THE ASSEMBLY
STATE OF NEW YORK
ALBANY

HERMAN D. FARRELL, JR.
Assemblyman 71st District

Room 923
Legislative Office Building
Albany, New York 12248
(518) 455-5491
(518) 455-5776 FAX

CHAIRMAN
Ways and Means Committee

COMMITTEES
Rules

Black, Puerto Rican, Hispanic and Asian
Legislative Caucus

February 28, 2011

Dear Colleagues:

I am providing you with the NYS Assembly Ways and Means Committee *Revenue Report* for State Fiscal Year (SFY) 2010-11 and 2011-12. This report is part of our commitment to presenting clear and accurate information to the public. It provides an overview of the national and State economies, as well as an analysis of the Committee staff revenue forecast for SFY 2010-11 and 2011-12.

The Committee staff projects that total All Funds receipts will reach $134.5 billion in SFY 2010-11, which represents an increase of $7.8 billion, or 6.2 percent, over SFY 2009-10. The Committee staff estimate is $49 million lower than the Executive's estimate for SFY 2010-11.

The Committee staff projects that All Funds receipts will total $132.8 billion in SFY 2011-12, a decrease of $1.7 billion, or 1.3 percent, over SFY 2010-11. The Committee staff forecast is $37 million lower than the Executive's forecast for SFY 2011-12. This difference is largely attributable to differences in economic projections and how this translates into receipts.

The Committee staff projections are reviewed by an independent panel of professional economists drawn from major financial corporations, prestigious universities, and private forecasters from across the State. Assembly Speaker Sheldon Silver and I would like to express our appreciation to all of the members of our Board of Economic Advisors. Their dedication and expert judgment have been invaluable in helping the Ways and Means Committee staff refine and improve this forecast. They have served to make the work of the staff the best in the State. Of course, they are not responsible for either the numbers or any of the views expressed in this document.

I wish to acknowledge the fine work done by the talented Ways and Means Committee staff. Their forecasts are integral to the budget process. The Speaker and I look forward to working with you to achieve our goal of crafting a fair budget for all New York families during this challenging time.

Sincerely

Herman D. Farrell, Jr.
Chairman

NEW YORK STATE REVENUE REPORT

FISCAL YEAR 2010-11 AND 2011-12

February 2011

SHELDON SILVER
Speaker
New York State Assembly

HERMAN D. FARRELL, JR.
Chairman
Assembly Ways and Means Committee

Prepared by the
Assembly Ways and Means Committee Staff

Dean Fuleihan
Secretary to the Committee

Steven A. Pleydle
Director of Tax and Fiscal Studies

Philip A. Fields
Deputy Director for Fiscal Studies

David J. Friedfel
Deputy Director for Fiscal Studies

Anthony Rodolakis, Ph.D.
Director of Tax Study Commission

TABLE OF CONTENTS

FINANCING AND ECONOMIC OVERVIEW

Financing Overview

The Assembly Ways and Means Committee staff forecasts moderate growth in revenues which is consistent with modest growth in the economy:

- In State Fiscal Year 2010-11 State funds taxes are estimated to increase by 5.3 percent or $3.0 billion, when including Miscellaneous Receipts and Federal grants All Funds receipts are estimated to increase by 6.2 percent or $7.8 billion;

- In State Fiscal Year 2011-12 State funds taxes are forecast to increase by 6.7 percent or $4.0 billion as the economy maintains its current growth momentum. However, as funds from the Federal stimulus expire, All Funds receipts are forecast to decline 1.3 percent or $1.7 billion.

The two-year WAM staff projections show no significant difference from the Executive forecast:

- For SFY 2010-11 the staff forecast for All Funds receipts is $49 million below the Executive's forecast;

- For SFY 2011-12 the staff forecast is $37 million below the Executive's forecast.

The Executive's Budget contains over $1.2 billion in new revenue, most of it non-recurring in nature:

- For SFY 2011-12 the Executive proposes revenue enhancements totaling $340 million (primarily through tax modernization and abandoned property);

- In addition, the Executive is proposing non-recurring actions totaling $805 million, such as utilizing available funds from the MTA, pay-as-you-go capital spending, negotiating funding agreements with public authorities, limiting State's liability for School Aid claims, and other transactions.

Temporary revenue provisions decrease from $15 billion in SFY 2010-11 to $6.9 billion in SFY 2011-12, most of which are set to expire this year:

- The major temporary actions include $4.96 billion in revenues, $862 million in federal stimulus aid and $1 billion in other actions;

- The primary decline is in the Personal Income Tax (PIT) surcharge estimate to $3.5 billion from $4.5 billion or a decrease of $1.0 billion;

- Revenue from sales tax on clothing is estimated to decrease by $110 million in SFY 2011-12;

- The Executive Budget projects to receive $1.1 billion in Federal Stimulus aid in SFY 2011-12, a reduction of $5.2 billion. Lower federal stimulus aid of $5.2 billion consists of $4.1 billion in Medicaid and $1.1 billion in education grants.

The proposed financial plan is balanced in the current year, but the State will still have out-year deficits:

- The State faces budget gaps of $10 billion in 2011-12, $15.3 billion in 2012-13, $17.9 billion in 2013-14, and $21.4 billion in 2014-15;

- The estimated gaps, which are sizeable by any measure, reflect the short-term impact of the recession on State tax receipts and economically-sensitive programs, and the phase-out of the Federal government's stimulus funds;

- The annual increase in State spending includes the phase-out of Federal ARRA State Fiscal Stabilization funding that results in an annual increase of roughly $330 million, offset by an annual reduction of approximately $200 million driven by the 2011-12 Executive Budget recommendations described below.

The Executive Budget replaces temporary funding measures with new spending limitations in the area of education and health care:

- The Executive is proposing limits on the annual growth rates for major programs, including Medicaid and School Aid. The target growth rate for Medicaid will be the long-term average change in the medical component of the Consumer Price Index.

The target growth rate for School Aid will be based on the change in New York State personal income;

- With the proposed spending limitations and other spending reductions, targeted disbursement growth and revenue actions the out year budget gaps are reduced to $2.3 billion in SFY 2012-13, $2.5 billion in SFY 2013-14, and $4.4 billion in SFY 2014-15.

The state's debt outstanding is getting critically close to the maximum level of allowable debt:

- State-related debt outstanding is projected to total $58.1 billion in 2011-12, an increase of $1.7 billion or 3.0 percent from 2010-11;

- Over the period of the Financial Plan, State-related debt outstanding is projected to increase from $56.4 billion in 2010-11 to $58.3 billion in 2015-16, or an average increase of 0.6 percent annually;

- Overall, debt affordability measures from 2010-11 through 2015-16 show that State-supported debt outstanding is projected to remain two percent below the statutory debt cap over the Plan period.

General Fund stability continues to be susceptible to down cycles as the Rainy Day Fund has limited resources and the Tax Stabilization Reserve Fund will be used to meet current year cash flow needs:

- Funds from the Tax Stabilization Reserve Fund (TRSF) may be borrowed by the General Fund temporarily and repaid within the same fiscal year. They may also be borrowed to cover an operating deficit at year-end. These loans must be repaid within six years in no less than three annual installments;

- Cash assets of the TSRF are routinely loaned to the Local Assistance Account or the State Purposes Account during the fiscal year, but repaid in cash by March 31 of any fiscal year.

The financial plan contains the following measures to support this year's budget:

- In 2010, the State amortized pension costs above a certain percentage of payroll, reducing State Operating Funds spending by $249 million in SFY 2010-11, $635 million in SFY 2011-12, $789 million in SFY 2012-13, and $1.01 billion in SFY 2013-14;

- The State enacted laws in 2010 to defer the payment of tax credits on businesses that were expecting to receive a tax credit in excess of $2 million of tax credits for three years saving $970 million in SFY 2011-12.

The Executive Budget is required to be presented, for informational purposes, on a GAAP basis:

- In SFY 2010-11, the Executive estimates an Operating Deficit of $86 million, increasing the Accumulated Deficit from $3.5 billion to $3.6 billion;

- For the upcoming fiscal year the Executive anticipates an Operating Surplus of $165 million for SFY 2011-12, reducing the Accumulated Deficit of $3.5 billion;

- For the out-years the Executive estimates annual Operating Deficits of $3 billion in SFY 2012-13, $3.4 billion in SFY 2013-14, and $5.3 billion in SFY 2014-15;

- This leads to Accumulated Deficits of $6.5 billion in SFY 2012-13, $9.9 billion in SFY 2013-14, and $15.2 billion in 2014-15.

The Executive proposes to extend HCRA until March 31, 2014, with the fund remaining in balance without support from the General Fund:

- HCRA is anticipated to receive $5.4 billion, an increase of $360 million above SFY 2010-11;

- Additional proceeds from the sale of insurance company conversions are estimated to generate $150 million;

- All receipts in HCRA, except cigarette tax receipts, are projected to show modest growth in SFY 2011-12.

Economic Overview

KEY NATIONAL INDICATORS AND TRENDS

- **Real GDP:** the forecast calls for real gross domestic product to grow by 3.2 percent in 2011, above the 2.8 percent rate of 2010. The U.S. economic recovery will maintain momentum through 2012 with growth of 3.1 percent;

Table 1

Key Economic Forecast Variables (Percent Change)				
	Actual 2009	Estimate 2010	Forecast 2011	Forecast 2012
US Variables				
Real GDP	(2.6)	2.8	3.2	3.1
Personal Income	(1.7)	3.0	4.7	3.2
Corporate Profits	(0.4)	29.2	8.0	2.9
Employment	(4.4)	(0.7)	1.2	2.1
S&P 500	(22.5)	20.5	16.4	5.9
Treasury Bill Rate (3 month)*	0.2	0.1	0.2	1.3
Treasury Note Rate (10-year)*	3.3	3.2	3.6	4.2
NYS Variables				
Employment	(3.1)	0.1	0.9	1.2
Wages	(7.2)	4.4	3.8	6.6

*Annual Average Rate

Source: NYS Assembly Ways and Means Committee Staff

- **Consumption and Investment:** Consumption spending is forecast to experience positive growth going forward following unprecedented declines in 2008 and 2009. U.S. consumption is forecast to increase by 3.1 percent in 2011, following growth of 1.8 percent in 2010, and further grow by 2.8 percent in 2012. Following historic declines over the last three years, investment spending is recovering as business confidence is slowly recovering. The U.S. ISM Manufacturing Index rose to 60.8 percent in January from 58.5 percent in December, indicating an expanding sector. The current Ways and Means Committee staff forecast does not expect significant growth in residential investment until 2012, reaching levels that will still be well below the 2004 and 2005 peak. Overall, investment spending is forecast to increase by 6.8 percent growth in 2011, following growth of 16.8 percent in 2010;

- **Monetary Policy:** The Federal Reserve is expected to continue its current monetary accommodation through early 2012 and is expected to slowly increase its federal funds rate target to 2.5 percent by the end of 2012. At its November 2010 meeting the Federal Open Market Committee (FOMC) announced that it would resume its purchase of assets, buying $600 billion of long-term U.S. Treasuries, through the second quarter of 2011. Overall, the Federal Reserve maintains its stance that the economic outlook warrants keeping interest rates at historically low levels;

- **Fiscal Policy:** following the unprecedented fiscal policy initiatives of 2008, 2009, and 2010, government spending growth is expected to decelerate in 2011, driven by 0.8 percent growth in Federal spending – down from 4.8 percent in 2010 – and negative 0.5 percent State & Local government growth, the third consecutive annual decline;

- **Inflation:** aggregated consumer prices, as measured by the Consumer Price Index, are expected to increase by an average of 2.1 percent in 2011 followed by 2.2 percent growth in 2012. However, as commodity prices – especially oil prices – are on the rise while various primary and intermediate products inflation rates accelerate, a more rapid acceleration of inflation provides a source of risk to this forecast;

- **Employment:** U.S. employment is expected to increase by 1.2 percent in 2011, followed by growth of 2.1 percent in 2012. However, as the level of job gains is not adequate to compensate for the severe losses experienced during the period January 2008 to December 2009, the unemployment rate will be at 8.2 percent by the fourth quarter of 2012, down from 9.0 percent as of January 2011;

- **Equity Markets:** Broad measures of financial wealth, such as the S&P 500 index have registered impressive gains since the lows of early 2009. Overall, the S&P 500 declined by 22.5 percent in 2009, following a decline of 17.3 percent in 2008, and is forecast to grow by 20.5 percent in 2010, with further growth of 16.4 percent in 2011 and 5.9 percent in 2012;

- **Foreign Growth:** The world economy ended 2010 surprisingly stronger than what analysts had expected at the beginning of the year. A trade-weighted index of foreign GDP is forecast to increase by 3.8 percent and 4.0 percent in 2011 and 2012, respectively.[1] However, the risks remain substantially high on several key fronts for 2011. Developments in emerging markets, the stability of the Euro area as several peripheral European countries are still unable to finance debt at sustainable rates, will combine in providing renewed uncertainty in the overall outlook;

NYS ECONOMIC INDICATORS AND KEY MODEL DRIVERS

- **Employment:** New York State employment is estimated to have registered a small 0.1 percent gain in 2010, following a decline of 3.1 percent in 2009. Employment growth is expected to accelerate to 0.9 percent in 2011 and 1.2 percent in 2012. As of December 2010 the NYC unemployment rate stood at 8.9 percent – compared to 8.2 percent for the State – but below the 10.5 percent rate in December 2009. The private sector in the City added 50,800 jobs in December 2010 over December 2009, or a growth rate of 1.6 percent compared to only 0.5 percent growth in the Upstate area. However, employment still remains 99,000 jobs or three percent below the peaks of early 2008. The critical financial services sector is still down 38,000 jobs. Securities employment is down 27,000 jobs or 15 percent from peak employment levels;[2]

- **Wages:** New York State tax receipts, in particular the withholding component of the personal income tax, critically depend on wages and salaries. In 2010 wage growth is forecast to have recovered with positive 4.4 percent growth, while bonuses are forecast to have increased by 19.1 percent. For 2011, the Committee staff expects wage growth of 3.8 percent while bonuses are expected to average 3.2 percent growth. In 2012, total wages are forecast to increase by 6.6 percent with variable wages increasing by 23.5 percent. The 2012 increase is due to the timing of bonus allocation based on the anticipation of the expiration of the Bush tax cuts in December 2012, following the two-year extension achieved in December 2010;

- **Capital Gains:** Capital gains activity is another critical component in determining the State's personal income tax liability. Growth in capital gains is important because, as discussed more fully in the personal income tax section of this report, payments from high-income individuals that realize a significant amount of capital gains account for much of the estimated payments component of personal income tax collections. The

[1] "International Notes", Macroeconomic Advisers, February 9, 2011.

[2] "Monthly Report on Current Economic Conditions", The City of New York, Office of Management and Budget, January 19, 2011.

Committee staff projects net capital gains will increase to $40.9 billion in 2010, up from only $29.1 billion in 2009, followed by an increase of 27.4 percent in 2011 and 51.3 percent in 2012, as a result of the expectation of higher tax rates on capital gains in 2013;

- **Consumption Trends:** consumption growth is critical in forecasting sales tax receipts. As mentioned in the previous section, consumption growth is expected to make steady gains through 2011 and 2012, while auto sales are also forecast to continue growing in 2011 and 2012 with rates of 5.3 percent and 4.7 percent, respectively, following a decline in 2009 and growth of 5.8 percent in 2010. Tourism activity was strong with a 4.5 percent increase in October 2010 - over the year ago levels - in passenger activity at NYC airports, with 6.3 percent increase in travelers arriving via international carriers. Hotel occupancy was 85.1 percent in November 2010, up from 82.4 percent in November 2009, signifying upward price pressures.

REVENUE FORECAST

Revenue Forecast

STATE FISCAL YEAR 2010-11

Economically sensitive taxes, following modest growth in the economy, are beginning to recover from the global economic recession. The NYS Assembly Ways and Means Committee staff projects All Funds tax revenue for SFY 2010-11 to be $60.714 billion, representing an increase of 5.3 percent or $3.046 billion over the prior year. Adding miscellaneous receipts and Federal grants, the total would be $134.546 billion, an increase of $7.798 billion or 6.2 percent. Temporary tax law changes have helped to boost current year tax revenues a modest 7.0 percent growth with two months remaining in the fiscal year.

Table 2

SFY 2010-11 Forecast Summary
($ in Millions)

	2009-10 Actual	2010-11 Estimate	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$34,751	$35,762	$1,011	2.9%	($107)
User Taxes	12,852	14,171	1,319	10.3%	(11)
Business Taxes	7,459	7,651	191	2.6%	(22)
Other	2,606	3,130	524	20.1%	93
Total All Funds Taxes	**57,668**	**60,714**	**3,046**	**5.3%**	**(47)**
All Funds Misc. Receipts	23,557	23,734	177	0.8%	(2)
Federal Grants	45,523	50,098	4,575	10.0%	-
Total All Funds Receipts	**$126,748**	**$134,546**	**$7,798**	**6.2%**	**($49)**

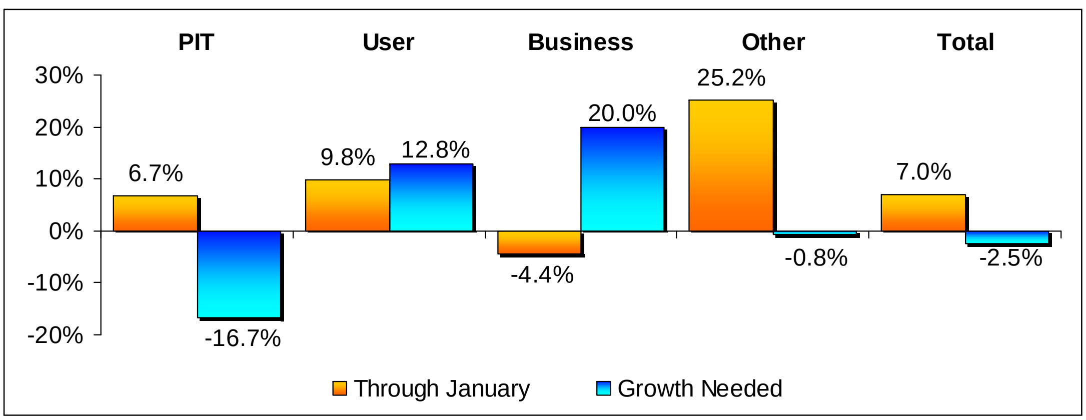
The majority of the increase in tax receipts is split between the personal income tax (PIT) and user taxes and fees, which are estimated to increase by $1.011 billion or 2.9 percent and $1.319 billion or 10.3 percent, respectively. Other taxes are expected to increase by $524 million or 20.1 percent while business taxes are estimated to increase $191 million or 2.6 percent.

The Assembly Ways and Means Committee staff's State Funds tax revenue estimate is $47 million below the Executive Budget Financial Plan. Committee staff estimates are $49 million below the Executive's when estimates for miscellaneous receipts and Federal grants are included. The largest difference between the Committee staff estimate and the Division of Budget estimate is in personal income tax receipts—the Committee staff estimate is $107 million below the Executive.

Year-to-Date Results

Through the first ten months of the fiscal year, All Funds tax revenues are up 7.0 percent. This increase is largely attributable to a $1.949 billion or 6.7 percent increase in PIT—the majority of which was in withholding and estimated payments. Also contributing to the year-to-date increase is a $1,065 billion or 9.8 percent increase in user taxes and fees. Other taxes increased $528 million, an increase of 25.2 percent. Business taxes, however, have declined 4.4 percent or $235 million. The sharp increase in business taxes in the last two months of the year reflect the administrative delay of $200 million in refunds, strong audit collections and the general belief that business tax collections have "turned the corner." Tax collections are expected to decrease by 2.5 percent over the last two months of the fiscal year due to the timing of certain payments.

Status of Ways and Means Staff Forecast Through January



Source: Office of the State Comptroller, Ways and Means Committee staff estimates

Figure 1

Tax Forecast

Personal Income Taxes

The NYS Assembly Ways and Means Committee staff estimates that personal income tax (PIT) receipts will total $35.762 billion in SFY 2010-11, representing growth of 2.9 percent or $1.011 billion over the prior year. Gross receipts are expected to increase by 5.2 percent or $2.157 billion over SFY 2009-10, driven largely by expectations for growth in withholding of 4.4 percent or $1.287 billion, as well as an increase in voucher payments of 6.3 percent or $434 million. Final payments and extension payments are expected to conclude with increases of 8.2 percent or $150 million and 12.7 percent or $266 million, respectively. The Committee staff estimates that delinquencies will increase by 1.8 percent, or $20 million.

Offsetting the annual growth in gross receipts is an anticipated 16.8 percent or $1.116 billion increase in total refunds, resulting from significant growth in all of the major refund components. The growth in both prior and current year refunds is directly attributable to an administrative shift in refund allocation between fiscal years, as $500 million in what would have otherwise been SFY 2009-10 current year refunds was distributed as SFY 2010-11 prior year refunds for cash flow savings.

Through January 2011, net personal income taxes have totaled $29.122 billion year-to-date, an increase of 6.7 percent, and will actually require an average decline of 16.7 percent in the final two months to reach SFY 2010-11 estimates – however this decline is overstated due to the deferral of tax refunds in SFY 2009-10.

User Taxes

User taxes are estimated to total $14.171 billion in SFY 2010-11, an increase of 10.3 percent or $1.319 billion. Sales tax revenue, the largest tax in this category, is estimated to increase by $972 million or 9.2 percent—reflecting the general recovery of the economy. In particular, the increase in user taxes is also reflective of increased consumer spending after years of frugality. The growth in user taxes is aided somewhat by tax law changes, which are expected to create an additional $390 million in sales tax and $254 million in cigarette tax revenues.

Through the first ten months of the fiscal year, sales tax revenues are up 8.7 percent, and have grown year-over-year in every month this fiscal year, except for September. Collections in the last two months of the year are expected to grow by 12.1 percent as tax law changes take effect and the economic recovery continues.

Business Taxes

Business taxes are estimated to increase 2.6 percent or $191 million above SFY 2009-10. Corporate franchise taxes are expected to increase 24.5 percent or $614 million. In contrast, utility taxes and insurance taxes are estimated to decrease by 13.6 and 11.1 percent, respectively. A slight decline is estimated in the petroleum business tax, and the bank tax is expected to yield $112 million or 8.0 percent less than the prior year.

Through ten months of the fiscal year, business taxes are 4.4 percent below where they were last year, and growth of 20.0 percent is expected in the last two months of the fiscal year. Bank tax collections are currently down 18.7 percent from last year, but are expected to increase 21.6 percent in the remainder of the year to finish SFY 2010-11 down only 8.0 percent. The corporate franchise tax seems to have reached a turning point, with a positive year-to-date growth. The Committee staff estimate accepts the Executive's assumptions with regard to significant audit collections in the remaining part of the fiscal year and the deferral of $200 million in refunds.

Other Taxes

Other tax collections are estimated to increase 20.1 percent or $524 million from SFY 2009-10. Estate and gift taxes are at $1.027 billion year-to-date, up 40.4 percent year-to-date. With expected 0.3 percent growth in the next two months, estate and gift tax revenues are expected to increase 34.2 percent or $297 million for the full fiscal year.

Through January, real estate transfer tax (RETT) receipts are up 17.8 percent or $73 million over the same year-to-date period in SFY 2009-10. The federal home buyer credit, which expired April 30, 2010, was a major factor in supporting the housing market. The expiration of the federal tax credit in conjunction with new rules for FHA-backed loans may diminish the rapid gains that the housing market enjoyed over the first ten months of SFY 2010-11. Nonetheless, the number of sales and real estate prices throughout New York appear to have stabilized. In pockets of New York City there appear to be signs of continued modest growth. Thus, the overall RETT growth for SFY 2010-11 is expected to be 13.7 percent or $68 million over SFY 2009-10. In its first full year since enactment, the MTA payroll tax experienced growth of 17.1 percent year-to-date.

Miscellaneous Receipts

All Funds miscellaneous receipts are estimated to total $23.734 billion, an increase of $177 million. The Committee staff estimate is $2 million below the Executive.

Lottery

Through the first ten months of SFY 2010-11 sales of traditional lottery games (lotto, numbers, win 4, pick 10, etc.) have been declining. As of January, traditional lottery receipts are down 2.8 percent or $41 million below the same period in SFY 2009-10. Therefore, the Assembly Ways and Means Committee staff estimates a decline in traditional lottery of 2.3 percent or $63 million from SFY 2009-10. On the other hand, receipts from video lottery gaming (VLT) are growing. As a result of increased VLT activity, the one-time $380 million payment for Aqueduct licensing, as well as legislative changes that increased the share of net machine income that goes to Education, the Committee staff estimates substantial growth in video lottery gaming revenue of 86.2 percent or $425 million over SFY 2009-10. The Committee staff estimates combined revenue of $3.007 billion for SFY 2010-11, a growth rate of 13.7 percent or $362 million over SFY 2009-10.

General Fund

The Ways and Means Committee Staff estimates that General Fund taxes, before transfers, will be $39.143 billion, reflecting growth of 5.8 percent or $2.146 billion over SFY 2009-10. This estimate is $19 million below the Executive Budget estimate and $733 million below the Enacted Budget financial plan. When including transfers, miscellaneous receipts and federal grants, General Fund receipts are estimated to be $54.167 billion, representing growth of $1.611 billion or 3.1 percent. This estimate is $47 million below the Executive Budget estimate.

Table 3

SFY 2010-11 General Fund Forecast Summary ($ in Millions)					
	2009-10 Actual	2010-11 Estimate	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$22,654	$23,544	$890	3.9%	(80)
User Taxes	8,087	8,796	709	8.8%	22
Business Taxes	5,371	5,622	251	4.7%	(42)
Other	885	1,181	296	33.4%	82
Total	**36,997**	**39,143**	**2,146**	**5.8%**	**(19)**
Misc Rpts & Federal Grants	3,959	3,141	(818)	-20.7%	(2)
Transfers	11,600	11,883	283	2.4%	(26)
General Fund Receipts	**$52,556**	**$54,167**	**$1,612**	**3.1%**	**($46)**

STATE FISCAL YEAR 2011-12

Key economic indicators point to an ongoing but slow recovery. The Assembly Ways and Means Committee staff is now predicting that GDP will accelerate slightly from 2.8 percent in 2010 to 3.2 percent in 2011. In addition, New York employment is forecast to grow 0.9 percent, while total wages are forecast to grow 3.8 percent. As a result, the Committee staff is expecting growth of $4.039 billion to $64.753 billion, or 6.7 percent in tax revenue for the upcoming fiscal year. The growth is due largely to 6.9 percent growth in personal income taxes and 11.0 percent growth in business taxes. Stronger growth in consumer spending offset by the incremental impact of partially reinstating the clothing sales tax exemption is expected to keep growth in user taxes at 4.6 percent. The Committee staff forecast is $37 million below the Executive Budget forecast, including estimates for miscellaneous receipts and Federal grants.

Table 4

SFY 2011-12 Forecast Summary
($ in Millions)

	2010-11 Estimate	2011-12 Forecast	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$35,762	38,235	$2,473	6.9%	(274)
User Taxes	14,171	14,820	649	4.6%	10
Business Taxes	7,651	8,489	838	11.0%	111
Other	3,130	3,209	79	2.5%	122
Total Taxes	**60,714**	**64,753**	**4,039**	**6.7%**	**(31)**
All Funds Misc Receipts	23,734	23,810	76	0.3%	(6)
Federal Grants	50,098	44,271	(5,827)	-11.6%	-
Total All Funds	**$134,546**	**$132,834**	**($1,712)**	**-1.3%**	**($37)**

Tax Forecast

Personal Income Taxes

Overall, personal income taxes, the largest component of tax collections, are forecast to total $38.235 billion, which is $2.473 billion or 6.9 percent above the SFY 2010-11 estimate. Calendar year 2011 wage growth is expected to be a healthy 3.8 percent, and capital gains are expected to increase by 27.4 percent. As a result, New York adjusted gross income is forecast to increase by 5.4 percent, resulting in a liability increase of 7.4 percent.

The strong growth in capital gains contrasts with prior economic forecasts, which had assumed that investors would accelerate their realization of capital gains from 2011 into 2010 to avoid higher federal tax rates in 2011. As result of the extension of the lower rates, the Ways and Means Committee staff anticipates that estimated payments will increase by 13.2 percent in 2011-12.

User Taxes

All Funds user taxes are forecast to be $14.820 billion, which is 4.6 percent above the current year. This forecast reflects the expectation that the economic recovery will be relatively slow and consumer spending growth will continue to be positive, but constrained by the slow pace of the recovery in employment and the housing market. In addition, sales tax collections will be negatively impacted by the partial reinstatement of the exemption on clothing and footwear, which will be effective for purchases less than $55 on April 1, 2011.

Business Taxes

Business taxes are forecast to total $8.489 billion in SFY 2011-12, which is an increase of 11.0 percent from the current year closeout on an All Funds basis.

The Committee staff is forecasting strong growth in the corporate franchise tax, utility and bank taxes with moderate growth in insurance taxes. The recovery in business taxes, after the slight decline in revenues in SFY 2010-11, reflects the impact of the business tax credit deferral that was enacted as part of the SFY 2010-11 Budget, as well as continued growth in corporate profits.

Other Taxes

Other taxes, which consist primarily of the estate tax, real estate transfer taxes, and the MTA payroll tax, are forecast to increase by 2.5 percent in SFY 2011-12, to a level of $3.209 billion. After a strong recovery in 2010-11, albeit from very depressed levels in 2009-10, collections are expected to be virtually unchanged from the prior year.

Miscellaneous Receipts

All Funds miscellaneous receipts, including lottery, are forecast to total $23.810 billion, which represents an increase of $76 million. The 2011-12 miscellaneous receipts forecast includes a proposal to increase abandoned property collections by decreasing the amount of time before certain properties are considered abandoned.

Lottery

Lottery receipts are forecast to decrease 4.0 percent in SFY 2011-12. However, this decline is due to the one-time payment of $380 million for the franchise fee to run the Aqueduct racino that was received in SFY 2010-11. Absent this payment, lottery receipts would be expected to increase by 9.2 percent.

General Fund

In SFY 2011-12, the Ways and Means Committee Staff forecasts that General Fund taxes will be $41.998 billion, reflecting growth of $2.855 billion or 7.3 percent. This estimate is $24 million below the Executive Budget forecast, or $566 million below the forecast released with the SFY 2010-11 Enacted Budget. When including transfers, miscellaneous receipts and federal grants, General Fund receipts are forecast to be $56.872 million, representing growth of $2.704 billion or 5.0 percent over the SFY 2010-11 estimate. This forecast is $130 million below the Executive, and $935 million below the forecast released in the Enacted Budget Report.

Table 5

SFY 2011-12 General Fund Forecast Summary ($ in Millions)	2010-11 Estimate	2011-12 Forecast	Change	Percent Growth	Diff. Exec.
Personal Income Tax	$23,544	25,383	$1,839	7.8%	(205)
User Taxes	8,796	9,129	333	3.8%	(24)
Business Taxes	5,622	6,330	708	12.6%	79
Other	1,181	1,156	(25)	-2.1%	126
Total	**39,143**	**41,998**	**2,855**	**7.3%**	**(24)**
Misc Rpts & Federal Grants	3,141	3,142	1	0.0%	(6)
Transfers	11,883	11,732	(152)	-1.3%	(100)
General Fund Receipts	**$54,167**	**$56,872**	**$2,704**	**5.0%**	**($130)**

RISKS TO THE REVENUE FORECAST

The pace of economic activity is the largest risk to achieving our revenue forecast. The largest share of state tax revenues is provided by the personal income tax, which is dependent upon the Committee staff's forecast for total wages and other measures of income. If total wages, which include variable bonuses, grow at a slower pace than forecast by the Committee staff total tax collections will suffer. Whether due to continued high unemployment or shifts in the composition of bonuses from cash to equity shares in reaction to federal legislation, a decline in taxable wages in SFY 2011-12 will have a negative impact on tax collections. Similarly, the personal income tax and estate tax forecasts depend on the continued growth in the equity markets throughout the forecast period, as measured by capital gains and the S&P 500.

In SFY 2011-12 the Committee staff expects the economic recovery to also provide stable and positive growth in the real estate market, with a heavy dependence on the commercial real estate sector in New York City. Any significant increase in housing inventories or higher interest rates will serve as a drag on the real estate market and provide direct downward pressure on real estate transfer tax revenues. Also, since the real estate markets have such a strong influence on consumer confidence, any unexpected decline in housing or commercial property values will slow growth in consumption related tax revenue sources.

In addition, this forecast assumes the enactment of all revenue proposals contained in the Executive Budget and the enforcement of current laws regarding reservation sales of cigarettes to non-Indians in SFY 2011-12.

Although the Committee staff forecasts significant growth in oil prices in 2011, this forecast might prove too low, as continued unrest in oil producing countries may yield even higher prices in the near future, subverting the overall economic recovery.

Detailed Revenue Tables

Detailed Revenue Tables

Table 6

All Governmental Funds SFY 2010-11 ($ in Millions)	2009-10 Actual	2010-11 Estimate	Change	Percent Growth	Diff. Exec.
Personal Income Tax	**$34,751**	**$35,762**	**$1,011**	**2.9%**	**($107)**
Gross Receipts	**41,393**	**43,550**	**2,157**	**5.2%**	**(35)**
Withholding	29,443	30,730	1,287	4.4%	(46)
Estimated Payments	9,028	9,728	700	7.8%	(23)
Vouchers	6,938	7,372	434	6.3%	28
IT 370s	2,090	2,356	266	12.7%	(51)
Final Payments	1,822	1,972	150	8.2%	5
Delinquencies	1,100	1,120	20	1.8%	29
Total Refunds	**6,642**	**7,758**	**1,116**	**16.8%**	**72**
Collections	**34,751**	**35,792**	**1,041**	**3.0%**	**($107)**
User Taxes and Fees	**12,852**	**14,171**	**1,319**	**10.3%**	**(11)**
Sales and Use Tax	10,529	11,501	972	9.2%	(12)
Motor Fuel Tax	507	514	8	1.5%	(2)
Cigarette Tax	1,364	1,620	256	18.8%	(1)
Highway Use	137	129	(8)	-5.8%	-
Alcoholic Beverage Tax	226	228	2	0.9%	-
Auto Rental Tax	76	95	19	25.0%	-
Taxi Surcharge	13	85	72	553.8%	4
Business Taxes	**7,459**	**7,651**	**191**	**2.6%**	**(22)**
Corporate Franchise	2,511	3,125	614	24.5%	(145)
Utility Tax	954	825	(129)	-13.6%	(11)
Insurance Tax	1,491	1,325	(166)	-11.1%	17
Bank Tax	1,399	1,287	(112)	-8.0%	103
Petroleum Business Tax	1,104	1,089	(15)	-1.4%	14
Other	**2,606**	**3,130**	**524**	**20.1%**	**93**
Estate and Gift	866	1,163	297	34.2%	82
Real Estate Transfer	493	561	68	13.7%	(6)
Pari Mutuel	19	17	(2)	-10.5%	-
Other	1	1	0	29.4%	-
Payroll Tax	1,228	1,389	161	13.1%	17
Total All Funds Taxes	**57,668**	**60,714**	**3,046**	**5.3%**	**(47)**
All Funds Misc Receipts	23,557	23,734	177	0.8%	(2)
Federal Grants	45,523	50,098	4,575	10.0%	-
Total All Funds Receipts	**$126,748**	**$134,546**	**$7,798**	**6.2%**	**(49)**

Table 7

All Governmental Funds SFY 2011-12 ($ in Millions)	2010-11 Estimate	2011-12 Forecast	Change	Percent Growth	Diff. Exec.
Personal Income Tax	**$35,762**	**$38,235**	**$2,473**	**6.9%**	**($274)**
Gross Receipts	**43,550**	**45,844**	**2,294**	**5.3%**	**(177)**
Withholding	30,730	31,638	908	3.0%	(164)
Estimated Payments	9,728	11,008	1,280	13.2%	83
Vouchers	7,372	8,415	1,043	14.1%	235
IT 370s	2,356	2,593	237	10.1%	(152)
Final Payments	1,972	2,010	38	1.9%	(180)
Delinquencies	1,120	1,188	68	6.1%	84
Total Refunds	**7,758**	**7,609**	**(149)**	**-1.9%**	**98**
Collections	**35,792**	**38,235**	**2,443**	**6.8%**	**($274)**
User Taxes and Fees	**14,171**	**14,820**	**649**	**4.6%**	**10**
Sales and Use Tax	11,501	11,920	420	3.6%	(30)
Motor Fuel Tax	514	516	1	0.2%	(2)
Cigarette Tax	1,620	1,854	234	14.4%	68
Highway Use	129	122	(7)	-5.7%	(18)
Alcoholic Beverage Tax	228	227	(1)	-0.5%	(6)
Auto Rental Tax	95	97	2	2.1%	(5)
Taxi Surcharge	85	85	0	0.0%	4
Business Taxes	**7,651**	**8,489**	**838**	**11.0%**	**111**
Corporate Franchise	3,125	3,617	492	15.7%	(19)
Utility Tax	825	912	88	10.6%	20
Insurance Tax	1,325	1,378	53	4.0%	(14)
Bank Tax	1,287	1,480	193	15.0%	138
Petroleum Business Tax	1,089	1,101	12	1.1%	(15)
Other	**3,130**	**3,209**	**79**	**2.5%**	**122**
Estate and Gift	1,163	1,141	(22)	-1.9%	126
Real Estate Transfer	561	596	36	6.3%	(24)
Pari Mutuel	17	14	(3)	-17.6%	-
Other	1	1	0	0.0%	-
Payroll Tax	1,389	1,457	68	4.9%	20
Total All Funds Taxes	**60,714**	**64,753**	**4,039**	**6.7%**	**(31)**
All Funds Misc Receipts	23,734	23,810	76	0.3%	(6)
Federal Grants	50,098	44,271	(5,827)	-11.6%	-
Total All Funds Receipts	**$134,546**	**$132,834**	**($1,712)**	**-1.3%**	**(37)**

Table 8

Total Tax Collections By Fund Type SFY 2010-11 ($ in Millions)	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
Personal Income Tax	**23,544**	**$3,270**	**$8,948**	**$0**	**$35,762**
User Taxes and Fees	**8,796**	**2,085**	**2,694**	**595**	**14,171**
Sales and Use Tax	8,083	724	2,694	-	11,501
Motor Fuel Tax	-	108	-	407	514
Cigarette Tax	486	1,134	-	-	1,620
Motor Vehicle Fees	-	-	-	-	-
Highway Use	-	-	-	129	129
Alcoholic Beverage Tax	228	-	-	-	228
Alcoholic Beverage Fees	-	-	-	-	-
Auto Rental Tax	-	35	-	60	95
Taxi Surcharge	-	85	-	-	85
Business Taxes	**5,622**	**1,406**	**-**	**623**	**7,651**
Corporate Franchise	2,726	399	-	-	3,125
Utility Tax	626	181	-	18	825
Insurance Tax	1,172	153	-	-	1,325
Bank Tax	1,098	189	-	-	1,287
Petroleum Business Tax	-	484	-	605	1,089
Other	**1,181**	**1,389**	**442**	**119**	**3,130**
Estate and Gift	1,163	-	-	-	1,163
Real Estate Transfer	-	-	442	119	561
Pari Mutuel	17	-	-	-	17
Other	1	-	-	-	1
MTA Payroll Tax	-	1,389	-	-	1,389
Total All Funds Taxes	**39,143**	**$8,150**	**$12,084**	**$1,337**	**$60,714**

Table 9

Total Tax Collections By Fund Type SFY 2011-12 ($ in Millions)	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
Personal Income Tax	**25,383**	**$3,293**	**$9,559**	**$0**	**$38,235**
User Taxes and Fees	**9,129**	**2,307**	**2,795**	**590**	**14,820**
Sales and Use Tax	8,384	741	2,795	-	11,920
Motor Fuel Tax	-	109	-	407	516
Cigarette Tax	518	1,336	-	-	1,854
Motor Vehicle Fees	-	-	-	-	-
Highway Use	-	-	-	122	122
Alcoholic Beverage Tax	227	-	-	-	227
Alcoholic Beverage Fees	-	-	-	-	-
Auto Rental Tax	-	36	-	61	97
Taxi Surcharge	-	85	-	-	85
Business Taxes	**6,330**	**1,530**	**-**	**629**	**8,489**
Corporate Franchise	3,155	462	-	-	3,617
Utility Tax	692	202	-	18	912
Insurance Tax	1,219	159	-	-	1,378
Bank Tax	1,264	217	-	-	1,480
Petroleum Business Tax	-	490	-	611	1,101
Other	**1,156**	**1,457**	**477**	**119**	**3,209**
Estate and Gift	1,141	-	-	-	1,141
Real Estate Transfer	-	-	477	119	596
Pari Mutuel	14	-	-	-	14
Other	1	-	-	-	1
MTA Payroll Tax	-	1,457	-	-	1,457
Total Taxes	**41,998**	**$8,587**	**$12,830**	**$1,338**	**$64,753**

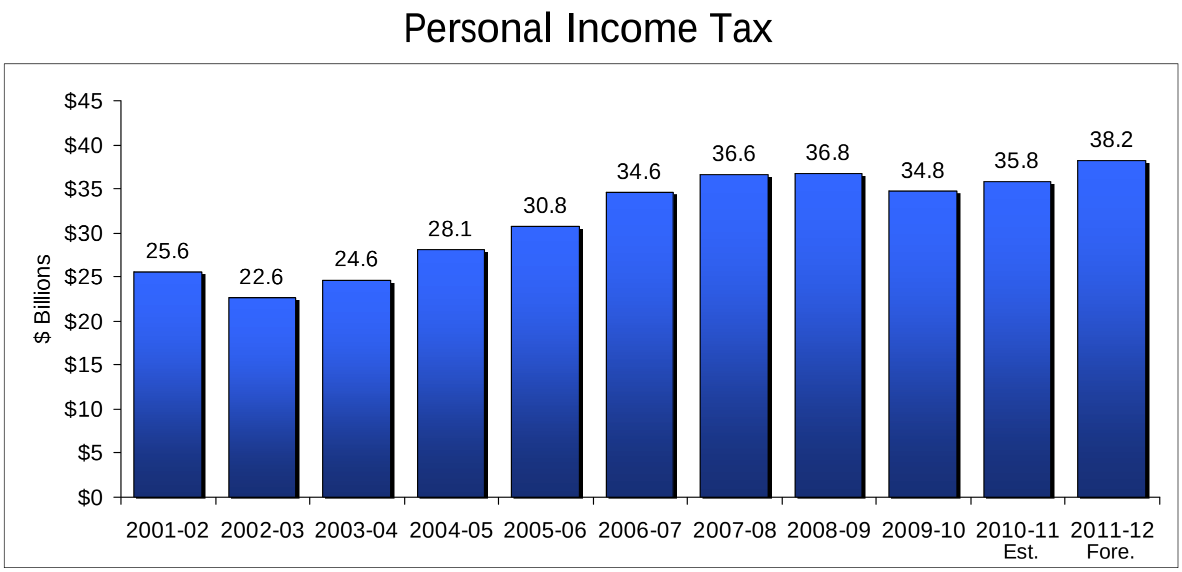
Tax Analysis

Personal Income Tax

Table 10

Personal Income Tax Collections Forecasts by State Fiscal Year ($ in Millions)	SFY 2010-11 WAM Estimate	Percent Growth	Diff. Exec.	SFY 2011-12 WAM Forecast	Percent Growth	Diff. Exec.
Personal Income Tax	**35,762**	**2.9%**	**(107)**	**38,235**	**6.9%**	**(274)**
Gross Receipts	**43,550**	**5.2%**	**(35)**	**45,844**	**5.3%**	**(177)**
Withholding	30,730	4.4%	(46)	31,638	3.0%	(164)
Estimated Payments	9,728	7.8%	(23)	11,008	13.2%	83
Vouchers	7,372	6.3%	28	8,415	14.1%	235
IT 370s	2,356	12.7%	(51)	2,593	10.1%	(152)
Final Payments	1,972	8.2%	5	2,010	1.9%	(180)
Delinquencies	1,120	1.8%	29	1,188	6.1%	84
Total Refunds	**7,758**	**16.8%**	**72**	**7,609**	**-1.9%**	**98**
Prior Year Refunds	5,169	3.7%	20	5,085	-1.6%	191
Current Refunds	1,750	40.0%	-	1,750	0.0%	-
Previous Refunds	791	69.0%	52	726	-8.2%	(93)
State/City Offsets	48	-177.4%	-	48	0.0%	-
Collections	**35,792**	**3.0%**	**(107)**	**38,235**	**6.8%**	**(275)**
Transfers to STAR	(3,300)	-3.2%	-	(3,293)	-0.2%	-
Transfers to DRRF/RBTF	(8,948)	3.0%	27	(9,559)	6.8%	69
General Fund PIT Collections	**$23,544**	**3.9%**	**($80)**	**$25,383**	**7.8%**	**($206)**

PERSONAL INCOME TAX



Source: Tax and Finance; Ways and Means Committee Staff estimates

Figure 2

Table 11

Personal Income Tax ($ in Millions)

	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$31,071	6.7%	$35,762	2.9%	$35,869	($107)
2011-12			$38,235	6.9%	$38,509	($274)

New York imposes a tax on income earned within the state by individuals, estates and trusts. New York's definition of income closely follows federal rules, which includes wages and salaries, capital gains, unemployment compensation, and interest and dividend compensation. The New York standard deduction or itemized deductions, in addition to exemptions claimed on New York taxes, are subtracted from the federal definition of income to arrive at New York taxable income. Certain credits are then subtracted from the calculated tax to arrive at total tax liability.

Personal income tax (PIT) receipts contribute more than one-half of all tax collections. PIT receipts are received through employee withholdings, estimated tax payments, payments accompanying tax returns, late payments, audits and assessments.

SFY 2010-11

Net Collections

The Committee staff estimates that All Funds personal income tax collections will total $35.762 billion in SFY 2010-11. This represents an increase of $1.011 billion or 2.9 percent above All Funds collections in SFY 2009-10. Through January, PIT collections have increased by 6.7 percent, driven primarily by moderate growth in withholding, the largest personal income tax collections component. Net revenue is expected to decrease by 16.1 percent over the remainder of the fiscal year, primarily due to the $500 million increase in current year refunds relative to SFY 2009-10 due to an administrative change.

The growth in April 2010 settlement payments was tempered in comparison to recent years, increasing by a total of $224 million between final and extension payments. This reflects the effect of the personal income tax surcharge on taxable income in 2009 which declined for a second consecutive year. The Committee staff estimates that 2010 settlement payments would have declined by $764 million if the surcharge had not been in effect. Prior year refunds, based on tax year 2010, have declined by 6.2 percent through January when the effect of last fiscal year's refund shift is taken into account. However, previous refunds have nearly doubled over this same time period, growing at an unprecedented rate.

Withholding

Through January 2011, withholding collections have increased by $1.742 billion or 7.6 percent above the comparable period in SFY 2009-10. The Committee staff estimates that by the end of the fiscal year withholding collections will total $30.730 billion. This represents an increase of $1.287 billion or 4.4 percent compared to total collections during SFY 2009-10. The Committee staff's estimate is $46 million below the Executive Budget estimate.

Vouchers

Vouchers are quarterly estimated tax payments made by taxpayers who expect that the amount of tax being withheld from their wages will fall short of their final tax liability. In general, estimated payments are paid by taxpayers whose income is derived from non-wage sources, such as capital gains, interest or dividends.

The Committee staff projects that vouchers collections for SFY 2010-11 will be $7.372 billion, which represents an increase of $434 million or 6.3 percent versus collections from SFY 2009-10. The Committee staff estimate is $28 million above the Executive's estimate.

The first quarter of the fiscal year ended with growth in voucher collections of 11.9 percent over the previous first quarter. This was followed by a 6.1 percent second quarter increase in vouchers relative to the equivalent time period. Voucher collections suffered from a weak December, leading to a third quarter decline of 0.2 percent. The Committee staff estimates fourth quarter growth of 4.9 percent to finish off the fiscal year.

Extensions (IT-370s)

Similar to final payments, extensions paid are a function of the previous calendar year's liability. In April 2010, extensions (IT-370s) increased by $110 million or 5.1 percent above April 2009. The Committee staff estimates that extensions will total $2.356 billion in SFY 2010-11, representing a growth of $266 million or 12.7 percent above the previous fiscal year. This estimate is $51 million below the Executive's estimate.

Final Payments

Final payments, which result from the timely filing of tax returns each April 15th, increased by $142 million or 8.6 percent through January 2011. The Committee staff estimates that final payments will total $1.972 billion in SFY 2010-11. Since final payments are based on previous year's liability, this is a reflection of increased liability from non-wage income for calendar year 2009, primarily due to the personal income tax surcharge. This estimate is $5 million above the Executive estimate.

Refunds

Refunds are issued to taxpayers who have paid more than their tax liability. The dollar amount of refunds paid out between January and March of each year is administratively determined by the Executive. The amount set to be paid during this SFY 2010-11 three month period is currently $1.750 billion. This represents a $500 million increase relative to SFY 2009-10. The remaining refunds, known as prior year refunds, are paid to taxpayers as they are processed. Approximately 70 percent of prior year refunds are paid out in April and May of each year.

The Committee staff estimates that total refunds will increase $1.116 billion or 16.8 percent, to total $7.758 billion. The Committee staff's estimate of total refunds is $72 million above the Executive. However, $1 billion of this growth in total refunds is attributable to the shift of $500 million, in what would have otherwise been SFY 2009-10 current year refunds, to SFY 2010-11 prior year refunds. The Committee staff estimates that prior year refunds will total $5.169 billion in SFY 2010-11, representing an increase of $183 million or 3.7 percent above the previous fiscal year. This estimate is $20 million above the Executive's estimate. Had the shift in refunds not taken place, SFY 2010-11 prior year refunds would be expected to decline $317 million or 6.4 percent below the previous fiscal year.

Delinquencies

Delinquency collections arise from taxpayer audits. Delinquency payments are estimated to total $1.120 billion in SFY 2010-11, which is $20 million or 1.8 percent above collections from SFY 2009-10. The Committee staff estimate is $29 million above the Executive Budget estimate.

SFY 2011-12

The Committee staff's forecast for personal income tax collections during SFY 2011-12 reflects growth across all major components of income, partially offset by the expiration of the surcharge with the conclusion of calendar year 2011. All Funds collections are forecast to be $38.235 billion, which is $2.473 billion or 6.9 percent higher than the Committee staff's SFY 2010-11 estimate.

Withholding

Withholding collections are forecast to total $31.638 billion in SFY 2011-12. This represents $908 million or 3.0 percent growth over the SFY 2010-11 withholding estimate. The Committee staff's forecast is $164 million below the Executive's forecast. The growth in withholding is based on a wage forecast of 4.5 percent growth in SFY 2011-12. This forecast includes the tax rate reduction scheduled to take place in 2012 with the expiration of the temporary personal income tax surcharge, affecting 2012 Q1 withholding collections.

Vouchers

The Committee staff forecasts that voucher payments will total $8.415 billion. This represents an increase of $1.043 million or 14.1 percent over SFY 2010-11 collections. The forecast is $235 million above the Executive's forecast. Strong growth in vouchers is expected primarily due to expectations for 27.4 percent growth in capital gains in calendar year 2011.

Extensions (IT 370s)

The Committee staff forecasts extensions (IT-370s) to total $2.593 billion in SFY 2011-12. This represents an increase of $237 million or 10.1 percent from the SFY 2010-11 estimate and is largely the result of growth in 2010 capital gains. Capital gains are estimated to have rebounded from 2009 levels, which were their lowest since 2003. This forecast is $152 million below the Executive's.

Final Payments

Final payments are forecast to total $2.010 billion in SFY 2011-12. This represents growth of $38 million or 1.9 percent above the Committee staff's SFY 2010-11 estimate. The Committee staff's forecast is $180 million below the Executive's forecast.

Refunds

The Committee staff forecasts that total refunds will be $7.609 billion, representing a 1.9 percent decline versus SFY 2010-11. This forecast is $98 million above the Executive's forecast. Prior year refunds are projected to total $5.085 billion in SFY 2011-12, representing a decrease of $84 million or 1.6 percent below estimated prior year refunds during SFY 2010-11. The Committee staff's forecast is $191 million above the Executive.

Delinquencies

Delinquency payments are forecast to total $1.188 billion in SFY 2011-12, which is $68 million or 6.1 percent above estimated collections from SFY 2010-11. The Committee staff's estimate is $84 million above the Executive's forecast.

Adjusted Gross Income

Table 12 breaks out the components of Adjusted Gross Income. The shares for each component highlight the importance of non-wage income. Capital gains have become increasingly significant, but other non-wage components such as business income have also grown in importance. The non-wage components are typically earned by wealthier taxpayers.

