

Overview

FISCAL OVERVIEW

General Fund disbursements for the enacted State Fiscal Year (SFY) 2004-05 Budget are estimated at \$43.04 billion, a net increase of \$972 million, or 2.3 percent, from SFY 2003-04.

Disbursements on an All Funds basis are projected to be approximately \$101.31 billion, a net increase of \$4 billion, or 4.1 percent, from SFY 2003-04. This increase is primarily attributable to additional disbursements for education, higher education, health and general state charges.

Highlights of the SFY 2004-05 Legislative Budget include the following:

- A \$555 million state fiscal year increase over the Executive's budget proposal is provided for education funding. Computerized aids are increased on a school year basis by \$740.7 million over 2003-04, including an increase in Operating Aid and Extraordinary Needs Aid. In addition, these funds provide for the restoration of BOCES, Transportation and Building Aid along with funding increases for other formula aid such as Tax Limitation and Limited English Proficiency Aid. Also, \$14.6 million is provided to restore other Education programs including aid for libraries and Case Services.
- \$96.8 million in Higher Education to deny the Executive's proposal to delay one-third of a student's Tuition Assistance Program award until graduation and restore funding for Community College Base Aid, Opportunity Programs and other higher education programs. An additional \$68.4 million for the State University of New York (SUNY) and City University of New York (CUNY) is also provided to support operations, including the addition of new full-time faculty and a Community College Base Aid enhancement. Furthermore, \$3.62 billion is provided to support new multi-year capital plans at the State University of New York and the City University of New York, an increase of \$723.4 million over the Executive's proposed budget. A new Higher Education Facilities Capital Matching Grants Program is also funded at \$350 million to benefit both public and private colleges and universities throughout the State.
- \$771.1 million in increased funding is provided for the Medical Assistance (Medicaid) Program, public health programs, and the Health Care Reform Act (HCRA) for restorations, and new and reprogrammed funding in SFY 2004-05. Furthermore, an additional \$20 million is provided to support an increase in the Personal Income tax credit for Long Term Care Insurance from the current 10 percent to 20 percent.

Of the \$771.1 million, a total of \$493.6 million of the \$847.6 million in health care reductions advanced by the Executive in SFY 2004-05 are restored. This amount is offset by savings of \$18.2 million from the EPIC Medicare Drug Discount Program. Restorations totaling \$442.8 million to the Medicaid Program, \$10.8 million for public health programs within the Department of Health, and \$40 million to various programs in HCRA are provided. New and reprogrammed spending totaling \$277.5 million in SFY 2004-05 is provided, including \$250 million in new bonding authority to support a Health Care System Improvement Capital Grant Program of which \$10 million is to be available specifically for a capital program for Community Health Centers.

- \$49.8 million is provided to restore proposed reductions in public assistance benefits. This includes \$16.8 million for the denial of a proposal to impose sanctions on the entire family for public assistance households in which a member is not in compliance with work requirements, \$16.1 million for the denial of a proposal to reduce the non-shelter components of a public assistance grant by ten percent in certain cases, and \$16.9 million for the denial of a proposal to reduce the amount of earnings not counted in determining the level of benefits provided to public assistance recipients.
- An additional \$100 million in capital funding is authorized for the Multi-Modal Program to support a broad range of transportation projects across the State. In addition, a \$34.9 million increase in capital funding is provided to support the restoration of the Consolidated Highway Improvement Program (CHIPS). An increase of \$57 million in capital projects funding for housing and community revitalization projects is also provided.

The adopted budget also includes revenue re-estimates and a series of revenue actions totaling \$1.1 billion to support restorations and increases for critical government services and programs.

On August 20, the Governor vetoed approximately \$1.8 billion in All Funds additions to the Executive Budget. The vetoes totaled approximately \$235 million in direct spending in the General Fund and other Special Revenue Funds and \$1.6 billion in bonded capital. The line item vetoes include funding for education, higher education, healthcare initiatives and capital projects.

