

FISCAL POLICY INSTITUTE

1 LEAR JET LANE, LATHAM, NEW YORK 12110

(518) 786-3156 - www.fiscalpolicy.org

Testimony of
Carolyn Boldiston
Senior Fiscal Policy Analyst

Before the

Senate Finance and Assembly Ways and Means Committees

Joint Public Hearing on

Human Services

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My name is Carolyn Boldiston and I am a Senior Fiscal Policy Analyst with the Fiscal Policy Institute. The Fiscal Policy Institute (FPI) is a nonpartisan research and education organization that focuses on the broad range of tax, budget, economic and related public policy issues that affect the quality of life and the economic well-being of New York State residents. Founded in 1991, FPI's work is intended to further the development and implementation of public policies that create a strong economy in which prosperity is broadly shared by all New Yorkers. Thank you for the opportunity to submit this testimony in writing today.

This testimony consists of four parts:

- I. A review of New York's historical utilization of the federal Temporary Assistance for Needy Families (TANF) block grant. This looks at but is not limited to the use of TANF for: 1) family assistance, 2) child care and child welfare, and 3) the state's Earned Income Tax Credit and how these issues are approached in the current fiscal year and the upcoming fiscal year.
- II. An analysis of the impact of the American Recovery and Reinvestment Act (ARRA) of February 2009 on TANF funding and spending in New York State.
- III. A brief review of child care subsidies in New York State.
- IV. Recommendations for the 2010-2011 state fiscal year.

Over the last fourteen years, the interaction of two major developments—(1) dramatic reductions in the number of needy families receiving governmental cash assistance and (2) major changes in the way that the federal government shares in the costs incurred by the states in providing such assistance and related services—have given the states an unprecedented level of resources that can be used with an unprecedented degree of flexibility in meeting the needs of low-income families.¹

While inflation has reduced the real value of the fixed federal Temporary Assistance to Needy Families (TANF) block grants to the states by 27 percent since TANF was created,² the substantial decrease in welfare caseloads has left states with substantial resources for supportive services after fulfilling commitments to assistance. New York State receives an annual block grant of \$2.442 billion from the federal government. It uses these resources to provide cash assistance for recurring and emergency needs and for support services in such areas as child care, transportation, education, training and employment so that families can begin to support themselves through work and become financially independent.

In New York State, the total number of people receiving public assistance has declined by more than 1 million, from 1,643,832 recipients in January 1995 to 553,405 in December 2009 (state administrative data). And the number of people receiving federally-funded assistance, or, assistance through the TANF program, has declined from 980,022 in December 1997 to 257,205 in December 2008 (federal administrative data).

One way to give perspective to these numbers is to view them as a portion of the number of people eligible for such assistance. As the graph on participation in federally-funded family assistance shows, this percentage has declined markedly. Even though it shows trends only through 2006, caseloads continued to decline until June 2009.

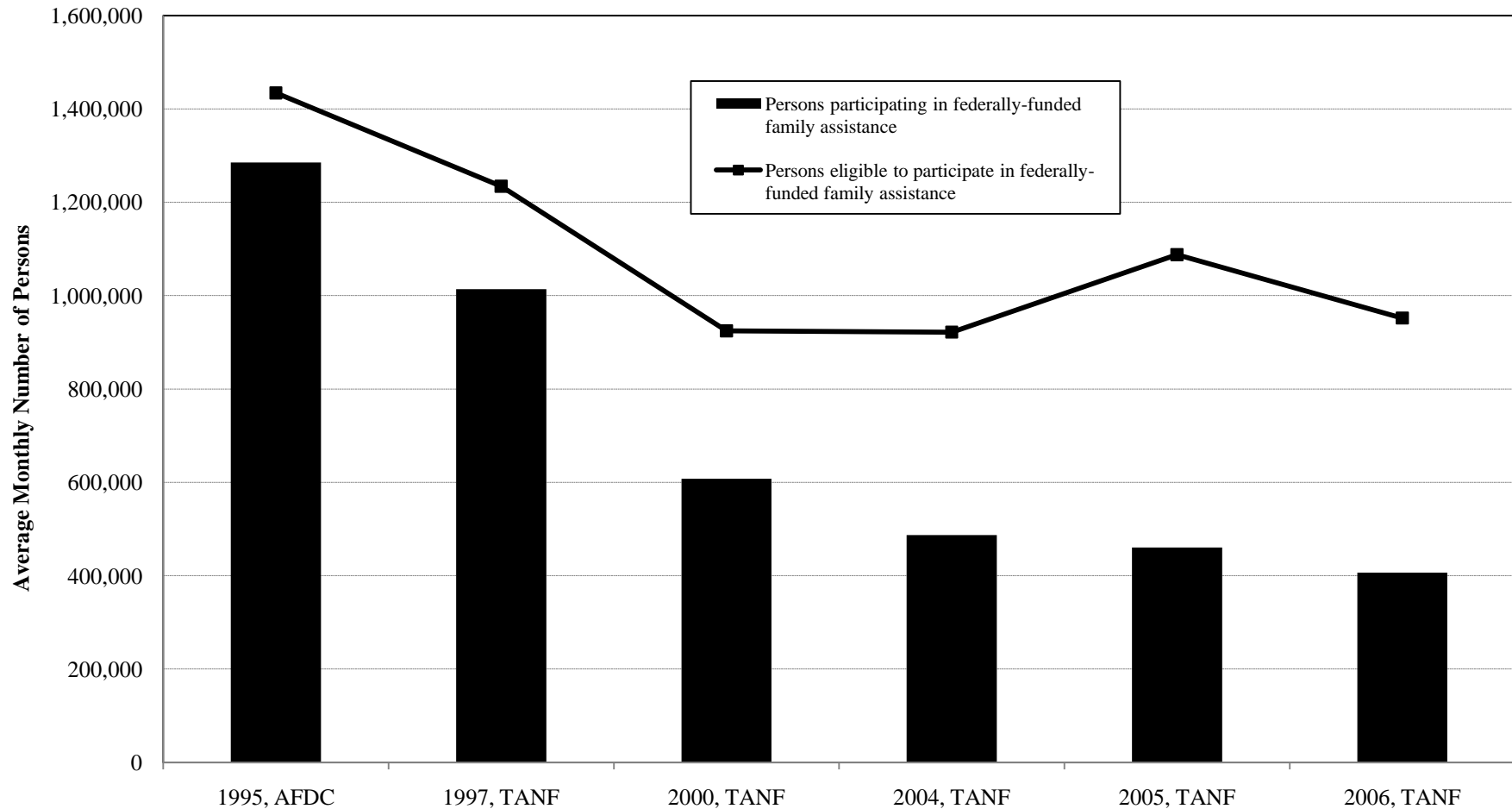
The combination of fixed funding and falling caseloads has resulted in the so-called TANF “Surplus.” In its simplest formulation, this surplus is the difference between (a) the \$2.442 billion TANF Block Grant that New York receives from the federal government each year and (b) the federal share of the cost of basic assistance—less than \$650 million in 2009-2010.

Until recently, the Executive Budget included not just programs relating to basic assistance in the TANF “Base” but also employment services and local administration of TANF assistance services. When the Flexible Fund for Family Services was instituted in 2005-2006, these items were dropped from the TANF “Base.” Therefore, to be definitionally consistent, the following two graphs present basic assistance as comprised of 1) monthly cash assistance (or, Family

¹ The Temporary Assistance for Needy Families (TANF) program that replaced the federal Aid to Families with Dependent Children (AFDC) program in 1996 (and became effective in 1997) was reauthorized in February 2006 as part of the Deficit Reduction Act of 2005.

² Lower-Basch, Elizabeth, *Goals for TANF Reauthorization* at <http://www.clasp.org/admin/site/publications/files/TANF-Reauthorization-Goals.pdf>.

Of those New Yorkers eligible for federally-funded family assistance, the number of persons actually participating decreased from 90% before welfare reform to 43% in 2006.



Before 1997, model makes no inference about undocumented aliens. In 1997 and later, models impute immigration status.

Source: Center on Budget and Policy Priorities use of HHS/Urban Institute TRIM policy microsimulation model. baseline summary tables.

Assistance or Public Assistance), 2) emergency assistance (the Emergency Assistance to Families, or EAF, program), and 3) state operations. (Other items for administration remain in the Executive Budget's TANF "Base" but it is not clear to what extent they support basic assistance and/or support services).

These three items are shown together in the first graph as a portion of New York's annual fixed block grant. In state fiscal year 2008-2009, enacted amounts for cash assistance, emergency assistance and state operations totaled approximately \$500 million, the lowest amount since welfare reform—or less than half of the total \$1.3 billion for such items in 1997-1998. The next table shows just the basic assistance portion of the first graph. The fall in spending for this item is primarily due to lower spending on cash assistance that results from declining caseloads. While cash assistance started to go up in 2009-2010 at \$500 million, it more than doubles to \$1.12 billion in the proposed budget for 2010-2011.

This dramatic increase occurs for two reasons. One, the number of recipients for TANF family assistance (or, cash assistance) is estimated to go up by almost 2 percent in 2010-2011 over 2009-2010 with a consequent increase in total estimated costs for total cash or family assistance of approximately 1.8 percent to \$1.12 billion in 2010-2011 versus an estimated \$1.10 billion in 2009-2010. In 2009-2010, the TANF block grant paid for half of these costs—the federal share—or approximately \$550 million.

