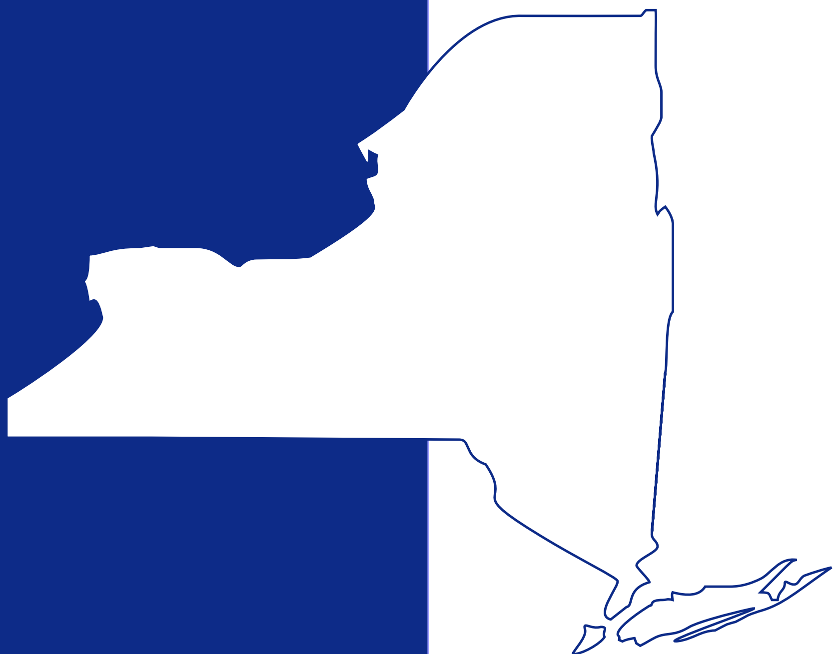

New York State Revenue Report

1999-2000 & 2000-2001

Sheldon Silver, Speaker **Herman D. Farrell, Jr., Chairman**

New York State Assembly
Ways and Means Committee Staff

February 2000

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February 28, 2000

Dear Colleagues:

I am pleased to provide you with the Ways and Means Committee New York State Revenue Report for State Fiscal Years 1999-2000 and 2000-2001. This report is part of our commitment to presenting clear and accurate information to the public. It provides an overview of the national and State economies, as well as an analysis of the Committee Staff revenue forecast for State Fiscal Years 1999-2000 and 2000-2001.

The Committee Staff projects that General Fund and Lottery receipts will total $39,078 million in State Fiscal Year 1999-2000, which represents an increase of $894 million, or 2.3 percent, over State Fiscal Year 1998-1999. The Committee Staff estimate is $247 million higher than the Executive's estimate for State Fiscal Year 1999-2000. This difference is largely attributable to differences in economic projections and how this translates into receipts. General Fund tax revenues are expected to increase by 6.5 percent in State Fiscal Year 1999-2000. Again, absent the tax reductions, growth in tax revenue would total 8.0 percent.

The Committee Staff projects that General Fund and Lottery receipts will total $41,020 million in State Fiscal Year 2000-2001, an increase of $1,942 million, or 5.0 percent, over State Fiscal State Fiscal Year 1999-2000. The Committee Staff estimate is $905 million higher than the Executive's estimate for State Fiscal Year 2000-2001. General Fund tax revenues, however, are only estimated to increase by 3.0 percent over State Fiscal Year 1999-2000. The growth in tax revenues, however, has been affected by tax reductions enacted by the State over the past few years. State Fiscal Year 2000-2001 receipts are reduced by over $2.3 billion in tax reductions that are scheduled to take effect next year.

The Committee staff projections are reviewed by an independent panel of professional economists drawn from major financial corporations, prestigious universities, and private forecasters from across the State. Assembly Speaker Sheldon Silver and I would like to express our appreciation to all of the members of our Board of Economic Advisors. Their dedication and expert judgement have been invaluable in helping the Ways and Means Committee staff refine and improve this forecast. They have served to make the work of the staff the best in the State. Of course, they are not responsible for either the numbers or the views expressed in this document.

I wish to acknowledge the fine work done by the talented Ways and Means Committee staff. Their forecasts are integral to the budget process. The Speaker and I look forward to working with each of you to achieve a budget fair for all New Yorkers.

Sincerely,

Herman D. Farrell, Jr.
Chairman

NEW YORK STATE

REVENUE REPORT

1999-2000 & 2000-2001

February 2000

Herman D. Farrell, Jr.
Chairman
Assembly Ways and Means Committee

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REVENUE REPORT
1999-2000 & 2000-2001

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As a result of the expanding economy, the Committee Staff expects growth in revenues to continue at a slightly stronger pace than the Executive. The Committee Staff forecast for the remainder of the current fiscal year and the next fiscal year is $1,152 million higher than the Executive.

The Committee Staff estimates that General Fund and Lottery receipts will total $38,933 million in State Fiscal Year 1999-2000. This represents an increase of $749 million, or 2.0 percent over State Fiscal Year 1998-99. The Committee Staff estimate is $247 million higher than the Executive. The majority of this growth lies within the Personal Income Tax. Strong growth in national consumption has contributed to healthy growth in Sales Tax revenues, which well exceeds the historical long-term growth rate.

The Committee Staff projects that receipts will continue to grow next fiscal year. General Fund and Lottery receipts will total $41,020 million in State Fiscal Year 2000-2001, representing growth of $2,087 million or 5.4 percent over State Fiscal Year 1999-2000. The Committee Staff forecast is $905 million higher than the Executive. Once again, the Committee Staff is estimating the Personal Income Tax to be the main engine of growth next fiscal year.

Strong growth in receipts has produced five years of significant year-end budget surpluses, despite massive tax reductions totaling $13 billion and continued funding of spending programs vital to New York. The Executive Budget expects the State to end the current fiscal year with a surplus of $3.7 billion.

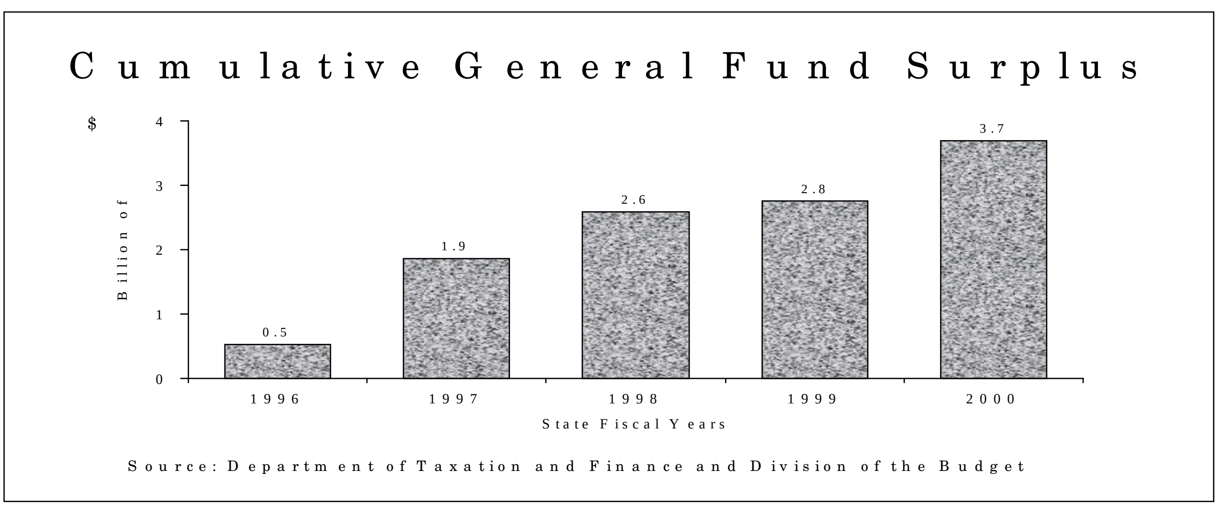


Figure 1

Underlying Growth in General Fund Taxes

The national economy continues to exhibit momentum while Wall Street activity exhibited signs of strong growth during much of the fiscal year. The Committee Staff projects growth in 1999 will enable the General Fund to overcome the effect of over $1.9 billion in scheduled tax reductions in State Fiscal Year 1999-2000, leading to positive growth in General Fund taxes of 6.5 percent.

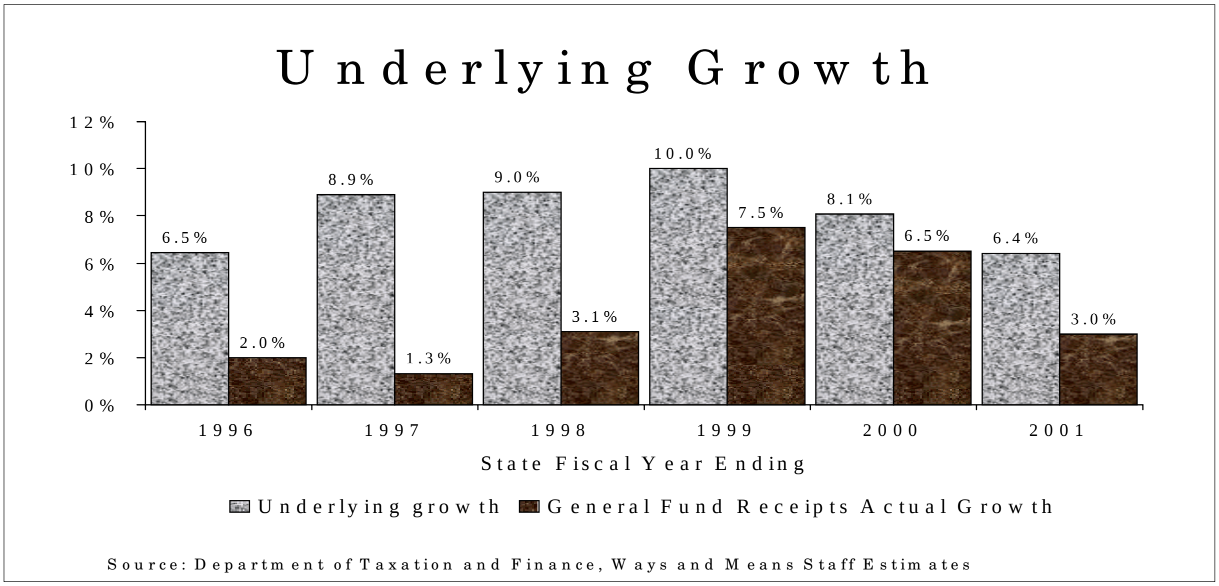


Figure 2

The process of estimating General Fund tax receipts begins with the concept that there is a strong correlation between the economy and revenues. When the economy is doing well, one would expect corresponding growth in revenues. While this is often the case, other considerations such as Tax Law changes and accounting practices must be factored into the estimation process. These considerations often mask the true growth in revenues.

What does this mean for General Fund taxes in State Fiscal Year 1999-2000? To examine the true relationship between the economy and General Fund taxes, one must examine "underlying growth." As indicated in Figure 2, projected General Fund taxes show growth of 6.5 percent in State Fiscal Year 1999-2000, and 3.0 percent in State Fiscal Year 2000-2001. As mentioned earlier, revenues are often affected by considerations other than the performance of the economy. Underlying growth takes into account these factors, and shows what growth in revenues would have been absent them.

The following examination of State Fiscal Year 1999-2000 receipts will outline how different factors affect revenues.

The Committee staff estimates that General Fund taxes will grow by 6.5 percent. If we examine the growth in General Fund taxes absent certain accounting transactions, growth is a stronger 8.1 percent. This growth rate more accurately represents the Committee Staff belief that the economy continues to be strong, driving growth in revenues. It is important to understand what factors contribute to the disparity in these growth rates.

First, General Fund and Lottery receipts are affected by an accounting measure known as a Refund Reserve Transaction. This transaction is often used to transfer excess or surplus money, when the books are closed at the end of every fiscal year. In April of State Fiscal Year 1999-2000, $2,306 million was transferred into the fund from Fiscal Year 1998-99. At the end of the current fiscal year, $3,094 will be transferred out of the Refund Reserve to be deposited in State Fiscal Year 2000-2001. The balance of the two transactions is ($788) million. This net effect acts to deflate revenues in State Fiscal Year 1999-2000 by $788 million.

The second factor contributing to the dampened growth in General Fund Taxes is the additional dedication of General Fund receipts to fund the STAR Program. In State Fiscal Year 1998-99, $582 million in General Fund revenues were transferred to a Special Revenue Account. In State Fiscal Year 1999-2000, this amount will increase by an additional $613 million. In total, $1,195 million will be transferred from the General Fund to fund the STAR Program.

Another contributing factor to the overall slower growth in revenues is the fact that tax reductions which took effect in State Fiscal Year 1999-2000 reduced revenues by $1.9 billion.

Even though, General Fund taxes grew at a health pace of 6.5 percent in State Fiscal Year 1999-2000, growth would have grown at a stronger rate of 8.1 percent absent the above factors. This growth rate reflects the Committee Staff belief that strong growth in wages, employment and personal income has played a major role in the health of the State's fiscal system.

For State Fiscal Year 2000-2001, underlying growth should total 6.4 percent. This reflects the Committee Staff expectations for continued growth in New York's economy. The slower growth of 3.0 percent in General Fund taxes in State Fiscal Year 2000-2001 is the result of $2.3 billion in tax reductions taking effect. However, there are two other transactions that will contribute to the growth in General Fund and Lottery receipts of 5.0 percent. Additional receipts from the use of $2,527 million in Refund Reserve Funds will work to increase receipts, while the transfer of an additional $2,015 million in General Fund receipts to finance STAR will depress growth.

Table 1

SUMMARY OF GENERAL FUND ESTIMATES

(Dollar Amounts in Millions)

	1998-99 Actual	1999-00 Estimate	Percent Growth	2000-01 Forecast	Percent Growth
Personal Income Tax	$20,576	$22,877	11.2%	$24,908	8.9%
User Taxes	7,244	7,495	3.5%	7,117	-5.0%
Business Taxes	4,858	4,604	-5.2%	4,295	-6.7%
Other	1,138	1,024	-10.0%	754	-26.4%
Total General Fund Taxes	33,815	36,000	6.5%	37,074	3.0%
Miscellaneous Receipts	1,505	1,620	7.6%	1,350	-16.7%
Transfers From Other Funds	1,917	2,096	9.3%	2,043	-2.5%
Total General Fund Receipts	37,237	39,716	6.7%	40,467	1.9%
Lottery	1,442	1,345	-6.8%	1,486	10.5%
Refund Reserve Transaction	86	(788)	1013.0%	2,527	-420.7%
STAR Transfer**	(582)	(1,195)	105.3%	(3,210)	168.6%
DRRF Deposit	0	0	0	(250)	--
Total Receipts & Lottery	**38,184**	**39,078**	**2.3%**	**41,020**	**5.0%**
Miscellaneous Receipts Reclassification*	--	(145)	--	--	--
Adjusted Total Receipts & Lottery	**38,184**	**38,933**	**2.0%**	**41,020**	**5.4%**

*The Comptroller reclassified $145 million in Health Care Related Funds as General Fund receipts, which is a one-time occurrence not included in the Executive's Miscellaneous Receipts estimate.
**Personal Income Tax revenues are dedicated to finance the School Tax Relief Program. This is separately stated so as to not distort Personal Income Tax revenues.

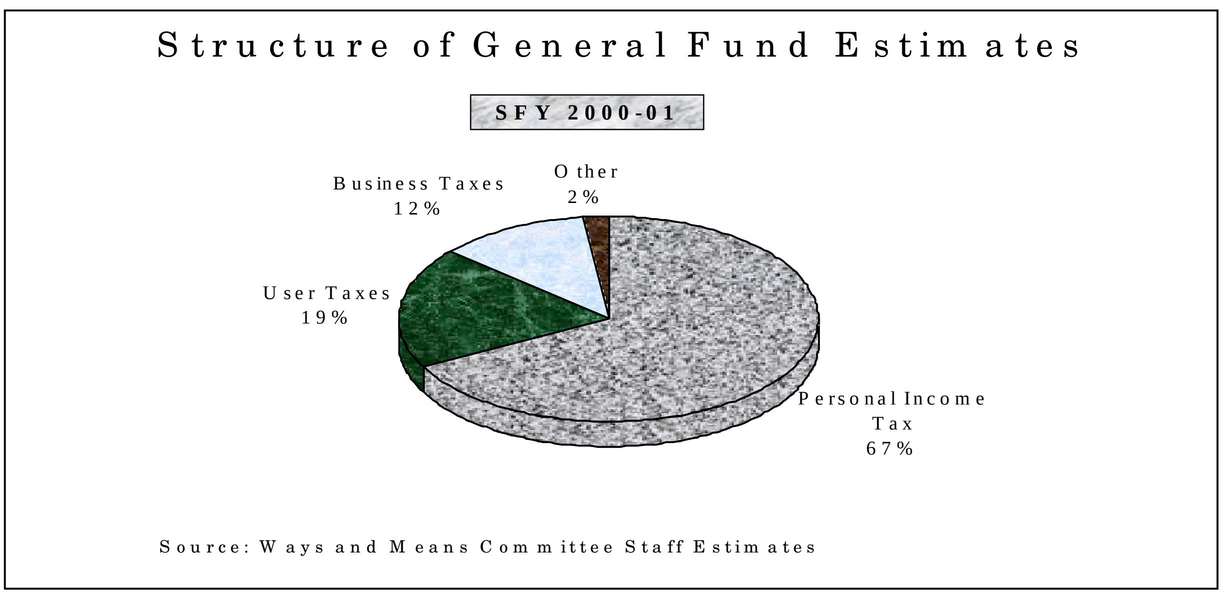


Figure 3

ECONOMIC OVERVIEW

The National Economy

The Ways and Means Committee staff believes strong growth of 4.1 percent for 1999 in real U.S. Gross Domestic Product (GDP) will be followed by slightly lower growth of 3.8 percent for 2000. Consistent with this moderate slowdown in the economy, national employment growth is expected to fall very slightly from 2.2 percent in 1999 to 2.1 percent for 2000.

On February 1, 2000, the current expansion became the longest on record. In an attempt to reduce the strong momentum exhibited by the economy during 1999, the Federal Reserve has raised short-term rates four times since June. The Committee staff economic forecast is consistent with moderate increases in interest rates.

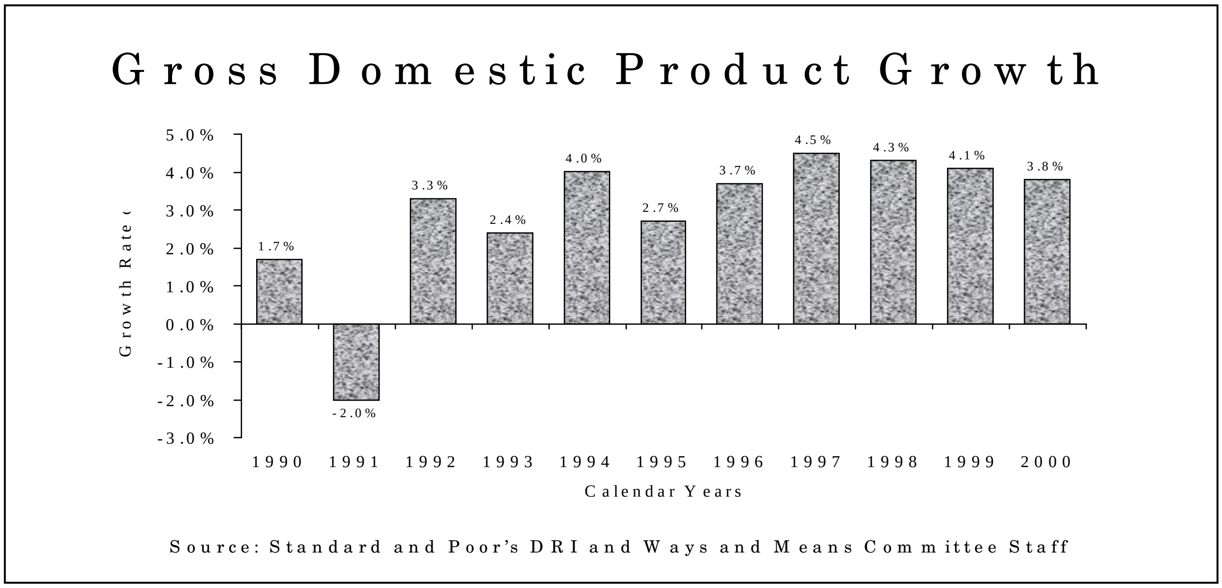


Figure 4

Warnings by the Federal Reserve notwithstanding, today's low-inflation, low-unemployment environment—the hallmark of the so-called "new economy"—may be here to stay for some time to come. Business cycle expansions can be expected, on average, to be longer, and recessions to be shorter and less painful than before 1982. This phenomenon is largely due to three factors—the shift of employment away from manufacturing towards service production, the careful monitoring of the Federal Reserve, and the forces of global integration which are affecting every facet of the U.S. economy.

The Federal Reserve raised interest rates in June, August, November and February. These higher rates are expected to slow the vigorous growth in consumption we have thus far experienced. Higher interest rates are also expected to reduce housing market activity, a phenomenon we have already begun to observe. However, nonresidential investment should strengthen, despite higher interest rates, as businesses resume their technology related spending, some of which appears to have been put on hold in anticipation of the Year 2000 computer problem. Exports are expected to continue to grow as the East Asian economies pick up and revive their demand for U.S. exports.

The New York State Economy

Employment Growth

The duration of the national expansion, the strength in the financial and related services industries, as well as strong demand for business services, have all invigorated the New York State economy. The Ways and Means Committee staff projects New York employment growth of 2.6 percent for State Fiscal Year 1999-2000. Slightly lower growth of 1.9 percent is expected for State Fiscal Year 2000-2001, consistent with somewhat higher interest rates and the moderate slowdown of the national economy.

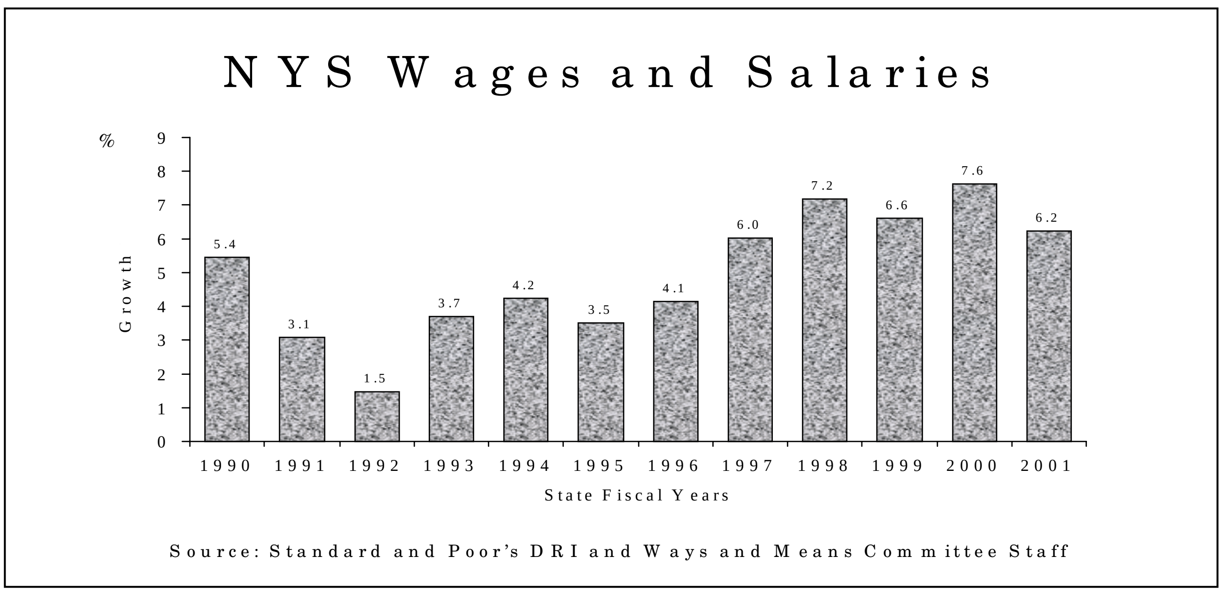
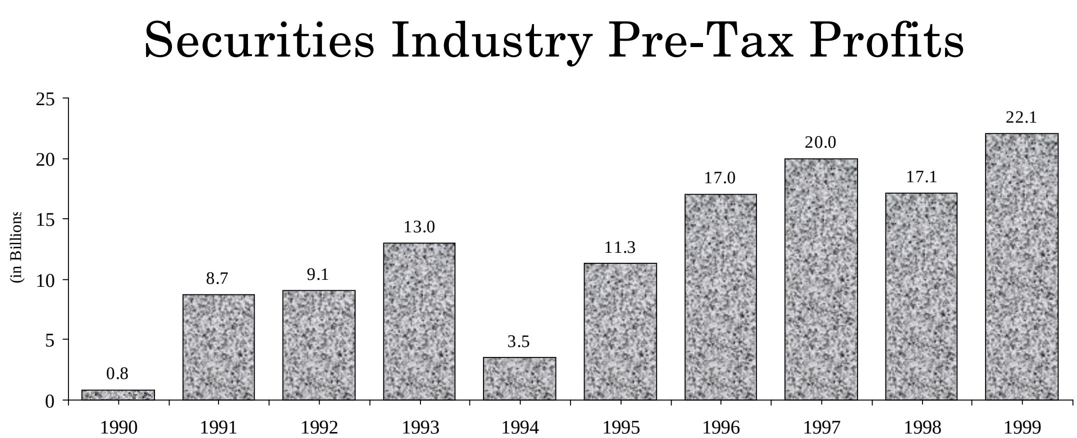


Figure 5

State Income Growth

State personal income is estimated to grow 6.1 percent in State Fiscal Year 1999-2000, following growth of 4.8 percent in State Fiscal Year 1998-1999. The largest component of Personal Income, wages and salaries, is estimated to grow 7.6 percent in State Fiscal Year 1999-2000, following 6.6 percent growth experienced in State Fiscal Year 1998-1999.

The securities industry saw yet another year of record profits during 1999. Moreover, the outlook for 2000 is strong. The Federal Reserve's monetary tightening should diminish inflationary expectations, strengthen investor confidence, and stimulate further financial market activity. It is also believed that there may be some pent up demand due to the postponement of investment decisions in anticipation of problems associated with Y2K. Finally, the response of firms to global economic integration will continue to increase their demand for Wall Street investment banking services. Merger and acquisition activity should remain strong as firms seek to improve their positions relative to increasingly competitive international markets.



Source: Securities Industry Association Trends, January 2000.

Figure 6

Selected Economic Variables Growth Rates		
Fiscal Year	1999-2000	2000-2001
NY Personal Income	6.1%	6.0%
NY Consumer Price Index	2.2%	2.2%
NY Wage And Salary Disbursements	7.6%	6.2%
NY Nonagricultural Employment	2.6%	1.9%

Table 2

RECEIPTS ANALYSIS

State Fiscal Year 1999-2000

Over the past several years, the State has provided taxpayers with significant tax reductions. The current fiscal year is no different. In State Fiscal Year 1999-2000, an additional $1.9 billion in new tax reductions, and additional dedication of traditional General Fund money for specific spending purposes will take effect. However, due to the strength of the national and State economies, revenue growth is still evident.

