OFFICE OF THE STATE COMPTROLLER
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Current Status of the State Fiscal Year 2010-11 Budget

July 2010

Executive Summary

The 2010-11 State Fiscal Year (SFY) began more than 100 days ago, but the State budget is still incomplete. Since March, the Executive has proposed and the Legislature has enacted 12 temporary spending bills to allow governmental functions to continue during the budget delay. In those bills, the Executive included a number of savings and revenue measures from the proposed budget. As a result, major components of the budget were enacted as part of emergency spending bills, including Medicaid reductions, tobacco tax increases, and changes in funding for the Environmental Protection Fund.

Through July 7, 2010, the Legislature had passed all appropriation bills as well as all Article VII bills that accompanied those bills, with the exception of the Revenue Article VII bill, which, as of this date, has passed the Assembly, but not the Senate (hereafter referred to as the "outstanding revenue bill").[1] This outstanding revenue bill contains nearly $1.0 billion in revenue actions, including $330 million from a temporary suspension of certain clothing sales tax exemptions and savings associated with changes to the STAR property tax relief program. The Division of the Budget (DOB) estimates that the budget enacted by the Legislature, assuming passage of the outstanding revenue bill, fails to close approximately $500 million of the Executive's projected General Fund budget gap for SFY 2010-11 of $9.2 billion.

The Governor has vetoed nearly 6,700 individual line items added by the Legislature to two of the appropriation bills, with estimated savings of approximately $525 million, as well as additional savings associated with $180-190 million in reappropriated spending from prior years. The Governor also vetoed the entire Education, Labor and Family Assistance Article VII bill, which included implementation language for appropriations in the corresponding appropriation bill.

The following summarizes the Comptroller's preliminary review of the SFY 2010-11 Budget:

- New York State has struggled financially as the nation's longest recession since the Great Depression battered economies throughout the world. As New York entered the

[1] The State budget comprises appropriation bills, which provide authorizations for State agencies and public authorities to spend, and Article VII bills and language bills, which govern how such appropriations will be administered, implemented and/or financed.

Great Recession, the State's pre-existing structural budget deficit proved devastating. The gap between spending and revenue grew enormously as increased demand for social services drove significant new spending and the economic downturn caused revenues to plunge.

- While various signs of economic recuperation are apparent, the recovery has slowed, with persistent high unemployment causing sustained demand for social services. Other states and nations also continue to struggle with significant revenue shortfalls and growing deficits.
- A preliminary analysis of the SFY 2010-11 Enacted Budget projects All Governmental Funds spending of approximately $136.5 billion, including $2.1 billion in payment delays from SFY 2009-10 (not including delays of $348 million in Medicaid payments and $500 million in Personal Income Tax (PIT) refunds). This is an increase of approximately $9.6 billion, or 7.6 percent, from SFY 2009-10. When adjusted for delayed payments from SFY 2009-10, projected spending will increase $5.4 billion, or 4.2 percent. This rate of spending growth is more than twice the rate of inflation.
- Actions taken to close the projected $9.2 billion budget gap for SFY 2010-11 include cuts across all major areas of spending. While many of these actions are recurring, the Budget also relies on approximately $14.4 billion in non-recurring or temporary resources, which virtually guarantees that the State will face significant projected gaps between spending and revenue next year and beyond.
- Prior to vetoes, major actions in the Enacted Budget taken to close the projected budget gap include over $3.9 billion in reductions and savings. New or increased fees, taxes and other revenue actions total over $1.6 billion, although nearly $1.0 billion is still pending action on the outstanding revenue bill. Other actions include $1.1 billion in revenue from a six-month extension of funding from the federal government for the Federal Medical Assistance Percentage (FMAP) program, approximately $700 million from the December 2009 Deficit Reduction Plan, $676 million in non-recurring resources, and $334 million in other targeted savings. The remaining $800 million is closed, in part, with SFY 2009-10 closeout results and other actions.
- Of the actions taken to close the projected gap, a portion of $4.8 billion has been identified as risky, meaning some resources in this category are likely either to not materialize or to come in lower than projected. These areas include the $1.1 billion from the FMAP program, collection of taxes on cigarettes and other items on Indian Reservations, and a temporary repeal of the tax exemption on clothing costing less than $110.
- Because the Enacted Budget relies on more non-recurring and temporary actions to close the projected budget gap, out-year gap projections are expected to be more than $1.0 billion higher than Executive Budget projections, and will likely exceed $7.0 billion in SFY 2011-12. Out-year deficits will also be larger if the economic recovery stalls or if resources in the budget fail to materialize fully.