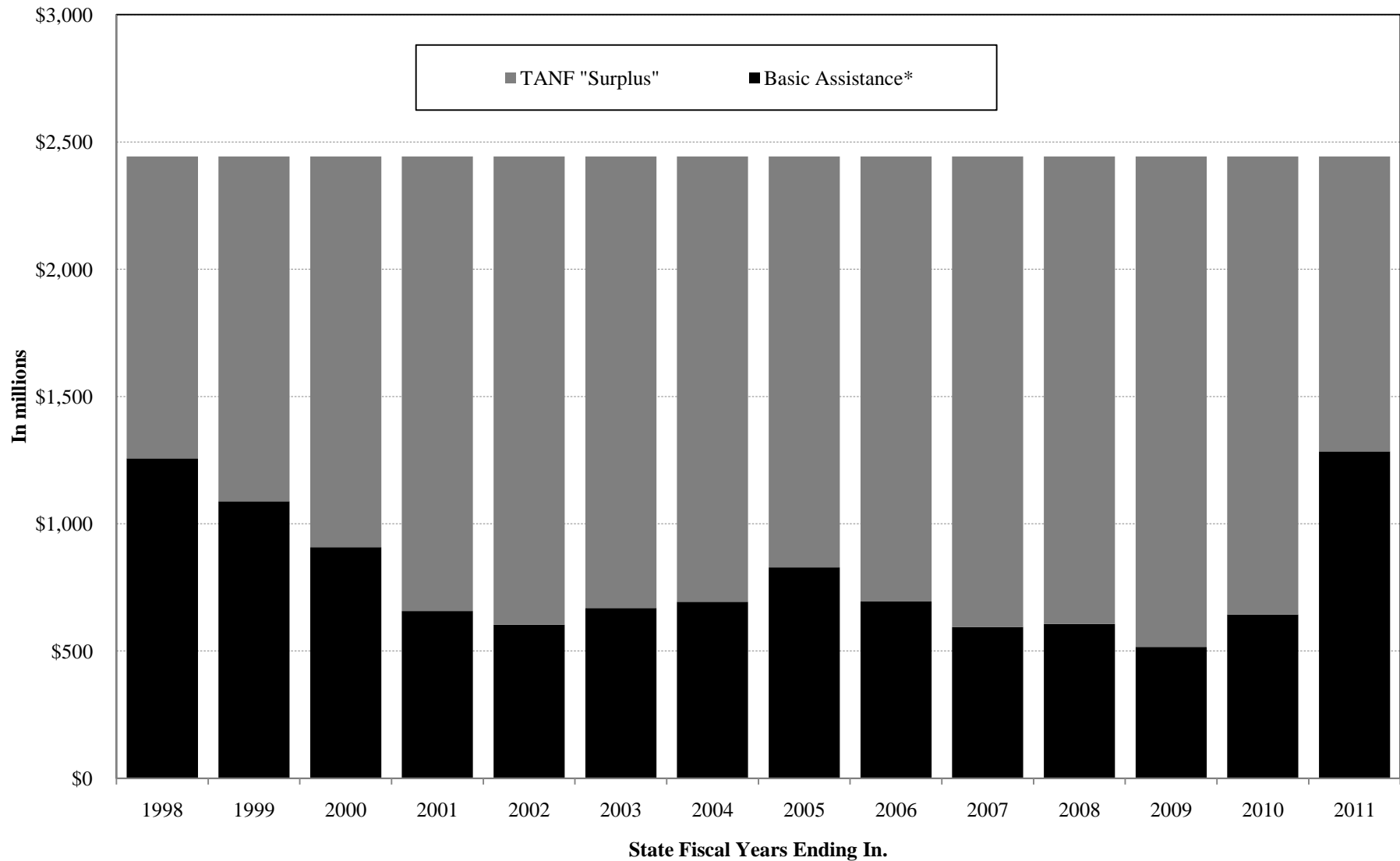
The difference for 2010-2011, as seen in the graph, reflects the proposal to use TANF funds to pay for all \$1.12 billion of the coming year's estimated TANF family assistance costs, i.e., not just the federal portion, but the state and local shares as well. To ensure that the local social services districts pay their full share of these TANF family assistance costs, the Executive Budget proposes to increase the local cost of non-federally funded assistance by one dollar for every dollar of TANF used to lower the local cost of TANF family assistance.

This shift in the funding of family assistance may be related to the Executive Budget's proposal **not** to use regular TANF block grant money to fund the state Earned Income Tax Credit (EITC) as an offset to the state share of public assistance—as it has done previously—and instead to use the EITC to draw down TANF Emergency Contingency Fund (ECF) money which will then be used to offset the state share of public assistance. The result of these two actions seems to be to allow the state to meet the anticipated growth in public assistance costs with ECF money and to provide fiscal relief in the amount of \$261 million to the state.

TANF "Surplus" or Initiatives

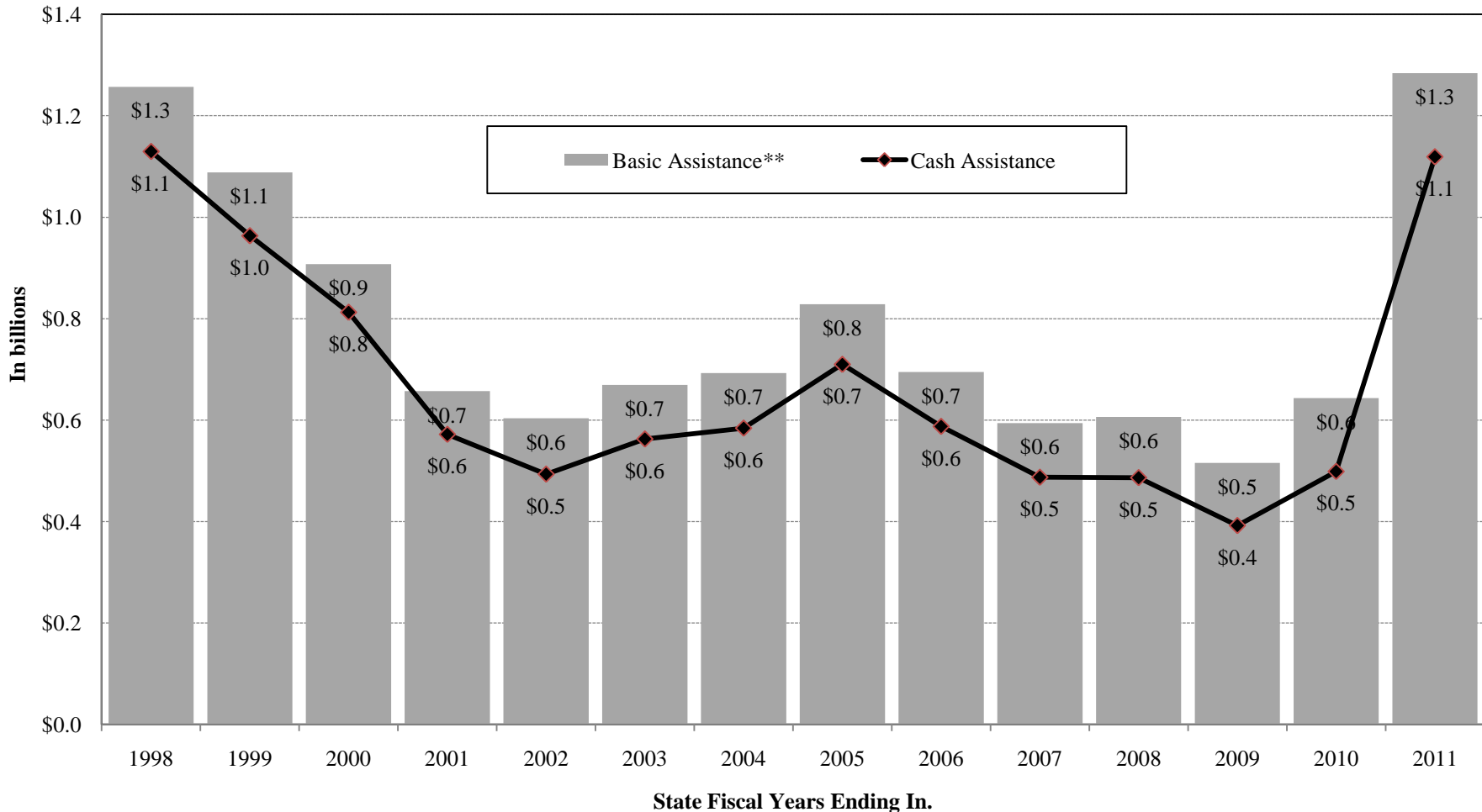
After setting aside funds for basic assistance, New York is allowed to use the "additional" resources or "Surplus" from its \$2.442 billion TANF Block Grant to (1) invest in programs and services that assist needy families in becoming and remaining self sufficient and/or, (2) subject to some restrictions imposed by federal guidelines, fund certain existing programs of assistance to needy families, thus providing fiscal relief to the state by allowing it to reduce the amount of

The TANF “Surplus” is the portion of New York’s \$2.4 billion annual TANF block grant that is not used for basic assistance.



* Basic Assistance includes cash assistance, emergency assistance and state operations. Uses enacted figures from the New York State Division of Budget; 2010-2011 is proposed.

Until 2010, New York's spending on basic assistance from the federal TANF block grant fell by more than half, primarily due to lower spending on TANF cash assistance. In the proposed budget, the TANF block grant will be used to pay for all federal, state and local TANF cash assistance costs.*



*According to the state Division of Budget, adjustments would be made to ensure the local share on total public assistance costs remains the same. **Basic Assistance includes cash assistance, emergency assistance and state operations. Uses enacted figures; 2010-2011 is proposed.

General Fund resources necessary to continue those programs and/or (3) to build up reserve (or “rainy day”) funds for use during economic downturns when caseloads (and therefore, cash assistance expenditures) are likely to increase.

The various kinds of support services as noted in (1) above are set out by the Executive Budget into TANF Initiatives. Families that participate in these programs do not need to be receiving cash assistance although they may be. Recently, most of the Initiatives appropriations have been in three areas: 1) the Flexible Fund for Family Services, a grant to local social services districts that encompasses transfers to the Title XX Social Services Block Grant, 2) the Earned Income Tax Credit offset to the state share, and 3) transfers to the federal Child Care and Development Fund for the New York State Child Care Block Grant.

Flexible Fund for Family Services (FFFS)

Five years ago New York radically restructured the way in which the TANF funds are allocated. In addition to funding a variety of individual programs (through the Office of Children and Family Services (OCFS), Office of Temporary and Disability Assistance (OTDA) and the Department of Labor), the 58 local social services districts were given \$600 million in Flexible Fund for Family Services (FFFS) block grants to be used for transfers to the Title XX social services block grant, child welfare, support services and local TANF administration. The Legislature amended the Governor’s original proposal in 2005-2006 for a \$1 billion FFFS by excluding child care and funding it separately, but social service districts were allowed to increase their child care allocations with funds from the FFFS.