General Fund and Lottery receipts are projected to total $38.933 billion, which represents growth of 2.0 percent, or $749 million over State Fiscal Year 1998-99. The Committee Staff estimate is $247 million higher than the Executive. Growth in General Fund taxes, excluding Refund Reserve transactions[1], is a stronger 6.5 percent. As a result of surplus monies being transferred from State Fiscal Year 1999-2000 into State Fiscal Year 2000-2001, the Refund Reserve transaction will have the effect of reducing revenues by $788 million in State Fiscal Year 1999-2000.

Personal Income Tax

The majority of the growth in the Committee Staff forecast once again lies within the Personal Income Tax. The Committee Staff estimates that Personal Income Tax receipts will total $22.877 billion in State Fiscal Year 1999-2000. This represents growth of $2.301 billion, or 11.2 percent over State Fiscal Year 1998-1999.

Over the last two years, the Personal Income Tax has been the main engine of growth for New York's revenue base. The Committee Staff estimate for Personal Income growth is 5.3 percent for 1999.

Growth in Personal Income Tax receipts is closely correlated to the strong growth experienced in New York wages and capital gains. While the past two years have seen growth in capital gains in excess of 30 percent, the Committee Staff estimate for growth in 1999 tapers off slightly to a level of 24.7 percent. This translates into growth in the estimated payments component of the Personal Income Tax of 11.2 percent.

The largest component of the Personal Income Tax is withholding. These collections account for nearly 80 percent of all Personal Income Tax revenues, and are closely correlated with growth in New York wages. Withholding collections through the first ten months of the current fiscal year are 9.9 percent higher than last year. This growth has accelerated substantially over the past two months - a strong indicator that wage growth in the last quarter of the fiscal year will benefit from

[1] The Refund Reserve is a fund containing revenues for the purpose of paying personal income tax refunds. Funds set aside in March of any given fiscal year can be used to pay refunds in April of the next fiscal year. This fund is often used to transfer surplus money from one fiscal year to the next.

rebounding bonus payments, especially in the financial sector. The Committee Staff projects wage growth will equal 7.6 percent for Fiscal Year 1999-2000. The Committee Staff estimates that bonus payments will experience a year-over-year increase of 28.0 percent in State Fiscal Year 1999-2000, compared to a modest decline of 1.3 percent in State Fiscal Year 1998-99.

User Taxes

User Taxes and Fees are projected to increase by 3.5 percent, or $251 million in State Fiscal Year 1999-2000. Sales Tax growth of 6.7 percent is the main factor driving this increase, even though the Sales Tax on clothing will be eliminated for items costing less than $110, beginning March 1, 2000. However, this is offset somewhat by a decline in Motor Vehicle Fees, resulting from a rate reduction on passenger auto registration fees enacted in 1998, and an additional diversion of General Fund revenues to the dedicated transportation funds.

Sales Tax receipts have benefited from strong domestic consumption over the past few years. The Committee Staff projects that real consumption growth was strong in 1999. In addition, continued high but stable levels of consumer confidence and strong employment growth of 2.4 percent contributed to the strength of collections in State Fiscal Year 1999-2000.

Business Taxes

The Committee Staff estimates a 5.2 percent decline in the Business Taxes in State Fiscal Year 1999-2000. This decline is attributable to several factors. Corporate Franchise Tax collections will experience a decline of 4.8 percent as a result of the implementation of various tax reductions. These reductions are estimated to reduce collections by approximately $174 million this fiscal year. However, the Committee Staff believes that corporate profits, which experienced negative growth in 1998, grew at 7.6 percent in 1999, more closely resembling the high levels of profits achieved in 1997.

In State Fiscal Year 1999-2000, Utility Tax revenues are estimated to decline by 6.8 percent. In 1997, a substantial rate reduction was enacted which reduced revenues in excess of $75 million this fiscal year. However, partially offsetting this reduction is a sharp upward turn in energy prices. Since utility providers are taxed on a gross receipts basis, any change in price or consumption will affect revenues.

The weak performance of the insurance industry is also contributing to the decline in Business Taxes. Annualized premiums growth based on the first 9 months of 1999 is a meager 1.8 percent, the same as last year's record low growth rate. In addition, investment income for insurance companies declined by 3.9 percent during the first 3 quarters of 1999, making this only the 5th year out of the past 60 to experience negative growth. Although catastrophic losses for 1999 were better than 1998, they have still been worse than average. The Spring tornado season in the Midwest and the Fall hurricane season on the East Coast were both responsible for extensive damage, attributing to the unusually high catastrophic losses.

Bank Tax revenues are expected to rebound and increase by 5.9 percent. In 1998, banks experienced large losses resulting from the financial effects of the global recession. The Committee Staff estimates that collection patterns on taxes owed for the current year will return to a more normal basis, helping to offset prior financial losses claimed against 1998 liability.

Other Taxes

Estate and Gift Tax collections comprise the largest component of Other Taxes, representing approximately 98 percent of the total. As a result, any major swings in Estate and Gift Tax collections will drive growth in Other Taxes. The Committee Staff estimates that Other Taxes in State Fiscal Year 1999-2000 will decline by 10.0 percent. This decline is attributable to reduced payments on Estate Tax liabilities resulting from the increase in the unified credit for taxable estates which occurred in 1998. In addition, Gift Tax collections in January 2000 were $48 million lower than January 1999, because of the repeal of the Gift Tax on January 1, 2000.

Lottery

Lottery receipts are estimated to decline by 6.8 percent over last fiscal year mainly due to an overall decline in Lotto sales. The Lottery Division overhauled certain Lottery games in an attempt to increase player interest. However, the success of these measures, to-date, is questionable. Also contributing to the overall decline in Lottery receipts was the temporary absence of Quick Draw, which expired on April 1, 1999. The game was not re-instituted until August 1, 1999.

Miscellaneous Receipts

The Committee Staff estimates that Miscellaneous Receipts will increase by 7.6 percent. This increase is the result of a reclassification of certain receipts as General Fund revenue. These revenues were used to offset Medicaid General Fund spending. For State Fiscal Year 1999-2000, $127 million was transferred from the Health Care Reform Act (HCRA) of 1996 to offset General Fund Medicaid spending. In addition, $100 million in residual funds were transferred from New York Prospective Hospital Reimbursement Methodology (NYPHRM) pools, the predecessor to HCRA, to offset General Fund Medicaid spending.

STAR Transfer

In State Fiscal Year 1999-2000, total General Fund and Lottery receipts are significantly understated as the result of General Fund revenues being dedicated to finance the School Tax Relief (STAR) Program. In 1997, the Legislature enacted the State-funded STAR Program aimed at reducing property tax burdens for all homeowners. Under the STAR Program the State makes payments to school districts to compensate them for foregoing property tax collections. This Program will be phased-in over a 4-year period. In 1998, the Legislature created a Special Revenue Fund (STAR Fund), and dedicated General Fund Personal Income Tax revenues into this Fund to finance the program. As a result of this dedication, General Fund receipts will be reduced by $1.195 billion in State Fiscal Year 1999-2000.

Table 3

SUMMARY OF GENERAL FUND ESTIMATES (Dollar Amounts in Millions)	1998-1999 Receipts	1999-2000 Estimate	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$20,576	$22,877	2,301	11.2%	184
User Taxes	7,244	7,495	251	3.5%	55
Sales and Use Tax	5,697	6,079	382	6.7%	29
Motor Fuel Tax	171	180	9	5.2%	0
Cigarette Tax	667	637	(30)	-4.4%	19
Motor Vehicle Fees	444	359	(85)	-19.2%	6
Alcoholic Beverage Tax	183	178	(5)	-2.6%	2
Alcoholic Beverage Fees	29	22	(7)	-24.4%	0
Container Tax	19	--	--	--	--
Auto Rental Tax	34	40	6	17.0%	(0)
Business Taxes	4,858	4,604	(254)	-5.2%	29
Corporate Franchise	2,050	1,951	(99)	-4.8%	13
Utility Tax	1,489	1,388	(101)	-6.8%	15
Insurance Tax	673	596	(77)	-11.4%	(5)
Bank Tax	544	576	32	5.9%	6
Petroleum Business Tax	102	93	(9)	-8.9%	1
Other	1,138	1,024	(114)	-10.0%	(34)
Real Property Gains	29	14	(15)	-51.6%	--
Estate and Gift	1,071	973	(98)	-9.2%	(34)
Pari Mutuel	37	36	(1)	-2.4%	--
Other	1	1	0	42.9%	(0)
Total General Fund Taxes	33,815	36,000	2,185	6.5%	234
Miscellaneous Receipts	1,505	1,620	115	7.6%	146
Transfers From Other Funds	1,917	2,096	179	9.3%	12
Total General Fund Receipts	37,237	39,716	2,479	6.7%	392
Lottery	1,442	1,345	(97)	-6.8%	-
Refund Reserve Transaction	86	(788)	(874)	-1013.0%	-
STAR Transfer	(582)	(1,195)	(613)	105.3%	-
Total Receipts & Lottery	**38,184**	**39,078**	**894**	**2.3%**	**392**
Miscellaneous Receipts Reclassification	--	(145)	(145)	--	(145)
Adjusted Receipts & Lottery	**38,184**	**38,933**	**749**	**2.0%**	**247**

State Fiscal Year 2000-2001

The Committee Staff forecasts modest receipt growth for State Fiscal Year 2000-2001. General Fund and Lottery receipts are projected to increase to $41.020 billion, for an expected growth of 5.4 percent over State Fiscal Year 1999-2000. This estimate is $905 million higher than the Executive. This forecast reflects the Committee Staff belief that national economic growth will moderate during much of the fiscal year.

Additional tax reductions of $2.3 billion will act to reduce revenues in State Fiscal Year 2000-2001, thereby further reducing growth. General Fund and Lottery receipts in State Fiscal Year 2000-2001 will benefit from the transfer of $2.527 billion in surplus revenues from State Fiscal Year 1999-2000. This transfer artificially inflates receipt growth. Absent the combined effect of both the tax reduction and the more than offsetting transfer of the surplus, General Fund taxes are expected to grow at a rate of 6.4 percent.

Personal Income Tax

The majority of the growth in State Fiscal Year 2000-2001 revenues once again lies within the Personal Income Tax. The Committee Staff forecasts that Personal Income Tax receipts will total $24.908 billion, which is $2.031 billion, or 8.9 percent higher than State Fiscal Year 1999-2000. The Personal Income Tax has been the State's engine of growth and the Committee Staff projects this trend to continue.

There are various factors driving this growth. The Committee Staff estimates that wages will grow by 6.2 percent in State Fiscal Year 2000-2001. This growth encompasses the belief that bonus payments will grow at a slower rate of 8.5 percent next year, producing slower growth in wages.

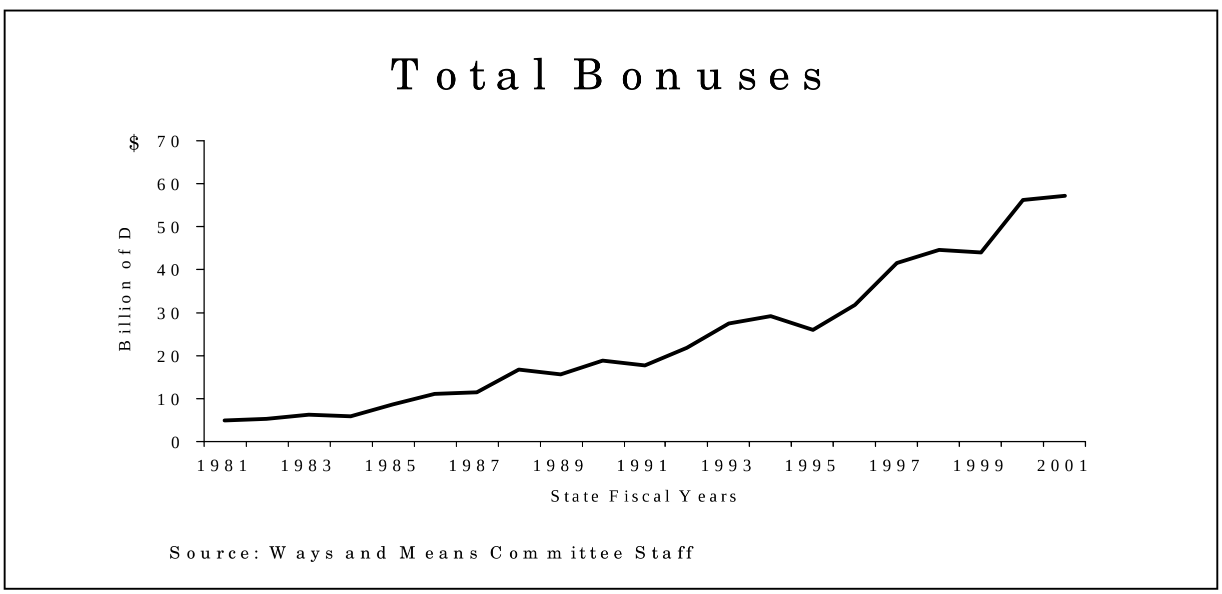


Figure 7

The Committee Staff forecasts growth in capital gains to equal 18.7 percent in 2000. This growth is somewhat slower than the Committee's estimate of 24.7 percent growth in 1999. This lower growth in capital gains is based on an estimated decline in the growth of the S&P 500 Index from 22.3 percent in 1999 to 11.9 percent in 2000. As a result, the Committee Staff estimates that growth in Estimated Payments will also slow to 7.2 percent.

User Taxes

The Committee Staff forecasts growth in the User Taxes to decline next fiscal year. The largest component of User Taxes, the Sales Tax, is forecast to decline by $98 million, or 1.6 percent. This growth rate is much lower than the estimated 6.7 percent growth in receipts in State Fiscal Year 1999-2000, because of approximately $500 million in Sales Tax reductions scheduled to take effect in State Fiscal Year 2000-2001 next fiscal year. The largest tax reduction is the permanent Sales Tax exemption on clothing and footwear costing less than $110, which will take effect in March 2000.

The other components of User Taxes are forecast to remain stable. Two exceptions, the Cigarette Tax and the Alcohol Beverage Tax, are expected to continue their historical downward trend resulting from decreased consumption. The large decline of 19.6 percent in Cigarette Tax revenues can be attributed to an anticipated decline in consumption resulting from a 55 cent tax increase scheduled to take effect on March 1, 2000. This money will be dedicated to fund the State's health care initiative and will not be classified as General Fund Tax revenues.

Business Taxes

The Committee Staff projects a reduction in Business Taxes for State Fiscal Year 2000-2001. Business Tax revenues are forecast to decline by 6.7 percent, or $309 million, over State Fiscal Year 1999-2000. The decline is mainly the result of various tax reductions. However, continued growth in corporate profits of 6.5 percent in 2000 will help to partially offset the effects of these reductions.

Corporate Franchise Tax revenues are forecast to increase by 11.8 percent in State Fiscal Year 2000-2001. The Executive is proposing to change the method of taxation of electric and gas utility companies from a gross receipts base to a net income base. This proposal is estimated to increase Corporate Franchise Tax revenues by $220 million in State Fiscal Year 2000-2001, with a more than offsetting reduction in other taxes paid by the industry. Legislation enacted in 1998 will provide a rate reduction for both small and large businesses in New York. This rate reduction is scheduled to be phased-in over three years and began on July 1, 1999. It will reduce revenues by an additional $70 million in State Fiscal Year 2000-2001.

The Corporations and Utilities Tax is forecast to decline by 43.9 percent, or $609 million in State Fiscal Year 2000-2001. This sharp decline is the result of two factors. First, the Legislature enacted a 25 percent rate reduction in 1997. This reduction will be fully implemented in State Fiscal Year 2000-2001, and will reduce revenues by $340 million. Second, the Executive proposal to change the method of taxation of utility companies would reduce Utility Tax revenues by an additional $253 million in State Fiscal Year 2000-2001.

Other Business Taxes are forecast to show positive growth in State Fiscal Year 2000-2001. Bank Tax revenues are forecast to grow 3.6 percent. As the State's financial sector show signs of continuing improvement, the Committee Staff believes that prior year losses will not have a substantial effect on current year liability.

Insurance Tax collections are expected to improve during State Fiscal Year 2000-2001. This is largely due to a return to normal patterns of premiums growth, investment income and property damage. In 1998 and 1999, premiums have shown weak growth, in part, because insurance companies have been shifting their focus away from less profitable lines, such as commercial auto insurance and workers' compensation, resulting in a reduction of written premiums for these lines. After this transition period, insurers will be able to focus more attention on more profitable lines, which will enable written premiums in these lines to grow at a faster rate. In addition, the forecast assumes that catastrophic losses will also return to more normal levels. Hurricane Floyd in September of 1999 was one of the 10 most costly insured disasters in U.S. history. As property damage returns to normal averages, insurance company expenses should be reduced. Finally, as premiums levels improve and catastrophic losses decline, insurance companies will have more money to invest, thus leading to improved growth in investment income.

Other Taxes

The largest decline in General Fund taxes is expected to occur within Other Taxes. Estate and Gift Tax receipts are forecast to decline by $256 million, or 26.3 percent. This decline is mainly attributable to New York increasing the threshold for taxable estates and decreasing the tax rates by adopting an estate tax based on the Federal credit for State estate taxes paid (a "SOP" tax). As of February 1, 2000, New York's threshold for taxable estates was increased to match the Federal threshold of $675,000. This reduction will lower revenues by approximately $270 million in State Fiscal Year 2000-2001. Also contributing to the decline is the repeal of the Gift Tax which took effect on January 1, 2000.

The Committee Staff is projecting Lottery receipts to increase by $141 million, or 10.5 percent over State Fiscal Year 1999-2000. Although overall sales for most Lottery games will continue to be disappointing, recent legislation authorizing an increase in the prize payout for Instant Games is expected to boost revenues for those games by 5.5 percent next year. Quick Draw was also extended through March 31, 2001, and will generate revenues for the full fiscal year in State Fiscal Year 2000-2001. This forecast also takes into account the Executive proposal to authorize the Lottery Division to enter into a multi-jurisdictional game such as Powerball in order to facilitate comparisons.

STAR Transfer

In State Fiscal Year 2000-2001, the third phase of the STAR Program will be implemented. This phase will increase the cost of the program by an additional $815 million to a total cost of $2.010 billion. This will act to reduce General Fund and Lottery Receipts as a result of Personal Income Tax revenues being diverted to fund the program. In addition, the Executive is proposing to dedicate an additional $1.2 billion in a STAR reserve to finance the future cost of the program.

Debt Reduction Reserve Fund

The Executive proposal for State Fiscal Year 2000-2001 includes a dedication of $250 million from Personal Income Tax revenues to be deposited in the Debt Reduction Reserve Fund, and proposes to reclassify it as a capital projects fund. This fund was originally created by the Legislature in State Fiscal Year 1998-99 for the purpose of putting money aside for debt service, and its purpose was expanded in State Fiscal Year 1999-2000 to pay cash for previously bonded programs or to pay down debt.

Table 4

2000-2001 GENERAL FUND RECEIPT ESTIMATES

(Dollar Amounts in Millions)

	1999-2000 Estimate	2000-2001 Forecast	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$22,877	$24,908	2,031	8.9%	782
User Taxes and Fees	7,495	7,117	(378)	-5.0%	42
Sales and Use Tax	6,079	5,981	(98)	-1.6%	22
Motor Fuel Tax	180	19	(161)	-89.4%	0
Cigarette Tax	637	512	(125)	-19.6%	15
Motor Vehicle Fees	359	364	0	1.4%	14
Alcoholic Beverage Tax	178	168	(10)	-5.6%	(9)
Alcoholic Beverage Fees	22	31	9	40.9%	-
Auto Rental Tax	40	42	2	5.0%	(0)
Business Taxes	4,604	4,295	(309)	-6.7%	84
Corporate Franchise	1,951	2,181	230	11.8%	51
Utility Tax	1,388	779	(609)	-43.9%	15
Insurance Tax	596	644	48	8.1%	7
Bank Tax	576	597	21	3.6%	7
Petroleum Business Tax	93	94	1	1.1%	4
Other	1,024	754	(270)	-26.4%	(12)
Real Property Gains	14	3	(11)	-78.6%	3
Estate and Gift	973	717	(256)	-26.3%	(15)
Pari Mutuel	36	33	0	-8.3%	--
Other	1	1	0	0.0%	--
Total General Fund Taxes	36,000	37,074	1,074	3.0%	896
Miscellaneous Receipts	1,620	1,350	(270)	-16.7%	11
Transfers from Other Funds	2,096	2,043	(53)	-2.5%	8
Total General Fund Receipts	36,832	40,951	4,119	11.2%	907
Lottery	1,345	1,486	141	10.5%	(11)
Refund Reserve Transaction	(788)	2,527	3,315	-420.7%	--
STAR Transfer	(1,195)	(3,210)	(2,015)	168.6%	--
DRRF Deposit	0	(250)	(250)	--	--
Total Receipts & Lottery	**39,078**	**41,020**	**1,942**	**5.0%**	**905**
Miscellaneous Receipts Reclassification	(145)	--	145	--	--
Adjusted Receipts & Lottery	**38,933**	**41,020**	**2,087**	**5.4%**	**905**

ALL FUNDS FORECAST

The concept of All Governmental Funds, which is the basis for the majority of the Executive's Financial Plan, consists of four major fund types: the General Fund, Special Revenue Funds, Capital Project Funds, and Debt Service Funds.

The State's Fund Structure

The All Governmental Funds consists of four major fund types which includes the General Fund and three dedicated funds. These funds account for all of the State's spending and revenue. All Governmental Funds includes the following:

The **General Fund** is the State's main fund. It includes a majority of the State's tax receipts. The General Fund is also used to pay for most of the State's operations and local assistance. The General Fund does not include dedicated revenues, which are deposited into a separate fund;

The **Special Revenue Fund** contains revenue derived from Federal grants and dedicated taxes and fees. Lottery receipts, even though they are deposited into a Special Revenue account, are also included in the Committee Staff's analysis since they are used to support education spending. The revenue in this Fund is used for specific purposes as designated by the State Legislature;

The **Capital Projects Fund** covers the cost of construction and maintenance for various capital items such as bridges, prisons, roads and other infrastructure projects. The revenue in the Fund is derived from bonds, dedicated taxes, Federal grants, and other transfers from the General Fund; and

The **Debt Service Fund,** which contains some dedicated tax revenue, is used to pay principal and interest payments on State issued bonds. Transfers from the General Fund supports debt service payments for general obligation payments paid via the General Debt Service Fund.

In 1996, the Legislature established an annual revenue consensus forecasting process. The Executive and the Legislature agreed that the process would include an analysis based on All Funds taxes. This broader definition of tax collections enables the reader to analyze receipts without separately analyzing each decision to earmark tax receipts separately. It excludes from the analysis all non-tax receipts outside of the General Fund (e.g. Federal Grant, State University tuition, fishing licenses, etc.).

For the purposes of this document, All Funds only includes tax collections and Lottery receipts deposited into four funds: the General Fund, Special Revenue Funds, Capital Projects Funds and Debt Service Funds. This concept can also be referred to as State Funds tax collection and Lottery receipts. This section of the report fulfills the statutory requirement enacted in 1996.

On an All Funds basis, the Committee Staff projects State Fiscal Year 1999-2000 tax receipts will grow by 3.4 percent, totaling $42.931 billion. The Committee Staff estimate is $264 million higher than the Executive.

In State Fiscal Year 1999-2000, additional tax revenues will be dedicated for specific spending purposes. The main addition is the dedication of Personal Income Tax revenues to fund the STAR Program. In State Fiscal Year 1999-2000, $1.195 billion will be diverted to finance the program.

In State Fiscal Year 2000-2001, the Committee Staff forecasts All Funds taxes to total $47.501 billion, which is $4.570 billion or 10.6 percent higher than State Fiscal Year 1999-2000. This growth rate is somewhat inflated by the transfer of surplus revenue from State Fiscal Year 1999-2000. In the next fiscal year, $3.210 billion in Personal Income Tax revenues are proposed to be dedicated to finance the STAR Program.

Dedicated Taxes

Each year, the Legislature must evaluate the financing of various programs and the method by which these programs will be financed. Often, special dedicated funds are established, and revenues once slated for the General Fund are diverted to these dedicated funds to ensure that revenue will be available to finance the program.

Last year, the Legislature enacted the Health Care Reform Act of 2000 (HCRA). This legislation increased the Cigarette Tax by 55 cents per pack to cover the additional costs of expanding health care for uninsured individuals in the State. The additional revenue raised by the increase in the Cigarette Tax will be dedicated to the Tobacco Control and Insurance Initiatives Pool, and will not be included in All Governmental Funds.

This year, the Executive has proposed additional dedication of General Fund revenues to finance the five-year Capital Plan. Over the next five years, the Executive proposes to divert revenue from the General Fund to the Dedicated Highway and Bridge Trust Fund and the Dedicated Mass Transportation Trust Fund. By the close of the State Fiscal Year 2004-2005, a total of $742.9 million will be diverted from the General Fund. All revenues from the Motor Fuel Tax and the Petroleum Business Tax would be dedicated. The proposal would also dedicate additional revenues from Motor Vehicle Fees into the two dedicated funds. In State Fiscal Year 2000-2001, an additional $162.8 million would be dedicated.

