



New York State Senate Majority

Finance / Counsel Staff Analysis of the 2012-13 Executive Budget



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President Pro Tempore and Majority Leader

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Chairman, Finance Committee

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January 23, 2012

Dear Senators:

Please find attached the "Staff Analysis of the SFY 2012-13 Executive Budget." It is intended to assist the 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 a pleasure to thank the Republican Conference staff of both the Senate Finance Committee, and the Counsel and Program Office, whose assistance has been invaluable.

Sincerely,

A handwritten signature in black ink that reads "John A. DeFrancisco". The signature is written in a cursive, flowing style.

John A. DeFrancisco

New York State Senate Finance / Counsel Analysis of the 2012-13 Executive Budget



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PRESIDENT PRO TEMPORE & MAJORITY LEADER

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STAFF ANALYSIS OF THE SFY 2012-13 EXECUTIVE BUDGET

As Prepared by the Senate Majority Finance / Counsel Staff

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SECTION ONE

HIGHLIGHTS OF THE EXECUTIVE BUDGET

OVERVIEW

The Governor has again proposed a budget that closes the deficit by reducing spending and without increasing taxes or fees. The budget proposal also includes plans for job creation, property tax relief and other spending reforms. The budget framework includes long held priorities of the Senate Republican conference.

The State and National economies are slowly improving. However, economic forecasts predict slower growth over a longer recovery period than previous recessions. The current year's budget successfully transitioned the State off of billions of dollars in Temporary Federal stimulus funds which were used by the previous administration and the Democrats in the legislature to support unsustainable spending levels.

By reducing overall spending year over year and keeping State Operating funds spending to the rate of inflation, the Executive budget for SFY 2012-13 provides a framework for how New York can control State spending, reduce taxes for hard working families and turn the corner towards fiscal integrity enabling the budget can be used to promote private sector job growth.

The SFY 2012-13 Executive budget rejects the policies that were driving ever increasing budget gaps. Policies that resulted in the approval of \$14 billion in new taxes from 2009-10, which were enacted without a single Republican vote.

The Senate Republican conference has supported capping spending to balance the budget, rather than raising taxes or borrowing. Maintaining State spending at a sustainable level is a top priority of the Senate Republican Majority.

In addition to controlling spending, the Governor is advancing a number of reforms to the Medicaid program and the pension system

including a pension tier and a defined contribution plan. The budget also makes the promised additional school aid payment of \$805 million contingent upon a resolution of the teacher/principal evaluation process. Last year the Senate acted on school accountability reforms in order to ensure that students have the best teachers in the classroom. This year with over \$1.5 billion in funding for schools at risk the stakes are higher.

The fiscal reforms and spending controls enacted last year are what make the 2012-13 Executive budget proposal possible. The SFY 2011-12 budget included two-year appropriations for two of the fastest growing areas of State spending; the State's Medicaid program and School Aid. In addition to the two-year appropriations which are reflected in the Governor's 2012-13 budget, limits are placed on spending in these areas. The inflation based spending cap on the Medicaid program combined with the Medicaid program cost reforms keep spending within the cap and have reduced projected State spending in the Medicaid program alone by \$6.7 billion.

The foundation of which the SFY 2012-13 Budget is based was made possible because of the spending controls and reforms that were put in place in 2011. Last year the Majority Republican Conference in the Senate partnered with the Governor and the Assembly to enact a budget that closed a \$10 billion gap without raising taxes. The SFY 2012-13 Executive budget closes a \$3.5 billion estimated budget gap without raising taxes. Moreover for the second consecutive year All Funds State spending is reduced from the previous year. Under this Executive proposal the State budget will have decreased by over \$2.3 billion since 2010.

FINANCIAL PLAN

The SFY 2012-13 Executive Budget financial plan reduces spending and reduces the structural deficit without raising taxes. The proposed All Funds spending of \$132.5 billion is a decrease of \$225 million or -0.17 percent from the current year.

The more accurate growth figure is the State Funds spending projection showing growth of \$1.5 billion (see table below) or 1.6 percent, which is slightly lower than the rate of inflation.

SFY 2012-13 SPENDING				
	11-12	12-13	Change	Percent
All Funds	\$132.74	\$132.51	(\$.225)	-0.17%
State Funds	\$93.29	\$94.80	\$1.51	1.62%

BUDGET GAP CLOSING PLAN

The projected budget gap for SFY 2012-13 is \$3.5 billion. The structural deficit or cumulative gap amounts over the next three years is \$12.2 billion. The Governor’s Budget closes the \$3.5 billion gap and reduces the \$8.7 billion gaps over the following two years to a total of \$3.7 billion. According to the Executive, approximately 58 percent of the SFY 2012-13 gap closing plan is accomplished through spending reductions.

SFY 2012-13 Budget Gap	
Billions of Dollars	
Spending Reductions	
Agency Operations	\$ 1.141
Local Assistance	\$ 756
Debt Management	\$ 140
Total Spending Reductions	\$ 2.037
Tax Reform Reserve	\$ 1.536
New Initiatives	\$ -.73
Total Revenue/Other	\$ 1.463
Total Gap Closing Plan	\$3.500

RECEIPTS

The Executive Budget uses virtually no tax and fee increases to close the budget gap. There is a change to how taxes are collected on cigars and certain tobacco products which appears to increase taxes on these products. There are various other fee or revenue actions which total \$32 million in SFY 2012-13.

RESERVES:

The current year budget was expected to close the SFY 2011-12 State Fiscal Year with approximately \$1.4 billion in reserve funds. This estimate was prior to the December 2011 extraordinary session Tax Reform legislation. This Tax Reform legislation resulted in additional reserves of \$1.5 billion for total reserves of \$2.9 billion. The additional Tax Reform Reserve of \$1.5 billion was used to close the 2013-14 budget gap of \$3.5 billion. Approximately \$1.7 billion remains in reserve funds however this includes \$284 million for labor agreements.

HIGHLIGHTS OF MAJOR AREAS OF SPENDING AREAS

MEDICAID

The Executive Budget continues to keep spending within the Medicaid cap established last year for both SFY 2012-13 and SFY 2013-14. All Funds Medicaid spending overall, including the local contribution and all agencies is projected to be \$54.0 billion, a reduction of \$136 million or 0.3 percent from current year levels.

As part of an effort to provide financial relief to counties, the Executive proposes to freeze the growth of the local contribution for Medicaid expenditures over a three-year phase-in period. Associated with the Local Medicaid cost freeze the Executive Budget proposes to transfer the

administration of the Medicaid program from local social services districts (counties and New York City) to the Department of Health by April 1, 2018.

The Executive again proposes legislation to establish a Health Insurance Benefit Exchange. Legislation to implement proposals made by the Medicaid Redesign Team (MRT) and MRT Phase Two work groups is also included. Significant proposals include ending spousal refusal and changes to required services.

SCHOOL AID

The Executive Budget recommends \$20.3 billion in General Support for Public Schools, an increase of \$805 million or 4.1 percent over current year funding. **School Aid:** The year to year \$805 million increase reflects the two year appropriation authorized in the 2011-12 Enacted budget. For the 2012-13 school year, the \$805 million increase provides \$265 million for additional expense based aids, \$290 million for school aid targeted to high need districts, and \$250 million for performance grants. The additional aid to school districts is contingent upon each district adopting a Teacher and Principal evaluation process approved by the Commissioner of Education.

HIGHER EDUCATION

The Executive Budget maintains General Fund support for SUNY and CUNY, consistent with the maintenance of effort provisions of SUNY 2020. There are some increases attributed to additional tuition revenue anticipated for SUNY and CUNY. No changes are proposed for the Tuition Assistance Program. The Budget maintains the same support as the current year (\$60 million) for the SUNY Hospital subsidy. The NYSUNY 2020 Challenge Grant program is extended to SUNY's other 60 campuses. Base operating aid for community colleges remains

the same as SFY 2011-12 levels at \$2,122 per FTE student.

TRANSPORTATION:

The SFY 2012-13 Executive Budget includes \$1.16 billion of new funding (\$917 million federal and \$247 million State fund) under the New York Works program that would accelerate capital infrastructure investment. The SFY Executive Budget also includes \$32.5 million in gap closing initiatives in DOT and DMV. The MTA would receive an additional \$770 million in new capital funding for their 2010-2014 Capital Plan. Funding for local highway and bridge projects through the Consolidated Highway Improvement Program (CHIPS) program is maintained at last year's level and Marchiselli program funding of \$39.7M is also level. The transit system will receive \$4.4B, an increase of \$220M from SFY 2011-12.

PUBLIC PROTECTION:

There are no public protection agency closures proposed for SFY 2012-13. The Executive budget includes the savings from the seven correctional facilities slated for closure in the current year resulting in the elimination of 3,800 beds and the reduction of 1,100 positions. Dozens of new training classes are resumed for DOCS, Parole and State Police officers and troopers to maintain personnel levels. Funding is also proposed to support the Governors all crimes DNA proposal.

ECONOMIC DEVELOPMENT AND JOB CREATION

The Executive Budget continues the use of regional economic development councils as a means to distribute economic development funding throughout the state. As part of the proposed New York Works program, the Executive Budget plans to utilize infrastructure

investment as an economic development tool through the use of new and existing capital spending.

In 2011, the Senate Republicans were instrumental in the establishment of a program to promote economic revitalization in the communities impacted by prison and youth facility closures. Legislation was also enacted that provided capital access to small businesses, promoted employment growth among New York's at-risk youth, provided additional job training resources, and created a program of tax credits and other incentives to aid in the redevelopment of those communities impacted by flooding.

AGRICULTURE/ENVIRONMENT/ HOUSING

The Executive Budget proposes to eliminate all reappropriations from prior-year Legislative additions. Funding for traditional agriculture programs are consistent with current year levels with a few notable exceptions. Funding for the Environmental Protection Fund is proposed at \$134 million, identical to current year funding. Funding for certain housing programs are eliminated while new enforcement units are proposed for funding in relation to foreclosures and rent regulations.

STATE OPERATIONS / WORKFORCE

The Executive Budget includes a reduction of 10 percent to all State Agency Operations from the SFY 2010-11 level. There are no specifics as to how these saving will be accomplished. Language is included in briefing documents stating that in the absence of negotiated workforce savings additional layoffs may be necessary. The workforce numbers for individual agencies do not include specific reductions; however, there is an estimate of 9,800 layoffs for all State agencies that could occur if \$450 million in negotiated workforce savings are not achieved. In addition the

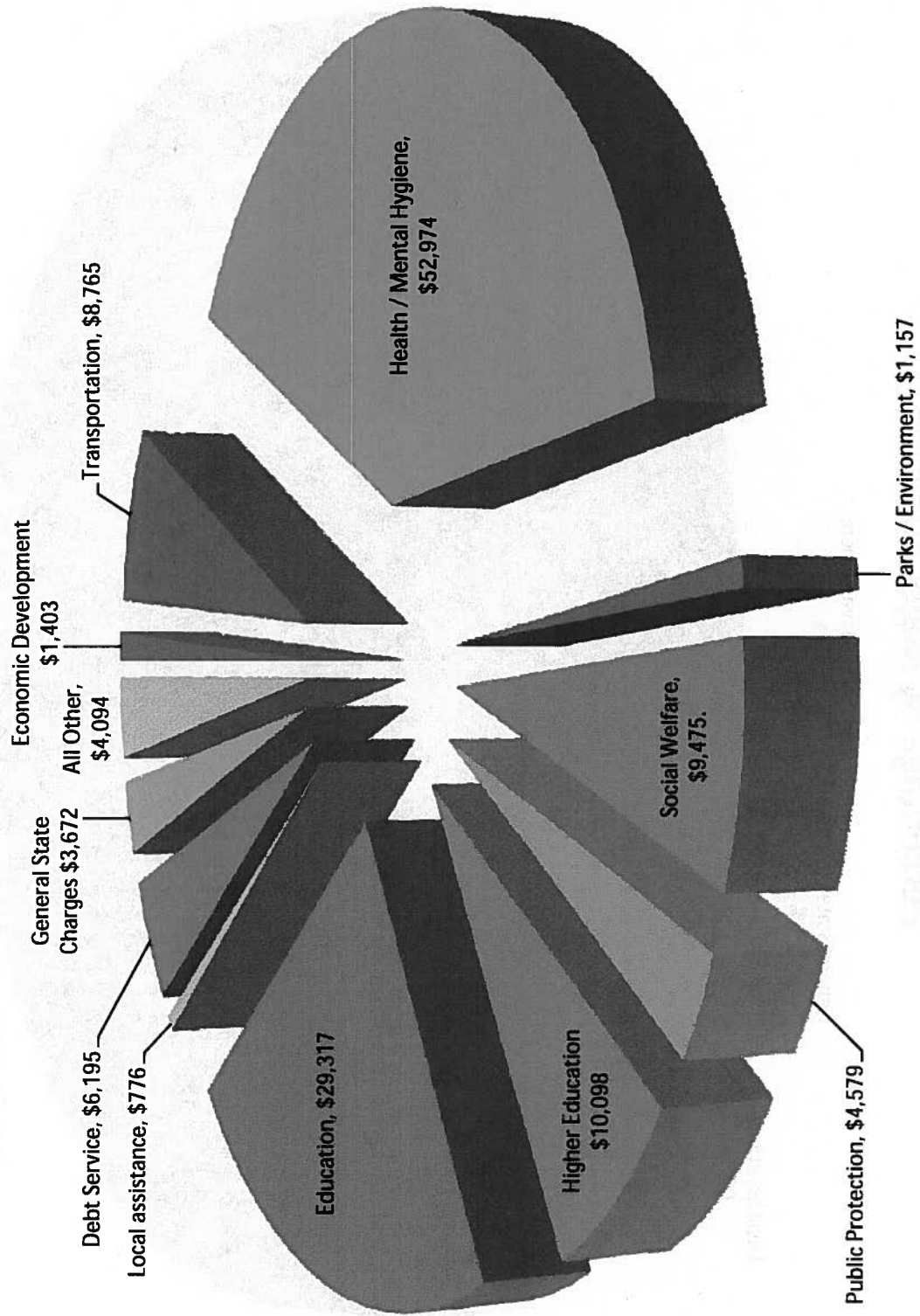
Executive includes \$100 million in savings from "right sizing" initiatives. Lastly, The Financial Plan for SFY 2011-12 includes a reserve of \$346 million to cover the cost of a pattern settlement for collective bargaining.

MERGERS AND CONSOLIDATIONS

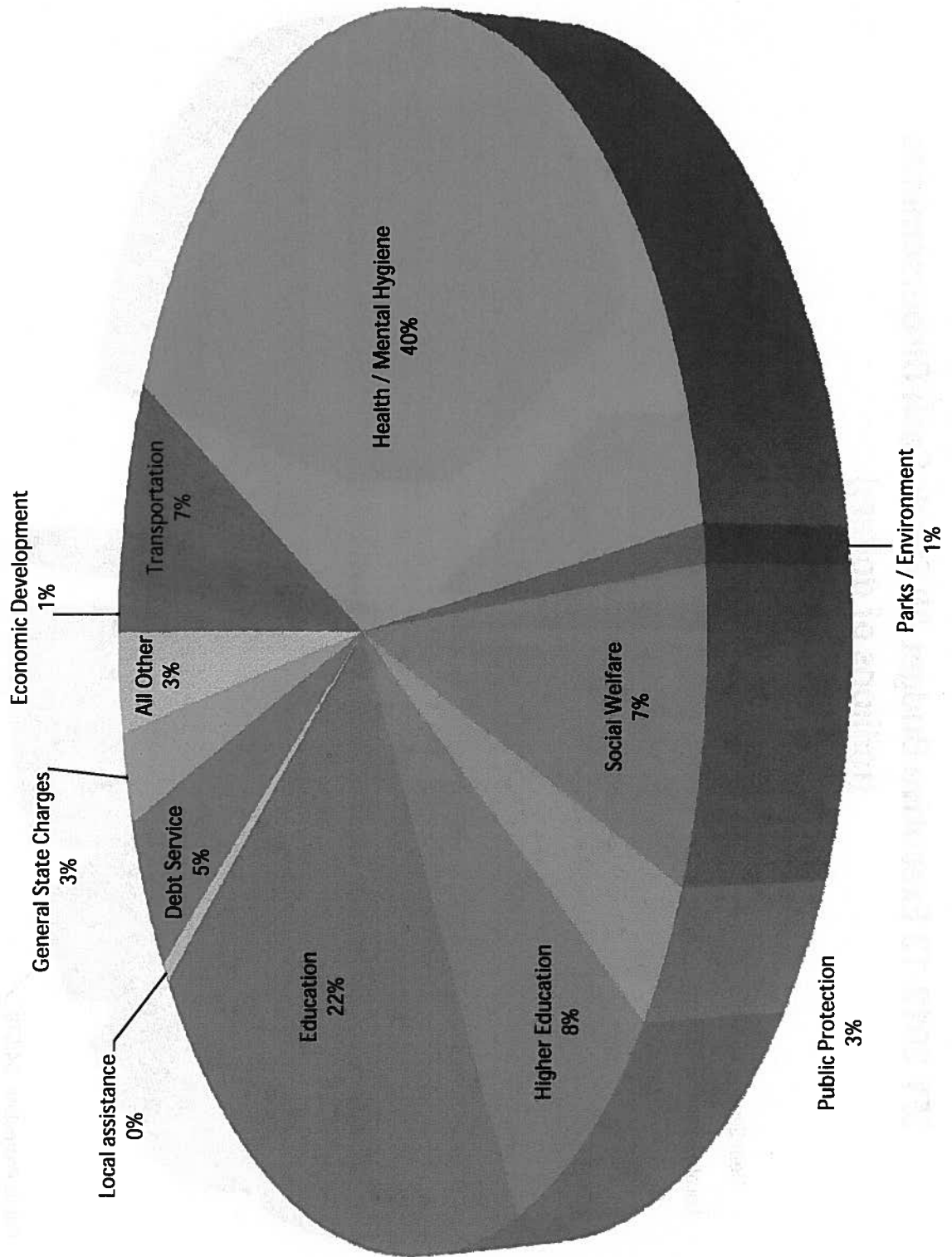
The SFY 2012-13 Executive Budget contains Article VII legislation to continue implementing the goals of the SAGE Government efficiency commission. However, the one-time reorganizational plan that the Legislature is expecting to receive before the end of the 2012 was not submitted with the Executive Budget. The following consolidations and mergers are proposed in the Executive Budget:

- **Lottery and Racing and Wagering Board into New York State "Gaming Commission"**
- **Department of Civil Service and Governor's Office of Employee Relations into a Newly Created Department of Workforce Management**
- **Tax & Finance Will Assume Debt Collection Functions of Higher Education Services Corporations (HESC)**
- **Consolidate DOT Regional Offices from 11 to 6 and Eliminate Regional Directors and Staff Positions Through Attrition**
- **Transfer Belleayre Ski Center From DEC to the Olympic Regional Development Authority**
- **Recommend the Elimination and Merger of more than 25 Boards and Commissions**
- **Adds Broad Appropriation Language to Further Consolidate Services Without Legislative Approval**

SFY 2012-13 Executive Budget All Funds Cash Disbursements (millions of dollars)



SFY 2012-13 Executive Budget All Funds Cash Disbursements Percentage By Major Function



Executive Tax Increase and Revenue Action Proposals
(thousands of dollars)

	SFY 2012-13	SFY 2013-14
Tobacco Tax Increase	\$18,000	\$24,000
Collect Unused Horse Racing Vouchers	\$200	\$200
Accelerate Security Guard Fees and Extend License Terms	\$1,800	\$1,800
Accelerate Real Estate Broker and Salesperson Fees and Extend License Terms	\$0	\$5,000
Prohibit Bank Fees From Reducing Tax Levies	\$5,000	\$7,000
Make Tax Modernization Provisions Permanent	\$5,000	\$20,000
STAR Benefit Refusal	\$0	\$1,000
Sales Tax Registration Refusal	\$1,000	\$1,000
Fuel Definitions Technical Corrections	\$0	\$0
Extend Fees for the Establishment of Oil and Gas Unit of Production Values to 2015	\$48	\$48
Extend lower MTA Mobility Tax Rates for Employers to Professional Employer Organizations	\$0	\$0
Statewide Collected Transmission Tax Redistribution	\$0	\$0
Pari-Mutuel Lower Tax Rate Extender	\$0	\$0
Ambulance Service Certificate Fee	N/A	N/A
Burial and Funeral Permit Fee	\$2,900	\$2,900
Enforcement and Other Revenue Action Totals	\$33,948	\$62,948

All Funds Cash Financial Plan							
SFY 2010-11 through SFY 2012-13							
(millions of dollars)							
	2010-11	2011-12			2012-13		
	Results*	Current	Change	Percent	Proposed	Change	Percent
Opening fund balance	4,859	3,812	(1,047)	-21.55%	3,869	57	1.50%
Receipts							
Taxes	60,870	64,532	3,662	6.02%	66,533	2,001	3.10%
Miscellaneous receipts	23,148	23,832	684	2.95%	24,255	423	1.77%
Federal grants	49,303	43,942	(5,361)	-10.87%	41,936	(2,006)	-4.57%
Total receipts	133,321	132,306	(1,015)	-0.76%	132,724	418	0.32%
Disbursements							
Grants to local governments	98,633	95,822	(2,811)	-2.85%	95,185	(637)	-0.66%
Departmental Operations:							
Personal Service	13,105	12,519	(586)	-4.47%	12,566	47	0.38%
Non-Personal Service	5,979	6,170	191	3.19%	6,054	(116)	-1.88%
General State charges	6,362	6,833	471	7.40%	6,702	(131)	-1.92%
Debt service	5,615	5,872	257	4.58%	6,149	277	4.72%
Capital projects	5,131	5,519	388	7.56%	5,854	335	6.07%
Total disbursements	134,825	132,735	(2,090)	-1.55%	132,510	(225)	-0.17%
Net other financing sources (uses)	456	486			391		
Excess (Deficiency) of Receipts and Other Financing Sources Over Disbursements and Other Financing Uses	(1,048)	57			605		
Closing Fund Balance	3,811	3,869	58	1.52%	4,474	605	15.64%

* SFY 2010-11 data derived from the SFY 2011-12 Enacted Budget, T-19.

Notes

All Funds is the most comprehensive measure of State spending because it includes Federal transfer payments (or grants). The SFY 2012-13 Executive Budget projects a State Funds spending decrease for \$800 million or .6 percent on a current services basis (before Executive Budget actions) and \$200 million or .2 percent inclusive of Executive Budget actions.

State Funds Cash Financial Plan							
SFY 2010-11 through SFY 2012-13							
(millions of dollars)							
	2010-11	2011-12			2012-13		
	Results*	Current	Change	Percent	Proposed	Change	Percent
Opening fund balance	4,780	3,907	(873)	-18.26%	3,959	52	1.33%
Receipts							
Taxes	60,870	64,532	3,662	6.02%	66,533	2,001	3.10%
Miscellaneous receipts	22,994	23,700	706	3.07%	24,124	424	1.79%
Federal grants	117	145	28	23.93%	145	0	0.00%
Total receipts	83,981	88,377	4,396	5.23%	90,802	2,425	2.74%
Disbursements							
Grants to local governments	57,042	59,199	2,157	3.78%	60,303	1,104	1.86%
Departmental Operations:							
Personal Service	12,422	11,876	(546)	-4.40%	11,965	89	0.75%
Non-Personal Service	4,965	5,211	246	4.95%	5,167	(44)	-0.84%
General State charges	6,102	6,536	434	7.11%	6,388	(148)	-2.26%
Debt service	5,615	5,872	257	4.58%	6,149	277	0
Capital projects	3,972	4,594	622	15.66%	4,823	229	0
Total disbursements	90,118	93,288	3,170	3.52%	94,795	1,507	1.62%
Net other financing sources (uses)	5,265	4,963			4,620		
Excess (Deficiency) of Receipts and Other Financing Sources Over Disbursements and Other Financing Uses							
	(872)	52			627		
Closing Fund Balance	3,908	3,959	51	1.31%	4,586	627	15.84%

* SFY 2010-11 data derived from the SFY 2011-12 Enacted Budget, T-52.

Notes
State Funds is the best measure of spending because it includes all State spending except Federal transfer payments.

The SFY 2012-13 Executive Budget projects a State Funds spending increase of \$3.2 billion or 3.4 percent on a current services basis (before Executive Budget actions) and \$1.5 billion or 1.6 percent inclusive of Executive Budget actions.

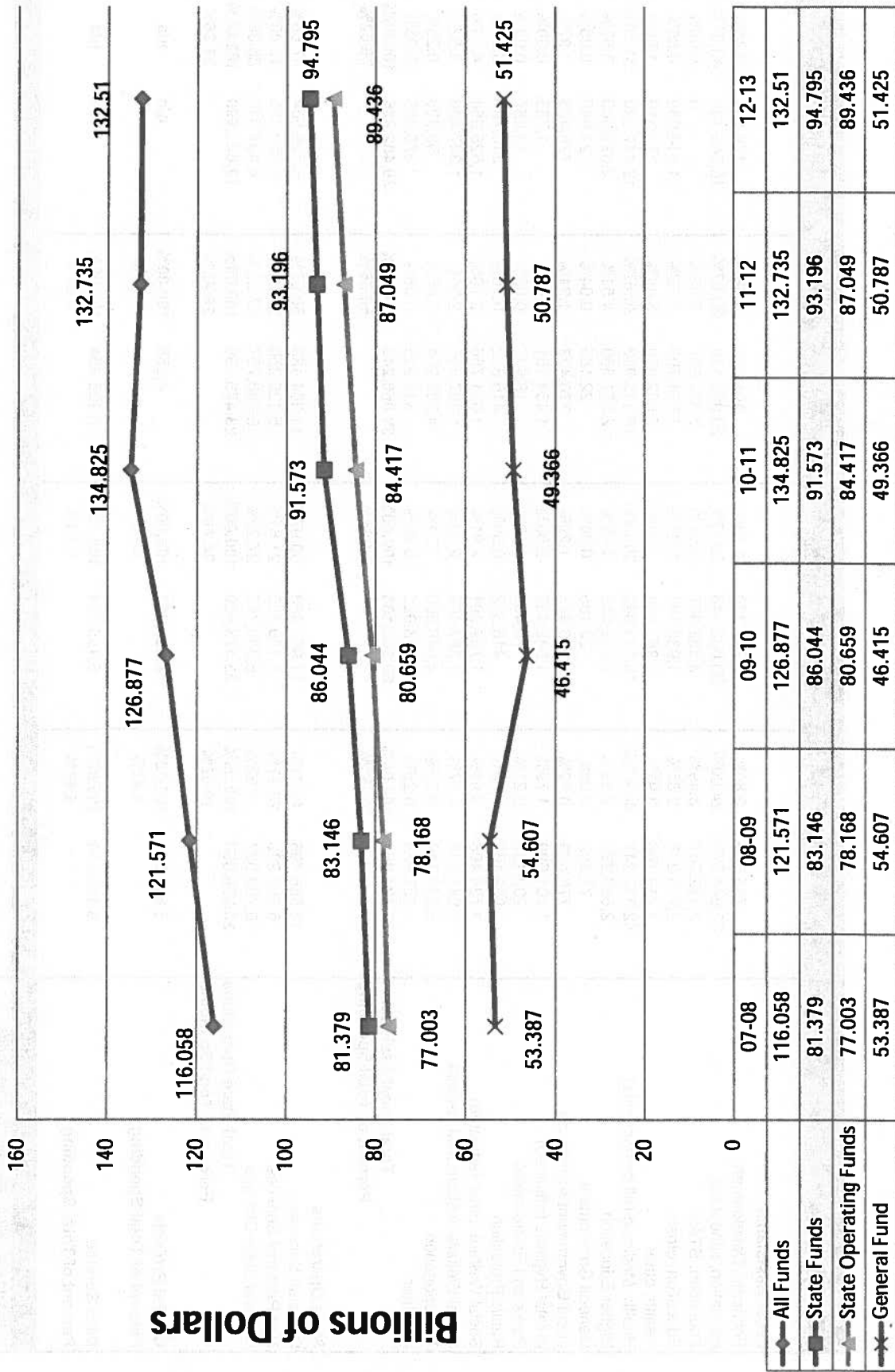
According to the Division of the Budget the All Urban Consumer Price Index (CPI) for 2012 is 1.8 percent.

General Fund Cash Financial Plan							
SFY 2010-11 through SFY 2012-13							
(millions of dollars)							
	2010-11	2011-12			2012-13		
	Results	Current	Change	Percent	Proposed	Change	Percent
Opening fund balance	2,302	1,376	(926)	-40.23%	1,675	299	21.73%
Receipts							
Taxes	39,205	41,920	2,715	6.93%	43,373	1,453	3.47%
Miscellaneous receipts	3,095	3,244	149	4.81%	3,069	(175)	-5.39%
Federal grants	54	60	6	11.11%	60	0	0.00%
Transfers From Other Funds	12,093	11,990	(103)	-0.85%	12,213	223	1.86%
Total receipts	54,447	57,214	2,767	5.08%	58,715	1,501	2.62%
Disbursements							
Local Assistance Grants	37,206	38,515	1,309	3.52%	39,403	888	2.31%
Departmental Operations:							
Personal Service	6,151	5,770	(381)	-6.19%	5,729	(41)	-0.71%
Non-Personal Service	1,822	1,795	(27)	-1.48%	1,859	64	3.57%
General State charges	4,187	4,707	520	12.42%	4,434	(273)	-5.80%
Transfers To Other Funds							
Debt service	1,737	1,539	(198)	-11.40%	1,610	71	4.61%
Capital projects	932	790	(142)	-15.24%	1,079	289	36.58%
State Share Medicaid	2,497	2,912	415	16.62%	2,903	(9)	-0.31%
Other	841	887	46	5.47%	1,575	688	77.56%
Total disbursements	55,373	56,915	1,542	2.78%	58,592	1,677	2.95%
Excess (Deficiency) of Receipts over Disbursements and Reserves	(926)	299	1,225	-132.29%	123	(176)	-58.86%
Closing Fund Balance	1,376	1,675	299	21.73%	1,798	123	7.34%
Notes							
The General Fund is the major operating fund of the State and the traditional measure of State spending; however over the years it has become less reliable as a measure due to spending and taxes in other funds.							
The Executive Budget projects SFY 2012-13 General Fund Receipts (including transfers) to increase by \$1.5 billion or 6.62 percent from SFY 2011-12, this revenue growth is driven by a 3.5 percent increase in tax receipts.							
The Executive Budget projects SFY 2012-13 General Fund Disbursements (including transfers) to increase by \$1.6 billion, an increase of 2.95 percent from SFY 2011-12.							
The SFY 2012-13 General Fund closing balance increases by \$123 million from \$1.678 billion to approximately \$1.80 billion, or approximately 7.3 percent. This amount reflects \$284 million in prior year labor agreements carried forward into SFY 2012-13 for a total reserve for prior							

Cash Disbursements By Function SFY 2012-13 Executive Budget	All Funds		State Funds		State Operating Funds		General Fund	
	Thousands (\$)	Percent	Thousands (\$)	Percent	Thousands (\$)	Percent	Thousands (\$)	Percent
Local Assistance								
Economic Development	765,686	0.80%	741,320	1.23%	401,820	0.68%	175,134	0.44%
Education, school aid	22,844,673	24.00%	20,002,148	33.17%	20,002,148	33.87%	16,949,148	43.01%
Education, STAR	3,322,067	3.49%	3,322,067	5.51%	3,322,067	5.62%	0	0.00%
Education, other	2,710,278	2.85%	1,935,793	3.21%	1,921,793	3.25%	1,914,059	4.86%
Health, other	3,718,166	3.91%	2,367,584	3.93%	2,032,979	3.44%	773,310	1.96%
Health, Medicaid (all components)	42,332,247	44.47%	18,113,943	30.04%	18,113,943	30.67%	12,447,320	31.59%
Higher Education	2,689,993	2.83%	2,682,052	4.45%	2,661,560	4.51%	2,629,560	6.67%
General Government	77,892	0.08%	22,185	0.04%	22,185	0.04%	21,646	0.05%
Local Government Assistance	776,423	0.82%	776,423	1.29%	776,423	1.31%	776,423	1.97%
Mental Hygiene (adjusted)	1,701,099	1.79%	1,542,499	2.56%	1,434,161	2.43%	1,783	0.00%
Parks and Environment	203,157	0.21%	73,437	0.12%	18,437	0.03%	13,587	0.03%
Public Protection	859,160	0.90%	416,322	0.69%	416,322	0.70%	213,787	0.54%
Social Welfare, other (adjusted)	3,736,498	3.93%	1,752,391	2.91%	1,631,756	2.76%	1,625,954	4.13%
Social Welfare, welfare asst / admin	3,971,946	4.17%	1,387,466	2.30%	1,387,466	2.35%	1,387,466	3.52%
Transportation	5,237,749	5.50%	4,648,600	7.71%	4,398,264	7.45%	98,303	0.25%
All Other	237,925	0.25%	518,925	0.86%	518,925	0.89%	375,406	0.95%
Total Local Assistance	95,184,959	100.00%	60,303,155	100.00%	59,060,249	100.00%	39,402,886	100.00%
Percent of Total Spending		71.83%		63.61%		66.56%		76.62%
State Operations								
Personal Services	12,565,796	49.71%	11,964,483	50.97%	11,964,483	50.97%	5,728,564	47.65%
Non Personal Services	6,007,238	23.77%	5,120,250	21.81%	5,120,250	21.81%	1,859,125	15.46%
General State Charges	6,703,022	26.52%	6,388,757	27.22%	6,388,757	27.22%	4,434,310	36.88%
Total State Operations	25,276,056	100.00%	23,473,490	100.00%	23,473,490	100.00%	12,021,999	100.00%
Percent of Total Spending		19.07%		24.76%		26.45%		23.38%
Capital Projects								
Percent of Total Spending	5,854,274	100.00%	4,823,427	100.00%	4,985	100.00%	n/a	n/a
Debt Service								
Percent of Total Spending	6,195,454	100.00%	6,195,454	100.00%	6,195,454	100.00%	n/a	n/a
		4.68%		6.54%		6.98%		
Total SFY 2012-13 Spending	\$ 132,510,743	100%	\$ 94,795,526	100%	\$ 88,734,178	100%	\$ 51,424,885	100%

*Totals do not include transfers to other funds

Five Year Cash Disbursements Trend



Workforce Impact Summary
All Funds
2010-11 Through 2012-13

	2010-11 Actuals (03/31/11)	Starting Estimate (03/31/12)	Layoffs*	Attritions	New Fills	Fund Shifts	Mergers	Net Change	Ending Estimate (03/31/13)
Major Agencies									
Children and Family Services	3,352	3,143	(123)	(466)	780	0	0	191	3,334
Corrections and Community Supervision	29,530	29,773	0	(1,899)	1,899	0	0	0	29,773
Education Department	2,735	2,672	0	(111)	204	0	0	93	2,765
Environmental Conservation	3,003	2,983	0	(52)	52	0	0	0	2,983
Financial Services	0	1,531	0	(52)	52	0	0	0	1,531
General Services	1,345	1,315	0	(60)	74	0	0	14	1,329
Health	4,995	5,000	0	(301)	421	0	0	120	5,120
Labor	3,953	3,753	0	(424)	197	0	0	(227)	3,526
Mental Health	15,727	15,327	0	(1,620)	1,620	0	0	0	15,327
Motor Vehicles	2,447	2,393	0	(52)	73	0	0	21	2,414
Parks, Recreation and Historic Preservation	1,800	1,748	0	(75)	63	0	0	(12)	1,736
Parole	1,863	0	0	0	0	0	0	0	0
People with Developmental Disabilities	21,221	20,718	0	(1,842)	1,728	0	0	(114)	20,604
State Police	5,435	5,220	0	(208)	208	0	0	0	5,220
Taxation and Finance	5,125	4,897	0	(194)	97	0	0	(97)	4,800
Temporary and Disability Assistance	2,159	2,225	0	(12)	59	0	(6)	41	2,266
Transportation	9,130	8,583	0	(304)	213	0	0	(91)	8,492
Workers' Compensation Board	1,364	1,380	0	(80)	71	0	0	(9)	1,371
Subtotal - Major Agencies	115,184	112,661	(123)	(7,752)	7,811	0	(6)	(70)	112,591
Minor Agencies	10,603	9,207	(3)	(588)	576	0	6	(9)	9,198
Subject to Direct Executive Control	125,787	121,868	(126)	(8,340)	8,387	0	0	(79)	121,789
University Systems									
City University of New York	12,844	12,747	0	0	0	0	0	0	12,747
State University Construction Fund	140	152	0	0	0	0	0	0	152
State University of New York	41,053	42,206	0	0	0	0	0	0	42,206
Subtotal - University Systems	54,037	55,105	0	0	0	0	0	0	55,105
Off-Budget Agencies									
Roswell Park Cancer Institute	2,025	2,025	0	(101)	101	0	0	0	2,025
Science, Technology and Innovation	20	0	0	0	0	0	0	0	0
State Insurance Fund	2,545	2,536	0	(125)	125	0	0	0	2,536
Subtotal - Off-Budget Agencies	4,590	4,561	0	(226)	226	0	0	0	4,561
Independently Elected Agencies									
Audit & Control	2,444	2,516	0	0	98	0	0	98	2,614
Law	1,653	1,747	0	0	51	0	0	51	1,798
Subtotal - Independently Elected Agencies	4,097	4,263	0	0	149	0	0	149	4,412
Grand Total	188,511	185,797	(126)	(8,566)	8,762	0	0	70	185,867

* This table does not reflect layoffs that may be necessary in the absence of negotiated workforce savings.

**Workforce Impact Summary
All Funds
2010-11 Through 2012-13**

	2010-11	Starting	Layoffs*	Attritions	New Fund			Net	Ending
	Actuals (03/31/11)	Estimate (03/31/12)			Fills	Shifts	Mergers		Change
Minor Agencies									
Adirondack Park Agency	52	56	0	(2)	2	0	0	0	56
Aging the	119	114	0	(14)	14	0	0	0	114
Agriculture and Markets	508	495	0	(37)	30	0	0	(7)	488
Alcoholic Beverage Control	128	123	0	(2)	11	0	0	9	132
Alcoholism and Substance Abuse Services	842	822	0	(39)	30	0	0	(9)	813
Arts	29	28	0	(1)	1	0	0	0	28
Banking Department	530	0	0	0	0	0	0	0	0
Budget	313	307	0	(20)	30	0	0	10	317
Civil Service	432	416	0	(10)	2	0	0	(8)	408
Consumer Protection Board	21	0	0	0	0	0	0	0	0
Correction, Commission of	27	29	0	0	0	0	0	0	29
Criminal Justice Services	630	589	0	(52)	55	0	0	3	592
Deferred Compensation Board	4	4	0	0	0	0	0	0	4
Economic Development	133	143	0	(3)	18	0	0	15	158
Elections	59	58	0	0	0	0	0	0	58
Employee Relations	42	41	0	0	13	0	0	13	54
Environmental Facilities Corporation	76	88	0	(98)	10	0	0	(88)	0
Executive Chamber	124	136	0	(24)	24	0	0	0	136
Financial Control Board	14	14	0	0	0	0	0	0	14
Higher Education Services Corporation, New York	502	495	0	(25)	25	0	0	0	495
Homeland Security and Emergency Services	383	427	0	(20)	35	0	0	15	442
Housing and Community Renewal	749	745	0	(68)	82	0	0	14	759
Hudson River Valley Greenway Communities	1	1	0	0	0	0	0	0	1
Human Rights	194	188	(3)	(7)	0	0	0	(10)	178
Indigent Legal Services	1	10	0	0	0	0	0	0	10
Inspector General the	59	62	0	0	3	0	0	3	65
Insurance Department	899	0	0	0	0	0	0	0	0
Interest on Lawyer Account	8	8	0	0	0	0	0	0	8
Judicial Commissions	39	49	0	0	0	0	0	0	49
Labor Management Committees	77	79	0	0	0	0	0	0	79
Lieutenant Governor	4	7	0	(1)	1	0	0	0	7
Lottery	314	362	0	(15)	15	0	0	0	362
Medicaid Inspector General	606	558	0	(52)	0	0	0	(52)	506
Military and Naval Affairs	410	433	0	(9)	9	0	0	0	433
Prevention of Domestic Violence	25	26	0	0	0	0	0	0	26
Public Employment Relations Board	34	33	0	0	0	0	0	0	33
Public Ethics, Joint Commission on	45	45	0	0	0	0	0	0	45
Public Service Department	510	508	0	(30)	46	0	0	16	524
Quality of Care and Advocacy for the Disabled	92	99	0	(1)	5	0	0	4	103
Racing and Wagering	102	105	0	(5)	5	0	0	0	105
Regulatory Reform, Governor's Office of	10	0	0	0	0	0	0	0	0
State	574	598	0	(14)	30	0	6	22	620
Statewide Financial System	88	136	0	(17)	26	0	0	9	145
Statewide Wireless Network	3	0	0	0	0	0	0	0	0
Tax Appeals	25	26	0	(1)	1	0	0	0	26
Technology	587	571	0	(14)	40	0	0	26	597
Veterans' Affairs	96	91	0	(5)	8	0	0	3	94
Victim Services	78	75	0	(2)	5	0	0	3	78
Welfare Inspector General	5	7	0	0	0	0	0	0	7
Subtotal - Minor Agencies	10,603	9,207	(3)	(588)	576	0	6	(9)	9,198

Education Fact Sheet



The Executive Budget recommends \$20.3 billion in General Support for Public Schools an increase of \$805 million or 4.1 percent over current year funding.

- **School Aid:** The year to year increase reflects the two year appropriation authorized in the 2011-12 Enacted budget. For the 2012-13 school year the \$805 million increase provides \$265 million for additional expense based aids (Transportation Aid, BOCES, Special Education and Building Aid etc), \$290 million for school aid targeted to high need districts, and \$250 million for performance grants.
- **Teacher Evaluations:** The additional aid to school districts allocated from the \$805 million in education funding is contingent upon each district adopting a Teacher and Principal evaluation process approved by the Commissioner of Education. The precise evaluation process is undetermined until litigation between the New York State Teachers Unions and the State Department of Education has been resolved. If this litigation is not settled within the 30 day Executive Budget amendment period, the Governor will propose his own evaluation process in the thirty day amendments. If a district fails to implement an evaluation process by January 17, of 2013 the additional amount of state aid they received will be recouped from future payments.
- **Gap Elimination Adjustment (GEA):** The GEA is the original formula which reduced school aid by accounting for each districts wealth, student need, administrative efficiency and residential property tax burden. The aid restoration is calculated to take into consideration a district's extraordinary needs percentage, total general fund expenditures and the 2011-12 gap elimination adjustment amount. The Executive Budget proposes using \$290 million of the additional \$805 million appropriated in the SFY 2011-12 Enacted budget for 2012-13 school year to reduce the GEA to \$2.26 billion.
- **Performance Grants:** The Executive proposes \$250 million to fund the performance grants enacted in the SFY 2011-12 budget. Two competitive grant programs were authorized to encourage districts to implement innovative approaches to achieve academic gains and management efficiency. These grants are subject to a request for proposal process which has been partially developed and implemented in the 2011-12 school year. To date no awards have been granted. These grants are also contingent on districts implementing a teacher and principal evaluation process. Funding will be awarded in the 2012-13 and 2013-14 school years.
- **Preschool Special Education:** The Executive provides a \$66.8 million increase for the 2012-13 school year. The Executive is also proposing to reduce the Counties liability for Preschool

costs by shifting a portion of the growth in County costs to the State and 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 would split the cost of any growth in the County share of the programs approved cost between the State, the school district, and the County. Projected growth in the County share is \$15 million leaving each entity responsible for \$5 million in program costs in 2012-13.

The following table shows total school aid for School year 2011-12 and 2012-13, the increase of \$805 million and percentage increase. The subtotal combines all expensed based aids.

Executive School Aid Proposal				
Category	School Year 2011-2012	School Year 2012-2013	Change	% Change
Expense Based Aids	\$6,502.72	\$6,763.39	\$260.67	1%
Foundation Aid	\$14,893.62	\$14,893.62	\$0.00	0.00%
Universal Pre-Kindergarten	\$383.00	\$384.29	\$1.06	0.28%
Other Aid Categories/ Initiatives	\$283.88	\$287.09	\$3.21	1.13%
Subtotal	\$22,063.22	\$22,328.39	\$264.94	1.20%
Gap Elimination Adjustment	(\$2,556.48)	(\$2,266.69)	\$289.79	na
Performance grants	0	\$250	\$250	na
Total	\$19,506.74	\$20,311.70	\$804.96	4%

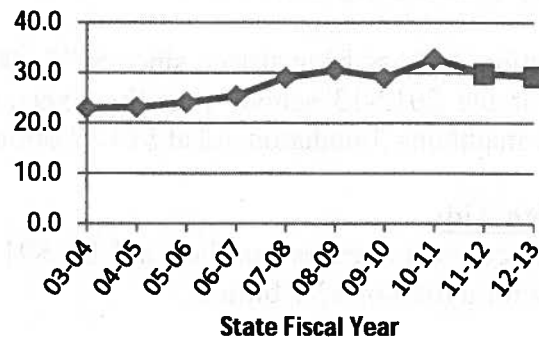
EDUCATION

All Funds Disbursements

(Millions of Dollars)

	Estimated SFY 11-12	Projected SFY 12-13
Cash	29,825	29,281
Annual Growth Rate	-9.1%	-1.8%
5 Year Average Growth (Actual)		3.7%

Billions of Dollars



The SFY 2012-13 Executive Budget provides \$20.3 billion in General Support for Public Schools (GSPS), an increase of \$804.49 million or 4.1 percent, over SFY 2011-12. This increase provides \$265 million for additional costs for expense based aids at present law levels including Transportation Aid, BOCES, Special Education and Building Aid for the 2012-13 School Year. Funding of \$290 million is provided to reduce the Gap Elimination Adjustment and \$250 million to fund the performance and management efficiency grants. The Executive budget proposal also includes a second appropriation providing \$711 million, a 3.5 percent increase in GSPS for the 2013-14 school year.

FUNDING INCREASE IS TIED TO TEACHER EVALUATIONS

The year to year increase reflects the agreed upon two year appropriation authorized in the SFY 2011-12 Enacted Budget. The increase is subject to districts adopting a teacher and principal evaluation process approved by the Commissioner of Education by January 17, 2013. If districts do not adopt an evaluation process the increased funds they receive associated with the \$805 million increase will be withheld from future

payments of state aid. The \$250 million in performance grants is also tied to a Teacher Evaluation process being implemented before funding is received. The following table shows the Executive School Aid proposal for SFY 2012-13. The subtotal combines all expense based aids.

Executive School Aid Proposal				
Category	School Year 2011-2012	School Year 2012-2013	Change	% Change
Expense Based Aids	\$6,502.72	\$6,763.39	\$260.67	1%
Foundation Aid	\$14,893.62	\$14,893.62	\$0.00	0.00%
Universal Pre-Kindergarten	\$383.00	\$384.29	\$1.06	0.28%
Other Aid Categories/Initiatives	\$283.88	\$287.09	\$3.21	1.13%
Subtotal	\$22,063.22	\$22,328.39	\$264.94	1.20%
Gap Elimination Adjustment	(\$2,556.48)	(\$2,266.69)	\$289.79	na
Performance grants	0	\$250	\$250	na
Total	\$19,506.74	\$20,311.70	\$804.96	4%

Foundation Aid:

Foundation aid as enacted in the SFY 2007-08 Budget was to be fully phased-in by the 2010-11

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

Foundation Aid has been frozen since SFY 2009-10. For the 2012-13 school year the Executive Budget maintains foundation aid at \$14.87 billion.

Building Aid:

The Executive increases building aid by \$91.69 million for a total of \$2.7 billion.

Article VII

The Executive also proposes legislation which would allow districts that have failed to file a final cost report with the State Education Department to only be penalized by loss of aid for the length of time the report was delinquent. Districts would be allowed to receive building aid for years prior to the report being delinquent and subsequent to the report being filed. Districts must submit delinquent final cost reports before December 31, of 2012 to be eligible.

Expanding our Children's Education and Learning (EXCEL):

Funding is proposed at \$181.26 million including \$127 million for debt service payments to New York City.

BOCES Aid:

BOCES aid is increased \$16.65 million for a total of \$720 million.

Transportation Aid:

The Executive provides \$1.67 billion to fully fund present law transportation aid. This represents a \$64 million increase over the 2011-12 school year.

Article VII

The Executive also proposes legislation to require school districts to purchase school buses through a central State contract and authorizes the Commissioner of Education to approve the purchase of various school bus accessories such as radios, seatbelts, and sensors.

Universal Pre-k:

The Executive proposes \$384.3 million for Universal Pre-kindergarten a \$1.06 million increase for minor program changes.

High Tax Aid: The Executive maintains funding at \$205 million for the 2012-13 school year.

Supplemental Excess Cost Aid:

The Executive maintains funding at \$4.3 million for the 2012-13 school year.

Academic Enhancement Achievement /Educational Improvement Grants:

The Executive maintains funding at \$8.32 million for the 2012-13 school year.

Gap Elimination Adjustment (GEA):

The Executive proposes \$289.79 million, for the 2012-13 school year to reduce the GEA to \$2.26 billion. The aid restoration is calculated to take into consideration a districts extraordinary needs percentage, total general fund expenditures and the 2011-12 gap elimination adjustment amount. The additional aid is contingent upon school districts adopting a teacher and principal evaluation process approved by the Commissioner of Education. The exact evaluation process is undetermined until litigation between the New York State Teachers Unions and the State Department of Education is resolved or the Executive proposes his own evaluation process in the thirty day amendments and a process is enacted. Should a district fail to implement an evaluation process by January 17, of 2013 the additional state aid will be recouped from future payments.

Performance Grants:

The Executive proposes \$250 million to fund the performance grants enacted in the 2011-12 budget. Two competitive grant programs were authorized to encourage districts to implement innovative approaches to achieve academic gains and management efficiency. These grants are subject to a request for proposal process which has been partially developed and implemented in the 2011-12 school year. The awarding of the grants is also contingent on districts implementing a Teacher and Principal evaluation process. Funding will be awarded in the 2012-13 and 2013-14 school years.

Preschool Special Education:

The Executive provides a \$66.8 million increase for the 2012-13 school year.

The Executive proposes to reduce the County liability for Preschool costs by shifting a portion of growth in approved costs to the State and school districts. Currently, the State pays 59.5 percent of the costs of this program and counties contribute the remaining 40.5 percent. The State, County, and school district would each become responsible for one third of approved costs, associated with those charges in excess of the base costs that under current law are county expenses. Projected growth in the approved County share is \$15 million under the proposal the county share would be shared one third each by the County, school district and the State. This would be a new cost to school districts. However, under the example above the counties would save \$10 million. Resulting in each entity being responsible for \$5 million in program costs in 2012-13.

Private Schools for the Blind and Deaf :

The Executive proposes a \$99.3 million increase for the 2012-13 school year. The increase is a result of school districts paying educational costs in the first instance in the 2011-12 school year. The increase reflects the State's share of

reimbursing districts for those costs in the 2012-13 school year.

