OFFICE OF THE STATE COMPTROLLER

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Comptroller's Fiscal Update: Analysis of 21-Day Executive Budget Amendments

February 2010

Executive Summary

The Executive Budget released in January 2010 proposed to roll the projected $500 million current year General Fund deficit into State Fiscal Year (SFY) 2010-11. This gap was to be resolved by delaying Personal Income Tax (PIT) refunds from the current fiscal year into the next. Three weeks later, the Executive increased the projected SFY 2009-10 deficit by $880 million to $1.4 billion, which, as discussed below, may be significantly higher by year end. This increase primarily reflected a revenue shortfall for the month of January in Personal Income Tax receipts and higher than anticipated Medicaid costs.

In the revised Financial Plan that accompanied the 21-day budget amendments, the Executive proposed to close this impending SFY 2009-10 deficit by delaying nearly $1.4 billion in payments and tax refunds into SFY 2010-11. This would enable the State to balance the SFY 2009-10 spending plan but would increase the projected General Fund gap for SFY 2010-11 by an equal amount, to a total of $8.2 billion.

Despite successive revisions to the Financial Plan, significant risks remain that could increase the projected deficit in the current year. These risks could approach $1.0 billion and include the following:

- The Plan assumes $300 million in revenue from the franchise fee associated with video lottery terminals (VLTs) at Aqueduct Racetrack. Financial plans dating back to at least SFY 2005-06 have counted on Aqueduct VLT revenue that has never materialized. The controversy associated with the Executive's recommended franchise operator could further delay the receipt of this revenue.
- The Deficit Reduction Plan (DRP) enacted in December assumes $200 million in revenue from the Battery Park City Authority. The release of these funds has yet to be approved by New York City and the recent resignation of the Authority's Chairman is just another complication.
- The DRP also includes a tax amnesty plan projected to bring in $250 million in revenue in the last three months of the year. In prior years, significantly lower amounts were anticipated from similar proposals. Through January 31, the State has collected $2.1 million in taxes under this program.

- The updated Financial Plan projections for significant growth in tax revenue for the last three months of SFY 2009-10 appear optimistic. General Fund revenue collections in SFY 2009-10 have been below projections in every month except December.

If any of these anticipated revenues substantially fail to materialize, the size of the projected current year deficit may grow and may be in excess of $2.0 billion by the end of the current fiscal year. With only six weeks remaining in the fiscal year, available options to address the deficit are few.

The Executive's 21-day amendments propose to address the additional deficit in SFY 2010-11 with temporary and non-recurring revenues. The primary source of revenue is an assumption that the federal government will extend by six months the increased federal share of Medicaid expenses included as part of the federal stimulus program. Set originally to expire in December 2010, this extension is expected to generate an additional $1.0 billion in revenues. The 21-day amendments also include a significant increase in franchise fees associated with the sale of wine in grocery stores.

The Comptroller's Report on the SFY 2010-11 Executive Budget showed that over 20 percent of SFY 2010-11 General Fund spending is proposed to be supported with non-recurring or temporary resources. The reliance on new stimulus funding, if it materializes, increases temporary resources to nearly 21.5 percent of spending. In other words, instead of moving toward restoring structural balance between recurring revenue and spending, the proposed Budget pushes even more of the State's fiscal problems to another day.

SFY 2009-10 – Updated with 21-Day Amendments

The Financial Plan consistently overestimated revenues in SFY 2009-10. If this pattern continues, the State may experience additional shortfalls during the last six weeks of the fiscal year with a current year budget gap exceeding $2.0 billion. In July 2009, just three months after the Budget was enacted, the Executive projected a current year deficit of $2.1 billion. Four months later, the Executive projected a $3.2 billion potential gap (and the Comptroller estimated the deficit at $4.1 billion). Throughout the year, as revenues have fallen below expectations, the Executive has delayed payments to conserve cash. The Executive also administratively reduced spending by $484 million and proposed a $5.0 billion, two-year DRP in November to address the growing projected deficit.

