

THE PEOPLE'S BUDGET

# BUDGET EQUITY XXIII

**PRELIMINARY ANALYSIS OF THE GOVERNOR'S EXECUTIVE BUDGET 2015-2016  
BY THE NEW YORK STATE BLACK, PUERTO RICAN, HISPANIC, AND ASIAN  
LEGISLATIVE CAUCUS**

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**Message from Chairman  
Assemblyman Jeffrion Aubry  
SFY 2015-2016**

I am honored to assume the Chairmanship of the NYS Assembly Black, Puerto Rican, Hispanic and Asian Legislative Caucus for the 2015 Legislative Session. I would like to congratulate my predecessor and former Assembly Colleague Karim Camara on his new position as head of the Office of Faith-Based Community Development Services; I am certain he will do great things.

While there has been a change in leadership, the mission remains the same. The Caucus will continue its work toward bettering the lives of minority communities through meaningful legislation and public policy and continue to advocate on behalf of underserved constituencies of color throughout New York State.

Our policy goals are clear; and our budgetary goals are both clear and resolute. *The People's Budget: Budget Equity XXIII* is an analysis and general overview of the 2015-2016 Executive Budget and is compiled and disseminated in order to provide all of our constituents with important information about the impacts of this year's budget on our local communities.

The Legislature made great strides last year, but there is much more work to be done. Hardworking men and women are desperate for a meaningful minimum wage, an affordable place to live, quality education for their children, a restoration of faith, trust, and accountability in the justice system, and a brighter future for our state's young immigrants through passage of the DREAM Act. With the strong resolve and diligence of our Caucus, we can move these initiatives forward.

Rest assured that as Chair, I intend to keep your voices and needs at the fore; and the Caucus will continue to fight for policies and a budget that is equitable and reflects the needs of our communities. Ensuring that the critical needs of our constituents are addressed in the budget is a challenge that will take a robust team effort—and the Caucus will—as it has time and again meet that challenge head on. The Caucus remains united and stands firm in its resolve to protect the interests of all of our constituents and be the voice for the voiceless throughout the great state of New York. Let's make the 2015-2016 year one that breaks new ground in our continuing quest for justice and equality.



**Message from Budget Co-Chair  
Assemblyman Walter T. Mosley  
SFY 2015-2016**

Governor Cuomo's Executive Budget for the 2015-2016 state fiscal year is advantageous and unique in its tax collection and miscellaneous receipt expectations. The governor proposes a \$141.6 billion budget for SFY 2015-16 which is 2.8 percent higher than the previous fiscal year. Unlike last year's emphasis on limited spending, this year's budget will see an 11.2 percent increase in General Fund spending, a 3.9 percent increase in State Fund spending, and a 1.7 percent increase in State Operating Fund spending.

In spite of these increased spending measures, Governor Cuomo still maintains an aggressive tax relief and tight spending philosophy. Although conservative fiscal policies and reduction of taxes attribute to a balanced budget, it often fails to address specific concerns – primarily matters that are germane to the needs and concerns of minority and low-income communities. As a Caucus we must pursue and allocate resources to foster opportunities for families and individuals still struggling to make ends meet from a continued slow-moving economic recovery.

New York State is one of the leading jurisdictions with an extremely high income inequality gap, which has been fuel by the disproportionate income levels that continued to worsen with top wealth and bailouts concentrated at the top. In light of these facts, our state has seen a decrease in families and individuals receiving public assistance while at the same time witnessing the level of poverty reaching new and unfortunate record levels across all regions of the state.

Public Assistance programs are not the only answer to combating poverty, we must also invest in social service not-for-profits and community based organizations that are on the ground and fund existing job creation programs and education initiatives. The role of government is to serve and protect its citizens and our state budget should reflect this agenda.

To guarantee a robust and comprehensive budget we must support and enact initiatives such as expanding Universal Pre-K statewide, supporting an immediate raise in age of juvenile jurisdiction, properly fund our public education systems, and swiftly pass the DREAM Act, which would finally allow undocumented students to access state funding to continue their higher education. What we do here in Albany has a lasting impact on all New Yorkers, and we must pass a budget that serves as a catalyst to improving all of our communities.

As we go into these last few weeks of budget negotiations, which will lead up to the budget deadline of April 1, I am confident that we can work together with our Senate counterparts, and the governor to address the issues we have identified within this proposed budget in a positive and progressive manner.





## ACKNOWLEDGEMENTS

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New York School Nutrition Association  
Conference of Big 5 School Districts  
Federation of Protestant Welfare Agencies (FPWA)  
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Common Justice  
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Campaign 4 NY/NY Housing  
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Fiscal Policy Institute  
New York State Defenders Association New  
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**PRELIMINARY ANALYSIS OF THE  
2015-2016 EXECUTIVE BUDGET**

## THE 2015-2016 EXECUTIVE BUDGET IN ECONOMIC AND SOCIAL CONTEXT

The Executive proposes a \$141.6 billion budget for SFY 2015-16. This represents a growth of \$3.9 billion or 2.8 percent. With the inclusion of extraordinary federal aid for Superstorm Sandy and the Affordable Care Act, the All Funds budget is adjusted to \$150 billion and grows by \$6.96 billion or 4.9 percent over the previous year. The extraordinary aid includes: \$1.7 billion for Sandy; \$6.1 billion for the Affordable Care Act; and \$540 million for the financial settlements.

<b>Size of Budget (\$ in Millions)</b>				
	<b>General Fund</b>	<b>State Operating Funds</b>	<b>State Funds</b>	<b>All Funds</b>
<b>2014-15</b>	\$63,524	\$92,407	\$98,698	137,744
<b>2015-16</b>	\$70,629	\$93,984	\$102,551	141,630
<b>Difference</b>	\$7,105	\$1,577	\$3,853	\$3,886
<b>Percent</b>	11.2%	1.7%	3.9%	2.8%

The Executive proposes several new initiatives that create a budgetary impact totaling \$988 million. Included among these proposals is a real property tax relief credit for homeowners and renters who meet income and tax burden thresholds and a new Education Tax Credit, which allows taxpayers to contribute to public and private schools. The details are listed below:

- \$350 million for Property Tax/Renters Relief
- \$153 million for Affordable Housing
- \$110 million for NYSUNY2020 & NYCUNY2020
- \$50 million for Homelessness
- \$50 million for Not-for-Profit Housing & Community Development
- \$50 million for STARTUP-NY
- \$45 million for Tourism/I LOVE NY
- \$27 million for DREAM Act
- \$100 million for Education Tax Credit
- \$25 million for Pre-K for 3-Year Olds
- \$15 million for STORM Online System
- \$5 million for Student Loan Forgiveness for Low Wage/High Debt
- \$4.5 million for Emergency Food Access
- \$3 million for Masters in Teaching

Governor Andrew Cuomo's Executive Budget proposal takes positive steps toward acknowledging the incredible child poverty and income inequality that exist in our state. In many

respects, the Executive proposal recognizes the need to give greater property tax relief to those who need it most rather than spreading it too thinly.

The governor should put his strict budgeting behind him by scrapping the two percent state spending cap. Otherwise, new measures to address poverty will be paid for by cutting human services spending and other state programs that serve the middle class. State tax revenues, total wages, and personal income are projected to grow by four to six percent annually over the next four years. There is no reason to hold annual spending growth below two percent if it means that we are under-investing in education and poverty reduction. The sheer magnitude of continued spending cuts forced by the two percent spending cap—\$1.7 billion in FY2017, \$3.3 in FY2018, and \$4.8 in FY2019— will inevitably starve our schools and public universities and prevent our state from making the investments needed to expand opportunities for those struggling to lift themselves out of poverty.

In the governor's budget proposal, too many of the otherwise good public policy initiatives are linked to the acceptance of bad policy that in some cases undermines the initial proposal and in others is utterly unrelated to it.

The governor proposes increasing education funding by \$1.1 billion--only half of the \$2.2 billion that nearly every education and student-focused organization in the state is demanding. The Legislature should not agree to an education budget that makes drastic reforms that blame teachers for poor student outcomes in underfunded, high need, low wealth districts. We need more education funding in high need districts and a serious investment of state funds in combatting child poverty if we are to improve graduation rates.

The governor proposes a property tax relief plan (Circuit Breaker) that wisely ties a family's property tax burden to its income level, targeting relief to over one million New Yorkers that need it the most. However, he links this relief to local compliance with a misguided property tax cap, and he funds the needed tax relief with future surpluses predicated on billions of unspecified future spending cuts that will be required by the two percent state spending cap.

Similarly, the DREAM Act is a clear win for the state, with a modest cost and a strong return on investment. But, rather than support it outright, it is tied to the controversial Education Investment Tax Credit. This year, New York State's budget includes a surplus of \$5.4 billion in funds resulting from settlements related to banking industry malfeasance. The governor proposes allocating a large portion of the \$5.4 billion in bank settlement funds to much-needed infrastructure repairs, as is highly appropriate. However, the Executive Budget also includes a proposal to divert \$1.5 billion of this money to a "cut throat" competition among the seven upstate Regional Economic Development Councils (REDC), with all seven REDCs competing for 3 pools of \$500 million. Upstate economic development is a crucial state priority, but what's needed is a smart overall strategy for development, not an approach that pits one region against another.

The Executive's proposal addresses New Yorkers' need for a meaningful minimum wage. The governor's proposed \$11.50 minimum wage for New York City and \$10.50 for the rest of the state is a good first step, but it would lift the minimum to about 30 percent of the average wage

in New York City and statewide. We should aim higher. We should ensure that the minimum wage is automatically tied to the cost of living and adjusted in the future to prevent inflation from eroding its value.

What New York really needs is a Shared Opportunity Agenda, one that will benefit all New Yorkers. We must devote more resources and apply less politically encumbered policies to our schools, and to our communities, by strengthening our safety net if we are to truly combat income inequality in our state.

## EDUCATION

### Education Opportunity Agenda

The governor has advanced a stand-alone Article VII language bill, in addition to the standard Education Budget language bill, that includes a number of proposed reforms. The Executive Budget Education Aid to Localities bill requires enactment of the Opportunity Agenda in order for school districts to receive the full \$1.06 billion increase in school aid over 2014-2015 aid. The Education Opportunity Agenda includes the following key provisions:

- **Tenure** - Teachers and principals would have a five-year probationary period and are required to receive five consecutive effective or highly effective ratings prior to receiving tenure.
- **Failing Schools** - A process, similar to the Massachusetts model, is set forth that would provide for the appointment of a receiver to take over the operations for failing school districts and individual schools in certain cases. School districts scoring in the lowest 2.5% and schools identified to be among the lowest 5% for at least three years of student achievement measures and meeting other criteria as set forth by SED, could be deemed failing and a receiver may be appointed to assume all responsibilities of the superintendent and the board of education. The receiver could be a non-profit, another school district or an individual. The receiver would have broad powers to modify proposed budgets and the receiver could supersede any employment decisions of the board of education. The receiver is responsible for the creation of a turnaround plan and, in doing so, must establish community schools to provide expanded health and mental health services to the community and replace unqualified teachers and administrators. The receiver is also authorized to reallocate the uses of the existing school district budget; expand the school day or school year; limit, suspend or change contract provisions (with the exception of compensation unless hours are reduced); add full day prekindergarten and kindergarten; and order the conversion of a school to a charter school without a vote of the parents.
- **Removal of Teachers** - Teachers convicted of a violent felony against a child would have certification revoked immediately. Suspension without pay would be required if an employee is charged with misconduct constituting physical or sexual abuse of a student and the employee would be subject to an expedited hearing process. Certain disciplinary hearings would have to be held before a single hearing officer instead of a three-member panel and children would be permitted to testify in writing or by video. Teachers with two consecutive ineffective ratings would constitute sufficient evidence of incompetence and be just cause for removal unless rebutted by clear and convincing evidence that the calculation of any subcomponent of the APPR was fraudulent.
- **Charter Schools** - The cap on charter schools is increased by 100 and limits for regions and by authorizer is eliminated. Charter School Supplemental Basic Tuition is increased



from \$350 to \$425 per pupil for 2015-2016 and from \$500 to \$575 for 2016-2017. New data reporting requirements and lottery preferences are also established.

- **APPR** - The local test portion is removed and weightings are altered to be 50 percent State tests and 50 percent classroom observations with 35 of the 50 percentage points determined by an independent observer.
- **NYC Mayoral Control** – The current model is extended for three years.

### **Campaign for Fiscal Equity**

In 1993, Robert Jackson and a group of New York City parents organized the Campaign for Fiscal Equity. CFE sued the State of New York on the grounds that the State was failing to provide students the “sound basic education” or “meaningful high school education” that is their constitutional right. The New York State Court of Appeals repeatedly found that the State was failing in its constitutional obligations to provide for the classroom resources necessary to educate every student.

In 2007, the Caucus joined with all of its State elected officials in enacting historic school reforms that were designed to provide a statewide resolution to CFE. The 2007 education reforms were designed to finally end the delays and excuses that stood between too many of our students and the quality education that is their constitutional right. But in 2009 the fiscal crisis took hold and since then our schools have faced retrenchment. The State cut \$2.8 billion in school aid, through a GEA (Gap Elimination Adjustment) formula. Since then, we restored \$1.75 billion; of that amount 74.9% went to high need districts—there is currently \$1.04 billion left to be restored.

We have an opportunity to restore many of these cuts. We must maintain our promise to providing increased funding through Foundation Aid and work toward full funding.

### **Support Attendance Improvement Dropout Prevention (AIDP) Initiatives at \$50.5 million**

The AIDP program has provided critical dropout prevention programs and services and is continued in the Executive Budget.

### **Provide the Test Assessing Secondary Completion (TASC) examination in Chinese and Korean Languages**

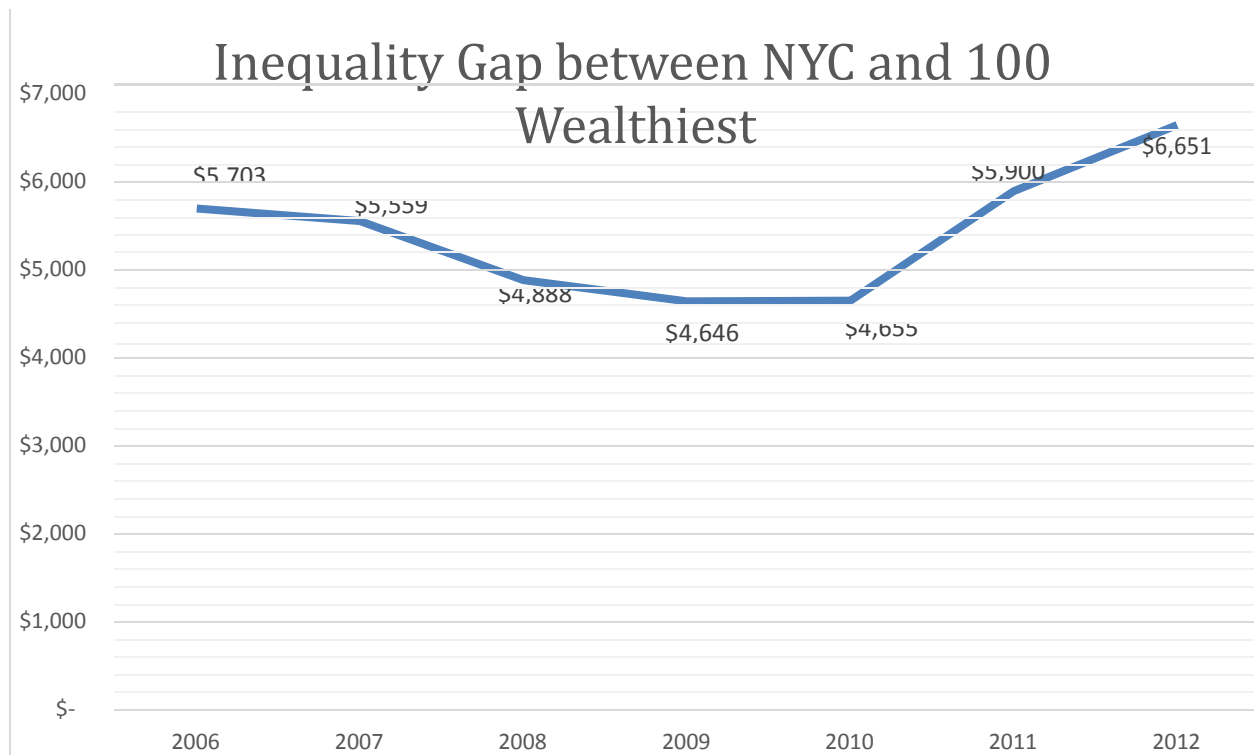
A.241 (Rozic) allows pupils who are proficient in the Chinese or Korean language the option to receive instructions in preparation for the Test Assessing Secondary Completion ("TASC") examination and take the examination in such languages.

While learning to read, write and converse in English is a collective and laudable goal for many pupils in the United States, standardized testing may be unnecessarily challenging for those who have yet to achieve a mastery of the English language. This legislation provides the opportunity

for pupils to demonstrate their aptitude in subjects such as social studies, science and math without the impediment of a lack of proficiency in the English language. Currently, the TASC examination and its study materials are only offered in English, Spanish and French. By expanding access of the TASC examination to pupils proficient in the Chinese and Korean language, it will accommodate the growing population of Chinese and Korean speakers in the state of New York who may seek TASC credentials.

**Inequality Gap: Wealthy Districts and Districts with High Black and Latino Students**

New York State has reached an all-time high in the inequality gap under Governor Cuomo’s tenure. Since the governor took office, the gap<sup>1</sup> between wealthy school districts and districts with high Black and Latino populations has widened to \$7,061. The 100 school districts with the highest levels of Black and Latino students have a combined 47% Black and Latino students, 47% students on Free and Reduced Price Lunch (FRPL), and 49% economically disadvantaged students. For these students, access to quality education has been compromised given the severe cuts their schools face.



