2007-08 Budget Analysis

Review of the Executive Budget

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State Comptroller

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Executive Summary

New York has embarked on a new era. For the first time in more than a decade the people of this State are represented by all new statewide officials—Governor, Lieutenant Governor, Comptroller and Attorney General. This new leadership, with an eye on reform, is poised to make great strides in overhauling New York's approach to conducting government business. The Legislature and the Governor should be applauded for having already joined forces to enact a long-awaited budget reform package, of which many provisions have been advocated by numerous Comptrollers over many decades.[1]

On January 31, 2007, the Governor presented his first Executive Budget proposal to the Legislature. In addition to a shift in policy and spending priorities, it appears that the Executive has turned to the annual spending plan as a catalyst for implementing reform. The Executive's budget presentation provides more in-depth financial plan information—lengthier out-year receipt and disbursement projections, greater detail on various spending categories by fund type, and enhanced data on debt service, debt affordability and debt portfolio financing options.

Furthermore, a practice that has perhaps increased the contentiousness of previous budget deliberations, and has contributed to unnecessarily late budgets in recent years, has been the excessive use of non-appropriation language within the appropriation bills. Many argue that this tactic has limited the Legislature's ability to amend the budget and, in turn, slowed negotiations that lead to budget enactment. It appears that there has been a concerted effort to reduce the amount of extraneous language within the appropriation bills—perhaps with the intent that if the Legislature can reasonably amend appropriation bills, then an on-time budget is a more obtainable goal.

[1] Chapter 1 of the Laws of 2007.

Finally, in an effort to improve fiscal management practices, the Executive recommends increases to reserves at a level of 5 percent of the General Fund, proposes a General Obligation bond act, rather than backdoor borrowing, to support a new stem cell research initiative and better delineates the impact the Proposed Budget would have on local governments across the State.

These actions, while seemingly minor, provide for a more open and transparent Financial Plan, and lead to a better informed public, which is therefore better equipped to assess the vast array of recommendations that comprise the Executive Budget and conceivably pave the way for a sound, balanced and on-time Enacted Budget.

While the Executive Budget incorporates certain positive measures, there are a number of areas where the proposal falls short of reform, and in fact, repeats many of the poor fiscal management practices adopted in prior years.

First, year-to-year spending growth is unsustainable. The proposed All Governmental Funds budget of $120.6 billion represents an increase of $7.1 billion, or 6.3 percent, over the current fiscal year. General Fund spending, including transfers, is proposed at $53.2 billion, an increase of $2.2 billion, or 4.2 percent, over 2006-07. On a State Funds basis, spending is proposed to total $83.5 billion, an increase of $6.0 billion, or 7.8 percent, over 2006-07. However, this expected growth does not include $2.7 billion in capital spending that is proposed to occur off-budget. Accounting for off-budget spending would increase All Funds spending growth to 7.0 percent and State Funds spending to 8.8 percent as compared to 2006-07.

Moreover, the 2007-08 Executive Budget continues to generate sizable out-year gaps. After closing a structural gap in 2007-08 of $1.6 billion with the use of 2005-06 surplus dollars and various spending and revenue actions, the State will continue to face persistent structural imbalance through 2010-11, totaling $14.3 billion. To narrow the gap, the Executive recommends applying $1.2 billion of the $1.5 billion projected surplus evenly to the three subsequent out-year gaps, marginally reducing the combined gap for State Fiscal Years (SFYs) 2008-09, 2009-10 and 2010-11 to approximately $13.0 billion.

The cause of the gaps can be attributed to spending, which is projected to grow nearly twice as fast as receipts and two and one-half times the projected average rate of inflation.[2] Specifically, over the four-year period covered by the 2007-08 proposed Financial Plan, the Executive recommends increasing General Fund spending by 24.8 percent, while increasing receipts by 13.5 percent—spending would grow nearly two

[2] Consumer Price Index (CPI) estimates are presented in the Division of the Budget (DOB), *2007-08 Economic and Revenue Outlook*, page 168. DOB predicts average annual inflation of 2.7 percent between 2006-07 and 2010-11.

times faster than receipts. This is the essence of a structural gap: fiscal imbalance caused when the State's policy of determining revenue is not balanced with policy decisions regarding spending.

Although the level is not as high as in past fiscal years, the Executive Budget again relies on non-recurring resources totaling $1.1 billion, bringing the two-year total to $4.2 billion. Utilizing non-recurring resources for ongoing expenses without commensurate spending reductions will continue to cause considerable pressure on the State's Financial Plan and is yet another contributing factor in the State's recurring structural deficit.

In addition, the 2007-08 Executive Budget continues to rely on debt rather than substantially increasing pay-as-you-go (PAYGO) capital spending. Based on the Executive's proposed Five-Year Capital Program and Financing Plan, outstanding State-Funded debt will increase to $65.6 billion by the end of 2011-12, representing a 27.1 percent increase from 2006-07 and a 97.9 percent increase from 1997. State-Funded debt service is projected to increase to $7.2 billion in 2011-12, an increase of $2.1 billion, or 40.9 percent, from 2007-08 and an increase of 138.1 percent from 1997. Since 1997, State-Funded debt has grown at an average annual rate of 4.7 percent—almost double the average rate of inflation.

The Executive has stated that this year's budget is the first step in a multi-year plan to fund strategic investments and restore structural balance. With reform taking hold as the primary objective, the Governor and the Legislature must not lose momentum. Over the next four years, the Comptroller looks forward to the structural reforms touted by the new Governor. In this multi-year effort, the Comptroller recommends instilling a more prudent approach to managing State finances, which would entail saving for the future, executing long-term planning so that revenues can better match spending and cultivating a culture of fiscal discipline not only in the Executive Budget, but also the Enacted Budget.

While it is not reasonable to expect that one budget will bring about all the changes and reforms needed to put the State back on solid financial ground, the leaders of this State must start to make the difficult choices that will finally allow New York to leave behind the damaging fiscal practices that have plagued the State for countless years.

Financial Plan

The Executive proposes a 2007-08 All Governmental Funds budget of $120.6 billion, an increase of $7.1 billion, or 6.3 percent, over the current fiscal year. General Fund spending, including transfers, is proposed at $53.2 billion, an increase of $2.2 billion, or 4.2 percent, over 2006-07. On a State Funds basis, spending is proposed to total

$83.5 billion, an increase of $6.0 billion, or 7.8 percent, over 2006-07. However, this expected growth does not include capital spending that is proposed to occur off-budget.

If the Financial Plan included all off-budget capital spending totaling $2.7 billion in 2007-08, including $375 million in economic and regional development disbursed through Memorandum of Understanding, the change in All Funds spending would increase from 6.3 percent from 2006-07 to 7.0 percent, and State Funds spending would increase from 7.8 percent in 2006-07 to 8.8 percent.

The Executive estimates a $1.5 billion surplus at the close of the 2006-07 fiscal year. In the Financial Plan Update issued with the Executive Budget, the Division of the Budget (DOB) estimates the current services gap at $1.6 billion, before Proposed Budget actions. According to the Executive Budget, the $1.6 billion gap in the 2007-08 General Fund will be closed through various spending and revenue actions, including the use of the remaining 2005-06 surplus.

Although the SFY 2007-08 Proposed Budget is ostensibly balanced, it contains up to an estimated $1.2 billion in Financial Plan risks. These risks include the possibility of additional spending needs, revenues that may not materialize and proposals to reduce spending or raise revenues that have been previously rejected by the Legislature. Risks should be mitigated in the Enacted Budget or managed during the coming fiscal year.

The State is facing a three-year General Fund budget gap of $14.3 billion: $2.7 billion in 2008-09, $4.9 billion in 2009-10 and $6.7 billion in 2010-11. In order to reduce these gaps, the Executive primarily recommends applying $1.2 billion of the projected surplus from 2006-07 equally in the three out-years, reducing the cumulative gap to $13.0 billion.

Debt and Capital

Based on the Executive's proposed Five-Year Capital Program and Financing Plan, outstanding State-Funded debt will increase to $65.6 billion by the end of 2011-12, representing a 27.1 percent increase from 2006-07 and a 97.9 percent increase from 1997. State-Funded debt service is projected to increase to $7.2 billion in 2011-12, an increase of $2.1 billion, or 40.9 percent, from 2007-08 and an increase of 138.1 percent from 1997. Since 1997, State-Funded debt has grown at an average annual rate of 4.7 percent—almost double the average rate of inflation.

Although the Executive's Proposed Budget does not include a comprehensive debt reform package, it does include language that would ban any future issuance of debt supported solely with State local assistance payments not previously authorized by the Legislature. However, the Executive does not include this type of debt in the State's reported debt burden. This Office has reported this type of debt as a State-Funded debt and counts it as part of the overall State debt burden.

The proposed Capital Program and Financing Plan also includes a number of other actions designed to streamline and improve efficiency in debt management and improve accountability and transparency, such as increased use of the competitive sale process when issuing bonds.

Capital spending over the life of the Plan is estimated to be approximately $46.7 billion, or $4.8 billion higher than the 2006-07 Enacted Capital Program and Financing Plan update. Over three-quarters of spending throughout the Plan is attributed to transportation, education or economic development/government oversight purposes. Transportation continues to comprise the largest amount of capital spending, increasing throughout the life of the Plan from 40.3 percent in 2007-08 to 59.7 percent in 2011-12. Education makes up the second largest area of capital spending in the proposed Capital Program and Financing Plan. Approximately 43 percent of the spending in the first two years of the Plan is attributed to education spending, primarily for *EXpanding our Children's Education and Learning* (EXCEL) purposes. This represents the remaining $1.8 billion authorized for EXCEL in the 2006-07 Enacted Budget. In addition to planned issuances within the Capital Program, the Transitional Finance Authority (TFA) is scheduled to issue $3.4 billion in Building Aid Revenue Bonds (BARBs) between 2007-08 and 2009-10.

Local Governments

The Executive Budget contains both good news and bad for local governments across New York State. On the positive side, the Executive advances actions that would target more aid and economic development investments to struggling Upstate communities. Upstate taxpayers would also see the largest property tax bill reductions as a result of the proposed property tax relief program.

To the benefit of county governments, the Medicaid cap is continued as is the takeover of Family Health Plus. Moreover, the Executive Budget takes steps to help alleviate the growing burden of State-ready inmates on county jails.

Unfortunately, the Executive Budget would also result in 81 municipalities losing all of their revenue sharing aid. Based on new revenue sharing formulas, these municipalities are considered to be high wealth and, thus, would be ineligible to receive these funds, as there are no hold-harmless provisions in the Executive's proposal. County nursing homes are also facing a negative impact as a result of proposed cost containment measures.

Overall, local governments are estimated to realize a positive benefit of $1.5 billion as a result of 2007-08 Executive Budget actions. However, 92 percent of this benefit is directed to school districts in the form of school aid increases.

Public Authorities

The 2007-08 Executive Budget again recommends an appropriation of $1.5 million to fund the establishment of the Authority Budget Office within DOB. A $1.5 million appropriation was recommended to fund the establishment of the Office within DOB in the 2006-07 Executive Budget, but was rejected by the Legislature due to conflicting interpretations of where the Office should be located in accordance with the Public Authorities Accountability Act of 2005.

The Executive proposes the creation of a new public benefit corporation, the New York State Stem Cell and Innovation Fund Corporation, which would be authorized to make economic development investments in stem cell biology and other emerging technologies by providing grants and loans to support research.

The Executive proposes requiring regional transportation authorities to prepare five-year projected operating and capital budgets. The Comptroller's Regulation 2 NYCRR Part 203, "Budget and Financial Plan Format, Supporting Documentation and Monitoring – Public Authorities," adopted in March 2006, was the first comprehensive effort to require these authorities to prepare four-year financial plans.

Article VII legislation authorizes a $913,000 transfer from the New York State Energy Research and Development Authority for General Fund relief in 2007-08. Additionally, bonding authorizations for a number of programs supported through public authority debt will be increased by 7 percent, or $1.8 billion.

Education

In response to the Campaign for Fiscal Equity (CFE) court case, the Executive Budget proposes an increase in overall school aid of $1.4 billion to over $19.1 billion in 2007-08 and a $7 billion increase to $24.7 billion by 2010-11. The proposed $1.4 billion increase is comprised of $932 million in present law funding growth, $112 million in debt service on outstanding *EXpanding Our Children's Education and Learning* (EXCEL) bonds and $110 million in lottery fund growth and a school-year adjustment. The remaining $259 million increase represents new funding, which under the proposal would increase to nearly $2.9 billion by 2010-11.

Under a proposed Four-Year "Educational Investment Plan" (Four-Year Plan), the Executive would provide $13.5 billion for a "Foundation Aid" program that would combine 30 previously existing aid programs. The newly established program would determine a standard local education cost based on actual costs in successful schools and adjust aid amounts for regional, poverty and enrollment conditions. A proposed accountability system would change the current performance measurement programs and call upon the Education Commissioner and school districts to implement specific goals for achieving financial, programmatic, performance and school accountability.

Charter school legislation originally capped the number of authorized charter schools at 100. The Executive Budget proposes increasing the cap to 250 and authorizing the Board of Regents, SUNY and the New York City School Chancellor to each approve 50 new charter schools. Authorization of these schools would require the redirection of additional public school funding to future charter schools.

The Executive Budget maintains funding for charter schools at $6 million and proposes $15 million in new Transitional Aid for five districts that are financially affected by charter schools in their area.

While funding for most aid programs would be maintained at 2006-07 levels, the Executive Budget proposes a $98.8 million increase in Universal Pre-Kindergarten, reflecting the first proposed per pupil increase since its inception in 1998. The Executive also proposes increasing the School Tax Property Relief Program (STAR) by $1.5 billion to $5.1 billion and recommends determining the basic exemption using income. The proposal would increase Enhanced STAR exemptions for seniors (including a cost of living adjustment in future years) and double the New York City Personal Income Tax over three years.

Higher Education

The Executive Budget does not propose any tuition increases for 2007-08, but recommends the creation of a Commission on Higher Education to examine the potential of establishing a rational tuition strategy. Most supplemental student financial aid programs are maintained at prior year levels; however, program funding reductions in Direct Institutional Aid (BUNDY Aid) and the Tuition Assistance Program (TAP) could impact private institutions and their students by reducing the funds available for student scholarships and limiting eligibility criteria options for TAP applicants. The Executive continues to expand funding for high-need subjects by proposing additional aid for the Math, Science and Engineering Teacher Incentive

Program, Priority Academic Programs, and the Science and Technology Entry (STEP) and College Science and Technology Entry (CSTEP) Programs.

The Executive directs funding toward capital projects at both SUNY and CUNY by raising the bond caps of both institutions to provide an additional $379.7 million and $265.8 million, respectively, in supplemental capital aid.

Health Care

New York provides access to a wide array of health care services through programs and activities such as Medicaid, Family Health Plus, Child Health Plus (CHP), Elderly Pharmaceutical Insurance Coverage (EPIC), community-based care, mental hygiene and public health programs like Early Intervention and General Public Health Works. Medicaid, the State's single most expensive program, represents about one-third of All Funds spending and provides health care for low-income individuals, long-term care for the elderly and services for disabled persons, primarily through payments to health care providers.

The Executive Budget recommends a 4.2 percent increase in General Fund Medicaid spending in SFY 2007-08, reflecting net savings of over $1 billion and a health care industry loss totaling more than $1.4 billion. Savings assumed by the Executive may be difficult to achieve since several of the proposed cost containment actions—such as elimination of hospital and nursing home inflationary rate adjustments, pharmacy reimbursement reductions and lower graduate medical education subsidies—have been rejected by the Legislature in previous years. In contrast, it may be difficult for the Legislature to restore funding for proposed reductions because of the cap on local Medicaid costs, meaning the State can no longer rely on local governments to bear a portion of any additional non-federal Medicaid costs that would result from such restorations. In proposing certain cost-saving measures in Medicaid, as well as in CHP and EPIC, the Executive has again included Article VII language in the SFY 2007-08 Health and Mental Hygiene appropriation bill. However, this language is a substantial improvement over past budget proposals because it permits the Legislature to legally restore funding for recommended reductions if it appropriates sufficient additional funds to do so.

Under the Executive Budget proposal, the Health Care Reform Act (HCRA) would carry a $25 million fund balance at the end of SFY 2007-08, but the Executive projects rapidly growing out-year HCRA deficits. The Executive also recommends only a nine-month HCRA extension to allow an opportunity to review the entirety of the State's hospital reimbursement system. Since it was first established in 1996, HCRA has been extended for much longer periods of time, for three-and-a-half years in 1999 and for two years in both 2003 and 2005.

With respect to mental hygiene, the Executive Budget recommends significant net growth in General Fund spending for the second consecutive year. General Fund mental hygiene expenditures are proposed to grow $265 million, or 9.3 percent, over SFY 2006-07, after increasing by $325 million, or 12.9 percent, over SFY 2005-06. The largest growth in spending occurs in local assistance expenditures for existing programs supported by all three mental hygiene agencies: the Office of Alcoholism and Substance Abuse Services, the Office of Mental Health, and the Office of Mental Retardation and Developmental Disabilities.

Environment

General Fund support for environmental agencies increases by a net of $18.9 million, or 7.3 percent, while the Executive Budget calls for 166 new environmental-related positions—109 in the Department of Environmental Conservation (DEC), 52 positions in the Office of Parks, Recreation and Historic Preservation (OPRHP) and 5 in the Adirondack Park Agency (APA). The Executive has proposed a funding level of $250 million for the Environmental Protection Fund (EPF) in 2007-08, an increase of $25 million over 2006-07. The collection of unclaimed beverage container deposits, coupled with an expansion of the current bottle bill to include non-carbonated beverages, is projected to produce an additional $25 million in new revenue to be deposited into the EPF. Additionally, the Superfund program, refinanced in 2003, receives a recommended appropriation of $144.4 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, and $9.4 million for staffing.

Section

2

Financial Overview

The Executive proposes a 2007-08 All Governmental Funds budget of $120.6 billion, an increase of $7.1 billion, or 6.3 percent, over the current fiscal year. General Fund spending, including transfers, is proposed at $53.2 billion, an increase of $2.2 billion, or 4.2 percent, over 2006-07. On a State Funds basis, spending is proposed to total $83.5 billion, an increase of $6.0 billion, or 7.8 percent, over 2006-07.

However, this expected growth does not include capital spending that is proposed to occur off-budget. The 2006-07 Enacted Budget included language for the $2.6 billion *EXpanding our Children's Education and Learning* (EXCEL) program which authorized the Dormitory Authority of the State of New York (DASNY) to issue new bonds, as well as disburse the proceeds directly to school districts, thus bypassing the State's Central Accounting System and avoiding the State's many expenditure control and procurement processes. Of the $2.6 billion authorized, $1.5 billion is planned for disbursement in 2007-08. While this spending is accounted for in the State's Generally Accepted Accounting Principles (GAAP) Financial Statements (including the Comprehensive Annual Financial Report), it is not part of the 2007-08 Financial Plan.

Since 1997, the State has added a number of off-budget capital spending programs, primarily for regional or economic development. Much of this spending is distributed via Memorandum of Understanding between the Governor and legislative leaders. The Proposed Budget does not eliminate those existing programs, which have approximately $2.5 billion in spending authority re-appropriated with planned spending of approximately $375 million in 2007-08. There is an additional $1.25 billion in off-budget capital spending for other purposes. Much of this off-budget capital spending represents payments to public authorities for payments to grant recipients—a practice that obscures 'transparency and accountability' in that such payments are not subject to the State's contracting and expenditure review processes.

Further, because so much of this capital spending is administered off-budget, there is greater uncertainty regarding the status of funding commitments to recipient organizations. See table at the end of this chapter for additional details.

If the Financial Plan included all off-budget capital spending totaling $2.7 billion in 2007-08, including the $375 million disbursed through Memoranda of Understanding, the change in All Funds spending would increase from 6.3 percent from 2006-07 to 7.0 percent, and State Funds spending would increase from 7.8 percent from 2006-07 to 8.8 percent.[3]

Total Disbursements
(in millions of dollars)

	2006-07 Estimated	2007-08 Proposed	Dollar Change	Percent Change
General Fund (including transfers)	51,091	53,248	2,157	4.2%
State Funds	77,531	83,545	6,014	7.8%
Federal Funds	36,186	37,313	1,127	3.1%
All Funds	113,532	120,635	7,103	6.3%
Off-Budget Capital	*1,712*	*2,703*	*991*	57.9%
Total All Funds Including Off-Budget Capital	**115,244**	**123,338**	**8,094**	**7.0%**
Total State Funds Including Off-Budget Capital	**79,243**	**86,248**	**7,005**	**8.8%**

In the Mid-Year Financial Plan Update issued October 30, 2006, the Division of the Budget (DOB) projected a 2007-08 General Fund current services gap of $2.4 billion. In the Financial Plan Update issued with the Executive Budget, DOB now estimates the current services gap at $1.6 billion, before Proposed Budget actions. The partial gap closure is primarily due to higher than anticipated revenues.

According to the Executive Budget, the $1.6 billion gap in the 2007-08 General Fund is closed through various spending and revenue actions that total $3.5 billion, including:

- Medicaid, Health and Mental Hygiene savings/reductions at $1.3 billion,
- Use of 2005-06 and 2006-07 surplus totaling $671 million,
- Revenue actions at $449 million, and
- Various other spending reductions and projected savings at $1.1 million.

[3] See the Financial Plan tables at the end of this chapter for details on 2006-07 and 2007-08 off-budget capital spending.

The above actions are offset by a total $1.9 billion in new spending initiatives, including:

- Property tax relief at $1.2 billion,
- New School Aid at $371 million,
- Health Care initiatives at $100 million, and
- Other new spending at $191 million.

General Fund Financial Plan Update for 2006-07

The Financial Plan Update for 2006-07, released with the 21-Day Amendments to the Executive Budget for 2007-08, projects total General Fund receipts, including transfers from other funds at $51.4 billion. This represents an increase of $280 million over the Mid-Year Financial Plan Update—which had also increased the level of projected General Fund receipts by $1.2 billion over the first quarterly update.[4]

General Fund disbursements, including transfers to other funds, in 2006-07 are now projected at $51.1 billion, a decrease of $208 million from the Mid-Year Financial Plan Update. The surplus in 2006-07 is estimated at $1.5 billion, an increase of $487 million over the projection included in the Mid-Year Financial Plan Update.

In addition to an estimated General Fund surplus on March 31, 2007 of $1.5 billion, the Tax Stabilization Reserve Fund is projected to have a balance of slightly over $1 billion, and the Contingency Reserve Fund is projected to have a balance of $21 million. The Community Projects Fund will contain $276 million. Furthermore, it is estimated the General Fund closing balance will also contain $787 million in surplus funds carried over from the 2005-06 fiscal year. The $1.5 billion 2006-07 surplus is primarily the result of receipts growing faster than expected and more than the growth in disbursements.

Compared to 2005-06, General Fund receipts for 2006-07 are projected to grow 9 percent, from $47.2 billion to $51.4 billion by the close of the 2006-07 fiscal year. Disbursements are estimated to increase 10 percent, from $46.5 billion in 2005-06 to $51.1 billion for the current fiscal year.[5]

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[4] Division of the Budget, *2006-07 Financial Plan: First Quarterly Update*, July 31, 2006.

[5] *The Enacted Financial Plan*, published May 12, 2006, projected that receipts in 2006-07 would grow to $50.1 billion, a 7.7 percent increase over 2005-06, and disbursements would grow 9.4 percent to $50.8 billion.

General Fund Receipts in 2006-07

Compared to Financial Plan: Income tax collections have remained close to estimates contained in the Enacted Budget Financial Plan. The current estimate of $22.8 billion in income tax receipts in the General Fund is only 1.3 percent below the original May 2006 estimate of $23.1 billion. User taxes and fees have also remained largely unchanged, with the projection declining by $18 million to $8.3 billion.

The business tax component is the source of the greatest difference between the original estimate in May 2006 of $5.3 billion and the latest estimate in January 2007 of $6.0 billion. Within business taxes, the Corporation Franchise tax (Article 9-A) has driven the increase in collections primarily due to increased receipts from audit activity and higher than anticipated corporate profits.

Compared to 2005-06: Personal income tax receipts deposited into the General Fund are estimated to grow 10.3 percent in 2006-07, from $20.7 billion to $22.8 billion. All user taxes and fees deposited directly into the General Fund are estimated to decrease slightly in 2006-07, declining from $8.6 billion to $8.3 billion. Business taxes are estimated to grow approximately 18.5 percent in 2006-07, from $5.1 billion to $6.0 billion.

General Fund Disbursements in 2006-07

Compared to Financial Plan: General Fund disbursements in 2006-07 are now expected to total $51.1 billion, an increase of $248 million, or 0.5 percent, over the May 2006 Enacted Budget Report, which was $50.8 billion. The Mid-Year Financial Plan Update issued in October 2006 had projected General Fund Disbursements of $51.3 billion. Grants to local governments, the largest category of General Fund disbursements, are projected to reach $34.2 billion by the end of 2006-07, a slight decrease from Enacted Budget projections. State operations are projected to total $9.4 billon, and General State Charges are estimated at just under $4.4 billion.

Compared to 2005-06: General Fund disbursements have increased an estimated $4.6 billion, or 9.9 percent, from $46.5 billion in 2005-06 to an estimated $51.1 billion in 2006-07. Aid to local governments increased 9.3 percent and General State Charges increased approximately 9.5 percent. Disbursements for State Operations increased 15.4 percent, primarily due to contractual salary increases.

Changes to the 2006-07 General Fund Financial Plan[6]
(in millions of dollars)

	Enacted (May 12, 2006)	First-Quarter Update (July 31, 2006)	Mid-Year Update (October 30, 2006)	Third-Quarter Update (February 21, 2007)
ALL RECEIPTS	**50,860**	**50,005**	**51,162**	**51,441**
Taxes				
Personal Income	23,137	22,611	22,836	22,828
User Taxes and Fees	8,323	8,247	8,216	8,305
Business Taxes	5,303	5,479	5,899	6,027
Other Taxes	896	924	924	1,077
Miscellaneous	2,846	2,435	2,910	2,665
Federal	9	180	180	180
Transfers				
Revenue Bond (PIT)	7,135	6,971	7,048	7,095
LGAC (Sales)	2,208	2,179	2,164	2,180
CW/CA (Real estate)	533	583	583	682
All Other	470	396	402	402
ALL DISBURSEMENTS	**50,843**	**50,984**	**51,299**	**51,091**
Grants to Local Governments	34,210	34,278	34,386	34,184
State Operations	9,455	9,503	9,477	9,413
General State Charges	4,413	4,401	4,363	4,351
Debt Service (transfer)	1,749	1,760	1,764	1,763
Capital Projects (transfer)	219	225	224	216
Other (transfer)	797	817	1,085	1,164
Difference Between Receipts and Disbursements	**17**	**(979)**	**(137)**	**350**

Source: New York State Division of the Budget, various documents

Non-Recurring Resources in 2006-07

The 2006-07 Enacted Budget relied on over $3.1 billion of non-recurring resources. The single largest source of one-time revenue was $504 million received by the State's Public Asset Fund in late 2006 as a result of the merger of WellChoice and WellPoint Insurance companies. An additional amount valued between $441 and $543 million is

[6] This table illustrates the difference between projected receipts and disbursements (change in fund balance) throughout the 2006-07 fiscal year. The difference illustrates the structural gap *before* other actions, such as the use of reserves or other non-recurring resources.

expected by March 31, 2007—the result of a two-phase transaction that will also provide anticipated funding between $441 million and $572 million in 2007-08.[7] These windfall revenues were deposited into the Health Care Reform Act (HCRA) Resources Fund, which then provided General Fund relief for Medicaid expenses of roughly $1 billion.[8] The second largest non-recurring resource was a $500 million prepayment of 2006-07 General Fund Medicaid costs in 2005-06.

[7] The Public Asset Fund's sale of shares took place in November 2002 and June 2004, but the proceeds were held in escrow until August 2005 pending the outcome of litigation. The Public Asset Fund hedged the risk of a potential decline in WellPoint's stock price by selling approximately $1 billion worth of shares and then purchasing two separate structured notes that track the performance of WellPoint stock. These notes, which mature on March 31, 2007 and September 30, 2007, set a "floor" price of $884 million to preserve accumulated value if WellPoint's share price drops, as well as a "cap" price of $1.1 billion in case WellPoint's share price increases. WellPoint's share price was $77.50 when the hedge transaction was initiated. It is currently trading at approximately $80 a share. The hedge transaction provides for early redemption in case Health Care Reform Act (HCRA) cash requirements change.

[8] Approximately 40 percent of HCRA disbursements are for Medicaid programs that would otherwise be financed by the General Fund.

Non-Recurring Resources in the 2006-07 Enacted Budget
(in millions of dollars)

	Dollar Value Enacted Budget
Asset Sales*	1,000
Prepayment of 2006-07 Medicaid Pharmacy Costs	500
Use of Surplus	258
SONYMA Fund Balance Sweep	150
Voluntary Compliance Initiative (Tax Amnesty)	149
Sale of Unclaimed Property Spinup	143
Prepayment (Reserve) of Sound Basic Education Liability	130
Delayed Hospital Assessments	106
Medicaid Drug Rebate	100
Power Authority Sweep (deferred to 2007-08)	100
Reduction in Medicaid Clawback	92
TANF Surplus and Performance Bonus	69
Shift of Building Aid	60
Debt Service Savings	50
Additional Fund Sweeps	50
Prepayment of June 2006 MTA School Fare Subsidy	45
Certain Federal Medicaid Anti-Fraud Reimbursements	30
Sale of Surplus Property	20
HESC Fund Balance Sweeps	20
Federal World Trade Center Reimbursement	12
Waste Tire Management and Recycling Account Sweep	12
Additional Patient Income Account Federal Revenues	7
Other Unspecified	4
Federal 340(b) Drug Discount Rebates	3
Sale of OCFS Buildings	1
Total	**3,111**

Sources: New York State Division of the Budget and Office of the State Comptroller, *2006-07 Budget Analysis: Review of the Enacted Budget*, May 2006.
* While the proceeds from the sale of WellPoint stock are deposited into the Health Care Reform Act (HCRA) Fund, they are counted here as a non-recurring resource because certain health expenditures paid out of HCRA would otherwise be paid out of the General Fund.

Financial Plan for 2007-08

All Governmental Funds

The Financial Plan projects All Governmental Funds disbursements in 2007-08 at $120.6 billion. Compared to the estimated 2006-07 budget disbursements of $113.5 billion, this represents an increase of $7.1 billion, or 6.3 percent. The category with the highest rate of growth is capital projects, which increases 32.4 percent between

2006-07 and 2007-08. The $1.6 billion increase in capital spending is primarily due to new proposals and continued spending for existing economic development, education and transportation projects. The increase in capital spending does not include $2.7 billion in previously approved off-budget spending where various programs are being financed directly with proceeds from bonds issued by public authorities.

Debt service is projected to increase to $4.4 billion in 2007-08, a 3.3 percent growth rate from 2006-07. Grants to local governments, which include Medicaid and school aid, are proposed to increase 5.4 percent, or $4.4 billion. State Operations spending is projected to increase 4.2 percent in 2007-08, or $748 million.

All Governmental Funds Disbursements and Receipts
2006-07 and 2007-08
(in millions of dollars)

	Estimated 2006-07	Proposed 2007-08	Dollar Change	Percent Change
DISBURSEMENTS				
Grants to Local Governments	81,180	85,537	4,357	5.4%
State Operations	17,885	18,633	748	4.2%
General State Charges	5,197	5,431	234	4.5%
Debt Service	4,250	4,390	140	3.3%
Capital Projects	5,020	6,644	1,624	32.4%
Total Disbursements	**113,532**	**120,635**	**7,103**	**6.3%**
RECEIPTS				
Taxes	58,309	60,961	2,652	4.5%
Miscellaneous Receipts	18,658	20,058	1,400	7.5%
Federal Grants	36,186	37,313	1,127	3.1%
Total Receipts	**113,153**	**118,332**	**5,179**	**4.6%**

Source: Office of the State Comptroller calculations based on the New York State Division of the Budget, *2006-07 Financial Plan*, pages 187-189.

Receipts in 2007-08 are expected to total $118.3 billion, an increase of $5.2 billion, or 4.6 percent, over 2006-07. The bulk of All Governmental Funds receipts are taxes, which are forecast to increase from $58.3 billion to nearly $61.0 billion, or 4.5 percent. Miscellaneous receipts, which comprise roughly 17 percent of total receipts, are projected to increase 7.5 percent, while federal grants are proposed to increase 3.1 percent, providing 32 percent of total receipts.

General Fund

The Executive Budget proposes 2007-08 General Fund disbursements (including transfers) of $53.2 billion. This represents an increase of $2.2 billion, or 4.2 percent, over 2006-07. Grants to local governments comprise the largest share of General Fund disbursements. These grants are proposed to increase 6.4 percent from $34.2 billion in 2006-07 to $36.4 billion in 2007-08.

General Fund receipts are proposed to increase 2.4 percent in 2007-08, to $52.7 billion. Although reported taxes comprise the majority of General Fund receipts, they are only projected to increase 0.1 percent or $47 million in 2007-08. Over 90 percent, or $1.1 billion, of the increase is in Transfers from Other Funds. The primary reasons for a small increase in taxes and a large increase in transfers are a change in how Personal Income Tax receipts move through the Revenue Bond Tax Fund for debt service costs associated with Personal Income Tax (PIT) revenue bonds and a proposed increase in School Property Tax Relief Program (STAR) benefits. Both actions will decrease reported Personal Income Tax receipts in the General Fund, and the change to the Revenue Bond Tax Fund will increase the transfer back to the General Fund.[9]

General Fund Disbursements and Receipts
2006-07 and 2007-08
(in millions of dollars)

	Estimated 2006-07	Proposed 2007-08	Dollar Change	Percent Change
DISBURSEMENTS				
Grants to Local Governments	34,184	36,384	2,200	6.4%
State Operations	9,413	9,602	189	2.0%
General State Charges	4,351	4,572	221	5.1%
Transfers to Other Funds	3,143	2,690	(453)	-14.4%
Total Disbursements	**51,091**	**53,248**	**2,157**	**4.2%**
RECEIPTS				
Taxes	38,237	38,284	47	0.1%
Miscellaneous Receipts	2,665	2,851	186	7.0%
Federal Grants	180	59	(121)	-67.2%
Transfers from Other Funds	10,359	11,472	1,113	10.7%
Total Receipts	**51,441**	**52,666**	**1,225**	**2.4%**

Source: Office of the State Comptroller calculations based on the New York State Division of the Budget, *Financial Plan Projections,* February 9, 2006.

[9] Article 5-C of the State Finance Law authorizes the issuance of Personal Income Tax revenue bonds (PIT bonds). These bonds are backed by 25 percent of Personal Income Tax Receipts after payment of refunds and School Property Tax Relief Program (STAR) deposits. After debt service is paid, all remaining revenue is transferred back to the General Fund. The Executive proposes language that will change the funding of the Revenue Bond Tax Fund to 25 percent of Personal Income Tax receipts after refunds and *before* STAR deposits. This change will increase the amount of debt service coverage for PIT bonds and increase the amount of funding that is transferred back to the General Fund after PIT bond debt service is paid. It is important to note that the change in the Revenue Bond Tax Fund will have no impact on the Financial Plan.

Reserves

The Division of the Budget estimates the State will end the 2006-07 fiscal year with $3.6 billion in the General Fund closing balance. The General Fund will end the year with $787 million remaining from the 2005-06 surplus, after using $1.3 billion in 2006-07. The 2006-07 surplus is estimated at slightly below $1.5 billion. The Community Projects Fund will increase $25 million, to $276 million, and the Tax Stabilization Reserve Fund will end the year with slightly over $1 billion. The Contingency Reserve Fund will have $21 million—no change from 2005-06.

Chapter 1 of the Laws of 2007 created the Rainy Day Reserve Fund. The Fund is statutorily restricted to a maximum balance equal to no more than 3 percent of General Fund disbursements from the prior year. Monies from the Fund can be used in case of economic downturn or for catastrophic events. If funded to their statutory capacity, the Rainy Day Reserve Fund and the Tax Stabilization Reserve Fund, which is currently funded to capacity, would equal a combined 5 percent of General Fund prior year disbursements.

DOB estimates that the Community Projects Fund will rise to $351 million, an increase of $75 million. The Tax Stabilization Reserve Fund will end 2007-08 unchanged from 2006-07 at a level slightly over $1 billion. The Contingency Reserve Fund will remain at $21 million and the new Rainy Day Reserve will have a balance of $175 million. The remaining $787 million surplus from 2005-06 is slated to be used in 2007-08, as will $295 million of the 2006-07 surplus. Finally, the Debt Reduction Reserve Fund (DRRF) will receive a $250 million deposit.

General Fund Reserves – 2006-07 and 2007-08
(in millions of dollars)

	SFY 2006-07	SFY 2007-08	Dollar Change
Tax Stabilization Reserve Fund	1,025	1,025	-
Rainy Day Reserve	-	175	175
Contingency Reserve Fund	21	21	-
2005-06 Surplus	787	-	(787)
2006-07 Surplus	1,498	1,203	(295)
Community Projects Fund	276	351	75
Debt Reduction Reserve Fund	-	250	250
Total	**3,607**	**3,025**	**(582)**

Executive Proposals as Presented in the 2007-08 Financial Plan
Impact on General Fund
(in millions of dollars)

	Executive Estimate
Beginning in 2007-08 General Fund Gap	**(1,608)**
New Spending	**(1,873)**
New Property Tax Relief	(1,211)
Additional School Aid	(371)
Health Care Initiatives	(100)
Other Education/Arts	(34)
Social Services	(27)
Mental Hygiene	(25)
Stem Cell/Life Sciences	(25)
Community College Base Aid	(17)
Prison Phone Rate Reduction	(16)
Upstate Transit Study	(9)
Tuition Tax Reduction/Affordable Housing	(4)
Crime Fighting	(1)
Campaign Finance Reform	(1)
Other	(32)
Health/Medicaid/Mental Hygiene Savings Actions	**1,299**
Freeze 2007 Rates - Overhaul Methodologies	350
Redirect Subsidies to High-Need Medicaid Hospitals	73
Pharmaceutical Savings	240
Enhance Management of High Cost Beneficiaries	5
Strengthen Anti-Fraud	104
Other General Fund Savings	221
Other HCRA Savings	219
Public Health	39
Mental Hygiene	195
HCRA Savings In State Funds	(147)
Revenue Actions	**449**
Personal Income Tax - Extend/Restructure LLC Fees	30
Reporting Tax Shelters	6
Corporate Franchise Combined Filing	185
Add Back Expenses Subsidiary Capital/Eliminate Discount Wage Factor	35
Decouple from Fed Deduction for Qualified Production Activities	25
Cooperative Insurance Companies	23
Grandfathered Corporations	19
Real Estate Investment Trusts	88
Conform to Federal Bad Debt Deduction	13
Tax Shelters Reporting	10
Sales Tax on Full Hotel Room Cost from Internet Purchases	15
Other Spending Actions/Projected Savings	**1,062**
Various Local Assistance Changes	306
Economic Development	209
Social Services/Labor	165
Public Safety/Homeland Security	109
Other Education/Arts	54
Environment/Energy	50
Transportation	43
Debt Service	40
Higher Education	35
Other	51
Net Surplus Use/Reserve Deposits	**671**
Use of 2005-06 Surplus	787
Use of 2006-07 Surplus	259
Deposit ot Rainy Day Fund	(125)
Deposit to Debt Reduction Reserve Fund	(250)
Ending Gap	-

Non-Recurring Resources

The proposed Financial Plan reports that $1.1 billion in non-recurring resources will be used in the 2007-08 fiscal year, including $671 million in surplus from 2006-07. However, while the Executive's proposal utilizes $671 million for spending needs in 2007-08, it is important to note that an additional $425 million in 2005-06 and 2006-07 surplus is deposited in the DRRF ($250 million) and the new Rainy Day Fund ($175 million). Monies in the DRRF may or may not be used in 2007-08. Although there is an appropriation for $250 million, the Financial Plan does not intend to utilize the funds in 2007-08. Furthermore, since the Executive's proposal does not include restrictions on the use of DRRF funds, they could be used to supplant scheduled debt service and/or pay-as-you-go (PAYGO) spending, as has been done in the past.

The remaining 2006-07 surplus of $1.2 billion is planned for use in equal installments of $401 million in each of the following three years as a non-recurring resource. The following table illustrates the Executive's planned use of non-recurring resources in 2007-08.

Non-Recurring Resources - 2007-08

(in millions of dollars)

Source	Value
Use of 2005-06 and 2006-07 Surplus	671
SONYMA Transfer	100
Medicaid: Federal Share - Home Care Insurance Demonstration	82
Medicaid: Waive Statutory Reconciliation Prior Year Assessments	44
Medicaid: Drug Rebate Revenue	40
Mental Hygiene: Federal PIA Revenues	61
Mental Hygiene: Anti-Fraud Recoveries	18
Fund Sweep: Cultural Education	20
Fund Sweep: Unemployment Insurance Interest Assessment	16
Fund Sweep: Revenue Arrearage	15
Fund Sweep: DMV Compulsory Insurance	16
Fund Sweep: Public Health Accounts	10
Cellular Surcharge for Wireless Network	10
Fund Sweep: EPF	10
Finance National Guard with Federal Funds	5
Building Sale	3
Fund Sweep: Welfare/OCFS Accounts	3
Federal Funding for Certain Welfare Costs	2
Total	**1,126**

Risks to the 2007-08 Financial Plan

Although the State Fiscal Year (SFY) 2007-08 Proposed Budget is ostensibly balanced, it contains up to an estimated $1.2 billion in Financial Plan risks. These risks include the possibility of additional spending needs, revenues that may not materialize, and proposals to reduce spending or raise revenues that have been previously rejected by the Legislature.

Economy

While broader risks to the Financial Plan include economic factors beyond the State's control, the risk potential must be managed.

Particular concerns in the 2007-08 Financial Plan include:

- Energy costs which may rise with both direct and indirect effects on the State Treasury,
- The continued weakening of the housing market,
- Rising interest rates,
- Lower corporate earnings, and
- Lower than expected earnings and bonuses from Wall Street.

Previously Rejected Proposals

In total, the Executive Budget includes previously rejected proposals valued at approximately $700 million, including revenue measures such as changes to the administration of Quick Draw ($109 million) and spending changes such as a restructuring of the Tuition Assistance Program (TAP). Some of these are discussed in further detail below. If these proposals are again rejected, additional pressure on the General Fund will result in 2007-08 and subsequent years.

Education

The Executive's Proposed Budget estimates revenues of $586 million from seven Video Lottery Terminal (VLT) facilities in 2007-08—an increase of $311 million over what is estimated for 2006-07. According to Comptroller's Office analysis, the 2007-08 projection is approximately $140 million, or 24 percent, higher than what could be expected based on historical performance. Furthermore, since 2003-04, when VLTs began operating, revenue estimates have been overstated despite the State's reductions in Financial Plan projections throughout the fiscal year. For example, in 2004-05 and 2005-06, estimates were 41 percent and 29 percent higher, respectively, than actual receipts. Even if current receipts reach the 2006-07 estimate of $275 million—the State has collected $206 million through January 31, 2007—total collections would be 23 percent less than the initial projection of $358 million.

Tax Enforcement

The 2007-08 proposed Financial Plan includes approximately $170 million from the enforcement and collection of fuel, sales and cigarette taxes from sales by Native American establishments to non-Native American consumers, as per statutes authorized in 2005.

Enforcement of tax collections on sales from Native American establishments has not been a reliable source of revenue for the State. The previous administration chose not to enforce statutes enacted in 2005 due to various land claims, and casino and constitutional issues between the State, the federal government and Native Americans. Other administrations have attempted to enforce collections, but encountered resistance on the part of Native Americans. The current Administration's plan to collect this revenue may again encounter some resistance or take time to fully implement; therefore, projected revenues may not be fully realized in 2007-08.

Expanded Bottle Bill

The Executive recommends Article VII language to change the 1982 "Bottle Bill" to expand the definition of returnable containers to include noncarbonated beverages and provide for the return of unclaimed deposits on beverage containers to the State for deposit into the Environmental Protection Fund (EPF), providing an additional $25 million in unclaimed deposits in 2007-08 and $100 million when fully annualized in 2008-09 for the Fund.

Bottlers, business coalitions and retailers have opposed this proposal in the past, citing an expected increase in the cost of beverages due to the added cost of compliance by supermarkets, convenience stores and beverage outlets. Similar measures have passed in the Assembly for the past two years, but have failed in the Senate. If the additional funding does not materialize, additional revenue from the General Fund could be required.

Tuition Assistance Program – Ability to Benefit Test

As part of the Executive's proposed restructuring of TAP, the Executive Budget proposes eliminating the Ability to Benefit Test (ABT) as an eligibility criterion for TAP aid. DOB estimates that approximately 8,000 full-time students could be deemed ineligible for TAP if the ABT is no longer an acceptable qualification. As a result, the Executive projects $30 million in annual savings in SFY 2007-08. Prior year proposals to preclude selected students from receiving TAP awards have been rejected by the Legislature.

Various Revenue Actions

The Executive proposes various revenue actions that are expected to generate approximately $449 million in 2007-08. Many of the individual proposals are made possible through increased auditing actions that will require time to establish and implement. Since major corporations are typically audited every three years, full compliance in the first year of implementation may be difficult to achieve.

Debt Service Savings

The Executive recommends various debt management proposals that could increase debt management efficiencies and reduce borrowing costs by a projected $40 million in 2007-08. However, DOB has not provided a detailed plan regarding such savings. As a result, it is difficult to assess whether such savings estimates are reasonable or attainable.

Health Care

The Medicaid program provides health care for low-income individuals, long-term care for the elderly and services for disabled persons, primarily through payments to health care providers. Medicaid costs represent about one-third of All Funds spending. In New York, Medicaid is financed jointly by federal, State and local governments. The Executive Budget's proposed General Fund Medicaid savings for SFY 2007-08 are valued at approximately $1 billion. However, nearly $350 million in proposed Medicaid savings assumed by the Executive may be difficult to achieve since a number of the proposed cost containment actions have been rejected by the Legislature in previous years.

Furthermore, since the cap on local Medicaid spending was fully implemented in January 2006, the costs of restoring the non-federal share of these services will be entirely borne by the State, whereas prior to capping local costs, local governments shared some of the responsibility of restoring cuts with the State. Local governments no longer are responsible for a set portion of the new costs, thereby adding pressure solely to the State's Financial Plan.

Lastly, the Executive Budget Proposal includes several new initiatives aimed at increasing Medicaid fraud savings in subsequent years. The Executive estimates an increase in State share savings of $100 million in SFY 2007-08 based on policies already in place. This significant increase in estimated savings may be difficult to achieve as it often takes more than one year to identify and adjudicate Medicaid fraud and abuse. These additional savings above the $300 million targeted in SFY 2006-07 represent a risk to the Financial Plan.

Comparison of
SFY 2006-07 Projected Results
vs.
SFY 2007-08 Proposed Budget
General Fund
(in millions of dollars)

	SFY 2006-07 Projected	SFY 2007-08 Proposed	Dollar Change	Percent Change
Opening Fund Balance (April 1)	3,257	3,607	350	10.7%
Receipts:				
Taxes	38,237	38,284	47	0.1%
Personal Income Tax	22,828	22,258	(570)	-2.5%
Consumer Taxes and Fees	8,305	8,633	328	3.9%
Business Taxes	6,027	6,333	306	5.1%
Other Taxes	1,077	1,060	(17)	-1.6%
Miscellaneous Receipts	2,665	2,851	186	7.0%
Federal Grants	180	59	(121)	-67.2%
Sub-Total	41,082	41,194	112	0.3%
Transfers from Other Funds	10,359	11,472	1,113	10.7%
Total Receipts	51,441	52,666	1,225	2.4%
Disbursements:				
Grants to Local Governments	34,184	36,384	2,200	6.4%
State Operations	9,413	9,602	189	2.0%
General State Charges	4,351	4,572	221	5.1%
Sub-Total	47,948	50,558	2,610	5.4%
Transfers to Other Funds	3,143	2,690	(453)	-14.4%
Total Disbursements	51,091	53,248	2,157	4.2%
Changes in Fund Balance	350	(582)		
Closing Fund Balance (March 31)	3,607	3,025	(582)	-16.1%
Statutory Reserves				
Tax Stabilization Reserve Fund	1,025	1,025	-	0.0%
Rainy Day Fund	-	175	175	100.0%
Contingency Reserve Fund	21	21	-	0.0%
Community Projects Fund	276	351	75	27.2%
Debt Reduction Reserve	-	250	250	100.0%
Non-Statutory Reserves				
2005-06 Surplus	787	-	(787)	-100.0%
2006-07 Surplus	1,498	1,203	(295)	-19.7%

Note: Reflects 21-Day Amendments

Comparison of SFY 2006-07 Projected vs. SFY 2007-08 Proposed State Funds

(in millions of dollars)

	SFY 2006-07 Projected	SFY 2007-08 Proposed	Dollar Change	Percent Change
Opening Fund Balance (April 1)	6,819	6,830	11	0.2%
Receipts:				
Taxes	58,309	60,961	2,652	4.5%
Miscellaneous Receipts	18,495	19,903	1,408	7.6%
Federal Grants	180	59	(121)	-67.2%
Total Receipts	76,984	80,923	3,939	5.1%
Disbursements:				
Grants to Local Governments	50,172	53,827	3,655	7.3%
State Operations	14,788	15,329	541	3.7%
General State Charges	4,960	5,190	230	4.6%
Debt Service	4,250	4,390	140	3.3%
Capital Projects	3,361	4,809	1,448	43.1%
Total Disbursements (1)	77,531	83,545	6,014	7.8%
Other Financing Sources (uses):				
Transfers from Other Funds	17,640	18,703	1,063	6.0%
Transfers to Other Funds	(17,309)	(18,365)	(1,056)	6.1%
Bond and Note Proceeds	227	403	176	77.5%
Net Other Financing Sources (uses)	558	741	183	32.8%
Changes in Fund Balance	11	(1,881)		
Closing Fund Balance (March 31)	6,830	4,949	(1,881)	-27.5%

(1) Does not include off-budget capital spending of $1.7 billion in 2006-07 and $2.7 billion in 2007-08.

