THE SENATE
STATE OF NEW YORK

RANKING MINORITY MEMBER
FINANCE
COMMITTEE ASSIGNMENTS
BANKS
CODES
JUDICIARY

JOHN A. DeFRANCISCO
SENATOR, 50TH DISTRICT

ALBANY OFFICE:
ROOM 802
LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
PHONE 518-455-3511

DISTRICT OFFICE:
STATE OFFICE BUILDING - ROOM 800
333 EAST WASHINGTON STREET
SYRACUSE, NEW YORK 13202
PHONE 315-428-7632

e-mail:
jdefranc@senate.state.ny.us

website:
www.senatordefrancisco.org

January 25, 2010

Dear Senators:

Please find attached the "Staff Analysis of the SFY 2010-11 Executive Budget." It is intended to assist the Republican Conference Members of the Finance Committee, and the Senate as a whole, in their deliberations. We hope that our readers find it useful.

This analysis of the Executive Budget begins with a summary of the spending plan. It then examines an explanation of proposed changes that affect receipts and provides for Senate issues in focus. Finally, it provides a summary of the Executive's Article VII Language Bills submitted as part of the Executive Budget. The report provides an analysis of the appropriations recommended this year and an analysis of the Governor's recommendations.

Each member of the Senate Finance Committee devotes considerable time and effort to the passage of a budget that serves the interest of every New Yorker. I am most grateful for their cooperation. It is also important to thank the Republican Conference staff of both the Senate Finance Committee, and the Counsel & Program Office, whose assistance has been invaluable.

Sincerely,

John A. DeFrancisco

New York State Senate

Senate Minority Conference

Senator Dean G. Skelos

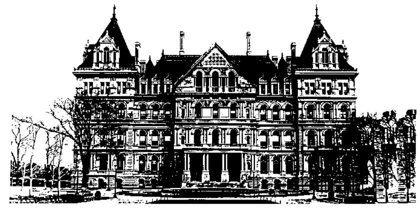
MINORITY LEADER

Senator John A. DeFrancisco

RANKING MEMBER, FINANCE COMMITTEE

MINORITY CONFERENCE MEMBERS

James S. Alesi
John J. Bonacic
Hugh T. Farley
John J. Flanagan
Charles J. Fuschillo, Jr.
Martin J. Golden
Joseph A. Griffo
Kemp Hannon
Owen H. Johnson
Andrew J. Lanza
William J. Larkin, Jr.
Kenneth P. LaValle
Vincent L. Leibell
Thomas W. Libous
Elizabeth O'C. Little
Carl L. Marcellino
George D. Maziarz
Roy J. McDonald
Thomas P. Morahan
Michael F. Nozzolio
Frank Padavan
Michael H. Ranzenhofer
Joseph E. Robach
Stephen M. Saland
James L. Seward
Dale M. Volker
George H. Winner, Jr.
Catharine M. Young



STAFF ANALYSIS OF THE SFY 2010-11 EXECUTIVE BUDGET

As Prepared by the Senate Minority Finance / Counsel Staff

Robert F. Mujica
Secretary, Finance Committee & Senior Policy Advisor

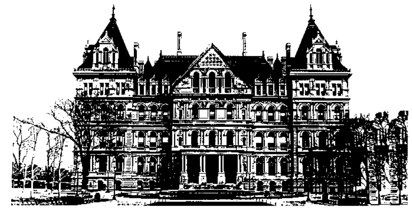
Peter Kosinski, Counsel to Minority

Michael Paoli, Managing Director, Senate Minority Finance

Ellen Biggane	Kevin Bronner
Diane Burman	Jack Casey
John Conway	Robert Farley
NancyLynn Ferrini	Tom Havel
Shawn MacKinnon	Brian Murphy
Mark Nachbar	David J. Natoli
Adam Richardson	Ann Shaw
Thomas Wickham	Andrew Yong

Publication Editor	Interns
Jason P. Clark	Eric Garofano
	Rebecca Wood

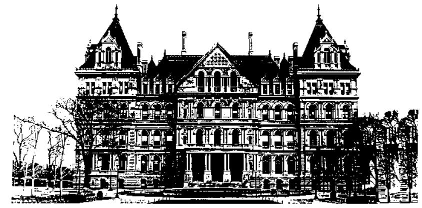
TABLE OF CONTENTS



SECTION ONE: HIGHLIGHTS OF THE SFY 2010-11 BUDGET

SECTION TWO: SENATE ISSUES IN FOCUS

SECTION THREE: ARTICLE VII BILLS



SECTION ONE

HIGHLIGHTS OF THE EXECUTIVE BUDGET

General Fund Cash Financial Plan

SFY 2008-09 through SFY 2012-13

(billions of dollars)

	Actual 2008-09	Projected 2009-10	Proposed 2010-11		Proposed 2011-12		Proposed 2012-13	
Opening Fund Balance	2.7	1.9	1.4	*	0.0	**	0.0	***
Receipts								
Taxes	38.3	37.9	39.9		41.9		42.3	
Miscellaneous receipts	3.1	3.5	2.9		2.8		2.8	
Federal grants	0.0	0.1	0.1		0.1		0.1	
Transfers In	12.4	12.1	11.6		12.2		12.2	
Total receipts	**53.8**	**53.6**	**54.5**		**57.0**		**57.4**	
Disbursements								
Grants to local governments	37.0	36.3	35.9		42.6		46.3	
State operations	8.3	8.6	8.3		8.8		9.0	
General State charges	3.1	3.8	4.1		4.4		4.6	
Debt service	1.7	1.7	1.8		0.0		0.0	
Capital projects	0.5	0.5	1.1		0.0		0.0	
Transfers Out	4.0	3.2	3.3		7.5		8.0	
Total disbursements	**54.6**	**54.1**	**54.5**		**63.3**		**67.9**	
Tax Stabilization Reserve	1.0	1.0	1.0		0.0		0.0	
Statutory Rainy Day Reserve	0.2	0.2	0.2		0.0		0.0	
Contingency Reserve	0.0	0.0	0.0		0.0		0.0	
Community Projects Fund	0.1	0.1	0.1		0.0		0.0	
Debt Reduction Reserve	0.1	0.1	0.1		0.0		0.0	
Miscellaneous Reserves	0.5	0.0	0.0		0.0		0.0	
Closing Fund Balance (Deficit)	**1.9**	**1.4**	**1.4**		**(6.3)**		**(10.5)**	

* This General Fund opening/closing balance of $1.4 Billion is not accounted for within the All Funds financial plan for 2010-11.

** This General Fund opening balance used within the All Funds balance does not reflect the 2010-11 General Fund closing balance of $1.4 billion.

***This General Fund opening balance used within the All Funds balance does not reflect the 2011-12 General Fund closing balance of ($6.3) billion.

State Funds Cash Financial Plan

SFY 2008-09 through SFY 2012-13
(billions of dollars)

	Actual 2008-09	Projected 2009-10	Proposed 2010-11	Proposed 2011-12	Proposed 2012-13
Opening fund balance:	6.4	4.5	1.5 *	1.1	1.0 **
Receipts:					
Taxes	60.3	59.8	63.2	66.7	67.6
Miscellaneous receipts	19.8	21.9	21.3	21.6	21.5
Federal grants	0.1	0.1	0.1	0.1	0.0
Total receipts	80.2	81.8	84.6	88.4	89.1
Disbursements					
Grants to local governments	54.8	54.1	54.0	62.2	66.6
State operations	15.2	15.7	15.3	16.3	16.7
General State charges	4.4	4.8	5.2	5.6	6.1
Debt service	4.5	4.9	5.8	6.1	6.4
Capital projects	4.2	5.1	5.9	5.8	5.2
Total disbursements	83.1	84.6	86.2	96.0	101.0
Net Other Financing Sources (uses)	1.0	1.2	1.2	1.0	1.0
Closing Fund Balance (Deficit)	4.5	2.9	1.1	(5.5)	(9.9)

* The General Fund 2009-10 closing balance of $1.4 billion drops to zero within the 2010-11 opening balance.

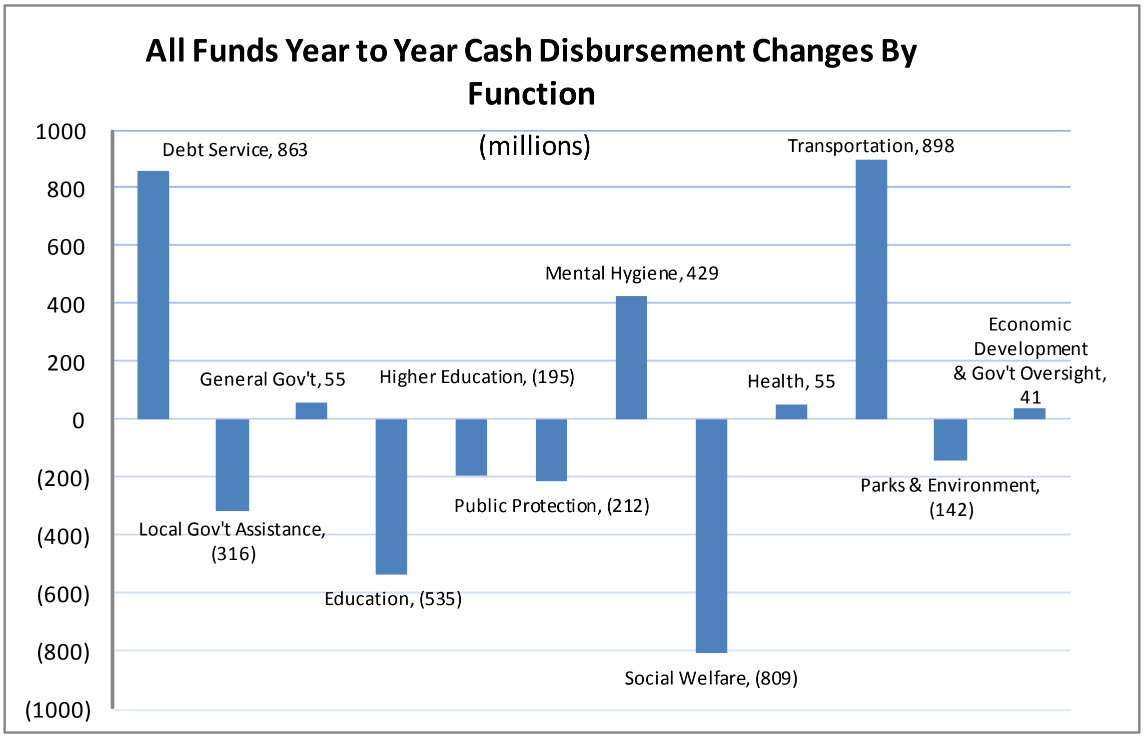
** The General Fund 2011-12 closing balance of ($6.3) billion drops to zero within the 2012-13 opening balance.

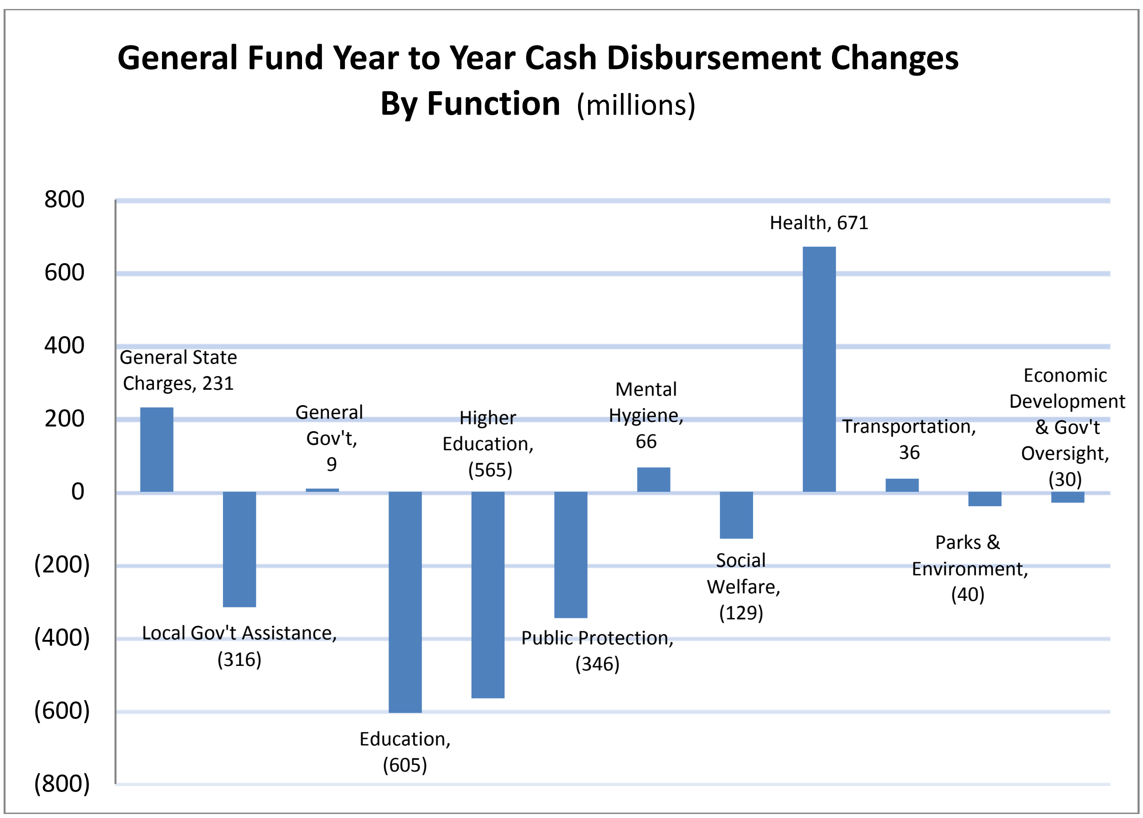
All Funds Cash Financial Plan

SFY 2008-09 through SFY 2012-13
(billions of dollars)

	Actual 2008-09	Projected 2009-10	Proposed 2010-11	Proposed 2011-12	Proposed 2012-13
Opening Fund Balance:	6.5	4.6	1.5*	1.1	0.7**
Receipts:					
Taxes	60.3	59.8	63.2	66.8	67.6
Miscellaneous Receipts	20.1	22.1	21.6	21.7	21.7
Federal Grants	38.8	49.1	48.2	42.7	43.7
Total Receipts	119.2	131.0	133.0	131.2	133.0
Disbursements					
Grants to Local Governments	87.3	95.4	94.1	97.5	102.8
State Operations	18.9	20.0	19.7	20.2	20.6
General State Charges	5.3	5.8	6.3	6.8	7.3
Debt Service	4.5	4.9	5.8	6.1	6.3
Capital Projects	5.5	7.1	8.1	7.8	7.2
Total Disbursements	121.5	133.2	134.0	138.4	144.2
Net Other Financing Sources (uses)	0.4	0.5	0.6	0.5	0.4
Closing Fund Balance (Deficit)	4.6	2.9	1.1	(5.6)	(10.1)

* The General Fund 2009-10 closing balance of $1.4 billion drops to zero within the 2010-11 opening balance.
** The General Fund 2011-12 closing balance of ($6.3) billion drops to zero within the 2012-13 opening balance.


All Funds Year to Year Cash Disbursement Changes By Function
(millions)
1000
800
600
400
200
0
(200)
(400)
(600)
(800)
(1000)
Debt Service, 863
Local Gov't Assistance, (316)
General Gov't, 55
Education, (535)
Higher Education, (195)
Public Protection, (212)
Mental Hygiene, 429
Social Welfare, (809)
Health, 55
Transportation, 898
Parks & Environment, (142)
Economic Development & Gov't Oversight, 41


General Fund Year to Year Cash Disbursement Changes By Function (millions)
800
600
400
200
0
(200)
(400)
(600)
(800)
General State Charges, 231
Local Gov't Assistance, (316)
General Gov't, 9
Education, (605)
Higher Education, (565)
Public Protection, (346)
Mental Hygiene, 66
Social Welfare, (129)
Health, 671
Transportation, 36
Parks & Environment, (40)
Economic Development & Gov't Oversight, (30)

Summary of Statutory Tax and Fee Increases		
SFY 2010-11 Executive Budget		
	SFY 2010-11	Full Annual Impact
General Fund Fee Increases Total	$73,900	$107,800
Special Revenue Fund Fee Increase Total	$1,000	$17,072
Fee Increases Grand Total	**$74,900**	**$124,872**
Tax and Revenue Increases	$982,943	$1,621,393
Sub-Total Tax and Fee Increases	**$1,057,843**	**$1,746,265**
Enforcement and Other Revenue Sources	$420,700	$373,100
Grand Total Revenue Increases	**$1,478,543**	**$2,119,365**
Tax Credits Total	($4,000)	($222,100)

Tax Increases SFY 2010-11 Executive Budget (millions of dollars)		
	SFY 2010-11	SFY 2011-12
Impose Severeance Tax (3%) on Certain Natural Gas Production	$0	$3,000
Increase Excise Tax on Cigarettes ($1 Per Pack)	$218,000	$211,000
Additional Sales Tax on Beverage Syrups ($7.68/gal) and Soft Drinks ($1.28/gal)	$465,000	$1,000,000
Expand HCRA Surcharge to Physician Services (9.63%)	$24,600	$98,500
Increase Hospital Assessment	$130,200	$142,000
Increase Home Care Assessment	$17,600	$19,200
Increase Nursing Home Assessment	$67,800	$73,950
Define Flow-Through Entities as Taxpayers for QETC and Biofuel Credit Claims	$0	$2,000
Treat Compensation for Past Services as Taxable for Non Residents	$0	$5,000
Treat S-Corp Gains and Installment Income as Taxable to Non Residents	$30,000	$12,000
Close Resident Trust Loophole	$0	$25,000
Reduction in Timothy's Law Small Business Subsidy	$29,743	$29,743
Tax Increase Total	**$982,943**	**$1,621,393**

New or Expanded Tax Credits		
	SFY 2010-11	Full Annual
Expand the Low Income Housing Tax Credit Program	($4,000)	($4,000)
Extend and Expand the Film Tax Credit	$0	($168,100)
Create Excelsior Jobs Program	$0	($50,000)
Total Amount of Tax Credits	**($4,000)**	**($222,100)**

Fee and Other Revenue Increases					
SFY 2010-11 Executive Budget					
(thousands of dollars)					
Effective Date	**Descirption**	**Current Fee**	**Proposed Fee**	**SFY 2010-11**	**SFY 2010-12**

General Fund Fee Increases

Effective Date	**Descirption**	**Current Fee**	**Proposed Fee**	**SFY 2010-11**	**SFY 2010-12**
Judiciary					
7/1/2010	Increase Certain Civil Court Filing Fees	$45, $45, $165	$60, $120, $215	$41,000	$54,000
State Police					
4/1/2010	Deploy Speed Enforcement Cameras	N/A	$50 Speed Zone $100 Work Zone	$32,900	$53,800
General Fund Fee Total				**$73,900**	**$107,800**

Special Revenue Fund Fee Increases

Effective Date	**Descirption**	**Current Fee**	**Proposed Fee**	**SFY 2010-11**	**SFY 2010-12**
Department of Health					
3/1/2011	Eearly Intervention Parental Fees	N/A	$45 - $540	$1,000	$17,072
Special Revenue Fund Fee Increases Total				$1,000	$17,072

Enforcement and Other Revenue Actions

Effective Date	**Descirption**	**Current Fee**	**Proposed Fee**	**SFY 2010-11**	**SFY 2010-12**
Division of Lottery					
4/1/2010	Eliminate Quick Draw Restrictions	N/A	N/A	$33,000	$54,000
4/1/2010	Extend VLT Hours of Operation	N/A	N/A	$45,000	$45,000
Department of Taxation and Finance					
4/1/2010	Require Informational Returns for Credit and Debit Cards	N/A	N/A	$0	$35,000
4/1/2010	Statistical Sampling for Certain Sales Tax Audits	N/A	N/A	$8,000	$12,000
4/1/2010	Non-Voluntary Tax Collections	N/A	N/A	$221,000	$221,000
1/1/2010	Extend Married Tax Filing Provisions to Same Sex Couples	N/A	N/A	$0	$0
6/1/2009	Narrow Affiliate Nexus Provision	N/A	N/A	($5,000)	($5,000)
10/1/2010	Allow Wine Sales in Grocery Stores	N/A	N/A	$93,000	$9,000
8/1/2010	Legalize Mixed Martial Arts in New York	N/A	N/A	$2,100	$2,100
1/1/2010	Extend Major Bank Tax Provisions and GLB Provisions	N/A	N/A	$0	$0
4/1/2010	Extend the Pari-Mutuel Tax	N/A	N/A	$0	$0
1/1/2008	Make Technical Corrections to the 2009-10 Enacted Budget Empire Zones Program Changes	N/A	N/A	$0	$0
Various	Make Technical Corrections to the 2009-10 Enforcement Provisions	N/A	N/A	$0	$0
6/1/2010	Amend the tax on Medallion Taxicab Rides	N/A	N/A	$0	$0
Workers Compensation Board					
Immediately	Collect Surplus Funds from Workers Compensation Insurance Carriers	N/A	N/A	$23,600	$0
Enforcement and Other Revenue Action Totals				**$420,700**	**$373,100**

ESTIMATED LOCAL IMPACT OF SELECT SFY 2010-11 EXECUTIVE BUDGET CUT PROPOSALS BY REGION (millions of dollars)						
Region	**AIM (for cities)**	**Gross Hospital Reimbursement Reductions**	**Gross Nursing Home Reductions**	**School Aid Reductions**	**Middle Class Property Tax Rebate Check Elimination**	**Total**
New York City	($301.66)	($255.19)	($83.49)	($441.92)	($195.98)	($1,278.24)
Long Island	($0.22)	($33.39)	($25.78)	($207.60)	($405.90)	($672.89)
Hudson Valley	($3.06)	($15.85)	($20.59)	($162.90)	($272.35)	($474.75)
Capital Region / North Country	($1.86)	($6.98)	($9.52)	($139.11)	($184.75)	($342.22)
Central NY	($2.17)	($9.56)	($17.08)	($180.63)	($193.71)	($403.15)
Rochester Region	($1.25)	($13.62)	($9.24)	($128.22)	($141.76)	($294.09)
Western NY	($2.87)	($8.54)	($12.35)	($151.76)	($186.71)	($362.23)
Total	**($313.09)**	**($343.13)**	**($178.05)**	**($1,412.14)**	**($1,581.16)**	**($3,827.57)**

Regions:
New York City: Bronx, Brooklyn, New York, Richmond and Queens counties.
Long Island: Nassau and Suffolk counties.
Hudson Valley: Westchester, Rockland, Putnam, Dutchess, Ulster, Sullivan, and Orange counties.
Capital Region/North Country: Albany. Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington counties.
Central New York: Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Tioga, Tompkins, and St. Lawrence counties.
Rochester Region: Chemung, Livingston, Monroe, Ontario, Seneca, Schuyler, Steuben, Wayne, Yates counties.
Western New York: Allegany, Cattaraugus, Chautauqua, Erie, Genesee Niagara, Orleans, Wyoming counties.

Regional Impact of Proposed 2010 Executive School Aid Cuts and 2009-2010 Property Tax Rebate Elimination

	Gap Elimination Adjustment With Federal Offset	Add/Cut Per Student	Rebate Check Lost 2009	Average Check 2009	Rebate Check Lost 2010	Average Check $ 2,010
CAPITAL REGION						
Albany	$ (21,918,984)	$ (550.63)	$ (24,041,556)	$ 389	$ (26,162,298)	$ 423
Clinton	$ (9,362,448)	$ (791.48)	$ (8,226,678)	$ 409	$ (8,983,298)	$ 447
Columbia	$ (5,417,018)	$ (678.23)	$ (4,774,661)	$ 342	$ (5,192,226)	$ 372
Delaware	$ (4,362,332)	$ (710.48)	$ (27,967,239)	$ 448	$ (30,756,030)	$ 493
Essex	$ (2,294,618)	$ (562.41)	$ (7,963,280)	$ 1,020	$ (8,639,037)	$ 1,107
Franklin	$ (5,167,044)	$ (644.03)	$ (4,145,489)	$ 349	$ (4,531,857)	$ 381
Fulton	$ (5,912,955)	$ (656.63)	$ (5,451,318)	$ 382	$ (5,955,902)	$ 418
Greene	$ (4,572,525)	$ (648.95)	$ (4,402,645)	$ 372	$ (4,787,468)	$ 405
Hamilton	$ (251,523)	$ (510.19)	$ (263,709)	$ 173	$ (285,293)	$ 187
Montgomery	$ (4,474,524)	$ (593.28)	$ (5,853,912)	$ 488	$ (6,369,411)	$ 531
Otsego	$ (5,715,865)	$ (704.62)	$ (5,687,751)	$ 387	$ (6,198,015)	$ 422
Rensselaer	$ (15,914,874)	$ (717.21)	$ (15,542,899)	$ 441	$ (16,920,995)	$ 480
Saratoga	$ (22,292,942)	$ (623.02)	$ (22,577,654)	$ 394	$ (24,551,568)	$ 428
Schenectady	$ (12,645,324)	$ (526.69)	$ (15,831,262)	$ 468	$ (17,231,071)	$ 510
Schoharie	$ (4,552,600)	$ (929.29)	$ (3,790,345)	$ 437	$ (4,134,443)	$ 477
Warren	$ (6,840,219)	$ (673.85)	$ (5,931,514)	$ 350	$ (6,473,771)	$ 382
Washington	$ (7,418,787)	$ (787.56)	$ 6,929,160	$ 452	$ (7,575,645)	$ 495
Region Total	$ (139,114,582)	$ (642.52)	$ (155,522,753)		$ (184,748,329)	
NEW YORK CITY						
New York City	$ (441,920,169)	$ (443.71)	$ (187,961,933)	$ 139	$ (195,982,296)	$ 154
LONG ISLAND						
Nassau	$ (77,301,615)	$ (373.15)	$ (174,170,008)	$ 644	$ (190,354,695)	$ 704
Suffolk	$ (130,300,491)	$ (504.19)	$ (196,075,010)	$ 614	$ (215,545,292)	$ 675
Region Total	$ (207,602,106)	$ (445.88)	$ (370,245,018)		$ (405,899,987)	
CENTRAL NEW YORK						
Broome	$ (21,407,202)	$ (714.45)	$ (25,148,548)	$ 505	$ (27,310,778)	$ 548
Cayuga	$ (10,204,385)	$ (987.08)	$ (7,207,644)	$ 418	$ (7,861,636)	$ 456
Chenango	$ (5,746,606)	$ (651.25)	$ (5,784,386)	$ 433	$ (6,324,355)	$ 473
Cortland	$ (4,785,588)	$ (685.91)	$ (4,273,515)	$ 408	$ (4,671,243)	$ 446
Herkimer	$ (6,069,034)	$ (585.76)	$ (6,835,463)	$ 406	$ (7,455,551)	$ 443
Jefferson	$ (10,229,205)	$ (545.21)	$ (5,970,243)	$ 280	$ (6,536,444)	$ 307
Lewis	$ (2,964,862)	$ (683.15)	$ (2,190,684)	$ 315	$ (2,404,688)	$ 346
Madison	$ (8,461,301)	$ (763.04)	$ (7,636,283)	$ 429	$ (8,348,849)	$ 469
Oneida	$ (23,105,968)	$ (656.64)	$ (25,078,641)	$ 460	$ (27,309,566)	$ 501
Onondaga	$ (48,121,359)	$ (656.06)	$ (47,976,792)	$ 447	$ (52,198,848)	$ 487
Oswego	$ (14,590,028)	$ (654.00)	$ (15,507,165)	$ 477	$ (16,965,579)	$ 521
St. Lawrence	$ (10,263,397)	$ (656.98)	$ (10,968,390)	$ 418	$ (11,995,008)	$ 457
Tioga	$ (6,170,046)	$ (754.38)	$ (5,542,441)	$ 427	$ (6,050,682)	$ 466
Tompkins	$ (8,512,914)	$ (723.58)	$ (7,560,434)	$ 399	$ (8,276,934)	$ 437
Region Total	$ (180,631,895)	$ (676.36)	$ (177,680,629)		$ (193,710,160)	
HUDSON VALLEY REGION						
Dutchess	$ (23,548,471)	$ (504.40)	$ (3,896,108)	$ 337	$ (4,231,561)	$ 366
Orange	$ (36,841,878)	$ (563.25)	$ (5,363,627)	$ 485	$ (5,868,128)	$ 530
Putnam	$ (6,779,557)	$ (411.36)	$ (16,791,157)	$ 715	$ (18,491,952)	$ 787
Rockland	$ (18,604,612)	$ (441.56)	$ (42,015,191)	$ 741	$ (45,929,116)	$ 810
Sullivan	$ (7,509,976)	$ (718.93)	$ (6,519,999)	$ 453	$ (7,086,627)	$ 493
Ulster	$ (15,828,045)	$ (608.26)	$ (17,676,069)	$ 434	$ (19,226,897)	$ 472
Westchester	$ (53,786,219)	$ (370.13)	$ (156,824,288)	$ 1,023	$ (171,517,415)	$ 1,119
Region Total	$ (162,898,758)	$ (462.13)	$ (249,086,438)		$ (272,351,696)	
ROCHESTER REGION						
Chemung	$ (8,883,848)	$ (723.15)	$ (8,379,127)	$ 422	$ (9,114,444)	$ 459
Livingston	$ (7,257,410)	$ (842.12)	$ (6,296,840)	$ 420	$ (6,888,704)	$ 459
Monroe	$ (69,921,794)	$ (609.83)	$ (74,163,443)	$ 433	$ (80,873,126)	$ 472
Ontario	$ (12,016,475)	$ (698.19)	$ (11,251,790)	$ 405	$ (12,294,779)	$ 442
Schuyler	$ (1,781,707)	$ (869.55)	$ (1,451,005)	$ 380	$ (1,586,476)	$ 415
Seneca	$ (3,493,550)	$ (749.53)	$ (3,904,788)	$ 471	$ (4,257,341)	$ 513
Steuben	$ (12,238,841)	$ (734.23)	$ (11,068,370)	$ 417	$ (12,097,294)	$ 456
Wayne	$ (10,913,037)	$ (697.36)	$ (11,802,607)	$ 461	$ (12,932,387)	$ 505
Yates	$ (1,714,322)	$ (647.89)	$ (1,571,756)	$ 298	$ (1,714,130)	$ 324
Region Total	$ (128,220,984)	$ (659.42)	$ (129,889,726)		$ (141,758,681)	
WESTERN NEW YORK						
Wyoming	$ (4,693,145)	$ (967.06)	$ (3,170,669)	$ 380	$ (3,481,672)	$ 417
Allegany	$ (5,107,806)	$ (702.01)	$ (5,191,892)	$ 442	$ (5,673,939)	$ 483
Cattaraugus	$ (9,279,783)	$ (654.34)	$ (8,091,941)	$ 361	$ (8,854,959)	$ 395
Chautauqua	$ (13,180,897)	$ (636.39)	$ (13,363,992)	$ 395	$ (14,604,105)	$ 432
Erie	$ (82,822,374)	$ (628.13)	$ (73,391,964)	$ 342	$ (79,781,873)	$ 371
Genesee	$ (7,745,534)	$ (850.41)	$ (7,681,837)	$ 495	$ (8,412,782)	$ 542
Niagara	$ (24,563,797)	$ (771.82)	$ (23,991,548)	$ 429	$ (26,154,855)	$ 468
Orleans	$ (4,368,719)	$ (640.20)	$ (38,711,695)	$ 520	$ (42,691,129)	$ 573
Region Total	$ (151,762,055)	$ (684.28)	$ (170,424,871)		$ (186,173,641)	
State Total	$ (1,412,150,549)		$ (1,440,811,368)		$ (1,580,624,790)	

SFY 2010-11 IMPACT OF PROPOSED CUTS TO HOSPITALS							
Regions	Trend Elimination	GRT To 0.75%	1% IME Reduction	IME Funds Into Base	IME To Obstetrical	Indigent Care Reform	Total
New York City	($47,715,202)	($73,518,090)	($65,507,556)	$29,884,084	$18,274,447	($116,609,343)	($255,191,660)
Long Island	($4,043,545)	($18,088,564)	($4,204,645)	$3,136,452	$2,238,942	($12,424,312)	($33,385,672)
Northern Metropolitan	($4,344,444)	($11,687,684)	($1,959,096)	$2,621,416	$2,079,090	($2,553,983)	($15,844,701)
Northeastern	($1,667,555)	($5,525,560)	($1,299,466)	$1,330,745	$1,133,549	($948,069)	($6,976,356)
Central	($2,065,915)	($5,485,188)	($1,655,914)	$1,814,456	$1,715,777	($3,520,960)	($9,197,744)
Rochester Regional	($1,686,388)	($5,488,126)	($2,668,220)	$1,396,020	$1,118,782	($6,287,702)	($13,615,634)
Utica / Watertown	($935,997)	($2,923,468)	($201,464)	$779,457	$757,549	$2,164,975	($358,948)
Western New York	($2,140,952)	($7,449,986)	($2,342,631)	$1,586,047	$1,499,143	$304,393	($8,543,986)
Total	**($64,599,998)**	**($130,166,666)**	**($79,838,992)**	**$42,548,677**	**$28,817,279**	**($139,875,001)**	**($343,114,701)**

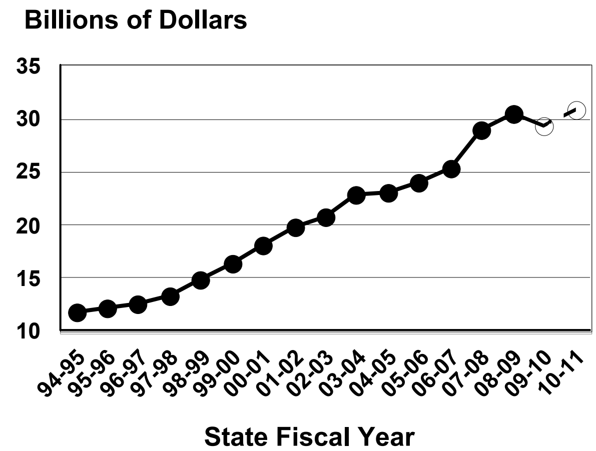
2010-11 IMPACT OF PROPOSED CUTS TO NURSING HOMES (GROSS DOLLARS)			
	Eliminate 1.7% Trend Factor	Increase NH Assessment From 6% To 7% (Non-Reimbursable)	TOTAL
New York City	($51,873,670)	($31,620,007)	($83,493,676)
Long Island	($16,049,666)	($9,728,218)	($25,777,883)
Northern Metropolitan	($12,722,283)	($7,862,441)	($20,584,724)
Northeastern	($5,842,182)	($3,677,833)	($9,520,015)
Central	($5,817,828)	($3,333,611)	($9,151,438)
Rochester Regional	($5,732,120)	($3,509,585)	($9,241,704)
Western New York	($7,641,412)	($4,706,609)	($12,348,022)
Utica	($4,885,589)	($3,043,462)	($7,929,051)
Total	**($110,564,749)**	**($67,481,765)**	**($178,046,514)**

Workforce Changes

Major Agencies	2008-90 Actual (03/31/09)	2009-10 Estimate (03/31/10)	Abolitions	Attritions	New Fills	Mergers	Net Change	2010-11 Estimate (03/31/11)
Children and Family Services	3,874	3,576	-75	-582	578	0	-79	3,497
Correctional Services	31,159	30,027	0	-1,689	1,629	0	-60	29,967
Education	3,129	2,998	0	-283	200	0	-83	2,915
Environmental Conservation	3,657	3,368	0	-105	51	0	-54	3,314
General Services	1,652	1,548	0	-54	6	0	-48	1,500
Health	5,704	5,491	0	-332	321	-1	-12	5,479
Labor	3,779	4,011	-2	-417	409	0	-10	4,001
Mental Health	16,716	16,297	0	-2,070	1,942	0	-128	16,169
Mental Retardation	22,590	21,786	0	-2,074	2,163	0	89	21,875
Motor Vehicles	2,820	2,812	0	-214	211	0	-3	2,809
Parks, Recreation, and Historic Preservation	2,188	2,073	0	-87	20	0	-67	2,006
Parole	2,121	2,006	-6	-110	65	0	-51	1,955
State Police	5,901	5,702	0	-172	0	0	-172	5,530
Taxation and Finance	5,049	5,178	0	-434	580	298	444	5,622
Temporary and Disability Assistance	2,191	2,359	0	-221	241	0	20	2,379
Transportation	10,185	9,701	0	-429	338	0	-91	9,610
Workers' Compensation Board	1,463	1,425	0	-55	80	0	25	1,450
SUBTOTAL - Major Agencies	**124,178**	**120,358**	**-83**	**-9,328**	**8,834**	**297**	**-280**	**120,078**
Minor Agencies	**12,312**	**12,159**	**-51**	**-1,078**	**1,095**	**-297**	**-331**	**11,828**
SUBTOTAL - Subject to Executive Control	**136,490**	**132,517**	**-134**	**-10,406**	**9,929**	**0**	**-611**	**131,906**
Not Subject to Executive Control								
Audit and Control	2,517	2,552	0	-150	150	0	0	2,552
City University	12,653	12,933	0	-1,306	1,306	0	0	12,933
Law	1,935	1,847	0	-122	22	0	-100	1,747
State University	41,605	41,778	0	-4,223	4,260	0	37	41,815
State University Construction Fund	120	135	0	-13	13	0	0	135
SUBTOTAL - Not Subject to Executive Control	**58,830**	**59,245**	**0**	**-5,814**	**5,751**	**0**	**-63**	**59,182**
Off-Budget Agencies								
Roswell Park Cancer Institute	1,947	2,025	0	-170	170	0	0	2,025
Science, Technology, and Innovation	27	24	0	0	0	0	0	24
State Insurance Fund	2,622	2,564	0	-215	215	0	0	2,564
GRAND TOTAL	**199,916**	**196,375**	**-134**	**-16,605**	**16,065**	**0**	**-674**	**195,701**

EDUCATION

All Funds Disbursements (Millions of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	31,440	30,912
Annual Growth Rate	9.4%	-1.7%
5 Year Average Growth (Actual)		5.1%



The SFY 2010-11 Executive Budget reduces General Support for Public Schools (GSPS) by $1.1 billion from the current year. This reduction is achieved by reducing formula aids by $1.05 billion and reducing categorical grants by $41 million. The Executive has proposed a one year aid reduction formula titled the Gap Elimination Adjustment (GEA). The total calculated GEA is $2.1 billion which is offset by the remaining ARRA funds available to the State through the Fiscal Stabilization program. Use of the ARRA funds reduces the size of the GEA to $1.4 billion. This reduction along with $366 million in increases to expenses based aids and cuts to categorical programs provide an overall net GSPS decrease of $1.1 billion. This proposal provides $20.7 billion for school year 2010-11 a decrease of 4.9 percent. The Executive proposes to maintain Foundation Aid, High Tax Aid and Universal Pre-K at 2009-10 levels as well as providing present law funding for Building Aid, Transportation Aid, BOCES and special education funding.

This year to year reduction reverses progress toward the expected four year phase in plan that was expected to provide a $7.6 billion increase in school aid by the 2010-11 school year. Categorical programs are also reduced by $41 million by the Executive school aid proposal including cuts to funding for teacher programs and the Roosevelt Union Free School District.

Foundation Aid: Foundation aid as enacted in the SFY 2007-08 Budget was to be fully phase-in by the 2010-11 school year. The original phase-in plan enacted in 2007-08, would have provided school districts with 20 percent of total additional Foundation aid generated by the new formula and 37.5 percent in the 2008-09 school year, a projected 67 percent in 2009-10 and fully phased-in by 2010-11.

The Executive proposed freezing Foundation Aid in 2009-10 and 2010-11. In the 2010-11 proposal the Executive is proposing to alter the phase-in of the aid formula by freezing the formula for an additional year and extending the phase-in period to 2016-17. This would **extend the 2007-08 agreed upon phase-in period from 4 to 10 years**. Foundation aid totals $14.87 billion under the Executive's proposal for 2010-11.

Building Aid: The Executive proposal fully funds the $221.84 million present law increase for Building aid in the 2010-11 school year. In addition, Expanding our Children's Education and Learning (EXCEL) funding is increased by $14.91million over the 2009-10 allocations.

BOCES Aid: BOCES aid is increased by $33.04 million above 2009-10 levels which represents present law levels.

Transportation Aid: The Executive proposes to fully fund at present law levels transportation aid at $1.65 billion. This represents a $99.72 million increase over the 2009-10 school year.

Universal Pre-k: The Executive proposes to maintain Universal Pre-kindergarten at $399.72 million for the 2010-11 School Year. The Executive proposes to extend the phase-in period for this program from 4 to 10 years. **One-third of all the school districts in the State have not opted into this program.**

High Tax Aid: The Executive maintains funding at $205 million for the 2010-11 school year.

Supplemental Excess Cost aid: The Executive maintains funding at $4.3 million for the 2010-11 school year.

Academic Enhancement/Achievement /Educational Improvement Grants: The Executive maintains these grants at $27 million for the 2010-11 school year.

Additional Formula School Aids: The Executive proposes to fund present law for private excess cost aid (+$14.06 million), high cost excess cost aid (+$10.02 million), reorganization operating (+$0 million), charter school transition aid (+$3.17 million), textbook aid (-$1.12 million), software aid (+$.33 million), Library materials (-$.06 million), and hardware aid (-$.42 million).

Gap Elimination Adjustment (GEA): The amounts to be received by school districts in the 2010-11 school year will be reduced by a deficit reduction assessment of $2.1 billion. The GEA is calculated to distribute the reduction considering school district pupil need, wealth, tax effort and administrative efficiency. The minimum reduction proposed is eight percent with a maximum reduction of 21 percent. High need districts are capped at a percent reduction that will not be more than five percent of their total general fund expenditures and depending on the amount spent on administrative purposes and pupil need may be as low as 3.6 percent. Universal Pre-Kindergartern, Building aid, EXCEL and Building Reorganization Incentive are not included in the calculation of the GEA. $726 million or 33.95 percent of the GEA is restored with Federal ARRA Fiscal Stabilization funds.

Federal ARRA Title I-A and IDEA aid A total of $852 million in Federal Aid for Title I-A Aid ($454 million) and IDEA funding ($398 million) is continued at the same level as 2009-10 for the 2010-11 school year. This is the last year of the two year ARRA funding. Title I-A funds go to school district with high poverty rates.

Preschool Special Education: The Executive is proposing to reduce the State's liability for Preschool costs borne by the counties and shift certain costs to school districts.

Currently, the State Pays 59.5 percent of the costs of this program and counties contribute the remaining 40.5 percent. The Executive's plan caps the County's share at 2 percent each year over their base year amount. Under the proposal advanced by the Executive, school districts would be required to make up the difference in excess costs if the overall program cost grows by more than 2 percent. The total program is funded at $813.9 million an increase of $91.1 million or 13 percent over the current year. Of this total

$194 million in Federal ARRA funds are utilized to support the overall program. 2010-11 will be the last year of ARRA funding unless extended.

Summer School Special Education: The Executive is proposing to alter the reimbursement to school districts for July and August special education programs. Currently the State reimburses school districts for 70 percent of the costs of children in these programs. The Executive is proposing to change that flat reimbursement by using a school district's foundation aid ratio (minimum 10 percent maximum 80 percent). This will save the State $86 million on a school year basis ($68 million on a State Fiscal year) and shift costs to property tax payers.

Nonpublic School Aid: This program is reduced by $1.5 million. Total funding for the program is $109.11 million

Contracts for Excellence: For 2010-11 the Executive is proposing to keep 25 school districts currently in the program subject to the program requirements unless all school buildings in a school district are reported to be in "good standing" as identified by the State's accountability system. School districts Contracts for Excellence programmatic financial constraints are reduced under the proposal by the percentage of their respective GEA.

Mandate Relief:

Four-Year Moratorium on Unfunded Statutory Mandates: New State mandates are continuously imposed on school districts, and their accumulation over time has resulted in a burdensome and costly system of oversight. The Executive Budget proposes a four-year moratorium on unfunded statutory mandates to help school districts mitigate future cost increases.

State Education Department Regulatory Reform: This Executive Budget recommends applying the same requirements regarding regulatory adoption procedures to the State Education Department that currently apply to other State agencies pursuant to Executive Order 17 of 2009. These requirements include the preparation of a fiscal note including local impacts, a cost-benefit analysis as well as identifying a funding source for any new regulations.

School District Exemption from the Wicks Law: The Executive Budget recommends repealing multiple bidder requirements for school district construction projects. This will provide long-term capital and debt service savings to school districts and the State.

Reduce Paperwork: This proposal streamlines existing reporting requirements and eliminates required reports that are deemed to be outdated or no longer serve a public policy purpose. School districts would also be allowed to file reports electronically unless the Commissioner requires other means. In addition, the Department will develop one consolidated reporting system that captures all information required by New York State or collected by the State for the Federal Government.

Reform Procurement Practices: School districts would be provided with greater flexibility to purchase from existing contracts held by other government entities. In addition, school districts would be allowed to purchase based on "best value", the most advantageous balance of price, quality, and performance. The State already has the ability to purchase in this manner.

Authorize Regional Student Transportation: School districts would be able to reduce expenses by contracting with other entities, including school districts, counties and municipalities to provide more efficient student transportation.

School districts would also be authorized to partner on school bus maintenance.

Other Mandate Reform: With Federal laws ensuring that each school district provide appropriate educational space for students with disabilities in the least restrictive environment, State reporting requirements for special education space planning are now duplicative and can be repealed without impact. Also, Federal law now mandates transition planning requirements for children who will no longer receive special education services because of their age. Therefore, certain duplicative State requirements for transition notification can be repealed. the Executive includes a number of Article VII provisions intended to provide mandate relief to school districts including the following:

Allow Access to Employee Benefit Accrued Liability Reserve Funds: A school district's governing board would be permitted to authorize a withdrawal of excess funds in an employee benefits accrued liability reserve fund in order to maintain educational programming during the 2010-11 school year. The amount withdrawn could not exceed the Gap Elimination Adjustment for a school district. The State Comptroller would certify that funds withdrawn are in excess of the amount required for employee benefits which are a liability against the fund.

School District Charter School Payments: In recognition of the freeze in Foundation Aid for the 2010-11 school year, the charter school payments made by school districts to charter schools for children attending charter school will be maintained at the current per pupil levels. The 2009-10 State Budget initiated a one year freeze on these per pupil charter school payments. The 2010-11 Executive Budget will extend that freeze for one additional year.

Contingency Budget Calculation: Proposed statutory changes will prevent mandatory negative spending growth for school districts that are operating under a contingency budget by limiting the spending cap calculation to no less than the previous year's spending levels. The current statutory provisions for the calculation of the contingency budget cap does not account for a period of deflation, which is likely to be the case for the 2009 calendar year.

Other Education Programs

In addition to funding for agency operations, the Department's budget includes support for various aid programs in the areas of higher education, cultural education and vocational rehabilitation. Major budget actions include:

Library Aid: The Executive Budget provides $84.5 million in funding for Library Aid - this represents a decrease of $2.4 million from the Final 2009-10 Enacted Budget. State funding for local library construction will be maintained at $14 million for 2010-11.

Public Broadcasting Aid: State support for New York's nine public television stations and 17 public radio stations will continue at $15.0 million through a combination of State support and Federal ARRA funding, the same level of funding provided in the 2009-10 Enacted Budget.

Bundy Aid: The Executive Budget recommends $39.0 million a reduction of $0.7 million for Unrestricted Aid for Independent Colleges and Universities, also known as Bundy Aid.

Capital Projects: The Executive Budget includes $6.8 million in new capital support funds for various minor rehabilitation projects to maintain SED's facilities in safe operating condition. SED will use these funds for various health and safety and critical infrastructure projects, including upgrading elevators in the Education Building, replacing boilers at the Onondaga Nation Elementary School, and installing concrete pavement and other exterior renovations at the School for the Deaf in Rome.

The Executive Budget also maintains funding for Case Services ($54.0 million) at the same level as the Final 2009-10 Enacted Budget.

Smart Scholars Early College High School Program: The Executive Budget includes an appropriation of $6 million, that will be expended over several years, to match a privately funded grant. The combined funding level of $12 million will be used to create early college high schools that will give students the opportunity to earn college credits by the time they complete their high school education.

Reimbursement for the Metropolitan Commuter Transportation Payroll Tax: The Executive Budget includes an appropriation of $60 million for full reimbursement of school district expenses for the MTA payroll tax.

School Property Tax Initiatives:

The Executive Budget provides $3.2 billion for the STAR program comprised of the Enhanced STAR exemption for eligible senior citizens, the Basic STAR exemption for other homeowners, and the New York City Personal Income tax rate reduction and refundable tax credit. Cuts to the STAR program include the following:

"Floor" Provision: The Executive Budget changes the "floor" adjustment that limits possible annual reductions in STAR exemption amounts from 11 percent to 18 percent. This is expected to produce savings of $40 million for 2010-11.

Eliminate STAR exemption benefit for the homes with value of $1.5 million and above: Under current law, every home that is used as a primary residence, regardless of how much it is worth, is eligible to receive a STAR exemption benefit. This proposal would eliminate the exemption benefit for the homes with equalized value of $1.5 million and above. This would reduce spending by $30 million in 2010-11.

Restructure New York City Personal Income Tax STAR: The Executive Budget would cap the tax rate reduction benefit for taxpayers with incomes above $250,000. Under current law, the rate reduction applies to all taxpayers, regardless of income. This would reduce spending by $143 million in 2010-11.

In total $1.8 billion in property tax relief continues to be eliminated ($1.5 billion in rebate checks) or is proposed to be eliminated (STAR Floor - $40 million – Eliminate Exemption Benefit for homes in excess of $1.5 million $30 million – Cap NYC PIT at $250,000 $143 million) under the Executive's proposed Budget.

Federal Race-to-the-Top: The Executive Budget includes a $750 million appropriation in anticipation of a successful application for competitive funds through the Federal Race-to-the-Top program.

Agency Reductions. The Executive Budget recommends an $8 million or 16 percent General Fund reduction in available funding to the operations of SED. The agency would manage the reductions through strict limits on staffing, improved procurement of energy, vehicles, supplies, equipment, technology, other services, and the development of shared services and other actions.

2009-10 and 2010-11 General Support for Public Schools
(millions)

Formula Aids	2009-10	2010-11	Change	Percent Change
Foundation Aid	$14,892.22	$14,892.22	$0.00	0.00
Special Education – High Cost	$443.92	$454.12	$10.20	2.30
Special Education – Private	$314.91	$328.97	$14.06	4.46
Reorganization Operating Aid	$2.86	$2.86	$0.00	0.00
Textbook Aid	$182.50	$181.38	($1.12)	(0.61)
Computer Hardware Aid	$37.85	$37.43	($0.42)	(1.11)
Computer Software Aid	$45.46	$45.79	$0.33	0.73
Library Materials Aid	$19.32	$19.26	($0.06)	(0.31)
BOCES Aid	$698.87	$731.91	$33.04	4.73
Special Services Aid	$206.41	$199.70	($6.71)	(3.25)
Transportation Aid	$1,546.94	$1,646.66	$99.72	6.45
Building Aid	$2,263.89	$2,485.73	$221.84	9.80
High Tax Aid	$204.77	$204.77	$0.00	0.00
Universal Pre-K	$399.72	$399.72	$0.00	0.00
Academic Achievement Grant	$1.20	$1.20	$0.00	0.00
Supp. Ed. Improvement Grant	$17.50	$17.50	$0.00	0.00
Charter School Transition Aid	$18.67	$21.84	$3.17	16.98
Full Day Kindergartern	$7.35	$0.00	($7.35)	(100.0)
Academic Enhancement Aid	$8.32	$8.32	$0.00	0.00
Supplemental Special Education Aid	$4.31	$4.31	$0.00	0.00
Gap Elimination Adjustment (GEA)	$0.00	($1,412.15)	($1,412.15)	na
EXCEL (NYC)	127.02	127.02	$0.00	0.00
SCHOOL AID RUN TOTAL	$21,444.01	$20,398.57	($1,045.44)	(4.90)
Categorical Aids				
Teachers of Tomorrow	$25.00	$25.00	$0.00	0.00
Teacher Centers	$35.00	$0.00	($35.00)	(100.0)
Teacher Mentor Intern	$2.00	$2.00	$0.00	0.00
School Health Services	$13.84	$13.84	$0.00	0.00
Roosevelt	$12.00	$6.00	($6.00)	(50.0)
Urban Suburban Transfer	$2.73	$2.73	$0.00	0.00
EPE	$96.00	$96.00	$0.00	0.00
Homeless Pupils	$9.23	$9.23	$0.00	0.00
Incarcerated Youth	$17.50	$17.50	$0.00	0.00
Bilingual Education	$12.50	$12.50	$0.00	0.00
Education of OMH/OMR Pupils	$69.00	$69.00	$0.00	0.00
Special Act School Districts	$2.70	$2.70	$0.00	0.00
Chargebacks	($47.00)	($47.00)	$0.00	0.00
BOCES aid for Special Act	$0.67	$0.67	$0.00	0.00
Learning Tech Grants	$3.29	$3.29	$0.00	0.00
Native American Building	$2.50	$2.50	$0.00	0.00
Native American Education	$35.00	$35.00	$0.00	0.00
Supp. Valuation Impact Grants	$3.80	$3.80	$0.00	0.00
Bus Driver Safety	$0.40	$0.40	$0.00	0.00
Excel ROS	$27.02	$41.92	$14.90	55.14
General Support for Public Schools	$21,767.19	$20,695.66	($1071.53)	(4.92)

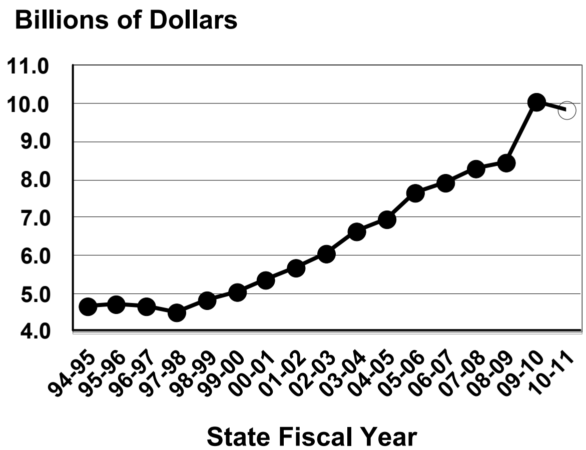
Education
Proposed Disbursements - All Funds

(Millions of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
School Aid SFY	24,602	24,191	(410)	-1.7%
STAR	3,419	3,208	(212)	-6.2%
Programs for the Disabled	2,239	2,295	56	2.5%
All Other	1,179	1,218	39	3.3%
Totals:	**31,440**	**30,912**	**(528)**	**-1.7%**

HIGHER EDUCATION

All Funds Disbursements (Thousands of Dollars)		
	Estimated SFY 09-10	Projected SFY10-11
Cash	10,061,306	9,866,521
Annual Growth Rate	0.2%	-1.9%
5 Year Average Growth (Actual)		5.1%



The SFY 2010-11 Executive Budget recommends All Funds disbursements of $9.9 billion for New York State public and private higher education programs, a decrease of $195 million or 1.9 percent less than 2009-10 funding levels. The funding decrease is achieved through a reduction in General Fund Support for SUNY State Operated Colleges (-$148 million), Statutory Colleges (-$21.4 million) and Community College Base Aid (-$53.8 million AY). In addition, the decrease is achieved through reductions to CUNY Senior colleges (-$84.4 million), and Community College Base aid of $21.9 million (AY). The Executive has also advanced a proposal to take $37 million in net cuts to the Tuiton Assistance Program (TAP).