CASH FINANCIAL PLAN
GENERAL FUND
Legislative Plan 2004-05
(millions of dollars)

	<u>2004-05 Legislative Plan</u>
Opening fund balance	<u>1,077</u>
Receipts:	
Taxes	
Personal Income Tax	18,806
User taxes and fees	8,808
Business taxes	3,703
Other taxes	781
Miscellaneous receipts	2,206
Federal grants	-
Transfers from other funds	
- PIT Revenue Bond	5,714
- LGAC	2,173
- RETT	320
- All other	638
Total Receipts	<u>43,149</u>
Disbursements:	
Grants to local governments	29,481
State operations	7,295
General State charges	3,627
Debt service	-
Transfers to other funds	
- Debt service	1,748
- Capital projects	258
- State University	-
- Other purposes	629
Total Disbursements	<u>43,037</u>
Change in fund balance	<u>112</u>
Closing fund balance	<u>1,189</u>
Tax Stabilization Reserve Fund	794
Contingency Reserve Fund	20
Community Projects Fund	150
Universal Pre-Kindergarten	-
<i>General Reserves</i>	<u>225</u>

CASH FINANCIAL PLAN
STATE FUNDS
Legislative Plan 2004-05
(millions of dollars)

	<u>2004-05 Legislative Plan</u>
Opening fund balance	<u>2,618</u>
Receipts:	
Taxes	47,688
Miscellaneous receipts	16,519
Federal grants	12
Total Receipts	<u>64,219</u>
Disbursements:	
Grants to local governments	42,515
State operations	12,153
General State charges	4,089
Debt service	3,909
Capital projects	2,055
Total Disbursements	<u>64,721</u>
Other financing sources (uses)	
Transfers from other funds	15,158
Transfers to other funds	(14,876)
Bond and note proceeds	131
Net other financing sources (uses)	<u>412</u>
Change in fund balance	<u>(90)</u>
Closing fund balance	<u>2,528</u>

CASH FINANCIAL PLAN
ALL FUNDS
Legislative Plan 2004-05
(millions of dollars)

	2004-05 Legislative Plan
Opening fund balance	2,945
Receipts:	
Taxes	47,688
Miscellaneous receipts	16,645
Federal grants	36,690
Total Receipts	101,022
Disbursements:	
Grants to local governments	74,106
State operations	15,337
General State charges	4,287
Debt service	3,909
Capital projects	3,668
Total Disbursements	101,307
Other financing sources (uses)	
Transfers from other funds	17,513
Transfers to other funds	(17,367)
Bond and note proceeds	131
Net other financing sources (uses)	276
Change in fund balance	(8)
Closing fund balance	2,937

SUMMARY OF THE REVENUE PROVISIONS CONTAINED IN THE SFY 2004-05 JOINT LEGISLATIVE BUDGET

Overview

The Enacted Budget contains a series of provisions that would increase revenues by \$546.8 million in State Fiscal Year (SFY) 2004-05. Total revenue enhancements are estimated at \$592 million and are offset by revenue reductions equaling \$45.2 million. These actions are expected to generate \$26.9 million annually when fully implemented, largely reflecting the temporary nature of several provisions.

Legislative Action on the Executive Budget Proposals

The Legislature modified several of the Executive revenue enhancement proposals, most notably the provisions relating to the Sales Tax exemption for clothing and footwear and the Fixed Dollar Minimum Tax. The Executive's proposal to repeal the permanent exemption for clothing and footwear was rejected and in its place the Legislature extended the current suspension of the sales tax exemption until May 31, 2005. The Executive's proposal to modify the Fixed Dollar Minimum Tax was accepted, however, these changes will only apply to taxable years beginning in 2004 and 2005. Provisions relating to the expansion of Video Lottery Terminals, expansion of Quick Draw, Direct Wine Shipments and the Sales Tax surcharge on security services and certain admissions were denied. The Legislature also denied the Executive's proposals relating to Empire Zones but extended the current program until March 31, 2005.

The Legislature accepted the Executive's proposal relating to the continuation of the Alternative Fuel Vehicle tax credits, provisions relating to military pay for New York National Guardsman and the Low-Income Housing Tax Credit. Proposals relating to single sales factor apportionment, sales of net-operating losses for certain biotechnology firms and inflationary adjustments for STAR were denied. Finally, provisions to extend the MTA business tax surcharge and certain Bank Tax provisions were accepted. Provisions to eliminate the sunset of the Quick Draw Lottery game were rejected and instead the program was extended until May 31, 2005. The details of the changes to the Executive's proposals, as well as the Legislative revenue actions, are contained in the summaries that follow the tables below.

