New York State
Fiscal Year 2022-23
Executive Budget Review

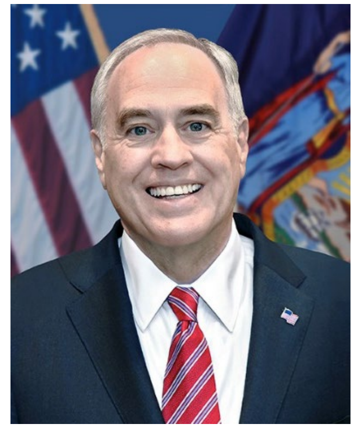
OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

February 2022

Message from the Comptroller

February 2022



Almost two years after the emergence of COVID-19, we are at a pivotal moment. New Yorkers and their State government have been challenged in unprecedented ways addressing the health and economic impacts of the pandemic. Unsurprisingly, the response has been bold and courageous. As a result, we are in a stronger than anticipated fiscal environment, facing projected budget surpluses rather than gaps.

This moment also presents unique risks. The persistence of COVID-19 means that the public health emergency will likely continue for some time to come. The pandemic is also likely to fundamentally change the way we live and work in the years ahead. These factors make the already difficult task of forecasting economic performance, estimating revenue, and matching spending commitments to available resources even more challenging.

I have repeatedly called on policy makers to increase deposits to the State's rainy day reserve funds, to ensure that resources are available during economic downturns and when the unexpected occurs. Today, thanks to significant increases in federal aid and tax revenue that has far outpaced the Division of the Budget's projections, we have the best opportunity in recent memory to act. The Executive Budget sets forth a stated commitment to set aside reserve funds equal to 15 percent of projected spending from State Operating Funds by SFY 2024-25. This is a good start to the policy discussion, which should consider not only the extent of State reserves, but also the form, to ensure that such funds are set aside for true rainy days.

This Executive Budget also maintains commitments such as the multi-year schedule to fully fund the Foundation Aid formula, proposes new funding to help New York individuals, families and small businesses continue their economic recovery, and advances increased levels of infrastructure spending. While these investments address areas of significant need, I urge policy makers to maintain an eye to the years ahead, when unprecedented levels of federal support will no longer be available, State resources may once again fall short of expectations, and our existing debt burden restricts our ability to act.

Thomas P. DiNapoli
State Comptroller

Table of Contents

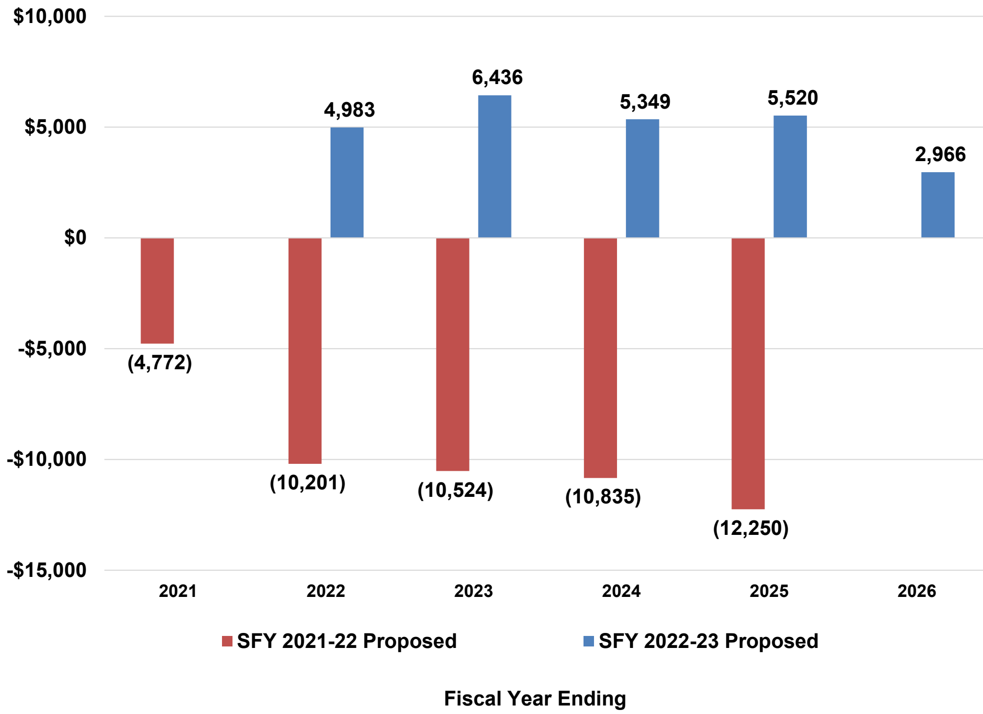
I. Financial Plan Overview

The State Fiscal Year (SFY) 2022-23 Executive Budget represents the first budget in modern times that is projected by the Division of the Budget (DOB) to remain in balance throughout the Financial Plan period, including one additional year beyond the typical four-year forecast period. This represents a significantly improved fiscal position from just one year ago. The SFY 2021-22 Executive Budget projected gaps averaging nearly $11 billion annually over the Financial Plan period, not including a $4.8 billion gap forecast for the remaining three months of SFY 2020-21. Figure 1 illustrates out-year gap and surplus projections from the SFY 2021-22 Executive Budget compared to the SFY 2022-23 Executive Budget.

