New York State Comptroller
THOMAS P. DiNAPOLI

Enacted Budget Report

State Fiscal Year 2024-25

May 2024

Message from the Comptroller

May 2024

The Governor and State Legislature recently enacted the New York State Budget for State Fiscal Year (SFY) 2024-25. The Budget continues to support spending for important State services, including School Aid and Medicaid. This Budget also includes notable new appropriations and policy changes intended to spur the production of new housing units and provide relief to overburdened renters. The Budget was adopted in an economic environment that has improved, resulting in State tax collections that outperformed projections for SFY 2023-24.

While these are positive developments, the State's financial outlook includes several risks. Inflation remains stubborn, creating uncertainty as to when, or if, the Federal Reserve Board will begin reducing interest rates. Wars in Ukraine and the Middle East also perpetuate global instability. At the State level, certain revenue streams that have been critical to maintaining budget balance are either scheduled to expire or be depleted in the years ahead, including temporarily higher Personal Income Tax and Corporate Franchise Tax rates and one-time COVID-19 financial assistance from the federal government. With the end of these revenue sources, current spending levels will be difficult to sustain.

In line with my prior recommendations, the Budget reportedly maintains State reserve funds at 15 percent of State Operating Funds spending levels. However, the share of funds in statutory reserves that have fixed conditions of use and mandatory repayment requirements continues to be too low relative to informal reserves that do not have any safeguards for use. Most importantly, even healthy reserve fund levels are no substitute for a structurally balanced budget.

Finally, the Budget also includes troubling provisions that limit transparency and accountability. Almost $368 million of appropriation authority remains exempt from oversight by the Office of the State Comptroller and $1.5 billion is exempt from normal competitive bidding requirements. Furthermore, the State's continued reliance on "backdoor borrowing" and other practices that bypass statutory debt limits is concerning for the State's long-term fiscal standing. New Yorkers deserve greater transparency and accountability in State fiscal matters so taxpayers can be confident their hard-earned dollars are being used effectively.

Thomas P. DiNapoli
State Comptroller

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State Fiscal Year 2023-24 Closeout

The consensus economic and revenue forecast process, by which both houses of the Legislature and the Executive present their projections for the economy and State revenues for the current and succeeding fiscal year, is an important milestone in budget negotiations.

On March 1, 2024, the Consensus Economic and Revenue Forecast Report was released, estimating an additional $1.35 billion in receipts for the two-year period of SFY 2023-24 and 2024-25 above Division of Budget (DOB) estimates in the FY 2025 NYS Executive Budget Financial Plan, Updated for the Governor's Amendments and Revisions.

As reported by the Office of the State Comptroller on April 15, the March State Cash Report indicated tax collections for SFY 2023-24 totaled $106.4 billion, over $2 billion higher than DOB's Updated Financial Plan forecast.

The State ended the year with a strong cash position: the General Fund ended SFY 2023-24 with a cash balance of $46.3 billion, nearly $1.4 billion above the Updated Financial Plan projections. The General Fund cash-basis operating surplus was nearly $2.9 billion.

These favorable results allowed the State to take some significant actions at the conclusion of SFY 2023-24 that were not reflected in DOB's Updated Financial Plan:

- The State completed $4.7 billion of debt prepayments and defeasances. The early payment of future year debt service obligations is a reasonable way to use available funds, but significantly distorts year-to-year spending comparisons. These actions were estimated by DOB to reduce spending by $1.5 billion in SFY 2024-25 with further outyear reductions thereafter.
- The State transferred $250 million from the General Fund to the Retiree Health Benefits Trust (Trust). The Trust was created to reserve funds for liabilities related to retiree health benefits of employees and their dependents, known as other post-employment benefits (OPEB). Under current law, the State may deposit up to 1.5 percent of total unfunded actuarial accrued OPEB liability each year. Since the Trust was created in the SFY 2017-18 Enacted Budget, the State has made 2 other deposits: $920 million in SFY 2022-23; and $320 million in SFY 2021-22.

Other notable actions included:

- Continuing deferral of Medicaid payments across State fiscal years. In recent years, the State has delayed making State-share Medicaid payments in order to manage year-to-year spending growth in both the Medicaid program and the overall financial plan. For SFY 2023-24, $1.4 billion that was due to be paid in March 2024 was deferred to April 2024.
- $2.25 billion of federal funding through the State and Local Fiscal Recovery Fund (SLFRF) was transferred to the General Fund. DOB's Updated Financial Plan

assumed the remaining $3.65 billion of SLFRF dollars will be transferred to the General Fund in SFY 2024-25.

- Statutory reserve fund levels remained unchanged in SFY 2023-24, with $1.6 billion remaining in the Tax Stabilization Reserve and $4.6 billion in the Rainy-Day Reserve.

Overall spending for SFY 2023-24 totaled $100.1 billion in the General Fund (including transfers), which was approximately $3.4 billion (or 3.3 percent) lower than projections made in DOB's Updated Financial Plan for SFY 2023-24. All Funds spending totaled $234.9 billion, which was $3.3 billion (or 1.4 percent) higher than DOB's projections.

Economic Outlook and Revenue

Decline in Projected Revenues

The SFY 2024-25 Enacted Budget Financial Plan has not yet been released, but some revenue information is available based on DOB projections from the Updated Financial Plan, as well as DOB's estimates for revenue actions included in the Enacted Budget. All Funds revenues for SFY 2024-25 are projected to total $227.2 billion, a decline of $7.3 billion or 3.1 percent from the prior year. The decrease is primarily attributable to projected reductions in investment income and gaming receipts as well as other revenues deposited to special revenue funds. In addition, federal receipts from the American Rescue Plan (ARP) are expected to be depleted.