Total FFFS Allocations (in millions)

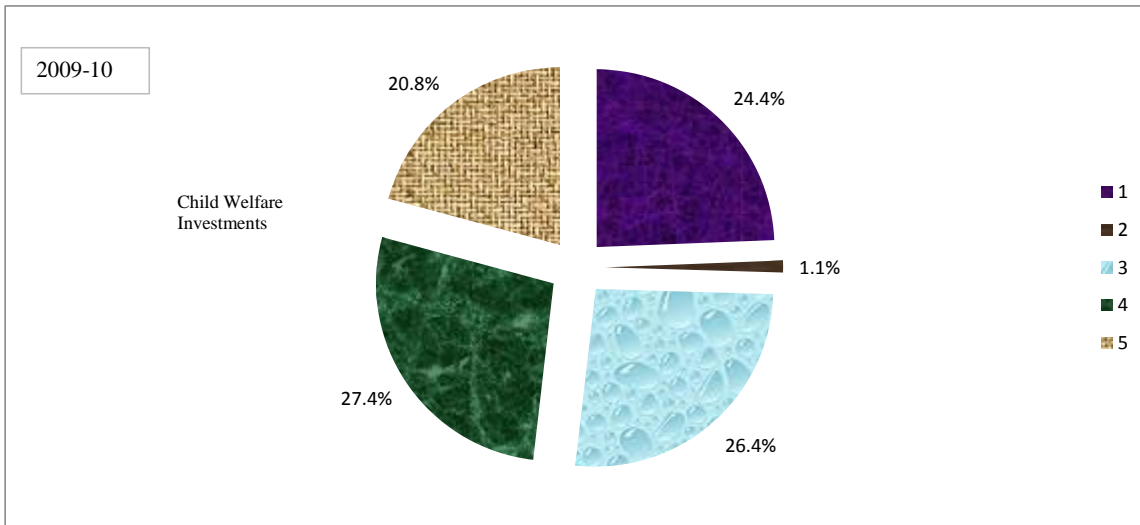
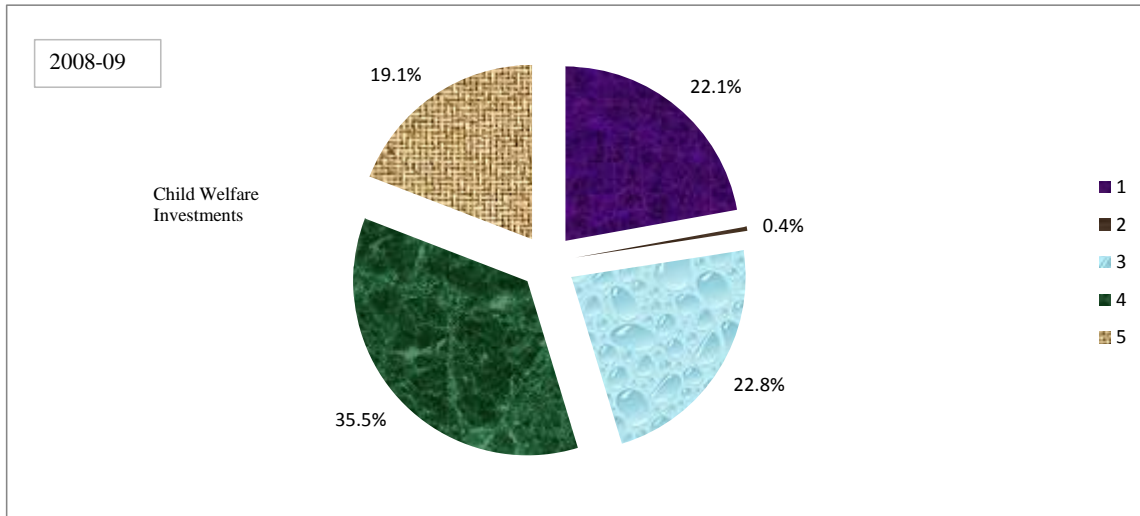
<u>SFY 2005-06</u>	<u>SFY 2006-07</u>	<u>SFY 2007-08</u>	<u>SFY 2008-09</u>	<u>SFY 2009-10</u>
\$599.80	\$1,021.90	\$654.30	\$656.40	\$965.10

In 2006-2007, despite the objections of the legislative conference committee, child care funding was included in the Flexible Fund for Family Services for a proposed total block grant amount of \$1,036.8 million. Since the legislature never passed a 2006-2007 TANF budget, the Division of the Budget used reappropriation authority to release these funds through the FFFS. In addition, funding for a number of state-level programs and contracts was finally released during the summer of 2006. (Enacted or recast budget amounts differ slightly from the total FFFS allocations made to local social services districts provided in the table above.)

For purposes other than child care, total resources provided to local social services districts from the FFFS increased to more than \$650 million in 2007-2008 and 2008-2009. And in SFY 2009-2010, the enacted budget moved the Local Administration Fund (LAF) to the FFFS, thereby expanding it by \$310.6 million from an enacted \$654 million in 2008-2009 to \$964.6 million in 2009-2010. The adjoining pie charts show the difference that resulted from this growth to the FFFS.

Spending on the Title XX Social Services Block Grant and other Child Welfare services makes up almost half of spending from the FFFS.

The addition of the \$310 million Local Administration Fund to the FFFS last year did not result in major changes to the proportions in spending from the previous year. Even though total investments for child welfare decreased from 54.7% to 48.2% of the total grant, total spending for this item increased from \$359 million to \$465 million.



- 1 TANF Assistance and Eligibility Administration
- 2 Additional Child Care Transfers
- 3 Employment, Drug, Alcohol, Domestic Violence and Juvenile Probation Services (includes administration)
- 4 Child Welfare Other than Title XX Transfers (includes administration)
- 5 Title XX Transfers

Since local districts are not required to submit expenditure reports to the state, they are based upon plans only that districts are required to submit explaining use of their allocations.

The largest use of the FFFS is for child welfare; half of the total grant to localities is used for this purpose either through direct transfers to the Title XX Social Services Block Grant (SSBG) or for funding child welfare programs apart from this block grant. Almost 55 percent, or \$359 million of the total 2008-2009 FFFS was used in this way; this compares to 48.2 percent of the 2009-2010 FFFS going to child welfare investments. Given that the overall size of the FFFS had increased to almost \$1 billion, however, this portion represents \$465 million in planned child welfare investments.

Planned child care transfers from the FFFS comprise the smallest portion of spending; they were at their lowest level—\$2.6 million—in 2008-2009, and then quadrupled in 2009-2010 to \$10.5 million after the addition of the Local Administration Fund to the FFFS. Major increases in planned spending occurred in TANF administration, Title XX transfers and in the various employment, drug, alcohol and domestic violence services to which districts direct these funds. They each grew by 25 to 35 percent approximately. However, the general proportions in which local social services districts use their FFFS remained the same from the previous year when the LAF was not present in the fund. Because recent plans submitted by some local districts do not break out anticipated expenditures for some items into administration and programs, the amount of funds directed to these different types of expenditures cannot be seen.

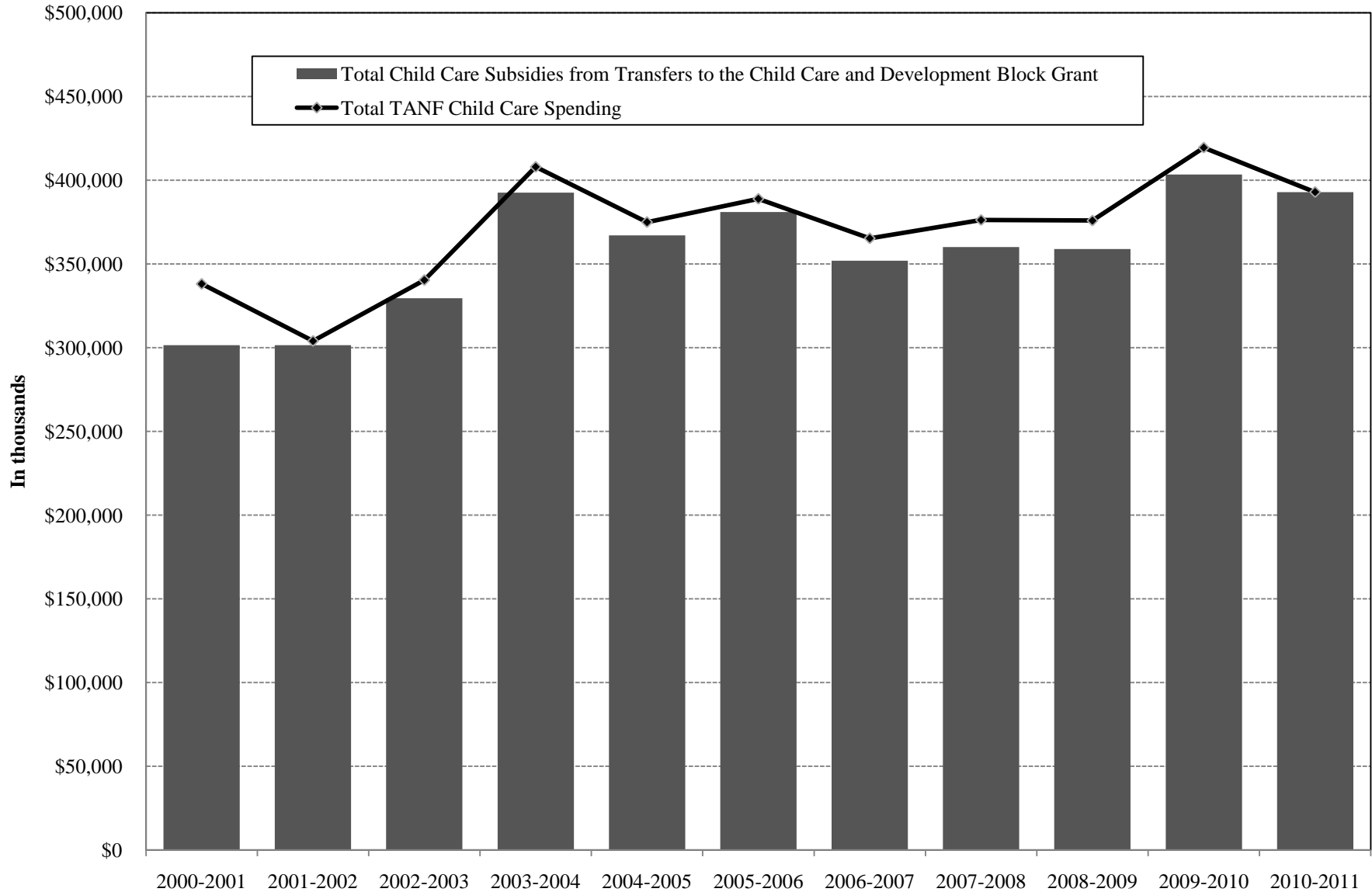
The 2009-2010 Executive Budget proposed again to include child care funding as part of the Flexible Fund for Family Services. The enacted budget, however, did remove this item from the block grant to social services districts; and, the proposed 2010-2011 budget leaves child care out of the FFFS also. When child care was included in the FFFS in 2006-2007, social services districts used the flexibility granted to them with the expanded FFFS to reduce support for child care. Total funding for this item from the TANF block grant fell by approximately \$20 million relative to 2005-2006 funding levels.³ In order to guarantee adequate investments in child care funding, this funding must remain out of the FFFS. As noted earlier, social services districts are free to allocate part of their FFFS for child care whether or not child care is included in the FFFS, even so, transfers from the FFFS to child care fell until 2009-2010 with the addition of the LAF.

