Caucus**

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Ruth Hassell-Thompson**
CHAIRWOMAN

**Assemblyman
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Preliminary Analysis of the
Governor's Executive Budget
2010-2011

New York State Black, Puerto Rican, Hispanic & Asian Legislative Caucus Members

2009-10

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Message from the Chairwoman

Senator Ruth Hassell-Thompson

SFY 2010-2011

Dear Constituents & Friends:

Low and middle income New Yorkers are hurting from the combined effects of high property taxes, job loss, health care premium increases, and cuts in public services. While it is within the responsibilities of the New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus to protect services and resources for our most vulnerable New Yorkers, we understand full well the immediacy of the fiscal challenge facing our state and are committed to balancing a budget that is fair. The Executive's 2010-2011 Budget Proposal demonstrated, absent any change, the status-quo spending trend would outpace projected revenues by more than \$9 billion.

The State Budget Division projects a \$15.3 billion gap between trend line spending and revenues for fiscal year 2011-2012. If the Executive is correct, a budget gap of that magnitude would suggest that the state and its localities must toe the line on wasteful spending without levying highly undesirable increases in local and state taxes, cuts in vital services, or borrowing and one-shot budget gimmicks that shift today's costs to our children tomorrow.

While we agree with the Executive that all sectors of our state need to be part of the solution, the Executive proposes to cut school aid by \$1.4 billion and would leave the state \$4.2 billion below what was originally pledged under the Campaign for Fiscal Equity (CFE) commitment: four years after the Court of Appeals found that New York was shortchanging the education of our most vulnerable constituents, our children. The proposed education budget would leave school districts woefully underfunded and in the unenviable position of submitting double-digit property tax increases – at a time when middle income families are struggling to make ends meet.

Public higher education institutions are experiencing record high enrollments. Surely, the people of New York can ill-afford more devastating cuts to State University of New York (SUNY), City University of New York (CUNY), the state's community colleges, and programs such as: the Tuition Assistance Program (TAP), and the Higher Education Opportunity Program (HEOP). Already reeling from years of budgetary cuts, including the recent Deficit Reduction Plan (DRP), further hikes in tuition and reductions in state's student financial aid program would violate the rights of students wishing to obtain a higher education, especially students of color, the unemployed and the underemployed seeking retraining and preparation for new careers. This derails the state's efforts to build a knowledge-based work force capable of competing in an increasingly competitive global market.

The healthcare industry is the largest employment sector. The proposed cuts of \$1 billion in

Medicaid and health-care spending through reductions in reimbursements to providers will result in job loss, and make it harder for seniors to obtain the health-care services upon which they depend. Nationally, while sophisticated conversations are occurring relative to health care reform, the Executive seems to be counterproductively proposing cuts that threaten access to quality health care coverage for all.

As in the past the Caucus has been called upon to provide leadership that plots a course toward recovery and economic stability. This is not a cause that we take lightly. Cuts such as those proposed in the Summer Youth Employment Program (SYEP), domestic violence programs, childcare services and homelessness prevention will save the state very little but cause many of our constituent's irreparable harm.

We can do better, and we offer these budgetary remedies as a starting point.



Sincerely,

A handwritten signature in blue ink that reads "Ruth Hassell-Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Senator Ruth Hassell-Thompson
Chairwoman

Message from Budget Workshop Co-Chairman

Assemblyman Carl E. Heastie

Sfy 2010-2011

Dear Friends:

In his Executive Budget for the 2010-11 fiscal year, Governor Paterson is again faced with the tremendous challenge of balancing the State's financial crisis with the responsibility he has to ensure that working families are not over burdened by cuts. It is our responsibility as a Legislature to make certain that the neediest members of our community are not left out in the cold, while being fiscally responsible.

The State faces an \$8.2 billion budget deficit for the coming fiscal year. Unfortunately, revenue has not met expectations in the last few weeks since the Governor released his proposal. We as leaders of government must work together to cut spending, close the budget gap and pass a balanced state budget that doesn't further burden New York's working families. Unfortunately, the Governor's budget proposal falls short of that goal. Governor Paterson's plan includes a \$1.4 billion cut to education. Additionally, the Governor's budget cuts Medicaid and health care spending by \$1 billion, while increasing taxes and fees by more than \$1 billion.

As we craft the state budget for the next fiscal year, it's imperative that we do so thoughtfully. We must balance our need to close a huge budget gap with our commitment to the education, health and safety of New Yorkers, even during tough economic times. We shouldn't pass a budget that is balanced on the backs of working families. The fiscal reality New York is facing cannot be ignored, and the challenges we face are real. It's time to get down to work.

I do believe that there is much ground to gain in regard to alleviating some of the cuts particularly on healthcare and education. There is always room for improvement and I look forward to working with the Governor to provide New York with a Budget that provides for New York's neediest while providing opportunity for the growth of our youth.



Sincerely,

A handwritten signature in blue ink that reads "Carl E. Heastie". The signature is fluid and cursive, written over a light blue background.

Assemblyman
Carl E. Heastie

Message from Budget Workshop Co-Chairman

Senator Antoine M. Thompson

SFY 2010-2011

Dear Colleagues, Friends & Constituents,

New York State has encountered many hardships and impossible financial situations due to the economic recession. A history of overspending and future financing of past spending has the State at a crossroads having to balance increased costs of providing services with a loss in state revenues. The Executive Budget for the 2010-2011 State Fiscal Year is a glaring example of a difficult intersection between fair and equitable distribution of available funding.

The Governor's proposed budget shows that spending at the current rate will devastate our financial position and generate an anticipated deficit of \$8.2 billion. Proposed cuts must be reviewed with careful thought and consideration by all members while being addressed as quickly and cooperatively as possible. It is my hope that the New York State Black, Puerto Rican, Hispanic and Asian Caucus will foster a positive and productive working relationship between our two houses in an effort to conclude this budget process.

When addressing the proposed cuts including the \$1.4 billion cut to school aid, the \$1 billion reduction to Medicaid and Health Care and a 33% decrease to the Environmental Protection Fund, we must bear in mind that all of these cuts come with serious consequences. During our review and analysis of the proposed Executive Budget, we must address the consequences of the disproportionate reductions already incurred by certain groups when considering this year's appropriations. Attaining the appropriate balance between cost saving and revenue producing measures presents a great challenge when finalizing our budget for the SFY 2010-2011.

New York is a state with great diversity. It is this diversity that makes us strong, but unfortunately it also creates a vast array of competing interests and needs. As legislators, it is our responsibility to accurately represent, protect and provide for our constituencies and communities. The Governor's proposed efforts to increase revenues and balance the budget will require extensive deliberation to avoid shifting the burdens onto our municipalities and hard working New Yorkers.



Sincerely,

Senator
Antoine M. Thompson

EXECUTIVE SUMMARY

HOW SHOULD NEW YORK STATE BALANCE ITS BUDGET DURING THE CURRENT RECESSION?

In reality, neither tax increases nor service cuts are desirable during a recession. Both take demand out of the economy - making recessions longer and deeper, and making recovery more difficult. But New York, like most other states, is required to balance its budget in both good times and bad.

So the states face a real dilemma during economic downturns - having to figure out what mix of spending cuts and tax increases will do the least harm. Ideally, during such periods, the federal government, which is not required to run balanced budgets and which is responsible in our governmental system for overall macroeconomic management, will assist the states with some form of counter-cyclical financial assistance.

But what are the states to do during economic downturns absent federal aid or sufficient federal aid to avoid spending cuts and/or tax increases? Columbia University economist Joseph Stiglitz, a winner of the Nobel Prize in Economics, and Peter Orszag, then of the Brookings Institution and now the director of the U.S. Office of Management and Budget, co-authored a 2001 paper on this subject (Budget Cuts vs. Tax Increases at the State Level: Is One More Counter-Productive than the Other During a Recession?). In this paper Stiglitz and Orszag concluded that a temporary increase in the tax on the portions of income over some relatively high level is the least damaging mechanism for balancing state budgets during recessions.

On the other hand, they conclude that basic economic reasoning indicates that reductions in government spending on goods and services that are produced locally (like education and healthcare) and reductions in transfer payments to lower-income families are most damaging to the economy since they come closest to taking dollar for dollar out of the local economy. Increases in consumption taxes and fees will take more demand out of the economy than tax increases on the tax on the portion of income over some relatively high level but less demand than cuts in locally-produced goods and services or transfer payments to lower-income families.

In their 2001 paper, Stiglitz and Orszag also concluded that it made eminent sense for the federal government to help the states to balance their budgets during recessions.

LEARNING FROM EXPERIENCE: THE LEGISLATURE'S BETTER CHOICES (2003 AND 2009)

In May 2003, the Legislature passed the Governor's budget bills but with significant changes from what the Governor had originally proposed. By then, the 2-year budget gap had grown to \$12.6 billion, due to revenue and spending re-estimates. Despite the growth in the size of the gap, the Legislature adopted a much more balanced approach to balancing the state budget, relying more heavily on revenue increases than the Governor had originally recommended and reducing many of the spending cuts that had been recommended by the Governor.

