

Race Matters

**Impact of the 2010-11
Executive Budget Proposal**

PUBLIC POLICY AND EDUCATION FUND OF NEW YORK

MARCH 2010

“Though race related issues continue to occupy a significant portion of our political discussion, and though there remain many unresolved racial issues in this nation, we, average Americans, simply do not talk enough with each other about race.”

*- United States Attorney General Eric Holder
February 18, 2009*

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Acknowledgements

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As an examination of the citations to this report indicates, we've also extensively consulted the budget testimony and other budget publications written by numerous colleagues in the non-profit world and social justice movements. We'd like to thank them for their research and advocacy, particularly on behalf of people of color and vulnerable New Yorkers.




PPEF is of course fully responsible for any errors in this report.

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A Note On the Issue Sections of This Report

Each of the issue sections of this report, beginning with “Education,” has been divided into two sections: “Some Key Executive Budget Actions” and “Impact on Communities of Color.”

Executive Budget actions that have a positive impact on reducing racial and ethnic disparities are signified by a  , actions with a negative impact are signified by a  , and actions for which we believe the impact is a mixed one (with positive and negative elements) are signified by a  .

Introduction

While many New Yorkers of all races enjoy great educational, professional and social success, the majority of people of color in the Empire State remain perilously stranded in the shadows of the American dream. Although both the nation and state are led by accomplished people of color, the overall condition of people of color in New York is distressing, and the current national economic crisis and cuts in government programs only serve to further harm our communities.

Last year, we released the first “Race Matters” report showing that the 2009-10 Executive Budget made choices that would disproportionately hurt communities of color in New York State. The State Legislature ultimately mitigated some of the pain by passing a progressive income tax and restoring some of the worst cuts. However, this year’s proposed budget shamefully takes the path of heavily cutting many programs and services that communities of color depend on rather than opting to draw from the well cushioned coffers of corporate CEOs and other wealthy New Yorkers.

The New York State Fiscal Year (FY) 2010-11 budget that will be enacted this spring will have a major impact on our state’s economy, our communities, our schools and our social safety net. The final choices will say a great deal about our priorities as a state and whether we are willing to make the choices that will lead to economic recovery for all New Yorkers by reducing racial and ethnic disparities.

As we talk to people across the state, we find that New Yorkers want a just budget. Despite a projected deficit for Fiscal Year 2010-11 of over \$9 billion, New Yorkers want a budget that lifts up everyone, especially those who are facing hard economic times, that protects communities and families in crisis, and that provides New Yorkers with a path toward economic recovery and a better future.

This report discusses how the Executive Budget met these standards. This report reviews the administration’s funding proposals for a number of vital state programs in the areas of education, higher education, health care, human services and criminal and juvenile justice to find out if the state spending plan will increase or decrease racial and ethnic disparities in the state. We also feature stories of New Yorkers of color that are impacted by the proposed budget.

The State of New Yorkers of Color

Unfortunately, the Governor and Legislature must do their work in the midst of the current devastating national economic downturn, the longest and deepest recession since the 1930s, which has already eliminated 8.4 million jobs nationwide.¹ The effects of the “Great Recession” on New Yorkers are mind-numbing: a 300,000 increase in unemployment in the first half of 2009 compared to the previous year, over 50,000 foreclosures in 2008, and rising bankruptcies.²

As bad as the economic situation today is for all New Yorkers, things are far worse for people of color, and by some measures, disparities are increasing:

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- **Official Unemployment Rate:** *From the first half of 2008 to the first half of 2009, the “official” unemployment rate for all New Yorkers went up 3.3% (from 5.6% to 8.9%), but the unemployment rate among Black men jumped almost 10% during this period (8.4% to 18.3%). (Unemployment climbed over 4% for Black women.)*³
- **The “Real” Unemployment Rate:** *When “discouraged” workers and those involuntarily working part-time are added in, the “real” unemployment rate in the first half of 2009 rose to 27.2% for Black men (17.4% for Hispanic men, 18.8% for Hispanic women).*⁴
- **Wages:** *The wages of white males in New York dropped more than 5% between the 2002 peak and 2008, but the wages of Black males (lower in 2002 than white males already) dropped 13.8%.*⁵
- **Foreclosures:** *In New York City, as in other parts of the nation, due to predatory lending practices, high foreclosure rates were concentrated in neighborhoods where people of color predominate. According a recent analysis, 88% of census tracts in New York City with the highest risk of foreclosure are more than 90% non-white.*⁶
- **Poverty and Language Barrier for Asian Pacific Americans:** *Asian Pacific Americans in New York State often face the dual challenges of high poverty rates and language barriers. For example, in New York City, which has the largest concentration of Asian Pacific Americans in the state, 25.9% of Asian-Americans are below the poverty line and 28% are in linguistic isolation - the highest rate of any ethnic group.*⁷

These statistics highlight the basic point that the economic pain of the Great Recession is not evenly spread either in New York State or nationally. Forty years after the death of Dr. Martin Luther King, Jr., racial and ethnic disparities in New York and throughout the nation persist, by such basic measures of well-being as employment and income, and in regard to the access of different groups to basic resources like education and health care.

As a consequence, it is not enough for state leaders to just address the major problems of the state from the standpoint of the population as a whole. We do not live in a “colorblind” society, and it simply is not true that a “rising tide lifts all boats.” For example, the well-being of African-Americans suffered in the 2000 to 2007 period, even in a time of economic expansion.⁸ Guaranteeing that people of color have equitable access to resources is a matter of fundamental fairness, and this must be done through race-conscious policies: policies that are aimed at the particular needs of each racial and ethnic group.

Addressing the needs of people of color is fundamentally important to the future of the state as a whole. New York State is among the most diverse states in the nation. According to census data, 26% of the state’s population is non-white as compared to 20% for the nation as a whole. New York has more African-Americans, Asian Pacific Americans, and Hispanics than the national averages for these groups.⁹ A diverse range of immigrants make up 21% of the state population, compared to the 12% in the United States overall.¹⁰ Twenty-eight percent of New Yorkers live in households where a language other

than English is spoken at home as compared to 18% for the nation as a whole. Twenty percent of New Yorkers are foreign-born, as compared to 11% nationally.¹¹

These facts underscore that when we examine the state budget, we can't just look at the impact on New Yorkers as a whole. A full picture must consider to what extent the budget reduces the impact on people of color of the economic downturn. **From that standpoint, our look at the programs featured in this report concludes that while some proposals in the Executive Budget have a positive impact, on balance, the budget would have a disproportionately negative impact on communities of color** (see the "Key Findings" below). The State must rectify this imbalance by, first and foremost, restoring funding to the programs that have the greatest impact on racial and ethnic disparities and to other areas like education that will ultimately help our state economy to thrive in the short and long-term.

Upstate New York's Communities of Color Must Also Be Considered

The need for maintaining vital programs like schools, health care and human services that people of color and others depend on is not an issue just for New York City and downstate communities. Despite the impression of many that people of color in New York State all live in New York City and that upstate New York is all white, in fact increasing numbers of African-Americans, Hispanics and even Asian Pacific Americans are locating to New York's upstate cities. In the 1990s, both because of a declining white population and rising numbers of other racial and ethnic groups, the percentage of people of color upstate gradually increased: whites declined by nearly 200,000, while Blacks increased by 70,000, Hispanics by 85,000, and Asians by 25,000.¹² Immigrants too, moved into several upstate cities, for example, Bosnians to Utica and Guyanese to Schenectady.¹³

Population of 5 Upstate New York Cities: % of Each Race & of Hispanics						
Race	Albany	Syracuse	Rochester	Buffalo	Binghamton	All 5 Cities
White	59.4%	61.0%	48.0%	52.2%	81.8%	55.4%
African American	28.7%	27.5%	40.8%	39.1%	9.1%	34.3%
American Indian and Alaska Native	0.5%	1.1%	0.3%	0.7%	0.4%	0.6%
Asian	3.7%	4.2%	2.6%	1.7%	3.7%	2.8%
Native Hawaiian and Pacific Islander	0%	0.1%	0.1%	0%	0.1%	0%
Other Races	4.1%	1.0%	5.1%	3.7%	1.7%	3.5%
Two or More Races	3.6%	5.1%	3.0%	2.5%	3.1%	3.3%
Total All Races	100%	100%	100%	100%	100%	100%
Hispanics	6.9%	6.2%	13.8%	13.8%	5.8%	9.2%

Calculated by PPEF from U.S. Census American Community Survey, 2006-2008

As shown by the chart on the previous page, by the 2006-2008 period, roughly one-third (34.3%) of residents of the cities of Buffalo, Rochester, Syracuse, Albany and Binghamton combined were African-American, 9.2% were Hispanic and 2.8% were Asian.

Seventeen percent of residents of upstate and Long Island as a whole are non-white, and almost a third (28.9%) of non-whites in the state now do not live in New York City.¹⁴

One key implication of the increase in the number of African-Americans, Hispanics, Asians and immigrants in our upstate cities is that any serious plan to revive the lagging upstate economy must explicitly take the needs of these new residents into account. While “the majority of low-income New Yorkers live in ... [New York City]... it isn’t an overwhelming majority.” For example, as of 2004, 17.2% of Manhattan residents were poor, but 10.8% of Monroe County (Rochester) and 11.2% of Erie County (Buffalo) residents were also poor.”¹⁵ We need to build an upstate-downstate alliance to ensure that funding for our basic social safety net and other critical services like schools and health care institutions is protected from the worst consequences of the recession. **We must also ensure that state-funded services are equitably distributed throughout the state.**

Alternatives to the Cuts

In the face of the admittedly huge budget deficit this year, we are hearing a predictable hue and cry from some politicians and conservative business-funded think tanks that New Yorkers need to “live within our means.” Those making this point often

conveniently forget that the most vulnerable New Yorkers have been “belt tightening” for years. As we discuss in this report, many critical programs - from civil legal services, to criminal defense, to health care - have suffered round after round of cuts in recent years. And in the area of education, low-income children have never received the funding increases they were promised by the Legislature in the first place, even though the increases are constitutionally mandated.

As we explain further in the section on revenue and taxes, there are alternatives to using cuts as the primary means to meet our obligation under the state constitution to balance the state budget. The administration has proposed some steps to generate additional revenue as well as other fiscal measures. We have to build on these steps. **We must seriously look at any reasonable revenue alternatives available to the state rather than continuing on the path of further harming New Yorkers who are hurting the most in these hard economic times.**

Key Findings

This report examines a number of key components of the Executive Budget for FY 2010-11 in order to determine its impact on communities of color. Our analysis examined whether major proposals in the budget would reduce existing racial and ethnic disparities, or widen racial and ethnic inequality in the state.

1. In several critical areas, the cuts and deferred spending in the Executive Budget would exacerbate racial and ethnic inequality. Some examples are below.

Education -The \$1.4 billion school aid cut - the largest in state history - disproportionately harms students of color and those who have limited English proficiency because they tend to live in school districts that are dependent on state aid, undermining the goals of the landmark 2007 school aid reform law. The budget also delays the promised increases in “foundation aid” under the 2007 law until 2012-13.

