



OFFICE OF THE STATE COMPTROLLER

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Comptroller's Fiscal Update: Review of the SFY 2013-14 Executive Budget Amendments and Impact of Federal Sequestration

March 2013

Executive Summary

The Executive Budget for State Fiscal Year (SFY) 2013-14 was released by the Executive on January 22, 2013. On February 21, the Executive submitted final amendments to the proposed budget, to supplement the 21-day amendments previously released. Major changes from the original Executive Budget and Financial Plan include:

- Proposals to address the loss of \$1.1 billion in federal revenue associated with Medicaid financing for the developmentally disabled. These include \$500 million in State Medicaid actions, and changes intended to generate \$600 million in new federal Medicaid funding.
- Increased current year tax projections of \$227 million, primarily due to estimated Personal Income Tax (PIT) payments in December and January that were higher than anticipated as a result of federal tax law changes. Projections for subsequent years were reduced for the same reason.
- Plans to accelerate \$183 million in debt service payments from April 2013 to March 2013 as a result of the unanticipated tax revenue in SFY 2012-13. This will have the effect of lowering spending in SFY 2013-14 and offsetting the decline in projected tax revenue in the coming fiscal year.

On February 28, the Legislature and the Executive met publicly to discuss economic conditions as well as to release individual revenue and economic projections as required by Section 23 of the State Finance Law. The Assembly Majority presented tax revenue projections that were \$529 million higher than the 30-day All Funds estimate by the Division of the Budget (DOB) included in the Executive's amended Financial Plan. The Assembly Minority forecast tax revenues that were \$331 million lower than DOB's most recent estimate. Estimates by the Senate conferences varied from the Executive's but by smaller margins. On March 1, revenue consensus was reached by the Executive and the Legislature on a two-year estimate that was \$200 million higher than SFY 2013-14 Executive Budget Financial Plan estimates.

Although the SFY 2013-14 Executive Budget continues the State's effort to move toward long-term structural balance, the Comptroller's report on the SFY 2013-14 Executive Budget identified several risks to the Financial Plan. These risks include tax receipt projections that may be too optimistic, and revenues that may not materialize as expected, both in terms of timing and in amount, such as federal aid subject to sequester cuts as well as disaster assistance. While the Executive Budget amendments address some of the risks identified in the Comptroller's report, several persist.

For example, the implementation of federal budgetary sequestration is expected to have a \$436 million impact in New York State, including almost \$290 million for the State, during the remainder of the 2012-13 federal fiscal year, according to Federal Funds Information for States. The federal fiscal year runs through September 30. The Executive Budget as amended includes no specific actions to address such loss of federal funding.

The Senate and the Assembly are expected to act on the budget proposals by their respective houses, with meetings of the joint legislative budget conference committees following shortly thereafter. There are positive indications that all parties recognize the fiscal constraints facing the State, and share a common goal of adopting a budget before the start of the new fiscal year on April 1.

Financial Plan Update

SFY 2012-13

DOB modified the SFY 2012-13 Third Quarter Update included in the Executive's proposed budget primarily to address unanticipated tax revenues associated with federal tax law changes. Projections for All Funds receipts were increased by \$212 million, including \$227 million in increased tax collections, offset by \$15 million in lower Miscellaneous Receipts. DOB increased projected spending by \$190 million, primarily reflecting a plan to move a scheduled SFY 2013-14 debt service payment of \$183 million to March 2013 in the current fiscal year.

SFY 2013-14 – Updated with Amendments

The Executive's updated Financial Plan lowers projected PIT receipts for SFY 2013-14 by \$100 million from January projections and by \$752 million from projections made in November 2012, primarily due to changes in projections for withholding. In November 2012, withholding was projected to increase 6.7 percent in SFY 2013-14. The latest Financial Plan update reduces that projection to 5.2 percent, with a portion of this reduction due to non-recurring federal actions. In addition, business taxes are expected to grow 3.4 percent in SFY 2013-14, up from 2.8 percent in both the November and January plans.

The most significant change in the amended Financial Plan is the Executive's plan to deal with the loss of \$1.1 billion in federal revenue associated with financing of facilities for the developmentally disabled. The 30-day amendments propose to deal

with this loss by achieving \$500 million in savings from the State's share of Medicaid, and \$600 million in new federal revenues associated with various actions.

All told, the projection for All Funds spending in SFY 2013-14 is lowered by \$1.5 billion from the original Executive Budget, of which \$1.4 billion is related to the changes associated with federal funding. Figure 1 illustrates the change in federal receipts as well as local assistance and the prepayment of debt service.