Ten days after the original legislative passage of its budget package, the Governor vetoed the Legislature's bill to raise state taxes, authorize transitional borrowing and allocate school aid and line-item vetoed 118 spending additions. Within 20 hours, the Legislature overrode every one of the Governor's vetoes on a bipartisan basis. The veto override votes were virtually unanimous in the Senate and overwhelming in the Assembly.

The Governor originally argued that the revenue increases enacted by the Legislature would not cover all of its spending restorations. But, shortly thereafter, the Congress and President Bush adopted the significant but temporary "state fiscal relief package" discussed above. With this infusion of federal "budget balancing" aid, the Governor concluded that the 2003 - 2004 State Budget, as adopted, was credibly balanced.

The budget package adopted by the Legislature in May 2003 avoided the extremes that had characterized the budget balancing packages of the early 1990s and the plan proposed by Governor Pataki in January 2003. The same happened in March and April of 2009 when the Legislature modified Governor Paterson's budget plan to make it more economically sensible.

DOES NEW YORK STATE HAVE A SPENDING PROBLEM OR A REVENUE PROBLEM?

Some critics like to say that New York State's budget gap is proof that New York State has a "spending" problem and that state spending is growing faster than state revenues. Their implication is that New York State agencies are not managed well and that spending is out of control. But a careful analysis of changes in the state revenues and expenditures over the last 15 years shows that revenues would have grown faster than expenditures if the state had not enacted multi-year, back-loaded tax cuts plans annually from 1994 to 2000, and then again in 2006; and if the important new spending commitments that have been made since 1997 - from the original STAR exemptions enacted in 1997 to the statewide solution to the court decisions in the Campaign for Fiscal Equity lawsuit - were accompanied by new revenues.

Important new commitments were made in the last several years. As these commitments are phased in over time, their costs will increase. Among the most important of these new commitments are the following.

- The state takeover of the full cost of the non-federal share of Family Health Plus and the capping of the growth in the counties' share of Medicaid costs will cost almost \$1 billion during the current fiscal year, an estimated \$1.35 billion in the fiscal year that begins on April 1, 2008, and more than \$2.5 billion in 2010-11.
- The STAR program which began a decade ago cost \$582 million in the first year (1998-99) of its implementation, \$2.5 billion in the first year in which it was fully phased-in (2001-02), and is expected to cost \$3.4 billion next year (or, \$3.2 billion if several changes proposed as part of the 2010-11 Executive Budget are adopted.

- In 2007, Governor Spitzer proposed, and the Legislature adopted with a few modifications, a legitimate statewide solution to the court decisions in the Campaign for Fiscal Equity lawsuit. These reforms replaced approximately 30 individual aid programs (under which \$12.5 billion was distributed in 2006-07) with a “foundation” formula that bases districts’ aid on a calculation of the amount necessary to provide all pupils with a sound basic education. As enacted, the 2007 reforms called for a 4-year phase-in that would increase this general operating aid in four annual steps to \$18 billion in 2010-11; and required districts receiving substantial aid increases to enter into Contracts for Excellence with the State Education Department to ensure that these new resources are used effectively to increase student performance. Another part of this initiative increased funding for the state’s Universal Pre-Kindergarten program by 50%. In 2009, the Executive proposed freezing the phase-in of foundation aid for two years and then stretching out the phase-in from four years to eight. The Legislature agreed to the freeze and to an extension of the phase-in to seven years. This year, the Executive is proposing to extend the phase-in from 7 years to 10 years along with a Gap Elimination Assessment that will turn the foundation aid freeze into a substantial reduction in this aid.
- In finalizing the 2006 - 2007 State Budget, the Legislature put into place a solution, called Excel, to the school facilities part of the Campaign for Fiscal Equity law suit. The costs of honoring this important commitment grow each year.

There may well have been better ways of designing some of these new commitments. For example, the money now going to the STAR program could have funded a real property tax circuit breaker that would have provided property tax relief in a much more effective and efficient manner. But, it is clear that all of these new commitments addressed important priorities. But by adding these important new commitments to the state budget without adding revenue to pay for them, the state will have structural deficits unless current revenues grow fast enough to both cover both the ordinary growth in the cost of existing programs and these new commitments. As this year’s budget indicates, such rapid growth is not likely to be sustained.

ESTABLISHING A FAIR, ADEQUATE & ECONOMICALLY SENSIBLE STATE-LOCAL TAX SYSTEM

The Caucus is committed to establishing a fair, adequate and economically sensible tax system. To address the unmet needs identified in this edition of Budget Equity, and to avoid those costs savings proposals advanced by the Executive that are likely to have negative effects on the state’s economy or on the health of New York residents, state policymakers and advocates should consider steps that would make the tax system fairer while raising the revenue necessary to balance the budget in an economically sensible manner.

The most important steps in this direction would be for New York to reform its personal and corporate income tax structures. In regard to the personal income tax, New York should consider approaches that will ensure that the wealthiest New Yorkers continue to pay their fair share in state and local taxes, and which will allow the state to reduce the pressure that it is currently placing on local property and sales tax bases.

New York State should balance its budget during the current economic downturn in ways that will not make economic conditions worse. The Executive and members of the Caucus will carefully analyze the budget balancing strategies of the early 1990s and those of 2003 and 2009; and make policy choices that will take the least amount of demand possible out of the state economy.

- I. Rather than cutting essential services, the Legislature should consider progressive revenue alternatives such as
 - a. Closing of some of the litany of corporate tax loopholes spelled out in the state's annual Tax Expenditure Report,
 - b. Adopting a temporary and modest reduction in the stock transfer tax rebates,
 - c. Adopting a temporary increase in the top income tax rate on taxpayers with incomes above \$1 million (Note: in 2009, the Legislature and the Executive adopted a temporary rate of 8.97% on taxpayers with taxable incomes above \$500,000).
2. New York's government, labor, business and civic leaders should work with their counterparts in other states and at the national level to secure a much needed extension of the state fiscal relief parts of the American Recovery and Reinvestment Act (ARRA) as discussed above, in greater detail.

EXPLANATION OF TERMS

New York State's Annual Budget contains the financial resources that allow many programs throughout the State to operate in an efficient and effective manner. The appropriations contained in the state budget are presented in specific "fund types", "categories" or "purposes". The presentation of the State Budget is met to distinguish between state revenues or profits and state expenditures.

Fund Types: How does NYS derive its money for the programs?

General Fund (GF): Represents funds derived from the income taxes of New York State residents. These "TAX DOLLARS" can generally be spent for any purpose within the budget as designated by the Legislature and The Executive.

Special Revenue Fund: Represents funds derived from a "SPECIAL SOURCE" and generally fall in two categories, State and Federal. These funds may be restricted in their usage and could prohibit appropriation for general purposes in the Budget.

The Special Revenue Fund (SRO): dollars come from special agency sources like user fees, fines, penalties, student tuition, etc. charged to New York State residents.

The Special Revenue-Federal (SRF): dollars come from the federal government usually in the form of a Grant and are for program-specific purposes in most cases. An example of these funds would be Federal Pell Grant funding for students at the State University of New York.

Capital Projects Revenue: Represents funds derived Tax Revenue or the sale of New York State Revenue Bonds. These funds are specifically targeted for major infrastructure and capital improvements like roads, bridges, buildings, and computer upgrades.

Debt Service Funds (DSF): Represents tax dollars and special revenue sources set aside to pay for the various revenue bonds issued by the State of New York.

Categories & Purposes

State Operations: funds in this category are used to support the primary operations of an agency such as administration and core programmatic activities.

Aid to Localities: Funds in this category are used to support the operations of local municipalities, community organizations, or direct grants to New York State residents (e.g. Tuition Assistance Grants for eligible college students).

General State Charges: Funds in this category are used to pay for the employee benefits of the state work force (e.g. medical insurance, retirement etc.).

Capital Projects Revenue: These funds are specifically target for major infrastructure or capital improvements like roads, bridges, buildings, and computer upgrades.

Debt Service Funds (DSF): set aside to pay for the various revenue bonds issued by the State of New York.

PRELIMINARY ANALYSIS OF THE 2010-2011 EXECUTIVE BUDGET PROPOSAL



EDUCATION

The Executive Branch of State Government has proposed a Budget for the 2010 - 2011 fiscal years that forced them to make many tough choices that are required to close a growing \$8 billion dollar budget gap. This would mean more deep cuts for students and schools. Already, school boards and superintendents are projecting larger class sizes, elimination of art, music and other important programs, job losses, as well as large property tax increases.

The Executive proposes to reduce School Aid by \$2.1 billion, which is offset by the use of \$726 million in Federal Stimulus Funds leaving a net reduction of \$1.4 billion, the largest year-to-year cut to education in at least two decades. The Executive also proposes to extend the original four year promise of the Campaign for Fiscal Equity (CFE) phase-in to ten years.