Summer School Special Education:

The Executive increases program funding by \$30.4 million to meet the State's share of the cost for summer school programs.

Nonpublic School Aid:

This program is increased by \$13.24 million to \$116.6 million to reimburse non public schools.

Contracts for Excellence:

School districts participating in the Contracts for excellence program would continue operating approved academic intervention programs consistent with Contract for Excellence requirements. However, the required investment in these programs would be permitted to decline by the same percentage as the districts' formula based aid is reduced under the Gap Elimination Adjustment. This approach will ensure the continued participation of 23 school districts, including all 'Big Five' city school districts (New York City, Buffalo, Rochester, Syracuse and Yonkers).

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:

State Education Department: The Executive proposes adding 93 new employees to the department for vocational rehabilitation services and licensing of professions regulated by SED. The funding for new staff will be supported by federal and special revenue funds.

Library Aid:

The Executive Budget maintains funding at \$79 million. State funding for local library construction will also be maintained at \$14 million.

Public Broadcasting Aid:

State support for New York's nine public television stations and 17 public radio stations is maintained at \$13.5 million.

Bundy Aid:

The Executive Budget maintains 2011-12 funding of \$35.1 million for Unrestricted Aid for Independent Colleges and Universities.

Capital Projects:

The Executive Budget includes \$3.4 million in new capital support for various minor rehabilitation projects to maintain safe operating conditions for SED's facilities.

Smart Scholars Early College High School Program:

The Executive Budget eliminates \$6 million in funding for the SFY 2012-13. A reappropriation of \$6 million remains, to be expended over several years to match a privately funded grant. The combined funding level of \$12 million will be used to create high schools that give students the opportunity to earn college credits while completing their high school education.

Math and Science High schools:

The Executive maintains prior year funding at \$1.4 million.

Reimbursement for the Metropolitan Commuter Transportation Payroll Tax:

The Executive Budget includes an appropriation of \$60 million for full reimbursement of Elementary and Secondary schools expenses for the MTA payroll tax prior to April 1, 2012 when the MTA tax for schools sunsets.

State Assessment and General Educational Development Exams:

The Executive maintains funding at the 2011-12 Enacted budget levels of \$7.0 million for State assessments and \$700,000 for GED testing.

Small Government Assistance to School Districts:

The Executive Budget maintains funding for 2012-13 at \$1.87 million for those districts impacted by assessment reductions resulting from a forest land management program.

County Vocational Education and extension Boards(CVEEBS):

The Executive maintains funding at \$932,000.

Article VII:

The Executive proposes legislation to limit reimbursement of course submissions before July 10, 2010, creates a new methodology for reimbursement, and eliminates payment of late claims.

National History Day:

The Executive proposes eliminating funding of \$100,000.

General Support for Public Schools SFY 2012-13

(in millions)

Formula Aids	2011-12	2012-13	Change	Percent Change
Foundation Aid	\$14,892.20	\$14,892.20	\$0.00	0.0
Special Education – High Cost	\$475.20	\$498.10	\$22.90	4.8
Special Education – Private	\$317.10	\$362.80	\$45.60	14.4
Reorganization Operating Aid	\$2.90	\$2.90	\$0.00	0.0
Textbook Aid	\$178.80	\$182.60	\$3.80	2.2
Computer Hardware Aid	\$37.40	\$39.30	\$1.90	5.0
Computer Software Aid	\$45.50	\$47.00	\$1.50	3.3
Library Materials Aid	\$19.10	\$19.60	\$0.50	2.4
BOCES Aid	\$704.20	\$720.90	\$16.70	2.4
Special Services Aid	\$212.40	\$219.30	\$6.90	3.3
Transportation Aid	\$1,611.70	\$1,675.70	\$64.00	4.0
High Tax Aid	\$204.80	\$204.80	\$0.00	0.0
Universal Pre-K	\$383.20	\$384.30	\$1.10	0.3
Academic Achievement Grant	\$1.20	\$1.20	\$0.00	0.0
Supp. Ed. Improvement Grant	\$17.50	\$17.50	\$0.00	0.0
Charter School Transition Aid	\$27.40	\$31.00	\$3.60	13.3
Full Day Kindergarten	\$5.00	\$6.80	\$1.80	35.5
Academic Enhancement Aid	\$8.30	\$8.30	\$0.00	0.0
Supplemental Special Education Aid	\$4.30	\$4.30	\$0.00	0.0
Gap Elimination Adjustment (GEA)	(\$2,556.50)	(\$2,266.70)	\$289.80	Na
EXCEL (NYC)	\$127.00	\$127.00	\$0.00	0.0
Building Aid	\$2,629.80	\$2,721.50	\$91.70	3.5
Formula Aid TOTAL	\$19,222.90	\$19,774.60	\$551.80	2.9
Categorical Aids				
Teachers of Tomorrow	\$25.00	\$25.00	\$0.00	0.0
Teacher Centers	\$20.40	\$0.00	(\$20.40)	-100.0
Teacher Mentor Intern	\$2.00	\$2.00	\$0.00	0.0
School Health Services	\$13.80	\$13.80	\$0.00	0.0
Roosevelt	\$6.00	\$12.00	\$6.00	100.0
Urban Suburban Transfer	\$2.70	\$2.70	\$0.00	0.0
EPE	\$96.00	\$96.00	\$0.00	0.0
Homeless Pupils	\$17.20	\$18.20	\$1.00	5.8
Incarcerated Youth	\$19.50	\$20.50	\$1.00	5.1
Bilingual Education	\$12.50	\$12.50	\$0.00	0.0
Education of OMH/OMR Pupils	\$76.00	\$80.00	\$4.00	0.0
Special Act School Districts	\$2.70	\$2.70	\$0.00	0.0
Chargebacks	(\$54.50)	(\$39.80)	\$14.70	14.7
BOCES aid for Special Act	\$0.70	\$0.70	\$0.00	0.0
Learning Tech Grants	\$3.30	\$3.30	\$0.00	0.0
Native American Building	\$4.00	\$5.00	\$1.00	25.0
Native American Education	\$36.10	\$32.00	(\$4.10)	-11.2
School Bus Driver Safety	\$0.40	\$0.40	\$0.00	0.0
Performance Grants	\$0.00	\$250.00	\$250.00	Na
Subtotal	\$283.80	\$537.10	\$253.30	54.0
GSPS Total	\$19,506.74	\$20,311.70	\$805.00	4.1

Education
Proposed Disbursements - All Funds

(Millions of Dollars)

Agency	Estimated 2011-12	Proposed 2012-13	Change Amount	Percent
School Aid SFY	29,825	29,281	(544)	-1.8%
STAR	3,293	3,322	29	0.9%
Programs for the Disabled	2,150	1,998	(152)	-7.1%
All Other	1,051	1,116	65	6.2%
Totals:	36,319	35,717	(602)	-1.7%

Higher Education / Arts Fact Sheet



The Executive provides an appropriation increase of \$292 million for SFY 2012-13. This increase is achieved through a combination of increased tuition revenue, General Fund support and reductions. Actions are as follows:

- SUNY Senior and State Operated Colleges (\$120 million increase; \$113.2 million attributed to additional tuition revenue);
- SUNY Statutory Colleges (no change);
- SUNY Community College Base Aid (\$7 million decrease);
- CUNY Senior Colleges (\$148 million increase; \$66.6 million attributed to additional tuition revenue);
- CUNY Community College Base aid (\$6 million increase);
- Long Island Veteran’s Home (\$1 million increase);
- The Executive makes no changes to the formula for TAP awards, funding TAP at \$930.6 million (\$28 million increase);
- The elimination of funding for NYHELPS (\$2.5 million decrease);
- The Executive Budget maintains funding for Unrestricted Aid for Independent Colleges and Universities (also known as Bundy Aid) at SFY 2011-12 levels, at \$35.1 million;
- A reduction in arts grants funding of 3.2 percent, a \$1.2 million decrease from \$38.9 million to \$37.7 million.

Category	2011-12	2012-13	Change
SUNY Senior and State Operated Colleges	113.2	120.0	6.8
SUNY Statutory Colleges	0.0	0.0	0.0
SUNY Community College Base Aid	7.0	0.0	(7.0)
CUNY Senior Colleges	66.6	148.0	81.4
CUNY Community College Base aid	6.0	12.0	6.0
Long Island Veteran’s Home	1.0	2.0	1.0
TAP awards	902.6	930.6	28.0
NYHELPS	2.5	0.0	(2.5)
Unrestricted Aid for Independent Colleges and Universities	35.1	35.1	0.0
Arts grants	38.9	37.7	(1.2)
Total	292.0	292.0	0.0

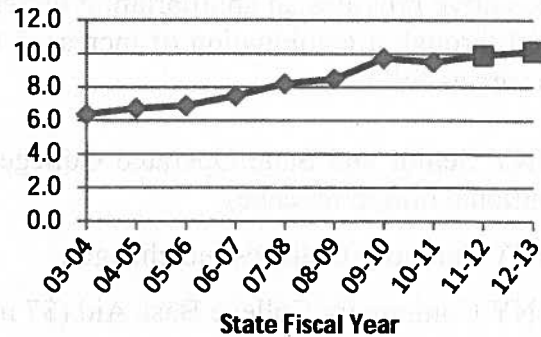
HIGHER EDUCATION

All Funds Disbursements

(Millions of Dollars)

	Estimated SFY 11-12	Projected SFY 12-13
Cash	9,914	10,136
Annual Growth Rate	4.3%	2.2%
5 Year Average Growth (Actual)		5.9%

Billions of Dollars



The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$10.1 billion for New York State public and private higher education programs, an increase of \$221.7 million or 2.2 percent above SFY 2011-12 disbursement levels. The funding increase is attributed to additional tuition revenue for the State University of New York (SUNY) and City University of New York (CUNY) (\$179.8 million), increased General Fund support for CUNY personnel and fringe benefit costs (\$55.7 million) and higher enrollment in the Tuition Assistance Program (TAP) (\$28.1 million). The Budget maintains support in the amount of a \$60 million SUNY Hospital subsidy for the three teaching hospitals in Brooklyn, Stony Brook, and Syracuse.

State University of New York (SUNY)

The Executive Budget recommends **\$10.157 billion** in All Funds appropriations for SUNY, an increase of \$530.3 million or 6.2 percent above SFY 2011-12 levels. This consists of \$1.8 billion in General Fund support (including fringe benefits), \$7.25 billion from self-generated and federal funds, and \$1.1 billion in capital funds.

Consistent with the provisions of NYSUNY 2020, recommended levels of General Fund operating support (excluding fringe benefits) for SUNY senior and statutory colleges remain the same as SFY 2011-12 levels at \$968.6 million. The reduction in General Fund appropriations reflects a structural change in which General Fund dollars are transferred to the University's operating account and spent as revenue. The budget also includes growth of \$133.8 million in employee fringe benefits, or 10.9 percent above SFY 2011-12 levels.

Higher Education State Support

Proposal	2011-12 (millions)	2012-13 (millions)
SUNY Senior Colleges (includes tuition revenue)	\$2,166	\$2,286
SUNY Statutory Colleges	\$129	\$129
SUNY Community Colleges	\$441	\$434
SUNY Hospital Subsidy	\$60	\$60
CUNY Senior Colleges (includes tuition revenue)	\$1,861	\$2,009
CUNY Community Colleges	\$178	\$184
Long Island Veteran's Home	\$43	\$44
Tuition Assistance Program	\$903	\$931
Total	\$5,781	\$6,077

STATE-OPERATED SENIOR COLLEGES

Executive Budget appropriations for the 29 State-operated campuses consist of \$2.3 billion in State resources. This includes support from tuition and other revenues of \$1.5 billion, an increase of \$113.2 million above SFY 2011-12 levels. This additional tuition revenue represents tuition increases authorized as part of the NYSUNY 2020 legislation.

STATUTORY COLLEGES

The Executive Budget recommends a total of \$129.3 million in State support for the operations of the five statutory colleges at Alfred Ceramics and Cornell University. This is identical to SFY 2011-12 levels, with no reallocation of funding. The four statutory colleges at Cornell (Agriculture and Life Sciences, Human Ecology, Veterinary Medicine, and Industrial and Labor Relations) would receive \$78.9 million.

In addition, the Executive recommends \$42.1 million to support the land grant mission of Cornell University. The College of Ceramics at Alfred University would receive \$8.1 million in appropriations, which is the same as current year appropriations.

CORNELL UNIVERSITY

The Executive Budget includes language that would permit the State to enter into an agreement with Cornell University regarding State purchasing and contracting. The language would also permit the State to enter into agreements, or Memoranda of Understanding, with Cornell for the purpose of implementing its land grant mission, while circumventing the provisions of state finance law.

SUNY HOSPITALS

The Executive Budget proposes \$2.9 billion for the operations of the three SUNY teaching hospitals at Brooklyn, Stony Brook, and Syracuse, an increase of \$83.7 million, or 3.1 percent above SFY 2011-12 levels. This includes a \$60 million subsidy that was proposed for elimination last year but subsequently restored by the Legislature to support the three state university hospitals.

COMMUNITY COLLEGES

SUNY's community colleges have three basic funding sources: State, local sponsor, and student tuition. The Executive Budget recommends \$434.2 million in State support, representing a \$7.1 million reduction from SFY 2011-12 budget levels. This decrease can be attributed to a prior year decrease in full time equivalent (FTE) students offset by an increase in rental aid of \$406,000. Base operating aid remains the same as SFY 2011-12 levels at \$2,122 per FTE student.

CAPITAL PROJECTS

The SFY 2008-09 enacted budget provided SUNY with \$4.1 billion in new capital appropriations to support the implementation of a \$6.4 billion multi-year capital plan for SUNY's educational facilities, hospitals, residence halls and community colleges. The SFY 2012-13 Executive Budget continues this commitment to rehabilitate SUNY's educational facilities infrastructure by providing the last of five annual \$550 million appropriations. This will address the accumulated backlog of critical maintenance projects throughout the University system. The Executive also includes \$110 million for capital grants to implement the NYSUNY 2020 Challenge Grant Program, including \$80 million for the four university centers at Albany, Binghamton, Buffalo and Stonybrook. An additional \$30 million will be

available for SUNY's other colleges. The budget also includes \$87 million for the State's 50 percent share of capital projects for community college campuses that have secured local sponsor resolutions.

SUNY Community College Capital Funding

Community College	Estimated State Share
Adirondack	272,000
Broome	1,000,000
Cayuga County	4,060,000
Clinton	1,250,000
Corning	6,587,000
Erie	19,000,000
College-wide	777,000
FIT	2,500,000
Finger Lakes	1,763,000
Fulton Montgomery	1,138,000
Jamestown	3,992,000
Mohawk Valley	100,000
Monroe	3,745,000
Nassau	19,860,000
Niagara	1,500,000
Orange	11,325,000
Schenectady	2,246,000
Suffolk	5,270,000
Westchester	584,000
Total	86,969,000

City University of New York (CUNY)

The Executive Budget recommends All Funds appropriations of **\$3.9 billion**, an increase of \$313.7 million. Of this All Funds appropriation, \$2.1 billion are Fiduciary Funds that represent the City of New York paying senior college costs in the first instance. \$1.3 billion in General Fund support represents both the State's contribution to these costs and the operations of the CUNY community colleges. \$175.4 million in authority to disburse self-generated revenue, and \$347.9 million in capital funding are also included.

The budget includes General Fund growth in fringe benefit costs and community college enrollment growth. Projected employment remains the same as SFY 2011-12 levels.

Major SFY 2012-13 budget actions include:

SENIOR COLLEGES

The Executive Budget includes General Fund appropriations of \$1.1 billion. Recommended levels of General Fund support represent an \$81.7 million increase from SFY 2011-12, primarily attributed to fringe benefit cost increases. In addition, the Executive Budget assumes that the University will collect and spend approximately \$904 million of revenue from tuition, reflecting tuition increases of up to \$300, which are consistent with the provisions of NYSUNY 2020 legislation. As a result, combined General Fund and tuition revenue (plus \$32.3 million from New York City) will provide for a core budget of \$2 billion to support senior college campuses, central administration and University-wide programs.

COMMUNITY COLLEGES

CUNY's community colleges have three basic funding sources: State support, local sponsor support, and student tuition revenue. The Executive Budget recommends \$184.1 million in State support, a \$6 million increase in total available funding from SFY 2011-12 budget levels. The increase is attributed to enrollment growth. Community college base operating aid per FTE student remains unchanged at \$2,122.

CAPITAL PROJECTS

The SFY 2008-09 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 provided for facility and infrastructure improvements at

senior and community colleges, consistent with University needs and priorities. The SFY 2012-13 Executive Budget provides the last of five \$284 million appropriations to address the accumulated backlog of critical maintenance projects throughout the University system. The Executive Budget also includes \$27 million for the State's 50 percent share of capital projects for community college campuses that have received funding from the City of New York.

CUNY Community College Capital Funding

Community College	Estimated State Share
Borough of Manhattan	7,200,000
Bronx	3,000,000
Kingsborough	6,204,000
LaGuardia	5,300,000
Queensborough	5,000,000
Total	26,704,000

NY-SUNY 2020 and Tuition Increases

In June 2011, legislation was passed that authorized the SUNY and CUNY trustees to increase tuition by up to \$300 per year for five years. Resident undergraduate tuition for the fall 2011 semester was subsequently increased from \$4,970 to \$5,270 at SUNY, and from \$4,830 to \$5,130 at CUNY. The SFY 2012-13 budget provides an additional \$113.2 million in appropriation authority for SUNY, and \$66.6 million in appropriation authority for CUNY, to support additional tuition increases.

	SUNY and CUNY Tuition	
	Academic Year	
University System	2011-12 Tuition (Current)	2012-13 Tuition (Maximum Allowable)
SUNY (in-state)	\$5,270	\$5,570
SUNY (out-of-state)	\$14,320	\$15,752
SUNY (out-of-state: University Centers)	\$14,720	\$16,192
CUNY (in-state)	\$5,130	\$5,430
CUNY (out-of-state)	\$13,800	\$15,180

In addition, NYSUNY 2020 authorized the trustees to also increase out-of-state

undergraduate tuition up to 10 percent as well as additional fees at the four University Centers (Albany, Binghamton, Stony Brook and Buffalo) after the approval of the NYSUNY 2020 Challenge grant plan. The five year plan expires at the end of the 2015-16 academic year.

The NYSUNY 2020 legislation also provided a tuition credit in an amount equal to the student's TAP award as a percentage of the maximum TAP award multiplied by any increase in tuition above \$5,000. In addition the four University Centers are required to use a portion of their tuition revenue for financial aid in order to receive NY-SUNY Challenge grant plan approval. Those students whose net taxable income is \$80,000 or more will also be eligible for financial aid at the four University Centers pursuant to each University Center's NY-SUNY 2020 Challenge Grant Plan.

Higher Education Services Corporation (HESC):

The Executive Budget recommends All Funds appropriations of **\$1.12 billion** (\$994 million General Fund; \$124 million Other Funds) in support of the Corporation. This is a net increase of **\$33 million or 3.1 percent from SFY 2011-12 funding levels.**

The budget provides \$930.6 million in General Fund support for the Tuition Assistance Program (TAP), an increase of \$28.1 million. The increase is due to an anticipated increase in the number of TAP recipients. The budget eliminates \$2.5 million in funding for the NYHELPS student loan program.

Higher Education Capital Matching Grant Program

The Executive Budget includes language to extend the New York State Higher Education Capital Matching Grant Program through **March 31, 2013**. This extension would ensure that the remaining \$53 million in capital reappropriations are made available to various independent colleges throughout the State. To be eligible for capital funding, institutions must receive a three to one match against State funds.

Council on the Arts

The SFY 2012-13 Executive Budget provides \$37.7 million in funding for arts grants administered by the New York State Council on the Arts, representing a \$1.2 million decrease, or 3.2 percent. This reduction primarily reflects a \$1 million decrease, or 41 percent, in Special Revenue Funds due to an anticipated decrease in available cash from federal grants. The Executive also proposes a \$235,000, or 5.4%, reduction in General Fund State Operations.

Higher Education Proposed Disbursements - All Funds				
(Thousands of Dollars)				
Agency	Estimated 2011-12	Proposed 2012-13	Change	
			Amount	Percent
SUNY SFY	7,400,266	7,575,903	175,637	2.4%
CUNY	1,380,256	1,449,936	69,680	5.0%
Higher Education Services Corp.	1,024,754	1,042,096	17,342	1.7%
Other	82,133	67,365	(14,768)	-18.0%
SUNY Construction Fund	26,172	0	(26,172)	-100.0%
Totals:	9,913,581	10,135,300	221,719	2.2%

Health - Medicaid: Fact Sheet



The SFY 2012-13 Executive Budget proposes All Funds cash disbursement of \$44.5 billion for the Department of Health, a net increase of \$256.3 million or 0.5 percent in SFY 2012-13.

Medicaid:

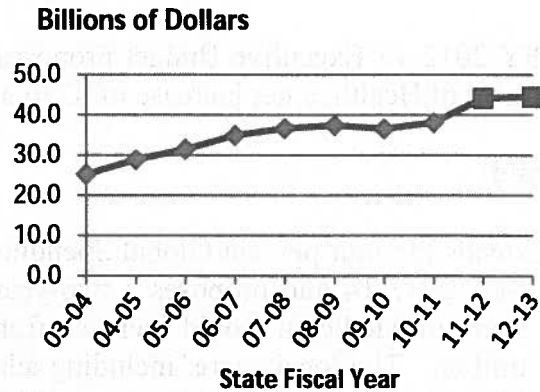
- Extends the four percent Global Spending Cap on the growth of Medicaid for one year, through SFY 2013-14 and proposes a two-year appropriation for Medicaid expenditures. The State share of Medicaid would increase from \$21.1 billion to \$21.8 billion, an increase of \$650 million. The local share, including administration and other costs, would decrease from \$8.6 billion to \$8.0 billion, a decrease of \$581 million. Overall Medicaid spending is expected to decrease from \$54.2 billion to \$54.0 billion, or by \$136 million in SFY 2012-13.
- Eliminates growth of the local contribution of the Medicaid program over a three year phase-in period beginning in Calendar Year (CY) 2013 and provides local districts with \$1.2 billion in relief over four years beginning in 2013.
- Caps the State reimbursement to local districts for costs associated with Medicaid administration at CY 2011 levels and phases in the State takeover of administration by April 1, 2018. Net savings associated with the administrative cap and hiring 120 Full Time Equivalents (FTEs) to begin the takeover process are estimated to be \$5 million in SFY 2012-13, increasing to \$21.5 million in SFY 2013-14.
- Implements Phase II Medicaid Redesign Team (MRT) proposals, including a Medicaid Savings Allocation plan and the prohibition of Spousal Refusal.

Public Health

- Proposes changes to the Early Intervention program, modifying coverage requirements and eliminating certain local administrative requirements. Local savings are estimated to be \$381,000 in SFY 2012-13, increasing to \$7.7 million in SFY 2013-14.
- Implements a new Electronic Death Registration System outside of New York City.
- Requires Roswell Park Cancer Institute to become operationally and financially independent of the State by March 31, 2014.

HEALTH - MEDICAID

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	44,207	44,463
Annual Growth Rate	16.0%	0.6%
5 Year Average Growth (Actual)		5.0%



The SFY 2012-13 Executive Budget recommends All Funds cash disbursement of \$44.5 billion, a net increase of \$256.3 million or 0.6 percent.

Medicaid

The Executive proposal extends provisions regarding a cap on the growth of Department of Health (DOH) State Medicaid spending, along with procedures to recoup amounts spent above the cap, for one year through SFY 2013-14. Medicaid program growth benchmarks and funding levels were established in the SFY 2011-12 Enacted Budget on a two-year basis. Under current appropriation authority, SFY 2012-13 is the final year of the current two-year cycle. However, The Executive proposes to make SFY 2012-13 the first year of a new two-year Medicaid cycle.

The Medicaid cap is based on the 10-year rolling average of the health component of the Consumer Price Index, which limits growth in SFY 2012-13 to four percent for DOH State share of Medicaid spending. The Executive Budget continues to keep spending within cap for both SFY 2012-13 and SFY 2013-14. The SFY 2012-13 All Funds

Medicaid spending overall, including the local contribution and all agencies, is projected to be \$54.0 billion, a reduction of \$136 million or 0.3 percent from current year levels.

Freeze of Local Contribution to Medicaid:

As part of an effort to provide financial relief to counties, the Executive proposes to freeze the growth of the local contribution for Medicaid expenditures over a three-year phase-in period. Current statute caps the annual growth of local Medicaid contributions at three percent, on a non-compounded basis, of the 2005 base year. The Executive proposal would reduce the local contribution of Medicaid growth as follows:

- Beginning on April 1, 2013, for the period January 1, 2013 through December 31, 2013, the capped rate of growth would decrease from three percent to two percent of the prior year's contribution;
- For the time period January 1, 2014 through December 31, 2014 the capped rate of growth would decrease from two percent to one percent growth from the prior year's contribution; and

- Beginning January 1, 2015 the annual rate of growth would be equal to zero going forward, freezing the local government's contribution permanently for 2015 and beyond.

The Executive estimates that this proposal would save counties \$61.1 million in Calendar Year (CY) 2013, \$187.0 million in CY 2014, and \$369.6 million in CY 2015. Over four years beginning in 2013, the cumulative savings to counties is estimated to be \$1.2 billion. This proposal has no fiscal implication to the State in SFY 2012-13.

State Administrative Takeover:

The Executive Budget proposes to transfer the administration of the Medicaid program from local social services districts (counties and New York City) to the Department of Health by April 1, 2018.

In SFY 2012-13 the proposal caps reimbursement to counties for the non-federal, or State, share of Medicaid administration at SFY 2011-12 claim levels. Counties would be authorized to submit claims above the cap for Federal reimbursement until March 31, 2013. Further, the Commissioner of Health (the Commissioner) would be authorized to reduce the reimbursement for specific districts to account for a reduction in the scope or volume of county responsibilities.

Under the proposal, the takeover could be accomplished through utilization of DOH staff, contracted entities, or a combination of the two. DOH would be required to consult with local social services districts to create a plan for implementing the conversion. Upon completion of the takeover, DOH would be responsible for processing applications, making eligibility and coverage determinations, authorizing benefits and any other functions identified by the Commissioner.

The Executive also proposes authorizing county employees who currently administer the Medicaid program locally to be transferred to appropriate positions within DOH without a competitive examination. These employees would obtain State civil service protections. According to the Division of Budget there are currently approximately 5,500 county employees administering the Medicaid program across the State. The proposal provides funding for 120 State Full-Time Equivalents (FTEs) in SFY 2012-13 and increases to 1,200 by SFY 2015-16. Therefore significant county layoffs could occur with the takeover.

State savings associated with the proposal are estimated to be \$5.0 million in SFY 2012-13, increasing to \$130.5 million annually by SFY 2015-16.

Health Insurance Benefit Exchange:

The Executive proposes legislation to establish a Health Insurance Benefit Exchange. The Exchange would be created as a Public Benefit Corporation to act as the sole exchange for the entire State. The Exchange would be created as a self-sustaining entity where individuals and small groups can purchase health insurance coverage with a range of different benefits.

For additional information on the Health Insurance Benefit Exchange proposal, please refer to the Issues in Focus section of this report as well as the Article VII summary.

Implement Phase Two MRT Proposals:

The SFY Executive Budget includes legislation that would implement proposals made by the Medicaid Redesign Team (MRT) and MRT Phase Two work groups. Major initiatives include:

- **Medicaid Savings Allocation Plan:** This proposal would extend for one year the authorization to implement a Medicaid

Savings Allocation Plan and the Department of Health Medicaid global spending cap through SFY 2013-14.

- **Spousal Refusal:** This proposal would prohibit the spouse or parent of a long-term care service recipient from refusing to contribute income or assets towards the cost of health care.
- **Brand Name Drugs:** This proposal would include therapeutic drugs in provisions requiring mandatory use of generic drugs under the preferred drug program.

The cumulative fiscal impact of all of the MRT Phase II proposals is estimated to be budget neutral in SFY 2012-13.

For additional information on the MRT Phase II proposals, please refer to the Issues in Focus section of this report on Medicaid Redesign Reforms.

Public Health

Projected SFY 2012-13 Public Health Budget spending (excluding Medicaid and HCRA) is \$5.92 billion, a reduction of \$239 million or 4.1 percent from current year levels. Funding for Public Health programs generally remains flat from SFY 2011-12, except for those programs that are experiencing a full annualization of last year's budgetary actions, and the following programs:

Early Intervention

The SFY 2012-13 Executive Budget proposes multiple changes to the Early Intervention (EI) program to provide localities with estimated savings totaling \$99 million over five years. One of the most significant proposals is to require third party payees (health insurers, Child Health Plus and Medicaid) cover all EI claims that

would normally be covered under existing policy provisions. All deductibles, co-payments and co-insurance requirements would apply. Currently, only Medicaid is required to cover Early Intervention services.

The Executive proposes additional local savings to the EI program by shifting responsibility to the State for contracting with providers, paying providers and other administrative changes. The Executive proposes using savings realized to increase the amount that the State reimburses counties in an effort to begin to reduce the current nine month payment lag for EI services. According to the Division of Budget, the current value of the lagged payments to the counties is approximately \$120 million. The Executive estimates that counties would save \$381,000 in SFY 2012-13, \$7.7 million in SFY 2013-14 and \$29.7 million in SFY 2014-15.

Child Health Plus (CHP):

The Executive proposes an increase of \$10 million which is primarily attributed to enrollment growth. However, \$1.2 million of the increase is associated with the proposal to require CHP providers to cover the cost of Early Intervention services.

Roswell Park Cancer Institute (RPCI):

The Executive proposes legislation that would require RPCI to become operationally and fiscally independent of DOH no later than March 31, 2014. Further, the bill authorizes DOH to establish goals and benchmarks to assist RPCI in achieving independence. In prior years, RPCI received State funding totaling \$77.6 million and up to \$25 million in Health Care and Efficiency and Affordability Law for New Yorkers (HEAL-NY) annually to support cancer research. As a condition of receiving ongoing State funds, RPCI would be required to comply with the goals and timelines set forth by DOH to become independent of State funding. However, if DOH determines that the conditions have not been met

the Commissioner has the ability to delay or stop payments to RPCI.

Further, the proposal would require RPCI to enter into an arrangement for merger or other affiliation with one or more health care/academic entities within the same geographic region.

Electronic Death Registration System (EDRS): The Executive proposes to authorize the Department of Health to design, implement and maintain an EDRS outside of New York City, which already operates its own electronic system. The system would be used to collect, store, record, transmit and authenticate information to complete a death registration electronically. The proposal would require licensed funeral directors or undertakers to pay \$20 for each burial and funeral permit. This proposal is estimated to obtain revenue of \$2.2 million in SFY 2012-13, increasing to \$2.9 million when fully annualized. These funds would be used to pay for the establishment and operation of ERDS.

Reduce Tobacco Control Funding:

The Executive Budget reduces funding available for tobacco prevention and control from \$35.1 million to \$30.1 million, a reduction of \$5 million or 14.3 percent.

Discontinues the Human Services Cost of Living Adjustment (COLA):

The Executive proposes to eliminate the 3.6 percent COLA for Human Services Providers. Further, the Executive proposes a new method that would require future COLA increases to be based on cost and performance, with implementation starting in SFY 2013-14 (\$4.7 million in DOH Savings for SFY 2012-13).

State Operations:

The Executive proposes reducing the Department of Health's State operation budget by \$6.1 million, or 2.5 percent, to reflect administrative savings through procurement and other efficiencies.

Health - Medicaid				
Proposed Disbursements - All Funds				
(Thousands of Dollars)				
	Estimated	Proposed	Change	
Agency	2011-12	2012-13	Amount	Percent
Medical Assistance	38,603,469	38,969,467	365,998	0.90%
Medicaid Administration	1,147,500	1,160,500	13,000	1.10%
All Other Health	4,455,677	4,332,951	-122,726	-2.80%
Totals:	44,206,646	44,462,918	256,272	0.60%

Transportation Fact Sheet



Department of Transportation

The SFY 2012-13 Executive Budget for the New York Works program increases Department of Transportation (DOT) capital spending by \$1.16 billion to \$4.5 billion. The additional funding for DOT is composed of Federal (\$917 million) and State (\$247 million) funds.

- The additional \$1.16 billion DOT capital spending includes:
 - \$212 million on repairs to 115 critical bridges throughout the State.
 - \$250 million for a pavement preservation program to treat more than 2,000 lane miles of State roads.
 - \$700 million to accelerate signature transportation projects throughout the State.
- The Executive Budget does not propose a multi-year DOT capital spending program to build upon the \$7 billion, two-year DOT capital program that ends on March 31, 2012.
- Funding levels for the Consolidated Highway Improvement Program (CHIPS) (\$363.1 million) and Marchiselli (\$39.7 million) programs are maintained.
- The Executive Budget includes nearly \$4 billion, an increase of \$190 million for the Metropolitan Transportation Authority (MTA) and \$430 million, an increase of \$30 million for non-MTA transit operators.
- The Executive Budget includes \$250 million in MTA operating assistance to replace recently approved reductions in the MTA payroll mobility tax.

Department of Motor Vehicles

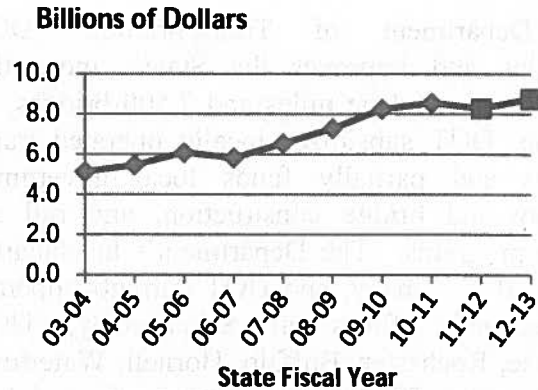
- The SFY 2012-13 Executive Budget proposes \$334 million in funding for the Department of Motor Vehicles (DMV), a \$9 million or 3 percent decrease from SFY 2011-12.
- The Executive Budget includes legislation to establish an additional DMV retention rate for County Clerks for increased Internet transactions. Under this change, County Clerks are estimated to receive a total revenue increase of \$500,000 in 2012 and 2013.

Metropolitan Transportation Authority

- The Executive Budget includes \$770 million in new State funding to support the remaining three years of the MTA's revised \$22.2 billion 2010-2014 Capital Program.
- The Executive Budget also includes legislation to increase the MTA's bonding limit by \$7 billion to support MTA's financing plan for its revised \$22.2 billion 2010-2014 Capital Plan.
- Gap-closure initiatives for DOT and DMV are expected to save an estimated \$32.5 million in SFY 2012-13. Actions include shared services initiatives and reduced salt usage by DOT.
- A \$26.6 million appropriation is proposed to support Amtrak service subsidies and additional rail capital investments. This represents a \$9.7 million increase over last year's appropriation of \$16.9 million.

TRANSPORTATION

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	8,279	8,767
Annual Growth Rate	3.8%	5.9%
5 Year Average Growth (Actual)		15.4%



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.

Department of Motor Vehicles

The responsibilities of the Department of Motor Vehicles (DMV) include administering the State's motor vehicle laws, promoting traffic safety, verifying identities and issuing secure documents, including driver's licenses and vehicle registrations, and collecting revenues. DMV has three regional headquarters and 27 district and branch offices. In addition, County Clerk offices act as DMV agents at 102 locations throughout the State. DMV served more than 20 million customers last year.

The Executive Budget continues the practice, begun in 2002, of funding a portion of the DMV out of the Dedicated Highway and Bridge Trust Fund (DHBTF). This practice diverts dedicated funding away from roads and bridges to fund personal service operations previously funded through General Fund revenues.

The SFY 2012-13 Executive Budget recommends \$334 million in funding for the DMV, a \$9 million or 3 percent decrease. No direct funding from the General Fund (GF) is allocated to the DMV. However, \$187 million or 56 percent of DMV's budget is appropriated from the DHBTF. The SFY 2012-13 Executive Budget includes appropriation language which would give the Executive broad authority to transfer funding between programs and agencies.

DMV estimates its workforce for SFY 2012-13 at 2,414 Full-Time Equivalent (FTE) positions, an increase of 21 positions over the prior year. This increase is required to maintain minimum staffing levels at DMV field offices. This is still significantly lower than DMV's staffing level of 2,809 FTEs in the SFY 2010-11 Enacted Budget. DMV will realize \$4.9 million in savings from changes in implementation of several unspecified contracts.

During SFY 2012-13, DMV plans to expand access to web transactions. The SFY 2012-13 Executive Budget includes legislation to authorize additional web revenue sharing with County Clerks to mitigate the financial impact as a result of accommodating more online transactions. County

Clerks would realize increased revenue of \$500,000 in both 2012 and 2013.

- \$665,000 - performance based bus inspections
- \$500,000 – reduced snow and ice contract costs

Department of Transportation

The Department of Transportation (DOT) maintains and improves the State's more than 38,000 highway lane miles and 7,500 bridges. In addition, DOT subsidizes locally operated transit systems and partially funds local government highway and bridge construction, and rail and airport programs. The Department's headquarters is located in Albany, and DOT currently operates 11 regional offices in Schenectady, Utica, Syracuse, Rochester, Buffalo, Hornell, Watertown, Poughkeepsie, Binghamton, Hauppauge and New York City. The Executive Budget proposes reducing the number of regional DOT offices from 11 to 6, with no additional information available as to how this reduction in regional offices would be structured.

The Executive Budget recommends over \$9.6 billion for DOT, an increase of over \$1.3 billion from the 2011-12 Enacted Budget. This year-to-year change primarily reflects the New York Works infrastructure initiative, and increases in transit aid, offset by decreases attributable to the phase-out of Federal Stimulus and 2005 Bond Act funding. In addition, programmatic and operational efficiencies are expected to produce savings. The SFY 2012-13 Executive Budget includes DOT appropriation language to allow the Executive broad authority to transfer funding between programs and agencies.

The SFY 2012-13 Executive Budget includes \$27.6 million in DOT savings initiatives as follows:

- \$10.1 million – enhanced accident revenue recovery (reducing General Fund support for the Trust Fund by \$5.9 million)
- \$7.5 million – pay-as-you-go maintenance
- \$3.7 million - transportation shared services (including regional office closures)
- \$3.6 million – reduced salt expenses
- \$1.5 million – regional aviation capital matching fund

The Executive Budget recommends a workforce of 8,492 FTEs for the Department, a decrease of 91 FTEs from the 2011-12 Enacted Budget. The decrease primarily reflects reductions in the State workforce due to attrition (101 FTEs), offset by 10 new hires to enhance accident damage recoveries. These workforce reductions include the attrition associated with the regional office closures. This proposal results in a net fiscal savings of \$4.2 million in SFY 2012-13.

The SFY 2012-13 Executive Budget includes language to authorize the State to make payments for a rebate of tolls paid by residents of Broad Channel and the Rockaway Peninsula that travel over the Cross Bay Veterans Memorial Bridge. This bridge connects two parts of the borough of Queens. Rockaway residents pay a discounted EZ-Pass rate for this bridge. The rate is roughly 60 cents less than the rate (\$1.19) for non-Rockaway residents (\$1.80). The Executive proposal does not include a fiscal impact to the State or the amount of the discount.

DOT Capital Investment

In SFY 2011-12, DOT's capital program totaled nearly \$3.5 billion, including approximately \$1.7 billion in Federal funds. The remainder of the funding comes from dedicated taxes and fees, and a significant subsidy deposited into the DHBTF from the General Fund.

The SFY 2012-13 Executive Budget includes \$1.16 billion of new funding (\$917 million Federal and \$247 million in State funds) under the New York Works program. The Executive proposal funds the \$232 million through the DHBTF. The Executive proposal increases General Fund transfers to the DHBTF, in SFY 2012-13 and in the out-years, however a deficit in the fund continues to exist.

The increases in capital spending for the DOT are included in the obligations schedule contained in the Infrastructure Issues in Focus Section.

The \$1.16 billion in capital investments would provide:

- Over \$212 million for bridge repairs to 115 critical bridges throughout New York State.
- \$250 million for a pavement preservation program to repair more than 2,000 lane miles of State roads.
- Over \$700 million to accelerate signature transportation projects throughout the State.

Many of these accelerated projects would utilize ‘Design-Build’ legislation passed in the December 2011 Extraordinary Session to expedite project implementation. Specific bridges, roads, and projects eligible to receive these funds have not yet been identified by the Executive.

Under the Executive’s proposal, the Consolidated Highway Improvement Program (CHIPS) would receive \$363.1 million and the Municipal Streets and Highways Program (“Marchiselli”) \$39.7 million, maintaining the increased levels established in SFY 2008-09. These overall funding levels are identical to the current year funding.

CHIPS and Marchiselli Funding				
	11-12	12-13	12-13	
Municipality	CHIPS total (000's)	CHIPS total (000's)	CHIPS change (000's)	Percent changed
NYC	\$75,471	\$75,471	\$0	0.00%
Counties	\$126,925	\$126,900	-\$26	-0.02%
Cities	\$33,549	\$33,528	-\$21	-0.06%
Towns	\$101,680	\$101,792	\$112	0.11%
Villages	\$25,472	\$25,406	-\$66	-0.26%
Total	\$363,096	\$363,096	\$0	0.00%
	11-12	12-13	12-13	
	Machiselli total (000's)	Marchiselli total (000's)	Marchiselli change	Percent changed
Total	\$39,700	39,700.00	\$0.00	0.00%
Local Transportation Capital Aid Total	\$402,796	\$402,796	\$0	0.00%

For SFY 2012-13 the Executive Budget includes a \$543 million transfer from the General Fund to the DHBTF.

Capital Program – 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. The Department of Transportation Highway and Bridge five year plan and the Metropolitan Transportation Authority Capital Program five year plan each received \$17.9 billion. The Capital Plans provided sufficient resources for infrastructure investments, while maintaining historical equity between the two capital spending programs. A 2005 Transportation Bond Act totaling \$2.9 billion was equally split between the two capital programs. The MTA’s 2005-2009 Capital Program expired on December 31, 2009, and DOT’s program ran through March 31, 2010.

2010 + Beyond

In the fall of 2009, the MTA proposed a \$25.6 billion 2010-2014 five-year Capital Plan and DOT released a proposed \$25.8 billion 2010-2015 five-year Capital Plan. The Executive declared both plans unaffordable in the existing fiscal crisis. In SFY 2010 a two-year, \$7 billion capital program for DOT was approved. In the spring of 2010, a \$23.8 billion Metropolitan Transportation Authority’s 2010-2014 Capital Program was approved.

A five-year transportation capital spending program to preserve and protect the State’s infrastructure is difficult in the absence of a new federal, multi-year funding program. The current extension of the previous federal transportation program called SAFTEA-LU, runs through March 31, 2012. This program is responsible for roughly 50 percent of the State transportation capital plan.

DOT - Transit Operating Assistance

DOT provides oversight and funding for more than 30 public transit operators, including the Metropolitan Transportation Authority, the four upstate regional transportation authorities and other (usually county-sponsored) transit systems.

The SFY 2012-13 Executive Budget provides over \$4.4 billion in transit operating assistance. The MTA would receive nearly \$4 billion, an increase of more than \$190 million from SFY 2011-12. All other transit systems will receive over \$430 million, reflecting an increase of \$29.6 million. The additional funding is attributable to higher projected dedicated transit revenues. A portion of the upstate systems increase results from the Executive proposal to change the distribution of the transmission tax (Utility Taxes). Under current law, the transmission tax is collected statewide but distributed solely to the downstate transit systems including the MTA. The Executive proposal would change this practice and allocate 26 percent of this tax to upstate transit systems.

Metropolitan Transportation Authority

The Metropolitan Transportation Authority, the largest transit provider in North America, is responsible for operating, maintaining and improving public transportation in the Metropolitan Commuter Transportation District (MTCDD). The MTCDD consists of New York City and Westchester, Nassau, Suffolk, Dutchess, Putnam, Orange and Rockland Counties. The MTA's operations include subway and bus systems in New York City, the Long Island Rail Road, Metro-North Railroad, and seven bridges and two tunnels in New York City.

MTA Payroll Mobility Tax

In December 2011, the Executive and the Legislature agreed to tax code changes including a \$250 million reduction in the payroll mobility tax (PMT). These actions effectively eliminated or

reduced the MTA payroll tax for over 700,000 taxpayers including sole proprietors with less than \$50,000 income. All other business entities with less than \$1.25 million in payroll will pay no tax and business entities between \$1.25 million and \$1.75 million in payroll will pay a reduced rate. All public and non-public schools will no longer have to pay the MTA payroll tax.

	Enacted 2011-12	Executive 2012-13	Difference
	(millions)	(millions)	(millions)
Downstate			
NYCTA	\$1,523	\$1,602	\$79
Commuter Rail	\$543	\$578	\$35
MTA (Payroll & Aid Trust account)	\$1,736	\$1,812	\$76
MTA Total	\$3,802	\$3,992	\$190
Rockland	\$3	\$3	\$0
SI Ferry	\$26	\$28	\$2
Westchester	\$43	\$47	\$3
Long Island Bus	\$52	\$56	\$4
Suffolk	\$20	\$22	\$2
NYC DOT	\$69	\$74	\$5
Remaining Systems	\$25	\$27	\$2
Supplemental	\$4	\$4	\$0
Non MTA Total	\$243	\$261	\$18
Subtotal Downstate	\$4,045	\$4,253	\$209
Upstate	\$0	\$0	\$0
CDTA	\$29	\$31	\$2
CNYRTA	\$27	\$28	\$2
RGRTA	\$31	\$33	\$2
NFTA	\$42	\$45	\$3
Remaining Systems	\$34	\$36	\$2
Subtotal Upstate	\$164	\$176	\$11
Program Totals	\$4,209	\$4,429	\$220

Recent MTA History

In December 2011, the board of the MTA voted to approve the Authority's \$12.7 billion 2012 operating budget. Even with new fare and toll increases that took effect by January 1, 2011, the

MTA's financial condition remains precariously balanced. In the fall of 2010, the MTA Board authorized a 7.5 percent fare and toll revenue increase for 2011, an action projected to generate about \$410 million annually. (This increase was agreed to as part of the 2009 Albany MTA Bailout, with an identical increase slated for January 2013 and 2015. It should be noted that the MTA Board will need to hold public hearings and officially vote on planned 2013 fare and toll hikes.)

Under its most recent financial plan, the MTA expects to end 2011 with about a \$200 million surplus. For 2012, the MTA anticipates ending the year with approximately \$1 million, a nominal amount for an organization the size of the MTA. This surplus assumes \$35 million of still-to-be identified cost savings. The MTA now expects to end 2013 with an \$80 million surplus (assuming a 7.5 percent fare and toll increase effective at the beginning of next year). The MTA's outlook for 2014 and 2015 includes operating deficits of \$141 million and \$211 million, respectively.

The MTA's financial projections assume continuing the major cost-saving initiatives begun in 2010. The recurring savings, which have grown from \$525 million annually to \$686 million includes a 15 percent cut in administrative positions (20 percent at MTA Headquarters), freezing management wages for three years, reducing overtime costs, renegotiation of contracts with major suppliers, and some service cuts.

The MTA achieved savings of \$686 million in 2011, and its goal for 2012 is \$708 million. The MTA expects its cumulative cost savings will grow to \$3.9 billion by 2015.

In early January 2012, the Senate unanimously confirmed the Executive's appointment of Joseph J. Lhota as the new MTA Chairman and Chief Executive Officer. One of Mr. Lhota's top priorities is to reach a labor agreement with its largest labor union, Transport Workers Union Local 100 (TWU Local 100), which represents

most subway and bus employees. The MTA's three-year contract with TWU Local 100 expired on January 15, 2012, and the parties are continuing to negotiate. The MTA is seeking a "net zero" labor agreement that does not increase its costs, while TWU Local 100 has said that it will not accept a new contract without an increase in wages.

Long Island Bus – New Direction

The MTA has provided local bus service for Nassau County since 1973. The MTA's operation of Long Island Bus ended on December 31, 2011. At that time the responsibility for management and operation of Nassau County's local bus service was officially transferred to Veolia Transportation. Nassau selected Veolia Transportation, a private operator, earlier in the year after failing to reach a new funding agreement with the MTA. The new bus service is called the Nassau Inter-County Express (NICE).

The SFY 2012-13 Executive Budget includes \$56.4 million in operating assistance for Nassau County's NICE bus services that is now run by Veolia Transportation. This is an increase of \$4 million over last year's Enacted Budget.

2010-2014 MTA Capital Plan

The MTA is seeking approval of an amendment to reduce its 2010-2014 Capital Program by \$1.6 billion, effectively reducing the \$23.8 billion program to \$22.2 billion. The MTA intends to continue to deliver all the projects in the 2010-2014 Capital Plan for less by improving the way it does business.

The MTA Capital Plan is currently funded for the first two years (\$9.1 billion) of its 2010-2014 Capital Program. The MTA intends to finance the remainder of the 2010-2014 Capital Plan by obtaining a \$2.2 billion federal Railroad Rehabilitation & Improvement Financing (RRIF) loan and assuming \$4.5 billion in new debt. The MTA's financing plan also assumes funding of \$770 million in new State support over a multi-year

period included in the SFY 2012-13 Executive Budget.

The SFY 2012-13 Executive Budget includes legislation to raise the statutory limit on the amount of bonds, notes, and other obligations the MTA may issue by \$7 billion in order to fund the remaining three years of the 2010-2014 Capital Program.

Thruway Authority

The Thruway Authority operates a 570-mile highway system that includes the 426-mile mainline from Pennsylvania to New York City. Through its subsidiary, the New York State Canal Corporation, the Thruway maintains, operates, develops, and makes capital improvements to the 524-mile navigable waterway, which includes 57 locks, 20 lift bridges, dams, reservoirs, and water control structures. The Canal System received considerable damage during 2011 from Tropical Storms Irene and Lee, and repair work is still in progress.

The Thruway Authority and Canal Systems are primarily financed with Authority funds, which are not included in the Executive Budget. The Thruway Authority's 2012 combined operating and capital budget totals \$1.02 billion, a reduction of 6

percent over revised estimates for 2011. The Thruway Authority's 2012 budget plan recommends \$433 million in Thruway and Canal operating expenses, a reduction of nearly two percent from 2011.

The SFY 2012-13 Executive Budget recommends new appropriation authority of \$2 million, identical to SFY 2011-12. The Canal System Development Fund receives canal tolls and user fees, for a portion of the Canal System's maintenance, improvement, and promotion costs.

The Thruway's most recent \$2.1 billion, six-year capital plan ended in December 2011. During December, the Thruway Authority Board approved a new four-year, \$1.5 billion Capital Program for 2012 through 2015. Due to fiscal constraints the approved \$1.5 billion Capital Program was reduced from the \$1.8 billion proposal released earlier in the year.

