

# Update to Annual Information Statement (AIS)

## State of New York

*August 8, 2005*

This quarterly update to the AIS of the State of New York is dated August 8, 2005 (the "AIS Update"), and contains information only through that date. It is the first quarterly update to the AIS of the State of New York, dated May 4, 2005. This AIS Update should be read in its entirety, together with the AIS issued in May.

In this AIS Update, readers will find:

1. Extracts from the First Quarterly Update to the 2005-06 Financial Plan (the "Updated Financial Plan"), which the Division of the Budget ("DOB") issued on August 1, 2005. The Updated Financial Plan includes (a) revised Financial Plan projections for fiscal years 2005-06, 2006-07, and 2007-08, (b) operating results for the first quarter of fiscal year 2005-06, (c) an updated economic forecast, (d), the Generally Accepted Accounting Principles (GAAP)-basis Financial Plan projections for 2005-06, and (e) a summary on debt and capital management. It is available on the DOB website, [www.budget.state.ny.us](http://www.budget.state.ny.us).
2. A discussion of special considerations related to the State Financial Plan for fiscal year 2005-06.
3. A summary of GAAP-basis results for the 2004-05 fiscal year (the full statements are available on the State Comptroller's website, [www.osc.state.ny.us](http://www.osc.state.ny.us)).
4. Updated information regarding the State Retirement Systems.
5. The status of significant litigation that has the potential to adversely affect the State's finances.

DOB is responsible for organizing and presenting the information that appears in this AIS Update on behalf of the State. In preparing the AIS Update, DOB relies on information drawn from other sources, such as the Office of the State Comptroller ("OSC"). Information relating to matters described in the section entitled "Litigation" is furnished by the State Office of the Attorney General.

During the fiscal year, the Governor, the State Comptroller, State legislators, and others 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 the AIS. Investors and other market participants should, however, refer to the AIS, as revised, updated, or supplemented, for the most current official information regarding the financial condition of the State.

The State plans to issue updates to the AIS on a quarterly basis and may issue AIS supplements or other disclosure notices as events warrant. The State intends to announce publicly whenever an AIS update or a supplement is issued. The State may choose to incorporate by reference all or a portion of this AIS Update in Official Statements or related disclosure documents for State or State-supported debt issuance. Readers may obtain informational copies of the AIS, AIS updates and AIS supplements by contacting Mr. Louis A. Raffaele, Chief Budget Examiner, New York State Division of the Budget, State Capitol, Albany, NY 12224,

(518) 473-8705. The State has filed this AIS 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 AIS Update may be obtained from the Division of the Budget, State Capitol, Albany, NY 12224, Tel: (518) 473-8705 or from any NRMSIR.

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## Update to the 2005-06 Financial Plan

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*Note: DOB issued the Updated Financial Plan, extracts of which are set forth below, on August 1, 2005. The Updated Financial Plan noted that a planned restructuring of certain transportation-related debt had not been finalized. Since that time, the issues surrounding the restructuring have been resolved. Accordingly, the extracts that follow have omitted reference to these issues.*

*The Updated Financial Plan 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. There can be no assurance that actual results will not differ materially and adversely from the estimates and projections contained therein.*

The State accounts for all of its spending and revenues by the fund in which the activity takes place (such as the General Fund), and the broad category or purpose of that activity (such as State Operations). The Financial Plan tables sort all State projections and results by fund and category. The State Constitution requires the Governor to submit an Executive Budget that is balanced on a cash basis in the General Fund — the Fund that receives the majority of State taxes, and all income not earmarked for a particular program or activity. Since this is the fund that is required to be balanced, the focus of the State's budget discussion is often weighted toward the General Fund.

The State also reports spending and revenue activity by two other broad measures: State Funds, which includes the General Fund and funds specified for dedicated purposes, but excludes Federal Funds; and All Governmental Funds ("All Funds"), which includes both State and Federal Funds and provides the most comprehensive view of the financial operations of the State.

Fund types of the State include: the General Fund; State special revenue funds (SRFs), which receive certain dedicated taxes, fees and other revenues that are used for a specified purpose; Federal SRFs, which receive Federal grants; State and Federal 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.

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## **INTRODUCTION**

DOB has revised the 2005-06 Financial Plan based on (a) actual operating results through the first quarter of the 2005-06 fiscal year, (b) an updated economic forecast, and (c) a review of program trends. Except where noted, the Financial Plan information herein is presented on a cash basis of accounting, in accordance with the State Constitution and State Finance Law.

In this AIS Update, readers will find:

- An explanation of the first quarterly revisions to the 2005-06 Enacted Budget Financial Plan and updated projections for 2006-07 and 2007-08;
- A revised economic forecast for the nation and State;
- A review of first quarter revenue and spending results;
- Updated monthly General Fund cash flow projections for 2005-06;
- Revised GAAP projections;
- A discussion of Financial Plan risks and reserves;
- Updated 2005-06 receipts and disbursements estimates for programs budgeted as part of the Health Care Reform Act (HCRA); and,
- Updated information on the State's debt measures.

Financial Plan tables appear at the end of this Updated Financial Plan that summarize (a) the General Fund, State Funds, and All Funds Cash-basis Financial Plans, (b) the monthly General Fund cash flow projections, (c) the quarterly HCRA cash flow projections, (d) GAAP Financial Plans, (e) General Fund, State Funds, and All Funds spending by agency and major program, and (f) updates to State workforce totals.

The current Financial Plan 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: business tax collections; calendar year economic results; year-end financial sector bonus income; periodic school aid database updates that affect the distribution of certain aid; and quarterly Medicaid and welfare cycle trend analyses. Historically, many of these factors have been subject to a high degree of fluctuation across the forecast period, and could produce results that differ from the current projections.

The Enacted Budget estimates cited in this Updated Financial Plan were originally published in the "2005-06 Enacted Budget Report," issued by DOB on April 18, 2005.

Both this Updated Financial Plan and the Enacted Budget Report are available on-line at [www.budget.state.ny.us](http://www.budget.state.ny.us) or by contacting the Division of the Budget, State Capitol, Albany, NY 12224, (518) 473-8705.

## EXECUTIVE SUMMARY

In the Enacted Budget Financial Plan, DOB projected a balanced General Fund Financial Plan for the 2005-06 fiscal year (the “current year”) and potential operating gaps in the range of \$3.2 billion in 2006-07 and \$4.1 billion in 2007-08. As updated for this first quarterly modification, DOB is projecting slightly improved operations in the current year, and gaps declining to \$2.9 billion in 2006-07 and \$3.9 billion in 2007-08. DOB believes that the revenue forecast for the 2005-06 fiscal year is based on conservative assumptions, and that upward revisions to the forecast are possible as the year progresses. The table below summarizes the first quarterly revisions to the State’s Financial Plan.

<b>General Fund Operating Forecast</b>			
<b>Better/(Worse) -- (millions of dollars)</b>			
	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>Enacted Budget Surplus/(Gap)</b>	<b>0</b>	<b>(3,167)</b>	<b>(4,126)</b>
Revenue Results/New Forecast	375	457	538
Medicaid/Health	(72)	(100)	(176)
State Police	(95)	(61)	(61)
School Aid	21	(28)	(7)
Mental Hygiene	(10)	(14)	(20)
All Other Spending Changes	(86)	(84)	(112)
Postpone Asset Sales	(54)	54	0
(Increase Reserves)/Use in Outyears	(79)	39	40
<b>First Quarterly Update Surplus/(Gap)</b>	<b>0</b>	<b>(2,904)</b>	<b>(3,924)</b>

### First Quarter Spending Revisions

DOB projects General Fund disbursements, including transfers to other funds, will now total \$46.4 billion in 2005-06, an increase of \$242 million over the Enacted Budget estimate. State Funds disbursements, which include spending financed from other state revenue sources as well as the General Fund, are projected to reach \$70.5 billion in 2005-06, an increase of \$179 million since budget enactment. All Funds spending, which includes Federal grants and is the broadest measure of the State budget, is projected to total \$106.7 billion in 2005-06, up \$148 million from the Enacted Budget forecast. The table below summarizes revisions to the 2005-06 All Funds spending plan.

<b>Summary of 2005-06 Disbursement Changes</b>			
<b>Increase/(Decrease) -- (millions of dollars)</b>			
	<b>General Fund</b>	<b>State Funds</b>	<b>All Funds</b>
<b>2005-06 Enacted Budget</b>	<b>46,207</b>	<b>70,273</b>	<b>106,503</b>
Medicaid/Health	72	84	186
State Police	95	109	109
Mental Hygiene	10	10	10
School Aid	(21)	(21)	(21)
State Board of Elections	0	0	(114)
All Other Changes	86	(3)	(22)
<b>Subtotal</b>	<b>242</b>	<b>179</b>	<b>148</b>
<b>2005-06 First Quarterly Update</b>	<b>46,449</b>	<b>70,452</b>	<b>106,651</b>

## General Fund

**Medicaid/Health:** Continued strong utilization, medical price increases, and refinements to the Enacted Budget forecast account for the upward revisions. In addition, General Fund spending for public health programs is projected to modestly exceed the Enacted Budget forecast, reflecting stronger claiming by county health departments under the General Public Health Works program (\$8 million annually), and the pace of grant awards to health care facilities under the HEAL NY program (\$6 million in 2005-06 growing to \$17 million in 2006-07). Slower projected growth in the State's Early Intervention program (\$10 million annually) is expected to partially offset the growth in public health spending.

**State Police:** DOB projects that labor settlements and arbitration awards with State Troopers, Officers, and Investigators will add \$95 million in costs to the current fiscal year and \$61 million annually in the two subsequent fiscal years. The Troopers and Officers settlement extends through the end of 2006-07, while the Investigators arbitration award covers the period through the end of 2004-05.

**Mental Hygiene:** State Operations spending in the Office of Mental Health (OMH) is expected to exceed Enacted Budget projections by \$6 million, due mainly to increased spending for overtime and fixed costs (drugs and utilities). The Office of Mental Retardation and Developmental Disabilities (OMRDD) has also experienced unanticipated costs (\$2 million in 2005-06) related to implementation of the employee fingerprinting initiative.

**School Aid:** The modest spending revisions are based primarily on the latest (May 2005) school aid database update.

**All Other Changes:** Spending for the State's Homeland Security program originally budgeted from SRFs is now expected to occur in the General Fund (\$59 million). The spending will be fully financed by a redirection of cellular surcharge revenues to the General Fund, resulting in no impact on General Fund operations.

Other revisions include the partial prepayment of certain 2006-07 pension liabilities (\$10 million), increased State Operations costs for the State University of New York and the City University of New York (\$7 million), and assistance grants for Erie County and the City of Buffalo totaling \$10 million annually in

each of 2006-07 and 2007-08, that are expected to be delivered through the newly created Erie County Fiscal Stability Authority.

## All Funds

Based on program experience to date, Federal aid related to implementation of the Federal Help America Vote Act is now expected in 2006-07, rather than in the current year as initially planned (\$114 million). In addition, the Medicaid revisions in the General Fund produce a corresponding increase in Federal matching aid.

## First Quarter Revenue Revisions

General Fund receipts, including transfers from other funds, are now projected to total \$46.3 billion in 2005-06, an increase of \$321 million from the Enacted Budget estimate. The upward revision is primarily due to increases in the settlement portion of the Personal Income Tax (PIT). Downward revisions to the estimates for sales and the corporation and utilities taxes, based on collections to date, partially offset the income tax increase.

All Funds tax receipts are projected to total nearly \$52 billion in the current year, an increase of \$194 million from Enacted Budget estimates. The change reflects the increases in the PIT estimate and decreases in the corporation and utilities and sales tax projections described above.

DOB believes the revisions to the receipts forecast are conservative given positive results to date and, as a result, the potential exists for future positive changes to the revenue forecast. However, much of the increase in collections through June 2005 was in taxes that historically have been highly volatile, especially the real estate transfer tax, estate tax, the corporate franchise tax and bank tax. Should the upward trend in these taxes continue to be positive, DOB expects to revise the receipts forecast upward in future updates.

<b>Summary of 2005-06 Receipt Changes</b>			
<b>Increase/(Decrease) -- (millions of dollars)</b>			
	<b>General Fund</b>	<b>State Funds</b>	<b>All Funds</b>
<b>2005-06 Enacted Budget*</b>	<b>46,023</b>	<b>69,304</b>	<b>105,732</b>
Personal Income Tax (including RBTF)	415	389	389
Sales Tax	(68)	(124)	(124)
Corporate & Utilities Taxes	(60)	(62)	(62)
Miscellaneous Receipts	83	(196)	(196)
Federal Grants	5	5	(16)
All Other Changes	(54)	(10)	(9)
<b>Net Change from Enacted Budget</b>	<b>321</b>	<b>2</b>	<b>(18)</b>
<b>2005-06 First Quarterly Update</b>	<b>46,344</b>	<b>69,306</b>	<b>105,714</b>

\* Enacted Budget receipts have been adjusted to reflect changes to the reporting of the Refund Reserve transaction. See discussion in text.

