

Update to Annual Information Statement (AIS) State of New York

November 16, 2004

This quarterly update (the “Update”) to the AIS of the State of New York is dated November 16, 2004 and contains information only through that date. It is the first quarterly update to the AIS of the State of New York dated September 19, 2004. The information in this Update is organized into three parts.

Part I contains information on the State’s Financial Plan projections. In Part I, readers will find: (a) extracts from the Mid-Year Update to the 2004-05 Financial Plan (the “Mid-Year Update”) issued by the Division of the Budget (DOB) on November 1, 2004 and (b) a discussion of special considerations that may affect the State’s Financial Plan projections.

Part II includes a summary of the State’s updated Five-Year Capital Program and Financing Plan that DOB issued on November 15, 2004, and updates on other debt-related matters. The full Capital Program and Financing Plan for the 2004-05 through 2008-09 fiscal years is incorporated by reference, and is available from DOB at the address below.

Part III updates information related to certain litigation against the State. Information relating to litigation is furnished by the State Office of the Attorney General.

The State plans to issue updates to the AIS on a quarterly basis and may issue supplements or other disclosure notices as events warrant. The State intends to announce publicly whenever an update or a supplement is issued. The State may choose to incorporate by reference all or a portion of this AIS in Official Statements or related disclosure documents for State or State-supported debt issuance. Readers may obtain informational copies of the AIS, updates, and supplements by contacting Mr. Louis Raffaele, Chief Budget Examiner, New York State Division of the Budget, State Capitol, Albany, NY 12224, (518) 473-8705. The State has filed this Update with the Central Post Office, Disclosure USA. The Municipal Advisory Council of Texas (Texas MAC) has established this internet-based disclosure filing system approved by the Securities and Exchange Commission to facilitate the transmission of disclosure-related information to the Nationally Recognized Municipal Securities Information Repositories (NRMSIRs). An official copy of this Update may be obtained from the Division of the Budget, State Capitol, Albany, NY 12224, Tel: (518) 473-8705 or from any NRMSIR. The Basic Financial Statements for the 2003-04 fiscal year issued in July 2004 may be obtained from the Office of the State Comptroller, 110 State Street, Albany, NY 12236.

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PART I

Mid-Year Update to the 2004-05 Financial Plan

DOB prepared the extracts of the Mid-Year Update set forth below. The Mid-Year Update contains estimates and projections of future results that should not be construed as statements of fact. These estimates and projections are based upon various assumptions that may be affected by numerous factors, including future economic conditions in the State and nation and potential litigation concerning actions by the State Legislature in enacting the 2004-05 budget. There can be no assurance that actual results will not differ materially and adversely from the estimates and projections contained herein.

Introduction

This Mid-Year Update is submitted pursuant to Section 23 of the State Finance Law.

In this Mid-Year Update readers will find:

- An explanation of the mid-year revisions to the 2004-05 Enacted Budget Financial Plan and updated gap projections for 2005-06 and 2006-07;
- A revised forecast for the national and State economies that supports the current Financial Plan projections;
- Monthly General Fund cash flow projections for 2004-05;
- A discussion of Financial Plan reserves and risks;

- Updated 2004-05 receipts and disbursements estimates under the Health Care Reform Act (HCRA); and,
- Updated information on the State's debt outstanding and debt service caps, as well as the State's variable rate debt levels.

Financial Plan tables summarizing (a) the General Fund, State Funds, and All Governmental Funds Cash-basis Financial Plans, (b) the monthly General Fund cash flow, (c) the quarterly HCRA cash flow, and (d) General Fund, State Funds, and All Governmental Funds spending by function appear at the end of this Mid-Year Update.

The Enacted Budget estimates cited in this Mid-Year Update were published in DOB's report, "2004-05 Enacted Budget Report," issued on September 14, 2004.

Both this Mid-Year Update and the Enacted Budget Report are available on-line at www.budget.state.ny.us or by contacting the Division of the Budget, State Capitol, Albany, NY 12224, (518) 473-8705.

GENERAL FUND SUMMARY

On September 14, 2004, DOB issued the Enacted Budget Report for the 2004-05 fiscal year. DOB projected General Fund receipts of \$42.7 billion, General Fund disbursements of \$43.0 billion, and a change of \$50 million in fund balances, resulting in a potential imbalance of \$434 million in the General Fund in 2004-05. The projections reflected the impact of the Governor's vetoes of certain legislative additions to the Executive Budget, valued at roughly \$235 million of savings in the current fiscal year. To fully eliminate the current-year imbalance and help reduce the projected budget gaps of \$5 billion to \$6 billion in 2005-06 and \$7 billion to \$8 billion in 2006-07, DOB began preparation of a Fiscal Management Plan (FMP) in cooperation with State agencies.

DOB now projects that General Fund receipts will total \$43.0 billion in 2004-05, an increase of \$359 million from the Enacted Budget estimate. Disbursements are now projected to total \$43.2 billion, an increase of \$215 million. The revisions to revenue and spending, which are based upon results to date and a revised economic outlook, are explained in more detail later in this Mid-Year Update. The most significant changes include upward revisions to the personal income tax (PIT) and the real estate transfer taxes, offset by higher costs for Medicaid and the Department of Correctional Services.

The net impact of revenue and spending revisions leaves a potential current year imbalance of \$290 million that DOB plans to close through the FMP. To date, the FMP has generated \$66 million in administrative savings. The DOB will continue to work with agencies to develop administrative and legislative actions to achieve the remaining \$224 million of savings needed to balance the 2004-05 budget and to begin to reduce the outyear gaps. In addition to the expected FMP savings, the Financial Plan also assumes that Empire conversion resources will be available by the end of this fiscal year to avoid additional General Fund costs in the range of \$200 million to \$400 million in 2004-05 (the risks surrounding the conversion proceeds are described later in this Mid-Year Update).

The projected imbalance of \$224 million constitutes roughly one half of one percent of total General Fund spending and as such falls within the range that DOB believes can be managed through Financial Plan actions. The State has a balance of approximately \$800

million in its rainy day reserve (Tax Stabilization Reserve Fund) that could be used to offset a potential shortfall in FMP savings or conversion proceeds. However, DOB does not expect to draw on this fund to maintain budget balance in 2004-05.

The following table summarizes the changes since the Enacted Budget. A detailed explanation of the changes is provided later in this Mid-Year Update.

General Fund (millions of dollars)			
	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Enacted Budget (Before Vetoes & FMP)	(669)	(6,350)	(7,954)
Vetoes	235	211	259
Enacted Budget (Before FMP)	(434)	(6,139)	(7,695)
Revenues	359	513	505
New Costs	(215)	(819)	(968)
Medicaid	(90)	(109)	(175)
DOCS	(75)	(89)	(104)
Lottery	(55)	0	0
Collective Bargaining	(43)	(205)	(191)
Mental Hygiene	(15)	(111)	(153)
School Aid	0	(207)	(327)
SUNY	0	(80)	(85)
All Other Changes	63	(18)	67
Fiscal Management Plan Savings	290	450	450
FMP Savings Achieved (to date)	66	83	47
Remaining FMP Savings Needed	224	367	403
Mid-Year Update	0	(5,995)	(7,708)

As a result of the mid-year revisions, the DOB projects that All Governmental Funds spending will total \$101.3 billion in 2004-05, an increase of \$84 million from the Enacted Budget.

Fiscal Management Plan

The Governor directed DOB to develop a FMP to reduce State Operations costs, curtail non-essential spending, and identify other cost containment actions to bring the General Fund into balance and begin to address the 2005-06 and 2006-07 budget gaps. The following table summarizes the savings achieved to date and the remaining savings needed to achieve budget balance in the current year.

Fiscal Management Plan Savings (millions of dollars)			
	2004-05	2005-06	2006-07
FMP Savings Achieved (to date)	66	83	47
SUNY	23	25	22
Medicaid	20	23	0
Health	13	13	10
Mental Hygiene	6	15	8
Tax and Finance	3	6	6
All Other	1	1	1
Remaining FMP Savings to be Achieved	224	367	403
Total Fiscal Management Plan Savings	290	450	450

FMP savings include the implementation of administrative efficiencies in several programs run by the agencies noted above, and the maximization of Federal and other available resources. These savings include lower spending for State University of New York (SUNY) operating aid (\$23 million), maximization of offsets in the Medicaid Escrow Account (\$20 million), and efficiencies in the Early Intervention Program (\$10 million). FMP savings were also achieved by the Office of Alcoholism and Substance Abuse Services, the Office of Children and Family Services, the Office of Employee Relations, Office of Parks, Recreation and Historic Preservation, the Public and Private Employment Relations Board and the Commission on Quality of Care for the Mentally Disabled.