Figure 1

**Comparison of All Governmental Funds
SFY 2013-14 January Proposal and SFY 2013-14 Amended Proposal**
(in millions of dollars)

	SFY 2013-14 January	SFY 2013-14 Amended	Dollar Change
Receipts:			
Taxes	69,225	69,105	(120)
Personal Income Tax	42,520	42,420	(100)
Consumer Taxes and Fees	15,167	15,167	-
Business Taxes	8,460	8,460	-
Other Taxes	3,078	3,058	(20)
Miscellaneous Receipts	23,880	23,889	9
Federal Grants	49,358	47,948	(1,410)
Total Receipts	142,463	140,942	(1,521)
Disbursements:			
Grants to Local Governments	103,519	102,117	(1,402)
State Operations	19,532	19,531	(1)
General State Charges	7,398	7,406	8
Debt Service	6,016	5,833	(183)
Capital Projects	6,129	6,174	45
Total Disbursements	142,594	141,061	(1,533)
Other Financing Sources (uses):			
Transfers from Other Funds	27,918	26,860	(1,058)
Transfers to Other Funds	(28,006)	(26,949)	1,057
Bond and Note Proceeds	338	338	-
Net Other Financing Sources (uses)	250	249	(1)

Source: Division of the Budget

Risks Associated with SFY 2013-14 and Beyond

The Comptroller's Report on the SFY 2013-14 Executive Budget, issued in February, identified a number of risks associated with the proposal, including the pace of the economic recovery, uncertainty regarding tax and other revenues, and unspecified savings actions. While the now-amended Executive Budget includes actions to address some of these concerns, certain risks remain.

While DOB reduced projections for certain tax collections in SFY 2013-14, there are still risks associated with the revised estimates. Projected growth in PIT was reduced

from 6.6 percent to 5.7 percent. This figure includes a projected 5.2 percent growth in withholding, the largest element of PIT receipts. Based on projected employment, other economic indicators and recent history, the expectation of this level of growth may be optimistic.

Other risks are associated with various transactions that may not occur, with significant ramifications for the proposed Financial Plan. For instance, \$175 million is anticipated in SFY 2013-14, increasing to \$300 million annually through SFY 2016-17, in funds related to the conversion of the not-for-profit insurers HIP and GHI to for-profit status. In the past, the conversion process has proven lengthy, and funds often have not been realized as expected.

The Financial Plan anticipates revenues from Native American casinos of \$129.3 million in SFY 2012-13, with \$97.5 million allotted to the State and the remainder directed to local governments, as well as \$133.2 million in SFY 2013-14 for the State and its local governments. As of January 1, 2013, the State had not received any payments since October 2010, although \$43.6 million has since been transferred to the General Fund from a prior fund balance. It is not clear whether the State will receive any additional revenue from this source during the current or ensuing fiscal years.

Additional risk is posed by the possible loss to the State of an estimated \$287.9 million in federal aid due to sequestration, as detailed in the section of this report related to federal sequestration.

Economic and Revenue Projections

On March 1, 2013, the Executive and the Legislature reached consensus on their projections for revenue and the economy. The consensus forecast estimated that tax receipts over the current fiscal year and SFY 2013-14 would be \$200 million higher than the Executive's projections. While this higher estimate is not incorporated into the most recent Financial Plan Update, the Executive has indicated it will be factored into budget negotiations. Though consensus on the revenue forecast was reached, all sides identified varying degrees of risk associated with the forecast, and agreed that ongoing monitoring of the State fiscal condition was important.

On February 28, the Legislature and Executive met publicly to discuss economic conditions and to release individual revenue and economic projections as required by Section 23 of the State Finance Law. Tax revenue estimates for the remainder of SFY 2012-13 and all of SFY 2013-14 ranged from \$529 million higher than DOB's 30-day All Funds estimate (the projection by the Assembly Majority) to \$330 million lower (the Assembly Minority). Revenue estimates by the Senate conferences also showed higher projections than the Executive's amended Financial Plan.

Figure 2 illustrates that the largest portion of these differences occurs in PIT, except in the case of the minority committees, where the greatest differences are in business tax projections.

