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THE COUNCIL

COMMITTEE REPORT OF THE JUSTICE DIVISION

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COMMITTEE ON IMMIGRATION

Hon. Carlos Menchaca, Chair

November 27, 2018

Res. No. 608:

By The Speaker (Council Member Johnson) and Council Members Ayala, Yeger, Rivera, Menchaca, Kallos and Gibson

Title:

Resolution authorizing the Speaker to submit a public comment on behalf of the Council to the Federal Register, concerning the proposed change to the Public Charge rule.

Res. No. 609:

By The Speaker (Council Member Johnson) and Council Members Menchaca, Levin, Levine, Chin, Ayala, Constantinides, Lancman, Dromm, Richards, Cumbo, Lander, Eugene, Yeger, Treyger, Grodenchik, Cabrera, Rosenthal, Rivera, Kallos, Gibson and Williams

Title:

Resolution opposing the newly proposed public charge rule and urging the federal government not to move forward with its adoption.

I. INTRODUCTION

On November 27, 2018, the Committee on Immigration, chaired by Council Member Carlos Menchaca, will hold a second hearing and a vote on the following two Resolutions: Res. No. 608, sponsored by the Speaker (Council Member Johnson), in relation to authorizing the Speaker to submit a public comment to the Federal Register on behalf of the City Council; and Res. No. 609, sponsored by the Speaker (Council Member Johnson), in relation to the newly proposed public charge rule. On November 15, 2018, the Committees on Immigration, chaired by Council Member Carlos Menchaca, General Welfare, chaired by Council Member Stephen Levin, and Health, chaired by Council Member Mark Levine, held an oversight hearing on the impacts of the proposed "Public Charge" Rule on New York City. The Committee on Immigration also heard Res. No. 608, sponsored by the Speaker (Council Member Johnson), and Res. No. 609, sponsored by the Speaker (Council Member Johnson), on November 15, 2018. The committees received testimony from the Mayor's Office of Immigrant Affairs ('MOIA'), the Human Resources Administration ('HRA'), and the Department of Health and Mental Hygiene, as well as advocates, legal and social services providers and members of the public.

II. BACKGROUND

Immigrants in New York City

According to the Mayor's Office of Immigrant Affairs, 38% of all New York City residents are foreign born, totaling more than 3.1 million individuals, and making up more than 45% of the City's workforce.¹ As of 2013, more than half of New Yorkers (6-in-10) were either foreign-born

¹ New York City, Mayor's Office of Immigrant Affairs. (2018). State of Our Immigrant City: Annual Report. Accessed at: https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf

or children of immigrants,² and 62% of New Yorkers live in a household with at least one immigrant, while 1 million New Yorkers live in households with at least one undocumented immigrant.³ While the majority of foreign-born New Yorkers are naturalized U.S. Citizens (54%), MOIA estimates that another 660,000 immigrant New Yorkers are lawful permanent residents currently eligible to naturalize, with a slightly smaller undocumented population of approximately 560,000.⁴

In addition to making up a significant portion of New York City's population, immigrants are a critical component of the City's economy. In 2017 alone, immigrants contributed an estimated \$195 billion to the City's Gross Domestic Product, or about 22% of the City's total GDP.⁵ While the workforce participation rates among immigrants are comparable to their U.S.-born counterparts, undocumented immigrants have a higher rate of workforce participation at 77.3% compared to 64% for U.S.-born citizens and approximately 63% for all documented immigrants.⁶ Immigrants are also entrepreneurial, making up a majority of the business owners in New York City (83,000).⁷ In fact, nationally, immigrants own businesses at a higher rate (10.5 percent) than their U.S. born counterparts (9.3%).⁸ Immigrants in New York pay an estimated \$8 billion in City and State personal income taxes and approximately \$2 billion in City property taxes

² New York City, Department of City Planning. (2013). The Newest New Yorkers: Characteristics of the City's Foreign-born Population. Accessed at: https://www1.nyc.gov/assets/planning/download/pdf/data-maps/nyc-population/nny2013/nny_2013.pdf

³ New York City, Mayor's Office of Immigrant Affairs. (2018). State of Our Immigrant City: Annual Report. Accessed at: https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf

⁴ *Id.*

⁵ New York City, Mayor's Office of Immigrant Affairs. (2018). State of Our Immigrant City: Annual Report. Accessed at: https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf

⁶ *Id.*

⁷ New York City, Office of Comptroller Scott M. Stringer. (2017). Our Immigrant Population Helps Power NYC Economy. Accessed at: <https://comptroller.nyc.gov/wp-content/uploads/documents/Our-Immigrant-Population-Helps-Power-NYC-Economy.pdf>

⁸ U.S. Small Business Administration, Office of Advocacy. (2012). Immigrant Entrepreneurs and Small Business Owners, and their Access to Financial Capital. Accessed at: <https://www.sba.gov/sites/default/files/rs396tot.pdf>

ever year.⁹ Given the significant immigrant population in New York City, the federal administration’s proposed rule on public charge will have significant damaging effects on the health and wellbeing of the City, and a devastating impact on the economy.