Figure 1
All Funds Revenue, SFY 2022-23 – SFY 2024-25
(dollars in millions)

	SFY 2022-23	SFY 2023-24		SFY 2024-25	
	Actual	Actual	Percent Change	Projected	Percent Change
Personal Income Tax	$ 58,775.6	$ 53,840.1	-8.4%	$ 54,854.0	1.9%
Consumption/Use Taxes	$ 20,585.2	$ 21,865.6	6.2%	$ 22,419.0	2.5%
Business Taxes	$ 28,616.4	$ 27,694.2	-3.2%	$ 27,544.0	-0.5%
Other Taxes	$ 3,678.9	$ 3,047.6	-17.2%	$ 2,501.0	-17.9%
Total All Funds Taxes	**$ 111,656.1**	**$ 106,447.5**	**-4.7%**	**$ 107,318.0**	**0.8%**
Miscellaneous Receipts	$ 31,841.1	$ 33,755.1	6.0%	$ 27,994.0	-17.1%
Federal Receipts	$ 89,563.1	$ 94,275.7	5.3%	$ 91,894.0	-2.5%
Total All Funds Revenue	**$ 233,060.3**	**$ 234,478.3**	**0.6%**	**$ 227,206.0**	**-3.1%**

Note: SFY 2024-25 amounts are Division of the Budget projections included in the FY 2025 Executive Budget Financial Plan, Updated for Governor's Amendments, adjusted for provisions included in the Enacted Budget.

SFY 2024-25 All Funds tax collections are projected to increase by $870.5 million, or less than 1 percent, to $107.3 billion. Growth in Personal Income Tax (PIT) collections resulting from higher income and wages is partially offset by the provision of supplemental child tax credits. With higher interest rates having an adverse impact on the housing market, collections from real estate transfer taxes are projected to decline.

The Enacted Budget provides a supplemental child tax credit for taxpayers with incomes of less than $110,000. This credit only applies to tax year 2023 and is estimated by DOB to reduce PIT collections by $350 million in SFY 2024-25. Other provisions in the Enacted Budget affecting the State's revenues are expected to have minimal impact in the current fiscal year, with an estimated net loss of $9 million.

In subsequent fiscal years, tax changes enacted as part of the Budget are estimated to result in a net increase in revenues of $192 million in SFY 2025-26, $339 million in SFY 2026-27, and $344 million in SFY 2027-28 due mainly to the extension of the limit on itemized deductions for charitable contributions by high income taxpayers from December 31, 2024, to December 31, 2029.

Economy Expanding but Inflation Still a Concern

The Consensus Economic and Revenue Forecast Report produced by DOB and the Legislature in March projected the national economy to continue to expand in 2024 and 2025, but at slowing rates. (See Figure 2.)

In April, other economic forecasters projected the economy to grow at a stronger pace than consensus in 2024 and at a slightly weaker rate in 2025. Both Blue Chip Consensus and S&P Global forecast growth in the real gross domestic product (GDP) in 2024 to be the same or similar to 2023. In addition, Blue Chip Consensus forecasters put a low probability (30 percent) on a U.S. recession in the next twelve months.[1]

Figure 2
Comparison of Economic Projections, United States, 2024 and 2025

U.S. ECONOMIC INDICATORS (Annual Percentage Change)								
	REAL GDP		CONSUMER PRICE INDEX		EMPLOYMENT		CORPORATE PROFITS	
	2024	2025	2024	2025	2024	2025	2024	2025
Consensus	2.1	1.8	2.7	2.3	1.1	0.6	3.8	3.2
Blue Chip	2.4	1.7	2.9	2.3	N/A	N/A	4.7	2.9
S&P Global	2.5	1.7	3.2	2.3	1.6	0.4	8.0	1.1

Sources: FY 2025 Consensus Economic and Revenue Forecast Report, April 2024 Blue Chip Economic Indicators, S&P Global Market Intelligence April 2024 National Forecast

Employment has continued to grow both nationally and in New York. According to the U.S. Bureau of Labor Statistics, the nation added over 829,000 jobs in the first quarter of 2024, a monthly average of over 276,000. In New York, employment increased by 62,600 jobs during this time and the State has nearly recovered all the pandemic job losses.

However, inflation is still an issue. As measured by the change in the Consumer Price Index (CPI), inflation accelerated in the first three months of the year, with an increase of 3.5 percent year-over-year in March.

The Personal Consumption Expenditure (PCE) price index, which the Federal Reserve Board (the Fed) uses as an inflation indicator, increased in the first quarter by 3.4 percent, faster than the 1.9 percent in the fourth quarter of 2022. With inflation remaining above its target inflation rate of 2 percent, the Fed has maintained its interest rates at 5.25 to 5.50 percent since July 2023.

April PIT Receipts Below Projections

On average, collections from the PIT comprise three-quarters of total tax collections in the month of April. This is due to a large share of April PIT receipts being related to the settlement of the previous tax year (i.e. payments made with the filing of annual returns and requests for filing extensions as well as refunds) as most taxpayers file their annual returns during the month. According to the most recent data available from the Department of Taxation and Finance, net settlement receipts for the 2023 tax year are 21.4 percent lower than those for the 2022 tax year in April.

Refunds paid in relation to the settlement of the tax year in April were 43.3 percent higher than those in April 2023. While the reason for this increase is unclear, it could be due to timing as a result of the interplay between the Pass-Through Entity Tax (PTET) and the PIT. With the opt-in deadline set at March 15 annually as opposed to later in the year as occurred in previous years, affected taxpayers could be finalizing their annual returns with PTET credits in April as opposed to requesting extensions.[2] As these returns are finalized during the six-month extension period, refunds could potentially be lower.

In addition to the settlement payments, April collections include quarterly estimated payments and withholding related to the current tax year. For the month, these receipts are 12.6 percent higher than last year.

In the aggregate, April PIT collections were 0.4 percent lower than last year. In comparison to DOB cash flow projections for the month in the Updated Financial Plan, PIT receipts are below projections by approximately $1.2 billion.

Revenue Risks

High Reliance on Volatile PIT That Depends on a Small Number of Filers

Besides relying on revenue from temporary rate increases, the Financial Plan relies heavily on revenues from the PIT. In SFY 2023-24, just over half of All Funds tax revenues were from the PIT; adding in collections from the PTET (which, as a workaround of the federal itemized deduction for state and local taxes, acts as a substitute for the PIT), the share increases to nearly two-thirds.

