Supplement to the 2002-03 Annual Information Statement of the State of New York

May 2, 2003

This Supplement to the February 3, 2003 Update to the Annual Information Statement of the State of New York is dated May 2, 2003 (the "Supplement") and contains information only about the specific matters described herein and only through that date. The Annual Information Statement ("AIS") dated June 3, 2002, the Update to the AIS dated February 3, 2003, and the Supplements dated March 3 and April 22, 2003 should be read, in their entirety, in conjunction with the information in this Supplement.

The Governor, the State Comptroller, the State Legislature and other parties may issue statements or reports that contain predictions, projections or other information relating to the State's financial condition, including potential operating results for the current fiscal year and projected baseline gaps for future fiscal years, that may vary materially from the information provided in this Supplement. Investors and other market participants should, however, refer to this Supplement for official information regarding the financial condition of the State.

On April 29, 2003, the State Legislature began to amend and enact various appropriations for the support of government submitted by the Governor as his 2003-04 Executive Budget under Article VII of the State Constitution. On May 1, 2003, the Division of the Budget ("DOB") released a preliminary analysis of the 2003-04 legislative budget changes. The analysis shows the preliminary multi-year financial plan impact of the Legislature's additions to the 2003-04 Executive Budget, assesses the value of the legislative resources proposed to finance these additions, and provides the resultant impact on the State's financial condition. *The values presented are on a cash basis of accounting, and are based upon the information contained in the appropriation and Article VII bills as amended by the Legislature as of the date of this preliminary analysis. The Legislature has not provided sufficient back-up information or analytical detail to permit a complete assessment. Accordingly, the information contained in this report should be considered preliminary and subject to potential revisions. These revisions may include: additions, deletions, or withdrawal of legislative proposals; gubernatorial action on budget bills; or a negotiated settlement resulting in an agreed-upon enacted budget. These developments may materially change the analysis contained in this report, either positively or negatively.* DOB will continue to analyze the appropriation bills and the Omnibus Article VII bill and other legislation as it finalizes analysis of the legislative budget changes.

There can be no assurance that actual results will not differ materially and adversely from projections contained in the analysis, or that the enacted Financial Plan for the 2003-04 fiscal year will not differ materially from the projections contained in DOB's preliminary analysis.

The preliminary DOB analysis indicates that the Legislature's budget agreement increases 2003-04 spending above the Executive Budget by almost $2.8 billion on a gross basis and by almost $2.4 billion on a net basis after factoring in proposed spending delays into 2004-05, and produces a projected annual spending increase of $1.3 billion (3.3 percent) in the General Fund and $3.9 billion (4.3 percent) in All Governmental Funds. DOB projects that, as a result of the Legislature's actions, the 2003-04 Financial Plan could be out of balance by $1.5 billion, and projected outyear budget gaps would increase to $5.3 billion in 2004-05 and $7.7 billion in 2005-06. In addition, the legislative actions may create periodic negative cash flow conditions in 2004-05, especially in the first fiscal quarter, by rolling out spending obligations, requiring aggressive use of cash management actions such as permanently delaying aid payments to localities and school districts.

The requirements of the State budget process are set forth in Article VII of the State Constitution and the State Finance Law. In acting on the bills submitted by the Governor, the Legislature has the power to alter both recommended appropriations and proposed changes to existing law. The Legislature may strike out or reduce an item of appropriation recommended by the Governor, and these actions automatically become law. The Legislature may add items of appropriation, provided such additions are stated separately. These additional increases are then subject to line-item veto by the Governor. If the Governor vetoes an appropriation or a bill (or a portion thereof) related to the budget, these items can be reconsidered in accordance with the rules of each house of the Legislature. If approved by two-thirds of the members of each house, such items will become law notwithstanding the Governor's veto. Once the appropriation bills and other bills become law, DOB revises the State Financial Plan to reflect the Legislature's actions, and begins the process of implementing the budget. In the past, the State has taken management actions to address potential financial plan shortfalls, and DOB believes it could take similar actions should adverse variances occur in its projections for the current fiscal year. Revisions may be made to the State Financial Plan by DOB to reflect new actions taken by the Governor or the Legislature. Subject to approval by the Governor, the Legislature may enact additional appropriation bills or revenue measures during any regular session or, if called into session for that purpose, any special session.

Readers may obtain the AIS, updates, supplements, and any other disclosure releases prepared by contacting DOB, State Capitol, Albany, NY 12224, (518) 473-8705. Informational copies of such disclosure releases are also available electronically on the DOB Internet site and on file with Nationally Recognized Municipal Securities Information Repositories. Typographical or other errors may have occurred in converting the original source documents to their digital format, and DOB assumes no liability or responsibility for errors or omissions contained at the Internet site.