Source: Alliance for Quality Education

<sup>1</sup> <http://www.aqeny.org/wp-content/uploads/2015/01/final-final-record-setting-inequality.pdf>

## **New York State Has Left New York City Behind by \$2.5 Billion**

New York City is owed approximately \$2.5 billion of Foundation Aid and Gap Elimination Adjustment funding. New York City parents sued the state claiming that their children's schools had been chronically underfunded by the State in the Campaign for Fiscal Equity lawsuit. In 2007, the State settled the case on a statewide basis committing to add \$5.5 billion in Foundation Aid.

The amount of Foundation Aid and Gap Elimination Adjustment (GEA) funding owed per pupil is 2.3 times greater in high need districts than in wealthy districts. For high need small cities and suburbs, the amount owed is 3.3 times that of wealthy districts. For the "Big Four" cities (Buffalo, Rochester, Syracuse and Yonkers) the amount is 2.8 times larger and it is double for New York City and high need rural districts.

## **High Stakes Testing and Teacher and Principals Evaluations**

Governor Cuomo wants to double down on testing. He wants to make 50% of teacher and principal evaluations based on state assessments and tie teacher and principal tenure to test scores. In New York, parents, teachers and administrators alike have panned the governor's approach as overly simplistic, complex and too focused on standardized tests.<sup>2</sup> He wants to dramatically increase the emphasis on high stakes standardized tests. The outcome will result in teachers teaching to the test, which is bad for the education of our children. The Legislature should reject his plan. The Caucus rejects this plan and the legislature should follow suit.

## **Improving Low Performing Schools**

The governor is right that the State needs to improve education in many schools, which has been the Caucus position all along. The governor is proposing a State run takeover of low performing school districts and schools by turning control of a local school district over to a "receiver", who essentially becomes the czar of the school district. The "Cuomo Plan" would eliminate the powers of the elected school board and the superintendent, and would make the voices of parents, students and voters moot, as the new school czar would hold tremendous power and influence. The same plan would be applied to individual schools as well as districts. The one power the school czar would not have is additional funding to create the needed programs. These interventions are generally modeled after federal No Child Left Behind programs.

The plan is destined to fail in most cases. In fact, a comprehensive review of these types of interventions nationwide found that "Overall, there is little or no evidence to suggest that any of these options delivers the promised improvements in academic achievement."<sup>3</sup> The research on what does work shows clearly that one of the essential elements is strong parenting and community ties,<sup>4</sup> but Governor Cuomo's top down interventions may unintentionally overlook

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<sup>2</sup> <http://www.lohud.com/story/opinion/editorials/2015/01/21/gov-cuomo-wrongly-focused-teacher-evaluations/22129435/>

<sup>3</sup> <http://nepc.colorado.edu/files/Mathis-SANCTIONS.pdf>

<sup>4</sup> [http://ccsr.uchicago.edu/downloads/9954essentialsupports\\_onepager\\_final-2.pdf](http://ccsr.uchicago.edu/downloads/9954essentialsupports_onepager_final-2.pdf)

parents and communities. A viable solution to this funding discrepancy is fair and equitable taxation in order to fund these programs.

### **Private School Voucher Tax Credit: Pure Privatization**

Corporations and individual taxpayers would receive a tax credit equal to 75 percent of their contributions, up to \$1 million a year. That is a total of \$100 million in taxpayer money going primarily to private schools. The governor has linked the DREAM Act in order to get support for the private school tax credit.

### **School Funding: Perpetuating Inequality**

The governor's \$1.06 billion proposal falls way short of what is needed, it's half of what was proposed by the Board of Regents and 83 members of the State Legislature.<sup>5</sup> The \$1.06 billion he has proposed is not enough and if his budget proposal is enacted it will perpetuate educational inequality. Our public school students need a \$2.2 billion increase. A comprehensive new study shows that, "a 10 percent increase in the money available for each low-income student resulted in a 9.5 percent increase in students' earnings as adults."<sup>6</sup>

### **Expanding Pre-K Statewide**

Thanks to the investment of \$340 million in the FY 2014-2015 budget, tens of thousands of four-year-olds gained access to quality pre-kindergarten. Last year's enacted budget included \$300 million for full day pre-K for NYC and \$40 million for the rest of the state despite Governor Cuomo pledging a "blank check," to fund districts as they came forward with a plan. The 2014 funding added approximately 32,000 seats in New York City, but only 5,300 in the rest of the State (5%). Unfortunately, there are still around 96,000 four-year-olds waiting for a spot in a full day program, about 61% of the four-year-olds in the state. Approximately 51,000 of them are in low income/high need communities.

This year's budget does not expand pre-K for a single four-year-old. And this comes after only serving 5% of four-year-olds outside New York City last year. Governor Cuomo has no plan to phase in universal pre-K (UPK) for upstate and suburban four-year-olds. The Caucus continues to strongly advocate for a fully expand universal pre-K initiative statewide, and adjusting the payment process for districts awarded UPK funding to upfront payments, rather than later reimbursement.

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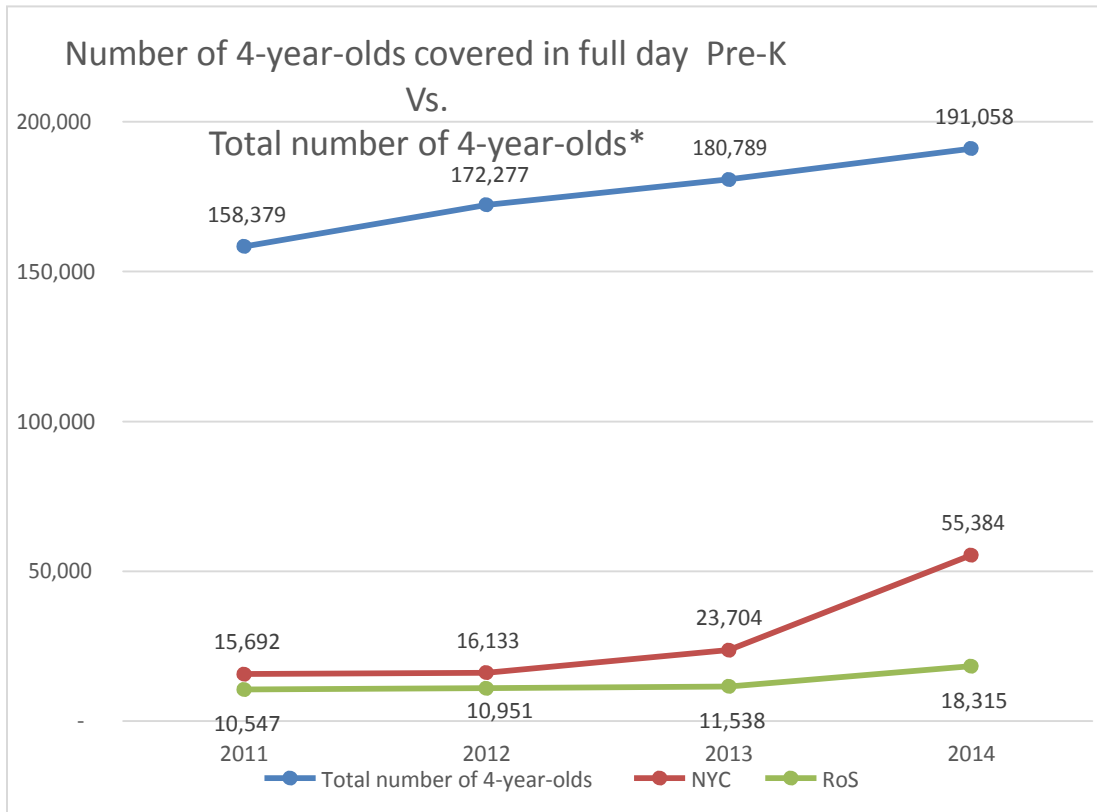
<sup>5</sup> <http://www.aqeny.org/wp-content/uploads/2015/01/final-final-record-setting-inequality.pdf>

<sup>6</sup> [http://www.washingtonpost.com/blogs/wonkblog/wp/2015/01/20/when-public-schools-get-more-money-students-do-better/?Post+generic=%3Ftid%3Dsm\\_twitter\\_washingtonpost&utm\\_source=Sailthru&utm\\_medium=email&utm\\_term=Capital%20Education&utm\\_campaign=Capital%20Education%2001%2F21%2F15](http://www.washingtonpost.com/blogs/wonkblog/wp/2015/01/20/when-public-schools-get-more-money-students-do-better/?Post+generic=%3Ftid%3Dsm_twitter_washingtonpost&utm_source=Sailthru&utm_medium=email&utm_term=Capital%20Education&utm_campaign=Capital%20Education%2001%2F21%2F15)

## Pre-kindergarten Charts

Region	Percent of four-year olds gaining access in 2014-15	Total number of seats added in Full Day Pre-K 2014-15
New York City	39%	31,680
Capital Region	1%	92
Central NY	9%	697
Finger Lakes	3%	296
Hudson Valley	7%	1,805
Long Island	4%	1,059
Mohawk Valley	9%	424
North Country	1%	45
Southern Tier	3%	193
Western NY	6%	689

Source: Alliance for Quality Education



Source: Alliance for Quality Education

\*The total number of four-year-olds is based on Kindergarten enrollment. The NYSED assumes that 85% of the children attending Kindergarten would also enroll in pre-K if there were as many seats available. We make the same assumptions in this report. The numbers are taken from the NYS school report card database.

## **Market Reforms Do Not Work in Education**

This agenda applies market forces to school reform. Test scores are used as a bottom line to measure schools and teachers, just as Wall Street uses a balance sheet to measure profits. Using high stakes test scores to label schools as “failing”, and to trigger top down takeovers by a single person with the virtually unlimited powers of a corporate CEO, jumps straight out of the corporate “turnaround” playbook.

## **Formula Based Aids**

The Executive Budget proposes an additional \$1.063 billion in education aid, which is largely unallocated. Traditionally, the Executive Budget includes district-specific allocations in the form of school aid runs. School aid runs were not issued this year, and no formulas were provided to guide the distribution of amounts provided for school aid.

**Gap Elimination Adjustment (GEA):** The Executive Budget continues the reduction of formula aids (with the exception of Universal Pre-K and Building Aid) by the 2014-2015 Gap Elimination Adjustment (GEA).

**Supplemental Public Excess Cost Aid:** Maintained at 2008-2009 level of \$4.31 million for 2015-2016 and 2016-2017. Yonkers receives \$552,736.

**Academic Enhancement Aid:** Maintained at \$28.27 million for 2015-2016 and 2016-2017. Syracuse receives \$2.33 million, New York City \$1.2 million and Yonkers (SEIP) \$17.5 million, Albany receives \$1.25 million, Hempstead is \$ 2.5 million, Wyandanch is \$1 million and Central Islip is \$ 2.5million.

**High Tax Aid:** Maintained at \$223.3 million for 2015-2016 and 2016-2017.

**Universal Prekindergarten:** Districts are eligible for the same maximum grant amounts they were eligible for in 2014-2015.

**Universal Full Day Prekindergarten:** \$340 million is provided for year two of the 2014 expansion of full time slots with \$300 million of this amount designated for New York City.

## **Other Grant Programs and Aid Categories**

**P-Tech Expansion - NEW:** Funded at \$3 million to expand the Early College High School program.

**Pre-kindergarten Program Three-Year Olds - NEW:** \$25 million is provided for new full and half day slots for three-year old high need pupils.

**Turnaround Grants - NEW:** \$8 million is provided for chronically underperforming schools to fund turnaround strategies.

**Master Teacher Program Expansion - NEW:** \$5 million in funding is provided to expand the program.

**School District Teacher Residency Program for Professional Development- NEW:** \$3 million in funding for professional development to be managed by a nonprofit.

**Masters-in-Education Teacher Incentive Scholarship Program – NEW:** \$3 million is provided for stipends for teachers working toward a master’s degree in education.

**QUALITYstarsNY - NEW:** \$3 million to support implementation of a statewide system to assess and improve the quality in early education and care settings.

**Aid to Nonpublic Schools:** Increased from \$158.79 to \$166.42 million for 2015-16

**Basic Education for Public Assistance Recipients:** Maintained at \$1.84 million.

**Adult Literacy Education:** Reduced from \$6.59 million to \$5.29 million.

**Homeless Children:** Increased from \$29.23 million to \$31.23 million for 2015-2016 and 2016-2017.

**Bilingual Education Grants:** Maintained at \$13.5 million for 2015-2016 and 2016-2017.

**Learning Technology Grants:** Maintained at \$3.29 million for 2015-2016 and 2016-2017.

**Urban-Suburban Transfer Program:** Maintained at \$5.28 million for 2015-2016 and 2016-2017.

**Incarcerated Youth:** Increased from \$22 million to \$23 million for 2015-2016 and 2016-2017.

**Education of OMH/OPWDD Pupils:** Increased from \$67 million to \$69 million for 2015-2016 and 2016-2017.

**School Bus Driver Training:** Maintained at \$400,000 for 2015-2016 and 2016-2017.

**Mentor Teacher Internship Program:** Maintained at \$2 million for 2015-2016 and 2016-2017.

**Big 4 School Health Services:** Maintained at \$13.84 million for 2015-2016 and 2016-2017. The supplemental \$1.2 million provided to Rochester in 2014-2015 is eliminated. Funds are distributed as follows:

Buffalo	\$5.30 million
Rochester	\$6.29 million (a \$1.2 million reduction)
Syracuse	\$1.08 million
Yonkers	\$1.17 million

**Teachers of Tomorrow:** Maintained at \$25 million a year for 2015-2016 and 2016-2017.

**Employment Preparation Education (EPE) Aid:** Maintained at \$96 million for 2015-2016 and 2016-2017.

**Supplemental Charter School Basic Tuition Payment Reimbursement:** Funded at \$28.26 million for reimbursement of payments made in the 2014-2015 school year.

**Teacher Centers:** Eliminated for a cut of \$14.26 million.

**Children of Migrant Workers:** Maintained at \$89,000.

**Summer School for Disabled Students:** Increased from \$362.5 million to \$364.5 million.

**Preschool Special Education:** Decreased by \$22.5 million to \$1.02 billion and authorizes SED to establish regional rates for the Special Education Itinerant Teacher (SEIT) program to be phased in over a four-year period.

**4201 schools:** Maintained at \$96.2 million.

**Prior Year Claims/Fiscal Stabilization Grants:** Increased from \$32.79 million to \$45.07 million for remaining 2014-2015 and 2015-2016 with \$26.4 designated for New York City.

**New York State Center for School Safety:** Maintained at \$466,000.

**Health Education Program:** Maintained at \$691,000.

**Extended Day and School Violence Prevention Programs:** Maintained at \$24.3 million.

**Primary Mental Health Project:** Maintained at \$894,000.

**Math and Science High Schools:** Maintained at \$1.4 million, including the Rochester initiative.

**Syracuse Say Yes to Education Program:** Maintained at \$350,000 for educational services and expenses of the Syracuse City School District for the Say Yes to Education Program.

**Consortium for Worker Education:** Reduced from \$13 million to \$11.5 million.

**Charter Schools Start Up Grants:** Maintained at \$4.8 million.

**Early College High School:** Maintained at \$2 million for the State's Early College High School Program .

**Student Mentoring and Tutoring Program:** Maintained at \$490,000.

**Regional Center for Autism at SUNY Albany:** Reduced from \$1.24 million to \$740,000.



**Special Education Regulations**

Authorizes school districts to apply for waivers from special education provisions in excess of federal law.

**Rochester BOCES Services**

Continues authorization for the Rochester City School District to purchase health services from its regional BOCES.

**Contracts for Excellence**

All districts required to submit Contracts for Excellence in the 2014-2015 school year are again required to do so in 2015-2016 unless all schools in the district are identified as in good standing.

**One-Year Extensions**

The proposed budget provides one-year extensions for the following:

- Chapter 1 Advances (up to the same amount as last year)
- Public pension accruals
- Big 4 special education class size flexibility language
- Leasing of school buses

## HIGHER EDUCATION

### **“Get on Your Feet” Loan Forgiveness Program**

The Executive provides \$5 million for a new program that would allow New York State residents who graduate from college, continue to live in New York, and participate in the Federal Pay as You Earn income based repayment program, to pay nothing on Federal Student Loans for a period of two years.

### **SUNY/CUNY**

#### **Executive Proposals**

The Executive proposes \$462.24 million in funding for SUNY capital projects. The Executive appropriates \$200 million for critical maintenance projects at various SUNY campuses. Additionally, \$25 million is provided to construct the School of Pharmacy at Binghamton University. An additional \$25 million is appropriated for the Pharmacy School within UDC. There are \$143 million in appropriations to provide for the state’s 50 percent share of projects at SUNY community colleges which includes \$81.2 million for projects not included in the 2014-15 Budget due to a technical error. An appropriation of \$50 million is provided to support the Residence Hall Rehabilitation Fund. These funds will provide alterations and improvements for residence halls and are supported by student dormitory fees. The Executive also proposes \$19 million for Stony Brook Health Centers. The SUNY Construction fund would receive \$25.1 million. In addition, the Urban Development Corporation Budget has an appropriation of \$55 million for NYSUNY 2020 Challenge Grants and includes \$19 million for the Cornell Veterinary School.

The Executive proposes \$181.8 million in funding for CUNY capital projects. The Executive appropriates \$103 million for critical maintenance projects at various CUNY campuses. The Executive also proposes \$20.9 million for the state’s 50% share Community College projects lined out in the appropriation bill which includes \$4.5 million for Hostos College’s Allied Health and Sciences Building Complex, which was not included in last year’s budget due to a technical error. An appropriation of \$21.0 million is provided to pay the Dormitory Authority for the state share of work done on CUNY capital projects. The Executive also funds the CUNY Construction Fund with hard dollar capital and appropriates \$16.0 million. In addition, the UDC Budget has an appropriation of \$55 million for NYCUNY2020 Challenge Grants.