The DOB will continue to work in cooperation with State agency managers to develop administrative and legislative actions to achieve the full value of FMP savings counted on in the three-year Financial Plan. In addition to administrative savings, elements of the plan may include cost containment proposals that can be presented for legislative consideration later this year.

Veto

On August 20, 2004, Governor Pataki exercised his veto authority. This action contributed to closing approximately one-third of the projected imbalance at that time. The Mid-Year Update relies upon the \$235 million in General Fund savings from vetoes in 2004-05 with comparable savings in 2005-06 and 2006-07. In addition, the Governor also vetoed \$1.6 billion in new bonding for capital spending. Under the State Constitution, the Legislature must act on the Governor's vetoes through December 31, 2004, or enact additional appropriations, subject to gubernatorial veto, at any time during the 2004-05 fiscal year.

ECONOMIC OUTLOOK

National Economy

The outlook for the US economy remains essentially unchanged from that reported in the Enacted Budget. The national economy, as measured by real U.S. Gross Domestic Product (GDP), grew 4.9 percent during the first half of 2004 compared to the same period last year, however, output growth is expected to slow to 4.3 percent for the year reflecting slower second half growth. DOB expects output growth to slow to 3.2 percent in 2005 consistent with DOB's estimate of historical trend growth for the economy. The Federal Reserve increased its Federal Funds rate target at each of its last three meetings, from 1.00

percent to 1.75 percent¹, and is expected to continue to raise rates at a "measured pace" through 2005 and beyond. Rising interest rates, fading fiscal stimulus, as well as higher energy costs are expected to contribute to lower real consumption growth -- the major factor in the expected slowdown in output growth.

Output has been growing above trend and employment growth has remained essentially consistent with DOB's projections. However, the labor market is expected to improve in 2005, with employment growth accelerating to 1.8 percent, following 1.0 percent growth for 2004. The outlook for personal income is weaker than in the Enacted Budget Report due largely to the impact of the hurricanes late in 2004 and the return to trend growth in 2005 (just above 3 percent annually). Personal income is expected to grow 5.3 percent in 2005, following 5.2 percent growth for 2004. In addition, DOB now expects moderately higher inflation for 2005 than projected in the Enacted Budget Report, primarily due to the persistent rise in oil prices. Consumer prices are expected to grow 2.7 percent in both 2004 and 2005.

Major Economic Indicators			
	2003	2004	2005
Gross Domestic Product (real)	3.0	4.3	3.2
Personal Income	3.2	5.2	5.3
Nonfarm Employment	(0.3)	1.0	1.8
Consumer Price Index	2.3	2.7	2.7
<p><i>Note: Numbers above are percent change/calendar year. DOB estimates are based on National Income and Product Account data through September 2004.</i></p> <p><i>Source: U.S. Bureau of Economic Analysis, DOB staff estimates.</i></p>			

DOB's forecast is not without risk. If oil prices remain above \$50 per barrel, both inflation and interest rates could be higher and real output growth lower than expected. Persistent geopolitical uncertainty could combine with higher energy prices resulting in slower profit growth and slower job growth than expected. In turn, continued weakness in the labor market could further depress consumption spending. In contrast, if oil prices decline faster than expected, real consumption and output could be stronger, while inflation could be weaker than predicted.

State Economy

DOB's New York State Index of Coincident Economic Indicators shows that the State economy entered a recovery in September 2003. The State economy has added about 70,000 private sector jobs since August of last year. The DOB outlook for the State labor market is slightly weaker than projected in the Enacted Budget Report, but represents a significant improvement from the 0.6 percent decline observed in 2003. The total State employment is projected to rise 0.3 percent in 2004, followed by growth of 0.9 percent in 2005. Wage income is projected to rise 5.6 percent in 2004, followed by growth of 4.7 percent for 2005, representing virtually no change from the Enacted Budget Report. Employment, wage, and total personal income growth projected for 2004 and 2005 reflect the belief that the State economy is solidly on an expansionary path.

¹ Since the release of the Mid-Year Update, the Federal Reserve increased the Federal Funds rate to 2.0%.

In addition to the risks associated with the national economic forecast, there exist specific risks to the State economy. Chief among them is a weaker performance within the financial sector than is currently projected. Higher energy prices and lower corporate profits could have a negative impact on equity markets, causing securities industry profits to be significantly lower than projected. A weaker financial market performance than expected could result in lower bonus payment growth than projected, with this impact largely felt during the first quarter of 2005. In contrast, a stronger national economy than anticipated could result in greater equity market growth and, in turn, stronger finance sector income growth than currently expected.

Major Economic Indicators			
	2003	2004	2005
Personal Income	2.3	5.3	4.8
Nonagricultural Employment	(0.6)	0.3	0.9
Unemployment Rate	6.3	6.0	5.6
<p><i>Note: Numbers above are percent changes for personal income and nonagricultural employment and percents for the unemployment rate, calendar year basis.</i></p> <p><i>Source: U.S. Bureau of Economic Analysis, NYS Department of Labor, DOB staff estimates.</i></p>			

ALL GOVERNMENTAL FUNDS SUMMARY

Summary of Receipt Changes

Total receipts in 2004-05 are now projected at \$43.0 billion in the General Fund, an increase of \$359 million from the Enacted Budget and an annual increase of \$687 million (1.6 percent). State Funds receipts are estimated at \$63.4 billion, \$287 million above the Enacted Budget and an annual increase of \$1.3 billion (2.0 percent). In All Governmental Funds, the broadest measure of the State budget, receipts are projected to total \$100.6 billion, an increase of \$445 million above the Enacted Budget and \$1.6 billion (1.6 percent) over 2003-04. A detailed discussion of annual growth in receipts is contained in the Enacted Budget Report.

Summary of Receipt Changes (millions of dollars)			
	General Fund	State Funds	All Funds
2003-04 Actuals	42,327	62,170	98,989
2004-05 Enacted Budget	42,655	63,153	100,118
Personal Income Tax	227	300	300
PIT Revenue Bond Tax Fund Transfer	73	0	0
Real Estate Transfer Tax	165	165	165
Miscellaneous Receipts	(91)	(183)	(189)
Federal Grants	6	5	169
All Other Changes	(21)	0	0
Net Change from Enacted Budget	359	287	445
2004-05 Mid-Year Update	43,014	63,440	100,563
Annual Change from 2003-04			
-- <i>Dollar Change</i>	687	1,270	1,574
-- <i>Percent Change</i>	1.6%	2.0%	1.6%
Annual Change Adjusted for \$1.9B in Tobacco Proceeds Received in 2003-04			
-- <i>Dollar Change</i>	2,587	3,170	3,474
-- <i>Percent Change</i>	6.4%	5.3%	3.6%

NOTE: Annual growth is affected by the deferral of \$1.9 billion in payments from 2002-03 to 2003-04. The deferral artificially inflates the 2003-04 spending base and thus understates the annual change to 2004-05. Accordingly, DOB is reporting the annual spending change on both an adjusted (excluding the impact of payment deferrals) and unadjusted basis.

Personal Income Tax/Revenue Bond Tax Fund: Total PIT receipts in the General Fund are estimated at \$18.7 billion in 2004-05, an increase of \$227 million in the Enacted Budget estimate. DOB has revised the estimate for net income tax receipts from All Governmental Funds upward by \$300 million reflecting stronger-than-expected collections results through September. The estimate includes an additional \$376 million in current-year estimated tax payments reflecting stronger-than-expected results to date, and a net increase of \$25 million in final returns for the 2003 tax year, refunds, and delinquencies, offset by a lower withholding estimate (\$101 million). Deposits to the Revenue Bond Tax Fund (RBTF) are increased by \$73 million reflecting better-than-expected results to date. Current year results are expected to exceed 2003-04 actual collections by almost \$3.0 billion. This reflects a net positive change in the Refund Reserve Account of almost \$1.3 billion. Important risks affecting the PIT estimate include the strength of growth in the overall economy, financial and real estate markets, and financial sector compensation trends.

Real Estate Transfer Taxes: Real estate transfer taxes are now expected to exceed Enacted Budget estimates by \$165 million reflecting the strong commercial and residential real estate markets.