Public Charge

“Public charge” has been part of United States immigration law for more than a hundred years as a ground of inadmissibility and deportation.¹⁰ Under Section 212(a)(4) of the Immigration and Nationality Act (INA), an individual seeking admission to the United States or seeking to adjust status to permanent resident (i.e. obtaining a green card) is inadmissible if the individual “at the time of application for admission or adjustment of status, is likely at any time to become a public charge.”¹¹ If an individual is inadmissible, admission to the United States or adjustment of status will not be granted. In determining inadmissibility, USCIS defined “public charge” as an individual who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense.”¹² USCIS guidance specifies that “public cash assistance from income maintenance” include Supplemental Security Income (SSI), cash assistance from the Temporary Assistance for Needy Families (TANF) program and state or local cash assistance programs for income maintenance.¹³ Furthermore, in determining whether a noncitizen meets the definition for public charge inadmissibility, factors such as age, health, family

⁹ New York City, Office of Comptroller Scott M. Stringer. (2017). Our Immigrant Population Helps Power NYC Economy. Accessed at: <https://comptroller.nyc.gov/wp-content/uploads/documents/Our-Immigrant-Population-Helps-Power-NYC-Economy.pdf>

¹⁰ U.S. Citizenship and Immigration Services. (2018). Public Charge Fact Sheet. Accessed at: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>

¹¹ *Id.*

¹² “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 FR 28689 (May 26, 1999).

¹³ U.S. Citizenship and Immigration Services. (2018). Public Charge Fact Sheet. Accessed at: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>

status, assets, resources, financial status, education, and skills are considered in determining the totality of the noncitizen's circumstances. Benefits that have never been subject to public charge consideration include non-cash benefits and special-purpose cash benefits that are not intended for income maintenance.¹⁴

On October 10, 2018, the federal administration, published in the Federal Register a Notice of Proposed Rulemaking (NPRM) related to the public charge ground of inadmissibility under Section 212(a)(4) of the Immigration and Nationality Act for a sixty-day comment period.¹⁵ Stating, “self-sufficiency has long been a principle of United States immigration law” and that “public charge has not been defined in statute or regulations, and there has been insufficient guidance on how to determine if an alien who is applying for a visa, admission, or adjustment of status is likely at any time to become a public charge,” USCIS proposed a rule that would change the standard that is used when determining whether a noncitizen is likely at any time in the future to become a public charge, or ineligible for admission or a visa.¹⁶ The proposed rule would apply to individuals seeking admission to the United States from abroad on immigrant or nonimmigrant visas, individuals seeking to adjust their status to that of lawful permanent resident from within the United States, and individuals within the United States who hold a temporary visa and seek to either extend their stay in the same nonimmigrant classification or to change their status to a different nonimmigrant classification.¹⁷ Individuals exempt from the public charge rule would include groups of noncitizens that Congress specifically exempted from the public charge ground of inadmissibility, including refugees, asylees, Afghans and Iraqis with special immigrant visas,

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ U.S. Citizenship and Immigration Services. (2018). Proposed Change to Public Charge Ground of Inadmissibility. Accessed at: <https://www.uscis.gov/legal-resources/proposed-change-public-charge-ground-inadmissibility>.

¹⁷ U.S. Citizenship and Immigration Services. (2018). Proposed Change to Public Charge Ground of Inadmissibility. Accessed at: <https://www.uscis.gov/legal-resources/proposed-change-public-charge-ground-inadmissibility>.

nonimmigrant trafficking and crime victims, individuals applying under the Violence Against Women Act, and special immigrant juveniles.¹⁸ Additionally, the rule excludes consideration of benefits received by U.S. citizen children of aliens who will acquire citizenship under either section 320 or 322 of the INA, and by alien service members of the U.S. Armed Forces.¹⁹

