

FISCAL OVERVIEW

General Fund disbursements for the enacted State Fiscal Year (SFY) 2005-06 Budget are estimated at \$46.0 billion, a net increase of \$1.8 billion, or 4.3 percent, from SFY 2004-05.

Disbursements on an All Funds basis are projected to be approximately \$106.4 billion, a net increase of \$4.3 billion, or 4.2 percent, from SFY 2004-05. This increase is primarily attributable to additional disbursements for education, higher education, health and general state charges. When adjusted for the inclusion of HCRA spending that is now on budget and additional Medicaid spending to comply with Federal policy changes related to certain counties, actual All Funds spending increases by a 5.7 percent growth rate.

Highlights of the SFY 2005-06 Legislative Budget include the following:

- A \$240 million state fiscal year increase over the Executive's budget proposal is provided for education funding. Computerized aids are increased on a school year basis by \$830 million over 2004-05. In addition, these funds provide for the restoration of BOCES, Private Excess Cost Aid and Building Aid along with funding increases for other formula aid such as Tax Limitation and Limited English Proficiency Aid. Also, \$40 million is provided to restore other Education programs including aid for libraries and case services.
- A \$243 million increase over the Executive's budget proposal for Higher Education including \$115 million in General Fund dollars to reject the Executive's proposed changes to the Tuition Assistance Program; \$19.7 million to reject the Executive's 50 percent reduction to funding for Opportunity Programs and to restore the Executive's 5 percent reduction to the programs in 2004-05; and \$4.1 million in restorations to NYSTAR. State funding of \$22.5 million is provided to increase State support per full time equivalent student at SUNY and CUNY community colleges from \$2,235 to \$2,350. Also included is \$87 million in operating assistance to SUNY and CUNY in order to finance denial of the Executive's proposed tuition increase. Furthermore, a total of \$1.1 billion is provided to support new multi-year capital plans at SUNY and CUNY, an increase of \$809 million over the Executive's proposed budget. A new Higher Education Capital Matching Grants Program is also funded at \$150 million to support capital projects at independent colleges and universities across the State.
- \$1.4 billion in increased funding on an All Funds basis is provided for the Medical Assistance (Medicaid) Program, public health programs, and the Health Care Reform Act (HCRA) for restorations, and new and reprogrammed funding in SFY 2005-06.

Of the \$1.4 billion, a total of \$687 million in the General Fund is for Medicaid restorations and \$769 million reflects federal Medicaid spending related to the restorations. This amount is offset by General Fund savings of \$10 million from the 340B Discount program, \$20 million from the denial of Medicaid transitional assistance funding for distressed counties outside New York City, \$20 million from more aggressive collection of pharmaceutical rebates, \$20 million from administrative action related to SSI recipients, \$32 million from enhanced fraud enforcement, and \$104 million from other savings.

- A total of \$9.8 million is provided to restore proposed reductions in public assistance benefits. The Legislature provides \$8.6 million for the denial of a proposal to impose sanctions on the entire family for public assistance households in which a member is not in compliance with work requirements, including \$6.2 million from the General Fund and \$2.4 million from federal Temporary Assistance for Needy Families (TANF). The Legislature also provides \$1.2 million for the denial of a proposal to reduce the amount of earnings not counted in determining the level of benefits provided to public assistance recipients, including \$2.7 million in General Fund costs and \$1.6 million in TANF savings.
- An additional \$150 million in capital funding is authorized for the first year of the Multi-Modal Program to support a broad range of transportation projects across the State. In addition, a \$6.6 million increase in capital funding is provided to support the Consolidated Local Street and Improvement Program (CHIPS). An increase of \$25 million in capital projects funding for housing and community revitalization projects is also authorized.

The adopted budget also includes revenue and spending re-estimates and various revenue actions totaling \$1.9 billion to support restorations and increases for priority government services and programs.