The rising costs of college education, student indebtedness and access to higher education remain a major concern to New York State citizens. In an effort to address these concerns, the Senate Republicans passed several pieces of legislation intended to enhance higher education quality and promote college affordability and access for New Yorkers. In 2007, the Executive established the Commission on Higher Education (CHE). The CHE was charged with performing a thorough evaluation of the higher education sector and making recommendations for improvement. The CHE final report, submitted in June 2008, contained numerous recommendations, including the establishment of a State-supported low-cost student loan program, implementation of a rational tuition policy for SUNY and CUNY, and academic research and infrastructure investments. Several of those recommendations are contained within the Executive's proposed *New York State Higher Education Empowerment and Innovation Act.*

The Executive Budget proposes the New York State Higher Education Empowerment and Innovation Act. In addition to significant reforms related to how SUNY procures goods and services, utilizes its real property assets and establishes tuition rates, the Act authorizes the University to collect and spend approximately $2.3 billion of revenue from tuition and most of its self-supporting programs outside of the State appropriation process. As such, Executive Budget appropriations consist of $2.16 billion in General Fund resources (including $1.2 billion in fringe benefit costs) to support the 29 State-operated campuses, central administration and University-wide programs, and approximately $689 million, consisting primarily of Federal funds and residence hall operations funds, which remain appropriated due to considerations related to the bonded dormitory capital program.

General Fund Support

Approximately $2.8 billion in General Fund support is recommended for the SUNY system, a decrease of $54.9 million or 2.01 percent from the current year adjusted level (including mid-year Deficit Reduction Plan (DRP) actions). General Fund support of $2.3 billion is recommended for the SUNY State-operated and statutory colleges, an increase of $4.2 million or 0.2 percent from the current year. This increase is the result of $181.9 million in increases for collective bargaining agreements ($86.5 million), increased utility costs ($9.2 million), increased non-personal service costs ($10.3 million), increased tuition sharing ($16.7 million) and fringe increase ($59.2 million) offset by Executive proposed reductions of $177.6 million. General Fund support of $1.07 billion is recommended for the CUNY system, an increase of $18 million (include DRP actions and Mid-year collective bargaining agreements). This increase is the result of $102.4 million in increases for collective bargaining agreements ($21.8 million), increased utility costs ($.85 million), increased non-personal service costs ($8.14 million), building rentals ($5.6 million), increased tuition sharing ($11 million) and fringe increase ($55.1 million) offset by Executive proposed reductions of $84.4 million. Additional program details are presented in the attached year to year comparison chart.

Community College Base Aid

The SFY 2010-11 Executive Budget reduces CUNY and SUNY community college base operating aid per full-time equivalent student (FTE) by $285. In total this proposal reduces aid to SUNY and CUNY by $75.6 million in the 2010-11 academic year.

SUNY's community colleges have three basic funding sources: State support, local sponsor support, and student tuition revenue. The Executive Budget recommends $454.4 million in State support ($371.2 million in General Fund support and $83.3 million in Federal funding through the ARRA State Fiscal Stabilization Fund), representing a $10.5 million decrease in total available funding from 2009-10 final Enacted Budget levels. This change is attributable to an $18 million increase for enrollment growth and $11.8 million in Federal ARRA funds, offset by a $40.3 million State Fiscal Year 2010-11 ($53.8 million Academic Fiscal Year) decrease resulting from a $285 per student FTE reduction in base operating aid (from $2,545 to $2,260). In 2008-09 the per FTE amount provided SUNY was $2,675.

CUNY's community colleges have three basic funding sources: State support, local sponsor support, and student tuition revenue. The Executive Budget recommends $187.2 million in State support ($154.4 million in General Fund support and $32.8 million in Federal funding through the ARRA State Fiscal Stabilization Fund), representing a $4 million increase in total available funding from 2009-10 final Enacted Budget levels. This change is attributable to a $15.8 million increase for enrollment growth and $4.6 million in the annualization of ARRA funds, offset by a $16.4 million State fiscal year ($21.9 million academic fiscal year basis) decrease resulting from a $285 per student FTE reduction in base operating aid (from $2,545 to $2,260). In 2008-09 the per FTE was $2,675.

Financial Aid and Opportunity Programs

While funding for most higher education scholarship and grant programs would remain level in SFY 2010-11, direct institutional aid for the Independent colleges and universities **(BUNDY Aid),** is being reduced by $.7 million, from $39.7 million to $39.0 million or 1.7 percent.

SUNY Hospitals

As a result of the proposed Public Higher Education Empowerment and Innovation Act, approximately $2.1 billion of patient and other revenue from SUNY's three teaching hospitals will be managed by the University outside of the State appropriation process. The hospitals will continue to be responsible for fully reimbursing the State for fringe benefit and debt service costs. The Executive Budget continues to appropriate a subsidy for the hospitals, which recognizes costs attributable to its State agency status. The subsidy is continued at 2009-10 levels of $129 million.

SUNY and CUNY Capital Plans

The 2008-09 enacted budget provided SUNY with $4.1 billion in new capital appropriations, a major step in the implementation of a new, $6.3 billion multi-year capital plan for SUNY's educational facilities, hospitals, residence halls and community colleges. The 2010-11 Executive Budget continues this commitment to the rehabilitation of SUNY's educational facilities infrastructure by providing the third of five annual $550 million appropriations to address the accumulated backlog of critical maintenance projects throughout the University system. The Executive Budget also includes $22 million for the State's 50 percent share of capital projects for community college campuses that have secured local sponsor resolutions.

Although appropriations for SUNY's multi-year capital program are continued in the Executive Budget, a proposed Capital Reduction Plan will achieve $39 million in 2010-11 savings, and planned disbursements in the following four years will be reduced as well. Over this five-year period, SUNY's capital disbursements will be reduced by $467 million, from $6.249 billion to $5.782 billion.

The 2008-09 enacted budget provided CUNY with $1.8 billion in new capital appropriations, a major step in the implementation of a $3 billion multi-year capital plan, which provides for facility and infrastructure improvements at senior and community colleges, consistent with University needs and priorities. The 2010-11 Executive Budget continues a commitment to preserve and rehabilitate CUNY's educational facilities infrastructure by providing the third of five annual $284 million appropriations to address the accumulated backlog of critical maintenance projects throughout the University system. The Executive Budget also includes $35 million for the State's 50 percent share of capital projects for community college campuses that have secured a match from the City of New York. Although appropriations for CUNY's multi-year capital program are continued in the Executive Budget, the proposed Capital Reduction Plan will achieve $24 million in 2010-11 savings, and planned disbursements in the succeeding four years will be reduced as well. Over this five-year period, CUNY's capital disbursements will be reduced by $256 million, from $2.791 billion to $2.535 billion.

Higher Education Services Corporation (HESC) / TAP Tuition Assistance Program (TAP)

The Executive Budget recommends $1.03 billion in All Funds ($844 million General Fund; $188 million Other Funds) support for HESC. This is a net decrease of $93 million (a $83.7 million General Fund decrease and a $9.3 million Other Funds decrease) from 2009-10 funding levels. The budget reflects funding to continue the NYHELPs student loan program and decreased spending for the Tuition Assistance Program (TAP). The Executive Budget recommends a staffing level of 630 FTEs for the Corporation, unchanged from 2009-10.

The Executive proposes the following TAP changes:

<u>Increase Academic Standards for Continued TAP Eligibility (-$8.4 million):</u> The 2010-11 Executive Budget would increase minimum academic standards for non-remedial students will now be required to have earned at least 15 credits and a 1.8 Grade Point Average (GPA) after two semesters of study. Current standards would remain unchanged for remedial students.

Eliminate TAP for Graduate Study (-$3 million): The 2010-11 Executive Budget eliminates TAP award eligibility for graduate students.

Establish Default Parity (-$4.1 million): Currently, students in default on loans guaranteed by the Corporation are ineligible to receive TAP payments, but students in default on loans guaranteed by organizations other than the Corporation retain TAP eligibility. The 2010-11 Executive Budget provides that all students in default on statutory New York State or Federal loans would be ineligible for TAP awards, regardless of guarantor.

Reduce Maximum TAP Award for Two-Year Degree Programs (-$28 million): The 2010-11 Executive Budget reduces the maximum TAP award for students enrolled in a two-year degree granting program from $5,000 to $4,000.

Create New TAP Schedules for Certain Financially Independent Students (-$1.9 million): The 2010-11 Executive Budget creates a new TAP schedule that increases the maximum award from $3,025 to $5,000 for orphans/wards of the court and other students under 22 years of age who meet certain criteria that establishes their financial independence. As such, they would receive an award similar to that of students who are declared dependents by their parents. This proposal also decreases the maximum award for independent students who are married without children from $5,000 to $3,025, which is consistent with the award provided to single adults with no children.

Reduce TAP Awards by $75 (-$23.6 million): The 2010-11 Executive Budget reduces all TAP awards by $75.

Private Pension and Annuity Exclusion (-$2 million): Currently, for individuals 59½ years of age and older, the first $20,000 of private pension and annuity income is excluded for purposes of calculating TAP award eligibility levels for their dependent children. The 2010-11 Executive Budget eliminates this exclusion.

Eliminate Various Merit-Based Scholarship Awards (-$5.25 million): The 2010-11 Executive Budget eliminates all new awards for the Scholarship for Academic Excellence and Math and Science Teacher Incentive Scholarship programs beginning in the 2010-11 academic year.

Provide TAP to Students Attending Certain Institutions Not Under the State Education Department's Direct Supervision (+$18.3 million): Currently, there are some income-eligible students who attend non-profit institutions of higher education that cannot receive TAP because their schools, although authorized by the State Education Department (SED) to offer post-secondary education, are not under SED's direct supervision. The Executive Budget would effectively lift the statutory prohibition against providing TAP to otherwise income-eligible students at certain specialized faith-related institutions that primarily offer religious instruction or train members of the clergy.

Higher Education Services Corporation / New York State Higher Education Loan Program (NYHELPs)

The 2010-11 Executive Budget continues the NYHELPs student loan program, a student loan program for New York State residents provides students and parents providing access to low-cost loans that would otherwise not be available in the private loan market. The Program is a partnership between the State, private lenders and higher education institutions that makes available an estimated $350 million annually in student loans with interest rates well below those of conventional private bank offerings. Eligible students must be New York State residents attending degree-granting postsecondary education institutions in the State that are approved to participate in Federal HEA Title IV student aid programs. The Corporation finances and administers the program in tandem with the State of New York Mortgage Agency (SONYMA). It is expected that SONYMA will issue $350 million in tax-free bonds in 2010-11 to finance new fixed rate loans of up to $10,000 per borrower. In addition to the allocation of Private Activity Bond Volume Cap to authorize the issuance of the SONYMA tax-exempt bonds, in 2010-11, the State will make available $10 million to support a guarantee fund that will enable favorable borrower interest rates and fees. The debt-service on program bonds will be entirely self supported by loan repayments and borrower fees, and the bonds issued by SONYMA will not be considered State-supported debt.

Council on the Arts

The 2010-11 Executive Budget recommends $44.2 million ($40.0 million General Fund; $4.2 million Other Funds) for New York State Council on the Arts and the New York State Theater Institute. This is a decrease of $9.6 million ($7.1 million in General Fund and $2.5 million in Other Funds) from the 2009-10 Final Enacted Budget. This net change primarily reflects the reduction in funding for grants to arts and cultural organizations, the reduction of staff at NYSCA, and the phase-out of State support for the Egg and NYSTI. The Executive Budget recommendation includes $2.5 million in Federal funds. This amount represents a decrease of $0.4 million from the 2009-10 Budget due to the phase-out of one-time funding for grants to arts and cultural organizations provided under the Federal American Recovery and Reinvestment Act of 2009.

<u>Reduce Funding for NYSCA Grants:</u> The 2010-11 Executive Budget provides $35.2 million in General Fund support for arts grants. This represents a decrease of $6.5 million from the 2009-10 Final Enacted Budget.

<u>Restructure NYSCA's staff to generate operational efficiencies:</u> The 2010-11 Executive Budget provides funding for 34 full-time employees at NYSCA. This represents a decrease of 10 from the 2009-10 authorized fill level. The agency intends to consolidate programmatic functions under fewer managerial positions in order to improve operational efficiency and achieve the savings required by the Governor's statewide directives to reduce spending on agency operations. These actions will generate approximately $0.6 million in savings, which represents 12 percent of NYSCA's operating budget.

<u>Eliminate State Funding for The Egg:</u> Currently, The Egg receives $0.6 million annually in State funding, which represents approximately 15 percent of its operating budget. The remainder is comprised of receipts from ticket sales, private donations, and sales and lease of products and facilities. It is expected that The Egg will continue operating in 2010-11 using non-State revenue sources.

<u>Phase-out State Funding for NYSTI:</u> The 2009-10 Budget provided $3.1 million in State funding to support NYSTI. This amount represents approximately 85 percent of its operating budget; the remainder is comprised of receipts from ticket sales, private donations, and sales and lease of products and facilities. The 2010-11 Executive Budget provides $1.5 million to support NYSTI; this amount represents a 50 percent decrease from the 2009-10 funding level, reflecting a phase-out of the State subsidy. It is expected that, beginning in 2011-12, NYSTI will be fully self-supporting through increased non-State revenue sources

SUMMARY OF PROPOSED SPENDING IN HIGHER EDUCATION - SFY 2010-11 EXECUTIVE BUDGET (dollars)				
PROGRAMS	***2009-10 ADJUSTED***	***2010-11 PROPOSED***	***CHANGE***	***% CHANGE***
Direct Institutional Aid (BUNDY AID)	39,780,000	39,032,000	(748,000)	-1.88%
Tuition Assistance Program (TAP)	838,966,000	825,048,000	(13,918,000)	-1.66%
Aid For Part-time Study (APTS)	14,357,000	14,357,000	0	0.0%
Higher Education Opportunity Programs (HEOP)	20,901,000	20,783,000	(118,000)	-.56%
Independent Colleges Nursing Programs	941,000	941,000	0	0.0%
Educational Opportunity Program (EOP)	20,428,000	19,180,000	(1,248,000)	-6.11%
Search for Education, Elevation and Knowledge (SEEK)	17,100,000	17,191,300	91,300	.53%
STEP	9,774,000	9,774,000	0	0.0%
C-STEP	7,406,000	7,406,000	0	0.0%
Liberty Partnerships	10,842,000	10,482,000	(360,000)	-3.32%
Native American Postsecondary Aid	598,000	598,000	0	0.0%
Dental Clinics	1,050,000	0	(1,050,000)	-100%
ATTAIN Lab Program	959,000	0	(959,000)	-100%
Memorial Scholarships for Families of Deceased Firefighters, Police Officers, Peace Officers, and Emergency Medical Service Workers	963,000	1,000,000	37,000	3.84%
Regent Physician Loan Forgiveness	780,000	780,000	0	0.0%
Vietnam/Persian Gulf/Afghan Veterans Tuition Award	9,613,000	12,113,000	2,500,000	26.01%
Military Enhanced Recognition Incentive and Tribute Scholarship	298,000	926,000	628,000	210.74%
American Airlines Flight 587 Scholarship Program	240,000	454,000	214,000	89.17%
World Trade Center Memorial Scholarship Program	7,600,000	9,600,000	2,000,000	26.32%
Volunteer Recruitment Service Scholarship Program	1,550,000	1,365,000	(185,000)	-11.94%
Teacher Opportunity Corps	671,000	671,000	0	0.0%
Senator McGee Nursing Faculty Scholarship/Loan Forgiveness Program	3,933,000	3,933,000	0	0.0%
Math, Science and Engineering Teaching Incentive Program	2,600,000	2,150,000	(450,000)	-17.31%
Flight 3407 Memorial Scholarship	105,000	191,000	86,000	81.9%
Social Worker Loan Forgiveness Program	978,000	978,000	0	0.0%
New York Higher Education Loan Program (NYHELPs)	55,000,000	15,000,000	(40,000,000)	-72.73%
SUNY/CUNY Operating and Capital Budgets				
SUNY				
SUNY State-operated Campuses	2,292,846,000	2,297,109,900	4,263,900	.19%
SUNY Community College Aid	464,977,733	454,446,386	(10,531,347)	-2.26%
SUNY Capital Plan	595,700,000	572,426,000	(23,274,000)	-3.91%
CUNY				
CUNY Senior Colleges	1,048,822,377	1,066,866,000	18,043,623	1.72%
CUNY Community College Aid	183,116,485	187,176,110	4,059,625	2.22%
CUNY Capital Plan	284,222,000	318,785,000	34,563,000	12.16%

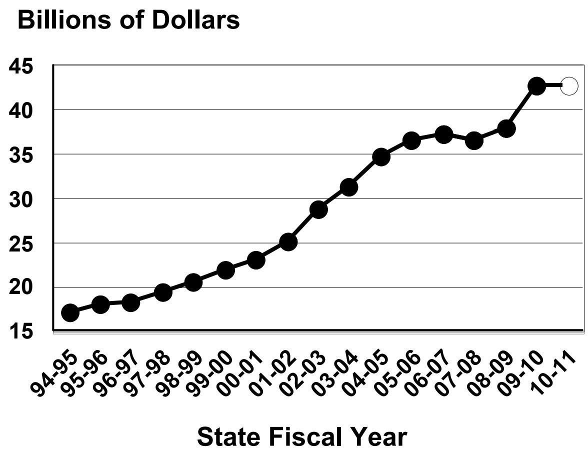
Higher Education
Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
SUNY SFY	7,287,088	7,410,391	123,303	1.7%
CUNY	1,663,720	1,383,542	(280,178)	-16.8%
Higher Education Services Corp.	1,022,775	1,010,836	(11,939)	-1.2%
Other	68,446	40,700	(27,746)	-40.5%
SUNY Construction Fund	19,277	21,052	1,775	9.2%
Totals:	**10,061,306**	**9,866,521**	**(194,785)**	**-1.9%**

HEALTH - MEDICAID

All Funds Disbursements (Millions of Dollars)		
	Estimated SFY 09-10	Projected SFY 10-11
Cash	42,881	42,893
Annual Growth Rate	13.0%	0.0%
5 Year Average Growth (Actual)		1.8%



The SFY 2010-11 Executive Budget proposal recommends cash disbursements of $42.9 billion for the Department of Health, an increase of $12 million. The increase of $12 million includes growth of $165 million for various Public Health programs.

The overall increase of $165 million for Public Health programs is offset by $153 million in reductions under the Medicaid program

These increases occur through increased costs of $457 million for programs including the Elderly Pharmaceutical Insurance Coverage program (EPIC), Early Intervention (EI), Child Health Plus (CHP), and Health Care Reform Act (HCRA) supported programs. This increased spending also includes $6 million in initiatives for Childhood Obesity, expansion of the Doctors Across New York program, and EPIC assistance for seniors facing changes in the program.

Health Care Cost Saving Measures

The SFY 2010-11 Executive Budget includes Medicaid, HCRA and Public Health cost savings proposals that would result in State savings of $1.8 billion.

For **Hospital Services**, the Executive Budget includes assessments, cuts and reallocations that would result in a net $244.6 million in state savings, including proposals to:

- Eliminate the 2010 trend factor increase of 1.7 percent, ($26.7 million);
- Increase the inpatient hospital assessment implemented in the 2009-10 budget from 0.35 percent to 0.75 percent, ($130.2 million);
- Limit the number of potentially preventable hospital readmissions, ($20 million);
- Implement a reduction in indirect medical education (IME) spending, ($57.3 million); and
- Implement a new methodology (reform) for calculating indigent care reimbursement, includes setting aside transition funding, ($70 million).

Redirecting funds from IME:

- Obstetric services, $26 million;
- Additional funding for the Doctors Across New York initiative, $3.5 million; and

- Increasing the statewide reimbursement base, $27.8 million.

For **Nursing Homes**, the Executive Budget recommends $140.2 million in cuts, including initiatives to:

- Eliminate the 2010 trend factor increase of 1.7 percent, ($46.6 million);
- Implement a plan to cap the annual amount of rate appeals and authorize appeal settlements, ($16.5 million);
- Reduce the reimbursement rate to 95 percent for bed hold reservations and lower the number of bed hold days allowed per patient per year - would exclude OMH and OMRDD facilities, ($6.9 million);
- Raise the Nursing Home Assessment to 7 percent by adding a 1 percent non-reimbursable assessment - currently 6 percent reimbursable, ($67.8 million);
- Extend rebasing through February 2011 utilizing a portion of the funds for a quality initiative funding pool, implements Regional Pricing on March 1, 2011- *budget neutral*; and
- Increase drug rebates through fee for service by carving prescription drugs out of the Nursing Home reimbursement rates, ($2.4 million).

For **Home Care**, the Executive Budget recommends $73.9 million in cuts, including initiatives to:

- Cap Personal Care Services at 12 hours, ($30 million);
- Increase the 0.35 percent assessment on total home care provider revenues implemented in the 2009-10 budget to 0.7 percent,($17.6 million);
- Eliminate the 2010 trend factor increase of 1.7 percent for home care, including Assisted Living Programs (ALPs), ($11.5 million);
- Eliminate the 2010 trend factor increase of 1.7 percent for personal care, ($14.3 million); and
- Advance efficiencies for the Long Term Home Health Care program (LTHHCP), ($0.6 million).

For **Pharmaceutical costs**, the Executive Budget recommends $12.2 million in cuts and savings, including initiatives to:

- Collect supplemental rebates for drugs that are currently exempt from the Preferred Drug Program (PDP) (includes Antidepressants, Atypical Antipsychotics, Anti-retrovials and Anti-rejection drugs), these drug classes would remain exempt from the PDP, ($2.1 million);
- Reduce the public notice period from 30 to 5 days before a final decision is made on Pharmacy and Therapeutics Committee recommendations to include drugs on the PDP by the Commissioner (would allow for more timely collection of supplemental rebates), ($0.8 million);
- Collect rebates from any fee-for-service drug administered by physicians (Medicaid is currently required to collect rebates on the 20 most frequently administered drugs), and increase the volume of drug rebate dispute resolutions, ($4.1 million);
- Eliminate the state-only funded wrap around coverage for four classes of drugs under the Medicare Part D prescription drug program for those individuals dually eligible for Medicare and Medicaid, ($4.3 million);
- Enact restrictions on the gifts and services allowed to be given to physicians by pharmaceutical companies (similar to the industry's current voluntary gift ban), (0.3 million);
- Eliminate EPIC wrap-around coverage for drugs not covered under their Medicare Part D plan (would require those seniors to locate

a Part D plan that would cover their drugs), ($32.4 million);
- Invest in outreach/assistance to help seniors locate the appropriate Medicare Part D plan, $1.5 million; and
- Discontinue the financial exemption for EPIC enrollees, and require those individuals to also enroll in Medicare Part D, ($4 million).

For **Insurance**, the Executive Budget includes $197.4 million in State savings, including initiatives to:
- Restore State Insurance Department prior approval of increases in insurance premiums, $70 million; and
- Delay the physician excess medical malpractice payment, 127.4 million.

For **Medicaid Fraud Cost Recovery**, the SFY 2010-11 Executive Budget includes $300 million in revenue to offset state spending.

For **HCRA**, the SFY 2010-11 Executive Budget includes $695.1 million in cuts and State savings, including initiatives including:

Revenue Actions:
- Impose an excise tax, to be deposited into the HCRA account, on the syrup used to make soft drinks (will result in an increased cost of about $1.28 per gallon of bottled soda), $450 million;
- Increase the state tax on cigarettes by $1 from $2.75/pack to $3.75/pack, $200 million; and
- Extend the HCRA surcharge (currently only on hospital services) to ambulatory surgery and radiology, $24.6 million.

Cuts:
- Eliminate the Disease Management Demonstration program, (($1.8 million);
- Eliminate Long Term Care Outreach and Education, ($1.3 million);
- Eliminate Roswell Anti-Tobacco funding, ($13.6 million);
- Reduce funding by 50 percent for the Infertility Program, ($2.5 million); and
- Consolidate poison control centers from five centers to two centers ($2.5 millon).

Other actions or reductions included in the SFY 2010-11 Executive Budget total $83.6 million and include the following:

Department of Health Revenue Actions:
- Expand the definition of estate to allow Medicaid recoveries in instances where estate assets are protected by bypassing the probate process, $1.1 million; and
- Require that pre-need funeral accounts for Medicaid beneficiaries be considered irrevocable trusts, $1 million.

Department of Health Program Efficiencies:
- Manage non-emergency medical transportation services, ($8.3 million);
- Apply additional utilization review controls for certain medical supplies, ($1.9 million);
- Require prior approval for physical and occupational therapy, ($3.5 million).

Department of Health Cuts:
- Modify the Early Intervention program, ($7.2 million);
- Reduce premiums for Medicaid Managed Care by 1.7 percent, ($61.4 million).

Department of Health Investments:
- Conform to federal requirement by covering medically necessary orthodontia under Child Health Plus, $0.8 million.

Other:
- State Office for the Aging (SOFA) cuts of $1 million include State Operations savings along with the elimination of both the

Patient's Rights Advocacy Hotline and the Congregate services initiative.
- Stem Cell research spending cuts produce savings of $7.6 million through State Operations efficiencies.

The SFY 2010-11 Executive Budget proposes the following **taxes and fees** totaling $890.2 million as follows:
- Excise Tax on syrups ($7.68/gallon) used to make soft drinks, $450 million;
- Cigarette Tax Increase of $1 per pack (increases tax to $3.75 per pack), $200 million;
- Early Intervention Parental Fee (effective 2011-12 thus no budget impact in 2010-11);
- Expanding the HCRA surcharge of 9.63 percent to ambulatory surgery and radiology, $24.6 million; and
- Gross Receipts Tax Increase on:
    - Hospitals, $130.2 million
    - Nursing Homes, $67.8 million
    - Home Care and Personal Care, $17.6 million

The SFY 2010-11 Executive Budget proposes the following DOH **cost saving measures** totaling $114.8 million:
- Realize State Operations Savings, ($22 million);
- Eliminate certain HCRA related programs, ($20.5 million);
- Reduce or eliminate certain non-core programs, ($12.9 million);
- Require Early Intervention preferred assessment tools, ($0.8 million);
- Modify Early Intervention Speech standards, ($1.4 million);
- Allow Professional Behavioral Aids for Children with Severe Disabilities, ($1.5 million);
- EI interim Group and Facility-based rates, ($2.4 million);
- Require Early Intervention providers to bill Medicaid,($0.4 million);
- Audit Early Intervention providers, ($0.5 million);
- Maximize Early intervention commercial Insurance reimbursement, ($5.9 million);
- Restructure General Public Health Work, ($6.7 million);
- Consolidate AIDS, Cancer and Obesity programs, ($4.9 million); and
- Make changes to the EPIC program supported by investment to assist seniors with the changes, ($34.9 million).

Family Health Plus

The SFY 2010-11 Executive Budget proposes to:
- Increase copayments under the FHP buy-in program. Increasing employee co-pays will lower coverage costs for not-for-profit employers who take part in the program.

Public Health and Nutritional Investments

The SFY 2010-11 Executive Budget proposes a total of $5 million in additional spending for the following:
- Doctors Across New York initiative, $3.5 million; and
- Additional assistance for seniors applying for Medicare Part D, $1.5 million.

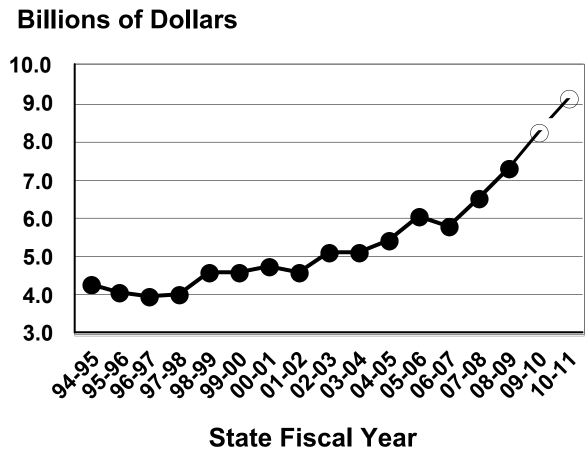
Health - Medicaid
Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Medical Assistance	37,422,569	37,224,825	(197,744)	-0.5%
Medicaid Administration	915,500	959,500	44,000	4.8%
All Other Health	4,543,136	4,708,639	165,503	3.6%
Totals:	**42,881,205**	**42,892,964**	**11,759**	**0.0%**

TRANSPORTATION

All Funds Disbursements (Millions of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	7,004	6,966
Annual Growth Rate	7.2%	-0.6%
5 Year Average Growth (Actual)		229.0%



TRANSPORTATION

The functional area of Transportation includes the Department of Motor Vehicles (DMV), the Department of Transportation (DOT), the Metropolitan Transportation Authority (MTA) and the Thruway Authority.

Major Transportation-related Executive Budget issues include:

- Continued diversion of Dedicated Highway and Bridge Trust Fund (DHBTF) resources to finance DMV operational expenses
- Cancellation of the plan approved last year to require new, replacement license plates for all cars starting in 2010 at a cost of $25 per vehicle
- Proposal for a two-year, $7 billion highway and bridge capital plan
- No proposal to act on DOT's proposed five-year, $25.8 billion 2010-2015 Capital Plan
- Proposal to transfer maintenance of Interstate-84 from the Thruway Authority to DOT
- No proposal to reauthorize or finance the MTA's proposed five-year, $25.6 billion 2010-2014 Capital Plan
- No cuts to the CHIPS and Multi-Modal programs
- Cuts in non-MTA transit assistance; MTA receives more aid, but less than expected
- A $15 million appropriation to support Amtrak service from Albany to Montreal
- Development of a DOT plan to close highway rest areas to save $2 million annually

Department of Motor Vehicles

The Executive Budget continues the practice, begun in 2002, of funding the Department of Motor Vehicles out of the Dedicated Highway and Bridge Trust Fund. This practice diverts dedicated funding away from roads and bridges to fund personal service operations previously funded through general revenues.

The SFY 2010-11 Executive Budget recommends $356 million in funding for the Department of Motor Vehicles, a $4 million decrease. No funding would come from the General Fund (GF), while $218 million, representing 61 percent of DMV's budget, would be appropriated from the DHBTF.

The Executive Budget eliminates the requirement that, as of April 1, 2010, vehicle owners obtain new license plates upon re-registration. Pursuant to a fee increase approved last year, drivers who want replacement plates will now be charged $25 versus $15.

The SFY 2009-10 Enacted Budget included fee increases for a number of common DMV services. Increases included raising the cost of most registrations by 25 percent ($104 million annually); raising driver's license fees by 25 percent ($38 million annually); and a required license plate reissuance program costing $25 per vehicle ($129 million in both SFY 2010-11 and SFY 2011-2012).

The Executive Budget recommends a DMV staffing level of 2,809 full-time personnel, a decrease of 3 from the revised year-end estimate of 2,812 and a decrease of 93 from the SFY 2009-010 approved budget level of 2,902.

Capital – Overview

2005-2010 State Capital Plan

In 2005, a five-year $35.8 billion state transportation capital plan for highways, bridges and mass transit was approved in 2005, splitting funding evenly between the Department of Transportation ($17.9 billion) and the Metropolitan Transportation Authority ($17.9 billion). In addition to providing sufficient resources for infrastructure investments, an effort was made to maintain equity between the two capital spending programs. The $2.9 billion 2005 Bond Act was equally split between the two capital programs. The MTA's 2005-2009 Capital Program expired on December 31, 2009, and DOT's program runs through March 31, 2010. New multi-year capital programs for the MTA and DOT are needed.

Future State Transportation Capital Plan

In the fall of 2009, the MTA came forward with a proposed $25.6 billion 2010-2014 Capital Program and DOT released a proposed $25.8 billion 2010-2015 Capital Plan. The Executive stated that both plans were unaffordable in the current fiscal crisis. The SFY 2010-2011 Executive Budget proposes a two-year, $7 billion capital program for DOT. The Executive's DOT proposal would essentially maintain existing spending levels. While the MTA's proposed $25.6 billion 2010-2014 Capital Plan has a $10 billion funding gap, the authority has indicated that it has enough funds to advance the first two years of its proposed plan. **For additional information on Transportation Capital funding see the Issues in Focus Section of this report**.

Department of Transportation

The SFY 2010-11 Executive Budget proposes a two-year, $7 billion DOT Capital Plan to continue – but not increase – the department's capital construction programs. The overall value of DOT's 2005-2010 Capital Plan, which runs through March 31, 2010, is approximately $18 billion. The construction contract level for state-owned roads and bridges (letting level) would go from $2.01 billion in SFY 2009-10 to $1.83 billion in SFY 2010-11, about a $200 million decrease. The Executive also proposes a $101 million reduction in prior-year multi-modal project funding and $32 million in Industrial Access Program reductions.

Under the Executive's proposal, the Consolidated Highway Improvement Program (CHIPS) capital would be funded at $363.1 million and the Municipal Streets and Highways Program ("Marchiselli") would be funded at $39.7 million, maintaining last year's levels.

For SFY 2010-11, there is a nearly $700 million funding shortfall in the Dedicated

Highway and Bridge Trust Fund (DHBTF) that will be addressed by a cash transfer from the General Fund. The shortfall amount already takes into account a number of transportation-related tax and fee increases included in the SFY 2009-10 Enacted Budget.

DOT - Transit Operating Assistance

The SFY 2010-11 Executive Budget provides $4.3 billion for transit operating assistance. This reflects an overall increase of $148 million from the amended SFY 2009-10 levels that were included in last year's Deficit Reduction Plan. The MTA portion of the total $4.3 billion in transit operating aid is $3.9 billion or $161 million more than the DRP level. Non-MTA transit systems would receive nearly $401 million ($162 million upstate, $239 million downstate), a year-to-year reduction of $13 million. The increase in assistance to the MTA is driven by the full annualization of the new revenues that were dedicated to the MTA in May 2009. These MTA new revenues, which total over $1.8 billion annually, include a regional payroll tax ($1.5 billion annually), auto registration and license fee surcharges, a 5 percent auto rental tax increase, and a taxicab tax of $.50 per ride. The $13 million operating aid decrease for non-MTA transit systems is due to a $22 million decrease in dedicated tax revenues offset by a $9 million increase in General Fund aid to restore funding reduced in the 2009 DRP.

MTA Capital Plan

During 2009, the MTA submitted a 2005-2009 Capital Plan amendment to the MTA Capital Program Review Board to incorporate project changes and update the program. The MTA has been adversely affected by significant increases in construction and material costs. The amendment added promised federal funding for two major system expansion projects, East Side Access and the first phase of the Second Avenue Subway project. East Side Access is a $7.3 billion project that will connect the Long Island Rail Road to Grand Central Terminal on Manhattan's East Side. The first phase of the Second Avenue Subway ($4.5 billion) will result in a new subway line and stations between 96th Street and 63rd Street, where it will connect to existing service; future phases of the Second Avenue Subway will continue building the new line to the Financial District in Lower Manhattan. Both expansion projects are now slated for completion in late 2016. The total federal funding for East Side Access and the Second Avenue Subway is expected to total about $4 billion. Reflecting approved changes, the 2005-2009 Capital Plan, which started at $17.9 billion, is now valued at $20.2 billion.

2010-2014 MTA Capital Plan

In October 2009, the MTA released a proposed 2010-2014 Capital Program valued at $25.6 billion. No action has been taken to approve the proposed plan, as the MTA estimates that it has a $10 billion funding gap. However, in view of the new revenues that were dedicated to the MTA as part of the MTA Bailout in May 2009 (see below), the authority acknowledges that it has sufficient funding to advance the first two years of its proposed capital spending program. **For additional information on Transportation Capital funding see the Issues in Focus Section of this report**.

MTA Operating Budget Gap - Service Cuts

In its final budget plan for 2010, the MTA is recommending significant service cuts, layoffs, and the discontinuation of free and discounted student MetroCard passes to deal with a nearly $400 million gap. The transit service cuts include elimination of the W subway line, the elimination, alteration or shortening of many bus routes, and less frequent service. The planned service reductions total about $125 million on an annual basis.

This comes after Albany, in May 2009, approved a financial assistance package for the MTA valued at about $1.9 billion annually. It also comes after fares and toll increased by about 10% (versus the MTA's initial plan for a 23 percent increase) in the middle of 2009, which included raising the base subway and bus fare from $2.00 to $2.25. The MTA is also recommending changes to its Access-A-Ride program, which provides transportation for the disabled within New York City.

The MTA has emphasized that the authority is legally required to pass a balanced budget in December for its fiscal year which began on January 1, 2010. The MTA has pointed out that it only has two remedies at its disposal to deal with budget gaps, fare increases and/or service cuts. The MTA says that it intends to keep to its commitment to not increase fares in 2010. (Fares and tolls increased in 2009 and 2008.) The next MTA fare increase is slated for 2011.

2009 MTA Bailout

In May 2009, the Legislature approved a large financial assistance package for the MTA. By approving tax and fee increases in the MTA region, the legislation was designed to provide the MTA with $1.1 billion in 2009 and $1.9 billion in 2010 from the following sources:

- Mobility or Payroll Tax, a .34 percent tax on employer payroll expenses and net earnings ($1.540 billion)
- Auto Registration Fee, a supplemental vehicle registration and renewal fee of $25 per year ($27 million)
- License Fee, a supplemental fee of $1 of each 6-month period of validity of a learner's permit or a driver's license ($182 million)
- Taxicab Tax, a 50-cent fee per taxicab ride imposed on taxicab owners ($85 million)
- Auto Rental Tax, a supplemental 5 percent tax on the cost of automobile rentals ($35 million)

In recognition of this new aid, the MTA reduced its planned 2009 fare/toll increase from 23 percent to 10 percent. The authority also restored planned subway, bus and commuter railroad service reductions.

Thruway Authority

The Thruway Authority operates a 641- mile highway system, including the 426- mile mainline from Pennsylvania to New York City and 71 miles of Interstate 84 (un-tolled) currently under contract for the New York State Department of Transportation.

The SFY 2010-11 Executive Budget proposes to shift operational responsibility of I-84 from the Thruway Authority back to DOT. The Executive estimates that the I-84 transfer, which would increase DOT's maintenance staff by 54 positions, will save $3.9 million annually starting in SFY 2011-12.

In the final part of a previously approved multiyear toll increase, Thruway Authority toll rates increased by an average of five percent on January 3, 2010. The five percent average increase is expected to increase toll revenue to about $610 million as part of the authority's $1.1 billion 2010 budget.

Due to rising construction costs, at one point the Thruway had to scale back the number of projects in its $2.1 billion 2005-2011 Capital Program. Due to increased material costs, in August 2008 the Authority deferred or re-scoped $250 million in projects.

The Thruway is proceeding with its Tappan Zee Bridge deck replacement project, the largest maintenance project undertaken on the bridge, including a $191 million contract in 2010. The Authority, in conjunction with DOT and MTA, is still studying alternative configurations and financing mechanisms for a replacement bridge and accompanying improvements to the I-287 corridor.

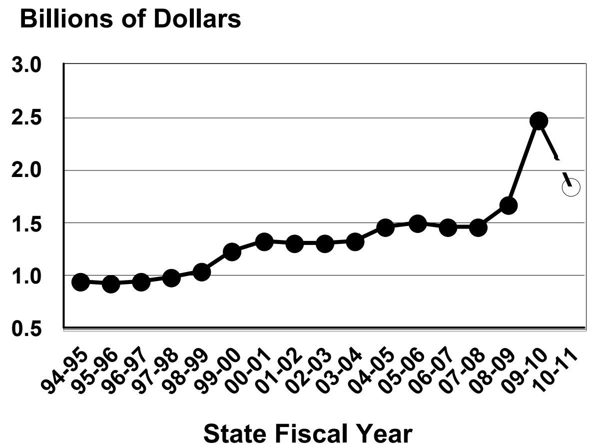
Transportation
Proposed Disbursements - All Funds

(Millions of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Department of Transportation	7,719,122	8,596,650	877,528	11.4%
Department of Motor Vehicles	323,923	332,778	8,855	2.7%
Thruway Authority	1,800	1,800	0	0.0%
Metropolitan Transportation Authority	195,300	206,500	11,200	5.7%
Totals:	**8,240,145**	**9,137,728**	**897,583**	**10.9%**

ENVIRONMENTAL CONSERVATION, AGRICULTURE AND HOUSING

All Funds Disbursements (Thousands of Dollars)		
	Estimated SFY 09-10	Projected SFY 10-11
Cash	2,477	1,847
Annual Growth Rate	47.8%	-25.4%
5 Year Average Growth (Actual)		0.0%



Environment, Agriculture and Housing

The SFY 2010-11 Executive Budget recommends a decrease in cash disbursements of $630.2 million for agencies within the Environmental Conservation, Agriculture and Housing area. Specifically, decreases in funding are recommended for the Department of Environmental Conservation (DEC) ($42 million); the Department of Agriculture and Markets ($7.9 million); the Office of Parks, Recreation and Historic Preservation (OPRHP) ($88 million); the Division of Housing and Community Renewal (DHCR) ($488.4 million), the Adirondack Park Agency ($171,000); the Environmental Facilities Corporation ($621,000 and the Olympic Regional Development Authority ($3 million).

Environmental Conservation

The SFY 2010-11 Executive budget proposal recommends a reduction in All Funds appropriations of $541.5 million from current year levels, mainly due to the elimination of a $435 million in Federal Stimulus funding contained in the SFY 2009-10 enacted budget. In addition, the Executive proposes to reduce funding by $69 million for the EPF and $30 million in capital funding in this year's proposal. These decreases are offset by an increase of $7.4 million in Federal Capital.

State Operations General Fund appropriations are reduced by $20 million primarily due to a $7.5 million reduction resulting from shifting expenses for 102 positions from the General Fund to the Waste Tire Fund (a special revenue fund), across-the-board reductions of $6 million, $3 million in savings through attrition and $1.5 million from shifting water department staff to the Environmental Facilities Corporation. In addition, other efficiencies are offset by an increase in oversight expenses for monitoring activities anticipated from Marcellus Shale gas drilling.

Special Revenue Funds are reduced by $18.3 million, mainly due to $16.6 million in across-the-board reductions, $2.6 million savings through attrition and other personal service efficiencies and $10 million in savings from re-estimates for the oil spill and waste tire funds. These decreases are offset by an increase of $11.8 million for waste tire activities.

The Executive Budget recommends 35 new positions to oversee an anticipated increase in natural gas drilling in the Marcellus Shale Formation, 29 for DEC, 4 at the Department of Public Service and two at the Department of Health.

Environment Article VII Legislation

The "Waste Tire Management and Recycling Act of 2003" was enacted to monitor the cleanup of all noncompliant waste tire stockpiles throughout the State. The Act created a recycling fee of $2.50 per new tire and included the tires on new motor vehicles. The fee was scheduled to sunset on December 31, 2010.

The Executive Budget includes Article VII legislation (S. 6609, Part DD) to make the fee permanent and expand the authorized purposes of the Waste Tire Management and Recycling Fund. In addition the legislation expands the Fund's oversight of the collection, treatment, disposal, and management of solid and hazardous waste; and changes the name of the fund to the Waste Management and Cleanup Fund.

Article VII legislation is included (S. 6609, Part EE) to limit fiscal and administrative burdens on the Department of Environmental Conservation regarding public notice requirements and to provide for mutual aid and assistance between other states in the forest fire protection compact as follows:

- Streamline and make the publication requirements uniform for numerous DEC actions subject to publication of a notice in a newspaper.
- Allow DEC to charge applicants for the cost of some publication and hearings costs.
- Provide for DEC execution of timber sale contracts less than $50,000 without prior approval from the Comptroller, identical to the current contract approval threshold for procurement.
- Eliminate certain DEC annual reporting requirements and, in certain instances allow the reports to be published at the discretion of the DEC Commissioner or alternatively provide a summary on the DEC public website.
- Streamline the notice provisions and required publication in the Environmental Notice Bulletin (ENB) and on DEC's website in relation to wetlands mapping, and provide a map to a local government upon request, either as a physical copy or a digital file.
- Change duration of waste transporter permits from annual to every five years, thereby eliminating bills based on estimated amounts of waste generated and instead based on actual hazardous waste generated.
- Eliminate the requirement for a permit from DEC in any of the fire towns prior to open burning of logs, leaves, sawdust, slabs, brush, stumps, dry grass or other debris. This type of burning is prohibited by DEC regulation.
- Provide for mutual aid and assistance between New York State and any state which is party to another regional forest fire protection compact.

Environmental Protection Fund (EPF)

The Deficit Reduction Plan (DRP) passed by the Legislature in December, reduced the EPF from the SFY 2009-10 enacted level of $222 million to $212 million. The SFY 2010-11 Executive Budget proposal further reduces the EPF from $212 million to $143 million. This is a cumulative reduction of $79 million from the SFY 2009-10 enacted budget level of $222 million. **(See EPF Chart following this section).**

The $79 million EPF reduction primarily reflects a reduction from the proposed moratorium on open space purchases by the State ($60 million) in the Executive proposal, and actions taken in the DRP.

The $143 million EPF proposal includes $13 million for Solid Waste and Recycling, $67 million for Parks and Recreation and $63 million for Open Space projects. The Executive recommends $30 million for Public Access and Stewardship for DEC and Parks (an increase of $23 million over last year).

Many traditional EPF supported programs are funded including: $12 million for Municipal Parks; $1.1 million for Long Island Pine Barrens; $3 million for Soil and Water Conservation Districts; $1.2 million for Finger Lakes-Lake Ontario Watershed Protection Alliance (FL-LOWPA); $14 million for Agricultural non-point source pollution control; $4.8 million for Invasive Species ($100,000 for Lake George); $6 million for Oceans & Great Lakes Initiatives; $5 million for Zoos, Botanical Gardens and Aquaria and $900,000 for the Long Island South Shore Estuary Reserve.

The EPF proposal contains some new funding initiatives, including $5 million for payment of taxes on forest preserve lands and $5 million for Parks Capital Projects to free up State Parks Infrastructure Fund monies to pay for Parks operations.

The EPF is supported through a portion of revenues generated from the Real Estate Transfer Tax (RETT), a small portion of revenues through the sale or lease of State property, and interest earnings. Article VII language is included (S. 6609, Part FF) to reduce RETT revenues deposited to the EPF permanently from the current level of $199.3 million to $132.3 million beginning in SFY 2010-11. The $67 million of RETT revenues not deposited to the EPF will be used for General Fund relief.

Environmental Facilities Corporation (EFC)

The SFY 2010-11 Executive Budget recommends $12.7 million for the EFC, a reduction of $721,000 from the current year. Personal service is reduced by $415,000 and non-personal by $306,000. The EFC will continue to have a workforce of 97 in SFY 2010-11.

Adirondack Park Agency (APA)

The SFY 2010-11 recommends $6.3 million for the APA, an increase of $160,000. This increase is primarily due to across-the board reductions of $120,000 and savings of $129,000 from closing two Visitor Interpretive Centers in Newcomb, Essex County and near Paul Smith's College in Franklin County. These reductions are offset by a $500,000 Capital gift account, included to accept contributions in the event entities or individuals wish to donate.

The APA will have a workforce level of 59 positions, 10 fewer than SFY 2009-10, two through attrition.

Hudson River Park Trust

The Hudson River Park Trust is a public benefit corporation created in 1998 to develop and maintain the 550 acre Hudson River Park in Manhattan. The Park extends five miles along the Hudson River Waterfront from Battery Park to 59th Street.

The SFY Executive Budget recommends $3 million for the Park through the Environmental Protection Fund. Since its creation, New York has contributed $163 million to the Park and New York City has contributed $161 million.

Parks

The SFY 2010-11 Executive Budget recommends All Funds appropriations of $271 million, a reduction of $64.8 million from the current fiscal year. This decrease reflects non-recurring current year capital funding of $31 million to address Parks backlog of capital needs, $8 million for the Walkway over the Hudson Walkway project, and $5 million for State Parks Infrastructure from the EPF.

General Fund State Operations is reduced by $19.4 million including across-the-board reductions of $9 million, $5 million expended from the EPF for Parks Capital, $1.6 million from police attrition, and the elimination of $1.7 million in historic preservation functions.

For SFY 2010-11, the Parks Department will have a workforce of 2,006, a reduction of 67 from the current year. Currently, the Parks police force totals 263. In SFY 2010-11 30 positions will be eliminated from the force through attrition. The Executive is proposing to delay a new training class of Parks police officers.

Forty percent of State Parks annual costs are supported through patron user fees. Federal grants and other miscellaneous funds comprise the remaining revenues. Savings are proposed to be achieved in SFY 2010-11 through delayed openings, mid-week service reductions, early seasonal closings and elimination of on-site services at certain facilities.

Parks Article VII Legislation

Article VII legislation is included (S. 6609, Part GG) that would reduce from 75 percent to 50 percent the authorized reimbursement rate paid to municipalities that enforce the Navigation Law. In addition, (S. 6609, Part HH) expands the authorized use of funds in the Snowmobile Trail Development and Maintenance Fund to include all recreational activities on State lands.

Current law allows the commissioners of the Office of Parks, Recreation and Historic Preservation and the Department of Environmental Conservation to use up to 30 percent of the Fund for snowmobile trail development and maintenance on State owned land.

Olympic Regional Development Authority (ORDA)

The SFY 2010-00 Executive Budget recommends $6.6 million for ORDA, a decrease of $1.6 million from the current year. The reduction is entirely due to mandated reductions for personal service and non-personal services from the State. The Authority has a workforce of 197, a decrease of three from SFY 2009-10.

Hudson River Valley Greenway Community Council

The SFY Executive Budget recommends $339,000 for the Council, a decrease of $119,000. The 25 member advisory board promotes the preservation of natural and cultural resources in the Hudson River Valley. The reduction is related to the across-the-board directive from the Executive.

Greenway Heritage Conservancy of the Hudson River Valley

The Conservancy is tasked with promoting the preservation of natural and cultural resources in the Valley, serves as a land trust for acquiring lands important to the Greenway and developing the Hudson River Valley Greenway Trail. The Executive recommends $184,000 for the Conservancy, identical to the current year funding.

Agriculture and Markets

The Executive recommends All Funds appropriations of $164.6 million, a decrease of $18.2 million from the current fiscal year. General Fund reductions of $13.4 million include $7.7 in local agricultural funding, $3.2 in across-the-board reductions, $715,000 from consolidating resources with the State Fair and $500,000 from reforming the dog licensing process.

Local Initiative reductions include:

- ($250,000) for Cornell Rabies
- ($112,000) for Agriculture in Classroom
- ($96,000) for Agricultural Educators
- ($96,000) for Farm Family Assistance
- ($800,000) for Integrated Pest Management
- ($47,000) for Grape Entomologist-Fredonia
- ($400,000) for the Geneva Experiment Station
- ($72,000) for Geneva Seed Program
- ($88,000) for the Phytophthora Research Program
- ($453,000) for local fairs
- ($600,000) for "Grow NY"
- ($951,000) for the Wine and Grape Foundation
- $3.2 million for the Farm Viability Institute
- ($376,000) for Dairy Excellence
- ($200,000) for Apiary Inspection
- ($275,000) for Apple Growers
- ($181,000) for Golden Nemotode
- ($192,000) for Organic Farming Program
- ($100,000) for Seafood Council
- ($150,000) for Maple Producers
- ($300,000) for Northern NY Agricultural Development

In addition, the Executive proposes to eliminate $5.6 million in **prior year** local initiative funds, including $5.2 million for the Farm Viability Institute.

Significant actions recommended in the SFY 2010-11 Executive Budget would discontinue the Department's farm grading process, which would require farm product wholesalers to utilize private entities to grade farm products for quality and price. Existing Federal funds for a portion of the program would continue. The State currently charges a nominal fee for the service and claims the revenue is inadequate to support the Department's grading activities.

The Executive's proposal also recommends eliminating eight positions from the Kosher Division for enforcement activities. This proposal reflects a court decision limiting the State's role in performing religious inspections. In addition, the budget proposal recommends eliminating the State's role in dog licensing and to allow municipalities to retain the State and counties revenues to cover their expenses.

The Executive budget proposal recommends eliminating prior year appropriations of $10 million for the Cornell Experiment Station -- Grape Genomics Research Facility and $2 million for the Cornell Equine Drug Testing Laboratory.