The proposed rule vastly expands: (1) the programs that are subject to public charge determination; (2) *when* the public charge test can be applied, from primarily at adjustment of status applications to any extension or change in a non-immigrant status; (3) the definition of “primarily dependent” to “likely at any time to use or receive one or more public benefits;” and (4) the five-factor test²⁰ that will impact people beyond public benefits use, to create a more stringent way to balance these factors, making it harder for low-income individuals to receive green cards. The definition of public benefits would expand to include programs that were previously excluded from public charge determinations, such as Non-emergency Medicaid, the Medicare Part D Low-Income Subsidy Program, the Supplemental Nutrition Assistance Program (SNAP), and several housing support programs.²¹

If the proposed rule goes into effect, it will effect a significant population. Department of Homeland Security data shows that more than 1.1 million individuals obtained legal permanent resident status in 2017.²² Of these individuals, about 550,000 were living within the U.S. and about 580,000 entered the U.S. as a new arrival.²³ Of those who originally entered the U.S. without a

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Public charge has always required a totality of circumstances balancing test, among five criteria: (1) age; (2) health; (3) family status; (4) assets, resources, financial status; (5) education and skills.

²¹ U.S. Citizenship and Immigration Services. (2018). Proposed Change to Public Charge Ground of Inadmissibility. Accessed at: <https://www.uscis.gov/legal-resources/proposed-change-public-charge-ground-inadmissibility>.

²² Henry J. Kaiser Family Foundation. (2018). Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid. Accessed at: <https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaide-key-findings/>

²³ *Id.*

legal permanent resident status, 94 percent have at least one characteristic that could potentially weigh negatively in a public charge determination.²⁴

There are three groups of New York City residents who would be affected by the proposed rule:

- (1) The approximately 75,000 foreign-born individuals currently eligible for benefits detailed in the proposed rule who will need to choose between remaining enrolled and facing adverse immigration consequences;
- (2) The approximately 400,000 foreign-born individuals not currently eligible for benefits detailed in the proposed rule, who will nevertheless face adverse immigration consequences due to their (1) age; (2) health; (3) family status; (4) assets, resources, financial status; (5) education and skills; and,
- (3) The hundreds of thousands of New Yorkers, currently eligible for benefits detailed in the proposed rule and not subject to a public charge determination, who will disenroll from critical benefits out of fear.

Social Service Impact for New York City and State

Food Access

The proposed rule includes the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, as evidence of a lack of self-sufficiency. SNAP is the cornerstone of the nation's safety net and nutrition assistance programs, providing assistance to millions of eligible low-income people.²⁵ Benefit levels for SNAP are based on criteria including, but not

²⁴ *Id.*

²⁵ Center on Budget and Policy and Policy Priorities. (2013). SNAP is Effective and Efficient. Accessed at: <http://www.cbpp.org/research/snap-is-effective-and-efficient>

limited to, household size and income levels.²⁶ SNAP provides assistance to recipients by offering monthly electronic benefits that can be used to purchase food at authorized stores.²⁷ Therefore, SNAP benefits not only help low-income people purchase food, but they also provide an economic benefit to communities. According to research, each dollar of SNAP benefits spent by recipients generates \$1.79 in economic activity and every \$1 billion of SNAP benefits creates 9,000 full-time jobs.²⁸ As of September 2018, 1,594,530 people were receiving SNAP benefits in New York City.²⁹

According to an analysis done by the federal administration, the proposed public charge rule would result in an annual loss of \$235 million in SNAP, Cash Assistance, and Supplemental Security Income and the state supplement (SSI/SSP) if just 20% of the approximately 274,000 noncitizen New Yorkers currently receiving these benefits were to withdraw from participation.³⁰ This would lead to an additional loss of \$185 million in related economic activity, if the same group of New Yorkers were to withdraw from receiving these three named benefits.³¹

The Supplemental Nutritional Program for Women, Infants and Children, known as WIC, was included in earlier leaked drafts of the proposed rule change but was not included in the final proposed rule. Despite the exemption of WIC, which provides vouchers to pregnant women and parents of children under 5, drops in enrollment have already been witnessed. According to Public Health Solutions (PHS), which has the largest community-based WIC program in New York State,

²⁶ New York State, Office of Temporary and Disability Assistance. (2018). Supplemental Nutrition Assistance Program (SNAP). Accessed at <https://otda.ny.gov/programs/snap/>

²⁷ *Id.*

²⁸ U.S. Department of Agriculture. (2010). The Food Assistance National Input-Output Multiplier (FANION) Model and Stimulus Effects of SNAP. Accessed at: <https://www.ers.usda.gov/publications/pub-details/?pubid=44749>