## **PIT/Revenue Bond Tax Fund**

Compared to the Enacted Budget estimate, All Funds PIT receipts are projected to increase by 1.3 percent. The increase is primarily attributable to stronger-than-anticipated growth in estimated tax payments (\$610 million) and higher payments on 2004 liability in the form of better-than-expected final and extended returns (\$144 million). These increases are offset by a modest reduction in the estimates for withholding (\$125 million), and higher refunds on 2004 liability paid in the current fiscal year (\$241 million). Compared to 2004-05, All Funds PIT receipts are projected to increase by \$2.6 billion or 9.4 percent, reflecting growth in withholding of \$1 billion (4.5 percent), estimated taxes of \$2 billion (28 percent) and higher refunds of \$493 million (10.6 percent).

Both the Financial Plan projections and reported actual results now reflect a new reporting format for the annual refund reserve transaction. The goal is to more accurately reflect the impact of the transaction on PIT receipts. Under the new format, the balances held in the refund reserve account will now be displayed distinctly as part of the General Fund opening and closing balances, not as refunds paid out of PIT receipts. For presentation purposes, money in the refund reserve is divided into two categories, general reserves and restricted balances. General reserves include money that the State can use for budget-balancing purposes. Restricted balances represent amounts that are set aside for existing liabilities, including the payment of tax refunds. The new format eliminates distorting the annual change in PIT receipts, more accurately reflects the actual amount of All Funds tax receipts, and presents a fairer picture of total General Fund resources. This presentation change has no impact on net results, and the Financial Plan tables herein reflect the new presentation.

## **Business Taxes**

Compared to the Enacted Budget, 2005-06 utility taxes collections in the General Fund are expected to decrease by \$60 million, reflecting the decline in receipts in the business tax category. DOB has revised the estimate based on actual collections experience through June 2005. Higher than anticipated revenue losses resulting from the elimination of taxes on transmission and distribution of electric and gas utility services to nonresidential customers and on the commodity portion on the sale of energy (effective January 1, 2005) are responsible for the variance.

Estimated General Fund tax receipts for 2005-06 for the corporate franchise, bank and insurance taxes remain unchanged from the Enacted Budget. Although receipts through June for the corporate and bank taxes reflect higher than expected audit and compliance receipts, it is not yet evident if underlying growth in liability will result in collections that exceed the Enacted Budget estimates. Higher than expected receipts from the premiums tax imposed on excess lines brokers under the Insurance Law is expected to compensate for downward revision to the 2005-06 insurance tax estimate.

## **User Taxes and Fees**

Projected General Fund sales and use taxes in 2005-06 have been reduced by \$124 million from the Enacted estimate. Of this amount, \$68 million represents a reduced sales and use tax estimate for the General Fund and \$55 million as a reduced estimate of transfers to the General Fund from the Local Government Assistance Corporation (LGAC).

On an All Funds basis, the receipts projection for user taxes and fees has been reduced by \$131 million in 2005-06, based on collections experience to date for the sales and use tax and the cigarette tax.

### **Other Taxes**

All Funds and General Funds receipts estimates for other taxes are essentially unchanged for 2005-06. While the estate tax had an exceptional first quarter performance, this tax source is extremely volatile and more experience is typically required in making accurate revisions.

### **Miscellaneous Receipts**

General Fund miscellaneous receipts estimates have been increased by \$83 million in 2005-06 compared to the Enacted Budget estimate. A portion of the revision is attributable to an increase in the receipts estimates for licenses and fees based on collections experience to date, and the remainder is due a redirection of cellular surcharge revenues to the General Fund to support Homeland Security.

## **ECONOMIC OUTLOOK**

### **The National Economy**

Consistent with the Enacted Budget forecast, the national economy continued to grow at a pace well above its long-term trend growth rate at the beginning of 2005, following a very strong performance in 2004. Indeed, a suspected second quarter "soft patch" never materialized. The U.S. economy is expected to continue to exhibit solid growth of just above 3.0 percent for the remainder of this year. Meanwhile, rising oil prices appear to be slowly filtering through the economy as businesses successfully pass their energy related cost increases onto consumers, increasing overall inflation. Consequently, the DOB forecast for consumer inflation has been revised up to 3.1 percent for 2005, compared with the Enacted Budget forecast of 2.8 percent. However, no evidence of a long-term increase in inflationary expectations has emerged to date.

The combination of above potential output growth and a generally stable outlook for inflation has permitted the Federal Reserve Board to continue on its "measured" course of monetary tightening. Since June 2004, the Federal Reserve has raised its Federal funds target rate by 25 basis points at each of the last nine meetings of the Federal Open Market Committee, bringing the rate up to 3.25 by mid July. Nevertheless, long-term interest rates remain low, and are projected to rise only gradually through the end of 2007. Low interest rates and a growing world economy are expected to maintain a favorable environment for both business investment and international trade. DOB's forecast for real U.S. Gross Domestic Product (GDP) is virtually unchanged from that presented with the Enacted Budget, with growth of 3.6 percent currently projected for 2005, followed by growth of 3.0 percent for 2006.

Corporate profits from current production grew 15.7 percent in 2004, followed by additional growth of 15.4 percent in the first quarter of 2005 compared with the first quarter of 2004. Although strong profit growth has enabled firms to accelerate hiring, the recent pace of employment growth can best be described as moderate, typifying that of a mature economic expansion. DOB expects employment growth of 1.7 percent for 2005, following growth of 1.1 percent for 2004. The unemployment rate is projected to decline to 5.1 percent in 2005 from 5.5 percent in 2004. Consistent with a growing labor market and moderate inflationary pressure, wages and salaries are expected to grow 7.0 percent for 2005, following growth of 5.3 percent in 2004. Total personal income is expected to grow 6.6 percent for this year, following growth of 5.8 percent for

2004. Current projections for personal income and wages for 2005 represent upward changes compared to the Enacted Budget, due largely to revisions to the underlying data by the Bureau of Economic Analysis for the fourth quarter of 2004.

In light of recent events, terrorism remains an ongoing threat to the U.S. economy and, hence, the forecast. A benchmark oil price rose to a record \$61 per barrel at the end of June. Since June 2003, oil prices have increased over 80 percent. Although the long-term outlook for inflation remains benign, high energy prices present a risk to domestic and global demand for goods and services and, therefore, economic growth. Lower global growth could result in lower than anticipated U.S. exports. In addition, the housing market is expected to gradually cool as long-term interest rates rise, with prices possibly falling in some areas. However, because of the importance of real estate wealth as a buttress for domestic consumption, a more sudden collapse of housing prices than anticipated could result in lower economic growth than expected. In contrast, better than expected economic conditions may encourage firms to invest more and hire more workers than expected, resulting in higher wages and higher consumption spending as well.

<b>Major Economic Indicators</b>			
	<b>2004</b>	<b>2005</b>	<b>2006</b>
Gross Domestic Product (real)	4.4	3.6	3.0
Personal Income	5.8	6.6	6.0
Corporate Profits (with IVA and CCA)	15.7	17.1	7.1
Consumer Price Index	2.7	3.1	2.8
Note: Numbers above are percent changes, calendar year basis. Budget Division estimates are based on National Income and Product Account data through June 2005.			

## **The New York State Economy**

The New York State economy continues to expand at a pace consistent with the Enacted Budget forecast. Above-trend national growth rates continue to buttress the New York economy, sustaining the recovery from the State's 2001-2003 recession that is estimated to have ended in August 2003. Since then, the State labor market has added 130,000 private sector jobs. DOB's projection for 2005 State employment growth is virtually unchanged from the Enacted Budget forecast, with total and private non-farm employment projected to grow 1.1 percent and 1.2 percent, respectively. The continued strengthening of the State economy will help to sustain the housing market in 2005, though the pace of growth observed in 2004 has already begun to cool. New York personal income is projected to rise 5.1 percent for 2005, while wage and salary growth is projected at 4.9 percent. Both are virtually unchanged from the Enacted Budget forecast.

In addition to the risks associated with the national economic forecast, including those related to the housing market, there exist specific risks to the State economy. Chief among them is a weaker performance within the financial sector than is currently projected. Rising interest rates tend to have a more negative impact on financial markets than on the economy as a whole and, therefore, disproportionately affect New York. Higher energy prices and global instability continue to loom large as risks to equity market performance. A weaker financial market performance than expected could result in lower bonus payment growth than projected, though this impact would be largely felt during the first quarter of 2006. In contrast, a stronger national economy than expected could result in stronger equity market growth and, in turn, greater demand for financial market services and, hence, stronger income growth in that sector than expected.

Major Economic Indicators			
	2004	2005	2006
Personal Income	6.0	5.1	5.6
Nonagricultural Employment	0.6	1.1	0.7
Unemployment Rate	5.8	5.0	5.2
Note: Numbers above are percent changes for personal income and nonagricultural employment and percents for the unemployment rate, calendar year basis. Data for 2005 and 2006 are projected by DOB. Source: U.S. Bureau of Economic Analysis, NYS Department of Labor, DOB staff estimates.			

## FIRST QUARTER OPERATING RESULTS

The General Fund ended the first quarter of fiscal year 2005-06 with a balance of \$4 billion, \$536 million below the Enacted Budget estimate. A combination of \$148 million in lower receipts and \$388 million in higher spending in comparison to the Enacted forecast produced the lower balance. DOB believes these variances are due to timing-related factors, and that underlying trends indicate the State will end 2005-06 with slightly improved results compared to the Enacted Budget.

Cumulative Year-to-Date Results, 2005-06 Fiscal Year General Fund Preliminary Actual Results vs. Enacted Projections (millions)		
	June Y-T-D Preliminary Actual Results	Favorable/(Unfavorable) Variance
General Fund Receipts	13,239	(148)
General Fund Disbursements	11,778	(388)
Closing Fund Balance	4,007	(536)

Through June 2005, General Fund receipts, including transfers from other funds, totaled \$13.2 billion, which was \$148 million below the Enacted Budget forecast. This variance is primarily attributable to a somewhat weaker than expected PIT settlement for 2004 liabilities (\$258 million), partially offset by higher receipts from business taxes (\$60 million) and real estate transfer taxes (\$35 million).

General Fund disbursements, including transfers to other funds, totaled \$11.8 billion, approximately \$388 million higher than the Enacted Budget projection. Higher spending for Local Assistance (\$281 million), State Operations (\$63 million), and General State Charges (\$95 million) was partially offset by lower debt service spending (\$79 million).

## CASH FLOW

DOB projects quarterly balances of \$4.3 billion at the end of September 2005 (the close of the second quarter of the fiscal year), \$2.5 billion at the end of December 2005, and \$2.4 billion at the end of the 2005-06 fiscal year (March 31, 2006). The lowest month-end balance is expected in November 2005 (\$1.9 billion).

Monthly cash flow projections for the current year are included in the Financial Plan tables herein.

## **FINANCIAL PLAN RESERVES AND RISKS**

### **RESERVES**

The State projects balances in its general reserves to guard against unbudgeted risks will increase slightly to \$1.57 billion. The reserves include \$872 million in the rainy day reserve (the “Tax Stabilization Reserve”), \$680 million designated as a fiscal stability reserve and planned for use in 2006-07 and 2007-08, and \$21 million in the Contingency Reserve Fund for litigation. In addition, restricted fund balances, which are set aside to finance known liabilities including the payment of tax refunds, are projected to total \$868 million at the end of 2005-06.

### **RISKS**

The following provides an update to some of the risks the State is continuing to monitor. The risks presented herein are not comprehensive, reflecting only those items that have had substantial changes since the Enacted Budget. Accordingly, readers should refer to the State's AIS dated May 4, 2005 and the sections entitled “Special Considerations” and “Litigation” in this AIS Update for a more complete review of present risks, including the status of school finance litigation, Native American land claims, and other actions affecting the State.

#### **Resolution of Empire/Well Choice**

On June 20, 2005, the Court of Appeals ruled in favor of the State in *Consumers Union of U.S., Inc. v. State* in which the Consumers Union challenged the constitutionality of the Empire conversion and the use of proceeds from such conversion. As a result, the State Comptroller has transferred the Empire proceeds received to date (\$754 million) that were held in escrow pending resolution of the court to the HCRA Resources Fund. HCRA is counting on another \$1.1 billion in Empire conversion proceeds to become available by the end of 2005-06.

#### **Medicare Part D**

While information on the specific prescription drugs that will be covered under the new Federal Medicare Part D Prescription Drug Benefit Program is not yet available, Part D does pose a potentially significant risk to the State's Financial Plan. This risk results from a Federal requirement that the State contribute a portion of the Medicaid savings (90 percent in 2006 declining to 75 percent in 2015) for those recipients who are eligible for both Medicaid and Medicare (dually eligible) and the potential that certain drugs now available to dually eligible individuals through Medicaid will not be covered under Part D -- even though State law requires a comparable benefit. Information on Medicare Part D formularies is expected to be available in October 2005.

#### **School Supportive Health Services**

The Office of the Inspector General (OIG) of the Department of Health and Human Services is conducting six audits of aspects of New York State's School Supportive Health Services program with regard to Medicaid reimbursement that cover \$1.5 billion in claims submitted between 1990 and 2001. To date, OIG has issued three final audit reports, which covers claims submitted by upstate school districts for speech pathology and transportation services and New York City for speech pathology services.