Figure 2

Legislative Tax Projections Compared to Updated Executive Projections
(in millions of dollars)

	Assembly Majority	Senate Majority Coalition	Assembly Minority	Senate Minority
Personal Income Tax	319	256	(89)	120
User taxes and fees	21	(133)	(40)	(15)
Business taxes	131	(106)	(156)	43
Other taxes	50	157	(18)	20
Payroll tax	8	72	(26)	3
Total Taxes	529	246	(330)	171

Sources: Division of the Budget, Legislative Fiscal Committees

Economic projections are the driving force behind revenue projections. Figure 3 illustrates the range of projections for selected economic indicators.

Figure 3

Selected Economic Projections from DOB and Legislative Committees
(Calendar Year Percentage Growth)

	2013	2014
Wage Growth New York State		
Executive	3.3%	5.0%
Assembly Majority	4.2%	4.8%
Senate Majority Coalition	3.7%	4.1%
Assembly Minority	3.1%	4.8%
Senate Minority	3.3%	NA
Personal Income Growth - New York State		
Executive	2.2%	5.9%
Assembly Majority	3.3%	5.5%
Senate Majority Coalition	2.6%	4.9%
Assembly Minority	3.0%	6.5%
Senate Minority	2.2%	NA
Personal Income Growth - Nation		
Executive	3.1%	6.2%
Assembly Majority	2.6%	4.7%
Senate Majority Coalition	2.5%	5.2%
Assembly Minority	2.4%	4.1%
Senate Minority	3.1%	NA
Real Gross Domestic Product		
Executive	1.8%	3.1%
Assembly Majority	1.9%	2.8%
Senate Majority Coalition	1.9%	2.8%
Assembly Minority	2.0%	3.1%
Senate Minority	1.8%	NA

Sources: Division of the Budget, Legislative Fiscal Committees

Potential Impact of Federal Sequestration

The 2011 crisis over the federal debt ceiling resulted in enactment of the Budget Control Act of 2011 (BCA), which provided for an increase in the debt ceiling and certain actions that were intended to reduce federal budget deficits going forward. The BCA required automatic spending reductions (“sequestration”) starting in 2013 if no alternative deficit reduction actions were taken.

On December 31, 2012, Congress enacted legislation to address the tax cuts that were scheduled to expire as part of the “fiscal cliff.” This legislation delayed implementation of sequestration cuts that had resulted from the BCA until March 1, 2013, but did not address the debt ceiling. On March 1, President Obama signed an order implementing sequestration. Specific timing of federal agencies’ actions to implement sequestration is unclear.

Two other deadlines affecting the federal budget are looming. As of March 27, current Congressional authority for most federal spending programs expires, unless extended. The federal debt ceiling may again be a problem by mid-2013, with uncertain implications for federal expenditures including aid to states.

Impact of Sequestration on New York State

New York spent \$40.3 billion in federal funds on health care, education, transportation, and other programs in SFY 2011-12, with \$39.9 billion expected to be spent in SFY 2012-13. The SFY 2013-14 Executive Budget estimates the State will spend \$44.8 billion in the coming fiscal year, including \$5.1 billion in disaster assistance. DOB estimates that if federal sequestration is implemented as provided by the BCA, New York State and local governments could lose approximately \$5.0 billion in federal funding over nine years.

On February 24, the White House released state-by-state estimates of the impact of the sequester cuts. The impact on New York in 2013 is described by the White House as including at least \$275 million in cuts, loss of pay for furloughed federal employees in New York, and loss of other federal resources, largely impacting education and higher education, public health and safety, and employment, child care, and low-income assistance. In addition, federal disaster assistance may be reduced as a result of the sequester cuts.

In March, the Federal Funds Information for States (FFIS), a joint program of the National Governors Association and the National Conference of State Legislatures, estimated an impact of \$436.2 million in New York State during the remainder of the 2013 federal fiscal year as the result of sequestration. This estimate includes \$287.9 million to the State, \$139.6 million to New York’s local governments, and \$8.7 million in other impacts within the State. The Executive Budget includes no specific actions to address the potential loss of this revenue.

Summary of Executive Budget 21-Day and 30-Day Amendments

The following provides an overview of the most significant changes included in the 21-day and 30-day amendments to the SFY 2013-14 Executive Budget.

Health/Medicaid

The 21-day amendments make technical corrections that do not materially alter the Executive Budget or the proposed Financial Plan.

The 30-day amendments replace a \$1.1 billion loss in federal Medicaid revenue for State developmental disability services in SFY 2013-14 with \$500 million in State Medicaid savings and \$600 million in alternate federal Medicaid funding for these services. Some components of this plan are still being finalized and are subject to change. However, the plan reflects an expectation of significantly lower Medicaid payment rates for services provided to approximately 1,000 residents of the State's seven centers for the developmentally disabled, as well as State-provided services in various non-institutional settings.

