



2005-06 BUDGET ANALYSIS

Review of the Executive Budget

FEBRUARY 2005

New York State
Office of the State Comptroller
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Executive Summary

The State continues to face significant challenges in the next fiscal year. This year's proposal once again manages rather than solves the basic problems that keep the State in a persistent structural imbalance. Those problems such as sizable out-year gaps and an over-reliance on non-recurring resources and borrowing require multi-year fiscal discipline. The Executive's Medicaid proposal acknowledges this need. Furthermore, new complexities, resulting from two landmark court decisions have emerged, adding another layer of uncertainty regarding State spending, adoption of a timely budget agreement and a consensus on overdue budget reform.

Financial Plan

The Executive's spending plan on an All Funds basis for 2005-06 totals \$105.2 billion, an increase of \$4.0 billion or 3.9 percent over the current fiscal year. General Fund spending totals \$45.1 billion, an increase of \$1.7 billion or 3.8 percent over 2004-05. On a State Funds basis spending totals \$69.1 billion, an increase of \$5.03 billion or 7.9 percent over 2004-05.¹

The Executive estimates a \$522 million surplus by the close of the 2004-05 State Fiscal Year (SFY). Without detailing how these additional funds will be utilized, the Executive recommends depositing the more than half a billion dollars into a reserve fund. Although the SFY 2005-06 Proposed Budget is balanced, it contains an estimated \$4.6 billion in Financial Plan risks that should be addressed in the enacted budget or managed during the coming fiscal year. These risks include the possibility of additional spending needs related to State pension contributions, revenues that may not materialize, including Empire conversion proceeds, and a number of proposals to reduce spending or raise revenues that have been rejected by the Legislature in previous years.

The Executive projects cumulative out-year structural budget gaps totaling at least \$5.0 billion, but the gaps could be as high as \$11.0 billion.² The gaps projected for 2006-07 and 2007-08 assume spending growth of 8.8 percent and 9.1 percent, respectively. The growth projections account for proposed Medicaid savings and full State takeover of the system. However, these gap projections do not include additional spending in outyears to comply fully with the 2003 Campaign for Fiscal Equity court decision. Roughly \$3.6 billion in non-recurring resources are utilized, along with \$2.7

¹ Growth from year to year would be \$2.5 billion or 2.6 percent for All Funds, \$1.2 billion or 2.6 percent for the General Funds and \$3.6 billion or 5.5 percent for State Funds when adjusted for the inclusion of Health Care Reform Act (HCRA) funded programs on-budget and additional Medicaid spending to comply with federal policy.

² These projections do not include additional spending in outyears to comply fully with the court-ordered increases relating to the Campaign for Fiscal Equity. Outyear projections could be as high as \$11 billion should the Legislature reject proposed Medicaid cost containment, revenue actions and other proposals that impact the Financial Plan.

billion in reduced spending and \$530 million in increased revenues. In the 2004-05 SFY, nearly \$2.4 billion in non-recurring resources were used, bringing the two-year total to nearly \$6.0 billion.

Debt and Capital

The Executive's spending plan continues to rely heavily on debt. Since 1990, State-funded debt has increased 215 percent from \$14.4 billion to nearly \$45.4 billion (\$46.9 billion on a GAAP basis).³ The State's outstanding debt is currently equivalent to 6.5 percent of the State's personal income, well over the 4 percent level that is targeted by the Debt Reform Act of 2000. The Proposed Budget projects State-funded debt will total \$49.0 billion at the close of the 2004-05 fiscal year. By SFY 2009-10, State-funded debt will grow to \$54.6 billion, an increase of \$5.6 billion in just five years.

Also, the Proposed Budget includes a refinancing and restructuring plan for approximately \$3 billion in current outstanding Dedicated Bridge and Highway Trust Fund bonds. Extending the term of the original debt, along with lower interest rates, reduces debt service payments by \$1.4 billion over eight years. However, the plan will produce additional costs of \$3.5 billion between 2014 and 2034, resulting in a net cost of \$2.1 billion over 30 years. While the refinancing would produce lower debt service in the near term—thus allowing additional funds to be used for more capital investments today—this action will postpone debt service payments and erode capacity in the future, when the State's infrastructure is older and repair and maintenance needs will be even greater. (For a full analysis of this proposal see the Debt and Capital Section.)

Since the Debt Reform Act of 2000, the State has issued over \$12 billion in new debt, including \$7.7 billion that is not counted as State-supported debt under the current statutory definition. The current debt caps do not work. The Comptroller has proposed a new set of reforms, including a constitutional amendment and legislation. This proposal would lower the State's debt burden to an affordable level for today's taxpayers and future generations.

The Executive proposes \$6.1 billion in capital spending for 2005-06. However, in addition to a similar reduction of \$400 million taken in 2004-05, this year's plan incorporates another reduction of \$500 million in anticipated spending delays.⁴ With one year of unallocated reductions and a second one proposed, future reductions are possible and could lead to uncertainty in the area of transportation spending, which is commencing a new five-year Capital Plan, and in other capital program areas.

³ State-funded debt includes all State-supported debt, as well as tobacco revenue securitization, prior year school aid claims and the 2003 Municipal Assistance Corporation refinancing.

⁴ New York State Division of the Budget. *2005-06 Executive Budget - Financial Plan*. January 2005: 452.

Risks and Concerns in Major Program Areas

The Executive's proposal contains several initiatives with a high degree of risk and others that pose concerns. The Executive's health care and pension initiatives contain risk as they require legislative approval, and some are subject to legal challenges. In the areas of education, transportation, the environment and local government either support is insufficient, actual cash to be spent this year is far less than the appropriation authority or spending is pushed off into the next fiscal year.

Health Care

The Medicaid program provides health care for low-income individuals, long-term care for the elderly and services for disabled individuals, primarily through payments to health care providers. Medicaid costs represent 29 percent of All Funds spending. In New York, Medicaid is financed jointly by the federal, State and local governments. The Executive Budget's proposed Medicaid savings for SFY 2005-06 is valued at \$1.9 billion, with health industry impact estimated at \$2.7 billion. While the Executive proposes relief for local governments through a proposed cap on local Medicaid growth, starting January 2006, authorization of accelerated State takeover of Family Health Plus and additional State aid related to local Medicaid costs are tied to also approving proposed cost containment. Savings assumed by the Executive may be difficult since many of the proposed cost containment actions have been rejected by the Legislature in previous years.

Health care, too, contains funding uncertainty. In October 2004, the Office of the State Comptroller warned of a possible \$400 million shortfall in Health Care Reform Act (HCRA) revenue due to the likelihood that \$1.2 billion in projected Empire conversion proceeds would be unavailable, as a result of pending litigation.⁵ In addition, the Comptroller voiced concern about spending levels in many major program areas outpacing revenue growth, as well as a significant decline in unspent surpluses. The risk associated with the litigation is heightened in 2005-06 with the Financial Plan's reliance on \$2.2 billion in proceeds from Empire and other not-for-profit insurance company conversions. If the State loses the Empire litigation, and the Legislature again refuses to authorize additional conversions, HCRA could run a shortfall that could exceed \$1.0 billion.

In addition, the Public Asset Fund, the State entity charged with selling the stock the State received in connection with the Empire conversion, has failed to submit any of its contracts for review and approval by the Comptroller as required by Section 112 of the State Finance Law. The Fund's failure to comply with this statutory requirement and refusal to agree to submit future contracts for the Comptroller's approval leaves the

⁵ Office of the State Comptroller. *Health Care Reform Act, State Fiscal Year 2002-03 and 2003-04*. October 2004.

validity of the Fund's contracts in question and creates further uncertainty regarding the availability of revenues to the State from the sale of this stock.

Pensions

For the second year running, the Executive proposes to not pay in full the legally required amount to the State's pension fund. The projected State savings is \$367 million. If the Budget and accompanying policy proposals are enacted and implemented, they purport to save local governments \$621 million. The Comptroller, who is legally responsible for the Fund's solvency, has objected to this underfunding on constitutional grounds. Other proposals by the Executive related to the pension fund would serve to undermine its financial viability.

Education

Education aid is a prime example of an Executive proposal lacking the necessary support to fulfill needs. As a result of the Court of Appeals order to propose a solution to the issues raised by the Campaign for Fiscal Equity, a court-appointed Panel has recommended implementing a multi-year spending plan to provide New York City schools with an additional \$5.6 billion for operating expenses and \$9.2 billion in added funding for capital projects.⁶ The Executive Budget, essentially, ignores the court order and the panel recommendation by earmarking only \$325 million on a statewide basis (of which New York City would receive only \$195 million) in tenuous video lottery terminal revenues for operating expenses. The Executive simply increases New York City's Transitional Financing Authority's bond cap in response to the court-appointed Panel's capital plan. The Proposed Budget provides less than 15 percent of the support required to meet the Panel's recommendations for a sound basic education for New York City.

Higher Education

The Executive Budget again proposes to restructure the Tuition Assistance Program (TAP) in such a way as to allow the State to withhold one-half of a student's award until after graduation for a savings of \$167.1 million. This proposal is similar to last year's more modest proposal to reduce the student TAP award that was rejected by the Legislature.

⁶ The New York State Supreme Court confirmed these recommendations on February 14, 2005. *Campaign for Fiscal Equity, Inc. v. The State of New York*.

Environment

The environment is another area where appropriations and disbursements are questionable. For a number of years, spending in the Environmental Protection Fund (EPF) has been delayed. The Executive recommends a lump sum \$150 million appropriation for the EPF. However, this year's budget again calls for the inclusion of programs not traditionally supported by the EPF. While the Executive increases the appropriation for the EPF by \$25 million, the added initiatives proposed to be paid from the EPF account for \$32 million—leaving \$7 million in spending without support. Moreover, the Division of the Budget estimates that cash disbursements will only be \$125 million in the next fiscal year. The additional pressure on the fund to support new initiatives and the reduced level of disbursements could have the combined effect of diluting the Fund's original purpose and also help to perpetuate future spending delays.

Local Governments

While the Executive Budget proposes numerous actions to provide property tax relief, there are significant vulnerabilities with several of these proposals, which undermine this goal, and implementation issues associated with others that make them problematic.

As a result of growing pressure from county government, the Executive does include a local spending cap on Medicaid costs. Analysis recently issued by the Comptroller suggests that if the Medicaid program continues to grow at current rates, the additional cost could drive a one-third increase in county property taxes by 2010.

In unrestricted aid to local governments, the Executive proposes to consolidate a number of aid categories into a single new Aid and Incentives for Municipalities (AIM) program with spending caps used as an incentive for cities to receive increased levels of aid. However, implementation of these caps may be problematic for some localities. The Executive also proposes a new Co-STAR property tax relief program, which is linked to spending caps. Realistically, the growth levels prescribed by these spending caps may not be attainable for some local governments.

Budget Reform

A recent court ruling regarding the budgetary balance of powers between the Legislature and the Executive has added an additional layer of complexity to this year's budget discussions.

In December 2004, the Court of Appeals ruled in favor of the Executive in two cases.⁷ The Court declared that the Legislature may not alter the terms and conditions that the Executive attaches to a proposed appropriation. The Court's five to two majority decision has been interpreted by some to mean that the Legislature is left with three options: accept the Executive's plan in its entirety; reject the appropriation, which would essentially shut down important government services; or take no action at all.

Facing the implications of this decision and the magnitude of this year's fiscal issues, the Executive, Senate and Assembly all put forward budget reform plans early in 2005. They have also initiated a series of public meetings to provide greater openness in the budget process. In 2004, budget reform legislation was passed by both houses, but vetoed by the Executive. Although the Executive has taken positive steps by administratively implementing budget reforms recommended by the Comptroller, such as providing additional financial information in each quarterly update to the State's Financial Plan and moving Health Care Reform Act spending into the Executive Budget, statutory and constitutional reform of the budget process is still needed.

The Comptroller supports a number of the budget reform initiatives included in all three 2005 proposals, such as increasing reserve funds, improving financial reporting and lengthening the Legislature's budget deliberation period.

In addition, the Office of the State Comptroller has pointed out issues with the proposed May 1 fiscal year. A May 1 fiscal year means that State Fiscal Year quarters will differ from Federal Fiscal Year quarters by one month. This difference will add complexity and cost to State financial operations, since multiple reporting systems will need to be developed and maintained. As an alternative, the Office of the State Comptroller has recommended a May 1 deadline for budget adoption and a July 1 fiscal year start. This schedule would provide timely information on State aid to the 701 school districts and 11 cities with July 1 fiscal years, while reducing the costs of the fiscal year change. The Office of the State Comptroller estimates that its own costs to implement a fiscal year change beginning May 1, 2006 could reach \$8.5 million. In contrast, the change to a fiscal year beginning July 1, 2006 is estimated to cost \$4.6 million.

Lastly, with regard to revenue consensus, the Comptroller is pleased that the Legislative leaders and the Executive have confidence in this Office's expertise, objectivity, professionalism and non-partisan approach in determining the amount of State revenues in the event that the parties are unable to reach agreement. While the Comptroller did not request this responsibility, this Office is prepared to help in any way that would improve the budget process.

⁷ The Court's December 16, 2004 ruling in the cases of *Pataki v. the State Assembly* and *Silver v. Pataki*, which were joined in a single decision, determined that the Executive can definitively set the conditions for spending funds and even suspend existing laws for one year through his budget-making powers.

However, the Comptroller urges the Legislative leaders and the Executive to reach agreement and avoid an impasse that would refer this task to this Office. If there is a true impasse and the Comptroller is asked to step in, it is essential that this Office serve as part of the solution, not as part of a dysfunctional process. Therefore, there must be a clear understanding about exactly what Comptroller's role will be and how the Office's findings will be used. The Comptroller believes that this intervention will not be useful unless this Office's findings are binding. The Office of the State Comptroller should be the arbiter of the final revenue number, not an agency offering opinions that can be ignored or a mediator attempting to bring the parties to agreement.

To date, no clear plan has been established for the Comptroller's Office to undertake this responsibility. This Office will do everything in its power to fulfill this responsibility, but that responsibility must be clearly stated. In order to ensure that this Office can do this important job effectively and as quickly as possible, the Comptroller believes the Legislative Leaders and the Executive should enact an amendment to the State Finance Law pertaining to consensus and revenue forecasting to clarify and codify the Comptroller's new role that spells out this authority, the character of the declaration of impasse, the timing of the Office's response and the mandate that the conclusions are binding.

The people of the State of New York have made it clear that they want a new spirit of reform in Albany, including an on-time budget. If the leaders elected to do so can timely agree on the amount of revenue available for spending, that would be a very significant step towards reaching a budget on time and an effective way to show New Yorkers that the talk about reform is serious. Asking this Office to determine revenues is not a sign of success and should be done only as a last resort.

Budget Litigation

In *Silver v Pataki* and *Pataki v Assembly*, decided together in December 2004, the Court of Appeals addressed the constitutional prerogatives of the Executive and the Legislature in connection with the State budget process. In summary, the Court ruled in the Executive's favor and held that, under certain circumstances, gubernatorial appropriation bills may contain programmatic and policy language, including language that would supersede existing State laws. The Court also held that the Legislature lacks authority to modify language in a gubernatorial appropriation bill, and that the Legislature's only recourse is to strike the appropriations in their entirety or not pass the appropriation bill.

The State budget process is set forth in Article VII of the State Constitution. As relevant to the above-referenced cases, Article VII, Sections 2 and 3 require the Executive, annually, to formulate and submit to the Legislature a budget, bills containing all the proposed appropriations (i.e. specific spending authority) included in the budget ("appropriation bills"), and any proposed legislation recommended in the budget ("non-appropriation bills"). Article VII, Section 4 provides that the Legislature may not alter an appropriation bill submitted by the Executive except to strike out or reduce items therein, or to add separate and distinct single-purpose items of appropriation. Article VII, Section 6 provides that no provision shall be embraced in any appropriation bill submitted by the Executive unless it relates specifically to some particular appropriation and is limited in operation to that appropriation.

Silver v Pataki arose in connection with the State's 1998-99 Budget. The Legislature passed the appropriation bills submitted by the Executive, but then amended the Executive's non-appropriation bills to modify or supersede programmatic or policy language included in the gubernatorial appropriation bills. Without reaching the question of the Executive's ability to exercise a line-item veto over the legislative amendments, the Court held that the amendments violated Article VII, Section 4 because they had the effect of amending the language in the gubernatorial appropriation bills. The Court reasoned that under the system of "executive budgeting," codified in Article VII, legislative action on gubernatorial appropriation bills is limited to striking out or reducing appropriations, or not passing the bills. Thus, *Silver v Pataki* stands for the proposition that the Legislature lacks authority to amend, either directly or indirectly, the language in gubernatorial appropriation bills; however, because the case only involved legislative efforts to effect changes in language contained in gubernatorial appropriation bills, it is possible to read the Court's decision as allowing the Legislature to amend programmatic and policy language included in gubernatorial non-appropriation bills.

Pataki v Assembly involved the State's 2001-02 Budget. There the Legislature modified or superseded programmatic and policy language in the Executive's

appropriation bills in a variety of ways, such as by deleting language from the appropriation bills, adding language to gubernatorial non-appropriation bills and enacting legislatively initiated single purpose appropriation bills. Based largely on its analysis in *Silver v Pataki*, the Court held the actions taken by the Legislature to modify or supersede programmatic and policy language in the Executive's appropriation bills violated Article VII, Section 4. In addition, a three-member plurality of the Court concluded that the provisions of gubernatorial appropriation bills are not only subject to the requirements of Article VII, Section 6 that such provisions "relate specifically to" and are "limited in operation to" a particular appropriation, but that "a Governor should not put into such a bill essentially non-fiscal or non-budgetary legislation" (*Pataki v Assembly*).

In a concurring opinion, two other members of the Court went on to articulate a series of factors they would consider in determining whether a provision in an appropriation bill is essentially an appropriation or is unauthorized non-budgetary legislation, such as the provision's effect on substantive law, history, custom, departure from line-item format, effect on governmental structure or organization, and durational consequences. Similarly, the two dissenters in the case concluded that "[t]he Constitution distinguishes between items of appropriation—properly included in an appropriation bill—and other legislation, which ought to be proposed elsewhere." Therefore, the three opinions in *Pataki v Assembly* make clear that gubernatorial appropriation bills may not contain "non-budgetary legislation"; however, the opinions leave unclear precisely how the Court would distinguish between items of appropriation and non-budgetary legislation.

Financial Overview

The Executive's spending plan on an All Funds basis for 2005-06 totals \$105.2 billion, an increase of \$3.5 billion or 3.5 percent over the current fiscal year. General Fund spending totals \$45.1 billion, an increase of \$1.7 billion or 3.8 percent over 2004-05. On a State Funds basis, spending totals \$69.1 billion—an increase of \$4.95 billion or 7.7 percent over 2004-05.⁸

In the 2004-2005 Mid-Year Financial Plan Update, the Division of the Budget (DOB) projected the 2004-2005 General Fund would be in balance after \$290 million in Fiscal Management Plan Savings. Revised revenue and spending estimates released with the Executive Budget projected a \$170 million General Fund surplus for the remainder of State Fiscal Year (SFY) 2004-05, after making a \$70 million transfer to the State's Tax Stabilization Fund (Rainy Day Fund). The 30-day Amendment update projects a General Fund surplus \$352 million higher than the January estimate for a total surplus of \$522 million.

The 2005-06 Financial Plan gap has been reduced from \$6.0 billion and is now projected to be \$4.2 billion. Increased revenue projections account for \$1.5 billion of the change. The Executive has proposed reducing the gap with spending reductions, revenue increases and non-recurring actions (one-shots). With the 30-day changes, the Financial Plan is now projected to have a positive 2005-06 year-end balance of \$1.8 billion.

2004-05 Overview

With the 30-day Amendments, General Fund disbursements for 2004-05 are now expected to be \$224 million higher than projected in the Mid-Year Financial Plan Update and \$3.2 billion higher (8.1 percent) than in 2003-04.⁹ The increased spending is mainly due to the delay in the expected receipt of \$200 million in Empire conversion proceeds that was budgeted to offset General Fund Medicaid spending.

The State is expected to end the fiscal year with a \$1.5 billion closing General Fund balance. This includes \$864 million for the Rainy Day Fund (reflecting a deposit of \$70 million), \$352 million in the Fiscal Stability Reserve Fund, \$21 million in the Contingency Reserve Fund slated for future litigation needs and \$294 million in the Community Projects Fund for legislative and gubernatorial initiatives.

⁸ Growth from year to year would be \$2.5 billion or 2.5 percent for All Funds, \$1.2 billion or 2.6 percent for the General Funds and \$3.6 billion or 5.5 percent for State Funds when adjusted for the inclusion of Health Care Reform Act (HCRA) funded programs on-budget and additional Medicaid spending to comply with federal policy.

⁹ The 2003-04 budget figures are adjusted to reflect the deferment of \$1.9 billion in spending and revenue from 2002-03 into 2003-04 in order to achieve budget balance on March 31, 2003.

2004-05 General Fund Receipts

The Executive's Enacted Budget report, August 2004, projected \$42.7 billion in General Fund receipts, including transfers from other funds. This projection was increased \$359 million to \$43.0 billion in the Mid-Year Financial Plan Update.

The Financial Plan released with the Executive Budget in January further increased receipts forecast by an additional \$502 million and projects General Fund receipts for 2004-05 to be \$43.5 billion. With the release of the 30-day Amendment update, General Fund receipts have been increased by \$350 million to \$43.9 billion. The latest projections for personal income tax are \$19.0 billion (increase of 21 percent, or \$3.3 billion from 2003-04). User taxes and fees (including sales and use taxes) are projected at \$8.8 billion; business taxes, \$3.9 billion; other taxes, \$830 million; and miscellaneous receipts and federal grants, \$2.3 billion. Transfers from other funds are estimated at \$9.1 billion.

SFY 2004-05 Projected General Fund Receipts Mid-Year Update to February Financial Plan Comparisons (in millions)

	2004-05 Mid-Year	2004-05 February	Change Amount	Change Percent
Personal Income Tax Gross Collections	\$31,743	\$32,400	\$657	2.1%
Less Refunds	(4,705)	(4,112)	(593)	-12.6%
PIT Before Transfers to Dedicated Funds	\$27,038	\$28,288	\$1,250	4.6%
Less Transfers to Dedicated Funds	(8,322)	(9,244)	(922)	11.1%
Net Reported Personal Income Tax	\$18,716	\$19,044	\$328	1.8%
User Taxes	8,679	8,752	73	0.8%
Business Taxes	3,714	3,864	150	4.0%
Other Taxes	764	830	66	8.6%
Reported Tax Collections (subtotal)	\$31,873	\$32,490	\$617	1.9%
Miscellaneous and Federal Receipts	2,353	2,301	(52)	-2.2%
Transfers From Other Funds	8,788	9,075	287	3.3%
Total Receipts	\$43,014	\$43,866	\$852	2.0%

Source: New York State Division of the Budget and Office of the State Comptroller

Non-Recurring Resources

The 2004-05 Financial Plan anticipates \$2.4 billion in non-recurring resources to achieve year-end balance. This is a reduction of almost \$4.2 billion from the prior year, mainly due to the securitization of tobacco revenues, which occurred during the 2003-04 SFY.

Enacted Non-Recurring Resources 2004-05
(in millions)

Description	Enacted Amount
Capital Projects Bond Financing	\$283
Power For Jobs Available Resource Sweep from PASNY	275
2003-04 Surplus	261
Transfer From SONYMA	225
Continued Delay of Medicaid Cycle	190
Additional Tobacco Benefit from 2003-04 Sale	181
Miscellaneous Fund Sweeps	172
TAP Rollout to 2005-06	136
Non-Recurring Federal Welfare Funds	115
Clothing Sales Tax Adjustment	95
Fund Sweeps	72
Building Aid Delay to 2005-06	70
Prior Year Claims - New York City	62
Additional Refund Reserve (after tobacco proceeds)	55
Reverse Meyers Tax Decision	50
Bond Issuance Fees	50
Delayed Pre-HCRA Loan Payment	45
Other	38
Total	\$2,375

Source: Office of the State Comptroller, Enacted Budget Report – September 2004.

Enacted Revenue Actions

In addition to the use of non-recurring resources, revenue raising legislation enacted in 2003-04 continued in the current fiscal year.

The three principal components of the Legislature's 2003-04 additions were:

- A temporary restriction on the sales tax exemption on clothing and shoes. The Executive originally proposed that the permanent exemption of \$110 per item of clothing, which had existed since March 1, 2000, be eliminated and that, in its place, four separate week-long exemptions of \$500 per item be offered. The Legislature amended this proposal by retaining the old \$110 exemption level, while limiting the exemption to just two weeks in the 2003-04 State Fiscal Year. The permanent exemption was scheduled to return on July 1, 2004. However, the Legislature and Executive extended the tax until July 1, 2005.
- A temporary increase in the personal income tax for taxpayers with higher incomes. The highest tax bracket was raised to 7.7 percent for taxpayers with taxable incomes in excess of \$500,000. Smaller increases were imposed on taxpayers with incomes over \$150,000 up to \$500,000. These increases

apply only to the 2003, 2004 and 2005 tax years. After 2005, the tax rates in both these temporary tax brackets will return to the top rate in effect for 2002, with a maximum tax rate of 6.85 percent.

- A temporary increase of 0.25 percent in the State sales tax rate, creating a new State sale and compensating use rate of 4.25 percent. The increase went into effect June 1, 2003 and will remain in effect until June 1, 2005, at which point it will revert to the old rate of 4.0 percent. The 0.25 percent increase also applies to the transmission and distribution tax on gas and electricity, raising that rate from 1.0 percent to 1.25 percent.

2004-05 Spending

According to the DOB's February 30-day Amendment update to the 2004-05 Financial Plan, projected General Fund spending will be \$5 million higher than the January 2005 Executive Budget. Spending projections have steadily increased since the 2004-05 Enacted Budget. Spending estimates were increased by \$373 million in the 2005-06 proposal unveiled in January over the Enacted Budget and approximately \$224 million higher than the Mid-Year Financial Plan Update.

SFY 2004-05 Projected General Fund Disbursements
Mid-Year Update to February Financial Plan Comparisons
(in millions)

	Enacted 2004-05	Mid-Year 2004-05	February 2004-05	Change Amount	Change Percent
Local Assistance	\$29,392	\$29,482	\$29,634	\$152	0.5%
State Operations	7,501	7,625	7,628	3	0.0%
General State Charges	3,671	3,615	3,665	50	1.4%
Transfers To Other Funds	2,475	2,466	2,485	19	0.8%
Total Disbursements	\$43,039	\$43,188	\$43,412	\$224	0.5%

Source: New York State Division of the Budget

2004-05 General Fund Closing Balance

In the Mid-Year Financial Plan Update, the Division of the Budget projected a General Fund closing balance of \$1.2 billion, comprised of the Rainy Day Fund (\$794 million), Community Projects Fund (\$312 million) and the Contingency Reserve Fund (\$21 million). The updated 2004-05 Financial Plan released with the 30-day Amendments increases the closing fund balance to \$1.5 billion depositing \$352 million into the Fiscal Stability Reserve Fund (not statutorily defined); an additional \$70 million

deposit to the Tax Stabilization Reserve Fund. This was a decline of \$18 million in reserved funds for Executive and legislative initiatives.

General Fund Closing Balance
October and February 2004-05 Estimates
(in millions)

	2004-05 Mid-Year Estimate	2004-05 February
Tax Stabilization Reserve	\$794	\$864
Fiscal Stability Reserve Fund*	0	352
Contingency Reserve	21	21
Community Projects Fund	312	294
Total	\$1,127	\$1,531

Source: New York State Division of the Budget

* Note that this Fund is not statutorily established and its use is unrestricted.

2005-06 Overview

With the 30-day Amendments, General Fund disbursements for 2005-06 are now proposed to be \$45.1 billion, 1.2 billion (2.6 percent) higher than expected 2004-05 disbursements. The Proposed Budget increases grants to local governments by \$446 million, State operations by \$426 million and general State charges by \$230 million. There is also an increase in transfers to other funds of \$48 million.

The Financial Plan released with the 30-day Amendments increased 2005-06 General Fund receipts to \$45.3 billion (\$350 million over the January Executive Budget). This is \$939 million higher than the 2004-05 receipts forecast. Personal income tax collections in 2005-06 are now forecast to be \$987 million higher than 2004-05, while business taxes are \$252 million higher. This is offset with lower collections in consumer taxes and fees (\$130 million), other taxes (\$52 million), and miscellaneous receipts and federal grants (\$454 million). Transfers from other funds are now expected to be \$336 million higher in 2005-06 than the previous year. The 2005-06 closing fund balance is expected to be \$1.8 billion, \$243 million higher than in 2004-05.

**Comparison of
SFY 04-05 Projected Results
vs.
SFY 05-06 Proposed Budget
General Fund - Unadjusted**
(in millions of dollars)

	SFY 04-05 Projected	SFY 05-06 Proposed	Change	Percent Change
Opening fund balance (April 1)	<u>1,077</u>	<u>1,531</u>		
Receipts:				
Taxes	32,490	33,547	1,057	3.3%
Personal Income Tax	19,044	20,031	987	5.2%
Consumer Taxes and Fees	8,752	8,622	(130)	-1.5%
Business Taxes	3,864	4,116	252	6.5%
Other Taxes	830	778	(52)	-6.3%
Miscellaneous Receipts	2,293	2,351	58	2.5%
Federal Grants	8	4	(4)	-50.0%
Sub-total	<u>34,791</u>	<u>35,902</u>	<u>1,111</u>	<u>3.2%</u>
Transfers from Other Funds	<u>9,075</u>	<u>9,411</u>	<u>336</u>	<u>3.7%</u>
Total Receipts	<u>43,866</u>	<u>45,313</u>	<u>1,447</u>	<u>3.3%</u>
Disbursements:				
Grants to Local Governments	29,634	30,588	954	3.2%
State Operations	7,628	8,054	426	5.6%
General State Charges	3,665	3,895	230	6.3%
Sub-total	<u>40,927</u>	<u>42,537</u>	<u>1,610</u>	<u>3.9%</u>
Transfers to Other Funds	<u>2,485</u>	<u>2,533</u>	<u>48</u>	<u>1.9%</u>
Total Disbursements	<u>43,412</u>	<u>45,070</u>	<u>1,658</u>	<u>3.8%</u>
Changes in fund balance	<u>454</u>	<u>243</u>		
Closing fund balance (March 31)	<u>1,531</u>	<u>1,774</u>	<u>243</u>	<u>15.9%</u>
Tax Stabilization Reserve Fund	864	864	0	0.0%
Contingency Reserve Fund	21	21	0	0.0%
Community Project Fund	294	317	23	7.8%
Fiscal Stability Reserve *	352	572	220	62.5%

* Note that the Fiscal Stability Reserve Fund is not a statutorily established reserve fund and funds deposited there are not restricted in any way.

**Comparison of
SFY 04-05 Projected Results
vs.
SFY 05-06 Proposed Budget
General Fund - Adjusted**
(in millions of dollars)

	SFY 04-05 Projected	SFY 05-06 Proposed	Change	Percent Change
Opening fund balance (April 1)	<u>1,077</u>	<u>1,531</u>		
Receipts:				
Taxes	32,490	33,547	1,057	3.3%
Personal Income Tax	19,044	20,031	987	5.2%
Consumer Taxes and Fees	8,752	8,622	(130)	-1.5%
Business Taxes	3,864	4,116	252	6.5%
Other Taxes	830	778	(52)	-6.3%
Miscellaneous Receipts	2,801	2,351	(450)	-16.1%
Federal Grants	8	4	(4)	-50.0%
Sub-total	<u>35,299</u>	<u>35,902</u>	<u>603</u>	<u>1.7%</u>
Transfers from Other Funds	9,075	9,411	336	3.7%
Total Receipts	<u>44,374</u>	<u>45,313</u>	<u>939</u>	<u>2.1%</u>
Disbursements:				
Grants to Local Governments	30,142	30,588	446	1.5%
State Operations	7,628	8,054	426	5.6%
General State Charges	3,665	3,895	230	6.3%
Sub-total	<u>41,435</u>	<u>42,537</u>	<u>1,102</u>	<u>2.7%</u>
Transfers to Other Funds	2,485	2,533	48	1.9%
Total Disbursements	<u>43,920</u>	<u>45,070</u>	<u>1,150</u>	<u>2.6%</u>
Changes in fund balance	<u>454</u>	<u>243</u>		
Closing fund balance (March 31)	<u>1,531</u>	<u>1,774</u>	<u>243</u>	<u>15.9%</u>
Tax Stabilization Reserve Fund	864	864	0	0.0%
Contingency Reserve Fund	21	21	0	0.0%
Community Project Fund	294	317	23	7.8%
Fiscal Stability Reserve *	352	572	220	62.5%

* Note that the Fiscal Stability Reserve Fund is not a statutorily established reserve fund and funds deposited there are not restricted in any way.

** To provide a comparable basis for calculating annual changes, the 2004-05 amounts have been adjusted for additional Medicaid spending (\$508 million in the General Fund).

**Comparison of
SFY 04-05 Projected vs. SFY 05-06 Proposed
All Governmental Funds - Unadjusted**
(in millions of dollars)

	SFY 04-05 Projected	SFY 05-06 Proposed	Change	Percent Change
Opening fund balance (April 1)	2,946	3,009	63	2.1%
Receipts:				
Taxes	48,449	50,966	2,517	5.2%
Miscellaneous Receipts	15,567	18,244	2,677	17.2%
Federal Grants	37,106	36,239	(867)	-2.3%
Total Receipts	101,122	105,449	4,327	4.3%
Disbursements:				
Grants to Local Governments	73,601	76,307	2,706	3.7%
State Operations	16,016	16,585	569	3.6%
General State Charges	4,362	4,673	311	7.1%
Debt Service	3,807	3,842	35	0.9%
Capital Projects	3,396	3,755	359	10.6%
Total Disbursements	101,182	105,162	3,980	3.9%
Other Financing Sources (uses):				
Transfers from Other Funds	17,708	18,317	609	3.4%
Transfers to Other Funds	(17,778)	(18,392)	(614)	3.5%
Bond and Note Proceeds	193	145	(48)	-24.9%
Net Other Financing Sources (uses)	123	70	(53)	-43.1%
Changes in fund balance	63	357	294	466.7%
Closing fund balance (March 31)	3,009	3,366	357	11.9%

**Comparison of
SFY 04-05 Projected vs. SFY 05-06 Proposed
All Governmental Funds - Adjusted**

(in millions of dollars)

	SFY 04-05 Projected	SFY 05-06 Proposed	Change	Percent Change
Opening fund balance (April 1)	2,946	3,009	63	2.1%
Receipts:				
Taxes	49,010	50,966	1,956	4.0%
Miscellaneous Receipts	16,439	18,244	1,805	11.0%
Federal Grants	37,106	36,239	(867)	-2.3%
Total Receipts	102,555	105,449	2,894	2.8%
Disbursements:				
Grants to Local Governments	75,034	76,307	1,273	1.7%
State Operations	16,016	16,585	569	3.6%
General State Charges	4,362	4,673	311	7.1%
Debt Service	3,807	3,842	35	0.9%
Capital Projects	3,396	3,755	359	10.6%
Total Disbursements	102,615	105,162	2,547	2.5%
Other Financing Sources (uses):				
Transfers from Other Funds	17,708	18,317	609	3.4%
Transfers to Other Funds	(17,778)	(18,392)	(614)	3.5%
Bond and Note Proceeds	193	145	(48)	-24.9%
Net Other Financing Sources (uses)	123	70	(53)	-43.1%
Changes in fund balance	63	357	294	466.7%
Closing fund balance (March 31)	3,009	3,366	357	11.9%

2005-06 Baseline Budget Gap

The Executive Budget estimates a baseline 2005-06 budget gap of \$4.2 billion. To address this gap, the Executive proposes \$2.8 billion in spending actions, \$533 million of net revenue actions and the use of \$856 million in non-recurring resources. There are an additional \$2.8 billion in one-shots being used for operating expenses.

Spending Reductions – Gap Closing 2005-06

The 2005-06 gap-closing program calls for General Fund spending reductions of \$3.1 billion offset by \$313 million of additional spending.

2005-06 General Fund Spending Actions (in millions)

Spending Reductions	
Medicaid – Cost Containment	\$869
Medicaid – Provider Assessments	234
HCRA Offloads of Medicaid Pharmacy and Other Medicaid Spending	441
HCRA Tobacco Guarantee	192
Re-Estimate FHP Enrollment	110
Increase Audit Recoveries	25
Federal Funds for Audit Contracts	18
Freeze CHIP Premiums (HCRA offload)	10
Mental Hygiene	250
Transportation/Motor Vehicles	163
Debt Management	150
SUNY and CUNY	137
Restructure Tuition Assistance Program	135
State Operations Efficiencies	130
Social Services	104
Other Spending Actions	109
Sub Total	\$3,077
Spending Adds	
Cap/Takeover Local MA Costs	(121)
Other Local Medicaid Relief	(45)
Aid and Incentives for Municipalities	(55)
All Other Adds	(92)
Sub Total	(\$313)
Total	\$2,764

Source: New York State Division of the Budget

Gap Closing 2005-06 – New Revenues

The 2005-06 gap-closing program calls for revenue increases of \$779 million offset by \$251 million additional tax reductions.

2005-06 Proposed General Fund Revenue Actions (in millions)

Revenue Increases	
Permanent Sales Tax on Clothing Under \$110	\$456
Power Authority PILOT Payments	75
Corporation Franchise Taxes	51
Close Loophole on REIT	50
Eliminate Quick Draw Restrictions	39
Increase Wine Tax	38
All Other Revenue	70
Sub Total	\$779
Revenue Reductions	
PIT Top Tax Rate Reduction	(190)
Corporation Franchise Tax	(30)
STAR Plus	(12)
Extend Power for Jobs Credit	(0)
Small Business Tax Rate Reduction	(5)
All Other Reductions	(14)
Sub Total	\$(251)
Total	\$528

Source: New York State Division of the Budget

The Executive has again proposed to eliminate the permanent exemption for sales tax on clothing and footwear priced under \$110 and replaces it with two separate weeks of exemptions for clothing and footwear priced under \$250. Economic studies have consistently demonstrated that the sales tax is regressive and has a larger impact on lower income families because these families spend a larger portion of their income on clothing and other taxable merchandise. The tax on clothing and footwear is currently scheduled to expire on May 31, 2005.

Another tax scheduled to expire—this one at the end of 2005—is the temporary income tax increase imposed on upper income taxpayers in 2003. The Executive proposes reducing the top 2005 personal income tax from 7.7 percent and 7.25 percent to 7.6 percent and 7.0 percent, respectively. These tax rates apply to taxpayers with adjusted gross incomes above \$500,000 and \$100,000, respectively.

The net impact of these two actions would be to increase taxes on lower-income taxpayers while lowering them on upper-income taxpayers.

The Executive has again recommended legislation that eases restrictions and extends the playing time of Quick Draw. The Legislature has rejected this proposal the last two years.

Gap Closing 2005-06 – Non-Recurring Resources

The Executive has proposed using \$3.6 billion in non-recurring resources, including \$2.2 billion in HCRA receipts associated with the proceeds from the Empire conversion to a for-profit insurer (\$1.8 billion), which is tied up in litigation, and proceeds from additional insurance company conversions (\$400 million), which the Legislature has rejected in the past. The Executive also calls for withholding \$367 million of the State's pension obligations.¹⁰ Past attempts by the Executive and Legislature to under-fund required State contributions have been struck down by the courts.

