

**THE BROKEN UMBRELLA:
HOW TO MAKE NEW YORK STATE'S RAINY DAY FUND
MORE USEFUL**

Citizens Budget Commission

June 2011



FOREWORD

Founded in 1932, the Citizens Budget Commission is a nonprofit, nonpartisan civic organization devoted to influencing constructive change in the finances and services of New York State and New York City governments. A major activity of the Commission is conducting research on the financial and management practices of the State and the City.

All research by the CBC is overseen by a committee of its trustees. This report was completed under the auspices of the Budget Policy Committee. We serve as co-chairs of that Committee. The other members of the Committee are Lawrence D. Ackman, Charles Bendit, Stephen Berger, Seth P. Bernstein, Les Bluestone, Lawrence B. Bittenwieser, Vishaan Chakrabarti, Karen Daly, Bud H. Gibbs, William Gilbane, III; Martin Grant, Peter C. Hein, H. Dale Hemmerdinger, Brian T. Horey, William N. Hubbard, David Javdan, Steven J. Kantor, Eugene J. Keilin, Robert Kurtter, Richard A. Levine, Harold Levy, James L. Lipscomb, Neil Lucey, Randolph Mayer, Joyce Miller, Alfredo S. Quintero, Richard J. Raphael, Carol Raphael, John Rhodes, Denise Richardson, Carol Rosenthal, Heather L. Ruth, Michael L. Ryan, Edward L. Sadowsky, Teddy Selinger, Timothy Sheehan, Merryl H. Tisch, Sonia Toledo, Cynthia King Vance, Mark L. Wagar, Claudia Wagner, Kevin Willens, Michael A. Zarcone, and Kenneth D. Gibbs, ex-officio.

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June 6, 2011

TABLE OF CONTENTS

INTRODUCTION	1
THE PROBLEM: TAX VOLATILITY	2
NEW YORK'S RAINY DAY FUNDS	4
The Tax Stabilization Reserve Fund	4
Rainy Day Reserve Fund.....	6
WHAT OTHER STATES DO.....	8
GUIDELINES FOR IMPROVING NEW YORK'S RAINY DAY FUNDS	9
Deposit Rules	9
Limits on Size.....	10
Withdrawal Conditions	10
Repayment Rules	11
ENDNOTES.....	12

INTRODUCTION

The great recession of 2008 was a vivid reminder of how vulnerable state governments are to economic downturns. The federal government can use deficit spending to deal with recessions and local governments are aided by the relative stability of their property taxes, but states must balance their budgets despite heavy reliance on economically sensitive income and sales taxes. The federal government has been helpful with its countercyclical spending on income assistance programs and its stimulus spending including aid to states, but New York and other states still experienced severe fiscal stress. From the first quarter of fiscal year 2008-09 to the first quarter of fiscal year 2010-11, New York State's total tax collections fell 20.3 percent; partially as a result, the budget gap for the fiscal year beginning April 1, 2011 was \$10 billion.¹