Note: Reflects 21-Day Amendments

Comparison of
SFY 2006-07 Projected vs. SFY 2007-08 Proposed
All Governmental Funds
(in millions of dollars)

	SFY 2006-07 Projected	SFY 2007-08 Proposed	Dollar Change	Percent Change
Opening Fund Balance (April 1)	7,068	6,884	(184)	-2.6%
Receipts:				
Taxes	58,309	60,961	2,652	4.5%
Miscellaneous Receipts	18,658	20,058	1,400	7.5%
Federal Grants	36,186	37,313	1,127	3.1%
Total Receipts	113,153	118,332	5,179	4.6%
Disbursements:				
Grants to Local Governments	81,180	85,537	4,357	5.4%
State Operations	17,885	18,633	748	4.2%
General State Charges	5,197	5,431	234	4.5%
Debt Service	4,250	4,390	140	3.3%
Capital Projects	5,020	6,644	1,624	32.4%
Total Disbursements (1)	113,532	120,635	7,103	6.3%
Other Financing Sources (uses):				
Transfers from Other Funds	20,016	21,202	1,186	5.9%
Transfers to Other Funds	(20,048)	(21,231)	(1,183)	5.9%
Bond and Note Proceeds	227	403	176	77.5%
Net Other Financing Sources (uses)	195	374	179	91.8%
Changes in Fund Balance	(184)	(1,929)		
Closing Fund Balance (March 31)	6,884	4,955	(1,929)	-28.0%

(1) Does not include off-budget capital spending of $1.7 billion in 2006-07 and $2.7 billion in 2007-08.
Note: Reflects 21-Day Amendments

Cash Financial Plan
2007-08 through 2010-11
General Fund
(in millions of dollars)

	SFY 2007-08 Proposed	SFY 2008-09 Proposed	SFY 2009-10 Proposed	SFY 2010-11 Proposed
Receipts:				
Taxes	38,284	40,223	42,332	44,427
Personal Income Tax	22,258	23,518	24,902	26,313
Consumer Taxes and Fees	8,633	8,915	9,228	9,554
Business Taxes	6,333	6,604	6,885	7,160
Other Taxes	1,060	1,186	1,317	1,400
Miscellaneous Receipts	2,851	2,413	2,456	2,459
Federal Grants	59	59	59	59
Sub-Total	41,194	42,695	44,847	46,945
Transfers from Other Funds	11,472	11,842	12,307	12,817
Total Receipts	52,666	54,537	57,154	59,762
Disbursements:				
Grants to Local Governments	36,384	39,606	43,458	46,737
State Operations	9,602	9,979	10,380	10,634
General State Charges	4,572	4,962	5,358	5,666
Sub-Total	50,558	54,547	59,196	63,037
Transfers to Other Funds	2,690	2,833	2,992	3,422
Total Disbursements	53,248	57,380	62,188	66,459
Statutory Reserves				
Tax Stabilization Reserve Fund	1,025	1,025	1,025	1,025
Rainy Day Fund	175	175	175	175
Contingency Reserve Fund	21	21	21	21
Community Projects Fund	351	201	51	-
Debt Reduction Reserve	250	-	-	-
Non-Statutory Reserves				
Use of 06-07 Surplus	1,203	401	401	401

Note: Reflects 21-Day Amendments

Capital Off-Budget Spending
(in millions of dollars)

	Current 2006-07	Proposed 2007-08	Amount Increase	Percent Increase
Economic Development and Government Oversight				
Economic Development	134,150	193,348	59,198	44.1%
Empire State Development Corporation	3,750	106,200	102,450	2732.0%
Transportation				
Transportation, Department of	349,800	354,597	4,797	1.4%
Health and Social Welfare				
Health, All Other	10,150	8,750	(1,400)	-13.8%
Mental Health				
Mental Health, Office of	82,500	85,759	3,259	4.0%
Mental Retardation and Developmental Disabilities, Office of	35,584	49,584	14,000	39.3%
Alcohol and Substance Abuse, Office of	4,149	2,879	(1,270)	-30.6%
Education				
EXCEL	750,000	1,450,000	700,000	93.3%
All Other Education	6,410	1,300	(5,110)	-79.7%
City University of New York	210,700	311,400	100,700	47.8%
State University of New York	125,000	140,000	15,000	12.0%
Total Capital Off-Budget Spending	**1,712,193**	**2,703,817**	**991,624**	**57.9%**

Note: Reflects 21-Day Amendments

Previously Rejected Executive Proposals – Risks to the Financial Plan

PROPOSAL	2007-08 Impact	Year(s) Rejected
Medicaid		
Limit Graduate Medical Education payments to actual costs	$36.2 million	2006-07
Eliminate hospital and nursing home trend factors	$164.0 million	2006-07 2005-06 2004-05
Nursing home Medicaid-only case mix	$83.5 million	2006-07 2005-06 2003-04
Reclassify transportation as administrative service	$2.2 million	2006-07 2005-06
Reduce pharmacy reimbursement	$31.8 million	2006-07 2004-05 2003-04
Strengthen preferred drug program	$14.0 million	2006-07
HCRA		
Allow an additional conversion of a non-profit health plan to for-profit status	$0	2006-07 2005-06 2004-05 2003-04
Public Health		
Modify Early Intervention program (by requiring private health insurers to reimburse EI for covered costs)	$0 ($5.1 million in 2008-09)	2006-07
Gambling		
Ease Quick Draw restrictions – remove sunset, hours and location restrictions	$109.0 million	2006-07 2005-06 2004-05 2003-04 2002-03 2001-02
Higher Education		
Restructure SUNY hospitals to not-for profit	$0	2006-07 2005-06 2004-05 2003-04

PROPOSAL	2007-08 Impact	Year(s) Rejected
Higher Education (Cont'd.)		
Tuition Assistance Program (reductions/restructure)	$30.0 million	2006-07 2005-06 2004-05 2003-04 2002-03 2001-02 1999-00 1995-98
Establish tuition policy at SUNY and CUNY	$0	2006-07 2005-06
Elementary and Secondary Education		
Extend payment reforms for new construction	$50.0 million	2006-07 2005-06
Wicks Law Reform for construction costs	$0 (9 to 10 percent local savings estimate of school construction costs—marginal savings to the State from reduced Building Aid payments to school districts)	2006-07 2005-06 2004-05 2003-02 2002-03 2001-02 2000-01 1999-00
Transportation		
Permit DMV to notify drivers of revocations, suspension or other orders by bulk mail	$200,000	2006-07
Economic Development		
Eliminate Empire Zone administration aid	$2.2 million	2006-07 2005-06 2003-04 2002-03
Public Protection		
Implement automated photo-monitoring in workzones to reduce speeding	$18.8 million	2006-07 2005-06 2004-05
Amend the State Finance Law to expand the use of funds deposited into the Criminal Justice Improvement Account	$17.5 million	2006-07
Authorize an increase in the criminal history search fee	$6.6 million	2006-07

PROPOSAL	2007-08 Impact	Year(s) Rejected
Revenue		
Reallocation of a portion of the statewide corporate utility tax revenues from downstate to upstate public transit services	$23.0 million	2006-07
Change tax treatment of Real Estate Investments Trusts and Regulated Investment Companies	$104.0 million	2006-07 2005-06
Provide a refundable credit for education expenses	$0	2006-07
Social Services		
Closure of three under-utilized community residential homes (30 beds) for troubled youth in the State: Brooklyn, Gloversville and Mount Vernon	$700,000	2006-07
Environmental Conservation		
Make technical change regarding hazardous wastewater fee	$700,000	2006-07
Increase existing SPDES fees and establish new regulatory fees	$1.5 million in 2007-08	2006-07
Increase Title V air regulatory fees	$6.4 million	2006-07
2007-08 FISCAL IMPACT	**$702.3 million**	

Section

3

Revenue and Economic Outlook

Economic Outlook

National Economy

The Executive has forecast slower growth in the national economy in 2007 mainly because of the effects of the Federal Reserves past interest rate hikes and the slowdown in the nation's housing market. After growing by 3.3 percent in 2006, Gross Domestic Product (GDP) is forecast to grow only 2.3 percent in 2007. Steady, but slower, growth in personal income and employment is expected to increase the GDP, while slower growth in residential fixed investment, consumption and corporate profits restrains GDP from the growth rates seen in previous years.

The Executive forecasts personal income growth to fall to 5.5 percent in 2007 and 5.8 percent in 2008 compared to a growth estimate of 6.4 percent in 2006. Wage growth is expected to continue but at a slower rate, growing by 5.1 percent in 2007, 5.6 percent in 2008 and 6.1 percent in 2009. After growing by an estimated 1.4 percent in 2006, employment growth is forecast to grow by 1.1 percent in 2007, increasing to 1.3 percent in 2008. Residential fixed investment is forecast to decline by 11.5 percent in 2007 and by 2.2 percent in 2008. After two strong years, corporate profit growth is expected to slow to 5.7 percent in 2007 and 6.0 percent in 2008.

New York State Economy

The Executive forecasts continued, but slower growth in New York State employment in 2007 and 2008 as higher interest rates prolong the weakened housing market and reduce corporate earnings. New York State employment growth is expected to drop slightly to 0.7 percent in 2007 and 2008 from estimated growth of 0.8 percent in

2006. In 2007, personal income is expected to grow 5.6 percent, compared to 6.8 percent in 2006.

The Executive also expects out-year growth to continue within the taxable portions of income over the forecast period, although at a slower pace. After growing by 23.5 percent in 2005 and 10.5 percent in 2006, capital gains are expected to grow 6.2 percent in 2007 and 5.7 percent in 2008. Increases in rates of growth are expected in partnership and S-corporation gains, while the growth in interest, dividend, business and farm income continues in 2008, but then declines in 2009. The Executive forecasts an increase in the New York State unemployment rate from 2007 through 2009.

Selected Out-Year Economic Indicators
Executive Budget
Percent Change

Economic Indicators	2007	2008	2009
New York State Adjusted Gross Income	5.6%	5.5%	5.7%
Capital Gains	6.2%	5.7%	9.1%
Partnership/S-Corporation Gains	6.8%	7.9%	8.7%
Business and Farm Income	2.3%	5.9%	4.8%
Interest Income	4.0%	5.3%	4.6%
Dividend Income	7.0%	7.0%	6.3%
New York State Unemployment Rate	5.0%	5.2%	5.3%
New York State Composite CPI	2.5%	2.7%	2.5%
New York State Personal Income	5.6%	5.1%	5.2%
Wages and Salaries	5.7%	5.0%	4.7%
Wages and Salaries without Bonuses	4.6%	4.3%	4.2%
Bonuses	11.8%	8.7%	7.4%
New York State Property Income	5.9%	4.7%	4.6%

Source: New York State Division of the Budget, *2006-2007 Economic and Revenue Outlook,* page 167.

Risks to the Forecast

While the Executive's economic projection is similar to those of other major forecasters, there are a number of risks:

- Another disruption in the oil market could increase energy prices, which would reduce consumer and business spending, while increasing inflation. This could lead the Federal Reserve Board to increase interest rates. Although the

Executive forecasts that energy prices will increase, a return to the high prices of the summer of 2006 is not expected.

- A drop in foreign investment could weaken the U.S. dollar and contribute to inflationary pressures, causing the Federal Reserve Board to raise interest rates and raising the likelihood of an economic slowdown.

- Higher than expected interest rates and a weaker housing market could reduce consumer spending and result in lower employment growth and anticipated corporate earnings.

- Lower than expected earnings and bonuses on Wall Street—a major industry in New York—could negatively impact the State's economy directly through lower incomes paid to workers in this industry and indirectly to other sectors as these workers reduce consumption of housing, entertainment and other purchases.

- Due to its concentration of population and wealth, New York City remains a target for terrorist attack. Another attack could result in lower employment and income growth than forecast.

Receipts

The Executive estimates that in SFY 2006-07, All Funds tax receipts will increase $4.7 billon, or 8.7 percent, from SFY 2005-06 to $58.3 billion. In SFY 2007-08, the Executive forecasts a $2.7 billion, or 4.5 percent, increase to $61.0 billion. This 4 percentage point decrease in growth is mainly attributable to the impact of the elimination, in 2006, of the revenue raisers enacted in 2003 including: the temporary three-year increase in personal income tax rates, the two-year 0.25 percent sales tax surcharge, and the replacement of the sales tax on clothing exemption with two tax-free weeks.

Total Tax Receipts – All Funds
(in millions of dollars)

	Actual SFY 2005-06	Estimate SFY 2006-07	Dollar Change SFY 2005-06 to SFY 2006-07	Percent Change SFY 2005-06 to SFY 2006-07	Proposed SFY 2007-08	Dollar Change SFY 2006-07 to SFY 2007-08	Percent Change SFY 2006-07 to SFY 2007-08
Personal Income Tax	30,813	34,434	3,621	11.8%	36,274	1,840	5.3%
Consumption/Use Tax	13,924	13,725	(199)	-1.4%	14,277	552	4.0%
Business Tax	7,087	8,123	1,036	14.6%	8,450	327	4.0%
Other Tax	1,819	2,027	208	11.4%	1,960	(67)	-3.3%
Net Total - All Funds	**53,643**	**$58,309**	**4,666**	**8.7%**	**60,961**	**2,652**	**4.5%**

The Executive Budget includes several tax policy proposals, coined "loophole closures" because they close several loopholes in the tax law, which increase the tax liability of various taxpayers. The Executive has stated that these proposals are not tax increases, but are a proper reflection of the original intent of the law. Several of the proposed "loophole closures" were recommended by the previous administration including: restructuring the fees imposed on limited liability corporations and changing the treatment of Real Estate Investment Trusts and Regulated Investment Companies to discourage sheltering taxable income. All of these tax policy proposals are estimated to increase tax receipts by $506 million in SFY 2006-07, $592 million in SFY 2008-09 and $558 million in SFY 2009-10.

Net All Funds Financial Plan Impact
SFY 2006-07 through SFY 2009-10
(in millions of dollars)

	SFY 2007-08	SFY 2008-09	SFY 2009-10
Personal Income Tax	36	181	151
User Taxes and Fees	15	20	20
Business Taxes	459	424	424
Other Taxes	0	0	0
Total Tax Loophole Closures	**510**	**625**	**595**
Revenue Reductions	**(4)**	**(33)**	**(37)**
Education Tax Credit	-	(25)	(25)
Low Income Housing	(4)	(8)	(12)
Net Financial Plan Total	**506**	**592**	**558**

Net General Fund receipts are forecast to increase by $2.9 billion, or 8.3 percent, in SFY 2006-07 to $38.2 billion. The Executive estimates that under proposed law the General Fund will total $38.3 billion in SFY 2007-08, an increase of $47 million, or 0.1 percent, from SFY 2006-07.

The Executive includes the School Property Tax Relief Program (STAR) as a tax reduction in the General Fund. However, the Office of the State Comptroller believes that STAR is a spending program because it does not directly reduce tax collections. The net General Fund impact of the Executive's proposal is a reduction of $766 million in SFY 2007-08.

Financial Plan Impact by Fund
SFY 2007-08
(in millions of dollars)

	All Funds	General Fund
TOTAL INCREASES	**510**	**449**
Personal Income Tax	36	36
User Taxes and Fees	15	15
Business Taxes	459	398
Other Taxes	0	0
TOTAL TAX REDUCTIONS	**(4)**	**(4)**
Education Tax Credit	-	-
Low Income Housing	(4)	(4)
NET FINANCIAL PLAN IMPACT (without STAR)	**506**	**445**
STAR PROPOSALS	**-**	**(1,211)**
Expanded STAR	-	(1,211)
Eliminate STAR Rebate	-	-
NET FINANCIAL PLAN IMPACT (with STAR)	**506**	**(766)**

Personal Income Tax

All Funds

All Funds Personal Income Tax (PIT) receipts are estimated to increase $3.6 billion, or 11.8 percent, in SFY 2006-07, reaching $34.4 billion. PIT receipts are projected to be $36.3 billion in SFY 2007-08, an increase of $1.8 billion, representing a 5.3 percent increase over SFY 2006-07. Projected PIT growth in SFY 2007-08 is attributed to continued growth in wages and withholding receipts along with growth in capital gains and partnership/S-corporation gains, which will increase current year estimated taxes. Compared to SFYs 2005-06 and 2006-07 when PIT represented 57.4 percent and 59.1

percent, respectively, of total tax receipts, PIT receipts are estimated to represent 59.5 percent of total All Funds tax receipts in SFY 2007-08.

Personal Income Tax Receipts – All Funds
(in millions of dollars)

	Actual SFY 2005-06	Estimated SFY 2006-07	Dollar Change SFY 2005-06 to SFY 2006-07	Percent Change SFY 2005-06 to SFY 2006-07	Proposed SFY 2007-08	Dollar Change SFY 2006-07 to SFY 2007-08	Percent Change SFY 2006-07 to SFY 2007-08
Withholding	24,761	26,710	1,949	7.9%	28,376	1,666	6.2%
Estimated Tax	9,158	10,352	1,194	13.0%	11,147	795	7.7%
Current	6,684	7,572	888	13.3%	8,272	700	9.2%
Prior (IT-370)	2,474	2,780	306	12.4%	2,875	95	3.4%
Returns	1,849	2,078	229	12.4%	2,156	78	3.8%
Delinquencies	776	824	48	6.2%	909	85	10.3%
Gross	**36,544**	**39,964**	**3,420**	**9.4%**	**42,588**	**2,624**	**6.6%**
Refunds	5,265	4,997	-268	-5.1%	5,805	808	16.2%
State/City Offset	466	533	67	14.4%	509	(24)	-4.5%
Net Total (All Funds)	**30,813**	**34,434**	**3,621**	**11.8%**	**36,274**	**1,840**	**5.3%**
STAR	3,213	4,041	828	25.8%	4,948	907	22.4%
RBTF	6,900	7,610	710	10.3%	9,068	1,455	19.1%
General Fund	**20,700**	**22,828**	**2,128**	**10.3%**	**22,258**	**(570)**	**-2.5%**

Major Components of PIT

- **Withholding** – The Executive forecasts a $1.9 billion, or 7.9 percent, increase in SFY 2006-07. In SFY 2007-08, withholding is forecast to increase $1.7 billion, or 6.2 percent, totaling $28.4 billion. Withholding growth is attributable to projected growth in wages and bonuses.

- **Estimated** – Tax receipts for estimated payments are projected to increase $1.2 billion from SFY 2005-06 to SFY 2006-07, an increase of 13.0 percent. The significant increase in SFY 2006-07 is attributable to growth in both partnership/S-corporation income and capital gains. In SFY 2007-08, estimated receipts are projected to increase $795 million, or 7.7 percent, to $11.1 billion, which is consistent with a slowdown in the growth of non-wage income.

- **Returns (final payments)** – The Executive projects a $229 million, or 12.4 percent, increase in SFY 2006-07 final payments. Higher returns in SFY 2006-07 are attributable to higher tax liabilities from economic growth and payment patterns related to the 2003 income tax surcharge. Final payments in SFY 2007-08 are projected to increase by $78 million, or 3.8 percent, over SFY 2006-07 levels, totaling $2.2 billion.

- **Refunds** – Refunds are projected to decline $268 million, or 5.1 percent, in SFY 2006-07. The decline is mainly attributed to a pre-payment in SFY 2005-06 of $500 million. In SFY 2007-08 refunds are expected to increase to $5.8 billion, a net increase of $808 million, or 16.2 percent. This is attributed to the new child credit and other tax reduction legislation effective for the 2006 tax year, which will result in higher refunds for taxpayers in 2007-08.

Fiscal Impact of PIT Policy Proposals - All Funds

The combined fiscal impact of the Executive Budget's PIT tax policy proposals would increase PIT receipts by a small amount in SFY 2007-08; however, the proposals would result in a larger increase in PIT receipts in the out-years. The PIT proposals are projected to increase receipts by a net $36 million in SFY 2007-08, growing to $156 million in SFY 2008-09 and $126 million in SFY 2009-10.

Tax Increase Proposals

The PIT "loophole closure" proposals recommended in the Executive Budget would increase receipts by $36 million in SFY 2007-08, growing to $181 million in SFY 2008-09 and $151 million in SFY 2009-10.

- **Extend and Restructure Higher LLC Fees** – Restructures the fees imposed on Limited Liability Companies (LLCs) to more accurately capture each entity's level of business activity in New York State ($30 million annually beginning in SFY 2007-08).

- **Reporting Tax Shelters** – Makes permanent provisions which require the reporting and disclosure of participation in tax shelters to deter tax avoidance ($6 million in SFY 2007-08, 2008-09 and 2009-10).

- **Federal S Corporation Election** – Requires *certain* corporations which elect S corporation status for federal purposes to file as a New York S corporation ensuring that shareholders' personal income is properly taxed (no monetary impact in SFY 2007-08 and $100 million annually beginning in SFY 2008-09).

- **Sales Tax Itemized Deduction** – Requires taxpayers who itemize sales tax for federal purposes to add back the sales tax when calculating New York State tax liability. This proposal conforms the treatment of taxpayers who itemize sales taxes to those who itemize State and local income taxes (no monetary impact in SFY 2007-08 and $30 million in SFY 2008-09).[10]

- **Partnership Tax Abuse** – Prevents non-resident partners of State partnerships from forming personal service or S corporations to avoid personal income taxation (no monetary impact in SFY 2007-08, $15 million in SFYs 2008-09 and 2009-10).

Tax Reduction Proposals

- **School Tuition Deduction** – The Executive Budget includes one personal income tax reduction proposal. The Executive's proposal for a school tuition deduction has no fiscal impact in SFY 2007-08, yet reduces receipts by $25 million annually thereafter. The proposal would provide a credit up to $1,000 for each eligible child for parents with incomes below $125,000 for primary and/or secondary tuition at public or nonpublic schools. The deduction would be smaller for those with incomes above $116,000 and would be eliminated for taxpayers with incomes exceeding $125,000.

General Fund

Net General Fund PIT receipts are projected to increase $2.1 billion, or 10.3 percent, in SFY 2006-07 to $22.8 billion. The Executive estimates that under proposed law, the General Fund will total $22.3 billion in SFY 2007-08, a decrease of $570 million, or 2.5 percent, from SFY 2006-07.

The net fiscal impact of STAR is attributable to two proposals in the Executive Budget: creating a new Middle Class STAR program and eliminating the STAR Rebate enacted in SFY 2006-07. The Executive's new Middle Class STAR program would increase the existing basic STAR exemption for homeowners based on income. This proposal would also increase the Enhanced STAR exemption for seniors by 40 percent over two years. Finally, the New York City Personal Income Tax STAR would be doubled over three years. The expanded STAR proposal is estimated to reduce General Fund receipts by $1.2 billion in SFY 2007-08, $1.7 billion in SFY 2008-09 and $2.0 billion in SFY 2009-10.[11]

In conjunction with this proposal, the Executive recommends eliminating the STAR rebate which was implemented in SFY 2006-07. This legislation stipulated that if no funding was appropriated for STAR, the program would become a personal income tax

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[10] The fiscal impact is limited to SFY 2008-09. If the federal deduction for sales tax is extended beyond 2007, this proposal would generate comparable receipts in SFY 2009-10 and beyond.

[11] This includes Executive proposed changes to the STAR program not normal year-to-year growth in the existing program.

credit equal to the rebate, with a fiscal impact beginning in SFY 2008-09. There is no fiscal impact of eliminating the rebate in SFY 2007-08 because no money was appropriated for SFY 2007-08; however, General Fund receipts will increase $675 million in SFY 2008-09 and 2009-10 as a result of the elimination. The net fiscal impact of eliminating the STAR rebate and enhancing the existing STAR program is a reduction in receipts of $1.2 billion in SFY 2007-08, $1.0 billion in SFY 2008-09 and $1.4 billion in 2009-10.

The Executive Budget also includes a proposal that would increase the deposit into the Revenue Bond Tax Fund (RBTF). Previously, 25 percent of PIT receipts, net of refunds and STAR, were deposited into the RBTF to pay the debt service on the State's PIT bonds. The new proposal would amend the method by which receipts are deposited into the RBTF to equal 25 percent of gross PIT receipts. This proposal is estimated to increase deposits into the RBTF by $943 million.

Consumption/User Taxes and Fees

All Funds

The Executive Budget forecasts a decrease in All Funds tax receipts as compared to SFY 2005-06 for consumption and user taxes and fees of $199 million, or 1.4 percent, in SFY 2006-07 to $13.7 billion. Receipts are projected to increase $552 million, or 4.0 percent, from SFY 2006-07 to SFY 2007-08 to a total of $14.3 billion.

Consumption and User Tax Receipts – All Funds
(in millions of dollars)

	Actual SFY 2005-06	Estimated SFY 2006-07	Dollar Change SFY 2005-06 to SFY 2006-07	Percent Change SFY 2005-06 to SFY 2006-07	Proposed SFY 2007-08	Dollar Change SFY 2006-07 to SFY 2007-08	Percent Change SFY 2006-07 to SFY 2007-08
Consumption/User Taxes and Fees	**13,924**	**13,725**	**(199)**	**-1.4%**	**14,277**	**552**	**4.0%**
Sales and Use	11,197	10,880	(317)	-2.8%	11,306	426	3.9%
Auto Rental	42	46	4	9.5%	48	2	4.3%
Motor Vehicle	785	900	115	14.6%	900	0	0.0%
Cigarette / Tobacco Products	975	969	(6)	-0.6%	1,078	109	11.2%
Motor Fuel	531	519	(12)	-2.3%	536	17	3.3%
Alcoholic Beverages	192	196	4	2.1%	200	4	2.0%
Highway Use	160	157	(3)	-1.9%	157	0	0.0%
Alcoholic Beverage Control Licenses	42	58	16	38.1%	52	(6)	-10.3%

Major Components of Consumption/User Taxes

- **Sales and Use** – Sales and use tax receipts are estimated to decrease $317 million, or 2.8 percent, in SFY 2006-07. The decline is due to the permanent exemption of clothing and footwear costing $110 or less effective April 1, 2006 and other tax reductions effective during the fiscal year. The Executive forecasts a $426 million, or 3.9 percent, increase in SFY 2007-08, attributable to increases in disposable income and employment.

- **Cigarette/Tobacco Products** – Tobacco product collections are expected to decrease $6 million in SFY 2006-07, but increase $109 million, or 11.2 percent, in SFY 2007-08 to a total of $1.1 billion. The increase is due to the expected implementation of statutes requiring the collection of tax on sales by Native American retailers to non-native Americans.

- **Alcoholic Beverage Control (ABC) License** – The ABC license fee receipts are expected to increase by $16 million, or 38.1 percent in SFY 2006-07 to $58 million. This large increase is attributed to a one time deposit of internet license renewal receipts. The Executive projects a $6 million decrease in ABC receipts in SFY 2007-08, representing a 10.3 percent decline from SFY 2006-07.

- **All Other Taxes** – All other taxes (auto rental, highway use, alcoholic beverage, motor fuel and motor vehicle) are projected to increase $108 million, or 6.3 percent, in SFY 2006-07 compared to an estimated $23 million, or 1.3 percent, increase in SFY 2007-08. The large increase in SFY 2006-07 is mainly due to increased revenue from legislation associated with increased motor vehicle fees enacted in 2005.

Fiscal Impact of Consumption/User Tax Policy Proposals - All Funds

Tax Increase Proposals

The Consumption/User tax “loophole closure” proposals recommended in the Executive Budget would increase revenue by $15 million in SFY 2007-08 and $20 million in SFYs 2008-09 and 2009-10.

- **Full Collection of Hotel Sales Tax** – Currently, travel companies purchase hotel rooms at a discounted price from hotels and pay sales tax only on the discounted price. Before selling the room to customers, travel companies increase the price through various fees (approximately a 20 percent markup), but do not pay the sales tax on the total price charged to customers. This proposal requires that hotels collect sales tax from travel companies on the room cost plus an estimated

20 percent markup to capture the entire cost for sales tax purposes ($15 million in SFY 2007-08 and $20 million in SFYs 2008-09 and 2009-10).

- **Alcohol Enforcement Extender** – Extends for two years increased penalties and enforcement mechanisms for the efficient collection of the Alcoholic Beverage Tax (no fiscal impact in SFY 2007-08, 2008-09 or 2009-10).

General Fund

General Fund Consumption/User tax receipts are projected to decrease $334 million, or 3.9 percent, in SFY 2006-07 to $8.3 billion, compared to a $328 million increase, 3.9 percent, in SFY 2007-08 to $8.6 billion.

Business Taxes

All Funds

The Executive estimates that All Funds Business tax receipts will total $8.1 billion in SFY 2006-07, a $1.0 billion, or 14.6 percent, increase over SFY 2005-06. In comparison, SFY 2007-08 receipts are forecast to be $8.5 billion, an increase of $327 million, or 4.0 percent.

Business Tax Receipts – All Funds
(in millions of dollars)

	Actual SFY 2005-06	Estimated SFY 2006-07	Dollar Change SFY 2005-06 to SFY 2006-07	Percent Change SFY 2005-06 to SFY 2006-07	Proposed SFY 2007-08	Dollar Change SFY 2006-07 to SFY 2007-08	Percent Change SFY 2006-07 to SFY 2007-08
Business Tax	**7,087**	**8,123**	**1,036**	**14.6%**	**8,450**	**327**	**4.0%**
Corporation Franchise	3,052	4,070	1,018	33.4%	4,265	195	4.8%
Corporation and Utilities	832	817	(15)	-1.8%	816	(1)	-0.1%
Insurance	1,083	1,226	143	13.2%	1,259	33	2.7%
Bank	974	905	(69)	-7.1%	926	21	2.3%
Petroleum Business	1,146	1,105	(41)	-3.6%	1,184	79	7.1%

Major Components of Business Taxes

- **Corporation Franchise Tax (Article 9-A)** – The Executive forecasts a $1.0 billion, or 33.4 percent, increase in SFY 2006-07 to $4.1 billion compared to a projected $195 million, or 4.8 percent, increase in SFY 2007-08 to $4.3 billion. The significant increase in SFY 2006-07 is the result of increased audit collections and increased corporate profits. The smaller increase in SFY 2007-08 is mainly attributable to the "loophole closures" proposed in the Executive Budget.

- **Corporation and Utilities Tax (Article 9)** – Receipts are estimated to decline 1.8 percent in SFY 2006-07 by $15 million to $817 million. In comparison, the Executive projects a $1 million, 0.1 percent, decrease totaling $816 million in SFY 2007-08.

- **Insurance Tax (Article 33)** – The Executive projects a $143 million, or 13.2 percent, increase in SFY 2006-07 to $1.2 billion, compared to an estimated $33 million, or 2.7 percent, increase in SFY 2007-08 to $1.3 billion. The significant increase in SFY 2006-07 is attributable to a 42 percent increase in audit collections and 12.3 percent increase in non-audit collections.

- **Bank Tax (Article 32)** – The Executive forecasts a $69 million, or 7.1 percent, decrease in bank receipts in SFY 2006-07 to $905 million. The decrease in SFY 2006-07 is due to a decrease in audit receipts over the prior year. In SFY 2007-08, receipts are projected to increase $21 million, or 2.3 percent, to $926 million.

- **Petroleum Business Tax (PBT) Article 13-A** – Receipts are projected to decline $41 million, or 3.6 percent, in SFY 2006-07 to $1.1 billion but increase $79 million, or 7.1 percent, in SFY 2007-08 to $1.2 billion. In SFY 2007-08, $32 million of the total projected Petroleum Business tax receipts are due to the increased enforcement on sales tax from non-Native Americans on reservations in the State.

Fiscal Impact of Business Tax Policy Proposals - All Funds

The combined fiscal impact of the Executive Budget's "loophole closure" and tax reduction proposals would increase receipts for business taxes by a net $455 million in SFY 2007-08, $416 million in SFY 2008-09 and $412 million in SFY 2009-10.

Tax Increase Proposals

The Executive Budget's "loophole closure" proposals would increase business tax receipts by $459 million in SFY 2007-08 and $424 million in SFYs 2008-09 and 2009-10.

- **Reporting Tax Shelters –** Makes permanent provisions which require the reporting and disclosure of participation in tax shelters to deter tax avoidance ($11 million annually beginning in SFY 2007-08).

- **Corporation Franchise Tax Combined Filing** – Requires corporations that conduct substantial inter-corporate transactions to file a combined return with the associated corporations ($215 million annually beginning in SFY 2007-08).

- **Decouple from Federal Qualified Production Activities** – Decouples from the federal law that provides companies a deduction related to qualified production activities by requiring taxpayers to add back income from this deduction for State purposes ($29 million in SFY 2007-08 and $35 million annually beginning in SFY 2008-09).

- **Eliminate use of REITS and RICS to Shelter Income** – Conforms to federal rules by requiring corporations to include Real Estate Investment Trust (REIT) or Regulated Investment Company (RIC) distributions in their taxable income base ($104 million in SFY 2007-08 and $83 million in SFYs 2008-09 and 2009-10).

- **Use of Grandfathered Corporations** – Precludes banks subject to the bank tax from using grandfathered subsidiaries to reduce tax liability ($22 million in SFY 2007-08 and $18 million in SFYs 2008-09 and 2009-10).

- **Conform to Federal Bad Debt Deduction** – Conforms to federal rules which require certain banks to use the direct write-off method reflecting actual debt, as opposed to the current reserve method which is an estimate of future debt ($15 million in SFY 2007-08 and $12 million in SFYs 2008-09 and 2009-10).

- **Add Back of Subsidiary Expenses** – Requires banks to add back expenses related to subsidiary capital. The proposal also eliminates the discounting of the wage factor to ensure the bank's level of activity in the State is accurately captured for taxation ($40 million in SFY 2007-08 and $32 million in SFYs 2008-09 and 2009-10).

- **Extend Gramm-Leach Bliley Act** – Extends through 2009 the provisions of New York State and New York City bank tax law, and the transitional provisions of the Gramm-Leach Bliley Act (Act). The Act opened up competition among banks, securities companies and insurance companies, and allowed commercial and investment banks to consolidate. Without this legislation, New York State companies would not be able to consolidate (no fiscal impact in SFYs 2007-08, 2008-09 or 2009-10).

- **Cooperative Insurance Companies** – Limits the current exemption from the insurance tax provided to cooperative insurance companies to companies that have annual premiums of $25 million or less ($23 million in SFY 2007-08 and $18 million in SFYs 2008-09 and 2009-10).

Tax Reductions Proposals

The Executive proposes to increase the amount of low income housing tax credits allocated each year by $4 million increments and make the low-income housing credit permanent. This proposal reduces receipts by $4 million in SFY 2007-08, $8 million in SFY 2008-09 and $12 million in SFY 2009-10.

General Fund

The Executive projects a $943 million, or 18.5 percent, increase in SFY 2006-07 to $6.0 billion. Business Tax General Fund receipts are estimated at $6.3 billion in SFY 2007-08, an increase of $306 million, or 5.1 percent.

Other Taxes

All Funds

All Funds tax receipts for other taxes are projected to increase 11.4 percent in SFY 2006-07 to $2.03 billion. In SFY 2007-08, the Executive estimates that receipts will decrease $67 million, or 3.3 percent, for a total of $1.96 billion in collections.

Other Tax Receipts – All Funds
(in millions of dollars)

	Actual SFY 2005-06	Estimated SFY 2006-07	Dollar Change SFY 2005-06 to SFY 2006-07	Percent Change SFY 2005-06 to SFY 2006-07	Proposed SFY 2007-08	Dollar Change SFY 2006-07 to SFY 2007-08	Percent Change SFY 2006-07 to SFY 2007-08
Other Taxes	**1,819**	**2,027**	**208**	**11.4%**	**1,960**	**(67)**	**-3.3%**
Estate and Gift	856	1,055	199	23.2%	1,039	(16)	-1.5%
Pari-Mutuel	23	20	(3)	-13.0%	20	0	0.0%
Real Property Gains	1	1	0	0.0%	0	(1)	-100.0%
Real Estate Transfer	938	950	12	1.3%	900	(50)	-5.3%
Other Taxes	1	1	0	0.0%	1	(0)	-30.0%

Major Components of Other Taxes

- **Real Estate Transfer Tax** – The Executive projects that total real estate transfer receipts will be $950 million in SFY 2006-07, an increase of $12 million, or 1.3 percent, over previous year levels. In contrast, the Executive estimates a decrease of $50 million, or 5.3 percent, in SFY 2007-08. The decrease is attributable to the decline in the housing market.

- **Estate and Gift Tax** – The Executive forecasts that estate and gift taxes will total $1.1 billion in SFY 2006-07, an increase of $199 million, or 23.2 percent. Collections for SFY 2007-08 are projected to decrease $16 million (representing a 1.5 percent decrease). The significant increase in SFY 2006-07 is due to the 33 percent increase in the number of extra-large estate payments collected in the first nine months of the fiscal year compared to the first nine months of the previous year. The year-to-year change in estate and gift taxes is volatile and difficult to project.

- **Pari-Mutuel Tax** – Collections for SFY 2006-07 are forecast at $20 million, a decrease of $3 million, or 13.0 percent, from SFY 2005-06. The decrease is mainly the result of a one-year tax rate reduction on thoroughbred wagering. The Executive estimates that collections will remain flat in SFY 2007-08 at $20 million.

Other Tax Policy Proposals - All Funds

The Executive's proposals to extend Quick Draw, Pari-mutuel racing and child support enforcement provisions have no fiscal impact in SFYs 2007-08, 2008-09 or 2009-10.

General Fund

General Fund collections are projected to increase $196 million in SFY 2006-07, an increase of 22.2 percent, to $1.08 billion. The Executive projects a $17 million decrease, or 1.6 percent, in SFY 2007-08 for a total of $1.06 billion in collections.

Recommended All Funds Tax Legislation
(in millions of dollars)

TAX INCREASES	SFY 2007-08	SFY 2008-09	SFY 2009-10
PERSONAL INCOME TAX	**36**	**181**	**151**
Extend and Restructure LLC Fees	30	30	30
Reporting Tax Shelters	6	6	6
Federal S Corporation Election	0	100	100
Sales Tax Itemized Deduction	0	30	0
Partnership Tax Abuse	0	15	15
USER TAXES AND FEES	**15**	**20**	**20**
Tax on Hotel Sales	15	20	20
Alcohol Tax Enforcement Extender	-	-	-
BUSINESS TAXES	**459**	**424**	**424**
Reporting Tax Shelters	11	11	11
Corporation Franchise Tax Combined Filing	215	215	215
Decouple from Federal for Qualified Production Activities	29	35	35
REITS	104	83	83
Grandfathered Corporations	22	18	18
Conform to Federal Bad Debt Deduction	15	12	12
Add Back of Subsidiary Expenses	40	32	32
Extend Gramm-Leach Bliley	0	0	0
Cooperative Insurance Companies	23	18	18
OTHER TAXES & MISC RECEIPTS	0	0	0
Pari-Mutuel Extender	-	-	-
Quick Draw Extender	-	-	-
Child Support Enforcement	-	-	-
TOTAL TAX INCREASES	**510**	**625**	**595**
REVENUE REDUCTIONS	**(4)**	**(33)**	**(37)**
Education Tax Credit (Personal Income Tax)	-	(25)	(25)
Low Income Housing (Business Tax)	(4)	(8)	(12)
NET FISCAL IMPACT	**506**	**592**	**558**

Economic and Revenue Consensus

The Legislature and Executive held their annual Revenue and Economic Forecasting Conference on February 27, 2007. As a result of the enactment of budget reform this year, the process was expedited and a revenue and economic consensus was reached on March 1, 2007.

All parties agreed that both the national and State economies would experience below trend growth in 2007. The national economic forecast acknowledges a slowdown in the housing market, slower growth in employment and income, and steady inflation rates.

Consensus U.S. Forecast
Calendar Year
Percent Change

	2007	2008
Real U.S. GDP	2.6	3.0
Personal Income	5.4	5.7
Wages	5.0	5.4
Corporate Profits	5.8	5.0
Non-Farm Employment	1.2	1.4
Three-Month T-Bill Rate	4.9	4.9

The New York State economy is expected to slow down, similar to the national economy, in 2007. Employment is expected to grow slightly less in 2007 than in 2008, while a slowdown in personal income and wage growth will be more substantial from 2007 to 2008.

Consensus New York Forecast
Calendar Year
Percent Change

	2007	2008
Personal Income	5.6	5.3
Wages	5.7	5.4
Non-Farm Employment	0.7	0.8

Higher than anticipated collections in the last two months of SFY 2006-07 and a more positive economic outlook for calendar year 2007 resulted in an agreement among the parties to increase projected General Fund receipts from the Executive Budget over the two-year period by $575 million. The following tables show the initial revenue forecasts of the Executive and the legislative committees.

All Funds Revenue Forecasts
SFY 2007-08
(in millions of dollars)

	Executive	Senate Majority	Assembly Majority	Senate Minority	Assembly Minority
Personal Income Tax	36,274	36,740	36,796	36,635	36,315
User Taxes and Fees	14,277	14,210	14,271	14,409	14,639
Business Taxes	8,451	8,585	8,586	8,619	8,220
Other Taxes	1,960	1,923	2,003	1,974	2,017
Total Taxes	**60,961**	**61,458**	**61,656**	**61,637**	**61,191**
Gen Fund Miscellaneous	2,900	2,910	2,915	2,910	2,900
Lottery	2,725	2,725	2,730	2,725	2,725
Total (including Lottery and Miscellaneous Receipts)	**66,586**	**67,093**	**67,301**	**67,272**	**66,816**

All Funds Revenue Forecasts
SFY 2006-07
(in millions of dollars)

	Executive	Senate Majority	Assembly Majority	Senate Minority	Assembly Minority
Personal Income Tax	34,434	34,837	34,516	34,474	34,733
User Taxes and Fees	13,724	13,710	13,693	13,735	13,513
Business Taxes	8,124	8,355	8,152	8,167	8,030
Other Taxes	2,027	1,995	2,049	2,032	2,085
Total Taxes	**58,309**	**58,897**	**58,410**	**58,408**	**58,361**
General Fund Miscellaneous Receipts	2,845	2,851	2,845	2,845	2,845
Lottery	2,296	2,296	2,325	2,296	2,296
Total (including Lottery and Miscellaneous Receipts)	**63,450**	**64,044**	**63,580**	**63,549**	**63,502**

Section 4

Structural Imbalance – Out-Years

The Executive projects that New York State is facing a three-year General Fund budget gap of $14.3 billion: $2.7 billion in 2008-09, $4.9 billion in 2009-10 and $6.7 billion in 2010-11.[12] In order to reduce these gaps, the Executive primarily recommends applying $1.2 billion of the projected surplus from 2006-07 equally in the three out-years. The Legislature is not bound to accept the Executive's proposals for the current or subsequent years. However, even if the Legislature agrees with the Executive's proposed use of these surplus funds, the combined out-year gap would still be $13.0 billion.

The Executive states that the Proposed Budget is the first step in fiscal recovery for the State. Subsequent budget proposals are planned to continue with new initiatives to generate additional revenue and spending actions designed to maximize efficiencies and savings. However, while the 2007-08 Executive Budget presents actions to curtail spending and generate additional revenues, spending for new initiatives relies upon nearly all of the funds achieved through savings actions, leaving the State to continue reining in out-year structural deficits. In 2010-11, new initiatives require approximately $1.3 billion more than what is projected to be generated by the savings plan.

The following table shows the growth in the structural deficit over the next five years. Spending is projected to grow nearly twice as fast as receipts and two and one-half times the projected average rate of inflation.[13] Furthermore, the gap between receipts

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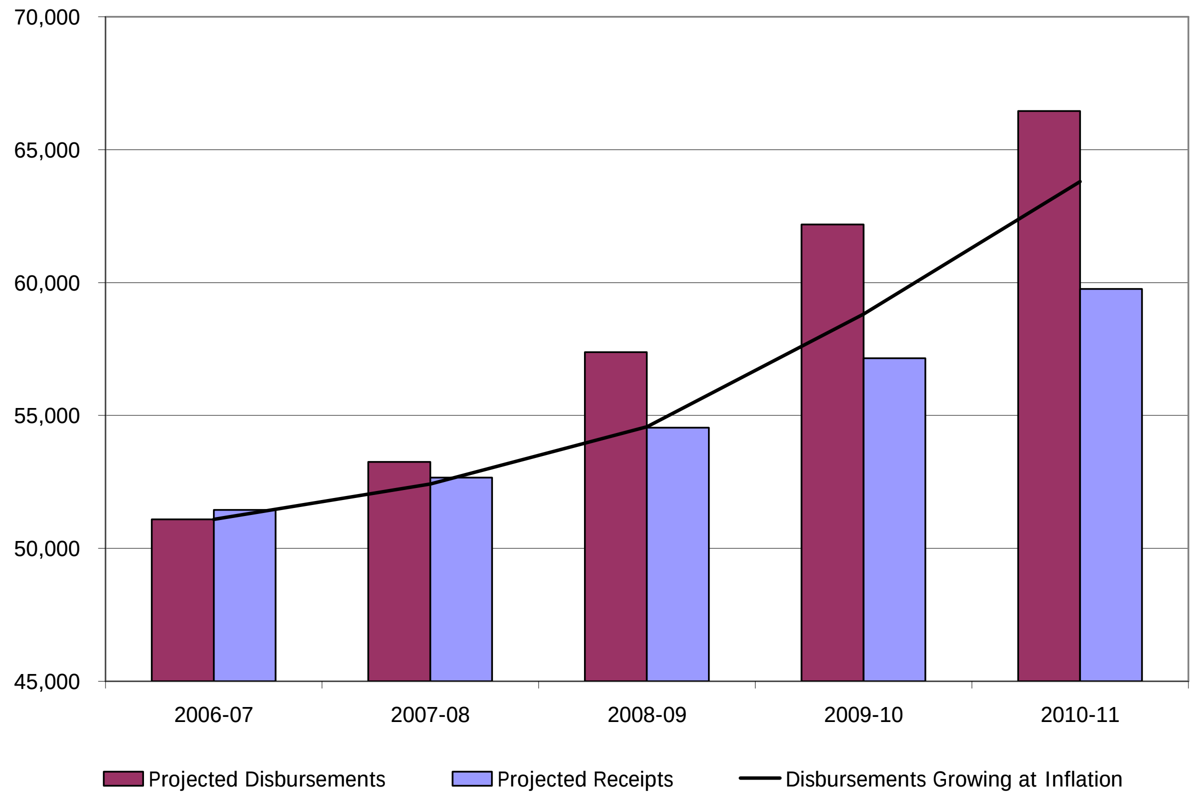
[12] Chapter 1 of the Laws of 2007 requires the Executive Budget to provide three out-year projections instead of the traditional two.

[13] Consumer Price Index (CPI) estimates are presented in the Division of the Budget (DOB), *2007-08 Economic and Revenue Outlook*, page 168. DOB predicts average annual inflation of 2.7 percent between 2006-07 and 2010-11.

and disbursement grows from slightly over 1 percent of spending in 2007-08 to over 10 percent of spending in 2010-11.

General Fund Receipts vs. Disbursements
2006-07 through 2010-11
(in millions of dollars)



Source: New York State Division of the Budget, *2007-08 Five-Year Financial Plan*, p. 173 and p. 176 and Office of the State Comptroller.

Out-Year Gaps from 2008-09 through 2010-11

According to the Executive Budget, the current law three-year gap (2008-09 through 2010-11) currently facing New York is $13.4 billion. The Executive suggests using $1.2 billion in surplus from 2006-07 as a non-recurring resource over a three-year period. The surplus and increased revenues, which are offset by spending increases, work to reduce the three-year gap to $13.0 billion. The recommendation to use surplus funds to finance ongoing operations in three equal one-shots of $401 million in 2008-09, 2009-10 and again in 2010-11 is not binding. In the past, upon budget enactment, the Legislature has chosen to use surplus funds for current spending instead of reducing out-year gaps. Should the Legislature act in a similar manner upon enacting the 2007-08 Budget, the structural gap could be beyond the estimated $13 billion.

General Fund Gaps from 2008-09 through 2010-11
Before and After the Impact of the
2007-08 Executive Budget
(in billions of dollars)

	Base Level Gaps	Executive Budget Proposal Gaps
2008-09	3.0	2.3
2009-10	5.1	4.5
2010-11	5.4	6.2
Three-Year Gap	**13.4**	**13.0**

Source: Office of the State Comptroller Calculations from the New York State Division of the Budget, *2007-08 Financial Plan*, page 22 and *2007-08 Executive Budget Supplemented for 21-Day Amendments*, page 2.
Note: Totals may not add due to rounding.

General Fund Gaps in 2008-09, 2009-10 and 2010-11
Assuming Enactment of 2007-08 Executive Budget
(in millions of dollars)

	2008-09	2009-10	2010-11
Receipts	54,537	57,154	59,762
Disbursements	(57,380)	(62,188)	(66,459)
Deposit to (Use of) Reserves	401	401	401
Community Projects Fund	150	150	51
Surplus (Gap)	**(2,292)**	**(4,483)**	**(6,245)**

Source: Office of the State Comptroller Calculations from the New York State Division of the Budget, *2007-08 Financial Plan*, page 176, and *2007-08 Executive Budget Supplemented for 21-Day Amendments*, page 20.

Creation of a Gap

Over the four-year period covered by the 2007-08 proposed Financial Plan, the Executive recommends increasing General Fund spending by 24.8 percent, while increasing receipts by 13.5 percent: spending grows nearly two times faster than receipts.

Moreover, the General Fund is not balanced in any of the three out-years presented in the 2007-08 Financial Plan. In fact, the disparity between receipts and disbursements grows over each of the years of the Financial Plan. In 2008-09, receipts are projected to be $2.8 billion short of disbursements, while in 2009-10, receipts are estimated to be $5.0 billion under disbursements. Finally, by 2010-11, receipts are projected to be $6.7 billion below disbursements.

Effect of 2007-08 Executive Budget Proposal on 2008-09, 2009-10 and 2010-11

The Executive Budget proposes a number of spending and revenue actions that could exacerbate the structural deficit:

- New General Fund spending that is $1.9 billion in 2007-08, but grows to three times that in 2010-11 ($6.0 billion).

- Of the $1.3 billion in 2007-08 savings assumed in the Executive's proposal, over $700 million is from initiatives previously denied by the Legislature. The value of these previously denied initiatives totals over $1 billion over the next three years.

- Much of the $450 million in 2007-08 proposed General Fund revenue loophole closures may not occur right away because of the nature of business tax collections and tax audits for major corporations. In addition, two of the proposals valued at nearly $130 million have been rejected by the Legislature in the past.