1999-2000 ALL FUNDS RECEIPT ESTIMATES
(Dollar Amounts in Millions)

	1998-1999 Receipts	1999-2000 Estimate	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$20,576	$22,877	$2,301	11.2%	$184
User Taxes and Fees	10,067	10,500	433	4.3%	68
Sales and Use Tax	7,912	8,449	537	6.8%	43
Motor Fuel Tax	502	517	15	3.0%	(7)
Cigarette Tax	667	637	(30)	-4.5%	19
Motor Vehicle Fees	552	508	(44)	-8.0%	9
Alcoholic Beverage Tax	183	178	(5)	-2.7%	2
Alcoholic Beverage Fees	29	22	(7)	-24.1%	0
Highway Use Tax	169	149	(20)	-11.8%	2
Container Tax	19	--	--	--	--
Hotel/Motel Tax	--	--	--	--	--
Auto Rental Tax	34	40	6	17.6%	--
Business Taxes	6,394	6,175	(219)	-3.4%	48
Corporate Franchise	2,050	1,951	(99)	-4.8%	13
Utility Tax	1,546	1,473	(73)	-4.7%	16
Insurance Tax	673	596	(77)	-11.4%	(5)
Bank Tax	544	576	32	5.9%	6
Petroleum Business Tax	1,034	1,047	13	1.3%	15
Regional Business	547	532	(15)	-2.7%	3
Other	1,450	1,347	(103)	-7.1%	(37)
Real Property Gains	29	14	(15)	--	0
Estate and Gift	1,071	973	(98)	-9.2%	(34)
Real Estate Transfer	312	323	11	3.5%	(3)
Pari Mutuel	37	36	(1)	-2.7%	--
Other	1	1	0	0.0%	--
All Funds Taxes	38,487	40,899	2,412	6.3%	263
Refund Reserve	86	(788)	(874)	-1016.3%	--
All Funds Taxes	38,573	40,111	1,538	4.0%	263
Miscellaneous Receipts	1,505	1,620	115	7.6%	146
Lottery	1,442	1,345	(97)	-6.7%	--
Total Receipts & Lottery	**41,521**	**43,076**	**1,555**	**3.7%**	**409**
Miscellaneous Receipts Reclassification	--	(145)	(145)	--	(145)
Adjusted Receipts & Lottery	**41,521**	**42,931**	**1,410**	**3.4%**	**264**

Table 5

2000-2001 ALL FUNDS RECEIPT ESTIMATES
(Dollar Amounts in Millions)

	1999-2000 Estimate	2000-2001 Forecast	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$22,877	$24,908	$2,031	8.9%	$782
User Taxes and Fees	10,500	10,284	(216)	-2.1%	61
Sales and Use Tax	8,449	8,335	(114)	-1.3%	32
Motor Fuel Tax	517	533	16	3.1%	6
Cigarette Tax	637	512	(125)	-19.6%	15
Motor Vehicle Fees	508	509	1	0.2%	15
Alcoholic Beverage Tax	178	168	(10)	-5.6%	(9)
Alcoholic Beverage Fees	22	31	9	40.9%	0
Highway Use Tax	149	154	5	3.4%	2
Auto Rental Tax	40	42	2	5.0%	--
Business Taxes	6,175	5,863	(312)	-5.1%	147
Corporate Franchise	1,951	2,181	230	11.8%	51
Utility Tax	1,473	877	(596)	-40.5%	17
Insurance Tax	596	644	48	8.1%	7
Bank Tax	576	597	21	3.6%	7
Petroleum Business Tax	1,047	1,052	5	0.5%	55
Regional Business	532	512	(20)	-3.8%	10
Other	1,347	1,083	(264)	-19.6%	(16)
Real Property Gains	14	3	(11)	-78.6%	3
Estate and Gift	973	717	(256)	-26.3%	(15)
Real Estate Transfer	323	329	6	1.9%	(4)
Pari Mutuel	36	33	(3)	-8.3%	0
Other	1	1	0	0.0%	0
All Funds Taxes	40,899	42,138	1,239	3.0%	974
Refund Reserve	(788)	2,527	3,315	-420.7%	0
All Fund Taxes	40,111	44,665	4,554	11.4%	974
Miscellaneous Receipts	1,620	1,350	(270)	-16.7%	11
Lottery	1,345	1,486	141	10.5%	(11)
Total Receipts & Lottery	**43,076**	**47,501**	**4,425**	**10.3%**	**974**
Miscellaneous Receipts Reclassification	(145)	--	145	--	--
Adjusted Receipts & Lottery	**42,931**	**47,501**	**4,570**	**10.6%**	**974**

TABLE 6

EXECUTIVE REVENUE PROPOSALS
FOR STATE FISCAL YEAR 1999-2000

REVENUE ENHANCEMENT PROPOSALS

Multi-State Lottery

Authorize the Division of the Lottery to enter into a multi-state lottery agreement. This proposal would enable New York State to enter into a multi-state lottery game such as Powerball. The Executive estimates that this proposal would increase State collections by $124 million in State Fiscal Year 2000-2001, and $166 million when fully implemented.

FEE INCREASES

Crime Victims Board

Crime Victim Assistance Fees $0.9 million

Double the crime victim assistance fee (last increased in 1991) to $10.

Mandatory Surcharges $3.9 million

Increase the mandatory surcharges (last increased in 1990) in varying amounts depending on surcharge category (felony, misdemeanor, etc.)

Department of Environmental Conservation

Hunting and Fishing Licenses $5.2 million

Increase fees for resident and non-resident hunting and fishing licenses by 20 percent on average.

Surcharge on Surf Clams and Ocean Quahogs $0.05 million

Extend and make permanent the surcharge on surf clams (15 cents per bushel) and ocean quahogs (10 cents per bushel) taken from the State's certified waters. The surcharges are due to expire on January 1, 2001. The fees support research and stock assessment of surf clams and ocean quahogs.

Petroleum Bulk Storage Facility Registration $1.0 million

Double the Petroleum Bulk Storage (PBS) facility registration fees. The current range of $50-$250 for five years would be increased to $100-$500.

Hazardous Waste Generator Surcharge $0.0 million

Impose a new surcharge on the existing hazardous waste generator fees effective April 1, 2001. Currently, facilities are assessed a fee based upon the amount of hazardous waste they generate each year. The new surcharges will range from $4,000 up to $360,000 per facility each year, and will generate $18.0 million annually.

Department of Health

New Water Supply Fees $6.5 million

Impose a new statewide water connection fee to support ongoing and expanded State and local water testing activities. The fee will be charged to public and private water supply systems on a per connection basis. Under the Executive proposal, the majority of the revenues will be used to finance grants.

Amnesty Grant for Provider Assessments $20.0 million

Grant amnesty to health care providers on interest and penalties due on unpaid provider assessments that are now delinquent and remain uncollected by the State. The amnesty period will expire on December 31, 2000.

Department of Motor Vehicles

Eight-year License Renewals $4.9 million

Implement eight-year license renewals. The annual charge ($5 per year, and a $3 photo document fee) will remain the same. The total fee for the eight-year renewal will be $43. A vision test will be required at each renewal.

License Plate Re-issuance $18.2 million

Issue new license plates. Re-issuance will begin on October 1, 2000 and will cost $5.50 per set of plates. Registrants who wish to retain their current plate number will be charged a one-time fee of $20; motorists are now charged $25 for this service.

Franchise Dealers' Fees $0.3 million

Impose a fee on franchise dealers of new motor vehicles. Chapter 451 of the Laws of 1999 created a franchise dealer registration requirement, but did not include a fee for the corresponding work required by the Department of Motor Vehicles. The proposed fee will vary depending on dealer size and number of vehicles sold in the previous year. It is estimated the fee will be $300-$350 per franchisee.

Department of State

Various Regulatory Fees $4.9 million

Increase license fees for a number of occupations regulated by the Department of State. The occupations include real estate salespersons and brokers, barbers, security guards, notary public, and non-barbershop stylists.

Local Fee Increases

E911 Surcharge

Authorize counties to increase the E911 telephone line surcharge from the current maximum of $.35 per access line per month to $1.00. The increase is a local option. E911 surcharge revenues are used to fund the enhanced 911 telephone delivery system. This fee increase will generate $75 million for localities.

EXECUTIVE REVENUE PROPOSALS
FOR STATE FISCAL YEAR 2000-2001
($ amounts in millions)

REVENUE SOURCE	2000-2001 REVENUE IMPACT	FULLY IMPLEMENTED
REVENUE ENHANCEMENT PROPOSALS		
Multi-State Lottery	$124.0	$166.0
FEE INCREASES		
Crime Victims Board		
Crime Victims Assistance Fee	0.9	0.9
Mandatory Surcharges	3.9	3.9
Department of Environmental Conservation		
Hunting and Fishing Licenses	5.2	6.3
Surcharge on Surf Clams and Ocean Quahogs	0.05	0.05
Petroleum Bulk Storage Facility Registration	1.0	1.0
Hazardous Waste Generator Surcharge	0.0	18.0
Department of Health		
New Water Supply Fees	6.5	13.1
Amnesty Grant for Provider Assessments	20.0	0.0
Department of Motor Vehicles		
Eight-year License Renewals	4.9	25.0
License Plate Re-issuance	18.2	30.6
Franchise Dealers' Fee	0.3	0.3
Department of State		
Increase Various Licensing Fees	4.9	4.9
TOTAL EXECUTIVE STATE REVENUE INCREASES	**$189.85**	**$270.05**
LOCAL FEE INCREASES		
E911 Surcharge		75.0

Source: Executive Budget

Revenue Reduction Proposals

The Executive has proposed various tax reductions that will have a modest impact on State Fiscal Year 2000-2001 receipts, but will reduce receipts by approximately $700 million when fully implemented. These proposals include:

- Restructuring and reducing various taxes that affect utility bills. The restructuring will include: (1) eliminating the Gross Receipts Tax on energy; (2) repealing the tax on the importation of natural gas; (3) taxing all energy companies under a franchise tax based on net income; (4) taxing all energy corporations on the same basis as other commercial enterprises for property tax purposes and (5) providing a tax credit to manufacturers for gross receipts taxes paid during the phase-out period. This plan is expected to reduce revenues by $517 million annually, when fully effective in 2005.

- Expanding the Power for Jobs program by providing an additional 200 megawatts of low-cost power to businesses located in upstate New York. Utility companies would be allowed to claim a credit for 50 percent of the lost revenues associated with providing the low-cost power.

- Creating High Technology Enterprise Zones. Businesses located within these Zones will receive the following tax incentives: (1) elimination of the Gross Receipts Tax on energy, while the phase-out of the tax is occurring; (2) enhanced Qualified Emerging Technology Wage Tax Credits; (3) a research and development tax credit; and (4) interest-free investments. These provisions will reduce revenues by $71 million, when fully implemented.

- Reducing the Corporate Franchise Tax rate imposed on small businesses from 7.5 percent to 6.85 percent. When fully effective, this reduction will reduce revenues by $5 million.

- Eliminating the S-corporation differential tax imposed corporations who choose to structure their business as an S-corporation. When fully effective, this elimination will reduce revenues by $35 million.

- Creating a Brownfield Clean-up Tax Credit equal to the amount spent to clean-up a contaminated site. This credit will be available for a limited time period and reduce revenues by $23 million.

- Restructuring and reducing local property taxes for rail companies located in New York. This reduction will be phased-in over a three-year period. The State will provide $7 million annually in transition aid for five years, to help localities offset the cost of this local property tax reduction.

- Expanding STAR to farmers who own their farm as a corporation. Currently, STAR is only available for residential property. This expansion will reduce revenues by $1 million annually.

- Exempting all farm-related purchases from the Sales Tax. All property and services used in the daily operations of a farm, including motor vehicles, electricity and other utility services will be exempt. When fully effective, this exemption will reduce revenues by $6.9 million,

- Accelerating the effective date for the increase in the small brewers' exemption, included as part of the 1999-2000 State Budget, from April 1, 2001 to January 1, 2000.

- Providing an exemption from the Sales and Compensating Use Tax for machinery and equipment used in the construction or development of facilities located within New York State that are used to support Internet web sites. This proposal will reduce revenues by $9 million annually, when fully effective.

- Providing a State Low Income Housing Tax Credit similar to the Federal credit, which provides tax incentives for taxpayers that invest in housing with certain percentages set aside for low income tenants. Under the proposal, the State credit would be available for housing set aside for more middle-class tenants. This credit will reduce revenues by $2 million annually.

- Expanding the refundability of the Investment Tax Credit (ITC) to allow eligible biotechnology companies to have a refund of the ITC, even if they are not new businesses. When fully effective, this provision will reduce revenues by $1 million annually.

- Providing tax credits as an incentive to businesses that construct or rehabilitate buildings which are environmentally "friendly." This credit will reduce revenues by no more than $5 million in any one year, and will expire ten years after creation.

- Providing a tax credit to companies contributing at least $10 million to a qualified transportation improvement project in a prior taxable year, if such company also created at least 1,000 new jobs. The amount of the credit will be 6 percent of the increased payroll in New York State.

- Exempting Homeowners' Associations that have no federal taxable income from the fixed dollar minimum tax. This will reduce revenues by $100,000 annually.

- Eliminating the minimum tax imposed on Petroleum Businesses. When fully effective, this elimination will reduce revenues by $300,000 annually.

- Exempting from the Sales and Compensating Use Tax emissions testing equipment used in New York's program to test and control air pollution from heavy-duty vehicles such as trucks and buses. This proposal will reduce revenues by $1 million annually, when fully implemented.

- Creating a $25 million pool of funds to be used for new tax cuts designed to stimulate job growth. The use of the funds would be determined jointly by the Legislature and the Governor.

EXECUTIVE REVENUE PROPOSALS
FOR STATE FISCAL YEAR 2000-2001
(Dollar Amounts in Millions)

REVENUE SOURCE	2000-2001 REVENUE IMPACT	FULLY IMPLEMENTED
REVENUE REDUCTION PROPOSALS		
Gross Receipts Tax Elimination	($33.0)	($517.0)
Power for Jobs Expansion	0.0	0.0
Upstate High Technology Enterprise Zone	0.0	(71.0)
Small Business Tax Rate Reduction	0.0	(5.0)
S-Corp Differential Elimination	0.0	(35.0)
Brownfield Clean-up Tax Credit	(12.0)	(23.0)
Urban Jobs Tax Credit	0.0	(20.0)
Rail Access Tax Incentive	0.0	(7.0)
STAR for Farmers	(1.0)	(1.0)
Farm Equipment Sales Tax Exemption	0.0	(6.9)
Small Brewers Exemption Acceleration	(1.0)	0.0
Web Hosting Facilities Sales Tax Exemption	0.0	(9.0)
Low Income Housing Credit	(2.0)	0.0
Biotech Refundable Credit	0.0	(1.0)
Green Buildings Tax Credit	0.0	0.0
Transportation Access Program	0.0	0.0
Homeowners Associations	(0.1)	(0.1)
PBT Minimum Taxes	0.0	(0.3)
Tax Cut Pool for Job Creation	(10.0)	(25.0)
Sales Tax on Emissions Equipment	(1.0)	(1.0)
TOTAL PROPOSED FEE/REVENUE REDUCTIONS	**($60.1)**	**($722.3)**

Source: Executive Budget

TAX REDUCTIONS AND TAX EXPENDITURES

Tax Reductions Effective for State Fiscal Year 2001

Legislation enacted in past years will provide taxpayers with additional savings of more than $2.3 billion in State Fiscal Year 2000-2001. Tax relief was provided across the board to New York taxpayers in all of the major tax categories. The incremental tax reductions are expected to provide $218 million in savings from reductions in the Personal Income Tax, $512.5 million from reductions in User Taxes and Fees, $786.5 million from reductions in Business and Other Taxes, and $816 million from the School Tax Relief Program (STAR).

In the Personal Income Tax, legislation was recently enacted to increase the Earned Income Tax Credit (EITC) from 20 percent of the Federal credit to 22.5 percent in 2000, and to 25 percent beginning in 2001. The Child and Dependent Care Credit was also enhanced to 100 percent of the Federal credit for taxpayers with incomes of $35,000 or less, phased down to 20 percent for taxpayers with incomes between $35,000 and $50,000. This relief will continue to provide New York wage earners with savings well into the future.

Several User Taxes and Fees have been reduced in recent years to provide New York consumers with more affordable products and services. Much of this relief will result from the enactment of legislation to permanently eliminate the State portion of the Sales Tax on all purchases of articles of clothing and footwear costing less than $110 that becomes fully effective on March 1, 2000. This was based on the several highly popular week-long clothing and footwear exemptions that began in January 1997.

Legislation enacted in State Fiscal Year 1998-99 provided a phased-in reduction of the rate imposed under the Entire Net Income (ENI) base of the Corporation Franchise Tax to 7.5 percent for tax years beginning after June 30, 2001. Utilities, telecommunication services providers, railroads and trucking companies were also given a tax rate reduction that will be fully phased-in by July 1, 2000.

Residents that acquire gifts or inherit estates were recently provided with additional tax relief. Changes were made to the Estate Tax to increase the exemption equivalent from $115,000 to $300,000 on October 31, 1998 and again to $675,000 on February 1, 2000. The current threshold is equal to that of the Federal credit. Additionally, the Gift Tax was repealed for gifts made on or after January 1, 2000.

The School Tax Relief Program (STAR), originally enacted in State Fiscal Year 1997-98, provides residential property owners with much needed school property tax relief. The program was enhanced in 1998 to fully phase-in tax relief for seniors, who are granted a base exemption of $50,000. All other New York homeowners will enjoy a base exemption of $30,000 for school years beginning in 2000-2001 and thereafter.

TAXPAYER RELIEF Incremental Values SFY 2000-01 (Dollar Amounts in Millions)	
Personal Income Tax	$218.0
User Taxes and Fees	$512.5
Business Taxes	$511.5
Other Taxes	$275.0
STAR	$816.0
TOTAL	$2,333.0

Table 7

Review of Executive's Tax Expenditure Report

Since 1989, the Executive has been required to produce a Tax Expenditure Report for legislative budget deliberations. Tax Expenditures are credits, exemptions, deductions or any other tax treatment that provide preferences or reduce taxes from their normal tax liability. Tax expenditures, as their name implies, are similar to direct expenditures in that they use government resources to address public policy issues. The State Finance law requires the Executive to submit the Report within 30 days after the Executive Budget has been submitted to the Legislature. New York has over 225 tax expenditure items for a total impact of $13.7 billion.

The information in the Report is provided so the Legislature can review tax expenditures, while undertaking a review of direct expenditures proposed in the Budget. The Report also provides background information and historical data on tax expenditures. This information provides the Legislature with the knowledge base necessary when considering further tax policy actions in the Executive Budget. The following will highlight the information contained in the Tax Expenditure Report. It is important to note that the information provided is strictly informational and is not intended to judge the desirability of any particular tax expenditure.

Definition of Tax Expenditures

There is no universally accepted definition as to what constitutes a tax expenditure item for budget analysis. Many tax policy professionals believe the only tax expenditures relevant for budget analysis are those programmatic changes that are designed to effectuate a certain behavior. A classic example would be the mortgage interest deduction, which was instituted to encourage home ownership. Another example is that of tax exempt financing of municipal bonds, the goal of which was to lower the overall cost of borrowing by local governments. However, there are some exemptions and deductions that are considered necessary to create an equitable foundation of the State's tax structure.

The Tax Department, with the submission of the State Fiscal Year 1996-97 Report, began to adopt a narrower definition of tax expenditures. Items such as the standard deduction within the Personal Income tax, net operating losses and double weighting of receipts within the Corporate franchise tax, as well as credits for out-of-statement shipments within the Sales Tax were eliminated. Arguments were made that these items did not meet the traditional definition of tax expenditures or were not treated as tax expenditures at the Federal level. This change in reporting makes consistent analysis over time difficult.

The Department's definition and disclaimer that all tax expenditures may not be included also provides inconsistency between tax categories. For example, as previously mentioned, the Department does not include the standard deduction because it establishes a zero tax threshold. Since this is available to all taxpayers, it is essentially an inherent part of the tax structure. New York has the highest standard deduction in the nation, the level of which was built into the structure of tax to make it more progressive. However, a similar argument could be made with respect to the Sales Tax exemption on food. This selective process of characterizing tax expenditures can work to distort the impression or outcome from an analysis of tax expenditures.

Summary Information

Tax expenditure analysis presents inherent problems to public policy makers. Data may be difficult to collect and aggregate. There are many items in the Tax Expenditure Report for which reliable information can not be found. While the following will provide a brief overview of New York's tax expenditures, the magnitude of these expenditures are most likely understated.

The Tax Expenditure Report identifies over 225 distinct tax expenditures within the following tax areas; (1) Personal Income tax, (2) Sales Tax, (3) Corporate Franchise Tax, (3) Bank Tax, (4) Insurance Tax, (5) Gross Receipts Tax and (6) Petroleum Business Tax. The Report also summarizes tax expenditures within the Real Estate Transfer Tax. Since the Transfer Tax expenditures are small they were not included in this analysis. The Report provides a detailed description and the estimated revenue implications of each expenditure.

As Table 8 shows, tax expenditures are estimated to reduce revenues in excess of $13.7 billion in 2000.[2] Of this total, the largest reduction, $6.1 billion, is under the Sales Tax. The second largest reduction, $5.2 billion, is under the Personal Income Tax. Figure 2 shows the relative distribution of tax expenditures by type of tax. The Sales Tax and Personal Income Tax account for 45 percent and 38 percent, respectively of the total.

The rest of the shares consist of the Corporate Franchise Tax (7 percent), the Insurance Tax (3 percent), the Petroleum Business Tax (3 percent), the Bank Tax (3 percent) and the Gross Receipts Tax (1 percent).

Table 8

TAX EXPENDITURES (Excluding Federal Items) (Dollar Amounts in Million)	
Bank Tax	$365.8
Corporation Franchise Tax	$938.0
Gross Receipts	$174.4
Insurance Tax	$479.8
Personal Income Tax	$5,244.5
Petroleum Business Tax	$402.7
Sales and Use Tax	$6,110.0
TOTAL	$13,715.2

[2] This amount does not include those tax expenditures reclassified by the Tax Department as Federal exclusions to income. If these expenditures were included, the total would increase to $20.4 billion.

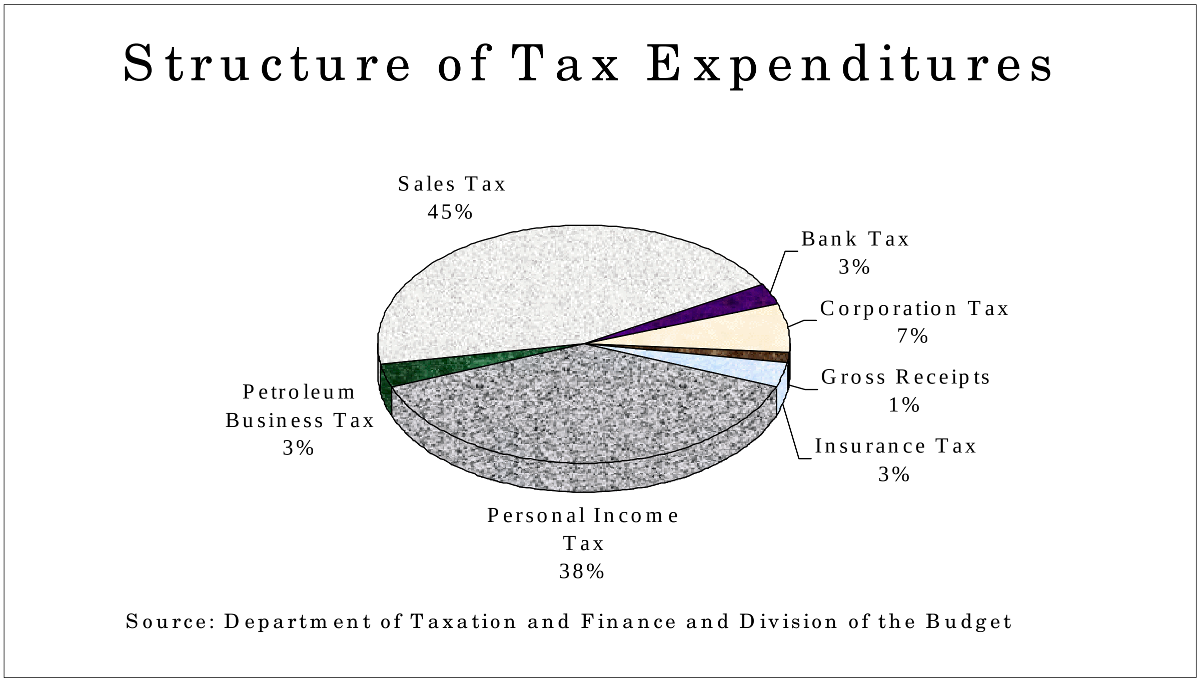


Figure 8

Tax expenditures are often created when crafting the structure of a tax and serve an intended purpose. Table 9 highlights the ten largest tax expenditures, based on value. The majority of these tax expenditures fall under the Sales Tax and the Personal Income Tax. Since the Sales Tax is a consumption-based tax, it can often be seen as a regressive tax. As a result, it is structured to exclude taxation of many items, such as food and clothing, to avoid taxing "necessities," and to increase the progressivity of the tax.

Table 9

TOP TEN TAX EXPENDITURES BY SIZE OF EXPENDITURES (Dollar Amounts in Millions)			
Tax	Tax Item/Tax Law	Description	2000
Personal Income Tax	New York Deductions and Exemptions	Value of Standard Deductions for Those Returns With Itemized Deductions in Excess of Standard Deductions	$1,190.00
Sales and Use Tax	Food	Certain Food Products	$1,026.00
Sales and Use Tax	Exemption Organizations	New York State Agencies and Political Subdivisions	$664.00
Personal Income Tax	New York Deductions and Exemptions	Interest Deduction	$645.00
Corporate Franchise Tax	New York Modifications to Federal Taxable Income	Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital	$639.00
Sales and Use Tax	Miscellaneous	Clothing and Footwear	$504.00
Sales and Use Tax	Energy	Sales of Energy Sources for Residential Purposes	$493.00
Personal Income Tax	New York Credits	Earned Income Credit	$416.00
Personal Income Tax	New York Deductions and Exemptions	Taxes Paid Deduction	$402.00
Personal Income Tax	New York Modifications	Pension/Annuity Exclusion	$368.00

REVIEW OF FORECAST ACCURACY

With the release of the Executive Budget, the Executive is required to complete a forecast of anticipated tax revenues for the remainder of the current Fiscal Year and for the upcoming Fiscal Year.

In January 1999, the Executive submitted a budget which projected a modest 3.3 percent increase in General Fund tax revenues.

From the time the Executive released its revenue projections for State Fiscal Year 1999-2000 in January 1999, until the most recent release of its revised estimates in January 2000, the Executive has made numerous upward revisions to its projections. In total, the projection for General Fund tax revenues has been increased by $820 million, representing an estimated growth of 5.6 percent over State Fiscal Year 1998-99. Table 10 displays the chronology of the revisions and the magnitude of each.

CHRONOLOGY OF EXECUTIVE'S 1999-2000 RECEIPTS FORECAST
(Dollar Amounts in Millions)

Forecast	Revision to Executive Budget
30-Day Amendments - 1999	$103
Enacted Financial Plan	$364
Midyear Update	$14
2000 Executive Budget	$221
30-Day Amendments - 2000	$118
Total Revisions	$820

Table 10

The two largest revisions by the Executive occurred at the time of the Enacted Budget and once again with the release of the State Fiscal Year 2000-2001 Executive Budget. The upward revision of $364 million with the enactment of the Financial Plan can partly be attributable to two factors. The Executive Budget contained some tax reductions that ultimately were not enacted. This resulted in an increase in available revenues of approximately $50 million for budgeting purposes. In addition, the implementation of the permanent Sales Tax exemption on clothing and footwear costing less than $110 was deferred from December 1, 1999 to March 1, 2000. This measure increased available revenues by approximately $100 million.

However, the upward revision of $221 million contained within the Executive Budget released in January 2000 did not correspond to any actions which altered the composition of revenues. These revisions were purely based on the fact that the Executive had underestimated revenues. In fact, the Executive was afforded the opportunity to adjust its revenue projections with the release of its Mid-Year Update of the Financial Plan. However, at that time, the Executive only chose to increase its projection of General Fund tax revenues by $14 million.

The final revisions to estimated General Fund tax revenues for State Fiscal Year 1999-2000 were recently released with the 30-day amendments to the 2000-2001 Executive Budget. Projected revenues were increased by another $118 million, which now represents growth of 5.6 percent over last fiscal year.