Miscellaneous Receipts: In the General Fund, miscellaneous receipts are expected to total \$2.3 billion in 2004-05, \$91 million lower than the Enacted Budget estimate. The decrease in expected collections is primarily due to a decrease of \$112 million in license and fees revenues to compensate for lower-than-expected collections to date, and changes in the

valuation of previous law changes. This decline is partially compensated for by an increase of \$27 million in other transactions in expectation of increases in medical provider assessments revenues and higher-than-expected collections to date. Miscellaneous receipts have declined significantly from 2003-04 reflecting the loss of one-time receipts.

In All Governmental Funds, miscellaneous receipts are projected to decrease by \$189 million from the Enacted Budget estimates. This decrease is primarily due to \$91 million in General Fund changes described above, reductions in bond proceeds resulting from lower than anticipated spending in the Dedicated Highway and Bridge Trust Fund (\$60 million) and in the Capital Projects Fund (\$24 million), lower receipts from the delayed implementation of the New York State Options for People Through Services Program (\$62 million) (NYS-OPTS a system of services for individuals with developmental disabilities intended to provide them with greater flexibility and choices about their own care), and \$55 million in lower Lottery receipts primarily due to a reduction in the Video Lottery Terminal (VLT) program estimate based upon the results to date. These decreases are offset by higher SUNY receipts of \$142 million generated primarily by hospital services (\$46 million), self-supporting program revenue (\$13 million) and Capital Projects Funds (\$42 million) to support spending.

Federal Grants: Receipts in this category have been increased by \$169 million above the Enacted Budget primarily to support higher projected spending for Medicaid (\$125 million) as described below and Children and Families Services including adoption and foster care (\$47 million).

All Other Changes: In comparison to the Enacted Budget forecast, all other receipts have been revised downward by \$21 million. The principal revisions include a higher transfer for capital projects related to the Consolidated Highway Improvement Program offset by debt service savings.

The estimates for both user taxes and fees and business taxes remain unchanged from the Enacted Budget forecast. However, although the total amounts estimated for business taxes in 2004-05 are unchanged, DOB has made some adjustments to estimates of various taxes within this category. The bank tax estimate is increased by \$120 million due to stronger than anticipated collections to date, offset by lower-than-expected corporate franchise tax (\$91 million) and utility tax (\$29 million) payments.

Summary of Disbursement Changes

The DOB projects General Fund disbursements will total \$43.2 billion in 2004-05, an increase of \$149 million over the Enacted Budget estimate, after reflecting FMP savings to date. State Funds and All Governmental Funds disbursements are projected to reach \$64.3 billion and \$101.3 billion in 2004-05, reflecting a modest net reduction in spending of \$20 million in State Funds and a slight increase of \$84 million in All Governmental Funds from the Enacted Budget. The major components of the disbursement changes since the Enacted Budget are summarized in the following table and are explained in more detail below.

Summary of Disbursement Changes			
(millions of dollars)			
	General Fund	State Funds	All Funds
2003-04 Actuals	42,065	61,332	97,326
2004-05 Enacted Budget	43,039	64,293	101,207
Medicaid	90	24	149
SUNY	0	113	118
DOCS	75	75	81
Lottery	55	0	0
Judiciary	43	43	43
Mental Hygiene	15	(50)	(46)
Transportation	0	(78)	(132)
All Other Changes	(63)	(85)	(67)
Subtotal	215	42	146
FMP Savings to Date	(66)	(62)	(62)
Net Change from Enacted Budget	149	(20)	84
2004-05 Mid-Year Update	43,188	64,273	101,291
Annual Change from 2003-04			
-- Dollar Change	1,123	2,941	3,965
-- Percent Change	2.7%	4.8%	4.1%
Annual Change Adjusted for \$1.9B in Payment Deferrals Paid in 2003-04			
-- Dollar Change	3,023	4,841	5,865
-- Percent Change	7.5%	8.1%	6.1%

NOTE: Annual growth is affected by the deferral of \$1.9 billion in payments from 2002-03 to 2003-04. The deferral artificially inflates the 2003-04 spending base and thus understates the annual change to 2004-05. Accordingly, DOB is reporting the annual spending change on both an adjusted (excluding the impact of payment deferrals) and unadjusted basis.

Medicaid: All Governmental Funds Medicaid spending is expected to increase by \$149 million over the Enacted Budget estimate. The revision is comprised of higher spending in the General Fund (\$90 million) and Federal Funds (\$125 million), partially offset by lower spending in other State funds (\$66 million). The General Fund spending revisions and the corresponding increase in the Federal share of Medicaid costs are the result of higher than expected prescription drug prices and pharmacy utilization (\$80 million) and personal and home health care utilization (\$60 million), partially offset by underspending for various other services, including inpatient and outpatient hospital services (\$50 million). In addition, projected Special Revenue Fund spending for certain programs funded through HCRA and disbursements associated with disproportionate share payments to hospitals are expected to be lower than the Enacted Budget estimates.

State University of New York: Projected All Governmental Funds spending has been increased by \$118 million over the Enacted Budget estimate primarily due to reestimates for operating costs associated with SUNY hospitals (\$46 million) and SUNY State-operated campuses (\$13 million), and reestimates in capital projects spending (\$42 million) based upon year-to-date experience.

Lottery: Total receipts from the Lottery Fund, which are used to finance school aid spending, are estimated to be \$55 million lower than the Enacted Budget projection. These lower receipts are primarily due to a reduction in VLTs revenues based upon the trend of actual receipts to date (\$82 million) offset by the use of available fund balances (\$27 million).

Department of Correctional Services: On an All Governmental Funds basis, projected DOCS spending has been increased by \$81 million over the Enacted Budget estimate. This revision primarily reflects higher than expected costs for health services and pharmaceuticals (\$35 million), overtime (\$30 million), and fuel and utility expenses (\$10 million).

Judiciary: The estimate for Judiciary spending has been increased by \$43 million over the Enacted Budget estimate to reflect an increase in personal service costs resulting from the recently negotiated collective bargaining agreement.

Mental Hygiene: All Governmental Funds spending in the Office of Mental Retardation and Developmental Disabilities (OMRDD) is expected to decrease by \$46 million from the Enacted Budget estimate primarily due to the delayed implementation of OMRDD's NYS-OPTS Program.

Transportation: The revisions from the Enacted Budget estimates are driven primarily by a reestimate of capital projects spending in the Capital Projects Fund (\$24 million), the Dedicated Highway and Bridge Trust Fund (\$60 million), and Federal Funds (\$57 million) based upon year-to-date experience.

All Other Changes: The \$63 million downward revision in the General Fund reflects changes in various programs based upon year-to-date experience, including reestimates to general state charges due in part to lower worker's compensation costs (\$56 million) and debt service (\$4 million).

Fiscal Management Plan Savings: Savings achieved through implementation of the FMP amount to \$66 million in the General Fund and \$62 million in State Funds and All Governmental Funds. FMP savings achieved to date include the implementation of administrative efficiencies in several programs and the maximization of Federal and other available resources as described earlier in this Mid-Year Update.

Collective Bargaining: DOB still continues to project General Fund collective bargaining costs of \$274 million in 2004-05 for Executive Branch agencies. The costs for the unions that have reached labor settlements, including the Civil Service Employees Association, the United University Professions, and the Professional Employee Federation, and the State's Management-Confidential employees, have been allocated from a central reserve to the appropriate agencies/programs with this Mid-Year Update. The State still assumes that the costs for the unions that have not yet reached collective bargaining agreements (e.g., NYSCOPBA, Council 82) will be consistent with these concluded labor settlements.

GENERAL FUND OUTYEAR PROJECTIONS

The DOB projects General Fund budget gaps in the range of \$6 billion in 2005-06 and \$7 billion to \$8 billion in 2006-07, essentially unchanged from the Enacted Budget estimates.

The current gap projections are subject to revision as additional information becomes available about, among other things, the national and State economies, financial sector activity, entitlement spending and social service caseloads, and State reimbursement obligations that are driven by local government activity. Key factors include: end-of-year business tax collections; calendar year economic results; year-end financial sector bonus income data; the school aid database update in November; and quarterly Medicaid and welfare cycle trend analyses. Historically, these factors have been subject to a high degree of fluctuation across the forecast period, and could produce results above or below the current projections.

Sources of Projected General Fund Outyear Gaps

As noted in the Enacted Budget Report, the projected gaps are primarily the result of anticipated spending increases that exceed the growth in revenue collections, and the loss of nonrecurring resources used to help balance the budget in 2004-05. The following chart provides a "zero-based" look at the 2005-06 gap.