Higher Education - The significant cuts to the City University of New York (CUNY) and the State University of New York (SUNY) are threatening to restrict access to the public higher education institutions that have traditionally served as a means for low and moderate income students of color to enter the middle class. And a new proposal to let campuses set their own tuition levels threatens to accelerate tuition increases, further closing off access to higher education.

Health Care - The three quarters of a billion in health care cuts - to hospitals, nursing homes, home care and other institutions like clinics - do not protect the health care safety net. It is also disappointing the administration proposes to cut “charity care” funding - designed to cover hospitals’ costs for providing health coverage for the uninsured - while abandoning a proposal to increase accountability so that hospitals actually use the hundreds of millions of charity care funds for their intended purposes.

Human Services - The proposed cuts to civil legal services to the poor and to nutrition advocacy programs will vastly undermine the ability of low-income people of color to obtain public benefits they are entitled to, and potentially exacerbate existing racial inequities. Programs to provide temporary shelter to the homeless and to provide subsidized jobs seem particularly unwise given the Great Recession. Small but effective programs that assist immigrants transitioning into full participation in the community have also been cut.

2. In some areas, the Executive Budget would have a positive impact on racial equity, demonstrating that positive efforts are viable, even in the face of extremely tight budgetary constraints.

Health Coverage - Building on last year, steps are taken in the budget to simplify enrollment in public insurance programs. In addition, the proposal to reinstitute the right of the State Insurance Department to approve or disapprove health insurance premium rate increases is an important step to keep health insurance from

becoming even more unaffordable to low and moderate income consumers and small businesses.

Criminal and Juvenile Justice - The proposed budget takes a few steps to begin addressing the disproportionately adverse impact of the state's criminal justice policies on people of color by closing some prisons and underutilized juvenile justice facilities. However, the juvenile justice closures are undermined by cuts to alternatives to detention programs.

Despite these positive steps, on the whole, unless the budget is changed so that similar steps towards equity are made in other critical areas, the negative impacts of the state spending plan in the budget greatly outweigh the positive impacts on racial equity. The cuts in state services disproportionately affect people of color. On the other hand, as a result of trends that include income tax reductions and other reductions on the tax burden on wealthiest New Yorkers over the past three decades, there has been no shared sacrifice in New York. This can be addressed in 2010 by fundamental changes in state spending and tax policies.

3. The Executive Budget has proposed revenue measures to offset some of the cuts that otherwise would be made, but the plan in the budget to close the deficit is heavily tilted towards spending reductions. Additional revenue measures should be undertaken to prevent cuts to vitally needed social programs.

Among the progressive revenue measures that should be considered are making the temporary tax increase on wealthy New Yorkers permanent, reducing the current rebate provided to stock brokers of the stock transfer tax and enacting a one time tax on banker's cash bonuses. The revenue measures can be supplemented by other steps involving the management of the state's finances, like borrowing from the state's Tax Stabilization Reserve Fund.

Education

Some Key Executive Budget Actions:

Cut \$1.4 billion in school aid

The Executive Budget seeks to cut \$1.4 billion in education aid to New York State schools. The budget documents indicate that \$2.1 billion was cut in state aid to schools, but with the benefit of \$726 million in American Recovery and Reinvestment Act funds (ARRA: federal stimulus funding), the combined cut to education funding (federal and state) is \$1.4 billion.¹⁶ This \$1.4 billion in funding cuts represents the largest cut to education in the state's history and represents a 7.5% reduction in school operating aid (after the Gap Elimination Adjustment is factored in).

Delay increases in foundation aid under new 2007 education funding formula

The Executive Budget proposes to delay providing school districts with any increases in "foundation aid" funding - designed to provide greater equity for "high-need" school districts" - until 2012-13. Under the Executive Budget, the full phase-in of the increased foundation aid provided under the 2007 education funding law would now be completed in 2016-2017, 10 years after the passage of the 2007 law, and 6 years after the law's original implementation deadline.

The Contracts for Excellence remain in law in the 2010-11 proposed budget

Although the amount of funding covered under the state's "Contract for Excellence" (C4E) is slated to decline slightly because of the budget cuts, the C4E mechanism, which promotes investment in the best educational strategies, is retained under the proposed budget. (Contracts for Excellence are school improvement plans that certain districts are required to submit to the state explaining how they will use the new foundation aid monies to raise student achievement.) Under the budget, all school districts covered by the current Contract for Excellence provisions will be required to adhere to the specific requirements applicable to these plans, unless all of the districts' schools have made significant enough progress to be removed from this accountability status.¹⁷

Universal pre-kindergarten (UPK) funding is frozen, but the full phase-in of increases in UPK aid is delayed until 2016-17

In the 2007 education reform law, the state made a commitment to increase funding for UPK at levels that would allow access to UPK for most four-year-olds in the state. Currently, UPK is frozen at 2008-09 levels for existing programs. The proposed budget delays the full phase-in of the increased UPK funding until 2016-17.

Make cuts to after-school programs

The budget proposes to cut the Advantage After-School Program - one major after-school funding stream - from \$30.5 million in 2009-10 to \$17.3 million. Three other programs that are used in part to fund after-school programs have been increased to a minor degree. Specifically, the Youth Development and Delinquency Program (YDDP) and the Special Delinquency Prevention Program (SDPP) are increased by roughly \$800,000 to \$28,243,400 and the Runaway Homeless and Youth Program is increased roughly \$130,000 to \$4,7111,600.¹⁸

Impact on Communities of Color:

School Aid Cuts and Delay of Implementation of New Equitable School Aid Formula:

The proposed \$1.4 billion cut to school aid is a colossal reversal of New York State's commitment to providing every child with a "sound, basic education" and an opportunity to learn. Under the Campaign for Fiscal Equity (CFE) settlement, school districts across New York State were scheduled to receive an increase in funding, with 77% of the funding going to high-need school districts. The Executive Budget adds cuts to the already broken promise from last year's budget that delivered flat-level funding and moved the state backwards in delivering a quality education to all students, particularly students of color.

Last year, \$1.6 billion in federal funding saved over 18,600 education jobs¹⁹ - jobs that are likely

HOW BUDGET CHOICES AFFECT

ISRA MAHAMMED

Isra Mahammed is a Syracuse mother of 3. She works two to three different nursing jobs at a time to be able to provide for her family and have enough of a safety net "just in case."



Isra's youngest daughter, Naila, 12, is a child with special needs. So far things are going well for Naila who is in an integrated classroom at Danforth Middle School. Isra is especially grateful for Naila's teacher.

"When this white suburban woman told me that she would be willing to die for my kid, I just wanted to cry. I know that she meant it. Teachers should be supported for the sacrifices they make."

Unfortunately with over \$1 billion in proposed cuts to education, both Naila and her teacher are going to be losing, not gaining, support.

For Syracuse, these cuts will result in losing at least 165 staff and teachers. Isra is concerned that Naila's classroom will lose their teaching aide, Ms. Katuba, who allows Naila to be integrated with other children by working with her on modified reading and other special needs. She allows Naila's teacher to manage the 20 or so students in the classroom. Without Ms. Katuba, Isra thinks Naila would be forced to into a special education class.

"That would change her entire experience - her confidence, her self esteem, how she sees herself compared to the other children." Isra is very concerned.

In addition to cuts in staffing, there are rumors flying about one of the junior highs closing its doors completely. "These kids will be flooding the existing schools," says Isra. "What happens to teacher support when suddenly they are facing less staff and more students? What happens to the students?"

Isra thinks there are other options, other solutions that involve everyone coming together and making a shared sacrifice.

"I would rather take a portion of my paycheck and put it towards the schools than see these cuts." Isra can't imagine why everyone wouldn't feel this way. "Yes I live in the inner city, but even folks who live in the suburbs will be impacted. They use this city for work, for cultural events. When you take away the public schools, which for people in the city means opportunity for a better life, for hope and self respect, well then people will resort to lawlessness. And that is what this city that we all use will become."

to be eliminated with the \$1.4 billion in state cuts. Cuts of this magnitude would mean that school districts - particularly “high-need” districts that are more dependent upon state aid - will be forced to cut personnel, layoff teachers, increase class sizes, reduce extracurricular and elective courses, moving New York schools away from a full and rich curriculum and quality learning opportunities.

The “State Education Budget and Reform Act” was passed in 2007 after the Court of Appeals, New York’s highest court, concluded in the CFE litigation that the state was not meeting its constitutional obligation to provide all children with a “sound, basic education,” accompanied by a massive multi-year campaign led by parents from underfunded school districts demanding that the state rectify the unfairness of the state aid formula. Massive evidence was presented in the lawsuit and throughout the campaign that the failure to provide adequate funding to school districts that had high numbers of children of color contributed to gaps in educational achievement between children of color and white children.

Under the 2007 law, \$7 billion dollars in additional aid was promised, with a four year phase-in. As a result of the first two years of funding, English and Math scores increased, and the “racial achievement gap” began to slowly shrink. The Executive Budget further delays implementation by maintaining a freeze in foundation aid at \$14.9 billion from 2009-2010. Under the 2007 law, school aid was slated to increase by \$5.5 billion over four years and be fully phased-in by 2011-12. State Education Commissioner Dr. David Steiner has noted that:

“Each year the formula is frozen, it adds to the eventual cost of restoring it when the economy turns around. Under a freeze, the amount of funding going to each district becomes further and further removed from realities in that district. Before long...it will be infeasible ever to get back to the formula.”²⁰

But, the budget actually does much worse than freezing funding: it cuts \$1.4 billion out of current spending. Proposed school aid cuts on top of the broken promise of CFE will seriously harm the state’s efforts to close the achievement gap, and reverse educational progress in many schools.

As previously stated, the proposed budget cuts represent the largest actual dollar cut to education in New York State’s history. These cuts will harm students around the state, but will be especially damaging for high-need school districts that educate most of the state’s children of color and enroll a larger share of students in poverty or who have limited English proficiency. While the Executive Budget tries to distribute the cuts in ways that provide more protection to “high-need” districts - districts with large numbers of low-income children and often children of color - the distribution is a mixed bag from an equity perspective, and the level of the cuts will be devastating regardless of distribution. As the charts on the next page indicate, dollar for dollar New York City (the largest high-need district in the state) and other high-need districts are cut less than average need districts, but low-need districts have the smallest per pupil cuts.