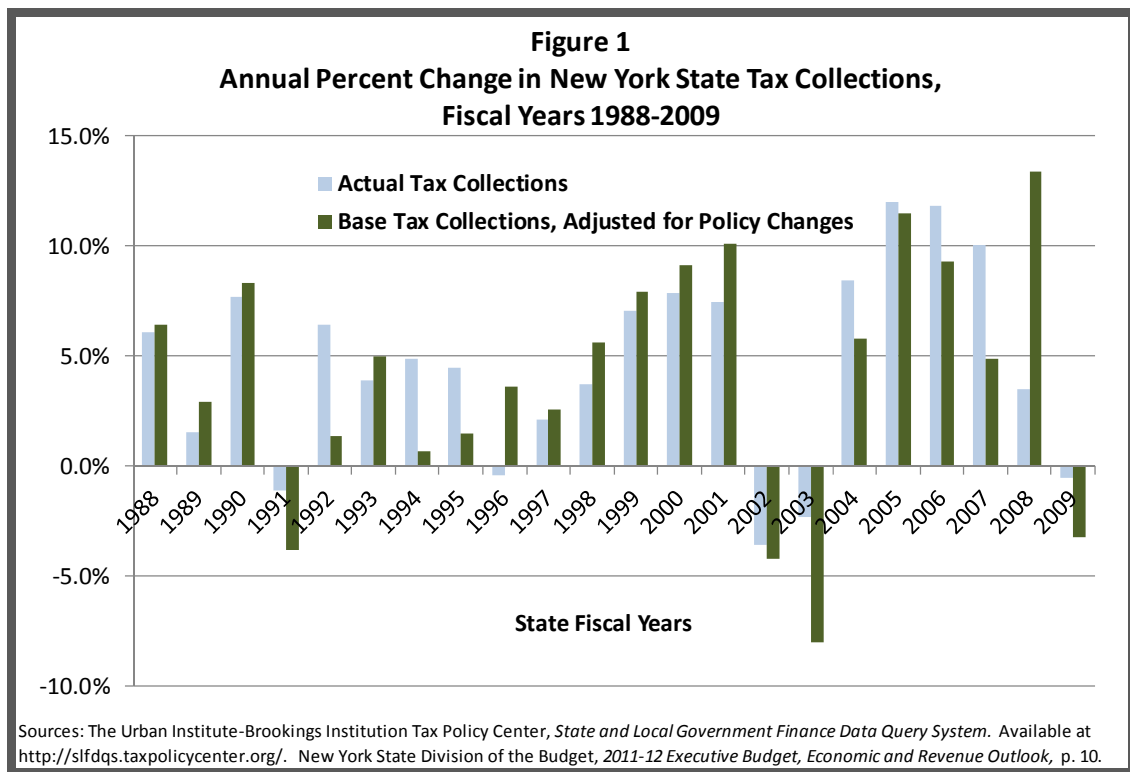
One mechanism often suggested to help states cope with recessions is a rainy day fund. Although New York has a rainy day fund (in fact, it has two), the funds have not been used in the latest recession. For reasons explored below New York has not developed an effective rainy day fund. This report presents four guidelines for how New York State can create a more useful rainy day fund:

1. Mandate prudent uses of surplus funds, including rainy day fund deposits.
2. Raise the cap on the size of the rainy day funds to reflect likely needs in times of recession.
3. Set uniform conditions for withdrawal from both funds, with those conditions based on declining economic indicators.
4. Set uniform repayment rules for both funds, with those rules allowing adequate time for economic and fiscal recovery before payments must begin.

THE PROBLEM: TAX VOLATILITY

Volatility in tax collections presents a challenge to sound budgeting. In flush times, the State commits to high levels of spending, often in the form of higher contractual wages and benefits, long-term increases to local aid, and multi-year commitments to improve infrastructure. When the economic cycle turns, the commitments to increase spending – sometimes legally binding – combined with revenue shortfalls and new pressure on social assistance programs produce large budget gaps. In response, the State has turned to tax increases, borrowing, and fiscal gimmicks to close the gaps. Fluctuating tax levels create uncertainty for residents and businesses and may slow economic growth, particularly following a downturn. Borrowing and other fiscal gimmicks lead to higher costs for future taxpayers.

How volatile are New York's tax revenues? From fiscal year 1988 to 2009, state tax collections in New York grew at an average annual rate of 4.6 percent. (See Figure 1.) During this period, actual collections decreased in five fiscal years – 1991, 1996, 2002, 2003 and 2009 – and increased by more than 10 percent in three fiscal years – 2005, 2006 and 2007. Those figures reflect variations caused by changes in tax policy. Figure 1 also displays the estimated annual percent change in total tax collections if a common rate and base were in effect; that is, it adjusts for increases and decreases in tax rates and other policy changes.