History of Non-Recurring Resources

Over the five-year period beginning in 2002-03, New York State used $18.9 billion in one-time revenues to finance the ongoing operations of the General Fund. The use of non-recurring resources to finance recurring expenses worsens the ongoing structural deficit in that non-recurring resources should only be used for non-recurring expenses, such as paying down debt or pay-as-you-go capital spending. The Executive's proposal does provide an additional $250 million in surplus funds for deposit to the Debt Reduction Reserve Fund and $175 million to be deposited in the State's new Rainy Day Fund. Nonetheless, the Executive proposes using an additional $671 million in 2007-08 (out of a total of $1.1 billion in surplus and other non-recurring resources) and another $401 million in each of the following three years to reduce budget gaps.

Non-Recurring Resources
2002-03 through 2006-07
(in millions of dollars)

2002-03	4,006
2003-04	5,556
2004-05	2,375
2005-06	3,913
2006-07	3,011
Five-Year Total	**18,861**

Source: Office of the State Comptroller, *Report on the Enacted Budget*, various years.

Risks to the Out-Year Financial Plan

The Office of the State Comptroller has identified over $5 billion in additional potential risks over the three out-years, any one of which could create pressure on the State's fiscal health.[14]

Use of Surplus

Actions taken by the Executive in the 2007-08 Budget reduce the three-year current services gap from $13.4 billion to $13.0 billion, but the Executive assumes that $1.2 billion of the surplus from 2006-07 will be used to reduce out-year gaps. However, access to this surplus is not restricted and various spending pressures, along with priorities added by the Legislature, could result in additional spending in the 2007-08 Enacted Budget beyond what is already proposed by the Executive, thus reducing the amount available for out-year gap reduction.

Video Lottery Terminal Support for Schools

The Executive's Proposed Budget estimates revenues of $586 million from seven Video Lottery Terminal (VLT) facilities in 2007-08—an increase of $311 million over what is estimated for 2006-07. According to Comptroller's Office analysis, the 2007-08 projection is approximately $140 million, or 24 percent, higher than what could be expected based on historical performance. Furthermore, since 2003-04, when VLTs began operating, revenue estimates have been overstated despite the State's reductions in Financial Plan projections throughout the fiscal year. For example, in 2004-05 and 2005-06, estimates were 41 percent and 29 percent higher, respectively, than actual receipts. Even if current receipts reach the 2006-07 estimate of $275

[14] See Section 3, Financial Overview.

million—the State has collected $206 million through January 31, 2007—total collections would be 23 percent less than the initial projection of $358 million.

In addition to the $586 million the Division of the Budget (DOB) projects for 2007-08, DOB expects VLTs to generate *additional* revenues of $476 million in 2008-09, $286 million in 2009-10 and $430 million in 2010-11, resulting in total VLT revenues of $1.8 billion by 2010-11. A portion of the projected increase is attributed to VLT expansion; however, there is no specific expansion proposal for the Legislature's consideration at this time. With lower than anticipated historical performance and a lack of a concrete expansion plan, estimates could be 25 percent higher than actual revenues, thus creating additional General Fund strain in out-years. For example, while recent announcements imply agreement on casino development in the Catskills, construction and operation of a casino at the former Monticello Raceway could be up to two years away. In addition, it is not clear if revenues from a new casino will be dedicated to education in the manner of VLTs. Regardless of revenue dedication, increased competition from a new casino could reduce funding generated by nearby VLT establishments, thereby lowering revenues for educational needs and increasing stress on the General Fund. Furthermore, there are two outstanding Sound Basic Education (SBE) court cases that could create additional strain on the General Fund in subsequent years.[15]

Insurance Conversion Proceeds

The Executive proposes a conversion to for-profit status for another insurance company. According to the Financial Plan, proceeds from the sale of stock would not affect HCRA receipts until 2008-09. DOB projects $300 million in both 2008-09 and 2009-10, increasing to $350 million in 2010-11. However, as with the Empire conversion, in which proceeds from the sale were held in trust pending litigation (since released), actual receipt of the proceeds from the proposed conversion could be delayed should there be court action.[16]

By SFY 2008-09, HCRA fund balances will be significantly diminished, largely due to the lack of tobacco settlement revenues, which were securitized in 2003-04. While the language authorizing the sale of future tobacco settlement revenues authorized a General Fund guarantee that would provide funds to HCRA in case of a shortfall in revenue, under the Executive Budget that guarantee is "notwithstood" through 2011. Nonetheless, if conversion proceeds do not materialize or are delayed due to legal

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[15] There are currently two active CFE-type court cases: *Utica City School District v. State* and *Association of Small City School Districts v. State*.

[16] In Mayor Michael Bloomberg's testimony before the legislative fiscal committees on February 5, 2007 regarding the HIP/GHI merger, he stated that "[y]ou should know that New York City is suing to prevent this outrageously anticompetitive merger that could be detrimental to our taxpayers."

proceedings, HCRA funds may require additional support from the General Fund or elsewhere.

Previously Rejected Proposals

In total, the Executive proposal includes previously rejected proposals valued at approximately $700 million, including revenue measures such as changes to the administration of Quick Draw ($109 million) and spending changes like restructuring the Tuition Assistance Program (TAP). Also as part of this amount, of the $1.2 billion in proposed health care "savings," over $330 million has been previously rejected by the Legislature. If these proposals are again rejected, additional pressure on the General Fund will result in 2007-08 and subsequent years.

Economic Projections

Finally, the out-year Financial Plan assumes continued growth in nearly all sectors of the State's economy. Given New York State's heavy reliance on personal income to generate revenue, the Financial Plan is particularly vulnerable to downturns in the economy.

Section

5

Debt and Capital

Over the ten-year period between March 31, 1996 and March 31, 2006, New York's State-Funded debt burden grew from $31.0 billion to $48.5 billion, a 56.5 percent increase.[17] State-Funded debt per capita increased from $1,673 to $2,517 over the same period, a 50.4 percent increase.

Furthermore, under the Executive's proposed Five-Year Capital Program and Financing Plan, New York's debt burden will continue to grow. The Plan contemplates a total of $26.7 billion in new State-Supported debt issuances over the five-year period. This figure does not include $3.4 billion in new debt issuances backed with State Building Aid that are planned by the Transitional Finance Authority (TFA). Considering this additional issuance, total State-Funded issuance planned for the next five years increases to $30.1 billion.

The Executive has proposed approximately $3.1 billion in new debt initiatives, in addition to issuances related to existing debt authorizations. Only a portion of these initiatives will be issued in this five-year period.

The Executive's Proposed Budget includes the following new debt financed initiatives:

- $1.5 billion for the Stem Cell and Innovation Fund–-subject to voter approval,

[17] To provide a more comprehensive measure of the State's debt burden, the Office of the State Comptroller defined a new measure called State-Funded debt that includes State-Supported debt, as defined and limited by the provisions of the Debt Reform Act of 2000. This new measurement also includes other debt that is not counted under statutory caps, but whose repayment is fully State-funded nonetheless.

- $380 million for SUNY capital,
- $300 million for an international chip fabrication plant,
- $300 million for the Investment and Job Creation Program,
- $266 million for CUNY capital,
- $200 million for new Mental Health Community Residential Housing,
- $78 million for court training facilities,
- $50 million for new State Police Troop G Headquarters, and
- $50 million for other economic development.

By the Executive's own measure of State-Related debt, between the period of 1998 and 2005, debt as a percent of personal income consistently exceeded the national average and the average for peer states.[18] Further, State-Related debt outstanding is projected to grow 13.6 percent in the first two years of the Five-Year Capital Plan (7.9 percent and 5.7 percent, respectively). This represents the second and third largest increase in State-Related debt outstanding over the past 12 years, exceeded only in 2003-04 when it grew by 15.4 percent. State-Related debt service is projected to increase in each of the next five fiscal years and reach 5 percent of the All Funds budget by the end of 2011-2012. State-Related debt per capita is also projected to increase in each of the next five fiscal years from $2,531 in 2006 to $3,064 in 2011-2012, an increase of 21 percent.

Based on the Executive's proposed Five-Year Capital Program and Financing Plan, outstanding State-Funded debt will increase to $65.6 billion by the end of 2011-12, representing a 27.1 percent increase from 2006-07 and a 97.9 percent increase from

[18] State-Related debt is not statutorily defined, although it is described in historic budget and disclosure documents. The Division of the Budget (DOB) states that "State-Related" debt levels reported in its Plan are "cash-basis amounts that include all debt by the State (including blended component units) for Government activities and Business-type activities as defined in the Comprehensive Annual Financial Report (CAFR) published by the State Comptroller." Previous Capital Plans used the statutory measure of State-Supported debt as a base. Note that debt is reported in the Comprehensive Annual Financial Report in accordance with Generally Accepted Accounting Principles (GAAP) and does not contain a conversion to cash reporting. There are elements of debt reported in the GAAP statements that are not included in DOB's new accounting method, such as all capital lease obligations, mortgage loan commitments, bond premiums and accumulated accretion on Capital Appreciation bonds. Furthermore, the CAFR does not report Moral Obligation, State Guaranteed or Contingent Contractual Obligations as debt of the State in accordance with GAAP. They are disclosed as a contingency commitment of the State. DOB's method of reporting outstanding debt is not available in any of the State's financial disclosure documents, including the CAFR.

1997. State-Funded debt service is projected to increase to $7.2 billion in 2011-12, an increase of $2.1 billion, or 40.9 percent, from 2007-08 and an increase of 138.1 percent from 1997. Since 1997, State-Funded debt has grown at an average annual rate of 4.7 percent—almost double the average rate of inflation.

Although the Executive's Proposed Budget does not include a comprehensive debt reform package, it does include language that would ban any future issuance of debt supported solely with State local assistance payments not previously authorized by the Legislature.[19] The Executive does not include the current authorization for this type of debt in the State's reported debt burden. This Office has reported this type of debt as a State-Funded debt and counts it as part of the overall State debt burden.

The proposed Capital Program and Financing Plan also includes a number of other actions designed to streamline and improve efficiency in debt management and improve accountability and transparency, such as increased use of the competitive sale process when issuing bonds.

What is Counted As State Debt?

In just the past four years, $8.4 billion in bonds have been issued that provide budget relief to the State and its local governments with no resulting physical asset for the State and its taxpayers. Moreover, the $8.4 billion in new debt is *not* counted as State-Supported in the Five-Year Capital Program and Financing Plan, even though these obligations are funded with State resources. This illustrates that 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 comprehensive measure of the State's outstanding debt obligation.

To provide a more comprehensive measure of the State's debt burden, this Office defined a new measure called State-Funded debt in 2005.[20] This definition not only includes State-Supported debt, as defined and limited by the provisions of the Debt Reform Act of 2000, but also includes other debt that is not counted under statutory caps, but whose payment is nonetheless supported solely with State resources.

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[19] The Executive proposes Article VII language (S.2106A/A.4306A) that, if enacted, would ban future debt supported solely by State local assistance payments. However, the language specifically states that this ban does not apply to the $9.4 billion in bonds, notes or other obligations that the New York City Transitional Finance Authority was authorized to issue for school capital construction as part of the 2006-07 Enacted Budget (Part A-3 of Chapter 58 of the Laws of 2006).

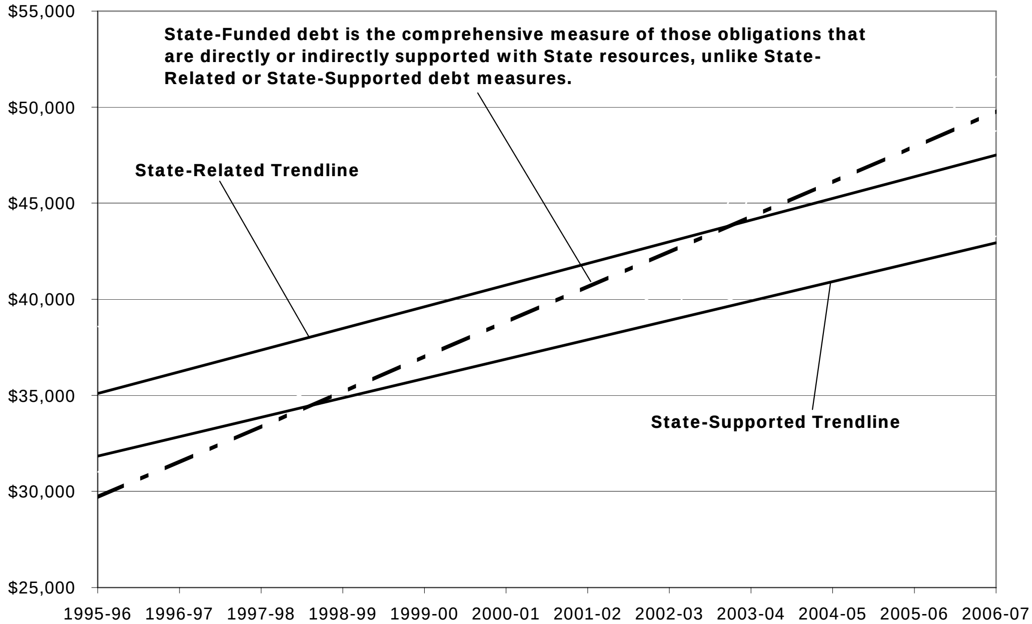
[20] Office of the State Comptroller. *New York State Debt Policy: A Need for Reform.* February 2005.

Following the lead of this Office and others, including bond rating agencies and fiscal watchdog groups, in 2006-07, the Executive expanded the reporting of debt in the Capital Program and Financing Plan to include a modified version of State-Related debt in addition to State-Supported debt (as defined in the Debt Reform Act of 2000). The 2007-08 Proposed Budget continues that practice.

Traditional State-Related debt, however, includes obligations that should not be counted in the State debt burden (such as moral obligation and State-Guaranteed debt), while it does not include other obligations that should be counted in the State debt burden (such as the refinanced New York City Municipal Assistance Corporation (MAC) debt issued by the Sales Tax Asset Receivable Corporation (STARC) and the recently authorized Building Aid Revenue Bonds (BARBs) issued by New York City's TFA, both of which are funded solely with State local assistance payments.

The implication of counting the State's debt in this manner is that it exaggerates the base years shown for current year comparisons with liabilities the State has not historically supported with State funding. Further, since Moral Obligation debt is not authorized to be issued any longer, the decline of such debt is faster than the decline of other categories of debt. The combined effect of exaggerating the base with debt that is not supported by State revenues coupled with debt that can no longer be legally increased, essentially, paints an overly optimistic picture of the State's current debt burden when contrasted with State-Funded debt over the last two decades. As illustrated in the following chart, growth trends for State-Related and State-Supported debt are similar; however, the trend for State-Funded debt reveals significantly faster growth.

Trends in Debt Growth
State-Supported, State-Related and State-Funded
1995-96 through 2006-07
(in millions of dollars)



State-Funded vs. State-Related Debt Outstanding

The Division of the Budget (DOB) estimates that the State will end 2006-07 with approximately $48.8 billion in State-Related debt outstanding, compared to $51.6 billion in State-Funded debt outstanding projected by the Office of the State Comptroller. The following table illustrates the difference between State-Supported debt as defined in statute, State-Related debt as defined by the Executive and, finally, State-Funded debt as defined by the Office of State Comptroller.

State Debt Outstanding - 2006-07 Estimate

(in millions of dollars)

	State-Supported	State-Related	State-Funded	
State-Supported	43,283	43,283	43,283	(1)
Contingent Contractual				
Secured Hospitals		793		(2)
Tobacco Settlement Financing Corporation (TSFC)		4,084		
Moral Obligation				(3)
HFA		54		
MCFFA		8		
State-Guaranteed				(4)
JDA		57		
Other				
TSFC			4,084	(5)
MBBA Prior Year Claims		484	484	(6)
STARC			2,457	(7)
TFA			1,278	(8)
Total	**43,283**	**48,763**	**51,586**	

(1) As defined by Section 67-a of the State Finance Law.
(2) Issued by Dormitory Authority of the State of New York and the Medical Care Facilities Finance Agency.
(3) Moral Obligation debt was capped in 1976.
(4) The State Constitution unconditionally guaranteed the debt service for certain obligations issued by the New York State Thruway Authority, the Job Development Authority, and the Port Authority of New York and New Jersey. Only State-Guaranteed debt issued by the Job Development Authority remains outstanding.
(5) The State Comptroller counts debt issued by the Tobacco Settlement Financing Corporation (TSFC) as State-Funded due to the foregone tobacco settlement revenues, rather than the contingent obligation.
(6) Obligations issued by the Municipal Bond Bank Agency (MBBA) to finance prior-year school aid claims of eight school districts.
(7) The Sales Tax Asset Receivable Corporation (STARC) issued $2.6 billion to refinance New York City Municipal Assistance Corporation debt, and the debt service is funded solely with payments from the State.
(8) The 2006-07 Enacted Budget authorized the Transitional Finance Authority (TFA) of New York City to issue $9.4 billion in bonds that are funded solely with future State Building Aid payments. Two sales within SFY 2006-07 were planned by the TFA. The first occurred in November 2006 for $650 million and the second is planned for March 6, 2007 for an additional $650 million. The $1.278 billion is taken from the New York City Financial Plan dated January 25, 2007, page 53.

The table above illustrates the shortcomings of the statutory definition of State-Supported debt in the Debt Reform Act of 2000—it does not provide a comprehensive measurement of the State's true debt burden. State-Related debt, as reported by the Executive, overstates the State's burden to pay certain debt, while avoiding a significant State obligation by not including the $2.5 billion in debt attributed to STARC issued to refinance New York City's MAC outstanding debt and the new approximately $1.3 billion in BARBs issued by New York City's TFA.

The debt service on STARC debt is paid only with a specific revenue stream provided through an annual State appropriation to New York City and, therefore, should be included in any measure of the State's debt burden.[21] Furthermore, STARC is authorized to pledge that revenue to the bondholders. In the 2006-07 Enacted Budget, the State authorized up to $9.4 billion in new debt that is funded solely with future State Building Aid payments to be issued by the TFA. Similar to STARC, the State authorized the City to assign its future State Building Aid payments to the TFA and pledge the aid as the sole source of payment to bondholders. Although the Executive would prohibit any future authorization of this type of debt, there will be approximately $3.7 billion outstanding by the end of 2006-07.

Projected Outstanding Debt and Debt Service Levels

Debt Outstanding

The Five-Year Capital Program and Financing Plan submitted with the Executive Budget projects that there will be $56.1 billion of outstanding State-Supported debt by 2011-12. This represents a $12.8 billion, or 29.6 percent, increase from the projected 2006-07 year-end level, an average of 5.9 percent growth annually. Over 90 percent of this increase is related to appropriation-backed State-Supported debt issued by public authorities (back-door borrowing). This type of debt is expected to increase 29.1 percent, or $11.6 billion. Voter-approved, General Obligation (GO) debt is planned to increase $1.2 billion, or 34.8 percent. The increase is primarily related to $2.3 billion in capital spending financed with GO bonds from the Rebuild and Renew New York Bond Act that was authorized by voters in 2005 and $450 million from the proposed Stem Cell Research and Innovation Bond Act scheduled to go before voters in November 2008.

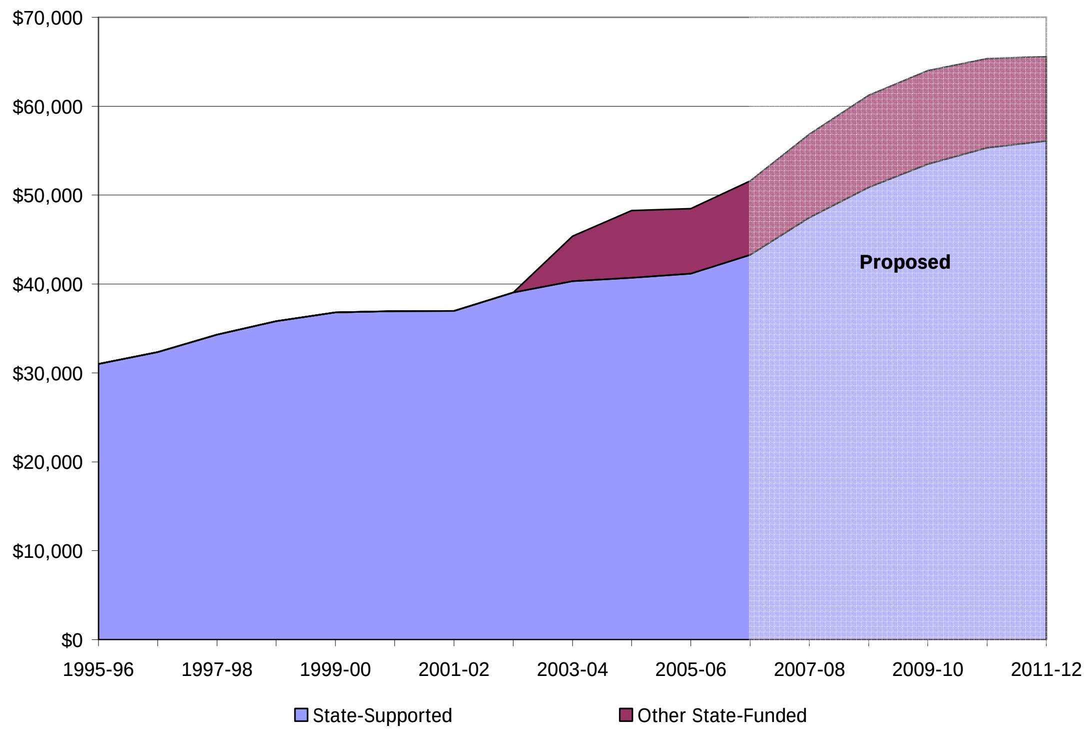
State-Funded debt outstanding is projected to be $65.6 billion at the end of SFY 2011-12, an increase of nearly $14 billion, or 27.1 percent, from projected 2006-07 levels. Part of this increase is related to the projected issuance of $4.7 billion in TFA BARBs

[21] The payment is made in an annual $170 million appropriation from the Local Government Assistance Tax Fund, from State sales tax receipts, to New York City.

backed solely by future State Building Aid payments between 2006 and 2010.[22] No additional State-Funded debt is projected for STARC, the Tobacco Settlement Financing Corporation (TSFC) or by the Municipal Bond Bank Agency (MBBA) for prior year claims.

The following chart and table illustrate the growth of both outstanding State-Supported debt in the proposed Five-Year Capital Program and Financing Plan, and the more comprehensive measure of State-Funded debt.

Outstanding and Projected State-Supported and State-Funded Debt 1996-2012
(in millions of dollars)



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

[22] In November 2006, the TFA issued $650 million in Building Aid Revenue Bonds (BARBs). A second $650 million sale is scheduled for March 2007, leaving a remaining $3.4 billion to be issued between 2008 and 2010.

Projected State-Supported and State-Funded Debt Outstanding
2007-08 Executive Budget Proposal
(in thousands of dollars)

	Estimated	Executive Proposed Capital Plan					Total Percent Change Cap Plan	Total Dollar Change Cap Plan
	SFY 2007	SFY 2008	SFY 2009	SFY 2010	SFY 2011	SFY 2012	2007 end - 2012 end	2007 end - 2012 end
General Obligation	3,348,762	3,399,497	3,586,806	3,995,616	4,322,381	4,512,725	34.76%	1,163,963
Other State-Supported Public Authority	39,934,375	44,071,371	47,272,878	49,480,757	50,993,603	51,569,972	29.14%	11,635,597
2006-07 Capital Plan (State-Supported)	**43,283,137**	**47,470,868**	**50,859,684**	**53,476,373**	**55,315,984**	**56,082,697**	**29.57%**	**12,799,560**
TSFC	4,084,470	3,840,120	3,521,750	3,178,845	2,810,475	2,414,660	-40.88%	(1,669,810)
TFA BARBs	1,278,000	2,672,000	4,047,508	4,643,158	4,582,170	4,505,604	252.55%	3,227,604
STARC	2,456,505	2,406,775	2,355,255	2,301,730	2,245,990	2,187,820	-10.94%	(268,685)
MBBA	484,455	463,685	442,065	419,475	395,775	370,910	-23.44%	(113,545)
Total Other	**8,303,430**	**9,382,580**	**10,366,578**	**10,543,208**	**10,034,410**	**9,478,994**	**14.16%**	**1,175,564**
Projected Outstanding (State-Funded)	**51,586,567**	**56,853,448**	**61,226,262**	**64,019,581**	**65,350,394**	**65,561,691**	**27.09%**	**13,975,124**

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

New Debt Issuances

The Executive's proposed Capital Program and Financing Plan includes State-Supported debt issuances of $26.7 billion between 2008 and 2012. The TFA is planning to issue an additional $3.4 billion in BARBs between 2008 and 2010. Total State-Funded debt issuance will exceed $30 billion between 2007-08 and 2011-12. Over the next five years, annual State-Funded debt issuance will vary from $4.3 billion projected for 2011-12 to as high as $7.9 billion in 2007-08. Over $15 billion is planned to be issued between 2007-08 and 2008-09, representing much of the additional debt that was authorized in the 2006-07 Enacted Budget.

Projected State-Funded Debt Issuances
2007-08 Executive Budget Proposal
(in thousands of dollars)

	Estimated	Executive Proposed Capital Plan					Total Cap Plan
	SFY 2007	SFY 2008	SFY 2009	SFY 2010	SFY 2011	SFY 2012	2008-2012
General Obligation	226,800	403,000	545,300	778,300	718,300	595,300	3,040,200
Other State-Supported Public Authority	4,072,044	6,080,826	5,223,231	4,586,752	4,015,694	3,710,881	23,617,384
Total State-Supported Issuances	**4,298,844**	**6,483,826**	**5,768,531**	**5,365,052**	**4,733,994**	**4,306,181**	**26,657,584**
TFA BARBs	1,278,000	1,394,000	1,394,000	635,000	-		3,423,000
Total State-Funded Issuances	**5,576,844**	**7,877,826**	**7,162,531**	**6,000,052**	**4,733,994**	**4,306,181**	**30,080,584**

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

Debt Retirements

The Executive's proposed Capital Program and Financing Plan projects $13.9 billion in retirements of State-Supported debt between 2008 and 2012.[23] State-Funded retirements, which include State-Supported debt, TSFC bonds, MBBA Prior Year School Aid Claims, STARC bonds and BARBs, will total $16.1 billion over the next five years. Total State-Supported debt retirements are projected to increase over $1 billion from projections contained in the previous Capital Plan Update released in November 2006. However, the increase in retirements is primarily related to State-Supported debt issued by public authorities. General Obligation retirements do not change significantly.

The projected retirements included in the Capital Program and Financing Plan for tobacco bonds issued by the TSFC are significantly higher than required mandatory redemptions. The following table illustrates estimated retirements for State-Funded debt including State-Supported debt, planned optional turbo redemptions for tobacco bonds, scheduled principal payments for bonds issued to finance MBBA Prior Year School Aid Claims and bonds issued by STARC to refinance New York City MAC debt along with projected retirements of New York City's TFA BARBs that were issued in 2006-07 or which will be issued over the next four years.

[23] Note that the Executive does not include debt retired with payments from the Debt Reduction Reserve Fund (DRRF), although such payments are included in the debt service tables.

Projected State-Funded Debt Retirements
2007-08 Executive Budget Proposal
(in thousands of dollars)

	Estimated	Executive Proposed Capital Plan					Total Cap Plan
	SFY 2007	SFY 2008	SFY 2009	SFY 2010	SFY 2011	SFY 2012	2008-2012
General Obligation	352,072	352,265	357,991	369,489	391,535	404,955	1,876,235
Other State-Supported Public Authority	1,727,688	1,943,830	2,021,724	2,378,873	2,502,848	3,134,512	11,981,787
Total State-Supported Retirements	**2,079,760**	**2,296,095**	**2,379,715**	**2,748,362**	**2,894,383**	**3,539,467**	**13,858,022**
TSFC	193,820	244,350	318,370	342,905	368,370	395,815	1,669,810
TFA BARBs	-	-	18,492	39,350	60,988	76,566	195,396
STARC	48,145	49,730	51,520	53,525	55,740	58,170	268,685
MBBA	20,025	20,770	21,620	22,590	23,700	24,865	113,545
Total Other	**261,990**	**314,850**	**410,002**	**458,370**	**508,798**	**555,416**	**2,247,436**
Total State-Funded Retirements	**2,341,750**	**2,610,945**	**2,789,717**	**3,206,732**	**3,403,181**	**4,094,883**	**16,105,458**

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

Debt Service

Annual debt service on State-Supported debt is projected to grow from $4.4 billion in 2007-08 to $6.2 billion in 2011-12, an increase of $1.8 billion, or 40.8 percent. State-Funded debt service is projected to increase to $7.2 billion by 2011-12, representing an increase of 40.9 percent or $2.1 billion from 2007-08.

Projected State-Funded Debt Service
2007-08 Executive Budget Proposal
(in thousands of dollars)

	Estimated	Executive Proposed Capital Plan					Total Percent Change	Total Dollar Change
	SFY 2007	SFY 2008	SFY 2009	SFY 2010	SFY 2011	SFY 2012	2008-2012	2008-2012
General Obligation	497,268	494,746	502,027	523,972	570,938	606,300	22.55%	111,554
Other State-Supported Public Authority	3,752,922	3,915,151	4,339,268	4,777,690	5,355,833	5,600,954	43.06%	1,685,803
2007-08 Capital Plan (State-Supported)	**4,250,190**	**4,409,897**	**4,841,295**	**5,301,662**	**5,926,771**	**6,207,254**	**40.76%**	**1,797,357**
TSFC	403,051	443,989	503,296	510,539	517,063	524,190	18.06%	80,201
TFA BARBs		72,079	158,699	246,383	290,866	298,451	314.06%	226,372
STARC	170,000	170,000	170,000	170,000	170,000	170,000	0.00%	-
MBBA	45,189	45,186	45,184	45,182	45,189	45,182	-0.01%	(4)
Total Other	**618,240**	**731,254**	**877,179**	**972,104**	**1,023,118**	**1,037,823**	**41.92%**	**306,569**
Projected Debt Service (State-Funded)	**4,868,430**	**5,141,151**	**5,718,474**	**6,273,766**	**6,949,889**	**7,245,077**	**40.92%**	**2,103,926**

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

Financing Sources

The percentage of State cash used to finance non-federal capital needs increases over the course of the proposed Capital Program and Financing Plan from 21.9 percent to 30.6 percent on an annual basis over the five-year period. General Obligation financing increases from 4.9 percent to 9.7 percent annually, and the use of public authority backdoor borrowing declines, from an annual average of 73.2 percent to 59.7 percent of State funding. The following table illustrates the various funding sources.

Capital Financing Sources 2006-07 through 2011-12
Proposed Capital Program and Financing Plan
(in millions of dollars)

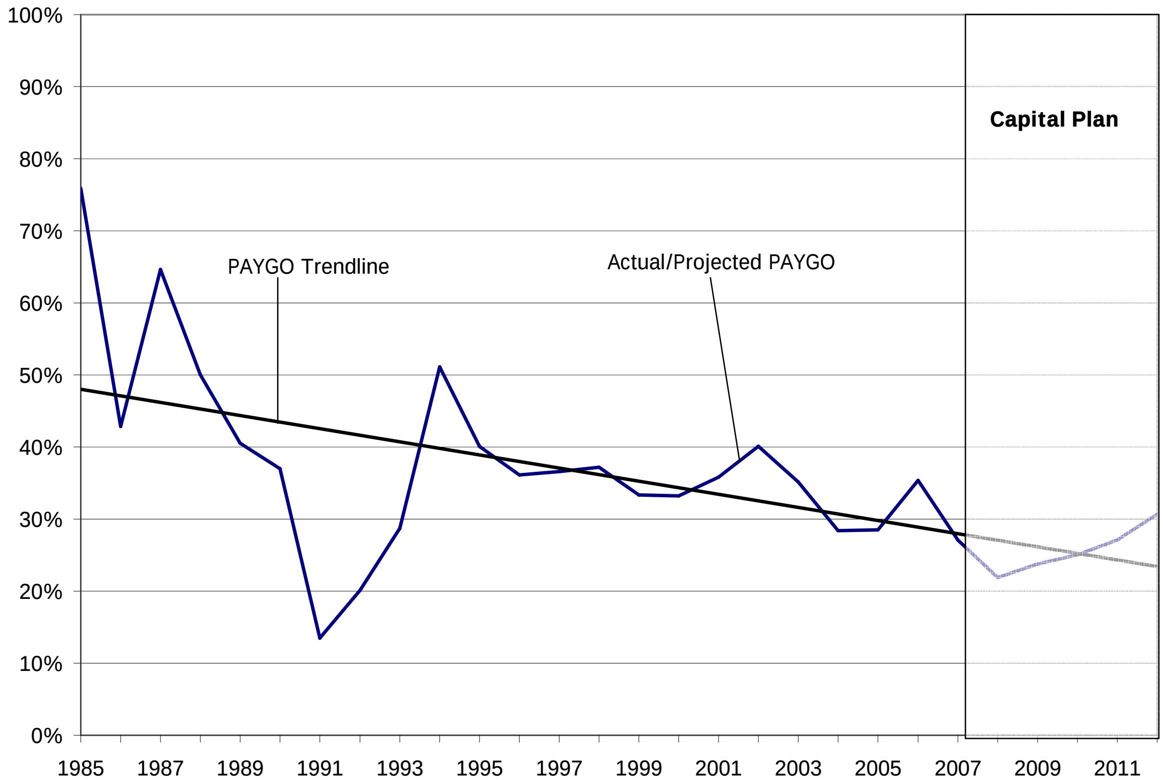
	Estimated	Executive Proposed Capital Plan					Average 2007-08 through 2011-12
	SFY 2007	SFY 2008	SFY 2009	SFY 2010	SFY 2011	SFY 2012	
State Pay-as-You-Go (PAYGO)	1,599	1,823	1,874	1,882	1,832	1,886	1,859
Federal Pay-as-You-Go (PAYGO)	1,796	1,975	2,011	2,001	2,004	2,029	2,004
GO Bonds	220	408	552	788	724	594	613
Authority Bonds	4,076	6,102	5,457	4,847	4,205	3,675	4,857
Total Capital Funding	**7,691**	**10,308**	**9,894**	**9,518**	**8,765**	**8,184**	**9,334**
Less Federal Funding	(1,796)	(1,975)	(2,011)	(2,001)	(2,004)	(2,029)	(2,004)
State Capital Funding	**5,895**	**8,333**	**7,883**	**7,517**	**6,761**	**6,155**	**7,330**
State PAYGO as Percentage of State-Funding	**27.1%**	**21.9%**	**23.8%**	**25.0%**	**27.1%**	**30.6%**	**25.7%**
GO as Percentage of State Funding	**3.7%**	**4.9%**	**7.0%**	**10.5%**	**10.7%**	**9.7%**	**8.6%**
Authority Bonds as Percentage of State Funding	**69.1%**	**73.2%**	**69.2%**	**64.5%**	**62.2%**	**59.7%**	**65.8%**

Source: New York State Division of the Budget

The following chart illustrates the history and projected use of State pay-as-you-go (PAYGO) as a percentage of total State funding for capital projects. The amount of cash used to finance capital needs can be indicative of fiscal health. When a state or municipality is financially healthy or has accumulated a surplus, it can be inferred that it has increased ability to finance with cash, instead of issuing additional debt for capital purposes. Rating agencies view high use of PAYGO very favorably.

New York's use of cash has varied greatly throughout its recent history. In 1985, the State financed approximately 75 percent of its non-federal capital program with cash, instead of incurring additional debt. In 1991, only 13.5 percent of the non-federal share was financed with cash. Between 1996 and 2001, the State enjoyed surpluses ranging from $445 million to $3 billion. While the State did utilize $1.1 billion from the Debt Reduction Reserve Fund (DRRF) for either debt retirement or PAYGO financing (during the period between 1999 and 2002), the State, on average for those years, utilized cash for only 38 percent of its non-federal capital financing. As a result of the practice of increasing debt and underutilizing cash financing during its years of surplus, the State has been burdened with higher debt service levels in times of need.

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



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

In late 2006, the State utilized the $250 million that was transferred to the DRRF as part of the 2006-07 Enacted Budget to retire high cost debt. The Proposed Budget includes an additional $250 million deposit to the DRRF. However, there is no specific plan outlined in the Executive Budget for how these funds will be used, and the Financial Plan does not reflect any disbursements from this Fund in 2007-08. DOB has indicated that it may use the monies deposited into the DRRF to reduce high cost debt or to increase PAYGO spending. The statutory language establishing the DRRF does not provide strict limits as to how monies in this Fund may be used. The Fund could be used simply to supplant existing debt service or PAYGO spending. Language should be strengthened to restrict spending from DRRF to additional debt service or PAYGO not otherwise included in the Capital Plan.

Proposed Debt Management Initiatives - 2007-08

The Executive's Budget Proposal for SFY 2007-08 includes a total of $40 million in projected debt service savings as a result of various statutory and administrative debt management actions.

The Executive's proposal calls for an increase in the number of competitive bond sales. Currently, General Obligation bonds issued by the Office of the State Comptroller are primarily issued through a competitive sale process, while most other State-Supported debt issued by public authorities is sold via negotiated sale.

A number of other changes that could potentially decrease costs or provide increased flexibility are also proposed:

- Authorize each of the five issuers of the Personal Income Tax (PIT) revenue bonds to issue such bonds in an attempt to streamline the issuance process for any capital program financed with PIT bonds.[24] PIT bonds are backed with Personal Income Tax receipts and are the primary method of bond financing in the Capital Plan. This proposal would allow the State to consolidate smaller issuances and potentially achieve savings on issuance costs. It is not clear how the issuers would address administrative issues that could arise, such as which authority would administer the bond proceeds or handle tax compliance matters. This was a proposal that was put forth as part of the Executive Budget Proposal in 2006-07, but was ultimately not included in the 2006-07 Enacted Budget.

- Authorize consolidated refunding of existing service contract debt that may have been issued initially by a number of issuers.

- Increase the cap on both variable rate debt and interest rate swaps from 15 percent to 20 percent of outstanding State-Supported debt. Although the Executive proposes to increase the cap on the amount of variable rate debt that can be outstanding, it should be noted that the State is not projected to exceed the current cap on net variable rate debt outstanding at any point during the next five-year period. The Plan calls for net variable rate exposure to increase from 4.9 percent in 2007-08 to 11.4 percent in 2011-12. Variable rate debt, including a policy reserve, is projected to grow from 9.8 percent in 2007-08 to

[24] Section 68-a of the State Finance Law authorizes the Dormitory Authority of the State of New York (DASNY), the Urban Development Corporation (UDC, also known as the Empire State Development Corporation – ESDC), the New York State Thruway Authority (TA), the New York State Environmental Facilities Corporation (EFC) and the New York State Housing Finance Agency (HFA) to issue Personal Income Tax revenue bonds on behalf of the State.

17.3 percent in 2012; however, the amount of the policy reserve is not required to be counted against the statutory cap.[25]

- Include language that would consolidate all State-Supported bond caps into one section of law while also standardizing the language requiring the caps to be "net" caps (project cost only—not including issuance costs). Furthermore, the proposal would consolidate and make standard existing service contract authorizations.

Capital Program

Capital spending over the life of the Plan is estimated to be approximately $46.7 billion, or $4.8 billion higher than the 2006-07 Enacted Capital Program and Financing Plan update. Over three-quarters of spending throughout the Plan is attributed to transportation, education or economic development/government oversight purposes. Transportation continues to comprise the largest amount of capital spending, increasing throughout the life of the Plan from 40.3 percent in 2007-08 to 59.7 percent in 2011-12. Education makes up the second largest area of capital spending in the proposed Capital Program and Financing Plan. Approximately 43 percent of the spending in the first two years of the Plan is attributed to education spending, primarily for *EXpanding our Children's Education and Learning* (EXCEL) purposes. This represents the remaining $1.8 billion authorized for EXCEL in the 2006-07 Enacted Budget. In addition to the Capital Program provisions, the TFA is scheduled to issue $3.4 billion in BARBs between 2007-08 and 2009-10.

Transportation

As part of the Executive's $18.7 billion Department of Transportation capital plan, capital spending for transportation is projected to increase to approximately $4.9 billion in 2011-12 from $4.1 billion in 2007-08. The Five-Year Plan includes $11.0 billion for highway and bridge construction/maintenance, $4.2 billion for Engineering and Inspection, $1.9 billion for local transportation projects throughout the State, and $1.3 billion for preventative maintenance.

Financing for the transportation plan includes federal funding from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which is between $1.6 billion and $1.8 billion annually. Federal

[25] DOB includes a policy reserve equal to 35 percent of the notional amount of outstanding 65 percent of London Inter-Bank Offered Rates (LIBOR) swaps to account for "...the potential that tax policy or market conditions could result in significant differences between payments owed on the bonds and the amount received by the State under their 65 percent of LIBOR swaps..."

funding is the largest share of total financing for transportation, averaging nearly 38 percent of annual funding.

The proposed Capital Program and Financing Plan includes spending financed with General Obligation bonds authorized in November 2005 by the Rebuild and Renew New York Transportation Bond Act. Annual spending financed with Rebuild and Renew General Obligation bonds is projected to increase to a peak of $578 million in 2009-10, then decline to $386 million by 2011-12.

The proposed Capital Program and Financing Plan estimates remaining funding from cash (averaging 27 percent annually) and Authority bonds (averaging 25.4 percent annually).

Higher Education

The Executive calls on both SUNY and CUNY to develop new five-year capital plans for 2008-09. In the meantime, the Proposed Budget includes an additional $379.7 million in capital spending for SUNY and $265.8 million for CUNY. Specifically, additional spending is proposed for projects at the Old Westbury Academic Complex and the rehabilitation of the Stony Brook Southampton Campus. For CUNY, the Executive proposes $225 million for senior colleges and $21 million for community colleges. The Executive proposes $11 million for new construction at Medgar Evers College and approximately $9 million for various University-wide projects.

Environment

The five-year plan includes annual capital spending ranging between $50 million and $75 million from the balance of the Clean Water /Clean Air Bond Act. Total spending from other previous General Obligation bond acts ranges from $44.8 million in 2007-08 to approximately $2 million in 2011-12 as authorization is spent down. The Capital Plan also includes $585 million, annually, for the refinanced State Superfund program and Brownfields Cleanup, in addition to $15 million in PAYGO resources.

Economic Development

The proposed Capital Plan includes approximately $5.7 billion in total spending for various economic development programs over the next five years, including the new $1.5 billion Stem Cell and Innovation Fund General Obligation Bond Act to be presented to voters in November 2008. The proposed Capital Program and Financing Plan envisions $150 million, annually, for ten years beginning in 2009-10. The Plan also contains $66 million in planned PAYGO spending between 2007-08 and 2008-09 to support long-term investments in stem cell and other life sciences research and other emerging industries. The Executive proposes the creation of the New York State

Stem Cell and Innovation Fund Corporation—a public benefit corporation to administer the program and distribute funding. Although no bond act language has been proposed yet, it appears that the intent is that all (or virtually all) of the State's General Obligation bond proceeds may be paid to the Corporation for economic development investments in stem cell biology and other related emerging technologies. As noted earlier in this report, paying State bond proceeds to a public corporation obscures transparency and accountability for State resources in that such payments may not all be subject to the State's contracting and expenditure review processes, and there is greater uncertainty regarding the status of funding commitments to recipient organizations.

Total spending for economic development increases to a maximum of $1.5 billion in 2008-09 and averages approximately $1.1 million annually throughout the Plan. Economic development spending is financed almost entirely with debt issued by public authorities, although the share financed with General Obligation bonds is projected to increase in the later years should voters approve the Stem Cell Innovation Fund Bond Act.

The Plan also includes $300 million for the new Investment and Job Creation program to be financed and administered through the Urban Development Corporation. The proposal would create a new, five-member Capital Approval Board to approve projects and eliminate Public Authority Control Board (PACB) approval. The new board would be similar to PACB in that it would have representatives from the Executive and the Assembly and Senate minorities and majorities, with voting members being the majorities and the Executive.

The Executive proposes an additional $300 million for a new "international computer chip research and development center." In addition, the Executive proposes approximately $50 million for various projects, including Roosevelt's Island and Governor's Island.

This new funding is in addition to existing economic development programs, $2.9 billion of which is subject to Memorandum of Understanding between the three leaders. Not only is much of this existing appropriation authority in the form of lump sum appropriations, but the majority is also spent off-budget, outside of the State's Central Accounting System and exempt from the State's many expenditure control and procurement processes.

Health and Mental Hygiene

Mental Hygiene appropriations and re-appropriations total approximately $2.8 billion for rehabilitation and maintenance projects relating to facilities licensed to the Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and

Office of Alcoholism and Substance Abuse Services, including $200 million for new community residential housing. The Plan includes $1.6 billion for health and social welfare spending, including spending through the Department of Health, Office of Children and Family Services, and the Office of Temporary and Disability Assistance.

The proposed Capital Plan includes $300 million in new capital spending, largely for the Health Care Efficiency and Affordability Law for New Yorkers (HEAL-NY) authorized in 2005-06. Of this amount, $132 million is slated as PAYGO spending.

Other

The proposed Capital Program and Financing Plan also includes $78 million for court training facilities and $50 million for expanded Troop G Headquarters for the Division of the State Police.

Capital Spending by Function: 2007-08 Capital Plan
(in millions of dollars)

	Estimated 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Average 2007-08 through 2011-12	Total Dollar 2007-08 through 2011-12	Total Percent 2007-08 through 2011-12
Transportation	3,765	4,147	4,446	4,697	4,822	4,886	4,600	22,998	49.3%
Parks and Environment	632	632	568	558	567	567	578	2,892	6.2%
Eco. Dev/Gov Oversight	456	1423	1499	1273	872	609	1,135	5,676	12.2%
Health/Social Welfare	178	359	423	374	292	128	315	1,576	3.4%
Education	1795	2641	1,706	1293	1101	864	1,521	7,605	16.3%
Public Protection	315	352	354	359	383	379	365	1,827	3.9%
Mental Hygiene	358	407	592	693	558	587	567	2,837	6.1%
General Government	122	102	124	124	75	70	99	495	1.1%
Other	70	244	182	147	95	94	152	762	1.6%
Total	**7,691**	**10,307**	**9,894**	**9,518**	**8,765**	**8,184**	**9,334**	**46,668**	**100.0%**

Source: New York State Division of the Budget

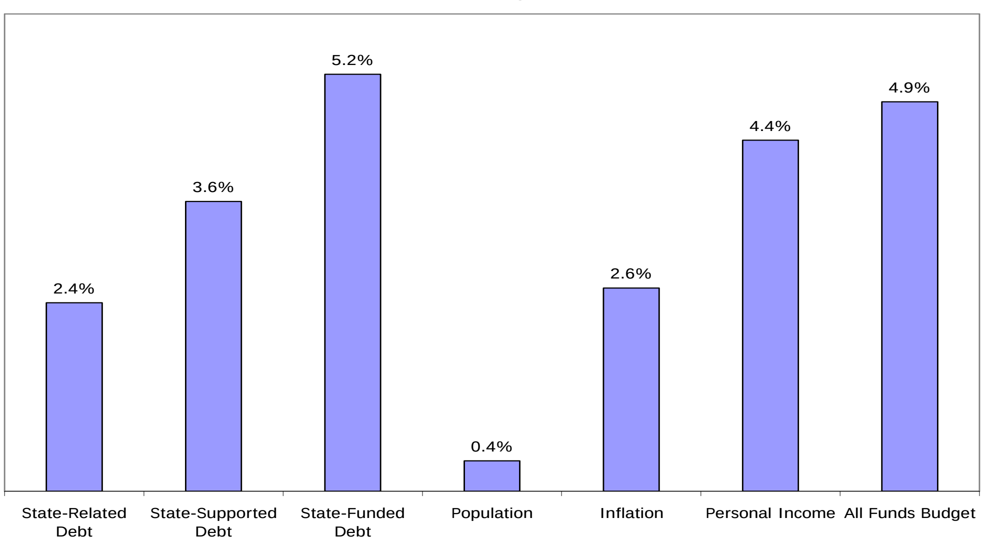
Capital Spending by Function: 2007-08 Capital Plan
(percent of total)

	Estimated 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Average 2007-08 through 2011-12
Transportation	49.0%	40.2%	44.9%	49.3%	55.0%	59.7%	49.8%
Parks and Environment	8.2%	6.1%	5.7%	5.9%	6.5%	6.9%	6.2%
Eco. Dev/Gov Oversight	5.9%	13.8%	15.2%	13.4%	9.9%	7.4%	11.9%
Health/Social Welfare	2.3%	3.5%	4.3%	3.9%	3.3%	1.6%	3.3%
Education	23.3%	25.6%	17.2%	13.6%	12.6%	10.6%	15.9%
Public Protection	4.1%	3.4%	3.6%	3.8%	4.4%	4.6%	4.0%
Mental Hygiene	4.7%	3.9%	6.0%	7.3%	6.4%	7.2%	6.2%
General Government	1.6%	1.0%	1.3%	1.3%	0.9%	0.9%	1.1%
Other	0.9%	2.4%	1.8%	1.5%	1.1%	1.1%	1.6%
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100.0%**

Debt Affordability

The different methodologies used to account for the State's debt outstanding can show very different pictures in the growth rate of State debt and, therefore, the perception of affordability. For example, between SFY 1995-96 and 2005-06, State-Funded debt outstanding has increased, on average, approximately 5.2 percent annually, twice the rate of inflation and even higher than the average annual increase in personal income.

Average Annual Growth Rate Comparison
1995-96 through 2005-06



Source: Office of the State Comptroller. Average annual growth between FYE 1996 and FYE 2006. Inflation data from Bureau of Labor Statistics. Personal Income and Population data from Global Insight.

State-Funded Debt as Percentage of Personal Income

The Debt Reform Act of 2000 limited outstanding State-Supported debt to 4 percent of personal income with caps that were phased in through 2011. The State is well within the caps statutorily established in the Debt Reform Act. However, this Office estimates, according to the Capital Program and Financing Plan, that the State will end the 2006-07 fiscal year with $51.6 billion in State-Funded debt outstanding, equaling 6.7 percent of personal income. By 2011-12 State-Funded debt outstanding as a percentage of personal income will again fall to 6.5 percent, but only after reaching 7.1 percent in 2008-09. While debt outstanding continues to grow, debt as a percentage of personal income declines primarily due to personal income growing at a faster rate than outstanding debt.