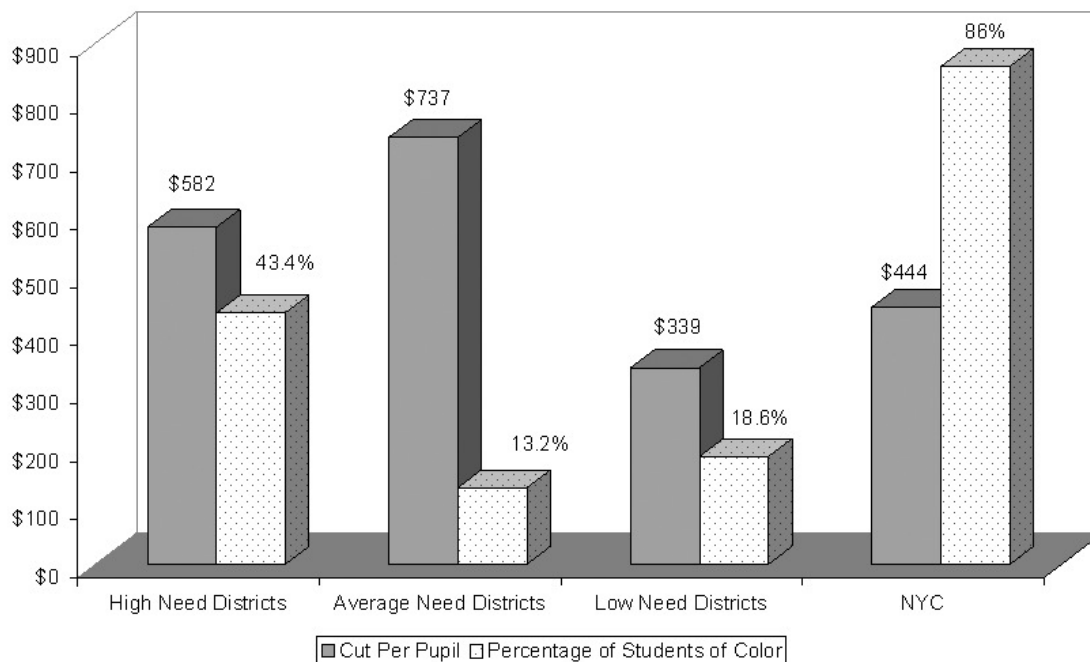
Analysis of Proposed Education Cuts in the Executive Budget: High, Average and Low-Need Districts

	Cuts	Enrollment	Cuts Per Pupil	% African-American	% Hispanic	% Non-White
High Need	-\$292,927,663	502,910	-\$582	24.3%	15.5%	43.4%
Avg. Need	-\$547,542,337	819,657	-\$737	4.8%	5.5%	13.2%
Low Need	-\$129,760,380	399,488	-\$339	3.4%	7.8%	18.6%
NYC	-\$441,920,169	995,962	-\$444	31.8%	39.6%	86.0%
Total	-\$1,412,150,549	2,718,017	-\$520	18.1%	20.2%	46.3%

Analysis by the Alliance for Quality Education

Analysis of Proposed Education Cuts in the Executive Budget: High, Average, and Low-Need Student Districts – With Non-White Enrollment

Cuts Per Student Under Governor's Proposal with Percentages of Students of Color



Analysis by the Alliance for Quality Education

Contracts for Excellence and Accountability:

The retention in the budget of the Contracts for Excellence requirements is an extremely positive step, as the contracts are a critical mechanism to ensure that school districts use the new foundation aid in ways known to increase student achievement and that are consistent with the needs of children in high-need school districts. Nevertheless, additional accountability mechanisms should be undertaken, such as requirements that the additional funding provided to districts attributable to the enrollment of English Language Learners (ELL) be actually used to provide services to ELLs and immigrant students.²¹

Cuts to After-School Programs:

Studies indicate that after-school programs have a particularly strong impact on raising achievement by low-income children and children of color. Low-income teenagers who participated in after-school programs in several large American cities were more likely to graduate high school (63%) than non-participants (42%). Low-income students who attended after-school programs were also found to be more likely to go to post-secondary schools (42%) than non-participants (16%).²³

Freeze on UPK Aid Increases:

Studies of early childhood education programs that enroll a majority of children of color have found that children that had been enrolled in early childhood programs: 1) earn significantly more in their lifetimes than non-participants, 2) are less likely to smoke when they are older, 3) have higher average achievement scores in regular public schools at the age of 14 than non-participants, and 4) have lower numbers of arrests as adults.²² While it is welcome news that UPK is not being cut this year, it is nevertheless true that the delays in the budget in providing the promised funding threaten to have a negative impact on a range of outcomes for thousands of young children of color in the state.

Higher Education

Some Key Executive Budget Actions:

Significantly cut state higher education aid, including direct support for SUNY and CUNY 4-year colleges

The Executive Budget documents put the total cuts at \$191 million (on a fiscal year basis without factoring in personal service cuts). (However, the New York State United Teachers calculates the cuts as \$312 million on an academic year basis when other items, including personal service cuts, are factored in.) Among the most significant cuts to higher education are a \$95 million cut to SUNY, a \$48 million to CUNY²⁴ and a reduction in “base aid” to SUNY and CUNY community colleges of \$285 per full-time equivalent student.

Allow SUNY and CUNY trustees to independently set tuition levels, including differential tuition by campus and major

Under statutory changes submitted with the budget (the “New York State Public Higher Education Improvement Act”), tuition increases would be set independently by the SUNY and CUNY boards. Tuition increases would be capped at two and a half times the five year rolling average of the Higher Education Price Index (HEPI). And, for the first time, campuses could set their own tuition levels, and varying tuition could be set by major.

Restrict eligibility and benefits for the Tuition Assistance Program (TAP)

The Executive Budget proposes to: 1) reduce all TAP awards by \$75, 2) reduce the maximum TAP award for students enrolled in two-year degree granting programs from \$5,000 to \$4,000, 3) tighten standards for non-remedial students to maintain eligibility for TAP, requiring students to earn at least 15 credits and a 1.8 Grade Point Average (GPA) after two semesters of study, and 4) eliminate TAP for graduate students. One small positive change is an increase in the TAP award for financially independent orphans or wards of the court.

Cut funding for “Opportunity Programs” designed to help students with the potential for college success to catch up

The Executive Proposes to make a 12% cut to four programs designed to provide assistance to students with the potential to succeed in college: SEEK (Search for Education, Elevation and Knowledge) and CD (College Discovery) for CUNY students, EOP (Educational Opportunities Program) for SUNY students and HEOP (Higher Education Opportunity Program) for students at private institutions.²⁵

Impact on Communities of Color:

The State University of New York (SUNY), with its 64 campuses in every region of New York State, and the City University of New York (CUNY), with 11 senior colleges and various professional schools and community colleges throughout the 5 boroughs of New York City, have traditionally served as a means for low and moderate income students and students of color to enter the middle class by obtaining professional and technical education.²⁶ Critical to their success in achieving this mission is low tuition. As the Fiscal Policy Institute recognized in a 2009 report, upward mobility is a “critical issue in New York, where income inequality is dramatic and growing. New York has gradually solidified its shameful place as the state with the greatest degree of income inequality in the country...”²⁷

CUNY and to a lesser extent SUNY have disproportionately served students of color and lower-income students that are not generally able to afford more expensive private institutions. SUNY and CUNY combined educate roughly three-fifths of all college students of color in the state.²⁸ As of the fall of 2008, 28.3% of the CUNY student body were Hispanic, 28.2% were African-American, and 17.0% were Asian Pacific American.²⁹ Thirty-eight percent of CUNY students come from families with household incomes of less than \$20,000; 47.2% do not have English as their native language.³⁰ As of 2009, 20.8% of SUNY enrollees were students of color: 9% African-American, 6.7% Hispanic, and 4.6% Asian Pacific American.³¹ Roughly 60% of TAP recipients, a program that provides tuition aid for low and moderate income students, attend SUNY and

HOW BUDGET CHOICES AFFECT

JIAN LIU



“ I immigrated to the United States with my family in April 2005 from Beijing, China. I attended a public high school in New York City, where I struggled as an English Language Learner.

Like every immigrant, I have my American Dream too. I dream to receive world-class education and become a math teacher. From the time I was young, I have been greatly influenced by an old Chinese saying, ‘Teachers are engineers of human souls.’ Teachers influence whole generations and shape our future society. Behind all great success stories, there are always wonderful stories about teachers. Teachers shape, inspire and motivate other people.

Currently, I am enrolled in the Teacher Academy Program at the City College of the City University of New York, while simultaneously pursuing my undergraduate degree with a major in Pure Mathematics and minors in Secondary Math Education and Physics.

But, after continued state budget cuts to higher education programs, my scholarship has been reduced by several hundred dollars. Like most other CUNY students, I am struggling to support myself through college - I don't have family to provide me with any financial help for my education. I'm worried that I and many of my fellow students will not be able to graduate in four years because of the rising cost of tuition. I am also worried that with more cuts and reduced resources, my university won't be able to offer the courses that we need to graduate.”

CUNY.³² SUNY also has over 1.2 million continuing education students, playing a vital role in assisting with career advancement for low and moderate income New Yorkers.³³ **Therefore, maintaining low-cost quality education at CUNY and SUNY is critical for academic and economic advancement of New Yorkers of color.**

Aid Cuts to SUNY and CUNY:

The proposed funding cuts and prospect of tuition increases through the proposed new tuition policy at SUNY and CUNY are just the most recent steps in a multi-year trend of the state failing to maintain its investments in its two major public higher education institutions.³⁴ Tuition has been going up and up, putting an ever greater strain on the modest income families and families of color who attend New York State's public universities. SUNY tuition increased by 31% between 1991-92 and 2008-09 in constant dollars. At CUNY, which proportionately serves more students of color than SUNY, tuition more than doubled in the same period. The state's long-term failure to maintain its support for its public higher education institutions is certain to result in reductions in the quality of the instruction provided at these institutions. For example, both SUNY and CUNY have seen reductions in the percentage of faculty that are full-time in the last decade.³⁵ SUNY and CUNY faculty representatives report an array of problems impacting on education quality already: cancelled courses, class sizes at historically high levels, inability of students to get into courses required for their majors and less time for individualized attention for students - particularly important for low-income students and students of color.³⁶

Faculty representatives at CUNY have found the reduction in state funding to community colleges particularly "inexplicable," given the cuts of recent years, increases in enrollment and President Obama's new national emphasis on community colleges as a means of national economic renewal. In the 2009-2010 year, CUNY community colleges enrolled 88,762 students, a record. Projections are that enrollment will increase up to 10% next fall, making the proposed 11% cut in community college aid unacceptable.³⁷ The Professional Staff Congress, which represents CUNY professors, points out that that 45% of CUNY community college students come from households with annual incomes of less than \$20,000. "It makes no sense for New York to drive students out of college or out of state when they want to prepare themselves for jobs that demand a college degree."³⁸

It is predictable that the negative impacts on students of color of the of closing off of access to higher education - both through higher tuition and decreased aid - will be greater in this period of economic crisis, nationwide and in New York State. As the Fiscal Policy Institute said in a report last year:

As unemployment increases in the current recession, it is taken for granted that the rates will climb even higher in African-American and Latino communities. At the same time, communities of color and immigrant communities are being hit particularly hard by foreclosures in the current housing crisis. Making sure people of color and immigrants have good opportunities to expand their skills and education during this downturn should be a high priority for state officials.³⁹

Allowing SUNY and CUNY Discretion to Raise Tuition and Establish Differential Tuition Levels:

As previously stated, the Executive Budget would cap tuition increases at two and a half times the five year rolling average of the Higher Education Price Index (HEPI), a well known measure of tuition levels at American colleges and universities. This means that SUNY, for example, could raise tuition by up to 10% next year. Representatives of SUNY and CUNY professors and students fear that allowing SUNY and CUNY boards of trustees the discretion to raise tuition simply amounts to a green light for both systems to raise tuition on a regular basis, squeezing out the low-income students and students of color who attend these institutions. This is particularly true since the proposal has come with no commitment to increase or even maintain state aid as tuition charges increase.⁴⁰ “Students become the cash machine, legislative control of tuition disappears, and the State cuts back even further on its support,” the head of the faculty union at CUNY predicts.⁴¹