Historical Accuracy of Revenue Projections

Concurrent with the release of the Executive Budget, the Division of the Budget (DOB) prepares a forecast for the National and State economy, and a corresponding forecast of revenues available for State spending purposes.

The Legislative Fiscal Committees released their projections in March, which are then used for discussion at the Consensus Forecasting Conference. Expert economic analysts are invited to review staff forecasts and provide testimony concerning the national and State economies. At the conclusion of this conference, the process of negotiating to achieve a consensus on the economy and corresponding revenues begins. The process is completed by the release of a consensus report by the Fiscal Committees and the Division of the Budget.

Over the past several years, the Division of the Budget's revenue projections have consistently been lower than those of the Committee Staff. As a result, final negotiations on revenues available for budgetary purposes have led to the adoption of projections generally lower than those anticipated by the Legislature. The Executive has shown a consistent pattern of budgeting below the level of resources believed to be available by the Legislature.

The Executive Branch of Government, in conjunction with the State Legislature, has the responsibility of providing adequate funding sources to serve public policy goals. The majority of the State’s revenue base is driven by tax revenues. When formulating the State Budget, lawmakers need to make decisions on spending based on available resources. When the revenues available for spending are underestimated, this results in spending and resources being made unavailable to the public.

Why has the Executive consistently adopted revenue projections below those recommended by the Legislature? The answer to this question is unclear. If the Executive had adopted the projections of higher Legislative revenues, then the State Budget would have been developed from a more realistic revenue base.

The following analysis compares the accuracy of revenue forecasts for the Division of the Budget, over the last four years. In addition, it provides an analysis of the Executive's forecasting accuracy on their "out-year" or long-term revenue projections. The Executive is required to submit a three-year forecast of revenues when the Executive Budget is submitted.

In order to provide an accurate comparison of revenue forecasts, adjustments were made to account for factors that were unforeseen at the time that the forecasts were prepared. These adjustments typically include Tax Law changes enacted by the Legislature, which were not included the original estimates.

Table 11 shows a comparison of revenue forecasting accuracy of General Fund tax revenues for the last four years. The first column presents actual receipts compared to the "adjusted" forecasts the Executive. The second column highlights the accuracy of the out-year forecasts prepared by the Executive.

The Executive has consistently underestimated receipts in the last four fiscal years. The smallest error occurred in State Fiscal Year 1995-96, when the Executive underestimated receipts by $546 million, or a negative 1.8 percent. However, the magnitude of the errors steadily increased in the following fiscal years, reaching the highest level in State Fiscal Year 1997-98. In that year, the Executive underestimated receipts by $2.4 billion, or negative 7.8 percent.

The Executive has consistently underforecasted with respect to its out-year forecast. Actually, the Executive's long-term forecasts have been less accurate than their short-term forecasts. The three most recent multi-year forecasts for which all the results are in can be analyzed in detail. In each instance the second year forecast is substantially less accurate than the first year and the third year forecast is substantially worse than the second. The cumulative errors are quite substantial. The three forecasts made for 1995-96 missed the mark by $5.5 billion After adjusting for tax law changes, the Executive underestimated the State's financial picture by $11.3 billion over State Fiscal Years 1996-97, 1997-98 and 1998-99. If the assumption is made that the Executive's estimate, as provided with the 30-day amendments to the 2000 Budget, for General Fund tax revenues is accurate, then the long-term forecasting error increases to $12.0 billion from State Fiscal Year 1997-98 through State Fiscal Year 1999-2000.

Will the pattern of underestimating continue to hold true for the current Fiscal Year? Since State Fiscal Year 1999-2000 has not come to a close yet, it is difficult to produce the same type of analysis. One would have to make an assumption as to what the actual level of receipts will total. The analysis can be done by substituting the Executive's estimates or the Committee Staff's estimates to represent actual receipts.

For discussion purposes, both methods were analyzed. First, if the assumption that the Executive's estimate, provided with the 30-day amendments to the 2000 Budget, for General Fund tax revenues is accurate, then the Executive underestimated revenues by $670 million. However, if the Committee Staff estimates released in February 2000 are substituted for actual State Fiscal Year 1999-2000 revenues, then the Executive forecast error would increase. Based on this method, the Executive underestimated revenues by $904 million.

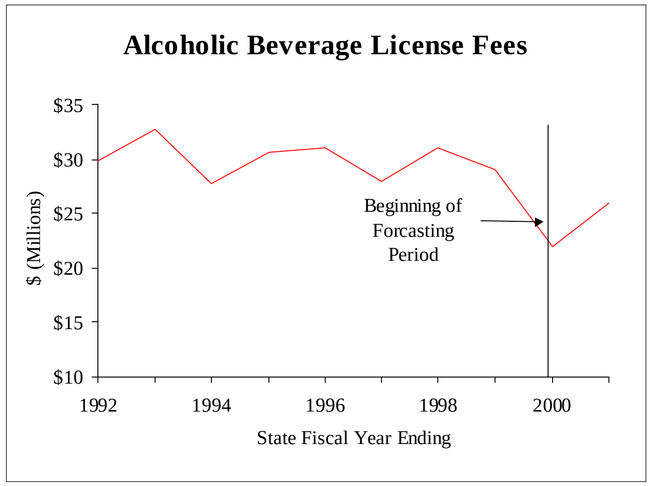
SUMMARY OF FORECASTING ERRORS (General Fund Tax Revenues)	Forecast DOB	2nd Year Forecast DOB	3rd Year Forecast DOB
SFY 1995-96 Forecast			
Actual Receipts	30,108	30,513	31,466
Adjusted Forecast	29,562	28,953	28,094
Error	(546)	(1,560)	(3,372)
% Error	-1.8%	-5.1%	-10.7%
SFY 1996-97 Forecast			
Actual Receipts	30,513	31,466	33,815
Adjusted Forecast	28,302	27,520	28,659
Error	(2,211)	(3,946)	(5,156)
% Error	-7.2%	-12.5%	-15.2%
SFY 1997-98 Forecast			
Actual Receipts	31,466	33,815	35,766
Adjusted Forecast	29,027	30,042	29,865
Error	(2,439)	(3,773)	(5,901)
% Error	-7.8%	-11.2%	-16.5%
SFY 1998-99 Forecast			
Actual Receipts	33,815	35,766	
Adjusted Forecast	32,709	33,778	
Error	(1,106)	(1,988)	
% Error	-3.3%	-5.6%	

Table 11

Alcoholic Beverage Fees

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$29	-4.6%	$29	-4.6%
1999-2000 Estimate	22	-24.1%	22	-24.1%
2000-2001 Forecast	31	40.9%	31	40.9%

Distillers, brewers, retailers, wholesalers, and others who sell alcoholic beverages in New York State are required by Articles 4, 4-A, 5, and 6 of the Alcoholic Beverage Control Law to be licensed by the State Liquor Authority. Currently, 2,500 retail outlets and 24,000 bars and restaurants are licensed.



General Fund

The Committee Staff estimates that receipts will total $22 million in State Fiscal Year 1999-2000, a decline of 24.1 percent. This estimate is the same as that of the Executive. The sharp decline in receipts is the result of a law change that was effective December 1, 1998. This change allowed bars and restaurants (licensees) to purchase licenses on an annual or biennial basis, rather than on a three-year basis as previously required. This change had the effect of "spinning down" revenues by $14.0 million in State Fiscal Year 1999-2000.

The Committee Staff forecasts receipts to total $31 million in State Fiscal Year 2000-01, an increase of 40.9 percent. This increase is also attributed to the change in licensing requirements. Following State Fiscal Year 2000-01, payment patterns will return to a more normal cash flow.

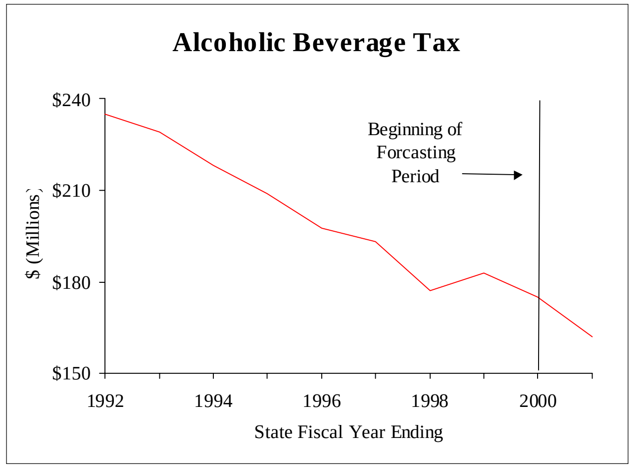
Recent Legislative History

In 1997, the credit period offered to beer and wine retailers was decreased from 30 days to 15 days. Also, the payment period related to liquor licenses for on-premise consumption, special on-premise consumption, and bottle club liquor licenses was changed from 3 years to 2 years, effective December 1, 1998. These actions are expected to reduce revenues by $14 million in State Fiscal Year 1999-2000, and $4 million in State Fiscal Year 2000-01.

Alcoholic Beverage Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$183	3.3%	$183	3.3%
1999-2000 Estimate	178	-2.7%	176	-3.8%
2000-2001 Forecast	168	-5.6%	177	0.6%

New York State, through Article 18 of the Tax Law, currently imposes a tax on various Alcoholic Beverages, including beer, wine, and other spirits. The tax rate varies depending on the alcohol content. All of the receipts are deposited in the General Fund.



General Fund

Alcohol consumption has been decreasing at a slow but steady rate every year as a result of increased health concerns tied to alcohol consumption and increased enforcement of DWI laws. Year-to-date receipts through December 1999, total $88 million, a decrease of 5.6 percent over December 1998.

The Committee Staff estimate for State Fiscal Year 1999-2000 is $178 million, representing a 2.7 percent decline over State Fiscal Year 1998-99. On January 1, 1999 the beer tax rate was reduced from 16 cents per gallon to 13.5 cents per gallon. This will reduce State Fiscal Year 1999-2000 collections by $5 million. This estimate is $2 million higher than the Executive.

The Committee Staff current law forecast for State Fiscal Year 2000-01 is $168 million representing a decline of 5.6 percent and is $9 million less than the Executive. This reflects slowly decreasing alcohol consumption.

The Committee Staff proposed law forecast for State Fiscal Year 2000-01 is $167 million, a decline of 6.2 percent, and $9 million less than the Executive.

Legislation submitted with the Executive Budget proposes to accelerate the effective date of the Small Brewers exemption from March 1, 2000, to January 1, 2000, which would reduce revenues by $1 million.

Recent Legislative History

In 1999, legislation was enacted which will reduce the tax rate on beer from 13.5 cents per gallon to 12.5 cents per gallon effective January 1, 2001. This reduction will reduce revenues by $3.0 million annually when fully implemented.

Also, legislation was enacted in 1999 that increased the beer tax exemption provided to small breweries with New York State headquarters from 100,000 to 200,000 barrels of beer. This legislation becomes effective March 1, 2001.

In 1998, legislation was enacted which reduced the tax rate on beer from 16 cents-per-gallon to 13.5 cents-per-gallon. This became effective on January 1, 1999, and will reduce State Fiscal Year 1999-2000 revenues by $8 million.

In 1997, legislation was enacted that repealed 1996 legislation, which required payment by Electronic Funds Transfer (EFT). The Alcoholic Beverage Enforcement provisions, which were due to expire on October 31, 1997, were extended until October 1, 2002.

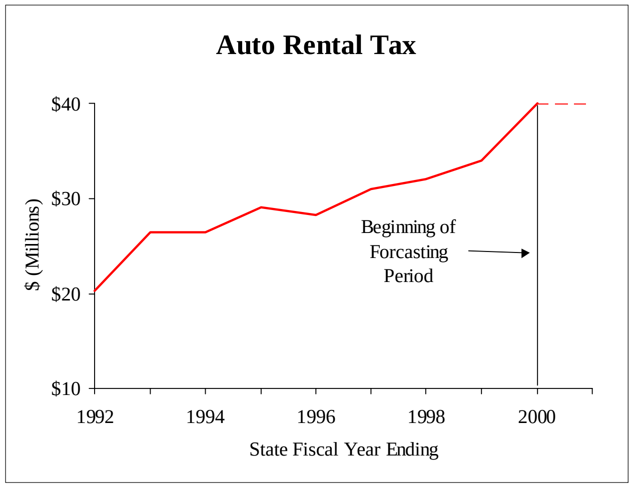
In 1996, legislation was enacted to require alcohol distributors with an annual tax liability of more than $5 million to remit payment by means of EFT.

On January 1, 1996, the State excise tax on beer was reduced from 21 cents to 16 cents per gallon.

Auto Rental Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$34	6.9%	$34	6.9%
1999-2000 Estimate	40	17.6%	40	17.6%
2000-2001 Forecast	42	5.0%	42	5.0%

The Auto Rental Tax, imposed by Article 28-A of the Tax Law, applies to the rental of any passenger car with a gross vehicle weight of 9,000 pounds or less that can seat up to a maximum of nine passengers. The tax is imposed at a rate of 5 percent on the charges incurred for any rental for use in New York State. The tax does not apply to leases of one year or more. All of the receipts are deposited in the General Fund.



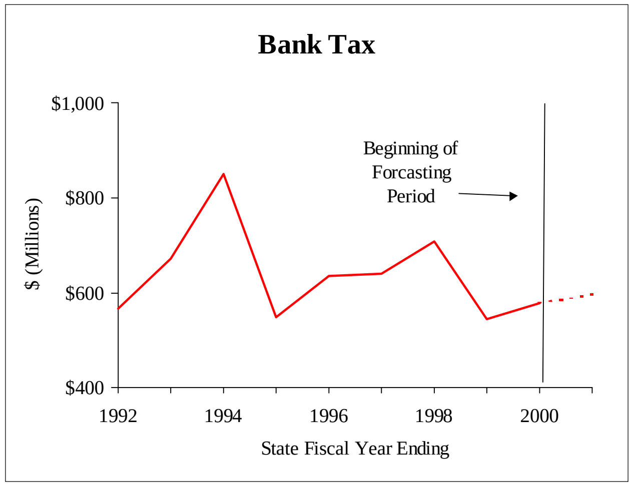
General Fund

Based on historical collection patterns, the Committee Staff estimates that State Fiscal Year 1999-2000 receipts will total $40 million, a growth rate of 17.6 percent. This estimate is the same as that of the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $42 million, which represents growth of 5.0 percent.

Bank Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$544	-23.1%	$544	-23.1%
1999-2000 Estimate	576	5.9%	570	4.8%
2000-2001 Forecast	597	3.6%	590	3.5%



Article 32 of the Tax Law imposes a tax on banking corporations for the privilege of operating a banking business in a corporate manner, employing capital, owning or leasing property, or maintaining an office in New York State. The tax is assessed at a rate of 9 percent of Entire Net Income, allocated or attributable to New York, after credits. One of the three alternative bases, allocated capital, alternative minimum income, or fixed dollar minimum, must be used if it results in a greater amount of tax owed. All of the receipts are deposited into the General Fund.

General Fund

The Committee Staff estimates that State Fiscal Year 1999-2000 receipts will total $576 million, representing an increase of 5.9 percent. Year-to-date collections through the first three quarters of the current fiscal year are 0.1 percent higher than last fiscal year. This is mainly the result of increased collections on current year returns, and a reduced level of prior year losses being claimed. This estimate is $6 million higher than the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $597 million, an increase of 3.6 percent. This forecast reflects continuing growth of bank profits and collections. The Committee Staff estimate is $7 million higher than the Executive.

Recent Legislative History

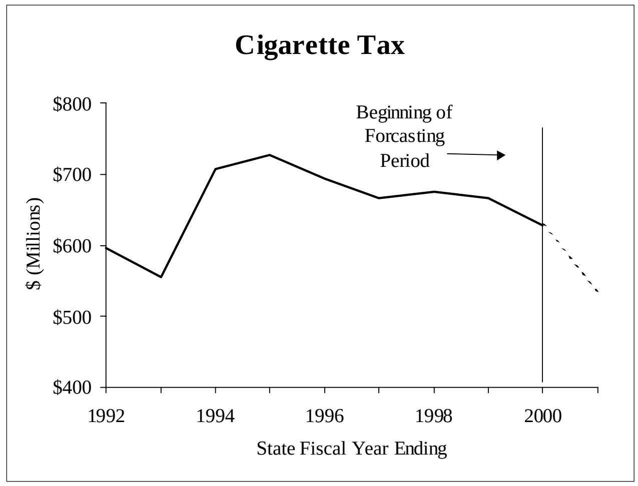
The 1999-2000 State Budget reduced the Entire Net Income (ENI) tax rate on banks from 9 percent to 7.5 percent over three years. This will have no effect on State Fiscal Year 1999-2000, and will reduce bank tax revenues by $100 million when fully implemented in State Fiscal Year 2001-2002.

In 1998, the Investment Tax Credit, currently available to manufacturing corporations, was extended to banks that are brokers or dealers in securities. The credit can be taken for equipment used in broker/dealer activity. To be eligible for the credit, employees using the eligible equipment must be located within New York.

In 1997, two measures were enacted affecting the Bank Tax. First, the tax was extended for 4 years, with an expiration date of December 31, 2001. In addition, banks, beginning in the year 2001, will be allowed a Net Operating Loss deduction, similar to that afforded to other corporations.

Cigarette Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$667	-1.3%	$667	-1.3%
1999-2000 Estimate	637	-4.5%	618	-7.3%
2000-2001 Forecast	512	-19.6%	497	-19.6%



The Cigarette Tax, imposed by Article 20 of the Tax Law, is levied at a rate of 56 cents per package of 20 cigarettes on the sale of cigarettes within the State. All of the receipts are deposited in the General Fund.

The State levies a tax on all other tobacco products equal to 20 percent of the wholesale price of such products. In addition, there is an annual license fee of $100 for all retail establishments and $25 for every vending machine that sells cigarette and/or tobacco products.

General Fund

The Committee Staff estimates that Cigarette Tax receipts in State Fiscal Year 1999-2000 will total $637 million, a decline of 4.5 percent over State Fiscal Year 1998-99. This is attributable to the continuous decline in cigarette consumption as a result of increasing health concerns related to the use of tobacco products. In addition, a 55 cents-per-pack State tax increase imposed to pay for the HCRA 2000 program will further lower cigarette consumption. This increase becomes effective March 1, 2000. As a result of the tax increase, the estimate assumes some pre-buying of cigarettes in January and February of 2000. Finally, the Federal Tax was also increased on January 1, 2000 from 24 cents to 34 cents.

The Committee Staff forecasts revenues of $512 million in State Fiscal Year 2000-01, which represents a 19.6 percent decline. This large decline is mainly attributable to a sharp decline in taxable sales of cigarettes resulting from increased State and Federal taxes. As cigarette prices increase, this will act as a deterrent to cigarette smoking. Further State and Federal restrictions on cigarette advertising and expanded public health laws will aid in the decline. The Committee Staff estimate is $15 million higher than the Executive.

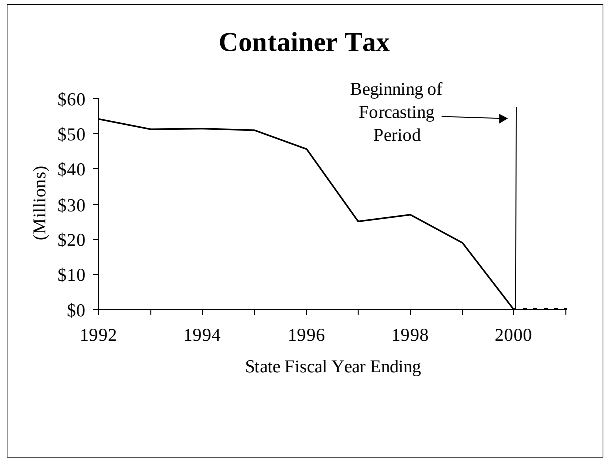
Recent Legislative History

Legislation in 1999 enacted broad health care reform known as HCRA 2000. A key component of this legislation was a 55-cents-per-pack tax increase on cigarettes. The proceeds of the increase will be dedicated to health care programs, and will not be deposited into the General Fund.

Legislation in 1996 enacted strict Cigarette and Tobacco Tax enforcement measures, which were aimed at curbing the sale of bootlegged cigarettes in New York State. The increased enforcement provisions were estimated to boost State Fiscal Year 1997-98 revenues by $13 million.

Container Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$19	-29.4%	$19	-29.4%
1999-2000 Estimate	--	--	--	--
2000-2001 Forecast	--	--	--	--



New York State, under Article 18-A of the Tax Law, levies a tax on the sale of all nonrefillable soda containers at a rate of 1 cent per container. All of the receipts are deposited in the General Fund.

General Fund

There will be no receipts from the Container Tax in State Fiscal Year 1999-2000 due to its repeal, effective October 1, 1998.

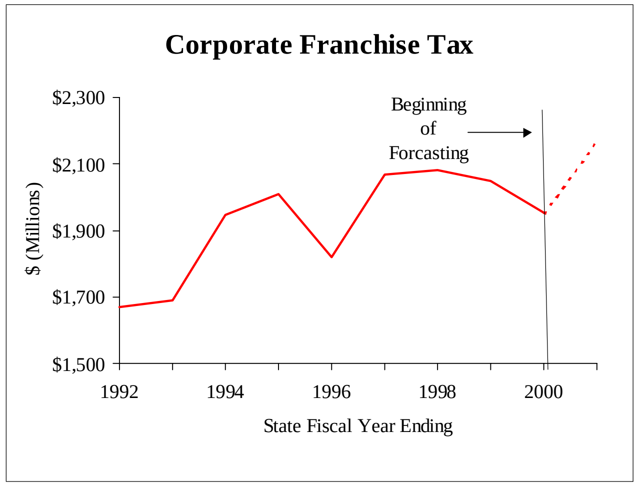
Recent Legislative History

In 1997, legislation was enacted which repealed the remaining 1-cent tax per container, effective October 1, 1998.

In 1995, the Container Tax was reduced from 2 cents to 1 cent per container.

Corporate Franchise Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$2,050	-1.5%	$2,050	-1.5%
1999-2000 Estimate	1,951	-4.8%	1,938	-5.5%
2000-2001 Current Law	1,984	1.7%	1,934	-0.2%
2000-2001 Proposed Law	2,181	11.8%	2,130	9.9%



The Corporation Franchise Tax is comprised of Articles 9-A and 13 of the Tax Law. Article 9-A imposes a tax on corporations for the privilege of operating a business in a corporate form in New York State. The tax is currently assessed at a rate of 8.5 percent of Entire Net Income (ENI), allocated or distributed to New York, after credits. One of the three alternative bases (allocated capital, alternative minimum income, or fixed dollar minimum) must be used if any of the three results in a greater amount of tax owed. Article 13 authorizes the tax on unrelated business income. This is a tax on the unrelated business income of not-for-profit corporations and other organizations whose activities are otherwise tax-exempt. All of the receipts are deposited in the General Fund.

General Fund

The Committee Staff estimates that receipts for State Fiscal Year 1999-2000 will total $1,951 million, which represents a decline of 4.8 percent. The decline is mainly the result of approximately $174 million in tax reductions taking effect this year. This estimate is $13 million higher than the Executive.

The Committee Staff current law forecast for State Fiscal Year 2000-01 is $1,984 million, representing growth of 1.7 percent. This is $50 million higher than the Executive. The forecast incorporates growth in corporate profits of approximately 7.6 percent in 1999 and 6.5 percent in 2000. However, recently enacted legislation will reduce revenues by approximately $99.5 million in State Fiscal Year 2000-01.

The Executive has proposed to change the way Utility Corporations are taxed, by shifting them from Article 9 to Article 9-A of the Tax Law.

In addition, the Executive proposed creating Upstate High Technology Enterprise Zones north of the Metropolitan Commuter Transportation District, and offering certain companies enhanced credits within these areas. Essentially, the proposal would include doubling the amount of credits currently available to Qualified Emerging Technology Companies, creating a state Research and Development Credit modeled after a current Federal credit, and providing refunds of any energy taxes or loan interest paid by the company.

There are a number of other credits in the Executive's proposal, including one targeted at creating apartment projects for middle income people, and another providing incentives for the construction of large buildings that exceed existing environmental quality standards.

In total, the net effect of these proposals would raise Article 9-A receipts by an estimated $195.9 million for State Fiscal Year 2000-01.

Recent Legislative History

Since 1994, the Legislature has enacted numerous tax reductions under the Corporate Franchise Tax. When fully implemented, these actions will reduce Corporate Franchise Tax revenues by approximately $1.0 billion.

The 1999-2000 State Budget lowered the Alternative Minimum Tax (AMT) rate from 3.0 percent to 2.5 percent. This will save taxpayers an additional $12 million per year, when fully implemented.

Legislation enacted in 1999 created a credit for the manufacture of alternative fuel vehicles made within the State. The credit is available for such vehicles regardless of where they are placed in service, provided that the vehicles are owned or leased by a government entity. The amount of the credit is half the incremental cost of manufacturing the vehicle, up to $5,000, and is expected to reduce receipts by $2.5 million in State Fiscal Year 2000-01.

For taxable years beginning on or after January 1, 2001, the credits available to Qualified Emerging Technology Corporations will be extended to include companies engaging in the remanufacture of certain commodities. This is expected to have no impact on revenues for State Fiscal Year 1999-2000, but is estimated to reduce receipts by $2 million in State Fiscal Year 2000-01.

Beginning in 2000, the Subsidiary Capital Tax will not apply for subsidiaries paying taxes under Articles 32 of 33 of the Tax Law. This is expected to have no impact on collections for State Fiscal Year 1999-2000, and will reduce receipts by $5 million in State Fiscal Year 2000-01.

In 1998, the Legislature enacted several measures that will have an impact on Corporate Franchise Tax revenues. Among these measures were the following:

- Reducing the rate imposed under the Entire Net Income base of the Corporate Franchise Tax over a three-year period, beginning July 1, 1999;

- Over a two-year period, which began July 1, 1998, reducing both the Alternative Minimum Tax rate and the Fixed Dollar Minimum Tax;

- Lowering the Subchapter-S differential so that S-Corporations will benefit from the Corporate Franchise Tax rate reduction;

- Extending the Investment Tax Credit to the financial services and banking industry for investments in equipment used for security trading practices, including computers and telecommunications technology. The credit, which is a five-year program, will only be allowed if employment in these industries is maintained in New York State; and

- Providing tax credits to emerging technology companies. These included an employment credit equal to $1,000 for each employee hired above the base employment level and a capital investment credit equal to ten percent of any investments made which are held for at least four years (or twenty percent for investments held for at least nine years).

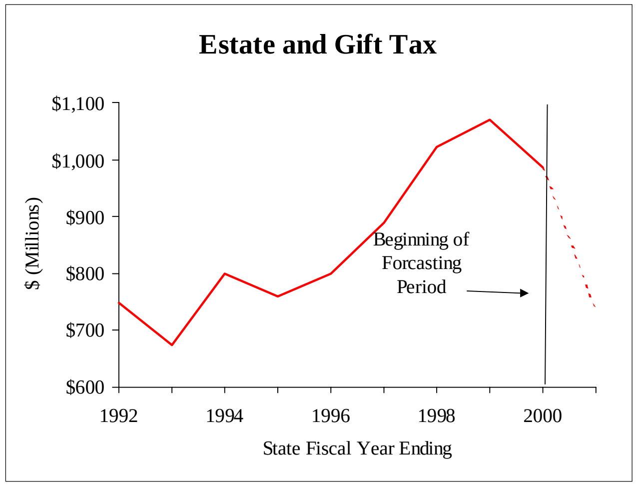
The above measures are estimated to reduce State Fiscal Year 1999-2000 Corporate Franchise Tax revenue by $154 million.