State-Funded Debt Per Capita

Over the life of the proposed plan, State-Funded debt per capita is expected to increase from $2,676 at the end of 2006-07 to $3,359 in 2011-12, representing an average annual increase of nearly 5 percent. Unlike predicted growth in personal income, the State's population is expected to grow more slowly than outstanding State-Funded debt over the next five years.

State-Funded Debt Service as a Percentage of All Funds Receipts

The *Debt Affordability Study* released by the Office of the State Comptroller in December 2006 also illustrated that the State had the highest debt service as a percentage of All Funds receipts ratio of the ten most populated states—4.4 percent as of the end of 2005-06. The Debt Reform Act of 2000 limited debt service on State-Supported debt to 4 percent of All Funds receipts as phased in over 13 years. By the close of SFY 2006-07, State-Funded debt service will be just over 4.3 percent of All Funds receipts, but will rise to 5.2 percent by the last year of the Capital Plan.

Section

6

Local Governments

In many respects, the 2007-08 Executive Budget bodes well for New York State's local governments. Property tax relief and the revival of New York's struggling upstate communities are central themes as the Executive unveils his plans to reduce property tax bills and steer much needed resources to distressed municipalities in the form of new economic development programs and targeted aid.

This year's Executive Budget offers a new revenue sharing formula, which channels more funding to distressed local governments. Aid increases range from 3 percent to 13.5 percent depending on a local government's level of fiscal stress. The Executive also preserves the Medicaid cap and voices a commitment to work toward a complete State takeover of the program in the coming years. For counties, the burden of housing State ready inmates would be reduced under new processes that will hasten the transfer of these inmates from county jail facilities to State prisons. Mandate relief measures are also proposed, including an increase in Wicks Law thresholds and implementation of procurement reforms.

While many of the proposals that impact local governments are positive developments, the Executive Budget also contains proposals that will shift costs and reduce aid to certain local governments. For example, under the new formula proposed for the Aid and Incentives for Municipalities (AIM) program, funding would be eliminated for New York City and 81 "high wealth" towns and villages. Additionally, many of the proposed Medicaid cost containment measures would negatively affect county nursing home facilities.

According to impact estimates provided by the Division of the Budget (DOB), local governments would see a net benefit of $1.5 billion as a result of 2007-08 Executive Budget actions, of which 92 percent reflects proposed school aid increases. This includes a net benefit of $668.5 million to New York City, $778 million to school districts, $30.9 million to counties, $54.7 million to cities and $4.5 million to towns and villages. In addition, Executive Budget documents continue to reflect over $1 billion in local savings resulting from the Medicaid cap and from the takeover of Family Health Plus, changes enacted in previous budgets; however, they do not reflect new savings to local governments in 2007-08.

Medicaid

Medicaid Cap

The Executive Budget fully implements the Medicaid cap first enacted in the 2005-06 State Budget. The Executive has also stated his intentions to work toward a full State takeover of the program sometime in the future. In the 2006 county fiscal year, Medicaid cost increases were capped at 3.5 percent of 2005 base year expenditures. In 2007, cost increases are capped at 3.25 percent. In 2008 and thereafter, cost increases will be capped at 3 percent, but counties will also have the option of "swapping" a percentage of their sales tax revenues (in perpetuity) in lieu of the 3 percent cap. Counties will have to decide on this sales tax intercept by September 2007. Generally, the only counties that would consider this option are those that have experienced sales tax growth below 3 percent. Early indications are that the vast majority of counties will forego the intercept option.

Fraud Initiatives

The Executive Budget proposes to strengthen the State's ability to address Medicaid fraud. Indeed, the Executive has identified reining in Medicaid fraud as a major factor in balancing the Proposed Budget without increasing taxes. As a result of these actions, the Executive Budget estimates savings of $400 million to the State in 2007-08. At this time, there are no savings assumed for counties.

Additionally, the Executive proposal preserves the enhanced local incentive to pursue civil litigation under 145-b of the Social Services Law. This section of law outlines provisions for the recovery of fraudulent amounts paid to providers.

County Nursing Homes

There is both good and bad news for counties that operate public nursing home facilities. Though DOB has not calculated the net local impact, cost containment proposals advanced by the Executive would:

- Eliminate the nursing home inflationary trend factor,

- Eliminate the Nursing Home Quality Improvement Demonstration Program,
- Phase-out the Workforce Recruitment and Retention allocations,
- Impose a Medicaid-only case mix, and
- Make permanent a 6 percent reimbursable nursing home assessment.

On a more positive note, the Executive Budget does preserve fiscal relief grants to public nursing homes. These grants will provide $5 million in 2006-07, $15 million in 2007-08, $35 million in 2008-09, and $100 million in 2009-10 and thereafter.

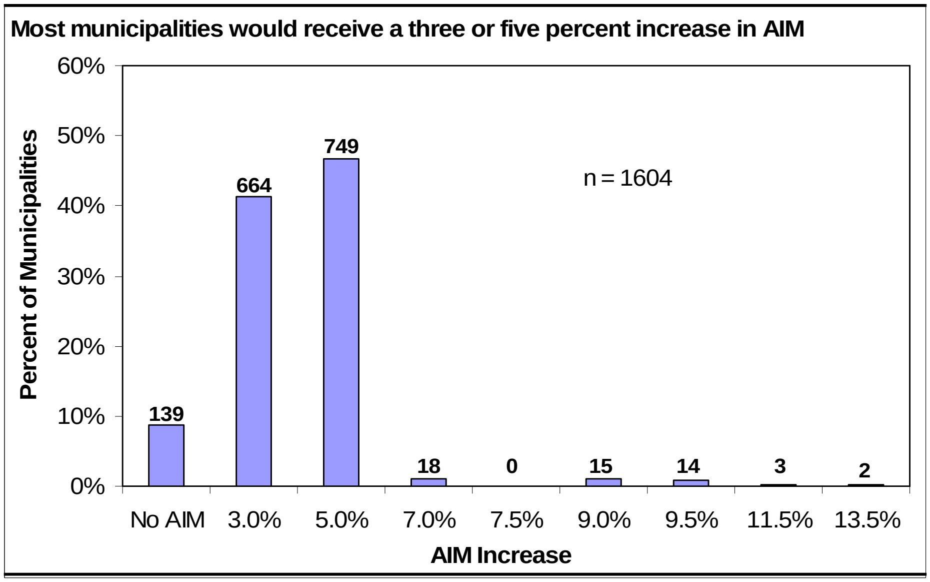
Aid and Incentives for Municipalities

The 2007-08 Executive Budget would continue the AIM program, with significant structural changes. Beginning in 2007-08, the Executive proposes AIM increases of $50 million annually over a four-year period, for a total of $200 million targeted to distressed municipalities. In aggregate, the amount allocated for AIM would decrease by $280 million, or 28.7 percent, from $977 million in 2006-07 to $697 million in 2007-08. Included in this reduction is the elimination of revenue sharing to New York City ($328 million) and elimination of AIM funding for 81 other towns and villages considered to be "high wealth" ($2.0 million).[26]

The Executive Budget would increase AIM to all cities (excluding New York City), and towns and villages not considered "high wealth." In aggregate, these cities, towns and villages would receive $49.9 million more than they received in 2006-07. Cities would receive $47.4 million (8.2 percent increase) more, towns would receive $1.7 million (3.5 percent) more, and villages would receive $830,000 (4.2 percent) more.

In the Executive's 2007-08 AIM proposal, 1,413 (88 percent) of 1,604 municipalities would receive either 3 percent or 5 percent increases over their 2006-07 allocations, 52 municipalities (3 percent) would receive increases ranging from 7 to 13.5 percent, and 139 municipalities (9 percent), including all 57 counties, New York City and 81 other towns and villages, would receive no AIM in 2007-08.

[26] These municipalities include towns and villages that rely on Aid and Incentives for Municipalities (AIM) for less than 1 percent of their revenue and exceed 250 percent of the statewide average property wealth on a per capita basis.



Fiscal Distress Aid

The Executive Budget bases AIM increases on a formula using demographic and financial criteria. Under the proposed formula, all cities (other than New York City), and towns and villages not considered "high wealth" municipalities would receive base level grants equivalent to their 2006-07 AIM distributions. In addition, all cities (other than New York City), towns with populations greater than 15,000 and villages with populations greater than 10,000 would qualify for AIM increases ranging from 5 percent to 9 percent, based on their level of fiscal distress. Fiscal distress levels are determined by the following four indicators:

- Full valuation per capita less than 50 percent of the statewide average,
- Real property tax capacity of less than 40 percent,
- Population loss greater than 10 percent since 1970, and
- Poverty rate greater than 150 percent of the statewide average.

Cities, large towns and villages meeting one or two of these fiscal distress criteria would receive 5 percent increases in aid. Those meeting three of the criteria would receive 7 percent increases, and those meeting all four of the criteria would receive 9 percent increases.

All towns and villages which do not meet any of the criteria for fiscal distress and are not considered "high wealth" would receive 3 percent annual increases. Towns with populations of less than 15,000 and villages with populations of less than 10,000, which meet at least one of the fiscal distress criteria, would be eligible for 5 percent increases in aid.

Per Capita Adjustment

Another strategy to provide additional aid to distressed municipalities comes in the form of the "per capita adjustment." If a city or large town or village has a per capita full value less than or equal to the average per capita full value of other municipalities in its class (Big Four cities, all other cities, towns with populations greater than 15,000 and villages with populations greater than 10,000) and received aid less than or equal to 75 percent of the average municipalities in its class, that municipality would be eligible for an additional 4.5 percent increase in aid on top of its 2006-07 payments. The per capita adjustment is intended to make the AIM grant distribution more equitable for municipalities within each municipal category. Twelve cities (including Rochester, which receives $3.2 million), three towns and four villages would qualify for this additional increase.

2007-08 Executive Budget AIM Allocations
(in millions of dollars)

	2006-07 AIM and Unrestricted Aid	2007-08 Eliminated Aid	2007-08 Base Level Grants	2007-08 Fiscal Distress Aid	2007-08 Per Capita Aid	2007-08 Total Aid	2007-08 Dollar Change	2007-08 Percent Change
Cities	580.56	0.00	580.56	43.17	4.23	627.96	47.40	8.2%
Towns	48.25	(1.03)	47.23	1.68	0.01	48.91	0.66	1.4%
Villages	19.86	(0.95)	18.91	0.82	0.01	19.74	(0.12)	-0.6%
New York City	327.89	(327.89)	0.00	0.00	0.00	0.00	(327.89)	-100.0%
Counties	0.00	0.00	0.00	0.00	0.00	0.00	0.00	-
Totals	**976.56**	**(329.87)**	**646.70**	**45.67**	**4.25**	**696.61**	**(279.95)**	**-28.7%**

Concerns with the Executive Proposal

One of the fiscal criteria used to determine aid increases—a municipality's taxing capacity—could inadvertently create a negative incentive for certain local governments. The proposal currently drives additional aid to municipalities that have exhausted more than 60 percent of their constitutional tax limits. This indicator tends to fluctuate from year to year, and distributing aid on this basis may create an undesirable incentive for municipalities to maintain a tax levy that results in exceeding 60 percent of their constitutional tax limits. For example, the City of Geneva exhausted 60.51 percent of its constitutional tax limit in 2005, but reduced the percent of tax limit exhausted to 58.93 percent in 2006. Under the Executive's proposal, Geneva would have qualified for an additional aid increase of $36,856 (2 percent) in 2007-08 had it continued to exceed 60 percent of its tax limit in 2006. Similarly, the

City of Johnstown would have qualified for an additional 2 percent increase in AIM had the city maintained its 64.94 percent of tax limit in 2005, rather than reducing this percentage to 58.05 in 2006.

Multi-Year Planning and Accountability Criteria

In exchange for the additional aid, the 2007-08 Executive Budget strengthens accountability standards for certain local governments. In 2006-07, cities not under a fiscal control board were required to develop and certify completion of multi-year financial plans in order to receive a large portion of their State Aid. The legislation did not require these cities to submit those plans to either DOB or the Office of the State Comptroller.

The 2007-08 Executive Budget maintains this requirement for municipalities receiving less than $100,000 in additional aid, but requires those municipalities receiving $100,000 or more in new aid to develop fiscal performance plans and to use the additional AIM funding to provide property tax relief, support essential economic development investments or fund cost-saving technology investments.

Under this proposal, 41 municipalities (all cities) would be required to submit a fiscal performance plan to the Director of the Budget and the Office of the State Comptroller within 60 days of adoption of their budget. Fiscal performance plans would be required to include:

- A multi-year financial plan, consistent with 2006-07 AIM requirements,

- A fiscal improvement plan, which would include key fiscal performance goals and action plans necessary to achieve long term fiscal stability, and

- A fiscal accountability report which would describe accomplishments toward achieving efficiency and improvements.

The Office of the State Comptroller is charged with reviewing fiscal performance plans and authorized to direct cities to make changes, if necessary. If plans are not complete, cities run the risk of having fiscal distress aid and per capita aid withheld (although they would continue to receive base level grants). Cities required to certify completion of multi-year financial plans could have their additional State Aid withheld for failure to do so.

As a long-time proponent of multi-year financial planning, the Office of the State Comptroller took advantage of the opportunity provided by the multi-year planning requirement enacted in 2006-07 to offer guidance to local governments and to review plans shared with the State. Analysis by the Office of the State Comptroller showed that cities in the State are projecting budgetary gaps averaging 5.2 percent of total revenues in 2007, growing to 9.8 percent by 2009, indicating the potential of severe fiscal stress in several cities. However, the plans shared with the State varied greatly in quality and methodology, and several were not shared at all, leading the Office of the State Comptroller to call for a process for formal submission and review of the plans.

To support the additional work required by the multi-year planning and accountability initiatives, the Office of the State Comptroller requested a 21-Day Amendment for additional resources. The Executive did not include this request in his amendments.

Shared Municipal Services Incentives

The proposed Executive Budget would continue funding for the Shared Municipal Services Incentive Program (SMSI) at 2006-2007 levels ($25 million). Eligible municipalities would continue to include counties, cities, towns, villages, school districts and fire districts. This year, eligibility has been expanded to include special improvement districts. Fire protection and fire alarm districts are no longer eligible. Local matching funds equal to 10 percent of the total approved project costs will be required for accepted grant proposals.

The program would no longer allocate specific outlays for individual awards categories, as in the previous two grant cycles, but would provide grants of up to $200,000 per municipality with priority given to initiatives that include:

- Distressed municipalities,
- Consolidations or mergers of municipalities,
- Shared services involving school districts,
- Shared highway services,
- Shared health insurance, and
- Countywide shared services programs.

A new $10 million consolidation incentive aid would be created under SMSI that provides a recurring 25 percent AIM increase, up to $1 million, to municipalities that merge or consolidate beginning in 2007-08. The Department of State would continue to be responsible for the establishment of eligibility requirements, application forms, and the review of criteria and grant approval guidelines.

Additionally, the Executive proposal includes a statewide shared health benefit plan option for municipalities. The new plan option would be available under the New York State Health Insurance Program (NYSHIP), but at a cost below the option currently offered to municipalities and with premiums that may vary by region.

Buffalo Efficiency Incentive Aid

The Executive Budget provides $12 million for an Efficiency Incentive Grant to support efforts to reduce the cost of government in the City of Buffalo. This reflects a $2 million increase for the City of Buffalo from 2006-07, but a $16 million net decrease from the overall 2006-07 Efficiency Incentive Grant of $28 million, which included $18 million for Erie County and $10 million for the City of Buffalo.

Education

STAR and School Aid

Of the $1.5 billion benefit to local governments in local fiscal years ending in 2008 the proposed school aid increases represent 92 percent of the new net benefit ($1.4 billion).[27] This does not include the net proposed benefit of approximately $1.2 billion to taxpayers in school districts under the new STAR proposal.[28]

The mechanics of these programs are discussed fully in the Education section of this report, but the stated purpose of the new school aid formula is to target aid to needy schools, while the aim of STAR is to provide tax relief to middle class taxpayers. The actual impact of the school aid and STAR proposals on school district spending and citizen property tax bills is difficult to determine. For instance, increasing direct aid to school districts may result in a reduction in required local tax burden, while enhancing STAR benefits may increase local taxpayer tolerance for increased school spending. Either way, each of the two programs represents State funding supported by State taxpayers.

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[27] The $1.4 billion increase in school aid includes $112 million in debt service paid by the State to the Dormitory Authority for bonds issued for the 2006-07 *EXpanding our Children's Education and Learning* (EXCEL) program.

[28] This includes Executive proposed changes to the STAR program not normal year-to-year growth in the existing program.

Distributional Impact

The four-year increase of $7 billion in school aid is intended to address the Campaign for Fiscal Equity (CFE) court ruling by substantially increasing aid for New York City and provides significant increases for other high-need districts, as well. Despite this infusion of significant additional State aid, the distribution of funding remains relatively unchanged. The table below illustrates this impact according to the State Education Department's (SED's) "need-resource" index, which splits districts into six groups (New York City, the "Big Four" city districts—Buffalo, Rochester, Syracuse and Yonkers—that are dependent on their respective city budgets, high-need urban/suburban districts, high-need rural districts, average-need districts and low-need districts). After the four-year phase-in of the new foundation aid formula, high-need districts will receive not only more funding, but a larger share of total State aid. The new middle class STAR initiative is intended to shield middle class taxpayers in wealthier districts from the full impact of any required increases in local tax rates to maintain services during and after this shift.

These goals may have the effect of canceling each other out, at least in the first year, because taxpayers in high-need districts receive disproportionately fewer STAR benefits than those in wealthier districts. However, the distribution *within* districts would be affected as middle class homeowners will benefit more than renters, high-income homeowners or other taxpayers. Although New York City will get a substantial increase in funding, it will continue to receive just slightly less aid per pupil than average in combined school aid and STAR. The Big Four districts benefit most relative to others, with per pupil aid and STAR increasing from 1.58 times the statewide average to 1.65 times the statewide average.

State Education Expenditures
2006-07 and 2007-08
Per Pupil

	School Aid		STAR		State Aid plus STAR		Change, 2006-07 to 2007-08		
Dollars	**2006-07**	**2007-08**	**2006-07**	**2007-08**	**2006-07**	**2007-08**	**Aid**	**STAR**	**Both**
New York City	6,657	7,398	1,124	1,402	7,781	8,800	741	277	1,019
Big Four	10,496	11,809	970	1,201	11,465	13,010	1,313	231	1,544
High-Need Urban/Suburban	8,259	9,048	1,583	1,924	9,841	10,973	790	342	1,132
High-Need Rural	10,024	10,857	1,422	1,721	11,446	12,578	833	299	1,132
Average-Need	6,431	6,874	1,809	2,189	8,241	9,063	443	379	822
Low-Need	2,522	2,618	2,096	2,486	4,618	5,104	96	390	486
State	**6,648**	**7,142**	**1,754**	**2,114**	**8,402**	**9,256**	**494**	**359**	**854**
Index									
New York City	1.00	1.04	0.64	0.66	0.93	0.95			
Big Four	1.58	1.65	0.55	0.57	1.36	1.41			
High-Need Urban/Suburban	1.24	1.27	0.90	0.91	1.17	1.19			
High-Need Rural	1.51	1.52	0.81	0.81	1.36	1.36			
Average-Need	0.97	0.96	1.03	1.04	0.98	0.98			
Low-Need	0.38	0.37	1.19	1.18	0.55	0.55			

The full impact of school aid and STAR increases may vary since both programs would be phased in over time. During that period, the largest school aid increases in each year go to high-need districts, although all districts are getting at least 3 percent per year in each of the four years of the phase-in. STAR, on the other hand, which would have a larger impact on average-need districts, will phase in over three years.

Expected Contribution

The Executive Budget school aid proposal includes an optional "expected local contribution" based upon a formula that takes into account the amount necessary to fund an adequate education and a district's ability to pay. The administration argues that this need not be a mandated local contribution. If a district can provide a high-quality education for less money, it should be allowed to do so, and if it cannot, it will fall under the new accountability measures for failing schools. CFE argued, however, that failing schools should be required to meet a minimum local contribution, regardless of taxpayer preference in such districts.

The Executive Budget does call for maintenance of effort by the Big Four cities with dependent school districts to ensure that State money does not supplant local contributions. However, this requirement raises issues of equity—maintaining the status quo advantages of those cities that have historically under-funded schools and disadvantages of cities that have provided sufficient funding to their school districts relative to their ability to pay. A maintenance-of-effort requirement that does not build in an automatic inflator also becomes progressively less relevant over time as inflation causes school district costs to rise while city contributions may remain flat.

Dependent School District Board Representation

The Executive Budget proposes ensuring that the mayors of Buffalo, Rochester and Syracuse are represented on their local school boards. Although similar proposals have been rejected in the past, there has been a recent shift toward aligning political and fiscal responsibility for dependent school districts, which in the past have depended on their respective city budgets for funding but on separately-elected boards for policy setting. The mayor of Yonkers appoints members of the school board and since 2002, New York City has run its schools directly as a City department.

Accountability

In the wake of discoveries of fraud and mismanagement in Roslyn and other school districts on Long Island, two school fiscal accountability bills were enacted in 2005 (Chapter 263 and Chapter 267), which included provisions requiring training for school board members and required the Office of the State Comptroller to audit all 832 school districts, charter schools and BOCES within five years "within such funds as are made available for such purpose." To meet this new responsibility, the Office of the State Comptroller has issued 144 school audits to date and another 193 audits are currently underway.

To support the work on the schools accountability initiative, the Office of the State Comptroller requested a 21-Day Amendment for additional resources in 2007-08. This additional funding would ensure that the required audits are completed by the statutory deadline of March 2010. The Executive did not include this request in his amendments.

Video Lottery Terminal Aid

The 2007-08 Executive Budget would amend a State aid program created in 2006-07 for certain municipalities with video gaming facilities. Eligible municipalities would receive $33.5 million in Video Lottery Terminal (VLT) Aid in 2007-08 and $21.7 million in 2008-09.

2007-08 VLT Aid

In the 2007-08 fiscal year, cities with VLT machines having populations greater than 125,000 but less than one million, would qualify for aid equal to 3.5 percent of estimated net VLT machine revenues, up to $20 million. The use of this aid would be restricted to the support of city public schools. Under this proposal, Yonkers is the only city that would qualify for VLT Aid.

All other municipalities containing VLTs, other than New York City, would also benefit from the Executive Proposal. In 2007-08, 3.5 percent of estimated net VLT machine revenues would be distributed to any county, city, town or village with a population less than 125,000 containing VLTs. Of this amount, 25 percent would be paid to the county and 75 percent would be paid proportionally, based on population, to the cities, towns and villages which contain VLTs. Aid could not exceed 25 percent of an eligible municipality's total expenditures and must be used to defray local costs attributed to the operation of the VLT facility or to reduce property taxes.

2008-09 VLT Aid

Eligibility requirements would change in 2008-09. In addition to the population requirements, municipalities containing VLTs must also have a poverty rate at least 50 percent higher than the statewide average in order to receive VLT Aid. Yonkers would qualify for $20 million, but all other municipalities, with the exception of those in Sullivan County ($1.7 million), currently have poverty rates below the eligibility limit. Under the Executive proposal, six counties, two cities, and five towns would lose all VLT revenue.

Revenue Initiatives

The Executive Budget advances certain sales tax enforcement actions which will reportedly generate $36 million in additional revenues for counties and $344 million for New York City. These actions relate specifically to internet hotel bookings. Under the plan, travel companies would be required to collect tax on the full cost of hotel rooms, including all service fees.

The Executive Budget also reflects a net benefit of $29 million to counties for the collection of sales tax on tribal and Native American goods and services sold to non-tribal members. Sales tax receipts will increase only in those counties that contain Native American Reservations within their borders.

Under the Executive proposal, New York City would see a negative impact of $30 million that stems from an increase in the amount the State charges the City for administering its personal income tax.

Social Services

The 2007-08 Executive Budget sets forth specific purposes for which Temporary Assistance for Needy Families (TANF) funds may be used, conditions a substantial amount of support to localities for welfare initiatives on their ability to meet certain performance targets and immediately increases the amount localities are charged for certain youth facility placements.

While the Proposed Budget includes a $9.2 million increase in TANF allocations to localities for 2007-08, it assumes that counties will be able to meet more aggressive federal work requirements for public assistance recipients.

The Executive Budget makes permanent particular 2002 provisions of child welfare reform, such as the provision that provides 65 percent State reimbursement for community-based services that prevent the placement of children in foster care or juvenile detention. However, an Article VII provision requires local governments to develop performance-based contracts per regulations to be developed by the Office of Children and Family Services, which are designed to reduce the number and length of foster care placements beginning January 1, 2008 to achieve estimated savings of $10 million in SFY 2007-08.

Another 2002 child welfare reform provision made permanent by the Executive is one that holds school districts responsible for 20 percent of the cost of the residential placement of their special education students.

The Executive Budget also seeks to retroactively increase the rates for fiscal years going back to 2001 that are charged to localities for certain youth facility placements. Such action, estimated by the Executive to generate $27.6 million in State savings during the 2007-08 local fiscal year by shifting this cost to counties, could pose a considerable hardship to counties with a fiscal year that ends on December 31 since they already have their 2007 budgets in place. It is estimated that the retroactive payments will have a local impact of $96 million. According to the New York State Association of Counties, to ease this financial burden, the Executive has discussed allowing counties to pay this amount over a five-year period.

Transportation

Consolidated Highway Improvement Program

The Consolidated Highway Improvement Program (CHIPs) assists localities in financing the construction, reconstruction and improvement of local highways, bridges and/or highway-railroad crossings. Approximately 21 percent of CHIPs aid is distributed to counties and New York City based on motor vehicle registrations; another 21 percent goes to the same entities based on highway mileage. The remainder is distributed to counties, cities, towns and villages based on local highway mileage and vehicle travel. The Executive Budget includes $296.5 million in CHIPs funding, a decrease of $13 million, or 4.4 percent, from 2006-07.

Municipal Streets and Highways Program

The Municipal Streets and Highways Program (Marchiselli) is the State component of a federal, State and local partnership administering transportation improvements on the local highway system. Financed primarily by federal funds, Marchiselli aid requires that State and local governments share in the cost of approved projects. The Executive Budget does not propose an increase in Marchiselli aid. The funding for the program has remained static at $39.7 million since 2001-02 and is projected in the Executive's proposed Financial Plan to remain at this level through 2009-10.

Local Transit Aid

The Executive Budget proposes increases in operating assistance and one-time funding for local transit systems, particularly for downstate localities. The Budget calls for a $298.8 million operating assistance increase over 2006-07 enacted levels, divided between the MTA ($269.2) and all other local transit systems ($29.6 million). The $29.6 million in non-MTA funding includes: $12 million for other local transit systems statewide, $10.9 million for Nassau, Suffolk and Westchester Counties, $5 million for the New York City Department of Transportation and $1.7 million for Staten Island Ferry operations. The Executive Budget also calls for $11.7 million in one-time funding for Roosevelt Island Tram service in New York City.

Criminal Justice

The 2007-08 Executive Budget changes the basis on which local governments receive certain kinds of criminal justice funding. In particular, funds appropriated to the Division of Criminal Justice Services (DCJS) for prosecutorial and defense services will be distributed to counties at the same level received in 2006-07, with any additional funding to be distributed according to the proportion of violent crime reported for 2005. Funding for participants in the Crimes Against Revenue Program will be distributed proportionally according to a formula to be developed by DCJS that is based upon population and personal income tax revenue. Finally, funds appropriated to the Division of Probation and Correctional Alternatives for the intensive supervision of sex offenders will be distributed proportionally based upon the number of registered sex offenders under supervision.

The 2007-08 Executive Budget includes Article VII language that would allow counties to enter into an agreement with the Department of Correctional Services (DOCS) to have DOCS incarcerate parole violators if the county where the arrest is made has the facilities required to conduct a parole revocation hearing via video teleconference. The Executive estimates that this measure will result in a $12 million reduction in State payments to counties for the housing of parole violators.

Justice Courts

Town and village justices in New York State hear civil and criminal cases, and adjudicate misdemeanors, minor violations and traffic violations. Justices can impose and collect fines, surcharges, bail and civil fees. Notably, justice courts are the only trial courts in the State still funded by localities and the only courts for which a significant responsibility for auditing and financial oversight falls to localities rather than the State.

Numerous Office of the State Comptroller audits from 2003 onward have found pervasive operational problems and substantial sums missing in about one-third of the town and village justice courts audited. Accordingly, in May 2006, the Office of the State Comptroller released a report urging the Office of Court Administration (OCA) and the State Legislature to reform the local justice court system. In this report, the Office of the State Comptroller recommended the consideration of several measures, such as additional training for court staff. In November 2006, OCA released a comprehensive plan to improve justice court operations entitled "Action Plan for Justice Courts."

OCA's reform plan is wide-ranging and is expected to make comprehensive changes related to the operation, auditing, training, and security of justice courts and their staff. To support OCA's comprehensive reform plan, the 2007-2008 Executive Budget includes a total of $10 million in support for justice court improvement programs via a $5 million General Fund State Operations appropriation and a $5 million Local Assistance appropriation.

Early Intervention

The New York State Early Intervention Program (EIP) is part of the national Early Intervention Program for infants and toddlers with disabilities and their families. The EIP is administered by the New York State Department of Health through the Bureau of Early Intervention.

Counties and New York City are expected to achieve $2.3 million in savings with changes to EIP that would make private insurance companies more responsible for accepting claims from EIP participants. Historically, insurers have only accepted a small percentage of claims, which have increased costs to localities. The savings are not expected to be realized until SFY 2008-09. Overall, it is expected to yield $2.3 million statewide—$800,000 for New York City and $1.5 million for counties.

Indigent Legal Services

The Indigent Legal Services Fund (ILSF) was established in 2003 to support indigent legal defense services. The first $25 million of the Fund's revenues are used to reimburse the State for its assigned counsel costs and the 2007-08 Executive Budget includes a $25 million appropriation to the Judiciary's Law Guardian program for this purpose. The Office of the State Comptroller is required to distribute any remaining ILSF monies to counties according to their proportional share of the total local funds expended statewide on all indigent legal services programs, as indicated by data that counties submit to the Office of the State Comptroller. The 2007-08 Executive Budget includes an appropriation of $80 million for the ILSF. Based on the ILSF balance on December 31, 2006, $67.8 million will be available for distribution to local governments on March 31, 2007.

Economic Development

Although most of the State's economic development funding has an indirect local impact in that it may help expand the property tax base and increase sales tax collections, the only direct impact noted in the Executive Budget is to the local boards that run Empire Zones (EZs). The 2007-08 Executive Budget recommends eliminating EZ administration aid, a move that could cost counties and other EZ boards between $30,000 and $50,000 each, for a total of $2.2 million. Compared with the program's preliminary estimated cost in personal income, and sales and property tax expenditures of $486 million in 2007, the direct aid portion is very small. Previous Executive Budgets have proposed cutting this aid as well, but the Legislature historically restored this funding in the Enacted Budget.

Mandate Relief

Wicks Law

The Executive Budget calls for reform of the Wicks Law, which requires New York State and its local governments to award multiple construction contracts for plumbing, electrical work and heating, ventilation and air conditioning on all public building construction projects costing more than $50,000. Local officials have often complained that the law inflates the cost of building projects by as much as 30 percent, and previous Executive Budgets have proposed its total repeal, a move that has never been implemented by the Legislature.

The 2007-08 Executive Budget proposes increasing the Wicks threshold to $1 million ($2 million in New York City). The Budget does not estimate the impact of this change on local governments' costs, but the New York State Association of Counties (NYSAC) claims that a recent survey shows that this may be minimal, as the average cost of public building construction projects in upstate regions is more than $2 million. The proposal includes a plan for this new threshold to be annually adjusted based on an inflator. Although this reduces the risk that the threshold will become more restrictive over time, the Producer Price Index for Non-residential Buildings is fairly volatile, opening up a potential risk of decreasing thresholds in some years.

Tort and Litigation Reform

The 2007-08 Executive Budget includes two initiatives that address tort/litigation reform. The first would direct the courts to offset personal injury awards with payments from workers' compensation or other "collateral sources." The second would put reasonable limits on the interest municipalities are required to pay on judgments.

Procurement Reform

The Executive Budget proposes changes to competitive bidding thresholds for local governments, including some elements previously proposed by the Office of the State Comptroller.

The Budget proposes to increase the threshold at which local governments must issue competitive bids from $20,000 to $50,000 for public works construction and from $10,000 to $20,000 for purchase contracts. It would also allow local governments to award contracts based on the concept of "best value," rather than exclusively the "lowest responsible bidder," allowing the purchase of higher quality products if they will provide the best value over time. Local governments would also be allowed to purchase information technology and telecommunications goods and services from federal contracts.

Section

7

New York City Budget Impact

The Executive has proposed increasing State education aid to New York City by $637 million in City Fiscal Year (CFY) 2008, but he has also proposed actions that would adversely affect other parts of the City's budget by $691 million over the course of this year and next ($349 million in remaining 2006-07 and $342 million in 2007-08), with most of the negative impact coming from the elimination of revenue sharing payments to New York City. To help the State balance its own budget and to mitigate the adverse impact on the City's budget, the Executive has proposed closing certain corporate tax loopholes, which the State expects would generate about $374 million annually for the City beginning next year. If all of the Executive's proposals are approved by the State Legislature, the City would realize a large increase in education aid next year but a net loss of $317 million over the course of the current year and next in other parts of its budget (see table below).[29]

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

Better/(Worse)

	CFY 2007	CFY 2008	CFY 2009	CFY 2010	CFY 2011
Education Aid	---	637	1,400	2,264	3,170
Impact on Other Parts of the City Budget					
Eliminate Revenue Sharing	(328)	(328)	(328)	(328)	(328)
Other Budget Proposals	(21)	(14)	(22)	(21)	(21)
Close Tax Loopholes	---	374	379	379	379
Total without Education Aid	**(349)**	**32**	**29**	**30**	**30**

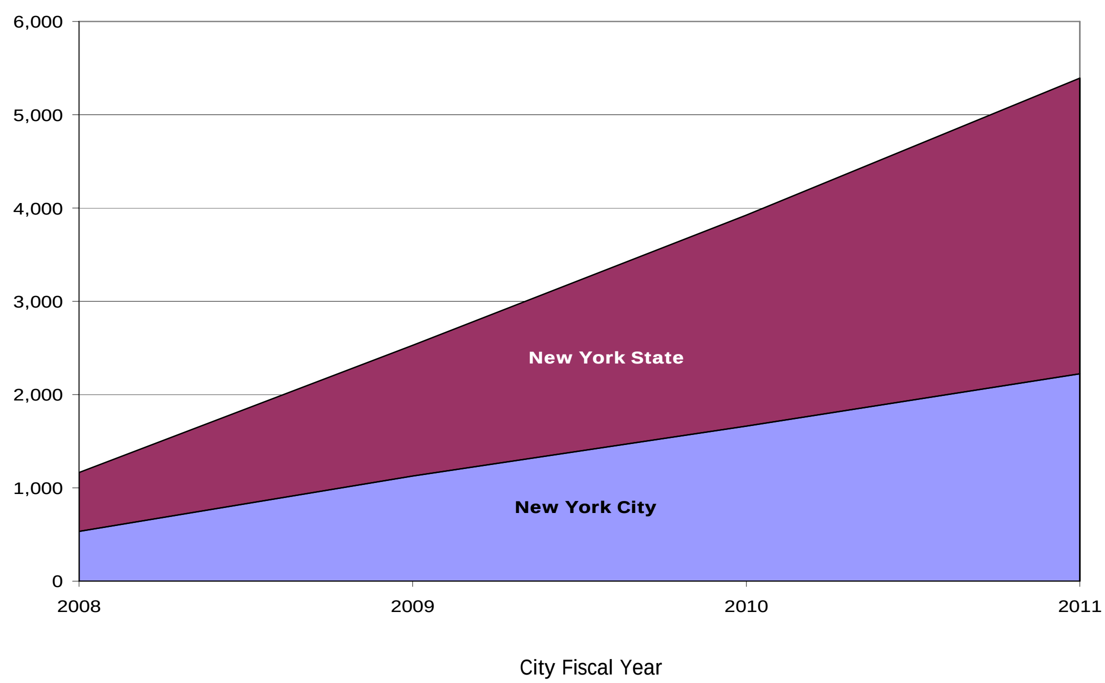
Source: New York State Division of the Budget

[29] The State Budget anticipates $428 million from the City for the State's role in certain transactions that benefit the City. The State and City are moving towards a resolution that would avoid an adverse impact on the City.

In subsequent years, the benefit of the Executive's proposals would grow from $1.4 billion in CFY 2009 to $3.2 billion in CFY 2011 because of planned increases in State education aid. New York City will continue to benefit from State initiatives implemented in prior years, but the recurring impact of these initiatives was previously reflected in the City's four-year financial plan. These initiatives include the State cap that limits the annual growth in the local share of Medicaid to 3 percent and the State takeover of the local share of the Family Health Plus program, which together will benefit the City by $706 million in CFY 2008.

Education Aid – The Executive would increase education aid statewide by $7 billion over the next four years and would allocate $3.2 billion of that amount to New York City. If the Executive's recommendation is adopted by the State Legislature, the City's share of statewide education aid would increase only slightly from 38 percent to nearly 40 percent. When combined with the Mayor's commitment to increase education aid, however, funding to the City's public schools would rise by $5.4 billion over the next four years (see graph below), more than twice the minimum ordered by the State Court of Appeals when it resolved the Campaign for Fiscal Equity (CFE) lawsuit.

Proposed Increases in Education Funding
To New York City Public Schools
(in millions of dollars)



Sources: New York State Division of the Budget and New York City Office of Management and Budget

The Executive Budget shows an increase in education aid to the City of $637 million in CFY 2008. This estimate, however, credits the State for funding the debt service on the first debt issuance of $750 million in bonds issued by the Dormitory Authority of the State of New York for capital projects in the City, as part of the resolution of the CFE litigation. Thus, the net benefit to the Department of Education's operating budget equals $543 million. This still represents an increase of 8 percent over the 2006-07 appropriation and is substantially larger than the 2005-06 increment of $454 million in last year's adopted budget, which was considered large.

Revenue Sharing – The Executive would eliminate revenue sharing payments to the City under the Aid and Incentives for Municipalities (AIM) program and would redistribute the funds to localities in distress. In past years when the City had its own financial difficulties, the State advanced payments to the City, which allowed the City to recognize two payments in one fiscal year. If the Executive's proposal was enacted, the City would lose $328 million annually beginning in CFY 2007.

Tax Loopholes – The Executive would close certain corporate tax loopholes, which would generate $374 million for the City and another $450 million for the State, mostly from businesses operating in New York City. It remains to be seen whether revenues will materialize in the amounts forecasted by the State and whether any economic impact is passed along to consumers.

Other Budget Proposals – The Executive would increase the amount the State charges the City to administer the personal income tax by $30 million, for a total of $70 million, annually. In addition, the Executive has proposed tort reform and an exemption from the Wicks Law for City projects up to $2 million in New York City. The City believes the benefit from a change in the Wicks Law would be minimal because most construction projects in the City would exceed the threshold.

The Executive Budget also anticipates $950 million over three years from the conversion of the nonprofit health insurer HIP/GHI to a private, for-profit company. The Mayor has expressed his reservations about such a conversion, which could lead to less competition and even faster growth in health insurance costs. Regardless, the Mayor believes that the proceeds could be higher and should be shared proportionally with the City.

The Executive's Tax Reduction Program – The Executive would expand the existing School Tax Relief Program (STAR) by $2.5 billion over the next three years (to $6 billion).[30] The new relief would be based on income, with the largest increases

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[30] A portion of the funding would come from eliminating last year's property tax rebate that was valued at $675 million.

going to home owners with incomes at or below $60,000 ($80,000 in the downstate metropolitan area). New York City residents would receive only 14 percent of the benefit from this program.

In CFY 2008, for those New York City homeowners with incomes of less than $80,000, married couples would benefit by an additional $240 and individuals would benefit by another $205, which would bring the total benefit to $682 for married couples and $532 for individuals. For those living in rental housing, married couples would benefit by an additional $70 and individuals would benefit by an additional $35, bringing the total benefit to $300 for married couples and $150 for individuals.

Section

8

Public Authorities

There are over 740 public authorities in New York State, operating at both the State and local levels. While several authorities receive operating and/or capital appropriations in the State Budget, the budgets of public authorities are not presented for legislative review and adoption. Although created in statute, public authorities operate as separate corporations governed by appointed boards of directors, and each authority adopts its own budget. Information regarding State budgetary action involving certain public authorities is contained throughout this report within specific program areas.

The 2007-08 Executive Budget again recommends an appropriation of $1.5 million to fund the establishment of the Authority Budget Office within the Division of the Budget (DOB). A $1.5 million appropriation was recommended to fund the establishment of the Office within DOB in the 2006-07 Executive Budget, but was rejected by the Legislature due to conflicting interpretations of where the Office should be located in accordance with the Public Authorities Accountability Act of 2005.

The Executive proposes the creation of a new public benefit corporation, the New York State Stem Cell and Innovation Fund Corporation, which would be authorized to make economic development investments in stem cell biology and other emerging technologies by providing grants and loans to support research.

The Executive proposes requiring regional transportation authorities to prepare five-year projected operating and capital budgets. The Comptroller's Regulation 2 NYCRR Part 203, "Budget and Financial Plan Format, Supporting Documentation and Monitoring – Public Authorities," adopted in March 2006, was the first comprehensive effort to require these authorities to prepare four-year financial plans.

Article VII legislation authorizes a $913,000 transfer from the New York State Energy Research and Development Authority for General Fund relief in 2007-08. Additionally, bonding authorizations for a number of programs supported through public authority debt will be increased by 7 percent, or $1.8 billion.

Oversight of Public Authorities

Authority Budget Office

The Executive again recommends an appropriation of $1.5 million from the Miscellaneous Special Revenue Fund Authority Budget Office Account to fund the establishment of the Authority Budget Office (ABO). Just as in the 2006-07 Executive Budget, this appropriation is housed within DOB. Specifically, the Executive appropriates $800,000 for personal service and $700,000 for non-personal service expenditures. This appropriation is to fund services and expenses related to the operations, maintenance and responsibilities of the Office, including allowing the ABO to continue working with the Office of the State Comptroller on the development, implementation and maintenance of a public authority consolidated information and reporting system, which is scheduled to become operational this year. Ten full-time equivalent positions (FTEs) are recommended to be assigned to the ABO.

A $1.5 million appropriation was recommended to fund the establishment of the ABO in the 2006-07 Executive Budget, but was rejected by the Legislature due to conflicting interpretations of where the Office should be located in accordance with the Public Authorities Accountability Act of 2005. The Act states that the ABO shall be "established by the Governor," but does not include language designating where it should be structured. While the Executive asserted that placing the Office within DOB would allow the new entity to leverage existing DOB resources, it created a dynamic where the ABO lacks independence, a characteristic emphasized in the Comptroller's and Legislative reform agendas as a necessity.

Commission on Public Authority Reform

In 2006-07, $150,000 was appropriated to support the Commission on Public Authority Reform. The Commission completed its work and issued its final report in May 2006; thus, no additional funds are recommended this year.

Creation of Public Authorities

New York State Stem Cell and Innovation Fund Corporation

The Executive proposes the creation of a new public benefit corporation, the New York State Stem Cell and Innovation Fund Corporation, which would be authorized to make economic development investments in stem cell biology and other emerging technologies by providing grants and loans to support research. Article VII legislation provides for the appointment of a 15-member board of directors. Thirteen members will be appointed by the Governor (seven without nomination from any other party); the Chairman of the Urban Development Corporation and the Commissioner of Economic Development will serve as ex-officio members. The Governor will appoint the chairperson of the board. Policy advice and programmatic recommendations to the board will be made by the Stem Cell and Life Science Advisory Council and the Emerging Technologies Advisory Council, both of which will be created by the Corporation and whose members cannot serve as members of the Corporation's board.

The Executive recommends an appropriation of $100 million to the Corporation from the General Fund—$34 million in aid to localities funding to support the Corporation's non-capital research and development initiatives and administrative expenses, and $66 million for capital investments. No more than 10 percent of the aggregate dollar value of any State authorizations are to be used for any single investment, grant or loan award.

Beginning in 2008-09, subject to voter approval of a General Obligation Bond Act in November 2008, $1.5 billion will be provided to the Corporation over ten years to support the State's continued investments in stem cell, life sciences and other emerging industries. If the Bond Act passes, the Corporation will be responsible for administering the $1.5 billion. Although no bond act language has been proposed yet, it appears that the intent is that all (or virtually all) of the State's General Obligation bond proceeds may be paid to the Corporation for economic development investments in stem cell biology and other related emerging technologies. As noted earlier in this report, paying State bond proceeds to a public corporation obscures transparency and accountability for State resources in that such payments may not all be subject to the State's contracting and expenditure review processes, and there is greater uncertainty regarding the status of funding commitments to recipient organizations. Additionally, $500 million will be appropriated from the General Fund over ten years to support non-capital research and development investments.

Privatizing SUNY Hospitals

Unlike previous years, the Executive did not propose a restructuring of three SUNY Health Science Centers—Brooklyn, Stony Brook and Syracuse—into one or more private not-for-profit corporations, moving them off-budget. Instead, the Executive refers to recommendations made by the Berger Commission on Health Care Facilities in the 21st Century, which proposes studying the feasibility of privatizing these hospitals. According to the Executive, SUNY will work with the Department of Health to move forward with the Commission's recommendation for its teaching hospitals over the coming months. To move these expenses off-budget would limit the public accountability to which these entities are currently held.

Transportation Authority Reporting

The Executive proposes requiring the Commissioner of Transportation to convene a panel of transit experts to develop transit performance measures, and expand transit system financial reporting to include historical financial information and five-year projected operating and capital budgets.[31] This action follows the Comptroller's Regulation 2 NYCRR Part 203, "Budget and Financial Plan Format, Supporting Documentation and Monitoring – Public Authorities," which was adopted in March 2006 and was the first comprehensive effort to require regional transportation authorities in New York State to develop and report four-year financial plans to the Comptroller's Office.

General Fund Relief

While a limited number of public authorities receive appropriations in the State Budget, the budget process allows for the sweep of funds from these entities to provide General Fund relief.

Unlike previous years, the Executive did not propose an extension of the Power for Jobs (PFJ) program. If no further action is taken, the PFJ program will sunset on June 30, 2007. To both support the PFJ program and reimburse the State for costs associated with the gross receipts tax credit offered to utilities, the 2005-06 and 2006-07 Enacted Budgets authorized the New York Power Authority (NYPA) to contribute a

[31] For more information on this Executive Budget Proposal, see the Transportation section of this report.

total of $175 million to the General Fund.[32] This amount has not yet been paid from NYPA. According to DOB, the State is still expecting the $175 million and has rolled the amount forward in the 2007-08 Financial Plan. If, by the end of December 2007, NYPA's voluntary contribution is waived or General Fund monies are used to pay for the program, NYPA must submit its books and accounts to the Comptroller for review and audit.

Article VII legislation authorizes a $913,000 transfer from the New York State Energy Research and Development Authority (NYSERDA) to the General Fund to offset the State's debt service requirements relating to the West Valley Demonstration Project, and a $330,000 transfer from NYSERDA to the Environmental Conservation Special Revenue Low-Level Radioactive Waste Account. The $330,000 transfer would be made from money rebated to NYSERDA from the federal government.

Bonding Limits

As public authorities reach their limit on the bonds that can be issued for a specific capital program, legislation is needed to statutorily increase the cap. The Executive Budget annually proposes increases in these authorizations in order to finance capital programs. Bond caps can provide authorizations to finance a single year's State appropriation, or can be for multi-year periods. The 2007-08 Executive proposals represent a 4 percent—or $991 million—increase in current bonding limits for the existing programs listed in the chart at the end of this section. Additionally, the Executive proposes $789 million in bonding for new programs.

The largest increase proposed for a single bonding program is $600 million to be issued by the Empire State Development Corporation (ESDC) for new high technology and economic development projects—$300 million for the development of an international computer chip research and development center and $300 million for the new Investment and Job Creation Program (Program).[33]

Article VII legislation creating the Investment and Job Creation Program also calls for the creation of a Capital Approval Board to consider and review each project receiving material financial assistance from the Program. Unanimous approval of the voting

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[32] The Power for Jobs program allows the New York Power Authority (NYPA) to provide low-cost power to participating businesses with the goal of creating or maintaining jobs in New York State. Utility companies deliver this discounted power to program participants. To offset the costs of providing cheaper power, utility companies tally up the discounts they provide each year and subtract the amount from their taxes owed to the State (gross receipts tax credit). NYPA then reimburses the State for the reduced tax revenue.

[33] The statutory name for the Empire State Development Corporation (ESDC) is the Urban Development Corporation. For more information on Executive Budget proposals for the ESDC, see the Economic Development section of this report.

members of the Board will be required before ESDC can provide assistance to the project. The Board will consist of three voting members appointed by the Director of the Budget, the temporary president of the Senate and the speaker of the Assembly. Two non-voting members will be appointed by the minority leader of the Senate and the minority leader of the Assembly. Capital projects to be funded by ESDC currently go through the Public Authorities Control Board (PACB) for approval. Bypassing PACB approval of Investment and Job Creation Program projects circumvents the Comptroller's ability to review and comment on such projects.

2007-08 Change in Public Authority Bond Authorizations*
(in millions of dollars)

Issuer	Program	Current Cap	2007-08 Proposed	Dollar Change from Current Cap	Percent Change from Current Cap
DASNY	CUNY Senior and Community Colleges	5,632	5,786	154	3%
DASNY	SUNY Senior Colleges	7,073	7,311	238	3%
DASNY	Library Facilities	14	28	14	100%
DASNY	Cultural Education Storage Facility	-	60	-	-
DASNY	Courthouse Improvements and Training Facilities	-	78	-	-
ESDC	Correctional Facilities	5,000	5,300	300	6%
ESDC	State Office Building Improvements	62	82	20	32%
ESDC	High Technology and Other Economic Development Projects	-	600	-	-
ESDC	Roosevelt Island Operating Corporation Tramway, Governor's Island, Harriman Research and Technology Park, and USA Niagara	-	51	-	-
EFC	Environmental Infrastructure Projects	457	493	36	8%
EFC	Water Pollution Control	511	541	30	6%
HFA	Various Housing Programs	1,891	2,001	110	6%
Thruway	Local Transportation Facilities Program (CHIPS)	5,710	5,730	20	0%
Authorized Issuer**	State Police Facilities	52	102	50	96%
Authorized Issuer**	Agency Equipment Needs	273	293	20	7%
	TOTAL BOND AUTHORIZATIONS	**26,675**	**28,455**	**1,780**	**7%**

Source: New York State Division of the Budget
* Only includes public authority bond authorizations modified in the 2007-08 Executive Budget.
** Including ESDC, DASNY, Thruway, EFC or HFA.