New York must maintain its strong commitment to quality public education and this cannot be compromised by reductions in school and student aid. The next generation of New York workers must come from New York's public schools and universities, not from other states or other nations. Historically, New York State has spent more dollars per student overall (\$15,546) than most other states, 61 percent above the national average.

While the Executive has proposed progressive cuts, with high needs school districts taking a significantly smaller percentage hit than wealthier ones. Any cuts are damaging, especially to high-needs school districts, which rely on the state for a much greater share of their budgets than wealthier school districts. Adding resources fairly to public schools across the state, with a special commitment in areas of high need, was and continues to be the right priority for both children and taxpayers

In the CFE lawsuit, New York State's highest courts ruled that public schools were systemically under funded. A lack of parity in funding continues to deny children their constitutional right to a sound and adequate education. The CFE case found that "increased funding can provide better teachers, facilities and instrumentalities of learning, and that such improved inputs in turn yield better student performance." After the first two years of promised CFE funding, statewide graduation rates and English and Math scores increased.

Countless school districts are bracing for cuts: New Your City would see 8,500 teachers lost; Syracuse would lose 450 staff members; Albany would lose 100 education positions; and other high needs districts would face painful layoffs, be forced to eliminate Advanced Placement (AP) courses, summer school programs, after-school activities, and reductions in School Bus services. All of this comes at a time when school districts are reeling from the losses in state pension fund from the stock market crash in 2008, causing school districts and municipalities to pay significantly higher pension contributions.

School District	Dist. GEA Cut totaling \$1.4 B	2009-10 Pub. Enroll. Est.	Cut / Pupil \$1.4 B	Avg. Elem. Class Size	Cut / Classroom	% Poverty Rate	% Black & Latino
Roosevelt	-\$2,635,020	3,027	-\$871	19	-\$16,540	64%	99%
Hempstead	-\$4,584,162	6,580	-\$697	21	-\$14,630	85%	99%
Wyandanch	-\$1,819,243	2,047	-\$889	21	-\$18,663	69%	99%
Uniondale	-\$4,059,640	6,672	-\$608	20	-\$12,169	47%	98%
Westbury	-\$2,382,536	4,062	-\$587	20	-\$11,731	84%	97%
Mount Vernon	-\$6,449,913	8,871	-\$727	20	-\$14,542	60%	93%
Freeport	-\$4,513,503	6,591	-\$685	20	-\$13,696	52%	90%
Central Islip	-\$5,204,880	6,414	-\$811	22	-\$17,853	73%	89%
Amityville	-\$2,065,343	2,809	-\$735	19	-\$13,970	60%	89%
Brentwood	-\$9,383,378	16,745	-\$560	21	-\$11,768	74%	88%
Rochester	-\$19,106,586	33,679	-\$567	19	-\$10,779	87%	86%
Peekskill	-\$2,359,417	2,948	-\$800	21	-\$16,807	61%	84%
Poughkeepsie	-\$2,705,124	4,682	-\$578	20	-\$11,555	78%	84%
East Ramapo	-\$6,263,607	8,206	-\$763	19	-\$14,503	60%	83%
Greenburgh	-\$594,674	1,684	-\$353	19	-\$6,710	40%	81%
Port Chester	-\$1,843,006	4,044	-\$456	23	-\$10,482	59%	80%
Albany	-\$6,355,178	10,163	-\$625	19	-\$11,881	67%	77%
Yonkers	-\$15,803,033	23,959	-\$660	23	-\$15,170	66%	77%
Elmsford	-\$190,019	1,014	-\$187	19	-\$3,561	38%	76%
Malverne	-\$705,835	1,767	-\$399	18	-\$7,190	36%	75%
Copiague	-\$3,326,138	4,879	-\$682	23	-\$15,680	53%	75%
Bridgehampton	-\$86,393	143	-\$604	8	-\$4,833	44%	75%
Elmont	-\$1,890,849	3,898	-\$485	22	-\$10,672	45%	73%
Buffalo	-\$18,377,428	39,722	-\$463	22	-\$10,178	84%	73%
Middletown	-\$4,128,717	7,029	-\$587	22	-\$12,922	71%	72%
New York City	-\$441,920,169	995,962	-\$444	24	-\$10,649	78%	71%
Valley Str Uf	-\$525,431	1,413	-\$372	21	-\$7,809	25%	71%
Newburgh	-\$7,088,669	11,978	-\$592	21	-\$12,428	66%	69%
Syracuse	-\$11,132,286	20,940	-\$532	20	-\$10,633	82%	66%
White Plains	-\$2,097,636	6,983	-\$300	20	-\$6,008	44%	65%
New Rochelle	-\$4,263,788	10,466	-\$407	21	-\$8,555	51%	64%
Ossining	-\$1,664,326	4,230	-\$393	21	-\$8,263	38%	58%
Tarrytown	-\$1,073,371	2,510	-\$428	20	-\$8,553	43%	58%

Averages & Totals for Selected Districts

-\$596,599,298

1,266,117

-\$471

76%

73%

Data Sources: Fiscal Policy Institute and State Education Department
Calculations: Alliance for Quality Education

IMPACT OF BUDGET ON SCHOOL EQUITY

This Executive Budget continues its deviation from the State Legislature's original plan under the Campaign for Fiscal Equity (CFE) agreement, which set out four years of aid increase to provide adequate resources for a sound basic education as a right of every public school child. The amount of Foundation aid proposed to be given to schools has been frozen at \$14.9 billion for the past two fiscal years and will remain at that level for another year. \$14.9 billion was the agreed upon amount for 2008-2009, however, there was an expected increase in subsequent years.

Job loss aside, programs for the neediest students will be slashed as well. Buffalo has 2,600 English Language Learners. Through the Contract for Excellence funding Buffalo was able to invest \$1 million district wide for innovative programs such as hiring support personnel that speaks the native language, native language instructional materials, native language social emotional support personnel, in order to extend learning opportunities for students and parents. Buffalo is facing more than \$18 million cut which is roughly about \$460 per student. The Syracuse City School District will lose more than \$11 million, approximately \$500 per student.

The proposed budgetary cuts proposed by the Executive are contrary to New York State commitment to a quality education for all, and would wreak havoc on underserved and low-wealth communities.

The cuts in Foundation Aid present a large challenge. Foundation Aid promotes the equitable funding of districts with high-needs students. Since Foundation Aid is distributed based on student need, these cuts are particularly egregious for high-needs students. The schools districts with greatest needs suffer more than other school districts. The "Big 5", New York districts including, New York City, Buffalo, Rochester, Syracuse and Yonkers, have students with the greatest need, and the largest concentrations of students of color and indigent students. Reducing funding for these and other high-needs school districts would violate these children's constitutional right to a quality education.

We agree with The Executive that New York State needs a knowledge-based economy however; a knowledge-based economy requires an up-front investment in knowledge.

Last year, the Legislature restored the Executive's cuts and delivered flat-level school payments to school districts. Under this proposed budget, countless programs will be eliminated and teachers would be laid off.

Foundation Aid: Frozen at 2008-2009 level of \$14.9 billion with planning requirements for Limited English Proficiency and set-a-side requirements maintained for Magnet Schools, Special Education, Teacher Support Aid and New York City Attendance Improvement Dropout Prevention. The Foundation Aid phase-in period is extended to the 2016-2017 school year. The Executive proposes keeping Foundation Aid frozen until 2012-2013 and beginning the remaining four-year phase-in in 2013-2014.

Gap Elimination Adjustment: The Executive Budget proposes a reduction of formula aids (with the exception of Universal Pre-K, Building Aid and Building Reorganization Aid) by a Gap Elimination Adjustment (GEA) totaling \$2.14 billion, offset by the remaining Federal Fiscal Stabilization Funds totaling \$725.92 million. The minimum reduction is 8 percent multiplied by a district's 2010-2011 formula aid (without UPK, Building Aid and Building Reorganization Aid) with a maximum reduction of 21 percent. For high need districts, the GEA may not exceed 5 percent of the district's total general fund expenditures. The GEA for high need districts with 2007-2008 administrative expenditures totaling less than 1.5 percent and a three-year K-6 free and reduced price lunch percentage greater than 75 percent will not exceed 3.6 percent of the district's total general fund expenditures

Contracts for Excellence: All districts required to submit contracts in the 2009-2010 school year are again required to do so in 2010-2011 unless all schools in the district are identified as in good standing. Districts are required to maintain funding on existing C4E programs less the percentage reduction in the Gap Elimination Adjustment. The Gap Elimination Adjustment percentages for the Big 5, as found on the back-up run, are as follows: Buffalo, -3.48; New York City, -6.07; Rochester, -4.46; Syracuse, -4.37; Yonkers, -7.10.

Universal Prekindergarten: Maintained at \$399.7 million with full phase-in planned for the 2016-2017 school year.

Building Aid: Funded at present law level of \$2.5 billion.

BOCES Aid: Funded at present law level of \$731.9 million.