Table 12

Components of AGI
($ in Millions)

	Actual		Estimate		Forecast	
	2007	**2008**	**2009**	**2010**	**2011**	**2012**
NYSAGI						
Amount	$724,576	$662,053	$595,566	$628,455	$662,615	$729,117
Percent Change	14.5%	-8.6%	-10.0%	5.5%	5.4%	10.0%
Wages						
Amount	$485,089	$492,900	$465,703	$485,830	$503,673	$537,424
Percent Change	9.0%	1.6%	-5.5%	4.3%	3.7%	6.7%
Capital Gains						
Amount	$116,437	$53,401	$29,655	$41,639	$53,073	$80,353
Percent Change	41.3%	-54.1%	-44.5%	40.4%	27.5%	51.4%
Interest, Dividends and Pensions						
Amount	$79,360	$70,275	$61,359	$62,225	$64,365	$66,992
Percent Change	14.0%	-11.4%	-12.7%	1.4%	3.4%	4.1%
Business and Partnership Income						
Amount	$74,250	$73,560	$71,354	$73,167	$77,478	$82,254
Percent Change	10.4%	-0.9%	-3.0%	2.5%	5.9%	6.2%
Other Income						
Amount	($30,561)	($28,083)	($32,504)	($34,406)	($35,974)	($37,905)
Percent Change	-4.2%	-8.1%	15.7%	5.9%	4.6%	5.4%

Fund Distribution

Table 13

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$23,544	$3,270	$8,948	-	$35,762
2011-12	$25,383	$3,293	$9,559	-	$38,235

The Committee staff estimates General Fund personal income tax receipts of $23.544 billion in SFY 2010-11, representing growth of 3.9 percent over the prior year. This estimate is $80 million below the Executive's estimate. In 2011-12, General Fund collections are forecast to equal $25,383.

A statutory amount of 25 percent of net personal income tax collections is allocated toward the Revenue Bond Tax Fund (RBTF). Therefore, the rate of growth in the RBTF is equivalent to that of personal income tax-related contributions to All Funds collections, which are estimated to grow by 2.9 percent in SFY 2010-11 over the prior year. The estimated contribution of $8.948 billion is $27 million above the Executive's SFY 2010-11 estimate. The Committee staff's SFY 2011-12 RBTF forecast of $9.559 billion reflects growth of 6.8 percent.

The STAR Fund consists of revenue that is used to reimburse school districts for state-provided school property tax exemptions, as well as New York City personal income tax rate reductions, resulting from the School Tax Relief program. The Executive estimates a SFY 2010-11 STAR fund total of $3.270 billion, reflecting a decline of 4.1 percent compared to SFY 2009-10. The Executive forecasts a SFY 2011-12 STAR Fund amount of $3.293 billion, representing growth of 0.7 percent.

FORECAST METHODOLOGY

Models

PIT collections are forecast econometrically using a maximum likelihood regression model for withholding and a system of simultaneous equations for the voucher and settlement components. The model specification and related statistics are shown below; t-statistics are shown for each predictor in parentheses.

Withholding Forecast Model

Log (quarterly withholding collections = 1.509 + 1.213*Log (quarterly wages)
(4.37) (21.54)
-.054*Dummy for 9/11 +.043*First order autoregressive lag
(-2.45) (.24)
-.948*Fourth order autoregressive lag
(-22.72)

Total R – Squared	=	.993
Durbin Watson Statistic	=	1.85
RMSE	=	.030
Number of Observations	=	72

Voucher and Settlement Forecast Model

The voucher and settlement model uses a system of six simultaneous equations. Simultaneous equations are required due to the endogenous nature of the components of the settlement that are being estimated. For example, final payments both *affect* and *are affected* by total refunds. This violates the assumption that the direction of causation in a typical regression model is one directional, and flows from the independent variables to the dependent variables. Because causation flows in both directions in the case of the settlement components, a simultaneous model is preferable because it allows the dependent variable from one equation to be used in another equation as an independent variable. If an equation in a system of equations were to be estimated individually, the parameters of the model would be biased and inconsistent.

*DL represents "first-year difference in logarithmic values," SFY represents "State Fiscal Year," and CY represents "calendar year" in the following equations:

DL (SFY voucher collections) = -.012 + .228*DL (CY capital gains)
(-.704) (4.86)
+ 1.050*DL (CY property income)
(3.84)

Total R – Squared	=	.857
Durbin Watson Statistic	=	2.23
RMSE	=	.059
Number of Observations	=	18

DL (SFY IT-370s) = .017 + 2.230*DL (Lag (SFY voucher collections))
(.27) (4.36)
-.475*DL (Lag (SFY IT-370s))
(-2.38)

Total R – Squared	=	.551
Durbin Watson Statistic	=	1.68
RMSE	=	.227
Number of Observations	=	18

DL (SFY total final payments) = -.002 + .734*DL (SFY IT-370s)
(-.23) (20.92)
-.710*First order autoregressive lag
(-2.411)

Total R – Squared	=	.977
Durbin Watson Statistic	=	2.11
RMSE	=	.057
Number of Observations	=	18

DL (SFY total refunds) = .056 – .923*DL (CY liability)
(3.40) (-3.05)
+ .443*DL (Lag (SFY voucher collections)) + .771*DL (Lag (CY withholding))
(2.63) (2.24)

Total R – Squared	=	.494
Durbin Watson Statistic	=	2.37
RMSE	=	.044
Number of Observations	=	18

DL (SFY previous year refunds) = -.072 + 2.059*DL (Lag (SFY prior year refunds))
(-.91) (2.42)

Total R – Squared	=	.247
Durbin Watson Statistic	=	2.30
RMSE	=	.198
Number of Observations	=	18

Log (SFY delinquencies) = -1.494 + .799*Log (CY liability)
(-1.29) (6.87)
+ .235*dummy for additional auditors
(2.29)

Total R – Squared	=	.851
Durbin Watson Statistic	=	1.43
RMSE	=	.110
Number of Observations	=	18

ANALYSIS

Underlying Economic Conditions

The Committee staff's SFY 2010-11 withholding estimate reflects estimated wage growth of 4.0 percent over the previous period. Growth in withholding during all months of calendar year 2010 had been strong in comparison to 2009 months with different withholding table rates. January 2011 marks the first month since April 2009 where month-to-date growth will be based on equivalent rates, meaning that the elasticity of wages with respect to withholding should revert to more traditional levels compared to recent quarters.

Variable wage growth over the second half of the year is estimated to be 0.4 percent. Over the period spanning between SFY 2001-02 and SFY 2009-10, the Committee staff estimates that approximately 87.5 percent of all variable wage collections took place in the second half of the fiscal year. Resulting from the combined effects of stable base wage growth throughout the State Fiscal Year and the concentration of variable wages in the second half, withholding is expected to increase relative to SFY 2009-10. The Committee staff estimates that $1.858 billion of the SFY 2010-11 withholding estimate will be attributable to the surcharge.

The Committee staff's withholding model uses quarterly withholding collections as the dependent variable, which is estimated and forecast by the independent variable of New York State wages. The basis for this model is the fact that wages are the driving mechanism behind withholding collections. As mentioned earlier, the Committee staff forecasts SFY 2011-12 wage growth of 4.5 percent over the prior year.

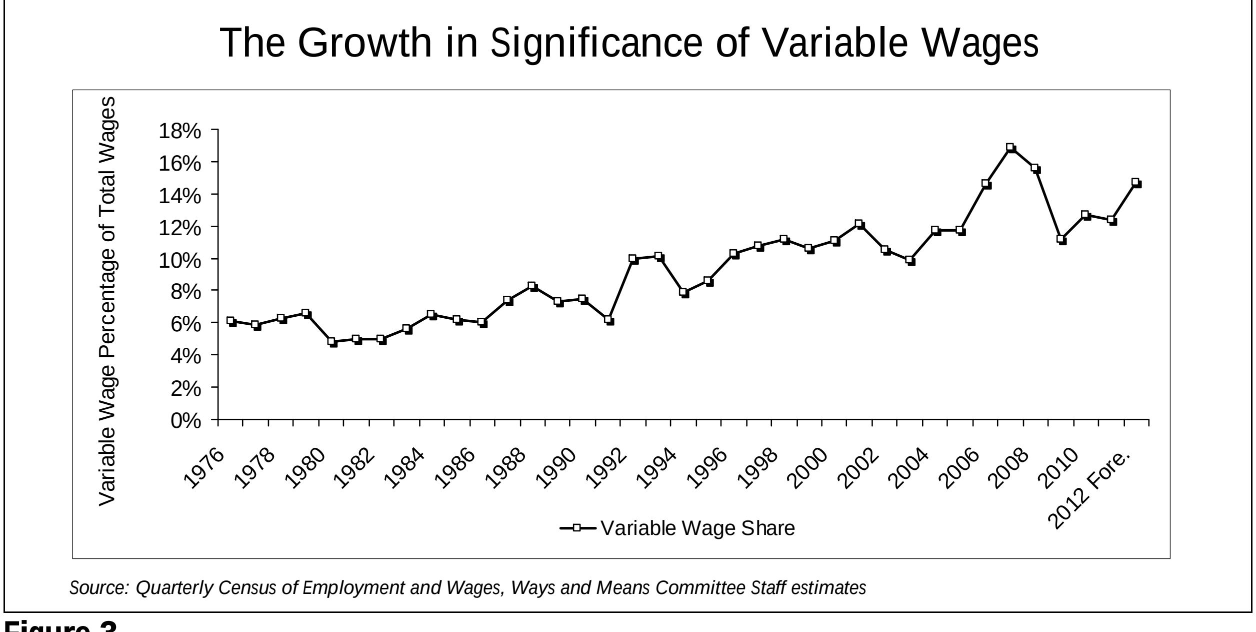
Variable wages, which are withheld at a higher average rate than base wages and are therefore more important for collections on a dollar-to-dollar basis, are forecast to increase by 9.0 percent FY 2011-12 over the prior year. However, over 57 percent of the growth in variable wages is predicted to take place during the first quarter of 2012, after the surcharge has expired. The model therefore forecasts a withholding growth rate for SFY 2011-12, after all surcharge effects are taken into account, which falls below the growth rate of wages. (See "Analyzing the Temporary Personal Income Tax Surcharge".)

Similar to many other tax revenue collections, the forecast for withholding is rooted in a high degree of uncertainty, stemming from a variety of variable factors. The dominant factor is simply the level of bonus compensation, which is historically volatile.

The ratio of wage payments to stocks awarded in bonus compensation plays a critical role to both when and how much revenue is received by New York State. Holding tax law constant, the issue is just a matter of timing for resident taxpayers, which is a significant risk to the forecast since realizations may not occur until after SFY 2011-12. However, for nonresidents the distinction can alter both the timing and the amount of revenue received by New York. Specifically, the point in time at which a stock option is exercised determines the amount of compensation that is deemed to be New York source and therefore taxable.

For example, if a nonresident is awarded a stock option in 2011, exercises the option three years later, and sells the stock in 2016, the nonresident must pay New York taxes on the growth in the value between 2011 and 2014. Any value growth after the exercise date in 2014 is considered a capital gain and is therefore not subject to New York personal income tax. Similarly, if the option is exercised in 2012, taxes will be paid on the difference in value between 2011 and 2012. The value of the stock may be the same in both situations at the time the individual opts to sell in 2016, but the date of exercise will determine what portion of the gain is New York source as well as when the taxes need to be paid.

The share of variable wages, relative to total wages, in New York has been trending upward since the mid-1970s. Even in 2009, after massive declines in financial sector bonus payments, the ratio of variable wages to total wages exceeded that of all years prior to 2001. This increased share of variable wages or "bonuses" has made wages, and therefore revenue, more difficult to predict. Compounded by the particularly elastic response of withholding to variable wages, this trend presents significant risks for the forecast.



Source: Quarterly Census of Employment and Wages, Ways and Means Committee Staff estimates

Figure 3

Analysis of the fourth quarter of the state fiscal year, which has historically accounted for the majority of variable wage income, reveals the influence of this increasing trend. Not only has the share of "bonus quarter" withholding to the overall total increased over the past three decades, but the volatility has increased significantly over the course of the last ten years, as evidenced by the standard deviation of the growth rate.

Table 14

Withholding in the Last Quarter of the SFY (Months of January, February, and March)			
SFY Range	Average Fourth Quarter Share of Total	Average Growth	Standard Deviation of Average Growth
1981-1990	27.9%	8.7%	5.1%
1991-2000	29.4%	5.7%	6.5%
2001-2010	32.7%	0.6%	12.8%

An additional element of uncertainty stems from the influence of tax law changes on withholding collections. Withholding is forecast using data that are adjusted for tax law changes. The Committee staff has estimated what withholding would have been each year if the tax law had remained unchanged. This allows for a more accurate measurement of the relationship between the growth in wages and withholding. However, since the Committee staff must approximate the value of tax law changes, an unknown level of error is inserted into the forecast. This issue is of particular concern to the forecast for the first quarter of 2012, as it represents the first quarter after the expiration of the temporary personal income tax surcharge.

The current fiscal year growth in voucher collections, which have increased 6.5 percent through January, follows a decrease of 12.1 percent in SFY 2009-10 and two years in which collections dropped from a peak of $8.592 billion in SFY 2007-08 to $6.938 billion in SFY 2009-10, a $1.654 billion reduction. The decline would have been steeper had the income tax surcharge not been in effect for the 2009 tax year. The primary driver behind the fluctuation in voucher collections has been capital gains, which dropped from a peak level of $116.4 billion in 2007 to $53.4 billion in 2008, a 54.1 percent decline, and then dropped again to an estimated $29.1 billion in 2009, a 45.5 percent decline. The Committee staff estimates that capital gains increased by 40.5 percent in 2010, to a level of $40.9 billion.

Figure 4 highlights the relationship between voucher collections realized in a given fiscal year and capital gains in a given calendar year, with fiscal years identified by the calendar year of which they are primarily composed. For example, SFY 2000-01 voucher collections were attributable to net capital gains during the 2000 tax year. Figure 4 demonstrates that voucher collections have grown in the same direction as capital gains in every year displayed. The elasticity, however, varies significantly, due to the influence of tax law changes, the highly-variable levels of capital gains from year to year, and the effect of other non-wage components of income.[3]

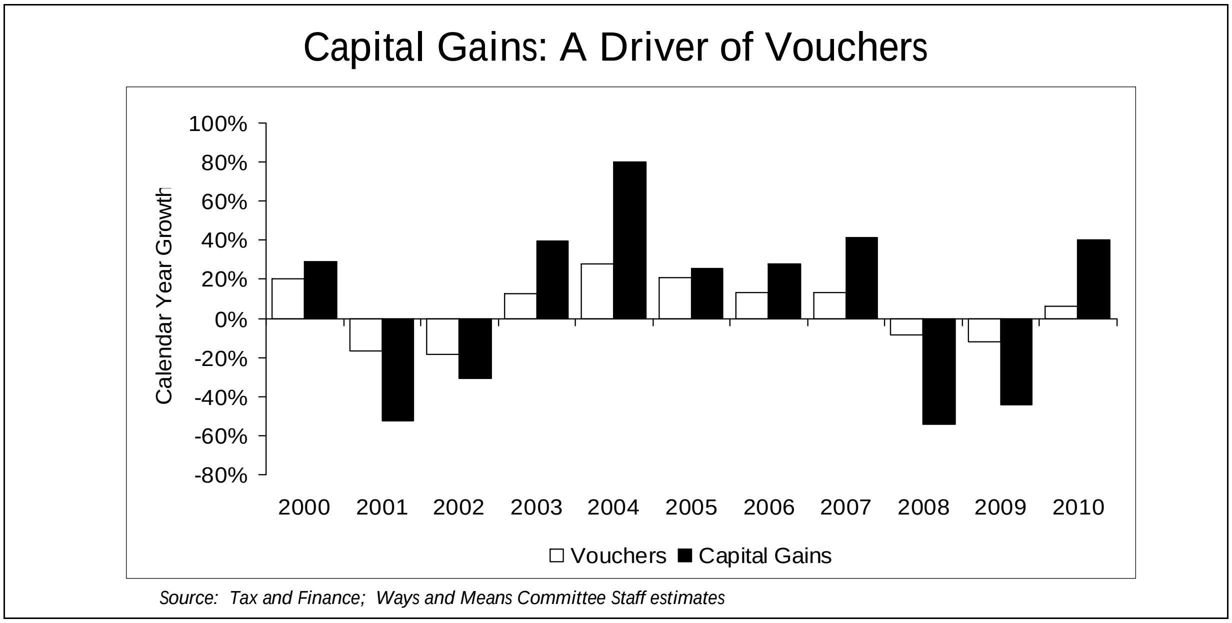


Figure 4

During calendar year 2011, the Committee staff forecasts capital gains of $52.1 billion, reflecting growth of 27.4 percent. Capital gains serve as one of the two key exogenous variables of the voucher equation within the voucher and settlement forecast model, along with property income. Property income, which is defined by rental, interest, and dividend income, is forecast to increase by 5.0 percent in 2010. This contributes to the model's predicted growth in voucher collections of 14.1 percent after the value of the surcharge has been included.

New York State Reliance on Personal Income Tax

The volatility that can be observed in personal income tax collections naturally carries over into total state tax collections. While the volatility of PIT receipts may present budgeting concerns for any state with a PIT, it is of particular interest for New York, where the PIT accounts for the largest percentage of total tax collections for any state other than Oregon.

---

[3] Elasticity is defined as the percentage change in one variable divided by the percentage change in another. For example, if vouchers grow by five percent and capital gains grow by 20 percent, the elasticity of vouchers with respect to capital gains is 0.25 for this period.

In 2009, Oregon was one of five states without a sales tax, which consequently inflates the percentage attributable to PIT compared to states with sales taxes.

Table 15

New York State Ranked Second Nationally in Income Tax Reliance in 2009 (Income Tax Percentage of Total State Tax Collection)		
State	Rank	PIT Share
Oregon	1	73.2%
New York	**2**	**56.7%**
Connecticut	6	49.3%
California	10	43.9%
New Jersey	18	39.2%
Pennsylvania	29	31.8%
Texas	44	0.0%
Florida	44	0.0%

Source: Federation of Tax Administrators

Seven states, including Texas and Florida, do not have a PIT. The majority of these states received over half of their tax revenue from sales taxes, which, in New York, tends to be more stable compared to income taxes.[4] This is demonstrated by Table 16 shows that where the growth in PIT tends to deviate from the mean much more than the sales tax, particularly when tax law adjustments are taken into account.

Table 16

Volatility of PIT vs. Sales Tax Receipts Growth Statistics for SFY 1987-88 through SFY 2009-10				
	Average Growth	Standard Deviation	Tax Law Adjusted (SFY 1993-94) Constant Law	Standard Deviation (Tax Law Adjusted)
PIT	4.9%	6.8%	5.9%	7.8%
Sales	3.2%	4.8%	3.6%	4.0%

Source: NYS Department of Taxation and Finance, NYS Comptroller, NYS Division of the Budget, Ways and Means Commit

4 Federation of Tax Administrators. 2009 State Tax Collection by Source. http://www.taxadmin.org/fta/rate/09taxdis.html.

Recessions' Influence on Income and Liability

The effects of the previous three recessions have varied significantly in how income and PIT liability have responded. Major tax law changes were implemented during the late 1980s and early 1990s recession, including reductions in the top rates of both earned and investment income.[5] Additionally, standard deduction amounts were increased, thereby reducing liability.[6] Significant growth in both adjusted gross income and tax liability took place in 1992, even though the State economy was still in recession.

Table 17

Liability During Recessions ($ in Million)					
Peak Year	Peak Year Liability	Trough Year	Trough Year Liability	Peak-to-Trough Liability Decline	Peak-to-Trough Liability Growth
1988	$13,476	1991	$13,327	$149	-1.1%
2000	$24,733	2002	$20,731	$4,002	-16.2%
2007	$35,173	2009	$31,254	$3,920	-11.1%
2007	W/O surcharge	2009	$27,555	$7,619	-21.7%

Note: Peak and trough years are defined by the maximum and minimum liability totals between years that encompass recessionary periods as defined by NYS Department of Labor.

Compared to the 1988 recession, both personal income and liability declined dramatically during the recession of the early 2000s, which was primarily attributable to losses in capital gains, dividends, and investment income. Business income continued to grow, with rates of 2.7 percent and 3.5 percent during 2001 and 2002, respectively. Wages as reported for tax purposes declined just 1.2 percent between 2000 and 2002.

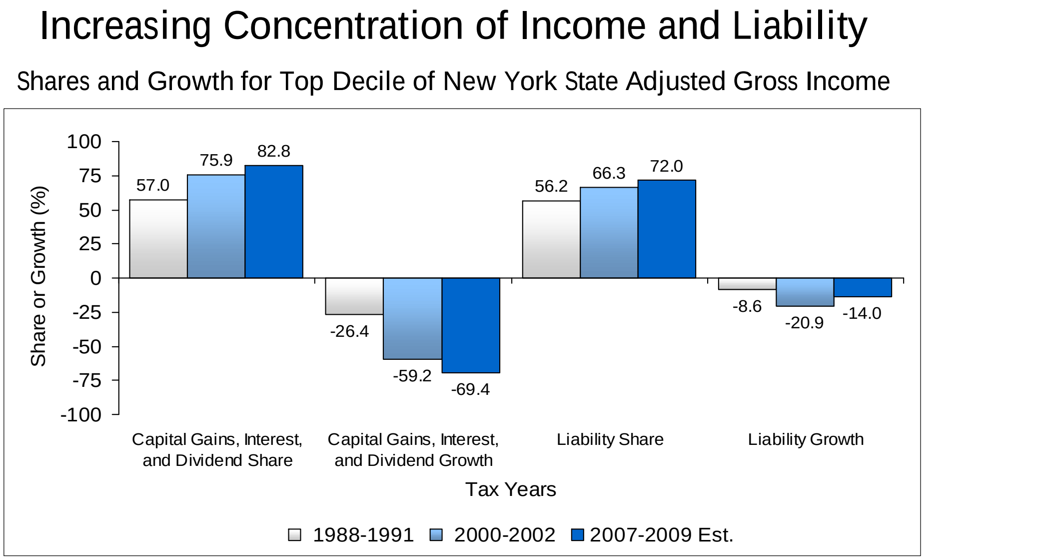
"The Great Recession" was the most damaging of the three, leading to historic drops in liability and all major components of income. The depth of the decline in liability, in comparison to previous recessions, was a function of the historic loss of income, particularly among the top decile of income earners, and New York State's increased reliance on its wealthiest taxpayers. Figure 5 illustrates the rising concentration of investment income, and the corresponding increased share of PIT liability, paired with the

---

[5] Fiscal Policy Institute. *New York State Top Personal Income Tax Rate: 1976-2007*. http://www.fiscalpolicy.org/SOWNY2006AppendixFigures/Appendix%20chart13.pdf.

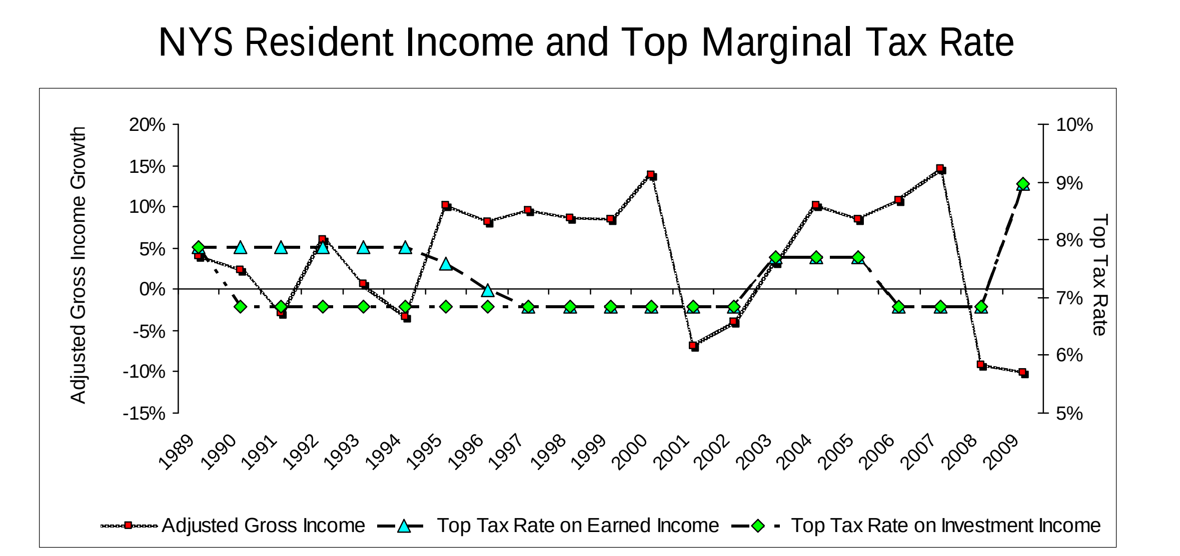
[6] *New York State Division of the Budget Economic and Revenue Outlook, 2010.*

multi-year declines among the top decile of income earners. Note that the decline in liability between 2007 and 2009 would have been far greater had the temporary PIT surcharge not been enacted.



Source: New York State Department of Tax and Finance; Ways and Means Committee Staff estimates

Figure 5



Source: NYS Department of Taxation and Finance.

Figure 6

The Expansion of Refundable Credits

New York State offers a wide variety of mechanisms to reduce personal income tax liability, such as credits, which serve to directly reduce what would otherwise be the final liability for a taxpayer. While both nonrefundable and refundable credits limit tax revenue, refundable credits are particularly costly as they can reduce tax liability below zero, thus it becomes a direct cash expenditure not accounted for in spending.

While the total amount of refundable credits actually declined between 2007 and 2008, growth in refundable credits has expanded rapidly since 1998. Over this period, refundable credits increased by nearly 400 percent, largely due to the additions of the Empire State Child credit in 2006 and the College Tuition credit in 2001, as well as due to the robust growth of the Child and Dependent Care credit. The value of the Earned Income Tax credit increased by 147.3 percent, outpacing growth in both New York State Adjusted Gross Income (60.2 percent) and tax liability (66.6 percent). Overall, there was a $1.661 billion increase in the amount of refundable credits awarded by the State.

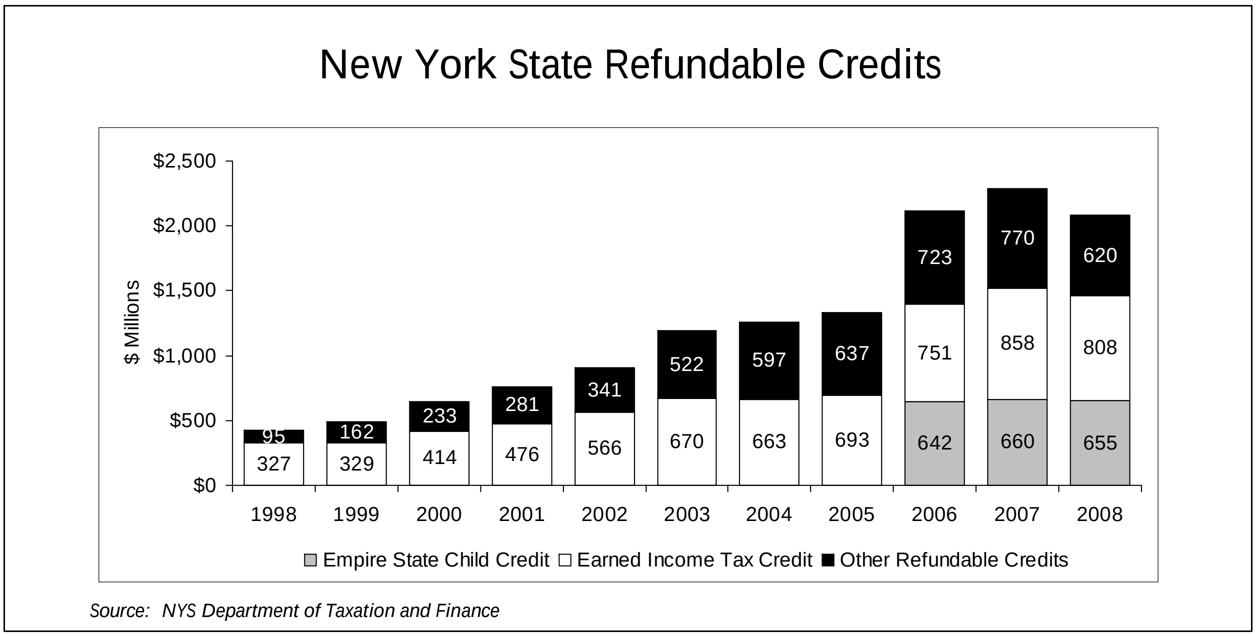


Figure 7

Analyzing the Temporary Personal Income Tax Surcharge

Current Law

The three-year personal income tax (PIT) surcharge, enacted as part of the 2009 budget (A. 157-B Part Z-1), added two additional personal income tax brackets to the previously existing tax tables for all filer types. The additional brackets in Table 18 affect taxpayers with annual New York taxable income above $300,000. Taxpayers with taxable income above $200,000 and $250,000 also face additional liability if filing as single or head of household, respectively.

Table 18

New York Taxable Income Range	New Tax Rate
Over $300,000 to $500,000	7.85%
Over $500,000	8.97%

Tax table benefit recaptures exist for each additional tax bracket. Both surcharge brackets recaptures include $50,000 phase-ins, with the first beginning at $300,000 in annual New York State Adjusted Gross Income (NYSAGI) and the second beginning at $500,000 in NYSAGI.

Determining the Value of the Surcharge

The New York State personal income tax liability is based on calendar year income. However, because the State fiscal year does not align with the calendar year and certain tax payments are made when filing final tax returns in the following calendar year, tax payments related to one calendar year are actually spread across three State fiscal years. To determine the value of the surcharge on a fiscal year basis the value of the surcharge must be estimated on a calendar year liability basis, and then the anticipated revenue is spread over the course of the relevant time span based on historical shares.

Volatility in Surcharge-Applicable Incomes

For the State of New York, 2007 represented historic highs for both NYSAGI and tax liability, largely due to record-high wages and capital gains realizations. NYSAGI plummeted between 2007 and 2009, most prominently due to a reduction in capital gains from $116.4 billion in 2007 to an estimated $29.1 billion in 2009, a two-year decline of

75 percent. While 2010 income is expected to improve over 2009, it is estimated to have been far lower than the 2007 peak. The income of taxpayers who are subject to the surcharge has proven to be particularly volatile, with the bulk of capital gains realizations being concentrated among those with incomes that meet the surcharge threshold.

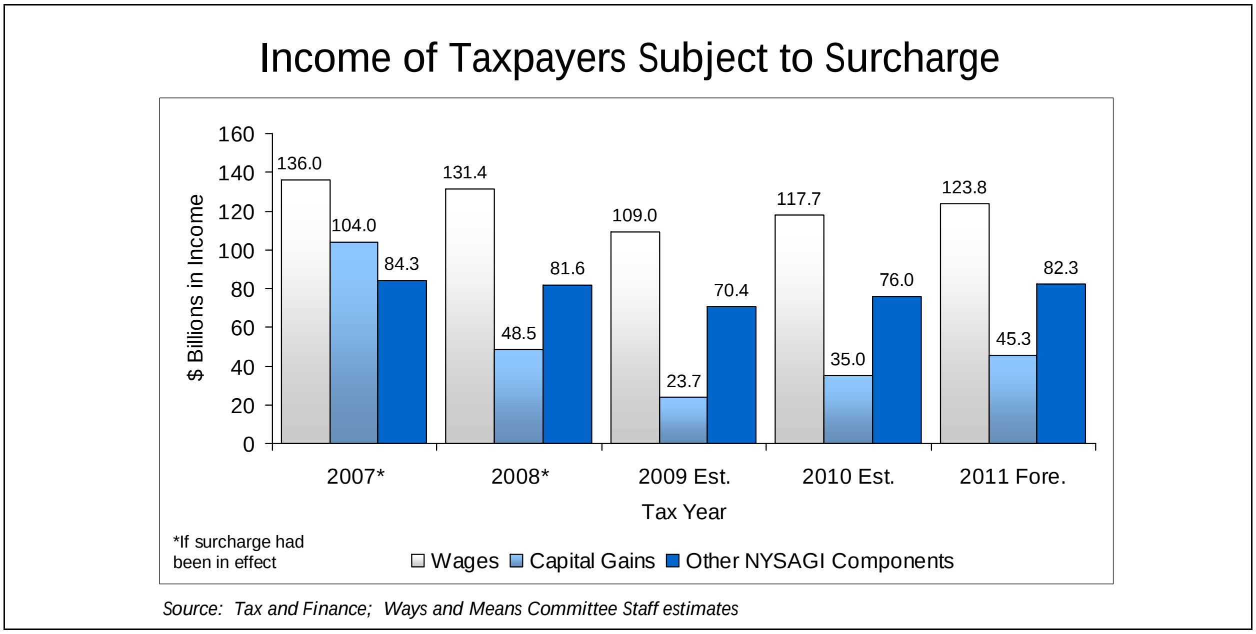


Figure 8

Income has historically been highly concentrated in the top percentile of taxpayers. In 2007, taxpayers earning more than $1 million in NYSAGI made up less than 0.6 percent of the population, but earned 31.7 percent of total NYSAGI and paid 40.7 percent of total liability. Since then, both the number of taxpayers earning more than $1 million and the average income of these taxpayers has fallen, reducing the relative value of the surcharge, had it been imposed in 2007.

Table 19

Taxpayers Earning Over $1 Million in NYSAGI*				
Tax Year	Taxpayers	Taxpayer Growth	Average NYSAGI	Average NYSAGI Growth
2007	84,931	17.2%	$5,337,310	13.2%
2008	71,320	-16.0%	$4,473,637	-16.2%
2009	62,555	-12.3%	$4,187,725	-6.4%
2010	67,338	7.6%	$4,384,405	4.7%
2011	72,190	7.2%	$4,570,686	4.2%

Actual 2007 data, estimates/forecasts for 2008 through 2010
*Includes nonresident income not subject to New York taxes
Source: Tax and Finance, Ways and Means Committee staff estimates

While the surcharge initially affects taxpayers at varying income levels, every taxpayer with a NYSAGI above $500,000 is subject to some degree of additional taxation. The incomes of these taxpayers have been historically volatile, and therefore add a significant degree of potential error to the forecast. The application of the surcharge expands the potential for revenue variability relative to other years in recent history, due to the increased tax rates on a small percentage of total taxpayers.

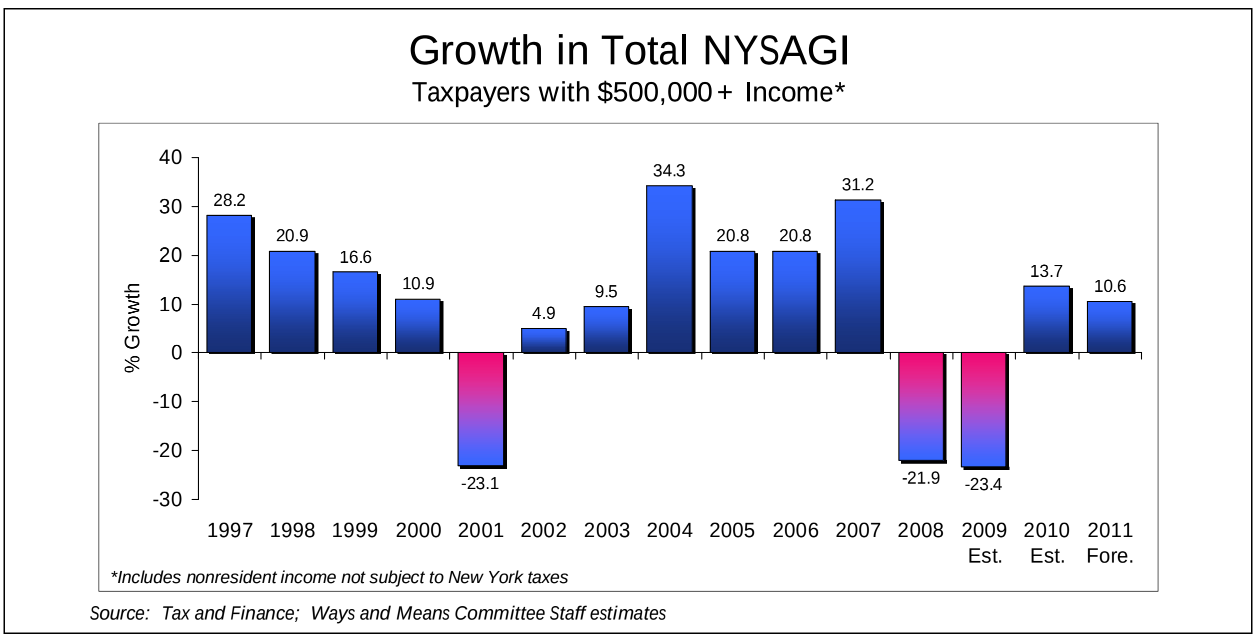


Figure 9

EXECUTIVE BUDGET PROPOSALS

- **Offset Tax Debt Against Lottery Prizes**
  The Executive proposes to require an agreement between the Division of Lottery and the Department of Taxation and Finance regarding the establishment a procedure for offsetting outstanding tax debt against lottery winnings in excess of $600. The Executive Budget attributes $5 million toward the personal income tax in SFY 2011-12 and $10 million in SFY 2012-13.

- **Tax Modernization Initiatives**
  The tax modernization initiatives that pertain directly to the personal income tax include certain requirements that would increase the number of electronic filers by requiring all individual filers who use software to file electronically and increasing fines for professional preparers who do not e-file. The reduction in filing errors, resulting in less unwarranted refunds and more final return payments, leads to an estimated value of $157 million in both SFY 2011-12 and SFY 2012-13. The Executive Budget attributes $100 million toward reduced refunds and $57 million toward final payments in each year.

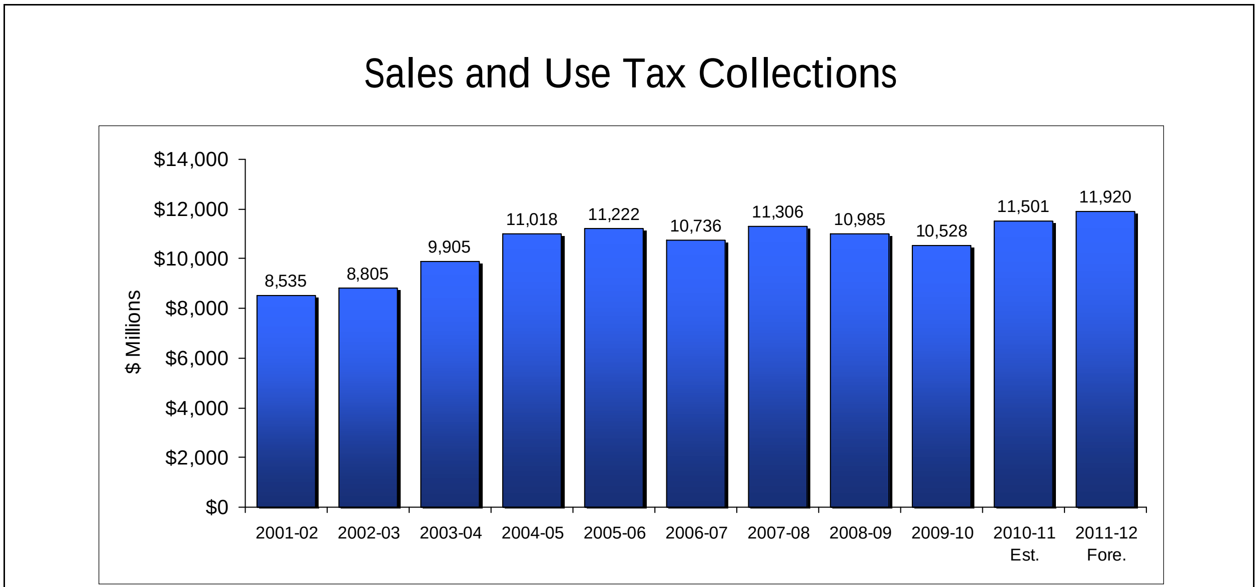
- **Adjust STAR Exemption Benefit**
  The Executive proposes to cap the annual growth of STAR exemption benefits at two percent. This would reduce personal income tax contributions to the STAR Fund by an estimated $125 million in SFY 2011-12 and $262 million in SFY 2012-13.

Sales and User Taxes

Table 20

User Tax Collections Forecasts by State Fiscal Year ($ in Millions)						
	SFY 2010-11	Growth	Diff. Exec.	SFY 2011-12	Growth	Diff. Exec.
User Taxes and Fees	**$14,171**	**10.3%**	**($11)**	**$14,820**	**4.6%**	**$10**
Sales and Use Tax	11,501	9.2%	(12)	11,920	3.6%	(30)
Motor Fuel Tax	514	1.5%	(2)	516	0.2%	(2)
Cigarette Tax	1,620	18.8%	(1)	1,854	14.4%	68
Highway Use	129	-5.8%	0	122	-5.7%	(18)
Alcoholic Beverage Tax	228	0.9%	0	227	-0.5%	(6)
Auto Rental Tax	95	25.0%	0	97	2.1%	(5)
Taxi Surcharge	85	553.8%	4	85	0.0%	4

SALES TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 10

Table 21

Sales Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$9,643	8.7%	$11,501	9.2%	$11,513	($12)
2011-12			$11,920	3.6%	$11,950	($30)

The Sales and Compensating Use Tax, imposed by Article 28 of the Tax Law, is a four percent broad-based consumption tax levied on the sale of tangible personal property, excluding items such as food, medicine, products used in manufacturing, and items purchased for resale. A limited number of services such as cleaning, parking and interior design are also subject to this tax. Certain non-profit and charitable organizations are exempt from paying sales tax on purchases. Sales Tax is generally paid to and collected by the vendor at the time of purchase. Vendors remit sales tax collections annually, quarterly or monthly, depending on their level of taxable sales. Depending on the amount of taxable sales, some vendors are also required to remit their sales tax liability electronically. Sales tax collections are deposited into the General Fund, the Local Government Assistance Tax Fund (LGAC), and the Mass Transportation Operating Assistance Fund (MTOAF).

SFY 2010-11

The Ways and Means Committee staff estimates Sales Tax revenues to be $11,501 million in SFY 2010-11, a 9.2 percent increase over SFY 2009-10. Growth of 12.1 percent is expected in the remaining months of the fiscal year, primarily due to the suspension of the clothing exemption effective October 1, which is expected to increase 2010-11 revenues by $330 million. Without the suspension of the clothing exemption, growth would be 5.5 percent year over year, and 3.7 percent in the last quarter of the fiscal year. The Executive estimates SFY 2010-11 Sales Tax receipts to be $11,513 million, a 9.4 percent increase over the previous year.

SFY 2011-12

Ways and Means Committee staff forecasts that SFY 2011-12 Sales Tax collections will be $11,920 million, a 3.6 percent increase over SFY 2010-11 estimates, which includes $43 million in proposed budget actions. This also includes $220 million in expected revenues from the clothing exemption threshold being lowered to items $55 or less. The 2011-12 Executive Budget forecasts SFY 2011-12 collections to be $11,950 million for growth of 3.8 percent over SFY 2010-11 estimates.

Fund Distribution

Table 22

Fund Distribution ($ in Millions)

	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$8,083	$724	$2,694	-	$11,501
2011-12	$8,384	$741	$2,795	-	$11,920

The Committee staff estimates General Fund sales tax receipts of $8.083 billion in SFY 2010-11, representing growth of 9.2 percent from the prior year. This estimate is $20 million above the SFY 2010-11 Executive Budget estimate. In 2011-12, General Fund collections are forecast to be $8.384 billion, which includes $32 million in proposed budget actions.

Receipts from one percentage point of the four percent State sales tax rate is dedicated to the Local Government Assistance Corporation (LGAC), which was created in 1990 to eliminate annual Spring borrowing. Once the LGAC debt service obligations are paid, excess revenues are transferred back to the General Fund along with certain other transactions. LGAC receipts are projected to be $2.694 billion in SFY 2010-11, representing a growth of 9.2 percent from the prior year. In 2011-12 LGAC collections are forecast to be $2.795 billion, which includes $11 million in proposed budget actions.

In 1981, the Metropolitan Transportation Operating Assistance Fund (MTOAF) was created to help finance the State's public transportation system. A portion of the revenue is derived from a separate sales tax rate that is imposed in the Metropolitan Commuter Transportation District. Effective June 1, 2005, the rate was increased to 0.375 percent from 0.25 percent. The forecast for collections in the MTOAF for SFY 2010-11 is $724 million, representing growth of 10.2 percent over SFY 2009-10. In 2011-12 MTA collections are forecast to be $741 million.

FORECAST METHODOLOGY

Model

The sales tax forecast model uses three variables to forecast sales tax collections, lypny (log of New York State personal income), UsedCar (interest rate on a used car loan), and ljspns (log of U.S. S&P stock price index). The model specification and related statistics are shown below; t-values are shown for each predictor in parentheses.

Log (Seasonally adjusted real sales tax collections) = 2.5 + 0.7 * Log (NYS Personal Income)
(6.45) (9.13)

– 0.13 * Dummy for Sept. 11 – 0.005 * UsedCar + 0.09 * Log (S&P 500 Index)
(-3.57) (-1.55) (2.63)

Total R-Squared	=	0.9789
Durbin-Watson	=	2.1626
Observations	=	94

ANALYSIS

Underlying Economic Conditions

Changes in New York State personal income are found to be related to changes in Sales Tax collections. In addition to eroding disposable income, declining personal income weakens consumer confidence and subsequently, willingness to make discretionary purchases. Personal income grew as collections grew in SFY 2002-2003, and began to drop off with the beginning of the recession in SFY 2007-08. Personal income rebounded to flat growth in SFY 2009-10, and is estimated to grow by 4.8 percent in SFY 2010-11, with Sales Tax collections increasing by 9.2 percent growth.

Historically, the S&P 500 index has anticipated changes in the Sales Tax receipts. The growth rate of both collections and the S&P 500 index grew strongly from SFY 2002-03 to SFY 2003-04. Collections growth began to decline in SFY 2003-04, when the stock market also began to experience declines. Similarly, when the growth rate of the S&P 500 index picked up again in SFY 2005-06, sales tax collections followed suit in SFY 2006-07. The growth rates of both began to decline in step in SFY 2007-08, becoming negative in SFY 2008-09, and growing again in SFY 2009-10.

A likely reason for the correlation between the S&P 500 index and Sales Tax collections is the wealth effect among middle-class households. This effect proposes that when the value of real estate equity and stock portfolios grow, the households that own the assets sense that their wealth has increased, thus increasing their confidence to spend.[7] The wealth effect in the United States is generally calculated between two and seven cents—that is, for every extra dollar in housing or stock wealth, discretionary spending is increased by anywhere from two to seven cents.[8]

Another strong predictor of Sales Tax collections is the interest rate on used car loans, which tends to be lower during times of weak consumption in order to attract customers and stimulate sales. Interest rates have shown to be in line with sales tax collections, as rates declined steadily throughout the recession. Interest rates picked up briefly in SFY 2009-10 to 9.1 percent, coinciding with the Cash for Clunkers Program—a time during which a large increase in automobile purchases did not necessitate low interest rates to attract customers. SFY 2010-11 interest rates are estimated to decline to 8.2 percent in SFY 2010-11. Currently U.S. auto sales are at a 2-year high, which is likely to have a strong positive impact on sales tax collections.

Consumer Outlook and the Sales Tax

Despite the official end of the recession being declared in June 2009, nearly three-quarters of Americans still believe the recession to be ongoing. While many economic indicators are improving, individual consumers have yet to see the benefits in their communities as the unemployment rate is still at very high levels.[9] Consumer confidence, having declined to three-year lows at the beginning of the recession, has yet to make a long-lasting

---

[7] Smith, Charles Hugh, "Consumer Spending is Up: Is the 'Wealth Effect' Back?" Daily Finance, 8 April 2010, http://www.dailyfinance.com/story/real-estate/consumer-spending-is-up-is-the-wealth-effect-back/19430947/.

[8] Congressional Budget Office, "Housing Wealth and Consumer Spending," Background Paper, Pub. No. 2834, January 2007. http://www.cbo.gov/ftpdocs/77xx/doc7719/01-05-Housing.pdf.

[9] Rampell, Catherine, "Most Americans Don't Think Recession is Over," Economix, The New York Times, 27 September 2010, http://economix.blogs.nytimes.com/2010/09/27/most-americans-dont-think-recession-is-over.

recovery.[10] This continued apprehension over economic stability has impeded consumers' willingness to spend disposable income.

Also impacting the behavior of consumers is their willingness to utilize credit and take on additional debt. Throughout the recession, disposable income was significantly affected by the rising trend of paying down debt – August 2008 saw the first decline in outstanding consumer credit in recent U.S. history. Debt continued to decline for 23 of the 25 months between August 2008 and August 2010. For the first time since the beginning of the recession, however, outstanding consumer credit has seen four straight months of growth, from September through December 2010.[11] Additionally the U.S. savings rate has been experiencing a steady decline since June, after periods of sharp increases throughout the recession.[12]

The impact of decreased savings, coupled with the downward pressure of uncertainty among consumers, is in line with the Committee's estimates for slow growth for both SFY 2010-11 and SFY 2011-12. Many analysts argue that businesses will be reluctant to increase hiring until demand for their products and services rebounds,[13] while others contend the reverse—consumers will not boost discretionary spending until they feel secure in their jobs again. Still others pose the possibility of a jobless recovery in which consumer behavior rebounds, but the unemployment rate continues to remain high.[14] The recovery in sales tax receipts is premised on the overall recovery in consumer confidence and employment. Following a necessary period of deleveraging and as the economy slowly recovers, with both producers and consumers gaining in confidence, sales tax receipts are poised to grow faster.

---

[10] DePaul, Jennifer, "Consumer Confidence's Unexpected Seven Month High," The Fiscal Times, 25 January 2011, www.thefiscaltimes.com/Issues/The-Economy/2011/01/25/Consumer-Confidence-Unexpected-Seven-Month-High.aspx.

[11] Federal Reserve, "Consumer Credit Outstanding," Federal Reserve Statistical Release, last updated 7 January 2011, www.federalreserve.gov/releases/g19/hist/cc_hist_sa.html.

[12] Bureau of Economic Analysis, U.S. Department of Commerce, "National Economic Accounts, last updated 18 January 2011, www.bea.gov/national/index.htm.

[13] Ryssdal, Kai, "President Obama calls for investment in economy," Marketplace, American Public Media, 25 January 2011, http://marketplace.publicradio.org/display/web/2011/01/25/pm-president-obama-calls-for-investment-in-economy.

[14] Surowiecki, James, "The Jobs Crisis," The Financial Page, The New Yorker, 3 January 2011, www.newyorker.com/talk/financial/2011/01/03/110103ta_talk_surowiecki.

2010 Holiday Sales

The 2010 holiday season was slightly better than expectations, up four percent over 2009.[15] This is partially reflected in the 15 percent growth in New York State sales tax collections for December. While much of this growth is built upon already-depressed 2009 levels, online sales, up 12 percent over 2009, were also a major driver. Cyber Monday, the rapidly growing online alternative to Black Friday, was the strongest online sales day of 2010, with over $1 billion in sales nationwide.[16]

Tourism

New York City saw record tourism in 2010, with 48.7 million visitors spending $31 billion. The weak dollar served as a draw for foreign consumers, providing the City and the State with tax revenue from lodging, transportation, dining and entertainment sales.[17]

Growth was particularly notable in the hospitality sector. Through December, national revenue per available hotel room (RevPAR) was up 5.5 percent over last year, and RevPAR for the City grew by a robust 12.9 percent. For the same period, hotel occupancy rates were 57.6 percent nationally, 69.2 percent for the state, and 81 percent for New York City—a five percent increase over 2009. While average daily hotel room rates were down 0.1 percent for the United States as a whole, they were up for both the State (6.1 percent) and New York City (7.5 percent), reflecting strong demand.[18]

Clothing and Footwear Exemption

Much of the growth in sales tax collections, particularly in the last quarter of 2010, is a result of the temporary suspension of the exemption for clothing and footwear items priced at $110 or less. This measure, enacted in the 2010-11 Budget and effective October 1, 2010, is expected to raise $330 million in sales tax revenue this fiscal year. On April 1, 2011, the exemption is scheduled to return, but only for items priced at $55 or less, increasing SFY 2011-12 revenues by $210 million. On April 1, 2012, the exemption is

---

[15] Wahba, Phil and Dhanya Skariachan, "Some optimistic about retail sales in 2011," Reuters, 10January 2011, www.reuters.com/article'if USTRE7094FM20110110.

[16] ComScore, "U.S. Online Retail Sales for the Full 2010 Holiday Season, 5January2011, www.comscoredataine.com/2011/01/2010-holiday-online-retail-sales.

[17] McGeehan, Patrick, "48.7 million: That's a Lot of Tourists," City Room, New York Times, 4 January 2011, http://cityroom.blogs.nytimes.com/2011/01/04/tourism-hit-record-high-in-2010.

[18] Smith Travel Research.

scheduled to be returned permanently to include clothing and footwear items priced at $110 or less.

The suspension of the clothing exemption accounts for a significant portion of the estimated increase in SFY 2010-11 sales tax collections. Without this measure, year-to-date collections would be approximately $140 million lower, and would be only 6.4 percent instead of the current 8.7 percent above the same period in SFY 2009-10.

The measure is expected to increase full-year SFY 2010-11 collections by $330 million. Without it, the Committee's SFY 2010-11 estimate would be 5.5 percent above SFY 2009-10 instead of the current 9.2 percent. While the year-over-year estimated growth is significant, it is necessary to note that more than a third of the increase is a result of the suspension of the clothing exemption.