Figure 1

Out-Year Gap and Surplus Projections

(in millions of dollars)



Source: Division of the Budget, Office of the State Comptroller ("OSC") calculations

Over the last year, billions of dollars in temporary federal pandemic assistance were enacted and became available to the State. In addition, fortified by temporary Personal Income Tax (PIT) rate increases included in the SFY 2021-22 Enacted Budget, tax receipts grew at levels beyond original forecasts. Initially, tax collections were expected to increase only 10.6 percent; however, year-to-date collections have increased 31.2 percent.[1]

[1] Does not include the newly created Pass-Through Entity Tax, which DOB expects will be revenue neutral over the life of the Plan.

The Executive Budget reflects these additional revenues, the use of previously authorized federal assistance over a multi-year period, as well as nearly $5 billion in new capital funding from the federal Infrastructure Investment and Jobs Act (IIJA). The Executive Budget also proposes to raise some statutory reserve limits. While modest deposits are proposed to be made to these statutory reserves, the majority of funds would be set aside in unrestricted reserves over the life of the Financial Plan.

According to DOB, spending from All Governmental Funds (All Funds) is projected to total $216.3 billion in SFY 2022-23, representing an increase of $3.5 billion or 1.6 percent. Spending from State Operating Funds will increase 3.1 percent from $115.2 billion to $118.8 billion. Spending from the General Fund (including transfers to other funds) is expected to increase 5.3 percent, from $90.7 billion to just under $95.5 billion.

Figure 2 illustrates annual and average annual growth in projected receipts and disbursements from the three fund categories. There are also spending increases anticipated in the General Fund and State Operating Funds associated with federal pandemic relief. For instance, spending from the federally funded Coronavirus Relief Fund reduced operational spending in certain agencies by approximately $2.3 billion in SFY 2021-22.

In addition, the federal reimbursement for Medicaid (the enhanced Federal Medical Assistance Percentage or eFMAP) was temporarily increased to provide states with additional relief. In SFY 2021-22, this increase provided $3.6 billion in General Fund relief. Because the Public Health Emergency was extended an additional quarter, the additional eFMAP will continue into the first half of SFY 2022-23, but only providing $1.2 billion instead of $3.6 billion.

Figure 2

Projected Growth in Spending and Receipts by Fund
SFY 2021-22 through SFY 2025-26

Percentage Growth	SFY 2021-22 Estimate	SFY 2022-23 Proposed	SFY 2023-24 Projected	SFY 2024-25 Projected	SFY 2025-26 Projected	Average Annual Growth 2022-23 through 2025-26	Average Annual Growth 2022-23 through 2025-26 (out-years)
General Fund Receipts	50.8%	-17.3%	13.7%	5.7%	-4.7%	-1.3%	4.6%
General Fund Disbursements	22.4%	5.3%	7.0%	5.3%	2.3%	5.0%	4.9%
State Operating Funds Receipts	26.5%	-13.9%	10.1%	3.4%	0.4%	-0.4%	4.5%
State Operating Funds Disbursements	10.6%	3.1%	3.8%	4.5%	5.4%	4.2%	4.6%
All Funds Receipts	27.3%	-12.9%	1.3%	0.8%	1.8%	-2.5%	1.3%
All Funds Disbursements	14.1%	1.7%	-1.4%	1.3%	3.6%	1.3%	1.1%

Source: Division of the Budget, OSC calculations

II. Economic Outlook and Revenue

Economic Outlook

After a strong start in the first half of 2021, economic growth nationally faltered in the third quarter due in part to supply chain issues and a surge in COVID-19 cases over the summer which dampened consumer spending. However, the impact of these issues did not carry over into the fourth quarter. According to the U.S. Bureau of Economic Analysis, the national economy grew by 5.7 percent in 2021, and DOB projects this growth to continue in 2022 at a robust pace of 4.3 percent, before returning to trend growth for the next three years.

By January 2022, employment nationwide had yet to return to pre-pandemic levels, with nearly 87 percent of jobs lost having been recovered. DOB estimates national employment to increase at a faster rate in 2022, 3.5 percent, with full job recovery from the pandemic by the end of the year.

Employment recovery in New York was slower in 2021. By the end of the year, less than two-thirds of the jobs lost were recovered. While DOB projects employment to grow by 5.6 percent in 2022, it does not expect full job recovery in the State until 2024.