In general, the State raised taxes in downturns and lowered taxes in boom times. This makes the common rate and base changes even more volatile than the actual collections. For example, the year-to-year decrease in actual tax collections in 1996 was the result of significant tax cuts;

baseline tax revenue growth in that fiscal year would have been 4 percent without those cuts. Similarly, Figure 1 shows a 2.3 percent decline in actual tax collections in 2003, while the decline would have been 8.0 percent without changes to tax policy that increased revenues.

While New York's tax collections are quite volatile, this is typical of most states. New York is not unusually volatile. New York ranks 33rd among the 50 states using a conventional statistical measure (the coefficient of variation) for tax volatility during the 1988-2009 period.² New York's position results from two offsetting features of the state's tax system and economy. New York relies heavily on the personal income tax, one of the more volatile taxes. In fiscal year 2009-10, personal income tax collections were more than 60 percent of New York State tax collections;³ nationally, personal income taxes were 34 percent of state taxes in 2009.⁴ This heavy reliance on personal income taxes is partially offset by a relatively slow-growing and stable economy. In the 1988-2009 period, New York ranked 48th among the 50 states in average annual gross state product growth per capita.⁵ Rapid economic growth is generally associated with greater volatility.

In sum, tax volatility is a serious problem in New York, but it is not a problem that is unique to New York or especially acute in New York. Accordingly, ameliorative measures pursued elsewhere, such as an improved rainy day fund, may also be helpful in New York.

NEW YORK'S RAINY DAY FUNDS

The issue is not that New York lacks a rainy day fund. In fact, it has two – the Tax Stabilization Reserve Fund (TSRF) and the Rainy Day Reserve Fund (RDRF). Rather problems arise because structural features of these funds limit their utility in economic downturns.

The nature of a rainy day fund can be described in terms of four elements:

1. Deposit rules – the limits and/or mandates relating to money put into the fund.
2. Size limits – caps on the amounts held in the fund.
3. Withdrawal conditions – limits on when money can be removed from the fund.
4. Repayment rules – requirements for the repayment of money taken from the fund.

The Tax Stabilization Reserve Fund

New York State adopted a constitutional amendment establishing legislative authority to create a TSRF in 1943.⁶ The amendment did not set the structural features of the fund; instead, it left these decisions to the legislature with one key limitation. The rules established by statute by the legislature could not be changed immediately by a subsequent legislature. Legislative changes can go into effect only after a three-year “aging” period.

New York became the first state to adopt a rainy day fund when the legislature used its authority in 1946.⁷ The 1946 law requires that a portion of any surplus funds (defined as receipts remaining after disbursements at the end of a fiscal year) in the state's General Fund be deposited in the TSRF. The deposit in any year is limited to two-tenths of one percent of General Fund expenditures. The statute states that any surplus remaining after that deposit shall remain in the general fund and may be used for tax relief. The statute caps the TSRF fund balance at 2 percent of General Fund expenditures.

The statute sets no limits or conditions on money withdrawn from the fund, other than stating that transfers may only occur in response to a deficit in the General Fund. All withdrawals are considered loans to the General Fund and must be repaid in accord with a statutory repayment schedule. Withdrawals can be for two purposes. A transfer from the TSRF to the General Fund may address a year-end deficit. These loans must be repaid within six years following the loan. The statute requires that repayments occur in “not less than three equal annual installments,” which means repayment must begin no later than four years after the transfer is made. The State may also make temporary transfers from the TSRF. Temporary loans may be used to help cover cash flow problems within a fiscal year and must be repaid by the end of the same fiscal year. If a temporary loan is not repaid in full by the end of the fiscal year, then the remaining balance is considered a long-term transfer and the repayment schedule outlined above applies.⁸

Table 1 provides a summary of TSRF activity from fiscal years 1946 to 2011. The fund's \$1.03 billion balance derives from \$1.02 billion in deposits made over that period, plus interest earned on deposits totaling \$10.1 million.