Financial Overview

SFY 2010-11 – Enacted Budget Preliminary Analysis

To date, the Division of the Budget (DOB) has not released a Financial Plan reflecting the SFY 2010-11 Enacted Budget, because the Legislature has not yet taken final action on the budget. Preliminary figures indicate that All Governmental Funds spending will total approximately $134.4 billion, after payment delays from the previous year are adjusted out, representing growth of $5.4 billion, or 4.2 percent. In the General Fund, preliminary estimates indicate spending will total $53.8 billion, after payment delays from the previous year are adjusted out, representing a decrease of $0.5 billion or 0.9 percent.

SFY 2009-10 Actual Disbursements Compared to
Preliminary Estimates for SFY 2010-11 Enacted Disbursements
(in billions of dollars)

Disbursements	Unadjusted for Timing Delays			
	2009-10	2010-11	$ Change	% Change
General Fund (Including transfers to other funds)	52.2	55.9	3.7	7.1%
All Governmental Funds	126.9	136.5	9.6	7.6%
	Adjusted for Timing Delays			
	2009-10	**2010-11**	**$ Change**	**% Change**
General Fund (Including transfers to other funds)	54.3	53.8	(0.5)	-0.9%
All Governmental Funds	129.0	134.4	5.4	4.2%

The Revenue Consensus process resulted in the Executive and the Legislature agreeing to lower projected revenue by $850 million.[2] In March, the Senate and Assembly each took separate budget actions to reflect their respective budget positions. After that, the budget process delineated in law was largely abandoned. While there was one meeting of the General Conference Committee, Joint Legislative Budget Conference Committees were never held, and most budget discussions were conducted away from the public eye.

Through July 1, the Executive and Legislature had reached agreement on three of the six major appropriation bills. The Debt Service budget bill was enacted in late March. Appropriation bills (and Article VII language bills) for Public Protection and General Government, and for Transportation, Economic Development and Environmental Conservation, were enacted in late June.

Prior to budget enactment, the Legislature is constrained in its ability to alter appropriation bills submitted by the Executive. Consequently, the Governor expressed his intention to include the remaining portions of his proposed budget in subsequent temporary spending bills. Much of what remained of the Executive's proposed budget was included in the June 28 temporary spending bill submitted to the Legislature.

The Legislature did not consent to act on the temporary spending bill and instead passed amended versions of the remaining appropriation and Article VII language budget bills, including the bills for Education, Labor and Family Assistance, the remaining portions of

[2] Section 23 of the State Finance Law requires the Executive and the Legislature to reach consensus on All Governmental Funds tax collections, General Fund miscellaneous receipts and Lottery proceeds by March 1. If they do not reach agreement, the Comptroller is charged with providing a revenue estimate in their place.

Health and Mental Hygiene and the Legislature and Judiciary budgets. Key areas of difference included restorations for school aid as well as provisions related to providing significantly greater autonomy to the State University of New York (SUNY) and the City University of New York (CUNY).

Although the Assembly passed an Article VII bill with nearly $1.0 billion in new revenue provisions, the Senate has yet to act on that bill. As a result, the Legislature has not yet provided a fiscal plan that shows balance in the General Fund.

Vetoes

The Executive vetoed nearly 6,700 lines of appropriations, contending that the Legislature had not fully addressed the General Fund deficit. Because appropriations for Public Protection and General Government, Transportation, Economic Development and Environmental Conservation, and the 12 previously enacted temporary spending budget bills were already chaptered into law, the Executive could not veto anything from those bills. As a result, all vetoes occurred in appropriation bills for Education, Labor and Family Assistance, and the remaining portion of Health and Mental Hygiene.

Summary of Vetoes

		Appropriation and Reappropriation Total	Number of Vetoes
Health and Mental Hygiene	$	146,542,036	1,972
Education, Labor & Family Assistance	$	658,746,262	4,709
Total	**$**	**805,288,298**	**6,681**

Approximately $535 million in savings in SFY 2010-11 would result from vetoes of new appropriations, including $419 million from school aid, $58 million from the Tuition Assistance Program (TAP), and $57 million from community college aid. Another $190 million in reappropriations was also vetoed, primarily reflecting legislative additions and member items.[3]

The Executive also vetoed the entire Education, Labor and Family Assistance Article VII bill, which provided implementation language for the appropriations contained in the corresponding appropriation bill. The Executive referred to the Legislature's inclusion of a reduction in the Gap Elimination Adjustment (GEA) as a "poison pill," because it essentially negated the effect of his veto of the Legislature's school aid restoration. However, as the veto message acknowledges, the bill contains many other amendments to existing law, including those related to TAP, many of which were proposed in the Executive Budget.