²⁹ NYC Human Resources Administration. (2018). HRA Monthly Fact Sheet. Accessed at: https://www1.nyc.gov/assets/hra/downloads/pdf/facts/hra_facts/2018/hra_facts_2018_08.pdf

³⁰ NYC Office of the Mayor Press Release. (2018). Mayor Announces Up To 475,000 Immigrant New Yorkers Could Be Harmed By Trump's 'Public Charge' Proposal. Accessed at: <https://www1.nyc.gov/office-of-the-mayor/news/507-18/mayor-up-475-000-immigrant-new-yorkers-could-be-harmed-trump-s-public-charge->

³¹ *Id.*

large drops in enrollment in their WIC program started in September 2016, when then-candidate Donald Trump first stated that immigrants would be selected based on their ability to be financially self-sufficient.³² During months corresponding to the election, inauguration, and leaked drafts of the public charge proposed rule, PHS saw drops in enrollment four times those observed in other months.³³

As SNAP and WIC enrollments decline, food pantries are likely to be strained. HRA, through the Emergency Food Assistance Program (EFAP), administers funding and coordinates the distribution of shelf-stable food to more than 1,000 food pantries and community kitchens citywide.³⁴ About 1.4 million New Yorkers rely on emergency food assistance at food banks and soup kitchens for basic nutrition.³⁵ According to a 2017 survey by Hunger Free America, New York City's food pantries and soup kitchens fed six percent more people in 2017, than the year before.³⁶ Food pantries and soup kitchens in the City faced an increased demand of nine percent in 2016, on top of an increased demand of five percent in 2015, and seven percent in 2014.³⁷

Public Housing and Section 8

The proposed rule changes the definition of public charge to include “housing programs, including Section 8 Housing Assistance under the Housing Choice Voucher Program, Section 8

³² Public Health Solutions Blog. (2018). Fight the Proposed Public Charge Rule – What You can Do to Help Protect Immigrant Families. Accessed at: <https://www.healthsolutions.org/blog/fight-public-charge-rule/>

³³ *Id.*

³⁴ NYC Human Resources Administration. (2018). SNAP Benefits & Food Program. Accessed at: <http://www1.nyc.gov/site/hra/help/emergency-food-assistance-program.page>

³⁵ Food Bank for New York City. (2014). Research Brief: Visitor Traffic Increases At Emergency Food Providers Post SNAP Cuts. Accessed at: <http://1giggs400j4830k22r3m4wqg-wpengine.netdna-ssl.com/wp-content/uploads/Post-SNAPCutEFPSurveyResearchBrief2-visitortraffic.pdf>

³⁶ Hunger Free America. (2017). Working New York Still Hungry: New York City and State Hunger Report. Accessed at: <https://www.hungerfreeamerica.org/media-research/research>

³⁷ *Id.*

Project-Based Rental Assistance (including Moderate Rehabilitation), and Subsidized Public Housing”³⁸

The New York City Housing Authority (“NYCHA”) is the largest public housing authority in North America, containing 325 developments, 2,418 buildings, and 175,636 public housing units.³⁹ NYCHA public housing residents and Section 8 voucher holders occupy 11.7 percent of the city’s rental apartments and comprise 6.8 percent of New York City’s population.⁴⁰ All told, 583,358 New Yorkers are served by NYCHA’s public housing and Section 8 programs together.⁴¹

The Housing Choice Voucher Program, also known as the Section 8 program, is the federal government's major program for “assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.”⁴² The program, created by the Housing and Community Development Act of 1974, is funded by the United States Department of Housing and Urban Development (“HUD”) and administered by local housing authorities.⁴³ In New York City, the two local housing authorities that administer the Section 8 program are NYCHA and the Department of Housing Preservation and Development (“HPD”).⁴⁴ NYCHA has approximately 85,619 Section 8 households⁴⁵ and HPD administers approximately 25,472 Section

³⁸ U.S. Homeland Security Department (published on Federal Register). (2018). Inadmissibility on Public Charge Grounds. *Document Number: 2018-21106*. Accessed at:

<https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>

³⁹ NYCHA Fact Sheet. (2018). Accessed at: https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² U.S. HUD. (2018). Housing Choice Vouchers Fact Sheet. Accessed at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet

⁴³ Federal statutory and regulatory law provides the framework for the administration of the Section 8 Program. 42 U.S.C.A. §1437f(a) authorizes housing assistance payments “for the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing.”