TABLE 1

LEGISLATIVE ACTION ON THE 2004-05 EXECUTIVE REVENUE PROPOSALS
(\$ Millions)

Tax Item	2004-2005 Executive Proposal Estimate	Legislative Action	2004-2005 Enacted Estimates
REVENUE ENHANCEMENT PROPOSALS			
Clothing Sales Tax Exemption	400.0	Modified	495.0
Add New Fixed Dollar Minimum	40.0	Modified	40.0
Empire Zones Provisions	0.0	Modified	0.0
Direct Wine Shipments	2.0	Rejected	0.0
Low Income Filings	1.0	Rejected	0.0
Notice and Demands	50.0	Accepted	50.0
Sales Tax Surcharge to Fund Public Safety	39.0	Rejected	0.0
Tax Nonresidents Gain from Sales of Co-op Stock; Apply MRT to Coops	5.0	Modified	5.0
Eliminate Restrictions on Quick Draw	43.0	Denied	0.0
VLT Expansion	0.0	Denied	0.0
REVENUE PRESERVATION/TECHNICAL PROVISIONS			
Extend MTA Surcharge	0.0	Accepted	0.0
Extend Bank Tax Provisions	0.0	Accepted	0.0
Make Quick Draw Permanent	0.0	Modified	0.0
Estate Tax Amendments	0.0	Accepted	0.0
REVENUE REDUCTION PROPOSALS			
Extend Alternative Fuels Vehicle Credit	(10.0)	Accepted	(10.0)
Biotechnology Investment Credit	(5.0)	Denied	0.0
Exempt Federal Military Pay	(1.0)	Accepted	(1.0)
Low Income Housing Tax Credit	(2.0)	Accepted	(2.0)
Single Sales Factor for Manufacturers	(0.0)	Denied	0.0
STAR Adjustment for Inflation	(11.0)	Denied	0.0
Aviation Fuel	(1.0)	Modified	(1.0)

TABLE 2
2004-2005 LEGISLATIVE REVENUE ACTIONS
(\$ Millions)

Tax Item	2004-2005 Estimates	Fully Implemented Estimates
Seven Day Sales	2.0	2.0
State Procurement Contracts – Sales Tax Vendors	0.0	25.0
Empire State Film Production Tax Credit	(10.0)	(25.0)
Long-Term Care Premiums Tax Credit Enhancement	(20.0)	(20.0)
CAPCO IV	0.0	(6.0)
Sales Tax Exemption- Aviation Repairs	(1.0)	(3.0)
Sales Tax Exemption- Water Taxis	(0.2)	(0.2)

2004-2005 ENACTED TAX LAW CHANGES

Revenue Enhancements

Sales Tax on Clothing and Footwear

The Legislature concurs with the Executive budget proposal to continue the temporary suspension of the sales tax exemption on clothing and footwear priced under \$110 until May 31, 2005. State and local sales taxes are currently assessed on all clothing and footwear with a one-week exemption period from August 31, 2004 to September 6, 2004 for those items costing less than \$110. The Legislative budget includes an additional exemption period, at the same threshold, from January 31, 2005 to February 6, 2005. Localities will be able to pass a resolution by December 3, 2004 to determine whether they will offer this additional exemption period. On June 1, 2005, the exemption on clothing and footwear will be reinstated for the State and those local taxing jurisdictions that have adopted resolutions to provide their own exemption. This will increase revenue by \$95 million over the Executive Budget proposal and will maintain \$400 million in the SFY 2004-05 financial plan.

Fixed Dollar Minimum Tax Base for the Corporate Franchise Tax

Corporations filing under Article 9-A of the Tax Law are subject to a minimum tax depending upon their gross payroll amount. Currently, the minimum tax paid is \$1,500 for all companies with a gross payroll of \$6.25 million or more. The Legislature concurs with the Executive budget proposal to temporarily modifies the amount of the fixed dollar minimum tax for the 2004 and 2005 tax years. Corporations with gross payrolls greater than \$25 million will pay a minimum tax of \$10,000. Those with gross payrolls between \$6.25 million and \$25 million will pay \$5,000. Those with gross payrolls between \$1 million and \$6.25 million and those with payrolls between \$500,000 and \$1 million will continue to pay a minimum tax of \$425 and \$325, respectively. Firms with gross payrolls between \$250,000 and \$500,000 will see their minimum tax liability reduced from \$225 to \$100. This will increase State revenues by an estimated \$40 million each year.