These fears are borne out, not only by the state’s failure to support its public institutions in recent years, but by the experience of other states. “Tuition dependence” - the share of higher education revenues derived from tuition - has grown more rapidly (1.6 times faster) in states where higher education systems independently set tuition.⁴² The Executive Budget proposal to enable differential tuition based on campuses and even majors is even more problematic. The limited cap on tuition increases (two and one half times the rolling average of HEPI) does not apply

to differential tuition based on major. CUNY’s faculty union clearly laid out its concerns with this policy, particularly for students of color, in legislative testimony:

There would potentially be no limit on CUNY if it decided, for instance, to charge \$10,000 a year to students selecting a pre-med major. The result of such a change would not take long to emerge: poorer students would be shut out of certain majors, likely the sciences and others that are costly to offer, and steered toward less costly ones. Differential tuition would exacerbate existing, and persistent, inequalities of race, gender and class. It was to challenge those inequities that many of us entered into education in the first place, and that CUNY was founded as a bold experiment in 1848.⁴³

Restrictions on TAP:

The New York State Tuition Assistance Program (TAP) helps eligible New York residents pay tuition at approved schools in New York State, with grants of up to \$5000; the amount of the award is based on, among others, the family’s income.⁴⁴ The \$75 reduction for all TAP awards could result in 69,000 CUNY students alone receiving a TAP cut.⁴⁵ The proposed TAP cuts disproportionately impact students of color, who are more likely to be eligible for TAP. Cutting of financial aid is a particularly bad idea during a recession when many people of color are deciding to attend college, sometimes mid-career, for additional training. Therefore, the TAP cuts are a particularly unwise and punitive strategy for balancing the state budget.⁴⁶



Cut Funding for Opportunity Programs:

SEEK/CD (CUNY), EOP (SUNY) and HEOP (private colleges) are all programs designed to assist college students with promise for college-level work to succeed, even though they are economically disadvantaged and sometimes academically underprepared. Each of these “Opportunity Programs” annually must turn down the overwhelming majority of eligible students who apply given financial constraints on the program. A 12% cut to opportunity programs would be extremely unwise, given the number of low-income students and students of color seeking to attend higher education institutions as a path to success in later life.⁴⁷

Health Care

Some Key Executive Budget Actions:

Simplify enrollment in public insurance programs

Building on last year's momentum, the Executive Budget takes additional steps to simplify enrollment in public health insurance programs, including: 1) authorizing the state to automatically enroll children in Child Health Plus and Medicaid if they have been found to be eligible for another similar public benefit program like food stamps or subsidized child care (known as "express lane" eligibility), 2) requiring systems to be put in place for "data matching" with Social Security numbers, thus easing documentation requirements for applicants, and 3) permitting the Department of Health to work with the Department of Taxation and Finance to verify the income of applicants through tax records, thus easing the paperwork burdens on recipients.⁴⁸

Increase co-payments for the Family Health Plus Employer Buy-In Program

The increase in co-payments is intended to lower the currently unaffordable \$540 per month premium cost of the program.⁴⁹

Reestablish rate regulation of health insurance premium increases and require a higher percentage of premium dollars to go to health care

Specifically, language in the bills accompanying the budget (the "Article VII" bills) would: 1) restore the State Insurance Department's (SID's) authority to approve, modify or disapprove insurance rate hikes in advance of the rate hikes going into effect (known as "prior approval"), 2) raise the minimum "medical loss ratio" (MLR) required for individual direct pay and small group markets to 85% (at present, the required MLRs are 75% for small groups and 80% for direct pay), and 3) provide for hearings for rate increases of 10% or more. (The "medical loss ratio" is the percentage of consumers' premium dollars that are spent on health care rather than other costs, like advertising, administration and profits.)

Fail to address the current lack of accountability for state "charity care" funds that are designed to cover hospitals' costs for providing health coverage for the uninsured

As more fully explained below (see section entitled "No Improvements in Accountability for Funding to Provide Health Care to the Uninsured"), in the "21-day amendments" (a means for the executive to change its budget plan before the proposal is acted on by the Legislature), the administration withdrew a proposal in the original budget bills to base charity care funding on the amount of service actually provided to the uninsured.⁵⁰

Cut three quarters of a billion in state funding for the health care system, including hospitals, nursing homes, home care and personal care

Among the major components of the \$772.5 million in health care cuts (Medicaid and non-Medicaid) are:

- \$244.6 million in Medicaid cuts to hospitals;
- \$8 million in Medicaid cuts to the Diagnostic and Treatment Center Indigent Care Pool;
- \$140.2 million in Medicaid cuts to nursing homes;
- \$73.9 million in Medicaid cuts to home care;
- \$12.2 million in Medicaid cuts to pharmacies (including the elimination of “wraparound” coverage for those on Medicare “Part D”);
- \$70 million in cuts to “charity care” funding;
- a cut of \$507,600 to School Based Health Centers (SBHCs); and
- elimination of what the administration calls “low priority” health care programs, like eating disorders funding, fertility services, maternal and early childhood funding and education and outreach programs.⁵¹

Limited increases are provided for a few programs, including “Doctors Across New York,” which would receive a \$3.5 million increase to expand the number of doctors eligible for the program.⁵²

Impact on Communities of Color:

The most recent annual State Department of Health report on health disparities in New York

State, known as the State “Minority Health Surveillance Report,” finds that African-American New Yorkers fare worse compared to other racial and ethnic groups on a variety of health indicators, including diabetes, breast cancer, and HIV/AIDS mortality. Hispanics also fare poorly on a number of indicators. While Asian Pacific Americans do better than other people of color on many health measures and outcomes, there remain some areas of great concern, such as asthma.⁵³ An important aspect of this problem is disparate access to basic health care in poorer communities and communities where people of color predominate. A recent report on health care disparities in New York City summarized that: “In particular, Hispanics, men, younger adults, people with low incomes, and residents of the South Bronx, South Brooklyn, and West Queens are more likely than other New Yorkers to lack insurance and a regular health care provider.”⁵⁴

This year’s Executive Budget is a “mixed bag” from the standpoint of addressing health care disparities. On the one hand, the state takes a number of steps to increase access to public insurance programs and private health care and therefore to reduce health care disparities. On the other hand, many proposed health care cuts are likely to increase disparities.

Enrollment Simplification:

The proposals in the Executive Budget to expand coverage will have the positive impact of reducing existing disparities in health care coverage and in health outcomes. African-American and Latino New Yorkers are more likely to rely on public insurance programs for their care than whites.

Both groups are less likely to have employer-provided coverage than white New Yorkers.⁵⁵ Currently, 31% of the state's African-American population and 37% of its Hispanic population are enrolled in public insurance, as compared to only 11% of whites.⁵⁶ Many eligible individuals are not enrolled in public health insurance programs, in part due to unreasonable requirements that burden and stigmatize applicants with minimal to no impact on catching fraud. The proposed simplifications in the Executive Budget will reduce racial disparities in health care coverage by making it easier to enroll in existing programs. The Governor and the Legislature should continue to take further steps to increase participation in public insurance programs.

Increased Co-Pays for the Family Health Plus Employer Buy-In Program:

Increasing co-pays to the Family Health Plus Buy-In Program as a standalone measure will not make this a viable program for New York's working but uninsured populations, particularly people of color who have the potential to benefit the most from the program. Thirty-two percent of Hispanic workers and 21% of African-American workers are uninsured, compared to only 12% of white workers.⁵⁷ This is in large part because Hispanic and African-American workers are less likely to receive health insurance from their employers. Only 48% of Hispanic workers and 61% of African-American workers receive employer-sponsored health insurance, compared to 78% of white workers.⁵⁸ The Family Health Plus Employer Buy-In Program (FHP EBI program) was passed in part to address the problem of the state's nearly 2.6 million uninsured by enabling employers and

unions - some that are spending as much as 18% of their payrolls on health care - to purchase the comprehensive coverage available under Family Health Plus at a reasonable rate.⁵⁹ Given the current lower availability of employer-sponsored insurance for African-American and Hispanic workers, the FHP EBI program has the potential to greatly assist members of these groups to obtain coverage. However, current premium rates for the FHP EBI program are higher than other products on the small group market and are inhibiting program take-up. The Executive Budget seeks to address the low take-up rate for FHP EBI by adjusting the plan design to increase co-pays for enrollees earning above 150% of the Federal Poverty Level. This would reduce the premium rates by only 9%. Solely increasing co-payments will not lower premium rates to induce enough employers to participate in the program. Further, some co-pays need to be lowered in order to avoid unfairly hurting enrollees with serious medical conditions to avoid disproportionately impacting very low-wage workers.⁶⁰

The Community Service Society (CSS) recommends that this Executive Budget proposal only be adopted if it is done in tandem with several other changes that together would lower premium rates by 55%, without compromising program quality. The steps recommended by CSS include: 1) adjusting the plan design similar to in the Executive Budget proposal, but with lower co-pays for several services, 2) adopting public insurance reimbursement rates for FHP EBI, 3) adopting public insurance rules for taxes and surcharges on the product, 4) adopting the Medicaid default rate for out of network hospital care, 5) including an "anti-crowd out" rule, and 6)

accessing Healthy New York small group stop-loss funding for FHP EBI and direct-pay products.⁶¹

Regulation of Health Insurance Rate Increases and Limits on Health Insurer Profits:

New York's decision in the 1990s to eliminate the authority of the State Insurance Department (SID) to approve health insurance rate increases has been a disaster, leading to annual double-digit increases for many consumers. Between 2000 and 2009, New Yorkers have faced average health insurance premium increases of 92%, while median worker earnings have increased only 14%.⁶²

The small group market (businesses with under 50 employees) has seen average increases of nearly 14% annually since rates were completely deregulated at the end of 1999.⁶³ The premium increases since deregulation of health insurance premium rates have forced an enormous number of businesses and low and moderate income New Yorkers to drop their coverage, increasing stress on the state's "safety-net" hospitals and other facilities.⁶⁴ As previously stated, African-American and Hispanic workers are less likely to have employer-sponsored insurance; those who do not qualify for public programs have only the option of purchasing mediocre coverage through Healthy New York at 22% of family income, or paying 65% of their annual income for good coverage through the direct pay market - a virtually impossible burden.⁶⁵ In addition, limiting insurance company profits by requiring health insurers to spend 85% of premium dollars on providing health care, as required by the Executive Budget proposal, will hold down rates. As the Executive Budget would

reinstate the authority of the State Insurance Department to determine whether health insurance premium increases are reasonable and reign in insurance industry profits, the proposal deserves passage by the Legislature.