CASH FINANCIAL PLAN
GENERAL FUND
Legislative Plan 2005-06
(millions of dollars)

	2005-06 Legislative Plan
Opening fund balance	1,218
Receipts:	
Taxes	
Personal Income Tax	21,118
User taxes and fees	8,601
Business taxes	4,283
Other taxes	778
Miscellaneous receipts	2,348
Federal grants	4
Transfers from other funds	
- PIT Revenue Bond	6,338
- LGAC	2,306
- RETT	510
- All other	513
Total Receipts	46,799
Disbursements:	
Grants to local governments	31,200
State operations	8,111
General State charges	4,055
Debt service	
Transfers to other funds	
- Debt service	1,667
- Capital projects	229
- State University	
- Other purposes	747
Total Disbursements	46,009
Change in fund balance	790
Closing fund balance	2,008
Tax Stabilization Reserve Fund	872
Contingency Reserve Fund	21
Community Projects Fund	316
General Reserves	799

**CASH FINANCIAL PLAN
STATE FUNDS
Legislative Plan 2005-06
(millions of dollars)**

	2005-06 Legislative Plan
Opening fund balance	<u>3,202</u>
Receipts:	
Taxes	52,531
Miscellaneous receipts	17,543
Federal grants	<u>5</u>
Total Receipts	<u>70,079</u>
Disbursements:	
Grants to local governments	46,201
State operations	13,405
General State charges	4,613
Debt service	3,843
Capital projects	<u>2,090</u>
Total Disbursements	<u>70,152</u>
Other financing sources (uses)	
Transfers from other funds	16,290
Transfers to other funds	(16,041)
Bond and note proceeds	<u>145</u>
Net other financing sources (uses)	<u>394</u>
Change in fund balance	<u>321</u>
Closing fund balance	<u>3,523</u>

**CASH FINANCIAL PLAN
ALL FUNDS
Legislative Plan 2005-06
(millions of dollars)**

	2005 Legislative Plan
Opening fund balance	<u>2,953</u>
Receipts:	
Taxes	52,532
Miscellaneous receipts	17,552
Federal grants	<u>36,424</u>
Total Receipts	<u>106,508</u>
Disbursements:	
Grants to local governments	77,480
State operations	16,571
General State charges	4,833
Debt service	3,843
Capital projects	<u>3,702</u>
Total Disbursements	<u>106,429</u>
Other financing sources (uses)	
Transfers from other funds	18,691
Transfers to other funds	(18,758)
Bond and note proceeds	145
Net other financing sources (uses)	<u>78</u>
Change in fund balance	<u>157</u>
Closing fund balance	<u>3,110</u>

SUMMARY OF THE REVENUE PROVISIONS CONTAINED IN THE SFY2005-06 JOINT LEGISLATIVE BUDGET

Overview

The Enacted Budget contains a series of provisions that would increase revenues by \$787 million in State Fiscal Year (SFY) 2005-06. Total revenue enhancements are estimated at \$804 million and are offset by revenue reductions and actions equaling \$17.1 million. The totals include \$207 million in additional revenues generated in the MTA region to support mass transportation projects in the region.

Legislative Action on the Executive Budget Proposals

The Legislature modified several of the Executive revenue enhancement proposals, most notably the provisions relating to the Sales Tax exemption for clothing and footwear, the Mortgage Recording Tax (MRT) increase in the Metropolitan Transportation Commuter District (MTCD) and Department of Motor Vehicles (DMV) fee increases. The Executive's proposal to repeal the permanent exemption for clothing and footwear was rejected and in its place the Legislature extended the current suspension of the sales tax exemption until March 31, 2007. However, if the SFY2006-07 Executive Budget contains any new tax expenditures the exemption will return effective April 1, 2006. The Executive proposal to increase the MRT in the MTCD by 10 cents per \$100 of indebtedness was modified to provide an increase of only 5 cents per \$100 of indebtedness. The Executive's proposal to make the Limited Liability Company (LLC) fee increases enacted in 2003 permanent were modified and instead extended for two years. The Executive proposal called for an increase in various motor vehicle fees, the Legislature accepted only increases in non-registration fees. Executive proposals related to Long-term Care Credit for non-residents, Manhattan parking and increasing the capital base cap were accepted as proposed. Provisions related to tax clearance for state contracts and licenses, STAR plus, direct wine shipments, the wine tax, cooperative insurance corporations, Real Estate Investment Trust (REIT)/Regulated Investment Companies (RICs), VLTs, and Quick Draw restrictions were denied.

The Legislature modified several of the Executive revenue reduction proposals, including the Personal Income Tax (PIT) deductions for nursing home assessments and the MRT tax credit. Provisions related to alternative fuels, STAR plus, Earned Income Tax Credit (EITC) non-custodial parent, accelerated phase-out of the PIT surcharges, ENERGY STAR and Strategic Partnerships for Upstate Resurgence (SPUR) were denied. Proposals related to Low-Income Housing, Green Buildings, small business tax rate reductions and extending the Power for Jobs programs were accepted. Provisions to eliminate the sunset of Quick Draw were rejected and instead the program was extended until May 31, 2006. The details of the changes to the Executive's proposals, as well as the Legislative revenue actions, are contained in the summaries that follow the tables below.