These PIT revenues, in turn, rely on a small number of taxpayers whose sources of income are subject to significant volatility. For tax year 2021, those with incomes over $1 million comprised 1.6 percent of the PIT filers but paid 44.5 percent of the total PIT liability. They also comprised nearly three-quarters of the unearned income reported that year (capital gains, dividends, and interest); the amount of income reported from these sources increased by 54.2 percent that year due to the record financial market levels in 2021.[3]

In SFY 2023-24, total tax revenues declined for a second consecutive year. The decrease was primarily concentrated in the PIT components associated with the settlement of the 2022 tax year. Based on preliminary data for this tax year, total unearned income declined by 39.4

percent; for those with incomes over $1 million, the decrease was 43.6 percent. As a result, tax liability for these high-income filers fell by over 37 percent, $9.9 billion, contributing to the overall lower PIT collections during the fiscal year.[4]

Since 2015, a larger number of PIT filers moved out of New York than moved in annually, resulting in a net-outmigration. In 2021, this net out-migration rate was 4 in 1,000. For taxpayers at higher incomes the net out-migration rate increases; in 2021, nearly 30 in every 1,000 residents with incomes of $1 million or more moved out of New York.[5]

Sunsetting Tax Rates Could Result in Multi-Billion Dollar Reduction in Revenues

The SFY 2021-22 Enacted Budget increased corporate franchise tax rates from 6.5 percent to 7.25 percent on businesses with incomes over $5 million and which pay the tax on a business income base; the rate was increased from 0 percent to 0.1875 percent for those businesses that pay the tax on a capital base (with some exceptions). These rate increases were due to expire at the end of 2023, but the SFY 2023-24 Enacted Budget extended them until the end of 2026. As a result of the sunset, tax revenues would decrease by approximately $300 million in SFY 2026-27 and by over $1.1 billion in SFY 2027-28.[6]

The SFY 2021-22 Enacted Budget also increased PIT rates for taxpayers with incomes over $1.1 million, setting the top rate of 10.9 percent for those with incomes over $25 million.[7] These rates are effective until December 31, 2027, after which the top rate will revert to 8.82 percent. The actual fiscal impact of the expiration of these rates will be dependent upon the number of taxpayers and their income circumstances at the time. However, for tax year 2021 when the rates went into effect, PIT revenues increased by $5.3 billion.[8]

Major Spending and Policy Actions

Currently, spending projections and detailed estimates for SFY 2024-25 and the out-years of the financial plan are not available, pending release of the Enacted Budget Financial Plan by DOB. However, as shown in Figure 3, All Funds spending has been reported by the Executive to total $237 billion for SFY 2024-25, a nearly 1 percent increase year-over-year.[9]

Figure 3
Actual and Estimated All Funds Spending,
SFY 2023-24 to SFY 2024-25
(dollars in millions)

	SFY 23-24 Actuals	SFY 24-25 Estimated	SFY 23-24 to SFY 24-25 $ Change	SFY 23-24 to SFY 24-25 % Change
All Funds	$ 234,867	$ 237,000	$ 2,133	0.9%

Source: Office of Governor Kathy Hochul April 22, 2024 Press Release, Office of the State Comptroller

This follows a period of significant growth. When comparing the actual spending from SFY 2023-24 to the actual spending from SFY 2019-20, increases were 33 percent in the General Fund, 25.8 percent in State Operating Funds, and 35.8 percent in All Funds – as seen in Figure 4. Two significant drivers of spending growth have been School Aid and Medicaid.

Figure 4
General Fund, State Operating Funds and All Funds Spending,
SFY 2019-20 to SFY 2023-24
(dollars in millions)

	SFY 19-20 Actuals	SFY 23-24 Actuals	SFY 19-20 to SFY 23-24 $ Change	SFY 19-20 to SFY 23-24 % Change
General Fund (incl. Transfers)	$ 77,469	$ 102,998	$ 25,529	33.0%
State Operating Funds	$ 102,160	$ 128,473	$ 26,313	25.8%
All Funds	$ 172,980	$ 234,867	$ 61,887	35.8%

Source: Division of the Budget, Office of the State Comptroller

School Aid

The SFY 2024-25 Executive Budget proposed $35.3 billion in total School Aid on a School Year (SY) basis. In addition, the Executive Budget proposed several changes to School Aid that would have reduced State spending, including eliminating the “hold harmless” provision under which school districts are guaranteed not to see a year-to-year reduction in Foundation Aid, as well as a change to the calculation method for inflation. While the inflation calculation was changed, the Executive Budget change to the "hold harmless" provision was not included in the Enacted Budget.

The Enacted Budget is estimated to provide $36 billion in total School Aid for SY 2024-25, an increase of $1.6 billion from $34.4 billion in SY 2023-24 (4.7 percent). This amount includes a year-over-year increase of $934 million (3.9 percent) in Foundation Aid to a level of $24.9 billion in SY 2024-25.

As shown in Figure 5, School Aid totaled $27.8 billion in SFY 2019-20. Over the ensuing five years, School Aid grew to $36 billion, an increase of $8.2 billion or 29.4 percent. This growth largely reflects the three-year pledge to fully fund the Foundation Aid formula, which was completed with adoption of the SFY 2023-24 Budget.

Figure 5
School Aid by School Year, 2019-20 – 2024-25
(dollars in millions)

		Annual Change		Change since SY 19-20	
School Year	**Amount**	**$**	**%**	**$**	**%**
SY 19-20	$ 27,812				
SY 20-21	$ 26,515	$ (1,297)	-4.7%		
SY 21-22	$ 29,111	$ 2,596	9.8%		
SY 22-23	$ 31,250	$ 2,139	7.3%		
SY 23-24	$ 34,385	$ 3,135	10.0%		
SY 24-25	$ 36,000	$ 1,615	4.7%	$ 8,188	29.4%

Source: Division of the Budget, Office of the State Comptroller

The Enacted Budget also includes $2 million for the Rockefeller Institute of Government, in conjunction with the State Education Department, to study the Foundation Aid formula and to make recommendations to the Governor and Legislature on or before December 1, 2024. With the existing formula now fully funded, this study will provide an additional perspective regarding the future of School Aid funding.