Nationally, the labor force has shrunk by 1.4 percent from pre-pandemic levels due in part to those who dropped out because of health and safety reasons or retirement, or possibly those who chose to be self-employed. In New York, the number of workers has also been falling; according to the NYS Department of Labor, there were nearly 275,000 less people in the labor force in December 2021 than at the beginning of the pandemic.

A combination of the increased employment compared to 2020 as well as the labor shortage served to increase wages in 2021; DOB estimates national and State wage growth of 9.1 percent and 8.4 percent, respectively. While employment is projected to increase at a faster rate in New York than nationally in 2022, wages are estimated to grow at a somewhat slower pace, 5.0 percent compared to 7.4 percent nationwide. This reflects much lower finance and insurance sector bonus growth, for which New York's economy has a higher share.

Despite the robust estimated increase in wages, DOB projects personal income growth in the U.S. and in New York to be much more muted, increasing by 1.1 percent nationally but decreasing by 1.0 percent in the State. These changes reflect the absence of the federal fiscal stimulus provided in 2021, primarily the economic impact payments ("stimulus checks") and the federal pandemic unemployment programs.

Risks

DOB's economic forecast for the nation is more optimistic than the Blue Chip Consensus, as well as many of the individual economic forecasters that comprise the Consensus (see Figure 3). However, for New York, DOB's projections are mixed when compared to IHS Markit.[2]

[2] Blue Chip Consensus does not provide projections at the state level.

While there are many risks that can impact the economy, the predominant risks for this forecast are the direction of the pandemic, the pace of inflation, and supply chain issues. The duration of the Omicron variant and the potential rise of any new variants could prolong restrictions and quarantines, resulting in constrained employment and productivity growth.

Higher than projected inflation would reduce the spending power of the consumer despite their increased wages, resulting in lower consumption. In addition, if the Federal Reserve is induced to increase interest rates faster than currently assumed, consumption as well as investment growth could be further constrained.

Supply chain issues have been a contributing factor to the current increase in prices. A continuation of the supply bottlenecks could exacerbate inflation as well as decrease consumption, as there are fewer goods to buy.

In addition to the risks above, the changes in the labor market are a risk to the New York economy and, in turn, its revenues. As previously noted, New York's job recovery from the pandemic has been slow and there are fewer workers in the labor force. While DOB forecasts a return to pre-pandemic employment levels in 2024, IHS Markit's forecast is more pessimistic, forecasting that a full recovery will not occur until 2027.

Figure 3

Comparison of Select Economic Indicators, U.S. and New York

U.S. ECONOMIC INDICATORS									
	REAL GDP			**CONSUMER PRICE INDEX**			**UNEMPLOYMENT RATE**		
	2021	2022	2023	2021	2022	2023	2021	2022	2023
DOB	5.6	4.3	2.7	4.6	4.1	2.3	5.4	3.8	3.5
Blue Chip	5.6	3.9	2.6	4.6	4.6	2.4	5.4	3.8	3.5
IHS Markit	5.7	4.1	2.5	4.7	4.2	2.2	5.4	3.7	3.6

NEW YORK ECONOMIC INDICATORS									
	PERSONAL INCOME			**WAGES**			**EMPLOYMENT**		
	2021	2022	2023	2021	2022	2023	2021	2022	2023
DOB	5.4	(1.0)	4.3	8.4	5.0	4.0	2.5	5.6	1.7
IHS Markit	6.0	0.7	4.3	9.0	7.9	5.0	1.6	4.1	2.2

Note: Amounts are annual percent changes. 2021 figures are estimates, 2022 and 2023 are projections.
Source: Division of the Budget, January 22 Blue Chip Economic Indicators, IHS Markit January 2022 National and Regional Forecasts

Revenue

DOB estimates All Funds revenues in the current fiscal year (exclusive of federal receipts) to total $143.8 billion, an increase of 27.1 percent or $30.7 billion from SFY 2020-21. This increase is primarily attributable to the return of economic growth over the past year as well as the impact from the various revenue increases included in the SFY 2020-21 Enacted Budget, such as: the Personal Income Tax (PIT) surcharge on high-income taxpayers, increased corporate franchise tax rates, the creation of a new Pass-Through Entity Tax (PTET), and the authorization for mobile sports wagering.

For SFY 2022-23, All Funds revenues are projected by DOB to total $127.2 billion, a decrease of 11.6 percent or $16.6 billion. While economic growth is projected to continue, albeit at a slower pace, and the State benefits from the full-year impact of mobile sports wagering and initial collections from the legalization of adult-use cannabis, the overall decline in collections primarily reflects the impact of the offsetting PIT credit for PTET taxes paid at the end of the 2021 tax year which affects final returns filed by taxpayers in April 2022. DOB forecasts that the impact of the PTET will be revenue neutral over the life of the Financial Plan period.

The Executive Budget includes revenue actions that are projected to produce net decreases in All Funds revenues of $2.4 billion in SFY 2022-23 and $900 million in SFY 2023-24. The most significant are the proposed acceleration of the middle-class tax rate reductions and the proposed Homeowner Tax Rebate credit for low- and middle-class homeowners.