In these reports, OIG recommends that the State refund to the Centers for Medicare and Medicaid Services (CMS) \$173 million of the \$362 million in claims for upstate speech pathology services, \$17 million of \$72 million for upstate transportation services, and \$436 million of the \$551 million in claims submitted for New York City speech pathology services. While CMS has not taken any action with regard to the recommended disallowances by OIG, CMS is deferring 25 percent of New York City claims and 9.7 percent of claims submitted by the rest of the State pending the completion of the audits. New York State disagrees with the audit findings on several grounds and has requested that these be withdrawn.

### **Video Lottery Terminals (VLTs)**

In May 2005, the State Court of Appeals upheld the constitutionality of VLTs. The ruling allows for the continued operation of VLTs and distinguishes VLTs from slot machines, which are not permitted under the New York State Constitution. This ruling ensures that the State will continue receiving revenues from VLTs, which have so far been implemented at five of the State's racetracks. Four other racetracks have received authorization to operate VLTs, and are in various stages of implementation. The Financial Plan assumes that VLT revenues will be used to continue to finance the State's sound basic education (SBE) aid program. The SBE aid program is part of the State's efforts to comply with a State Court of Appeals ruling that found that the school finance system failed to provide students in New York City with the opportunity for a sound, basic education, in violation of the State Constitution.

### **Proposed Constitutional Amendment to Alter the Executive Budget Process**

The State Legislature has approved a concurrent resolution to amend the State's budget process that will be submitted to voters on November 8, 2005. If approved, the amendment to the State Constitution and its companion statute, would take effect on January 1, 2006. The Governor and Attorney General have stated their opposition to the amendment.

Taken together, the constitutional amendment and the accompanying statutory implementing language would (in summary):

- Extend the 2006-07 fiscal year by one month to April 30, 2007, and shift the start of the State's fiscal year from April 1 to May 1, beginning with the 2007-08 fiscal year;
- Create a Contingency Budget to take effect the first day of the fiscal year that contains statutorily determined spending levels in the event the Legislature does not act on all of the Governor's proposed Executive Budget;
- Grant the Legislature the ability to pass two multiple-purpose appropriation bills (rather than the one currently authorized);
- Create a new fiscal stabilization reserve fund, that may be used only to help balance a subsequent fiscal year, and limit the purpose of the existing tax stabilization reserve fund to current year needs; and
- Establish a new Budget Office and a separate Advisory Committee, appointed by the Senate Majority Leader and Assembly Speaker.

DOB believes the amendment, if enacted, could present a number of substantive and technical problems that have the potential to disrupt State finances. For example, moving the start of the State's fiscal year from April 1 to May 1 results in the State ending the fiscal year on a volatile revenue month, increasing the risk of year-end shortfalls. In addition, starting the fiscal year on May 1 may potentially require the State to issue short-term notes ("seasonal borrowing") to support General Fund cash disbursements in the first quarter of the fiscal year, since May disbursements typically exceed May receipts by \$2 billion to \$3 billion. The State eliminated the practice of seasonal borrowing in the early 1990s through LGAC and is limited by existing law and bond covenants from returning to similar borrowing in the future. DOB plans to publish a more complete analysis of the proposed amendments at a future time.

## HCRA FINANCIAL PLAN

The following provides a summary of changes to the HCRA 2005-06 Financial Plan that was presented in the 2005-06 Enacted Budget Report. The revised estimates of receipts and disbursements are detailed on a quarterly basis in the Financial Plan tables herein.

### OVERVIEW

HCRA 2005-06 FINANCIAL PLAN SUMMARY	
(millions of dollars)	
	2005-06 (Projected)
Opening Balance*	412
Total receipts	5,204
Total disbursements	5,588
Excess (deficiency) of receipts over disbursements	(384)
Closing Balance	28

\*Restated to include \$248 million held in HCRA on-budget accounts at the close of 2004-05 and \$164 million in other resources on deposit in HCRA.

The 2005-06 Enacted Budget extended HCRA authorization through June 30, 2007 and created a new HCRA Resources Fund that added the roughly 25 percent of spending that was previously financed outside of the All Funds Financial Plan. HCRA spending can be found in the following areas of the budget: Medicaid; Health; OMH; and the State Office for the Aging.

**HCRA RECEIPTS**

<b>HCRA 2005-06 Projected Receipts</b>			
<b>(millions of dollars)</b>			
	<b>Enacted Budget</b>	<b>July Update</b>	<b>Change</b>
Empire Conversion Proceeds	1,842	1,842	0
Surcharges	1,591	1,641	50
Covered Lives Assessment	737	737	0
Cigarette Tax*	670	670	0
New Insurance Conversion Proceeds	400	0	(400)
Other	323	122	(201)
Hospital Assessment (1 percent)	192	192	0
<b>Total Receipts</b>	<b>5,755</b>	<b>5,204</b>	<b>(551)</b>

\*Includes a transfer of cigarette tax revenue from New York City, which appears under miscellaneous receipts in the Financial Plan Tables.

DOB projects total HCRA receipts at \$5.2 billion in 2005-06, a decrease of \$551 million from the Enacted Budget projections. This downward revision primarily reflects the delayed receipt of \$400 million in proceeds from other insurance company conversions from not-for-profit to for-profit status pending the enactment of legislation authorizing such conversions. Furthermore, surcharge revenues are expected to grow by \$50 million in 2005-06. Other receipts have been reduced to reflect experience through the first quarter of the 2005-06 fiscal year.

The successful resolution of litigation affecting the Empire conversion has resulted in the transfer of roughly \$754 million of Empire proceeds received to date to the HCRA Resources Fund. Another \$1.1 billion in Empire proceeds, for a total of \$1.8 billion in Empire conversion proceeds (including \$200 million that will support General Fund Medicaid spending), is expected in 2005-06.

**HCRA DISBURSEMENTS**

<b>HCRA 2005-06 Projected Disbursements</b>			
<b>(millions of dollars)</b>			
	<b>Enacted Budget</b>	<b>July Update</b>	<b>Change</b>
Medicaid/Public Health Support	2,024	1,910	(114)
Hospital Indigent Care	853	853	0
Elderly Pharmaceutical Insurance Coverage	570	540	(30)
Graduate Medical Education	353	372	19
Family Health Plus	426	426	0
Child Health Plus	349	352	3
Workforce Recruitment and Retention	416	416	0
All Other	574	719	145
<b>Total Disbursements</b>	<b>5,565</b>	<b>5,588</b>	<b>23</b>

Total disbursements in 2005-06 are projected at \$5.6 billion, an increase of \$23 million from the Enacted Budget projections. Spending has been revised to reflect experience to date in public health programs, worker retraining, medical malpractice and the healthcare stabilization program. EPIC spending has been revised to reflect the timing of payments which were made in 2004-05, as opposed to 2005-06.

Based on revised DOB projections of receipts and disbursements the cash balance at the end of 2005-06 is expected to be \$28 million, climbing to approximately \$187 million on June 30, 2007, when the HCRA statute expires. Absent any changes, it is projected that HCRA will have a negative balance by the close of the State's 2007-08 fiscal year. However, HCRA is scheduled to be reauthorized prior to this date and will include actions to increase revenues or reduce spending to achieve balance. Each reauthorization to date, since 1996, has resulted in a completely balanced plan. Additional detail on quarterly receipts and disbursements is contained in the Financial Plan tables herein.

## **GAAP FINANCIAL PLANS**

DOB also prepares the General Fund and All Funds Financial Plans on a GAAP basis in accordance with Governmental Accounting Standards Board (GASB) regulations. The GAAP projections for both years are based on the accounting principles applied by the State Comptroller in the financial statements issued for 2004-05. The GAAP projections comply with GASB Statement 34, which has significantly changed the presentation of GAAP financial information for State and local governments. The changes are intended to portray the State's net overall financial condition, including activities that affect State assets and liabilities during the fiscal year. The GASB 34 results for 2004-05 show the State in a net positive overall financing condition of \$43.8 billion.

In 2004-05, the General Fund GAAP Financial Plan shows total revenues of \$35.9 billion, total expenditures of \$45.1 billion, and net other financing sources of \$10 billion, resulting in an operating surplus of \$827 million and a projected accumulated surplus of \$546 million. This operating result reflects higher revenues offset by the use of the 2003-04 surplus and the remaining tobacco resources in 2004-05.<sup>1</sup>

In 2005-06, the General Fund GAAP Financial Plan shows total revenues of \$38.8 billion, total expenditures of \$48.5 billion, and net other financing sources of \$9.5 billion, resulting in an operating deficit of \$226 million and a projected accumulated surplus of \$320 million. These changes reflect the use of 2004-05 resources in 2005-06, partially offset by the \$601 million held in the fiscal stability reserve.

## **DEBT AND CAPITAL MANAGEMENT<sup>2</sup>**

### **Debt Performance and Affordability**

The State's debt affordability measures through the first quarter of the 2005-06 fiscal year compare favorably to the forecasts contained in the Enacted Capital Program and Financing Plan. Issuances of State-supported debt obligations have been generally consistent with the expected sale schedule for the current year, with marginal revisions reflecting certain economic development bonding that occurred earlier in the year than originally anticipated.

1. See also the section entitled "GAAP-Basis Results For Prior Years" later in this AIS Update.

2. See also the section entitled "Debt and Other Financing Activities" in the AIS dated May 4, 2005 for more information on the State's debt portfolio and management.

To date, new money deals (in the current fiscal year) have included issuances of PIT Revenue bonds for economic development (ESDC) and transportation (Thruway) purposes. These insured bond transactions priced favorably, with spreads ranging from 11 to 15 basis points over the Municipal Market Data (MMD) index (a benchmark of AAA-rated, fixed-rate municipal bonds) for ten-year bonds. 20-year bonds were within 2 basis points of MMD.

Slight reestimates have been made to debt service spending projections in the Financial Plan. These generally reflect revised bonded-capital spending estimates, actual sales to date (including two small refundings), and the restructuring of some existing escrow funds from prior refundings for improved investment performance.

The Enacted Budget Financial Plan projected that \$150 million in savings in 2005-06 would be realized through debt management initiatives. To date, the State has achieved \$94 million of the projected savings through bond refinancings (\$25 million), defeasances and escrow restructurings (\$36 million), transfers from other funds (\$10 million) and re-estimates including revised amounts and/or timing of projected bond sales (\$23 million). DOB expects to realize the remaining savings by the end of the fiscal year.

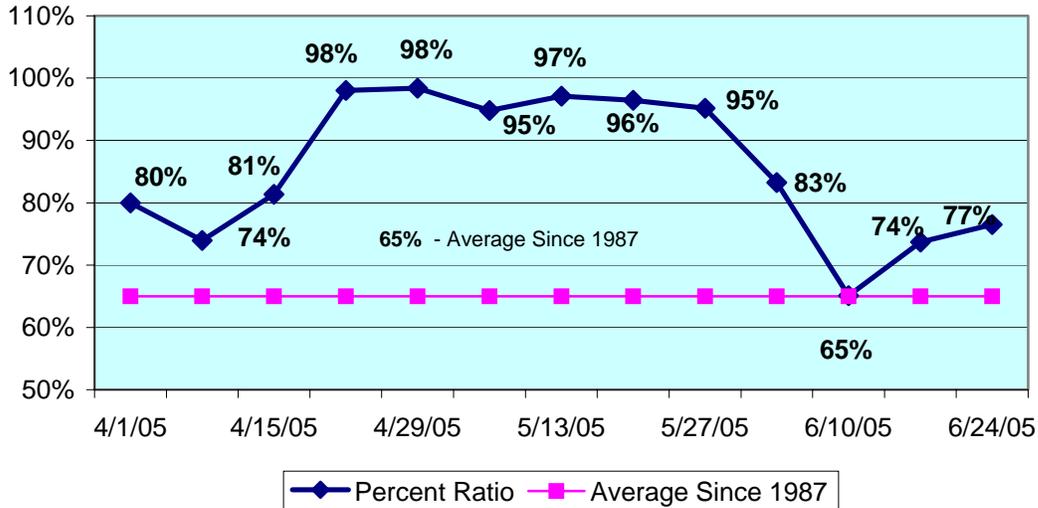
At the end of the regular 2005 legislative session, the Governor and Legislature agreed to additional capital spending financed with long-term debt, including \$150 million to help finance new stadiums for the New York Yankees and Mets, \$75 million for upstate economic development, and \$496 million of additional capital spending for the State University. These capital additions are projected to increase debt service costs beginning in 2006-07.

### **Interest Rate Exchange Agreements and Variable Rate Debt Instruments**

Article 5-D of the State Finance Law authorizes the use of a limited amount of interest rate exchange agreements (swaps) and variable rate debt instruments. Issuers of State-supported debt may enter into swaps and variable rate debt instruments that result in a maximum aggregate amount of 15 percent of debt outstanding each, respectively.

During the first quarter of fiscal year 2005-06, the State's fixed payer swaps have performed well, with all counterparties meeting their payment obligations. In addition, the performance of the underlying variable rate payments received by the State has improved. As shown in the chart below, the spread of 65 percent of LIBOR to the Bond Market Association Index (BMA), which is an industry benchmark that approximates the bonds' variable rates, has narrowed closer to the long-term historical average.