Medicaid

The Enacted Budget provides $35.7 billion in State funds Medicaid appropriations for SFY 2024-25, a net increase of $418.7 million over the Executive Budget proposal of $35.3 billion in appropriations.

The Executive Budget initially proposed more than $1.2 billion in State fund Medicaid reductions, including: $400 million in "unallocated" savings actions to be developed during discussions with healthcare industry leaders and stakeholders; $204.4 million by removing a 1 percent across-the-board rate increase for Medicaid managed care organizations (MCOs); $200 million by eliminating a supplemental wage benefit for personal assistants in the Consumer Directed Personal Assistance Program (CDPAP) in NYC, Nassau, Suffolk and Westchester counties; $112 million by discontinuing payments to MCOs and managed long term care (MLTC) plans that incentivize quality care for Medicaid beneficiaries; $100 million in further CDPAP modifications that would increase oversight of Fiscal Intermediaries (FI) providing administrative services in the program; and $100 million by increasing the Office of the Medicaid Inspector General audit target.

Enacted Budget actions are expected by the Executive and the Legislature to produce savings of $768 million in SFY 2024-25 and nearly $1.2 billion per year from SFY 2025-26 through SFY 2027-28. The most significant of these savings actions include $204.4 million annually by removing the 1 percent across-the-board rate increase for Medicaid MCOs, $200 million in SFY 2024-25 and about $500 million thereafter by transitioning to one statewide fiscal intermediary in CDPAP, and $100 million annually by increasing expected audit recoveries by the Office of the Medicaid Inspector General.

The contract for the statewide FI bypasses Office of the State Comptroller pre-audit review and competitive bidding. The statewide FI is required to subcontract with a service center for independent living that has been providing FI services since January 2024 or earlier and at least one FI per rate setting region (Downstate, Hudson Valley, Upstate Metro and Rest of State) that has been providing FI services since January 2012. The provision of all other FI services is prohibited starting April 1, 2025.

The Enacted Budget increases aggregate Medicaid payments for:

- Hospital services by up to $525 million;
- Nursing home services by up to $285 million; and
- Assisted living programs by up to $15 million.

The Budget also increases payments for safety net hospitals by $500 million, to $844 million, and provides $300 million for the healthcare safety net transformation program. This program is intended to improve the financial sustainability of safety net institutions, including hospitals, nursing homes, clinics and home care providers.

Office for People with Developmental Disabilities (OPWDD) Medicaid expenditures funded by the Medicaid global cap are reduced by $976.0 million, to $879.4 million, to partially offset the additional Medicaid spending included in the Budget, as well as proposed savings actions not included in the Budget. This action is consistent with previous Budgets which have adjusted OPWDD and other Medicaid spending within the cap to keep it within aggregate limits. Given the use of circumvention actions such as these, the usefulness of the cap to limit State Medicaid expenditures is unclear. The level of OPWDD spending reported under the global cap does not affect OPWDD service delivery or operations, according to the Executive.

To identify additional Medicaid revenue and prevent future funding reductions, the Enacted Budget requires the State to apply for a federal waiver to create a tax on MCOs providing health insurance coverage under Medicaid, Child Health Plus and the Essential Plan, as well as coverage purchased on the New York health insurance exchange. Revenue from the tax would support the New York Medicaid program and be deposited in a “Healthcare Stability Fund” established in the joint custody of the State Comptroller and the Commissioner of Taxation and Finance. Monies in the Healthcare Stability Fund may be available for the non-federal share of increased premium payments for managed care providers, support the delivery of services to Medicaid enrollees, reimburse the General Fund for Medicaid expenditures, and support health care capital projects. The Enacted Budget assumes $350 million in current year Healthcare Stability Fund revenue that would be used to offset global cap spending in SFY 2024-25.

The New York tax would be patterned after an MCO tax the federal Centers for Medicare & Medicaid Services (CMS) recently approved for California’s Medicaid program. However, in approving the tax, CMS also advised State officials of new regulations it intends to propose that may require California to modify its tax structure, potentially eliminating the tax because it does not comply with provisions of the Social Security Act.[10] Despite this guidance, the Enacted Budget includes provisions to establish the MCO tax and, as noted, assumes $350 million in revenue from the tax in SFY 2024-25. Federal approval of the tax is not assured, posing a significant risk.

The Enacted Budget provides a total of $1.2 billion in State Medicaid funds through SFY 2027-28 to support Medicaid enrollment above Financial Plan projections. The Updated Financial Plan projected approximately 7.1 million enrollees for March 2024; actual Medicaid enrollment was 7.29 million, or about 200,000 enrollees above projections, in that month. As New York continues the process of redetermining eligibility for public health insurance post-pandemic, Medicaid enrollment could trend higher than Financial Plan projections, a risk with fiscal implications identified by the Office of the State Comptroller in several reports.[11]

On April 1, 2024, eligibility levels for the Essential Plan – New York’s public health insurance program for low- and moderate-income individuals not eligible for Medicaid or Child Health Plus – increased to 250 percent of the federal poverty level, or $37,650 in annual income. This expansion, authorized by the SFY 2022-23 Enacted Budget, is projected to provide coverage to an additional 100,000 New Yorkers.

Expanded eligibility and the shifting of enrollees out of Medicaid into the Essential Plan as the State redetermines eligibility for public health insurance coverage are expected to increase Essential Plan enrollment to around 1.4 million individuals for each year of the Financial Plan through SFY 2027-28. Starting in SFY 2024-25, Essential Plan costs – including about $100 million in annual State Operations spending previously part of the Medicaid global cap – are funded entirely with federal dollars. Essential Plan spending is projected by the Executive to grow from $11.7 billion in SFY 2024-25 to nearly $13.5 billion in SFY 2027-28.