The Thruway Authority and the Department of Transportation (DOT) are working on an accelerated plan to replace the Tappan Zee Bridge. The replacement Tappan Zee Bridge is estimated to cost \$5.2 billion, significantly less than previous proposals of \$16-\$20 billion that included transit options. This proposal is outlined in the Infrastructure Issue in Focus section.

Transportation				
Proposed Disbursements - All Funds				
(Thousands of Dollars)				
Agency	Estimated 2011-12	Proposed 2012-13	Change	
			Amount	Percent
Department of Transportation	7,782,761	8,126,657	343,896	4.4%
Department of Motor Vehicles	299,400	303,560	4,160	1.4%
Thruway Authority	1,800	1,800	0	0.0%
Metropolitan Transportation Authority	194,500	333,600	139,100	71.5%
Totals:	8,278,461	8,765,617	487,156	5.9%

Environment, Agriculture and Housing Fact Sheet



Adirondack Park Agency

- All Funds appropriations reduction of \$105,000.
- This decrease primarily reflects reductions taken for reduced costs relating to collective bargaining agreements reached in 2011.

Department of Agriculture & Markets

- All Funds appropriation reduction for the Department of Agriculture and Markets of \$7.3 million, or 4.4 percent.
- \$1.5 million decrease in local assistance programs.
- Increase opportunities for the Department of Agriculture and Markets to collect fees for services it provides.
- Creation of a new program giving farmers the option to approve new dairy research and education programs funded through a production fee.

New York State Energy Research and Development Authority (NYSERDA)

- All Funds appropriation reduction of \$1.3 million.
- NYSERDA's capital costs are driven by a 90/10 percent federal match requirement for conducting the ongoing nuclear waste cleanup at West Valley. The reduction of \$1.3 million reflects an anticipated reduction in federal funding resulting from reduced spending by the Federal Government for the West Valley cleanup.

Department of Environmental Conservation (DEC)

- All Funds appropriation increases by \$96.8 million.
- This increase primarily reflects an additional \$101.7 million for an accelerated New York Works Infrastructure program partially offset by agency consolidation savings and collective bargaining agreements reached in 2011.
- Environmental Protection Fund would remain at the SFY 2011-12 level of \$134 million.
- Executive proposes moving responsibility for the Belleayre Mountain Ski Center from DEC to the Olympic Regional Development Authority.
- The salary and benefit costs for 65 enforcement officers would move from the General Fund and other Special Revenue accounts to the Conservation Fund adding a \$6.1 million annual liability to the Conservation Fund.
- Executive proposes language prohibiting sweeps from Conservation Fund balances protecting receipt of \$20 million in Federal Fish and Wildlife funds.

Division of Housing and Community Renewal

- All Funds reduction of \$22.35 million.
- Proposes to eliminate funding for the Neighborhood (\$8.5 million) and Rural Preservation (\$3.5 million) Programs. (SFY 2012-13 savings: \$12 million)
- Creates a Tenant Protection Unit to proactively enforce landlord obligations (SFY 2012-13 Cost: \$4.8 million)
- Increases funding for the State Low Income Housing Tax Credit by \$4 million to \$8 million.

Environmental Facilities Corporation (EFC)

- All Funds appropriation reduction of \$12.7 million, removing EFC from the State Budget.
- Executive proposes that Federal receipts and fees generated by and paid to EFC will now be off-budget, removing \$10.6 million in cash from the State Fiscal Plan.

Olympic Regional Development Authority

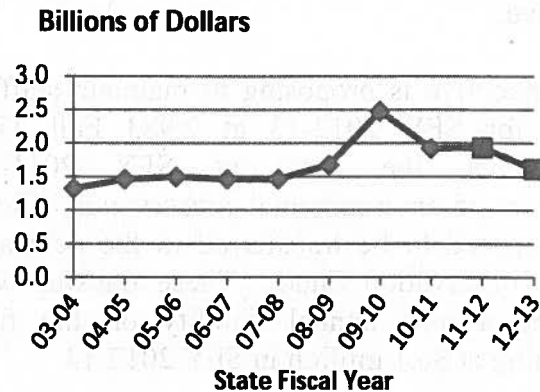
- All Funds reduction of \$321,000 mainly due to lower estimates for energy costs.

Office of Parks, Recreation and Historic Preservation:

- All Funds increase of \$106.2 million.
- The Executive proposal would provide \$94 million in capital funding to accelerate maintenance projects at 48 State parks and historic sites, and facilities operated by the Olympic Regional Development Authority. The Legislature is awaiting a full listing of the individual sites that will be scheduled for funding.

ENVIRONMENTAL CONSERVATION, AGRICULTURE, & HOUSING

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	1,934	1,615
Annual Growth Rate	0.5%	16.5%
5 Year Average Growth (Actual)		8.1%



Environment, Agriculture and Housing:

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$1.61 billion, a reduction of \$319.9 million for Environmental Conservation, Energy, Agriculture and Housing agencies. Specifically, decreases in funding are recommended for the Department of Environmental Conservation (\$168.8 million); the Department of Agriculture and Markets (\$14.6 million) the Environmental Facilities Corporation (\$10.6 million); the Division of Housing and Community Renewal (\$167.2 million); the Adirondack Park Agency (\$48,000); the Energy Research and Development Agency (\$238,000); the Hudson River Park Trust (\$2.6 million); and the Olympic Regional Development Authority (\$252,000). Only the Office of Parks, Recreation and Historic Preservation, \$38.5 million, and the Department of Public Service, \$5.0 million, are recommended by the Executive in this functional area to receive additional funding.

Environmental Conservation:

The Executive recommends All Funds appropriations in the amount of \$1.04 billion for the Department of Environmental Conservation (DEC). This is an appropriations request increase of \$96.8 million over SFY 2011-12. However, there is only \$872.9 million in cash behind these appropriations, largely due to the expiration of American Recovery and Restoration Act funds. Actual anticipated spending is therefore estimated to decline by \$167.8 million year to year. The major programmatic effects of the spending reduction will be felt in fewer air and water quality control projects, including major sewage treatment improvements, initiated in the State.

Programmatic highlights in the Executive's proposed budget include \$102 million in new capital to DEC for flood control, dam safety and coastal erosion projects, and the transfer of responsibility for the Belleayre Mountain Ski Center to the Olympic Regional Development Authority (ORDA). The \$102 million in new capital is part of the proposed New York Works program. The Executive anticipates that these

State capital funds should be matched by \$102 million in Federal funds. The Legislature is awaiting specifics about the particular projects and timelines associated with the proposed initiative.

The Executive is proposing to maintain staffing levels for SFY 2012-13 at 2,983 Full Time Equivalents, the same as SFY 2011-12. However, 65 environmental conservation officers are proposed to be transferred to the dedicated State Conservation Fund. These transfers will produce a new annual liability on the fund beginning at \$6.1 million in SFY 2012-13.

There are no appropriations or authorizing language in the Executive's proposed budget to fund the staffing and oversight of high volume horizontal hydro-fracking natural gas extraction and distribution.

The Executive is proposing to eliminate all re-appropriations older than 6 years and all re-appropriations originating from Legislative initiatives. The Legislature has requested a full listing of the projects and initiatives that the Executive is looking to defund.

Environmental Protection Fund (EPF):

The SFY 2012-13 Executive Budget proposes \$134 million for the EPF, the same as current year funding.

The \$134 million EPF proposal includes \$10.9 million for Solid Waste and Recycling, \$52.5 million for Parks and Recreation and \$70.6 million for Open Space projects. The EPF proposal does not contain any new funding initiatives.

A large portion of the EPF is supported from revenues generated by the Real Estate Transfer Tax (RETT). Other revenues are generated through the sale or lease of State property and interest earnings.

2012-13 ENVIRONMENTAL PROTECTION FUND			
	11-12	12-13	Yr to Yr
	Enacted	Proposed	Change
	(000'S)		
SOLID WASTE			
Landfill Closure/Gas Management	600	270	(330)
Municipal Recycling	6,435	6,245	(190)
Pollution Prevention Institute	2,000	2,100	100
Secondary Marketing	1,000	1,000	0
Natural Resource Damages	200	175	(25)
Pesticide Database	575	1,150	575
Subtotal Solid Waste	10,810	10,940	130
PARKS & REC			
Waterfront Revitalization	11,500	11,500	0
<i>Inner City/Underserved</i>	6,000		(6,000)
<i>Hudson and Champlain Docks*</i>	700		(700)
<i>Buffalo Waterfront</i>	500		(500)
<i>Niagara River Greenway</i>	300		(300)
<i>Rensselaer County</i>	0		0
<i>Beacon Institute</i>	0		0
<i>Long Island</i>	0		0
<i>Upper Susquehanna Coalition</i>	0		0
Municipal Parks	13,000	13,000	0
Hudson River Park (HRP)	3,000	3,000	0
Public Access & Stewardship	16,228	16,000	(228)
DEC	15,000		(15,000)
OPRHP	15,000		(15,000)
Belleayre	0		0
ZBGA	9,000	9,000	0
Subtotal Parks & Rec	52,728	52,500	(228)
OPEN SPACE			
Land Acquisition	17,500	17,500	0
<i>Land Trust Alliance</i>	1,575		(1,575)
<i>Urban Forestry</i>	500		(500)
Smart Growth (Quality Communities)	300	300	0
Farmland Protection	12,000	12,000	0
Agricultural Waste Management	430	700	270
Biodiversity Stewardship	500	500	0
Albany Pine Bush Commission	2,000	2,000	0
Invasive Species	3,800	3,400	(400)
LI Pine Barrens Commission	1,100	1,100	0
Oceans & Great Lakes Initiative	5,000	4,728	(272)
Water Quality Improvement Program	2,932	2,932	0
South Shore Estuary Reserve	900	900	0
Non-Point Source Pollution Control	17,000	17,000	0
Soil & Water Conservation District	3,000	3,500	500
Finger Lake-Lake Ontario Watershed	1,000	1,000	0
Hudson River Estuary Plan	3,000	3,000	0
Subtotal Open Space	70,462	70,560	98
TOTAL EPF	134,000	134,000	0

Article VII Legislation:

New York State was notified by the United States Fish and Wildlife Service that the broad transfer authorization language that was in the SFY 2011-12 adopted Budget threatened over \$20 million in federal receipts tied to a matching requirement for the State Conservation Fund. The Executive proposes language to prohibit transfers during SFY 2012-13 from any fund tied to a federal matching requirement.

The Executive also proposes to eliminate certain tagging requirements and streamline various fish and wildlife license, fee and permit regulations. This bill would also extend DEC's authority to collect fees for surf clams and ocean quahogs.

The Executive proposes to exempt certain hazardous waste and hazardous wastewater discharges from hazardous waste surcharges if the waste can be recycled for a non-hazardous use. Although the Executive estimates that approximately \$400,000 will not be received in SFY 2012-13 from this measure, there are no revenue reductions assumed in the State Fiscal Plan. The Executive is contending that these recycled wastes should never have been subject to the fee surcharges in the first place.

The Executive is also proposing authorizing language to transfer the operation and management of the Belleayre Mountain Ski center from DEC to ORDA to foster more efficient operations. No savings from this proposal are anticipated in the State Fiscal Plan.

Finally, the Executive proposes to eliminate or merge certain boards and commissions including the Solid Waste Management Board, the Freshwater Wetlands Appeals Board, the State Environmental Board, the Regional and State Forest Practice Boards, and the Surf Clam Ocean Quahog Management Advisory Board. Again no savings are attributed to these proposals.

Environmental Facilities Corporation (EFC):

The SFY 2012-13 Executive Budget proposes to eliminate the practice of appropriating EFC's share of Federal grants and fees generated by EFC. Essentially, this change would make EFC activities completely off-budget.

The Executive includes authorizing Article VII language to eliminate EFC funds from the State Budget. This change would reduce the State Fiscal plan by \$10.6 million and remove 88 employees from the State workforce. Legislative and State Department of Audit and Control oversight over EFC would also cease. The Executive is anticipating but has not estimated administrative savings and other efficiencies to EFC from this proposal.

Adirondack Park Agency (APA):

The SFY 2012-13 Executive Budget recommends \$4.5 million in All Funds cash disbursements for the APA, a decrease of \$46,000. This decrease results mainly from implementing the current Civil Service Employees Association and Professional Employees Federation contracts. Staffing levels for the APA are held current at 56 Full Time Equivalent positions.

Hudson River Park Trust:

The SFY 2012-13 Executive Budget recommends \$3.8 million in disbursements through the EPF for the Hudson River Park Trust, a decrease of \$2.6 million. The Park Trust is a public benefit corporation created in 1998 to develop and maintain the 550 acre park on the west side of Manhattan. The Park extends five miles along the Hudson River Waterfront from Battery Park to 59th Street.

Office of Parks, Recreation and Historic Preservation (Parks):

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$276.3 million for Parks, an increase of \$38.5 million. The increase comes from a proposal to include a capital appropriation of \$94.3 million for Parks as part of the proposed New York Works Capital Infrastructure program offset from anticipated savings resulting from the recently agreed to current Civil Service Employees Association and Professional Employees Federation contracts and smaller administrative savings.

The Executive anticipates a staffing reduction of 12 employees from 1,748 to 1,736 positions. These reductions are the result of a continuation of the hiring freeze and attrition.

The Executive is also proposing to transfer \$5 million in operating expenses from the General Fund to the Park Patrons Service Account.

The Executive intends to use the New York Works Capital funds to provide resources for capital rehabilitation and other improvements for 48 parks and historic sites with \$5 million sub-allocated for sites administered by the Olympic Regional Development Authority. Other Parks capital is proposed to remain flat with the exception of an increase of \$15 million in the combined expendable trust fund to accept public authority and private source funds.

Olympic Regional Development Authority (ORDA):

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$3.1 million for The ORDA, a decrease of \$252,000 from the current fiscal year. The decrease in disbursements is estimated to be achieved largely through energy savings and various smaller administrative efficiencies.

The Executive Budget includes Article VII language that would authorize ORDA to enter into an agreement with the Department of Environmental Conservation to transfer management of the operations of the Belleayre Mountain Ski Center to ORDA following the close of the 2011-12 ski season. Although the Executive anticipates savings from this move, no figure is given as part of the SFY 2012-13 or following years fiscal plan.

The Hudson River Valley Greenway Community Council:

The SFY 2012-13 Executive Budget recommends All Funds appropriations of \$321,000 for the Council, the same as for SFY 2011-12. The Council is comprised of a 25 member advisory board that promotes the preservation of natural and cultural resources in the Hudson River Valley.

The Greenway Heritage Conservancy of the Hudson River Valley:

The SFY 2011-12 Executive Budget recommends All Funds appropriations of \$166,000 for the Conservancy, the same as for SFY 2011-12. 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. It is funded entirely from the General Fund.

Agriculture and Markets:

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$105.0 million for the Department of Agriculture and Markets. This represents a decrease of \$14.6 million, or 12.4 percent, from the current fiscal year.

The Executive Budget would increase General Fund State Operations by \$5.5 million, or 20

percent, due to the transfer of appropriation authority from two special revenue funds – comprising the Administrative Cost and Consumer Food Accounts – to the General Fund. The Executive proposes eliminating these accounts. Overall State Operations would be reduced by \$6.6 million, or 5.2 percent. Capital Funds would remain constant at \$3 million.

seminars, and engage in other activities while recouping its expenses under the proposal.

Redirect Certain Fees to the General Fund: The Executive bill would eliminate special revenue funds that support the Consumer Food and the Commercial Feed Licensing Account. These appropriations would shift to the General Fund,

Changes in Ag & Markets Local Assistance Programs	Fund	ATL/SO	Amount		
			2011-12	2012-13	Change
Pro-Dairy	GF	SO	822,000	0	-822,000
Pro-Dairy	GF	ATL	0	822,000	822,000
Cornell Diagnostic Lab	GF	ATL	6,166,000	6,066,000	-100,000
Long Island Rabies Control	GF	ATL	100,000	0	-100,000
Maple Producers	GF	ATL	100,000	0	-100,000
Rollover Tractor Program (ROPS)	GF	ATL	100,000	0	-100,000
North Country Agriculture	GF	ATL	300,000	0	-300,000
Farm Viability Institute	GF	ATL	1,221,000	400,000	-821,000
Total			8,809,000	7,288,000	-1,521,000

The Executive recommends eliminating many Department of Agriculture and Markets re-appropriations. Re-appropriations older than six years would be eliminated. The Executive also eliminates re-appropriations for all past Legislative additions.

while receipts associated with the special revenue accounts would be deposited into the General Fund. The bill would also replace four food processing application periods with a rolling application process.

Article VII Legislation:

Seed Testing: The Executive proposes to eliminate the requirement that the New York State Agricultural Experiment Station at Cornell be the exclusive seed testing laboratory in New York. The Department of Agriculture and Markets or a qualified third party would be granted the ability to fulfill the duties of the Seed Testing Program.

Dairy Industry Research and Education: The Executive has proposed Article VII legislation to authorize the Commissioner of Agriculture and Markets to issue a market order to fund research and educational outreach actions beneficial to the state dairy industry. The activities would be funded by an assessment on milk producers statewide, subject to approval via referendum by 51 percent of dairy producers. If approved by the farmers, the fee would raise \$1.2 million each year. These activities would be conducted by third parties, and not the State.

Departmental Fee-For-Service Authority: The Department would be authorized to enter into contracts and cooperative agreements with governmental and educational entities for a fee. The Department would be able to conduct services for other states, conduct training

Housing and Community Renewal

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$242.8 million for

The Division of Housing and Community Renewal (DHCR), a reduction of \$167.2 million from the current year level. This net decrease is reflected in the loss of American Recovery and Reinvestment Act Federal Resources and spending changes to several program areas detailed below.

The Executive recommends the elimination of the Neighborhood Preservation Program (NPP) and the Rural Preservation Program (RPP), for a combined funding savings of \$12 million. Current year funding provides \$8.5 million for the NPP and \$3.5 million for the RPP.

Elimination of Neighborhood and Rural Preservation Programs (amounts in millions)		
	SFY 2011-12 Enacted	SFY 2012-13 Executive
Neighborhood Preservation Program	\$8.48	\$0.00
Rural Preservation Program	\$3.54	\$0.00
Total	\$12.02	\$0.00

General Fund appropriation reductions are achieved through efficiencies in non-personal services and workforce reductions, which result in SFY 2012-13 savings of \$2.19 million.

Additional spending reductions include the loss of \$1.87 million in Federal ARRA Weatherization Grant funding.

The Executive also recommends \$4.8 million for the creation of a Tenant Protection Unit. The program is intended to implement a proactive tenant protection and landlord fraud investigation program by enforcing landlord obligations and imposing penalties for failure to comply with rent laws. The proposal includes funding for 19 staff (five current staff and 14 new positions) and one consultant.

New York Energy Research and Development Authority (NYSERDA):

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$29.4 million for NYSERDA, a decrease of \$238,000 from the current fiscal year. This decrease reflects an expected reduction in federal funding that requires a 10 percent state match for nuclear waste cleanup activities at West Valley in Cattaraugus County.

The bulk of New York State sourced NYSERDA resources and spending come from four completely off-budget programs that were originally designed to foster renewable innovation, but have recently been increasingly used for energy related community and economic development and related academic research purposes. These four programs, the Systems Benefit Charge, the Renewable Portfolio Standard, the Energy Efficiency Portfolio Standard and the Regional Greenhouse Gas Initiative administer and disburse hundreds of millions of utility rate payer and utility company imposed surcharges a year with no required reporting to the other branches or Legislative oversight or input.

Article VII Legislation:

The Executive Budget includes the annual provision to allow the Comptroller to transfer \$913,000 from the unrestricted corporate funds of NYSERDA to the General Fund. These funds are used to offset New York’s debt service requirements related to the Western NY Nuclear Service Center.

Additionally, the Executive Budget includes annual authorization for NYSERDA to finance a portion of its research, development and demonstration, and policy and planning programs, and to finance the DEC climate change program, from assessments on gas and electric corporations pursuant to section 18-a of the

Public Service Law. Appropriations of \$16.3 million are proposed to be allocated for these programs including a maximum of a \$1 million sub-allocation to DEC for the climate change program.

The Executive has proposed two tax credits to encourage the expansion of the use of solar energy in this State. These credits will also be part of the proposed NY-SUN initiative the Executive will be submitting to the Legislature later this session. Please refer to the revenue section and corresponding Article VII bills for a description of these credits.

Department of Public Service (DPS):

The SFY 2012-13 Executive Budget recommends All Funds disbursements of \$77.0 million for DPS, an increase of \$5.0 from the current fiscal year. This increase reflects an anticipated staffing increase of 16 new positions to 524 Full Time Equivalent positions to cover 1 needs and attrition in certain departmental functions including transmission upgrade oversight.

The Executive also proposes a new appropriation of \$2 million to cover anticipated local intervenor fund receipts and disbursements for new power plant applications resulting from the recently enacted Article X siting law.

Article VII Legislation:

The Executive again proposes the annual authorization for the Department of Health to receive \$484,000 to finance certain activities through a special assessment on cable television companies.

The Executive is also proposing language that would clarify that the State does not regulate Voice over Internet Protocol services to foster and facilitate competition in the telecommunications and video industries.

Environmental Conservation, Agriculture and Housing Proposed Disbursements - All Funds

(Thousands of Dollars)

Agency	Estimated 2011-12	Proposed 2012-13	Change Amount	Percent
Adirondack Park Agency	4,544	4,496	(48)	-1.06%
Agriculture and Markets	119,592	104,951	(14,641)	-12.24%
Energy Research & Development	29,597	29,359	(238)	-0.80%
Department of Environmental Conservation	1,040,630	872,880	(167,750)	-16.12%
Environmental Facilities Corporation	10,620	0	(10,620)	-100.00%
Housing and Community Renewal	409,986	242,763	(167,223)	-40.79%
Hudson River Park	6,400	3,816	(2,584)	-40.38%
Olympic Regional Development Authority	3,331	3,079	(252)	-7.57%
Office of Parks, Recreation and Historic Preservation	237,777	276,250	38,473	16.18%
Public Service	72,008	77,031	5,023	6.98%
Totals:	1,934,485	1,614,625	(319,860)	-16.53%

Public Protection Fact Sheet



- The Executive Budget proposes a total All Funds spending reduction of \$4 million or 0.1 percent from State Fiscal Year (SFY) 2011-12.

Expansion of DNA Database:

- The Executive proposes legislation to require anyone convicted of any Felony or Penal Law Misdemeanor to submit a DNA sample.
- It is anticipated that the expansion could yield an estimated 46,000 additional DNA samples annually.
- Funding of \$700,000 is included to support the expansion in SFY 2012-13 (full annual cost of \$1.4 million). This funding would support three additional personnel at the Division of Criminal Justice Services (DCJS); DNA collection kits and sample processing costs; and expenses associated with the Division of State Police forensic laboratory.

Hurricane Irene and Tropical Storm Lee Relief:

- It is estimated that the total cleanup cost of the Storms is \$1.5 billion. The Executive includes appropriations totaling \$750 million (\$600 million in Federal Funds; \$150 million in State Funds) for any given disaster but specially for Hurricane Irene and Tropical Storm Lee. The Federal reimbursement is expected at 75 percent, while the State share is 12.5 percent; and the local share is 12.5 percent. It is unclear if the State will pick up the Local share.

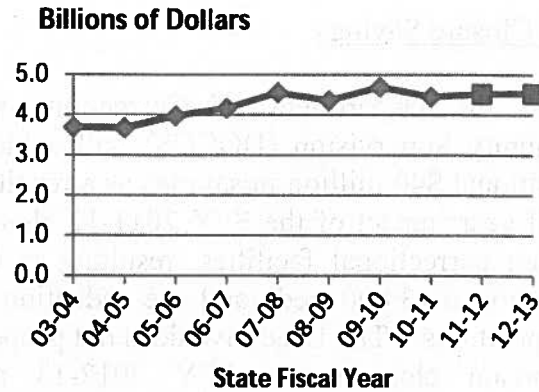
Other Major Budget Impacts:

- The Department of Corrections and Community Supervision (DOCCS) will realize \$40 million in savings as a result of the full year impact of the SFY 2011-12 closure of seven correctional facilities, resulting in the elimination of 3,800 beds and 1,100 positions.
- DOCCS will also hold approximately 17 classes for correctional officers and one class for parole officers. The cost of the training classes are estimated to total \$13.7 million, allowing the Department to maintain its current projected workforce level of 29,773.
- The Division of State Police will resume classes for new recruits. The Division will hold two classes in SFY 2012-13 for a total of 230 new recruits. These classes will allow the Division to maintain its current member strength of 4,458 troopers. Funding of \$13 million is provided for costs associated with these classes, with a portion (\$3.5 million) supported from Federal Edward Byrne Justice Assistance Grant (JAG) Funding through the American Recovery and Reinvestment Act (ARRA) of 2009.
- The Executive increases the Statewide Interoperability Grant Program from \$45 million to \$75 million in the Division of Homeland Security and Emergency Services (DHSES).

- DHSES will establish new procedures to manage rapidly emerging incidents, regional rapid support teams, implement an after action report on the disasters, create an inventory of major state assets, and develop a protocol for faster deployment.
- The Executive advances legislation to clarify municipalities responsibilities when they receive or offer aid through an Intrastate Mutual Aid Program (IMAP) and amends current law to allow for improved State coordination of disaster response.

PUBLIC PROTECTION

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	4,524	4,531
Annual Growth Rate	1.7%	0.2%
5 Year Average Growth (Actual)	1.8%	



The State Fiscal Year (SFY) 2012-13 Executive Budget recommends an All Funds cash disbursement increase of \$7.4 million or 0.2 percent for all public protection agencies. Major impacts associated in the area of Public Protection are listed in the chart below:

flexibility to increase or decrease spending among any fund of the State in any agency, with the exception of appropriation language associated with the Board of Parole which does not include the new interchange language.

Executive SFY 2012-13 Public Protection Major Recommendations (In millions) Cost/(Savings)	
Recommendations	SFY 2012-13
State and Federal Disaster Assistance Shares - related to costs associated with Hurricane Irene and Tropical Storm Lee: <div style="margin-left: 20px;">\$600 million Federal \$150 million State</div>	\$750
Personal Services adjustments from SFY 2011-12 in the Department of Corrections and Community Supervision	\$83
Annualization of SFY 2011-12 Prison Closures	(\$40)
Resuming Training Classes for Troopers; Correctional Officers; and Parole Officers (total)	\$27.3

Department of Corrections and Community Supervision

In addition, the Executive includes new broad appropriation interchange language under Public Protection agencies to allow the agencies the

The Executive recommends \$3 billion in All Funds appropriations for the Department, an increase of \$90.5 million from SFY 2011-12 levels. Of the total increase in State Operations Funding, \$82.9 million is related to adjustments in appropriations for personal service expenses to equal actual spending from SFY 2011-12; \$36 million in personal service costs related to a cash shortfall from SFY 2011-12; \$14.8 million associated with increases in performance advances and salary adjustments; \$12.4 million related to the addition of 17 new correctional officer training classes; \$4.4 million in operational costs including rent escalations and inflation increases (offset by \$12 million from the annualization of prison closures); and \$1.4 million from the proposed new class in SFY 2012-13 for parole officers. These increases are

offset by \$16.2 million associated with procurement and shared services savings; and \$10.2 million in savings as a result of negotiated unpaid leave.

Prison Closure Savings

Further, the Department of Corrections and Community Supervision (DOCCS) will achieve an additional \$40 million in savings as a result of the full year impact of the SFY 2011-12 closure of seven correctional facilities, resulting in the elimination of 3,800 beds and the reduction of 1,100 positions. The Executive does not propose any prison closures for SFY 2012-13 and legislation which shortened the prison closure notification period sunsets on March 31, 2012.

The SFY 2012-13 Executive Budget increases Local Assistance funding in the Department by \$14 million associated with a new appropriation for the State share of medical assistance services expenses for inmates incurred by the DOCCS. In addition, the Executive proposes to decrease the Correctional Industries Program by \$8.9 million to reflect actual spending levels. Federal funding of \$100,000 for parole officer overtime incurred as part of the Federal and Interstate Law Enforcement Task Force is eliminated; and Federal Miscellaneous Grants are increased by \$500,000.

DOCCS will hold approximately 17 classes for correctional officers and one class for parole officers. The cost of the training classes are estimated to total \$12.4 million, allowing the Department to maintain its current projected workforce level of 29,773. In addition, the Department will redefine titles for correctional counselors and facility parole officers to eliminate duplicative functions related to re-entry services. There is no specific savings associated with the reclassification of titles included in the proposed SFY 2012-13 Executive Budget.

Division of Criminal Justice Services (DCJS)

The Executive Budget recommends \$256 million in All Funds appropriations for DCJS, a decrease of \$17 million from SFY 2011-12 levels. This decrease is primarily the result of reductions in Aid to Localities Funding totaling \$15.4 million. Of the total reduction \$9.3 million is associated with reductions in Federal funding for a variety of programs most notable \$7 million from the Federal Edward Byrne Justice Assistance Grant (JAG) Program. This reduction includes the elimination of \$2 million in Legislation funding for Byrne/JAG programs. In addition, the Executive reduces Federal funding of \$950,000 in Juvenile Justice and Delinquency Prevention Formula Program (JJDP); \$750,000 in Federal Violence Against Women Program (VAWA); \$750,000 in Federal Miscellaneous Discretionary Funds; and \$250,000 in the Juvenile Accountability Incentive Block Grant Program (JAIBG), offset by an increase of \$750,000 in Federal Crime Identification and Technology Program funding.

The Executive proposes a reduction of \$2.3 million in Federal State Operations funding related to a reduction of \$2 million in Federal Byrne/JAG Funding; \$50,000 in Federal JJDP Program; \$50,000 in Federal JAIBG Program; \$250,000 in Federal VAWA Program; and \$5 million in Federal Miscellaneous Discretionary Funding. These decreases are offset by an increase of \$5 million in Federal Crime Identification and Technology Program funding.

The Division's General Fund State Operations spending increases by \$716,000. This increase reflects an increase of \$1.4 million to support 35 positions previously funded through Federal funds; and \$700,000 (full annual cost \$1.4 million) associated with the Executive's proposal to expand the DNA Databank to require anyone convicted of any Felony or Penal Law Misdemeanor to submit a DNA sample. Of this

funding, \$150,000 would support three additional personnel at the Division; \$125,000 for DNA collection kits and sample processing costs; and \$425,000 in expenses associated with the Division of State Police Forensic Laboratory. These increases are offset by \$1.1 million in rent savings, and \$300,000 in centralized technology savings.

Traditional Criminal Justice Aid to Localities Program Funding

The Executive proposes a reduction of \$1.3 million in General Fund Local Assistance and Probation Programs. This reduction includes the elimination of Legislative funding of \$600,000 for the consolidation and operating expenses of

Public Safety Communication Answering Points in Oneida County; and \$186,000 for the New York State Defenders Association. These reductions are in addition to the elimination of \$1 million for the Center for Employment Opportunities, included in Chapter 55 of the Laws of 2011. These decreases are offset by an increase of \$530,000 related to the reimbursement of District Attorney Salaries. The Executive modifies the reimbursement methodology for District Attorney Salaries pursuant to a new formula, within the appropriation language. The Executive further transfers \$819,000 from the Probation Eligible Diversion Program into the State Probation Reimbursement Aid Block Grant. The changes to local assistance are outlined in the chart below:

SFY 2012-13 Criminal Justice - Aid to Localities Programs			
Programs	SFY 2011-12 Enacted Amount	SFY 2012-13 Executive Proposed Amount	Change
Aid to Prosecution	\$10,680,000	\$10,680,000	\$0
New York State Prosecutors Training Institute	\$2,304,000	\$2,304,000	\$0
Witness Protection Program	\$304,000	\$304,000	\$0
District Attorney Salaries	\$2,282,000	\$2,812,000	\$530,000
Special Narcotics Prosecutor	\$825,000	\$825,000	\$0
Crime Laboratories	\$6,635,000	\$6,635,000	\$0
Westchester County Policing Program	\$1,984,000	\$1,984,000	\$0
Soft Body Armor	\$513,000	\$513,000	\$0
Drug Diversion	\$618,000	\$618,000	\$0
Re-entry Task Forces	\$3,063,000	\$3,063,000	\$0
Operation IMPACT	\$15,219,000	\$15,219,000	\$0
Aid to Defense	\$5,507,000	\$5,507,000	\$0
New York State Defenders Association	\$1,089,000	\$1,089,000	\$0
Probation Aid	\$44,057,000	\$44,876,000	\$819,000
Alternatives to Incarceration	\$3,245,000	\$3,245,000	\$0
Demonstration Programs	\$3,973,000	\$3,973,000	\$0
Drug and Alcohol Treatment	\$1,914,000	\$1,914,000	\$0
Probation Eligible Diversion	\$819,000	\$0	(\$819,000)
Supervision and Treatment	\$469,000	\$469,000	\$0
Temporary Assistance For Needy Families (TANF) 200%	\$2,622,000	\$2,622,000	\$0
Probation Violation Centers	\$1,000,000	\$1,000,000	\$0
Center for Employment Opportunities	\$1,000,000	\$0	(\$1,000,000)
New York State Defenders Association	\$186,000	\$0	(\$186,000)
Oneida County Public Safety Answering Points	\$600,000	\$0	(\$600,000)
TOTAL	\$110,908,000	\$109,652,000	(\$1,256,000)

Legal Services Assistance Account

The Executive eliminates Legislative initiatives for civil and criminal legal services additions totaling \$2.9 million, and \$650,000 for domestic violence civil or criminal legal services. While holding harmless Aid to Defense, Aid to Prosecution, the District Attorney and the Indigent Attorney Loan Forgiveness Program, and the Statewide Indigent Legal Services For Persons Leaving Prison Program. Proposed spending from the Legal Services Assistance Account is outlined in the chart below:

SFY 2012-13 Executive Proposed Funding Under the Legal Services Assistance Account			
Programs	Enacted Amount	Executive Proposed Amount	Change
Aid to Prosecution	\$2,592,000	\$2,592,000	\$0
Aid to Defense	\$2,592,000	\$2,592,000	\$0
Attorney Loan Forgiveness Program	\$2,430,000	\$2,430,000	\$0
Civil/Criminal Legal Services; Domestic Violence Civil/Criminal (Legislative Items)	\$3,600,000	\$0	(\$3,600,000)
Statewide Indigent Legal Services for persons leaving prison (Legislative Item)	\$1,000,000	\$1,000,000	\$0
TOTAL	\$12,214,000	\$8,614,000	(\$3,600,000)

Criminal Justice Improvement Account

The Executive increases the transfer from the Special Revenue Criminal Justice Improvement Account (CJIA) to the General Fund by \$4.8 million to \$26.9 million. In addition, the Executive eliminates \$1.2 million in Legislative domestic violence programs funded through the CJIA.

Other Article VII Provisions

The Executive also proposes the following Article VII legislation (*additional detail is provided under section three of this document*):

- Extends, for one year a provision to allow District Attorneys in New York City to retain a portion of settlement recoveries they make before the filing of an accusatory instrument against a defendant. It is unknown how much this proposal could generate for the State in SFY 2012-13. The current provision is set to expire March 31, 2012.
- Provides additional probation sentencing options for the courts by allowing judges the discretion to sentence a defendant to a determinate sentence of probation, of at least three years but not more than five years for most felonies, and two or three years for class A or unclassified misdemeanors; and requires that a probation violator must be brought before the sentencing court, or alternative sentencing court and if no such court is unavailable, the Director or Deputy Director of probation would have the authority to issue a detainer warrant to allow for the probation violator to be incarcerated up to forty-eight hours until the violator can be brought before the sentencing court.
- Clarifies that a trial date must be set after the date of the defendant’s initial appearance on a Uniform Traffic Ticket. This would reduce the subpoenaing of an officer for a trial at the initial appearance since a trial at that time is not possible.
- Creates an asset forfeiture procedure that would authorize judges to order upon sentencing on the criminal action, similar to the Federal statute. The forfeiture would apply to both felony and misdemeanor

convictions. Currently, the distribution of the funds forfeited are as follows: 27 percent for District Attorney Office as the claiming authority; 41 percent to Law Enforcement as the claiming agent; and 32 percent to the State's Chemical Dependence Fund Program through the Office of Alcoholism and Substance Abuse Services (OASAS). Under the Executive proposal the formula would change to allow the District Attorney Office as the claiming authority to receive 35 percent; Law Enforcement as the claiming agency 40 percent; and the State General Fund 25 percent. OASAS would be held harmless by substituting General Fund support to maintain \$5 million in funding. It is anticipated that these proposed changes would produce a net benefit of \$2 million in the General Fund in SFY 2012-13.

Office of Indigent Legal Services

The Executive Budget recommends \$78.5 million in All Funds support for the Office. This represents no growth in spending from SFY 2011-12 levels. The Executive adjusts personal service costs by \$44,000 which is offset by a reduction of \$44,000 in non personal service expenses. Aid to Localities funding remains at last years' level of \$77 million, for distribution to counties and New York City for the cost of indigent defense services.

Division of State Police

The Executive Budget includes adjustments to the Division's SFY 2011-12 Enacted budget appropriations related to the transfer of \$22.4 million from the Public Security and Emergency Response Miscellaneous appropriation for support of homeland security related operations; and the transfer of \$115 million from the Special Revenue Fund State Police and Motor Vehicle Law Enforcement Account to the General Fund.

The Executive Budget recommends \$693 million in All Funds appropriations for the Division, a decrease of \$6.7 million from SFY 2011-12 levels. This primarily represents a reduction of \$5.5 million in Capital Funding to reflect current spending levels. The Executive further reduces General Fund spending by \$2.5 million associated with \$3.7 million from the annualization of SFY 2011-12 and projected SFY 2012-13 attrition of employees, offset by the Executive's proposed trooper recruiting classes for SFY 2012-13; and \$2.5 million related to information technology consolidation with the Division of Criminal Justice Services (DCJS) and procurement savings. These decreases are offset by an increase of \$3.8 million associated with the purchase of 255 patrol vehicles and lease increases.

The Division's Federal Funds are increased by \$1 million under the Federal National Institute of Justice appropriation. The Executive further increases Special Revenue Funds by \$1.4 million associated with the Division's Policing the Thruway Program. This increase is offset by a reduction in the Regulation of Indian Gaming Account by \$1.1 million related to personal service and contractual services adjustments.

The Division will resume trooper training classes for new recruits in SFY 2012-13, with one class anticipated in April and a second one in October, for a total of 230 new recruits. These classes will allow the Division to maintain its current member strength of 4,458 troopers. Funding of \$13.5 million (\$10 million in General Fund support) is provided for costs associated with these classes, with a portion (\$3.5 million) supported through reappropriations from the Federal Edward Byrne Justice Assistance Grant (JAG) Program through the American Recovery and Reinvestment Act (ARRA) of 2009.

The Executive advances legislation to repeal the State requirement to maintain a pistol and

revolver ballistic identification database, known as the Combined Ballistic Identification System (CoBIS). The current cost of operating and maintaining CoBIS is \$1.2 million. The Executive only assumes a saving of approximately \$200,000 associated with maintenance of the system. However personnel expenses would continue, and this savings would be reallocated for upgrading equipment and systems that would permit local and State crime laboratories in using the National Integrated Ballistic Information Network (NIBIN) more effectively.

Division of Homeland Security and Emergency Services

The Executive Budget recommends \$1.5 billion in All Funds support for the Division, an increase of \$709 million from the 2011-12 Enacted Budget. This mainly is attributable to changes in Aid to Localities funding. New appropriations are included related to disaster assistance, specifically Hurricane Irene and Tropical Storm Lee totaling \$750 million. The Executive includes an appropriation of \$150 million related to the State's share of disaster costs, and a \$600 million appropriation necessary for the State to receive Federal funding of 75 percent related to disasters; a \$30 million increase in the Statewide Interoperable Communications Grant Program increasing funding from \$45 million to \$75 million; and a \$300,000 Special Revenue appropriation for Volunteer Firefighting Recruitment and Retention Fund.

These increases are offset by \$71.3 million in state operations funding for the Division of Homeland Security and Emergency Services (DHSES). This primarily represents the elimination of a \$50 million appropriation for the New York Alert Program, and a \$30 million appropriation for State agency equipment purchases, with both programs able to be funded

from prior year reappropriations adequate to support continued operations.

The Executive further adjusts appropriations totaling \$4.9 million from the shift of \$3 million in General Fund Cyber Security funding, and \$1.9 million in General Fund Emergency Management funding to the Statewide Public Safety Communications Account. The Emergency Management Account is transferred to the Radiological Emergency Preparedness Account and increased by \$8 million. This increase is associated with personal service and non personal service adjustments.

The Executive proposes an increase in the Division's workforce by 15 new Full-Time Equivalent (FTEs), all are funded through Federal funds.

The SFY 2012-13 Executive Budget would establish new procedures under DHSES to manage rapidly emerging incidents, regional rapid support teams, implement an after action report on the disasters, create an inventory of major state assets, and develop a protocol to deploy them faster.

The Executive advances Article VII legislation to clarify municipalities responsibilities when they receive or offer aid through an Intrastate Mutual Aid Program (IMAP) and amends current law to allow for improved State coordination of disaster response.

Public Security and Emergency Response (Formerly – Homeland Miscellaneous)

The Executive proposes the transfer of \$22.4 million to the Division of State Police for support of homeland security related operations, and \$8.4 million to the Division of Military and Naval Affairs (DMNA) to support Empire Shield Task Force. The Executive further proposes the elimination of appropriations totaling \$59

million, (\$50 million for Miscellaneous Federal Funds; and \$9 million in Miscellaneous Federal Airport Security Funds). The purposes for these Federal funds are now included in a new lump multi-purpose miscellaneous appropriation of \$200 million associated with homeland security, public safety and disaster and emergencies expenses, from monies available in any fund of the State.

Division of Military and Naval Affairs

The Executive Budget includes an increase to the Division's SFY 2011-12 Enacted Budget appropriations related to the transfer of \$8.4 million from the Public Security and Emergency Response for support of the Empire Shield Task Force, an operational force of National Guardsmen that augment security forces at New York transit systems, airports and nuclear power plants.

The SFY 2012-13 Executive Budget recommends \$179 million in All Funds support, an increase of \$63.8 million from SFY 2011-12 levels. This increase is attributable to \$63.2 million in Capital Funds related to State and Federal appropriations (\$56 million Federal appropriation; and \$10 million State appropriation) associated with the Federally proposed restoration of the National Guard Armory in Harlem, New York. Additionally, there is an increase of \$836,000 in Special Revenue Funds in the Division's Seized Assets Account to reflect the current fund balance. This increase is offset by a reduction of \$412,000 in General Fund spending which is comprised of \$156,000 from the continued decommission of National Guard Armories; \$111,000 related to the attrition of four employees; \$82,000 in contractual services spending; and \$63,000 in technology savings. In addition, the Executive increases Aid to Localities funding by \$250,000 related to greater member participation within the Service

Member's Group Life Insurance Program for those on active duty.

Interest on Lawyers Account

The SFY 2012-13 Executive Budget proposes a decrease of \$48,000 related to personal service and nonpersonal service adjustments.

The SFY 2012-13 Executive Budget recommends \$45 million in spending authority for local grants consistent with current year authority. The actual disbursement amounts depend on the interest generated by the trust accounts to fund the programs. As of December 31, 2011 the account balance was \$6.7 million. In SFY 2011-12 \$6.3 million in grants were disbursed.

Office for the Prevention of Domestic Violence

The SFY 2012-13 Executive Budget proposes an increase of \$131,000 in state operations funding. This represents an increase of \$165,000 in personal service costs, to support positions formerly funded from Federal funds, offset by a decrease of \$29,000 in operational expenses including lease costs.

The Executive also modifies appropriation language for the Capital District Domestic Violence Law Clinic and the Western New York Family Violence Clinic and Regional Resource Center to allow the funds to be distributed pursuant to a competitive process for programs that provide legal services to victims of domestic violence.

Office of Victim Services

The Executive Budget recommends \$76.4 million in All Funds support for the Office, a decrease of \$841,000 from SFY 2011-12 levels. This decrease reflects the elimination of \$900,000 in Federal Funds from the American Recovery and Reinvestment Act (ARRA) of 2009. This

decrease is offset by an increase of \$59,000 in Special Revenue Federal funds associated with increases in fringe benefits.

The Office's state operations spending under the Criminal Justice Improvement Account (CJIA) is recommended at \$6.2 million, representing a net increase of \$24,000. This increase is comprised of an increase of \$83,000 associated with three new FTEs to allow for timely processing of claims, and \$17,000 for fringe benefit adjustments, offset by \$76,000 in rent savings. There is also a reduction of \$24,000 from the Office's Restitution Account.

Judiciary

The SFY 2012-13 Unified Court System (UCS) Budget recommends \$2.6 billion in spending, a decrease of \$3.6 million, or -.1 percent.

The Budget requests an additional \$5.6 million, or 29 percent, for the Assigned Council Program to provide counsel to indigent persons. \$12.5 million is requested for the Civil Legal Services Program, a 100 percent increase for the provision of services to indigent defendants.

Offsetting these increases are cuts to three programs. The Alternative Dispute Resolution & Court Improvement Program appropriation is reduced \$8.8 million, or -.4 percent. The Public Safety Program is reduced \$6.6 million, or -2.1 percent, and City and Districts Courts would see a reduction of \$1.4 million, or -.6 percent.

The Commission on Judicial Compensation released a binding report in August 2011 specifying pay increases for State Judges. These increases go into effect April 1, 2012, and are not included as a specific line item increase but rather an increase in the lump sum appropriation for personal service.

Judicial Commissions

The SFY 2012-13 Executive Budget recommends maintaining All Funds appropriations of \$5.5 million, with no change in any of the three Commissions while keeping FTE levels constant for the Commission on Judicial Conduct at 49.

Department of Law

The SFY 2012-13 Executive Budget recommends \$212 million in All Funds support for the Department of Law, an increase of \$6 million, or three percent. This is achieved by an \$8.8 million increase in Special Revenue Funds due to higher anticipated fee receipts, offset by a \$2.5 million reduction in General Fund support for the Social Justice Program. Of this \$8.8 million, \$5 million is dedicated to the Economic Justice Program, \$2.1 million to the Medicaid Fraud Control Program, and \$1.7 million to the Social Justice Program – causing a net \$800,000 reduction to the Social Justice Program.

Public Protection				
Proposed Disbursements - All Funds				
(Thousands of Dollars)				
Agency	Estimated 2011-12	Proposed 2012-13	Change Amount	Percent
Department of Corrections and Community Supervision	2,751,310	2,690,988	(60,322)	-2.19%
Division of Criminal Justice Services	286,904	282,021	(4,883)	-1.70%
Division of State Police	720,339	721,849	1,510	0.21%
Office of Victim Services	67,038	67,197	159	0.24%
Commission of Correction	2,733	2,672	(61)	-2.23%
Judicial Commissions	5,150	5,452	302	5.86%
Division of Military and Naval Affairs	93,223	95,059	1,836	1.97%
Division of Homeland Security and Emergency Services (Public Security and Emergency Response)	516,976	585,611	68,635	13.28%
Office of Indigent Legal Services	78,500	78,544	44	0.06%
Office for the Prevention of Domestic Violence	1,964	2,094	130	6.62%
Totals:	4,524,137	4,531,487	7,350	0.16%
Judiciary	2,558,158	2,554,498	(3,660)	-0.14%
Department of Law	205,797	212,348	6,551	3.18%

Economic Development: Fact Sheet



- The SFY 2012-13 Executive Budget proposes total All Funds spending reductions of \$421.9 million, a decrease of 38.8 percent over the current year
- General Fund spending on economic development would be increased by \$2.2 million, or 1.3 percent over SFY 2011-12
 - Spending for the International Trade Program would be \$700,000, a reduction of \$380,000
 - General Fund spending for tourism marketing (I ♥ NY program) would be \$2.5 million, a reduction of \$1.1 million. A portion of this reduction results from shifting expenses from the General Fund to a special revenue fund; All Funds spending for the program decreased by \$666,000.
- General Fund Local Assistance spending would be increased by \$14.7 million, or 10.7 percent over SFY 2011-12
 - The Executive Budget recommends appropriation reductions of \$5.7 million. However, increased spending is primarily the result of spending from prior year appropriations
 - The Gateway Information Centers in Binghamton and Beekmantown would be funded at SFY 2011-12 levels
 - Funding for the local tourism matching grants would continue at \$3.8 million, the same as in SFY 2011-12
- Funding of \$50.4 million and \$16.2 million is proposed for the Economic Development Fund and the Jobs Now Program, respectively
- The Executive Budget proposes an additional \$275 million in funding to be allocated by the regional economic development councils as follows:
 - \$130 million in new capital funding
 - A set aside of an additional \$70 million in Excelsior Jobs Program tax credits (\$7 million per year for ten years) and
 - \$75 million in new capital funding under the New York Works program to create or retain jobs in the state
- The Executive Budget proposes \$100 million in funding for the Buffalo Region Innovation Cluster:
 - \$75 million in new capital funding and \$25 million in Excelsior Jobs Program tax credits (\$2.5 million per year for ten years) and
 - Funding would be provided at the recommendation of the Western New York regional council

- An additional \$360 million in capital spending is proposed for the SUNY 2020 Challenge Grant program and the SUNY College for Nanoscale and Science Engineering
 - \$80 million for university centers under the SUNY 2020 Challenge Grant Program
 - \$30 million for all other colleges, universities and community colleges
 - \$250 million for the the SUNY College for Nanoscale and Science Engineering

ECONOMIC DEVELOPMENT FUNDING			
(Thousands of \$)			
Funding Source	2012-13 Funding	2011-12 Funding	Difference
Department of Economic Development			
Administration	4,879	5,399	(520)
Economic Development	15,306	13,134	2,172
Marketing and Advertising	11,135	11,801	(666)
High Technology Program	30,594	34,048	(3,454)
Small Business Credit Initiative	-	55,352	(55,352)
All Other Programs	8,198	11,298	(3,100)
Total DED Funding	70,112	131,032	(60,920)
Empire State Development Corporation			
Jobs Now	16,400	-	16,400
Economic Development Fund	50,400	-	50,400
Economic Development Purposes Grants	-	62,360	(62,360)
All Other Local Assistance Programs	10,238	16,738	(6,500)
Total ESDC Local Assistance	77,038	79,098	(2,060)
Capital			
SUNY 2020 Challenge Grant	110,000	-	110,000
SUNY College for Nanoscale and Science Engineering	250,000	-	250,000
New York Racing	25,000	-	25,000
New York Works	75,000	-	75,000
Buffalo Regional Innovation Cluster	75,000	-	75,000
Economic Transformation Program	-	50,000	(50,000)
Regional Economic Development	130,000	130,550	(550)
Total Capital	665,000	180,550	484,450
Excelsior Jobs Program			
Regional Council Set Aside 2011	7,000	7,000	-
Regional Council Set Aside 2012	7,000	-	7,000
Buffalo Regional Innovation Cluster	2,500	-	2,500
Total Excelsior Jobs Program	16,500	7,000	9,500
TOTAL ECONOMIC DEVELOPMENT FUNDING	828,650	397,680	430,970

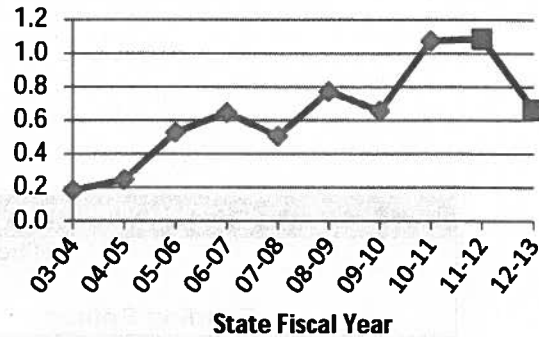
ECONOMIC DEVELOPMENT

All Funds Disbursements

(Millions of Dollars)

	Estimated SFY 11-12	Projected SFY 12-13
Cash	1,087	665
Annual Growth Rate	1.1%	-38.8%
5 Year Average Growth (Actual)		16.2%

Billions of Dollars



The SFY 2012-13 Executive Budget recommends an All Funds cash disbursement decrease of \$421.9 million or 38.8 percent for all economic development agencies. This decline is mainly attributable to the reduction in spending for Global Foundries (\$200 million) and the construction of the video lottery terminal facility at Aqueduct (\$212 million) as these projects are near completion.