Divison of Housing and Community Renewal (DHCR)

The SFY 2010-11 Executive Budget Proposal recommends All Funds cash disbursements of $434 million, a reduction of $488 million from the current year level. This is primarily due to the elimination of one-time Americam Recovery and Reinvestment Act (ARRA) funding for several programs included in the SFY 2009-10 enacted budget. These Federal Stimulus funds were appropriated for the Weatherization Assistance, Foreclosure Prevention, Low Income Weatherization and Small Cities Community Development Programs.

The SFY 2010-11 Executive Budget recommends saving of $3.5 million by consolidating the administrative and program operations of DHCR and the "nyhomes" family of public benefit corporations. This is consistent with the administration's effort to streamline government services, and also capitalizes on the recent departure of both Commissioners.

In addition, the Executive projects savings of $3.5 million of savings from various operating efficiencies. The Executive also recommends the elimination of the $3 million State operating subsidy for the New York City Housing Authority (NYCHA), which has an operating budget of $2.8 billion.

The SFY 2010-11 Executive Budget recommends a reduction of $2.5 million for the Neighborhood Preservation Program and $1.1 million for the Rural Preservation Programs. In addition, the Executive proposes a reduction of $838,000 in Aid to Localities funding for local housing programs.

The Executive Budget includes a proposal to expand the Low Income Housing Tax Credit Program by authorizing the Commissioner of DHCR to allocate an additional $4 million in credit awards to taxpayers that develop qualifying low-income housing projects. The proposed credits are to be in equal installments for a ten-year period, totaling $40 million.

New York Energy Research and Development Authority (NYSERDA)

The SFY 20010-11 Executive Budget recommends $35.5 million for NYSERDA, an increase of $6.3 million from the current fiscal year. This increase is primarily due to $5.7 million in capital funding for nuclear waste cleanup activities at West Valley in Cattaraugus County.

The Executive Budget includes the annual provision (S.6609, Part BB) to allow the Comptroller to transfer $913,000 from unrestricted corporate funds of NYSERDA to the General Fund to offset New York's debt service requirements related to the Western NY Nuclear Service Center.

Department of Public Service

The SFY 2010-11 Executive Budget recommends $80.1 for the Department. A decrease of $4.1 million from the current fiscal year. Across-the-board reductions of $4.7 million are offset by an increase of $600,000 in Federal funds for pipeline safety activities. The workforce level for the Department in SFY 2010-11 is estimated to be 555, an increase of 2 from SFY 2009-10.

The Executive has proposed a deficiency bill for SFY 2009-10 to provide $1.25 million in appropriation authority for regulatory activities. The Department would utilize these funds to review proposed electric utility projects funded by ARRA.

2009-10 ENVIRONMENTAL PROTECTION FUND
(Thousands of Dollars)

	09-10 Enacted	09-10 DRP	10-11 Proposed
SOLID WASTE			
Landfill Closure/Gas Management	750	0	700
Municipal Recycling	10,825	10,825	8,000
Pollution Prevention Institute	2,350	2,253	2,250
Green Initiative Institute	*1,000*	*959*	*600*
Intrste Chemicals Clearinghouse	*350*	*336*	*25*
Secondary Marketing	2,250	1,381	1,100
Natural Resource Damages	450	431	450
Pesticide Database	575	500	575
BCERF	450	450	0
Solid Waste	**17,650**	**15,840**	**13,075**
PARKS & REC			
Waterfront Revitalization	24,375	24,021	12,000
Inner City/Underserved	*9,750*	*9,750*	*6,000*
*Hudson and Champlain Docks**	*750*	*700*	*700*
Buffalo Waterfront	*1,000*	*1,000*	*500*
Niagara River Greenway	*300*	*300*	*300*
Rensselaer County	*0*	*0*	*0*
Beacon Institute	*0*	*0*	*0*
Long Island	*0*	*0*	*0*
Upper Susquehanna Coalition	*0*	*0*	*0*
Municipal Parks	21,225	20,813	12,000
Innercity/Underserved	*8,490*	*8,490*	*6,000*
Olmsted Park	*500*	*500*	*250*
Hudson River Park (HRP)	6,000	6,000	3,000
Catskill Interpretive Center	0	0	0
Public Access & Stewardship	7,000	5,000	30,000
DEC	*7,000*	*5,000*	*15,000*
OPRHP	*0*	*0*	*15,000*
Belleayre	*0*	*0*	*0*
State Parks Capital			*5,000*
Hud-Ful-Champ Quadricentennial	1,500	450	0
Walkway Over the Hudson*	0	0	0
Solar Initiatives	0	0	0
ZBGA	9,000	9,000	5,000
Parks & Rec	**69,100**	**65,284**	**67,000**
OPEN SPACE			
Land Acquisition	60,000	58,900	0
Land Trust Alliance	*1,575*	*1,575*	*1,575*
Urban Forestry	*500*	*500*	*500*
Taxes - Forest Preserve Lands			5,000
Smart Growth	500	400	400
Farmland Protection	23,000	22,054	10,500
Agricultural Waste Management	450	450	450
Biodiversity Stewardship	500	500	500
Cayuga Island	*100*	*100*	*75*
Albany Pine Bush Commission	2,000	2,000	2,000
Invasive Species	5,000	4,794	4,800
Lake George	*100*	*96*	*100*
LI Pine Barrens Commission	1,100	1,100	1,100
Oceans & Great Lakes Initiative	6,000	5,953	6,000
Water Quality Improvement Prog	9,000	8,900	2,000
South Shore Estuary Reserve	900	900	900
Non-Point Source Poll Cont	17,800	17,068	19,000
Agricultural	*12,200*	*11,468*	*14,000*
Non-Agricultural	*5,600*	*5,600*	*5,000*
Soil & Water Conserv. Dist	3,000	3,000	3,000
Finger Lk-Lk Ontario Watershed	1,200	1,151	1,200
Hudson River Estuary Plan	4,800	3,706	4,000
Open Space	**135,250**	**130,876**	**62,925**
TOTAL EPF	**222,000**	**212,000**	**143,000**

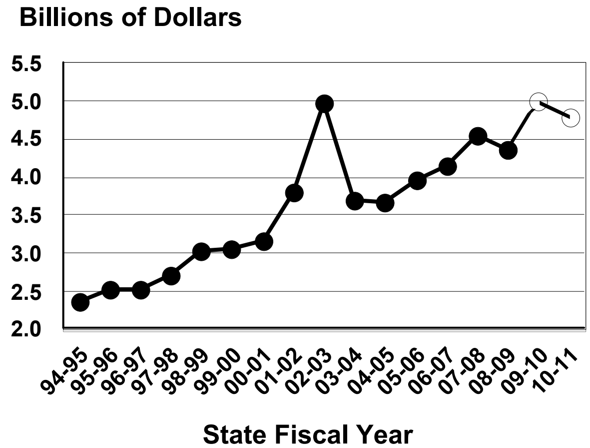
Environmental Conservation, Agriculture and Housing Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Percent
Adirondack Park Agency	5,552	5,381	(171)	-3.1%
Agriculture and Markets	107,919	99,976	(7,943)	-7.4%
Department of Environmental Conservation	1,109,611	1,067,588	(42,023)	-3.8%
Environmental Facilities Corporation	9,831	9,210	(621)	-6.3%
Housing and Community Renewal	920,088	431,703	(488,385)	-53.1%
Olympic Regional Development Authority	9,078	6,064	(3,014)	-33.2%
Office of Parks, Recreation and Historic Preservation	315,228	227,200	(88,028)	-27.9%
Totals:	**2,477,307**	**1,847,122**	**(630,185)**	**-25.4%**

PUBLIC PROTECTION

All Funds Disbursements (Millions of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	5,013	4,801
Annual Growth Rate	15.0%	-4.2%
5 Year Average Growth (Actual)		3.5%



The SFY 2010-11 Executive Budget recommends an All Funds cash disbursement decrease of $212.3 million or 4.2 percent for all public protection agencies. This decrease results primarily from the following actions proposed by the Executive:

Cost Saving Proposals	2010-11 ($ in Millions)	
Close Four Prisons and Consolidate Dormitories	$	(7)
Division of Homeland Security and Emergency Services	$	(17)
Merge Criminal Justice Agencies	$	(2)
Delay State Police Training Classes/Redeploy SROs	$	(17)
Reduce Local Criminal Justice and Probation Programs Across the Board by Ten Percent	$	(12)
Maximize Alternative Funding Sources	$	(15)
Collective Bargaining Savings	$	(44)
Additional Across the Board State Operations Savings	$	(58)
Total	**$**	**(172)**

Additional actions producing a net reduction of $40 million include the elimination of funding for retroactive salary increases; deficit reduction plan savings above those included in SFY 2009-10; and offsetting base adjustments for personal service and inflation. The following narrative focuses on these major budget proposals.

Department of Correctional Services:

Close Four Prisons and Consolidate Dormitories (-$7 million).

The prison population is projected to decline by 1,100 inmates in the current fiscal year and by another 1,000 inmates in the 2010-11 fiscal year – reaching a total of 57,600 inmates. As a result of the population decline, it is proposed that the Department of Correctional Services continue to consolidate facilities as follows:

- Two prisons would close in January 2011: Lyon Mountain minimum security, Clinton County (-$1.8 million) and Butler minimum security, (-$1.3 million).

- Two prisons would close in April 2011: the Moriah shock facility, Essex County (-$9.5 million in 2011-12) and Ogdensburg medium security, St. Lawrence County (-$23.9 million in 2011-12).

These closures will reduce the workforce by 637 staff, including 17 managerial staff.

SFY 2010-11 Executive Proposed Correctional Facility Closures	
Facility	**Number of Employees Effected**
Lyon Mountain (Clinton County)	93
Butler (Wayne County)	80
Moriah (Essex County)	108
Ogdensburg (St. Lawrence County)	291
Consolidation of medium security dormitories as prison population warrants	65

Maximize Alternative Funding Sources (-$3 million).

The Executive proposes that the Department of Correctional Services and the Department of Health implement a new program to capture Federal Medicaid reimbursement for the cost of treating inmates in hospital settings outside the prison.

State Operation Spending (-$70 million)

The Executive reduces nonpersonal service spending unrelated to facility closures by a total of $106 million or 17 percent of the DOCS 2009-10 base. Offsetting this reduction is increased nonpersonal support of $55 million related to items such as inflation, training classes; uniforms, inmate clothing etc. The DOCS personal service budget also assumes that collective bargaining savings will be negotiated (unrelated to facility closure savings) to reduce spending by $33 million or two percent of 2009-10 base which are offset by base personal service adjustments of $16.4 million.

Correctional Industries (-$4.3 million)

The Executive Budget eliminates $4.3 million in internal service funding related to the Executive's decision not to move forward with the State's license plate reissuance program.

Division of Homeland Security and Emergency Services.

Create a new Division of Homeland Security and Emergency Services (-$1.5 million).

This proposal would merge:

- the Office of Homeland Security,
- the State Emergency Management Office,
- the State 911 Board,
- the Office of Cyber Security and Critical Infrastructure Coordination, and
- the Office of Fire Prevention and Control.

The missions of these organizations would continue and the new organization would be responsible for advancing the vision for a county-driven statewide interoperable communication system to be used by all first responders.

This initiative would also shift the Federal Interoperable Coordinator from the Office of Technology to this new office. In addition, the E-911 Board would be restructured and the Municipal Bond Bank would be authorized to undertake pooled financings of county communications equipment. Counties would also have the potential to receive State grants in support of 30 percent of costs.

The agency would offer grants to local governments of up to $50 million in 2010-11 and $75 million in 2011-12 to support efforts to develop regional consortiums for communications and enhanced/ consolidated 911 communication centers. The current $10 million Public Safety Answering Point grant program would be folded into this new program which would be funded from cellular surcharge revenues that were formerly intended to finance the Statewide Wireless Network Project to assist counties in developing communications networks and consolidating dispatch centers. This proposal also assumes that $25.5 million in State Police operations supported by cellular surcharge revenues will be shifted to the General Fund in 2011-12.

In addition, the State would invest $42 million in bonded capital over five years to expand the State Preparedness Training Center at Oriskany (Oneida County) into a statewide training center for first responders.

Division of Criminal Justice Services

Merge Criminal Justice Agencies (-$2 million)

This proposal would merge the following agencies and save the State $1 million in 2010-11 and $2 million when fully implemented:

- the Crime Victims Board (CVB),
- the Office for the Prevention of Domestic Violence (OPDV),
- the Division of Probation and Correctional Alternatives (DPCA) , and
- the Division of Criminal Justice Services (DCJS).

DCJS already provides administrative support to these smaller agencies, and a full merger is proposed to offer a more efficient and cost-effective environment for the delivery of programs and services.

The Crime Victims Board would be restructured by eliminating four members and replaced with a new Office of Victim Services. In addition a new Crime Victims Compensation Appeals Board would be created to review claims and decisions of the Office.

The Office for the Prevention of Domestic Violence would continue as would the Office of Probation and Correctional Alternatives.

Article VII language provides for the transfer of employees, records, authority, rules and regulations, assets and liabilities related to these merged agencies to DCJS.

Overall position reductions will be as follows: DCJS – down 12 positions; DPCA – down 2 positions; CVB down 8 positions; and OPDV – down 3 positions.

Reduce General Fund Local Criminal Justice and Probation Programs Across-the-Board by Ten Percent (-$ 13 million).

- Grants to communities for crime fighting, prevention activities, alternatives to incarceration, and legal services are reduced by ten percent for a savings of $7.2 million. Impacted programs include:
    - Aid to Prosecution ($1.3 million);
    - Prosecution of Crimes ($278,000);
    - Witness Protection ($37,000)
    - DA Salaries ($253,000);
    - Special Narcotics Prosecutor ($100,000);
    - Aid to Crime Labs ($801,000);
    - Soft Body Armor ($62,000);
    - Drug Diversion ($75,000);
    - Westchester Policing Program ($240,000);
    - Re-Entry Task Force ($370,000);
    - Operation Impact ($1,743,000);
    - Operation SNUG ($4 million);

- Aid to Defense ($665,000);
- NYS Defenders Association ($131,000);
- Classification Alternatives (CLASS) ($392,000);
- Probation Demonstration projects ($617,000);
- Probation Drug and Alcohol Programs ($231,000);
- Probation Eligible Diversion ($99,000);
- Probation Supervision and Treatment ($57,000);
- Probation 200% TANF Program ($316,000).

- Support for local probation departments is reduced by ten percent for a savings of $6 million as follows:

  - Local Probation Services ($4.4 million);
  - Intensive Supervision ($519,000);
  - Intensive Supervision of Sex Offenders ($199,000); and
  - Juvenile Risk Intervention Service Coordination ($944,000).

- Beginning in 2010-11, this aid to local probation departments is consolidated into a single block grant program.

<u>Maximize Alternative Funding Sources ($12 million)</u>

In addition, excess revenues of $12 million in the Criminal Justice Improvement Account are proposed to be transferred to provide General Fund relief.

<u>Other Budget actions include:</u>

<u>DNA Databank</u>:

Article VII legislation is advanced to increase the number of persons required to submit a DNA sample at the time of conviction.

<u>Expansion of Crimes Against Revenue Program (CARP) (+$10 million):</u>

An additional $10 million in resources will be provided to district attorneys to prosecute tax and other revenue fraud identified by the Department of Taxation and Finance.

<u>Indigent Defense (+$10 million):</u>

A **new office** is proposed to provide oversight of the indigent defense system, governed by an independent board of key stakeholders from the Judiciary, the Executive Branch, and other representatives, including the New York State Association of Counties and New York Bar Association. Current aid formulas and county maintenance of effort requirements will be replaced with a new program driven by performance standards and supplemented with $7 million in new funding. Including the $3 million cost of the office, a total new investment of $10 million will support improvements to indigent legal services.

<u>Operation IMPACT (-$1.7 million):</u>

The Division will provide $15.7 million in funding for the support of Operation IMPACT (Integrated Municipal Police Anti-Crime Teams). This is a decrease of $1.7 million or 10 percent.

<u>Operation SNUG (-$4 million):</u>

Operation SNUG is eliminated producing General Fund savings of $4 million.

<u>Offender Re-Entry (+$3.3 million)</u>:

The Executive provides $3.3 million to promote the successful re-entry of offenders into their communities through Local Re-Entry Task Forces that work with local governments, not-for-profit organizations and the criminal justice community.

Sex Offender Management (+$1 million):

The Executive provides $1 million for the continued operation of the Office of Sex Offender Management. Additionally, funding is provided for the continued maintenance and operation of the Sex Offender Registry.

Transfer of the Rape Crisis Program from the Department of Health (+$1.9 million):

The Executive proposes that DCJS assume responsibility for the rape crisis program, which provides counseling as well as information to victims of sexual assault. DCJS currently administers the Federal Violence Against Women Act grant funds.

Transfer of Support for Medical Examiners from the Department of Health (+ $6.25 million):

The Executive also proposes that DCJS assume responsibility for funding for medical examiners. It is argued that this function is more directly related to the provision of forensic laboratory services, than programs which protect public health.

Federal Funding and Program Assistance (+$4.4 million)

The Executive Budget provides the following federal funding within DCJS:

- Juvenile Justice (JJDP) State Operations: $1.5 million;
- Juvenile Accountability State Operations (JAIBG): $700,000;
- Violence Against Women State Operations: $1.5 million;
- Edward Byrne Memorial Grant State Operations: $5.5 million;
- Recovery Act Justice Assistance: $12 million;
- Recovery Grant STOP Violence Against Women State OPs: $500,000;
- Crime Identification Technologies State Operations: $3 million;
- Juvenile Justice (JJDP) Local: $2.7 million;
- Juvenile Justice Title V: $100,000;
- Juvenile Accountability Local (JAIBG): $2.1 million;
- Edward Byrne Memorial Grant Local: $9.775 million;
- Violence Against Women Local: $7 million;
- Recovery Act Justice Assistance Grant Local: $23.5 million;
- Recovery Grant STOP Violence Against Women Local: $3.25 million;
- Crime Identification Technologies Local: $1.5 million;
- Miscellaneous Discretionary State Operations: $12 million;
- Miscellaneous Discretionary Local: $ 8 million.

Division of State Police

Delay State Police Training Classes and Redeploy School Resource Officers (-$17 million).

The Division of State Police has not held a training class during the current year. The Executive is proposing that the State Police again forego a new training class in 2010-11. By April 2011, without a new training class, the State Police force will be approximately 269 positions below its' April 2009 staffing levels of 5,800 positions forcing the reassignment of 90 school resources officers (at the close of the school year in June 2010).

Speed Enforcement Cameras (+$7.9 million)

The Executive Budget includes an Article VII proposal to deploy speed photo-monitoring equipment for enforcement in work zones and on certain highways. Funding of $7.9 million is included in the SFY 2010-11 Budget to fund the equipment which would annualize to $15.8 million. The Executive projects this initiative would produce net revenue of $25 million in 2010-11 and $71 million thereafter.

Other State Operations Changes

The Executive Budget reduces State Police nonpersonal service funding by $16.5 million and includes collective bargaining savings to be negotiated of $9.9 million. Offsetting these reductions are personal service base increases and inflationary increases of $44 million. Funding of $500,000 for the Pistol Camera program added in 2009-10 is also eliminated.

Division of Parole

Parolee Population Decline
(-$3.7 million)

The parolee population is projected to decline by nearly 1,500; hence the Executive is proposing to cut the number of parole officers. The Executive attributes this decline to Rockefeller Drug Law Reform which permitted drug offenders who were presumptively released from State prison to be released earlier from parole supervision. In addition, the continued decline in the inmate population results in fewer parole releases. Savings are estimated at $3.7 million.

Overall the Executive is proposing to reduce Division of Parole positions from 2,111 in 2009-10 to 1,955 positions in 2010-11. This reflects a decrease of 156 positions or a seven percent reduction in positions. Of this total, 142 positions are in operations and 14 are in administration.

Reduce the Board of Parole Membership
(-$600,000)

The Executive Budget proposes to reduce the Board of Parole membership from 19 to 13 members by decreasing the term of office from six to five years. The State will continue funding of 13 members at a salary of $101,600 each. The Executive states that this proposal aligns membership to reflect current workload. There are currently three vacancies on the Board.

Board of Prisoners (+$ 6 million)

Funding for Board of Prisoner payments was eliminated within the 2009-10 Budget. These payments to local jails were made for housing "State Ready" inmates when the State's correctional system was over crowded. This funding of $5.97 million is provided to pay remaining county prior claims that have resulted from county audits.

Division of Military and Naval

Movement of State Emergency Management Office (SEMO) from the Division to the newly created Division of Emergency Management and Homeland Security.

The Executive Budget recommends approximately $100 million in All Funds support for the Division. This is a decrease of $482 million from the 2009-10 budget, and reflects the movement of SEMO from the Division to the newly created Division of Emergency Management and Homeland Security.

Support for Empire Shield

The 2010-11 Executive Budget includes $9.5 million from the General Fund, appropriated in the All State Agencies/All Funds Homeland Security Miscellaneous appropriation, and $10 million from Federal Homeland Security Grants to support the National Guard for the Empire Shield mission in the New York City metro area.

Empire Shield provides random, flexible threat-based, rapid response units that provide security and deterrence at major transportation hubs throughout the metropolitan New York area. Empire Shield has been headquartered at Fort Hamilton in Brooklyn, New York since 2008.

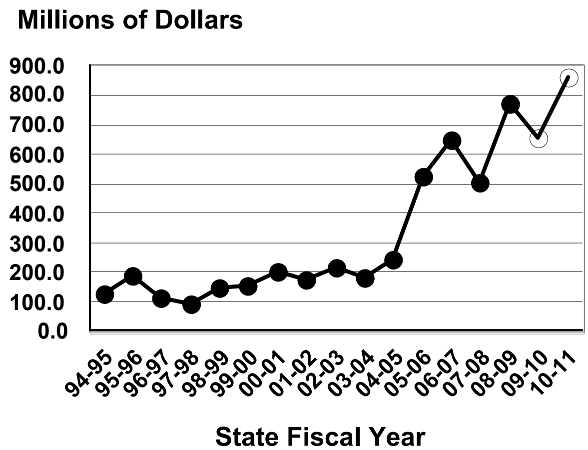
Public Protection
Proposed Disbursements - All Funds
(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Department of Corrections	3,011,322	2,775,215	(236,107)	-7.8%
Division of Criminal Justice Services	261,875	473,129	211,254	80.7%
Division of Parole	189,639	177,965	(11,674)	-6.2%
Division of State Police	793,140	742,894	(50,246)	-6.3%
Crime Victims' Compensation Board (1)	70,049	0	(70,049)	-100.0%
Commission of Correction	2,582	2,844	262	10.1%
Judicial Commissions	5,164	5,414	250	4.8%
Military and Naval Affairs	219,693	212,523	(7,170)	-3.3%
Division of Probation and Correctional Alternatives (1)	68,526	0	(68,526)	-100.0%
Homeland Security & Emergency Office	360,097	377,337	17,240	4.8%
Misc. Public Protection Agencies	30,956	33,408	2,452	7.9%
Totals:	**5,013,043**	**4,800,729**	**(212,314)**	**-4.2%**

(1) These agencies are proposed to be consolidated into DCJS.

ECONOMIC DEVELOPMENT

All Funds Disbursements (Thousands of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	655,723	861,433
Annual Growth Rate	-15.2%	31.4%
5 Year Average Growth (Actual)		33.5%



The SFY 2010-11 Executive Budget recommends an All Funds cash disbursement increase of $205.7 million or 31.4 percent for all economic development agencies. This increase is primarily the result of $271 million in planned capital disbursements (Aqueduct VLT facility and Global Foundries semiconductor facility), and $34 million for three new economic development grant programs offset by reductions in operations from consolidation and efficiency measures.

Agency Consolidation

One of the Executive's major economic development initiatives is the consolidation of two of the State's three economic development entities. The Urban Development Corporation, d.b.a. Empire State Development Corporation (ESDC), and the Department of Economic Development (DED) would be merged into the Job Development Authority and renamed the Job Development Corporation (JDC), (Part L, S. 6609). The State's third economic development agency, the Foundation for Science, Technology and Innovation (d.b.a. NYSTAR) would remain a free standing entity. As part of this proposal, the new JDC would provide all core programs of DED and ESDC except for the Centers of Excellence Program which would be transferred to NYSTAR. The JDC would be overseen by a Chairman who would coordinate statewide operations and the current ESDC Board would serve as the JDC Board. **Consolidation is expected to save $4.7 million annually through operational efficiencies and the elimination of a $2.5 million State subsidy for ESDC** lease expenses at their New York City office. The JDC would be required to pay for the lease from corporate funds. Additional reductions of $1.1 million or 11.25 percent for non-personal service and $2.2 million or 11.5 percent for State operations are proposed.

The plan does not reassign any of existing staff. The projected workforce for the JDC in SFY 2010-11 would be 406, reflecting the transfer of 168 FTEs from DED and 238 from ESDC. The new JDC would maintain ESDC's regional office structure throughout the state, as well as its main headquarters in New York City and Albany.

Job Development Corporation Highlights

Existing Programs:

The Executive proposal continues funding levels at $44 million for the existing core economic development programs such as the Economic Development Fund (EDF); Minority- and Women-Owned Business Development and Lending programs; the Urban and Community Development Program; the Entrepreneurial Assistance Program; the Manufacturing Legacy Program and the retention of professional football in Western New York are preserved at SFY 2009-10 funding levels.

The Executive proposes the following changes to existing programs for SFY 2010-11:

- Funding for tourism and marketing programs, including “I♥NY” tourism, local matching grants, and Explore New York would be reduced from $14.1 million to $10.6 million, a 25 percent reduction;
- Funding for gateway visitors centers in Binghamton and Beekmantown would be eliminated ($392,000);
- Funding for the pollution prevention program would be eliminated ($1.2 million);
- Funding for international trade efforts would be **increased** by $1.2 million or **80 percent** over the SFY 2009-10 funding level of $1.5 million

Capital:

The Executive recommends increasing Capital disbursements by $271 million for SFY 2010-11, a 31 percent increase over the current fiscal year. Included is a $250 million cash disbursement for the implementation of Video Lottery Terminals (VLT’s) at Aqueduct Race Track and $185 million for the Global Foundries semiconductor manufacturing facility in the Town of Malta.

The Executive proposes to offset this growth in Capital by reducing other Economic Development capital programs over the next five years to generate $317 million in spending and debt service reductions. Proposed savings actions totaling $58.1 million would be realized from reduced funding for Executive controlled discretionary capital spending including: the Albany Convention Center project ($10 million); elimination of the remaining funding for the Rivers and Estuaries Center in Beacon ($20 million); and other unallocated discretionary capital funding pools ($22 million). In addition, the Technology and Development Fund and Regional Economic Development Fund would be reduced ($63.2 million).

New Program Initiatives:

The Executive proposes the following new initiatives for SFY 2010-11:

Excelsior Jobs Program

This program would offer a package of tax credits for selected firms in targeted industries that create and maintain at least 50 new jobs in New York for five years. The program would be capped at $50 million per year for a five year benefit period ($250 million over five years). The fully refundable tax credits, include the following:

- <u>Excelsior New Jobs Tax Credit</u>: Firms would be eligible to receive between $2,500 and $10,000 per new job to cover a portion of the associated payroll cost.
- <u>Excelsior Investment Tax Credit (ITC):</u> Firms would be eligible for a two percent return of total qualified investments.
- <u>Excelsior Research and Development (R&D) Tax Credit</u>: Firms would be eligible for a credit for new investments equal to 10 percent of the Federal R&D credit.

This program is proposed as a replacement for the Empire Zones Program which currently is scheduled to sunset on June 30, 2010. Legislation is included that would designate eligible firms for Excelsior benefits in accordance with rules and regulations promulgated by JDC, the new economic development agency. Eligible firms would be held to strict accountability standards (Part W of S.6610). A more detailed discussion is included in the Issues In Focus section of this document.

Small Business Revolving Loan Fund

This program would provide $25 million in capital loans to support the growth of small businesses. The fund, administered by JDC, would target minorities, women and other disadvantaged New Yorkers who have difficulty accessing regular credit markets (Part N of S.6609). The revolving loan fund would receive a $25 million transfer from the New York Power Authority. The JDC would provide Small Business Revolving Loan Funds to local community based financial institutions through a competitive RFP process. Local financial institutions would then provide the low interest rate loans. Under the program, two types of loans would be provided: Micro-Loans (less than $25,000 in State funds); and Regular Loans (greater than $25,000 but less than $125,000 in State funds). Other program requirements include:

- A small business would be defined as employing no more than 100 employees;
- Loan interest rates would be set by JDC;
- Lending institutions would be required to contribute at least 50 percent of the principal loan amount; and

New Technology Seed Fund

This program would provide $25 million in grant funding for start-up and early-stage small businesses in New York who have developed cutting edge breakthroughs in emerging technologies. This competitive program would be administered by JDC and priority would be given to companies engaged in product development that demonstrate the most promising commercialization potential (Part O of S.6609). Other program requirements include:

- State grant funds would require a match of at least 1:1 from federal or private sources;
- Companies receiving seed funds must have generated revenue for no more than one year;
- Eligible applicants would include for profit business corporations, not-for-profit corporations, local development corporations or universities;
- Eligible program costs would include purchasing equipment and operational costs associated with research and development. General overhead costs would not be eligible; and
- Applications must be supported by local industry, universities, or other municipal or regional entities

NYSTAR Highlights

The SFY 2010-11 Executive Budget recommends an All Funds cash disbursement of $46.1 million, an increase of $16.6 million or 56 percent for NYSTAR. This increase is primarily the result of transferring the $6.9 million Centers of Excellence Program from ESDC to NYSTAR and $22 million for a new Innovation Economy Matching Grants Program. These increases are offset by reductions in state operations of approximately $1 million and $6 million in reductions to other programs.

Existing Programs:

SFY 2010-11 Funding levels for NYSTAR's existing core programs would be maintained at SFY 2009-10 levels as follows: Centers for Advanced Technology ($13.8 million), Regional Technology Development Centers (3.8 million), University Matching Grants Program ($5.1 million), High Technology Matching Grants Program ($4.6 million); and the Science and Technology Law Center ($343,000)

However, the Executive proposes the following changes to existing programs for SFY 2010-11:

- Focus Center: funding would be reduced by 35 percent from $4.6 million to $3 million. This funding is split between RPI and Albany Nanotech for the high technology computer partnership.
- Technology Transfer Incentive Program: funding would be reduced by 69 percent from $2.9 million to $900,000. This program assists companies that would commercialize high-tech innovations in partnership with colleges and universities.
- Faculty Development Program: funding would be reduced from $2.7 million to $800,000. This program was created to attract faculty from throughout the world to New York's academic research centers.

New Program Initiative:

The Executive proposes the following new initiative for SFY 2010-11:

Innovation Economy Matching Grants Program

This program would provide $100 million in State matching funds over a five year period for research awards financed through the American Recovery and Reinvestment Act (ARRA). New York academic institutions applying for ARRA funds would be selected for the 10 percent match through a competitive process administered by NYSTAR. Projects with the greatest economic and scientific benefits for the New Economy would be targeted.

This new program would leverage over $1 billion in Federal funding for sectors such as renewable energy, clean technology, smart grid, nanotechnology, advanced manufacturing, broadband, biomedical, life sciences and cyber security.

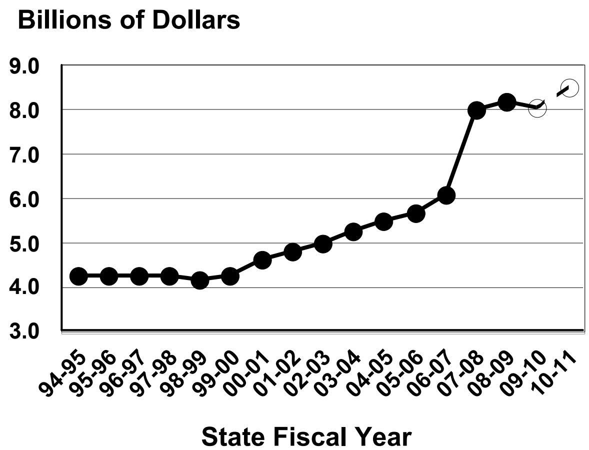
Economic Development
Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Department of Economic Development	79,853	71,330	(8,523)	-10.7%
Job Development Corp. / ESDC	534,021	741,451	207,430	38.8%
Economic Development Capital-Other	12,300	2,500	(9,800)	-79.7%
Foundation for Science Technology and Innovation	29,549	46,152	16,603	56.2%
Totals:	**655,723**	**861,433**	**205,710**	**31.4%**

MENTAL HYGIENE

All Funds Disbursements (Millions of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	8,070	8,499
Annual Growth Rate	-1.4%	5.3%
5 Year Average Growth (Actual)		9.8%



The SFY 2010-11 Executive Budget recommends an All Funds cash disbursement increase of $428.8 million or 5.3 percent for all mental hygiene agencies. This increase reflects net changes as follows:

- ✓ state operations personal service increases -- $86 million;
- ✓ state operations nonpersonal service increases -- $23 million;
- ✓ general state charges increases --$130 million;
- ✓ local assistance spending increases-- $204 million; and
- ✓ a capital spending decrease of $14 million.

Within this total net spending increase are the following Executive cost saving proposals:

Cost Saving Proposals	2010-11 ($ in Millions)	
OMRDD State Operation Efficiencies	$	(25)
OMRDD Local Restructuring	$	(24)
OMH State Operation Efficiencies	$	(44)
OMH Inpatient Restructuring	$	(9)
OMH Forsenic/SOMTA Reforms	$	(10)
OMH Local Restructuring	$	(18)
OASAS Restructuring	$	(3)
CQCAPD Restructuring	$	(1)
Total	**$**	**(134)**

The following narrative focuses on these major budget proposals.

<u>Office of Mental Retardation and Developmental Disabilities (OMRDD)</u>:

<u>State Operations Efficiencies (-$25 million).</u>

Key efficiencies include:

- ✓ reducing non-critical staff via attrition;
- ✓ improving the efficiency of food purchasing;
- ✓ consolidating non-residential leases;
- ✓ automating certain administrative processes;
- ✓ reducing utility consumption;
- ✓ streamlining the audit process;
- ✓ reducing the use of outside consultants;
- ✓ reducing costs for research and administrative operations at OMRDD's Institute for Basic Research; and
- ✓ consolidating administrative functions within Developmental Disabilities Services Offices.

• OMRDD Local Restructuring (-$24 million).

Major savings actions include:

- ✓ an 18 percent reduction in targeted case management services;
- ✓ a three percent rate reduction in residential habilitation services delivered in supervised Individualized Residential Alternative programs effective October 1, 2010;
- ✓ delaying the development of certain residential opportunities for individuals aging-out of the school system and children's residential placements; and
- ✓ reforming the Family Care program over a multiyear period beginning in 2010-11.

Other Budget Actions.

• OMRDD Residential Opportunities (+$24 million).

The Executive provides $46 million in 2010-11 for the development of 992 OMRDD beds, including 510 associated with OMRDD's NYS-CARES initiative.

***Office of Mental Health (OMH)*:**

State Operations Efficiencies (- $44 million).

Key actions include:

- ✓ reducing non-critical staff via attrition;
- ✓ converting technology consultant staff to less costly State employees;
- ✓ reducing overtime and the use of stand-by/on-call shifts;
- ✓ increasing the use of alternative work schedules;
- ✓ eliminating redundant reports; and
- ✓ eliminating non-essential non-personal service spending.

OMH Inpatient Restructuring (-$9 million).

- ✓ Eight psychiatric center wards are proposed to be closed at various facilities, reducing State-operated inpatient capacity by approximately five percent. The location of ward closures has not yet been identified. These closures will reduce full time equivalent positions by 226 positions.

OMH Forensic/Sex Offender Management Treatment Act Reforms (-$11.3 million).

The census for civilly confined sexual offenders is projected to increase but not exceed 230 individuals in SFY 2010-11.

- ✓ Forensics capacity will no longer be required at Manhattan Psychiatric Center, but will be maintained at Central NY Psychiatric Center and St. Lawrence Psychiatric Center.
- ✓ Savings also reflect the use of video-conferencing to reduce costly transportation and security services.

OMH Local Restructuring.

- ✓ OMH would continue to restructure a variety of programs to focus resources on emerging priorities and maximize payments from recoveries and a change in billing practices related to Medicaid prescription drug costs.

Other Budget Actions

• Adult Homes Reinvestment (+$1 million).

The Executive provides $1 million in 2010-11 to begin assessments of current residents, pursuant to a proposed multi-year remedial plan in response to a Federal district court decision.

On September 8,2009 U.S. District Judge Nicholas G. Garaufis ruled that New York had violated the Americans with Disabilities Act (ADA) and the U.S. Supreme Court's Olmstead decision by unnecessarily segregating 4,300 adult home residents with mental illness. The District Judge ruled that the plaintiffs had proven that all of the 4,300 OMH adult home residents qualify for supported housing. According to court documents, the state had until Oct. 23, 2009 to develop a remedial plan to enable the residents to receive services in the state's supported housing program.

• <u>OMH Residential Opportunities (+$56.7 million</u>)

The Executive Budget recommendations support the development of 1,111 OMH beds, already in the pipeline, provide both supported housing and congregate housing options and 256 OMH beds for New York/New York III.

<u>• Capital Fund Changes (-$341,000)</u>

The Executive eliminates $185,000 for the construction of a new inpatient building at Mid-Hudson Forensic Psychiatric Center; $112,000 for the construction of a new inpatient building at Bronx Psychiatric Center; and $45,000 for power plants at Rockland and Manhattan Psychiatric Centers.

<u>Office of Alcoholism and Substance Abuse Services (OASAS)</u>

<u>• OASAS Restructuring (-$1 million)</u>.

The Executive proposes to save $1 million in operational costs by:

- ✓ using e-technology for communications, training and procurement;
- ✓ controlling travel, food and pharmaceutical costs;
- ✓ streamlining administrative functions while limiting the use of cell phones and other electronic devices; and
- ✓ by deferring the development of new gambling prevention programs.

<u>Other Budget Actions</u>

<u>• Defer Development of Gambling Prevention Programs (-$600,000)</u>

The Executive defers the development of 5 Gambling Prevention Programs until 2012-13.

<u>•Eliminate AIDS Institute Funding (-$2 million)</u>

The Executive eliminates the suballocation to the Department of Health's AIDS Institute for primary healthcare services for individuals with chemical dependencies.

• <u>Paterson Drug Law Reform (+$13 million).</u>

The Executive provides $13 million in new funding for 272 chemical dependence treatment beds, including 183 associated with the drug law reform enacted in 2009-10.

<u>Commission on Quality of Care and Advocacy For persons With Disabilities (CQCAPD)</u>

<u>• CQCAPD Efficiencies (-$1 million).</u>

- ✓ CQCAPD would achieve savings through elimination of all non-critical, non-personal service costs;
- ✓ increased use of alternative work schedules;
- ✓ elimination of two staff positions associated with the Interagency

Coordinating Council for Services to Persons who are Deaf, Deaf-Blind, or Hard of Hearing and oversight of Special Housing Units; and
- ✓ increased use of Federal funding for certain local aid.

<u>Other Budget Actions</u>

- Surrogate Decision-Making Committee Program (-$123,000)

The Commission will shift General Fund expenditures for local assistance contracts to Medicaid revenue generated from the Commission's investigations.

<u>Savings Across All Mental Hygiene Agencies</u>

<u>• Human Services Cost of Living Increase (+$66 million)</u>

The Executive does not include any funding for a previously planned human services cost-of-living increase, but does propose legislation to forestall a 2.1 percent reduction that would otherwise occur, driven by the Consumer Price Index-based methodology in current law.

<u>• Collective Bargaining Savings (-$49 million)</u>

The Governor will seek to implement a number of workforce actions that require negotiation to reduce State employee salary costs. These actions are targeted to save $49 million in 2010-11 across all Mental Hygiene Agencies and may include options such as:

- ✓ Salary Deferral; and,
- ✓ Delay or Reduction of the April 1, 2010 Four Percent General Salary Increase.

<u>Legislation Proposed to Implement Budget</u>

(See Section Three of this Report)

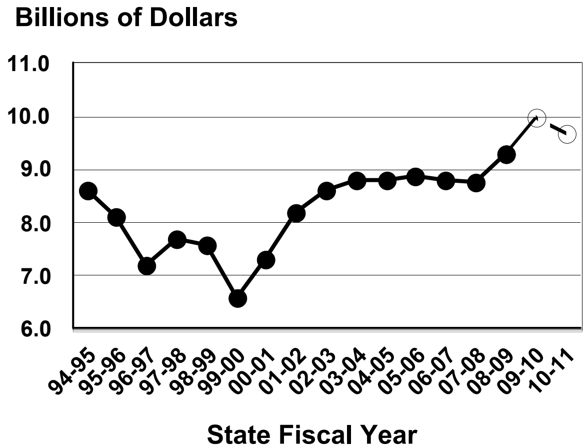
Mental Hygiene
Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change	Percent
Office of Mental Health	3,213,935	3,415,529	201,594	6.3%
Office of Mental Retardation	4,269,833	4,464,575	194,742	4.6%
Office of Alcoholism and Substance Abuse	565,354	597,393	32,039	5.7%
Commission of Quality Care	16,845	17,275	430	2.6%
Developmental Disabilities Planning Council	4,200	4,200	0	0.0%
Totals:	8,070,167	8,498,972	**428,805**	**5.3%**

HUMAN SERVICES

All Funds Disbursements (Millions of Dollars)	Estimated SFY 09-10	Projected SFY 10-11
Cash	10,003	9,685
Annual Growth Rate	7.60%	-3.20%
5 Year Average Growth (Actual)		1.20%



The SFY 2010-11 Executive Budget recommends an All Funds cash disbursement decrease of $318.4 million or -3.2 percent for all human service agencies. This decrease reflects net changes as follows:

- ✓ state operations personal service decreases -- $8 million;
- ✓ state operations nonpersonal service decreases -- $60 million;
- ✓ general state charges increases --$14 million;
- ✓ local assistance spending decreases-- $263 million; and
- ✓ a capital spending decrease of $1 million.

Within this total net spending decrease are the following Executive cost saving proposals:

Cost Saving Proposals	2010-11 ($ in Millions)
Delay Full Implementation of the Public Assistance Grant Increase	$ (14)
Discontinue Temporary Assistance for Needy Families (TANF) Funding of Certain Programs	$ (69)
Utilize TANF Contingency Funds	$ (261)
Align Adult and Family Shelter Program Financing	$ (36)
Shift General Fund Costs to Earned Revenue	$ (8)
Rightsize Residential Juvenile Justice System	$ (3)
Utilize Federal Funds to support the Adult Protective/Domestic Violence Program	$ (18)
Cap Safe Harbour Funding	$ (7)
Implement Child Welfare Performance Initiative	$ (5)
Collect Past Due Local Reimbursement for State Juvenile Justice System Costs	$ (27)
Reduce Local Assistance Funding	$ (8)
Total	$ (456)

The following narrative focuses on these major budget proposals.

<u>Office of Temporary and Disability Assistance (OTDA)</u>

Overall OTDA spending decreases by $258 million. This decrease nets out as follows: capital spending increases $4.6 million; general state charges increases $5.5 million; nonpersonal service increases $11.3 million; personal service increases $1.1 million and local assistance decreases $280.4 million.

<u>Public Assistance Caseload</u>

Public assistance caseload is projected to increase by five percent during 2010-11, with an average public assistance caseload projected at 555,494 recipients. Approximately 255,715 families are expected to receive benefits through the Family Assistance program, an increase of two percent from the current year. In the Safety Net program, an average of 119,089 families are expected to be helped in 2010-11, an increase of 1.7 percent. The caseload for single adults/childless couples supported through the Safety Net program is projected at 180,690, an increase of 13.0 percent.

Cost Savings Proposals

Within OTDA, the Executive proposes the following cost saving initiatives:

• Delay Full Implementation of the Public Assistance Grant Increase.

The Executive revises the public assistance grant increase implementation schedule enacted in 2009-10. The Budget reduces from ten percent to five percent the statutory July 2010 public assistance grant increase and provides a five percent increase for three consecutive years, thereafter. The State would be responsible for the local share of the grant increase through State Fiscal Year 2013-14. Saving is estimated at $14 million.

• Discontinue Temporary Assistance for Needy Families (TANF) Funding of Certain Programs.

TANF funding is eliminated for the following programs:

- ACCESS-Welfare to Careers (-$500,000);
- Adv. Technology Training(-$7 million);
- Advantage Schools (-$11.4 million);
- Alternative to Detention(-$10.8 million);
- Bridge(-$8.5 million);
- Career Pathways (-$10 million);
- Caretaker Relative (-$2 million);
- Centro of Oneida (-$125,000);
- Child Care CUNY(-$1.4 million);
- Child Care Demo Projects (-$10.9 million);
- Child Care Migrant Wkers (-$1.8 Million);
- Child Care SUNY (-$1.9 million);
- Community Reinvestment/Alternative to Detention (-$5 million);
- Comm. Solutions to Transportation (-$2.2 million);
- Displaced Homemakers (-$5.6 million);
- Earned Income Tax Credit Offset (-$457.7 million);
- Educational Resources (-$3 million);
- Emergency Homeless (-$2 million);
- Home Visiting (-$5.8 million);
- Local Agency VESID Employment Services (-$1.5 million);
- Non-residential Domestic Violence (-$3 million);
- Nurse Family Partnership (-$5 million);
- Preventive Services (-$18.8 million);
- Refugee Resettlement (-$1.4 million);
- Rochester-Genesee Regional Transportation Authority (-$2 million)
- Settlement House (-$6 million);
- Strengthening Families through Stronger Fathers (-$2.7 million);
- Summer Youth Employment (-$35 million);
- Supplemental Homelessness Intervention (-$5 million);
- Supportive Housing for Families (-$5 million);
- Wage Subsidy (-$14 million);
- Wheels for Work (-$7 million).

✓ The Executive is proposing new contingency fund programming as follows: Emergency Food Supplement: $10 million; Intensive Case Services: $11.3 million; Local Family Support Fund: $41.5 million.

✓ Funding for the Child Care Subsidies, the Flexible Fund for Family Services program and the Health Care Jobs program will remain flat at $393 million; $964.6 million and $5 million, respectively. Funding increases for the Disability Advocacy Program to $2.5 million (+$1.5 million) and the Transitional Jobs Program to $10 million (+$5 million).

✓ The Executive intends to utilize prior year reappropriation authority to initiate spending for the Intensive Case Services Program and the Local Family Support

Program prior to the negotiation of the 2010-11 Executive Budget.

• Utilize TANF Contingency Funds
(-$260.6 million).

Temporary Assistance for Needy Families (TANF) emergency contingency funds totaling $260.6 million are utilized for State General Fund relief.

• Align Adult and Family Shelter Program Financing (-$35.8 million).

The Executive Budget aligns funding for the adult homeless shelter system with the family shelter system to encourage local social services districts to conduct public assistance eligibility determinations for all individuals seeking placement in temporary shelter settings, including homeless shelters for adults.

• Shift General Fund Costs to Earned Revenue
(-$8 million).

The Executive Budget shifts the State share of the Automated Finger Imaging System (AFIS) and Electronic Benefit Transfer (EBT) System from the General Fund to a Special Revenue account to be funded using agency earned revenue.

• Reduce funding for Various Homeless, Refugee and Employment- Related Programs
(-$1.7 million).

The Executive reduces General Fund support by between ten percent and 28 percent for various programs including the Homeless Intervention Program (HIP); the Citizenship program; the NYS Refugee Resettlement Assistance Program (NYSRRAP); and the HIV Welfare - to - Work Program.

Other Budget Actions

•Authorizes the State to Administer the SSI Supplementation Program (+$574,000).

The Federal Social Security Administration (SSA) administers New York's SSI supplementation program and charges a fee for each check issued on the State's behalf. The fee is currently set at $10.45 and total administrative costs are projected to be $84 million in 2010-11. The Executive Budget authorizes the State to assume responsibility for the administration of the supplementation program, achieving over $60 million in annual savings when fully implemented.

• State Operations Net Increases
(+$12.4 million).

Primarily reflects salary increases under existing collective bargaining agreements and inflationary growth in non-personal services and workforce savings.

• Software Bonding Increases (+ $5 million).

Reflects the use of debt financing for Welfare Management System software development costs in 2009-10, as well as the associated debt service costs.

• Elimination of the Back-to-School Initiative.
(- $175 million)

Reflects eliminations of one-time spending in 2009-10 under the Back-to-School Assistance program that was financed entirely through a private donation and Federal resources.

• Other Program Eliminations (-$7 million).

Reflects the elimination of General Funding support for the Green Jobs Corp Program (-$2 million); Health Care Jobs Program (-$2 million);

Low-Income Worker Initiative (-$1.5 million); Safety Net Assistance Local Innovations Program (-$770,000); and the Community Projects Program (-$450,000).

Capital Projects Increases (+$4.6 million).

Reflects increased project expenditures in the Homeless Housing Assistance Program.

Office of Children and Family Services (OCFS)

Overall OCFS spending increases by $105 million. This increase nets out as follows: capital spending decreases $5.4 million; general state charges increases $.9 million; nonpersonal service increases $1.3 million; personal service increases $5.3 million and local assistance increases $102.9 million.

Cost Savings Proposals

Within OCFS, the Executive proposes the following cost saving initiatives:

• Right- size Residential Juvenile Justice System.

The Executive proposes the closure and downsizing of OCFS facilities. A total of three facilities will be closed/ downsized as of January 19, 2011.

SFY 2010-11 Executive Proposed Youth Facility Closure and Downsizing	
Facility	**Number of Employees Effected**
Annsville, Oneida County	**32**
Tryon, Fulton County	**172**
Lansing, Tompkins County	**47**

January, 2011 actions will include the following:

- ✓ closure of Annsville non-secure center, (The Annsville and Taberg residential facilities located in Taberg, Oneida County would be consolidated into the Taberg facility.)
- ✓ downsizing the Tryon campus located in Johnstown, Fulton County by closing the limited secure boys (but not the girls secure facility or training) program , and
- ✓ downsizing the non-secure residential center for girls in Lansing, Tompkins County by reducing beds from 50 to 25 beds.

These actions will reduce OCFS facility jobs by 251 annual salaried positions, of which 239 were filled as of November 2009. These actions are projected to reduce facility-wide bed to census vacancy rates from 30 percent to 19 percent.

• Cap Safe Harbour Funding (-$7 million).

The Executive amends legislation passed in 2008-09 requiring OCFS to contract for the operation of at least one long-term safe house for sexually exploited youth by making it subject to available funding, which is capped at General Fund support of $3 million in 2010-11.

• Implement Child Welfare Performance Initiative (-$5 million).

The Executive Budget reflects efficiencies in the child welfare system associated with local social services districts developing and reporting on performance measures to improve outcomes for youth and families.

• Collect Past Due Local Reimbursement for State Juvenile Justice System Costs (-$27 million).

The Executive proposes to allow OCFS to intercept payments to local social services districts for programs such as child welfare, foster care, adoption, and detention in cases where districts are deficient in paying their share (50 percent) of costs associated with operating youth facilities.

• Reduce Local Assistance Funding (-$38 million million).

The Executive reduces General Fund support to several programs including: Community Optional Preventive Services (-$2.9 million), Alternatives to Detention and Residential Placement Program (-$240,000), Kinship/Caretaker Relative Program (-$100,000), Caseload Reduction for Child Protective Services Workers (-$170,000), Settlement Houses (-$1.45 million); Child Fatality Review Teams (-$90,000); Post Placement Program (-$300,000); Preventive Services Program (-$4.32 million); Portable Information Technology Pilot (-$940,000); Kinship Guardianship Program (-$100,000); Community Projects Program (-$11 million); Home Visiting (-$200,000); Hoyt Children and Family Trust Fund transfer (-$140,000); and a decrease of $13.8 million related to the use of federal funds to support the Adult Protective/ Domestic Violence program.. The Executive also reduces General Fund support by 50 percent for the Child Welfare Quality Program (-$1.8 million).

Other Budget Actions

Local Assistance Program Growth (+$137 million).

The Executive Budget reflects General Fund growth in several programs, including Child Welfare Services (+$77 million); Adoption Subsidies (+$ 4 million); Bridges to Health Program (+$41.4 million); Detention Program (+$4 million); Medicaid Per Diem Program (+$4.9 million); Advantage Afterschool Program (+$480,000); Local District Training (+$390,000) Child Advocacy Centers (+$150,000); Child Care Unionization Program (+$3.24 million); Indian Tribes Program (+$ 520,000); Childcare Migrant Workers Program (+$1.75 million); and the Runaway and Homeless Youth program (+$130,000).

State Operations Spending Growth (+$7.5 million).

Salary increases under current collective bargaining agreements and inflationary growth in non-personal services is partly offset from planned reductions in workforce, contractual services and other non-personal services.

Improve OCFS Facility Operations (+$18 million, 169 positions).

The Executive Budget includes new General Fund support to increase staff to youth ratios and to provide improved medical and mental health services for youth in state-operated juvenile justice facilities. This action is taken to ensure that the New York State Office of Children and Family Services fully implements changes to youth detention facilities mandated by the United States Department of Justice.

Savings Across all Mental Hygiene Agencies

• Human Services Cost of Living Increase (-$66 million)

The Executive does not include any funding for a previously planned human services cost-of-living increase, but does propose legislation to forestall a 2.1 percent reduction that would otherwise occur, driven by the Consumer Price Index-based methodology in current law.

Department of Labor (DOL)

The SFY 2010-11 Executive Budget includes new appropriations of $7 billion for unemployment insurance, reflecting continued elevated levels of UI claim activity. The $3.8 billion decrease from SFY 2009-10 is due to a lack of new stimulus funding, and is offset by a $4.8 billion reappropriation, which will result in a flat year over year change of all appropriations.