In fact, the veto of the Article VII bill may result in increased aid liabilities. For example, the Executive Budget proposal froze most school aid input data (such as expenditures) as of November 2009. With the veto of this Article VII language, payments to school districts for certain expense reimbursement categories of aid may increase. In other areas, school districts may face reductions. For example, the Executive Budget had frozen charter school

[3] Note that reappropriated spending could occur through the SFY 2009-10 appropriation lapse period which ends September 15, 2010, so savings in SFY 2010-11 cannot yet be determined.

tuition payments for SFY 2010-11. Without enactment of these new provisions, school districts may face increased tuition payments to charter schools.

The current situation creates some uncertainty for school districts. Districts still have no reliable estimate of how much aid they will receive for the 2010-11 school year, which began on July 1. Most school districts must determine their property tax levies by August. Without definitive information on school aid payments, it is possible that school property tax levies could be higher than is necessary.

Non-Recurring and Temporary Resources

The SFY 2010-11 Executive Budget included approximately $12.8 billion in non-recurring or temporary resources, most of which were accepted in the Enacted Budget. This includes $5.7 billion in federal stimulus funds as well as $5.5 billion from the temporary increase in the Personal Income Tax enacted last year, both of which are scheduled to expire in the near future. Non-recurring resources include $367 million in a non-specific sweep authorization and $250 million from workforce concessions.

The Enacted Budget (assuming enactment of the outstanding revenue bill) relies on over $14.4 billion in non-recurring or temporary resources that will phase out over the next few years. Temporary resources added to the Enacted Budget or included in the outstanding revenue bill include $330 million from the temporary elimination of the sales tax exemption on clothes costing less than $110, and $100 million from a decrease in the allowable deductions for charitable contributions for people with incomes over $10 million. Non-recurring resources added include an additional $250 million in workforce concessions (for a total of $500 million).

Non-Recurring and Temporary Resources
Identified in Executive and Enacted Budgets – SFY 2010-11
(in millions of dollars)

	Executive	Enacted
Stimulus FMAP Increase	4,447	4,447
Stimulus Fiscal Stabilization	1,275	1,275
Temporary Personal Income Tax	5,488	5,488
Temporary Utility Assessment	557	557
Temporary Assistance for Needy Families Offset	-	200
Delay Physician's Excess Medical Malpractice	-	127
Non Specific Fund Sweeps	367	367
Workforce Concessions (1)	250	500
Temporary Suspension of Clothing Sales Tax Exemption	-	330 *
Taxation of Charitable Contributions	-	100 *
Deferred Tax Credits	-	100 *
Elimination of AIM Payments to New York City	-	302
Sale of Wine in Grocery Stores	254	-
Abandoned Property	100	200
Debt Service Savings	16	100
Other (including December DRP (2))	(510)	(415)
Other Reported Nonrecurring Actions	565	676
Temporary Resources	**12,809**	**14,354**

(1) Workforce concessions may provide recurring savings depending on how they are implemented.
(2) Includes costs associated with prior non-recurring actions such as $391 million from the spin-up of federal education stimulus dollars, as well as other costs and benefits from the December DRP.
Note: The Executive proposed to eliminate New York City AIM payments permanently.

Risks to the Financial Plan

The SFY 2010-11 Enacted Budget is predicated on a number of actions that may not ultimately provide the level of resources anticipated, including several provisions that are contained in the outstanding revenue bill.

The Enacted Budget contains $4.8 billion in revenue and spending actions that are risky and may create the need for Financial Plan adjustments. While it is expected that some of these resources will be realized, it is difficult to project what portion will not be realized, so the full value of each risky action is presented. A significant portion of the total amount is uncertain, meaning some resources in this category are likely to come in lower than projected or not to materialize at all.

For example, the Enacted Budget relies on over $500 million in additional fraud recoveries from Medicaid and tax audits. While some revenue will undoubtedly be realized, the full additional amount is less certain. The workforce savings target, originally $250 million in the Executive Budget, has proven difficult to achieve. Yet this target has been increased to $500 million.

The $300 million Aqueduct franchise fee payment has proven elusive over the years. A dubious procurement process has left the State with one qualified bidder, and it is unclear if the State will achieve its goal of selecting an operator by August 2010. Finally, the Enacted Budget relies on $1.06 billion in additional federal stimulus funds from the FMAP program that have not yet been approved by Congress.