No Improvements in Accountability for Funding to Provide Health Care to the Uninsured

Since 1983, "charity care" funding has been provided to hospitals throughout New York State to cover the uninsured through the "State Indigent Care Pool," sometimes referred to as the "Bad Debt and Charity Care Pool." As people of color are more likely to be uninsured, they therefore rely more than other New Yorkers on mechanisms like charity care for their health care. The Pool is currently funded at \$847 million, a significant amount of funding to address the health care needs of the poorest New Yorkers: if used wisely. **Advocates, including PPEF,⁶⁶ have long criticized charity care funding for its lack of accountability and transparency and sought to ensure that hospitals receiving this funding actually serve the uninsured.** Further, health care advocates support requiring that the funding for each hospital be proportionate to its services to the uninsured.⁶⁷ "[T]he one consistent issue is that the money ... [does] not follow the patient - funds are not distributed on the basis of actually providing care and services to uninsured patients."⁶⁸ Further, funding is based on "notoriously inaccurate reports from hospitals - resulting in wild swings of funding and unfair allocation." For example, the East Harlem-based North General Hospital, known to provide large amounts of care to the insured, receives a "paltry" allocation "compared to ...[its]

well-healed neighbors to the South, such as Beth Israel (\$30 million).”⁶⁹

Advocates and other commentators have therefore recommended that all charity care payments be entirely based on actual per-unit services to the uninsured. In 2006, in order to avoid alleged disruptions to hospitals, the Legislature passed a limited reform (effective in 2007) that provided that this new accountable reimbursement methodology would be applied to only 10% of the charity care pool. Health care advocates universally praised the administration for proposing in the initial version of the 2010-11 Executive Budget to allocate 100% of the funds by this new methodology.⁷⁰ Unfortunately, the administration withdrew this proposal in the “21-day” amendments without providing a justification for this policy reversal. The reversal represents a missed opportunity to reallocate a significant percentage of our state health care dollars to hospitals who are actually serving a large number of uninsured and to address health care disparities based on race and ethnicity.

In addition to restoring the accountability proposal in the original budget, steps must continue to be taken to enforce the financial responsibility provisions in the 2006 law, called “Manny’s Law.” For example, immigrant representatives have found that many hospitals are not complying with the law, sending huge bills to patients instead of notifying them about the availability of financial assistance, as required by the law. Many hospitals are also not helping immigrants apply for financial assistance.⁷¹ Non-immigrants also experience similar problems.⁷²

HOW BUDGET CHOICES AFFECT

LIZ FROM QUEENS

Liz came to the US from Ecuador in 2008. In Ecuador, she finished high school and studied Information Systems. Liz also owned an electronics business and was in charge of administration and accounting, which was her passion.



16 years ago, after having her first child, something went wrong during a surgery and Liz was left disabled in a wheelchair. One of Liz’s life goals was to work in the U.S. She wants to be able to support herself and her family. Because she loves working with numbers and accounting, one of her dreams is to continue to take classes in these areas. She has started to achieve this goal, since she recently completed a course in preparing taxes, and now has a part time job.

Liz wants to continue studying and wants to improve her English so she can work in the U.S. She had looked into having her grades from Ecuador transferred towards a GED here, and is just missing a few documents from Ecuador for this to happen. Then, she is a step closer in attending a college or university in the U.S.

Some time ago, Liz went to NY Queens Hospital after her wheelchair tipped over and she fell out. Liz is uninsured and ineligible for any public health insurance. She has three kids and is a single mother. Her children’s father provides \$1,500 per month and she makes a modest living at her part time job. She uses her money solely for living expenses and supplies for her kids, but Liz’s rent alone is \$1,200 per month, which leaves very little for personal expenses, travel, supplies for school, clothing, household and medical needs.

After her visit to the hospital, Liz was left with hospital and physician bills, which came to a total of \$4,023.72.

With Make the Road New York’s help, Liz was able to apply for hospital charity care money to reduce the bills. Now she is only responsible for \$950 of her original bill, which she can pay in low monthly installments.

Charity care funding was integral to Liz’s ability to stay financially afloat. Without hospital charity care, she would not have been able to pay her hospital bill - and would have gone into default. Liz is happy that hospitals are able to provide charity care and hopes they continue to do so.

Health Care Cuts

The three quarters of a billion in proposed health care cuts in the Executive Budget are massive, especially in light of the revenue alternatives that are available to the state (see the revenue section of this report). In addition, the effect of the almost a half-billion in Medicaid cuts is at least doubled, given the loss of the 50% in federal matching dollars.⁷³

Even in a year when the state budget is indisputably tight, any budget allocation decisions must be carefully done with an eye towards protecting the health care safety net. However, our examination of the health care budget makes clear to us this test has not been met in several key areas.⁷⁴

For example, the Executive Budget proposes to eliminate the addition of \$8 million made by the Legislature last year to the Diagnostic and Treatment Center Indigent Care Pool, which supports caring for uninsured patients in primary care settings like health centers. At some neighborhood health centers served by the Pool, more than half of all patients are uninsured.⁷⁵ In a time when more and more people are losing their insurance, “[c]linics are often where low-income people turn when they lose their insurance.”⁷⁶ From the standpoint of equity and of health care policy, this cut is extremely unwise.

Secondly, the Executive Budget would limit those who use personal care or consumer-directed services under Medicaid to 12 hours of care per day on average. According to health care advocates, this makes little sense from the

standpoint of either health or fiscal policy, as many of these patients will switch to institutional settings at a higher cost.⁷⁷ And, there is some evidence that this proposal would have adverse impacts based on race, as data indicates that African-Americans with disabilities are more likely to need assistance with personal care than whites with disabilities.⁷⁸

Third, the budget proposes to reduce charity care funding by \$70 million overall, cutting a program directed at assisting the uninsured, disproportionately low-income people and people of color.⁷⁹ This cut should be restored, and greater accountability instituted to ensure that hospitals that receive charity care funding use the money appropriately for services to the uninsured.⁸⁰

Fourth, we recommend that the Legislature reject the proposed cuts to “wrap around coverage” under the EPIC (Elderly Pharmaceutical Insurance Coverage) program and Medicaid, which covers prescription drugs that Medicare Part D plans will not pay for. This cut appears to have a disproportionate impact on elderly and disabled New Yorkers.⁸¹

Finally, \$507,600 has been cut from School Based Health Centers (SBHCs), centers located on-site that collectively serve over 200,000 underserved youth in rural, urban and suburban schools throughout the state. Since 2008, SBHCs have had their funding reduced by 11%. Due to the increasing number of uninsured children in the state, SBHCs have become an important component of the state’s health care safety net. “[S]tudies show that they increase access to health care for minority youth, improve school

attendance and performance, reduce emergency room visits, prevent unnecessary hospitalization, and lower total annual Medicaid expenditures.”⁸² Given the recession and increased job losses in the state, leading to loss of private insurance, now is the worst time to cut SBHCs.

The \$244.6 million in proposed Medicaid cuts to hospitals this year are of particular concern. This funding decision appears to represent a step away by the administration from the positive steps made since the inception of the “patient first” reimbursement reform agenda in 2008-09 to lower reimbursements to hospitals and reinvest in community-based primary and preventative care. While Medicaid Matters, a coalition representing the state’s four million Medicaid consumers, last year essentially applauded the Executive Budget for shifting monies from hospitals to primary and preventative care,⁸³ this year they note that this year’s budget “does not make significant investments to further reform the system ... [by] ... invest[ing] in charity and primary care.”⁸⁴ And undoubtedly, a portion of the quarter of a billion in funding reductions to hospitals does not seem to have any connection to “reform;” the cuts are simply made to help balance the state budget. For example, \$26.7 million in budget savings is achieved by eliminating the 2010 “trend factor”: an increase for inflation.⁸⁵

Further, while reimbursement reform is the right direction for the state to move in the long-term, it appears that in the short term, the cumulative effect of the large cuts to health care - 7 rounds of cuts in 3 years, causing a cumulative loss of \$900 million to hospitals (\$2.2 billion combined to hospitals, nursing homes and home care)⁸⁶ - is

having negative impacts on the state’s health care safety net. Since 1990, 45 hospitals have closed in New York State, and some regions of the state have fared far worse than others; for example, in 2009, two hospitals in Queens alone closed.⁸⁷ Further, in New York City, 15 hospital emergency rooms have closed: unfortunately these area primary source of care for many low-income people and uninsured.⁸⁸ Medical providers, including nurses and their representatives, claim the cuts are having an extremely negative impact on patient care and safety, particularly in facilities that serve low income communities like St. Vincent’s Catholic Medical Center in Greenwich Village, now struggling to stay open.⁸⁹ Similarly, advocates are concerned about the impact of the elimination of the trend factors in the budget for certified home health care agencies, long term health care programs, personal care providers and nursing homes.⁹⁰ For example, 51 nursing homes in the state have closed since 2000.⁹¹

In last year’s “Race Matters” report, we called for “an analysis of the community impact of each of the health care cuts in the budget ... with a significant emphasis on the impacts on racial disparities in health care delivery and outcomes.”⁹²

The multi-year cuts experienced by health care institutions in New York State in recent years and the impacts of the “Great Recession,” including a 67% increase in combined Medicaid and Family Health Plus enrollment from January 2000 to September 2009, have made this call even more important than last year. Hospital representatives argue that the reforms in hospital reimbursement over the past three years have disproportionately harmed safety net hospitals, and that the 2010-11 Executive Budget would

continue this trend.⁹³ This claim should be thoroughly studied before any additional cuts are made to hospitals, and the same inquiry should occur concerning nursing homes and other health care institutions.

Although in general we believe that the health care cuts in the Executive Budget will increase racial and ethnic disparities in health care, there are a few limited bright spots. For example, the budget includes \$3.5 million in funding to create 100 new slots for the “Doctors Across New York” program, established as part of the 2008-2009 budget.⁹⁴ Doctors Across New York is designed to help train and place physicians in medically underserved communities across the state.⁹⁵

As troubling as some of the proposed cuts are in the Executive Budget, health care advocates must be on alert to the possibility of additional cuts with the potential for adverse impacts on people of color prior to the resolution of the 2010-11 budget fight. During the fall 2009 special session, Senate Republicans called for \$150 million in cuts to so-called “optional” services: services not mandated by federal Medicaid rules.⁹⁶ Among the “optional” services provided in New York are prescription drugs, eyeglasses, dental care, hospice, home-care and medical equipment like oxygen tanks and wheelchairs.⁹⁷ Medicaid Matters has pointed out that: the “[u]se of the word ‘optional’ ... is an unfortunate misnomer. The services considered ‘optional’ are by no means optional to the people who rely on them for their health, safety and independence.”⁹⁸ Even the Empire Center, a well-known conservative New York “think tank,” has urged caution, noting that optional services like prescription drugs and

dental treatment “help patients from neglecting conditions that would ultimately require more expensive mandatory Medicaid care.” Nevertheless, the Empire Center has recommended that the Department of Health develop a list of optional services that should be dropped in the final quarter of 2010-11 to arrive at an apparently arbitrary figure of \$75 million in cuts.⁹⁹ Given the past position of the Senate minority and the huge state budget deficit, there is reason to fear that the issue of “optional” services under Medicaid will be raised again in the final budget negotiations.