#### **New Initiatives**

Each SUNY and CUNY state operated college, senior college, and community college would be required to submit a Performance Improvement Plan which would outline certain goals including improving access and completion, requiring experiential learning, creating a master researcher program, and financial incentives for campus presidents tied to Start-Up NY. If a campus does not have an approved Plan, 10 percent of their state operating funds would be withheld. A total of \$30 million is provided to implement these plans with \$18 million going to SUNY and \$12 million to CUNY. The Executive provides \$2.5 million to provide grants to five community

colleges, three at SUNY and two at CUNY, to provide enhanced services using the community schools model

The Black, Puerto Rican, Hispanic and Asian Legislative Caucus recognizes that CUNY and SUNY are economic engines for the city and state, minting job-ready graduates who largely remain in New York State to work and live. Properly funding the needs of SUNY/CUNY schools is critical in ensuring that all students regardless of socio-economic status have access to quality education. SUNY enrollment is at 460,000 with 240,000 of those students attending community colleges. CUNY has 270,000 students with 98,000 of those students attending community college. A combination of exceptional affordability, quality academics, financial aid, grants and the ability to pursue nearly any field of interest is the essence of CUNY and SUNY value. CUNY/SUNY affordability makes it possible for six in 10 undergraduates to attend tuition-free due to full financial aid coverage, and eight in 10 graduates free of federal loan debt.

The Caucus supports the following CUNY budgetary request:

- Community College Base Aid to \$17.2 million.
- Academic Excellence to \$28 million
- Mandatory Needs to \$32.9 million
- Student Success to \$11 million
- Capital Needs to \$656 million for capital projects
- \$231 million in critical maintenance

SUNY is advocating for renewed state investment to take proven programs to scale to increase access, completion, and success for all New Yorkers. Currently, only 45 percent of working age New Yorkers have a college degree, while estimates indicate that 67 percent of jobs will require a career certificate or college degree by 2020. To help meet this demand, SUNY aims to increase its graduates from 93,000 to 150,000 annually by 2020. SUNY sets the cost at \$50 million which is \$32 million above the \$18 million provided for in the Executive Budget.

The Caucus supports the following SUNY budgetary request:

- **Capital Projects**
  - **Community College Capital Projects.** Support the projects provided for in the Executive Budget and consider funding to assist sponsors who cannot support necessary capital projects at colleges in stressed counties.
  - **Increased Critical Maintenance Funding.** This funding keeps our facilities safe and up-to-date, forming the foundation for the educational and economic future of New York State. Cost: \$400 million (in addition to the \$200 million provided for in the Executive Budget) in each year of the five-year plan.
  - **Community College Capital Projects.** Support the projects provided for in the Executive Budget and consider funding to assist sponsors who cannot support necessary capital projects at colleges in stressed counties

- **Hospitals**

- **Operating-**Restore the \$18.5 million eliminated in the Executive Budget from the State's direct support for SUNY's three teaching hospitals. While we understand there may be additional operating support made available in other areas of the budget for at least one of the teaching hospitals, this is only a short term fix and will not address the long-term funding needs of these institutions that cost roughly \$18.5 million.
- **Capital-** As a result of our hospitals receiving zero capital authority since 2008-09, they face a number of critical safety and accreditation issues. Therefore, SUNY is requesting that all or a portion of the \$400 million in the Executive Budget for upstate or rural hospitals be specifically provided for their institutions

### **Educational Opportunity Program (EOP)**

Established in 1967 and codified in 1970 with the enactment of New York State Education Law 6452, the Educational Opportunity Program (EOP) was among the first formalized access and support service structures in the country. EOP is in operation at 43 SUNY campuses. The program was conceived of and sponsored by then first-year New York State Assemblyman Arthur O. Eve, with the support of the Rockefeller administration as well as the Caucus.

Eligibility is based upon socio-economic status rather than race. Due to the significant intersection of low income and under-represented populations, this approach has permitted the program to provide access to the full range of low income students while also expanding access for under-represented students. In operation for 47 years, the Educational Opportunity Program has evolved into a successful model for meeting the needs of at-risk students and has served as a template for other access programs both within and external to the University.

More than 60,000 SUNY students have graduated as a result of the access and support provided through this program. Alumni are represented in a wide variety of occupations and professions. Many have entered public service in New York State.

Last year, the Executive budget allocated \$22.3 million for this program, which was a \$600,000 increase from the SFY 2013-14. This year the Executive budget has decreased EOP funding by \$1.28 million taking funding from \$22.3 million to \$21.08 million. The decrease in these funds will lead to a significant decrease in the number of students, who will be able to benefit from this program, it is essential that we restore funding.

## TRANSPORTATION

If done correctly, public transit can connect millions of New Yorkers to jobs and economic opportunity, especially New Yorkers who can't afford other options. Without adequate state support, transit agencies throughout the state will have no choice but to balance their books by increasing fares or reducing services—two choices that hurt low-income New Yorkers the most. There are over 100 transit providers across the state, providing millions of New Yorkers with mobility options, each day. Transit has become a vital component to the success of our state's economy—not only for those who are riding transit to work or school, but for those manufacturers, suppliers, employers and workers who keep our transit systems running.

In 2015, state government can best support public transit and keep fares affordable for transit-dependent New Yorkers by taking these actions:

- Allocating more money to a five-year MTA Capital Program. An underfunded capital plan will result in larger fare increases and service cuts.
- Fully fund a 5-year Suburban and Upstate Transit Capital Program. Unlike the MTA, there is currently no multi-year capital program for over 100 transit providers across the state. This new capital program should include investments in bus rapid transit and capital funds for the 7 new bus routes proposed for the New NY Bridge.
- Stop raids on dedicated transit funds in the 2015 state budget and into future years.
- Support the expansion of SBS/BRT across NYC, as well as upstate by advocating for better bus service with the MTA and with local transit providers.
- Support better bus service by renewing and expanding the sun-setting state legislation that authorizes bus lane cameras.

The governor's budget fails to fully fund 5-year capital plans for the MTA, and for suburban and upstate transit systems. Ahead of the release of the Executive Budget, statewide transit systems identify \$33 billion in capital needs over the next five years (\$32 billion for the MTA, \$1 billion for suburban and upstate transit systems). Roughly half of the \$33 billion had identified revenue sources— a combination of fares, increased debt, and other revenues. Across the state, transit systems are dependent on the state budget to fill the gap in these capital plans. This is a short-sighted proposal that siphons money away from critical transit needs today without having made the time savings case that this investment is warranted. A new bus service launched in spring 2014 has increased the transit trips to LaGuardia airport by 20%; the price of this service will likely be much less than air train service.

### **Public Transit Aid-Metropolitan Transportation Authority (MTA)**

The Executive Budget proposes using just \$400 million of the bank settlement funds for transit infrastructure. There is an additional \$750 million general fund transfer for MTA capital. In an

unprecedented and troubling move, the Budget takes \$121.5 million of dedicated operating revenues from the Metropolitan Mass Transportation Operating Assistance program (MMTOA), and repurposes those funds for capital expenditures – at a time that suburban county bus systems could use that money to avoid service cuts. The final sleight of hand in this shell game is another diversion of dedicated funds to pay off state debt, this time \$20 million from MMTOA, and a promise to repeat those diversions through 2019. All totaled, this leaves a gap of roughly \$14 billion that needs to be filled.

### **Public Transit Aid-Upstate Transportation Systems**

For upstate systems, the picture is equally bleak: \$5 million from the NY Works fund will go to matching federal dollars for upstate capital needs (leaving a \$95 million annual gap), and State Transportation Operating Assistance (STOA) is flat, as it has been since 2009, despite increasing operating costs, and despite riding ridership. Because of the structural imbalance of revenues to STOA, upstate systems are considering cutting service and raising fares to cover the shortfalls. Since 2009, they have increased their use of capital funds to fill operating gaps by 45%, a fiscally shaky move that essentially destabilizes their future.

### **Metro-North Transit**

While expanded capacity for Metro-North is big news, the progress to jumpstart development opportunities around the proposed four Bronx transit stations is undermined by the fact that the governor's definition of "Transit-Oriented Development" (TOD) in the suburbs appears to be limited to vertical parking only. While the governor does acknowledge that vertical parking structures free-up land for mixed-use development, he fails to note the indisputable fact that providing parking encourages driving, thus negating the value of nearby transit.

## LABOR

### **Raise Minimum Wage**

The Executive proposes to increase the minimum wage to \$11.50 per hour in New York City and \$10.50 per hour in the remainder of the State, effective December 31, 2016. The minimum wage is otherwise scheduled to increase from \$8.75 to \$9.00 per hour on December 31, 2015.

New York has watched as a growing number of states and large cities move ahead in establishing higher minimum wages. Seven states and the District of Columbia already have higher minimum wages than New York. Washington, Oregon, and California are considering increases in the \$12-\$13 range. Chicago, Seattle, and San Francisco have already approved increases that will reach \$13 to \$15 an hour in coming years.

Local governments in our state, including New York City, do not currently have the authority to establish their own minimum wages. Legislation introduced in Albany last year would allow local governments to set a wage floor up to 30 percent above the state's minimum wage. In seeking a higher minimum for New York City, the governor noted the higher cost of living in the city compared to the rest of the state.

While the latest increases proposed by Governor Cuomo are a step forward, they would still leave a minimum wage worker far behind average pay in New York City and the rest of the state. If the governor's proposal were enacted, the \$11.50 per hour New York City minimum wage would be about 35 percent of the projected statewide average wage in 2017, and the \$10.50 hourly minimum wage for the rest of the state would be 32 percent of the statewide average wage.

Fifty percent of the projected 2017 statewide average wage would be \$16.33 or \$15.57 for 2015. That is a reasonable target level but would have to be achieved in stages, allowing businesses time to adjust, as is being done in Seattle and elsewhere. The minimum wage should be pegged to the cost of living. The governor has the authority to raise the minimum wage on his own, and he should be prepared to use that authority if the legislature fails to enact his proposal. Raising the minimum wage is central to making his Opportunity Agenda one that benefits low-wage workers and to taking a decisive step in address rising income inequality.

There is no question that the current minimum wage is woefully inadequate throughout New York State. A full-time, year-round minimum wage worker makes \$18,200. The current minimum wage is well below the poverty line for a family of three (\$20,090) or four (\$24,250.) Moreover, the current minimum wage is just a fraction of what a family needs to meet basic expenses for housing, food, childcare, clothing, transportation, and other necessities. Some businesses invariably object to raising the minimum wage. However, a growing number of both large and small firms are taking action to support higher minimum wage laws, in part because raising the wage floor makes it harder for other businesses seek a competitive edge by under-paying their workers. There is also a growing body of rigorous economic research that finds that

higher wage floors boost worker pay and living standards without causing job losses.<sup>7</sup> And there is a burgeoning business management literature that observes that a growing number of companies are opting to pay higher wages to reduce turnover and improve productivity and customer service.<sup>8</sup>

A higher minimum wage would bring short- and long-term benefits to the state's economy. Research from the Economic Policy Institute (EPI) identified the many beneficial economic impacts enacting the governor's minimum wage proposal would have, including boosting wages for affected workers by \$3 billion and a net gain of over 14,000 jobs. EPI also determined that parents who would benefit from the increases account for over half of their families' incomes and that 940,000 New York children have a parent who would see a wage increase.

The state should go further than the proposed minimum wage increase by raising it to a reasonable level and then indexing it to rise with inflation or, better, pegging it to a sensible ratio of the average wage. Without an automatic mechanism, the purchasing power of the minimum wage will begin to erode in 2017. In addition, New York should join other states like California and Minnesota and eliminate separate, and inferior, treatment for tipped workers.

Finally, New York should repeal the Minimum Wage Reimbursement Tax Credit enacted two years ago—its projected \$8 million cost last year almost certainly will rise further. There was never any testimony or evidence to show that it was needed or that it was sensible public policy to subsidize companies that pay the minimum wage to teenage students. There is every reason to believe that the biggest potential beneficiaries of this credit are likely to be large low-paying national chain discount stores.<sup>9</sup>

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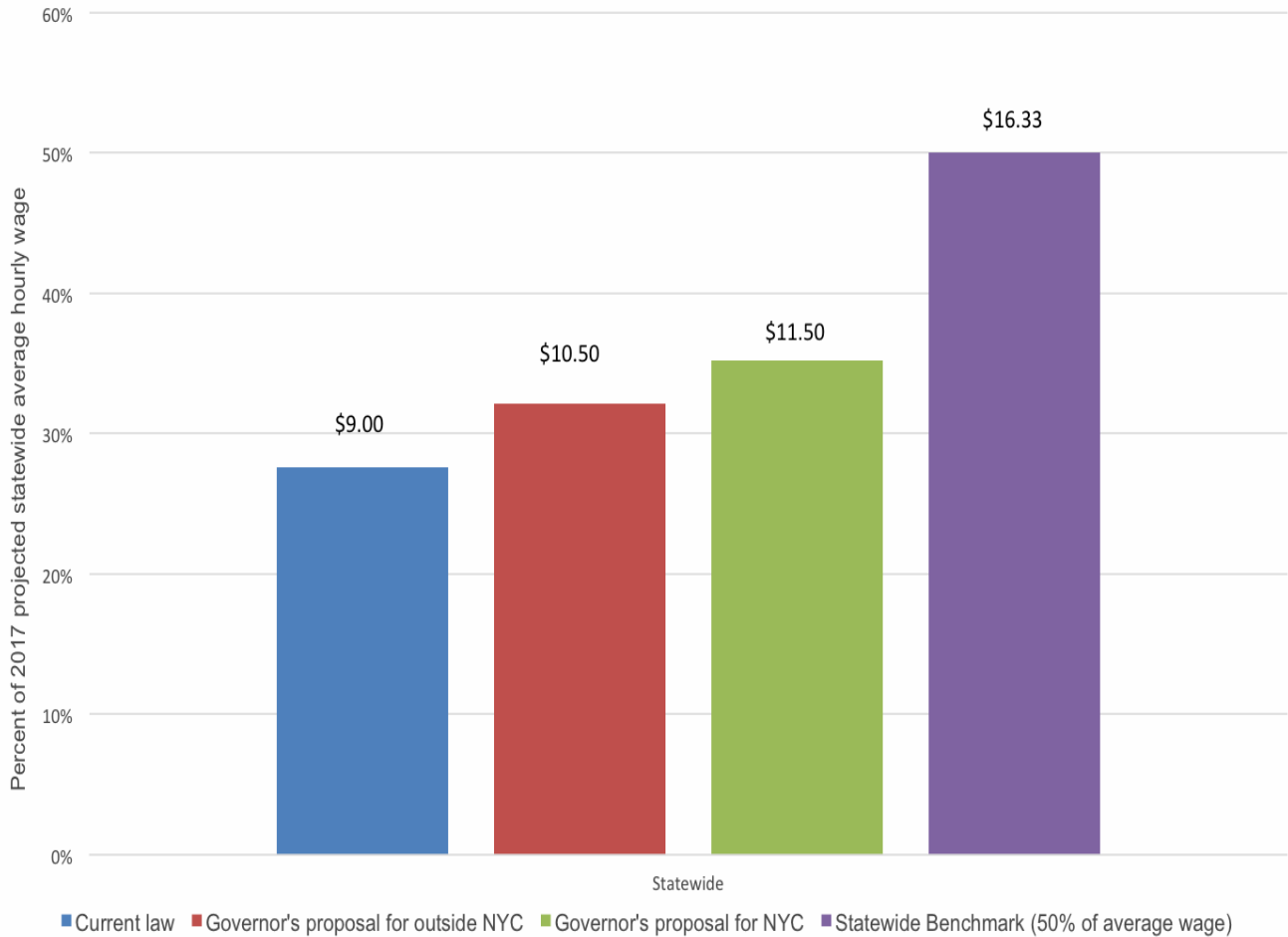
<sup>7</sup> National Employment Law Project and Fiscal Policy Institute, Why New York State Should Let Cities and Counties Enact Higher Local Minimum Wages, February 2014.

<sup>8</sup> Fiscal Policy Institute, Raising the Floor: How Wage Standards Protect Workers, Build Communities and Strengthen Our City, December 2014.

<sup>9</sup> Fiscal Policy Institute, Walmart and other large, low-wage employers will benefit financially from New York's new Minimum Wage Reimbursement Credit, April 5, 2013.



The Governor's proposed \$10.50 minimum wage would be 32% of the state's average hourly wage in 2017; the proposed \$11.50 level would be 35% of the state's average wage. A better benchmark would be 50% of the average, which was the case in the late 1960s and early 1970s. (\$16.63 in 2017 is equivalent to \$15.57 in 2015.)



Source: Fiscal Policy Institute

### Reinstate a New York State Transitional Jobs Program

Restore \$25 million in the TANF Transitional Jobs program that employed close to 3,000 participants across New York State during SFY 2009-2010. Transitional jobs help participants build skills and experience, and the government to move individuals from unemployment or public assistance to employment.

### Increase Summer Youth Employment

The Executive Budget includes an additional \$21.8 million (to total \$49.3 million) from TANF for the much needed Summer Youth Employment Program (SYEP). Unfortunately, this funding

level will still leave SYEP well short of being able to ensure that all youth applying for summer jobs have a slot available to them. It is critical for all of New York's youth to have the opportunity to participate in a well-funded and properly supervised employment program during their teenage years. SYEP should be an entitlement-styled program which is sufficiently funded to accommodate the employment needs of all applicants.