Sources of 2005-06 Budget Gap (billions of dollars)	
	2005-06
Revenue Growth	2.3
Loss of Nonrecurring Actions	(2.1)
PIT/Sales Tax Temporary Surcharge Phase-out/Clothing Exemption	(1.1)
Final Use of Tobacco Proceeds	(0.4)
Medicaid Growth	(0.8)
Loss of FMAP	(0.2)
State Takeover of FHP	(0.3)
School Aid	(0.8)
Pension/Health Insurance Costs	(0.7)
Increasing Debt Service and STAR Costs	(0.5)
All Other Spending Growth	(1.4)
2005-06 Projected Budget Gap	(6.0)

Receipts in 2005-06 are projected to decrease by \$761 million from the current year. Underlying revenue growth of \$2.3 billion (4.8 percent) is offset by decreases attributable to the loss of several one-time revenues (\$1.2 billion), tax law changes, including the phase-out of the PIT surcharge and the one-quarter percent increase in sales tax, and reversion to a full-year clothing tax exemption (\$1.1 billion), and the final use of the tobacco securitization proceeds (\$400 million).

Disbursements are projected to increase by \$5.2 billion in 2005-06. The growth is primarily attributable to the loss of one-time savings detailed in the Enacted Budget Report (\$883 million); underlying growth in Medicaid, including the increasing cost of providing health care services, as well as the rising number of recipients and corresponding increases in medical service utilization (\$800 million), the expiration of a temporary 2.95 percent increase in the Federal Medicaid match rate (\$220 million); the continued phase-in of the State takeover of local government Family Health Plus (FHP) costs (\$280 million); school aid, which reflects current year reestimates that are payable in 2005-06 as well as projected growth on a school year basis (\$798 million); higher pension costs (\$489 million), primarily resulting from last year's legislation, and rising health insurance costs (\$247 million).

Changes From the Enacted Budget

Total receipt estimates have been revised upward from Enacted Budget projections by \$513 million in 2005-06 and \$505 million in 2006-07. The changes are concentrated in the personal income tax and the real estate transfer tax. Both sources are performing better than expected in the current fiscal year and it is expected that these results will continue into 2005-06 and 2006-07. Overall, the economic assumptions underlying the outyear estimates remain largely consistent with Enacted Budget estimates and do not suggest significant changes in revenue growth rates beyond these base adjustments. DOB expects growth in the receipts base of 5.7 percent over the next two fiscal years. This exceeds average base revenue growth over recent years but is consistent with prior economic expansions.

In comparison to the Enacted Budget forecast, General Fund disbursements are expected to increase by \$736 million in 2005-06 and \$921 million in 2006-07. Major sources of growth include higher current year school aid liabilities that are payable in 2005-06 and thereafter as well as revised estimates for expense-based programs (\$207 million in 2005-06 growing to \$327 million in 2006-07); additional collective bargaining costs for the City University and the Judiciary (\$205 million in 2005-06 and \$191 million in 2006-07); higher costs for mental hygiene programs due mainly to the delay in implementing the NYS-OPTS program, continued development of pipeline expansion, mandated staffing requirements, and higher pharmaceutical and utility costs (\$111 million in 2005-06 and \$153 million in 2006-07); Medicaid revisions based on current year spending experience (\$109 million in 2005-06 growing to \$175 million in 2006-07); and higher overtime and health services costs in DOCS (\$89 million in 2005-06 and \$104 million in 2006-07). FMP savings are valued at \$83 million in 2005-06 and \$47 million in 2006-07.

Please refer to the Enacted Budget Report for more details on the projected growth in outyear receipts and disbursements.

CASH FLOW

DOB projects positive quarterly balances of \$1.8 billion in December 2004 and \$1.1 billion at the end of March 2005 (including projected FMP savings). Monthly cash flow projections are included in the Financial Plan tables at the end of this Mid-Year Update.

The State Comptroller invests General Fund moneys, bond proceeds, and other funds not immediately required to make payments, through the State's Short-Term Investment Pool (STIP), which is comprised of joint custody funds (Governmental Funds, Internal Service Funds, Enterprise Funds, and Private Purpose Trust Funds), as well as several sole custody funds.

The Office of the State Comptroller (OSC) is authorized to make temporary loans from the State's STIP to cover temporary cash shortfalls in certain funds and accounts resulting from the timing of receipts and disbursements. The Legislature authorizes the funds and accounts that may receive loans each year. Loans may be granted only for amounts that are "receivable on account" or can be repaid from the current operating receipts of the particular fund (i.e., loans cannot be granted in expectation of future revenue enhancements). The 2004-05 Enacted Budget extends legislation that permits OSC to temporarily loan balances in other funds to the General Fund within any month, and repay them by month end. This authorization was utilized in June 2004 and September 2004 to support General Fund intra-month daily cash flow needs; however, as required under the legislation, the General Fund

ended both June and September with positive cash balances of \$1.9 billion and \$2.4 billion, respectively.

FINANCIAL PLAN RESERVES AND RISKS

The State projects balances in its principal reserves to guard against unbudgeted risks will remain at \$815 million. The reserves include \$794 million in the rainy day reserve and \$21 million in the Contingency Reserve Fund for litigation.

Ongoing litigation challenging the use of proceeds resulting from the conversion of Empire from a not-for-profit corporation to a for-profit corporation could result in a loss of resources in 2004-05 for both the General Fund and HCRA. Pursuant to court order, all proceeds are currently being held in escrow by the State Comptroller until a judgment is rendered. The current HCRA Plan (described in the next section), which expires on June 30, 2005, counts on a total of \$1.2 billion in conversion proceeds, including planned proceeds from future sales. In addition, another \$200 million in conversion proceeds is expected to finance Medicaid costs in the General Fund in 2004-05. Availability of these resources depends on successful resolution of the litigation or release of the moneys currently held in escrow. The General Fund is required to finance any shortfall in HCRA up to the payment that would have been received by HCRA absent the securitization of tobacco proceeds. In addition, a statutory loan repayment provision requires the General Fund to provide up to \$200 million to cover any additional HCRA shortfall.

In *Campaign for Fiscal Equity (CFE) v. State of New York*, the State Court of Appeals directed the State to implement a remedy by July 30, 2004 that ensures all children in New York City have the opportunity to receive a sound basic education. The Court has appointed a panel of three Special Masters who are expected to submit a report to the Court by November 30, 2004. The Court has directed the Special Masters to report and make recommendations on the measures the State has taken to bring its school financing system into constitutional compliance with respect to New York City schools.

DOB continues to assume the entire outyear value of VLTs is reserved to help finance compliance with the CFE court case. Under an expansion plan proposed by the Governor in the 2004-05 Executive Budget, receipts from VLTs were expected to be \$950 million in 2005-06. This plan was not enacted by the Legislature. Eight VLT facilities are authorized under the current law, but two major facilities located at Yonkers and Aqueduct Raceways have not yet begun operations. These two facilities were expected to produce the majority of the VLT receipts under current law. In July 2004, the Appellate Division of the Court of Appeals upheld the constitutionality of VLTs as a lottery providing education funding. However, the decision stated that certain allocation provisions within the statute allowing VLTs were considered unconstitutional.

While the order of the Court allows current VLT facilities to continue operations, development of the Yonkers and Aqueduct projects has been deferred pending the outcome of litigation at the Court of Appeals.

HEALTH CARE REFORM ACT FINANCIAL PLAN

HCRA was established in 1996 to improve the fiscal health of hospitals and ensure that affordable and quality health care coverage was available to all New Yorkers. Subsequent extensions and modifications of the legislation have initiated new health care programs and

provided additional funding for workforce recruitment and training. The current HCRA legislation expires on June 30, 2005.

2004-05 HCRA Financial Plan (millions of dollars)	
Opening Fund Balance	430
Public Goods Pool:	2,632
Surcharges	1,493
Covered Lives Assessment	703
Hospital Assessment (1 percent)	217
Federal Funds/Other	219
Tobacco Control and Insurance Initiatives Pool:	2,200
Empire Conversion Proceeds	1,217
Cigarette Tax	693
Federal Funds	290
Total Receipts	4,832
Disbursements:	
Medicaid/Public Health Support	1,067
Hospital Indigent Care	826
EPIC	494
Graduate Medical Education	383
FHP	381
CHP	375
Workforce Recruitment/Retention	329
All Other	617
Total Disbursements	4,472
Closing Fund Balance	790

HCRA Receipts

Total receipts, estimated at \$4.8 billion in 2004-05, remain unchanged since the Enacted Budget and primarily comprise surcharges on hospital revenues, Empire conversion proceeds (includes \$200 million that will be transferred to the General Fund), a covered lives assessment paid by insurance carriers, cigarette taxes, Federal Funds, and hospital assessments of 1 percent of net revenues.