Housing

The Enacted Budget includes significant funding for housing development purposes, including $767.2 million in Capital Projects funding, an increase of $351.5 million (84.6 percent) above the SFY 2023-24 Enacted Budget. Notable Capital Projects appropriations include:

- $140 million for the New York City Housing Authority;
- $80 million for Mitchell-Lama Preservation;
- $75 million for a new "New York Housing for the Future Rental Program" and $75 million for a new "New York Housing for the Future Co-Op Program," providing support to households having up to 130 percent area median income (AMI);
- $75 million for a Public Housing Program to rehabilitate and/or demolish and replace public housing outside of New York City;
- $40 million for a new Infill Housing Program in certain upstate cities;
- $40 million for a new Land Banks Program;
- $40 million for a new Rest of State Vacant Apartment Repair and Rehabilitation Program; and,
- $10 million for a new USDA 515 Rental Properties Preservation Program (i.e., Rural Rental Housing).

The Enacted Budget also includes several new policy provisions, including:

- "Good Cause" Eviction in New York City and any other locality that opts in, exempting "small landlords" defined as those having no more than 10 units in the State (for New York City) or as defined by any other locality. The policy sets provisions for evictions as well as allowable rent increases for those in rental stock that is not otherwise regulated;[12]
- Prohibiting insurers from discriminating against residential buildings based on any affordability requirements, any receipt of rental assistance, or the tenants' sources of income;
- Establishing a Homeowner Bill of Rights, primarily relating to property tax issues such as tax exemptions, arrears, and delinquency/collections of property taxes; and,
- Exempting "squatters" from the definition of "tenants," squatters being defined as persons who enter or intrude upon real property without the permission of the person entitled to possession, and who continue to occupy the property without the title, right, or permission of the owner.

Within New York City, the Enacted Budget creates a new real property tax exemption for the "Affordable Housing from Commercial Conversions" program, which would apply to the conversion of a non-residential building, except a hotel or other Class B multiple dwelling, to a rental building with at least 25 percent affordable units. In addition, the Enacted Budget extends the 421-a property tax exemption for certain buildings that commenced construction between December 31, 2015 and June 15, 2022, and that have a completion date on or before June 15, 2031.

The Enacted Budget also establishes the "Affordable Neighborhoods for New Yorkers" tax incentive in New York City that applies to buildings that commenced construction between June 15, 2022, and June 15, 2034, with a completion date before June 15, 2038. Tax exemptions range from 10 years to 40 years, based on project size, and there are prevailing wage requirements for construction workers and building service employees. Rental units are to be rent stabilized, some of which would be permanently rent stabilized.

Additional New York City provisions included in the Enacted Budget are to allow a floor area ratio (FAR) over 12 under certain conditions and establishing a pilot program to legalize basement and cellar apartments within certain specified community districts.

Outside of New York City, the Enacted Budget authorizes municipalities, upon the adoption of a local law, to create a real property tax exemption for:

- newly constructed or converted rental multiple dwellings of 10 units or more with at least 25 percent of those units being affordable units. The program includes a 25-year exemption period, following an up-to-3-year period for construction during which it is 100 percent exempt. The exemption amount then decreases by 4 percent each year of the exemption period; and
- newly converted or constructed rental multiple dwellings of 10 units or more with all the units being income restricted (except 2 units for building employees, if applicable). The program includes a 30-year exemption period, following an up-to-3-year period for construction during which it is 100 percent exempt. The exemption amount is determined by local law (however, that amount shall be no greater than 10 percent of the rent of the eligible rental multiple dwelling exempted).

The Enacted Budget also modifies the Individual Apartment Improvement (IAI) rent increase for rent regulated units by increasing the allowable expenses from up to $15,000 to up to $30,000, unless the improvement is subject to a regulation or other guidance from the Division of Housing and Community Renewal (DHCR), in which case the allowable expenses would be up to $50,000.

Lastly, the Enacted Budget includes a total of $50 million for legal services and representation for eviction cases, of which $35 million is available for cases outside of New York City.

Reserve Funds

Economic and other risks, as well as higher levels of State spending, underscore the importance of maintaining rainy day reserves to preserve the stability of State finances and services through economic downturns and other unexpected shocks.

For decades, the State underfunded its statutory rainy-day reserves. As described in a 2019 report by the Office of the State Comptroller, The Case for Building New York State's Rainy Day Reserves, by the end of SFY 2018-2019 the State had only $2 billion set aside in the Tax Stabilization Reserve Fund (TSRF) and the Rainy Day Reserve Fund (RDRF). New York was well under national medians with respect to the rainy-day balance as a percentage of General Fund spending metrics. Since that time, the State has made progress in increasing the size of reserve funds. By the end of SFY 2022-23, statutory rainy-day fund balances had increased to $6.26 billion. The balances remained essentially unchanged at the end of SFY 2023-24.[13] In addition to the statutory rainy-day funds, the Executive indicates that informal reserves will also be maintained such that combined reserves will total an amount equal to 15 percent of State Operating Funds spending.

The recent improvements in reserve fund levels and statutory authorization are encouraging. However, weaknesses remain. Despite greater revenues than originally anticipated by DOB, no additional deposits were made to statutory reserves in SFY 2023-24. As the Comptroller has recommended, deposits should be regular and consistent during prosperous economic times. Moreover, greater emphasis should be placed upon statutory reserves rather than informal reserves, which are an administrative designation of fund balance by the Executive. As a result, informal reserves such as the "economic uncertainties" fund can be used by the Executive for any appropriated purpose, without requirements for replenishment. In contrast, the TSRF and RDRF are governed by statutory requirements, including terms and conditions for withdrawals and mandatory repayment provisions.

In short, policymakers should further build upon the recent progress to bolster reserve funds by requiring mandatory deposit levels and by increasing reliance on reserve funds governed by statutory withdrawal conditions and mandatory repayment provisions. In addition, to the extent that informal reserves continue to be extensively relied upon, policymakers should establish clear criteria to determine the circumstances under which such reserves would be used. These actions will ensure that the recent progress is not lost before the next true rainy day arrives.