Human Services

Some Key Executive Budget Actions:

Delay in full implementation of the planned welfare grant increase

The Executive Budget reduces the previously enacted July 2010 public assistance grant increase from 10% to 5%, and provides for a 5% increase for the following three years.

Cuts to civil legal services

The Executive Budget proposes to eliminate the entire \$13.2 million in direct state funding for the general delivery of civil legal services provided last year. This cut, combined with an estimated 70%-75% reduction in Interest on Lawyers Account (IOLA Fund) grants in 2010, will result in the virtual elimination of two of the three core funding sources for civil legal services,¹⁰⁰ totaling approximately \$32 million.¹⁰¹

Cut over \$100 million from homelessness programs

The Executive Budget proposes to eliminate over \$104 million in appropriations for homeless services, including the entire \$88 million state match for the operation of New York City shelters for men and women.¹⁰²

Cut subsidized job programs by more than two-thirds and replace the failed Empire Zones program

The Executive Budget reduces subsidized jobs and similar programs, designed to train people and let them move out of poverty through employment, from \$70 million last year to under \$20 million this year.¹⁰³ On the positive side, the budget proposes to end the Empire Zones program that provides tax credits for job creation and replace it with a new program, called the Excelsior program that would offer tax credits for “job creation, investment, and research and development in specified industries.”¹⁰⁴

Cuts to the Metropolitan Transportation Authority (MTA) and aid for public transit for the rest of the state

Funding from general state funds for the Metropolitan Transportation Authority (New York City subway and bus system) will decrease under the Executive Budget, according to the agency.¹⁰⁵ This is on top of the \$143 million cut to the agency in last year’s Deficit Reduction Plan (DRP).¹⁰⁶ The Executive Budget also proposes to cut funding for public transit systems other than the MTA (upstate and Long Island) by \$27.3 million below last year’s levels; total state funding will drop to roughly \$400 million - a significant increase.¹⁰⁷

Cut citizenship funding by one-fifth

The Executive Budget proposes to cut the New York State Citizenship Initiative 28%, the New York State Refugee Resettlement Assistance Program 55% and Adult Literacy Education by 38%.¹⁰⁸

Significantly cut aid to the Nutrition Outreach and Education Program (NOEP)

Impact on Communities of Color:

Reduction in Public Assistance Grant Increase:

Last year's state budget proposed the first increase in the welfare grant in almost two decades, a period when the cost of living for low-income people increased by 65%. The increase provided a necessary cushion to hundreds of thousands of New Yorkers, a large number of whom are people of color, who became unemployed due to the economic downturn, as well as those who were already in desperate circumstances. Even if the full 10% increase were fully implemented, the welfare grant will have lost half of its purchasing power compared to 1990.¹⁰⁹

While the administration's continuing commitment to increasing public assistance grants in the medium term (three years) is a positive development, it is of great concern that the administration is proposing a delay in the full implementation of the increase. As the Office of Temporary and Disability Assistance (OTDA) predicted last year, the severe economic downturn has increased the need for public assistance; recipients increased last year, reaching 553,405 as of December of 2009. OTDA makes no attempt to justify the decrease on policy grounds - it says that the cuts are unavoidable due to the state budget crisis.¹¹⁰ Advocates for the poor dispute this view, pointing to the small savings to the state (\$14 million) of deferring the full increase, and recipients' extraordinary need. They also point out that welfare increases are one of the best ways to stimulate the economy, particularly in low-income neighborhoods.¹¹¹

Cuts to Civil Legal Services:

The proposed reduction of state general funding and of IOLA Fund grants for the provision of civil legal services would have devastating consequences to low-income people and people of color, especially as New York struggles to recover from the recent economic downturn. Civil legal services - representation of low-income clients, many of whom are urban people of color - is critical to the well-being of tens of thousands of low-income families. Legal services programs are often the only means low-income people have to challenge the improper denial of public assistance, Medicaid, federal disability benefits, food stamps and other public benefits which they literally depend on for their economic existence. The failure to obtain quality legal assistance therefore may lead to total impoverishment and its consequences, like hunger and homelessness. Moreover, cuts to legal services may further exacerbate income gaps between low-income people of color and whites.¹¹²

Civil legal services also have a positive impact on the state economy as a whole. Low-income people almost always spend the increased public benefits they receive as a result of legal services assistance locally, resulting in increased state and local tax revenues. The IOLA Fund has estimated that in 2008, civil legal services resulted in a \$428 million economic impact, stimulating state and local economies and avoiding more expensive state and local expenditures. For example, civil legal services help stop evictions, thus avoiding high-cost homeless services. Finally, legal services brings in federal aid to the states through programs like Food Stamps and disability benefits.¹¹³

Cuts to Homelessness Programs:

The proposed cuts to homeless funding come at a time when homelessness in New York State is at record levels. New York City data indicates that the number of people sleeping in City shelters each night now averages over 39,000 - the highest on record. In the most recent year for which data is available, 120,000 different New York City residents, including 44,000 children, slept in municipal homeless shelters.¹¹⁴ Despite this increase in demand, the Executive Budget is making enormous cuts to, for example, funding sources that pay the state share for the New York City shelter system.¹¹⁵ Homeless advocates report similar trends upstate. For example, the number of people at serious risk of becoming homeless in Albany - measured by eviction petitions in Albany City Court - increased from 2,665 in 2007 to 3,355 in 2009 (excluding public housing evictions). The reasons were clear to one upstate housing organization: “The large increase is directly related to the economic upheaval experienced by many low and moderate income people. Many have lost their jobs, or seen their hours reduced, or faced other personal or economic [sic] crisis that have put them at risk of losing their housing and possibly entering the shelter system.”¹¹⁶

The proposed cuts in the Executive Budget will undoubtedly impact on both the number of people becoming homeless and the services available to them should they become homeless. For example, in Albany, with funding from the Homeless Intervention Program (proposed to be cut in the Executive Budget) and other funding sources, a consortium of non-profits is performing

an array of homeless prevention services - including housing and budget counseling, landlord-tenant mediation and court advocacy for tenants facing eviction - that will be harmed by the state cuts.¹¹⁷

Cuts to Jobs Programs and New Excelsior Job Creation Tax Credit Program:

As the Legal Aid Society said in its budget testimony last month, “In addition to the proposed reduction in the basic welfare grant, the executive budget’s most glaring deficiency in the public benefits area is the substantial reduction in funding for subsidized jobs and similar programs.”¹¹⁸ Poverty advocates point out that the radical cuts in jobs programs represent a curious policy reversal from the last state budget year (FY 2009-10), in which jobs spending was increased to \$70 million. The administration has proposed to seriously reduce funding for these programs in 2010-11, “even as the unemployment rate climbs and low income New Yorkers find the job market particularly difficult to enter.”¹¹⁹ Some advocates are particularly concerned about a proposed \$4 million cut (\$2 million from state funds and \$2 million from federal TANF funds) to the “Green Jobs Program,” which is designed to provide training and subsidized employment in the green sector. “[I]n the midst of simultaneous economic, environmental and energy problems facing our state, and given that [c]ommunities of color and low-income communities are also disproportionately likely to live and work in toxic environments now is the ideal moment to craft a workforce development policy plan that achieves economic, social, and environmental justice goals

for families in poverty,” one organization testified to the Legislature last month.¹²⁰ Advocates say that New York has done much worse than other states in moving people from welfare to meaningful work; even those who leave welfare in the state are often trapped in low-wage jobs and forced to rely on public benefits like emergency food to supplement their limited wages, and many just ultimately return to the welfare rolls.¹²¹

Another common approach in New York and other states is using tax credits and other economic incentives for companies to create new jobs. The state Empire Zone program has been criticized for advocates for years for providing tax credits to businesses which do not provide quality jobs in return, and not targeting the aid to economically distressed communities.¹²² The program, according to the Fiscal Policy Institute, a progressive public policy organization, “is now costing the state about \$600 million a year in lost taxes.” Therefore, the Executive Budget proposal to replace the Empire Zones program with the “Excelsior” program is a welcome step. The Excelsior program would provide greater accountability by, for example, capping the total tax credits provided, limiting the benefits for companies to five years and establishing as a factor in providing the credits that the business is in a Census tract deemed to be distressed. The program could be considerably strengthened, however, by requiring that firms that do not meet their promises to create jobs repay the credits received.¹²³

New York can do much more to ensure that its economic development efforts truly create quality jobs for people who most need them. Statewide

reform of New York’s 115 Industrial Development Agencies (IDAs) - rooted in business standards, accountability measures, and transparency - can lead the way. IDAs are primary engines of economic development serving our counties, cities, towns and villages. New Yorkers are not getting our money’s worth. Three out of every five dollars spent by IDAs resulted in revenue losses for local governments. In 2008, local governments lost \$343 million in tax revenues due to IDA spending. Twenty percent of the exemptions granted by IDAs - amounting to \$103 million - were given to failing projects that did not create any new jobs or actually cut jobs. Two-thirds of the projects that reported ending their IDA deals in 2008 were failures. These companies fell short on their job creation promises by 3,800 jobs and 40% cut jobs over the life of their subsidy deals.¹²⁴ The failures of IDAs in the state illustrate the need for a “general policy of linking taxpayer-funded economic development benefits to performance standards. The state should only subsidize companies that provide good jobs and opportunities for disadvantaged communities and are good environmental citizens.”¹²⁵

Public Transit Funding:

Public transit is particularly important to people of color because of their concentration in cities throughout the state where the availability of public transportation is a much critical than in rural areas and suburbs where whites predominate. From this perspective, the state’s failure to maintain funding for public transit in recent years has been of grave concern. The Metropolitan Transportation Authority, which maintains the subway system in New York City along with other downstate systems,

announced in early February that it faced an additional \$391 million deficit. The deficit was in part due to \$143 million in cuts made in the state budget due to the Deficit Reduction Plan instituted by the administration last year.¹²⁶ As a result of the MTA deficit, the agency is now considering a number of serious service cuts, including ending certain subway lines, increasing waits midday and weekends on more than half of subway lines, and ending weekday service on 11 bus routes.¹²⁷ The Executive Budget proposes to provide \$19 million for student MetroCards, used in New York City to transport high school students to school, but this is far below the previous state contribution of \$45 million.¹²⁸ Public transit systems throughout New York State have also had to resort to fare increases and to eliminate bus routes. For example, Albany's bus system raised its bus fare from \$1.00 to \$1.50 in April of 2009, and is taking other steps, like not adding runs to crowded routes.¹²⁹

Cuts to Citizenship Funding:

Roughly three of every four immigrants in New York State are non-white.¹³⁰ The cuts to non-profit programs that seek to integrate immigrants to fully participate in our society and economy are extremely unwise and will increase racial and ethnic disparities. The New York State Citizenship Initiative, for example, funds roughly 20 non-profit organizations statewide that assist the roughly 1.1 million New Yorkers who are eligible for citizenship to apply and to learn English. Moreover, the Citizenship Initiative ultimately helps immigrants to access programs like SSI once they become citizens, bringing much-needed federal funds into the state and the communities in which they live.

Other important funding streams like the New York State Refugee Resettlement Assistance Program have also been seriously cut, further limiting the ability of non-profit organizations to serve this growing community of New Yorkers.