General Fund spending for economic development is projected to increase by \$2.2 million, or 1.3 percent from SFY 2011-12. This reflects an increase in General Fund spending made through the Empire State Development Corporation (ESDC) offset by a decrease in spending by the Department of Economic Development.

Department of Economic Development

The SFY 2012-13 Executive Budget recommends All Funds appropriations of \$70.1 million for the Department of Economic Development (DED); a reduction of \$60.9 million, or 46.5 percent. This reduction is mainly due to the discontinuation of funding for the Small Business Credit Initiative.

This federal program provided funds to states for capital access programs for small businesses.

As part of the Executive's initiative to increase Minority and Women Owned Business Enterprise (MWBE) participation in the State, \$1.6 million in additional funding is provided in the Executive Budget. This funding will support fifteen additional employees in DED whose functions include the handling of MWBE certifications, agency compliance with MWBE, and MWBE business development.

All Funds appropriations for the I ♥ NY program are proposed to be reduced by \$666,000 to \$6.93 million. General fund spending for this program would be reduced by \$1.1 million. Of this reduction, spending for seasonal travel guides, approximately \$434,000, would be shifted from the General Fund to a Special Revenue Fund. The balance of the reduction in spending would align the appropriation with SFY 2011-12 cash spending levels. However, the reduction in cash spending in SFY 2011-12 is a result of fiscal constraints imposed by the Executive not the result of waning demand for the program. In addition, approximately \$400,000 of this funding

would be shifted from the General Fund to a Special Revenue Fund.

As part of the SFY 2011-12 budget, the Foundation for Science, Technology and Innovation (d.b.a. NYSTAR) was merged into DED. Funding for the High Technology program that was previously administered by NYSTAR would be reduced by \$3.5 million. This reduction reflects the elimination of state matching grant funding for certain high technology centers as a result of the completion of federal funding. Funding for both the Centers of Excellence and Centers for Advanced Technology would be maintained at current levels.

DEPARTMENT OF ECONOMIC DEVELOPMENT FUNDING			
<i>(Thousands of \$)</i>			
Program	2012-13 Funding	2011-12 Funding	Difference
Administration	4,879	5,399	(520)
Economic Development	15,306	13,134	2,172
Marketing and Advertising	11,135	11,801	(666)
High Technology Program	30,594	34,048	(3,454)
Research Development	343	343	-
Training and Business Assistance	7,470	10,570	(3,100)
Clean Air	385	385	-
Small Business Credit Initiative	-	55,352	(55,352)
TOTAL DED FUNDING	70,112	131,032	(60,920)

Empire State Development Corporation (ESDC)

As part of the SFY 2011-12 budget, a two year appropriation of \$62.36 million for economic development purposes was enacted. Of this amount, \$19.2 million was set aside for grants to be allocated by the regional economic development councils. An additional \$19.2 million will be set aside in the 2012-13 fiscal

year to be awarded by the regional councils. The use of the remaining \$24 million, \$12 million was spent in SFY 2011-12 for the marketing of the Open for Business campaign and \$12 million will be spent in SFY 2012-13 on discretionary economic development projects whose funding may be time sensitive and cannot wait for the regional council award process.

The SFY 2012-13 Executive Budget proposes new funding of \$50.4 million and \$16.2 million for the Economic Development Fund and the Jobs Now program, respectively. These funds would be used to fulfill outstanding commitments by ESDC and would not be subject to the regional economic development councils. However, there is currently no list of projects associated with these outstanding commitments.

Capital Funding

The Executive proposes \$665 million in new capital spending, inclusive of the \$130 million for the regional economic development councils. The new capital funding would be allocated as follows:

- \$110 million for the SUNY 2020 Challenge Grant Program; \$80 million for the university centers (Albany, Binghamton, Stony Brook, and Buffalo) and \$30 million for all other colleges, universities, and community colleges;
- \$250 million for the SUNY College for Nanoscale and Science Engineering;
- \$25 million for the construction of video lottery terminals at Aqueduct;
- \$75 million for the New York Works Economic Development Fund; and
- \$75 million for the Buffalo Regional Innovation Cluster

The funding from the New York Works fund would be used for job creation and retention projects and would be subject to

recommendations of the regional economic development councils.

Besides the \$75 million in capital spending, the Executive proposes to set aside \$25 million in Excelsior Jobs Program tax credits (\$2.5 million per year over ten years) for the Buffalo Regional Innovation Cluster. This funding would be part of the total "\$1 billion" in economic development funding that the Executive announced for the Buffalo area. Projects supported by this funding would be subject to recommendation by the Western New York regional economic development council.

Regional Economic Development Councils

In 2011, ten regional economic development councils were established. These regional councils represented the ten regional economic

development areas of the State. The SFY 2011-12 budget included funding from ESDC to be allocated by the regional councils. This funding included: \$130 million in re-programmed capital, \$50 million in new capital for communities impacted by prison and youth facility closures, \$19.2 million in local assistance grants, and a set aside of \$70 million in Excelsior Program tax credits (\$7 million per year for ten years).

The SFY 2012-13 Executive Budget recommends additional funding be allocated by the regional councils. This funding would mirror the funding provided in SFY 2011-12: \$130 million in new capital, \$19.2 million in local assistance grants, and an additional \$70 million set aside of Excelsior Jobs credits (\$7 million per year for ten years).

EMPIRE STATE DEVELOPMENT CORP. FUNDING			
(Thousands of \$)			
Program	2012-13 Funding	2011-12 Funding	Difference
Local Assistance			
Jobs Now	16,200	-	16,200
Economic Development Fund	50,400	-	50,400
Economic Development Purposes Grants	-	62,360	(62,360)
Community Development Financial Institutions	1,495	1,495	-
Entrepreneurial Assistance	1,764	1,764	-
Minority & Women Owned Business Development	635	635	-
Western NY Football	2,940	2,940	-
Urban and Community Development	3,404	3,404	-
Krabbe Disease Research Institute	-	980	(980)
INDEX	-	980	(980)
Other Local Assistance Programs	-	4,540	(4,540)
Total Local Assistance Funding	76,838	79,098	(2,260)
Capital			
SUNY 2020 Challenge Grant	110,000	-	110,000
SUNY College for Nanoscale and Science Engineering	250,000	-	250,000
New York Racing	25,000	-	25,000
Economic Transformation	-	50,000	(50,000)
New York Works	75,000	-	75,000
Buffalo Regional Innovation Cluster	75,000	-	75,000
Regional Economic Development	130,000	130,550	(550)
Total Capital Funding	665,000	180,550	484,450
TOTAL ESDC FUNDING	741,838	259,648	482,190

**Economic Development
Proposed Disbursements - All Funds**

(Thousands of Dollars)

Agency	Estimated	Proposed	Change	
	2011-12	2012-13	Amount	Percent
Department of Economic Development	158,222	136,806	(21,416)	-13.5%
Job Development Corp. / ESDC	899,339	508,326	(391,013)	-43.5%
Economic Development Capital-Other	23,600	17,500	(6,100)	-25.8%
Regional Economic Development Program	5,900	2,500	(3,400)	-57.6%
Totals:	1,087,061	665,132	(421,929)	-38.8%

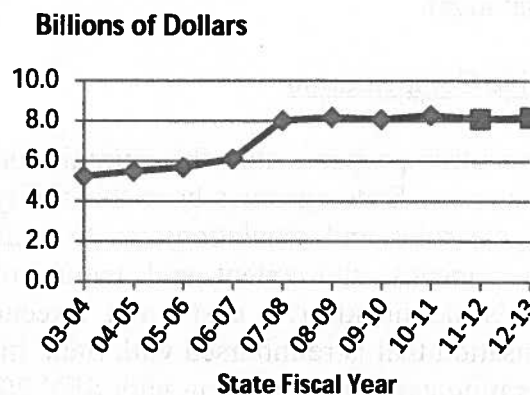
Mental Hygiene Fact Sheet



- The SFY 2012-13 Executive Budget proposes \$209 million in gap-closing actions for Mental Hygiene Agencies.
- The Executive proposes \$59 million in savings to Mental Hygiene Agencies through eliminating the Human Services Cost of Living Adjustment (COLA).
- The Executive proposes \$58 million in savings to the Office of Mental Health including changes to the Sex Offender Management and Treatment Act, restructuring non-residential programs, exploring housing alternatives and improving and increasing audits.
- The Executive proposes \$45 million in savings for the Office for People with Developmental Disabilities (OPWDD) from returning individuals from out-of-state placements to in-state placements and administrative savings. A re-estimate of local growth assisted in reducing the budget gap.
- The Office of Alcoholism and Substance Abuse Services proposes \$5 million in savings from administrative actions.
- The Commission on Quality of Care and Advocacy for Individuals with Disabilities will see a moderate increase (\$1 million) associated with recommendations attributed to the Governor's Special Advisor on Vulnerable Persons.
- The Executive proposes limits on executive compensation for entities receiving state support for administration.
- The Executive proposes allowing the Commissioner of Mental Health discretion that would allow for the closure, consolidation, reduction, transfer or otherwise redesign of hospitals, other facilities or programs

MENTAL HYGIENE

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	8,094	8,179
Annual Growth Rate	-2.3%	1.1%
5 Year Average Growth (Actual)		6.4%



The SFY 2012-13 Executive Budget recommends an All Funds cash disbursement increase of \$84.7 million or one percent for all mental hygiene agencies. Saving initiatives valued at \$209 million are included to close the projected budget gap as follows:

Cost Saving Proposals	
(millions of dollars)	
	SFY 2012-13
Eliminate Planned COLA/Trend Increases	(102)
Office of Mental Health Actions	(19)
Office of Mental Health Enhanced Audits	(39)
Office for People with Developmental Disabilities Reforms	(45)
Office of Alcoholism and Substance Abuse Services Actions	(5)
Commission on Quality of Care Investments	1
Total	(209)

Department of Mental Hygiene

Human Services Cost of Living Adjustment

- The Executive proposes to repeal the Cost of Living Adjustment for Human Services providers (\$59 million in savings for mental hygiene agencies). This would affect not-for-profit providers in the Office of Mental Health, Office for People with Developmental Disabilities, Office of Alcoholism and Substance Abuse Services, Department of Health, Office of Children and Family Services and State Office for the Aging.
- Starting in SFY 2013-14 State agencies including, but not limited to, the above agencies as well as the Office of Temporary and Disability Assistance, Division of Criminal Justice Services, Office of Victim Services and State Education Department would be required to use a new formula to calculate annual adjustments to established payments to providers.
- These adjustments would be based on performance metrics and would be subject to review by the Director of the Budget.
- The Executive has also proposed eliminating the following planned rate increases: the Medicaid trend adjustment for the Office for

People with Developmental Disabilities, the Office of Mental Health's trend adjustment for residential treatment facilities and the community residence adjustment (\$43 million in savings).

Executive Compensation

The Executive proposes that the commissioners or Directors of State agencies have the ability to promulgate rules and regulations, or to address by other means, the extent and nature of a provider's administrative costs and executive compensation that is reimbursed with State funds for operating expenses. Starting with SFY 2012-13 no less than 75 percent of State funds or State authorized payments for operating expenses must be used for direct care or services rather than support the cost of administration. By 2015, 85 percent of State assistance for payments to direct care would be required to be used for services, only 15 percent for administration.

The proposal would cap executive compensation derived from State funds, such as Medicaid, at \$199,000 annually. The commissioner of each State agency would have the discretion to adjust compensation annually based upon appropriate factors, contingent upon approval of the Director of the Budget, but it must remain at or below Level I of the Federal government's rate of Basic Pay for the Executive Schedule promulgated by the United States Office of Personnel Management, currently \$199,700. A provider's failure to comply with these requirements may result in the termination or non-renewal of an agency's contract or discontinued support of the provider. This legislation would go into effect April 1, 2012.

On January 18, 2012, the day after the Executive Budget was released, the Governor signed an Executive Order - "Limits on State-Funded Administrative Costs and Executive Compensation". The Executive Order nearly

mirrors the Executive Budget Proposal with three exceptions:

- The Executive Order includes all State agencies, however specifically mentions the following agencies; the Office for People with Developmental Disabilities, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Office of Children and Family Services, Office of Temporary and Disability Assistance, Department of Health, Office for the Aging, Division of Criminal Justice Services and the Office of Victim Services.
- The commissioner of each agency shall obtain data from providers for the purpose of monitoring compliance with these requirements. A report shall be submitted to the Director of the Budget from each commissioner annually on the impact of the requirements on the use of public funds to support excessive executive compensation and administrative costs among providers.
- The Executive Order will go into effect within 90 days of the Order, or April 17, 2012.

People's First Waiver

The Office for People with Developmental Disabilities (OPWDD), in consultation with the State Department of Health (DOH) and other stakeholders, has begun the process of applying to the Center for Medicaid and Medicare Services (CMS) for an 1115 demonstration waiver for significant programmatic and fiscal changes to their service system, which has been labeled the "People First Waiver."

An 1115 Demonstration Waiver is an agreement with the CMS that would provide New York State additional Federal Medicaid funding for services for its citizens, while the State implements changes to its service systems, and then demonstrates the benefits of those changes.

To receive this Waiver, New York must demonstrate to CMS that the system will meet federal Medicaid objectives while maintaining budget neutrality. The Waiver will address access and choice, benefits and services, care coordination, fiscal sustainability and quality.

The SFY 2012-13 Executive Budget authorizes OPWDD to enter into pilot programs in accordance with their application for the People's First Waiver without a competitive bid or request for proposal process. Instead, the Executive seeks to establish these pilot programs through a "mini bid" process.

Facility Closure Language

The Executive proposes to allow for the closure, consolidation, reduction, transfer or otherwise redesign of hospitals, other facilities or programs operated by the Office of Mental Health. The Commissioner would determine whether implementing significant service reductions and reconfigurations would be necessary for more cost effective and efficient operation for these hospitals, facilities and programs.

The Commissioner may reinvest savings resulting from these actions into community based mental health services and programs in amounts and in a manner determined by the Commissioner with the approval of the Director of Budget. The Commissioner would also be authorized to perform service reductions that would reduce bed capacity, potentially including the closure of wards and conversion of beds to transitional placement programs. Requirements are set forth on what criteria the Commissioner must consider while assessing the closure of a facility.

Office for People with Developmental Disabilities

The SFY 2012-13 Executive Budget proposes:

- Continued investment in 250 new residential options through the New York State Creating Alternatives in Residential Environments & Services (NYS-CARES) program,
- 31 new beds for de-institutionalization efforts, and 140 new opportunities for those individuals who are aging out of the educational system.
- These proposals are offset by the annualization of prior year efforts such as Medicaid rate reductions. Over 2,300 new non-residential services and supports will be added. Over 50 individuals will be returned from Out-of-State placements to In-State opportunities (\$3.5 million in savings).
- Controlling vacant positions in administration and research and making changes to account for attrition by transferring responsibility for case management and residential services to not-for-profit providers. A re-estimate in local growth and the Enterprise Service Initiative will result in further savings (\$41.6 million in savings).

Office of Mental Health (OMH)

- The Executive proposes to enact reforms to the Sex Offender Management and Treatment Act (SOMTA) and seek more cost effective confinement for certain individuals. The Commissioner would be able to contract with individuals who are not OMH or OPWDD employees for the provision of care, treatment and security services for persons confined under SOMTA. Respondents and witnesses would be able to appear in court through video conferencing. If there is a judicial determination that there is probable cause to believe a sex offender requires civil management, the offender would remain in

the custody of the Department of Corrections and Community Supervision pending an outcome. Further savings are projected through realizing administrative efficiencies through attrition and through a reduction in Enterprise Services (\$16 million in savings).

- The Executive also proposes to restructure non-residential programs such as Continuing Day Treatment programs to promote the Personal Recovery Oriented Services program. Funding would be shifted from sheltered workshops to more effective supportive employment settings (\$9 million in savings).
- The Executive proposes to utilize lower cost housing alternatives while providing supportive housing funding based on regional averages, saving \$10.6 million. The Executive proposes to reinvest \$17 million of savings in additional community supports, beds for inpatient downsizing, funding for mobile rehabilitation and crisis teams, training for primary care physicians, Regional First Psychosis Teams and Suicide Prevention programs.
- Programmatic review of performance of providers and recovery of State funding through the audit process is estimated to result in \$39 million in recoveries.

Office of Alcoholism and Substance Abuse Services

- The Executive proposes savings through reductions in Enterprise Services and attrition. Revised estimates of local growth and the maximization of the Substance Abuse and Treatment Block Grant will result in additional fiscal plan savings of \$5 million.

Commission on Quality of Care and Advocacy for Persons with Disabilities

- The Executive has stated that as a result of a preliminary report from the Governor's Special Advisor on Vulnerable Persons, the 2012-13 Executive Budget proposes to re-establish the Policy Bureau to conduct broader systematic investigations, as well as other initiatives (\$1 million). This report is expected to be released in the upcoming weeks.

**Mental Hygiene
Proposed Disbursements - All Funds**

(Thousands of Dollars)

Agency	Estimated 2011-12	Proposed 2012-13	Change Amount	Percent
Office of Mental Health	3,205,185	3,243,181	37,996	1.2%
Office for Developmental Disabilities	4,282,256	4,321,890	39,634	0.9%
Office of Alcoholism and Substance Abuse	587,549	593,417	5,868	1.0%
Commission of Quality Care	15,030	16,196	1,166	7.8%
Developmental Disabilities Planning Council	4,200	4,200	0	0.0%
Totals:	8,094,220	8,178,884	84,664	1.0%

Human Services Fact Sheet



- The Executive Budget proposes All Funds spending of \$9.4 billion, a reduction of \$123.3 million or 1.3 percent from SFY 2011-12.

Office of Temporary and Disability Assistance (OTDA)

Social Services Budget Action Highlights:

- Proposes a takeover of administration of the State Supplemental Security Income (SSI) program. (SFY 2012-13 Cost: \$11 million; SFY 2013-14 Cost: \$12.7 million; SFY 14-15 and Out Year Savings: \$90 million annually)
- Eliminates New York City Shelter supplement funding. (SFY 2012-13 Savings: \$15 million)
- Eliminates state reimbursement to counties for Child Support Enforcement Administration costs and authorizes counties to retain child support collections which are currently sent to the state. (SFY 2012-13 Savings: \$34.8 million)

Public Assistance Changes:

- Phases in the final ten percent public assistance grant increase over the next two fiscal years, with a five percent increase to grants in July 2012 and the remaining five percent increase in July 2013. (SFY 2012-13 Savings: \$6 million and \$18 million in TANF)
- Increases the Flexible Funding for Family Services (FFFS) to help mitigate the impact to local districts associated with the proposal to eliminate State Child Support Enforcement administrative funds. (SFY 2012-13 Cost: \$13 million)

Office of Children and Family Services (OCFS)

Juvenile Justice Reform:

- The Executive proposes a phased-in “Close to Home” initiative to transfer the custody of NYC youth placed in non-secure and limited secure facilities from OCFS to NYC. Youth would be moved from OCFS operated facilities to private, voluntary agencies located in NYC. An initial net cost of \$3 million is expected in SFY 2012-13, with an estimated savings to the State of \$4.4 million when fully implemented in SFY 2014-15.

- The “Close to Home” initiative would reduce total capacity by 324 beds and after care slots, and would eliminate 247 Full-Time Equivalent positions (FTEs) through currently unidentified facility closures or downsizings. (SFY 2011-12 Savings: \$9 million).
- Eliminates 86 FTEs out of the 414 added in SFY 2011-12, to improve medical and mental health services and increase staff-to-youth ratios in OCFS facilities. (SFY 2011-12 Savings: \$2.22 million)

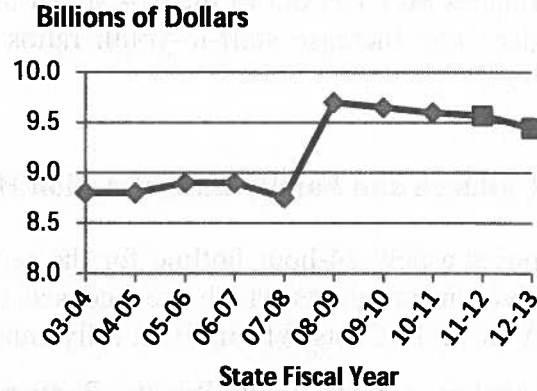
Other Children and Family Budget Action Highlights:

- Proposes a new 24-hour hotline for the reporting of allegations of abuse and neglect of persons involved in programs which are licensed or certified by certain State human services agencies. (SFY 2012-13 Costs: \$15 million, fully annualized to \$30 million)
- Establishes a new Public/Private Partnership Pilot Program for preventive, early childhood development and other services for at-risk youth and families. (SFY 2011-12 Cost: \$2 million)
- Increases General Fund support for child care subsidies by \$93 million to replace decreased TANF support, in order to maintain current funding level for child care.
- Eliminates the 3.6 percent Cost of Living Adjustments (COLAs) for Foster Care, Adoption, Bridges to Health, and New York/New York III programs. (SFY 2012-13 Savings: \$37 million)
- Proposes reauthorizing the current child welfare financing structure for the next five years.

Line Item	Description	FY 2011-12	FY 2012-13
1000	Child Welfare	1000	1000
1000.01	Child Welfare - Administration	1000.01	1000.01
1000.02	Child Welfare - Case Management	1000.02	1000.02
1000.03	Child Welfare - Residential Services	1000.03	1000.03
1000.04	Child Welfare - Therapeutic Services	1000.04	1000.04
1000.05	Child Welfare - Family Support	1000.05	1000.05
1000.06	Child Welfare - Prevention	1000.06	1000.06
1000.07	Child Welfare - Foster Care	1000.07	1000.07
1000.08	Child Welfare - Adoption	1000.08	1000.08
1000.09	Child Welfare - Bridges to Health	1000.09	1000.09
1000.10	Child Welfare - New York/New York III	1000.10	1000.10

HUMAN SERVICES

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	9,570	9,447
Annual Growth Rate	-0.3%	-1.3%
5 Year Average Growth (Actual)		1.6%



The State Fiscal Year (SFY) 2012-13 Executive Budget recommends a decrease in All Funds cash disbursements of \$123.3 million, or 1.3 percent, for all human services agencies. Major impacts included within this total and net spending decreases are listed in the chart below:

Executive SFY 2012-13 Human Services Major Cost/(Saving) Proposals Amounts in Millions	
Proposal	SFY 2012-13
Implement the "Close to Home" Initiative	\$12
Close/Downsize OCFS Facilities	(\$9)
Offset Loss of TANF Funding for Child Care	\$93
Eliminate 2012-13 COLAs for Human Services Providers	(\$37)
Takeover the Administration of State Supplement for SSI	\$11
Establish centralized Abuse and Neglect Hotline	\$15
Phase in the Final 10 percent Public Assistance Grant Increase Over Two Years	(\$6)
Eliminate NYC Shelter Supplement Funding	(\$15)
Eliminate Local Reimbursement for the Child Support Enforcement Program	\$35
TOTAL	\$99

Office of Temporary and Disability Assistance (OTDA)

The SFY 2012-13 Executive Budget provides \$5.7 billion in All Funds appropriations, an increase of \$112.4 million, or 2 percent, from current levels. The net All Funds increase can mainly be attributed to additional public assistance expenditures partially offset by the elimination of Child Support Enforcement local administration, Summer Youth Employment, and the New York City Shelter Supplement program.

Temporary and Disability Assistance Program

New York State receives a \$2.4 billion block grant allocation annually funded from the Federal government as a result of the 1997 Welfare Reform Act. The Executive utilizes Federal TANF funds to support the State's public assistance caseload and historically, to provide a variety of support services to eligible families.

Public Assistance Caseload:

Public Assistance caseload began to increase in September of 2008 as result of the condition of the economy and increased unemployment rates. However, caseload is projected to decrease in SFY 2012-13. The Executive Budget projects a

total caseload of 553,029, a 2.2 percent decrease from the current year estimate of 565,518 cases.

Phase in the Final Public Assistance Grant Increase:

The SFY 2009-10 Enacted Budget included a 30 percent increase to the non-shelter portion of public assistance payments to be phased in over three successive years at ten percent a year. The final phase was originally intended to be implemented in July 2011 but was delayed in SFY 2011-12 until July 2012. The Executive proposes Article VII Legislation to phase in the final grant increase over the next two fiscal years, with a five percent increase to grants in July 2012 and the remaining five percent increase in July 2013. SFY 2012-13 savings associated with the partial phase-in delay totals \$6 million in the General Fund and \$18 million in TANF funds.

Take Over Administration of the State Supplemental Security Income Program

The Executive proposes a State takeover of the administration of the State Supplemental Security Income (SSI) program. Currently, the program is administered by the Federal Social Security Administration (SSA) and costs the State approximately \$10.94 per benefit issuance. Following a State takeover, the Executive estimates the administration of the State SSI program to cost less than \$2 per benefit. The takeover requires an upfront investment in new IT systems and staff, at an estimated cost of \$11 million in SFY 2012-13. Upon full implementation in SFY 2014-15, the Executive estimates annual savings of \$93.5 million.

Eliminate Temporary Assistance for Needy Families (TANF) Funding for Certain Programs:

The SFY 2011-12 Enacted Budget eliminated the State and local shares from the Family Assistance program and only used Federal TANF dollars to fund benefits. This action in combination with the proposal to increase the basic grant by five percent significantly reduces available resources

for other TANF programs. The Executive proposes **eliminating** funding for the following TANF surplus initiatives:

- ACCESS-Welfare to Careers (\$250,000);
- Advantage Schools (\$500,000);
- Bridge (\$102,000);
- Kinship Care (\$51,000);
- Centro of Oneida (\$25,000);
- Child Care CUNY(\$141,000);
- Child Care Demonstration Projects (\$3.4 million);
- Child Care SUNY (\$193,000);
- Community Solutions to Transportation (\$112,000);
- Disability Assistance Program (\$98,000);
- Displaced Homemakers (\$546,000);
- Emergency Homeless (\$176,000);
- Non-residential Domestic Violence (\$510,000);
- Preventive Services (\$610,000);
- Refugee Resettlement (\$102,000);
- Rochester-Genesee Regional Transportation Authority (\$82,000)
- Settlement Houses (\$500,000);
- Strengthening Families Through Stronger Fathers (\$200,000);
- Supplemental Homelessness Intervention Program (\$205,000);
- Supportive Housing for Families and Young Adults (\$508,000);
- Wheels for Work (\$409,000); and
- Wage Subsidy (\$950,000).

The Executive reduces TANF funding for child care subsidies from \$393 million to \$300 million and reallocates \$93 million to fund increased public assistance benefits and expenditures.

Authorize Supplemental Security Income Federal Cost of Living Adjustment Pass-Through

The Executive Budget includes Article VII language that would authorize the Supplemental SSI Federal COLA pass-through.

Child Well Being Program

Eliminate State Reimbursement for the Administration of Child Support Enforcement :

Currently, districts pay for the administrative costs associated with the Child Support Enforcement (CSE) program up front and receive 66 percent Federal and 17 percent State reimbursement for expenditures. The Executive proposes to eliminate State reimbursement for CSE and allow districts to retain the State share of any child support payments collected by local social services districts on behalf of parents on public assistance. These actions are estimated to achieve \$34.8 million in State savings in SFY 2012-13.

In order to assist in mitigating the local impact of the elimination of State CSE administrative funds, the Executive proposes increasing the Flexible Fund for Family Services (FFFS) in TANF by \$13 million to \$964 million.

Nutrition Outreach and Education Program

The SFY 2012-13 Executive Budget transfers \$310,000 from the Department of Health to OTDA and increases funding for the Nutrition Outreach and Education program by \$1.0 million, to \$3.01 million, with the goal of increasing enrollment in the Food Stamps program.

Specialized Services Program

Housing Assistance Programs:

In the SFY 2011-12 Enacted Budget, housing assistance programs were combined into one lump-sum appropriation totaling \$25.9 million. The Executive Budget proposal increases funding

for the housing programs by \$1.4 million for additional Single Room Occupancy (SRO) units.

Elimination of New York City Shelter Supplement Funding:

The SFY 2011-12 Enacted Budget included \$15 million for shelter supplements and other services to prevent eviction and address homelessness in New York City. The Executive proposes to eliminate funding for the program and requires the efficacy of the program be analyzed.

NY/NY III:

The SFY 2010-11 Enacted Budget included \$625,000, increasing to \$1.9 million in SFY 2011-12, to fund the first phase of operating costs for 25 new New York/New York III (NY/NY III) family housing units. The SFY 2012-13 Executive Budget transfers funding to the Office of Alcoholism and Substance Abuse Services.

The Office of New Americans:

The 2012-13 Executive Budget proposes transferring six Full Time Equivalents (FTEs) from OTDA to the newly proposed Office of New Americans, hosted within the Department of State. The goal of the office is to expand English language education opportunities; promote U.S. citizenship and civic involvement; and expand opportunities for new American business owners.

Office of Children and Family Services (OCFS)

The SFY 2012-13 Executive Budget provides \$3.8 billion in All Funds appropriation support, an increase of \$38.5 million, or 1.0 percent. This net increase primarily reflects an increase in General Fund child care subsidies and other programmatic funding changes detailed below.

Juvenile Justice Reform and “Close to Home” Initiative

The Executive proposes legislation to implement the “Close to Home” initiative which would authorize the transfer of custody of all New York City (NYC) youth placed in non-secure or limited

secure facilities from OCFS to NYC, pursuant to a plan developed by NYC and approved by OCFS. NYC youth placed in secure residential facilities would remain in the custody of OCFS. Under the proposal, NYC would be responsible for developing their own juvenile justice system to provide a combination of community services, supervision, and residential placement to youth in their custody. OCFS would be responsible for oversight, monitoring and licensing of the NYC system.

Of the 571 youth currently residing in OCFS operated facilities, 223 are NYC youth in non-secure or limited secure facilities. In order to mitigate the impact to the OCFS operated facility rates upon transferring these youth to NYC custody, the Executive proposes reducing the system-wide capacity by 324 beds and after care slots, and eliminating 247 FTEs through unidentified facility closures or downsizings. To **achieve savings** associated with the closures within SFY 2012-13, **the 12-month closure notification requirement would be reduced to 60 days for one year after NYC's plan is approved by OCFS.**

The proposal assumes the State would continue to provide reimbursement to NYC for 50 percent of the expenditures associated with youth in care, pursuant to rates set forth in the plan. The Executive Budget includes \$8.6 million in SFY 2012-13 to provide reimbursement to NYC, and increases to \$35.2 million in SFY 2013-14. In SFY 2012-13 the net cost of the "Close to Home" initiative is estimated to be \$3 million, with net costs decreasing to \$472,000 in SFY 2013-14. The program is estimated to achieve annual savings totaling \$4.4 million when fully implemented in 2014-15.

The SFY 2011-12 Enacted Budget increased FTEs in the Youth Facility Program in response to the 2010 settlement agreement with the Department of Justice, which required OCFS to

improve mental health and direct care services for youth. To date, only 70 FTE positions have been filled. The Executive proposes eliminating 86 of the remaining 344, resulting in SFY 2012-13 savings totaling \$2.22 million.

Child Care

The SFY 2012-13 Executive Budget recommends \$892.3 million for the Child Care Block Grant (CCBG). In order to maintain funding with the current fiscal year, the Executive increases General Fund support for child care subsidies by \$93 million, to offset decreased TANF support.

Family and Children's Services Program

The Executive proposes Article VII language that would reauthorize the current child welfare financing structure for the next five years, and includes:

Child Welfare Services:

Child Welfare Services funding provides local districts with an open-ended 62 percent reimbursement for child preventive, child protective, and after care services to prevent or reduce foster care placements. The Executive recommends \$635 million in General Fund support for child welfare services, a flat appropriation from the current fiscal year.

Foster Care Block Grant (FCBG):

The Executive Budget recommends \$436 million for the Foster Care Block Grant, consistent with current year levels to provide State reimbursement for foster care costs. Funding for Kinship Guardianship Assistance would continue through the FCBG.

Adoption Subsidies:

The 2011-12 Enacted Budget reduced the State share of adoption subsidies from 73.5 percent to 62 percent. The 2012-13 Executive Budget maintains current year spending levels of \$184.6 million in funding for adoption subsidies to

continue to provide local districts with 62 percent reimbursement for expenditures.

Other Budget Actions

24 Hour Hotline

The Executive proposes the establishment of a new 24-hour hotline for the reporting of allegations of abuse and neglect of persons involved in programs which are licensed or certified by the Office of Mental Health, the Office for Persons with Developmental Disabilities, the Office of Alcoholism and Substance Abuse Services, the Office of Children and Family Services, the Department of Health and the State Education Department. The hotline assumes the hiring of an additional 190 FTEs and would cost \$15 million in SFY 2012-13, increasing to \$30 million when fully annualized. A \$15 million appropriation has been added to support this new program.

Public Private Partnership Pilot Program

The Executive proposes creating a new Public/Private Partnership Pilot program for preventive, early childhood development and other services for at-risk youth and families. The State's contribution is limited to 65 percent with the remaining 35 percent of program expenditures to be supported with private funds. The program is funded at \$2 million in SFY 2012-13.

Eliminate the Human Services Cost of Living Increase (COLA):

The Executive eliminates the 3.6 percent Cost of Living Adjustments (COLAs) for Foster Care, Adoption, Bridges to Health, and New York/New York III programs. Further, the proposal would provide future COLA increases based on provider costs and performance outcomes. Savings associated with the legislation would total \$37.0 million in SFY 2012-13.

State Office for the Aging (SOFA)

The SFY 2012-13 Executive Budget provides \$242.5 million in All Funds appropriations, an increase of \$355,000 or 0.2 percent. The net All Funds increase can mainly be attributed to an increase in Federal funds offset by General Fund spending reductions.

Programmatic Spending Reductions:

The Executive proposes to reduce the Naturally Occurring Retiring Communities (NORC) and Neighborhood NORC both from \$2.0 million to \$1.8 million, or by \$228,500 each. In addition, the Executive proposes to eliminate the Regional Caregiver Centers for Excellence to achieve savings of \$115,000.

Discontinue Human Services Cost of Living Adjustment (COLA):

The Executive Proposes to eliminate the 3.6 percent COLA for Human Services Providers for an additional year. The proposal would provide future COLA increases to be based on cost and performance beginning in SFY 2013-14. (\$6.7 million in SOFA Savings)

Labor

The SFY 2012-13 Executive Budget recommends All Funds appropriations of \$5.3 billion, a decrease of \$4.05 billion or 43.7 percent. Of this amount, approximately \$4.03 billion constitutes the Unemployment Insurance (UI) Benefit Program administered by the Department of Labor (DOL) through the UI Benefit Fund.

Excluding the UI Benefit Fund, The SFY 2012-13 Executive Budget recommends an All Funds spending amount of approximately \$779 million a net decrease from SFY 2011-12 of approximately \$79 million or 9.2 percent. State Operations (excluding the UI interest assessment of \$175 million) would be reduced by approximately \$60 million or 9.4 percent from

\$635 million to \$576 million. Aid to localities (excluding \$21.5 million in Federal training money allocated to the UI Benefit Fund) would be reduced by approximately \$19 million or 8.7 percent, from \$222 million to \$203 million.

Part of the net decrease of \$79 million reflects the exclusion of \$2.5 million for the Displaced Homemakers and \$25 million in funding for summer youth programs that were appropriated in the Department of Labor as part of the special session legislation passed in December (Chapter 55 of the Laws of 2011).

Amounts appropriated in SFY 2011-12 for Hillside Works and other programs in Rochester were reappropriated in SFY 2012-13.

The Executive Budget recommends a DOL workforce reduction of 227 full time equivalents (FTE) from 3,411 to 3,184 FTE. This reflects a 424 FTE reduction through attrition offset by 197 refills. **There are no anticipated layoffs.** The reduction is attributed to the loss of American Recovery and Reinvestment Act (ARRA) funding. The positions are all federally funded and will be vacated over the course of SFY 2012-13 through normal attrition.

The Executive proposes to transfer all components of the UI Benefit Fund (except for the Interest Assessment Account) from state operations to aid to localities to more appropriately characterize the disbursement of UI benefits. The transfer is financial plan neutral.

Unemployment Insurance (UI).

Approximately \$4.03 billion of the Department of Labor reduction is attributable to the UI Benefit Fund. The reduction includes \$2.5 billion attributable to the loss of ARRA funding. The remaining \$1.5 billion is driven by reduced utilization of unemployment benefits.

The Executive Budget appropriates \$175 million to the Unemployment Interest Assessment Fund

to pay interest on money borrowed from the Federal government that fund UI benefit obligations. It is anticipated that approximately \$147 million will be disbursed in September 2012. Typically, UI tax receipts are sufficient to repay the Federal loan each year, however, in recent years the State UI Fund has not had sufficient reserves to meet this obligation; presently there is a current deficit of approximately \$3.5 billion.

In previous years, interest payments were waived pursuant to ARRA. However, the assessment of interest charges on the UI Fund deficit resumed on December 31, 2010.

Although States pay interest when they run a UI deficit, the Federal government has a mechanism in place to automatically recover the principal. When a State runs a UI deficit for two consecutive years, the Federal government will reduce the Federal Unemployment Tax (FUTA) credit allotted to businesses that pay their unemployment tax on time. Businesses eligible for the FUTA credit pay an effective Federal unemployment tax of .8 percent (which is approximately \$68 per employee per year) as opposed to the full amount of 6.2 percent.

In calendar year 2012, the Federal government will reduce the FUTA tax credit and thereby increase the effective rate paid by businesses from .08 percent to 1.1 percent (for a total amount of approximately \$90 per employee per year). If the deficit is not paid off, the credit will be reduced further and the effective rate paid by businesses in good standing will increase to 1.4 percent. This is in addition to the New York State UI tax (SUTA). When the principal is recovered, it is anticipated that the FUTA credit will be reinstated and the effective tax rate paid to the Federal government on unemployment insurance would go back down to .8 percent.

Human Services				
Proposed Disbursements - All Funds				
(Thousands of Dollars)				
Agency	Estimated 2011-12	Proposed 2012-13	Change	
			Amount	Percent
Children and Family Services	3,024,432	2,970,334	(54,098)	-1.8%
Temporary and Disability Assistance	5,393,494	5,321,639	(71,855)	-1.3%
Welfare Inspector General	1,391	1,407	16	5.2%
Department of Labor	698,875	701,800	2,925	0.4%
Workers' Compensation Board	203,590	202,742	(848)	-0.4%
Office for the Aging	215,627	216,894	1,267	0.6%
Division of Veterans' Affairs	15,282	15,096	(186)	-1.2%
Division of Human Rights	18,169	17,638	(531)	-2.9%
Totals:	9,570,860	9,447,550	(123,310)	-1.3%

General Government and Local Government Assistance Fact Sheet



Overview

- General Government includes 19 agencies in addition to General State Charges and Local Government Assistance.
- The SFY 2012-13 Executive Budget recommends All Funds cash disbursements of approximately \$6.2 billion for General Government agencies, General State Charges and Local Government Assistance. This represents a decrease of \$282.2 million or 4.4 percent over the SFY 2011-12 levels. The overall decrease is primarily driven by favorable health insurance rate negotiations between the State and health insurance companies, increased employee cost benefit sharing and an overall reduction in fringe benefit utilization due to workforce reductions.

Consolidation of Agencies

- A proposal for a new Gaming Commission which consolidates the Division of Lottery and the New York State Racing and Wagering Board. The consolidation includes no long term savings.
- The Office of Employee Relations (OER) would be merged into the Department of Civil Service to create a new entity called the Department of Workforce Management (DWM). Additionally, the training function from the Office for Technology would be transferred to DWM.
- The Office of General Services would be authorized to centralize services of various state agencies related to procurement, real estate management, information technology and other administrative functions

Other General Government and Local Government Assistance Budget Highlights

- The Aid to Municipalities (AIM) and Video Lottery Terminal Impact Assistance funding would remain the same as the SFY 2011-12 levels. The City of Albany would receive a \$7.85 million increase in their South Mall Contract PILOTS payment. The City of Rochester would receive a spin-up of \$28 million in AIM funding which has no State fiscal impact.
- Reduce the Department of Financial Services sub-allocations by \$2.5 million which includes a \$1.9 million reduction to the Forge Proof Pharmaceutical Prescription Program that is sub-allocated to the Department of Health.
- A 2.5 percent reduction in State Operations to the following Department of State programs: Administration, Authorities Budget Office, Consumer Protection Program, Local Government & Community Services, and the Tug Hill Commission.
- The Tax Department will assume debt collections for the Higher Education Service Corporations (HESC). This action would have no State fiscal impact

GENERAL GOVERNMENT & LOCAL GOVERNMENT ASSISTANCE

All Funds Disbursements		
(Millions of Dollars)		
	Estimated SFY 11-12	Projected SFY 12-13
Cash	6,474	6,192
Annual Growth Rate	1.6%	-4.4%

General Government consists of 19 agencies that provide a diverse array of services to the people of New York State in addition to General State Charges and Local Government Assistance. The Executive proposes consolidating the Division of Lottery and the Racing and Wagering Board into a newly created New York State Gaming Commission along with the proposed merger of the Governor's Office of Employee Relations and Civil Service into a new Department of Workforce Management.

The SFY 2012-13 Executive Budget recommends All Funds cash disbursements of approximately \$6.2 billion for General Government Agencies, General State Charges and Local Government Assistance. This represents a decrease of \$282.2 million or 4.4 percent decline from the SFY 2011-12 level. Most of this decrease in spending is a result of renegotiated labor contracts that reduced state employee health care spending and a decrease in employer payroll taxes. This decrease is reflected in the \$248.4 million decrease in General State Charges. There is also a \$48 million decrease in Board of Elections cash disbursements as a result of prior year Help America Vote Act (HAVA) funds being

completely expended in the current year. These decreases are partially offset by increases of \$36.6 million in most remaining agencies and Local Government Assistance.

The Local Government Assistance Aid and Incentives for Municipalities (AIM) was held at 2011-12 levels for all localities. However, the City of Rochester will receive an advanced payment of \$28 million in June 2012 that is scheduled to be paid later in the same State fiscal year. This has no fiscal impact to the State. The City of Albany would receive an additional \$7.85 million through their increased "South Mall Contract" PILOTs payment and this would increase State spending.

Division of Alcohol Beverage Control

The Executive recommends a Division of Alcoholic Beverage Control (ABC) disbursement level of \$17.8 million for SFY 2012-13. This is an increase of \$1.2 million or 7.2 percent over the current year level of \$16.7 million. The increase is primarily due to performance advancements in the ABC's current workforce and creating nine full time equivalent (FTE) positions to administer expenses associated with ABC's involvement in the State's E-Licensing Enterprise System. The E-Licensing Enterprise System seeks to create a single web-based gateway to access many of the licenses, permits and documents necessary to conduct business or obtain professional or recreational licenses in New York State.

Department of Audit and Control

The SFY 2012-13 Executive Budget recommends All Funds appropriation authority of \$304.3 million, an increase of approximately \$20 million or seven percent from the previous year.

The Executive Budget recommends a workforce increase of 98 full time equivalents (FTEs) from 2,516 to 2,614. The additional staff would be utilized to perform audits related to the local property tax cap (40 FTEs), Medicaid audits (4 FTEs), audits of public authorities (14 FTEs) 37 additional FTEs for the Retirement System and 3 FTEs for undisclosed purposes. The SFY 2012-13 Executive Budget includes language that would increase the amount that the State may assess public authorities to cover the costs of services provided (including the above audits) from \$60 million to \$62 million.

Division of Budget

The SFY Executive Budget recommends a \$37.3 million All Funds spending amount for the Division of Budget (DOB), an increase of \$915,000, or 2.5 percent. This increase would fund an additional 10 FTEs for DOB. State membership dues to the National Conference of Insurance Legislators and the Council of State Governments would be eliminated for a savings of \$500,000.

Department of Civil Service

The SFY 2012-13 Executive Budget recommends All Funds appropriation authority of \$56.7 million, an increase of approximately \$3 million or 5 percent from the previous year. Of this amount, \$38.7 million is related to Internal Services Funds dedicated to providing administrative support services to other state agencies for employee health services and benefits.

For the Department of Civil Service, the Executive Budget recommends a net work force reduction through attrition of eight (FTEs) from 432 to 416 FTE.

The SFY 2012-13 Executive Budget legislation also includes Article VII language that would merge the Office of Employee Relations (OER) into the Department of Civil Service and create a new entity called the Department of Workforce Management (DWM). Additionally, the training function from the Office for Technology would be transferred to DWM.

The Civil Service Commission and the Public Employee Relations Board (PERB) would continue to function as independent entities and receive operational support from the DWM.

OER appropriation authority would increase by \$1.1 million or 16.2 percent from \$6.8 million to \$7.9 million and there would be 13 new hires, increasing agency staff from 41 to 54 FTEs from the proposed merger.

The purpose of the proposed merger, is to create a centralized entity that will be tasked with optimizing, managing and developing the State workforce. Part of the DWM's mission would be to recruit and hire, qualified information technology professionals as well as professionals in the areas of law, science, engineering and other employees with specialized skill sets.

To assist in the area of professional recruitment, the Executive has introduced Article VII legislation to reenact term appointment legislation (a provision of Article Four of the Civil Service Law), that authorized the Department to appoint qualified information technology professionals for a period of five years, at the conclusion of which, they would be eligible to take a civil service exam and be considered for full time state employment.

The proposed Article VII language would be an expansion of the previous legislation (which expired December 31, 2010) in that it would open term appointments up to other professional fields. The Executive would have 500 term appointments, for a period of five years. However, unlike the previous law, the new term appointments would function as slots and be renewable once vacated. Previously, the term appointments were non-reusable. The Executive also proposes to allow agencies to circumvent a wide array of Civil Service procedures in the area of recruitment and hiring, subject to approval of the Department of Civil Services.

These proposals are part of an overall approach to centralize the administration and delivery of key state services in multiple areas while assuming broad appropriation transfer authority.

Executive Chamber

The SFY 2012-13 Executive budget proposes \$13.6 million for the Executive Chamber, a decrease of \$348,000 over current year levels. The Executive proposes the elimination of the Community Relations Special Revenue Fund that collected attendance fees over a decade ago at a one time women's leadership skills conference and is no longer necessary.

Department of Financial Services

The Executive Budget recommends a Department of Financial Service (DFS) cash disbursement level of \$488 million for SFY 2012-13. This is a decrease of approximately \$2.2 million or 0.4 percent over the current SFY level of \$490.2 million. The reductions, all within the Insurance Program account, include:

- Forge Proof Pharmaceutical Prescription Program sub-allocated to the Department of Health (\$1.9 million)

- Center for Community Health Program sub-allocated to the Department of Health (\$600,000)
- Urban Search and Rescue Program sub-allocated to the Division of Homeland Security and Emergency Services (\$100,000)
- Fire Safety Standards for Cigarettes Program sub-allocated to the Division of Homeland Security and Emergency Services (\$75,000)
- Fire Inspections and Fire Safety Programs at privately operated colleges sub-allocated to the Division of Homeland Security and Emergency Services (\$75,000)
- Traffic and Criminal Software Program sub-allocated to the Division of Criminal Justice (\$50,000)

The \$2.2 million reduction will essentially lower assessments on Insurance companies.

Gaming Commission

The Executive creates a new regulatory agency called the New York State Gaming Commission. The Gaming Commission consolidates the Division of Lottery and State Racing and Wagering Board. Unlike last year with the proposed consolidation of the Banking Department, Insurance Department and Consumer Protection Board, there is no appropriation bill for the Gaming Commission merger. The Executive plans on keeping stand alone appropriations for the Division of Lottery and the State Racing and Wagering Board. The two entities would instead be merged together through Article VII language. There are no long term savings recognized from consolidating the two entities.

The commission would create a new Office of Racing Development by consolidating the

operations of the New York State Thoroughbred Breeding and Development Fund, the Agriculture and New York State Horse Breeding Development Fund and the New York State Quarter Horse Breeding and Development Fund Corporation. The new office would focus on promoting the breeding of horses, conduct equine research and administer the operations of the various breeding funds. A description of the legislation associated with this merger can be found in the Article VII Legislation section (S.6260/A.9060 – Part A)

Division of Lottery

The Executive recommends a Division of Lottery cash disbursement level of \$164.9 million for SFY 2012-13, a decrease of \$9 million or 5.2 percent from the current SFY level of \$173.9 million. However, the appropriation level increased by \$12.9 million due to a \$15.6 million dollar appropriation to reimburse Genting New York LLC for the cost associated with the remediation of pre-existing environmental conditions at the Aqueduct Racetrack. The state reimbursement was part of the agreement with the State to build and operate the VLG facility at Aqueduct. There is currently no cash disbursement planned from this Lottery appropriation until an audit is performed on the actual cost of the remediation.

State Racing and Wagering Board

The Executive recommends a State Racing and Wagering Board (RWB) cash disbursement level of \$18.2 million for SFY 2012-13. This is an increase of \$711,000 or 4 percent over the current SFY level of \$17.5 million. The cash disbursement level includes an Executive proposal to shift the cost of two on-track officials (starter and one judge) at race meetings conducted by licensed harness associations and corporations from the RWB to the harness track operator. This will result in a decrease of 14 full time employees (FTEs) which results in a re-occurring cash savings within the Regulation of

Racing Account of \$829,000. The Executive also proposes the escheatment of unclaimed pari-mutuel vouchers that have not been presented for payment by the following April 1st of each year. The unpaid vouchers would be deposited in the RWB's Regulation of Racing Account (\$200,000 annually).

Office of General Services

The SFY 2012-13 Executive Budget recommends All Funds appropriation authority of \$984.2 million, an increase of approximately \$522 million or 113 percent from the previous year. Of this amount, \$500 million is an Internal Services Fund (ISF) appropriation related to implementation of the Enterprise Shared Services Program, allowing OGS to perform various administration functions and accept transfers of funds from those agencies.