Additional revenue actions adopted by the Legislature include the Single Sales Factor for businesses, expansion of Certified Capital Companies (CAPCO) and a research and development credit for high-tech businesses.

TABLE 1

**LEGISLATIVE ACTION ON THE 2005-06 EXECUTIVE REVENUE PROPOSALS
(\$ Millions)**

Tax Item	2005-2006 Executive Proposal Estimate	Legislative Action	2005-2006 Enacted Estimates
REVENUE ENHANCEMENT PROPOSALS			
Long Term Care Credit – Non-Residents	1.5	Accept	1.5
Reciprocal Offsets	0.0	Accept	0.0
Extend LLC Fees	22.0	Modify	22.0
Tax Clearance for State Contracts/Licenses	0.0	Reject	0.0
STAR Plus	20.0	Reject	0.0
Repeal Clothing Sales Tax	455.9	Modify	485.9
Direct Wine Shipments	2.6	Reject	0.0
Manhattan Parking	0.0	Accept	0.0
Wine Tax	37.7	Reject	0.0
DMV Fee Increases	75.6	Modify	46.4
Increase Capital Base Cap	26.0	Accept	26.0
Adopt Tax Shelter	25.0	Modify	25.0
Empire Zones	0.0	Modify	0.0
Cooperative Insurance Corporations	18.0	Reject	0.0
REITs/RICs	50.0	Reject	0.0
VLT	0.0	Modify	0.0
Quick Draw	39.0	Modify	0.0
MRT Increase in MTA Region	100.0	Modify	50.0

Tax Item	2005-2006 Executive Proposal Estimate	Legislative Action	2005-2006 Enacted Estimates
REVENUE REDUCTION PROPOSALS			
Alternative Fuels	0.0	Reject	0.0
PIT Deductions for Nursing Home Assessments	(0.4)	Modify	10.0
STAR Plus	(12.0)	Reject	0.0
EITC-Non-custodial Parent	(4.0)	Reject	0.0
Accelerated Phase-out	(190.0)	Reject	0.0
Energy STAR	(5.2)	Reject	0.0
SPUR – Single Sales	(4.0)	Reject	0.0
Eliminate AMT-SPUR	(5.0)	Reject	0.0
Low Income Housing	(0.0)	Accept	(0.0)
Green Buildings	(0.0)	Accept	(0.0)
SPUR Wage Credit	(25.0)	Reject	0.0
SPUR Centers of Excellence	(1.0)	Reject	0.0
Small Business Rate Reduction	(5.0)	Accept	(5.0)
Power for Jobs Extension	(0.0)	Accept	(0.0)
MRT Tax Credit	(0.0)	Modify	(0.1)
Power for Jobs	(0.0)	Accept	(0.0)

TABLE 2**2005-2006 LEGISLATIVE REVENUE ACTIONS**
(\$ Millions)

Tax Item	2005-2006 Estimates	Fully Implemented Estimates
CAPCO V	0.0	(6.0)
Single Sales Factor	0.0	(130.0)
R & D Credit	(2.0)	(10.0)
Sales Tax Increase (1/8%) in MTA Region	157.0	267.0
Cigarette Tax/Motor Fuel Enforcement	0.0	400.0

2005-2006 ENACTED TAX LAW CHANGES

Revenue Enhancement

Non-Resident Long Term Care Insurance Credit

This part changes how non-residents compute the credit for long term care insurance premiums paid by allowing a partial credit at the same ratio that the taxpayers income is apportioned to New York State. These provisions are estimated to increase revenue by \$1.5 million in SFY 2005-06 and \$6 million when fully effective.

Reciprocal Offset Agreements

This part authorizes the Tax Department to enter into agreements with New York City and with other states to intercept tax refunds for the purpose of satisfying outstanding tax liabilities. These provisions are estimated to increase revenue by \$2 million annually when fully effective.

Extend Higher LLC Fees

This part extends the increase in the limited liability company fees that were imposed in the SFY 2003-04 budget for two years. This part is estimated to increase revenues by \$22 million in SFY 2005-06 and SFY 2006-07.