Based on current legislation, a maximum total of 99 weeks of regular, Federal Extended Unemployment Compensation Program (EUC08) and Extended Benefits (EB) are available to eligible claimants, with payments continuing into the first half of 2010-11. In addition, new Federal legislation has been proposed which, if enacted, would extend the EUC08, Federal Additional Compensation (FAC), and EB payments further into 2010-11

State Office for the Aging (SOFA)

The Executive proposes $240 million in All Funds support for SOFA which reduces spending by $9.8 million in 2010-11 as follows:

- ✓ Eliminates prior year legislative adds of $5 million including Expanded In-Home Services for the Elderly ($2 million); Community Services for the Elderly ($1 million); and Supplemental Nutrition Assistance Program funding ($2 million).
- ✓ Eliminates non-core program spending of $869,000 including the Congregate Services Initiative ($.8 million); and the Patients' Rights Hotline and Advocacy Project ($69,000).
- ✓ Reduces State Operation spending by $543,000 including the elimination of two positions; and
- ✓ Eliminates Community Project Funding of $3.4 million.

Legislation Proposed to Implement Budget

(See Section Three of this Report)

Human Services
Proposed Disbursements - All Funds
(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Children and Family Services	3,269,824	3,374,774	104,950	3.2%
Temporary and Disability Assist.	5,364,499	5,106,653	(257,846)	-4.8%
Welfare Inspector General	1,403	1,421	18	5.2%
Department of Labor	913,295	731,600	(181,695)	-19.9%
Prevention of Domestic Violence (1)	2,328	0	(2,328)	-100.0%
Workers' Compensation Board	187,987	206,849	18,862	10.0%
Office for the Aging	225,494	227,114	1,620	0.7%
Division of Veterans' Affairs	16,966	17,354	388	2.3%
Division of Human Rights	21,804	19,406	(2,398)	-11.0%
Totals:	**10,003,600**	**9,685,171**	**(318,429)**	**-3.2%**

(1) Proposed to be consolidated into DCJS.

GENERAL GOVERNMENT AND LOCAL GOVERNMENT ASSISTANCE

All Funds Disbursements
(Millions of Dollars)

	Estimated SFY 09-10	Projected SFY 10-11
Cash	6,746	6,453
Annual Growth Rate	19.5%	-4.3%
5 Year Average Growth (Actual)		n/a

General Government includes 24 agencies providing a diverse array of services to the people of New York State, in addition to general state charges and local government assistance. The SFY 2010-11 Executive Budget recommends **All Funds cash disbursements of $6.45 billion** for general government agencies, general state charges and local assistance. This would represent a decrease of $292.6 million or 4.3 percent from SFY 2009-10 levels. The most significant decreases in spending are reflected in Audit and Control, the Division of the Budget, Department of Civil Service, Office of General Services, Insurance Department, Local Government Assistance and the Department of State. These decreases would be slightly offset by increases in the Division of Alcoholic Beverage Control, the State Board of Elections, the Office of the Lt. Governor, General State Charges, the Department of Taxation and Finance, and the Office for Technology.

Department of Audit and Control

The Executive Budget recommends a cash disbursement decrease of $73 million or 29 percent from the current year level of $253.7 million. The Department's cash disbursement total is $180.2 for SFY 2010-11. The reduction is from a decrease in local assistance spending, representing a transfer of the indigent Legal Services Fund SRO to the new Office of Indigent Defense Services which would be located in the Division of Criminal Justice Services.

Division of the Budget

The Executive Budget recommends a cash disbursement decrease of approximately $3 million or seven percent from the current level of $44.5 million. The Division of the Budget cash disbursement total is $41.5 million for SFY 2010-11. The decrease would result from reduced personal service and non personal service spending. There would be a reduction of 10 Full Time Employees, (FTEs), due to attrition. This leaves the Division with an FTE headcount of 331 for the year.

Department of Civil Service

The Executive Budget recommends a cash disbursement decrease of $3.2 million or 14.5 percent from the current level of $22 million. The Civil Service cash disbursement total is $18.8 million for SFY 2010-11.The decrease would result from reduced personal service and non personal service spending. There would be a reduction of five FTEs due to attrition. This leaves the Department with an FTE headcount of 498 for the year.

Office of General Services

The Executive Budget recommends a cash disbursement decrease of approximately $14 million or 6.3 percent. The Office of General Services (OGS) cash disbursement total is $208.8 million for SFY 2010-11 The reductions would result from across-the-board reductions, decreased energy consumption costs and a decrease of 48 FTEs. This leaves OGS with an FTE headcount of 1500 for the year.

Insurance Department

The Executive Budget recommends a cash disbursement decrease of $159.6 million or a 24.1 percent from the current level of $661.7 million. The Insurance Department cash disbursement total is $502 million for SFY 2010-11. The decrease would result from a proposed reduction in the Timothy's Law subsidy to small businesses of $30 million and an approximate $2 million reduction in other program spending. An increase of 70 FTEs is recommended to replace bank examiners that would assist with regulation of the insurance industry after the financial crisis of 2008. This leaves the Department with an FTE headcount of 992 for the year.

Local Government Assistance

The SFY 2010-11 Executive Budget Proposal includes the following major revenue sharing reductions:

The **Aid and Incentives for Municipalities (AIM)** program is recommended at $734.2 million, which would be a reduction of $317.4 million from the SFY 2009-10 level of $1.052 billion. The proposed reduction would come primarily from the **elimination** of AIM payments to the City of New York ($301.7 million) and Erie County ($668,332).

Other cities, towns and villages would see reductions totaling $15.1 million in SFY 2010-11 based on an AIM reliance measure formula. AIM funding to cities, towns and villages outside NYC would be reduced by either two percent or five percent. If in 2008, a municipality's AIM reliance in relation to it's total budget is below 10 percent, the proposed AIM reduction would be 5 percent. If a municipality's AIM reliance is greater than 10 percent, the proposed AIM reduction would be 2 percent (Article VII Language, S.6606/A.9706, Part-Z).

As part of the December 2009 Deficit Reduction Plan (DRP), AIM payments for the 17 non-calendar fiscal year cities were reduced. The proposed SFY 2010-11 reductions for these 17 cities would be based on their pre-DRP SFY 2009-10 total AIM payment amount. (For a city by city breakdown, please refer to the DRP AIM Reduction Table found at the end of this section.)

The SFY 2010-11 Executive Budget Proposal recommends a reduction of $1.5 million to the **Local Government Efficiency Grants** program. This program, administered by the Department of State to encourage local consolidation and shared services, would be reduced from $11.5 million to $10 million. In addition, the **Efficiency Incentive Grant Program for Erie County and the City of Buffalo** would be reduced by 50 percent from $24 million to $12 million.

Video Lottery Terminal (VLT) Impact Assistance to the 16 eligible host municipalities would be reduced by $2.6 million, or 10 percent from $26.4 million to $23.8 million. The City of Saratoga was eliminated from this program in the SFY 2009-10. The Executive also proposes to extend the hours of daily operations of VLT facilities (Revenue Article VII, S.6610/A.9710, Part-O).

Amortization of Pension Contribution Costs

The SFY 2010-11 Executive Budget Proposal would grant local governments the option of amortizing a portion of their pension costs from

SFY 2010-11 through SFY 2015-16. Local governments could choose to amortize the portion of their respective pension costs exceeding a contribution rate of 9.5 percent for the New York State and Local Employees' Retirement System and 17.5 percent for the New York State and Local Police and Fire Retirement System in SFY 2010-11. The contribution rate above which future amortizations are allowed would be increased by one percentage point each year through SFY 2015-16. Repayment of the amortized amounts would be made over a ten-year period at an interest rate that would be determined by the State Comptroller. Assuming a 30 percent participation rate, this proposal is estimated to generate $30 million in savings to local governments outside of NYC.

Mandate Relief, Local Government Efficiency, and Revenue Authorization

The Executive proposes a four year moratorium on the enactment of any new unfunded mandate on local government and school districts. Other measures would increase special district oversight and accountability by:

- prohibiting special district commissioners from receiving compensation for their services;
- authorizing the transfer of management responsibilities in commissioner run sanitation districts to town boards; and
- allowing citizens to petition to eliminate the offices of improvement district commissioners.

The Executive Proposal includes initiatives that would promote efficiencies and shared services by:

- allowing counties to share directors of weights and measures;
- authorizing more flexible residency requirements to fire districts; and
- authorizing counties to enter into inter-municipal agreements for property tax collection.

In addition, the Executive would provide authorization for local governments to impose, expand or raise various taxes. This authority would include:

- expanding the mortgage recording tax to cooperative apartments ($71 million for NYC and $5 million for the rest of state);
- authorizing cities and villages to impose a local gross receipts tax on utilities up to three percent ($110 million total if all cities and villages outside of NYC imposed the tax); and
- allowing municipalities to charge $15-$25, (similar to the practice of the State Police), for copies of documents relating to police accident reports.

Department of State

The Executive Budget recommends a cash disbursement decrease of $31.6 million or 14.7 percent from the current level of $215.4 million. The Department of State cash disbursement total is $183.8 million for SFY 2010-11. There would be a $10 million decrease for the elimination of Public Utility Law Project (PULP), Civil Legal Services and the Census Program. There would be a FTE decrease of 130 attributed to attrition and the transfer Haz Mat and Fire related FTEs to the Division of Homeland Security and Emergency Services (104 FTE). This leaves the Department with an FTE headcount total of 677 for the year.

Division of Alcoholic Beverage Control

The Executive Budget recommends a cash disbursement increase of $3 million or 16.3 percent over the current level of $18 million. The Division of Alcoholic Beevrage Control cash disbursement total is $20.9 million for SFY 2010-11 This increase reflects 20 new full time positions that would handle the anticipated increase in license applications from the Executive’s proposal to sell wine in grocery and drug stores. Once the initial increase of applications has slowed, the license inspectors would be used to decrease the current backlog of applications. This leaves the

Division with an FTE headcount total of 175 for the year.

The State Board of Elections

The Executive Budget recommends a cash disbursement increase of $39.3 million or 64.8 percent from the current level of of $60.7 million. The State Board of Elections cash disbursement total is $100 million for SFY 2010-11. This increase is the result of unspent federal revenues from the Help America Vote Act. The federal funds are for the purchase of new voting machines. The machines were not purchased in the currents SFY because they had not been certified on time.

Office of the Lieutenant Governor

The SFY 2010-11 Executive Budget proposal recommends $658,000 to restore seven positions in the Lieutenant Governor's office. Funding was eliminated in the SFY 2009-10 enacted budget with no one serving as the Lieutenant Governor for New York State. The Office of the Lieutenant Governor's cash disbursement total is $658,000 for SFY 2010-11.

General State Charges

Cash disbursements would increase by $231 million for SFY 2010-11 from planned increases in spending on employee fringe benefits, such as pensions and health insurance.

Department of Taxation and Finance and Office of Real Property Tax Services Consolidation

The Executive Budget proposes the consolidation of the Office of Real Property Tax Services (ORPS) into the Department of Taxation and Finance for a savings of $1.9 million. The Department of Taxation and Finance would have a cash disbursement increase of $57.6 million or 14 percent over current levels of $412.8 million. The Department's cash disbursement total is $470.5 million for SFY 2010-11. The ORPS State Board would be disbanded and reviews of complaints regarding State equalization rates, special franchise tax and other complaints would be taken up by the Division of Tax Appeals. The Department's increase would result from absorbing 268 FTEs from ORPS, as well as the hiring of 176 additional FTEs for Audit Collection and Enforcement. This will bring the Tax Department FTE head count total to 5,622 for the year. The Financial Plan anticipates the additional 176 Audit and Enforcement FTEs would generate $221 million in revenue.

Office for Technology

The Executive Budget recommends an cash disbursement increase of approximately $39.9 million or 142 percent over the current year level of $28 million. The Office of Technology's cash disbursement total is $68 million for SFY 2010-11. The proposed increase primarily comes from $23 million in anticipated capital project disbursements to begin construction of a new statewide consolidated data center as part of a public-private partnership. The $99.5 million appropriation for the data center was enacted in 2006 and is re-appropriated as part of the SFY 2010-11 Executive Budget Proposal. OFT also plans to retrofit a leased facility in Poughkeepsie to serve the State's disaster recovery needs. In addition, approximately $14 million in anticipated Federal American Recovery and Reinvestment Act grants for both local government and private entities is proposed.

Aid and Incentives to Municipalities (AIM) December 2009 DRP Reduction - ($31.6 million)

- The enacted DRP provides a sliding scale reduction ranging from 1% to 8% based upon each City's reliance on State AIM aid as a percentage of their total municipal budget (the governor originally proposed an 8 percent across the board cut totaling $66.6 million). The total AIM reduction is $31.6 million based on the following:

- If a City's AIM reliance is at least 10% or greater; the AIM reduction is 1%
  If a City's AIM reliance is between 5% and 10%; the AIM reduction is 2%
  If a City's AIM reliance is between 1% and 5%; the AIM reduction is 3%
  If a City's AIM reliance is less than 1%; the AIM reduction remains at 8%

- As a result of the timing of payments to municipalities, this reduction would exclusively impact payments to cities which operate on non-calendar fiscal years. Of the $31.6 million reduction, $26.2 million would impact NYC and $4.5 million in aid would be reduced from the other "Big 4" cities. The remaining $853,000 reduction would apply to the other small cities with non-calendar fiscal years and would be implemented against the next regularly scheduled payment 12/15/09.

AIM Reduction Against Non-Calendar Year Cities					
Name	2009-10 Enacted Budget	Original DRP 8.0% Reduction	Final DRP Reliance Based % Reduction		2009-10 Revised Budget
Big Four Cities					
BUFFALO	$169,027,453	($13,522,196)	($1,690,275)	1%	$167,337,178
ROCHESTER	$92,215,689	($7,377,255)	($922,157)	1%	$91,293,532
SYRACUSE	$75,084,069	($6,006,726)	($750,841)	1%	$74,333,228
YONKERS	$113,074,558	($9,045,965)	($1,130,746)	1%	$111,943,812
	$449,401,769	**($35,952,142)**	**($4,494,018)**		**$444,907,751**
Other Non-Calendar Year Cities (13)					
AMSTERDAM	$3,010,137	($240,811)	($30,101)	1%	$2,980,036
AUBURN	$5,227,801	($418,224)	($52,278)	1%	$5,175,523
BATAVIA	$1,901,664	($152,133)	($38,033)	2%	$1,863,631
CORNING	$1,622,300	($129,784)	($32,446)	2%	$1,589,854
HORNELL	$1,576,892	($126,151)	($15,769)	1%	$1,561,123
LACKAWANNA	$6,613,009	($529,041)	($66,130)	1%	$6,546,879
LONG BEACH	$3,404,144	($272,332)	($102,124)	3%	$3,302,020
OLEAN	$2,358,120	($188,650)	($23,581)	1%	$2,334,539
RENSSELAER	$1,227,071	($98,166)	($24,541)	2%	$1,202,530
SALAMANCA	$1,008,006	($80,640)	($20,160)	2%	$987,846
UTICA	$16,961,328	($1,356,906)	($169,613)	1%	$16,791,715
WATERTOWN	$5,090,176	($407,214)	($101,804)	2%	$4,988,372
WHITE PLAINS	$5,896,127	($471,690)	($176,884)	3%	$5,719,243
	$55,896,775	**($4,471,742)**	**($853,465)**		**$55,043,309**
TOTAL W/O NYC	**$505,298,544**	**($40,423,883)**	**($5,347,483)**		**$499,951,061**
NEW YORK CITY	$327,889,668	($26,231,173)	($26,231,173)	8%	$301,658,495
TOTAL	**$833,188,212**	**($66,655,057)**	**($31,578,656)**		**$801,609,555**

Executive SFY 2010-11 Local Assistance - AIM Impact
(Proposed City Reduction Amounts in Dollars)

New York City	**(301,658,495)**

Long Island

Glen Cove	(154,094)
Long Beach	(68,083)
Total	**(222,177)**

Hudson Valley

Beacon	(83,490)
Kingston	(166,664)
Middletown	(146,935)
Mount Vernon	(388,576)
New Rochelle	(334,666)
Newburgh	(242,444)
Peekskill	(120,519)
Port Jervis	(29,611)
Poughkeepsie	(230,680)
Rye	(65,599)
White Plains	(117,922)
Yonkers	(1,130,745)
Total	**(3,057,852)**

Capital Region / North Country

Albany	(684,643)
Amsterdam	(30,102)
Cohoes	(57,755)
Glens Falls	(87,266)
Gloversville	(48,484)
Hudson	(30,679)
Johnstown	(29,245)
Mechanicville	(13,947)
Oneonta	(46,995)
Plattsburgh	(143,842)
Rensselaer	(36,813)
Saratoga Springs	(89,584)
Schenectady	(235,957)
Troy	(258,560)
Watervliet	(65,717)
Total	**(1,859,589)**

Central New York

Auburn	(52,278)
Binghamton	(194,759)
Cortland	(109,601)
Fulton	(88,341)
Ithaca	(141,753)
Little Falls	(18,235)
Norwich	(22,936)
Ogdensburg	(92,785)
Oneida	(35,814)
Oswego	(133,135)
Rome	(191,261)
Sherrill	(20,238)
Syracuse	(750,840)
Utica	(169,614)
Watertown	(152,705)
Total	**(2,174,295)**

Rochester-Region

Canadaigua	(60,782)
Corning	(48,669)
Elmira	(96,413)
Geneva	(105,490)
Hornell	(15,769)
Rochester	(922,157)
Total	**(1,249,280)**

Western NY

Batavia	(57,050)
Buffalo	(1,690,274)
Dunkirk	(85,556)
Jamestown	(248,289)
Lackawana	(66,130)
Lockport	(143,932)
Niagara Falls	(374,684)
North Tonawanda	(91,281)
Olean	(23,581)
Salamanca	(30,240)
Tonawanda	(54,791)
Total	**(2,865,808)**

General Government and Local Government Assistance
Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2009-10	Proposed 2010-11	Change Amount	Change Percent
Alcoholic Beverage Control	17,970	20,897	2,927	16.3%
Audit and Control	253,684	180,176	(73,508)	-29.0%
Banking	85,231	86,699	1,468	1.7%
Division of the Budget	44,473	41,498	(2,975)	-6.7%
Civil Service	21,978	18,798	(3,180)	-14.5%
Consumer Protection Board	2,876	2,906	30	1.0%
State Board of Elections	60,724	100,060	39,336	64.8%
Office of Employee Relations	3,423	3,097	(326)	-9.5%
Executive Chamber	17,844	17,080	(764)	-4.3%
Office of the Lt. Governor	0	658	658	N/A
Office of General Services	222,772	208,785	(13,987)	-6.3%
General State Charges	3,121,137	3,352,040	230,903	7.4%
Office of the Inspector General	6,582	6,067	(515)	-7.8%
Insurance Department	661,691	502,031	(159,660)	-24.1%
Department of Law	228,585	210,499	(18,086)	-7.9%
Commission on Public Integrity	4,541	4,251	(290)	-6.4%
Local Government Assistance	1,084,848	768,867	(315,981)	-29.1%
Lottery	175,160	176,410	1,250	0.7%
Public Empl. Relations Board	4,171	3,923	(248)	-5.9%
Racing and Wagering Board	23,301	21,656	(1,645)	-7.1%
Real Property Services	43,737	0	(43,737)	-100.0%
Office of Regulatory Reform	2,210	2,052	(158)	-7.1%
Department of State	215,370	183,753	(31,617)	-14.7%
Taxation and Finance	412,846	470,472	57,626	14.0%
Division of Tax Appeals	2,971	2,913	(58)	-2.0%
Office for Technology	28,091	67,994	39,903	142.0%
Totals:	**6,746,216**	**6,453,582**	**(292,634)**	**-4.3%**

RECEIPTS, TAXES AND FEES

The SFY 2010-11 Executive Budget also contains a number of tax increases and revenue changes. The following is a list of those changes:

Personal Income and Estate Tax

Circuit Breaker Property Tax Credit

The Executive proposes establishing an income tax **circuit breaker property tax credit**. This proposal is accompanied by a spending cap and an increase in the rainy day reserve which are discussed further in the Issues in Focus section of this publication. The school property tax circuit-breaker proposal will use future budget surplus to deliver property tax relief through a fully refundable personal income tax credit.

The circuit breaker benefit is calculated by limiting an individual's property tax burden to a specified threshold percentage of their income – property taxes above that level (the "excess") are credit eligible. The credit will equal a percentage of the excess. The threshold percentage of income would decrease and the maximum credit allowable will increase as the surplus increases. As the State's fiscal condition improves, the circuit breaker program provides an increasingly larger benefit to property taxpayers. However, the surplus can be adjusted by the Executive through the use of prepayments and increasing the amount of tax refunds released during the months from January to through March. Individuals with household incomes up to $200,000 Upstate and $300,000 Downstate would be eligible for this program. Income levels are indexed to inflation.

The proposal includes a provision to encourage fiscal restraint at the local level by multiplying the credit by an adjustment factor. The adjustment factor is a percentage calculated by taking the change in the cost of living since 2011 divided by the change in per pupil tax levy since 2011. The cost of living is defined as 1.2 times the rate of inflation or four percent whichever is less. If a school district continuously increases taxes above the inflation rate, residents would see their credit decrease.

Termination Payments

The Executive proposes to make termination payments, non-compete covenant payments and other compensation payments for similar purposes to non-residents taxable if such payment are related to their previous employment in New York State. This proposal would increase taxes by $5 million annually beginning in SFY 2011-12.

Non-Resident S-Corp Sales

The Executive proposes to require certain **liquidations, sales and installment payments** of non-resident S corporation shares to be reported as New York income. This proposal reverses a tax appeals decision that classified these sales as the sale of intangible assets, which are not considered New York sourced income. It also changes the treatment of installment sale payments where the S corporation is no longer a taxable entity in New York. Currently, the installment payments would cease to be New York income. This proposal would change the entire stream of payments to New York income regardless of the condition of the S corporation thereby matching the current C corporation treatment. This proposal is **retroactive for a full audit cycle of three years** and up to seven years if there is an active audit. This proposal would increase taxes by $30 million in SFY 2010-11 and $12 million each year thereafter.

Resident Trust Exemption

The Executive proposes to **eliminate the tax exemption for resident trusts** whose trustees are non-residents, whose corpus or property is located out of state and whose income is all derived out of state. It also makes all trusts created by a will whose decedent is a resident at the time of death New York trusts and thereby taxable. This will raise taxes by $25 million annually beginning in SFY 2011-12.

Same-Sex Couple Tax Reduction

The Executive proposes to allow **same-sex couples** whose "marriage" is recognized by any state to file a married-joint return for New York State and New York City income tax purposes even though it is disallowed under federal law. This part also affords same-sex couples a deduction for estates that are passed from one partner to the other under a qualified terminable property deduction "skipping a generation" of the estate tax. Although the Executive does not state a fiscal impact for these proposals the estate tax deduction could have a potentially large fiscal impact.

Estate Tax Unified Credit

The Executive proposes changing **the estate tax** to maintain the New York State estate tax unified credit amount. When the federal estate tax expired on December 31, 2009, the unified credit for New York estate tax also expired. However, since the tax itself is fixed to the federal credit for state taxes paid as it existed on July 22, 1998, the tax will not change no matter what happens on the federal level, but the exemption up to $1 million of estate value was tied to the federal tax. Without this change the New York State estate tax will be in affect but the exemption (unified credit) is expired and therefore every decedent's estate will be taxed from the first dollar. There is no fiscal impact noted, however, the fiscal impact could potentially be quite large.

Low-Income Housing Credit

The Executive Budget would authorize an additional $4 million in **low-income housing** credits for ten years. This would allow the Commissioner of Housing and Community Renewal to allocate a total of $28 million in these credits per year.

Tax on Beverage Syrups and Soft Drinks

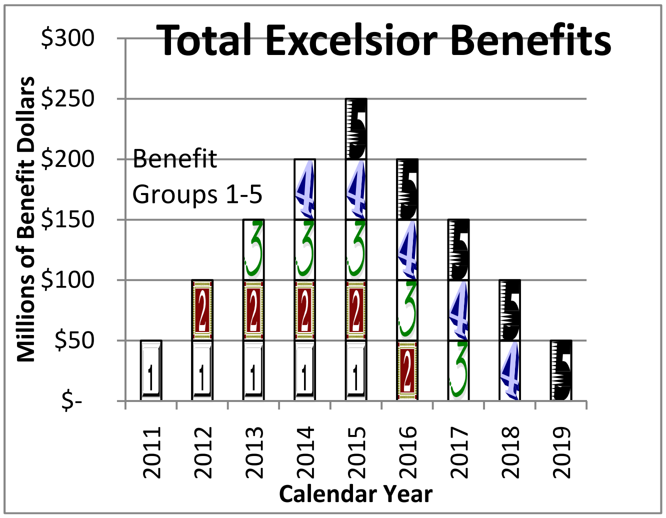
The Executive proposes creating a new tax on any soft drinks and the syrups or powders used to reconstitute such soft drinks (new Article 16). The tax will effectively equal one cent per ounce of soft drink that has more than 10 calories per ounce ($1.28 per gallon of soft drink, $7.68 per gallon of syrup that will make six gallons of soft drink, and $1.28 for each unit of powder that makes one gallon). The law only exempts milk, infant formula, dietary aids, milk substitutes (such as soy milk or rice milk) and alcoholic beverages that are taxed as such. This article will not only tax soda, but will tax teas, sports drinks, some non-alcoholic beers and fruit/vegetable juice cocktails that contain less than 70 percent juice as long as it has more than 10 calories per ounce. This tax will generate $465 million in SFY 2010-11 and $1 billion in the out years.

Corporate Franchise Tax

Excelsior Jobs Program

The Executive proposes a new **Excelsior Jobs Program**. The program offers three refundable credits for a benefit period of 5 years for financial data centers, internet publishers, manufacturers, software developers, scientific research and developers or an industry deemed by the commissioner of economic development to have "significant potential for private-sector economic growth." There are no criteria set forth in the legislation for "significant." The program has a 50 jobs created threshold for entry to the program.

The credit is capped at $50 million per year for each benefit group for a five year benefit period ($250 million over five years). There are only five groups whose benefit periods will begin in 2011, 2012, 2013, 2014 and 2015. So by the time the first group is in its fifth year, the fifth and last group will be in its first credit eligible year.



The refundable credits available are: 1) Jobs credit - $2,500 to $10,000 for each job created depending on the salary, benefits level and whether the employer (but it could be the employee) resides in a distressed area. The credit amount is determined solely by the commissioner; 2) Investment credit – two percent of the qualified investment expenditures; 3) Research and Development – equal to ten percent of the federal credit. Participants in the program must have a development plan and employment goals in order to be accepted to the program, with a "preapproved" amount of credits that can be earned based on their plan. If they do not reach their goals for any year they forfeit all three credits that would have been earned for the year. However, if they perform better than their original plan they will not receive extra benefits. This proposal is estimated to give $50 million in benefits beginning in SFY 2012-13.

Unincorporated Business Credits

The Executive proposes to reduce the amount of **biofuel production credit and QETC** (Qualified Emerging Technology Company) credits that unincorporated businesses can earn by specifying that the limits on credits will apply to the entity level not to each individual partner or shareholder. This will raise taxes by $2 million annually beginning in SFY 2011-12.

Film Tax Credit

The Executive proposes adding $2.1 billion to the credit allocation of the **film tax credit**. There would be an additional $420 million for 2010 and each of the next succeeding four years. The proposal would require at least 10 percent of total shooting days be spent at a New York production facility in order to qualify for the production credit. The post production credit would require at least 75 percent of the post production be done at a New York facility. The latest data available shows that less than nine percent of the shoot days for credit eligible films and television shows were shot outside of New York City. If the credits were apportioned to shoot days, less than eight percent of the credit was generate from productions outside of New York City. This part would increase film credit refunds by $420 million beginning in SFY 2012-13 and for each of the next four years.

Empire Zone Technical Corrections

The Executive proposes making several corrections to the section of the SFY 2009-10 budget that eliminated the Empire Zone program. The first correction amends the General Municipal Law to clarify that the decertification was retroactive to January 2008. This part also changes the former local sales tax exemption, which followed the former state Empire Zone sales tax exemption, so the the new state refund/credit provisions will apply to those localities that opted into the former exemption. This part also amends the law regarding qualified investment projects (very large investment projects) so they will still be able to claim 10 years of credits after the completion of another investment.

Tax on Severing Natural Gas

The Executive Proposes creating a new Article 17 in the tax law establishing a production tax on any natural gas that is extracted from a gas pool in the Marcellus or Utica shale formation using a horizontal well. The tax will be imposed at a rate of three percent of the market value of the natural gas produced. All of the revenue from this tax will be distributed as the petroleum business tax is distributed (to the dedicated transportation funds). This tax will raise $3 million annually beginning in SFY 2011-12.

Bank Tax

1985 Bank Tax Extension

The Executive proposes extending for one year the major provisions of the 1985 and 1987 bank tax reforms, as well as the transitional provisions in New York's bank tax enacted in response to the Federal Gramm-Leach-Bliley Act. There is no fiscal impact recognized. This will preserve previous revenue currently in the Financial Plan.

Alcohol and Beverage Tax

Wine in Grocery Stores

The Executive proposal would create the Wine Industry and Liquor Store Revitalization Act.

The Act would allow grocery and drug stores to sell wine by paying a onetime franchise fee to the State Liquor Authority. The fee would be based on percentage of the retailers annual sales in the previous year. Sales from tobacco and motor fuel would be exempt from the annual sales total when calculating the fee. Retail stores that have been in business for less than 12 months would pay a fee ranging from $825 to $350,000 depending on the stores square footage. There will also be an annual fee of $500 for the license of each grocery or drug store. Grocery and Drug store retailers will be able to hold multiple licenses. Applicants who hold two or more drug and grocery store licenses would pay annually $1,000. Ten percent, or up to $1 million of the revenue derived from the fees would go into the New York Wine Marketing Program to promote the New York wine industry.

Under this Act, liquor stores will be able to sell items complimentary to their business, have ATM machines installed in liquor stores and sell their products to retail establishments licensed for consumption such as restaurants or certain grocery stores. This part would also remove the restriction against holding multiple licenses and create a medallion system that allows liquor stores owners to be able to auction off existing licenses to the highest bidder. This medallion system would sunset in three years.

Grocery and Drug stores would also be able to obtain licenses allowing the selling of wine for consumption off their property and would allow wine tastings. Also, grocery and drug stores with less than 1,000 square feet would be able to purchase wine from stores licensed to sell such products. This bill would generate $93 million for SFY 2010-11 and $52 million every year thereafter.

Sales and Use Taxes

Statistical Sampling Audits

The Executive proposes to authorize the Department of Taxation and Finance to use statistical sampling for the purpose of auditing tax liability of sales tax taxpayers. Currently the Department is prohibited from using this method and must rely on actual records to determine expected sales tax liability. The Department claims that this would drastically reduce the workload of auditing sales tax and could use audit resources elsewhere. This authorization is expected to increase audit revenue by $8 million in SFY 2010-11 and $12 million annually thereafter.

Affiliate Nexus

The Executive proposes narrowing the scope of the **affiliate nexus** provisions enacted as part of the SFY 2009-10 budget which expanded nexus to included out-of-state online companies that sold products into the state that had similar trademarks and did similar business to further sales or benefit the New York retailer. This change would exempt "headquarter" type activities such as strategic planning, marketing, inventory, staffing, distribution or cash management from triggering nexus for the out-of-state retailer. This part will save $5 million for New York businesses.

Cigarette and Tobacco Tax

The Executive proposes a **cigarette tax increase of $1 per pack**. This will raise the state tax to $3.75. In New York City, the combined State and Local tax would increase from $4.25 to $5.25 per pack. The executive would increase the percentage of cigarette tax revenue that goes into the Tobacco Control and Insurance Initiatives Pool from 70.63 percent to 75 percent. This proposal is estimated to raise cigarette tax revenues by $210 million in SFY 2010-11 and $205 million in 2011-12.

Lottery

VLT Expanded Hours

The Executive proposal would make the **Video Lottery Gaming** (VLG) program permanent and lift the operating hour restrictions of Video Lottery Terminal (VLT) parlors thereby allowing the Division of the Lottery to set the VLG program hours. Currently, VLTs cannot operate past 2:00 am or operate for more than 16 consecutive hours in a day. This proposal would make a technical correction to the amount of VLT revenue, after prize payout, retained by the Division of Lottery for operation, administration and procurement purposes. These corrections only affect the vendor track located at the site of the former Concord Resort to restore the general rule that the Lottery shall retain ten percent for such purposes. This provision also removes a date related to an employment shortfall provision for such vendor track which, if not removed, could prevent the application of a recapture provision. This proposal will generate an additional $45 million in revenue for SFY 2010-11 and annually thereafter for education.

Quickdraw

The Executive has proposed legislation to permanently extend the Division of Lottery's authority to operate **Quick Draw**, presently scheduled to sunset on May 31, 2010. This proposal will also eliminate the restrictions on the Game relating to food sales, hours of operation and the size of the facility. Additionally, the Executive will administratively expand the investment options available to the Lottery Prize Fund to include investments in municipal bonds.

Pari-mutuel

Extends lower **pari-mutuel** tax rates and rules governing simulcasting of out-of-state races. This proposal has no SFY 2010-11 fiscal impact because the reduced rates are built into the base of the SFY 2010-11 financial plan.

Mortgage Recording Tax

The Executive proposal would extend the mortgage recording tax to ownership interests in a **cooperative housing unit**. This is part of the mandate relief package for local government and is estimated to increase New York City revenues by $70 million and revenue for localities outside of the City by $10 million.

Compliance and Enforcement

The Executive is proposing a tax compliance initiative that would require financial institutions and other major organizations that handle payment transactions (debit/credit card payments) to report annually the aggregate amount of payment card and third party payments settled with New York payees, including firms with New York addresses, New York Taxpayers and persons registered with the Commissioner of Taxation and Finance for sales tax purposes. The Federal Government already requires that these entities file with the IRS. The bill prohibits the Tax Department from using any information from reporting entities concerning non-New York taxpayers.

The bill would also impose a fine for failure to file an informational return on time. The fine is $50 for each failure. If the entity fails to file for longer than one month, then an additional $50 fine will be assessed until the entity complies. The maximum penalty per entity cannot exceed $250,000 annually.

The Executive is also proposing a technical correction to the tax evasion criminal provisions to add back two parts of law that were mistakenly repealed in the SFY 2009-10 budget. The provisions would make it a class E felony under law for knowingly and purposely failing to file a personal income tax or a corporate income tax return for three consecutive years in which there was a tax liability with the intent to evade the tax.

There is also a provision that would renew the requirements of industrial development agencies to file statements with the Tax Department when appointing agents and projects operators.

This bill will increase revenue by $35 million in SFY 2012-13` and $83 million per year thereafter.

E-Filing for Tax Preparers

The Executive proposes to eliminate the taxpayer's e-filing opt-out as an automatic reason for tax return preparers not to e-file. There will be a new form, containing an affirmative reason for not e-filing, that taxpayer's will have to complete if they wish not to e-file. The Department has heard complaints that tax return preparers are convincing taxpayers that they should not e-file in order for the preparer to get around the mandatory e-file law. The bill would also establish correction periods for electronically filed documents that were sent incorrectly or rejected by the e-filing system. The bill also prohibits tax return preparers and software companies from charging separately for electronic filing of New York tax documents. There is no fiscal impact recognized but will preserve previous revenue currently in the Financial Plan.

Email Notices

The Executive proposes allowing the Department of Taxation and Finance to use alternative means (such as email) of sending tax bills, notices and other tax documents affording the Department greater administrative flexibility. This will only be done if the taxpayer or addressee gives the Tax Department authorization to do so. This part is necessary to implement the 2010-11 Executive Budget with a potential for cost savings.

Compromise Authority

The Executive is proposing to allow the Commissioner of Taxation and Finance to offer a compromise tax liability settlement (provide relief) to all deserving taxpayers who can show undue economic hardship or exceptional mitigating circumstances which prohibits them from paying their full tax liability. The commissioner would be able to adjust final tax liabilities as long as the amount payable in this compromise reasonably reflects the collection potential or is justified by the evidence the taxpayer is showing of an undue economic hardship. There is no fiscal impact recognized. This provision will preserve revenue currently anticipated in the Financial Plan.

Sales Tax on Transportation

This part will tighten up the law passed as part of the SFY 2009-10 budget that was intended to stop certain sales tax avoidance schemes by companies purchasing aircraft and vessels out-of-state but using them in-state. There is no fiscal impact recognized. This provision will preserve revenue currently anticipated in the Financial Plan.

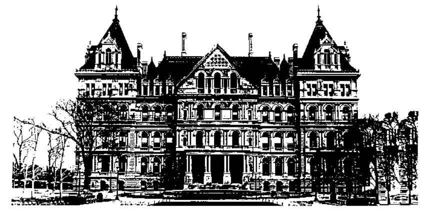
MTA Taxicab Surcharge

The Executive proposes changing the Article 29-A MTA taxicab ride tax from a 50 cent per ride surcharge to a flat quarterly tax of $1,750 ($7,000 annually). The incidence of the tax would change from the vehicle owner to the medallion owner. Article 29-A was added as part of the $3 billion MTA bailout bill of 2009. The fiscal impact states that this change would preserve revenues originally estimated at $95 million annually.

Telecommunications Study

The Executive proposes to task the Department of Taxation and Finance Office of Tax Policy Analysis (OTPA) with producing a study of the taxation of the telecommunications industry and how to improve and modernize it. The study will be completed 245 days after the enactment of this part.

THIS PAGE INTENTIONALLY LEFT BLANK



SECTION TWO

SENATE ISSUES IN FOCUS

THE DECONSTRUCTION OF EMPIRE ZONES AND THE EXCELSIOR JOBS PROGRAM

Empire Zones – What Happened in 2009:

The Economic Development Zone (EZ) Program was created by Article 18-B of the General Municipal Law in 1986 to serve as a development tool to stimulate growth, attract business, and create jobs in economically depressed areas of the State through various tax incentives.

Over the years the zones program has evolved to include more lucrative tax incentives for eligible businesses and has expanded to include a total of 85 designated zones across the State.

It was estimated that by the end of 2008 the EZ Program would provide $600 million in benefits to approximately 9,800 participating businesses. In SFY 2009-10 the Executive proposed restructuring the program to cut $272 million in tax benefits to business. The proposal would have eliminated an estimated 2,100 businesses from the program by requiring each to recertify using a new statutorily created means test.

The controversial proposal would have required every business certified prior to 2005 (approximately 8,600 firms) to reapply for EZ certification and show a 20:1 cost benefit test (ie. that they spent $20 in wages plus capital investment for each dollar of benefit) for tax years 2008, 2007, and 2006. This new statutorily required 20:1 test was designed to take EZ benefits away from companies that had been promised a stream of incentives when they entered the program based on the following "administrative criteria" which could and often was waived at the discretion of the Commissioner of Economic Development:

- Before 2005 - NO cost benefit test
- From 2005-2007 – 15 to 1 cost benefit
- Since 2008 – 20 to 1 cost benefit test

Companies certified for Empire Zone Benefits typically craft their business financing decisions based on the 10 year time frame of the EZ program. Therefore, the Executive proposal created a lot of anxiety throughout the business community.

In the end, the enacted SFY 2009-10 Budget provided some reform of the program including estimated State savings of $90 million. The reform required every business in the EZ program since 2005 to recertify and be in compliance with the following:

- Pass a 1:1 cost benefit test;
- Not be in violation of the new "shirt changer" language {a change in the corporate identity, while keeping similar ownership and employment for the purpose of receiving EZ benefits}; and
- Not have any violations of any labor laws.

In addition, every new EZ applicant must pass a 20:1 benefits test and new manufacturers must pass a 10:1 benefits test. The new reform also affords sole discretion to the Commissioner of Economic Development whether to consider other "non-quantifiable" factors such as economic, social and environmental factors in the decision to continue certification.

Finally, the EZ reform measures enacted in SFY 2009-10 reduced the real property tax credit from 100 percent to 75 percent, eliminated the State sales tax credit in non-participating counties and provided for a scheduled sunset of the EZ program on June 30, 2010 – one year earlier than anticipated.

Statistical Results of 2009 EZ Reforms

A total of 1,446 companies were decertified in 2009, of which 546 were the result of the reforms enacted in SFY 2009-10. ESDC has received appeals from 369 of these 546 businesses and to date has granted recertification to 23 companies. The remaining 900 companies decertified in 2009 were carried out per the guidelines of the EZ program for one or more of the following reasons: failure to submit a business annual report; the business moved out of the empire zone; and/or went out of business.

In addition, 344 new firms were certified into the EZ program during 2009. As a result, there are currently 8,119 EZ certified businesses employing approximately 345,000 people in 85 Empire Zones Statewide.

<u>SFY 2010-11 Excelsior Jobs Program Proposal (Part W of S.6610)</u>

The SFY 2010-11 Budget proposal replaces the Empire Zones Program, currently scheduled to sunset on June, 30, 2010, with the Excelsior Jobs Program.

The Excelsior Jobs Program would offer a package of three refundable tax credits to selected firms in targeted industries that create and maintain at least 50 new jobs in New York. The tax benefit period for each eligible firm would be limited to 5 years. The fully refundable tax credits, would include the following:

- <u>Excelsior New Jobs Tax Credit</u>: Firms would be eligible to receive between $2,500 and $10,000 per new job created depending on the salary, benefits level and whether the employer resides in a economically distressed area. The credit amount would be determined at the discretion of the commissioner.
- <u>Excelsior Investment Tax Credit (ITC):</u> Firms would be eligible for a two percent return of total qualified investments.
- <u>Excelsior Research and Development (R&D) Tax Credit</u>: Firms would be eligible for a credit for new investments equal to 10 percent of the Federal R&D credit.

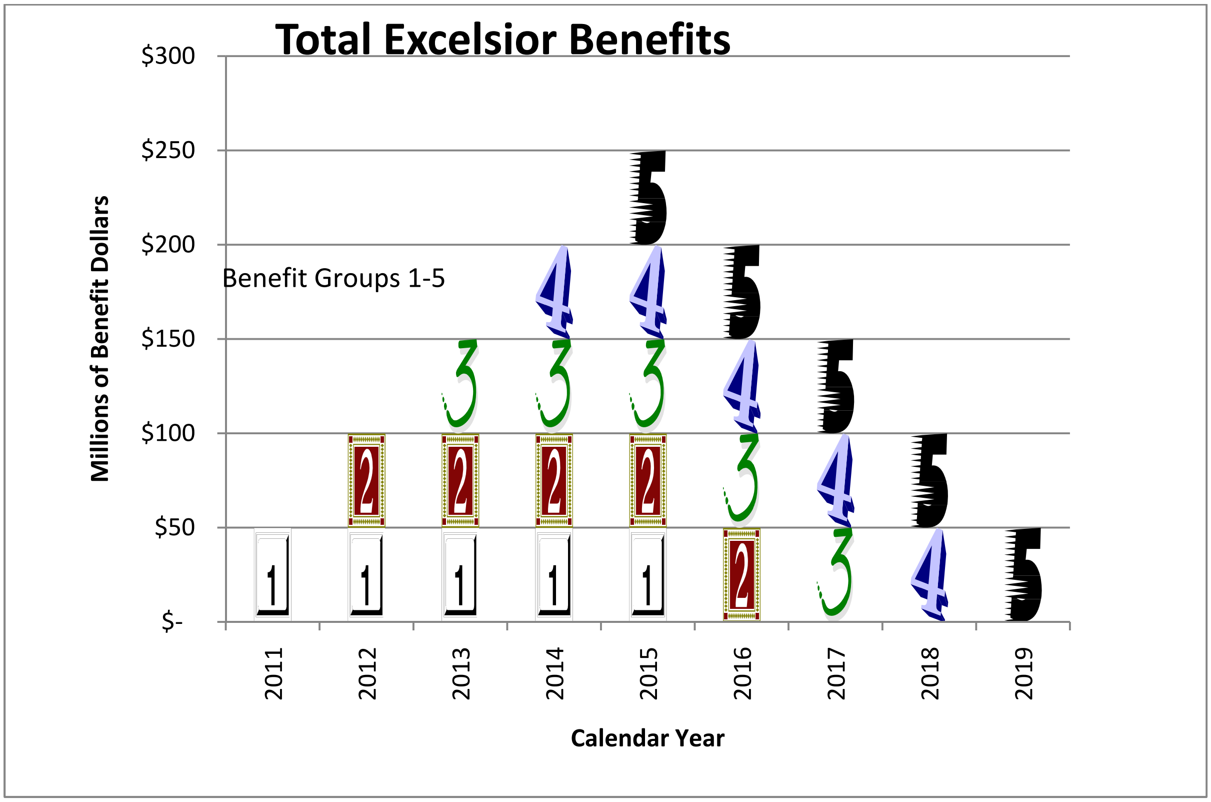
This new program would be administered by the Job Development Corporation (ESDC) and the Department of Taxation and Finance. It is estimated that this program would provide $50 million in tax benefits each year, for five years beginning in SFY 2012-13.

Tax credits would only be available to firms in targeted industries with the greatest potential for long-term growth in New York. These industries would include: biotechnology, pharmaceutical, high-tech, clean-tech, green-tech, financial services back-office operations, manufacturers; and any industry deemed by the commissioner to have significant potential for private sector economic growth.

Companies wishing to participate in the Program would apply to ESDC and must demonstrate the creation of at least 50 new jobs within two years of acceptance into the program. The job commitment must be maintained in each of five years to receive any of the tax credits for a given year. If the new job commitment numbers are not maintained, all three tax credits would be forfeited for that tax year. However, if the company performs better than their job commitment, they would not receive extra credits for the additional jobs.

The Excelsior Jobs Program would be capped at $50 million per year for new entrants into the program in each of 5 years of eligibility, for a total of $250 million in year five. The Executive estimates that approximately 40 new companies would be approved in each year of the program.

Since the tax benefit period for each eligible cohort (benefit group) of firms would be limited to five years, there would be five cohorts of firms whose benefit periods would begin in tax years 2011, 2012, 2013, 2014, and 2015. By the time the first benefit group is in its last (fifth) year, the fifth and last benefit group would be beginning its first year of program eligibility as depicted in the chart below:


Total Excelsior Benefits
Millions of Benefit Dollars
$300
$250
$200
$150
$100
$50
$-
Benefit Groups 1-5
2011
2012
2013
2014
2015
2016
2017
2018
2019
Calendar Year

PROPERTY TAX RELIEF

According to the final report of the Commission on Property Tax Relief, New York State local taxes are 78 percent higher than the national average. Looking at property tax *amounts*, several New York counties – Westchester, Nassau, and Rockland – were among the top ten counties nationally in terms of property taxes paid on owner-occupied residences in 2007. Overall property taxes in New York State are 56 percent higher than the national average. The Senate Republicans passed legislation to cap Property Taxes (S.8736) in the 2008 Extraordinary Session in addition to mandate relief initiatives (S.8737) to provide property tax relief to homeowners while giving school districts more opportunities to control costs. In addition legislation was passed increasing the size of Middle Class Star Rebate checks (S.6417, S5742, S.1A). The Assembly did not act on these bills to reduce school districts mandates and provide substantial property tax relief. No bills were passed by the Senate Democrats in the Senate's 2009 Legislative session in relation to the reinstatement of rebate checks a property tax circuit breaker or any combination thereof.

The Executive Budget proposal for State Fiscal Year 2010-11 would compound this problem by not reinstating $1.58 billion worth of property tax rebate checks, reducing the STAR saveharmless floor to 18 percent, eliminating a STAR benefit for homes in excess of $1.5 million in value and restructuring the personal income tax credit in NYC capping benefits for those whose income is in excess of $250,000. This amounts to $3.6 billion dollars in lost property tax relief over the last two years by eliminating the middle-class STAR Rebate Check and New York City property tax relief. The Rebate check program was created in order to provide immediate property tax relief while a longer term solution such as a school property tax cap could be enacted.

The Executive advanced a number of mandate relief proposals including school district paperwork reduction, Wicks law repeal and a four year moratorium on unfunded mandates. The Executive's proposal includes a $1.1 billion reduction in school aid, elimination of the Middle Class STAR Rebate checks, and a reduction in the STAR exemption "floor" to shift $2.7 billion of the State's fiscal problems to the property tax-payers across New York State. While publicly supporting the Commission on Property Tax Relief the Executive included only a few of the recommendations in the 2009-10 Executive Budget proposal.

I. Executive Proposal for SFY 2010-11:

The SFY 2010-11 Executive Budget does not restore **the middle-class STAR rebate** program for both the senior and basic exemption homeowners. The chart at the end of this section illustrates the proposed loss to individual property owners. The elimination of the STAR Rebate increases property tax costs by $1.58 billion in SFY 2010-11.

The Executive also proposes increasing the maximum reduction in STAR benefits (from 11 percent to 18 percent) that can occur from changes in real property market or assessed value. This reduces the floor to 82 percent from 89 percent, decreasing the STAR benefit for roughly 1.6 million homeowners, providing a State savings of $40 million in SFY 2010-11. This proposal saves the State $40 million by shifting $40 million in taxes to homeowners.

Circuit Breaker Property Tax Credit

The Executive proposes establishing an income tax circuit breaker tax credit. This proposal is accompanied by a spending cap and an increase in the rainy day reserve which are discussed further in the Issues in Focus section of this publication. The school property tax circuit-breaker proposal will use future budget surplus to deliver property tax relief through a fully refundable personal income tax credit.

The circuit-breaker benefit is calculated by limiting an individual's property tax burden to a specified percentage of their income up to a maximum credit amount which increases as the surplus increases. As shown by the table below, that percentage would decrease and the maximum credit will increase based on the size of the surplus. As the State’s fiscal condition improves, the circuit-breaker program provides an increasingly larger benefit to property

Circuit Breaker Schedule of Credits

Surplus $100,000,000 - $500,000,000			Credit cannot exceed $2,000
MTA REGION	$120,000 or Less	$120,001 - $175,000	$175,001 - $300,000
REST OF STATE	$90,000 or Less	$90,001 – $150,000	$150,001 - $200,000
Percent of Household Gross Income	6%	7%	8%

Surplus $500,000,001 - $1,000,000,000			Credit cannot exceed $2,250
MTA REGION	$120,000 or Less	$120,001 - $175,000	$175,001 - $300,000
REST OF STATE	$90,000 or Less	$90,001 – $150,000	$150,001 - $200,000
Percent of Household Gross Income	5%	6%	7%

Surplus $1,000,000,001 - $1,500,000,000			Credit cannot exceed $2,250
MTA REGION	$120,000 or Less	$120,001 - $175,000	$175,001 - $300,000
REST OF STATE	$90,000 or Less	$90,001 – $150,000	$150,001 - $200,000
Percent of Household Gross Income	4%	5%	6%

Surplus $1,500,000,001 - $2,000,000,000			Credit cannot exceed $2,500
MTA REGION	$120,000 or Less	$120,001 - $175,000	$175,001 - $300,000
REST OF STATE	$90,000 or Less	$90,001 – $150,000	$150,001 - $200,000
Percent of Household Gross Income	3%	4%	5%

Surplus Greater Than $2,000,000,000			Credit cannot exceed $3,000
MTA REGION	$120,000 or Less	$120,001 - $175,000	$175,001 - $300,000
REST OF STATE	$90,000 or Less	$90,001 – $150,000	$150,001 - $200,000
Percent of Household Gross Income	2.5%	3.5%	4.5%

taxpayers. However, the surplus can be adjusted by the Executive to control/reduce the amount allocated to the program. Individuals with household incomes up to $200,000 Upstate and $300,000 Downstate would be eligible for this program. Income levels are indexed to inflation.

The proposal includes a provision to encourage fiscal restraint at the local level by multiplying the credit by an adjustment factor. The adjustment factor is a percentage calculated by taking the change in the cost of living since 2011 divided by the change in per pupil tax levy since 2011. The cost of living is defined as 1.2 times the rate of inflation or four percent whichever is less. **If a school district continuously increases taxes above the inflation rate, residents would see their tax credit decrease.**

Examples of Circuit Breaker Credits With a $500 Million Surplus				
Downstate Homeowner w/ Average Property Taxes of $10,000				
Household	Tax Limit		Excess	
Income	Percentage	Amount	Tax Paid	Credit
$30,000	6%	1,800	8,200	$1,722
$50,000	6%	3,000	7,000	$1,470
$100,000	6%	6,000	4,000	$840
$120,000	6%	7,200	2,800	$588
$121,000	7%	8,470	1,530	$321
$175,000	7%	12,250	-	$0
$176,000	8%	14,080	-	$0
$200,000	8%	16,000	-	$0
Upstate Homeowner w/ Average Property Taxes of $5,000				
Household	Tax Limit		Excess	
Income	Percentage	Amount	Tax Paid	Credit
$30,000	6%	$1,800	$3,200	$672
$50,000	6%	$3,000	$2,000	$420
$90,000	6%	$5,400	-	$0
$91,000	7%	$6,370	-	$0
$150,000	7%	$10,500	-	$0
$151,000	8%	$12,080	-	$0
$200,000	8%	$16,000	-	$0

In addition the Executive has proposed the following mandate relief provisions:

Four-Year Moratorium on Unfunded Statutory Mandates: New State mandates are continuously imposed on school districts, and their accumulation over time has resulted in a burdensome and costly system of oversight. The Executive Budget proposes a four-year moratorium on unfunded statutory mandates to help school districts mitigate future cost increases.

State Education Department Regulatory Reform: This Executive Budget recommends applying the same requirements regarding regulatory adoption procedures to the State Education Department that currently apply to other State agencies pursuant to Executive Order 17 of 2009. These requirements include the preparation of a fiscal note including local impacts, a cost-benefit analysis as well as identifying a funding source for any new regulations.

School District Exemption from the Wicks Law: The Executive Budget recommends repealing multiple bidder requirements for school district construction projects. This will provide long-term capital and debt service savings to school districts and the State.

Reduce Paperwork: This proposal streamlines existing reporting requirements and eliminates required reports that are deemed to be outdated or no longer serve a public policy purpose. School districts would also be allowed to file reports electronically unless the Commissioner requires other means. In addition, the Department will develop one consolidated reporting system that captures all information required by New York State or collected by the State for the Federal Government.