SFY 2012-13 cash disbursements for the Office of General Services (OGS) increased by approximately \$3 million or 1.4 percent, from \$214.7 million to \$217.7 million.

Enterprise Share Services is an Executive initiative to streamline the operation of State agencies through strategic sourcing. Strategic sourcing identifies services that could be more cost effectively provided on a centralized basis and through a single entity.

The Enterprise Shared Services initiative would be implemented through OGS and has the following components: procurement; real estate; information technology; and the centralized administration of various support services through a Business Services Center (BSC).

The increased ISF spending authority would be to implement strategic sourcing initiatives. Of the proposed increase, \$507 million is appropriated to an internal services fund (ISF). Of this amount, \$496 million is appropriated to ISF

contractual services and \$7.2 million is General Fund start up support.

The Executive Budget recommends an OGS workforce increase of 14 full time equivalents (FTE) from 1,315 to 1,329 FTE. This reflects a 41 FTE increase in the newly created Enterprise Services Program. Of the 41 FTE, 33 are supported by the General Fund and 8 are supported by Internal Services Funds. However, with the broad transfer authority included in the appropriation language, it is difficult to accurately determine the level of support that is likely to come from the ISF.

General State Charges

The SFY 2012-13 Executive Budget recommends General State Charges (GSC) All Funds appropriations of \$2.7 billion, a decrease of approximately \$267 million or 8.9 percent from the previous year. This amount includes appropriations to the employees' health benefit fiduciary funds of approximately \$150 million, an increase of \$49 million or 49 percent from the previous year.

GSC appropriations do not fund fringe benefits for employees of the New York State Legislature, the Judiciary, certain positions within the State University of New York or positions funded through Special Revenue Funds. Therefore, GSC cash disbursements, recommended at \$3.7 billion, are higher than the recommended appropriations.

There is an increase of \$7.85 million for the City of Albany South Mall PILOT payments and a corresponding decrease of the same amount in SFY 2032-33.

The Executive proposes increasing public authority employee health insurance

contributions to the same levels that were negotiated with State workers in 2011.

Local Government Assistance

Local Government Assistance includes traditional direct unrestricted aid programs and would be impacted by changes in other program areas such as education and health and human services. The Executive estimates that these changes to other program areas would positively impact municipalities and school districts by approximately \$942 million in the local fiscal year ending 2013.

Unrestricted Aid

The **Aid and Incentives for Municipalities (AIM)** program, created in 2005, consolidated several unrestricted aid programs referred to as revenue sharing for cities, towns and villages. The Executive proposes AIM funding to be \$714.7 million for SFY 2012-13, no change from SFY 2011-12 levels. However, the City of Rochester would receive a spin up on June 1, 2012 of \$28 million which was scheduled to be paid later in the state fiscal year, having no fiscal impact to the State.

Video Lottery Terminal (VLT) Impact Assistance to the eligible host municipalities is \$25.9 million for SFY 2012-13, no change from SFY 2011-12 levels.

Small Government Assistance (\$217,300) and **Miscellaneous Financial Assistance** (\$1.96 million) are also maintained at SFY 2011-12 levels. An additional \$1.9 million of small government assistance is funded through the Education Department. Small Government Assistance was created in 2004 to provide partial relief for localities affected by State forest property tax exemptions. Miscellaneous Financial Assistance was created in 2005 to provide assistance to Madison and Oneida

Counties for short falls in real property tax collections related to Indian land claims.

Local Government Consolidation Programs

The SFY 2012-13 Executive Budget includes \$75 million in appropriations to encourage local government consolidation and shared services. Cash disbursements for the program are expected to total \$16.6 million for SFY 2012-13, of which \$3.2 million will be spent on consolidation measures and \$13.3 million on planning efficiencies. Because municipal consolidation is a lengthy process, local governments would probably not access these funds for several years.

Department of State

The SFY 2012-13 Executive Budget for the Department of State (DOS) provides All Funds spending of \$129.9 million, a decrease of \$7.29 million or 5.3 percent over SFY 2011-12. Changes include:

- A 2.5 percent reduction in State Operations for the following programs: Administration, Authorities Budget Office, Consumer Protection Program, Local Government & Community Services, and Tug Hill Commission.
- A \$5.5 million decrease primarily due to elimination of prior year reappropriations.
- Increased costs of DOS programs including the new domestic violence victims mail processing initiative (+\$240,000) and E-Licensing Program (+\$335,000).
- \$45,000 increase to \$280,000 in federal funding for the Appalachian Regional Commission.

The 2012-13 Executive Budget proposes the elimination of the Manufactured Housing special

revenue fund. This program would continue to exist, with funding generated from assessments by insurance companies and paid for through a sub-allocation in the Insurance Department. A total of 22 FTEs are proposed for the DOS as follows:

Administration = 5 new FTEs

Authorities Budget Office = 1 new FTE

Business and Licensing Services = 10 new FTEs

Office for New Americans = 6 new FTEs.

FTEs included in the Office for New Americans are existing positions being transferred from the Office of Temporary and Disability Assistance (OTDA).

The Executive proposal would increase the renewal term and fee from two to four years for security guard and real estate brokers and salesperson disciplines from \$36 for two years to \$72 for four years.

Department of Taxation and Finance

The Executive recommends a Department of Taxation and Finance disbursement level of \$415.8 million for SFY 2011-12, an increase of \$10.9 million or 2.7 percent over the current SFY level of \$404.9 million. The increase results from higher personal service costs attributed to salary increases. These increases are associated with labor contracts being approved and costs associated with increased postage for tax documents. Increases are partially offset by a restructured banking service contract related to processing tax returns resulting in savings of \$5.75 million. The Department also anticipates a reduction of 97 full time employee positions from attrition.

The Executive proposes to make permanent the Tax Modernization provisions enacted in the current fiscal year. These Tax Modernization provisions include the e-filing mandate, the

authority to utilize electronic communications with taxpayers and improved sales tax compliance. These actions are expected to generate revenue of \$5 million in SFY 2012-13 and \$20 million annually thereafter.

The Governor's SAGE Commission has proposed a consolidation of the Department's downstate district offices. The consolidation would reduce the number of offices from eight to four. The Executive also proposes having the Department assume debt collections for the Higher Education Service Corporations (HESC). Both of these measures would achieve efficiencies but there are no savings currently associated with these actions.

General Government and Local Government Assistance Proposed Disbursements - All Funds				
(Thousands of Dollars)				
Agency	Estimated 2011-12	Proposed 2012-13	Change	
			Amount	Percent
Alcoholic Beverage Control	16,657	17,859	1,202	7.22%
Audit and Control	174,170	173,479	-691	-0.40%
Division of the Budget	36,345	37,260	915	2.52%
Civil Service	15,323	14,904	-419	-2.73%
State Board of Elections	56,072	7,649	-48,423	-86.36%
Office of Employee Relations	2,760	2,688	-72	-2.61%
Executive Chamber	13,926	13,578	-348	-2.50%
Financial Services	490,185	488,005	-2,180	-0.44%
Office of the Lt. Governor	630	614	-16	-2.54%
Office of General Services	214,714	217,734	3,020	1.41%
General State Charges	3,920,304	3,671,935	-248,369	-6.34%
Office of the Inspector General	5,493	6,610	1,117	20.33%
Commission on Public Integrity	3,401	4,016	615	18.08%
Local Government Assistance	758,364	776,423	18,059	2.38%
Lottery	173,905	164,890	-9,015	-5.18%
Public Empl. Relations Board	3,884	3,731	-153	-3.94%
Racing and Wagering Board	17,537	18,248	711	4.05%
Department of State	137,205	129,914	-7,291	-5.31%
Taxation and Finance	404,888	415,809	10,921	2.70%
Division of Tax Appeals	3,057	3,101	44	1.44%
Office for Technology	25,560	23,780	-1,780	-6.96%
Totals:	6,474,380	6,192,227	-282,153	-4.36%

All Funds Receipts

(Millions of Dollars)

	Projected 2011-12	Proposed 2012-13	Change	Percent Change
Personal Income Tax	38,664	40,311	1,647	4.3%
User Taxes and Fees				
Sales and Use	11,997	12,246	249	2.1%
Cigarette and Tobacco	1,665	1,733	68	4.1%
Motor Fuel Tax	501	515	14	2.8%
Alcoholic Beverage	233	238	5	2.1%
Highway Use tax	134	147	13	9.7%
Auto Rental Tax	104	109	5	4.8%
Taxicab Surcharge	85	88	3	3.5%
Total	14,719	15,076	357	2.4%
Business Taxes				
Corporation Franchise	3,231	3,299	68	2.1%
Corporation and Utilities	815	877	62	7.6%
Insurance	1,413	1,463	50	3.5%
Bank Tax	1,374	1,351	(23)	-1.7%
Petroleum Business	1,089	1,162	73	6.7%
Total	7,922	8,152	230	2.9%
Other Taxes				
Estate and Gift	1,195	1,127	(68)	-5.7%
Real Estate Transfer	620	690	70	11.3%
Pari-Mutuel	16	16	-	0.0%
Other	1	1	-	0.0%
Total	1,832	1,834	2	0.1%
Payroll Tax	1,396	1,160	(236)	-16.9%
Total Taxes	64,533	66,533	2,000	3.1%
Miscellaneous Receipts	23,832	24,256	424	1.8%
Total Receipts	88,365	90,789	2,424	2.7%
Federal Grants	43,942	41,935	(2,007)	-4.6%
Total Receipts and Federal Grants	132,307	132,724	417	0.3%

Source: New York State Division of the Budget.

General Fund Receipts

(Millions of Dollars)

	Projected 2011-12	Proposed 2012-13	Change	Percent Change
Personal Income Tax				
Withholding	31,197	32,598	1,401	4.5%
Estimated Payments	11,530	12,212	682	5.9%
Final Returns	2,125	2,203	78	3.7%
Other Payments	1,039	1,104	65	6.3%
Gross Collections	45,891	48,117	2,226	4.9%
STAR Special Revenue Fund	(3,293)	(3,322)	(29)	0.9%
Refunds	(7,227)	(7,806)	(579)	8.0%
Revenue Bond Tax Fund	(9,666)	(10,078)	(412)	4.3%
Net Collections	25,705	26,911	1,206	4.7%
User Taxes and Fees				
Sales and Use	8,426	8,592	166	2.0%
Cigarette/Tobacco	476	511	35	7.4%
Alcoholic Beverage	233	238	5	2.1%
Total	9,135	9,341	206	2.3%
Business Taxes				
Corporate Franchise	2,825	2,844	19	0.7%
Corporate Utilities	626	682	56	8.9%
Insurance	1,274	1,322	48	3.8%
Bank	1,143	1,129	(14)	-1.2%
Total	5,868	5,977	109	1.9%
Other Taxes				
Estate and Gift	1,195	1,127	(68)	-5.7%
Pari-mutuel	16	16	-	0.0%
Other	1	1	-	0.0%
Total	1,212	1,144	(68)	-5.6%
Total Tax Collections	41,920	43,373	1,453	3.5%
Miscellaneous Receipts	3,304	3,130	(174)	-5.3%
Total Receipts	45,224	46,503	1,279	2.8%

Source: New York State Division of the Budget.

Summary of Statutory Tax and Fee Increases		
SFY 2012-13 Executive Budget		
(thousands of dollars)		
	SFY 2012-13	Full Annual Impact
General Fund Fee Increases	\$2,900	\$2,900
Special Revenue Fund Fee Increase	\$1,800	\$6,800
Fee Increases Total	\$4,700	\$9,700
Tax Increases	\$18,000	\$24,000
Sub-Total Tax and Fee Increases	\$22,700	\$33,700
Enforcement and Other Revenue Sources	\$11,248	\$29,248
Grand Total Revenue Increases	\$33,948	\$62,948
Tax Credits	(\$3,600)	(\$45,200)
Net Total Revenue Increases Less Tax Credits	\$30,348	\$17,748

Tax Increases		
SFY 2012-13 Executive Budget		
(thousands of dollars)		
Description	SFY 2012-13	SFY 2013-14
Tobacco Tax Increase	\$18,000	\$24,000
Tax Increase Total	\$18,000	\$24,000

New or Expanded Tax Credits		
SFY 2012-13 Executive Budget		
(thousands of dollars)		
Description	SFY 2012-13	SFY 2013-14
Expand Sales Tax Exemption for Solar Equipment Purchases	(\$2,000)	(\$3,000)
Expand Residential Solar Equipment Tax Credit to Leases	\$0	(\$2,000)
Expand the Low Income Housing Tax Credit Program	\$0	(\$16,000)
Extend the Commercial Production Credit for Five Years	\$0	(\$7,000)
Extend the Bio-Fuel Production Credit for Seven Years	(\$1,600)	(\$10,000)
Extend the Alternative Fuels Tax Exemption for Five Years	\$0	(\$3,200)
Make Non-Custodial Parent EITC Permanent	\$0	(\$4,000)
Total Amount of Tax Credits	(\$3,600)	(\$45,200)

Statutory Fee Increases					
SFY 2012-13 Executive Budget					
(thousands of dollars)					
Effective Date	Description	Current Fee	Proposed Fee	SFY 2012-13	SFY 2013-14
General Fund Fee Increases					
Department of Health					
4/1/2012	Ambulance Service Certificate Fee	\$100	\$300	N/A	N/A
4/1/2012	Burial and Funeral Permit Fee	N/A	\$20	\$2,900	\$2,900
General Fund Fee Increase Total				\$2,900	\$2,900
Special Revenue Fund Fee Increases					
Department of State					
4/1/2012	Accelerate Security Guard Fees and Extend License Terms	\$36	\$72	\$1,800	\$1,800
4/1/2013	Accelerate Real Estate Broker and Salesperson Fees and Extend License Terms	\$150, \$50	\$300, \$100	\$0	\$5,000
Special Revenue Fund Fee Increase Total				\$1,800	\$6,800

Enforcement and Other Revenue Actions					
Racing and Wagering Board					
4/1/2012	Collect Unused Horse Racing Vouchers	N/A	N/A	\$200	\$200
Department of Taxation and Finance					
7/1/2012	Prohibit Bank Fees From Reducing Tax Levies	N/A	N/A	\$5,000	\$7,000
4/1/2012	Make Tax Modernization Provisions Permanent	N/A	N/A	\$5,000	\$20,000
4/1/2012	STAR Benefit Refusal	N/A	N/A	\$0	\$1,000
4/1/2012	Sales Tax Registration Refusal	N/A	N/A	\$1,000	\$1,000
4/1/2012	Fuel Definitions Technical Corrections	N/A	N/A	\$0	\$0
4/1/2012	Extend Fees for the Establishment of Oil and Gas Unit of Production Values to 2015	N/A	N/A	\$48	\$48
4/1/2012	Extend lower MTA Mobility Tax Rates for Employers to Professional Employer Organizations	N/A	N/A	\$0	\$0
4/1/2011	Statewide Collected Transmission Tax Redistribution	N/A	N/A	\$0	\$0
4/1/2011	Pari-Mutuel Lower Tax Rate Extender	N/A	N/A	\$0	\$0
Enforcement and Other Revenue Action Totals				\$11,248	\$29,248

RECEIPTS, TAXES AND FEES

The SFY 2012-13 Executive Budget also contains a number of tax and revenue changes. The following is a list of those changes:

Personal Income and Payroll Mobility Tax

Enhanced Earned Income Tax Credit for Non-Custodial Parents

The Executive proposes to make the enhanced Earned Income Tax Credit permanent. This credit was authorized in 2006 as an incentive for non-custodial parents to be responsible for the economic well being of their children. However, this tax credit is due to sunset on December 31, 2012. The tax credit is equal to the greater of twenty percent of the Federal EITC for a taxpayer with one child or 2.5 times the Federal EITC for a taxpayer with no children. In order to qualify for this credit, the non-custodial parent must be older than 18 and current on his child support payments. This proposal would decrease revenues by \$4 million beginning in SFY 2014-15.

Payroll Mobility Tax Payments by Professional Employer Organizations

The Executive proposes to include professional employer organizations as employers subject to the lower payroll mobility tax rates. Professional employer organizations are companies that provide services to small businesses (e.g. payroll services). These services reduce the cost of doing business for the small business. The payroll tax would be calculated separately upon the payroll expense of the organization itself and the payroll expenses of each of its member businesses. Currently, these organizations must calculate the tax on the aggregate amount of all the payroll expenses of their member businesses. This proposal would have no fiscal impact.

Solar Energy Systems Credit

The Executive proposes expanding the tax credit for the purchase and installation of solar energy system equipment to leased property and the purchase of electricity generated by solar equipment as long as the lease or purchase is subject to a ten year contract. This credit is estimated to save taxpayers \$2 million annually.

Corporate Taxes

Low-Income Housing Credit

The Executive Budget would authorize an additional \$8 million in **low-income housing** credits for the current fiscal year and an additional \$8 million in each of the following four years. The credits can be claimed for a ten year period. This would allow the Commissioner of Housing and Community Renewal to allocate an annual total of \$72 million in credits by 2016.

Bio-Fuel Production Credit

The Executive Budget would extend the bio-fuel production credit that is scheduled to expire at the end of 2012. The credit of 15 cents per gallon produced would be extended until the end of 2019. The maximum any facility could earn is capped at \$2.5 million annually. This proposal will provide \$10 million in benefits beginning in SFY 2014-15.

Commercial Production Credit

The Executive Budget would extend the expiration of the commercial production tax credit from December 31, 2011 to taxable years beginning before January 1, 2017. This is estimated to decrease revenues by \$7 million annually.

Utility Tax Allocation for Transportation

The Executive proposes sub-allocating the current 80 percent of Section 183 and 184 receipts that are deposited into the Mass Transportation Operating Assistance Fund (MTOA) so that 26 percent of these receipts would be deposited into the Public Transportation Systems Operating Assistance Account (PTOA) and 54 percent would be deposited in the MTOA Account. The remaining 20 percent of receipts would continue to be deposited in the Dedicated Highway and Bridge Trust Fund. At present, only receipts from the Petroleum Business Tax are allocated to the PTOA Account. PTOA has had an annual shortfall requiring a recurring transfer from the MTOA account. The sub-allocation is estimated to be worth \$21.45 million in SFY 2012-13.

Sales and Use Taxes

Sales Tax Certificates of Authority

The Executive proposes authorizing the Department of Taxation and Finance to expand the criteria to **refuse to issue Certificates of Authority** (COAs) to include the non-payment of **any** tax liability. A business needs a COA before it can legally sell goods and services in New York State. The Department would also be authorized to disclose the name of the person with the outstanding tax liabilities and the amount of such liabilities upon written request of any of the other business partners. This authorization is expected to increase audit revenue by \$1 million in SFY 2012-13.

Solar Installations Exemption Expansion

The Executive proposes expanding the sales tax exemption for the purchase and installation of solar electric generating equipment on residential properties to also include equipment installed on commercial properties. This is expected to have a tax savings of \$3 million annually.

Fuel Taxes

Alternative Fuels Exemption

The Executive proposes extending the sunset date of the exemption from certain taxes for alternative fuels from September 1, 2012 to September 1, 2017. This provision of law allows E85, compressed natural gas, and hydrogen a full exemption and B20 a partial exemption from the motor fuel tax, the petroleum business tax, the fuel use tax and state and local sales taxes. This part will lower receipts by \$1.5 million in SFY 2012-13 and \$3 million annually thereafter.

Diesel Motor Fuel Amendment

The Executive proposes a technical amendment to the Diesel motor fuel tax so that crude oil that passes through New York and qualified biodiesel are not inadvertently made subject to taxation. There is no fiscal impact associated with this technical amendment.

Cigarette and Tobacco Tax

Tobacco Products Excise Tax Changes

The Executive proposes a reclassification of the excise tax placed on cigars. Currently, cigars are taxed under the tobacco products tax at 75 percent of the wholesale price. This bill would remove cigars from the definition of "tobacco products" and create a new "cigar" tax classification where cigars would now be taxed at 50 percent of the retail price. Cigar wholesalers and manufacturers will now have a prepayment tax on cigars of 20 cents per cigar. The 20 cent per cigar tax is passed through the distribution chain to the retailer. The retailer will then be afforded the ability to take a 20 cent credit against the 50 percent retail tax on cigars. The current tax on cigars would temporarily be suspended on June 1, 2012 and the new tax on cigars would be implemented on July 1, 2012. The suspension is to allow taxpayers, specifically cigar manufacturers to unload any existing inventory of cigars for which tax has already been paid.

The bill also lowers the amount of cigars a consumer can carry into the state without paying a use tax from 250 cigars to 50 cigars.

This bill also creates a new definition of "loose tobacco" under the tobacco products tax and changes the tax from 75 percent of the wholesale price to \$4.53 cents per ounce. This is done to combat consumers who avoid cigarette tax by buying loose tobacco and rolling their own cigarettes. Also, the definition of moist snuff is changed to include both moist and dry snuff along with smokeless tobacco products of similar composition. The bill also takes the penalties imposed on all other taxpayers and would apply these penalties to retail dealers who violated the tax law. This proposal would increase revenues by \$18 million for SFY 2012-13 and \$24 million every year thereafter.

Pari-mutuel

Extends for one year the lower **pari-mutuel** tax rates and rules governing simulcasting of out-of-state races. This proposal has no SFY 2012-13 fiscal impact because the reduced rates are built into the base of the financial plan.

Compliance and Enforcement

STAR Tax Offset for Unpaid Liabilities

The Executive proposes allowing the Commissioner of the Department of Taxation and Finance to develop a STAR benefit Recovery Program which seeks to suspend a taxpayers basic or enhanced STAR exemption if the taxpayer owed any past due state tax liability, including penalties and interest. The liability must be fixed and final with no ability left for administrative or judicial review of such liability. The Tax Department must notify the taxpayer at least 45 days prior to the school year for which the STAR suspension will apply. This proposal would increase state tax audit collections by \$1 million annually and save \$5

million annually in eliminated STAR exemption tax benefits.

Oil and Gas Unit Production Values Fee Extender

The Executive proposes extending the fee the New York State Department of Taxation and Finance imposes on oil and gas producers in order to cover the Department's cost in determining the unit of production values that local assessors use when assessing oil and gas wells for real property tax purposes. The fee would be extended until March 31, 2015 and generates \$48,000 annually for the state's General Fund.

Make Tax Modernization Provisions Permanent

Proposes making the Tax Modernization provisions enacted in the SFY 2011-12 budget permanent. These provisions include electronic filing requirements, tax preparer e-filing mandates, and sales tax segregated accounts authorization. These provisions were enacted on a temporary basis and are due to sunset at the end of 2012. This would increase revenues by \$5 million in SFY 2012-13 and \$20 million annually thereafter.

Eliminating Bank Fees on Customer Accounts

The Executive proposes prohibiting banking institutions from charging processing fees on customer accounts that have levies placed on them because an account holder owes delinquent taxes or child support payments. The Federal Government prohibits fees placed on I.R.S. levies. The bill would take effect 90 days after it becomes law. This bill would increase revenues by \$5 million in SFY 2012-13 and \$7 million annually thereafter.

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SECTION TWO

SENATE ISSUES IN FOCUS

SUMMARY OF STATE SPENDING CONTROL



The SFY 2012-13 Executive Budget recommends All Funds spending of \$132.5 billion, a decrease of \$225 million or approximately .2 percent. This is the second year in a row that All Funds spending has decreased and the first time in decades that All Funds spending has gone down in consecutive years.

The Executive Budget recommends \$88.7 billion in State Operating Funds spending, an increase of approximately \$1.7 billion or two percent from the previous year. State Operating Funds is the best measure of State spending because it excludes Federal funds and capital projects.

Aggressive Cost Containment

The spending reductions are driven by aggressive cost containment in the areas of Education and Medicaid.

Education and Medicaid combined equate to \$35.3 billion or approximately 40 percent of State Operating Funds spending in 2012-13.

Department of Health (DOH) Medicaid spending would increase by \$509 million or four percent from \$14.8 billion to \$15.3 billion on a State Operating Funds basis.

The 2012-13 Executive budget includes an \$805 million funding increase for Education that reflects the personal income growth index of 4.1 percent.

On a State Operating Funds basis, General Support for Public Schools (GSPS) spending increases by \$325 million or 1.7 percent from \$19.7 billion to \$20 billion. This difference relates to the timing of disbursements over multiple school years.

Recurring cost containment in the key areas of spending growth can significantly reduce out year gaps, also known as the structural deficit (see chart below).

Current Services Gaps (billions of dollars)		
SFY	11-12	12-13
11-12	(10,001)	0
12-13	(14,945)	(3,500)
13-14	(17,429)	(3,624)
14-15	(20,903)	(5,044)
15-16	0	(4,246)
Total	(63,278)	(16,414)
Gap Reduction	n/a	\$ 46,864
Percent Change	n/a	-74.06%

For SFY 2012-13 GSPS and DOH Medicaid represent a combined total of \$915 million of the total State Operating Funds increase or 54 percent of the gap.

Excluding GSPS and Department of Health Medicaid, State Operating Funds spending increases by \$770 million or 1.5 percent from \$52.6 billion to \$53.4 billion.

	11-12	12-13	Amount Change	Percent Change
GSPS	19,677	20,002	325	1.7%
Medicaid	14,753	15,343	590	4.0%
All Other	52,619	53,389	770	1.5%
Total	87,049	88,734	1,685	1.9%

*all amounts stated in billions of dollars

School Aid Spending Cap

The 2011-12 State budget provided for a two-year school aid appropriation and included permanent law changes to limit future school aid spending increases to growth in the New York state personal income rate. This action helps reduce the state's large out-year gaps between spending and revenues. Personal income rate is based on the calculation of the "Personal income growth index". The rate for SFY 2012-13 is 4.1 percent.

The SFY 2012-13 Executive budget includes an \$805 million funding increase that reflects the personal income growth index of 4.1 percent. This allowable growth first is applied to any growth in expense based aid categories then allows for growth in competitive grant programs to reward school districts that demonstrate student performance improvements or that undertakes long-term structural changes to reduce costs and improve efficiency. Any remaining amount of allowable growth can be allocated pursuant to a chapter of law for purposes including, but not limited to, additional spending for competitive grants, increases in Foundation Aid or restoration of the Gap Elimination Adjustment.

Under this growth cap, School Aid increases become more predictable and sustainable. For example in the 2007-08 school year the newly structured foundation aid formula was enacted and when fully phased-in was worth \$5.5 billion, to be phased in over four years. That phased in operating aid amount coupled with growth in expense based aids led to a school aid increase of \$1.8 billion for each year over two years between 2007-08 and 2008-09. In 2007-08 school aid grew by 9.9 percent. This increase included a \$1.1 billion increase in foundation aid and \$647 million growth in expense based aids (including EXCEL). In 2008-09 the State added \$1.745 billion to the general support for public schools (GSPS) program. This increase translates in to 8.8 percent growth in the States school aid program. Of the \$1.745 billion \$1.2 billion was attributable to growth in unrestricted operating aid (foundation aid) and \$512 million growth from expense based aids.

With dramatic changes in the economy and State revenues declining the Executive was forced to propose a \$698 million decrease in State support for public schools in SFY 2011-12. This reduction was a net value derived from a \$1.1 billion deficit reduction assessment applied to all school districts. During that year the Federal Government provided funding through the American Reinvestment and Recovery Act (ARRA) which largely plugged the school aid hole for two years.

Had the School aid cap been in place since the restructuring of the State's primary operating aid formula school districts may not have been forced off the State support cliff when the Federal ARRA funding was not renewed for the 2010-11 school year. In the 2007-08 school year had a four percent aid cap been in place State support would have been limited to an increase of \$715 million over the prior year. The State would have spent approximately \$1 billion less during that school year. In the subsequent year a four percent increase would have been worth \$743 million. The savings would also have been worth approximately \$1 billion during the 2008-09 school year. Going forward the projected increase for the 2013-14 school year based on the personal growth index as published by the US Department of Commerce is expected to be 3.7 percent. This will translate in to a school aid increase of approximately \$752 million for the 2013-14 school year. While 37.5 percent of the increase in foundation aid has been realized by school districts, the State's current fiscal position will allow for sustainable predictable growth within the general support for public schools program. The 2011 enacted agreement will ensure school districts do not see dramatic swings in State aid. Anchoring growth to the personal income trends of the State allow for a more rational approach to school aid increases.

Medicaid Global Cap

The 2011-2012 Enacted Budget restricted future year-to-year growth for Medicaid Department of Health spending to the 10 year rolling average of the medical component of the Consumer Price Index (CPI). Currently that growth is four percent annually. The second aspect of the Medicaid

Global Cap is the authority granted to the Executive to reduce spending to ensure Medicaid costs do not exceed the cap, which is effective for the period SFY 2011-12 and SFY 2012-13.

The Director of the Budget, in consultation with the Commissioner of Health, is required to assess monthly the status of Medicaid spending by category of service and by geographic regions. If the Director of the Budget determines that expenditures are expected to cause Medicaid disbursements to exceed the projected cap amount, the Commissioner, in consultation with the director of the budget, is required to develop a Medicaid Savings Allocation Plan (MSAP) to maintain the spending limit.

The MSAP must meet the following guidelines:

- comply with applicable federal law;
- reductions must comply with the state Medicaid plan approved by the Federal Centers for Medicare and Medicaid Services (the Commissioner is allowed to seek waivers or amendments to the plan);
- must maximize federal financial participation (FFP), to the extent practicable;
- reductions must be made uniformly among categories of services and geographic regions of the state, to the extent practicable, and uniformly within a category of service, to the extent practicable, except where the commissioner of health determines that there are sufficient grounds for non-uniformity; and
- reductions must be made in a manner that does not unnecessarily create administrative burdens to Medicaid applicants and recipients or providers.

The Commissioner is additionally required to seek the input of the Legislature, as well as organizations representing health care providers, consumers, businesses, workers, health insurers, and others with relevant expertise, in developing the MSAP.

Spending has not reached the point where the MSAP would have to be used.

The implementation of the Medicaid Global Cap for SFY 2011-2012 and subsequent actions resulted in a decrease of \$2.2 billion in Department of Health Medicaid State Funds spending. These savings grow to \$3.3 billion for SFY 2012-13.

For the reasons above, cost management is a critical part of fiscal planning and should continue into the future.

Medicaid Redesign Reforms

Phase Two - 2012-13



On January 5, 2011 Governor Cuomo issued Executive Order number five creating a Medicaid Redesign Team (MRT). The MRT was charged with developing policies to reduce Medicaid spending in New York by \$2.85 billion in SFY 2011-12. The MRT was initially composed of 27 members appointed by the Executive including members of the health care industry, State employees, State legislators and business leaders. This has subsequently been expanded to include additional members, as well as individuals appointed to the workgroups discussed below. The MRT submitted its report to the Governor in late February 2011 which included 79 recommendations.

The SFY 2011-12 Enacted Budget included 73 recommendations from Phase One of the MRT that were either accepted or modified by the Legislature – estimated to save the State \$2.2 billion, increasing to \$3.3 billion in SFY 2012-13. Notable approved recommendations included:

- **Enacting a Global Medicaid Spending Cap**, limiting the year-to-year growth of Department of Health state share Medicaid spending to the ten-year rolling average of the medical component of the Consumer Price Index, which is currently four percent;
- Allowing the Commissioner of Health to implement necessary actions to ensure the cap would not be exceeded (“Super Powers”);
- Beginning a **three year phase-in to managed care for all Medicaid beneficiaries**, including implementing Mandatory Managed Long Term Care and

establishing Behavioral Health Organizations, Health Homes, Patient Center Medical Homes, and Accountable Care Organizations;

- Establishing the **Medical Indemnity Fund** to lower Medicaid malpractice costs; and
- Eliminating automatic Medicaid cost driver increases.

Phase Two

Phase Two of the MRT centered on developing a multi-year quality improvement/care management plan to work on complex issues that were not addressed in Phase One. Workgroups were convened to engage a broader set of stakeholders to focus on specific issue areas and then report back to the full MRT. Workgroups met at least three times during the summer and fall and submitted their final recommendations to the full MRT in early December. Based on their findings and recommendations the full MRT would then issue a final report to the Governor by the end of December. The following workgroups were convened:

- Affordable Housing Work Group;
- Basic Benefit Review Work Group;
- Behavioral Health Reform Work Group;
- Health Disparities Work Group;
- Health Systems Redesign: Brooklyn Work Group;
- Managed Long Term Care Implementation and Waiver Redesign Work Group;
- Medical Malpractice Reform Work Group;
- Payment Reform and Quality Measurement Work Group;

- Program Streamlining and State/Local Responsibilities Work Group; and
- Workforce Flexibility and Change of Scope of Practice Work Group.

The MRT has yet to produce a final report; however, it is evident that the final recommendations of the workgroup were considered by the Executive in crafting the SFY 2012-13 budget proposal. Many of the

considered proposals will require legislative action, others may be accomplished administratively. However, each proposal that has a fiscal impact is funded through budget appropriations. All of the Phase Two proposals included in the budget combined are estimated by the Executive to have no net impact in SFY 2012-13. Individually, each proposal has a cost or savings figure associated with its implementation, see table below.

Initiative	Statutory Yes/No	State Share (\$ in millions) Immediate Cost Savings
Basic Benefit Review		
Provide coverage for podiatry services	Yes	-2.20
Eliminate coverage of arthroscopy of the knee for osteoarthritis	No	-0.20
Eliminate payment for treatments for lower back pain where there is no evidence of benefit	No	-3.85
Provide Breastfeeding Support	Yes	-4.20
Eliminate coverage of Percutaneous Coronary Intervention (PCI) in circumstance of no clear benefit	No	-1.45
Reduce payments for elective Cesarean sections and inductions	No	-2.50
Eliminate coverage for growth Hormone for treatment of Idiopathic Short Stature	No	-5.00
Allow dentists to provide Tobacco Cessation Counseling	No	4.25
Totals		-15.15
Health Disparities		
Implement and Expand Data Collection/Metrics to Measure Disparities	No	1.00
Improve Language Access to Address Disparities	No	1.35
Expand Services to Promote Maternal and Child Health	Yes	2.50
Promote Hepatitis C Care and Treatment	Yes	1.05
Promote Medicaid Coverage of Harm Reduction Activities	Yes	0.21
Totals		6.11
Managed Long Term Care		
Fair Hearing Reform Investments	No	0.50
Totals		0.50
Payment Reform & Quality Measurement		
Essential Community Provider Network and Vital Access Providers	No	50.00
Totals		50.00
Program Streamlining and State/Local Responsibilities		
Modernize and Automate eligibility system	No	2.00
Asset Verification System Procurement	No	1.00
Enrollment Assistance for Disabled Applicants	Yes	1.50
Totals		4.50
Workforce Flexibility and Change of Scope and Practice		
Primary Care Service Corps	Yes	0.50
Totals		0.50
Additional Considerations		
Spousal Refusal	Yes	-34.30
Redirect Inpatient Reform Transition II Funds to the Safety Net/Vital Access Providers Pool	No	-12.50
Totals		-46.80
GRAND TOTAL		-0.34

Budget related MRT Phase Two proposals include the following:

Administrative Proposals

The Executive is advancing initiatives that can be implemented administratively. However, many of these initiatives have a State fiscal impact. All fiscal implications represent State funds for SFY 2012-13.

- **Eliminates Medicaid coverage for arthroscopic knee surgery** when the diagnosis is osteoarthritis of the knee (\$0.20 million in savings).
- **Eliminates Medicaid payment for treatment for lower back pain where there is no evidence of benefit** (\$3.85 million in savings).
- **Eliminates Medicaid coverage for Percutaneous Coronary Intervention** when the procedure is inappropriate for the patient (\$1.45 million in savings).
- **Eliminates coverage for elective caesarean deliveries and elective inductions** of labor at or less than 39 weeks unless determined to be medically necessary (\$2.5 million in savings).
- **Eliminates coverage for growth hormone injections for idiopathic short stature** in children (\$5 million in savings).
- **Expands coverage of smoking cessation counseling by dentists** to all Medicaid beneficiaries (\$4.25 million).
- **Implements and expand on data collection standards** required by the Affordable Care Act (ACA) (\$1 million).
- **Increases Medicaid rates** for certain providers as reimbursement for the costs of **interpretation services** for patients with limited proficiency in the English language (\$1.35 million).
- **Expands access to contraception and other family planning services**; including inter-conceptual care following an adverse pregnancy along with initiatives to demonstrate effective and efficient use of Health Information Technology. The second

part of this proposal requires a statutory change (Total cost - \$2.5 million).

- Targeted investments in **Fair Hearing Reform** to better handle moving to mandatory managed long term care or other care coordination models (\$0.50 million).
- Creates two initiatives, the **Essential Community Provider Network (ECPN) and Vital Access Providers (VAP)**. The ECPN would provide **short-term funding and rate enhancements** in the event of facility closures, mergers, integration or reconfiguration of services. VAP would provide **longer term financing**, aimed at transitioning services within a community. The Executive anticipates these measures, combined with Health Care Efficiencies and Affordability for New Yorkers (HEAL-NY) funds and Federal State Health Reform Partnership (F-SHRP) funds, to be used in the reconfiguration and rightsizing of the Brooklyn health care system as well as other initiatives.
- **Modernizing and automating the eligibility system** to meet the requirements of the ACA (\$2 million).
- Investment in an **Asset Verification system** to permit for the electronic verification of assets for determining eligibility for aged, blind and disabled Medicaid applicants and recipients (\$1 million).
- **Dedicate funding pools**, which were previously established to facilitate and ease hospital transition to a rebased inpatient Medicaid reimbursement methodology, to a Safety Net/VAP Pool (\$12.5 million in savings).

Statutory proposals

- Creates a **Supportive Housing Development** Reinvestment fund to be allocated by the Commissioner for the development of housing for vulnerable populations. Funds would be allocated annually in the budget, and would include General Fund savings directly related to inpatient hospital and nursing home beds

- decertification and facility closures. Methodologies used to calculate savings would be developed by the Commissioner of Health and the Director of the Budget. The full annual value of the program would not exceed projected savings due to decertification and/or closures (\$75 million).
- Removes the authority to establish assisted living facility beds after an equal number of nursing home beds have been decertified.
 - **Expands Medicaid coverage to podiatry services for certain individuals with diabetes (\$2.2 million in savings); lactation counseling for pregnant and postpartum women (\$4.2 million in savings); harm reduction counseling for drug users and hepatitis C wrap around services (\$1.26 million). Enteral formula therapy and nutritional supplements would be extended to individuals with a diagnosis of HIV or AIDS (negligible fiscal).**
 - **Chain pharmacies**, defined as any pharmacy that is part of a group of five or more pharmacies owned by a corporate entity, or mail order pharmacies **would be required to provide translation services** or other services to individuals with limited English proficiency.
 - The Commissioner of Health would be able to contract with entities for outreach, education and facilitated enrollment in Medicaid for aged, blind and disabled individuals, without a competitive bid process (\$1.5 million).
 - **A Primary Care Service Practitioner Loan Repayment program for non-physicians** would be established for health care practitioners providing care in underserved areas. This would include physician assistants, nurse practitioners, nurse midwives, general or pedodontic dentists, dental hygienists, clinical psychologists, licensed clinical social workers, psychiatric nurse practitioners, licensed marriage and family therapists and licensed mental health counselors (\$1 million).
 - Hospitals would be required to inform the Department in the event of a change in the board of directors. The Department may then make a determination on allowing that individual to serve on the board.
 - The Commissioner would be authorized to **suspend or limit an operating certificate** for a not-for-profit corporation in the event of repeated violations of the certain sections of the Public Health Law; **in the event of felony indictment for members of the corporation's board of directors**; or notice from the Attorney General of an action to remove any member of the corporation's board of directors. If it is determined that the suspension would threaten access to services, the Commissioner would be authorized to appoint temporary members to the board of directors.
 - The Commissioner would be authorized to appoint a temporary operator of an adult care facility, a general hospital or a diagnostic and treatment center in the event of significant management failures, or in the event of a request to appoint such operator by the current established operator of a facility. The temporary operator may be reappointed every 180 days for an indeterminate amount of time.
 - Authorizes investment in U.S. Treasury Notes or New York State Municipal Bonds of monies of the Medical Indemnity Fund that are not required for immediate use.
 - Eliminates the requirement that hospitals submit written notice for repair and maintenance of projects under \$6 million.
 - Authorizes the Commissioner to promulgate regulations limiting reimbursement for potentially preventable conditions and complication to outpatient settings.
 - Removes the requirement that a nursing home have over 50 percent of its eligible residents enrolled in a Medicare Advantage Plan to receive Medicaid bed hold payments. The Commissioner would also have the ability to promulgate emergency regulations in order to achieve **no less than \$40 million**

in savings resulting from changes to reimbursement for bed hold payments, dependent upon federal approval. In the event that federal approval is not forthcoming, the Commissioner would be authorized to promulgate a second set of regulations as a fall-back. Rate reductions pursuant to those regulations, would then be reinvested as part of overall reimbursement to nursing homes.

- Clarifies that Home Care Workforce Recruitment and Retention funding may be paid *up to* the amounts specified in statute. Currently this funding is distributed through Medicaid fee-for-service, and with the advent of increased managed care utilization, the Executive has stated that flexibility is needed in distributing these funds.
- Authorizes the denial of prior authorization when more than four opiates are prescribed within a 30-day period under the Medicaid program, if it is determined that the prescription is not medically necessary (negligible savings).
- Makes generic substitution for therapeutic drugs would become mandatory under the Medicaid Preferred Drug Program.
- Limits Medicaid co-insurance for Medicare Part B services to the amount Medicaid would have normally paid for such service if an individual was not dual eligible.
- Allows Diagnostic and Treatment Centers to apply for HEAL-NY funding for the purposes of closures, mergers or restructuring.
- Limits to six years the time frame that providers may make adjustments to payments that are subject to audits under the Health Care Reform Act. This is the same timeframe the Department has to audit such payments.
- Requires Medicaid Managed Care Plans and Medicaid Managed Long Term Care Plans to offer Consumer Directed Personal Assistance Programs to enrollees.
- Requires counties who have implemented Mandatory Managed Care Plans under

Medicaid to utilize the enrollment counseling and enrollment service that is currently under contract by the Department of Health.

- Expands the types of organizations that may be applicants for Managed Long Term Care Plans under Medicaid. Currently only the following organizations are eligible: 1) hospitals, 2) home care agencies, 3) health maintenance organizations or 4) a not-for-profit which has a history of coordinating acute and long-term care for the elderly or disabled.
- **Eliminates spousal refusal** (\$34.3 million in savings).
- Extends for one year the authorization of the Commissioner to implement a Medicaid Savings Allocation Plan (MSAP) in the event that spending exceeds the Medicaid spending cap. Reductions to local social service district Medicaid administration would be included in the MSAP.
- Exempts Early Intervention payments to providers from actions taken under the MSAP.
- Permits the Commissioner of Health to promulgate rules and regulations relating to grants awarded under the Empire Center for Research and Investigation Program.
- Prohibits Local Governments from claiming for overburden expenses incurred before January 1, 2006.

Phase Three

The Executive has stated that the Department of Health will seek Federal approval of a new Medicaid 1115 Waiver. The Waiver would seek Federal Medicaid funding over a five year period and allocate a portion of the savings to provide support for the continued reform of the State health care system. The Federal Center for Medicare and Medicaid Services (CMS) has experienced significant savings as a result of MRT actions, and seeking this Waiver would be consistent with prior initiatives undertaken by the State in collaboration with CMS, such as

F-SHRP. Previously, under this initiative, CMS provided additional temporary funding to the State in return for a series of changes to the Medicaid program that resulted in savings for both the State and the Federal governments.

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Health Insurance Exchange



Overview

The Executive is proposing to create a New York Health Benefit Exchange as a Public Authority. The proposal seeks to bring New York State into compliance with provisions of the 2010 Federal Patient Protection and Affordable Care Act (PPACA), which requires each State to create a Health Insurance Exchange by January 1, 2014.

Under the federal statute, state run health insurance exchanges will be heavily regulated vehicles offering a menu of health insurance plans to uninsured individuals who are above 133 percent of the Federal poverty level. As an added incentive, individuals with income levels between 133 and 400 percent of the Federal Poverty Level (FPL) will receive a graduated subsidy to purchase insurance. Under PPACA, these individuals will be mandated to purchase health insurance. The failure of uninsured individuals to purchase insurance will result in fines from the Federal Government.

Small businesses with 100 employees or less will also be allowed to purchase insurance for employees through the exchange.

What is Required Under Federal Law

Under federal law, states would be allowed to include any of their mandated coverages with products offered through the Exchange. However, the state will have to subsidize those mandates that offer benefits which exceed the federally defined essential benefit level. New York is at risk of paying significant subsidies because state law currently requires a high level

of mandated benefits in private health insurance plans.

State's that refuse to implement the PPACA's mandate to set up a health insurance exchange risk having the Federal Government create and operate an exchange in that state. This also applies to state created health insurance exchanges that do not implement the federal rules and regulations. If the federal government does create or take over a State's health insurance exchange, the state will still have an opportunity to create and operate their own compliant exchange if it so chooses.

Federal Exchange Planning Funds

The Federal Government is enticing states to implement the PPACA by offering planning and establishment grants that will fully fund the cost of planning and establishing an exchange. The state exchange must be self-sustaining by January 1, 2015. It is important to note however that not establishing a health insurance exchange will not result in losing federal aid to other programs. Federal aid being offered is to promote exchange establishment and does not impact other federal aid.

New York has already received \$39 million in federal funding through various exchange related grants, including more than \$10.7 million in level one establishment funds. In December of 2011, the state applied for an additional \$48.5 million in level one establishment grants to prepare for an exchange. New York State has received more funding than 46 other states and the District of Columbia.

Other States Exchanges

On a national basis, most state policy makers are taking a cautious approach to setting up a state run health insurance exchange. Currently, only 14 states have health insurance exchanges. Since the PPACA was enacted, **only 12 states have created a health insurance exchange** (Massachusetts and Utah created theirs prior to the enactment of PPACA). **The remaining states are waiting for further federal guidance before deciding how to go about creating, and even more importantly, how to address the increasingly ambiguous state costs required to operate a health insurance exchange.**

Pending litigation before the United States Supreme Court is also a factor. States have expressed concerns about acting before the Supreme Court decides the constitutional challenges to the PPACA. Oral arguments will not be heard until the end of March 2012. A decision is not likely until weeks later.

Cost to New York State

Guidance on the essential benefit package has been vague at best and the guidance that has been provided by the Federal Government offers no clear picture regarding which of the New York State mandated coverages, if any, would be included in the essential benefit package; adding to the difficulty in understanding the potential operating cost to the State.

Further more, congressional lawmakers are viewing the act as a component of a deficit reduction package; and the outcome of the 2012 elections could lead to a complete or partial repeal or amendments to the PPACA.

As a whole, states' concerns are not viewed as unreasonable even by top federal officials. Health and Human Services Secretary Kathleen Sebelius recently described New York's approach of studying the potential establishment of an exchange and waiting for more information regarding the Supreme Court case as "appropriate".

Property Tax Cap Experience



According to the Tax Foundation, New York had the fourth highest median property taxes in the United States in 2009. This burden on New York State taxpayers made the passage of the cap legislation a priority.

The following sections outline what the experience has been for localities that have already passed budgets in 2012 under the property tax cap and what the Massachusetts experience has been. Massachusetts success with the property tax cap in terms of tax relief did not happen instantly, however over time the state's property tax burden dramatically declined.

In June 2011 the property tax cap legislation (S.5856) was enacted. The statute is modeled after a Senate Majority bill that was passed in January of 2011. This tax cap shifts the focus from total spending, to the actual property taxes levied to support school district and local government expenses. The property tax cap specifically sets a maximum limit of 2 percent on the amount of taxes (levy) that a school district or local government can raise. The cap is effective for all local governments and school districts starting in their 2012 fiscal years.

The New York State property tax cap limits tax levy¹ growth to the lesser of 2 percent or the annual increase in the consumer price index (CPI), for all localities and school districts other than the "Big 5" school districts (Buffalo, Rochester,

Syracuse, Yonkers and NYC)². The municipal property taxes in Yonkers, Syracuse, Rochester and Buffalo are capped in the local governments section of this law. New York City is not subject to the property tax cap.

The tax levy limit is capped at the lesser of 2 percent or the annual increase in the consumer price index ("CPI"). For all local governments with fiscal years before August 1st the tax cap was set at 2 percent as the inflation rate ranged from 2.01 to 3.16 percent. The levy cap for school districts' fiscal year which begins August 1st will be set in mid-February.

Local Government Property Tax Experience

According to the New York State Office of State Comptroller (OSC) *2011 Annual Report on Local Governments* the property tax cap affects over 10,000 entities directly or indirectly (includes special districts under the control of municipalities governing board). OSC has several responsibilities pertaining to the cap including authority to audit localities compliance with the cap. In addition, OSC has collected information on the localities compliance with the cap. This information includes counties, towns, villages and fire districts with fiscal years beginning in January of 2012. OSC reviewed the budgets of 798 municipalities. Of the 798 municipalities audited the following information was obtained:

- 71 percent (568) adopted budgets within the property tax cap

¹ Levy is the collection of taxes on real estate, typically the total collection of all property taxes is referred to as the levy.

² The "Big 5" school districts are funded through their respective city budgets.

- 22 percent (177) enacted local laws or resolutions to override the cap
- 5 percent (43) exceeded the cap inappropriately
- 1 percent (10) took corrective actions after proposing a tax levy over the cap without taking the required override vote

In some cases local governments passed local laws authorizing them to exceed the cap and then passed budgets that were within the cap. OSC did not determine if any of the 177 entities that enacted local laws to override the cap actually passed budgets within the cap. In many instances the override vote was taken so that if the locality exceeded the cap through as a result of an error they would not be penalized by OSC.³ At this time there is no data on how many localities chose this option.

Massachusetts Experience

Property Tax Impact: States including Massachusetts, California, Illinois, Michigan and New Jersey have enacted property tax caps. Massachusetts has the longest history with an enacted property tax cap. The State was one of the first to pass a major property tax cap in November of 1980 when the state's voters passed "Proposition 2½" by a margin of 59-41 percent. The annual growth in each municipality's tax levy was capped at 2.5 percent. "Proposition 2½" a levy cap and a rate cap, was a reaction to the fact the State was among the highest taxed in the nation. The property tax levy cannot increase by more than 2½ percent annually, plus additions to the tax roll from new construction. Amounts less than the levy limit may be reserved and used in a subsequent year. In addition to the levy cap,

³ These localities were concerned with a provision in the cap legislation requiring a municipality that exceeded the tax levy cap due to a clerical or technical error place the excess tax levy into an interest earning reserve account to be applied to offset the next year's tax levy.

"Proposition 2½" also imposed a rate cap maximum of 2½ percent, which required a number of municipalities to reduce their taxes in the first years of implementation⁴. The Massachusetts tax cap structure also allows a public override vote, as well as a voter override.