### BMA/LIBOR Ratio

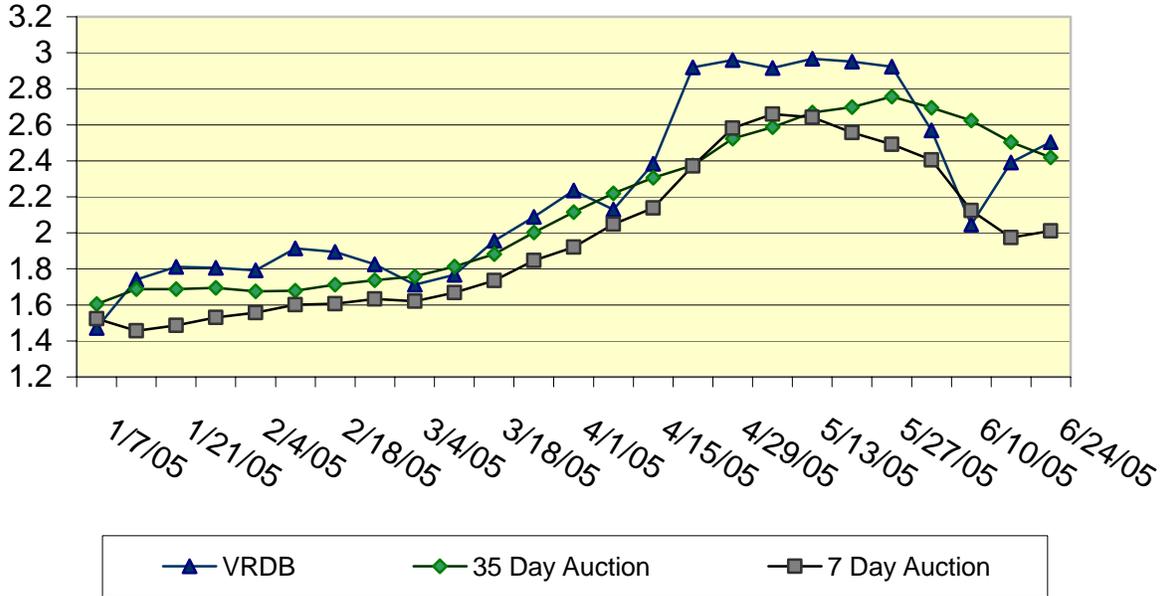


Consistent with the market trends – and reflecting recent Federal Reserve rate increases – the rates on State-supported variable rate obligations have increased through the first quarter. This variable rate performance is consistent with DOB’s forecast, which estimates that variable rates will average about 2.8 percent for the 2005-06 fiscal year.

On average, variable rate demand bonds (VRDBs) and auction rate securities (ARS) rates have increased from about 1.8 to 2.4 percent, an increase of 60 basis points. The State’s variable rate exposure from swaps has performed similarly, with BMA increasing from 2 to 2.56 percent. BMA averaged almost 3 percent during the month of May.

Through this point in the fiscal year, as summarized in the chart below, ARS have been the most cost effective form of variable rate debt. Through these three months, seven-day ARS have traded between 25 and 50 basis points better than BMA and VRDBs.

### Variable Reset Rate History January 7, 2005 to June 24, 2005



## STATE WORKFORCE UPDATE

DOB projects the State Executive Branch workforce (All Funds) will reach a planned total of 192,164 at the end of 2005-06, an increase of roughly 200 positions from the Enacted Budget forecast. The modest plan adjustment reflects the anticipated refilling of critical positions, in general, and some legislative additions.

## **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 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;
- SRFs, 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 Funds receipts and disbursements for the 2005-06 fiscal year.

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

	<u>Enacted*</u>	<u>Change</u>	<u>First Qtr</u>
<b>Opening fund balance</b>	<u>2,546</u>	<u>0</u>	<u>2,546</u>
<b>Receipts:</b>			
Taxes:			
Personal income tax	20,342	291	20,633
User taxes and fees	8,601	(68)	8,533
Business taxes	4,283	(60)	4,223
Other taxes	778	(1)	777
Miscellaneous receipts	2,348	83	2,431
Federal Grants	4	5	9
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	6,338	123	6,461
Sales tax in excess of LGAC debt service	2,306	(55)	2,251
Real estate taxes in excess of CW/CA debt service	510	4	514
All other	513	(1)	512
<b>Total receipts</b>	<u>46,023</u>	<u>321</u>	<u>46,344</u>
<b>Disbursements:</b>			
Grants to local governments	31,448	(65)	31,383
State operations	8,067	171	8,238
General State charges	4,049	11	4,060
Transfers to other funds:			
Debt service	1,667	33	1,700
Capital projects	229	(15)	214
Other purposes	747	107	854
<b>Total disbursements</b>	<u>46,207</u>	<u>242</u>	<u>46,449</u>
<b>Change in fund balance</b>	<u>(184)</u>	<u>79</u>	<u>(105)</u>
<b>Closing fund balance</b>	<u>2,362</u>	<u>79</u>	<u>2,441</u>
<b>General Reserves</b>			
Statutory Rainy Day Reserve Fund	872	0	872
Fiscal Stability Reserve Fund	601	79	680
Contingency Reserve Fund	21	0	21
<b>Restricted Balances</b>			
Community Projects Fund	316	0	316
Payment of Tax Refunds	552	0	552

\* The opening fund balance and personal income tax receipts have been adjusted to reflect the inclusion of the Personal Income Tax Refund Reserve in the General Fund. This change in presentation has no impact on net Financial Plan results.

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Source: NYS DOB

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

	<u>Enacted*</u>	<u>Change</u>	<u>First Qtr</u>
<b>Receipts:</b>			
Taxes:			
Personal income tax	21,317	445	21,762
User taxes and fees	8,891	(166)	8,725
Business taxes	4,445	151	4,596
Other taxes	872	(58)	814
Miscellaneous receipts	2,291	62	2,353
Federal Grants	4	5	9
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	6,483	160	6,643
Sales tax in excess of LGAC debt service	2,407	(75)	2,332
Real estate taxes in excess of CW/CA debt service	521	(16)	505
All other	228	3	231
<b>Total receipts</b>	<u><u>47,459</u></u>	<u><u>511</u></u>	<u><u>47,970</u></u>
<b>Disbursements:</b>			
Grants to local governments	34,992	134	35,126
State operations	8,659	140	8,799
General State charges	4,576	(8)	4,568
Transfers to other funds:			
Debt service	1,691	21	1,712
Capital projects	244	1	245
Other purposes	787	(1)	786
<b>Total disbursements</b>	<u><u>50,949</u></u>	<u><u>287</u></u>	<u><u>51,236</u></u>
<b>Deposit to/(use of) Fiscal Stability Reserve Fund</b>	<u><u>(301)</u></u>	<u><u>(39)</u></u>	<u><u>(340)</u></u>
<b>Deposit to/(use of) Community Projects Fund</b>	<u><u>(50)</u></u>	<u><u>0</u></u>	<u><u>(50)</u></u>
<b>Deposit to/(use of) PIT Refund Reserve</b>	<u><u>28</u></u>	<u><u>0</u></u>	<u><u>28</u></u>
<b>Margin</b>	<u><u>(3,167)</u></u>	<u><u>263</u></u>	<u><u>(2,904)</u></u>

\* Personal income tax receipts have been adjusted to reflect the inclusion of the Personal Income Tax Refund Reserve in the General Fund.

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Source: NYS DOB

**CASH FINANCIAL PLAN  
GENERAL FUND  
2007-2008  
(millions of dollars)**

	<u>Enacted*</u>	<u>Change</u>	<u>First Qtr</u>
<b>Receipts:</b>			
Taxes:			
Personal income tax	22,847	311	23,158
User taxes and fees	8,759	(174)	8,585
Business taxes	4,512	393	4,905
Other taxes	920	(78)	842
Miscellaneous receipts	4,346	63	4,409
Federal Grants	4	5	9
Transfers from other funds:			
PIT in excess of Revenue Bond debt service	6,833	103	6,936
Sales tax in excess of LGAC debt service	2,348	(78)	2,270
Real estate taxes in excess of CW/CA debt service	528	(8)	520
All other	241	1	242
<b>Total receipts</b>	<u>51,338</u>	<u>538</u>	<u>51,876</u>
<b>Disbursements:</b>			
Grants to local governments	39,423	186	39,609
State operations	8,946	154	9,100
General State charges	4,838	11	4,849
Transfers to other funds:			
Debt service	1,681	23	1,704
Capital projects	241	5	246
Other purposes	659	(3)	656
<b>Total disbursements</b>	<u>55,788</u>	<u>376</u>	<u>56,164</u>
<b>Deposit to/(use of) Fiscal Stability Reserve Fund</b>	<u>(300)</u>	<u>(40)</u>	<u>(340)</u>
<b>Deposit to/(use of) Community Projects Fund</b>	<u>(50)</u>	<u>0</u>	<u>(50)</u>
<b>Deposit to/(use of) PIT Refund Reserve</b>	<u>26</u>	<u>0</u>	<u>26</u>
<b>Margin</b>	<u>(4,126)</u>	<u>202</u>	<u>(3,924)</u>

\* Personal income tax receipts have been adjusted to reflect the inclusion of the Personal Income Tax Refund Reserve in the General Fund.

Source: NYS DOB

**GENERAL FUND  
PERSONAL INCOME TAX COMPONENTS  
2005-2006  
(millions of dollars)**

	<u>Enacted</u> (1)	<u>First Qtr</u>	<u>Change</u>
Withholdings	24,544	24,419	(125)
Estimated Payments	8,006	9,022	1,016
Final Payments	2,010	1,748	(262)
Delinquencies	<u>705</u>	<u>705</u>	<u>0</u>
<b>Gross Collections</b>	35,265	35,894	629
State/City Offset	(400)	(400)	0
Refunds	<u>(4,520)</u>	<u>(4,761)</u>	<u>(241)</u>
<b>Reported Tax Collections</b>	30,345	30,733	388
STAR (2)	(3,222)	(3,222)	0
RBTF (3)	<u>(6,781)</u>	<u>(6,878)</u>	<u>(97)</u>
<b>General Fund</b>	<u><u>20,342</u></u>	<u><u>20,633</u></u>	<u><u>291</u></u>

- (1) Enacted Budget estimates have been adjusted to account for refund reserve changes. Prior to the Updated Financial Plan, the refund reserve had been included as part of personal income tax collections.
- (2) Beginning in 1998-99, a portion of personal income tax collections is deposited directly in the School Tax Reduction (STAR) Fund and used to make payments to reimburse local governments for their revenue decreases due to the STAR program.
- (3) Beginning in 2002-03, 25 percent of personal income tax collections after the STAR transfer is deposited directly in the Revenue Bond Tax Fund (RBTF) and used for debt service payments.

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Source: NYS DOB

**CURRENT STATE RECEIPTS  
GENERAL FUND  
2005-2006  
(millions of dollars)**

	<u>Enacted*</u>	<u>First Qtr</u>	<u>Change</u>
<b>Personal income tax*</b>	20,342	20,633	291
<b>User taxes and fees:</b>	8,601	8,533	(68)
Sales and use tax	7,969	7,902	(67)
Cigarette and tobacco taxes	401	394	(7)
Motor vehicle fees	0	0	0
Alcoholic beverages taxes	186	189	3
Alcoholic beverage control license fees	45	48	3
<b>Business taxes:</b>	4,283	4,223	(60)
Corporation franchise tax	2,024	2,024	0
Corporation and utilities tax	643	583	(60)
Insurance taxes	1,031	1,031	0
Bank tax	585	585	0
<b>Other taxes:</b>	778	777	(1)
Estate tax	752	752	0
Gift tax	0	0	0
Real property gains tax	0	0	0
Pari-mutuel taxes	25	24	(1)
Other taxes	1	1	0
<b>Total Taxes</b>	<u>34,004</u>	<u>34,166</u>	<u>162</u>
<b>Miscellaneous receipts</b>	<u>2,348</u>	<u>2,431</u>	<u>83</u>
<b>Federal grants</b>	<u>4</u>	<u>9</u>	<u>5</u>
<b>Total</b>	<u><u>36,356</u></u>	<u><u>36,606</u></u>	<u><u>250</u></u>

\* Personal income tax receipts have been reduced to reflect the inclusion of the Personal Income Tax Refund Reserve Fund in the General Fund.