Personal Income Tax Rate Reductions: The Budget proposes to accelerate the final phase-in of the middle-class tax cuts that were enacted as part of the SFY 2016-17 Enacted Budget from tax year 2025 to tax year 2023 (as shown in Figure 4). This proposal would decrease revenues by $162 million in SFY 2022-23 and by $615 million in SFY 2023-24.

Figure 4

Proposed PIT Rates by Filing Class and Taxable Income Level

MARRIED			
Taxable Income	**2022**	**2023**	
		Current	Proposed
$27,900 - $43,000	5.85%	5.73%	5.50%
$43,000 - $161,550	5.85%	5.73%	5.50%
$161,550 - $323,200	6.25%	6.17%	6.00%
SINGLE			
Taxable Income	**2022**	**2023**	
		Current	Proposed
$13,900 - $21,400	5.85%	5.73%	5.50%
$21,400 - $80,650	5.85%	5.73%	5.50%
$80,650 - $215,400	6.25%	6.17%	6.00%
HEAD OF HOUSEHOLD			
Taxable Income	**2022**	**2023**	
		Current	Proposed
$20,900 - $32,200	5.85%	5.73%	5.50%
$32,200 - $107,650	5.85%	5.73%	5.50%
$107,650 - $269,300	6.25%	6.17%	6.00%

Source: NYS Tax Law, Division of the Budget

These lower rates would impact over 6 million New York PIT taxpayers. Figure 5 shows the approximate number of affected taxpayers by region.

Figure 5

Estimated Number of Affected Resident Taxpayers by Filing Class and Region

REGION	SINGLE	HEAD OF HOUSEHOLD	MARRIED	TOTAL TAXPAYERS
Capital Region	147,302	29,575	129,610	306,487
Central New York	92,462	19,793	85,818	198,073
Finger Lakes	150,350	30,134	138,324	318,808
Hudson Valley	278,229	84,962	263,508	626,699
Long Island	391,461	106,172	373,041	870,674
Mohawk Valley	53,618	11,555	46,946	112,119
New York City	1,306,801	401,639	570,977	2,279,417
North Country	38,782	8,961	39,330	87,073
Southern Tier	69,483	13,343	65,527	148,353
Western New York	171,056	31,816	148,796	351,668

Source: NYS Department of Taxation and Finance, 2019 PIT Study File

Homeowner Tax Rebate Credit: The Budget would provide a PIT credit for homeowners with incomes less than $250,000, inclusive of those in New York City, which is anticipated to be advance refunded ("rebated") to the taxpayer in Fall 2022. The amount of the rebate would be a percentage of the benefit, varying depending on income level and the type of STAR benefit the homeowner receives, as shown in Figure 6. This credit would only be available for tax year 2022 and would decrease revenues by $2.2 billion in SFY 2022-23.

Figure 6

Homeowner Tax Rebate Credit and Estimated Number of Recipients

Qualified Gross Income	Basic STAR Recipients			
	New York City		Rest of State	
	Percentage of STAR Benefit	Number of Taxpayers	Percentage of STAR Benefit	Number of Taxpayers
$75,000 and less	125%	152,436	163%	685,362
$75,001 - $150,000	115%	143,856	115%	611,921
$150,001 - $200,000	105%	50,380	66%	194,685
$200,001 - $250,000	100%	30,715	18%	92,710

Qualified Gross Income	Enhanced STAR Recipients			
	New York City		Rest of State	
	Percentage of STAR Benefit	Number of Taxpayers	Percentage of STAR Benefit	Number of Taxpayers
$92,000 and less	110%	102,340	66%	474,754

Source: Division of the Budget

III. Major Areas of Expenditure

Health

The Executive Budget proposes more than $10 billion in multi-year initiatives for the State's health care system. These include:

- $3.1 billion in wage increases and bonuses for health care and mental hygiene workers,
- $2.8 billion for safety net hospitals,
- $2.5 billion to increase Medicaid rates by one percent across-the-board,
- $2.4 billion in capital funding for health care facilities statewide,
- $1.3 billion for nursing home staffing and support,
- $1.1 billion to restore previous year Medicaid rate cuts, and
- $500 million for cost-of-living adjustments for human service workers.

The Budget proposes All Funds Medicaid spending, reflecting federal and State costs, of $83.8 billion in SFY 2022-23, an increase of $8.0 billion or 10.5 percent over the current year. This increase reflects, in part, the wage hikes and worker bonuses the Budget proposes, as well as growth in populations (for example, the elderly and the disabled) that drive higher service utilization and costs, and additional funding for nursing homes addressing pandemic-related impacts and implementing minimum staffing requirements.

The Budget proposes to modify the Medicaid global cap by basing it on the five-year rolling average of annual federal health care spending projections, instead of the 10-year rolling average of medical Consumer Price Index. This change would increase allowable Medicaid spending growth under the cap by $366 million in SFY 2022-23 and by significantly higher amounts in the out-years.