Proposed Non-Recurring Resources (in millions)

Empire Conversion Proceeds	\$1,800
Medicaid Offload to HCRA	441
Additional Insurance Conversion Proceeds	400
Pensions (Delay Actuarial Funding Changes)	367
Use 2004-05 Surplus	170
Fund Sweeps	124
TANF Reprogramming	61
Proceeds from Sale of Property	54
Mortgage Insurance Fund (Excess Balances)	50
Federal Medicaid Participation for Aliens	42
All Other One-Shots	34
Unclaimed Funds	138
Total	\$3,681

Source: New York State Division of the Budget and the Office of the State Comptroller

2005-06 Proposed Spending

The 30-day Amendment update proposes All Funds spending of \$105.2 billion, a decline of \$365 million from the Executive's original submission Budget and an increase of \$4.0 billion, or 3.9 percent, from 2004-05 (\$2.6 billion or 2.5 percent, if adjusted for changes entailed in bringing all HCRA spending on budget and in additional Medicaid spending). State Funds spending is proposed to increase by 7.9 percent to \$69.1 billion (5.5 percent when adjusting for HCRA and Medicaid). The 2004-05 Proposed Budget increases General Fund spending to \$45.1 billion, an increase of 3.8 percent, or \$1.7

¹⁰ The \$367 million consists of \$321 million from State agencies and an additional \$46 million from the Judiciary.

billion, from estimated 2004-05 levels. Adjusting 2004-05 spending for Medicaid (\$508 million) results in a \$1.2 billion year over year change (2.6 percent).

2005-06 Proposed Spending by Fund Type
(in millions)

	2004-05 Revised	2004-05 Adjusted	2005-06 Proposed	Revised Annual Change \$/%	Adjusted ¹¹ Annual Change \$/%
General Fund	\$43,412	\$43,920	\$45,070	\$1,658 3.8%	\$1,150 2.6%
State Funds	\$64,025	\$65,458	\$69,057	\$5,032 7.9%	\$3,599 5.5%
All Funds	\$101,182	\$102,615	\$105,162	\$3,980 3.9%	\$2,547 2.6%

Source: New York State Division of the Budget

General Fund spending is expected to reach \$45.1 billion in 2005-06. This is an increase of \$1.2 billion or 2.6 percent over current fiscal year adjusted spending. State Funds spending is anticipated to be \$69.1 billion in 2005-06, an increase of \$3.6 billion or 5.5 percent over the adjusted 2004-05 figures. State Funds include the General Fund and numerous Special Revenue Funds. If the General Fund is excluded from State Funds, remaining State Fund spending will increase by \$2.5 billion or 11.4 percent in the 2005-06 year. This indicates that the Executive intends to continue its policy of shifting spending growth from the General Fund to Special Revenue Funds.

2005-06 Proposed Receipts

The Executive Budget forecasts All Funds receipts of \$105.5 billion, an increase of \$4.3 billion, or 4.3 percent, from 2004-05 (\$2.9 billion or 2.8 percent if adjusted for changes in HCRA and Medicaid). State Funds receipts are expected to increase by 8.2 percent to \$69.1 billion (5.8 percent when adjusting for HCRA and Medicaid). The 2005-06 30-day Amendment update forecasts increases in General Fund receipts to \$45.3 billion, an increase of 3.3 percent, or \$1.4 billion, from estimated 2004-05 levels. Adjusting 2004-05 receipts for Medicaid (\$508 million), results in a \$939 million year over year change (2.1 percent).

¹¹ To provide a comparable basis for calculating annual change, the 2004-05 amounts have been adjusted for the inclusion of all HCRA funded programs on-budget (\$925 million in State Funds and All Funds) and additional Medicaid spending (\$508 million in the General Fund, State Funds and All Funds).

2005-06 Proposed Receipts Charges by Fund Type
(in millions)

	2004-05 Revised	2004-05 Adjusted	2005-06 Projected	Revised Annual Change \$/%	Adjusted Annual Change \$/%
General Fund	\$43,866	\$44,374	\$45,313	\$1,447 3.3%	\$939 2.1%
State Funds	\$63,901	\$65,334	\$69,121	\$5,220 8.2%	\$3,787 5.8%
All Funds	\$101,122	\$102,555	\$105,449	\$4,327 4.3%	\$2,894 2.8%

Source: New York State Division of the Budget and Office of the State Comptroller

The 30-day Amendment update reports an increase in adjusted General Fund receipts of \$939 million, or 2.1 percent, to \$45.3 billion in 2005-06. The personal income tax is forecast to increase by \$981 million, after transfers to dedicated funds and the refund reserve, largely due to the increase in underlying liability growth in the growing economy. Business taxes are expected to increase by \$252 million because of continued growth in corporate profitability. User taxes are forecast to decline by \$130 million due to the loss of the temporary one-quarter percent sales tax surcharge offset by growth in the sales tax base.

**2005-06 General Fund Receipts
Change from 2004-05**
(in millions)

	2004-05 Adjusted ¹² January	2005-06 Proposed	Change Amount	Change Percent
Personal Income Tax Gross Collections	\$32,400	\$34,627	\$2,227	6.9%
Less Refunds	(4,112)	(4,761)	(649)	15.8%
Collections Before Transfers to Dedicated Funds	28,288	29,866	1,578	5.6%
Less Transfers to Dedicated Funds and Refund Reserve	(9,244)	(9,835)	(591)	6.4%
Net Reported Personal Income Tax	19,044	20,031	987	5.2%
User Taxes	8,752	8,622	(130)	-1.5%
Business Taxes	3,864	4,116	252	6.5%
Other Taxes	830	778	(52)	-6.3%
Reported Tax Collections	32,490	33,547	1,057	3.3%
Miscellaneous and Federal Receipts	2,809	2,355	(454)	-16.2%
Transfers From Other Funds	9,075	9,411	336	3.7%
Total Receipts	\$44,374	\$45,313	\$939	2.1%

Source: New York State Division of the Budget

Risks and Other Concerns Affecting the 2005-06 Financial Plan

Although the State Fiscal Year (SFY) 2005-06 Proposed Budget is balanced, it contains an estimated \$4.6 billion in Financial Plan risks. These risks include the possibility of additional spending needs, revenues that may not materialize and a number of proposals to reduce spending or raise revenues that have been rejected by the Legislature in previous years.

- Under President Bush's budget proposal for Federal Fiscal Year 2006, New York could lose billions associated with reductions in Medicaid and Medicare, education, transportation and labor spending. The uncertain outcome of the federal budget poses numerous risks to the State Financial Plan. For example, President Bush's Medicaid proposal could result in states losing a net \$45 billion in federal funds over ten years. It has been estimated that

¹² To provide a comparable basis for calculating annual change, the 2004-05 amounts have been adjusted for additional Medicaid spending (\$508 million in the General Fund).

this plan could jeopardize \$6.1 billion in federal funds for New York for this period.¹³

- The Executive expects Sound Basic Education (SBE) to be fully supported with video lottery terminal (VLT) revenues. With the proposed addition of eight more VLT facilities around the State, the Executive expects VLT gaming to continue supporting SBE by generating \$325 million (\$227.5 million for SFY 2005-06) and \$2 billion over the next five years. The Executive made a similar proposal in 2004-05; however, additional VLT facilities were not approved and DOB needed to reduce VLT revenue estimates to \$142 million, down from \$240 million. In addition, in July 2004, the New York State Appellate Court ruled that the State's current method of distributing VLT revenues for non-educational purposes is unconstitutional. Since there is no evidence that VLTs will generate the anticipated revenues, the Executive has included a contingent lottery guarantee for this year's proposal. However, the proposed contingent lottery guarantee uses General Fund monies already dedicated to other planned expenditures. Given last year's results, there is a risk that the Executive will have to exercise the lottery guarantee, straining an already overburdened General Fund and putting the Financial Plan at risk.
- The Executive is relying on \$2.2 billion in HCRA receipts that may not materialize in 2005-06: \$1.8 billion in Empire proceeds that are tied up in litigation (arguments are supposed to be heard by the Court of Appeals this spring; and \$400 million in proceeds from additional conversions, which the Legislature has rejected in the past (see table below). If the funds are not available, HCRA may run a shortfall of \$1.0 billion in 2005-06, even after \$650 million in General Fund payments triggered by current law (i.e., tobacco guarantee legislation and payback of a \$200 million loan from HCRA to the General Fund to pay for disaster relief Medicaid). A \$1.0 billion shortfall could mean drastic reductions in HCRA programs and/or even more General Fund support.
- The Executive has reduced the required State contribution to the New York State and Local Retirement System by \$367 million. In addition to the proposal being illegal and unconstitutional, this under-funding will mean that the State is not current in its required payments in support of State employee pensions. The Executive has advanced Article VII legislation that would interfere with the State Comptroller's responsibility to ensure that the retirement system remains on a sound footing. Attempts in prior years to

¹³ "PRESIDENT'S MEDICAID BUDGET SHIFTS HUGE FINANCIAL BURDEN TO STATES, \$45 Billion Medicaid Cuts Will Devastate Seniors, Children, and the Sickest People in the Program." Table 1. Families USA. Press Release. Feb. 7, 2005. <http://www.familiesusa.org/site/PageServer?pagename=Budget_Battle_2006_splash>.

undermine the Comptroller's authority in this area have been struck down by the courts.

- Over the last two years, the State has realized additional, but non-recurring, revenue from unclaimed funds. However, in 2005-06, the Office of the State Comptroller expects that revenue from unclaimed funds will return to a level of \$440 million that is more consistent with prior history. This level is \$138 million below the amount included in DOB's financial plan for 2005-06.

The Comptroller has statutory responsibility for and sole discretion over decisions regarding the operation and administration of the State's Abandoned Property Program. As in previous years, the Office of the State Comptroller provided its abandoned property revenue projection to DOB. Without notification to the Office of the State Comptroller, DOB included an additional \$138 million in the abandoned property revenue projection in the Executive Budget. DOB's revenue assumption would require additional initiatives to increase the flow of funds from abandoned property collections to the General Fund. On February 2, 2005 the Office of the State Comptroller notified the DOB of its objections to DOB's revenue projection.

In addition, the Financial Plan for 2005-06 provides a number of proposals that the Legislature has rejected in past years. These proposals, including additional insurance company conversions, agency consolidations, school aid adjustments and closing of facilities, among others, pose a risk to the Financial Plan to the extent that they may again be rejected by the Legislature in 2005-06. The gross fiscal impact of these proposals is \$2.3 billion.

PROPOSAL	2005-06 Impact	Year(s) Rejected
Medicaid		
Preferred drug list and prior authorization for certain drugs	\$76 million	2003-04 2004-05
Reduce family health plus (FHP) benefit package	\$142 million	2004-05
Close FHP eligibility loopholes	\$32 million	2004-05
Eliminate FHP facilitated enrollment	\$5 million	2004-05
Increase co-pays for Medicaid pharmacy	\$4 million	2004-05
Eliminate reimbursement for certain adult practitioners	\$13 million	2004-05
Eliminate reimbursement for certain adult dental services	\$53 million	2004-05
Podiatry not billable as clinic visit	\$1 million	2004-05
Eliminate hospital and nursing home trend factors	\$90 million	2004-05
Implement Medicaid-only case mix adjustment for nursing homes	\$58 million	2003-04
Re-establish 0.7% hospital assessment on gross revenue	\$194 million	1997-98 2003-04 2004-05
Increase reimbursable nursing home provider assessment from 5% to 6%	\$40 million	1997-98 2002-03 2004-05
Close loopholes allowing individuals to refuse to contribute income/assets to spouse's health care costs	\$27 million	1995-96 1996-97 1999-00 2004-05
Mental Hygiene		
Close Middletown Psychiatric Center	\$7 million in 2006-07	2001-02 2003-04 2004-05
Public Health		
Eliminate Endoscopy study	\$700,000	2003-04
Eliminate Reflex Sympathetic Syndrome prevention and education program		2004-05
Eliminate Tattooing and Body Piercing regulation and licensing		
Restructure Early Intervention program		2003-04 2004-05
Restructure general public health works program	\$10.4 million	2003-04 2004-05

PROPOSAL	2005-06 Impact	Year(s) Rejected
HCRA		
Eliminate catastrophic health insurance program	\$2.4 million	2003-04 2004-05
Allow additional conversions of health plans to for-profit status	\$400 million	2003-04 2004-05
Eliminate individual subsidy program	\$1 million	2004-05
EPIC		
Preferred drug list		2004-05
Gambling		
Create Gaming Commission		2004-05
Ease Quick Draw restrictions	\$39 million	2004-05 2002-03 2001-02
Higher Education		
Restructure SUNY hospitals to not-for-profit	No current year impact	2003-04 2004-05
Opportunity programs (reductions/restructure)	\$24.7 million	2003-04 2004-05
TAP (reductions/restructure)	\$167.1 million	1995-98 1999-00 2001-02 2002-03 2003-04 2004-05
Elementary and Secondary Education		
Restructure of the Education Department		2000-01 2001-02 2002-03 2003-04 2004-05
Flex Aid - Not at present law levels	\$11 million	2000-01 2002-03 2003-04 2004-05
Discontinue current allocation of Private Excess Cost Aid based upon special education placement	\$105 million	1999-00 2003-04 2004-05
School District Spending Cap - would limit school district spending increases to lesser of 4% or 120% of Consumer Price Index	\$20 million	1999-00 2000-01 2001-02 2003-04 2004-05
State Clearinghouse for efficient construction practices and designs		2004-05
Tenured Teacher Hearing Account	\$2.1 million	2004-05

PROPOSAL	2005-06 Impact	Year(s) Rejected
Building Aid – not at present law levels	\$81.5 million	2003-04
Growth Aid	\$12.1 million	2003-04 2004-05
Education Legislative Grants	\$18.3 million	2003-04 2004-05
Consortium for Worker Education	\$1.2 million	2003-04 2004-05
Public Broadcasting Aid	\$3.1 million	2003-04 2004-05
Reorganization Incentive (Operating + Building)	\$1.7 million	2003-04 2004-05
BOCES/Special Services aid reduction/cuts	\$59.1 million	1999-00 2001-02 2003-04 2004-05
Wicks Law Reform for construction costs	10 percent school district construction costs	1999-00 2000-01 2001-02 2002-03 2003-04 2004-05
Welfare Assistance		
TANF Legislative Initiatives	\$51 million	2003-04 2004-05
Welfare cost containment, including a “full family” sanction and adjustment in amount of earnings disregarded in determining benefit levels	\$9.85 million	2004-05
Transfer Department of Labor welfare employment programs to Office of Temporary and Disability Assistance		2004-05
Labor		
Employment Relations Board merge with Public Employment Relations Board to form State Relations Board	\$840,000	2003-04
Public Protection		
Proposed closure of four correction facilities	\$20.1 million	2004-05
Extend the period for processing certain parole violations warrants	\$200,000	2004-05
Merge Probation and Correctional Alternatives with DCJS		2004-05
Permit use of “aggregate weight” standard	\$1 million	2003-04 2004-05
Provide compensation for victims injured or killed at the Attica Correctional Facility in 1971	\$2 million annually for six years	2004-05
Economic Development		
Increase All-Terrain Vehicle registration fees	\$5.8 million	2004-05

PROPOSAL	2005-06 Impact	Year(s) Rejected
Authorize funding for Cornell Supercomputer (Cornell Theory Center)	\$1.2 million provided by Dormitory Authority	1999-00 2000-01 2001-02 2002-03 2003-04 2004-05
Replace annual inspection requirement for pet dealers with a risk-based frequency	\$300,000	2004-05
Replace mandatory annual food safety inspections with a risk-based frequency	\$1.1 million	2004-05
General Government		
Owner-controlled insurance for capital projects	\$241,000 in 05-06 \$686,000 in 06-07 \$1.1 million in 07-08 \$1.3 million in 08-09	2004-05
Authorize use of traffic law enforcement cameras	\$15 million net 05-06 \$33 million in full years	2004-05
Revenue		
Allow direct shipment of wine to individuals from out-of-state wineries	2.6 million in 05-06 3.8 million in 07-08	2004-05
Replace permanent clothing and footwear sales tax exemption	\$456 million in 05-06 \$584 million in 06-07	2003-04 2004-05
Environment		
Shift Capital and General Fund programs into Environmental Protection Fund	\$25 million	2002-02 2003-04 2004-05
GROSS FISCAL IMPACT	\$2.3 billion	

Structural Balance – Outyears

Future Budget Gaps

The Executive is projecting General Fund budget gaps for 2006-07 and 2007-08 of \$2.5 billion.

**Executive Projections for
Future General Fund Budget Gaps**
(in millions)

	2006-07	2007-08
Receipts	\$46,347	\$50,795
Expenditures *	(\$48,891)	(\$53,336)
Executive Gap Estimate	(\$2,544)	(\$2,541)

Source: New York State Division of the Budget

* Includes use of proceeds from the Community Projects Fund of \$150 million in 2006-07 and \$167 million in 2007-08.

The gaps projected in the Executive Budget for 2006-07 and 2007-08 assume spending growth of 8.8 percent and 9.1 percent, respectively. However, these spending projections do not include additional spending that may be court ordered in outyears for the 2003 Campaign for Fiscal Equity court decision mandating improvements to the State's education system. Outyear projections include proposed Medicaid changes that would limit local costs.

Total receipts, including Refund Reserve transactions and transfers from other funds, are projected to increase 2.3 percent in 2006-07 and 9.6 percent in 2007-08. Reported Personal Income Tax, which includes Refund Reserve, STAR, and Revenue Bond Tax Fund transactions, will increase 2.9 percent and 7.0 percent in 2006-07 and 2007-08, respectively, primarily due to economic gains reflected in wages, bonuses and capital gains.

User tax collections (including sales tax) are projected to increase in 2006-07 approximately \$200 million or 2.4 percent primarily due to the replacement of the full-year exemption on clothing and footwear priced under \$110 with an exemption for clothing and footwear priced under \$250 for two weeks.

Miscellaneous receipts are expected to increase the most, up to \$2.4 billion in 2006-07 and \$4.5 billion in 2007-08 due to receipts collected in lieu of proposed changes in Medicaid.

**Projected Receipts
2006-07 and 2007-08**
(in millions)

	2006-07	Change Percent	2007-08	Change Percent
Personal Income Tax (PIT - Reported)	\$20,616	2.9%	\$22,052	7.0%
User Taxes and Fees	8,829	2.4%	9,166	3.8%
Business Taxes	4,226	2.7%	4,365	3.3%
Other Taxes	872	12.1%	920	5.5%
Total Taxes	\$34,543	3.0%	\$36,503	5.7%
Miscellaneous Receipts and Federal	\$2,408	2.3%	\$4,464	85.4%
Transfers From Other Funds	9,406	0.0%	9,828	4.5%
Total Receipts	\$46,347	2.3%	\$50,795	9.6%

Source: New York State Division of the Budget

Outyear Economic Projections

The following chart compares revenue growth projections with projections for select economic indicators. The Division of the Budget (DOB) projects moderate growth for certain components of adjusted gross income—primarily capital gains—largely due to an improving economy, although it continues to warn of the volatility of the real estate and equity market. Also tied closely to the equity market is partnership and S-corporation income. Although annual growth is projected to decline slightly over the next three years, it still illustrates growth within the securities sector among higher incomes. Nonetheless, equities markets are not expected to reach 2000 peaks.

DOB projects unemployment for the State to remain steady at approximately 5.5 percent over the next three years, along with a moderate decline in inflation.

Selected Economic Indicators - 2005-06 through 2007-08 Executive Budget
(percent growth)

State Fiscal Year	2005-06	2006-07	2007-08
General Fund Tax Receipts	3.3	3.0	5.7
Personal Income Tax (Reported)	5.2	2.9	7.0
User Taxes and Fees	-1.5	2.4	3.8
Business Taxes	6.5	2.7	3.3
Personal Income	4.8	5.3	5.2
Wages and salaries	4.7	4.9	4.7
Bonuses	5.7	6.2	6.2
Property Income	4.2	4.6	5.0

Calendar Year	2005	2006	2007
New York State Adjusted Gross Income			
Capital Gains	10.7	12.7	10.2
Partnership	9.2	9.0	8.5
Business and Farm	5.3	4.9	4.2
Interest Income	3.3	4.7	3.8
Dividends	4.3	5.2	5.5
Unemployment Rate	5.6	5.5	5.5
Composite CPI	2.7	2.4	2.3

Source: New York State Division of the Budget

Note: All economic data taken from Executive's January Budget proposal.

Risks to the Outyear Financial Plan

There are risks in the current year and in the future that could significantly affect the outyear gap projections included in the Executive Budget. The economy is showing signs of recovery, although employment data illustrates a less positive picture with unemployment remaining slightly below 6 percent for the State. While the Dow Jones Industrial Average is back to levels enjoyed at the beginning of this decade, NASDAQ is less than half the level it enjoyed during the technology and Internet bubble in 2000. At present, interest rates and inflation remain low. Economic forecasts are considering further increased short-term interest rates, although how far rates will actually climb does pose a risk to the State's Financial Plan. Additional economic risks, both on a domestic and international scale, include an extended stay in Iraq and additional terrorist activity that could lead to higher energy prices with secondary effects in markets throughout the world.

The Transportation Equity Act of the 21st Century (TEA-21) expired on September 30, 2003, but was extended by Congress until May 31, 2005. The program allocated nearly \$15 billion to New York State since 1998 for highway and transit funding. The Capital Plan holds federal transportation funding constant throughout the five-year Capital Plan, but uses funds created through the front-loaded restructuring of \$3 billion in Dedicated Highway and Bridge Trust Fund bonds. Furthermore, as TEA-21

negotiations continue, there are scenarios being considered that would lower the amount of aid New York State receives. While the State would continue to receive federal transportation dollars, the Capital Plan would require revision to reflect the different allocation.

The proposed Capital Plan continues to increase the issuance of debt that is not voter approved and the use of variable rate and interest rate exchange instruments, which are known as swaps. With variable rate obligations and swaps comes increased risk of additional costs due to the volatility of the market. Although the debt service budget contains additional appropriation authority to cover some additional costs if necessary, the State would be required to produce cash to cover those costs.

Other risks include the following:

- Health care costs continue to rise significantly faster than inflation. The Executive proposes capping Medicaid costs for local governments by having the State absorb additional costs over such cap. While the State has additional ability to control such costs by both increasing revenues and/or cutting services, volatile Medicaid costs could require additional State resources in outyears. In addition, increasing health care costs will affect State spending on a number of fronts including benefit costs for State employees and other health care programs, such as EPIC and Family Health Plus.
- The State expects federal funding to decline in 2005-06, with minimal growth in 2006-07. However, by 2007-08, federal funding is expected to increase over 5 percent or over \$2 billion from 2004-05 levels. Federal funding contributes to a number of State spending needs, from health care and transportation to education and environment. The President's recent budget submission suggests that additional funding in outyears could be at risk.

Overview

Since 1990, New York's debt burden has grown from \$14.4 billion to \$45.4 billion, a 215 percent increase.¹⁴ Debt per capita has increased from \$902 to approximately \$2,400 over the same period.¹⁵ In just the past three years, New York State has issued \$7.7 billion in bonds that provide budget relief to the State and its local governments with no resulting physical asset. The \$7.7 billion in new debt is *not* counted as State-supported in the Capital and Financing Plan, even though these obligations are funded with State resources. The definition of State-supported debt provided in Section 67-a of the State Finance Law as added by the Debt Reform Act of 2000 is not a complete measure of the State's outstanding debt obligation.

To provide a more inclusive and realistic measure of State debt, the State Comptroller has defined a new measure called **State-funded debt** that includes both State-supported debt, as discussed in the Capital Plan and defined and limited by the provisions of the Debt Reform Act of 2000. This new measurement also includes other debt that is not considered in the Capital Plan or counted under statutory caps, but whose payment is fully State-funded nonetheless. The new definition is part of a comprehensive constitutional and statutory debt reform package proposed by the Comptroller that will improve debt management and effectively control the growth of debt in the future.

According to this measure, New York ended the 2003-04 State Fiscal Year (SFY) with \$45.4 billion in outstanding State-funded debt, of which \$40.3 billion is considered State-supported according to the State Finance Law. The difference between the current statutory definition and the Comptroller's definition largely consists of two issues:

- The State issued through the Tobacco Settlement Financing Corporation (TSFC), a Subsidiary of the Municipal Bond Bank Agency, approximately \$4.6 billion in debt backed by the sale of the State's share of the revenues resulting from the 1998 Master Settlement Agreement to TSFC. As a result, the State received \$4.2 billion in proceeds that were used for budget relief in the 2003-04 SFY.¹⁶
- Chapter 83 of the Laws of 2002 authorized the Municipal Bond Bank Agency to issue approximately \$570 million in debt backed by school aid payments in which certain school districts would receive bond proceeds in place of

¹⁴ This total is on a cash basis. If assessed through GAAP, the State's debt burden would be \$46.9 billion.

¹⁵ See Appendix for graphical representation of debt burden for the State, local governments and New York City.

¹⁶ The remaining \$400 million is made up of debt service reserves and issuance costs.

accumulated prior year claims against the State (a State liability). As of March 31, 2004, \$511 million of this debt was outstanding.

In addition, in the 2004-05 SFY, the Municipal Assistance Corporation (MAC) Refinancing Act was passed over the objections of both the Comptroller and the Executive. This authorized the creation of the Sales Tax Asset Receivable Corporation (STARC), a not-for-profit corporation. An annual payment of \$170 million from the State to STARC was provided. STARC issued \$2.6 billion in bonds to refinance outstanding MAC debt and extended the term (scheduled to be paid in 2008) through 2034, thus extending the debt an additional 25 years.¹⁷ The 1975 MAC debt was deficit financing for New York City. With the STARC issuance, the obligation created in 1975 will take 55 years to pay off and will not result in a physical asset for the State or the City. Furthermore, since the new STARC debt service is funded with State funds, the debt is effectively transferred from the City to the State.

This additional \$7.7 billion that is not counted in the Capital and Financing Plan is the crux of the Comptroller's reform package. To effectively control the use of debt, debt needs to be clearly and constitutionally defined.

Capital Plan

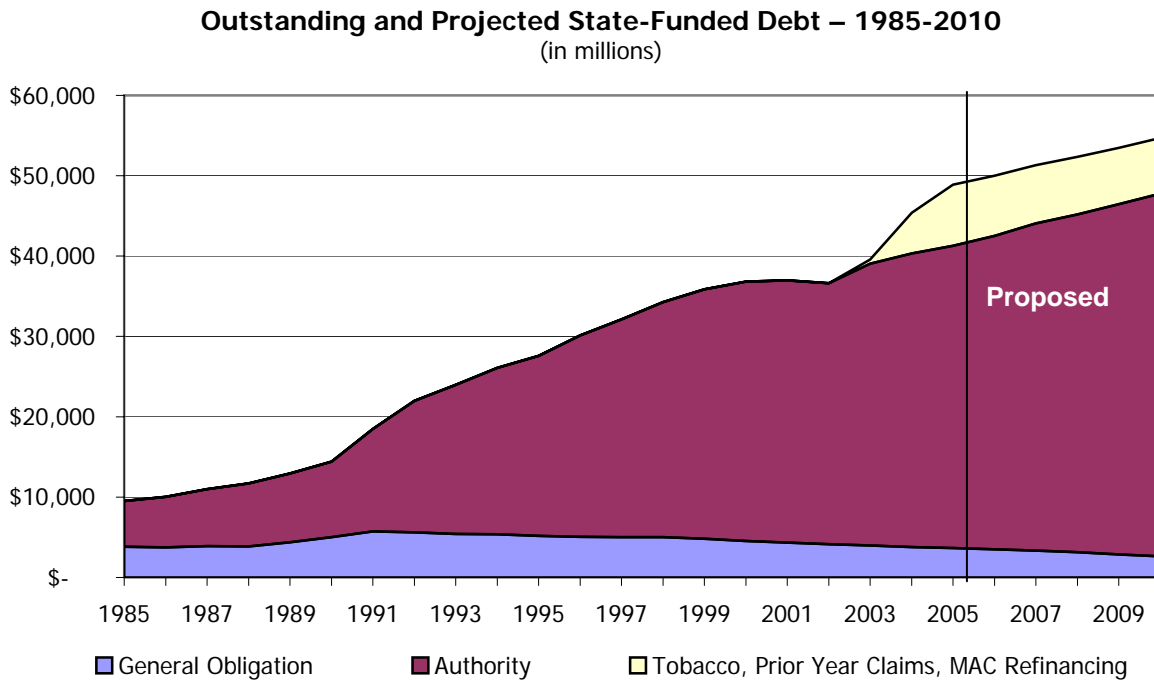
The five-year Capital Plan submitted with the Executive Budget projects \$47.7 billion of outstanding State-supported debt by 2009-10. This represents a \$6.4 billion, or 15.5 percent, increase from projected 2004-05 end of year levels. However, using the Comptroller's comprehensive definition of State-funded debt increases the projection for debt outstanding at the end of SFY 2009-10 by nearly \$6 billion to \$55 billion, representing an 11 percent increase from 2004-05.

As of March 31, 2005, State-supported public authority debt outstanding is projected to grow from 91.0 percent of total outstanding State-supported debt to 94.5 percent by 2009-10. If all State-funded obligations are included, the proportion of non-voter approved debt increases from 92.4 percent in 2005-06 to 95.2 percent in 2009-10.

¹⁷ The MAC Refinancing Act debt will be counted as State-funded in the 2004-05 fiscal year and is not included in the \$45.4 billion outstanding State-Funded debt number for 2003-04.

Projected Outstanding Debt and Debt Service Levels

The following chart and table illustrate the growth of outstanding State-supported debt in the proposed five-year Capital Plan, along with the addition of debt that should be counted as State-funded under the Comptroller's more comprehensive definition.¹⁸ The Executive has projected an annual growth rate that is only one quarter of the annual average growth from 1985. Recent history suggests that the amounts projected below could grow significantly higher without effective reform.



¹⁸ Chapter 62 of the Laws of 2003 stated that the tobacco bonds would be structured with a turbo payment plan in which the State gives up all tobacco settlement revenue until the bonds are paid. According to the June 12 and November 20, 2003 official statements, the table below estimates a payment structure that accounts for normal principal and interest payments based on 20-year bonds (as sold in two separate issuances). Although the legislation authorizes surplus tobacco revenues (difference between required debt service payment and actual tobacco settlement payment) to be used for debt service, this table does not assume the surplus revenue will be used immediately for debt service, since the Executive has the option to put the additional surplus dollars in a reserve fund or immediately pay debt service. Regardless, surplus funds are set aside and are debt-related costs that cannot be used for any other purpose (in General Fund relief, etc.).

Projected State-Supported and State-Funded Debt Outstanding
2005-06 Executive Budget
(in billions)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	% Change 2004-05 to 2009-10
General Obligation	\$3.7	\$3.5	\$3.3	\$3.1	\$2.8	\$2.6	(29.7%)
Public Authority	37.6	39.0	40.7	42.0	43.6	45.1	19.9%
2005-06 Capital Plan (State- Supported)	41.3	42.5	44.0	45.1	46.4	47.7	15.5%
Tobacco Bonds	4.6	4.5	4.5	4.4	4.4	4.4	(4.3%)
Prior Year Claims	0.5	0.5	0.5	0.4	0.4	0.4	(20.0%)
MAC Refinancing	2.6	2.5	2.4	2.3	2.2	2.1	(19.2%)
Total Other	\$7.7	\$7.5	\$7.4	\$7.1	\$7.0	\$6.9	(10.4%)
Projected Outstanding (State-Funded)	\$49.0	\$50.0	\$51.4	\$52.2	\$53.4	\$54.6	11.4%

Source: New York State Division of the Budget and Office of the State Comptroller estimates

Annual debt service on State-supported debt is projected to grow to \$5.0 billion in 2009-10, an increase of \$1.2 billion or 31.8 percent from 2004-05 projections. Debt service costs are projected to increase only slightly in 2005-06, including costs detailed in the Executive Budget and costs associated with tobacco debt.¹⁹ However, the primary reason for the decline in growth comes from the Executive's proposed refinancing and restructuring of \$3 billion in Dedicated Highway and Bridge Trust Fund (DHBTF) bonds (approximately \$200 million in savings taken in 2005-06). According to the Division of the Budget (DOB), this refinancing will extend DHBTF bonds by up to 13 years in an effort to match the term of the debt with the estimated useful life of the asset.

The table below indicates significant growth in debt service resulting from debt issued by public authorities. Such costs increase almost 50 percent over the life of the Capital Plan, from \$3.5 billion in 2004-05 to \$5.2 billion in 2009-10. Since there are no new planned General Obligation (GO) bond referenda in this Capital Plan, GO debt service remains near \$500 million throughout the life of the plan.

¹⁹ As pledged, tobacco settlement funds cannot be used for anything else; they are incorporated in their entirety in the debt service table.

Projected State-Funded Debt Service
2005-06 Executive Budget Proposal
(in billions)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	% Change 2004-05 to 2009-10
General Obligation	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	(5.8%) (1)
Public Authority	3.3	3.4	3.7	4.0	4.3	4.6	39.3%
2004-05 Capital Plan (State-supported)	3.8	3.9	4.2	4.5	4.8	5.0	31.8%
Tobacco	0.2	0.4	0.4	0.4	0.4	0.4	100.0% (2)
Prior Year Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0% (3)
MAC Refinancing	0.0	0.2	0.2	0.2	0.2	0.2	10.0% (4)

**Projected Debt
Service (State-
funded)**

\$4.0 \$4.5 \$4.8 \$5.1 \$5.4 \$5.6 40.0%

Source: New York State Division of the Budget and Office of the State Comptroller estimates. Totals may not add due to rounding.

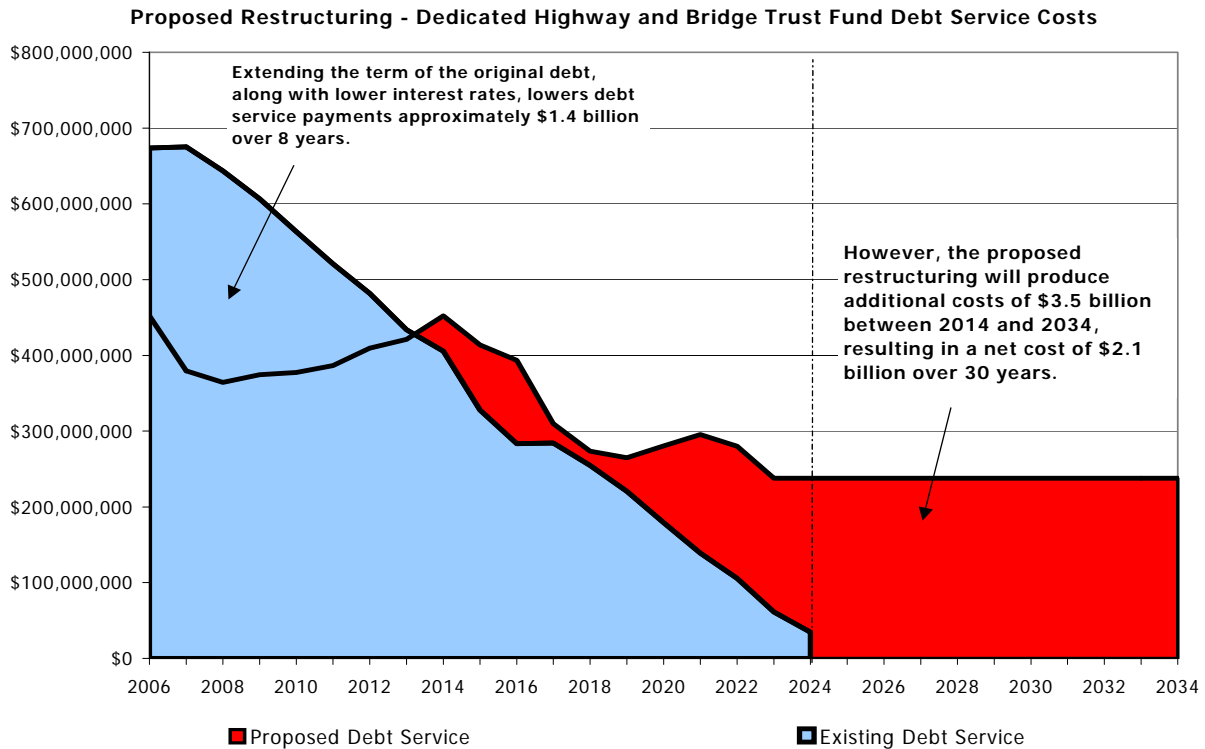
- (1) Over the five-year plan, General Obligation debt service drops from \$486.0 million to \$457.4 million.
- (2) Represents entire tobacco settlement payment, although not all is required for debt service in the same year received.
- (3) Less than \$100 million.
- (4) Annual debt service payments are approximately \$169 million. The payment in 2004-05 was \$55 million.

Dedicated Highway and Bridge Trust Fund Restructuring

The Executive Budget includes a proposal to refinance approximately \$3 billion in currently outstanding bonds from the Dedicated Highway and Bridge Trust Fund program. According to the DOB, the refinancing would lower debt service an average of \$179 million annually between 2006 and 2013. In order to produce this cost reduction, the terms of the various debts to be refinanced are extended up to 13 years. DOB states that the refinancing is prudent in that it will match the term of the debt with the estimated useful life of the asset. However, while this restructuring may or may not better match asset with debt, the act of extending debt terms is discouraged because of the long-term costs.

The following chart illustrates the difference between the proposed debt service structure and existing debt service. The restructuring will provide significantly lower debt service in the short-term. However, it will increase costs by \$3.5 billion from 2014 through 2034, an average of \$168 million annually. The lower near-term debt service costs will supplement the five-year transportation capital plan, but increased long-term costs will require additional funding in subsequent plans. While the restructuring of the debt may better match the estimated useful life of the asset with the term of the debt,

it also has the effect of continuing debt service costs into the future as the asset grows older and requires greater upkeep.



Annual State-supported debt retirements are projected to reflect a net increase of \$510 million, or 26.2 percent, from \$1.9 billion in 2004-05 to \$2.5 billion in 2009-10. Transportation-related retirements are estimated to decrease 16.1 percent, or \$101 million, over the next five years. The restructuring and extension of DHBTf debt accounts for the majority of the decline.

**Projected State-Supported Debt Retirements
2005-06 Executive Budget
(in billions)**

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
General Obligation	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Public Authority	1.6	1.8	1.7	1.9	1.9	2.1
2004-05 Capital Plan	\$1.9	\$2.2	\$2.1	\$2.2	\$2.2	\$2.5

Source: New York State Division of the Budget
Note: Columns may not add due to rounding

Projected average annual debt issuances increase about \$500 million annually from the last Capital Plan. Over the life of the plan, annual debt issuance will vary from \$2.9 billion projected for 2004-05 to \$3.8 billion in 2009-10. In 2005-06, issuance are

projected to be almost \$7 billion primarily due to \$3 billion issued to restructure DHBTf debt.

Projected State-Supported Debt Issuances
2005-06 Executive Budget Proposal
(in billions)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
General Obligation	\$0.2	\$0.1	\$0.2	\$0.2	\$0.1	\$0.1
Public Authority	2.7	6.6 *	3.4	3.1	3.4	3.7
2004-05 Capital Plan	\$2.9	\$6.8	\$3.6	\$3.3	\$3.5	\$3.8

Source: New York State Division of the Budget

* Includes \$3 billion issued to restructure outstanding Dedicated Highway and Bridge Trust Fund debt.

Note: Columns may not add due to rounding

The proposed Capital Plan would issue up to \$630 million for various economic development programs in 2005-06, such as Community Enhancement Facilities Assistance Projects (CEFAP), the Strategic Investment Program (SIP), Gen*NY*sis, Centers for Excellence, and the Empire Opportunity Fund. This amount includes \$175 million associated with Javits Center rehabilitation and \$5 million in additional funding for various projects in Upstate New York.