Source: NYS DOB

Annual Information Statement Update, August 8, 2005

**CASHFLOW  
GENERAL FUND  
2005-2006  
(dollars in millions)**

	2005		2006					2006					
	April	May	June	July	August	September	October	November	December	January	February	March	Total
	Actual	Actual	Actual	Prelim. Actuals	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	
<b>Opening fund balance</b>	<u>2,546</u>	<u>5,584</u>	<u>3,188</u>	<u>4,007</u>	<u>3,491</u>	<u>3,250</u>	<u>4,293</u>	<u>3,136</u>	<u>1,873</u>	<u>2,505</u>	<u>6,160</u>	<u>7,071</u>	<u>2,546</u>
<b>Receipts:</b>													
Taxes													
Personal income tax	3,347	553	2,213	1,227	1,394	2,054	653	548	1,824	3,550	2,095	1,175	20,633
User taxes and fees	662	667	894	658	628	861	624	622	902	674	530	811	8,533
Business taxes	217	177	891	77	42	750	53	0	802	65	27	1,122	4,223
Other taxes	49	64	131	117	53	53	52	52	52	52	51	51	777
Miscellaneous receipts	160	81	175	83	86	165	160	387	246	182	181	525	2,431
Federal Grants	1	0	1	1	1	0	1	1	0	1	1	1	9
Transfers from other funds													
PIT in excess of Revenue Bond debt service	1,114	160	737	408	383	705	188	14	637	1,182	437	496	6,461
Sales tax in excess of LGAC debt service	174	57	392	201	189	186	188	189	278	205	2	190	2,251
Real estate taxes in excess of CW/CA debt service	108	60	15	44	39	41	49	39	37	29	30	23	514
All Other	0	76	63	0	6	10	2	0	20	57	0	278	512
<b>Total receipts</b>	<u>5,832</u>	<u>1,895</u>	<u>5,512</u>	<u>2,816</u>	<u>2,821</u>	<u>4,825</u>	<u>1,970</u>	<u>1,852</u>	<u>4,798</u>	<u>5,997</u>	<u>3,354</u>	<u>4,672</u>	<u>46,344</u>
<b>Disbursements:</b>													
Grants to local governments													
School Aid	168	1,917	1,253	53	408	1,142	462	557	1,142	226	469	5,697	13,494
Medicaid	798	633	1,155	466	722	444	570	552	559	587	620	723	7,829
Welfare	114	134	74	81	173	74	142	142	74	142	111	111	1,372
All Other	242	511	798	725	687	586	956	540	1,038	548	608	1,449	8,688
State operations													
Personal Service	562	520	687	556	559	613	415	642	377	378	215	428	5,952
Non-Personal Service	174	223	180	160	200	155	182	173	182	177	188	292	2,286
General State charges	405	186	269	1,212	234	335	261	269	237	266	137	249	4,060
Transfers to other funds													
Debt service	207	105	197	39	28	300	49	183	435	17	26	114	1,700
Capital projects	15	30	44	17	29	49	43	34	95	(21)	48	(169)	214
Other purposes	109	32	36	23	22	84	47	23	27	22	21	408	854
<b>Total disbursements</b>	<u>2,794</u>	<u>4,291</u>	<u>4,693</u>	<u>3,332</u>	<u>3,062</u>	<u>3,782</u>	<u>3,127</u>	<u>3,115</u>	<u>4,166</u>	<u>2,342</u>	<u>2,443</u>	<u>9,302</u>	<u>46,449</u>
<b>Change in fund balance</b>	<u>3,038</u>	<u>(2,396)</u>	<u>819</u>	<u>(516)</u>	<u>(241)</u>	<u>1,043</u>	<u>(1,157)</u>	<u>(1,263)</u>	<u>632</u>	<u>3,655</u>	<u>911</u>	<u>(4,630)</u>	<u>(105)</u>
<b>Closing fund balance</b>	<u>5,584</u>	<u>3,188</u>	<u>4,007</u>	<u>3,491</u>	<u>3,250</u>	<u>4,293</u>	<u>3,136</u>	<u>1,873</u>	<u>2,505</u>	<u>6,160</u>	<u>7,071</u>	<u>2,441</u>	<u>2,441</u>

Source: NYS DOB

**CASH FINANCIAL PLAN  
STATE FUNDS  
2005-2006  
(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>
<b>Opening fund balance</b>	<u>2,546</u>	<u>2,006</u>	<u>(206)</u>	<u>184</u>	<u>4,530</u>
<b>Receipts:</b>					
Taxes	34,166	5,830	1,862	10,092	51,950
Miscellaneous receipts	2,431	12,603	1,656	656	17,346
Federal grants	9	1	0	0	10
<b>Total receipts</b>	<u>36,606</u>	<u>18,434</u>	<u>3,518</u>	<u>10,748</u>	<u>69,306</u>
<b>Disbursements:</b>					
Grants to local governments	31,383	14,120	996	0	46,499
State operations	8,238	5,062	0	26	13,326
General State charges	4,060	555	0	0	4,615
Debt service	0	0	0	3,829	3,829
Capital projects	0	1	2,182	0	2,183
<b>Total disbursements</b>	<u>43,681</u>	<u>19,738</u>	<u>3,178</u>	<u>3,855</u>	<u>70,452</u>
<b>Other financing sources (uses):</b>					
Transfers from other funds	9,738	1,247	252	5,244	16,481
Transfers to other funds	(2,768)	(402)	(936)	(12,124)	(16,230)
Bond and note proceeds	0	0	232	0	232
<b>Net other financing sources (uses)</b>	<u>6,970</u>	<u>845</u>	<u>(452)</u>	<u>(6,880)</u>	<u>483</u>
<b>Change in fund balance</b>	<u>(105)</u>	<u>(459)</u>	<u>(112)</u>	<u>13</u>	<u>(663)</u>
<b>Closing fund balance</b>	<u>2,441</u>	<u>1,547</u>	<u>(318)</u>	<u>197</u>	<u>3,867</u>

Source: NYS DOB

**CASH FINANCIAL PLAN  
ALL GOVERNMENTAL FUNDS  
2005-2006  
(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>
<b>Opening fund balance</b>	<u>2,546</u>	<u>2,005</u>	<u>(454)</u>	<u>184</u>	<u>4,281</u>
<b>Receipts:</b>					
Taxes	34,166	5,830	1,862	10,092	51,950
Miscellaneous receipts	2,431	12,613	1,656	656	17,356
Federal grants	9	34,570	1,829	0	36,408
<b>Total receipts</b>	<u>36,606</u>	<u>53,013</u>	<u>5,347</u>	<u>10,748</u>	<u>105,714</u>
<b>Disbursements:</b>					
Grants to local governments	31,383	45,232	1,224	0	77,839
State operations	8,238	8,125	0	26	16,389
General State charges	4,060	774	0	0	4,834
Debt service	0	0	0	3,829	3,829
Capital projects	0	2	3,758	0	3,760
<b>Total disbursements</b>	<u>43,681</u>	<u>54,133</u>	<u>4,982</u>	<u>3,855</u>	<u>106,651</u>
<b>Other financing sources (uses):</b>					
Transfers from other funds	9,738	3,651	252	5,244	18,885
Transfers to other funds	(2,768)	(3,103)	(948)	(12,124)	(18,943)
Bond and note proceeds	0	0	232	0	232
<b>Net other financing sources (uses)</b>	<u>6,970</u>	<u>548</u>	<u>(464)</u>	<u>(6,880)</u>	<u>174</u>
<b>Change in fund balance</b>	<u>(105)</u>	<u>(572)</u>	<u>(99)</u>	<u>13</u>	<u>(763)</u>
<b>Closing fund balance</b>	<u>2,441</u>	<u>1,433</u>	<u>(553)</u>	<u>197</u>	<u>3,518</u>

Source: NYS DOB

**CURRENT STATE RECEIPTS  
ALL GOVERNMENTAL FUNDS  
2005-2006  
(millions of dollars)**

	<u>Enacted*</u>	<u>First Qtr</u>	<u>Change</u>
<b>Personal income tax*</b>	30,345	30,734	389
<b>User taxes and fees</b>	13,785	13,654	(131)
Sales and use taxes	11,219	11,095	(124)
Cigarette and tobacco taxes	962	949	(13)
Motor fuel tax	533	533	0
Motor vehicle fees	635	635	0
Highway use tax	163	189	26
Alcoholic beverage taxes	186	164	(22)
Alcoholic beverage control license fees	46	48	2
Auto rental tax	41	41	0
<b>Business taxes</b>	6,109	6,047	(62)
Corporation franchise tax	2,280	2,280	0
Corporation and utilities taxes	844	782	(62)
Insurance taxes	1,147	1,147	0
Bank tax	693	693	0
Petroleum business taxes	1,145	1,145	0
<b>Other taxes</b>	1,517	1,515	(2)
Estate tax	752	752	0
Gift tax	0	2	2
Real property gains tax	0	0	0
Real estate transfer tax	739	734	(5)
Pari-mutuel taxes	25	26	1
Other taxes	1	1	0
<b>Total taxes</b>	51,756	51,950	194
<b>Miscellaneous receipts</b>	17,552	17,356	(196)
<b>Federal grants</b>	36,424	36,408	(16)
<b>Total</b>	<u>105,732</u>	<u>105,714</u>	<u>(18)</u>

\* Personal income tax receipts have been reduced to reflect the inclusion of the Personal Income Tax Refund Reserve Fund in the General Fund.

Source: NYS DOB

**GAAP FINANCIAL PLAN  
GENERAL FUND  
2004-2005 and 2005-2006  
(millions of dollars)**

	<u>2004-2005</u> <u>Actuals</u>	<u>2005-2006</u> <u>First Qtr</u>	<u>Change</u>
<b>Revenues:</b>			
Taxes:			
Personal income tax	18,429	21,333	2,904
User taxes and fees	8,688	8,556	(132)
Business taxes	3,972	4,326	354
Other taxes	1,035	640	(395)
Miscellaneous revenues	3,803	3,945	142
Federal grants	2	9	7
<b>Total revenues</b>	<u>35,929</u>	<u>38,809</u>	<u>2,880</u>
<b>Expenditures:</b>			
Grants to local governments	31,424	34,332	2,908
State operations	10,090	10,685	595
General State charges	3,590	3,472	(118)
Debt service	0	25	25
Capital projects	0	0	0
<b>Total expenditures</b>	<u>45,104</u>	<u>48,514</u>	<u>3,410</u>
<b>Other financing sources (uses):</b>			
Transfers from other funds	14,847	13,500	(1,347)
Transfers to other funds	(5,219)	(4,972)	247
Proceeds from financing arrangements/ advance refundings	374	951	577
<b>Net other financing sources (uses)</b>	<u>10,002</u>	<u>9,479</u>	<u>(523)</u>
<b>Excess (deficiency) of revenues and other financing sources over expenditures and other financing uses</b>	<u>827</u>	<u>(226)</u>	<u>(1,053)</u>
<b>Accumulated Surplus</b>	<u>546</u>	<u>320</u>	

Source: NYS DOB

**GAAP FINANCIAL PLAN  
ALL GOVERNMENTAL FUNDS  
2005-2006  
(millions of dollars)**

	<b>General Fund</b>	<b>Special Revenue Funds</b>	<b>Capital Projects Funds</b>	<b>Debt Service Funds</b>	<b>(MEMO) Total</b>
<b>Revenues:</b>					
Taxes	34,855	5,827	1,861	10,051	52,594
Patient fees	0	0	0	326	326
Miscellaneous revenues	3,945	5,590	310	23	9,868
Federal grants	9	35,545	1,829	0	37,383
<b>Total revenues</b>	<u>38,809</u>	<u>46,962</u>	<u>4,000</u>	<u>10,400</u>	<u>100,171</u>
<b>Expenditures:</b>					
Grants to local governments	34,332	41,892	1,213	0	77,437
State operations	10,685	1,729	0	26	12,440
General State charges	3,472	285	0	0	3,757
Debt service	25	0	0	3,087	3,112
Capital projects	0	2	3,445	0	3,447
<b>Total expenditures</b>	<u>48,514</u>	<u>43,908</u>	<u>4,658</u>	<u>3,113</u>	<u>100,193</u>
<b>Other financing sources (uses):</b>					
Transfers from other funds	13,500	287	228	5,267	19,282
Transfers to other funds	(4,972)	(3,702)	(971)	(12,586)	(22,231)
Proceeds of general obligation bonds	0	0	232	0	232
Proceeds from financing arrangements/ advance refundings	951	0	1,095	0	2,046
<b>Net other financing sources (uses)</b>	<u>9,479</u>	<u>(3,415)</u>	<u>584</u>	<u>(7,319)</u>	<u>(671)</u>
<b>Excess (deficiency) of revenues and other financing sources over expenditures and other financing uses</b>					
	<u>(226)</u>	<u>(361)</u>	<u>(74)</u>	<u>(32)</u>	<u>(693)</u>