The TSRF has been tapped for 11 loans to the General Fund, totaling \$473.3 million. The first loans occurred in fiscal years 1949-51, totaling \$30 million. The fund was not used again until fiscal year 1971.

**Table 1: New York State Tax Stabilization Reserve Fund Activity,
Fiscal Years 1946-2011**

Year	Deposits	Withdrawals	Repayments
1946	\$50,000,000		
1947	58,712,842		
1948	3,917,297		
1949	5,425,258	\$3,146,805	
1950	1,698,783	13,929,926	\$3,146,805
1951	3,381,320	12,917,100	4,729,660
1952	642,650		14,253,064
1953	6,992,071		7,864,302
1954	7,722,315		
1955	1,027,379		
1956	375,882		
1957	269,700		
1958	169,329		
1959	124,878		
1960	615,641		
1971		23,172,661	
1972		42,700,850	
1973			65,873,511
1974			
1975		18,482,584	
1976		64,808,688	
1977			
1978			18,482,584
1979	49,676,865		16,202,172
1980			16,202,172
1981			16,202,172
1982			16,202,172
1983		48,606,516	
1984			
1985	234,777		
1986	97,732		
1987	139,179		16,202,172
1988		132,483,599	16,202,172
1989		68,888,999	16,202,172
1990			
1991			
1992		44,161,200	44,161,200
1993			67,124,200
1994			67,124,199
1995			22,962,999
1996	65,000,000		14,720,400
1997	65,000,000		14,720,400
1998	68,600,000		14,720,400
1999	72,962,000		
2000	74,300,000		
2001	79,790,000		
2002	82,910,000		
2003			
2004	84,000,000		
2005	78,000,000		
2006	72,514,000		
2007	86,951,000		
2011			
SUBTOTAL	\$1,021,250,898	\$473,298,928	\$473,298,928
Interest*	10,148,700		
TOTAL	\$1,031,399,598		

* Interest earned between 1947 and 1963.

Sources: State of New York Office of the State Comptroller, *Annual State Cash Report, Fiscal Year Ended March 31, 2010*. Released July, 2010. State of New York Division of Budget, *Enacted Budget Financial Plan for Fiscal Year 2012*, May 6, 2011.

The TSRF was last used to offset budget deficits between fiscal years 1988 and 1992. This episode is a good example of the challenges posed by the repayment requirements in the TSRF law. The state was required to begin repaying the fiscal year 1988 loan in fiscal year 1992, when the economy was still weak. Lawmakers effectively avoided the requirement by appropriating a \$44.2 million repayment to the TSRF, then loaned the same amount back to the General Fund.

It has been nearly 20 years since the last TSRF withdrawal. New York has similarly long stretches when deposits were not made to the fund.⁹ However, large balances have been in place since the late 1990's thanks to a string of deposits between fiscal years 1996 and 2007. The latest deposit of \$87 million brought the fund balance to the statutory 2 percent cap of fiscal year 2006-07 General Fund expenditures.

Rainy Day Reserve Fund

When the TSRF reached its cap in 2007, the legislature, anticipating future surplus revenues and wary of the three-year aging period required by the constitution for changes to the TSRF, created a separate Rainy Day Reserve Fund.¹⁰ Since its creation it has had a single deposit of \$175 million in 2007. The fiscal year 2011-12 budget appropriates \$100 million to be deposited into the RDRF at the end of the fiscal year.

The rules governing the RDRF differ from those for TSRF. The statute establishing the RDRF does not specify how or when deposits should be made, leaving deposits to the discretion of the legislature and executive. Like the TSRF, this fund is capped, though the limitation in this case is 3 percent of General Fund expenditures.¹¹

The most significant differences concern the conditions that must be met to withdraw funds and how they must be repaid. RDRF funds may not be transferred to the General Fund unless certain economic conditions are met. The trigger is five consecutive months of economic decline as measured by an index maintained by the state's Secretary of Labor. The authority to withdraw funds lasts (a) for 12 months following the end of consecutive monthly declines in the index or (b) until the index indicates five consecutive months of economic growth.