The Massachusetts cap has been successful in lowering the property tax burden in Massachusetts. In the first 20 years following the passage of "Proposition 2½", the per capita residential property tax levy dropped 1.6 percent, after adjusting for inflation.⁵ According to the Commission, since the enactment of "Proposition 2½", Massachusetts dropped from 2nd nationally in 1980 to 23rd in 2008 on the measure of state and local tax burden⁶. Over a similar time period property taxes per capita rose 22 percent in Massachusetts, while they rose 62 percent in the country as a whole (all figures based on constant 2007 dollars).⁷ In real dollar terms, that translates into a per-capita property tax increase of \$499 for the Nation as whole, and just \$303 in Massachusetts.⁸ From 1980 to 2007, state and local tax collections per capita grew 58 percent in Massachusetts in real dollars, while growing 70 percent nationally.⁹

In 1980, the combined Massachusetts state-local tax burden was 10.7 percent of resident income, well above the national average and second highest in the country behind New York. As of 2009, the total Massachusetts tax burden was 10 percent and ranked 11th, slightly above the national average of 9.8 percent. New York ranked second (just 0.1 percent below top-

⁴ New York State Commission on Property Tax Relief December 2008.

⁵ Ibid.

⁶ The Tax Foundation State and Local Tax burden 2010.

⁷ Manhattan Institute for Policy Research May 2010.

⁸ Ibid.

⁹ Ibid.

ranking New Jersey), with a tax burden a full 2.3 percentage points above the national average.¹⁰

Local Control: Under the Massachusetts model there are three ways in which a municipality can exceed the annual levy cap: taxes generated by “new growth” in taxable properties, permanent or temporary spending overrides approved by a majority of voters, and voter-approved exclusions for capital outlays or debt, which exist for only a fixed period of time. Voters can also be asked to “under-ride” the levy limit, permanently reducing the dollar amount of the levy subject to the cap.

As of 2005, some 3,600 proposed “Proposition 2½” overrides involving operating funds had made it to the ballot since 1983, with 40 percent being approved. Capital projects were more popular, with two-thirds of some 3,000 debt exclusions passing.¹¹

The evidence from Massachusetts overwhelmingly shows that the Commonwealth has maintained a tradition of strong local control, has expanded its most successful educational programs, and has increased aid to poorer communities over the past 28 years.¹²

Education Funding and Performance: Schools in Massachusetts are funded through municipal budgets, so a single property tax covers all local services.¹³ In terms of national per pupil education spending the relative position of Massachusetts has changed since the period before “Proposition 2½” was enacted. As of 2008, Massachusetts schools spent \$13,454 per pupil—eighth highest of any state but 28 percent below New York’s top-ranking expenditure of

\$17,173, according to U.S. Census data.¹⁴ Comparisons of pupil performance across states on national tests in reading and mathematics given to fourth and eighth grade pupils shows that Massachusetts ranked highest among all states.¹⁵ While other property tax limiting state examples such as California show different outcomes under a tax cap structure the long term positive results in Massachusetts shows that it can work for all of the stakeholders.

One key to the success of “Proposition 2½” was a significant increase in state aid to local governments and schools—which was also a key goal of the proposition’s backers in their effort to build a coalition with municipal and business groups. In 1980, according to U.S. Census Bureau data, state aid accounted for 28 percent of local revenues in Massachusetts, well below the national average at the time. As of 2005, the state share of Massachusetts local revenue was 36 percent, slightly above the national average (and also above New York’s average of 32 percent).¹⁶

¹⁰ Tax Foundation, *Tax Foundation Special Report No. 189*, “State-Local Tax Burdens Fall in 2009 as Tax Revenues Shrink Faster than Income,”

¹¹ Robert Keough, “Back to Taxachusetts?” *The Boston Globe*, November 6, 2005.

¹² Empire Center March 1, 2011. The Case for the Cap.

¹³ Empire Center March 1, 2011. The Case for the Cap.

¹⁴ U.S. Census Bureau, *Public Elementary–Secondary Education Finance Data*, 2008 data, at <http://www.census.gov/govs/school/>.

¹⁵ United States, Department of Education, National Center for Education Statistics. National Assessment of Educational Progress State Comparisons, 2008.

¹⁶ Empire Center March 1, 2011. The Case for the Cap.

MANDATE RELIEF

Medicaid/Preschool Special Education/Early Intervention



Senate Commitment to Property Tax Relief

The Tax Foundation estimated that New York had the fourth highest median property taxes in the United States in 2009. In order to provide local tax relief, in June of 2011 property tax cap legislation (S.5856) was enacted. Savings from this two percent levy cap is provided as the focus shifts from total spending to the actual property taxes levied to support school districts and local government expenses. The property tax cap specifically sets a maximum limit of two percent on the amount of taxes (levy) that a school district or local government can raise. The property tax cap is discussed in the Issues and Focus section - Property Tax Cap Experience.

Executive Mandate Relief Proposals

The SFY 2012-13 Executive Budget includes four mandate relief proposals that the Division of the Budget estimates will save local governments and school districts \$87.4 million in the local fiscal year ending in 2013. These proposals include the takeover of the growth in county Medicaid costs (cap), modification of the Early Intervention and the Preschool Special Education programs and reforming the pension system. The first three are discussed in this section and the pension reform proposal is discussed in a separate Issues in Focus section of this report. The Executive describes the preschool special education proposal as mandate relief, however part of the plan as advanced includes a cost shift to school districts while reducing county costs.

Local Medicaid Growth Cap

The Executive proposes freezing the growth of the local (counties and New York City) contribution for Medicaid over a three year phase-in period. Current law caps the annual growth of local Medicaid contributions at three percent over the previous year, on a non-compounded basis (2005 base year). The Executive proposal would reduce the local contribution of Medicaid growth as follows:

- beginning on April 1, 2013, for the period January 1, 2013 through December 31, 2013, the rate of growth would be capped at 2 percent (compounded) from 3 percent;
- for 2014 calendar year the rate of growth would decrease from 2 percent to 1 percent growth (compounded); and
- beginning January 1, 2015 the State would assume the full cost of any growth of county Medicaid costs, and going forward the county cost would be held at the 2014 level.

Local Savings Associated with the Cap

County savings are estimated to be \$61.1 million in CY 2013, \$187.0 million in CY 2014, and \$369.6 million in CY 2015. Over five years, the cumulative savings to counties is estimated to be \$1.2 billion. This proposal has no fiscal implication to the State in SFY 2012-13. Monroe County would be given the option to opt into the Local Medicaid Cap instead of the sales tax intercept that is currently being used. This provision would be necessary as Monroe County was the only locality that chose to have a portion of their sales tax intercepted by the State as

opposed to paying the capped amount (a provision in the 2005 enacted Medicaid cap).

The State share spending cap for Medicaid may be adjusted to account for increased State spending associated with this proposal.

There is no provision requiring the savings associated with shifting Medicaid costs to the State be used to reduce local taxes.

Preschool Special Education

The Executive is proposing to reduce the State's liability for Preschool costs borne by the counties and to shift certain costs to school districts. Currently, the State pays 59.5 percent of this program and counties contribute the remaining 40.5 percent. The Executive's plan would split the cost of any year over year growth in the county share of the programs approved costs between the State, the school district, and the County.

The State would become responsible for one third of approved costs, the school districts responsible for one third and the county responsible for one third of costs associated with those charges in excess of the base costs. Projected growth in the County share is \$15 million leaving each entity responsible for \$5 million in program costs in SFY 2012-13. As noted above **the additional State financial obligation would provide \$5 million in relief to the counties and part of the proposal includes a cost shift to school districts.**

Early Intervention

The SFY 2012-13 Executive Budget includes a myriad of changes to the Early Intervention Program. One of the most significant changes would be the requirement that third party payees (health insurers, Child Health Plus and Medicaid) cover all claims that would normally be covered under existing policy provisions - all deductibles, co-payments and co-insurance

requirements would apply. Currently, only Medicaid is required to cover Early Intervention services. According to the Division of the Budget it is estimated that 40 percent of Early Intervention participants could be eligible for coverage under their parents existing policies. The State is only reimbursed for three percent of these covered participants.

The Executive proposes further savings to Early Intervention by granting the State more responsibility in contracting with providers, paying providers and other administrative changes. At this time the lag period between the date the county pays the provider for Early Intervention services and the date at which the county is reimbursed by the State can be up to 9 months. The Executive proposes to use the savings that the State realizes from these initiatives to increase the amount the State reimburses counties to cover the current 50 percent State reimbursement provided for under current statute. This would decrease the lag time counties experience receiving reimbursement from the State and would eventually provide additional fiscal relief to counties. The Executive estimates that counties would save \$381,000 in SFY 2012-13, \$7.7 million in SFY 2013-14 and \$29.7 million in SFY 2014-15. The State would begin to realize savings of \$882,000 in SFY 2013-14 and \$3.5 million in SFY 2014-15.

The 2007 Medicaid Cap - County Sales Tax Intercept Option

In 2005, legislation was enacted to cap County Medicaid costs, effective January 1, 2006 at 2005 Medicaid expenditure levels, increasing by un compounded trend factors set in statute beginning at 3.5 percent in 2006, 3.25 percent in 2007 and 3 percent each year thereafter.

Between April 2007 and September 2007, counties also had the one time option of contributing a fixed percentage of their local

sales tax, as opposed to paying the capped amount.

The State collects the sales tax for the localities and then pays the local portion to the counties. If a county had opted into the sales tax intercept, the State would have kept a fixed portion of all future county sales tax receipts. A county then no longer makes any Medicaid payments to the State. Only one county, Monroe, elected this option.

If a county believed its sales tax revenues would grow at a rate equal to or less than the effective growth rate of the capped Medicaid payments (which on a compound annual basis, would be 2.7 percent from 2006 through 2016), it should have considered the sales tax intercept option. For low sales tax growth counties, the future costs to the county of the sales tax intercept is less than the future increase of capped Medicaid payments.

The Empire Center estimated in 2006 that the following 16 counties (besides Monroe) would have benefited from this option based on these counties' historically low sales tax growth rates: Allegany, Broome, Cayuga, Chautauqua, Chemung, Clinton, Erie, Jefferson, Lewis, Madison, Niagara, Onondaga, Oswego, Schenectady, Tioga and Wayne. In addition the following counties may have wanted to consider the sales tax intercept as their sales tax growth was between 2.7 percent and 3.2 percent (close to the 2.7 percent growth in Medicaid): Albany, Delaware, Essex, Livingston, Oneida, Orleans, St. Lawrence and Steuben.¹

Looking back at the past two years of data available, it is difficult to determine if counties should have chosen the intercept option. There are only two years of data available after 2008 which is the first year the counties would have opted in. These two years occur at historically low sales growth rate period resulting from

recent economic conditions. Forty seven counties have growth rates for both years at a rate lower than 2.7 percent, with many counties experiencing sales tax declines. The Empire Center's estimate of the 16 counties that should have opted-in is a more reliable analysis as it considers ten years worth of sales tax data.

¹ Empire Center, February 2006, NY Health Points.

EDUCATION REFORMS



SCHOOL AID INCREASE IS TIED TO TEACHER EVALUATIONS

The Executive Budget Proposal for the 2012-13 State Fiscal year (SFY) links the \$805 million increase in school aid for the 2012-13 school year to districts successfully implementing a teacher and principal evaluation process by January 17, 2013. In order to receive any of the increased school aid as well as Race to the Top and School Improvement grant funding.

School districts will be required to have in place a Teacher and Principal evaluation process approved by the Commissioner of Education. Those districts that do not comply will have the additional state aid recouped by the State Education Department in future state aid payments. In addition, the Executive has indicated that absent a settlement of the *New York State United Teachers v Board of Regents of the Univ. of State of N.Y.* lawsuit, the Governor will amend his budget proposal by including a new principal/teacher evaluation structure. The Executive also intends to create a Commission on Education by Executive Order. The Commission will be comprised of a bipartisan panel including appointments from each House of the Legislature as well as the Executive. The focus of the new Commission will be on school accountability, centered on both management and teaching, as well as improving student achievement and operational efficiency.

CURRENT LAW ON TEACHER AND PRINCIPAL EVALUATIONS

In 2010, the Legislature amended §3012-c of the Education law and established the requirements

for new and more rigorous annual professional performance reviews (APPRs) of classroom teachers and building Principals. The new law was intended to boost New York's chances for receiving Federal Race to the Top funding by setting up a new evaluation system that tied teacher and principal evaluations to growth in student performance. The law took effect in the 2011-12 school year for English and Math teachers in grades 4-8 as well as their building principals followed by all teachers and principals in the 2012-13 school year. One component of the new law requires that school districts reach agreement with local teachers unions on evaluations.

Part of the legislation required the Commissioner to develop regulations in consultation with an advisory committee consisting of representatives of teachers, principals, superintendents of schools, school boards, school district and board of cooperative educational services officials and other interested parties. The regulations were required to take into account any (i) professional teaching standards; (ii) standards for professional contexts; and (iii) standards for a continuum of system support for teachers and principals developed in consultation with the advisory committee. The regulations promulgated pursuant to this section were to be effective no later than July first, two thousand eleven, for implementation in the 2011-12 school year. The State Board of regents adopted the new regulations on May 16, 2011.

Under the newly adopted regulations, which were based on Chapter 103 of the laws of 2010,

each teacher and principal would receive an annual professional performance review (APPR) resulting in a single composite effectiveness score and a rating of "highly effective," "effective," "developing," or "ineffective." The composite score was to be determined as follows:

* 2011-12 Standards Only teachers in grades 4-8 common branch subjects and English language arts, math and the principals of their schools will be subject to the new evaluation standards. These are the grades and subjects in which state assessments have been in place. Forty percent of their evaluation must be based on student achievement measures, including 20 percent based on student growth on the state assessments or other measures of student growth prescribed by the state, and 20 percent based on other rigorous and comparable measures of student achievement that are locally established consistent with standards prescribed in commissioner's regulations, with student performance in the 2010-11 school year used as the baseline. **The remaining 60 percent of the score must be based on other locally selected measures, developed through collective bargaining, consistent with standards prescribed in Commissioner's regulations.**

* 2012-13 Standards The new evaluation standards become applicable to all classroom teachers and building principals. If the Regents have not adopted a value-added growth model by the 2012-13 school year, all teachers become subject to the same requirements applied to common branch and ELA and math teachers in grades 4-8 in 2011-12. As noted above, 40 percent of their evaluation must be based on student achievement measures, including 20 percent based on student growth on the state assessments or other measures of student growth prescribed by the state, and 20 percent based on other rigorous and comparable measures of student achievement that are locally established consistent with Commissioner's regulations, with student performance in the 2011-12 school year

used as the baseline. **The remaining 60% of the score must be based on other locally selected measures, developed through collective bargaining, consistent with the standards prescribed in Commissioner's regulations.**

* Commencing in the first school year for which the Regents have adopted a value-added growth model, which can be as early as 2012-13, the percentage of the evaluation that must be based on state assessment measures of student growth increases from 20 percent to 25 percent.

NYSUT COMMENCES AN ACTION AGAINST THE REGENTS AND THE STATE EDUCATION DEPARTMENT

The promulgation of the final regulations that were adopted on May 16, 2011 led the New York State United Teachers (NYSUT) to file suit against the Board of Regents and State Education Commissioner John King. NYSUT declared the regulations adopted violate state law and exceed the Regents' authority, including a regulation that allows school districts to double the weight of state standardized test scores in teacher evaluations.

The NYSUT lawsuit states that, under section 3012-c(2)(a) of Education Law, a teacher's annual professional performance review (APPR) rating is to be based on a 'single, composite teacher effectiveness score,' of which 40 percent is based on student achievement measures. The law prescribes that "(a) twenty percent is to be based on student growth data on state assessments ... or on comparable measures of student growth," and "twenty percent ... shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms... and are developed locally" through collective bargaining. The Regents' regulations instead allow the same state assessments to be used for both the first 20 percent and second 20 percent of a teacher's evaluation.

In addition, the lawsuit argues that the Regents' regulations also violate Education Law 3012-c, which specifically mandates that several aspects of teachers' annual performance reviews are subject to collective bargaining. Specifically, the suit alleges the Regents' regulations illegally address appeals procedures for teachers rated 'ineffective' for two consecutive years; mandate the proportion of a teachers' evaluation that is to be based on classroom observations; empowers districts to use independent, trained evaluators, and incorrectly asserts that teachers evaluations not be a factor in tenure determinations – all of which the law specifically states should be subject to collective bargaining between school districts and their local teachers unions.

At this time the New York State Teachers Union has won the preliminary round of a law suit disputing the validity of criteria which can be used to evaluate teachers against the State of New York. Their objections to certain measures of teacher performance were found valid by the Albany Supreme Court in August of 2011. The State Education Department appeal of the decision is still pending. Given the uncertainty of the litigation, the Executive's proposal does not dictate the teacher evaluation process which districts will be required to adopt. However, the Executive has stated that should no resolution be found from the courts in the next thirty days a teacher evaluation process will be developed and proposed in the thirty day amendments. Many districts have been unable to reach agreement because of the lack of agreement on the new APPR structure between the unions and the school districts on the local level. The \$805 million in increased aid is in jeopardy as well as the Race to The Top funds and the School Improvement Grants for a total of \$1.6 billion in aid.

Higher Education/ NYSUNY 2020 – Year 2



In June 2011, the Legislature passed and the Governor signed into the law the NY-SUNY 2020 Challenge Grant Program Act (“NY-SUNY 2020”). The legislation established a five-year period, beginning with the 2011-12 academic year, during which the Trustees for the State University of New York (SUNY) and the City University of New York (CUNY) would be authorized to increase undergraduate and graduate tuition. Tuition increases would be designed to support the addition of faculty, reductions in class size and increased course offerings with the goal of improving graduation rates. The legislation provided for a rational tuition plan for all State University of New York campuses, authorizing trustees to increase tuition up to three hundred dollars annually for five years. In addition the SUNY 2020 legislation included the following:

- Authorize the University Centers (i.e., Albany, Binghamton, Buffalo and Stony Brook) to implement a non-resident undergraduate tuition increase of up to 10 percent annually for five years. The implementation of any non-resident undergraduate tuition increase pursuant to this provision would be subject to Gubernatorial and SUNY Chancellor approval.
- The SUNY Board of Trustees would be required to approve and submit a master tuition plan setting forth the proposed tuition rates for resident undergraduate students for the five year period beginning in the 2011-12 academic year and ending in the 2015-16 academic year.
- The State would be required to appropriate and make available General Fund operating support in an amount no less than provided in the prior State Fiscal Year, except that if the Governor declares a fiscal emergency.
- The University Centers (Albany, Buffalo, Binghamton and Stony Brook) would be authorized to offer additional financial assistance to students whose net taxable income is more than \$80,000, subject to Gubernatorial and SUNY Chancellor approval.
- Allow the City University of New York (“CUNY”) to implement a rational tuition plan of up to three hundred dollars annually for five years, ending in the 2015-2016 academic year.
- Establish tuition credits, which would require SUNY and CUNY to apply a credit against the tuition charged to a student. The amount of the applicable tuition credit would be based on the level of a student's tuition assistance program (“TAP”) award, and would be calculated by the Higher Education Services Corporation (“HESC”).
- Authorize the Empire State Development Corporation to issue \$80 million in bonds to implement the capital program under the NY-SUNY 2020 Challenge Grant Program.
- Allow the four SUNY University Centers to utilize up to \$60 million in existing university wide appropriation authority (\$20 million each) for projects approved through the NY-SUNY 2020 Challenge Grant Program, subject to a plan

approved by the Governor and Chancellor.

SUNY 2020 for SFY 2012-13

The SFY 2012-13 budget builds on NYSUNY 2020 by extending the Challenge Grant program to SUNY's other 60 campuses. The Executive achieves this by making up to \$30 million in existing university-wide capital funding available from previously appropriated amounts. The budget also maintains General Fund support for SUNY and CUNY, consistent with the provisions of the June legislation. At this point two of the four University Centers have had their SUNY 2020 Challenge grant Applications approved by the Governor and the Chancellor (Stony Brook and Buffalo).

NEW YORK'S PERSONAL INCOME TAX BURDEN - WHO PAYS?



Personal Income Tax Surcharge

In 2009, a “millionaire’s tax” was imposed in New York by the Executive and the legislature, both controlled by the Democrats, to fund increased spending. This tax increase was imposed upon taxpayers with incomes in excess of \$200,000. The increased tax rates imposed were temporary and included a sunset date of December 31, 2011.

The Tax Law enumerates the tax rates to be imposed at various income levels, however due to the taxpayer’s use of deductions and credits authorized in the Tax Law, the tax rate a taxpayer ultimately pays seldom equates to the tax rates in the table. The actual tax rate a taxpayer pays is known as the taxpayer’s effective tax rate. For example, a married taxpayer with an income of \$50,000 would, according to the tax tables be subject to a tax rate of 6.85 percent. However, with the application of just the standard deduction, the taxpayer’s effective rate is actually 3.3 percent.

As shown in the following table, the personal income tax structure in New York is progressive with and without the higher tax rates imposed under the “millionaire’s tax”.

RESIDENT EFFECTIVE TAX RATE BY INCOME LEVEL		
Adjusted Gross Income	Effective Tax Rate	
	2008 Rate	2011 Rate
Less than \$40,000	2.65 %	2.65 %
\$40,000 - \$150,000	4.25 %	4.25 %
\$150,000 - \$300,000	5.70 %	6.10 %
\$300,000 - \$800,000	6.10 %	7.40 %
\$800,000 - \$1 Million	6.10 %	8.10 %
Over \$1 Million	6.20 %	8.25 %

Resident taxpayers with positive tax liability

Middle Class Tax Cut

Under the Federal personal income tax, tax brackets, personal exemptions, and standard deductions are adjusted annually for the rate of inflation in order to avoid unintended tax increases resulting from cost of living increases in income. New York State does not adjust as the Federal personal income tax does and, as a result, the income levels for which the personal income tax rates apply have not changed since 1996.

In the December 2011 extraordinary legislative session, legislation was enacted that changed the personal income tax structure including: adding new income brackets, reducing income tax rates for the middle class, and inflation indexing the tax brackets and the standard deduction. The table on the following page compares the new tax rates to those under the so-called “millionaire’s tax” implemented in 2009.

**COMPARISON OF PERSONAL INCOME TAX
RATES***

Taxable Income	2011 Tax Rate	Effective Tax Rate	2012 Tax Rate	Effective Tax Rate**
\$0 - \$16,000	4.00%	1.40%	4.00%	1.40%
\$16,000 - \$22,000	4.50%	1.90%	4.50%	1.90%
\$22,000 - \$26,000	5.25%	2.60%	5.25%	2.60%
\$26,000 - \$40,000	5.90%	2.65%	5.90%	2.60%
\$40,000 - \$150,000	6.85%	4.25%	6.45%	4.50%
\$150,000 - \$300,000	6.85%	6.10%	6.65%	5.50%
\$300,000 - \$500,000	7.85%	6.90%	6.85%	6.00%
\$500,000 - \$2 million	8.97%	8.10%	6.85%	6.70%
Over \$2 million	8.97%	8.25%	8.82%	8.15%

*Rates for Married, Joint Taxpayers

Personal Income Tax Burden

The personal income tax burden can be distributed among three categories of New York residents: non-filers, residents with negative or zero tax liability, and residents with tax liability. As shown in the table below, **only fifty-three percent of New York residents pay any New York personal income taxes.**

Non-Filers

Non-filers are those residents who do not file a personal income tax return. The absence of filing may be due either to having income below the statutory threshold for filing an annual tax return or non-compliance with the Tax Law. Of New York residents over the age of 18, over one quarter, 27.4 percent or 4.1 million, are non-filers.

Zero or Negative Tax Liability

Those taxpayers with zero or negative tax liability are those residents who file personal income tax returns but, due to the variety of deductions authorized under the Tax Law, they have no taxable income. Some of the tax credits that a taxpayer is allowed to claim are refundable. As a result, the taxpayer gets a

refund for the amount of the credit even though his income is zero; thus, resulting in a negative tax liability.

An example of a refundable tax credit that would create negative tax liability is the Earned Income Tax Credit (EITC). The Earned Income Tax Credit (EITC), enacted in 1994, targets the State's low income taxpayers. In 2009, approximately 1.54 million resident taxpayers claimed \$958 million in Earned Income Tax Credits. Of these claimants, approximately 88 percent had no taxable income which resulted in approximately \$930 million from the EITC being refunded to these claimants.

Approximately three million New York residents, 19.6 percent, are personal income tax filers with zero or negative tax liability. A majority of these residents have incomes below \$25,000.

Positive Tax Liability

As previously stated, fifty-three percent of New York's residents account for 100 percent of the personal income taxes collected. In addition, the share of total income tax liability increases as these taxpayers' incomes increase. As shown in

the table below, one third of the total personal income tax collections in New York are received from less than one percent of New York residents. Similarly, 77.5 percent of New York's income tax collections are paid by 13.2 percent of New York residents; those residents with incomes over \$100,000.

DISTRIBUTION OF PERSONAL INCOME TAX LIABILITY				
	Adjusted Gross Income	Percentage of Total Liability	New York Residents*	Percentage of Total Residents
Non-Filers	N/A	0.0	4,127,115	27.4
Total Non-Filers			4,127,115	27.4
Zero or Negative Tax Liability	Less than \$25,000	-3.7	2,622,357	17.4
	Less than \$50,000	-0.9	338,193	2.2
Total Residents with Zero or Negative Tax Liability			2,960,550	19.4
With Tax Liability	Less than \$25,000	1.3	1,413,790	9.4
	\$25,000 - \$50,000	7.5	2,081,063	13.8
	\$50,000 - \$100,000	18.3	2,504,235	16.6
	\$100,000 - \$500,000	36.0	1,812,866	12.1
	\$500,000 - \$1 million	8.0	91,639	0.6
	Over \$1 million	33.5	65,527	0.5
Total Residents with Positive Tax Liability			7,969,120	53.0
TOTAL NEW YORK RESIDENTS		100.0	15,056,785	100.0

*Residents over the age of 18

Source: NYS Department of Taxation and Finance, Analysis of Personal Income Tax Returns, U.S. Census Bureau

Pension Reform: Tier VI



Overview

The SFY 2012-13 Executive Budget includes a provision for pension reform (hereafter referred to as Tier VI). **The new Tier VI would only apply to employees hired after April 1, 2012** and include the eight public retirement systems in New York State. Those systems are: the New York State and Local Employees' Retirement System (ERS); the New York State Local Police and Fire Retirement System (PFRS); the New York State Teachers' Retirement System (TRS); the New York City Employees Retirement System (NYCERS); the New York City Police Pension Fund; the New York City Fire Pension Fund; the New York City Teachers' Retirement System (NYCTRS) and the New York City Board of Education Retirement System (BERS).

Tier VI builds on the reforms instituted through Tier V (enacted pursuant to Chapter 504 of the Laws of 2009 and applicable to employees hired on and after January 1, 2010). Tier V applies to only NYSTRS, ERS and PFRS. Major provisions of Tier V included increasing the vesting period from five to ten years; limiting the inclusion of overtime in the calculation of final average salary; elimination of the ten year only contribution period and limits on early retirement.

Tier VI components

Tier VI has two components: a somewhat scaled back defined benefit plan and a new optional, defined contribution plan.

The **defined benefit** component of Tier VI would include the following provisions:

- **Increased minimum age for retirement from 62 to 65**, this would not apply to certain specialty plans such as the New York City Police 20 year retirement option or some plans applicable to members of PFRS;¹
- **Prohibition on early retirements;**
- **The ten year cessation date of basic member contributions would be eliminated for new members of NYCERS, NYCTRS and BERS, Tier V eliminated the cessation date for State employees, Tier VI would require all employees to contribute to the plan for all years in service;**
- **The vesting period is increased from ten to twelve years;**
- **Overtime and other payments are excluded from the final average salary calculation;**
- **Final average salary is calculated based upon the five highest paid years of service as opposed to the three highest paid years;**

¹ *A wide variety of specialty plans exist. Many of these plans authorize retirement and immediate eligibility for benefits after terms of service less than 30 years (as opposed to retiring and having to wait until age 62 to collect). Examples of specialty plans include: the PFRS 20 / 25 year plan, and the NYPD 20 / 22 / 25 year plans.*

- Compensation in excess of the Governor's salary is excluded from the final average salary calculation;
- **The pension multiplier is decreased from two percent to 1.67 percent**, the previously mentioned specialty retirement plans are excluded from this requirement;
- **Graduated employee contribution thresholds**; and
- **Implementation of a variable risk / reward management model** which could increase or decrease the employee's contribution rate.

The graduated employee contribution thresholds would range from four to six percent. Because it applies to multiple retirement systems, the thresholds would vary based on compensation as opposed to civil service grade. For comparative purposes, ERS employees with an annual salary of less than \$32,000 would have a pension contribution rate of four percent; employees with annual salaries in excess of \$32,000 but less than \$63,000 would have a rate of five percent and employees making in excess of \$63,000 would be assessed the highest rate of six percent (see accompanying table).

Employers and Employees Share in Risk / Reward. The purpose of the employee-employer shared risk / reward management model is to share both the cost and savings accruing from pension fund performance. The nature of a defined benefit system is to grant the participant a risk free annuity based upon a wide range of criteria. To accomplish this, the employer invests employee contributions to the pension fund and is directly responsible for the solvency of the fund. This means the employer finances any shortfalls and benefits from any gains. The amount that an employer must pay is actuarially assessed in terms of a percentage of the overall salary base.

The risk / reward model provides that any amounts paid by the employer within a range of four to seven percent do not have a sharing component and are completely the responsibility of the employer. For amounts less than four percent, the employee benefits in the form of a reduction in contribution equal to fifty percent of the amount below four percent. When the employer contribution exceeds seven percent, the employee pays fifty percent of the excess in the form of increased contribution. These percentages apply to members of ERS, for which the average employer contribution rate is 9.4 percent for Tier V employees and 11.6 percent for Tier IV employees. For members of PFRS the range is between ten and 14 percent with a current average employer contribution rate of approximately 15 percent for Tier V and 19 percent for earlier tiers. The New York City range is determined by the Budget Director of the City of New York with approval of the Director of the State Division of the Budget.

New Defined Contribution Plan

The **defined contribution** component of Tier VI is an optional retirement plan modeled after the State University of New York (SUNY) Optional Retirement Program (ORP). The defined contribution option is only available to employees hired after April 1, 2012. New employees would choose between Tier VI defined benefit or defined contribution plans.

The minimum employer contribution is four percent of salary with an optional dollar for dollar employee contribution match up to an additional three percent for a maximum employer contribution of seven percent. Employees can contribute above three percent but will not be entitled to an employer match. The maximum annual employee pre-tax contribution is currently \$16,500.²

² 2012, S.6255, §72 (1).

The employer match is calculated using base compensation, excludes overtime and amounts of base compensation that are in excess of the annual salary paid to the Governor pursuant to section three of article four of the State Constitution.

Eligible employees vest after one year and the plan does not include risk and reward sharing or graduated contribution rates.

The defined contribution plan is portable. If a member separates from public service, their retirement plan follows them just as a 401-k.

Based upon SUNY ORP experience, participation in the defined contribution plan could be as high as 70 percent.

Although the Executive Budget Financial Plan does not reflect an SFY 2012-13 fiscal savings for pension reform, the Executive estimates that Tier Six will save the State and public employers outside of New York City in excess of \$83 billion over the next 30 years.

Pension Fund	Pension Fund Contribution Rate		
	4%	5%	6%
ERS	< \$32,000	\$32,001 to \$63,000	> \$63,000
NYCERS	< \$43,000	\$43,001 to \$85,000	> \$85,000
NYC Police	< \$61,000	\$61,001 to \$122,000	> \$122,000
NYC Fire	< \$63,000	\$63,001 to \$126,000	> \$126,000
TRS	< \$35,000	\$35,001 to 69,000	> \$69,000
NYCTRS	< \$47,000	\$47,001 to \$94,000	> \$94,000
BERS	< \$26,000	\$26,001 to \$52,000	> \$52,000
PFRS	< \$66,000	\$66,001 to \$132,000	> \$132,000

MERGERS AND CONSOLIDATIONS



Spending and Government Efficiency (SAGE) Commission

Executive Order # 4, signed on January 5, 2011, established a new State commission tasked with conducting a comprehensive review of State government including organizational structures, procurement practices and increasing governmental transparency and accountability. The SAGE commission consists of twenty voting members including two private citizens and a member nominated by each legislative conference.

SAGE began operations on January 7, 2011 and is tasked to submit its final recommendations no later than May 1, 2012 with a final report to be presented to the Governor on June 1, 2012. SAGE is then scheduled to sunset.

The SFY 2011-12 Enacted Budget adopted S. 2812-C that implemented many of the first round of the recommendations of SAGE highlighted by the merger of the Department of Insurance, and the Banking Department into the Department of Financial Services. Other consolidations included in the bill merged the Department of Correctional Services and the Division of Parole into the new Department of Corrections and Community Supervision, and the folding of the New York Foundation for Science, Technology and Innovation into the Empire State Development Corporation. The bill also gave statutory guidance to the Executive regarding the conduct of SAGE, and authorized the Executive to present a reorganizational plan for agencies and operations under its direct supervision one time a year. The Legislature cannot amend the Executive plan and must provide an up or down

vote on the plan's recommendations within thirty days of receipt from the Executive.

The SFY 2012-13 Executive Budget contains Article VII legislation to continue implementing the goals of the SAGE commission. However, this bill is not the one-time reorganizational plan that the Legislature is expecting to receive before the end of the 2012 legislative session.

Although the Executive expects that each of these mergers or consolidations will produce operational and managerial savings, none of the proposed actions result in quantified alterations in the State Fiscal Plan presented to the Legislature as part of the SFY 2012-13 Executive Budget. More detail on each of the four parts of the bill can be found in the Summary of Agency Spending and the analysis of the Article VII provisions of the Budget.

The Merge State Entities Budget Bill contains the following provisions:

Merge the Division of the Lottery and the Racing and Wagering Board into a new New York State Gaming Commission

The Executive proposes to create an umbrella regulatory agency covering gambling activities in the State, and provide this new body with broad regulatory and oversight powers. The various activities covered by lottery gaming and horse racing and its related industries would be consolidated into a new Gaming Commission. It is anticipated that any further expansions or alterations of legalized betting and related activities in the State would also come under the purview of the new commission.

Furthermore, the bill would create a New York State Office of Racing Development and Promotion to take over and oversee many of the functions of the New York State Thoroughbred Breeding and Development Fund, the Agriculture and New York State Horse Breeding Development Fund and the New York State Quarter Horse Breeding and Development Fund.

Merger of the Department of Civil Service and the Office of Employee Relations into a new Department of Workforce Management

The Executive is proposing this bill to eliminate, or at least reduce, perceived duplications, and strive to streamline operations, within and between two State workforce related agencies. However, the Civil Service Commission and the Public Employees Relation Board will continue to function as independent entities, but would receive their needed administrative supports from the new department.

Transfer the operation, maintenance and management of the Belleayre Mountain Ski Center from the Department of Environmental Conservation to the Olympic Regional Development Authority

The SAGE commission has reviewed the operations of the Belleayre ski center and has presented a determination that the current management of the site by the Department of Environmental Conservation (DEC) has required State financial support over and above center generated revenues to cover expenses and capital improvements. The Executive proposes this Article VII legislation to transfer operational and managerial control from DEC to the Olympic Regional Development Authority (ORDA). The Executive believes that ORDA's experience in currently running the ski centers at Gore Mountain and Whiteface will result in improved efficiencies and better customer service for Belleayre.

In addition, a new member to the ORDA board would be added who must be a resident of Ulster or Delaware County; all revenues generated from the ski center or any appropriations connected to Belleayre are to be delivered to ORDA; ORDA would be provided with authority to undertake capital projects or repairs at Belleayre; the Court of Claims would be given exclusive jurisdiction to hear any legal action resulting from ORDA's operation of the site; and, provisions are made for the transfer of any connected employees and any remaining existing appropriations from DEC to ORDA.

Elimination or merger of certain boards and commissions

The Executive Budget proposes to eliminate certain boards and commissions that are no longer active or whose missions are seen by the Executive to be largely fulfilled or have become redundant. This bill is designed to implement the recommendations of the SAGE commission regarding the need and function of several hundred advisory boards and councils.

Many of the boards and councils targeted for elimination have not met in many years. The Executive believes that other boards have completed the scope of their original mandates and are no longer serving a significant public function, and that certain boards covering a specific public concern, such as the Ovarian Cancer Information Advisory Board, should be merged with another entity such as the Breast and Cervical Cancer and Education Advisory Committee.

The SAGE commission also has recommended that oversight boards that review agency actions which require significant public input before regulations are adopted are no longer necessary and, thus, the Executive also calls for the elimination of these boards.

Workforce Update



The SFY 2012-13 Executive Budget proposes a net workforce increase of 70 full time equivalent positions (FTE)¹, reflecting a workforce increase from 185,797 to 185,867 positions. The increase is net of 8,566 vacancies which would occur through attrition and 126 layoffs, offset by 8,762 new hires. Most of the new hires are for positions that were vacated through attrition.

Major Workforce Changes

The Office of Children and Family Services (OCFS) anticipates a 256 FTE work force reduction associated with facility closures. Of this amount, the Executive projects that a 123 FTE reduction will occur through layoffs, with the remainder occurring through attrition.

The proposed OCFS staffing level of 3,334 represents a net increase of 191 positions; most of which would be allocated to staff a 24 hour abuse and neglect hotline. The increase of 191 FTE is net of 780 new hires offset by 123 layoffs and 466 vacancies by attrition.

There is a net increase of 120 FTE in the Department of Health. This reflects 421 new hires offset by 301 vacancies through attrition. The increased FTE is associated with the administrative takeover of Medicaid from county governments.

There is a net increase of 41 FTE in the Office of Temporary and Disability Assistance (OTDA) resulting from 59 new hires offset by 12 vacancies through attrition and six vacancies

through mergers. Also, the personal services costs of 936 FTE would shift from Special Revenue Funds to the General Fund to reflect the elimination of various Special Revenue Funds and a reduction in federal funds.

There is also a net increase of 93 FTE in the Department of Agriculture and Markets resulting from 13 new fills offset by 20 vacancies through attrition. Also, the personal services costs for 100 FTE would shift from Special Revenue Funds to the General Fund to reflect the elimination of two Special Revenue Funds.

Collective Bargaining Update

The State settled contracts with the Civil Service Employees Association (CSEA) and the Public Employees Federation (PEF), with the same terms being extended to Management Confidential (MC) employees.

As part of these settlements, the Executive was authorized to increase health insurance premiums paid by both active and retired employees. Active CSEA employees were subject to an increase of between two and six percent. Retirees were assessed a two percent increase. The PEF pay bill has not been submitted to the Legislature yet.

2% Increase	6% Increase
<ul style="list-style-type: none"> Active State employees grade nine and below. All retirees 	<ul style="list-style-type: none"> Active State employees grade ten and above.

¹ Full time equivalents refers to full time annual salaried positions, it does not include part time employees or independent contractors.

The Police Benevolent Association of New York State, Agency Police Services Unit (PBANYS-APSU), formerly represented by Council 82, has reached a tentative agreement with New York State which is expected to be voted upon by the union membership in early 2012.

Active Negotiations. Negotiations are ongoing for United University Professions (UUP). The New York State Correctional Officers and Police Benefit Association (NYSCOPBA) is currently in arbitration.

Unsettled (Open) Labor Contracts.

New York State Police PBA
New York State Police Investigators Unit
Graduate Student Employees Union (GSEU)
Council 82 Supervisors
District Council 37 (DC-37)
Lifeguards (represented by UUP)

CSEA CONTRACT SUMMARY	
Provision	Description
Base Wages	Wage freeze for SFY 2011-12 through 13-14 and two percent increases in 2014-15 and 15-16.
Health Benefits	Redesign of co-pays and deductibles to encourage healthy choices and control drug costs.
Health Contributions	Two percent increase in contributions for Grade 9 employees and a six percent increase for grade ten employee and above.
Health Opt-Out	Allows employees to opt-out of health insurance if they can provide proof of alternative coverage.
Deficit Reduction Leave	Employees take five days of unpaid leave during 11-12 and four days during 12-13 with the 12-13 days being repaid in equal installments at the end of the contract.
Patient Abuse Reforms	State and CSEA create a Select Panel on Patient Abuse to deal with allegations of mistreatment.
Review of Temporary Employees	State and CSEA form a joint committee to investigate the use of temporary employees and contractors.
Layoff Protection	No layoffs during SFY 2011-12 and 12-13.

REGIONAL ECONOMIC DEVELOPMENT COUNCILS



In order to change the process by which economic development funding was distributed throughout the state, the SFY 2011-12 Executive budget introduced the use of regional economic development councils. These regional economic development councils do not have any authority and do not exist in law. The Executive stated that the councils would be established by Executive order. However, an Executive order was never issued.

The SFY 2011-12 budget included \$130 million in capital funding appropriated to the Empire State Development Corporation (ESDC) to be allocated by the regional councils. This funding was re-programmed from other existing economic development capital programs. In addition, \$50 million in capital from the Economic Transformation Program was made available for communities impacted by prison or youth facility closures. Besides this capital funding, \$19.2 million in local assistance grants from ESDC and \$70 million in Excelsior Jobs Program tax credits (\$7 million per year over ten years) were set aside for allocation by the regional councils.

regional economic development councils was to provide “one stop shopping” to New York’s businesses for all of the funding programs offered by the State’s agencies and authorities. This was done through the creation of the Consolidated Funding Application (CFA) through which businesses could submit one application for various funding sources across all of the state’s agencies. As a result, many of the State’s existing funding programs came under the purview of the regional councils.

At the end of July, the Executive announced the formation of ten regional economic development councils, representing the ten regions that were covered by ESDC’s regional offices: the Capital Region, Central New York, the Finger Lakes, Long Island, the Mid-Hudson Region, the Mohawk Valley, New York City, the North Country, the Southern Tier, and Western New York. The membership of these regional councils was appointed by the Governor and was comprised of members of business, academia, and community organizations in each of the regions. The director of each of ESDC’s regional offices served as the executive director of their respective regional council. In addition, the Lieutenant Governor acted as the chair of all the councils.

FUNDING FOR REGIONAL COUNCILS (Millions of \$)	
Funding Source	Amount
Re-programmed Capital	130.0
Economic Transformation	50.0
ESDC Local Assistance Grants	19.2
Excelsior Jobs Tax Credits	70.0
TOTAL FUNDING	269.2

The regional economic development councils were charged with creating strategic plans for economic development within their regions as well as identifying projects to obtain state funding which adhered to their strategic plans. The strategic plans were submitted by November 14 and were reviewed and scored by the Strategic Plan Committee, comprised of five

Concurrent with the allocation of resources through the ESDC, another objective of the

members appointed by the Governor and the Lieutenant Governor. The four regions whose strategic plans scored the highest each received \$40 million of the \$200 million in economic development funding; \$25 million and \$15 million in economic development capital and Excelsior Jobs Program tax credits, respectively. The remaining \$40 million in funding, \$30 million in economic development capital and \$10 million in Excelsior Jobs Program tax credits, were allocated among the remaining six regions.

With the announcement of the regional economic development councils, the Executive identified \$1 billion in funding to support the councils. This funding was comprised of the \$200 million in economic development funding mentioned above as well as \$800 million (shown in the table one) in existing resources which included both state and federal grants as well as state and federal tax credits. Any projects awarded funding from these resources still had to meet the various program guidelines and established competitive criteria.

Every project which sought to access the \$1 billion in funding was required to submit a Consolidated Funding Application (CFA). The CFAs were reviewed and scored by both the respective regional economic development council and the state agency administering the funding program. Funding for any project was awarded on a competitive basis based on this scoring. The State agency's score comprised 80 percent of the applicant's final score and the regional economic development council's score comprised 20 percent.

Each regional economic development council was required to establish scoring standards that took into consideration, among other things, whether the project (1) was identified in or advanced the region's strategic plan; (2) had significant community and stakeholder support; (3) leveraged other public, private and non-profit funding sources; and (4) if funded, could be monitored and evaluated against the council's performance measures.

Table One

Available Resources for Regional Councils (millions of dollars)	
Source	Resources
Empire State Development	
Environmental Investment Program	\$1
Energy Research and Development Authority	
Energy efficiency and renewable energy projects and programs	\$75
Regional Greenhouse Gas Initiatives (RGGI) for cleaner, greener communities	\$100
Homes and Community Renewal	
Community Development Block Grant Program	\$44
Housing grants and tax credit programs	\$125
Department of Transportation	
Transportation Bond Act, Aviation, Rail & Port Funds	\$43
Multi-Modal Funds	\$7
Environmental Facilities Corporation	
Green Innovation Grant Program	\$20
Parks, Recreation and Historic Preservation	
Municipal Parks and Historic Preservation Projects	\$13
Department of State	
Environmental Protection Fund Local Waterfront Revitalization Program	\$11
Department of Labor	
Workforce Investment Act related training and workforce development activities	\$3
NYS Canal Corporation	
Canalway Grant Program	\$2
Private Activity Bond Cap (Industrial Development Bond Cap)	
Allocations of tax-exempt status for bonds that would be available from up to \$350 million of the annual Federal authorization of the 2012 cap	\$350
Total	\$794

In December, the projects that received funding and the four regions that had the winning strategic plans under the regional council process were announced. The four winning regions were: Central New York, Long Island, the North Country, and Western New York. Chart one shows the allocation of total funding awarded by region.

Of the total \$1 billion in funding that was available, \$785 million was awarded from the programs shown in the table two below.

Table 2

Regional Economic Development Council Funding	
Funding Program	Amount (\$ Millions)
Regional Council Capital Fund	130.0
Excelsior Jobs Program (Set Aside)	70.0
Excelsior Jobs Program (2012 Allocation)	62.4
Economic Development Purposes Grants	19.2
Economic Transformation Program (Prison Closures)	30.2
Other Economic Development Capital	30.0
Environment Investment Program	1.0
Energy Efficiency Projects	5.7
Regional Greenhouse Gas Initiatives	5.7
Community Development Block Grant Program	40.1
Housing Grants	54.6
Housing Trust Fund	29.0
Low Income Housing Tax Credits (State and Federal)	27.6
Homes for Working Families Program	6.4
Rail/Port Funds	27.0
Aviation Funds	16.4
Multi-Modal Funds	6.9
Canalway Grants	1.5
Parks, Rec, and Historic Preservation	13.3
Local Waterfront Revitalization Program	11.3
Workforce Investment Act	3.7
Green Innovation Grant Program	20.0
Private Activity Bond Cap Allocation	172.5
Total Funding	784.5

Of the 740 projects awarded funding from the regional economic development councils, only thirty-five, or approximately 4.7 percent, were awarded funding under two or more funding

programs. Most of these awards were from different funding programs within the same agency. Only fourteen, or 1.9 percent, of the projects were granted awards from two or more agencies.

In 2012, the function of the regional councils will be to track the performance of the projects that were awarded funding and to ensure that they meet the parameters of the strategic plans. The SFY 2012-13 Executive budget proposes to provide an additional \$294.2 million in economic development funding to be allocated by the regional economic development councils as follows:

- \$130 million from the Regional Council Capital Fund,
- \$75 million from the New York Works program,
- \$70 million in Excelsior Jobs Program tax credits, and
- \$19.2 million in local assistance grants.

Buffalo Regional Investment

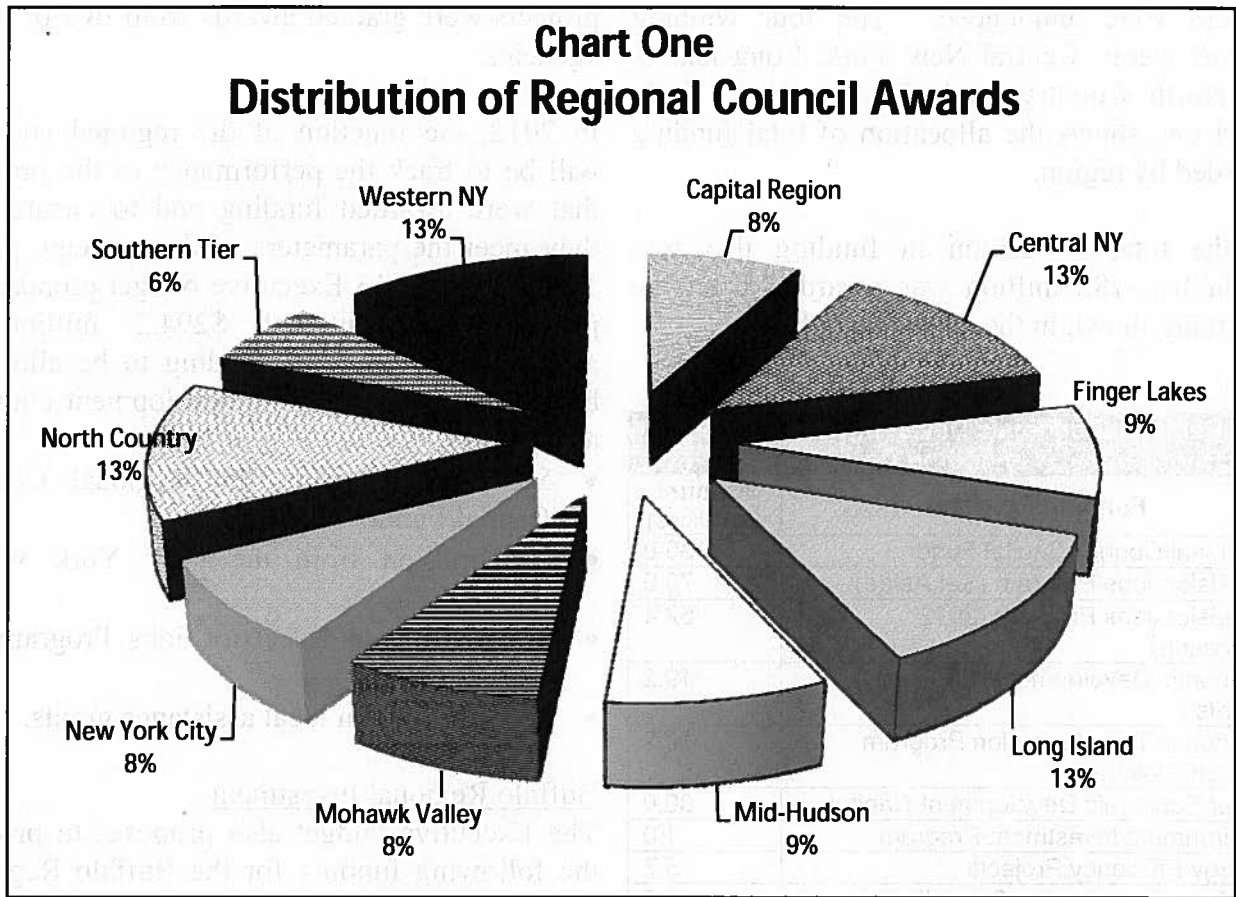
The Executive budget also proposes to provide the following funding for the Buffalo Regional Innovation Cluster:

- \$75 million in capital funding and
- \$25 million (\$2.5 million per year for ten years) in Excelsior Jobs Program tax credits.