DOB expects Medicaid enrollment to peak at nearly 7.7 million in SFY 2022-23, then return to near pre-pandemic levels of 6.1 million enrollees the following years. If enrollment does not decline as DOB projects, risks to the Financial Plan are notable.[3]

Mental Hygiene

The Budget advances proposals intended to improve the delivery of mental hygiene services for New Yorkers with developmental disabilities, mental illness, and addictions. Proposed actions include funding a mandatory schedule of bonus payments for direct care workers and clinical staff providing services to these individuals, to be funded with over $200 million in State resources, as well as federal matching funds.

[3] The Office of the State Comptroller report, *Medicaid: Enrollment Growth, COVID-19 and the Future*, December 2021, noted that if the Medicaid enrollment reduction occurs at a slower rate than DOB projects, or if enrollment fails to decline by as much as projected, the State Financial Plan will incur additional, unbudgeted costs.

The proposed Budget would also remove resources from consideration for Medicaid eligibility and increase the income limit for Medicaid eligibility for seniors and individuals with disabilities to promote continuity of coverage when their Medicare eligibility begins.

Education

The Executive Budget proposes $31.2 billion in School Aid for school year (SY) 2022-23, an increase of $2.1 billion (7.1 percent) from $29.1 billion in SY 2021-22. This includes:

- $21.4 billion in Foundation Aid, an increase of $1.6 billion (8.1 percent) from $19.8 billion in SY 2021-22. This is the second year of the three-year phase-in of full funding of the current Foundation Aid Formula. Each district would receive at least half of the increase that would be required to reach this full funding level, with a minimum increase of 3 percent even for those districts already at or exceeding full funding. The Budget anticipates full funding by SY 2023-24;

- $8.4 billion in most other formula-based aids, an increase of $464 million (5.9 percent), from $7.9 billion in SY 2021-22 to SY 2022-23;

- $952 million in Universal Pre-Kindergarten (UPK) aid, an increase of $6.62 million (0.7 percent) from $945 million in SY 2021-22. This total includes $103.36 million in UPK expansion grants supported by the American Rescue Plan (ARP) Act, which is not counted in the $31.2 billion of State-only school aid amount above. The Budget indicates that this expansion will be fully State-supported by SY 2024-25; and

- $532.6 million in other aid categories, including categorical and competitive grants, down $5 million (0.9 percent) from $537.6 million in SY 2021-22.

IV. Transparency, Accountability, Ethics and Elections

Transparency and Accountability

Transparency, accountability and independent oversight are keys to ensuring that public resources are protected from waste, fraud and abuse, and that the public has access to important information regarding government activities. These essential elements of good governance also help assure that the State Budget is fiscally responsible and provides an honest representation of the State's spending plan. Provisions that weaken these protections leave public resources more vulnerable to misuse, and may diminish New Yorkers' confidence in their State government.

Certain elements of the Executive Budget fall short with respect to high standards of transparency, accountability and oversight. As in prior years, the Executive Budget Financial Plan identifies billions of dollars allocated to broadly defined purposes with virtually no specificity. For example, nearly $6 billion is set aside through SFY 2025-26 for labor settlements and agency operations. While DOB regularly sets aside funding for retroactive payments associated with recent contract agreements, that funding is often identified and used within a year of setting it aside.

An additional $1 billion is planned to be transferred from the General Fund to the Health Care Transformation Fund over the next two years. Moneys in this Fund are authorized to be transferred to any other fund of the State. The provisions allow the expenditure of State resources to support a broad variety of health care delivery or other programs or purposes, including capital investment, debt retirement or restructuring, housing and other social determinants of health, or transitional operating support to health care providers pursuant to a plan prepared by the DOH Commissioner and approved by the Budget Director.

Several appropriations and reappropriations in the Executive Budget would eliminate the Comptroller's contract pre-review oversight authority pursuant to section 112 of the State Finance Law, and would waive competitive bidding for State contracts. Examples include:

- a $2 billion appropriation to fund "unanticipated emergencies" of the State pursuant to purposes set forth in Section 53 of the State Finance Law;
- a $6 billion appropriation for transfer by the Executive to cover services and expenses related to the COVID-19 outbreak including but not limited to additional personnel, equipment and supplies, travel costs and training, as well as responding to the direct and indirect economic, financial, or social effects of COVID-19; and
- a $2 billion appropriation "…for services and expenses related to the outbreak of coronavirus disease 2019 (COVID-19)." This funding can be transferred, at the discretion of the Budget Director, to any fund of any State agency, department, or authority, including proprietary and fiduciary funds.

The Executive proposes a $10 billion multi-year investment in health care. However, some of the spending is proposed without sufficient oversight and accountability. The Health Care Facility Transformation Program envisions $1.6 billion in capital project grants for eligible health care providers but exempts most of this from the Comptroller's contract pre-review oversight authority pursuant to section 112 of the State Finance Law, and allows the grants to be awarded pursuant to a process approved administratively, not the competitive bidding process required by law.