### **Workforce Initiatives**

The Executive Budget eliminates \$2.1 million in TANF funding for various workforce initiatives that were provided for by the Legislature in SFY 2014-15, including Career Pathways (\$1 million), Wage Subsidy (\$950,000), and BRIDGE (\$102,000).

## SOCIAL SERVICES

Providing for the State's most vulnerable population and ensuring their safety, as well as equality for all New Yorkers has been a critical goal of the Caucus since its inception. Properly allocating the necessary funds for human services in the SFY 2015-2016 is a key priority for Caucus members whose constituents are often vulnerable and left unheard.

New York's safety net, administered through the Office of Temporary Disability Assistance- (OTDA), assists our most vulnerable citizens. The executive has proposed a 10-point anti-poverty opportunity agenda. This is a step in the right direction; however, we need to ensure we not only fix the roof but also first stabilize the structure. Prevention remains the key and our proverbial recommendations will create stability in our communities and more importantly in the life of that family in need.

Currently one in five children throughout the State live in poverty. In October 2014 there was an all-time record of 59,246 homeless people including over 25,000 children sleeping each night in the shelter system. These numbers have reached the highest level since the great depression.

Over the years the Caucus has focused on breaking the cycle of poverty and has successfully advanced policies in the state social welfare system such as increasing the benefit level for the first in over forty years.

### **Caucus recommends that we restore and/or fund the following programs:**

**Restore Community Initiatives** -The Executive eliminates \$13.83 million in funding for twenty-four community initiatives.

**Child Care Subsidies** –While funded flat against previous year's budget, the amount of federal and state funds available to support subsidies is not yet sufficient to meet the need reflected in county level waiting lists.

**PCAP** – Prenatal Care Assistance Program - PCAP is a prenatal outreach program to improve birth outcomes and reduce the high cost of low birth weight infants.

**HPNAP** – Hunger Prevention Nutrition Assistance Program - HPNAP provides funding to food banks, which supply soup kitchens and food pantries.

**The Supplemental Nutrition Assistance Program** - or Women Infant Children supports nutritious food to pregnant women and their young children with federal and state funding.

**Summer Youth Employment Program**- Youth engaged in employment have better long-term employment and earnings rates, and research specific to NYC has found increased rates of school attendance as well as increased performance rates on tests. The Executive budget proposed has increased the funding for this program to reflect the increase in the minimum wage. This increase does not allow for the over 100,000 youth that lose out in the lottery style

application system since there are just too few jobs to meet the demand. Increased funding will allow more youth to participate in this valuable program.

### **Fully Fund the Public Assistance Needs of All New Yorkers**

The Executive budget incorporates an assumed reduction of 16,946 recipients in the public assistance caseload statewide. Despite this caseload the Caucus backs fiscal policies that support New York's neediest families and seek to advocate for sufficient state funding to ensure that the public assistance caseload is supported as needed.

- Restore funding for TANF-funded initiatives eliminated or reduced in the SFY 2011-2012 budget that had funded workforce development programs (BRIDGE Program, Career Pathways Program, Wage Subsidy program and Transitional Jobs), domestic violence services and homeless prevention, and Preventative Services and Caretaker Relative program. Restore TANF funding for Adult Literacy Education (ALE) to total \$6.9 million

### **Strengthening the Non-Profit Sector**

The Executive budget proposes a new \$50 million capital program to make targeted investments, including renovations, expansions, and technology upgrades to eligible non-profit human services. The Caucus recommends the following:

- Carve out an additional \$450 million from the State's \$5.2 billion budget surplus to create a nonprofit infrastructure, technology, and business investment fund. This one-time investment would invest in specific categories of necessary infrastructure to support the nonprofit sector and would pay dividends for years to come. This fund would be a timely, prudent, and appropriate use of a projected non-recurring State surplus.
- Invest \$50 million to capitalize the existing State loan fund for non-profits. This revolving loan fund would allow organizations contracting with the State to access cash flow advance loans, and (once it is initially funded) would be self-sustaining as such loans are repaid.
- Establish a regulatory commission or workgroup to review current State regulations and reporting requirements. This commission would identify rules and processes that are duplicative and create unnecessary burdens on both State agencies and the nonprofits they contract with.

### **Reinvesting \$354 million in the Non-Profit Human Services Sector**

Funding for the non-profit sector follows \$1 billion in cuts since 2010, which has caused organizations that support New Yorkers in need to struggle to meet rising demand. The requested funding of \$354 million would reinvest in a sector that is investing in New Yorkers on a daily

basis, assisting individuals and families in overcoming crisis, moving out of poverty, and sustaining self-sufficiency.

### **Rochester Anti-Poverty Initiative**

The Executive proposes a Rochester Anti-Poverty Task Force, which will partner with a community effort to better coordinate and integrate services, utilize data and information technology, develop more flexible funding arrangements, and evaluate services based on outcomes. Concurrently, this working group will combine state services and available resources with Rochester's unique needs.

## **FAMILY WELFARE**

For the Office of Children and Family Services (OCFS), the Executive proposes an All Funds appropriation of \$3.99 billion, an increase of \$85.5 million or 2.2 percent over the State Fiscal Year (SFY) 2014-15 level. The Executive recommends funding support for 3,059 full-time equivalent (FTE) employees, an increase of 65 FTEs, primarily related to filling 33 FTE positions that were expected in SFY 2014-2015, but will be filled through SFY 2015-16, and the transfer of 6 FTEs to the Business Services Center.

### **Foster Care Subsidies**

The Executive provides an increase of \$13.04 million for a Cost of Living Adjustment (COLA), providing a 2 percent salary increase for direct care and direct care support workers, foster and adoptive parents, and clinical staff effective April 1, 2015. An increase of \$8.85 million in the Foster Care Block Grant will finance an estimated 50 percent of increased costs, with the remainder coming from local social services districts. An additional \$4.2 million is provided for various programs, also to support the COLA.

### **Child Care Assistance**

The Executive Budget provides \$899.11 million for the Child Care Block Grant, which maintains funding for child care subsidies from the SFY 2014-15 level. Federal appropriations for TANF Child Care subsidies would be increased by \$39.19 million, while the General Fund appropriations would be reduced commensurately, resulting in no net change. Additionally, the Executive Budget eliminates \$7.3 million for the Facilitated Enrollment pilot program and \$334,000 for SUNY/CUNY TANF child care. The Executive reached a new \$44 million agreement with the United Federation of Teachers (UFT) in 2014 and is currently negotiating a new agreement with the Civil Service Employees Association (CSEA).

The Caucus supports A.1805 (Titus), to help address the ever growing concern regarding the lack of child care subsidy funds this bill allows increased access to subsidized child care for low income working families by exempting single parent households with infants under the age of one year from certain work requirements for 12 months. Childcare is an economic development strategy. Low-income working families in New York State are facing a crisis of unprecedented proportions, as funding for the state's Child Care Block grant remains stagnant and at a level \$92 million below funding for 2010-2011. As an increasing number of counties across the state cut eligibility for child care assistance due to lack of funding, we believe that it is essential that funding be restored to the 2010-11 level, not only because New York's low income families rely heavily on child care assistance to make ends meet, but also as a critical economic development initiative.

In his justification for the minimum wage increase, the Commissioner of the New York State Department of Economic Development notes that the annual cost of child care for a working family exceeds \$10,000 per year. The governor's proposal, which will increase a minimum wage earner's income to just over \$18,000 (at 40 hours per week and 52 weeks per year), will still

mean that a single parent with two children will remain below the poverty level and that the cost of child care remains well beyond reach.

An investment in one childcare subsidy will yield the economic return in two jobs. Not only does every childcare subsidy keep a low-income worker employed, it also supports a significant small business sector in New York State – childcare providers. Childcare providers constitute 22,000 small businesses, including not-for-profit and for-profit centers, Head Start and pre-kindergarten programs, and 11,000 family childcare providers. Early care and education teachers, aides and staff represent one of the fastest growing employment sectors in the economy.

For several years, budget bills have provided 62 percent reimbursement to local social services districts for child welfare services. Restore funding to reimburse the full 65% state for open-ended child welfare services, as per the Child Welfare Financing Law.

## **ELDERLY**

More than one million elderly New Yorkers depend on Social Security for at least half their income and 571,000 depend on Social Security for more than 90% of their income, according to a study released by the Fiscal Policy Institute and the Economic Policy Institute. The report shows that Blacks, Hispanics and unmarried women are particularly dependent on Social Security. The study estimates the percent of income coming from Social Security for the median elderly married couple or individual for a number of different categories. The percent of income from Social Security for the “median” means that half the couples or individuals in that category will have a higher percentage of their incomes from Social Security, while half of the couples or individuals in each category will have a lower percentage of their income from social security. For example, half of non-married women in New York rely on Social Security for more than 84% of their income. Half of Hispanic elderly couples and individuals rely on Social Security for more than 82% of their income. Ensuring and maintaining Social Security and Medicaid is dire when it comes to the care of our elderly population.

### **Support \$2.5 million for Social Model Adult Day Service (SADS) Programs**

SADS programs are designed to provide a variety of long term care services to older New Yorkers with functional impairments in a congregate setting and according to an individualized service plan. As the State’s elderly population grows, SADS are a cost effective, compassionate way for the government to avoid costly nursing home placements. The Caucus recommends an enhancement of the community Services for the Elderly (CSE) Program by an additional \$21 million.

## **The Caucus also recommends the following adjustments to the Executive Budget:**

### **Invest an additional \$100 million in subsidized childcare**

It is estimated that less than 25% of those eligible for childcare subsidies (working families earning fewer than 200% of the Federal poverty level) are currently being served. The added investment would cover approximately 13,000 additional children.

### **Incorporate bill A.9806 (Camara)**

Increases from \$300 to \$600 the monthly rent subsidy payable for housing for a foster child living independently in certain circumstances Social Service Law 409-a set the maximum subsidy at \$300 in 1988 and has never increased despite the buying power falling nearly 50% over that time period. In New York City, it is estimated that 18-26% of the youth who age out will become homeless, indicating a need for supports such as this increase.

### **Expanding the Farm to School Program**

Governor Cuomo has done a fantastic job taking the lead on promoting New York State farms and local New York products. The New York State Farm to School Program, administered by NYS Agriculture & Markets, was created to connect schools with local farms and food producers to strengthen local agriculture, improve student health, and promote regional food systems awareness. School administrators, teachers, and parents are engaging students in Farm to School through field trips to local farms and farmers' markets, food-producing school gardens, and related curriculum such as Agriculture in the Classroom. The Farm to School Program works to make it easier for more schools and school districts to incorporate local food into their meals and to enhance the overall learning environment.

The Caucus stands with New York School Nutrition Association in creating a pilot program that aims to further entice school districts to purchase local foods by establishing and providing a list of local vendors, and creating a grant program that rewards school districts for their local purchases. This pilot program will be economically beneficial to the state because of our robust agricultural production which totals over \$5.70 billion. About 23% of the state's land area, or 7.1 million acres, are used by the 36,000 farms to produce a very diverse array of food products. Not only will it be economically beneficial, this pilot program would reduce childhood obesity and provide children living in poverty direct access to fresh foods.

Like other states in our nation, New York is experiencing a serious epidemic of childhood obesity. In upstate New York, 33.7% of children are obese, and for the first time children are being diagnosed with type 2 diabetes. Poor nutrition choices and lack of guidance in the home, inadequate physical activity due to factors such as over-testing and too much time with electronics are contributing factors to this crisis. In New York State 55% of the kids eligible to participate in school meals program are living in poverty. In Binghamton 63% of the students receive SNAP and/or Medicaid Benefits. For many of these kids, eating fresh, nutritious, New York Foods is not an option at home or school. We can help make this an option in schools. Because so many children spend time in school programs, it's an ideal place to introduce an improved, comprehensive meal.



## **Invest \$20 million in QUALITYstarsNY**

New York's Quality Rating and Improvement System (QRIS), QUALITYstarsNY is a project of the Early Childhood Advisory Council (ECAC), whose mission is to provide strategic direction and advice to the State of New York on early childhood issues. By monitoring and guiding the implementation of a range of strategies including QUALITYstarsNY, the EAC supports New York in building a comprehensive and sustainable early childhood system that will ensure success for all New York's youngest citizens.

## HEALTH

In addition to continuing the initiatives that have been implemented over the past several years, the Executive proposes a cost series of initiatives that are designed to be cost-neutral; including new investments in health care delivery, balanced by savings resulting from pharmacy reductions, long term care initiatives, and other Medicaid program reductions. The Caucus is pleased with the following Executive Capital Project proposals:

- \$700 million to support the Brooklyn health care system
- \$300 million for support integrated health care system in Oneida county
- \$400 million to support restructuring activities in rural communities

### **Medicaid Program**

The Executive budget includes total Medicaid spending of \$62.05 billion, an increase of \$3.29 billion or 5.3 percent from SFY 2014-15, which is primarily attributable to an expected increase in federal funds. The State share of DOH Medicaid expenditures is projected to comprise \$17.57 billion of overall Medicaid spending, an increase of \$608.91 million or 3.4 percent from SFY 2014-15. To support projected expenditures in SFY 2015-16 and SFY 2016-17, the Executive proposes a two-year Medicaid appropriation totaling \$125.22 billion.

The Executive proposes the continuation of a Medicaid spending cap, which limits growth in the Department of Health (DOH) State Funds Medicaid spending to the 10-year rolling average of the medical component of the Consumer Price Index, currently estimated at 3.6 percent. DOH Medicaid expenditures are presently capped at \$16.96 billion in SFY 2014-15, \$17.57 billion in SFY 2015-16, and \$17.87 billion in SFY 2016-17.

### **Invest \$1 million to promote transition to work opportunities for PLWHA**

Through the AIDS Institute Regional Training Center, provide overview training to all AIDS Institute-funded providers about: barriers and challenges for PLWHA to engage in employment, vocational training and rehabilitation services, and availability of resources.

### **Access to Fresh Produce**

A lot of people take going to the grocery store for granted. But for 29.7 million Americans who live in food deserts—areas where it is difficult to buy fresh food—that trip to the grocery store is more of a dream. Access to fresh produce, dairy and other staples is extremely tough at best, and simply not an option for far too many. The lack of nutritious food can lead to obesity, disease and a lifetime of trouble. Addressing New York's obesity crisis and other critical health ailments such as heart disease and diabetes will require a multi-faceted approach. Improving access to fresh foods is an essential step.

Low-income neighborhoods have 50 percent fewer supermarkets than the wealthiest neighborhoods. Residents living in neighborhoods with at least one supermarket have been found to consume up to 32% more fruit and vegetables than those living in neighborhoods without a supermarket. There is strong evidence that increased fruits and vegetable consumption can decrease risk of high blood pressure, stroke and heart disease. Obesity is more than just a cosmetic concern. In New York State, six out of ten adults are considered overweight or obese. That's 8.5 million New Yorkers that are struggling. Approximately one-third of our state's students are considered overweight or obese. Total obesity-related costs in New York State are estimated at more than \$11.8 billion annually.

In 2009, New York made a strategic investment to help New Yorkers and their families eat healthier by establishing the New York Healthy Food and Healthy Communities Fund (HFHC). A \$30 million public-private partnership, the HFHC Fund began with \$10 million in state capital funds and immediately leveraged \$20 million in private funds. The program provides much needed grants and loans to supermarkets, grocery stores, farmers markets, and other healthy food retailers in underserved communities across the state. The Healthy Food and Healthy Communities fund provides healthy food and creates jobs in struggling areas.

By providing this economic incentive, supermarkets and mobile markets have been placed in areas that otherwise would not have access to healthy foods. As of June 2014, the HFHC Fund provided over \$24 million in loans and issued over \$2 million in grants to projects in urban and rural communities. These funds have supported projects throughout the state including New York City and communities upstate) however there is still a great need.

Based on the proven success of the HFHC Fund and the continued need to improve access to healthy foods for New Yorkers, we are requesting \$15 million in dedicated funding to sustain the Healthy Food and Healthy Communities Fund.

The Caucus believes with an additional investment of \$15 million in flexible capital from New York State, the HFHC Fund will:

1. Increase access to healthy food for residents in urban and rural communities
2. Create jobs in communities with high unemployment rates
3. Expand market opportunities for New York farmers and producers

### **Adequately Fund the NYS Tobacco Control and Prevention Program (\$52M)**

The Governor's Executive Budget funds the Tobacco Control Program at \$39.3 million. The program has been cut by more than 50% when it was at its highest level of \$85 million, prior to 2006.

- Tobacco use is a public health epidemic and the leading cause of preventable death. Smoking causes cancer, heart attacks, and strokes.

- New York raises over \$2 billion per year in tobacco taxes and MSA dollars, yet spends only 2% of that on tobacco control.
- Economically disadvantaged communities and at-risk populations suffer the most from the effects of smoking
  - According to an independent evaluation by the NYS DOH, smoking rates among the poorest New Yorkers are much higher than among more affluent populations.
  - Teenage tobacco use rates have fallen faster in New York than in the U.S. as a whole, however that progress has recently stalled. As a result 10.6 percent of high school students in New York are smokers.

Increased funding will enable the TCP to penetrate hard-to-reach communities in low income urban and rural areas whose residents are poor, have limited education, do not speak English or suffer from mental illness. These communities are currently underserved.

### **Department of Health (DOH) – Outreach to Minority Communities**

The Governor proposes static funding levels in 2016 for Department of Health outreach in minority communities: \$266,000 for competitive grants to promote strategic planning or new or improved health care delivery systems and networks in minority areas, and \$36,750 for Latino health outreach initiative. Currently, ethnic and racial data collected by ACA Health Exchange is incomplete as many of the newly insured under the New York State Health Benefit Exchange have not been required to self-identify their racial and/or ethnic background. Without such information it is impossible to gauge the impact of outreach funding to encourage and help enroll traditionally uninsured ethnic and racial minorities.