The federal government asked the State to lower the rates in order to bring them in line with actual service costs. Current developmental center rates, about \$5,100 per recipient per day, are expected to be reduced to around \$1,100 or \$1,200 per day.

The \$500 million in State Medicaid savings actions include:

- \$200 million in savings relative to the “global cap” on State-funded Department of Health (DOH) Medicaid spending in SFY 2012-13. As of the last Medicaid Global Cap Report from December, the State was \$58 million under the cap.
- \$180 million from acceleration of Medicaid Redesign Team (MRT) savings initiatives, such as moving recipients into managed care, and delaying certain SFY 2013-14 MRT spending initiatives. The latter includes incentive payments to high-performing managed long-term care plans and rate increases for clinics that integrate the care they provide (for example, behavioral and physical).
- \$120 million from a 6.0 percent across-the-board rate reduction for not-for-profit agencies serving the developmentally disabled. These providers received cost-of-living adjustments or rate enhancements in SFY 2009-10 and SFY 2010-11, when other human service providers did not.

The \$600 million in federal Medicaid revenue actions include:

- \$250 million from State claims for federal financial support of emergency Medicaid services provided to immigrants who are not lawful permanent residents. Since 2001, New York has been paying 100 percent of these costs.
- \$250 million from a developmental disabilities reform package still being finalized by DOB, which may include, but not be limited to, full

deinstitutionalization of State developmental centers, employment opportunities for persons with developmental disabilities, and person-centered evaluations.

- \$100 million net effect from additional revenue New York will receive under the Patient Protection and Affordable Care Act of 2010.

Figure 4

Resources to Address Loss of \$1.1 Billion in Federal Medicaid Funds
(in millions of dollars)

Description	SFY 2013-14
State Resources	\$ 500
<i>Use SFY 2012-13 Global Cap Underspending in SFY 2013-14</i>	200
<i>6.0 Percent Rate Reduction to OPWDD Providers</i>	120
<i>Accelerate Various MRT Initiatives</i>	
<i>Various MRT Savings Initiatives</i>	11
<i>Person-Centered Medical Homes</i>	7
<i>Transportation Manager Utilization in New York City</i>	6
<i>Delay 2013-14 MRT Initiatives</i>	
<i>Various MRT Initiatives</i>	18
<i>Health Homes Infrastructure Grants</i>	15
<i>Additional Supportive Housing Services</i>	13
<i>Incentive Payments for High-Performing Managed Long-Term Care Plans</i>	10
<i>Other Actions</i>	
<i>Reduce Accounts Receivable Balances</i>	50
<i>Managed Care Efficiency Adjustments</i>	25
<i>Various Changes</i>	17
<i>Increase Manual Claims Review</i>	8
Federal Resources	\$ 600
<i>Emergency Medicaid</i>	250
<i>Net Affordable Care Act</i>	100
<i>Developmental Disability Reforms</i>	250
Estimated Resources To Replace Loss of Federal Funds	\$ 1,100

Source: Division of the Budget

These savings and revenues would translate into \$815 million in gap-closing actions in SFY 2014-15.

A major component of the plan to replace the \$1.1 billion loss in federal funding requires the use of up to \$730 million in State DOH Medicaid global spending cap resources – funds intended for a broad range of Medicaid-funded services – for developmental disability services in SFY 2013-14. Legislation establishing the Medicaid spending cap in SFY 2011-12 specifically excluded payments for medical services provided at developmental centers and other State facilities from the cap.

The 30-day amendments do not increase or decrease the \$16.5 billion Medicaid spending cap proposed for SFY 2013-14. However, in exchange for including developmental disability payments under the cap, the 30-day amendments propose to rescind across-the-board reductions in Medicaid payments for hospitals, home health,

and other providers starting in the fourth quarter of SFY 2013-14. The Executive Budget had proposed to extend this reduction, which has been in place since April 2011, for two additional years through March 2015. Costs of rescinding the across-the-board reductions – \$20 million in SFY 2013-14 and \$357 million in SFY 2014-15 – would be offset by enhanced federal Medicaid revenue accruing to the State under implementation of the Affordable Care Act.

Education

The Executive's 30-day amendments include appropriation language to require that if the New York City School District does not negotiate an approved Annual Professional Performance Review Plan with the collective bargaining units representing its teachers and principals by May 29, 2013, the New York State Commissioner of Education would be required to arbitrate a final and binding plan that would take effect in the City's 2013-14 school year.