Child Care

Introduced above, another major item in TANF “Surplus” or Initiatives spending is child care. Since 2004-2005, total spending for child care from the TANF block grant has hovered around \$375 million. Most of this spending—94 to 97 percent—is represented by state and local transfers to the federal Child Care and Development Fund or Block Grant (CCDBG). Local transfers from the FFFS have represented less than half to 2.5 percent of total transfers to the

³ According to the NYS Division of the Budget, some social service districts had significant amounts of child care “carry over” resources that were used instead of FFFS funds so overall spending on child care did not decrease.

Child Care Spending from the TANF Block Grant



The proposed budget for 2010-11 does not include local districts' transfers to child care from the FFFS since plans for their spending are not yet available; however, they represent a very small portion of total subsidies, less than 1 to 2.5% since 2007-08.

CCDBG; most funds for this purpose are transferred directly by the governor and localities must meet requirements for their use. A statewide total of 30 percent of the state's total TANF block grant may be transferred to the federal CCDBG and/or to the Title XX Social Services Block Grant, with a maximum 10 percent statewide for Title XX transfers.⁴

With New York State's \$407 million TANF Contingency Fund award last February, total child care spending rose to \$420 million resulting from increased transfers to the CCDBG of \$393 million and the increased transfers from the FFFS of \$10.5 million. (The state may not transfer regular Contingency Fund or new ECF money to the CCDBG. However, as the state uses contingency fund money for allowable, already-budgeted purposes, it frees up TANF block grant money for other purposes such as child care subsidies.) The Contingency Fund award allowed the state to set aside \$37 million more for child care subsidies not only in 2009-2010, but also for 2010-2011 and 2011-2012, for a total \$110 million.

Given the increasing family assistance caseloads in the state and the increased needs of the working poor, this funding is likely to be inadequate as recipients try to maintain work commitments or fulfill TANF work participation requirements. Since TANF recipients are automatically eligible for child care subsidies, shortages of child care funding will reduce the availability of subsidies for the working poor. These families may be forced back into the TANF program if they can no longer afford quality child care for their children.

The proposed 2010-2011 budget eliminates funding for child care initiatives such as child care demonstrations, and child care support for migrant workers and SUNY and CUNY students. Enacted amounts for these programs in 2009-2010 totaled \$16 million. This defunding would decrease the overall TANF funds directed to child care to \$393 million from \$420 million last year.

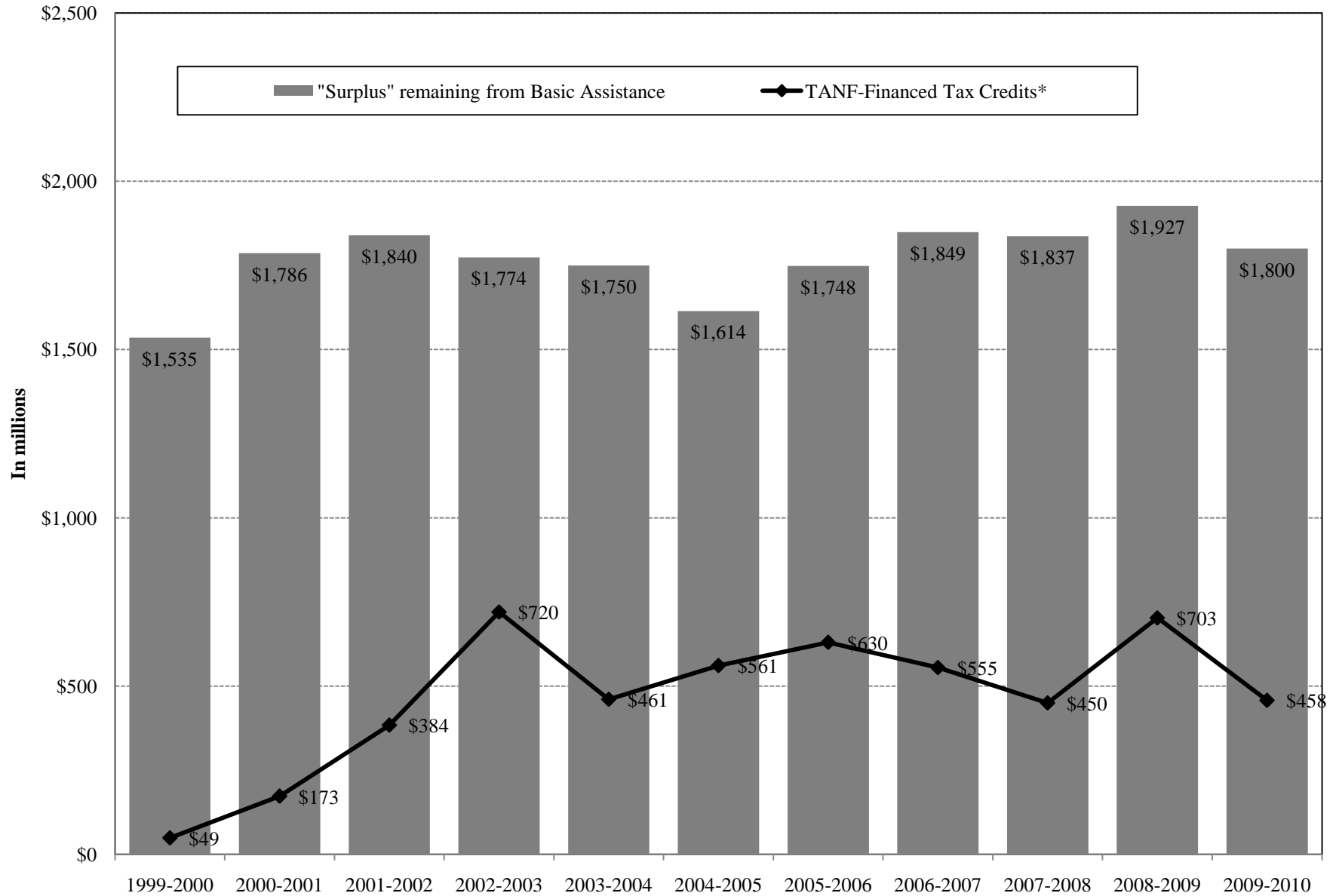
Earned Income Tax Credit

When New York's EITC was first established by Governor Mario Cuomo in 1994, it was paid for, like any other tax credit, as a reduction in revenues without a designated funding source. Recognizing the EITC as an effective means of assisting low-income families struggling to make ends meet, New York State expanded the credit in fiscal year 1999-2000 and began funding the credit with TANF block grant dollars which were in excess at that time.

There is no question that the state EITC is a permissible use of federal TANF funds. However, given the fixed nature of the federal TANF block grant and the anticipated continued growth in the EITC—it is estimated there will be almost \$1 billion in total EITC claims for calendar year 2009—continued funding of the EITC with this limited resource pool was an unsustainable

⁴ http://www.ocfs.state.ny.us/main/policies/external/OCFS_2007/LCMs/07-OCFS-LCM-07%20New%20York%20State%20Child%20Care%20Block%20Grant%20%28NYSCCBG%29%20Subsidy%20Program%20Allocations%20State%20Fiscal%20Year%202007-2008.pdf

Except for the proposed budget, financing tax credits for low-income families since 2002-2003 has absorbed one-quarter to one-third of the TANF "Surplus".



*The total amount of the Earned Income Tax Credit and the Child and Dependent Care Credit financed with the regular TANF block grant.

policy approach without the availability of federal ECF money for the upcoming budget. Financing the EITC with the TANF block grant has absorbed one-quarter to one-third of the TANF “Surplus” since 2002-2003.

Regular TANF block grant funds will not be used to finance any portion of the EITC in the proposed budget. Instead, incremental growth in the Earned Income Tax Credit, Empire State Child Tax Credit and the Child and Dependent Care Credit for the TANF-eligible population will be used to draw down at least \$207 million in ECF money for the 2010-2011 state fiscal year. This \$207 million may be part of (or may be otherwise related to) the \$261 million in nonrecurring gap-closing that the Executive Budget attributes to the ECF as follows: “Non-Recurring Resources: The Executive Budget relies on \$565 million in non-recurring resources in 2010-2011. The largest item in this category is the use of the TANF Emergency Contingency Fund to pay for expenses that would otherwise be incurred by the General Fund in 2010-2011. The Emergency Contingency Fund is a one-time ARRA authorization. Accordingly, it is not expected to be available in future years.”