It is clear that mandating the data collection will be necessary in order to have the proper information in place to determine whether the outreach funding provided is enough or needs to be supplemented. New York, like the rest of the nation, has Latinos as its largest group of uninsured residents. While the Affordable Care Act (ACA) has placed eligibility restrictions, which allow only legal immigrants to participate in the Exchange, less than 800,000 of New York's current 4.2 million immigrants are ineligible.

### **Department of Health (DOH) – New York State Health Benefit Exchange**

The Executive proposes \$388.4 million in State support for the New York State of Health and includes a new 0.375 percent assessment on health insurance plans to support \$68.9 million in operating cost of the health exchange. To date, the Exchange has enrolled over two million individuals in Medicaid and private insurance coverage. Ethnic and racial data collected by ACA Health Exchange is incomplete as many of the newly insured under the New York State Health Benefit Exchange have not been required to self-identify their racial and/or ethnic background. Without such information it is impossible to gauge the impact of the State's outreach activities to encourage and help enroll traditionally uninsured ethnic and racial minorities.

## **Prescriber Prevails**

The Caucus supports an inclusion in the Executive Budget proposal that allows for a prescriber from writing a “Dispense as Written” prescription for any brand medicine that has a generic equivalent through either the prior-authorization or prescriber prevails process. This budget proposal removes a prescriber’s right under current New York statute to seek an exception for a patient to receive a brand medicine if a generic is available. Preserving the right of the prescriber and patient to choose the most effective medication for that patient’s treatment is critical to providing individualized care. We firmly believe this proposal weakens the hard-won prescriber prevails patient protection that were reclaimed in the 2013-2014 budget. It is very important to the Caucus that we do not limit medications based on the desire to pinch pennies and make cuts on the back of those who are financially the most vulnerable.

## HOUSING

Despite the strength of the current economic recovery, the gap between rich and poor continues to expand, continuing a trend of unequal wealth distribution across our country and throughout New York State. As the stock market grows and jobs additions bolster the strength of our national economy, the on-the-ground reality of what is happening in our communities is starkly different. This past year, New York City's homeless population hit a record high of over 60,000 people, including over 21,000 children. At the same time, homes in the City have been sold to multi-millionaires and billionaires at prices that are also breaking records. These two economic realities is only one set of contradictions out of many that underscore the gaps and separations between New Yorkers, which are growing every day. As a community we must be the agents of change that fill in the spaces.

One of the keys to addressing economic disparity is adequate housing for the people and families that are the backbone of our communities. Studies have shown that access to safe, clean, a properly maintained housing is not only a foundation for positive community change, but can exponentially improve family life. Children with a stable home perform better in school and for adults, job opportunities are easier to secure.

The realities of homelessness show, in sharp contrast, what a lack of adequate housing can bring. Not only are the homeless some of the most vulnerable members of our society, but are at greater risk for illness and criminal exploitation and victimization. They, more than any other segment of the population, suffer injury and death from exposure to elements and endure the desperation of hunger. We have a moral imperative to help the struggling members of our communities, recognizing that in those efforts there are economic benefits to be realized. The average cost to shelter a family in a New York City homeless shelter was approximately \$38,000 per year for the 2013-14 fiscal year. Meanwhile the creation of supportive permanent housing has been shown to save taxpayers approximately \$10,000-12,000 per person, per year.

Economic analyses have shown having a long-term view is essential. The cost of housing a family for several years in a shelter can meet or even far exceed the cost of building a new unit, which provides a permanent solution. As a community, we must look to long-term solutions rather than quick fixes to make lasting improvements across our State. Meeting the needs of New Yorkers today will lead to a chain of positive effects.

The Legislature has consistently supported affordable housing activities and should continue to expand those activities to increase housing opportunities for families across the State. This year marks the potential for historic increases in funding for housing programs. New York has roughly \$440 million in funds from the landmark J.P. Morgan settlement to be purposed for housing related programs and the Executive's proposed budget has infused long-needed capital into many vital housing programs. Our coming budget challenge will be to maximize the potential of this new funding to reach New Yorkers that are most in need of access to affordable housing.

This year also presents some interesting policy opportunities. Many housing and housing-related programs are set to expire and it is our duty to ensure that these opportunities do not pass us by.

The Caucus will work to make sure that these programs continue their good work and, by improvement, enhance the protections and support they give to New York families. In particular, we want to focus on the rent regulation laws, Mitchell-Lama developments, foreclosure prevention, public housing improvement, and effect a substantial reduction in homelessness.

### **Mitchell-Lama**

Since its creation in the 1950s, the Mitchell-Lama program has provided affordable housing to moderate-income and low-income New Yorkers around the State. There are approximately 250 Mitchell-Lama developments across New York that provides housing for nearly 120,000 families. To date, as market-rate housing has become increasingly lucrative, owners of these developments have bought out of the Mitchell-Lama program, thereby ending the income-based rental or sales restrictions that cover their buildings.

In New York City alone, over 40,000 units have left the program since the program's inception. Currently, dozens of developments, covering thousands of units have begun the withdrawal process. These "buy-outs" can have a devastating impact on the families living in these developments, as rents often increase drastically when their existing Mitchell-Lama leases expire. As a Caucus that represents thousands of low- and middle-income constituents, we must aid in creating incentives to revitalize participation in the Mitchell-Lama program. We must also commit to finding avenues that help to preserve existent housing constructed under the program.

Several Mitchell-Lama developments have refinanced their properties in an effort to generate capital funding for repairs and rehabilitation efforts. We must explore solutions to safeguard the future of developments that have not yet undertaken these measures so that we can extend the life of an important pillar of affordable housing in New York. Further, it is critical that we protect Mitchell-Lama tenants by ensuring that developments operate within the current guidelines of the existing program and increasing penalties for those that violate the law and wrongfully force tenants out of their homes.

### **Rent Regulation**

Rent regulation laws are divided into two categories, rent stabilization and rent control. Currently, rent stabilization laws exist in New York City, as well as Nassau, Rockland, and Westchester counties. New York's laws on rent regulation provide protection to approximately 2.5 million residents throughout the State. A majority of these individuals reside within New York City. There are approximately one million rent regulated units in New York City alone. These represent almost half of the City's rental units. The 2011 improvements to the rent regulation laws slowed the loss of units from the program, but thousands of units have been lost to deregulation every year. In the upcoming year, the Caucus will address critical issues, including: vacancy deregulation, rent increases for major capital improvements and individual apartment improvements, preferential rents, other allowable rent increases, and other issues that have a substantial, depleting effect on the stock of rent regulated units. This year, the Caucus will push to provide even stronger protections for renters and end the abuse and harassment that takes place under the current program's structure. By taking these measures, we will help to secure the future of the rent regulated housing stock in benefit of all New Yorkers.

## **Mortgage Foreclosure Prevention**

The Caucus will work to support mortgage foreclosure prevention activities. Though, as a whole, New York has fared better than some other states, there are communities that are still suffering from significant number of foreclosures. In addition to the personal economic loss families suffer as a result of foreclosure, the presence of foreclosed homes often has a widespread effect on surrounding communities.

Foreclosed homes can depress property values, decrease municipal income, and, when abandoned for long stretches of time, can become nexuses of criminal activity. The Caucus will support families struggling to keep their homes from being foreclosed on. We will also look for creative solutions to eliminate long-term vacancies in and misuses of properties that have already foreclosed.

## **Reduction in the Homeless Population**

Homelessness does not necessarily represent the failures of individual, and can often find its origins in the absence and inaccessibility of social and economic supports. The Caucus will work aggressively to reduce homelessness across New York. Communities throughout the State have seen significant increases in homelessness, and the Caucus intends to help develop resources and initiatives, that, in their diversity, provide multi-layered solutions to the problem.

In New York State, the New York City Housing Authority along with other public housing authorities must work proactively to target their local homeless populations. Further, New York City and State should create a new rent supplement program for homeless households, providing at least five years of subsidy, to set families on the right long-term path. In New York City 5,000 rental supplements should be made available each year for the next three years. This program, modeled after to the voucher-based Section 8 program, would also provide a safety net to families that are still at risk of losing their housing at the end of the five-year subsidy.

## **Public Housing Support**

Public housing developments statewide and those in New York City in particular, suffer from a stunning lack of capital support. Many of these public housing developments have fallen into serious disrepair and the support they have received has consistently fallen short of their need. The Caucus understands that it is essential that we step up to bridge gaps and deficits, by helping to secure funding that will maintain, sustain, and rehabilitate public housing developments.

## **Low-Income Housing Tax Credit**

The Caucus supports increasing the State Low-Income Housing Tax Credit to support the financing of affordable housing developments. This year, the aggregate amount of tax credits is set to increase by \$8 million for a total of \$64 million. The Caucus recommends an increase in the amount of salable tax credits, which would augment the available funding for affordable



housing construction. The Caucus also supports an increase the amount of federal low-income housing tax credits that are allocated to New York State.

### **Community Development Financial Institution Program (CDFI)**

The Caucus aims to maximize the CDFI program. The program aims to increase private investment in distressed communities and build the capacity of the federally designated CDFI's that serve economically disadvantaged communities under community development.

### **Invest in NYCHA Families and their Homes**

Since 2001 NYCHA has experienced the loss of approximately \$900 million in capital funding and that loss has directly affected the ability of our State's largest housing authority to meet the needs of the families living in its aging residential buildings. With little immediate hope that the federal government will restore its cuts in aid to public housing, it is vital for state government to step-up to the plate by investing a sizable portion of the available surplus funds in repairing and renovating units throughout New York City.

- The \$27 million in capital repair funding for NYCHA incorporated in the 2015-16 Executive Budget marks a significant departure from recent state budgets that included no specific funding for NYCHA but does not go far enough. It is essential to fully fund NYCHA's existing capital project backlog for a more effective and fiscally sound response to the pressing needs of families living in the Authority's housing.

## IMMIGRATION

### NYS DREAM ACT

The Development Relief and Education for Alien Minors (DREAM) Act (Bill A.4311/S.1251) is legislation that would allow undocumented students the opportunity to apply for state college educational assistance programs to help pay for higher education. It also creates the DREAM Fund commission.

Programs Include:

1. Tuition Assistance Program (TAP)
2. Higher Education Opportunity Program (HEOP)
3. Educational Opportunity Program (EOP)
4. Collegiate Science and Technology Entry Program (C-STEP)
5. Opportunity Programs available at Community Colleges

This legislation will allow undocumented young adults who entered into the country before the age of 18, have lived in New York State for a minimum of 2 years, are under-the age of 35, and have demonstrated a commitment to education and good moral character to have access to financial aid opportunities within the state and be eligible for the program and other funding. The DREAM Fund commission enables eligible undocumented students who are applying to 2 and 4 year colleges and universities to apply for various scholarships in the DREAM Fund. The money for this fund will come from private sources and will provide scholarships to students who meet the qualifications.

The final portion of the DREAM Act would make family tuition accounts available to account owners who provide a valid taxpayer identification number. This bill, sponsored by Assemblyman Francisco Moya and Senator Jose Peralta, was passed in the Assembly in 2014. The bill was also included in the 2014-2015 Assembly budget proposal. In January 2015, Governor Cuomo included both the DREAM Act language and funding for the measure in the 2015-2016 executive budget.

The primary benefit offers undocumented students access to higher education while increasing the value of New York's work force. With this DREAM legislation, we welcome immigrants to New York with open arms, informing them that we are here for them and wish to see them prosper in the State of New York

### **Dream Act: \$27M for Dreamers to Access the Tuition Assistance Program (TAP)**

The Governor has proposed to fund the Dream Act with a \$27 million increase to TAP for undocumented immigrant students and would allow these students to be eligible for other state financial assistance programs. The students must have attended high school in New York State and applied to a New York college within five years of receiving a diploma. This fund, however, is contingent on the enactment of a proposed education tax credit. This tax credit is for contributions made to public education entities, school improvement organizations, local

education funds, and educational scholarship organizations. The program would be capped at \$100 million. The Governor also proposes allowing students without lawful immigration status to be eligible for the Tuition Assistance Program (TAP) and other state financial assistance programs.

### **Increases in Office for New Americans funding to \$6.44 Million**

The Governor recommends increasing Office for New Americans (ONA) funding from \$3.44 Million to \$6.44 Million in local aid, with an additional \$442 thousand in state operations bill (same as last year). The additional state support will replace lost federal funds and provide an overall boost of \$1 million over last year's levels. ONA will launch a comprehensive campaign to help eligible immigrants access programs so they have an opportunity to fully contribute to the state's civic and economic life. ONA will also help crack down on scammers who seek to defraud immigrants seeking immigrant assistance services through an established hotline and through referrals to the New York State Attorney General's Office for legal action.

Advocates and lawmakers are asking for \$15 million for ONA, \$9 million more than governor's proposed and an additional \$5 million to provide legal assistance for children facing immigration related issues because of their classification as Unaccompanied Alien Minors (UAM). Some 6,000 children have been placed in New York State with relatives and host families since 2013. These children entered the United States at its southern border and in 2014 over 70,000 UAM were apprehended by federal government agencies.

In addition, \$10 million dollars is needed to help provide these children with health care and mental health care services as its estimated some 80% have been victims of sexual abuse in their homelands and/or on their travel into the United States. Part of this \$10 million will be directed to school districts which are seeing the large influx of these children in an effort to help meet their educational needs.

### **Adult Literacy cuts of \$1.3 million**

The governor proposes a \$1 million school year cut in funding for adult literacy education grants, from \$6.293 million for Adult Literacy Education grants in 2014-15 to \$5.293 million in 2015-16. These competitive grants provide funds for adult literacy/education in public and private not for-profit agencies, including two- and four-year colleges, community based organizations, libraries, and volunteer literacy organizations and provide programs of basic literacy, high school equivalency, and English as a second language to persons 16 years 52 of age or older.

However the demand for Adult English Language classes is at an all-time high, with programs holding long waiting lists. In 2013, New York State had some 2,250,000 adults with limited English proficiency but less than 60,000 available seats for those wishing to learn the language in order to assist them in their integration into our society. Obviously the current funding level is inadequate and any further cuts to the program should be rejected by the legislature. The governor eliminates state funding for services and expenses of the Hispanic federation adult basic literacy and education initiative, which was \$250,000 in 2014-15.

### **K-12 bilingual education grants are maintained**

The Executive budget maintains state funding for bilingual education grants at \$13.5 million in 2015-16. These are grants to school districts, boards of cooperative educational services, colleges and universities, and an entity, chosen through a competitive procurement process, to assist schools and districts to conduct self-assessments to identify areas that need to be strengthened and to ensure compliance with the various federal, state and local laws that govern limited English proficiency and English language learning education. Funding of federal Title II grants to schools and entities for English language acquisition is maintained at \$61 million.

### **New York State Immigrant Action Fund eliminated**

The Governor proposes eliminating the Immigrant Action Fund, which was funded at \$150,000 in 2014-15. This item was funded through the DCJS General Fund. The funding supported legal services for immigrant populations.

### **Legal Services NYC - DREAM Clinics funding eliminated**

The governor proposes eliminating funding for DREAM clinics, which was funded at \$150,000 in 2014-15. This item was funded through the DCJS General Fund. These clinics help DREAMers apply for deferred action and improve the delivery of immigrant services.

### **Make the Road New York funding eliminated**

The governor proposes eliminating funding for Make the Road New York, which was funded at \$150,000 in 2014-15. This item was funded through the DCJS General Fund. This funding supports Make the Road New York's programs to support individuals and families that are seeking to obtain lawful immigration status, seeking protection from deportation or seeking removal defense.

### **Legal Aid Society - Immigration Law Unit Funding Eliminated**

The governor proposes to eliminate \$150,000 in DCJS funding for the Legal Aid Society's Immigration Law Unit, which provide a wide array of legal services to New York City's immigrant population.

### **New York Immigrant Family Unity Project (NYIFUP)**

It is extremely concerning that here in New York, a state that prides itself on its rich immigrant history; large numbers of immigrants are detained in local jails and face permanent separation from their families without any legal assistance, merely because they are unable to afford counsel. NYIFUP is the nation's first universal representation system for detained immigrants facing deportation proceedings. It is a groundbreaking program that has built an outstanding record of keeping New York families together. We must continue to allocate the proper resources to support this project.

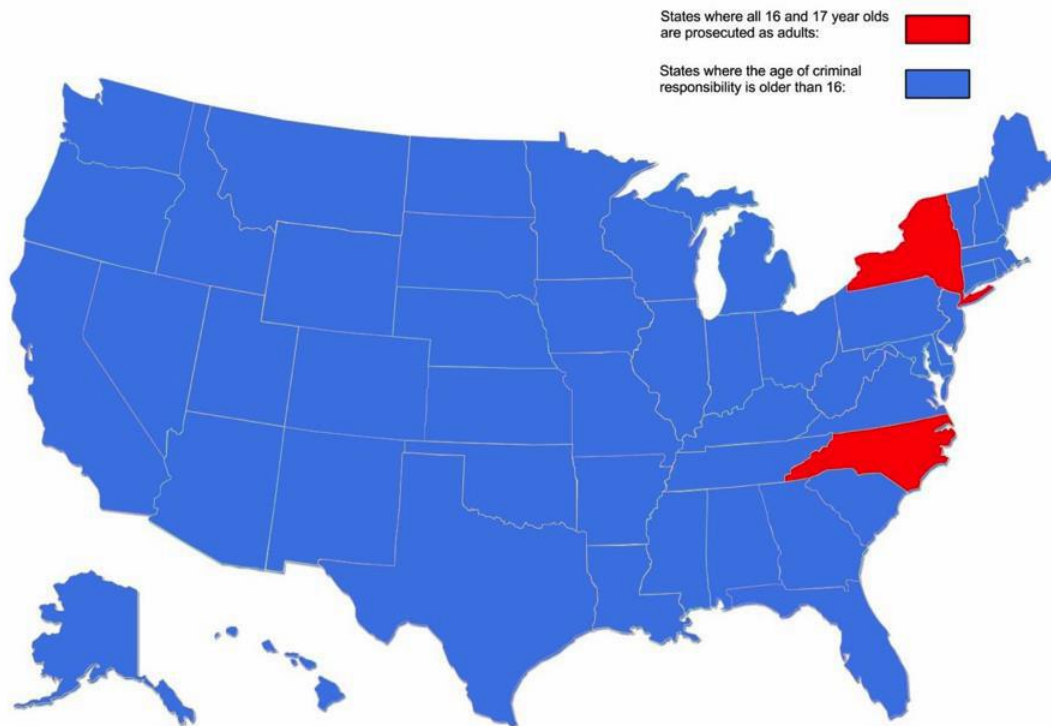
## CRIMINAL JUSTICE AND LEGAL SERVICES

### Juvenile Justice

#### Raise the Age of Juvenile Jurisdiction to 18

The Executive Budget provides \$25 million to support the development of diversion and probation services for 16 and 17 year olds who will be transitioned into the juvenile justice system over a multi-year period, beginning in December 1, 2015. Under the Executive proposal, juvenile jurisdiction would be raised to age 17 on January 1, 2017 and to age 18 on January 1, 2018—we agree with this assessment.