WICKS Law: The Executive Budget proposes to repeal WICKS requirements for school districts.

Mandate Relief: The Executive Budget would provide for a four-year moratorium on unfunded statutory mandates for school districts. In addition, the State Education Department (SED) would be required to prepare fiscal notes including local impacts as well as conduct cost-benefit analyses for any new regulations. SED would be required to identify proposed sources of revenues to fund any new regulations. The Executive also proposes streamlining existing reporting requirements and elimination of unnecessary reports. In addition, school districts would be permitted to file reports electronically unless otherwise required and SED would develop one consolidated reporting system. School districts would also be granted greater flexibility with procurement of goods on existing government contracts and through use of best value purchases.

STAR: The Executive Budget proposes to change the floor adjustment limiting the annual reductions in STAR exemptions from 11 to 18 percent. In addition, the STAR exemption for homes with values over \$1.5 million would be eliminated and the New York City tax rate reduction benefit for taxpayers with incomes above \$250,000 would be capped.

NOTABLE AREAS OF DECREASED FUNDING

Big 4 Legislative Discretionary Funds: Eliminated as follows:

Buffalo	\$1.8 million
Rochester	\$250,000
Syracuse	\$165 million
Yonkers	\$3.65 million

Teacher Resource and Computer Training Centers: Eliminated for a cut of \$40 million.

Transferring Success: Eliminated for a cut of \$314,900.

Workplace Literacy: Eliminated for a cut of \$1 million.

SURR Schools: Eliminated for a cut of \$1.75 million.

HIGHER EDUCATION

The Executive's Budget has proposed several items that would dramatically change higher education in the State of New York. These proposals include changes in oversight of state colleges and universities, and changes relative to disbursement of funds. The Executive proposes cuts totaling \$321 million to Higher Education in his 2010-2011 Executive Budget proposal. The proposal includes reductions in support for City University of New York (CUNY) and State University of New York (SUNY) senior colleges by \$143 million and will reduce base aid to CUNY and SUNY community colleges by \$57 million.

Tuition Assistance Program (TAP) awards, would each be reduced by \$75. For CUNY, this would cost approximately 69,000 CUNY TAP recipients a total of \$5.1 million. A proposed change in the satisfactory academic progress standards would result in a minimum loss of \$958,000 in aid for 835 CUNY at-risk students. Additional proposed cuts would eliminate TAP for graduate students, move some undergraduates' students to a new payment schedule and eliminate new State merit awards. These proposed changes would cost CUNY students approximately \$8 million in TAP and scholarships.

The Rational Tuition Policy is as a result of the Public Higher Education Empowerment and Innovation Act. The Executive's proposal would remove SUNY and CUNY tuition from the budget process and provide universities with the discretion to raise tuition based on the five-year rolling average of the Higher Education Price Index, a measure of the inflation rate for the cost of higher education. Schools could also charge more for more sought-after majors and programs such as science and business.

The decreased oversight of these actions may lead to foreseeable consequences as a result of tuition rate increases, including, deepening the existing racial and class stratification on campuses throughout the state.

The Public Higher Education Empowerment and Innovation Act would also increase the opportunities for SUNY to lease its capital assets on its campuses throughout the state. These increased leasing opportunities would be subject to minority-owned and women-owned business enterprise (MWBE) provisions, wage rates, indemnification clauses, reverter clauses, and project labor agreements, where applicable. This initiative creates the possibility of increased revenue for individual campuses based on their specific resources and desirability.

STATE SUPPORT FOR PUBLIC HIGHER EDUCATION (OPERATING AID):

City University of New York (CUNY) was established in 1847 and is currently the third largest public university system in the nation. It is comprised of 23 colleges including eleven four-year colleges and six community colleges, one technical college, a law school, a graduate school and an affiliated medical school. CUNY's mission is to provide affordable higher education with a focus on the urban community of New York City. As almost 70% of CUNY students are African American, Hispanic, Asian or other ethnic background any cuts to CUNY affects students of color. In particular, community colleges have experienced a 9% increase in enrollment this year still; the Executive proposes to decrease \$63,600,000 in State support for CUNY Senior Colleges.

The State University of New York (SUNY) was founded at Potsdam in 1816 and is the nation's largest state university system with 64 separate campuses and more than 7,600 degree and certificate programs. Students are also afforded the convenience of the SUNY Learning Network, which is comprised of online courses from each of the campuses. In January 2008, 19.9% of all enrolled students were people of color. SUNY is devoted to providing affordable education to students from New York and around the world. The Executive's budget would enact a \$136,363,000 decrease in State support for operating expenses from an adjusted \$1,256,206,000 in SFY 2009-10 to \$1,086,314,000 in SFY 2010-11.

Tuition Assistance Program (TAP) is a grant currently available for students who are New York residents and are enrolled full-time in a graduate or undergraduate program. The Executive's current budget proposal would eliminate these grants for graduate students. TAP is managed by the Higher Education Services Corporation (HESC) and faces serious cuts in this year's budget in the sum of \$52.7 million. The proposed budget would eliminate TAP for Graduate Students; reduce TAP awards for two-year degree programs from \$5,000 to \$4,000; and increase academic standards for continued TAP eligibility, which would require students to earn at least 15 credits and a 1.8 Grade Point Average after two semesters of study. Students who are in default of New York State loans or Federal loans, regardless of their guarantor, would become ineligible for TAP, as well.

The New York Higher Education and Loan Program (NYHELPS) is a low cost loan available to students who have exhausted other financial aid options and are still left with a gap. There are strict eligibility requirements and awards up to a maximum of \$10,000 per academic year. This program is also managed by the Higher Education Services Corporation. The spring term of the 2009-10 academic year will be the first time these loans are available to students.

Educational Opportunity Program (EOP) provides the opportunity for students who would not ordinarily be admitted to college under traditional standards, but show promise for completing college-level work the ability to attend college. The program is designed to aid students financially, academically, socially, and personally giving them the best chance possible to succeed.

Higher Education Opportunities Program (HEOP) is a partnership between New York State and its independent colleges and universities to provide a college education to students who are economically and academically disadvantaged. The opportunities created between these institutions and the State of New York are some of the most successful in the country and afford those who could not ordinarily attend college a chance to succeed. This program would maintain the same funding from last year at a funding level of \$20,783,000;

Science and Technology Entry Program (STEP) and Collegiate Science and Entry Technology Program (C-STEP). These are academic enrichment programs designed to foster a student's success in preparing for professional licensure and careers in medicine, law, business, education, science, technology, engineering, mathematics, and health. STEP is for students in grades 7-12 while C-STEP is for students engaged in higher education. In the Executive's budget funding for the Science and Technology Entry Program remains stagnant at last year's level of \$9,774,000 and funding for Collegiate Science and Technology Entry Program remains at \$7,406,000, which is the same as SFY 2009-10 funding levels; and

Office of Diversity and Educational Equity (ODEE) was established in August of 2007 and is a program that promotes equal access to higher education to the state's underrepresented and economically disadvantaged population. ODEE aims to enhance academic excellence by promoting the integration of diversity-related academics and policy-oriented research. ODEE administers four programs aimed at promoting access, equity and diversity at SUNY: the Faculty Diversity Program, the Graduate Diversity Fellowship Program, the Empire State Diversity Honors Scholarship Program and the Native American Initiative. In 2008, this program was allocated \$500,000, in the 2010 Executive Budget this number has been cut to \$453,900.

Empire State Diversity Honors Scholarships (ESDHS) is a scholarship awarded to students attending SUNY campuses who have proven their high academic achievements and who would contribute to the diversity of their campuses. In 2008, this program was awarded \$649,000 and will be reduced to \$621,000 in 2010.

Graduate Diversity Fellowship Program is a program available to SUNY graduate fellows who have been admitted to a graduate or professional degree program and will contribute to the diversity of their programs. This program seeks to enroll students who bring diversity and who can demonstrate that they have overcome a disadvantage or other impediment to success in higher education. In 2008, there was \$6,299,000 awarded to this program and in 2010 there is expected to be \$6,039,300.

Faculty Diversity Program was established in 2008 and assists SUNY campuses in recruiting diverse faculty from various backgrounds to enhance the academic environment of the campuses. Recipients of these awards are scholars who have distinct academic accomplishments early in their careers and demonstrate progress for continued success. In 2008, this program received \$494,000 and in 2010 the budget has allocated \$441,000.

Search for Education, Elevation, and Knowledge (SEEK) is funded at the same level as it was in the fiscal year 2009-2010.

Native American Initiative is a SUNY program aimed at addressing the specific educational needs of Native American students. This initiative currently funds programs at two campuses: Fredonia and Potsdam. The goal of the program is to recruit and retain Native Americans by providing essential activities and services to enable their success. In 2008, this program was awarded \$232,000 and the projected 2010 award is \$214,000.