As described earlier in this Mid-Year Update, there is a risk that Empire conversion proceeds may not become available as budgeted. If Empire conversion proceeds are not available by March 31, 2005, the General Fund would be required to make payments under the tobacco revenue guarantee and statutory loan repayment provision in the range of \$100 to \$200 million, based on current projections.

HCRA Disbursements

Total disbursements of nearly \$4.5 billion are projected in 2004-05, and remain unchanged since the Enacted Budget projections. Roughly three-quarters of these disbursements are already appropriated in the State Budget, and are reflected in the Financial Plan estimates earlier in this Mid-Year Update, including transfers to accommodate various Medicaid and public health costs, hospital indigent care, Elderly Pharmaceutical Insurance Coverage (EPIC), FHP, Child Health Plus (CHP), provider workforce recruitment and retention funds paid through Medicaid rates, and mental health expansion programs. The remaining spending excluded from the State Budget comprises programs that have

historically been excluded such as Graduate Medical Education and excess medical malpractice, as well as various programs serving the uninsured and anti-tobacco programs.

A cash balance of \$790 million is projected at the end of 2004-05, declining to approximately \$165 million on June 30, 2005 when the HCRA statute expires.

A detailed quarterly cash flow projection is included in the Financial Plan tables at the end of this Mid-Year Update.

DEBT MANAGEMENT

The Debt Reform Act of 2000 imposed phased-in limits on the amount of new State-supported debt and debt service costs. The State has also authorized a limited amount of variable rate and swap authorizations to reduce overall costs.

Debt Reform

The Debt Reform Act of 2000 restricts debt to capital purposes only, and imposed phased-in caps that limit new debt outstanding to four percent of personal income and new debt service costs to five percent of total governmental funds receipts. To immediately constrain State debt levels, the Act applies to all new State-supported debt issued on and after April 1, 2000. Section 23 of the State Finance Law requires the calculation of the caps imposed by the Act to be submitted with the Financial Plan Update most proximate to October 31 of each year.

For the 2003-04 fiscal year, the debt outstanding and debt service caps are 1.98 percent each. As shown in the table below, actual levels of debt outstanding and debt service costs continue to remain below the limits imposed by the Act.

Debt Outstanding Cap (dollars in millions)		Debt Service Cap (dollars in millions)	
New Debt Outstanding	\$10,891	New Debt Service	\$837
Personal Income (CY 2003)	\$701,852	Governmental Funds Receipts	\$99,698
Debt Outstanding (Percent of PI)	1.55%	Debt Service (Percent of Gov't Fund Receipts)	0.84%
Cap Imposed by Debt Reform Act	1.98%	Cap Imposed by Debt Reform Act	1.98%

EXPLANATION OF THE FINANCIAL PLAN TABLES

The State's Financial Plan forecasts receipts and disbursements for each fiscal year. The economic forecast of DOB and the State's tax and fee structure serve as the basis for projecting receipts. After consulting with public and private sector experts, DOB prepares a detailed economic forecast for both the nation and New York, showing GDP, employment levels, inflation, wages, consumer spending, and other relevant economic indicators. Then DOB projects the yield of the State's revenue structure against the backdrop of these forecasts.

Projected disbursements are based on agency staffing levels, program caseloads, levels of service needs, formulas contained in State and Federal law, inflation and other factors. The factors that affect spending estimates vary by program. For example, welfare spending is based primarily on anticipated caseloads that are estimated by analyzing historical trends, projected economic conditions and changes in Federal law. In criminal justice, spending estimates are based on recent trends and data from the criminal justice system, as well as on estimates of the State's prison population. All projections account for the timing of payments, since not all the amounts appropriated in the budget are disbursed in the same fiscal year.

The State's Fund Structure

The State accounts for all of its spending and receipts by the fund in which the activity takes place (such as the General Fund or the Capital Projects Fund), and the broad category or purpose of that activity (such as State Operations or Capital Projects). The Financial Plan tables sort all State projections and results by fund and category.

The General Fund receives the majority of State taxes. State Funds include the General Fund and funds specified for dedicated purposes, with the exception of Federal Funds. All Governmental Funds, which includes State Funds and Federal Funds, comprises four major fund types, and provides the most comprehensive view of the financial operations of the State. It includes:

The General Fund, which receives most of the State's tax revenue and accounts for spending on programs that are not supported directly by dedicated fees and revenues;

Special Revenue Funds, which receive Federal grants, certain dedicated taxes, fees and other revenues that are used for a specified purpose;

Capital Projects Funds, which account for costs incurred in the construction and reconstruction of roads, bridges, prisons, and other infrastructure projects; and

Debt Service Funds, which pay principal, interest and related expenses on long-term bonds issued by the State and its public authorities.

Within each of these fund types, revenues and spending are classified by major categories of the Financial Plan (e.g., taxes, miscellaneous receipts, Grants to Local Governments, State Operations). The following tables summarize projected General Fund, State Funds and All Governmental Funds receipts and disbursements for the 2004-05 fiscal year.

**CASH FINANCIAL PLAN
GENERAL FUND
2004-2005
(millions of dollars)**

	<u>Enacted</u>	<u>Change</u>	<u>October</u>
Opening fund balance	<u>1,077</u>	<u>0</u>	<u>1,077</u>
Receipts:			
Taxes:			
Personal income tax	18,490	226	18,716
User taxes and fees	8,679	0	8,679
Business taxes	3,714	0	3,714
Other taxes	764	0	764
Miscellaneous receipts	2,438	(91)	2,347
Federal grants	0	6	6
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	5,612	101	5,713
Sales tax in excess of LGAC debt service	2,158	0	2,158
Real estate taxes in excess of CW/CA debt service	246	165	411
All other	554	(48)	506
Total receipts	<u>42,655</u>	<u>359</u>	<u>43,014</u>
Disbursements:			
Grants to local governments	29,392	90	29,482
State operations	7,501	124	7,625
General State charges	3,671	(56)	3,615
Transfers to other funds:			
Debt service	1,737	(4)	1,733
Capital projects	196	(2)	194
Other purposes	542	(3)	539
Total disbursements	<u>43,039</u>	<u>149</u>	<u>43,188</u>
Fiscal Management Plan	<u>434</u>	<u>(210)</u>	<u>224</u>
Change in fund balance	<u>50</u>	<u>0</u>	<u>50</u>
Closing fund balance	<u>1,127</u>	<u>0</u>	<u>1,127</u>
Tax Stabilization Reserve Fund	794	0	794
Contingency Reserve Fund	21	0	21
Community Projects Fund	312	0	312

Note: The \$210 million change in the Fiscal Management Plan Category is comprised of \$66 million in FMP savings and \$144 million in excess receipts over disbursements.

**CASH FINANCIAL PLAN
GENERAL FUND
2005-2006
(millions of dollars)**

	<u>Enacted</u>	<u>Change</u>	<u>October</u>
Receipts:			
Taxes:			
Personal income tax	18,843	240	19,083
User taxes and fees	8,075	0	8,075
Business taxes	3,823	0	3,823
Other taxes	820	0	820
Miscellaneous receipts	1,700	11	1,711
Federal grants	0	4	4
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	5,825	96	5,921
Sales tax in excess of LGAC debt service	2,130	0	2,130
Real estate taxes in excess of CW/CA debt service	250	163	413
All other	<u>277</u>	<u>(1)</u>	<u>276</u>
Total receipts	<u><u>41,743</u></u>	<u><u>513</u></u>	<u><u>42,256</u></u>
Disbursements:			
Grants to local governments	33,062	(60)	33,002
State operations	7,927	755	8,682
General State charges	4,334	7	4,341
Transfers to other funds:			
Debt service	1,843	(18)	1,825
Capital projects	213	17	230
Other purposes	<u>553</u>	<u>35</u>	<u>588</u>
Total disbursements	<u><u>47,932</u></u>	<u><u>736</u></u>	<u><u>48,668</u></u>
Fiscal Management Plan	<u><u>450</u></u>	<u><u>(83)</u></u>	<u><u>367</u></u>
Deposit to/(use of) Community Projects Fund	<u><u>(50)</u></u>	<u><u>0</u></u>	<u><u>(50)</u></u>
Margin	<u><u>(5,689)</u></u>	<u><u>(306)</u></u>	<u><u>(5,995)</u></u>