New York is the only state other than North Carolina that prosecutes ALL youth as adults when they've reached 16 years of age. Currently, New York fails to recognize adolescents as children, and continues to prosecute and place them in the adult criminal justice system which is not in their best interest nor does it improve public safety. We believe that a comprehensive approach to raising the age of juvenile jurisdiction to 18 is in the best interest of New York's children and youth, communities and community safety. Recent findings by the Commission on Youth, Public Safety and Justice have been the catalyst in making this change a reality.



Source: [www.raisetheageny.com](http://www.raisetheageny.com)

## **The Governor, As Well As The Caucus, Stands Poised To Accept The Commission’s Following Recommendations:**

### **1. Raise the Age of Juvenile Jurisdiction to 18:**

The impacts of processing all 16- and 17-year-olds in the criminal justice system fall disproportionately on young men of color. Over 70% of the children and youth arrested are black or Latino. Of those sentenced to incarceration, 80% are black and Latino. Young men of color are substantially overrepresented among youth who are arrested at age 16 and 17 and who end up incarcerated as a result of the offense.

Treating children as adults in the criminal justice system is short-sighted and ineffective; youth incarcerated in adult facilities are more likely to suffer physical and emotional abuse and to recidivate – realities that are at odds with the goal of rehabilitating youth and protecting public safety:

- Studies have found that young people transferred to the adult criminal justice system have approximately 34% more re-arrests for felony crimes than youth retained in the youth justice system<sup>10</sup>. Around 80% of youth released from adult prisons reoffend often going on to commit more serious crimes.<sup>11</sup>
- Studies show that youth in adult prisons are twice as likely to report being beaten by staff, and nearly 50% more likely to be attacked with a weapon than children placed in youth facilities.<sup>12</sup>
- Youth in adult prisons face the highest risk of sexual assault.<sup>13</sup>
- Youth in adult prisons are often placed in solitary confinement. The isolation young people face in adult facilities is destructive to their mental health and can cause irreparable harm.<sup>14</sup>

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<sup>10</sup> National Campaign to Reform State Juvenile Justice Systems. *The Fourth Wave: Juvenile Justice Reforms for the Twenty - First Century*; p. 20. Retrieved from: <http://www.publicinterestprojects.org/wp-content/uploads/2012/11/JJ-Whitepaper-Design-Full-Final.pdf>.

<sup>11</sup> Fagen, J., Forst, M. Vivona, T.S. "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy", *Juvenile and Family Court Journal*, No.2, 1989.

<sup>12</sup> National Prison Rape Elimination Commission, Report 18, June 2009, <https://www.ncjrs.gov/pdffiles1/226680.pdf>

<sup>13</sup> "Keep Youth Out of Adult Prisons," National Juvenile Justice Network, accessed January 16, 2013, <http://www.njjn.org/about-us/keep-youth-out-of-adult-prisons>.

<sup>14</sup> "Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America", Campaign for Youth Justice, November 2007.

Additionally, research into adolescent brain development shows that they are in fact children and that the human brain is not fully formed until the age of 25. Adolescent behavior is often impulsive and adolescents lack the ability to focus on the consequences of their behavior. Because their brain is still developing, the character, personality traits and behavior of adolescents are highly receptive to change; adolescents respond well to interventions, learn to make responsible choices, and are likely to grow out of negative or delinquent behavior. Moving 16- and 17-year-olds under juvenile jurisdiction would align New York's justice system with other states, with recent evidence on the most effective approaches to reducing juvenile recidivism, and with the brain science research.

## **2. Raise The Age Of Juvenile Delinquency From Seven To 12 With A Lower Age Of 10 For The Extremely Rare Homicide Cases**

New York allows children as young as 7 years old to be arrested and charged with acts of juvenile delinquency. Currently NY is among three other states that set a formally lower age for juvenile jurisdiction. Most states realize that very young children lack the capacity to meaningfully participate as a defendant in a trial to govern a practical standard for a lower age of delinquency jurisdiction. Very young children have been found to have impaired reasoning and poor understanding of trial matters. In fact, many states require juvenile competency determinations to try youth as old as 13 in juvenile court. Therefore, the Commission proposes and the Caucus supports raising the age of juvenile jurisdiction to 12, with a lower age of 10 for the extremely rare homicide cases.

## **3. The Governor Should Appoint One or More Individuals with Expertise in Juvenile Justice to Help Implement These Reforms**

Successful implementation of such reforms depends on government agencies and officials having clear responsibility for such implementation. The Caucus agrees with the Commission's recommendation that the Governor appoint one or more individuals with expertise in juvenile justice and a commitment to these reforms to help coordinate their implementation. The governor's commitment to these reforms provides a strong foundation for their success. Various State agencies must be involved in implementation of these proposed reforms, including OCFS, DOCCS, DCJS, and the governor's office itself.

## **4. Expand To 16- And 17-Year-Olds The Current Juvenile Practice Regarding Parental Notification Of Arrest And The Use Of Office Of Court Administration-Approved Rooms For Questioning By Police.**

Adolescents are much more likely to waive their right to remain silent and to confess to crimes quickly than adults during police interrogation. Their increased likelihood to comply with authority figures, to tell police what they think they want to hear, and to succumb to an impulsive decision to make a statement, even a false statement, if it will end an interrogation, places them and law enforcement at great risk for unreliable confessions. Unreliable confessions, in turn, create challenges in prosecution and can result in ongoing crime by the actual offender who remains in the community. Juveniles have protection against this vulnerability through existing

law that requires police to make reasonable efforts to notify a parent at the arrest of a youth age 15 and under and to question those youth only in a room that is specially designed for questioning in an office-like setting. The protections of parental notification and use of questioning rooms for youth should be extended to 16- and 17-year-olds.

**The Caucus also supports the following recommendations proposed by the Commission:**

- Expand the use of videotaping of custodial interrogations of 16- and 17-year olds for felony offenses.
- Mandate diversion attempts for low-risk (per risk assessment) misdemeanor cases except where probation finds no substantial likelihood that youth will benefit from diversion in the time remaining for adjustment or if time for diversion has expired and the youth has not benefited from diversion services.
- Allow two additional months for probation diversion (beyond 120 days) if a documented barrier to diversion exists or a change in service plan is needed.
- Establish diversion services that range from minimal intervention for low risk youth to evidence-based services for high-risk youth.
- Establish family engagement specialists to facilitate adjustment.
- Expand Family Court jurisdiction to include youth ages 16 and 17 charged with nonviolent felonies, misdemeanors, or harassment or disorderly conduct violations. Provide access to bail for 16- and 17-year-olds in Family Court and allow Family Court judges to ride circuit to hear cases, at the discretion of the Office of Court Administration.
- Create new Youth Courts, with specially trained judges, in criminal court for processing those cases against 16- and 17-year-olds and other Juvenile Offenders who remain in criminal court.
- Provide juvenile probation case planning and services for cases pending in criminal court.
- Prohibit confinement of any minor in an adult jail or prison and, to the extent funding and operational considerations allow, permit youth to remain in youth settings until age 21.
- Reduce unnecessary use of detention and placement through:
  - a. Prohibition of detention and placement for youth adjudicated for first-time or second-time misdemeanors that do not involve harm to another person, and who are low-risk, except where the court finds a specific imminent threat to public safety.
  - b. Prohibition of placement for technical probation violations alone, except where 1) the court finds a specific imminent threat to public safety or 2) the youth is on probation for a violent felony offense and the use of graduated sanctions have been exhausted without successful compliance
  - c. Implementation of weekend arraignment for Family Court cases statewide where adult arraignment already occurs.



- Use determinate sentencing for youth sentenced under Juvenile Offender or Youthful Offender statutes, including 16- and 17-year-olds.
- Develop effective community-based services at the local level to be used by probation, including expansion of The Juvenile Risk Intervention Services Coordination (JRISC), to maintain more high-risk youth in the community and reduce recidivism.
- Require that youth sentenced in the criminal courts and released from an OCFS facility receive post-release supervision from OCFS, instead of DOCCS, to facilitate better reentry planning and implementation.

## **Grand Jury Reform**

The grand jury is an arm of the court-- it is not an agent of the prosecutor or the police. A grand jury does not decide whether or not a person has been proven guilty—that is for the trial jury to decide. It only decides whether a person should be formally charged with a crime or other offense. They are expected to make that decision based on evidence presented to it by the prosecutor, who also instructs the grand jury on the law. The grand jury's decision must be based on the evidence and the law. This is where the grand jury decision in the Eric Garner case is concerning.

In a video that eventually captured the nation’s attention, an NYPD is seen putting Eric Garner into a banned chokehold during an arrest. The chokehold was ruled to ultimately be the cause of Garner’s death. In spite of the video, a grand jury declined to indict the officer, setting off a wave of massive protests across the city and the country.

New Yorkers must have confidence in the justice system, and the governor’s as well as the Legislature’s proposals must help restore that confidence. The decisions by grand juries not to indict officers in the Michael Brown shooting in Ferguson, Mo. and the Eric Garner case have spurred various proposals to reform grand juries. The Executive Budget would establish an independent monitor, appointed by the Governor, to review cases in which a police officer or peace officer is accused of causing the death of an unarmed civilian in the line of duty. The Executive’s budget does not specify how much—if anything—will be allocated to this newly created “Independent Monitor” position.

### **The Executive Recommends Criminal Justice System Reforms that would:**

- Create an Executive-appointed “independent monitor” to review evidence and grand jury proceedings when a grand jury does not indict a police or peace officer who allegedly caused the death of an unarmed person while acting in his or her official capacity;
- Allow district attorneys to produce a grand jury report when a grand jury dismisses charges or declines to return an indictment in such cases;
- Establish an expedited appeals process to the Court of Appeals in cases where the Appellate Division declined a change of venue motion;

- Require annual reports from state law enforcement agencies to DCJS that include information on violation and misdemeanor arrests, the number of instances when such arrests may have resulted in the death of a civilian, and demographic information on the subject of each appearance ticket or summons issued by that agency;
- Establish a “use of force” policy for State and local law enforcement agencies created by the Municipal Police and Training Council;
- Require that every application for a search warrant include information on whether a warrant application had been previously submitted to another judge, and if so, the result of the previous submission; and
- Amend current law to grant more limited “use immunity,” rather than “transactional immunity,” when a witness is compelled to testify in a legal proceeding, including the grand jury.

### **Community Policing: Caucus Proposed Reforms**

The events leading up to the apprehension of Eric Garner are indicative of a broader systemic problem; policing in minority communities. While the Caucus agrees that there must be greater transparency within grand jury proceedings, transparency must be improved generally within the criminal justice system—it is necessary regarding the manner in which law enforcement police our streets and shootings involving police. At least initially on a micro scale, there should be \$40 million for a police body camera pilot program in precincts with the highest rates of crime and complaints of police misconduct.

In New York City, a report released by the Public Advocate’s Office found that outfitting the entire police department with body cameras would cost around \$33 million. But in 2013, the city paid \$152 million as a result of claims of police misconduct. If body cameras could reduce those claims by just one-fifth, the devices would pay for themselves. The use of cameras is likely to save cities and ultimately the State significant money and time, while restoring confidence in law enforcement.

While the Executive proposal includes \$60 million to support the purchase of equipment by local police departments, including police body cameras, it is not clear how much of this allocation will actually be spent on police body cameras specifically relative to the purchase of other police equipment.

## **Additional Caucus Funding Recommendations:**

### **Prisoner's Legal Services**

The Executive has allocated \$1 million in funding for Prisoners Legal Services (PLS) in the budget, the same amount provided to PLS last year before the Assembly's \$1.2 million addition. Over the past decade a continued reduction in funding forced the program to close several offices and lay off well over half of its staff. Thankfully, the Assembly was able to provide them with enough added funds to sustain them for the 2014-2015.

Since 1976, PLS has played a vital role in making New York prisons safer and more humane. Their work has resulted in positive changes in prisoners' attitudes and behavior and has promoted constructive policy and programmatic modifications within DOCCS. PLS' work has also benefited the State Attorney General's Office and state and federal court judges by providing professional legal representation. However, a drastic budget cut in 2011, together with a decrease in Assembly support for the program from the traditional \$2.285 million to \$1,000,000 in SFY 2013-2014 has greatly hampered the ability of PLS to do its important work. We recommended that PLS be allocated an additional \$1.5 million supported either through the General Fund, or some other Special Revenue Fund in the SFY 2015-16 budget.

### **New York State Defenders Association (NYSDA)**

Of all the rights that individuals have relating to the judicial system, the right to counsel is perhaps one of the most fundamental. Yet, New York State's lack of adequate funding for our current public defense system often fails to ensure the constitutional right to effective legal representation; as a result criminal defendants—who are disproportionately people of color-- are negatively affected.

The State contracts annually with NYSDA to administer the nation's only Public Defense Backup Center in ongoing recognition of public defense deficiencies statewide but dramatically underfunds the backup function. The New York State Defenders Association (NYSDA), through their public defense backup center, provides assistance to lawyers providing representation to the poor in New York State. The Executive has provided funding for NYSDA in the amount of approximately \$1.089 million for SFY 2015-16. However, NYSDA needs a minimum of \$3.5 million to effectively continue its work to improve the quality and scope of publicly-supported legal representation for low-income people. It is recommended that the Assembly increase funding for NYSDA by \$2.5 million for a total appropriation of \$3.589 million to bring it in line with funding needed to effectively serve the poor.

### **NYSDA's Veterans Defense Program**

- \$1 million of the requested \$3.5 million is to sustain the new Veterans Defense Program (VDP) which provides comprehensive legal assistance to support zealous representation of veterans in the family and criminal justice system, helping the most vulnerable of our veterans with service-related mental health illnesses, such as Post-traumatic Stress Disorder or Traumatic Brain Injury, and

facilitating treatment and recovery. NYSDA utilized reserve funding for VDP, and needs \$1 million to continue VDP's critically needed services.

- Provides training and legal assistance to attorneys in 120 county-based public defender offices, legal aid agencies, and assigned counsel offices, with direct litigation and expert case support for strategic cases, and is launching a clearinghouse of resources, such as practice manuals, and a Veteran Restorative Justice Pilot Project.

### **Indigent Legal Services Office**

The Executive proposes \$86.9 million for the Office of Indigent Legal Services, an increase of \$4 million or 4.83 percent from the SFY 2014-15 level. The Executive Budget includes \$4 million in additional funding for implementation of the Hurrell-Harring settlement agreement, including:

- \$500,000 to support 8 FTEs to implement the terms of the agreement
- \$500,000 for the acquisition and development of a caseload tracking system
- \$2 million for grants to improve legal services in the affected counties
- \$1 million to provide indigent clients with defense counsel at arraignment.

In spite of the increase in the Executive's proposal, an additional amount of \$28 million is needed to continue the improvements incrementally being made to the State's public defense system. \$20 million is necessary to provide caseload relief for overburdened lawyers for the poor. \$8 million is needed to help counties and defenders conform the practice to the mandate of Hurrell-Harring settlement requiring counsel at first court appearance on behalf of defendants who can't afford their own lawyer.

### **Add \$360 Million to Establish an Independent Statewide Public Defense Commission**

New York State is in the midst of a foreseeable 51-year decline of due process of law. In 1963 the United States Supreme Court held in *Gideon v. Wainwright* that the right to counsel for one charged with crime is fundamental and that states need to supply lawyers for those unable to afford them. In 1965 New York delegated this state responsibility to counties. The decision to entrench responsibility at the county level now haunts New York.

- The inefficient patchwork of services provided at the county level is deficient.
- Public defense services are inadequately financed by the State.
- In 2006 the Kaye Commission on the Future of Indigent Defense Services declared the system in crisis and urged the expeditious establishment of an Independent Public Defense Commission overseeing a state-funded, statewide defender system.

- People of color are disproportionately affected by this crisis. *See* “Racial and Ethnic Disparities in Arrests and Convictions In The Counties Represented By Members of The New York State Legislative Caucus of Black, Puerto Rican, Hispanic and Asian Legislators” (NYSDA 2014) [from 2011 through 2013, there have been over 1 million felony and misdemeanor arrests of non-White individuals within the 17 Caucus Counties].
- The time for a state defender system is now.

### **Fund Aid to Defense (ATD)**

Since the early 1970s, prosecutors and public defense providers in some counties have received state aid to handle certain felony cases. The program has long been characterized by disparity between prosecution and defense with the prosecution annually receiving more funding. Moreover, since 2000, prosecutors have been funded in all 62 counties while public defense has only been funded in 26 counties. The Aid to Defense Program has been substantially cut through the years from \$20 million in 1990 to a little more than approximately \$2.5 million this year. The Aid to Defense Program should be restored to its former level. Begin the restoration of ATD funding at \$20,000,000.