HEALTH & AGING

With emergency rooms bursting at the seams and the health care industry struggling to meet patient needs, the situation may be downgraded to critical as the Executive has called for more than \$1 billion in devastating cuts to reimbursements and increased fees to hospitals, nursing homes and home care services. The cuts on health care providers in the 2010-2011 Executive Budget proposal must be contained, or else there will be dire consequences for our health care professionals and consumers of a health care industry that is already overburdened.

The Executive proposal would reduce state support across all health sectors by \$593.2 million, and would adopt or expand assessments, taxes and fees by an additional \$890.2 million. The \$593.2 million cut is magnified because any funds cut on the state level lose matching funds from the Federal government.

Medicaid enrollment has increased by 16% over the last 2 years. The decrease in funding does not in any way factor the rising cost associated with the larger enrollment and the increased Medicaid payments by local municipalities.

Additionally, the cuts and taxes would be especially damaging because of the increased number of unemployed, underemployed and uninsured New Yorkers seeking care in emergency rooms or hospital outpatient clinics as the result of the current economic downturn.

On the revenue side, the Executive has resurrected his so-called fat tax on sugared beverages and soft drinks. He also called for a \$1 per pack increase on cigarettes. Those measures would raise a projected \$650 million to be put toward health care investments.

THE EXECUTIVE'S BUDGET PROPOSAL

The health care cuts, taxes, and redistributions of funds in the Executive's proposed state budget would profoundly affect hospitals, nursing homes, home health providers, and—most importantly—the communities and consumers they serve. Every area of health care is being severely impacted, even though more and more patients and residents will need care as the economy slowly recovers.

The proposed health care cuts contained in the Executive Budget, in most instances, represent only the State's share of Medicaid. The provider impact is much greater after including the loss of federal Medicaid funds and the effect on Medicaid managed care rates linked to hospital Medicaid fee-for-service payments.

The Executive also proposes to increase Cigarette Tax by \$1 per pack and impose Excise Tax on sugary beverages (\$650 million in proceeds dedicated to finance Health Care programs). The sugar tax and additional cigarette tax are regressive taxes that disproportionately affect New York's neediest people.

ACTIONS UNDER CONSIDERATION

1. Impose minimal Medicaid Cuts on Public Hospitals, Nursing Homes, Home Care Agency and Health Plan
2. Extend Current State Authorization for a minimum the additional \$300 million in Disproportionate Share Hospital (DSH) Funding to HHC received.
 - DSH funds are used to cover shortfalls in Medicaid and costs of treating uninsured patients.
 - There is no cost to the State for doing this. The City of New York will provide the matching funds to draw down Federal funds.
3. Use some of the increased FMAP funds that may come through the Jobs Bills to address HHC's \$1 billion gap in FY 2011 and FY 2012

Impact of Hospital

The Executive's budget would reduce State share support for hospitals by a net \$244.6 million. The Executive also proposes an overhaul to the indigent care program, which would result in a redistribution of indigent care payments among New York's hospitals.

Over the past few years, significant reforms have been implemented with respect to the Medicaid reimbursement methodology for hospitals and these reforms have put a financial strain on many facilities as they struggle to adapt. Additional reductions in reimbursement could further disrupt the availability of hospital services across the State.

Additionally, the Executive's proposal would eliminate the remaining nine months of the 2010 trend factor (1.7%) this equals to an approximate \$107 million impact on services.

Gross Receipt Tax

As in years past, the Executive has proposed raising the gross receipts tax from 0.35 to 0.75% for hospitals and home health agencies. As we have stated in prior years, the imposition of the gross receipts tax on health care essentially represents a "sick tax". For many providers, the gross receipts tax alone would eliminate their entire margin.

Indirect Medical Education

Included in the Executive plan is a proposal to reduce State support for Indirect Medical Education (IME)—a line of reimbursement for teaching hospital-specific costs that would now be transferred to overall hospital payment rates, obstetrics rates and the Doctors Across New York Program. This redirection of IME funding would result in \$12 million impact on affected hospitals.

Indigent Care Payments

The Executive's budget proposal reduces indigent care payments by \$139.9 million from April 1, 2010 to March 31, 2011 while changing the redistribution to different hospital around the state. This would have an overall impact of \$187 Million.

Nursing Home/Long Term Residence Reductions

The Executive proposal would also reduce State support for nursing homes, home care and personal care providers by a total \$214.2 million (\$397.9 million All Funds). As in the hospital sector, the Executive's proposed budget would also eliminate the 2010 trend factor and increase the gross receipts assessment levied on nursing homes (these assessments would not be eligible for reimbursement by Medicaid), home care agencies and personal care providers.

The Executive budget would delay the implementation of a regional pricing reimbursement model until March 2011 and would allow nursing home rebasing to go forward until February 2011.

The Executive's long term care reform agenda has been centered on the transition of care from an institution-based model to a community-based model. These reforms are jeopardized by proposed reductions to home care. Likewise, proposed reductions to nursing homes stifle their ability to provide necessary services in areas of the State that do not have access to community-based alternatives. Taking into consideration the Federal share of these costs saving measure, the gross impact to providers would be \$154.8 million.

Pharmacy & EPIC Cuts

In total, the Executive proposes \$47.1 million in reductions (\$57.8 million All Funds) to the Medicaid pharmacy and Elderly Pharmaceutical Insurance Coverage (EPIC) program. The Medicaid program currently covers any HIV/AIDS drugs, anti-rejection drugs, anti-psychotics or anti depressants that are denied by a dual-eligible enrollees Medicare Part D plan.

The EPIC Program currently covers any drugs that are denied by a senior's Medicare Part D plan. The Executive proposes to eliminate this "wrap-around" coverage in both the Medicaid program and the EPIC program and requires these individual to obtain all their covered drugs through a Part D plan. The Executive also proposes changes to the Preferred Drug Program that would accelerate the approval of additional classes of drugs into the program.

CHILD & FAMILY WELFARE

The Office of Children and Family Services (OCFS) is responsible for coordinating a system of support to help families achieve and maintain self-sufficiency. OCFS administers a broad range of child welfare, child care, adult protective programs and delinquency prevention programs; OCFS also oversees residential and community-based services for New York State's juvenile justice system. OCFS also oversees services to the blind and visually impaired.

The Executive proposes an All Funds appropriation of \$3,888,753,800, a net decrease of \$34,227,331 or 0.9 percent below the SFY 2009-10 levels. The Executive recommends funding for 3,497 full-time equivalent (FTE) positions, a decrease of 79 positions from SFY 2009-10.

These cuts come after the U.S. Department of Justice (DOJ) notified then Governor Spitzer of its intent to conduct an investigation of four New York juvenile justice facilities (Lansing Residential Center ("Lansing"), Louis Gossett, Jr. Residential Center ("Gossett"), Tryon Residential Center ("Tryon Boys"), and Tryon Girls Residential Center justice facilities).

Specifically, DOJ stated that its investigation would focus on allegations of sexual misconduct and unreasonable use of force by staff. After the first set of site inspections, DOJ notified Governor Paterson that it would be expanding its investigation into the mental health care provided to the youth in these facilities. Upon completion of its investigation DOJ indicated the following:

- Violations of constitutional standards in the area of protection of youth from harm;
- Violations of constitutional standards in the area of mental health care;
- No evidence of systemic constitutional deficiencies in the area of sexual misconduct

Residential Youth Facilities

The Executive proposes the continuation of efforts to "right-size" the capacity of residential youth facilities operated by the OCFS. In keeping with the one-year statutory notification requirements, the following actions would take place in January 2011: closure of the Annsville non-secure facility (Oneida County), closure of the Tryon limited secure program for boys (Fulton County) and downsizing of the Lansing non-secure center for girls (Tompkins County). These actions would lower facility-wide vacancy rates by 11 percent to bring vacancy rates to 19 percent and would reduce staffing needs by 251 positions.

Child Care Block Grant

The Executive proposes funding to support a total Child Care Block Grant of approximately \$952,000,000. This includes an increase in General Fund support of approximately \$5,000,000 related to unionization agreements on behalf of home-based child care providers and the transfer of child care funding for migrant workers to the General Fund from Temporary Assistance to Needy Families (TANF) funding.

Juvenile Justice Programs

The Executive proposes an investment of \$18,200,000 in juvenile justice programs to address deficiencies identified by the Governor's Task Force on Transforming Juvenile Justice. Funding would be used to increase staff-to-youth ratios and to provide improved medical and mental health services for youth in State-operated juvenile justice facilities.

Elimination of the Cola For Foster Parents

The Executive budget proposes the elimination of the Human Services cost-of-living (COLA) for foster care and adoptive parents, in order to prevent the implementation of a negative COLA in SFY 2010-II and extension of the COLA for an additional year to March 2014.

COPS

The Executive continues 64 percent reimbursement for mandated preventive and child protective services, but reduces funding for Community Optional Preventive Services (COPS) which supports a variety of non-mandated programs. This program would experience a \$2,920,000 reduction in funding;

Eliminated Reduced Programs

The Executive proposes reductions or eliminations in funding for various non-mandated services such as Home Visiting, the Child Welfare Quality Program, Child Protective caseload reduction, Alternatives to Detention and Residential Placement, Settlement Houses, Post Placement services, Hoyt Children and Family Trust Fund, Kinship Guardianship, Child Fatality Review Teams, and the Portable Information Technology pilot.