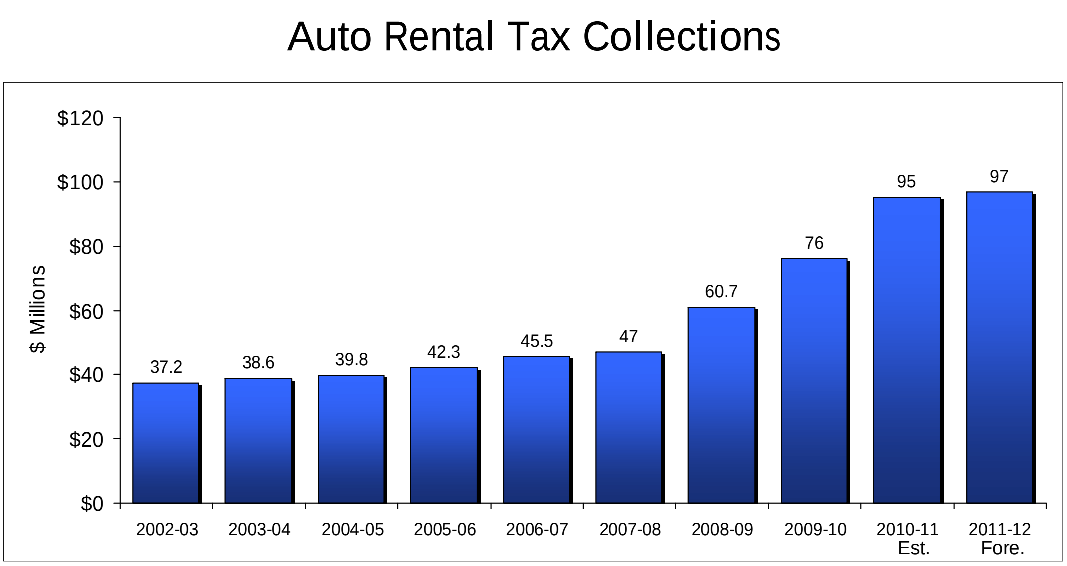
The clothing and footwear exemption has historically been a tax expenditure to which lawmakers turn when seeking to raise revenue, and it is often brought back in times of expansion. In addition, week-long exemption periods have been used at particular times to ease the burden of the sales tax on these necessities. This has led to a long and complex history of repealing, reinstating, and amending the exemption. One-week periods of exemption were provided each January and September between 1997 and 2000. The exemption was made permanent on March 1, 2000. On May 31, 2003 the exemption was repealed. Between August 2003 and February 2006, one-week exemption periods were again provided twice a year. In April 2006 the exemption was again made permanent until the recent temporary suspension in October 2010.

EXECUTIVE BUDGET PROPOSALS

- **Tax Modernization Project**
  This measure would improve sales tax compliance by authorizing the Commissioner of Taxation and Finance to increase reporting requirements on certain vendors with poor compliance history. It would also require electronic filing under certain circumstances and authorize electronic delivery of Tax Department documents when authorized by the taxpayer.

- **Extend Fuel Exemptions**
  This measure would extend the full exemptions on E85, CNG and hydrogen fuels, and the partial exemption on B20 fuel, for one year.

AUTO RENTAL TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 11

Table 23

Auto Rental Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$74	32.9%	$95	24.5%	$95	$0
2011-12			$97	2.5%	$102	($5)

The auto rental tax, imposed by Article 28-A of the Tax Law, applies to the rental of any passenger car with a gross vehicle weight of 9,000 pounds or less that can seat a maximum of nine passengers. The auto rental tax was imposed at a rate of five percent on auto rental charges incurred for use in New York State, until June 1, 2009 when the rate increased to six percent statewide. Additionally, on June 1 a five percent tax went into effect on auto rentals in the Metropolitan Commuter Transportation District (MCTD). The tax does not apply to leases of one year or more. Since SFY 2002-03 all statewide auto rental receipts are dedicated to the Highway and Bridge Trust Fund. Revenue from the additional five percent MTA auto rental tax is dedicated to the Mass Transportation Operating Assistance Fund (MTOAF).

SFY 2010-11

Collections through January are $74 million, for growth of 32.9 percent over the same period in SFY 2009-10. This is primarily due to law changes enacted in 2009. The Committee staff estimates that collections in SFY 2010-11 will be $95 million. This estimate is even with the Executive estimate, and represents growth of 24.5 percent from last year.

SFY 2011-12

The Committee staff forecast for SFY 2011-12 is $97 million. This represents an increase of 2.5 percent over SFY 2010-11 estimates. The Executive forecasts collections of $102 million in SFY 2011-12, for growth of 7.4 percent over SFY 2010-11 estimates.

Fund Distribution

Table 24

Fund Distribution ($ in Millions)

	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	$35	-	$60	$95
2011-12	-	$36	-	$61	$97

EXECUTIVE BUDGET PROPOSALS

The Executive has proposed no actions impacting the auto rental tax.

ANALYSIS

The SFY 2009-10 Budget included an increase in the statewide auto rental tax from five to six percent, and the introduction of a five percent auto rental tax in the Metropolitan Commuter Transportation District (MCTD). Funds from the five percent tax in the MCTD are deposited into the MTA fund.

Auto Rental Tax collections follow patterns of general consumption, which has been growing slowly, and tourism, which has been strong in 2010. These trends, coupled with the increased tax rates, account for the double-digit year-to-date growth in Auto Rental Tax collections.

MOTOR FUEL TAXES

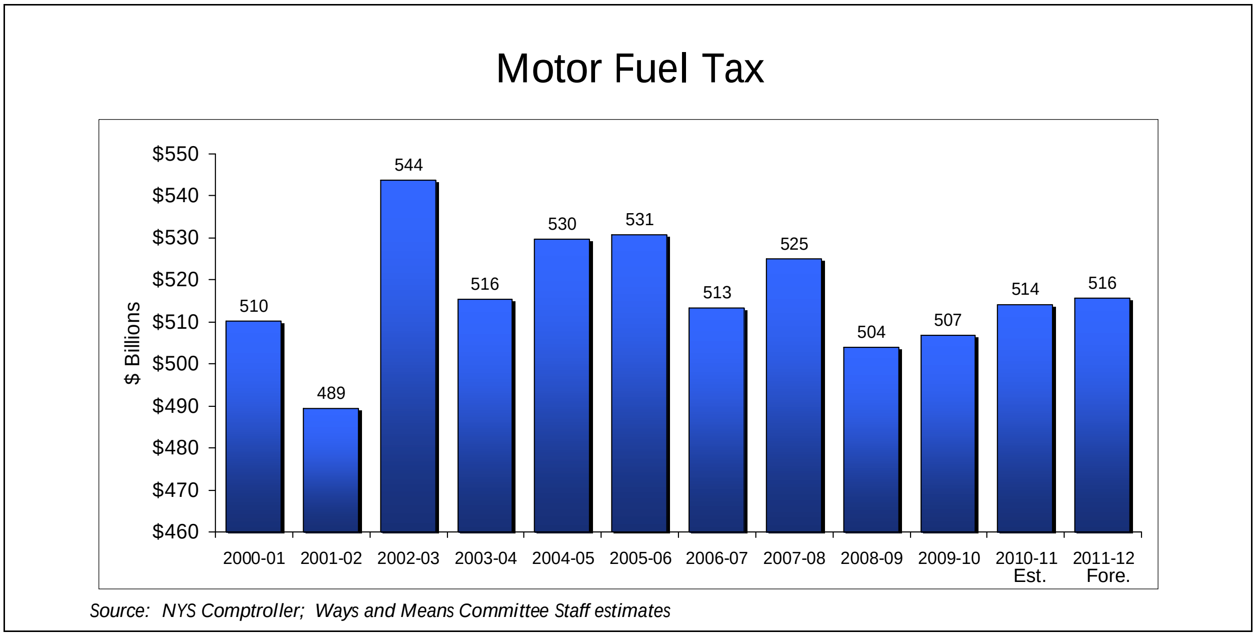


Figure 12

Table 25

Motor Fuel Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$432	0.6%	$514	1.5%	$516	($2)
2011-12			$516	0.5%	$518	($2)

Article 12-A of the Tax Law imposes an eight cents per gallon tax on diesel motor fuel at the point of import or use in New York. The tax also applies to gasoline, upon first import into or production within New York. The tax has three components: regular tax (four cents per gallon), additional tax (three cents per gallon) and supplemental tax (one cent per gallon). Motor fuel tax collections are dedicated based on the following schedule: Gasoline receipts are split between the Highway and Bridge Trust Fund (81.5 percent) and the Dedicated Mass Transportation Trust Fund (18.5 percent). Diesel receipts are split between the Dedicated Highway and Bridge Trust Fund (63 percent) and the Dedicated Mass Transportation Trust Fund (37 percent).

SFY 2010-11

The Committee staff estimates that motor fuel tax receipts will total $514 million in SFY 2010-11, this estimate is 1.5 percent higher than the previous fiscal year. The Committee staff estimate is $2 million below the Executive estimate.

Through January 2011, motor fuel collections are $432 million, an increase of 0.6 percent over the comparable period in the prior fiscal year.

SFY 2011-12

The Committee staff forecast for motor fuel taxes in SFY 2011-12 is $516 million, a 0.2 percent or $2 million increase over SFY 2010-11. The Committee staff forecast is $2 million below the Executive forecast.

Funding Distribution

Table 26

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	$108	-	$406	$514
2011-12	-	$109	-	$407	$516

Revenues collected from motor fuel taxes are not deposited into the General Fund, but instead are statutorily dedicated in the following manner:

- $108 million deposited in the Dedicated Mass Transportation Trust in SFY 2010-11 and $109 million in SFY 2011-12;
- $406 million to the Dedicated Highway and Bridge Trust Fund in SFY 2010-11 and $407 million in SFY 2011-12.

FORECAST METHODOLOGY

The models take the following form:

1. Gasoline Tax = 44.18 - 52.1* outlier 2002 Qtr1 + 15.4* outlier 2010 Qtr3 -
(1.3) (-7.9) (2.3)
.03*lag of gasoline prices + .009*New York State employment growth
(-1.67) (2.05)

Total R-squared = 0.51
Durbin Watson statistic = 1.87

2. Diesel Tax = 8.7 + 0.014*NY price of diesel – 1.17*lag of diesel prices
(3.65) (2.83) (-1.81)
-9.63* outlier for 2003 QTR2
(-4.5)

Total R-squared = 0.50
Durbin Watson statistic = 1.91

ANALYSIS

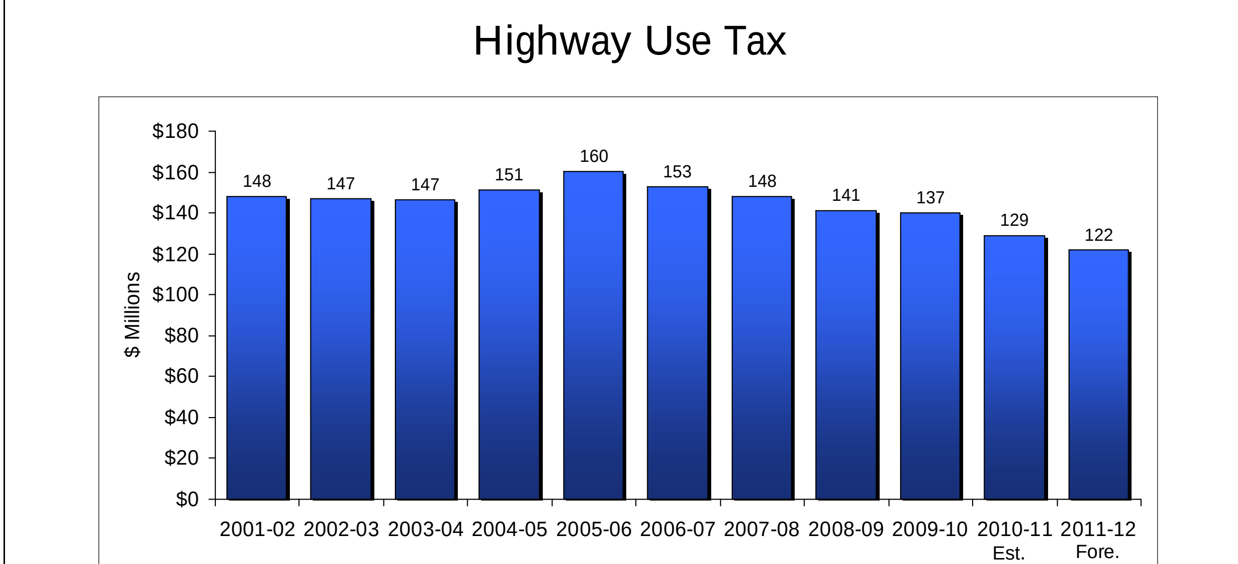
Underlying Economic Conditions

Motor Fuel taxes are generally very stable. After falling by 4.0 percent in SFY 2008-09, revenues exhibited modest growth of 0.6 percent in SFY 2009-10 and SFY 2010-11 year-to-date growth of 0.6 percent. Much of the fluctuation can be explained by changes in consumption in both gasoline and diesel fuel. Consumption of diesel fuel is largely a function of economic activity. As the economy expands the demand for shipping expands, thus, the consumption of diesel fuel increases. The recent decline in motor fuel taxes results from the combination of a decrease in consumption due to higher gasoline prices early in 2008 and the troubled economy. However, the recent trend of increasing fuel prices is not expected to erode fuel tax revenues, as the rebounding economy will stimulate demand. Also, because motor fuel taxes are a fixed amount per gallon, an increase in prices will not yield additional revenues.

EXECUTIVE BUDGET PROPOSALS

- The Executive proposed updating certain fuel definitions to be consistent with Federal laws (No fiscal impact).
- The Executive has also proposed extending the partial and full tax exemptions for alternative fuels for one year (No fiscal impact).

HIGHWAY USE TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 13

Table 27

Highway Use Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$111	-5.4%	$129	-5.8%	$129	$0
2011-12			$122	-5.7%	$140	($18)

Highway use tax revenues are derived from three sources: the truck mileage tax, highway use permit fees, and the fuel use tax. The truck mileage tax is a weight-distance tax generally imposed on commercial vehicles having a loaded gross weight of more than 18,000 pounds. The tax is imposed at rates graduated according to the gross vehicle weight and miles traveled on public highways. In addition, a supplemental tax equal to the base truck mileage tax was imposed prior to January 1, 1999. Effective January 1, 1999, the supplemental tax was reduced by 50 percent, and effective April 1, 2001, the remaining supplemental tax was reduced by an additional 20 percent.

Highway use permits are mandatory to owners of vehicles subject to the highway use tax. The permits are triennial at a cost of $15 for an initial permit. The fuel use tax applies to commercial vehicles that purchase fuel outside New York State, but is consumed while traveling on New York highways. It has two components: the motor fuel component and the sales tax component. The aggregate fuel use tax rate is the sum of the motor fuel tax rate and the sales tax rate. The sales tax rate has two components, the state sales tax rate which is four percent and the lowest county sales tax rate at the time which is currently three percent. These rates are applied to the capped price of $2 per gallon. All Highway Use Tax receipts are earmarked to the Dedicated Highway and Bridge Trust Fund. Effective September 1, 2009, highway use tax renewal fees were increased from $4 to $15, resulting in an additional $5 million in revenues in State Fiscal Year (SFY) 2009-10. However, since this renewal only takes place every three years, no additional revenues are anticipated in SFY 2010-11.

SFY 2010-11

The Committee staff estimates that receipts in SFY 2010-11 will total $129 million, a decrease of $8 million, or 5.8 percent below the prior year. This estimate is equal to the Executive estimate. The decrease in highway use taxes can be partially attributed to the increase in the highway use tax renewal fees that took place in 2009, which are not replicated in SFY 2010-11.

SFY 2011-12

The Committee staff's forecast for highway use tax receipts is $122 million for SFY 2011-12, which represents a 5.7 percent decrease from SFY 2010-11 estimates. This forecast is $18 million below the Executive's. This decrease reflects the recent trend of decreasing highway use tax receipts.

Fund Distribution

Table 28

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	-	-	$129	$129
2011-12	-	-	-	$122	$122

All Highway Use Tax receipts are earmarked to the Dedicated Highway and Bridge Trust Fund.

ANALYSIS

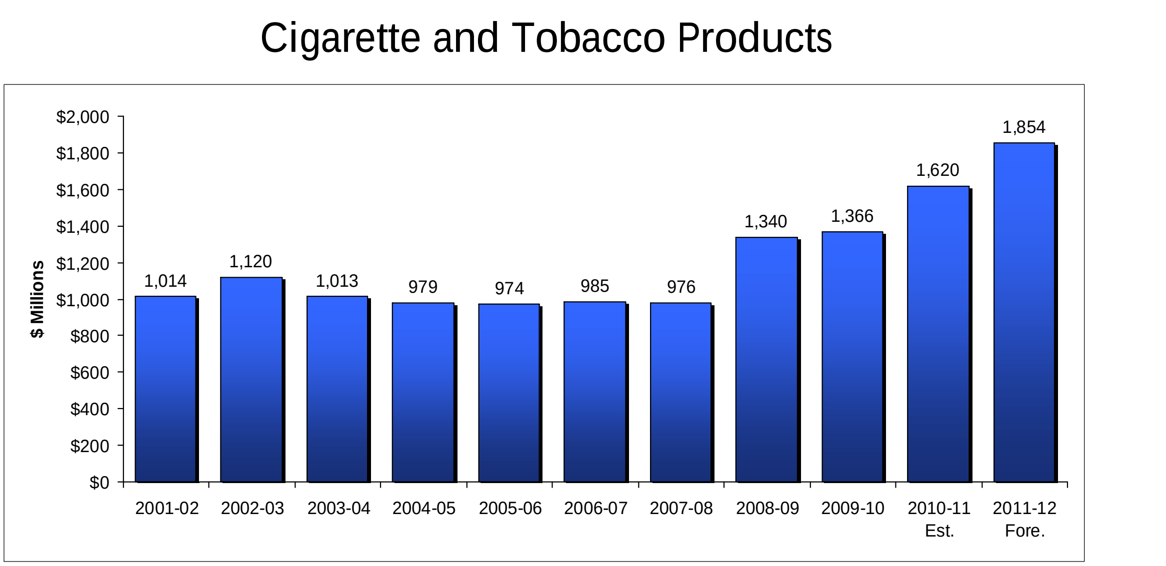
Underlying Economic Conditions

The Committee Staff's forecast reflects recent trends in highway use tax collections; no economic variables are used to forecast the highway use tax.

EXECUTIVE BUDGET PROPOSALS

- The Executive proposed updating certain fuel definitions to be consistent with Federal laws (No fiscal impact).
- The Executive has also proposed extending the partial and full tax exemptions for alternative fuels for one year (No fiscal impact).

CIGARETTE AND TOBACCO EXCISE TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 14

Table 29

Cigarette and Tobacco Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$1,384	17.5%	$1,620	18.8%	$1,621	($1)
2011-12			$1,854	14.4%	$1,786	$68

The cigarette tax and cigarette use tax of New York State is administered through the provisions of Article 20 of the Tax Law. Article 20 was signed into law in 1939. The cigarette tax is an excise tax on the sale of cigarettes in New York State and is complimented by an identical use tax on the use of cigarettes in New York.

The Commissioner of Taxation and Finance is authorized to make provisions for the sale of stamps and may license agents to sell stamps for the payment of tax on cigarettes. The licensed agents may retain some of the revenues from the sale as commission according to guidelines established by the Tax Commissioner.

Pursuant to Section 472 of Article 20, the Tax Commissioner is authorized to prescribe a schedule of commissions, not exceeding five percent, to agents for buying and affixing stamps. Such schedule shall be uniform with respect to the different types of stamps used, and may be on a graduated scale with respect to the number of stamps purchased. The commissioner may permit an agent to pay for such stamps within thirty days after the date of purchase. The commissioner may also require any such agent to file with the department a bond issued by a surety company approved by the superintendent of insurance as to solvency and responsibility.

New York State also imposes a tax on tobacco products. The tobacco products tax is imposed at a rate of two dollars per ounce on snuff and seventy-five percent of the wholesale price on all other tobacco products (e.g. cigars, chewing tobacco, pipe tobacco, roll-your-own cigarette tobacco) for sale or use in New York State. As of July 1, 2010 little cigars are taxed at the same rate as cigarettes, currently the tax is $4.35 per pack of twenty.

SFY 2010-11

The Committee Staff estimates the 2010-11 closeout for cigarette and tobacco taxes will be $1.620 billion. This estimate is based on year-to-date collections, historical collection patterns, and an analysis of tax law changes that were enacted and in SFY 2010-11. The closeout does not include any revenue from enforcement on the sale of cigarettes to non-Native Americans on Native American Territory.

Cigarette and Tobacco excise taxes, on an All Funds basis, have a year-to-date growth of 17.5 percent or $207 million; the bulk of which is from cigarette taxes (including $56 million in floor taxes). Taxes on other tobacco products have a year-to-date growth of 47.6 percent or $27 million when compared to the same time period in SFY 2009-10.

SFY 2011-12

The Committee staff's SFY 2011-12 forecast for cigarette and tobacco taxes is $1.854 billion, a growth of 14.4 percent over SFY 2010-11. The Committee staff's forecast is $68 million higher than the Executive's SFY 2011-12 Executive Budget projections. Both the Executive's and the Committee staff's forecasts include $130 million in revenue from the collection of taxes on cigarettes sold to non-Native Americans on Native American Territory. The estimate does not include any revenue from increased retail registration fees that were enacted in 2009, as there is still an active injunction on said legislation.

Fund Distribution

Table 30

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$486	$1,134	-	-	$1,620
2011-12	$518	$1,336	-	-	$1,854

In addition to the increases on cigarette and tobacco excise taxes, the 2010-11 Enacted Budget modified the distribution of the cigarette tax. The Health Care Reform Act (HCRA) share of the excise tax on cigarettes increased from 70.6 percent to 76.0 percent, effective July 1, 2010. HCRA is a major component of New York State's Health Care financing laws, which determines hospital reimbursement methodologies and targets a multitude of health care initiatives, one of which authorizes the reimbursement for smoking cessation programs prescribed by a doctor. The increased tax, in combination with the share change, will provide approximately $13 million in additional HCRA funding in SFY 2010-11 and $14 million in SFY 2011-12 (based upon the Executive's Budget assumptions that the increase in the cigarette excise tax will bring in an additional $260 million in SFY 2010-11 and $270 million in SFY 2011-12). If the State is able to collect taxes on cigarettes sold to non-Native Americans on Native American Territories in SFY 2011-12, HCRA would benefit with an additional $99 million, $7 million of which would be due to the increase in HCRA shares.

FORECAST METHODOLOGY

Model: Cigarette and tobacco All Funds collections are forecast econometrically by first estimating consumption volume.

The model specification and related statistics are shown below. T-values are shown for each predictor in parentheses.

The models take the following form:

$$\text{Log (Rest of State volume)} = \underset{(41.56)}{6.0114} - \text{Q1 seasonal dummy} * \underset{(-19.75)}{.2286} -$$
$$\text{Q4 seasonal dummy} * \underset{(-2.87)}{.0600} - \text{New York State price} * \underset{(-4.19)}{0.5831} +$$
$$\text{Tax Law Dummy} * \underset{(-3.10)}{.0642}$$

Total R-Squared = .9791; Durbin Watson statistic = 1.8153; RMSE = .04775
Number of observations = 50

$$\text{Log (NYC volume)} = \underset{(15.57)}{5.5627} - \text{Q1 seasonal dummy} * \underset{(-5.65)}{.2025}$$
$$- \text{New York City price} * \underset{(-2.10)}{.6220}$$

Total R-Squared = .9542; Durbin Watson statistic = 1.9224; RMSE = .12462
Number of observations = 53

ANALYSIS

Historical Cigarette Tax Stamps (Consumption)

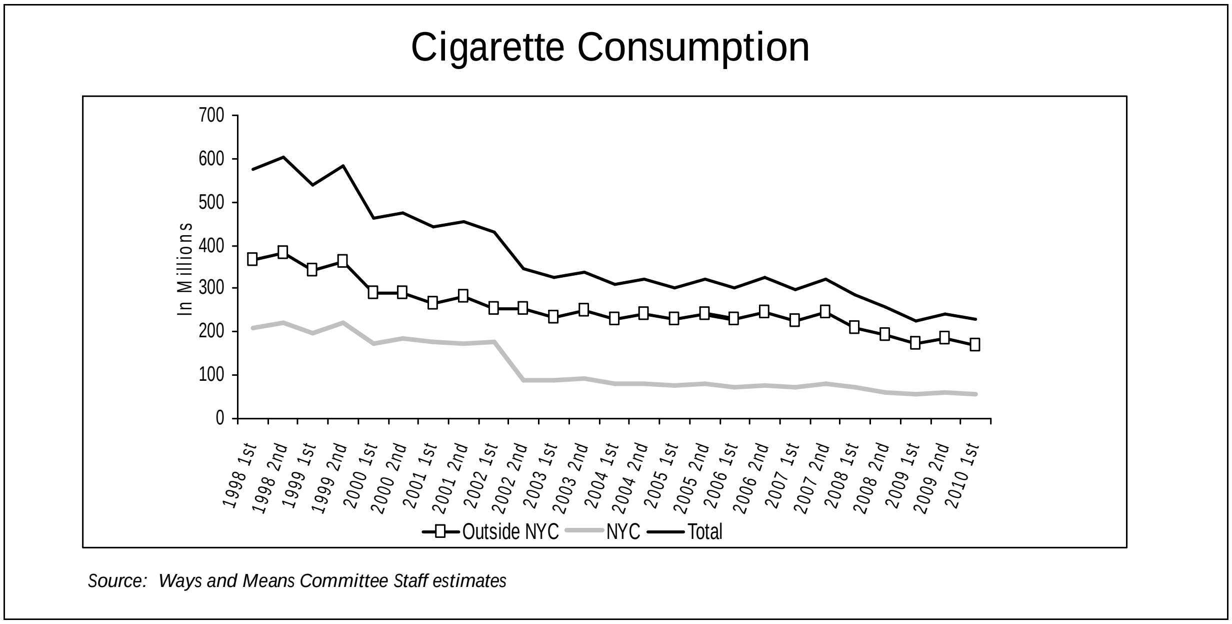


Figure 15

Cigarette sales in New York State have decreased significantly over the last ten years. In the first half of SFY 2000-01 there were approximately 467 million cigarette tax stamps issued; in the first half of 2010 there were only 221 million cigarette tax stamps issued. This represents a decline of 52.7 percent over ten years.

Historically, when there has been an increase in the cigarette excise tax, there is a sudden decline in consumption; the decline generally levels off over the next four to six quarters. For instance, in March of 2000 the tax on a pack of cigarettes went from 56 cents to $1.11 which resulted in a year over year (SFY) decline of 19.4 percent or reduction of approximately 218 million cigarette tax stamps. The next significant tax increase became effective April 3, 2002, the tax on a pack of cigarettes went from $1.11 to $1.50. The result was similar, a year-over-year decline of 21.0 percent or a reduction of 190 million tax stamps, followed by second year decline of roughly 8 percent. From SFY 2004-05 through SFY 2006-07 the number of cigarette tax stamps issued hovered around 625 million. When the next significant tax increase – from $1.50 to $2.75 per pack - took effect on June 3, 2008, there was a year-over-year decline of 17.1 percent or a reduction of approximately 106 million cigarette tax stamps, followed by an eight percent decline in SFY 2009-10. Data from the first quarter of 2010-11 shows that the decline in cigarette stamps has leveled off; however with the enactment of chapter 134, effective July 1, 2010, the tax on a pack of cigarettes increased from $2.75 per pack to $4.35. Since that increase there has been a negative growth of 24.9 percent or a decline of approximately 66 million tax stamps when compared to the same period in SFY 2009-10.

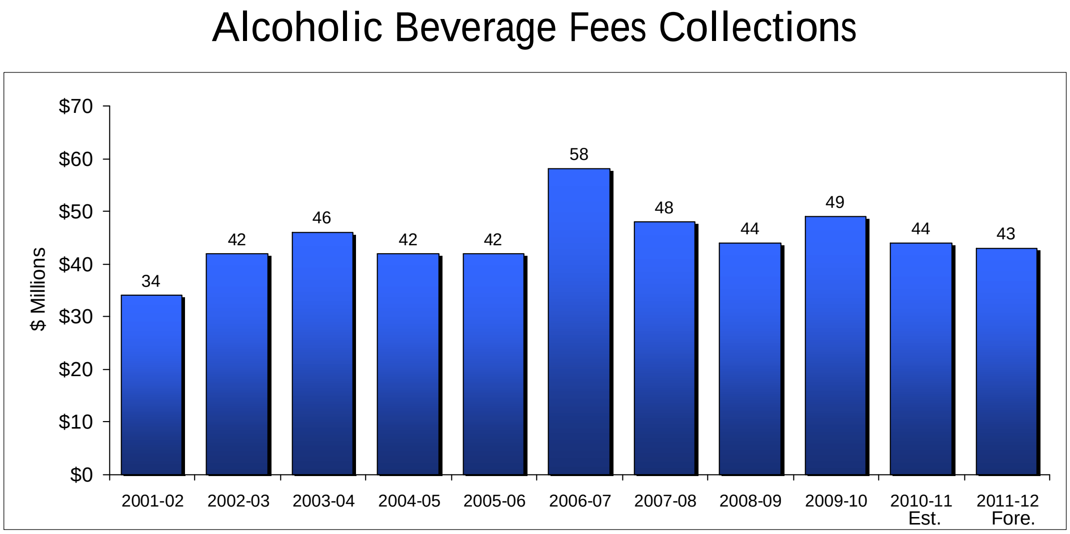
The Committee staff estimates that cigarette tax stamps will remain relatively flat throughout SFY 2011-12, forecasting cigarette tax stamps of 380 million packs. The basis for this assumption is due in part to the historical patterns, but also due to outside factors such as the Federal PACT Act that took effect in late June of 2010 (provided it is actively enforced) as well as the historically high gas prices. [19] It is presumed that these factors will significantly deter cigarette tax avoidance. However, this assumption has a downside risk for revenues as smokers may reduce consumption due to the bad economy and/or due to other factors – such as the inability to smoke in public places; New York City passed legislation in February 2011 prohibiting smoking in the City's 1700 parks and 14 miles of beaches.[20] Another downside risk involves cigarettes sold on Native American Land. In the 2011-12 revenue projection the Executive and the Committee staff included $130 million (roughly 30 million packs of cigarettes) in tax receipts from the enforcement of taxes on cigarettes sold to non-Native American persons by Native American persons on Native American Territory.

---

[19]New York State Health Department (2010, July 01), new Federal pact act prohibits trafficking cigarettes on internet, New York to recover millions in lost cigarette tax revenue", http://www.health.state.ny.us/press/releases/2010/2010-07-01_pact_act.htm (retrieved 17 Sept. 2010)

[20]Bohon, David, (2011, February 14) New York City Bans Smoking in Parks, on Beaches, New America, (on-line), Retrieved February 15, 2011, http://thenewamerican.com/index.php/usnews/politics/6303-new-york-city-bans-smoking-in-parks-on-beaches.

ALCOHOLIC BEVERAGE FEES



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 16

Table 31

Alcoholic Beverage Control License Fees Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$38	-8.6%	$44	-9.4%	$46	($2)
2011-12			$43	-3.2%	$49	($6)

Distillers, brewers, retailers, wholesalers and others who sell alcoholic beverages in New York State are required by Articles 4, 4-A, 5 and 6 of the Alcoholic Beverage Control Law to be licensed by the State Liquor Authority (SLA). Approximately 2,500 retail outlets, 18,500 grocery stores and 26,400 bars and restaurants are licensed. Licenses are issued triennially, biannually and annually, and fees are paid directly to the SLA.

SFY 2010-11 Estimate

The Committee staff estimates that receipts from Alcoholic Beverage Control License Fees will total $44 million in SFY 2010-11, a 9.4 percent decline from SFY 2009-10. This estimate is $2 million below the SFY 2011-12 Executive Budget estimate.

SFY 2011-12 Forecast

The Committee staff forecasts receipts will total $43 million in SFY 2011-12, a decrease of $1 million or 3.2 percent over SFY 2010-11 estimates. This is $6 million below the SFY 2011-12 Executive Budget forecast

ANALYSIS

Underlying Economic Conditions

Recent studies have shown that, while sales of clothing and other goods are improving, restaurant sales are declining as families continue to eat at home more.[21] This has resulted in restaurant and bar closings, and reduced liquor license fee collections for the State.

Changes in License Application Processing

Before August of 2009, the New York State Liquor Authority (SLA) had a backlog of over 3,000 Alcoholic Beverage Control License applications. Towards the end of SFY 2009-10, the SLA began to speed up and streamline the approval process, drastically reducing the backlog. The backlog for upstate license applications, approximately 1,000, has now been eliminated, reducing the processing time down to 30 days from the previous six to seven months. The backlog for downstate licenses has now been reduced by 80 percent, and the remaining backlogged applications are being approved in three to five months, down from the previous year-long processing time.[22]

---

[21] Dimopoulos, Thomas, "Home is where the food is, More families embrace eating in," The Post-Star, 7 February 2011, http://poststar.com/news/local/fdb19548-325e-11e0-88bd-001cc4c03286.html.

[22] Rosen, Dennis, “Testimony of Chairman Dennis Rosen, New York State Liquor Authority, Before the New York State Standing Committee on Economic Development and the Assembly Standing Committee on Oversight, Analysis and Investigation,” 6 December 2010, Albany, NY.

This expediting of license applications is a likely explanation for the 12 percent growth seen in SFY 2009-10. As much of the backlog has now been eliminated, Alcoholic Beverage Control License Fee collections are back down to typical levels, which is consistent with the 9.4 percent decline estimated for SFY 2010-11.

EXECUTIVE BUDGET PROPOSALS

The executive has proposed no actions affecting Alcoholic Beverage Control License Fee collections.

ALCOHOLIC BEVERAGE TAX

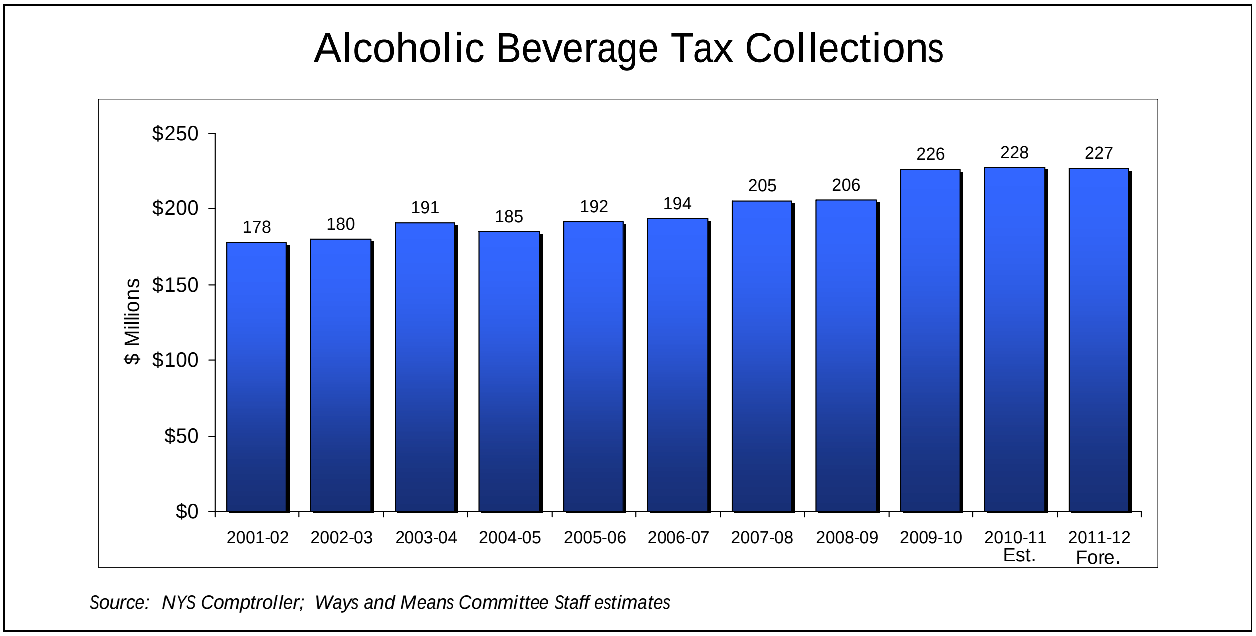


Figure 17

Table 32

Alcoholic Beverage Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$200	1.1%	$228	-0.9%	$228	$0
2011-12			$227	-0.3%	$233	($6)

Article 18 of the Tax Law imposes a tax on various alcoholic beverages, including beer, wine and other spirits. The tax rate varies depending on the alcohol content of the beverage. All of the receipts are deposited into the General Fund.

SFY 2010-11

The Ways and Means Committee staff estimates Alcoholic Beverage Tax revenues to be $228 million in SFY 2010-11, a 0.9 percent increase from SFY 2009-10. A decline of 0.7 percent is expected in the remaining months of the fiscal year. The Executive also estimates SFY 2010-11 Alcoholic Beverage Tax receipts to be $228 million in the 2011-12 Executive Budget.

SFY 2011-12

Ways and Means Committee staff forecasts that SFY 2011-12 Alcoholic Beverage Tax collections will be $227 million, a 0.3 percent decline from SFY 2010-11 estimates. The 2011-12 Executive Budget forecasts collections of $233 million, for growth of 2.2 percent.

ANALYSIS

Underlying Economic Conditions

The nearly flat growth in Alcoholic Beverage Tax collections is consistent with estimates of 0.4 percent growth in national alcohol sales. Recent studies have found that, while consumers are ordering more alcoholic beverages when dining out, the growth in consumption is not as strong as after previous recessions.[23]

Recent Law Changes

The SFY 2009-10 Budget included a provision to increase the tax on both beer and wine—the tax on beer was increased from 11 to 14 cents per gallon, and the tax on wine was increased from five to 7.92 cents per liter. This was the first major change in Alcoholic Beverage Tax rates since the tax on beer was reduced in 2001, and the first change in the tax on still wine since 1989.

---

[23] Liddle, Alan J., "Alcoholic beverage sales to rise in 2011," Nation's Restaurant News, 9 December 2010, www.nrn.com/article/alcoholic-beverage-sales-rise-2011.

Table 33

New York State Alcoholic Beverage Tax Rates History							
Beverage	Liquor > 24% Alc/liter	Liquor - All other/liter	Natural Spklg./liter	Art. Spklg Wine/liter	Still Wine/liter	Beer/ Gallon	Cider/ Gallon
4/1/2009	$1.70	$0.67	$0.0792	$0.0792	$0.0792	$0.1400	$0.0379
1/1/2003	1.70	0.67	0.05	0.05	0.05	0.11	$0.0379
1/1/2001	1.70	0.67	0.05	0.05	0.05	0.125	$0.0379
1/1/1999	1.70	0.67	0.05	0.05	0.05	0.135	$0.0379
1/1/1996	1.70	0.67	0.05	0.05	0.05	0.16	$0.0379
1/1/1995	1.70	0.67	0.05	0.05	0.05	0.21	$0.0379
7/1/1994	1.70	0.67	0.05	0.05	0.05	0.21	0.01
6/1/1990	1.70	0.67	0.25	0.15	0.05	0.21	0.01
5/1/1989	1.40	0.55	0.25	0.15	0.05	0.11	0.01
5/1/1983	1.08	0.264	0.175	0.088	0.032	0.055	0.004
Before	0.86	0.21	0.14	0.07	0.03	0.04	0.00

EXECUTIVE BUDGET PROPOSALS

The executive has proposed no actions in the 2011-12 Executive Budget that impact Alcoholic Beverage Tax collections.

Business Taxes

Business Taxes Forecasts by State Fiscal Year ($ in Millions)						
	SFY 2010-11	Growth	Diff. Exec.	SFY 2011-12	Growth	Diff. Exec.
Business Taxes	**7,651**	**2.6%**	**(22)**	**8,489**	**11.0%**	**111**
Corporate Franchise	$3,125	24.5%	($145)	$3,617	15.7%	($19)
Utility Tax	$825	-13.6%	($11)	$912	10.6%	$20
Insurance Tax	$1,325	-11.1%	$17	$1,378	4.0%	($14)
Bank Tax	$1,287	-8.0%	$103	$1,480	15.0%	$138
Petroleum Business Tax	$1,089	-1.4%	$14	$1,101	1.1%	($15)

CORPORATE FRANCHISE TAX

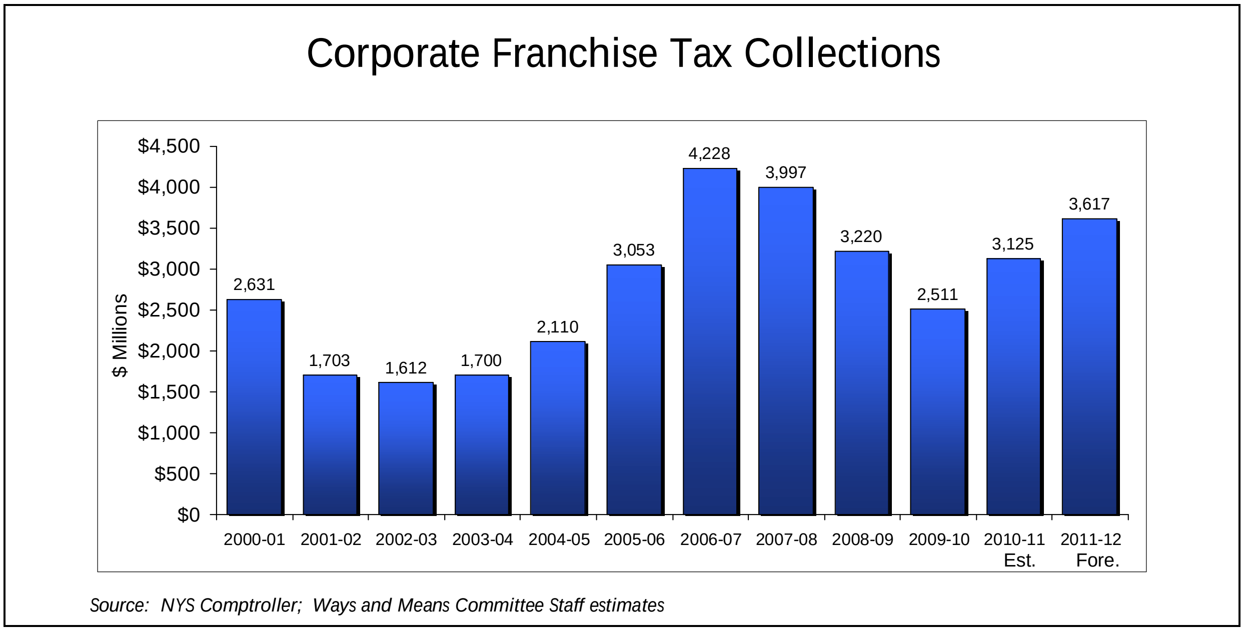


Figure 18

Table 34

Corporate Franchise Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$2,007	16.8%	$3,125	24.5%	$3,270	($145)
2011-12			$3,617	15.7%	$3,636	($19)

Article 9-A franchise taxes are imposed on every domestic or foreign corporation "for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property ... in a corporate or organized capacity, or of maintaining an office in this state..." (Tax Law §209.1).

The corporate franchise tax is composed of three parts:

1. All corporations will pay the highest of the following four alternative bases:
   - 7.1 percent of entire net income allocated to New York;
   - 0.15 percent of allocated capital, subject to a maximum of $10 million;
   - an alternative minimum tax of 1.5 percent of entire net income; and,
   - A fixed dollar minimum tax, which ranges from $25 to $5,000, and is based upon the amount of New York receipts.

2. For corporations that own more than 50 percent of the voting stock of another corporation, a tax of 0.09 percent of allocated subsidiary capital is to be paid.

3. If a corporation has business attributable to the Metropolitan Commuter Transportation District, they pay a 17 percent surcharge on their liability inside the MCTD, which is distributed to the Metropolitan Transportation Authority.

SFY 2010-11

The Committee staff estimate for SFY 2010-11 is $3.125 billion, an increase of $614 million or 24.5 percent over the previous fiscal year. The Committee's closeout is $145 million lower than the Executive's. To reach this level of collections, corporate franchise collections will have to increase by 41.0 percent in the final two months of the year. Excluding growth associated with the audit forecast and law changes over the past two years, corporate franchise tax growth is expected to be 23.2 percent over last year's collections.

SFY 2011-12

The Ways and Means Committee staff expects corporate tax receipts to increase by 15.7 percent or $492 million to $3.617 billion. Several law changes will have an impact on next year's collections. Excluding law changes from SFY 2010-11 and SFY 2011-12, corporate franchise receipts are expected to increase 21.3 percent in SFY 2011-12. The Committee's 2011-12 forecast is $19 million lower than the Executive's forecast of $3.636 billion.

Fund Distribution

Table 35

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$2,726	$399	-	-	$3,125
2011-12	$3,155	$462	-	-	$3,617

All corporate franchise tax receipts are deposited into the General Fund except for the MCTD surcharge, which is deposited into the MTOAF Special Revenue Fund.

In SFY 2010-11, the Committee expects General Fund receipts to increase 27.1 percent or $581 million over last fiscal year. Special Revenue receipts are expected to increase 8.9 percent. The high level of audit collections in the MCTD region during SFY 2009-10 raises the base and distorts the growth level downwards.

In SFY 2011-12 the Committee staff expects growth rates of 15.7 percent for both funds. The General Fund is expected to rise by $429 to $3.155 billion and Special Revenue Fund to $462 million.

FORECAST METHODOLOGY

The model is driven by three main variables: a dependent variable lagged 2 quarters, a one year lag of U.S. corporate profits, and a seasonal dummy to account for quarterly variations in collections. The dependent variable is adjusted for unnecessary noise introduced from audit collections, which are not connected to the business cycle, before it is forecast. After the forecast is obtained, audits are added to the series to return it to the original levels. The t-values are shown for each coefficient in parentheses.

The model takes the following form:

$$
\begin{aligned}
(\text{Corporate Collections} - \text{Audits}) &= \underset{(1.52)}{1.24} * (\text{Intercept}) \\
&+ \underset{(2.84)}{0.28} * (\text{Lag2}(\text{Log}(\text{CorporateCollections-Audits}))) + \underset{(3.32)}{0.45} * (\text{Lag4}(\text{Log}(\text{Corporate Profits}))) \\
&+ \underset{(3.50)}{0.34} * (1^{st}\ \text{Quarter Dummy}) + (\varepsilon t) \qquad \varepsilon t = \underset{(3.50)}{0.38} * (\varepsilon t\text{-}1) + \mu t
\end{aligned}
$$

Adjusted R-Squared = 0.7063, Durbin Watson Statistic = 2.06, RMSE = .1863
Number of observations = 53

ANALYSIS

After eight months of negative growth in the corporate franchise tax, cumulative collections turned positive for the current fiscal year in December 2010. Tax collections are starting to reflect the robust recovery in corporate profits. NYS has currently collected $289.5 million or 16.9 percent more from corporate tax filers this fiscal year compared to last fiscal year.

The Ways and Means Committee staff expects SFY 2010-11 collections to reach $3.125 billion, an increase of 24.5 percent over the previous fiscal year. Excluding growth associated with the Executive's audit forecast and law changes for the past two years, corporate franchise receipts are expected to rise 23.2 percent. To reach the Committee's closeout, corporate franchise collections will have to increase by 41.1 percent in the final three months of the year, well below the Executive's projected 71 percent growth. However, the Executive is planning on delaying $200 million in refunds at the end of this fiscal year, and if this is excluded from the closeout, Ways and Means Committee staff expects collections to increase 15.7percent over last year.

Total tax payments on current year liability are up $153 million or 26.0 percent over last year.

Excluding the $75 million administrative refund delay imposed by the Executive last spring to ease the State's cash flow constraints, total corporate refunds are 29.6 percent of collections. This is below the 34.8 percent ratio that corporations used in the year following the end of the Great Recession, but significantly higher than the 7.7 percent ratio that businesses used at the peak of the last expansionary cycle in SFY 2006-07. If businesses use tax overpayments to request refunds similarly to how they did after the 2001 recession, NYS can expect elevated, but declining, levels of refunds for the next few years.

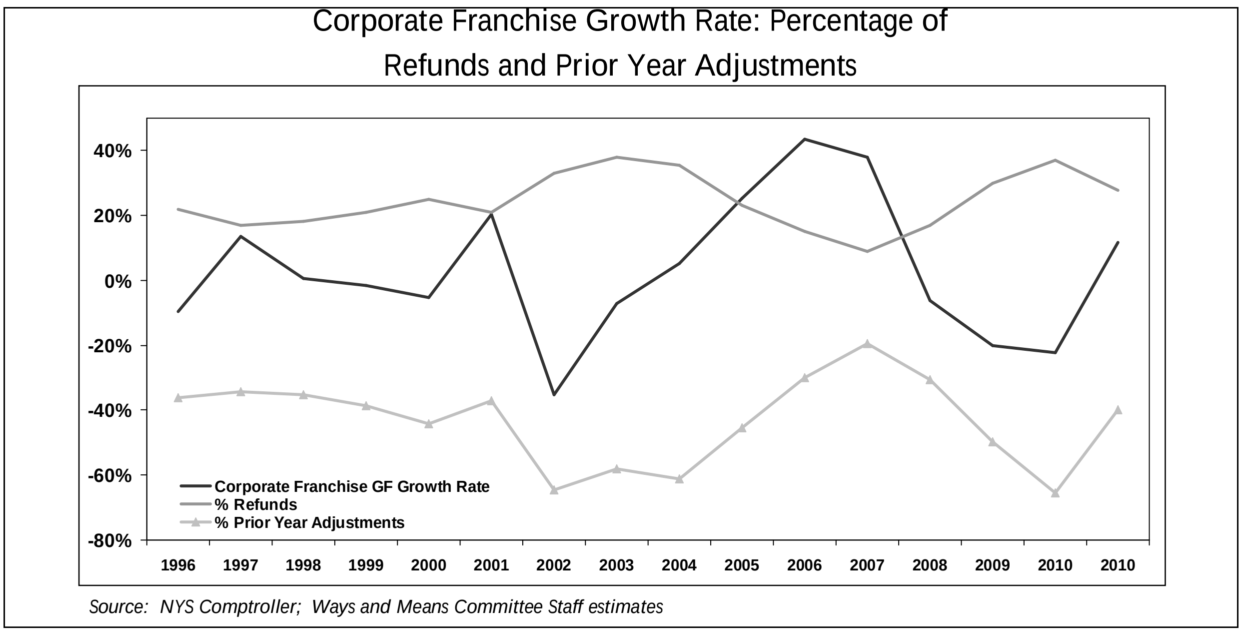


Figure 19

Prior year adjustments have increased by $14 million or 1.0 percent over last fiscal year through January.

The Division of the Budget is projecting $896 million in audit collections for this fiscal year. Through January 2011, NYS has collected $697 million in audits from corporations. To meet the Division's audit forecast, New York would have to collect $199 million in the last two months of the fiscal year. For three of the five years that the Executive has publicly released its audit collection projections, it has over-forecasted collections for the corporate franchise tax. The Assembly accepts the Executive's audit forecast, but it remains a risk to the closeout.

The Committee expects US corporate profits to rise 26 percent in SFY 2010-11, and 5.2 percent in 2011-12.

Corporate Franchise Tax Base

Manufacturing businesses used to account for the largest share of Corporate Franchise tax receipts. Since 1997 the share of Corporate Franchise taxes contributed by the industry has fallen from 25.8 percent to just 13.0 percent in 2005, but it rose to nearly 17.0 percent in 2006 and 2007. This decline coincides with both the decline in manufacturing employment in the State and the nation in general, and with the rise of tax incentives granted to manufacturers to help stabilize their presence in the State. The share that wholesale and retail trade accounted for during the same period experienced an upward trend, except in 2005 when the share of the finance and insurance sector surged. Finance and insurance industry fortunes have been a volatile source for New York State tax receipts, but their importance has grown over the past few decades, and in 2007, finance and insurance comprised 22.6 percent of corporate franchise receipts, down slightly from 23.6 percent in 2006.

Impact of Previously Enacted Tax Law Changes

Table 36

Enacted Tax Law Changes ($ in Millions) Change in Fiscal Impact Shown		
	2010-11	2011-12
Excelsior	-	(7)
Administrative Refund Delay 2011	200	-
Administrative Refund Delay 2010	(76)	-
Empire Zone Tax Credits	17	(31)
Credits in Excess of $2 million Deferred	110	323
Film Production Credit	(10)	(143)
Reciprocal Tax Credit	13	-
Overcapitalized Captive Insurance Companies	(4)	-
Brownfield Remediation Credits	(265)	164
Expiration of Capitol Base	-	(103)
Expiration (07/2011) of Tax Shelter Reporting	-	(5)
Combined Returns	1	(60)
REITs and RITs	-	10
HMOs Taxed as Insurance Companies	(5)	-
Low Income Housing	(4)	-
Total	**(23)**	**148**

The most significant revenue raiser that New York State enacted with the 2010-11 Budget was the business tax credit deferral. Beginning in tax year 2010, and ending after tax year 2012, if businesses plan to use more than $2 million in tax credits, the credits above $2 million will be deferred until the payback period begins in 2013. The total tax credit deferral across all business categories, whether C-corporations, banks, insurance companies, or S-corporations, is expected to be $2.91 billion over three years. According to estimates by the Ways and Means Committee staff, only 43 or 1.4 percent of all corporate franchise, bank and insurance taxpayers who claim tax credits will be subject to the deferral. While only 43 of 633,197 or 0.007 percent of all business taxpayers will be affected by the deferral, 66 percent of the tax credits used will be deferred.