**CASH FINANCIAL PLAN
GENERAL FUND
2006-2007
(millions of dollars)**

	<u>Enacted</u>	<u>Change</u>	<u>October</u>
Receipts:			
Taxes:			
Personal income tax	19,721	251	19,972
User taxes and fees	8,304	0	8,304
Business taxes	3,902	0	3,902
Other taxes	878	0	878
Miscellaneous receipts	1,735	(4)	1,731
Federal grants	0	4	4
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	6,008	92	6,100
Sales tax in excess of LGAC debt service	2,197	0	2,197
Real estate taxes in excess of CW/CA debt service	259	163	422
All other	274	(1)	273
Total receipts	<u>43,278</u>	<u>505</u>	<u>43,783</u>
Disbursements:			
Grants to local governments	35,362	125	35,487
State operations	8,276	877	9,153
General State charges	4,888	(136)	4,752
Transfers to other funds:			
Debt service	1,818	1	1,819
Capital projects	214	13	227
Other purposes	565	41	606
Total disbursements	<u>51,123</u>	<u>921</u>	<u>52,044</u>
Fiscal Management Plan	<u>450</u>	<u>(47)</u>	<u>403</u>
Deposit to/(use of) Community Projects Fund	<u>(150)</u>	<u>0</u>	<u>(150)</u>
Margin	<u>(7,245)</u>	<u>(463)</u>	<u>(7,708)</u>

**CASHFLOW
GENERAL FUND
2004-05
(dollars in millions)**

	2004	2005											
	April	May	June	July	August	September	October	November	December	January	February	March	Total
Opening Fund Balance	1,077	3,842	1,227	1,865	1,740	2,314	2,413	2,184	1,518	1,834	4,970	5,475	1,077
Receipts:													
Taxes													
Personal income tax	3,851	526	1,945	1,215	1,344	1,895	630	543	1,290	3,134	1,805	538	18,716
Sales tax	626	576	857	622	596	326	588	580	859	622	497	769	8,018
User taxes and fees	79	41	52	62	55	46	45	53	59	63	47	59	661
Business taxes	148	(9)	727	91	56	805	38	12	768	35	17	1,026	3,714
Other taxes	68	50	79	60	52	57	65	63	72	64	67	67	764
Miscellaneous receipts	69	67	318	245	124	141	100	343	304	153	178	305	2,347
Federal Grants	1	1	1	0	2	1	0	0	0	0	0	0	6
Transfers from other funds													
Revenue Bond Fund	875	158	648	405	382	649	197	69	436	1,044	427	423	5,713
LGAC	181	33	0	0	617	339	180	176	263	188	3	178	2,158
Clean Water/Clean Air	52	26	77	23	67	49	20	28	16	19	20	14	411
All Other Transfers	4	0	0	6	1	179	57	1	11	28	1	218	506
Total receipts	5,954	1,469	4,704	2,729	3,296	4,987	1,920	1,868	4,078	5,350	3,062	3,597	43,014
Disbursements:													
Grants to local governments	1,621	3,089	2,805	1,669	1,677	2,836	1,411	1,462	2,270	1,260	1,843	7,539	29,482
State operations	837	708	790	795	601	755	336	619	872	664	421	227	7,625
General State charges	423	179	214	268	306	910	194	204	240	265	174	238	3,615
Transfers to other funds													
Debt Service	211	45	220	50	35	319	51	168	348	14	28	244	1,733
Capital Projects	1	46	23	56	32	33	30	40	54	28	137	(286)	194
All Other Transfers	96	17	14	16	71	35	127	41	18	23	14	67	539
Total disbursements	3,189	4,084	4,066	2,854	2,722	4,888	2,149	2,534	3,802	2,254	2,617	8,029	43,188
Fiscal Management Plan	0	0	0	0	0	0	0	0	40	40	60	84	224
Excess (deficiency) of receipts over disbursements	2,765	(2,615)	638	(125)	574	99	(229)	(666)	316	3,136	505	(4,348)	50
Closing Fund Balance	3,842	1,227	1,865	1,740	2,314	2,413	2,184	1,518	1,834	4,970	5,475	1,127	1,127

**CASH FINANCIAL PLAN
STATE FUNDS
2004-2005
(millions of dollars)**

	General Fund	Special Revenue Funds	Capital Projects Funds	Debt Service Funds	(MEMO) Total
Opening fund balance	<u>1,077</u>	<u>1,703</u>	<u>(336)</u>	<u>174</u>	<u>2,618</u>
Receipts:					
Taxes	31,873	4,758	1,795	8,993	47,419
Miscellaneous receipts	2,347	11,101	1,920	647	16,015
Federal grants	6	0	0	0	6
Total receipts	<u>34,226</u>	<u>15,859</u>	<u>3,715</u>	<u>9,640</u>	<u>63,440</u>
Disbursements:					
Grants to local governments	29,482	11,109	1,049	0	41,640
State operations	7,625	5,064	0	22	12,711
General State charges	3,615	485	0	0	4,100
Debt service	0	0	0	3,859	3,859
Capital projects	0	1	1,962	0	1,963
Total disbursements	<u>40,722</u>	<u>16,659</u>	<u>3,011</u>	<u>3,881</u>	<u>64,273</u>
Other financing sources (uses):					
Transfers from other funds	8,788	762	230	5,229	15,009
Transfers to other funds	(2,466)	(397)	(1,080)	(10,989)	(14,932)
Bond and note proceeds	0	0	193	0	193
Net other financing sources (uses)	<u>6,322</u>	<u>365</u>	<u>(657)</u>	<u>(5,760)</u>	<u>270</u>
Fiscal Management Plan	<u>224</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>224</u>
Change in fund balance	<u>50</u>	<u>(435)</u>	<u>47</u>	<u>(1)</u>	<u>(339)</u>
Closing fund balance	<u>1,127</u>	<u>1,268</u>	<u>(289)</u>	<u>173</u>	<u>2,279</u>

The Special Revenue Funds opening fund balance has been increased by \$54 million to reflect the reclassification of the Expendable and Non-Expendable Trust Funds from the Fiduciary fund type to the Special Revenue fund type pursuant to GASB 34.

**CASH FINANCIAL PLAN
ALL GOVERNMENTAL FUNDS
2004-2005
(millions of dollars)**

	<u>General Fund</u>	<u>Special Revenue Funds</u>	<u>Capital Projects Funds</u>	<u>Debt Service Funds</u>	<u>(MEMO) Total</u>
Opening fund balance	<u>1,077</u>	<u>2,183</u>	<u>(489)</u>	<u>174</u>	<u>2,945</u>
Receipts:					
Taxes	31,873	4,758	1,795	8,993	47,419
Miscellaneous receipts	2,347	11,225	1,920	647	16,139
Federal grants	6	35,185	1,814	0	37,005
Total receipts	<u>34,226</u>	<u>51,168</u>	<u>5,529</u>	<u>9,640</u>	<u>100,563</u>
Disbursements:					
Grants to local governments	29,482	42,802	1,267	0	73,551
State operations	7,625	8,408	0	22	16,055
General State charges	3,615	689	0	0	4,304
Debt service	0	0	0	3,859	3,859
Capital projects	0	2	3,520	0	3,522
Total disbursements	<u>40,722</u>	<u>51,901</u>	<u>4,787</u>	<u>3,881</u>	<u>101,291</u>
Other financing sources (uses):					
Transfers from other funds	8,788	3,135	230	5,229	17,382
Transfers to other funds	(2,466)	(2,889)	(1,088)	(10,989)	(17,432)
Bond and note proceeds	0	0	193	0	193
Net other financing sources (uses)	<u>6,322</u>	<u>246</u>	<u>(665)</u>	<u>(5,760)</u>	<u>143</u>
Fiscal Management Plan	<u>224</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>224</u>
Change in fund balance	<u>50</u>	<u>(487)</u>	<u>77</u>	<u>(1)</u>	<u>(361)</u>
Closing fund balance	<u>1,127</u>	<u>1,696</u>	<u>(412)</u>	<u>173</u>	<u>2,584</u>

The Special Revenue Funds opening fund balance has been increased by \$54 million to reflect the reclassification of the Expendable and Non-Expendable Trust Funds from the Fiduciary fund type to the Special Revenue fund type pursuant to GASB 34.