The Western New York regional economic development council will be tasked with developing a plan to implement the funding for the Buffalo Regional Innovative Cluster.

Lastly, the Executive plans to have another round of the CFA process for which approximately \$800 million in funding, inclusive of the new SFY 2012-13 proposed economic development funding of \$275 million, would be available. The agencies and programs that would be providing this funding would be similar to the funding programs in SFY 2011-12. It is unclear at this time how this funding would

be distributed by the regional economic development councils to the regions.



STATE INFRASTRUCTURE



New York Works Program Funding (In millions)										
Funds Total	\$723	\$917	\$1,640	\$5,000	\$600	\$783	\$4,000	\$3,000	\$15,023	
Identified New Funds				Existing Funds					Private Funds	
Project	State Funds	Federal Funds	State & Federal Funds Total	Authorities Funds	State Funds	Federal Funds	Authorities Funds	All Private Funds	New and Existing Funds	
Transportation	\$247	\$917	\$1,160	\$0	--	--	--	--	--	
Department of Transportation bridges and highways projects	\$232	\$0	\$232	\$0	--	--	--	--	--	
Bridge repairs on 115 bridges	--	--	\$212	\$0	--	--	--	--	--	
Pavement preservation on 2,000 lane miles of State roads	--	--	\$250	\$0	--	--	--	--	--	
Accelerate Transportation projects throughout State	--	--	\$700	\$0	--	--	--	--	--	
Peace Bridge capacity improvement project	\$15	\$0	\$15	\$0	\$0	\$0	\$0	--	\$15	
Tappan Zee Bridge project (Authority funding of \$5 billion)	--	--	--	\$5,000*	--	\$0	\$0	--	--	
Environment	\$196	\$0	\$196	\$0	--	--	--	--	--	
Department of Conservation water stability projects	\$102	\$0	\$102	\$0	--	\$102	\$0	--	--	
Repairs at State Parks and Olympic Regional Development Authority projects	\$94	\$0	\$94	\$0	--	\$0	\$0	--	--	
Sub-allocation for Olympic Regional Development Authority sites	\$5	\$0	\$5	\$0	--	\$0	\$0	--	--	
Infrastructure Total - Defined as Transportation and Environment Initiatives	\$443	\$917	\$1,360	\$5,000	--	--	--	--	--	
Economic Development	\$280	\$0	\$280	\$0	--	\$0	\$0	--	--	
Regional Council capital funding Buffalo Regional Innovation Cluster activities	\$75	\$0	\$75	\$0	--	\$0	\$0	--	--	
New York Works Economic Development Fund program	\$75	\$0	\$75	\$0	--	\$0	\$0	--	--	
Capital funding for SUNY College of Engineering	\$250	\$0	\$250	\$0	--	\$0	\$0	--	--	
SUNY 2020 Challenge Grant Program	\$110	\$0	\$110	\$0	--	\$0	\$0	--	--	
Funds Total	\$723	\$917	\$1,640	\$5,000	\$600	\$783	\$4,000	\$3,000	\$15,023	

-- no specific information is currently available

*The SFY 2012-13 Executive proposal specifies new Authority funding for the total published cost of \$5 billion for the Tappan Zee, some federal funds could be used to either off-set or add to this total

The SFY 2012-13 Executive Budget proposes a \$15 billion infrastructure and economic development investment program. This section discusses the infrastructure portion of the proposal. The economic development portion is discussed in the Highlights section of the SFY 2012-13 Budget, Economic Development Section.

The total investment for infrastructure and economic development under the New York Works program would be \$1.64 billion. This includes \$917 million of Federal transportation funds and \$723 million in State funds. Of the \$723 million in State funding, \$280 million is earmarked for economic development capital and discussed in the Economic Development Highlights section of this report. The remaining \$443 million is earmarked for infrastructure projects. According to the Executive Budget proposal, this funding along with \$600 million in funding from existing State programs would generate an additional \$12.8 billion of infrastructure investments.

These additional economic development and infrastructure funds would include more than \$760 million in Federal matching funds, \$9 billion from public authorities and local governments, and \$3 billion from private sector investments. The SFY 2012-13 Executive proposal does not include language authorizing public-private partnerships. Although a specific financing proposal has not been released, the SFY 2012-13 Executive Budget supporting documents lists the Tappan Zee Bridge as a possible New York Works project.

The \$443 million of State Funds in the SFY 2012-2013 Executive Budget would be directed toward the following infrastructure (this excludes Economic Development):

- \$232 million for Department of Transportation bridges and highway projects;

- \$102 million for Department of Environmental Conservation flood control and critical dam and coastal erosion projects;
- \$94 million for improvements and repairs at State parks and Olympic Regional Development Authority facilities;
- \$15 million for the Peace Bridge capacity improvement project

Under the Executive's proposal, a New York Works Task Force would be created to develop a master plan to coordinate and accelerate the State's capital investments.

Traditionally, when capital plans are proposed there are specific projects listed and detailed sources of funding outlined. The New York Works proposal included in the Executive Budget does not include this level of detail.

New York Works Infrastructure Investment

Transportation

The 2012-13 Executive Budget includes \$1.16 billion of new funding (\$917 million Federal and \$247 million State funds) under the New York Works program that would accelerate capital investment in infrastructure. Components include over \$212 million for bridge repairs on 115 bridges throughout the State, \$250 million for a pavement preservation program to repair more than 2,000 lane miles of State roads, and over \$700 million to accelerate signature transportation projects. The plan includes utilizing 'Design Build' legislation adopted in the December 2011 Extraordinary Session.

The SFY 2012-13 Executive Budget includes authorization to fund the \$15 million Peace Bridge Plaza project with personal income tax bonds. The Executive proposal funds the \$232 million for bridges and highway projects through the Dedicated Highway and Bridge Trust Fund (DHBTF).

Although the Executive is proposing to increase General Fund transfers to the DHBTF in SFY 2012-13 and in the out-years, a deficit is still projected. Over the next three years the DHBTF is expected to fund the \$232 million in additional New York Works transportation capital. General Fund transfers into the DHBTF from SFY 2011-12 through SFY 2016-17 are expected to increase by \$258 million. In SFY 2016-17 the General Fund transfer to the DHBTF are expected to grow to \$710 million. At this time the DHBTF also supports Department of Motor Vehicles and Department of Transportation expenses. Typically the fund is projected to run an estimated yearly deficit of \$30 million after transfers into the fund including General Fund and Federal funds. The following table includes the DOT capital plan obligations that reflect the Executive proposal.

OBLIGATIONS (\$ millions)	2011-12 Estimated	2012-13 Proposed	YEAR TO YEAR CHANGE
State / Local System Construction Contracts (including Design / Build contracts)	1,807	2,753	946
Administration	99	99	0
State Forces Engineering / Program Mgmt	374	373	-1
Consultant Engineering	169	270	101
Preventive Maintenance	296	303	7
Right of Way	69	96	27
Maintenance Facilities	38	38	0
Special Federal Programs	58	55	-3
Rail Development	57	57	0
Aviation Systems	14	6	-8
Non-MTA Transit	50	40	-10
Canal Infrastructure	16	0	-16
Capital Aid to Locals	403	403	0
	3,450	4,493	1,043

Tappan Zee Bridge

Last fall, the Executive announced a plan to fast track a replacement for the Tappan Zee Bridge,

an integral I-87 artery in the Hudson Valley that crosses the Hudson River to connect Tarrytown and Nyack. The White House granted its approval for an expedited federal environmental review process, under which construction contracts could be started as early as August 2012. The Executive's plan envisions a new basic bridge structure costing about \$5.2 billion, nearly 75 percent less than an earlier \$20 billion proposal which included corridor improvements along a 30-mile section of I-87 in Rockland and Westchester Counties.

The earlier proposal included mass transit (bus, rail) components as part of the new bridge. However, the current design of the new bridge includes provisions to allow for adding a transit service, such as bus rapid transit (BRT), in the future.

A Draft Environmental Impact Statement (DEIS) is scheduled for release in January 2012 and public hearings are planned for February 2012. At this point the exact funding structure for the project is unclear. A financing package will need to be included as part of the federal review process which is scheduled to be completed by early summer. Appropriations for the Tappan Zee are not included in the SFY 2012-13 Executive Budget. If Thruway bonds are issued to fund this project, State appropriations are not necessary, as tolls/other revenues would provide the security to pay the debt service. In addition, if Authority bonds are issued it is not clear what portion would come from existing tolls or if tolls would have to be increased to cover the debt service.

Environment and Parks

The Executive proposes a total of \$196 million in new capital appropriations for the Department of Environmental Conservation (DEC) and the Office of Parks, Recreation and Historic Preservation (Parks).

The proposed \$101.7 million in DEC capital raised through authority bonding would be

CONSTITUTIONAL GAMING AMENDMENT



When the Governor submitted his budget, he also submitted language to amend the constitution to authorize non-Indian casino gaming. Many state governments around the country are looking to expand gaming as a way to generate increased revenues and economic development within their respective state borders. In November of 2011, Massachusetts signed an expanded gaming bill into law and the Florida Legislature is currently pushing through a legalized casino gaming expansion bill in hopes of generating economic development. The states of Pennsylvania and New Jersey already have Class III gaming or full casino gaming and the State of Connecticut allows two Native American tribes to conduct Class III gaming on their tribal land.¹

CURRENT GAMING IN NEW YORK

Within New York's borders, The Seneca Nation of Indians, the Oneida Indian Nation of New York and the St. Regis Mohawk Tribe all operate Class III or Class II gaming facilities on tribal lands pursuant to the Federal Indian Gaming Regulatory Act and subsequent passage of the Tribal State Compact. The Tribal State Compact is an agreement between the State and

Indian Tribes that allows Indians to conduct Class III gaming on tribal lands, sharing 25 percent of the net drop (profit) with the State (Oneida Indian Nation of New York's compact does not share revenue with the state). The State then disburses 25 percent of its Tribal State Compact revenue to local governments that provide services to the Indian gaming casinos. Included in the revenue sharing compact, with the exceptions of the Oneida Indian Nation of New York is a zone of exclusivity that prohibits any State owned or sanctioned Class III casinos to be in operation. The Seneca Nation of Indians zone of exclusivity is any land in New York State that is west of a border from Sodus Point, following route 14 down to the Pennsylvania border. The St. Regis Mohawk Tribes exclusivity zone encompasses Franklin, Clinton, Essex, Hamilton, Jefferson, St. Lawrence and Warren counties. The Seneca Nation of Indians and the St. Regis Mohawk Tribe are currently withholding payments to the state due to an arbitration dispute over the exclusivity provisions in the Tribal State Compact.

1. The Indian Gaming Regulatory Act does not clearly define Class III Gaming. The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming. Class I and II are more clearly limited. Class I games are traditional Indian tribal games, which are not regulated by IGRA; Class II gaming includes bingo, pull tabs punch boards, tip jars, instant bingo and any non-banked card game, in which players play each other rather than the house or a "banker." Class II specifically excludes any game of chance, slot machines or electronic facsimiles of such games, most commonly baccarat, craps, roulette, blackjack.

New York State Native American Gaming	
Description	Class
St. Regis Mohawk Tribe	
Akwesasne Mowhawk Casino (Akwesasne, NY)	Class III
Mowhawk Bingo Palace (Hogansburg, NY)	Class II
Oneida Indian Nation of New York	
Oneida Turning Stone Resort Casino (Verona, NY)	Class III
Seneca Nation of Indians	
Seneca Allegany Casino & Hotel (Salamanca, NY)	Class III
Seneca Buffalo Creek Casino (Buffalo, NY)	Class III
Seneca Gaming & Entertainment (Irving, NY)	Class II
Seneca Gaming & Entertainment (Salamanca, NY)	Class II
Seneca Niagara (Niagara Falls, NY)	Class III

The State also allows all seven harness tracks and one thoroughbred track to operate approximately 12,500 Video Lottery Gaming (VLG) Facilities (Class II gaming) with all state revenues going to regulation of the facilities and education.

EXECUTIVE PROPOSAL

Part of the Governor’s “Economic Blueprint” requires amending the constitution to entice private sector investment throughout the state. In order to effectuate this policy, two separately elected Legislatures must pass a constitutional amendment allowing gaming in the State; the amendment must then be put to a statewide referendum and be ratified by New York State voters. The earliest the amendment could be ratified is November 2013.

The Executive sent up a program bill proposing a one line constitutional amendment to Article I, Section 9 of the State Constitution to authorize state regulated casino gambling. The proposed constitutional amendment would authorize “casino gambling regulated by the state”, commonly referred to as Las Vegas style commercial gaming (slots and table games).

The Executive’s proposed constitutional amendment allowing “casino gaming regulated by the state” is very broad and will require subsequent enabling legislation to specify the regulatory framework.

The Governor’s state regulated casino gambling proposal is already attracting private sector investment from the state’s nine VLG facilities. The operator of the Resorts World Casino at Aqueduct Racetrack in Queens New York. Genting is proposing a \$4 billion investment aimed at further developing Aqueduct Racetrack. The investment includes building the nation’s largest convention center with up to 3,000 hotel rooms. The Aqueduct proposal will be contingent upon enacting the constitutional gaming amendment or by increasing the statutory commission rates Genting receives for operating Video Lottery Terminals. The assumption is that Genting will request a new commission rate that applies to any additional machines above the 5,000 machines currently operating at Aqueduct. The eight other State run racinos are also pledging \$1.3 billion in investment if Las Vegas style commercial gaming is allowed at their facilities.

New York State Video Lottery Gaming Facilities Commission Rates			
Video Lottery Gaming Facility	Total VLTs*	Vendor Commission**	Net Win*** (thousands)
Batavia Downs Casino (Batavia, NY)	580	35%	\$32,309
Finger Lakes Casino and Raceway (Farmington, NY)	1,191	31%	\$98,715
Empire City Casino at Yonkers Raceway (Yonkers, NY)	5,202	30%	\$496,007
Hamburg Casino at the Fairgrounds (Hamburg, NY)	939	41%	\$59,382
Monticello Casino and Raceway (Monticello, NY)	1,110	41%	\$50,633
Resorts World Casino, New York City (Queens, NY)	5,000	38%	\$113,714
Saratoga Gaming and Raceway (Saratoga Springs, NY)	1,778	31%	\$123,752
Tioga Downs Casino (Nichols, NY)	802	39%	\$46,429
Vernon Downs Casino and Hotel (Vernon, NY)	767	35%	\$34,929
TOTAL	17,369	36%	\$1,055,870
* The amount of Video Lottery Terminals (VLTs) at each facility as of the week ending 1-14-12			
** The commission includes payments to the VLG facility operator and the 8.75 percent payment to horse race purses (Resorts World 6.5 percent for SFY 2011-12, 7 percent SFY 2012-13 and 7.5 annually after), 1.25 percent to the breeders fund (Resorts World 1 percent for SFY 2011-12, 1.25 percent SFY 2012-13 and 1.5 annually after). Resorts World Casinos commission also includes 3 percent to NYRA Racing Operations and 4 percent to NYRA Capital			
*** Net Win (Profit) as of the week ending 1-14-12 for SFY 2011-12			

December 2011 Special Session Tax Reform and Job Creation Plan



The Legislature passed a tax reform and job creation plan during the December 2011 extraordinary legislative session. The tax reform plan included:

- A cut to Middle Class tax rates to their lowest level in 58 years, cut tax rates for all taxpayers with taxable income \$40,000 and above,
- Eliminated the Metropolitan Transportation Authority (MTA) payroll tax for over 700,000 taxpayers,
- Cut the tax rate for certain manufacturers in half,
- And enacted other tax cuts,

These actions immediately reduced taxes for over 5 million New Yorkers. And, reduced taxes by nearly \$3 billion from what was paid in

TAX REFORM PROGRAM	TAXPAYERS IMPACTED	TAX SAVINGS (Millions of \$)
Surcharge Reduction	205,299	2,009.80
Tax Cut for Hardworking Families	4,442,677	690.1
PIT Indexing	4,667,371	130
MTA Payroll Tax Reduction	712,037	250
Tax Cut for Manufacturers	5,490	25
Reduction of Top Rate from 8.97% to 8.82%	31,547	178.1
Youth Works Tax Credit	N/A	25
Job Retention Credit	N/A	8.25
TOTAL	10,064,421	3,316.25

*The total number of taxpayers impacted is adjusted to accou

2011. In addition, funding of \$50 million was provided for flood relief, \$40 million for job training and \$1.5 billion was placed in reserve for budget priorities for the SFY 2012-13 Budget.

COMPARISON OF PERSONAL INCOME TAX RATES*

Taxable Income	2011 Tax Rate	2012 Tax Rate
\$0 - \$16,000	4.00%	4.00%
\$16,000 - \$22,000	4.50%	4.50%
\$22,000 - \$26,000	5.25%	5.25%
\$26,000 - \$40,000	5.90%	5.90%
\$40,000 - \$150,000	6.85%	6.45%
\$150,000 - \$300,000	6.85%	6.65%
\$300,000 - \$500,000	7.85%	6.85%
\$500,000 - \$2 million	8.97%	6.85%
Over \$2 million	8.97%	8.82%

*Rates for Married, Joint Taxpayers

Tax Cut for Hard Working Families

The income tax cut lowered the tax rate for Middle Class taxpayers to the lowest level in 58 years. Year over year, no taxpayer will have an increase in taxes. In addition to the rate reductions, indexing of the income tax rates and standard deduction will occur for the first time. Over the next couple of years the plan will stop inflation from automatically increasing someone's tax rate.

MTA Payroll Reduction

The MTA payroll tax was eliminated or reduced for over 400,000 sole proprietors and nearly 290,000 business entities. Sole proprietors with less than \$50,000 income and all other business entities with less than \$1.25 million in payroll will pay no tax. Business entities with less than \$1.75 million in payroll will pay a reduced rate. All public and non-public schools will have their tax eliminated.

Tax Cut for Certain Manufacturers

The corporate tax rate for the entire net income base is slashed from 6.5 percent to 3.25 percent. Additionally, the Alternative Minimum Tax and the fixed dollar minimum tax rates are reduced by 50 percent.

Youth Works Tax Credit

The plan created a \$500 per month tax credit to employers that hire a qualified youth for up to six months with a bonus \$1,000 credit if the youth is employed for a full year. The credit is capped at \$25 million this year. Eligibility depends on age (16 to 24), on household income, and "at risk" factors.

Empire State Jobs Retention Credit

This credit was created to offer help to companies that were located in the areas of the state that were damaged by floods in 2011. For businesses of 100 employees or more that are located in a flood impacted county, the company can receive a credit equal to 6.85 percent of wages of employees retained. Businesses are eligible for the credit for ten years as long as the employees continue to be retained. (\$8 million)

Flood Relief

As part of the Tax Reform and Job Creation Plan, \$50 million in funding was included for flood damage resulting from Hurricane Irene and

Tropical Storm Lee. Empire State Development (ESD) will administer a \$21 million grant program of up to \$20,000 for each small businesses, farms, not-for-profits and multiple dwelling housing that sustained direct flood-related damage from either Hurricane Irene or Tropical Storm Lee. Counties can apply for ESD grants of \$300,000 to \$500,000 for flood mitigation of local creeks, streams and brooks. The allocation of the remaining \$20 million in flood assistance is to be determined in the SFY 2012-13 Budget.

Job Training Programs

An additional \$40 million was included to provide for the partial restoration of the following job training programs for low-income youth and adults:

- **\$2 million - ATTAIN:** Funding supports 37 technology labs across the State in low-income neighborhoods. The computer labs provide individuals with internet access and various training to improve their skills and employability.
- **\$8 million - Child Care Facilitated Enrollment Demonstration Project:** Provides child care subsidies to working families whose income does not exceed 275 percent of the Federal poverty level. The program is currently operated in Brooklyn, Queens, Bronx, the Liberty Zone, Monroe, Oneida, Rensselaer, Schenectady, Saratoga and Albany counties.
- **\$2.5 million - Career Pathways:** Funding supports 28 Career Pathway sites across the State, of which 19 are located in New York City. The program provides workforce development services that link education and occupational training to low-income individuals between the ages of 18 and 24.
- **\$2.5 million - Displaced Homemakers:** Funding supports 22 Displaced Homemakers centers across the State which provide educational and career services to low-income individuals who have experienced a loss of income due to death, divorce, or

separation and who are not eligible to receive public assistance.

- **\$25 million - Summer Youth Employment:** Provides low-income youth between the ages of 14 and 20 with summer employment and training opportunities across the State.

Funding Reserve

As part of the Tax Reform and Job Creation Plan, the tax rate on incomes over \$1 million, \$1.5 million and \$2 million for singles, head-of-households and married filers respectively, was lowered from 8.97 percent to 8.82 percent for an additional three year period. This year over year tax reduction replaced the scheduled rate reduction to 6.85 percent. The revenue generated was used to finance the middle class and MTA tax cuts, flood relief and youth jobs program and also to earmark \$1.5 billion for a reserve to close future budget gaps.

BUDGET APPROPRIATION LANGUAGE



Budget Process Overview

Article VII of the New York Constitution provides the framework for the Budget Process. It lays out the duties of the Executive and the Legislature. The Governor submits a proposed executive budget that consists of two types of bills: appropriation bills and “article VII” bills. Appropriation bills include spending allocations for State Operations, Local Assistance and Capital Projects. Article VII bills generally include the proposed legislation necessary to implement the specific spending in the appropriation bills.

Interchange Language

An item of appropriation generally includes a specific purpose and an associated dollar amount. For example, two items of appropriation for “personal service” within Children and Family Services could be presented as follows.

Children and Family Services
Personal Service

Personal Service – Regular	\$30,000,000
Overtime Compensation	\$50,000

An interchange is where the value of an appropriation, or the value of an item within an appropriation, is transferred, and applied to another appropriation or item. This occurs after the original appropriation has become law. State Finance Law, Section 51 constrains interchangeability of appropriations. In particular, interchange transfers between agencies or departments are generally not

allowed. Those allowed are subject to specific statutory limits.

To exceed these constraints, specific language must be included in the appropriation itself, or in an act passed by the Legislature. In the SFY 2012-13 Executive Budget, the following language recurs over a hundred times:

“Notwithstanding any provision of law to the contrary, ... for the purpose of ... consolidation ... to improve the efficiency and effectiveness of government... the amounts appropriated herein may be

- (i) interchanged without limit,*
- (ii) transferred ... to any other state operations appropriations of any state department, agency, or public authority”*

The intent articulated by the Executive for including this language is to facilitate the consolidation of government, and to improve the efficiency and effectiveness of state operations. This language authorizes the interchange limits of State Finance Law, Section 51 to be disregarded for each item where it appears. The practical effect is that an appropriation could be interchanged and then applied in a manner inconsistent with Legislative intent.

Continuing the earlier example, if there were an appropriation of \$30 million for Children and Family Services for personal service that contained this interchange language, the Executive could transfer \$25 Million of the appropriation to the Department of Transportation without legislative approval, provided the purpose of the transfer is related to

improving the efficiency of, and/or consolidating government.

Statutory Changes within Appropriation Bills

The SFY 2012-13 proposed budget includes language within appropriation bills that modify the effect of existing laws previously approved by the Legislature. The Court of Appeals considered this issue in its 2004 Pataki v. N.Y.S. Assembly decision.¹ The practical effect of this decision can be illustrated by the following hypothetical example. The Executive attaches statutory language to the \$30 billion Medicaid program appropriation to limit funds from being used for a specific medical procedure. In this scenario, according to the view of the Court, the Legislature has only three options:

1. Accept appropriation and language limiting its use;
2. Strike out the entire \$30 billion Medicaid appropriation, thereby shutting down the Medicaid program; or
3. Reduce the dollar amount of the appropriation, however the language remains objectionable.

¹ The Court acknowledged limits exist as to what is properly included in an appropriation bill. Until the Court revisits this constitutional issue, some uncertainty will remain.

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SECTION THREE

SUMMARY OF ARTICLE VII LEGISLATION



**SCHEDULE FOR LEGISLATIVE REVIEW
OF THE 2012-13 EXECUTIVE BUDGET PROPOSAL**

DATE	LOCATION	TIME	TOPIC
January 23	Hearing Room B	10:00 AM	Elementary & Secondary Education
January 24	Hearing Room B	9:30 AM	Local Government/General Government
January 25	Hearing Room B	10:00 AM	Workforce Issues
January 26	Hearing Room B	10:00 AM	Transportation
January 30	Hearing Room B	9:30 AM	Public Protection
January 31	Hearing Room B	9:30 AM	Economic Development
February 1	Hearing Room B	9:30 AM	Higher Education
February 6	Hearing Room B	10:00 AM	Taxes
February 7	Hearing Room B	9:30 AM	Environmental Conservation
February 8	Hearing Room B	10:00 AM	Health / Medicaid
February 13	Hearing Room B	9:30 AM	Human Services
February 13	Hearing Room B	12:00 PM	Housing
February 14	Hearing Room B	9:30 AM	Mental Hygiene

Schedule as of January 23, 2012



SUMMARY OF THE IMPLEMENTING BUDGET BILLS

This appendix contains a summary of the implementing legislation submitted with, and required to enact the SFY 2012-2013 Executive Budget. The Governor's presentation consists of eleven total bills, six appropriation and five article VII bills. While this section provides a brief summary and highlights the fiscal impact for each of the five article VII bills, any questions or additional information on any of the provisions contained in these bills should be addressed to the appropriate Senate Finance Committee analyst or through reference to the Executive's more complete Memorandum in Support which provides additional detail.

2012-2013 EXECUTIVE BUDGET BILLS

Appropriation Bills

- S.6250/A.9050 State Operations
- S.6251/A.9051 Legislative & Judiciary
- S.6252/A.9052 State Debt Service
- S.6253/A.9053 Aid to Localities
- S.6254/A.9054 Capital Projects

Article VII Bills

- S.6255/A.9055 Public Protection & General Government
- S.6256/A.9056 Health & Mental Hygiene
- S.6257/A.9057 Education, Labor & Family Assistance
- S.6258/A.9058 Transportation, Economic Development & Environmental Conservation
- S.6259/A.9059 Revenue
- S.6260/A.9060 Merge State Entities

**2012-13 NEW YORK STATE EXECUTIVE BUDGET
PUBLIC PROTECTION & GENERAL GOVERNMENT
ARTICLE VII LEGISLATION
[S.6255/A.9055]**

PART A – Expand the list of offenses for which DNA samples will be collected and entered into the State DNA Databank.

- Requires that every individual convicted of a felony in any chapter of the laws of the state or a misdemeanor as defined in the Penal Law provide a DNA sample.
- Allows for collection of the DNA sample depending upon whether the offender is sentenced to incarceration, probation, or neither incarceration or probation.
- Expands the existing DNA databank, which was first created in 1994. Currently, anyone convicted of and sentenced for a Penal Law felony or one of 35 specified misdemeanor offenses must provide a DNA sample for inclusion in the Databank.

PART B – Repeal the requirement for a pistol and revolver ballistic identification database, known as CoBIS and replaced with a nationally recognized alternative.

- Eliminates Combined Ballistic Identification System (CoBIS), which has been required since 2001 to be maintained by the State Police as a pistol and revolver ballistic identification database. Very few matches have been made to this database, and no crimes have been solved attributed to a match on CoBIS.
- Allows for savings and/or reallocations of funds for upgrading equipment and systems for better utilization of the National Integrated Ballistics Information Network (NIBIN) which allows firearm technicians to compare bullet and cartridge markings recovered from a crime scene with similar evidence recovered from crimes scenes in other jurisdictions.

PART C – Require that the trial date for a traffic violation must be a date subsequent to the date of an initial appearance.

- Clarifies that a trial date must be set after the date of the defendant's initial appearance on a Uniform Traffic Ticket. Discontinues the current practice of subpoenaing the police officer for a trial at the initial appearance since conducting a trial at such time is not feasible, yet significant costs are associated with the officer's usually after-hours appearance.

PART D – Provide more flexible probation sentencing options for the courts.

- Changes the sentencing requirements for probation to give sentencing judges discretion to sentence the defendant to at least three years but not more than five years for most felonies, and two or three years for class A or unclassified misdemeanors. Sentences must be in whole years. Currently sentences of probation are five years for most felony convictions, three years for class A or unclassified misdemeanors, and one year for a class B misdemeanor (other than for public lewdness).
- Requires that a probation violator must be brought “forthwith” before the sentencing court, and if such court is unavailable, allows for the violator to be held in incarceration up to forty-eight hours until the violator can be brought before the sentencing court.

PART E – Expand the authority of State judges to order the forfeiture of proceeds in a sentencing.

- Creates an asset forfeiture procedure more similar to the Federal statute that would authorize judges to order asset forfeiture upon sentencing on the criminal action. Such forfeiture would be applicable in both felony and misdemeanor convictions, and seizure of assets would be available during the criminal prosecution to avoid dissipation of assets by the defendant. Currently, a separate civil action must be brought and maintained subsequent to the conviction of a felony.
- Distributes the proceeds of such forfeiture as follows: thirty-five percent to the District Attorney, forty percent to the law enforcement agency, and twenty-five percent to the Office of Alcoholism and Substance Abuse Services (OASAS). OASAS will be provided with the same amount as they are currently receiving.

PART F – Continue provisions relating to the disposition of certain monies recovered by county district attorneys.

- Extends for one year a provision which allows District Attorneys in New York City to retain a portion of settlement recoveries they make before the filing of an accusatory instrument against a defendant. These recoveries provide additional resources used to pursue investigations, and the statutory formula provides them an amount based upon the total dollar amount of recoveries in the State Fiscal Year. The current expiration date is March 31, 2012.

PART G – Improve emergency response and disaster preparedness.

- Modifies current law by making changes to the Intrastate Mutual Aid Plan (IMAP) as it relates to mutual aid services.
- Modifies the composition of the Disaster Preparedness Commission (DPC) to correctly reflect current agencies names or successor organizations and establishes the State Office of Emergency Management (SEMO) as the operational arm of the DPC which will exercise the authority given to DPC on behalf of the Executive and the chair of the DPC. Eliminates the requirement that the Executive seek the advice of DPC before temporarily suspending statutes, local law or ordinances during the period of a disaster.
- Creates a new definition for the “incident management team” which will consist of a state-certified team of trained personnel that will manage major incidents occurring within the state. The incident management team shall have the authority to act on behalf of any temporary organization created by DPC during any disaster. Provides that members of a state or local incident management team called to duty and deployed by DPC are temporary “employees” of the state with the same privileges and immunities. However, the proposal provides that the state is not liable for the expenses incurred by incident management team for the use of third party resources.
- Provides the local emergency management director with the same powers as the local executive to request and accept assistance and deploy the resources of his or her jurisdiction under IMAP. Clarifies the responsibilities and liabilities of the requesting and assisting localities as it pertains to the salaries and expenses of employees, and the ownership of equipment or resources.

PART H – Establish a Tier VI retirement benefit for new employees of the State and local governments.

- Creates a new Tier VI defined benefit pension program and an optional defined contribution plan similar to a 401K. The new programs would apply to employees who enter the state service on or after April 1, 2012. At the time of employment the employee may choose between Tier VI or the defined contribution plan and such choice would be non-revocable.
- **Tier VI**
 - Retirement at age 65 with no early retirement;
 - 12 year vesting;
 - Five year final average salary (FAS) with a four year look back “anti-spiking provision” to prevent padding;
 - Excludes from the calculation of FAS overtime, discretionary payments, sick leave credit and salary in excess of the Executive’s salary;

- Decreases the pension multiplier two percent to 1.67 percent, which may dramatically reduce FAS calculations;
- Employee contribution range from four to six percent depending on salary and the plan which the employee participates in;
- Employee contributions increase or decrease depending on employers contribution level, but will only be one half of the employer's contribution over seven percent, and will decrease by one half the amount of an employer's contribution below four percent;
- Applies to all plans in the state and New York City.

- **Defined Contribution Plan**

- Minimum employer contribution of four percent with an additional three percent match;
- Limits employer contribution to seven percent;
- Allows for portability;
- Wage calculation will not include overtime, salary in excess of the Executive's salary or any other discretionary payments;
- No contributions shall be made to the plan until an employee reaches one year of service at which point the employer will make a one-time contribution of four percent of the employee's salary.

PART I – Expand 2010 Medicare Part B reform to include employees and retirees of public authorities.

- Requires employees and retired employees of public authorities, public benefit corporations and other quasi-governmental State agencies to pay their Medicare Part B premium as part of their health plan rate. In 2010 the same was required of State employees and retirees.

PART J – Lapse aged state and local reappropriations.

- Amends the State Finance Law to provide that all reappropriations, with the exception of reappropriations for capital projects funds and federal funds, lapse five years after the date upon which the original appropriation would lapse. This amendment was proposed in the Executive budget in SFY 2011-2012 and was not included in the final enacted budget. If enacted, this would be effective on April 1, 2013.

PART K – Modify the schedule of payments in lieu of taxes (PILOTs) made to the City of Albany.

- Modifies the current statutory payment structure of PILOT payments made by the State of New York to the City of Albany. The PILOT payment for the 2012-2013 fiscal year would be increased from \$15,000,000 to \$22,850,000. Additionally, the final statutory PILOT payment for the 2032-2033 fiscal year would be decreased from \$15,000,000 to \$7,150,000.

PART L – Modify outdated Statewide procurement procedures and printing practices.

- Permits state agencies to purchase commodities using “best value” when the Commissioner of Office of General Services (OGS) determines that a specific commodities procurement would result in lower cost to the State. Current law requires commodities contracts to be awarded on the basis of lowest price to a responsive and responsible bidder. Modifies the definition of “best value” to permit agencies to add a quantitative factor for small businesses or certified minority or women-owned businesses to be used in the evaluation of best value bids.
- Permits state agencies to use lowest price for the procurement of services when the Commissioner determines such procurement would be less costly to the State. Current law requires the State to use best value when purchasing services.
- Amends several sections of the State Finance Law intended to increase centralized contracting. These amendments include:
 - Expanding the use of State centralized contracts by allowing additional piggybacking rights to local governments, non-profit organizations and other authorized users;
 - Authorizing the Commissioner, in his or her discretion or at the request of an agency, to use a centralized contract to procure services;
 - Establishes that centralized service contracts are accorded second priority. Such priority is similar to current priority rules used for commodities purchases;
 - Permitting the Commissioner of OGS to designate any agency contract a centralized contract;
 - Requiring state agencies to use centralized service contracting if the service is available in form, function and utility consistent with the agency’s needs.
 - Exempting centralized contracts let by OGS from the Office of the State Comptroller (OSC) pre-audit prior to contract finalization.
- Expands the Commissioner’s investigatory authority to acquire from a state agency information he or she deems necessary to exercise his or her powers and duties related to state procurement.

- Permits State agencies to require electronic bidding for commodity and service contracts.
- Increases from \$15,000 to \$50,000, the dollar amount of procurement at and above which public notice is required.
- Expands OGS powers to permit it to negotiate centralized contracting for printing, authorizes printing contracts to be awarded based on best value or lowest price, and sets competitive bidding thresholds for printing at and above \$85,000 for OGS and \$50,000 for other agencies.
- Expands the definition of a commodity in the Education Law and State Finance Law to include electronic information resources.

PART M – Make various reforms to the Civil Service Law to provide increased flexibility with respect to hiring and transferring State employees.

- Permits the Department of Civil Service to authorize the appointment of certain highly qualified individuals to state services. Modifies existing law to provide state agencies more flexibility in the hiring and transferring of employees. More specifically, it does the following:
 - Reinstates section 66 of the Civil Service Law and modifies it to now allow appointment without examination to professional, scientific, technical or other positions requiring special expertise or qualifications. The maximum number of appointments shall not exceed 500 at any one time. This law, which expired in 2011, allowed for the appointment, without examination, of up to 500 highly qualified information technology personnel for a limited term of five years.
 - Creates a new open promotion examination to fill vacancies in professional, technical, scientific or administrative positions. Examination is available to persons eligible to take an open competitive examination or a promotion examination however, the person may only take one exam. Each list will be certified and the appointing officer may use either list to fill a vacancy.
 - Allows, where it is in the best interest of the state, civil service to certify an interdepartmental promotion eligible list for filling vacancies without preference to departmental promotion eligible list. Further allows civil service to designate certain titles which non-competitive or labor class employees are eligible to take promotion examinations. Permits non-competitive employees to transfer to competitive class positions where the employee possesses credentials, licenses or certifications which are similar to the competitive class position.

PART N – Authorize transfers, temporary loans, repeal of the Community Projects Fund and amendments to miscellaneous capital/debt provisions, including bond caps.

- Authorizes temporary loans and the deposits of certain revenues to specific funds and accounts, as well as transfers and deposits of funds to and across various accounts by the Comptroller.
- Extends various provisions of Chapter 56 of the Laws of 2011 in relation to capital projects and certain certifications.
- Authorizes increase to various debt provisions and modifies various bond authorizations necessary to implement the budget. Notably, it would:
 - Authorize a new \$15 million bond cap for financing Peace Bridge projects.
 - Increase the bond cap for financing certain economic development projects from \$180.6 million to \$715.6 million.
 - Make permanent the Comptroller’s authority to make payments to the school tax relief fund, rather than requiring a sunset each year.
 - Authorize a transfer of \$65 million from the New York Power Authority (NYPA) to the General Fund.
 - Authorize the Comptroller to transfer any unencumbered Special Revenue Fund to the General Fund, up to \$500 million, unless such Special Revenue Fund is tied to a Federal matching requirement.
 - Repeal the Community Projects Fund.

PART O – Rename the Office for Technology as the Office of Information Technology Services.

- Changes the name of the Office for Technology to the Office for Information Technology Services, reflecting the agency’s expanded duties to provide services, such as networking and data centers, to State agencies, as opposed to serving a more advisory role.

PART P – Accelerate aid and incentives for municipalities funding for the City of Rochester.

- Accelerates when AIM payments are to be made to the City of Rochester by requiring up to \$28,000,000 be paid by the State on or before June 30, 2013 and for all state fiscal years thereafter. Current law requires the state to make AIM payments in October, December and March of each fiscal year.

PART Q – Pay the MTA for costs associated with promoting access to employment through reimbursements for E-ZPass tolls paid by residents of Broad Channel and Rockaway Peninsula that travel over the Cross Bay Veterans Memorial Bridge.

- Reimburses the Metropolitan Transportation Authority (MTA) for costs associated with establishing and implementing a rebate program for E-ZPass tolls paid by the residents of Broad Channel and Rockaway Peninsula when traveling over the Cross Bay Veterans Memorial Bridge. Residents living within the following zip codes would be included: 11691, 11692, 11693, 11694, 11695, and 11697.
- Attempts to promote access to employment for residents traveling back and forth between the affected areas. Currently, no specifics have been provided as to cost, or the number of residents impacted.

2012-13 NEW YORK STATE EXECUTIVE BUDGET
HEALTH & MENTAL HYGIENE
ARTICLE VII LEGISLATION
[S.6256/A.9056]

PART A - Reform the Early Intervention Program.

- Proposes a number of programmatic changes to the Early Intervention (EI) program that will impact how services are coordinated and paid for:
 - Eliminates the counties' current responsibility for paying provider claims and shifting that responsibility to a statewide fiscal intermediary;
 - Requires providers to contract with the Department of Health (DOH) rather than municipalities;
 - Requires EI evaluators and service providers to belong to the provider networks of insurers;
 - Authorizes DOH to increase the state aid percentage to counties for EI services (currently 50 percent);
 - Requires coverage of EI services by the Child Health Plus program;
 - Requires service coordinators to notify the Office of People with Developmental Disabilities (OPWDD) if a child is potentially eligible for OPWDD services;
 - Requires children that have insurance to select a DOH approved provider within the insurer's network (allows certain exceptions);
 - Requires DOH approved providers and evaluations to maintain contracts with a sufficient number of insurers;
 - Authorizes the Department to contract with a fiscal agent to pay EI claims; and
 - Requires insurers or other third party payors to ensure that there is an adequate number of network EI providers in relation to enrollment in the program.

PART B – Establish requirements for continued State funding to Roswell Park Cancer Institute.

- Requires Roswell Park Cancer Institute (RPCI), as a condition of receiving ongoing State funds, to take the necessary steps to become operationally and fiscally independent from the DOH by March 31, 2014. These actions include entering into cooperative agreements with health care, academic or other entities located within the same geographical region as RPCI.
- Authorizes the Commissioner of Health to establish benchmarks, monitor progress and, if necessary, intercede to ensure compliance with established goals and timelines.

PART C – Implement Electronic Death Registration System to modernize the process of issuing burial or funeral permits outside of City of New York.

- Establishes an Electronic Death Registration System (EDRS) for issuing burial or funeral permits outside of New York City, which already operates its own EDRS. To help fund the establishment of the EDRS, funeral directors and undertakers would make a \$20 “contribution” to the DOH for each permit issued.

PART D – Make statutory changes necessary to implement Medicaid Redesign Team recommendations, including those advanced through Phase Two workgroups and technical refinements to previous recommendations.

- Proposes statutory changes necessary to implement proposals made by the Medicaid Redesign Team.
- Proposes reinvesting General Fund savings derived from inpatient hospital or nursing home bed decertification and/or facility closure in a newly established supportive housing development reinvestment program.
- Amends the law to allow assisted living programs to contract with more than one long-term home health care program, certified home health agency and/or other qualified provider.
- Repeals social service law requiring establishment of assisted living program beds following the decertification of an equal or great number of nursing home beds.
- Extends Medicaid coverage to include podiatry services for diabetics; lactation counseling services for pregnant women, harm reduction counseling and services (such as syringe access) to reduce or minimize the adverse health consequences associated with drug use, and Hepatitis C wrap-around to promote care coordination and integration – a change which is pending federal approval.
- Expands enteral formula therapy to persons with a diagnosis of HIV infection, AIDS or HIV-related illness, subject to standards established by the Commissioner.
- Requires chains of five or more pharmacies to provide translation or other language services to individuals with limited English proficiency.
- Requires coordination of service delivery by community based organizations among providers and plans using health information technology and uniform screening criteria for perinatal risk.
- Authorizes the Commissioner to contract with one or more entities to engage in education, outreach services, and facilitated enrollment activities for aged, blind and

disabled persons who may be eligible for services. Allows the Commissioner to utilize a “mini-bid” process whereby the contract may be let without the traditional competitive bid or request for proposals process.

- Proposes a new Primary Care Service Corps Practitioner Loan Repayment Program. Primary care service corps practitioners would include physician assistants, nurse practitioners, nurse midwife, general or pedodontic dentist, dental hygienist, clinical psychologist, licensed clinical social worker, psychiatric nurse practitioner, licensed marriage and family therapist, or a licensed mental health counselor.
- Requires 120 days notice to the public health and health planning council if a not-for-profit hospital corporation wants to make a change in the board of directors.
- Authorizes the Commissioner temporarily to appoint members of the board and suspend or limit an operating certificate of a not-for-profit corporation without a hearing under certain conditions including if the facility has repeated violations of public health law; an indictment on felony charges of any member of the hospital board of directors; or notice from the Attorney General of an action to remove a member of the board. Requires that board member subject to indictment or action for removal shall immediately and completely cease and withdraw from participation in the management, governance or operation of the hospital.
- Authorizes the Commissioner to appoint a temporary operator of a facility in addition to making any other remedies provided by law, in the event severe management failures seriously endanger the life, health or safety of residents or patients. The temporary operator would serve for 180 days and be entitled to a reasonable fee, full access to all accounts and records, and would be able to incur expenses on behalf of the facility. The temporary operator may be reappointed for two additional 90 day periods, and for subsequent 90 day appointments as deemed necessary by the Commissioner subject to notice and a hearing.
- Extends the authorization of the Dormitory Authority of the State of New York to establish one or more subsidiaries for the purpose of limiting the potential liability of the Authority for three years until July 1, 2015.
- Allows the State to invest monies in the Medical Indemnity Fund account that are not required for immediate use, and places certain limitations on those investments.
- Eliminates the requirement that hospitals submit a plan for compliance regarding the working conditions of and limits on working hours for certain members of a hospital’s medical staff and postgraduate trainees.
- Eliminates the requirement that providers issue written notice to the Department of Health (DOH) for repair or maintenance projects under \$6 million.

- Authorizes DOH to establish certain disproportionate share payments to Mental Health general hospitals based on uninsured and Medicaid losses consistent with the Center for Medicare and Medicaid Services guidelines.
- Replaces references to the Elderly Pharmaceutical Insurance Coverage (EPIC) panel with “Commissioner” to reflect amendments in the SFY 2011-12 budget that eliminated the panel. Includes language specifying the income levels that benefit from premium assistance left out of the enacted SFY 2011-12 budget.
- Authorizes DOH to promulgate regulations for bed hold payments, and eliminates the requirement that in order for a nursing home to receive bed hold payments at least 50 percent of its eligible residents must be enrolled in a Medicare Advantage plan.
- Amends allocations for home care workforce recruitment and retention funds by adding “up to” amounts specified.
- Eliminates “prescriber prevails” that allows DOH to deny prior authorization when the existing limit of four opioids prescribed within 30 days is exceeded if, upon reasonable opportunity for the prescriber to present a justification, DOH determines the prescription is not medically necessary.
- Expands beyond New York City the provisions of law allowing local school districts and social services districts to share in the savings of the State as a result of using certified public expenditures.
- Allows mandatory generic requirements for therapeutic drugs subject to the Preferred Drug Program.
- Eliminates requirements to post certain information on the DOH website related to meetings of the Pharmacy and Therapeutic Committee. The proposed eliminations include a summary of the deliberation of the committee, a summary of positions of those making public comments at the meeting of the committee, the response of the committee to those comments, if any, and the findings and recommendations of the committee.
- Limits the Medicaid co-insurance for Medicare-covered Part B services when the total co-insurance amount would exceed the amount Medicaid would have paid using a Medicaid rate for all qualified individuals.
- Extends funding under the Health Care Efficiency and Affordability Law for New York (HEAL-NY) to diagnostic and treatment centers for the purpose of facilitating closures, mergers or restructuring of such facilities.

- Clarifies the existing six-year statute of limitations on audits under the Health Care Reform Act (HCRA), and limits the time for providers to make amendments to their cost reports to the same six year period.
- Extends the Commissioner's authority to issue regulations limiting reimbursement for potentially preventable conditions and complications to the outpatient setting.
- Requires electronic reporting and certification of reports by providers for the health facility case assessment program and hospital quality contributions.
- Permits local districts to temporarily contract with licensed health care services agencies when recipients transition to fee-for-service from Managed Care or Managed Long Term Care.
- Requires managed care programs, managed long term care programs, and care coordination models to offer consumer directed personal assistance programs to enrollees.
- Requires counties that have implemented a mandatory managed care program to use the enrollment broker.
- Eliminates requirement for applicants that operate managed long term care plans be a hospital, certified or licensed home care agency, health maintenance organization or not-for-profit organization with a history of providing or coordinating health care and long-term care services to the elderly and disabled persons.
- Prohibits a spouse or parent from refusing to contribute any available income or assets towards the cost of health care services being provided to a spouse or family member.
- Extends Medicaid Global Spending Cap through SFY 2013-14 and accommodates increased costs to the State for beginning the takeover of local Medicaid spending growth.
- Exempts the early intervention program from the two percent reduction enacted as part of the Medicaid Global Cap language in SFY 2011-12.
- Modifies the timing of the election revocation to be effective on a monthly, rather than quarterly, basis.
- Authorizes the Commissioner to promulgate rules and regulations to award the empire clinical research investigation program (ECRIP) grant on and after April 1, 2013.
- Clarifies that local governments cannot make claims for "overburden aid" if incurred prior to January 1, 2006 when the local cap statute took effect.

PART E – Make statutory changes necessary to implement Medicaid Redesign Team recommendations, including those advanced through Phase Two workgroups and technical refinements to previous recommendations.

- Establishes a New York Health Benefit Exchange in accordance with federal provisions outlined in the Patient Protection and Affordable Care Act of 2010 (PPACA). Proposes that the Exchange be structured as a Public Benefit Corporation managed by a board of directors. The proposal would also require the establishment of regional advisory committees and would set forth certification requirements for health plans to participate.
- Includes provisions establishing a Small Business Health Options Program (SHOP) and language requiring additional studies on a range of policy issues, which would require legislative action to implement.
 - Requires the Exchange to make recommendations to the Governor and the legislature on the policy issues, and stipulates that the Exchange may rely on information from studies commissioned prior to enacting Exchange legislation in making its recommendations. Including:
 - essential health benefits under the federal act and the benefits required under the insurance law or regulations that are not determined by the secretary to be essential health benefits;
 - whether to merge the individual and small group health insurance markets for rating purposes including an analysis of the impact such merger would have on premiums;
 - the anticipated annual operating expenses of the exchange, including but not limited to the development of, any multi-year financial models, and the options to generate funding;
 - procedures under which licensed health insurance producers, chambers of commerce and business associations may enroll individuals and employers in any qualified health plan in the individual or small group market as soon as the plan is offered through the exchange; and, to assist individuals in applying for premium tax credits and cost-sharing reductions for plans sold through the exchange; and,
 - whether to allow large employers to participate in the exchange beginning January first, two thousand seventeen.
- Proposes that the Legislature and the Governor would determine the fate of the Exchange within 180 days if the United States Supreme Court finds the PPACA unconstitutional or if Congress repeals PPACA; and stipulates that should federal funding to establish the Exchange become unavailable, its establishment would not move forward.

PART F – Provide additional relief to counties by reducing growth in local Medicaid expenditures for all counties and New York City and implement a phased-takeover of local government administration of the Medicaid program.

- Provides for a State takeover of Medicaid administration, and allows DOH to transition certain local district employees to the State to assist with these responsibilities. The bill also requires the State to assume the costs of Medicaid growth from local governments.

PART G – Extend the authority for previously enacted Medicaid initiatives.

- Extends the authority for previously enacted Medicaid initiatives that:
 - Establish the Medicaid Preferred Drug Program (PDP). Pursuant to the PDP, the Medicaid Pharmacy and Therapeutics Committee reviews drug classes and makes recommendations to the Commissioner of Health regarding the selection of preferred drugs, which may be prescribed without prior authorization.
 - Allow hospital rate adjustments based on the number of potentially preventable re-admissions and negative outcomes.

PART H – Repeal the Human Services Cost-of-Living Adjustment, and provide authorization for future annual increases, and direct agencies to establish limits on reimbursements for the costs of executive compensation and administration.

- Repeals the cost of living adjustment (COLA) for designated human services programs funded under the auspices of the Office of Mental Health (OMH), OPWDD, the Office of Alcoholism and Substance Abuse Services (OASAS), DOH, the Office of Children and Family Services (OCFS), and the State Office for the Aging (SOFA).
- Proposes instead that the commissioners of the above agencies — as well as of the Office of Temporary and Disability Assistance (OTDA), the Division of Criminal Justice Services (DCJS), the Office of Victim Services (OVS), and the State Education Department (SED) — develop annual payment adjustments for providers based on factors determined by each commissioner.
- Requires the commissioners to regulate how much of a provider's administrative costs and executive compensation may be paid with state funds. Specifically, commissioners must require that:
 - At least 75 percent of state funds received are used to provide direct care or services. This level will increase by 5 percent each year, until reaching a maximum value of 85 percent for the state fiscal year (SFY) beginning April 1, 2015.