Summary Statistics

This year's Executive Budget presentation describes and provides summary statistics for 32 public authorities:

- The 2007-08 Executive Budget proposes $4.1 billion in new appropriations to 10 of the 32 public authorities, down from $5.5 billion in 2006-07. Three authorities—the Metropolitan Transportation Authority (MTA), ESDC and Local Government Assistance Corporation (LGAC)—account for more than 95 percent of the appropriations.

  - o MTA ($2.8 billion) – $2.4 billion in new operating aid and $352 million in capital appropriations from the Rebuild and Renew New York Transportation Bond Act of 2005.[34]

  - o ESDC ($725.4 million) – $74.9 million in support of economic development initiatives and $650.5 million in bonded capital appropriations, including $300 million for the development of an international computer chip research and development center, $300 million for the newly proposed Investment and Job Creation program, and $50.5 million to support capital improvement projects at Governor's Island, Roosevelt Island and other locations.[35]

  - o LGAC – $388 million to pay debt service on LGAC outstanding bonds.

- Estimated revenues for the 32 authorities' 2007-08 fiscal years total $30.6 billion, an increase of $1.3 billion (4.3 percent) over 2006-07, while operating expenses are estimated at $18.1 billion, an increase of $828.4 million (4.8 percent). Debt service requirements are estimated at $10.3 billion in 2007-08, an increase of $1.1 billion (11.9 percent) over 2006-07.

- As of September 30, 2006, 28 of the 32 authorities had outstanding notes and bonds totaling $128.7 billion.

- For the 2007-08 fiscal year, 14 of the 32 authorities plan sales of new bonds totaling $14.3 billion. Thirteen of these authorities also issued debt totaling $13.2 billion in 2006-07.[36]

In addition to the 32 entities included in the Executive Budget public authority summary statistics, information can be found throughout the Budget on other public authorities, including the New York State Stem Cell and Innovation Fund, Foundation for Science, Technology & Innovation, Empire State Plaza Performing Arts Center Corporation, New York State Theatre Institute Corporation, Hudson River Park Trust, Olympic Regional Development Authority and State University Construction Fund. New appropriations totaling $183.9 million are designated for these seven entities in the 2007-08 fiscal year.

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[34] For more information on Executive Budget proposals for the Metropolitan Transportation Authority, see the Transportation section of this report.

[35] For more information on Executive Budget proposals for the Empire State Development Corporation, see the Economic Development section of this report.

[36] Since public authority fiscal years differ from the State fiscal year, the 2007-08 total is for authority fiscal years which include September 30, 2007; the 2006-07 total is for authority fiscal years which include September 30, 2006.

Section

9

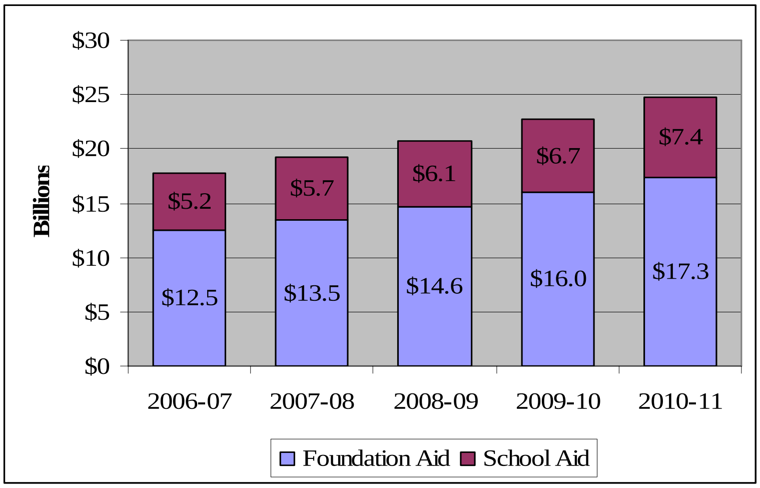
Education

On a school year basis, the Executive's proposed increase of $1.4 billion would raise overall school aid by nearly 8 percent from $17.7 billion in 2006-07 to over $19.1 billion 2007-08. On a SFY basis, State support would total $18.7 billion, an increase of nearly $1.3 billion, or 7.3 percent, more than the 2006-07 level. Of the total school year school aid amount, the Executive proposes $13.5 billion for the newly established "Foundation Aid," which is a consolidation of 30 existing aid programs. This represents a school year increase of $981.6 million, or approximately 7.8 percent, over 2006-07. The remaining $418.4 million is comprised of Reimbursable Aid increases, debt service costs and additional program aids. New York City, which educated 36.3 percent of the State's public school children in 2005-06, would receive $7.5 billion, or 39 percent, of total school aid.

The Executive Budget proposes a four-year "Educational Investment Plan" (Four-Year Plan) that would overhaul the traditional school aid formula, establish an accountability system and provide additional support for approved alternative educational strategies. The Four-Year Plan includes an estimated $7 billion total increase for schools over the four-year period, raising total education funding by 39.5 percent to $24.7 billion by 2010-11.[37]

[37] Of the $7 billion, New York City will receive $3.2 billion, with the $3.8 billion balance provided to school districts in the rest of the State.

Proposed School Aid Funding
School Years 2006-07 through 2010-11



Source: New York State Division of the Budget

Itemization of School Aid Increase

The Executive Budget would increase school aid funding by $1.4 billion in 2007-08, rising to $7 billion by 2010-11. The aid increase is comprised of present law growth, changes in lottery funding and a school year adjustment, debt service payments and new funding.

In past years, many formula-based aid program appropriations were not allowed to grow to the level of funding required by present law. For 2007-08, the Executive Budget proposes to allow formula-based aid programs to grow by $932 million as mandated by present law funding requirements. While it is appropriate for school district planning purposes to allow present law to continue providing the necessary level of financial support year over year, for accounting purposes this growth should be shown separately from increases in school aid. Over the four-year period, present law requirements would generate a cumulative total of $2.8 billion by 2010-11.

An additional net increase of $110 million is projected from lottery fund growth and a school year adjustment in 2007-08. This net increase is projected to rise to a cumulative $1.1 billion in 2010-11.

One component of the proposed increase in school aid is miscategorized since school districts will not have direct use of these funds for classroom purposes. For 2007-08, the Executive Budget classifies $112 million in State debt service payments on outstanding *EXpanding our Children's Education and Learning* (EXCEL) bonds as formula-based aid.[38] However, unlike reimbursements on other debt issuances, such as those included in building aid, these funds are paid to the Dormitory Authority which issued the debt, not the school districts. These funds will never be available to school districts for educational expenses. Over the Executive's Four-Year Plan, debt service payments for EXCEL are projected to grow to $196.7 million in 2010-11.

After adjustments for base-level growth and other changes, new General Fund school aid would equal $259 million in 2007-08, rising to $2.9 billion in 2010-11.

General Fund School Aid
Itemized Proposed Increase
2007-08 through 2010-11
(in millions of dollars)

	2007-08	2008-09	2009-10	2010-11
Present law Growth	932	1,383	2,206	2,806
Lottery Fund Changes/School Year Adjustment	110	679	1,037	1,125
EXCEL Debt Service Payments[39]	112	184	197	197
Actual School Aid Increase	259	667	1,473	2,872
Total Proposed Increase	**1,413**	**2,913**	**4,913**	**7,000**

Foundation Aid Proposal

As part of the Executive's Four-Year Plan, the Proposed Budget would combine approximately 30 traditional school-aid formulas, including Flex-Aid, into Foundation Aid. Under the Four-Year Plan, Foundation Aid would determine a standard local education cost based on actual costs in successful schools, adjust aid amounts for regional differences, provide additional aid based on poverty levels, allocate funds based on enrollment rather than attendance and include an expected, but optional, local contribution based on district wealth.

While the Executive's Foundation Aid proposal generally matches previous Board of Regents' proposals, the Executive's plan differs in that it:

[38] Of the $112 million, $94 million is targeted for New York City debt service payments, while the remaining $18 million would pay debt service payments for the rest of the State.

[39] *EXpanding our Children's Education and Learning* (EXCEL) Debt Service payments are annual spending figures as reported in the *Executive Budget Five-Year Capital Program and Financing Plan*, 2007: 115.

- Provides all school districts with an annual aid increase of at least 3 percent, instead of 2 percent.[40] Of the nearly 700 school districts statewide, 304 would receive the minimum 3 percent increase.

- Uses the number of special education students as a weighted factor in the formula, which the Executive predicts will reduce financial incentives for placing children in special education.

- Consolidates Limited English Proficiency (LEP) aid into Foundation Aid and provides an additional weighting for all LEP children.

Under the proposed Foundation Aid formula, specific changes to individual program funding levels are not determinable; however, total school year funding would increase by $981.6 million, or approximately 7.8 percent, from $12.5 billion in 2006-07 to $13.5 billion in 2007-08. Over the four-year period covered by the Executive's plan, Foundation Aid would increase $4.8 billion, or 38.4 percent, to $17.3 billion by 2010-11.

Campaign for Fiscal Equity

On November 20, 2006, New York's Court of Appeals (Court) delivered what was to be the final court decision on the Campaign for Fiscal Equity (CFE) case. The case, which began 13 years ago, has been a perennial budget concern since 2004 when the State Commission on Education Reform (Commission) called for the State to implement a multi-year plan to provide New York City schools with an additional $5.6 billion for operating expenses and an additional $9.2 billion for capital projects. Although the recommendations of the Commission were accepted by the State Supreme Court in early 2005, former Governor Pataki quickly appealed the decision. In November 2006, the Court of Appeals ruled by a 4 to 2 majority for New York to provide at least $1.93 billion more in operational funding for New York City Schools to resolve the CFE lawsuit. This amount was at the low end of the $1.93 billion to $4.69 billion range identified in both an earlier Standard and Poor's study and the ruling of the Appellate Division, First Department.[41] The Court, citing its desire to "avoid intrusion on the primary domain of another branch of government," left the responsibility of determining the exact amount of aid to resolve CFE to the Executive and Legislature. However, the recommendations were not implemented by the end of 2006.

[40] The maximum increase a district may receive is 25 percent.

[41] Standard and Poor's Resource Adequacy Study for the New York State Commission on Education Reform. March 2004.

Since taking office, Governor Spitzer has declared the Court of Appeals decision final and proposed in the Executive Budget an additional $5.4 billion in operating aid for New York City over four years; of this amount, $3.2 billion would be provided by the State and $2.2 billion by New York City. On a statewide basis, the Executive Budget calls for a cumulative increase in operational education funding of $7 billion over the next four years. Added to New York City's $2.2 billion contribution, the total statewide investment would equal $9.2 billion for Sound Basic Education (SBE) needs.

Video Lottery Terminal Revenues

As in the past, the Executive Budget continues to rely on video lottery terminal (VLT) funds to support education, presenting a risk to school aid funding. The Executive is calling for $586 million of school aid funding to be supported with revenues from VLT facilities. In comparison, the SFY 2006-07 October 30, 2006 Financial Plan update projected $358 million in VLT revenues for education. However, as of January 31, 2007, ten months into the current fiscal year, $206 million of this projected VLT revenue, or just 58 percent, had been collected. [42]

The lower than projected VLT revenues are attributed to construction and other delays which caused the Yonkers facility to open only partially in October rather than fully in September 2006. Recognizing that VLT revenues were not meeting expectations for SFY 2006-07, Financial Plan estimates were lowered by $83 million to $275 million, most recently in the January 31, 2006 Financial Plan update.

Based on historical performance, little evidence remains that VLTs will provide the stable, consistent revenue stream needed to finance educational needs. The proposed SFY 2007-08 VLT estimate is dependent upon all seven current VLT facilities operating for the full year, including Vernon Downs which opened in October 2006.[43] However, in January 2007, the owner of Vernon Downs reported that his racetrack may have to close unless the State increases the track's share of VLT revenues. If the Vernon Downs facility closes, VLT revenues could be lower than projected for both 2006-07 and 2007-08.

In addition to Vernon Downs, Tioga Downs and Yonkers are not generating the per day net machine income anticipated. Should this trend continue, there is a significant risk that the Executive's projected SFY 2007-08 VLT income of $586 million will not fully materialize and have an adverse impact on the General Fund. If current trends

[42] Office of the State Comptroller. *Comptroller's Monthly Report on State Funds Cash Basis of Accounting*. January 2007.

[43] There have been significant delays in opening Aqueduct—the largest of the original eight facilities approved in 2001. Currently, the Executive is not expecting Aqueduct to open during SFY 2007-08.

continue in 2007-08, the Office of the State Comptroller estimates that total VLT revenues could equal approximately $446 million—$140 million, or 24 percent, less than projected.[44]

Accountability

As part of the Executive's plan to fully implement the requirements of the CFE lawsuit, the Executive proposal recommends several accountability measures designed to produce academic results. For 2007-08, the Executive proposes $20 million for the State Education Department in support of expenses related to accountability initiatives.

The Executive's Four-Year Plan requires all school districts receiving an annual increase of at least $15 million, or 10 percent, along with the Yonkers School District in exchange for a Supplemental Educational Improvement Grant, to enter into a Contract for Excellence (Contract).[45] These Contracts would govern how school district administrators spend their additional funding and implement the Executive's proposed accountability reforms.

This proposal calls for a number of accountability reforms, such as spending additional State aid funds on strategies deemed successful by the Executive, including class size reduction, extended classroom time, teacher quality initiatives and Full-Day Pre-Kindergarten. The Executive's proposal also calls for structural changes to current performance measurement programs and includes four accountability measures with specific goals to be implemented by the Education Commissioner and the school districts:

Financial Accountability – Reform State aid distribution and ensure funds result in improvements.

Goals

- Redesign aid formulas based on student need, and
- Tie funds to outcomes.

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[44] In SFYs 2005-06 and 2006-07, the Executive planned and used General Fund monies to subsidize video lottery terminal (VLT) receipts. This year, the Executive Budget includes $350 million of General Fund monies to support the Sound Basic Education (SBE) fund. Should VLT revenues again not achieve projected levels, General Fund monies would be necessary to make up the shortfall.

[45] School districts abiding by Contracts of Excellence (Contract) will be required to submit a spending plan and have their expenditures audited to certify compliance with their plan. The Budget bill does not clearly indicate whether funds will be withheld if Contracts are not adequate or a school district does not fully comply with a Contract.

Programmatic Accountability – Reform instructional programs and institute the use of proven educational methods.

Goal

- Require Contract for Excellence districts to use approved teaching strategies.

Performance Accountability – Measure school districts' educational effectiveness and address the causes of underperformance.

Goal

- Establish specific performance measures and hold adults accountable for children's failures.

School Accountability – Assess accomplishments at the school-level and provide the supports and reforms necessary for statewide success.

Goals

- Identify the number of students who are at grade level, graduating, and college bound,
- Provide a sunset for reform plans every three to four years and require zero-based reassessment,
- Provide successful schools with school-based performance initiatives and statewide recognition, and encourage "Distinguished Educators" to teach others,
- Give those school districts falling behind opportunities to catch up,
- Support failing schools with help from Distinguished Educators,
- Ask Superintendents to sign contracts authorizing their dismissal if failure continues,
- Grant the Education Commissioner authority to dismiss and replace Board of Education members,
- Base teacher tenure on performance of teachers and students,
- Establish "School Leadership Report Cards" on performance of principals and superintendents,

- Close up to 5 percent of schools under supervisory review,
- Maintain standards for grades and graduation, and ensure every student is ready for college and the workplace, and
- Create a Value Added Assessment System which tracks individual student performance.

Audits of All School Districts

Chapter 267 of the Laws of 2005 authorized the Office of the State Comptroller to audit all school districts, charter schools and BOCES within five years. The Executive Budget proposes $5.8 million to support full annual efforts in 2007-08. In 2006-07, $2.9 million funded 86 of the 89 additional staff required to fulfill this obligation for the first half-year of the 2005-06 fiscal year. The Comptroller's Office has issued 144 school district audits to date and an additional 193 are underway.

Efficiency

In light of continued audit findings of waste and inefficiencies by the State Comptroller's Office at school districts around the State, the Executive has proposed additional measures for improving school districts' efficiency. The 2007-08 Executive Budget includes $5 million for School District Efficiency Reviews. These reviews, performed by contracted consultants, would assist school districts in identifying administrative and other operational savings that could be reinvested to support classroom instruction and minimize property tax growth. The reviews would be conducted on a voluntary basis or at the request of the Education Commissioner.

Charter Schools

The Executive Budget proposes increasing the cap on the number of charter schools that can be established from 100 to 250 schools. The proposal would authorize the Board of Regents, SUNY and the New York City School Chancellor to each approve 50 new charter schools. A similar proposal to increase the number of authorized charter schools was rejected by the Legislature in 2006-07. In addition, the Executive proposes that the Regents approve a new charter school by no later than March 15 if such school intends to open in September. In addition, the charter entity or Regents would be required to notify any affected school district of the approval of a new charter school before its budget is adopted.

In SFY 2007-08, funding for the Charter Schools Stimulus Fund is continued at $6 million for the development, implementation and operation of charter schools. The

Executive Budget also proposes $15 million in new Transitional Aid for five school districts that are currently affected by a concentration of charter schools: Albany, Buffalo, Lackawanna, Roosevelt and Schenectady.

School Aid

The Executive Budget for elementary and secondary schools provides school year funding of over $19.1 billion, a school year increase of $1.4 billion, or nearly 8 percent. On a SFY basis, the Executive Budget provides $18.7 billion, a fiscal year increase of nearly $1.3 billion or 7.3 percent. The Executive's school aid proposal restructures several aid packages into Foundation Aid. While many aid programs would receive additional funds, the Executive proposes to reduce funding for some education-related programs by $81.8 million primarily due to the elimination of 2006-07 legislative adds.

Foundation Aid

As noted above, under the Executive's proposal, Foundation Aid would be based on the consolidation of approximately 30 other program aids. The following aids will be incorporated into the base-year aid:

Flex Aid	Teacher Support Aid
Sound Basic Education Aid	Small City Aid
Supplemental Extraordinary Needs Aid	Reorganization Incentive (Operating)
Class Size Reduction	Magnet Schools
Growth Aid	Categorical Reading
Limited English Proficiency	Improving Pupil Performance
Enrollment Adjustment Aid	Fort Drum
Tax Limitation Aid	Public Excess Cost (without High Cost)
High Tax Aid	

Additionally, there are several aid categories proposed for elimination:

Comprehensive Operating Aid	Educationally Related Support Services Aid
Extraordinary Needs Aid	Gifted and Talented Aid
Minor Maintenance and Repair Aid	Formula Operating Aid
Operating Standards Aid	Summer School Aid
Tax Effort Aid	Tax Equalization Aid
Transition Adjustment Factor	Tuition Adjustment
Shared Services Savings Incentive Aid	

Formula-Based Aids

The Executive also proposes maintaining present law funding levels for many formula-based aids. This funding methodology would result in increases over 2006-07 levels for many aids, including some that have been held constant in prior years.

Universal Pre-Kindergarten – For the first time since its inception in 1998, per pupil funding levels for Universal Pre-Kindergarten (UPK) would increase. The Executive Budget proposes $394.5 million, a $98.8 million, or 33.4 percent, increase over 2006-07. However, the Executive proposes converting UPK funding into a foundation-type formula that would reduce minimum grant awards for participating half-day programs from $2,700 to $250 per child. Maximum awards would be increased from $4,000 to $5,750 per child based on district wealth and educational needs.

Transportation Aid – Funding for Transportation Aid would increase $81.1 million, or 6.1 percent, to $1.4 billion. The minimum aid ratio for Transportation is maintained at 6.5 percent, and districts may continue to receive aid based on public and non-public enrollments.

BOCES Aid – After several years of Executive Budget decreases, school districts would receive $622.6 million, an increase of $37.6 million, or 6.4 percent, for the reimbursement of expenditures incurred for services provided by the Board of Cooperative Educational Services (BOCES).

High Cost Excess Cost Aid and Private Excess Cost Aid (Special Education) – Funding for High Cost Excess Cost Aid would increase by $35.8 million, or 10.5 percent, to $376 million and funding for Private Excess Cost Aid would increase by $17.3 million, or 8.1 percent, to $231.5 million. Public Excess Cost Aid is proposed for inclusion in Foundation Aid.

Building Aid – For school year 2007-08, the Executive proposal would provide nearly $1.7 billion in traditional building aid for construction of school facilities, an increase of $23.2 million, or 1.4 percent, over 2006-07. Under the Executive's proposal, 2007-08 building aid would only be provided for school districts that had approved construction contracts on file with the State Education Department by November 15, 2006.

The Executive's proposal also continues last year's EXCEL program which authorized the Dormitory Authority to issue $2.6 billion in construction bond funding over four years, with $1.8 billion authorized for New York City school construction, $400 million for high-need districts outside of New York City and $400 million for other school districts. During 2006-07, the Dormitory Authority issued $750 million in EXCEL bonds for New York City, and the 2007-08 Executive Budget includes $94 million for debt service payments on these bonds. For 2007-08, the Executive Budget projects a total of nearly $1.5 billion in EXCEL bonds as authorized in the EXCEL legislation, $700 million more than in 2006-07.

As detailed above, the Executive proposal includes $112 million in EXCEL debt service payments, including $94 million for New York City and $18 million for the rest of the State, in formula based aid. Unlike building aid, expenses associated with issuing EXCEL bonds are incurred by the Dormitory Authority, not by the school districts. Therefore, debt service payments which will be paid directly to the Dormitory Authority should not be considered aid to school districts.

The 2006-07 Enacted Budget contained language that authorized New York City to assign and pledge to the Transitional Finance Authority (TFA) all Building Aid received from the State as support for Building Aid Revenue Bonds (BARBs) issued by the TFA. In 2007-08, New York City will receive $1.4 billion from proceeds of TFA BARB issuances, and the TFA will use approximately $82 million in State-Funded Building Aid to make debt service payments on the $650 million in BARBs issued in 2006-07.

The Executive Budget also proposes revising the Wicks Law requirement of using multiple contractors for school district construction. The Executive proposes raising the Wicks Law cost thresholds from $50,000 to $2 million for New York City and to $1 million for all other locations. The Executive Budget estimates minimal school construction cost savings of between 9 percent and 10 percent.[46]

Charter School Transition Aid – The Executive Budget proposes $15 million in Transitional Aid for five school districts (Albany, Buffalo, Lackawanna, Roosevelt and Schenectady) that currently have a number of charter schools within their area and have been adversely affected financially. An additional proposal would require new charter schools to notify their home districts of their plans to open by March 15, before the district's school budget adoption deadline.

Supplemental Education Improvement Plan – The Executive Budget proposes $8.5 million for the Yonkers School District in support of its court-ordered Education Improvement Plan.

Computer Hardware and Software – Computer Hardware and Software Aids provide funding to school districts for the purchase and loan of computer software programs and equipment. The 2007-08 Executive Budget proposes an increase of

[46] Given that most school construction projects cost in the tens of million of dollars, there will likely be a minimal impact on the number of multiple-bid contracts let by school districts if this proposal is approved.

$820,000 and $34.8 million over 2006-07 for computer software and hardware, respectively.

Textbooks and Library Materials – Under the Executive's proposal, school districts would receive an increase of $1.5 million to $187.0 million for textbook aid and an increase of $65,000 to $19.8 million for library materials in 2007-08.

Continuing the existing statutory formula in the 2007-08 Executive Budget would result in aid reductions for two foundation aid programs. Special Services (Career Education/Computer Administration), which funds career education programs and computer services for districts not associated with BOCES, would be reduced by $5.6 million from $142.6 million to $137 million. Funding for Full-Day Kindergarten Conversion Aid would be reduced by $1.1 million to $1.6 million, reflecting a decline in new applications from school districts seeking to convert to full-day programs.

Discretionary Grant Programs

As shown in the table below, the Executive Budget proposes to maintain 2006-07 funding levels for most Grant Programs and Other Aid Categories, including school health services, employment preparation education, and incarcerated youth programs. Current funding levels are also proposed for teacher programs aimed at recruiting, retaining and training teachers, including Teachers of Tomorrow, Teacher Centers and Teacher-Mentor Intern.

While the Executive Budget proposes to maintain $10 million in funding for Math and Science Initiatives, the Executive proposes to eliminate the pre-existing Engineers of the Future and Math/Science Summer Institutes programs and redirect those funds to the development of a program to increase the supply of qualified math and science teachers in schools across the State.

Under the Executive's proposal, the school aid apportionment for the education of students living in or released from Office of Mental Health, Office of Mental Retardation and Developmental Disabilities or intermediate care facilities would increase by $2.6 million, or 5 percent, to $54.6 million. Funding for Pupils and Native American Education programs, which pay the full cost of elementary and secondary education (including transportation) for 2,500 Native American children, would be increased by $3.9 million, or 12.9 percent, to $34.2 million.

New initiatives included in Grant Programs and Other Aid Categories would result in a marginal increase of $24 million, comprised of $18 million for Additional EXCEL Building Aid for anticipated debt service payments on outstanding EXCEL bonds, $2 million for Full-Day Kindergarten Planning Grants to ensure that all high-need and low performing school districts offer full-day Kindergarten classes by 2010-11, and $4 million for a Rochester Community School Pilot program to promote the efficient delivery of child and family support services in the Rochester City School District.

School Aid
School Year Payments
(in millions of dollars)

Program	Estimated 2006-07	Executive Budget 2007-08	Difference	Percentage Change
Formula Based Aids:				
Flex Aid	8,587.42	0.00	(8,587.42)	-100.00%
Excess Cost – Public	2,225.73	0.00	(2,225.73	-100.00%
Sound Basic Education Aid	699.85	0.00	(699.85)	-100.00%
Supplemental Extraordinary Needs Aid	136.34	0.00	(136.34)	-100.00)%
Limited English Proficiency	20.96	0.00	(20.96)	-100.00%
Class Size Reduction	139.51	0.00	(139.51)	-100.00%
Growth Aid	13.30	0.00	(13.30)	-100.00%
Enrollment Adjustment	27.12	0.00	(27.12)	-100.00%
Reorganization Incentive (Operating)	12.85	0.00	(12.85)	-100.00%
Tax Limitation Aid	211.38	0.00	(211.38)	-100.00%
High Tax	19.97	0.00	(19.97)	-100.00%
Teacher Support Aid	67.48	0.00	(67.48)	-100.00%
Magnet Schools	170.30	0.00	(170.30)	-100.00%
Categorical Reading	63.95	0.00	(63.95)	-100.00%
Improving Pupil Performance	66.35	0.00	(66.35)	-100.00%
Aid to Small City School Districts	81.88	0.00	(81.88)	-100.00%
Fort Drum	3.49	0.00	(3.49)	-100.00%
Foundation Aid	0.00	13,529.47	13,529.47	NA
Foundation Aid Totals	**12,547.88**	**13,529.47**	**981.59**	**7.82%**
Excess Cost - High Cost	340.15	376.00	35.85	10.54%
Excess Cost - Private	214.19	231.47	17.28	8.07%
Textbooks (including Lottery)	185.40	186.90	1.50	0.81%
Computer Hardware	28.80	28.56	(0.24)	-0.83%
Computer Software	46.00	46.82	0.82	1.78%
Library Materials	19.15	19.80	0.65	3.39%
BOCES	585.08	622.63	37.55	6.42%
Special Services (Career Ed/Computer Admin)	142.57	137.00	(5.57)	-3.91%
Transportation (Inc. Summer)	1,336.37	1,417.51	81.14	6.07%
Building/Reorganization Building	1,661.61	1,684.77	23.16	1.39%
EXCEL Building Aid	0.00	94.00	94.00	NA
Universal Pre-Kindergarten	295.62	394.45	98.83	33.43%
Supplemental Education Improvement Plan	0.00	8.50	8.50	NA
Charter School Transition Aid	0.00	15.24	15.24	NA
Full-Day Kindergarten	2.73	1.66	(1.07)	-39.19%
Formula-Based Aids Total	**17,405.55**	**18,794.78**	**1,389.23**	**7.98%**
Grant Programs & Other Aid Categories				
Additional EXCEL Building Aid	0.00	18.00	18.00	NA
Full-Day K Planning Grants	0.00	2.00	2.00	NA
Teachers of Tomorrow	25.00	25.00	0.00	0.00%
Teacher Centers	37.00(a)	37.00	0.00	0.00%
Teacher-Mentor Intern	6.00(a)	6.00	0.00	0.00%
Math and Science Initiatives	10.00	10.00	0.00	0.00%
Rochester Community School Pilot	0.00	4.00	4.00	NA
School Health Services	13.84	13.84	0.00	0.00%
Roosevelt	6.00	6.00	0.00	0.00%
Urban-Suburban Transfer	1.13	1.13	0.00	0.00%
Employment Prep Education	96.00	6.00	.00	.00%
Homeless Pupils	6.48	6.48	0.00	0.00%

Program	Estimated	Executive	Difference	Percentage

	2006-07	Budget 2007-08		Change
Incarcerated Youth	16.50	16.50	0.00	0.00%
Bilingual	11.50(a)	11.50	0.00	0.00%
Education of OMH/OMRDD Pupils	52.00	54.60	2.60	5.00%
Special School Districts	2.20	2.20	0.00	0.00%
Chargebacks	(33.05)	(33.31)	(0.26)	0.00%
BOCES Aid for Special Districts	0.68	0.68	0.00	0.00%
Learning Technology Grants	3.29	3.29	0.00	0.00%
Native American Building	10.00	2.50	(7.50)	-75.00%
Native American Education	30.30	34.20	3.90	12.87%
Bus Driver Safety	0.40	0.40	0.00	0.00%
Sub-Total	**295.27**	**318.01**	**22.74**	**7.70%**
SCHOOL YEAR TOTAL	**17,700.82**	**19,112.79**	**1,411.97**	**7.98%**
Fiscal Stabilization Grants	**44.14**	**45.09**	**.95**	**2.15%**
TOTAL	**17,744.96**	**19,157.88**	**1,412.92**	**7.96%**

(a) Partially funded outside of school aid.

School Tax Property Relief Program (STAR)

The Executive proposes increasing the School Tax Property Relief (STAR) program by $1.5 billion to $5.1 billion. A new Middle Class STAR program would increase the existing basic STAR exemption for homeowners based on income. This proposal would double the basic STAR exemption of $30,000 over three years for homeowners whose income is at or below $60,000. Homeowners with income above $60,000, but below $235,000, would receive a smaller increase (see tables). In conjunction with this proposal, the Executive recommends eliminating the STAR rebate which was implemented in SFY 2006-07. There is no fiscal impact of eliminating the rebate in SFY 2007-08; however, General Fund receipts are projected to increase $675 million in SFYs 2008-09 and 2009-10 as a result.

The new proposal would also increase the Enhanced STAR exemption for seniors by 40 percent over two years by setting the base exemption at $73,800 for SFY 2007-08 and $79,500 for SFY 2008-09. All enhanced exemptions for seniors after SFY 2008-09 would increase the prior year's exemption by a cost of living adjustment.

Finally, the New York City Personal Income Tax STAR would also be doubled over three years. In SFY 2006-07, married individuals filing jointly received a credit of $230. Under the Executive's proposal, the credit would increase to $300 in 2007-08, $320 in 2008-09 and $340 thereafter. Individuals filing separately received a credit of $115 in SFY 2006-07. Under the Executive's proposal, the credit would increase to $150 in 2007-08, $160 in 2008-09 and $170 thereafter. The entire expanded STAR proposal is estimated to reduce General Fund receipts by $1.2 billion in SFY 2007-08, $1.7 billion in 2008-09 and $2.0 billion in 2009-10.

Middle Class STAR
(for parcels located outside higher-income counties*)

Income Level	Exemption Increase		
	SFY 2007-08	SFY 2009-10	SFY 2007-08
≤$60,000	80%	90%	100%
$60,000-$80,000	67.5	75%	82.50%
$80,001-$100,000	55%	60%	65%
$100,001-$120,000	43%	45%	47.50%
$120,001-$235,000	30%	30%	30%
>$235,000	None	None	None

* A higher income county is a county where the average income exceeded the statewide average income by $5,000 or more in each of the three most recent taxable years. Currently, the higher-income counties are comprised of New York City, Putnam, Rockland, Westchester, Suffolk and Nassau counties.

Middle Class STAR
(for parcels located inside higher-income counties*)

Income Level	Exemption Increase		
	SFY 2007-08	SFY 2009-10	SFY 2007-08
≤$80,000	80%	90%	100%
$80,001-$120,000	63%	70%	76.50%
$120,001-$160,000	46%	50%	53%
$160,001-$235,000	30%	30%	30%
>$235,000	None	None	None

*A higher income county is a county where the average income exceeded the statewide average income by $5,000 or more in each of the three most recent taxable years. Currently, the higher-income counties are comprised of New York City, Putnam, Rockland, Westchester, Suffolk and Nassau counties.

Prior Year Claims

Prior Year Claims are already owed to the school districts from revised aid claims in previous years. For school year 2007-08, the Executive Budget maintains prior year claims funding at the 2006-07 level of $25.9 million. As in past years, this is significantly less than what is necessary to fully fund these existing debts.

Other Proposals

As part of the Executive's Four-Year Plan, the Executive Budget proposes a number of programmatic changes, including:

- **Preschool Special Education Taskforce** – The Executive Budget proposes the creation of a Taskforce comprised of representatives of school districts, preschool providers, counties and appropriate State agencies to study rate-setting methodologies and the relationship between preschool special education and other early childhood programs. Funding for preschool special education would be increased by $28.1 million to $663.1 million under the Executive's proposal.

- **Schools Under Registration Review (SURR)** – Beginning in July 2007, the Commissioner of Education would be given authority to strengthen the rehabilitation of SURRs by restructuring up to 5 percent of the State's schools within four years, developing criteria for closure and revising the intervention process.

- **Cultural Education** – The Executive Budget appropriates $60 million for a new State archive storage facility, an increase of $40 million over 2006-07. Funding for Aid to Public Television and Radio, Local Government Records Management and Cultural Resource Surveys would be increased by $2 million, $1.5 million and $1.6 million, respectively. Library Aid and Library Construction Aid are maintained at the SFY 2006-07 funding levels of $97.2 million and $14.8 million respectively.

- **Big Four City School Districts** – The Executive proposes ensuring that the Mayors of the Big Four city school districts are represented on their local school boards.

- **Tuition Credit** – The Executive proposes a personal income tax deduction of up to $1,000 per child for parents to offset the cost of private school tuition. While there is no projected cost for 2007-08, the Executive Budget estimates the program will cost the State $25 million in each of the three years from 2008-09 through 2010-11.

- **Vocational and Educational Services for Individuals with Disabilities (VESID)** – The Executive Budget proposes 2006-07 funding levels of $54.6 million for Case Services, $11.7 million for Independent Living Centers and $300,000 for the College Readers Program. The Executive also proposes to increase Long-Term Support Services by $1 million to $13.9 million and to decrease Time Limited Services by $1 million to $2.5 million.

Section

10

Higher Education

The Executive Budget proposes combined gross operating support of $3.4 billion for SUNY and $1.6 billion for CUNY for a total of nearly $5.0 billion for SUNY and CUNY colleges. This represents a total increase of $219.9 million over SFY 2006-07, which is comprised of $148.1 million and $71.8 million in additional funds for SUNY and CUNY, respectively, a 4.6 percent increase for both institutions. Many of these increases are intended to address results of collective bargaining agreements, primarily salary and benefit increases. The Executive does not propose any tuition increases for 2007-08, but recommends the creation of a Commission on Higher Education to examine the potential of establishing a rational tuition strategy.

Most supplemental student financial aid programs are maintained at prior year levels. However, two program funding reductions largely affecting private institutions and their students include a $4.2 million decrease in Direct Institutional Aid (BUNDY Aid) and an $18.7 million net reduction in the Tuition Assistance Program (TAP). In addition to a proposed $11.3 million increase for program growth, the Executive Budget proposes restructuring TAP by changing student eligibility standards. As a result, approximately 8,000 students may be denied TAP funding in 2007-08, resulting in a $30 million SFY reduction in TAP awards. The Executive continues to expand funding for high-need subjects by proposing an additional $2.2 million for the Math, Science and Engineering Teacher Incentive Program introduced in 2006-07, and $3 million for Priority Academic Programs to increase the number of students studying high-need subjects. The Executive maintains the $19 million appropriation for the Science & Technology Entry (STEP) and College Science & Technology Entry (CSTEP) Programs. The Executive also directs funding toward capital projects at both SUNY and CUNY by raising the bond caps of both institutions to provide an additional $379.7 million and $265.8 million, respectively, in supplemental capital aid.

Commission on Higher Education

In line with the Governor's education reform efforts, the Executive Budget proposes the creation of a Commission on Higher Education. While there is no specific plan included in the budget bills, the Commission's goal would be to examine higher education policies and make recommendations intended to improve the success of New York's higher education system. The Commission would be charged with developing a strategic plan to:

- Raise the image of public universities to a higher level of excellence,
- Develop a public college and university tuition policy that is reasonable, predictable and affordable, and
- Identify achievement benchmarks that would permit fair comparisons between New York's institutions and its peer institutions around the country.

The Executive plans to create this Commission through an Executive Order. There is no specific appropriation for this Commission as members will be reimbursed for actual expenses out of the Division of Budget's (DOB's) appropriations.

Capital Investments

In exchange for additional capital funding, the Executive Budget calls upon SUNY and CUNY to develop new five-year capital plans for 2008-09 intended to ensure greater Capital Funding organization and accountability. The Executive proposes capital appropriations and bond cap increases totaling $645.5 million, including $379.7 million for SUNY and $265.8 million for CUNY.

Senior and Community Colleges

Of the $379.7 million in Capital support for SUNY, $164.8 million is authorized for the Old Westbury academic complex and renovation of the Stony Brook Southampton Campus, $114.9 million for other high priority projects, such as the Plattsburgh Science Facility and the Empire State Regional Center, and $100 million for various university-wide maintenance projects. There are no funds appropriated for SUNY community colleges in the 2007-08 Executive Budget.

An additional $225 million would support various alterations and improvements to CUNY senior colleges, including recently authorized science projects at City College. Proposed State funding for capital projects at CUNY community colleges would increase by $40.8 million for alterations and improvements to various facilities, including the rebuilding of Fiterman Hall at the Borough of Manhattan Community College.

Since SUNY and CUNY have both reached their debt limits, the Executive proposes increasing the bond cap limits for both institutions by the entire amount needed to fulfill the Executive's budget recommendations. SUNY's bond cap limit would be increased by $379.7 million to a total of $7.3 billion, and CUNY's bond cap limit would be increased by $266 million to $5.8 billion.

Community Colleges

The Executive Budget proposes increasing State funding for SUNY community colleges by $20.2 million, or 4.7 percent, to $445.7 million for 2007-08. The Executive Budget also proposes increasing State funding for CUNY community colleges by $6.3 million, or 3.9 percent, to $169.7 million for 2007-08. These amounts would provide a $100 per full-time equivalent student (FTE) increase in base operating aid, raising the level from $2,525 to $2,625 at both SUNY and CUNY community colleges. However, this enhancement in base aid funding is less than the $192 and $125 per FTE student that was requested by SUNY and CUNY respectively.

Unlike senior colleges, community college tuition rates are established by the individual college's Board of Trustees. Reducing or not sufficiently increasing aid could result in higher tuition and/or fees, thereby making community colleges less accessible to students with lesser means. As community colleges are traditionally considered a low-cost point of access to higher education, it is important that adequate State aid be provided to enable community colleges to keep tuition affordable.

The Executive Budget increases Rental Aid by $150,000 to cover costs associated with leased space and maintains 2006-07 aid levels for other vital programs, including workforce development ($2.0 million), childcare ($900,000) and College Discovery ($839,300).

Financial Aid

Tuition Assistance Program Restructuring

The Executive Budget proposes $857 million for TAP in 2007-08, a net decrease of $18.7 million, or 2.2 percent, from 2006-07 resulting from a proposed $11.3 million increase for program growth offset by a $30 million reduction from eliminating the use of Ability to Benefit (ATB) tests as an eligibility criterion for the program. The ATB test is used for students lacking a high school diploma or its equivalent and who wish to apply for financial aid. Students are tested on basic skills in Mathematics, English or English as a Second Language (ESL).

As part of the Executive's higher education strategy for 2007-08, the Executive Budget proposes that students meet the following requirements to qualify for TAP:

- Attend an institution that has been approved for participation in the federal student financial aid programs authorized by Title VI of the Higher Education Act. TAP payments to students who do not attend a federally-approved institution will be phased out by 2014-15.

- Possess a certificate of graduation from a school providing secondary education within the United States or the recognized equivalent of such certificate, or meet other academic standards as determined by the Commissioner.

- Accomplish "reasonable progress" toward completion of a degree program defined as specific minimum overall Grade Point Average (GPA) requirements and minimum credit hour requirements. Students at schools that operate on a trimester schedule will also have to meet these requirements beginning in 2007-08.

Proposed Definition of "Reasonable Progress"

Minimum Levels of Progress				
	4 or 5 Year Bachelors		2-Year Associates	
Semester	Credit Hours	GPA	Credit Hours	GPA
1st	0	0.0	0	0.0
2nd	3	1.1	3	.5
3rd	9	1.2	9	.75
4th	21	1.3	18	1.3
5th	33	2.0	30	2.0
6th	45	2.0	45	2.0
7th	60	2.0		
8th	75	2.0		
9th*	90	2.0		

* Note: the 9th semester is for degrees requiring five years for completion.

The Executive Budget estimates that approximately 8,000 students could be deemed ineligible for TAP in 2007-08 should ATB tests no longer be considered an acceptable prerequisite. If this proposal is accepted, these students, who often attend for-profit institutions and do not possess a high school or General Education Diploma, would be forced to seek alternative funding for college or potentially forego a college education.[47] The Executive Budget estimates savings of $30 million resulting from this change. Similar proposals in prior years that would have precluded selected students from receiving TAP awards have consistently been rejected by the Legislature.

Federal Funding

The proposed restructuring of TAP could force ineligible students to take on additional student loans or seek Federal Aid assistance to make up the loss in TAP assistance. Student debt levels are approaching critical levels. A recent study by the Student Debt Project found that New York State seniors graduating from four-year colleges in 2005, left school with an average debt of $18,795.[48]

In January 2007, Congress proposed to cut interest on federally subsidized student loans by half over the next five years. However, the cuts would not be fully phased in until 2012 and the reductions would only be applied to Stafford loans, which go to middle income students with family incomes under $67,000.[49]

Lower income students can qualify for Pell grants, which is a federal aid program available to students whose family incomes are under $40,000. Funding for the Pell grant program has been held flat since 2002. President Bush has proposed increasing individual Pell grants by $550, or 14 percent, for the 2007-08 Federal Fiscal Year (FFY); however, without a specific plan to pay for this increase, there is no guarantee that Congress will approve the proposal. In addition, the federal budget also proposes significant decreases to other federal aid programs, including Perkins Loans and Supplemental Educational Opportunity Grants, which augment Pell grants for needy students.[50] Under these circumstances, students could face a significantly higher debt burden, further compounded by the potential increase in tuition at both SUNY and CUNY community colleges.

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[47] "2007 New York State Budget Proposal Breakdown and Details." *Times Union*. February 1, 2007.

[48] Average Student debt data obtained from the Student Debt Project: <http://projectonstudentdebt.org/state_by_state-data.php>.

[49] Schemo, Diane Jean. "House Democrats Propose Cut in Student Loan Rates." *New York Times.* January 13, 2007.

[50] Field, Kelly. "President Bush Will Propose Largest Pell Grant Increase in Generation but Hasn't Said How He Would Pay for It." *New York Times.* February 2, 2007.

Scholarship, Opportunity and Other Programs

New York State's opportunity programs and support for independent colleges help provide counseling, and academic and financial support to economically and educationally disadvantaged students. Without these programs, many students would not be able to attend college or complete requirements for a degree. The Executive Budget maintains prior-year funding for most opportunity programs, including the Higher Education Opportunity Program (HEOP), STEP, CSTEP, Aid for Part-Time Study, and the World Trade Center Memorial Scholarship and College Discovery. The Executive proposes a reduction in BUNDY Aid equal to the $4.2 million legislative add from 2006-07.

In following with the Executive's effort to direct funds toward high-need subject areas, the Proposed Budget provides an additional $2.2 million for the New York State Math, Science and Engineering Teaching Incentive Program, which was introduced in 2006-07 to increase the number of qualified math and science teachers in New York. The program provides tuition reimbursement scholarships for 500 college students who make a commitment to teach math or science in a middle or high school in the State for five years after graduation and certification. Award recipients can receive an amount up to the cost of tuition charged for New York State resident students at SUNY or actual tuition, whichever is less. If an award recipient does not fulfill the promised teaching commitment or fails to receive or maintain a teaching certificate or license, the tuition reimbursement is converted into a student loan.

To further encourage the study of mathematics, science and engineering, the Executive Budget proposes $3 million, an increase of $1 million, for SUNY's Priority Academic Programs designed to increase the number of students studying these high-need subject areas.

Proposed Executive Budget Scholarship, Opportunity and Other Program Actions

Opportunity Programs				
Program Area	**2006-07 Adjusted**	**2007-08 Proposed**	**Dollar Change**	**Percent Change**
Funding at Prior Year Levels:				
Aid for Part-Time Study	$14,630,000	$14,630,000	$0	0%
Higher Education Opportunity Program (HEOP)	24,200,000	24,200,000	0	0%
College Discovery	839,300	839,300	0	0%
Native American Post Secondary	635,000	635,000	0	0%
Vietnam/Persian Gulf/Afghan Veterans Tuition	2,000,000	2,000,000	0	0%
American Airlines Flight 587 Scholarship	250,000	250,000	0	0%
World Trade Center Memorial	5,000,000	5,000,000	0	0%
Volunteer Recruitment Service Scholarship	4,000,000	4,000,000	0	0%
Teacher Opportunity Corps.	713,000	713,000	0	0%
Sen. McGee Nursing Fac. Scholarship/Foregiveness	4,000,000	4,000,000	0	0%
STEP/CSTEP*	19,713,000	19,713,000	0	0%
Social Worker Loan Forgiveness Program	1,000,000	1,000,000	0	0%
Funding Decreased:				
Tuition Assistance Program	875,905,000	857,219,000	(18,686,000)	-2.1%
BUNDY*	46,238,000	42,038,000	(4,200,000)	-9.1%
Funding Increased:				
Math Science & Engineering Teaching Incentive Prog.	0	2,200,000	2,200,000	NA
Educational Opportunity Program	18,750,600	19,588,600	838,000	4.5%
Search for Excellence in Educ. & Knowledge (SEEK)	15,701,450	16,301,000	599,550	3.8%
Liberty Partnership	12,017,500	12,018,000	500	0%
Total Funding	**$1,045,592,850**	**$1,026,344,900**	**($19,247,950)**	**-1.8%**

* Science & Technology Entry Program (STEP) and College Science & Technology Entry Program (CSTEP)

SUNY Hospitals

Unlike in previous years, the Executive's Proposed Budget increases SUNY hospital subsidies by $6.8 million (4.9 percent) to $146.3 million for 2007-08. These subsidies reflect collective bargaining agreements for employee salary increases and fringe benefit costs.

The Facilities Closure Commission (also known as the Berger Commission) was granted legal authority to make both mandated and suggested recommendations regarding whether it would be beneficial to close, resize or restructure any hospitals or nursing homes in New York State. Its November 2006 report included a number of suggestions regarding SUNY hospitals, including:

- A mandated recommendation to join the Crouse Hospital and SUNY Upstate Medical Center in Syracuse under a single unified governance structure under the control of an entity other than SUNY, and

- A policy suggestion to study the feasibility of privatizing SUNY's teaching hospitals, including the Stony Brook University Medical Center in Stony Brook, Upstate Medical Center in Syracuse and the SUNY Downstate Medical Center in Brooklyn.

In his Budget Proposal, the Executive calls on SUNY and the Department of Health to work toward implementing the Berger Commission's recommendations by June 2008. While the mandated recommendation to merge Crouse Hospital with the SUNY Upstate Medical Center will likely move forward, the Legislature has repeatedly rejected previous budget proposals to privatize SUNY's teaching hospitals.

Empire Innovation Program

The Empire Innovation Program was created in SFY 2006-07 to enhance established partnerships between SUNY, CUNY and private industries. These partnerships were designed to advance research and economic development throughout the State. In 2006-07, SUNY received $6 million in support of a multi-year plan to attract 200 new research faculty, who would in turn help to generate an estimated $300 million in research grants. During 2006-07, SUNY spent $6 million and hired or began recruiting 33 faculty researchers. For 2007-08, the Executive proposes an additional $6 million, bringing total program funding to $12 million. Similarly, in the 2006-07 Enacted Budget, CUNY received $5 million for critical research projects, academic programs and its 2005-06 master plan initiatives. For 2007-08, the Executive proposes an additional $4 million for the program, bringing the total funding to $9 million.

New York Office of Science, Technology and Academic Research

The New York State Office of Science, Technology and Academic Research (NYSTAR) was converted last year from a State agency into a public benefit corporation now known as the Foundation for Science, Technology and Innovation (Foundation).

The Executive Budget recommends $55.1 million for the Foundation, which includes $33 million for the Foundation's High Technology Program, $9.4 million for the Foundation's Research Development Program, $8 million for the Training and Business Development program and $4.7 million for State Operations. This represents a

$273,000, or 0.5 percent, reduction from the current fiscal year. However, in 2007-08 for the first time, the Foundation would also pay $1 million in fringe benefit costs for its employees. When the Foundation was a State agency, such fringe benefits were paid through General State Charges. Although this change is cost neutral to the State as a whole, the Foundation's budget is effectively reduced by a total of $1.3 million, or 2.3 percent.

Section

11

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 33.6 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 administered by the Department of Health (DOH) and financed jointly by the federal, State and local governments. The Executive Budget projects that, for SFY 2007-08, governmental Medicaid spending (including administration costs) will be $47.6 billion. These costs consist of $23 billion in federal support, $17.5 billion in State funds and $7.1 billion from local governments.