The $2.7 billion DRP that was ultimately enacted in December failed on three counts.

- It did not fully address the deficit. The Division of the Budget (DOB) projected that a $500 million current year deficit remained, while the Comptroller projected a remaining deficit of at least $1.0 billion.
- The DRP was primarily made up of non-recurring as well as unrealistic revenue assumptions, offering few permanent solutions to the State's structural imbalance between recurring revenue and spending.

- The DRP failed to address the looming cash flow crisis that the Comptroller warned of for the month of December (see Comptroller DiNapoli's report, *New York State's Cash Flow Crunch,* released in November 2009). For the first time in recent history, the State ended the month with a negative cash balance of $577 million in the General Fund as of December 31, 2009.

The Executive Budget proposed moving the remaining SFY 2009-10 projected deficit of $500 million into SFY 2010-11 by delaying PIT refunds scheduled for March. In the 21-day amendments, the Executive acknowledged a larger deficit: SFY 2009-10 tax revenue projections were reduced by $850 million and projected General Fund Medicaid spending was increased by $230 million. To offset the widening gap, the 21-day amendments proposed to move $100 million in General Fund Medicaid spending into Health Care Reform Act (HCRA) special revenue funds and increased by $100 million the anticipated franchise fee from the Aqueduct VLT operator.

The result is a net increase of $880 million to the SFY 2009-10 projected deficit. The Executive proposes moving the entire current year projected deficit of $1.4 billion into the next fiscal year by delaying PIT refunds and payments to the City University of New York, as well as other unidentified payments that are not legally required to be paid until SFY 2010-11.

Risks Remaining in SFY 2009-10

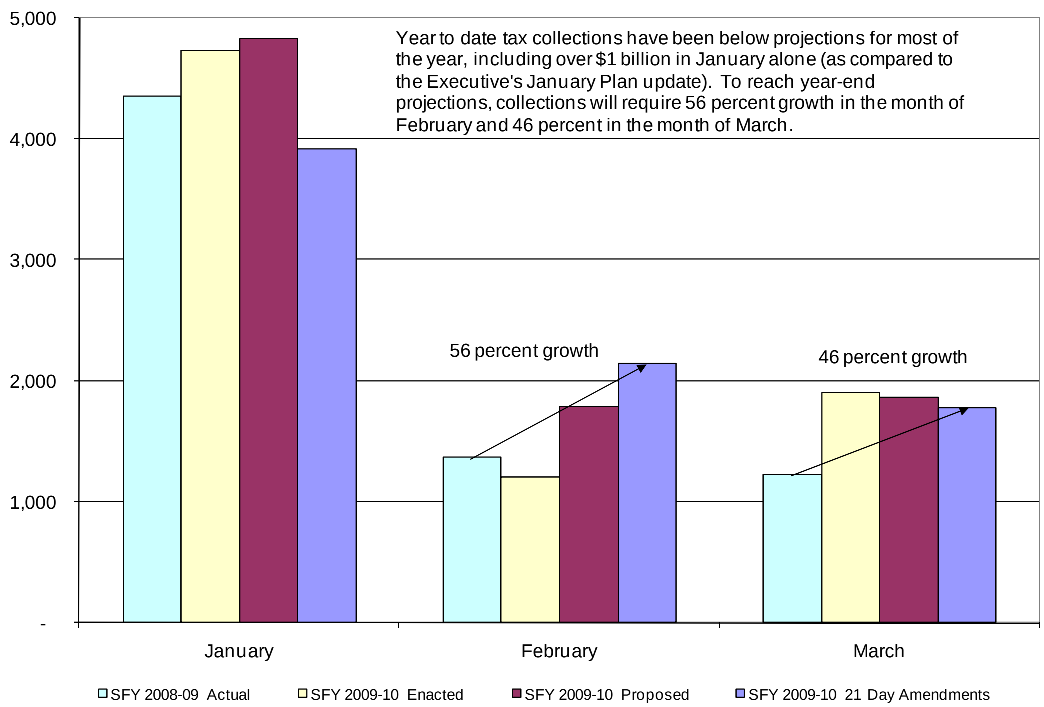
With six weeks remaining in the 2009-10 fiscal year, the State faces a number of significant budget risks that could approach $1.0 billion. The 21-day amendments acknowledged the uncertainty associated with the receipt of a franchise fee for VLTs at the Aqueduct Racetrack, but nevertheless increased the expected figure by $100 million. Currently, several aspects of this transaction are under scrutiny by federal and State authorities.