⁴⁴ In addition, the New York State Homes and Community Renewal administers a state-wide Section 8 program, which includes New York City. *See* HPD Section 8 Information, *available at*

<http://www.nyc.gov/html/hpd/html/section8/section8-tenants.shtml>

⁴⁵ NYCHA. (2018). Fact Sheet. Accessed at: https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf.

8 Housing Choice Vouchers.⁴⁶ HPD generally targets its vouchers to very specific populations of New Yorkers, including homeless households and households affected by HPD renovations.⁴⁷

The Section 8 program has two distinct components: (1) a tenant-based rental subsidy that provides participants with a supplement to their income which allows them to choose any privately owned housing that meets the requirements of the program⁴⁸ and (2) project-based assistance for participants who live in specific housing developments or units.⁴⁹ The former voucher is attached to a participating tenant and is portable while the latter voucher is attached to a specific development or unit and is not portable. Section 8 participants, including tenant-based and project-based participants, typically pay landlords 30% of their household income towards the amount of rent contracted for with the landlord; the administering agency pays the remainder of the contract rent.

Eligibility for a housing voucher is based on the total annual gross income and family size and is limited to United States citizens and specified categories of non-citizens who have eligible immigration status.⁵⁰ Eligibility for NYCHA is based on at least one member of the household being a United States citizen or a non-citizen with eligible immigration status.⁵¹

Below are the categories of immigrants eligible for public housing and Section 8 programs that would be impacted by the proposed rule:⁵²

⁴⁶ HPD. (2018). Section 8 Program Statistics. Accessed at: <https://www1.nyc.gov/assets/hpd/downloads/pdf/hpd-section-8-program-statistics.pdf>.

⁴⁷ HPD. (2016). Section 8: Housing Choice Voucher Program FAQ. Accessed at: <https://www1.nyc.gov/assets/hpd/downloads/pdf/HCV-FAQ.pdf>

⁴⁸ U.S. HUD. (2018). Housing Choice Vouchers Fact Sheet. Accessed at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet

⁴⁹ U.S. HUD. (2018). Project Based Voucher Program Fact Sheet. Accessed at: <http://portal.hud.gov/hudportal/HUD?src=/hudprograms/projectbased>

⁵⁰ U.S. HUD. (2018). Housing Choice Vouchers Fact Sheet. Accessed at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet

⁵¹ NYCHA. (2018). Applicant FAQ. Accessed at: <https://www1.nyc.gov/assets/nycha/downloads/pdf/applicant-faq.pdf>

⁵² National Housing Law Project and the National Law Center on Homelessness & Poverty. (2018). Trump Administration's Proposed 'Public Charge' Rule: "Technical" Fact Sheet for Housing and Homelessness

- Granted withholding of Removal pursuant to section 1231(b)(3) of title 8⁵³
- Immigrants admitted for temporary residence under section 245A of the Immigration and Nationality Act (8 USCS § 1255a)⁵⁴
- Immigrants lawfully admitted pursuant to section 141 of the Compacts of Free Association with the Marshall Islands, the Federated States of Micronesia, and Palau (COFA) (48 U.S.C. 1931)⁵⁵
- Parolees (with some exceptions)⁵⁶

Although not explicitly stated in the proposed rule, some housing advocates believe that those immigrants who live with someone benefiting from Section 8 and/or public housing may be impacted by the proposed rule given the breadth of factors the proposed rule permits U.S. Citizenship and Immigration Services officers to consider under its totality of the circumstances examination.⁵⁷

Health Impact for New York City and State

If adopted, this proposed rule on public charge will likely create a public health crisis. The health and financial stability of families would be negatively impacted as a result of this rule because of reduced participation in Medicaid and other programs.⁵⁸ At the state level, up to 2.1 million New York State residents, and up to 24 million people nationally, could choose to disenroll from city, state, and federal benefits.⁵⁹ Disenrollment from public benefits programs or fear of

Advocates.” Accessed at: https://www.nhlp.org/wp-content/uploads/NHLP-NLCHP-Public-Charge-Technical-Fact-Sheet_FINAL.pdf

⁵³ 42 U.S.C. § 1436a(a)(5)

⁵⁴ 42 U.S.C. § 1436a(a)(6)

⁵⁵ 42 U.S.C. § 1436a(a)(7)

⁵⁶ 42 U.S.C. § 1436a(a)(4)

⁵⁷ National Housing Law Project and the National Law Center on Homelessness & Poverty. (2018). Trump Administration’s Proposed ‘Public Charge’ Rule: “Technical” Fact Sheet for Housing and Homelessness Advocates.” Accessed at: https://www.nhlp.org/wp-content/uploads/NHLP-NLCHP-Public-Charge-Technical-Fact-Sheet_FINAL.pdf