CASH DISBURSEMENTS BY FUNCTION
2004-2005 ALL GOVERNMENTAL FUNDS
(thousands of dollars)

	<u>Enacted Estimate</u>	<u>Collective Bargaining *</u>	<u>Revisions (including FMP)</u>	<u>Mid-Year Estimate</u>
ECONOMIC DEVELOPMENT AND GOVERNMENT OVERSIGHT				
Agriculture and Markets, Department of	88,992	1,053	(2,768)	87,277
Alcoholic Beverage Control	10,220	311	(85)	10,446
Banking Department	60,221	1,645	0	61,866
Consumer Protection Board	2,465	73	(100)	2,438
Economic Development, Department of	345,557	516	0	346,073
Empire State Development Corporation	65,975	0	0	65,975
Energy Research and Development Authority	26,123	0	0	26,123
Housing Finance Agency	0	0	0	0
Housing and Community Renewal, Division of	219,674	2,097	(287)	221,484
Insurance Department	128,217	3,208	5,747	137,172
Olympic Regional Development Authority	7,750	0	0	7,750
Public Service, Department of	57,429	1,478	(2,648)	56,259
Science, Technology and Academic Research, Office of	80,170	75	0	80,245
Functional Total	<u>1,092,793</u>	<u>10,456</u>	<u>(141)</u>	<u>1,103,108</u>
PARKS AND THE ENVIRONMENT				
Adirondack Park Agency	4,523	141	0	4,664
Environmental Conservation, Department of	901,821	8,173	16,854	926,848
Environmental Facilities Corporation	12,416	228	0	12,644
Parks, Recreation and Historic Preservation, Office of	228,028	4,822	(28)	232,822
Functional Total	<u>1,146,788</u>	<u>13,364</u>	<u>16,826</u>	<u>1,176,978</u>
TRANSPORTATION				
Motor Vehicles, Department of	217,695	10,480	(2,663)	225,512
Thruway Authority	4,000	0	0	4,000
Transportation, Department of	5,334,101	16,645	(131,712)	5,219,034
Functional Total	<u>5,555,796</u>	<u>27,125</u>	<u>(134,375)</u>	<u>5,448,546</u>
HEALTH AND SOCIAL WELFARE				
Advocate for Persons with Disabilities, Office of	4,044	37	(3)	4,078
Aging, Office for the	171,228	293	0	171,521
Children and Families, Council on	0	0	0	0
Children and Family Services, Office of	3,092,522	8,627	40,729	3,141,878
Health, Department of	33,478,337	12,774	(1,928)	33,489,183
<i>Medical Assistance</i>	29,300,766	0	128,700	29,429,466
<i>Medicaid Administration</i>	542,400	0	35,000	577,400
<i>All Other</i>	3,635,171	12,774	(165,628)	3,482,317
Human Rights, Division of	14,884	444	0	15,328
Labor, Department of	766,602	8,870	99,604	875,076
Prevention of Domestic Violence, Office of	1,602	74	488	2,164

* Represents the allocation of collective bargaining cost to agencies. The Enacted Budget estimate had reflected the costs centrally.

**CASH DISBURSEMENTS BY FUNCTION
2004-2005 ALL GOVERNMENTAL FUNDS
(thousands of dollars)**

	<u>Enacted Estimate</u>	<u>Collective Bargaining *</u>	<u>Revisions (including FMP)</u>	<u>Mid-Year Estimate</u>
HEALTH AND SOCIAL WELFARE (Continued)				
Temporary and Disability Assistance, Office of	4,455,899	5,573	(6,042)	4,455,430
<i>Welfare Assistance</i>	3,124,959	0	(24,157)	3,100,802
<i>Welfare Administration</i>	341,133	0	1,400	342,533
<i>All Other</i>	989,807	5,573	16,715	1,012,095
Welfare Inspector General, Office of	1,083	23	0	1,106
Workers' Compensation Board	145,860	3,216	294	149,370
Functional Total	<u>42,132,061</u>	<u>39,931</u>	<u>133,142</u>	<u>42,305,134</u>
MENTAL HEALTH				
Mental Health, Office of	2,172,437	36,521	(2,954)	2,206,004
Mental Retardation and Developmental Disabilities, Office of	2,820,865	41,014	(45,689)	2,816,190
Alcohol and Substance Abuse Services, Office of	478,649	2,127	(6,427)	474,349
Developmental Disabilities Planning Council	3,730	(18)	27	3,739
Quality of Care for the Mentally Disabled, Commission on	11,200	200	(12)	11,388
Functional Total	<u>5,486,881</u>	<u>79,844</u>	<u>(55,055)</u>	<u>5,511,670</u>
PUBLIC PROTECTION				
Capital Defenders Office	12,519	175	0	12,694
Correction, Commission of	2,427	84	0	2,511
Correctional Services, Department of	2,140,898	18,952	81,189	2,241,039
Crime Victims Board	61,858	201	0	62,059
Criminal Justice Services, Division of	304,234	1,446	(3,071)	302,609
Investigation, Temporary State Commission of	3,426	87	0	3,513
Judicial Commissions	2,542	62	0	2,604
Military and Naval Affairs, Division of (1)	1,840,922	1,138	(26,736)	1,815,324
Parole, Division of	175,903	4,752	1,012	181,667
Probation and Correctional Alternatives, Division of	75,480	77	0	75,557
Public Security, Office of	11,929	22	0	11,951
State Police, Division of	489,083	1,774	3,690	494,547
Functional Total	<u>5,121,221</u>	<u>28,770</u>	<u>56,084</u>	<u>5,206,075</u>
EDUCATION				
Arts, Council on the	45,789	214	0	46,003
City University of New York	1,134,572	0	0	1,134,572
Education, Department of	22,694,716	6,266	(448)	22,700,534
<i>School Aid</i>	15,090,841	0	0	15,090,841
<i>STAR Property Tax Relief</i>	3,018,000	0	0	3,018,000
<i>Handicapped</i>	1,432,976	0	0	1,432,976
<i>All Other</i>	3,152,899	6,266	(448)	3,158,717
Higher Education Services Corporation	1,014,996	1,449	0	1,016,445
State University Construction Fund	9,402	331	(477)	9,256
State University of New York	4,634,189	92,796	111,672	4,838,657
Functional Total	<u>29,533,664</u>	<u>101,056</u>	<u>110,747</u>	<u>29,745,467</u>

* Represents the allocation of collective bargaining cost to agencies. The Enacted Budget estimate had reflected the costs centrally.

**CASH DISBURSEMENTS BY FUNCTION
2004-2005 ALL GOVERNMENTAL FUNDS
(thousands of dollars)**

	<u>Enacted Estimate</u>	<u>Collective Bargaining *</u>	<u>Revisions (including FMP)</u>	<u>Mid-Year Estimate</u>
GENERAL GOVERNMENT				
Audit and Control, Department of	176,815	3,293	25,400	205,508
Budget, Division of the	39,786	1,315	2,787	43,888
Civil Service, Department of	21,652	783	129	22,564
Elections, State Board of	6,616	95	(3,000)	3,711
Employee Relations, Office of	3,550	118	84	3,752
Executive Chamber	14,916	1,174	139	16,229
General Services, Office of	213,756	2,320	2,277	218,353
Inspector General, Office of	5,441	189	0	5,630
Law, Department of	170,823	4,551	(464)	174,910
Lieutenant Governor, Office of the	458	29	0	487
Lottery, Division of	159,651	712	13,857	174,220
Public Employment Relations Board	3,472	109	88	3,669
Racing and Wagering Board, State	14,832	269	1,669	16,770
Real Property Services, Office of	53,800	911	(1,921)	52,790
Regulatory Reform, Governor's Office of	3,375	97	0	3,472
State, Department of	234,589	1,215	12	235,816
Tax Appeals, Division of	2,718	94	0	2,812
Taxation and Finance, Department of	338,027	10,179	(2,200)	346,006
Technology, Office for	19,897	300	0	20,197
TSC Lobbying	1,325	37	(50)	1,312
Veterans Affairs, Division of	12,517	257	(481)	12,293
Functional Total	<u>1,498,016</u>	<u>28,047</u>	<u>38,326</u>	<u>1,564,389</u>
ALL OTHER CATEGORIES				
Legislature	201,629	0	0	201,629
Judiciary (excluding fringe benefits)	1,508,013	0	42,500	1,550,513
Homeland Security	141,974	0	1,458	143,432
Local Government Assistance	802,661	0	0	802,661
Long-Term Debt Service	3,898,993	0	(40,120)	3,858,873
General State Charges/Miscellaneous	4,176,765	(328,593)	(85,955)	2,672,217
Capital Accounting Adjustment (2)	(1,090,000)	0	0	0
Functional Total	<u>9,640,035</u>	<u>(328,593)</u>	<u>(82,117)</u>	<u>9,229,325</u>
TOTAL ALL GOVERNMENTAL FUNDS SPENDING	<u>101,207,255</u>	<u>0</u>	<u>83,437</u>	<u>101,290,692</u>

* Represents the allocation of collective bargaining cost to agencies. The Enacted Budget estimate had reflected the costs centrally.