Capital Program

Specific areas of the Capital Plan are outlined below. Capital spending over the life of the Plan is estimated to be approximately \$33.9 billion, or \$1.3 billion lower than the November 2004 Capital Plan update. Transportation continues to be the largest area of capital spending, increasing from 59.3 percent in 2005-06 to 63.5 percent in 2009-10. Environment, education, public protection and mental hygiene also have significant capital programs contributing to the Capital Plan.

The Capital Plan includes \$900 million in spending delays between 2005-06 and 2006-07. According to DOB, the delays are due to timing of actual need for certain programs, although the programs or spending delays are not specifically identified. Furthermore, although the Capital Plan states that \$900 million will be delayed over two years, it does not state if such spending is funded from State or federal cash or bonds. Furthermore, the updated Capital and Financing Plan indicates that predicted spending is reduced an additional \$50 million in 2004-05. With these reductions comes the possibility of Financial Plan implications and additional General Fund resources.

Transportation

Capital spending for transportation is projected to increase to approximately \$3.8 billion per year through 2009-10, reflecting a new five-year plan from the Department of Transportation. Over the life of the plan, this includes over \$1.6 billion for local capital programs and \$3.3 billion for mass transit systems throughout the State. Highway and bridge construction letting levels remain at \$1.65 billion annually. A large portion of transportation spending was historically supported by federal funds from such programs as the Transportation Equity Act (TEA-21), which expired in September 2003. While Congress has temporarily extended the program (through May 31, 2005), it has yet to be reauthorized or replaced. The transportation capital plan expects either reauthorization or replacement of TEA-21 and acknowledges that the State Capital Plan would have to be amended to reflect actual federal support. Because of this uncertainty, the proposed Capital Plan holds federal transportation funding constant at \$1.4 billion annually. The majority of transportation capital spending is financed with federal dollars, and over 80 percent of federal pay-as-you-go dollars go toward transportation needs.

Higher Education

Capital of \$4.3 billion for education includes \$1.8 billion for SUNY capital needs and a \$1.1 billion capital program enacted in 2004-05 for CUNY colleges.

The Executive proposes a new \$250 million capital matching program for public and private colleges and universities throughout the State. The program requires a three to one match (non-State to State) and funding must be used for facilities and equipment. The 2004-05 Proposed Budget included a similar proposal that was amended by the Legislature in the enacted budget and subsequently vetoed. The proposed plan also includes \$15 million in additional debt for public broadcasting needs.

Environment

The Plan includes capital appropriations and reappropriations from the balance of the \$1.8 billion Clean Air/Clean Water Bond Act and a \$150 million yearly appropriation from the Environmental Protection Fund (increased from \$125 million in 2004-05). The Capital Plan also includes \$104 million annually for the refinanced State Superfund program and Brownfields Cleanup.

Economic Development

The proposed Capital Plan includes approximately \$3 billion in total spending for various economic development programs over the next five years, including the Empire

Opportunity Fund, Centers for Excellence, Community Enhancement Facilities, Gen*NY*sis and the Strategic Investment Program. This amount includes a proposal to create another \$250 million economic development program called the New York State Technology and Development Program that is designed to assist high technology and other economic development programs.

Included in the \$3 billion economic development capital plan is \$700 million in additional State-funded debt for the renovation of Javits Convention Center in New York City (\$350 million) and additional capital spending for cities outside of New York City (\$350 million). These initiatives were authorized by the Legislature in December 2004. In addition, the Executive proposes another \$300 million for State-funded debt in support of the proposed New York Sports and Convention Center (West-Side stadium).

Total 2005-06 spending for economic development includes \$10 million for Operation SPUR - Strategic Partnership for Upstate Resurgence. The program is intended to direct State support to capital projects in distressed upstate regions. This additional capital spending is part of a larger economic development program that includes tax breaks and other incentives.

Health and Mental Hygiene

Mental Hygiene appropriations and reappropriations total nearly \$1.4 billion for rehabilitation and maintenance projects relating to facilities licensed to the Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and the Office of Alcoholism and Substance Abuse Services.

The proposed Capital Plan includes \$250 million for a new Health Care Improvement Capital Grant Program. The program is intended to provide hospitals and health care providers with additional resources to improve facilities, technology and information capabilities.

Education

The plan includes a minimal increase in capital reimbursement for education. In response to recent court recommendations stemming from the Campaign for Fiscal Equity (CFE) lawsuit, the Executive's proposal includes authorization for an additional \$2.8 billion in bonds for New York City's Transitional Finance Authority for capital education needs. This spending on the part of New York City would be eligible for 60 percent reimbursement by the State under the Building Aid Program. In 2005-06, there is no additional spending planned by the State for the Building Aid Program in New York City.

Capital Spending by Function: 2005-06 Capital Plan
(in millions)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Transportation	\$3,495	\$3,602	\$3,629	\$3,643	\$3,953	\$4,295
Environment	635	591	657	651	586	591
Eco. Dev/Gov Oversight	337	595	547	843	687	361
Health/Social Welfare	128	149	166	205	251	321
Education	653	918	1,063	970	759	612
Public Protection	202	241	272	237	218	220
Mental Hygiene	286	286	279	287	288	290
General Government	137	137	67	60	66	60
Other	33	59	58	48	30	13
Total	\$5,507 *	\$6,079 *	\$6,737	\$6,945	\$6,838	\$6,765

Source: New York State Division of the Budget

Note - Columns may not add due to rounding

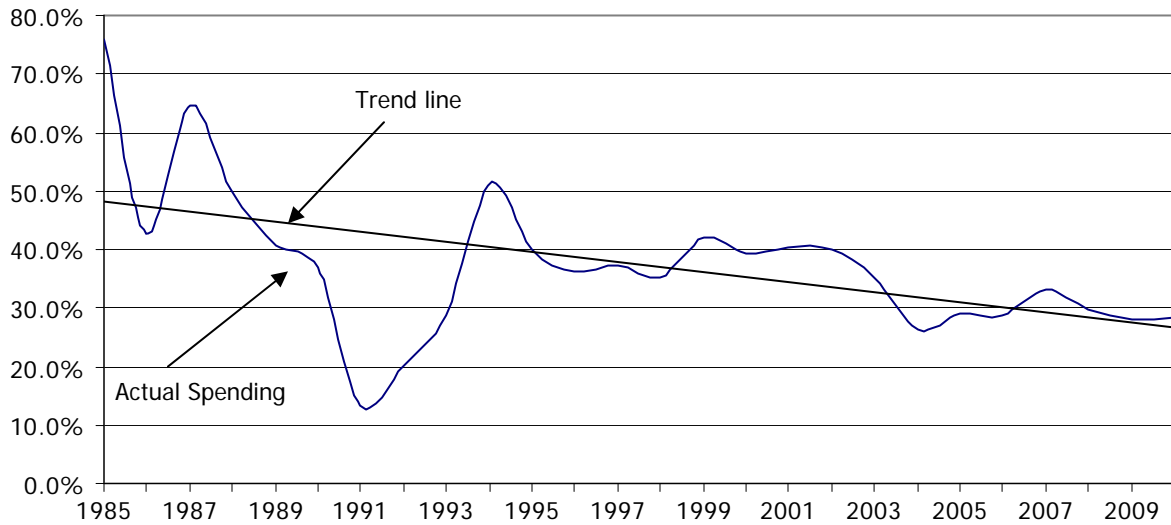
* Totals for 2004-05 and 2005-06 include estimated reductions totaling \$900 million for various programs that are not expected to produce costs in those fiscal years due to the timing of needs within those programs.

Financing Sources

The proposed Capital Plan exhibits relatively steady dependence on federal funding through 2009-10. The new five year plan for transportation, the largest recipient of federal funding, acknowledges the uncertainty of Federal Transportation Act (TEA-21) funding and projects declining federal funding through 2009-10.

State pay-as-you-go spending as a percentage of State capital spending (excluding federal funding) is consistent at approximately 29 percent throughout the plan, representing a trend of declining use of State cash for capital purposes, even in past years of budgetary surpluses.

State Pay-As-You-Go as a % of Total Non-Federal Capital Spending



Source: Office of the State Comptroller and the New York State Division of the Budget

Capital spending supported by General Obligation debt is projected to decrease from 3 percent of total capital spending in 2004-05 to 1 percent in 2009-10. While this Capital Plan supports eight previously voter authorized bond acts, there are no additional General Obligation bond authorizations planned through 2009-10.

While the use of voter approved debt declines, capital spending supported with State-funded debt issued by the State's numerous authorities increases to 53 percent of total capital spending in 2009-10, from 46 percent from 2004-05.

Capital Plan - Key Statistics on State-Supported Debt
2004-05 through 2009-10*
(in billions)

	2004-05	2005-06	% Change	\$ Change	2009-10	% Change 2004-05	\$ Change 2004-05
Outstanding Debt	\$41.26	\$42.49	2.98%	\$1.23	\$47.75	15.73%	\$6.49
General Obligation	3.67	3.48	-5.18%	(0.19)	2.60	-29.16%	(1.07)
Public Authority	37.59	39.02	3.76%	1.43	45.15	20.11%	7.56
Debt Service	\$3.82	\$3.87	1.31%	\$0.05	\$5.03	31.68%	\$1.21
General Obligation	0.49	0.49	1.69%	.08	0.46	-5.89%	(0.03)
Public Authority	3.33	3.38	1.50%	0.05	4.57	37.24%	1.24
State Pay-As-You-Go - % of Non-Federal	29.2%	28.1%			28.5%		

Source: New York State Division of the Budget

*Does not include tobacco, prior year claims or MAC Refinancing – approximately \$7.7 billion total.

Debt Management Practices - 2005-06

Variable Rate Instruments

The Executive Budget gap-closing plan calls for \$150 million in reduced debt service costs. According to the financing plan, these savings will come from additional refundings and increased use of variable rate debt instruments, as well as interest rate exchange agreements.

Variable rate debt instruments and interest rate exchanges can provide the State an opportunity to take advantage of the changing bond market in order to capitalize on lower interest rates. The Capital Plan anticipates variable rate exposure will increase from 10.3 percent of total outstanding State-supported debt as defined in the State Finance Law to 13.9 percent in 2009-10. Beginning in 2005-06, the variable rate level will include certain convertible bonds as they are converted to variable rate obligations. The State currently has \$2.4 billion in outstanding convertible bonds, which may or may not be converted to variable rate at a specified point in time.

Interest rate exchange agreements provide an opportunity for the State to enter into contracts exchanging fixed interest rate liability for variable interest rate liability or vice versa. These actions are commonly referred to as swaps and allow debt managers to take advantage of interest rate fluctuations. Just like the level of variable rate debt, the State is limited to 15 percent of outstanding State-supported debt for such agreements. The Division of the Budget indicates that the State has entered into

approximately \$5.9 billion in synthetic fixed-rate swaps. By 2009-10, the plan projects that interest rate exchange agreements will total 13.9 percent of State-supported debt.

In 2004-05, the State entered into synthetic variable rate swaps totaling \$380 million as part of DOB's plan to increase variable rate exposure by approximately \$2 billion between 2004-05 and 2005-06. According to DOB, the timing of new transactions is open to market fluctuations and could take longer than anticipated or may not happen at all. These synthetic variable rate exchange agreements will not count under the swap cap, as they are considered "excluded agreements" in the State Finance Law.²⁰

The Proposed Budget also includes language to authorize the Comptroller to provide liquidity support for variable rate obligations issued for State purposes. Variable rate obligations generally require additional liquidity or credit support, such as a letter of credit. The proposal would utilize assets in the Common Retirement Fund (CRF) to support certain obligations through CRF issued letters of credit or similar liquidity or credit facilities.

As sole trustee of the Common Retirement Fund, the Comptroller's fiduciary responsibility is to invest CRF assets prudently and for the exclusive benefit of New York State and Local Retirement System members and beneficiaries.²¹ Even if the Executive proposal permitting the Comptroller to provide credit and liquidity support were enacted, such an activity could only be undertaken if it also satisfied the Comptroller's fiduciary obligation. Fund investments cannot be made solely to assist the State with its debt issuance program. Increasing CRF's activities in providing liquidity support would require CRF to allocate a larger share of its assets to short-term investments; the loss in investment yield from this shift is unlikely to be offset by premiums from providing liquidity support. As a result, CRF could not take advantage of this legislative proposal.

Debt Condition

As a result of \$11 billion in deficit finance bonds issued by California in 2004, California surpassed New York State for the distinction of the state with the highest outstanding debt level in the country.

New York's State-funded debt burden has increased from \$1,438 per person in SFY 1993-94 to an estimated \$2,400 per person at the end of SFY 2003-04, including debt from Tobacco and Prior Year Claims, representing a 64.5 percent increase in ten years. This debt represents 6.5 percent of New York's personal income, an increase

²⁰ See Section 69-a of Article 5-D of the State Finance Law. Note that the Proposed Budget includes language amending this article in an attempt to clarify excluded agreements and convertible bonds.

²¹ To this end, the Comptroller recently proposed legislation to modernize the investment authority for the CRF by eliminating the archaic legal list system and replacing it with a "prudent investor" standard.

from the 1993-94 level of 5.6 percent, once debts associated with Tobacco, Prior Year Claims and MAC refinancing are included.

For years, New York has had one of the lowest credit ratings in the nation. In comparison to other states, Standard and Poor's rating of AA places the State's credit in the middle. Although in spite of a recent upgrade, Moody's rating of A1 still rates New York's credit as the second lowest in the nation, along with Louisiana, behind only California. Fitch also rates New York in the lower half at AA-, with only Louisiana, Oregon and California holding worse ratings. Standard and Poor's rates New York higher at AA, closer to the median.

Debt Reform

Both the Executive and the State Comptroller have proposed constitutional debt reform proposals this year. The Executive's proposal was previously introduced and essentially places much of the language of the Debt Reform Act of 2000 into the Constitution. However, the Debt Reform Act of 2000 is flawed on a number of levels, and the Executive's proposal will perpetuate many of the problems that are associated with the State's previous attempt at reform. It will not effectively control the growth of State debt. In order to effectively control the burden passed on to future generations, it is imperative that the State implement stringent constitutional debt reform.

The Debt Reform Act of 2000

The Debt Reform Act of 2000 only controls a portion of what the State actually borrows. The Act defined and limited State-supported debt in the State Finance Law.²² However, the definition contains loopholes that have allowed an additional \$7.7 billion to be issued but not counted under the statutory caps—approximately 16 percent of the State's current debt burden.

Furthermore, the statutory limits of 4 percent of personal income for outstanding debt and 5 percent of all governmental funds receipts for debt service only include State-supported debt issued after April 1, 2000. As such, over \$35 billion in debt outstanding before 2000 is not counted under the caps even though the State is responsible for debt service. In addition, because the caps are phased in over a 10 year period for outstanding debt and 13 years for debt service, they will probably never effectively restrain growth.

In fact, if the caps had applied to all State-funded debt issued after April 1, 2001, as defined by the State Comptroller, including \$4.6 billion in tobacco bonds, \$511 million in amortized prior year school claims and the \$2.6 billion for the refinancing of Municipal Assistance Corporation bonds with State resources – the State would have surpassed the caps between 2003-04 and 2006-07. If the caps included all outstanding

²² See Article 5-B of the State Finance Law.

debt issued before April 1, 2001, the caps would have been breached from the beginning.

In order to effectively restrain the growth of State debt, a number of steps need to be taken beginning with defining debt, limiting its growth and increasing the transparency of its management.

The Comptroller's Plan for Debt Reform

Constitutionally Define State-Funded Debt

The Constitution should provide an unbending definition that includes all obligations that require State resources for debt service needs. By elimination of any discretion in what is to be considered a State debt, a more comprehensive and transparent accounting of the State's debt portfolio will be calculated, thus providing taxpayers and policymakers a clear understanding of current and future debt burdens.

Constitutionally Limit State-Funded Debt to Five Percent of Personal Income

All State-funded debt, currently outstanding and new, should constitutionally be limited to 5 percent of personal income by 2014 with very strict limitations on issuing debt outside this cap. As New York's outstanding State-funded debt currently equals 6.5 percent of personal income, it will be necessary to limit the issuance of new debt until outstanding debt is below the cap. If annual debt issuance is limited to 95 percent of the previous year, the State's outstanding debt should decline to 5 percent of personal income by 2013.

Create a Debt Management Board

The Comptroller's proposal creates a Debt Management Board to oversee and manage the State's debt portfolio. The Board would be made up of three members—the Comptroller, the Executive and a third member with financial expertise appointed by the other two. The Debt Management Board's duties would include publishing an annual statement of affordability, and creating standards and guidelines for issuing and managing debt within the State, including public authorities.

Constitutionally Require a Binding Annual Statement of Affordability

One of the Board's primary duties would be to publish an annual statement of affordability. This document will use historic, current and projected economic indicators to limit how much debt the State can afford to issue in any given year. This affordability limit shall be binding and no debt shall be issued above this annual limit.

End Backdoor Borrowing

The State should end the long tradition of circumventing the Constitution by using public authorities to borrow on the State's behalf. The Comptroller's proposal will end this practice by requiring that all State-funded debt be issued by the Office of the State Comptroller.

In addition, the Comptroller's proposal will require that the State can annually borrow up to \$1.0 billion or 3 percent of the outstanding debt cap, whichever is greater, without public referendum. Anything over this level must be approved by the voters. To do so, the Comptroller proposes allowing up to five debt initiatives for the ballot annually. This will force policymakers to prioritize debt needs and borrow what is necessary instead of what is wanted.

Improve Accountability and Transparency by Expanding the Oversight of the Public Authorities Control Board to Include Over 200 Authorities

The Public Authorities Control Board (PACB) was established in 1976 in response to the State's growing public authority debt burden. The Board has the power and duty to receive applications for approval of the financing and construction of any project proposed by 11 State authorities subject to its review. The Comptroller's proposal would expand the oversight of PACB to include an additional 200 authorities, classified as Class A and Class B in the Comptroller's Public Authorities Reform Package.²³

Mandate Intergenerational Equity and Present Efficiency with Standards and Guidelines

The Debt Management Board is charged with creating standards and guidelines to refine and standardize debt management practices. The State has taken advantage of a number of recently implemented management initiatives regarding variable rate debt and interest rate exchange agreements that have provided immediate financial savings. However, with these initiatives comes a level of future risk that may or may not outweigh current savings.

In order to keep costs and risks contained over a multigenerational period, it is important to create a standard now. Creating such standards and guidelines will ensure future equity is not diminished as a result of current policies.

²³ The Comptroller's Public Authority Reform package defines and categorizes public authorities within the State into four categories: Class A - major public authorities with Statewide or regional significance and their subsidiaries; Class B - entities affiliated with a State agency or created by the State that have limited jurisdiction, but a majority of the board is appointed by the Executive or other State official; Class C - entities with local jurisdiction; and Class D - entities with interstate or international jurisdiction.

Public Authorities

There are over 730 public authorities in New York State, operating at both the State and local levels. In contrast to State agency budgets, the budgets of public authorities are not presented for legislative review and adoption. As separate corporations governed by appointed boards of directors, each public authority adopts its own budget. Public authorities are required to report on their spending plans to the Executive and the Legislature 60 days in advance of the start of their fiscal years, which vary.

In addition to budget reports, public authorities are required to provide annual reports to the Executive, the chairs and ranking minority members of the legislative fiscal committees and the State Comptroller. The Comptroller's Office provides information about the finances of more than 50 major public authorities on its website. Additional information about public authorities, including a list of authorities, is also available (www.osc.state.ny.us).

Reform Efforts

Revelations about mismanagement and an overall lack of accountability among New York's public authorities resulted in a reform movement led by Comptroller Hevesi beginning in 2003. The Office of the State Comptroller has been placing increased emphasis on holding authorities accountable for their actions, and since 2003, eight reports and over 45 audits have been issued. These efforts, which shed light on public authority operations, will continue as the Comptroller's Office plans to conduct additional audits to reach all of the State's major public authorities in the coming years.

There are three public authority reform proposals that were introduced in 2004:

- The Comptroller's Public Authority Reform Act of 2004 (S.7301/A.11414), sponsored by Vincent L. Leibell in the Senate, and Sheldon Silver and Richard L. Brodsky in the Assembly. Originally proposed by Comptroller Hevesi and Attorney General Spitzer in February 2004, it is the most comprehensive of the three.
- The Public Authorities Accountability Act of 2004 (S.7292), sponsored by Leibell.
- The Independent Inspector General and Independent Budget Office Act (A.9010), sponsored by Brodsky.²⁴

²⁴ The Independent Inspector General and Independent Budget Office Act (A.9010) passed the Assembly on February 9, 2004. The same legislation (A00003) was reintroduced in the Assembly on January 5, 2005.

The Senate and Assembly also have been very active in monitoring public authority activities. Both the State Senate and Assembly have Standing Committees on Corporations, Authorities and Commissions, and have been holding hearings on authority reform.

The above-mentioned activities have had significant results, spanning the emergence of private sector action in support of reform, to increased public awareness through media coverage, to, most importantly, actual behavioral changes at public authorities. The Metropolitan Transportation Authority and the Long Island Power Authority have improved their budget processes and internal controls, and, in accordance with a recommendation by the Office of the State Comptroller, an independent private sector inspector general (IPSIG) has been appointed for the New York Racing Association. Also, the Canal Corporation's Board approved a resolution requiring a competitive process for all property transactions in response to criticism and rescission of a contract granting exclusive development rights along the canal system.

The Executive Budget contains several proposals relating to public authorities, including the creation of a Commission on Public Authority Reform, the creation of new authorities, the elimination/restructuring of existing authorities and appropriations to fund new programs to be provided by existing authorities.

Executive Budget Proposals

Commission on Public Authority Reform

On February 3, 2005, the Governor signed Executive Order 135 establishing the New York State Commission on Public Authority Reform (Commission), to be headed by corporate governance expert Ira Millstein. The Commission is similar to one proposed by Comptroller Hevesi and Attorney General Spitzer in the Public Authority Reform Act of 2004 introduced in both the Senate (S.7301 - Leibell) and the Assembly (A.11414 - Silver/Brodsky). It is intended to evaluate the operations of State and local authorities, develop principles and policies of effective governance and financial disclosure, and recommend if certain authorities should be eliminated, dissolved or consolidated. This Commission will build upon the work done by the Public Authorities Governance Advisory Committee, created by Governor Pataki in 2004 and headed by Millstein to aid in the implementation of the Model Governance Principles for Authorities.²⁵ The Governor's efforts respond to a series of audits, reports, legislative hearings and other findings that illustrated the need to increase the accountability of these quasi-governmental agencies.

²⁵ On February 19, 2004, a memo outlining "model practices," known as the Model Governance Principles for Authorities, drafted by Governor Pataki's Chief of Staff John P. Cahill, was sent to the heads of 31 public authorities. The memo requested an action plan be submitted to the Public Authorities Governance Advisory Committee for evaluation.

The 2005-06 Executive Budget recommends an appropriation of \$1.0 million for the services and expenses of the Commission. Legislation submitted with the budget provides for up to \$500,000 of the appropriated funds to be transferred or suballocated to the City University of New York and/or any other State department or agency for services and expenses related to training members of the boards of directors of public authorities in their legal, fiduciary, financial and ethical responsibilities.

New York Institute of Cultural Education

The Executive has proposed for four consecutive years the establishment of a new public authority, the New York Institute of Cultural Education. This proposal would move the operations of the State Archives, the State Library and the State Museum out of the State Education Department and into this new authority, shifting all costs and 400 jobs associated with these operations out of the State budget. To move these expenses off-budget would limit the public accountability to which these entities are currently held.

Privatizing SUNY Hospitals

For the third year, the Executive proposes a restructuring of three SUNY Health Science Centers—Brooklyn, Stony Brook and Syracuse—into private not-for-profit corporations. These corporations, like public authorities, would operate independently from the State with little or no oversight over contracts, staffing, governance and spending. Under this proposal, 10,000 full-time State employees would be shifted off-budget, and the SUNY hospital debt, eventually, could be removed from the State debt cap currently in effect. Again, movement of entities off-budget reduces public accountability.

State Gaming Commission

The Executive proposes the Gaming Reform Act of 2005 which would establish a State Gaming Commission and a Non-Profit Racing Association Oversight Board. These entities would coordinate licensing, investigation, regulatory oversight and law enforcement related to video lottery gaming, horse racing, charitable gaming and tribal State compacts, taking over the functions currently performed by the Division of the Lottery and the Racing and Wagering Board. The proposed legislation also would repeal certain provisions of the Racing, Pari-Mutuel Wagering and Breeding Law that relate to three active public authorities: the Agriculture and New York State Horse Breeding Development Fund, the New York State Thoroughbred Breeding and Development Fund, and the New York State Thoroughbred Racing Capital Investment Fund.²⁶ The Act also proposes a onetime, advance payment of a \$250 million franchise fee for anyone bidding to run New York's three thoroughbred race tracks when the New York Racing Association's (NYRA's) contract expires at the end of calendar year 2007.

²⁶ Chapters 1006 and 1007, Laws of 1983. Racing, Pari-Mutuel Wagering and Breeding Law, Section 330, 245, and Article 2-A. Article VII legislation also repeals legislation related to the Quarter Horse Breeding and Development Fund, a public authority that is no longer active, but still exists in statute.

NYRA's ability to pay the fee in order to renew its contract with the State is questionable taking into consideration recent financial mismanagement.

Transportation Authorities

There are numerous appropriations and legislative changes associated with transportation authorities outlined in the Executive Budget. One of the most notable is \$1.67 billion in new appropriations to fund the Executive's proposed initiative to restructure the Metropolitan Transportation Authority (MTA).

The Authority is currently comprised of three independent entities: the MTA, MTA New York City Transit and MTA Bridges and Tunnels. The MTA has five subsidiaries: MTA Staten Island Rapid Transit, MTA Long Island Rail Road, MTA Long Island Bus, MTA Metro North Railroad and MTA Capital Construction. MTA New York City Transit, which operates the New York City subway and bus systems, has one subsidiary—MTA Manhattan and Bronx Surface Transit.

Article VII legislation would restructure existing MTA operating agencies into five distinct companies—MTA Rail Road, MTA Subway, MTA Bus, MTA Capital and MTA Bridges and Tunnels. The proposal would repeal existing sections of the Public Authorities Law creating the MTA and its constituent agencies and would create the new agencies that combine like functions. This initiative comes in the wake of the MTA's recent financial troubles, discussed in several reports issued by the Office of the State Comptroller.²⁷

Article VII legislation that amends the Transportation Law and Public Authorities Law to establish the Transportation Facility Development Partnership Program is proposed. Under this program, the MTA, Thruway Authority and Department of Transportation (DOT) may solicit, consider and accept private, in addition to public, proposals for transportation projects. The goal of this bill is to increase private sector participation in transportation projects and reduce the need for public resources. Likewise, proposed Article VII legislation would allow the Thruway Authority and DOT to utilize a design-build project delivery process for a limited number of capital projects. Design-build processes combine design work and construction activities into a single contract.

The Executive also proposes Article VII legislation adjusting State transit aid to the Rochester Genesee Regional Transportation Authority (RGRTA) to include the addition of Seneca and Orleans counties to the RGRTA service district. New appropriations of \$18.4 million for RGRTA operating expenses are proposed to be split among the counties RGRTA services according to the schedule provided in the Article

²⁷ Office of the State Comptroller. (1) *An Examination of the Finances of the Metropolitan Transportation Authority*, April 2003, (2) *Review of the Financial Plan for the Metropolitan Transportation Authority*, December 2003, (3) *Review of the Proposed Financial Plan and Capital Program for the Metropolitan Transportation Authority*, October 2004.

VII legislation. If the two new counties are added, together they would account for approximately 1.48 percent, or \$272,400 of this State aid.

Empire State Development Corporation

The Executive proposes \$428 million in new appropriations to the Empire State Development Corporation (ESDC) to support economic development and capital initiatives, such as Operation SPUR programs to assist in creating high technology jobs and business opportunities in Upstate New York, the JOBS NOW program for large-scale projects to create new jobs, and the New York State Technology and Development Program for priority high-technology and economic development capital initiatives. The Executive also includes \$300 million in support of the New York Sports and Convention Center on the West Side of Manhattan. Article VII legislation authorizes the Urban Development Corporation, or other public authorities if appropriate, to issue bonds to finance the State's share of construction costs of the Sports Center in the 2006-07 fiscal year.

Power for Jobs

The Power for Jobs (PFJ) program is an economic development program that provides low-cost power to over 700 businesses and not-for-profits, supporting the continuation of over 300,000 jobs throughout New York State. Article VII legislation provides for a one-year extension of the PFJ program, and authorizes the New York Power Authority (NYPA) to deposit \$75 million in the General Fund to both support the program and to reimburse the State for costs associated with the gross receipts tax credit offered to utilities. The Financial Plan projections show three years of revenue flowing from NYPA to the State, projected to be \$75 million in 2005-06, \$100 million in 2006-07 and \$100 million in 2007-08. The Executive has statutorily extended the PFJ program for only one year, even though three years of funding are provided in the Financial Plan. It is questionable whether NYPA will have the authority to deposit the General Fund revenues in support of the PFJ program beyond the one-year extension.

Public Authority Debt

Public authorities have the power to levy user fees and charges, but not taxes. Most public authorities have the ability to borrow funds by issuing debt. Debt for the authority's own purposes may be subject to statutory debt caps but is not subject to overall State or local government debt limits.²⁸ As of April 2004, the Comptroller's Office had surveyed 212 State public authorities and two international or bi-state authorities, finding that these authorities have approximately \$114.6 billion in outstanding debt—a figure larger than New York State's annual budget and the budgets of any other State, except California.

²⁸ All State-supported debt issued by authorities after April 1, 2000 is subject to the State debt limit.

As of March 31, 2004, the level of outstanding State-funded authority debt had increased to an estimated \$43 billion (more than 90 percent of total outstanding State-funded debt).²⁹ In 1985, approximately 60 percent of total State-funded debt was attributed to public authorities. The Capital Plan included in the 2005-06 Executive Budget projects significant growth in authority debt, which is expected to account for more than 95 percent of State-funded debt outstanding in 2009-10. Over the life of the Capital Plan, public authority-related debt service costs increase nearly 49 percent from \$3.5 billion in 2004-05 to \$5.2 billion in 2009-10, primarily because of the rapidly declining use of voter-approved, General Obligation debt.

The use of debt by authorities continues to be a problem. Authorities moving away from their original missions, and the creation and use of authorities for the sole purpose of providing budget relief are evident in three different actions by the Legislature and the Executive in the last three years:

- the use of the Municipal Bond Bank Agency (MBBA) to issue \$511 million in bonds to pay accumulated prior year claims for State aid to education,
- the creation of the Tobacco Settlement Financing Corporation (TSFC) as a subsidiary of MBBA to issue \$4.6 billion in bonds backed by anticipated funds to be received by the State of New York under the Master Settlement Agreement (MSA) entered into in 1998 by the State, the other "settling jurisdictions" and certain participating cigarette manufacturers, and
- the establishment of the Sales Tax Asset Receivable Corporation (STARC) to issue \$2.6 billion in bonds in order to refinance the Municipal Assistance Corporation (MAC) for the City of New York's remaining debt obligations, extending a 25-year old debt out an additional 30 years.³⁰

These actions, resulting in \$7.7 billion in additional State-funded debt, are described in detail in *New York State's Debt Policy: A Need for Reform*.³¹

Debt Limits/Bond Caps

As public authorities reach their limit on the amount of bonds that can be issued for a specific program, legislation is needed to statutorily increase the cap. The Executive Budget annually proposes increases in these authorizations in order to finance capital programs. This year the Executive proposes increases in three Empire State Development Corporation (ESDC) bonding programs, two Dormitory Authority of the State of New York (DASNY) programs, two Thruway Authority programs, a Housing Finance Agency (HFA) program and an Environmental Facilities Corporation (EFC)

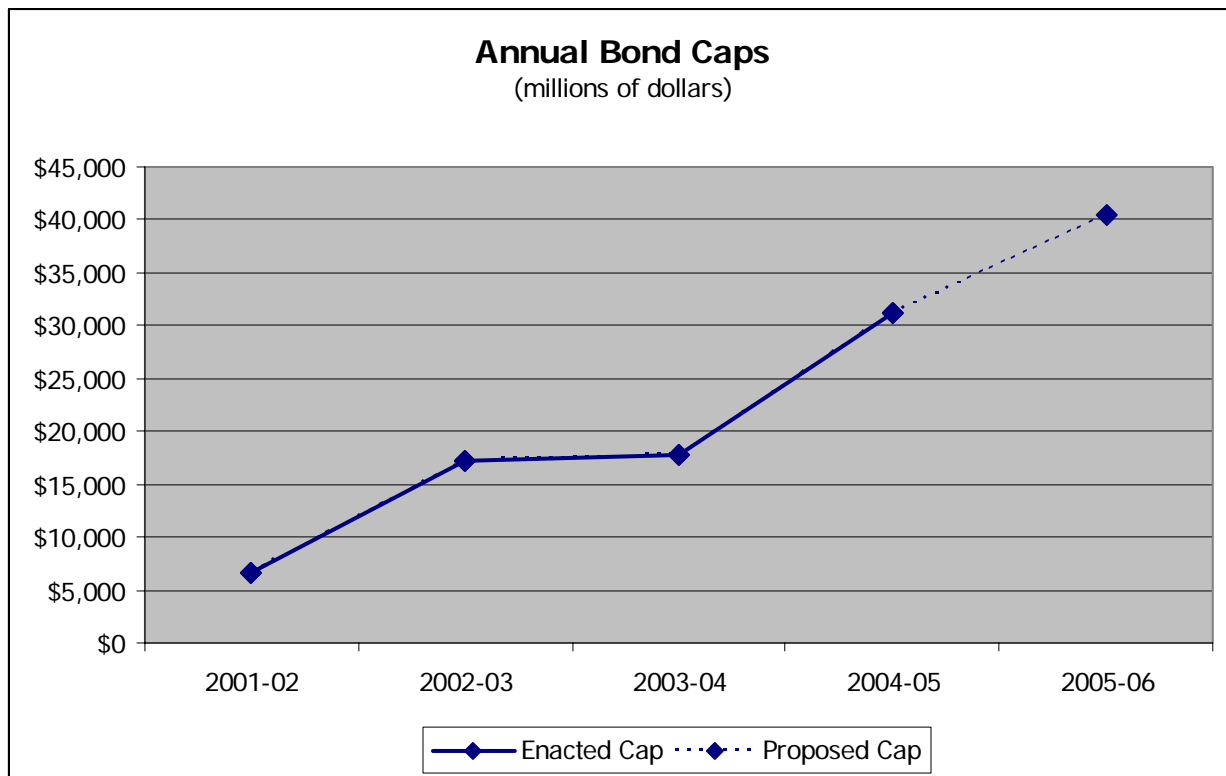
²⁹ For a definition of State-funded debt, please see *New York State's Debt Policy: A Need for Reform*, Office of the State Comptroller, February 2005. The figures cited for State-funded authority debt are as counted on a GAAP basis.

³⁰ Technically, the Sales Tax Asset Receivable Corporation is a local development corporation but is included in the Comptroller's broader definition of public authority.

³¹ Office of the State Comptroller. *New York State's Debt Policy: A Need for Reform*. February 2005.

program. There are also eight bonding programs proposed that can be financed with State Personal Income Tax (PIT) Revenue Bonds and are authorized to be issued by any Authorized Issuer (i.e. ESDC, DASNY, Thruway Authority, HFA, or EFC).

The 2005-06 proposals represent a 30 percent increase in the current bond cap for these programs. As shown in the chart below, the State has raised bond caps from \$6.6 billion in 2001-02 to \$31.2 billion in 2004-05, an increase of 373 percent in just four years. The 2005-06 Executive proposal recommends an increase of another \$9.3 billion, raising the bond cap to \$40.5 billion. Should the Legislature enact this proposal, the bond cap will have increased 514 percent over a five-year period.



Summary Statistics

This year's Executive Budget presentation describes and provides summary statistics for 33 public authorities:

- The 2005-06 Executive Budget provides \$2.9 billion in new appropriations to eleven of these public authorities, up from \$787 million in 2004-05. Four authorities—MTA (\$1.7 billion for restructuring initiative), ESDC (\$428 million for various economic development and capital initiatives), TSFC (\$357 million in contingent appropriations for debt service) and the Local Government Assistance Corporation (\$348 million for debt service)—account for more than 95 percent of the appropriations.

- Estimated revenues for the authorities' 2005-06 fiscal years total \$25.5 billion, while expenses are estimated at \$15.6 billion. Debt service requirements are estimated at \$9.3 billion.
- As of September 30, 2004, 27 of these authorities have outstanding bonds totaling \$111.7 billion.
- Fourteen authorities planned to sell new debt totaling \$7.3 billion in the 2004-05 fiscal year. For the 2005-06 fiscal year, 12 authorities planned sales of new debt totaling \$8.8 billion.³²
- In addition to the 33 entities included in the Executive Budget data about public authorities, information can be found throughout the Budget on several entities which the Comptroller's Office has defined to be public authorities, including the State University Construction Fund, the Hudson River Park Trust and the Olympic Regional Development Authority. A total of \$27.3 million in new appropriations are designated for these three entities in the 2005-06 fiscal year.

³² Since public authority fiscal years differ from the State Fiscal Year, 2004-05 numbers are for authority fiscal years including September 30, 2004. 2005-06 numbers are for authority fiscal years ending September 30, 2005.

Overview

On a school year basis, the Executive Budget provides an increase in overall school aid of \$526 million (3.4 percent) to \$15.86 billion. Of this amount, the Executive earmarked \$201 million for traditional State aid and \$325 million in operating aid for a Sound Basic Education (SBE). New York City would receive \$85 million of the traditional school aid increase and \$195 million of the SBE aid increase.

School Aid Summary By School Year (in millions)

Program	2004-05 Enacted	2005-06 Recommended	Difference
Operating/Flex Aid	\$8,312.4	\$8,433.9	\$121.5
Building Aid, Discretionary Grants and Miscellaneous Aid	\$6,405.7	\$6,490.9	\$85.2
Grant Programs and Other Aid Categories	\$619.2	\$613.9	(\$5.3)
Sound Basic Education (SBE) Aid	\$0.0	\$324.9	\$324.9
TOTAL	\$15,337.3	\$15,863.6	\$526.3

Source: New York State Division of the Budget

State Fiscal Year (SFY) baseline All-Funds school aid spending would be increased by \$731 million. Of this increase, \$321 million would be provided by the General Fund. The remaining \$410 million would be provided from other funds including lottery revenue. School aid represents \$13.23 billion (29 percent) of proposed overall General Fund spending on a SFY basis.

The Educational Conference Board (ECB) has estimated that for the 2005-06 school year an additional \$743 million over the amount of State school aid provided in 2004-05 would be needed to maintain the status quo.³³ The Executive's proposal of \$526 million for school year 2005-06 would underfund current programs by \$217 million. School districts will have to fill the gap between necessary funding and the Executive's proposal by increasing school property taxes. At the Executive's proposed funding level, ECB estimates that the average school district's property tax rate would need to increase by 5 percent to maintain current school district programs and services.

Campaign for Fiscal Equity and State Commission of Education Reform

Despite a New York State Court of Appeals order to propose a solution to the issues raised by the Campaign for Fiscal Equity (CFE) by July 30, 2004, the Executive and Legislature failed to present a plan by the mandated deadline. Days later, on August 3, 2004, State Supreme Court Justice Leland DeGrasse appointed a three-member Special Master panel to study and recommend ways to provide the 1.1 million school children of New York City with a sound basic education. Over the next two months, the Special Masters held several hearings where witnesses from CFE, the State and the City of New York presented testimony on issues of costing-out, accountability and formula reform.

