

Revenue Actions

Overview

Consistent with the Governor's pledge to make New York more economically competitive, the 2011-12 Executive Budget does not propose any new or increased taxes.

Provisions in the Executive Budget would generate an additional \$41.5 million on an All Funds basis through enhanced collections from existing taxes, expansion of an existing fee and one new fee that would be established consistent with a common sense approach of paying for needed services in a rational manner. These additional collections account for less than 1 percent of the actions taken to close the projected \$10 billion deficit.

Other Executive Budget General Fund revenue actions that do not result in an increase in tax or fee liability total \$414 million on an All Funds basis. Major recommendations include implementing a Tax Modernization Project, providing free play allowance to all video lottery gaming facilities and reducing dormancy periods on various abandoned property items.

Revenue Actions

Revenue Actions
(\$ in 000's)

	All Funds		General Fund	
I. Tax and Assessment Actions	2011-12	2012-13	2011-12	2012-13
Total Tax and Assessment Actions	-	-	-	-
II. New or Increased Fees	2011-12	2012-13	2011-12	2012-13
Amend Fee For Statewide Central Registrar Clearance Checks	11,922	11,922	-	-
Racing Purse Surcharge	7,600	8,500	-	-
Total New or Increased Fees	19,522	20,422	-	-
III. Loophole Closing Actions	2011-12	2012-13	2011-12	2012-13
Repeal Exemption for Large Cooperative Insurance Companies	22,000	16,000	22,000	16,000
Total Loophole Closing Actions	22,000	16,000	22,000	16,000
Increased Tax or Fee Liability Subtotal	41,522	36,422	22,000	16,000
IV. Tax Enforcement Actions	2011-12	2012-13	2011-12	2012-13
Offset Certain Tax Debts Against Lottery Winnings	5,000	10,000	5,000	10,000
Improve Compliance Through Tax Modernization Initiatives	200,000	200,000	200,000	200,000
Total Tax Enforcement Actions	205,000	210,000	205,000	210,000
V. Other Revenue Actions	2011-12	2012-13	2011-12	2012-13
Provide "Free-Play Allowance" to All Video Lottery Gaming Facilities	38,000	38,000	-	-
Increase the Number of 75 Percent Instant Games	4,000	4,000	-	-
Remove Location Restrictions on QuickDraw	10,000	44,000	-	-
Increase Prize Payout Percentage on Multi-Jurisdictional Games	-	-	-	-
Multi-State Progressive Video Lottery Games	2,000	3,000	-	-
Various Lottery Sales Efficiency Actions	100,000	109,000	100,000	109,000
Reduce Various Abandoned Property Dormancy Periods	55,000	70,000	55,000	70,000
Total Other Revenue Actions	209,000	268,000	155,000	179,000

Revenue Actions

(\$ in 000's)

	All Funds		General Fund	
	2011-12	2012-13	2011-12	2012-13
VI. Reformed or Expanded Tax Credits				
Reform Excelsior Jobs Program	-	-	-	-
Expand the Low Income Housing Tax Credit Program	-	-	-	-
Total New, Reformed, or Expanded Tax Credits	-	-	-	-
VII. Technical Corrections and Extenders	2011-12	2012-13	2011-12	2012-13
Reform and Extend The Power For Jobs Program For Two Years	-	-	-	-
Authorize New York to Participate in a National Compact to Collect Excess Lines Insurance Tax	-	-	-	-
Make Tax Shelter Reporting Provisions Permanent	-	-	-	-
Make Permanent Major Provisions of the Bank Tax and Extend Temporary GLB Provisions	-	-	-	-
Extend the Alternative Fuels Tax Exemption for One Year	-	-	-	-
Extend Financial Services ITC for One Year	-	-	-	-
Provide Empire State Development with Authority to Decertify Noncompliant Empire Zone (EZ) Program Participants	-	-	-	-
Pari-Mutuel Extender	-	-	-	-
Modernize Certain Fuel Definitions	-	-	-	-
Simplify the Motor Vehicle Fees Distribution	-	-	-	-
Total Technical Corrections and Extenders	-	-	-	-
Other Actions Subtotal	414,000	478,000	360,000	389,000
TOTAL REVENUE ACTIONS	455,522	514,422	382,000	405,000

Increased Tax or Fee Liability

(General Fund: \$22 million, All Funds: \$41.5 million in 2011-12)

I. Tax and Assessment Actions

The Executive Budget proposes no new tax or assessment actions.

II. New or Increased Fees

The Executive Budget proposes establishing two new fees. These fees are expected to produce \$19.5 million on an All Funds basis in the 2011-12 fiscal year.