Notice and Demands

Notice and demands are issued to taxpayers for payment of additional taxes due mainly as a result of taxpayer error (e.g. mathematical or clerical errors) and are usually resolved within a short period of time. Taxpayers will now be required to remit the requisite amount of tax liability due resulting from any of the aforementioned errors prior to a hearing with the Division of Tax Appeals or a conference with the Bureau of Conciliation and Mediation Services. The taxpayer

will still have the right to dispute through the hearing process any assessment they feel is erroneous and will be eligible for a refund of any additional tax that was collected in error. This will result in a "spin-up" of \$50 million in revenues.

Sales of Stock in Cooperative Housing Corporations

When a nonresident sells real property located in New York State, he or she must pay an estimated tax on the gains from the sale of such property. However, dwellings in cooperative housing corporations, although purchased by the owner, do not fall under the definition of real property since the owner essentially purchases a share of stock in the corporation which represents his dwelling. Non-residents will now be required to pay an estimated tax on the gains from sales of shares of stock in cooperative housing corporations located in New York. These provisions are estimated to increase State revenues by \$5 million in SFY 2004-05 and by \$20 million thereafter.

Seven Day Sales of Alcoholic Beverages

The Alcoholic Beverage Control Law is amended to convert all of the current six day option licenses to sell wine and liquor off premises to seven day licenses. In 2003, the provisions barring liquor stores from being open on Sundays were repealed. In its place, a six day license was created. This bill will allow liquor stores the option of opening for seven days; thus allowing them to be open on Sunday while not having to sacrifice being closed on another day of the week. This is estimated to increase economic activity that would generate \$2 million in state taxes in SFY 2004-05.

Sales Tax Collection By State Contractors

Companies that contract with New York State are now required to register as sales tax vendors as a condition of receiving such contract. This would require such companies, or their affiliates to collect sales and use taxes on goods sold within the State. These provisions will apply to contracts issued on or after January 1, 2005. This is expected to increase revenues by \$25 million annually when fully implemented.

Revenue Preservation and Technical Provisions

Metropolitan Transportation Authority (MTA) Surcharge

The Legislature extends the 17 percent MTA business tax surcharge from December 31, 2005 until December 31, 2009. Proceeds from this surcharge are dedicated to a special revenue fund and will assist with the financing of mass transportation expenditures in the Metropolitan Commuter Transportation District.

Extension of the Bank Franchise Tax and the Gramm-Leach-Bliley Act

The Legislature concurs with the Executive budget to extend the Bank Franchise Tax for one year, and provisions relating to the Gramm-Leach-Bliley Act for two years. The provisions of New York State and New York City law which relate to the taxation of commercial banks sunset on January 1, 2005. These provisions include: Chapter 298 of the Laws of 1985 which assigns the franchise taxes imposed on all banking corporations; Chapter 817 of the Business Tax Reform and Rate Reduction Act of 1987 which assigns the bad debt reduction for commercial banks for the New York State franchise tax; and Chapter 525 of the Laws of 1998 which assigns the bad debt reduction for commercial banks for the New York City banking corporation franchise tax. Extension of these provisions will have no fiscal impact.

Calculation of Estate Tax and Repeal of Inheritance Tax

The Legislature concurs with the Executive budget to change the method for calculating the Estate Tax regarding property held outside of New York. As part of the Economic Growth and Tax Reconciliation Relief Act that was enacted in 2001, the Federal credit for state estate taxes paid was phased out over four years and the exemption level for estates was increased. Due to the fact that New York's estate tax is pegged to the Internal Revenue Code in effect in 1998, these changes had no effect on the State's estate tax or its exemption level. However, in other states where the estate tax was not pegged to the Internal Revenue Code as of a specific date, the elimination of the Federal credit served to eliminate those states' estate taxes. As such, the reduction of New York estate taxes resulting from estate taxes paid to other states no longer applies. The Legislature eliminated this reference in the calculation of the estate tax. This change is not expected to affect State revenues.

Quick Draw

The Legislature extended the Division of Lottery's authority to operate Quick Draw until May 31, 2005.

Revenue Reductions

Low-Income Housing Tax Credit

In order to provide an adequate supply of low cost housing in New York State, real estate developers are allowed a credit against their income tax liability for the development of rental housing for low income residents. This credit was enacted by Chapter 80 of the Laws of 2000 with an aggregate amount of \$20 million to be taken over ten years or \$2 million per year. Chapter 85 of the Laws of 2002

increased the aggregate amount to \$40 million. The Legislature increased the credit by an additional \$20 million; raising the total credit amount to \$60 million or \$6 million per year. This will save taxpayers \$2 million in SFY 2004-05.