In a report released on November 30, 2004, the Special Masters concluded that no later than 90 days from the date of the State Supreme Court's order, the State should implement a multi-year plan to provide New York City schools with an additional \$5.6 billion for operating expenses and \$9.2 billion in added funding for capital projects.³⁴ The New York State Supreme Court (Court) affirmed these recommendations on February 14, 2005.³⁵

Under the Special Masters' plan, operating funds would be incrementally increased over four school years. That is, each year an additional \$1.4 billion would be added to New York City's current annual operating funding until funding levels reach \$5.6 billion in school year 2008-09.

³³ The Educational Conference Board, County-by-County Impact of Alternative State Aid Scenarios for 2005-06. This estimate considers total increase of \$1.49 billion with costs shared 50/50 by the State and School Districts with \$743 million paid by each. The estimated increase in costs to school districts assumes salaries will increase 3.6 percent and fringe benefits by 10 percent, while all other costs will increase by 2.8 percent. The Educational Conference Board is a coalition of education organizations in New York State.

³⁴The Campaign for Fiscal Equity defines operating expenses as all school expenditures except transportation, capital facilities and debt service. Capital projects include the construction of new classrooms, laboratories, gymnasiums, auditoriums and libraries. *Campaign for Fiscal Equity, Inc. v. The State of New York. Report and Recommendations of the Judicial Referees.* November 30, 2004.

³⁵ The State Supreme Court explicitly stated that it is up to the Legislature to determine the State/City share and denied the City's request that it should not have to contribute toward the increase.

**Special Masters Recommended
New York City Education Funding**

Implementation Year	School Year	Additional Funding (billions)
Year 1	2005-06	\$1.41
Year 2	2006-07	\$2.82
Year 3	2007-08	\$4.22
Year 4	2008-09	\$5.63
Total		\$14.08

The Special Masters recommended that the State provide an additional \$9.2 billion for New York City school capital projects. This would be paid in equal amounts of \$1.84 billion over the next five school years.³⁶

**Special Masters Recommended
New York City School Capital Projects Funding**

Implementation Year	School Year	Additional Funding (billions)
Year 1	2005-06	\$1.84
Year 2	2006-07	\$1.84
Year 3	2007-08	\$1.84
Year 4	2008-09	\$1.84
Year 5	2009-10	\$1.84
Total		\$9.20

The Special Masters further recommended that the Court require the State to conduct periodic costing-out studies for both operating and capital costs to determine the future yearly costs of providing adequate funds to ensure a sound basic education for New York City students.³⁷ Finally, acknowledging that New York State currently has a good accountability structure in place, the Special Masters did not recommend a complete overhaul of the system as was once recommended by the Executive's Commission on Education Reform (Zarb Commission). Rather, the Special Masters recommended that certain enhancements be made to the existing accountability structure including a comprehensive planning process.

³⁶ These funds are intended to be in addition to the funds already needed for capital improvements to New York City school facilities. *Campaign for Fiscal Equity, Inc. v. The State of New York. Report and Recommendations of the Judicial Referees.* November 30, 2004.

³⁷The Special Masters recommendation indicates that the State should begin conducting costing-out studies no later than July 1, 2008 for operating costs and July 1, 2009 for capital costs.

On December 9, 2004, Justice DeGrasse ordered a hearing and briefing schedule regarding the Special Masters' report and recommendations. Since that time, attorneys for both sides have taken the following actions:

**Special Masters' Report
Briefings and Hearings Schedule**

DATE	ACTION
December 13, 2004	CFE submitted a motion to confirm Special Masters' recommendations and requested that Judge DeGrasse order the State Education Department commissioner to issue specific regulations requiring more public involvement in the City's comprehensive planning process.
December 16, 2004	CFE asked the Court to issue an order, in January 2005, requiring State lawmakers to comply with the Special Masters' recommendations. CFE also recommended that, beginning 90 days after Judge DeGrasse issues such order, the State be fined \$4.2 million for each day that it remains out of compliance with the order.
January 3, 2005	Attorneys for New York State urged the court to issue a declaratory judgment, and not a mandatory court order, to resolve the issue of how much money is needed to bring the State's funding system into constitutional compliance. Attorneys argued that the Court would become a lawmaking body for the State of New York if it were to direct the Legislature to budget a specified amount for education.
January 12, 2005	CFE urged the Court to issue an immediate order and confirm the Special Masters' recommendations. CFE asked Judge DeGrasse to issue his order by Friday, January 14, in advance of the January 18 release of the Governor's Executive Budget. Plaintiffs also reiterated their call for the Court to fine the State \$4.2 million per day (after a 90-day grace period) for its continuing failure to implement a suitable remedy.
February 15, 2005	CFE, with a task force of statewide organizations, has drafted the Schools for New York's Future Act, which transforms the Special Masters' recommendations into a statewide reform bill. CFE hopes to have this bill enacted into law in Spring 2005.

Source: Campaign for Fiscal Equity, Inc., www.cfequity.org

Instead of addressing the critical needs of schoolchildren in New York State, the Executive ignored the Special Masters' recommendations. The Executive's proposal addressing CFE is \$100 million less than proposed last year.³⁸ The Executive proposal of \$325 million statewide for SBE is also significantly less than the \$1.41 billion recommended for New York City alone by the Special Masters and confirmed by the Supreme Court. Further, the Executive calls for only \$195 million (60 percent) of the \$325 million to be dedicated to New York City schools, which they would receive in addition to the \$85 million increase in proposed general school aid, for a total increase of \$280 million. Under the Executive proposal, New York City would need to match approximately 40 percent (or \$78 million) of the State's \$195 million contribution to education in order to receive the appropriation.

³⁸ For school year 2004-05, the Executive proposed a matching grant program which made up to \$100 million in additional State funds (\$70 million, SFY) available for New York City as general school aid, provided the City allocated an equal match of those funds.

The Executive is calling for the entire \$325 million (\$227.5 million on a SFY basis) to be fully supported with video lottery terminal (VLT) revenues. For SFY 2005-06, the Executive again plans to increase VLT revenue by allowing up to eight new VLT centers and estimates that associated revenues will grow to \$2.0 billion and will stabilize at the level. There is little evidence that VLTs will provide the stable, consistent revenue stream needed to finance education reform. A failure to establish a predictable revenue stream for education may jeopardize school districts in establishing operating and long-term commitments.

The Executive has included a contingent lottery guarantee for the \$227.5 million of anticipated VLT revenues earmarked for education. That is, if VLTs do not generate the entire \$227.5 million, the balance would be made up with General Fund monies, a risk to the financial plan.

Also, in response to the CFE case, the Executive is proposing to fund New York City's school construction costs through the creation of a State matching program that will recognize certain legitimate construction costs that fall outside current cost allowances and provide \$2.8 billion in increased bonding authority to the Transitional Finance Authority (TFA) for school construction projects. New York City will be responsible for both the principal and interest payments on those bonds. The State will reimburse New York City for 60 percent of its eligible building costs.

Assuming all of New York City's building costs are eligible, the State could fund up to \$1.68 billion of the \$2.8 billion in construction costs--nearly \$16 million less than the court ordered \$1.84 billion for capital improvements to New York City schools in 2005-06.³⁹ However, this funding reimbursement would occur as part of the normal building aid process. In addition, actual disbursements of these funds are not expected to begin until next year and could last two or more years due to the State's policy of deferring reimbursements for school construction projects.

Accountability and Efficiency

The Court agreed with the Special Masters' finding that the current system of accountability is acceptable and ordered only that the State enhance the existing system through increased comprehensive planning efforts. Contrary to the Court affirmed Special Masters' recommendation, however, the Executive proposes the creation of an Office of Educational Accountability and Efficiency (OEAE) to monitor school performance, review and approve school improvement plans, provide enhanced financial oversight and promote increased efficiency. The Executive's Zarb Commission made a similar recommendation in 2004, in response to the Executive's request for a study of and recommendations for reforms to the education finance system in New York State.

³⁹ *Report and Recommendations of the Judicial Referees, Campaign for Fiscal Equity v. the State of New York*. November 30, 2004.

The Budget provides \$2 million to fund OEAE operating expenses—an appropriation which matches a \$2 million reduction in the Education Department's budget, described as a Management Efficiency program, to be developed by the Commissioner of Education and approved by the Division of the Budget. Thus, the Executive's recommendation is contrary to the Court affirmed Special Master's recommendation not only by creating a new process, where the Master found none was needed, but also by weakening the existing system for ensuring educational accountability (through additional cuts to the State Education Department's budget).

To address financial accountability and oversight, the Executive also proposes a \$2.9 million "sub-allocation" within the school aid appropriations, for audits of school districts and other providers of educational services, in accordance with a plan approved by the State Division of the Budget. In the original proposal, these funds were to flow through OEAE. However, the Executive's 30-day Amendments call for the funds to be sub-allocated "to any state agency" under an audit plan developed by the Commissioner of Education and approved by the Director of the Budget.

This comes after several requests by the New York State School Boards Association, the New York State Society for Certified Public Accountants, the New York State Council of School Superintendents, the New York State Association of School Business Officials, the District Attorney's of Nassau and Suffolk counties and editorial boards at the *New York Times*, *Newsday*, *Franklin Square-Elmont-West Hempstead Herald*, *Rockville Centre Herald*, *Rockland County Times*, *South Shore Press*, *Valley Stream Herald* and *Watertown Daily Times* for the Office of the State Comptroller to perform this task. Unfortunately, neither the original nor the amended proposal responds to the Comptroller's request for funding to hire auditors to establish a regular cycle of school audits needed to improve accountability and the public integrity of the State's school districts. In order to establish a regular cycle of such audits, the Office of the State Comptroller must be able to add staff and plan, which cannot occur under this approach.

Following the financial scandals in certain school districts on Long Island, the Comptroller requested \$5.8 million in resources to enable the Office of the State Comptroller to conduct regular financial audits of all school districts. To implement the program, the Comptroller redirected over \$1.2 million of existing resources. While the Office of the State Comptroller has responded quickly to these financial scandals in Long Island school districts by initiating a series of audits, this effort cannot be sustained or expanded to school districts statewide without additional funding in the Office of the State Comptroller's budget. Unfortunately, neither the original nor the amended proposal in the Executive Budget meets this need.

Under the model proposed by the Executive, funding is very uncertain, and the Executive could disallow particular audits or direct that the money be interchanged to other programs. Adding another layer of bureaucracy and Executive approval is clearly unnecessary, as the Comptroller's audits and financial accountability initiatives have already begun to address the crisis. It is also inappropriate to give the Executive

approval over school district audits, given the Comptroller's constitutional responsibility for financial oversight of all local governments in New York State, including school districts. Should the Executive's proposal be implemented, it would only serve to slow down audit presence at a time when this presence needs to be accelerated. Additionally, implementation of this plan would result in fewer audits and, given the conflicting needs of the Division of the Budget and the State Education Department, will diminish needed focus on public integrity issues.

In October 2004, Comptroller Hevesi proposed legislation that included a five-point plan for improving accountability at school districts.⁴⁰ The plan was developed in cooperation with representatives from the Office of the State Comptroller, the New York State School Boards Association, the New York State Society for Certified Public Accountants (CPAs), the New York State Council of School Superintendents and the New York State Association of School Business Officials. The working group also consulted with representatives from the State Education Department. The five-point plan, which has been submitted to the State Legislature, includes:

- enhancing the effectiveness of external audits that all school districts are required to obtain every year,
- establishing audit committees in school districts to ensure adequate oversight of audit findings and other accountability issues,
- requiring a competitive RFP process for selecting auditors when contracts expire, or at least every five years,
- creating an internal audit function within each school district while reforming current statutory requirements for the claims auditor, and
- requiring training for school board members on their financial oversight responsibilities.

The Executive's budget bills included parts of this legislation, but many components were left out or significantly altered. The Comptroller is working with both houses of the Legislature on the original bill.

School Aid

The Executive Budget for elementary and secondary schools reflects many initiatives rejected by the Legislature in past years and proposes reductions in several programs of school aid funding.

⁴⁰ *Five Point Plan – School Financial Accountability Coalition*. Office of the State Comptroller. October 26, 2004.

Flex Aid

The Executive again proposes merging selected operating aids into “Flex Aid” that would provide a total of \$8.4 billion in aid. Although slightly different than last year’s proposal, the intent is to reorganize operating and categorical aid into a “block grant.”⁴¹ Six aid categories are included in the Flex Aid proposal for school year 2005-06:

- Comprehensive Operating Aid,
- Extraordinary Need Aid,
- Educational Related Support Services Aid (ERSSA),
- Limited English Proficiency Aid,
- Summer School Aid, and
- Minor Maintenance.

The Executive proposes to increase Flex Aid funding by \$121.5 million (1.5 percent) to \$8.43 billion for the 2005-06 school year, (\$5.88 billion for SFY 2005-06) and indicates that nearly 70 percent of the increase will be targeted to the State’s 207 high-need school districts.

Discretionary Grant Programs

Proposed funding has been reduced for several discretionary programs for the 2005-06 school year, including Excess Cost-Private with a reduction of \$96 million (46 percent) to \$114.32 million and Growth Aid with a reduction of \$12 million (55 percent) to \$9.97 million, based on the existing statutory formula.

⁴¹ The Executive’s 2004-05 Flex Aid proposal called for the merging of Comprehensive Operating Aid, Extraordinary Need Aid, Educational-Related Support Services Aid, Limited English Proficiency Aid, Summer School Aid, Tax Limitation Aid, and Public Excess Cost Aid.

School Aid
School Year Payments
(in millions)

Program	Estimated 2004-05	Executive Budget 2005-06	Difference	Percentage Change
Formula Based Aids:				
Comprehensive Operating Aid	\$6,964.8	N/A	N/A	N/A
Extraordinary Needs Aid	1,090.9	N/A	N/A	N/A
ERSSA	72.3	N/A	N/A	N/A
Limited English Proficiency	104.1	N/A	N/A	N/A
Summer School	30.3	N/A	N/A	N/A
Minor Maintenance	50.0	N/A	N/A	N/A
Flex Aid Total	\$8,312.4	\$8,433.9	\$121.5	1.5%
Excess Cost - Public	\$2,266.2	\$2,346.2	\$80.0	3.5%
Excess Cost – Private	210.8	114.3	(96.4)	(45.8%)
Tax Limitation Aid	48.0	78.5	30.5	63.5%
BOCES	507.2	487.2	(20.0)	(3.9%)
Special Services (Career Ed./Computer Admin.)	135.4	134.6	(0.8)	(0.6%)
Textbook (incl. Lottery)	188.3	188.7	0.3	0.2%
Computer Software	46.6	46.4	(0.2)	(0.5%)
Computer Hardware	28.6	28.8	0.2	.9%
Library Materials	19.3	19.5	0.2	1.4%
Transportation (including summer)	1,151.5	1,200.8	49.2	4.3%
Pre-Kindergarten	201.8	201.8	0	0%
Class Size Reduction	138.1	138.1	0	0%
Building	1,396.4	1,423.5	27.1	1.9%
Teacher Support Aid	67.5	67.5	0.0	0%
Fund for Innovation	0	15.0	15.0	N/A
Subtotal	6,405.7	6,490.9	85.1	
Formula Based Aid Totals	\$14,718.1	\$14,924.8	\$206.6	1.4%
Grant Programs & Other Aid Categories				
Growth Aid	\$22.1	\$10.0	(\$12.1)	(54.9%)
Reorganization Incentive (Operating)	32.0	30.3	(1.7)	(5.4%)
Full Day Kindergarten	4.5	3.3	(1.2)	(26.1%)
Academic Achievement Awards	0	0.5	0.5	N/A
Teachers of Tomorrow	20.0	20.0	0	0%
Teacher Centers	31.0	31.0	0	0%
Teacher-Mentor Intern	6.0	6.0	0	0%
Other Programs with Little Change	503.6	512.8	9.2	1.9%
Subtotal	\$619.2	613.9	(\$5.3)	(0.9%)
SCHOOL YEAR TOTAL	\$15,337.3	\$15,538.6	\$201.3	1.3%
Sound Basic Education (SBE) Aid	0	324.9	324.9	N/A
TOTAL Including SBE	\$15,337.3	\$15,863.5	\$526.2	3.4%

LADDER

In 1997, the State enacted the Learning, Achieving and Developing by Directing Education Resources program (LADDER), which includes funding for universal pre-kindergarten (UPK), reduced class size, extended day school violence prevention, minor maintenance and repair, and full-day kindergarten. The Executive proposes for SFY 2005-06 to merge minor maintenance with five other programs to create Flex Aid. Consequently, the amounts of funding proposed for the specific components of this program are not available; however, the Executive is proposing to reduce school year funding for full day kindergarten by \$1.2 million (26 percent). In addition, the Executive is proposing to hold UPK, reduced class size funding and extended day school violence prevention at the school year 2004-05 levels of \$201.8 million, \$138 million and \$28.7 million, respectively. An additional \$2.9 million for UPK and \$1.9 million for class size reduction are also being included in other aid categories for eligible participants.

UPK and New York State

In 1997, Governor Pataki and policymakers committed to funding UPK and making the program available to all four-year olds in the State.⁴² While the Legislature continued to support the UPK program, the Executive has been less consistent in its support. Since that time, the Executive has provided funding for UPK ranging from \$0 to \$205 million. Such inconsistency has resulted in the reluctance of school districts to adopt or expand this program due to concerns regarding future State support for this valuable program.

According to a newly released study by the National Institute for Early Education Research, while New York State currently ranks fifth, nationwide, in terms of the number of 4-year olds who have access to UPK programs, only about 25 percent of 4-year olds in New York State were able to enroll in State-funded programs in the 2002-03 school year.⁴³ Today, fewer than half of all New York's roughly 700 school districts have UPK programs.⁴⁴

Studies have shown lifetime benefits for students who have attended Pre-Kindergarten, including a higher ratio of homeownership, increased wages and a lower percent of criminal justice activity than those who do not attend. In a recent national survey of kindergarten teachers, 93 percent agreed that children enrolled in pre-kindergarten would be more likely to succeed in school.⁴⁵

⁴² Karlin, Rick. "State Ranks High in Pre-K, but Still Falls Short, Critics Say; Pataki, Lawmakers Have Yet to Provide Funding to Make it Available to All." *The Times Union*. November 27, 2004: B5.

⁴³ *The State of Preschool: 2004 State Preschool Yearbook*. National Institute for Early Education Research. 2004.

⁴⁴ Karlin, Rick. "State Ranks High in Pre-K, but Still Falls Short, Critics Say; Pataki, Lawmakers Have Yet to Provide Funding to Make it Available to All." *The Times Union*. November 27, 2004: B5.

⁴⁵ National Kindergarten Teacher Survey, 2004. Conducted for the Fight Crime: Invest in Kids organization by Mason-Dixon Polling & Research.

Building Aid

For school year 2005-06, the Executive would provide \$1.42 billion in State funding for construction of school facilities, representing an increase of \$27 million (1.9 percent) for this expense-based aid. State aid for all construction projects would be paid over the useful life of the project.⁴⁶ The Executive Budget proposes the following reforms for Building Aid:

- **Simplified State Aid Calculation** - Under the cost-neutral proposal, the Executive again proposes a change to the Building Aid formula. Rather than solely basing funding distribution on the type of space requested, space needs and current and future enrollments would be a priority.
- **State Clearinghouse for Efficient Construction Practices and Designs** - The Dormitory Authority of the State of New York would be made available to provide advisory and technical services to school districts for efficient construction and design practices.
- **Extension of Payment Reforms for New Projects** - Payment reforms enacted in 2004-05 (set to expire July 1, 2005) that allow payment for prior building aid up to 18 months after the start date or the date a contract is on file with the Commission of Education would be made permanent.
- **Repeal of the Wicks Law** - The Wicks Law requirement of using multiple contractors for all school districts would be eliminated, with an estimated savings of new school construction costs of more than 10 percent.
- **New York City School Facility Needs** - To assist New York City Schools with their facility needs, the Executive is proposing the following measures:
 - An increased Bonding Authority for New York City in response to the CFE case.
 - A State matching program that will recognize certain appropriate construction costs that exceed current cost allowances.
 - A plan to streamline the existing procurement processes to make school construction cost-efficient.
 - State Education Department (SED) advisory reviews of New York City school construction plans to promote greater conformity between actual project costs and established State cost allowances.

⁴⁶ The useful lives of projects are defined as follows: 15 years for reconstruction, 20 years for major construction/additions and 30 years for new buildings.

Transportation Aid

The Executive proposes funding Transportation Aid at \$1.2 billion, an increase of \$49.2 million (4.3 percent).

BOCES

The Executive again proposes changes for the Boards of Cooperative Educational Services (BOCES) to promote regional cost-efficiency. Proposed funding of \$487.2 million reflects a decrease of nearly \$20 million (4 percent). However, if the Executive had proposed an appropriation consistent with the present law formula in place in SFY 2004-05, the actual reduction would total \$55.1 million.

The funding decrease would result from the Executive requirement that the BOCES Aid allocation for each school district be the lesser of the amounts provided in the 2004-05 school year or generated under the existing statutory formula. Such an action would deny districts BOCES Aid for costs already incurred, again causing a direct shift in responsibility for these costs to the local taxpayer. The Executive Budget again proposes elimination of aid for routine administrative services, an action that would be particularly harmful to poor rural districts that rely heavily on BOCES. In addition, the Executive would require BOCES to demonstrate savings compared to existing State contract prices available through the Office of General Services. The Executive proposal encourages shared service arrangements between school districts and other local government offices to facilitate operational cost savings.

Special Education

The Executive again proposes reducing the average State aid ratio used in calculating aid for private special education programs from 85 percent to 49 percent. This reduction to the level used for public schools is projected to reduce Private Excess Cost Aid by nearly \$46 million to \$114 million. If the Executive had not modified the reimbursement ratio, present law funding for this program would have required an additional \$105 million.

Teachers

The Executive proposes to maintain funding to programs aimed at recruiting, retaining and training teachers at 2004-05 levels. Specifically, funding for the following four programs is recommended as follows:

- Teacher Support Aid - \$67.48 million,
- Teacher Centers - \$31 million,
- Teacher-Mentor Intern program - \$6 million, and
- Teachers of Tomorrow - \$20 million.

The Executive proposes that 60 percent, or up to \$12 million, of funding from Teachers for Tomorrow be targeted toward New York City.

Prior Year Claims

Funding for Prior Year Claims would remain flat at 2004-05 levels. These funds are already owed to the school districts from revised aid claims in previous years but the State generally only pays a small proportion of these claims each year. For school year 2005-06, the Executive Budget earmarks \$28 million to be available for this purpose.

Other

Proposed aid for small city school districts would be continued at \$81.9 million for the fourth year in a row. In addition, the Executive proposes to maintain Employment Preparation Education (EPE) at \$90 million. EPE is a program that provides funding to public school districts and BOCES that offer educational programs for adults leading to a high school diploma or a high school equivalency diploma.

School Tax Property Relief Program (STAR)

The Executive projects that spending for school tax property relief (STAR) benefits will increase \$130 million from 2004-05 to \$3.2 billion for 2005-06. Under STAR, funds are provided for enhanced exemptions for senior citizens and homeowners, as well as New York City Personal Income Tax reductions to offset cost increases of school property taxes. The Executive also proposes the following changes to the current program:

- **Cap on School Spending Increases** - The Executive again proposes legislation to cap school budget increases to the lower of 4 percent or 120 percent of the change in the Consumer Price Index (CPI).
- **Inflation Credit** - The Executive also proposes a new State income tax credit available to homeowners living in school districts that keep school property tax increases within the limits proposed above. It is estimated that these residents would realize additional STAR savings totaling \$48 million. This savings has been estimated to average about \$18 for the basic recipient and about \$28 for those eligible for the enhanced program.
- **School Property Tax Report Card** - The Budget proposes expanding the School Property Tax Report Card to display the three-year change in school tax levy compared to the change in the CPI.

Education Programs - Other

Four categorical education-related programs are proposed to be reduced by about 10 percent for 2005-06, reflecting a net reduction of \$1.5 million. Funding for the Consortium for Worker Education (CWE), a not-for-profit organization which provides adult education services to union members and workers in New York City, would be reduced by \$1.15 million to \$10.4 million. Funding for Apprenticeship Training, provided to local education agencies to fund apprenticeship programs, would be reduced by \$174,000 to \$1.6 million. Hurd Advances, loan payments used to make contributions to the teachers retirement system in city districts that have exceeded their constitutional local tax limits, would be reduced by \$52,000 to \$310,000. Funding for Workplace Literacy—provided to labor organizations for literacy and job skills programs, would be reduced by \$130,000 to \$1.2 million.

Other Proposals

Similar to last year's Executive proposal, Article VII legislation submitted with the Executive Budget would make a number of programmatic changes.

- **New York Institute for Cultural Education (NYICE)** - Again this year, the Executive proposes restructuring the State Education Department (SED) by transferring functions not directly related to education (such as the State Museum, State Library and State Archives) to a new public authority, the New York Institute for Cultural Education (NYICE). The proposal includes the transfer of 400 positions from the SED to NYICE effective October 1, 2005.

The finances for this new public benefit corporation would not be reflected in the State budget, undermining public accountability. In addition, under existing law, lawmakers would have no oversight of spending, hiring and actual numbers employed by the corporation. The Executive has unsuccessfully proposed restructuring the Department for the last five years.

- **School Voting Reform** - The Executive would reform the school voting process by expanding access to polling places, setting a single statewide revote day, requiring a single voting day for bond resolutions, extending voting hours and improving supervision by excluding participants who may have conflicts of interest.
- **Fund for Innovation** - The Proposed Budget includes a \$15 million fund for the Big Five City School Districts to support public-private partnerships that integrate technology into the classroom.
- **Public Broadcasting Facilities Assistance Program** - The proposal provides \$15 million of additional bonding authority to provide matching grants to public television and radio stations for capital improvements. These

funds are intended to help public broadcasting stations to comply with the FCC mandate that all public television stations convert to digital technology by May 2006.

- **Health Education Program** - The Executive proposes a \$750,000 Health Education Program to consolidate all of the programs previously funded under the comprehensive school health demonstration, school health demonstration project and AIDS prevention education programs.
- **Performance Initiatives** - The Executive proposes a number of initiatives to reward schools for academic performance and efficiency, including the establishment of a \$500,000 Academic Achievement Awards program.
- **Expansion of the Cultural Education Account** - The Executive proposes expanding the use of special revenue funds in the Cultural Education Account to support the Summer School of the Arts, the New York State Theatre Institute (NYSTI), and the Nelson A. Rockefeller Performing Arts Center Corporation (PACC).
- **Maintenance of Effort and School Board Mayoral Role for Big Cities** - The Executive has proposed a maintenance of effort (MOE) provision for the dependent school districts of Buffalo, Rochester, Syracuse and Yonkers. If approved, these cities would generally be prohibited from reducing local support for schools. New York City already has a MOE in place. Additionally, the Executive has proposed giving the mayors of Buffalo, Rochester, Syracuse and Yonkers the ability to appoint two members to the school boards, while the Albany mayor would be allowed to serve as a non-voting member of that city's school Board.

The Executive Budget proposes a modest increase in General Fund support for SUNY and CUNY colleges and universities of 1.5 percent and 4.5 percent, respectively. The Executive proposes an increase of \$113 million in revenue appropriations for both college systems funded through a \$500 SUNY and \$250 CUNY yearly tuition increase. Supplemental student financial aid for three opportunity programs is slated for elimination; one program would be cut by 50 percent and the remaining programs would be funded at 2004-05 budget levels. The Executive Budget again proposes to restructure the Tuition Assistance Program (TAP) program in such a way as to allow the State to withhold one-half of a student's award until after graduation. In addition to multiyear Capital Plans for SUNY and CUNY, a capital investment program similar to the one proposed last year is included, which would provide matching grants to both public and private colleges and universities.

SUNY and CUNY State Campuses

The Executive Budget proposes a combined \$60.8 million modest increase for senior college General Fund support totaling \$2.6 billion. Funding for the revenue offset accounts is generated via proposed tuition increases at both SUNY and CUNY colleges and universities of \$500 and \$250 per year, respectively. This effectively would increase SUNY tuition by 11.5 percent from \$4,350 to \$4,850 per year and CUNY tuition by 6.3 percent from \$4,000 to \$4,250 per year. The proposed tuition increase is considerable when added to the 28 percent SUNY tuition increase of \$950 per year and the 25 percent CUNY tuition increase of \$800 per year that occurred just two years ago in the 2003-04 Budget.

The Executive Budget is proposing Article VII legislation authorizing the Board of Trustees at SUNY to adopt a policy allowing annual incremental tuition changes based on an inflation index such as the Higher Education Price Index (HEPI). If used, the HEPI, which has historically grown faster than inflation as measured by the commonly used Consumer Price Index (CPI), would cause the cost of education to rise more rapidly than all other goods and services in the economy. Unless financial assistance rises at the same rate, the cost of education at a State college or university could easily rise to levels beyond the ability of low income students to pay. This would be in direct conflict with public higher education's goal of providing low cost and accessible, quality education for all New York State students.

The Executive Budget also attempts to transfer authority to the Board of Trustees by giving them greater control over tuition levels. The proposed legislation seeks to:

- Freeze tuition for incoming resident freshmen at SUNY colleges and universities for four years. However, if financial support is reduced from prior year levels or the allocated amount is insufficient to cover contracted salary increases and other mandatory costs, the four-year tuition contract could be voided and tuition costs could rise above indexed levels.
- Allow trustees to establish differing tuition rates between SUNY doctoral campuses and non-doctoral campuses.
- Give the trustees authority to raise tuition prior to the enactment of the State Budget.

Capital Investments

Despite New York's designation as the second most indebted State in the nation, the 2005-06 Executive Budget calls for the authorization of additional debt for capital projects as a supplement to Capital Investments authorized in the 2004-05 Budget. The supplemental debt will raise the total bond cap for SUNY and CUNY colleges and universities by 3.65 percent from State Fiscal Year (SFY) 2004-05 to over \$10 billion.

Senior and Community Colleges

The 2004-05 Budget created a new five-year Capital Investment Program that provided a total of \$2.9 billion to help respond to the needs of SUNY and CUNY State funded senior colleges. This year, the Executive Budget allocates an additional \$323.4 million in bonded funds, of which \$231.9 million would be used for specific priority projects, while the remaining \$91.5 million would be earmarked for discretionary campus-wide capital needs. When combined with the 2003-04 capital authorizations, SUNY and CUNY would have over \$4.2 billion available for capital projects over a multi-year period.

- The Executive proposes an additional \$234.4 million in State bonding for SUNY senior and community colleges, hospitals and residence hall capital projects. Of the \$234.4 million available, \$50 million has been set aside for miscellaneous capital needs, such as campus health, safety, preservation and other priority projects.
- The Executive proposes an additional \$89 million in State bonding for CUNY senior and community college capital projects. Of this amount, \$41.5 million would be used for various need based capital projects such as campus health, safety, preservation and handicapped access projects.

Higher Education Capital Matching Grants

The Executive Budget again proposes a new \$250 million higher education facilities capital matching grants program. This program would provide funding over the next five years for both public and private colleges and universities in New York. The State would match one-third of the amount provided by educational institutions, which would compete for \$150 million in capital grants made available for facilities and equipment, while private colleges would be allocated the remaining \$100 million in matching grants based on enrollment and student financial need. Grant applications would be reviewed and approved by a Higher Education Capital Investment Review Board comprised of seven members appointed by the Executive, including recommendations by the Legislature.

Community Colleges

Proposed State funding is increased by a net of \$2.7 million (0.7 percent) from 2004-05 for SUNY community colleges to \$369.4 million. This amount would support \$2 million in start up funds for the new Partnership to Accelerate Completion Time (PACT) program that is designed to create financial incentives for colleges and universities to help ensure students graduate within two years. The remaining \$700,000 in additional funding is for the support of enrollment growth. The current rate of \$2,235 per full-time equivalent student is maintained at prior enacted 2004-05 budget levels.

The Executive Budget proposes increasing State funding by a net \$3.7 million (2.5 percent) to \$151.9 million from 2004-05 for CUNY community colleges. The proposed increase would support \$3.2 million in additional funding for enrollment growth, \$500,000 to address start-up costs of the PACT program and \$400,000 in rental aid for leased space, but reflects a decrease of \$400,000 in supplemental student financial aid due to the elimination of the College Discovery Program. The current rate of \$2,235 per full-time equivalent student is maintained at prior enacted 2004-05 budget levels.

From 2000 to 2004, fall enrollment increased an average 3.7 percent annually for SUNY and CUNY community colleges, while State General Fund support has averaged 3.2 percent per year for SUNY and 2.7 percent per year for CUNY.⁴⁷

⁴⁷ Average annual General Fund support percentages are calculated using the Executive Budget's "available" 2000-01 through 2004-05 estimates.

SUNY and CUNY Community College Fall Enrollment

	2000	2001	2002	2003	2004	Average Annual Percent Change
SUNY	181,448	189,085	198,525	204,437	209,650	3.7%
CUNY	63,095	63,497	68,044	70,137	72,853*	3.7%

Source: SUNY Office of Institutional Research and Analysis and CUNY Office of Institutional Research Assessment.
 *2004 Enrollment data for CUNY Community Colleges is preliminary.

Community colleges are traditionally considered a low-cost point of access to higher education. Unlike senior colleges, community college tuition rates are established by the individual college's Boards of Trustees. Adequate State aid creates incentives for community colleges to keep tuition affordable for many students; conversely, cutting aid could result in increases in tuition, thereby making community colleges less accessible to students with lesser means.

Financial Aid and Performance Incentives

The Executive Budget proposes \$738.5 million in TAP aid representing a decrease of \$168.1 million (18.5 percent) from 2004-05. Again this year, the Executive Budget includes a proposal for restructuring TAP similar to the one proposed in 2004-05 that would have required the withholding of one-third of a student's award. Similar proposals in prior years have consistently been rejected by the Legislature.

In addition to changes in TAP funding, the Executive proposes a new Partnership to Accelerate Completion Time (PACT) program that provides financial incentives to colleges and universities that are able to increase the number of students graduating on time.

Tuition Assistance Program Restructuring

Under the Executive's proposal, TAP eligible students will only receive one-half of their per semester award, deferring the receipt of the other half until all requirements for degree completion are met. The remaining one-half of the TAP award will be granted upon graduation and will include any interest charges accrued on federal student loans needed to compensate for the funding gap. Under the new TAP funding language, what is considered "reasonable progress" toward completion of a degree program is clearly defined on a per semester basis, which includes specifications for minimum overall Grade Point Average (GPA) requirements and credit hours completed.

Strictly Defined "Reasonable Progress"

Minimum Levels of Progress				
4 or 5* Year Bachelor's			2 Year Associate's	
Semester	Credit Hours	GPA	Credit Hours	GPA
1 st	0	0.0	0	0.0
2 nd	6	1.3	6	1.3
3 rd	15	1.5	12	1.5
4 th	21	1.7	18	1.7
5 th	33	2.0	30	2.0
6 th	45	2.0	45	2.0
7 th	60	2.0		
8 th	75	2.0		
9 th *	90	2.0		
10 th *	105	2.0		

* Note: The 9th & 10th semesters are for degrees that normally require five years for completion.

In addition, each college or university must certify that its TAP students are in full-time attendance by submitting a form no earlier than 45 days after the start of the academic semester, quarter, or other term of attendance and certifying that each TAP student is not currently in default of any federal student loan. Failure to certify either of these two components will result in the student being considered ineligible for a TAP award.

As structured by the Executive, the TAP proposal calls for students to finance the portion of the award that is withheld until graduation through federal student loans. If students have already exhausted their federal student loan eligibility, the Executive has provided a \$6 million TAP loan component to replace the withheld TAP funds. The State would cover all interest costs associated with financing the performance award so long as the student remains in good standing and meets the minimum standards for reasonable progress towards degree completion.

Federal Funding

A key component in the Executive's proposed restructuring of TAP is that students who lose State financial aid can make up the difference with federal loans. Unfortunately, the federal government is also using students to bridge the gap between revenues and expenditures. Reports have estimated that 90,000 U.S. students will lose their eligibility and 1.3 million will see a reduction in Pell Grant awards for the 2005-06 academic year, as a result of a proposed change by the U.S. Education Department in the formula used to calculate a student's need for this federal aid.⁴⁸ To understand the

⁴⁸ Burd, Stephen. "Change in Federal Formula Means Thousands May Lose Student Aid." Chronicle of Higher Education. January 2005.

overall impact to State education, in 2002-03 (most recent data available), more than 358,000 New York State students received Pell Grants worth a total of \$937.0 million, averaging \$2,190 per student.⁴⁹ If the proposed changes to Pell Grants and TAP are enacted, students would be doubly impacted by both a reduction or elimination of Pell monies and the loss of half their TAP award. Under these circumstances, students would face a significantly higher debt burden, further compounded by the additional Executive proposal to increase tuition at both SUNY and CUNY colleges.

Performance Incentives for Improving College Completion Rates

The PACT program is designed to create incentives for timely and successful student graduation and would be established at all SUNY and CUNY campuses beginning in the 2005-06 academic year. Colleges would commit to providing all courses of study necessary for students to graduate in a timely fashion, and all students enrolling in the PACT program would agree to maintain continuous enrollment, meet all academic coursework requirements and maintain a good academic standing. Students in the program would need to declare a major prior to registration of their third semester and would have two years to complete an associates degree and four years to complete a bachelors degree, unless the baccalaureate program normally takes five years to complete.

Under the PACT program, colleges would be given a base financial award equivalent to \$50 for each first time, full-time student enrolled in the program. Additionally, for a PACT student graduating within the specified timeframe, participating institutions would receive a lump sum payment of \$500 dollars for granting a bachelor's degree or \$250 for granting an associate's degree. Institutions failing to provide the necessary courses or course substitutes for completion of a PACT student's degree would be required to pay all remaining student costs associated with course-related fees and tuition for degree completion.

The Trustees of SUNY and CUNY colleges and universities would also be empowered to modify campus resources for those campuses that perform well in generating timely graduations. These allocations will take into consideration factors, such as differing student populations served by individual campuses that may affect graduation rates.

Scholarship, Opportunity and Other Programs

New York State's opportunity programs and support for independent colleges help provide counseling, academic and financial support to economically and educationally disadvantaged students. Without these supports, many students would not be able to attend college or complete requirements for a degree. The Executive

⁴⁹ 2002-2003 Pell Grant End of Year Report. U.S. Department of Education. Office of Postsecondary Education.

Budget proposes elimination of the supplemental student financial aid portion for three of these programs, reduces the Higher Education Opportunity Program (HEOP) by 50 percent and maintains five programs at 2004-05 year funding levels.

Proposed Executive Budget Scholarship, Opportunity and Other Program Actions

Program Area	Available for 2004-05	Recommended for 2005-06	\$ Change from Prior Year	Percentage Change from Prior Year
Proposed for Elimination*				
EOP	\$15,580,000	\$8,100,000	(\$7,480,000)	-48%
SEEK	13,876,000	7,437,000	(6,439,000)	-46%
College Discovery Program	726,000	363,000	(363,000)	-50%
Proposed Reduction in Funding				
HEOP	20,900,000	10,450,000	(10,450,000)	-50%
Maintained at Prior Year Funding Levels				
Liberty Partnership	10,925,000	10,925,000	0	0%
STEP/CSTEP	9,500,000	9,500,000	0	0%
Cornell Cooperative Extension	3,670,000	3,670,000	0	0%
Teacher Opportunity Program	712,500	712,500	0	0%
Bundy Aid	42,037,500	42,037,500	0	0%
Proposed All Program Areas				
TOTAL FUNDING	\$117,927,000	\$93,195,000	(\$24,732,000)	-21%

* Note: The supplemental student financial aid portion is eliminated; however, funding is continued for academic services, including tutoring, counseling and mentoring.

The Executive Budget does not extend or renew the Regents Health Care Opportunity Scholarships, Regents Professional Opportunity Scholarships or Regents Physician Loan Forgiveness Program that expired in 2004-05. The Executive Budget continues to provide \$4 million in support of Volunteer Recruitment Service Scholarships, which were enacted in 2003-04.