The Budget also eliminates the Comptroller's contract pre-review oversight and State Finance Law competitive bidding requirements from the proposal to procure Medicaid managed care contracts. Removing these requirements weakens assurances of procurement integrity and confidence that all bidders are competing on a fair and level playing field. This proposal, in addition to numerous other Executive Budget provisions, would exempt billions of dollars in public funds from the Comptroller's contract oversight and State Finance Law's competitive bidding and other various other procurement requirements.

Many appropriations throughout the Budget also include language which authorizes spending "net of refunds" and other credits to the State, as well as language expressly directing the Comptroller to credit such refunds to the original appropriation and "reduce expenditures in the year which such credit is received regardless of the timing of the initial expenditure." These provisions, which do not include any dollar limitation, have the potential to artificially reduce the appearance of true liabilities and reported receipts and disbursements of the State in a given fiscal year.

Ethics and Elections

The Executive Budget advances ethics and elections reform provisions, including proposals to:

- Limit the Governor, Lieutenant Governor, Comptroller and Attorney General to two consecutive four-year terms in office. This would only become effective following passage in two successive legislative sessions and subsequent approval by the voters.
- Replace the Joint Commission on Public Ethics with a new Commission on Ethics and Lobbying in Government that would be governed by a five-member board, with staggered four-year terms, selected by a committee comprised of the State's accredited law school deans. The Commission would act by majority vote, and would be subject to Freedom of Information and Open Meetings requirements.
- Amends ethics laws for local officials to be more consistent with State standards with respect to gifts; expands the definition of an interest in a contract to include additional familial relationships for purpose of determining a prohibited conflict of interest; and expands the requirement for disclosure to include additional familial relationships.
- Provide $10 million for the Public Campaign Finance program that will take effect in 2022 to fund the State's matching portion. The Budget also provides $3.3 million in additional funding for the State Board of Elections to support additional PCF staff and IT-related costs.
- Lower the voter registration deadline from 25 days to 10 days before the election (which would be consistent with the State's Constitutional deadline) and require polling locations on college campuses whenever the college campus contains 300 or more registered voters in that district.

V. Capital Plan and Debt

The Executive Budget proposes a $92 billion five-year Capital Plan, an increase of $14.7 billion or 19 percent from the previous Enacted Plan. This includes new or increased commitments to transportation, housing, healthcare and environmental infrastructure, among others, as shown in Figure 7. Many of the new capital investments are made possible by the federal Infrastructure Investment and Jobs Act, which will provide billions of new resources for New York in the years ahead.

Figure 7

Comparison of SFY 2022-23 Executive Budget Capital Plan to SFY 2021-22 Enacted Budget Capital Plan

Functional Area	SFY 2022-23 Through SFY 2026-27 Proposed	SFY 2021-22 Through SFY 2025-26 Enacted	Dollar Change	Percentage Change
Transportation	42,475	36,942	5,533	15.0%
Education	2,105	2,122	(17)	-0.8%
Higher Education	9,279	8,154	1,125	13.8%
Economic Development/Government Oversight	11,555	8,365	3,190	38.1%
Mental Hygiene	3,270	3,010	260	8.6%
Parks and Environment	9,257	7,674	1,583	20.6%
Health	4,549	3,343	1,206	36.1%
Social Welfare	7,051	4,479	2,572	57.4%
Public Protection	2,652	2,317	335	14.4%
General Government	2,452	1,773	679	38.3%
Other	(2,606)	(822)	(1,784)	217.1%
Total	**92,039**	**77,358**	**14,681**	**19.0%**

Source: Division of the Budget

Over the proposed Capital Plan's five years, total State-supported debt grows from $62.9 billion in SFY 2021-22 to $88.1 billion in SFY 2026-27, an increase of $25.3 billion or over 40 percent.

The Executive Budget discontinues the practice of excluding new debt issuances from the State's debt cap, which occurred in each of the prior two years. These prior actions excluded nearly $19 billion from the State's debt limit, rendering it functionally meaningless. The Executive Budget also proposes to enhance State pay-as-you-go spending by $6 billion to reduce new borrowings.

However, the enhanced pay-as-you-go funding only partially offsets the over $8 billion impact from capital spending adds, with a net result of $2.8 billion in more debt through SFY 2025-26 from proposed capital actions. This is partially offset by a revised personal income forecast and other revisions. This adds more risk to financing the State's Capital Plan in the event of an economic downturn or other disruption. Even under the existing favorable environment, the Executive Budget reduces State debt capacity to a scarce level of less than $300 million in SFY 2026-27.