The Financial Plan also includes $200 million in funds from the Battery Park City Authority that have yet to be approved by New York City. The potential effect of the recent resignation of the Authority's Chair on the availability of these funds is unclear. Furthermore, the DRP enacted in December included $250 million expected to be collected in the last three months of the current fiscal year from a tax amnesty program. This projection exceeds the amounts collected from recent State amnesty programs. Through January, $2.1 million in taxes have been received under this program.

While projected General Fund tax collections for SFY 2009-10 have been reduced by over $2.0 billion from projections that supported the Enacted Budget in April 2009, total tax collections projected for the fourth quarter would have fallen by $705 million without the delay of personal income and business tax refunds ($700 million) and the anticipated receipts from a tax amnesty program enacted with the December Deficit Reduction Plan. With these adjustments, PIT collections are forecast to increase $245 million from April projections.

The Enacted Budget Financial Plan assumed that 31 percent of the year's tax collections would fall in the fourth quarter of the fiscal year. This percentage was increased in subsequent updates to the Financial Plan to 33 percent. To support this growth, collections in January though March will have to be 36.2 percent higher than they were in the last quarter of 2009. Appendix A illustrates year-to-date General Fund tax revenues as compared to remaining required growth.

Projected Fourth Quarter General Fund Tax Collections
(in millions of dollars)



January 2009 Results

The updated SFY 2009-10 Financial Plan included with the Executive's proposed SFY 2010-11 budget projected that January General Fund tax revenue collections would increase 11.4 percent over collections from January 2009, primarily based on PIT collections from financial sector bonuses.

This was in stark contrast to projections provided in the Mid-Year update to the SFY 2009-10 Financial Plan, which estimated January collections would reach $6.2 billion, a then-projected increase of over 20 percent from January 2009. However, even though the January 2010 update significantly lowered January projections, actual collections were over $1.0 billion below expectations but only $2.1 million below updated collections in the 21-day amendments, released February 9, 2010.

General Fund revenue collections, including transfers from other funds, through January 31 of $41.5 billion were $10.8 million below projections updated in the 21-day amendments released February 9 and $4.0 billion, or 8.7 percent, lower than collections for the same period in SFY 2008-09. General Fund spending, including transfers to other funds, of $40.2 billion was $18.3 million higher than projections updated in the 21-day amendments or $2.3 billion, or 5.5 percent, lower than in the same period last year.

SFY 2010-11 – Updated with 21-Day Amendments

The Executive's amended Financial Plan decreased projected PIT receipts by a net combined total of $550 million in SFY 2009-10 and SFY 2010-11, entirely based on reduced collections in the month of January 2010. In addition, Medicaid spending projections were increased by a combined, two-year total of $400 million through March 2011 and $170 million annually through the next three years.

All told, including additional resources of $200 million ($100 million in additional planned SFY 2009-10 Aqueduct franchise fee revenue and $100 million from moving General Fund Medicaid spending into HCRA funds), the projected current services deficit for SFY 2010-11 increased by $750 million to $8.2 billion. The Executive plans to fill the additional deficit with new federal stimulus funds that have been proposed but not approved and with additional revenue from franchise fees associated with the sale of wine in grocery stores that are largely non-recurring.