In 1997, various tax reductions were enacted, which will affect Corporate Franchise Tax collections when fully implemented. Among these measures were an extension of the Investment Tax Credit carry-forward period from 10 to 15 years, a tax credit for employers that hire workers with disabilities, and a new credit for companies that purchase alternative fuel vehicles.

Estate & Gift Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$1,071	4.8%	$1,071	4.8%
1999-2000 Estimate	973	-9.2%	1,007	-6.0%
2000-2001 Forecast	717	-26.3%	732	-27.3%

Articles 26 and 26-A of the Tax Law impose taxes on the transfer of property among individuals. Transfers of property upon death are taxed under the Estate Tax Law (Article 26), and transfers of property during an individual's lifetime are taxed under the Gift Tax Law (Article 26-A). All of the receipts are deposited into the General Fund.



General Fund

The Committee Staff estimates that State Fiscal Year 1999-2000 receipts will total $973 million, which represents a decline of 9.2 percent. Of this, $888 million is derived from the Estate Tax and $85 million from the Gift Tax. This estimate reflects the receipt of large Estate Tax payments during the first half of the fiscal year, as well as the recent upward trend in the stock market, since stock represents the largest component of estates subject to the tax. This estimate is $34 million lower than the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $717 million, which represents a decrease in overall Estate and Gift Tax receipts of 26.3 percent. The forecast for Gift Tax receipts in State Fiscal Year 2000-01 is $10 million, a decline of 88.2 percent. The forecast for the Estate Tax is $707 million for State Fiscal Year 2000-01, representing a decline of 20.4 percent. This decline is mainly the result of tax reductions enacted in 1997, which increased the threshold for taxable estates to $300,000 on October 1, 1998. A further increase to match the Federal threshold was implemented on February 1, 2000.

Recent Legislative History

In 1999, legislation was enacted for conform New York State Estate and Gift Tax Law to Federal law providing a qualified family-owned business interest deduction. This allows heirs to exempt a total of $1.3 million from the New York State Estate Tax. This change is expected to reduce revenues by $1.0 million in State Fiscal Year 1999-2000.

In 1998, legislation was enacted that conforms the Estate Tax to the effective Federal exemption of $1.3 million if the value of a family-owned farm or business constitutes 50 percent of the gross value of the estate.

In 1997, legislation was enacted which phases-in a reduction of the Estate and Gift Tax. As of October 1, 1998, estates valued under $300,000 will be exempt from Estate Taxes. This threshold will continue until February 1, 2000, when the exemption will increase to the Federal exemption of $600,000. Should the Federal government increase its exemption threshold above $600,000, the State will automatically conform as long as the exemption does not exceed $1 million. In addition, as of January 1, 2000, the Gift Tax was repealed.

In 1995, legislation was adopted that provided a new deduction equal to a maximum of $250,000 of assets that represent equity in the decedent's principal residence. By reducing the tax on such assets, this legislation facilitates the transfer of homes from decedents to their heirs. In effect, when combined with the unified credit, as much as $365,000 of assets are now exempt from tax.

In 1994, legislation was enacted that increased the maximum unified credit from $2,750 to $2,950, thereby effectively increasing the exemption equivalent from $108,333 to $115,000. This legislation also established a new credit equal to five percent of the first $15 million of assets in a closely-held business (for estates where such assets constitute 35 percent or more of the estate), up to a maximum credit of $750,000. This reduces the tax burden on the transfer of small businesses to heirs upon an owner's death.

Highway Use Tax

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$169	--	--	$169	--	--
1999-2000 Estimate	149	-	--	148	-	--
2000-2001 Forecast	154	-	--	153	-	--

Article 21 of the Tax Law imposes a Highway Use Tax for the privilege of operating any vehicle on the highways of New York State. Three component taxes are imposed upon the operation of trucks, tractors, trailers and semi-trailers for their use of the highways:

- Truck Mileage Tax;
- Permits; and
- Fuel Use Tax.

General Fund

All Highway Use Tax receipts are dedicated to the Highway and Bridge Trust Fund.

All Funds

The Committee Staff estimates that receipts in State Fiscal Year 1999-2000 will total $149 million, a decline of $20 million. This decline is mainly attributable to the 50 percent reduction in truck mileage tax which was enacted in 1998. This estimate is $1 million higher than the Executive.

The Committee staff forecast for Highway Use Tax receipts is $154 million for State Fiscal Year 2000-01. This estimate is $1 million higher than the Executive.

Recent Legislative History

In 1998, the supplemental portion of the Truck Mileage Tax was reduced by 50 percent, effective January 1, 1999. This resulted in a 25 percent overall rate reduction in the Truck Mileage Tax. This legislation also transferred revenues from General Fund Motor Vehicle Fees to hold the dedicated transportation funds harmless.

New York complied with federal legislation requiring conformity with the International Fuel Tax Agreement (IFTA) with respect to reporting and collection of taxes relating to fuel use by a single base state and proportional sharing of revenue among the states where a commercial motor vehicle is operated.

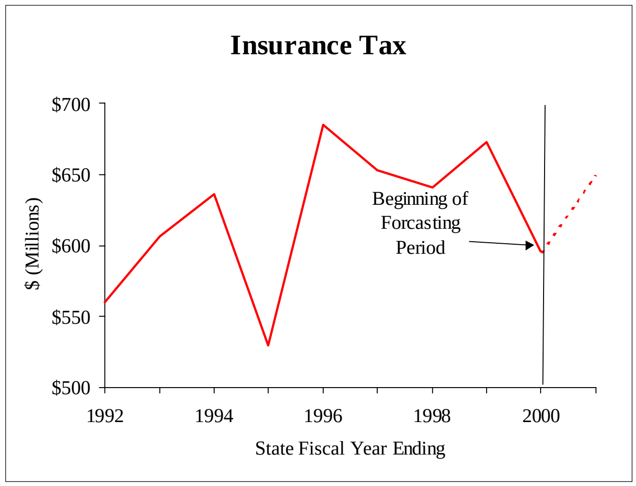
The truck mileage tax was reduced by one-half for miles traveled on the Thruway in 1995 and eliminated in 1996.

Taxpayers were authorized to claim refunds or credits for fuel use taxes paid (including the sales tax portion).

The diesel motor fuel rate was reduced two cents from 10 to 8 cents per gallon.

Insurance Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$673	5.0%	$673	5.0%
1999-2000 Estimate	596	-11.4%	601	-10.7%
2000-2001 Forecast	644	8.1%	637	6.0%



The Insurance Taxes are contained in Articles 33 and 33-A of the Tax Law, and Articles 11 and 12 of the Insurance Law. Article 33 of the Tax Law imposes an income and premiums tax on insurance companies. Article 33-A imposes a tax on independently procured insurance. Articles 11 and 12 impose retaliatory taxes and a tax on excess line brokers (brokers authorized to procure insurance from out-of-state carriers not authorized to do business in New York). The Franchise Tax on insurance corporations consists of a tax measured by allocated Entire Net Income (or one of three alternative bases, if a higher tax would result), plus a tax on subsidiary capital and an additional Franchise Tax based on gross premiums less certain deductions. All of the receipts are deposited into the General Fund.

General Fund

The Committee Staff estimates receipts in State Fiscal Year 1999-2000 of $596 million, a decrease of 11.4 percent. This estimate reflects weak financial activity through the first three quarters of the calendar year, which has resulted in a decline in insurance company portfolios. Catastrophic losses claimed in 1999 are expected to be lower than last year, when an unusually large amount of insured losses were claimed. The estimate also assumes weak growth in Property and Casualty premiums. This estimate is $5 million lower than the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $644 million, representing growth of 8.1 percent. This forecast incorporates a return to more normal growth in premiums, and normal patterns for catastrophic losses. This estimate is $7.0 million higher than the Executive.

Recent Legislative History

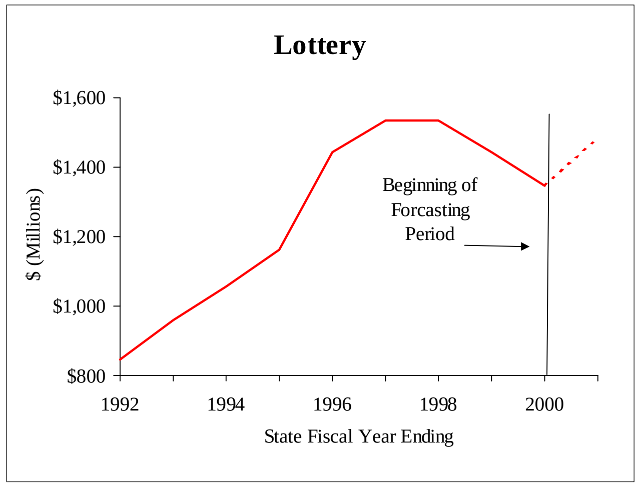
In 1999, legislation was enacted to reduce the Entire Net Income (ENI) rate from 9 percent to 7.5 percent over a three-year period. In addition, the cap of tax as a percentage of premiums was reduced from 2.6 percent to 2.0 percent for property and casualty insurers. These changes will reduce insurance tax revenues by $50 million, when fully implemented.

In 1997, three Insurance Tax measures were instituted to help maintain the competitiveness of this industry in New York State. First, beginning in 1998, life insurance companies began receiving a reduction in their premiums tax rate from 0.8 percent to 0.7 percent, and an increase in their March estimated payment from 25 percent to 40 percent. In addition, two other provisions enacted allow for the formation of captive insurance companies and for investment in Certified Capital Corporations (CAPCOs). A captive insurance company is a company that primarily insures the risks of a parent or its parent's affiliated companies. Captive insurers will be subject to a special premiums tax in lieu of the premiums and "income-base" tax that applies to other insurance companies.

CAPCOs are small New York based companies that are certified by the Insurance Department as meeting certain investment requirements, to encourage insurance companies to invest in them. Insurance companies that invest in CAPCOs will be able to claim a credit for 100 percent of their investments. The 1997-1998 Budget allocated $100 million in credits to be taken over 10 years.

Lottery

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$1,442	-6.0%	$1,442	-6.0%
1999-2000 Estimate	1,345	-6.7%	1,345	-6.7%
2000-2001 Current Law	1,362	1.3%	1,373	2.1%
2000-2001 Proposed Law	1,486	10.5%	1,497	11.3%



The New York State Lottery is currently comprised of the Instant, Daily Numbers, Win 4, Pick 10, Take 5, Quick Draw, and Lotto games. A percentage of the revenue derived from the sale of each game, ranging from 20 to 45 percent depending on the game, is dedicated to fund education. In addition, 15 percent of Lottery sales are placed into a Special Revenue account to cover the administrative expenses of the Lottery. The remaining revenues from each game's sales are the prize payouts to Lottery players. The administrative expenses are appropriated by the Legislature each year as part of the State Operating Budget. Any revenue remaining, after paying the administrative costs of the Lottery, is then transferred back to the Lottery receipts account and dedicated to education.

General Fund

Both the Committee Staff and the Executive expect State Fiscal Year 1999-2000 revenues to exceed the Lottery Aid Guarantee of $1,345 million. However, since this Guarantee represents the maximum amount of lottery revenues that can be used to fund education, this is the revenue estimate chosen by the Committee Staff and the Executive. The remainder must be carried forward to the next fiscal year.

The Committee Staff estimates that actual lottery revenues will total $1,348 million in State Fiscal Year 1999-2000, representing a decline of 6.5 percent. The Executive believes that actual revenues for this fiscal year will total $1,360 million, which is $12 million higher than the Committee Staff, and represents a decline of 5.7 percent.

Negative growth has been prevalent recently partly because most games have reached their maturity. Pick 10 and Take 5, for example, are expected to finish the year down 11.5 percent and 13.0 percent respectively. Receipts from

Instant Games and Daily Numbers are also expected to decline. Win 4 is expected to grow this fiscal year, but only at a marginal rate.

Lotto receipts for the current Fiscal Year are showing a 12.3 percent year-to-date reduction. However, the administrative restructuring that took effect in February 1999 may have also played a part in its decline due to additional prize money now being apportioned to lower-tier prize levels. Promotional games such as Regional Lotto and Millenium Millions have helped to partially offset this decline.

The Committee Staff current law forecast for State Fiscal Year 2000-01 is \$1,362 million, which represents growth of 1.3 percent. Overall sales for most Lottery games will continue to be disappointing, but recent legislation authorizing an increase in the prize payout for Instant Games is expected to boost revenues for those games by 5.5 percent next year. Because Quick Draw was also extended through March 31, 2001, it will generate revenues for the full fiscal year in 2000-01. This forecast includes a carry-in of \$3 million, and is \$11 million lower than the Executive. The Executive forecast of \$1,373 million includes a carry-in of \$15 million.

Legislation submitted with the Executive Budget would authorize the Lottery Division to enter into a multi-jurisdictional game such as Powerball. The maximum prize payout for the game would be set at 50 percent of sales, which translates to a 35 percent dedication to education. Lotto, which is the game that most closely mirrors this proposal, has a prize payout of 40 percent and a dedication to education of 45 percent of sales. This authorization would enable the Division to join lottery games within the United States or throughout the world.

The Committee Staff proposed law forecast is \$1,486 million, an increase of 10.5 percent. This estimate is \$11 million lower than the Executive.

Recent Legislative History

Quick Draw was re-introduced on August 1, 1999 as a result of recent legislation that authorized its return. There have been no changes made to the structure of the game, and the restrictions that existed prior to its expiration on March 31, 1999 remain in effect. Authorization for the continuation of Quick Draw is valid through March 31, 2001.

Legislation enacted in the 1999 budget authorizes the Lottery Division to increase the prize payout to 65 percent from 55 percent for Instant Games. Although this simultaneously reduces the minimum revenue dedication to 20 percent from 30 percent of sales of those games, the expectation is that a boost in sales will more than offset this reduction.

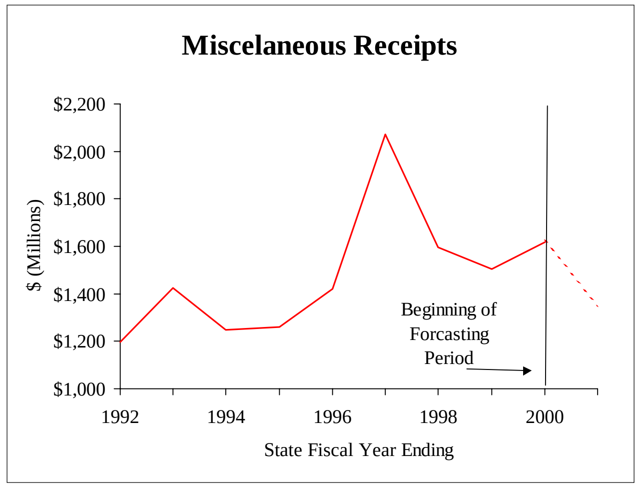
Recent Administrative History

The Lottery implemented regional Lotto games for residents of particular geographic areas beginning in March 1999. These games ended on November 13, 1999, and generated $17.6 million in revenues dedicated to fund education. In its place, the Lottery introduced an alternative Lotto Game, Millenium Millions, which ran in the month of December and had a jackpot of $100 million. The drawing took place on December 31, 1999 in Times Square, and generated revenues of $28.1 million.

In February 1999, the Lottery made some major administrative changes to the Lotto game. With Lotto sales tapering off dramatically, the hope was to reinvigorate player interest. First, the field of numbers from which to choose was reduced from 54 to 51, with an increase the number of prize levels and additional prize money apportioned to lower-tier prize levels. Second, the price of a Lotto ticket increased from 2 plays for $1 to 1 play for $1. Although these changes were designed to increase revenue, Lotto sales still continue to fall.

Miscellaneous Receipts

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$1,505	-5.8%	$1,505	-5.8%
1999-2000 Estimate	1,620	7.6%	1,474	-2.1%
2000-2001 Forecast	1,350	-16.7%	1,339	-9.2%



Miscellaneous Receipts are different from the Other Taxes in that they are not collected pursuant to any specific Article in the New York State Tax Law. Miscellaneous Receipts are derived from a wide range of revenue sources. There are currently six categories comprising the collections of these receipts: Abandoned Property, Federal Grants, General Fund Refunds and Reimbursements, Investment Income, Licenses and Fees, and Other Transactions. All of the receipts are deposited in the General Fund.

General Fund

The Committee Staff estimates that Miscellaneous Receipts will total $1.620 billion in State Fiscal Year 1999-2000, which represents an increase of $115 million, or 7.6 percent, over State Fiscal Year 1998-99. This increase can be mainly attributed to the reclassification of $145 million in health related funds as General Fund receipts. Absent this reclassification, Miscellaneous Receipts would actually total $1,475 million representing a decline of 2.0 percent. This decline is the result of the phase-out of assessments levied on health care providers, which will reduce receipts by an additional $300 million in State Fiscal Year 1999-2000. The Committee Staff estimate, after adjusting for the reclassification of funds, is $1 million higher than the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $1,350 million, which represents a reduction in overall Miscellaneous Receipts of 16.7 percent, or $270 million, over State Fiscal Year 1999-2000. Since provider assessments are scheduled to be completely phased-out by January 1, 2000, this will act to stabilize the decline in Miscellaneous Receipts in future years. Additionally, the reclassification of health related receipts as General Fund Miscellaneous Receipts is not expected to re-occur in State Fiscal Year 2000-01.

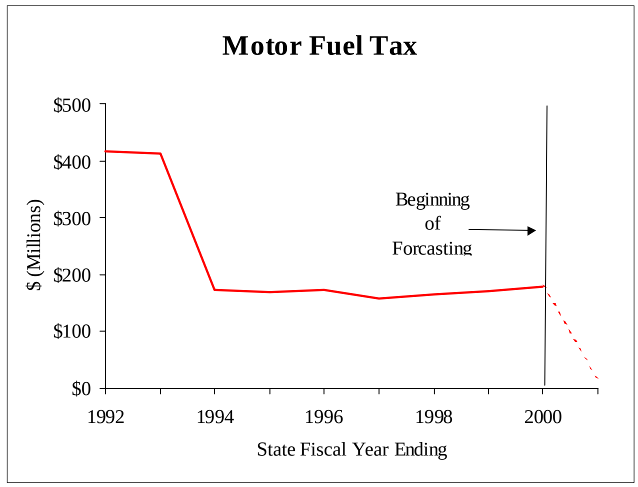
Recent Legislative History

Legislation enacted in 1999 accelerated the scheduled elimination of assessments imposed on hospitals, nursing homes and home care providers by one quarter, from April 1, 2000 to January 1, 2000. This measure will reduce revenues by $41.2 million in State Fiscal Year 1999-2000.

Legislation in 1997 enacted a five-year phase-out of the Health Care Provider Assessments. The assessments levied on hospitals and nursing homes began phasing-out during State Fiscal Year 1997-98 and will be completely phased-out in State Fiscal Year 2001-2002. The estimated impact is $540 million when fully implemented.

Motor Fuel Tax

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$502	$171	3.5%	$502	$171	3.5%
1999-2000 Estimate	517	180	5.3%	524	180	5.3%
2000-2001 Current Law	533	185	2.8%	527	182	1.1%
2000-2001 Proposed Law	533	19	-89.4%	527	19	-89.4%



Article 12-A of the Tax Law imposes a tax upon motor fuel sold within New York State. It applies to motor fuel imported, manufactured or sold within the State by a distributor. For diesel, however, the tax applies to the first sale or use. The current tax rate is 8-cents-per- gallon for both motor fuel and diesel. Four-cents-per-gallon from the Motor Fuel Tax is deposited in the Dedicated Highway and Bridge Trust Fund. One and three-quarters cents from each gallon for both motor fuel and diesel collections are earmarked for the Emergency Highway Reconditioning and Preservation Fund. The remainder is deposited in the General Fund.

General Fund

General Fund receipts are comprised of 2.25 cents per gallon from motor fuel and 6.25 cents per gallon from diesel. The Committee Staff estimates that Motor Fuel receipts will total $180 million in State Fiscal Year 1999-2000, a 5.3 percent increase. This estimate is the same as that of the Executive.

The Committee staff current law forecast for State Fiscal Year 2000-01 is $185 million, representing an increase of 2.8 percent.

The Committee staff proposed law forecast for State Fiscal Year 2000-01 is $19 million, representing a decrease of 89.4 percent. This decline is the result of a proposal submitted with the Executive Budget to dedicate additional General Fund revenues to the Dedicated Highway and Bridge Trust Fund and the Dedicated Mass Transportation Trust Fund in 2000-01 for the Capital Construction Plan.

All Funds

The Dedicated Highway and Bridge Trust Fund was created to help finance the preservation of highways in the State. The Emergency Highway Construction and Reconstruction Fund, and the Emergency Highway Reconditioning and Preservation Fund were created to finance certain highway construction needs. These transportation funds are supported in part by motor fuel receipts.

The law provides an earmarking of 71.875 percent of motor fuel receipts to these highway funds, while only 21.875 percent of diesel motor fuel collections are dedicated to these funds. The Committee estimates that in State Fiscal Year 1999-2000 these highway funds will receive $337 million, while all funds receipts will total $517 million. For State Fiscal Year 2000-01 the highway funds are expected to receive $348 million, and all funds receipts are estimated to total $533 million.

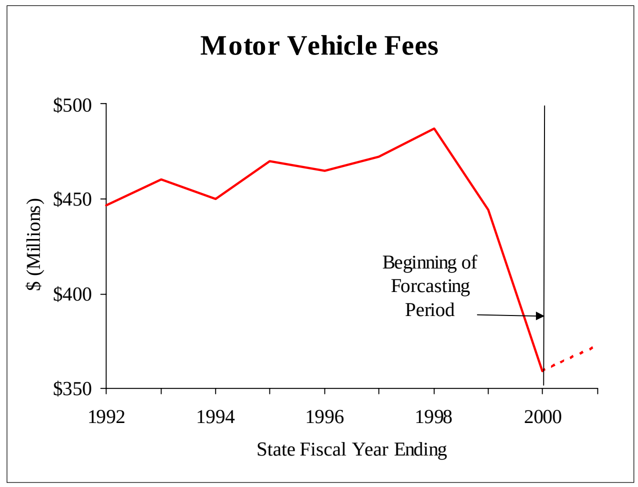
Recent Legislative History

The tax on diesel motor fuel was reduced by 2 cents per gallon, effective January 1, 1996.

Motor Vehicle Fees

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$552	$444	-8.7%	$552	$444	-8.7%
1999-2000 Estimate	508	359	-19.1%	499	353	-20.5%
2000-2001 Current Law	487	341	-5.0%	471	327	-7.4%
2000-2001 Proposed Law	509	364	1.4%	494	350	-0.8%

Revenue from Motor Vehicle Fees comes from over 50 different license, registration, service, and penalty receipts. Passenger and commercial vehicle registrations, and licensing fees are the largest components.



General Fund

The Committee Staff estimates that Motor Vehicle Fees will total $359 million in State Fiscal Year 1999-2000, representing a 19.1 percent decline. This estimate is $6 million above that of the Executive. The 25 percent reduction in auto registration fees, coupled with an increased dedication of Motor Vehicles Fees to dedicated transportation funds explain the expected decline in receipts. The Committee Staff current law forecast for State Fiscal Year 2000-01 is $341 million, representing a decline of 5.0 percent. This estimate is $14 million higher than the Executive.

The Committee Staff proposed law forecast for State Fiscal Year 2000-01 is $364 million, representing an increase of 1.4 percent. Legislation submitted with the Executive Budget proposes a re-issuance of all New York State license plates, an eight-year license renewal and a new fee on franchise dealers. These measures are expected to increase revenues by $23.5 million.

All Funds

The Dedicated Highway and Bridge Trust Fund, is projected to receive $149 million in State Fiscal Year 1999-2000, and $146 million in State Fiscal Year 2000-01. All Funds receipts are expected to total $508 million in State Fiscal Year 1999-2000, and $509 million in State Fiscal Year 2000-01.

Recent Legislative Changes

In 1998, auto registration fees were reduced by 25 percent and the percentage earmarked to the dedicated transportation fund was increased to hold this fund harmless from the fee reduction.

Other Taxes

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$1	--	$1	--
1999-2000 Estimate	1	--	1	--
2000-2001 Forecast	1	--	1	--

Article 19 of the Tax Law imposes a 3 percent tax on gross receipts from boxing and wrestling exhibitions, including receipts from broadcasting rights. Article 2 of the Racing, Pari-Mutuel Wagering and Breeding Law levies a State tax of 4 percent on admissions charges to racetracks and simulcast theaters. All of the receipts are deposited in the General Fund.

General Fund

The Committee Staff estimates that receipts from Other Taxes in State Fiscal Year 1999-2000 will total $1 million. This estimate is the same as the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is also $1 million.

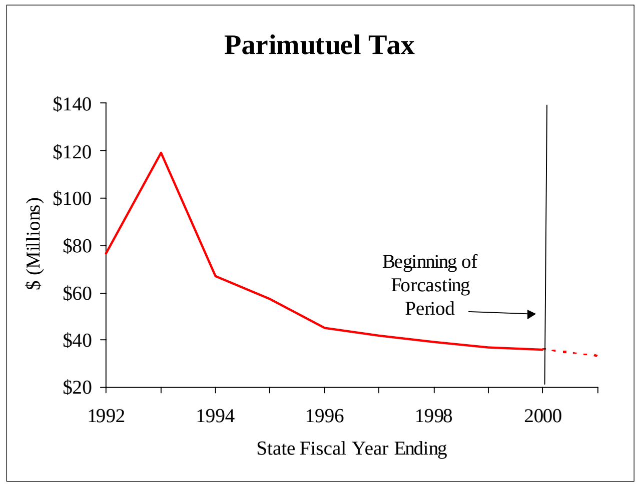
Recent Legislative History

Legislation enacted in the 1999 State Budget reduced the rate of the gross receipts tax for boxing and wrestling exhibitions to 3 percent from 5.5 percent effective October 1, 1999. This legislation also imposed a cap on the total tax at $50,000 per match for gross receipts from ticket sales, and $50,000 per match for gross receipts from broadcasting rights.

Pari-Mutuel

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$37	-4.2%	$37	-4.2%
1999-2000 Estimate	36	-2.7%	36	-2.7%
2000-2001 Forecast	33	-8.3%	33	-8.3%

The Racing, Pari-Mutuel Wagering and Breeding Law imposes a Pari-Mutuel Tax on bets placed at racetracks, simulcast theaters and Off-Track Betting (OTB) facilities. For-profit and not-for-profit racing associations, as well as OTB Corporations, are taxed a percentage of their total betting pools for the privilege of conducting pari-mutuel wagering. All of the receipts are deposited in the General Fund.