Apart from its use in accessing federal stimulus funds, to protect the EITC and the benefits and programs funded with TANF dollars now and in the future, the State should shift funding for the EITC out of the TANF block grant allocation permanently and into the General Fund. This will allow New York State to use all the federal TANF block grant for enhancements to cash assistance, childcare, education, training, and other services for low-income families and will remove the intensifying competition between these benefits and programs and the EITC, all of which represent key components of New York’s support system for low-income families.

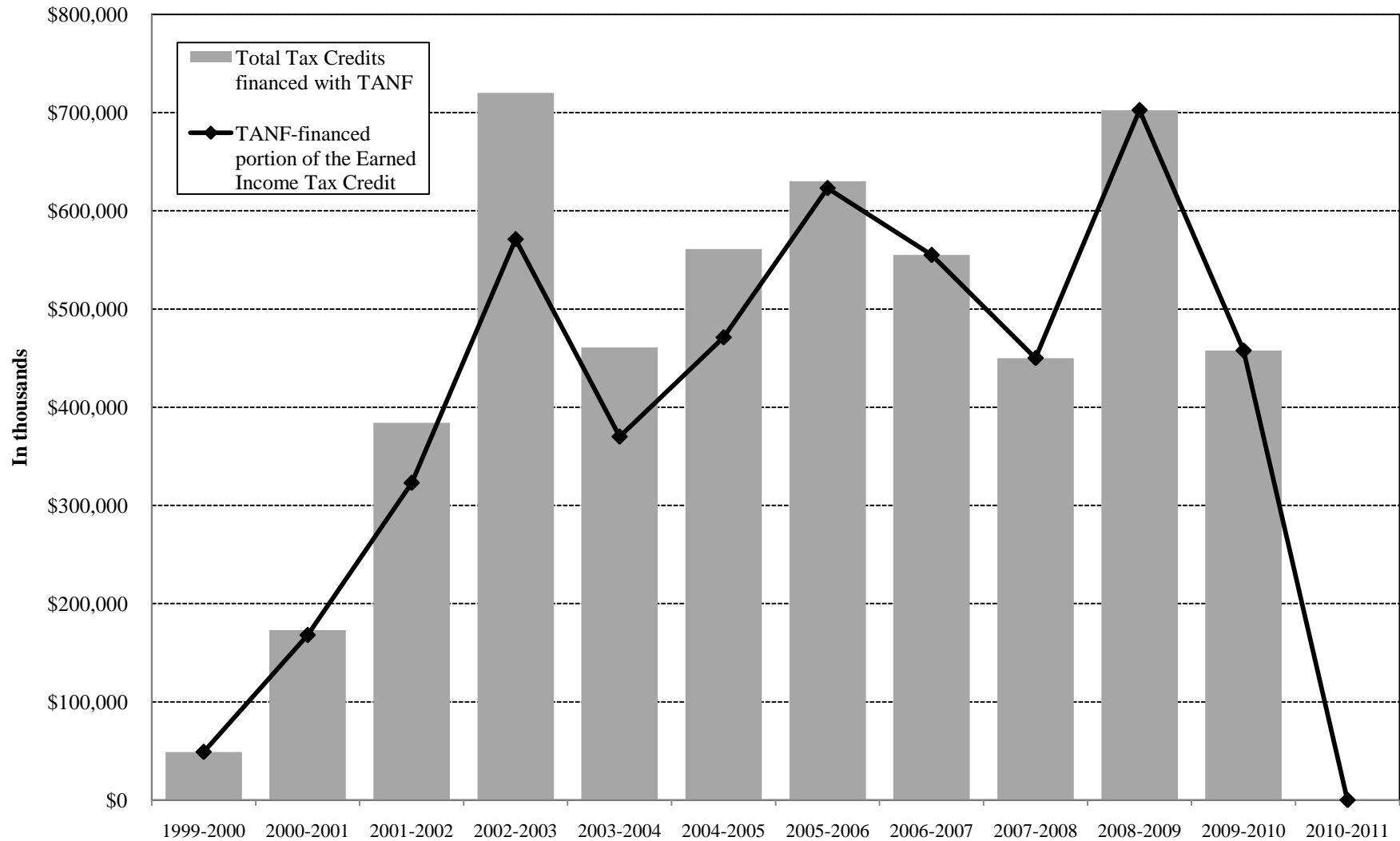
Noteworthy precedent for this shift exists. From fiscal year 2000-2001 to fiscal year 2004-2005, New York also financed the NYS Child and Dependent Care Credit from the TANF block grant. However, for the past five years, no TANF funds were used for this credit and it is now funded entirely from the General Fund. The EITC, like the Child and Dependent Care Credit, should be shifted out of the TANF block grant allocation.

The Impact of the ARRA on TANF Funding and Spending

Background

As referred to earlier in this submission, there are two TANF contingency funds that affected TANF funding and spending in the current state fiscal year and at least, for the upcoming two fiscal years: the reserve or Contingency Fund, pre-existing from TANF reauthorization in 2006 for use during economic downturns; and, 2) the new Emergency Contingency Fund set up through the American Recovery and Reinvestment Act (ARRA) on February 17, 2009. Provisions in the ARRA allowed all states, including New York, to have access to an additional maximum amount of half the state’s annual TANF block grant, or more specifically, half the State Family Assistance Grant (in New York’s case, these are the same) over the course of two

TANF funds have offset the state share of TANF assistance costs by paying for tax credits; this leveled off towards 2007-2008 and jumped again in 2008-2009 when \$700 million was used for the EITC.



Actual expenditures; 2010-2011 is proposed

federal fiscal years, 2009 and 2010, from a combination of these two funds. This means that New York has access to or may qualify to draw down \$1.221 billion by September 30, 2010.⁵

Access to the original Contingency Fund, now exhausted, was based on increases to the state's food stamp enrollment and/or the state's unemployment rate; as the state met either of these triggers for each month, it would be awarded 1/12th of 20 percent of its annual TANF block grant. It should be noted that Contingency Fund awards are reconciled at the end of the federal fiscal year. Emergency Contingency Fund money may be accessed by increases in spending in three TANF-funded areas: 1) basic assistance, if the combined number of families (cases) that receive assistance funded with TANF dollars or receive assistance in New York's separate state program (SSP) for which the state claims maintenance-of-effort (MOE) expenditures increases over a base year; 2) subsidized employment; and, 3) non-recurrent short-term benefits.

This money is available either as 80 percent reimbursement for actual expenditures or as upfront funding for 80 percent of estimated new or expanded program costs. Funds received as reimbursement may be used for any allowable TANF purpose except for transfers to the federal CCDBG or SSBG (this is true for Contingency Funds also) whereas funds received "prospective" of expenditures must be used for the purpose for which they were awarded. It is important to remember that the initial 20 percent share of increased or new costs may be funded with federal, state, local or third-party money, or some combination of the four. States must earn ECF money by September 30, 2010 but funds received from the ECF can be carried over for use beyond that date.

New York's Awards to Date

To date, New York has received a total of approximately \$690 million, or 56.5 percent of its total \$1.221 billion allocation. This represents: 1) \$498.5 million from two Contingency Fund awards and 2) \$191.4 million from two ECF awards (see the following table). New York's first contingency fund award of \$407.16 million in February 2009 (this represented an award for ten/twelfths or ten months of federal fiscal year 2009) allowed the state to restore supportive services to the proposed budget and to expand other programs while funding new jobs initiatives such as the Green Jobs and Health Care Jobs programs along with the new Transitional Jobs program (approximately \$120 million). It also allowed the state to accelerate the public assistance grant increase by six months for each of the three years of implementation and to take over the local share of the increase for the first three years (estimated at approximately \$123.5 million; this amount, along with the allocation of approximately \$52.5 million for the state share, totals to \$176 million of the award). Finally, the state was able to set aside more for child care subsidies over three years (totaling approximately \$110 million). See the table: Differences between Proposed and Enacted 2009-2010 State Budget due to \$407 Million TANF Contingency Fund Award, for more information.

⁵ Please see FPI's issue briefs on how New York can take advantage of the TANF Emergency Contingency Fund at http://www.fiscalpolicy.org/tanf_contingencyfunds.html.

New York has made good use of the federal government's TANF Contingency Funds during the current recession. It should continue to do so.

New York's Maximum Allocation of TANF Contingency and TANF Emergency Contingency Funds	TANF Contingency and Emergency Contingency Funds Awarded to New York State to Date		Percent of Maximum Allocation Awarded to Date	Additional Amount Available to New York (by Sept. 30, 2010)
	Pre-ARRA Contingency Fund (now exhausted)	ARRA-created Emergency Contingency Fund		
	\$498.4 million	\$191.4 million		
\$1,221 million	\$689.9 million		56.5%	\$531.6 million

In 2009, Contingency Fund awards allowed New York State to:

- accelerate the grant increase and set aside funds to pay for 3 years of the local share of the cost of that increase;
- restore and initiate TANF services including new subsidized employment programs;
- allocate more funds to child care.

To date, ARRA Emergency Contingency Funds have been approved on the basis of:

- increased basic assistance costs, \$33 million;
- new and expanded subsidized employment program costs, \$18.4 million;
- Back to School allowance for over 800,000 children, \$140 million.

New York State is likely to qualify for additional TANF Emergency Contingency Fund awards of more than \$473 million because of growth in the cost of the state tax credits for TANF-eligible recipients and growth in public assistance and other non-recurrent short-term benefit costs.

New York was also awarded \$140 million in ECF money in July 2009 for its Back-to-School allowance—a non-recurrent short-term benefit—that provided \$200 per child for families on food stamps and/or public assistance and \$33 million in November 2009 for increased basic assistance spending after meeting the criteria of increased caseloads in the last quarter of FFY 2008-2009—July through September 2009 (this \$33 million will be used in 2010-2011 for public assistance costs). These two amounts along with the \$18.4 million received for increased spending in subsidized employment to date, sum to the \$191.4 million that New York has drawn so far from the ECF.

Over the first quarter of federal fiscal year 2010, October through December 2009, the state qualified for its last Contingency Fund award of \$91.3 million. This represents less than three-twelfths of New York’s potential annual award from this fund as it is now exhausted.