⁵⁸ Henry J. Kaiser Family Foundation. (2018). Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid. Accessed at: <https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaide-key-findings/>

⁵⁹ Fiscal Policy Institute. (2018). FPI Estimates Human and Economic Impacts of Public Charge Rule: 24 Million Would experience Chilling Effects. Accessed at: <https://centernyc.us2.list-manage.com/track/click?u=a6170fa466dd7c8eed0aab6be&id=b2a403701b&e=c44fed527d>

enrollment in programs that support the health, wellbeing, and financial stability of lawfully present immigrants and their families will lead to significant problems. For example, millions of children across the country—many of them U.S. citizens—live in immigrant families that may face the difficult choice about whether to continue accessing benefits.⁶⁰

Discouraging families from accessing benefits related to healthcare will result in reduced access to healthcare and in turn, an increase in severe and chronic health issues. Policies that make individuals reluctant to visit doctors and clinics are detrimental to the public health of the entire country. Moreover, as reported by the Migration Policy Institute (MPI), the proposed rule is likely to diminish the well-documented positive effects of prenatal care, nutrition assistance, early childhood education, and timely medical care on the health, development, and psychological outcomes of immigrant and U.S.-born children.⁶¹

According to MPI, research shows that immigrants tend to use benefits such as Temporary Assistance for Needy Families (TANF) as a form of temporary assistance that promotes, not hinders, progress towards self-sufficiency.⁶² However, if immigrants can no longer access these programs because the proposed rule cuts off families' use of basic health and nutritional benefits, it will be impossible for them to achieve self-sufficiency. By including housing assistance, as well as SNAP, in the public charge determination, community health will falter.^{63,64} SNAP improves food security, allows families to access healthier diets, lowers medical costs, and is associated with

⁶⁰ Migration Policy Institute. (2018). Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use. Accessed at: <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Center for Budget and Policy Priorities. (2018). SNAP is Linked with Improved Nutritional Outcomes and Lower Health Care Costs. Accessed at: <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>

improved current and long-term health.⁶⁵ Additionally, if individuals decide to drop their health coverage, New York City's hospital systems may find more individuals in need of emergency care because they have more limited access to preventative, ongoing medical care.⁶⁶

Furthermore, it is widely recognized that there are social determinants that affect a person's wellbeing, including access to food and shelter.⁶⁷ For example, New York State has implemented the Delivery System Reform Incentive Payment (DSRIP) program.⁶⁸ DSRIP aims to address critical issues throughout the state, which includes the goal of achieving a 25 percent reduction in avoidable hospitalizations over five years.⁶⁹ DSRIP provider systems may implement projects aimed at ensuring people have supportive housing, and, outside of DSRIP, the state has invested in housing stock to ensure that a better supply of housing is available to communities in need.⁷⁰

Economic Impact for New York City and State

If the proposed rule is adopted, cities and states across the country will suffer significant job losses and see their economies decline. In 2015, 74 percent of the U.S. workforce was U.S.-born; by 2035, PEW Research Center projects that share will drop to 66 percent. Removing immigrant workers from the U.S. workforce would be catastrophic, because nationally, the U.S. workforce is not able to replace itself without immigration due to lower birthrates and an aging

⁶⁵ *Id.*

⁶⁶ Hernandez-Boussard, T., Burns, C. S., Wang, N. E., Baker, L. C., Goldstein B. A. (2015). The Affordable Care Act Reduces Emergency Department Use by Young Adults: Evidence from Three States. Accessed at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4453768/>

⁶⁷ Henry J. Kaiser Family Foundation. (2018). Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity. Accessed at: <https://www.kff.org/disparities-policy/issue-brief/beyond-health-care-the-role-of-social-determinants-in-promoting-health-and-health-equity/>

⁶⁸ U.S. DOH. (2014). DSRIP Overview. Accessed at: https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/overview.htm