Reform Procurement Practices: School districts would be provided with greater flexibility to purchase from existing contracts held by other government entities. In addition, school districts would be allowed to purchase based on "best value", the most advantageous balance of price, quality, and performance. The State already has the ability to purchase in this manner.

Authorize Regional Student Transportation: School districts would be able to reduce expenses by contracting with other entities, including school districts, counties and municipalities to provide more efficient student transportation. School districts would also be authorized to partner on school bus maintenance.

Other Mandate Reform: With Federal laws ensuring that each school district provide appropriate educational space for students with disabilities in the least restrictive environment, State reporting requirements for special education space planning are now duplicative and can be repealed without impact. Also, Federal law now mandates transition planning requirements for children who will no longer receive special education services because of their age. Therefore, certain duplicative State requirements for transition notification can be repealed. the Executive includes a number of Article VII provisions intended to provide mandate relief to school districts including the following:

Allow Access to Employee Benefit Accrued Liability Reserve Funds: A school district's governing board would be permitted to authorize a withdrawal of excess funds in an employee benefits accrued liability reserve fund in order to maintain educational programming during the 2010-11 school year. The amount withdrawn could not exceed the Gap Elimination Adjustment for a school district. The State Comptroller would certify that funds withdrawn are in excess of the amount required for employee benefits which are a liability against the fund.

School District Charter School Payments: In recognition of the freeze in Foundation Aid for the 2010-11 school year, the charter school payments made by school districts to charter schools for children attending charter school will be maintained at the current per pupil levels. The 2009-10 State Budget initiated a one year freeze on these per pupil charter school payments. The 2010-11 Executive Budget extends the freeze for one additional year.

Contingency Budget Calculation: Proposed statutory changes will prevent mandatory negative spending growth for school districts that are operating under a contingency budget by limiting the spending cap calculation to no less than the previous year's spending levels. The current statutory provisions for the calculation of the contingency budget cap does not account for a period of deflation, which is likely to be the case for the 2009 calendar year.

Senate Republicans Mandate Relief Plan:

As noted above the Senate Republicans have passed mandate relief plans some of which is contained in the Executive's proposal including the following:

- BOCES Business Management of School Districts/Consolidate Central Services;
- Ban Unfunded mandates;
- Delay Effectiveness of Regulations with Fiscal Implications;
- Paperwork Reduction;
- Enhanced Consolidation Incentives;
- School Superintendent Sharing;
- Municipal Building Sharing;
- Blue Ribbon Commission On Mandates

Property Tax Rebate Comparison of Executive and Senate

Average Rebate Savings by County

County	2008 and 2009 CURRENT LAW BASIC STAR REBATES									2008 ENHANCED STAR REBATES		
	Upstate Up to $90,000 Income			Upstate $90,000-$150,000 Income			Upstate $150,000 + Income			Upstate		
	Downstate Up to $120,000			Downstate $120,001-$175,000 Income			Downstate $175,001 + Income			Downstate		
		Projected Statutory Check Amount Lost			Projected Statutory Check Amount Lost			Projected Statutory Check Amount Lost			Projected Statutory Check Amount Lost	
	2008	2009	2010	2008	2009	2010	2008	2009	2010	2008	2009	2010
Albany	$ 373	$ 435	$ 497	$ 279	$ 326	$ 372	$ 186	$ 217	$ 248	$ 410	$ 410	$ 410
Allegany	$ 379	$ 442	$ 505	$ 284	$ 331	$ 379	$ 190	$ 222	$ 253	$ 434	$ 434	$ 434
Broome	$ 466	$ 544	$ 621	$ 350	$ 408	$ 467	$ 233	$ 272	$ 311	$ 512	$ 512	$ 512
Cattaraugus	$ 318	$ 371	$ 424	$ 239	$ 279	$ 319	$ 159	$ 186	$ 212	$ 371	$ 371	$ 371
Cayuga	$ 376	$ 439	$ 501	$ 282	$ 329	$ 376	$ 188	$ 219	$ 251	$ 423	$ 423	$ 423
Chautauqua	$ 368	$ 429	$ 491	$ 276	$ 322	$ 368	$ 184	$ 215	$ 245	$ 413	$ 413	$ 413
Chemung	$ 388	$ 453	$ 517	$ 291	$ 340	$ 388	$ 194	$ 226	$ 259	$ 426	$ 426	$ 426
Chenango	$ 383	$ 447	$ 511	$ 287	$ 335	$ 383	$ 191	$ 223	$ 255	$ 427	$ 427	$ 427
Clinton	$ 371	$ 433	$ 495	$ 279	$ 326	$ 372	$ 186	$ 217	$ 248	$ 414	$ 414	$ 414
Columbia	$ 323	$ 377	$ 431	$ 242	$ 282	$ 323	$ 161	$ 188	$ 215	$ 347	$ 347	$ 347
Cortland	$ 370	$ 432	$ 493	$ 278	$ 324	$ 371	$ 185	$ 216	$ 247	$ 413	$ 413	$ 413
Dutchess	**$ 424**	**$ 495**	$ 565	**$ 318**	**$ 371**	$ 424	**$ 212**	**$ 247**	$ 283	**$ 462**	**$ 462**	**$ 462**
Delaware	$ 304	$ 355	$ 405	$ 228	$ 266	$ 304	$ 152	$ 177	$ 203	$ 333	$ 333	$ 333
Erie	$ 316	$ 369	$ 421	$ 237	$ 277	$ 316	$ 158	$ 184	$ 211	$ 349	$ 349	$ 349
Essex	$ 260	$ 303	$ 347	$ 195	$ 228	$ 260	$ 130	$ 152	$ 173	$ 312	$ 312	$ 312
Franklin	$ 302	$ 352	$ 403	$ 226	$ 264	$ 301	$ 151	$ 176	$ 201	$ 356	$ 356	$ 356
Fulton	$ 346	$ 404	$ 461	$ 259	$ 302	$ 345	$ 173	$ 202	$ 231	$ 385	$ 385	$ 385
Genesee	$ 450	$ 525	$ 600	$ 338	$ 394	$ 451	$ 225	$ 263	$ 300	$ 491	$ 491	$ 491
Greene	$ 345	$ 403	$ 460	$ 259	$ 302	$ 345	$ 173	$ 202	$ 231	$ 364	$ 364	$ 364
Hamilton	$ 152	$ 177	$ 203	$ 114	$ 133	$ 152	$ 76	$ 89	$ 101	$ 179	$ 179	$ 179
Herkimer	$ 363	$ 424	$ 484	$ 272	$ 317	$ 363	$ 182	$ 212	$ 243	$ 409	$ 409	$ 409
Jefferson	$ 242	$ 282	$ 323	$ 182	$ 212	$ 243	$ 121	$ 141	$ 161	$ 280	$ 280	$ 280
Lewis	$ 271	$ 316	$ 361	$ 203	$ 237	$ 271	$ 135	$ 158	$ 180	$ 315	$ 315	$ 315
Livingston	$ 382	$ 446	$ 509	$ 287	$ 335	$ 383	$ 191	$ 223	$ 255	$ 426	$ 426	$ 426
Madison	$ 395	$ 461	$ 527	$ 296	$ 345	$ 395	$ 197	$ 230	$ 263	$ 437	$ 437	$ 437
Monroe	$ 403	$ 470	$ 537	$ 302	$ 352	$ 403	$ 202	$ 236	$ 269	$ 454	$ 454	$ 454
Montgomery	$ 436	$ 509	$ 581	$ 327	$ 382	$ 436	$ 218	$ 254	$ 291	$ 483	$ 483	$ 483
Nassau	**$ 587**	**$ 685**	$ 783	**$ 441**	**$ 515**	$ 588	**$ 294**	**$ 343**	$ 392	**$ 725**	**$ 725**	**$ 725**
New York City	**$ 127**	**$ 148**	$ 169	**$ 95**	**$ 111**	$ 127	**$ 64**	**$ 75**	$ 85	**$ 134**	**$ 134**	**$ 134**
Niagara	$ 404	$ 471	$ 539	$ 303	$ 354	$ 404	$ 202	$ 236	$ 269	$ 426	$ 426	$ 426
Oneida	$ 424	$ 495	$ 565	$ 318	$ 371	$ 424	$ 212	$ 247	$ 283	$ 463	$ 463	$ 463
Onondaga	$ 418	$ 488	$ 557	$ 314	$ 366	$ 419	$ 209	$ 244	$ 279	$ 459	$ 459	$ 459
Ontario	$ 382	$ 446	$ 509	$ 286	$ 334	$ 381	$ 191	$ 223	$ 255	$ 423	$ 423	$ 423
Orleans	$ 448	$ 523	$ 597	$ 336	$ 392	$ 448	$ 224	$ 261	$ 299	$ 480	$ 480	$ 480
Orange	**$ 479**	**$ 559**	$ 639	**$ 359**	**$ 419**	$ 479	**$ 239**	**$ 279**	$ 319	**$ 542**	**$ 542**	**$ 542**
Oswego	$ 425	$ 496	$ 567	$ 319	$ 372	$ 425	$ 213	$ 249	$ 284	$ 505	$ 505	$ 505
Otsego	$ 353	$ 412	$ 471	$ 265	$ 309	$ 353	$ 177	$ 207	$ 236	$ 392	$ 392	$ 392
Putnam	**$ 676**	**$ 789**	$ 901	**$ 507**	**$ 592**	$ 676	**$ 338**	**$ 394**	$ 451	**$ 732**	**$ 732**	**$ 732**
Rensselaer	$ 416	$ 485	$ 555	$ 312	$ 364	$ 416	$ 208	$ 243	$ 277	$ 452	$ 452	$ 452
Rockland	**$ 712**	**$ 831**	$ 949	**$ 534**	**$ 623**	$ 712	**$ 356**	**$ 415**	$ 475	**$ 792**	**$ 792**	**$ 792**
St. Lawrence	$ 365	$ 426	$ 487	$ 274	$ 320	$ 365	$ 182	$ 212	$ 243	$ 413	$ 413	$ 413
Saratoga	$ 384	$ 448	$ 512	$ 288	$ 336	$ 384	$ 192	$ 224	$ 256	$ 410	$ 410	$ 410
Schenectady	$ 442	$ 516	$ 589	$ 332	$ 387	$ 443	$ 221	$ 258	$ 295	$ 482	$ 482	$ 482
Schoharie	$ 395	$ 461	$ 527	$ 296	$ 345	$ 395	$ 197	$ 230	$ 263	$ 438	$ 438	$ 438
Schuyler	$ 337	$ 393	$ 449	$ 252	$ 294	$ 336	$ 168	$ 196	$ 224	$ 385	$ 385	$ 385
Seneca	$ 426	$ 497	$ 568	$ 320	$ 373	$ 427	$ 213	$ 249	$ 284	$ 470	$ 470	$ 470
Steuben	$ 376	$ 439	$ 501	$ 282	$ 329	$ 376	$ 188	$ 219	$ 251	$ 414	$ 414	$ 414
Suffolk	**$ 572**	**$ 667**	$ 763	**$ 429**	**$ 501**	$ 572	**$ 286**	**$ 334**	$ 381	**$ 612**	**$ 612**	**$ 612**
Sullivan	$ 418	$ 488	$ 557	$ 314	$ 366	$ 419	$ 209	$ 244	$ 279	$ 456	$ 456	$ 456
Tioga	$ 385	$ 449	$ 513	$ 289	$ 337	$ 385	$ 193	$ 225	$ 257	$ 456	$ 456	$ 456
Tompkins	$ 377	$ 440	$ 503	$ 283	$ 330	$ 377	$ 188	$ 219	$ 251	$ 412	$ 412	$ 412
Ulster	$ 411	$ 480	$ 548	$ 308	$ 359	$ 411	$ 206	$ 240	$ 275	$ 437	$ 437	$ 437
Warren	$ 322	$ 376	$ 429	$ 241	$ 281	$ 321	$ 161	$ 188	$ 215	$ 351	$ 351	$ 351
Washington	$ 407	$ 475	$ 543	$ 305	$ 356	$ 407	$ 203	$ 237	$ 271	$ 447	$ 447	$ 447
Wayne	$ 423	$ 494	$ 564	$ 317	$ 370	$ 423	$ 212	$ 247	$ 283	$ 459	$ 459	$ 459
Westchester	**$ 1,094**	**$ 1,276**	$ 1,459	**$ 820**	**$ 957**	$ 1,093	**$ 547**	**$ 638**	$ 729	**$ 1,162**	**$ 1,162**	**$ 1,162**
Wyoming	$ 338	$ 394	$ 451	$ 254	$ 296	$ 339	$ 169	$ 197	$ 225	$ 370	$ 370	$ 370
Yates	$ 266	$ 310	$ 355	$ 200	$ 233	$ 267	$ 133	$ 155	$ 177	$ 302	$ 302	$ 302

TOTAL AMOUNT OF REBATE CHECKS CUT IN 2009 AND PROPOSED FOR 2010

TRANSPORTATION - CAPITAL

The state's multi-year transportation capital plan is up for renewal. The need for continued investment in the state's transportation infrastructure was made clear recently by the sudden closure and subsequent demolition of the Lake Champlain Bridge, a span connecting New York and Vermont. Earlier this month, State Comptroller Thomas DiNapoli issued an audit report stating that his office identified 93 bridges that had safety ratings as bad as or worse than the Lake Champlain Bridge. Identifying sufficient funding for new five-year capital programs for both the New York State Department of Transportation and the Metropolitan Transportation Authority is extremely challenging given the current fiscal crisis. In view of fiscal constraints and the absence of a new federal, multi-year transportation program, the SFY 2010-11 Executive Budget proposes a 2-year, $7 billion DOT Capital Plan.

2010-11 Executive Budget – Proposed DOT $7 Billion Two-Year Capital Plan

The SFY 2010-11 Budget proposes a two-year capital plan for DOT of nearly $7 billion that essentially maintains the annual funding levels in the existing five-year plan. The Executive states that it makes sense to wait under a new federal transportation bill is reauthorized since it will then be clearer how much New York stands to receive in federal assistance. In addition, while the Metropolitan Transportation Authority has a $10 billion funding gap in its proposed $25.6 billion 2010-2014 Capital Plan, it has acknowledged that it has sufficient funding for the first two years of its five-year plan.

The two-year plan would be funded by existing funding mechanisms, including the state's Dedicated Highway and Bridge Trust Fund. In recent years the DHBTF has needed funding from the state's General Fund. The dedicated fund would require $695 million from the General Fund.

Proposed DOT Two-Year Capital Plan

Obligations ($ millions)	2010-11 Proposed	2011-12 Proposed	Total
State and Local Construction Contracts	1,830	1,794	3,624
Administration	122	126	248
State Forces – Engineering & Prog. Mgmt.	413	446	859
Consultant Engineering	173	169	342
Preventive Maintenance	264	278	542
Right of Way	70	69	139
Maintenance Facilities	38	38	76
Special Federal Programs	42	32	74
Rail Development	52	68	120
Aviation	14	14	28
Non-MTA Transit	50	50	100
Canal Infrastructure	16	16	32
Capital Aid to Locals	403	403	806
	3,487	**3,503**	**6,990**

Background

In 2005, a five-year $35.8 billion state transportation capital plan for highways, bridges, and mass transit was approved, splitting funding evenly between the Department of Transportation ($17.9 billion) and the Metropolitan Transportation Authority ($17.9 billion). In addition to providing sufficient resources for infrastructure investments, an effort was made to maintain equity between the two capital spending programs. The $2.9 billion 2005 Transportation Bond Act was equally split between the two capital programs. The MTA's 2005-2009 Capital Plan ended on December 31, 2009, and DOT's current capital program runs through March 31, 2010.

The MTA proposed a $25.6 billion 2010-2014 Capital Plan, and DOT proposed a $25.8 billion 2010-2015 program. While the MTA will benefit from revenues that were approved last May as part of the so-called MTA Bailout legislation, most significantly from a new regional payroll tax, both proposed transportation capital programs require substantial funding. The MTA has stated that it has two year's worth of capital funding. Both the MTA and DOT programs typically rely on federal funds, and the last multi-year, federal transportation program, SAFTEA-LU, expired in October 2009. The SFY 2010-11 Budget proposes a 2-year, $7 billion Capital Plan for DOT that would essentially maintain the existing level of capital spending.

NYSDOT – Proposed 5-Year Capital Plan

In October 2009, the New York State Department of Transportation released a proposed transportation capital plan for the next five-year period. The proposed $25.8 billion capital plan recommends infrastructure investments in state and local highways and bridges, suburban and upstate transit, intercity passenger and rail freight, ports and aviation. The proposed capital plan is about 40 percent larger than DOT's current $18 billion plan, which runs through March 31, 2010. The financial assistance package that was approved in Albany for the Metropolitan Transportation Authority last May required that the DOT release its proposed 2010-2015 Capital Plan in early October, about four months earlier than usual, to coincide with the MTA's official release of its next proposed 5-year capital spending program. While the state's highways and bridges are in need of continued investment - as clearly evidenced by the failure of the Lake Champlain Bridge due to structural problems and fears that the bridge might collapse - the current funding outlook for a full five-year program remains challenging. In addition, the federal government's multi-year transportation legislation is also up for renewal.

Transportation Capital Funding

In stating the need for a new capital program, DOT acknowledges that much of the state's infrastructure is not is a State of Good Repair and is worsening. "While some progress was made in the 2005-2010 capital program to reverse declines in highway and bridge conditions, New York ranks among the bottom 10 states in the nation for both highway and bridge conditions."

DOT's proposed $25.8 billion 2010-2014 Capital Plan needs billions in funding, including additional revenues to support the state's Dedicated Highway and Bridge Trust Fund. Along with federal funds, the DHBTF has been the primary financing vehicle for DOT capital programs. The federal government's own multi-year transportation program, SAFTEA-LU, expired last year, and although funding will still flow under continuing resolutions, it's not clear when a new program will be adopted, and how much will be made available for New York.

DOT Proposed 2010-2015 Capital Plan

Total Program ($ Millions)	
Investment Element	**Proposed Funding**
State Highway / Bridge Projects	$11,952
Federal Funds For Local Projects	$2,234
Engineering / Program Support and Management	$4,707
Preventive Maintenance	$1,672
Right-of-Way	$415
Maintenance Facilities, Equipment & Materials	$410
CHIPS / Marchiselli	$2,375
Local Initiative (Bridge/Touring Routes)	$300
High-Speed Rail Initiative	$300
Freight Rail and Ports	$340
Aviation	$101
Non-MTA Transit	$340
Special Federal	$674
Community and Corridor Land Use Planning	$25

Downstate Suburban and Upstate Public Transportation. The proposed DOT 2010-2015 Capital Plan includes $340 million in bus related improvements for downstate suburban and upstate public transportation systems, which is nearly 50 percent more than the $235 million in the current plan, not including the MTA. Planned investments include replacing approximately 4,200 buses statewide.

Dedicated Highway & Bridge Trust Fund. Nearly half of the revenue flowing into the state's Highway and Bridge Dedicated Trust Fund is used pay debt service on previous investments. In addition to being the primary financing vehicle for DOT's Highway and Bridge program, the DHBTF has increasingly been used to support the operations of the Department of Motor Vehicles and DOT (i.e., snow and ice removal). There has been a lot of criticism of using the DHBTF to support non-capital projects, as this practice conflicts with the original intent of the fund. As part of last year's state budget, the Senate Democrats approved a 5-year extension of the legislation authorizing the DHBTF to be used for DMV and DOT operations.

In the fall of 2009, NYS Comptroller Thomas DiNapoli released a report stating that since 1991 only about 35%, or $11.6 billion, of the money in the state's Dedicated Highway and Bridge Trust Funds went directly into the repair and improvement of the state's roads and bridges. The rest of the money was used to pay debt service and to fund operational costs at DMV and DOT. The Comptroller estimated that $3.9 billion will need to be transferred from the state's General Fund over the next five years in order to meet the Dedicated Fund's obligations.

Due to growing demands on the Dedicated Fund, it has become increasingly dependent on general fund transfers. The fund needs to be strengthened (i.e., new revenues need to be identified) in order for it to continue to finance future DOT capital projects.

State Bridges. In addition to the problems that led to the closure and demolition of the Lake Champlain Bridge, there are other state bridges that have received the same or worse safety ratings. (State bridges are rated on a scale of 1 to 7, with 7 being in new condition and a rating of 5 or better considered as good condition. NYSDOT defines a structurally deficient bridge as one with a condition rating of 5 or less. Bridges are inspections are done at least every 2 years. Inspections are done every 2 years for the above-water superstructure of bridges, and every 5 years for underwater bridge supports.)

DOT says that without significant investment, it expects 1,526 additional bridges to become deficient (i.e., the bridge wave) and another 1,472 for a total of nearly 3,000 additional bridges (17% of the state total) to be reach a deficient state over the next 10 years.

There are 7,632 state highway bridges and 8,587 highway bridges maintained by local governments. By statute, every bridge is inspected at least biennially and rated on a "1" (completely deteriorated) to "7" (new) scale. Bridges with an average condition rating of 5 or less are considered "deficient." In recent years, there has been a decline in state bridge conditions.

DOT estimates that the proposed $25.8 billion capital plan will provide for the replacement of 486 fully depreciated bridges and the rehabilitation of another 425, about 5% of the total number of bridges in the state. DOT's proposed capital program will emphasize preventive and corrective maintenance for bridges to slow the deterioration process and thereby extend the useful life. The plan includes the repair of 3,609 bridges, painting 825 bridges, and cleaning 11,014 bridges.

Local Bridges. The proposed DOT 2010-2015 Capital Plan includes $150 million to establish a program for the rehabilitation and replacement of bridges owned by counties, cities, towns and villages.

CHIPS/Marchiselli Programs. DOT's proposed 2010-2015 Capital Plan includes $2.375 billion for both the Consolidated Local Street and Highway Improvement Programs (CHIPS) and Marchiselli programs, more than a 40% increase over the amount in the current capital plan.

High-Speed Rail Initiative. In accordance with the 2009 State Rail Plan, DOT's proposed capital plan includes $300 million for initial infrastructure improvements in support of high-speed passenger rail. The improvements would occur in the Adirondack Corridor (between Albany and Montreal) and the Empire Corridor (between Albany and Niagara Falls). The biggest challenges lie in the Empire Corridor West ("ECW") between Schenectady and Niagara Falls, a heavily used freight route between New York City, Boston and Chicago.

Preventive Maintenance. DOT's $25.8 billion proposed five-year capital plan includes $1.672 billion for preventative maintenance. According to proposal, this category would include essential capital maintenance activities that are currently performed by NYSDOT forces across the state to maintain core infrastructure assets, such as roads and bridges.

Both the DOT and MTA proposed Capital Plans are facing significant funding challenges. The MTA's $25.6 billion proposed 2010-2014 Capital Plan has a $10 billion funding gap.

Proposed MTA 2010-2014 Capital Program

The Metropolitan Transportation Authority has proposed a $25.6 billion 2010-2014 Capital Program. The MTA's 2005-2009 Capital Program, which started at $17.9 billion and ended at $20.2 billion, expired on December 31, 2009. The 2005-2009 Capital Plan grew largely because of additional federal funds for the MTA's two major system expansion projects, East Side Access and the Second Avenue Subway. Since the first MTA Capital Plan in 1982, the MTA has invested more than $78 billion in successive capital spending programs.

Although the MTA has identified funding for the first two years of its proposed five-year program (i.e., primarily monies from the new regional payroll tax), the proposed 2010-2014 MTA Capital Plan has an overall funding gap of nearly $10 billion. Traditionally, MTA and DOT multi-year capital spending programs have been considered at about the same time.

MTA 2010-2014 Capital Program Planned Capital Investments ($ millions)	
Core Program	
New York City Transit	13,861
Long Island Rail Road	2,758
Metro-North Railroad	1,839
MTA Bus	325
Subtotal	**18,783**
Other Investments	
Network Expansion Projects	5,739
MTA-Wide Security/Safety Projects	650
Interagency Initiatives – Bus. Service Ctr.	400
Subtotal	**6,789**
Total	**25,572**

MTA 2010-2014 Capital Program Anticipated Funding ($ millions)	
Proposed Program Costs	**25,572**
Federal Formula	8,175
Federal Security	225
MTA Bonds	6,000
City of New York	500
Federal & City Match for MTA Bus	160
Asset Sales/Pay-As-You-Go/Internal Sources	600
Estimated Available Funding	**15,660**
Funding Shortfall	**(9,912)**

The MTA's proposed five-year Capital Plan is divided into four categories: core program, security and safety, system expansion, and interagency programs.

Core Program ($18.8 billion)
New York City Transit ($13.9 billion). The largest investment areas for New York City Transit are rolling stock, stations, track, and signals. Nearly 550 new rail cars will be purchased for NYC Transit and Staten Island Railway. Nearly 2,500 new buses will be purchased to meet replacement cycle needs, expand the fleet and support the further deployment of Bus Rapid Transit (BRT). NYC Transit will continue with its program to modernize existing signal systems with a number of interlocking upgrade projects, the first step in upgrading signals to Communication Based Train Control (CBTC).

Long Island Rail Road ($2.8 billion) A significant portion of Long Island Rail Road's program for 2010-2014 is a set of investments to expand the capacity to accommodate its growing fleet and to prepare for the start-up of the East Side Access service to Grand Central Terminal.

Metro-North Railroad ($1.8 billion) Metro-North focuses the largest share of its program on rolling stock, stations, track, and shops.

MTA Bus ($325 million) Building on the significant purchases made in the 2000-2004 and 2005-2009 Capital Program to restore the fleet, the Bus Company will order a total of 290 new buses, including: 253 for local service and 37 for express service.

Security & Safety ($650 million). The proposed plan allocates $250 for capital safety projects and $400 million for safety projects, including funding to meet federal regulations to implement positive train control on the commuter railroads. PTC is a technology that is capable of preventing train-to-train collisions, over-speed derailments, and injuries to workers as the result of unauthorized incursions by a train.

System Expansion ($5.7 billion)
East Side Access - $3 billion for a total project cost of $7.3 billion. East Side Access will connect the Long Island Rail Road to Grand Central Terminal in Manhattan. The $7.3 billion project, which has experienced delays and cost increases, is now expected to be completed in 2016. The initial cost of East Side Access was $4.3 billion, with a completion date in 2009.

Second Avenue Subway - $1.5 billion for a total project cost of $4.5 billion. The first phase of the

Second Avenue Subway project constructs a new subway line with stations at 96th Street, 86th Street and 72nd Street, with a connection to the 63rd Street station on the Broadway Line. The $4.5 billion project, which has experienced delays and cost increases, is now expected to be completed in 2016.

Interagency – Business Service Center ($400 million). The interagency section of the program includes several categories of investment that benefit the MTA family of agencies. It includes investments for the MTA Police ($85 million), MTA Planning ($56 million) and MTA Headquarters ($259 million), which includes the authority's plan to save money by consolidating various interagency business services.

The MTA has not advanced funding recommendations to fill the estimated $10 billion gap in its proposed $25.6 billion 2010-2014 Capital Program. The MTA has acknowledged that the .34% employer-based regional payroll tax that was approved last year as part of the MTA Bailout will allow the MTA to advance the first two years its proposed capital spending program. The tax and other new fees are estimated to generate $1.9 billion annually, and against which the MTA plans to issue $6 billion in new bonds for the proposed 2010-2014 Capital Plan.

MTA BAILOUT

The financial problems plaguing the Metropolitan Transportation Authority played a major role in Albany during 2009. After several months of debate, in May 2009 the Senate Democrats approved a controversial financial rescue package for the MTA. The so-called "MTA Bailout" bill included a new, employer-based mobility tax in the 12-county MTA region, as well as auto-related tax and fee increases. The MTA Bailout is valued at about $1.9 billion annually, of which the new MTA payroll tax is expected to provide upwards of $1.5 billion. In response to the legislation approved in Albany, the MTA modified its plan to raise fare and toll revenues by 23 percent to a 10 percent increase. The MTA also rescinded its plan enact significant bus, subway and commuter railroad service reductions. The rescue package may have been short-lived, as the MTA announced in December 2009 that an unanticipated, remaining budget gap of nearly $400 million will necessitate bringing back many of the service reductions that it had proposed earlier in the year and then rescinded, as well as new budget relief measures such as elimination of the free or discounted student MetroCard program and cuts to the paratransit program that it oversees in New York City.

<u>History</u>

The payroll tax was one of the funding recommendations contained in the December 2008 report by Commission on Metropolitan Transportation Authority Financing, headed by former MTA chairman, and now Lieutenant Governor, Richard Ravitch. The commission – established by Governor David A. Paterson after the Legislature did not act to approve a congestion pricing program for New York City - was charged with developing strategies to fund MTA capital projects and operating needs over the next ten years. While the primary goal of the Ravitch Commission was to identify funding sources for the next MTA Capital Plan, the MTA's 2009 operating budget gap became a growing problem as the economy worsened during the second half of 2008 and into 2009.

By the time the Ravitch Commission released its report in December 2008, the MTA's projected operating deficit for 2009 had grown to $1.2 billion and the authority was planning large fare increases, service cuts and layoffs to address the gap. By the spring of 2009, the MTA indicated that its 2009 budget gap had grown to $1.4 billion and that it could reach $1.8 billion. While Albany needed to take some action to assist the MTA and allow it to cancel its budget-balancing plan to increase fare and toll revenues by 23%, which could increase some fares by as much as 30%, and adopt major service cuts, the implementation of a regional payroll tax (that would not help job creation during a major recession) was seen as a very controversial remedy. Opponents of the payroll tax viewed it as something that would unfairly hurt businesses and localities, and lead to added job losses in a very weak economy.

For reference, the Ravitch Commission report recommended instituting a new one-third of one percent "mobility tax" or payroll tax in the MTA service's area, which includes New York City and seven surrounding suburban counties; tolling the East River and Harlem River bridges; and having the MTA approve an 8 percent increase in fare and toll revenue for 2009. The MTA had proposed a 23 percent increase in fare and toll revenues to balance the $1.2 billion gap in its 2009 operating budget. The MTA said that unless Albany approved new funding assistance it would have no choice but to implement its draconian budget-balancing plan that included major service reductions and a 23 percent hike in fare and toll revenues, with the changes taking effect starting in June 2009.

Outside of New York City, the primary focus and fear was on the mobility tax or payroll tax proposal. The Ravitch Commission report estimated that its recommended 1/3 of 1 percent payroll tax in the MTA region would generate $1.5 billion annually. The commission envisioned that the funds would primarily be used to support the MTA's capital spending program, except in 2009 and 2010 when the revenues would be used to offset the need to adopt large fare increases. Within the city, tolling the East and Harlem River bridges was more controversial, especially in Brooklyn and Queens.

In May 2009, the Senate Democrats finally agreed to a $1.9 billion financial rescue package for the MTA, with a new, employer based payroll tax as its centerpiece. It was estimated that the new tax – 0.34 percent tax on payroll expenses and net earnings from self employment - would generate $1.5 billion annually. The MTA bailout plan also included other tax and fee in increases in the 12-county MTA region: a supplemental fee of $25 per year on the registration and renewal registration of motor vehicles ($27 million annually); a supplemental fee of $1 per 6-month period of validity of a driver's license or learner's permit ($182 million annually); a taxicab tax of 50-cents per ride imposed in New York City ($85 million annually); and a supplemental tax of 5 percent on the cost of automobile rentals ($35 million annually). However, the MTA financial rescue legislation did not include tolling the East and Harlem River Bridges, as has been recommended by the Ravitch Commission.

With the financial aid package from Albany, the MTA changed the scheduled 2009 fare/toll yield increase of 23 percent to percent, and it restored its planned service reductions. The MTA said that it would have enough money for the first 2 years of its proposed $25.6 billion 2010-2014 Capital Program, which has an overall $10 billion funding gap, and that it would not need to increase fares again until 2011.

<u>Recent Developments</u>

In late 2009, the MTA found itself facing an unanticipated revenue shortfall of about $383 million. The state's approved $2.7 billion deficit reduction plan for SFY 2009-10 included a sweep of $143 million in MTA operating assistance, and the new payroll tax on employers in the MTA had so-far yielded about $200 million less than expected. Most of the shortfall in payroll tax receipts is expected to be timing related, except for about $50 million annually, or $100 million for 2009 and 2010. The other factor that adversely impacted the MTA's operating budget is a judge's recent decision to uphold an arbitration award that granted transit workers a 3-year 11.5 percent pay package, more than the MTA says it can afford.

The MTA, which operates on a calendar year basis, needed to adopt a balanced 2010 budget by end of December 2009. The MTA's nearly $400 million budget problem was rolled over into the 2010 with cash management actions such as delaying pension payments and other timing variances, as well as other planned actions that include service cuts, nearly matching the service reductions that were rescinded after the bailout package was approved in May. The MTA also plans to phase out free and discounted student MetroCard passes. The MTA has acknowledged that it will not raise fares in 2010.

Governor Paterson's SFY 2010-11 Executive Budget proposes nearly $4 billion in transit assistance for the MTA, including $1.8 billion from the payroll tax and the other new, dedicated fees. The SFY 2010-11 Executive Budget includes $161 million more for the MTA than in the SFY 2009-10 Budget as amended by the approved deficit reduction plan. The SFY 2010-11 Executive Budget also restores the $25 million in General Fund monies that was allocated for MTA school fare assistance in last year's budget before the DRP. The MTA has said that it needs $214 million to continue the free and discontinued student transit passes.

In the coming weeks, the MTA will hold a series of public hearings in regard to the service cuts and actions that have been proposed for 2010.

MTA FINANCES - 2010

In December 2009, the board of the Metropolitan Transportation Authority approved an $11 billion budget for 2010. Although the MTA benefited from a large financial assistance package that was approved in Albany in May 2009, by December the authority was suddenly facing an unexpected nearly $400 million budget gap. Since the new head of the MTA, Jay H. Welder, has promised not to raise fares in 2010, after fare and toll increases in 2008 and 2009, the authority is proposing significant service cuts to help balance its budget.

The MTA financing gap of $383 million is due to a $143 million cut in transit operating assistance that was part of last year's Deficit Reduction Program; $229 million in less than expected receipts from the new employer-based payroll tax, most of which is expected to be recovered in 2010; and the impact of a judge's recent ruling that reaffirmed an arbitration panel's decision to award transit workers a 3-year 11.5 percent pay package, which will add between $100 million and $200 million in additional annual expenses. While the gap in payroll tax receipts had initially been estimated at $230 million, the net shortfall in receipts is now expected to be $100 million for 2009 and 2010, and $50 million annually thereafter.

Starting next summer, the MTA has proposed transit and commuter railroad service cuts and other actions to deal with the funding shortfall, including phasing out free for discounted fares for more than half a million students who ride the transit system. Half the student discount would be eliminated in September 2010, and the other half would be taken away in September 2011. While fare increases are not on the table for 2010, the MTA has scheduled a 7.5 percent fare and toll revenue increase for 2011.

The planned 2009 service cuts would lead to the loss of about 700 jobs, mostly unionized positions at New York City Transit. Management personnel at all agencies face a 10% pay cut. Jay Walder, the MTA chairman and executive director, has promised a top-to-bottom financial and organizational review, pledging to streamline the authority and make it more efficient.

The SFY 2010-11 Executive Budget proposes nearly $4 billion in transit assistance for the MTA, including $1.8 billion from the payroll tax and the other new, dedicated fees. The SFY 2010-11 Executive Budget includes $161 million more for the MTA than in the SFY 2009-10 Budget as amended by last fall's deficit reduction plan. The SFY 2010-11 Executive Budget also restores the $25 million in General Fund monies that was allocated for MTA school fare assistance in last year's budget before the DRP. The MTA has stated that it needs $214 million to continue the free and discontinued student transit passes.

Over the next couple of months, the MTA will hold a series of public hearings in regard to the service cuts and actions that have been proposed for 2010

HEALTH CARE REDUCTIONS

The SFY 2010-11 budget includes $1.75 billion in health care cuts and other savings actions achieved through, consolidations, and increased or new taxes. These actions would impact hospitals, nursing homes, home care, personal care, insurance and several public health programs currently available throughout the state. Combined with lost federal matching funds, the total impact on hospitals, nursing homes, home care and personal care would grow by an additional $321.3 million under this proposal to over $2 billion.

While these impacts pale in comparison to the budget and subsequent deficit reduction plan enacted in SFY 2009-10, they impact an industry that has experienced five rounds of budgetary cuts over the past two years. These cuts have been referred to as "reform". However, these propoals do not include the needed reforms and restructuring needed to properly reign in health care costs while providing good care.

Industry-wide Gross Receipts Tax (GRT) increase

The SFY 2009-10 enacted budget included a new tax of 0.35 percent on Hospital inpatient services, Home Care and Personal Care Services. The Governor had proposed a 0.7 percent tax on these three sectors. Nursing homes were spared the new tax because they were already being assessed at 6 percent.

In the SFY 2010-11 budget proposal the Governor increases those taxes for all sectors increasing hospitals to 0.75 percent; nursing homes to 7 percent; and home care and personal services to 0.7 percent. The Executive anticipates $216 million in revenue would be generated through these taxes. Combined with other taxes and health care assessments being proposed, the taxes related to health care total $890 million.

Hospitals

This year's proposal includes cuts, cost savings and taxes of $382 million. As cuts deepen and reforms move funds to the outpatient sector, hospitals are forced to make fiscally prudent decisions. In the most drastic cases facilities are forced to close or consolidate, resulting in individuals having to travel longer distances for basic care and emergency services, especially in upstate New York. Over the past 10 years, 29 hospitals have closed in New York State.

Nursing Homes

In the SFY 2010-11 budget nursing homes are subjected to cuts totaling $243.1 million (gross). Rebasing **– a portion of which was finally included in the reimbursement rate in the SFY 2009-10 budget -** will be carried forward through February 2011 and a new regional pricing reimbursement methodology (first proposed in last year's budget), will be delayed until March 1, 2011. A workgroup including industry stakeholders is working to build an appropriate and fair regional pricing model.

Home Care and Personal Care

The SFY 2010-11 budget proposal recommends the home care and personal care sectors of the industry be cut by $154.8 million including Federal Funds. The proposal also implements a new episodic payment system for reimbursement of services provided by Certified Home Health Agencies (CHHAs). The language requires the Commissioner of Health to take into consideration findings by the Home Health Care Reimbursement Work Group.

MANDATE RELIEF

Local Government / School District Mandate Relief

The Executive recommends several mandate relief measures as part his SFY 2010-11 Executive Budget Proposal. While the Executive did not submit a comprehensive stand alone Article VII Bill on mandate relief, his various proposals are scattered throughout the Executive Budget presentation. Highlighted below are some of these measures.

Four-year Moratorium on Legislatively Enacted Unfunded Mandates

The Executive proposes imposing a four-year moratorium on any new, legislatively enacted unfunded statutory mandate. The moratorium would suspend the implementation of any mandate that would require local governments or school districts to undertake new programs, increase the level of service for existing programs, or increase the value of any property tax exemption costing more than $10,000 for an individual municipality or $1 million for local governments statewide. It would require all legislation that substantially affects the revenues or expenses of a local government to include a fiscal note estimating the local costs associated with such legislation (Part BB of S.6606).

Amortization of Pension Contribution Costs

The Executive proposes granting local governments the option of amortizing a portion of their pension costs from SFY 2010-11 through SFY 2015-16. Local governments could choose to amortize the portion of their respective pension costs exceeding a contribution rate of 9.5 percent for the New York State and Local Employees' Retirement System and 17.5 percent for the New York State and Local Police and Fire Retirement System in SFY 2010-11. The contribution rate above which future amortizations are allowed would be increased by one percentage point each year through SFY 2015-16. Repayment of the amortized amounts would be made over a ten-year period at an interest rate to be determined by the State Comptroller. Assuming a 30 percent participation rate, this proposal is estimated to generate $30 million in savings to local governments outside of NYC (Part V of S.6606)

Eliminate Special District Commissioner Compensation

The Executive proposes to prohibit special district commissioners from receiving compensation for their services. Such commissioners would still receive reimbursement for any actual and necessary expenses they incur in the performance of their official duties. This change would bring special district commissioners into conformity with school board members and fire district commissioners, who are also barred from receiving compensation (Part GG of S.6606).

Transfer Management of Sanitary Districts

The Executive proposes to transfer to town boards most management responsibilities for commissioner-run town special districts providing sanitary, refuse, or garbage services. However, it would continue to allow elected special district commissioners to hold referenda on whether the level of services provided to district residents should be changed. Currently, towns manage nearly all of these districts statewide. These amendments have the potential to improve management and reduce the costs of these special districts (Part GG of S.6606) .

Establish Process to Eliminate Town Improvement District Commissioners

The Executive proposes to establish a process by which town boards or citizens, by petition, can remove the independently elected board of town improvement district commissioners (Part GG of S.6606).

Litigation Expenses - Reduce Interest Rate on Judgments

The Executive proposes setting the interest paid on judgments by local governments at the weekly average one year constant maturity treasury yield, capped at 9 percent. This would be the same standard used by the federal government. Current law allows the interest rate paid on judgments to be set at any rate up to 9 percent. It is estimated that this proposal would generate local savings of $1.5 million statewide (Part DD of S.6606).

Repeal OGS Procurement Contract Fee

The Executive proposes to repeal the procurement fee charged to local governments for their use of Office of General Services (OGS) centralized contracts. It is estimated that this would generate savings of $2.5 million to local governments statewide (Part P of S.6606).

Other Local Procurement Flexibility Initiatives

The Executive proposes to i**ncrease competitive bidding thresholds** for local government public works contracts from $35,000 to $50,000; and from $10,000 to $20,000 for purchase contracts. Additional procurement flexibility initiatives include: allowing local governments the option of **requiring that bids be submitted in an electronic format**; allowing local governments to hold **reverse auctions** in which vendors bid against one another for lower prices; allowing local governments to **award contracts based on "best value" –** a power the State already has; allowing local governments to **"piggyback" on certain federal GSA contracts** as well as the contracts let by other states and local governments; and providing local governments the option of **advertising for bids in the Contract Reporter instead of an official newspaper** (Part FF of S.6606).

Fire District Residency Requirement Flexibility

The Executive proposes to allow volunteer fire companies to have additional members that do not reside in the fire district in which they serve upon approval by the State Office of Fire Prevention and Control. Currently, no more than 45 percent of members are permitted to be from outside the district (Part EE of S.6606).

Municipal Fund Deposit Flexibility

The Executive proposes to provide local governments with more options to achieve interest revenue by allowing deposits of municipal funds in local savings banks and credit unions. Current law limits municipal deposits to commercial banks and trust companies (Part HH of S.6606).

County as Sole Tax Collector

The Executive proposes to allow a county to enter into a cooperative agreement with any city, town, village or school district therein, under which the county treasurer would serve as the local government's tax collecting officer. This proposal would provide that such tax collection be considered a "joint service" under Article 5-G of the General Municipal Law (Part EE of S.6606).

Local Revenue Options

The Executive would provide authorization for local governments to impose, expand or raise various taxes. This additional taxing authority would include: (Part HH of S.6606)

- expanding the mortgage recording tax to cooperative apartments ($71 million for NYC and $5 million for the rest of state);
- authorizing cities and villages to impose a local gross receipts tax on utilities up to three percent ($110 million total if all cities and villages outside of NYC imposed the tax); and

percent ($110 million total if all cities and villages outside of NYC imposed the tax); and

- allowing municipalities to charge $15-$25, (similar to the practice of the State Police), for copies of documents relating to police accident reports.

Allow Shared County Directors of Weights and Measure

The Executive proposes to allow multiple counties to share one Director of Weights and Measures pursuant to an inter-municipal agreement. The Agriculture and Markets Law currently requires each county to have its own Director of Weights and Measures, who must reside within the county (Part EE of S.6606).

Long-Term Care Demonstration Program

The Executive proposes a new demonstration program to give counties that are closing or downsizing nursing homes the option of redirecting savings to enhance community-based long term care services and enable the placement of "hard to place" individuals in private nursing homes (Part CC of S6608).

Local Correctional Facility Flexibility

The Executive proposes several statutory changes to reduce the mandated cost burden on county jails, including expansion of the use of video-conferencing for certain court appearances and additional flexibility in housing inmates (Part J of S6606).

Local Probation Department Flexibility

The Executive proposes to streamline the pre-sentencing investigation process for county probation offices, address funding-specific mandates for probation aid, and provide additional flexibility in the day-to-day operations of local probation departments (Part D of S.6606).

School District Specific Mandate Relief:

State Education Department Regulatory Reform

The Executive proposes applying the same requirements regarding regulatory adoption procedures to the State Education Department that currently apply to other State agencies pursuant to Executive Order 17 of 2009. These requirements include the preparation of a fiscal note including local impacts, a cost-benefit analysis as well as identifying a funding source for any new regulations (Part A of S.6607).

Wicks Law Exemption

The Executive proposes repeal of the Wicks Law for school districts. The Wicks Law imposes multiple contract requirements for different aspects (electrical, plumbing, etc.) of most public works projects. This would provide long-term capital and debt service savings to school districts and the State (Part CC of S.6606).

Paperwork Reduction

The Executive proposes to streamline existing reporting requirements and eliminate required reports that are deemed to be outdated or no longer serve a public policy purpose. School districts would also be allowed to file reports electronically unless the Commissioner requires other means. In addition, the Department would develop one consolidated reporting system that captures all information required by New York State or collected by the State for the Federal Government (Part B of S.6607).

Reform Procurement Practices

The Executive proposes to provide school districts with greater flexibility to purchase from existing contracts held by other government entities. In addition, school districts would be allowed to purchase based on "best value", the most advantageous balance of price, quality, and performance. The State already has the ability to purchase in this manner (Part FF of S.6606).

Authorize Regional Student Transportation

The Executive proposes to authorize school districts to contract with other entities, including other school districts, counties and municipalities to provide more efficient student transportation. School districts would also be authorized to partner on school bus maintenance to reduce expenses (Part A of S.6607).

Allow Access to Employee Benefit Accrued Liability Reserve Funds

The Executive proposes to allow a school district's governing board to authorize a withdrawal of excess funds in an employee benefits accrued liability reserve fund in order to maintain educational programming during the 2010-11 school year. The amount withdrawn could not exceed the Gap Elimination Adjustment for a school district. The State Comptroller would certify that funds withdrawn are in excess of the amount required for employee benefits which are a liability against the fund (Part A of S.6607) .

School District Charter School Payments

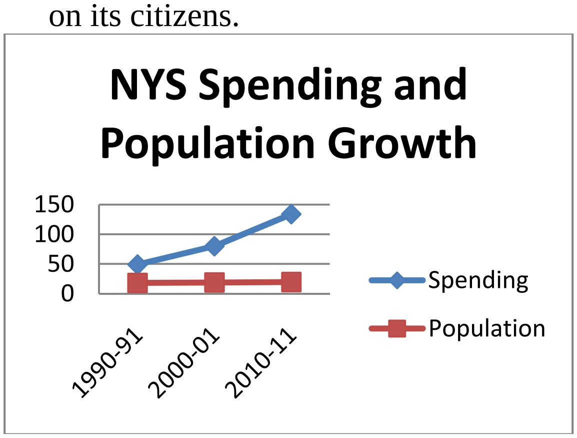
In recognition of the freeze in Foundation Aid for the 2010-11 school year, the charter school payments made by school districts to charter schools for children attending charter schools would be maintained at the current per pupil levels. The SFY 2009-10 State Budget initiated a one year freeze on these per pupil charter school payments. The SFY 2010-11 Executive Budget would extend that freeze for one additional year (Part A of S.6607).

Contingency Budget Calculation

The Executive proposes statutory changes that would prevent mandatory negative spending growth for school districts that are operating under a contingency budget by limiting the spending cap calculation to no less than the previous year's spending levels. The current statutory provisions for the calculation of the contingency budget cap does not account for a period of deflation, which is likely to be the case for the 2009 calendar year (Part A of S.6607).

NEW YORK SPENDING GROWTH: RESTORING LONG TERM FISCAL INTEGRITY

- At a time when millions of hardworking families throughout the nation are tightening their belts and trimming their household budgets, it's time for New York State to take decisive action on a spending cap that will help to restrain spending growth and new tax increases for years to come.
- By all measures, **the tax burden on New Yorker's** is among the highest in the nation. Unchecked growth in spending from one fiscal year to the next serves only to increase the tax burden on New Yorkers. By limiting the amount of annual growth in the state's budget, New York can check the growth of government and the attendant tax burden on its citizens.



- New York State's proposed $134 Billion spending level for SFY 2010-11 is almost double the level of spending a decade ago and 300 percent higher than SFY 1990-91. In comparison, New York's population has grown only 8 percent since 1990 and inflation has increased by 64 percent.
- A spending cap is needed now more than ever given the serious economic challenges we face, as well as the short-term nature of the Federal Stimulus Package which is driving more government spending.
- There are currently two proposals for a State spending cap. The New York State

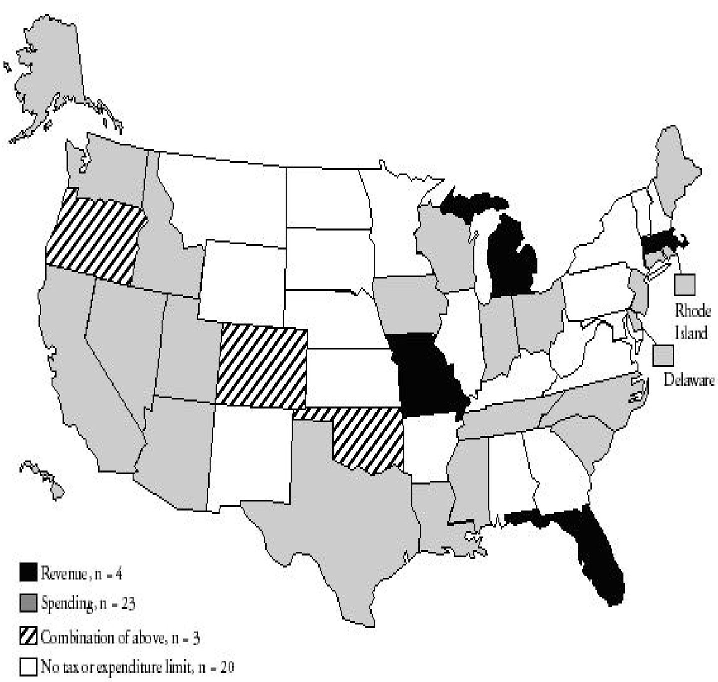
Comparison of Senate Republican and Executive Spending Cap Proposals

	Senate Republican Proposal	Executive Proposal
Nature of Bill	Amends the Constitution. The constitutional amendment proposed under this bill would take effect after passage by two consecutively elected Legislatures and the approval of the voters by referendum.	Amends State Finance Law. Takes effect immediately upon passage.
What Spending is Capped?	All state funds including General Fund; Special Reveunue Funds; Capital Project Funds and Debt Service Funds.	All governmental fund types included in the cash financial plan- includes General Fund;Special Revenue Funds; and Debt Service Funds.
What Spending is Excluded from the Cap?	Federal Funds are excluded from the Cap.	Excludes Federal Funds and Capital Funds from the Cap.
How is the Cap on spending growth determined?	Spending growth is capped at the lesser of 120% of the inflation rate for the previous 12 months or 4%. For 2010, the cap would be 0.4%	Spending growth is capped at the average of the 3 previous years inflation rate. For 2010, the cap would be 2.3%
Is there a Provision for Emergencies?	Yes. Appropriation bills may be submitted which exceed the cap upon the declaration of an emergency by the Governor with the concurrence of the Comptroller. Requires 2/3 affirmative vote of each house.	Yes. Upon the declaration of an emergency, the Governor can submit a budget in excess of the growth cap.Does not require the concurrence of the State Comptroller. Requires 2/3 affirmative vote of each house.
Are there provisions when state revenues are in excess of the state spending cap?	Yes. When state revenues exceed the spending cap, 1/2 of the excess revenue is deposited into a reserve fund and 1/2 is returned to each taxpayer in proportion to personal income tax liability.	Yes. At the beginning of each year, the cash surplus from the previous year is deposited into reserve funds and a property tax circuit breaker fund to fund a school property taxcredit.
Does the State Comptroller have an independent oversight role?	Yes. Requires Comptroller concurrence of an emergency which requires spending above the spending cap.	No. The State Comptroller is removed as the independent agent certifying that the enacted budget is within the spending cap. The director of the budget has been substituted for the State Comptroller.

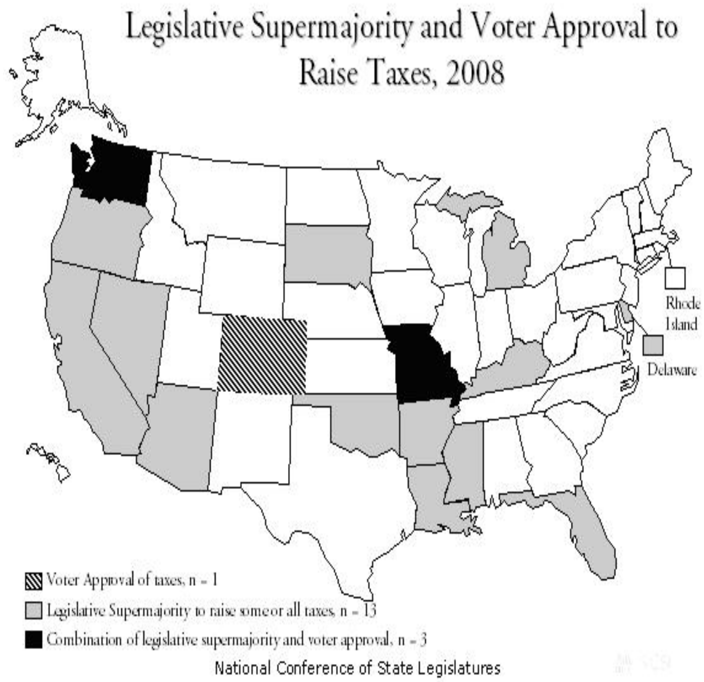
- The Senate Republican's proposal passed the Senate with bipartisan support but was not acted upon by the New York State Assembly. During 2009-10, the Governor also submitted his own spending cap proposal during both the Regular and Extraordinary Session, which the Senate Democrats did not act on.