World Trade Center & American Airlines Flight 587 Memorial Scholarships

The Executive Budget allocates an additional \$5 million to the Higher Education Services Corporation (HESC) for World Trade Center (WTC) Memorial Scholarships and provides an additional \$400,000 in funding for the creation of a new memorial scholarship related to American Airlines Flight 587. To date, the State has allocated \$8 million and paid out \$5.8 million in awards for the WTC Memorial Scholarships, which were first granted in 2002-03.

The newly created American Airlines Flight 587 Memorial Scholarships are available to the immediate family members and financial dependents of victims who died as a direct result of the November 12, 2001 crash of American Airlines Flight 587 in

Rockaway, Queens. This new memorial scholarship would be retroactive to the 2001-02 academic year in order to provide families affected by this tragedy with adequate financial resources to pay for college. These individuals are eligible for a free education, at any time, at a SUNY, CUNY or private college in New York State. Students who are full-time and matriculated in an approved program in New York State, as well as those family members who were enrolled in public or private undergraduate colleges or universities located outside of New York State on November 12, 2001 qualify. Recipients need not be New York State residents or United States citizens to receive the scholarship.

At public colleges or universities, the annual awards pay for up to four years (or five years for an approved five-year bachelor's degree program) and include the costs of actual tuition and mandatory fees, room and board or an allowance for living off campus, and allowances for books, supplies and transportation. At private institutions, the award would either be equal to actual tuition and fees or equal to a SUNY four-year college tuition and average mandatory fees and allowances for room and board, books, supplies and transportation, whichever is less. In all cases, the award cannot exceed the student's actual cost of attendance.

SUNY Hospitals

Similar to previous years, the Executive Budget seeks legislative authorization to restructure SUNY hospitals into private not-for-profit corporations. This plan would call for the State University Trustees to conduct a study of the transfer of the three SUNY Health Science Centers at Brooklyn, Stony Brook and Syracuse. It also calls for the SUNY Board of Trustees to develop a transfer plan and submit it to the Executive and Legislature on or before October 1, 2005. The Executive Budget is not projecting any immediate cost savings as a result of the restructuring. However, upon completion of the transfer, the State could potentially:

- Reduce or eliminate the State's subsidy to SUNY hospitals estimated at \$119.6 million in the 2005-06 Executive Budget,
- Reduce the State's All Funds budget by \$1.3 billion,
- Reduce the State workforce by 10,000 full-time equivalent employees, and
- Eventually remove the SUNY debt from the State debt cap.

Health Care

The State provides access to an array of health care services through a wide range of programs and activities. These programs and activities include Medicaid, Family Health Plus (FHP), Child Health Plus (CHP), Elderly Pharmaceutical Insurance Coverage (EPIC), community-based health care, public health services like Early Intervention and General Public Health Works, and mental hygiene.

Medicaid is the State's single most expensive program, representing 29 percent of All Funds spending and providing health care for low-income individuals, long-term care for the elderly, and services for disabled individuals, primarily through payments to health care providers. In New York, Medicaid is financed jointly by the federal, State and local governments. The Executive Budget projects that, for 2005-06, total All Funds Medicaid spending (including administration costs) would be \$44.4 billion. These costs would consist of \$22.1 billion in federal support, \$15 billion in State funds and \$7.3 billion from local governments.

Estimated All Funds Medicaid Expenditures (In billions)

	SFY 2003-04 Actual	SFY 2004-05 Adjusted Estimate*	SFY 2005-06 Proposed**
Gross	\$40.8	\$44.2	\$44.4
Federal	\$21.8	\$22.6	\$22.1
State	\$13.2	\$14.5	\$15.0
Local	\$5.8	\$7.1	\$7.3
State Funds Comprised of:			
DOH	\$6.2	\$7.4	\$7.4
Other State Agencies	\$3.8	\$4.0	\$4.1
Other Sources (mostly HCRA)	\$3.2	\$3.1	\$3.5

Source: New York State Division of the Budget

* To provide a basis for comparing yearly expenditures, the 2004-05 amounts have been adjusted for additional Medicaid spending to comply with federal policy changes related to county shares adjustments involving inter-governmental transfers.

** In the absence of gross savings – valued at \$2.5 billion by the Division of the Budget – Medicaid spending will reach \$46.9 billion in SFY 2005-06.

Medicaid spending is principally budgeted in the Department of Health, but also appears in the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Office of Alcohol and Substance Abuse, the Office of Children and Family Services, and the State Education Department. For 2005-06, Medicaid spending for the Department of Health would total \$31.0 billion. Of this amount, the federal government would provide \$19.7 billion and State funds would

provide \$11.3 billion. Medicaid spending by other State agencies and administrative costs account for the remaining \$2.8 billion in federal and \$3.7 billion in State support.

The Executive Budget proposes to restrain Medicaid spending growth by reducing expenditures for nursing homes, hospitals, prescription drugs, managed care programs and FHP, as well as by assessing hospital and nursing home revenues. To relieve pressure on local government, the budget also recommends capping the growth in local Medicaid costs starting in January 2006, accelerating the State takeover of FHP and providing additional local aid related to Medicaid costs. Several of the budget's Medicaid proposals reflect the work of two groups - the State Senate's Medicaid Reform Task Force and the Executive's Health Care Reform Working Group. Both have been exploring ways to make New York's health care system more efficient and effective. As such, the Legislature has interpreted a recent court ruling to mean that they may only accept or reject the proposals in their entirety; they may not strike out or modify individual segments of the Executive Budget Article VII legislation.⁵⁰ The legislation accompanying the Executive Budget proposals is structured so that acceptance of the cap on local Medicaid costs is tied to acceptance of the proposed cost containment measures.

The Executive Budget also proposes to extend the Health Care Reform Act (HCRA), set to expire June 30, 2005. Furthermore, the Executive proposal adopts the recommendation made by the State Comptroller for the past two years to include all HCRA spending in the State budget. In addition, the budget proposes a \$1.0 billion capital grant program to help with health care facility modernization and consolidation, new investments in community-based long-term care, cost controls for the Early Intervention program and a cap in State support for local public health activities.

In the area of Mental Hygiene, budget proposals recommend modest growth in General Fund spending, as well as significant cost cutting for certain programs and a redirection of the resulting savings to priority programs. The Executive Budget also recommends the closure of one adult psychiatric center.

Medicaid

The Executive Budget recommends \$7.4 billion in General Fund spending for Department of Health (DOH) Medicaid in State Fiscal Year (SFY) 2005-06, which represents a decrease of \$50 million (0.7 percent) from SFY 2004-05. The Executive Budget projects average monthly Medicaid caseloads (excluding FHP) will rise 3.5 percent, from 3.6 million recipients in SFY 2004-05 to 3.7 million recipients in SFY 2005-06. For the first four months of SFY 2004-05 (the most current information available), New York City has accounted for 65 percent of the total State average monthly

⁵⁰ The Court's December 16, 2004 ruling in the cases of *Pataki v. the State Assembly* and *Silver v. Pataki*, which were joined in a single decision, determined that the Executive can definitively set the conditions for spending funds and even suspend existing laws for one year through his budget-making powers.

caseload (excluding FHP).⁵¹ Medicaid caseloads in the City (excluding FHP) have increased 29 percent since 2000.⁵²

Department of Health General Fund Medicaid Spending
Executive Budget
(in billions)

Fiscal Year	Amount	Change Amount	Change Percent
2003-04 Actual	\$6.18	\$0.12	1.9%
2004-05 Estimate	\$6.927	\$0.75	12.1%
2004-05 Adjusted Estimate*	\$7.435	\$0.508	7.3%
2005-06 Proposed	\$7.385	(\$0.05)	(0.7%)

Source: New York State Division of the Budget

* To provide a basis for comparing yearly expenditures, the 2004-05 amount has been adjusted for additional Medicaid spending to comply with federal policy changes related to county shares adjustments involving inter-governmental transfers.

In order to provide fiscal relief to local governments burdened by rising Medicaid costs, the Executive Budget recommends capping the local share of Medicaid costs at 2005 levels, with annual adjustments, and proposes a series of cost containment actions, provider assessments and other financing actions. The cap would take effect in January 2006, but only if the Legislature adopts the Executive's Medicaid savings actions. In January 2008, the State would assume full responsibility for local Medicaid costs, but require local governments to continue to pay capped contributions, plus an annual growth factor. Alternatively, the State could intercept the portion of county sales tax revenue equaling their capped contribution in 2006-07, plus an annual growth factor.

The Executive Budget provides additional support to counties, excluding New York City, by accelerating the State takeover of local FHP costs by three months (to October 1, 2005) and by authorizing transitional Medicaid funding for two years. The additional support would help the counties fill gaps in their current, 2005 calendar year budgets, since counties would not benefit from the proposed cap this year. In contrast, the Executive does not provide additional support to the City, since the proposed Medicaid cap would give New York City relief in its new budget, which runs from July to June.

The Executive indicates that the cap and the additional support would save the counties and New York City over \$166 million in SFY 2005-06. Of that amount, \$82.6 million would accrue to the City and \$83.7 million to the rest of the State. Medicaid

⁵¹ New York State Department of Health Monthly Medicaid Eligibility Reports 2004 for April through July 2004. <<http://www.health.state.ny.us/nysdoh/medstat/medicaid.htm#table1>>.

⁵² New York State Department of Health Monthly Average Number of Medicaid Eligibles by Category of Eligibility by Social Service District, Calendar Year 2000, and New York State Department of Health Monthly Medicaid Eligibility Reports 2004 for January through July 2004. <<http://www.health.state.ny.us/nysdoh/medstat/medicaid.htm#table1>>.

cost savings measures proposed in the budget would save the counties and New York City an additional \$412 million in 2005-06. Of that amount, \$293 million would accrue to the City and \$119 million to the rest of the State.

The Executive Budget's Medicaid savings proposals affect recipients and insurers, as well as the entire spectrum of health care providers: hospitals, nursing homes, pharmacies and home care agencies. Taken together, the proposals would produce General Fund savings of almost \$1.1 billion. Other financing actions would produce an additional \$839 million in General Fund savings, bringing total savings prior to the costs of local relief to over \$1.9 billion in SFY 2005-06. Costs of the cap on local Medicaid expenditures and the additional local support would reduce total General Fund savings to \$1.77 billion. Net increased program costs for SFY 2005-06 totaling \$1.76 billion would be offset by the proposed General Fund savings actions. The net increased program costs include:

- \$619 million in underlying year-to-year program growth of 9.1 percent primarily attributable to increases in caseload, service utilization and health care service costs,
- \$568 million in federal changes related to expiration of the temporary 15-month increase in the federal Medicaid percentage and federal policy changes impacting county shares adjustments,
- \$302 million in growth in General Fund support for HCRA, including \$143 million for partial repayment of a \$200 million loan from HCRA in SFY 2002-03 and a \$120 million payment to fill a projected HCRA shortfall resulting from securitization of tobacco settlement proceeds,
- \$282 million from the State takeover of local FHP costs,
- \$190 million from delaying payment of the last weekly SFY 2004-05 Medicaid cycle to 2005-06, and
- \$200 million in savings associated with proceeds from the conversion of Empire Blue Cross Blue Shield to a for-profit insurer. Ongoing litigation prevented the Executive from utilizing these funds to offset program costs in 2004-05, as planned. However, the budget proposal expects a successful outcome to the litigation in 2005-06, lowering program costs in the new fiscal year, accordingly.

Executive Budget recommendations of \$1.77 billion in General Fund savings would have a significant effect not only on the State's overall financial picture, but on the State's health care industry as well. When considering the impact of the Executive's proposed actions on the federal and local Medicaid shares, the State's health care industry would suffer a loss of almost \$2.5 billion in revenue.

Medicaid Savings Proposals
Executive Budget
(in millions)

Provider Type and Proposal	State Savings/ (Cost)	Gross Savings/ (Cost)*
Hospitals		
Re-establish 0.7% assessment on total revenues	\$194.3	\$194.3
Recoup GME overpayment for Medicaid HMO recipients	65.2	203.0
Reduce hospital inpatient detox rates	44.5	138.4
Eliminate 2% trend factor	41.4	128.8
Limit GME reimbursement to actual costs	23.3	72.4
Implement case management for OMH/OASAS special populations using inpatient services	12.8	40.0
Selective contracting for targeted high-cost procedures for non-managed care patients	11.3	35.0
Mental Health – eliminate ‘specialty rates’ for MH outpatient programs	2.1	6.4
Subtotal	\$394.9	\$818.3
Recipient Benefits		
Reduce FHP benefit package (HCRA offload)	\$141.8	\$283.8
Eliminate non-emergency adult dental (includes managed care)	52.6	163.0
Close FHP eligibility loopholes (HCRA offload)	32.1	94.5
Close Long-Term Care Loopholes	26.8	62.5
Cap marketing/costs including FHP	23.2	64.3
Eliminate adult other practitioners (including nurses and psychologists)	12.5	39.0
Increase Medicaid co-pays for pharmacy (50¢ to \$1 for generics; \$2 to \$3 for brands) net of admin	3.5	12.8
Utilization thresholds system limit for mental health continuing day treatment	2.2	5.5
Podiatry not billable as clinic visit	0.8	2.4
Subtotal	\$295.5	\$727.8
Nursing Homes		
Regional Pricing (includes adult day health care)	\$67.8	\$158.5
Medicaid only case mix	57.8	134.8
Eliminate 2% trend factor	48.8	113.8
Increase reimbursable assessment to 6%	39.5	39.5
Reduce supplemental quality improvement demonstration program by 50%	6.2	12.4
Shift pharmacy costs to Medicare Part D prescription drug benefit	1.2	2.8
Subtotal	\$221.3	\$461.8
Other		
Reduce FHP premiums (HCRA offload)	\$41.1	\$82.3
Freeze Managed Care Premiums	30.2	94.0
Freeze CHP premiums (HCRA offload)	9.5	9.5
Attorney General long-term care recovery actions	5.6	13.0
Eliminate facilitated enrollment for FHP (HCRA offload)	5.0	10.0
Reclassify transportation to an administrative service	4.4	13.6
Enroll previously exempt OMH populations in managed care	1.8	5.6
Reduce enrollment broker contract costs	0.3	0.8
Staffing resources for long-term care restructuring	(2.2)	(3.8)
Criminal background checks	(2.1)	(5.0)
Subtotal	\$93.6	\$220.0
Pharmacy		
Preferred drug program (adjusted for Medicare Part D prescription drug benefit)	\$50.8	\$161.0
Prior Authorization (adjusted for Medicare Part D prescription drug benefit)	25.2	79.0
Subtotal	\$76.0	\$240.0

Provider Type and Proposal	State Savings/ (Cost)	Gross Savings/ (Cost)*
Freeze managed long-term care premiums	\$9.9	\$23.0
Eliminate admin savings cap on long term home health care program	3.9	9.0
Eliminate admin savings cap on certified home health agencies	1.5	3.5
Enhance home care rates / demonstration programs	(2.2)	(5.3)
Subtotal	\$13.1	\$30.2
TOTAL PROVIDER/RECIPIENT CUTS	\$1,094.4	\$2,498.1
Additional Revenue/Savings		
HCRA offloads of Medicaid pharmacy and other Medicaid spending	\$441.0	\$0.0
HCRA Tobacco Guarantee	192.0	0.0
Re-estimate FHP Enrollment	110.0	219.1
Federal Funds for Emergency Medical Services for Illegal Aliens	53.0	0.0
Increase Audit Recoveries ⁵³	25.0	0.0
Federal Funds for Audit Contracts	8.0	0.0
Subtotal	\$839.0	\$219.1
TOTAL SAVINGS PRIOR TO TAKEOVER	\$1,933.4	\$2,717.2
Takeover		
State Cost of Local Medicaid Takeover	(\$121.1)	\$0.0
Local Transition Funding/FHP Acceleration	(45.2)	0.0
Subtotal	(\$166.3)	\$0.0
TOTAL NET SAVINGS	\$1,767.1	\$2,717.2

Source: New York State Division of the Budget

* Also impacts health care industry

The Executive Budget's Medicaid savings proposals include over \$700 million in reductions in provider payments and/or taxes on hospitals, nursing homes, pharmacies and home care agencies. These actions would have a total provider impact of over \$1.5 billion, after factoring in the federal and local Medicaid shares.

The proposed savings measures include reducing hospitals' Graduate Medical Education (GME) payments to actual costs, eliminating funding that holds non-public teaching hospitals harmless from last year's action to federalize HCRA GME payments and removing inflation-related cost increases from hospital and nursing home rates (rejected by the Legislature in SFY 2003-04). The Executive also proposes to establish a regional pricing system for nursing homes and the adult day health care program, create a preferred drug program for the Medicaid program and require prior-authorization of certain high-cost drugs (rejected by the Legislature in SFYs 2003-04 and 2004-05), eliminate the limit on savings from capping certain home care providers' administrative costs, and impose a cap on administrative costs in the Long Term Home Health Care program.

⁵³ Since 1999, the Office of the State Comptroller has performed 37 payment-related audits of the Medicaid program. These audits have identified \$208.8 million in actual overpayments and \$597.3 million in potential overpayments. Follow-up audits have determined that the Department of Health has only recovered \$174.9 million of these overpayments.

Proposed provider taxes would permanently re-establish a 0.7 percent non-reimbursable assessment on hospital revenue (rejected by the Legislature in SFYs 2003-04 and 2004-05) and increase the reimbursable assessment on nursing home receipts to 6 percent. In SFY 2003-04, the Enacted Budget lowered the nursing home assessment from 6 percent to 5 percent. In 2004-05, the Legislature rejected the Executive's proposal to permanently restore the assessment to 6 percent.

Furthermore, as part of the total \$1.9 billion cost containment, the Executive also proposed a number of savings measures that directly affect Medicaid recipients. If enacted, these actions would result in savings totaling nearly \$296 million, with a total industry impact of over \$700 million including:

Co-payments

- Increase Medicaid pharmacy co-payments from \$0.50 to \$1.00 for generics and from \$2.00 to \$3.00 for brand name drugs (rejected by the Legislature in SFYs 2003-04 and 2004-05).
- Impose co-payments in FHP. (See FHP section for co-payment details.)

Services

- Reduce the FHP benefit package. (See FHP section for details.)
- Eliminate several optional Medicaid services for adults including podiatry and services provided by non-clinic dentists and other practitioners including nurses, audiologists and psychologists (rejected by the Legislature in SFY 2004-05).

Other Cost Containment Actions

- Close long-term care "loopholes" by eliminating the provision that allows a spouse or patient to refuse to contribute any assets towards the costs of health care services, establishing an asset transfer penalty for home care, extending the look-back period from 36 to 60 months for nursing home and home care services, and modifying the penalty period under Medicaid look-back provisions (rejected by the Legislature in SFY 2004-05).
- Restrict FHP eligibility. (See FHP section for details.)
- Eliminate facilitated enrollment, which provides assistance to potential FHP recipients.

In addition to these cost containment actions, the Executive Budget also includes a series of financing actions that generate nearly \$840 million in additional General Fund Medicaid savings in 2005-06. These include:

- Transferring \$440 million in Medicaid spending from the General Fund to HCRA,
- Avoiding \$192 million in tobacco guarantee payments by the General Fund. Pursuant to tobacco guarantee legislation, the General Fund is required to finance any projected shortfall in HCRA up to the payment HCRA would have received, absent securitization of the State's tobacco settlement proceeds in 2003,
- Assuming \$110 million in savings that reflect a re-estimate of FHP costs due to slower enrollment growth,
- Receipt of \$53 million in one-time federal credits for past emergency medical services provided to illegal immigrants,
- Receipt of \$25 million from increased DOH audit recoveries, and
- Receipt of \$18 million in federal money for audit contracts.

The Executive's proposals to cap local government Medicaid costs and provide additional local financial support are contingent on adoption of the \$1.1 billion in Medicaid savings measures included in the budget recommendation. If these proposals are adopted in their present form, the Executive estimates fiscal relief to local governments totaling more than \$7 billion over the next five years:

Executive Budget Estimated Local Fiscal Relief

State Fiscal Year	Amount
2005-06	\$0.166 billion
2006-07	\$0.641 billion
2007-08	\$1.3 billion
2008-09	\$2.0 billion
2009-10	\$2.9 billion
Total	\$7.0 billion

Source: New York State Division of the Budget

The Legislature has historically opposed a number of the Executive Budget's SFY 2005-06 Medicaid savings proposals. Because the cap and additional local support are contingent on adoption of these savings proposals, opposition to them may serve to dim the prospects for significant local relief. However, pressure from local elected officials may make these proposals difficult to reject. Medicaid costs are pushing already high local property taxes even higher. Although last year's FHP takeover offered some relief, Medicaid costs are still a major burden for county governments in

the State. If Medicaid costs continue to rise at their current rate, county property taxes would have to increase by an average of almost one-third by the year 2010.

Health Care Reform Act

The Executive Budget recommends extending the Health Reform Act (HCRA) for two additional years, through June 30, 2007. The Executive assumes nearly \$5.5 billion in HCRA receipts to support over \$5.1 billion in HCRA spending in 2005-06.⁵⁴ Furthermore, in response to repeated recommendations by the State Comptroller, the Executive proposes to include all HCRA spending as part of the State Budget. Moving all HCRA spending to the State Budget would add approximately \$929 million to All Funds expenditures in SFY 2005-06.

The \$5.5 billion in HCRA receipts assumed for 2005-06 represent a net increase of approximately \$1.8 billion (47.5 percent) over 2004-05 and consist of:

- \$1.8 billion in proceeds from the conversion of Empire Blue Cross Blue Shield to a for-profit insurer, assuming the State wins a lawsuit that has delayed use of the funds,
- \$1.6 billion in surcharges on patient service revenues, a decrease of \$9 million (0.6 percent) from 2004-05,
- \$737 million in the covered lives assessment on insurance companies and HMOs, an increase of \$34 million (4.8 percent) over 2004-05,
- \$670 million in cigarette taxes, a decrease of \$5 million (0.7 percent) from 2004-05,
- \$400 million in proceeds from additional not-for-profit insurance company conversions to for profit, assuming enactment of proposed Article VII provisions,
- \$192 million in the 1 percent assessment on hospital inpatient revenues, a decrease of \$25 million (11.5 percent) from 2004-05, and
- \$60 million associated with repayment by the General Fund of a \$45 million loan from HCRA's excess medical malpractice program and \$15 million in leftover funds from dissolution of the Medical Malpractice Insurance Association.

⁵⁴ Both the \$5.5 billion in receipts and \$5.1 billion in spending are \$192 million lower than shown in original Financial Plan recommendations, reflecting changes anticipated as a result of discussions with the Division of the Budget. These reductions in receipts relating to federal funds and spending relating to Medicaid and public health programs were not reflected in documents accompanying the Executive's 30-day Amendments.

The \$5.1 billion in HCRA spending proposed in the Executive Budget represents a net increase of almost \$1.0 billion (24.1 percent) over 2004-05 and includes the following amounts:

- \$1.7 billion for Medicaid and public health programs, an increase of \$933 million (120 percent) over 2004-05,
- \$853 million for hospital indigent care, an increase of \$27 million (3.3 percent) over 2004-05,
- \$570 million for Elderly Pharmaceutical Insurance Coverage (EPIC), an increase of \$79 million (16.1 percent) over 2004-05,
- \$380 million for GME, a decrease of \$3 million (0.8 percent) from 2004-05,
- \$352 million for workforce recruitment and retention, an increase of \$22 million (6.7 percent) over 2004-05,
- \$349 million for Child Health Plus (CHP), an increase of \$7 million (2 percent) over 2004-05,
- \$314 million for FHP, a decrease of \$76 million (19.5 percent) from 2004-05, and
- \$615 million for all other programs (including \$88 million for enhanced mental health services, \$78 million for the Roswell Park Cancer Institute and \$49 million for the physician excess medical malpractice program), an increase of \$33 million (5.7 percent) over 2004-05.

Empire Blue Cross/Blue Shield Conversion

Legislation authorizing the conversion of Empire Blue Cross/Blue Shield to a profit-seeking corporation required that the State receive 95 percent of the common stock initially issued by the new corporation, with the intention that the stock be sold and that the proceeds of sale be used to support health care programs authorized by the Health Care Reform Act.⁵⁵ To date, sales of portions of the stock have generated net proceeds of more than \$750 million and it is expected that another \$1 billion or more may be realized from sales of the remaining stock held by the State. However, the State is currently unable to use these funds because of a legal challenge to the constitutionality of the conversion legislation. The constitutional question is being submitted to the Court of Appeals, but it is unclear when the Court will decide the case and whether the State will ultimately be allowed to spend the proceeds of the stock sales.

⁵⁵ Chapter 1 of the Laws of 2002, Health Care Reform Act.

In addition, the Public Asset Fund—the State entity charged with selling the stock the State received in connection with the Empire conversion—has failed to submit any of its contracts for review and approval by the Comptroller as required by Section 112 of the State Finance Law. The Fund's failure to comply with this statutory requirement and refusal to agree to submit future contracts for the Comptroller's approval leaves the validity of the Fund's contracts in question and creates further uncertainty regarding the availability of revenues to the State from the sale of this stock.

HCRA Financial Plan

The Executive Budget's proposed HCRA financial plan projects a closing fund balance of \$381 million for 2005-06. However, the plan relies on over \$2.2 billion in revenue that may not materialize, including the \$1.8 billion in Empire conversion proceeds and \$400 million in additional conversion proceeds.

Last fall, the State Comptroller warned that HCRA was in danger of running a \$400 million shortfall in 2004-05, due to the likelihood that \$1.2 billion in projected Empire conversion proceeds would be unavailable. In addition, the State Comptroller was concerned about spending levels in many major programs outpacing revenue growth, as well as a significant decline in unspent surpluses. These surpluses accumulated, while new programs slowly reached projected expenditure levels. Projecting a closing fund balance of \$32 million for 2004-05, the Executive Budget proposal appears to have averted an immediate HCRA shortfall by reducing HCRA support to programs such as CHP, EPIC and Medicaid pharmacy.

However, it will be much more difficult to close the deficit that may occur in 2005-06. If the State loses the Empire litigation and the Legislature again refuses to authorize additional conversions, HCRA could run a significant shortfall in 2005-06.⁵⁶ The shortfall could exceed \$1.0 billion, even after factoring in \$650 million in payments from the General Fund to HCRA that would be triggered by current law. Of the \$650 million, \$450 million would replenish tobacco settlement dollars otherwise available to HCRA had revenues not been securitized. The remaining \$200 million would repay a 2002 loan from HCRA to the General Fund. A \$1.0 billion shortfall in HCRA funding could mean drastic reductions in HCRA programs and/or have a significant impact on the General Fund.

HCRA On Budget

Acting on recommendations made by the State Comptroller for the past two years, the Executive proposes to include *all* HCRA spending in the Proposed Budget. Under the Executive recommendation, approximately \$925 million in HCRA spending that was "off-budget" last year would be appropriated in the 2005-06 budget. These

⁵⁶ The litigation is slated to be heard by the State Court of Appeals in Spring 2005.

appropriations, like all others, would now be paid on the audit and warrant of the State Comptroller and would be subject to a higher level of oversight and accountability.

However, the Executive also proposes to continue to contract with a pool administrator, Excellus Health Plan, Inc. of Rochester, to collect most HCRA receipts and to continue to make certain payments, after the State Comptroller transfers appropriated funds to the pool administrator. These payments would be for two of HCRA's largest programs, hospital indigent care and GME, as well as for high need indigent care (including funds for certain rural hospitals), recruitment and retention grants to public hospitals and public nursing homes, grants to non-public hospitals exceeding their disproportionate share payment limits, grants to hospitals designated as regional poison control centers, and funds for eligible school-based health centers.

Excellus Health Plan has been the pool administrator since HCRA's inception in 1997. The Executive proposes to allow the Health Commissioner to extend the contract without a competitive bid or request for proposal process. Without the benefit of a competitive procurement, it is difficult to know whether the contract with Excellus represents the best value for the State.

HCRA General Fund Savings

The Executive Budget proposes several actions through HCRA that would achieve General Fund savings of \$321 million in 2005-06. Much of these savings would result from State avoidance of a "tobacco guarantee" payment by the General Fund totaling \$192 million. Absent HCRA cost containment, a General Fund transfer would be made to HCRA to replace lost revenue from the 2003-04 securitization of tobacco settlement revenues.

Additional General Fund HCRA savings include \$174 million associated with FHP reforms. These savings would be partially offset by repayment of a \$45 million loan from HCRA's excess medical malpractice program to the General Fund. However, last year, the Legislature rejected Executive proposals to achieve FHP reform, including recommendations to reduce the FHP benefit package and close FHP eligibility loopholes. As a result, there is uncertainty over the likelihood of General Fund savings anticipated by the Executive.

Overall, the Executive Budget proposes nearly \$183 million in spending reductions for existing HCRA programs, over \$400 million in new HCRA revenue actions and approximately \$41 million in new HCRA spending initiatives, as shown in the following table.

Health Care Reform Act (HCRA) Recommendations
Executive Budget
(in millions)

	SFY 2005-06	SFY 2006-07
Cost Containment		
FHP reforms*	\$156.0	\$214.0
Restructure nursing home quality improvement demonstration program	12.5	2.5
CHP - freeze premiums	9.0	5.0
Eliminate catastrophic insurance program*	2.4	2.4
EPIC income match	2.0	2.0
Eliminate individual subsidy program*	1.0	1.0
Subtotal	\$182.9	\$236.9
Revenue Actions		
Authorize additional insurance conversions, proceeds to HCRA*	\$400.0	\$400.0
Increase covered lives assessment	12.0	50.0
Increase surcharge on hospital/clinic patient bills	0.0	10.0
Subtotal	\$412.0	\$460.0
New Spending		
Shift newborn screening and immunization programs to HCRA	(\$18.0)	(\$18.0)
Shift pregnancy prevention and health education and outreach to HCRA	(10.0)	(\$10.0)
Capital grants to health care facilities	(7.0)	(16.0)
Access to rural health care	(2.0)	(2.0)
Childhood obesity prevention	(1.5)	(0.5)
Mobile dental vans	(1.0)	(0.5)
Other reform initiatives	(1.0)	(1.0)
Pay for performance workgroup	0.0	(10.0)
Disease management	0.0	(4.5)
Subtotal	(\$40.5)	(\$62.5)
TOTAL RECOMMENDATIONS	\$554.4	\$634.4

Source: New York State Division of the Budget

* Previously rejected by the Legislature

HCRA Cost Containment

Proposed FHP reforms account for \$156 million (85 percent) of the Executive's HCRA savings actions in 2005-06. However, the Legislature has rejected many of these reforms in the past, including proposals to require co-pays for many services, reduce the FHP benefit package and close eligibility loopholes. The Legislature has also rejected past attempts to eliminate funding for the catastrophic insurance and individual subsidy programs.

HCRA Revenue Actions

For SFY 2005-06, the Executive Budget proposes to authorize additional insurance conversions, a proposal the Legislature rejected last year. It is important to note, however, that early passage of legislation authorizing these conversions may help to release proceeds from the Empire conversion already earmarked for HCRA. Passing such legislation may weaken pending litigation alleging that the law authorizing the Empire conversion violates provisions of the State Constitution barring private laws benefiting one company (i.e. Empire). The State Comptroller is holding approximately \$800 million in Empire proceeds in escrow until the litigation is resolved. Additional sales of Empire stock (listed on the New York Stock Exchange as WellChoice) would be necessary to generate sufficient revenue to pay for program spending included in the Executive's proposed HCRA financial plan for 2005-06.

The Executive Budget also proposes increasing the covered lives assessment and the surcharges on patient service revenues in hospitals and clinics, effective January 1, 2006. The surcharges would increase from 6.47 to 6.54 percent for Medicaid and other governmental payors and from 8.85 to 8.95 percent for private payors. While the increased surcharges would generate no new revenue in 2005-06, the Executive expects year-to-year revenues from the surcharges to actually decrease by \$9 million to approximately \$1.6 billion in 2005-06, due to the inclusion of some large, federal retroactive surcharge payments in the total for 2004-05.

HCRA New Spending

The Executive proposes over \$40 million in new HCRA spending in 2005-06, shifting the costs of newborn screening and immunizations programs to HCRA and supporting several new initiatives including:

- A "pay for performance" demonstration program recommended by the Executive's Health Care Reform Working Group. The initial phase of this program would establish a workgroup to study clinical measure criteria necessary to improve the quality of care provided by those delivering health care services, and
- Grants to purchase and operate new mobile dental clinics in underserved areas of the State.

Health Care System Improvement Capital Grants

Under the Executive Budget proposal, HCRA will also pay the debt service on \$750 million in borrowing that will finance a new Health Care System Improvement Capital Grant program enacted last year. Of this amount, the Executive Budget provides \$250 million in new capital appropriations in 2005-06, including \$10 million specifically dedicated to community health centers. The funding would support health care projects to upgrade information and technology, enhance the efficiency of facility

operations, and support facility improvement, reconfiguration and consolidation. About three-quarters of the \$250 million (\$185 million) is bonded capital for structural improvements. The rest of the appropriation (\$65 million) is 'pay-as-you go' capital for information technology improvements. Of this amount, \$7 million will be available in SFY 2005-06.

Family Health Plus

The Executive Budget recommends total spending of \$1.36 billion for the FHP program in 2005-06, which represents a decrease of \$51 million (3.6 percent) from 2004-05. The program, considered a Medicaid expansion, generally provides managed care services. FHP payments are processed through Medicaid and funded by HCRA and General Fund revenues, as well as by the federal and local governments. FHP, which began in September 2001, has experienced explosive growth during its relatively short tenure.

As of January 2005, FHP enrollment totaled approximately 470,000, which is an increase of nearly 260,000 enrollees (120 percent) since January 2003. Enrollment now appears to be leveling off at about 9,000 new enrollees per month, which is down from 13,000 new enrollees at the peak. Assuming enactment of the Executive's cost containment proposals, enrollment is expected to reach 524,000 by the end of 2005-06.

Under the Executive Budget recommendation, State fund payments would total \$519 million in 2005-06, which represents an increase of over \$422 million (437 percent) since SFY 2002-03. Local governments have also experienced large increases in costs, which are expected to grow by nearly \$230 million (237 percent) from SFY 2002-03 to 2004-05. Legislation enacted last year that requires the State to eventually take over all local share costs would reduce county FHP payments to \$94 million in 2005-06 and eliminate them altogether in January 2006. The Executive proposes to accelerate the State takeover to October 2005 for all counties outside of New York City. Nevertheless, since State program costs are rising so rapidly, FHP remains one of the principal targets of the Executive Budget's proposed HCRA cost containment package. The State Senate's Medicaid Reform Task Force has also highlighted FHP as needing program reform.

FHP Spending Executive Budget (in millions)

Funding Source	2003-04	2004-05	2005-06	Change (04-05 to 05-06)	
	Actual	Estimated	Proposed	Dollar	Percent
Federal Funds	\$510.3	\$658.8	\$746.1	\$87.3	13.3%
State Funds	99.1	426.3	519.0	92.7	21.7%
Local Funds	298.8	325.6	94.2	(231.4)	(71.1%)
Total Spending	\$1,108.2	\$1,410.7	\$1,359.3	(\$51.4)	(3.6%)

Source: New York State Division of the Budget

The Executive Budget recommends several changes to FHP aimed at making the program more like an employer-sponsored insurance product. Accordingly, the Executive has proposed implementing co-payments for enrollees accessing services, as shown below.

**Family Health Plus Proposed Co-Payments
Executive Budget**

Proposal	Dollar Amount
Inpatient Hospital Services	\$250
Outpatient Surgical Services	\$75
Emergency Room Services*	\$50
Brand Name Drugs	\$20
Generic Drugs	\$10
All Other Services**	\$20

* Co-pay is waived if hospital admission results from emergency room visit.

** Excluding family planning services and prenatal care services provided to pregnant women, labor, delivery and services related to the 60-day post-partum period.

The Executive would also change the FHP benefit package by eliminating the following services:

- mental health,
- durable medical equipment,
- vision and dental services (rejected by the Legislature in 2004-05),
- speech and hearing,
- pre-hospital emergency medical services provided by an ambulance service, and
- hospice services.

The Executive also proposes to:

- increase the waiting period for coverage from 6 to 12 months for individuals who previously had group health insurance coverage (rejected by the Legislature in 2004-05),
- prohibit coverage for governmental employees and individuals working for businesses with more than 50 employees (rejected in 2004-05),
- cap marketing and enrollment funding,

- eliminate funding for facilitated enrollment, and
- lower allowable households savings levels.

Child Health Plus

In SFY 2005-06, the Executive Budget recommends total spending of \$668 million for Child Health Plus (CHP), the State's program of federally subsidized health insurance coverage for children under 19. The recommendation represents an increase of \$18.4 million, or 2.8 percent, over SFY 2004-05. State support for CHP, which is financed through transfers from the HCRA Public Goods pool, would increase \$3 million, or less than 1 percent, to \$344 million in SFY 2005-06. Federal support for the program would increase over \$15 million, or 5 percent, to \$324 million in SFY 2005-06. Federal spending in 2004-05 is abnormally low because of State repayment of federal premium costs made on behalf of children simultaneously enrolled in CHP and Medicaid.

CHP Program Disbursements Executive Budget (in millions)

Funding Source	2003-04	2004-05	2005-06	Change (04-05 to 05-06)	
	Actual	Estimated	Proposed	Dollar	Percent
Federal Funds	\$292.1	\$308.6	\$324.0	\$15.4	5.0%
State Funds	335.8	341.3	344.3	3.0	0.9%
Total Spending	\$627.9	\$649.9	\$668.3	\$18.4	2.8%

Source: New York State Division of the Budget

The Executive attributes spending growth in CHP to projected enrollment increases, which are expected to reach 450,000 in 2005-06. Enrollment in November 2004 totaled over 436,000, including 97,317 legal immigrant children who are funded at 100 percent State share. Program funding is usually shared by the federal government, which pays 65 percent of costs, and the State, which pays the rest.

The Executive Budget recommendation reauthorizes the program for two additional years, through June 2007, and assumes enactment of several savings proposals that would reduce State spending by almost \$13 million in 2005-06. These proposals include a temporary freeze on CHP premiums paid to participating health plans, valued at \$9.5 million, and limiting presumptive enrollment in the program, valued at \$3 million. The Executive also proposes to grant DOH access to the State wage reporting system for income verification upon initial application.

Elderly Pharmaceutical Insurance Coverage

For 2005-06, the Executive Budget recommends \$845 million in support of Elderly Pharmaceutical Insurance Coverage (EPIC), which represents an increase of \$112 million, or 15 percent over 2004-05. EPIC is the State-sponsored drug plan for non-Medicaid eligible senior citizens. The Executive Budget projects EPIC enrollment to reach 358,000 by April 2006, which is an increase of 2.3 percent over the current year projection of 350,000. Program spending in 2004-05 includes a deficiency appropriation of \$27 million, due to increased enrollment.

EPIC Program Summary Executive Budget (in millions)

Funding Source	2003-04	2004-05	2005-06	Change (04-05 to 05-06)	
	Actual	Estimated	Proposed*	Dollar	Percent
Rebates, Fees and Deductibles	\$179.3	\$241.1	\$274.8	\$33.7	14.0%
HCRA Funds	472.3	491.4	570.1	78.7	16.0%
Total Spending	\$651.6	\$732.5	\$844.9	\$112.4	15.3%

Source: New York State Division of the Budget

The Executive Budget recommends changes to EPIC that would result in savings of \$2 million, achieved through verifying applicants' reported income with the Department of Taxation and Finance. The Executive also proposes legislation to establish a preferred drug list and clinical drug review program in EPIC, but is not planning on implementing the list or the drug review program until April 2008. Last year, the Legislature rejected similar legislation.