Once a withdrawal has been made, it must be repaid in full within three years after the end of the authorized withdrawal period. The statute includes an exception for transfers made in response to a "catastrophic event," in which case the governor sets the repayment terms.¹² As with the TSRF, the law also allows for short-term loans from the RDRF as long as the amount is repaid by the end of that fiscal year. The State has not made any withdrawals from the RDRF.

Why has New York not used either of its rainy day funds during the recent severe recession? Four factors are relevant. First, other reserve funds have been available. At the beginning of fiscal year 2007, the State had more than \$2.3 billion in various other reserve funds.¹³ Some of these reserves were dedicated to specific purposes like \$251 million in the Community Projects fund to pay for lawmakers' member items. Another \$2.0 billion was in a Spending Stabilization Reserve fund with no restrictions on its use. As of the beginning of fiscal year 2011-12, only \$149 million of the dedicated funds remain, mostly in the Community Projects fund, and all of the unrestricted reserves had been used. The availability of these funds is not a sufficient explanation for the retention of the rainy day funds. These other reserves were less than required to fill budget gaps during the recession, and other measures were required, including tax increases.

Second is a concern that use of the rainy day funds might trigger a lowering of credit ratings.¹⁴ This causes higher interest costs for debt and may cast doubt on the quality of the state's financial management. However, the ratings agencies stated that use of reserve funds "is not in and of itself a credit weakness."¹⁵ Rating agencies prefer that states balance use of reserves with other budget actions to prevent future gaps if the economy continues to perform poorly. The agencies also prefer that states spend only a portion of their reserves so a cushion remains if future gaps arise. Alternatives to using rainy day funds can be more problematic actions, such as deferred payments and indirect borrowings that are more likely to be viewed unfavorably by rating agencies.

A third concern is the future fiscal implications of the payback rules. Because withdrawals must be repaid relatively promptly and according to a defined schedule, state officials may be reluctant to use the funds in a period of economic uncertainty. That is, use of the funds will impose an obligation to make a significant repayment in the near future, and that may also be a time of economic difficulty. Rather than commit to repayment out of future years budgets, New York's leaders seek alternatives to rainy day fund withdrawals.

Finally, and perhaps most important, the State has used the TSRF and the RDRF as a safeguard against short-term cash flow volatility in recent years. These swings are caused by the concentration of aid payments and personal income tax refunds in the first quarter of the year. At the beginning of each fiscal year, the State draws down the entirety of these funds. As long as the funds are replenished by the last day of the fiscal year, the funds' repayment rules are not triggered.¹⁶ For example, the State ended May 2009 with a general fund cash balance of only \$37 million.¹⁷ Without the use of the TSRF and the RDRF, the month-end balance would have been negative \$1.2 billion. Other options to deal with short-term cash flow volatility are less appealing. These include delaying payments and loans from dedicated cash reserves. Once again, this suggests that greater reserve fund balances are necessary to meet short-term cash management needs and to provide reserves for revenue losses from an economic downturn.

WHAT OTHER STATES DO

In considering how to make New York's rainy day funds more useful, it is instructive to examine what other states do. All but three states have created rainy day funds, including six which, like New York, have two rainy day funds.¹⁸

With respect to deposit rules, 11 states mandate deposits under certain conditions, often specified annual growth rates for personal income or other tax revenues. Another four states dedicate some oil, gas or tobacco settlement revenues to their rainy day funds. The remaining 32 states with rainy day funds leave the decision of whether and how much to deposit largely to the discretion of elected officials.

With respect to size limits, only seven states do not place a cap on their rainy day fund. Caps are common because officials are concerned that taxpayers will object to the accumulation of large sums that are not used to provide services or reduce taxes. Among the 40 states with caps, 23 have caps ranging from 6 percent to 15 percent of state spending or revenues; New York is one of 17 states that have a cap of 5 percent or less of state spending or revenues.