General Fund

The Committee Staff estimates that receipts will total $36 million in State Fiscal Year 1999-2000, representing a decline of 2.7 percent over last fiscal year. This estimate is the same as the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 is $33 million, representing an 8.3 percent decline over State Fiscal Year 1999-2000. This estimate is the same as that of the Executive.

Recent Legislative History

In 1999, the tax rate on "on track" wagering at New York Racing Association (NYRA) facilities was reduced from 3.7 to 2.6 percent effective September 10, 1999, and provided for a further reduction to 1.6 percent effective April 1, 2001. These rate reductions expire on December 31, 2007. In addition, Legislation also directed money to NYRA purses and the NYS Thoroughbred Breeding and Development Fund.

In 1998, the Legislature extended for four years provisions affecting various statutes relating to takeouts, tax rates, and the purse payments of non-profit racing, as well as authorizations for on-track and off-track simulcast wagering.

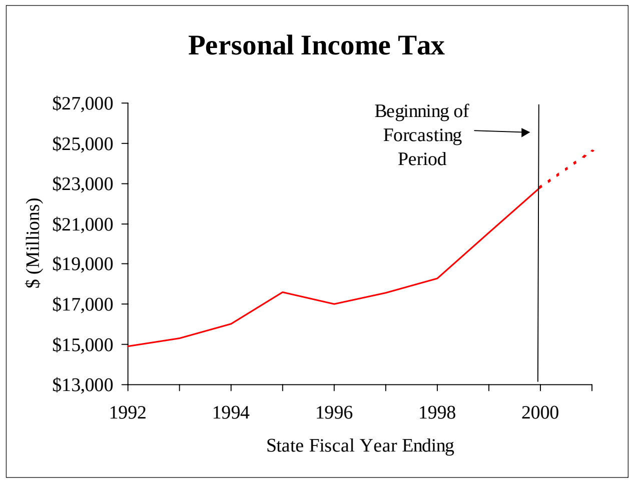
In 1997, NYRA was authorized to conduct racing at Belmont, Aqueduct, and Saratoga through December 31, 2007. Furthermore, various simulcasting provisions were extended for an additional one year, including in-home experiment, telephone wagering and out-of-state harness simulcasting.

NYRA was also required to use the first $2 million in annual profits for increasing purses. Any additional profits are to be used to reduce debt obligations.

Personal Income Tax[3]

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$20,662	$20,080	13.1%	$20,662	$20,080	13.1%
1999-2000 Estimate	22,089	20,894	4.1%	21,905	20,710	3.1%
2000-2001 Current Law	27,435	25,425	21.7%	26,653	24,643	19.0%
2000-2001 Proposed Law	27,435	23,975	14.7%	26,653	23,193	12.0%

Article 22 of the Tax Law imposes a Personal Income Tax on the income of New York State individuals, estates, and trusts. Tax collections are received through employee withholding, estimated tax payments, payments accompanying tax returns, late payments, and assessments.



General Description

Personal Income Tax (PIT) receipts contribute over one-half of all receipts to the General Fund. Withholding is the single largest component, comprising roughly 80 percent of Personal Income Tax receipts.

New York State's definition of income closely mirrors federal rules, which include wages, salaries, capital gains, unemployment compensation, and interest and dividend income. The sum of these sources is Federal Adjusted Gross Income. New York Adjusted Gross Income (NYAGI) is calculated starting with this base, from which certain income is added or subtracted to arrive at New York Adjusted Gross Income.

The New York standard deduction or itemized deductions, and a dependent exemption are subtracted from NYAGI, which yields New York State Taxable Income. Taxes are calculated based on this amount. Certain credits are then subtracted from the calculated tax to determine total tax liability.

[3] These estimates include a Refund Reserve Transaction of $86 million in State Fiscal Year 1998-99, ($788) million in State Fiscal Year 1999-2000, and $2,527 million in State Fiscal Year 2000-01; in addition STAR Transfers of $582 million in State Fiscal Year 1998-99, $1,195 million in State Fiscal Year 1999-2000, and $2,010 million in State Fiscal Year 2000-01 are included in the current law estimates. A STAR transfer of $3,210 million are included in the State Fiscal Year 2000-01 proposed law estimate.

General Fund

The Committee Staff estimates that State Fiscal Year 1999-2000 receipts will total $20.894 billion, which reflects an increase of 4.1 percent over State Fiscal Year 1998-99. This includes a $788 million Refund Reserve transaction, which is an administrative adjustment that is expected to reduce General Fund revenues in State Fiscal Year 1999-00. This estimate is $184 million higher than the Executive.

The largest component of the Personal Income Tax is withholding. Employers withhold tax from wages based on the estimated liability of each employee. Receipts from withholding also include taxes withheld on bonus payments paid to employees.

Withholding receipts are projected to total $18.208 billion in State Fiscal Year 1999-2000. This represents an increase of $1.687 billion, or 10.2 percent over State Fiscal Year 1998-99. This increase is attributable to several factors, including continued growth in employment and wages.

Estimated payment collections are projected to total $5.891 billion. This represents an increase of $709 million, or 13.7 percent over last fiscal year. Estimated payments consist of quarterly payments made by certain taxpayers on their estimated tax liability. These taxpayers historically have consisted of high income earners, or people who realize significant capital gains. The performance of the financial markets in 1999 will generate strong capital gains realizations, which is primarily responsible for the increase in estimated payments. Consistent with this strong growth is the Committee Staff forecast for capital gains growth of approximately 24.7 percent in 1999.

The Committee Staff current law forecast for Personal Income Tax collections is $25.425 billion in State Fiscal Year 2000-01. This forecast reflects a STAR Transfer of $2.010 billion.

Withholding receipts are projected to increase to $19.675 billion in State Fiscal Year 2000-01. This represents growth of $1.467 billion or 8.1 percent over State Fiscal Year 1999-2000. The Committee Staff forecast is based on fiscal year wage growth of 6.2 percent.

The Committee Staff forecasts that estimated payments will total $6.364 billion, representing growth of $473 million or 8.0 percent over State Fiscal Year 1999-2000. Over the last two years, strong capital gains growth has led to double-digit growth in estimated payments. The Committee Staff forecasts that capital gains will grow 16.4 percent in 2000, a growth rate smaller than the 24.7 percent estimated for 1999. This will lower the growth in estimated payments to 8.0 percent in State Fiscal Year 2000-01.

The Committee Staff proposed law forecast for State Fiscal Year 2000-01 is $23.975 billion, which reflects a STAR Transfer of $3.210 billion and a deposit of $250 million into the Debt Reduction Reserve Fund.

PERSONAL INCOME TAX COLLECTIONS
STATE FISCAL YEAR 1999-2000
(Dollar Amounts in Millions)

	1998-99 Actual	1999-00 WAM Estimate	Percent Growth	1999-00 Executive Estimate	Diff. Exec.
Withholding	16,521	18,208	10.2%	18,053	155
Estimated Payments	5,182	5,891	13.7%	5,845	46
Current Year	4,249	4,723	11.2%	4,680	43
Prior Year	933	1,168	25.2%	1,165	3
Final Payments	1,202	1,392	15.8%	1,420	(28)
Delinquencies	466	500	7.3%	495	5
Gross Receipts	23,371	25,991	11.2%	25,813	178
Prior Year Refunds	1,876	2,111	12.6%	2,115	(4)
Current Refunds	460	460	0.0%	460	0
Previous Refunds	159	143	-10.0%	145	(2)
State/City Offsets	300	400	33.5%	400	0
Total Refunds	2,795	3,114	11.4%	3,120	(6)
Refund Reserve	86	(788)	--	(788)	0
STAR Transfer	(582)	(1,195)	--	(1,195)	0
Net Collections	**20,080**	**20,894**	**4.1%**	**20,710**	**184**

PERSONAL INCOME TAX COLLECTIONS
STATE FISCAL YEAR 2000-01
(Dollar Amounts in Millions)

	1999-00 WAM Estimate	2000-01 WAM Forecast	Percent Growth	2000-01 Executive Forecast	Diff. Exec.
Withholding	18,208	19,675	8.1%	19,186	489
Estimated Payments	5,891	6,364	8.0%	6,215	149
Current Year	4,723	5,064	7.2%	4,925	139
Prior Year	1,168	1,300	11.3%	1,290	10
Final Payments	1,392	1,524	9.5%	1,510	14
Delinquencies	500	510	2.0%	510	0
Gross Receipts	25,991	28,073	8.0%	27,421	652
Prior Year Refunds	2,111	2,170	2.8%	2,300	(130)
Current Refunds	460	460	0.0%	460	0
Previous Refunds	143	145	1.4%	145	0
State/City Offsets	400	390	-2.5%	390	0
Total Refunds	3,114	3,165	1.6%	3,295	(130)
Refund Reserve	(788)	2,527	--	2,527	0
DRRF		(250)		(250)	
STAR Transfer	(1,195)	(3,210)	--	(3,210)	0
Net Collections	**20,894**	**23,975**	**14.7%**	**23,193**	**782**

All Funds

In 1998, the Legislature created the School Tax Relief Fund to help finance school tax reductions under the School Tax Relief Program (STAR). Every fiscal year, revenues from the Personal Income Tax are diverted to finance this State-funded program. As a result, $1.195 billion in General Fund revenues will be dedicated to this fund in State Fiscal Year 1999-2000. The Committee Staff estimates that All Funds receipts will total $22.089 billion in State Fiscal Year 1999-2000, which represents a growth rate of 6.9 percent.

In State Fiscal Year 2000-01, $3.210 billion will be diverted to fund the Program. This figure includes, however, a proposed STAR reserve deposit of $1.2 billion. Additionally, the Executive proposes to deposit $250 million in Personal Income Tax receipts into the Debt Reductions Reserve Fund, which is a capital funds project.

The Committee Staff All Funds forecast for State Fiscal Year 2000-01 is $27.435 billion, representing a growth of 24.2 percent.

Recent Legislative History

In 1999, the Legislature increased the Earned Income Tax Credit from 20 percent of the federal credit to 22.5 percent in Tax Year 2000, and to 25 percent in tax years beginning in 2001.

Legislation in 1999 also extended the emerging technology tax credits to businesses who pay tax under the Personal Income Tax.

In addition, the farmer school tax credit was enhanced to expand the definition of qualified agricultural property to include land set aside or retired under a federal supply management or soil conservation program.

Finally, the State's innocent spouse relief measures were amended to conform to that provided by the federal government.

In 1998, the Legislature enacted Personal Income Tax provisions, which:

- Enhanced the Child and Dependent Care Credit to 100 percent of the Federal credit for taxpayers with incomes of $35,000 or less. The credit is phased-down to 20 percent of the Federal credit for taxpayers with incomes between $35,000 and $50,000;

- Accelerated the date for which the base acreage amount used when determining the Agricultural School Tax Credit increases from 175 to 250 acres from Tax Year 1999 to Tax Year 1998;

- Created an exclusion from the Personal Income Tax for income and assets derived from assets stolen from, hidden from, or otherwise lost to Holocaust victims and their families; and

- Allowed for the one-time deferral of capital gains taxation if the gain is reinvested in an emerging technology company.

In 1997, the Legislature enacted several provisions under the Personal Income Tax. They include:

- Increasing the Child and Dependent Care Credit to 100 percent of the Federal credit for taxpayers with adjusted gross income of $17,000 or less;

- Creating the New York State College Choice Tuition Savings Program. New York State residents and non-residents can establish savings accounts to pay for qualified higher education expenses;

- Enhancing the Farm School Property Tax credit by exempting up to the first $30,000 of non-farm Federal gross income in the determination of eligibility for the credit. It also provides for subtracting principal payments on farm debt when calculating the income limit for the phase-out of the credit;

- Extending the Employment Incentive Credit and Economic Development Zone Employment Incentive Credit to businesses whose owners are taxable under the Personal Income Tax; and

- Establishing a new solar credit for residential investment in solar electric generating equipment.

In 1996, the Legislature enhanced the Child and Dependent Care Credit by increasing the credit to 30 percent of the Federal credit in 1996, and to 60 percent in 1997, for taxpayers with incomes less than $10,000. The credit is phased down to 20 percent for taxpayers with income greater than $14,000. The credit was also made refundable.

A tax amnesty program was also established in 1996, which was provided to taxpayers with outstanding liability for Tax Years up to and including 1994. Penalties, but not interest, were waived. Gross Personal Income Tax revenues collected exceeded $130 million under the program.

In 1995, the Legislature enacted a three-year Personal Income Tax reduction plan. This legislation:

- Reduced the top rate from 7.875 percent in 1994 to 6.85 percent in 1997;

- Accelerated the increase in the Earned Income Tax Credit (EITC) for 1996 to a fully phased in level of 20 percent of the Federal credit;

- Reduced the EITC in 1996, and every year thereafter, by the amount of the Household Credit used by the taxpayer;

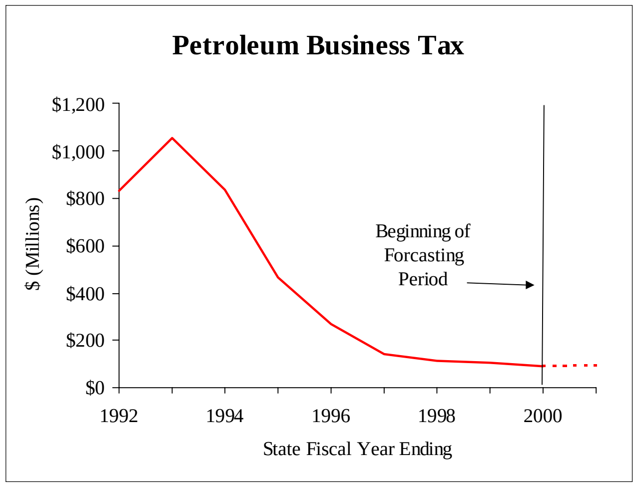
- Introduced an Excess Deductions Credit for 1995 only, to ensure that middle income itemizers will not experience a tax increase due to the change from the 5-bracket to the 4-bracket structure; and

- Maintained the scheduled increases in the standard deduction from $9,500 for married couples filing jointly in 1994 to $13,000 in 1997.

Petroleum Business Taxes

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$1,034	$102	-10.3%	$1,034	$102	-10.3%
1999-2000 Estimate	1,047	93	-8.8%	1,032	92	-9.8%
2000-2001 Forecast	1,052	94	1.1%	997	90	-2.2%

Article 13-A of the Tax Law imposes the Petroleum Businesses Tax (PBT) for the privilege of extracting, producing, refining, manufacturing or importing petroleum in New York State. Imposition of the tax occurs at different points in the distribution chain, depending upon the type of petroleum product.



General Fund

The Committee Staff projects receipts in State Fiscal Year 1999-2000 to total $93 million, a decline of 8.8 percent. Additional dedication of General Fund receipts to the transportation funds is reflected in this negative growth. The General Fund share of Petroleum Business Tax receipts was reduced from 12.4 percent of the basic tax to 10.7 percent on January 1, 1999. Additionally, a further reduction of 0.75 cents per gallon on the supplemental diesel tax took effect on January 1, 1999, and a 5 percent reduction in all Petroleum Business Tax rates due to a downward revision of the index took place on January 1, 2000. This estimate is $1 million above the Executive.

The Committee Staff forecasts receipts to increase by an additional 1.1 percent, to $94 million in State Fiscal Year 2000-01. This estimate is $4 million above the Executive.

All Funds

The General Fund, the Mass Transit Operating Assistance Fund (MTOAF), and other dedicated receipts comprise the All Funds estimate for the Petroleum Business Tax. In State Fiscal Year 1999-2000, All Funds receipts are estimated to total $1,047 million, an increase of 1.3 percent. Receipts for State Fiscal Year 2000-01 are projected to total $1,052 million, a 0.5 percent increase.

Legislation submitted with the Executive Budget would eliminate the minimum tax imposed on petroleum business. When fully effective, this elimination will reduce revenues by $300,000 annually.

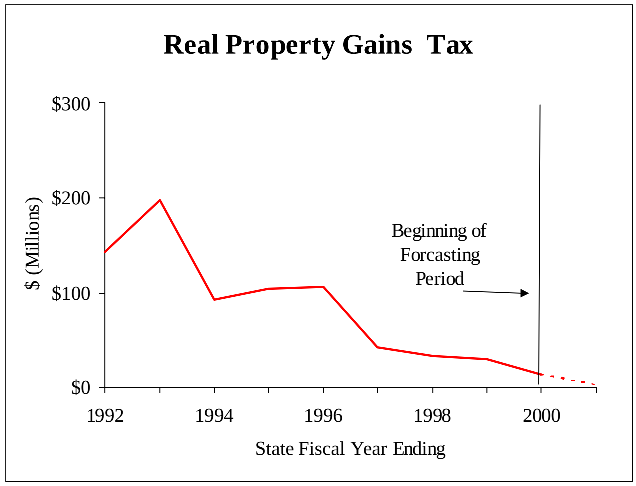
Recent Legislative History

In 1997, additional refunds and credits were created for the Petroleum Business Tax and Motor Fuel Taxes for commercial vessels where the purchases of fuel exceed consumption of fuel in the State.

In 1996, legislation was enacted that: reduced the tax on “railroad diesel” by 7 cents per gallon; eliminated the Petroleum Business Tax on non-automotive diesel motor fuel and residual used in manufacturing; increased the basic credit or reimbursement on residual petroleum products or diesel fuel for utility companies by 0.5 cents per gallon; reduced the automotive diesel motor fuel component by 1.75 cents per gallon; and changed the distribution of revenues from the Petroleum Business Tax to hold the transportation funds and MTOAF harmless from these reductions. Furthermore, other provisions included: the reimbursement of the Petroleum Business Tax on aviation and kero-jet fuel purchased in-state but consumed out-of-state; expanded the time for which taxpayers may claim a refund for taxes paid on fuel purchased in-state but consumed out-of-state; and allowed taxpayers to file for refunds for taxes paid up to four years after the tax was paid.

Real Estate Gains Tax

	Ways and Means		Executive	
	General Fund	Percent Change	General Fund	Percent Change
1998-99 Actual	$29	-11.3%	$29	-11.3%
1999-2000 Estimate	14	--	14	--
2000-2001 Forecast	3	--	0	--



The Real Estate Gains Tax is imposed, pursuant to Article 31-B of the Tax Law, at a rate of 10 percent. This tax is placed on the gains from certain large realty transfers, where the consideration is $1 million or more. All of the receipts are deposited into the General Fund.

General Fund

The Committee Staff estimates that Real Estate Gains Tax receipts in State Fiscal Year 1999-2000 will total $14 million. This estimate reflects the repeal of this tax effective for transfers that occurred after June 15, 1996. However, taxpayers will continue to make installment payments on past liabilities.

The Committee Staff forecasts net receipts of $3 million for State Fiscal Year 2000-01. This estimate is $3 million higher than the Executive.

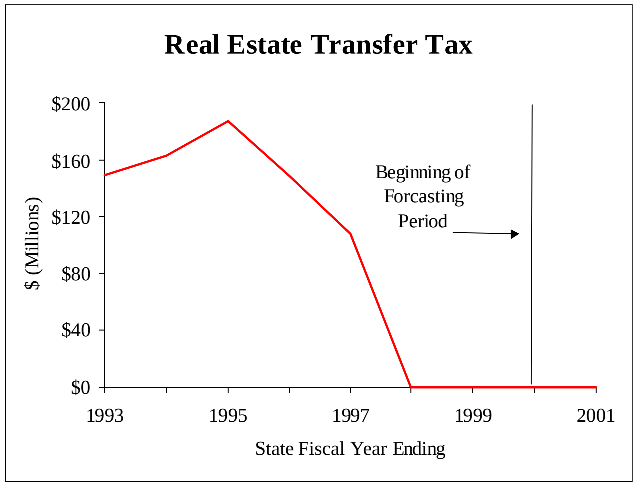
Recent Legislative History

Chapter 309 of the Laws of 1996 repealed the Gains Tax, retroactive to all conveyances of property that took place after June 15, 1996.

Real Estate Transfer Tax

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$312	--	--	$312	--	--
1999-2000 Estimate	323	-	--	326	-	--
2000-2001 Forecast	329	-	--	333	--	--

The Real Estate Transfer Tax, Article 31 of the Tax Law, is levied on real property transfers where the value of the interest in the property exceeds $500. The rate is $2 for each $500, or a fraction thereof, of net consideration. The party that sells the property pays the tax. An additional tax of 1 percent is levied on residential transfers where the consideration is over $1 million. The party that buys the property pays the additional tax.



General Fund

Real Estate Transfer Tax revenues are entirely dedicated to environmental programs.

All Funds

The Committee Staff estimates Real Estate Transfer Tax receipts of $323 million in State Fiscal Year 1999-2000. This represents an increase of $11 million, or 3.5 percent, which is mainly the result of higher asking rents throughout Metropolitan New York. In State Fiscal Year 1998-99, collections were bolstered from several large transactions. Under current law, $112 million in Real Estate Transfer Tax revenue is dedicated to the Environmental Protection Fund, and all remaining revenue is dedicated to pay debt service on the Clean Air/Clean Water Bond Act. This estimate is $3 million lower than the Executive

The Committee Staff forecast for State Fiscal Year 2000-01 is $329 million. This forecast is based on projections of moderate growth in the economy. Interest rates are again expected to rise but not enough to not have a significant impact on construction. This estimate is $4 million lower than the Executive

Recent Legislative History

Legislation enacted in 1999 extended the reduced rate for the State and New York City Transfer Taxes for Real Estate Investment Trusts (REITS) through September 1, 2002. The current rates are reduced for these transfers from $2 to $1 per $500 of conveyance under the New York State Real Estate Transfer Tax Rate and it is estimated that it will cost the State $1.3 million in State Fiscal Year 1999-200.

In 1998, legislation was signed into law which increased the statutory amount required to be deposited into the Environmental Protection Fund from $87 million to $112 million beginning April 1, 1998.

In 1996, legislation was enacted that extended the current New York State Real Estate Transfer and New York City Real Estate Transfer Tax reductions for Real Estate Investment Trusts. Further, it temporarily expanded the application of the REIT provisions to transfers to existing REITs, and changed the 40 percent interest requirement to 50 percent for existing REITs. It also eliminated the "seventy-five percent" rule for existing REITs until September 1, 1998. On the expiration date, the present REIT provisions again become effective permanently. This change is expected to have a minimal effect on overall collections.

Also in 1996, voters approved the Clean Air/Clean Water Bond Act. As part of the Act, revenues in excess of the $87 million already dedicated to the Environmental Protection Fund will be used to pay debt service on the Bond Act. Any funds in excess of that which is necessary to make debt service payments will be transferred back to the General Fund and show up as transfers to the General Fund.

Regional Business Tax Surcharge

	Ways and Means		Executive	
	All Funds	Percent Change	All Funds	Percent Change
1998-99 Actual	$547	-9.0%	$547	-9.0%
1999-2000 Estimate	532	-2.7%	529	-3.3%
2000-2001 Forecast	512	-3.8%	502	-5.1%

The Regional Business Tax Surcharge is comprised of a 17 percent surcharge applied on the portion of Article 9-A (Corporate Franchise), Article 9 (Corporations and Utilities), Article 33 (Insurance), and Article 32 (Bank) taxes attributable to business activity carried on within the Metropolitan Commuter Transportation District (MCTD). This district consists of seven counties (Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester) and the City of New York.

All Funds

Collections from the surcharge are deposited into the Mass Transportation Operating Assistance Fund, associated with the Metropolitan Transportation Authority.

The Committee Staff estimates that State Fiscal Year 1999-2000 revenues will total $532 million, representing a 2.7 percent decline over State Fiscal Year 1998-99. This estimate is based on earnings for businesses, especially for the financial sector, which is a very significant element within the MCTD. This estimate is $3 million higher than the Executive.

The Committee Staff forecast for State Fiscal Year 2000-01 totals $512 million, representing a 3.8 percent decline.

Recent Legislative History

In 1997, the State extended the surcharge for an additional 4 years; it now runs through December 31, 2001.

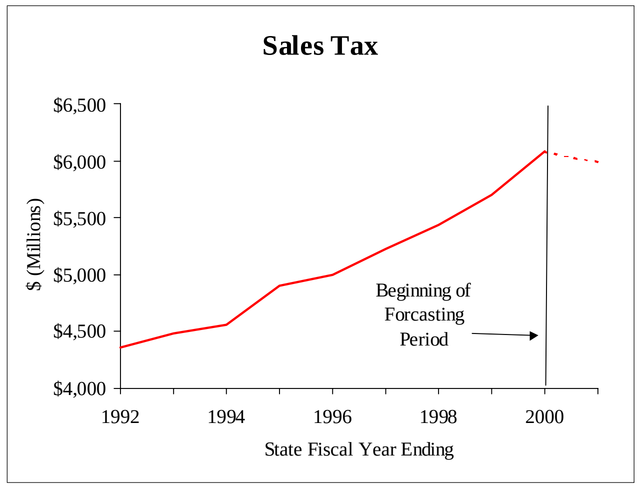
Additionally, recent rate reductions under Articles 9-A, 32 and 33 have been made at the State level, but the MTOAF is still to be computed using the old tax rates, thus holding MTOAF harmless.

Recent tax reductions under Article 9 also hold MTOAF harmless, with the exception of collections under Section 186-a. Reductions under this section reduce the MTOAF collections proportionally.

Sales Tax

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$7,912	$5,697	4.7%	$7,912	$5,697	4.7%
1999-2000 Estimate	8,449	6,079	6.7%	8,406	6,050	6.2%
2000-2001 Current Law	8,336	5,982	-1.6%	8,304	5,960	-1.5%
2000-2001 Proposed Law	8,335	5,981	-1.6%	8,303	5,959	-1.5%

The Sales and Compensating Use Tax, imposed by Article 28 of the Tax Law, is a broad-based consumption tax levied on the sale of tangible personal property, excluding items such as food and products used in manufacturing, and including a limited number of services such as trash removal and interior design services. The State Sales Tax rate is 4.0 percent.



General Fund

The Committee Staff estimate for State Fiscal Year 1999-2000 is $6,079 million. This represents a growth of $382 million, or 6.7 percent, over State Fiscal Year 1998-99. Despite previously enacted tax cuts, the persistent strength of current collections is the result of a stable economy, combined with continued growth in both retail sales and employment. This estimate is $29 million higher than the Executive.

The Committee Staff current law forecast for State Fiscal Year 2000-01 is $5,982 million, which represents a decline of $97 million, or 1.6 percent. This forecast is based on the expectation that moderate gains in employment will continue, but assumes that interest rates will continue to rise and that the relatively high levels of consumer confidence will begin to drop off. This forecast also accounts for the implementation of the elimination of the Sales Tax on articles of clothing and footwear costing less than $110, which will begin on March 1, 2000.

Legislation submitted with the Executive Budget would impose the Compensating Use Tax on gas and electric services. The Executive also proposes to enhance the current exemptions provided to farmers and provide those same exemptions to commercial horse boarding operations. Additionally, proposed law would provide certain exemptions from the Sales Tax for internet data centers and emissions inspection facilities. This legislation is expected to have a fiscal impact of $1 million in State Fiscal Year 2000-01. The Committee Staff proposed law forecast, therefore, is $5,981 million.