The 2010-11 Budget's second most significant fiscal impact upon business taxes was the $2.1 billion expansion of the Film Production Credit. This credit is fully refundable, and it reimburses producers for 30 percent of production costs in New York State that are not attributable to salaries for actors, directors, and production costs considered "above the line".

The third most significant impact on corporate franchise taxes was the Excelsior Jobs Program which replaced the Empire Zones Program's 10-year tax credit benefit with a 5-year tax credit benefit. This program redesigns four tax credits that, in aggregate, are capped at $50 million a year. On an accrual accounting basis, the State commits $250 million in tax credits each year for five years. The total fiscal impact of this program is currently $1.250 billion.

Corporate Franchise Adjustments to Current Year Tax Liability

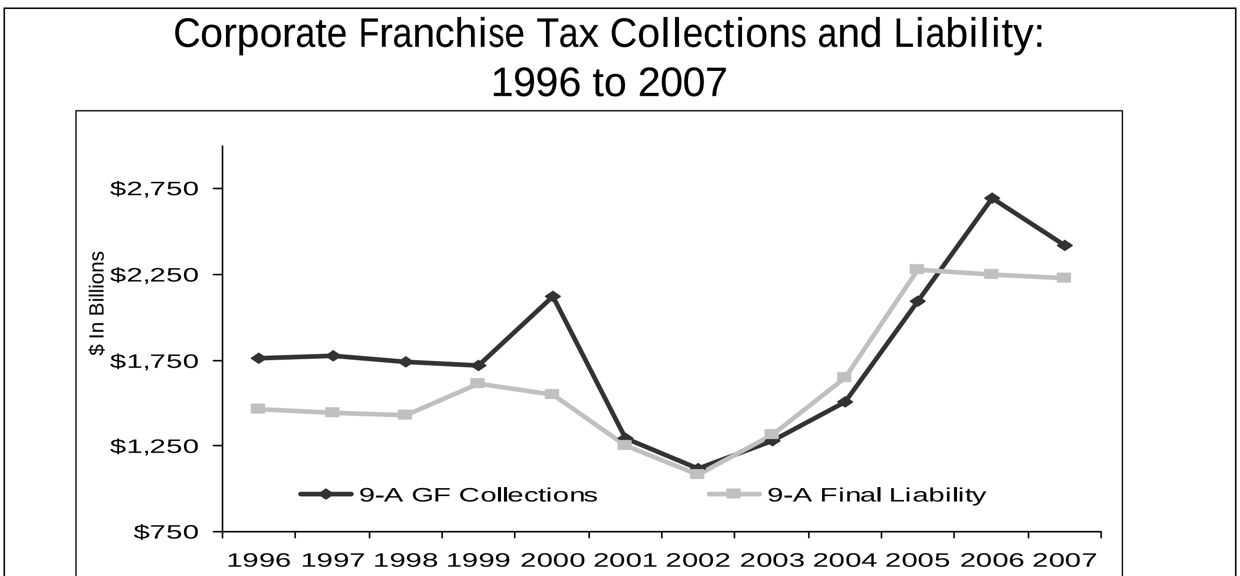
How Do Adjustments to Earned Net Income Affect Tax Liability in New York State?

A corporation's New York tax base begins with its Federal Taxable Income (FTI) before net operating losses (NOLs) and special deductions which reduce a company's federal taxable income. NYS also requires companies to make additions and subtractions based on New York tax preferences. The reasoning varies for each of the additions and subtractions required, but many of them are designed to prevent double taxation of income by the State, like the exclusion of all or a portion of dividends from income. These exclusions from taxation can be a significant portion of a company's income. In 2001, the exclusion of 50 percent of domestic dividends and foreign dividends accounted for 31 percent of FTI, and 81 percent of earned net income (ENI). Companies might not know at the time they file their initial return how much they will be earning in dividends from shares they own, this could be a source of adjustment by companies when they file amended returns, which they are allowed to do for up to three years after the end of the tax year.

In 2002 and 2003, the largest source of downward adjustment to companies' income came from the Net Operating Loss Deduction (NOL). It compromised 218 percent and 105 percent of FTI, respectively, but by this basis alone, in 2001, NOL deductions accounted for 321 percent of FTI. Understanding how companies utilize net operating losses to modify past and future tax liabilities will provide insights into the uncertainty of forecasting corporate franchise tax revenue.

Overall, there is a large variation between the estimated payments initial returns made to New York State while the tax year is underway, and the final liability that the Department of Taxation and Finance reports three years after the tax year is over. The largest portion of this variation is due to negative adjustments that companies make after gaining full knowledge of their income components after the tax year is over. However the Department of Taxation and Finance only provide final information and not initial returns and final returns. So the exact nature of how businesses adjust their returns over time is unknown. Because the starting point for New York taxes is FTI and companies can also amend federal returns for three years, if there are any adjustments to a company's federal return, the variation will flow through to New York State tax liability. FTI displays a wide degree of variation. For example, in 2001, FTI decreased 81 percent, but in the following two years it increased 72 percent and 143 percent. In terms of levels, FTI was $38.7 billion in 2001, but it increased to $323.2 billion in 2004, an increase of 735 percent, creating additional variability in collections.

For most years, collections are higher than liability because the tax code places penalties on companies if they pay less than 91 percent of their final liabilities, or less than the tax paid in the previous year. The penalty for the underpayment of tax is calculated by adding seven percent to the prevailing short-term interest rate, and this currently totals approximately eight percent. However, if a company overpays its tax liability the current rate the State will pay companies is approximately three percent, or two percent plus the prevailing short-term rate. Figure 20 shows that the aggregate overpayment companies make can be extremely high. In 2000, companies overpaid by $567 million or 37 percent of final liability, and in 2006, companies overpaid by $448 million or 20 percent. Businesses can use these overpayments to request refunds or reduce their tax liability in future years.



Source: NYS Department of Taxation and Finance. Note: General Fund collections without audits.

Figure 20

Why allow businesses to use net operating losses to reduce income in past and future years?

Business cycle fluctuations do not influence all sectors of the economy with the same intensity. Sectors like education, health care, services in general, and agriculture do not experience periods of speculation or intense spikes of consumer demand. Consumption growth is less responsive to changes in personal income for some essential industries and goods.

Durable goods manufacturers experience some of the largest swings in the business cycle due to their capital intensive nature and large exposure to the credit cycle. Besides swings in demand reducing short-term profits, manufacturers incur losses for fixed costs like buildings and machinery that cannot be reduced in the short run. The finance industry also experiences significant variability in its profits over time.

In addition to businesses that are more affected by the business cycle, such as manufacturing and finance, new or expanding business often experience losses in the first few years that they begin operations. The use of NOLs enables start-ups to average their earnings over several years for tax purposes and this assists them in maintaining their viability.

If companies with significant variability in profits, often an indicator of the risk they take, had to pay taxes on current year profits, they could face extreme increases in tax payments, and this would not necessarily reflect the true profitability.

Table 37

Impact of Taxes Without Net Operating Losses							
		Year1	Year 2	Year 3	Year 4	Year 5	Total
Business A	Profit	-100	-100	100	100	100	100
	10% Tax	0	0	10	10	10	30
Business B	Profit	20	20	20	20	20	100
	10% Tax	2	2	2	2	2	10

In Table 37, business A paid three times as much tax as business B even though their five-year profits are identical. However, if business A carried its losses forward it would be paying the same amount of tax as a business B.

Tax policy allows businesses to use net operating losses to foster tax equity across business industries, and across variations of risk. Many businesses have the option to classify themselves as corporations (C-corps) or flow-through entities (S-corps) and the tax treatment of losses varies differently in the taxation of C-corps and S-corps. When losses flow through to the investor, instead of accruing to the corporation, individuals can offset income from other sources and lower their tax liability. However, tax law prohibits the use of flow-through losses for tax credits designed for poverty alleviation, like the EITC, to shareholders if they are not actively engaged in the business. To create a similar benefit for corporations as managing partners receive, the state and federal tax laws allow the use of NOLs in past and future years.

The IRS Code in section 172(c) defines net operating losses as "the excess of the deductions allowed by this chapter over the gross income." At the federal level, businesses can use NOLs to reduce gross income reported in the previous two years by filing an amended return. Additionally, businesses can use their current net operating losses to reduce gross income up to twenty years in the future.

There are exceptions to the two-year carryback and 20-year carry forward rule. The Federal government enacted a package of tax incentives during the Great Recession, including allowing small businesses to use losses incurred in 2008 to offset income earned in the previous five years. Additional modifications to the loss carryback rules include 10-year carryback allowances for specific liability losses, and losses related to qualified Gulf Opportunity Zones, farming, qualified disasters, qualified recovery assistance, while qualified disaster recovery assistance receives a five-year carryback period.

Federal treatment of Net Operating Losses has varied considerably over time. NOLs were introduced in 1918 with a one-year carryback and a one-year carryforward. Tax law suspended the use of NOLs in the early 1930's, but thereafter they became an indispensable part of the Federal Tax Code which many states conform to or minimally modify like New York. In 1997, the Federal government enacted the current general guidelines of a two-year carryback and a 20-year carryforward.[24]

---

[24] Nellen, "Net Operating Losses of Individuals", www.cob.sjsu.edu/nellen_a/225K%20Reading/NOLsIndividuals.ppt.

States' current treatment of net operating losses varies considerably, and it is common for states to alter the calculation of businesses net operating loss deductions to satiSFY revenue or economic development concerns. In 2005, New Hampshire became the 26th state to forbid businesses to carryback their NOLs.[25] [26] Five states place a dollar cap, ranging from Delaware's $30,000 to Utah's $1,000,000, on NOL carrybacks.[27] California suspended the use of NOLs in 2008 and 2009 due to declining revenues, but thereafter they are phasing in full conformity to the federal provisions. New Jersey currently limits businesses NOL deductions to 50 percent of the taxable income before the year of the NOL deduction. Pennsylvania caps NOL carryforward deductions, in a manner reminiscent of the Federal government's NOL deductions calculation in the past, to the greater of $3 million or 12.5 percent of the taxable income. Some states, including Arizona, Massachusetts and New Mexico, limit carryforwards to only five years.[28]

New York conforms to the federal provisions for net operating losses, generally a two-year carryback and a 20-year carryforward, except businesses are only allowed to carryback $10,000 in losses a year. Companies use their New York NOL deductions to reduce their pre-allocated or national earned net income.

Historical Use of Net Operating Losses in New York State

Net Operating Losses deductions constitute a significant portion of business and investment income modifications in many years, and it is a major factor for the ENI allocated to NYS. For the eight out of twelve years that detailed data are available, aggregate was negative. If a company's ENI is negative then they pay tax on the highest of the alternative bases: the minimum taxable income base, the capitol base, or the fixed dollar minimum base.

In 2007, businesses did not generate or use a large volume of NOL deductions because businesses were profitable and they had depleted the majority of those generated. Overall, 47 percent of businesses that claimed NOL deductions paid tax under the ENI base generating 91 percent of the tax liability paired by businesses claiming NOL deductions which did not pay the minimum tax.

---

[25] CCH, Multistate Corporate Tax Course: 2010 Edition, CCH, Chicago, 2009, p.104.

[26] Mazerov, M., "Minority of States Still Granting Net Operating Loss "Carryback" Deductions Should Eliminate Them Now", Center on Budget and Policy Priorities, May 11, 2009. p.2.

[27] Ibidem. p.9.

[28] CCH, pp. 99-104.

In 2001, the year with the highest ratio of NOL deductions to FTI, businesses were able to generate and use NOL deductions to reduce their ENI base enough so they paid tax on one of the alternative bases. Overall, 49.9 percent of taxpayers that paid under the ENI base, paid 87.6 percent of the total tax liability owed by businesses using a NOL deduction. The percentage of taxpayers paying under the capitol base remained largely the same, but the percentage of taxpayers paying the fixed minimum tax increased.

An analysis of the industries that used NOLDs in 2001, a year in which businesses generated and used a high level of NOL deduction, indicates that they are the types of companies that are most impacted by the business cycle. Finance and Insurance claimed 24.9 percent of NOLDs. Manufacturers also are traditionally affected by recessions due to their high ratio of fixed costs and volatile swings in customer demand, and they claimed 16.6 percent of all NOLDs in 2001.

Table 38

Net Operating Los Deductions in 2001				
Range of NOLD Generated and Used	% of NOLD Used	Percentage of Corporations	Number of Taxpayers	Average NOLD
Up to $6 million	3.27%	95.5%	22,303	$182,325
Up to $90 million	20.29%	99.1%	23,149	$1,089,138
$90 to $8,900 million	79.70%	0.9%	207	$478,414,344

In 2001, 570,376 corporations filed taxes under article 9-A and 23,356 or 4.1 percent of the companies that did not pay the minimum tax used net operating losses to reduce their tax liabilities. Ninety nine percent of businesses claimed 20.3 percent of the NOL deductions. Less than one percent of the taxpayers claimed 79.7 percent of the net operating losses.

What we are not able to discern from the analysis of the existing data is which industries are claiming tax losses, but do not have economic losses. Another pattern of business behavior that generates an unpredictable element in tax collections is how companies utilize their NOLs over time. How much are they carrying backward and how much are they carrying forward, and, more importantly, how far are they carrying them forward. If revenue forecasters knew more about how businesses used prior year losses, revenue forecasting would be more accurate.

What is the Responsiveness of Corporate Profits to Corporate Tax Collections?

Ways and Means Committee staff analyzed time periods identified by the Department of Labor that were classified as NYS recessions. Using regression analysis the impact of changes in US corporate profits on changes in NYS corporate franchise tax collections was examined. The analysis finds preliminary evidence that tax collections have a 22 to 27 percent higher responsiveness in recessions than in expansions. One reason that collections are less responsive in expansions could be that companies can use NOLs generated in recessions to reduce their tax liabilities in expansions. Evidence demonstrates that the use of NOLs by businesses moderates the volatility of corporate franchise collections.

EXECUTIVE'S BUDGET PROPOSALS

- Enhance Excelsior Jobs Program: Increases the tax credit for each new employee. Increases reimbursement for research and development by a factor of five. Ensures that the Real Property Tax Credit includes reimbursement for improvements to the property. Allows businesses to claim the State's existing R&D credits in addition to the Excelsior credits. Authorizes utilities to offer discounted electricity and gas. Extends businesses eligibility for Excelsior Jobs Program tax credits from five to 10 years. Sunsets the program in 2025. $1 billion in additional credits over 2016 to 2024.

- Make Tax Shelter Reporting Provisions Permanent: Ensures that all businesses engaging in tax sheltering transactions report them to the State. Preserves $5 million in revenue annually.

- Empire Zone Program Monitoring: Ensures that the Department of Economic Development has the continuing ability to decertify businesses that do not comply with program requirements. Preserves revenue.

- Extends Gramm-Leach Bliley provisions for two years and makes the Bank Tax extender permanent: Extends current law and preserves existing revenue.

- Extends the Financial Services Investment Tax Credit: Extends for four years, until October 1, 2015, the investment tax credit for financial services. Foregone revenue from the credit extension is already included in the State Financial Plan. $40 million in additional credits annually.

- Enhance the Low-Income Housing Credit: Increases the annual allocation of tax credits for low-income housing from $28 million to $32 million. $40 million in additional credits over 10 years.

BANK TAX

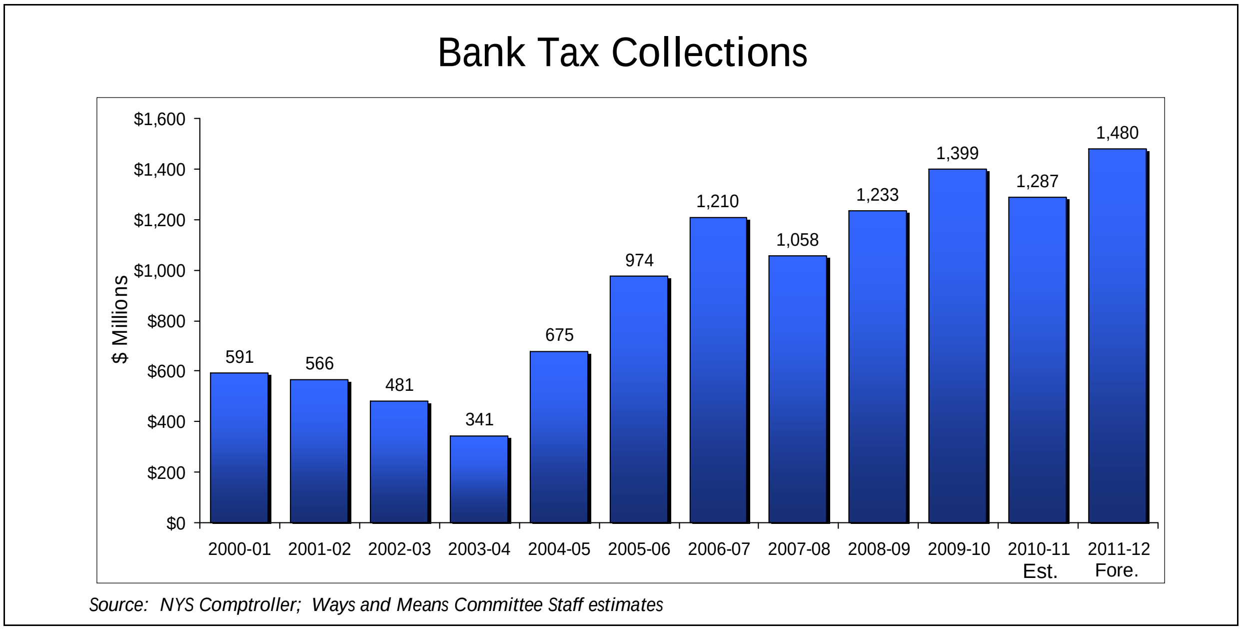


Figure 21

Table 39

Bank Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$835	-18.7%	$1,287	-8.0%	$1,184	$103
2011-12			$1,480	15.0%	$1,342	$138

In general, the bank tax is imposed on all corporations performing banking business in New York. Corporations subject to the bank tax will pay the highest of the following four alternative bases:

- 7.1 percent of entire net income allocated to New York; or,
- 3 percent of alternative entire net income allocated to New York; or,
- a variable tax that ranges from 1/10 million per dollar of assets allocated to New York; or,
- a fixed minimum of $250.

- If a corporation has business attributable to the Metropolitan Commuter Transportation District, they pay a 17 percent surcharge on their liability inside the MCTD, which is distributed to the Metropolitan Transportation Authority.

SFY 2010-11

The Ways and Means Committee staff expects Bank collections to be $1.287 billion this fiscal year, a decrease of $112 or eight percent from last year. This is $103 million more than the Executive expects for this year. To meet the Committee's closeout, bank collections will have to grow 21.6 percent in the final two months of the year.

SFY 2011-12

The Committee expects bank collections to be $1.48 billion in SFY 2011-12, an increase of $193 million or 15.0 percent. Without the impact of audits and law changes over SFY 2010-11 and SFY 2011-12, the bank tax is expected to increase by a much smaller percentage, only 0.9 percent. The Ways and Means Committee staff is forecasting $138 million more in receipts than the Executive is for 2011-12.

Fund Distribution

Table 40

Fund Distribution ($ in Millions)

	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$1,098	$189	-	-	$1,287
2011-12	$1,264	$217	-	-	$1,480

All bank tax receipts are deposited into the General Fund except for the MCTD surcharge, which is deposited into the Metropolitan Transportation Operating Assistance Fund.

In SFY 2010-11, the Committee expects General Fund receipts to decrease 6.4 percent or $75 million over last fiscal year. Special Revenue receipts are expected to decrease 16.5 percent.

In SFY 2011-12 the Committee staff expects growth rates of 15.0 percent for the General Fund and 15.5 percent for the Special Revenue Fund. The General Fund is expected to increase by $165 million to $1.264 billion and Special Revenue Fund is expected to increase by to $18 million to total $217 million.

FORECAST METHODOLOGY

The model specification and related statistics are shown below. The dependent variable relies upon the lagged, total collections less audits, logged and differenced dependent variable as well as the lag of an interest rate spread. The t-values are shown for each coefficient in parentheses.

Dif(Log(Bank Collections - Audits)) =
-1.37 - 0.79*(Lag(Dif(Log(Bank Collections - Audits)))
(-3.34) (-6.68)
+0.33*(Lag(Dif(Log(Bank Collections-Audits)))²
(4.83)
+0.11*(Lag 12(US 10yr-US 3m Interest Rate)) + ε t
(3.05)

$\varepsilon t = -0.25 * \varepsilon t\text{-}1 - 0.42 * \varepsilon\ t\text{-}2 + \mu_t$
(-2.17) (-2.85)

Total R - Squared = 0.6410, Adjusted R-Squared = 0.6028
Durbin Watson Statistic = 2.04, RMSE = 0.4151, Number of observations = 53

ANALYSIS

Through January, bank tax collections are down $193 million or negative 18.7 percent from last year, but the decreasing trend is slowing and the turning point for gross collections is assumed to be just ahead. If one eliminates the noise introduced into the series by audits and law changes, the bank tax is expected to have 11 percent growth.

Excluding the Executive's delay of $156 million in bank refunds from SFY 2009-10 to SFY 2010-11 due to constraints in the State's cash flow, refunds have decreased $100 million or 54 percent over the first 10 months of this fiscal year. In other words, this fiscal year, banks are requesting 8.6 percent of their payments in refunds, and last year the request was 18.7 percent through January. This declining rate of refunds indicates that banks are becoming more profitable.

The Federal Reserve has indicated that it will continue to maintain the interest rate target at 0.0 to 0.5 until growth improves. While a high interest rate spread has become less important for banks to make high profits, as the industry has transformed in the past two decades, it remains a key indicator of the profitability of traditional banking. Banks were able to use the relatively high interest rate spread from 2009Q2 to 2010Q2 to build profits, but their margins are expected to remain more constrained for the next eight quarters. In SFY 2010-11, the 10 year bond and three month treasury spread is expected to decrease 0.9 percent, but next fiscal year it is expected to increase 9.7 percent.

EXECUTIVE'S BUDGET PROPOSALS

- Make Tax Shelter Reporting Provisions Permanent: Ensures that all businesses engaging in tax sheltering transactions report them to the State. Preserves at least $5 million in revenue annually.

- Empire Zone Program Monitoring: Ensures that the Department of Economic Development has the continuing ability to decertify businesses that do not comply with program requirements. Preserves revenue.

- Extend the Financial Services Investment Tax Credit: Extends for four years, until October 1, 2015, the investment tax credit for financial services. Foregone revenue from the credit extension is already included in the State Financial Plan.

- Enhance Excelsior Jobs Program: Increases the tax credit for each new employee. Increases reimbursement for research and development by a factor of five. Ensures that the Real Property Tax Credit includes reimbursement for improvements to the property. Allows businesses to claim the State's existing R&D credits in addition to the Excelsior credits. Authorizes utilities to offer discounted electricity and gas. Extends businesses eligibility for Excelsior Jobs Program tax credits from five to 10 years. Sunsets the program in 2025. No fiscal impact to the current State Financial Plan, but this proposal would increase State tax expenditures by $1 billion.

- Extends Gramm-Leach Bliley provisions for two years and makes the Bank Tax extender permanent: Extends current law and preserves existing revenue.

INSURANCE TAX

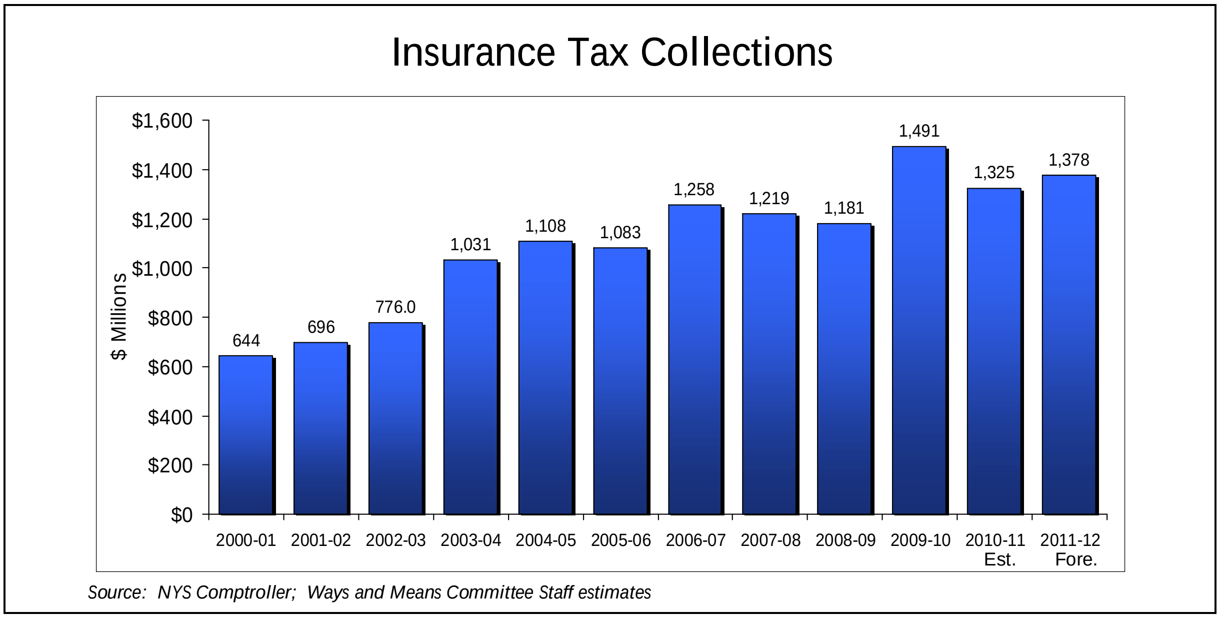


Figure 22

Table 41

Insurance Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$818	-16.4%	$1,325	-11.1%	$1,308	$17
2011-12			$1,378	4.0%	$1,392	($14)

Insurance companies in New York State are taxed by two separate taxing bodies, the Tax Department and the Insurance Department. Pursuant to Article 33 of the Tax Law, the Tax Department imposes an income and/or a premium tax on insurance companies. The Insurance Department imposes taxes on insurance companies pursuant to Articles 11 and 21 of the Insurance Law.

Article 33 of the Tax Law imposes a tax on insurance companies for the privilege of operating in a corporate form in New York State. Significant Legislative changes to Article 33 were enacted in 2003. The new calculation and rates vary by type of insurer as illustrated below:

Life Insurers

The greater of:

1. The highest of four alternative bases listed below, *plus* 0.7 percent of premiums written on risks assigned to New York State; or,
2. 1.5 percent of premiums written on risks assigned to New York State.

Four Alternative Bases of Tax for Life – Insurance Calculation

1. 7.1 percent on allocated entire net income;
2. 1.6 mills for each dollar of allocated business and investment capital;
3. 9 percent on statutory allocated income and salaries; or,
4. $250.
5. Plus 0.8 million for each dollar of allocated subsidiary capital.

The total amount of tax cannot exceed 2.0 percent of taxable premiums and cannot be lower than 1.5 percent of net premiums.

Non–Life Insurers

1. 1.75 percent of premiums written on risks assigned to New York State for Accident and Health (A/H) insurers; or,
2. 2.0 percent of premiums written on risks assigned to New York State for Property and Casualty (P/C) insurers.

If a corporation has business attributable to the Metropolitan Commuter Transportation District, they pay a 17 percent surcharge on their liability inside the MCTD, which is distributed to the Metropolitan Transportation Authority.

SFY 2010-11

The Ways and Means Committee staff expects collections to be $1.325 billion in SFY 2010-11. This is a decrease of 11.1 percent or $166 million from the previous year. Collections for the rest of the fiscal year would have to decrease one percent below last year's final quarter to reach this closeout. The Committee's closeout is $17 million more than the Executive's estimate.

SFY 2011-12

The Ways and Means Committee staff expects collections to be $1.378 billion in SFY 2011-12. This is an increase of four percent or $53 million from the previous year. Included in the Committees forecast is $22 million attributable to a Executive Budget proposal. The Committee's forecast is $14 million less than the Executive's forecast.

Fund Distribution

Table 42

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$1,172	$153	-	-	$1,325
2011-12	$1,219	$159	-	-	$1,378

All insurance tax receipts are deposited into the General Fund except for the MCTD surcharge, which is deposited into the Metropolitan Transportation Operating Assistance Fund.

In SFY 2010-11, the Committee projects General Fund receipts to decrease 12 percent or $159 million over last fiscal year. Special Revenue receipts are expected to decrease 4.1 percent or $7 million.

In SFY 2011-12 the Committee staff projects growth rates of four percent for both funds. The General Fund is expected to rise by $47 million to $1.21 billion and the Special Revenue Fund is expected to rise by to $6 million to $159 million.

FORECAST METHODOLOGY

The model specification and related statistics are shown below. The dependent variable is forecast using a series capturing premiums paid in New York that are taxable and national corporate profits series. The t-values are shown for each coefficient in parentheses.

The model takes the following form:

$$\text{Log(Insurance Receipts)} = \underset{(-3.54)}{-8.80} + \underset{(4.14)}{0.79}*(\text{Log(NY Taxable Premiums}_t))$$

$$+ \underset{(1.74)}{0.20}*(\text{Log(US Corporate Profits)}) + \varepsilon_t \qquad \varepsilon_t = \underset{(1.67)}{0.35}*(\varepsilon_{t-1}) + \mu_t$$

Total R – Squared = 0.9619, Adjusted R-Squared = 0.9565,
Durbin Watson Statistic = 2.04, RMSE = 0.081, Number of observations = 25

ANALYSIS

Year to date collections through January are $818 million, a decrease of $161 million or 16.4 percent below the prior year. One reason that collections have been decreasing is that the mortgage and financial guaranty insurers experienced weakness in their profitability. People leave private health insurance when they become unemployed or they are dropping health insurance and this reduces premiums written in New York. Recessions also force people to eliminate luxuries like boats and additional cars, and the insurance thereof.

Total prior year adjustments were negative $74.4 million through January; this is $12 million or 19 percent more in negative adjustments than last year through January. Prior year adjustment ratios also indicate financial stress in the industry. In March 2010, the cumulative prior year adjustment to all funds collections ratio was negative 6.2 percent; and for the first three quarters of this fiscal year, the ratio has gradually risen to negative 9.0 percent.

The historical series of annual prior year adjustment to all funds collection ratios shows that while the industry is experiencing some stress economic conditions are not as difficult as they were after the 2001 recession.

Table 43

Insurance Historical Ratios Prior Year Adjustments to All Funds Collections	
State Fiscal Year	Ratio
2002-03	-18.4%
2003-04	-13.0%
2004-05	-10.8%
2005-06	-7.1%
2006-07	-3.3%
2007-08	-7.9%
2008-09	-9.6%
2009-10	-6.2%
2010-11 YTD	-9.0%

Refunds have a marginal impact on collections, totaling $24.9 million or 3.6 percent of all funds collections through January. The historical ratio of refunds to all funds collections indicates that this fiscal year is not as difficult as the ones following the last recession.

Table 44

Insurance Historical Ratios Refunds to All Fnds Collections	
State Fiscal Year	Ratio
2002-03	7.4%
2003-04	4.9%
2004-05	6.3%
2005-06	4.3%
2006-07	2.9%
2007-08	3.3%
2008-09	7.7%
2009-10	2.0%
2010-11	2.6%

EXECUTIVE BUDGET PROPOSALS

- Conform New York State Insurance and Tax Laws to the Federal Dodd-Frank Act provisions covering excess lines and authorizes NYS to participate in a national compact that collects and remits excess lines taxes to the states. Preserves existing excess lines tax revenue.

- Reform Cooperative Insurance Taxation Exemption: Limits the exemption for cooperative insurance companies to those companies with premiums of less than $25 million annually. $22 million in increased revenue in 2011-12 and $16 million thereafter.

UTILITIES TAX

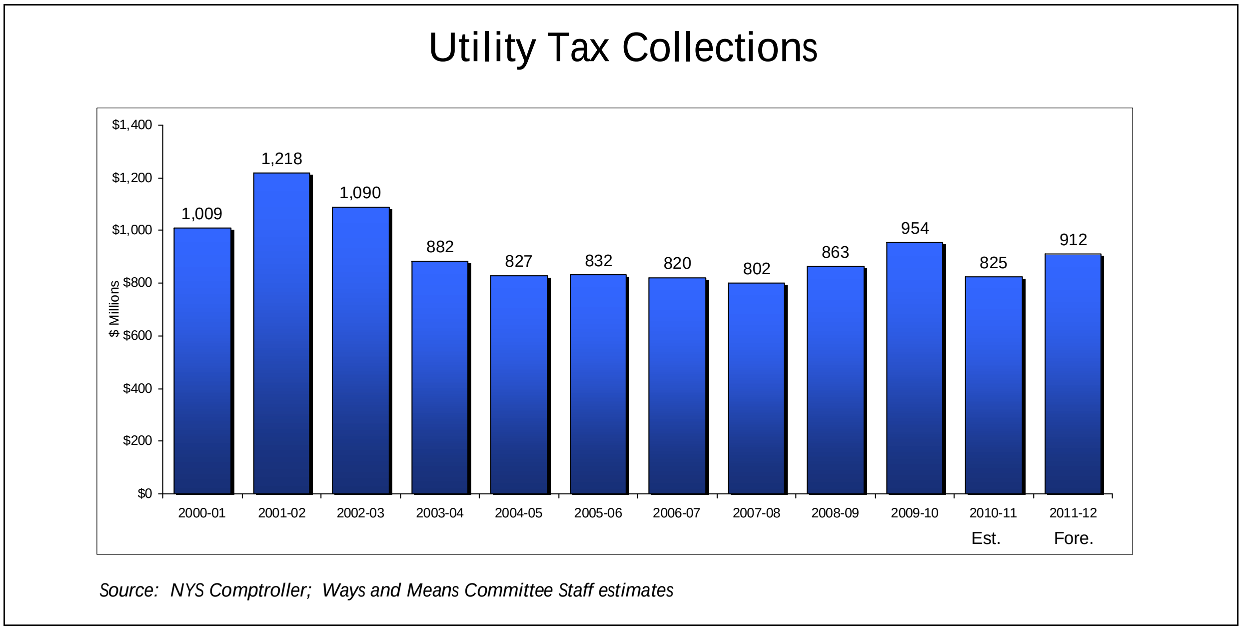


Figure 23

Table 45

Utility Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$517	-20.9%	$825	-13.5%	$836	($11)
2011-12			$912	10.6%	$891	$20

All transportation or transmission companies exercising their corporate franchise, doing business, employing capital, owning or leasing property in the state in a corporate or organized capacity, or maintaining an office in New York are subject to a franchise tax.

Section 183 imposes tax on transportation and transmission companies. They pay the highest tax after determining their liability under these 3 methods:

1. $75;
2. mills per dollar of net value of issued capital stock; or,
3. if dividends paid on the par value of any stock during any calendar year amount to six percent or more, 0.375 mill for each one percent of dividends paid, computed at par value of the stock.

Section 184 taxes the same companies taxed under section 183, with a 0.375 percent tax on gross receipts within New York State.

Section 186-a imposes a two percent gross receipts tax on the sale of the transportation, transmission, distribution, or delivery of electric and gas utility service.

Section 186-e imposes a 2.5 percent excise tax on the gross receipts from the sale of interstate and intrastate telecommunication services.

Companies subject to the supervision of the Public Service Commission are required to pay Section 186-e, the telecommunication services tax and section 186-a, a tax on their non-telecommunications receipts.

Additionally, companies with business attributable to the Metropolitan Commuter Transportation District (MCTD) pay a 17 percent surcharge on a company's liability attributable to the MCTD.

SFY 2010-11

Utility tax collections for SFY 2010-11 have been worse than projected for the first three quarters of the year, but companies have recently been reporting growing revenues, and the Committee staff projects tax payments the final quarter of the fiscal year to reflect this. Overall, through January, utility tax collections have decreased $1356 million or 20.9 percent. Payments from companies on current year liabilities have decreased 4.5 percent or $30.6 million this year compared to last year.

The Executive estimate is $836 million, or a 12.3 percent decline from the prior year. Collections would have to increase by 5.9 percent over the last two months of the fiscal year to meet DOB estimates.

Committee staff projects collections for SFY 2010-11 to be $825 million, a decline of 13.6 percent or $129 million below the previous fiscal year. The Ways and Means forecast is $11 million below the Executive. The Committee staff estimates collections for the remainder of the year to be 2.2 percent higher than last fiscal year.

SFY 2011-12

The Ways and Means Committee staff forecast utility tax collections to be $912 million, an increase of $88 million or 10.6 percent, in SFY 2011-12. This is $20 million higher than the Executive's 2011-12 Budget forecast.

Fund Distribution

Table 46

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$626	$181	-	$18	$825
2011-12	$692	$202	-	$18	$912

The Committee staff expects General Fund utility tax receipts to be $626 million in SFY 2010-11, a decline of $96 million or 18 percent. The Executive expects $634 million in General Fund utility tax collections for SFY 2010-11, a difference of $8 million.

Eighty percent of the tax receipts from tax sections 183 and 184 are deposited into the Mass Transportation Operating Assistance Fund (MTOAF) and the remainder is deposited into the Dedicated Highway Bridge and Trust Fund (DHBTF).

The Metropolitan Commuter Transportation District (MCTD) surcharge of 17 percent on a company's liability attributable to the MCTD is deposited into the MTOAF.

FORECAST METHODOLOGY

The forecast model is composed of a variable composed to explain the NYS share of telecommunications services consumed, lagged dependent variables, and an assortment of seasonal and law change dummy variables. The t-values are shown for each coefficient in parentheses.

The model takes the following form:

(All Funds Receipts) = 286.52 + 0.0005*((US Consumption of Telephone Services)
(25.97) (0.67)
((NYSPersonal Income)/(US Personal Income)) $_{t-4}$) -0.21(AF Utility Collections $_{t-1}$)
(-2.23)
-0.22*(AF Utility Collections $_{t-4}$) -85.81*(2nd Qtr. Dummy) -72.90*(3rd Qtr. Dummy)
(-2.38) (-7.10) (-5.51)
-60.39*(4th Qtr. Dummy) + 136.74*(Law Change Dummy)
(-4.97) (10.07)
Total R – Squared = 0.7920, Adjusted R-Squared = 0.6146
Durbin Watson Statistic = 1.94, RMSE = $41.10 million
Number of observations = 112

ANALYSIS

186 A&E, the tax on telecommunications services and the largest component of the Article 9 corporation and utilities tax, has collected $339.4 million through January, a decrease of 18 percent, or $74.5 million. Collections for section 184, a gross receipts tax on transportation and telecommunication transmission companies, have decreased 27.1 percent or $15 million in the first ten months of this fiscal year.

Utility tax refunds are $3 million more than they were last year through January, and the refund to collection ratio has risen from 5.4 percent to 6.2 percent. This indicates that companies are using tax overpayments from prior years to supplement their cash flow.

In March of 2010, the NYS Tax Tribunal decided a case in favor of ConEdison in regards to the tax treatment of the mandated divestment of property by the New York State Public Service Commission in 1994. This decision cost the State $37 million in taxes this year.[29]

Audit collections are currently expected to be $21 million lower in 2010-11 than in 2009-10.

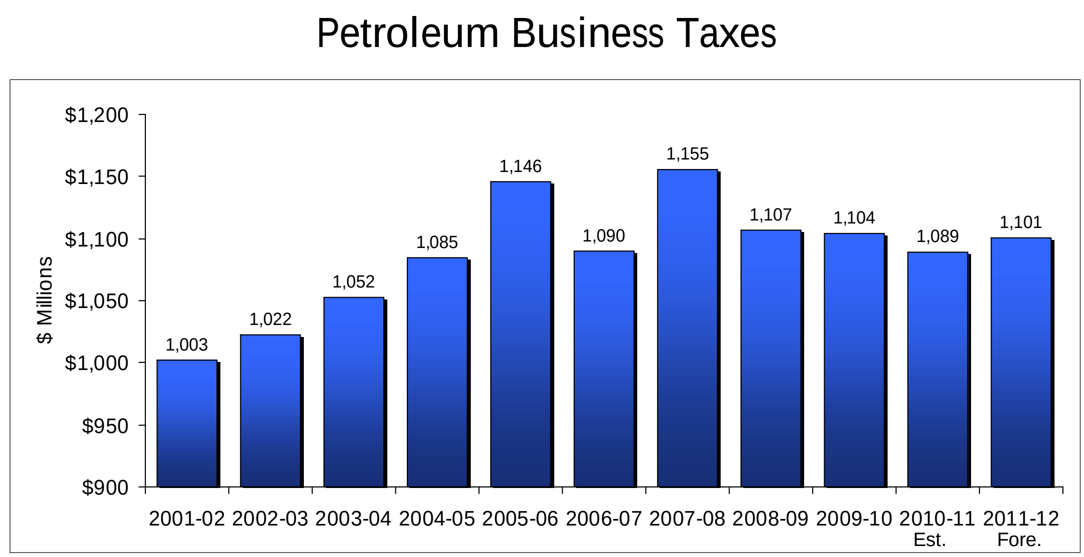
The utility tax heavily relies on the consumption of telecommunications (CTELE) which, according to the latest economic forecast, has been revised downward significantly from previous forecasts. From October to February, the forecasted growth rate for CTELE in SFY 2010-11 decreased from positive 2.9 percent to negative 0.3 percent. The forecast also changed for SFY 2011-12, the growth rate decreased from 3.6 percent to 3.3 percent.

EXECUTIVE'S BUDGET PROPOSALS

The Executive has proposed reforms of the current Power for Jobs program, as well as extending the program until June 30, 2012, a two-year extension. The program would be directly funded by an exemption from section 186-a taxes, but this would later be reimbursed by the New York State Power Authority, therefore eliminating any fiscal impact upon the State.

[29] State of New York, Tax Appeals Tribunal, "In the matter of the Petitioners of Consolidated Edison Company of New York Inc., Decision Nos. 821016 and 821017, March 29, 2010.

PETROLEUM BUSINESS TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 24

Table 47

Petroleum Business Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$909	-3.7%	$1,089	-1.4%	$1,075	$14
2011-12			$1,101	1.1%	$1,116	($15)

Article 13-A of the Tax Law imposes the Petroleum Business Tax (PBT) on every petroleum business for the privilege of engaging in business, employing capital, owning or leasing property, or maintaining an office in the state. Gasoline is subject to tax at the time it is imported, while diesel is taxable upon the first sale. The petroleum business tax also applies to the fuel that motor carriers purchase outside New York State, but consume within the State.

On each January 1st, the tax rates are indexed based on the producer price index for refined petroleum products published by the Bureau of Labor Statistics. Therefore, unlike the motor fuel tax or highway use tax, petroleum business tax revenues are directly related to the price of fuel, albeit lagged. The rates of tax rounded to the nearest 1/10 of one cent and limited to a five percent annual change.

All revenues from the basic tax are earmarked to dedicated funds, namely the Dedicated Mass Transportation Trust Fund, Dedicated Highway and Bridge Trust Fund and the Metropolitan Transportation Operating Assistance Fund. The dedication is as follows: 19.7 percent to the Mass Transportation Operating Assistance Fund and 80.3 percent to the Dedicated Mass Transportation Trust Fund and the Dedicated Highway and Bridge Trust Fund. The supplemental tax as well as the tax on Carriers (section 301-h of the tax law) is fully earmarked to the dedicated funds. This fund is comprised of the Public Transportation System Operating Assistance Account and the Metropolitan Transportation Operating Assistance Account. Receipts from the dedicated funds are split 37 percent and 63 percent respectively between the two funds.

SFY 2010-11

The Committee staff anticipates All Funds receipts of $1.089 billion for SFY 2010-11, representing a 1.4 percent decrease from SFY 2009-10. This estimate is $14 million above the Executive's. Through January 2011 petroleum business tax collections are $909 million, 3.7 percent below the comparable period in the prior fiscal year. Revenues from this tax are split between various dedicated funds.

SFY 2011-12

In SFY 2011-12, All Funds receipts are forecast to total $1.101 billion, a 1.1 percent increase over SFY 2010-11 estimate. This forecast is $15 million below the Executive's forecast. The increase in the PBT forecast is directly tied to the increase in fuel tax rates, effective January 1, 2011.

Revenue Trends

This forecast assumes that demand for gasoline and diesel will be higher in SFY 2011-12 compared to the prior year. Lower consumption from the increase in petroleum prices will be offset by higher demand from a recovering economy.

Fund Distribution

Table 48

Fund Distribution ($ in Millions)	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	$484	-	$605	$1,089
2011-12	-	$490	-	$611	$1,101

Revenues collected from petroleum business tax are not deposited into the General Fund, but instead are statutorily dedicated in the following manner:

- Of the total expected in SFY 2010-11, $484 million is deposited into special revenue funds – with $353 million deposited in the Dedicated Mass Transportation Trust Fund, and $131 million deposited into the Mass Transportation Operating Assistance Fund. The remaining $605 million is deposited into the Dedicated Highway and Bridge Trust Funds.

- Of the total expected in SFY 2011-12, $490 million goes into the Special Revenue fund, with $358 million deposited in the Dedicated Mass Transportation Trust Fund and $132 million deposited into the Mass Transportation Operating Assistance Fund. The remaining $611 million will be deposited into the Dedicated Highway and Bridge Trust Fund, held within the capital projects fund.

FORECAST METHODOLOGY

Forecast Model

The model specification and related statistics are shown below. T-values are shown for each predictor in parentheses.

The model takes the following form:

Petroleum business tax collections = 103.1*dummy variable for 6/1/90 rate increase
(8.34)

+ 91.15*dummy variable for indexing effective 4/1/91 and supplemental tax 7/1/91
(7.52)
+ 72.36*EFT beginning 12/1/92 + 0.14*CPI Gas
(4.64) (3.36)

Total R - Squared = 0.98
Durbin Watson Statistic = 1.97

ANALYSIS

Underlying Economic Conditions

The Committee Staff's forecast is consistent with the growth in gasoline consumption and regulatory changes to the petroleum business tax index. It also reflects a five percent increase in PBT rates, the maximum allowable by law. Notwithstanding this limitation, rates would grow by more than 15 percent according to T&F. However, PBT collections have been extremely steady over time. PBT revenues have varied by less than $100 million or 10 percent from the 11-year average over the last 11 years. Likewise, collections have not grown by more than six percent or declined by more than five percent over this period.

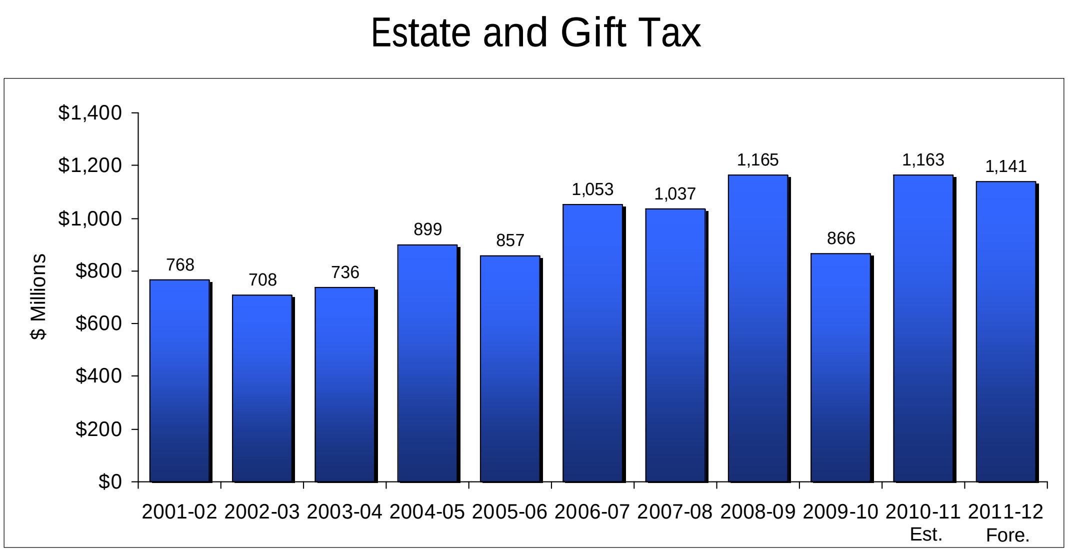
EXECUTIVE BUDGET PROPOSALS

- The Executive proposed updating certain fuel definitions to be consistent with Federal laws (No fiscal impact).
- The Executive has also proposed extending the partial and full tax exemptions for alternative fuels for one year (No fiscal impact).

Other Taxes

Other Taxes Forecasts by State Fiscal Year ($ in Millions)						
	SFY 2010-11	Growth	Diff. Exec.	SFY 2011-12	Growth	Diff. Exec.
Other	**3,130**	**20.1%**	**93**	**3,209**	**2.5%**	**122**
Estate and Gift	1,163	34.2%	82	1,141	-1.9%	126
Real Estate Transfer	561	13.7%	(6)	596	6.3%	(24)
Pari Mutuel	17	-10.5%	0	14	-17.6%	0
Other	1	29.4%	0	1	0.0%	0
Payroll Tax	1,389	13.1%	17	1,457	4.9%	20

ESTATE TAX



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 25

Table 49

Estate and Gift Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$1,027	40.4%	$1,163	34.2%	$1,081	$82
2011-12			$1,141	-1.9%	$1,015	$126

Article 26 of the Tax Law imposes a tax on the transfer of property upon death. Commonly known as the estate tax, article 26 imposes a graduated rate structure on the value of estates in excess of one million dollars. All of the receipts from this tax are deposited into the General Fund. In 1997, legislation was enacted which phased-in a reduction of New York's Estate Tax making the tax liability equal to the Federal credit for state estate taxes paid. New York automatically conformed State law to the unified credit provisions specified in Federal Law, but capped the maximum credit at $1 million. However, the Federal "Economic Growth and Tax Relief Reconciliation Act of 2001" repealed the credit for state estate taxes over four years.[30] In order to avoid a massive loss of revenues at a time of fiscal pressure, New York amended State law such that New York's estate tax is equal to the Federal estate tax credit as it existed in 1998. Subject to extensions, estate taxes must be filed and payments made within nine months of the decedent's death.

SFY 2010-11

The Committee staff estimates that estate tax collections will total $1.163 billion in SFY 2010-11, which represents an increase of 34.2 percent or $297 million from the previous fiscal year. This estimate is $82 million above the Executive's estimate. This estimate represents a significant recovery from last year, when declines in equity and real estate markets contributed to decreases in net worth and, thus, the taxable value of estates.

SFY 2011-12

Estate Tax collections are forecast to total $1.141 billion in the upcoming fiscal year, a decrease of 1.9 percent. The forecast reflects continued growth in household net worth, reflecting healthy growth in the equities and housing markets during the coming year offset for one abnormally large estate in January of 2011. The Committee staff estimate is $126 million above the Executive's forecast.

[30] "By the time the 2001 Act was passed, every one of the 50 states and the District of Columbia had in place a state death tax that reflected, largely or entirely, the federal credit." Lee, Carolyn Joy. "The Unfortunate State Tax Side Effects of Federal Death Tax 'Repeal.'" *State Tax Notes.* December 17, 2001. P. 935 – P. 949.

FORECAST METHODOLOGY

Model

The model specification and related statistics are shown below. T-values are shown for each estimator in parentheses.

The model takes the following form:

$$\text{Estate Tax Collections} = \underset{(1.66)}{26.46} + \underset{(7.13)}{203.7} * \text{Estate Dummy Jan 2005 and July 2007}$$
$$+ \underset{(3.15)}{0.046} * \text{change in Stock Market Index}$$

Total R-Squared	=	.39
Durbin Watson statistic	=	1.67

ANALYSIS

Underlying Economic Conditions

The Ways and Means Committee staff model utilized for forecasting estate tax revenues depends heavily on the value of the S&P 500. Since most taxable estates have significant stock holdings, this variable serves as a proxy for the value of estates. As the value of the stock market fell in SFY 2008-09, estate tax collections followed suit. Likewise, as the market began to recover so did estate tax collections. However, because estate tax collections are dependent on the passing of very wealthy individuals, the tax cannot be expected to link directly to any economic trends. Therefore, our model utilizes a dummy variable to account for collections stemming from the settlement of abnormally large estates.