Estimated Governmental Medicaid Expenditures
(in billions of dollars)

	SFY 2005-06 Estimated Final	SFY 2006-07 Revised	SFY 2007-08 Proposed*
Total	**44.0**	**46.5**	**47.6**
Federal	21.7	22.6	23.0
State**	15.9	17.0	17.5
Local	6.4	6.9	7.1
**State Funds Comprised of:			
▪ DOH General Fund	8.5	9.0	9.4
▪ Other State Agencies General Fund and Other State Support	4.2	4.4	4.6
▪ Other DOH State Support (mostly HCRA)	3.2	3.6	3.5

Source: New York State Division of the Budget
* In the absence of new cost control measures, Medicaid spending would reach $49.1 billion in SFY 2007-08.

Medicaid spending is principally budgeted in DOH, but also appears in the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Office of Alcoholism and Substance Abuse Services, the Office of Children and Family Services, and the State Education Department. For SFY 2007-08, All Funds Medicaid spending for DOH would total over $32.9 billion. Of this amount, the federal government would provide $20 billion and State funds would provide $12.9 billion. Medicaid spending by other State agencies and administrative costs account for an additional $3 billion in federal and $4.6 billion in State support for a total of $40.5 billion. Local Medicaid spending of $7.1 billion would bring total governmental spending to $47.6 billion in SFY 2007-08.

The Executive Budget proposes to restrain General Fund Medicaid spending growth by reducing expenditures for nursing homes, hospitals and prescription drugs, freezing premium payments to providers for FHP and managed care programs, strengthening anti-fraud capabilities, managing high-cost users and using a portion of Health Care Reform Act (HCRA) savings to support General Fund Medicaid costs. The Executive Budget also proposes additional funding to expand access to health insurance coverage for the uninsured and a sizable increase in General Fund spending on public health programs, as well as significant growth in General Fund mental hygiene expenditures.

In proposing certain cost-saving measures in the EPIC, CHP and Medicaid programs, the Executive Budget has again included Article VII language in the 2007-08 Health and Mental Hygiene appropriation bill. However, this language is a substantial improvement over past budget proposals because it permits the Legislature to legally restore funding for recommended reductions if it appropriates sufficient additional funds to do so.

Medicaid

The Executive Budget recommends $9.4 billion in General Fund spending (including administration costs) for DOH Medicaid in SFY 2007-08, which represents an increase of $380 million, or 4.2 percent, from SFY 2006-07. The Executive Budget projects average monthly Medicaid caseloads (including FHP) will rise 4.5 percent, from about 4.2 million recipients in SFY 2006-07 to nearly 4.4 million recipients in SFY 2007-08. For the first eight months of SFY 2006-07, New York City accounted for 65.8 percent of the total State average monthly caseload (including FHP).[51] Medicaid caseloads in the City (including FHP) have increased 54 percent since 2000.[52]

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

Fiscal Year	Amount	Amount Change	Percent Change
2005-06 Estimate	8.5	1.5	21.4%
2006-07 Revised	9.0	0.5	5.9%
2007-08 Proposed	9.4	0.4	4.2%

Source: New York State Division of the Budget

The Executive Budget proposes General Fund growth of $380 million in DOH Medicaid spending. This growth would result from more than $1.4 billion in increased current service costs that would be offset by over $1 billion in net savings actions. Increased current services costs include:

- $761 million in year-to-year program growth attributed primarily to increases in caseload, service utilization and health care service costs.

[51] New York State Department of Health Monthly Medicaid Eligibility Reports 2006 for April through November 2006, the most current information available.
<http://www.health.state.ny.us/nysdoh/medstat/el2006/mo_06_el.htm>.

[52] New York State Department of Health Monthly Medicaid Eligibility Reports 2006 for January through November 2006, the most current information available, and New York State Department of Health Monthly Average Number of Medicaid Eligibles by Category of Eligibility by Social Service District, Calendar Year 2000.
<http://www.health.state.ny.us/nysdoh/medstat/el2006/mo_06_el.htm > and
<http://www.health.state.ny.us/nysdoh/medstat/el2000/cy00el.htm>.

- $209 million in growth resulting from expiration of hospital provider assessments and non-recurring delinquent nursing home collections.

- $165 million in growth related to capping local Medicaid expenditures, which the State initiated on January 1, 2006. Costs of the cap are expected to grow from $332 million in 2006-07 to $497 million in 2007-08 (excludes FHP takeover costs, see below).

- $146 million in additional spending resulting from a reduction in HCRA financing for Medicaid programs.

- $79 million in annualizations for nursing home rebasing, grants to public nursing homes and emergency room rate increases.

- $39 million in federally-mandated Medicare premium increases for the dually eligible population.

- $39 million in growth related to the takeover of local FHP costs, which the State fully implemented on January 1, 2006. Costs of the takeover are expected to grow from $438 million in SFY 2006-07 to $477 million in 2007-08.

Executive Budget recommendations of over $1 billion in net 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 share of Medicaid spending, the State's health care industry would suffer a total loss of over $1.4 billion in revenue. Because of the cap on local Medicaid expenditures, any savings from the Executive Budget recommended cost control measures would no longer accrue to local governments, but only to the State and the federal government. By the same token, if the Legislature rejects any of the Executive Budget recommended cost control measures, additional costs would no longer be borne by local governments, but only by the State and the federal government.

Medicaid Savings Proposals
Executive Budget
(in millions of dollars)

Provider Type and Proposal	General Fund Savings/ (Cost)	Gross Savings/ (Cost)*
Offload Medicaid pharmacy costs to HCRA	**228.0**	**0.0**
Pharmacy/Medicare Part D Federal Maximization		
Federal Deficit Reduction Act limit pharmacy reimbursement	52.6	105.2
Medicaid pharmacy rebates	40.0	80.0
Reduce Medicaid average wholesale price (AWP)	31.8	63.6
Strengthen preferred drug program (PDP)	14.0	28.0
Eliminate exemption for anti-depressants in PDP	13.2	26.4
Increase dispensing fee for generic drugs from $4.50 to $5.50	(6.9)	(13.8)
Sub-Total	**144.7**	**289.4**
Hospitals		
Continue hospital assessment of 0.35 percent	136.9	0.0
Eliminate inflationary trend	91.3	182.6
Waive assessment reconciliation	44.3	0.0
Reduce Graduate Medical Education (GME) subsidy payments	36.2	72.4
Reduce and reallocate workforce recruitment and retention (HCRA)	0.0	103.1^
Hospital rate adjustment related to HCRA GME (HCRA)	0.0	(48.0)
Continue workforce recruitment and retention payments enacted in 2005-06	(64.0)	(128.0)
Sub-Total	**244.7**	**182.1**
Managed Care		
Obtain federal share for home care demonstration project	81.5	81.5
Premium trend freeze	70.1	140.2
FHP premium trend freeze	11.7	46.8^
Sub-Total	**163.3**	**268.5**
Nursing Homes		
Institute Medicaid-only case mix	83.5	167.0
Eliminate inflationary trend	72.7	145.4
Phase out workforce recruitment and retention over three years (HCRA)	0.0	30.8^
Discontinue nursing home quality improvement program (HCRA)	0.0	109.9^
Sub-Total	**156.2**	**453.1**
Anti-Fraud		
Increase Office of Medicaid Inspector General (OMIG) audit targets	100.0	200.0
Expand county recovery efforts for spousal refusal	4.5	9.0
Sub-Total	**104.5**	**209.0**

Provider Type and Proposal	General Fund Savings/ (Cost)	Gross Savings/ (Cost)*
Other		
OASAS – Eliminate billing detox services/reduce use	11.1	22.2
HCRA – Eliminate Commissioner's priority pool	10.6	0.0
OMH – Expand quality assurance activities	8.0	16.0
OMH – Institute best practices using PSYCKES model	6.5	13.0
OASAS – Review utilization of high volume providers	3.8	7.6
Eliminate legislative add for supplemental payments to emergency transportation providers	3.0	6.0
Re-establish county transportation contracts	2.2	4.4
OASAS – Eliminate methadone maintenance/outpatient duplicate claiming	2.2	4.4
OASAS – Tighten billing standards	1.6	3.2
OMRDD – Reduce Medicaid card use	0.9	1.8
Discontinue legislative add for rural home care (HCRA)	0.0	16.0^
Sub-Total	**49.9**	**94.6**
TOTAL SAVINGS	**1,091.3**	**1,496.7**
New Spending		
Simplify Medicaid enrollment and recertification	(13.8)	(27.6)
Increase funding for traumatic brain injury (TBI) waiver	(5.0)	(10.0)
FHP enrollment growth from marketing	(4.8)	(19.0)
High cost users demonstration program	(4.0)	(8.0)
Staffing resources for long-term care restructuring	(2.6)	(2.6)
Tele Health and information technology demonstration for long-term care	(2.0)	(4.0)
Simplify FHP enrollment and recertification	(0.4)	(1.6)
Sub-Total	**(32.6)**	**(72.8)**
TOTAL NET SAVINGS	**1,058.7**	**1,423.9**

Source: New York State Division of the Budget

* Gross savings include General Fund, other State support and federal savings. These savings impact the health care industry as a whole.

^ Reflects HCRA-related Medicaid savings.

Of the over $1 billion in total net General Fund savings, the Executive Budget's Medicaid savings proposals include $546 million in reductions in provider payments to hospitals, nursing homes and pharmacies. These actions would have a total provider impact of nearly $925 million, or 64.9 percent of the net total, after factoring in the federal Medicaid share for both General Fund and HCRA-related Medicaid savings actions.

The proposed savings measures include eliminating inflation-related cost increases from hospital and nursing home rates (rejected by the Legislature in SFYs 2003-04, 2005-06 and 2006-07), limiting Graduate Medical Education (GME) payments to actual costs (rejected by the Legislature in 2006-07), decreasing pharmacy reimbursement for the Medicaid and EPIC programs from average wholesale price (AWP) minus 13.25 percent to AWP minus 15 percent for brand-name drugs and from AWP minus 20 percent to AWP minus 30 percent for generic drugs, and strengthening the Preferred Drug and Clinical Drug Review programs (similar proposals were rejected by the Legislature in SFYs 2004-05 and 2006-07).

HCRA-Related Savings

The Executive Budget Proposal would achieve a total of $228 million in General Fund savings by shifting a portion of pharmacy expenditures to HCRA. These savings would be supported by recommended savings in various HCRA programs that include an increase in the covered lives assessment on insurance companies, a greater investment in payer/provider compliance audits and elimination of the nursing home quality improvement program (see HCRA section, below, for more information).

Managed Care Savings

Executive Budget proposals would achieve a total of $163 million in State share savings related to managed care in SFY 2007-08, including nearly $82 million by obtaining the federal share of costs for the Home Care Insurance Demonstration Initiative. Under this program, the State provides Medicaid funding for health insurance coverage for employees of certain home health and personal care providers. The federal government initially disapproved, but recently agreed to, a State Plan Amendment extending this program for two years. Prior to federal approval, New York had been paying for the program with State-level support**.** The Executive also proposes to freeze premium payments for managed care plans participating in the CHP, FHP and Medicaid programs in SFY 2007-08.

Anti-Fraud Savings

The Executive Budget assumes $104.5 million in additional anti-fraud savings in 2007-08, including $100 million in higher audit targets to be met by the Office of Medicaid Inspector General (OMIG). This office was established in 2006 as an independent entity within the State Department of Health to improve and preserve the integrity of the State Medicaid program. The higher OMIG audit target, increasing from approximately $300 million in SFY 2006-07 to $400 million in SFY 2007-08, would result from a greater use of technology and contractual activities, elimination of duplicative claiming loopholes, improved billing standards and expanded quality assurance activities.

Additional savings of $4.5 million would accrue from State efforts to encourage counties to pursue spouses with adequate assets who refuse to pay for care. Under this administrative initiative, counties will receive State guidance and administrative support in order to focus on cases in which individuals use eligibility loopholes to inappropriately avoid contributing to the cost of their spouse's long-term care services. In the past, the Legislature has rejected Executive Budget proposals to eliminate such eligibility loopholes.

To achieve additional savings in future years, the Executive Budget proposes an expansion of audit activities, including the hiring of 157 additional staff at a cost of $2.6 million and additional investments in technology costing $2.2 million. The Executive has also advanced a series of statutory reforms to combat Medicaid fraud, including the establishment of a False Claims Act to allow private individuals to bring civil actions for damages.

Other Savings

The Executive would achieve $49.9 million in additional savings by advancing various other recommendations, including proposals to:

- Reform the hospital-based detoxification service system. Reforms would include improving treatment outcomes, developing more person-centered approaches to care and ensuring that services are delivered in clinically appropriate settings.

- Eliminate the Commissioner of Health's priority pool, consistent with the recently enacted Budget Reform Act (Chapter 1 of the Laws of 2007), which requires budget bills to contain itemized appropriations only. In SFY 2006-07, this pool supported $39.2 million in HCRA spending: $25 million for the Commissioner and $7.1 million each for the Speaker of the Assembly and the Senate Majority Leader. The Executive Budget Proposal would eliminate $13.4 million of the Commissioner's funding, which is currently scheduled to decrease from $25 million to $24 million in SFY 2007-08, as well as the Legislature's funding of $14.2 million. The $10.6 million in Medicaid General Fund savings relates to Commissioner funding that would be moved from HCRA to General Fund programs in the AIDS Institute, the Center for Community Health and the Wadsworth Center for Laboratories and Research. Moving this funding from HCRA would create General Fund Medicaid savings by allowing HCRA to pick up additional General Fund Medicaid costs.

- Expand quality assurance and fraud prevention activities in the State Office of Mental Health, in conjunction with OMIG.

- Institute best practices using the Office of Mental Health (OMH) medication and prescription management program—psychiatric clinical knowledge enhancement system (PSYCKES)—in community-based mental health provider settings. The system is currently used in OMH's adult State psychiatric centers.

New Spending

Executive Budget recommendations for new $32.6 million in General Fund Medicaid spending include:

- $13.8 million to simplify enrollment and recertification in the Medicaid program. The Executive proposes to eliminate "unnecessary" documentation requirements for renewals and to provide 12 months (rather than 6 months) of guaranteed continued health insurance coverage.

- $5 million to increase reimbursement for traumatic brain injury waiver programs.

- $4.8 million to increase marketing and outreach in the FHP program. The Executive expects FHP enrollment to increase by 26,000, or 5.1 percent, to 540,000 in 2007-08.

- $4 million to undertake a series of demonstration projects to better manage the care of nursing home patients, persons with co-occurring disorders, and other medically complicated cases and high cost users.

- $2.6 million in staffing resources related to restructuring the State's long-term care system.

- $2 million to fund demonstration projects for tele-health care and information technology, which involve the delivery of health services and information via telecommunications technologies in order to manage disabled populations from a distance.

- $0.4 million to simplify enrollment and recertification in FHP.

Health Care Reform Act

The Executive Budget Proposal assumes HCRA receipts of nearly $4.3 billion in SFY 2007-08 that, together with a projected fund balance of $880 million, would support total HCRA disbursements of over $5.1 billion in 2007-08. The 2007-08 Executive Budget would extend HCRA, which is scheduled to expire on June 30, 2007, for nine months through March 31, 2008. Since it was first established in 1996, HCRA has historically been extended for much longer periods of time. In 1999, HCRA was extended for three and one-half years and, in 2003 and 2005, for two years each. The Executive is recommending a much shorter extension this year to allow an opportunity to review the entirety of the State's hospital reimbursement system. When HCRA was first enacted in 1996, it replaced nearly two decades of rate-regulated hospital reimbursement with a mixture of negotiated rates and continuing public subsidies for various health-related programs. The Executive's proposed HCRA Financial Plan anticipates a closing fund balance of $25 million in March 2008, but projects rapidly growing out-year deficits, assuming longer-term extension of the program and implementation of the Financial Plan as proposed.[53]

The merger of WellChoice and WellPoint in 2005 eliminated one of the most significant short-term risks to the State's HCRA Financial Plan.[54] Two billion dollars in cash from the merger, together with $754 million held in escrow until August 2005, provided over $2.7 billion in funding for HCRA programs in SFY 2005-06. The funds were in escrow due to litigation involving the conversion of Empire Blue Cross Blue Shield to WellChoice, a for-profit insurer.[55]

Since the merger, the Public Asset Fund (Fund) has begun liquidating some of the 27 million shares of WellPoint stock it received in the transaction. The sale of nearly 6.8 million shares in August 2006 generated $504 million that was transferred to HCRA in December 2006. In September 2006, the Fund also sold 12.9 million additional shares of WellPoint stock in hedge transactions that, under current plans, will generate approximately $500 million in HCRA proceeds in March 2007 (for a total of approximately $1 billion in HCRA proceeds in SFY 2006-07) and another $500 million in hedge transaction proceeds in September 2007. The Fund continues to hold over 7.3 million shares of WellPoint stock which, at a current price of approximately $80 per share, are worth more than $584 million.[56] The Executive's HCRA Financial Plan proposes to sell these remaining shares and dedicate their proceeds to HCRA in SFY 2008-09.

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[53] The Executive's proposed HCRA Financial Plan projects out-year deficits of $74 million in SFY 2008-09, $758 million in SFY 2009-10 and $1.3 billion in SFY 2010-11.

[54] Under terms of the merger, completed in December 2005, WellPoint provided WellChoice stockholders, including the New York Public Asset Fund, a blend of cash and stock. The Public Asset Fund, which supports HCRA programs, received nearly $2 billion cash and 27 million shares of WellPoint common stock. The cash was transferred to HCRA in two separate deposits: $993 million in January 2006 and $996 million in February 2006.

[55] The litigation alleged that 2002 legislation authorizing the conversion violated a provision of the State Constitution barring laws that benefit one company, namely Empire.

[56] This calculation is based on the stock price as of March 5, 2007.

The Executive Budget Proposal seeks to ensure HCRA's long-term fiscal stability, assuming its extension past March 2008, by authorizing an additional health insurance conversion—expected to involve non-profit health insurers HIP/GHI—and dedicating 95 percent of the proceeds to HCRA, similar to the Empire conversion. The Executive Budget assumes that proceeds from the additional conversion would accrue to HCRA starting in SFY 2008-09. However, every year since the Empire conversion was authorized in 2002, the Legislature has steadfastly rejected Executive Budget Proposals to authorize any additional conversions. The Executive Budget also recommends a series of actions that would result in nearly $130 million in net HCRA savings in SFY 2007-08 and commensurate savings in the out-years through 2010-11.

HCRA Receipts

The nearly $4.3 billion in HCRA receipts assumed in the Executive's SFY 2007-08 HCRA Financial Plan represents a net decrease of $195 million, or 4.4 percent, from 2006-07. This reduction is primarily attributable to a $500 million decrease in conversion proceeds, which is partially offset by higher surcharge and cigarette tax revenue and a proposal to increase the covered lives assessment on insurance companies. These receipts include:

- $1.9 billion in surcharges on patient service revenues, an increase of $213 million, or 12.4 percent, from SFY 2006-07.

- $850 million from the covered lives assessment, an increase of $75 million, or 9.7 percent, from SFY 2006-07.

- $631 million in cigarette taxes, an increase of $66 million, or 11.7 percent, from SFY 2006-07.

- $500 million in conversion proceeds, a decrease of $500 million, or 50 percent, from SFY 2006-07.

- $268 million from the 1 percent assessment on hospital revenue, an increase of $20 million, or 8.1 percent, from SFY 2006-07.

- $107 million in all other revenue, including $102 million in New York City cigarette tax transfers and $5 million in interest earnings, which represents a decrease of $69 million, or 39.2 percent, from SFY 2006-07. This reduction reflects a $50 million decrease in interest earnings in 2007-08 and $20 million in non-recurring resources from dissolution of the Medical Malpractice Insurance Resources that are not available in 2007-08.

HCRA Spending

The $5.1 billion in HCRA spending recommended in the Executive Budget represents a net decrease of $60 million, or 1.2 percent, from SFY 2006-07 and includes the following amounts:

- $1.96 billion for various Medicaid costs, including pharmacy, FHP and workforce recruitment and retention, a decrease of $48 million, or 2.4 percent, from SFY 2006-07.

- $1.1 billion for various HCRA programs that were off-budget until April 2005, a decrease of $71 million, or 6.2 percent, from SFY 2006-07, including:

  - $89.6 million in additional funding: $31.3 million for Healthy NY, $25.4 million for anti-tobacco, $15 million for AIDS Drug Assistance, $4.8 million for pay-for-performance, $3 million for workforce recruitment and retention grants related to the disproportionate share hospital cap, $3 million for the Health Commissioner's designated emergency funding, $2.5 million for HCRA audits, $2 million for infertility grants, $1.5 million for cancer initiatives and $1.1 million for the disease management/technology demonstration.

  - $160.6 million in lower funding: $30.5 million for hospital workforce recruitment and retention grants, $25 million for the Health Commissioner's priority pool, $24.2 million for graduate medical education, $21.5 million for health care stabilization funding, $20 million for health facility restructuring, $14.2 million for the Legislature's priority pool, $13.5 million for public nursing home worker recruitment and retention grants, $5 million for the Adirondack cancer network, $3 million for worker retraining, $1.7 million for long-term care education and outreach, $1.1 million for the catastrophic program and $0.9 million for HCRA I programs.

  - Unchanged funding totaling $297.3 million: $130 million for the physician excess medical malpractice program, $78 million for the Roswell Park Cancer Institute, $40 million for HMO direct pay, $17.5 million for rural health care initiatives, $10.5 million for school-based health clinics, $6 million for compliance audits and the toll-free anti-fraud hotline, $5 million for a GME disproportionate share hospital initiative, $4.9 million for poison control, $4.1 million for pool administration and $1.3 million for the individual subsidy program.

- $841 million for hospital indigent care, unchanged from SFY 2006-07.

- $461 million for EPIC, a decrease of $36 million, or 7.2 percent, from SFY 2006-07.

- $348 million for CHP, an increase of $13 million, or 3.9 percent, from SFY 2006-07.

- $230 million for all other HCRA funded programs, an increase of $108 million, or 88.5 percent, from SFY 2006-07. This increase primarily results from greater HCRA support for the Healthcare Efficiency and Affordability Law for New Yorkers (HEAL-NY), increasing from $64 million in 2006-07 to $171 million in 2007-08.

- $135 million for various public health programs, a decrease of $25 million, or 15.6 percent, from SFY 2006-07.

- $92 million for mental health programs, a decrease of $1 million, or 1.1 percent, from SFY 2006-07.

HCRA Recommendations

The Executive Budget proposes HCRA actions that would generate $129 million in net HCRA savings in SFY 2007-08, including $278 million in spending reductions for existing HCRA programs, $97 million in new HCRA revenue actions and approximately $246 million in new HCRA spending initiatives, as shown in the following table.

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

	SFY 2007-08	SFY 2008-09
Cost Containment		
Eliminate non-core programs	86	86
Require Part D enrollment for EPIC enrollees	43	57
Eliminate priority pools	28	28
Nursing home workforce recruitment and retention	21	42
Hospital workforce recruitment and retention	20	20
Worker retraining	20	20
Reduce EPIC pharmacy brand/generic reimbursement	17	24
Freeze FHP premiums	12	13
Accelerate implementation of EPIC preferred drug program	9	36
Freeze CHP premiums	8	8
CHP temporary enrollment modifications	8	8
New federal Deficit Reduction Act provisions resulting in lower pharmacy reimbursement	6	12
Sub-Total	**278**	**354**
New Resources		
Increase covered lives assessment by $75 million effective April 2007	75	75
Audit recoveries	22	47
Additional conversion proceeds	0	300
Sub-Total	**97**	**422**
New Spending		
Changes to General Fund financing/subsidy payments	(228)	(0)
Expand CHP	(11)	(42)
Simplify FHP enrollment	(5)	(18)
All other	(2)	(2)
Sub-Total	**(246)**	**(62)**
TOTAL ACTIONS	**129**	**714**

Source: New York State Division of the Budget

HCRA Cost Containment

Eliminating what the Executive describes as “non-core” HCRA programs accounts for $86 million in savings. This represents the largest share of $278 million in HCRA savings recommended in the 2007-08 Executive Budget. Non-core programs include $53 million for nursing home quality improvement, $20 million for health care restructuring, $8 million for rural home care and $5 million for the Adirondack cancer network.

Executive savings recommendations for HCRA also include:

- $43 million related to requiring EPIC program enrollees to sign up for Medicare Part D effective July 1, 2007, unless enrollment results in significant financial hardship.

- $28 million related to eliminating discretionary priority pools for the Commissioner of Health and the Legislature.[57]

- $21 million for nursing home workforce recruitment and retention.

- $20 million for hospital workforce recruitment and retention.

- $20 million in worker training funds.

- $17 million by reducing pharmacy reimbursement in the EPIC program.[58]

- $16 million by freezing premiums and modifying temporary enrollment provisions in CHP.

- $15 million by accelerating implementation of a preferred drug program in EPIC and lowering pharmacy reimbursement consistent with the federal Deficit Reduction Act of 2005.

- $12 million by freezing FHP premiums.

<u>HCRA New Resources</u>

The Executive Budget proposes a total of $97 million in new HCRA resources in SFY 2007-08, which reflects an increase of $75 million, or 9.7 percent, in the covered lives assessment on health insurers effective April 2007 and $22 million from increased audit recoveries from payors and providers. The Executive also recommends authorizing an additional health insurance conversion, expected to involve non-profit health insurers HIP/GHI, which would generate significant new HCRA resources. There is no Financial Plan impact in the 2007-08 fiscal year. Although the Executive estimates the conversion will generate $300 million starting in SFY 2008-09, the Legislature has repeatedly refused to authorize additional insurance company conversions since authorizing the Empire conversion in 2002. In addition, New York

[57] Savings include $14.2 million in funding for the Legislature and $13.4 million for the Commissioner of Health.

[58] Net savings include $19 million in savings from lower pharmacy reimbursement offset by $2 million in costs related to increasing the dispensing fee paid to pharmacists for generic drugs.

City Mayor Michael R. Bloomberg recently testified before the Legislature's fiscal committees that money realized from a HIP/GHI conversion should be shared proportionally with the City because 60 percent of HIP/GHI's business comes from New York City employees.

HCRA New Spending

Much of the new HCRA spending recommended in the Executive Budget, $228 million, relates to use of anticipated HCRA savings to finance General Fund Medicaid costs in SFY 2007-08. The Executive also proposes to spend $11 million to expand CHP eligibility from 250 percent to 400 percent of the federal poverty level, equivalent to $82,600 for a family of four, and to increase marketing and publicity to encourage enrollment in the program. In addition, the Executive recommends $5 million to simplify enrollment and recertification procedures in FHP, as well as to increase marketing and outreach. The Executive proposes $2 million to increase funding available for public health emergencies.

HEAL-NY

The Healthcare Efficiency and Affordability Law for New Yorkers (HEAL-NY) is a four-year, $1 billion capital grant program enacted in SFY 2005-06 to support investments in health care infrastructure. Such investments must be designed to enhance the operation of health care facilities, close or restructure underutilized capacity, or upgrade information and health care technologies, consistent with the recommendations of the Berger Commission on Health Care Facilities in the 21st Century. The Berger Commission's recommendations were released in November 2006, approved by the Executive in December 2006, and adopted by the Legislature when it took no action to reject them before December 31, 2006. HEAL-NY program costs are financed through a combination of bond-financed resources and pay-as-you-go (PAYGO) capital for non-bondable projects, such as personnel, information technology and the retirement of health care facility indebtedness, as well as Roswell Park Cancer Institute capital projects. HCRA receipts are used to support non-bondable projects.

The Executive Budget provides the third $250 million installment for the program, increasing available appropriation levels to $750 million in SFY 2007-08. Of the third $250 million appropriation, $165 million is PAYGO capital and the remaining $85 million supports bondable, "bricks and mortar" projects at health care facilities in the State. Projected 2007-08 disbursements of $171 million in PAYGO projects include $25 million for Roswell Park.[59] Disbursements for bondable projects are expected to

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[59] SFY 2007-08 pay-as-you-go (PAYGO) disbursements are higher than the SFY 2007-08 PAYGO appropriation because of the use of prior year appropriation authority.

total $65 million in SFY 2007-08. The Executive Budget assumes total HEAL-NY disbursements of approximately $300 million through March 2008, 78 percent of which is designated for PAYGO capital.

Family Health Plus

The Executive Budget recommends total spending of $1.8 billion for the FHP program in SFY 2007-08, which represents an increase of $142.1 million, or 8.5 percent, over SFY 2006-07. This Medicaid expansion program 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 government. The State began paying 50 percent of the local share of FHP in January 2005 and, effective January 1, 2006, began paying for the entire non-federal share of the program. The Executive expects the FHP takeover to cost $477 million in SFY 2007-08, an increase of $39 million, or 8.9 percent, from SFY 2006-07.

The FHP program, which began in September 2001, has experienced impressive growth during its relatively short tenure. The Executive Budget anticipates a total of 540,000 FHP enrollees in SFY 2007-08, which represents an increase of approximately 26,000 enrollees, or 5.1 percent, over SFY 2006-07.

FHP Spending
Executive Budget
(in millions of dollars)

Funding Source	2005-06 Actual	2006-07 Estimated	2007-08 Proposed	Change (06-07 to 07-08) Dollar	Percent
Federal Funds	683.8	796.5	855.7	59.2	7.4%
State Funds	702.6	876.7	959.6	82.9	9.5%
Local Funds	154.4	NA	NA	NA	NA
Total Spending	**1,540.8**	**1,673.2**	**1,815.3**	**142.1**	**8.5%**

Source: New York State Division of the Budget

The Executive recommends several major new initiatives in FHP in the 2007-08 Budget Proposal, including Article VII legislation to:

- Streamline the renewal process by eliminating unnecessary documentation requirements for FHP and provide 12 months guaranteed continuous coverage to reduce gaps in coverage, effective January 2008.

- Increase marketing and outreach to ensure that eligible individuals take advantage of the program.

- Freeze premium payments for providers in FHP to promote efficiencies and to make health care coverage more affordable.

- Require new FHP enrollees with access to employer-sponsored health insurance to enroll in the employer-sponsored plan as a condition of receiving FHP benefits, but only if such enrollment is cost-neutral to the State. The Article VII legislation requires the State to pay for cost-sharing obligations for the enrollee's employer-sponsored plan that exceed the enrollee's FHP co-payment responsibilities. The State would also pay for services and supplies normally covered by FHP if the enrollee's employer-sponsored plan does not cover them. The proposal would fulfill one of the requirements the State must meet in order to draw down federal funds under the recently approved Federal-State Health Reform Partnership waiver.[60] Under this waiver, the State must implement a program to increase the number of currently-uninsured-but-employed-New Yorkers who have private insurance coverage. This new program must be in place by January 1, 2008.

Child Health Plus

In SFY 2007-08, the Executive Budget recommends total spending of $682.7 million for CHP, the State's program of federally subsidized health insurance coverage for children under 19. The recommendation represents an increase of $25.6 million, or 3.9 percent, over SFY 2006-07, and reflects increases in the cost of providing services and projected enrollment increases in 2007-08. State support for CHP, which is financed through transfers from the HCRA Resources Fund, would increase $13 million, or 3.9 percent, to $348.1 million in SFY 2007-08. Federal support for the program would increase by $12.6 million, or 3.9 percent, to nearly $334.6 million in SFY 2007-08.

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[60] Under this waiver, the federal government will invest up to $1.5 billion ($300 million per year) in reform initiatives that include right-sizing and restructuring the State's acute and long-term care delivery systems, expanding the use of e-prescribing, fostering the implementation of electronic medical records and regional health information organizations, and expanding ambulatory and primary care services. Federal investment is conditioned upon the waiver generating federal savings sufficient to offset the federal investment and the State meeting a series of performance milestones, including employer sponsored insurance, fraud and abuse recoveries, and implementation of the Berger Commission's recommendations.

CHP Program Disbursements
Executive Budget
(in millions of dollars)

Funding Source	2005-06 Actual	2006-07 Estimated	2007-08 Proposed	Change (06-07 to 07-08) Dollar	Percent
Federal Funds	310.4	322.0	334.6	12.6	3.9%
State Funds	344.5	335.1	348.1	13.0	3.9%
Total Spending	**654.9**	**657.1**	**682.7**	**25.6**	**3.9%**

Source: New York State Division of the Budget

In an initiative to provide insurance access to all 385,000 uninsured children in the State, the Executive Budget recommends Article VII legislation to expand program eligibility from 250 percent to 400 percent of the federal poverty level and increase marketing and publicity to encourage enrollment. The Executive expects these initiatives to increase enrollment to 421,000 children in SFY 2007-08, representing an increase of 32,000, or 8.2 percent, over SFY 2006-07.

President Bush has proposed to limit federal CHP funding to coverage of children with family incomes up to twice the poverty level. While children in families with incomes up to 250 percent of poverty would continue to qualify for New York State CHP coverage, the President's proposal would lower federal funding for this coverage from 65 percent to 50 percent of the cost. With 55,000 enrollees in families above 200 percent of poverty, State costs would increase by $14.6 million if the President's proposal is enacted. The President's proposal to limit federal CHP funding could also affect the Executive's plan to raise the eligibility limit for CHP coverage from 250 to 400 percent of poverty.

Of the 389,000 children expected to be enrolled in the program by March 2007, approximately 88,000 are legal immigrants whose program costs 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 State-only costs of covering the legal immigrants are responsible for the roughly equivalent levels of State and federal funding for the program.

Similar to FHP, the Executive proposes to freeze premium payments for providers in CHP to promote efficiencies and to make health care coverage more affordable. The Executive Budget also recommends modifying the procedures for temporary enrollment in CHP to ensure that Medicaid eligible children are not inappropriately enrolled in CHP, thereby avoiding federal disallowances.

Also, similar to changes to FHP, the Executive proposes a new premium assistance program in CHP that would require children in families with income between 251 percent and 400 percent of poverty, with access to employer-sponsored health insurance, to enroll in the employer-sponsored plan. This Article VII legislation requires the Commissioner of Health to establish standards for employers and the State to share premium costs. The Health Commissioner would also set standards for the scope and level of benefits in the employer-sponsored plans. Under the program, State expenses would be funded within CHP appropriations, but only if they are cost-effective compared to what the State would pay to obtain traditional CHP coverage for eligible children. For children in families with income at or below 250 percent of poverty, participation in the premium assistance program is voluntary.

Elderly Pharmaceutical Insurance Coverage

For SFY 2007-08, the Executive Budget recommends approximately $776 million in support of the Elderly Pharmaceutical Insurance Coverage (EPIC) program, the State-sponsored drug plan for non-Medicaid eligible senior citizens. This level of funding, representing a decrease of approximately $18.6 million, or 2.3 percent, over SFY 2006-07, reflects a number of significant program changes recommended in the Executive Budget. This funding level also reflects significant spending re-estimates, of $95 million in 2006-07 and $99 million in 2007-08, which include State funds savings related to higher than expected voluntary enrollment of EPIC participants in the federal Medicare Part D prescription drug program and lower than expected State "clawback" payments to the federal government.[61] The Executive Budget expects EPIC enrollment for SFY 2007-08 to decrease to 363,000, a decline of 9,000, or 2.4 percent, from an estimated 372,000 enrollees in SFY 2006-07.

EPIC Program Summary
Executive Budget
(in millions of dollars)

Funding Source	2005-06 Actual	2006-07 Estimated	2007-08 Proposed	Change (06-07 to 07-08) Dollar	Percent
Rebates and Fees	280.4	268.7	284.2	15.5	5.8%
HCRA Funds	541.0	496.6	461.4	(35.2)	(7.1%)
General Fund	0.0	29.2	30.3	1.1	3.8%
Total Spending	**821.4**	**794.5**	**775.9**	**(18.6)**	**(2.3%)**

Source: New York State Division of the Budget

[61] The clawback is a monthly payment made by each state to the federal Medicare program reflecting the amount that a state would have spent if it had continued to pay for outpatient prescription drugs through Medicaid on behalf of dual eligibles— low income elderly or disabled individuals who are enrolled in both Medicare and Medicaid.

The Executive Budget recommends several significant changes to EPIC that would reduce the cost of the program by a net $95.4 million in 2007-08. Executive savings recommendations include:

- $43 million related to requiring all eligible EPIC enrollees to participate in Medicare Part D as a condition of continued eligibility for EPIC, unless they do not access EPIC services (deductible enrollees who do not meet deductibles), would lose pre-existing drug coverage or might suffer significant financial hardship. Under this initiative, EPIC would provide assistance to cover Part D premiums for low-income EPIC enrollees and provide a deductible credit for higher income EPIC enrollees, in order to ensure that EPIC enrollees do not incur increased out-of-pocket costs.

- $20 million related to maximizing additional voluntary enrollment of EPIC participants in Medicare Part D.

- $19.4 million related to reducing EPIC pharmacy reimbursement from 13.25 percent to 15 percent below the average wholesale price (AWP) for brand drugs and from 20 percent to 30 percent below AWP for generic drugs. These savings would be offset by $1.7 million in costs related to increasing the dispensing fee paid to pharmacists for generic drugs from $4.50 to $5.50 per prescription in order to encourage the use of generic drugs.

- $9 million related to accelerating implementation of a preferred drug program (PDP) for EPIC to January 1, 2008 (from April 1, 2008). EPIC would participate in the same PDP as Medicaid.

- $5.7 million related to implementation of pharmacy reimbursement changes for generic drugs required in the federal Deficit Reduction Act of 2005.

Healthy New York

The Executive Budget recommends $110 million for the Healthy New York program in SFY 2007-08, which represents an increase of $31.3 million, or 39.8 percent, over SFY 2006-07. Healthy New York is a managed care program to encourage small employers to offer health insurance to their employees and their dependents. The program is also available to sole proprietors and working individuals who cannot obtain insurance through their employer. Healthy New York, established by Chapter 1 of the Laws of 1999 (HCRA 2000), is funded with HCRA receipts and has been enrolling the uninsured since January 2001. The Executive Budget recommendation projects Healthy New York enrollment to reach 170,000 in SFY 2007-08, which represents an increase of approximately 33,000, or 24.1 percent, over SFY 2006-07.

Healthy New York Program Summary
Executive Budget
(in millions of dollars)

	2005-06 Actual	2006-07 Estimated	2007-08 Proposed	Change (06-07 to 07-08) Amount	Percent
Total Spending*	**$41.1**	**$70.8**	**$102.5**	**$31.7**	**44.8 %**
Individual	$22.3	$40.4	$58.4	$18.0	44.6 %
Small Business	$12.2	$21.4	$33.6	$12.2	57.0 %
Advertising**	$6.6	$9.0	$10.5	$1.5	16.7 %
Enrollment	114,468	137,004	170,000	32,996	24.1 %
Individual	NA	75,487	93,500	18,013	23.9 %
Sole Proprietor	NA	22,879	28,900	6,021	26.3 %
Small Business	NA	38,638	47,600	8,962	23.2 %

Sources: New York State Division of the Budget and New York State Insurance Department

* Total spending does not reflect Healthy NY spending on the COBRA Premium Subsidy or Brooklyn Healthworks programs, which account for $7.9 million in SFY 2006-07 and $7.5 million in SFY 2007-08. The COBRA Premium Subsidy program uses Healthy NY funding to provide health insurance for eligible persons in the entertainment industry and other dislocated workers pursuant to the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) law of 1985, as amended by the federal Tax Reform Act of 1986. The Healthworks project uses Healthy NY funding to provide low-cost health insurance options to small businesses in Brooklyn.

** Advertising spending includes administrative expenses for the Healthy NY Hotline, the Healthy NY Annual Report and Stop-Loss Funds.

Much of the recent increase in enrollment, as well as the resulting growth in program spending, is attributable to increased advertising and a change in the program's "stop-loss" reimbursement for participating health plans. This change, made in July 2003 and retroactive to January 2003, substantially decreased the thresholds at which participating health plans may obtain stop-loss reimbursement. As a result, program enrollment has increased more rapidly.

Community-Based Health Care

The Executive Budget makes a number of recommendations to shift spending from expensive institutional care toward community and home-based alternatives for the elderly and the disabled. These recommendations include:

- Expanding the managed long-term care program by removing restrictions on the number of plans and enrollment in the program in order to allow more people to access this health care option. The program offers a more comprehensive package of services in less restrictive settings than the traditional Medicaid fee-for-service system. As of January 2007, over 18,000 individuals were enrolled in 17 plans in New York City and 14 counties outside the City. The Executive expects enrollment to increase to 23,000 (by 25.2 percent) in 2007-08.

- Providing $5 million in additional funding to increase reimbursement for the traumatic brain injury (TBI) Medicaid waiver program, which provides services to support more than 2,100 New Yorkers living with brain injury in community-based settings. The Executive Budget proposes a statewide rate increase of 3 percent and an additional 7 percent in New York City. Program providers have not received a cost-of-living-adjustment for several years.

- Funding $2 million in demonstration programs for tele-health, the delivery of health services and information via telecommunications technologies, to manage disabled populations from a distance. According to the Executive, the ultimate goal is to develop a care model that would qualify for federal Medicaid reimbursement.

- Providing $1 million in additional funding for the State Office for the Aging's Supplemental Nutrition Assistance Program (SNAP), for a total appropriation of $19.2 million in 2007-08. The Executive expects this increase to expand the number of meals provided to elderly individuals by 160,000 annually, or 4.3 percent, to nearly 3.9 million meals in SFY 2007-08.

Public Health

The Executive Budget recommends new or increased funding for a wide range of public health programs, as well as a series of measures to control spending in the Early Intervention (EI) program. However, for the first time in several years, the Executive Budget recommends no changes to the existing statutory rates that are used to reimburse local governments for various public health services they provide under the General Public Health Work program.

The Executive Budget recommendations provide $58.6 million in new or increased funding for a variety of initiatives, including:

- $29 million in additional funding to stockpile medication and supplies to be used in the event of a pandemic outbreak.

- $6 million for sexuality-related programs.

- $4.5 million for expanding emergency food service at food banks and pantries.

- $3.5 million for 75 new staff to improve the administration of the State's health care programs and to address programmatic needs throughout DOH.
- $3 million for enhancing the vital records program.
- $2.6 million for emergency contraception education, training and outreach.
- $1.5 million for primary prevention of childhood lead poisoning.
- $1.5 million to promote and expand access to cervical cancer vaccine.
- $1.3 million to meet federal payment error rate measurement requirements.
- $1 million for electronic reporting of communicable diseases.
- $1 million for universal prenatal/postpartum home visits.
- $1 million for various DOH health promotion activities, such as colorectal screening, infection control and prenatal care.
- $0.9 million for breast cancer detection and education.
- $0.5 million in additional funds for Medicaid program studies.
- $0.5 million for surveillance in the assisted living program.
- $0.3 million for student body mass index reporting on school physical forms.
- $0.3 million for the diabetes centers for excellence.
- $0.2 million for ovarian cancer information program.

The Executive Budget proposes $186 million in funding for the EI program, which provides services like speech and physical therapy to an estimated 72,000 developmentally disabled infants and toddlers under the age of three, at no cost to their families, regardless of income level. This represents a net decrease of $9 million, or 4.6 percent, from SFY 2006-07.

The Executive's 2007-08 recommendation reflects $10 million in program savings achieved by enhancing audit recoveries through the addition of five audit staff. The Executive also proposes to institute new fees of $125 for individual providers and $225 for agency providers seeking approval to participate in the program. Approvals would be effective for five years and would generate $400,000 a year to offset program administrative costs.

In addition, the Executive recommends requiring private health insurance plans to reimburse EI for medical costs that are covered by such plans, saving $5.1 million in SFY 2008-09. The Executive indicates that only 2 percent of covered medical costs are currently paid through insurance. However, the Legislature has rejected similar proposals in the past.

The Executive Budget Proposal includes $220 million for the General Public Health Works (GPHW) program, which represents an increase of $20 million, or 10 percent, over estimated spending for SFY 2006-07. This increase is due primarily to programmatic changes in the 2006-07 Enacted Budget that increased the county base grant, as well as the reimbursement rate for optional services from 30 percent to 36 percent. The budget recommendation also increases from $20 million to $40 million a GPHW reserve appropriation that would be used by the State and local governments in the event of a public health emergency. The reserve appropriation was established in SFY 2006-07 and, while it has not been used to date, the Executive Budget proposes to increase the appropriation to make sure the State has adequate authority to address potential public health emergencies. The Executive Budget provides no cash behind the reserve appropriation. If the State needs to draw upon it, however, the Executive indicates that funding would be moved from elsewhere in the State Financial Plan.

The Executive Budget also proposes to increase the biennial physician registration fee from $600 to $1,000 to ensure that there are sufficient resources to support oversight of the professional medical conduct program, as well as physician profiling activities. Increasing the fee, which was last raised in 1996, would generate an additional $5 million a year. In addition, the Executive recommends to permanently allow the Professional Medical Conduct Account to be used to finance the Physician Profiling program. The Legislature has granted such authority, annually, as part of the enacted budget since SFY 2003-04.

Mental Hygiene

For the second consecutive year, the Executive Budget recommends significant net growth in General Fund mental hygiene spending, which would increase $265 million, or 9.3 percent, over SFY 2006-07. General Fund mental hygiene expenditures increased $325 million, or 12.9 percent, from SFY 2005-06 to 2006-07, after growing only $28 million, or 1.1 percent, from SFY 2004-05 to 2005-06.

In SFY 2007-08, the Executive Budget projects a $407 million increase in current services spending, almost half of it, $198 million, attributable to growth in local assistance expenditures for existing programs supported by the three State mental hygiene agencies, OMH, the Office of Mental Retardation and Developmental Disabilities (OMRDD), and the Office of Alcoholism and Substance Abuse Services (OASAS). Projected increases for these programs include:

- $48 million for two OMRDD initiatives:
  - New York State – Creating Alternatives in Residential Environments and Services, known as NYS-CARES, and
  - New York – Options for People Through Services, known as NYS-OPTS, as well as the development of children's beds for out-of-state placements.
- $40 million for operating costs associated with a recent supportive housing agreement and community bed expansion in OMH.
- $25 million to support additional costs of developing community beds in OASAS.
- $15 million for enhanced and expanded mental health programs for children.

The remaining current services growth reflects an increase of $146 million in State Operations program expenditures related to prior collective bargaining agreements, inflation, staffing adjustments and increased costs, as well as the fully annualized costs of the human services cost-of-living adjustment, $63 million, that was authorized in the 2006-07 Enacted Budget. A portion of the increase in State Operations program expenditures, $19 million, reflects the increased costs of additional staffing for the Sexually Violent Predator Civil Commitment initiative. This funding will support an addition of 335 full-time equivalent positions (FTEs) for the delivery of services to individuals committed to OMH secure treatment settings. This recommendation brings staff support to 782 FTEs with operational funding totaling $46 million.

The Executive Budget also recommends $25 million in new initiatives in OMRDD and OMH:

- $6 million for the first-year costs of the third installment of OMRDD's NYS-CARES program, which will provide 1,000 new out-of-home residential, 200 new day and 2,500 new at-home residential rehabilitation opportunities over the next five years.
- $6 million for first-year funding of 1,000 new OMH supported housing beds effective October 2007.

- $5 million for expanding OMRDD's Family Support Services program to an additional 5,000 families to help care for their disabled loved ones at home.

- $4 million for enhancement of existing adult and children's community residence and family-based treatment programs effective January 2008.

- $3 million to expand employment opportunities for individuals with mental retardation and developmental disabilities. This funding would provide 750 new supported work opportunities and transition at least 500 individuals from sheltered workshops, day training and prevocational programs into more competitive work settings, bringing total supported employment participants to over 8,800 persons.

- $1 million for 180 additional home and community-based waiver slots for children with emotional disturbances. This program enables children at risk for institutional placement to remain at home and in school while receiving needed services.

The total increased costs of $432 million are partially offset by $167 million in recommended savings, including actions to generate higher federal aid, achieve State Operations efficiencies and target fraudulent or mismanaged providers. This offset results in the year-to-year net increase in General Fund mental hygiene spending of $265 million.

The Executive Budget also proposes additional capital funding for the ongoing development of additional community beds, 1,000 new congregate beds for persons with mental illness, and two OASAS initiatives to expand residential treatment capacity for veterans by 100 beds and enhance capacity in Nassau and Suffolk counties by an additional 100 beds. The Executive Budget proposes no OMH facility or bed closures in SFY 2007-08 due to the State's need for beds in connection with the civil commitment initiative.

Section

12

Social Services

For SFY 2007-08, the Executive Budget develops a new approach regarding the appropriation of Temporary Assistance for Needy Families (TANF) federal funds. While the Executive continues to provide a block grant for localities, known as the Flexible Fund for Family Services (FFFS), Article VII language is proposed to establish a methodology for this funding for preventive services in order to link eligibility for funding with performance based criteria. Furthermore, the Executive provides more itemization in the allocation of TANF as required by Chapter 1 of 2007, lining out specific employment/transitional programs and health and services initiatives. The Executive also allocates funding for various statewide programs, formerly advocated by the Legislature. As a result, programs with statewide goals will no longer be forced to compete for funding from a locality's share of the block grant. On the other hand, programs focused on a limited geographical area will be eligible to compete for funding from the FFFS.

Due to the approach to the Child Care Block Grant (CCBG) used in recent years, it is no longer possible to compare the proposed funding with the current year total CCBG. Localities determine the level of TANF funding from the FFFS directed at child care in their respective districts later in the year; that aggregate amount is then added to the funding provided in the Enacted Budget. At this time, $533 million is proposed in 2007-08. If localities choose to support child care with the same level of FFFS funding as in 2006-07, $352 million, the CCBG would total $885 million in 2007-08, $12 million less than in 2006-07.

TANF Funding

TANF dollars are appropriated in both the Office of Children and Family Services and the Office of Temporary and Disability Assistance (OTDA) within the Department of Family Assistance. In SFY 2005-06, the allocation of TANF federal funds was changed from providing resources for specific support services aimed at promoting self-sufficiency, and addressing neglect and abuse or exploitation of children or adults, to providing a block grant, the FFFS, for localities. This year, the Executive continues this approach and proposes a total of $1.046 billion for the FFFS, the Summer Youth Employment Program and Domestic Violence Screening, representing a $9.2 million increase from last year's funding level ($1.037 billion) for these three programs. Each locality must prioritize its needs in determining which support services to fund, as well as the funding levels for these services, from its FFFS allocation. The 2007-08 Executive Budget appropriates $1.008 billion for the FFFS and up to $35 million for Summer Youth Employment and $3 million for Domestic Violence Screening. In SFY 2006-07, the FFFS was funded at $1.037 billion; however, funding for both Summer Youth Employment and Domestic Violence Screening was charged to each locality's share of the FFFS.