Alternative Fuel Vehicles Credit

The corporate and personal income tax credit and the sales tax exemption for the purchase of alternative fuel vehicles expired as of December 31, 2003 (February 28, 2004 for the sales tax exemption). The income tax credit varies depending upon the type of vehicle. The sales tax exemption applies only to the cost of the vehicle in excess of the cost of a similar, gasoline powered vehicle. The Legislature extends these credits and exemptions for one year, until December 31, 2004 (February 28, 2005 for the sales tax exemption). In addition, the Legislature clarifies that hybrid vehicles will not qualify for the Clean Fuel Vehicle Credit, and for purposes of calculation of the sales tax credit the incremental cost of an alternative fuel vehicle will be \$3,000 when one cannot be determined. This part will reduce SFY 2004-05 revenues by \$10 million.

Petroleum Business Tax on Operators of In-State Air Flights

Currently, a petroleum business tax is imposed on kero-jet fuel and aviation gasoline used by airplanes in which both the points of departure and arrival of any flight or any leg of the flight are within the State. These provisions would impose the Petroleum Business Tax on only kero-jet and aviation gasoline consumed during takeoffs from points in the State regardless of their destination. In addition, the Legislature modified the Executive's proposal by adding provisions that would exempt an aviation business that services four or more cities in New York State, and which has direct flights between two or more such cities, from the Petroleum Business Tax on kero-jet fuel. This will save taxpayers \$1 million in SFY 2004-05 and \$3 million thereafter.

Sales Tax Exemption for Private Aircraft Repair Services

Effective December 1, 2004, the Legislature will expand the current sales tax exemption on repair services and machinery used on commercial aircraft to include such services performed on private aircraft. This will make the industry in New York competitive with surrounding states such as, New Hampshire, New Jersey, Connecticut, Massachusetts, and Delaware, who all provide such an exemption. This will reduce State sales tax revenue by \$1 million in SFY 2004-05 and by \$3 million thereafter.

Sales Tax Relief For Water-Based Commuter Transit

Currently, bus companies in New York are allowed a refund of or credit for sales taxes paid for the purchase of buses and/or the maintenance and repairs on such buses. Effective December 1, 2004, this sales tax credit will be expanded to include vessels used for local transit service. This will reduce State and local revenues by \$200,000 in SFY 2004-05 and by \$0.2 million thereafter.

Expansion of the Empire Zones Program

The Legislature extended the Empire Zones Program until the end of SFY 2004-05.

Film Production Credit

The Legislature provided a credit of ten percent of the qualified production costs (excluding talent) incurred in producing a feature length movie, television movie or television series when at least 75 percent of the production is filmed within New York State. The credit will be refundable over two years and the total value of all credits will be capped at \$25 million per calendar year. Any productions earning credits in excess of the \$25 million cap become the first credits payable in the next tax year. Additionally, New York City may provide a credit against its income tax of five percent of such costs; capped at \$12.5 million. The State credit will become effective immediately and sunset on December 31, 2008.

CAPCO's

The Legislature added a Certified Capital Company (CAPCO) 4 to the existing programs, providing an additional \$6 million a year for ten years in tax credits. The new CAPCO 4 will dedicate 50 percent of investment funds to cutting edge high technology and biotechnology companies. The legislation also provides for stronger administrative oversight of the existing CAPCO program to ensure that investments are consistent with the legislative intent of the program.

Power for Jobs

The Legislature extends the Power for Jobs program through December 31, 2005. The Legislature provides a reimbursement for estimated losses to current Power for Jobs recipients whose contracts have expired or will expire prior to December 1, 2004. Recipients whose contracts will expire on or after December 1, 2004, will be given the choice of extending their contracts under the existing program terms or receiving a reimbursement for the period between December 1, 2004, and December 31, 2005. The Power Authority of the State of New York (PASNY) is authorized to provide reimbursements to any Power for Jobs recipients that continue to meet the existing job retention and creation criteria. The

Legislature accepts the Executive proposal authorizing PASNY to reimburse the State for costs related to the existing program and provides authorization for PASNY to cover the program extensions and expansions.