- 1) \$18 million of these funds will be used in the proposed 2010-2011 budget to fund a portion of the \$92 million in TANF initiatives;
- 2) \$20 million will be used to cover a gap in public assistance funding from 2009-2010; and
- 3) \$53 million will be used to offset the state share of public assistance costs.

In the upcoming 2010-2011 state fiscal year, the state anticipates using a further \$473 million from the Emergency Contingency Fund for public assistance.

- 1) \$75 million will be used to cover the gap in public assistance funding from 2009-2010;
- 2) \$34 million will be used to cover an estimated gap in public assistance funding for 2010-2011;
- 3) \$157 million will be used to offset increased costs due to anticipated caseload growth and will pay for an increase to the federal share and offset the state share of assistance; and
- 4) \$207 million (as a result of using tax credits to draw down ECF money) will be used to offset the state share of public assistance and provide fiscal relief to the state.

Finally, New York anticipates earning an additional \$74 million in ECF awards, which will be used to fund the remainder of the total \$92 million in initiatives in the 2010-2011 budget. These two amounts—\$473 million and \$74 million sum to the \$546 million (\$547 million rounded) in additional ECF money that the state anticipates qualifying for in the current federal fiscal year as the result of increases to basic assistance costs and non-recurrent short-term benefit costs.

More impacts on the current budget

Even though awards from the two contingency funds allowed the state to restore and expand various programs at the start of the current fiscal year, they also allowed the state to move funds from one program to another. For instance, Contingency Funds were used initially to fund the three new subsidized employment programs and expand the existing Wage Subsidy program. In April 2009, however, the federal Department of Health and Human Services (HHS) issued guidance on how states could apply for the ECF and confirmed that funds could be requested to

Differences Between Proposed and Enacted 2009-2010 State Budget due to \$407 Million TANF Contingency Fund Award

(This shows only the TANF programs whose appropriations changed as a result of New York receiving the Contingency Fund Award.)

Category	<u>2009-10</u> <u>Proposed Budget</u>	<u>2009-10</u> <u>Enacted Budget</u>	<u>Difference due to Regular</u> <u>Contingency Fund</u>	
<u>Expansions:*</u>				
Basic and Emergency Assistance (includes EITC-related offset) and Administration**	\$995,500,000	\$1,031,225,000	\$16,000,000	Local Share of Grant Increase
			\$15,000,000	State Share of Grant Increase
Child Care Subsidies***	\$356,300,000	\$392,967,000	\$36,667,000	
BRIDGE	\$6,503,000	\$8,503,000	\$2,000,000	
Wheels for Work	\$4,000,000	\$7,000,000	\$3,000,000	
Wage Subsidy	\$4,000,000	\$14,000,000	\$10,000,000	
Supplemental Homeless Intervention Program	\$4,000,000	\$5,000,000	\$1,000,000	
Emergency Homeless Program	\$1,000,000	\$2,000,000	\$1,000,000	
<u>Restorations (not in the 2009-10 proposed budget but in the enacted 2008-09 budget)</u>				
Child Care Demonstration Projects		\$10,900,000	\$10,900,000	
Displaced Homemakers		\$5,600,000	\$5,600,000	
Technology Training (ATTAIN)		\$7,000,000	\$7,000,000	
Rochester-Genesee Regional Transportation Authority		\$2,000,000	\$2,000,000	
Centro of Oneida		\$125,000	\$125,000	
Career Pathways		\$10,000,000	\$10,000,000	
VESID/LIVES		\$1,500,000	\$1,500,000	
Refugee Resettlement Program		\$1,425,000	\$1,425,000	
ACCESS - Welfare to Careers		\$500,000	\$500,000	
Strengthening Families through Stronger Fathers****		\$2,764,000	\$2,764,000	
<u>Programs not in the 2009-10 proposed budget or the 2008-09 enacted budget for TANF Initiatives</u>				
Preventive Services		\$18,793,000	\$18,793,000	
Advantage After Schools		\$11,391,000	\$11,391,000	
Home Visiting		\$5,822,000	\$5,822,000	
Alternatives to Detention		\$10,752,000	\$10,752,000	
Community Reinvestment		\$5,000,000	\$5,000,000	
Settlement House		\$6,000,000	\$6,000,000	
Caretaker Relative		\$1,998,000	\$1,998,000	
Educational Resources*****		\$3,000,000	\$3,000,000	
<u>New Programs</u>				
Green Jobs Corp		\$5,000,000	\$5,000,000	
Health Care Jobs		\$5,000,000	\$5,000,000	
Transitional Jobs		\$5,000,000	\$5,000,000	
Nurse-Family Partnership		\$5,000,000	\$5,000,000	
<u>Allocations for Future Spending (Approximate)</u>				
Local Share of Assistance Grant Increase in 2010-2011			\$40,000,000	
Local Share of Assistance Grant Increase in 2011-2012			\$67,500,000	
State Share of Assistance Grant Increase in 2010-2011			\$17,500,000	
State Share of Assistance Grant Increase in 2011-2012			\$20,000,000	
Child Care Subsidies in 2010-2011			\$36,700,000	
Child Care Subsidies in 2011-2012			\$36,700,000	
Total Approximate Difference			\$427,637,000	

* Some of these expansions are considered restorations to earlier levels of funding.

** According to the Division of Budget, there is an error in the Proposed Budget amount, it should have been \$1,000,000,000.

*** In the governor's proposed budget, these child care subsidies were part of the Flexible Fund for Family Services.

The state may not transfer regular Contingency Fund money to the Child Care Development Block Grant. However, as the state uses contingency fund money for allowable, already-budgeted purposes, it frees up TANF block grant money for other purposes such as child care subsidies.

**** This program was funded through the General Fund in the 2008-2009 fiscal year.

***** This is a collapsed representation of Adult and Family Literacy; Basic Education; and Language Immersion/ESL programs.

Source: Executive (proposed) and enacted budget bills available at http://www.budget.state.ny.us/pubs/0910_budgetPublicationsAll.html and email communications with the state Division of Budget.

Emergency Contingency Funds (ECF) and Contingency Funds Use

\$443 million in TANF Base and Initiatives spending were/will be funded in the 2009-2010 budget with the \$407 million Contingency Fund award and \$36 million Emergency Contingency Funds for subsidized employment. See other tables for the budgetary impact of the Contingency Fund in the 2009-2010 state fiscal year.

HHS Approved/Awarded

<u>Item</u>	Source of Funds	
	In thousands	
	Contingency Fund	Emergency Contingency Fund
<i>In proposed 2010-2011 Budget:</i>		
<u>Base:</u>		
Public Assistance:		
For grant increases	\$57,000	FFY 2009 Award
To cover gap from 2009-2010	\$20,000	FFY 2010 Award
Offset to the state share	\$53,000	FFY 2010 Award
<u>Initiatives</u>		
Child Care Subsidies	\$37,000	FFY 2009 Award
Portion of Initiatives Total (see below) to be paid for with Contingency Funds	\$18,000	FFY 2010 Award
TOTAL	\$185,000	

In future 2011-2012 budget:

<u>Base:</u>		
Public Assistance Benefits (for grant increases)	\$87,000	FFY 2009 Award
<u>Initiatives</u>		
Child Care Subsidies	\$37,000	FFY 2009 Award
TOTAL	\$124,000	

HHS Approval Anticipated

In proposed 2010-2011 Budget:

<u>Base:</u>		
Public Assistance		
To cover gap from 2009-2010		\$75,000
To cover an estimated gap in 2010-2011		\$34,000
Offset to the state share		\$207,000
If caseload growth occurs		\$157,000
<u>Initiatives:</u>		
Disability Advocacy Program	\$2,500	
Emerg Food Supplement	\$10,000	
Green Jobs Corp	\$3,000	
Health Care Jobs Corp	\$5,000	
Intensive Case Services	\$19,626	
Local Family Support Fund	\$41,500	
Transitional Jobs	\$10,000	
<u>Initiatives Total</u>	<u>\$91,626</u>	
Portion of Initiatives Total to be paid for with ECF		\$74,000
TOTAL		\$547,000

pay for 80 percent of “prospective” expenditures. New York State then shifted some of the Contingency Funds allocated to these programs to other TANF Initiatives and used the remaining funds to draw down ECF money.

Funding from the TANF Emergency Contingency Fund and Contingency Fund for Subsidized Employment, in millions

	Amount in enacted 2009-10 budget from Contingency Fund	Changed amount in 2009- 10 budget from Contingency Fund, used to draw down ECF	Total anticipated from ECF	Total Program Size
Transitional Jobs	\$5	\$5	\$20	\$25
Green Jobs	\$5	\$1	\$4	\$5
Health Care Jobs	\$5	\$1	\$4	\$5
Wage Subsidy Program*	\$10	\$2	\$8	\$10
TOTAL	\$25	\$9	\$36	\$45

*The Wage Subsidy Program grew from \$4 million to \$14 million after the Contingency Fund award was used for the enacted budget.

The second column in the above table shows that \$16 million of the original contingency funding was directed elsewhere and the remaining \$9 million was used to draw down \$36 million in ECF dollars for estimated new and increased spending on these programs. Therefore, while the state had the option to use the total \$25 million in new funding to draw down a potential \$100 million more for subsidized employment from the ECF, it took this action only for the Transitional Jobs program.

Child Care Subsidies in New York State

In New York State, working families that receive a child care subsidy are required to pay a portion of their child care costs. “This is called the family share or copayment, which is calculated by multiplying a percentage, chosen by the social services district, by the amount of the family’s income that exceeds the poverty level. Regulations allow for districts to choose a multiplier anywhere between 10 percent and 35 percent.”⁶

Even though state law provides that such assistance shall be based upon a family’s ability to pay, inequities exist in all regions of the state. Analysis conducted by the Fiscal Policy Institute with the Empire Justice Center indicates that there is no relationship between personal income and costs for housing or child care and the multipliers used to generate the copayments for child care that social services districts charge working poor families.

More specifically, there is no pattern indicating that either 1) in counties with relatively smaller per capita personal income (PCPI), districts are asking families to pay less in copays than elsewhere or, 2) that districts in counties with higher PCPI are providing working poor families with smaller copays for child care than elsewhere.