The Executive proposes the implementation of the Kinship Guardianship Program, effective January 1, 2011. The program would provide financial assistance on behalf of eligible foster care children who are discharged from foster care to the guardianship of the relatives who have been caring for them while in foster care. Assistance payments would continue to be made to such relatives, but the children would no longer be under the supervision of the local district, reducing administrative oversight and costs. Funding for the program would flow through the Foster Care Block Grant.

OFFICE OF TEMPORARY DISABILITY ASSISTANCE

The Office of Temporary and Disability Assistance (OTDA) assist in moving indigent and high - needs families to economic self-sufficiency. The Office administers, public assistance programs, including Family Assistance (FA); Safety Net Assistance (SNA); Supplemental Security Income (SSI); the Federal Food Stamp (FFS) Program; the Home Energy Assistance Program (HEAP); child support enforcement and services; refugee assistance programs; and homelessness prevention and service programs. The Office also serves as the host agency for the administration of the federal Temporary Assistance to Needy Families (TANF) block grant which provides funding for public assistance benefits, as well as for programs and services designed to assist needy children and families as they transition to self-support. Given the fiscal times we are living in, the Executive appropriately proposes an All Funds appropriation of \$5,988,861,700, a net increase of \$342,061,839 or 6.1 percent over the SFY 2009 - 2010 level.

SSI

The Executive's budget authorizes the pass-through of the Federal Cost of Living Adjustment for Supplemental Security Income (SSI); and authorizes the State to administer additional State payments for SSI recipients and other eligible individuals. The State would administer the additional State payments made under the Supplemental Security Income (SSI) Program instead of paying the Federal Social Security Administration (SSA) a fee for each check issued on the State's behalf. The Executive estimates recurring savings of over \$60,000,000 once full implementation is achieved.

Public Assistance Grant

The State Fiscal Year (SFY) 2010-II Executive Budget proposes a two-year delay in full implementation of the 30 percent Public Assistance grant increase, enacted in SFY 2009-10. The Executive Budget reduces from ten percent to five percent the statutory July 2010 and July 2011 public assistance grant increases and provides for a five percent increase for the following two years.

Proposed Decreases

- Reduction of \$1,490,000 related to severances, attrition, and anticipated collective bargaining savings;
- Reduction of \$500,000 attributable to across the board reductions in State Operations non-personal service expenditures.

New Programs

The Executive provides \$41,500,000 for a Local Family Support Program to provide a federal match for social service district investments (local districts must provide a 20 percent match) in subsidized employment or new, short-term, non-recurrent benefits to support low-income families. The Executive would provide funding for two new programs.

In addition, the Executive proposes \$10,000,000 for the Food Bank Supplemental Support Program, which would provide one-time non-recurring support for the regional food banks to expand the capacity of emergency food providers throughout the State to meet the increased demand for assistance.

Temporary Assistance for Needy Families (TANF)

The Executive proposes a total appropriation of \$2,971,880,000 for the Temporary Assistance to Needy Families (TANF) block grant and related Contingency funds. In addition to the base TANF block grant which remains constant at \$2,443,000,000, the State will receive a total of \$1,221,465,000 in TANF Contingency Funds and TANF Emergency Contingency Funds. Of this amount, \$678,155,000 was appropriated in SFY 2009-10 and \$451,300,000 is appropriated in the SFY 2010-11 Executive Budget. The TANF appropriation will support an anticipated 255,715 recipients of family assistance, an increase of 4,936 from the current fiscal year.

The Executive proposes to increase TANF funding for benefits by \$569,393,000 to \$1,119,314,000 in SFY 2010-11, from \$549,921,000 in SFY 2009-10.

TANF Programs

In addition to economic support for needy families, the TANF block grant and the TANF Contingency and Emergency Contingency Funds allow expenditures for programs and services that aid in the transition to self-sufficiency, as well as supportive services for low-wealth families to help them avoid the need for public assistance.

The Executive would provide funding for five existing TANF programs:

- Intensive Case Services - \$11,313,000
- Transitional Jobs Program - \$10,000,000
- Health Care Jobs Program - \$5,000,000
- Green Jobs Corps Program - \$3,000,000
- Disability Advocacy Program - \$2,500,000

Eliminate Programs

The Executive proposes eliminating TANF funding of \$196,426,000 for 31 existing programs that provide services to families, children and youth.

The Eliminated Programs Include:

- Summer Youth Employment;
- Career Pathways;
- Strengthening Families through Stronger Fathers;
- Displaced Homemakers;
- Technology Training (ATTAIN);
- Advantage Schools;
- CUNY Child Care;
- SUNY Child Care;
- Child Care Demonstration Projects;
- Child Care Migrant Workers;
- Emergency Homeless;
- Supportive Housing for Families;
- ACCESS –Welfare to Careers;
- Alternatives to Detention/Alternatives to Residential Placement;
- Bridge;
- Caretaker Relative;
- Centro of Oneida;
- Community Reinvestment/Alternatives to Detention;
- Community Solutions to Transportation;
- Educational Resources;

- Home Visiting;
- VESID/LIVES;
- Non-Residential Domestic Violence;
- Nurse Family Partnership;
- Preventive Services;
- Refugee Resettlement;
- Rochester-Genesee Regional Transportation Authority;
- Settlement Houses;
- Supplemental Homeless Intervention Program;
- Wage Subsidy;
- Wheels for Work

Proposed Decreases for TANF

- ▶ Savings of \$35,800,000 related to aligning adult and family shelter program financing to encourage local districts, primarily New York City, to conduct public assistance eligibility determinations for all individuals seeking temporary shelter;
- ▶ Reduction of \$5,505,000 related to the elimination of the Health Care Jobs, Green Jobs, and Low-Income Employment Programs;
- ▶ Decrease of \$4,740,000 related to Legal Advocates for the Disabled;
- ▶ Decrease of \$1,020,000 for the Homelessness Intervention Program (HIP), which provides services to stabilize households and prevent homelessness;
- ▶ Decrease of \$310,000 for the Single Room Occupancy (SRO) Program;
- ▶ Decrease of \$130,000 for the HIV Welfare to Work Program;
- ▶ Decrease of \$98,000 for Operational Support for AIDS housing;
- ▶ Decrease of \$90,000 for the Homeless Prevention Program
- ▶ Decrease of \$77,000 for the Safety Net Assistance Local Innovations Program;
- ▶ Decrease of \$63,000 for the Citizenship Initiative;
- ▶ Decrease of \$63,000 for the New York State Refugee Resettlement Assistance Program;
- ▶ Decrease of \$40,000 for the Human Trafficking Program;

Flexible Fund for Family Services (FFFS)

The Executive proposes to make \$964,600,000 available to local districts through the Flexible Fund for Family Services (FFFS), which is unchanged from SFY 2009-10, and would maintain funding for child care subsidies at \$392,967,000.

PUBLIC PROTECTION & LEGAL SERVICES

CRIMINAL JUSTICE SERVICES

New York State prisons remain overcrowded with a disproportionate number of people of color serving harsh sentences as the result of the recently repealed, Rockefeller Drug Laws. The cause for the overwhelming number of people of color incarcerated are indeed many, but largely due to difficulty securing adequate representation as counsel, inadequate reentry and discharge program, bias in the criminal justice system, and increased prevalence and availability of illicit drugs in many low - wealth communities.

Incarceration remains a costly and ineffective manner to address chemical dependencies. Even after the repeal of the Rockefeller Drug Laws, many state prison programs that assist inmates in recovering from addiction will fall victim to the executive budgetary axe swing, while the bloated administration of the Department of Correctional Services (DOCS) remains largely the same. This situation leads to high rates of recidivism as the inmates are not prepared to deal with their addiction when they are released from prison, and do not have adequate resources to seek help (see reductions in Medicaid reimbursements to providers).

With the recent cost-savings implementation of alternatives to incarceration programs and drug treatment facilities, non-violent offenders often return to the community rehabilitated, saving the State substantial costs.

Additionally, in recent years, Drug Courts have begun to help divert low-level drug offenders away from prisons and into rehab programs. These programs ensure that these offenders receive the treatment they desperately need while ensuring they receive appropriate community based supervision.

THE DEATH PENALTY

Many opponents of the death penalty believe it should not be reinstated on moral grounds, because human life is sacred, because it is racially biased or because of a grave risk of killing an innocent person. Current law has a maximum sentence of life imprisonment without parole (LWOP) and if nothing is done legislatively, the decision in *People v. LaValle* will make LWOP our highest punishment for first degree murder.

The death penalty is also inordinately expensive. In the decade that we have allowed capital punishment to divert money and resources from local and state treasuries, conservative estimates are that we have spent more than \$170 million to obtain seven death sentences. Assuming that figure to be correct, each death sentence has cost \$24 million to achieve. There are many more important uses for the money than to try to kill human beings with it.