The Executive projects a surplus of $485 million by the end of SFY 2010-11. While the Executive claims the future surplus will be used as a hedge against adverse budget developments, these funds are not proposed to be deposited into the Rainy Day Reserve Fund or any other restricted fund.

General Fund and HCRA Gap Closing Plan SFY 2009-10 through SFY 2013-14 Updated for 21-Day Amendments

(in millions of dollars)

	SFY 2009-10	SFY 2010-11	2 Year Combined	SFY 2011-12	SFY 2012-13	SFY 2013-14
Projected Current Services Gap January 2010	**(500)**	**(6,918)**	**(7,418)**	**(14,311)**	**(18,331)**	**(20,713)**
Personal Income Tax Collections	(850)	300	(550)			
Net Medicaid Revisions	(130)	(170)	(300)	(170)	(170)	(170)
Additional VLT Franchise Fee Revenue	100		100			
Updated Current Services Gap February 2010	**(1,380)**	**(6,788)**	**(8,168)**	**(14,481)**	**(18,501)**	**(20,883)**
Proposed Actions - New from 21-Day Amendments						
Delay Payments and Roll Deficit into SFY 2010-11	1,380	(1,380)	-	-	-	-
Additional Federal Stimulus Funding	-	1,060	1,060	1,060	-	-
Additional Franchise Fee for Wine in Grocery Stores	-	162	162	7	-	-
Other	-	13	13	3	2	-
Original Gap Closing Proposals						
December Deficit Reduction Plan	-	692	692	811	876	854
Spending Adjustments	-	4,871	4,871	5,343	5,360	6,184
Revenue Adjustments (including audit and recovery)	-	1,290	1,290	1,871	1,607	1,448
Non-Recurring Resources	-	565	565	-	-	-
Amended Executive Budget Surplus/Gap Projections	**-**	**485**	**485**	**(5,386)**	**(10,656)**	**(12,397)**

When the SFY 2009-10 Enacted Budget was passed in April 2009, the State Comptroller called it a "buy-time" budget because it was built on risk and temporary resources. This description proved accurate within a few short months, as revenue fell below estimates, creating a projected gap that widened throughout SFY 2009-10.

The Comptroller's Report on the SFY 2010-11 Executive Budget notes that the proposal reduces the cumulative current services General Fund deficit through SFY 2012-13 from $61 billion to $29 billion. However, less than 80 percent of proposed General Fund spending is supported by recurring resources. It was this reliance on risky, non-recurring resources that quickly resulted in a multi-billion dollar deficit projection and painful, disruptive mid-year cuts in the current year.

The Executive's amended Financial Plan moves the $1.4 billion projected current year deficit into SFY 2010-11. The updated proposal fills the additional projected gap with temporary and non-recurring revenue. If the Executive Budget for SFY 2010-11 is enacted as is, nearly 21.5 percent of General Fund spending will be supported with resources that disappear within three years.

Temporary Resources Supporting the General Fund
(in millions of dollars)

	SFY 2009-10	SFY 2010-11	SFY 2011-12	SFY 2012-13	SFY 2013-14
Stimulus FMAP Increase	3,702	4,447	1,060	-	-
Stimulus Fiscal Stabilization	1,523	1,275	220	-	-
Temporary Personal Income Tax	3,643	5,488	3,335	-	-
Temporary Utility Assessment	602	557	557	557	557
Non-Specific Fund Sweeps	287	367	368	369	350
Pension Amortization (1)	-	217	475	738	859
Workforce Concessions	-	250	125	-	-
Abandoned Property	100	100	100	100	100
Sale of Wine in Grocery Stores	-	254	58	6	6
Workers' Compensation Recapture	-	24	-	-	-
Other	-	13	3	2	-
DRP/Year End Actions (including reserves) (2)	2,808	(1,911)	-	-	-
Reported Non-Recurring Actions	1,681	565	-	-	-
Total Temporary Resources	**14,346**	**11,646**	**6,301**	**1,772**	**1,872**

(1) Out-year values estimated based on historic growth.
(2) Includes costs associated with prior non-recurring actions such as $1.38 billion from delaying income tax refunds in SFY 2009-10 and $391 million from spin-up of federal education stimulus dollars, as well as other costs/benefits from the December DRP.