Risks to the SFY 2010-11 Financial Plan
(in millions of dollars)

	2010-11	
Additional Federal Stimulus Funding	1,060	
Various Nonrecurring Resources (Including Fund Sweeps)	676	
Workforce Reductions	500	
New Cigarette Taxes (including Native American Sales)	440	
Blanket Fund Sweeps	367	
Temporary Reduction of Sales Tax Clothing Exemption	330	*
Additional Medicaid Fraud Recoveries	300	
Aqueduct Franchise Fee	300	
Additional Tax Audit Recoveries	221	
Additional Tax Revenue based on Positive April through June Collection	200	
Additional Tax Collections from Charitable Contributions	100	*
Additional Revenue from Unclaimed Funds	100	
Debt Service Savings	84	
Nonresident Hedge Fund	50	*
Additional Lottery Revenue from VLT Expansion	45	
Total	**4,773**	

* Part of the outstanding revenue bill.

In addition, the national economic recovery has slowed, unemployment remains high and both the commercial and residential real estate markets continue to show fragility. Any further economic setbacks could easily undermine the revenue and spending assumptions in the Enacted Budget Financial Plan.

Taxes and Other Revenue

Overall, the SFY 2010-11 Enacted Budget relies on almost $1.6 billion from new revenue actions, including increased taxes and revenue re-estimates. This primarily reflects the tobacco tax increase and tobacco sales by Native Americans to non-Native Americans ($440 million), revenue re-estimates since the Revenue Consensus process (increased by at least $200 million), and an additional $959 million if the outstanding revenue bill is enacted.

Summary of Revenue Actions for SFY 2010-11
(in millions)

Revenue Actions	
Article VII S.6610 (not yet enacted)/A.9710	
Revenue Increases	**959**
Sales tax on clothing and footwear under $110	330
Business tax credit deferral	100
Reduce itemized deductions for AGI greater than $10 million	100
Restructure the NYC personal income tax rate reduction for STAR	140
Nonresident source income for Scorps	30
Extend VLT hours	45
Nonresident hedge funds	50
Repeal sales tax bad debt credit for private label credit cards	17
Sales tax vendor credit	23
Bank bad debt deduction conformity	15
Hotel markup	13
Abandoned property	100
Revenue Reductions	
Empire State Film Production Credit	-
Low income housing credit	(4)
Tobacco taxes	**440**
Revenue Re-estimate Since Consensus Forecast	**200**
Excelsior Jobs Program Act	**-**
Total Revenue Actions	**1,599**

Structural Imbalance – Out-Years

The Executive's SFY 2010-11 Proposed Budget Financial Plan (updated for the 21-day amendments, released in February) projected out-year gaps for current services of $5.4 billion in SFY 2011-12, $10.7 billion in SFY 2012-13 and $12.4 billion in SFY 2013-14. Out-year gaps will likely exceed the Executive's projections because of a variety of factors, including lower revenue projections associated with the Revenue Consensus process, federal funding for Medicaid and fewer enacted recurring spending cuts.

Because of these and other factors, out-year gaps are expected to be more than $1.0 billion higher than original projections, and will likely exceed $7.0 billion in SFY 2011-12. Out-year budget deficits could also be larger if the economic recovery stalls or if resources in the budget fail to materialize fully, as has occurred in previous years.

The large General Fund budget gap reaffirms that the growth in State spending continues to exceed the growth in State revenue. For SFY 2009-10, reported General Fund revenue declined by 2.3 percent from SFY 2008-09. Spending declined by 4.4 percent for the same period, but only because of delays of $2.1 billion in aid payments, $500 million in PIT refunds and a $348 million Medicaid payment to SFY 2010-11. If those funds had been disbursed when scheduled, spending would have been virtually flat from the prior year while revenue declined.

Current projections show recurring revenue will grow significantly more slowly than recurring spending. In fact, although updated gap projections are not yet available, the Executive's February projections show revenue growing annually through SFY 2013-14 at an average of only 3.4 percent, compared to spending growth of 8.1 percent. Historically, this difference has been made up with non-recurring resources, debt and reserves. This longstanding reliance on one-shots, debt and other non-recurring resources to address the State's operating deficit is unsustainable.

Conclusion

Despite a consensus that the budget process is badly flawed and a chorus of public and private proposals for budgetary and fiscal reform, the Enacted Budget contains no reforms that would help impose the fiscal discipline necessary to realign recurring spending with recurring revenue. Even modest budget reforms enacted in 2007, such as the public budget conference committee process, were largely abandoned.

The State continues its one-year focus on the budget, using too many measures that provide short-term budget relief to pay for long-term commitments, without fully addressing the State's chronic structural deficit.

The Enacted Budget for SFY 2010-11 is not yet complete. The projected General Fund gap of $9.2 billion has not yet been closed due to the unresolved revenue bill. Uncertainty remains for school districts and other entities due to the veto of the Education, Labor and Family Assistance Article VII bill.

The Comptroller will provide a more detailed analysis of the SFY 2010-11 Enacted Budget once the budget is complete.