With respect to conditions for withdrawal, only five states require certain economic conditions be met (such as a decline in personal income or other indicators) before withdrawals may occur. New York's RDRF is one of those five. In contrast, eight states allow withdrawals by appropriation at the discretion of the legislature. The large majority of rainy day funds (including New York's TSRF) allow a withdrawal under the relatively vague condition that it addresses a revenue shortfall or budget deficit.

In terms of repayment rules, New York is one of only nine states that require repayment within a certain time period. West Virginia requires repayment within 90 days. Iowa, Rhode Island, Missouri and South Carolina require repayment within one to three years. Alabama, Florida and Utah require repayment within five, eight and ten years respectively. All other states do not specify a time frame for replenishing their rainy day funds.

Comparative studies show that rainy day funds reduce fiscal stress during an economic downturn. During the national recession of 1990-91, two dozen states spent about \$8 billion from rainy day funds, and those states were more likely to solve their fiscal difficulties by reducing spending than increasing taxes.¹⁹ The same study and others indicate that the most important factor in creating a substantial rainy day fund is an explicit requirement for deposits under certain conditions.²⁰

Rainy day funds also decrease borrowing costs, although the bond market does not treat all funds equally. Stabilization funds with strict rules governing deposits and withdrawals are associated with significantly reduced borrowing costs. A study of state tax-exempt bond yields from 1973 to 1999 found that states with strictly regulated rainy day funds had borrowing costs 33 basis points lower than average; states with weaker rules trim only 10 basis points from borrowing costs.²¹ The study also indicates that the savings effect increases as the size of the fund grows. Another study of debt ratings between 1997 and 2006 for 45 states that had rainy day funds finds that weak deposit rules are associated with lower credit ratings and that rainy day funds with small balances are viewed unfavorably by investors.²² The same study also finds that states with withdrawal requirements that make it difficult to access money within the fund get lower credit ratings.

GUIDELINES FOR IMPROVING NEW YORK'S RAINY DAY FUNDS

New York's rainy day funds can be made more useful by redesigning each of the four structural elements:

1. A mandate for prudent uses of surplus funds, including rainy day fund deposits, should be established.
2. The cap on the size of the rainy day funds should be raised to reflect likely needs in times of recession.
3. Uniform conditions for withdrawal should be set for both funds, and those conditions should be based on declining economic indicators.
4. Uniform repayment rules should be set for both funds, and those rules should allow adequate time for economic and fiscal recovery before payments must begin.

Deposit Rules

The available evidence suggests that rainy day funds are most useful when rules are set for mandatory deposits. However, designing such rules raises two basic questions: How should the relevant "surplus" funds be defined? How should priority be assigned among rainy day fund deposits and other prudent uses of any surplus funds?

The conventional approach taken by many states including New York is to define a surplus as an excess of receipts over disbursement (using cash basis accounting) in the General Fund. This approach has serious limitations including the ability of state officials to manipulate cash receipts and payments to eliminate or reduce potential surpluses and the fact that much state revenue and expenditure may be handled outside the General Fund. Perhaps more importantly, the concept of "surplus" funds extends beyond an accounting perspective; the term is often used also to apply to revenue resulting from rapid or unexpected growth in a particular revenue source. These unexpected and/or large revenue gains may be spent by state officials in order to avoid creating an accounting surplus, but including such revenues in the scope of a "surplus" policy is appropriate in the sense that it is money that has become available under unusually favorable circumstances.

When appropriately defined "surplus" funds are available, a judgment must be made about their use. Deposits in a rainy day fund are one important and appropriate use. But other fiscally prudent and appropriate uses are available. These include the repayment of outstanding debt, an important consideration in a state like New York with an excessive debt burden.²³ Similarly, surplus funds can be used for pay-as-you-go capital investments that replace new long-term borrowing that otherwise supports a capital program.