The Executive Budget again proposes authorizations for up to $5 billion in short-term cash flow borrowings during SFY 2022-23, through PIT Notes and lines of credit. With monthly General Fund balances estimated to average over $31 billion, the Financial Plan does not assume these authorizations will be necessary. In addition, they are redundant to the existing authorization to issue more cost-effective State full faith and credit Tax and Revenue Anticipation Notes (TRANs), subject to the Local Government Assistance Corporation (LGAC) reforms requiring the Governor and Legislative leaders to jointly certify an emergency or extraordinary need.

The Executive Budget proposes a $2.35 billion State commitment to repay a federal transportation loan for the Gateway project. Since the Debt Reform Act only counts “bonds or notes,” this utilizes a loophole in the Act to incur State-supported debt outside of the cap. Otherwise, the State’s debt limit would be exceeded by roughly $2 billion in SFY 2026-27. Further, the Executive Budget suggests categorizing this borrowing as if it were State-related debt. State-related debt, however, reflects debt repaid from non-State sources in the first instance, where State appropriations are contingently available, but typically not expected to be needed, to make payments.

VI. Reserves

The Office of the New York State Comptroller has consistently cited inadequate levels of State reserve funds as a significant fiscal concern,[4] and the events of the past two years affirmed that position. Due in part to inadequate reserves, New York State withheld billions of dollars of payments expected to be received by local governments and not-for-profit service providers, which also faced the prospect that the delayed payments would become permanent reductions.

The State also incurred $4.4 billion in short-term cash flow borrowings, with up to $3 billion more available from line of credit facilities. At the end of SFY 2020-21, the two reserves commonly referred to as the State's rainy day reserves (Rainy Day Reserve Fund – designed for deficits during the fiscal year, and the Tax Stabilization Reserve Fund – designed for deficits at year-end) totaled just under $2.5 billion – an amount equal to only 5 percent of the cumulative gaps forecast in the SFY 2021-22 Executive Budget. DOB also sets aside funds within the General Fund for economic uncertainties, future labor costs and debt management, although these funds are unrestricted and can be used for any appropriated purpose.

Currently, the Rainy Day Reserve Fund is allowed to have a balance as high as five percent of projected General Fund spending in the fiscal year immediately following the current fiscal year (up to $4.5 billion). The Tax Stabilization Reserve Fund is authorized to have up to two percent of the current fiscal year's General Fund spending (up to just under $1.5 billion). At the end of SFY 2020-21, neither fund was at its maximum level – they were approximately $3.5 billion short.

The improved fiscal condition of the State, including higher than anticipated tax receipts and federal assistance provides an opportunity to address the State's deficient reserves. In the Mid-Year Update, the Executive proposed increasing reserves to 15 percent of spending from State Operating Funds. The Executive Budget proposes to set aside $11.8 billion for economic uncertainties as well as planned deposits to the two rainy day funds through SFY 2024-25, bringing the balance of the three to $19.4 billion, approximately 15 percent of projected spending from State Operating Funds in SFY 2024-25 while adhering to current law. In SFY 2022-23, $5.1 billion would be set aside for reserves, but only $920 million or 18 percent would be to restricted reserves despite an allowed maximum of $7 billion. By SFY 2024-25, restricted reserves of $6.1 billion would comprise 32 percent of the $19.4 billion of total reserves, despite an allowed maximum level of $19.4 billion in restricted reserves should the Executive Budget proposal to increase the deposit limit and maximum balance of the Rainy Day Reserve Fund be enacted.

While the proposed increase in reserve funds would reflect good progress towards better preparing the State for the next inevitable downturn, the proposal disproportionately utilizes informal, unrestricted reserves by leaving resources in the General Fund with the administrative designation "reserve for economic uncertainties". Such funds could be obligated and spent at any time, at DOB's discretion, for any appropriated purpose. Moreover, informal reserves have

[4] See the Office of the State Comptroller report, *The Case for Building New York State's Rainy Day Reserves*, December 2019.

no obligation of being replenished. Accordingly, such funds do not have the same stabilizing value as formal, statutorily restricted reserves.