REAL ESTATE TRANSFER TAX (RETT)

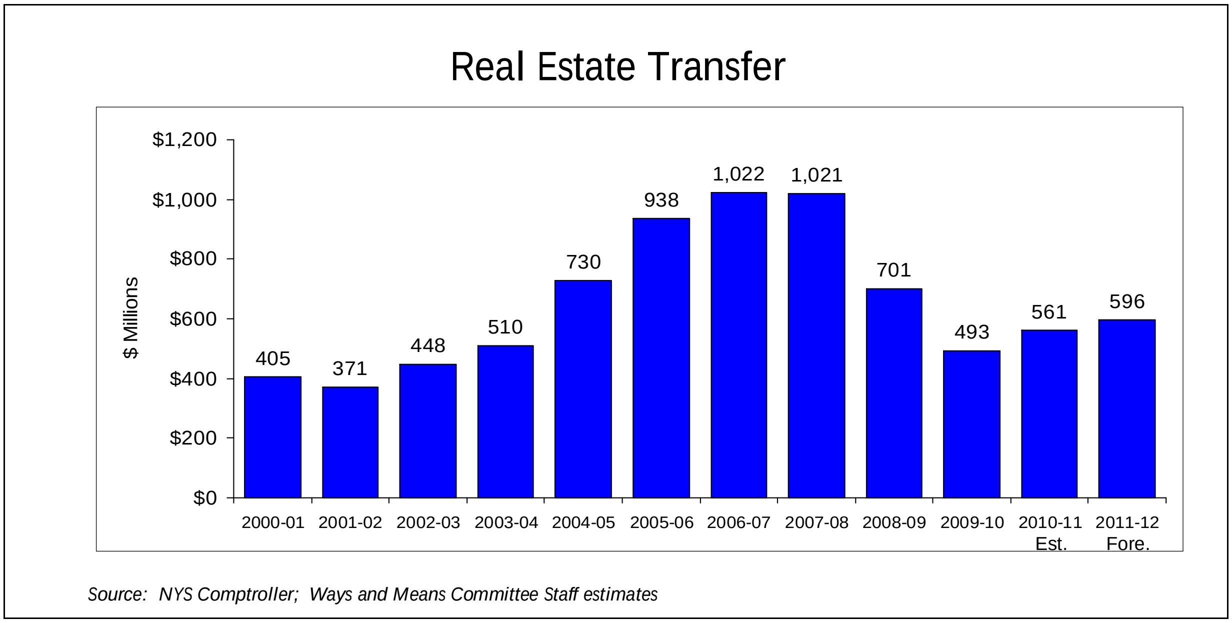


Figure 26

Table 50

Real Estate Transfer Tax ($ in Millions)

	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$481	17.8%	$561	13.7%	$566	($6)
2011-12			$596	6.3%	$620	($24)

Article 31 of the New York State Tax Law levies a two dollar per $500 or 0.4 percent tax on real property transfers in excess of $500. The tax also applies to transfers of economic interest such as shares in cooperatively owned apartments. An additional tax of one percent, referred to as the "mansion tax" is levied on the transfer of one-two-or three-family residences over one million dollars. Typically, the party conveying the property (grantor) is liable for the additional one percent mansion tax, where applicable. The tax is collected at the local level. All payments are due to the recording agent within 15 days of transfer. The transfer of funds to the State Tax Commissioner is dependant upon the liability; counties with more than $1.2 million in liability during the previous calendar year must submit payment twice a month (10^{th} and 25^{th}), all other counties must remit receipts by the 10^{th} of following month following the receipt of the RETT payment.

SFY 2010-11

The Committee staff estimates Real Estate Transfer Tax (RETT) collections will be $561 million in SFY 2010-11. This is an increase of 13.7 percent or $68 million over SFY 2009-10. The Committee staff's closeout estimates is $6 million less than the Executive's SFY 2011-12 Budget estimate.

RETT closeout estimate is based on year-to-date collection and collection patterns over the past three years, from SFY 2007-08 through SFY 2009-10.

There were no tax law changes that would affect the overall tax collections. However, legislation was enacted in the 2010-11 Budget that altered the distribution of funds; the revenue dedicated to the Environmental Protection Fund was reduced from $199.3 million to $119.1 million. All remaining funds are deposited into the Clean Water/Clear Air Bond Debt Service fund (CWCA).

SFY 2011-12

The Committee staff projects Real Estate Transfer Tax (RETT) collections will be $596 million in SFY 2011-12. This is an increase of 6.3 percent or $36 million over SFY 2010-11. The Committee staff's SFY 2011-12 estimates is $24 million lower than the Executive's 2011-12 Budget estimate.

The forecast reflects only modest gains in RETT in SFY 2011-12; this is consistent with the current economic climate of real estate in New York. New York's real estate market remains mixed; in the fourth quarter of 2010 (calendar year) the housing market in New York was sluggish but generally stable, while new construction activity remained exceptionally weak.[31]

---

[31] Federal Reserve Board, "Beige Book" (2011, Jan. 11), Federal Reserve Districts Second District –New York, Construction and Real Estate, http://www.federalreserve.gov/fomc/beigebook/2011/20110112/2.htm (retrieved 28 Jan. 2011)

Fund Distribution

Table 51

Fund Distribution ($ in Millions)	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	-	$442	$119	$561
2011-12	-	-	$477	$119	$596

The 2010-11 Executive's Budget reduced the share of RETT revenue that is to be deposited into the Environmental Protection Fund from $199.3 million to $119.1 million. The remaining share is to be deposited into the Clean Water/Clean Air Fund (CW/CA) for Debt Service. When the CW/CA obligation is paid, the excess revenue is to be transferred to the General Fund.

According to the 2011-12 Executive Budget Five-Year Finance Plan (Table 302), the Executive anticipates that $334 million and $394 million of excess RETT revenue receipts will be transferred to the General Fund from CW/CA in SFY 2010-11 and SFY 2011-12, respectively.

FORECAST METHODOLOGY

Model

The forecast uses a linear regression model which regresses real estate transfer tax revenues against New York Housing Prices, Housing Starts, and a dummy variable for the housing boom in 2004, 2005, and first quarter 2006.

The model specification and related statistics are shown below. T-values are shown for each predictor in parentheses.

The model takes the following form:

$$\text{Real Estate Transfer Tax Collections} = \underset{(12.54)}{.4128*(\text{Housing Price})} +$$

$$\underset{(2.92)}{.000840*(\text{Housing Starts})} + \underset{(2.68)}{35.0842*(\text{Housing Boom dummy variable})}$$

Total R – Squared = .9299; Durbin Watson Statistic = 2.0333; RMSE = $20.43889; Number of observations = 77

ANALYSIS

Underlying Economic Conditions

According to the National Bureau of Economic Research, the United States entered into a recession in December of 2007; the Bureau believes the recession ended in June 2009.[32] However, data from the New York's real estate transfer receipts would suggest that New York's real estate market did not feel the effects of the recession until June of 2008 and did not start to realize a recovery albeit modest until the last quarter of SFY 2009-10.

For New York, the outlook for the real estate transfer tax is still very fluid. Positive growth in

[32] National Bureau Of Economic Research (2010, September 20), Business Cycle Dating Committee, Http://Www.Nber.Org/Cycles/Sept2010.Html (Retrieved 10 Feb. 2011)

the real estate market will rely heavily on the availability of credit, on a healthy employment rate, consumer confidence as well as the number of foreclosures that enter the market. Thus, the Committee staff remains cautiously optimist and anticipates only modest growth in the fourth quarter of SFY 2010-11 and SFY 2011-12.

It is important to point out that New York City and Long Island's real estate market will play heavily into the recovery of New York's real estate transfer tax receipts. Historically, New York City accounts for over 50 percent of all real estate transfer tax receipts. Key components of New York City's real estate transfer tax receipts are commercial properties and high-end co-op and condominiums in Manhattan. Thus, any true recovery relies heavily on the City's real estate market. In the fourth quarter of calendar year 2010, luxury apartments in Manhattan experienced an average price increase of 9 percent when compared to the third quarter of 2010; however, there was a decrease in the number of sales of approximately 13.5 percent. Thus, the high-end Manhattan apartment sales (having an average sale price of $6 million), which are subject to the additional one percent real estate transfer fee (mansion tax), provides some confirmation that the housing market is slowly turning around.[33] In contrast, Long Island – which historically accounts for approximately 15 percent of the yearly real estate transfer tax – experienced an average negative growth in the fourth quarter of calendar year 2010 of 3.6 percent when compared to the previous quarter; however, the number of sales were mixed, Nassau County saw the number of sales decrease by 9.9 percent, while Suffolk experience a positive growth of 4.3 percent.[34] Elsewhere in the State real estate sales are mixed; notably the Mohawk Valley and the Western tier continue to have double digit negative growth when compared to the same three quarters in SFY 2009-10. However, unlike Long Island the negative growth in the Mohawk Valley and the Western tier will have minimal impact on overall RETT receipts as these two regions account for less than 4 percent of annual RETT receipts.

---

33 Prudential Douglas Elliman Real Estate, (2010, 4q), A Quarterly Survey Of Manhattan Co-Op and Condo Sales, Http://Www.Millersamuel.Com/Reports/Pdf-Reports/Mmo4q10.Pdf (Retrieved 01 February 2011)

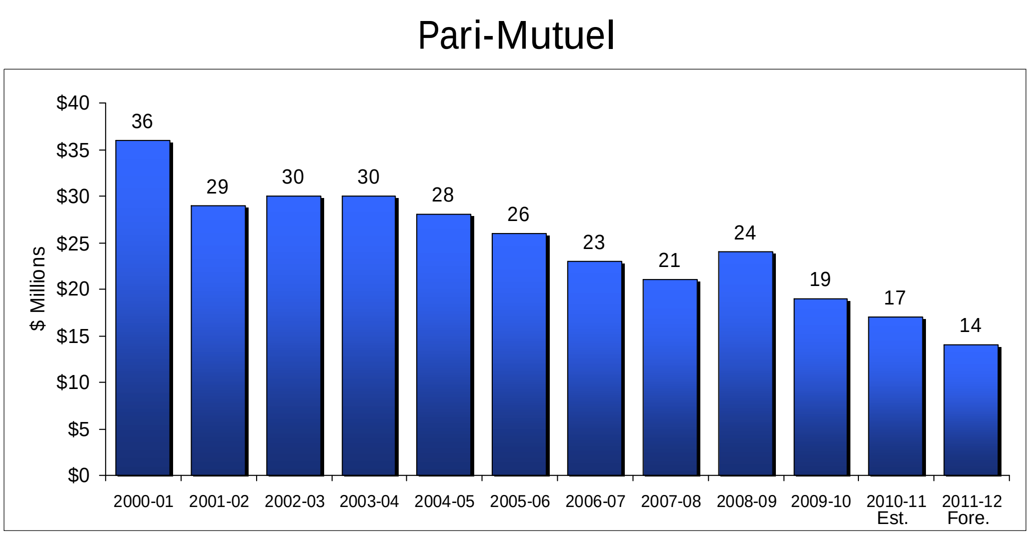
34 New York State Association of Realtors, Inc., Statistics - Housing Survey **Http://Www.Nysar.Com/Content/Upload/Assetmgmt/Pdfs/Annualmedian.Pdf** (Retrieved 1 Feb. 2011)

Data from Moody's economic forecast suggests New York State housing prices will have a negative growth of approximately 2.1 percent in SFY 2011-12. Their forecast indicates that there will be a significant increase in housing starts/building permits in SFY 2011-12, with the greatest growth in the last two quarters of SFY 2011-12. If their data holds true, the housing market should continue to show steady and continuous growth throughout SFY 2011-12. Of course much of the optimistic outlook relies on a higher employment rate and continuing increases in consumer confidence. Thus, the Committee staff's observations, data collection and economic projections, as well as others that track the housing market, point to a mixed and timid housing market in the coming months.

EXECUTIVE BUDGET PROPOSALS

The Executive's SFY 2011-12 Budget provided no amendments that would affect the collections of Real Estate Transfer Taxes.

PARI-MUTUEL TAXES



Source: NYS Comptroller; Ways and Means Committee Staff estimates

Figure 27

Table 52

Pari-Mutuel Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$15	-7.9%	$17	-10.5%	$17	$0
2011-12			$14	-17.6%	$14	$0

The Racing, Pari-mutuel Wagering and Breeding Law imposes a pari-mutuel tax on bets placed at racetracks, simulcast theaters and Off-Track Betting (OTB) facilities. For-profit and not-for-profit racing associations, as well as OTB Corporations, are taxed a percentage of their total betting pools for the privilege of conducting pari-mutuel wagering. All of the receipts are deposited into the General Fund.

The tax is paid on the last business day of each month for the period from the 16^{th} day of the preceding month through the 15^{th} day of the current month. Payments that are required to be made on March 31 must include all taxes due and accruing through the last full week of racing in March.

SFY 2010-11

The Committee staff estimates Pari-Mutuel revenues will total $17 million in SFY 2010-11, a decline of 10.5 percent or $2 million compared to SFY 2009-10. This estimate mirrors the Executive's SFY 2010-11 Budget estimate. Pari-mutuel receipts through the month of January 2011 of SFY 2010-11 are down 7.9 percent or $1 million compared to the same period in SFY 2009-10.

SFY 2011-12

The Committee staff forecast for Pari-mutuel revenue for SFY 2011-12 is $14 million, representing a negative growth of 17.6 percent over SFY 2010-11. The Committee staff's forecast mirrors the Executive's SFY 2011-12 Budget estimate.

Fund Distribution

Table 53

Fund Distribution ($ in Millions)					
	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	$17	-	-	-	$17
2011-12	$14	-	-	-	$14

The revenue received from Pari-mutuel taxes is deposited into the State's General Fund.

ANALYSIS

Pari-mutuel receipts have steadily decreased over the pass 20 years. As of February 1, 2011, pari-mutuel receipts are down by 8.1 percent or $1.3 million over the same period in SFY 2009-10. The overall decline in pari-mutuel gambling is believed to be related to increased competition from other forms of gambling (e.g. lottery, casinos). However, in the fourth quarter of SFY 2010-11 and into SFY 2011-12 there will be additional pressure to maintain pari-mutuel revenue collections due to the closure of New York City's Off-Track Betting parlors.

In calendar year 2009, New York City's OTB generated approximately $6 million in pari-mutuel taxes for the State.[35] NYC's OTB closures will have a negative fiscal impact on pari-mutuel receipts; however, it will likely be minimized by the fact that the New York Racing Association (NYRA) was quick to respond to the shut-down. It immediately provided other outlets for New York City's racing enthusiasts and betting clientele to participate. For instance, NYRA promoted off-track betting at Belmont Park, by offering free bus rides and free parking, and it secured the rights to broadcast races on the former NYC OTB cable channel. NYRA also adopted measures to streamline the registration process to capture the phone and internet wagering accounts of New York City participants.[36][37]

In September 2010, the Ghenting Corporation acquired the rights to operate VLTs at Aqueduct Raceway. There is concern that VLT operators at Aqueduct Raceway will lure horse racing enthusiasts and their dollars to the VLTs instead of wagering on horses. However, others are optimistic that VLTs at Aqueduct may actually increase interest in horse racing.

---

[35] New York State Racing and Wagering Board, "2009 Annual Report and Simulcast Report", pg. 40

[36] Bossett,,Jerry (sports writer) NY Daily News, (2010 December 13). "The Day At the Races", http://www.nydailynews.com/sports/more_sports/2010/12/13/2010-12-13_the_day_at_the_races_december_13.html (retrieved 15 Dec. 2010)

[37] Post, Paul, The Troy Record, (2011 January, 11). "NYRA sees big increase in Internet, phone gambling", , http://www.troyrecord.com/articles/2011/10/26/news/doc4cc63efe4f22f828022943.txt, (retrieved 26 Oct. 2010)

METROPOLITAN COMMUTER TRANSPORTATION MOBILITY TAX

Table 54

Metropolitan Commuter Transportation Mobility Tax ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$1,100	17.1%	$1,389	13.1%	$1,372	$17
2011-12			$1,457	4.9%	$1,437	$20

Chapter 25 of the Laws of 2009 levied a payroll tax of 0.34 percent on all employers, including the self-employed, within the Metropolitan Commuter Transportation District (MCTD). The MCTD includes New York City and Nassau, Suffolk, Westchester, Rockland, Orange, Dutchess and Putnam counties. The revenues from this tax are deposited into the Mass Transportation Operating Assistance Fund (MTOAF) for the benefit of the Metropolitan Transportation Authority (MTA).

Liability for the tax began payrolls as of March 1, 2009, however the first payment was not due until October 31, 2009. Those taxpayers who are required to remit withholding taxes electronically must also remit their portion of the payroll tax electronically. Taxpayers who are not required to remit withholding taxes electronically will remit the payroll tax quarterly following the wage reporting schedule (October 31, January 31, April 31, July 31). While all employers, including the self-employed are subject to this tax, school districts are reimbursed for payroll tax costs the following April, May and June.

SFY 2010-11

The Committee staff estimates that the Metropolitan Commuter Transportation Mobility tax will yield $1.389 billion in SFY 2010-11 for the Metropolitan Commuter Transportation District, representing growth of 13.1 percent over the prior year. This estimate is $17 million above the Executive estimate. Through January, payroll tax collections have been $1.100 billion, reflecting growth of 17.1 percent. However, this is the first full year that the tax has been imposed.

SFY 2011-12

The Committee staff forecasts that the MTA payroll tax will yield $1.457 billion in SFY 2011-12, representing growth of 4.9 percent. This growth rate reflects the Committee staff's assumptions regarding growth in wages. The Committee staff forecast is $20 million above the Executive.

ANALYSIS

Underlying Economic Conditions

The Committee staff forecasts that New York State non-farm wages will grow by 4.0 percent in SFY 2010-11 over SFY 2009-10. In SFY 2011-12, non-farm wages are forecast to grow an additional 4.5 percent. Likewise, self-employed income is estimated to grow 4.1 percent in SFY 2010-11 and 5.8 percent in SFY 2011-12. As income grows within the MTA region, collections from the MTA payroll tax are also expected to experience strong growth.

EXECUTIVE BUDGET PROPOSALS

- The Executive has made no legislative proposals related to the Metropolitan Commuter Transportation Mobility Tax in the SFY 2011-12 Executive Budget.

Lottery

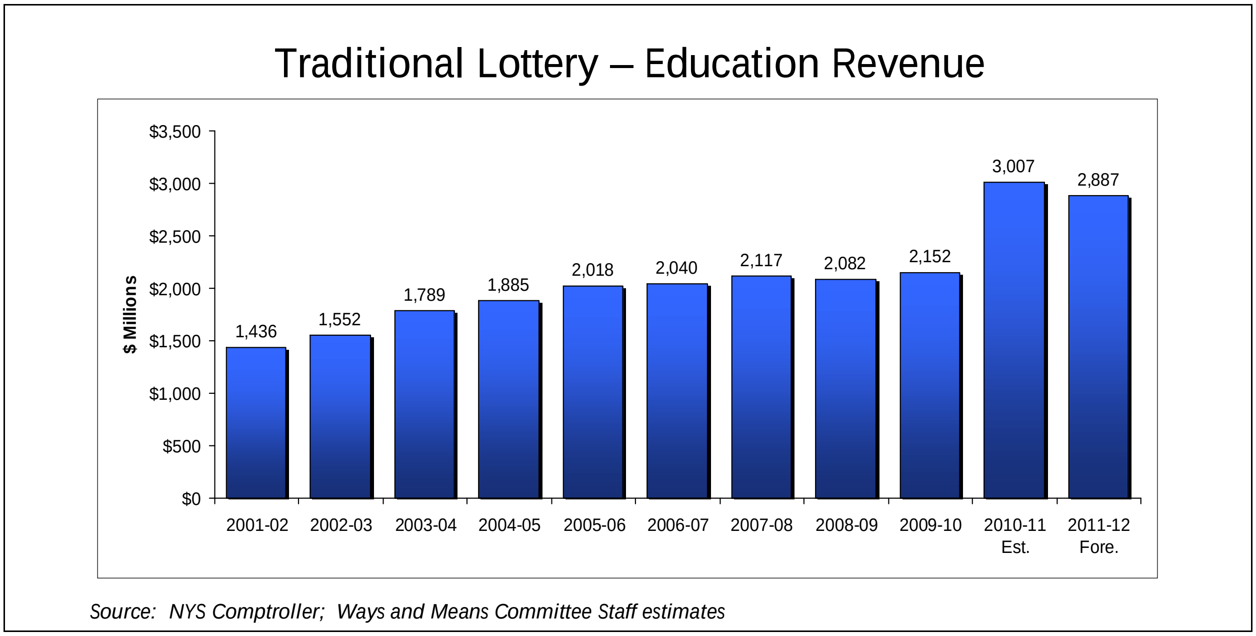


Figure 28

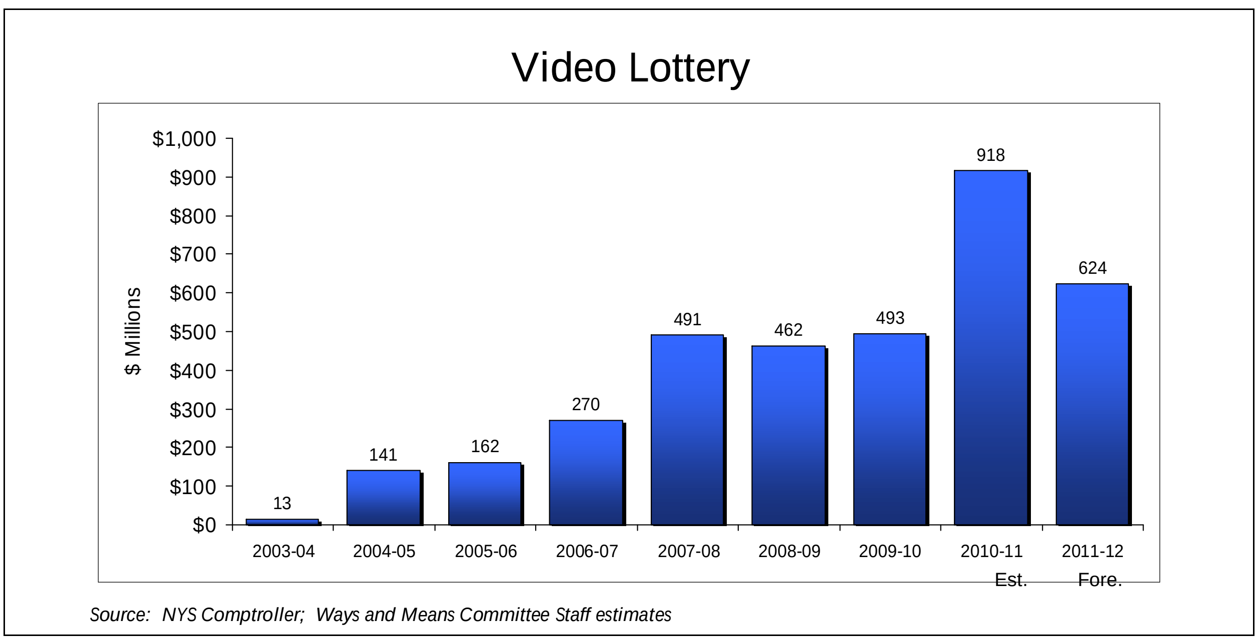


Figure 29

Table 55

Lottery ($ in Millions)						
	Year To Date	YTD Growth	Closeout/ Forecast	Growth	Executive	Difference
2010-11	$2,354	19.3%	$3,007	13.7%	$3,005	$2
2011-12			$2,887	-4.0%	$2,892	($5)

The New York State Lottery was established via a Constitutional amendment in 1976 for the express purpose of raising revenues for education. The Lottery is currently comprised of Instant Games, Daily Numbers, Win 4, Pick 10, Take 5, Quick Draw, Lotto, Mega millions, Powerball, Instant Win, Promotional "Sweet millions", and Video Lottery Terminals (VLTs).

Traditional lottery games are sold by approximately 16,700 licensed retailers throughout the State. A percentage of sales from each game are dedicated to fund education. Traditional lottery games dedicate between 15 and 45 percent of sales to education while VLTs dedicate on average between eight and nine percent of the VLT credits played (wagers) to education. The prize payouts for traditional lottery vary as well, from 40 percent of Lotto sales to as much as 75 percent for certain "instant" games. The prize payout for VLTs ranges between 91 and 93 percent.

The Division of Lottery (DOL) administrative expenses are appropriated by the Legislature each year as part of the State Operating Budget, but are funded completely with revenues from Lottery sales. DOL is required to set aside 15 percent of lottery sales for administrative expenses; expenses include retailer commissions, contract fees, telecommunication lines, and miscellaneous administrative costs. DOL has control over the administrative expenditures, which are generally limited to 10 percent of sales, thus they end the year with a surplus.

When there is an administrative surplus, the remaining funds are transferred to the general Lottery account and dedicated to education. The Lottery Aid Guarantee (LAG), which is the amount of revenue that will be dedicated to education from lottery sales, is established in the State Budget and is based on expected revenues; the LAG includes anticipated unused administrative surpluses. If Lottery proceeds exceed the LAG, any surplus will be dedicated to education in the next fiscal year (termed a carry-out). In SFY 2010-11 and SFY 2011-12 the Committee staff estimates approximately $405 million and $435 million respectively in unused lottery administration aid; the unused administration aid is included in the SFY 2010-11 closeout and 2011-12 lottery forecast.

SFY 2010-11

The Committee staff's estimates for lottery receipts in SFY 2010-11 is $3.007 billion, representing a 13.7 percent or $362 increase over SFY 2009-10. The Executive's proposed SFY 2011-12 Budget estimates lottery receipts for SFY 2010-11 will increase 13.6 percent or $360 million over SFY 2009-10. The SFY 2010-11 closeout includes a one-time payment of $380 million for video gaming rights at Aqueduct Raceway.

SFY 2011-12

The Committee staff projects the combined Lottery revenue in SFY 2011-12 will be approximately $2.887 billion, representing negative growth of 4.0 percent or a decrease of $120 million over SFY 2010-11 estimates. The Committee staff's SFY 2011-12 projections are 0.1 percent or $5 million less than the Executive's 2011-12 proposed budget projections. The negative growth can be attributed to the nonrecurring one-time $380 million payment for VLTs rights at Aqueduct that was received in September of 2010.

Fund Distribution

Table 56

Fund Distribution
($ in Millions)

	General Fund	Special Revenue	Debt Service	Capital Projects	All Funds
2010-11	-	$3,007	-	-	$3,037
2011-12	-	$2,887	-	-	$2,887

All monies received from Traditional Lottery games and Video Lottery games after payout of prizes and expenses (e.g. administrative costs, racetrack commissions, marketing, and capital expenditures) is considered special revenue and is deposited into the general lottery account to fund education. In addition, any surplus in administrative aid is annually transferred to the general lottery account and used for education aid.

ANALYSIS

As of week ending February 12, 2011 (week 46) the Division of Lottery's weekly report shows a combined Lottery (Traditional and VLTs) revenue increase of $381 million or 19.3 percent over the same time period in SFY 2009-10. This increase is somewhat misleading, as $380 million is from the licensing fee for Aqueduct. Accordingly, when omitting the one-time licensing fee, as of week 46 the Division of Lottery weekly data reports indicate an overall year-to-date decrease of 0.7 percent or $1 million when compared to the same year-to-date week in SFY 2009-10.

Traditional Lottery year-to-date proceeds as of week 46 are down 3.8 percent or $60 million over the same period in SFY 2009-10. The decrease in revenue is across the board, most notably the decrease in Lotto and Take Five. Lotto, which had a modest increase in activity in SFY 2009-10, is currently experiencing its worst decline in the past ten years; as of week 46 the Lotto game had a negative growth of 27.8 percent or approximately $20 million less than the same period in SFY 2009-10. In SFY 2009-10, Take Five ended the year with a negative growth of 4.6 percent. Take Five has shown no signs of improvement thus far in SFY 2010-11; as of week 46 Take Five had a negative growth of 11.1 percent or $11 million less than the same time period in SFY 2009-10.

Mega Millions is also experiencing significant negative growth of 28.3 percent or $50 million, however, that decline had been expected. It was presumed that Powerball, which was introduced in February of 2010, would draw some Mega million players. The Division of Lottery anticipated that the losses incurred by Mega millions would be offset and perhaps exceeded by the revenue gains in Powerball. As of week 46, the combined revenue from Powerball and Mega Million was approximately $191 million, an increase of $5 million or 2.8 percent when compared to the same time period in SFY 2009-10.

Unlike traditional Lottery games, video lottery gaming has consistently had positive growth throughout SFY 2010-11. As of week 46, the year over year revenue growth for education aid is 11.4 percent or $46 million dollars over the same time period in SFY 2009-10. A large portion of the increase in revenue receipts can be attributed to the re-distribution of Net Machine Income (NMI) (revenue after payout of prizes), which became effective on August 11; the education share was increased by one percent with an offsetting reduction in racetrack commissions. However, video lottery sales are up by 6.3 percent over the same time period in SFY 2009-10. The increase in sales can be attributed to legislation that was enacted at the same time as the revenue shares legislation (see L. 2010, c. 57) that extended the video lottery gaming hours until 4:00 am (from 2:00 am) and consecutive hours of play were increased from sixteen hours to twenty.

EXECUTIVE BUDGET PROPOSALS

The Executive's 2011-12 Budget includes several changes to enhance New York State's Lottery. The Executive estimates these changes will provide an additional $154 million in revenue for SFY 2011-12 and $198 million in 2012-13 when fully implemented. The proposals are as follows:

- Increase the Division of Lottery's workforce by 50 (for a total of 369 employees) so as to expand the sales opportunities through:

    - Reducing the number of retailers to marketers;
    - Recruitment of chain stores; and,
    - Expansion of prepaid subscriptions.

Estimated Revenue: $100 million.

- Eliminate restrictions related to the game of Quick Draw, in particular:

    - Bars and taverns must have 25 percent of their sales from food;
    - Square footage of 25,000 feet if no alcohol is served; and,
    - Persons must be 21 years of age to play Quick Draw in a Bar/Tavern.

Estimated Revenue: $10 million SFY 2011-12, $44 million thereafter

- Authorizes the Division of Lottery (DOL) to allocate video lottery terminal "free-play" credits of up to 10 percent of the net machine income (income after payout of prizes) and clarifies "free play credits" are not included in the net machine income.

Estimated Revenue: $38 million annually

- Authorizes the DOL to increase from three to five the number of scratch-off games with payouts that are up to 75 percent of the sales receipts.

Estimated Revenue: $4 million in SFY 2011-12 and thereafter

- Authorize DOL to allow payouts in excess of the current 50 percent limitation on multi-state lottery games (Mega millions/Powerball) in instances where two-thirds of the multi-jurisdictional participants concur.

Estimated Revenue: Not provided

- Authorize VLT facilities to participate in multi-jurisdictional VLT games; provided the NMI remains at the current level (approximately 91 percent of sales receipts).

Estimated Revenue: $ 2 million in SFY 2011-12, $3 million thereafter.

Miscellaneous Receipts

Miscellaneous Receipts – General Fund

General Fund Miscellaneous Receipts consist of income derived annually from abandoned property, investment earnings, fees, licenses, fines, surcharges, patient income, motor vehicles fees and reimbursement income. In addition, Miscellaneous Receipts typically include certain non recurring revenue actions.

General Fund Miscellaneous Receipts are estimated to total $3.1 billion in SFY 2011-12, a $1 million increase from SFY 2010-11, a result of the following increases: $96 million in Motor Vehicles Fees, $95 million in abandoned property, and $5 million in investment income, offset by $173 million in licenses and fee collections, $20 million in reimbursement income, $1 million in ABC License; and $1 million in other transactions.

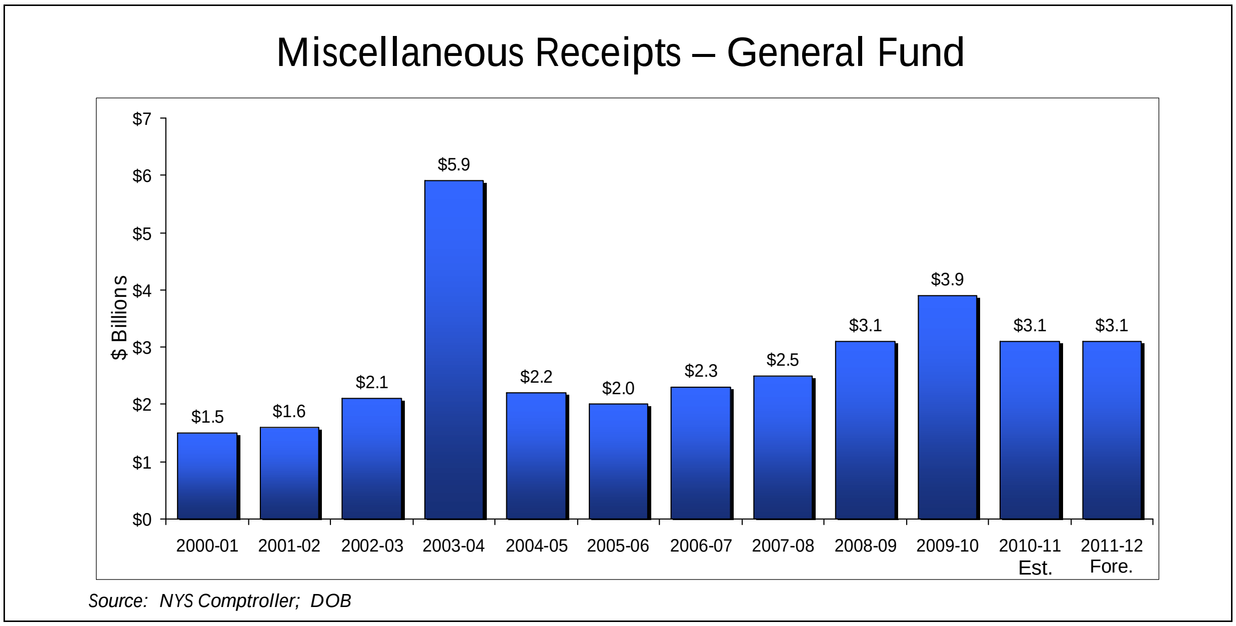


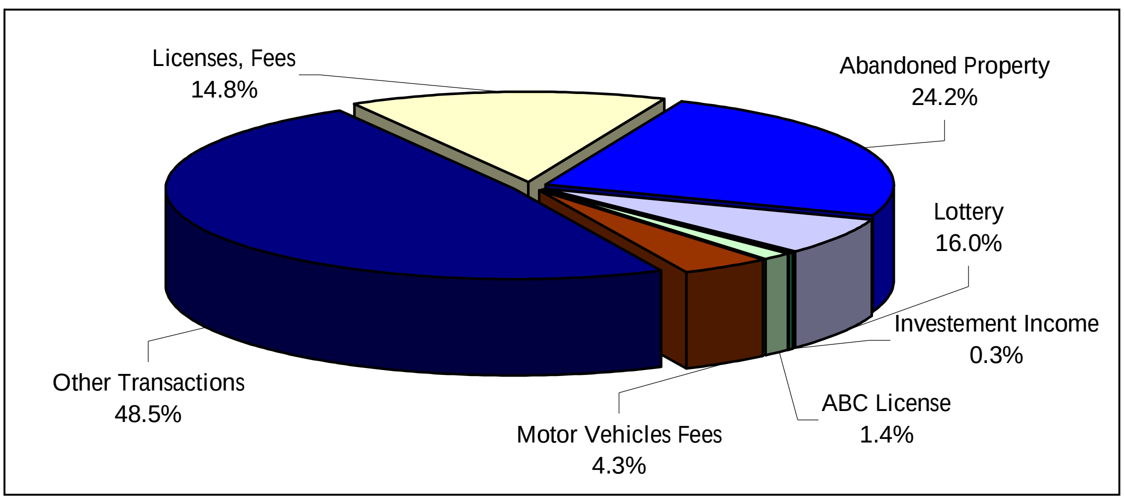
Figure 30

Miscellaneous receipts have been a steady source of revenue for the General Fund. The sizeable increase in 2004 receipts reflects the one time deposit of tobacco bond proceeds to fund the shortfall in the Health Care Fund.

Table 57

Miscellaneous Receipts - General Fund ($ in Millions)					
	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Licenses, Fees	$710	$628	$455	($173)	(27.5%)
Abandoned Property	$608	$650	$745	$95	14.6%
Reimbursements	$323	$222	$202	($20)	(9.0%)
Investement Income	$14	$5	$10	$5	100.0%
ABC License	$49	$44	$43	($1)	(2.3%)
Motor Vehicles Fees	$15	$36	$132	$96	266.7%
Other Transactions	$2,169	$1,497	$1,496	($1)	(0.1%)
Total	**$3,888**	**$3,082**	**$3,083**	**$1**	**0.0%**

General Fund
Miscellaneous Receipts
SFY 2011-12



Source: Executive Budget.

Figure 31

Miscellaneous Receipts - Special Revenue Funds

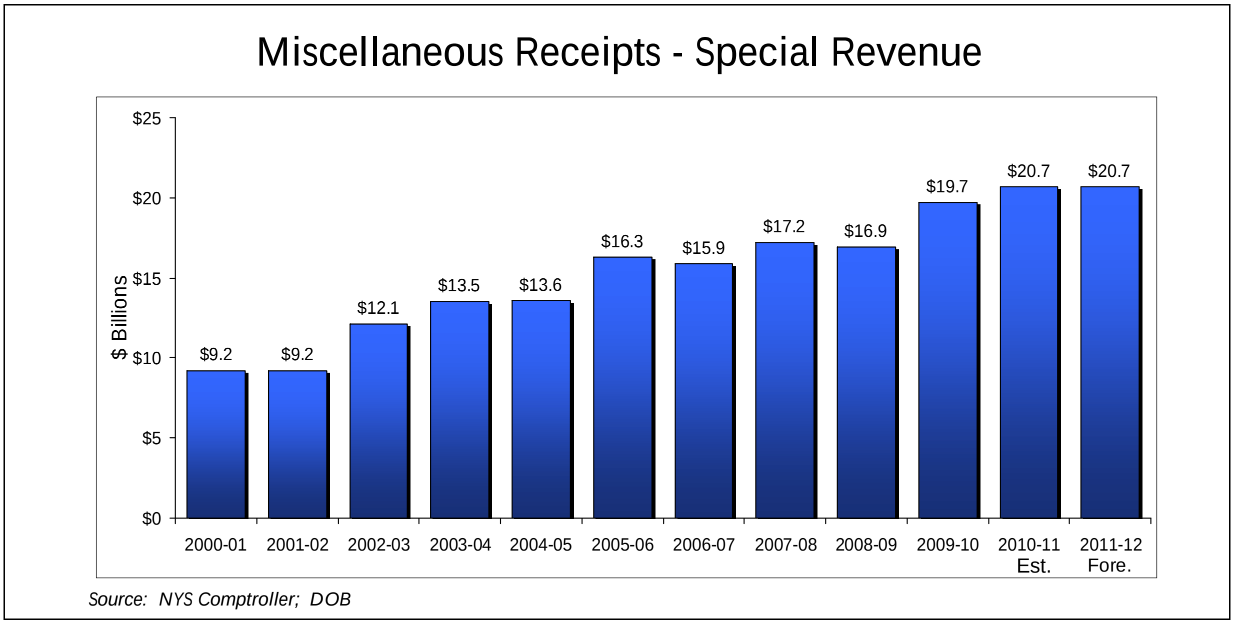


Figure 32

State Funds Miscellaneous Receipts consist of moneys received from HCRA financing sources, SUNY tuition and patient income, lottery receipts for education, assessments on regulated industries, motor vehicles fees and a variety of fees and licenses.

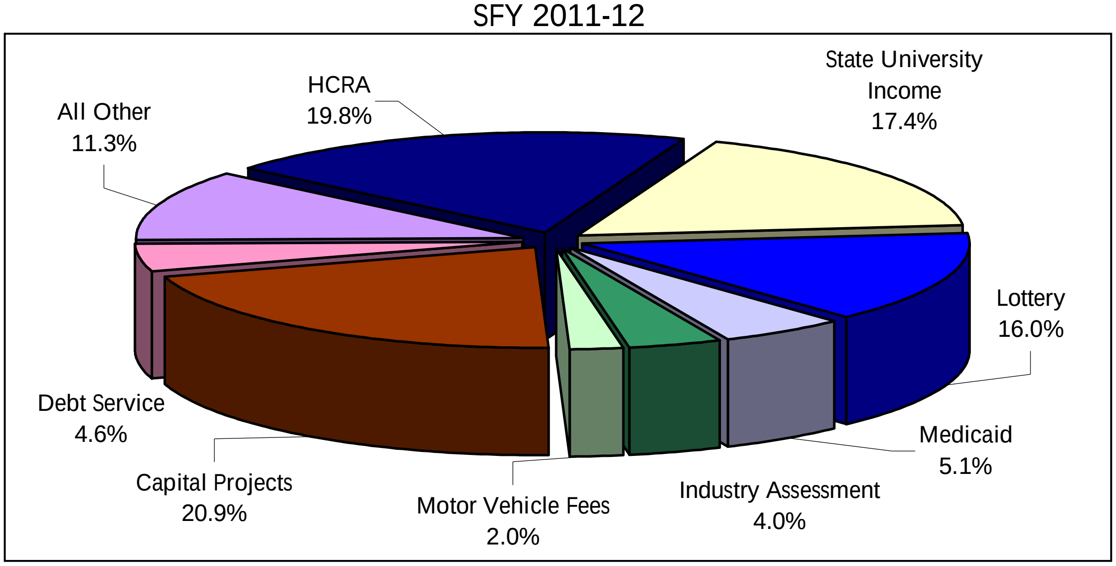
The Executive estimates miscellaneous receipts in State Funds of $20.7 billion in SFY 2011-12, an increase of $75 million or 0.4 percent from SFY 2010-11. The change in miscellaneous receipts is primarily related to increases in HCRA of $225 million, Medicaid of $315 million, State University Income of $241 million, Debt Services revenues of $42 million, and Motor Vehicles Fees of $3 million. Revenue decreases are projected: Industry Assessment of $138 million, Capital Projects of $115 million, Lottery of $120 million and All Other Revenue of $378 million. Lottery and Video Lottery Terminal receipts colleted $380 million in an Aqueduct VLT Franchise payment in SFY 2010-11.

New revenues and rate changes in law of receipts from Transfers of Public Goods Pool which began in SFY 2005-06, replacing the tobacco control and insurance initiatives Pool receipts; Hospital Patient fees; and Student Tuition and Fees have contributed to the rising collections in miscellaneous receipts over the past ten years.

Table 58

Miscellaneous Receipts - Special Revenue Funds ($ in Millions)					
	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
HCRA	$3,982	$3,878	$4,103	$225	5.8%
State University Income	$3,229	$3,368	$3,609	$241	7.2%
Lottery	$2,886	$3,195	$3,075	($120)	(3.8%)
Medicaid	$736	$745	$1,060	$315	42.3%
Industry Assessment	$946	$972	$834	($138)	(14.2%)
Motor Vehicle Fees	$321	$421	$424	$3	0.7%
Capital Projects	$3,881	$4,444	$4,329	($115)	(2.6%)
Debt Service	$974	$907	$949	$42	4.6%
All Other	$2,712	$2,723	$2,345	($378)	(13.9%)
Total	**$19,667**	**$20,653**	**$20,728**	**$75**	**0.4%**

Special Revenue Funds
Miscellaneous Receipts
SFY 2011-12



Source: Executive Budget.

Figure 33

HCRA

HCRA is estimated to receive $4.1 billion, an increase of $225 million or 5.8 percent over SFY 2010-11. Receipts comprising HCRA are surcharges, assessments on hospitals and certain insurance providers, conversion proceeds and other taxes. The following are receipts to HCRA in SFY 2011-12: $2.5 billion in Surcharges, an increase of $39 million; $1 billion in Covered Lives assessments, an increase of $26 million; $343 million in Hospital Assessments, an increase of $20 million; $150 million in Conversion Proceeds; and $55 million in Other receipts, a decrease of $10 million.

State University Income

Receipts in the State University Income fund are projected at $3.6 billion, an increase of $241 million over SFY 2010-11. Receipts into the State University Income fund are from the operation of SUNY from tuition, patient revenue and user fees. Tuition is estimated at $1.2 billion, no change from previous year. Patient revenues from SUNY's teaching hospitals at Brooklyn, Stony Brook and Syracuse and from the Long Island Veterans' Home contribute receipts estimated of $1.64 billion, an increase of $184 million for SFY 2011-12. User fees from a variety of sources at SUNY, interest earnings and fringe benefits are estimated to $769 million, an increase of $57 million in SFY 2011-12.

Lottery

Lottery receipts estimates of $3.08 billion, a decrease of $120 million in SFY 2011-12 comes from the sale of lottery tickets and proceed from Video Lottery Terminals. The Lottery revenues are used to support public education and Lottery administrative operating expenses.

Medicaid

Provider Assessments on nursing homes, hospital and home care providers contribute revenues to support Medicaid. The Provider Assessments are estimated to $1.06 billion, an increase of $315 million from SFY 2010-11. Receipts are supported from a partially reimbursable 5.5 percent assessment, 9 percent on nursing homes revenues and a 0.75 percent assessment on hospital and home care revenues.

Motor Vehicles Fees

Motor vehicles fees are fees, licenses, and registration revenues from motor vehicles, motorcycles, trailers, semi-trailers, buses, and other types of vehicles operating and registered with the Department of Motor Vehicles. Motor Vehicles fees are estimated to $424 million, a slight increase of $3 million over SFY 2010-11.

Capital Projects

Capital Projects spending is funded from two sources: authority bond proceeds which support spending financed through Public Authority Bonds, and miscellaneous receipts (Parks, Environmental, and other receipts) which finance State pay-as-you-go spending to support the State Capital Plan.

The Executive estimates $4.3 million in capital projects receipts, including receipts from public authority bond proceeds, a decrease of $115 million.

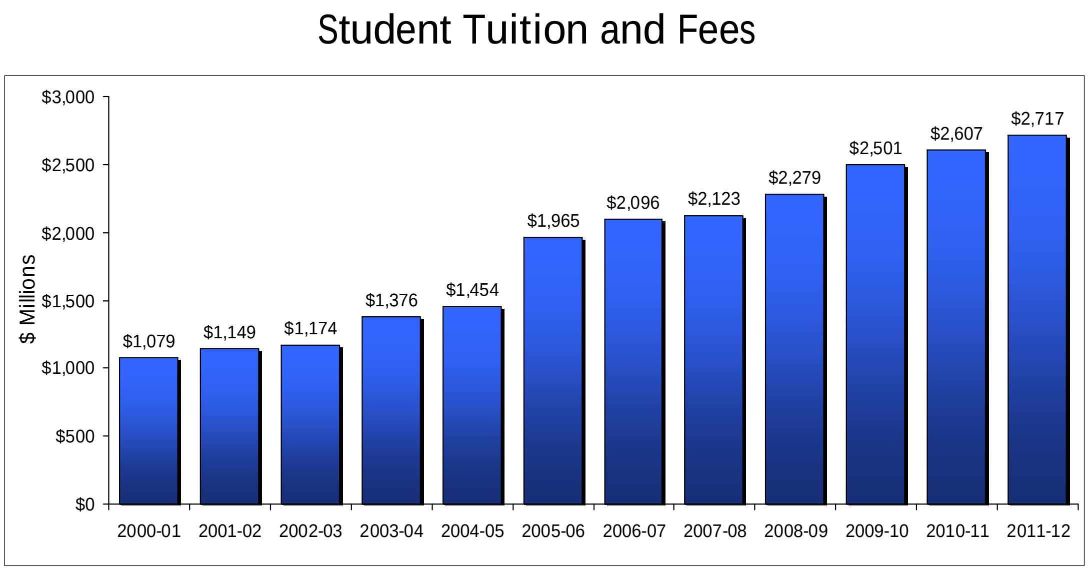
Debt Service

Miscellaneous receipts are one of the sources of receipts that support the Debt Service fund. Miscellaneous receipts in the Debt Service fund are comprised of Mental Hygiene service providers that receive payments from Medicare and insurance companies; dormitory room rental fees and associated fees from SUNY students; and from patient care revenues of hospitals and certain veteran's homes from payments of Medicaid, Medicare, insurance and individuals. Miscellaneous receipts in debt service $949 million, an increase of $42 million from SFY 2010-11.

Industry Assessment and All Other

Receipts comprising Industry Assessments and All Other are from reimbursements of regulated industries to fund the administrative costs of the State agencies. Receipts may consist of fees, licenses and assessments.

Student Tuition and Fees



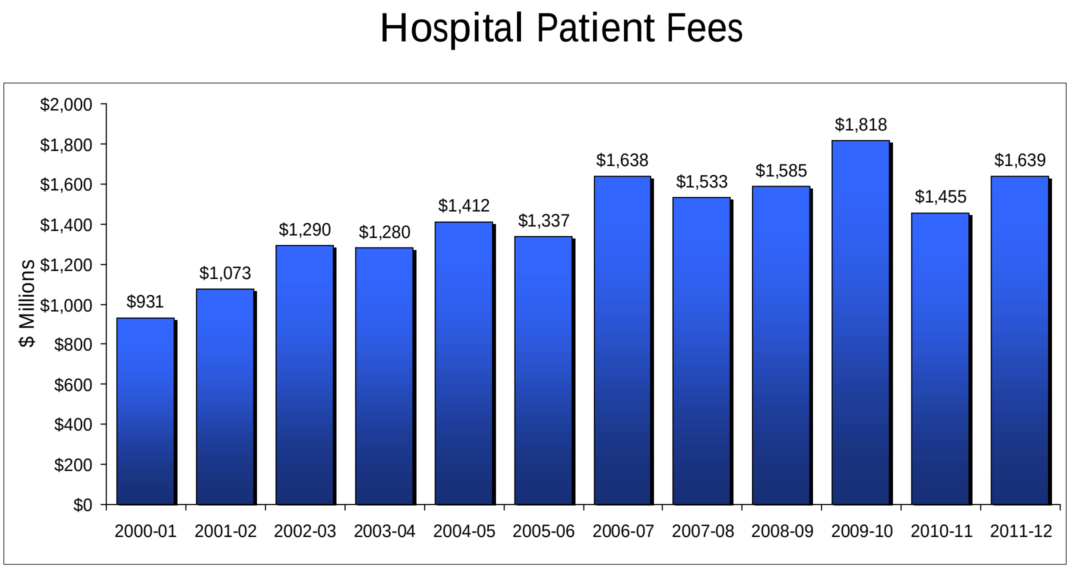
Source: NYS Comptroller

Figure 34

The special revenue receipts of Students Tuition and Fees are supported from the tuition and user fees operations of SUNY and CUNY. User fees, which include fees for food, parking, career placement and recreation, are generated from service users; includes students, faculty, staff, and the public. Other receipts primarily include interest earnings and a fringe benefit recovery from SUNY's other special revenue accounts.

Student tuitions and fees are estimated to have increased to $2.7 billion in SFY 2011-12 from $1.6 billion in SFY 2000-01.

Hospital Patient Fees



Source: NYS Comptroller

Figure 35

Hospital Patient Fees are generated from SUNY's three teaching hospitals at Brooklyn, Stony Brook and Syracuse, and as well as the Long Island Veterans' Home. The state receives patient revenue from third-party payers including Medicare, Medicaid, insurance companies, and individuals.

Certain legislation enacted in 1997 provided for the phase-out on private health facilities, which were further accelerated in 1998 and 1999. In 2000 legislation was passed to provide amnesty on interest and penalties for private health facilities.

The Hospital Patient fees are estimated to be $1.6 billion, an increase of $708 million or 76 percent in SFY 2011-12 from SFY 2000-01.

Abandoned Property

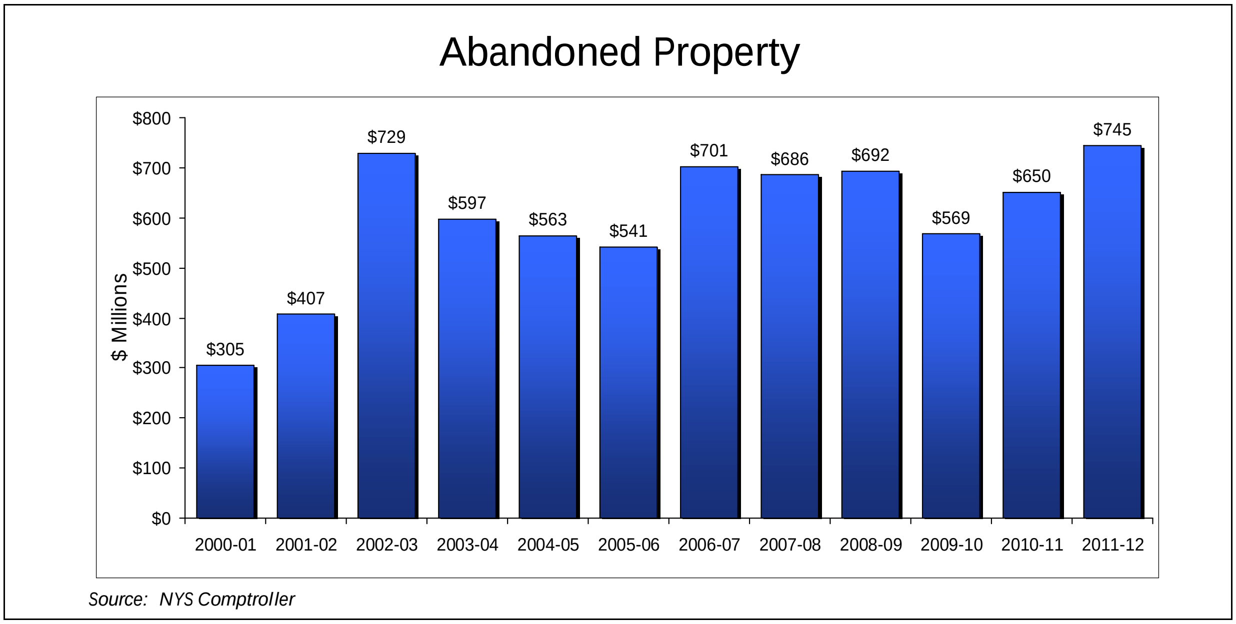


Figure 36

Abandoned property receipts are inactive accounts transferred to the State from banks, utilities, investment companies, and insurance companies.

Legislation was enacted in 2003 that would reduce the time period for collecting abandoned property related to the demutualization of insurance companies, from five years to two years. In 2006, Legislation was enacted to reduce the dormancy period on uncashed checks from five years to three years and added foreign securities as abandoned property. In 2010, Legislation was enacted to reduce dormancy periods on undelivered goods from five to three years and on money orders from seven to five years.

The Executive estimates Abandoned Property receipts to be $745 million in SFY 2011-12.