### **Services for Seriously Mentally Ill Inmates**

While most mentally ill people are not violent, no inmate who receives mental health treatment while in prison should be released to the streets without a plan for continuity of care. People who have stabilized in prison should not destabilize in the community for lack of mental health care.

On December 29, 2014, Governor Cuomo signed into law, legislation sponsored by Senator Young and Assemblyman O’Donnell that would create treatment plans for certain inmates who were receiving mental health services at or prior to the time of their anticipated release date. The Executive proposes an additional \$2 million to support the addition of 25 new parole officers to reduce caseloads for high needs individuals, from 25 parolees per officer to 15 parolees per officer. In addition, the Executive proposes an increase of \$19.56 million in the Office of Mental Health, to expand services for individuals leaving prison, including: \$5.45 million to support additional assessments, enhanced discharge reviews, and staff training; \$6.71 million to support discharge planning and placement in OMH facilities; and \$7.8 million to support 200 assertive community treatment (ACT) slots and 400 supported housing units for individuals leaving prison.

Prison and jail inmates with physical health and mental health, experience more reintegration difficulties upon release, and typically have poorer outcomes with respect to employment, re-offending, and re-incarceration. Maintaining treatment for these inmates may help to improve post-release outcomes.

## **Medical Treatment**

The Executive Budget also provides an additional \$24 million in funding for the treatment of inmates who have been diagnosed with Hepatitis C, which is estimated to cost \$80,000 to \$90,000 per patient.

## **Medical Parole for Certain Non-Violent Offenders**

The Executive recommends Article VII language that would allow the DOCCS Commissioner to make the final determination regarding medical parole for terminally ill inmates who have been convicted of non-violent crimes. The proposal is estimated to save \$1 million annually in inmate health care costs.

Sixteen people died between 2005 and 2009 while waiting for their medical parole board interviews, an indication that the medical parole process is taking too long. We have spent millions of dollars to build regional medical units, a unit for the cognitively impaired, units for the terminally ill, units for persons on dialysis, units for the wheelchair bound, hospice units and other such units providing more than 500 beds for inmates whom we know are seriously ill, terminally ill or physically unable to care for themselves and yet most inmates who apply for medical parole are not being certified by the Department of Corrections as incapacitated enough to create a reasonable probability that they are safe to release. We currently spend \$12 million a year on prescription medication for inmates, as well as millions of dollars more on medical procedures and treatment for a variety of infirmities such as cancer, liver failure, kidney failure and other ailments, all costs for which also quadruple in the next decade. Inmates who are dying or severely restricted in their ability to self-ambulate or perform significant normal activities due to the debilitating nature of their medical conditions can be released to die at home or be cared for by their families or in outside medical facilities.

## **Humane and Effective Alternatives to Special Housing Units (SHU)**

The Executive's budget allocates \$2.95 billion to the Department of Corrections and Community Supervision (DOCCS). Among other things, this allocation includes funding for DOCCS's workforce, Medical Parole, and Services for Mentally ill inmates. However; the budget does not address the number of inmates placed in Solitary Confinement nor the growing call to limit isolated confinement and provide more humane and effective alternatives to Special Housing Units (SHU).

Assemblyman Aubry and Senator Perkins have introduced legislation [The HALT Solitary Confinement Act (A.4401/S.2659)], which recognizes the hallmark principle that isolated confinement is effectively torture in practice and serves no useful or beneficial purpose whatsoever. This public safety legislation wisely substitutes a rehabilitative and therapeutic model in place of isolation so that individuals can receive the programming, support and interventions needed to help them rehabilitate and grow.

### **This Legislation Will Do Five Essential Things:**

- (1) Move from an isolation model to a supportive treatment model, replacing SHUs with Residential Rehabilitation Units (RRUs)—providing for therapeutic interventions and six hours of out of cell programming daily.
- (2) Drastically restrict placement in these RRUs to a very small population of individuals who need intense treatment that can help them heal and grow.
- (3) Curtail and limit the use of long term placement in RRUs to no longer than 15 consecutive days and no more than 20 days in any 60 day period.
- (4) Enact a complete bar on any type of isolation for vulnerable populations, including: youths, seniors, anyone with a physical, mental or medical disability, anyone who is pregnant or a new mother and anyone who is or is perceived to be LGBTI.
- (5) Train officers to work with individuals and to provide supportive services to help them grow; provide due process protections for anyone placed in isolation and ensure greater transparency and accountability at our correctional facilities.

In addition to the HALT Solitary Confinement Act, Assemblywoman Nily Rozic has introduced. Legislation (A.1347), which will exclude pregnant prisoners from solitary confinement in New York correctional facilities. While solitary confinement is difficult on all inmates, it is an excruciating hardship on pregnant women. Constricted movement and restricted access to medical and mental health care alone, even without the other deprivations inherent in solitary confinement, make time spent in SHU a very harsh punishment for a pregnant woman. Unless a pregnant woman poses a severe and immediate threat to the safety of other people, she should not be placed in SHU.

### **Establish a State Commission on Prosecutorial Conduct: (S24/A1131-Perry)**

The creation of a State Commission on Prosecutorial Conduct, which mirrors the existing State Commission on Judicial Conduct, will allow a fair procedure for the public to voice concerns regarding improper prosecution, lack of prosecution and selective prosecution. Members of the Commission, appointed by the Governor, legislative leaders, and the Chief Judge of the Court of Appeals, will have jurisdiction to receive complaints and initiate their own investigation when it appears prosecutorial misconduct may have occurred.

According to the National Registry of Exonerations, 43 percent of wrongful convictions are the result of official misconduct, and New Yorkers who have been exonerated, have spent nearly 2000 years in prison. The mere fact that 97 percent of felony criminal cases in the United States are resolved without a trial, exhibits the enormity of the role of the prosecutor in deciding who gets incarcerated and who walks free. The need for all prosecutors to play fair is paramount. The damage from just one prosecutor can be

devastating. The current structure which allows for unchecked conduct of our state's prosecutors undermines our entire justice system. The Commission on Prosecutorial Conduct will ensure the right to a fair trial by enforcing the obligation of prosecutors to observe acceptable standards of conduct, and to establish accountability for the conduct of prosecutors during the performance of their functions, powers and duties.

The Commission on Prosecutorial Conduct will also allow citizens to voice their concerns over improper prosecution, and will have the ability to discipline a prosecutor or allow him or her to clear their name of wrong doing. This Commission is modeled after the Commission on Judicial Conduct, a successful entity that exists for many of the same reasons, as judges too have wide discretion that must be examined to ensure individual rights are not being violated. Both Commissions would exist to protect the integrity of the criminal justice system in New York.

The Executive Budget does not provide for funding for this commission which is estimated to cost approximately \$5.5M when fully operational. This is an important omission in the Governor's Executive Budget and his policy proposals to reform the criminal justice system. The commission would ensure that when the honor system breaks down, and the trust we put in our prosecutors does not sustain, the fairness in our justice system, which is more than just a promise, but the foundation of our democracy, will be maintained. Therefore, the Caucus supports the creation of a State Commission on Prosecutorial Conduct.

#### **Additional Executive Budget Proposals:**

**Division of Criminal Justice Services:** The Executive proposes All Funds appropriations of \$251.69 million, a decrease of \$11.21 million or 4.26 percent from the SFY 2014-15 level. The Executive recommends support for 436 FTE positions, an increase of 9 FTEs from the SFY 2014-15 level.

**Office of Victim Services:** The Executive proposes All Funds appropriations of \$111.63 million, an increase of \$35.96 million or 47.53 percent from the SFY 2014-15 level. The Executive Budget transfers \$1.89 million in grants for rape crisis centers from the Department of Health to the Office of Victim Services. The Executive also proposes a \$27 million increase in federal appropriations for victim and witness assistance grants.

**Office for the Prevention of Domestic Violence:** The Executive proposes All Funds appropriations of \$4.94 million, unchanged from the SFY 2014-15 level. The Executive recommends support for 28 FTE positions, unchanged from the SFY 2014-15 level.



## WOMEN'S ISSUES

The Caucus has always stood at the forefront for equality for all, it is critical to pass the 10-Point Women's equality agenda—

1. Pay equity and provide greater protection against wage disparity.
2. End Family Status Discrimination. Amend state law to prohibit employers from denying work or promotions to workers simply because they have children.
3. Stop Sexual Harassment in All Workplaces.
4. Stop Pregnancy Discrimination. Pursue the creation of a specific protection in the Human Rights Law requiring employers to provide reasonable accommodations for pregnancy-related conditions, unless doing so would create an undue hardship.
5. Allow the Recovery of Attorney's Fees in Employment and credit and Lending Cases. Pursue an amendment to existing law to include a provision for reasonable attorneys' fees for successful litigants in sex discrimination.
6. Better Position to the State to Address Source of Income Discrimination. Press for the creation of a task force to study the impact of a source of income discrimination on women.
7. Stop Housing Discrimination against Victims of Domestic Violence.
8. Protect Victims of Domestic Violence by Strengthening Order of Protection Laws.
9. Strengthen Human Trafficking Laws.
10. Protect Freedom of Choice. Amend New York Law to codify the Roe v. Wade decision into state law.

## **ENVIRONMENTAL JUSTICE**

### **Reform Brownfield Program to Revitalize Polluted Landscapes**

Every community has a Brownfield and there are thousands of them statewide. Brownfields are dilapidated gas stations, abandoned factories, and out-of-business dry cleaning shops that lower property values, hurt community morale and are riddled with toxic chemicals making them dangerous for use.

In 2014, the legislature only passed a simple extension to the broken Brownfield's program. This year the executive budget proposal extends and modifies the Brownfield tax Credit and Brownfield clean-up program for ten years. The Caucus supports the governor's Brownfield proposal and views it as a huge advance in improving the environmental conditions, specifically for those communities already suffering from other crippling conditions. This proposal also aims to better use taxpayer funds more effectively to clean up added sites.

The following Brownfield's reforms will produce better target tax credits and allow the state to predict and manage its financial liability:

- Extend the Brownfield Tax Credit and Brownfield clean-up program for ten years
- Redevelopment tax credits will cover costs accrued during cleanup
- Redevelopment tax credit eligibility criteria will include: whether a site is located in an economically disadvantaged area, the property's value is upside-down, or will result in the development of affordable housing

### **Restore the Environmental Protection Fund (EPF)**

The 2015-16 executive budget proposes to raise EPF to \$172 million dollars which is a 6% increase. This \$10 million increase will support increases in fourteen categories which include invasive species control and prevention, stewardship and land conservation. This increase also includes a sub- allocation for capacity grants to State Parks friends' groups.

### **Hazardous Waste Fund**

The Executive provides \$100 million for the State's Superfund. The Executive also includes a new \$100 million appropriation to continue the State's Superfund program for one year, which would include funding for the Environmental Restoration Program (ERP).

## ECONOMIC DEVELOPMENT

New York State and its local governments currently spend approximately \$7 billion annually on a broad array of economic development programs throughout the state, according to a comprehensive report<sup>15</sup> from ALIGN.<sup>16</sup> There are dozens of different economic development programs that are intended to provide a myriad of benefits such as cash grants, tax exemptions, tax credits (including many that are refundable and paid in cash), and tax-exempt bonds. The vast majority of these benefits go to big businesses in the name of job creation and economic growth, but the results leave much to be desired.

Given the enormous human needs and demand for physical infrastructure in our state, if we are going to put \$7 billion into economic development we need to make sure that the investment pays off. The majority of research on the programs in question, however, reveals that we are not getting a good return on our investment. For example, a detailed study of New York's business tax credits prepared in 2013 by economists Donald Boyd and Marilyn Rubin noted that "there is no conclusive evidence from research studies conducted since the mid-1950s to show that business tax incentives have an impact on net economic gains to the states above and beyond the level that would have been attained absent the incentives."<sup>17</sup>

Similarly, numerous audits from the Office of the State Comptroller (OSC) also question whether the state is getting its money's worth from Industrial Development Agencies (IDA). A 2013 report from OSC revealed that of the 4,486 current IDA projects, 1,161 do not promise to create a single job. Sixty-eight percent of the 407 IDA projects that ended in 2011 lost jobs, did not create jobs, or did not meet their job creation targets, falling a total of 32,153 jobs below their targets. Rather than chasing smokestacks or throwing tax cuts at business, the state's economic development policy should be focused on smart investments with careful accounting of benefits to local communities. There must be overall economic growth, not the mere shifting of activity from one area or one state to another. Expanding the state venture capital fund is one promising initiative included in the Executive Budget.

As noted in the section on bank settlements, a focus on revitalizing the upstate region is welcome, but creating three \$500 million buckets and making upstate Regional Economic Development Councils fight over them is a recipe for conflict rather than shared prosperity. We suggest above how the one-time bank settlement funds could be better used to this purpose. In the same vein, a major component of the state's ongoing economic development policy should be a focus on revitalization of upstate cities. What would help most is for the state to take on an appropriate portion of the shared local/state expenses, which would allow fiscally-stressed cities to reverse the cycle of lower population, lower tax revenues, lower tax rates, and overstressed services.

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<sup>15</sup> ALIGN, "A Closer Look at New York's \$7 Billion Subsidy System", December 2013.

<sup>16</sup> This figure includes capital funds not included in FPI's overview in this document of the state operating budget.

<sup>17</sup> Donald Boyd and Marilyn Rubin, "New York State Business Tax Credits: Analysis and Evaluation," A Report Prepared for the New York State Tax Reform and Fairness Commission, November 2013.

**The governor has also proposed the following mixed bag of economic development initiatives:**

- **Reform the Industrial Development Authority (IDA) Program.** The Executive Budget proposes legislation to reform IDAs by developing an oversight/approval process to ensure that state tax breaks provided by local IDAs are a good investment and do in fact create jobs. In order to receive assistance from an IDA, all newly participating businesses must be tax compliant and will be subject to a “clawback” of state sales tax benefits if job/investment targets are not met.

This is indeed a positive and long-overdue step. It ensures that the state has oversight of how local IDAs provide state sales tax benefits to local projects. The “clawback” provisions on the state portion of local IDA projects are also welcome.

- **START-UP NY.** This program was established in 2013 to “transform” SUNY, CUNY, and private college and university campuses and communities across the state into tax-free zones, ostensibly to attract new businesses and to encourage existing businesses to expand. As of January 2015, the governor claimed a total of 73 businesses had been approved for START-UP NY participation and projected that they would create more than 2,400 new jobs.<sup>18</sup>

This program’s focus on clustering businesses around universities is a smart recognition of these valuable resources for our state’s economic development. However, the idea that creating tax-free zones is a wise economic development model is fundamentally misguided.

Raising further red flags about the program, the governor has recently discussed expanding the program to cover some local airports. The state’s experience with Empire Zones should be a strong cautionary tale. Empire Zones were initially intended to help distressed areas of the state by giving benefits to companies that located there. Over the years, however, the number of Empire Zones multiplied, until eventually zones were designed around existing companies. Expanding “Start-Up New York” zones to new areas is not only a mistake, but it also underscores a problem with creating different state tax zones for different parts of the state as a way of approaching economic development.

According to the governor, Start Up NY companies have promised “more than \$104 million” in new investments. However, the state already has spent nearly \$150 million—nearly 150 percent of this sum—on TV ads promoting the program across the country.

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<sup>18</sup> “Governor Cuomo Announces 18 More Businesses Choose to Create New Jobs in New York Under Start-Up New York,” at <http://www.governor.ny.gov/news/governor-cuomo-announces-18-more-businesses-choose-create-new-jobs-new-york-state-under-start>, accessed on January 31, 2015.

The governor proposes appropriating an additional \$50 million for another round of Open for Business marketing ads by sweeping funds from the New York Power Authority.

Rather than continuing the failed “designated special tax zone” policies of the past, New York needs a smarter approach economic development. The state can leverage the resources of academic institutions, spur growth in areas that sorely need it, and help improve our overall business climate instead of providing a decade of tax-free operation for select businesses.

- **Entrepreneurial Assistance Program and Community Development Financial Institutions.** The budget holds funding flat for the Entrepreneurial Assistance program at \$1.764 million and reduces funding for the Community Development Financial Institutions program from \$1.795 million to \$1.495 million. These two programs assist entrepreneurs in developing and funding small businesses, and they have a proven track record of being able to create jobs and provide an excellent return on investment.
- **Innovation Hot Spots and Incubators Program.** The Executive Budget authorizes new funding, \$5 million annually when fully phased in, to continue to foster innovation by offering start-up companies’ valuable business support services to help use academic research for commercial enterprises and promote further collaboration between business and academia.
- **Expand Venture Capital Funding.** The governor appropriately proposes in his Executive Budget to expand the New York State Innovation Venture Capital Fund from \$50 million to \$100 million. These funds will accelerate technology commercialization in New York State by making equity investments in high-growth technology companies that leverage the state's strengths and take advantage of existing industrial clusters. This program is conceptually superior to many other economic development programs that give funds to companies without a careful assessment of the specific benefits to the state. With well targeted equity investments, the state, and taxpayers stand to benefit.

## **MINORITY AND WOMEN BUSINESS ENTERPRISES**

In our Great State of New York, we continue to make impressive strides to increase economic opportunity and equality for women and diverse communities of color. With a population comprised of nearly 18% African American, more than 18.4% Hispanic, and over 51% women, New York has an incredible opportunity to diversify representation and increase access when it comes to doing business in the state. Moreover, there are tremendous opportunities to increase the amount of contracts, capital, and resources to our minority and women owned businesses. We are excited by the progress that began in 2011 when Governor Cuomo established a state-wide team to eliminate barriers and expand participation of Minority and Women Business Enterprises (MWBEs). The team set an ambitious goal of 20% for procurement. Moreover, further progress was demonstrated by the announcement in October of 2014 of having achieved an impressive 25% MWBE participation rate. Pursuing a new goal of 30% would bring us even closer to achieving equal opportunity and equality for women and minority owned firms and create jobs in the great state of New York.