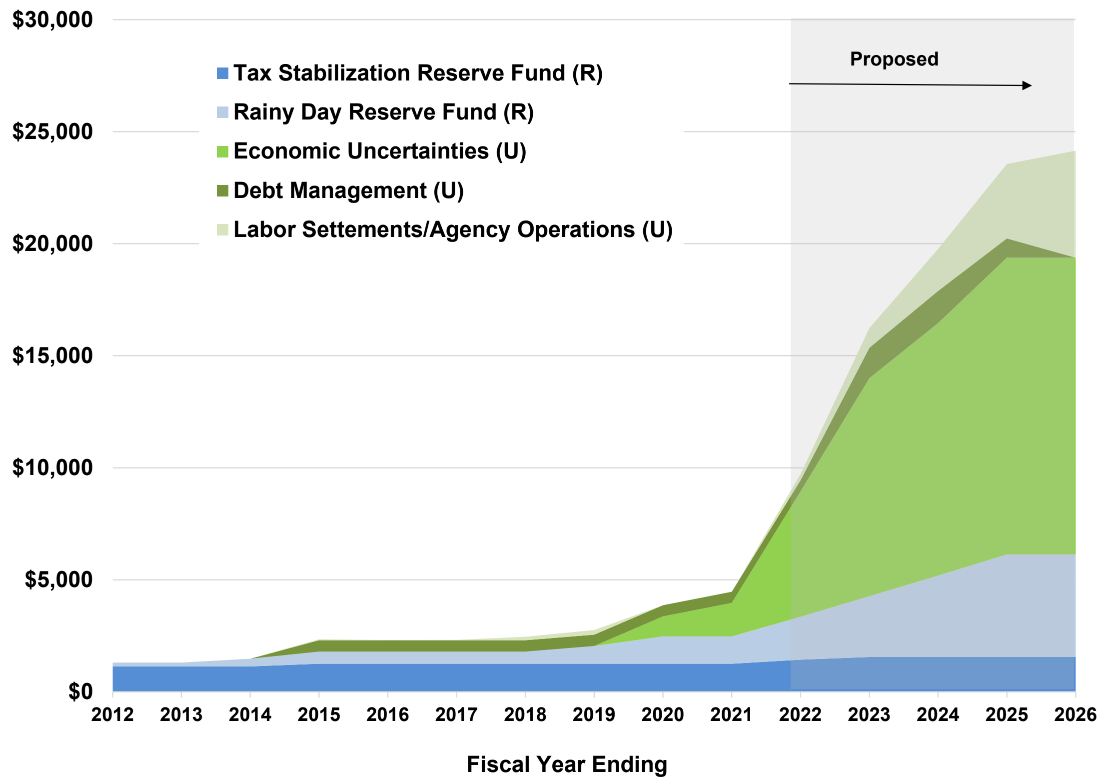
The Executive Budget includes amendments to the annual deposit and balance provisions of the Rainy Day Reserve Fund (section 92-cc of the State Finance Law). It would increase the deposit limit from 0.75 percent of projected current year General Fund spending to three percent of projected current year spending from State Operating Funds. The maximum balance would also increase from five percent of projected General Fund spending in the next fiscal year to 15 percent of projected spending from State Operating Funds in the next fiscal year. The proposal does not require any deposits to these restricted reserves, but instead leaves them to the discretion of the Director of the Budget.

Figure 8 illustrates the history of restricted and unrestricted reserves in the General Fund, and the proposed deposits included in the Executive Budget.

Figure 8

Actual and Projected Restricted and Unrestricted General Fund Reserves SFY 2011-12 through SFY 2025-26

(in millions of dollars)



Source: NYS Division of the Budget, OSC

Note: In Figure 8, (R) indicates a restricted reserve fund and (U) indicates unrestricted funds that could be used at DOB's discretion.

VII. New York City and the Metropolitan Transportation Authority

New York City has continued to manage its budget within the context of an uneven recovery, with slower-than-anticipated employment growth offset by strength in the financial markets in City Fiscal Year (CFY) 2021. Amid continued economic uncertainty, the City has leveraged significant federal relief aid to maintain current services, expand public health and education services, and provide short-term revenue relief.

The Executive Budget provides more than $500 million more to the City in City Fiscal Year 2023 than provided in the last State budget update mostly from increases to education aid. Compared to the City's budget, it will receive $155 million more than expected for general support for public schools and charter school facilities aid and $108 million more from increased transportation aid than expected but also proposes that $200 million of City sales tax revenue be permanently diverted to help distressed health providers.

The Budget includes proposals to replace the existing "421-a" program and to allow the City to increase the maximum residential floor area ratio to allow for denser residential development. The Budget proposes to extend tax credits for musical and theatrical productions, and commit State funding to Amtrak's Gateway project which would build an additional rail tunnel between New York and New Jersey and also rehabilitate the existing tunnel. The Executive also proposed extending mayoral control of the New York City school system for four years.

The Executive Budget also provides $6.6 billion in State operating aid in FY 2023 to the Metropolitan Transportation Authority (MTA), including resources collected by the State and sent directly to the MTA without appropriation. On-budget MTA assistance will increase over 24 percent, from $3.1 billion to over $3.8 billion, $336 million more than the MTA budgeted in 2022.

The Budget also includes proposals to increase the threshold for mandatory design-build contracts, to extend to 2032 the authorization of municipalities to enter into tax-increment financing agreements in the MTA commuter district, to require that utility companies consult and cooperate with the MTA for utility relocation, to expand automated enforcement camera violations that impede bus operations and, among other procurement actions, to increase the threshold for discretionary contracts done with certain underrepresented businesses.

Contact
Office of the New York State Comptroller
110 State Street, 15th Floor
Albany, New York 12236

(518) 474-4044

www.osc.state.ny.us

Prepared by the Office of Budget and Policy Analysis with assistance from the Office of the Special Deputy Comptroller for the City of New York, the Office of Operations, and the Division of Local Government and School Accountability