Preliminary New York State Division of the Budget Analysis of 2003-04 Legislative Budget Actions

INTRODUCTION

The Division of the Budget (DOB) has conducted an analysis of the 2003-04 legislative budget changes. The analysis shows the preliminary multi-year financial plan impact of the Legislature's additions to the 2003-04 Executive Budget, assesses the value of the legislative resources proposed to finance these additions, and provides the resultant impact on the State's financial condition. The values presented are on a cash basis of accounting, and are based upon the information contained in the appropriation and Article VII bills as amended by the Legislature as of the date of this preliminary analysis. The Legislature has not provided sufficient back-up information or analytical detail to permit a complete assessment. Accordingly, the information contained in this report should be considered preliminary and subject to potential revisions. The DOB will continue to analyze the appropriation bills and the 634 page Omnibus Article VII bill and other legislation as it finalizes analysis of the legislative budget changes.

SUMMARY OF PRELIMINARY ANALYSIS

The preliminary analysis finds that the Legislature's budget agreement:

- Increases 2003-04 spending above the Executive Budget by almost $2.8 billion on a gross basis and by almost $2.4 billion net after factoring in cash rolls into 2004-05; is out of balance by $1.5 billion in the current 2003-04 General Fund; and will likely require a mid-year legislative session to maintain balance throughout the year.

- Increases the outyear budget gaps to $5.3 billion in 2004-05 and $7.7 billion in 2005-06, or $13 billion for the next two years.

- Creates periodic negative cash flow conditions in 2004-05, especially in the first fiscal quarter, by rolling out spending to the outyears. To maintain balance under this plan would require aggressive use of cash management actions such as permanently delaying aid payments to localities and school districts or forcing a return to intra-year seasonal borrowing by the State.

- Results in an annual spending increase of $1.3 billion (3.3 percent) in the General Fund and $3.9 billion (4.3 percent) in All Funds, in contrast to the inflation rate of 2.3 percent.

- Creates negative program impacts including those that may result in curtailment of key services and/or significant layoffs.

IMPACT OF LEGISLATIVE CHANGES ON PROJECTED BUDGET GAPS

The Legislature's budget changes do not fund over $1.6 billion in new costs in the next three years that have arisen since introduction of the Executive Budget. In addition, it adds $10.4 billion in spending over the next three years, but identifies only $4.4 billion in new resources to pay for these costs. As a result, the current year has a potential $1.5 billion budget shortfall, and the outyear gaps increase to $5.3 billion and $7.7 billion -- for a total $13 billion.

General Fund - $ in millions

	2003-04	2004-05	2005-06
Exec. Budget Gaps	**0**	**(2,800)**	**(4,146)**
New Costs	(403)	(778)	(434)
Budget Adds	(2,752)	(3,795)	(3,806)
Budget Avails	1,625	2,030	699
Revised Gaps	**(1,530)**	**(5,343)**	**(7,687)**

New Costs

Based on actual results for 2002-03 and preliminary results through the end of April, DOB believes that 2003-04 receipts will be $300 million below the Executive Budget Plan projections. In addition, DOB estimates that the level of pension costs for 2003-04 would be approximately $100 million higher than the April Financial Plan estimates and $434 million more in 2004-05. The Legislative Budget plan fails to accommodate these new costs.

New General Fund Costs Since Executive Budget

$ in millions

	DOB Value		
	2003-04	2004-05	2005-06
Revenue Shortfall from 2002-03 Results	(150)	(200)	(200)
Revenue Shortfall From April Settlement	(150)	(150)	(150)
Denial of Governor's Pension Reforms	(94)	(434)	(87)
All Other Costs (Net)	(9)	6	3
TOTAL NEW COSTS	**(403)**	**(778)**	**(434)**

VALUE OF LEGISLATIVE ADDS

As detailed on the chart below, the Legislature proposes to increase spending in the following program areas and uses spending rolls and reestimates to help finance some of these adds in the 2003-04 fiscal year.

General Fund Legislative Adds

COSTS / (SAVINGS) - $ in millions

	DOB Values		
	2003-04	**2004-05**	**2005-06**
Legislative Adds:			
Medicaid/Public Health	1,069	1,696	1,553
School Aid	755	1,240	1,419
Higher Education	342	379	359
Mental Hygiene	58	72	74
General Gov't/Revenue Sharing/GSCs	135	125	146
Economic Development	10	10	10
Transportation	48	67	32
Environment	50	54	54
Welfare/OCFS	64	113	120
Member Items	200	???	???
Public Protection	21	39	39
Total Legislative Adds	**2,752**	**3,795**	**3,806**
Spending Rolls/Offsets/Cuts:			
Delay Tap Payments	(104)	0	0
Shift Medicaid cycle to 2004-05	(170)	170	0
Use TANF moneys for Pre-K costs	(50)	(24)	(24)
Medicaid cuts	(23)	(47)	(50)
Judiciary Cut	(10)	(10)	(10)
Cut Connections Funding	(5)	(5)	(5)
Eliminate Charter School Grants	(6)	0	0
Various Agency Cuts	(23)	(11)	(10)
Total Spending Rolls/Offsets/Cuts	**(391)**	**73**	**(99)**
NET LEGISLATIVE ADDS	**2,361**	**3,868**	**3,707**

The DOB value of adds reflects an assessment of changes made by the Legislature based upon a review of its budget appropriation and Article VII bills.