TAX STUDY

Recession, Recovery and the Path to a Sustainable Fiscal Structure

U.S. MACROECONOMIC FUNDAMENTALS AND BUSINESS CYCLES

The U.S. economy, based on the estimation of the National Bureau of Economic Research (NBER), reached a trough in June 2009 and the recession officially ended after 18 months – the longest since the Great Depression of 1929 – that saw the loss of 7.3 million jobs during the period January 2008 to June 2009.[38] An additional 1.1 million jobs were lost during the second half of 2009 while job gains averaged 76,000 in 2010, with a net of 36,000 jobs added in January of 2011.[39]

The fiscal strength of the State critically depends on the ability to reliably forecast tax receipts, thus it depends on the ability to forecast the national and State economies. New York is even more vulnerable than other states as it depends on two key and highly variable income streams from global and financial markets in Wall Street, namely bonuses and capital gains.

Correspondingly, and in conjunction with the collapse of the real estate market and losses in the equity markets, personal income growth has slowed significantly. As the chart below shows, U.S. and NYS personal income declined in 2009, while U.S. personal income is projected to experience growth in 2010 and 2011 well below the historical average for the period 1991 to 2008. The Ways and Means Committee staff anticipates U.S. personal income growth of 4.7 percent 2011 followed by growth of 3.2 percent in 2012.

The precipitous decline in personal income tax collections revealed, once again, the State's exposure and vulnerability to the health of the financial services industry, in addition to the volatility of business and other taxes.

[38] U.S. Department of Labor and National Bureau of Economic Research.
[39] Ibid. and NYS Assembly Ways and Means Committee staff estimates.

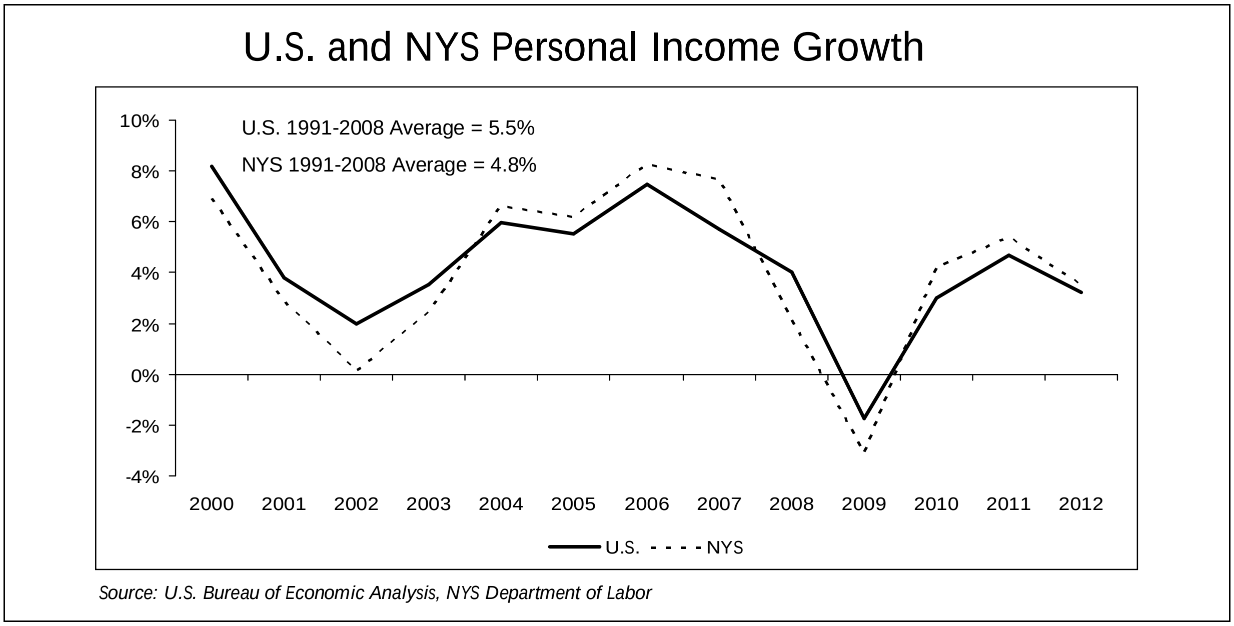


Figure 37

State tax receipts declined 0.8 percent in FY 2008-09 and by 3.2 percent in FY 2009-10, however, if it was not for the temporary revenue measures enacted by the Legislature receipts would have declined by 3.2 percent and 12.3 percent, respectively.

The outlook for the U.S. economy has improved significantly over the last few months as evidenced by the upward revisions in expected GDP growth for 2011 by the Blue Chip (BC) consensus. As of February 2011 the BC consensus for 2011 growth stood at 3.2 percent compared to 2.5 percent as of October 2010. However, while the economy has regained momentum, significant downside risks remain as explained in other parts of this report.

In this section we provide historical comparisons of key components of GDP during past recessions and subsequent expansions to premise our understanding of the current trends and derive important conclusions for the underlying trend in tax receipts. An understanding of these trends, and the implied risks associated with revenue forecasting, prepares the ground for future analysis of the overall State tax structure and its ability to weather adverse shocks.

We focus on the cumulative percent change from the onset of a recession – as determined by the National Bureau of Economic Research – and through several quarters that span the end of the recession and the beginning of a recovery. We examine the four recessions beginning with that of 1980-81.

GDP Growth Lags Past Recoveries

The overall health of the economy is the key underlying driver of tax receipts. For the State to be able to support and sustain its funding needs a speedy economic recovery is a prerequisite for a return to sustainable growth in tax receipts. The chart below shows how prior to the last recession real GDP growth recovered a year after the start of the recession.

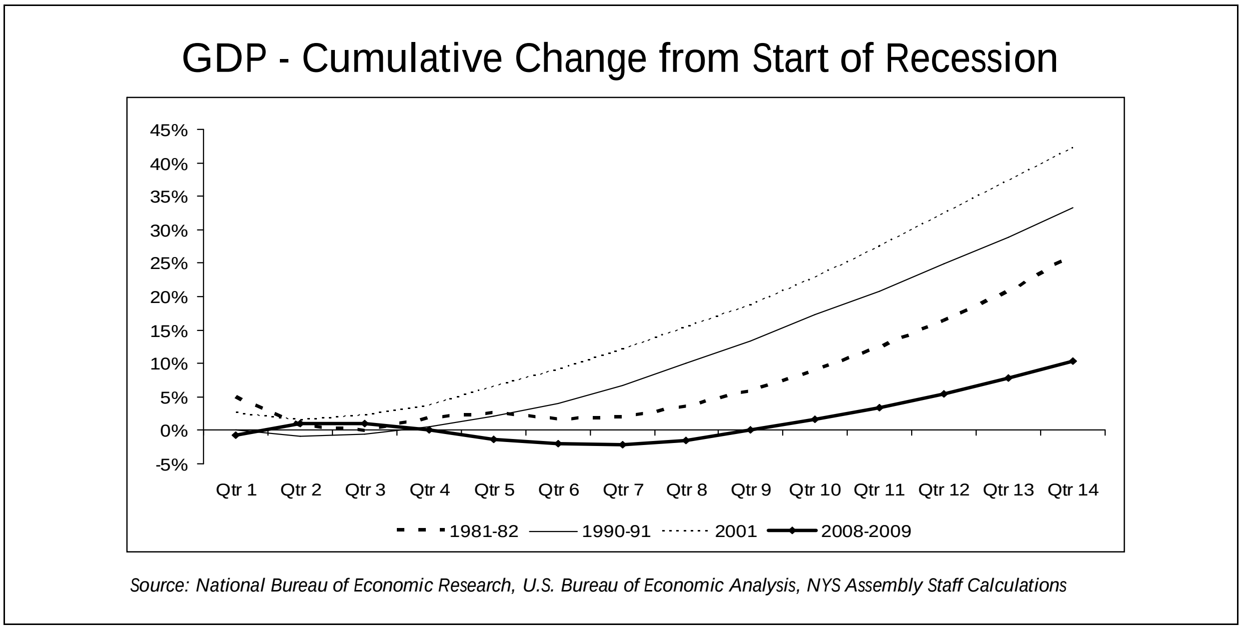


Figure 38

Three years after the onset of the current recession, real GDP cumulative growth will still be only one-third of the way to the cumulative growth experienced over the same period following the 1981-82 recession. The current recession implies structural imbalances that have probably delayed the so-called V-shaped recovery usually experienced following past recessions.

The protracted delay and severity of the economic contraction experienced since 2008 necessitated emergency revenue measures such as the personal income tax surcharge as well as the support from Federal stimulus funds. As the economy slowly recovers and the emergency measures expire, the State will again be exposed to the volatility of Wall Street financial profits.

Consumption Growth Sluggish as Households Deleverage

The chart below confirms the slow recovery experienced in retail sales and overall consumption growth and, thus, sales tax receipts following the recession. Sales tax receipts declined by 2.8 percent in FY 2008-09 and a further 4.2 percent in FY 2009-10. As part of the temporary measures to avert fiscal disaster the State reimposed the sales tax on clothing purchases under $110, thus, allowing for an estimated 9.2 percent growth in sales tax receipts in FY 2010-11. However, without this temporary measure, underlying growth would have been 5.5 percent.

Therefore, the pace of recovery in overall consumption growth and more importantly, as will be explained below, the growth in durable vs. non-durables consumption is critical for the overall recovery in consumption-related taxes.

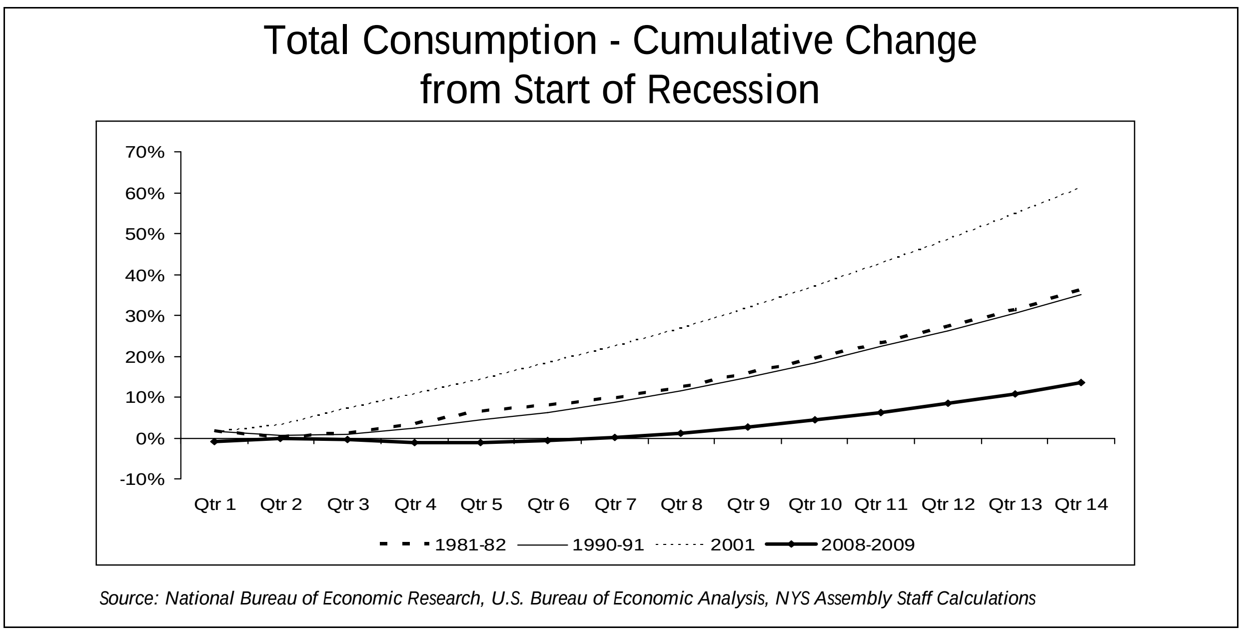


Figure 39

Confirming long-established stylized economic facts, total consumption expenditures recovered faster than overall GDP growth, albeit at a slower rate than previous expansions. As consumers reduce the levels of debt accumulated over the last 10 years consumption growth is bound to grow at rates lower than the historical averages. According to Flow-of-Funds data from the Federal Reserve, total household debt increased by an average of 10.5 percent during the period 2000 to 2006, compared to growth of 6.7 percent in the

1990s. In sharp contrast, total household debt accumulation was flat in 2008 and declined by 1.7 percent in 2009, the first decline during the period 1976 to the present. [40]

During the period 1992 to 2007 consumption growth averaged 3.5 percent while it is currently forecast to register growth of 3.1 percent in 2011, following growth of 1.8 percent in 2010.

Divergent Paths of Durables vs. NonDurables Consumption

The consumption patterns of durables vs. non-durable goods have important implications for sales tax receipts and, therefore, it is interesting to examine closer the trends in those two sub-categories of consumption.

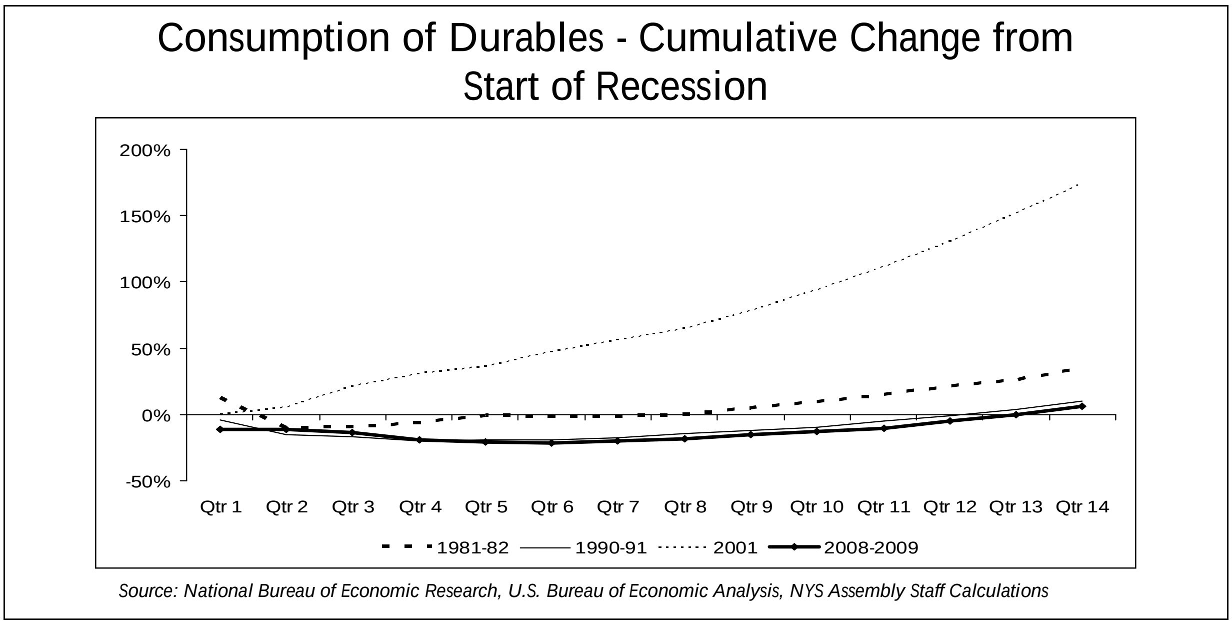


Figure 40

[40] Flow of Funds Accounts of the United States. Federal Reserve Statistical Release, Z.1, December 2010.

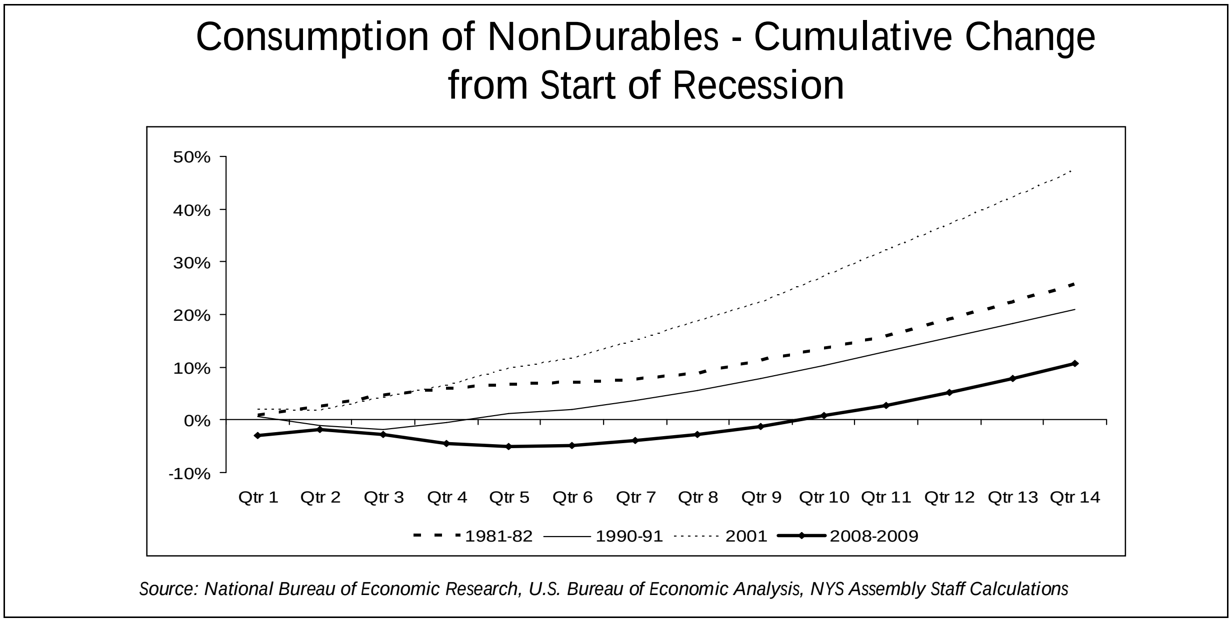


Figure 41

The chart on durables' consumption shows that following the onset of a recession cumulative growth is slow to recover and the pattern has been consistent for three of the four recessions examined. However, following the brief 2001 recession, the growth in consumer durables growth was unprecedented, underlying the importance of the low interest rates – policy pursued by the Federal Reserve in the early part of the last decade. Durable goods are more interest rate sensitive and, thus, more responsive to a more accommodative credit environment.

In contrast, the consumption of non-durables has recovered faster than consumer durables during the current recession and recovery, consistent to other business cycles.

Domestic Investment, a Critical Link to the Current Recovery

The productive capacity and future growth of the Nation and the State depend on the pace of expansion of total private domestic investment. Ultimately, all tax revenue sources – income taxes at the personal and corporate level, profits, and wages – depend on the ability of the private sector to generate wealth and, thus, jobs. The chart below provides a particularly negative picture of the pace of the current recovery in private investment compared to past recessions.

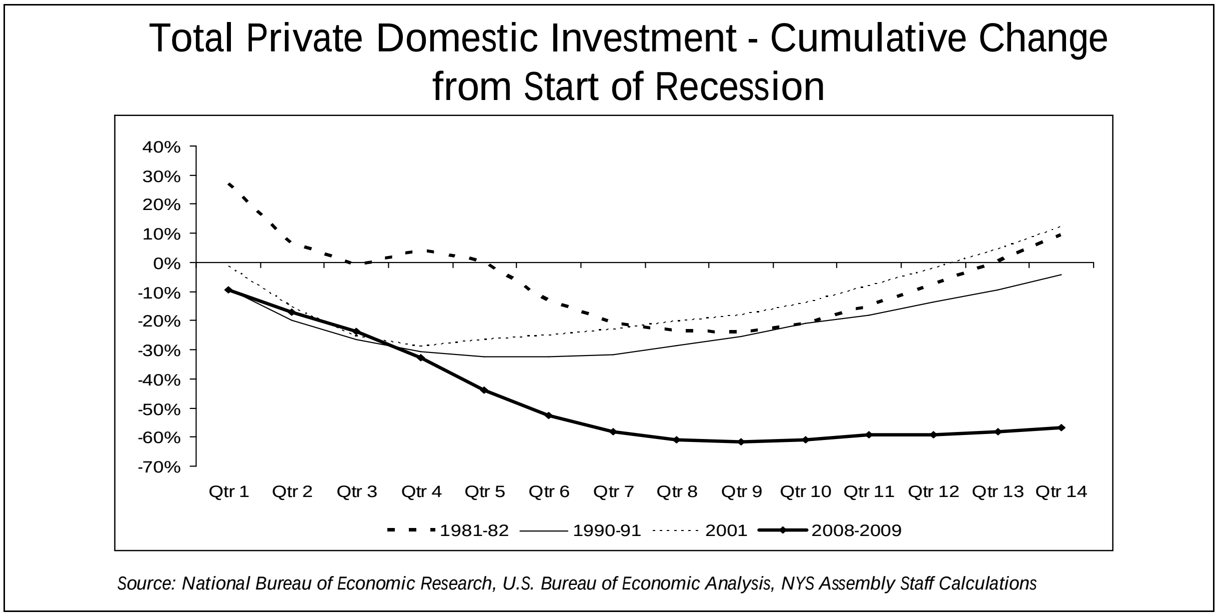


Figure 42

The chart shows the unprecedented decline in total private investment, underscoring the unique features of the current recession. Despite the official end of the recession in June 2009, cumulative investment growth is still weak compared to the trajectory of previous recessions/expansions.

U.S. and NYS Employment Trends

As expected, the employment trends during the current cycle have been detrimental to the labor markets. However, the impact has been relatively less severe for New York compared to previous business cycles. (See charts below.)

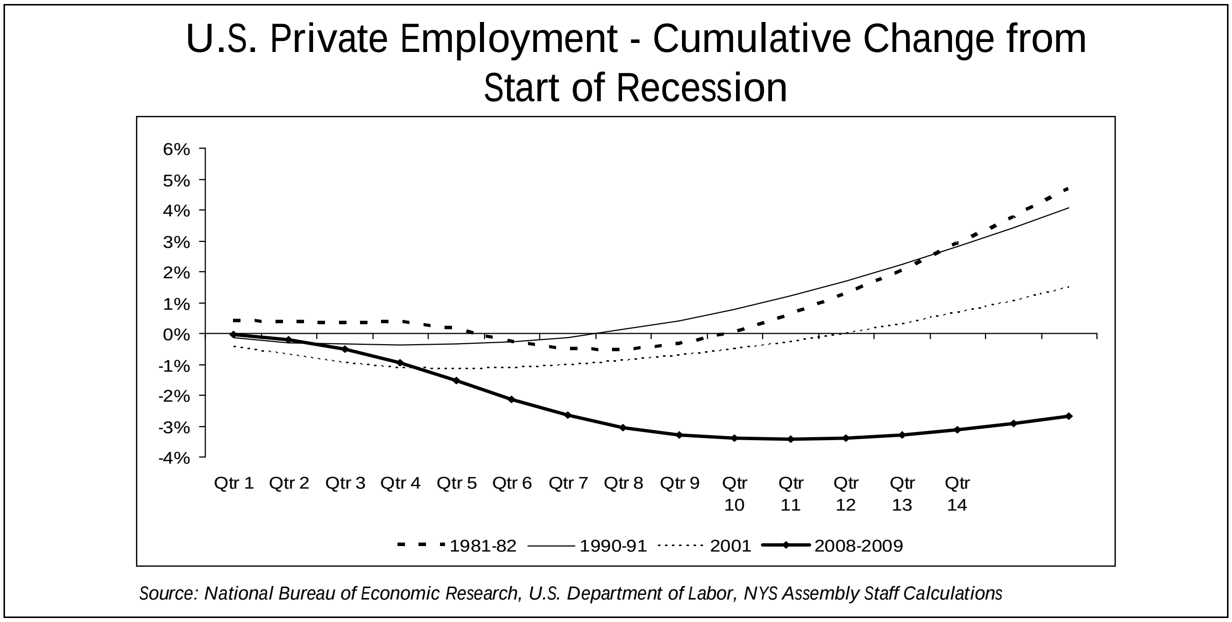


Figure 43

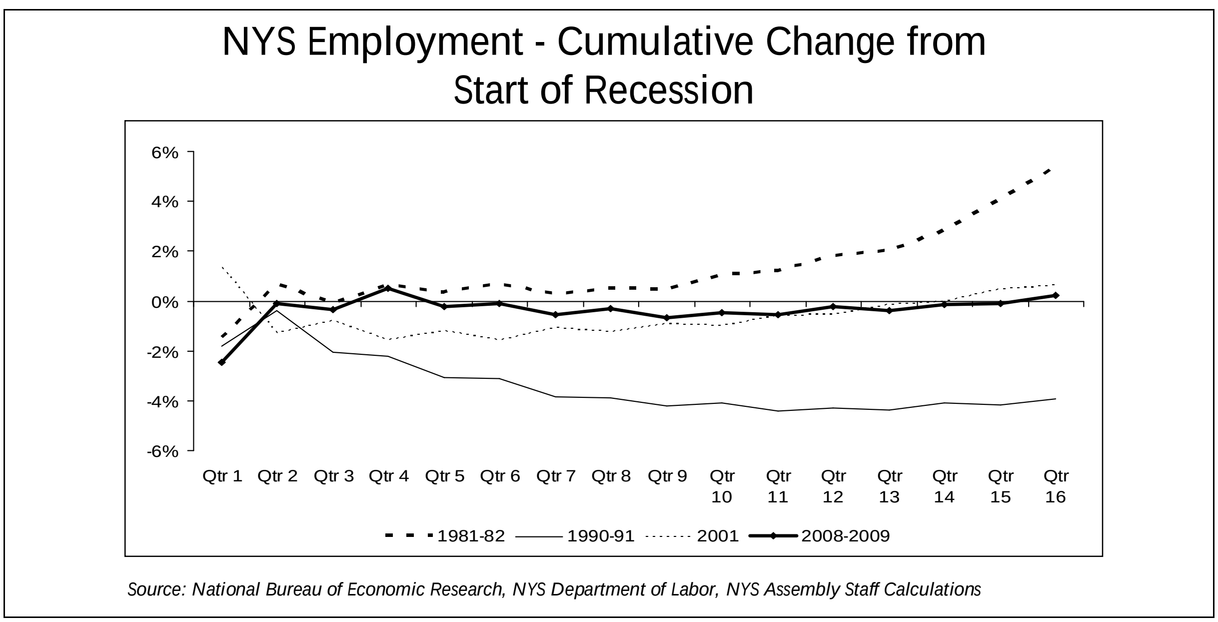


Figure 44

The path of employment declines has been unprecedented during the current cycle, far outpacing the declines experienced in the 2001 recession. While the rate of decline has slowed the drag on employment from the "reallocation" of the production structures will linger.

In New York, and in contrast to the recovery following the 1981-82 recession, since the early 1990s the labor market has been slow to recover following the onset of a recession. However, cumulative losses have been less severe during the current recession compared to 1990-01 and similar to the 2001 recession and recovery.

Underlying Employment Trends and Significance for Recovery

A critical issue in the current recession/recovery is the changing composition of the unemployed and the “recalculation” or “reallocation” of resources underway in the economy. These changes in the mix of industries and expanding vs. contracting sectors have depressed the employment/labor force over age 16 ratio compared to previous cycles.

The chart below shows how in past recessions (1980, 1982, and even early 1991) the ratio increased relatively quickly. However, during the last and current recession the ratio has stayed low for a longer period of time following the official end of the recession and is currently at historic lows.

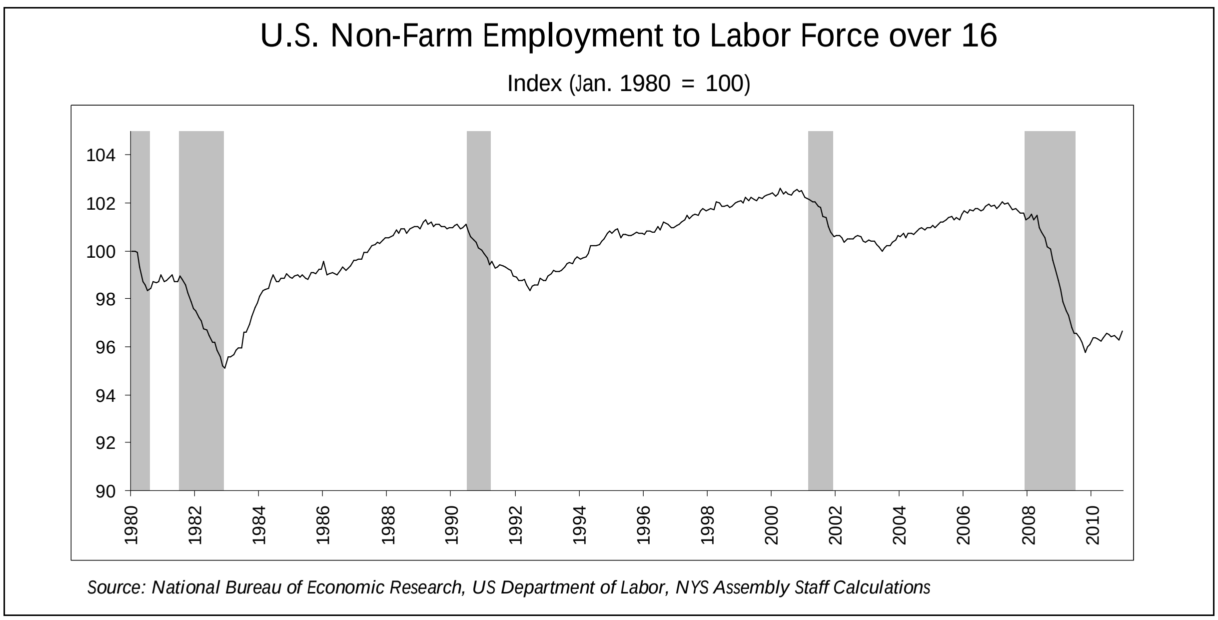


Figure 45

As the economy recovers and new patterns of specialization, industries, and trade emerge the pace of recovery of the above ratio will be critical in determining the speed of employment recovery in the U.S. and in New York. In turn, if the recovery does not accelerate in 2011 and 2012, the implications for tax receipts in SFY 2012-13 will be compounded considering that the personal income tax surcharge expires at the end of 2011.

The slow recovery in employment growth, especially as it relates to Wall Street securities industry firms, will slow the recovery in personal income tax receipts. As explained in the Committee' *Economic Report*, the securities industry was particularly hard hit. As of December 2010, securities industry employment in the State accounted for more than 22 percent of the nation's securities industry employment.[41] The industry currently employs about 180,000 workers in the State, most of which are located in New York City. During 2009 the sector shed 9.7 percent of its workforce and is estimated to have declined by an additional 3.7 percent in 2010. The sector's employment growth in 2011 is forecast to be almost flat at 0.8 percent.

The above trends reaffirm the State's unique position in its exposure to the volatile financial sector.

TAX RECEIPTS' VOLATILITY AND FORECASTING ACCURACY

In this section we examine the implications of uncertainty constraints for the State budget process and in subsequent sections consider appropriate tax policy responses to mitigate the more severe adverse effects of under or over-estimating tax receipts. Our analysis provides some key conclusions for policy makers in the form of some general prescriptive "rules" that help mitigate exposure to negative shocks and provide for a less volatile tax base.

The near collapse of the U.S. financial system in 2008 to early 2009 and the Great Recession caught almost everyone in the economics profession by surprise. Even as late as October 2008, the Blue Chip Consensus of economic forecasters was calling for real GDP to grow by 0.5 percent in 2009 (admittedly down from the 2.5 percent range expected during the summer of 2008), with only eight forecasters expecting mildly negative growth. (In its Midyear 2008 revenue update the Ways and Means Committee Staff predicted that the economy had entered into a recession.)

As discussed in this section, forecasting is an inherently uncertain endeavor and the exposure to adverse shocks can severely affect the ability of the State to meet its

[41] U.S. Bureau of Labor Statistics, *Current Employment Statistics*, CES.

obligations. The following table shows the variability of All Fund tax receipts for fiscal years ending between 1987 and 2011.[42]

Table 59

Revenue Volatility
Tax Receipts Growth

Fiscal Years	1987-94	1995-03	2004-11
Average	5.0%	1.2%	7.4%
St. Deviation	4.9%	5.2%	5.6%
High	14.5%	6.5%	15.4%
Low	-1.0%	-6.7%	0.0%

Source: NYS Assembly Ways and Means Committee staff estimates.

Tax receipts increased by an average of 7.4 percent during the period SFY 2004 to SFY 2011, more than six times the average growth for the period SFY 1995 to SFY 2003. Also, in comparison to the period prior to SFY 1995, revenues have become more volatile, as evidenced by the increase in standard deviation. It is instructive to also consider the levels of gains or losses in revenue. Following the 2001 recession, the State experienced a $2.6 billion loss in tax receipts during SFY 2002-03, while over the next five fiscal years it gained on average $3.0 billion per fiscal year.

Legislative initiatives to "smooth" unexpected shortfalls are also a key ingredient in the historical patterns outlined. Frequently, receipts growth has been supported via the use of revenues that are not expected to recur. At times, the use of non-recurring revenues came from previous year's operating surpluses. In other times they occurred through the sale of State assets, borrowed funds, or receipts of federal funds. These one-time revenue sources have helped to smooth the expected cycle in receipts and stabilize the revenue base. For example, in SFY 2002-03, to prevent tax increases, $4 billion in Tobacco Securitization bonds were issued and over $5 billion in reserves were drawn down. Historically, large upward revenue swings create State budget reserves which can be used to mitigate large downward swings. However, it is difficult to accurately assess how much reserve funds are necessary to insulate the revenue base from substantial declines. In New York, record levels of reserves were depleted in two years after the events of 9/11.

[42] Tax receipts are adjusted for tax law changes.

A key theme of our analysis is the apparent inability to provide reliable and, more importantly, timely estimates of the future performance of key macroeconomic variables, especially in terms of forecasting turning points, i.e. accurately predicting the timing of a recovery and/or the timing of downturn, let alone its severity. Even worse, a decomposition of a macro variable to its components (for example, the decomposition of investment to residential, non-residential and inventory adjustments) will reveal even greater forecasting errors.

New York's History of Tax Receipts

The following provides a brief overview of the historical trends in NYS tax receipts.

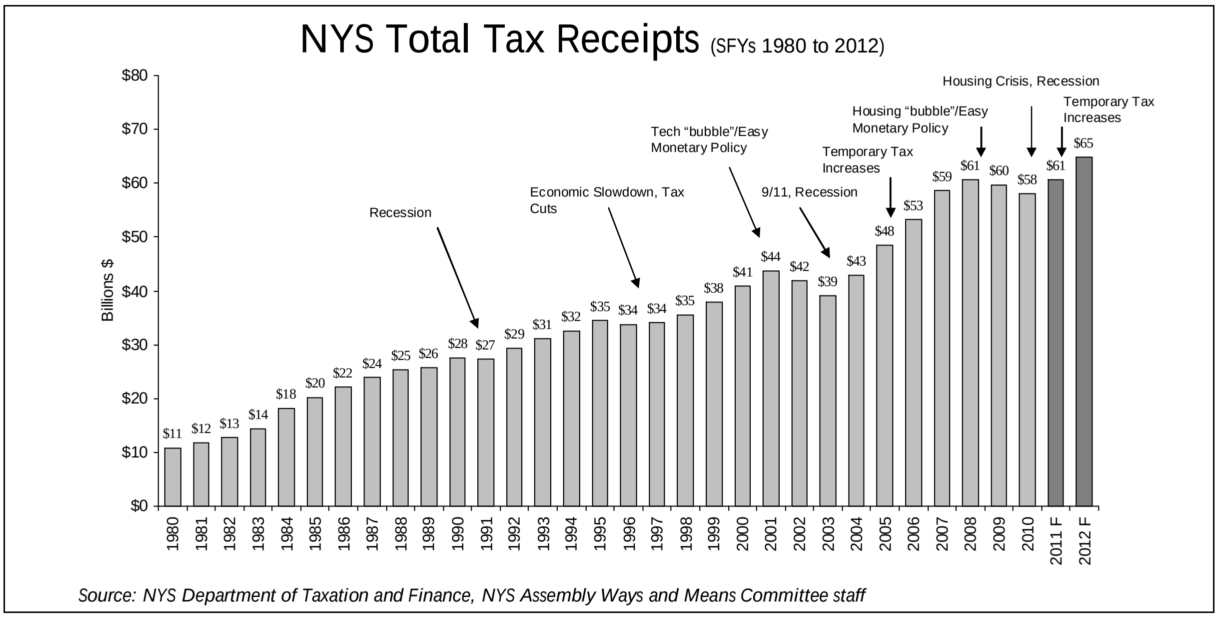


Figure 46

- The 1990-91 recession lasted three quarters and had a significant effect on State tax collections that experienced a decline of 0.9 percent during SFY 1991, the first decline since consistent data are available from 1967. The State's recession lasted a total of 41 months, longer than the U.S. recession, as the financial services industry suffered significant job losses;

- In the mid-1990s the State experienced again a decline in total receipts, namely a 2.6 percent drop as of SFY 1996, as the Executive and the Legislature enacted substantial decreases in personal income taxes;

- During the late 1990s and early 2000, the State experienced substantial gains in total receipts benefiting from the financial and technology "bubble" that came to an abrupt burst concurrent with the events of 9/11 that had a disproportionate effect on the State and New York City in particular. During the same period, as will be explained in more detail later, substantial changes were legislated in the overall regulatory and financial environment at the Federal level;

- During SFYs 2002 and 2003 the State experienced consecutive declines in total receipts that led to the enactment of temporary increases in income tax rates and the sales tax. These increases combined with robust stock market gains and the overall housing/financial "bubble" – that even though did not affect New York's real estate markets to the extent that it did other regions of the country, it did affect the overall compensation for Wall Street – led to double digit revenue growth through State fiscal year 2007;

- As the Federal Reserve reversed course to more restrictive monetary policy by mid 2004, following two years of significantly accommodative monetary policy, the housing "bubble" eventually burst, revealing a highly complex system of financial derivatives that eventually dragged the U.S. economy into the most severe recession since the Great Depression. Considering the State's dependence on Wall Street, the financial collapse led to dramatic declines in tax receipts.

While the State and national economic cycles are highly correlated, New York has exhibited more protracted recessions since the late 1980s. The 1990-91 national recession started earlier in New York and lasted more than five times longer not ending until November 1992 compared to the U.S. recession that ended in March 1991. Similarly, the short-lived 2001 U.S. recession lasted four times longer in New York with the State being in recession through August 2003. Unlike previous business cycles, New York officially entered into a recession in April of 2008, four months after the onset of the national recession. According to the NYS Department of Labor the State recession ended six months following the official end of the national recession. The changing mix of industries and the excessive reliance on Wall Street partly explains New York's recession profile. (See the 2010 NYS Assembly *Revenue Report* for more details.)

Table 60

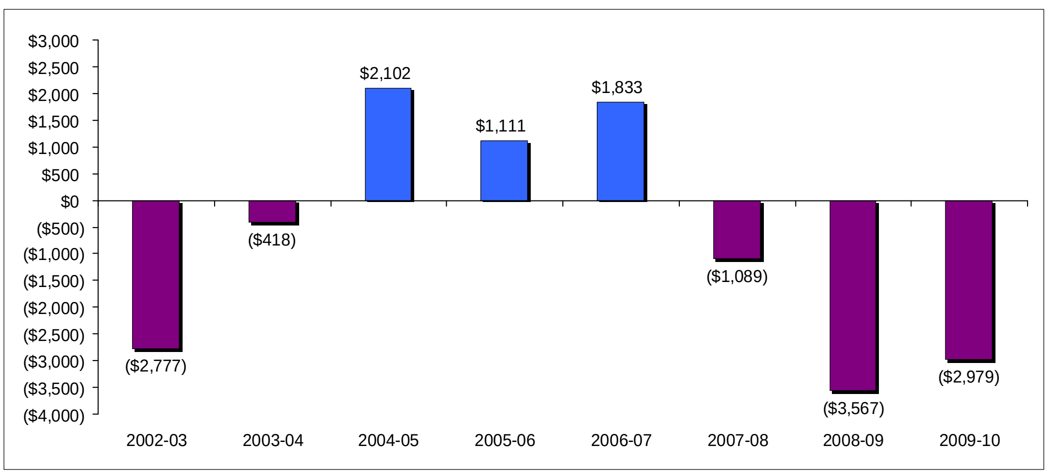
U.S. Recessions			NYS Recessions		
Peak	Trough	Duration (months)	Peak	Trough	Duration (months)
Nov-73	Mar-75	16	Mar-73	Dec-75	33
Jan-80	Jul-80	6	Feb-80	Jul-80	5
Jul-81	Nov-82	16	Aug-81	Dec-82	16
Jul-90	Mar-91	8	Mar-89	Nov-92	44
Mar 01	Nov 01	8	Dec-00	Aug 03	32
Dec 07	Jun-2009	18	Apr 08	Dec-09	20

Source: National Bureau of Economic Research, NYS Department of Labor.

Tax Receipts Forecasting Accuracy

Having discussed the difficulties in accurately predicting key economic turning points it is instructive to review the forecasting accuracy in terms of tax receipts. The following chart shows the pattern of under and over-estimation of receipts during the business cycle.

Forecasting Accuracy–Actual Over Enacted All Funds Tax Receipts
($ in Millions)



Source: NYS Division of the Budget, Various Enacted Reports, NYS Assembly Ways and Means Committee Staff estimates.

Figure 47

For the period FY 2007-08 to FY 2009-10 the discrepancy of actual receipts over the Enacted Budget estimates totaled $7.6 billion, with the largest deviation during FY 2008-09 when the critical turning point in the economy occurred. The $3.6 billion forecasting error in FY 2008-09 is equal to 5.9 percent of the total tax receipts for that fiscal year. In the face of such large forecasting errors it is imperative to analyze mechanisms that would help alleviate the most adverse consequences of forecasting uncertainty.

UNCERTAINTY AND "BLACK SWANS"

Like any other complex system the U.S. economy "suffers" from a degree of unpredictability due to the fact that the economy, as we measure it, is nothing but the attempt to quantify via aggregation the actual world that we live in. The trend towards globalization has intensified these problems, as it has created an interlocking of volatile global financial market centers - see for example the buying of U.S. mortgage-backed securities by investment/retirement funds in Europe. While this interlocking of volatility can provide the appearance of stability it has the potential to create devastating adverse shocks as witnessed in 2008 and 2009. (For example, one may consider the Great Moderation of 1985-2007 as a period that only masked a progressive erosion of financial stability.)

Analysts have increasingly focused – as is evidenced by numerous publications on the subject of uncertainty – on certain attributes of individual and institutional behavior that handicap our ability to forecast. For example, economic participants:

- ✓ dynamically respond to their environment and are often subject to "irrational" responses (in a sense that does not fit in the traditional macro-econometric models of rational expectations);
- ✓ ignore the uncertainty of our environment and fall for the illusion of stability, and worse create narratives and patterns for economic episodes, and thus causal relationships that are in reality not true;
- ✓ overestimate the extent of our knowledge and underestimate uncertainty by compressing the range of possible events;
- ✓ confuse the difference between "risk" (where odds can be calculated as in the roll of a dice or a roulette game) and "uncertainty" (where such odds are impossible to calculate considering our epistemic or knowledge ignorance, i.e. we do not know what we do not know).

The last point is critical as it directly lends to the key insight that New York State's exposure to uncertainty is significant and large "negative accidents" or Black Swans can have a severe impact on the State's finances while the State is not prepared for such an outcome.[43]

---

[43] The term "Black Swan" and some of the descriptions that follow are adopted from the work of N.N. Taleb in his book "The Black Swan", and "The (mis)Behavior of Markets", Benoit Mandelbrot & Richard L. Hudson.

A Black Swan is an event where the emphasis is not so much on it being exceptional (i.e., it has a low probability) as its oversize impact. A Black Swan event is rare, extremely impactful, and is often retrospectively predictable (and that is a key analytical danger, as sometimes we attempt to explain its appearance and we develop a false narrative when a reconsideration of our analytical method is necessary as the event has falsified our theoretical models.)

Economists are good at forecasting linear trends or “ordinary” sets of circumstances. However, forecasting models break down when the extraordinary, but impactful, event occurs. More importantly, forecasting models’ ability to forecast for longer horizons rapidly deteriorates as volatility and forecasting errors increase rendering fiscal budgeting precarious for long-term horizons.

DEVELOPING MECHANISMS TO MITIGATE EXPOSURE TO BLACK SWANS

While the need for actual point estimates for tax receipts will continue to be necessary to design appropriate budget estimates, the analysis that follows discusses budget mechanisms that minimize vulnerability to negative Black Swans while at the same time exposing the State to as many positive Black Swans as possible.

The State’s fiscal health does not so much depend on how often we are generally right in predicting the course of future economic events, but how large the cumulative errors can be when we are wrong.

The last two fiscal years showed that the financial costs of being wrong on the downside can have catastrophic consequences on the State’s fiscal health. Our analysis shows:

- the practical limits of forecasting and other technical analysis and the excessive reliance on point estimates in the presence of uncertainty and what economists call “nonlinearities” (i.e. dynamic systems with continuous feedback among economic agents that are impossible to accurately model and predict);[44,45]

---

[44] “The Logic of Scientific Discovery” Popper, Karl R., “The Use of Knowledge in Society” Hayek, F.A., American Economic Review, 35(4), 1945.

[45] An important technical point: statisticians have traditionally incorporated and examined uncertainty via measuring “risk” in the form of the standard deviation or variance (the square of the standard deviation). While this approach is appropriate in circumstances where the traditional normal distribution (Gaussian) and

- the danger of asymmetric outcomes: in essence, shift the focus not so much on the probabilities of shocks (whether negative or positive) but on the consequences on tax receipts of those shocks or large events. For example, a number of financial distortions can affect bonuses received (thus, tax receipts) in Wall Street. While one could spend a lot of productive time in trying to estimate probabilities of various scenarios and with certainty miss a lot of probable events, it is more efficient and helpful for the long-term fiscal health of the State to consider the possible range of losses (or gains) instead;

- knowledge of vulnerability to prediction errors calls for a dual strategy: a) limit the risks of large negative shocks, and b) maximize the exposure to as many positive shocks as possible;

- invest on being prepared: a direct result of the opacity and uncertainty embedded in the course of the future is the need for preparedness. Some see this as "buying" insurance or a defensive redundancy against large negative shocks. This type of policy does not ignore the role of traditional forecasting but also builds mechanisms – e.g. reserve funds – for protecting the State against negative Black Swans;

- it is not sufficient to "stress test" future performance by only looking at the past. For example, we cannot take the worst past deviation of tax receipts from its long-term average as an "anchor" to examine future potential, if the method used to estimate that potential would have failed to predict the worst deviation itself the day before.

CURRENT FISCAL OUTLOOK AND "BLACK SWANS"

How does a better understanding of the impact of "Black Swans" contribute towards the creation of a less vulnerable tax base?

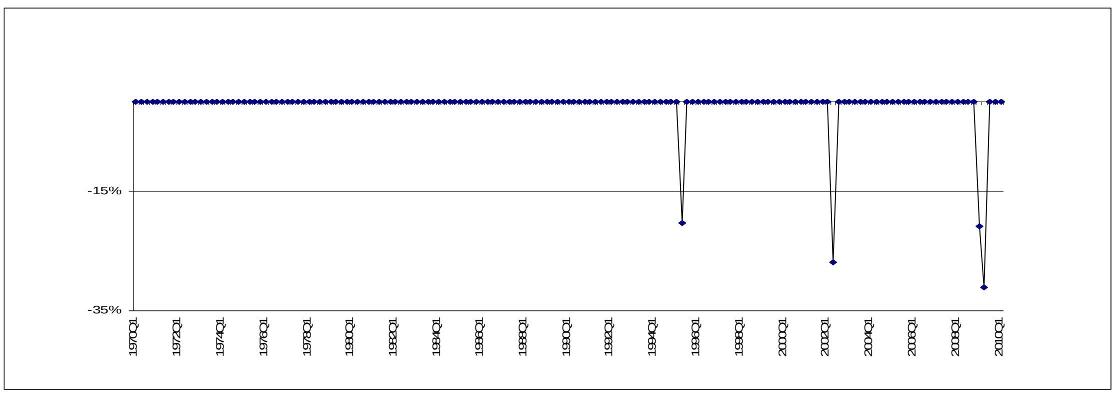
---

the law of large numbers dominate (e.g. distributions of height, weight, mortality tables, IQ, accidents, etc.) and therefore, forces tend to return us rapidly to equilibrium. In the world of finance and economics, the usefulness of this measurement of risk is minimal or even harmful. The implication of this insight is that we cannot rely for forecasting simply on models that are fundamentally based on the historical averages and distributions that ignore the very real, but unknowable, possibility of a catastrophic event. In social and economic domains of severe complexity, interdependence and feedback loops, create non-normal distributions, distributions with "fat-tails", where the law of large numbers and traditional forecasting tools do not apply.

In this sub-section we provide some additional observations as to the importance of rare but impactful events in State tax receipts. Once we have documented the importance of those events we then combine the effect of those events with the insights from the analysis of key tax policy goals.

The following chart outlines the quarterly growth of Personal Income Tax (PIT) receipts through the first quarter of 2010.

Personal Income Tax – Observations Where Quarterly Percent Change is Over (-20) Percent



Source: NYS Department of Taxation and Finance, NYS Assembly Ways and Means Committee staff

Figure 48

We are interested in those observations where the growth rate over the same quarter a year ago exceeded 20 percent. In only four occasions did the quarterly growth of PIT receipts declined by more than 20 percent since the first quarter of 1974. The last two declines of over 20 percent, during the first and second quarters of 2009, alone accounted for 37 percent of the cumulative quarterly PIT gains for the period 2003Q3 through 2008Q3. (This interval defines the unprecedented increase in PIT receipts as the State benefited from the spectacular growth in the financial markets.)

In standard statistical theory, economic phenomena follow the normal distribution (or the bell-curve shaped distribution where the probability of extreme events - those outside of the 95 percent, or two standard deviations, interval – declines rapidly). One can reasonably then ask whether PIT receipts follow such a pattern over time. Our analysis found that in 18.6 percent of the quarterly observations (or 27 observations) examined, the quarterly growth exceeded two standard deviations from the mean growth rate. Clearly the precepts of a normally distributed series (tax receipts) are not present. Therefore, extreme collapses in PIT collections are not rare events and when they happen they can have catastrophic consequences.

TOWARDS A "ROBUST" AND SUSTAINABLE FISCAL OUTLOOK

Tax Receipts Before and After a Recession

While the national recession officially ended in June 2009, employment losses continued to mount through the end of 2009. As of early 2011, state and local governments' finances continue to suffer with large deficits projected across the nation.

The chart below provides a picture of the depth of the receipts that the State has experienced since the onset of the latest recession. A full 11 quarters after the beginning of the recession, officially measured as of the first quarter of 2008, receipts are still well below the level they had achieved following the previous three recessions. Despite revenue enhancing measures undertaken in 2009, tax receipts have still not fully recovered.