Community-Based Health Care

The Executive Budget proposes significant new investments in community-based health care in 2005-06, including:

- \$10 million in increased funding for the Expanded In-Home Services for the Elderly program (EISEP), which assists people aged 60 and over who are not eligible for Medicaid, but who need help with activities like dressing, bathing, personal care, shopping and cooking, and would like to remain at home. Increased funding would bring program spending to \$35 million in 2005-06. The Executive indicates plans to increase program funding to \$50 million in 2006-07. Last year, the Executive vetoed \$528,000 in additional funding for the program.

- \$10 million in new funding for the “Access to Home” program, which would offer financial assistance to homeowners who undertake adaptation and accessibility work on dwellings occupied by low and moderate income persons with disabilities.
- \$2.2 million to begin designing, implementing and managing a single point of entry system for long-term care in the State.
- \$250,000 in increased funding for the Community Services for the Elderly program, which provides supportive services to frail, low-income elderly who need help to maintain their independence at home. Services include transportation, personal care, housekeeping and chores, and home delivered meals. The new funding increases program support to \$16.6 million. Last year, the Executive vetoed \$202,000 in additional funding for the program.
- Up to four demonstration projects to provide services in community-based rather than institutional settings. Under this proposal, the Executive would enhance home care rates, while seeking a federal waiver to provide other services, such as respite, through these programs.

Public Health

The Executive Budget recommends changes to a number of State public health programs, most notably Early Intervention (EI) and General Public Health Works.

For the 2005-06 program year, the Budget proposes General Fund spending of \$253 million for EI, which represents an increase of \$11 million (4.6 percent) over 2004-05. The Executive says spending growth is the result of increases in the number of children enrolled in the program, which provides services like speech and physical therapy to developmentally delayed infants and toddlers under the age of 3, at no cost to their families, regardless of income level. The Executive Budget projects enrollment of 75,825 in 2005-06, which is an increase of 1,849 (2.4 percent) over 2004-05 enrollment projections. Local governments equally share the program’s non-Medicaid reimbursable expenditures with the State and, as a result, have also experienced increased program costs.

The Executive Budget recommends a series of measures that would save the State and local governments about \$34 million a year each, when fully implemented. Local governments would save \$26 million in 2005-06 under the Executive Budget. However, the State would not experience similar savings until SFY 2006-07, due to the program’s payment lag. The following reforms were recommended by the Executive for EI, some of which are similar to proposals rejected by the Legislature last year:

- Eliminate reimbursement rate for extended visits; State savings of \$15 million in 2006-07,

- Improve insurance coverage of EI medical services; State savings of \$4.3 million in 2006-07 and \$8.8 million when fully implemented (similar proposals rejected by the Legislature in SFYs 2003-04 and 2004-05),
- Institute EI monthly fees for parents ranging from \$25 to \$215 based on household gross income; State savings of \$2.2 million in 2006-07 and \$4.6 million when fully implemented (similar proposal rejected by the Legislature in 2003-04),
- Enhance county EI program controls; State savings of \$2 million in 2006-07 and \$4 million when fully implemented (similar proposal rejected by the Legislature in 2003-04), and
- Require independent evaluation for single service kids; State savings of \$2 million in 2006-07 (similar proposal rejected by the Legislature in 2004-05).

The Executive Budget recommends approximately \$222 million in General Fund spending for the General Public Health Works program in 2005-06, representing an increase of almost \$12 million (5.5 percent) over estimated spending in 2004-05. This program reimburses counties for providing a wide range of public health activities including basic health services like family health, disease control, health education, community health assessment and environmental health, as well as optional health services like home health and long-term care.

Currently, the State reimburses counties and New York City for 36 percent of the costs exceeding their base grant for basic health services and for 30 percent of optional health service costs. The Executive Budget assumes \$10.4 million in General Fund savings by capping program spending (i.e., by converting the program from a reimbursement-based entitlement to a block grant-based program, with annual inflation adjustments, starting in January 2006). Local public health services plans would be due every four years instead of two and, in the event of local public health emergencies, the Proposed Budget includes \$10 million to reimburse counties for half of the costs they incur. For each of the last two years, the Legislature has rejected the Executive's proposal to restructure State reimbursement for General Public Health Works.

Mental Hygiene

The Executive Budget recommends \$2.46 billion in General Fund spending for the three mental hygiene agencies—the Office of Mental Health (OMH), the Office of Mental Retardation and Developmental Disabilities (OMRDD) and the Office of Alcoholism and Substance Abuse Services (OASAS)—which represents a \$16 million net increase (0.7 percent) over 2004-05 and assumes enactment of savings actions totaling \$270 million.

These actions consist of a \$174 million increase in federal revenues used to offset General Fund spending, \$63 million in local assistance efficiencies and \$33 million in State Operations efficiencies that partially offset increases of \$156 million in underlying program growth and \$125 million in local services. Underlying program growth includes funding for collective bargaining agreements, inflation and staffing adjustments. Growth in spending for local services is attributable to:

- 370 new beds in OMRDD's NYS-CARES program, which serves developmentally disabled New Yorkers on waiting lists for residential services,
- 140 new beds and day and family support services for developmentally disabled individuals aging out of programs sponsored by the State Education Department, and
- Full annual costs of new beds and services for adults who have serious and persistent mental illness and children with serious emotional disturbances. The Executive expects 1,600 new beds to open by the end of 2005-06.

Local assistance efficiencies include conversion of 100 percent State-funded programs like OMRDD sheltered workshops and family support to Medicaid waiver services, one-time savings associated with delays in opening community mental health beds and in providing managed addiction treatment and enhanced compulsive gambling services, provider recoveries and retroactive recoupments.

State Operations efficiencies include \$20.4 million in personal services savings achieved through continued vacancy and staffing controls aimed at reducing excessive overtime and managing future hiring, as well as \$12.8 million in non-personal services savings by emphasizing group buying and terminating unneeded contracts.

In addition, the Executive proposes to redirect \$16 million in funding for under-performing or less effective programs to existing OMH and OASAS not-for-profit programs, in order to improve recruitment and retention of direct care staff and maintain chemical dependence treatment services for the working poor. Programs losing funding include school-based prevention services provided by the New York City Department of Education under an OASAS contract and outpatient mental health programs with excessive administrative costs.

Once again, the Executive Budget recommends closure of the Middletown Psychiatric Center in Orange County, on April 1, 2006, and proposes to reinvest \$7 million in savings in expanded, State-operated community services. By closing the facility, the State would avoid a \$28 million investment in capital improvements and debt service that, the Executive indicates, would eventually cost taxpayers \$46 million or more. The Rockland Psychiatric Center in Orangeburg would accommodate all adult inpatient services currently in operation at Middletown. In 2001, 2003 and 2004, the Legislature rejected Executive Budget recommendations to close the Middletown facility.

TANF Funding Reorganization

The Executive Budget proposes a major change in determining how a federal funding stream from the Temporary Assistance for Needy Families (TANF) is used to support services that promote economic self-sufficiency and address the neglect, abuse or exploitation of children and adults. Instead of including specific appropriations for these critical services as in past practice, the Executive proposes to appropriate a \$1.0 billion block grant for localities to determine the level of funding, providing counties with the flexibility to meet their most pressing needs.

- An allocation will be made from a newly created \$1 billion Flexible Fund for Family Services to each locality, which must then prioritize its needs in determining which support services it will fund, as well as the funding levels from its allocation.

The remainder of this funding stream is appropriated for the State's Earned Income Tax Credit (EITC), which provides a personal income tax credit for eligible families, and the Child and Dependent Care Credit (CDCC), which provides assistance through the tax system for parents/guardians to pay child care costs for one or more children under age 13 residing with them, while the parents/guardians work or look for work.

- For 2005-06 the EITC would increase \$181 million (38 percent) to \$652 million and represents an offset to the General Fund.
- For 2005-06 the CDCC would increase \$4.4 million (4.9 percent) to \$94.4 million.

Public Assistance

New York receives an annual Temporary Assistance for Needy Families block grant of \$2.44 billion from the federal government to help fund public assistance. This amount was based on the public assistance caseload in 1995. Since that time, caseloads have declined significantly and New York now receives a greater share of total program support from the federal government. The additional amount of federal funding is generally referred to as funding for "TANF Initiatives," which is above the federal share needed to support the Family Assistance Program.⁵⁷

⁵⁷ Although formerly referred to as the "TANF Surplus," the funds were targeted for real programmatic uses.

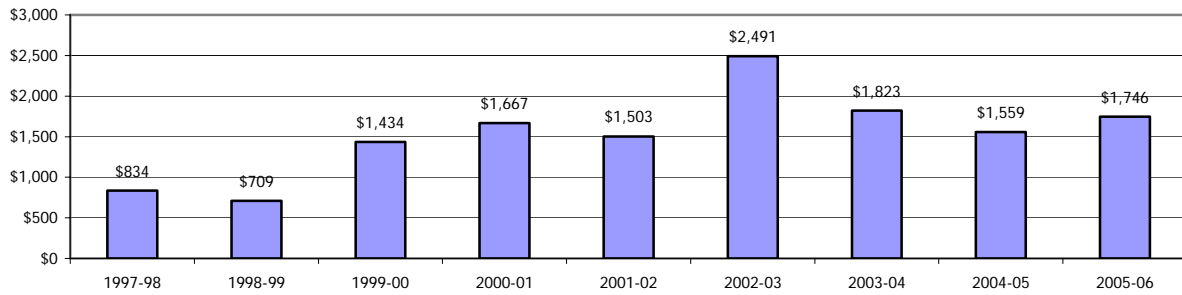
The exact amount of TANF Initiative funding is determined each year after calculating the benefit costs for the caseload numbers projected for the upcoming State fiscal year (SFY). In order to receive these monies, the State must spend a certain amount on public assistance, known as the Maintenance of Effort (MOE) level. The MOE is set at \$1.72 billion each year, again driven by 1995 caseloads. Generally, the MOE requirement is split equally between the State and local governments. The Executive predicts that both the State and local governments will reach the required MOE for 2005-06.

Child care, historically supported by funding for TANF Initiatives, is a service that significantly affects a family's ability to attain self-sufficiency. In past years, a direct transfer of TANF funds for child care purposes allowed the State to satisfy the \$200 million MOE requirement to access federal monies. This transfer also allowed an early draw down of funds from the following federal fiscal year (FFY) to provide a financial benefit for the upcoming State fiscal year. Since SFY 2003-04, New York has accessed Child Care Block Grant (CCBG) funds on October 1, the beginning of the next FFY, providing additional TANF Initiative funding in the current SFY. However, an early draw down of this block grant must continue to be taken on October 1 each year in order to maintain the financial benefit.

Last year the Executive committed TANF Initiative funds for child care on the State level, allowing New York to access \$375 million in federal CCBG funds. The amount of federal CCBG funds for SFY 2005-06, however, may be in jeopardy since the amount targeted for child care will be determined later in the year and at the local level.

The final level of funding for TANF Initiatives will depend on decisions made by the localities. At this time, the Division of the Budget (DOB) estimates funding for TANF Initiatives at \$1.75 billion in 2005-06, as indicated by the chart below. This will be adjusted after June 30, 2005, at which time each locality must certify the amount it will allocate to child care. The final amount of the Social Services Block Grant (SSBG) will also be determined in June when each locality certifies the percent of its TANF funding it plans to transfer for this purpose.

Available TANF Initiatives
(in millions)



Note: Over the last four fiscal years, funding for TANF Initiatives has been used for budget relief, including:

- the 2002-03 use of \$955 million TANF reserves accumulated over the previous five years,
- the 2003-04 draw down of \$408 million from TANF FFY 2003-04,
- the 2004-05 draw down of \$375 million from TANF FFY 2004-05, and
- the 2005-06 proposed draw down from TANF FFY 2005-06 will depend on the amount allocated to child care by each locality, impacting the final amount of TANF Initiative spending.

Although the accumulated funding for TANF Initiatives was fully expended in the SFY 2002-03 budget, monies that were allocated by the Legislature but remained unspent in subsequent years have been included in this year's proposal for TANF Initiatives. For example, \$104 million in unspent monies from 2003-04 was included in last year's estimates of TANF Initiative funding. For 2005-06, DOB includes \$336 million in unspent monies from 2004-05 for this purpose.

TANF Initiatives

In SFY 2005-06, the Proposed Budget commits the entire amount of TANF Initiative spending. Like last year's budget, it does not set aside any TANF Initiative funds for future needs. The chart below illustrates the reorganization of TANF Initiative funds proposed by the Executive.

Allocation of Available Federal TANF Initiative Monies
(in millions)

Program	2004-05⁵⁸	2005-06⁵⁹
Flexible Fund for Family Services		\$1,000.0
Child Welfare (Title XX, local JD/PINS, New York City foster care tuition, child welfare EAF, OCFS JDs, OCFS community based JD services, PINS/preventive services, child welfare quality)	\$425.8	
Earned Income Tax Credit (EITC)	471.1	652.0
Child and Dependent Care Credit (CDCC)	90.0	94.4
Child Care Block Grant (CCBG)	375.0	
Employment/Transitional Initiatives	100.6	
Services/Education/Health	74.2	
TOTAL	\$1,536.7	\$1,746.4

Source: New York State Division of the Budget

The following programs administered by the State and previously funded through TANF Initiative monies will now be supported by the General Fund:

**General Fund Appropriations
for State Administered TANF Support Programs**
(in millions)

Program	Agency for Funding	Actual TANF Initiative Funding 2004-05	Proposed General Fund Appropriation 2005-06	Change
Advantage Schools Program	Office of Children and Family Services (OCFS)	\$ 20.2	\$ 20.2	0
Home Visiting	OCFS	14.1	16.0	1.9
Food Pantries	Department of Health (DOH)	12.0	12.0	0
Women, Infants and Children (WIC)	DOH	4.9	4.9	0
Alternatives to Incarceration (ATI)	Division of Probation and Correctional Alternatives (DPCA)	3.8	3.8	0
School-based health centers	DOH	3.3	3.3	0
Child Care Block Grant (CCBG)—State portion*	OCFS	425.8	130.7	(295.1)
Total		\$484.1	\$190.9	(293.2)

*All other programs on this chart were included under Services/Education/Health programs for last year's allocation of federal TANF Initiative monies.

⁵⁸ TANF Initiative funding represents initial block grant of \$2.44 billion minus \$1.03 billion for base programs, plus \$0.104 billion in previous year unspent monies.

⁵⁹ TANF Initiative funding represents initial block grant of \$2.44 billion minus \$1.03 billion for base programs, plus \$0.336 billion in previous year unspent monies.

- Pregnancy Prevention, previously funded by TANF, will receive a \$10.0 million appropriation funded by the Health Care Reform Act (HCRA).

Under the Executive Budget, local districts may also designate additional monies for these programs through allocation of the new Flexible Fund for Family Services (FFFS). Localities will be required to continue meeting currently mandated functions, but they will not be required to continue programs at the same levels as prior years. Local districts will have flexibility to transfer TANF funds to the Child Care Development Fund (CCDF) and Title XX with the following limits:

- A transfer to the CCDF of up to 73 percent of the FFFS.
- A transfer to Title XX of up to 24 percent of the FFFS.

Although the proposed FFFS will give localities the discretion to support programs that have been most helpful to their specific population, there is a risk in the future. As Congress continues to address reauthorization of the TANF program, the amount of federal funding New York receives could be reduced to simply meet the cost of public assistance base programs. In this event, the Flexible Funding for Family Services would be lost. Localities, instead of the State, would then be in the difficult position of cutting vital services or finding alternate sources of revenue.

Although the Executive proposal is aimed at correcting a mismatch of local needs and resources, the State has lost ground over recent years by not spending monies appropriated. By rolling over appropriations to the next year, expenditures have not been made to enhance critical support services. Promises have been made, spending authority has been appropriated, but sufficient cash has not supported these appropriations. The level of cash is how much the Executive intends to spend in that fiscal year. If enough cash is not available, a signal is sent to local governments and other organizations providing services that the State's intention to support these programs may be less than anticipated. This budgetary action fosters uncertainty that resources will be available and, therefore, may in fact create a cycle, which lessens spending.

For example, \$47.9 million appropriated in previous budgets has not been spent and will be reappropriated in 2005-06 for the following contract programs:

- Adolescent Pregnancy Prevention Services (APPS),
- Summer youth employment,
- Education for Gainful Employment (EDGE),
- Bridge, which has provided vocational training and supported work experience since the early 1990s, and

- Transportation to employment initiatives.

The future funding of these programs with TANF monies, once the reappropriations are spent, will be at the discretion of the local districts.

TANF Funding

The federal TANF statute has been extended through March 31, 2005 at the current funding level, providing additional time for Congress to reauthorize the 1996 welfare law. The law establishing the TANF program was originally set to expire in 2002, but since that time Congress has approved eight extensions of the program. The funding level for TANF, however, has been frozen since 1997. Federal welfare legislation has been stalled, primarily due to disagreements on two key components, work requirements and child care spending.

It is important to note that any changes in the funding structure of TANF at the federal level could change the relative share to states. If this were to happen, the amount provided to New York, as well as other aspects of the funding process, could be altered.

Federal legislation under consideration in both the House and Senate would increase the work participation rates and restrict State flexibility to different degrees in the types of employment programs that could be funded by TANF. The level of funding has not yet been finalized, but the House version of the bill fails to provide the child care funding needed to pay for the work-related mandates placed upon the states while the Senate has added significant funding for this purpose. Although the Senate bill version would maintain the existing number of child care slots and provide for the costs states would face due to increased work participation rates, it would not significantly increase the number of child care slots from current levels. As a result, this would not reduce the large numbers of low-income families who need help affording child care but do not receive it due to insufficient funding. Therefore, it will be difficult for these parents to keep their jobs and remain off welfare."

Proposals in both houses would freeze the basic TANF Block Grant funding at the current level. By freezing TANF funding at its current level, inflation will continue to erode the value of TANF. It has been estimated that by 2007 the value of the TANF Block Grant, if still frozen at its 1997 level, would be decreased by 22 percent after adjusting for inflation. If this is coupled with increased requirements for work participation, New York would be left with less flexibility to provide support with TANF funding for recipients working toward self-sufficiency. As a result, the State's ability to serve the indigent population could be affected. Child care subsidies, for example, are integral to the ability to work for many parents. Without child care assistance, a parent may be unable to seek and retain employment.

Caseloads

Between 1995 and 2003 public assistance caseloads in New York fell by 60 percent. For 2005-06 the Executive projects that the number of family assistance recipients will decrease by less than 0.01 percent to 327,179. The total number of Safety Net recipients (individuals, childless couples and 5-year families) is projected to increase by 5.2 percent (or 16,262 recipients) to 328,724.

In 1997, the federal government began imposing a 60-month (five-year) lifetime limit on benefits for public assistance recipients. Once the limit is reached, family assistance benefits cease. Benefits provided after that point must come from State and local resources (i.e. federal funds cannot be used to pay for benefits) and are known as "Safety Net" Assistance.

Temporary Assistance Caseloads

Program	2004-05	2005-06	Change	Change Percent
Family Assistance	329,265	327,179	(2,086)	0.0%
5-Year Families	170,143	175,962	5,819	3.4%
Safety Net	142,319	152,762	10,443	7.3%
Subtotal	641,727	655,903	14,176	2.2%
SSI	624,370	627,815	3,445	0.6%
Total	1,266,097	1,283,718	17,621	1.4%

Source: New York State Division of the Budget

Due to the projected caseload increase, the State's share of General Fund spending for Safety Net Assistance for individuals and childless couples is expected to increase \$37.4 million (8.7 percent), reflecting the State's 50 percent share of the cost of this program; counties support the remaining 50 percent. State spending for Safety Net Assistance for five-year families is projected to increase \$33.7 million (15 percent). Under the Executive Budget, the State's share of Supplemental Security Income (SSI) is estimated to increase by \$3.8 million, or 0.6 percent, to \$632.7 million. The number of individuals receiving SSI is projected by the Executive to increase by 3,445 (0.6 percent) to 627,815. Although Family Assistance caseloads are projected to decrease by 2,086 (less than 0.0 percent), State spending in this category is expected to increase \$9.3 million (3.1 percent).

State Share Temporary Assistance Programs
(in millions)

Program	2004-05	2005-06	Change Amount	Change Percent
Family Assistance	\$302.7	\$312.0	\$9.3	3.1%
5-Year Families	224.4	258.1	33.7	15.0%
Safety Net	432.3	469.7	37.4	8.7%
State Share of SSI	628.9	632.7	3.8	0.6%
Total	\$1,588	\$1,673	\$84.2	5.3%

Source: New York State Division of the Budget

Child Care Slots

Although localities would determine the total amount of TANF spending for child care by allocating Flexible Funds for Family Services at their discretion, the Child Care Block Grant (CCBG) at this time is projected to be \$510.1 million, as compared to \$929.1 million in 2004-05. The \$40 million increase in the State appropriation for the CCBG would likely help localities in reaching the \$200 million MOE level required to access federal Child Care Development Funds

Breakdown of Child Care Block Grant
(in millions)

Child Care Block Grant	2004-05	2005-06	Change Amount	Change Percent
State Share	\$96.1	\$136.1	\$40.0	41.6%
Local Share	68.0	68.0	0.0	0.0%
Federal Child Care Development Fund	318.0	306.0	(12.0)	(3.8%)
Federal TANF Early Draw Down	375.0	0.0	(375.0)	(100.0%)
Federal Prior Year Funds	72.0	0.0	(72.0)	(100.0%)
Total	\$929.1	\$510.1	(\$419.0)	(45.1%)

Source: New York State Assembly Ways and Means

The 2005-06 Executive Budget expects to maintain the number of subsidized child care slots at last year's level of 186,900. The CCBG, created in 1997-98, combines public assistance, transitional, at-risk and State low-income day care into one seamless funding system, to help working families obtain affordable and high quality child care. The counties administer the day care slots with the funding received from the State in a lump sum shortly after enactment of the budget each year and have the flexibility to support full or part-time day care slots.

Child care is one of the most expensive factors for families raising their children, but it is integral to any working parent. According to a 2004 Runzheimer International

analysis of 140 metropolitan areas nationwide, annual day care costs range from \$4,000 to more than \$12,000, with New York City being at the upper end.⁶⁰ The average cost per day care slot funded by New York State is \$4,585; counties, however, may fund some slots on a part-time basis. Parents of more than 27,000 children in the State are waiting for child care subsidies.⁶¹

Welfare Employment Function

The Executive proposes to transfer the welfare employment function from the Department of Labor (DOL) to the Office of Temporary and Disability Assistance (OTDA) to more effectively provide comprehensive support services. The Office of the State Comptroller issued an audit in February 2005 (*Office of Temporary and Disability Assistance, Barriers to Self-Sufficiency*, Report 2003-5-15) that identified a lack of coordination between DOL and OTDA in ensuring that local districts appropriately assess, plan and provide needed services to address barriers of Safety Net recipients in becoming self-sufficient and employed.

DOL is responsible for addressing such barriers to employment as education and training, while other barriers, such as homelessness, fall within the purview of OTDA. Chapter 436 of the Laws of 1997 was responsible for the sweeping changes to the statutes governing the former Department of Social Services (DSS). Section 126 of Chapter 436 directed the commissioners of the newly created Office of Children and Family Services and Office of Temporary Disability Assistance to enter into a memorandum of understanding (MOU) with each other and where necessary, other agencies affected by the transfer of functions, powers, duties and obligations of the former DSS, such as DOL. The Comptroller's audit determined that, while there was an MOU between OTDA and DOL addressing the issue of supervision of social service districts in administering local employment and training activities, the document did not contain a sufficient level of detail required by Chapter 436 concerning the transfer of functions and obligations.

Cost Containment

The Executive again proposes a welfare cost containment package that includes two of three Executive proposals that were not enacted last year.⁶² The Executive also proposes penalties for counties that do not meet new work participation rates. A \$13.6

⁶⁰ "Daycare Can Easily Double in Cost From One Place to Another." Runzheimer International. Jan. 20, 2004. <www.runzheimer.com>.

⁶¹ Assembly Ways and Means Committee. New York State Legislature. *Statistical and Narrative Summary of the Executive Budget*. January 2004: 45.

⁶² A fourth proposal in the 2004-05 Executive Budget was ultimately implemented through regulation in 2004. This cost containment measure adjusts the "SSI invisibility" methodology used to determine benefit levels for a family with an individual receiving SSI. For 2005-06, the Executive projects a savings of \$2.7 million as a result of this change. Another proposal in last year's Executive Budget, that has not been re-introduced this year, would have contained costs by reducing the non-shelter portion of the welfare grant for certain recipients.

million savings is projected in General Fund spending for welfare due to proposed eligibility, work participation and benefit changes related to the Executive's cost-containment proposals.

- Implementing a "full-family" sanction would result in \$8.6 million in savings. Currently, a pro-rata reduction is made if the head of the household fails to comply with employment requirements. For example, in a family of four, the other three family members would still receive three-quarters of the welfare grant. Under this proposal, however, if the head of the household is out of compliance with work requirements, a *full* welfare benefit reduction would be imposed, affecting the *entire* family. Even children could suffer due to the full-family sanction.

**Example of Benefit Reduction for a Family of Four in New York City
Due to Welfare Cost Containment⁶³**

Cost Containment Component	Current Monthly Benefit	Proposed Reduction Applied to Benefit	Proposed Resulting Benefit
Full-family sanction	\$825 reduced to \$619 if head of household is out of compliance	100 percent if head of household is out of compliance	\$0

- Adjusting the amount of earnings disregarded for the purpose of determining welfare benefit levels would result in a projected net savings of \$1.25 million. Benefits are determined in part by considering a percentage of the income an individual earns. This proposal would disregard a higher percentage of income earned for those in receipt of welfare benefits for less than five years, resulting in increased benefits. For individuals and families in receipt of welfare benefits for five years or more (through Safety Net Assistance), this proposal would disregard lower percentages of income earned, resulting in reduced benefits. Adjustment of the earnings disregard is projected to affect 24,990 families.
 - Currently, the first \$90 earned each month is automatically disregarded in calculating the benefit. This would also be true under the Executive proposal.
 - The current earnings disregard percent (after the first \$90 earned) is tied to the poverty level, which is adjusted in June of each year. Currently, 43 percent of earnings is disregarded for *all* eligible recipients of public assistance. By changing the earnings disregard to 50 percent for those on welfare less than five years, recipients will receive an increase over their June 2004 - June 2005 benefit level.

⁶³ Benefit levels vary by family size, location, earned income and various other factors. This example is based on a family of four in New York City without earned income.

- Under the Executive proposal, earnings of recipients on welfare less than five years would be disregarded at a level of 50 percent, but the earnings of recipients transferring to Safety Net Assistance after being on welfare for five years would be disregarded at a level of only 25 percent. This would result in a reduced benefit level and an added disincentive for recipients to work. For a family of four in New York City on welfare more than five years with monthly earnings of \$800, this would translate into a \$127.80 monthly reduction from their current benefit (see following table).

Earnings Disregard for a Family of Four in New York City

Years on Welfare	Proposed Percent of Earnings Disregarded	Monthly Earnings	Current Monthly Benefit*	Proposed Monthly Benefit	Earnings Plus Proposed Benefit Total	Benefits With Zero Earnings
0-5	50%	\$800.00	\$420.30	\$470.00	\$1,270.00	\$825.00
>5	25%	\$800.00	\$420.30	\$292.50	\$1,092.50	\$825.00

*After the current 43 percent disregard.

- Imposing penalties on counties that do not meet work participation requirements for individuals on Safety Net Assistance would result in a projected State savings of \$3.75 million. There has been no enforcement of the current work participation rate of 90 percent of the recipients not exempted from work requirements. This proposal would enforce a reduced work participation rate of 50 percent of the entire Safety Net singles population. On average, the current work participation rate for this population is 22 percent.

Other Program Highlights/Changes

The Executive Budget proposes:

- A General Fund appropriation of \$3.4 million to expand the Earned Income Tax Credit (EITC) to younger, non-custodial fathers.
- A pass-through of the yearly federal government inflationary increase in SSI payments to recipients. The federal annual inflationary payment increase is estimated to be about \$180 per recipient and \$276 per couple for 2005-06.
- Market rate changes for payments to child care providers, adjusted every two years, will be made in October 2005.

- Continued efforts to streamline program administration and strengthen anti-fraud efforts by redesigning the Welfare Management System with a General Fund allocation of \$15 million, a \$3.5 million increase over last year's proposal, which was rejected by the Legislature.
- An increase of \$12 million (nearly 7 percent) to \$184 million for adoption subsidies to reduce the number of children in foster care.

Local Governments

Overview

Property tax relief is the prevailing theme of the Executive's 2005-06 Proposed Budget recommendations for local governments. While the Comptroller agrees that local property tax relief must be a State priority, there are significant vulnerabilities with several of the Executive proposals, which undermine this goal, and implementation issues associated with others.

In Medicaid, the Executive is proposing to cap the local share of costs with full State takeover planned for 2008. However, imposition of the cap is linked to the Legislature's adoption of cost containment measures—measures that have been rejected in the past. Moreover, the Executive's estimates ignore the potential loss of funding to public hospitals and nursing homes, which would decrease the projected savings by \$275 million. In unrestricted aid to local governments, the Executive proposes to consolidate a number of aid categories into a single new Aid and Incentives for Municipalities (AIM) program with spending caps used as an incentive for cities to receive increased levels of aid. However, implementation of these caps may be problematic for some localities. The Executive also proposes a new Co-STAR property tax relief program, which is linked to spending caps. Realistically, the growth levels prescribed by these spending caps may not be attainable for some local governments. Recent testimony by local government associations conveys similar concerns.

SFY 2005-06 Estimated Local Impact (in millions)

SFY 2005-06	Total	Counties	NYC	Other Locals	School Districts
Medicaid	\$577.7	\$202.8	\$374.9	0	0
Aid for Municipalities	54.6	0	0	\$54.6	0
School Aid	368.4	0	196.2	0	\$172.2
Revenues	259.5	80.0	179.2	0.3	0
Pension Reforms	621.0	202.0	0	302.0	117.0
All Other Impacts	34.0	28.2	5.9	(2.4)	2.3
Total	\$1,915.2	\$513.0	\$756.2	354.5	\$291.5

Source: New York State Division of the Budget (does not reflect 30-day Amendments)

In total, the Executive Budget estimates a net benefit of \$1.9 billion to local governments—\$513 million to counties, \$756 million to New York City, \$292 million to school districts and \$355 million to other local governments. However, as much as \$1.0 billion of the anticipated benefit to local governments is highly questionable because it is dependent upon various actions that the Legislature or the Comptroller is unlikely to take.

(Revised) Estimated Local Impact
(in millions)

DOB estimate	\$1,915
At risk:	
Pensions	(621)
Medicaid cost containment	(456)
Revised estimate	\$838

Much of the remaining local benefit may have already been assumed in school district and municipal budgets and, therefore, may not represent "new" savings for them.

Unrestricted Aid

Aid and Incentives for Municipalities (AIM)

The Executive is advancing a new Aid and Incentive for Municipalities (AIM) program. Under AIM, the Executive would consolidate General Purpose Local Government Aid, Emergency Financial Aid to Certain Cities, Emergency Financial Assistance to Eligible Municipalities, Supplemental Municipal Aid and a portion of Small Government Assistance into one program. The Executive Budget provides \$48 million for AIM increases to cities in 2005-06, which would grow to \$96 million by 2006-07.

New York City would not be eligible for AIM aid increases and would, therefore, receive the same amount of unrestricted aid received in SFY 2004-05 (\$328 million). All other cities would receive minimum 2.5 percent aid increases in 2005-06 and 5 percent increases in 2006-07. Depending on each city's per capita full valuation compared to statewide average per capita full valuation, 55 of the 61 cities would be eligible for larger increases in State aid (up to 12.5 percent in 2005-06 and 25 percent in 2006-07). The table below summarizes the range of aid increases for which cities of varying wealth would be eligible.

	Percentage of aid increase		# Eligible cities	Total 1998 expenditures	Total 2003 expenditures	Annual average increase in expenditures	Change in Population 1990-2000
	2005-06	2006-07					
Big Four Cities	12.5%	25%	4	\$1,038,020,065	\$1,224,760,958	3.36%	-6.00%
Cities less than 75% of Per Capita Full Value	12.5%	25%	33	\$780,685,822	\$998,688,372	5.05%	-8.63%
Cities between 75% and 100% of Per Capita Full Value	10%	20%	12	\$335,898,505	\$406,852,374	3.91%	-2.34%
Cities between 100% and 125% of Per Capita Full Value	5%	10%	6	\$133,421,999	\$164,731,832	4.31%	2.51%
Cities over 125% of Per Capita Full Value	2.5%	5%	6	\$291,643,518	\$380,012,832	5.44%	6.98%

AIM aid increases are based on per capita full valuation, which is intended to target aid to cities most in need. Cities with the lowest average per capita full valuation are typically those which have experienced the greatest reduction in population from 1990 to 2000, have a much higher percentage of residents in poverty and have struggled with declining tax bases.

All cities that are eligible to receive increases in aid above the minimum must enter into fiscal performance agreements with the Department of State. Municipalities must also agree to cap spending growth at 3.5 percent in 2005-06, 3.25 percent in 2006-07 and 3 percent in 2007-08. The fiscal performance agreement must demonstrate how spending will be controlled and must include information on: projected annual expenditures, reserve fund balances and estimated annual revenues, including projected property tax rates, and the value of taxable real property and resulting tax levy.

The Executive's 30-day Amendments contain language that specifically addresses cities operating under a State imposed fiscal stability control board (currently Buffalo). The language requires that any AIM aid increase be paid directly to the control board. The additional funds would then be distributed to the eligible city to be used towards "permanently reducing the cost of city government."

If a city is not able to hold spending growth to these levels, it will not receive additional State aid unless it completes a fiscal reform plan with the Department of State. A fiscal reform plan is intended to bring the city into compliance with its fiscal performance agreement through the identification of various cost-saving measures, such as inter-municipal shared services, improved procurement practices, technological initiatives or public-private partnerships. A reform plan must include a schedule for the implementation of strategies and must be updated annually.

Towns and villages with full value per capita less than 125 percent of the statewide average are also eligible to receive increased aid payments. The Executive projects that 85 percent of New York State's 1,485 towns and villages would receive aid increases of 2.5 percent in 2005-06 and 5 percent in 2006-07, for a cost of \$1.1 million and \$2.2 million, respectively. There are no spending limits or fiscal performance agreements required for towns and villages. Counties, which were eliminated from revenue sharing, would receive no aid from the AIM proposal.

A risk to the success of the AIM program lies in the spending cap under which cities must operate in order to receive enriched aid payments. With collective bargaining costs driving a significant portion of local spending, premiums for employer-sponsored health insurance rising over 10 percent annually and energy costs significantly exceeding overall inflation rates, many fiscally stressed cities may find it difficult to keep overall spending to the required levels without reducing or eliminating necessary programs. Moreover, spending targets may only be achievable in conjunction with the Executive's mandate relief proposals—proposals that have been rejected in the past.

The Executive is also proposing a Shared Municipal Services Incentives Awards program to encourage efficiency in local governments. Funding of \$5.5 million is proposed for the program in 2005-06, which would increase to \$10.8 million in 2006-07. The Department of State would award \$100,000 grants to participating municipalities—counties, cities, towns, villages and school districts—to cover costs associated with mergers, consolidations, cooperative agreements and shared services including, but not limited to, feasibility studies, capital improvements and other necessary expenses. Local governments must provide matching funds equal to 10 percent of total approved project costs. The Secretary of State would establish eligibility requirements, criteria and grant approval guidelines. The Comptroller's Report on Intermunicipal Cooperation and Consolidation recommended State aid for this purpose.

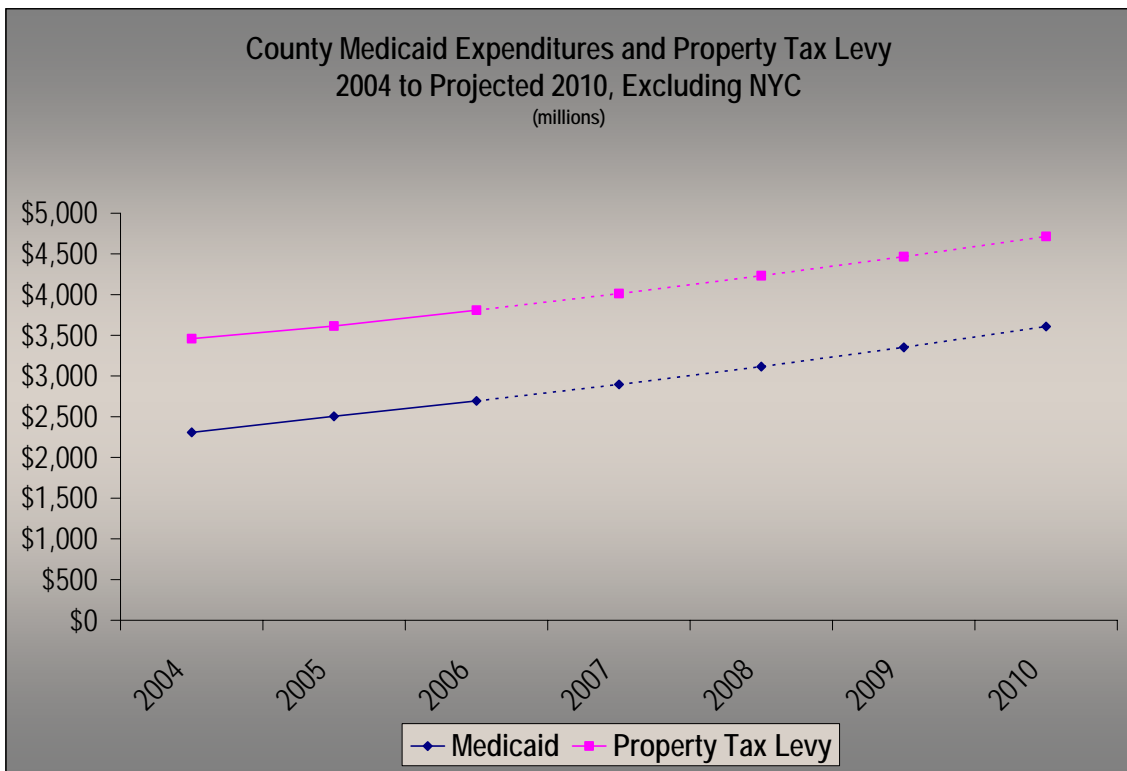
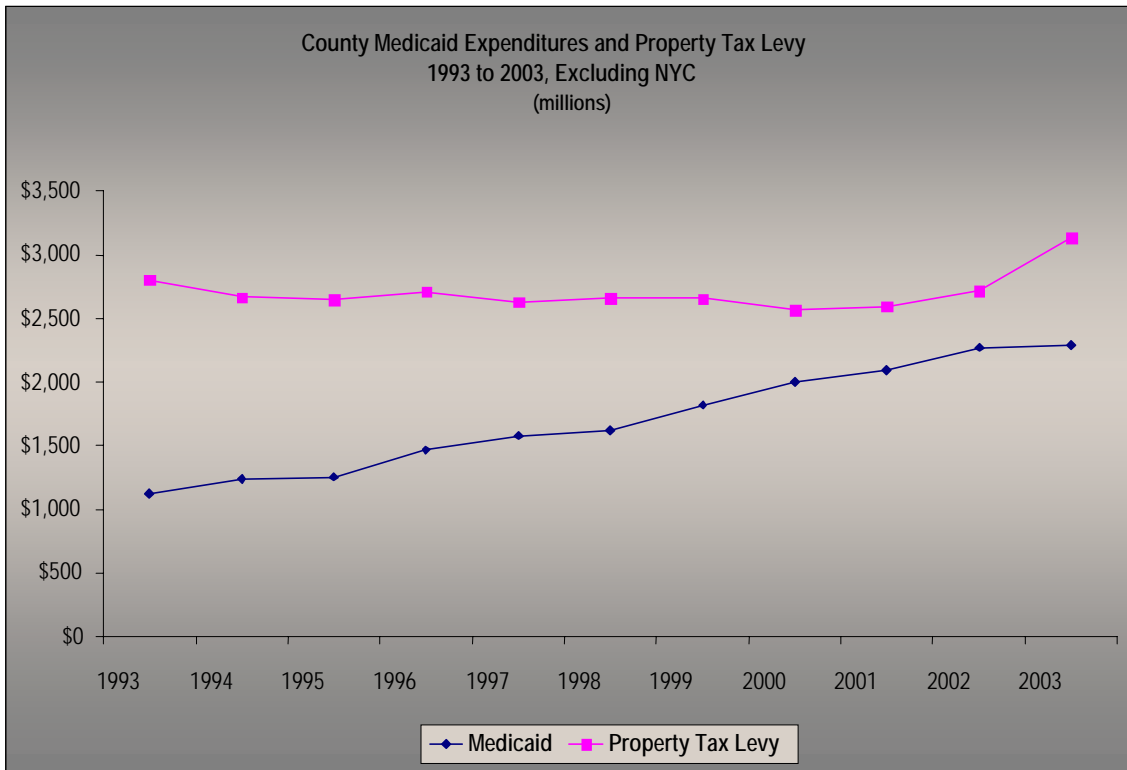
Other aid to localities appropriations include:

- \$2 million each to Oneida and Madison Counties to settle land claims,
- \$45 million for a schedule payment to Yonkers as part of a desegregation settlement,
- the last \$7.5 million payment to Nassau County (associated with the State-imposed takeover), and
- the Executive 30-day Amendments provide \$14 million to the City of Albany to cover increased cost of services and to offset the loss of property tax revenue stemming from its tax-exempt property. This is an increase of \$6 million from the Executive Budget.