Sales Tax on Clothing and Footwear

The Legislature rejects the Executive's proposal to repeal the year round sales tax exemption on clothing and footwear priced under \$110 and replaces it with two weeklong sales tax holidays on articles of clothing and footwear under \$250. In its place, the Legislature provides for two seven day exemption periods on items priced under a \$110 dollars, and reinstates the sales tax exemption on April 1, 2006. Provided, however, if the proposed SFY 2006-07 Executive Budget does not contain any newly proposed tax reductions, then the year-round clothing and footwear exemption continues in effect until March 31, 2007. These provisions are estimated to increase revenues by \$486 million in SFY 2005-06.

Manhattan Parking Project

This part would make permanent the sales tax reporting requirements for Manhattan parking vendors.

Increase of the Article 9-A Capital Base

This part increases the maximum tax for businesses, other than manufacturers, paid under the Article 9-A capital base from \$350,000 to \$1 million. This part is estimated to increase State revenues by \$26 million annually, beginning in SFY 2005-06.

Tax Shelter Enforcement

Authorizes the Department of Taxation and Finance to require the disclosure of information relating to a taxpayer's use of tax shelters. A voluntary compliance initiative administered by the Tax Department is also created to allow taxpayers to report and pay underreported tax liabilities and interest attributable to such transactions. These provisions are scheduled to sunset in two years from enactment. This part is estimated to increase revenue by \$25 million in SFY 2005-06 and \$50 million in SFY 2006-07.

Empire Zones

The Empire Zone Program which was scheduled to sunset March 31, 2005 is extended until June 30, 2011. In addition, a number of administrative reforms were enacted that are intended to provide greater accountability and oversight of the program. These changes include:

- Authorization of twelve new Zones, subject to a memorandum of understanding between the Governor, Temporary President of the Senate and the Speaker of the Assembly. A competitive process would be used to designate three Zones in SFY 2005-06, three Zones in SFY 2006-07, three Zones in SFY 2007-08 and three Zones in SFY 2008-09.
- Authorization to increase shared county zones and one square-mile zones to two square miles each.
- Retests all "zero-based" businesses that changed their corporate identity for valid purpose in order to obtain Empire Zone benefits. Grandfathers benefit levels for all businesses that pass the test.
- Reconfigures Zone boundaries prospectively to facilitate clustering, with local flexibility to accommodate significant projects. Investment Zones must now be wholly contained within up to three separate and distinct contiguous areas and Development Zones within up to six separate and distinct contiguous areas, both having the opportunity for an additional contiguous area based upon economic need.

- Each Zone will now be required to submit a cost benefit analysis.
- “Grandfathers” all presently certified businesses regardless of whether or not they are within contiguous areas.
- Allows “regionally significant” projects to locate outside of designated zone areas under limited circumstances.
- Enhanced accountability of local Zone Administrative Boards. Maintains existing law for the income tax reduction credit for both the Investment and Development Zones.
- Establishment of a two-track employment increase factor for the purpose of computing the Qualified Empire Zone Enterprises (QEZE) real property tax reduction credit that would calculate 25 percent of wages and benefits on new net jobs capped at \$10,000 per employee for Investment Zones and a sliding scale applied to the previous test for Development Zones. Companies that make significant investments may utilize an alternative formula to calculate their benefits.
- Increases the wage tax credit for Investment Zones (presently at \$1,500 per employee and \$3,000 per targeted employee) by \$500 for each individual that receives in excess of \$40,000 in wages a year. In addition, veterans will now be considered targeted employees.
- Extends Empire Zone benefits to agricultural cooperatives by qualifying them to receive investment tax, employment incentive tax and wage tax credits.
- Reduces the Empire Zone benefit period from 15 to 10 years for all business certified in taxable years beginning on or after January 1, 2005.

Video Lottery Reallocation

In order to maximize the revenue for education that is generated by video lottery gaming, this part increases the vendor’s fee and vendor’s marketing allowance paid to the racetracks that are authorized to operate video lottery gaming facilities. These revenues will provide the necessary resources and incentives to undertake the capital, marketing and other expenditures necessary to create and sustain viable video lottery gaming, ensuring the maximum lottery support for education. The vendor’s fee to be paid to the racetracks will be increased from 20.24 percent of the total revenue wagered at the vendor track after payout for prizes to 32 percent for the first \$50 million annually, 29 percent for the next \$100 million annually and 26 percent thereafter. The vendor’s fee also includes an additional vendor’s marketing allowance at a rate of 8 percent of the total revenue wagered at the vendor track after payout for prizes for the first \$100 million and 5 percent

thereafter. For those tracks located in the counties of Westchester or Queens, the additional vendor's marketing allowance is capped at 4 percent.