A total of $582 million is funded through TANF for the State's Earned Income Tax Credit (EITC), which provides a personal income tax credit for eligible families. This is a decrease of $96.6 million, or 14.2 percent, from $678.6 million in 2006-07.

Public Assistance

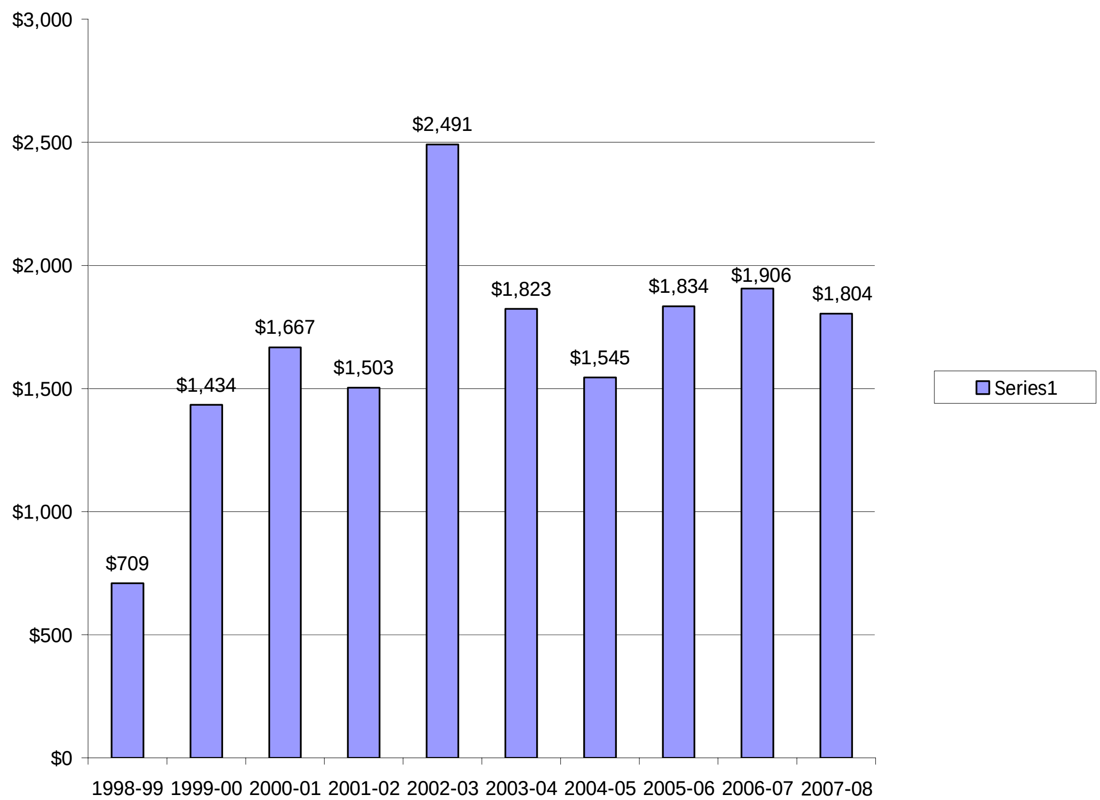
New York receives an annual TANF block grant of $2.44 billion from the federal government to help fund public assistance. This amount is based on the public assistance caseload in 1995. Since that time, caseloads have declined significantly and New York now receives a greater share of total program support from the federal government. The additional amount of federal dollars is generally referred to as funding for "TANF Initiatives," which is above the federal share needed to support the Family Assistance Program.[62]

The exact amount of TANF Initiative funding is determined each year after calculating the benefit costs for the caseload numbers projected for the upcoming SFY. The Proposed Budget projects $645.9 million in cash assistance (base program spending), representing a decrease of $17.1 million, or 2.6 percent (down from $663 million in 2006-07), and appropriates $1.8 billion for TANF support services.

[62] Although formerly referred to as the "TANF Surplus," the funds have been targeted for real programmatic uses.

In order to receive TANF 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 projects that both the State and local governments will reach the required MOE for 2007-08.

Available TANF Initiatives
(in millions of dollars)



TANF Initiatives

The amount of funding available for TANF initiatives in SFY 2007-08 has decreased approximately $102 million from 2006-07 since no monies are available from either federal bonuses or spending authority from the prior year. The 2007-08 Executive Budget appropriates $1.8 billion for TANF support services, committing the entire amount of TANF Initiative funding. The following chart illustrates the reorganization of TANF Initiative funds proposed by the Executive.

Allocation of Available Federal TANF Initiatives Monies
(in millions of dollars)

Program	**Enacted 2006-07**	**Proposed 2007-08**
Flexible Fund for Family Services	1,037.0	1,008.0
▪ Child Welfare (Title XX, local JD/PINS, NYC foster care tuition, child welfare EAF, OCFS JDs, OCFS community based JD services, PINS/preventive services, child welfare quality)		
▪ Child Care Block Grant (CCBG)		
Earned Income Tax Credit (EITC)	678.6	582.0
Services and Health	89.7	131.3
Employment/Transitional Initiatives	21.9	82.5
Legislative Initiatives	*78.4	0
Total	**1,905.6**	**1,803.8**

Source: New York State Division of the Budget
* Funded with re-appropriating authority. Funding for many of the 2006-07 Legislative Initiatives is appropriated in Services and Health or Employment/Transitional initiatives in the 2007-08 Executive Budget.

The 2007-08 Executive Budget takes a new approach to allocating TANF Initiative resources by providing appropriations for programs that have been previously included as legislative initiatives if those programs offer services on a statewide basis. By appropriating funds for programs traditionally added by the Legislature, the Executive Budget attempts to provide more certainty regarding the State's funding commitment for local governments and other organizations providing services.

Programs appropriated as legislative initiatives in 2006-07 that have a regional or local emphasis but could be associated with a statewide program were not included in the proposed 2007-08 Executive Budget. The Executive Budget does, however, increase the statewide program by approximating the reduction for certain regional or local programs and will allow such programs the opportunity to compete for this additional funding. Such increases are reflected in the following table, which lists appropriations for a cross-section of Services and Health Initiatives.

Services and Health
(in millions of dollars)

Program	Enacted 2006-07	Proposed 2007-08
Advantage Schools	27.5	28.2
Home Visiting	21.4	21.6
Food Pantries	12.4	12.5
Pregnancy Prevention	12.1	12.1
APPS	7.3	7.5
WIC	5.0	5.0
ATI	4.0	4.0
Displaced Homemakers	2.3	2.3
Total	**92.0**	**93.2**

Source: New York State Division of the Budget

In 2006-07, funding decisions for the Employment and Transitional programs listed in the following table were left in large part to the localities. The 2007-08 Executive Budget, however, appropriates up to $35 million for Summer Youth Employment and $3 million for Domestic Violence Screening, both programs that a locality could only fund in 2006-07 with its share of the FFFS.

Employment/Transitional
(in millions of dollars)

Program	Enacted 2006-07	Proposed 2007-08
Summer Youth Employment	0	35.0
BRIDGE[63]	9.6	9.6
Transportation	8.4	6.2
DV Screening	0	3.0
Total	**18.0**	**53.8**

Source: New York State Division of the Budget

Under the 2007-08 Executive Budget, local districts may choose to designate additional monies for Services and Health programs or fund other Employment or Transitional support services through allocation of the FFFS. In addition, the FFFS may be used to fund TANF programs with a regional or local focus. As in the current year, each locality would prioritize its needs and determine the specific programs to support through the FFFS, as well as the individual funding levels.

[63] BRIDGE has provided vocational training and supported work experience since the early 1990s.

Local districts also 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, and
- A transfer to Title XX of up to 24 percent of the FFFS.

As part of its new approach, the Executive also proposes Article VII language that would establish a funding methodology for services supported by the FFFS and implement performance based measures on which to evaluate programs.

Caseloads

For 2007-08, the Executive projects continued decreases in the number of both Family Assistance recipients and Five-Year Families. This year, the number of Family Assistance recipients will decrease by 11,653, or 4.1 percent, and the number of Five-Year Families will decrease by 5,960, or 4.5 percent.

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. After that point, benefits must only come from State and local resources, in order to provide for Five-Year Families as well as Safety Net Assistance (SNA). In contrast to both Family Assistance recipients and Five-Year Families, the number of Safety Net recipients is projected to increase by 4,807, or 3.2 percent; however, the total net decrease for all three populations is projected to be 12,806, or 2.3 percent.

For 2007-08, the number of recipients of Supplemental Security Income (SSI) is projected to increase by 20,335, or 3.2 percent. When combined with all recipients of public assistance, the overall number of caseloads is projected to increase by 7,529, or 0.6 percent.

Temporary Assistance Caseloads

	2006-07	2007-08	Change	Percent Change
Family Assistance	282,918	271,265	(11,653)	-4.1%
Five-Year Families	132,249	126,289	(5,960)	-4.5%
Safety Net	150,647	155,454	4,807	3.2 %
Sub-Total	**565,814**	**553,008**	**(12,806)**	**-2.3 %**
SSI	635,665	656,000	20,335	3.2%
Total	**1,201,479**	**1,209,008**	**7,529**	**0.6%**

Source: New York State Division of the Budget

Due to the projected decrease in certain caseloads, the State's share of General Fund spending is expected to decrease $11.1 million, or 4.3 percent, for Family Assistance, and $7.1 million, or 4.5 percent, for Five-Year Families. A projected increase in Safety Net caseloads, however, results in a $12.1 million increase, or 3.2 percent, in the State cost for SNA. The State's share of SNA is 50 percent; counties support the remaining 50 percent.

Again, to reflect caseload levels, under the 2007-08 Executive Budget, the State's share of SSI is estimated to increase by $25.2 million, or 3.8 percent, to $680.8 million. The net increase for the State share of all temporary assistance programs is $19.1 million, or 1.3 percent.

State Share Temporary Assistance Programs
(in millions of dollars)

	2006-07	2007-08	Dollar Change	Percent Change
Family Assistance	257.4	246.3	(11.1)	-4.3%
Five-Year Families	157.9	150.8	(7.1)	-4.5%
Safety Net	372.8	384.9	12.1	3.2%
State Share of SSI	655.6	680.8	25.2	3.8%
Total	**1,443.7**	**1,462.8**	**19.1**	**1.3%**

Source: New York State Division of the Budget

Work Participation Requirements

The Executive Budget proposes an $11.4 million work incentive bonus, associated with the ability of localities to meet the more rigorous work participation requirements defined by the federal government in October 2006. The federal government retained the current work participation rate of 50 percent for one parent families, but more narrowly defined the types of activities that may be counted toward the participation rate.

Other factors, however, mitigate the difficulty this would cause in meeting the work rate. The work participation rate is now based on the 2005 caseload year, lower than the 1996 caseload year on which the rate was previously based. In addition, a credit is given for each drop in caseload numbers after 2005. If New York's Family Assistance caseloads continue to decline as they have in recent years, it will be easier for the State to meet the work rate.

Furthermore, the federal government left a credit toward meeting the work participation rate in place, at least temporarily, for states that spend in excess of the MOE. New York State has identified more than $500 million in excess MOE spending, and this credit will help ensure that New York meets the new requirements in Federal Fiscal Year (FFY) 2006-07. If New York encounters a problem meeting the new requirements, it is more likely to be in the future should the federal government act in FFY 2007-08 to eliminate the credit.

Providing support services that help public assistance recipients find and retain employment would also help the State in meeting the work participation rate. In response to a 2003 Office of the State Comptroller audit recommendation, OTDA is developing an Employment Evaluation Tool that is targeted for completion in April 2007. The Evaluation Tool will be used to screen all public assistance recipients who have received benefits for 36 months or longer in an attempt to identify conditions or barriers to employment.[64] Only when such barriers are identified can localities then work to match people with the appropriate services to address those barriers.

Child Care

The Child Care Block Grant (CCBG), which provides a service that affects a family's ability to attain self-sufficiency, is currently estimated to be $533 million for 2007-08. This is the same level of funding originally estimated by the 2006-07 Enacted Budget; however, the final adjusted level of CCBG funding, without the FFFS allocation, was

[64] Office of the State Comptroller. Follow-up Report F-17 to *Barriers to Self Sufficiency (Report 2003-S-15)*. October 26, 2006.

$545 million in 2006-07. The 2007-08 Executive Budget does not allocate a specific TANF appropriation for child care and instead proposes that localities use FFFS monies for child care needs. This approach was implemented in 2006-07 with localities prioritizing their needs and subsequently directing $352 million in TANF FFFS to child care. Once commitments are made at the local level for child care funding, the CCBG total is adjusted. In SFY 2006-07, the final level of funding for the CCBG was $897 million.

Breakdown of Child Care Block Grant
(in millions of dollars)

Child Care Block Grant	Enacted 2006-07	Proposed 2006-07	Dollar Change	Percent Change
State Share	136.0	140.0	4.0	2.9%
Local Share	68.0	68.0	0.0	0.0%
Federal Child Care Development Fund	315.0	315.0	0.0	0.0
Federal TANF FFFS	352.0	TBD	TBD	TBD
Federal TANF Line-Outs	18.0	10.0	(8.0)	-44.4%
Federal Prior Year Funds	4.0	0.0	(4.0)	-100.0%
AFSCME Demo (General Fund)	4.0	0.0	(4.0)	-100.0%
Total	**897.0**	**533.0**	**TBD**	**TBD**

Source: New York State Division of the Budget

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. Federal rules allow states to transfer up to 30 percent of current year TANF funds to the CCBG or to a combination of the CCBG and the Social Services Block Grant (SSBG). For FFY 2005, New York transferred 15 percent of its TANF funds to the CCBG and 5 percent to the SSBG.[65] The counties administer day care slots with funding received from the State shortly after enactment of the budget each year and have the flexibility to support full- or part-time day care slots.

Federal child care dollars for parents who move from public assistance to employment have not kept pace with the need. The federal government estimated that only 2.2 million children received child care assistance from all sources in FFY 2005, a decline from 2.3 million children in 2004, and from 2.5 million children in 2000. By 2011, it is estimated the number of children will drop to 1.8 million if funding remains at the current level.[66] More rigorous work participation requirements, as recently issued by

[65] Matthews, Hannah and Danielle Ewen. "Child Care Assistance in 2005: State Cuts Continue." Center for Law and Social Policy. November 1, 2006: 7. <www.clasp.org>.

the federal government, without a corresponding increase in the availability of child care services may prevent realization of the goal of the new requirements. Moving more public assistance recipients to employment to meet these new work requirements is likely to place an even greater strain on the already limited availability of child care services in New York.

Other Program Highlights/Changes

The Executive Budget proposes:

- A transfer of the Commission for the Blind and Visually Handicapped to a new Office for the Blind, with a 15-member board. This is a cost neutral proposal in an attempt to increase the profile of this office.

- An $84 million increase in funding, to $465.6 million, to reimburse local governments for the cost of child welfare services designed to prevent abuse and neglect. Article VII language would make the 2002 child welfare financing reform and the funding stream permanent. Savings of $10 million is projected in SFY 2007-08 due to increased performance as a result of performance based contracting. Community-based preventative services that avert foster care or juvenile justice facility placements, child protective services, aftercare services, independent living activities and local administration costs related to adoptions would all qualify for 65 percent State reimbursement.

- Agency regulations were implemented in 2004 through which OTDA reduced the benefit levels of households with an SSI recipient. A court case ensued, but has not yet been settled.[67] This Executive Budget assumes a $57 million retroactive pay out of this case for 2006-07 and $24 million in 2007-08.

- A $65.6 million appropriation for CONNECTIONS, the State's child welfare information system.

- A $36.3 million increase in funding, to $418.8 million, for the Foster Care Block Grant.

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[66] Matthews, Hannah and Danielle Ewen. "Child Care Assistance in 2005: State Cuts Continue." Center for Law and Social Policy. November 1, 2006: 5. <www.clasp.org>.

[67] The New York Appellate Division issued a recent decision declaring that State regulations requiring the inclusion of SSI benefits in determining eligibility for public assistance benefits were in conflict with New York Social Services Law and are therefore invalid. The decision is under appeal, and the case is awaiting decision on cert from the Court of Appeals. *Doe v. Doar,* 26 A.D.3d 787, 807 N.Y.S.2d 909, 2006 N.Y. Slip Op. 00802.

- An increase of $16.1 million, or 8.3 percent, to $209.6 million in adoption subsidies to support caseload growth, as well as the second year of a Cost-of-Living Adjustment (COLA).

- $4.0 million to increase youth facility direct care staff by 182 full-time equivalent positions (FTEs) and mental health staff by 18 FTEs. While an additional 18 FTEs are related to bed expansion, proposed facility closings would eliminate 48 FTEs due to a population reduction.

- $2.8 million to phase in 260 slots of the requested 3,303 slots in the Medicaid Waiver to permit children in foster care with multiple health needs to obtain more intensive services.

- $2.3 million to operate 100 beds for youth leaving the foster care system and at risk of becoming homeless, under the New York/New York III Supportive Housing Agreement. In SFY 2006-07, the Office of Mental Health reflected the cost of all beds; this year, a specific number of beds is reflected by each agency using those beds.

- $2 million in savings by requesting the federal government to "freeze" the per check fee charged to the State to process checks for the State Supplement Program for SSI recipients.

- Closure of the Great Valley non-secure facility for troubled youth (25 beds) in Cattaraugus County with an associated savings of $640,000, with an elimination of 28 FTEs.

The Executive Budget again proposes:

- Closure of three under-utilized community residential homes (30 beds) for troubled youth in the State: Brooklyn, Gloversville and Mt. Vernon. The associated savings is $700,000, with a staff reduction of 20 FTEs.

- A General Fund appropriation of $3 million to continue the pilot programs of the Strengthening Fathers Initiative, which expands the EITC to younger, non-custodial fathers.

- A pass-through of the yearly federal government inflationary increase in SSI payments to recipients.

Section

13

Energy

The 2007-08 Executive Budget proposes the establishment of a Climate Change Office within the Department of Environmental Conservation to implement the Regional Greenhouse Gas Initiative (RGGI) and to coordinate the auction of carbon dioxide allowances. RGGI, created in 2003 with seven participating Northeastern states as members, has been working to develop a market-based cap-and-trade program designed to reduce carbon dioxide emissions from power plants.[68] The Executive Budget provides for a staff of 12. The Office will be responsible for the identification of carbon reduction programs beyond the power plant sector, as well.

The New York State Energy Research and Development Authority (NYSERDA) will continue to administer the System Benefits Charge (SBC) and Renewable Portfolio Standard (RPS), which support programs that fund competitive grants with assessments on residential and business utility bills. The assessments, which are expected to yield approximately $221 million in the next collection period (July 2007 through June 2008) compared to approximately $186.9 million in the last collection period, would continue to be administered off-budget. The Executive Budget also provides the annual authorization to fund appropriations with revenues from assessments on public utilities. Total assessments at various State agencies are estimated to be approximately $107.1 million in 2007-08.

A total of $1.4 million is recommended by the Executive to fully fund the Energy Analysis program within NYSERDA. The program offers analytic services regarding RGGI, pricing, supply and demand, generation and other energy related issues. The

[68] The seven Northeastern states include Connecticut, Delaware, Maine, New Hampshire, New Jersey, New York and Vermont. Legislation was signed in April, 2006 that requires Maryland to become a full participant in the process by June 30, 2007. In addition, the District of Columbia, Massachusetts, Pennsylvania, Rhode Island, the Eastern Canadian Provinces and New Brunswick are observers in the process. <http://www.rggi.org/states.htm>.

Executive also recommends a reduction of $3.9 million in funding for a conservation and efficiency pilot program and $100,000 for the Conservation Coordination Task Force, thereby eliminating all General Fund support for NYSERDA.

The Executive Budget eliminates $28 million in remaining contingent appropriation authority to cover extraordinary energy costs experienced by the State University of New York (SUNY) and the City University of New York (CUNY) in 2006-07. SUNY spent $30 million of the $58.6 million 2006-07 appropriation to cover higher than normal energy costs. In 2007-08, an additional $30 million for energy costs is included in the SUNY budget, negating the need for a contingent appropriation.

The Executive Budget recommends a 2006-07 Fiduciary Fund deficiency appropriation of $13.9 million for CUNY to accommodate increased energy costs incurred in the 2005 academic year.

The Executive Budget continues funding $3 million for energy conservation projects administered by the Office of General Services. The Executive Budget also recommends the Division of Housing and Community Renewal (DHCR) continue its administration of the federally funded Weatherization Assistance Program, which provides grants to governments and not-for-profit organizations to assist low-income households in improving energy efficiency.

Department of Public Service

The mission of the Department of Public Service is to ensure safe, secure and reliable access to competitively priced energy, telecommunications and water services for New York State's citizens and businesses with maximum customer choice.[69] The Department's staff provides support to the Public Service Commission (PSC). Among its many duties, the PSC regulates the rates and services of the State's public utilities and oversees the siting of major gas and electric transmission lines and facilities.

Section 18-A of the Public Service Law gives the Chair of the Department of Public Service the authority to assess an annual charge on public utilities and corporations, including municipalities and the New York Power Authority (NYPA), to cover all of the estimated costs of the Department and Commission in the upcoming year. Each year, the Executive Budget proposes legislation allowing certain State agencies, in addition to the Department and Commission, to fund appropriations with revenues from assessments on public utilities. Similar language was proposed and enacted for SFY 2006-07.

[69] New York State Department of Public Service. *Mission Statement*. < http://www.dps.state.ny.us/mission.html>.

Overall, Executive Budget appropriations of 18-A Public Utility assessments increase 6.4 percent over enacted 2006-07 appropriations. Specifically, appropriation of assessment funds range from increases of 11.1 percent for the Office of Homeland Security to 0 percent for the Office of Parks, Recreation and Historic Preservation, and the Department of Economic Development. Department of Public Service assessment appropriations increase 5.7 percent, while NYSERDA's increase 9.6 percent.[70] The Executive Budget estimates that the entire $107.1 million in assessments will be disbursed in 2007-2008.

2006-07 Actual and 2007-08
Proposed Appropriation of Public Utility Assessments

Agency/Authority and Program	SFY 2006-07	SFY 2007-08	Percent Change
Office of Homeland Security - Cyber Security	5,618,000	6,243,000	11.1%
Department of Agriculture and Markets – Agriculture Business Services	$322,000	$356,500	10.7%
Energy Research and Development Authority[71] - Research, Development and Demonstration	14,656,000	16,056,000	9.6%
Department of Environmental Conservation[72] - Air and Water Quality Management and Environmental Enforcement	6,298,000	6,686,000	6.2%
Department of Public Service – Administration and Regulation of Utilities	68,886,000	72,781,000	5.7%
Consumer Protection Board – Consumer Protection	3,932,000	4,013,000	2.1%
Department of Economic Development – Administration	839,900	840,000	0%
Office of Parks, Recreation and Historic Preservation - Historic Preservation	89,000	89,000	0%
Total Public Utility Assessment Appropriations	**$100,640,900**	**$107,064,500**	**6.4%**

Source: New York State Division of the Budget, Appropriation Bills

[70] NYSERDA's assessment relates only to gas and electric utilities; the assessments of the remaining agencies relate to all utilities.

[71] The Executive Budget specifically appropriates $750,000 of public utility assessment appropriations to the University of Rochester Laboratory for Laser Energetics in Appropriation Bill language.

[72] Spending from 2006-2007 or planned spending in 2007-2008 from public utility assessment appropriations was not reported for the Department of Environmental Conservation in the Executive Budget.

Off-Budget Programs

System Benefits Charge

In 1998, the PSC ordered regulated, investor-owned utilities in New York State to assess a System Benefits Charge (SBC) on household and business utility bills and remit funds collected under the SBC to the State. The SBC was designed to fund public policy initiatives not expected to be adequately addressed by the PSC-mandated move to competitive energy markets in New York State.[73] SBC-funded initiatives include:

- Energy efficiency,
- Energy affordability for low-income utility customers, and
- Research and development in energy-related areas, particularly in renewable resources.

The charge, which was set to expire in June 2006, was reauthorized by PSC order in December 2005 for a five-year period extending from 2006 through 2011.

The SBC program is administered by NYSERDA and monitored by the PSC and Department of Public Service. SBC receipts are either paid to contractors based on work completed under the New York Energy $mart program or are retained by the utilities to fund their own low-income energy assistance programs. The SBC surcharge is expected to yield $150 million from July 2006 through June 2007 and approximately $181 million from July 2007 through June 2008.

Renewable Portfolio Standard

In 2004, the PSC ordered regulated, investor-owned utilities in New York State to assess a Renewable Portfolio Standard (RPS) charge on household and business utility bills and remit funds collected under the RPS program to NYSERDA. The RPS was designed to address increasing concerns with the climate effects of, and dependence on, fossil-fuel electricity generation.[74] The RPS surcharge is expected to yield $36.9 million from July 2006 through June 2007 and $40.4 million from July 2007 through June 2008.

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[73] New York State Department of Public Service. *System Benefits Charge.* <http://www.dps.state.ny.us/sbc.htm>.

[74] New York State Department of Public Service. *Renewable Portfolio Standard.* <http://www.dps.state.ny.us/03e0188.htm>.

NYSERDA administers the RPS program, which is monitored by the PSC and Department of Public Service. Contracts awarded by NYSERDA provide incentives for renewable energy producers who sell and deliver their energy in New York's wholesale electricity market and companies that provide funding for customers to create renewable electricity generating capabilities.

Section

14

Economic Development

The economic development functional area includes the Empire State Development Corporation (ESDC), which is legally known as the Urban Development Corporation, the Department of Economic Development (DED), and the New York State Foundation for Science, Technology and Innovation (formerly NYSTAR - the New York Office of Science, Technology and Academic Research). ESDC is integrated for administrative purposes with DED, which has its central offices in Albany. The Executive also proposes a new economic development agency, the Stem Cell and Innovation Fund Corporation, which would provide another source of support for high technology development efforts in the State.

The new administration has split the day-to-day operations of ESDC into an Upstate division, headquartered in Buffalo, and a Downstate division, centered in New York City. The purpose of this split is to address the widely acknowledged differences between the development needs of Upstate—which has stagnated economically for a number of decades—and the needs of Downstate—which has generally enjoyed good economic growth in recent years. For the purposes of operational responsibility, the Downstate region also includes the Capital District and the Hudson Valley since these regions are doing much better economically than other Upstate regions.

The State's approach to economic development relies on two tools: tax incentives to stimulate private sector research, development and manufacturing, and capital funds to help build new public and private infrastructure. The State's three economic development agencies provide a variety of these incentives.

Empire State Development Corporation (ESDC) – Capital investment programs are provided through ESDC, a public benefit corporation. ESDC, among its other powers, is authorized to issue tax-exempt bonds. ESDC has issued over $7.3 billion in State-Supported debt for State purpose projects and more than $1.5 billion for over

5,200 economic development projects around the State, including Centers for Excellence. ESDC can also invest in property at below-market interest rates and offer tax benefits to developers. It also possesses many powers that are similar to municipal governments, including eminent domain and the ability to waive local codes and laws.

The Executive Budget Proposal includes two new economic development incentive programs that would be funded within the regional development program at ESDC:

- A $300 million ESDC capital appropriation for an Investment and Job Creation Program. Funding would be provided on a competitive basis for regional development projects throughout the State. Project approval would include review by the Public Authorities Control Board (PACB).

- A lump sum capital appropriation of $300 million is provided for the development of an international computer chip research and development center. The grant (or grants) would be administered by ESDC, but would not be subject to PACB oversight under the Executive Budget Proposal and would, therefore, sidestep the Comptroller's ability to formally comment on them.

The Executive Budget also includes ESDC capital appropriations to fund four on-going redevelopment projects:

- $20 million for projects on Governor's Island in New York Harbor,

- $15 million for the Roosevelt Island Operating Corporation tramway rehabilitation,

- $7.95 million for USA Niagara, an ESDC subsidiary active in Niagara Falls redevelopment, and

- $7.5 million for redevelopment of the Harriman Office Campus in Albany (now marketed as the Harriman Research and Technology Park).

Department of Economic Development – The focus of DED activities is on the management of business incentive programs, such as Empire Zones. The Empire Zone Program is the core business incentive program of the State. The program offers a variety of tax incentives to eligible businesses, including sales tax refunds, income tax credits, property tax abatements, capital and investment tax credits, employment incentive credits and wage tax credits. Benefits may also include lower priced gas and electric rates and cash refunds for unused credits. There are currently 82 Empire Zones, with an additional three Zones expected to be approved in 2007.

These new Empire Zones are slated for Putnam, Hamilton and Yates counties and will result in at least one Zone in each county in the State.

The Executive Budget does not include significant new DED initiatives. It provides $16 million for the "I Love NY" program, an increase of $5 million over the 2006-07 Enacted Budget; $5.3 million for local tourism matching grants, a $500,000 increase over 2006-07; $1.2 million to attract international trade, no change from 2006-07; and $400,000 for visitor welcome centers, also unchanged from the 2006-07 level of support.

New York State Foundation for Science, Technology and Innovation – The Foundation's programs focus on technology capital and research development activities at the State's public and private colleges and universities.

The New York State Office of Science, Technology and Academic Research (NYSTAR) was converted last year from a State agency into a public benefit corporation, now known as the Foundation for Science, Technology and Innovation.[75] The Foundation is responsible for organizing and administering the State's university-based, high-technology economic development programs. The Foundation reviews program proposals submitted by regional development partners. The 13-member Foundation Board, which formerly functioned as an advisory board, now acts as a governing board. It is now empowered to design programs, fund business expansion efforts and require grant recipients to adhere to high standards of review and oversight.

Foundation for Science, Technology and Innovation programs encourage the development of new technology at the State's colleges and universities. The Foundation focuses on three major areas: faculty development, technology transfer and capital facilities. The Foundation also serves as the administrator for a variety of technology development programs located at or operating in association with institutions of higher learning, such as the Centers for Advanced Technology and the High-Technology Matching Grants Program.

The Executive Budget proposes a $55.1 million appropriation for the Foundation: $33 million for the Foundation's High Technology Program, $9.4 million for the Foundation's Research Development Program, $8 million for the Training and Business Development Program, and $4.7 million for State Operations. This is a $273,000, or 0.5 percent, cut from the current fiscal year. However, in 2007-08, for the first time, the Foundation would also pay fringe benefit costs for its employees of $1 million.

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[75] However, because the New York State Office of Science, Technology and Academic Research (NYSTAR) became well known under that name over the past six years, the Foundation will continue to use NYSTAR in some of its public communications.

When the Foundation was a State agency, such fringe benefits were paid through General State Charges. Although this change is cost neutral to the State as a whole, the Foundation's budget is effectively reduced by a total of $1.3 million, or 2.3 percent.

Stem Cell and Innovation Fund Corporation

A new economic development program focusing on technology related to stem cell research is included in the 2007-08 Executive Budget Article VII language. The proposal calls for the creation of a new public benefit corporation to be known as the Stem Cell and Innovation Fund Corporation. As the name implies, the focus will be on stem cell research, but a variety of other life sciences and emerging technology projects, such as agribusiness, renewable energy, bioinformatics and photonics, will be eligible for support from the Fund. A referendum would be placed before the voters at the 2008 General Election to authorize a General Obligation bond issuance of $2.1 billion in support of the Corporation's mission. The Corporation would provide $150 million annually in capital support for research and development over the succeeding ten years. The Corporation would be governed by a fifteen-member board consisting of seven members appointed by the Governor directly, two each by the majority leaders of the Legislature, one each by the legislative minority leaders, and one each by the ESDC and DED.

The Executive Budget Proposal also contains a new $100 million General Fund appropriation for SFY 2007-08 start-up expenses of the Stem Cell and Innovation Fund. These funds will support $34 million in Aid to Localities non-capital funding for research and administrative costs, and $66 million for Capital Projects. The Executive plans to allocate an additional $50 million per year for the next ten years in continued General Fund support for non-capital costs.

Other Article VII Proposal

UDC loan powers would be made permanent under the Executive Budget Proposal. This authorization is scheduled to sunset on July 1, 2007. The Legislature has extended the sunset eight times since 1994, thus far refusing to make the authorization permanent.

Section

15

Transportation

All Funds appropriations for transportation-related initiatives under the Executive's Proposed Budget will total nearly $8.7 billion in SFY 2007-08, including approximately $5 billion in capital projects, $3.5 billion in aid to localities and $171 million in State operations costs. The total represents an increase of $494 million, or 6 percent, over the current year's level. The Executive Budget's transportation functional area includes the Department of Transportation (DOT), the Department of Motor Vehicles (DMV), State support for the Metropolitan Transportation Authority (MTA) and a number of other local public transit authorities, as well as partial support for the Thruway Authority's Canal Corporation.

Transportation
Appropriation Requests
2007-08
(in millions of dollars)

Agency	Total Available 2006-07	State Operations	Aid to Localities	Capital Projects	Total Available 2007-08	Dollar Change from 2006-07
DOT	6,930.7	48.0	2,855.0	4,434.5	7,337.5	406.8
DMV	322.0	122.7	17.2	200.4	340.3	18.3
Thruway	4.0	0.0	0.0	2.0	2.0	(2.0)
MTA	941.7	0.0	660.1	352.0	1,012.1	70.4
Total	**8,198.4**	**170.7**	**3,532.3**	**4,988.9**	**8,691.9**	**493.5**

Source: New York State Division of the Budget

New initiatives include:

- Additional assistance to the MTA, using existing dedicated fund balances - $217 million,
- Additional federal highway and mass transit aid (net of a $35 million reduction in State spending) - $58 million,
- Assistance to help repay a loan made to the MTA for Lower Manhattan redevelopment - $48 million,
- Additional support for transit systems located Upstate or on Long Island - $27 million,
- DOT takeover of I-84 operations, currently maintained by the Thruway Authority - $10 million, and
- Costs related to complying with the New York State Work Zone Safety Act of 2005 - $7 million.

Expansion of the DOT Workforce – The Executive's proposal includes a significant increase in DOT staffing. The Executive Budget provides for an increase of 411 full-time equivalent positions (FTEs), including 75 engineering positions related to projects contained in the third year of the Five-Year Capital Plan, 128 positions made possible by increased federal capital funding, 108 positions that will be created by bringing design work that was performed by contract workers under the prior administration back into DOT, 89 positions required for the DOT takeover of I-84 maintenance and 11 positions for the Workzone Safety Coordination program.

Five-Year Capital Plan – Two years ago, the State adopted a Five-Year Transportation Capital Plan that dedicated $35.9 billion for capital transportation needs from SFYs 2005-06 through 2009-10. The Executive's proposal enhances the three remaining years of the original Five-Year Capital Plan by an additional $827 million, which is provided through increased federal capital grants authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users Act of 2005 (SAFETEA-LU). This increase would bring the Five-Year Capital Plan for DOT to $18.7 billion. The $827 million increase includes $180 million in added funding for the first two years of the State's Five-Year Plan (SFYs 2005-06 and 2006-07) and $647 million in increases for the remaining three years, including $217 million in SFY 2007-08. This increased funding will enable the State to provide resources for DOT's "Maintenance First" program, which was initiated last year with just $10 million in State funding and attempts to make highway repairs before they become costly. The federal support will greatly enhance the program's reach.

Beyond this, an additional $630 million is provided to the State through SAFETEA-LU to be used for out-year projects (SFY 2007-08 through 2009-10) not funded in the State's original Five-Year Plan. The Division of the Budget (DOB) estimates that the additional federal resources will reduce Dedicated Highway and Bridge Trust Fund (DHBTF) debt service by approximately $100 million. When all the pieces of SAFETEA-LU's enhanced funding are combined, another $1.457 billion will have been made available for the State's Capital Plan.

State Capital Projects – DOT anticipates a contract-letting level for highway and bridge construction of $1.975 billion in SFY 2007-08, a $125 million, or 7 percent, increase over the current fiscal year.

State Highways Maintenance Operations – DOT also anticipates a total of $594 million in direct department expenditures for regular preventive maintenance and for snow and ice removal in the coming SFY, an increase of $91 million in State and federal dollars. In 2006-07, DOT combined appropriations for regular maintenance operations and for snow and ice removal into one appropriation; therefore, it became impossible to determine the exact level of either component. This practice has continued in the new Budget Proposal. Both of these maintenance activities are funded through the DHBTF, which is supported with both bond proceeds and tax and fee collections.[76] The DHBTF also supports most of DOT's non-federally funded construction spending, including some $210 million in preventive maintenance performed by private firms.

State Aid for Local Highways – State support for local highway and bridge capital programs is provided through the Consolidated Highway Improvement Program (CHIPS) and the Municipal Streets and Highways Program (Marchiselli Aid). The Executive proposes CHIPS funding of $296.5 million, a $13 million decrease over the current fiscal year. Marchiselli aid is held constant at $39.7 million.

State Aid for Public Transportation Systems – State support for local mass transit systems will be nearly $2.8 billion in the Executive's proposal, including $2.4 billion for the MTA and $405 million for other public transit systems in the State. The year-to-year increase is $299 million, with $269 million going to the MTA, $18 million to non-MTA transit systems in the New York City metropolitan area and Long Island, and $11.6 million to Upstate public transit systems.

[76] Office of the State Comptroller. *Dedicated Highway and Bridge Trust Fund*. December 2005.

Amendments to the Dedicated Highway and Bridge Trust Fund Reporting Law

Last year, the Legislature enacted an amendment to the State Finance Law requiring DOB to provide the Office of the State Comptroller and the Legislature with expanded Capital Program and Financing Plan information regarding the DHBTF.[77] DOB has concluded that compliance with certain provisions of this law is impossible. In particular, DOB asserts that bonding estimates for the DHBTF are based on an 18-month backward looking analysis of pay-as-you-go (PAYGO) funding shortfalls for capital projects taken as a whole and that an itemization of PAYGO financing for individual appropriations is impractical. DOB also believes that detailed capital project reporting was already provided outside of the Executive Budget submission and inclusion in that submission would be duplicative and impractical. As a result, the Executive Budget Transportation, Economic Development and Environmental Conservation (TEDEC) Article VII bill includes a number of language changes to the reporting requirements adopted last year.

Local Transit Incentives

The Executive Budget would require the Commissioner of Transportation to establish a panel, consisting of the operators of public transit systems, to develop performance measures that would be used to measure transit systems. The goal would be to evaluate performance measures in relation to the distribution of State transportation operating assistance.

There is also a proposal that would convene a transit procurement council that would enable all the public transit systems in the State to participate in cost-saving activities, such as aggregate purchasing and shared financing techniques.

Reallocation of the Transportation-Transmission Tax

Under existing law, the State collects what is called a Transportation-Transmission Tax (TTT). This tax is imposed statewide on the value of stock in businesses in the transportation or communications sector (Sections 183 and 184 of the Tax Law). Tax receipts are dedicated to transportation programs: 20 percent to the DHBTF and 80 percent to the Mass Transportation Operating Assistance (MTOA) Fund. All of the funds deposited in the MTOA Fund are currently directed to a specific account—the Metropolitan Mass Transportation Operating Assistance (MMTOA) Account—established

[77] Section 22-c of the State Finance Law, as amended by Part Z of Chapter 62 and Part Q of Chapter 61 of the Laws of 2006.

to support the MTA. The MTA is the only transit system that currently receives a share of this tax. This tax provision is currently set to expire on March 31, 2010.

The Executive is reintroducing a proposal, previously advanced, which would change the distribution of that portion of the TTT dedicated to MTOA. Under this proposal, of the amount allocated to MTOA, two-thirds (or 53 percent of the whole) would go to the MMTOA Account; the remaining one-third (27 percent of the whole) would go to the Public Transportation Operating Assistance (PTOA) Account, which supports other public transit systems in the State. This amounts to a $23 million reallocation. The percentage of the TTT allocated to the DHBTF would remain the same.

Other Article VII Proposals

Motor carrier registration fees, which were formerly covered by the federal Single State Registration System, are now governed by the federal Unified Carrier Registration Plan, a component of SAFETEA-LU, which went into effect on December 31, 2006. The Executive Budget Proposal provides for State conformity with the federal law.

In 2005, the Vehicle and Traffic Law was amended to conform to federal requirements for commercial vehicle operators.[78] A number of additional federal requirements have been adopted since these conforming laws were passed. Therefore, the Executive is proposing Article VII language to bring New York State into full compliance.

The State often relies on its right of eminent domain to obtain property for highway and other transportation projects. These activities are governed by the State Eminent Domain Procedure Law. The Executive Budget Proposal would replace the personal service requirement related to notice of acquisition with a certified mail requirement.

State conformity with federal law requiring the suspension of drivers' licenses for certain alcohol-related driving offenses was last expanded in 2005. This year's Executive proposal would make the State's conformity permanent.

Another proposal would make permanent an existing provision that allows for the enforcement of child and spousal support through the suspension of drivers' licenses. This provision is set to expire this year.[79]

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[78] Sections 510-a and 1193 of the Vehicle and Traffic Law, as amended by Part E of Chapter 60 of the Laws of 2005.

[79] Section 246 of Chapter 81 of the Laws of 1995, *Enacting Welfare Reform*.

A similar proposal would make permanent the State's conformity with a federal requirement, known as the Solomon Law, which mandates the suspension of a driver's license for the use of drugs while operating a motor vehicle.[80] The existing provision would expire October 1, 2007.

The single audit program allows an independent certified public accountant to audit local use of State transportation funds at the same time that individual is auditing local use of federal transportation funds. This program was reauthorized last year, but will expire on December 31, 2007. The Executive Proposal would make the program permanent.

CHIPS and Marchiselli programs are reauthorized, with funding levels set through SFY 2009-10. The Executive Budget eliminates the $13 million CHIPS add provided by the Legislature last year.

The bond cap for Thruway Authority debt issued to cover State and local highway projects would be raised by $20 million to cover the one-time increase in CHIPS aid enacted as a legislative add in the current SFY.

The Department of Motor Vehicles would be allowed to take advantage of bulk mailing rates for mailing notices of revocation, suspension or other orders by using addresses provided by the Postal Service.

[80] Section 9 of Chapter 533 of the Laws of 1993.

Section

16

Environment

Total General Fund appropriations for environmental agencies in the 2007-08 Executive Budget increase by a net of $18.9 million, or 7.3 percent, while All Funds appropriations increase by a net of $52.2 million, or 3.7 percent. Environment-related staffing levels increase significantly as the Executive Budget calls for 166 new positions—109 in the Department of Environmental Conservation (DEC), 52 positions in the Office of Parks, Recreation and Historic Preservation (OPRHP), and 5 in the Adirondack Park Agency (APA). These positions will allow for greater improvement and protection of the State's natural resources.

Article VII legislation submitted with the Executive Budget proposes to expand the Returnable Container Act (Bottle Bill) to include non-carbonated beverages and increase the funding level of the Environmental Protection Fund (EPF) through the collection of an estimated $25 million in unclaimed beverage container deposits. The Executive recommends a funding level of $250 million for the EPF, $25 million over 2006-07. The Executive also proposes a number of Article VII actions, in addition to the Bottle Bill expansion, expected to generate approximately $9.6 million in new revenue.

This year the Superfund Program, refinanced in 2003, receives a recommended appropriation of $144.4 million for hazardous waste remediation at contaminated sites, including $120 million earmarked for the remediation of hazardous waste, $15 million for grants and non-bondable costs of the Superfund and Brownfields Programs, and $9.4 million for staffing.[81] The Proposed Budget estimates disbursements on

[81] The $15 million is allocated for Technical Assistance Grants available to municipalities and community groups, and for Brownfield Opportunity Area programs that assist communities in returning Brownfield areas to productive uses.

hazardous waste remediation to be $120 million in SFY 2007-08, an increase from the projected disbursement of $95 million in 2006-07.

The Executive Budget also recommends the establishment of a Climate Change Office within DEC to implement the Regional Greenhouse Gas Initiative (RGGI). RGGI, created in 2003 with seven participating Northeastern states as members, has been working to develop a market-based cap-and-trade program designed to reduce carbon dioxide emissions from power plants.[82] The Executive Budget provides for a staff of 12. The Office will be responsible for the identification of carbon reduction programs outside of the power plant sector, as well.

The Executive Budget Proposal recommends eliminating $2.4 million in funding for the Natural Heritage Trust. Zoos, botanical gardens and aquaria are again included under the EPF.

A deficiency appropriation of $10 million increases the 2006-07 appropriation for the Environmental Protection and Oil Spill Compensation Fund (Oil Spill Fund). The additional appropriation resulted from higher than anticipated clean up costs associated with oil spill remediation during 2006-07.

General Fund Appropriations
(in millions of dollars)

Department	2006-07	Recommended 2007-08	Dollar Change	Percent Change
Environmental Conservation	123.7	131.5	7.8	6.3%
Parks, Recreation and Historic Preservation	129.0	139.1	10.1	7.8%
Adirondack Park Agency	4.5	5.5	1.0	22.2%
General Fund Environmental Appropriations	**257.2**	**276.1**	**18.9**	**7.3%**

Source: New York State Division of the Budget

[82] The seven Northeastern states include Connecticut, Delaware, Maine, New Hampshire, New Jersey, New York and Vermont. Legislation was signed in April 2006 that requires Maryland to become a full participant in the process by June 30, 2007. In addition, the District of Columbia, Massachusetts, Pennsylvania, Rhode Island, the Eastern Canadian Provinces and New Brunswick are observers in the process. <http://www.rggi.org/states.htm>.

All Funds Appropriations
(in millions of dollars)

Department	2006-07	Recommended 2007-08	Dollar Change	Percent Change
Environmental Conservation	1,120.4	1,167.6	47.2	4.2%
Parks, Recreation & Historic Preservation	274.6	278.6	4.0	1.5%
Adirondack Park Agency	5.2	6.2	1.0	19.2%
All Funds Environmental Appropriations	**1,400.2**	**1,452.4**	**52.2**	**3.7%**

Source: New York State Division of the Budget

Environmental Protection Fund

The Environmental Protection Fund (EPF) was established to support programs, such as open space acquisition and protection, farmland preservation and recycling programs. In past years, 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. As a result of the court decision in the matter of *Pataki v. Assembly* and *Silver v. Pataki*, the Legislature is restricted in its ability to alter the manner in which the Executive presents budget language and prescribes funding levels for specific EPF programs. In the 2007-08 Budget Proposal, the Executive does provide detailed appropriation levels rather than lump sum amounts. However, the Executive has also included language in the EPF appropriation bill that mandates using 25 percent of the appropriations for both the Local Waterfront Revitalization program and the Municipal Parks program in disadvantaged urban areas.

The EPF is supported by the Real Estate Transfer Tax (RETT) and other miscellaneous taxes. Funding for the EPF was increased from $150 million to $225 million in the 2006-07 Enacted Budget. Furthermore, a change in statute increased the minimum amount of the RETT that is deposited into the EPF rather than the Clean Water/Clean Air Bond Debt Service Fund from $137 million to $212 million beginning in SFY 2007-08.[83]

The Executive recommends a funding level of $250 million in 2007-08, an increase of $25 million over 2006-07, growing to $325 million for fiscal years 2008-09 through

[83] Statute requires the deposit of $137 million in Real Estate Transfer Tax (RETT) receipts into the EPF in 2006-07, but an additional amount up to $75 million may be deposited at the discretion of the Director of the Budget. In 2006-07, $10 million of the discretionary amount was included in the Financial Plan.

2011-12. Changes in the 1982 "Bottle Bill" as proposed in Article VII legislation would expand the definition of returnable containers to include noncarbonated beverages and provide for the return of unclaimed deposits on beverage containers to the State for deposit into the EPF, yielding an additional revenue source for the Fund.[84] Bottlers, business coalitions and retailers have opposed the proposal in the past citing an expected increase in the cost of beverages due to the added cost of compliance by supermarkets, convenience stores and beverage outlets.

Currently, bottling companies retain the unclaimed deposits on beverage containers subject to the law while retailers retain 2 cents per container as a handling fee. Proposed changes in statute would allow redemption centers and retailers to retain 3.5 cents to subsidize recycling efforts. In addition, the State would collect the unclaimed deposit.

It is estimated that this change in statute would result in the collection of $25 million in unclaimed deposits in 2007-08 and $100 million when fully annualized in SFY 2008-09.[85] Beginning in 2008-09, unclaimed deposits dedicated to the EPF, combined with current revenue resources, would provide an EPF funding level of $325 million. Article VII language enacting these changes also establishes payment requirements by deposit initiators, makes financial incentives available to businesses and organizations to enhance recycling capabilities, and provides other reforms to the law.

In addition to the increased funding level for the EPF, the Executive recommends the addition of two new programs: the Pollution Prevention Institute within the Solid Waste Account and the Smart Growth initiative within the Open Space Account. With a proposed funding level of $2 million, the Pollution Prevention Institute would assist businesses in the reduction of their use of toxic chemicals. A recommended appropriation of $2 million would support the development of policies and practices relative to sprawl in the new Smart Growth program. Funding for the Historic Barns program and the Quality Communities program is not included in this year's Executive Budget. (See chart at end of this section for EPF funding allocations.)

The 2007-08 Executive Budget also provides a $1.2 million appropriation for the Pollution Prevention and Compliance Assistance Program within the Department of Economic Development. This appropriation, a portion of which will be sub-allocated to DEC and the Environmental Facilities Corporation (EFC), will be used to develop an

[84] Containers still exempted from the expanded Bottle Bill include bottles, cans and jars containing liquor, wine, infant formula, milk and dairy products, rice and soy milks, dietary supplements, medications, concentrates and soups.

[85] With an effective date of January 2008, enactment of the expanded Bottle Bill would result in the collection of the deposits for only one quarter of SFY 2007-08.

overall plan for the administration and operation of the Pollution Prevention Institute, newly funded under the EPF.

Revenues and Fees

The Executive Budget authorizes a change to the Environmental Conservation Law, which increases the number of facilities which must pay a fee for generating hazardous wastewater.[86] Currently, facilities that generate 15,000 tons of hazardous wastewater per year are subject to a $6,000 surcharge. Article VII language decreases the threshold to 15 tons, resulting in an additional $700,000 in revenue annually. The revenue is deposited in the Industry Fee Transfer Account.

Changes to Title V air regulatory fees proposed in the Executive Budget are expected to generate $6.4 million in new revenue for the Operating Permit Program Special Revenue Fund. 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 a maximum of $67 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 the environmental enforcement program.