- **Amend Fee For Statewide Central Registrar Clearance Checks.** The fee for individuals who currently pay for SCR clearance checks would be increased from \$5 to \$60 to cover the administrative costs of processing the clearances. In addition, a \$60 fee would be imposed on individuals who are currently exempt from the fee, with the exception of prospective foster and adoptive parents, kinship guardians, and individuals age 18 and over in these homes. In addition, operators of group family homes through the Office of People with Developmental Disabilities (OPWDD) and the Office of Mental Health (OMH) would also be exempt.
- **Racing Purse Surcharge.** Currently, the Racing and Wagering Board's Regulation of Racing Account operates at a deficit, necessitating loans from the State's taxpayer-financed General Fund in order to maintain the Board's regulatory activities that are directly related to the conduct of horse racing. The Executive Budget includes legislation to establish a two and three quarters percent surcharge on purses for all horse races conducted within the State. Moneys from this surcharge will be directly deposited in the Regulation of Racing account, which, when combined with cost containment actions undertaken by the Racing Board, will eliminate the account's deficit and will ensure that the cost for the Board's regulatory activities are fully borne by the Racing Industry rather than by taxpayers.

III. Loophole Closing Actions

The Executive Budget proposes one loophole closing action that is expected to produce \$22.0 million on an All Funds basis in the 2011-12 fiscal year.

- **Repeal Exemption for Large Cooperative Insurance Companies.** Repeal the insurance tax exemption for cooperative insurance companies with annual premiums in excess of \$25 million, effective for tax years 2011 and after. Cooperative insurance companies were originally formed to fill coverage gaps for fire insurance in rural areas. Although many of these corporations remain in existence today, some have significantly expanded their businesses into other insurance markets beyond what was originally contemplated and benefit from a tax advantage that is not available to their competitors. This change would remove the unfair competitive advantage for these companies.

Other Actions

(General Fund: \$360 million, All Funds: \$414 million in 2011-12)

IV. Tax Enforcement Actions

The Executive Budget proposes two actions that would improve tax audit and compliance activities. These actions are expected to produce \$205.0 million in additional tax revenue on an All Funds basis in the 2011-12 fiscal year.

- **Offset Certain Tax Debts Against Lottery Winnings.** Require winners' outstanding tax debts to be withheld from Lottery individual prizes above \$600.
- **Tax Modernization Initiatives.** This proposal would mandate electronic filing by all sales tax vendors and increase personal income tax e-filing. Electronic filing improves data matching with existing IRS and other data sources, resulting in increased State revenue through denied refunds and more accurate final returns. In addition, the Tax Commissioner would be given discretion to require automated point of sale accounting systems and more frequent filing from sales tax filers who have a poor filing record. Finally, the Department of Taxation and Finance will embark on an auditing program to more efficiently engage taxpayers by adopting techniques based on those used in the IRS Limited Issue Focused Examination (LIFE) program.

V. Other Revenue Actions

The Executive Budget proposes seven other revenue actions, including reducing various abandoned property dormancy periods, and providing subsidized free play to all VLT facilities, among other actions. These actions are expected to produce \$155.0 million in revenue on a General Fund basis and \$209.0 million on an All Funds basis in the 2011-12 fiscal year.

- **Provide "Free-Play Allowance" to All Video Lottery Gaming Facilities.** Video Lottery Gaming facility vendors are authorized to provide free game credits to induce frequent players to use paid credits when their "free play" is exhausted. This provision authorizes a "free-play allowance" to Video Lottery Gaming facilities. The amount of "free-play allowance" that can be provided to each facility will be capped at 10 percent of the net machine income at that facility.

Revenue Actions

- **Number of 75 Percent Instant Games.** This proposal would increase the number of instant games with a 75 percent prize pay-out from three to five per year.
- **Eliminate Quick Draw Restrictions.** A number of restrictions are currently imposed on where the State's Quick Draw lottery game can be played. For premises licensed to sell alcoholic beverages, Quick Draw may not be conducted unless at least 25 percent of gross sales are sales of food. For premises that do not sell alcoholic beverages, Quick Draw may not be conducted unless the establishment is a minimum of 2,500 square feet. These restrictions would be eliminated.
- **Increase Prize Payout Percentage on Multi-Jurisdictional Games.** New York currently offers two multi-jurisdictional lottery games, Mega Millions and Powerball. If the prize-payout on either of these games were to increase above their current 50 percent prize-pay, New York could no longer participate due to the statutory limit prohibiting a prize-payout in excess of 50 percent on multi-jurisdictional games. This proposal would allow the Lottery to have a higher prize-payout if two-thirds of the participating lottery jurisdictions agree to a prize payout in excess of 50 percent.
- **Multi-State Progressive Video Lottery Games.** The Lottery offers progressive jackpots (a cash prize that grows larger until won) for certain Video Lottery Games. Currently, terminals in different New York State Video Lottery Gaming facilities can be combined into a progressive jackpot pool. This proposal would allow New York to combine with play in other states to increase the progressive jackpots through larger pools.
- **Various Lottery Sales Efficiency Actions.** This proposal would expand the sales force to reduce the ratio of retailers to marketing representatives, expand the retailer base through recruitment of corporate chain stores, and implement a "Megaplier" add-on feature to the Mega Millions game.
- **Reduce Various Abandoned Property Dormancy Periods.** This proposal would reduce the dormancy periods on fourteen items that currently fall dormant at either five or six years, to three years. These dormancy periods reflect the length of time a vendor (e.g. a bank) can hold funds before they are deemed abandoned and turned over to the State. Dormancy periods are proposed to be reduced for demand deposit accounts, lost property, savings accounts, time deposit accounts, and trust funds among others. Citizens are able to retrieve abandoned funds through the Office of the State Comptroller.