Quick Draw

This part extends the Division of Lottery's authority to operate Quick Draw until May 31, 2006.

E-Filing of PIT

This part requires large tax preparation companies to electronically file the personal income tax returns of their customers. Individuals retain the right to have their returns not filed electronically. This part is estimated to produce an administrative savings of \$1 million annually.

Reimbursement of Local Spending

This part allows the State to enter into agreements with counties or New York City to intercept local revenues or State appropriations for the purpose of reimbursing the State for any spending, overpayments, adjustments, or other modifications.

Revenue Reductions

PIT Credit for Nursing Home Assessments

The Budget contains a provision that allows private-pay patients of in-state nursing homes to claim a personal income tax credit to offset the costs associated with State imposed nursing home assessments. This provision is estimated to reduce revenue by \$10 million in SFY 2005-06 and \$40 million when fully implemented.

Low-Income Housing Tax Credits

The dollar amount of tax credits available for the State low-income housing tax credit program is increased from \$6 million to \$8 million per year. The State low-income housing tax credits are claimed for a period of ten years. Thus, this increase will provide \$20 million in additional tax credits over a ten year period.

Green Building Tax Credit Extension

This part provides an additional allocation of \$25 million in green building tax credits over a five year period.

Small Business Rate Cut

This part will reduce the tax rate for small businesses that file under Article 9-A from 6.85 percent to 6.5 percent, saving these New York State firms \$5 million a year.

PIT Credit for Additional MRT

This part will allow lenders a credit against their personal income tax liability for special additional mortgage recording taxes paid in tax year 2004 and thereafter.

Transferability of CAPCO Tax Credits

This part would allow tax credits available under the certified capital company program (CAPCO) to be transferred between affiliated companies.

Power for Jobs

The Legislature accepts the Executive's proposal to extend the program for one year.

Legislative Revenue Actions

Single Sales Factor

Under current law, corporate taxpayers must apportion their entire net income to New York State based on the following percentages: Receipts derived from New York State – 50 percent, New York State Payroll – 25 percent, and New York State property – 25 percent. This part will allow New York corporations and mutual fund subsidiaries of New York banks to allocate their income based on receipts alone. Airlines and other transportation companies are not affected by the change in the allocation formula. This part will be phased in over a three year period, saving New York companies \$130 million a year when fully effective.

Certified Capital Companies (CAPCO)

This part creates a new Certified Capital Company program (CAPCO V), providing an additional \$6 million in tax credits over a 10-year period. As in program four, certified capital companies would be required to place no less than 50 percent of investment funds in high technology companies.

Emerging Technology Facilities, Operations and Training Credit

This part creates a new tax credit for research and development activities undertaken by emerging technology companies.

The part doubles the existing research and development credit from nine to eighteen percent for emerging technology companies and expands the definition of research and development property to include costs for contracting for the use of high level space and the testing of products and materials. In addition, costs associated with the commercialization of emerging technologies and high-technology training for qualified employees will be eligible for a new 9 percent tax credit.

The credit is available to firms with less than 100 employees and gross revenues of less than \$20 million annually. The total amount of the credit that may be claimed in any one year is limited to \$250,000. Companies may claim the credit for a total of four years or five years if the company begins in and relocates out of a New York State academic incubator facility. The new tax credits are estimated to provide \$10 million a year in benefits for these firms when fully implemented.

Increase in the Metropolitan Transportation Commuter District Sales Tax Surcharge

Increases the sales tax surcharge within the Metropolitan Transportation Commuter District (MTCD) from 0.25 percent to 0.375 percent. The increase in the MTCD sales tax surcharge takes effect June 1, 2005 and is estimated to yield an additional \$157 million in SFY2005-06 and \$267 million on an annual basis.

Cigarette Tax Enforcement

This part codifies proposed Department of Taxation and Finance regulations for the enforcement and collection of cigarette and gasoline taxes on sales made on Native American reservations. These provisions will take effect on March 1, 2006.