Medicaid

Cap on Local Share

The Executive Budget proposes a local spending cap on Medicaid costs. This proposal comes in the wake of growing pressure from county governments concerned over the rapidly increasing costs of the Medicaid program—one of the few requiring a local cost share. In fact, an analysis recently issued by the Comptroller suggests that if the Medicaid program continues to grow at current rates, the additional costs could drive a one-third increase in county property taxes by 2010. The Executive's proposal is projected to save counties (including New York City) \$2 billion over the next three years.



Effective January 2006, local Medicaid costs would be capped at 3.5 percent above 2005 expenditures or actual costs—whichever is less. The growth rate would be lowered to 3.25 percent in 2007 and 3 percent for 2008 and beyond. A full State takeover of the Medicaid program would begin in January 2008, at which time county

governments would be given two options to help the State offset the cost of the program:

Option 1: Each county could continue paying for a local share of Medicaid at the capped amount, which would grow at no more than 3 percent each year.

Option 2: Each county could choose to eliminate Medicaid from its local budget altogether and allow the State to intercept a portion of its sales tax revenue (county share only). This option may benefit some small upstate counties, which have been experiencing sales tax revenue growth at less than 3 percent each year.

While the local cap being proposed by the Executive would provide much needed relief and predictability to counties, it is contingent on the Legislature accepting the cost containment proposals included in the Budget. Most of these cost containment measures were rejected by the Legislature last year or in prior years.

Additionally, because the cap is not effective until 2006, the proposal would not provide 2005 budget relief to counties outside of New York City. In order to mitigate this, the Executive Budget also calls for an acceleration in the State takeover of the Family Health Plus program.

Family Health Plus (FHP)

The State takeover of Family Health Plus is accelerated for counties outside of New York City, resulting in a net benefit of \$25 million to counties in 2005. Under existing law, the State is scheduled to assume 50 percent of county costs effective January 1, 2005 and 100 percent of costs effective January 1, 2006. The Executive Budget proposes full State assumption of costs, effective October 1, 2005. New York City is not included in the accelerated takeover because a portion of the benefit that stems from the Medicaid cap falls within the City's 2005-06 fiscal year.

Transitional Funding

Transitional funding is also being made available to counties outside of New York City where the economic need is greatest. Funding for 2005-06 would be \$20 million, of which \$15 million would go to counties. Distribution of the \$15 million would be formula based and would take into account property wealth per capita. The remaining \$5 million would be set aside and allocated on a case-by-case basis, as determined by the Commissioner of Health. Transitional funding for 2006-07 would be \$10 million.

Temporary Assistance to Needy Families (TANF)

The Executive Budget proposes to restructure the distribution of TANF funds, dedicating all TANF funds not allocated to the Earned Income Tax Credit and the Child and Dependent Care Credit to a \$1 billion Flexible Fund for Family Services to "address

local supportive service priorities.” This would give localities the authority to use TANF funds to support services that have traditionally received individual appropriations.

The Executive’s 30-day Amendments project \$3.75 million in revenue resulting from penalties imposed upon counties out of compliance with new work participation rate requirements, effective October 1, 2005.

Co-STAR

The Executive Budget also repeats a variation of a proposal that was rejected by the Legislature in the past—a county tax relief initiative called Co-STAR. Co-STAR would provide county taxpayers with direct rebates from the State if their local government spending growth is below 3.5 percent in 2006, 3.25 percent in 2007 and 3 percent in 2008 (the same growth levels prescribed under the new AIM program and the Medicaid cap).

Initially, the benefit would cover only eligible seniors and farmers. The 2006 benefit would be \$100, which would grow to \$200 in 2007. By 2008, all other homeowners who are currently eligible for STAR would receive rebates of \$50; those rebates would grow to \$200 over four years.

New York City residents who currently qualify for STAR would also be eligible for the new Co-STAR benefit. The existing personal income tax credit for New York City residents would increase over six years beginning in 2006.

Local government associations have voiced concern that adherence to caps on local spending may not be realistic for some communities, especially given sharp increases in expenditures, which are often beyond the control of the local government. In order to hold spending below the cap, local governments may be pressured to cut needed programs and services.

School Spending Caps

For the fourth time in five years, the Executive Budget calls for school district spending growth limitations (the lesser of 4 percent or 120 percent of the increase in the Consumer Price Index (CPI), unless authorized by two-thirds of district voters), with some exceptions, such as for SBE spending and enrollment growth.

Economic Development

The Strategic Partnership for Upstate Resurgence (SPUR) program is proposed, with the intention of benefiting local governments in economically lagging areas of

Upstate New York. SPUR is a mix of multi-year capital investments (\$100 million) and tax relief (\$35 million), as well as the New York State Technology and Development Program (\$250 million, \$150 million of which is earmarked for a project in the Hudson Valley). Rural communities could benefit from tax benefits derived from new agribusiness additions to Empire Zones (EZ), and urban communities would receive \$40 million in federal downtown grants from the Main Streets program. The Comptroller has previously noted, however, that tax benefits for job growth and retention, as in the SPUR and EZ programs, often fail to produce jobs. Stronger links to job production, as proposed in this Executive Budget, were not enacted last year. Moreover, the SPUR program would continue to add to the State's already high debt burden.

Revenues

The Executive Budget continues to replace the permanent sales tax exemption on clothing with two, one-week exemptions at local option. In addition, the Executive proposes sales tax changes on Energy Star appliances and wine purchases and an increase in motor vehicle fees. DOB estimates a net benefit of \$80 million to counties and \$179.2 million to New York City as a result of these actions. Most counties had already assumed a continuation of last year's changes to the clothing sales tax, so this may not represent new revenue to their budgets.

Indigent Legal Services Fund

Chapter 62 of the Laws of 2003 increased the hourly compensation rates, which counties must pay lawyers assigned to represent poor defendants in criminal cases and the compensation rates used for the State-supported law guardian program. The Indigent Legal Services Fund (ILSF) was created to help the State and the counties pay for the increased costs associated with the provision of indigent legal services. The ILSF is supported by revenues generated by various court and vehicle/traffic fees. The first \$25 million of ILSF receipts must be used to support the Law Guardian program in the Office of Court Administration's budget; the remaining revenue is distributed to the counties.

The 2004-05 Enacted State Budget appropriated only \$12 million for distribution to the counties from the ILSF. However, the Comptroller, as custodian of the fund, informed the Executive and the Legislature that ILSF revenues available for county distribution total \$52 million. As a result, the Executive has advanced a \$40 million deficiency appropriation to permit total payment of \$52 million to the counties by March 31, 2005.

The 2005-06 Executive Budget, as amended during the 30-day period, includes a \$32 million appropriation for county reimbursement from the ILSF on March 31, 2006.

Mandate Relief

The Executive Budget contains several mandate relief proposals for local governments, including complete repeal of the Wicks Law—which would remove the multiple contractor requirement on public works projects for building construction where the total cost is over \$50,000. Additionally, the proposal seeks to modify binding arbitration by requiring arbitration panels to consider, above all other factors, the ability of public employers to pay without resort to new taxation.

Other proposed changes include the expansion of local government investment options (including the establishment of a short-term investment pool, under the control of the State Comptroller); new provisions for joint services and property tax sharing under cooperation agreements (reforms which appear overly broad, especially in light of the options already available to local governments under current municipal law) and reforms of the process for resolving legal claims against certain public entities.

While local governments continue to call for mandate relief as a means of relieving fiscal pressures and fostering operational efficiency, the actual amount of cost savings is difficult to project. Other than an estimated 10 to 30 percent reduction in construction costs as a result of the Wicks Law repeal, there are no estimates of savings provided by DOB. Moreover, these mandate relief proposals have been rejected by the Legislature in the past.

Consolidation of Local Governments

The 2005-06 Executive Budget proposes to amend the General Municipal Law to provide a legal framework for the consolidation of local governments in New York, including counties, cities (except New York City), towns and villages. Under this new framework, local governments would be required to conduct a merger study when locally petitioned to consider a merger. After appropriate study, those localities proposing a merger would be required to develop and adopt a merger plan, which would provide for the transition to the new governing entity. The plan would include such components as the name and class of the new government, payment of outstanding debt, deployment of existing employees, method of selection of public officers, taxing authority and continuity of services.

Enactment of this legislation could encourage local government mergers currently being contemplated, including the potential consolidation of the City of Buffalo and Erie County.

New York City Budget Impact

The Division of the Budget (DOB) estimates that the Executive's Budget would benefit the City of New York by \$91 million in the current fiscal year and by \$927 million in City fiscal year (CFY) 2006, which begins on July 1, 2005. As shown in the table below, most of the benefit in CFY 2006 would result from proposed changes in the Medicaid program (\$419 million), an increase in State education aid (\$280 million), and the elimination of the sales tax exemption for clothing purchases under \$110, which would be replaced with two tax-exempt weeks for clothing purchases under \$250 (\$215 million).

Budgetary Impact of the Executive Budget on New York City (in millions)

	CFY 2005	CFY 2006
Medicaid Cost Containment	\$73	\$ 229
Eliminate Clothing Sales Tax Exemption	18	215
Medicaid Cap	- - -	190
Sound Basic Education Fund	- - -	195
School Aid	- - -	85
Other	- - -	13
Total	\$91	\$ 927

The amount of resources available to help the City balance its CFY 2006 budget would be reduced by \$280 million to \$647 million because education aid cannot be used for gap-closing purposes. DOB's estimates also do not reflect any negative impact that the Executive's proposals could have on the Health and Hospitals Corporation, which could widen the Corporation's projected budget gap for SFY 2006 by as much as \$275 million. Consequently, the net benefit to the City could be reduced to \$447 million in CFY 2006 if the City needs to increase its subsidy to the Corporation to offset the impact of the Executive's cuts. Since the Executive's Medicaid cost-containment initiatives are likely to meet resistance, the benefit to the City could be much less.

Medicaid cost-containment measures would reduce the City's Medicaid costs by \$73 million in CFY 2005 and by \$229 million in CFY 2006. If the Executive's cost-containment measures are adopted, the Executive also would cap the growth in the local share of Medicaid expenses to 3.5 percent in calendar year 2006, 3.25 percent in calendar year 2007, and 3 percent annually thereafter. DOB estimates that the cap would save the City an additional \$190 million in CFY 2006 and more than twice that amount in subsequent fiscal years. Cities and counties also would be given a one-time opportunity in calendar year 2008 to exchange a share of their local sales tax revenues or, in the case of New York City, also personal income tax revenues, for a State takeover of the local share of Medicaid expenses. Most localities are unlikely to pursue

this option, however, because sales tax and personal income tax collections are likely to grow faster than the cap on the growth in the local share of Medicaid.

Transportation

The Executive Budget's anticipated 2005-06 All Funds disbursements for all transportation related initiatives (Department of Transportation, Department of Motor Vehicles and the Thruway Authority) will total \$5.76 billion, representing a net increase of \$303.2 million (5.6 percent) over 2004-05. The Department of Transportation (DOT) alone would account for \$5.47 billion, or 95 percent, of all transportation disbursements, although much of this is State aid to local mass transit authorities and local highway maintenance aid. The DOT total represents a \$246 million increase (4.7 percent) in All Funds spending over 2004-05.

As in past years, the Executive continues moving revenues and expenses from the General Fund to various transportation-related dedicated funds. General Fund support recommended by the Executive for DOT would decrease by \$9.9 million (8.8 percent) to \$103 million. Over the past two years, General Fund support has declined \$58.8 million (36.3 percent). This change reflects moving local transit aid spending from the General Fund to Special Revenue Funds, specifically the Dedicated Mass Transportation Trust Fund (DMTTF). General Fund support for the Department of Motor Vehicles would be eliminated entirely, following a one-year draw on the Fund for personal service costs.

General Fund Support (in millions)

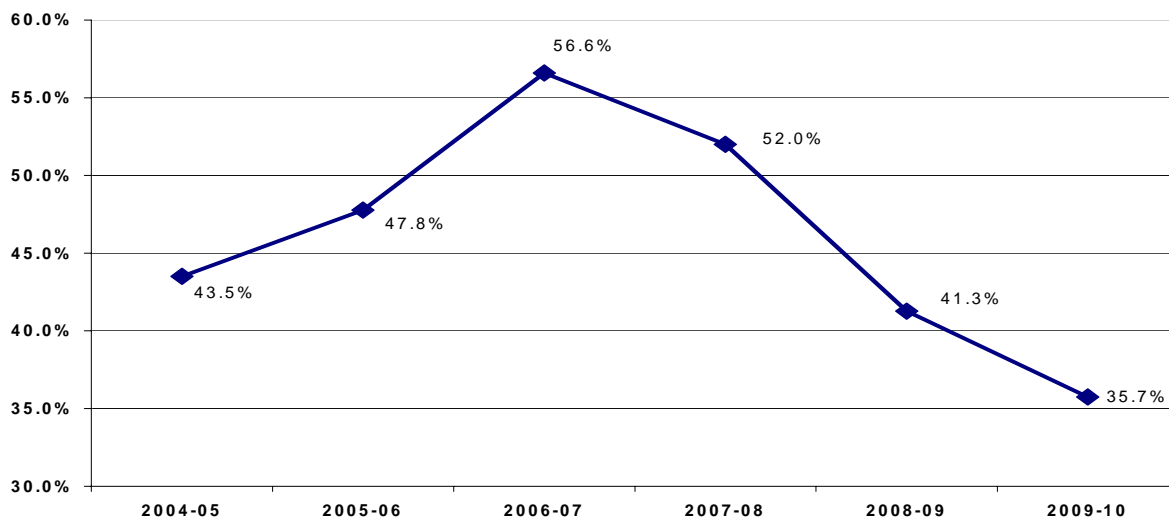
Agency	2004-05	2005-06	Change	Percent Change
Transportation	\$112.9	\$103.0	(\$9.9)	(8.8%)
Motor Vehicles	\$4.7	\$0	(\$4.7)	(100%)

The contract letting level for highway and bridge construction in 2005-06 would be \$1.65 billion under the Executive proposal, the same level as the current State Fiscal Year. Funding for the Consolidated Highway Improvement Program (CHIPS) would also remain level at \$276.7 million, ending the long-standing Executive practice of deleting annual legislative adds for operating and maintenance aid in this program. Funding for the Municipal Streets and Highway Program (Marchiselli Aid) would remain at \$39.7 million for the sixth year in a row. CHIPS and Marchiselli Aid provide funding for local highway construction projects. The CHIPS debt cap would be increased from \$4.2 billion to \$5.6 billion under this proposal. State support for snow and ice removal, funded through the Dedicated Highway and Bridge Trust Fund (DHBTF), will be about \$250 million in 2005-06.

Capital Spending

Capital funds spending for 2005-06 is expected to be \$3.6 billion, a \$107 million (3.1 percent) increase over 2004-05. The Executive Budget also includes a new five-year Transportation Capital Plan that would provide \$17.4 billion for DOT capital programs. Core funding—funding to keep roads and bridges in good repair—would remain essentially level at \$15.4 billion, while \$2 billion in new funding is called for. This additional funding is slated for the last two years of the Capital Plan and while the sources of this additional funding are not explicitly identified, the Executive has presented a proposal that would permit DOT, the Thruway Authority and the Metropolitan Transportation Authority to enter into “public-private partnerships” that could involve the privatization of transportation assets, such as highways and bridges.

**Cash Transportation Spending - Non-Federal Capital Spending
2004-05 through 2009-10**



Source: New York State Division of the Budget

The Executive Budget Transportation Capital Plan anticipates an increase in State financed pay-as-you-go projects, from \$859 million in 2004-05 to \$985 million in 2005-06 to \$1.2 billion in 2006-07, and then a gradual decline to \$1.0 billion in 2009-10. Meanwhile, authority-funded support for transportation capital would drop to \$1 billion in 2005-06 from \$1.1 billion in the current fiscal year and drop again to \$934 million in 2006-07. It would then rise steadily until it reached \$1.8 billion in 2009-10, the final year of the new five-year plan.

Federal funding augments the State's Transportation Capital Program Plan, but future federal support is uncertain. The federal Transportation Equity Act (TEA-21), which provided a substantial amount of federal highway aid, expired on September 30, 2003. There have been five temporary funding extensions. The current extension will expire on May 31, 2005, and there is some concern that the federal funding formula will be changed in a way that reduces federal support for Northeastern states. The

Executive Budget acknowledges this uncertainty, but assumes federal capital program spending of \$1.56 billion in 2005-06.

Metropolitan Transportation Authority

The Executive Budget provides appropriation authority for over \$1.6 billion in new operating aid for the Metropolitan Transportation Authority (MTA). The Executive has also introduced a new five-year Capital Plan for the MTA totaling \$19.2 billion. This includes \$15.2 billion for the MTA's core capital program for system maintenance, \$2 billion in New York City funded support for the Number 7 subway extension and another \$2 billion in new capital commitments. The MTA had sought a \$27.8 billion Capital Plan authorization, which would have included \$9.9 billion in new capital expenditures beyond core capital needs. Much of this new funding was requested for network expansion projects. However, the Capital Program Review Board has rejected the plan and the Executive Budget represents a significant scaling back of the MTA capital program.

Unlike the original MTA plan, the Executive plan is not project specific. It is simply a cap within which the MTA must prioritize its various capital projects. The Executive's plan will force the MTA to make a thorough reevaluation of its capital plans for the next five years. The MTA already assumes a 5 percent biennial increase in tolls and fares and will implement fare increases in 2005 that will bring in an estimated \$219 million this year. These increases result from a reduction in the discounts the MTA now gives for a variety of MetroCard plans and increases in bridge and tunnel tolls. No increase in the basic \$2 subway fare is scheduled at this time, but the constraints imposed by the Executive five-year plan may put pressure on the MTA Board to raise the base fare.

There are several additional concerns about the Executive's five-year plan for the MTA. The first is that no new State funds are identified to support the additional \$2 billion included for capital commitments beyond core needs. Instead, the Executive provides a number of pieces of legislation that would encourage the MTA to develop its own funding sources, including:

- Authorizing an increase in the mortgage recording tax levied on borrowers from \$0.25 to \$0.35 per \$100 of mortgage value. All revenues generated by this increase would go directly to the MTA.
- Reorganizing the MTA. This is estimated to save \$210 million over three years through administrative actions, such as budget cuts and lay-offs.
- Authorizing the MTA to issue pension obligation bonds (POB) through the Article VII reorganization legislation. The Executive and MTA project a one-time savings of \$110 million by delaying the Authority's pension obligations for that year, and then \$20 million annually thereafter. No estimate of the

market risk associated with these bonds has been provided. Such pension obligation proposals are questionable because they delay the employer's current pension funding requirements and push these obligations into the future.

- Authorizing public-private partnerships to support new transportation ventures. The MTA could enter into agreements that would create "innovative" revenue streams. It is not clear what kind of agreements or arrangements the MTA might make or how this might affect existing mass transit services.
- Extending the ability of the MTA to make procurement reforms.

In July 2004, the MTA requested \$17.2 billion for core programs. This core request included two basic components: capital expenditures to maintain the "state of good repair" of the system and expenditures for "normal replacement" of equipment. The Executive's core program for the MTA of \$15.2 billion adds other types of expenditures, including new security spending (\$495 million) and interagency spending (\$141 million). When these non-core expenditures are subtracted, State support for the MTA core plan is \$14.6 billion. A substantial portion of the security spending may be provided by the federal government, reducing actual State support.

Thruway Authority

Funding for the Thruway Authority under the Executive Budget would remain level at \$4 million. This amount, and a matching reappropriation, would be allocated to maintain and develop the canal system through the New York State Canal System Development Fund. The Thruway Authority is seeking a 25 percent increase in passenger vehicle tolls and a 35 percent increase in commercial vehicle tolls. If approved, these increases would take effect on May 1, 2005. An additional 10 percent toll increase is planned for January 1, 2008. The Thruway Authority is primarily supported by tolls and authority-issued debt, and these sources are not reflected in the Executive Budget.

Dedicated Highway and Bridge Trust Fund Proposals

The Executive's proposed five-year Capital Plan disbursements from the Dedicated Highway and Bridge Trust Fund (DHBTFF) are contingent on restructuring DHBTFF debt. The Executive Budget would make significant changes, centering on a \$3 billion restructuring of existing DHBTFF debt, producing a savings of \$1.2 billion during the five-year Capital Plan and total savings of \$1.4 billion over eight years. However, the restructuring would cost an additional \$2.1 billion in the long-run. (See the Debt and Capital section of this report for more detail.) Additionally, the DHBTFF bond cap

would have to be raised from \$10.3 billion to \$16 billion to accommodate the restructuring.

The Division of the Budget indicates that existing provisions of law regarding the flow of funds to and from the DHBTF—such as the percentages allocated to the fund from various State taxes—would not be changed in any of the proposals made by the Executive this year.

In addition to debt restructuring, fee increases at the Department of Motor Vehicles (discussed below) are expected to generate \$797 million in deposits into the DHBTF over the life of the new five-year Capital Plan.

Article VII Proposals

The Executive Budget proposes a number of transportation-related Article VII measures with fiscal implications:

- The Executive reintroduces a proposal to reorganize the MTA's complicated structure of rail, bridge and bus agencies. This proposal also gives the MTA the ability to issue pension obligation bonds. The Legislature rejected a similar proposal advanced last year.
- The Department of Motor Vehicles would be authorized to increase a number of fees. These increases would produce \$297 million annually when fully implemented. The Proposed Budget:
 - Increases dealer fees for temporary registrations by \$3 to a total of \$5.
 - Increases salvaged vehicle inspection fee by \$50 to a total of \$150.
 - Increases photo ID charges by \$5 to a total of \$10.
 - Increases original title applications by \$40 to a total of \$50. Motor home title fees would increase by \$100 to a total of \$125.
 - Increases duplicate title fees by \$10 to a total of \$20.
 - Increases weight-based passenger vehicle registration fees from 33 to 75 percent.
 - Increases commercial vehicle and trailer fees by 25 percent.
 - Increases vehicle transporter fees by \$12.50 to \$37.50 and raises the annual registration fees by \$75 to \$225.
 - Increases data search fees from \$6 to \$10 for manual searches and from \$5 to \$7 for electronic searches.
 - Enhances insurance buy-back program, which permits drivers to get their lapsed insurance coverage at a cost of \$12 per day.
 - Waives registration fees for hybrid and alternate-fuel vehicles but imposes a \$100 annual surcharge on passenger vehicles over 6,050 pounds.
 - Excludes pickup trucks from the commercial vehicle category, unless actual commercial use is proven.

In addition to the fee increases, existing fees totaling \$103 million per year that are scheduled to sunset in 2005 would be extended. This brings total DMV support for the State's Capital Plan to \$400 million when fully annualized. Revenues would be divided between the DHBTF and the DMTTF.

- DOT, the Thruway Authority and the MTA would be authorized individually or jointly to enter into agreements with private and public entities to operate for-profit transportation facilities. Such agreements could include the sale of existing public transportation facilities or the authorization of new facilities. The Executive's proposed five-year Capital Plan presumes that the State and the MTA will begin to receive revenues generated through "innovative financing techniques" associated with these agreements, with most revenues coming in the fourth and fifth years of the Plan.
- Proposed legislation would conform State Commercial Driver's License (CDL) requirements to federal mandates. These include conformity with national license endorsement designations, record requirements and similar detail. This action will retain \$17.5 million in federal funds support for 2005-06 that otherwise would have been lost.
- Proposed legislation would conform State vehicular alcohol standards for open containers to federal requirements. This measure would amend a law passed last year (Chapter 320) regarding the resealing of wine bottles, allowing restaurant patrons to take partially consumed bottles home. Conformity with federal standards will save \$21 million annually.
- An increase in the mortgage recording tax on borrowers, mentioned in the discussion of the MTA above, would also apply to residents of areas served by the four upstate mass transit districts: the Capital District Transportation Authority, Central New York Transportation Authority, Rochester-Genesee Regional Transportation Authority and the Niagara Frontier Transportation Authority.
- Penalties for fraud and abuse of MetroCards would be imposed in an attempt to reduce an estimated \$16 million in annual losses.

Overview

General Fund environmental appropriations in the 2005-06 Executive Budget decrease by 2.2 percent, while All Funds appropriations increase by 2.4 percent, indicating an attempt to shift expenses from the General Fund to other funds. Environment-related staffing levels increase slightly as the Executive Budget calls for 16 new positions—7 in the Department of Environmental Conservation (DEC) and 9 positions in the Office of Parks, Recreation and Historic Preservation (OPRHP).

The Superfund program, refinanced in 2003, receives a recommended appropriation of \$135 million for hazardous waste remediation at contaminated sites-- \$120 million is earmarked for the remediation of hazardous waste and \$15 million will be made available for grants and non-bondable costs of the Superfund and Brownfields Programs. While the proposed Budget appropriates \$120 million for the remediation of hazardous waste sites, the Executive recommends only \$81 million to actually be disbursed in SFY 2005-06.

Article VII legislation submitted with the Executive Budget proposes to increase the funding level of the Environmental Protection Fund (EPF), broaden its scope and shift various expenses into the dedicated fund. The Executive also proposes a number of revenue actions.

Since 1999, the Executive has annually proposed lump sum appropriation levels for the three EPF categories (solid waste, parks and recreation, and open space); detailed appropriation levels for the specific categories within the EPF had been added at the insistence of the Legislature, ensuring guaranteed funding levels for the various programs. The Court of Appeals December 16th decision in *Pataki v. Assembly* and *Silver v. Pataki* calls into question the Legislature's ability to prescribe funding levels for the specific programs or alter budget language. Potentially, funds may be diverted from traditional EPF programs, rendering those programs incapable of meeting current-level funding demands.

General Fund Appropriations
(in millions)

Department	2004-05	Recommended 2005-06	Dollar Change	Percent Change
Environmental Conservation	\$110.21	\$99.82	-\$10.39	-9.4%
Parks, Recreation & Historic Preservation	105.14	110.72	5.58	5.3%
Adirondack Park Agency	4.37	4.37	0.00	0.0%
General Fund Environmental Appropriations	\$219.72	\$214.90	-\$4.82	-2.2%

Source: New York State Division of the Budget

Environmental Protection Fund

The EPF was established to support programs, such as open space acquisition and protection, farmland preservation and recycling programs. It is supported by the real estate transfer tax (\$112 million) and other miscellaneous taxes. The Executive recommends a 2005-06 funding level of \$150 million, an increase of \$25 million over the current year.

This year's budget calls for an expansion of the EPF authority in order to fund existing programs that are not traditionally funded by EPF proceeds, including the Natural Heritage Trust, State Parks infrastructure projects and the Quality Communities grants program. The budget also proposes the funding of new initiatives, including an environmental justice program and an agricultural experiment station. Article VII language proposed by the Executive would provide statutory authority for these programs, as well as a number of other programs that have received EPF funding in the past.

While the Executive increases the appropriation for the EPF by \$25 million, programs historically funded through other sources and new initiatives account for \$32 million in EPF spending, thus reducing the amount of money available for traditional EPF programs. Projects most negatively affected by the Executive Budget are the municipal parks program and the local waterfront program, both of which face reductions greater than 50 percent.

Language submitted with the Executive Budget would statutorily expand the categories eligible for EPF funding. Included in these non-traditional expenses are:

- \$10 million to support the State Parks Infrastructure Fund (SPIF).
- \$10 million to finance DEC capital projects.
- \$5 million to fund zoos, botanical gardens and aquaria.

- \$5 million for a quality communities grants program – previously funded through the General Fund for \$1 million within the Department of State.
- \$1 million for an integrated pest management program – previously funded through the General Fund for \$200,000 under DEC.

Additionally, the Executive proposes the addition of two new categories eligible for funding under the EPF:

- \$500,000 for an agricultural experiment station.
- \$500,000 for an environmental justice grants program.

The Executive proposal also provides permanent grant authorization through Article VII legislation to fund a number of programs that have received EPF funding in the past, including the Historic Barns program, Hudson River Park, Hudson River natural resources assessment, Hudson River estuary management, State parks and land infrastructure, and stewardship projects.

The statutory amount of real estate transfer tax (RETT) receipts deposited in the EPF is \$112 million in 2005-06. Article VII language accompanying the Executive Budget provides for, but does not mandate, an additional deposit of up to \$25 million in RETT in the EPF. Financial Plan projections estimate \$117 million in RETT receipts diverted to the EPF by 2006-07, increasing to \$137 million in 2009-10. However, despite the increased level of appropriation for the 2005-06 fiscal year, the Division of the Budget projects actual cash disbursements from the EPF to be only \$125 million for fiscal year 2005-06.

Revenues and Fees

The Executive proposal calls for an increase in the all terrain vehicle (ATV) registration fee from \$10 to \$45, with a total of \$5.8 million in revenues directed to the General Fund. Of that total, \$4.9 million will provide additional General Fund revenue and \$850,000 will support the ATV trail development program.

Changes to Title V air regulatory fees proposed in the Executive Budget are expected to generate \$3.6 million in new revenue. For Title V facilities (generally considered major polluters who annually emit 100 tons or more of regulated air pollutants), a fee of \$45 is assessed per ton of regulated air contaminant emitted. The Executive Budget increases that fee to \$58 per ton and a minimum fee of \$1,250 per operating facility is established. Revenue from the changes in the air regulatory fee permits is directed to a special revenue fund to support staffing within the environmental enforcement program.

The Executive Budget would establish a new wetlands program applicable to freshwater wetlands less than 12.4 acres in size. A permit fee structure would be established for projects that would have an impact on freshwater and tidal wetlands. Additionally, a structure of civil and criminal penalties would be established for all DEC regulated wetlands, including those under 12.4 acres. It is expected that the fee and penalties will generate \$1 million in new revenues for deposit in the Conservation Fund to support seven new positions at DEC to administer the new wetlands program.

The Budget seeks to extend the pesticide registration program and associated fees, due to expire in 2005, until 2008. This extension is valued at \$1.8 million in revenues in 2005-06.

The Executive proposes an administrative increase in State camping fees, raising the weekend/holiday rate from \$13 to \$17. This action would result in \$1.4 million of new revenue to support the State Park Infrastructure Fund (SPIF). Supported by parks' camping fees, day use revenues, concession revenues and other sources, SPIF is used for capital projects at park facilities.

Article VII legislation provides for a one-year extension of the Power for Jobs program and authorizes the New York Power Authority to deposit \$75 million in the General Fund both to support the program and to reimburse the State for costs associated with the gross receipts tax credit.

Fund Sweeps and Transfers

A number of transfers from dedicated funds into the General Fund are recommended in the 2005-06 Executive proposal to offset General Fund spending:

- \$52 million from the EPF. The dedicated revenues will be replaced with bond proceeds. This is the fourth year that bond proceeds have been swapped for dedicated fund revenues, reducing the amount of pay-as-you-go capital from the EPF.
- \$40.3 million from the Waste Tire Management and Recycling account. \$18 million is retained in the account for the operation of the waste tire program created in 2003 to inventory and clean up waste tire piles and to recycle tires.
- \$10 million from SPIF. The Executive proposes that the EPF reimburse SPIF in the amount of \$10 million.
- \$7 million from the Environmental Enforcement account.

Other Article VII Proposals

An enhancement of the Green Buildings tax credit is proposed in the Executive Budget, providing an additional \$25 million in credits. An initial amount of \$25 million in tax credits, first available in 2001, has been distributed to eligible taxpayers. The additional amount will be made available through 2009 for the construction of new buildings that meet the green building standards established by DEC.

The tax credit for alternative fuel vehicles is revised and extended in the Executive proposal, offering a tax credit for the production of biofuel, as well as the purchase of electric and qualified hybrid vehicles and clean-fuel vehicle refueling property. The tax credits would apply to both income and corporate taxes. This action has no effect on tax revenues in 2005-06, however, out-year revenue loss is projected to be \$2.5 million, annually.

The Executive proposes Article VII language that provides for a transfer of \$913,000 from the New York State Energy Research and Development Authority (NYSERDA) to the General Fund, and for a \$330,000 transfer to the low-level radioactive waste account from NYSERDA. Similar authorization was provided in the 2004-05 Enacted Budget. The proposed transfer of \$913,000 to the General Fund from unrestricted corporate funds would help offset the State's debt payments for West Valley.⁶⁴ The \$330,000 transfer is made from funds rebated to New York State from the federal government. The rebates are derived from disposal surcharges levied on generators of low-level radioactive waste. Article VII language also provides for the transfer of \$120,000 in interest earnings to the General Fund.

Environmental Bonds

The Executive Budget Financial Plan proposes new bond issuances for environmental purposes of \$350 million–\$136.2 million in General Obligation Bonds and \$213.8 million in revenue bonds. These revenue bonds will support the following projects:

- \$81 million for Superfund projects,
- \$52 million for EPF projects,
- \$28 million for the State Revolving Fund,
- \$11 million for West Valley (NYSERDA Bonds),
- \$10.7 million for bondable DEC capital projects,

⁶⁴ Debt is associated with ongoing efforts to dispose of nuclear waste at the Western New York Nuclear Service Center at West Valley.

- \$10 million for the remediation of Onondaga Lake,
- \$10 million to support SPIF projects, and
- \$6.4 million for the Pipeline for Jobs bonded program.

Staffing

The authorized environmental staffing level is projected to increase slightly in both DEC (7) and in OPRHP (9) while it remains static at both the Environmental Facilities Corporation and at the Adirondack Park Agency.

FTEs All Funds

Department	2004-2005 Estimated	2005-2006 Recommended	Difference	Percent Change
Environmental Conservation	3,345	3,352	7	0.21%
Parks, Recreation & Historic Preservation	1,557	1,566	9	0.58%
Adirondack Park Agency	59	59	0	0.00%
Environmental Facilities Corporation	92	92	0	0.00%
Total	5,053	5,069	16	0.32%

Source: New York State Division of the Budget

Environmental Protection Fund - Enacted 2004-05 v Proposed 2005-06

Environmental Protection Fund	Enacted	Executive Proposal
	2004-2005	2005-2006
Solid Waste	\$16,775,000	\$18,175,000
Landfill closure		3,000,000
Municipal Recycling	6,500,000	5,000,000
Secondary Markets	6,500,000	5,000,000
Hudson River Natural Resources	1,300,000	1,300,000
Pesticide Programs	2,475,000	2,375,000
Breast Cancer	450,000	
Integrated Pest Management		1,000,000
Geneva Agricultural Experiment Station		500,000
Parks, Rec & Hist. Pres.	\$41,565,000	\$40,365,000
Local waterfront projects	12,500,000	6,000,000
Parks, Recreation & Hist. Pres. (Municipal Parks)	12,565,000	6,000,000
Hudson River Park	10,000,000	5,000,000
Stewardship	5,750,000	7,413,000
State Parks Infrastructure Fund		10,000,000
Historic Barns	750,000	1,000,000
Zoos, Botanical Gardens, Aquaria		4,952,000
Open Space	\$66,660,000	\$91,460,000
Land Acquisition (1)	32,000,000	40,000,000
Land Trust Alliance	500,000	500,000
Urban Forestry Initiatives	150,000	500,000
Agriculture & Farmland Protection	12,600,000	15,000,000
Hudson River Estuary	5,000,000	5,000,000
Biodiversity	700,000	1,000,000
Non-point Source Pollution	10,850,000	10,000,000
Soil & Water Cons. Dist.	1,860,000	1,860,000
Finger Lakes/Lake Ontario Watershed	1,500,000	1,300,000
Albany Pine Bush	600,000	600,000
LI Pine Barrens	950,000	750,000
LI South Shore	600,000	450,000
DEC Capital Projects		10,000,000
Environmental Justice		500,000
Quality Communities Grants		5,000,000
TOTAL	\$125,000,000	\$150,000,000

(1) Includes appropriations for Land Trust Alliance and Urban Forestry Initiatives

Source: New York State Division of the Budget

The Executive Budget proposes a reduction of \$690,000, or 0.9 percent, in General Fund appropriations for the Division of Housing and Community Renewal, while All Funds appropriations increase 0.9 percent, demonstrating a shift in expenses from the General Fund to other funds. A reduction of \$1.56 million in Local Assistance awards to the Periodic Subsidies to Local Areas Program represents the only programmatic reduction. Staffing remains static within the Division, however, staffing costs for 15 positions are shifted from the General Fund to Special Revenue Funds.

The Periodic Subsidies program provides payments on General Obligation bond debt service for housing programs. The debt had been issued to provide subsidies for public housing authorities, a program which no longer exists. Due to a decrease in the amount of debt service, there is a reduction in the appropriation. The reduction has no impact on the program or local governments.

Funding for both the Rural Preservation Program and the Neighborhood Preservation Program, reduced by 50 percent and 48 percent respectively in the 2004-05 budget, is sustained at the reduced level in the 2005-06 proposal.