- According to the National Council of state Governments, as of December 2008, 30 states operate under a tax or expenditure limitation. Twenty-three states have spending limits, four have tax limits, and three have both. Approximately half of the states tax and spending limitations are constitutional provisions and the other half are statutory.

Source: National Conference of State **Legislatures, 2008**



- A number of states also operate under voter approval or supermajority requirements that are not tax or expenditure limitations in the traditional sense; however, they can limit state revenue and expenditure options.



- It is time to pass spending cap and make a structural change to reduce state spending and increase accountability in future years. These measures are necessary to prevent the kind of fiscal challenges we are facing now.

MEDICAID FRAUD

With $46 million in expenditures (2008), the Medicaid program in New York State represent the largest single component of the State's budget. With 4.3 million participants, and thousands of service providers that participate in the program, potential fraud and how to control it has become a primary focus for those governing in New York State – from the county level to the Governor's office.

The battle to get a handle on Medicaid Fraud was joined in earnest in 2006 with the creation of the Office of Medicaid Inspector General (OMIG), a separate and independent office within the Department of Health (Chapter 442, L. 2006). Since then almost 200 staff have been added to the office, and systems upgrades have allowed the OMIG to consistently exceeded fraud targets.

For at least the last two years New York collected more than $1 billion in fraud recoveries: collecting $551 million in 2008; and surpassing the $500 million mark again by late 2009. Recovering fraudulent payments is one part of the OMIG's efforts, the other in working with providers to avoid fraudulent payments before the money leaves state treasury. According to the OMIG cost avoidance outpaced recoveries ($700 million in cost avoidance) in 2008.

With all of the successes enumerated by the OMIG, there is still room for more fraud collections, for better and more appropriate Medicaid utilization and for a better working relationship with the counties.

Often more than three quarters of a county's property taxes are spent on Medicaid. County officials who have desperately been looking for ways to lower property taxes have discovered that millions of property tax dollars could be saved with better clinical review of how Medicaid is utilized.

Excess utilization of emergency room services, pharmacies substituting brand name drugs for generics even though the patient's prescription calls for a generic substitute, and millions being paid for well care visits for children who never go to the doctor are just some of the fraud counties have uncovered.

These types of fraud are difficult to track, and there is no question that there are easier fraud targets that may yield quicker and more lucrative results. However, considering the current fiscal problems facing the state, combined with an ever expanding Medicaid population and budget, now more than ever is the appropriate time to build a better collaborative relationship with counties and to examine new tools available to uncover and mitigate these types of activities.

The 2010-11 Executive Budget includes a number of proposals aimed at improving the coordination and administration of benefits and also to prevent and uncover fraud, including:

- Increasing civil penalties for first-time Medicaid fraud offenders ($10,000) and for repeat offenders ($25,000 - $50,000);

- A collaborative effort between the Office of the Welfare Inspector General (OWIG) and the Department of Labor (DOL) targeting employers who shift the cost of employees' medical care to Medicaid by paying them under the table, thus lowering their own insurance costs; and also targeting those who enable employees, who currently get public benefits, to earn income in excess of established eligibility levels under the table;

- Sharing services between OMIG and OWIG;

- Matching individuals and providers who have been disqualified from the Medicaid program, and are prohibited from billing for Medicaid services, to records at the Department of Taxation and Finance and at the Workers' Compensation Board to ensure that Medicaid does not get billed;

- Documenting citizenship and auditing tax return data to determine eligibility in Medicaid and CHP;

- Continuing to close loopholes that allow asset transfers; and

- Implementing a system to find assets that cannot be captured under current systems.

The fraud recoveries target is increased next year to $1.17 billion, a $300 million increase over the current fiscal year.

FEDERAL STIMULUS FUNDS

The Federal Government's response to the economic downturn resulting from the financial crisis in 2008 was to enact the **American Recovery and Reinvestment Act** (ARRA), in February of 2009. The ARRA was intended to stimulate the economy and provide state government with funding to help make up for severe tax revenue losses.

To date the ARRA has allocated $31 billion in federal assistance to New York State over two years with the state still applying for some of the $44 billion in federal funds available through competitive grants. Of the $31 billion currently earmarked for New York, approximately $21 billion has been appropriated by the State Legislature (See tables following this section). The funding is targeted for projects and state fiscal relief. The state fiscal relief portion has been spread out over four state fiscal years (SFY's 2008-09 to 2011-12).

The SFY 2010-11 Executive Budget proposal includes approximately $4.6 Billion in ARRA funding, $1.28 billion for education and $3.4 billion for Medicaid. In SFY 2009-10, ARRA fiscal relief funding totaled $5.23 billion.

Projected ARRA Fiscal Relief in the State Budget for Health (Medicaid) and Education (School Aid) ($ in millions)

Category	2008-09	2009-10	2010-11	2011-12
Medicaid (FMAP)	1,299	3,702	3,387	0
School Aid (SFSF)	0	1,523	1,275	220
Total	**1,299**	**5,225**	**4,662**	**220**

One of the greatest challenges facing New York State policy makers is that these additional federal funds will dry up at the end of 2010. New York State will be faced with an additional $4.4 billion revenue shortfall at a time when General Fund spending is projected to increase for SFY 2011-12 over current year levels by 9.2 billion or 17 percent. The total state deficit is projected to be $6.3 billion in SFY 2011-12.

The ARRA fiscal relief funding for education and Medicaid was allocated pursuant to Maintenance of Effort (MOE) requirements. For education spending, states cannot accept ARRA funds unless they maintain education spending at or above 2006 levels. For Medicaid Federal Medical Assistance Percentages (FMAP) funding, the state must maintain Medicaid eligibility and standards as they existed on July 1, 2008 in order to receive federal funding. Medicaid FMAP money is flexible, and states are allowed to spend on programs outside of Medicaid. Education funding can only be spent on education.

In certain areas, ARRA grants can only be used if the state or local government matches the grant dollar for dollar. This is the case with the environmental funds. There are also labor laws to ensure that workers hired for ARRA infrastructure projects be paid a prevailing wage. Federal funding for Unemployment Insurance comes with requirements that states accepting the grants must expand eligibility and length of unemployment benefits. This could present problems for cash strapped states when the ARRA funding dries up, because the expanded unemployment laws would remain on the state's books. This has led to many states rejecting unemployment assistance funds from the ARRA.

Major Spending Provisions That Impact New York
(December 2009 estimates, state/local two year, $ in thousands)

	National Total	NY Share
State Fiscal Relief		
Medicaid - FMAP Increase	$87,000,000	$11,100,000
State Fiscal Stabilization - Education Restoration	$39,524,000	$2,469,000
State Fiscal Stabilization - Other Government Services	$8,793,000	$549,000
State Fiscal Stabilization - Education Incentive Grants	$5,000,000	TBD
Sub-total	**$140,317,000**	**$14,118,000**
Transportation and Infrastructure		
Mass Transit	$8,400,000	$1,222,000
Highways & Bridges	$27,500,000	$1,120,700
Transit Investments for Greenhouse Gas Energy Reduction	$100,000	$5,250
Ferry Boat Discretionary Program	$60,000	$6,500
Small Shipyard Grant	$98,000	$376
FAA Facilities and Equipment	$200,000	$1,295
Rail	$9,300,000	TBD
Grants to Airports	$1,300,000	$31,175
Discretionary Surface Transportation	$1,500,000	TBD
Broadband Access & Expansion	$7,200,000	TBD
Rural Water and Wastewater	$939,000	$46,780
Infrastructure Projects (Grants)		
Watershed and Flood Control Infrastructure Projects	$340,000	$5,752
Sub-total	**$56,937,000**	**$2,439,828**
Energy and Environment		
Weatherization	$5,000,000	$394,687
State Energy Program	$3,100,000	$123,110
Energy Efficiency and Conservation Block Grant	$3,200,000	$175,122
Advanced Batteries	$2,000,000	$38,600
Wind	$93,000	$993
Geothermal Technology Program	$400,000	$13,711
Biomass Program	$800,000	$1,313
Solar	$117,000	$3,000
Grants for Specified Energy Property in Lieu of Tax Credits	$3,000,000	$75,065
Appliance Rebates	$300,000	$18,700
Clean Cities	$300,000	$28,293
Environmental Management/Nuclear Waste Cleanup	$6,000,000	$168,005
Superfund	$600,000	TBD
Science	$1,610,000	$248,386
Clean Water State Revolving Fund	$3,869,608	$432,564
Drinking Water State Revolving Fund	$2,000,000	$86,811
Diesel Emission Reduction	$300,000	$4,000
Leaking Underground Storage Tank Program	$190,667	$9,235
Fossil Energy	$3,390,000	$2,276
Fuel Cell	$41,900	$8,500
Smart Grid	$4,500,000	$264,954
Brownfields - Training and Projects	$100,000	$1,800
Water Quality Management and Planning	$39,392	$4,369
Sub-total	**$40,951,567**	**$2,103,494**
Health and Human Services		
Immunization	$300,000	$12,119
Community Health Care Services Increased Demand	$500,000	$19,439
New Access Community Health Care Services	$154,782	$7,069
Health Centers Capital Improvement Plan	$851,520	$53,202
Health Information Technology	$19,000,000	TBD
National Institute of Health (NIH) Grants	$10,400,000	$383,137
Lead Hazard Reduction	$100,000	$2,038
Disproportionate Share Hospital	$548,302	$79,657
WIC Program Administration	$500,000	$28,600
IDEA for Infants & Families	$500,000	$26,406
Food Stamp Administration	$291,000	$24,402
Food Stamp Benefit Increase	$19,842,000	$1,289,000
Senior Nutrition Programs	$100,000	$6,191
Senior Community Service Employment Program	$118,800	$3,949
Vocational Rehabilitation (Title I)	$540,000	$25,695
Independent Living Service and Services for the Blind	$140,000	$8,581
Commodity Assistance Program	$150,000	$9,286
Child Care Block Grant	$2,000,000	$96,786
Child Support Enforcement Administration	$1,000,000	$34,000
Foster Care & Adoption Assistance (Title IV-E Programs)	$843,468	$107,000
Strengthening Communities Fund	$46,000	$2,250
TANF Block Grant (Emergency Fund)	$5,000,000	$140,000
Community Service Block Grant (CSBG)	$1,000,000	$86,781
AmeriCorps	$85,594	$10,228
Social Security /SSI One-Time Payment	$13,056,734	$845,600
Sub-total	**$77,068,200**	**$3,301,416**

Housing and Community Renewal		
Public Housing Capital Fund	$3,000,000	$502,345
HOME Investment Partnerships (Tax Credit Assistance Program)	$2,250,000	$252,660
Homelessness Prevention Fund	$1,500,000	$141,421
Community Development Block Grant (CDBG)	$1,000,000	$92,424
Project Based Rental Assistance (Section 8)	$2,000,000	$234,818
Native American Housing Grants	$255,000	$2,672
Public Housing Retrofits	$1,000,000	TBD
Neighborhood Stabilization Program	$2,000,000	$100,319
Rural Business Enterprise Grants	$19,000	$184
Rural Community Facilities Grants	$61,000	$7,558
Sub-total	**$13,085,000**	**$1,334,401**
Labor and Employment Services		
Workforce Investment Act (WIA)	$3,165,525	$169,410
UI Administration; Benefit Extension; Weekly Benefit Increase	$32,900,000	$3,948,865
UI Modernization	$7,000,000	$442,000
Wagner- Peyser Employment Services	$396,000	$22,855
Trade Adjustment Assistance	$455,588	$10,863
Job Corps Program IT Spending	$12,643	$798
Indian and Native American Grants	$11,872	$45
Sub-total	**$43,941,628**	**$4,594,836**
Education		
Title I Grants	$13,000,000	$1,168,447
IDEA for Special Education	$11,700,000	$794,211
Head Start & Early Head Start	$2,100,000	$130,000
Education for Homeless Children & Youth	$70,000	$6,136
National School Lunch Program Equipment Assistance	$100,000	$5,990
Teacher Incentive Fund	$200,000	$9,936
Enhancing Education Technology	$650,000	$55,622
Impact Aid Construction	$100,000	$621
National Endowment for the Arts	$19,800	$399
Pell Grant Increase	$15,600,000	$653,327
Federal Work Study	$200,000	$20,324
Sub-total	**$43,739,800**	**$2,845,013**
Public Safety and Defense		
Byrne-JAG	$2,000,000	$129,316
Community Oriented Policing Services (COPS)	$1,000,000	$19,931
Violence Against Women Prevention	$148,892	$7,531
Crime Victims Compensation and Assistance	$100,000	$4,618
Transit Security Officers and Equipment	$150,000	$98,238
Internet Crimes Against Children	$50,000	$1,618
Transitional Housing	$43,000	$1,226
Emergency Food and Shelter	$99,070	$5,597
Firefighter Assistance Grants	$210,000	TBD
Sub-total	**$3,800,962**	**$268,075**
Grand Total	**$419,841,157**	**$31,005,063**
Direct Federal Spending in New York		
Veterans Facilities and Administration		$114,400
Grants to Improve Research Capacity at USDA Laboratories		$925
Federal Building and Courthouse Renovations		$127,300
Defense Construction and Restoration Projects		$139,000
Army Corps of Engineers		$63,800
National Park Service Funds & Fish and Wildlife Projects		$57,500
U.S. Geological Survey		$5,500
		$508,425
		$31,513,488

New York State's Stimulus Spending To Date

Major Category	Total State Appropriations for Stimulus Programs	Amount Approved for State Spending	Payments and Contract Commitments
Commerce	$17,750,000	$0	$0
Education	$3,235,982,820	$2,311,824,965	$408,415,483
Energy and Environment	$810,781,773	$797,563,905	$643,785,415
Food and Nutrition Services	$15,810,721	$9,251,907	$7,828,341
Health and Social Services	$7,662,451,719	$6,933,432,965	$6,219,550,410
Housing	$326,625,000	$64,593,500	$42,584,985
Labor	$5,292,668,423	$4,777,239,514	$3,879,924,324
Public Protection	$48,406,661	$38,805,120	$19,800,681
Transportation	$3,667,500,000	$932,426,240	$703,745,636
Totals	**$21,077,977,117**	**$15,865,138,116**	**$11,925,635,277**

***Office of the State Comptroller (Open Book New York)**

MERGERS AND CONSOLIDATIONS

The 2010-11 Executive Budget recommends savings of $14.8 million related to mergers and consolidations of State agencies and public authorities.

Economic Development

<u>*Job Development Corporation*</u>
The SFY 2010-11 Executive Budget proposes merging the Department of Economic Development and the Empire State Development Corporation into a new Job Development Corporation (JDC). The JDC will continue to perform the functions of the merged agencies. The merger of the State's economic development agencies is expected to result in efficiencies in delivering economic development services for New York and save $4.7 million annually.

First Responder Agencies

<u>*Division of Homeland Security and Emergency Services*</u>
The Executive Budget recommends merging agencies that are the first to respond to emergencies in the State to save $1.5 million. The agencies and boards would be merged into the Division of Homeland Security and Emergency Services are as follows: The Office of Homeland Security, State Emergency Management Office, the State 911 Board, the Office of Cyber Security and Critical Infrastructure Coordination and the Office of Fire Prevention and Control. The consolidated agency will award new grants from the cellular surcharge to county consortiums to assist in the development of regional interoperable communication networks for use by both state and local first responder agencies. In order to provide greater support to local first-responders, an improved statewide communication network and coordination among State and Federal Agencies and programs is envisioned. These agency consolidations will provide savings of $1.5 million.

Public Protection

The Executive Budget proposes to merge agencies and entities to improve coordination of policies and programs, and consolidate grant operations among agencies. The operations of the Crime Victims Board, Office for the Prevention of Domestic Violence, and Division of Probation and Correctional Alternatives will merge with the Division of Criminal Justice Services (DCJS). The agency missions will be coordinated and enhanced as specialized offices within DCJS. Currently, DCJS provides administrative support to these smaller agencies, and a full merger offers a more efficient and cost-effective environment for the delivery of programs and services. Overall, this action will produce efficiency savings of $1.9 million.

Taxation

The Executive Budget proposal would merge the Office of Real Property Services into the Department of Taxation and Finance to improve the coordination of property tax relief efforts. Estimated annual savings of $1.9 million would be realized by consolidating the facilities and services of these agency operations. This merger would result in shared administrative support to save $650,000.

Public Employee Relations

The Executive Budget recommendation would abolish the State Employment Relations Board

(SERB) and transfer its responsibilities to the Public Employment Board for full annual savings of $1.3 million.

Office of Welfare Inspector General

The Office of Welfare Inspector General would share administrative services with the Office of Medicaid Inspector General to achieve administrative efficiency and strengthen collaborative efforts to detect and control public benefits fraud.

Housing

NYHOMES and the Division of Housing and Community Renewal will remain separate entities, but will be consolidated under a single management structure that is expected to achieve efficiencies in administration, asset management and grant making. This is expected to generate annual savings of $3.5 million.

The Executive Budget also recommends ethics reforms. All ethics related functions would be consolidated into a single agency. A new Government Ethics Commission would oversee both the Executive and Legislative branches, and enforce laws governing ethics, lobbying and campaign finance.

Interagency Taskforce Elimination / Consolidation

The Executive has proposed stand alone Article VII Bill S.6613/A.9713 to eliminate merge and or redefine a number of state taskforces, workgroups and advisory councils. **See section three of this publication for more detail.**

THE NEW YORK STATE PUBLIC HIGHER EDUCATION EMPOWERMENT AND INNOVATION ACT

In June 2008, the Commission on Higher Education (the "Commission") submitted its Final Report of Findings and Recommendations to the Governor. The Commission recommended that the regulatory reforms enacted subsequent to the 1985 report of the Independent Commission on the Future of the State University of New York should be expanded in scope so that New York's public universities are better equipped to sustain themselves in an environment of declining State support, and better aligned with the innovative capacity enjoyed by peer public university systems and institutions in other states.

More specifically the Commission advanced the following recommendations:

__I. Expanding Research Capacity__ **A $3 Billion Empire State Innovation Fund** An Empire State Innovation Fund should be established to provide grants for research in the physical sciences, bioscience, engineering and medicine at public and private research universities located in the State.

- **Recruit 2,000 Full-time** Faculty to SUNY/CUNY, including 250 Eminent Scholars
- **Recruit 4,000 Doctoral Students to** SUNY/CUNY
- **Strengthen NYSTAR's** capacity to guide investment and interaction between businesses and academia
- **Encourage Scientific Collaboration** through Global Science Excellence Clusters.

__II. Connecting Faculty, Researchers and Students to a World of Ideas__

- **Expand Technological Infrastructure** access of NYSGRID, and the bandwidth of NYSERNet;
- **Provide Incentives** for Academic Libraries to Pool Electronic Information
- **Increase International Education** through efforts by the State's international trade offices and SUNY and CUNY to attract more international students and expand international research links.

__III. Developing a Diverse Workforce__

- **Workforce Training Alignment** responsibility should be assigned to a single entity to guide investment in the training and education capacity of New York State's colleges and universities, particularly community colleges;
- **Support the Role of Higher Education in Workforce Development**
- **Community Service** A statewide clearinghouse for community service programs should be established to connect students to service opportunities throughout the State;
- **Adapting Quickly to Change Expedite Program Review** The Board of Regents should review the process for program approval to develop mechanisms for expedited review.

IV. Making Excellence Available to All

- **Education Partnership Zones** New York State should create "Education Partnership Zones" in which institutions of higher education and schools collaborate on a full range of educational development including early learning and pre- kindergarten, elementary and adolescent literacy, math and science studies, restructuring of schools, and building teacher capacity;
- **College Readiness** High school students whose basic academic skills are insufficient must be offered a new opportunity to become college-ready while still enrolled in high school, at no cost to them.
- **Opportunity Programs for Educationally and Economically Disadvantaged** given their importance and long-standing track record of success, increased financial support should be provided for the opportunity programs for economically and academically disadvantaged citizens, including: College Discovery (CD) and Search for Education, Elevation and Knowledge (SEEK) at CUNY; Educational Opportunity Programs (EOP) at SUNY; and the independent sector's Higher Education Opportunity Program (HEOP);
- **SUNY and CUNY Articulation and Transfer** Presidents of the colleges must be held accountable for establishing mechanisms under which faculty, within each discipline and across sectors, strengthen course-to-course and program-to-program articulation with a goal of full system-wide articulation of comparable courses and seamless transfer of AA and AS students into parallel programs by 2011-12;
- **TAP and Fees** The Tuition Assistance Program award schedule should be modified to provide enhanced benefits for wards of the State, excluding incarcerated persons; independent students; graduate students; and students whose family adjusted gross income falls within the $40,000 to $60,000 range.
- **Low-Cost Student Loans** The State should establish a low-interest subsidized loan program.

V. Organizing for Excellence

- **SUNY Structure and Mission Differentiation** There should be significantly greater recognition of, support for and enforcement of campus strengths and specializations, at all levels of SUNY. In addition, to increase the focus on the development of SUNY's research capacity;
- **Regulatory Reform** Statutory change should be sought to lessen regulation in three areas. SUNY's Board of Trustees should have authority to lease SUNY property for purposes that support SUNY's mission without prior legislative approval, the SUNY Construction Fund should be granted necessary operational flexibility, and the procurement process for SUNY and CUNY should be streamlined;
- **SUNY System Administration** The Governor should call upon the Chair of the SUNY Board of Trustees and the Chancellor to commission an outside review of the structure and role of SUNY's System Administration to determine how it can best support and enhance the various SUNY sectors.

VI. Resources Required for Excellence

- **NYS Compact for Public Higher Education** Funding for SUNY and CUNY should be reformulated under the New York State Compact for Public Higher Education, involving government, institutions, alumni and friends, and students in a long-term partnership to ensure predictable future funding for both systems in support of academic excellence. The State should provide support for 100% of mandatory costs (for example, labor contracts, fringe benefits and energy) and 20% of the costs of financing the state-approved master plan investment program. The universities would fund the balance of investment plans through a combination of private philanthropy as a permanent source of revenue; reshaping base budgets to achieve greater efficiencies and redeploying existing resources to meet new master plan priorities; enrollment growth and a series of modest tuition increases, averaging 2.5% to 4%, with additional tuition revenue used for funding investments. Modest increases in tuition charges will not result in additional expense for the thousands of students who receive full Tuition Assistance Program awards;

- **Differential Tuition** SUNY and CUNY should be permitted to charge differential tuition rates by program and by campus, with implementation to occur in stages over three years. Initially, differential tuition rates could be set for nonresident students by program and by campus, and for resident and nonresident graduate students by program and by campus with differential tuition eventually authorized for all students by program and by campus;
- **Community College Finances** The State should provide funding for the required state and county funding obligation of 66.7% of each community college's budget up front, and bill the county for its mandated share. Local sponsors should be held accountable for their operational and capital budget obligations, and a county's persistent failure to reimburse the State at the 26.7% level or to match the State's capital appropriation should result in a proportional loss of seats on the community college's board of trustees. These seats would then be filled through gubernatorial appointment. In addition, the current funding model for SUNY community colleges should be revised to reward excellence and success by retaining per-FTE funding at a slightly lowered amount, and providing community colleges with additional funding for desired services and outcomes. Community colleges should be authorized to spend remaining state capital appropriations when the sponsoring county or counties has failed for two successive years to match the State's appropriation of capital for infrastructure projects;
- **Capital Reinvestment** The critical infrastructure maintenance backlog should be eliminated over the next 10 years to bring facilities into "good" repair. Ongoing needs should be calculated using a life cycle model based on the current replacement value (CRV);
- **Greening of CUNY and SUNY** CUNY and SUNY should act in four specific areas: attaining measurable energy efficiencies at campuses, specifying green design requirements, increasing use of renewable energy, and funding of research and development programs that focus on alternative, renewable and sustainable energy;
- **Layered Capital Financing** CUNY's and SUNY's capital plans should be altered to allow for multiple funding streams. Facilities renewal and adaptation, deferred maintenance and new basic educational facilities would continue to be completely funded through state-supported debt. There should also be cost-reduction improvements implementing greening or energy conservation/sustainability projects, where the improvements reduce energy consumption and related expenditures.

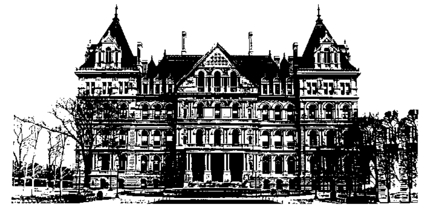
Some revenue-generating projects, such as residence halls, dining facilities, hospitals and student retail commons, can be fully self-supporting, and special educational and student support facilities such as recreational centers, student unions, specialized technology-intensive instructional infrastructure may align with campus fundraising efforts. For new research facilities, the appropriate ratio of state to non-state support could be determined by examining national standards for annual research expenditures. Finally, capital funding for new economic development capital projects could come from dedicated state economic development resources in coordination with state economic and workforce development strategies;

- **Capital Matching Program** State funding should be provided to match donations made to CUNY and SUNY for capital projects to assist campuses in raising funds, and the match program that currently exists for New York's private colleges should be completed. CUNY and SUNY should be afforded flexibility in allocating and setting differential matching rates to reflect varying campus mission, ability to raise private funds, as well as a range of project types.

Several of the Commission's recommendations are contained within the Governor's higher education reforms of 2010-11. The According to the Executive the New York State Public Higher Education Empowerment and Innovation Act would:

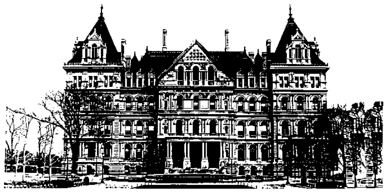
- Authorize the boards of trustees for SUNY and CUNY to implement a responsible and rational incremental tuition policy that would provide the universities with the discretion to raise tuition up to an annual cap of two and one half times the five-year rolling average of the Higher Education Price Index (HEPI);
- Authorize the SUNY and CUNY trustees to implement differential tuition rates for programs and campuses within their systems, based on the recommendation of the college president and in accordance with specific guidelines promulgated by the trustees;
- Allow SUNY and CUNY to receive and disburse revenues from tuition and self-supporting program activities without appropriation;
- Prescribe specific semi-annual reporting requirements on revenues and expenditures at a campus-specific level to ensure continued transparency and accountability;
- Ensure that all rights and benefits, including collective bargaining and terms of employment, are retained by employees of SUNY, CUNY and the State University Construction Fund (SUCF), and otherwise not impacted by the enhanced discretion that would be afforded by this bill;
- Authorizes the lease of real property under the jurisdiction of SUNY to other entities in support of its educational purpose, and the participation in public/private partnerships that would benefit SUNY's mission, subject to approval of a newly created State University Asset Maximization Review Board;
- Provide that lease agreements authorized pursuant to this legislation will be subject to Minority and Women-owned Business Enterprise (MWBE) provisions, prevailing wage rates, indemnification clauses, reverter clauses and project labor agreements;
- Allow for the State University Construction Fund (SUCF) to operate more autonomously in order to fulfill its mission of progressing SUNY's multi-year capital plan;

- Broaden the abilities of SUCF to implement capital projects through more efficient construction delivery methods, subject to procurement guidelines that must substantially conform to those applicable to existing public authorities
- Authorize the construction and financing by the Dormitory Authority of the State of New York (DASNY) of facilities for the benefit of SUNY by not-for-profit entities associated with the State University, provided that the associated projects are subject to prevailing wage, MWBE, and competitive process requirements;
- Authorize DASNY to rehabilitate, construct and finance dormitories on behalf of community colleges, which would be required to assume full financial responsibility for the cost of the projects;
- Allow SUNY to lease facilities within Albany County directly, rather than requiring the Office of General Services (OGS) to act on its behalf;
- Remove provisions of law subjecting SUNY and CUNY to pre-approval of contracts by the Office of the State Comptroller (OSC) in order to streamline the procurement of goods and services, while maintaining provisions requiring the post-audit of such contracts by OSC;
- Authorize SUNY affiliated auxiliary service corporations, campus-related foundations and other non-profit corporations to make purchases through the centralized contracts of OGS, but prohibits the resale of such commodities and services;
- Allow post-audit in lieu of pre-audit requirements for Attorney General approval of leases between SUNY and its alumni associations in support of dormitory projects; Allow SUCF and DASNY to utilize alternative construction delivery methods for applicable CUNY projects.
- Indemnify SUNY students who are enrolled in required clinical or other experiential programs as part of their course of study.
- Increase SUNY's and CUNY's master planning cycle with the Board of Regents from four years to eight years, consistent with the length of the planning cycle for independent colleges;
- Provide that medical, dental, and optometric residents and interns who provide services at the health-related facilities of SUNY may opt to participate in the State and Local Employees' Retirement System, but are not eligible to participate in the Optional Retirement Program or the Teachers' Retirement System;
- Allow State University hospital participation in managed care networks and other joint and cooperative health care arrangements without pre-approval from any State entity, and conform procurement guidelines of SUNY's health care facilities to those of the SUNY campuses, as prescribed in this bill;
- Require managed care programs to establish procedures to assure access to optometric services provided by licensed clinics of the College of Optometry of the State University;



SECTION THREE

SUMMARY OF ARTICLE VII LEGISLATION

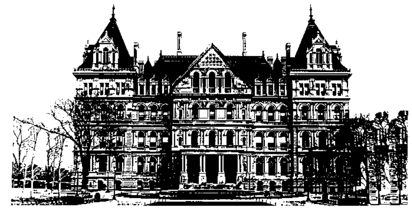


SCHEDULE FOR LEGISLATIVE REVIEW
OF THE 2010-11 EXECUTIVE BUDGET PROPOSAL

DATE	LOCATION	TIME	TOPIC
January 25	Hearing Room B	10:00 AM	Local Government
January 26	Hearing Room B	9:30 AM	Environmental Conservation
January 27	Hearing Room B	9:30 AM	Higher Education
February 1	Hearing Room B	9:30 AM	Economic Development
February 1	Hearing Room B	1:00 PM	Taxes
February 2	Hearing Room B	10:00 AM	Education
February 3	Hearing Room B	9:30 AM	Mental Health
February 3	Hearing Room B	1:00 PM	Housing
February 8	Hearing Room B	9:30 AM	Public Protection
February 8	Hearing Room B	1:00 PM	Transportation
February 9	Hearing Room B	10:00 AM	Health/Medicaid
February 10	Hearing Room B	9:30 AM	Workforce
February 10	Hearing Room B	12:00 PM	Human Services

Schedule as of January 23, 2010

APPENDIX



SUMMARY OF THE IMPLEMENTING BUDGET BILLS

This appendix contains a summary of the implementing legislation submitted with, and required to enact the SFY 2010-2011 Executive Budget. The Governor's presentation of implementing legislation this year is contained in nine separate bills. While this section provides a brief summary and highlights the fiscal impact for each bill, any questions or additional information on any of the provisions contained in these bills should be addressed to the appropriate Senate Finance Committee Analyst, Minority Conference Counsel or through reference to the Executive's more complete Memorandum in Support which provides additional detail.

2010-2011 Executive Budget Bills

Appropriation Bills

S.6600/A.9700 - Public Protection & General Government

S.6601/A.9701 - Legislative & Judiciary

S.6602/A.9702 - Debt Service

S.6603/A.9703 - Education, Labor & Family Assistance

S.6604/A.9704 - Health & Mental Hygiene

S.6605/A.9705 - Transportation, Ec. Development & Environmental Con.

S66.11/A.9711 - Deficiency

Article VII Bills

S.6606/A.9706 - Public Protection & General Government

S.6607/A.9707 - Education, Labor & Family Assistance

S.6608/A.9708 - Health & Mental Hygiene

S.6609/A.9709 - Transportation, Ec. Development & Environmental Con.

S.6610/A.9710 - Revenue

S.6612/A.9712 - Deficiency

S.6613/A.9713 - Task Force Eliminations

S.6614/A.9714 - Interagency Efficiency

S.6615/A.9715 - Ethics Reform

2010-11 NEW YORK STATE EXECUTIVE BUDGET PUBLIC PROTECTION AND GENERAL GOVERNMENT ARTICLE VII LEGISLATION S.6606/A.9706

Part A – Merger of Certain Criminal Justice Services Agencies Into the State Division of Criminal Justice Services.

Part A would consolidate the following criminal justice services entities under the umbrella of the State Division of Criminal Justice Services:

- The State Crime Victims Board;
- The Office for the Prevention of Domestic Violence; and
- The Division of Probation and Correctional Alternatives.

Each of these new offices would be headed by a director, who would oversee the activities of their office, and coordinate their program area. Each of these directors would report to the Commissioner of the Division of Criminal Justice Services.

Part A would also provide for the transfer of employees and records, continuity of authority, continuation of rules and regulations, and the transfer of assets and liabilities from the consolidated agencies to the Division of Criminal Justice Services.

It is estimated that Part A would produce savings of $1 million in 2010-11 and would expand to $1.9 million annually thereafter. These savings would be achieved through the elimination of positions providing duplicative functions.

Part B – Merger of Emergency Services Agencies Into the New State Division of Homeland Security and Emergency Services.

Part B would elevate the State Office of Homeland Security into a new Division of Homeland Security and Emergency Services (DHSES). Into this new division would be consolidated:

- The current Office of Homeland Security (presently a stand alone office);
- The State Emergency Management Office (SEMO);
- The State 911 Board;
- The Office of Interoperable Communications (newly established under this part);
- The Urban Search, Rescue and Incident Support Teams;
- The Office of Cyber Security and Critical Infrastructure Coordination (CSCIC); and;
- The Office of Fire Prevention and Control (OFPC).

Part B would further:

- Expand membership on the Disaster Preparedness Commission (DPC);
- Expand the definition of “disaster” under section 20 of the executive law to include terrorism, cyber event, or a nuclear, chemical, biological or bacteriological release;

- Repeat the term “man made disaster”, used in section 20 of the Executive Law since 1982, throughout the enabling section (§709 Executive Law) of the new Division of Homeland Security and Emergency Services;
- Expand gubernatorial powers in the use and deployment of disaster emergency response personnel;
- Establish a new statewide coordinator for enhanced 911 services and interoperable communications;
- Authorize the Statewide Public Safety Communications Account to be used to support the development of interoperable communications through local county consortiums;
- Create an intrastate mutual aid program; and
- Establish new fire safety standards for cigarettes.

The consolidation provisions of Part B would transfer the duties, functions, and responsibilities to DHSES and change references to the agencies or offices in current law to DHSES. These provisions would also establish rules concerning the transfer of employees, assets and funding from the respective agencies or offices to DHSES.

It is estimated that Part B would provide General Fund savings of approximately $16.5 million in 2010-11, including $1.5 million directly associated with the merger, and $15 million in support from cellular surcharge revenues for the new agency.

Part C – Change Administration of the Rape Crisis Program under the Division of Criminal Justice Services (DCJS) Instead of the Department of Health (DOH).

DOH presently oversees the Rape Crisis Program and Part C would transfer it to DCJS, authorizing DCJS to promulgate rules and regulations for the approval of rape crisis programs and certification of rape crisis counselors who complete approved training programs.

Part D – Relieve Local Probation Departments of Certain Mandates and Change the Method of Distributing State Probation Aid.

Specifically, Part D would:

- Reduce the number of pre-sentence investigations and reports by requiring them when the term of imprisonment is more than 180 days rather than the current 90 days;
- Require a presentence investigation and report for Youthful Offenders, (YO) only where the YO sentence imposed includes more than 180 days of imprisonment or probation;
- Imposes a duty on District Attorneys to set aside restitution orders if they do not include crime victims or are inadequate, and to file such judgments on out of county probationers transferred in;
- Expands the Probation Detainer Warrant Pilot Project from a four-county pilot program to have a Statewide reach; and
- Increase the ability of probation officers to respond more quickly and if necessary to detain sex offenders, violent sex offenders, domestic violence offenders, and those who fail to register as sex offenders who are alleged to have violated the conditions of probation and, now, those convicted of Criminal Contempt in the first degree or aggravated Criminal Contempt in connection with violating an order of protection, where the conduct underlying

the conviction is related to a sex offense, violent sex offense, family offense or failure to register as a sex offender.

Part E – Create a State Entity to Oversee the Delivery of Indigent Defense Services Statewide.

Part E would establish a State Office of Indigent Defense (Office), governed by a Board, within the Division of Criminal Justice Services Statewide and would consider and recommend measures to improve the delivery of such services.

The Office would be governed by a Board of nine stakeholders. The new Board would be led by the chief administrator of the courts with additional representatives appointed by the Governor after input from the houses of the Legislature, the New York State Association of Counties, the New York State Bar Association and the defense community. The Director of the Office would be appointed by the Governor. The Director would need to be an attorney admitted in New York State and have at least five years of professional experience in the area of indigent defense.

The duties of the Office include:

- Collecting, examining and analyzing information on the existing public defense systems in the counties;
- Identifying ways to improve the delivery of indigent defense services statewide, in partnership with counties; and
- Developing and preparing findings and making recommendation to the Board regarding the distribution of available State funds.

The Office could not act on implementing its recommendations without Board approval. The Board would have to power to accept, modify or reject recommendation by the State Office.

Part F would eliminate the existing formula for distributing funds to counties from the Indigent Legal Services Fund along with the associated Maintenance of Effort requirements. Funding would be distributed to counties, other than New York City, based on a new performance based grant program. The Board and Office would design this new grants program with the overall purpose that awarding of grants should be driven by performance standards for such legal defense. New York City would be capped at $40 million with the remaining funds distributed to counties based on recommendations made by the Indigent Defense Office and approved by the Board.

Part F – Authorize Counties to Create an Office of Conflict Defender as Part of a Plan to Provide Representation for Indigent Defendants.

Part F would authorize counties to create an office of conflict defender in order to provide representation to indigent defendants who qualify for representation by the public defender's office, but who cannot be represented by the public defender due to the public defender’s conflict of interest. Such conflict defender’s office would need to be independent of the public defender’s office and it would also authorize the appointment of a conflict defender who is duly licensed to practice law in the State of New York.

Part G – Expand the Number of Offenders That Must Submit a DNA Sample to the State.

Part G would require that all individuals convicted of a felony or misdemeanor defined in the Penal Law, adjudicated as a Youthful Offender or required to register as a sex offender must submit a DNA sample for the States DNA Databank. It would further clarify who would be responsible for the collection of DNA samples from designated offenders, those probation officers or sheriff's deputies monitoring such criminals, and would make it a class A misdemeanor for an individual to knowingly refuse to submit a required sample.

The SFY 2010-11 budget includes $400,000 for the estimated cost of implementing Part G. The full annual cost, beginning in 2011-12, would be $1.7 million

Part H – Establish a Program for Photo-Monitoring Enforcement of Speed Limits in Work Zones and Designated Stretches ff Highway.

Part H would establish a program for photo-monitoring enforcement of speed limits in work zones and designated stretches of highway by authorizing DCJS, the State Police and DOT to use automated photo-monitoring equipment to impose a monetary penalty on the registered owners of vehicles who exceed the posted speed limits in work zones and designated stretches of highways. Companies leasing vehicles would not be liable if they notify DMV within 30 days of the ticket. There would be a limit of 50 cameras, with 40 being placed in work zones and 10 on designated stretches of highways. Signs alerting motorists to the presence of photo-monitoring devices would be posted at least 300 yards in advance of the devices.

A $100 monetary penalty would be imposed upon the registered owner of the vehicle found to be in violation of the posted speed limit in work zones and a $50 monetary penalty would be imposed on those found to be in violation of the posted speed limit in designated stretches of highway. A registered owner found liable for a violation of the provisions of this bill would not be deemed convicted as an operator, and would not be assessed points against his or her driver's license, nor be subject to increased automobile insurance premiums. DCJS would establish a process to adjudicate this violation and DMV deny renewal or suspend the registration of owners who repeatedly fail to respond to a Notice of Violation or fail to pay the penalty.

It is estimated that Part H would generate approximately $25 million in net revenue in SFY 2010-11 and $71 million in SFY 2011-12.

Part I – Reduce the Board of Parole From 19 to 13 Members.

Part I would reduce the maximum number of members of the Board of Parole from 19 to 13 and a member's term from six years to five years. Current members who have served five years or more of their current term of office would see their term expire on the effective date. All other current members would serve no more than five years of their current term, except that such members would continue to discharge their duties until a successor is chosen and confirmed.

It is estimated that Part I would save $600,000 annually.

Part J – Allow Greater Flexibility in the Administration of Local Jails by Altering Segregation Rules for Certain Inmates, Authorizing Broader Use of Video Conferencing, Authorizing Men and Women to Share Infirmaries, and Permitting Voluntary Inmate Work at Not-For-Profit Corporations.

Part J would eliminate mandates that restrict the flexibility of county jail administrators and by provide options for the development of further efficiencies.

Specifically, Part J would:

- Allow jail administrators to house inmates who are 19, 20 and 21 years of age with the general population;
- Allow a judge in any criminal case to dispense with the need for a personal appearance by a defendant (except for an appearance at a hearing or trial or a plea or sentence in circumstances set forth in Criminal Procedure Law § 182.30), allowing defendant to appear electronically via videoconferencing;
- Authorize the State Commission of Correction to adopt rules and regulations to permit male and female inmates in local jails to share the same infirmaries when certain precautions are in place; and
- Allow inmates to leave a facility under guard to perform work for a non-for-profit organization, thus removing any ambiguity, and conform the law to a recent change to the State Constitution allowing prisoners to perform volunteer work for a non-profit organization.

Part K – Authorize Increases to Judiciary Civil Fees to Support Indigent Legal Services for Both Criminal and Civil Matters and for the Rising Costs of Court Operations.

Specifically Part K would:

- Increase the index number fee, which is paid when a case is first filed in Supreme Court, from $165 to $215;
- Increase the motion and cross-motion fees for Supreme Court; from $45 to $120;
- Increase the motion and cross-motion fees for Appellate Courts from $45 to $120; and
- Increases the first paper fee in City, District and New York City Civil Court from $45 to $60.

The Executive' Proposed budget seeks to use this fee revenue as follows:

- $15 million to fund civil legal Services;
- $10 million to reform the indigent defense system and provide additional grant support to local defense services; and
- $16 million for the Court Facilities Incentive Aid Program (CFIA), which provides reimbursement to local governments for court cleaning and minor repairs among other expenses.

Part L – Provide Additional Flexibility for Towns and Villages to Consolidate Justice Courts and Their Facilities.

Part L would allow municipalities to share court facilities upon the election of a single town justice in two or more towns, as provided for by Uniform Justice Court Act § 106-b, or pursuant to an inter-municipal agreement.

Part M – Require the Judiciary to Provide a Public Accounting of the Expected Impact on Local Governments of Any New or Expanded Program Mandated by its Rules and Regulations.

Part M would require the Chief Judge of the Court of Appeals or the Chief Administrative Judge to make a public accounting of the expected impact on local governments of any rule or regulation issued by the Judiciary that mandates a new service or an increased level of service. The public accounting must include the fiscal impact of such mandate, a cost-benefit analysis, documentation of input sought and received from the affected local government, and any proposed source of revenue to fund such mandate.

Part N – Enable Local Governments to Finance Costs Associated With the Development of Public Safety Communications Systems Through the Municipal Bond Bank Agency.

This Part would authorize municipalities to utilize pooled financing through the Municipal Bond Bank Agency (MBBA) to finance the development of regional communications networks. Bonds issued under this mechanism would be capped at $1 billion, and local governments are permitted to re-finance bonds previously issued to support development of public safety communications systems within this cap.

Any debt issued under this mechanism would not be a debt of the State, but rather the responsibility of the municipality. In an instance in which a municipality fails to make a required debt service payment, its State aid would be intercepted to make the payment. Separate legislation advanced with the Budget permits the new Division of Homeland Security and Emergency Services to fund up to thirty percent of the costs borne by a municipality associated with the issuance of bonds under this mechanism as part of annual grants they may make to the municipality.

Part O – Abolish the State Employment Relations Board, (SERB) and Shift its Responsibilities to the Public Employment Relations Board, (PERB).

Part O would amend the Civil Service Law, the Labor Law and the Executive Law to abolish SERB and shift its responsibilities related to the private sector and the Indian Nations to PERB. PERB would have the responsibility for assisting both the public and private sectors in resolving labor disputes.

Part O would also allow for special mediators to be appointed by PERB to have the authority and power of members of the board to act on specific matters.

It is estimated that Part O would result in an annual savings of $1,200,000.

Part P – Repeal the Requirement that Contractors Collect a Fee on Sales From Centralized Contracts Administered by the Office of General Services.

Part P would repeal the requirement that contractors include a surcharge of one-half of one percent on the purchase price charged to entities (State agencies, local governments, public authorities, not-for-profits and school districts) utilizing centralized contracts..

Part Q – Collect Surplus Funds From Workers' Compensation Insurance Carriers.

Part Q would require workers compensation insurance carriers to remit to the Workers' Compensation Board any New York State Assessment Surcharge funds, as defined by the New York State Compensation Insurance Rating Board, collected from policyholders attributable to State Fiscal Year 2008-09 in excess of amounts billed to the insurance carriers by the Workers' Compensation Board during State Fiscal Year 2008-09.

It is estimated $23.6 million would be remitted to the Worker's Compensation Board as a result of Part Q and then subsequently transferred to the General Fund.

Part R – Protect Injured Workers' Benefits and Ensure that Employers Who Participate in Self-Insured Groups and Group Administrators Fully Meet Their Future Fiscal Responsibilities.

The Workers' Compensation Law permits employers to insure their workers' compensation obligations by purchasing a policy from a private carrier, the State Insurance Fund, or to self-insure via a Group Self Insured Trust, (GSIT). In the past numerous GSITs have defaulted, and the Workers' Compensation Board, (Board), has taken over their operation. This has resulted in the billing of trust members for hundreds of millions of dollars; imposition of substantial assessments on healthy self-insurers; the commencement of substantial litigation; and the closing of numerous additional GSITs.

Chapter 139 of the Laws of 2008 allows the Board to engage in limited borrowing of money from the Uninsured Employers Fund (UEF) to make payments to these claimants and offset assessments. That borrowing authority has expired, however, and the amount which may be borrowed substantially exhausted.

Part R would extend the provisions of Chapter 139 to allow the Board to borrow additional funds from the UEF, up to a maximum total borrowing of $75 million. It would also authorize the Board to enforce judgments against the former members of an insolvent GSIT who have failed to pay their lawful workers' compensation obligations, in addition to commencing collection actions against them and clarify that records pertaining to the insolvent GSIT become the property of the Board.

Part R would also amend the Insurance Law to allow individual self-insurers or group self-insurers to purchase an insurance product and transfer its long term workers' compensation obligations to an authorized workers' compensation carrier

Part S – Establish Joint Appointing Authority for the Statewide Financial System Project.
Part S would create and define the Joint State Financial System Project and allow for the appointment of employees to this project by the Division of the Budget and the Office of the State Comptroller. It would also set forth that the titles in this project shall be treated as if they were a department for purposes of appointment and promotion under Civil Service Law, granting appropriate rights to the employees.

It is estimated that Part S will generate savings of $24 million.

Part T – Provide the New York State Health Insurance Program the Option to Operate as a Self-Insured Plan.

Part T would authorize, but not require New York State to self-insure for a variety of employee health benefits. Allows the state to contract with third party administrators to administer such a self insured plan.

Part U – Require State Employees and Retirees to Contribute to Medicare Part B Premiums.

Part U would recognize Medicare Part B premium costs as an appropriate cost of the Empire Plan and HMO employee/retiree health coverage. The State would continue the current practice of fully reimbursing <u>retirees</u> through pension payments for Medicare Part B premiums deducted from social security checks, ($96 a month for an annual cost of $138 million).

Under Part U, both employees and retirees would pay a portion of Medicare Part B premiums (i.e., 10 percent for individual coverage and 25 percent for dependent coverage) consistent with the longstanding arrangement for Empire Plan health insurance premiums.

By blending the Medicare Part B premium costs into the much larger Empire Plan and HMO premium calculations, approximately 14 percent of the costs would be recouped from both State employees and retirees. Employee/retiree health insurance contributions will increase by approximately $30 a year for individual coverage and $85 a year for family coverage.

It is estimated that Part U will save the State $30 million in SFY 2010-11.

Part V – Provide the State and Local Governments Outside of New York City the Option to Amortize a Portion of Pension Contribution Costs During a Six Year Period, in Order to Provide Substantial Financial Relief.

Specifically, Part V would:

- Permit the State and participating employers to amortize that portion of their New York State and Local Employee Retirement System, (ERS) and New York State and Local Police and Fire Retirement System, (PFRS) contribution costs that exceed:
    - 9.5 percent and 17.5 percent of salary, respectively, in 2010-11;
    - 10.5 percent and 18.5 percent of salary in 2011-12;
    - 11.5 percent and 19.5 percent of salary in 2012-13;
    - 12.5 percent and 20.5 percent of salary in 2013-14;

    - 13.5 percent and 21.5 percent of salary in 2014-15; and
    - 14.5 percent and 22.5 percent of salary in 2015-16.
- Establish that such amount eligible for amortization may be amortized over a 10-year period at a fixed rate of interest to be determined by the Comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, with the first annual installment of the amount eligible for amortization due in the fiscal year ending on March 31, 2012.
- Permit the Comptroller to allow for the pre-payment of the remaining balance of the amortized amounts.

Part V would require a minimum annual contribution from the State and every ERS and PFRS participating employer equal to 5.5 percent of salary or the required annual contribution, whichever is greater.

It is estimated that the State would save approximately $217 million in the General Fund in SFY 2010-11 by amortizing the full amount permitted by Part V.

In State fiscal years 2010-11 through 2015-16 the State and all local governments outside of New York City would save up to an estimated $3.4 billion and $6.4 billion, respectively, net of repayments. However, these governments would have to pay additional pension contributions in later years in order to make interest payments on the pension contributions amortized pursuant to this Part.

Part W - Merge the State Board of Real Property Services and the State Office of Real Property Services into the Department of Tax and Finance.

Part W would discontinue the State Board of Real Property Services and the State Office of Real Property Services (ORPS) and transfer their functions to a newly-created Office of Real Property Tax Services within the Department of Taxation and Finance.

The State Board's power to review and determine complaints regarding State equalization rates, special franchise assessments and other matters would be transferred to the Tax Appeals Tribunal, or in the case of local disciplinary actions, to the State Civil Service Commission.

Part X - Electronic Reporting of Property Information

Part X would provide that taxpayers be notified annually, in a timely and cost-effective manner, of their expected property assessments for the coming tax cycle, and what those assessments represent in terms of market value. It would also authorize the electronic submission of real property transfer report data to the Office of Real Property Services (ORPS), and permit ORPS and the Department of Taxation and Finance (DTF) to combine their respective programs for the collection of data relating to real property transfers.

Part Y - Assess Real Property at Full Value

Part Y would require that to receive aid, an assessing unit would have to adopt a multiyear plan of at least four years that calls for a full value reassessment to be completed in the first and last years of the plan. Up to $5 per parcel would be paid for successful completion of each reassessment conducted in accordance with the plan, and up to $2 per parcel will be paid in the interim years.

This level of funding reflects a $1.35 million reduction in available appropriation from the 2009-10 Enacted Budget, consistent with savings enacted in the 2009-10 Deficit Reduction Plan

Part Z - AIM Program

Part Z would amend State Finance Law §54 to authorize reductions in Aid and Incentives for Municipalities ("AIM") funding to cities, towns and villages targeted based on each municipality's AIM reliance (i.e., their SFY 2008-09 AIM funding as a percentage of 2008 total revenues).

Part AA – Reduce State Aid Provided to Municipalities in Which A Video Lottery Gaming Facility is Located.

Currently the state provides aid for the City of Yonkers and 15 other local governments in which a video lottery gaming facility is located, to offset excess burdens incurred by communities where these facilities currently operate.

For State Fiscal Years (SFY) 2007-2008 the payment was equal to 3½ percent of the "estimated net machine income" generated by a video lottery gaming facility located in such eligible city – not to exceed $20 million per eligible city, and for SFY 2009-2010 the payment was equal to the state aid payment made in 2008. The same amount is scheduled to be paid this year and each SFY thereafter.

Part AA would reduce those payments for SFY 2010-11 and thereafter at 90 percent of the amounts paid in SFY 2009-10. This 10 percent reduction in aid is expected to save the state $2.6 million annually beginning in SFY 2010-11.

Part BB – Four-Year Moratorium on New Unfunded Legislative Mandates on Local Governments and School Districts.

Part BB would enact a four-year moratorium, on any new unfunded statutory mandates. It would also require fiscal notes for legislation impacting all local governments and school districts. Local governments would include a county, city, town, village or special district. It would also prohibit the enactment of legislation that would:

- Require a local government or school district to undertake a new program;
- Increase the level of service for an existing program; or
- Increase the value of any property tax exemption.

To qualify for the moratorium, such proposal must have an annual cost to one such government or district of more than $10,000, or a total impact of more than $1 million statewide.

This ban would be subject to certain exceptions, including:

- An act required by court order or judgment;
- An act which is optional or permissive for the local government or district;
- An act which results from a home rule message request;
- An act to implement a federal law;
- An act which is imposed upon both governmental and non governmental entities alike;
- An act which repeals or revises a state law to ease an existing mandate; or
- An act to protect against an immediate threat to public health or safety.

Part BB would also require that any bill that would substantially affect the revenues or expenses, or both, of any political subdivision, shall contain a fiscal note stating the estimated annual cost to the political subdivision affected, and the source of such estimate.

Part CC – Repeal the Multiple Bidding Requirements for Schools.

Currently, the Wicks Law requires school districts to solicit and receive separate bids for plumbing, ventilation, electric and other construction work on public works projects over $3 million in New York City, $1.5 million in Westchester, Nassau and Suffolk Counties, and $500,000 in the rest of the state. Part CC would permit school districts to use a single contractor for such public works projects.