Capital Plan and Debt

Continued Reliance on Backdoor Borrowing to Fund Capital Spending

The SFY 2024-25 Executive Budget proposed a $94.7 billion five-year Capital Plan, with $18.8 billion in capital spending estimated for SFY 2024-25 alone. Major capital initiatives authorized in the Executive Budget Capital Plan included:

- $7.6 billion of appropriations to continue funding for the third year of the Department of Transportation's (DOT's) $32.9 billion five-year capital plan and the State's commitment to support the MTA's capital plan;
- $1.4 billion for higher education facilities at the State and City Universities of New York (SUNY and CUNY), as well as other educational and cultural arts facilities;
- Over $2.0 billion for economic development capital, including NY-CREATES and the Empire AI Consortium[14]; and
- Over $1.3 billion for environmental infrastructure and parks projects.

The SFY 2024-25 Enacted Budget further adds over $2 billion in new or increased capital appropriation authority beyond those amounts included in the Executive Budget proposal. Major increases include:

- Nearly $635 million for various economic development programs, arts and cultural facilities and local assistance, including $385 million in new funding added to the Community Resiliency program;
- $585 million for various housing program initiatives;
- $365 million in additional funding for SUNY, CUNY and other educational facilities;
- $304 million for environmental infrastructure, parks, and other purposes;
- $250 million, for a total of $500 million, for water infrastructure grants; and
- $164 million for local highway and other transportation projects, including the MTA.

Concerningly, these capital increases will almost exclusively be funded by State "backdoor" borrowing issued by public authorities, further adding to the State's already-high debt burden and utilizing limited remaining capacity under the State's debt caps.

More details on capital and debt estimates during the State's five-year capital plan period will be available once the SFY 2024-25 Enacted Budget Capital Program and Financing Plan is released.

$13.7 Billion Increase in Debt Authorizations

As shown in Figure 6, the Executive Budget proposed increasing State-supported bond authorizations used to finance State capital programs by $11.7 billion. The Enacted Budget accepts these and increases such authorizations by a further $2.0 billion, for a total increase of $13.7 billion. Notable increases for debt-financed capital programs include a total of over $4.6 billion for State and local transportation programs; over $3.2 billion for various economic development initiatives; over $1.6 billion for SUNY, CUNY and other education-related programs; over $1.6 billion for environmental programs; $891 million for housing purposes; and $503 million for mental health.

Figure 6
SFY 2024-25 State-Supported Bond Authorizations
(in millions of dollars)

Program	Prior Law [1]	Executive Proposal	Enacted Budget	Executive Increase	Exec to Enacted Change	Total Increase
Housing Capital Programs	13,635.4	13,929.4	14,526.1	294.0	596.7	890.7
Economic Development Initiatives	17,655.6	20,254.2	20,878.2	2,598.6	624.0	3,222.6
Dedicated Highway & Bridge Trust	20,648.5	21,458.3	21,458.3	809.8	-	809.8
Transportation Initiatives	12,308.3	15,176.7	15,240.7	2,868.4	64.0	2,932.4
SUNY Educational Facilities	18,111.0	18,774.0	18,988.2	663.0	214.2	877.2
Environmental Infrastructure Projects	9,335.7	10,595.7	10,866.6	1,260.0	270.9	1,530.9
Consolidated Highway Improvement Program (CHIPs)	13,949.2	14,742.6	14,844.6	793.4	102.0	895.4
CUNY Educational Facilities	11,314.4	11,722.2	11,763.0	407.9	40.8	448.7
Mental Health Facilities	12,418.3	12,921.8	12,921.8	503.4	-	503.4
Prison Facilities	9,865.9	10,299.4	10,299.4	433.5	-	433.5
State Office Buildings and Other Facilities	1,713.1	1,855.3	1,855.3	142.2	-	142.2
Information Technology	1,353.9	1,742.7	1,742.7	388.9	-	388.9
Statewide Equipment	493.0	593.0	593.0	100.0	-	100.0
Youth Facilities	1,014.7	1,066.8	1,066.8	52.0	-	52.0
Special Education and Other Educational Facilities	321.8	341.9	396.9	20.1	55.0	75.1
SUNY Upstate Community Colleges	1,227.1	1,365.3	1,365.3	138.2	-	138.2
Water Pollution Control (State Revolving Fund)	1,190.0	1,305.0	1,305.0	115.0	-	115.0
Homeland Security and Training Facilities	501.5	522.5	522.5	21.0	-	21.0
Library Facilities	367.0	401.0	411.0	34.0	10.0	44.0
Higher Education Capital Matching Grants	385.0	385.0	425.0	-	40.0	40.0
Division of Military & Naval Affairs	247.0	297.0	297.0	50.0	-	50.0
Food Laboratory	40.9	41.1	41.1	0.1	-	0.1
Total Public Authority Bond Caps with Changes	**$148,097.3**	**$159,790.7**	**$161,808.2**	**$11,693.4**	**$2,017.6**	**$13,710.9**
PIT Notes	**3,000.0**	**4,000.0**	**3,000.0**	**4,000.0**	**(1,000.0)**	**3,000.0**
Lines of Credit	**1,000.0**	**-**	**-**	**-**	**-**	**-**
All Other Public Authority Bond Caps	**46,892.0**	**46,892.0**	**46,892.0**	**-**	**-**	**-**
Total Public Authority Bond Caps[2]	**$198,989.3**	**$210,682.7**	**$211,700.2**	**$15,693.4**	**$1,017.6**	**$16,710.9**
General Obligation Bond Act Authorizations[3]	**23,135.0**	**23,135.0**	**23,135.0**	**-**	**-**	**-**
Total State-Supported Bond Caps/Authorizations	**$222,124.3**	**$233,817.7**	**$234,835.2**	**$15,693.4**	**$1,017.6**	**$16,710.9**

Sources: Division of the Budget, Office of the State Comptroller

Note: Totals may not add due to rounding.

[1] The current cap reflects the amount previously authorized, some or all of which may already have been issued.

[2] The Enacted Budget authorizes short-term cash flow financings of up to $3 billion through PIT Notes. These amounts are not subject to the limitations of the Debt Reform Act. Starting in SFY 2020-21, each annual budget has authorized new issuances of PIT Notes and Lines of Credit which expire each March 31st of the same SFY. The SFY 2024-25 Budget does not include Lines of Credit. Being temporary, a new authorization has been done each fiscal year.