All Funds

The All Funds category is comprised of the General Fund, the Local Government Assistance Tax Fund (LGATF), and the Mass Transportation Operating Assistance Fund (MTOAF). The Committee Staff estimates that All Funds receipts in State Fiscal Year 1999-2000 will total $8,449 million. All Funds receipts in State Fiscal Year 2000-01 are projected to total $8,336 million under current law, and $8,335 million under proposed law.

One-quarter of the receipts generated from the State Sales Tax are dedicated to pay for the debt service of the Local Government Assistance Corporation (LGAC), which was created in 1990 to eliminate the annual Spring Borrowing. Once the debt service obligations are paid, any remaining excess revenue is then transferred back to the General Fund. In State Fiscal Year 1999-2000 it is estimated that $2,026 million will be dedicated to LGAC. The forecast for State Fiscal Year 2000-01 is expected to yield an LGAC dedication of $1,994 million.

In 1981, MTOAF was created to help finance the State's public transportation system. A portion of the revenue is derived from the 0.25 percent Sales Tax that is imposed in the Metropolitan Commuter Transportation District (MCTD). In State Fiscal Year 1999-2000, the Committee Staff estimates that $344 million will be deposited in MTOAF. Revenues dedicated to MTOAF are expected to total $360 million in State Fiscal Year 2000-01.

Recent Legislative History

Articles of clothing and footwear costing less than $500 per item were exempt from the State Sales Tax for the eight-day period beginning September 1, 1999 and ending September 7, 1999. A week-long exemption also took place from January 15, 2000 through January 21, 2000. These temporary clothing and footwear exemptions are expected to produce a one-time revenue loss of $50 million in State Fiscal Year 1999-2000.

The permanent exemption for articles of clothing and footwear costing less than $110 was originally scheduled to begin on December 1, 1999. Legislation enacted as a part of the 1999 budget, however, changed the scheduled start-date to March 1, 2000. As a part of this legislation, localities were also given the option to adopt resolutions to match the permanent exemption at the local level, and to repeal such resolutions effective March 1 of any given year. Previously, localities were authorized to match the permanent exemption with the understanding that they could not reverse their decision.

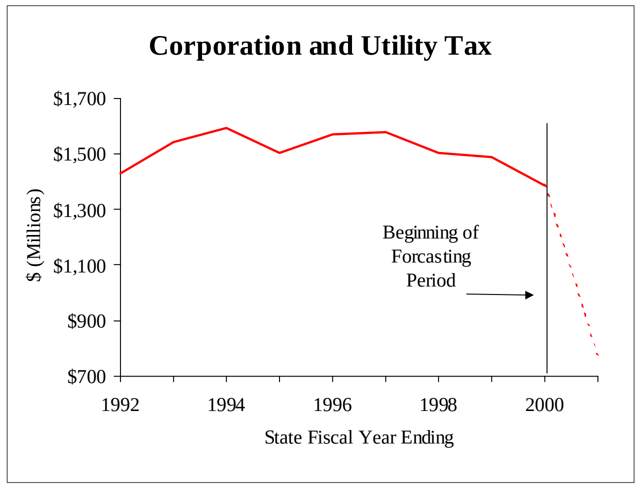
Miscellaneous provisions enacted in 1999 involving the sales tax include the following:

- Materials or services used in producing dramatic or musical arts performances will be exempt effective March 1, 2001;
- Special sales tax provisions required of Manhattan parking facility operators have been extended through November 30, 2004;
- The current sales tax exemption on installation services will be extended to the local level effective March 1, 2000;
- The basis of the use tax on self-manufactured, self-used goods will be set at cost rather than market value effective March 1, 2001;
- The current exemption for farmers will be expanded to include materials used to make capital improvements on real property or land used in farming, including fencing, effective March 1, 2001;
- The current exemption for items sold from a coin-operated vending machine will apply to purchases made with a currency, debit or credit card effective December 1, 1999;
- The current exemption for telecommunications equipment will be expanded to include machinery, equipment or apparatus used to upgrade cable television systems or to provide internet access services for sale, effective March 1, 2001; and
- The current exemption for computer hardware used to make computer software for sale will be expanded to include such hardware used to design or develop internet websites for sale, effective March 1, 2001.

The above provisions will provide no loss to the State in State Fiscal Year 1999-2000, due to the structure of the effective dates. The estimated annual loss to the State due to these provisions is $11.2 million, when fully implemented.

Utility Tax

	Ways and Means			Executive		
	All Funds	General Fund	General Fund Percent Change	All Funds	General Fund	General Fund Percent Change
1998-99 Actual	$1,546	$1,489	-1.0%	$1,546	$1,489	-1.0%
1999-2000 Estimate	1,473	1,388	-6.8%	1,457	1,373	-7.8%
2000-2001 Current Law	1,131	1,033	-25.6%	1,114	1,018	-25.9%
2000-2001 Proposed Law	877	779	-43.9%	860	764	-44.4%



The Corporations and Utilities Tax, Article 9 of the Tax Law, imposes a gross receipts and franchise tax on regulated utilities and industries. The major industries subject to this tax are utilities (gas, electric, water and steam), telecommunications (telephone and telegraph), and transportation industries (trucking and railroad). The majority of revenue from Article 9 is deposited into the General Fund. However, a portion of the tax imposed on the capital stock of telecommunications and transportation companies is dedicated to the Mass Transportation Operating Assistance Fund (MTOAF).

General Fund

The Committee Staff estimates receipts for State Fiscal Year 1999-2000 to total $1,388 million, a decline of 6.8 percent. The contributing factors to this decline are rate reductions enacted in 1996 for trucking and railroad companies, and the Power for Jobs Program. This estimate is $15 million higher than the Executive. In addition, the rate reduction enacted in 1997, which began phasing-in on October 1, 1998, will reduce revenues by $79 million.

The Committee Staff proposed law forecast for State Fiscal Year 2000-01 is $779 million, representing a decline of 43.9 percent. This decline is attributable to a full impact of the rate reduction enacted in 1997. The second phase-in of the rate reduction began on January 1, 2000. The current rate reduction is estimated to reduce revenues by approximately $339 million in State Fiscal Year 2000-01. In addition, the Executive has proposed changing the method of taxation of utility companies from Article 9 to Article 9-A. This proposal would reduce utility tax revenues by $254 million on Fiscal Year 2000-01.

Legislation submitted with the Executive Budget proposes to restructure Article 9 to accommodate competition in the electric industry. The proposed law would do the following:

- Repeal Section 186 and 186-b
- Phase out the tax commodity and distribution under 186-a, over six years
- Phase-out the Gas Import Tax

All Funds

Through a special revenue fund, the Metropolitan Transportation Authority (MTA) receives a dedicated share of collections from Sections 183 and 184 of the Tax Law. For April 1, 1996 through December 31, 1996, 48.9 percent of revenues collected under these two sections of law was dedicated, and 49.5 percent was dedicated for Calendar Year 1997. The amount dedicated will increase to 54.5 percent for Calendar Years 1998 and 1999. In Calendar Year 2000, 64 percent of these revenues will be dedicated. All Funds receipts are expected to total $1,473 million in State Fiscal Year 1999-2000, and $877 in State Fiscal Year 2000-01.

Recent Legislative History

In 1999, two measures were enacted. First, independent power producers who import natural gas for the production of electricity will be exempt from the gas import tax, effective January 1, 2001. This measure will reduce revenues by $5.0 million when fully implemented.

In addition, local telecommunications companies with fewer than one million access lines will be exempt from the excess dividends base under Section 183 of the Tax Law effective January 1, 2002. This exemption is expected to reduce revenues by $2.0 million when fully implemented.

In 1997, legislation that was enacted included:

- A rate reduction for Sections 186-a and 186-e of Article 9 from 3.5 percent to 3.25 percent on October 1, 1998. A further reduction of the rate to 2.5 percent will occur on January 1, 2000;

- A rate reduction for the Gross Earnings Tax in Section 184 from 0.75 percent to 0.375 percent. For transportation companies the rate reduction is from 0.6 percent to 0.375 percent, effective July 1, 2000;

- For the purpose of computing the MTA Surcharge on the above, Sections 184, 186-a and 186-c, the tax shall be computed as if the rate reduction had not occurred; and

- The formula for the distribution of revenues from Sections 183 and 184 will be changed to maintain the required funding level for the MTOAF.

In 1996, the tax rate on trucking and railroad industries, under Section 184 of Article 9, was reduced from 0.75 percent to 0.6 percent of gross receipts starting in Tax Year 1997. Further, these industries have the option of converting from taxation under Article 9 to Article 9-A beginning in Tax Year 1998 and thereafter. There was no fiscal impact for State Fiscal Year 1996-97, and reduced revenues by an estimated $6 million in State Fiscal Year 1997-98.

In 1995, Telecommunications Tax reform was enacted in response to a Court of Appeals decision. The major implications involved the moving of the access charge deduction from long distance companies to local telephone companies, updating the computation of the tax (Goldberg methodology) for providing telecommunication service, and the agreement that long distance companies would forgo refunds due to them.

In 1994, the dedicated portion of receipts to the MTA was temporarily reduced for two years. The "undedicated" revenues were deposited in the General Fund.

ISSUES IN TAX POLICY

The "new economy" is beginning to have a profound effect on the way that businesses throughout the nation operate. Corporations, once limited by geographical boundaries, are now taking advantage of improved telecommuting technologies to access markets well beyond state and national borders. Service companies, the now dominant economic sector, are increasingly taking advantage of new technologies and markets.

As important as the new economy is to job creation and the overall economic well being of the State, it is just as important to the State's revenue base. However, corporations engaging in the new economy face a multitude of varying state tax laws and are mobile enough to take advantage of the differences. This lack of uniformity among the states is an obstacle to efficient state taxation and business decisions.

It is not surprising that the review of state tax policies is an integral part of business plan discussions by multi-state companies. If regional factors of production and the cost of reaching distant markets are greatly reduced, which is a certainty with today's economy, state tax issues may take on even greater importance. Yet many of our current tax laws were largely crafted in the middle of the 20^{th} century and reflect the environment of their time.

Recent estimates of commodity sales via the Internet have been staggering. The absorption of Internet technology by households and the pace at which it is growing is spectacular. The totality of the economic effect of this growing avenue for market interaction is as yet unknown. What is clear, however, is that it will have an effect on the administration, equity and collection of the Sales and Compensating Use tax.

Apportionment of income is another tax issue that is exacerbated in the new economy. How to fairly measure the economic presence of a company within a given state has challenged economists, accountants, and policy makers for some time. A review of this issue is essential to understanding tax planning by multi-state businesses.

Lawmakers must weigh the economic impact, as well as the costs and benefits, of any change to State tax laws. While these changes will, in all probability, alter the State's revenue base, they may be necessary to achieve economic growth and stability.

It should be noted that with the emergence of new industries and the changing composition of existing ones, revenue estimators face difficulties in judging the impact on regional or national economies. As more light is shed on these markets, the ability to analyze policy changes should improve.

TAXATION OF SALES MADE VIA ELECTRONIC COMMERCE

Introduction

New York State imposes a sales and compensating use tax, which is a broad-based consumption tax levied on all sales of tangible personal property, with the exception of certain goods such as unprepared food, which are specifically exempt. The Sales and Compensating Use Tax is also levied on specifically enumerated services such as auto repair and maintenance. Counties and cities within the State are also authorized to impose this consumption tax. Vendors of taxable goods or services are required to collect the applicable tax on behalf of the State and local jurisdiction.

However, New York State, like all other states in the United States, has federal limitations on its authority to enforce tax collections on sales made outside its jurisdiction. Although by law certain sales made to New York State residents are subject to the sales and compensating use tax, vendors without an established physical presence, or nexus, with New York State cannot be required to collect sales tax on its behalf because of existing federal limitations.

Historically, mail order sales have been the primary area of concern for states over their limited authority to require vendors to collect taxes on sales made to residents of their respective jurisdictions. But with the advent of the Internet and other recent advances in technology, the focus has been turned to electronic commerce. Because of the rapid growth in this segment of the economy, it is likely that the proportion of vendors without nexus in states where their customers are located will rise, perhaps substantially. As the Internet continues to grow as a means of doing business, states may begin to experience significant erosion in their tax bases.

It is possible that Congress will change the existing federal nexus requirements at some point in the future in order to address this potential problem. As an alternative, steps could be taken by individual states, possibly in conjunction with one another, to determine and perhaps implement innovative procedures for collecting use taxes that are due.

The sales and use tax currently provides almost $8 billion in revenues annually to New York State. In addition, local governments in New York generate roughly the same total dollar amount in sales and use tax revenues each year. Although preserving this source of revenue is important, it is not the only reason to examine the collection of taxes on mail order sales and sales made over the Internet.

Another relevant issue is that New York State businesses are required to collect the sales tax, while many out-of-state vendors are not. For example, while an online company such as Amazon.com does not have nexus with New York State, many competing businesses, such as Barnes and Noble, do have nexus and must collect the sales tax. The fact that states cannot require certain vendors to collect on their behalf does not excuse New York residents from their use tax liability. The Use Tax is designed as a “backstop” to the Sales Tax. If a New York resident makes a purchase of a taxable good out of state or through the mail or over the internet, the resident is required by law to pay for the use of the good in New York. However, use tax compliance is difficult to enforce for obvious reasons. Without a solution to this issue, the basic principle of tax equity will continue to be compromised.

Current Obstacles

Because of the rapid emergence of a market without borders, the obstacles that currently prevent states from effectively collecting certain taxes have grown in importance. Recently proposed federal legislation, if enacted, would inhibit the power of the states even further. It is important for individual states to consider these issues when working toward a solution.

Constitutional Limitations

Past United States Supreme Court decisions have lead to the establishment of the current guidelines that determine the authority of individual states to require vendors to collect sales taxes on their behalf. These decisions have been based on both the Commerce Clause and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

The Due Process Clause requires fundamental fairness of government. Taxation on interstate commerce can be justified only to the extent that its purpose is to properly distribute a fair share of the cost of the taxing government. The basic test to ascertain whether a state tax violates the Due Process Clause is to determine whether the taxpayer has received any benefit from the state in return.

The purpose of the Commerce Clause, on the other hand, is to limit any burdens on interstate commerce. Congress is given the express authority to "regulate" interstate commerce and the federal courts have found a "dormant" Commerce Clause that, even in the absence of federal legislation on a matter, operates to limit state action over interstate commerce.

Each of the following Supreme Court decisions has helped to define the authority that states have in requiring vendors to take certain action on their behalf. Although these decisions have made clear that vendors without a physical presence in a certain state have no legal obligation to collect taxes that are owed in that state, they do not question the authority of states to impose a use tax or whether consumers actually owe that tax. The focus of these decisions, therefore, is on the method in which states are able to collect taxes that are owed and not whether the consumer is liable for the remittance of those taxes.

National Bellas Hess v. Illinois Department of Revenue

The first significant Supreme Court decision that essentially set the rules governing the collection of tax on mail-order sales was *National Bellas Hess v. Illinois Department of Revenue* in 1967. In this case, The Supreme Court ruled that the State of Illinois could not require the mail order firm *National Bellas Hess* to collect taxes on its behalf because the only connection with its customers was by United States mail or common carrier. This limited connection was insufficient to satisfy the nexus requirements of Due Process and of the Commerce Clause.

Complete Auto Transit v. Brady

In 1977, *Complete Auto Transit v. Brady* effectively looked past the formal language of tax statute to its practical effect by setting a four-part test that continues to govern the validity of state taxes under the Commerce Clause. In this decision, the Court decided that a tax is to be sustained against a Commerce Clause challenge as long as the following held true. The tax had to be applied to an activity with a substantial nexus with the taxing state, it had to be fairly apportioned, it could not discriminate against interstate commerce, and it had to be fairly related to the services provided by the state.

Quill Corporation v. North Dakota

A more recent Supreme Court decision in 1992, *Quill Corporation v. North Dakota*, further defined and somewhat altered the guidelines that had been previously established. This case involved a Delaware mail order establishment, Quill Corporation, which the State of North Dakota sought to require to collect use taxes on its behalf although it had no established physical connection with North Dakota.

The Supreme Court again ruled that an individual state, North Dakota in this instance, had no power to impose use tax collection responsibilities upon a vendor with no physical presence in that state. Although the result was the same as in *National Bellas Hess*, the decision for this case was based solely on the Commerce Clause and *not* on the Due Process Clause. In effect, the Supreme Court deliberately threw the ball back to Congress, citing the fact that Congress had the ultimate power to resolve the issues caused by the interpretation of the Commerce Clause in the wake of a changing economy.

Federal Preemption of State Taxation

The Internet Tax Freedom Act

The Internet Tax Freedom Act became effective in October 1998, and was based on the idea that information should not be taxed. In order to prevent special and discriminatory taxation on information and commerce exchanged over the Internet, a three-year moratorium was included to prohibit new taxes on Internet access and multiple or discriminatory taxes on electronic commerce. It should be noted that this legislation did *not* impose a moratorium on any tax already imposed and enforced by an individual state, including the sales and use tax.

The Internet Tax Freedom Act also established a temporary Advisory Commission on Electronic Commerce (ACEC), which is comprised of nineteen members, including eleven from federal, state and local governments, and eight from the private sector. The basic duties of ACEC are to conduct a study of taxation and tariff treatment of transactions made over the Internet. Subsequent to the completion of the study, ACEC is required to submit a report of its findings, including appropriate legislative recommendations, to Congress by April 2000.

Federal Legislation

Separate pieces of legislation were recently introduced by Senator John McCain (R-Arizona) and Congressman John Kasich (R-Ohio) that would permanently extend the Internet Tax Freedom Act and eliminate any sales or use tax on domestic or foreign goods or services acquired through electronic commerce. If enacted, this legislation would prohibit states from collecting or even continuing to impose sales or use taxes on transactions made over the Internet, including those transactions currently subject to tax.

Interestingly enough, even though states would lose all power to place sales and use taxes on purchases made over the Internet, they would still be able to develop an individual or multi-state solution to the nexus issue. The solution would affect orders placed over the phone or through the mail since those purchases would still be subject to taxation. As a result, consumers could make tax-free purchases over the Internet, but would have to pay tax on the same good or service purchased at a physical establishment or via conventional mail order.

These pieces of legislation would permanently enforce the existing inequitable tax treatment based on how items are purchased instead of whether those items are subject to taxation. If signed into law, this legislation would also preclude states from continuing to impose taxes on certain retail sales resulting in permanent tax revenue losses.

New York's Reliance on Sales Tax Revenue

Apart from a temporary tax on retail sales during the Great Depression, New York State did not impose a general sales and compensating use tax until 1965. Since then, New York has increasingly relied upon revenues from this tax as an important source of revenue. The State rate was set at two percent through 1968, and was increased to three percent until 1971 when it was raised to the current rate of four percent.

New York State tax collections totaled roughly $38.6 billion in State Fiscal Year (SFY) 1998-99. The sales and compensating use tax accounted for $7.92 billion, or nearly 21 percent of total tax collections. Although this is proportionately smaller than the nationwide average of 37 percent[4], there are only three states (California, Texas and Florida) that collect a higher dollar amount from the sales tax each year.

In terms of neighboring states, Massachusetts relies on the sales tax as a source of tax revenue, roughly at the same proportion as New York. Other bordering states (New Jersey, Connecticut, Pennsylvania and Vermont) depend more on sales tax revenues as a source of state income, but they are all still below the national average.

State Sales Tax Rates and Revenues

State	Rate (%)	Percent of Total State	State	Rate (%)	Percent of Total State
Alabama	4.000	29.3	Montana	--	--
Alaska	--	--	Nebraska	4.500	38.2
Arizona	5.000	48.0	Nevada	6.500	80.2
Arkansas	4.625	41.6	New Hampshire	--	--
California	6.000	37.4	New Jersey	6.000	33.7
Colorado	3.000	31.2	New Mexico	5.000	44.6
Connecticut	6.000	34.5	**New York**	**4.000**	**21.2**
Delaware	--	--	North Carolina	4.000	28.3
Florida	6.000	70.0	North Dakota	5.000	41.4
Georgia	4.000	37.2	Ohio	5.000	37.1
Hawaii	4.000	50.0	Oklahoma	4.500	32.4
Idaho	5.000	32.9	Oregon	--	--
Illinois	6.250	32.8	Pennsylvania	6.000	34.6
Indiana	5.000	32.9	Rhode Island	7.000	33.2
Iowa	5.000	33.9	South Carolina	5.000	37.3
Kansas	4.900	39.9	South Dakota	4.000	71.5
Kentucky	6.000	34.6	Tennessee	6.000	60.3
Louisiana	4.000	38.5	Texas	6.250	59.1
Maine	5.500	40.0	Utah	4.700	38.8
Maryland	5.000	29.9	Vermont	5.000	25.1
Massachuset	5.000	21.2	Virginia	3.500	21.9
Michigan	6.000	35.3	Washington	6.500	52.6
Minnesota	6.000	36.5	West Virginia	6.000	34.7
Mississippi	7.000	44.8	Wisconsin	5.000	32.3
Missouri	4.225	26.7	Wyoming	4.000	39.6

Sources: *State Tax Notes* , "Another Banner Year for State Tax Collections in Fiscal 1998," May 17, 1999; and *Wisconsin Legislative Fiscal Bureau* , "Sales and Use Tax," January 1999.

[4] *State Tax Notes*, "Another Banner Year for State Tax Collections in Fiscal 1998," May 17, 1999.

Nationwide, Nevada relies most heavily on the sales tax, which accounts for approximately 80 percent of total tax revenue in that state, while Florida runs a close second at 70 percent. Five states rely completely on alternate forms of revenue (Alaska, Delaware, Montana, New Hampshire and Oregon), and do not impose a State sales tax at all.

New York's local jurisdictions also rely on the sales and compensating use tax as an important source of revenue. According to the most recent comprehensive report on municipal affairs published by the State Comptroller[5], localities generated more than $6.9 billion in sales tax revenues in 1997. This represented about 15.6 percent of total tax revenues for that year. Excluding New York City, localities collected almost $4 billion in sales tax revenues, representing 18.6 percent of total tax collections. The $2.9 billion collected by New York City made up 12.9 percent of tax collections in that jurisdiction.

Fiscal Impact on New York

Retail sales of tangible personal property in New York State are subject to taxation unless they are specifically exempt by law. Based on data compiled by the U.S. Census Bureau[6] and the New York State Department of Taxation and Finance,[7] the Committee Staff estimates that roughly three-quarters of all retail sales are subject to taxation in New York State.

State sales tax collections on retail sales total over $4 billion annually, accounting for more than half of total sales tax collections. Considering the rapid growth in online sales, it is likely that vendors without nexus are simultaneously increasing their market share in retail transactions. With over $4 billion annually in retail sales tax collections, New York State stands to lose more than $40 million per year for each percentage increase in market share gained by vendors not required to collect tax.

It is important to keep in mind that the appropriate tax will continue to be collected by New York State for certain retail sales whether or not those sales are made over the Internet. For example, taxes collected on auto sales, which account for approximately one-quarter of all taxable retail sales in New York State, will continue to be collected if purchased over the Internet from a vendor without nexus, as a result of the auto registration process in New York State. This is because use taxes owed on motor vehicles purchased out-of-state are imposed at the time of registration in New York.

Additionally, there are other sectors of the retail economy that have minimal, if any, risk exposure to the nexus issue. It is fairly safe to say, for

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[5] Comptroller's Special Report on Municipal Affairs for Fiscal Year Ended in 1997, New York State Office of the State Comptroller, Released December 1998.
[6] *1997 Economic Census of Retail Trade* (New York Geographic Area Series, EC97R44A-NY Issued October 1999), U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau.
[7] *Taxable Sales and Purchases*, NYS Department of Taxation and Finance, September 1999.

example, that purchases of gasoline will not be made over the Internet. On the other hand, sporting goods, electronics, books, music, auto parts, furniture and pet supplies are all examples of retail goods that are commonly purchased over the Internet or through the mail, which makes them vulnerable to tax evasion.

Upon review of the various sectors of the retail economy in New York State and the risk factors involved, the Committee Staff estimates that roughly 55 percent of taxable retail sales are at risk of losing market share to electronic commerce. This leaves more than $2.2 billion in annual tax collections vulnerable to the existing nexus problem, which translates to a $22 million annual loss for each percentage point in market share gain by the relevant sectors of the retail economy.

Certain services are also subject to taxation in New York State if they are specifically enumerated in the law. Examples of taxable services are information services, printing services, maintenance and repair services, interior design services, and protective and detective services. Of these, information services such as credit reports, stock market analysis reports and marketing surveys are the most likely to be vulnerable to tax evasion because of the nexus requirement.

There are specific criteria for determining the circumstances in which information services are taxable. For example, custom reports are not taxable unless they can be substantially incorporated into other reports for sale. Newsletters are normally subject to tax, but if they qualify as periodicals they are exempt. Because each case is relatively unique, it is more difficult to quantify the potential fiscal impact that services sold over the Internet will have on the tax base. However, since total sales tax collections on services account for roughly $1 billion each year, New York State stands to lose $10 million annually for each percentage increase in market share by vendors without nexus.

The remaining $3 billion in annual sales tax collections are those imposed in areas such as wholesale trade, utilities, manufacturing, communications and construction. Of these, the area most likely to be involved in Internet or mail order sales is wholesale trade. Although wholesalers are primarily engaged in sales for resale, which are exempt from the sales tax, they are sometimes involved in selling finished products at the retail level that are taxable. The structure of the data used in this analysis categorizes each business based on the industry in which they are primarily engaged, but does not look at different types of sales within that business. As a result, these areas may have an effect on the tax base even though on the surface it may seem that they are likely to be outside the scope of the nexus issue.

Case Studies

Obtaining reliable data on estimated current and future online sales is difficult since the Internet is still relatively new and is experiencing extremely rapid growth. Mail order sales are easier to project on a nationwide level, but it is more difficult to estimate the level of sales to each individual state. Below are illustrations that will provide some guidance on a range and magnitude of sales data. Additionally, there are some examples of the explosive growth currently being experienced in online sales.

U.S. Advisory Commission on Intergovernmental Relations

In 1994, the U.S. Advisory Commission on Intergovernmental Relations estimated the potential taxable base for mail order sales to be $91.25 billion in the United States.[8] Subtracting an estimated $9.09 billion for firms that voluntarily collect taxes from mail order sales, and another $15.06 billion[9] for companies required to collect tax from such sales because they have nexus yields a total untaxed base of $67.1 billion.

Since this estimate reflects mail order sales for the nation as a whole, the Commission derived estimates for each state and the District of Columbia by taking the ratio of personal income in those jurisdictions to that of the entire nation. This ratio was then applied to the nationwide total to obtain estimates for each jurisdiction. This method suggests an untaxed base of nearly $5.7 billion in New York State in 1994 as a result of the non-collection of tax from mail order sales, which translates into an estimated loss of $226.7 million in sales tax revenue.