While this report represents a comprehensive analysis of the budget bills that have been introduced through April 29, 2003, it does not factor the impact of anticipated bills for New York City aid, new economic development programs, the new Federal Help America Vote Act, or budget bills introduced after April 29, 2003.

Medicaid/Public Health

The Legislature rejected most of the cost savings measures proposed by the Executive, adding spending of $1.1 billion in 2003-04 and $1.7 billion in 2004-05. In an attempt to offset these spending increases, the Legislature included a series of actions that will save $193 million in 2003-04, but actually adds additional costs of $123 million in 2004-05. This occurs primarily because savings are achieved in 2003-04 by delaying the last weekly Medicaid payment – valued at $170 million – until 2004-05. The Health Care Reform Act (HCRA) was extended for two years and tobacco settlement funds were removed as a revenue source for HCRA. A mechanism is created to transfer General Fund moneys to HCRA in the event HCRA revenues fall short or spending exceeds projections up to the level of annual tobacco settlement funds that would otherwise have been directed to finance HCRA programs. In the Adult Homes area the Legislature eliminated $6 million of the $8 million recommended for the Governor's Blue Ribbon Work Group's Adult Home improvement initiative, and instead returned the moneys to the Adult Homes operators.

School Aid

The Legislature's budget adds more than $1.1 billion in school aid and related programs on a school year basis, producing a 2003-04 fiscal year increase of more than $750 million. Temporary Assistance to Needy Families (TANF) funding of $50 million is being used to help offset the fiscal year impact. The Legislature rejected reforms to restructure the State Education Department and the Board of Regents, cap increases in school spending and provide mandate relief to local school districts. Special Education reform, BOCES reform and building aid reform were also rejected. Finally, funding was eliminated for Charter Schools, character education, school safety and school evaluation services.

Higher Education

The Legislature's budget restores the TAP program by adding $122 million in 2003-04 and rolling $104 million in costs to 2004-05. Bundy aid is also restored at a cost of $19 million. Tuition increases at SUNY and CUNY are limited to $950 for in-state residents, which could result in operating cuts of $52 million in SUNY and $32 million in CUNY. However, the legislative proposal attempts to mitigate these cuts by allowing out-of-state tuition to increase by $4,800 at SUNY and $4,000 at CUNY. If lower out-of-state tuition increases are adopted, operating budget reductions will occur. No new capital appropriations are included for SUNY or CUNY senior colleges. Legislation authorizing the transfer of SUNY teaching hospital operations to private not-for-profit corporations was not enacted.

Mental Hygiene

The Legislature restored funds to maintain three small, inefficient psychiatric centers and rejected the initiative to streamline and consolidate the Office of Mental Health's (OMH) research facilities. Funding was also restored to maintain operations at the Office of Mental Retardation and Developmental Disabilities' (OMRDD) Institute of Basic Research. Cuts to OMH and OMRDD State Operations could require 100 layoffs.

General Government/Revenue Sharing/General State Charges

A new one-time $17 million county revenue sharing program was added, and the proposed one year cap on benefits for non-seniors under the STAR program was eliminated resulting in an additional General Fund add of $75 million. In General State Charges, an additional $32 million in 2003-04 General Fund support growing to $119 million in 2004-05 will be necessary due to legislative rejection of Executive proposals to lower employer health insurance costs and pay market interest rates on Court of Claims judgments.

Economic Development

Funding for both the Economic Development Fund and Jobs Now Programs was reduced by $10 million. These programs provide key investments in important manufacturing, high technology and small business projects. These $20 million of funding cuts will jeopardize the State's ability to attract new businesses and jobs to New York State.

Transportation

The Department of Transportation's highway and bridge programs are increased by $137 million, with funding presumed through the State's Dedicated Transportation Fund. New revenues are not available to support this increase, and the Legislature has apparently failed to extend a Federal mandate regarding penalties for certain drug related traffic offenses, which will result in the loss of $27 million in Federal highway aid during 2003-04. This Federal aid loss will grow to $54 million in 2004-05.

Environment

The Legislature added nearly $33 million in General Fund spending to the Department of Environmental Conservation (DEC) by shifting expenses out of the Environmental Protection Fund (EPF) to the General Fund, and added $33 million in EPF spending for different purposes. The Legislature proposes to “sweep” $33 million in undisbursed balances from the EPF to the General Fund to pay for this increased spending. However, the balances remaining will be insufficient to manage the program and will require DEC to delay important environmental protection projects. In addition, the Legislature has failed to adopt a Superfund bill. As a result, DEC will be unable to clean up hazardous waste sites across New York State.