[3] This table reflects General Obligation Bond Acts for which there is a remaining authorized but unissued amount and/or a remaining debt outstanding balance. The SFY 2022-23 Enacted Budget authorized $4.2 billion for the Clean Water, Clean Air and Green Jobs Bond Act. Voters approved the bond act in November 2022.

Poor Debt Practices Persist

Debt Transparency and Accountability

The Enacted Budget continues to circumvent the State's debt cap by utilizing a loophole in the Debt Reform Act – which only counts "bonds or notes" – to structure New York's share of debt for the Gateway rail infrastructure project with a federal loan to be repaid by the State through a service contract. With an authorization of up to $2.85 billion, this debt was estimated at $1.4 billion with the Executive Budget.

The Budget further reduces transparency and accountability by inappropriately classifying the Gateway loan in a modified classification of State-related debt, inconsistent with past practice for this category of borrowings. The Gateway loan otherwise meets all of the criteria of being State-supported debt. Although this debt requires an appropriation in the State's debt service bill and spending was assumed in the Financial Plan, the Budget misleadingly portrays the Gateway debt as if it is not a part of the State's direct debt burden. The service contract to repay the State's share of the Gateway debt was executed in March with a repayment schedule over 50 years.

Debt Structuring & Short-Term Borrowing

The Enacted Budget reauthorizes for an additional three years the ability to use up to 50-year maturities for State-supported bonds issued for MTA purposes, an exception to the Debt Reform Act's otherwise 30-year maturity limit for all State-supported debt. To date, the deployment of this authorization has increased taxpayer costs by nearly $1.2 billion, trading marginal short-term budget relief for considerably higher total long-term fixed costs.[15] This results from both higher interest costs from longer-maturity bonds, as well as paying interest on such bonds over a significantly extended period of time.

The Enacted Budget also authorizes up to $3 billion in short-term PIT Note cash flow borrowings during SFY 2024-25. Given the State's strong cash balance position and high level of reserves, there is no reasonable expectation for the use of this authorization. It is redundant to the ability to issue more cost-effective Tax and Revenue Anticipation Notes (TRANs). This more costly "backdoor" public authority borrowing otherwise serves only to circumvent the reforms embodied in the Local Government Assistance Corporation (LGAC) Act,[16] which requires the Governor and Legislative leaders to certify the emergency or extraordinary factors needed before issuing lower-cost TRANs.

Collectively, these and other actions demonstrate how the State's current statutory debt limits are too easily bypassed. The State Comptroller's Roadmap for State Debt Reform shows how caps and other debt restrictions set in statute have not worked to rein in State debt or stop inappropriate borrowing practices and proposes comprehensive and binding constitutional State debt reform to restore accountability to taxpayers.

Proposal to Restrict State Comptroller Approval of Terms and Conditions of Bond Sales

The Enacted Budget eliminated the Executive proposal to severely restrict the State Comptroller's terms and conditions approval of State PIT and Sales Tax bond issues. The omission of this proposal ensures that the Comptroller's terms and conditions bond approval will continue to provide a critical check and balance to counteract costlier and riskier bonding issuance choices that may otherwise occur, greatly enhancing accountability to State taxpayers. This function squarely aligns with the Comptroller's constitutional and statutory role to provide independent and objective oversight of the State's finances and financial practices.

Other Debt Amendments

Bond Redemptions

The Enacted Budget amends the enabling statutes for the State's PIT and Sales Tax Revenue Bonds to authorize the redemption of such bonds if it provides a present value savings, as certified by a financial advisor. The requirement for present value savings provides a more appropriate objective standard than the Executive's original proposal of a "demonstrated economic benefit."

Eligible Purposes for Bonding

The Enacted Budget amends the State Finance Law's definition of "fixed assets" to include long-term interests in land, such as conservation easements, permitting such purposes to be bond financed under State statute.

Bond Issuance Charge

The Enacted Budget reduces the Bond Issuance Charge (BIC) to 0.35 percent of the principal amount of bonds and excludes any bond issue of $20 million or less. Prior law imposed a sliding scale of 0.168 to 0.84 percent, depending on the amount of bonds issued. The practice of bond financing these administrative costs runs counter to the principles in the Debt Reform Act, which says that bonds should only be issued to finance capital works or purposes. The reduction is a step in the right direction.

Transparency and Independent Oversight

Public Engagement and Timeliness

The SFY 2024-25 Enacted Budget falls short of the high standards of transparency in the budget adoption process that would allow the people of the State of New York a meaningful window into the process.

Following the Governor's submission of the Executive Budget, section 54-a of the Legislative Law requires the Legislature to establish a joint budget conference committee or committees "to consider and reconcile such … budget bills as may be passed by each house" and to establish a schedule for, among other things, "issuance of final reports." This year, the Legislature announced membership of such conference committees, and conducted initial meetings. However, no subsequent meetings occurred and no final reports were issued. The meetings are one of the few windows the public has into developments, or the lack thereof, as negotiations progress.

Article 3, Section 14 of the Constitution of the State of New York requires that no bill shall be passed without having been printed and upon the desks of the members, in final form, at least three calendar legislative days prior to final passage, unless the Governor has issued a "message of necessity" for an immediate vote. For the SFY 2024-25 Enacted Budget, all but one of 10 budget bills (the debt service bill) was approved with a message of necessity. While passage of budget bills with messages of necessity is a common occurrence, it is a practice that should be limited, as it forecloses the opportunity for a full public review of the contents of the budget.

The Enacted Budget was not adopted on a timely basis for the second consecutive year, with 20 days passing from the first day of the fiscal year until Legislative approval of the final budget bills on April 20, 2024. The Executive and Legislature worked to avoid significant disruption during this period through enactment of short-term budget extender bills, but the uncertainty that is created by a late budget is detrimental to the State workforce, local governments, school districts, State vendors, and all New Yorkers.