VI. Reformed or Expanded Tax Credits

The Executive Budget proposes two reformed or expanded tax credits that have no revenue impact to the Financial Plan.

- **Reform Excelsior Jobs Program.** Reform and improve the job creating effectiveness of the Excelsior economic development program.
- **Extend the Low Income Housing Tax Credit Program.** The Commissioner of the Division of Housing and Community Renewal would be authorized to allocate an additional \$4 million in aggregate credit awards to taxpayers that develop qualifying housing projects for low-income New Yorkers. The additional authorizations have been made for the past seven years. Credits are given in equal installments for a ten-year period. As such, the total amount of credits that would be awarded from this new authorization would be \$40 million.

VII. Technical Corrections and Extenders

The Executive Budget proposes several technical corrections that would amend previously enacted items, and five extenders that maintain necessary provisions of Tax Law. Additionally, the Power For Jobs Program will be extended for two years, then subsequently reformed into a new “Recharge New York” program.

- **Reform and Extend The Power For Jobs Program.** The Power For Jobs program would be extended for two years, until June 30, 2012. Low cost power would be provided via an exemption from the Section 186a excise tax but the State’s revenue loss would be offset by payments from the New York Power Authority. A new “Recharge New York” program would take effect after the sunset of Power For Jobs.
- **Authorize New York to Participate in a National Compact to Collect Excess Lines Insurance Tax.** The Dodd-Frank financial reform legislation contained a provision that prohibits states from imposing taxes on excess lines (i.e. risks insured through a non-NY licensed insurance broker) insurance, but authorizes states to participate in a national compact that collects and remits this tax to participating states.
- **Make Tax Shelter Reporting Provisions Permanent.** Make permanent the current law provisions allowing the Department of Taxation and Finance to require the reporting and disclosure of Federal and New York reportable and listed transactions that may be improper tax avoidance practices. These provisions would otherwise sunset on July 1, 2011.

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- **Make Permanent Major Provisions of the Bank Tax and Extend Temporary GLB Provisions.** Make permanent bank tax reform provisions and extend for two additional years provisions that were intended to temporarily address regulatory changes from the Federal Gramm-Leach-Bliley Act.
- **Extend the Alternative Fuels Tax Exemption.** This proposal would extend from September 1, 2011 to September 1, 2012 the sales, petroleum business tax and motor fuel tax exemptions on e85, CNG, or hydrogen when purchased for use in a motor vehicle engine. The twenty percent exemption on purchases of B20 would also be extended. If these provisions are not extended, consumers who use these “green” alternative fuels will pay taxes on them, making them less competitive.
- **Extend Financial Services Investment Tax Credit.** Extend for four additional years the investment tax credit for certain broker-dealers for qualifying property that is used in the ordinary course of business. Under current law, this credit sunsets October 1, 2011.
- **Make Technical Corrections to Empire Zones Program that Sunset June 30, 2010.** Provide Empire State Development with authority to monitor compliance and decertify non-compliant Empire Zone program participants after July 1, 2010. This ensures that decertified firms can no longer receive Empire Zone tax credits for the remainder of their benefit period.
- **Extend the Pari-Mutuel Tax.** Lower Pari-Mutuel tax rates would be extended for one year. This proposal would also extend by one year the rules governing the simulcasting of out-of-state races and the authorization for account wagering.
- **Modernize Certain Fuel Definitions.** Recent Federal and State Law changes would result in unintended tax increases absent these definitional changes. Federal Law changes have made manufacturers, farmers and electric generators that purchase diesel fuel ineligible for a long-held petroleum business tax exemption. In addition, Chapter 203 of the laws of 2010 creates sulfur emissions standards, effective July 2012, that would make non-highway diesel fuel meet the definition of taxable diesel fuel. Enforcement provisions for dyed diesel fuel tax evasion would be conformed to those currently applied to motor fuel by allowing for civil seizure of trucks carrying untaxed fuel.
- **Simplify the Motor Vehicle Fees Distribution.** Currently, all non-dedicated taxes and fees are directed to the Dedicated Transportation Funds Pool (DTF). This proposal would direct all non-dedicated motor vehicle fee receipts (including fines and assessments) to the DTF. This proposal has no revenue impact on the Financial Plan.