Welfare

The Legislature’s budget provides an increase in existing welfare shelter allowances of approximately $50 million, growing to $70 million on an annual basis. However, the Legislature did not provide funding to support this increase, resulting in shortfalls that will have to be borne by local governments (primarily New York City) or in reductions in other programs supporting low income families. The January 2004 SSI pass-through is restored at a cost of $26 million in 2003-04 and $103 million in 2004-05. The Legislature expended $26 million more than the available TANF funds and underfunded public assistance program needs. The mergers of the Office of Welfare Inspector General into OTDA and the merger of the Commission for the Blind and Visually Handicapped (CBVH) and VESID within the Department of Labor were denied and more than $27 million was cut in human services computer systems funding. This could require up to 80 layoffs and result in significant service disruptions for the welfare, Medicaid and child welfare systems. Finally, $11 million was shifted from social services district employment programs to legislative projects and the Advantage After School program was cut by $10 million.

Homeland Security

The Legislature failed to provide $9 million in funding for Department of Motor Vehicles new Homeland Security Identification Centers. These new Centers, for which staff have already been hired and trained, will provide enhanced oversight and security for the issuance of new driver’s licenses and non-driver identification cards. This initiative, including at least 50 supporting staff, is now in jeopardy.

Public Protection

A new $100 million State bonded E-911 telephone emergency local assistance program was added. While this program is intended to be supported by existing cellular surcharge revenues, prior commitments for public safety will result in insufficient resources to implement this initiative.

Legislative "Member Items"

The Legislature added a single $200 million lump sum for "Member Items" available for a broad range of purposes. Unlike all previous years, no detail is provided on the use of these moneys.

VALUE OF LEGISLATIVE AVAILS

The Legislature proposes to finance additions to the budget with the following resources:

General Fund Legislative "Avails"
Dollars in Millions

	DOB Value		
	2003-04	**2004-05**	**2005-06**
Tax Increases	**1,234**	**2,103**	**600**
Income Tax Surcharge	700	1,900	1,000
Increase Sales Tax by 1/4 Cent	451	572	99
Restrict Sales Tax on Clothing	80	(315)	(435)
Redirect Sales Tax to New York City	(170)	(170)	(170)
Recapture Bonus Depreciation	58	100	90
Abandoned Property	75	0	0
Intangible Holding Companies	0	0	0
Gas/Cigarette Sales on Indian Reserv	0	0	0
All Other Taxes/Fees/Sweeps	40	16	16
Payment Rolls	**274**	**(170)**	**0**
Delay 53rd Medicaid Cycle	170	(170)	0
Roll TAP Payment	104	0	0
Spending Cuts/Reestimates/Bonding	**117**	**97**	**99**
TANF Offset for Pre-K	50	24	24
Medicaid Cost Containment	23	47	50
Judiciary Budget Reduction	10	10	10
Charter Schools	6	0	0
Connections	5	5	5
All Other Cuts/Offsets/Bonding	23	11	10
TOTAL AVAILS	**1,625**	**2,030**	**699**

Tax Increases

The Legislature is proposing over $1.2 billion in additional taxes, lottery actions and miscellaneous receipts. The increases include a three-year personal income tax increase that adds two new tax brackets and raises the top tax rate to 7.7 percent from 6.85 percent for taxpayers with taxable incomes above $500,000. The legislation also includes a two-year quarter of a percent increase in the sales tax rate. Other measures include de-coupling from Federal bonus depreciation provisions, changing the tax treatment of corporations with respect to certain intra-company transactions, changing the parameters of the Video Lottery program and various other actions. These provisions are summarized in Appendix I.

The revenue actions fall far short of financing legislative additions to the 2003-04 Budget. Further, with respect to the sales tax, the legislative plan reduces 2004-05 receipts by over $300 million by restoring the $110 clothing exemption after one year. The Executive Budget replaced the $110 exemption with four tax-free weeks each year at a $500 exemption. Most importantly, as the income and sales tax provisions phase out, imbalances in the outyears grow substantially beyond what was anticipated with the Executive Budget.

Payment Rolls

Payment rolls include payment delays from the 2003-04 fiscal year to early in the 2004-05 fiscal year of $170 million for a Medicaid cycle, and $104 million in TAP.

Spending Cuts/Reestimates/Bonding

Spending Cuts/Reestimates/Bonding reflect reductions in spending or uses of Federal moneys to lower General Fund costs. As described earlier, many of the spending cuts will likely result in layoffs. The increased bonding results in a one-time benefit of $10 million at a future annual debt service cost of $1.4 million annually.

Tobacco Securitization

The Legislature's budget plan included a modified tobacco securitization proposal designed to generate $4 billion in fiscal relief through 2004-05. It would create a bankrupt-remote entity to securitize annual payments from the nationwide tobacco settlement. To mitigate expected concerns over the cost and security of the sale of tobacco settlement revenues, the Governor's original plan envisioned that the State would enhance the security of the bonds with dedicated mortgage recording tax revenues in order to reduce risks to investors and lower total interest costs. The Legislature modifies this "enhanced" securitization structure by replacing dedicated mortgage recording tax revenues with a contingent contractual obligation of the State in the unlikely event that tobacco payments are insufficient to pay debt service on the tobacco bonds. DOB believes this “enhanced” tobacco structure, like that originally proposed by the Governor, will result in borrowing costs comparable to typical State debt.