⁶⁹ *Id.*

⁷⁰ Henry J. Kaiser Family Foundation. (2018). Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity. Accessed at: <https://www.kff.org/disparities-policy/issue-brief/beyond-health-care-the-role-of-social-determinants-in-promoting-health-and-health-equity/>

population. Furthermore, not only will this rule impact immigrant workers, but if individuals who otherwise qualify for benefits dis-enroll from programs for which they qualify simply out of fear, this will have devastating ripple effects on our economy. For example, withdrawal from Supplemental Nutrition Assistance Program (SNAP) funding means a reduction in spending in grocery stores and supermarkets, and withdrawal from health insurance means a reduction in income to healthcare providers. This reduction in spending means businesses will have less revenue, and lay off workers. New York City has estimated that if just 20 percent of the approximately 274,000 New Yorkers currently receiving SNAP, Cash Assistance, and Supplemental Security Income and the state supplement (SSI/SSP) withdraw from participation, the potential economic ripple effect will result in an economic loss of \$185 million dollars, and significant job losses, harming local businesses, grocers, healthcare providers, and pharmacists, among others. On the state level, the Fiscal Policy Institute has projected that if just a quarter of individuals in New York State dis-enroll from benefits out of fear of being deemed a public charge, the potential economic ripple effect will result in an economic loss of \$3.6 billion dollars, and a potential job loss of 25,000 jobs. If this proposed rule goes into effect, this ripple effect will be multiplied across states around the country.

III. LEGISLATIVE ANALYSIS

Res. No. 608 (The Speaker, Council Member Johnson)

Res. No. 608 (The Speaker), in relation to authorizing the Speaker to submit a public comment on behalf of the City Council. On October 10, 2018, the Trump Administration filed a proposed rule that would expand the public charge definition to include more types of benefits and increase the frequency of public charge testing. The federal Administrative Procedures Act

provides for the public participation in the rulemaking process by soliciting public comments on proposed rules. In the case of the public charge proposed rule, there is a 60 day comment period ending on December 10, 2018. This resolution would grant the Speaker of the City Council the authority to submit a comment on behalf of the City Council body in opposition to the proposed public charge rule.

Res. No. 609 (The Speaker, Council Member Johnson)

Res. No. 609 (The Speaker, Council Member Johnson), in relation to the newly proposed public charge rule, urges the federal government to not move forward with the rule's adoption. Under current regulations, a public charge determination identifies whether an individual is, or is likely to become, primarily dependent on the United States (U.S.) government for subsistence, based on reliance or use of Temporary Assistance for Needy Families (TANF), Supplemental Security Income, or institutionalization for long-term care. On October 10, 2018, the Trump Administration filed a proposed rule that would expand the public charge definition to include more types of benefits and increase the frequency of public charge testing. The proposed rule is projected to impact more than 475,000 New York City residents. If enacted, the proposed rule could result in an annual loss of \$235 million in SNAP, Cash Assistance, and Supplemental Security Income and the State supplement (SSI/SSP) if just 20 percent of the approximately 274,000 noncitizen New Yorkers currently receiving these benefits were to withdraw from participation. Additionally, it could lead to an additional loss of \$185 million in related economic activity, if the same group of New Yorkers were to withdraw from receiving these three named benefits.

IV. CONCLUSION

The public charge rule proposed at the federal level is expected to have wide-ranging economic, health and general well-being impacts in New York City, State and across the nation. The Committee on Immigration conducted an extensive review of the impacts at its joint oversight hearing with the Committees on General Welfare and Health on November 15, 2018. Res. 608 (the Speaker, Council Member Johnson), authorizes the Speaker to submit a public comment on behalf of the Council, expressing the joint opposition to the rule as proposed based on the anticipated impacts. Res. 609 (the Speaker, Council Member Johnson), details the wide-ranging impacts related to the proposed rule and urges the federal government to withdraw its proposed rule on Public Charge.

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Res. No. 608

..Title

Resolution authorizing the Speaker to submit a public comment on behalf of the Council to the Federal Register, concerning the proposed change to the Public Charge rule.

..Body

By the Speaker (Council Member Johnson) and Council Members Ayala, Yeger, Rosenthal, Rivera, Menchaca, Kallos and Gibson

Whereas, New York City is home to more than three million immigrants; and

Whereas, Approximately 38 percent of New Yorkers are immigrants who make up 45 percent of the city's workforce; and

Whereas, New York City has, and will continue to be, a city that embraces diversity and promotes equality and respect for all of its inhabitants; and

Whereas, On October 10, 2018, the Department of Homeland Security issued a new proposed rule that would fundamentally shift the current legal interpretation of "public charge" determinations in certain immigration filings; and

Whereas, The new proposed rule expands the number and types of benefits that are counted against immigrant applicants for visas and green cards; and

Whereas, The new proposed rule also changes the way in which the totality of an immigrant's circumstances are weighted in a visa or green card application; and

Whereas, The rule will create a system of preference for the wealthy, needlessly and cruelly discriminating against the poor, the sick, the elderly and the very young; and

Whereas, Approximately 1 in 6 immigrant New Yorkers are likely to face adverse consequences from this rule change; and

Whereas, The City of New York is proud of its immigrant residents, and will make every effort to extend a viable social safety net to immigrant New Yorkers; and

Whereas, The proposed rule is open to public comment between October 10, 2018 and December 10, 2018; and

Whereas, The City Council will continue to contest the proposed public charge rule change by submitting a public comment detailing the ways in which this rule change will be detrimental to our city, state and nation; therefore, be it

Resolved, That the Council of the City of New York authorizes the Speaker to submit a public comment on behalf of the Council to the Federal Register, concerning the proposed change to the Public Charge rule.