A STATE ROLE IN PUBLIC DEFENSE

The Caucus continues to support the establishment of an Independent Public Defense Commission overseeing an adequately state-funded, statewide defender system. This year an opportunity for interim reform has been presented. With necessary changes, a proposed office and board housed in the Executive Branch could be a good first step toward the full reform we seek.

The Legislature this year should create, for the purpose of improving public defense services, a board selected in a way that ensures its independence from the Executive and all political influence and an office to be directed by that board. The office would collect information and data, do additional studies as needed, and evaluate existing public defense programs and program types, among other tasks. The office would make recommendations to the board, including recommendations as to local distribution of monies from the Indigent Legal Services Fund and perhaps other state funds. The board would determine how those funds should be distributed, including as possible grants tied to specific efforts to improve local public defense programs, and the office would distribute the funds as directed by the board. The board would also make other recommendations for the improvement of public defense services.

CIVIL LEGAL SERVICES/ IOLA

IOLA Funding

Since 1983, the Interest on Lawyer Account Fund has played a vital role in providing funding to civil legal services statewide, and, two years ago, when former Governor Spitzer promulgated comparability rates for IOLA Accounts, the fund briefly enjoyed an appreciable increase. However, with the decline in the housing market and historically low interest rates over the past several months, this source of funding is seeing a steep decrease in revenue – in December 2008, IOLA made grants totaling over \$31 million covering a 15-month period (\$24.8 million annualized over 12 months); it may have less than half this amount to distribute for the next funding cycle.

Every day, legal services programs provide for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situation their clients are facing – loss of jobs, foreclosure, eviction – are the grim hallmarks of this current fiscal crisis. The work performed by legal services programs and funded through IOLA saves New York State millions of dollars a year and is a proven, tested and wise investment. Last year, for example:

CIVIL LEGAL SERVICES SAVE THE STATE MONEY

- Millions of public dollars were saved by legal services programs because they were able to preserve homes, avert homelessness for New Yorkers, and keep families together;
- Legal services programs garnered \$24,494,483 in retroactive federal disability awards for clients and \$131 million in total benefits for clients;
- The monthly disability benefits, Earned Income Tax Credit refunds, and Unemployment Insurance benefits legal services organizations obtained for New York residents were spent in their communities, stimulating the economies of those communities; and
- These community investments, in turn, sustained jobs and additional economic activity.

Indeed, with the increase in the unemployment rate, increased foreclosure filings, and increased bankruptcy filings New York State has experienced over the past year, the work performed by civil legal services programs is critically needed by New York City's poor now more than ever.

To that end, it is imperative that IOLA receive an emergency infusion of \$15 million in the FY 2010-2011 budget and, if interest rates remain low and IOLA Account transactions remain at reduced levels, that another emergency allocation to IOLA be considered for FY2011-2012.

Ultimately, without a steady funding stream, a dramatic loss of funding to New York State's legal services programs could happen at any time. This would result in thousands of New Yorkers unable to receive legal assistance. The cost to households – and to the State – when adequate legal services are denied is reflected in homelessness, broken families, lack of medical care and education and other essential public benefits.

Restorations Requested By Advocates

New York State Defenders Association	\$1,500,000
Neighborhood Defender Service of Harlem	\$ 325,000
Indigent Parolee Representation Program	\$ 778,000
Prisoners' Legal Services of New York	\$2,285,000
Aid to Defense	\$9,846,000

This is a time for New York State to step up to assist persons with pressing civil legal needs who cannot afford an attorney. The prospects of even less state funding in the future is particularly daunting given that the financial and legal markets are shedding workers and cutting their own private giving. Therefore, the Caucus will continue to do all it possibly can to assure sustained funding to pro bono and legal services programs.

THE CALIFORNIA APPROACH TO CIVIL GIDEON

Federal, state, and territorial governments have to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.

California has now taken a major step toward providing limited civil Gideon rights. AB 590 establishes a 6-year pilot program (in two 3-year increments), which is funded by diverting \$10 from each of certain court filing fees, primarily affecting post-judgment filings, into a Trial Court Trust Fund, which is earmarked to be used for the implementation and administration of the civil representation pilot program. The projects will allow for litigants in certain civil cases to be screened and have the opportunity to receive free legal counsel.

MINORITY & WOMEN-OWNED BUSINESS ENTERPRISES (M/WBE)

The MWBE legislation will seek to create more access to opportunity, capital and diverse leadership in New York State agencies and quasi agencies. There are two pieces of legislation that create more parity in business opportunities for people of color:

Amending Existing State Law Article 15-A to:

- Expand the number of agencies covered under 15-A;
- Include financial and professional services
- Clarify diversity best - practices;
- Clarify reporting requirements;
- Establish a “public authorities procurement council” composed of senior leaders of state agencies and representatives of the private sector.

Establishing New Legislation - The New York State Emerging Investment Manager and MWBE Financial Institution Strategy that will:

- Cover New York State created pension plans, funds or agencies whose activities include aggregating pools of assets (for example New York State Common Retirement Fund, New York State Teachers’ Retirement System, New York State Insurance Fund, and New York State Deferred Compensation Fund, among others);
- Require these plans to adopt an Emerging Investment Manager and MWBE Financial Institutions Strategy that set reasonable goals for investments and expenditures with MWBE managers and MWBE Financial Institutions.

THE PUBLIC HIGHER EDUCATION EMPOWERMENT AND INNOVATION ACT

Additionally, the Executive has proposed The Public Higher Education Empowerment and Innovation Act which would increase the opportunities for SUNY to lease its capital assets on its campuses without going directly through the Legislature by decreasing the deterrent of a waiting period for private entities to begin such projects. These increased leasing opportunities would also be subject to minority and women-owned business enterprise (MWBE) provisions, wage rates, indemnification clauses, reverter clauses, and project labor agreements, where applicable. This initiative creates the possibility of increased revenue for individual campuses based on their specific resources and desirability.

THE RIGHT CHOICE FOR NEW YORK: A Fair, Adequate & Economically Sensible Tax System

Like virtually all of the other states in the United States, New York continues to face its greatest revenue shortfalls since the Great Depression of the 1930s. State government revenues have literally fallen off a cliff.

In January 2008, for example, the New York State Division of the Budget (DOB) was projecting that state income tax revenues during the 2010-II state fiscal year would be an estimated \$44.5 billion. In the Governor's January 19, 2010 Executive Budget, DOB's projection of income tax revenues for the 2010-II state fiscal year had fallen by \$7.3 billion to \$37.1 billion. But \$4.8 billion of that projected total was attributed by DOB to the temporary Personal Income Tax (PIT) rate increases that had been enacted last April for single individuals with taxable income above \$200,000 and married couples filing joint returns with taxable incomes over \$300,000.

If it were not for those temporary rate increases, projected PIT revenues for 2010-II would be only \$31.655 billion or \$12.8 billion less than what had been expected for this upcoming fiscal year just two years ago. That means that DOB's economists now believe that PIT revenues for the upcoming state fiscal year will be virtually 29% less than they thought just two years ago. The U.S. economy has literally changed in ways that were not conceivable two years ago.

While the situation is bad, it could literally get worse. On February 3, 2010, the Executive announced that because of lower than expected personal income tax collections during January 2010, his budget experts were now projecting that "the overall net financial impact of these lower than anticipated personal income tax collections is expected to total \$550 million through the end of 2010-II." In response to that announcement by the Executive, Assembly Speaker Sheldon Silver, with decades of experience on the front lines of state budget negotiations, indicated that the situation could be even worse: "These two-week revisions strongly suggest that the Governor's initial budget submission did not present an accurate picture of the state's finances. Furthermore, the revenue projections still do not accurately reflect the real shortfall in January receipts, or realistic expectations regarding revenues in February and March.

To meet the Executive's new estimates, revenues in February and March would need to grow by 37 percent over last year. This level of increase appears to be highly unlikely, as revenue growth in the first ten months of the 2009-2010 fiscal year has been flat or declined slightly in comparison to the previous year."

As a result of this incredible revenue fall-off, the 2010-II Executive Budget projected that New York State would face a \$7.4 billion current services budget gap during 2010-II. According to the Executive Budget, \$692 million of that gap would be covered by the recurring value of savings actions that were included in the Deficit Reduction Plan (DRP) that the Executive and the Legislature agreed to in December 2009. After accounting for that \$682 million in savings, the Executive called for a \$6.7 billion gap-closing plan of which \$4.87 billion or 72.4% would come from cuts in state operations (\$1.2 billion) and local assistance (\$3.6 billion). In the Executive's January 19, 2010 plan, only \$1.070 billion of the gap closing would come from revenue actions but about 20% of those revenue actions (\$216 million) would be in the form of increases in Medicaid Provider Assessments. The Executive's February 3, 2010 announcement indicated that the projected budget gap for 2010-II would grow from \$7.4 billion to \$8.2 billion, and that he would be announcing additional gap closing actions of \$750 million.