Division of Housing and Community Renewal Appropriations (in millions)

Funding Source	2004-05	Recommended 2005-06	Dollar Change	Percent Change
General Fund Housing Appropriation	\$74.01	\$73.32	\$(0.69)	(0.9%)
All Funds Housing Appropriation	\$311.21	\$313.87	\$2.67	0.9%

Source: New York State Division of the Budget

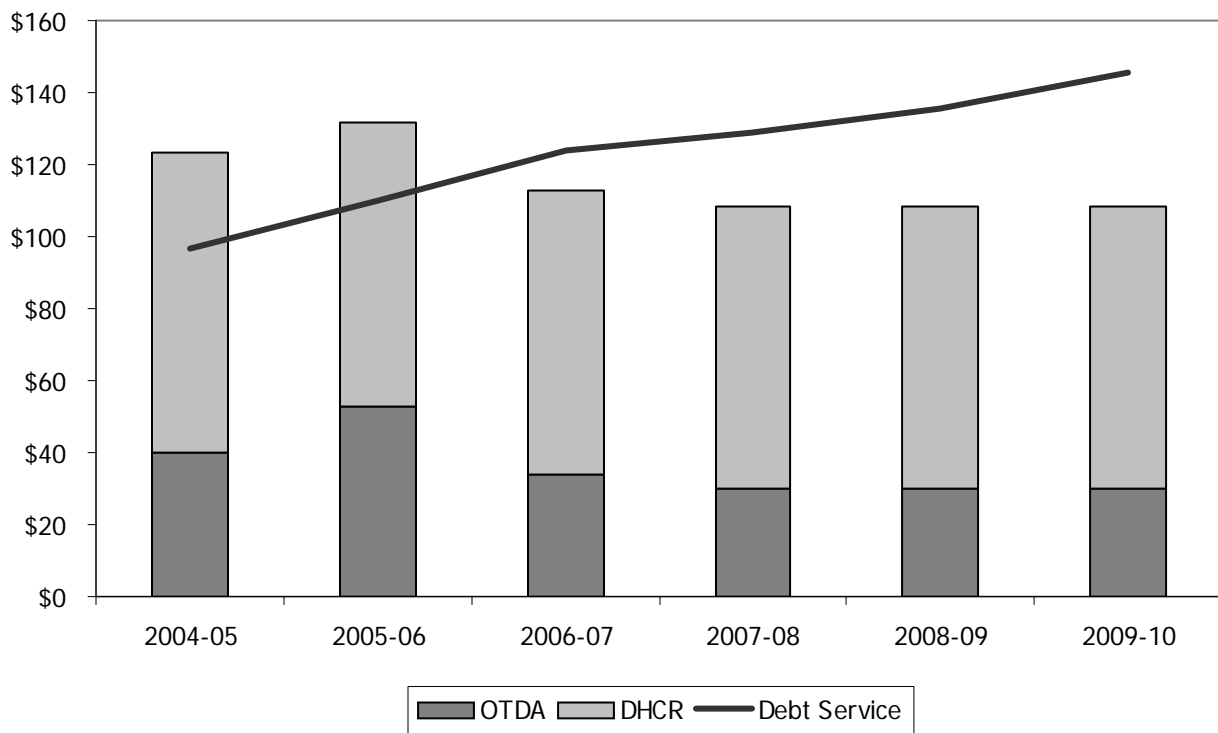
Bonds

The Executive Budget seeks to increase the bond cap for the Housing Finance Agency (HFA) from the current \$1.63 billion to \$1.77 billion. The additional bonding authority would support low and moderate-income housing programs through the Office of Temporary and Disability Assistance, the HFA and the Housing Trust Fund.

Article VII Actions

The Executive Budget proposes an additional \$2 million annually to support the Low Income Housing Tax Credit Program. The Low-Income Housing Tax Credit, first enacted in 2000, was increased from \$2 million to \$4 million in 2002, and from \$4 million to \$6 million in 2004. The Executive proposes that the tax credit allocation, intended to encourage the investment in and development of affordable housing, be increased again this year to total program allocation of \$8 million annually.

**Housing Capital Disbursements versus Projected Debt Service
(in millions)**



Source: New York State Division of the Budget

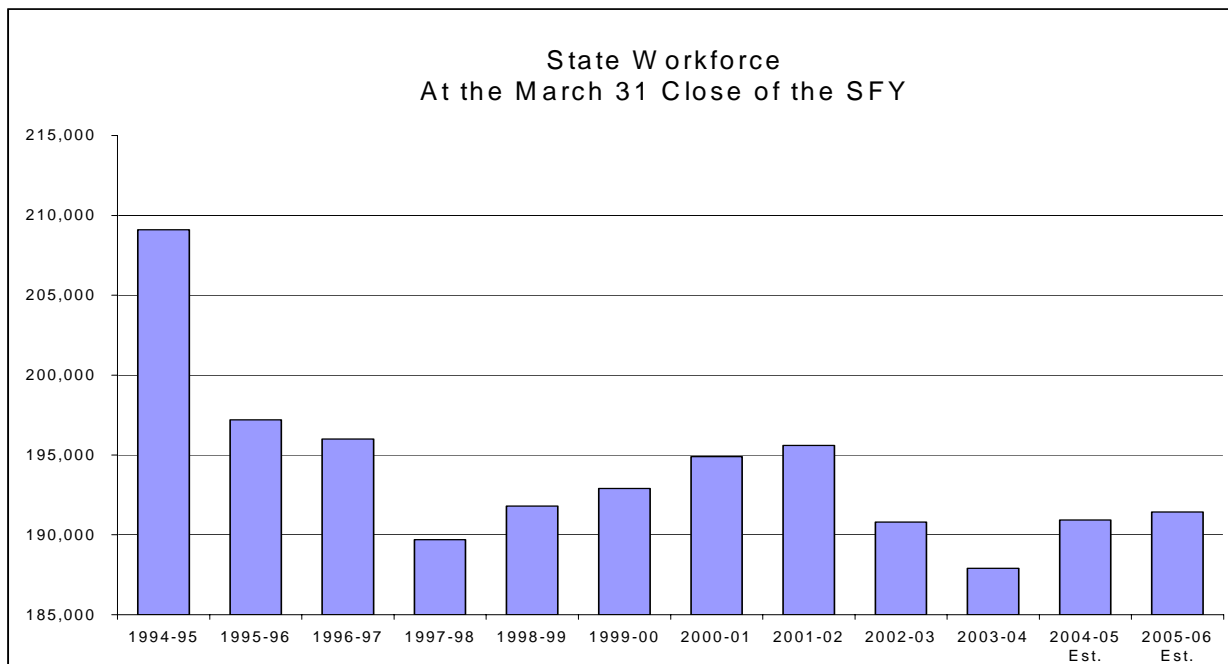
The five-year Capital Plan submitted with the Executive Budget projects that support from HFA bonds will begin to level off in 2007-08 at \$108 million. Over the next five years, debt service is projected to grow, while disbursements remain relatively static. With the continued issuance of debt, by State Fiscal Year 2006-07, the State's spending on HFA debt service (\$123.8 million) will exceed its spending (\$112.8 million) on housing capital programs.

State Workforce

The Division of the Budget estimates that at the end of the current 2004-05 State Fiscal Year (SFY), there will be 190,933 State employees, and that this will grow to 191,424 by March 2006—a net increase of 491, or slightly less than 0.3 percent. At the end of the 2003-04 SFY, the figure was 187,902, indicating that there has been a 1.61 percent increase in the State workforce in the current fiscal year. No layoffs are planned at this time. A total of 1,591 new hires are requested, but these would be offset by the projected attrition of 1,100 employees.

As the chart below indicates, staffing declined significantly from 209,100 in 1995 to 189,700 by 1998, then slowly increased until peaking at 195,600 just after the September 11th attacks. The next low point came at the end of the 2003-04 State Fiscal Year when it dropped to 187,900. The trend now appears to be increasing again.

The graph shows Executive estimates for the State workforce at the end of the fiscal year. It differs from the State Comptroller's measure of the whole State workforce by not including the staff of the legislative and judiciary branches. Seasonal workers and some SUNY employees are also not included in the Executive figures.



Source: New York State Division of the Budget

Pensions

The Executive proposes to establish an "independent" actuarial advisory board appointed by the Executive and the legislative leaders, and to require the Retirement System's Actuary to present to the Board for comment findings and recommendations with respect to proposed changes in actuarial funding assumptions or methods, prior to submitting the changes to the Comptroller. Since 1969, the Comptroller has had an Actuarial Advisory Committee comprised mainly of chief actuaries for many of the insurance companies, including New York Life, Metropolitan, TIAA-CREF and Guardian Life.

The Executive also proposes that prior to making any material change in the annual actuarial valuation, notice of such change must be made available for public review and comment for a 90-day period. The proposal also prohibits any such material change from being implemented without this public review period.

The Executive's last major pension proposal would require the Comptroller to "reconsider" the SFY 2005-06 employer contribution rates "to the extent reasonable and prudent..." without modification for mortality and retirement assumptions or a restart of the asset valuation method. The demographic changes implemented when determining the SFY 2005-06 contribution rates are a result of a national trend that people are retiring earlier and living longer. Currently, the System's Actuary reviews the demographics annually and recommends changes, when necessary, to ensure that the Common Retirement Fund is sound and secure and will be able to meet its financial obligations in the future.

Article V, Section 7 of the State Constitution protects the Comptroller's autonomous and independent judgment in determining the Retirement System's actuarial funding method and assumptions, including the Comptroller's authority to act in these matters solely on the recommendation of the Retirement System's Actuary. The State also has a fiduciary duty to the System's members and beneficiaries, which is violated by the enactment of pension legislation having as its principle purpose the provision of budgetary relief to employers. Therefore, because the Executive's proposals would impair the Comptroller's autonomous and independent judgment, for the primary purpose of providing budgetary relief to employers, the proposals violate both the Constitution and the State's fiduciary duty, and cannot be implemented.

Agency Mergers and Consolidations

Proposed mergers and consolidations would affect a number of State employees:

- The transfer of cultural education activities (in the State Museum, State Library and State Archives) from the State Education Department to a new public benefit corporation within the Council of the Arts that would be called the New York Institute for Cultural Education (NYICE) would involve 400

employees. The Legislature has rejected similar proposals for the past four years.

- The transfer of the Vocational and Educational Services for Individuals with Disabilities (VESID) program from the State Education Department to the Department of Labor would affect 750 positions. The Legislature rejected this proposal in 2003.
- The merger of the Workers Compensation Board staff with the Department of Labor would entail the administrative transfer of 1,539 positions.
- The Department of Labor gains would be offset by the transfer of 185 positions in the Welfare-to-Work program to the Office of Temporary and Disability Assistance and 7 positions at the State Employee Relations Board to the State Labor Relations Board.
- The merger of Probational and Correctional Alternatives into the Division of Criminal Justice Services (DCJS) would entail the movement of 28 positions.
- The merger of the Advocate for the Disabled with the Commission for Quality of Care and Advocacy for the Disabled would result in the transfer of 15 positions.
- The Executive Budget proposes the closure of the Middletown Adult Psychiatric Center. The Legislature has rejected this proposal for the past two years.

**Existing and Proposed Change in Full Time Equivalent employees
(All Funds)**

Department	Estimated March 2005	Recommended March 2006	Difference	Percent Change
Major Agencies				
OFFICE OF THE STATE COMPTROLLER	2,271	2,325	54	2.4%
CHILDREN AND FAMILY SERVICES	3,853	3,754	(99)	-2.6%
CORRECTIONAL SERVICES	31,045	30,969	(76)	-0.2%
EDUCATION DEPARTMENT	3,054	1,884	(1,170)	-38.3%
ENVIRONMENTAL CONSERVATION	3,345	3,352	7	0.2%
GENERAL SERVICES	1,633	1,709	76	4.7%
HEALTH	5,872	5,962	90	1.5%
LABOR	4,138	6,236	2,098	50.7%
LAW, DEPARTMENT OF - ATTORNEY GENERAL	1,735	1,735	0	0.0%
MENTAL HEALTH	16,107	16,135	28	0.2%
MENTAL RETARDATION & DEVELOPMENTAL DISABILITIES	21,598	21,659	61	0.3%
MOTOR VEHICLES, DEPARTMENT OF	2,764	2,762	(2)	-0.1%
PARKS, RECREATION AND HISTORIC PRESERVATION	1,557	1,566	9	0.6%
PAROLE	2,089	2,022	(67)	-3.2%
STATE POLICE	5,718	5,713	(5)	-0.1%
TEMPORARY AND DISABILITY ASSISTANCE	2,347	2,532	185	7.9%
TAXATION AND FINANCE, DEPARTMENT OF	4,766	4,766	0	0.0%
TRANSPORTATION	9,485	9,475	(10)	-0.1%
WORKERS' COMPENSATION BOARD	1,544	0	(1,544)	-100.0%
SUBTOTAL - MAJOR AGENCIES	124,921	124,556	(365)	-0.3%
All Minor Agencies With Changes				
ADVOCATE'S OFFICE FOR PERSONS WITH DISABILITIES	15	0	(15)	-100.0%
AGING, OFFICE FOR THE	136	135	(1)	-0.7%
AGRICULTURE AND MARKETS	551	531	(20)	-3.6%
ALCOHOLISM AND SUBSTANCE ABUSE	958	956	(2)	-0.2%
ARTS, COUNCIL ON THE	55	455	400	727.3%
QUALITY OF CARE AND ADVOCACY FOR DISABLED	90	105	15	16.7%
CRIMINAL JUSTICE SERVICES	709	720	11	1.6%
ECONOMIC DEVELOPMENT	219	215	(4)	-1.8%
ELECTIONS, STATE BOARD OF	41	47	6	14.6%
HOMELAND SECURITY	76	86	10	13.2%
INSURANCE	908	918	10	1.1%
LOTTERY, DIVISION OF	337	341	4	1.2%
MILITARY AND NAVAL AFFAIRS	570	584	14	2.5%
EDUCATIONAL ACCOUNTABILITY AND EFFICIENCY	0	20	20	N/A
PROBATION AND CORRECTIONAL ALTERNATIVES	28	0	(28)	-100.0%
RACING AND WAGERING BOARD	133	135	2	1.5%
STATE LABOR RELATIONS BOARD	37	44	7	18.9%
STATE, DEPARTMENT OF	847	853	6	0.7%
TAX APPEALS	30	31	1	3.3%
TECHNOLOGY	656	699	43	6.6%
WIRELESS NETWORK	25	45	20	80.0%
All Other Minor Agencies Without Changes	5,521	5,521	0	0.0%
SUBTOTAL - ALL MINOR AGENCIES	11,942	12,441	499	4.2%
Universities and Off-Budget Agencies				
CITY UNIVERSITY	10,854	11,211	357	3.3%
ROSWELL PARK	2,280	2,280	0	0.0%
STATE UNIV CONSTR FUND	125	125	0	0.0%
STATE INSUR FUND	2,665	2,665	0	0.0%
STATE UNIVERSITY	38,100	38,100	0	0.0%
INDUSTRIAL EXHIBIT AUTHORITY	46	46	0	0.0%
SUBTOTAL - Universities and Off-Budget Agencies	54,070	54,427	357	0.7%
GRAND TOTAL	190,933	191,424	491	0.3%

Source: Division of the Budget

State-supported criminal justice activities are carried out by the Division of Criminal Justice Services (DCJS), the Capital Defender's Office (CDO), the Department of Correctional Services (DOCS) and the Department of State Police (DSP), in conjunction with other agencies. The Executive Budget All Funds appropriation for these four agencies totals \$3.36 billion, representing a net decrease of \$190.0 million (5.3 percent) from SFY 2004-05, most of which is attributed to the transfer of certain federal funds from DCJS to the Office of Homeland Security (OHS). Several proposals made in SFY 2004-05 reappear in 2005-06, including legislation to merge the Division of Probation and Correctional Alternatives (DPCA) into DCJS and eliminate funding for four State prison facilities.

Division of Criminal Justice Services

The Executive Budget recommends \$174.8 million in General Fund spending in SFY 2005-06, a net increase of \$17 million (10.8 percent) from SFY 2004-05. Special Revenue-federal funds would decrease by \$271.4 million, representing a 64.6 percent decrease from SFY 2004-05. The majority of this decrease results from the proposed transfer of \$181.8 million in federal homeland security funds from DCJS to OHS.

Division of Criminal Justice Services (in millions)

	2004-05 Actual	2005-06 Proposed	Change	Percent Change
General Fund	\$157.8	\$174.8	\$17.0	10.8%
Special Revenue- Federal	419.8	148.4	(271.4)	(64.6%)
Special Revenue- Other	26.7	28.5	1.8	6.7%
All Funds	\$604.3	\$351.7	(\$252.6)	(41.8%)

Budget Highlights

- **Consolidation** - The Executive again recommends merging the Division of Probation and Correctional Alternatives (DPCA) into DCJS. There are no cost savings associated with this consolidation.
- **Operation IMPACT** - The Executive proposes an additional \$7.3 million representing a 761.2 percent increase in funding for Operation IMPACT. Some of the increase would offset an anticipated loss of other funding. Operation IMPACT is a statewide program focusing on crime "hot spots" in counties throughout the State. Program resources target each area with a customized plan to reduce crime. The program originally targeted 15

counties, and the additional funding would be used to strengthen efforts in those counties and to implement the program in additional counties.

- **Traffic and Criminal Software (TraCS)** - The Executive recommends a proposal which would allow the use of \$46.4 million in federal funding for a program that would enable police officers to electronically generate tickets and accident reports with TraCS.
- **Automated Speed Enforcement** - Similar to 2004-05, the Executive has appropriated \$3 million to implement the Automated Speed Enforcement Program which would authorize the use of cameras in designated work zones and other locations throughout the State.
- **Drug Treatment Alternative Program** - The Executive recommends \$2.6 million in new funding for this Program administered by the Office of Alcohol and Substance Abuse Services, which would offer non-violent drug offenders the alternative of drug treatment instead of prison.

Capital Defender's Office

The Executive Budget recommends General Fund appropriations of \$12.28 million for SFY 2005-06, a \$550,000 (4.3 percent) decrease from SFY 2004-05. The decrease is attributed to smaller caseloads. However, the Executive stipulates that no more than 30 percent of this appropriation may be utilized unless the Legislature enacts amendments to the death penalty statute by June 30, 2005.

Department of Correctional Services

The 2005-06 Executive Budget proposes to maintain previous SFY 2004-05 General Fund levels for DOCS. The \$13 million (81.3 percent) decrease in Special Revenue-Other is attributed to a prior year agreement with the federal government to house prisoners awaiting deportation by the Federal Bureau of Immigration and Customs Enforcement, which was not implemented.

Department of Correctional Services
(in millions)

	2004-05 Actual	2005-06 Proposed	Change	Percent Change
General Fund	\$2,021.3	\$2,075.3	\$54.0	2.7%
Special Revenue- Federal	37.1	36.6	(0.5)	(1.3%)
Special Revenue- Other	16.0	3.0	(13.0)	(81.3%)
All Funds*	\$2,417.9	\$2,453.9	\$36.0	1.5%

*All Funds also includes improvement, internal service and enterprise funds.

The Executive Budget for DOCS includes a deficiency appropriation totaling \$116 million attributed to unexpected health services and pharmaceuticals, fuel, utility and overtime costs. The Division of the Budget 2004-05 Mid-Year Financial Plan Update noted \$75 million of related increased costs. The Executive recommends providing additional compensation to the victims who were killed or injured in 1971 during the Attica Correctional Facility riot by increasing funding (from \$555,000 in 2000) to \$2 million annually for six years.

The Executive again proposes to eliminate funding for four prison facilities: the Fulton Work Release Facility in Bronx, the camp at Mount McGregor in Saratoga County, the Special Housing Unit at Watertown in Jefferson County and Camp Pharsalia in Chenango County. The operational savings generated by these proposed closings is estimated to be \$20.1 million.

Department of State Police

General Fund support recommended by the Executive for SFY 2005-06 totals \$354.4 million, a net increase of \$21 million (6.3 percent).

Department of State Police
(in millions)

	2004-05 Actual	2005-06 Proposed	Change	Percent Change
General Fund	\$333.4	\$354.4	\$21.0	6.3%
Special Revenue- Federal	16.4	4.7	(11.7)	(71.3%)
Special Revenue- Other	162.2	164.4	2.2	1.4%
All Funds*	\$514.8	\$542.7	\$27.9	5.4%

*All Funds also include Capital Projects Fund

The Executive proposes \$16.4 million in new bond financing capital appropriations to maintain troop facilities, which would increase capital funds to \$19.2 million. The majority of this new funding, \$15.7 million, (95.7 percent) would be used for construction of a new Troop G headquarters in Albany County.

The Executive again recommends legislation to establish an aggregate weight standard (versus pure weight) for controlled substances to avoid the cumbersome processes of extracting and quantifying pure weight of an illegal substance. This proposal is projected to save \$1 million in crime lab costs.

Enhanced Wireless 911 System and Homeland Security

The Executive proposes to restructure the manner in which wireless 911 surcharges are utilized by the State. All surcharge revenue would be deposited into the Public Safety Communications Account, dedicated for homeland security and public safety needs. The primary intention is to fund the Statewide Wireless Network with this surcharge revenue.⁶⁵

Although the surcharge was imposed in 1991 to enhance the emergency 911 system, the surcharge revenues have long been utilized for General Fund relief. An audit issued by the Office of the State Comptroller in March 2002 found that the majority of revenue since the surcharge was established had been spent on general support within the State Police budget rather than enhanced wireless 911 emergency services.⁶⁶ A follow up review issued by the Comptroller in 2004 found that all surcharge revenue has since been deposited according to legislative changes effective in August 2002: approximately 42 percent to the General Fund and 58 percent to the Public Safety Communications Account.⁶⁷ The same legislation also broadened the use of the wireless surcharge revenue to include homeland security, as well as State public safety and security programs.

Funding the Statewide Wireless Network with the wireless surcharge revenue would be appropriate under current State law. Federal legislation enacted in December 2004, however, would make states that divert any wireless 911 surcharge revenue to other purposes ineligible in the event Congress appropriates matching funds for 911 enhancement. A total of \$1.25 billion over five years (\$250 million in each year) is currently being considered in Congress. Current New York law designates a portion of surcharge revenue for the General Fund; the Executive proposal would dedicate all surcharge revenue to the Public Safety Communications Account to fund the Statewide Wireless Network. Both would appear to disqualify the State from receiving this potential federal funding.

⁶⁵ A contract for the Statewide Wireless Network is currently under review at the Office of the State Comptroller.

⁶⁶ *Division of the State Police, Cellular Surcharge Revenues* (Report 2001-S-27), Office of the State Comptroller, issued March 20, 2002.

⁶⁷ *Status of Wireless 911 Surcharge in New York State* (Report 2003-F-9), Office of the State Comptroller, issued February 18, 2004.

The 2005-06 Executive Budget again includes a \$180 million appropriation, authorizing the expenditure of \$65 million in federal Help America Vote Act (HAVA) funds New York received during State Fiscal Year 2003-04, as well as \$115 million in anticipated federal funds.⁶⁸ Although expected to receive a total of \$235 million in HAVA funds, New York has only received one of two federal disbursements sent to the states, to date.⁶⁹

Before New York can receive any additional federal monies, the State must establish a 5 percent State match.⁷⁰ The 2005-06 Executive Budget includes a \$7.7 million appropriation to satisfy this requirement. Once this provision is enacted, New York will also be eligible for the federal funds the State missed in June 2004.

Enacted by Congress in 2002, HAVA requires that all states accepting HAVA monies:

- Establish a computerized statewide voter registration list with unique identifying information for voters by January 1, 2006.⁷¹ This official list is to be centralized and maintained at the State level.
- Provide at least one accessible voting machine for each polling place by 2006. "Accessible" means the machine must be equipped with audio output, technology that allows a visually impaired voter to cast a secret and independent ballot. Disability access that is equal to the level of access, privacy and independence available to other voters must be provided.⁷²
- Replace all lever or punch card voting machines.⁷³

⁶⁸ The \$180 million appropriation was deleted from the enacted 2004-05 budget. A total of \$2,420,367.14 in interest has accumulated on the \$65 million as of January 2005.

⁶⁹ The federal funds received by New York will be appropriated for several State agencies (including the Board of Elections, the Office of the Advocate for Persons with Disabilities and the Commission on Quality of Care for the Mentally Disabled) to administer. More than \$2 billion in federal money has already been distributed to the states out of the \$3 billion already appropriated by Congress. U.S. Election Assistance Commission. Presentation to the U.S. House of Representatives Committee on House Administration. June 17, 2004: 21-24. Although states were expecting another \$800 million in FFY 2005, the funding has yet to materialize. "State Balloting Improvements Lag and May Not Meet 2006 Deadlines." *Congressional Quarterly Weekly*. Vol. 62: no. 36. Sept. 18, 2004: 2145.

⁷⁰ Election Assistance Commission Press Release. "U.S. Election Assistance Commission Releases 861 Million Dollars in Payments to 25 States." June 17, 2004.

⁷¹ A majority of states, including New York, obtained a waiver extending the original deadline to January 2006 for this requirement. "State Balloting Improvements Lag and May Not Meet 2006 Deadlines." *Congressional Quarterly Weekly*. Vol. 62: no. 36. Sept. 18, 2004: 2145.

⁷² *Election Reform 2004: What's Changed, What Hasn't, and Why*. January 2004: 7. <Electionline.org>; National Association of Secretaries of State Fact Sheet. "Direct Response Electronic Voting Machines and Voter-Verified Paper Trails." April 6, 2004.

⁷³ See Public Law 107-252, October 29, 2002, 107th Congress. Help America Vote Act.

By accepting federal HAVA funds, New York has agreed to replace all lever machines in the State by July 2006. It is estimated that states will receive \$4,000 in federal funding per precinct for the replacement of voting machines (or less, depending on the number of localities nationally which take federal money).⁷⁴

New York also received \$795,936 and \$34,766 in federal grants for the Office of the Advocate for Persons with Disabilities (OAPD) and the Commission on Quality of Care for the Mentally Disabled (CQC), respectively, in funds appropriated in federal fiscal year 2003-04. The grant for OAPD is designated for accessibility at poll sites as well as informational and outreach programs for the disabled. The grant for CQC, awarded for protection and advocacy systems, is intended to ensure full participation in the electoral process by individuals with disabilities.

To qualify for all federal funds, states need to have the following in place:

- Right to vote by affidavit. Once the individual's eligibility to vote is determined, this provisional ballot (a paper ballot) is then counted. New York provided this right long before HAVA required it.
- A free access system that allows the individual voting by affidavit to later determine whether his or her paper ballot was actually counted. In the event a voter's ballot is rejected, the individual can access information through a toll-free telephone number or Internet website, which would provide the reason the vote was not counted.
- Voter information posted in each polling place on Election Day, including requirements for first-time voters who register by mail, State and federal election laws regarding voting rights, the prohibition of fraud and misrepresentation, and information on how to report the violations of a voter's rights.
- A toll-free hotline to report election complaints or abuse.⁷⁵

⁷⁴ According to estimates by the Election Reform Information Project, a nonpartisan group that has commissioned and conducted research on election reform issues. *Election Reform 2004: What's Changed, What Hasn't, and Why*. January 2004: 11. <Electionline.org>.

⁷⁵See Public Law 107-252, October 29, 2002, 107th Congress. Help America Vote Act.

Proposed Fee and Revenue Actions 2005-06

Administrative Actions

Agency	Fee Description	Effective Date	Fund		Fee Proposed	Year of Last Change	New Annual Revenue SFY2005-06 (000's)
			Type and Category	Current			
AGMKTS	First violation food inspections	1/1/05	GFMR	None	\$300	N/A	\$400
GSC	Medicare Part D subsidy	1/1/06	GFMR	None	None	N/A	\$5,900
Parks	Increase Camping Fees	4/1/05	SFMR	\$13	\$17	2001	\$1,400

Administrative Actions Subtotal **\$7,700**

Statutory Actions

Agency	Fee Description	Effective Date	Fund		Fee Proposed	Year of Last Change	New Annual Revenue SFY2005-06 (000's)
			Type and Category	Current			
AGMKTS	Subsequent violations food inspections	4/1/05	GFMR	\$300 & \$600	\$1,000	1990	\$700
CPB	Unfair/Deceptive Business Practices Increase	4/1/05	GFMR	\$500	\$5,000	1963	\$600
DCJS	Work zone automated speed enforcement	10/1/05	GFMR	None	Various	N/A	\$18,000
DMV	ATV registration fee increase	4/1/05	GFMR	\$10	\$45	1986	\$5,833
INS	Agent license fee increase	4/1/05	GFMR	\$20	\$40	1984	\$2,482
INS	Service of process fee increase	4/1/05	GFMR	\$20	\$40	1984	\$1,356
INS	Reinsurance license fee increase	4/1/05	GFMR	\$100	\$500	1984	\$0
NYPA	Pilot payments	4/1/05	GFMR	None	None	N/A	\$75,000
DMV	Data search fee increase	1/1/06	SFMR CFMR	\$5 Electronic \$6 Manual	\$7 Electronic \$10 Manual	2003	\$6,000
DMV	Photo image fee increase	1/1/06	SFMR CFMR	\$5	\$10	2003	\$3,800

Agency	Fee Description	Effective Date	Fund Type and Category	Fee		Year of Last Change	New Annual Revenue SFY2005-06 (000's)
				Current	Proposed		
ENCON	Title V operational permit fee increase	4/1/05	SFMR	\$45	\$58	1999	\$3,614
HLTHOTH	Reestablish 0.7% assessment on hospital receipts	4/1/05	SFMR	0.00%	0.70%	2000	\$194,300
HLTHOTH	Nursing home reimbursable assessment increase	4/1/05	SFMR	5.00%	6.00%	2004	\$69,200
LABOR	Asbestos handling license renewal fee increase	4/1/05	SFMR	\$300	\$500	1989	\$185
LOTTERY	Extend Quick Draw program and ease restrictions	4/1/05	SFTX	None	None	N/A	\$39,000
LOTTERY	VLТ Legislation	Immed.	SFMR	None	None	2003	\$108,000
RWB	Racing fee increase	4/1/05	SFMR	0.39%	0.50%	2003	\$2,800
SLRB	New annual registration fee	4/1/05	SFMR	None	\$50-\$250	N/A	\$1,129
SWN	Service surcharge clarifications	9/1/05	SFMR	\$1.20	\$1.20	2002	\$3,500

Statutory Actions - Subtotal **\$525,699**

Revenue Reductions

Agency	Fee Description	Effective Date	Fund Type and Category	Fee		Year of Last Change	New Annual Revenue SFY2005-06 (000's)
				Current	Proposed		
AGMKTS	Direct wine shipments	6/1/05	GFTX DFTX	None	None	1998	\$2,600
T&F	Adopt tax shelter provisions	1/1/05	GFTX	None	None	N/A	\$25,000
T&F	Allow tax department to enter into reciprocal offset agreements with other states	Immed.	GFTX DFTX	None	None	N/A	\$0
T&F	Change computation of long term care insurance credit for nonresidents	1/1/05	GFTX DFTX	None	None	N/A	\$1,500

Agency	Fee Description	Effective Date	Fund		Year of Last Fee Change	New Annual Revenue SFY2005-06 (000's)	
			Type and Category	Current Fee			
T&F	Change tax treatment of REITS and RICS	1/1/05	GFTX	None	None	N/A	\$50,000
T&F	Extend higher LLC fees	1/1/05	GFTX DFTX	None	None	N/A	\$22,000
T&F	Increase capital base cap under Article 9A	1/1/05	GFTX	Current Cap \$350,000	Proposed Cap \$1,000,000	N/A	\$26,000
T&F	Maintain Manhattan parking reporting requirements	Immed.	GFTX DFTX	None	None	N/A	\$700
T&F	Raise wine excise tax	6/1/05	GFTX DFTX	\$0.05/liter	\$0.28/liter	1994	\$37,700
T&F	Remove premiums tax exclusion on certain mutual insurance companies	1/1/05	GFTX	None	None	N/A	\$18,000
T&F	Replace Permanent Clothing Exemption	6/1/05	GFTX DFTX	None	None	2003	\$455,900
T&F	Require tax clearance for certain licensers	1/1/06	GFTX DFTX	None	None	N/A	\$0
T&F	SPUR extend certain empire zones program	1/1/05	GFTX	None	None	N/A	\$0
DMV	Dealer issued temporary registration fee increase	10/1/05	SFTX CFTX	\$2	\$5	1989	\$1,200
DMV	Dealer/transporter registration fee increase	10/1/05	SFTX CFTX	Registration fee: \$300 Application fee: \$25	Registration fee: \$450 Application fee: \$37.50	1989	\$600
DMV	Insurance buyback program expansion	1/1/06	SFTX CFTX	\$8	\$12	1998	\$2,750
DMV	Salvaged vehicle inspection fee increase	10/1/05	SFTX CFTX	\$100	\$150	1989	\$800
DMV	Title fee increase	1/1/06	SFTX CFTX	Original: \$10 Mobil & Manufactured: \$25 Duplicate: \$10	Original: \$50 Mobil & Manufactured: \$125 Duplicate: \$20	2003	\$31,250

Agency	Fee Description	Effective Date	Fund Type and Category	Current Fee	Proposed Fee Change	Year of Last	New Annual Revenue SFY2005-06 (000's)
DMV	Vehicle registration fee increases	1/1/06	SFTX CFTX	Various	Various	1998	\$29,250
Other Revenue Actions - Subtotal							\$508,000

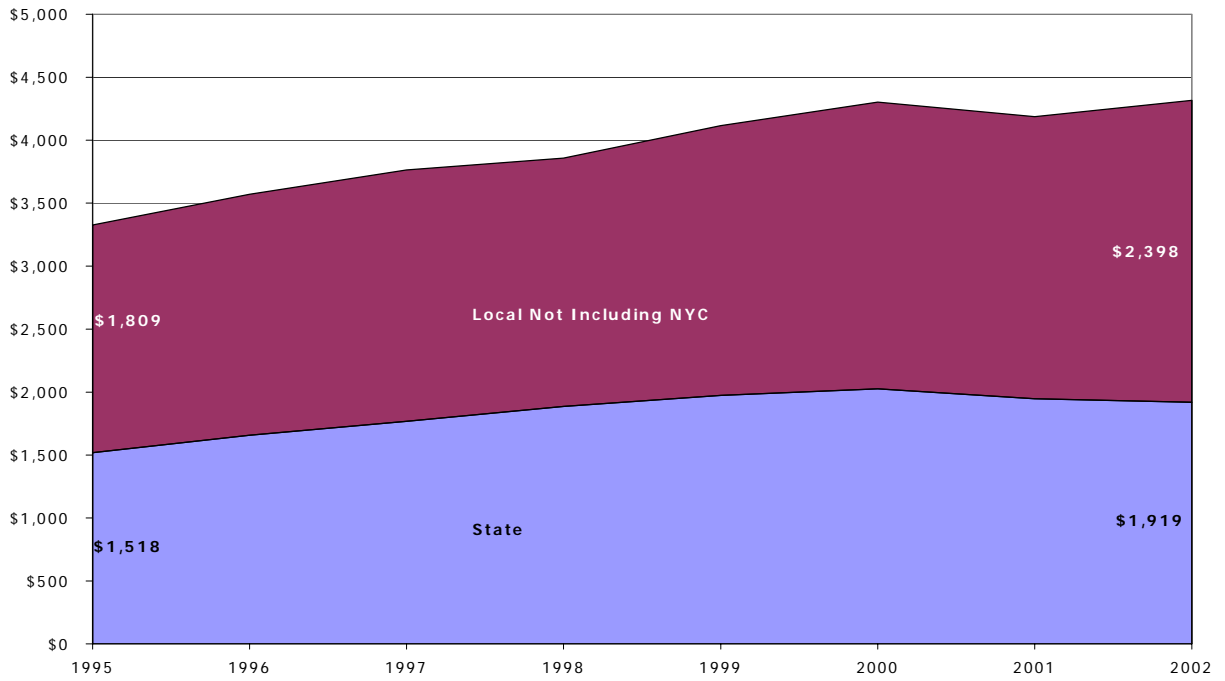
Agency	Fee Description	Effective Date	Fund Type and Category	Current Fee	Proposed Fee	Year of Last Change	New Annual Revenue SFY2005-06 (000's)
T&F	Accelerated income tax phase-out	1/1/05	GFTX DFTX	None	None	N/A	(\$190,000)
T&F	EITC strengthening families through stronger fathers	1/1/05	GFTX DFTX	None	None	N/A	(\$4,000)
T&F	Green buildings tax credit	1/1/06	GFTX	None	None	N/A	\$0
T&F	Low-Income housing	1/1/05	GFTX DFTX	None	None	N/A	\$0
T&F	Personal income tax deduction for payers of the nursing home assessment	1/1/05	GFTX DFTX	None	None	N/A	(\$500)
T&F	SPUR centers of excellence	1/1/05	GFTX	None	None	N/A	(\$1,000)
T&F	SPUR extension of power for jobs	1/1/05	GFTX	None	None	N/A	\$0
T&F	Reform and extend alternative fuels vehicle credit	Immed.	GFTX DFTX	None	None	N/A	\$0
T&F	SPUR single sales factor for manufacturers	1/1/05	GFTX	None	None	N/A	(\$4,000)
T&F	SPUR single sales/eliminate	1/1/05	GFTX	None	None	N/A	(\$5,000)
T&F	SPUR targeted wage credit	1/1/05	GFTX	None	None	N/A	(\$25,000)
T&F	STAR plus	1/1/05	GFTX DFTX	None	None	N/A	\$8,000
T&F	Tax free week on certain energy star products	6/1/05	GFTX DFTX	None	None	N/A	(\$4,000)
T&F	Small business tax reduction	N/A	GFTX	None	None	N/A	(\$5,000)

Revenue Reductions - Subtotal **(\$230,500)**

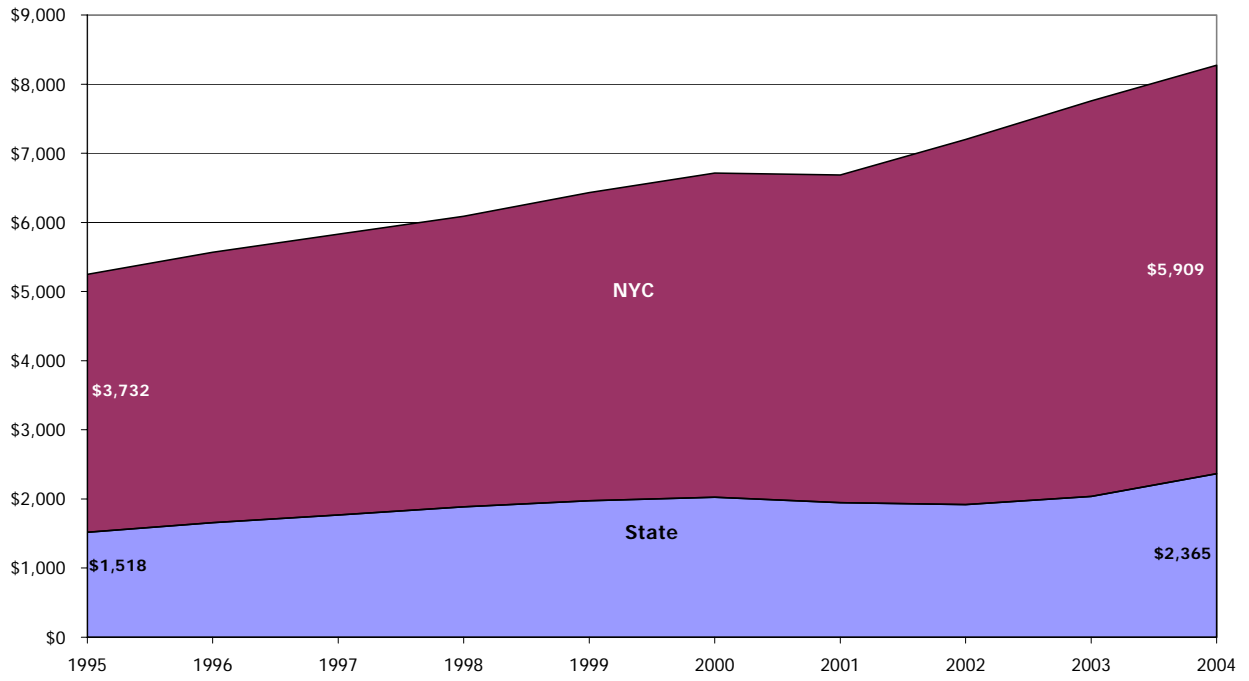
All Fee and Revenue Actions - Grand Total **\$1,017,949**

CF = Capital Projects Fund
DF = Debt Service Funds
GF = General Fund
MR = Miscellaneous Receipts
SF = Special Revenue Funds
TX = Tax

**Combined Per Capita Debt Burden – State and Local
(Outside New York City)
1995-2002
(\$ millions)**



Combined Per Capita Debt Burden – State and New York City 1995-2004 (\$ millions)



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