Looking at families of three whose income is at 200 percent of the federal poverty level:

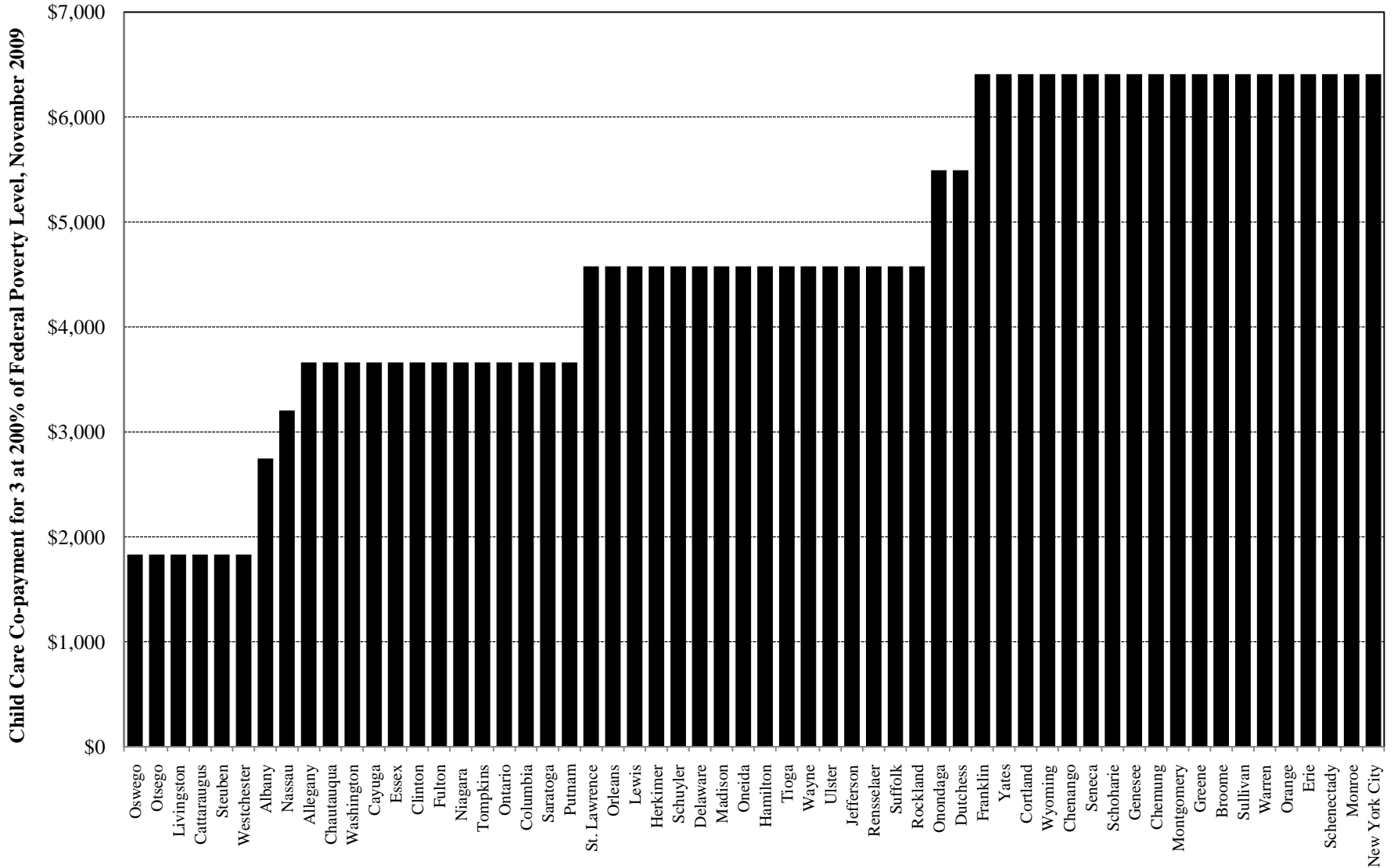
- Among counties with the lowest per capita personal income, family shares for child care run the full range from 10 to 35 percent. PCPI for Oswego County is approximately \$26,500 and the family share there is 10 percent for a resulting annual family copay of \$1,831. But in Yates County, where PCPI is almost \$26,300, the family share is 35 percent for an annual copay of \$6,408 or three and a half times that in Oswego County.

There is also little or no relationship between living costs and the copayments for child care that these families are required to provide.

- In the ten counties with the highest median rental costs, family shares for child care vary from 10 to 35 percent. For example, in Westchester County where median rental costs are about \$1,140 per month, the family share for child care is 10 percent, for a copay of \$1,831 per year. But in Putnam county, where rental costs are the same, the family copay is double this amount and in Orange county that has a median rental cost of about \$980, families are required to pay \$6,408, or, three and a half times what similarly-situated families pay in Westchester.

⁶ Akhtar, Saima and Susan Antos, *Mending the Patchwork*, Empire Justice Center, January 2010 and see 18 NYCRR, § 415.3 (e) (3).

Inequities in child care subsidies exist in all regions of the state. Families may pay up to 4 times what similarly situated families elsewhere pay.



New York City has a 12% cap that results in lower co-payments depending on family income .

- Concerning child care rates, in Orange County, the weekly rate for center care for 3-5 year olds is \$205 and in Westchester County, it is \$265—this is the range for this kind of care downstate—compared to \$160 and \$196 elsewhere. As in the example above, the copays that families in these two districts must pay are vastly different: \$6,408 in Orange versus \$1,831 in Westchester.

This variation occurs also in counties with relatively lower rental and child care costs than downstate. Again, family shares vary anywhere from 10 to 35 percent and the resulting annual co-payments for families of three with incomes at 200 percent of the federal poverty level vary significantly, from \$1,831 to \$6,408.

Therefore, districts' discretion in providing child care subsidies does not ensure equal access to child care funds, and the current formula and guidelines provided by the state to set these family shares should be changed.