Source: NYS DOB

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 GENERAL FUND  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>ECONOMIC DEVELOPMENT AND GOVERNMENT OVERSIGHT</b>			
Agriculture and Markets, Department of	48,103	48,103	0
Alcoholic Beverage Control	0	0	0
Banking Department	250	250	0
Consumer Protection Board	0	0	0
Economic Development, Department of	43,199	43,199	0
Empire State Development Corporation	74,598	64,598	(10,000)
Energy Research and Development Authority	0	0	0
Housing Finance Agency	0	0	0
Housing and Community Renewal, Division of	74,010	75,710	1,700
Insurance Department	0	0	0
Olympic Regional Development Authority	7,350	7,350	0
Public Service, Department of	0	0	0
Science, Technology and Academic Research, Office of	50,834	50,834	0
<b>Functional Total</b>	<u>298,344</u>	<u>290,044</u>	<u>(8,300)</u>
<b>PARKS AND THE ENVIRONMENT</b>			
Adirondack Park Agency	4,408	4,408	0
Environmental Conservation, Department of	115,872	115,872	0
Environmental Facilities Corporation	0	0	0
Parks, Recreation and Historic Preservation, Office of	109,348	109,348	0
<b>Functional Total</b>	<u>229,628</u>	<u>229,628</u>	<u>0</u>
<b>TRANSPORTATION</b>			
Motor Vehicles, Department of	0	0	0
Thruway Authority	0	0	0
Transportation, Department of	108,140	105,640	(2,500)
<b>Functional Total</b>	<u>108,140</u>	<u>105,640</u>	<u>(2,500)</u>
<b>HEALTH AND SOCIAL WELFARE</b>			
Advocate for Persons with Disabilities, Office of	0	0	0
Aging, Office for the	79,013	79,013	0
Children and Family Services, Office of	1,436,930	1,436,930	0
Health, Department of	8,316,976	8,389,276	72,300
<i>Medical Assistance</i>	7,445,597	7,513,997	68,400
<i>Medicaid Administration</i>	119,950	119,950	0
<i>All Other</i>	751,429	755,329	3,900
Human Rights, Division of	13,142	13,142	0
Labor, Department of	16,176	16,176	0
Prevention of Domestic Violence, Office of	2,415	2,415	0

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 GENERAL FUND  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>HEALTH AND SOCIAL WELFARE (Continued)</b>			
Temporary and Disability Assistance, Office of	1,451,257	1,451,257	0
<i>Welfare Assistance</i>	1,000,969	1,000,969	0
<i>Welfare Administration</i>	371,550	371,550	0
<i>All Other</i>	78,738	78,738	0
Welfare Inspector General, Office of	754	754	0
Workers' Compensation Board	0	0	0
<b>Functional Total</b>	<u>11,316,663</u>	<u>11,388,963</u>	<u>72,300</u>
<b>MENTAL HEALTH</b>			
Mental Health, Office of	1,337,781	1,344,801	7,020
Mental Hygiene, Department of	0	0	0
Mental Retardation and Developmental Disabilities, Office of	831,992	834,647	2,655
Alcohol and Substance Abuse Services, Office of	298,127	298,292	165
Developmental Disabilities Planning Council	0	0	0
Quality of Care for the Mentally Disabled, Commission on	4,263	4,363	100
<b>Functional Total</b>	<u>2,472,163</u>	<u>2,482,103</u>	<u>9,940</u>
<b>PUBLIC PROTECTION</b>			
Capital Defenders Office	10,916	10,916	0
Correction, Commission of	2,510	2,510	0
Correctional Services, Department of	1,995,345	1,997,345	2,000
Crime Victims Board	3,314	3,314	0
Criminal Justice Services, Division of	106,592	106,356	(236)
Homeland Security	5,219	64,219	59,000
Investigation, Temporary State Commission of	3,463	3,463	0
Judicial Commissions	2,703	2,703	0
Military and Naval Affairs, Division of	26,167	27,434	1,267
Parole, Division of	183,489	183,489	0
Probation and Correctional Alternatives, Division of	78,596	78,832	236
Public Security, Office of	0	0	0
State Police, Division of	352,235	446,935	94,700
<b>Functional Total</b>	<u>2,770,549</u>	<u>2,927,516</u>	<u>156,967</u>
<b>EDUCATION</b>			
Arts, Council on the	42,705	42,705	0
City University of New York	928,826	932,222	3,396
Education, Department of	15,212,855	15,083,613	(129,242)
<i>School Aid</i>	<u>13,623,270</u>	<u>13,494,028</u>	<u>(129,242)</u>
<i>STAR Property Tax Relief</i>	0	0	0
<i>Handicapped</i>	908,473	908,473	0
<i>All Other</i>	681,112	681,112	0
Higher Education Services Corporation	889,478	889,478	0
State University Construction Fund	0	0	0
State University of New York	1,359,162	1,362,297	3,135
<b>Functional Total</b>	<u>18,433,026</u>	<u>18,310,315</u>	<u>(122,711)</u>

**CASH DISBURSEMENTS BY FUNCTION**  
**2005-2006 GENERAL FUND**  
(thousands of dollars)

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>GENERAL GOVERNMENT</b>			
Audit and Control, Department of	167,367	167,367	0
Budget, Division of the	28,185	28,185	0
Civil Service, Department of	24,199	24,199	0
Elections, State Board of	3,594	4,094	500
Employee Relations, Office of	3,580	3,580	0
Executive Chamber	15,480	15,480	0
General Services, Office of	148,686	148,686	0
Inspector General, Office of	4,579	4,579	0
Law, Department of	125,637	125,637	0
Lieutenant Governor, Office of the	485	485	0
Lottery, Division of	0	0	0
Racing and Wagering Board, State	0	0	0
Real Property Services, Office of	21,197	21,197	0
Regulatory Reform, Governor's Office of	3,554	3,554	0
State Labor Relations Board	3,357	3,357	0
State, Department of	20,523	20,523	0
Tax Appeals, Division of	2,994	2,994	0
Taxation and Finance, Department of	306,876	306,876	0
Technology, Office for	20,076	20,076	0
TSC Lobbying	909	1,409	500
Veterans Affairs, Division of	12,089	12,089	0
<b>Functional Total</b>	<u>913,367</u>	<u>914,367</u>	<u>1,000</u>
<b>ALL OTHER CATEGORIES</b>			
Legislature	206,672	206,730	58
Judiciary (excluding fringe benefits)	1,392,500	1,392,500	0
World Trade Center	0	0	0
Local Government Assistance	1,028,900	1,028,900	0
Long-Term Debt Service	1,666,548	1,699,633	33,085
Capital Projects	228,597	214,395	(14,202)
General State Charges/Miscellaneous	5,142,286	5,258,286	116,000
<b>Functional Total</b>	<u>9,665,503</u>	<u>9,800,444</u>	<u>134,941</u>
<b>TOTAL GENERAL FUND SPENDING</b>	<u>46,207,383</u>	<u>46,449,020</u>	<u>241,637</u>

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Source: NYS DOB

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 STATE FUNDS  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>ECONOMIC DEVELOPMENT AND GOVERNMENT OVERSIGHT</b>			
Agriculture and Markets, Department of	77,099	77,099	0
Alcoholic Beverage Control	11,471	11,471	0
Banking Department	80,566	68,061	(12,505)
Consumer Protection Board	2,575	2,575	0
Economic Development, Department of *	479,144	488,644	9,500
Empire State Development Corporation *	120,798	94,798	(26,000)
Energy Research and Development Authority	26,006	26,006	0
Housing Finance Agency	0	0	0
Housing and Community Renewal, Division of	201,325	188,675	(12,650)
Insurance Department	149,444	149,329	(115)
Olympic Regional Development Authority	7,750	7,750	0
Public Service, Department of	55,395	55,395	0
Science, Technology and Academic Research, Office of	67,834	67,834	0
<b>Functional Total</b>	<u>1,279,407</u>	<u>1,237,637</u>	<u>(41,770)</u>
<b>PARKS AND THE ENVIRONMENT</b>			
Adirondack Park Agency	4,408	4,408	0
Environmental Conservation, Department of	785,269	736,352	(48,917)
Environmental Facilities Corporation	12,664	12,664	0
Parks, Recreation and Historic Preservation, Office of	244,728	227,945	(16,783)
<b>Functional Total</b>	<u>1,047,069</u>	<u>981,369</u>	<u>(65,700)</u>
<b>TRANSPORTATION</b>			
Motor Vehicles, Department of	255,630	250,213	(5,417)
Thruway Authority	4,000	4,000	0
Transportation, Department of	4,173,113	4,170,613	(2,500)
<b>Functional Total</b>	<u>4,432,743</u>	<u>4,424,826</u>	<u>(7,917)</u>
<b>HEALTH AND SOCIAL WELFARE</b>			
Advocate for Persons with Disabilities, Office of	0	0	0
Aging, Office for the	82,074	82,064	(10)
Children and Family Services, Office of	1,474,668	1,461,977	(12,691)
Health, Department of	15,075,307	15,160,513	85,206
<i>Medical Assistance</i>	<u>11,725,847</u>	<u>11,794,247</u>	<u>68,400</u>
<i>Medicaid Administration</i>	119,950	119,950	0
<i>All Other</i>	3,229,510	3,246,316	16,806
Human Rights, Division of	13,148	13,148	0
Labor, Department of	98,499	99,294	795
Prevention of Domestic Violence, Office of	2,445	2,445	0

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 STATE FUNDS  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>HEALTH AND SOCIAL WELFARE (Continued)</b>			
Temporary and Disability Assistance, Office of	1,547,289	1,547,289	0
<i>Welfare Assistance</i>	1,000,969	1,000,969	0
<i>Welfare Administration</i>	371,550	371,550	0
<i>All Other</i>	174,770	174,770	0
Welfare Inspector General, Office of	754	754	0
Workers' Compensation Board	144,188	144,188	0
<b>Functional Total</b>	<u>18,438,372</u>	<u>18,511,672</u>	<u>73,300</u>
<b>MENTAL HEALTH</b>			
Mental Health, Office of	1,628,638	1,635,658	7,020
Mental Hygiene, Department of	4,800	4,800	0
Mental Retardation and Developmental Disabilities, Office of	936,748	939,403	2,655
Alcohol and Substance Abuse Services, Office of	336,347	336,512	165
Developmental Disabilities Planning Council	0	0	0
Quality of Care for the Mentally Disabled, Commission on	4,565	4,665	100
<b>Functional Total</b>	<u>2,911,098</u>	<u>2,921,038</u>	<u>9,940</u>
<b>PUBLIC PROTECTION</b>			
Capital Defenders Office	10,916	10,916	0
Correction, Commission of	2,510	2,510	0
Correctional Services, Department of	2,184,850	2,184,850	0
Crime Victims Board	30,890	30,890	0
Criminal Justice Services, Division of	130,803	130,567	(236)
Homeland Security	20,143	79,143	59,000
Investigation, Temporary State Commission of	3,652	3,652	0
Judicial Commissions	2,703	2,703	0
Military and Naval Affairs, Division of	45,611	45,478	(133)
Parole, Division of	183,589	183,589	0
Probation and Correctional Alternatives, Division of	78,596	78,832	236
Public Security, Office of	0	0	0
State Police, Division of	511,980	616,414	104,434
<b>Functional Total</b>	<u>3,206,243</u>	<u>3,369,544</u>	<u>163,301</u>
<b>EDUCATION</b>			
Arts, Council on the	43,405	43,405	0
City University of New York	1,451,318	1,454,714	3,396
Education, Department of	20,743,413	20,722,171	(21,242)
<i>School Aid</i>	15,829,014	15,807,772	(21,242)
<i>STAR Property Tax Relief</i>	3,222,000	3,222,000	0
<i>Handicapped</i>	908,473	908,473	0
<i>All Other</i>	783,926	783,926	0
Higher Education Services Corporation	1,029,192	1,029,194	2
State University Construction Fund	10,480	10,480	0
State University of New York	4,878,832	4,756,967	(121,865)
<b>Functional Total</b>	<u>28,156,640</u>	<u>28,016,931</u>	<u>(139,709)</u>

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 STATE FUNDS  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>GENERAL GOVERNMENT</b>			
Audit and Control, Department of	247,988	247,988	0
Budget, Division of the	43,399	43,399	0
Civil Service, Department of	25,199	25,199	0
Elections, State Board of	3,594	4,094	500
Employee Relations, Office of	3,768	3,768	0
Executive Chamber	15,580	15,580	0
General Services, Office of	242,312	242,542	230
Inspector General, Office of	6,017	6,017	0
Law, Department of	164,656	164,656	0
Lieutenant Governor, Office of the	485	485	0
Lottery, Division of	177,264	177,264	0
Racing and Wagering Board, State	17,902	17,902	0
Real Property Services, Office of	51,299	51,299	0
Regulatory Reform, Governor's Office of	3,554	3,554	0
State Labor Relations Board	3,943	3,614	(329)
State, Department of	156,188	159,272	3,084
Tax Appeals, Division of	2,994	2,994	0
Taxation and Finance, Department of	343,506	343,506	0
Technology, Office for	20,076	20,076	0
TSC Lobbying	1,376	1,876	500
Veterans Affairs, Division of	12,089	12,089	0
<b>Functional Total</b>	<u>1,543,189</u>	<u>1,547,174</u>	<u>3,985</u>
<b>ALL OTHER CATEGORIES</b>			
Legislature	207,622	207,680	58
Judiciary (excluding fringe benefits)	1,618,566	1,618,566	0
World Trade Center	0	0	0
Local Government Assistance	1,028,900	1,028,900	0
Long-Term Debt Service	3,842,725	3,828,893	(13,832)
General State Charges/Miscellaneous	5,094,826	5,118,145	23,319
GAAP/Other Adjustments	(2,534,000)	(2,360,000)	174,000
<b>Functional Total</b>	<u>9,258,639</u>	<u>9,442,184</u>	<u>183,545</u>
<b>TOTAL STATE FUNDS SPENDING</b>	<u>70,273,400</u>	<u>70,452,375</u>	<u>178,975</u>

\* Economic Development and Empire State Development Corporation Enacted Budget estimates have been adjusted to reflect spending in the appropriate agency.