¹³¹

Cuts to Nutrition Outreach and Education:


NOEP is a federally-matched program that has a successful track record of increasing federal Food Stamp recipients in New York State, and therefore maximizing the amount of federal dollars in the state. The proposed \$142,000 cut will result in an identical loss of \$142,000 in federal matching funds. The Nutrition Consortium of New York State estimates that the loss of these funds will result in 2,000 additional households not receiving application assistance and \$7 million in food stamp benefits that will not be spent in struggling neighborhood grocery stores.¹³² As we said in last year's "Race Matters" report, given the tiny amount of state funds involved and the positive economic impact, cuts to NOEP would be penny wise and pound foolish.¹³³

Criminal and Juvenile Justice


Some Key Executive Budget Actions:

 **Cuts to existing programs for criminal defense, including the Aid to Defense Program and the New York State Defenders Association while providing new funding for a new office devoted to criminal defense**


The Executive Budget proposes a cut of 22% for the “backup center” of the New York State Defenders’ Association to \$1.2 million and an approximate 10% cut for the Aid to Defense (ATD) program, to \$8.9 million. In addition, the budget proposes the elimination of roughly \$800,000 in funding for the Legal Aid Society in New York City and funding for four contracts under the Indigent Parolee Representation Program (IPRP). A small appropriation last year of \$325,000 for the Neighborhood Defender Service of Harlem is also eliminated. On the positive side, a modest amount of new criminal defense funding is provided: \$3 million to set up a new Office of Indigent Services and \$7 million to be distributed by the new agency.¹³⁴

 **Elimination of funding for Prisoners’ Legal Services**

The Executive Budget proposes no funding for Prisoners’ Legal Services, which provides representation to those incarcerated in New York State prisons.

 **Closures of four prisons and engage in further consolidations**

The Executive Budget proposes to close four prisons in 2011: Lyon Mountain minimum security facility in Clinton County, Moriah Shock Incarceration in Essex County, the minimum security portion of Butler in Wayne County and Ogdensburg medium security in St. Lawrence County. In addition, the administration proposes the consolidation of dorms at several medium security correctional facilities. The projected budget savings from these steps is \$7 million in FY 2010-11 and \$52 million in the following budget year.¹³⁵

 **Closures of underutilized juvenile justice facilities while cutting programs designed to provide the support youth need to succeed in the community**

The Executive Budget proposes to close or downsize three juvenile justice facilities operated by the Office of Children and Family Services (OCFS) as of January of 2011, saving \$2.9 million in FY 2010-11 and \$14.6 million in the following fiscal year. In addition, \$18.2 million is added to increase staff to youth ratios and to improve medical and mental health services for youth in facilities.¹³⁶ However, almost \$16 million is cut from alternative to detention programs.¹³⁷

Impact on Communities of Color:

As we said in our 2009 “Race Matters” Report, “[t]here is no clearer example of racial and ethnic disparities in our state and nation than in the criminal justice system.”¹³⁸ Leading observers have indicated that the “problem of racial disparity is one which builds at each stage of the criminal justice continuum from arrest through parole, rather than the result of the actions at any single stage.”¹³⁹ For example, one New York State study has found that people of color charged with felonies are more likely to be detained before trial than whites. Nationally, African-Americans are 13% of the general population but 38% of prison and jail inmates, and Hispanics are 15% of the general population but 19% of the prison and jail population.¹⁴⁰ Due in major part to New York’s unjust drug sentencing laws, people of color are vastly overrepresented as prison inmates for drug offenses. As of 2008, African-Americans and Hispanics were 32% of New York State’s general population but comprised nearly 90% of all offenders in state prisons for drug offenses.¹⁴¹ A report issued in January of 2009 by a commission on sentencing reform established by former Governor Spitzer recognized the consequences of this system of gross disparities in New York’s prison population to the future of people of color in the State, quoting a well-known sociologist:

“Young black men today are more likely to do time in prison than serve in the military or graduate college with a bachelors degree. The large black-white disparity in incarceration is unmatched by most other social indicators. Racial disparities in unemployment (two to one), non-marital childbearing (three to one),

infant mortality (two to one), and wealth (one to five) are all significantly lower than the seven to one black-white ratio in incarceration rates...

The social penalties of imprisonment also spread through families. Though formerly incarcerated men are just as likely to have children as other men of the same age, they are less likely to get married ... [and] will most likely divorce or separate... [The children of prisoners] too, are to some extent drawn into the prison nexus, riding the bus to far-flung correctional facilities and passing through metal detectors and pat-downs on visiting day To be young, black, and unschooled today is to risk a felony conviction, prison time, and a life of second-class citizenship. In this sense, the prison boom has produced mass incarceration – a level of imprisonment so vast and concentrated that it forges the collective experience of an entire social group.”¹⁴²

The Executive Budget must be judged by what steps it takes to address the disparities at all levels of the process, from arrest to incarceration, to re-entry into communities in New York.



Cuts to Criminal Defense Funding and New Office for Indigent Criminal Defense

The Governor’s proposal on criminal justice funding sends a mixed message. On the one hand, a new public defense office is proposed to give the patchwork system of criminal defense in New York a “coherent structure and common

vision”¹⁴³ with a limited amount of funding. On the other hand, program cuts to established programs are proposed, compounding a history of underfunding in this area.

In reaction to the Executive Budget, the head of the New York State Defenders Association (NYSDA), the backup organization for New York State public defense attorneys, testified to the Legislature that:

My budget testimony a year ago opened with the State’s ongoing neglect of public defense and the frightful results of that neglect. In the intervening year, our broken public defense system has continued to harm clients every day. So while we hail a revived commitment to fix New York’s broken public defense system, ... we want to be sure that the changes will be more than cosmetic And we want to be sure that public defense clients are not worse off this time next year.¹⁴⁴

According to NYSDA, in order to place the state on the path of greater support for public defense, the new public defense agency must be fully independent and free of political influence and conflicts of interest; for this reason, it should not be housed in the Division of Criminal Justice Services, a law enforcement agency.¹⁴⁵ In addition, aid to defense funding has not kept pace with the need in recent years and must be increased from present crisis levels. For example, instead of the proposed NYSDA 22% cut, the Legislature should adopt the organization’s recommendation to provide it with last year’s Enacted Budget level of \$1.5 million to maintain its basic service levels.¹⁴⁶ Further, other existing

funding omitted from the Executive Budget for parolee representation and criminal defense, including for agencies like the Legal Aid Society of New York City should be restored.¹⁴⁷

Elimination of Funding for Prisoners’ Legal Services

The Executive Budget, following a pattern since 1996, proposes no funding for Prisoners’ Legal Services (PLS). PLS represents people in prisons on a number of matters, including discipline, and allegations of violations of legal and constitutional rights.¹⁴⁸ PLS funding of has not close to kept pace with the need. In the 1990s, when the prison population reached almost 72,000, PLS had 40 attorneys; now with a population of 59,000, PLS has 12 attorneys.¹⁴⁹ Since 2001, PLS has been funded at \$2.3 million annually through an addition of funding by the Assembly in the final budget negotiations.¹⁵⁰ It is critical that the Legislature continue its record of reversing the lack of support for PLS in a succession of executive budgets prepared under different Governors.

Prison Closures and Consolidations

The proposal in the Executive Budget to shut down four prisons in 2011 and take other consolidation steps is a welcome step. The budget documents indicate that the primary reason for the closures and consolidations is the state’s declining prison population - from a high of 71,538 in 1999 to a projected 57,600 by the end of 2009. And, the administration projects a further decline of 778 incarcerated persons by the end of 2011,¹⁵¹ suggesting that further prison closures are

feasible. The state's prison population is likely to continue declining in part due to the Governor's and Legislature's admirable reforms of the unjust Rockefeller Drug Laws last legislative session.¹⁵² These reforms include the elimination of mandatory prison sentences for many drug offenses and "greater discretion to judges to sentence non-violent, drug-addicted offenders to treatment rather than prison."¹⁵³ While the primary justification provided by the administration for this year's proposed prison closures is a fiscal one, we believe that the state's racist prison system, in which a disproportionate number of people of color are sent to prison, is its own justification for continuing along on the state's path to reduce excess prison capacity. The state should continue its efforts by further reforms to New York's unjust and discriminatory drug laws and further efforts to divert people convicted of crimes from prison. The state also must in the short and medium term gradually increase its investments in a whole host of programs, including after-school, youth programs, summer jobs programs, and alternative-to-detention programs to ensure that in the long term, prison populations do not once again increase in New York.



Juvenile Justice Downsizing and Alternative Programs

While the state's budget presentation has focused on the fiscal savings from its proposed closures and downsizing of several OCFS youth facilities, it is clear that simple justice requires a move away from use of these facilities.¹⁵⁴ As we said in last year's "Race Matters" report, summarizing the views of the New York Juvenile Justice Coalition: "it makes absolutely no sense to confine ... [African-

American and Latino youth] ... in upstate facilities that are far from their homes and communities, where they would have access to family and social supports, and services like family counseling, substance abuse treatment, and mental health services that are more likely to prevent them from becoming re-arrested."¹⁵⁵

The shocking revelations of mistreatment of youth at OCFC youth facilities provides an additional compelling reason for moving in a new direction. A federal Department of Justice (DOJ) investigation has found that excessive force was used at four youth detention facilities, resulting in injuries to children like broken bones, concussions, and knocked-out teeth. Following the results of the DOJ investigation, Governor Paterson's Task Force on Transforming Juvenile Justice released its own report, finding similar problems through the state's 28 facilities. A leading criminal justice advocate and task force member, Robert Gangi, the Executive Director of the Correctional Association of New York, has pointed to racial inequities as a core problem with the state's juvenile justice system. Children of color are less than half of New York State's total youth population, yet Black and Latino children make up over 86% of youth in state facilities. Gangi points out that "An effective way for the state to address the system's deeply entrenched issues of overincarceration and racial disparity is to shut down underutilized facilities for youth."¹⁵⁶

While the moves toward downsizing and closing juvenile justice facilities is therefore a positive step, this policy change is undermined by the administration's proposal to cut roughly \$16 million from alternative-to-detention programs.

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These programs, which allow children to stay at home providing that they submit to intensive counseling and follow strict behavioral rules, have been proven effective in preventing both juvenile delinquency and youth from re-entering the juvenile justice system. A recent New York Times article focused on the irony that the OCFS commissioner is discouraging judges from sending kids to juvenile prisons, yet the administration is proposing to cut funding for programs that would provide many more children with suitable alternative placements if enough funding was available.¹⁵⁷ A greater focus on these programs will also save the state significant funding in the medium and long-term: the state spends \$210,000 a year for each child incarcerated in the juvenile justice system; in comparison, alternative programs cost between \$5,000 and \$15,000 for each child.¹⁵⁸

A Real Alternative to Cuts that Harm New Yorkers

Throughout this report, we have called for restorations to numerous critical programs that serve low and moderate income people and people of color. **Given the deficit of more than \$9 billion faced by the state, it is essential to examine the revenue side of the budget in order to achieve a final budget that does not have an unfair impact on people of color.**

Four important trends are critical to the debate as to who should “sacrifice” in this time of severe economic distress.