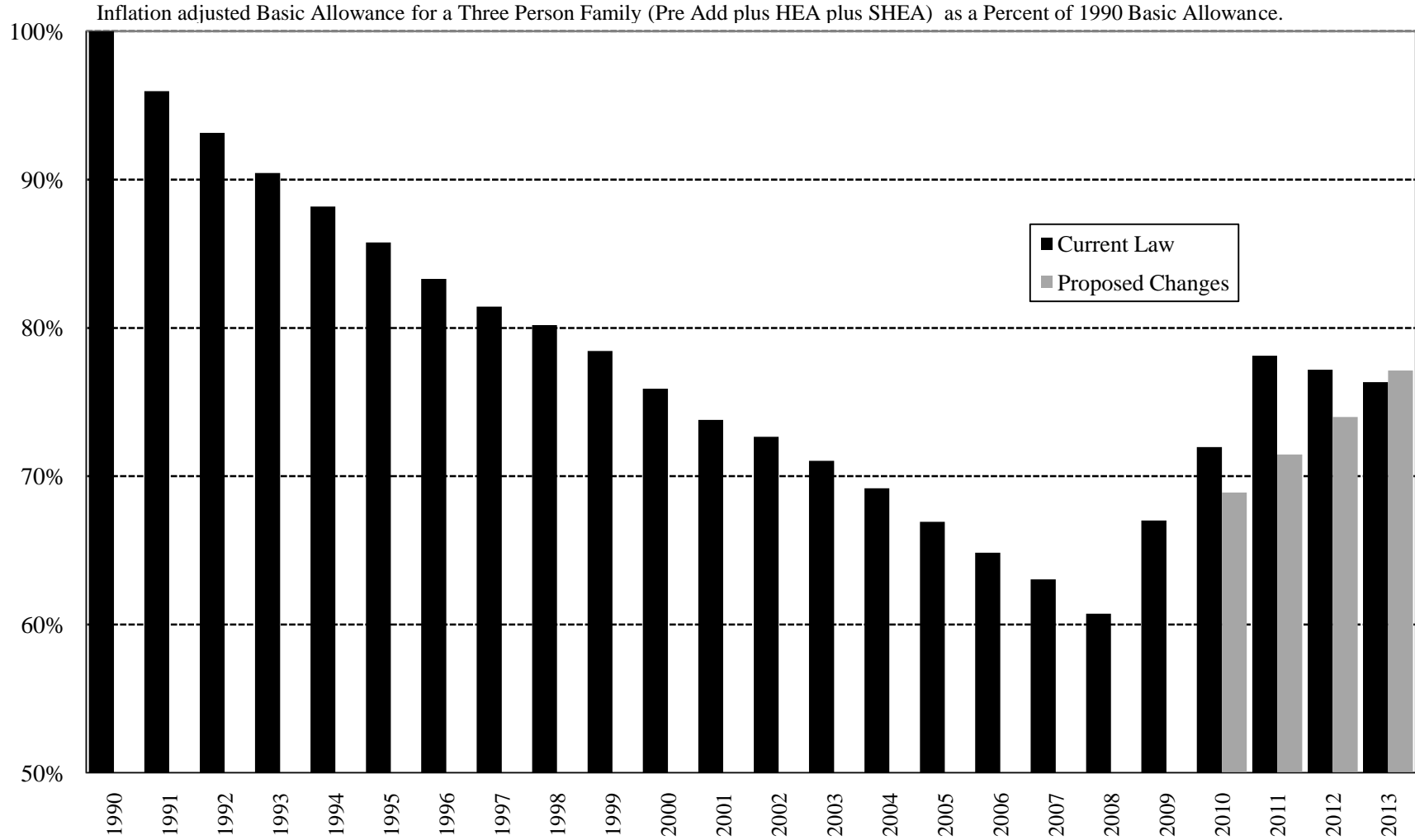
Child Care Copays for Families of 3

County	Family Share (or Fee Percentage)	County Per Capita Personal Income	Copay Amount at 175% of Federal Poverty Level	Copay Amount at 200% of Federal Poverty Level	Weekly Cost of Group Family Care: 3- 5 year olds	Weekly Cost of Center Care: 3-5 year olds	Weekly Cost
							of Registered Family Daycare, 1 1/2 2 year olds
Albany	15.0%	\$42,099	\$2,060	\$2,747	\$195	\$205	\$191
Allegany	20.0%	\$23,292	\$2,747	\$3,662	\$140	\$160	\$139
Bronx	35.0%	\$26,001	\$4,806	\$6,409	\$175	\$217	\$150
Broome	35.0%	\$31,337	\$4,806	\$6,409	\$140	\$160	\$139
Cattaraugus	10.0%	\$28,841	\$1,373	\$1,831	\$140	\$160	\$139
Cayuga	20.0%	\$29,033	\$2,747	\$3,662	\$140	\$160	\$139
Chautauqua	20.0%	\$26,986	\$2,747	\$3,662	\$140	\$160	\$139
Chemung	35.0%	\$29,999	\$4,806	\$6,409	\$140	\$160	\$139
Chenango	35.0%	\$27,661	\$4,806	\$6,409	\$140	\$160	\$139
Clinton	20.0%	\$29,500	\$2,747	\$3,662	\$140	\$160	\$139
Columbia	20.0%	\$35,661	\$2,747	\$3,662	\$175	\$196	\$161
Cortland	35.0%	\$27,130	\$4,806	\$6,409	\$140	\$160	\$139
Delaware	25.0%	\$28,122	\$3,433	\$4,578	\$140	\$160	\$139
Dutchess*	30.0%	\$41,667	\$4,120	\$5,493	\$195	\$205	\$191
Erie	35.0%	\$36,116	\$4,806	\$6,409	\$175	\$196	\$161
Essex	20.0%	\$29,145	\$2,747	\$3,662	\$140	\$160	\$139
Franklin	35.0%	\$25,381	\$4,806	\$6,409	\$140	\$160	\$139
Fulton	20.0%	\$30,033	\$2,747	\$3,662	\$140	\$160	\$139
Genesee	35.0%	\$29,578	\$4,806	\$6,409	\$140	\$160	\$139
Greene	35.0%	\$30,828	\$4,806	\$6,409	\$140	\$160	\$139
Hamilton	25.0%	\$30,834	\$3,433	\$4,578	\$140	\$160	\$139
Herkimer	25.0%	\$27,341	\$3,433	\$4,578	\$140	\$160	\$139
Jefferson	25.0%	\$34,309	\$3,433	\$4,578	\$140	\$160	\$139
Kings	35.0%	\$31,768	\$4,806	\$6,409	\$175	\$217	\$150
Lewis	25.0%	\$26,193	\$3,433	\$4,578	\$140	\$160	\$139
Livingston	10.0%	\$28,454	\$1,373	\$1,831	\$140	\$160	\$139
Madison	25.0%	\$30,332	\$3,433	\$4,578	\$140	\$160	\$139
Monroe	35.0%	\$39,314	\$4,806	\$6,409	\$175	\$196	\$161
Montgomery	35.0%	\$30,269	\$4,806	\$6,409	\$140	\$160	\$139
Nassau	17.5%	\$62,981	\$2,403	\$3,204	\$265	\$265	\$263
New York	35.0%	\$120,790	\$4,806	\$6,409	\$175	\$217	\$150
Niagara	20.0%	\$30,448	\$2,747	\$3,662	\$140	\$160	\$139
Oneida	25.0%	\$30,623	\$3,433	\$4,578	\$140	\$160	\$139
Onondaga	30.0%	\$37,227	\$4,120	\$5,493	\$175	\$196	\$161
Ontario	20.0%	\$35,527	\$2,747	\$3,662	\$175	\$196	\$161
Orange	35.0%	\$34,643	\$4,806	\$6,409	\$195	\$205	\$191
Orleans	25.0%	\$25,697	\$3,433	\$4,578	\$140	\$160	\$139
Oswego	10.0%	\$26,513	\$1,373	\$1,831	\$140	\$160	\$139
Otsego	10.0%	\$28,235	\$1,373	\$1,831	\$140	\$160	\$139
Putnam	20.0%	\$50,813	\$2,747	\$3,662	\$265	\$265	\$263
Queens	35.0%	\$36,073	\$4,806	\$6,409	\$175	\$217	\$150
Rensselaer	25.0%	\$34,592	\$3,433	\$4,578	\$175	\$196	\$161
Richmond	35.0%	\$42,333	\$4,806	\$6,409	\$175	\$217	\$150
Rockland	25.0%	\$53,482	\$3,433	\$4,578	\$265	\$265	\$263
Saratoga	20.0%	\$40,714	\$2,747	\$3,662	\$175	\$196	\$161
Schenectady	35.0%	\$37,593	\$4,806	\$6,409	\$175	\$196	\$161
Schoharie	35.0%	\$29,270	\$4,806	\$6,409	\$140	\$160	\$139
Schuyler	25.0%	\$27,741	\$3,433	\$4,578	\$140	\$160	\$139
Seneca	35.0%	\$29,099	\$4,806	\$6,409	\$140	\$160	\$139
St. Lawrence	25.0%	\$24,854	\$3,433	\$4,578	\$140	\$160	\$139
Steuben	10.0%	\$35,141	\$1,373	\$1,831	\$140	\$160	\$139
Suffolk	25.0%	\$47,624	\$3,433	\$4,578	\$265	\$265	\$263
Sullivan	35.0%	\$31,490	\$4,806	\$6,409	\$140	\$160	\$139
Tioga	25.0%	\$30,847	\$3,433	\$4,578	\$140	\$160	\$139
Tompkins	20.0%	\$30,551	\$2,747	\$3,662	\$175	\$196	\$161
Ulster	25.0%	\$34,051	\$3,433	\$4,578	\$195	\$205	\$191
Warren	35.0%	\$33,126	\$4,806	\$6,409	\$175	\$196	\$161
Washington	20.0%	\$27,325	\$2,747	\$3,662	\$140	\$160	\$139
Wayne	25.0%	\$31,613	\$3,433	\$4,578	\$140	\$160	\$139
Westchester	10.0%	\$74,878	\$1,373	\$1,831	\$265	\$265	\$263
Wyoming	35.0%	\$27,401	\$4,806	\$6,409	\$140	\$160	\$139
Yates	35.0%	\$26,299	\$4,806	\$6,409	\$140	\$160	\$139

Recommendations

- 1) The Legislature should phase in the basic assistance grant increase as scheduled. During a recession of the type that we are currently experiencing, this is a good way to help needy families and stimulate economic activity in the communities in which those families live.
- 2) The Legislature should consider options for addressing the barriers that eligible families face in receiving basic assistance. To address eligibility, New York could:
 - Repeal the 185 percent of the standard of need criterion.
 - Increase the current earned income disregard.
 - Review the asset limits for eligibility.
 - Improve awareness of and access to opportunities for applying for temporary assistance.
- 3) The Executive Budget documents do not clearly explain the use of the TANF block grant in financing the EITC as an offset to the state share of public assistance costs and how this affects payment of the state and local shares of public assistance. The Fiscal Committees should request (and make public) a supplementary explanation.
- 4) The Legislature should advocate for Congress to extend the deadline to access (and increase the funding for) the federal TANF Emergency Contingency Fund (ECF). Among other things, this would provide the state with incentive to continue operating new programs, for instance in subsidized employment, that are currently funded with ECF money.
- 5) The Executive Budget documents do not clearly explain a) the categories in which New York State qualified for (and/or is likely to qualify for) ECF funds; b) how and when New York State used or is going to use these funds; c) which ECF awards were requested as reimbursement for actual expenditures and which were requested “prospective” of expenditures—i.e., as upfront funding for estimated new or increased costs. If ECF funds are awarded as reimbursement, they may be used for *any* allowable TANF purpose (except for transferring to the federal CCDBG and SSBG)—not just basic assistance or the category in which they were earned. If ECF money is awarded as upfront funding, it must be used for the purpose for which it was requested and awarded. This information would make it easier to understand the impact of New York’s ECF and Contingency Fund awards in the current state fiscal year and upcoming fiscal years. The Fiscal Committees should request (and make public) such information.
- 6) The legislative fiscal committees should consider alternative ways to earn ECF awards or to use awarded ECF money. Even though the Executive Budget proposes to use ECF to pay incremental costs in public assistance, options may exist for funding at least a portion of increased assistance costs other ways, and either 1) other ECF-eligible TANF

The state began to implement a three-year increase to New York's cash grant on July 1, 2009, but the proposal to decelerate that change will reduce increases to the grant's purchasing power until 2013.



Uses actual CPI-U through 2008 and forecasted CPI-U through 2012 from the Congressional Budget Office.

programs that provide other kinds of necessary support to families could be expanded and thereby earn ECF dollars, and/or 2) ECF money that has been awarded already as reimbursement could be directed to any allowable TANF purpose. The two areas that provide specific options for seeking ECF awards (along with increases to basic assistance) are:

- a) Non-recurrent Short-term Benefits. New York could expand emergency assistance or time-limited help with:
 - Security deposits and moving expenses for housing,
 - Short-term legal services (proposed by the Empire Justice Center),
 - Expansion of transportation supports such as the Wheels for Work program,
 - Other one-shot “stimulus” payments or lump-sum diversion programs such as another round of the Back-to-School Clothing allowance that was carried out in July 2009.
 - b) Subsidized Employment. Overall, New York has underutilized the training, education and work experience options available through the TANF program. Investing more funds in subsidized employment would support the state’s effort to meet its work participation requirements under the TANF rules.
- 7) The Legislature should require OTDA to publish an annual tabulation of actual expenditure information on annual state fiscal year TANF block grant spending and on other TANF funds such as the Emergency Contingency Fund and the Contingency Fund. Such information should also be provided for the previous state fiscal year along with estimated actual expenditures for the current fiscal year in conjunction with the annual submission of the Executive Budget.
 - 8) The Legislature should require the local social services districts to submit reports of actual expenditures on TANF-related assistance and support services for TANF eligible populations including tabulations of actual expenditures made through the Flexible Fund for Family Services. Currently, the local social services districts are required to submit plans for their proposed expenditure of their allocation from the Flexible Fund for Family Services and to submit vouchers for payment but they do not submit or publish tabulations of actual expenditures nor are they required to do so.

Child Care

- 9) In the short term, New York State should cap child care payments at 12 percent of household income. In the long term, it should implement a copayment structure that is based on a family’s ability to pay.