Specifically, Part CC would:
- Amend the General Municipal Law to exempt school districts from the Wicks Law;
- Amend the Education Law to exempt New York City Educational Construction Fund projects and the City of Yonkers Educational Construction Fund projects from the Wicks Law; and
- Amend the Public Authorities Law and Chapter 738 of the Laws of 1988 to make the New York City School Construction Authority's exemption from the Wicks Law permanent.

Part DD - Set the Interest Rates on Judgments to Market Rates

Part DD would set the interest paid on judgments by local governments, the State and certain public corporations at the weekly average one year constant maturity treasury yield, capped at 9 percent. This is the same standard used by the federal government.

It is estimated that Part DD would generate $2.6 million in savings to the State and $1.5 million in savings to New York City as well as additional savings to other local governments

Part EE – Provide Local Governments With Additional Flexibility to Restructure and Share Services.

Specifically, Part EE would:

- Amend the Agriculture and Markets Law to allow multiple counties to share one Director of Weights and Measures pursuant to an inter-municipal agreement;
- Amend the Town Law to establish an administrative mechanism to permit fire companies and fire districts to elect additional non-resident members, while considering the impact of such membership on adjacent companies/districts; and
- Amend the Real Property Tax Law to allow a county to enter into a cooperative agreement with any city, town, village or school district therein, under which the county treasurer will serve as the local government's tax collecting officer.

Part FF – Increase Procurement Flexibility for Local Governments and the State.

Specifically, Part FF would:

- Increase the competitive bidding thresholds for public works contracts from $35,000 to $50,000 and commodities contracts from $10,000 to $20,000, while clarifying the existing rule against artificially dividing a contract to avoid the competitive bidding requirements;
- Allow local governments to require that bids be submitted in an electronic format;
- Provide for submitting the statement of non-collusion electronically;
- Allow local governments to hold reverse auctions;
- Allow local governments to award contracts based on "best value";
- Allow local governments to "piggyback" on certain federal GSA contracts as well as the contracts let by other states and local governments;
- Provide local governments with the option of advertising for bids in the Contract Reporter instead of their official newspaper; and
- Increase from $50,000 to $100,000 the threshold under which short form construction contracts (using abbreviated advertising and not requiring a performance bond) may be issued.

Part GG – Provide Additional Oversight and Accountability for Commissioner-Run Special Districts.

Specifically, Part GG would:

- Amend the Town Law to prohibit special district commissioners ("district commissioners") from receiving compensation for their services;
- Transfer to town boards most of management responsibilities for town special districts providing sanitary, refuse, or garbage services, but would allow elected district commissioners to continue to hold referenda on whether the level of services provided to district residents should be changed;
- Amend the Town Law to re-establish a process for a town board or citizens to abolish the offices of town improvement district commissioners; and
- Restore the process to abolish commissioner offices and modifies it to reflect the new petition process contained in the Reorganization Act.

Part HH – Provide Local Governments With Additional Revenue Options.

Specifically, Part HH would:

- Allow local police departments to charge up to the same fees for certain services as the State Police;
- Permit local governments to make deposits in credit unions, savings banks and savings and loan associations;
- Amend the General Municipal Law to permit local governments other than the City of New York to charge fees for ambulance services, including emergency medical services, provided by their fire departments or fire companies;
- Authorize municipalities, at local option, to charge for the provision of additional police protection to paid-admission events; and
- Amend the General City Law and the Village Law to increase the maximum rate at which cities and villages are authorized to impose local gross receipts taxes on utilities from 1 percent to 3 percent.

Part II – Allow the New York City Transitional Finance Authority to Issue Qualified School Construction Bonds as Sinking Fund Bonds.

The Federal ARRA provided New York City and other municipalities and school districts with the ability to issue tax credit bonds for financing school construction or renovation projects. The bond issuer has no payable interest on these bonds as the bond holder receives a Federal income tax credit in a specified amount. However, Local Finance Law (LFL) requires a municipality in the State to amortize a bond sooner than would otherwise be required by the ARRA.

Part II would amend Public Authorities Law to allow New York City to issue QSCBs as sinking fund bonds through the TFA, which would allow the City to make deposits into a sinking fund for future payment on the bond. This would fulfill amortization requirements in LFL and allow the City to maximize the full benefit of Federal ARRA bonds.

Part JJ – Provide Authorization for Transfers, Temporary Loans and Amend Miscellaneous Capital/Debt Provisions, Including Bond Caps.

Specifically, Part JJ would:

- Authorize various temporary loans, fund sweeps and transfers necessary to implement the SFY 2010-11 fiscal plan;
- Authorize the Comptroller to deposit reimbursements for certain capital spending from multiple appropriations contained in various chapters of the laws of 2000 through 2010 into various funds, including the Capital Projects Fund;
- Authorize the Comptroller to deposit bond- financed funds in the Capital Projects Fund;
- Amend the State Finance Law (SFL) § 72(4) to authorize a set-aside of monies in the General Debt Service Fund, to ensure that scheduled debt service payments are made on time in the event of further General Fund cash flow difficulties;
- Amend SFL § 68-b(8) to extend the ability of the DASNY and the Empire State Development Corporation (ESDC) to issue Personal Income Tax (PIT) Revenue Bonds for any authorized purposes;

- Amend § 51 of part RR of chapter 57 of the laws of 2008, to make permanent provisions in existing law relating to the treatment of refundings with variable rate obligations or swaps;
- Amend SFL § 68-a(2) to extend the authorization to issue mental health bonds under the PIT credit structure;
- Amend SFL §§ 57(4) and 60 to remove the 100.5 percent cap on new money and refunded General Obligation (GO) bonds and change the notice period for a change in terms of sale from one day to one hour before pricing;
- Create a new SFL § 73 to authorize the Comptroller to deposit federal interest subsidy payments received by the State for Build America Bonds, into specific debt service funds;
- Make a technical amendment to Public Authorities Law (PAL) § 1680-m(2) so that the program definition ("cultural education facilities and the St. Regis Mohawk elementary school") contained in PAL § 1680-m(2) (which authorizes a financing agreement for the program) would be consistent with the program definition in PAL § 1680-m(1) (which authorizes the bonds for the program);
- Amend PAL § 1689-i(4) to clarify the ability of DASNY to issue bonds for the library facilities program;
- Amend PAL § 3234(5) to change the current unanimous vote requirement for action by the Local Government Assistance Corporation (LGAC), to a majority vote;
- Amend PAL §§ 1689-i(6) and 1689-i(8) to allow bonding for EXCEL projects in advance of certification by the State Education Department (SED);
- Create a new SFL § 67-c to consolidate all State-supported bond authorizations – current, amended or newly proposed – into a single statute to allow for greater transparency and consistency; and
- Sunset all prior State-supported bonding authorizations, which will now be governed by the provisions of section 46 of this bill, as of April1, 2010.

Similar legislation is enacted annually to authorize the transfer of funds budgeted in the Financial Plan (such transfers do not have permanent statutory authorization), and to provide for other transactions necessary to maintain a balanced Plan. In addition, the SFL requires statutory authorization for funds and accounts to receive temporary loans from the State Treasury. Similar provisions were enacted to implement the SFY 2009-10 Budget, and they must be extended to implement the SFY 2010-11 Budget.

2010-11 NEW YORK STATE EXECUTIVE BUDGET EDUCATION, LABOR AND FAMILY ASSISTANCE ARTICLE VII LEGISLATION S.6607/A.9707

Part A – Amend the Education Law to Provide A One-Year Reduction in School Aid, Adjust the Planned Phase-In of Foundation Aid Beginning in the 2011-12 School Year, and Make Other Changes Necessary to Implement the Executive Budget.

Gap Elimination Adjustment: This Part would provide a Gap Elimination Adjustment (GEA) formula consistent with the core principles of School Aid. This recommendation applies a one-time $1.4 billion GEA comprised of a $2.1 billion reduction in State General Fund support, partially offset by the use of the remaining balance of $726 million of New York's American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund - Education Fund award. The GEA reduces School Aid on a per pupil basis, adjusted for each school district's wealth, student need, administrative efficiency, and residential property tax burden. The GEA would be applied against formula-based School Aid, excluding Building Aid and Universal Pre-Kindergarten.

Maintain Formula Aid Categories at Current levels: In order to provide necessary out-year savings, this bill would extend existing statutory provisions for one additional year – until 2011-12 – for selected formulas. Specifically, State support funding for various programs that provide operating support to school districts would be continued at current levels. Additionally, Education Law would be modified to adjust the phase-in schedule for Foundation Aid so it would be fully phased-in 2016-17.

Contract for Excellence: This Part would amend the Education Law to modify Contract for Excellence requirements, in recognition of the fiscal circumstances facing the State and the suspension of increases in Foundation Aid. School districts currently in the program would be required to continue in the program with a reduced financial liability unless all school buildings in a school district are reported as "In Good Standing" for purposes of the State accountability system. School districts that remain in the program would be required to maintain funding on existing Contract for Excellence programs less the percentage reduction of the Gap Elimination Adjustment.

Establish State Education Department Regulatory Review Process: This Part would amend the Education Law requiring the State Education Department to implement a regulatory review process similar to Executive Order No. 17 (the mandate review process imposed on executive state agencies), which is intended to prevent the imposition of unfunded mandates on school districts. This would include preparation of local fiscal impact statements on all new regulations and a review of existing regulations to eliminate unnecessary mandates.

Claiming Limits: This Part would amend the Education Law to limit State liabilities for School Aid to those that result from data and claims on file with the State Education Department by the statutory deadline for the production of the data set used for development of the Executive Budget.

Regional Student Transportation: This Part would amend the Education Law to allow school districts to reduce expenses by contracting with other entities, including other school districts, counties and municipalities to provide more efficient student transportation. School districts would also be authorized to partner on school bus maintenance.

Contingency Budget Calculation: This Part would amend the Education Law to prevent mandatory negative spending growth for school districts that are operating under a contingency budget by limiting the spending cap calculation to no less than the previous year's spending levels. The current statutory provisions for the calculation of the contingency budget cap do not account for a period of deflation.

School District Charter School Payments: Consistent with limiting Foundation Aid to 2009-10 levels, this Part would amend the Education Law to maintain charter school payments made by school districts for children attending charter schools to the current per pupil levels for the 2010-11 school year. Chapter 57 of the laws of 2009 initiated a one year freeze on these per pupil charter school payments. This would extend that freeze for one additional year.

Roosevelt Union Free School District: This Part would reduce the academic grant to the school district by $6 million for the 2010-11 and the 2011-12 school year.

Access to Employee Benefit Accrued Liability Reserve Funds: This Part would amend the Education Law to authorize school districts' governing boards to withdraw excess funds in an employee benefits accrued liability reserve fund in order to maintain educational programming during the 2010-11 school year. The amount withdrawn could not exceed the Gap Elimination Adjustment for a school district. The State Comptroller would be required to certify that funds withdrawn are in excess of the amount required for employee benefits which are a liability against the fund.

Summer School Special Education: This Part would amend the Education Law to change State reimbursement to school districts for summer school special education costs from a flat rate of 70 percent for all districts to the Foundation Aid State Sharing Ratio for each district, starting with the 2010-11 school year.

Preschool Special Education: This Part would amend the Education Law to limit the growth in the county share of costs for preschool special education to two percent per year beginning with the 2010-11 school year and to assign any growth above two percent to the school district of residence. This bill would also amend Education Law to encourage school districts' Committees on Preschool Special Education to recommend suitable and least restrictive placements at providers closest to a child's home. This bill would also require the State Education Department to respond to local audits of preschool special education providers within three months.

Special Education Rates: This Part would require the Commissioner of Education to identify school districts with high rates of identified special education students and provide technical assistance to improve school district practices.

Library Aid: This Part would amend the Education Law to continue supplemental aid to public, school and research library systems in the 2010-11 fiscal year using the same formula as in 2009-10. The bill would also continue to hold recipients of library aid harmless from reductions to aid they received in the 2001-02 fiscal year, except for the proportionate reduction needed to limit the State's obligation to the amount appropriated for the program.

Part B – Enact School District Paperwork Reduction and Mandate Reform.

Part B would streamline certain local school district reporting requirements by the State Education Department. It would also eliminate duplicative and outdated reports that are no longer used by the State Education Department.

Part C – Modernize the Nomenclature for Special Education Aid Formulas.

Part C would amend subdivisions 4, 5-a, and 8 of § 3602; subdivisions 2 and 3 of § 3609-b, and subdivisions 6 and 7 of § 4401 of the Education Law to Public High Cost Excess Cost Aid, Private Excess Cost Aid, and Supplemental Public Excess Cost Aid as *Public High Cost Special Education Aid, Private Special Education Aid, and Supplemental Public Special Education Aid,* respectively.

Part D - Require the New York State Theatre Institute, (NYSTI) and the Empire State Plaza Performing Arts Center Corporation, (Egg) to become self-supporting.

Part D would permit another agency to assist NYSTI with processing payroll (currently, the State University of New York at Albany provides administrative support to NYSTI) and it would also require NYSTI to become self-supporting. Since NYSTI would no longer receive direct State funding, it would relieve NYSTI of the requirement to submit an annual budget request. Part D would not alter the constitution or governance structure of NYSTI.

Similarly, Part D would require the Egg to be self-supporting and would eliminate the requirement that they submit an annual budget request.

It is estimated that Part D would generate $2.1 million in related 2010-11 Financial Plan savings and $3.6 million in SFY 2011-12 savings.

Part E – Enact the New York State Public Higher Education Empowerment and Innovation Act.

Part E would enact the New York State Public Higher Education Empowerment and Innovation Act for State University of New York (SUNY) and the City University of New York (CUNY) which would:

- Authorize the boards of trustees for SUNY and CUNY to implement an incremental tuition policy with the discretion to raise tuition up to an annual cap of two and one half times the five-year rolling average of the Higher Education Price Index (HEPI). The trustees could implement differential tuition rates for programs and campuses within their systems, based on the recommendation of the college president and in accordance with specific guidelines promulgated by the trustees. Requires out of state enrollment maximum percentages be adopted;
- Allow SUNY and CUNY to receive and disburse revenues from tuition and self-supporting program activities without appropriation;
- Prescribe specific semi-annual reporting requirements on revenues and expenditures at a campus-specific level;
- Provide that all rights and benefits, including collective bargaining and terms of employment, are retained by employees of SUNY, CUNY and the State University Construction Fund (SUCF);
- Authorize the lease of real property up to 50 years under the jurisdiction of SUNY to other entities in support of its educational purpose, and the participation in public/private partnerships that would benefit SUNY's mission, subject to approval of a newly created State University Asset Maximization Review Board consisting of three voting members appointed (one each) by the Governor, President pro tem of the Senate and the Speaker of the Assembly;
- Provide that lease agreements in excess of $20 million authorized pursuant to this legislation be subject to Minority and Women-owned Business Enterprise (MWBE) provisions, prevailing wage rates, indemnification clauses, reverter clauses and project labor agreements;
- Allow the State University Construction Fund (SUCF) to implement capital projects through more construction delivery methods, subject to procurement guidelines that must substantially conform to those applicable to existing public authorities;
- Authorize the construction and financing by the Dormitory Authority of the State of New York (DASNY) of facilities for the benefit of SUNY by not-for-profit entities associated with the State University, provided that the associated projects are subject to prevailing wage, MWBE, and competitive process requirements;
- Authorize DASNY to rehabilitate, construct and finance dormitories on behalf of community colleges, which would be required to assume full financial responsibility for the cost of the projects;
- Allow SUNY to lease facilities within Albany County directly, rather than requiring the Office of General Services (OGS) to act on its behalf;
- Remove provisions of law subjecting SUNY and CUNY for pre-approval of contracts by the Office of the State Comptroller (OSC) for the procurement of goods and services, while maintaining provisions requiring the post-audit of such contracts by OSC;

- Authorize SUNY affiliated auxiliary service corporations, campus-related foundations and other non-profit corporations to make purchases through the centralized contracts of OGS, but prohibits the resale of such commodities and services;
- Allow post-audit in lieu of pre-audit requirements for Attorney General approval of leases between SUNY and its alumni associations in support of dormitory projects;
- Allow CUCF and DASNY to utilize alternative construction delivery methods for applicable CUNY projects;
- Indemnify SUNY students who are enrolled in required clinical or other experiential programs as part of their course of study;
- Increase SUNY's and CUNY's master planning cycle with the Board of Regents from four years to eight years, consistent with the length of the planning cycle for independent colleges;
- Provide that medical, dental, and optometric residents and interns who provide services at the health-related facilities of SUNY may opt to participate in the State and Local Employees' Retirement System, but are not eligible to participate in the Optional Retirement Program or the Teachers' Retirement System;
- Allow State University hospital participation in managed care networks and other joint and cooperative health care arrangements without pre-approval from any State entity, and conform procurement guidelines of SUNY's health care facilities to those of the SUNY campuses; and
- Require managed care programs to establish procedures to assure access to optometric services provided by licensed clinics of the College of Optometry of the State University.

Part F – Increase Academic Standards for Non-Remedial Tuition Assistance Program Recipients.

Part F would increase the minimum requirement of TAP recipients, (other than remedial students) to earn 15 credits and a grade point average (GPA) of 1.8 by the end of their second semester, (current minimum is 9 credits and a 1.2 GPA after the second semester). The GPA would increase to a 2.0 GPA by the end of the program and the credit requirements would similarly increase during the course of study.

Part F would generate savings of $5.9 million in SFY 2010-11 and $8.4 million annually thereafter.

Part G – Amend the Eligibility Requirements for the Tuition Assistance Program (TAP) as it Relates to Students in Default on Certain Student Loans.

Part G would eliminate TAP eligibility for all students who are in default on any New York State or Federal student loan, regardless of whether or not the loan is guaranteed by HESC.

Part G would generate savings of $2.9 million in SFY 2010-11 and $4.1 million annually thereafter.

Part H – Eliminate Tuition Assistance Program Eligibility for Graduate Students.

Part G would eliminate Tuition Assistance Program (TAP) eligibility for graduate students and would generate $2.1 million in savings in SFY 2010-11 and $3 million annually thereafter.

Part I – Place Financially Independent Students Under Age 22 and Married Students With no Children on New Tuition Assistance Program Award Schedules.

Part I would place financially independent students under age 22 and married students with no children on new Tuition Assistance Program (TAP) award schedules. Financially independent students under age 22 with no dependents would be placed on a more generous TAP award schedule. Married students with no children would be placed on a less generous TAP award schedule.

Part I would generate savings of $1.3 million in SFY 2010-11 and $1.9 million thereafter.

Part J – Reduce the Maximum Tuition Assistance Program (TAP) Award for Students Matriculated in Certain Two-Year Degree Programs to $4,000.

Part J would reduce the maximum Tuition Assistance Program (TAP) award for students matriculated in two-year degree programs which do not offer a program of study that leads to a baccalaureate degree from $5,000 to $4,000. The minimum award would remain at $500.

Part J would generate savings of $19.6 million in SFY 2010-11 and $28.0 million thereafter.

Part K – Provide Tuition Assistance Program Awards to Students Attending Certain Institutions Not Under the State Education Department's Direct Supervision.

Part K would amend the statutory prohibition against providing TAP to otherwise income-eligible students at certain specialized three year not-for-profit higher education institutions not under the direct supervision of SED that are based in the State, accredited by an agency recognized by the U.S. Secretary of Education whose students who are eligible to receive Pell grants.

Part K would require additional State costs of approximately $13 million in SFY 2010-11 and $18 million annually thereafter.

Part L – Reduce Tuition Assistance Program Awards by $75.00.

Part L would reduce the Tuition Assistance Program (TAP) awards for all recipients by $75 beginning in 2010-11. Awards would generally range from $425 to $4,925 and the amount would be reduced proportionally by semester, trimester or other term of attendance during the academic year.

Part L would generate savings of $16.5 million in SFY 2010-11 and $23.6 million annually thereafter.

Part M – Include All Private Pension and Annuity Income in Tuition Assistance Program Eligibility Determinations.

Part M would provide that the calculation of income for purposes of the Tuition Assistance Program (TAP) would include the private pension income which is presently excluded from taxable income (up to $20,000). The 2009-10 Enacted Budget required the inclusion of all public pension income for purposes of calculating TAP, but failed to include the excludable income from private pensions.

Part M would generate savings of $1.4 million in SFY 2010-11 and $2.0 million annually thereafter.

Part N – Extend the Patricia K. McGee Nursing Faculty Scholarship and the Nursing Faculty Loan Forgiveness Incentive Programs Until 2015.

Part N would extend the expiration date of the Patricia K. McGee Nursing Faculty Scholarship and the Nursing Faculty Loan Forgiveness Incentive programs from June 30, 2010 to June 30, 2015.

Part O – Extend the Regents Physician Loan Forgiveness Program Until the End of the 2010-11 Academic Year.

Part O would extend the Regents Physician Loan Forgiveness Program to retroactively award loan forgiveness awards in 2009-10 and sunset after awards are given for the 2010-11 academic year. Part O would take effect immediately and would be deemed to have been in full force and effect on the same date and in the same manner as part I of chapter 57 of the laws of 2008.

Part P – Amend the Education Law to Eliminate Certain State Sponsored Merit Scholarship Programs Beginning in Academic Year 2010-11.

Part P would eliminate new scholarship awards for the Scholarships for Academic Excellence program and the Math and Science Teaching Incentive Program in the 2010-11 Academic Year and thereafter.

Part P would generate savings of approximately $4.7 million in SFY 2010-11 and $14.1 million annually thereafter.

Part Q – Amend the Education Law in Relation to Community College Chargeback Provisions.

Part Q would equalize the ability of State University of New York's, (SUNY) Community Colleges and SUNY Fashion Institute of Technology's (FIT) authority to charge an amount sufficient to cover a non-resident student's allocable portion of the local sponsor's share of operating costs, (chargeback) and would only apply to non-resident, (outside of New York City) students enrolled in two year programs of study leading to an Associate Degree. FIT would no longer be able to 'chargeback' for students in programs of study beyond an Associate Degree.

Part Q is estimated to generate a combined savings of $9 million for various counties.

Part R – Extend Current Social Worker and Mental Health Professional Licensing Exemptions For the Department of Mental Hygiene, (OMH), the Office of Children and Family Services, (CFS), and Local Government Programs.

Part R would extend the sunset of the exemptions granted in Chapters 420 (Licensed Master Social Worker & Licensed Clinical Social Worker) and 676 (Mental Health Practitioners) of the Laws of 2002, relating to the utilization of licensed social workers, psychologists and other mental health professionals in OMH, CFS, and local government programs from June 1, 2010 to June 1, 2014.

Part R would allow the State to avoid costs preliminarily projected at $62 million per year, and allow voluntary providers to avoid costs of $227 million per year.

Part S – Amend Various Provisions of Law in Relation to the New York Higher Education Loan Program (NYHELPs).

Specifically, Part S would:

- Treat NYHELPs student loan interest deductions the same as other student loan interest deductions;
- Allow for certain forbearances as described to credit rating agencies and bondholders, and allow for the inclusion of additional forbearance and deferments in the future through HESC regulations;
- Authorize payment of certain discharged debt from the applicable default reserve fund;
- Require applicants for professional licenses to report whether they are in default on a NYHELPs loan, when reporting other defaults or non-payments to the State Education Department;
- Require that cosigners, as well as borrowers, successfully complete the NYHELPs financial literacy course prior to receiving a NYHELPs loan;
- Clarify the definition of an eligible college;
- Conform provisions for the garnishment of wages with federal law;
- Clarify requirements that a student who is enrolled, or accepted for enrollment, would be eligible for a death or disability discharge, and further authorize discharges for borrowers who die while on active military duty, payable from the applicable default reserve fund;
- Exempt HESC and SONYMA from the provisions of any local or municipal law in connection with any activities performed under NYHELPs;
- Require borrowers and cosigners to electronically sign loan documents required under NYHELPs;
- Clarify that an otherwise eligible borrower or cosigner will be deemed ineligible for a loan if the student for whom the loan is sought is in default on another education loan; and
- Permit HESC to receive data from the Department of Taxation and Finance in connection with delinquent, as well as defaulted, NYHELPs loans.

Part T – Make Technical Corrections With Regard to the District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program.

Part T would make technical corrections to the District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program regarding residency requirements. It makes technical corrections to ensure that recipients are State residents and "grandfathers" the eligibility of certain district attorneys who met the eligibility requirements prior to a change in the statute last year.

Part U – Expand Investment Choices for the Optional Retirement Program to Include Corporations That Manage or Invest in Mutual Funds.

Part U would provide SUNY with the option of expanding investment choices for its Optional Retirement Program (ORP) employees to include mutual funds offered either directly by investment companies registered with the Securities and Exchange Commission or by its third party distributors. In addition to expanding employee choice, Part U would provide ORP investment managers at SUNY with the same investment options available to the State Comptroller, who manages the retirement investments of most State and local public employees.

Current law limits investment options for SUNY employees enrolled in the ORP to those provided by corporations subject to the State Insurance Department's supervision.

Part V – Eliminate the STAR Exemption Benefit for Properties Having an Equalized Value of $1.5 Million or More.

Part V would eliminate the STAR exemption benefit for the homes with equalized value of $1.5 million and above and is estimated that Part V would generate $30 million in State savings in SFY 2010-11.

Part W – Lower the STAR "Floor" From 89 Percent to 82 Percent.

Part W would change the "floor" adjustment that limits possible annual reductions in STAR exemption amounts from 11 percent to 18 percent and is estimated to produce State savings of $40 million in SFY 2010-11.

Part X – Restructure NYC Personal Income Tax STAR by Limiting the Tax Rate Reduction Benefit to the First $250,000 of Income.

Part X would cap the tax rate reduction benefit for taxpayers with incomes above $250,000 and would generate State savings totaling $143 million in SFY 2010-11.

Part Y – Enable the Use of an Electronic Benefit Transfer System for the Foster Care and Adoption Programs.

Part Y would clarify that foster care payments may be made through an electronic benefit transfer system (direct deposit or debit cards), and provide Office of Children and Family Services (OCFS) with the flexibility to allow for new payment methods as they become available and to regulate such use.

Part Z – Create the Kinship Guardianship Assistance Program.

Part Z would authorize a relative who becomes the legal guardian of an eligible foster child to receive assistance. To be eligible, the child must be in foster care for at least six consecutive months with the prospective relative guardian and the local social services district (district) must make a determination that returning home and being adopted are not appropriate permanency options.

The guardian would be eligible for payments until the child reaches the age of 18; or if the child was older than 16 prior to placement and is completing secondary education or the equivalent, employed for at least 80 hours per month, or medically incapable of such - until the child reaches the age of 21. The guardian would be eligible for a non-reoccurring payment of up to $2,000 to assist in obtaining legal guardianship of the child. This program would be funded through the Foster Care Block Grant, and is designed to be compliant with federal law to enable the State to receive federal funding for Title IV-E eligible children.

Part AA – Allow for Court-Ordered Child Protective Investigations Only in Those Instances in Which There is Reasonable Cause to Suspect Child Abuse or Neglect.

Part AA would require reasonable cause to suspect child abuse or neglect as a prerequisite for a court ordered investigation, and subject court-ordered investigations to the same timeframes as established in statute for child protective services investigations.

Part BB – Authorize Appearances by Electronic Means in Family Court Proceedings.

Part BB would allow appearances in family court via electronic communication, such as by telephone or videoconference, from a designated family court or another acceptable location, upon application and court approval for proceedings related to:

- Juvenile delinquents;
- Termination of parental rights;
- Persons in need of supervision (PINS);
- Abuse and neglect; and
- Permanency hearings.

A court would be authorized to permit electronic appearances when:

- The individual resides in a county other than that of the family court where the case is pending;
- The individual will be incarcerated on the court date;
- The court determines that it would be an undue hardship for the individual to attend or testify at the court;
- All parties agree to the use of electronic appearances; or
- For other good cause.

Electronic appearances by incarcerated parents in termination of parental rights fact-finding hearings would require additional findings.

Part BB would also provide a tool for local governments to achieve efficiencies and manage costs within available resources. For example, a court could permit a psychiatrist or other professional in an abuse and neglect or juvenile delinquency proceeding to testify via videoconferencing in appropriate cases, saving the State or local government travel expenses, and staff time or fees.

Part BB would generate estimated State savings of $201,000 in SFY 2010-11, annualizing to $345,000 in 2011-12.

Part CC – Clarify the Scope and Fiscal Responsibility Associated With the Safe Harbour for Exploited Children Act.

In 2008, the Safe Harbour for Exploited Children Act (the Act) was enacted to define sexually exploited children, change the way these children are treated in the criminal justice system, and establish short and long-term housing opportunities exclusively for sexually exploited youth.

Specifically, Part CC would:

- Exclude children of familial sex abuse from the definition of a "sexually exploited child" (another service structure already exists for these children);
- Clarify that a long-term safe house may be operated by a Transitional Independent Living Support Program;
- Provide – unless compelling circumstances exist - notification to parents, guardians and custodians of their child's physical and emotional condition as well as the circumstances surrounding the child's presence in the program within 24 to 72 hours of admission - other than pursuant to a court order - of a sexually exploited child;
- Clarify that the responsibilities of the Office of Children and Family Services, (CFS) and districts to provide for safe houses and other services for sexually exploited children are limited to the extent that funds have been made available specifically for that purpose; and
- Require, in certain circumstances, that a child charged as a juvenile delinquent for an act of prostitution or loitering for prostitution be considered a sexually exploited child for purposes determining which type of petition is appropriate.

The 2010-11 Executive Budget includes a $3 million appropriation for the operation of a long term safe house for sexually exploited children.

Part DD – Authorize the Deduction and Transfer of Payments to Child Care Unions From Certain Child Care Providers.

Part DD would authorize child care unions to receive fair share payments from represented home-based child care providers who choose not to be members of their union. Providers could choose to have returned the portion of any fair share payment related to activities or causes of a political or ideological nature only incidentally related to being a provider.

For providers who receive payment from a social services district on behalf of one or more families receiving subsidized child care services, the social services district would deduct the amount of the fair share payment from the child care subsidy funds and transmit the payment to the union.

The unions would be responsible for paying for the necessary technological changes and for providing the State with information about the providers who are to make fair share payments in a format designated by the State**.**

Part EE – Reduce Mandates on Local Social Services Districts by Streamlining County Planning Requirements.

Specifically, Part EE would:

- Extend the planning cycle to five years consistent with Federal requirements;
- Allow districts to report on updates to their plans as necessary to describe any significant changes;
- Eliminate the requirement for annual implementation reports;
- Provide more flexibility for public participation in the planning process; and
- Eliminate unnecessary information from plans, so that requirements are more consistent with federal and other State statutory requirements.

Part EE is expected to provide mandate relief to districts to operate State-funded programs within available resources.

Part FF – Clarify the State's Authority to Withhold Payments to Districts for Past Due Youth Facility Reimbursement.

Part FF would allow the Office of Children and Family Services, (CFS) to withhold amounts owed to districts for CFS's programs (i.e. detention and foster care) when a district is more than 60 days behind in reimbursing OCFS its share of youth facility costs. In addition, Part FF would allow CFS – subject to the approval of the director of the budget and certification to the Chairs of the Senate Finance and Assembly Ways and Means Committees - to modify facility rates based on changes in federal reimbursement.

Part GG – Modify The Scheduled Public Assistance Grant Increase.

The monthly public assistance benefit is comprised of a shelter and non-shelter portion. The shelter portion varies based on family composition and county of residence. The non-shelter portion is a fixed amount comprised of a basic allowance, a home energy allowance and a supplemental home energy allowance.

The SFY 2009-10 adopted budget enacted a Public Assistance Grant increase of ten percent each year over a three year period. The first increase was implemented in July 2009 and raised the non-shelter portion of the grant from $291 to $321 for the average public assistance household. The second and third ten percent increases are scheduled for July 2010 and July 2011.

Part GG would reduce the planned 2010 and 2011 increases to the non-shelter portion of the public assistance grant from ten percent to five percent and would provide for five percent increases for two additional years.

Part GG is projected to produce approximately $14 million in General Fund savings in SFY 2010-11.

Part HH – Authorize the Supplemental Security Income Federal Cost-of-Living Adjustment Pass-Through.

Part HH would set forth the actual dollar amounts of the 2010 Personal Needs Allowance, (PNA) and the standard of need for eligibility and payment of additional State payments. It would also authorize those amounts to be automatically increased in 2011 by the percentage of any federal SSI COLA which becomes effective within the first half of calendar year 2011.

Part II – Authorize the State to Administer Additional State Payments for Supplemental Security Income (SSI) Recipients and Other Eligible Individuals.

Part II would authorize the Office of Temporary and Disability Assistance (OTDA) to administer additional State payments, either directly or through State supervision of a fiscal agent. Currently the federal Social Security Administration (SSA) administers New York's additional State payments and charges a fee for each check issued on the State's behalf. The fee is currently set at $10.45 and total administrative costs are projected to be $84 million in SFY 2010-11.

Part II would require an initial State investment of approximately $1 million in SFY 2010-11 as well as costs associated with systems development and administration of the program in future years. However, it is estimated that the State would realize recurring savings of over $60 million annually after this proposal is fully implemented.

Part JJ – Transfer the Administration of the Nutrition Outreach and Public Education Program From the Department of Health (DOH) to the Office of Temporary Disability Assistance, OTDA.

Part JJ would transfer the Nutritional Outreach and Public Education program from the DOH to OTDA, which currently administers the Food Stamp program. Thereafter, the two programs would be aligned under the administration of OTDA.

Part KK – Authorize the Office of Temporary and Disability Assistance to Access Wage Reporting Data.

Part KK would authorize the transfer of wage reporting information from the Department of Taxation and Finance to OTDA concerning former recipients of public assistance for a period of three years and six months after the closure of the recipient's public assistance case for the purpose of determining the eligibility of former recipients for transitional benefits such as child care. The information would not be used for any other purpose such as recovering public assistance previously provided.

2010-11 NEW YORK STATE EXECUTIVE BUDGET
HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION
S.6608/A.9708

Part A - Improve Public Health Services and Achieve Savings by Modifying the Early Intervention and Elderly Pharmaceutical Insurance Coverage Programs; Consolidating Programs With Similar Purposes, Eliminating Programs Which are Less Central to the Core Missions of the Department Of Health (DOH) and the State Office For The Aging; and Implementing Various Other Changes.

Specifically, Part A would:

- Require Early Intervention (EI) service providers, who receive more than $500,000 in annual Medicaid revenue for EI services, to seek reimbursement for services directly from Medicaid before applying for payment from municipalities. Current language requires providers in general to seek third party payment, and the municipality would be deemed the provider for the purposes of seeking Medicaid reimbursement;
- Prohibit insurance companies from denying certain medical claims for services provided under the EI program in cases where they could otherwise be denied due to:
  - prior authorization requirements;
  - the location where services are provided;
  - the duration of the insured's condition;
  - the likelihood of significant improvement in the insured's condition; or
  - the network status of the service provider;
- Require the Commissioner of DOH to set payment rates for EI services through regulation;
- Establish a sliding scale parental fee for EI services based on Federal Poverty Level (FPL) guidelines;
- Require that EI parental fees would be paid on a quarterly basis;
- Cap the EI parental fee at the quarterly fee charged for parents who have three children receiving EI services;
- Add a new section to the State Finance Law (SFL) that would establish the EI Program Account to collect revenue from the new EI parental fee;
- Consolidate several specific cancer programs and authorize the Commissioner of DOH to make grants without consulting with the Breast Cancer Detection and Education Program Advisory Council which would effectively be eliminated;
- Eliminate the "New York State Innovation in Breast Cancer Early Detection and Research Awards program;"
- Eliminate the Quality Incentive Payment Program (QUIP);
- Eliminate funding for the EnAble program (grants for air conditioners for residents in adult homes, enriched housing programs and residences) and would reallocate such funds for a new quality improvement program for adult homes;
- Eliminate the Congregate Services Initiative Program;
- Eliminate funding for the development of Comprehensive Care Centers for Eating Disorders;

- Consolidate breast, cervical, colorectal, prostate, testicular, skin, and ovarian cancer, shaken baby syndrome and reflex sympathetic dystrophy into the current list of health care matters in the Health Care and Wellness Education and Outreach Program for which the Commissioner of DOH may conduct education and outreach programs and would also eliminate the individual education and outreach programs for these health issues;
- Provide a technical correction to language enacted in the 2009-10 budget to require DOH to inspect hotels, boarding houses and temporary residences when inspections do not otherwise occur under the State Uniform Fire Prevention and Building Code;
- Eliminate the Public and Private Umbilical Cord Blood Banking Program;
- Make various changes to the Elderly Pharmaceutical Insurance Coverage program (EPIC) including:
  - Eliminate coverage for drugs that are covered by Medicare Part D but are not covered by an individual's Part D plan (also known as the "drug wrap");
  - Require all Medicare Advantage members to enroll in Medicare Part D drug coverage as a condition of eligibility for the EPIC program;
- Clarify that activities contained in a municipal health services plan for which state reimbursement may be available under the General Public Health Works program, include a municipality's efforts to assure that public health nuisances are abated by responsible parties. In other words, state reimbursement will not be made to municipalities for the performance of abatement by municipalities that should have been completed by the responsible party;
- Stipulate that municipalities must comply with a DOH request for reports and records related to a death, including autopsy and toxicology reports, within three days;
- Change the deadline for the Commissioner of DOH to submit an annual report on Hospital Acquired Infections from May 1st to September 1st;
- Require physicians to register and maintain an account with DOH's health provider network or to provide DOH with an e-mail address (allows DOH to disseminate information quickly and more cost effectively; current cost for a mailing is approximately $29,000);
- Authorize DOH to release certain cardiac data collected from hospitals for use in research projects and set conditions under which the data may be released and allow DOH to charge a fee; and
- Authorize DOH to develop and issue regulations related to developing a Statewide Health Information Network of New York (SHIN-NY), in conformance with federal stimulus requirements and to enable widespread interoperability among health information systems.

Part B - Reform Medicaid Reimbursement to Hospitals and Achieve Cost Savings; Increase Assessment On Hospital Inpatient Services; Extend Health Care Reform Act Surcharges to Certain Physician Services; Reduce Pharmacy Costs; and, Authorize Other Cost Containment Initiatives.

Specifically, Part B would:

- Eliminate the trend factor for calendar year 2010 (projected at 1.7 percent) for general hospitals, nursing homes (excluding pediatric nursing homes), and home and personal care providers. The first quarter of the trend was eliminated in the 2009-10 Deficit Reduction Plan. Trend is the annual increase in Medicaid reimbursement rates and is tied to inflation;

- Increases the Gross Receipts Tax (GRT) on hospitals from 0.35 percent to 0.75 percent;
- Limits the number of potentially preventable readmissions to hospitals by requiring the Commissioner of DOH to develop statewide quality benchmarks;
- Reduces Indirect Medical Education (IME) reimbursements to hospitals;
- Reinvest savings to increase obstetrical access and quality;
- Support an increase in the Doctors Across New York programs and supplement other hospital costs by increasing the statewide reimbursement base;
- Reduce payments to hospitals for indigent care and implements a new methodology for reimbursement;
- Accelerate the update of Disproportionate Share Hospital (DSH) base year payments;
- Reduce the public notice requirements for the Pharmacy and Therapeutics Committee (P&TC) from 30 days to 5 days;
- Eliminate "wrap around" coverage for drugs that are covered by Medicare Part D for dual eligible individuals;
- Eliminate the HIV Specialty Pharmacy designation;
- Authorize reimbursement to pharmacists who administer vaccinations within their scope of practice.
- Expand the HCRA surcharge of 9.63 percent (also known as the hospital patient services assessment) to ambulatory surgical and radiological procedures;
- Eliminate the HCRA funding for the Disease Management Demonstration program, Long Term Care Education and Outreach programs, Roswell Park Cancer Institute Anti-Tobacco, and reduce funding for the Infertility program and the Red Cross by 50 percent;
- Consolidate Regional Poison Control Centers from five to two (one upstate, one downstate).
- Expand the definition of "estate" to allow Medicaid recoveries from assets that could otherwise be sheltered by bypassing the probate process;
- Require that all pre-need funeral accounts established by, or for the benefit of, a Medicaid recipient be deemed irrevocable trusts, including those established for family members and would allow Medicaid recoveries similar to estate recoveries;
- Authorize DOH to manage non-emergency Medicaid reimbursed transportation through a no-bid contract with an external organization;
- Conform to federal 2009 Child Health Insurance Reauthorization Act by adding medically necessary orthodontia to the Child Health Plus (CHP) benefit package and requiring proof of citizenship for participation in the program;
- Clarify the roles of DOH and the Department of Taxation and Finance with regard to the verification of income information for purposes of CHP and Medicaid eligibility and would also require this information to be outlined in a cooperative agreement between the agencies as well as to include income verification provisions for the Early Intervention Program;
- Establish "express lane" eligibility for CHP and Medicaid consistent with new Federal guidelines;
- Establish co-payments for the Family Health Plus Buy-In program for employees of businesses and Taft Hartley funds;
- Enact Pharmaceutical gift ban legislation similar to the industry's self-imposed voluntary gift ban;

- Expand from five to 10 the number of general hospitals that may operate Transitional Care Units (TCUs) as part of a demonstration program and extend the program by five years;
- Increase civil penalties for first-time and repeat offenders who commit Medicaid fraud;
- Stipulate that, if Medicaid is disallowed to a social services district by the federal government because the district failed to properly administer, supervise or operate the Medicaid program, the State may recover the disallowance;
- Establish a HCRA surcharge/assessment amnesty period and allow the Commissioner to enter into audit settlements;
- Authorize certain financially distressed hospitals, (Southside, Wyckoff, NY Downtown and Brookdale), whose debt is secured by the State to refinance outstanding debt;
- Allow Medicaid recipients to attest to the amount of interest income they earn if it is not likely to have an impact on their eligibility status and would require that, in the event any inconsistency is discovered, adequate documentation would be provided to DOH to support their attestation;
- Allow Medicaid recipients, except for long term care recipients to simply attest to their income and residency at renewal;
- Amend Social Services Law to conform with the Federal American Recovery and Reinvestment Act (ARRA) by making changes to the transitional medical assistance program;
- Authorize DOH to contract, without a competitive bid or request for proposal, with one or more firms for the purpose of conducting audits of DSH payments and audits of hospital cost reports from 2005 and 2006;
- Extend the selective contracting demonstration program for an additional five years and expand the program to outpatient services; and
- Allow professionals affiliated with programs certified by specified entities to serve as diabetes educators.

Part C - Reform Medicaid Reimbursement of Long Term Care (LTC) Services and Achieve Other Cost Savings, Establish Utilization Controls for Personal Care Services; and, Increase Assessments for Nursing Homes and Home and Personal Care Providers.

Specifically, Part C would:

- Place a two-year cap on the aggregate increase in nursing home reimbursement rates processed as a result of rate appeals;
- Authorize DOH to prioritize rate appeals for facilities facing financial hardship and negotiate settlements of multiple appeals;
- Limit bed hold days for nursing homes of up to 14 days for a hospitalized resident and up to 10 days for a resident on a therapeutic leave of absence and would reduce provider reimbursement for bed holds to 95 percent (from 100 percent). Excludes pediatric nursing homes;
- Increase the nursing home Gross Receipts Tax, (GRT) by 1 percent non-reimbursable (total assessment moves from 6 percent to 7 percent with the current 6 percent assessment Medicaid reimbursable);

- Extend nursing home rebasing payments until February 28, 2011. Fifty million of the rebasing funds will be set aside for the implementation of a quality incentive pool and $13 million will be set aside for implementing regional pricing which is delayed until March 1, 2011;
- Carve out Medicaid prescription drug pharmacy costs from the nursing home reimbursement rate and allow for such costs to be reimbursed on a fee-for-service basis;
- Raise the GRT to 0.7% from 0.35% on personal care providers, certified home health care agencies (CHHAs), long term home health care programs (LTHHCPs) and licensed home care services agencies (LHCSAs);
- Provide that once delinquent assessments have been referred to the Office of the Attorney General for collection, they will be deemed final and not subject to further revision;
- Include notice requirements that must be afforded providers;
- Cap personal care and consumer directed personal care services to 12 hours per day (360 hours per month) except for certain situations of medical necessity and would re-direct individuals who require service hours above the cap to alternative settings such as Nursing Home Transition and Diversion;
- Implement a new episodic pricing methodology for home care beginning January I, 2011
- Extend the time period for LTHHCP reassessments from 120 days to 180 days;
- Require DOH to establish procedures that would allow LTHHCPs, and providers of other services covered by federal waivers, to collaborate on case management services;
- Increase penalties for LHCSAs that fail to file required annual reports;
- Require DOH to seek federal approval of a demonstration program to achieve savings and efficiencies in serving individuals who are eligible for both Medicaid and Medicare;
- Create a Long Term Care financing demonstration program similar in concept to the Long Term Care Partnership, but not an insurance program
- Authorize County Long Term Care Financing demonstration programs to operate in up to five counties to encourage transforming county nursing home beds into other less costly community based long term care options;
- Authorize the study of Assisted Living Program (ALPs) reimbursement rates to explore more effective methodologies;
- Expand the Voluntary Nursing Home Rightsizing program (established in 2005) to authorize the conversion of an additional 2,500 nursing home beds to other long term care options;
- Move the rates setting responsibility for Managed Long Term Care services from the State Insurance Department (SID) to DOH; and
- Makes technical corrections to equity withdrawal requirements for nursing homes.

Part D - Authorize the State Insurance Department (SID) to Approve Health Insurance Premium Rate Adjustments Before They Take Effect.

Specifically, Part D would:

- Provide that no premium rate adjustments to community rated health insurance policy forms issued by commercial insurers may take effect on or after October 1, 2010 without SID's prior approval;

- Allow SID to modify or disapprove a premium rate adjustment filing if the Superintendent of SID finds that the premiums are unreasonable, excessive, inadequate or unfairly discriminatory;
- Allow the Superintendent to consider the financial condition of the insurer in his consideration for approval;
- Require the expected minimum loss ratio (MLR) to be increased to at least 85 percent (it is currently 75 percent);
- Allow the Superintendent to direct the insurer to take corrective action if the expected loss ratio is not met;
- Require insurers to provide advance written notice to policy holders of both the proposed rate adjustment and the final approved premium rate; and
- Require a public hearing on a rate adjustment request of more than 10 percent.

Part E - Clarify the Role of Facility Directors as Representative Payees and the Use of Federal Entitlement Benefits in Accordance With Federal Laws and Regulations.

Part E would clarify that facility directors of State-operated facilities may continue to act as representative payees for patients, consistent with all applicable federal laws and regulations. It would also clarify that federal and State benefits received by directors acting as representative payees are not subject to the $5,000 limit set in Mental Hygiene Law on funds or property that may be held by facility directors and: that patients would still receive their separate personal needs allowance; OMH would still fund a discharge reserve account; and the $5,000 limit would still apply to monies received other than such benefits.

Part F - Eliminate the Requirement That the Office of Mental Health (OMH) Issue a Discreet Report on the Provision of Mental Health Services to Traditionally Underserved Populations.

Part F would eliminate the requirement that the OMH submit a report on unmet mental health needs.

Part G - Authorize Electronic Appearances in Proceedings Conducted Under the Sex Offender Management and Treatment Act.

Part G would authorize respondents or witnesses under compelling circumstances or under determination of good cause to appear by video teleconference under the Sex Offender Management and Treatment Act.

Part H - Extend Community Mental Health Support and Workforce Reinvestment Program and Reduce and Convert Inpatient Wards Operated by OMH.

Part H would authorize the closure or restructuring of inpatient capacity in OMH adult psychiatric facilities and the reconfiguration staff resources, including redirecting resources into new State-operated Transitional Placement Programs. It would further extend the community mental health support and workforce reinvestment program for an additional year and remove associated statutory reporting requirements.

Part I - Amend Unconsolidated Law to Clarify OMH's Existing Authority to Recover Exempt Income for Community Residences and Family Based Treatment Programs.

Part I would clarify OMH's authority with regard to the recovery of exempt income from community residence and family based treatment programs which is consistent with conditions of contractual agreements between such programs and OMH. Exempt income is Medicaid income received in excess of budgeted amounts set forth in the fiscal plans of OMH providers' operating residential programs.

Part J - Amend the Mental Hygiene Law in Relation to Payments Made by the OMH and the Office of Mental Retardation and Developmental Disabilities (OMRDD) to Family Care Homes.

Part J would eliminate the current limits on payments and authorize the Commissioners of the OMH and OMRDD to set the amounts paid for clothing, personal needs, and recreation and cultural activities for individuals living in family care homes. Increases the number of days for respite services allowed per year, from 10 to 14 days.

Part K - Ensure Quality Care in Detoxification Units.

Part K would require the Office of Alcoholism and Substance Abuse Services (OASAS) certification of chemical dependence crisis services if a hospital or other Article 28 facility provides 2,000 patient days per year, or more than 10 percent of total patient days per year, of such services.

Part L - Transfer the Alcohol and Drug Rehabilitation Program from the Department of Motor Vehicles (DMV) to the Office of Alcohol and Substance Abuse Services (OASAS).

Part L would transfer oversight of the Alcohol and Drug Rehabilitation Program (known as the Drinking Driver Program or DDP) from DMV to OASAS.

Part M - Eliminate Enriched Funding for Mental Hygiene Services in the Five Unified Services Counties.

Part M would eliminate references to the Unified Services system thus eliminate enhanced funding for unified service to Rensselaer, Rockland, Warren, Washington, and Westchester counties.

Part N - Establish a One-Year Deferral of the Human Services Cost-of-Living Adjustment.

Part N would defer the Human Services Cost-of-Living Adjustment (COLA) for 2010-11 and would extend the adjustment for an additional year, through March 31, 2014.

2010-11 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION
ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION
S.6609/A.9709

Part A – Provide the Annual Authorization for the CHIPS and Marchiselli Programs.

Part A would authorize the CHIPS and Marchiselli capital aid programs to counties, cities, towns and villages for State Fiscal Year 2010-11 to be funded at $363.1 million and $39.7 million respectively for a total of $402.8 million. There would be no change in the funding level from the 2009-10 fiscal year.

Part B – Consolidate the Department of Transportation's Accident Damage Account with the Dedicated Highway and Bridge Trust Fund.

Part B would consolidate highway and bridge maintenance activities, for which both funds are used, within the Dedicated Highway and Bridge Trust Fund. During this transition, $750,000 of recurring budget savings associated with reduced maintenance activities would accrue to the Trust Fund. The Accident Damage Account, administratively created, would be administratively abolished by the Department of Transportation.

Additional Trust Fund revenues would also help the Trust Fund continue to meet its debt service coverage ratio, which is necessary for the Trust Fund to issue additional bonds to finance transportation projects.

Existing Highway Law allows the Department of Transportation to collect penalties derived from highway and bridge accidents that occur on State infrastructure, in amounts sufficient to allow the State to repair its infrastructure. This proposal modifies Highway Law to deposit revenues derived from accidents into the Dedicated Highway and Bridge Trust Fund. Sections 2 and 3 modify State Finance Law to deposit revenues derived from accidents into the Dedicated Highway and Bridge Trust Fund.

Part C – Establish a Waiver Process so that Transit Systems and State Agencies and Authorities That Operate Diesel Vehicles, and Those That Operate Diesel Vehicles On Their Behalf, Do Not Have to Install Pollution Devices On Older Vehicles if Those Vehicles Will Be Retired Within 3 Years.

Under Environmental Conservation Law heavy duty diesel vehicles that are owned by, operated by or on behalf of, or leased by a State agency or a State or regional public authority with more than half of its governing board appointed by the Governor, must utilize the best available technology for reducing the emission of pollutants. All vehicles that are not already factory-equipped with emission-filtering technology must be retrofitted with this technology according to the following schedule: 33 percent of vehicles by 2008, 66 percent by 2009 and 100 percent by 2010.

Part C would amend Environmental Conservation Law to require DEC to issue a waiver for a vehicle that will be taken out of service by December 31, 2013. It is estimated that this would save transit systems and DOT $36 million and $1.4 million respectively in SFY 2010-11.

Part D – Eliminate the Ability of an Industrial Development Agency to Grant an Exemption on the Additional Portion of the Mortgage Recording Tax That is Dedicated to Transit Systems.

Under current law, IDAs are authorized to extend their tax exemption status to projects they are financing. A portion of the Mortgage Recording Tax called the Additional Tax is dedicated to transit systems. This Additional Mortgage Recording Tax is 30 cents per $100 of mortgage in the Metropolitan Commuter Transportation District (MCTD) in which the Metropolitan Transportation Authority (MTA) operates, and 25 cents per $100 of mortgage in all other counties served by transit systems.

Part D would amend the Tax Law to eliminate the ability of IDAs to provide this exemption on the "additional" portion of the Mortgage Recording Tax and could generate $20 million in annual revenues for transit systems.

Part E – Extend the Department of Transportation's Single Audit Program for One Year.

The Single Audit Program, established in 1998, would be amended to extend the December 31, 2010 expiration date to December 31, 2011. This program has been extended every year since 2005.

This law applies to municipalities and public authorities with annual State transportation assistance spending in excess of $100,000 for programs administered by the New York State Department of Transportation (DOT). In cases where such entity is already required to perform a Federal single audit under the Federal Single Audit Act of 1984, the current law allows an independent certified public accountant to conduct an audit of State funds received by a municipality at the same time and in the same format as they conduct the Federal audit, thereby satisfying State audit requirements and eliminating the need for examination by State auditors.

Part F – Eliminate the Ability of the Metropolitan Transportation Authority (MTA) Employees from Receiving Double the Amount Of Workers' Compensation Benefits When Injuries Occur on Leased New York City Property.

Currently, when the MTA leases property from New York City (City) and an accident occurs involving an MTA employee on the leased property, the injured employee can collect workers' compensation benefits and also recover damages through a tort action against the City for which the MTA must reimburse the City.

Part F would amend the Public Authorities Law which provides that the MTA is the sole owner of this leased property with respect to all obligations and liabilities. It is estimated that Part F would save the MTA $6 million

Part G – Extend Owner Controlled Insurance to All MTA Capital Projects In Order to Provide Savings to the MTA.