However, due to a lack of comprehensive data, mandatory oversight and required reporting, MWBE goals across all state funding streams are not at the levels we need for parity. We must also tackle the lack of transparency in order to capture the total impact of state funding and goal achievement on the MWBEs business landscape. Moreover, the other unfortunate reality is that fraud in misrepresenting a business owner as a MWBE firm occurs all too frequently. This issue was recently conveyed by Manhattan District Attorney Cy Vance on November 24, 2014 who said<sup>19</sup>, “The unfortunate reality... is that fraud within these programs is persistent” and further said, “Every time the system is abused, it becomes that much more difficult for a legitimate minority or women-owned business to gain entry into the field”. This understanding without a clear mechanism to penalize said firms, presents another opportunity for positive reform to be enacted through budget and policy proposals in this legislative session.

### **Executive Budget Proposals**

The Executive proposes All Funds appropriations of \$80.07 million, a decrease of \$1.54 million, or 1.88 percent from the SFY 2014-15 level. The Executive recommends support for seven Full Time Equivalent (FTE) positions, in an effort to support an initiative aimed at increasing Minority and Women-Owned Business Enterprise (MWBE) participation in State contracting from 25 percent to 30 percent.

The Executive proposes to extend the authorization for the Minority and Women-owned Business Enterprise (MWBE) program and the due date of the MWBE Disparity Study to December 31, 2017 and February 15, 2017, respectively.

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<sup>19</sup> "DA Vance Grand Jury Report." The New York County District Attorney's Office, 24 Nov. 2014. Web. 24 Nov. 2014. <<http://manhattanda.org/press-release/da-vance-grand-jury-report-recommends-significant-reforms-assist-minority-and-women-ow>>

## **Caucus Response to Executive Budget & Policy**

Given the aforementioned context, the desire for greater MWBE participation that leads to increased economic and social progress, the need for tangible reform of increased oversight, transparency, metrics-based reporting, accountability, penalty for fraud and deception and ensuring increased opportunity and resource distribution, we propose the following items:

- The Caucus opposes the proposed All Funds appropriations decrease and calls for an increase of said appropriations given the request for the MWBE goal to be across all state funding
- The Caucus supports the extension of the authorization for the Minority and Women-owned Business Enterprise (MWBE) program.
- The Caucus opposes the proposed delay of the MWBE Disparity Study and calls for the execution of said study to occur this year as originally scheduled.
- The Caucus calls for the 30% MWBE goal to be set for all state funding including money management, all procurement, remaining federal package funding for reconstruction costs for Superstorm Sandy and future dispersal of federal and settlement funds. Moreover, we call for the same 30% MWBE goal on all emergency projects after the initial emergency has been stabilized due to not all agencies monitoring job order contracting (JOCs) to ensure MWBE utilization does occur.
- Determine oversight and enforcement process of MWBE goals including but not limited to a dedicated procurement officer tasked with MWBE implementation, public hearings administered by the Committees on Governmental Operations and/or Oversight, Analysis and Investigation and monthly and annual metrics based reporting.
- Determine oversight and enforcement to monitor all state agencies for compliance and make reports to legislature. The assigned procurement officer must have a direct reporting relationship to the Commissioner or the President of the overseeing entity.
- Establish a third party entity in charge of reviewing MWBE data and set aside funding for said entity to conduct research, data analysis, reporting and recommendations for future actions based upon said metrics.
- The passage and implementation of legislation to instill penalties for MWBE fraud including a mechanism to identify and track said cases and the rescinding of contracts and rewards due to fraud.
- The passage and implementation of legislation to instill penalties for MWBE fraud including a mechanism to identify and track said cases and the rescinding of contracts and rewards due to failure to meet MWBE goals.
- Require all procurement contracts to contain anti-discrimination clauses.

- Increased transparency in the procurement and funding selection process including, but not limited to, considering implementing a “Rooney Rule” as exists in the National Football League so that one of the finalists must be a MWBE finalist to increase diversity.
- Immediately review state contracts to determine how to unbundle state contracts to increase opportunities for MWBE firms.
- Mandate utilization of joint ventures with MWBE participation to ensure that they are not only gaining increased access to capital and contracting but equally learning from other firms in order to grow in scale, strengthen expertise and promote collaboration.
- Establish a MWBE goal and mandatory participation for firms utilizing 421A tax incentives and any project utilizing state tax credits or incentives.
- Establish subcategory utilization goals and benchmarks to clearly identify the different data points for minority owned business, minority women owned, woman owned business and lastly veteran owned business.
- Develop a scorecard system to evaluate agencies execution and attainment of established procurement goals.
- Conduct an impact analysis of the State’s Strategic Sourcing initiative on the MWBE business community’s growth.
- Extend the 30% mandate to increase MWBE participation in State contracting to the Tier 1 level for Public-Private Partnerships and super-sized contracts
- Allow large-scale MWBEs that exceed the personal net worth and size threshold to qualify for the 30% State agency goal.
- Increase the number of minority and women-owned firm participants in each pension fund by requesting the Office of the State Comptroller (OSC) work with the Division of Minority and Women Owned Business Development to recognize and accept the State’s MWBE certification
- Require the Division of Minority and Women Owned Business Development (“DMWBD”) to promulgate regulations requiring all State agencies to commission a three-year growth plan to increase MWBE utilization and release this report to members of the Legislature.
- The Caucus also supports the development of not-for-profit organizations that provide education and advocacy for socially or economically disadvantaged businesses in the construction industry, the investment management and financial industry, empowering them to grow and create good paying jobs. The education should include rationale on why emerging contractors have traditionally not qualified for surety and bank credit or RFP qualifications. Incubating strong, well-managed minority owned construction and



investment management firms will have significant economic impact on communities of color across our state.

- Establish loan programs that include access to bonding for those MWBEs that are unable to obtain them from private sources.
- Establish a quick pay program that pays MWBEs in 15 days, decreasing the need for capital.
- Provide procurement, bid packaging and bonding assistance.
- Monitor and evaluate the number of contracts awarded to certified MWBEs by location annually.
- Significantly increase the MWBE utilization with the Department of Corrections given the size of the contracts and funding
- Implement a Managed Services model so that smaller firms could potentially be bundled together, managed by a larger firm to increase the chances for competition
- Implement a “Design Build” strategy as a way to strengthen Public-Private Partnerships instead of a “Design Bid Build” approach
- Establish a prequalification system to strengthen MWBEs prior to the bidding and procurement process
- Establish a certification database to make it more easily accessible to learn of available firms and their qualifications
- Establish a Mentor-Protégé mechanism to help strengthen and grow emerging MWBEs so they are further prepared to become the larger companies and equally increasing their competitiveness.
- Create a strategy to promote Mergers & Acquisitions to increase the size and competitiveness of MWBEs
- Establish a Working Group separate from the governor’s taskforce to evaluate and MWBE related procurement processes and implement best practices across all State Agencies.

## TAXATION

### **New State Tax Reduction Proposals**

Governor Andrew Cuomo has proposed a tax policy package very heavily weighted toward tax cuts, with some cuts for households and some for businesses. In his FY 2015-2016 Executive Budget, the governor is proposing three major tax changes: a household property tax circuit breaker, an education tax credit, and a modest reduction in taxes on small corporations. The circuit breaker is a good idea, though linking it to a locality's compliance with the property tax cap is highly problematic. The education tax credit is a fundamentally misconceived giveaway, and is also cynically linked to passage of the Dream Act. A tax rate reduction for small corporations has a modest cost that will be offset by three welcome measures to reduce tax avoidance and tighten up on a business sales tax credit

The new tax package is projected to reduce tax collections by \$400 million in FY 2017, \$900 million in 2018, and \$1.4 billion in 2019. The circuit breaker accounts for almost all of this cost. While the idea is long overdue, a meaningful circuit breaker should not come at the cost of additional damaging budget and local assistance cuts. Instead, to pay for the circuit breaker the state needs to curtail some of its mushrooming business tax credits, fix some of the problems with last year's corporate tax "reform," and reject or roll back tax cuts benefitting wealthy households.

### **Property Tax Relief Credit: Circuit Breaker**

The governor takes a positive step forward in delivering property tax relief to homeowners and renters whose property taxes are high relative to their income. New York has many high-income households, and many of those who own expensive homes do pay high property taxes. However, relative to their incomes, such taxes likely are not burdensome. On the other hand, over 700,000 of New York's lower and middle-income households, those making less than \$100,000 per year, are paying more than 10 percent of their income in property taxes, according to a Fiscal Policy Institute analysis of American Community Survey data. Of households with income of \$25,000 or less, 63 percent pay more than 10 percent of their income in property taxes. Nearly 240,000 households with income below \$50,000 a year pay more than 20 percent of their income in property taxes, and almost two-thirds of those have income below \$25,000.

Currently, 33 states and the District of Columbia provide some type of property tax circuit breaker relief to their residents. Most of these states provide circuit breaker relief with credits or rebates that reduce the amount of state income tax owed. A few administer stand-alone rebate programs. Most extend tax relief to both property owners and renters. Over one million homeowners whose property taxes exceed six percent of their income would benefit from the governor's proposal, which would cost \$1.66 billion per year when fully phased-in. The circuit breaker further targets the most relief to lower-middle income households by capping the amount of the credit at a lower level for taxpayers with higher income and by excluding taxpayers with incomes over \$250,000. For example, a family making \$50,000 per year and paying \$6,000 annually in property taxes would see a \$1,500 annual credit—or a 25 percent reduction in their

property tax burden. The Caucus believes the enactment of a property tax circuit breaker is a good starting point. However, the proposal should not be linked to compliance with the local property tax cap, which among other problems will make tax relief for struggling homeowners contingent on circumstances they cannot control. The renter credit should also be redesigned to be better targeted to provide more relief to lower-income renters.

### **Education Tax Credit**

The executive budget also includes an Education Tax Credit that would provide individuals and businesses with a substantial credit against income taxes owed for donations to private and public schools, or scholarship organizations. The governor's legislation proposes a 75 percent credit rate, with individual credit amounts capped at \$1 million. Any unused credit could be carried over to a subsequent year but would not be refundable. Both businesses and individuals would be eligible to receive the credit on personal or corporate income tax returns. Total credits would be capped at \$100 million per year. A related bill that passed the senate January 21 which would allow a 90 percent credit rate and higher total credits per year would allow credits totaling \$675 million over the next three years. The governor's and the Senate's proposals to divert hundreds of millions of dollars to privately determined educational uses raise serious questions. With this tax credit, the state is essentially delegating its spending authority to private individuals. The Education Tax Credit proposal represents a misuse of public resources for private purposes and could potentially be in violation of section 7 of Article 7 of the state constitution that requires all appropriations to be "distinctly specified." Because it provides an unprecedented proportion (75 or 90 percent) of tax reduction relative to a contribution, it also has the potential to lessen charitable contributions for a wide range of worthy causes.

Since the proposed allocation process favors those submitting applications to make contributions early in the year, there is the possibility that wealthy donors, corporations or financial partnerships would be able to claim all or a lion's share of the credits early each year. An application would have to be submitted prior to making a contribution, it would have to be approved by the Tax and Finance Department and the recipient educational organization would have to be approved by the State Education Department. The allocation process and the high donation limit of \$1 million would allow wealthy individuals or partnerships to potentially exhaust the \$100 million annual credit pool, freezing out smaller contributors.

The Education Tax Credit proposal flies in the face of sound, long-standing New York personal income tax policies. Most existing personal income tax credits in New York available to households are geared to lower-income households, or have fairly low maximum credit amounts or income eligibility limits. For example, expenses for mortgage interest payments or charitable contributions made by households are eligible for a deduction on state personal income tax returns. The effective value of tax benefit for such deductions is a taxpayer's tax rate times the amount of the expense or contribution. Thus, at most, the effective tax credit "rate" for deductions is 8.82 percent, the state's top income tax rate. The state average effective income tax rate in 2010 was 5.6 percent—that is the benefit the New Yorkers get on average for a charitable contribution. The state has also acted in recent years to limit the deductions for charitable contributions for high-income taxpayers.

A proposed tax credit of 75 or 90 percent is so extraordinary in the context of New York's tax system that it warrants particularly careful consideration. This proposal is very nearly an outright reimbursement for a private expenditure and as such, is difficult to distinguish from an appropriation. It amounts to handing \$100 million to wealthy individuals or business interests and allowing them to determine how to spend it.

### **Small Corporation Tax Reduction and Measures to Improve Enforcement**

The Executive Budget proposes reducing the net corporate income tax rate for businesses with fewer than 100 employees and net annual income below \$390,000. The tax rate on these small businesses would be reduced over three years from 6.5 percent to 2.5 percent. This would provide a savings, when fully implemented in FY 2018, of four percent of net income. Last year the state acted to lower the corporate income tax rate from 7.1 percent to 6.5 percent for all non-manufacturing companies, and to reduce to zero the tax rate on manufacturers throughout the state. The proposed rate reduction for small business would cost \$26 million foregone revenues in FY 2016, increasing to \$32 million in FY2018 when the rate is reduced to 2.5 percent. Fortunately, this tax cut would be offset by improvements in tax compliance. In response to the continued growth in online sales through marketplace providers like Amazon and eBay, the Executive Budget proposes that such providers be required to collect New York sales tax when they facilitate a sale between an out-of-state seller and a New York consumer. This measure is expected to yield nearly \$60 million a year beginning in FY 2017. A package of enforcement initiatives are proposed this year that would generate an estimated \$20 million in collections in FY 2016 and \$30 million the following year.

### **The Governor's Approach: Paying for Tax Cuts with More Budget Cuts**

The proposed property tax circuit-breaker and Education Tax Credit, on the other hand, are not paid for with offsetting tax compliance measures or tax increases. The Executive Budget makes it perfectly clear what the state would have to do to manage more tax cuts: “[the tax cuts have] been sized to absorb much of the surplus that would otherwise be expected to occur if the state adheres successfully to the two percent spending benchmark in future years.” That is, another layer of as-yet unidentified spending cuts in local assistance, human services, and higher education would be necessary on top of gap-closing budget cuts that are already specified. There is an alternative to spending cuts to finance the circuit-breaker. The state could rethink some of the tax cuts enacted in the previous years. Tax changes enacted since FY 2013 are currently reducing tax receipts by nearly \$1.2 billion a year and this number will continue to grow. (This number is lower in FY 2016, but will be more in FY 2018 as a result of a change in the form and timing of the family tax relief measure first enacted in 2013.) The amount of foregone taxes related to the estate tax changes enacted last year will continue to grow as the increase in the exemption is phased in.

Last year was the year for enacting business tax cuts, including corporate tax reform that combined the bank tax with the corporate franchise tax and eliminated the corporate tax for upstate manufacturers. When the state originally proposed corporate tax reform, it was advertised as “revenue neutral.” However, the “reform” package that was enacted in 2014 will cost the state \$440 million or more annually in reduced taxes when it is fully phased in. Proposals to scale

back the investment tax credit were rejected and the capital base alternative tax was eliminated, which could result in some very large corporations paying a miniscule amount of tax relative to the volume of business they conduct in New York. In contrast, when Mayor de Blasio recently proposed New York City's version of corporate tax reform to conform to the state's changes, he retained the alternative capital base tax and significantly raised the cap to \$10 million. This will help make the city's corporate reform "revenue neutral." Retaining the capital base tax ensures that large companies will still pay a reasonable tax in years when losses or tax management maneuvers might otherwise have substantially reduced a corporation's tax liability.

Taking the tax changes enacted since FY 2013 together with the governor's latest tax proposals, state taxes are estimated to be lower by \$1.6 to \$2.6 billion over the FY 2017-19 period. Roughly 60 percent of the net value of these tax cuts benefit moderate- and middle-income households. A variety of business tax breaks average about \$700 million over that period, with roughly two-thirds of that amount benefiting large financial and non-manufacturing corporations and about one-third geared toward manufacturers and small corporations. (Unincorporated businesses, which include most small businesses as well as hedge funds and private equity funds, do not pay a separate business income tax to New York State; business income that flows through to personal income tax returns is taxed.)

Included in tax changes recently enacted or proposed are various measures to reduce tax avoidance and to increase compliance, including audits that raise about \$250 million a year. Two tax changes—the estate tax cut enacted last year and the governor's proposed Education Tax Credit—which have an average annual cost of \$275 million over the FY 2017-19 period benefit upper-middle and high-income households. The more expensive version of the Education Tax Credit that passed the Senate in January 2015 would provide a \$300 million tax benefit that would largely go to high-income households (the governor proposed to cap that credit at \$100 million). The resources to pay for the circuit breaker should come from fixing some of the problems related to last year's corporate tax reform, from eliminating or scaling back many of the state's smorgasbord of business tax credits, and by rejecting the Education Tax Credit and limiting the increase in the estate tax exemption.



## EXPLANATION OF TERMS

New York State's annual budget contains the financial resources that allow many programs throughout the State to operate in an efficient and effective manner. The appropriation contained in the state budget is presented in specific fund types and categories or purposes. The presentation is simply distinguishing where the money comes from and where it goes or for what purpose it is spent. The following definitions are meant to be a non-technical description of funding structure of the state budget.

**Fund Types:** How NYS derives its money for the programs.

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

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

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

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

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

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

### **Categories and Purposes**

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

**Aid to Localities:** Funds in this category are used to support the operations of local municipalities, community organizations, or direct grants to New York State residents

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

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

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