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Source: NYS DOB

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 ALL GOVERNMENTAL FUNDS  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>ECONOMIC DEVELOPMENT AND GOVERNMENT OVERSIGHT</b>			
Agriculture and Markets, Department of	92,639	92,639	0
Alcoholic Beverage Control	11,471	11,471	0
Banking Department	80,566	68,061	(12,505)
Consumer Protection Board	2,575	2,575	0
Economic Development, Department of *	479,489	488,989	9,500
Empire State Development Corporation *	120,798	94,798	(26,000)
Energy Research and Development Authority	26,006	26,006	0
Housing Finance Agency	0	0	0
Housing and Community Renewal, Division of	237,600	223,950	(13,650)
Insurance Department	149,444	149,329	(115)
Olympic Regional Development Authority	7,750	7,750	0
Public Service, Department of	56,800	56,800	0
Science, Technology and Academic Research, Office of	73,459	73,459	0
<b>Functional Total</b>	<u>1,338,597</u>	<u>1,295,827</u>	<u>(42,770)</u>
<b>PARKS AND THE ENVIRONMENT</b>			
Adirondack Park Agency	4,758	4,758	0
Environmental Conservation, Department of	968,063	919,146	(48,917)
Environmental Facilities Corporation	12,664	12,664	0
Parks, Recreation and Historic Preservation, Office of	250,000	233,217	(16,783)
<b>Functional Total</b>	<u>1,235,485</u>	<u>1,169,785</u>	<u>(65,700)</u>
<b>TRANSPORTATION</b>			
Motor Vehicles, Department of	281,335	275,918	(5,417)
Thruway Authority	4,000	4,000	0
Transportation, Department of	5,735,736	5,732,868	(2,868)
<b>Functional Total</b>	<u>6,021,071</u>	<u>6,012,786</u>	<u>(8,285)</u>
<b>HEALTH AND SOCIAL WELFARE</b>			
Advocate for Persons with Disabilities, Office of	0	0	0
Aging, Office for the	185,763	185,594	(169)
Children and Family Services, Office of	3,095,010	3,078,720	(16,290)
Health, Department of	<u>36,630,384</u>	<u>36,817,591</u>	<u>187,207</u>
<i>Medical Assistance</i>	31,592,054	31,784,754	192,700
<i>Medicaid Administration</i>	589,500	589,500	0
<i>All Other</i>	4,448,830	4,443,337	(5,493)
Human Rights, Division of	15,119	15,119	0
Labor, Department of	676,736	677,532	796
Prevention of Domestic Violence, Office of	2,445	2,445	0

**CASH DISBURSEMENTS BY FUNCTION  
2005-2006 ALL GOVERNMENTAL FUNDS  
(thousands of dollars)**

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>HEALTH AND SOCIAL WELFARE (Continued)</b>			
Temporary and Disability Assistance, Office of	4,678,874	4,678,875	1
<i>Welfare Assistance</i>	3,312,576	3,312,576	0
<i>Welfare Administration</i>	371,550	371,550	0
<i>All Other</i>	994,748	994,749	1
Welfare Inspector General, Office of	1,184	1,184	0
Workers' Compensation Board	144,954	144,954	0
<b>Functional Total</b>	<u>45,430,469</u>	<u>45,602,014</u>	<u>171,545</u>
<b>MENTAL HEALTH</b>			
Mental Health, Office of	2,240,056	2,247,077	7,021
Mental Hygiene, Department of	4,800	4,800	0
Mental Retardation and Developmental Disabilities, Office of	2,906,993	2,909,648	2,655
Alcohol and Substance Abuse Services, Office of	486,682	486,847	165
Developmental Disabilities Planning Council	3,679	3,679	0
Quality of Care for the Mentally Disabled, Commission on	13,492	13,592	100
<b>Functional Total</b>	<u>5,655,702</u>	<u>5,665,643</u>	<u>9,941</u>
<b>PUBLIC PROTECTION</b>			
Capital Defenders Office	10,916	10,916	0
Correction, Commission of	2,510	2,510	0
Correctional Services, Department of	2,244,388	2,244,388	0
Crime Victims Board	62,478	62,478	0
Criminal Justice Services, Division of	468,964	468,728	(236)
Homeland Security	21,743	80,743	59,000
Investigation, Temporary State Commission of	3,652	3,652	0
Judicial Commissions	2,703	2,703	0
Military and Naval Affairs, Division of	144,950	131,617	(13,333)
Parole, Division of	184,789	184,789	0
Probation and Correctional Alternatives, Division of	78,596	78,832	236
Public Security, Office of	0	0	0
State Police, Division of	515,866	620,300	104,434
<b>Functional Total</b>	<u>3,741,555</u>	<u>3,891,656</u>	<u>150,101</u>
<b>EDUCATION</b>			
Arts, Council on the	44,134	44,134	0
City University of New York	1,451,318	1,454,714	3,396
Education, Department of	24,330,682	24,309,441	(21,241)
<i>School Aid</i>	18,533,881	18,512,639	(21,242)
<i>STAR Property Tax Relief</i>	3,222,000	3,222,000	0
<i>Handicapped</i>	1,579,373	1,579,373	0
<i>All Other</i>	995,428	995,429	1
Higher Education Services Corporation	1,039,686	1,039,688	2
State University Construction Fund	10,480	10,480	0
State University of New York	5,061,032	4,939,167	(121,865)
<b>Functional Total</b>	<u>31,937,332</u>	<u>31,797,624</u>	<u>(139,708)</u>

**CASH DISBURSEMENTS BY FUNCTION**  
**2005-2006 ALL GOVERNMENTAL FUNDS**  
(thousands of dollars)

	<u>Enacted</u>	<u>First Qtr</u>	<u>Change</u>
<b>GENERAL GOVERNMENT</b>			
Audit and Control, Department of	247,988	247,988	0
Budget, Division of the	43,399	43,399	0
Civil Service, Department of	25,199	25,199	0
Elections, State Board of	151,525	37,598	(113,927)
Employee Relations, Office of	3,768	3,768	0
Executive Chamber	15,580	15,580	0
General Services, Office of	246,778	247,008	230
Inspector General, Office of	6,017	6,017	0
Law, Department of	186,945	186,945	0
Lieutenant Governor, Office of the	485	485	0
Lottery, Division of	177,264	177,264	0
Racing and Wagering Board, State	17,902	17,902	0
Real Property Services, Office of	51,299	51,299	0
Regulatory Reform, Governor's Office of	3,554	3,554	0
State Labor Relations Board	3,943	3,614	(329)
State, Department of	236,223	239,307	3,084
Tax Appeals, Division of	2,994	2,994	0
Taxation and Finance, Department of	343,784	343,784	0
Technology, Office for	20,076	20,076	0
TSC Lobbying	1,376	1,876	500
Veterans Affairs, Division of	13,520	13,520	0
<b>Functional Total</b>	<u>1,799,619</u>	<u>1,689,177</u>	<u>(110,442)</u>
<b>ALL OTHER CATEGORIES</b>			
Legislature	207,622	207,680	58
Judiciary (excluding fringe benefits)	1,626,166	1,626,166	0
World Trade Center	149,000	149,000	0
Local Government Assistance	1,028,900	1,028,900	0
Long-Term Debt Service	3,842,725	3,828,893	(13,832)
General State Charges/Miscellaneous	5,322,679	5,345,494	22,815
GAAP/Other Adjustments	(2,834,000)	(2,660,000)	174,000
<b>Functional Total</b>	<u>9,343,092</u>	<u>9,526,133</u>	<u>183,041</u>
<b>TOTAL ALL GOVERNMENTAL FUNDS SPENDING</b>	<u>106,502,922</u>	<u>106,650,645</u>	<u>147,723</u>

\* Economic Development and Empire State Development Corporation Enacted Budget estimates have been adjusted to reflect spending in the appropriate agency.

Source: NYS DOB

**CASH FLOW**  
**HEALTH CARE REFORM ACT RESOURCES FUND**  
**2005-2006**  
(millions of dollars)

	First Quarter (Actual)	Second Quarter (Projected)	Third Quarter (Projected)	Fourth Quarter (Projected)	Total (Projected)
<b>Opening fund balance (1)</b>	412	736	715	709	412
<b>Receipts:</b>					
Cigarette Taxes	151	141	139	130	561
Miscellaneous Receipts	516	1,528	1,510	1,089	4,643
<b>Total receipts</b>	667	1,669	1,649	1,219	5,204
<b>Disbursements:</b>					
Hospital Indigent Care Fund	105	105	374	269	853
Professional Education/Graduate Medical Education	69	129	92	81	371
Elderly Pharmaceutical Insurance Coverage (EPIC)	0	180	180	180	540
Child Health Plus (CHP)	59	65	135	93	352
Family Health Plus (FHP)	0	140	146	140	426
Workforce Recruitment and Retention	11	362	21	22	416
Public Health	20	13	62	47	142
Mental Health	8	20	29	30	87
Roswell Park Cancer Institute	20	19	6	33	78
Physician Excess Medical Malpractice	0	0	49	16	65
Transfer To Medicaid:					
Pharmacy Costs	0	183	209	606	998
Physician Costs	0	27	53	5	85
Health Insurance Demonstration Project	0	17	35	17	69
Supplemental Medical Insurance	0	0	34	34	68
All Other Medicaid	0	221	130	198	549
All Other	51	209	100	129	489
<b>Total disbursements</b>	343	1,690	1,655	1,900	5,588
<b>Change in fund balance</b>	324	(21)	(6)	(681)	(384)
<b>Closing fund balance</b>	736	715	709	28	28

(1) The 2005-06 HCRA opening balance is increased by \$248 million to reflect balances in existing HCRA special revenue funds that were previously reported elsewhere in the State Financial Plan.

Source: NYS DOB

## 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 sections entitled “Financial Plan Reserves and Risks” and “Litigation” in this AIS Update.

## GAAP-Basis Results for Prior Fiscal Years

The Comptroller prepares Basic Financial Statements on a GAAP basis for governments as promulgated by GASB. The Basic Financial Statements, released in July each year, include the Statement of Net Assets and Activities, the Balance Sheet and Statement of Revenues, Expenditures and Changes in Fund Balances for the Governmental Funds, the Statements of Net Assets, Revenues, Expenses and Changes in Fund Net Assets and Cash Flows for the Enterprise Funds, the Statements of Fiduciary Net Assets and Changes in Fiduciary Net Assets and the Combining Statements of Net Assets and Activities for Discretely Presented Component Units. These statements are audited by independent certified public accountants. The Comptroller also prepares and issues a Comprehensive Annual Financial Report, which includes a financial overview, the Basic Financial Statements, other supplementary information which includes individual fund combining statements, and a statistical section. For information regarding the State's accounting and financial reporting requirements, see the section in the AIS dated May 4, 2005 entitled "State Organization—Accounting, Financial Reporting and Budgeting."

Both the Basic Financial Statements and Comprehensive Annual Financial Reports for prior fiscal years can be obtained from the Office of the State Comptroller, 110 State Street, Albany, NY 12236 or at the OSC website at [www.osc.state.ny.us](http://www.osc.state.ny.us). The following table summarizes recent governmental funds results on a GAAP basis.

**Comparison of Actual GAAP-Basis Operating Results  
Surplus/(Deficit)  
(millions of dollars)**

<u>Fiscal Year Ended</u>	<u>General Fund</u>	<u>Special Revenue Funds</u>	<u>Debt Service Funds</u>	<u>Capital Projects Funds</u>	<u>All Governmental Funds</u>	<u>Accum. General Fund Surplus/(Deficit)</u>
March 31, 2005	827	833	361	89	2,110	546
March 31, 2004	3,039	(578)	173	603	3,237	(281)
March 31, 2003	(4,221)	(231)	(243)	391	(4,304)	(3,320)

Beginning with the fiscal year ended March 31, 2003, statements have been prepared in accordance with GASB 34. GASB 34 has significantly affected the accounting and financial reporting for all state and local governments. The new financial reporting model redefined the financial reporting model by changing its focus to major funds, rather than fund types, requiring a new section called management discussion and analysis (the “MD&A”), and containing new government-wide financial statements which includes all revenues and all costs of providing services each year. The new Basic Financial Statements and the MD&A are issued in place of the general purpose financial statements. The new statements also report on all current

assets and liabilities and also long-term assets and liabilities, such as capital assets, including infrastructure (e.g., roads and bridges).

**Summary of Net Assets**  
(millions of dollars)

<u>Fiscal Year Ended</u>	<u>Governmental Activities</u>	<u>Business-Type Activities</u>	<u>Total Primary Government</u>
March 31, 2005	41,190	2,645	43,835
March 31, 2004	39,086	2,088	41,174
March 31, 2003	42,396	2,500	44,896

## State Organization

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### State Retirement Systems

#### Contributions

Funding is provided in large part by employer and employee contributions. Employers contribute on the basis of the plan or plans they provide for members. Members joining since mid-1976, other than police and fire members, are required to contribute 3 percent of their salaries for their first ten years of membership.