Note 1: Projected 2004-05 includes \$1.7 billion in World Trade Center spending that will be reflected in various agencies at year end.

Note 2: Projected 2004-05 spending by function has been adjusted to include certain off-budget capital projects spending, however it is excluded from total projected spending. This spending is not included in actual cash results by the State Comptroller on a cash basis but is reflected on a GAAP basis.

Special Considerations

The Financial Plan is necessarily based upon forecasts of national and State economic activity. Economic forecasts have frequently failed to predict accurately the timing and magnitude of changes in the national and State economies. DOB believes that its current receipts and spending estimates related to the performance of the State and national economies are reasonable. However, there can be no assurance that actual results will not differ materially and adversely from the current forecast. For a discussion of additional risks to the Financial Plan, see the section entitled “Financial Plan Reserves and Risks” in the Mid-Year Update.

PART II

Capital Program and Financing Plan Update

Section 22-c of the State Finance Law requires the Governor to update the Five-Year Capital Program and Financing Plan (the Plan) submitted with the Executive Budget by the later of July 30 or 90 days after the enactment of the State Budget. The updated 2004-05 through 2008-09 Capital Program and Financing Plan was released on November 15, 2004 and can be obtained by contacting the Division of the Budget, State Capitol, Albany, NY 12224, (518) 473-8705, or by visiting its website at www.budget.state.ny.us.

The Plan reflects that total capital spending is projected to average about \$5.5 billion annually and total \$27.5 billion over the Five-Year Plan. Compared to the Executive Budget, capital spending is projected to increase by \$355 million over the Five-Year Plan period, reflecting legislative adds for the Consolidated Highway Improvement Program (CHIPs) of \$35 million and for State Parks Infrastructure Fund (SPIF) and the Department of Environmental Conservation (DEC) of \$20 million; \$220 million in spending reestimates to capture the impact of actual capital spending in 2003-04 and anticipated underspending that is expected to occur across all agencies in 2004-05 and 2005-06; and \$80 million for the impact of collective bargaining agreements associated with staff costs of implementing capital projects. The Plan also reflects the conversion of State University of New York (SUNY) and City University of New York (CUNY) capital spending to bonding.

The Legislature added about \$1.6 billion in bond financed spending that was vetoed by the Governor. This included \$723 million for SUNY/CUNY, \$250 million for grants to hospitals and other healthcare facilities, \$100 million for additional multi-modal transportation, \$137 million in transportation and related engineering spending, \$350 million for an alternative to the Higher Education Capital Matching Grants program recommended with the Executive Budget, \$56 million for housing, \$6 million for improvements to State facilities and \$4 million in DEC spending.

Total State-supported debt levels are projected to increase from about \$41.4 billion in 2004-05 to \$44 billion in 2008-09, or roughly 1.5 percent annually. Compared to the Executive Budget, bond financing will decline by \$200 million. The net impact of legislative changes to the Executive Budget, including new bonding of \$35 million for CHIPs and \$10 million for SPIF is more than offset by the reestimates in planned capital spending based on 2003-04 results, which in turn reduced the expected level and timing of debt issuances.

Projections of debt service costs and the composition of the outstanding debt portfolio are projected to remain relatively stable over the next five years and are consistent with the Executive Budget projections. Also, as of March 31, 2004, debt outstanding and debt service costs are below the limits imposed by the Debt Reform Act of 2000. Interest rate exchange agreements and variable rate obligations are projected to comply with statutory limits through the term of the Update.

Contingent Contractual-Obligation Financing

An eligible secured hospital borrower, Catskill Regional Medical Center, the successor to Community General Hospital of Sullivan County (“Community General”), is seeking to refinance bonds issued in 1994 for the benefit of Community General under the Secured Hospital Program. The refunding bonds are expected to be issued in December of 2004, with a final maturity of 2026.

In regard to St. Agnes Hospital, the Dormitory Authority of the State of New York (DASNY) obtained a Judgment of Foreclosure and Sale against St. Agnes on October 22, 2004 and expects the property subject to DASNY’s mortgage to be sold at a sale of foreclosure in December of 2004. If the property is purchased by a party other than DASNY at such sale, the net proceeds of the foreclosure sale are expected to be applied to the special redemption of all or such portion of the bonds as are able to be redeemed from such proceeds. Any bonds not so redeemed would continue to be paid from other revenue sources, which may include the reserve funds established for the bonds. Thus, the State still does not anticipate being required to make any payments under the Secured Hospital Program during the 2004-05 fiscal year.

Moral Obligation Financings

On September 30, 2004, Riverbay Corporation, the tenant-owned corporation that owns Co-Op City, closed on a third party financing that provided the Housing Finance Agency with a mortgage prepayment sufficient to redeem on November 1, 2004 all of the Agency’s outstanding Non-Profit Housing Project Bonds relating to Co-Op City (\$207,065,000), which redemption occurred on November 1, 2004. Riverbay provided a release to the Agency releasing it from damages or liabilities of any kind, including but not limited to, suits, judgments, debts and causes of action of any kind, in connection with the Co-Op City project.

PART III

Litigation

Real Property Claims

Indian land claims include *Cayuga Indian Nation of New York v. Cuomo, et al.*, and *Canadian St. Regis Band of Mohawk Indians, et al., v. State of New York, et al.*, both in the United States District Court for the Northern District of New York and *Seneca Nation of Indians, et al. v. State, et al.*, in the United States District Court for the Western District of New York.

In the *Cayuga Indian Nation of New York* case, plaintiffs seek monetary damages for their claim that approximately 64,000 acres in Seneca and Cayuga Counties were illegally purchased by the State in 1795. Prior to trial, the court held that plaintiffs were not entitled to seek the remedy of ejectment. In October 1999, the District Court granted the Federal government's motion to have the State held liable for any damages owed to the plaintiffs. In February 2000, at the conclusion of the damages phase of the trial of this case, a jury verdict of \$35 million in damages plus \$1.9 million representing the fair rental value of the tract at issue was rendered against the defendants. By decision and judgment dated October 2, 2001, the District Court also granted plaintiffs \$211 million in prejudgment interest. The State has appealed from the judgment to the United States Court of Appeals for the Second Circuit. On October 1, 2004, the State filed an action in the United States District Court for the Northern District of New York under the Federal Tort Claims Act, seeking contribution from the United States toward the \$248 million judgment and post-judgment interest.

Tobacco Master Settlement Agreement

In *Freedom Holdings Inc. et al. v. Spitzer et al.*, two cigarette importers brought an action in 2002 challenging portions of laws enacted by the State under the 1998 Tobacco Master Settlement Agreement (“MSA”) that New York and many other states entered into with the major tobacco manufacturers. The initial complaint alleged: (1) violations of the Commerce Clause of the United States Constitution; (2) the establishment of an “output cartel” in conflict with the Sherman Act; and (3) selective nonenforcement of the laws on Native American reservations in violation of the Equal Protection Clause of the United States Constitution. The United States District Court for the Southern District of New York granted defendants’ motion to dismiss the complaint for failure to state a cause of action. Plaintiffs appealed from this dismissal. In an opinion decided January 6, 2004, the United States Court of Appeals for the Second Circuit (1) affirmed the dismissal of the Commerce Clause claim; (2) reversed the dismissal of the Sherman Act claim; and (3) remanded the selective enforcement claim to the District Court for further proceedings. Plaintiffs have filed an amended complaint that also challenges the MSA itself (as well as other related State statutes) primarily on preemption grounds. On September 14, 2004, the District Court denied all aspects of plaintiffs’ motion for a preliminary injunction except that portion of the motion seeking to enjoin enforcement of Chapter 666 of the Laws of 2003, which limits the ability of tobacco manufacturers to obtain the release of certain funds from escrow. Plaintiffs have appealed from the denial of the remainder of the motion to the United States Court of Appeals for the Second Circuit.