Cash Flow Impact

The recently published General Fund cash flow estimates show a closing cash balance of $240 million in June 2003 – $575 million below the opening General Fund balance for 2003-04. These low cash balances will deteriorate further in 2004-05 because of large outyear deficits produced by the Legislature’s spending and revenue plan, and because of the one-time cash rolls. These actions negatively impact the State’s 2004-05 cash flow, especially in the first quarter, making it almost certain that potentially significant negative cash balances will occur periodically. As a result, in all likelihood, the State will have to delay payments or take other actions to ensure sufficient funds are available to pay its bills.

In 1990, the Legislature created the Local Government Assistance Corporation (LGAC) to permanently end the practice of “Spring Borrowing” through bond financing of the accumulated deficit. In return, the LGAC statute improved cash flow to localities, normalized State school aid payment schedules and prohibited a return to seasonal cash flow borrowing. Under the LGAC fiscal reforms enacted in the 1990s, the State can only return to seasonal borrowing for unanticipated cash flow problems due to extraordinary events.

IMPACT OF LEGISLATIVE CHANGES ON 2003-04 SPENDING

	General Fund	State Funds	All Funds
2002-03 Actuals	**37,614**	**55,753**	**89,056**
Adjustment for $1.9B temp spending delay	1,900	1,900	1,900
2002-03 Actuals adjusted for timing	**39,514**	**57,653**	**90,956**
2003-04 30-day Exec Budget Spending	**38,512**	**58,871**	**90,809**
Net Legislative Spending Changes	2,320	2,581	4,058
Spending Estimate	**40,832**	**61,452**	**94,867**
Annual 2003-04 Spending Increase (adj.)	**1,318**	**3,799**	**3,911**
% Inc (adj. for $1.9B spending pd in 03-04)	**3.3%**	**6.6%**	**4.3%**

General Fund

General Fund spending for 2003-04 is projected at $40.8 billion, an increase of $1.3 billion or 3.3 percent from 2002-03 actual disbursements adjusted for temporary spending delays of $1.9 billion. The annual increase in spending is primarily the result of $2.6 billion in legislative adds and $100 million in new pension costs that went unfunded in the legislative budget plan, offset by approximately $390 million in avails including the Legislature's proposal to roll Tuition Assistance and Medicaid program spending out of 2003-04 and into early 2004-05.

The Executive Budget had recommended 2003-04 spending at $38.5 billion, a decrease of $1.3 billion or 3.2 percent from the prior year.

State Funds

State Funds comprises that portion of the All Governmental Funds budget supported by State taxes, fees, and other charges. It includes the General Fund, and State-financed special revenue, capital and debt service funds, but excludes Federal aid.

Under the budget enacted by the Legislature, State Funds spending grows by $3.8 billion over 2002-03, after adjusting for the impact of payment deferrals. The annual growth rate in State Funds is 6.6 percent, or roughly three times the rate of inflation. In contrast, the Governor's Budget recommended no growth in the State Funds Budget for 2003-04. The growth in State Funds spending under the legislative budget consists primarily of the General Fund additions described above and increases in health-related programs, capital spending and other activities financed from special revenue funds.

All Funds

The All Governmental Funds Budget includes Federal aid and is the broadest measure of State spending.

All Funds spending grows by $3.9 billion or 4.3 percent over 2002-03 under the legislative budget, after adjusting for the impact of payment deferrals. Legislative restorations for Medicaid, which result in increased levels of Federal spending, and the General Fund adds described above, are responsible for most of the increase. As with State Funds, the Governor's Budget called for no growth in the All Funds Budget in 2003-04.

Analysis of Legislative Revenue Package

This is DOB's review of the tax revenue section of the Legislature's budget bill. The estimates reflect DOB's review of the legislation containing the various provisions describing the tax initiatives. In some cases, it appears the legislation as written cannot generate the revenues intended by the Legislature because of policy issues, impediments to implementation and/or technical flaws in the drafting.

PERSONAL INCOME TAX

1. Income Tax Surcharge

Under current law, the personal income tax (PIT) has a graduated rate structure, with tax rates ranging from 4.0 percent to 6.85 percent. The top rate of 6.85 percent applies to taxable incomes exceeding: (a) $40,000, for married couples filing jointly (MFJ); (b) $20,000, for single taxpayers; and (c) $30,000, for heads of households. For taxpayers with $100,000 or more of adjusted gross income (AGI), the benefit of the marginal tax rates in the lower brackets is recaptured (i.e., the higher rate applies to all income).

This section of the bill would temporarily add two brackets to the PIT rate schedule for the 2003 through 2005 tax years. After 2005, the tax rate schedules would revert to the current schedules. It is unclear how the rate table recapture applies. Provisions in current law "recapture" the benefit of lower tax rates that apply to incomes below the thresholds established in statute for taxpayers with incomes above $100,000.

<u>For the 2003 tax year:</u>
7.5 percent at $150,000 for MFJ, $100,000 for singles, and $125,000 for heads of households.
7.7 percent at $500,000 for all taxpayers.

<u>For the 2004 tax year:</u>
7.375 percent at $150,000 for MFJ, $100,000 for singles, and $125,000 for heads of households.