The Executive Budget proposes both new and increased DEC regulatory fees expected to generate an additional $2.5 million. Currently, these fees generate $1.1 million in revenue and are deposited in the Environmental Regulatory Account. Proposals include:

- An increase from $10 to $100 in the registration fee for well drillers, as well as amendments to the law to both clarify definitions and include a reporting requirement.

- The establishment of a $500 permit fee for the construction, reconstruction or rehabilitation of a dam, and an annual $500 fee for dam owners.

- A schedule of fee increases within the State Pollutant Discharge Elimination Systems (SPDES) program.

[86] Article VII language would amend Section 72-0403 (1)(l) of the Environmental Conservation Law.

Proposed Fee Increases for
State Pollutant Discharge Elimination Systems Permits

Program	Current Fee	Proposed Fee
General Permit Fee		
Medium Concentrated Animal Feeding Operations (CAFOs)	$50	$150
Large CAFOs	$50	$500
Industrial Stormwater Discharges	$50	$300
Private/Commercial/Institutional (P/C/I) Facilities		
Small Facilities	$100	$300
Large Facilities	$200	$600

Source: New York State Division of the Budget

Fund Sweeps and Transfers

A transfer of $20 million from the EPF into the General Fund is recommended in the 2007-08 Executive Budget to offset General Fund spending. The Executive Budget also authorizes four transfers from the General Fund to specific special revenue accounts.

- $15 million to the Hazardous Waste Remedial Fund for grants and non-bondable costs of the Superfund and Brownfields programs,
- $7 million to the Environmental Regulatory Account,
- $4.4 million to the Conservation Fund Traditional Account, and
- $3 million to the State Park Infrastructure Fund for infrastructure and maintenance projects.

Other Article VII Proposals

Article VII language in the Executive Budget increases the aggregate amount of allowable transfers from the General Fund to the EPF to $322.2 million. The proposed increase of $20 million in the 2007-08 Budget is equal to the proposed transfer of $20 million from the EPF to the General Fund. The legislation ensures that all transfers from the EPF to the General Fund are fully reimbursable if funds in the EPF are found to be insufficient to meet anticipated or actual disbursements.

The Executive also 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 2006-07 Enacted Budget. The proposed transfer of $913,000 to the General Fund from unrestricted corporate funds would help offset the State's debt service payments for Western New York Nuclear Service Center at West Valley. 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.

The Executive Budget recommends no change in the funding levels for the Northeastern Queens Nature and Historical Preserve Commission, the Hudson River Valley Greenway Communities Council and the Greenway Heritage Conservancy of the Hudson River Valley.

Capital Projects

The Executive recommends a number of reductions in capital appropriations for the 2007-08 Budget previously funded in the 2006-07 Budget. Specifically, the Executive has recommended the reduction of:

- $25 million for the former Kings Park Psychiatric Center (DEC),
- $6.5 million for the Brentwood State Park Athletic Complex (OPRHP),
- $5.5 million for the Old Gore Mountain Ski Bowl connection (ORDA),
- $5.5 million for the Belleayre Mountain Ski Center (DEC), and
- $1.2 million for Bristol and Canandaigua water systems (DEC).

While the Executive Budget recommends re-appropriation of prior year funding for the Pipeline for Jobs program, it recommends a decrease of $5 million in capital funds at the Environmental Facilities Corporation (EFC), eliminating new appropriation authority for the program. The Executive Budget recommends no new advance appropriation for the Hudson River Park Trust; however, it does recommend the continued annual appropriation of $5 million to the Trust through the EPF.

A capital appropriation of $26 million is recommended for Natural Resources Damage projects to support the cleanup of habitats or natural resources damaged by another party. DEC performs an assessment of the damage, and funds recovered from the responsible party are deposited in the Natural Resource Damages Account and used to remediate the site.

Environmental Bonds

The Executive Budget Financial Plan proposes new bond issuances for environmental purposes of $291.1 million—$122.3 million in General Obligation bonds and $168.8 million in revenue bonds.[87] These revenue bonds will support Hazardous Waste Remediation - $107.1 million, including $13.5 million for West Valley; Environmental Infrastructure projects - $56.6 million; and the Pipeline for Jobs - $5.1 million.

Staffing

The authorized environmental staffing level of full-time equivalent positions (FTEs) is projected to increase in DEC (109), in OPRHP (52) and at the APA (5), while it remains static at EFC. The additional 166 positions at the three agencies are supported with General Fund dollars. Proposed new staff at OPRHP will support park operations and historic preservation, while five new positions at the APA, funded through the General Fund, will support enforcement, planning and permit review.

[87] The $122.3 million represents the cash in the Financial Plan for the 1996, 1986, 1972 and 1965 Bond Acts.

Net Change in FTEs
All Funds

Department	2006-2007 Estimated	2007-2008 Recommended	Change	Percent Change
Environmental Conservation	3,371	3,480	109	3.2%
Division of Water			25	
Division of Lands and Forests			19	
Climate Change Office			12	
Division of Solid and Hazardous Waste			11	
Division of Environmental Enforcement			11	
Division of Air			10	
Division of Fish and Wildlife			8	
Division of Environmental Remediation			7	
Regional Affairs			6	
Parks, Recreation and Historic Preservation	2,192	2,244	52	2.4%
Park Operations			14	
Police Officers			13	
Environmental Specialists			10	
Maintenance			10	
Historic Preservation			5	
Adirondack Park Agency	67	72	5	7.5%
Enforcement and Planning			5	
Environmental Facilities Corporation	92	92	0	0.0%
Total	**5,722**	**5,888**	**166**	**2.9%**

Source: New York State Division of the Budget

Environmental Protection Fund
Enacted 2006-07 vs. Executive Proposal 2007-08

	Enacted Proposal 2006-07	Executive Proposal 2007-08
Solid Waste	**$24,275,000**	**$27,075,000**
Landfill Closure	3,000,000	3,000,000
Municipal Waste/Recycling	8,750,000	10,000,000
Secondary Materials	8,750,000	8,750,000
Hudson River	1,300,000	2,025,000
Pollution Prevention Institute		2,000,000
Pesticides Program	2,475,000	1,300,000
Parks, Recreation & Historic Preservation	**$79,970,000**	**$82,225,000**
Local Waterfront	27,000,000	23,000,000
Municipal Parks	20,470,000	25,225,000
Hudson River Park	5,000,000	5,000,000
Stewardship Projects	15,000,000	21,500,000
Historic Barns	5,000,000	
Zoos, Botanical Gardens, Aquaria	7,500,000	7,500,000
Open Space	**$120,755,000**	**$140,700,000**
Land Acquisition	50,000,000	58,000,000
Hudson River Estuary	5,000,000	5,500,000
Biodiversity	1,500,000	1,500,000
Agriculture/Farmland Protection	23,000,000	28,000,000
Agri. Non-Point Source Abatement	11,003,000	12,833,000
Municipal Non-Point Pollution	5,502,000	6,417,000
Soil & Water Conservation Districts	3,000,000	3,000,000
Finger Lakes/Ontario Watershed	2,000,000	2,000,000
Albany Pine Bush	1,500,000	1,450,000
Long Island Pine Barrens	1,100,000	1,100,000
Long Island South Shore	900,000	900,000
Quality Communities	3,000,000	
Smart Growth		2,000,000
Invasive Species	3,250,000	5,000,000
Oceans and Lakes	3,000,000	3,000,000
Water Quality Improvement	7,000,000	10,000,000
Total	**$225,000,000**	**$250,000,000**

Source: Appropriation Bills

Section

17

Housing

The Executive Budget proposes a net reduction of $624,000, or 0.8 percent, in General Fund appropriations for the Division of Housing and Community Renewal (DHCR), while All Funds appropriations decrease a net of $25.7 million, or 7.3 percent, from 2006-07. The Executive also recommends a $200,000 reduction in General Fund support through the elimination of the Lead Poisoning Prevention program. Staffing of 950 remains static within the Department.

Beginning in 2003-04, the Executive Budget had recommended significant reductions in both the Neighborhood Preservation Program and the Rural Preservation Program. These reductions were generally restored by the Legislature in the Enacted Budget. The 2007-08 Executive Budget recommends no reductions in funding for these programs. Language accompanying the appropriation bill prevents the disbursement of funds from these two appropriations until the Commissioner of DHCR develops a review and reform plan for the programs.

DHCR capital programs would be reduced by $26 million in the Executive Budget, thereby eliminating the increased funding added by the Legislature in 2006-07. Proposed program reductions are:

- $10 million in Low-Income Housing,
- $5 million in the Affordable Housing Corporation,
- $5 million in the Main Street Program,
- $2.5 million in the Rural Revitalization Program,
- $1.5 million in Urban Initiatives,

- $1 million in the Adirondack Community Housing Trust, and
- $1 million in the Housing Assistance Fund.

Funding reductions in the Main Street Program, the Rural Revitalization Program, Urban Initiatives and the Housing Assistance Fund eliminate all 2007-08 appropriation authority for those programs.

The Executive has also proposed the creation of a new affordable housing program utilizing $50 million in savings resulting from the restructuring of Empire State Development Corporation (ESDC) debt. This proposal will be administered off-budget through the Housing Finance Agency (HFA).

Division of Housing and Community Renewal Appropriations
(in millions of dollars)

Funding Source	2006-07	Recommended 2007-08	Dollar Change	Percent Change
General Fund Housing Appropriation	82.67	82.05	(.62)	-.8%
All Funds Housing Appropriation	352.01	326.34	(25.67)	-7.3%

Source: New York State Division of the Budget

Article VII Actions

The Executive Budget proposes an additional $4 million in tax credits be made available to support the Low-Income Housing Tax Credit Program. The Low-Income Housing Tax Credit, first enacted in 2000, was increased by an additional $2 million in 2002, in 2004 and again in 2005 when the credit reached its aggregate limit of $8 million. In 2006-07, the aggregate was increased to $12 million. The Executive also proposes that an annual increase of $4 million be made permanent. Implementation of the tax credit, intended to encourage the investment in and development of affordable housing, would decrease State revenue by $4 million in 2007-08 and $8 million in 2008-09.

In 2000, the Emergency Tenant Protection Act (ETPA) was amended to allow DHCR to intercept per capita local assistance grants to New York City to cover the cost of administering the Rent Regulation Program. The 2007-08 Executive Budget proposes the elimination of per capita local assistance aid to New York City resulting in the potential inability by the State to recoup the cost of the program administration. Article VII language proposed by the Executive would require DHCR to directly bill the City for the program costs; however, the language further allows the State Comptroller to intercept any State aid payment to New York City in the event the City fails to make direct payments to DHCR for program costs. Without this legislation, the General Fund could face a shortfall in the event of non-payment by the City. The operational cost for the administration of the Rent Regulation Program by DHCR is approximately $36.9 million in both 2006-07 and 2007-08.

Capital

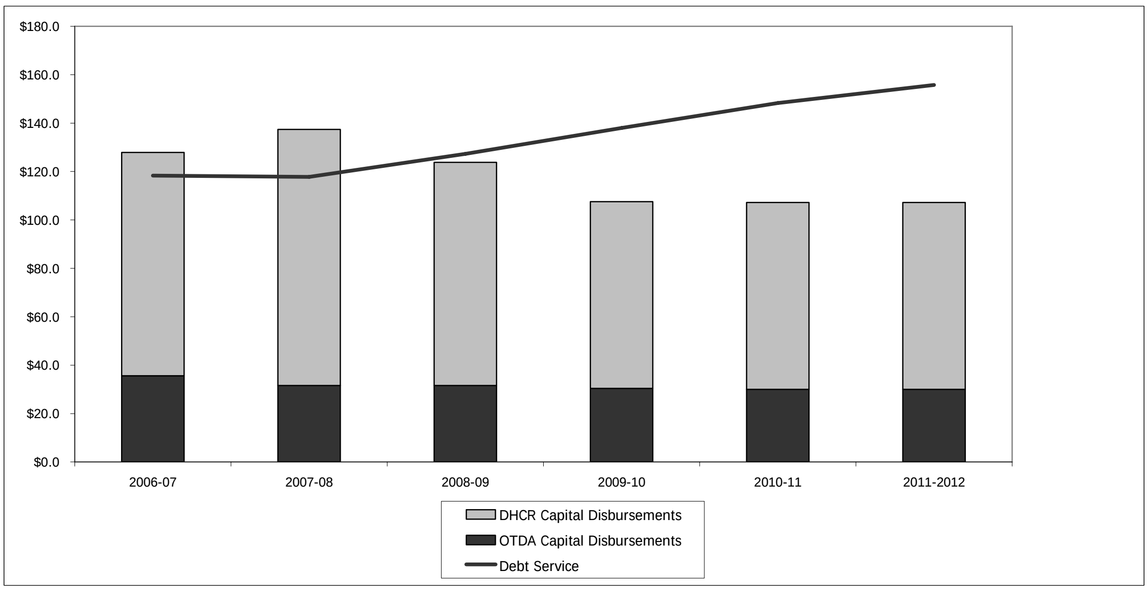
The Executive Budget seeks to increase the bond cap for HFA from the current $1.89 billion to $2 billion. The additional bonding authority would support low- and moderate-income housing programs through the Office of Temporary and Disability Assistance, HFA and the Housing Trust Fund.

Capital disbursements in 2007-08 are projected to total $137.4 million, an increase of $17 million over 2006-07. They include:

- $39 million for the Low Income Housing Trust Fund,
- $35 million for the Affordable Housing Corporation,
- $26.6 million for Homeless Housing,
- $12.8 million for the Public Housing Modernization Program,
- $7 million for Homes for Working Families,
- $5 million for Homeless Housing - AIDS,
- $3.3 million for Rural Revitalization,
- $3 million for New Facilities,
- $2.9 million for Urban Initiatives,
- $2.5 million for Housing Assistance, and
- $400,000 for Housing Opportunities for Elderly.

Capital Plan spending in 2007-08 reflects increases in Affordable Housing ($10 million), Low Income Housing ($9 million), Rural Revitalization ($3 million), Urban Initiatives ($2.7 million), Housing Assistance ($2.5 million) and Homeless Housing ($1 million). Spending is projected to decrease in the Main Street Program ($5 million), Homeless Housing - AIDS ($5 million), Housing Opportunities for Elderly ($1 million), and New Facilities ($.1 million).

Housing Capital Disbursements versus Projected Debt Service
(in millions of dollars)



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 2009-10 at $107 million. Over the next five years, debt service is projected to grow, while disbursements drop and then remain static. With the continued issuance of debt, by SFY 2008-09, the State's spending on HFA debt service ($127.3 million) will exceed its spending ($123.8 million) on housing capital programs.

Section

18

State Workforce

The Division of the Budget (DOB) estimates that at the end of the current SFY (March 2007), there will be a total of 194,600 State employees, which will grow to 197,068 by the end of SFY 2007-08. Total full-time equivalent positions (FTEs) grew quickly during SFYs 2005-06 and 2006-07 and are anticipated to grow further in SFY 2007-08.

State Workforce

SFY	Total FTEs	Dollar Change	Change Percent
2004-05	188,931		
2005-06	191,391	2,460	1.3
2006-07	194,600	3,209	1.7
2007-08	197,068	2,468	1.3

Source: New York State Division of the Budget. Figures for SFY 2006-07 and 2007-08 are estimates.

Such estimates, however, are subject to considerable adjustment. For example, last year DOB estimated 191,188 FTEs at the end of SFY 2006-07. DOB's latest figure for the current year close-out has grown by 3,412 FTEs from that earlier estimate. The most likely explanation is DOB's expectation of significant FTE reductions in the current SFY as a result of the on-going hiring freeze and an initiative to share administrative services among the smaller agencies. These savings apparently did not materialize.

In the upcoming SFY, the Executive Budget projects a State workforce increase of 2,468 positions, or 1.3 percent. There will be 2,805 new fills, offset by an estimated

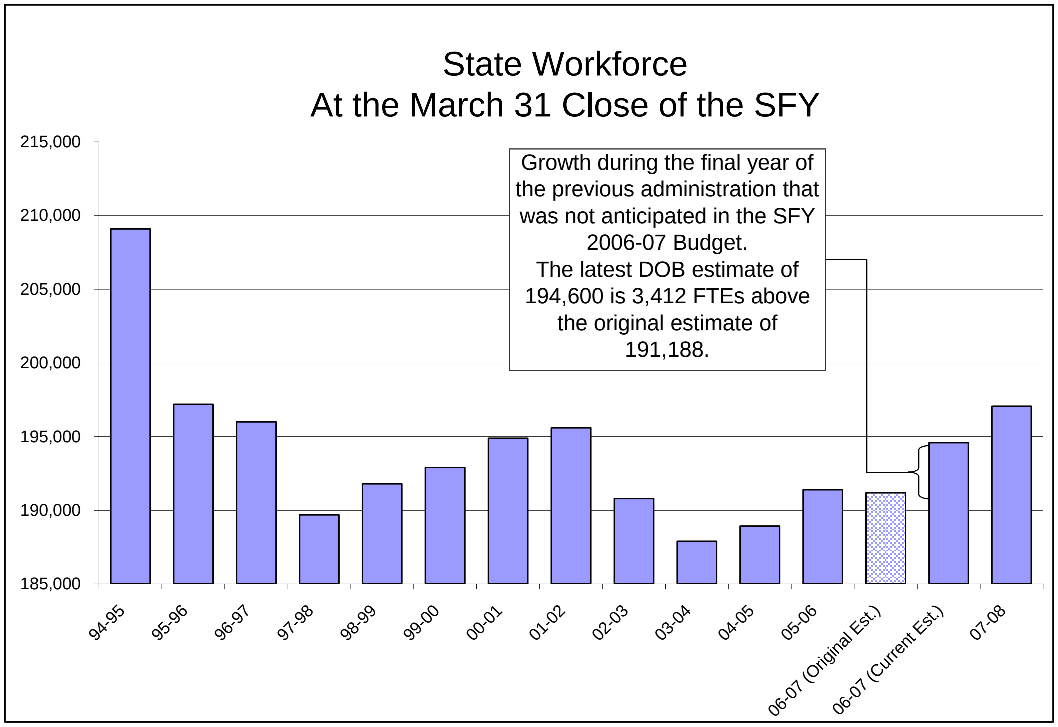
305 attritions, according to DOB estimates. In addition, 32 positions will be eliminated as a result of the Executive's proposal to allow the Temporary State Commission of Investigation to dissolve when its authority sunsets on September 1, 2007.

Major Agency Increases in SFY 2007-08 Executive Budget Proposal

Agency	Change
SUNY, CUNY and State Education Department Faculty Hiring and Increased Public School Accountability Programs	495
Office of Mental Health Civil Commitment Staff	335
Department of Taxation and Finance Enhanced Compliance	200
Office of Children and Family Services Youth Health and Safety	200
Department of Transportation Engineering and Infrastructure Work	197
Office of Medicaid Inspector General Fraud Prevention	157
Department of Environmental Conservation Critical Programs	109
Office of Parks, Recreation and Historic Preservation Park Police	52

State Workforce Growth – 1995-2008

The following chart shows the year-to-year changes in the State workforce from the end of SFY 1994-95 through the end of SFY 2007-08. After the elimination of 19,400 positions between the end of SFY 1994-95 and the end of SFY 1997-98, there were four years of moderate growth that added 5,900 positions by the end of SFY 2001-02. Then, following the terrorist attacks on September 11, 2001, the State workforce was reduced by 7,698 FTEs over the next consecutive fiscal years. A rebound has occurred from the end of SFY 2003-04 through SFY 2006-07 with an addition of 6,698 FTE positions.



NYSHIP Self-Insurance Proposal

The Executive Budget Proposal includes an Article VII provision that would give the State the option of self-insuring the New York State Employee Health Insurance Plan (NYSHIP). The State currently pays risk charges to the insurance companies that provide health insurance to NYSHIP participants. The Article VII proposal would permit the State to self-insure all or just a portion of the services provided through NYSHIP. The Executive hopes that this option will give the State flexibility in its rate setting negotiations with insurance companies.

A provision contained in the Executive's 21-Day Budget Amendment package would amend Civil Service and State Finance Law as it relates to the use of dividend and interest income that is deposited in the Employee Health Insurance Fund. The new provision would grant the Executive permanent authority to use this money to pay for health insurance costs without annual appropriation authority. The Legislature allowed the Executive to use such funds without appropriation in SFYs 2004-05 and 2005-06, but the authority to do so lapsed on March 31, 2006.[88] Last year, the Legislature rejected the Executive’s request to make that authority permanent, instead making a Fiduciary Fund appropriation of $99.5 million in the General State Charges

[88] Civil Service Law, Section 167 and State Finance Law, Section 4 as amended by Part B, Section 1 of Chapter 101 of the Laws of 2004; Part C, Section 1 of Chapter 56 of the Laws of 2004; and Part L, Section 1 of Chapter 56 of the Laws of 2005.

program in order to provide explicit appropriation authority for the use of dividend and interest income in the Fund. The Legislature also amended the Civil Service Law to direct that dividend and interest income be deposited in a reserve account of the Fund that is used to offset rate fluctuations.[89] The proposal contained in the 21-Day Amendment attempts to address concerns raised by the Office of the State Comptroller. It would give a permanent authorization for the use of dividend and interest income in the Fund without appropriation and would make this authority retroactive to April 1, 2006.

[89] Civil Service Law, Section 167 as amended by Part C, Section 1, Chapter 56 of the Laws of 2006.

Existing and Proposed Changes in Full Time Equivalent (FTE) Employees
(All Funds)

	March 2006 Actual	March 2007 (Est 2007)	March 2008 (Est 2007)	Change from 2007 to 2008	Percent Change
Major Agencies					
OFFICE OF THE STATE COMPTROLLER	2,399	2,463	2,484	21	0.9%
CHILDREN AND FAMILY SERVICES	3,714	3,870	4,059	189	4.9%
CORRECTIONAL SERVICES	31,768	31,567	31,514	(53)	-0.2%
EDUCATION DEPARTMENT	3,013	3,077	3,174	97	3.2%
ENVIRONMENTAL CONSERVATION	3,345	3,371	3,480	109	3.2%
GENERAL SERVICES	1,702	1,751	1,751	0	0.0%
HEALTH	5,860	5,908	5,998	90	1.5%
LABOR	3,632	3,795	3,805	10	0.3%
LAW, DEPARTMENT OF - ATTORNEY GENERAL	1,759	1,881	1,921	40	2.1%
MENTAL HEALTH	16,180	16,740	17,145	405	2.4%
MENTAL RETARDATION & DEVELOPMENTAL DISABILITIES	21,837	22,090	22,327	237	1.1%
MOTOR VEHICLES	2,733	2,775	2,833	58	2.1%
PARKS, RECREATION AND HISTORIC PRESERVATION	1,599	2,192	2,244	52	2.4%
PAROLE	2,047	2,079	2,069	(10)	-0.5%
STATE POLICE	5,591	5,927	5,927	0	0.0%
TEMPORARY AND DISABILITY ASSISTANCE	2,349	2,448	2,448	0	0.0%
TAXATION AND FINANCE, DEPARTMENT OF	4,760	4,766	4,966	200	4.2%
TRANSPORTATION	9,687	9,949	10,360	411	4.1%
WORKERS' COMPENSATION BOARD	1,517	1,539	1,539	0	0.0%
SUBTOTAL - MAJOR AGENCIES	**125,492**	**128,188**	**130,044**	**1,856**	1.4%
Minor Agencies					
ADIRONDACK PARK AGENCY	67	67	72	5	7.5%
AGRICULTURE AND MARKETS	608	567	579	12	2.1%
CIVIL SERVICE	554	573	543	(30)	-5.2%
CRIMINAL JUSTICE SERVICES	646	706	717	11	1.6%
ELECTIONS, STATE BOARD OF	49	62	83	21	33.9%
EMPLOYEE RELATIONS	72	72	70	(2)	-2.8%
HOMELAND SECURITY	98	153	184	31	20.3%
HUMAN RIGHTS	182	203	206	3	1.5%
LIEUTENANT GOVERNOR	3	5	15	10	200.0%
MEDICAL INSPECTOR GENERAL	0	521	678	157	30.1%
MILITARY AND NAVAL AFFAIRS	533	615	649	34	5.5%
STATE, DEPARTMENT OF	819	873	912	39	4.5%
TAX APPEALS	33	33	31	(2)	-6.1%
TECHNOLOGY	597	679	726	47	6.9%
TSC INVESTIGATION	31	32	0	(32)	-100.0%
WIRELESS NETWORK (Transfer to OFT)	30	45	0	(45)	-100.0%
All Other Minor Agencies Without Changes	7,207	7,532	7,532	0	0.0%
SUBTOTAL - ALL MINOR AGENCIES	**11,529**	**12,738**	**12,997**	259	2.0%
Universities and Off-Budget Agencies					
CITY UNIVERSITY	10,751	11,033	11,231	198	1.8%
INDUSTRIAL EXHIBIT AUTHORITY	0	49	49	0	0.0%
ROSWELL PARK CANCER INSTITUTE	1,627	1,692	1,692	0	0.0%
STATE UNIV CONSTR FUND	110	125	125	0	0.0%
STATE INSURANCE FUND	2,687	2,657	2,657	0	0.0%
SCIENCE, TECHNOLOGY AND INNOVATION FOUNDATION	0	30	30	0	0.0%
STATE UNIVERSITY	39,195	39,634	39,834	200	0.5%
SUBTOTAL - Universities and Off-Budget Agencies	**54,370**	**55,220**	**55,618**	**398**	0.7%
TOTAL ALL AGENCIES	**191,391**	**196,146**	**198,659**	**2,513**	1.3%
Adjustments					
Statewide Estimating Adjustment	0	(1,546)	(1,591)	(45)	
GRAND TOTAL	**191,391**	**194,600**	**197,068**	**2,468**	**1.3%**

Source: New York State Division of the Budget

Section

19

Criminal Justice

Criminal justice activities are carried out by the Division of Criminal Justice Services, the Capital Defender Office, the Department of Correctional Services, the Division of State Police and the Division of Parole, in conjunction with other agencies. The Executive Budget All Funds appropriation for these five agencies in SFY 2007-08 totals $4.1 billion, representing a net decrease of $42.1 million, or 1.0 percent, from SFY 2006-07.

Division of Criminal Justice Services

The Division of Criminal Justice Services (DCJS) is the administrative agency responsible for allocating State and local monies supporting programs designed to combat crime, drug abuse and violence throughout the State. In addition, DCJS maintains criminal history and statistics for federal, State and local law enforcement agencies.

The Executive Budget recommends $120.2 million in General Fund spending in SFY 2007-08 for DCJS, a net decrease of $17.1 million, or 12.5 percent, from SFY 2006-07. General Fund expenditures are reduced by a total of $30 million, offset by an increase of $12.9 million in new program spending.

Division of Criminal Justice Services
(in millions of dollars)

	2006-07 Actual	2007-08 Proposed	Dollar Change	Percent Change
General Fund	137.3	120.2	(17.1)	-12.5%
Special Revenue - Federal	83.1	45.4	(37.7)	-45.4%
Special Revenue - Other	40.0	67.6	27.6	69.0%
Governmental Funds	**260.4**	**233.2**	**(27.2)**	**-10.4%**

The majority of the decrease is associated with a $21.8 million offset of General Fund spending to various Special Revenue - Other Funds (SROs), including the Criminal Justice Improvement Account (CJIA), the Missing Children's Clearinghouse Account, the Legal Services Assistance Account and the Crimes Against Revenue Account.

The Executive Budget includes Article VII legislation, which was rejected last year by the Legislature, that would expand the use of the CJIA to support new and existing programs previously supported by General Fund resources. Under this proposal, the CJIA would now fund Operation IMPACT, upstate crime initiatives, and domestic violence programs and services. As a result, previous General Funding for Operation IMPACT ($15.5 million) would be shifted to the CJIA.

The remaining shift to SROs includes:

- Prosecution and Defense Services ($5 million),
- Finger Lake Enforcement Initiatives ($300,000),
- CopsCare and the Safety Means Abduction Registration Program ($300,000),
- The Yonkers Safe Street Program ($300,000),
- The Manhattan District Attorney Crimes Against Revenue Program ($198,000), and
- Onondaga County Law Enforcement Technology ($184,000).

The remaining decrease in General Fund spending is related to $8.2 million in actions to reduce, eliminate or transfer spending to other agencies:

- Reducing spending for crime labs by $3.6 million, which will be supplanted by federal funding, leaving $6.6 million in General Fund spending,

- Eliminating $2.6 million in local assistance funding for services and expenses related to anti-drug, anti-violence, crime control, prevention and treatment programs ($2.5 million) and for the Mercy College's Bachelor of Science Degree in Corporate and Homeland Security ($100,000), and

- Transferring $2.0 million in local assistance spending to other State agencies—$1.6 million to the Division of Probation and Correctional Alternatives for the recruitment and retention of district attorneys, and $420,000 to the Office of Children and Family Services for the Catholic Family Center of Rochester and for enhancement of services provided at child advocacy centers.

The proposed decrease in General Fund spending would be offset by an increase in new program spending totaling $12.9 million. The largest portion of new program spending is $5 million for a new crime data sharing information technology project. The purpose of the project is to facilitate and enhance crime data collection and intelligence gathering and sharing among the law enforcement community. This proposal would utilize the existing Regional Intelligence Centers (RICs) in Upstate New York and New York City that facilitate information sharing among law enforcement entities. The remaining $7.9 million in new program spending includes:

- $2.5 million for technology related contracts,

- $1.3 million for salary adjustments,

- $1.1 million for district attorney salaries in non-New York City counties,

- $1 million in additional funding for local re-entry task forces, which ensure that inmates released from prison receive the services they need upon re-entering the community,

- $1 million for 11 full-time equivalent positions (FTEs) to support an increased workload in fingerprinting (six of which were previously supported with federal funds) related to the new crime data sharing initiative, noted above, and

- $1 million for the New York State Defender's Association to support current activities.

The Executive recommends a $27.6 million increase in SRO spending attributable to $21.8 million in General Fund transfers, as noted above, and the following other actions:

- **Fingerprint Identification and Technology Account** – $2.8 million to enable DCJS to interface with RICs related to the new crime data sharing initiative,

- **Criminal Justice Improvement Account** – $1.2 million for upstate crime initiatives,

- **Local Agency Law Enforcement Account** – $1 million for local agency law enforcement, and

- **Crimes Against Revenue Account** – $802,000 for crimes against revenue.[90]

In addition, similar to last year, Article VII legislation is proposed which would increase the criminal history search fee from $52 to $60. This year, the Executive would deposit $6 out of the $8 increase in the Legal Services Assistance Account and the remaining $2 in the Judiciary Data Processing Offset Account.

Finally, the Executive proposes Article VII legislation which would specify how local governments can spend certain funding:

- Prosecution and defense service funding will be distributed at the same level as SFY 2006-07 with any additional funding to be distributed according to crime data statistics in each area, and

- Crimes against revenue funding will be distributed according to statistics based on personal income tax revenue and population.

Capital Defender Office

The Capital Defender Office (CDO) is an independent office responsible for providing legal, investigative and expert services to indigent persons who are prosecuted for capital murder. The CDO is also responsible for setting minimum standards for lawyers appointed to capital murder cases, providing training and other assistance to these lawyers, and providing judges with a list of qualified lawyers to litigate capital cases.

The Executive Budget recommends a significant decrease in General Fund appropriations for the CDO in SFY 2007-08. Under the proposal, General Fund

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[90] The Executive also proposed a $1.2 million transfer from the Crime Victims Board to fund domestic violence programs and services. However, the transfer was previously counted in the Enacted 2006-07 base as a Special Revenue - Other (SRO) expense.

appropriations would decrease $5.3 million (80.3 percent) to $1.3 million, which reflects the actual costs of current operations. The reductions taken are solely in non-personal services, including contractual services, and supplies and materials. The Executive provides for the continued support of seven FTEs. In June 2004, New York's death penalty statute was declared unconstitutional, eliminating much of the workload of the CDO. Unlike last year, the Executive does not provide for additional appropriation authority should the Legislature enact amendments to the death penalty statute.

Capital Defender Office
(in millions of dollars)

	2006-07 Enacted	2007-08 Proposed	Dollar Change	Percent Change
General Fund	6.6	1.3	(5.3)	-80.3%
All Funds	**6.6**	**1.3**	**(5.3)**	**-80.3%**

Division of Correctional Services

The Department of Correctional Services (DOCS) is responsible for operating 70 State correctional facilities inhabited by approximately 63,400 inmates. The SFY 2007-08 Executive Budget proposes to decrease General Fund levels for DOCS by a net $112.8 million, or 4.4 percent, from SFY 2006-07 to $2.5 billion.

Department of Correctional Services
(in millions of dollars)

	2006-07 Actual	2007-08 Proposed	Dollar Change	Percent Change
General Fund	2,566.2	2,453.4	(112.8)	-4.4%
Special Revenue - Federal	0.9	1.5	0.6	66.7%
Special Revenue - Other	35.7	36.8	1.1	3.1%
Capital Projects	249.3	300.0	50.7	20.3%
Internal Service Fund	74.1	79.7	5.6	7.6%
Enterprise Fund	59.3	44.3	(15.0)	-25.3%
Governmental Funds	**2,985.5**	**2,915.7**	**(69.8)**	**-2.3%**

The 2007-08 Executive Budget proposes a total decrease of $213.8 million in General Fund spending. The majority of the reduction is attributed to a $211.1 million nonrecurring retroactive payment in SFY 2006-07 to the New York State Correctional

Officers Police Benevolent Association (NYSCOPBA). Other General Fund decreases include a $1.5 million shift in miscellaneous general operating funds to various SROs and a $1.2 million reduction due to the attrition of 53 FTEs within the support services program.

The proposed decreases in General Fund spending are offset by spending increases totaling $101 million as follows:

- $45.3 million for salary increases, uniform allowances and overtime costs,
- $20.0 million in increased costs for inmate health care,
- $16.0 million to provide services previously funded by inmate phone surcharges deposited in the Family Benefit Account,
- $10.6 million to increase the number of training classes provided for new correction officer recruits,
- $ 7.5 million in support of general operating costs, and
- $ 1.7 million for 71 FTEs for the expansion of inmate mental health services.

Inmate Calls

DOCS facilities are equipped with special pay telephones for inmates to make collect-only telephone calls to family and friends through the Call Home Program. Until recently, the telephones and service were provided through a contract between DOCS and MCI WorldCom.[91] The most recent contract charged the receiver of collect calls a blended rate of 16 cents per minute and a $3.00 per-call service charge. These rates significantly exceed typical consumer rates, and family members of inmates and other groups have long argued against these rates as unfair taxation. In addition, the contract provided a 57.5 percent commission for DOCS from each call. The resulting revenue was deposited in the Family Benefit Fund Account and was used to support various inmate transportation and health services (including AIDS medication) and programs.

In 2004, several plaintiffs, including family members of inmates, filed suit against DOCS and MCI WorldCom to recoup some of the money they paid for the collect calls. However, the suit was dismissed by two lower courts that declared it was not filed on time. Most recently, on January 9, 2007, the New York State Court of Appeals ruled against the two lower courts, deciding the suit could move forward in the State

[91] The contract was taken over by Verizon in 2006.

Supreme Court. As a result, family members of inmates and anyone else who accepted collect calls from inmates since 2004 could be eligible to recoup money from the State. In addition, on January 8, 2007, the day before the New York Court of Appeals issued its decision, the Executive announced that the State would voluntarily reduce the rates—eliminating the source of funding for the Family Benefit Fund Account. In order to continue providing the inmate programs and services previously funded by the telephone commission, the Executive Budget proposes a commensurate restoration of $16 million in General Fund spending.

Prison Reorganization

Article VII language proposed by the 2007-08 Executive Budget would also establish the Temporary Commission on Prison Capacity to evaluate existing prison capacity and recommend facility closures. The Commission would be comprised of the Commissioner of DOCS, four members appointed by the Governor and one member appointed by each legislative leader, for a total of nine members. The Commission would be required to submit a list of facilities recommended for closure by November 1, 2007 and November 1, 2008. However, in the event that a prison closure is approved by the Governor and Legislature, the closure would be implemented in accordance with the one-year closure notification process enacted in the SFY 2005-06 Budget. Therefore, no closures will occur in SFY 2007-08. The 2007-08 Executive Budget provides no funding for the Commission, which would expire on December 31, 2008.

Although the Executive proposes to establish a Sentencing Reform Commission to examine the sentencing structure in New York State, there is no accompanying Article VII legislation. It is the intent that sentencing reform recommendations made by the Commission would impact the facility closure recommendations made by the Temporary Commission on Prison Capacity.

The Executive Budget includes a proposal to use existing DOCS facilities as transitional centers for the re-entry of inmates into the community up to six months prior to their release, and provide alcohol and substance abuse treatment, and housing and employment services. The Executive Budget does not identify any correctional facilities for this purpose, nor does it provide a cost or savings estimate.

Finally, the Executive proposal includes $300 million in capital funding for SFY 2007-08, representing an increase of $50.7 million (20.3 percent), the majority of which is for the intermediate care program capacity (ICP) and the transitional ICP ($40 million). Another portion of these funds ($8 million) is proposed to convert a 200 bed Special Housing Unit correctional facility in Oneida County (Marcy Correctional Facility) to a 100 bed Specialized Residential Mental Health Unit.

Division of State Police

The Division of State Police (DSP) is charged with patrolling the State's highways and performing additional investigative police services. General Fund support recommended by the Executive for SFY 2007-08 totals $467.3 million, a net decrease of $4.1 million (0.9 percent), reflecting both increases ($4.8 million) and reductions ($8.9 million) in spending.

Department of State Police
(in millions of dollars)

	2006-07 Adjusted	2007-08 Proposed	Dollar Change	Percent Change
General Fund	471.4	467.3	(4.1)	-0.9%
Special Revenue - Federal	4.6	12.7	8.1	176.1%
Special Revenue - Other	178.6	195.3	16.7	9.4%
Capital Projects	18.6	62.2	43.6	234.4%
All Funds	**673.2**	**737.5**	**64.3**	**9.6%**

The proposed $4.8 million increase in General Fund spending for SFY 2007-08 is associated with salary increases, while the $8.9 million in reductions is associated with the following:

- $5 million in savings by eliminating plea bargaining for vehicle and traffic tickets by State Troopers,
- $2 million in savings for staff vacancies in the Technical Services Program,
- $1.8 million in savings by shifting the cost of 50 existing State Troopers to the SRO, and
- $100,000 in reduced costs attributed to increasing the use of civilian administrative staff.

The Executive Budget for SFY 2007-08 increases SRO spending by a net $16.7 million, representing a 9.4 percent increase from SFY 2006-07. The total proposed increase in SRO spending is $22.9 million, of which $19.8 million is attributed to new spending: $10 million for radio equipment related to the implementation of the Statewide Wireless Network and $9.8 million for the work zone safety initiative to re-deploy 50 Troopers and place 50 automated cameras in work zones. The remaining SRO increase includes $2.8 million in salary increases and $300,000 in additional costs related to recruitment and training. The Executive Budget proposes to offset this SRO spending increase by eliminating $6.2 million due to lower than anticipated revenues in the Seized Assets Fund.

The accompanying Article VII legislation, which proposes photo monitoring of speeding in work zones, has been rejected by the Legislature each year since SFY 2004-05. The Article VII legislation also includes a provision establishing new SRO accounts into which revenue from the $50 fine imposed on individuals for speeding in work zones would be deposited. The Executive estimates these fines will generate $18.8 million in revenue in SFY 2007-08 ($9.8 million to cover the cost of the new program and an additional $9 million in net revenue) and $37.5 million annually thereafter.

Finally, the Executive proposes capital DSP spending of $62.2 million in SFY 2007-08, representing a net increase of $43.6 million (234.4 percent) from SFY 2006-07. The majority of this spending is attributed to $50 million to finish Troop G headquarters located in Colonie, New York. In addition, the Executive Proposal includes $6 million for evidence storage facilities and $6.2 million for various projects, including the preservation of existing State Police facilities.

Division of Parole

The Division of Parole (DOP) is responsible for preparing inmates for release from prison, monitoring their re-entry into the community and supervising approximately 60,000 offenders who serve community sentences. The Executive recommends General Fund spending of $199.0 million for DOP in SFY 2007-08, representing a $4.1 million (1.9 percent) reduction from 2006-07.

Division of Parole
(in millions of dollars)

	2006-07 Actual	2007-08 Proposed	Dollar Change	Percent Change
General Fund	203.1	199.0	(4.1)	-1.9%
Special Revenue - Federal	0.5	0.5	0.0	0.0%
Special Revenue - Other	0.8	0.8	0.0	0.0%
Internal Service Fund	9.3	9.3	0.0	0.0%
All Funds	**213.7**	**209.6**	**(4.1)**	**-1.9%**

Note: Numbers may not add due to rounding.

The proposed General Fund net decrease of $4.1 million reflects decreases in spending totaling $8.9 million, offset by proposed increases totaling $4.8 million. The recommended reduction in General Fund spending for SFY 2007-08 is primarily attributed to $7 million in Aid to Localities savings, which would result from a new Article VII proposal to transfer certain parole violators who are awaiting a hearing to State facilities. Specifically, the accompanying Article VII legislation would change the hearing process to provide for video-teleconferencing. This proposal would attempt to reduce the amount of time parole violators spend in local jails and, therefore, reduce the State's reimbursement to localities for housing parole violators. Under current law, the State reimburses localities $40 per day for housing parole violators.

The remaining decrease of $1.9 million is attributed to travel savings, overtime reductions and a re-estimation of resources, which results in a net reduction of ten FTEs. The ten FTEs are eliminated from the Parole Operations Program. The proposed spending decrease would be offset by:

- $3.6 million in increased funding for salary increases and continued operations,
- $1.1 million for 14 FTEs to implement the new parole process, and
- $150,000 associated with increased contract costs.

Finally, the Executive proposes Article VII legislation, which would specify how local governments can spend certain funding. For example, funding for the intensive supervision of sex offenders will be distributed according to the number of registered sex offenders under supervision.

Section

20

The Enhanced Wireless 911 and the Statewide Wireless Network

Although a wireless 911 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 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 (E911).[92] A follow-up review issued by the State Comptroller's Office in 2004 found that all surcharge revenue has since been deposited according to chapter 81 of the laws of 2002—approximately 42 percent of the wireless 911 surcharges to the General Fund and 58 percent to the Public Safety Communications Account.[93]

Once it is fully operational, the E911 system enables emergency responders to locate cell phone callers even if they are unable to speak. The local or regional public safety answering points (PSAPs), which handle emergency calls throughout the State, are at Phase II once they have this capability. Although the Federal Communications Commission (FCC) ordered that Phase II capability be implemented nationwide by December 31, 2005, full compliance has not yet been attained in New York State. A recent audit issued by the Office of the State Comptroller on the distribution of funds

[92] Office of the State Comptroller. *Division of the State Police, Cellular Surcharge Revenues.* Report 2001-S-27. March 20, 2002.

[93] Office of the State Comptroller. *Status of Wireless 911 Surcharge in New York State*. Report 2003-F-9. February 18, 2004.

for E911 enhancement found that as of April 2006, 15 of the 58 counties were not Phase II capable.[94]

In contrast to E911, the Statewide Wireless Network (SWN) is a project to replace the obsolete communications infrastructure for the State. The goal is to implement a radio network for State public safety and public service agencies that works statewide. SWN will provide interagency and intergovernmental communications—or interoperability—and will allow emergency personnel to communicate with one another. Local governments may opt into the system, but will need to purchase and finance their own equipment. The Office for Technology (OFT) awarded a $2.0 billion contract in September 2005 to M/A-COM to design and build the SWN.

In addition to the not-to-exceed $2.0 billion contract price, the price tag that local governments will pay in equipment costs to access the SWN at their option is estimated at $200 million. Financing costs for the equipment acquisition by local governments is estimated at $330 million.[95] Localities have the option to use federal funds from a $350 million Homeland Security appropriation designated for emergency preparedness in the 2007-08 Executive Budget to purchase equipment to access the SWN. Local governments are also responsible for the costs of enhanced functionality, such as in-building or in-tunnel coverage or paging services, they may require.

The following are associated SWN costs to the State that are not included in the $2 billion M/A-COM contract price:

- $260 million in estimated costs for radio equipment for State agencies and financing ($100 million for equipment acquisition and $160 million for financing),
- $60 million for System Operations Centers (SOCs),
- $1 million in land acquisition for tower sites,
- Enhanced functionality as required by the particular State agency, and
- Computer aided dispatch required beyond that included in the cost of the SOCs.[96]

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[94] Office of the State Comptroller. *Oversight of the Enhanced Wireless 911 Program.* Report 2005-S-68. December 21, 2006. New York City, which has been Phase II compliant since 2004, is treated as one county in this audit.

[95] Office of the State Comptroller. "Additional Costs." *Statewide Wireless Network*. December 21, 2006: 42-44.

[96] *Ibid.* Although the extremely broad definition of enhancements renders it too difficult to produce a cost estimate for enhanced functionality, the unit cost to purchase a computer aided dispatch is $1,565,146.

Chapter 81 of the laws of 2002 broadened the use of funds in the Public Safety Communications Account to include homeland security, as well as State public safety and security programs. Subsequent to this law, SWN has been funded with a portion of the E911 surcharge monies deposited into the Public Safety Communications Account. OFT, however, acknowledges that both it and the Division of the Budget (DOB) are aware that the E911 surcharge revenue may not cover all of the annual SWN lease payments. OFT and DOB are continuing to discuss how the shortfall will be paid.[97]

The 2007-08 Executive Budget refers to SWN and the Universal Broadband Access Initiative as the Statewide Technology Program, and the appropriation for SWN, which had previously been maintained as Special Revenue-Other, would be transferred to OFT. Additionally, the 47 full-time equivalent positions (FTEs) associated with SWN would be merged with OFT's existing staff of 679 FTEs.

Enhanced Wireless 911 Surcharge

From the E911 surcharge revenues deposited in the Public Safety Communications Account, the 2007-08 Executive Budget appropriates:

- $50 million to establish the Universal Broadband Access Initiative. Article VII language establishes a new Universal Broadband Access Account within OFT.[98]
- $31.6 million for SWN, representing a $6.1 million increase (nearly 24 percent) from last year's $25.5 million appropriation.
- $10 million to the State Police for SWN for related equipment.
- $10 million for the Local Wireless PSAPs, which is the same level of funding as in the 2006-07 Enacted Budget.

The Executive does plan to continue funding SWN with the portion of the Wireless 911 surcharge deposited in the Public Safety Communications Account. Unlike previous years, however, the 2007-08 Executive Budget does not propose a restructuring of the current split that deposits 42 percent of the surcharge to the General Fund.

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[97] Office of the State Comptroller. "Additional Costs." *Statewide Wireless Network*. December 21, 2006: 42-44; Receipts for the surcharge totaled $131.9 million for SFY 2003-04, $137.8 million for 2004-05 and $152.1 million for 2005-06.

[98] The goal of the Universal Broadband Access Initiative is to facilitate expanding statewide access to affordable broadband Internet service.

Section

21

Help America Vote Act (HAVA)

Enacted by the United States Congress in 2002, the Help America Vote Act (HAVA) requires that all states accepting HAVA monies establish a statewide voter registration database, provide at least one voting machine accessible to persons with disabilities in each polling place and replace all lever or punch card voting machines. [99]

The 2007-08 Executive Budget includes a $15 million appropriation, monies resulting from interest generated on the federal HAVA funds, to improve poll site accessibility. The Executive also appropriates $8 million for a required State match, $5.6 million related to the independent testing of the new voting machines and $3.5 million to improve poll site accessibility.[100] Reappropriations of $232 million in federal funds related to the implementation of HAVA, poll worker training and the purchase of new voting machines and voting systems are also recommended.

HAVA Implementation

By accepting federal HAVA funds, New York agreed to replace all lever voting machines in the State by July 2006; however, implementing legislation was not enacted until June 2005. New York was, in fact, the last state in the country to enact implementing legislation and may be the last to actually procure new voting machines. In addition, New York did not meet the January 1, 2006 deadline for establishing a statewide voter registration database (SVRD).

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

[100] The $8 million appropriation addresses a miscalculation in the amount needed in a State matching account that was made in the 2005-06 Enacted Budget.

On December 7, 2005, the Office of the State Comptroller sent a letter to the Division of the Budget (DOB), the Board of Elections (BOE) and the Office of General Services (OGS) expressing concern that the State take full advantage of funding for HAVA, as well as protect its citizens' votes. The Comptroller's Office stated its intention to work cooperatively with all parties to execute the necessary contracts in a timely manner in conformance with HAVA.

Concern over New York's delay was heightened in early January 2006 by an announcement from the United States Department of Justice (DOJ) of its intentions to pursue a lawsuit to force compliance with HAVA in New York State. On January 7, 2006, the Office of the State Comptroller sent a follow-up letter, again offering to assist both BOE and OGS in conducting fair procurements that will result in an SVRD and provide local governments cost effective options for complying with HAVA. Subsequently, the DOJ did sue New York State, but on April 28, 2006 accepted BOE's plan to achieve full compliance with HAVA requirements for voting machines by the 2007 elections and SVRD compliance by the spring of 2007.

Since that time, limited progress has been made relating to the SVRD. There are four vendors of commercial election management systems used by the 62 counties in New York State. The vendors need to make modifications to their software product and develop an interface for counties to use with the new SVRD, which will be modeled on the database used by Washington State. While the system is to be completed by Spring 2007, to date, BOE has not entered into a contract with these vendors.

Complications related to appropriately testing voting machines developed when the United States Election Assistance Commission (EAC) raised concerns regarding the ability of Ciber, Inc. to test machines for security. Although New York has approved this vendor to conduct independent testing of new voting machines, BOE suspended work on its contract with Ciber in early January of this year pending further review. The EAC has given Ciber until March 5, 2007 to address several issues to qualify for interim EAC accreditation. Until the independent testing of new voting machines is completed in New York, neither the State certification process nor the procurement related to the voting machines may proceed.

Due to New York's delay in purchasing new voting machines and implementing other components of HAVA, the federal government may require New York to return approximately $50 million of the $190 million in federal funding targeted for the purchase of new machines. It is not likely that the interest New York has accumulated on the unspent federal funds will be jeopardized, since HAVA requires the interest be put back into the program.

BOE now anticipates that new voting machines will be certified by the State by May 7 of this year; only at that point may the procurements related to the voting machines proceed. It appears that the new machines may not be in place until the March 2008 presidential primary.

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