- **Wealthy New Yorkers are receiving an ever higher share of the state’s income.** As of 2006, the top 1% of New Yorkers in income received 29% of the state’s income - more than two-and-a-half times the combined income of the bottom half. New York continues to have the highest income gap in the nation between the rich and poor, and between the rich and the middle 20% of the income distribution.¹⁵⁹
- **The large-multi-year tax cuts enacted between 1994 and 2005 reduced revenue in New York by \$20 billion by 2008-09.**¹⁶⁰
- **Over the past three decades, the state has cut its top personal income tax rate on the wealthiest New Yorkers by more than 50%,¹⁶¹ forcing working class families to pay an increasingly higher share of the overall tax burden.**
- **New Yorkers with the least income carry the highest tax burden.** This is still true after the temporary surcharge on the wealthiest New Yorkers passed by the Legislature last year is taken into account. (That surcharge, effective from 2009 to 2011, raised the rate for the top income tax bracket to 8.97%.) Factoring the temporary surcharge in, the top 1% of New Yorkers in income - those making over \$633,000 annually - pay only 8.4% of their income in state and local taxes, while the middle 20% - those making from \$33,000 to \$56,000 - pay 11.6%, and the bottom 40% pay roughly 10%.¹⁶² There is no question that placing the burden on low and moderate income New Yorkers has a disparate impact on people of color. As of 2005, the median African-American family income in New York was \$45,090, while the median Latino family income in New York was \$38,951. On average, the median African-American income is 62% of what whites earn, while Latinos earn 54% of the median for whites.¹⁶³

As a consequence of these four trends, there has been no true “shared sacrifice” in New York State. Low and moderate income people in recent years have shared the “burden” in the form of reduced services, as highlighted in this report. However, just as significantly, average working families, including people of color, also have increasingly come to pay a disproportionate share of the burden of supporting state services, as taxes on high-income individuals and corporations have been lowered.

The Executive Budget continues these trends. While the budget commendably proposes some positive revenue measures, including a new tax on

sugary beverages and an increase in cigarette taxes,¹⁶⁴ only roughly \$1 billion of the \$6.7 billion in “gap-closing” steps in the original Executive Budget released on January 19th consisted of increased taxes, while \$4.9 billion - or 72.4% - consisted of a combination of cuts in state operations (services to New Yorkers) and cuts to local programs.¹⁶⁵ Many of these cuts will also result in higher property taxes on working families.

We believe that the Legislature must re-examine the revenue policies embodied in the Executive Budget to restore real shared sacrifice. Average working families, including people of color, should not have to once again bear an unfair share of the burden of the state budget crisis in the form of cuts in the state services they depend on and increases in property taxes due to costs passed onto local government.

Instead, the Legislature should select the most appropriate revenue and savings measures recommended by fiscal reform groups like the Better Choice Budget Campaign, advocates like the Alliance for Quality Education, and unions like SEIU. We have summarized some of the significant revenue proposals made by one or more organizations below.

- **Modify Personal Income Tax to be More Progressive:** As previously stated, the 2009-2010 Enacted Budget included a temporary tax increase on wealthy New Yorkers that is set to expire in 2011. The marginal income tax rate increased from 6.85% to 7.85% for families with taxable incomes from \$300,000 to \$500,000 and to 8.97% for families with taxable incomes over \$500,000.¹⁶⁶ The estimated revenue from the tax increase in 2010-11 is \$4.9 billion.¹⁶⁷ The

tax increase should be made permanent and an additional tax bracket added for taxpayers with taxable incomes over \$1 million a year.

- **Implement Temporary Work Release Programs:** The existing state Temporary Release program allows eligible people in prisons to participate in rehabilitation-related activities like work, education, volunteer and religious activities. Extending the use of the work release program would save taxpayers money both because the cost to the state of each work release participant is much less than the cost of each “traditional” prisoner and work release participants earn income that is taxed.¹⁶⁸
- **Establish a Plastic Bag Tax:** New Yorkers currently use roughly 6.3 billion plastic bags a year. The average New Yorker uses roughly 330 plastic bags a year. Only a small percentage of plastic bags get recycled. This proposal is an excellent way to protect the environment while raising revenue for New York State. Mayor Bloomberg proposed such a tax in New York City, and other states, cities and countries (including Ireland) have such a tax.¹⁶⁹
- **Reduce the Stock Transfer Tax Rebate:** A stock transfer tax is a sales tax on the transfer of individual stock. At present, New York State collects tax on each stock transaction and immediately rebates it back to the stock broker. Under this proposal, the state would simply hold on to 20% of the money it collects and rebate the remaining 80% back to brokers.¹⁷⁰
- **Enact a One Time Tax on Bankers’ Cash Bonuses:** SEIU 1199, a major health care union, has proposed instituting a one-time tax on

bankers' cash bonuses over \$50,000, raising from \$6 billion to \$10 billion. They argue that a "Banker Bonus Tax" would "discourage Wall Street's penchant for rewarding short term risk taking, and encourage firms to maintain adequate capital reserves by tying employees' fates to those of shareholders."¹⁷¹

- **Reduce Contracting Out to Overpaid Consultants:**

In FY 2008-09, New York spent \$2.9 billion on private consultants at an average rate of \$160,719. Consultants charge 62% more than state employees that do the same work including state benefits. The state should reduce contracting out to over-paid consultants before state employees lose their jobs or pay. Replacing half of these consultants with state employees will produce savings of roughly \$200 million a year.¹⁷²

- **Use New York State's Purchasing Power to Get Lower Prices on Prescription Drugs:** Language in previous state budgets allows the Department of Health to negotiate directly with drug companies for lower cost drugs. New York State spends approximately \$4 billion a year on prescription drugs for the Medicaid program. The state should use its purchasing power to force drug companies to get lower prices.¹⁷³

Just enacting these 7 measures – just a selection of the measures proposed by progressive organizations - would generate over \$15 billion in additional revenue for the state in 2010-11, easily providing the funds to restore all of the cuts in vitally needed programs mentioned in this report and many others. (We are not suggesting that all of these proposals should be passed by the Legislature, only that there are reasonable alternatives to the proposed cuts

that would generate more than enough revenue.) In addition, many revenue measures proposed by advocates have major social policy benefits. For example, a plastic bag tax would curtail the use of this environmentally unfriendly product and the temporary work release proposal could reduce recidivism.

There are other alternatives that the Legislature can consider as well that involve management of the state's finances. For example, the Better Choice Budget Coalition has once again urged that the state consider drawing on the state's Tax Stabilization Reserve Fund and the State Rainy Day Funds, for which up to \$1.5 billion is available, to mitigate the cuts.¹⁷⁴ Moreover, shortly before this report went to press, Lieutenant Governor Ravich proposed a five-year financial rescue plan that includes the state taking the unusual step of borrowing to pay for operating expenses.¹⁷⁵ And, of course, there is the serious prospect of federal fiscal relief beyond the limited amount of additional aid relied upon by the administration in the financial plan it submitted with the 21 Day Amendments to the budget: almost entirely an anticipated six-month extension of the enhanced federal share of state Medicaid costs.¹⁷⁶

We believe that enacting additional revenue measures beyond those proposed by the administration, adopting a reasonable borrowing plan and relying on additional federal relief is a formula that will enable the Legislature to rescind the spending cuts that most disproportionately impact people of color and the most vulnerable New Yorkers. This would be a giant first step in bringing greater racial equity and fairness to the New York State budget passed this year.

Recommendations and Conclusion

This report reviews a number of programs in the Executive Budget and concludes that many of the proposed funding reductions would disproportionately impact communities of color. The cuts detailed in this report could increase racial inequality in the state and widen the already existing disparities that disadvantage people of color. To address these disparities, these steps should be taken.

1. **The Legislature and Governor should make changes to the proposed budget to prevent adverse racial impacts and to create more opportunities to advance racial equity, and improve the quality of life for all New Yorkers.**

Funding needs to be restored to avoid increasing racial and ethnic inequality in New York State and to meet the needs of the majority of New Yorkers.

2. **The Legislature should pass additional revenue measures to reduce or eliminate the necessity for cuts that impact on the most vulnerable New Yorkers, including people of color, and to promote greater equity.** Given that low-income people tend to spend virtually all the additional income they receive directly in their local communities, preserving the social safety net is in the interests of the overall state economy as well.

3. **In the medium and long-term, state policymakers should consider the impact on racial equity as a vital part of the process of**

arriving at a final state budget. As we said in our last “Race Matters” report, a conscious and careful analysis of the effects of public decisions on different racial and ethnic groups would enable state policymakers to make more informed decisions. Such an analysis would be a useful tool for assessing the anticipated effects of budgets and other public policies in order to identify ways to maximize equity and inclusion and minimize adverse and unanticipated impacts. For example, as we previously stated in this report, a careful analysis needs to be done of the impact of any proposed further health care cuts on health care “safety net” institutions and other programs that vulnerable New Yorkers rely on such as clinics in low-income communities. Our proposal for greater data analysis should be accompanied by restructuring the state budget process to make sure that the needs of New York’s major racial and ethnic groups are taken into account in the design of state policies.

4. **Finally, the racial equity analysis proposed above should also consider the impact on upstate cities of any spending reductions.** Given the increasing numbers of non-whites, Hispanics and immigrants in upstate cities, it is not enough to just restore cuts to vital social programs: we must direct aid in such a way as to enhance the potential of upstate to serve as an engine of economic opportunity for its non-white residents.

There is no doubt that the state cannot recover from its economic malaise on its own: the federal government must take the lead. The \$787 billion

federal stimulus law signed by President Obama one month after taking office (known formally as the American Recovery and Reinvestment Act, or “ARRA”) was enormously helpful in preventing New York from sinking into an even worse recession. As bad as New Yorkers have fared since September of 2008, job losses in our state have not been as bad as in many other states, partially due to significant federal aid New York has received under ARRA. Through such programs as unemployment insurance, food stamp increases and TANF, ARRA will provide \$5 billion in payments to individual New Yorkers, helping to stimulate economic activity throughout the state. However, as the unemployment and underemployment numbers we’ve cited highlight, New York is not close to recovering from the economic freefall that began in September of 2008 with the Wall Street meltdown.¹⁷⁷ We recommend that that all stakeholders unify with state officials to ensure that the Congress continues to provide additional relief to the states, and that a significant portion of this additional funding be devoted to restoring funding for vitally-need programs: not just to deficit reduction. While seeking additional federal funding, the state must maintain its investments in basic human services that the most vulnerable New Yorkers rely on to survive in this struggling economy.

The final choices made when a state budget is passed will say a great deal about the priorities our state chooses in tough times, and even more about whether we are willing to make the choices that will lead to economic recovery for all New Yorkers. **We reject the idea that New York has no choice but to cut spending because of a bad economy and a large deficit. It is time that both**

the pain and the wealth in this state be shared.

We believe that New York legislators must prioritize within the budget a racial justice and urban agenda that will stop the neglect of so many for the benefit of so few. Our communities of color want to thrive and have the same opportunities for education, innovation and job creation as all communities.

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