7.7 percent at $500,000 for all taxpayers.

For the 2005 tax year:
7.25 percent at $150,000 for MFJ, $100,000 for singles, and $125,000 for heads of households.

7.7 percent at $500,000 for all taxpayers.

Under this proposal, tax year PIT liabilities would increase as follows (assuming flaws in the recapture provisions are corrected):

Tax Year	Liability Increase (millions of dollars)
2003	1,100
2004	1,200
2005	1,300

Under this proposal, fiscal year receipts would increase as detailed below. The allocation of cash between fiscal years is dependent on the timing of changes in withholding tables and other factors. The Legislature has provided the authority to the Tax Commissioner to change withholding tables.

Fiscal Year	Receipts Increase (millions of dollars)
2003-04	700
2004-05	1,900
2005-06	1,000

The accompanying table shows that most neighboring states have significantly lower income tax rates on high-income individuals.

Top PIT Tax Rates of Neighboring States

	Rate (percent)	**Top Bracket**
New Jersey	6.37	$150,000
Connecticut	5.0	$20,000
Pennsylvania	2.8	Flat Rate
Massachusetts	5.3	Flat Rate

2. Single Member Filing Fees

Currently, the filing fee is $50 times the number of members of the company or partners, as of the last day of the taxable year. The minimum fee is $325 and the maximum fee is $10,000. The filing fee is currently required to be paid when the information return for the limited liability company or partnership is filed. That return must be filed on or before the 15th day of the fourth month after the last day of that taxable year of the limited liability company or partnership.

The Executive Budget proposes raising the filing fee for limited liability companies and limited liability partnerships from $50 to $100, the minimum fee from $325 to $500, and the maximum from $10,000 to $25,000.

This section would extend the proposal to single member limited liability companies and is effective immediately, applying to taxable years 2003 and 2004 and expiring on January 1, 2005.

This part would increase revenues by $1 million in 2003-04 and $1 million in 2004-05.

3. Sport Utility Vehicles

The depreciation limitations for passenger automobiles were designed to permit large vehicles (weighing more than 6,000 pounds) commonly used by farmers to avoid limitations. Nevertheless, the advent of large SUVs has resulted in a loophole providing an unintended benefit for taxpayers who acquire these vehicles since the limitations do not apply for such property.

This section of the bill removes a loophole in the tax law that extends a depreciation benefit to owners of large SUVs originally intended for farmers. This section would be effective immediately and apply to taxable years beginning on or after January 1, 2003.

This part adopts the Executive Budget proposal.

4. Non-Resident Partners

Quarterly estimated tax payments are required to be made by taxpayers whose income is not subject to income tax withholding. In addition, C-corporations subject to franchise tax in New York State are required to make quarterly estimated payments. Failure to pay required installments of estimated tax incurs a penalty amounting to an interest charge. There is no requirement under the existing Tax Law that a partnership, limited liability company, or S-corporation pay estimated tax payments on behalf of its partners, members, or shareholders.

This section requires payments of estimated tax by partnerships, limited liability companies, and S-corporations on behalf of non-resident members. This section would be effective immediately and apply to taxable years ending after December 31, 2002.

This part adopts the Executive Budget proposal.

5. Interest Rate on Overpayment

Existing law provides that the overpayment rate of interest for almost all taxes administered by the Commissioner of Taxation and Finance will not be less than six percent. This minimum also applies to interest paid by the State, certain public corporations and localities.

This section of the bill removes the 6 percent interest floor on interest paid by the State on refunds. The interest rate will now reflect market conditions. This section would take effect on the first day of the calendar quarter that begins at least 60 days after the date this bill becomes law.

This part adopts the Executive Budget proposal.

6. Non-Resident Sales of Real Property

Under current law, non-residents selling real property in New York State must pay personal income tax on the profit. Generally, this income tax is collected when taxpayers file their returns on April 15. However, some taxpayers may make estimated payments during the year if significant tax is due.

This section requires an estimated tax payment on the sale or transfer of real property by non-residents. This is a spin-up, since voluntary and non-voluntary audit compliance is high. This section would take effect September 1, 2003.

This part would increase revenues by $12 million in 2003-04 and $ 7 million in 2004-05.

SALES & USE TAXES

1. Sales Tax Increase

Currently, the State sales and use tax rate is 4 percent.

Effective June 1, 2003, to May 31, 2005, this legislation would increase the State sales and use tax rate from 4 percent to 4.25 percent.

The proposal increases 2003-04 revenues by $451 million and 2004-05 revenues by $572 million when compared with the current financial plan.

As the accompanying table shows the New York State and local rate is higher than all neighboring states.

Comparison of State and Local Retail Sales Taxes
As of January 03

	State Rate	Maximum Local Rate [1]	Maximum State/Local Rate [1]
Connecticut	6	---	6
Massachusetts	5	---	5
New Jersey	6	---	6
New York	4	4.5	8.5
Pennsylvania	6	1	7

[1] Highest local rate known to be actually levied by at least one jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.

Source: Compiled by the Federation of Tax Administrators from various sources.