The 30-day amendments would also allow counties to retain 100 percent of audit recoveries when they audit preschool special education providers, instead of the 75 percent in the original Executive Budget proposal.

Other Amendments

In addition to the changes already described, the 21-day and 30-day amendments include provisions (identified below under the appropriation or Article VII bill in which the provision primarily resides) which would:

State Operations

- Amend Governor's Office of Employee Relations appropriations to provide that public employees who are affected by facility closings or restructurings be offered a comparable State job if one exists within a radius of 25 miles. The original proposed radius was 100 miles. Those who do not qualify would receive job placement training.

Aid to Localities

- Provide \$5.0 million in funds related to the 2014 Super Bowl to support tourism and other efforts.

Capital Projects

- Add \$30 million in capital funds for Stony Brook University, to bring the SFY 2013-14 total appropriation to \$60 million.

Education, Labor, and Family Assistance

- Require potential bidders for casino gaming licenses to pledge to enter into a labor peace agreement prior to receiving a gaming license. Such agreement

would be intended to protect the State's proprietary interests by prohibiting labor organizations that are actively engaged in representing or attempting to represent gaming or hospitality industry workers in the State and their members from engaging in picketing, work stoppages, boycotts, and any other economic interference with operation of the relevant gaming facility. In order for the Gaming Commission to issue a gaming facility license and for operations to commence, the applicant for a gaming facility license must produce documentation that it has entered into a labor peace agreement with each labor organization that is actively engaged in representing and attempting to represent gaming and hospitality industry workers in the State. Maintenance of such a labor peace agreement would be an ongoing condition of licensure.

Transportation, Environment and Economic Development

- Require certain retail gasoline outlets to have on-site back-up power available in case of electrical outages. The New York State Energy Research and Development Authority (NYSERDA) would be authorized to provide grants of up to \$10,000 each for the costs associated with the set-up of alternative power. The Executive indicates that \$21 million would be available for this purpose.
- Permanently eliminate fees for State saltwater fishing licenses and reduce many State fees for hunting and fishing. DOB projects that these changes will reduce revenues to the New York State Conservation Fund by \$1.2 million in SFY 2013-14 and by \$4.9 million in subsequent fiscal years.
- Omit the proposal to authorize general grant-making powers for the Urban Development Corporation (UDC).

Public Protection and General Government

- Modify the proposal to increase fines and penalties for violations of cell phone and texting laws to increase the proposed look-back period from 18 months to five years.
- Expand eligibility to participate in the Executive's proposed Stable Rate Employer Contribution Program to include any board of cooperative educational services and public benefit corporation that operates a public general hospital located in Westchester, Erie or Nassau counties. It also requires that participating municipal employers may only elect the stable contribution option in the 2013-14 fiscal year, and that educational employers may only select the option in the fiscal year commencing July 1, 2013 for the pension bill that is paid in the fall of 2014.
- Add authorization to transfer \$1.0 million related to the establishment of the State Gaming Commission account.
- Add transfer authorization of \$2.5 million from the General Fund to the Tribal State Compact Revenue Account. Such funds may be advanced to the City of

Salamanca, which hosts a gambling facility. Any such advance shall reduce the amount otherwise due to the city by an equivalent amount, and the municipality will reimburse the General Fund when it receives Tribal State Compact funds.

- Increase payments-in-lieu-of-taxes (PILOTs) to the City of Albany by \$7.85 million in SFY 2013-14 and reduce payments scheduled for SFY 2031-32 by a commensurate amount.
- Add \$3.0 million for a pilot program for counties to identify plans for providing counsel to indigent defendants at their arraignments. Preference for participation would be given to the counties of Washington, Onondaga, Ontario, Schuyler and Suffolk.
- Add provisions related to providing immunity from liability to mobile carriers who issue emergency messages on behalf of the State under the NY-TEXT initiative.
- Eliminate the proposed blanket authorization for any public benefit corporation to make voluntary contributions to the General Fund at any time.

Revenue

- Modify the proposal to extend and make refundable the historic commercial property rehabilitation tax credit to clarify that only those credits earned for qualified rehabilitation projects placed in service on or after January 1, 2015 are refundable.

Other

- Change the proposed transfer authorization for funding of the rehabilitation of Mitchell-Lama housing projects using \$17.6 million in Mortgage Insurance Fund (MIF) monies from the Housing Trust Fund Corporation (HTFC) to the Housing Finance Agency (HFA).