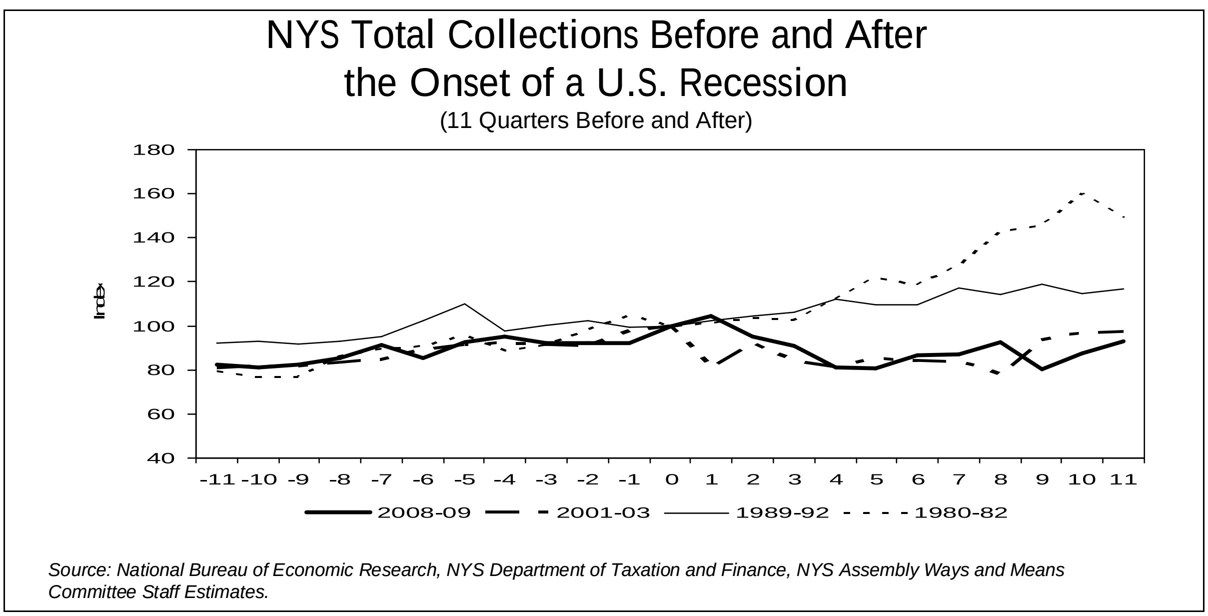


Figure 49

ALL GOVERNMENT FUNDS

All Governmental Funds

Financial Plan

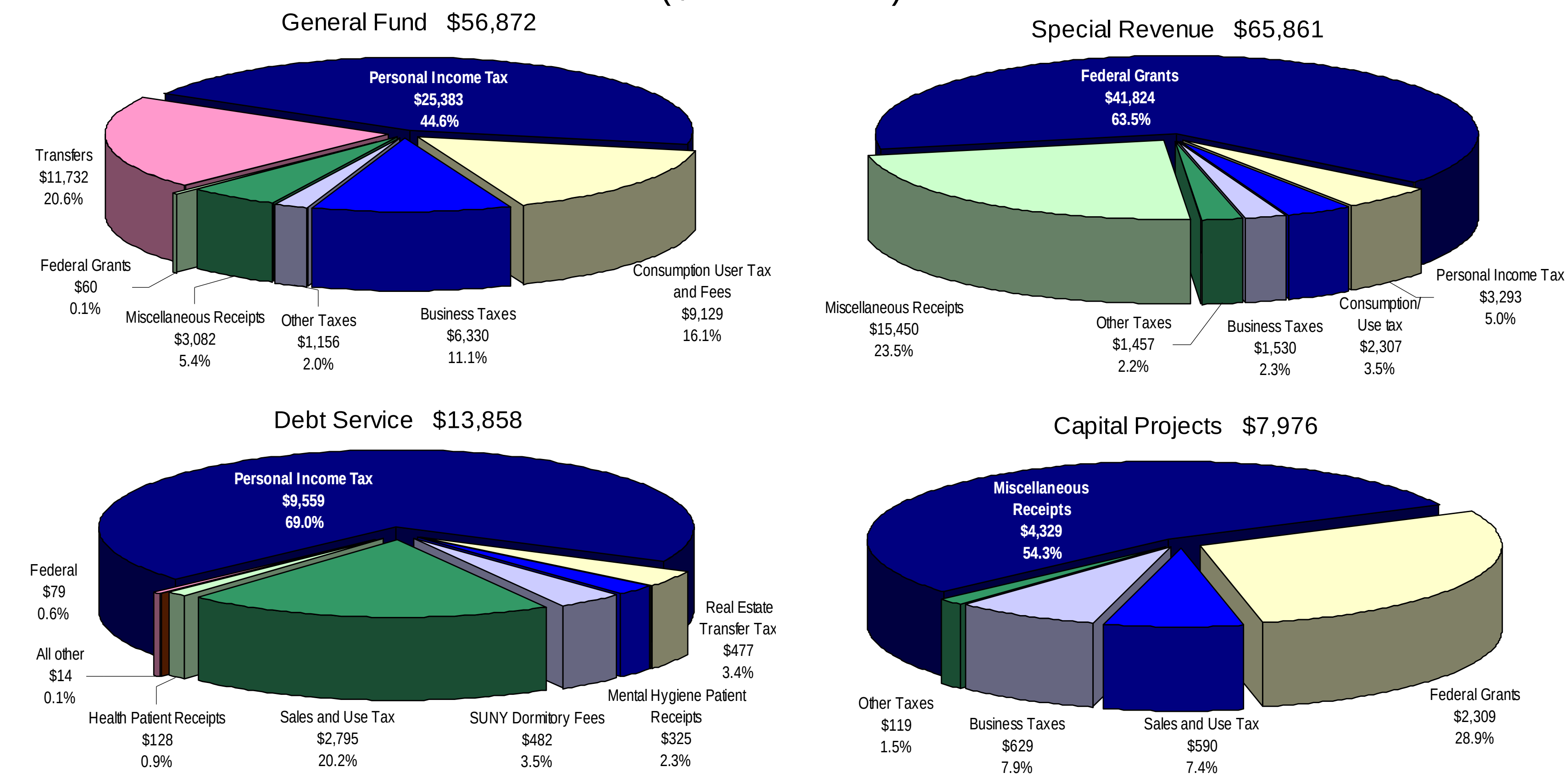
New York uses a cash basis Financial Plan to report the amount of money that is collected and spent during the State fiscal year. The Division of Budget develops a plan each year that shows the receipts and disbursements proposed for the coming fiscal year. The plan is then submitted as part of the Executive Budget. It is revised subsequent to enactment of the budget to show the effect of the changes made by the Legislature to the Executive's original budget proposal. The plan is then updated quarterly to reflect actual experience and revised estimates.

General Fund

The General Fund is the primary operating fund of the State. It accounts for all of the financial plan transactions that are not earmarked for a particular fund, program or activity specifically required by law. The General Fund receives monies from income taxes, sales and user taxes and fees, business taxes and various other taxes, miscellaneous receipts and transfers from other funds. Disbursements from the General Fund are for: local assistance purposes to counties, cities, towns, villages and school districts for education, health care, Medicaid, social services, and other state aid; state operating purposes to the Executive, Legislative and Judicial branches of government, general state charges for pension and employee benefits, and transfers to other funds of the Financial Plan.

The General Fund receipts are estimated to receive $56.9 billion, an increase of $2.8 billion or 5.1 percent in SFY 2011-12. General Fund receipts excluding transfers anticipate an increase of $2.86 billion. Transfers are estimated to decline $101.6 million over the previous year. The General Fund receipts excluding transfers represent 34 percent of the All Funds receipts.

All Government Funds
($ in Millions)



Sources: Executive Budget; Assembly Ways and Means Committee Staff.

Figure 50

Special Revenue Funds

The Special Revenue Funds are dedicated funds of the state where receipts or revenues and disbursements of such accounts are earmarked for Federal or State purposes.

The Special Revenue Funds are divided mainly into two parts: federal and state accounts. Federal grants in the special revenue funds satisfy certain federal accounting and reporting requirements. Federal grants are disbursed for Medicaid, Social Services, Labor, Education, Mental Hygiene, Transportation and Other programs.

The State Special Revenue Funds are fund are specified accounts for School Tax Relief Fund (STAR), Health Care Reform Act resources (HCRA), Dedicated Mass Transportation Trust Fund, Mass Transportation Operating Assistance, Environmental Conservation Funds, Conservation Fund, Environmental Protection and Spill Compensation Fund, Public Asset and Miscellaneous Funds for Other programs.

The Special Revenue receipts are estimated to receive $65.86 billion, an increase of $5.1 billion or 7.2 percent in SFY 2011-12. Federal receipts of $41.8 billion are estimated to decline $5.69 billion from the previous year. All other Special Revenue receipts are estimated to increase $585 million. The Special Revenue receipts represent 49.6 percent of the All Funds receipts.

Debt Service Funds

The Debt Service Funds have accounts for the principal and interest payments of the state's general obligation debt, special obligation debt, lease purchase and contractual obligations.

The Debt Service receipts are estimated to receive $13.86 billion, an increase of $807 million or 6.2 percent in SFY 2011-12. Significant growth in Debt Service receipts were in Personal Income taxes of $611 million or 6.2 percent and Sales and Users taxes of $101 million. The Debt Service receipts comprise 10 percent of All Funds receipts.

Capital Projects Funds

The Capital Projects Funds are used to finance the acquisition and construction of the state facilities and projects and to provide financial assistance to local governments and public authorities.

Grants are funded through the State Capital Projects Fund, Dedicated Highway and Bridge Trust Fund, Environmental Trust Fund, Bond Funds (bond proceeds), Hazardous Waste Remedial Fund, Housing Program Fund, Department of Transportation Engineering Services Fund, Mental Hygiene Facilities Capital Improvement Fund, Correction Facilities Capital Improvement Fund, Miscellaneous Funds and the Federal Capital Projects Fund.

The Capital Projects receipts are estimated to receive $7.98 billion, a decrease of $266 million or 3.2 percent in SFY 2011-12. Primarily the declines in the Capital Projects receipts were miscellaneous receipts of $115 million and federal grants of $152 million. The Capital Projects receipts represent six percent of the All Funds receipts.

All Funds

Receipts on an All Governmental Funds basis for SFY 2011-12 are projected to be $132.8 billion, which represents a decrease of $1.7 billion or 1.3 percent below SFY 2010-11 estimates. The All Funds receipts decrease is the result of a $4 billion increase in tax receipts, a $5.8 billion decrease in federal grants and a $76 million increase in miscellaneous receipts.

PROGRAMMATIC AND DEDICATED FUND ANALYSIS

Programmatic and Dedicated Fund Analysis

New York has several major categories of expending which requires substantial amount of funding. The source of funds starts with the General Fund but is often supplemented with funds dedicated for specific purposes. For example there are several funds dedicated to paying debt service to enhance the security of state funds and lower interest costs. Other funds are established to ensure availability of resources for certain expenditures such as Health Care. Lastly, the raising of certain revenues is earmarked for a particular public policy goal, such as lottery receipts earmarked for Education.

The section will delineate the allocation of funds from various revenue sources: Transportation, Education, Health Care, Higher Education, and the Environment. The monies earmarked are used for everything from maintenance to the implementation of innovative ideas that enable the state to keep pace with technological advancement.

Transportation accounts for just over $8 billion in receipts and is financed by the Dedicated Mass Transportation Trust Fund, Dedicated Highway and Bridge Trust Funds, MTA Financial Assistance Fund (payroll tax), Mass Transportation Operating Assistance Fund and Federal Funds.

Education receives $30.4 billion in receipts and its primary funding source is the General Fund at $17.3 billion. Federal grants for education are estimated to increase slightly as a result of slower than expected drawdown for Title 1 Stimulus grants.

Health Care fund totals $52.2 billion and is primarily financed by Federal Medicaid grants at $27.3 billion. HCRA will have approximately $5.4 billion in receipts which are primarily funded by $2.5 billion in surcharges (assessments on hospital revenues), $1.3 billion in Cigarette Tax revenues, and $1 billion in covered lives assessments (assessments paid by insurance carriers).

Higher Education receipts are projected to be $8.9 billion primarily funded by $3.7 billion in General Fund receipts with another $1.2 billion received through tuition, $2.1 billion in patient revenue and $1.7 billion special revenue receipts.

Environment Funds will be backed by $1.6 billion in receipts, with $456 million in Special Revenues and $596 million in Real Estate Transfer taxes. As the Federal stimulus funds expire and the personal income tax surcharge is set to expire at the end of 2011, the state is faced with significant challenges in FY 2011-12, especially as it strives to meet funding requirements in Education, Health Care and Public Assistance.

Transportation Funds

Earmarked or dedicated revenues are an integral part of transportation financing. The long term nature of construction projects and the constant need for maintenance and safety repair require a long term funding commitment.

There are four Dedicated Transportation Funds: the Mass Transportation Operating Assistance Fund, the Dedicated Mass Transportation Trust Fund, Dedicated Highway and Bridge Trust Funds, and the Metropolitan Transportation Authority Financial Assistance Fund.

The Department of Transportation (DOT) is responsible for managing programs related to highways, bridges, transit, aviation, ports, rail and other modes of transportation. All Fund receipts dedicated for transportation are estimated at $7.9 billion in SFY 2010-11 and $8 billion in SFY 2011-12. Non-federal Special Revenue Receipts dedicated for transportation purposes are $6.3 billion in SFY 2010-11 and $6.5 billion in SFY 2011-12. Federal receipts for transportation purposes are estimated to be $1.6 billion in SFY 2010-11 and $1.5 billion in SFY 2011-12.

Table 61

Source of Transportation Funds
($ in Millions)

	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Dedicated Highway and Bridge Trust Funds	$1,851	$2,040	$2,043	$3	0.1%
Mass Trans. Operating Assistance Fund	$1,753	$1,743	$1,883	$140	8.0%
Dedicated Mass Transportation Trust Fund	$658	$660	$669	$9	1.4%
MTA Financial Assistance Fund	$1,353	$1,690	$1,759	$69	4.1%
General Fund	$66	$99	$100	$2	1.6%
Other Special Revenue Funds	$42	$41	$41	-	-
Federal Funds	$1,684	$1,618	$1,531	($87)	(5.4%)
Total Transportation Receipts	**$7,407**	**$7,891**	**$8,026**	**$136**	**1.7%**

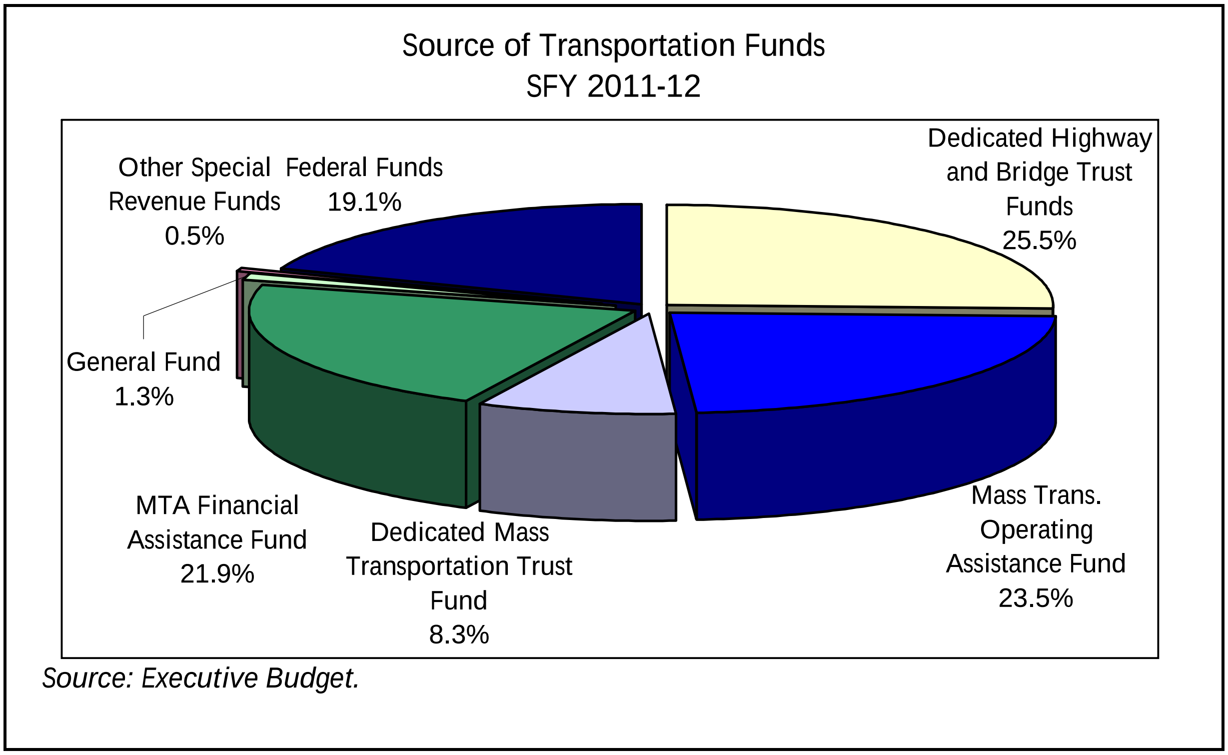


Figure 51

Mass Transportation Operating Assistance Fund (MTOAF)

The Mass Transportation Operating Assistance Fund (MTOAF) was created by the Legislature in SFY 1981-82 to help finance State mass transportation operating systems, which at that time were experiencing operating deficits. Pursuant to section 88-a of the State Finance Law, the fund is subdivided into Public Transportation Systems and Metropolitan Mass Transportation Operating Assistance Accounts. The Mass Transportation Operating Assistance Account provides funding for the transit systems in the Metropolitan Commuter Transportation District (MCTD) which encompasses New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockalnd, Suffolk, and Westchester. The account consists of revenues the Petroleum Business Tax (PBT), the MTA Corporate Tax surcharge, a 0.375 percent Sales Tax imposed in the counties that comprise the MCTD and surcharges imposed on corporation and utility companies. The Public Transportation Systems Operating Assistance Account funds all other transit systems (primarily upstate) and consists of receipts from a portion of the PBT and a portion of all transportation taxes and taxes imposed on corporations and utility companies.

Table 62

Mass Transportation Operating Assistance Fund ($ in Millions)	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Corporate Surcharges					
Corporation Franchise Tax	$366	$399	$462	$63	15.8%
Corporation and Utilities Tax	$134	$119	$129	$10	8.4%
Insurance Tax	$160	$119	$134	$15	12.6%
Bank Tax	$226	$189	$217	$28	14.8%
Other					
Sales and Use Tax	$657	$724	$741	$17	2.3%
Petroleum Business Tax	$131	$131	$132	$1	0.8%
Corporation and Utilities - Sections 183 &184	$79	$62	$68	$6	9.7%
Total Receipts	**$1,753**	**$1,743**	**$1,883**	**$140**	**8.0%**

This fund receives deposits from the following tax sources:

- A 0.375 percent sales tax imposed on the MTA district (inclusive of all the counties that comprise the MCTD);
- A 17 percent corporate franchise surcharge for the MTA district;
- An approximately 12 percent share from PBT revenues; and
- 80 percent of the imposed corporate surcharge based on the Utility Tax in the MTA district (the remaining is deposited with the DHBTF).

The Ways and Means Committee Staff estimates that $1.7 billion in SFY 2010-11, and $1.88 billion in SFY 2011-12 will be dedicated to support the activities funded through the MTOAF.

Dedicated Fund Pools

There are two dedicated funds for Transportation, the Dedicated Mass Transportation Trust fund and Dedicated Highway and Bridge Trust fund. These dedicated funds split revenues from the PBT, Motor fuel tax and Motor Vehicle fees.

The Dedicated Mass Transportation Trust fund (DMTTF) receives deposits from the following tax sources:

- 80.3 percent of the Petroleum Business Tax (PBT);
- Motor Fuel Tax: 4 cents per gallon for gasoline and 8 cents for diesel with revenues flowing into the Dedicated Funds Pool;
- Motor Vehicle Fees: based on registration and other fees around 55 percent of receipts flow into the Dedicated Funds Pool and the rest into the Dedicated Highway & Bridge Trust Fund;
- Once revenues have been collected in the Dedicated Funds Pool about a third goes to the Dedicated Mass Transportation Trust Fund and the rest to the Dedicated Highway & Bridge Trust Fund (DHBTF). The DHBTF also receives 20 percent of the surcharge imposed in the MTA district for Utility taxpayers; and
- The DHBTF also receives 100 percent of the revenues from the Highway Use and Auto Rental taxes. Payments from this fund are also pledged to support the debt service on DHBTF Bonds with debt service coverage of two times the revenues to support debt service costs.

Table 63

Dedicated Mass Transportation Trust Fund ($ in Millions)

	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Petroleum Business Tax	$360	$353	$358	$5	1.4%
Motor Fuel Tax	$106	$108	$109	$1	0.9%
Motor Vehicle Fees	$192	$199	$202	$3	1.5%
Total Receipts	**$658**	**$660**	**$669**	**$9**	**1.4%**

The Dedicated Mass Transportation Trust Fund receives dedicated revenues from the PBT, Motor Fuel Tax, and Motor Vehicle Fees. Dedicated tax revenues deposited into the DMTTF are expected to total $660 million in SFY 2010-11, and $669 million in SFY 2011-12. The moneys of the DMTTF are used for the reconstruction, replacement, purchase, modernization, improvement, reconditioning, preservation and maintenance of mass transit facilities, vehicles and rolling stock, for rail projects or the payment of debt service or operating expenses incurred by mass transit operating agencies.

The Dedicated Highway and Bridge Trust Funds (DHBTF) receives dedicated revenues from the PBT, Motor Fuel Tax, Highway Use Tax, Motor Vehicle Fees, Transmission Tax and the Auto Rental Tax.

Fund monies are used to support transportation, including the reconstruction, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, aviation projects, matching federal highway grants, snow and ice removal, acquisition of real property, bus safety inspection, rail freight facilities, intercity rail passenger facilities, state, municipal and private ports, ferry lines and a portion of operations cost. Payments from the Fund are also pledged to support the debt service on Dedicated Highway and Bridge Trust Fund Bonds with debt service coverage equaling two times the revenues to support debt service costs.

Table 64

Dedicated Highway and Bridge Trust Fund
($ in Millions)

	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Petroleum Business Taxes	$613	$605	$611	$6	1.0%
Motor Fuel Tax	$401	$407	$407	-	-
Motor Vehicle Fees	$628	$824	$827	$3	0.4%
Highway Use Tax	$137	$129	$122	($7)	(5.4%)
Transmission Tax	$20	$15	$15	-	-
Auto Rental Tax	$52	$60	$61	$1	1.7%
Total Receipts	**$1,851**	**$2,040**	**$2,043**	**$3**	**0.1%**

This Fund is expected to receive $2 billion in SFY 2010-11 and SFY 2011-12.

Metropolitan Transportation Authority Financial Assistance Fund

(MTA Financial Assistance Fund)

MTA Financial Assistance Fund receipts are derived from the Metropolitan Commuter Transportation Mobility Tax the tax on medallion taxicabs, and from supplemental motor vehicle fees, including the supplemental learner permit/license fee, the supplemental registration fee, and the supplemental tax on passenger car rentals.

Table 65

MTA Financial Assistance Fund ($ in Millions)

	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
MCTD Payroll Tax	$1,228	$1,389	$1,457	$68	4.9%
Motor Vehicle Fees	$88	$181	$181	-	-
Auto Rental Tax	$24	$35	$36	$1	2.9%
Taxicab Surcharge	$13	$85	$85	-	-
Total Receipts	**$1,353**	**$1,690**	**$1,759**	**$69**	**4.1%**

The MTA Financial Assistance Fund receipts are collected from the Metropolitan Commuter Transportation District (MCTD) which includes New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Receipts collected from certain employers and self-employed individuals within the MCTD are deposited in the Mobility Tax Trust Account of the MTA Financial Assistance Fund.

Receipts collected from the supplemental motor vehicle fees are all derived from the MCTD. These receipts are deposited into the MTA Aid Trust Fund Account of the MTA Financial Assistance Fund.

The MTA Financial Assistance fund is estimated to receive $1.69 billion in SFY 2010-11 and $1.76 billion in SFY 2011-12.

Education Funds

Education receives the bulk of its funding from the General Fund. As such it must compete with other spending needs of the state budget. Education receipts include income received from the General Fund, the Lottery, other revenue streams and Federal grants. Total Education Receipts for SFY 2011-12 are estimated at $30.4 billion, a decrease of $2.2 billion from SFY 2010-11.

General Fund support for Education in SFY 2011-12 is estimated at $17.3 billion, a decrease of $3 billion below SFY 2010-11.

Special Revenue Education receipts are estimated at $1.2 billion in the SFY 2011-12. However, it also receives funds from the NYS Lottery program. It is set to raise $3.05 billion to supplement funding for Education which is $120 million or 4 percent less than last year. It should be noted that $100 million of the total amount is predicated on administration efficiencies this fiscal year.

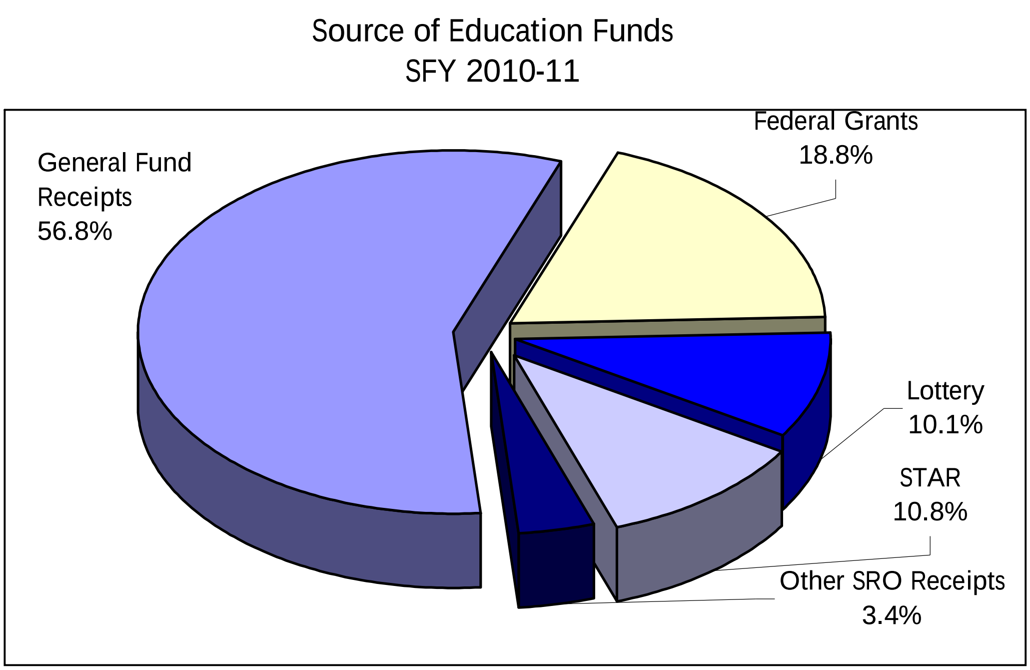
The Personal Income tax dedicates $3.29 billion in STAR for local property tax relief in Education. STAR receipts are estimated to increase $23 million in SFY 2011-12 after adjusting for an exemption benefit relating to declines in property values.

Capital Projects receipts are expected to be $43 million, an increase of $10 million from the prior fiscal year.

Federal grants are expected to be $5.7 billion, an increase of $24 million above 2010-11. Federal grants made up 22 percent of Education funding. Federal grants include but are not limited to Stimulus Fiscal Stabilization grants, Federal Education Jobs grants, Title 1 and Federal Nutrition grants.

Table 66

Source of Education Funds ($ in Millions)	2009-10 Actual	2010-11 Projected	2011-12 Estimated	Change	Percent Change
Federal Grants	$4,255	$5,697	$5,720	$24	0.4%
Lottery	$2,152	$3,007	$2,887	($120)	(4.0%)
STAR	$3,409	$3,270	$3,293	$23	0.7%
Other SRO Receipts	$847	$309	$1,207	$899	291.1%
General Fund Receipts	$17,058	$20,296	$17,259	($3,036)	(15.0%)
Total Education Receipts	**$27,721**	**$32,578**	**$30,367**	**($2,211)**	**(6.8%)**



Source: Executive Budget.

Figure 52

Health Care Funds

New York State Health Care All Funds receipts for SFY 2011-12 are estimated to total $52.2 billion, a decrease of $1.2 billion below the previous fiscal year. Health Care receipts support several programs including Medicaid.

Medicaid is the largest health care program and coordinates the provision, quality and cost of care for its enrolled members. Medicaid in SFY 2011-12 is $37.3 billion, a decrease of $4.9 billion or 15.1 percent below the previous year. Medicaid grants have increased by nearly $9.9 billion from SFY 2008-09 in FMAP assistance to the state via the Federal ARRA stimulus program of 2009. The ARRA allowed FMAP assistance to be reimbursed for expenses retroactive to October 1, 2008.

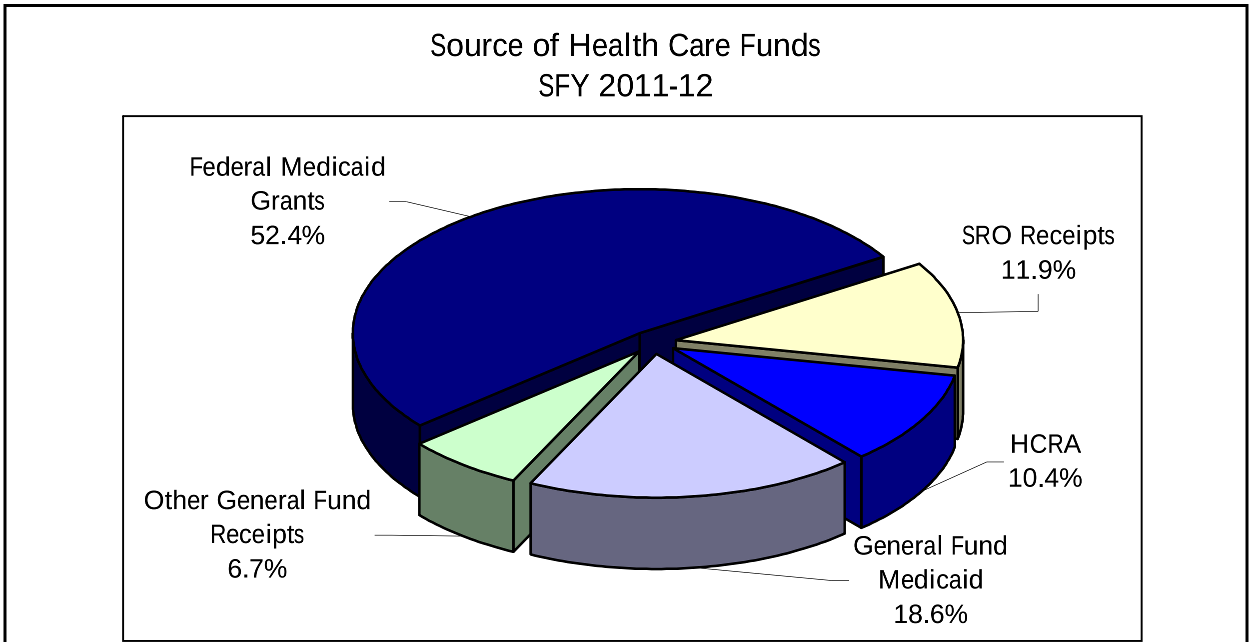
The General Fund support for other than Medicaid Health care is estimated at $3.5 billion, a decrease of $308 million below SFY 2010-11. Medicaid receipts in the General Fund are estimated at $9.7 billion, an increase of $2.8 billion from SFY 2010-11.

Special Revenue Health Care receipts other than HCRA are anticipated to increase $766 million above the previous fiscal year. HCRA is anticipated to receive $5.4 billion, an increase of $427 million above SFY 2010-11.

The Executive Medicaid estimate of $27.3 billion includes an additional $449 million in federal grants for the first quarter of SFY 2011-12 primarily related to the continuation of FMAP as outlined in the proposed Federal budget by President Obama. The additional FMAP assistance would reduce the General Fund contribution of the State for health care.

Table 67

Source of Health Care Funds ($ in Millions)				
	2009-10 Estimated	2010-11 Projected	Change	Percent Change
Federal Medicaid Grants	$32,202	$27,324	($4,878)	(15.1%)
SRO Receipts	$5,441	$6,207	$766	14.1%
HCRA	$5,012	$5,439	$427	8.5%
General Fund Medicaid	$6,953	$9,726	$2,773	39.9%
Other General Fund Receipts	$3,803	$3,495	($308)	(8.1%)
Total Receipts	**$53,412**	**$52,191**	**($1,221)**	**(2.3%)**



Source: Executive Budget.

Figure 53

Health Care Taxes, Fees and Assessments

The State provides a variety of health care services such as Medicaid, Family Health Plus, Child Health Plus, Elderly Pharmaceutical Insurance Coverage, Community-based Health Care, and Public Health Services such as Early Intervention and General Public Health Works and Mental Hygiene.

In this section we analyze the State's dedicated taxes, fees and assessments that make up the Health Care Reform Act (HCRA) revenues. We provide an overview of the relevant revenue sources and estimated revenue raised as of SFY 2011-12.

Revenues to support HCRA include surcharges and assessments on hospital revenues, proceeds from insurance company conversions, a covered lives assessment paid by: insurance carriers, a portion of cigarette tax revenues, and other revenues dedicated by statute.

The Committee Staff estimates SFY 2011-12 HCRA receipts of approximately $5.4 billion and projected HCRA expenditures in the same amount.

The following table outlines the dedicated fund tax receipts for the HCRA for SFY 2010-11:

Table 68

Health Care Reform Act (HCRA) Receipts
($ in Millions)

	2010-11 Estimated	Percent Change
Surcharges	2,466	49.2%
Covered Lives Assessment	1,024	20.4%
Cigarette Tax Revenue	1,134	22.6%
Hospital Assessment (1 percent)	323	6.4%
All Other	65	1.3%
Total Receipts	**$5,012**	**100.0%**

In SFY 2010-11 a total of $5 billion is dedicated to HCRA. Of the $5 billion, 49.2 percent is from surcharges on clinics and hospitals, 20.4 percent from the covered lives assessment paid by insurance companies based on the number of insured, while 22.6 percent comes from cigarette taxes. The one percent hospital assessment is a fee on inpatient services and accounts for 6.4 percent of HCRA revenues. Total HCRA receipts are forecast to grow by 8.5 percent to $5.4 billion in SFY 2011-12.

Surcharges

Varying surcharges are assessed on the net patient revenue of general hospitals and freestanding clinics. Surcharges are expected to yield $2.5 billion in SFY 2010-11. The surcharge levels are as follows:

- 9.63 percent for private payers that pay directly; and,
- 7.04 percent for Medicaid and other New York State governmental payers.

Covered Lives Assessment

The covered lives assessment is a regionally calculated assessment on certain insurance providers based on the number of individuals insured. The covered lives assessment is estimated to produce $1 billion in SFY 2010-11.

Cigarette Tax

Currently, New York State levies a $4.35 per pack tax on each package of cigarettes. Per statute, 76 percent of revenue collected from this tax is dedicated to HCRA – approximately $1.1 billion in SFY 2010-11. The remaining is deposited into the General Fund.

Hospital Assessment

Every hospital in New York State is required to pay one percent of its annual inpatient revenue to HCRA. This assessment is estimated to yield approximately $323 million in SFY 2010-11.

All Other

All other HCRA revenue sources are from the New York City Transfer Tax accounting for 1.3 percent or $65 million for HCRA in SFY 2010-11.

History of HCRA Receipts

Table 69

HCRA Receipts ($ in Millions)				
Fiscal Year	**Surcharges, Assessments & Other**	**Cigarette Tax**	**Conversions**	**Total**
2002-03	2,034	675		2,709
2003-04	2,394	593		2,987
2004-05	3,846	573		4,419
2005-06	2,700	571	2,743	6,014
2006-07	3,128	574	514	4,216
2007-08	3,332	567	999	4,898
2008-09	3,400	894	233	4,527
2009-10	3,886	910	95	4,891
2010-11*	3,878	1,134		5,012
2011-12*	3,953	1,336	150	5,439

* Estimate

HCRA revenues have varied significantly over time as certain revenue streams are volatile. Specifically, insurance conversion proceeds have varied considerably. The vast majority of these revenues - $2.7 billion - were received in SFY 2005-06, equaling 49 percent of HCRA revenues received that year. As can be seen from the table above, SFY 2005-06 marked a high in HCRA revenues.

Revenues generated provide for partial financing of hospital indigent care, Elderly Pharmaceutical Insurance Coverage (EPIC), Child Health Plus (CHP), workforce recruitment and retention, capital improvement to health care facilities, and other public health programs. The increased demand for HCRA revenues are driven by the increased costs of health care services. The General Fund will supplement the HCRA Fund if HCRA revenues are not sufficient to support the HCRA program.

Receipts for HCRA have increased $2.7 billion or 98 percent over the past nine years. All current and proposed HCRA funding sources rely on excise taxes ($4.35 per pack of cigarettes) or ad-valorem taxes (a tax that is imposed as a fixed percent of revenues, e.g. the one percent Hospital Assessment and other Surcharges.)

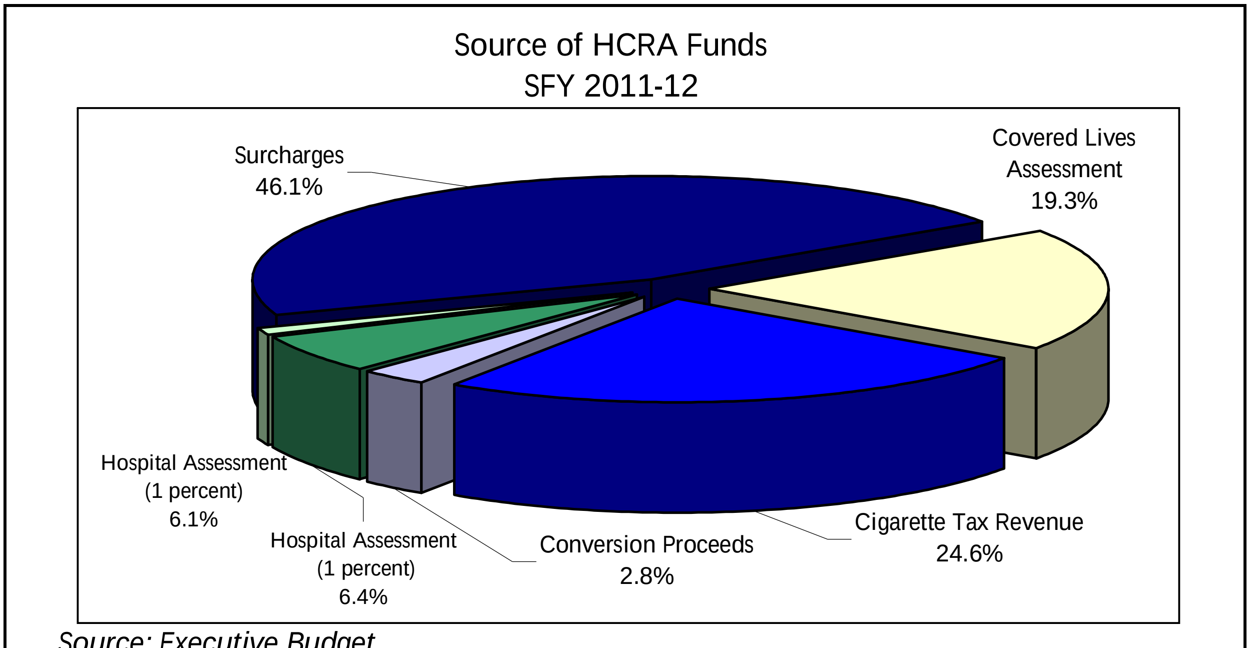
The HCRA surcharges, hospital assessments and other revenues have increased 94 percent from SFY 2002-03, increasing from $2 billion to $3.95 billion. HCRA receipts for the covered lives assessment on insurance companies and HMOs are $1 billion, an increase of $26 million above prior year estimates. HCRA receipts for the one percent assessment on hospital inpatient revenues are $343 million, an increase of $20 million. HCRA receipts for the surcharge on patient service revenues are $2.5 billion, an increase of $39 million. All Other HCRA receipts related to New York City cigarette tax transfer decreased to $55 million from $65 million, a decrease of $10 million.

Cigarette revenues declined steadily until June 2008, when legislation changed the distribution of cigarette revenues from 61.2 percent to 70.6 percent to benefit HCRA. In July 2010, legislation increased the share of cigarette revenues to HCRA to 76 percent from 70.6 percent. Cigarette Tax receipts are expected to be $1.3 billion, an increase of $202 million above the SFY 2010-11 estimates.

Currently, the merger of WellChoice and WellPoint that was implemented in SFY 2005-06 generated $4.58 billion in conversion revenues for HCRA. At the time of the merger, the State received $2.7 billion in cash and 27 million shares of WellPoint common stock. Conversion proceeds and interest income accounted for $1 billion in SFY 2006-07, $504 million in SFY 2007-08, $233 million in SFY 2008-09 and $95 million in SFY 2009-10. The state sold shares of stock from such conversions and the proceeds enabled the State to maintain funding for existing programs and add more health services. Receipts in proceeds for the sale of insurance company conversions are estimated to generate $150 million in SFY 2011-12.

Table 70

Health Care Reform Act (HCRA) Receipts ($ in Millions)					
	2009-10 Actual	**2010-11 Estimated**	**2011-12 Projected**	**Change**	**Percent Change**
Surcharges	$2,337	2,466	2,505	$39	1.6%
Covered Lives Assessment	$1,159	1,024	1,050	$26	2.5%
Cigarette Tax Revenue	$910	1,134	1,336	$202	17.8%
Conversion Proceeds	$95	-	150	$150	100.0%
Hospital Assessment (1 percent)	$310	323	343	$20	6.2%
All Other	$80	65	55	($10)	(15.4%)
Total Receipts	**$4,891**	**$5,012**	**$5,439**	**$427**	**8.5%**



Source: Executive Budget.

Figure 54

Higher Education Funds

Higher Education Funds include income received from tuition, fees, and patient revenues from the City and State University system, and the Higher Education Services Corporation (HESC). Total Higher Education Receipts are estimated at $8.9 billion, an increase of $26 million above SFY 2010-11 estimates.

General Fund receipts for SFY 2011-12 are estimated at $3.7 billion, an increase of $2 million from SFY 2010-11. SUNY General Fund receipts are expected to be $1.6 billion, a decrease $108 million below SFY 2010-11. CUNY General Fund receipts are estimated to increase by $15 million to $1.2 billion in SFY 2011-12. HESC General Fund receipts will increase by $95 million to $891 million.

Higher Education Special Revenue receipts are estimated at $4.98 billion, an increase of $219 million above SFY 2010-11. The change is attributed to $184 million increase in patient revenues, $57 million increase in user fees, $20 million increase in CUNY receipts and $9 million increase in HESC.

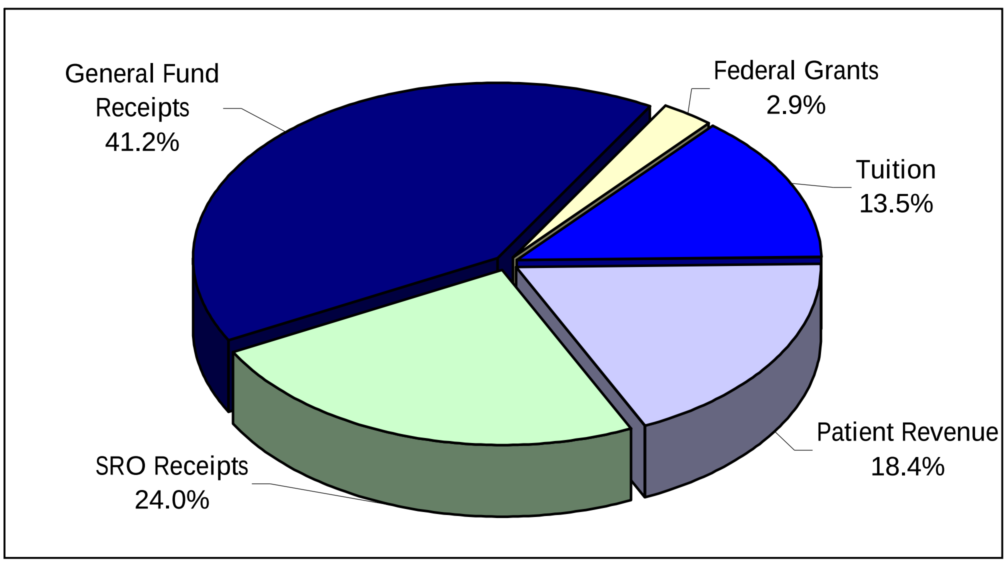
Capital Projects are estimated to be $623 million, a decrease of $75 million from the prior fiscal year. SUNY Dormitory fees which are pledged for debt service to the Dormitory Authority on bonds issued are estimated at $482 million, an increase of $24 million above SFY 2010-11 estimates.

Federal grants are expected to be $255 million, an increase of $194 million over SFY 2010-11.

Table 71

Source of Higher Education Funds ($ in Millions)	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Federal Grants	$450	$255	($194)	(43.2%)
Tuition	$1,201	$1,201	-	-
Patient Revenue	$1,455	$1,639	$184	12.6%
SRO Receipts	$2,104	$2,139	$35	1.7%
General Fund Receipts	$3,668	$3,670	$2	0.1%
Total Receipts	**$8,879**	**$8,905**	**$26**	**0.3%**

Source of Higher Education Funds
SFY 2011-12



Source: Executive Budget.

Figure 55

Environment Funds

Environment Funds include income received from the General Fund, the Environmental Facilities Corporation and the Real Estate Transfer Tax. Total Environment receipts are estimated at $1.6 billion, an increase of $69 million above SFY 2010-11.

General Fund receipts for SFY 2011-12 are estimated to decrease $29 million to $225 million.

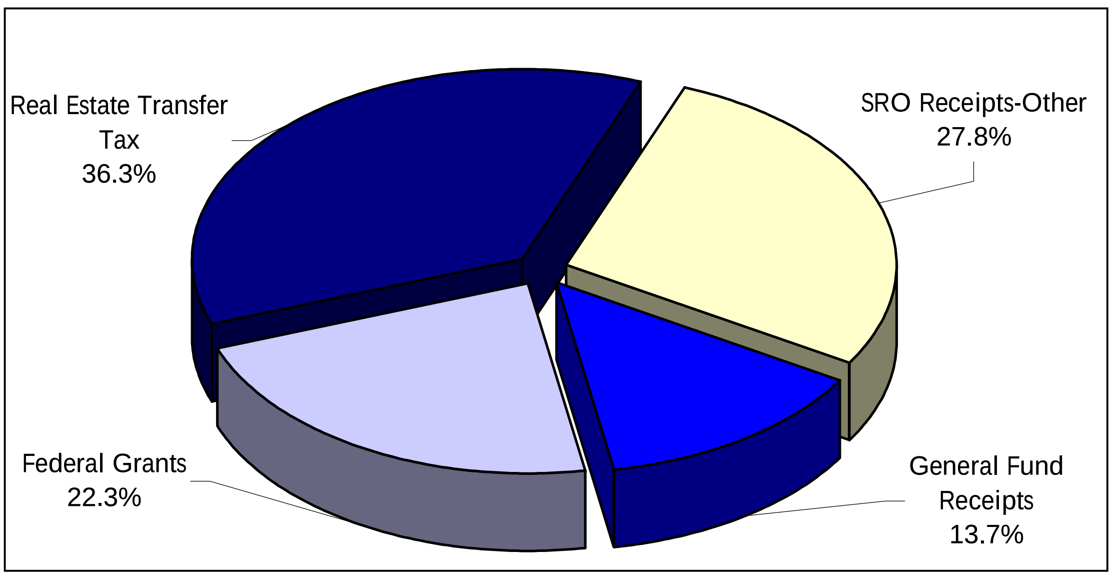
Environment Special Revenue receipts are estimated at $456 million, an increase of $46 million from SFY 2010-11. The Real Estate Transfer Tax receipts are estimated at $596 million an increase of $35 million. The components of the Real Estate Transfer Tax receipts are anticipated to remain flat for Clean Water/Clean Air bonds for Environmental Protection Fund (EPF) Capital Projects Fund and increase $35 million in the Debt Service Fund, from the previous year.

Federal grants are estimated to be $366 million a $16 million increase from the previous year.

Real Estate Transfer taxes are dedicated to Environmental purposes in addition to debt service payments related to Clean Water/Clean Air and Capital Projects activities related to the Environmental Protection Fund.

Table 72

Source of Environment Funds ($ in Millions)				
	2010-10 Estimated	2011-12 Projected	Change	Percent Change
Federal Grants	$350	$366	$16	4.6%
Real Estate Transfer Tax	$561	$596	$35	6.2%
SRO Receipts-Other	$410	$456	$46	11.3%
General Fund Receipts	$254	$225	($29)	(11.3%)
Total Receipts	**$1,575**	**$1,643**	**$69**	**4.4%**



Source: Executive Budget.

Figure 56

Federal Funds

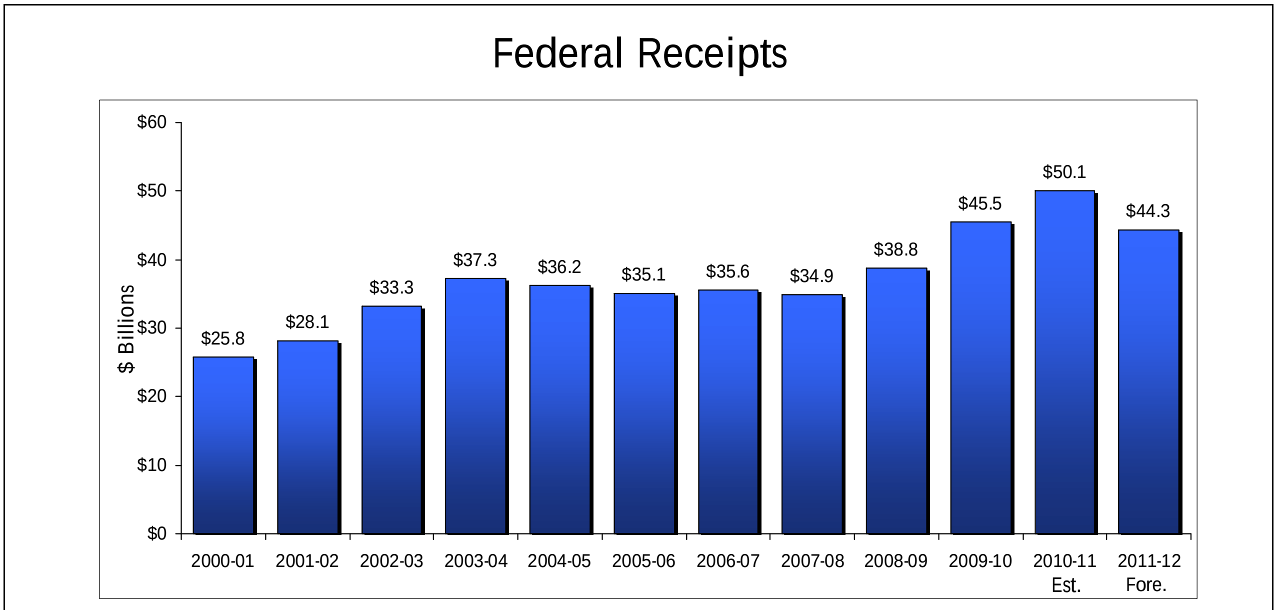
Federal funding accounts for more than one-third of total All Funds spending. Federal grants consist of reimbursements from the Federal government for services performed by the State in accordance with Federal laws and regulations. The State is required to follow specific cash management practices regarding the timing of withdrawal for each grant award.

The Executive projects total Federal grants receipts of $44.3 billion in SFY 2011-12, a decrease of $5.8 billion from SFY 2010-11. This decrease is primarily due to the loss of federal American Recovery and Reinvestment Act (ARRA) aid for Medicaid and Education.

Federal grants in the Special Revenue Fund support a multitude of programs of which Medicaid is the largest. The Executive estimates Federal grants for Medicaid will be $27.3 billion in SFY 2011-12. Other programs include Welfare, Food and Nutrition Services, and Supplementary Educational Services. Included in the $27.3 billion are the Executive estimates of an additional $449 million in federal grants primarily related to FMAP which is expiring June 30, 2011.

Federal grants in the Capital Projects Fund support transportation planning, engineering, construction projects, housing programs, rehabilitation of state armories and other environmental purposes as well as local wastewater treatment project financed through the State's revolving loan fund. The Executive estimates Federal grants for Capital Project at $2.3 billion in SFY 2011-12.

Enhanced Federal funding through the ARRA was used to backstop eroding State revenues caused by the financial and economic crisis of 2008 and 2009. New York State will receive $1.06 billion in ARRA fiscal relief in 2011-12 that will support State funding needs.

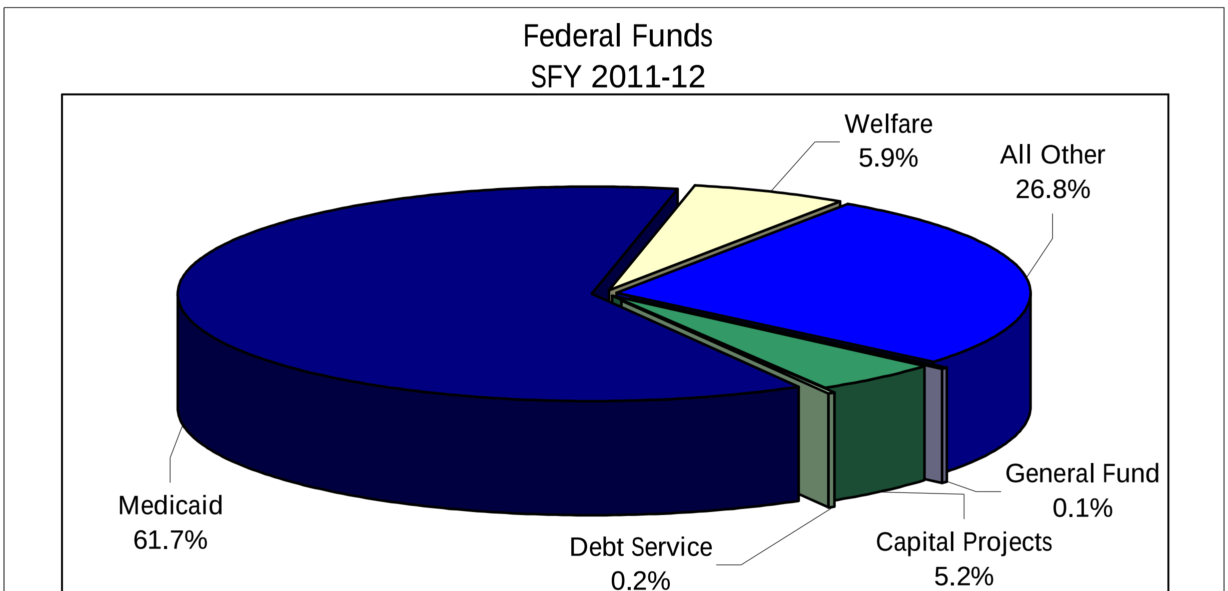


Source: NYS Comptroller; DOB.

Figure 57

Table 73

Federal Funds ($ in Millions)	2009-10 Actual	2010-11 Estimated	2011-12 Projected	Change	Percent Change
Special Revenue	**$43,380**	**$47,517**	**$41,824**	**($5,693)**	**(12.0%)**
Medicaid	$30,054	$32,202	$27,324	($4,878)	(15.1%)
Welfare	$2,721	$2,826	$2,625	($201)	(7.1%)
All Other	$10,605	$12,489	$11,875	($614)	(4.9%)
General Fund	**$71**	**$60**	**$60**	**$0**	**-**
Capital Projects	**$2,061**	**$2,461**	**$2,309**	**($152)**	**(6.2%)**
Debt Service	**$13**	**$60**	**$79**	**$19**	**32%**
Total All Funds	**$45,525**	**$50,098**	**$44,272**	**($5,826)**	**(11.6%)**



Source: Executive Budget.