- Executive compensation does not exceed standards established by the United States Office of Personnel Management — which is now approximately \$199,000 per year.
- Grants commissioners absolute discretion as to whether to terminate or refuse to renew the contracts of providers who violate these terms.

PART I – Establish pilot programs in accordance with the “People First 1115 Waiver” application.

- Exempts OPWDD from state finance law procurement procedures for contracts of the People First 1115 Waiver Demonstration Program. Under the People First Waiver, Medicaid enrollees with developmental disabilities will be transitioned from a fee-for-service system to coordinated care structure.

PART J – Streamline the organizational structure of the Office for Persons with Developmental Disabilities to help improve management oversight of services to individuals with developmental disabilities.

- Modifies the organizational structure of the OPWDD with respect to management and oversight of services provided to individuals with developmental disabilities by creating State Operations Offices and Developmental Disabilities Regional Offices, each headed by directors appointed by the Commissioner, to oversee service delivery in designated areas across the State.
- Replaces statutorily established Developmental Disabilities Services Offices (DDSOs) with the State Operations Offices, which would directly provide services.
- Establishes Regional Offices in order to oversee the administration of services to individuals served in settings outside of state-operated programs.

PART K – Extend authorization for the Comprehensive Psychiatric Emergency Program.

- Extends authorization for the Comprehensive Psychiatric Emergency Program (CPEP) for four years until July 1, 2016. CPEPs alleviate overcrowding in general medical emergency rooms, and provide alternatives to inpatient admissions by serving individuals in crisis in their own communities.

PART L – Permit the Commissioners of the Department of Health, the Office of Mental Health, the Office for People with Developmental Disabilities and the Office of Alcoholism and Substance Abuse Services to integrate health and behavioral health services.

- Authorizes the Commissioners of DOH, OMH, OPWDD and OASAS to integrate health and behavioral health services. Specifically, this bill enables the commissioners to establish joint operating, reporting, construction and survey requirements.

PART M – Establish a pilot program to restructure educational services for children and youth residing in Office of Mental Health hospitals

- Establishes a pilot program to restructure educational services for youths between the ages of five and 21 who reside in OMH hospitals.
- Authorizes the commissioners of OMH and SED to require local school districts or Board of Cooperative Educational Services (BOCES) programs to provide an education comparable to that which non-resident youths would receive from local school districts.

PART N – Create efficiencies in the Department of Mental Hygiene by: creating a Behavioral Health Advisory Council to replace and assume the responsibilities of the Office of Alcoholism and Substance Abuse Services and the Office of Mental Health; consolidating the statewide comprehensive planning process for OMH; and authorizing other efficiency measures.

- Creates the Behavioral Health Advisory Council to replace the OMH Mental Health Services Council and the OASAS Advisory Council on Alcoholism and Substance Abuse Services. The newly formed council would provide recommendations regarding comprehensive planning, resource allocation, and evaluation processes for mental hygiene services.

PART O – Ensure the efficient operation of hospitals by the Office of Mental Health and the provision of appropriate community services.

- Establishes criteria that the Commissioner of Mental Health must consider in deciding whether to close or convert wards or facilities.
- Reduces notice requirements for significant service reductions from one year to either 30 or 60 days, and suspends community reinvestment requirements.
- Anticipates the following actions including the closure of the inpatient program at Kingsboro Psychiatric Center, and reinvestment of resources to community services in Brooklyn and inpatient capacity at the South Beach Psychiatric Center.

- Restructures administration of the three New York City Children’s Psychiatric Centers under a single appointing authority.

PART P – Amend various provisions of the Sex Offender Management and Treatment Act.

- Amends various provision of the Sex Offender Management and Treatment Act (SOMTA). Notable changes to current law include:
 - Allows the Commissioner to contract with individuals who are not OMH or OPWDD employees for the provision of care, treatment and security services for persons confined under SOMTA.
 - Requires that, upon a judicial determination that there is probable cause to believe that a sex offender requires civil management, a sex offender remain in the custody of the Department of Corrections and Community Supervision (DOCCS) pending the outcome of civil management proceedings until the maximum expiration date of the sentence, or until release to parole supervision.
 - Provides that a sex offender’s failure to “meaningfully” participate in treatment constitutes a violation of an order of confinement.
 - Allows respondents and witnesses to appear in court by means of video-conferencing.
 - Provides for biennial, rather than annual, examinations of sex offenders and petitions for discharge from civil confinement.
 - Authorizes the revocation of a sex offender’s parole upon a violation of a strict and intensive supervision and treatment regimen. Further, this bill provides that an intentional violation of a material condition is a class E felony.
 - Allows a charge of a class D felony if a dangerous sex offender intentionally causes physical injury to another person while confined in a secure treatment facility.

PART Q – Provide for outpatient capacity restoration of felony defendants, or restoration at psychiatric units of jails or Article 28 hospitals.

- Allows treatment of an “incapacitated” defendant at a local correctional facility that operates a mental health unit, or on an outpatient basis. Currently, if a court determines that a defendant is incapacitated, it must commit the defendant for treatment at a hospital operated by OMH, a developmental center operated by OPWDD, or a general hospital licensed by the DOH that contains an OMH-licensed psychiatric unit.

PART R – Continue the fiscal periods for which the Office of Mental Health is authorized to recover exempt income for community residence and family based treatment programs.

- Extends the fiscal periods for OMH to recoup exempt income from OMH providers operating residential programs. “Exempt income” is Medicaid income received in excess of budgeted amounts set forth in the fiscal plans of licensed community residences and family-based treatment providers.

**2012-13 NEW YORK STATE EXECUTIVE BUDGET
EDUCATION, LABOR & FAMILY ASSISTANCE
ARTICLE VII LEGISLATION**

[S.6257/A.9057]

PART A – Enact various provisions necessary to implement the education portion of the 2012-13 Executive Budget, including School Aid and other education-related programs.

- Alters New York State School Aid and other related programs in the following areas:
- **Teacher and Principal Evaluations:** Requires that prior to January 17, 2013, a public school must submit documentation, approved by the commissioner of education, that demonstrates that such school has fully implemented new standards and procedures for conducting annual performance reviews of classroom teachers and building principals, in order to be eligible for any increase in school aid, above the amount apportioned to such school in the 2011-2012 fiscal year, with any amount of increase paid prior to January 17, 2013 being deducted from future payments made after that date.
- **Contracts for Excellence:** Allows school districts which previously participated in the Contract for Excellence Program to continue to do so in the school year 2012-2013, however, with reduced investments (Gap Elimination Adjustment) unless they can be identified as in “good standing.”
- **County Vocational Education and Extension Board:** Limits vocational and extension board reimbursement to courses that have been submitted for review and approval to the State Education Department (SED) on or before July 1, 2010. A method for calculating reimbursement by the Commissioner would also be provided. Eliminates payment for late claim submissions for vocational education and extension boards.
- **Performance Grants:** Authorizes two competitive grant programs for the implementation of innovative measures that accomplish academic improvement and/or management efficiency. The grant programs would provide that the total competitive grant amount for the 2012-2013 fiscal year would be \$50 million, and would increase to \$100 million for the 2013-2014 fiscal year and thereafter.
- **Gap Elimination Adjustment (GEA):** Creates a new GEA formula to be established for the 2012-2013 school year calculated based upon a district’s “extraordinary needs,” its total general fund expenditures and its 2011-2012 GEA. Non-“high needs” districts

would receive up to 25 percent of their 2011-12 GEA, and high needs districts would receive 76 percent of the allocated Gap Elimination Restoration Amount increase.

- **Centralized Bus Purchasing:** Establishes a new requirement that school districts would only be eligible for reimbursement of bus purchases through a central State contract. If a district is unable to provide appropriate services with the vehicles available through the centralized contract, an alternative purchase could be approved by the Commissioner under a new median price formula.
- **Claiming Limits:** Limits the State's liability for School Aid to claims and data submitted by statutory deadlines. Any claim as the result of a court order or judgment, if payments on the same were to be made prior to 2012-13 school year, would, however, be eligible for payment as long as the proper filing guidelines are followed and the claim is within the parameters of previously established statutes.
- **Foundation Aid and Other Operating Support:** Maintains current 2011-2012 funding levels for the 2012-13 school year, in Foundation Aid, High Tax Aid, Universal Pre-kindergarten, Academic Enhancement Aid, Supplemental Public Excess Cost Aid, and Supplemental Educational Improvement Grants.
- **Teachers of Tomorrow:** Extends the Teachers of Tomorrow Teacher Recruitment and Retention Program through the 2012-2013 school year.
- **Allowable Transportation Expenses:** Authorizes the commissioner to approve the purchase of two way radios, stop-arms, seat safety belts, back up beepers, front crossing arms, sensor devices, exterior reflective marking on school buses, automatic engine fire extinguishers, assistive mobility devices, and any other equipment after June 30, 2012.
- **Class Sizes for Students with Disabilities:** Extends ability of the Big Five School Districts (Buffalo, Yonkers, New York City, Syracuse, and Rochester) to increase class size for special classes for certain students with disabilities through the 2012-2013 school year.
- **Consortium for Worker Education:** Decreases funding \$1.5 million from fiscal year 2011-2012 to \$11.5 million, for a program by this not-for-profit organization to provide adult education services to union members in New York City.
- **Appropriation Extenders:** Extends through June 30, 2017, the calculations of state aid to school districts and the appropriation of funds for the support of government as it relates to the Rome city school district, the Plattsburgh city school district, and the Peru central school district. Would further extend through July 1, 2013, the provisions of current law relating to state aid to school districts as it pertains to students with disabilities.

- **Authority of the Commissioner:** Extends through June 30, 2017, the authority of the commissioner to approve or reject contracts for the transportation of children. Would further extend through July 1, 2013, the authority of the commissioner to make conditional appointment of employees for school districts, charter schools, and BOCES.
- **School Safety:** Extends until June 30, 2013, the provision of supplemental educational services, attendance at a safe public school, and the suspension of pupils who bring a firearm or possess a firearm at a school.
- **No Child Left Behind:** Extends until June 30, 2013, the provisions of the education law established to implement the No Child Left Behind Act.
- **Universal Pre-Kindergarten:** Extends the Universal Pre-Kindergarten Program until June 30, 2013. Such program would be funded at \$384M, for approximately 104,000 students statewide.
- **School Bus Driver Training:** Continues \$400K in grant funding to schools for training purposes, including bus driver safety training and the distribution of training materials.
- **Library Support:** Continues aid to public libraries at 2011-12 levels (\$79M) which represents a 23 percent decrease from 2007-2008 funding levels of \$107M. Authorizes disbursement of the formula grants to public library systems, research library resources systems, and school library systems operating under approval plan of service pursuant to previous distribution methods.
- **Special Apportionments for Salary Expenses and Pension Accruals:** Authorizes schools to apply to the Commissioner in June 2013 to receive a special apportionment for salary expenses or pension accruals, and would establish eligibility requirements for the receipt of such allocations.
- **Suballocation and Interchange:** Authorizes all moneys appropriated to SED to be suballocated, and would authorize SED to interchange items of appropriation.
- **Rochester School District and BOCES Services:** Authorizes the city school district of Rochester, upon the consent of the BOCES serving the geographic region, to purchase a BOCES services as a non-component school district, for the 2012-2013 school year.
- **Foundation Aid Setasides:** Continues for the 2012-2013 fiscal year, for districts that receive foundation aid, a \$170.36 million Magnet School and a \$67.48 million Teacher Support Aid setaside requirement for selected districts. New York City would be required to set aside an amount from its Foundation Aid that is equal to its base year funding for programs for Attendance Improvement/Dropout Prevention. A setaside requirement would also be provided for public school district support for children with disabilities.

- **Building Aid Forgiveness:** Establishes a forgiveness program for districts which previously lost building aid due to missing a Final Cost Report deadline as required by SED. This program would ratify and validate previous claims, provided that a valid report is filed on or before December 31, 2012. Districts would be limited to reimbursement starting from the time a report is on file with SED. The forgiveness program would be limited to building aid claims only.

PART B – Reform the Teacher Disciplinary Hearing Process.

- Makes changes to the teacher disciplinary hearing process as follows:
 - **Future Hearings Costs:** Requires that hearing costs be split evenly between school districts and the teacher's bargaining unit, or by the employee in the event that the employee is not represented by a union for hearings commenced on or after April 1, 2012. Hearing officers would be required to submit separate bills to the respective parties for future hearings, and the Commissioner would be empowered to establish maximum rates for the compensation of hearing officers and limitations on the number of study hours that may be claimed by hearing officers.
 - **Hearings Commenced Prior to April 1, 2012:** Claims filed by hearing officers for compensation for days of actual service, travel, and expenses (including transcription) for hearings commenced prior to April 1, 2012 be paid from an appropriation for this specific purpose in the order in which the claims are received. Any claim unpaid by SED due to insufficient funds will retain its priority date status for future appropriation. Claims must be submitted to SED within one year of final disposition of the hearing or within ninety days of the effective date of this proposal, whichever is later.
 - **Transcription:** Requires that future hearings would not be transcribed unless both parties agreed to have the proceeding transcribed prior to commencement of the hearing. The cost of transcription would be paid by the requesting party unless both parties agree to share the cost, and a copy of the transcript would need to be provided to the arbitrator and all other parties.
 - **Hearing Timeline Requirements:** Requires that timeline requirements for conducting a hearing and rendering a final decision would be established and enforced by the Commissioner. Provides that a hearing officer could be disqualified for continual non-compliance with timeline regulations.

PART C – Authorize the pass-through of the 2013 Federal Cost of Living Adjustment (COLA).

- Sets forth the actual dollar amounts for the 2012 Personal Needs Allowance (PNA) and the standard of need for eligibility and payment of additional State payments. Authorizes those amounts to be automatically increased by the percentage of any federal Supplemental Security Income (SSI) COLA which becomes effective within the first six months of calendar year 2013.
- Offsets rising cost-of-living expenses, and as it has been enacted each year since 1984 is anticipated by SSI recipients and congregate care providers alike.

PART D – Phase in the scheduled Public Assistance Grant increase.

- Decreases the planned non-shelter portion of the public assistance grant in July 2012 from ten percent down to five percent. The public assistance grant would then be increased an additional five percent in July 2013. The Executive budget assumes \$6 million in General Fund savings in State Fiscal Year 2012-13 as a result.
- Delays, for an additional year, the full phase-in of the 2009-10 ten percent increase to the public assistance grant. The 2011-12 enacted budget delayed the final scheduled ten percent increase until July of 2012.

PART E – Authorize administration of the State Supplemental Security Income Supplementation Program

- Proposes the administrative takeover of the State Supplemental Security Income (SSI) Supplementation Program from the federal government by the State in order to avoid the cost of rising federal administrative fees – projected to cost the State \$92 million in fiscal year 2013.
- Allows the Office of Temporary and Disability Assistance (OTDA) to administer the program in lieu of either requiring the Federal government or local social services districts to administer the program.
- Authorizes OTDA to conduct fair hearings when requested by applicants for and recipients of the State SSI Supplementation Program; permits OTDA to determine Medicaid disability determinations for recipients of the program not eligible for federal SSI benefits; and clarifies certain definitions.

PART F – Reauthorize Child Welfare Financing Provisions

- Extends authority for Child Welfare Financing for five more years. Child Welfare Financing provides 62 percent open-ended State reimbursement to local social service districts for the provision of child preventive services, child protective services, after care, independent living and adoption subsidies, services and administrative costs, while capping reimbursement for foster care services.
- Amends existing law to accurately reflect the current percentages of State reimbursement to local social service districts and authorize the continued funding of kinship guardianship assistance payments through the Foster Care Block Grant.
- Allows the State Commission on the Quality of Foster Care to sunset on June 30, 2012. The commission was authorized in 2002 along with Child Welfare Financing Reform but never established.

PART G – Enact Juvenile Justice Reform.

- Allows New York City (NYC) the authority to present a plan for approval by the Office of Children and Family Services (OCFS) for a “Close to Home” initiative that would allow the ability to operate and maintain non-secure and limited secure facilities, and would require OCFS to transfer custody of all non-secure and limited secure NYC juvenile delinquents (JDs) to NYC Department of Social Services (DSS), and to allow going forward for NYC to maintain custody of all its JDs except those needing secure care. NYC would be required to provide documentation of the effectiveness of its initiative, allow OCFS inspection and review, and make OCFS recommended adjustments.
- Continues OCFS provision of secure facilities for certain JDs deemed to need that level of care. OCFS would, if necessary, petition the court for a placement in a lower level of care, whether it be from secure to limited secure, or limited secure to non-secure.
- Gives OCFS the ability for one year to close, with sixty days notice to the legislature, non-secure and limited secure facilities, make service and/or staff reductions, transfer operations for non-secure and limited secure facilities to private or not-for-profit entities, and adjust services to provide regionally based care for JDs in other parts of the state in anticipation of the decreased needs in NYC.
- Authorizes all Social Service Districts in the State to transfer a JD in their custody from residential placement to aftercare when it is consistent with the needs and best interests of the JD, suitable care and supervision can be provided, and such will release will not endanger public safety.

- Requires the Division of Criminal Justice Services (DCJS) to develop a pre-dispositional risk assessment instrument for JDs for use by all counties in the state, except NYC. NYC must provide a similar risk assessment instrument and plan for implementation in their proposed “Close to Home” initiative.
- Removes the authority of Family Court judges in NYC, as well as in the rest of the state, to order placement in a specific facility. Family Court judges outside of NYC would still have the discretion to order custody of a JD to either OCFS or DSS, and all judges would still have the discretion to order the level of placement – non-secure, limited secure, or secure.

PART H – Extend the New York State Higher Education Capital Matching Grant Program.

- Extends the Higher Education Capital (HECap) Matching Grant Program for one additional year to March 31, 2013.
- Authorizes service contracts to assist the dormitory authority in providing said grants until March 31, 2014.
- Permits colleges to apply for unutilized grants until November 1, 2012. The 2005-2006 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 \$126.4 million have been approved.

PART I – Provide for the development of a master agreement with general terms and conditions and the use of memoranda of understanding between State agencies and Cornell University, to facilitate the provision of services and technical assistance to the State.

- Authorizes memoranda of understanding (MOUs) between State agencies and Cornell University pursuant to such master agreement, prescribed by the parties, for assistance or activities related to the university's land grant mission. The master agreement would be subject to approval by the state comptroller. The Senate passed similar legislation in 2011.

PART J- Rationalize the Financing System for Preschool Special Education.

- Restructures the financing system for preschool special education by requiring school districts outside of New York City, who make service determinations, to share equally in the costs of growth in services with the State and Counties. Currently, only the State and Counties pay for year to year growth.
- Requires evaluation programs be modified so that the evaluator selected by the parent not have a “less than arms-length relationship” with the provider recommended by the school board unless approval from the Commissioner is obtained. Requires a written statement of justification from the Committee on Special Education when a distant provider is recommended for a particular child in favor of a closer, viable provider.

**2012-13 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION, ECONOMIC DEVELOPMENT
& ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION
[S.6258/A.9058]**

PART A – Extends the annual authorization for the CHIPS and Marchiselli programs for another year.

- Extends annual authorization for the Consolidated Highway Improvement Program (CHIPS) at \$363.1 million and for the Marchiselli program at \$39.7 million, for a total of \$402.8 million, till March 31, 2013. There is no change in funding from SFY 2011-2012, which is set to expire on March 31, 2012.
- Extends also, a one-year funding authorization for four specific road resurfacing options: 1) microsurfacing, 2) paver placed surface treatment, 3) single course surface treatment involving chip seals and oil and stone, and 4) double course surface treatment involving chip seals and oil and stone. This additional language was needed because the Department of Transportation (DOT) had determined that these road resurfacing methods, which are frequently used by municipalities outside of New York City, are not meeting the 10-year minimum service life requirement for a CHIPS-funded capital project.

PART B – Consolidates the DOT's Accident Damage Account with the Dedicated Highway and Bridge Trust Fund.

- Consolidates the revenues and disbursements of the non-statutory Accident Damage Account (ADA) with maintenance activities funded within the special reserve and payment account of the Dedicated Highway and Bridge Trust Fund (Trust Fund).
- Eliminates the ability for town superintendents to collect penalties and forfeitures related to offenses that damage public highways and bridges. These recoveries are currently deposited in the ADA that is administratively handled by the DOT. Any revenues from accident damage recoveries will now be deposited into the Trust Fund, improving its debt service coverage ratio, which allows for additional Trust Fund bonds to be issued. General Fund spending levels are anticipated to be reduced by \$5.9 million as a result.

PART C – Implements a performance-based bus inspection program.

- Replaces the current semi-annual bus inspection process with one that is based on past performance by vehicle operators, resulting in one inspection per year for those with the highest compliance rates and increased inspection and compliance efforts for those with the lowest compliance rates. DOT will develop compliance tiers based on past performance and promulgate regulations to implement the new bus inspection system.
- Increases efficiency at the DOT by reducing overtime work by its bus inspection staff, and increases public safety by targeting vehicle operators with the lowest compliance rates. Anticipated to result in at least \$782,000 in savings on overtime on an annualized basis.

PART D – Conforms State law to the Federal Motor Carrier Safety Improvement Act of 1999 with respect to medical certifications for commercial driver's licenses.

- Brings New York State into compliance with the Federal Motor Carrier Safety Improvement Act of 1999 with respect to medical certifications for commercial driver's license (CDL) holders, thereby preserving \$36 million in Federal highway funds received by the State.
- Requires new, as well as existing, CDL applicants to self-certify to the Department of Motor Vehicles (DMV) the type of driving they will perform and, if appropriate, that they are not subject to the Federal physical qualification rules. Applicants also must submit a valid medical certificate and, if applicable, a valid medical variance to DMV. If a CDL holder fails to meet these requirements, DMV must downgrade the CDL to a non-commercial driver's license.

PART E – Raises the statutory limit on the amount of bonds, notes and other obligations the MTA, NYCTA, and the TBTA may issue.

- Raises the statutory limit by \$7 billion, from \$34.877 billion to \$41.877 billion, for the amount of bonds, notes and other obligations the Metropolitan Transportation Authority (MTA), the New York City Transit Authority (NYCTA), and the Triborough Bridge and Tunnel Authority (TBTA) may issue, in order to fund the remaining three years of the MTA's 2010-2014 capital program plan.
- Continues past legislative commitments to ensure funding for the capital program. The cap was most recently raised in 2010 from \$29 billion to \$34 billion to ensure funding for the first two years of the MTA's 2010-2014 capital program.

PART F – Establishes an additional retention rate for county clerks acting as an agent of DMV based upon internet transactions.

- Grants county clerks a percentage of motor vehicle fees collected as a result of internet transactions. Currently, 51 county clerks act as agents of the Commissioner of Motor Vehicles. In this capacity they register and title motor vehicles, issue drivers licenses, and perform other critical functions in State motor vehicle offices. County clerks offices currently retain 12.7 percent of the gross receipts collected. Shifting transactions to the internet for DMV services allows customers to avoid waiting in line and to conduct their business from the convenience of their home, but results in decreased revenues to the county clerks.
- Allows county clerks to retain four percent of all amounts generated solely due to internet transactions in any year in excess of those amounts generated in 2011. Increases or decreases the share of such revenue retained by each county clerk depending upon the amount of revenue actually delivered to such county clerk during 2012 and 2013, but in no event will the share be lower than 2.5 percent or higher than 6 percent. Starting April 1, 2016, the average of the previous four years percentages will remain in effect.

PART G – Ensures State compliance with Federal motor carrier regulations issued by FMCSA and prevents the loss of half the State’s Federal MCSAP funding.

- Confirms current State highway safety programs with Federal Motor Carrier Safety Administration (FMCSA) rules. State compliance with FMSCA regulations will ensure continued receipts of these Motor Carrier Safety Administration Program grants, avoid Federal penalties, and save the State \$2.1 million in 2012-2013 and \$4.2 million annually thereafter.
- Amends State law in the following manner:
 - Expands the variety of entities covered by State law in accordance with Federal regulations (49 C.F.R. 390.3).
 - Changes the period of time for which a commercial vehicle may display an out-of-state or Canadian province certificate of inspection from six months to twelve months since the issued date.
 - Expands rules regarding coverage of hours of service for commercial motor vehicle drivers to include private carriers in accordance with Federal regulations (49 C.F.R. 395.1(a)).
 - Subjects all motor buses operated by a public authority within its jurisdictional area to the maximum driving and on-duty time rules for commercial motor vehicle drivers in accordance with Federal regulations (49 C.F.R. 395.5).
 - Changes record-keeping provisions in accordance with Federal regulations (49 C.F.R. 395.8(k)(2)).

- Eliminates all State law exemptions to the hours of service rules that conflict with Federal regulations (49 C.F.R. 395.1). Exemptions currently cover agricultural operations, wrecking and towing cars, members of the army and air national guard, and utility service drivers.
- Deletes the definitions of hazard classes and conforms rules for governing transportation of hazardous materials to DOT rules that will be promulgated in compliance with Federal law (49 C.F.R. 171-173).

PART H- Eliminates various fish and wildlife licenses, permits and associated fees; eliminates certain tagging requirements, and extends the Department of Environmental Conservation's (DEC) authority to collect fees for ocean quahogs taken from all certified waters.

- Eliminates the current requirement for a license to collect or possess birds' nests or eggs.
- Waives the requirement for a DEC destructive wildlife permit if a federal depredation permit (issued to address wildlife or game bird nuisances) has been issued by the U.S. Department of Interior.
- Adds muskrats to the list of nuisance animals that may be taken without a permit.
- Exempts municipalities from the \$50 fee for a nuisance wildlife control operator license.
- Eliminates various tagging requirements and fees for carcasses and parts of certain game birds, animals and fish, and provides for alternative means of identification using forms provided by the DEC when identification is required.
- Eliminates the five dollar fee on DEC permits issued for the possession of a loaded firearm for hunting in or on a motor vehicle for any non-ambulatory person.
- Increases the length of the term from two to five years for falconry licenses, and changes the falconry license fee from \$20 for two years to \$40 for five years.
- Increases the length of the term from one to five years for domestic game bird breeder's licenses, shooting preserve licenses and domestic game animal breeder's licenses while reducing the fee per year for such licenses.
- Prohibits the DEC from issuing any new licenses for the propagation of fur-bearing animals such as beaver, bobcat, coyote, raccoon, sable or marten, skunk, otter, fisher, nutria or muskrat after April 1, 2012.

- Reinstates through April 1, 2016, the DEC's authority to collect 15 cents per bushel of surf clams and ten cents per bushel of ocean quahogs for deposit in the Surf Clam/Ocean Quahog Account of the Conservation Fund, which authority expired April 1, 2010.

PART I – Clarify that the State does not regulate Voice over Internet Protocol (VoIP) service, in order to facilitate competition for the benefit of consumers and businesses alike.

- Defines the term “Voice-over-the-internet protocol service” (VoIP service) in the Public Service Law (PSL) and clarifies that no New York State governmental entity or any political division may regulate the entry, rates or other terms of service of VoIP service.
- Continues all applicable consumer protections related to the provision of VoIP service, such as the prohibition against use of unfair or deceptive practices. Also New York State and/or its agencies' ability to enforce requirements prescribed by federal statutes related to VoIP service will continue. These federal requirements include the assessment of E-911 fees, telecommunications relay service fees and/or federal or state Universal Service Fund fees on VoIP service.
- Preserves the payment of inter-carrier compensation applicable to the VoIP carriers in exchange for use of the public switched telephone network.

PART J – Reduce costs on businesses by amending the formula for the imposition of the fees on hazardous waste and hazardous wastewater to incentivize the on-site recycling of such waste.

- Reduces hazardous waste program fees currently imposed on businesses that generate hazardous waste and hazardous wastewater by changing the formula for assessing such fees under the Environmental Conservation Law for businesses that recycle these materials.
- Results in lower fees for businesses that recycle more than 90 percent of the total tons of hazardous waste or hazardous wastewater that they generate during a calendar year, or for businesses that recycle more than 4,000 tons of hazardous waste or hazardous wastewater generated in a calendar year. Fees would be calculated and imposed based upon the net amount of hazardous waste or hazardous wastewater generated that is not recycled in a calendar year, rather than upon the gross amounts of such materials generated during that year.
- Applies to hazardous waste program fee bills issued by the DEC after January 1, 2012 for hazardous waste or hazardous wastewater generated during calendar year 2011 or later.

PART K – Terminate unnecessary State Operating Fund support of the Environmental Facilities Corporation with respect to the Clean Water and Drinking Water State Revolving Funds.

- Eliminates requirement for State Operating Fund appropriations to the Environmental Facilities Corporation (EFC) with respect to the Clean Water and Drinking Water State Revolving Funds. The Executive assumes no impact to EFC's current workforce levels as EFC's off-budget funding from federal capitalization grants and State matching funds are sufficient to cover operations.

PART L – Eliminate the mandate that the New York State Agricultural Experiment Station be the exclusive seed testing entity in the State, and allow testing to be conducted by the Department of Agriculture and Markets or a qualified laboratory.

- Authorizes the Commissioner of Agriculture and Markets to seek additional means of selecting laboratories for seed quality testing under New York's Seed Testing Program. The Seed Testing Program was established to ensure truth in labeling through conducting regulatory tests on New York State inspection seed samples.
- Eliminates the requirement that the State refer all seed quality testing to the New York State Agricultural Experiment Station, which is located at Cornell University, and has been the official regulatory laboratory for New York since 1912.
- Allows seed quality testing to be performed by the Department of Agriculture and Markets or any qualified laboratory with which the Commissioner contracts.

PART M – Provide the Department of Agriculture and Markets with more comprehensive fee-for-service authority in order to recover normal costs related to services provided to other states.

- Expands authorization for the Department of Agriculture and Markets to enter into contracts to perform certain services related to the duties of the Department with federal, state, local, and educational entities. Eligible services would include, laboratory services and services related to food safety and inspection, animal health, invasive species control, and the collection of samples for research studies.
- Requires that contracts specify payment for at least the full costs of services provided.

PART N – Redirect certain fees currently deposited to the Consumer Food Account and the Commercial Feed Licensing Account to the General Fund, as a result of the consolidation of these accounts into the General Fund.

- Eliminates a deadline-oriented calendar for submitting renewal applications for food processing licenses. Sets a new requirement that renewal applications be submitted to the Department of Agriculture and Markets at least thirty days prior to the commencement of the next license period. Replaces the expiration dates on these licenses with a new two-year-from-issuance expiration date.
- Eliminates named and miscellaneous revenue accounts for the stated purpose of redirecting funds to the state General Fund such as the food processing license fee, the commercial feed licensing account fee, and tonnage fees collected from certain commercial feed distribution activities.

PART O – 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.

- Authorizes the Comptroller to receive up to \$913,000 from unrestricted corporate funds of the New York State Energy Research and Development Authority (NYSERDA) to be deposited in the General Fund. This \$913,000 transfer would help offset New York State's debt service requirements relating to the Western New York Nuclear Service Center. A similar one-year authorization was contained in last year's budget.

PART P – Authorize the New York State Energy Research and Development Authority 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 an assessment on gas and electric corporations.

- Authorizes 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 an assessment on gas and electric corporations collected pursuant to section 18-a of the Public Service Law. This is similar to what was enacted last year.

PART Q – Amend the Jacob K. Javits Convention Center enabling legislation to authorize the disposal of adjacent properties.

- Permits the New York Convention Center Operating Corporation (CCDC), a subsidiary of the New York State Urban Development Corporation, to sell, grant or otherwise dispose of any real and personal property owned by the CCDC, including a plot of land adjacent to the Jacob K. Javits Convention Center (Javits Center).
- Requires that, prior to any disposition, the CCDC must determine that such land is unnecessary for current or future expansion plans for the Javits Center, and that such authority is subject to any obligations set forth in any applicable bond resolution or credit support agreement. Any such disposition would be subject to prior approval by the Director of the Budget, and proceeds from any disposition would be transferred to the State's General Fund.

PART R – Make permanent the general loan powers of the New York State Urban Development Corporation.

- Makes permanent general loan powers of the New York State Urban Development Corporation (UDC). UDC has had such power since 1994, and this authorization has been renewed annually thereafter. Currently, it is set to expire on July 1, 2012. Absent reauthorization, UDC's authority to make loans would be limited to certain State-funded economic development programs.

PART S – Make permanent the Empire State Economic Development Fund.

- Makes permanent the Empire State Economic Development Fund, which was created in 1996, and is an economic development grant and loan program administered by UDC.

PART T – Provide general grant-making power for the New York State Urban Development Corporation.

- Provides UDC with general authority to make grants using funds from any source on such terms and conditions as UDC deems advisable to any person or entity, whether public or private, provided such grants are made in compliance with guidelines established by UDC. Currently, UDC's authority to make grants derives from specific economic development programs administered by UDC.

PART U – Provide a 3 percent linked loan savings for agricultural businesses.

- Expands the Excelsior Linked Deposit Program to agricultural firms with 500 or fewer employees within New York that conduct business in crops, livestock, and livestock products, including woody biomass. The Excelsior Linked Deposit Program offers loan benefits by enabling a three percent decrease in a lender's fixed interest rate and by eliminating lender fees. These benefits are available for loans meant to improve business performance and competitiveness.

PART V – Authorize the Department of Health to finance certain activities with revenues generated from an assessment on cable television companies.

- Authorizes the Department of Health (DOH) to finance its public service education expenses with funding from the Department of Public Service's assessment on cable television companies. The Executive'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. Similar provisions were enacted last year.

PART W – Extends the renewal period for certain disciplines licensed by the Department of State.

- Increases the license term for new and renewal Security Guard licenses from two to four years. The fee for new licenses will double, from \$36 to \$72. The fee for renewal licenses will double, from \$25 to \$50. These provisions will take effect immediately.
- Increases the license term for new and renewal Real Estate Broker and Real Estate Salesman licenses from two to four years. The fee for new and renewal Broker licenses will increase from \$150 to \$300. The fee for new and renewal Salesman licenses will increase from \$50 to \$100. Additionally, the continuing education requirement will increase from 22 ½ hours to 45 hours for Broker licensees and Salesperson licensees, which must be completed prior to license renewal. These provisions will take effect beginning on April 1, 2013.

PART X – Makes uncashed pari-mutuel vouchers subject to escheatment.

- Provides that uncashed "vouchers" will escheat to the benefit of the Racing and Wagering Board on April first of each calendar year succeeding the purchase of the voucher. "Vouchers" are tickets issued in exchange for cash for use with self-service wagering machines at racetracks and do not represent a wager on a particular race. Currently, such vouchers are not subject to escheatment. Unclaimed winning pari-mutuel

tickets, however, continue to escheat to the State General Fund on April first of each calendar year succeeding the placement of the wager.

- Eliminates the ability of the Board to set prices for admission to quarter horse races.

PART Y – Reduce Racing and Wagering Board employee costs.

- Eliminates the requirement that certain race officials at each harness track be employees of the Racing and Wagering Board (Board). Allows each track to hire one associate judge and one starter who are separately licensed and qualified by the Racing and Wagering Board, whose salaries and terms and conditions of employment would be set by the hiring track.
- Assumes \$829,000 in savings to the Board by the elimination of fourteen positions across the state. Although there would still be several officials who are Board employees present at each track to ensure integrity of the racing program, the impetus for the current level of state presence at harness tracks was a record of improper practices.

PART Z – Enable the Commissioner of Agriculture and Markets to issue a dairy research and education order to fund research for the purpose of improving dairy industry production and increasing the efficiency and profitability of the State’s dairy industry.

- Grants the Commissioner of Agriculture and Markets authority to issue a dairy research and education order, for research and educational activities that promote the use of new, innovative, or improved practices or methods for dairy production and farm profitability.
- Requires that such order receive approval of fifty-one percent of milk producers before becoming effective, either through individual ballots or through cooperative representation. Defines “producer” as anyone engaged in the production of milk for commercial use.
- Authorizes the Commissioner to levy an assessment against all producers subject to the order, up to one-tenth of one percent per hundred weight of the average statistical uniform price for the northeast federal milk marketing order. Further authorizes the Commissioner to hold a hearing to consider amendments or changes to the order or levy, after receiving a written petition of at least 25 percent of producers. If enacted, this assessment is anticipated to raise at least \$1.2 million annually.
- Establishes a geographically representative, unsalaried advisory board of five members to be appointed by the Commissioner, based on nominations by producers, to assist in the administration of the order. Instructs that three such members represent dairy

cooperatives, one represent a general farm organization, and one represent an at-large producer, all serving three year terms.

- Permits the Commissioner to institute an action at law or equity as necessary to enforce compliance. Also permits the Commissioner to apply for relief by injunction if necessary to protect the public interest, without being compelled to allege or prove that an adequate remedy at law does not exist.

PART AA – Increase cost recovery from public authorities to support auditing and oversight work done by the Office of the State Comptroller.

- Increases the maximum amount of reimbursement that can be collected from public authorities by the Director of the Budget from the current \$60 million to \$62 million.

**2012-13 NEW YORK STATE EXECUTIVE BUDGET
REVENUE
ARTICLE VII LEGISLATION
[S.6259/A.9059]**

PART A - Extend fees for the establishment of oil and gas unit of production values.

- Extends for three years current provisions of law relating to the establishment of the procedure and fee schedule to determine oil and gas unit of production values for purposes of calculating real property tax owed. Under this program, the Department of Tax and Finance (DTF) establishes unit production values which local assessors use in assessing properties which contain oil or gas wells. The prior three year extender was adopted as part of Chapter 56 of the Laws of 2009. This program has been in place since 1981, and the fee associated with it since 1991.

PART B - STAR benefit recovery program for unpaid tax liabilities.

- Permits the suspension of a recipient's STAR exemption, or similar State School Tax Reduction Credit in New York City, for the failure of such individual to comply with his or her state tax obligations. No provisions exist for suspension of such an exemption based upon a failure to comply with other unrelated provisions of state law.

PART C – Reform the Tobacco Products Excise Tax.

- Addresses the recent Administrative Law Judge determination in Matter of Davidoff, which concerned how to determine the wholesale price of cigars.
- Requires distributors to prepay twenty cents of the cigar excise tax at the time that the cigars are imported into the State. This prepaid tax is passed down the distribution and sales chain until it is paid by the retail consumer.
- Amends the definition of the term “cigar” to exclude “little cigars.”
- Defines the term “loose tobacco” as any tobacco product other than snuff and little cigars (cigarettes and cigars are not considered tobacco products and are separately defined). Loose tobacco would be taxed at \$4.43 per ounce. Currently, loose tobacco is taxed at 75% of the wholesale price.

- Changes the method used to compute the excise tax on cigars. Currently, the tax equals 75% of the wholesale price of the cigars. Pursuant to this part, the amount of tax due when a cigar is purchased would be 50% of the retail sales price.
- Reduces the number of excise tax-free cigars that can be brought into New York by any person from 250 to 50.

PART D – Extend the alternative fuels tax exemptions for five years.

- Extends the sunset date of the exemption for alternative fuels from September 1, 2012 to September 1, 2017, and allow E85, compressed natural gas, and hydrogen a full exemption and B20 a partial exemption from the motor fuel tax, the petroleum business tax, the fuel use tax, and state and local sales taxes.

PART E – Make technical amendments to the tax classification of diesel motor fuel.

- Addresses unintended consequences to amendments to the motor fuel definitions enacted as part of the SFY 2011 Budget, to remove tax liability in two situations where no liability was intended to be triggered.

PART F – Expand Criteria to Refuse to Issue Sales Tax Certificates of Authority.

- Allows DTF authority to deny an application for a sales tax certificate of authority to an entity because key employees or officers have outstanding New York State tax liabilities. Additionally, this part authorizes DTF to disclose the name of the person and amount of the liability that triggered the denial to the applicant.

PART G – Make Permanent Certain Modernization Provisions of the Tax Law.

- Makes permanent the tax modernization provisions of the Tax Law that were enacted in the SFY 2011 Budget as follows:
 - Requiring electronic filing of authorized tax documents by tax return preparers that prepare more than 5 tax documents in any calendar year beginning on or after January 1, 2011 and, using computer software, prepare more than 1 tax document in the calendar year immediately succeeding the year in which the tax return preparer prepared more than 5 tax documents.
 - Requiring electronic filing of authorized tax documents by taxpayers that prepare their own authorized tax documents using computer software.
 - Imposing penalties for the failure to electronically file authorized tax documents as required by law.

- Continuing authorization for the Commissioner of DTF to require taxpayers that fail to collect, truthfully account for, file returns for, or fail to pay over the sales tax due to make weekly or more frequent sales tax deposits to a segregated account.
- Continuing authorization for the Commissioner of DTF to suspend or revoke a taxpayer's sales tax certificate of authority when the taxpayer failed to adhere to the weekly sales tax deposit requirement if imposed.

PART H – Expand sales tax exemption for solar energy systems equipment and expand income tax credit for such systems.

- Expands the current personal income tax credit for solar energy system equipment to include leases of solar energy system equipment and purchases of power generated by a solar energy system equipment system pursuant to a written agreement with a duration of at least 10 years.
- Expands the current sales and compensating use tax exemption to exempt all retail purchases of solar energy system equipment and the service of installing such systems from the sales and compensating use tax. Currently, the sales tax exemption is limited to purchases for and installation services provided to residences.

PART I – Extend Empire State Commercial Production Tax Credit for five years.

- Extends the effective date of the empire state commercial production credit from December 31, 2011 to taxable years beginning before January 1, 2017. This credit expired and was deemed repealed on December 31, 2011, while the Senate adopted legislation to extend the credit, the Assembly did not.

PART J – Authorize additional credits of \$8 million for low-income housing credit for each of the next five fiscal years.

- Increases by eight million dollars annually for each of the next five fiscal years, the aggregate dollar amount of State Low Income Housing Tax Credit (SLIHC) the Commissioner of the Division of Housing and Community Renewal (DHCR) may allocate to eligible low-income buildings as follows:
 - From \$32 million to \$40 million dollars effective immediately.
 - From \$40 million to \$48 million dollars effective April 1, 2013.
 - From \$48 million to \$56 million effective April 1, 2014.
 - From \$56 million to \$64 million effective April 1, 2015.
 - From \$64 million to \$72 million effective April 1, 2016.

PART K – Extend the Biofuel Production Tax Credit through the 2019 taxable year.

- Extends for seven years the sunset date of the biofuel production credit for eligible taxpayers to taxable years beginning before January 1, 2020.

PART L – Make permanent the Noncustodial Parent Earned Income Tax Credit.

- Removes the current sunset provision for this tax credit, which is available for parents who do not reside with a child, and pay the full amount of child support required. The Executive budget estimates a \$4 million decrease in tax receipts for SFY 2014-15 as a result.

PART M – Prohibit banks from charging fees on levied bank accounts.

- Prohibits banking institutions from deducting fees from the proceeds of levies executed to collect delinquent taxes or child support. Currently, banks apply processing fees to the proceeds of liens executed (provided there are sufficient funds) before forwarding the remaining proceeds to the executing creditor, often resulting in DTF receiving less than the amount of the lien. The federal government similarly does not allow banks to assess processing fees on IRS levies.

PART N – Extend the recently enacted lower Metropolitan Commuter Transportation Mobility Tax Rates for employers to professional employer organizations.

- Extends the recently enacted lower Metropolitan Commuter Transportation Mobility Tax rates (MTA payroll tax cuts) to employers of professional employer organizations (PEOs). PEOs provide a valuable service to small businesses by allowing them to provide employee benefits in a cost efficient way. However, under State labor law, PEOs are the employer of record of all employees of their clients. This inflates their employee records and payroll above the exemption threshold, and results in a higher MTA payroll tax.
- Separates the employees of PEOs from those of their clients, determining the payroll expense amounts attributable to each entity, multiplying each of those payroll expense amounts by the applicable rate and adding those two products together.
- Makes a technical correction to clarify that the MTA payroll tax cuts for self-employed individuals apply to taxable years beginning on or after January 1, 2012.

PART O – Extend for one year lower Pari-Mutuel tax rates and rules governing simulcasting of out-of-state races.

- Extends lower pari-mutuel tax rates and rules governing simulcasting of out-of-State races for one year. The rates in question have been extended annually since the mid-1990s.

PART P – Redistribute the statewide collected transmission tax between the upstate (PTOA) and downstate (MMTOA) transit accounts in an equitable manner, replacing the existing yearly transfer between the two accounts.

- Redistributes the revenue collected from the transmission tax that is collected statewide. Currently, State law mandates that 20 percent of the transmission tax be deposited in the Dedicated Highway and Bridge Trust Fund (Trust Fund), and the remaining 80 percent be deposited in the Mass Transportation Operating Assistance Fund to the credit of the Metropolitan Mass Transportation Operating Assistance Account (MMTOA) which is available only for downstate public transportation systems.
- Guarantees a deposit of revenues from the transmission tax into the Public Transportation Operating Assistance Account (PTOA) which is available for upstate public transportation needs.
- Proposes 20 percent of the transmission tax still be deposited in the Trust Fund, 54 percent of the transmission tax be deposited in the MMTOA, and the remaining 26 percent be deposited in the PTOA. Such percentages were derived based upon population data in each serviced area.

2012-13 NEW YORK STATE EXECUTIVE BUDGET

MERGE STATE ENTITIES

ARTICLE VII LEGISLATION

[S.6260/A.9060]

PART A – Merge the Division of the Lottery and the Racing and Wagering Board into the new New York State Gaming Commission

- Merges the Racing and Wagering Board and the Division of the Lottery into a new New York State Gaming Commission to be governed by a five member board appointed by the Governor with the advice and consent of the Senate.
- Transfers all functions and duties of the existing Boards to the new entity, as well as all appropriations and employees, who will retain their civil service and collective bargaining positions.
- Creates within the Gaming Commission 5 divisions: Lottery (NY Lotto, scratch-offs, Mega Millions and Power Ball), Horse Racing and Pari-Mutuel Wagering (Harness and Thoroughbred), Charitable Gaming (Bingo, Raffles, Bell Jars, and Games of Chance), Gaming (both Native casinos operated under IGRA and existing VLTs), and Law Enforcement.
- Maintains current regulatory and legal oversight structure, for the most part, but allows the new Commission to assess any regulatory fee it deems necessary of its regulated entities by act of the Board; allows the Board to set race dates on each calendar day of the year, including Christmas, Easter and Palm Sunday, and allows the Board to unilaterally fix admission charges for racing.
- Provides that the Commission shall cooperate with the Office of Mental Health to provide problem gambling assistance at its regulated facilities.
- Creates a separate office within the commission for Racing Promotion and Development to administer the thoroughbred, standardbred and quarter horse breeding and development funds.

PART B – Merge the Department of Civil Service and the Office of Employee Relations into a new Department of Workforce Management

- Creates the Department of Workforce Management by combining the Department of Civil Service (Civil Service) and the Office of Employee Relations (OER). The President of the Civil Service Commission will be the head of Workforce Management. The Civil

Service Commission and the Public Employee Relations Board will continue to be independent bodies with the new Department continuing to provide administrative support to the Civil Service Commission.

- Repeals sections 650 through 654 of the executive law which created OER. The statement of policy contained in section 650 is reconstituted as subdivision seven of section seven of the civil service law. The original statement of policy set forth OER as having “staff and skills requisite to act as the governor’s agent in conducting collective negotiations ...”. The new statement of policy for Workforce Management empowers the department to “assist the governor in conducting collective negotiations.”
- Provides that all powers, duties, obligations and functions will be transferred from Civil Service and OER to Workforce Management. Workforce Management is empowered to complete any unfinished business and will act as the successor to Civil Service and OER. All appropriations and re-appropriations for Civil Service and OER will be transferred to Workforce Management. Employees of OER and Civil Service will be transferred to Workforce Management with all rights intact.
- Replaces any reference in law to OER and Civil Service with the “department of workforce management”. The bill drafting commission is directed to make such changes pursuant to a memorandum of instruction to be submitted to the commission within 60 days of the enactment of this section. The memorandum of instruction will be jointly issued by the executive, the temporary president of the senate and the speaker of the assembly.

PART C – Transfer the operation and management of the Belleayre Mountain ski center from the Department of Environmental Conservation to the Olympic Regional Development Authority to foster more efficient operations.

- Transfers the operation, maintenance and management of the Belleayre Mountain Ski Center (Belleayre), located in Ulster and Delaware Counties, from the Department of Environmental Conservation (DEC) to the Olympic Regional Development Authority (ORDA).
- Increases the current membership of ORDA from ten to eleven, and requires that the new member, appointed by the Executive with the advice and consent of the Senate, must reside in Ulster or Delaware County.
- Authorizes ORDA to contract with DEC to operate, maintain and manage Belleayre consistent with ORDA’s current authority under the Public Authorities Law to operate and manage the Olympic Ski Center at Whiteface Mountain and the Gore Mountain Ski Center.

- Directs the Chair of ORDA to include the funds required for the operation of Belleayre in ORDA's yearly budget request to the director of budget and authorize ORDA to make capital improvements and major repairs to Belleayre.
- Confers exclusive jurisdiction to the court of claims to hear and determine any claims brought against ORDA arising out of its operation of Belleayre and provides for the transfer to ORDA of DEC employees currently engaged in operating Belleayre, as ORDA deems necessary. Permanent employees not transferred would have their names entered on an appropriate preferred list for reinstatement pursuant to the civil service law.

PART D – Elimination and/or merger of certain boards and commissions to foster more efficient government.

- Repeals over 25 Councils, Boards, Commissions, and Committees. Included in the repeal are the following Councils, Boards, Commissions, and Committees:
 - Agricultural Transportation Review Panel
 - Armored Car Carrier Advisory Board
 - Barbers Board
 - Child Welfare Research Advisory Panel
 - Child Performer Advisory Board To Prevent Eating Disorders
 - Direct Marketing Advisory Councils
 - Environmental Facilities Corporation Technical Advisory Committee
 - Freshwater Wetlands Appeals Board
 - Hudson Valley Agricultural Advisory Council
 - Long Island Sound Coastal Advisory Commission
 - Manufactured Housing Advisory Council
 - Minority And Women-Owned Business Enterprise Advisory Board
 - New York State Animal Health Issues Committee
 - New York State Conservation Corps Advisory Council
 - New York State Security or Fire Alarm Installer Advisory Committee
 - New York Statewide Law Enforcement Telecommunications Committee
 - New York State Veterans' Hall Of Fame Council
 - Organic Food Advisory Committee
 - State Forest Practice Board
 - Solid Waste Management Board
 - State Environmental Board
 - State Home Inspection Council
 - Statewide Wireless Advisory Council
 - Surf Clam/Ocean Quahog Management Advisory Board
 - Temporary Advisory Committee On The Restoration And Display Of New York State's Military Battle Flags
 - Tow Truck Advisory Board

- Makes the Hazardous Waste Disposal Advisory Committee permanent.
- Merges Emergency Medical Services (EMS) councils into a state advisory board, regional advisory boards and regional advisory committees; they would act in an advisory capacity ultimately to the Commissioner of Health.