2. Sales Tax on Clothing

Currently, items of clothing and shoes priced under $110 are exempt from the sales tax. Local governments are allowed an option to participate.

This section of the bill would eliminate the $110 per item sales tax exemption on clothing between June 1, 2003, and May 31, 2004, and replace it with one tax-free week in August 2003 and another in January 2004 at the same $110 threshold. Effective June 1, 2004, the exemption returns to current law.

The proposal is consistent with the Executive Budget, but increases 2003-04 revenue by $80 million through elimination of one tax-free week. However, unlike the Executive Budget proposal, it reduces 2004-05 revenue by $315 million when compared with the current financial plan by restoring the $110 exemption.

3. City Portion of Excise Tax

Currently, the $1.50 New York City cigarette excise tax is not included in the State and local sales tax base.

This section of the bill includes the New York City cigarette excise tax of $1.50 per pack in the State and local sales tax base effective September 1, 2003.

This part would increase revenues by $7 million in 2003-04 and $13 million in 2004-05.

4. Streamlined Sales Tax

The Streamlined Sales Tax Project ("SSTP") was created by state governments, with input from local governments and the private sector, to simplify and modernize the sales and use tax collection and administration. The group has been meeting over the last four years. The project's proposal calls for many reforms, including State and local base conformity, uniform definitions within each state tax base, standardized audit and administrative procedures, and use of technology for sales tax collection. SSTP is viewed as an intermediary step towards enforcing the taxation of sales made over the Internet.

The State is currently not participating in the Streamlined Sales Tax (SST) project, although we have sent representatives from the Tax Department to meetings to observe the proceedings.

Effective immediately, this section of the bill purports to make New York an implementing (i.e., participating) state in the Streamlined Sales Tax Project, allowing New York to participate in and influence decisions regarding the project.

DOB has included no revenues from this proposal in the current fiscal year or the immediate out years because it requires an act of Congress to force out-of-state vendors to collect sales tax. To date Congress has not acted and it appears unlikely they will act before 2006 at the earliest.

5. Native American Sales

Effective immediately, this section of the bill would require the Tax Department to promulgate regulations to collect the sales tax on motor fuel, cigarettes, and all other items sold at retail to non-Indians on reservations. The bill makes no provision for collection of excise taxes.

Any additional revenue from this provision is highly uncertain. If administrative, legal and policy issues could be resolved, DOB estimates $59.7 million in 2003-04, and $121.1 million in 2004-05.

Due to the extensive administrative, social and legal issues, it has been difficult to collect State excise and sales taxes on sales to non-Indians by Native American nations. The courts have upheld the State's current policy.

6. Use Tax Line on PIT Return

Some catalog and internet businesses are not required to collect New York State taxes.

Effective for 2003, this section of the bill adds a use tax line on the NYS personal income tax (PIT) return. This would allow consumers who do not pay the use tax on Internet and other remote purchases to pay with their PIT return.

This part would generate no additional revenue in 2003-04 and $2.5 million in 2004-05.

7. Payments to the City of New York

Currently, 25 percent of State sales and use tax collections are transferred to the Local Government Assistance Corporation Fund (LGAC). Any funds not used for debt service are transferred back to the General Fund.

This legislation mandates that the Local Government Assistance Corporation transfer $170 million to the City of New York.

This part would reduce General Fund revenue for the State by $170 million per year through 2034.

Legislative Sales Tax Actions

Tax Action	Sunset Date	2003-04	2004-05	2005-06
Net Sales Tax Actions		**360**	**87**	**(505)**
Clothing	May 31, 2004	80	(315)	(435)
Sales Tax 1/4 cents	May 31, 2005	450	572	100
City Transfer Sales Tax	July 1, 2034	(170)	(170)	(170)

BUSINESS TAXES

1. Bank Tax Extender

Chapter 298 of the Laws of 1985 made significant changes to the franchise tax on banking corporations under the Tax Law and the Administrative Code of the city of New York. Many of these amendments, however, were made subject to a sunset provision providing that they would no longer be effective as to commercial banks for taxable years beginning on or after January 1, 1990. This sunset provision has been extended numerous times since 1990. These provisions are currently expired.

This section of the bill would extend the bank tax for two years until January 1, 2005, and extend the transitional provisions related to Gramm-Leach Bliley for one year until January 1, 2004. This section would take effect immediately.

This part does not have any incremental value above the Executive Budget proposal.

2. Insurance Tax

Currently, insurers calculate tax based on four alternative bases, including allocated ENI, allocated business and investment capital, allocated income and officers' salaries and a fixed dollar minimum tax of $250. Tax is paid on the base generating the highest liability. In addition, insurers pay a tax on gross premiums, less refunded premiums written on risks located or resident in New York. The current New York rate is 0.7 percent on life insurance premiums for life insurers, 1.0 percent on accident and health premiums for property and casualty insurers and 1.3 percent on property and casualty premiums for property and casualty insurers. New York also imposes a cap or limitation on tax liability. The cap for both life insurers and non-life insurers is now 2.0 percent of net premiums.