Figure 58

American Recovery and Reinvestment Act (ARRA)

In February 2009, President Barrack Obama signed the American Recovery and Reinvestment Act (ARRA) which enabled States to receive additional federal funds in order to address unprecedented budget deficits during the global economic downturn. The stimulus funding consists of two main components: "pass-through" funding, which is directed to specific spending purposes outlined in federal legislation, and flexible state Federal Medical Assistance Percentages (FMAP) funding. The "pass-through" funding is specifically prescribed in federal legislation and these funds are also appropriated in the budget, and are included in the All Funds financial plan. State FMAP relief can be used for flexible purposes and has no impact by itself on All Funds levels since every dollar in increased federal reimbursement is matched with one dollar in decreased state General Fund.

Each year, the budget includes a $1 billion contingency appropriation to allow the state to accept federal funds that unexpectedly become available during the course of the fiscal year after the state budget has been enacted. These contingency appropriations do not contain any cash, but are enacted annually to ensure that the state would not have to refuse federal funds that may materialize following enactment of the budget. This appropriation was amended to include a reference to ARRA funding in order to be absolutely certain there would be no issues accepting funds. New York State would have received more than $12.9 billion in Federal stimulus from SFY 2008-09 through SFY 2011-12 that would have a direct benefit in relieving state expenditures. Key ARRA funding categories include:

Federal Medical Assistance Percentages (FMAP)

The Federal Medical Assistance Percentages (FMAPs) are used in determining the amount of Federal matching funds for State expenditures for assistance payments for certain social services, and State medical and medical insurance expenditures. The Social Security Act requires the Secretary of Health and Human Services to calculate and publish the FMAPs each year. The state will benefit an estimated $9.9 billion in FMAP relief over 33 months from October 2008 to June 2011. The Federal match rate increases from 50 percent to 56.88 percent during the period of April-June 2011, and decreases to 50 percent on July 1, 2011. The state anticipates FMAP receipts of $449 million in SFY 2011-12, a decrease of $4.13 billion.

State Fiscal Stabilization Fund (SFSF)

The State Fiscal Stabilization Fund was established under ARRA to backstop education and other essential State public services and avert budget cuts. The program will help ensure that local educational agencies (LEAs) and public institutions of higher education (IHEs) have the resources to avert cuts. In Education and Higher Education, New York State received Fiscal Stabilization grants of $655 million in SFY 2009-10 and $1.7 billion in SFY 2010-11. The Executive estimates Fiscal Stabilization receipts of $612 million in SFY 2011-12, a decrease of $1.1 billion.

Table 74

Federal ARRA Funding State Fiscal Relief ($ in Millions)				
	Actual		Executive Budget Estimate	
	2008-09	2009-10	2010-11	2011-12
Direct Federal Aid - FMAP/State Fiscal Stabilization	**1,299**	**4,228**	**6,328**	**1,061**
Enhanced FMAP Refief	**1,299**	**3,573**	**4,577**	**449**
Medicaid -Department of Health	1,092	3,041	3,948	353
Mental Hygiene	207	532	629	96
State Fiscal Stabilization Relief	**-**	**655**	**1,730**	**612**
Lower Education	**-**	**552**	**1,564**	**612**
School Aid	-	546	1,231	609
Special Education	-	-	326	-
Other Special Education	-	6	6	3
Higher Education Aid	**-**	**103**	**166**	**-**
SUNY - Community College Base Aid	-	35	83	
CUNY - Community College Base Aid		14	33	
Tuition Assistance Program	-	54	50	
Mortgage Foreclosure Program	**-**	**-**	**22**	**-**

Excludes benefits to local governments

DEBT AND CAPITAL

Debt Profile

State-supported Debt outstanding is expected to increase from $52.394 billion in SFY 2010-11 to $54.480 billion in SFY 2011-12. Transportation and Education, which make up 29.2 percent and 28.9 percent of debt outstanding, dominate the State's obligations. The remaining obligations by function of debt outstanding are 11.4 percent in State Facilities and Equipment, 5.7 percent in LGAC, 9.1 percent in Health and Mental Hygiene, five percent in Environment, 10.6 percent in Economic Development and Housing while Tobacco is 4.7 percent and all other debt 1.6 percent of state-related debt outstanding.

Table 75

Projected Debt Outstanding
($ in Thousands)

	SFY 2010-11	Projected SFY 2011-12
General Obligation	$3,558,991	$3,655,296
LGAC	3,334,038	3,123,588
PA Debt -Other		
Lease-Purchase & Contractual Obligation (Revenue Bonds)	$45,501,933	$47,701,481
Total State-Supported Debt	**$52,394,962**	**$54,480,365**
Other State Obligations:		
Tobacco	$3,011,900	$2,718,275
All Other	$1,030,966	$942,879
Total State-Related Debt	**$56,437,828**	**$58,141,519**

The $2.09 billion increase in state supported Debt outstanding for SFY 2011-12 is offset by $3.4 billion in state-supported debt retirements and $5.5 billion in state supported debt issuances. Increases in debt outstanding will occur in the following programs: $1.2 billion for education facilities, $292 million for transportation, $103 million for State facilities and equipment, $312 million for economic development, and $377 million for health and mental hygiene.

State-supported debt is managed and measured by the Debt Reform Act of 2000 and the state is contractually obligated to pay debt service subject to appropriation. State supported debt, along with Other State Obligations, is a component of State-related debt as reported by the Executive. Other State Obligations have not been issued by the State since the Tobacco bonds were issued in 2005.

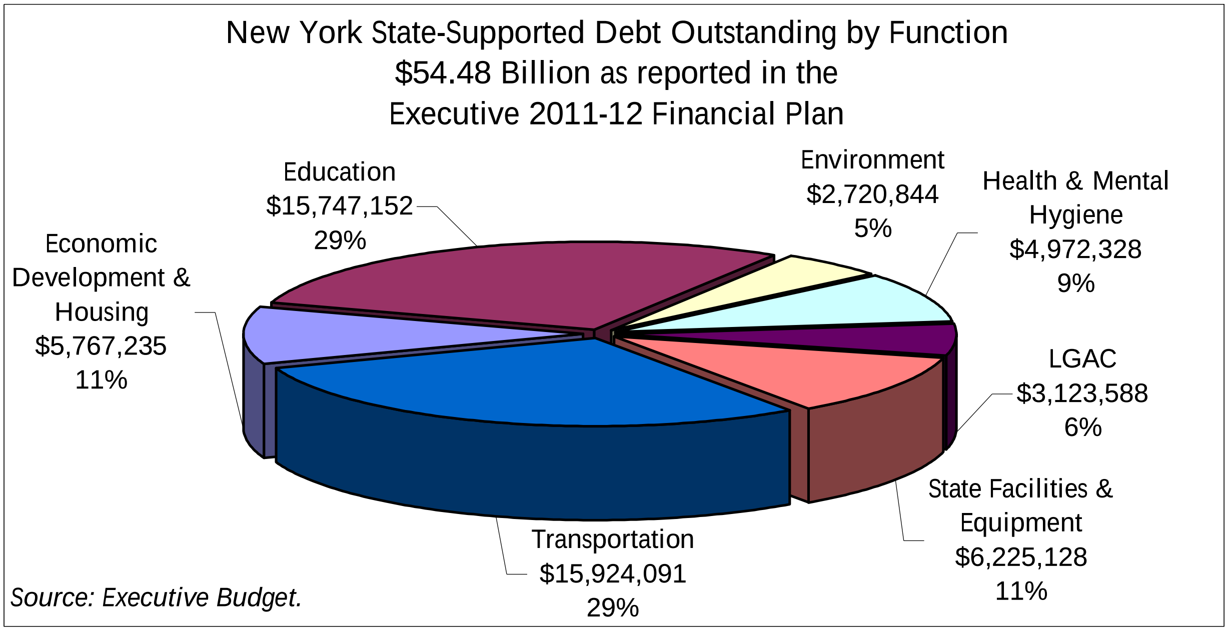


Figure 59

General Obligation Bonds

General Obligation (GO) Bonds are issued with the full faith and credit of the State by voter authorization. Only 6.7 percent of total State-supported debt outstanding is GO bond debt in SFY 2011-12. The Executive estimates at the end of SFY 2011-12 $3.65 billion in outstanding GO bonds representing: $64.5 million in Economic Development and Housing; $1.32 billion in Environment, and $2.27 billion in Transportation. For SFY 2011-12 the State will pay $515 million in GO debt service and will issue $461 million in bonds.

General obligation bonds are the only debt obligations that the State is required to pay by law.

At the end of SFY 2009-10, GO bonds outstanding was $3.4 billion. GO bonds that were authorized but unissued was $2.22 billion, primarily in Transportation Bond act projects. The Executive anticipates to issue over $461 million in GO bonds in 2011-12 and to retire over $364 million in bonds.

Table 76

General Obligation Bond* Financing of Capital Projects 2011-12 ($ in Thousands)			
Bond Referendum	**Actual Total Debt Oustanding as of 3/31/10**	**Authorized but Unissued 3/31/10**	**Projected Issuance 2011-12**
Transportation			
Department of Transportation:			
Rebuild and Renew - 2005	$629,000	$781,501	$230,244
Action - 1988	$552,000	$26,274	$2,000
Infrastructure Renewal - 1983	$26,000	$22,530	$4,000
Energy Conservation - 1979	$21,000	$0	$25
Rail Preservation - 1974	$12,000	$0	$0
Transportation Capital Facilities - 1967	$40,000	$0	$300
Metropolitan Transportation Authority:			
Rebuild and Renew - 2005	$459,000	$970,251	$194,500
Parks and Environment			
Department of Environmental Conservation:			
Clean Water/Clean Air - 1996	$799,000	$273,617	$50,000
EQBA - 1986	$518,000	$81,735	$4,000
EQBA - 1972	$171,000	$27,738	$1,500
Pure Waters - 1965	$83,000	$24,580	$600
Environmental Facilities Corporation:			
Clean Water/Clean Air - 1996	NA	NA	$343
Parks, Recreation and Historic Preservation:			
EQBA - 1960	$0	$1,002	$0
Housing			
Housing			
Low, Middle and Urban - 1958	$90,000	$10,000	$0
Total General Obligation Bond Financing for SFY 2011-12	**$3,400,000**	**$2,219,228**	**$487,512**

**Information from AIS, September 7, 2010 and Executive 5-Year Capital & Financing Plan SFY 2011-12*

Public Authority Debt

Public Authority debt is not a State obligation unless an appropriation is passed by the legislature each fiscal year. Public Authority borrowing supports the Capital Plan and Authority revenue credits include State PIT Revenue Bonds, DHBTF Bonds, SUNY Dormitory Facilities Revenue Bonds, Mental Health Facilities Improvement Revenue Bonds and DOH Revenue Bonds.

Authority bond-finance capital spending is reimbursed by the proceeds of bonds sold by State public authorities pursuant to contractual agreements with the State. Bond reimbursement is managed by the Executive according to timing needs and the availablity of existing bond proceeds, bond market access, investment terms and State cash flow considerations. The following table lists all programs that have issued Public Authority debt:

Table 77

Public Authority Debt 2011-12 ($ in Thousands)	Debt Outstanding	Debt Service	Debt Issuances	Debt Retirements
Transportation				
Metropolitan Transportation Authority	$2,005,455	$164,992		$57,335
Dormitory Authority				
Albany County Airport	$18,160	$3,481		$2,650
Thruway Authority				
Consolidated Local Highway Improvement	$3,893,957	$468,556	$411,468	$308,146
Dedicated Highway & Bridge	$7,732,303	$936,815	$562,233	$545,605
Education				
Dormitory Authority				
SUNY Educational Facilities	$6,987,748	$680,166	$930,334	$322,802
SUNY Dormitory Facilities	$1,318,450	$90,471	$214,200	$35,670
SUNY Upstate Community Colleges	$738,657	$60,701	$75,480	$19,698
CUNY Educational Facilities	$4,199,208	$421,891	$464,539	$213,283
State Education Department	$51,730	$5,280		$1,950
Library for the Blind	$2,060	$82		$950
SUNY Athletic Facilities	$15,510	$1,526		$820
RESCUE	$63,065	$12,466		$16,610
University Facilities (Jobs 2000)	$9,705	$6,245		$5,500
Judicial Training Institute	$8,740	$813		$790
School District Capital Outlays	$0	$13,151		$12,470
Statewide Longitudinal Data System	$4,135	$1,059	$5,100	$965
Higher Ed Capital Matching Grants	$93,300	$14,938	$27,540	$10,565
Public Broadcasting Facilities	$7,085	$1,882		$1,455
EXCEL School Construction	$2,143,094	$181,614	$204,000	$66,746
Library Facilities	$56,531	$6,379	$13,555	$3,694
Cultural Educ. Storage Facilities	$18,862	$1,300	$10,200	$473
Judiciary Training Academies	$29,272	$3,020	$16,320	$1,778
Health				
DOH & Veteran's Home Facilities	$325,580	$34,830		$18,180
Health Care Grants	$494,171	$32,126	$203,184	$18,482
Mental Hygiene				
Mental Health Facilities	$4,152,577	$425,612	$436,842	$226,680
Public Protection				
ESDC				
Prison Facilities	$4,674,347	$449,615	$289,462	$214,314
Youth Facilities	$193,578	$25,092	$19,380	$15,701
Homeland Security	$15,770	$2,274		$1,050
Environment				
EFC/ERDA				
Riverbank Park	$41,360	$4,757		$2,620
Pilgrim Sewage Treatment	$3,400	$857		$800
State Park Infrastucture	$715	$1,506		$1,400
Pipeline for Jobs (Jobs 2000)	$3,559	$4,680		$4,320
Environmental Infrastructure	$758,123	$102,732	$78,540	$67,652

- continued -

Public Authority Debt 2010-11 (Dollar Amounts in Thousands) *- continued -*				
	Debt Outstanding	**Debt Service**	**Debt Issuances**	**Debt Retirements**
Hazardous Waste Remediation	$592,271	$37,109	$102,816	$13,657
ESDC				
Pine Barrens	$5,700	$1,312		$986
State Buildings/Equipment				
ESDC				
State Capital Projects	$142,145	$20,607		$11,860
State Buildings		$8,898		
ESDC/DA/OGS				
State Facilities	$861,430	$125,402	$85,507	$97,574
Equipment/Certificates of Participation	$337,857	$48,144	$92,820	$34,559
E911	$0	$8,678		$8,265
Housing				
Housing Finance Agency	$1,598,718	$162,941	$131,208	$81,770
Economic Development				
TBTA/ESDC				
Javits Center	$25,500	$41,845	$25,500	$41,845
ESDC/DA				
University Technology Centers	$55,164	$22,544		$14,403
Onondaga Convention Center	$26,240	$4,027		$2,635
Sports Facilities	$193,540	$26,260		$16,315
Community Enhancement Facilities	$70,600	$11,338	$13,118	$8,360
Child Care Facilities	$14,425	$2,411		$1,655
Buffalo Inner Harbor	$27,122	$1,856	$4,692	$755
Strategic Investment Program	$26,992	$5,765	$7,262	$4,690
Regional Economic Growth	$433,394	$140,599	$51,408	$121,004
NYS Econ. Dev. Program	$208,773	$26,456	$2,717	$16,185
High Technology & Development	$160,117	$17,517	$24,347	$10,760
Regional Economic Development	$72,187	$7,355	$6,365	$5,571
Economic Development Inititatives	$17,340	$0	$17,340	
Semiconductor Manufacturing Facility	$639,230	$33,433	$0	
Other Economic Development	$1,202,783	$97,818	$314,548	$56,198
High Technoology Projects	$226,435	$52,148	$61,200	$43,845
2008 & 2011 Eco. Development Initiatives	$665,827	$81,618	$139,312	$58,030
RIOC Tram, etc.	$37,484	$7,543	$15,759	$6,670
Debt Management Strategies		($11,500)		
Total Public Authority	**$47,701,481**	**$5,143,033**	**$5,058,296**	**$2,858,746**

Personal Income Tax Bonds (Revenue Bonds)

Personal Income Tax (PIT) Revenue Bonds are backed by 25 percent of Income Tax revenues. The following programs are supported by Revenue Bonds: Education, Environment, Transportation, Economic Development and Housing, Health Care, and State Facilities and Equipment.

Specifically Education supports SUNY, CUNY, Expanding our Children's Education and Learning (EXCEL), NYS Office of Science and Technology, and Academic Research (NYSTAR); Environment supports State Revolving Fund, State Superfund, West Valley and other environmental projects; Transportation supports the CHIPs program to aid local transportation projects; Economic Development and Housing, Health Care, capital projects for the Division of Military and Naval Affairs and equipment bonds, including for software development.

Debt issuance for PIT bonds will be $3.845 billion for SFY 2011-12 and will be offset by $1.083 billion in debt retirements for a total of $24.038 billion in debt outstanding and $2.193 billion in debt service.

Table 78

Personal Income Bonds (PIT)
2011-12
($ in Thousands)

Revenue Bonds	Debt Outstanding	Debt Service	Debt Issuance	Debt Retirements
Personal Income Tax:				
Economic Development and Housing	$4,861,286	$588,546	$814,776	$392,090
Education	$9,794,549	$755,558	$1,747,067	$257,273
Environment	$1,286,053	$127,651	$181,356	$72,729
Health & Mental Hygiene	$1,646,346	$125,558	$203,184	$55,267
State Facilities Equipment	$3,649,528	$331,534	$487,168	$174,840
Transportation	$2,800,662	$265,069	$411,468	$131,156
Total PIT Bonds	**$24,038,424**	**$2,193,916**	**$3,845,019**	**$1,083,355**

Service Contract & Lease-Purchase Agreements

The State enters into Service Contract and Lease-Purchase Agreements with Public Benefit Corporations, Municipalities and Other entities.

A lease-purchase agreement is a title asset that will revert back to the State at the end of the lease. Examples of these assets are: Capital Lease-Purchase Agreements (electronic data processing or telecommunications equipment) and Real Property Capital Lease-Purchase Agreements. These debt financings enable hospitals, schools and other facilities to purchase new technical equipment and other assets that would be too costly for them to purchase outright.

Table 79

Service Contract & Lease-Purchase Agreements
State-Supported Debt Outstanding
(Dollar Amounts in Thousands)

	SFY 2011-12
Economic Development & Housing	$840,585
Education	4,634,153
Environment	119,075
Health & Mental Hygiene	40,485
State Facilties & Equipment	2,575,600
Transportation	3,116,910
Total	**$11,326,808**

Table 80

Revenue Bonds State-Supported Debt Outstanding ($ in Thousands)	
	SFY 2011-12
Revenue:	
Education	$9,794,549
Environment	1,286,053
Transportation	2,800,662
Economic Development & Housing	4,861,286
Health & Mental Hygiene	1,646,346
State Facilities & Equipment	3,649,528
Other Revenue:	
Education - SUNY Dorms	1,318,450
Health & Mental Hygiene	
Health Income	285,095
Mental Health Services	3,000,402
LGAC - Sales Tax	3,123,588
Transportation - Dedicated Highway	7,732,303
Total All Revenue Bonds	**$39,498,262**

Other Revenue Bonds are backed by a separate dedicated revenue stream relating to the projects that they fund, for example SUNY Dormitories would be backed by student fees.

Contingent Obligations

The Executive defines State-related debt to include the following debt obligations in addition to State-supported debt: Contingent Contractual Obligation (Tobacco Settlement Financing Corporation, DASNY/MCFFA Secured Hospital Program), Moral Obligation (Housing Finance Agency Moral Obligation Bonds, MCFFA Nursing Homes and Hospitals), State Guaranteed Debt (Job Development Authority) and State Funded Debt (MBBA Prior Year School Aid Claims).

Contingent Contractual Obligations are agreements by the State to fund the debt service payments related to a bonded debt issuance only in the case that debt service payments cannot be made.

Moral Obligation bonds are issued by an authority to finance a revenue-producing project. The debt is secured by project revenues with statutory provisions morally committing the State.

State Guaranteed debt is public authority debt that finances or guarantees loans which encourages economic development throughout the State and is limited to only $750 million outstanding. Currently, State Guaranteed debt outstanding is $18.9 million.

State funded debt was created to enable the State to purchase delinquent tax liens from NYS Municipalities through the Municipal Bond Bank Agency (MBBA). Currently, State funded debt outstanding is $370.9 million.

Table 81

State-Related Debt Outstanding (Other State Debt Obligations in addition to State-Supported) ($ in Thousands)	
	SFY 2011-12
Contingent Contractual	
DASNY/MCFFA Secured Hospitals Prg.	$532,630
Tobacco Settlement Financing Corp.	2,718,275
Moral Obligation	
HFA Moral Obligation Bonds	18,364
MCFFA Nursing Homes & Hospitals	2,035
State Guaranteed	
Job Development Authority (JDA)	18,940
State Funded	
MBBA Prior Year School Aid Claims	370,910
Total	**$3,661,154**

The Executive began reporting State related debt in SFY 2006-07 Executive Budget. The Executive also reports State-related debt in the Annual Information Statement (which is certified by the Comptroller). The use of State-related debt in SFY 2003-04 with the issuance of the Tobacco Bonds.

Debt Management

The management of $47.7 billon state-supported debt outstanding is primarily in debt instruments of fixed rate (95.1 percent), Interest Rate Exchange Agreement (Swaps) (4.1 percent) and in variable rate (0.8 percent). When interest rates are favorable the State has often refunded outstanding debt to produce fiscal year savings.

The State's refunding criteria require that each individual bond must have a certain minimum net present value (NPV) savings and the overall total NPV savings must be at least the lesser of two percent of the par amount of refunded bonds or three times the refunding's total cost of issuance, including underwriter's discount and bond insurance if applicable.

The use of variable rate and swap instruments have declined due to the over exposure of the underlying markets to the economic crisis. The state has no plans to enter into additional swaps and may continue to decrease its exposure to such instruments. In order for the state to enter into swap agreements, the state counterparty rating must be AA rated at a minimum and total notional amount of the swaps and net variable rate cannot exceed 20 percent of State-supported debt outstanding.

Debt Instruments

New York State uses certain debt instruments like interest rate exchange agreements (swaps) and variable rate debt obligations (VRDO) to manage debt. Only 4.9 percent of debt in SFY 2011-12 will be managed with debt instruments other than fixed interest rates. Article 5-D of State Finance outlines the management of debt instruments.

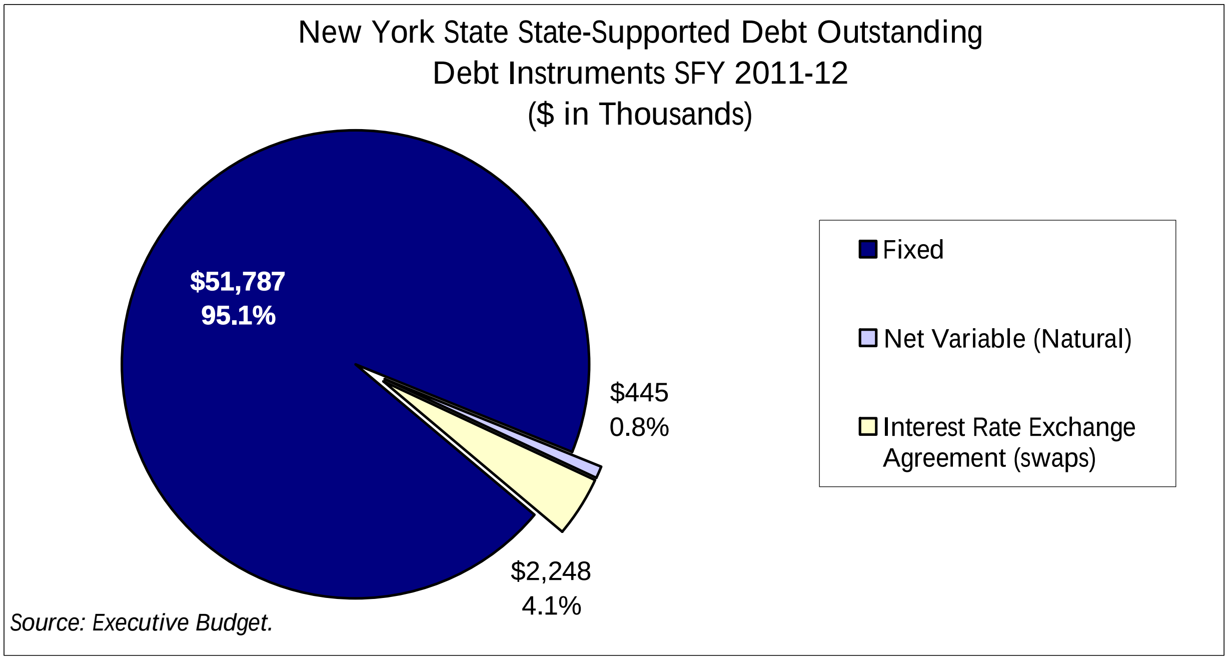


Figure 60

Variable Rate Debt Obligations (VRDO)

The State's policy is to count 35 percent of the notional amount of outstanding 65 percent LIBOR fixed rate swaps in its variable rate exposure. Due to current conditions, the State has no plans to issue VRDO over the course of SFY 2011-12.

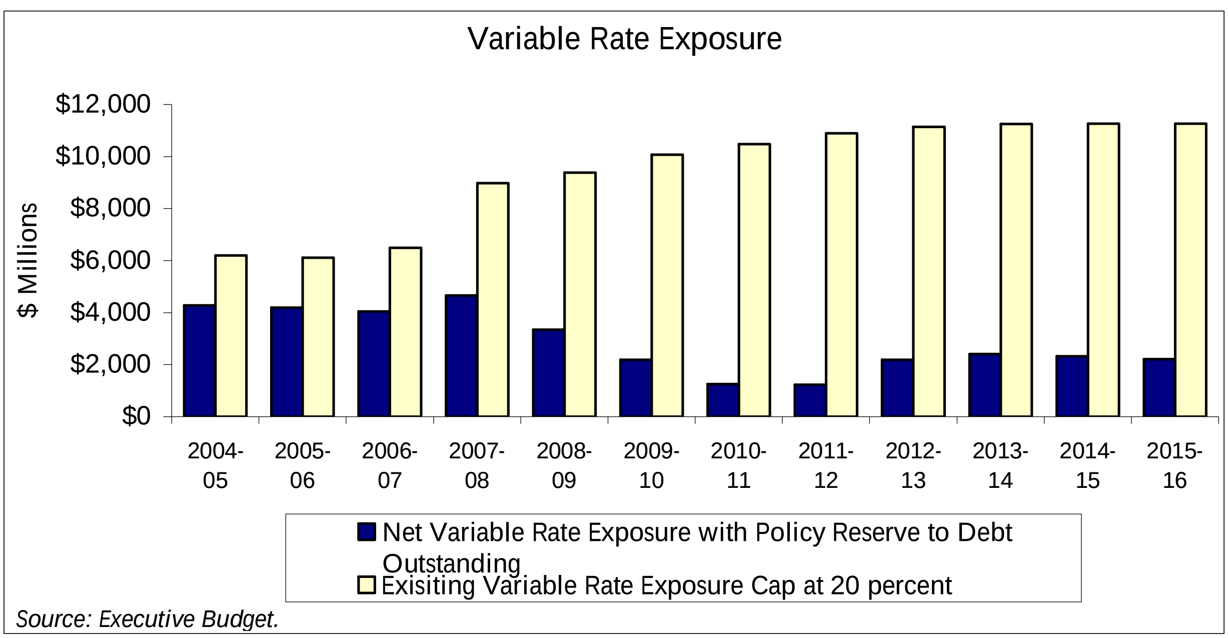


Figure 61

Interest Rate Exchange Agreements

Due to the global financial and economic crisis that began in 2008, the State has decreased it's use of swaps.

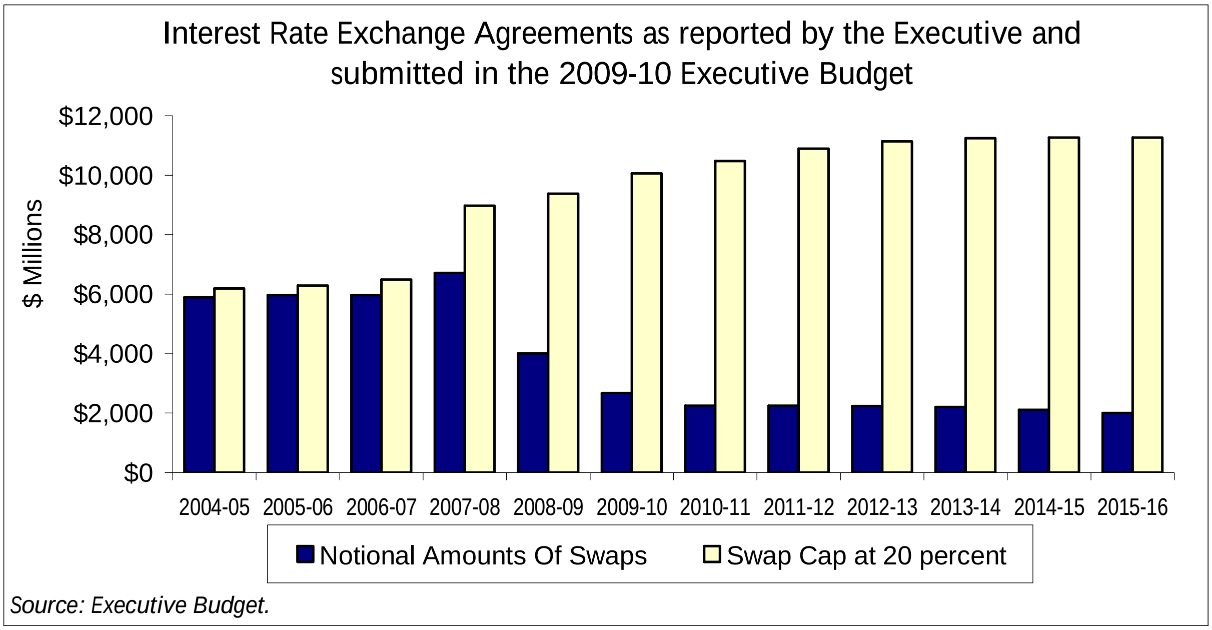


Figure 62

Table 82

State-Supported Debt Caps 2011-12 ($ in Thousands)		
Program	**Enacted Bond Caps**	**Proposed Bond Cap Increases/Decreases**
SUNY Educational Facilities	$10,089,000	
SUNY Dormitory Facilities	$1,230,000	$331,000
SUNY Upstate Community Colleges	$536,000	
CUNY Educational Facilities	$6,843,200	
Library for the Blind	$16,000	
SUNY Athletics Facilities	$22,000	
RESCUE	$195,000	
University Facilities (Jobs 2000)	$47,500	
School District Capital Outlay Grants	$140,000	
Judicial Training Institute	$16,105	
Transportation Transition Grants	$80,000	
Public Broadcasting Facilities	$15,000	
Higher Education Capital Matching Grants	$150,000	
EXCEL	$2,600,000	
Library Facilities	$70,000	$14,000
Cultural Education Facilities	$79,000	$0
Total Education Bond Caps	**$22,128,805**	**$345,000**
Environmental Infrastructure Projects	$903,747	$12,000
Hazardous Waste Remediation (Superfund)	$1,200,000	
Riverbank State Park	$78,000	
Water Pollution Control (SRF)	$600,200	
State Park Infrastructure	$30,000	
Pipeline for Jobs (Jobs 2000)	$33,750	
Western NY Nuclear Service Center	$104,000	
Long Island Pine Barrens	$15,000	
Pilgrim Sewage Plant	$11,200	
Total Environment Bond Caps	**$2,975,897**	**$12,000**
Empire State Plaza	$133,000	
State Capial Projects (Attica)	$200,000	
Division of State Police Facilities	$114,100	
Division of Military & Naval Affairs	$18,000	$3,000
Alfred E. Smith Building	$89,000	
Elk St. Parking Garage	$25,000	
State Office Buildings and Other Facilities	$165,800	$40,000
Judiciary Improvements	$37,600	
OSC State Buildings	$51,700	
Albany Parking Garage (East)	$40,910	
OGS State Buikding and Other Facilities	$140,000	
Equipment Acquisition (Cops)	$751,285	$33,000
Food Laboratory	$40,000	
OFT Facilities	$120,500	
Courthouse Improvements	$85,900	
Prison Facilities	$6,164,069	$326,400
Homeland Security and Training Facilities	$67,000	$0

- continued

State-Supported Debt Caps 2010-11 ($ in Thousands) *- continued -*		
Program	**Enacted Bond Caps**	**Proposed Bond Cap Increases/Decreases**
Youth Facilities	$379,515	$50,000
E-911 Program	$100,000	
NYRA Land Acquisition/VLT Construction	$355,000	
Total State Facilities Bond Caps	**$9,078,379**	**$452,400**
Housing Capital Programs	$2,532,299	$104,200
Javits Convention Center (Original)	$375,000	
Community Enhancement Facilities (CEFAP)	$425,000	($18,000)
University Technology Centers (incl. HEAT)	$248,300	
Onondaga Convention Center	$40,000	
Sports Facilities	$144,936	
Child Care Facilties	$30,000	
Bio-Tech Facilities	$10,000	
Strategic Investment Program	$225,000	
Regional Economic Development	$1,200,000	($4,854)
NYS Economic Development (2004)	$350,000	($60,000)
Regional Economic Development (2004)	$250,000	($7,000)
High Technology and Development	$250,000	($73,339)
Regional Economic Development/SPUR	$90,000	($1,656)
Buffalo Inner Harbor	$50,000	
Jobs Now	$14,300	
Economic Development 2006	$2,318,000	
Javits Convention Center (Expansion 2006)	$350,000	
Queens Stadium (Mets)	$74,700	
Bronx Stadium (Yankees)	$74,700	
NYS Ec. Dev. Stadium Parking (2006)	$75,000	($26,483)
State Modernization Projects (Tram)	$50,450	
Int. Computer Chip Research and Dev. Center	$300,000	
2008 and 2009 Economic Development Initiatives	$1,310,000	($39,218)
H.H. Richardson Complex/Darwin Martin House	$83,500	
2011 Economic Development Initiatives	$0	$230,550
Total Economic Development Bond Caps	**$10,871,185**	**$104,200**
Department of Health Faciliteis (inc. Axelrod)	$495,000	
Mental Health Facilities	$7,366,600	
HEAL NY Capital Program	$750,000	
Total Health/Mental Hygiene Bond Caps	**$8,611,600**	**$0**
Consolidated Highway Improvement Program (CHIPS)	$6,286,660	$408,509
Dedicated Highway & Bridge Trust	$16,500,000	
High Speed Rail	$22,000	
Albany County Airport	$40,000	
MTA Transit and Commuter Projects		
Total Transportation Bond Caps	**$22,848,660**	**$408,509**
Local Government Assistance Corporation (LGAC)	$4,700,000	
Total LGAC Bond Cap	**$4,700,000**	**$0**
General Obligation	$17,185,000	
Total General Obligation Bond Caps	**$17,185,000**	**$0**

Credit Ratings

The Executive has reported that New York State has maintained a favorable credit rating for its general obligation bonds. A favorable rating by credit rating agencies lowers State borrowing costs and allows for easier access to financial markets.

Table 83

Current Credit Ratings on New York State Debt	Standard & Poor's	Fitch	Moody's[1]
Personal Income Tax Bonds (PIT)	AAA	AA	NR
General Obligation	AA	AA	Aa2
Local Government Assistance Corporation (LGAC)	AAA	AA	Aa2
Dedicated Highway & Bridge Trust Fund	AA	AA	NR
Mental Health Services Facilities Improvement Revenue	AA-	AA-	NR
Department of Health	AA-	AA-	NR
State Universty of New York Dormitory Revenue	AA-	AA-	Aa2
Tobacco Bonds	AA-	AA-	NR
Municipal Bond Bank Agency (MBBA) Special Schools Revenue	A+	AA-	NR
Service Contract/Appropriation Credits[2]	AA-	AA-	NR

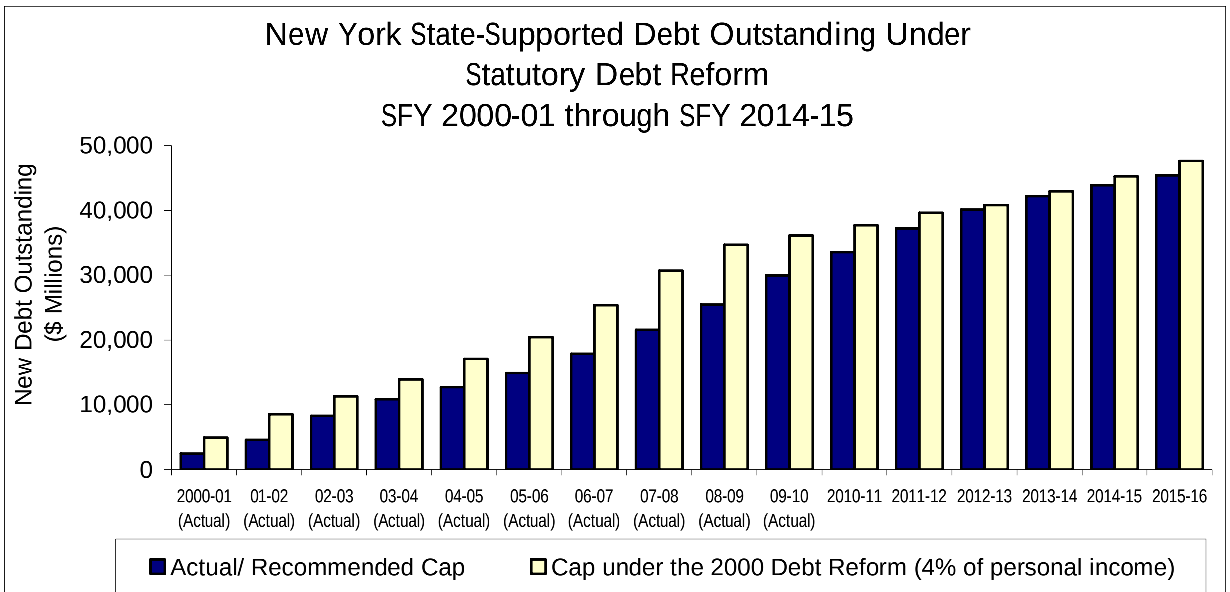
1. Moody's rating not applied for except on GO, LGAC and SUNY Dormitory Bond debt. "NR" - not rated

2. Includes programs that have been separately bond-financed-for in the past (i.e. CHIPs, SUNY Academic Facilities, etc.) and are now replaced by PIT financing

Debt Affordability

Debt Reform Act of 2000

The State of New York enacted on May 15th, 2000, the Debt Reform Act of 2000 which created a new Article 5-B in the State Finance Law outlining limitations on State-supported debt. The Act limited the issuance of State-supported debt to a capital work or purpose. The ceiling on debt outstanding and debt service became directly tied to total personal income and total governmental funds receipts respectively. The imposed cap for SFY 2011-12 on new debt outstanding is four percent of personal income and on new debt service costs five percent of total governmental funds. In addition, the Act limited the maturity on all State-supported debt to 30 years. The following shows the impact of issuing State-supported debt outstanding:



Source: Executive Budget.

Figure 63

Due to the economic slowdown and the decline in revenues that impacted total personal income and governmental funds, the available room under the caps has declined for debt outstanding. As the available room to issue debt has declined, the Executive proposes a Capital plan that decreases by $2.3 billion over a five year period. The capital reductions will help the State maintain sufficient debt capacity.

Capital Plan Highlights

Overview of the Capital Program and Financing Plan

The New York State capital program has nine spending categories: Transportation, Parks and Environment, Economic Development and Government Oversight, Health and Social Welfare, Education, Public Protection, Mental Hygiene, General Government and Other. The State's five-year plan outlines how each program area will be appropriated and disbursed over the current fiscal year as well as five-year future commitments. There are four financial resources that support the program: state pay-as-you-go, federal pay-as-you-go, authority bonds and general obligation bonds. Appropriations for these areas provide for necessary capital investments to promote commerce, enable construction and repair of roads and bridges, stimulate economic development, protect the environment and ensure the health and safety of all New Yorkers.

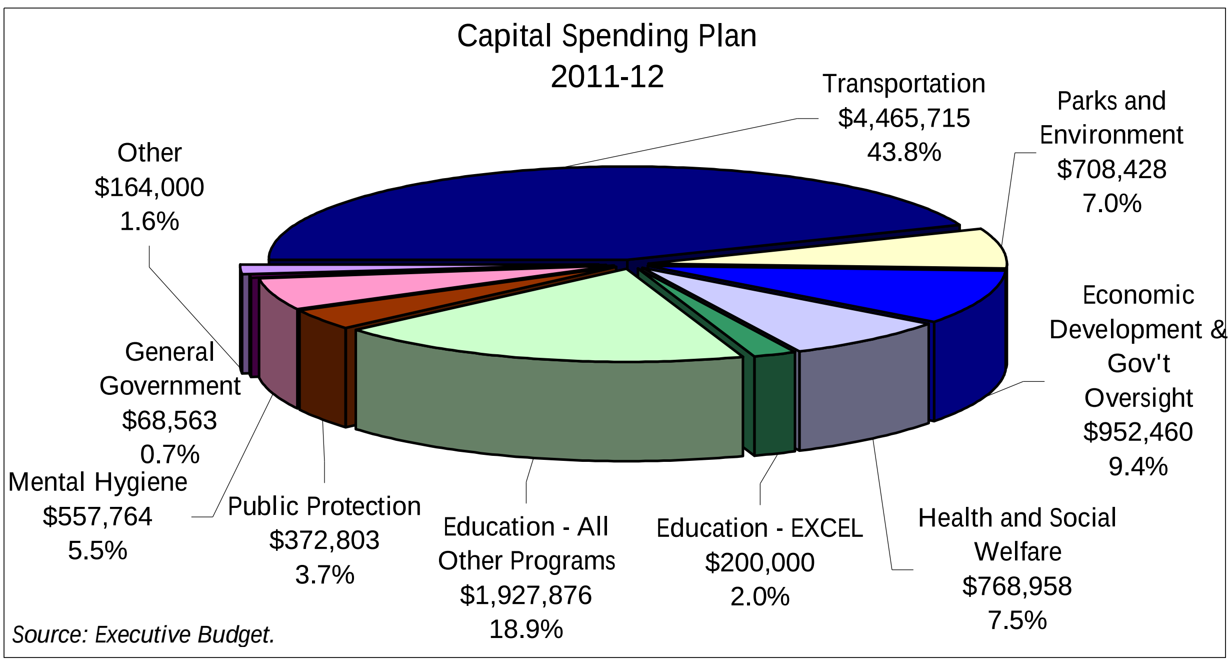


Figure 64

The Executive is proposing a $43.5 billion Five-Year Capital Plan. The $10.2 billion Capital Plan for 2011-12 has decreased by 1.3 percent, or $136.3 million, from 2010-11 and includes "off-budget spending" of $1.75 billion netted from bond proceeds by public authorities. New capital initiatives have been significantly reduced and existing projects have been prioritized to contain costs. There are increases in capital projects for 2010-11 in Mental Hygiene ($143 million), which reflects spending on critical rehabilitation projects at State Facilities and continued development of community residences as well as an increase in Health and Social Welfare ($307 million) for the preservation and maintenance of youth facilities. Significant decreases include $118 million in Education, and $298 million in Economic Development and Government Oversight.

Table 84

Capital Spending by Function and Financing Source
Capital Program and Financing Plan
2010-11 through 2015-16
($ in Thousands)

Spending	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Transportation	$4,632,130	$4,465,715	$4,196,484	$4,131,742	$4,100,109	$3,891,339
Parks and Environment	$733,268	$708,428	$515,128	$478,828	$473,435	$466,935
Economic Development & Gov't Oversight	$1,249,971	$952,460	$459,518	$574,000	$518,421	$538,421
Health and Social Welfare	$461,810	$768,958	$343,040	$254,696	$139,807	$139,233
Education - EXCEL	$211,054	$200,000	$111,117	$0	$0	$0
Education - All Other Program	$2,045,732	$1,927,876	$1,931,677	$1,652,104	$1,679,425	$1,655,876
Public Protection	$322,994	$372,803	$388,023	$362,719	$362,910	$369,010
Mental Hygiene	$414,696	$557,764	$739,748	$661,519	$666,370	$666,370
General Government	$65,935	$68,563	$120,113	$89,809	$89,883	$71,003
Other	$185,285	$164,000	$162,000	$119,000	$108,280	$100,000
Total	**$10,322,875**	**$10,186,567**	**$8,966,848**	**$8,324,417**	**$8,138,640**	**$7,898,187**
Off-Budget Spending	(1,783,375)	(1,751,878)	(1,768,789)	(1,357,481)	(1,361,516)	(1,357,077)
Net Cash Spending	**$8,539,500**	**$8,434,689**	**$7,198,059**	**$6,966,936**	**$6,777,124**	**$6,541,110**
Financing Source						
State Pay-As-You-Go	$2,479,139	$2,626,518	$2,570,570	$2,630,748	$2,777,453	$2,647,037
Federal Pay-As-You-Go	$2,032,840	$2,008,571	$1,572,068	$1,474,562	$1,423,341	$1,446,305
General Obligation Bonds	$578,079	$487,512	$424,517	$341,124	$309,440	$123,758
Authority Bonds	$5,232,817	$5,063,966	$4,399,693	$3,878,033	$3,628,406	$3,681,087
Total	**$10,322,875**	**$10,186,567**	**$8,966,848**	**$8,324,467**	**$8,138,640**	**$7,898,187**

The State anticipates spending $10.2 billion in capital financing for SFY 2011-12, of which 26 percent will be funded by state pay-as-you-go, 20 percent will be funded by federal pay-as-you-go, 4.0 percent as general obligation bonds, and 50 percent as authority bonds. Capital projects spending will decrease by $136 million from SFY 2010-11. The following is a list of the capital maintenance programs and their financing details that provide support to the agencies and authorities that manage the State's resources.

State PAYGO

State PAYGO resources consists of General Fund taxes, other taxes and user fees dedicated for specific capital programs, repayment from Local Government and Public Authorities for their share of the projects, and transfers from other funds including the General Fund. Capital Projects financed by State PAYGO Resources will total $2.63 billion for 2011-12. Capital spending supported by General Fund receipts is classified as a transfer to the various Capital Projects Funds. Transfers to capital projects from the General Fund are estimated to be $894 million in 2011-12 and will average up to $1.5 billion annually over the Five Year Plan. General Fund transfers to capital projects essentially finances non-bond eligible capital spending, including minor rehabilitation of facilities operated by Office of General Services, Department of Environmental Conservation, Parks and the Department of Mental Hygiene. General Fund transfers also includes: $5 million annually to the Hazardous Waste Remedial Fund to support the State Superfund program.

Approximately $522 million will be designated for the Dedicated Highway Bridge and Trust Fund (DHBTF) to address estimated funding shortfalls in the DOT plan.

Table 85

Five-Year Capital Projects Financed by State PAYGO Resources ($ in Thousands)	
	SFY 2011-12
Transportation	$1,537,797
Parks and Environment	177,885
Economic Dev. & Gov't Oversight	161,635
Health and Social Welfare	416,640
Education	194,765
Public Protection	14,800
Mental Hygiene	80,746
General Government	42,250
Other	0
Total State PAYGO Financing	**$2,626,518**

Federal PAYGO

Federal PAYGO resources for fiscal year will total $2.0 billion, allocated primarily to Transportation ($1.5 billion) and Environmental projects ($305.3 million). The Capital Plan for federal spending will also include $205 million for Department of Health Safe Drinking Water projects. Federal PAYGO supports spending financed by grants from the federal government, earmarked for highways and bridges, drinking water and water pollution control facilities, public protection and housing and will total $7.9 billion over the five-year capital plan.

Table 86

Federal PAYGO Resources ($ in Thousands)	
	SFY 2011-12
Transportation	$1,531,153
Parks and Environment	305,300
Economic Dev. & Gov't Oversight	3,000
Health and Social Welfare	89,118
Public Protection	30,000
Other	50,000
Total Federal PAYGO Financing	**$2,008,571**

General Obligation Bond Financing

General Obligation bonds are voter approved and therefore backed by the taxing authority of the State. There are nine voter approved bond acts, five for transportation, four for parks and environment. The financing for the 2005 Rebuild and Renew New York Bond Act currently takes up the bulk of the General Obligation financing. It is projected that spending authorizations from seven of the eight acts will be exhausted by 2013. The State expects to issue $431 million of general obligation bonds for Rebuild and Renew New York Transportation Bond Act of 2005 and $56 million of clean water/clean air and other environmental bond acts.

Table 87

Five-Year Capital Projects Financed by General Obligation Resources ($ in Thousands)	
	SFY 2011-12
Transportation	$431,069
Parks and Environment	56,443
Total General Obligation Financing	**$487,512**

Public Authority Bonding

Public Authority bonds will be issued to support bond-financed capital projects over the plan. The security for these State supported debts issued by State public authorities is provided by the appropriations of the Legislature in the Debt Service Appropriation Bill. The SFY 2011-12 five-year Capital Plan will finance $5.06 billion through the issuance of Authority Bonds. Transportation, Economic Development and Government Oversight and Education programs are heavily supported by Authority Bonds. Proceeds of authority bonds will fund $965 million in transportation projects and $1.93 billion in Education projects and $788 million in Economic Development and Government Oversight projects.

Table 88

Five-Year Capital Projects Financed by Authority Bonds Resources ($ in Thousands)	
	SFY 2011-12
Transportation	$965,696
Parks and Environment	168,800
Economic Dev. & Gov't Oversight	787,825
Health and Social Welfare	263,200
Education	1,933,111
Public Protection	328,003
Mental Hygiene	477,018
General Government	26,313
Other	114,000
Total Authority Bonds Financing	**$5,063,966**

Executive Tax Revenue Proposals

The Executive Budget provides for over $455 million in tax and fee increases when fully effective. Increases for SFY 2013-14 total $459 million.

Sales and Use Tax

- Extend the Alternative Fuels tax exemption by one year; and

- Modernize fuel definitions by conforming to Federal Law as it relates to diesel fuel.

Business Taxes

- Makes Tax Shelter Reporting Provisions Permanent;

- Ensures that the Department of Economic Development has the continuing ability to decertify businesses that do not comply with Empire Zone program requirements;

- Extend the Financial Services Investment Tax Credit for four years, until October 1, 2015;

- Increases the annual allocation of tax credits for low-income housing from $28 million to $32 million;

- Expands the Excelsior Jobs Program by enhancing credits for new employees, research and development and real property taxes. It also authorizes utilities to offer discounted electricity and gas and extends the eligibility period from five to ten years;

- Limits the amount of premiums that are exempt from taxation by cooperative insurance companies to $25 million annually.

- Conforms New York State Insurance and Tax Laws to the Federal Dodd-Frank Act provisions covering excess lines and authorizes NYS to participate in a national compact that collects and remits excess lines taxes to the states; and

- Extends Gramm-Leach Bliley provisions for two years and makes the Bank Tax extender permanent.

Gaming and Lottery

- Creates a program whereby outstanding tax debts are deducted from any lottery winnings in excess of $600;
- Authorizes the issuance of "free-play" Video Lottery Terminal credits of up to 10 percent of the net machine income;
- Authorizes the Division of Lottery to increase from three to five the number of scratch-off games with payouts that are up to 75 percent of sales;
- Allows payouts in excess of the current 50 percent limitation on multi-state lottery games in instances where two-thirds of the multi-jurisdictional participants concur;
- Authorizes VLT facilities to participate in multi-jurisdictional VLT games with certain restrictions;
- Extends certain pari-mutuel tax rates and authorization for account wagering for a period of one year;
- Eliminates restrictions on the Quick Draw game related to the hours of operation, food sales, and the size of establishments; and
- Hire an additional 50 lottery employees in order to increase lottery revenues through promotion and regulation.

Abandoned Property Miscellaneous Receipts

- Reduces Dormancy periods from five years to three years on condemnation awards, credit balances arising from loans, bank accounts, lost cash, unredeemed gift certificates, and other types of property; and
- Reduces dormancy periods from six years to three years on surplus sales from the sale of pledged property.

Tax Administration

- Authorizes T&F to require electronic filing for sales tax vendors and utilize additional electronic communications and sets dormancy periods for tax refund debit cards;

- Modernizes local property tax administration by setting standards and requirements related to electronic communications, creating a state-wide electronic real property tax system, creating a statewide assessment calendar and mandates that local assessors maintain an electronic assessment roll; and

- Require personal income tax filers (including individuals) that use tax software to e-file. Also increases penalties for professional tax preparers that do not e-file from $50 per violation, to $500 for the first violation and $1,000 for each additional violation.

STAR Program

The Executive proposes several changes to the STAR program, which are contained in the Education, Labor and Family Assistance Budget Article VII Bill. These changes are expected to generate $125 million in General Fund savings in SFY 2011-12, increasing to $262 million in SFY 2012-13.

- Limits growth of STAR benefits within an assessing unit to two percent;

- Enhance enforcement of STAR eligibility rules; and

- Create a program whereby property tax payers could renounce exemptions for which they are actually ineligible – including STAR - in exchange for being subject to lower fines then would otherwise be applicable.