Risks Associated with SFY 2010-11 and Beyond

Actual General Fund year-end tax revenues have been below enacted projections for the last two completed fiscal years (by $2.3 billion in SFY 2008-09 and $869 million in SFY 2007-08). General Fund tax projections have already been reduced in SFY 2009-10 by over $2.0 billion from original estimates. Revenue projections included in enacted budgets are used to support planned spending throughout the year.

The Executive's proposed budget, updated with the 21-day amendments, still holds a significant amount of risk that certain revenues will simply not materialize at all or at the level required to support proposed spending. The current economic slowdown is already worse and longer than anticipated and a further decline or slower recovery could continue to reduce revenues. While DOB and many economists believe the nation has emerged from the recession, the lagging effects could persist and cause revenue shortfalls and increased pressure on Medicaid and social services costs.

The Executive Budget also relies on optimistic growth projections for General Fund revenue. For example, DOB projects that General Fund PIT collections will increase 11.2 percent in SFY 2010-11 although no additional law changes are proposed. However, this includes the movement of $500 million in PIT refunds from SFY 2009-10 to SFY 2010-11, thus artificially increasing projected receipts in SFY 2009-10 and artificially decreasing projected receipts in SFY 2010-11. Overall General Fund tax collections are projected to increase 7.6 percent.

Actual and Projected General Fund Tax Growth SFY 2008-09 through SFY 2010-11
(in millions of dollars)

	SFY 2008-09	SFY 2009-10	$ Growth	% Growth	SFY 2010-11	$ Growth	% Growth
Personal Income Tax	23,196	22,364	(832)	-3.6%	24,874	2,510	11.2%
Consumption/Use Taxes	8,361	8,229	(132)	-1.6%	8,547	318	3.9%
Business Taxes	5,556	5,688	132	2.4%	5,710	22	0.4%
Other Taxes	1,188	953	(235)	-19.8%	933	(20)	-2.1%
Total Taxes	38,301	37,234	(1,067)	-2.8%	40,064	2,830	7.6%

Finally, as stated above and in the Comptroller's Report on the SFY 2010-11 Executive Budget, a number of risks are associated with the Executive's Proposed Budget, including further economic deterioration and projections associated with audits and fraud prevention.

Appendix A

General Fund Receipts – Projected and Actual Collections – SFY 2009-10

(in millions of dollars)

Personal Income Tax	Through 10 Months	Remaining 2 Months Needed to Meet Actual/ Projections	Year End Actual/ Projected
2008-09	20,595	2,601	23,196
2009-10	18,433	3,931	22,364
Growth	-10.5%	51.1%	-3.6%
User Taxes and Fees			
2008-09	7,140	1,222	8,361
2009-10	6,838	1,391	8,229
Growth	-4.2%	13.9%	-1.6%
Business Taxes			
2008-09	3,910	1,646	5,556
2009-10	3,701	1,987	5,688
Growth	-5.3%	20.7%	2.4%
Other Taxes			
2008-09	1,140	48	1,188
2009-10	748	205	953
Growth	-34.4%	329.5%	-19.8%
Total Taxes			
2008-09	32,785	5,516	38,301
2009-10	29,720	7,514	37,234
Growth	-9.3%	36.2%	-2.8%
Miscellaneous Receipts			
2008-09	2,139	966	3,105
2009-10	2,649	859	3,508
Growth	23.8%	-11.1%	13.0%
Total General Fund Revenues (including Transfers from Other Funds)			
2008-09	34,968	18,833	53,801
2009-10	32,428	20,284	52,712
Growth	-7.3%	7.7%	-2.0%