Figure 7
State Budget Enactment Dates, SFY 2015-16 – SFY 2024-25

SFY	Date Budget Passed	Days Late
2015-16	March 31	0
2016-17	April 1	1
2017-18	April 9	9
2018-19	March 30	-1
2019-20	March 31	0
2020-21	April 2	2
2021-22	April 7	7
2022-23	April 8	8
2023-24	May 2	32
2024-25	April 20	20

Finally, it should be noted that the Budget was once again enacted with very limited financial disclosure to assist the public in understanding the scope of the Budget and the short- and long-term implications. State Finance Law section 23 requires DOB to produce an Enacted Budget Financial Plan, which provides a wealth of information about revenues, expenditures and underlying assumptions, within 30 days after final action has been taken. However, there is no requirement for publication of an abridged or summary financial plan during adoption of the budget. Policymakers should go beyond the minimum statutory requirement and provide the public with at least a high-level overview of the State financial plan at the time of adoption.

Oversight

The Office of the State Comptroller's independent pre-review of contracts serves as an important deterrent to waste, fraud and abuse. This contract review process protects taxpayers, agencies and vendors by ensuring costs are reasonable, terms are favorable to the State, and bidders are treated fairly. The Enacted State Budget for Fiscal Year 2024-25 includes a number of troubling provisions setting aside this critical oversight as well as normal competitive procurement requirements, further building upon similar provisions adopted in prior budgets.

In the SFY 2024-25 Enacted Budget, $367.6 million is exempt from Office of the State Comptroller oversight and normal competitive procurement requirements; an additional $1.5 billion is exempt from normal competitive procurement requirements; and another $1.9 billion may allow the funds to be distributed at the discretion of the Executive/DOB without following the normal competitive procurement requirements. These proposed changes reduce transparency, competition and State Comptroller oversight over a significant amount of taxpayer supported State spending.

Examples of these problematic provisions include:

- The contract for the statewide Fiscal Intermediary (FI) for the Consumer Directed Personal Assistance Program (CDPAP) bypasses the Office of the State Comptroller pre-audit review and competitive bidding.
- A $101 million Office of Children and Family Services appropriation for the provision of home and community-based services;
- A $60 million Miscellaneous All State Departments and Agencies appropriation for a local assistance resource program;
- A $45 million Urban Development Corporation appropriation for economic development initiatives; and
- A $33 million Office of Addiction Services and Supports appropriation for community treatment services.

The Budget also continues to include problematic provisions with respect to accounting standards that have the potential to distort the appearance of reported receipts, disbursements, and liabilities, and obscure the picture of true spending growth.[17]

Endnotes

[1] Blue Chip Economic Indicators, Vol.49, No.4, April 10, 2024.

[2] An extensive explanation of the PTET is provided in Office of the State Comptroller, *Report on the State Fiscal Year 2023-24 Executive Budget*, March 2023, available at https://www.osc.state.ny.us/files/reports/budget/pdf/executive-budget-report-2023-24.pdf.

[3] New York State Department of Taxation and Finance, Personal Income Tax Study Files, Tax Years 2020 to 2022.

[4] The reduction in PIT liability may also be influenced, in part, by the impact of the PIT credits for PTET paid.

[5] An extensive explanation of the migration of New York personal income tax files is provided in Office of the State Comptroller, *Taxpayer Movement During the Pandemic: Comparing 2020 and 2021 to Pre-Pandemic Baseline,* December 2023, available at https://www.osc.ny.gov/files/reports/pdf/taxpayer-movement-during-the-pandemic.pdf.

[6] Based on estimates from the Division of Budget with the SFY 2023-24 Enacted Budget.

[7] Rate increase for single filers starts at incomes over $1,011,550. Rate increases for head of household and married, joint filers apply to incomes of $1,616,450 and $2,155,355, respectively.

[8] New York State Department of Taxation and Finance, 2021 Personal Income Tax Study File.

[9] Office of Governor Kathy Hochul, "Governor Hochul Announces Historic Investments of FY 2025 New York State Budget" April 22, 2024, available at https://www.budget.ny.gov/pubs/press/2024/fy25-enacted-budget-highlights.html.

[10] California Department of Health Care Services, CMS Approval Letter of MCO Tax, December 15, 2023, available at https://www.dhcs.ca.gov/Documents/CA-MCO-Tax-Waiver.pdf.

[11] See Office of the State Comptroller report, *Medicaid: Enrollment Growth, COVID-19 and the Future*, December 2021, available at https://www.osc.ny.gov/files/reports/pdf/medicaid-enrollment-growth-covid-19-and-the-future.pdf; and "*Unwinding" Continuous Enrollment in Medicaid Presents Coverage and Financial Risks*, January 2024, available at https://www.osc.ny.gov/files/reports/pdf/medicaid-unwinding-financial-plan-risk.pdf.

[12] Good cause is defined, among other things, as a tenant's failure to pay reasonable rent, violating a substantial obligation of tenancy, using the property for illegal purposes, refusing reasonable entry or failing to agree to reasonable changes to a lease renewal, and/or various good faith actions by the landlord (i.e., sale or personal use of the property). Rent increases for covered units are restricted to 10 percent or "the inflation index," whichever is lower. "Inflation index" defined as 5 percent plus the annual change in the applicable consumer price index, CPI.

[13] As of March 31, 2024, the TSRF balance was $1.62 billion and the RDRF balance was $4.64 billion.

[14] New York Center for Research, Economic Advancement, Technology, Engineering, and Science (NY CREATES) and the Empire AI Consortium (Empire AI), a partnership of public- and private-research institutions to establish an artificial intelligence computing center for research and development.

[15] Office of the State Comptroller, *The Importance of Responsible Debt Management*, March 2024, available at https://www.osc.ny.gov/files/reports/pdf/importance-of-responsible-debt-management.pdf.

[16] Public Authorities Law §3241-a.

[17] 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. In addition, the Budget includes language, first enacted in SFY 2020-21, expressly directing OSC to credit the original appropriation and "reduce expenditures in the year in which such credit is received regardless of the timing of the initial expenditure." These provisions, which do not include any dollar limitation, could result in actual spending beyond amounts set forth in the appropriation in a given fiscal year and may further cloud the picture of true spending growth.

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