LS8875
EK
11/4/2018

Res. No. 609

Resolution opposing the newly proposed public charge rule and urging the federal government not to move forward with its adoption.

By The Speaker (Council Member Johnson) and Council Members Menchaca, Levin, Levine, Chin, Ayala, Constantinides, Lancman, Dromm, Richards, Cumbo, Lander, Eugene, Yeger, Treyger, Grodenchik, Cabrera, Rosenthal, Rivera, Kallos, Gibson and Williams

Whereas, Under current regulations, a public charge determination identifies whether an individual is, or is likely to become, primarily dependent on the United States (U.S.) government for subsistence; and

Whereas, The public charge determination is made when an individual is filing for a visa to reside in the U.S. or to adjust their status to become a lawful permanent resident; and

Whereas, Under current regulations, public charge determinations are based on reliance or use of Temporary Assistance for Needy Families (TANF), Supplemental Security Income, or institutionalization for long-term care; and

Whereas, On October 10, 2018, the Trump Administration filed a proposed rule that would expand the public charge definition to include more types of benefits and increase the frequency of public charge testing; and

Whereas, Under the newly proposed rule, a public charge determination will encompass the additional use of non-emergency Medicaid, the Supplemental Nutrition Assistance Program (SNAP), housing assistance through public housing and Section 8 vouchers, and the Medicare Part D low-income subsidy; and

Whereas, The proposed rule is projected to impact more than 475,000 New York City residents; and

Whereas, Up to 75,000 immigrant New Yorkers will need to decide whether to access benefits for which they are legally eligible or face possibly adverse immigration consequences; and

Whereas, Further, up to 400,000 immigrant New Yorkers could face adverse immigration consequences due to other changes included in the proposed rule that place a higher weight on factors such as age, health, education, employment history and income; and

Whereas, Immigrants in New York pay an estimated \$8 billion in City and State personal income taxes and approximately \$2 billion in City property taxes ever year; and

Whereas, In 2017 alone, immigrants contributed an estimated \$195 billion to the City's Gross Domestic Product (GDP), or about 22% of the City's total GDP; and

Whereas, The proposed rule could have a detrimental effect on New York City's economy as well as our national economy; and

Whereas, If enacted, the proposed rule could result in an annual loss of \$235 million in SNAP, Cash Assistance, and Supplemental Security Income and the State supplement (SSI/SSP) if just 20 percent of the approximately 274,000 noncitizen New Yorkers currently receiving these benefits were to withdraw from participation; and

Whereas, This would lead to an additional loss of \$185 million in related economic activity, if the same group of New Yorkers were to withdraw from receiving these three named benefits; and

Whereas, A 2018 Migration Policy Institute Report indicates that noncash benefits make up the bulk of benefits accessed by immigrant families, and this proposal will have far-reaching chilling effects, leading to a broad withdrawal from public-benefits programs; and

Whereas, Reducing program participation in benefits programs that are commonly viewed as work supports will likely result in higher poverty levels; and

Whereas, Efforts to prevent families from accessing benefits related to healthcare will result in an increase in severe and chronic health issues; and

Whereas, The proposed rule is likely to diminish the well-documented positive effects of prenatal care, nutrition assistance, early childhood education, and timely medical care on the health, development, and psychological outcomes of immigrant and U.S.-born children; and

Whereas, The ramifications of the proposed rule would not only impact immigrants who are directly affected by the order, but those who can legally access benefits; and

Whereas, Confusion and fear about the proposed rule could lead hundreds of thousands of immigrant New Yorkers, including U.S. citizens, to drop out of benefit programs or choose not to use them; and

Whereas, Adoption of the rule by the federal government could create further confusion, deepen fear in the community, and significantly impact access to health and social services for children and families in New York City; therefore, be it,

Resolved, That the Council of the City of New York opposes the newly proposed public charge rule and urges the federal government not to move forward with its adoption.

LS #8665 & 8781
11/21/2018
TC/EK