The Executive's 2010-II gap closing plan is very similar to (1) the budget balancing plans recommended by the Governor and adopted by the Legislature in the early 1990s; (2) the budget balancing plan submitted by Governor Pataki in 2003 but which, fortunately for the state's economy, was modified by the Legislature in ways that facilitated the economic recovery that began in May 2003; and (3) the Executive's initial budget balancing plan for the current state fiscal year which also, fortunately for the state's economy, was modified by the Legislature to be more balanced and more economically sensible.

The Executive's attempts to justify his policy choices by asserting a relationship among taxes, government spending and the economy that is inconsistent with basic economic principles, and by presenting a mythical and incorrect rendition of New York State's economic history. In proposing a budget balancing plan that relies so heavily on cuts in essential public services, the Executive does not acknowledge the harm that his proposed budget cuts could do to the state's economy. Nor does he present any economic impact analysis whatsoever of his gap closing plan, let alone of alternate plans. In proposing so little in revenue raising and in proposing no progressive revenue increases, the Executive says that we tried tax increases last year and they didn't work. That ignores the fact that the 2009-10 gap closing plan, even after being made more balanced by the Legislature, still relied more heavily on spending cuts than on revenue increases. More importantly, that assertion ignores the point that the state governments generally are experiencing a fiscal problem that is not of their own making and which they can not remedy on their own.

THE FEDERAL GOVERNMENT AND STATE BUDGETS DURING RECESSIONS

The Federal government is responsible for the overall macroeconomic management of the U.S. economy. This is why, during recessions (which, by definition, are periods during which consumer and business spending is low, thus slowing the economy and creating a downward economic spiral) the federal government works to stimulate the economy by increasing spending and cutting taxes. This requires deficit spending, which the federal government can engage in, and which it should engage in during recessions.

State governments have to balance their budgets in both good times and bad. To balance their budgets during recessions, states almost have to cut spending and/or increase taxes, thus putting more drag on the economy rather than less. This means that, left to their own resources, states have to do things during recessions that will cancel out some of the positive effects of the actions that the federal government is taking to foster job creation and retention and to get the economy moving again.

Since the federal government is responsible for overall macroeconomic management, it makes sense for the federal government to provide fiscal relief to the states during recessions to reduce the amount of budget cutting and tax increasing necessary at the state level. If the federal government doesn't help the states during recessions, then state budget-balancing actions will cancel out a greater portion of the positive impact of federal stimulus efforts.

We have two recent and successful examples of such efforts by the federal government – one under President Bush in 2003, and the other under President Obama in 2009.

In the winter and early spring of 2003, even though the recession had officially ended in November 2001, state governments throughout the nation were facing substantial shortfalls as they were working to develop and adopt budgets for their 2003-04 state fiscal years. The 15 months of state budget relief (for the period from April 1, 2003 through June 30, 2005), that President Bush signed into law in May 2003, allowed the states to get back on their feet with much less in budget cuts and tax increases than would have otherwise been necessary.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) into law. Of this package's total estimated cost of \$787 billion over several years, \$135 billion was explicitly for state fiscal relief in the form of (1) a temporary increase (until December 31, 2010) in the federal government's share of Medicaid costs (referred to as the Federal Medicaid Assistance Percentage or FMAP), and (2) a State Fiscal Stabilization Fund comprised primarily of federal aid designed to forestall a significant portion of the education budget cuts that were otherwise likely to occur throughout the nation. This state fiscal relief played a major role in allowing New York and the other states to balance their 2008-09 and 2009-10 budgets with fewer service cuts and fewer tax increases than would have been necessary otherwise. In New York's case, the Division of the Budget has estimated that this aid package provided New York State with \$6.15 billion of gap closing aid as the state worked to balance its 2008-09 and 2009-10 budgets by the beginning of April 2009. Given the continuing nature of the state governments' fiscal problems during the current Great Recession, it is essential that the President and Congress provide for an extension of the ARRA's state fiscal relief components so that the phase-out of this aid will dovetail more closely with the recovery of the 50 states' economies and finances.

Reforming the STAR Property Tax Relief Program

In 1997, Governor Pataki got the message that by cutting the top rate on the state's progressive personal income tax; he was cutting the wrong tax, in the wrong way, at the wrong time. In his 1998 State of the State Address, he put a positive spin on this recognition of the fact that the income tax is a fair tax and that the overwhelming majority of New Yorkers do not feel oppressed by it. "Last year we knew it was time to build on the tax cuts of the first two years. From this podium, I told you that it was time to cut taxes again. Different taxes. Oppressive taxes. Property taxes". It is, however, unfortunate that this focus on oppressive taxes did not take center stage until after the state had cut the income tax by over \$4.5 billion a year with only half of this amount, at most, staying in the New York economy.

While Governor Pataki's STAR plan was aimed at an important problem, it works in an inefficient and ham-handed manner. By allocating property tax relief in a way that is unrelated to the amount of a household's property tax bill relative to its income, it delivers much less relief to those who are truly overburdened by property taxes than would a substantial expansion of the state's circuit breaker tax credit, at one-half the current \$3.2 billion annual price tag of the STAR program, and much more to homeowners for whom property taxes represent a very small percentage of their income.

Under STAR, the amount of tax relief to which a homeowner is entitled can vary with the median home value in his or her county of residence, but not with the magnitude of that homeowner's property tax burden relative to his or her income. The plan's one income test (whether a senior homeowner's income is above or below an income threshold that is adjusted annually to reflect changes in the cost of living and which is now set at \$74,700 for the 2010-11 school years) creates an illogical notch effect, while begging the question of a rational sliding scale based on income. While Governor Pataki argued for STAR on the basis that some people were literally being taxed out of their homes, STAR does not target its relief to such households. In addition, two taxpayers with the same income and the same size property tax bill could get widely varying levels of relief depending on where they happen to live.

The STAR plan is also flawed in that it provides relief only to homeowners. This ignores the fact that tenants also pay property taxes. While homeowners pay property taxes directly, tenants, through their rental payments, carry a substantial portion (usually estimated as being more than one-half) of the property taxes paid by the owners of their buildings. But under STAR, neither tenants nor landlords receive any relief. Only the owners of owner-occupied dwellings are helped by STAR. The result is extreme racial disparities. Over 62% of white households live in owner-occupied dwellings, while the comparable figure for black households is 29%. Replacing STAR with an expanded circuit breaker credit would also eliminate such unequal treatment since it provides relief to renters as well as homeowners.

To ensure fairness, property tax relief should not discriminate on the basis of geography or on the basis of whether someone is a renter or a homeowner. STAR fails on both of these counts. Enriching the state's real property tax circuit breaker credit would provide a more targeted, cost-effective means of providing property tax relief to those who are truly overburdened by the current system.

The Middle Class STAR rebate checks program, which has now been repealed, was pictured as an improvement over the STAR exemptions but that turned out not to be the case. While the Middle Class STAR Rebate Checks program took income into consideration, it was still not adequately targeted to be an effective and efficient property tax relief mechanism since (a) it did not take the size of a homeowner's property tax bill into consideration; (b) it was still based on county and school district averages of important variables; (c) it still excluded renters; and (d) it was a percentage of the value of one's STAR exemption which was an illogical number to begin with. A properly designed middle class circuit breaker could address all of these shortcomings. Under such a circuit breaker, a household could be eligible for a percentage (e.g., 70%) of the amount by which its property taxes (or 20% of rent as a renter's "property tax equivalent") exceed a fixed percentage of its income.

Under the Middle Class STAR rebate program, two families living in the same school district received the same benefit if they both made \$50,000—even if one has a property tax bill of \$3,000 a year and the other had a bill of \$6,000 a year. In addition, the Middle Class STAR rebate check program did not address the problem of two families with the exact same income and the exact same property tax bill getting substantially different benefits if they happened to live in different parts of the state.

As part of his 2010-II Executive Budget, the Executive has proposed a Real Property Tax Circuit Breaker but the Executive Budget circuit breaker proposal has serious flaws.

- It would apply only to school taxes which are the predominant part of the property tax bill in wealthier communities but frequently outweighed by county and municipal taxes in poorer communities and many of the state's older cities and villages
- It would have a credit calculation formula that can change (up or down) annually.
- It would set a maximum credit level of \$2,000. This would eliminate the ability to give meaningful relief to households that are seriously overburdened by property taxes.
- It would use future increases in available funding to increase the number of households that could receive benefits rather than providing meaningful relief to households who are most overburdened.

- It would provide less relief to households whose local school tax levy increased more than the inflation rate in a given year even though it would not address the adequacy and consistency of state aid to education which directly affects the level of local school property taxes.
- It would not provide any relief to renters burdened by high property taxes relative to their income.
- It would have different income brackets for upstate and downstate which are unnecessary (since a circuit breaker with a single bracket structure would already provide greater relief to homeowners in areas where property taxes are high relative to income) and create inequities.

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