Legislation enacted in May 2003 realigned the Retirement Systems billing cycle to match governments' budget cycles and also instituted a minimum annual payment. The employer contribution for a given fiscal year is based on the value of the pension fund and its liabilities on the prior April 1. In addition, employers are required to make a minimum contribution of at least 4.5 percent of payroll every year. Recent 2005 legislation allows the State to amortize certain 2005-06 amounts in excess of 9.5 percent of payroll.

The State bill due in the fiscal year ending March 31, 2005, payable September 1, 2004, utilizing the amortization feature, was \$653.7 million and has been fully paid. In addition, the State paid \$55 million in March 2005 to reduce its remaining retirement incentive costs. Employer contributions due from the State for the fiscal year ending March 31, 2006, payable on July 1, 2005, totaled \$945.8 million which included the first amortization payment from the 2005 bill of \$64 million and was calculated assuming that the State will amortize \$155 million of the 2006 bill over 10 years. The State paid this bill on July 1, 2005 with the exception of a portion of the payment for Judiciary personnel of \$4.3 million. The remaining Judiciary bill, with interest, is due on March 1, 2006. Also on July 1, 2005, the State made an additional payment of \$19.5 million to reduce its remaining retirement incentive costs and several other small costs.

## Litigation

### State Finance Policies

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In *Consumers Union of U.S., Inc. v. State*, plaintiffs challenge the constitutionality of those portions of Chapter 1 of the Laws of 2002 which relate to the authorization of the conversion of Empire Health Choice, d/b/a Empire Blue Cross and Blue Shield from a not-for-profit corporation to a for-profit corporation. Chapter 1 requires, in part, that upon such conversion, assets representing 95 percent of the fair market value of the not-for-profit corporation be transferred to a fund designated as the “public asset fund” to be used for the purpose set forth in §7317 of the Insurance Law. The State and private defendants have separately moved to dismiss the complaint. On November 6, 2002, the Supreme Court, New York County, granted a temporary restraining order, directing that the proceeds from the initial public offering of the for-profit corporation be deposited with the State Comptroller in an interest-bearing account, pending the hearing of a motion for a preliminary injunction, which was returnable simultaneously with the motions to dismiss, on November 26, 2002.

By decision dated February 28, 2003, the Supreme Court, New York County, granted the defendants’ motions to dismiss. In its decision, the court also granted plaintiffs leave to amend their complaint to assert a new cause of action and deferred decision on plaintiffs’ motion for a preliminary injunction. The plaintiffs and defendants have appealed from the February 28, 2003 decision. Plaintiffs served an amended complaint on April 1, 2003. On April 15, 2003, the defendants moved to dismiss the amended complaint.

By decision dated October 1, 2003, the court denied defendants’ motions to dismiss, except for the motions to dismiss brought by the individually named members of the board of directors of Empire Healthchoice, Inc. The court also declined to vacate the temporary restraining order directing that the proceeds from the initial public offering of the for-profit corporation be deposited with the State Comptroller in an interest-bearing account. The defendants appealed from the October 1, 2003 decision.

By decision and order dated May 20, 2004, the Appellate Division, First Department affirmed the dismissal of plaintiff’s original complaint but also affirmed the denial of defendants’ motion to dismiss the amended claim. The State, the other defendants and the plaintiffs moved in the Appellate Division, First Department, for leave to appeal to the Court of Appeals. On October 12, 2004, the First Department granted leave to appeal. By decision dated June 20, 2005, the Court of Appeals dismissed all of plaintiff’s claims. On July 7, 2005, a judgment was entered in favor of defendants in Supreme Court, New York County.

### Gaming

In *Dalton, et al. v. Pataki, et al.* and *Karr v. Pataki, et al.*, plaintiffs seek a judgment declaring as unconstitutional, under provisions of the Constitutions of the United States and the State, parts B, C and D of Chapter 383 of the Laws of 2001, which respectively authorize (1) the governor to enter into tribal-state compacts for the operation by Indian tribes of gambling casinos in certain areas of the State, (2) the Division of the Lottery to license the operation of VLTs at certain race tracks in the State and (3) the Division of the Lottery to enter into a joint, multi-jurisdiction and out-of-state lottery. Plaintiffs also seek to enjoin defendants from taking any action to implement the provisions of Chapter 383.

By opinion and order entered July 7, 2004, the Appellate Division, Third Department, upheld the constitutionality of tribal-state compacts and the joint, multi-jurisdiction and out of State lottery. The Appellate Division held that the statute authorizing the Division of the Lottery to license the operation of

VLTs at certain racetracks in the State violated the provisions of the State Constitution that require the net proceeds of State-operated lotteries be applied exclusively to or in aid or support of education in this State as the Legislature may prescribe. The State, certain other defendants, and the plaintiffs in both *Dalton, et al. v. Pataki, et al* and *Karr v. Pataki, et al.* have appealed to the Court of Appeals from this order. In an opinion dated May 3, 2005, the Court of Appeals modified the July 7, 2004 opinion and order and declared parts B, C and D of Chapter 383 of the Laws of 2001 constitutional. On July 6, 2005, the Court of Appeals denied the plaintiffs' motions for reargument in both cases.

## Real Property Claims

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On March 4, 1985 in *Oneida Indian Nation of New York, et al. v. County of Oneida*, the United States Supreme Court affirmed a judgment of the United States Court of Appeals for the Second Circuit holding that the Oneida Indians have a common-law right of action against Madison and Oneida counties for wrongful possession of 872 acres of land illegally sold to the State in 1795. At the same time, however, the Court reversed the Second Circuit by holding that a third-party claim by the counties against the State for indemnification was not properly before the Federal courts. The case was remanded to the District Court for an assessment of damages, which action is still pending. The counties may still seek indemnification in the State courts.

In 1998, the United States filed a complaint in intervention in *Oneida Indian Nation of New York*. In December 1998, both the United States and the tribal plaintiffs moved for leave to amend their complaints to assert claims for 250,000 acres, including both monetary damages and ejectment, to add the State as a defendant, and to certify a class made up of all individuals who currently purport to hold title within the affected 250,000 acre area. On September 25, 2000, the District Court granted the motion to amend the complaint to the extent that it sought to add the State as a defendant and to assert money damages with respect to the 250,000 acres and denied the motion to certify a class of individual landowners and to seek the remedy of ejectment.

In a decision dated March 29, 2002, the District Court granted, in part, plaintiffs' motion to strike the State's defenses and counterclaims. The defenses that were dismissed may not be asserted as to liability, but may still be asserted with respect to damages. The District Court also denied the State's motion to dismiss for failure to join indispensable parties.

On December 7, 2004, settlement agreements were signed between the State, the Oneidas of Wisconsin and the Stockbridge-Munsee Tribe, which would in part require the passage of State and Federal legislation to become effective. Such legislation must be enacted by September 1, 2005 unless the parties agree to an extension of time. The agreements contemplate the extinguishment of all Oneida and other Indian claims in the tract at issue in this litigation. Although the agreements provide for monetary payment, transfers of lands and other consideration to non-signatory tribal plaintiffs, these agreements have not been signed by the United States, the Oneidas of New York, the Oneidas of the Thames Band or the New York Brothertown. On April 15, 2005, the Governor withdrew legislation that he had proposed to approve this and other Indian land claim and settlement agreements.

Other 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 and *the Onondaga Nation v. The State of New York, et al.*

In the *Seneca Nation of Indians* case, plaintiffs seek monetary damages and ejectment with regard to their claim of ownership of certain islands in the Niagara River and the New York State Thruway right of way where the Thruway crosses the Cattaraugus reservation in Erie and Chautauqua Counties. By order dated November 17, 1999, the District Court confirmed the July 12, 1999 magistrate's report, which recommended granting the State's motion to dismiss that portion of the action relating to the Thruway right of way and denying the State's motion to dismiss the Federal government's damage claims. By decision and order dated June 21, 2002, the District Court granted summary judgment to defendants dismissing that portion of the action relating to the islands in the Niagara River. A judgment entered June 21, 2002 dismissed all aspects of this action. Plaintiffs appealed from the judgment to the U.S. Court of Appeals for the Second Circuit. By decision dated September 9, 2004, the Second Circuit affirmed the judgment of the District Court. Plaintiffs have petitioned the Second Circuit for rehearing *en banc*. On July 8, 2005, the Second Circuit denied the United States' motion for rehearing *en banc*.

In the *Canadian St. Regis Band of Mohawk Indians* case, plaintiffs seek ejectment and monetary damages with respect to their claim that approximately 15,000 acres in Franklin and St. Lawrence Counties were illegally transferred from their predecessors-in-interest. By decision dated July 28, 2003, the District Court granted, in most respects, a motion by plaintiffs to strike defenses and dismiss counterclaims contained in defendants' answers. By decision dated October 20, 2003, the District Court denied the States motion for reconsideration of that portion of the July 28, 2003 decision which struck a counterclaim against the United States for contribution. On November 29, 2004, the plaintiff tribal entities, with on exception, approved a settlement proposed by the State, which would require enactment of State and Federal legislation to become effective. The plaintiff tribal entity that did not approve the proposed settlement on November 29, 2004, subsequently expressed its approval. On April 15, 2005, the Governor withdrew legislation that he had proposed to approve this and other Indian land claim and settlement agreements. However, the Counsel to the Governor has stated that the Governor intends to submit to the State Legislature a new bill that would implement the terms of the Haudenosaunee-Mohawk settlement agreement.

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. Following argument of the appeal, the Second Circuit requested that the parties brief the Court on the impact of the decision of the United States Supreme Court in *City of Sherrill v. Oneida Indian nation of New York, et al.*, a case to which the State is not a named party, in which the United States Supreme Court has held that parcels of land recently acquired by the Oneida Indian Nation of New York within the 1788 reservation boundaries are subject to local property taxation. On October 1, 2004, the State filed an action in the District Court for the Northern District Court under the Federal Tort Claims Act, seeking contribution from the United States toward the \$248 million judgment and post-judgment interest. On June 28, 2005, the Second Circuit held that plaintiffs' possessory land claim is subject to the defense of laches and is barred on that basis. The Court reversed the judgment of the District Court and entered judgment for defendants.

Settlements were signed on by the Governor of the State with the Chief of the Seneca-Cayuga Tribe of Oklahoma on November 12, 2004 and with the Cayuga Indian nation of New York on November 17, 2004 which would, in part, require enactment of State and Federal legislation to become effective. Such legislation must be enacted by September 1, 2005 unless the parties agree to an extension of time. These agreements provide for differential payments to be made to the plaintiff tribes, based upon the outcome of the appeal now pending in the Second Circuit. On April 15, 2005, the Governor withdrew legislation that he had proposed to approve this and other Indian land claim and settlement agreements.

In *The Onondaga Nation v. The State of New York, et al.*, plaintiff seeks a judgment declaring that certain lands allegedly constituting the aboriginal territory of the Onondaga Nation within the State are the property of the Onondaga Nation and the Haudenosaunee, or "Six Nations Iroquois Confederacy," and that conveyances of portions of that land pursuant to treaties during the period 1788 to 1822 are null and void. The "aboriginal territory" described in the complaint consists of an area or strip of land running generally north and south from the St. Lawrence River in the north, along the east side of Lake Ontario, and south as far as the Pennsylvania border, varying in width from about 10 miles to more than 40 miles, including the area constituting the City of Syracuse.

## **Tobacco Master Settlement Agreement ("MSA")\_\_\_\_\_**

In *Freedom Holdings Inc. et al. v. Spitzer et ano.*, two cigarette importers brought an action in 2002 challenging portions of laws enacted by the State under the 1998 Tobacco 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 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. In May 2005, the Second Circuit affirmed the denial of the preliminary injunction.

## **State Programs \_\_\_\_\_**

### **Medicaid**

There are numerous cases in which nursing homes have challenged the statutory provisions setting the reimbursement methodology pursuant to which they receive Medicaid payments, including *New York State Health Facilities Association, et al., v. DeBuono, et al., St. Luke's Nursing Center, et al. v. DeBuono, et al., New York Association of Homes and Services for the Aging v. DeBuono, et al. (six cases)*; and *Matter of Nazareth Home of the Franciscan Sisters, et al. v. Novello*. Plaintiffs allege that the changes in methodologies have been adopted in violation of procedural and substantive requirements of State and Federal law.

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In *New York Association of Homes and Services for the Aging v. DeBuono, et al.*, the United States District Court for the Northern District of New York dismissed plaintiffs' complaint by order dated May 19, 2004. Plaintiffs have appealed to the Second Circuit Court of Appeals. Several related State Court cases involving the same parties and issues have been held in abeyance pending the result of the litigation in Federal Court.

In *Matter of Nazareth Home of the Franciscan Sisters, et al. v. Novello*, the Supreme Court, Erie County, dismissed the petition by decision, order and judgment dated December 22, 2004. Petitioners have appealed to the Supreme Court, Appellate Division, Fourth Department.