This section of the bill would change the tax base for life insurers to the greater of current law or 1.5 percent of premiums written. In addition, the insurance tax structure for all other taxpayers is changed to eliminate all the income bases, other than the fixed dollar minimum, and applying a premiums only rate of 1.75 percent for accident and health premiums and 2.0 percent for all other premiums. This section would take effect immediately and apply to tax years beginning on or after January 1, 2003.

This part adopts the Executive Budget proposal in most respects and results in no incremental costs.

3. Decoupling from Bonus Depreciation

The Federal Job Creation and Worker Assistance Act of 2002 provided for an additional first-year depreciation deduction equal to 30 percent of the cost of qualified property placed in service, which threatens to cost states large amounts of revenue. Thirty-one states plus the District of Columbia that previously followed Federal depreciation rules are now decoupled from the provisions.

This section of the bill would decouple New York from the Federal bonus depreciation provisions. This section would apply to property placed in service on or after June 1, 2003, except for qualified Resurgence Zone and New York Liberty Zone property.

The revenue impact is $58 million for State fiscal year 2003-04 and $100 million in 2004-05.

4. Intangible Holding Companies

Under current law, it is presumed that corporate taxpayers will file separate tax returns, because the State generally treats corporations as separate entities for tax purposes. However, the Tax Commissioner may require or permit related companies to file a combined report, if it is necessary to properly reflect tax liability. The Commissioner's decision to require combined reporting in New York has been subject to numerous lawsuits.

This section of the bill attempts to limit behavior by requiring New York corporate taxpayers to add back certain payments made in relation to intangible assets (referred to as "royalty payments") and an add back of certain interest expenses, when made by related persons or entities. However, this section includes provisions that appear to mitigate any intended change. In addition, a provision for business trusts changes their status from taxable to not taxable. This section would take effect immediately and would apply for tax years beginning on or after January 1, 2003.

As a result of the broad exemption from the new provision and the trust provision, this proposal would not raise revenue in State fiscal year 2003-04 or 2004-05.

OTHER TAXES

1. Video Lottery Terminals

The Governor signed legislation on October 29, 2001, authorizing Video Lottery Terminals (VLTs). In addition, the Governor submitted legislation with the 2003-04 Executive Budget to amend the law to meet objections raised predominantly by track owners. The Legislature has passed this legislation to deal with the same issues. To date, no track has supported any bill or made a commitment to participate. Track participation in the VLT program is voluntary.

This bill amends the legislation authorizing the operation of Video Lottery Terminals at racetracks to meet objections raised predominantly by track owners. This section would be effective immediately.

No revenue is included for fiscal years 2003-04 and 2004-05 for the VLT operation at racetracks (If four tracks begin VLT operations in fiscal year 2003-04, and six tracks operate in 2004-05, then a possible $40 million and $180 million in revenues to the State may be realized, respectively.) No racetracks have committed to initiating the VLT program and there is a lawsuit challenging the constitutionality of the legislation that authorizes VLTs and several of the tracks may not move forward until the lawsuit is satisfied. For these reasons, any positive revenue gain for either 2003-04 or 2004-05 is highly uncertain.

2. Racing Regulatory Fees

This section of the bill would establish a regulatory fee that would have the racing industry directly funding the State's regulation of its activities. The tracks are allowed to set the takeout rate within a specific range. Unlimited simulcasts are authorized and mandatory fund balances for telephone accounts would be eliminated. This section would be effective immediately. This bill would increase revenues by $2 million in 2003-04 and $2 million in 2004-05.

3. Six-Day Liquor License

Currently, the State does not allow liquor stores to open on Sundays, although consumers can buy wine and liquor in restaurants and bars on Sundays.

Effective immediately for five years, this section of the bill would allow off-premise alcohol vendors to operate during any six days of the week they choose. If they operated on Sunday, they would be required to close on another day during the week.

Given current weekend-heavy consumer buying patterns, it may appear logical to assume a positive revenue impact. However, Oregon began opening its State-run liquor stores on Sundays effective April 1, 2002. Based on a full year of sales data given to us by Oregon, there appears to be no discernable impact on sales resulting from the extra sales day. Given existing data, any positive revenue impact for this proposal is highly uncertain.

4. Tribal Compacts

There are no provisions for the distribution of these funds under current law. This part allocates the local share of revenue from the operation of Indian casinos in the western region to the "Niagara Falls Casino-Community Accommodation and Improvement Commission" and requires them to submit a plan to the Legislative Finance Committees and the Director of the Budget. This section of the bill would take effect immediately. This part would allocate $13.8 million of existing resources to the Niagara Falls Casino-Community Accommodation and Improvement Commission.

5. Abandoned Property

State law requires banks, insurance companies, utilities, and other businesses to turn dormant savings accounts, unclaimed insurance and stock dividends, and other inactive holding over to the State. If there has been no activity in the account for a set period of time, usually between two and five years, the money is considered unclaimed or abandoned.

This section of the bill reduces the time period for collecting abandoned property related to the demutualization or similar reorganization of an insurance company from five years to two.