Currently, the MTA is only authorized to provide insurance to contractors for subway and commuter rail capital projects. Part G would authorize the MTA to provide this insurance to contractors for bridge, tunnel and omnibus facilities. It is estimated that this would save the MTA $500,000 in SFY 2010-11 and increase to a savings of $2 million in SFY 2013-14.

Part H – Authorize the MTA to Conduct a Pilot Program to Test the Use of Electronic and Reverse Bidding.

Part H would authorize the MTA to conduct a pilot program to test the use of electronic and reverse bidding. The MTA would be capable of receiving bids electronically and would provide that electronic posting of bids would constitute public openings and reading of bids. The MTA would be allowed to do reverse bidding by using the electronic system to inform bidders whether their bid is the lowest and allow submission of new bids if they are not.

It is estimated that Part H would provide a $1 million annual savings to the MTA starting in SFY 2011-2012.

Part I – Eliminate the Ability to Sue the MTA When Injuries Result from Reckless or Deliberate Conduct.

Part I would eliminate the right of recovery in personal injury cases against the MTA in cases where the plaintiff's own reckless conduct caused his or her injuries. Similar legislation was introduced in the Senate in 2006. It is estimated that Part I would provide $10 million in annual savings to the MTA.

Part J – Increase the Law Enforcement Motor Vehicle Accident Report Threshold from $1,000 to $3,000 and Eliminate the Requirement That Motorists Also File Accident Reports.

Currently under the Vehicle and Traffic Law (VTL), law enforcement officers are required to submit an accident report to the Department of Motor Vehicles (DMV) when an accident results in injury or death, and they may file a report if property is damaged. The VTL also provides that every person operating a motor vehicle that is involved in an accident resulting in injury, death or property damage in excess of $1,000 must file an accident report with DMV. Therefore, in many cases, both law enforcement officers and motorists are required to file redundant reports concerning the same accident.

Specifically, Part J would:

- Eliminate the requirement that DMV make available accident reports on incidents that are not required to be filed by law;
- Increase the property damage threshold to $3,000; and
- Eliminate the requirement that motorists file an accident report.

It is estimated that Part J would save $581,000 in SFY 2010-11

Part K – Allow DMV to Take Advantage of Bulk Mailing Rates by Using the Most Up-To-Date Addressees Provided by the United States Postal Service.

The United States Postal Service (USPS) provides a technological method by which current addresses can be applied to DMV's outgoing mail, and mandates use of this system in order to take advantage of the Postal Service's reduced bulk mailing rate. Currently, the VTL requires that DMV mail suspension and revocation notices to the address last provided by the motorist. However, these addresses are frequently out-of-date because motorists move and update their address with the USPS but fail to do so with DMV.

Part K would amend various provisions of the VTL to clarify that notices of suspension or revocation and other orders of DMV may be mailed to either an address on file with DMV or to an address provided by the USPS. It is estimated that Part K would save $250,000 in SFY 2010-11 and annually thereafter.

Part L – Consolidate the State's Economic Development Agencies.

Part L would reconstitute the New York State Job Development Authority into the New York State Job Development Corporation which would be the primary entity for economic development in New York State. The new corporation shall be vested with all the powers function and duties of the Department of Economic Development and the Urban Development Corporation. The Department of Economic Development and the Urban Development Corporation would be abolished. The board of the Job Development Corporation would be substantially similar in structure to the existing Board of the Urban Development Corporation. Current members of the Urban Development Corporation would serve as board members of the Job Development Corporation for the remainder of their appointed terms.

Any employees transferred to the Job Development Corporation who are currently members of a bargaining unit would remain a member of the bargaining unit. Any newly created positions would be assigned to the appropriate bargaining unit pursuant to a personnel plan filed by the President of the Job Development Corporation and approved by the commissioner of Civil Service.

PART M - The New York State Higher Education Capital Matching Grant Program.

Part M would extend the Higher Education Capital (HECap) Matching Grant Program for one additional year to March 31, 2011. The 2005-06 Budget authorized the $150 million HECap Matching Grant Program to support capital projects at the State's independent colleges. To date, 123 projects totaling approximately $126 million have been approved

Part N – Establish a New Small Business Revolving Loan Fund.

Part N would authorize the New York State Urban Development Corporation, or its successor entity the Jobs Development Corporation, to make low-interest loans to community-based financial institutions which, in turn, would use the funds to make loans to small businesses with one hundred or fewer employees in New York State.

The fund would be divided into two categories: a micro-loan category for loans under $25,000 and a small loan category for loans over $25,000 with the rate charge to the financial institute to be set by the Corporation. For any individual loan, State funds would not exceed 50 percent of the total loan amount or $125,000, whichever is less. Loans would be made available to small businesses which would generate economic growth and job creation but are unable to obtain adequate credit or adequate terms for credit.

Eligible uses would include working capital, debt refinancing, the acquisition of real property, or the acquisition of machinery and equipment. Funds could not be loaned for businesses wishing to relocate from one municipality to another, (unless the affected municipalities agree), newspapers, broadcasters, medical facilities, libraries, community or civic centers, public infrastructure projects or as a payment, distribution, or loan to the owners, members, partners or shareholders of the applicant business.

No State funds would be provided until $25 million is received by the New York Power Authority and credited to the General Fund.

Part O – Establish the New Technology Seed Fund.

Part O would establish the New Technology Seed Fund that would invest in startup and early-stage small businesses in New York State who have developed cutting edge breakthroughs in emerging technologies. Priority would be given to companies engaged in product development that demonstrate the most promising commercialization potential.

Resources would be provided to investment intermediaries to make seed and early-stage investments in emerging technology sector companies throughout the State. The beneficiary company may not have generated revenue for more than one year. They must also demonstrate that matching funds are committed and available on at a least a one to one ratio to the technology seed funds being applied for. The beneficiary company must further demonstrate that they have a viable plan with appropriate staffing and resources and that the application is supported by local industry, universities or municipalities.

The Job Development Corporation would be able to establish a program fund and deposit any funds available to the Corporation from any sources that are eligible for such use.

Part P – Make Permanent the General Loan Powers of the New York State Urban Development Corporation.

Chapter 393 of the Laws of 1994 provided the Urban Development Corporation (UDC) with the general power to make loans. This authorization has been renewed annually and is currently set to expire on July 1, 2010.

Absent reauthorization, UDC would only be authorized to make loans in connection with certain State-funded economic development programs that include loan authorization.

The Jobs Development Corporation, as successor to the powers and duties of the UDC, would be the authority granted the power to make such loans.

Part Q – Authorize Support for the New York City Empowerment Zone, the New Technology Seed Fund and Governors Island.

Part Q would authorize up to $46.4 million in excess funds received from the Port Authority of New York and New Jersey (PANYNJ) to be used for the New York City Empowerment Zone ($29.4 million), the New Technology Seed Fund ($10 million), and the Governors Island Preservation and Education Corporation ($7 million).

The funds to be provided to these programs were the result of payments received from the Port Authority from the termination of leased space at the former World Trade Center. These payments are held in reserve pursuant the Public Authorities Control Board Resolutions.

Part R – Allow Equine Drug Testing to be Conducted by a State College With an Equine Sciences Program.

Currently, the only entities authorized to conduct equine drug testing for all thoroughbreds and harness racing in New York State is a land grant university with an approved veterinary college facility, (currently only Cornell University). Part R would allow other State colleges, with an approved equine science program, to administer the steroid test program.

It is estimated that competitive bidding for equine drug testing services would save $540,000.

Part S – Facilitate an Efficient Transfer of Tribal State Compact Revenue to the General Fund and Make a Technical Correction to the Distribution of the Local Share of Such Revenues Associated with the Niagara Falls Casino.

The State is required to share a portion of any revenues received from the Native American casinos with the municipal governments that host these facilities and transfer any remaining revenues to the General Fund. Payments received by the State from Native American casinos generally reflect lagged and/or partial-year payments. Current law assumes that the basis for General Fund transfers of the State share of such monies is dependent on annual receipt of casino revenues.

Part S would make a technical correction to the distribution of Niagara Falls Casino tribal compact monies associated with the Niagara Falls Underground Railroad Heritage Commission (NFURHC) to clarify that the amount to be transferred to NFURHC shall be 1 percent of the monies received by the city, but not to exceed an annual cap of $350,000. Currently the law authorizes the transfer of 1 percent or $350,000, whichever is greater.

Part T - State's Role in Dog Licensing

Part T would amend the Agriculture and Markets Law to eliminate the State's role in dog licensing and authorize municipalities to establish their own licensing programs. All licensing revenue would remain with the municipality in which it is raised and such revenue would be expended solely on animal control-related programs.

Part T would provide mandate relief to municipalities by allowing them broad discretion in implementing a dog licensing program.

It is estimated that Part T would result in $81,000 in net savings for SFY 2010-11, and $325,000 annually thereafter.

Part U – Authorize State Agencies to Enter into Memoranda of Understanding with Cornell University to Procure Services and Technical Assistance.

As New York's land grant university, Cornell engages in many research, education and extension projects with State government agencies, in such areas as agriculture and the environment, public health, labor, technology, education and children and families. Many of these programs have been in existence for decades and, until 2005, State agencies routinely entered into MOUs with Cornell as they do with SUNY and other State agencies. In 2005, the Attorney General issued an opinion that required State agencies to contract with Cornell..

Part U would give State agencies the ability to use MOUs, when appropriate, to streamline their agreements with Cornell.

Part V – Authorize the Department of Health (DOH) to Finance Certain Activities with Revenues Generated from an Assessment on Cable Television Companies.

Part V would make DOH's public service education expenses eligible for funding from the Department of Public Service's assessment on cable television companies.

The Governor's Financial Plan assumes that DOH would be able to recover these costs and a $454,000 appropriation is included in DOH's budget for these activities.

Part W – Authorize The Conduct And Regulation Of Professional Mixed Martial Arts Sporting Events In New York State.

Professional mixed martial arts (MMA) has a rapidly expanding fan base with 40 states currently regulating the sport. Historically, New York has banned professional MMA competitions due to safety concerns stemming from a lack of uniform standards and regulations governing the sport. In recent years standards have been developed and implemented by states that currently regulate MMA.

Specifically, Part W would:

- Define the sport of MMA;
- Add MMAs to the list of contact sports sanctioned by the New York State Athletic Commission (Commission);
- Authorize the Commission's Medical Advisory Board to establish rules, regulations and procedures that ensure the safety of the sport;
- Empowers the Commission with sole jurisdiction over MMA competitions including the licensing of all participants and the promulgation and enforcement of regulations
- Provide for the collection of a myriad of licensing fees; and
- Impose a State tax of 8.5 percent on gross receipts from MMA event ticket sales as well as a tax on broadcasting rights equal to the lesser of 3 percent of the contract value or $50,000.

It is estimated Part W would generate $1.37 million in recurring net revenues resulting from the authorization of MMA sporting events in New York.

Part X Secretary of State Fees

The Executive Law currently authorizing the Secretary of State to charge increased fees for expedited handling of documents expires March 31, 2010. Historically, this statute has been extended annually to coincide with the enactment of the annual Budget. The 2010-11 Executive Budget assumes $3.5 million in annual revenue from Part X.

Part Y – Extend the Fund Distribution Formula for the Community Services Block Grant Program for One Year.

Section 150-i of the Executive law relating to the distribution formula for the Federal Community Services Block Grant (CSBG) Program expires on September 30, 2010. Historically, this statute has been extended annually to authorize the Department of State (DOS) to distribute Federal grant awards to community action agencies.

DOS has administered the CSBG Program since 1982. The Department's authority to distribute CSBG funds is predicated upon the receipt of funding from the Federal government. The Department anticipates continued Federal funding for the CSBG Program, and the State Financial Plan assumes these funds will be disbursed during the 2010-11 State Fiscal Year.

Part Z – Streamline the Classification of Not-For Profit Corporations.

Part Z would simplify the current classification system of not-for-profit corporations by combining the "Type C" and “Type B” classes of not-for-profit corporations into a new “Type B” classification.

The use of the “Type” classification system is unique to New York Law. This system unnecessarily complicates the formation and regulation of not-for-profit corporations. The formation of new corporations is often delayed due to the inclusion of an incorrect Statement of Type in the proposed certificate of incorporation. Additionally, the Department of State (DOS) has been advised by practitioners that not-for-profit corporations classified as “Type C” frequently encounter difficulties in receiving IRS tax exemption as a result of such classification.

Part AA – Include the New York City Housing Development Corporation under the State Bond Issuance Charge.

Part AA would amend Public Authorities Law § 2976(1) to include the New York City Housing Development Corporation among the bond-issuing public benefit corporations that must pay a bond issuance charge to the State upon the issuance of such bonds.

The Housing Development Corporation (HDC) is one of the largest debt issuing public authorities in the State not currently liable for the bond issuance charge upon its bond issues.

It is estimated that Part AA would generate approximately $3 million.

Part BB – Authorize and Direct the Comptroller to Receive for Deposit to the Credit of the General Fund a Payment of Up to $913,000 from The New York State Energy Research and Development Authority.

Part BB would authorize and direct the State Comptroller to deposit to the General Fund an amount up to $913,000 from unrestricted corporate funds of NYSERDA. This $913,000 transfer would help offset New York State's debt service requirements relating to the Western New York Nuclear Service Center. Chapter 59 of the Laws of 2009 provided a similar one year authorization.

Part CC – Authorize NYSERDA to Finance a Portion of its Research, Development and Demonstration, and Policy and Planning Programs, and to Finance the Department of Environmental Conservation's Climate Change Program, from Assessments on Gas and Electric Corporations.

Section 18-a of the Public Service Law authorizes the Department of Public Service, (DPS) to assess gas corporations and electric corporations for expenses related to administering Public Service Law programs. The 18-a assessment was originally established as a nominal charge to support the operations of the state Public Service Commission. However, since the 1990s it has been expanded to provide dedicated funding for other State agencies.

Part CC would authorize NYSERDA to finance a portion of its research, development and demonstration, and policy and planning programs, and to finance the Department of Environmental Conservation's (DEC) Climate Change Program, from assessments on gas and electric corporations. Such revenue would be obtained from a special assessment on gas corporations and electric corporations collected pursuant to section 18-a of the Public Service Law. This special assessment is in addition to the Section 18-a assessment and is similar to what was enacted last year.

Part DD – Eliminate the Sunset of the Waste Tire Management and Recycling Fee; Expand the Authorized Purposes of the Waste Tire Management and Recycling Fund; and Rename the Fund the Waste Management and Cleanup Fund.

Currently, management of waste tires is regulated by DEC. The "Waste Tire Management and Recycling Act of 2003" (Act) was enacted to ensure the proper management of waste tires in New York State and included a sunset of the $2.50 fee charged to each tire sold in the State.

Specifically, Part DD would:

- Amend the Environmental Conservation Law to eliminate the December 31, 2010 sunset of the Waste Tire Management and Recycling Fee. The $2.50 fee charged on each new tire sold would become a permanent fee;
- Eliminate a March 31, 2011 sunset of the requirement that a tire service submit reports to the Department of Taxation and Finance;

- Expand the authorized purposes of the Waste Tire Management and Recycling Fund to increase support for oversight of waste tire storage facilities to include administration and enforcement of Article 27 of the Environmental Conservation Law except Title 13 and Title 14;
- Expand the Fund's oversight in relation to the collection, treatment, disposal, and management of solid and hazardous wastes
- Clarify that the Fund can accept other monies into the Fund other than the revenue collected from the waste tire management and recycling fees; and
- Rename the fund the **Waste Management and Cleanup Fund**.

Part EE – Reduce fiscal and Administrative Burdens on DEC Regarding Public Notice Requirements and Annual Report Requirements, and Provide for Mutual Aid and Assistance Between Other States in the Forest Fire Protection Compact.

Specifically, Part EE would:

- Streamline and make uniform the publication requirements for numerous DEC actions subject to publication of a notice in a newspaper;
- Allow DEC to charge applicants for the cost of some publication and hearings costs;
- Make the contract approval threshold for timber sales the same as the current contract approval threshold for procurement, (if the value of the forest products does not exceed $50,000 the contract can be executed by DEC without need for prior approval by Comptroller);
- Delete certain DEC annual reporting requirements and, in some cases, allow the reports to be published as the DEC Commissioner deems advisable or alternatively provide a summary on DEC's public website;
- In relation to mapping and inventory of wetlands, streamline the notice provisions and require publication in the Environmental Notice Bulletin (ENB) and on DEC's website, and provide that a map be sent to a local government upon request, either as a physical copy or, if requested by the local government and it is available, a digital file;
- Change the renewal period for waste transporter permits, from annual to at least every five years;
- Eliminate the option for annual hazardous waste program fees bills based on estimated amounts of waste generated and require the bills be based on actual hazardous waste generated in the prior calendar year.

Part FF – Reduce the Amount of Real Estate Transfer Tax Revenue Deposited into the Environmental Protection Fund.

New York's Environmental Protection Fund (EPF) was created by legislation in 1993 to provide a reliable, stable and dedicated source of funding for environmental programs in the State. The EPF has traditionally been supported by revenues from the Real Estate Transfer Tax (RETT), sale or lease of State property and by EPF interest earnings.

Part FF would reduce from $199.3 million to $132.3 million the amount of RETT deposited into the EPF for SFY 2010-11 and annually thereafter.

Part GG – Reduce the Authorized Reimbursement Rate Paid to Governmental Entities that Voluntarily Enforce the Provisions of the Navigation Law.

Part GG would reduce the reimbursement rate paid to governmental entities that voluntarily enforce the Navigation Law from 75 percent to 50 percent. It would also make technical corrections.

Part HH – Expand the Authorized Use of Funds in the Snowmobile Trail Development and Maintenance Fund.

Part HH would expand the authorized use of funds in the Snowmobile Trail Development and Maintenance Fund to include development and maintenance for all recreational activities on State lands.

2010 NEW YORK STATE EXECUTIVE BUDGET
REVENUE ARTICLE VII LEGISLATION
S.6610/A.9710

Part A - Tax on Severing Natural Gas

- Creates a new Article 17 in the tax law establishing a production tax on any natural gas that is extracted from a gas pool in the Marcellus or Utica shale formation using a horizontal well. The tax will be imposed at a rate of three percent of the market value of the natural gas produced. All of the revenue from this tax will be distributed as the petroleum business tax is distributed (to the dedicated transportation funds.)

Part B - Cigarette Tax Increase

- Imposes a cigarette tax increase of $1 per pack. This will raise the state tax to $3.75. In New York City, the combined State and Local tax would increase from $4.25 to $5.25 per pack. The executive would increase the percentage of cigarette tax revenue that goes into the Tobacco Control and Insurance Initiatives Pool from 70.63 percent to 75 percent. This proposal is estimated to raise cigarette tax revenues by $210 million in SFY 2010-11 and $205 million in 2011-12.

Part C - Tax on Beverage Syrups and Soft Drinks

- Imposes a new tax on any soft drinks and the syrups or powders used to reconstitute such soft drinks (new Article 16). The tax will effectively equal one cent per ounce of soft drink that has more than 10 calories per ounce ($1.28 per gallon of soft drink, $7.68 per gallon of syrup that will make six gallons of soft drink, and $1.28 for each unit of powder that makes one gallon). The law only exempts milk, infant formula, dietary aids, milk substitutes (such as soy milk or rice milk) and alcoholic beverages that are taxed as such. This article will not only tax soda, but will tax teas, sports drinks, some non-alcoholic beers and fruit/vegetable juice cocktails that contain less than 70 percent juice as long as it has more than 10 calories per ounce.

Part D - Unincorporated Business Credits

- Reduces the amount of **biofuel production credit and QETC** (Qualified Emerging Technology Company) credits that unincorporated businesses can earn by specifying that the limits on credits specified in the tax law will apply to the entity level not to each individual partner or shareholder.

Part E - Termination Payments

- Makes termination payments, non-compete covenant payments and other compensation payments for similar purposes to non-residents taxable if such payment are related to their previous employment in New York State.

Part F - Non-Resident S-Corp Sales

- Requires certain liquidations, sales and installment payments of non-resident S corporation shareholders to be reported as New York income. This proposal reverses a tax appeals decision that classified these sales as the sale of intangible assets, which are not considered New York sourced income. It also changes the treatment of installment sale payments where the S corporation is no longer a taxable entity in New York. Currently, the installment payments would cease to be New York income. This proposal would change the entire stream of payments to New York income regardless of the condition of the S corporation thereby matching the current C corporation treatment. This proposal is **retroactive for a full audit cycle of three years** and up to seven years if there is an active audit.

Part G - Resident Trust Exemption

- Eliminates the tax exemption for resident trusts whose trustees are non-residents, whose corpus or property is located out of state and whose income is all derived out of state. It also makes all trusts created by a will whose decedent is a resident at the time of death New York trusts and thereby taxable.

Part H – Financial Institution Reporting

- Creates a tax compliance initiative that would require financial institutions and other major organizations that handle payment transactions (debit/credit card payments) to report annually the aggregate amount of payment card and third party payments settled with New York payees, including firms with New York addresses, New York Taxpayers and persons registered with the Commissioner of Taxation and Finance for sales tax purposes. The Federal Government already requires that these entities file with the IRS. The bill prohibits the Tax Department from using any information from reporting entities concerning non-New York taxpayers.

- Imposes a fine for failure to file an informational return on time. The fine is $50 for each failure. If the entity fails to file for longer than one month, then an additional $50 fine or fraction of will be assessed until the entity complies. The maximum penalty per entity cannot exceed $250,000 annually. This bill will increase revenue by $35 million in SFY 2012-13` and $83 million per year thereafter.

Part I - Statistical Sampling Audits

- Authorizes the Department of Taxation and Finance to use statistical sampling for the purpose of auditing tax liability of sales tax taxpayers. Currently the Department is prohibited from using this method and must rely on actual records to determine expected sales tax liability. The Department claims that this would drastically reduce the workload of auditing sales tax and could use audit resources elsewhere. This authorization is expected to increase audit revenue by $8 million in SFY 2010-11 and $12 million annually thereafter.

Part J - E-Filing for Tax Preparers

- Eliminates the taxpayer's e-filing opt-out as an automatic reason for tax return preparers not to e-file. There will be a new form, containing an affirmative reason for not e-filing, that taxpayer's will have to complete if they wish not to e-file. The Department has heard complaints that tax return preparers are convincing taxpayers that they should not e-file in order for the preparer to get around the mandatory e-file law. The bill would also establish correction periods for electronically filed documents that were sent incorrectly or rejected by the e-filing system. The bill also prohibits tax return preparers and software companies from charging separately for electronic filing of New York tax documents. There is no fiscal impact recognized but will preserve previous revenue currently in the Financial Plan.

Part K - Email Notices

- Allows the Department of Taxation and Finance to use alternative means (such as email) of sending tax bills, notices and other tax documents affording the Department greater administrative flexibility. This can only be done if the taxpayer or addressee gives the Tax Department authorization to do so. This part is necessary to implement the 2010-11 Executive Budget with a potential for cost savings.

Part L - Compromise Authority

- Allows the Commissioner of Taxation and Finance to offer a compromise tax liability settlement (provide relief) to all deserving taxpayers who can show undue economic hardship or exceptional mitigating circumstances which prohibits them from paying their full tax liability. The commissioner would be able to adjust final tax liabilities as long as the amount payable in this compromise reasonably reflects the collection potential or is justified by the evidence the taxpayer is showing of an undue economic hardship. There is no fiscal impact recognized. This provision will preserve revenue currently anticipated in the Financial Plan.

- Creates a technical correction to the tax evasion criminal provisions to add back two parts of law that were mistakenly repealed in the SFY 2009-10 budget. The provisions would make it a class E felony under law for knowingly and purposely failing to file a personal income tax or a corporate income tax return for three consecutive years in which there was a tax liability with the intent to evade the tax.

Part M - Telecommunications Study

- Tasks the Department of Taxation and Finance Office of Tax Policy Analysis (OTPA) with producing a study of the taxation of the telecommunications industry and how to improve and modernize it. The study will be completed 245 days after the enactment of this part.

Part N - Quickdraw

- Permanently extends the Division of Lottery's authority to operate Quick Draw, presently scheduled to sunset on May 31, 2010 and eliminate the restrictions on the Game relating to food sales, hours of operation and the size of the facility, as well as, authorizing a video lottery game at Belmont Park and permit the State to participate in more than one multijurisdictional lottery game. Additionally, the Executive Budget proposes to expand the investment options available to the Lottery Prize Fund.

Part O - VLT Expanded Hours

- Makes the Video Lottery Gaming (VLG) program permanent and lifts the operating hour restrictions of Video Lottery Terminal (VLT) parlors thereby allowing the Division of the Lottery to set the VLG program hours. Currently, VLTs cannot operate past 2:00 am or operate for more than 16 consecutive hours in a day. The bill will also technically correct the amount of VLT revenue after prize payout retained by the Division of Lottery for operation, Administration and procurement purposes at a vendor track located at the site of the former Concord Resort to restore the general rule that the Lottery shall retain ten percent for such purposes. This provision also removes a date related to an employment shortfall provision for such vendor track which, if not removed, could prevent the application of a recapture provision. This proposal will generate an additional $45 million in revenue for SFY 2010-11 and annually thereafter for education.

Part P - Mortgage Recording Tax

- Extends the mortgage recording tax to ownership interests in a cooperative housing unit. This is part of the mandate relief package for local government and will have New York City revenue increase of $70 million and a $10 million local revenue increase for localities outside of the City.

Part Q - Income tax circuit breaker property tax credit

- This proposal is accompanied by a spending cap and an increase in the rainy day reserve which are discussed further in the Issues in Focus section of this publication. The school property tax circuit-breaker proposal will use future budget surplus to deliver property tax relief through a fully refundable personal income tax credit.
- The circuit-breaker benefit is calculated by limiting an individual's property tax burden to a specified percentage of their income up to a maximum credit amount which increases as the surplus increases. As shown by the table below, that percentage would decrease and the maximum credit will increase based on the size of the surplus. As the State's fiscal condition improves, the circuit-breaker program provides an increasingly larger benefit to property taxpayers. However, the surplus can be adjusted by the Executive through the use of prepayments and increasing the amount of tax refunds Individuals with household incomes up to $200,000 Upstate and $300,000 Downstate would be eligible for this program. Income levels are indexed to inflation.
- The proposal includes a provision to encourage fiscal restraint at the local level by multiplying the credit by an adjustment factor. The adjustment factor is a percentage calculated by taking the change in the cost of living since 2011 divided by the change in per pupil tax levy since 2011. The cost of living is defined as 1.2 times the rate of inflation or four percent whichever is less. If a school district continuously increases taxes above the inflation rate, residents would see their credit decrease.

Part R - Same-Sex Couple Tax Reduction

- Allows **same-sex couples** whose "marriage" is recognized by any state to file a married-joint return for New York State and New York City income tax purposes even though it is disallowed under federal law. This part also affords same-sex couples a deduction for estates that are passed from one partner to the other under a qualified terminable property deduction "skipping a generation" of the estate tax. The estate tax deduction could have a potentially large fiscal impact.

Part S - Affiliate Nexus

- Narrows the scope of the affiliate nexus provisions enacted as part of the SFY 2009-10 budget which expands the nexus to included out-of-state online companies that sold products into the state that had similar trademarks and did similar business to further sales or benefit the New York retailer. This change would exempt "headquarter" type activities such as strategic planning, marketing, inventory, staffing, distribution or cash management from triggering nexus for the out-of-state retailer. This part will save $5 million for New York businesses.

Part T - Wine in Grocery Stores

- Creates the Wine Industry and Liquor Store Revitalization Act.

- Allows grocery and drug stores to sell wine by paying a onetime franchise fee to the State Liquor Authority. The fee would be based on percentage of the retailers annual sales in the previous year. Sales from tobacco and motor fuel would be exempt from the annual sales total when calculating the fee. Retail stores that have been in business for less than 12 months would pay a fee ranging from $825 to $350,000 depending on the stores square footage. There will also be an annual fee of $500 for the license of each grocery or drug store. Grocery and Drug store retailers will be able to hold multiple licenses. Applicants who hold two or more drug and grocery store licenses would pay annually $1,000. Ten percent, or up to $1 million of the revenue derived from the fees would go into the New York Wine Marketing Program to promote the New York wine industry.

- Liquor stores will be able to sell items complimentary to their business, have ATM machines installed in liquor stores and sell their products to retail establishments licensed for consumption such as restaurants or certain grocery stores. This part would also remove the restriction against holding multiple licenses and create a medallion system that allows liquor stores owners to be able to auction off existing licenses to the highest bidder. This medallion system would sunset in three years.

- Grocery and Drug stores will be able to obtain licenses allowing the selling of wine for consumption off their property and would allow wine tastings. Also, grocery and drug stores with less than 1,000 square feet would be able to purchase wine from stores licensed to sell such products. This bill would generate $93 million for SFY 2010-11 and $52 million every year thereafter.

Part U - Low-Income Housing Credit

- Authorizes an additional $4 million in **low-income housing** credits for ten years. This would allow the Commissioner of Housing and Community Renewal to allocate a total of $28 million in these credits per year.

Part V - Film Tax Credit

- Adds $2.1 billion to the credit allocation of the **film tax credit**. There would be an additional $420 million for 2010 and each of the next succeeding four years. The proposal would require at least 10 percent of total shooting days be spent at a New York production facility in order to qualify for the production credit. The post production credit would require at least 75 percent of the post production be done at a New York facility. The latest data available shows that less than nine percent of the shoot days for credit eligible films and television shows were shot outside of New York City. If the credits were apportioned to shoot days, less than eight percent of the credit was generate from productions outside of New York City

Part W - Excelsior Jobs Program

- Creates an Excelsior Jobs Program. The program offers three refundable credits for a benefit period of 5 years for financial data centers, internet publishers, manufacturers, software developers, scientific research and developers or an industry deemed by the commissioner of economic development to have "significant potential for private-sector economic growth." There are no criteria set forth in the legislation for "significant." The program has a 50 jobs created threshold for entry to the program.

- The credit is capped at $50 million per year for each benefit group for a five year benefit period ($250 million over five years). There are only five groups whose benefit periods will begin in 2011, 2012, 2013, 2014 and 2015. So by the time the first group is in its fifth year, the fifth and last group will be in its first credit eligible year.

- The refundable credits available are: 1) Jobs credit - $2,500 to $10,000 for each job created depending on the salary, benefits level and whether the employer (but it could be the employee) resides in a distressed area. The credit amount is determined solely by the commissioner; 2) Investment credit – two percent of the qualified investment expenditures; 3) Research and Development – equal to ten percent of the federal credit. Participants in the program must have a development plan and employment goals in order to be accepted to the program, if they do not reach their goals for any year they forfeit all credits that would have been earned for the year from all three categories. This proposal is estimated to give $50 million in benefits beginning in SFY 2012-13.

Part X - Empire Zone Technical Corrections

- Makes several corrections to the section of the SFY 2009-10 budget that eliminated the Empire Zone program. The first correction amends the General Municipal Law to clarify that the decertification was retroactive to January 2008. This part also changes the former local sales tax exemption, which followed the former state Empire Zone sales tax exemption, so the the new state refund/credit provisions will apply to those localities that opted into the former exemption. This part also amends the law regarding qualified investment projects (very large investment projects) so they will still be able to claim 10 years of credits after the completion of another investment.

Part Y - 1985 Bank Tax Extension

- Extends for one year the major provisions of the 1985 and 1987 bank tax reforms, as well as the transitional provisions in New York's bank tax enacted in response to the Federal Gramm-Leach-Bliley Act.

Part Z - Sales Tax on Transportation

- Tightens up the law passed as part of the SFY 2009-10 budget that was intended to stop certain sales tax avoidance schemes by companies purchasing aircraft and vessels out-of-state but using them in-state. There is also a provision that would renew the requirements of industrial development agencies to file statements with the Tax Department when appointing agents and projects operators. There is no fiscal impact recognized. This provision will preserve revenue currently anticipated in the Financial Plan.

Part AA - Pari-mutuel

- Extends lower pari-mutuel tax rates and rules governing simulcasting of out-of-state races. This proposal has no SFY 2010-11 fiscal impact because the reduced rates are built into the base of the SFY 2010-11 financial plan.

Part BB - Estate Tax Unified Credit

- Changes the estate tax to maintain the New York State estate tax unified credit amount. When the federal estate tax expired on December 31, 2009, the unified credit for New York estate tax also expired. However, since the tax itself is fixed to the federal credit for state taxes paid as it existed on July 22, 1998, the tax will not change no matter what happens on the federal level, but the exemption up to $1 million of estate value was tied to the federal tax. Without this change the New York State estate tax will be in affect but the exemption (unified credit) is expired and therefore every decedent's estate will be taxed from the first dollar.

Part CC - MTA Taxicab Surcharge

- Changes the Article 29-A MTA taxicab ride tax from a 50 cent per ride surcharge to a flat quarterly tax of $1,750 ($7,000 annually). The incidence of the tax would change from the vehicle owner to the medallion owner. Article 29-A was added as part of the $3 billion MTA bailout bill of 2009. The fiscal impact states that this change would preserve revenues originally estimated at $95 million annually.

2010-11 NEW YORK STATE EXECUTIVE BUDGET
DEFICIENCY BILL
ARTICLE VII LEGISLATION
S.6612/A.9712

Section 1 - Amends the Workers' Compensation Law to allow for the transfer of funds to the General Fund in excess of $12 million, the maximum net asset balance required from the Special Fund for Disability Benefits.

Section 2 - Amends Chapter 56 of the Laws of 2009 to increase the authorized transfer from the Statewide Public Safety Communications Account to the General Fund from $20 million to $70 million.

OFFICE OF TAXPAYER ACCOUNTABILITY
INTERAGENCY TASK FORCE ELIMINATION
ARTICLE VII
S.6613/A.9713

This legislation would eliminate, merge and redefine a number of state task forces, work groups and advisory councils that have been deemed to have completed their mission, are obsolete or defunct, can be merged for efficiency, or have functions that are currently being performed, or can be performed, by agency personnel. Although most of the members of these task forces, groups and councils are unpaid positions, there are administrative costs associated with their functions. It is anticipated that the savings generated by this bill would be $1.1 million in SFY 2010-11, increasing to $1.6 million annually once all eliminations and mergers have been effectuated.

Scheduled for Immediate Elimination

- **Advisory Council on Under Age Alcohol Consumption** – currently under the auspices of the Department of Mental Hygiene.
- **William B. Hoyt Memorial Children and Family Trust Fund Advisory Board –** underlying trust fund, for prevention and treatment services for victims of family violence, would remain and be administered by the Commissioner of Social Services.
- **Office of Children and Family Services Facilities (Industry) Boards of Visitors –** currently under the auspices of the Office of Children and Family Services.
- **Child Welfare Research Advisory Panel** – currently under the auspices of the Office of Children and Family Services.
- **Statewide Wireless Network Advisory Council –** currently under the auspices of the Office of Technology.
- **Advisory Council on Procurement Lobbying –** duties would be transferred to State Procurement Council.
- **Legal Representation of Individuals Whose Federal Disability Benefits Have Been Denied or May Be Discontinued Advisory Committee** – duties to be transferred to the Commissioner of Social Services.
- **Maternal and Child Health Services Block Grant Advisory Council –** grant would continue and be administered by the Department of Health.

- **Temporary Assistance for Needy Families Block Grant Advisory Council –** grant would continue and be administered by the Office of Temporary and Disability Assistance.
- **Low-Income Home Energy Assistance Block Grant Advisory Council** – grant would continue and be administered by the Office of Temporary and Disability Assistance.
- **Breast and Cervical Cancer Detection and Education Program Advisory Council** – program would continue under the authority of the Department of Health.
- **Funeral Directing Advisory Board –** currently under the auspices of the Department of Health.
- **Special Advisory Review Panel on Medicaid Managed Care –** currently under the auspices of the Department of Social Services, Medical Assistance to Needy Persons.
- **New York State Immunization Advisory Council –** currently under the auspices of the Department of Health.
- **Ovarian Cancer Information Advisory Council** – Ovarian Cancer Information Program would continue under the auspices of the Department of Public Health.
- **Osteoporosis Advisory Council** - Osteoporosis Prevention and Education Program would continue under the auspices of the Department of Public Health.
- **New York State Palliative Care Education and Training Council** – currently under the auspices of the Department of Health.
- **Prostate and Testicular Cancer Detection and Education Advisory Council** – currently under the auspices of the Department of Health.
- **Radiologic Technologist Advisory Board** – currently under the auspices of the Department of Health.
- **Spinal Cord Injury Research Board** – currently under the auspices of the Department of Health.
- **Work Group to Review and Make Recommendations Regarding the Provision of Payment for Adult Day Care Services Provided Through Residential Health Care Facilities** - coordinated effort of the Commissioners of Health and Social Services.
- **Brookhaven National Laboratory Local Oversight and Monitoring Committee** – created to ensure that waste generation, storage and removal processes and procedures are followed and safe for workers and residents; comprised of Director of the Brookhaven National Laboratory; president of the Citizens of the Affiliated Brookhaven Civic Association; director of the Waste Reduction and Management Institute at SUNY Stony Brook; Suffolk County Department of Health and Environmental Affairs appointees; Town of Brookhaven official; and appointee of US Department of Energy.

- **Controlled Substance Task Force –** currently under the auspices of the Department of Health.
- **Environmental Laboratory Approval Program Advisory Board** – the program would continue under the auspices of the Department of Health.
- **Commission on Financially Distressed Residential Health Care Facilities** – created to advise the Governor and the Legislature regarding the financial condition of residential health care facilities in New York State with a report no later than December 31, 2001.
- **State Council on Home Care Services** - currently under the auspices of the Department of Health.
- **Recombinant DNA Advisory Committee -** currently under the auspices of the Department of Health.
- **New York State Advisory Council on Physician's Assistants and Specialist's Assistants -** currently under the auspices of the Department of Health.
- **Regulation of Sharps Technical Advisory Committee -** currently under the auspices of the Department of Health.
- **Advisory Committee on Mercury Pollution –** currently under the auspices of the Department of Environmental Conservation.
- **New York State Bird Conservation Area Program Advisory Committee –** the program would continue under the auspices of the Department of Environmental Conservation.
- **Falconry Advisory Board –** currently under the auspices of the Department of Environmental Conservation.
- **Freshwater Wetlands Appeals Board** – authority would be transferred to the Commissioner of Environmental Conservation with Article 78 of the Civil Practice Laws & Rules replacing the appeals process.
- **New York State Scenic Byways Advisory Board** - New York State Scenic Byways Program would continue under the auspices of the Commissioner of Transportation.
- **Marine and Coastal District of New York Conservation, Education and Research Board -** Marine and Coastal District of New York Conservation, Education and Research Grants Program would continue under the auspices of the Department of Environmental Conservation.
- **New York Invasive Species Advisory Committee** - New York Invasive Species Council would continue under the auspices of the Department of Environmental Conservation.
- **New York State Oil, Gas and Solution Mining Advisory Board –** currently under the auspices of the Department of Environmental Conservation.

- **State Petroleum Bulk Storage Advisory Council –** currently under the auspices of the Department of Environmental Conservation.
- **Regional Forest Practice Boards –** currently under the auspices of the Department of Environmental Conservation.
- **State Forest Practice Board –** currently under the auspices of the Department of Environmental Conservation.
- **State Solid Waste Management Board** - currently under the auspices of the Commissioners of Environmental Conservation, Health and Economic Development.
- **State Environmental Board –** currently under the auspices of the Commissioner of Environmental Conservation.
- **Surf Clam/Ocean Quahog Management Advisory Board –** currently under the auspices of the Department of Environmental Conservation.
- **New York State Animal Health Issues Committee -** currently under the auspices of the Department of Agriculture and Markets.
- **Plant Industry Advisory Committee** - currently under the auspices of the Department of Agriculture and Markets.
- **Apiary Industry Advisory Committee** - currently under the auspices of the Department of Agriculture and Markets.
- **Advisory Council on Petroleum Product Standards** - currently under the auspices of the Commissioner of Agriculture and Markets.
- **Direct Marketing Advisory Council for Statewide Activities** - Direct Marketing Advisory Councils for Regional Marketing Areas would continue under the auspices of the Commissioner of Agriculture and Markets.
- **Hudson Valley Agricultural Advisory Council -** currently under the auspices of the Commissioner of Agriculture and Markets.
- **Organic Food Advisory Committee** - currently under the auspices of the Commissioner of Agriculture and Markets.
- **Agricultural Transportation Review Panel** - created to advise the Governor and the Legislature regarding the changing agricultural transportation needs and its interplay with federal motor carrier safety regulations and State statues and regulations with a report no later than November 1, 1995.
- **New York State Heritage Areas Advisory Council** - currently under the auspices of the Commissioner of Parks, Recreation and Historic Preservation
- **Temporary Advisory Committee on the Restoration and Display of New York State's Military Battle Flags –** currently under the auspices of the Division of Military and Naval Affairs.

- **Fire Fighting and Code Enforcement Personnel Standards and Education Commission –** duties would be transferred to the State Fire Administrator.
- **Fire Safety Advisory Board –** duties would be transferred to the State Fire Administrator.
- **Arson Board –** currently under the auspices of the Secretary of State and the State Fire Administrator.
- **Emergency Services Council –** currently under the auspices of the Department of State.
- **Manufactured Housing Advisory Council –** duties would be transferred to the Department of State.
- **Long Island Sound Coastal Advisory Commission** - Long Island Sound coastal management program would continue under the auspices of the Department of State
- **Advisory Committee on Installing, Servicing or Maintaining Security or Fire Alarm Systems –** currently under the auspices of the Department of State.
- **Armored Car Carrier Advisory Board –** currently under the auspices of the Department of State.
- **Advisory Committee on the Appearance Enhancement Industry –** currently under the auspices of the Department of State.
- **Barbers Board –** currently under the auspices of the Department of State.
- **Hearing Aid Dispensing Advisory Board –** currently under the auspices of the Department of State.
- **State Cemetery Board Citizens Advisory Council –** currently under the auspices of the Cemetery Division of the Department of State.
- **State Home Inspection Council –** duties would be transferred to the Department of State.
- **New York Statewide Law Enforcement Telecommunications Committee –** currently under the auspices of the Division of Criminal Justice Services.
- **State Board of Real Estate Appraisal –** powers and duties would be transferred to the Department of State.
- **Carnival, Fair and Amusement Park Safety Advisory Board –** currently under the auspices of the Commissioner of Labor.
- **Coordinating Council for Services Related to Alzheimer's Disease and Other Dementia –** currently under the auspices of the Department of Health.
- **Advisory Council to the Recreation Program for the Elderly –** currently under the auspices of the Office for the Aging.
- **Minority and Women-Owned Business Enterprise Advisory Board –** currently under the auspices of the division of minority and women's business development.

- **Upstate and Downstate New York Tourism Councils** – currently under the auspices of the Department of State.
- **Task Force on the Future of Off-Track Betting in New York State** – created to analyze and make recommendations the Governor and the Legislature concerning the optimal utilization of the State's regional off-track betting system with an emphasis on the system's capability to raise revenues for State and local governments and strengthen the racing and breeding industries in New York with a report no later than March 1, 2009.
- **Tow Truck Advisory Board** – currently under the auspices of the Commissioner of Motor Vehicles.

Delayed Elimination

- **Interagency Task Force on Human Trafficking** – expiration date would be changed from 9/1/11 to 3/31/11; under the auspices of the Office of Temporary and Disability Assistance.
- **Advisory Council on Children's Environmental Health and Safety** – expiration date would be 3/31/13; coordinated effort of the Commissioners of Health, Education and Environmental Conservation.
- **State Task Force on Flame Retardant Safety** – expiration date would be 4/1/13; coordinated effort of the Commissioners of Health and Environmental Conservation, and the Secretary of State.
- **New York State Toxic Mold Task Force** - expiration date would be 4/1/12; coordinated effort of the Commissioner of Health and the Secretary of State.

Changed

- **Advisory Council on Alcoholism and Substance Abuse Services** – would reduce the number of meetings per year from four to two.
- **Coordinated Children's Services for Children With Emotional and/or Behavioral Disorders** – would be renamed *Coordinated Children's Services for Children with Cross-System Needs.*
- **Advisory Council on Interactive Media and Youth Violence** – report to the Governor would be changed from 12/31/09 and annually thereafter, to one additional report due 12/31/11.
- **Medical Record Access Review Committees** – would no longer be statutorily comprised by appointment, but be designated by the Commissioner of Social Services.

- **Tick Bourne Disease Institute Advisory Committee** and **Tick Bourne Disease Institute Research Counsel –** would be merged into **Tick Bourne Disease Institute** under the auspices of the Department of Health.
- **New York Motor Vehicle Theft and Insurance Fraud Prevention Board** – would be changed to New York Motor Vehicle Theft and Insurance Fraud Prevention Demonstration Program with duties to be transferred to Commissioner of the Division of Criminal Justice Services.
- **Naturally Occurring Retirement Community Supportive Service Program Advisory Committee –** language of the statue would be updated from “elderly persons” to “older adults,” but purpose and structure of the advisory committee would remain unchanged.
- **Office for the Aging Advisory Committee** – committee membership would be increased from 25 to 35.
- **State Hospital Review and Planning Council** – would be merged with renamed Public Health and Health Planning Council and council membership would be increased from 14 to 22.

OFFICE OF TAXPAYER ACCOUNTABILITY
INTERAGENCY EFFICIENCIES
ARTICLE VII LEGISLATION
S.6614/A.9714

The New York State Office of Taxpayer Accountability was created by the Governor in June 2009 to focus on four main areas of State and local government:

- eliminating waste, fraud and abuse in State government;
- promoting shared services to cut spending and improve efficiency;
- limiting unnecessary and unfunded mandates; and
- improving local government savings and efficiencies.

The bill would address the area of improving efficiencies by amending relevant laws to remove legal barriers to efficient operations by State agencies and public benefit corporations.

Specifically, the bill would:

- Allow all State agencies and public benefit corporations to adopt regulations to allow for the filing of permit applications by affirmation under penalty of perjury in lieu of oath;
- Amend the State Administrative Procedure Act to streamline the process for regulatory agency filings and reduce paperwork;
- Amend the law to explicitly allow that whenever any provision of law requires or permits the submission, transmission, forwarding, retention, return or destruction thereof, the terms “criminal record”, “criminal history record”, “fingerprints”, “fingerprint cards”, “photographs”, “palmprints”, “personal appearance data”, “handwriting samples”, and “descriptive data” shall mean and include digital or electronic images, impressions, representations or reproductions of such items; and
- Allow public meetings by designees of State agencies and board members of public authorities to take place by telephone or similar communications equipment, provided that such participation is permitted by a majority vote of the body at issue and all persons at the meeting are able to hear each other at the same time.

2010-11 NEW YORK STATE EXECUTIVE BUDGET
ETHICS REFORM
ARTICLE VII LEGISLATION
S.6615/A.9715

This bill would implement the Executive's proposal on ethics reform, and consolidate all ethics-related functions into a single State Government Ethics Commission chosen by a designating panel. The State Government Ethics Commission would combine the oversight of both Executive and Legislative branches, as well as enforcement of the laws governing ethics, lobbying and campaign finance. The bill would make substantive changes to the ethics, financial disclosure, lobbying and campaign finance laws.

PART A

A new selection model would be implemented eliminating direct appointments made by elected officials. Members of the new Government Ethics Commission would be selected by a 10-member Designating Panel modeled on the Commission on Judicial Nomination. The Designating Panel members would be selected as follows: four appointments by the Governor (with no more than two from the same political party and including one former judge); one appointment each by the Attorney General; the State Comptroller; the Speaker of the Assembly; the Temporary President of the Senate; the Senate Minority Leader; and the Assembly Minority Leader.

The Designating Panel would:

- Consider and evaluate the qualifications of candidates for appointment to the Office of Commissioner of Government Ethics;
- Make appointments by at least an affirmative, super-majority vote of the members of the Designating panel (7 out of 10);
- Establish outreach procedures to encourage the most qualified candidates to apply for commissioner positions;
- Provide that all selection proceedings and records are confidential; and
- Provide for the filling of vacancies in the State Government Ethics Commission.

The State Government Ethics Commission would include five members. There is no limit on the number of members who may be registered in the same political party. It would oversee all branches of government and would have both advisory and enforcement powers. The Commissioners as well as all Commission staff would be required to sign non-disclosure agreements to help ensure that confidential information does not become public.

The Commission would oversee, review, investigate and enforce:

- All financial disclosure statements for those subject to its jurisdiction;
- All complaints associated with violations of the ethics and lobbying laws in both the legislative and executive branches;

- Violations of the Open Meetings Law by the State; and
- Campaign finance laws.

The State Government Ethics Commission would promulgate, adopt, amend and rescind rules and regulations to:

- Define state officers for the purposes of clarifying who is covered under the law;
- Receive filings of financial disclosure statements;
- Establish a protocol for the performance of regular reviews of annual statements of financial disclosure;
- Provide assistance to the Legislature, state agencies, public authorities, public benefit corporations and the public regarding possible conflicts of interest;
- Provide ethics trainings for those subject to its jurisdiction; and
- Enforce the laws under its jurisdiction.

Notable Changes to the current law would include:

- Requiring State officers to disclose all outside business activities, including consulting services;
- Prohibit gifts over ten dollars in value with certain exceptions;
- Widely attended events are events related to the attendee's duties where the sponsor's intent was to invite 25 or more State officers who represent diverse views and to encourage dialogue;
- Requiring State officers to report all business dealings with lobbyists, vendors, contractors and contractees, including referrals of business by such individuals and entities to all State officers and State legislators in their private business capacities;
- Requiring lobbyists to disclose all private business relationships with State public officials;
- Reducing the amount lobbyists may contribute to campaigns to $250 per official per election;
- Prohibiting State officers from benefiting from State contracts during their terms in office;
- Requiring any State officers, including State legislators, with outside legal or other professional practices to identify their income and clients on the annual financial disclosure statement, with exceptions made after review and approval by the State Government Ethics Commission;
- Requiring enhanced reporting of lobbyists to the Commission of all solicitations of public officers and all lobbying for grants, loans and other disbursements of public funds, as well as other inducements of agency or public authority actions beneficial to their clients or themselves;
- Increasing lobbyists' disclosure regarding their business and appearances before State agencies, public authorities and other quasi-governmental entities;

- Expanding the prohibition on contingent retainer agreements to apply to all inducements or payments to an agent on behalf of a client, including, but not limited to, bonus payments or success fees;
- Expanding the current nepotism prohibition to include an official's knowledge of a relative's hiring;
- Enhancing the scrutiny of not-for-profit corporations engaged in issue advocacy to prevent violations of the campaign finance and tax rules;
- Instituting judicial proceedings to enforce compliance with article 14 on notice served to the respondent as least 6 hours prior to the time of return;
- Prohibiting any public official from serving as treasurer of any campaign committee supporting a candidate for any State office;
- Increasing penalties and providing the Commission with the right to make referrals of violations to local law enforcement and to the Attorney General for either civil or criminal prosecution; and
- Eliminating the ability of a member of the legislature to collect a State pension simultaneously with their legislative salary.

PART B

Replaces the State Comptroller as the "trustee" of the Common Retirement Fund ("Fund") with a newly-established 5 member Employee Retirement System Board of Trustees ("Board"), utilizing a similar designating panel to that used to select the State Government Ethics Commission. The designating panel would select independent members of the Board based on merit, with no direct appointments by any elected official. It would establish that the Board owes a fiduciary duty to the Fund. The comptroller would be the custodian of the funds and would invest such funds as authorized by the Board.

Establishes a Pay-to-Play ban regarding the New York State and New York City Comptrollers use of placement agents, consultants, financial advisors and lawyers who solicit these officials for investment of pension funds.

Enacts a two year ban on investment firms who makes any contribution to an official of the Common Retirement Fund. Requires investment firms to file with the State Government Ethics Commission any contributions to political parties and officials of the Common Retirement Fund in excess of three hundred dollars.

No official or issuer of the pension funds would be allowed to have a business relationship with an investment firm unless the Board consents. A two year ban would be placed on former employees of the Common Retirement Fund from employment with investment firms unless such person would not have contact with or provide services to the Common Retirement Fund.

Investment firms would be prohibited from giving gifts in excess of fifteen dollars which have the advertisement of the firm conspicuously printed on it.

Violations would be a misdemeanor punishable by a fine of up to $25,000 or imprisonment of up to six months or both. A second violation would be a felony punishable by a fine up to $100,000 or imprisonment for a class E felony or both.

PART C

Significantly changes the current provisions relating to the regulation of campaign finance laws. Shifts the enforcement and regulation of campaign finance from the State Board of Elections to the newly created State Government Ethics Commission. Contribution limits would be significantly reduced for statewide offices as well as for the State Senate and State Assembly and party committees, including the elimination of housekeeping accounts. The amount an individual can contribute in a calendar year for all campaign purposes is reduced to $25,000 and contributions from corporations and limited liability companies would be prohibited. New civil penalties are created for accepting contributions over the limit and for personal use of campaign money.

Disclosure would be enhanced by requiring that the occupation of contributors be listed on reports and an additional filing be made during the year.

The current prohibition on personal use of campaign money would be further regulated with a list of prohibited uses and a requirement that committees for candidates must be closed within two years of leaving office.

Fundraising by political committees would be prohibited within 40 miles of Albany during the legislative session.

An extensive program of public financing would be created for implementation in 2012. Candidates may opt-in to the system which would make them eligible for a four to one match of public money in return for strict limits on fundraising and expenditures.

PART D

Requires the forfeiture of a public pension for individuals convicted of a felony crime which is related to the performance or failure to perform such member's official duties. Member would be defined as a member of a State or local or police or firefighters retirement system.

Such action may be brought by a district attorney within six months of such conviction or by the Attorney General within one year for conviction by the United States government or another jurisdiction outside of New York state. The district attorney or Attorney General may seek forfeiture of only a portion of the member's retirement benefits upon consideration of mitigating factors in the members conduct. Upon a final determination reversing a felony conviction which resulted in the forfeiture of the member's retirement benefits the member would be able to apply to the court which had jurisdiction over the forfeiture for retroactive restoration of rights and benefits of the retirement system.