Ernst & Young

An analysis of the impact of electronic commerce on tax revenues was done in a recent report by a major accounting firm, Ernst & Young.[10] This report concluded that business-to-consumer retail sales made over the Internet totaled $20 billion in 1998, but that only 37 percent of these sales ($7.4 billion) were taxable. Of this, nearly 11 percent ($0.8 million) was collected by companies that had either had nexus or voluntarily collected the tax. The remainder ($6.6 billion) was taxable but unaccounted for.

Again, applying personal income data to the above nationwide estimate yields a reduction in the New York State tax base of $557.5 million. This translates to $22.3 million in lost revenues for the State. This is still relatively small in comparison to the $7.92 billion in sales tax revenues collected by New York State in State Fiscal Year 1998-99. However, it is more important to remain focused on the current

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[8] "Taxation of Interstate Mail Order Sales: 1994 Revenue Estimates," Advisory Commission on Intergovernmental Relations, May 1994.

[9] The Advisory Commission estimated that 16.5% of firms engaged in mail order sales have nexus that requires them to collect tax.

[10] "The Sky is Not Falling: Why State and Local Revenues Were Not Significantly Impacted by the Internet in 1998" Ernst & Young, June 18, 1998.

explosive growth of online sales and on the rapid changes being made in the landscape of American business.

Amazon.com

It is important to remember that the Internet was not nearly as popular in 1994 as it is today. In fact, one of the largest online retailers in the world, Amazon.com, did not even open its virtual doors until July 1995.

Taking a further look at Amazon.com will help to illustrate the magnitude of the impact that the growth in Internet retail sales could have on New York State's tax base in the coming years. In its first full year of business in 1996, Amazon.com had $15.7 million in sales. In 1999, sales were estimated to total approximately $1.4 billion, and in the year 2000 they are expected to top $2.1 billion.[11]

In a recent financial statement released by the company, Amazon.com indicated that 23.2 percent of total sales were made to countries outside the U.S.[12] Subtracting this percentage from the above sales figures and subsequently applying personal income estimates yields estimated New York State sales of $1 million in 1996, $90.8 million in 1999, and $136.2 million in 2000. This translates to a tax revenue loss to New York State of only $40,000 in 1996, rising dramatically to approximately $3.6 million in 1999 and $5.4 million in 2000.

The University of Tennessee

A recent publication by the Center for Business and Economic Research at the University of Tennessee[13] provided an analysis on the impact that Internet sales are expected to have on state and local tax bases. To derive estimates for each state, the authors first analyzed the trend reduction in the tax bases independent of electronic commerce resulting from legislated exemptions and the shift in consumption patterns toward services, which are generally not taxable. They then considered the reduction in state tax bases including electronic commerce by using forecasts of Internet sales and identifying the taxable components of those sales.

The authors began their analysis from a base forecast for Internet sales of $1,438.0 billion in 2003.[14] From this figure, they estimated that about 45.8 percent of these sales would be exempt, and an additional 32.3 percent would be taxable sales for which the sales or use tax is collected. This left about $315.0 billion in Internet sales that would remain uncollected nationwide in 2003. Of this, the authors estimated that $134.1 billion would represent substitutes from mail order sales or cross state shopping, and the remaining $180.9 billion would represent

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[11] The Value Line Survey (company report on Amazon.com published on September 3, 1999).
[12] Amazon.com quarterly financial report (10-Q), filed with the SEC on August 16, 1999.
[13] "E-Commerce in the Context of Declining State Sales Tax Bases," by Donald Bruce and William F. Fox, February 2000; Center for Business and Economic Research, The University of Tennessee, Knoxville, Tennessee.
[14] These forecasts were obtained by the authors from Forrester Research, and include both business-to-business (B2B) and business-to-consumer (B2C) sales broken down into several different categories.

Internet sales that otherwise would have taken place at a Main Street business or not at all.

From these estimates, the authors distributed the expected reduction in the nationwide tax base to the individual states, and applied each state's sales tax rate to determine the expected loss in tax revenue in 2003. For New York State, the authors expect that the revenue loss in 2003 will total approximately $1,581.3 million. Of this, it is estimated that the State would lose about $853.8 million and New York's local governments would lose the remaining $727.4 million.[15]

The incremental revenue loss, which was derived from Internet sales that would have otherwise taken place at Main Street businesses or not at all, is estimated to total $849.3 million for New York State and local governments in 2003. Of this figure, it is estimated that the State would lose approximately $458.6 million and New York's local governments would lose the remaining $390.7 million.[16]

These analytical scenarios provide different views on how electronic commerce and mail order sales are expected to affect the tax base of New York State. It is clear that there is not a solid consensus on the amount of revenues that have already been given up by the State, and on how much of an impact there will be in the future. It is quite obvious, however, that whatever the impact is now, it will most likely become much greater in the future.

Inequity on Main Street

The current tax treatment for online sales certainly poses a viable threat to the tax base of New York State. More importantly, perhaps, is the inequity that it causes New York State businesses. Because vendors without nexus are not currently required to collect tax on behalf of New York State, Main Street businesses are at a competitive disadvantage to many out-of-state vendors. The result is a potential loss in market share, which could translate into lost jobs for the New York State economy.

Much of the anticipated loss in market share to online retailers is inevitable because of the changing state of the economy. However, this potential loss could be minimized by effectively collecting taxes owed on retail transactions without regard to how those transactions are made. The end result would be a level playing field for Main Street businesses and the preservation of tax revenues for New York State.

As stated earlier in the analysis, while Amazon.com does not have nexus with New York State, many businesses such as Barnes and Noble do have nexus and must collect the sales tax. Assuming that it costs these two businesses the same amount of money to purchase inventory, the price that Barnes and Noble must charge its customers is roughly 8% higher (depending upon the locality in which the purchase is made) since sales tax must be collected. Although Amazon.com adds

[15] This breakdown was calculated using a weighted average tax rate of 7.408 percent, which was provided by the author.
[16] Ibid.

shipping charges to customer orders, on average, these charges are still usually lower than the sales tax. Therefore, it is likely that the bottom line price that the consumer ends up paying is lower when they purchase from a vendor that does not have an established physical presence in New York State.

Some facts and figures compiled by the National Governors' Association (NGA) will help to illustrate the change in magnitude that this competitive disadvantage will have on New York businesses in the short term and into the future.[17] In 1999, for example, $18.1 billion in nationwide online sales otherwise would have taken place in Main Street stores. In 2002, that figure is expected to more than quadruple, to $76.3 billion.

According to the U.S. Census, 1997 retail sales made by brick-and-mortar establishments in the United States totaled $2,339.9 billion.[18] Using anticipated growth rates in retail sales,[19] it is estimated that these establishments will produce nationwide revenues totaling $2,770.0 billion in 1999 and $3,031.3 billion in 2002. Applying the $18.1 billion sales figure to this translates to an estimated nationwide market share of 0.7 percent in 1999 for online retail establishments that otherwise would have been purchased in traditional retail stores. By 2002, the anticipated $76.3 billion in online sales that otherwise would have taken place in Main Street businesses increases the nationwide market share of online retail establishments to 2.5 percent.

New York State retail stores had sales of $131.6 billion in 1997.[20] Applying the same anticipated retail growth rates yields expected sales by New York retail establishments of $150.2 billion in 1999 and $170.5 billion in 2002. The estimated 0.7 percent market share loss to online retailers translates to more than $1 billion in lost sales for New York businesses. The expected increase in market share for online retailers to 2.5 percent by 2002 could mean more than $4.3 billion in lost sales annually for these businesses, and a potential loss of over $172 million in State tax revenues.

Possible Solutions

Proposals to enable states to more effectively collect sales and use taxes that are owed should certainly address the existing and possible future obstacles. More importantly, however, they should focus on the adaptability of the tax system to rapid changes in the global economy. As we have seen in the past few years alone, the emergence of a new market without borders has permanently changed the way business is conducted. States should focus on the development of a tax system that will adapt more seamlessly to unanticipated changes in the economy.

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[17] Click on www.nga.org/Internet/SalesShift.asp for details—the original source of the data, according to the NGA, is Jupiter Communications.

[18] *1997 Economic Census of Retail Trade* (United States Geographic Area Series, EC97R44A-US Issued December 1999), U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau. This figure excludes sales by non-store retailers.

[19] Source: DRI

[20] *1997 Economic Census of Retail Trade* (New York Geographic Area Series, EC97R44A-NY Issued October 1999), U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau. This figure excludes sales by non-store retailers.

NTA—Communications and Electronic Commerce Tax Project

The National Tax Association (NTA) recently completed its Communications and Electronic Commerce Tax Project[21]. Its Final Report, released in September 1999, contained background information regarding the taxation of electronic commerce, identified the issues related to such taxation, and provided recommendations on some of those issues.

Complexity of the Current Tax System

According to the NTA, there are currently about 7,600 jurisdictions in the United States that impose a local sales tax. Because of the administrative burden that this creates for vendors dealing in interstate commerce, the NTA recommended that one rate be applicable to all commerce in each state.

Although requiring one rate per state would certainly ease the burden on vendors dealing in interstate commerce, it would restrict the ability of states and localities to fully adapt the sales tax system to their own needs.

Existing Jurisprudence

As detailed above, past Supreme Court decisions have created a stumbling block for states in terms of their ability to require vendors without nexus to collect sales and use taxes on their behalf. The NTA made no specific recommendations on how to handle this issue, but one suggestion was to require vendors with annual sales above a certain threshold to collect tax.

Sales and Use Tax Base Issues

Currently, each state determines which goods and services are included in their tax bases and which are exempt. The taxability of those goods or services may depend on how they are used. As a result, businesses dealing with several states may have to deal with many different tax practices. One way to reduce this administrative burden would be to require states to use uniform definitions for all goods and services. This would enable states to continue to choose what to tax, but would reduce some of the confusion evoked by the current system.

Although uniform definitions across borders would certainly serve to minimize the administrative burdens that currently exist, achieving this would require a consensus among the states to agree on the definitions to be used, and would limit the ability of states to change their laws as they see fit. The effort required to accomplish this should be thoroughly reviewed before embarking on such an enormous task.

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[21] National Tax Association, "Communications and Electronic Commerce Tax Project: Final Report," September 7, 1999, Washington, DC.

Revenue Sourcing

Because of the large number of jurisdictions authorized to impose local sales taxes and the many rates involved, the NTA suggested that revenue sourcing should be done only to the state level. The distribution of revenues beyond this point would have to be handled individually by each state.

As long as the appropriate jurisdictional information is available, it should not matter who handles the distribution of revenues beyond the state level. With the technology solutions that exist today, sourcing should be relatively simple.

Simplification of Administration

The current system of tax administration is complex because of different rules and regulations in different states. Suggestions for dealing with this include having vendors register with a base state to deal with all tax issues, requiring the same technology that handles transactions electronically to also administer the appropriate tax, and creating uniform sales and use tax forms.

Streamlined Sales Tax System for the 21st Century

A proposal to create a new sales tax system combining simplification and uniformity was developed jointly by the NGA and the National Conference of State Legislatures (NCSL)[22]. This proposal was subsequently endorsed by several state and local organizations and submitted to ACEC for review.[23] The basic premise is that states and localities would work with the private sector to design a streamlined sales tax system that would reduce the costs and burdens of sales tax compliance for sellers as much as possible.

Under this new system, a trusted third party would develop and administer a software system to appropriately handle sales tax collections on a nationwide basis. Uniform definitions and limits on the frequency of local rate changes would be a necessary part of the administrative and legal simplification required to make the system work. States would also assume the cost of the new system, but participation in the system would be voluntary for both vendors and states.

While this proposal provides a possible solution to the existing problem caused by the inability for states to collect tax revenues on some items sold over the Internet or via mail-order houses, it has some flaws. Since it is based on a voluntary system, there is no guarantee that it would have the desired effect. For example, there is mention of financial incentives that would be given to vendors to join the system. Since vendors without nexus stand to lose the most because of the effective increases in price that they would have to charge their customers, they would be the most likely candidates not to join.

[22] "Streamlined Sales Tax System for the 21st Century" (located on www.nga.org/Internet/Proposal.asp).

[23] This proposal was submitted jointly by the National Governors' Association (NGA), the National Conference of State Legislatures (NCSL), the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors and the International City/County Management Association (see *State Tax Review*, November 22, 1999).

Conclusion

There is certainly disagreement on the magnitude of the effects caused by the current treatment of the taxation of online sales. It seems, however, that there is also a consensus that the issue of taxation mail order sales and sales made over the Internet needs to be dealt with at some point. It is important to thoroughly review the viable alternatives for dealing with this issue in order to provide the best possible solution.

In April 2000, the Advisory Commission on Electronic Commerce will submit its final report to Congress. New York State should be prepared to respond to these actions and examine the effect on the tax bases of state and local governments.

APPORTIONING NEW YORK INCOME

Introduction

We are in an era of major changes in the economy of the State and of the State's place in the global economy. New York has historically been a center for such national and international industries as financial markets and telecommunications.

Today, telecommunications and computerization allow for the rapid dissemination of information. Economic value is more mobile with certain industries being able to serve the world from a single location. The technological improvement in communication helps businesses that provide tangible personal property (such as manufactured goods) to know exactly what goods are being demanded in what places and when. Furthermore, communications advancements have allowed the sale of intangible property, including the exchange of ideas, to be conducted far more efficiently than in the past.

Apportionment of Income

The term "apportionment" refers to the division of *business* income between or among various states.[24] For the most part, this involves using some combination of a company's payroll, property and receipts to attribute income to a particular state. We will review the apportionment rules and constraints from a historical perspective to aid policymakers as they consider future tax proposals.

Businesses should be able to expect to divide their income between different state taxing jurisdictions and avoid double taxation. Constitutional limitations prevent states from taxing economic activity beyond their borders. The four-prong test established in Complete Auto Transit v. Brady has set the standard.[25] Therefore, one of the major issues in State business taxation is determining how much of a company's economic activity should be attributed to a particular state for tax purposes.

Such a determination requires a review of a myriad of issues beyond apportionment. First, a company has to have an economic presence, or "nexus." Second, its income should include all related income from affiliates that make up an indivisible, or "unitary" business. Then a distinction between business income and investment income must be made and apportioned or allocated among the states. Focusing on apportionment will serve as a suitable introduction to the complex world of multi-state corporate taxation.

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[24] Donovan, Joseph and Karen Nakamara. 1160 T.M., Income Taxes: State Formulary Apportionment Methods. 1998. pp 1160:0004.

[25] Complete Auto Transit, Inc. v. Brady, 430 U.S. 271 (1977).The four requirements are: (i) the tax is applied to an activity with a substantial nexus with the state; (ii) the tax is fairly apportioned; (iii) the tax does not discriminate against interstate commerce; and (iv) it is fairly related to the services provided by the state. Source: Warren. 1150 T.M., Income Taxes: Principles of Formulary Apportionment., pp. 1150:0001.

The formula approach to apportionment is in contrast to measuring a company's economic presence using separate accounting. Separate accounting forces a company to segregate its activity among its different entities that reflect the appropriate economic activity.[26] However, separate accounting requires an accounting system that would be too costly for today's companies to maintain.[27] Given such difficulties, alternative formula approaches have been developed. There are three popular formulas that most states use: The Massachusetts Formula, Double-Weighted Sales, and Single Sales Factor.

Apportionment in New York Before 1945

Under the pre-1945 system of apportionment, New York used its own unique method of apportioning income to the State. Other states used a variety of methods. At the time, no differentiation was made between business income and investment income attributable to New York. As a result, all income derived by a business corporation was apportioned together.

The apportionment formula used by New York involved three factors: property, receivables, and stocks. The property factor was the ratio of property located in New York to that located everywhere, which is similar to the property factor used today.

The receivables factor assigned receivables from manufacturing based on the state in which the goods were manufactured. Any goods made within the State would apply to the business' New York income, regardless of where the goods were sold or ultimately used. For merchandise sellers and service providers, the factor included merchandise and services sold or performed within the state. The receivables factor was widely criticized because business corporations generally kept track of receipts by geographic location, but receivables were not kept track of geographically.

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[26] Hellerstein, Jerome R. and Walter Hellerstein. State Taxation: Volume I; Corporate Income and Franchise Taxes. Second Edition. 1993. p. 8-69.

[27] Hellerstein notes that the essence of the separate accounting technique of dividing the income of a unitary business is to ignore interdependence and integration of business operations and instead treat them as separate, independent, and non-integrated. Hence, it is not a satisfactory method for dividing taxable income. Hellerstein, pp. 8-69—8-70.

Brief History on New York's General Business Taxation

New York first imposed a tax on business corporations in 1880, which was based on the amount of dividends paid.[28] In 1917, the State revamped its business tax system, and began imposing a tax that is similar to that imposed on most business corporations today. Under the 1917 system, businesses were required to pay taxes based on the highest of a number of different regimens: fixed dollar minimum tax, a capital tax, and a net income tax.[29]

In 1943, the State Tax Commission and Advisory Group detailing problems with the then current system of business taxation in New York State issued a report to the Governor making several recommendations for reform.[30]

Prior to 1945, New York's Article 9-A tax structure was rigid and arbitrary.[31] In addition, New York's apportionment formula was somewhat onerous and often created impediments to business location. During the 1940's, the lawmakers of New York realized that the world was changing, and the tax code needed to be changed as well.

In 1975, the Legislature raised the rates on Article 9-A net income payers from 9 to 10 percent to raise revenue. In order to reduce the tax burden and provide a better competitive environment for businesses the State went to a double-weighted sales apportionment formula. This was designed to benefit manufacturers and encourage them to stay or expand in New York, in an effort to reduce their flight to other states.[32]

In 1987, in response to changes at the federal level, New York again reformed it's business taxes. The State implemented an Alternative Minimum Tax with a uniform 3 factor formula. In addition, Entire Net Income taxpayers were, for the first time, required to include leased property in their apportionment formula.

In the 1990's the State reduced various business taxes and provided various incentives, including the use of double weighted sales under the Alternative Minimum Tax which was enacted in 1994.

[28] Chapter 542 of the Laws of New York, 1880.

[29] Article 9-A of the Tax Law, as added by Chapter 726 of the Laws of New York, 1917.

[30] State Tax Commission & Advisory Group. New York Taxes On Business Corporations, Investment Trusts, and Holding Corporations: Report to Honorable Thomas E. Dewey, Governor. November 12, 1943, page 5.

[31] The Association of the Bar of the City of New York Committee on Taxation, as reprinted in the Bill Jacket, Chapter 425, Part I, 1944. P. 5.

[32] Office of Tax Policy Analysis, New York State Department of Taxation and Finance. Business Tax Analysis: The Attribution of Income From Services. Revised June, 1991. p. 9.

The stock factor was determined based on New York contacts of the corporations in which the taxpayer owned stock. Within this factor, the receivable concept (as explained above) was used to determine the amount of held stock that was to be allocated to New York State. One way for corporations to manipulate the formula to minimize New York State taxation was by investing their business income in stocks of companies located outside of New York. As a result, income from these out-of-state companies would be allocated to the places where the foreign corporations operated for the purpose of New York State taxes.

After 1945 Reforms- Massachusetts Formula

Beginning in 1945, New York began using the Massachusetts Formula of apportionment for business income. At the time, this method was used in ten other states, and is still used by 16 states today. This method was adopted by the Multi-State Tax Commission's Uniform Division of Income for Tax Purposes Act (UDITPA) in 1957. The ideal of UDITPA was to provide uniformity in apportionment formulas among the states. As will be later discussed, the lack of uniformity creates various tax issues for multi-state companies.

The Massachusetts Formula is so named because it was originally used in Massachusetts, which ironically no longer uses a three factor formula. Essentially, the formula involves averaging the percentage of three different factors that occur within the state, as compared to occurring everywhere. The three factors of this formula are property, payroll, and receipts.

The property factor is derived from the amount of property located within the state, as a percentage of the total property owned by the company. For example, if a company has two factories of equal size, with one being located in the State, then the property factor would be fifty percent. The payroll factor is derived from the amount of the payroll located within the State, as a percentage of the total company payroll of employees everywhere. The receipts factor is derived from the dollar value of receipts received within the state, as a percentage of receipts received everywhere. These three factors were all weighed equally.

A rationale for choosing a three-factor formula is the belief that it is a fair way to measure the value added from the economic activity within a state. Property and payroll were seen as a measure of the demand for government services. Sales was considered to be an indicator of the demand for a company's economic activity. While a three-factor formula may or may not result in a true reflection of economic activity, each of its component factors is measurable and quantifiable, which makes the formula possible to administer.

Double-Weighted Sales

Many states have adopted some form of the UDITPA apportionment rules. However, complete uniformity has never been fully achieved. New York State, along with twenty-three other states, currently uses the Double-Weighted Sales formula to apportion income from the sale of tangible property. This method is a modified version of the Massachusetts Formula. Under the Double Weighted Sales formula, the three factors (receipts, property, and payroll) are used, but the receipt factor is counted twice. In this case, the amount of sales in New York would count for 50 percent of the apportionment formula, while property and payroll are each weighed at 25 percent.

New York's Apportionment Formula Example

If a particular company operates in New York, as well as in other states, then New York's apportionment formula must be applied in order to determine the amount of income subject to tax in New York.

	In New York	In Other States	Total
Sales	$4,000,000	$6,000,000	$10,000,000
Property	$62,000,000	$38,000,000	$100,000,000
Payroll	$650,000	$350,000	$1,000,000

The apportionment formula would be applied as follows:

Sales Factor:	$4,000,000	/	$10,000,000	=	40%
Property Factor:	$62,000,000	/	$100,000,000	=	62%
Payroll Factor:	$650,000	/	$1,000,000	=	65%
Double Weighting (sales counted twice):				=	40%
Average:				=	52%

Thus, for this company, fifty-two percent of its income would be apportioned to New York for the purposes of taxation. If this analysis were to be done using an equally weighted sales factor, fifty-six percent of this company's income would have been apportioned to New York.

Economic development was a common rationale for increasing the weight on sales because it encourages manufacturers to establish operations within the State by minimizing the penalty incurred by companies with significant property and payroll in New York. The excess weight on sales reduces the relative weights of property and payroll factors.

Conversely, by increasing the importance of sales receipts in the apportionment formula, companies that have most of their payroll and property in another state but export goods or services to New York customers had to pay a larger amount of New York's corporate taxes.

However, in 1989 The Legislative Tax Study Commission found that the adoption of a Double Weighted Sales formula was of limited benefit to New York. First, there were very few companies that paid under the Corporate Franchise Tax that were affected by double weighting. Taxpayers that operated and sold only within New York did not gain any benefit from double weighted sales. According to their 1989 Corporate Income Tax Reform Report, 97 percent of the companies liable under Article 9-A did not benefit from the switch to double weighted sales for the 1982 tax year.[33] More recent analysis done by the Ways and Committee staff using information from 1996 shows that about 4 percent of corporations taxed under Article 9-A would pay less New York State tax if the apportionment formula were changed to give greater weight to the sales factor.[34]

There are significant questions raised as to whether the double weighting of receipts met its intended goals. The benefits of switching to double weighted sales factor varies with the relationship between the property, payroll, and sales. The adoption of double weighted sales increased a corporation's tax only if the average of its property and payroll factor is less than the sales factor. Therefore, established businesses in New York with little property and payroll but a large proportion of sales could have experienced a tax increase. The increase in liability was due to the doubling of a major factor in the formula, not because of change in their level of economic activity. Companies that are net exporters to New York experienced an increase in their tax liability under double weighting.

Yet, companies with a significant amount of property and payroll that export more than they sell in New York State experienced a tax decrease. This shifting of tax liabilities through the use of double weighting effectively "exports" the corporate franchise tax burden to companies primarily located out of state.

A criticism of switching to the double weighted sales apportionment formula is that it gives preferable treatment to companies that locate within a state using that formula. By choosing the double weighting of sales method, the State compounded problems related to the fair apportionment among different states.

Single Sales Factor

More recently, receipts are being used by some states as the sole determinant of apportionment. Massachusetts, as well as six other states now use the Single Sales Factor method of apportionment.[35] Under this method, the only factor used in determining the amount of a company's income subject to taxation is the percentage of total receipts that are earned from sales within that state. The logic behind this is an extension of the arguments used for double weighting receipts. State leaders in some states felt that by switching to a single sales factor method, business growth would be stimulated, and job creation would increase.[36]

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33 Legislative Commission on the Modernization and Simplification of Tax Administration and the Tax Law. New York State Corporate Income Tax Report, January 25, 1989. Page 231.
34 Such a change would also have an effect on corporations electing Subchapter S tax status; however, data required to determine the effect is unavailable to Committee staff.
35 Massachusetts is actually only using the Single Sales Factor formula for some industries, including manufacturing, defense industries, and financial services.
36 Weld, William F. (Governor of Massachusetts), "Massachusetts H 5429 Would Shift Corporate Tax To Single Sales Factor", State Tax Notes, October 23, 1995, pp. 1207—1210.

However, opponents of single sales factor believe this approach compounds the lack of uniformity issues and gives rise to extraneous tax burdens, which violates the principle of tax neutrality.

And, while it may seem that such a system inherently favors companies headquartered in a state using that formula, and thus discriminates against interstate commerce, the U.S. Supreme Court in Moorman Manufacturing Co. v. Blair (437 U.S. 267, 1978) upheld a single factor sales formula used by Iowa. The Court appears to be saying that, except in extraordinary instances of clear abuse, it will; not judge the validity of various types of state apportionment formulas. In fact, only once has the Court upheld a constitutional challenge to a state apportionment formula.[37]

Summary

Formulary apportionment has been the focus of much of the preceding discussion. It certainly is not the only area of State taxation challenged by the new economy and its world without borders. How the State sources receipts is an issue for discussion as is whether various industry-specific rules should be adopted. Whether tax incentives work and, if so, how, is a continuing debate. The fair apportionment of income is as good a starting point as any for discussion of possible reforms of the State business tax system to meet the challenges of the new economy, yet much more work still needs to be done.

[37] Hans Rees' Sons, Inc. v. North Carolina (283 U.S. 123, 1931).

APPENDIX A
APPORTIONMENT FORMULAS USED FOR INCOME DERIVED FROM THE SALE OF TANGIBLE PROPERTY[38]

STATE	3 FACTOR SIMPLE	DOUBLE WEIGHTED SALES	SINGLE SALES FACTOR
Alabama	X		
Alaska	X		
Arizona		X	
Arkansas		X	
California		X	
Colorado	X		
Connecticut		X	
Delaware	X		
Florida		X	
Georgia		X	
Hawaii	X		
Idaho		X	
Illinois			X
Indiana		X	
Iowa			X
Kansas	X		
Kentucky		X	
Louisiana		X	
Maine		X	
Maryland		X	
Massachusetts			X
Michigan			X
Minnesota		X	
Mississippi	X		
Missouri			X
Montana	X		
Nebraska			X
New Hampshire		X	
New Jersey		X	
New Mexico		X	
New York		X	
North Carolina		X	
North Dakota	X		
Ohio		X	
Oklahoma	X		
Oregon		X	
Pennsylvania		X	
Rhode Island	X		
South Carolina		X	
Tennessee		X	
Texas			X
Utah	X		
Vermont	X		
Virginia	X		
West Virginia	X		
Wisconsin	X		

[38] Some states use slight modifications of the traditional formulas. These states have been placed in the category which most closely describes the system they use.