In light of these complexities, New York should adopt deposit rules that follow two guidelines. First, surplus funds should be defined from both an accounting perspective and in terms of unusually rapid revenue growth. Either standard would apply to identify surplus funds subject to mandatory deposit rules. The accounting perspective should use accrual concepts in accord with Generally Accepted Accounting Principles and apply to all state funds, not only the General Fund. In addition a standard should be established to define surplus revenues as those arising in a particular category of revenue (such as personal income tax, sales tax, etc.) that exceeds the historical average growth rate for that category by a fixed percentage. For example, personal income tax revenue growth above 10 percent might be defined as surplus. Using this standard,

New York would have collected \$2.5 billion in surplus revenues between 2004 and 2008.²⁴ If tax revenue growth above 5 percent were used as the definition, the State would have collected \$9.6 billion in surplus revenues over the same period. In comparison, the State added \$1.9 billion to its general fund cash reserves from the beginning of fiscal year 2004 to the end of fiscal year 2008.²⁵

Second, the appropriately defined surplus funds, or a portion thereof, should be mandated for fiscally prudent uses. Specifically, the funds would be required to be used to pay off outstanding debt, fund new capital investments and/or be deposited in the rainy day fund. The rainy day fund need not be assigned higher priority than other uses; elected officials should be able to exercise discretion in choosing among the appropriate prudent uses.

Limits on Size

Rainy day fund caps are justifiable as a way to protect taxpayers from government accumulating excessive amounts of money. However, the caps should not be so small as to limit the effectiveness of a rainy day fund in helping a state offset the large revenue reductions caused by recessions.

How much does New York need to weather its rainy days? Since 1990 the average annual decline in total state tax receipts from the peak anticipated tax receipts to actual receipts during recessionary periods was 6.8 percent.²⁶ However, the actual tax collections do not tell the whole story, since they do not account for tax increases and other policy changes adopted to mitigate the deficits. The common rate and base data presented earlier (refer to Figure 1) show that such tax receipts fell 12 percent over fiscal years 2002 and 2003. More recently, common rate and base tax receipts fell 15 percent over fiscal years 2009 and 2010. This suggests that a rainy day fund that aims fully to offset tax receipt declines would need a balance of 10 percent or more of annual tax receipts.²⁷

Accumulating a balance of that size is not essential and would be unacceptable to many taxpayers. However, experience from the latest recession suggests that New York's rainy day fund balances were too small and may have prevented lawmakers from using those resources. There is a strong argument for increasing the current cap of 5 percent. The recent proposal by the State Comptroller to increase the cap on the RDRF from 3 percent to 5 percent of General Fund spending would put the state's maximum reserve level at 7 percent of General Fund expenditures. While the cap could reasonably be set higher, this proposal is a step in the right direction.²⁸

Withdrawal Conditions

Clear and consistent conditions should govern the use of rainy day funds. At present, New York has two rules: five months of economic decline for the RDRF and a budget deficit for the TSRF.

The conditions for the RDRF are more appropriate. However, the economic index currently used does not reflect the state's heavy reliance on the finance and real estate industries. Instead, it focuses on manufacturing activity – an important, but waning segment of the state's economy – as well as employment and sales tax collections. Conditioning withdrawals on a decline in state tax revenue or a decline in real personal income may be more appropriate.

Repayment Rules

As noted earlier, New York is one of only nine states that mandate repayments to the rainy day fund within a fixed period of time after a withdrawal. For the TSRF, funds must be repaid within six years; RDRF withdrawals must be repaid within three years.

These conditions, especially the three-year term mandated for the RDRF, may be too limiting. The repayment requirements may have been an important factor in the decision not to use the rainy day funds during the last recession.

A better approach may be to tie the repayment requirement to the same economic indicator that governs withdrawals. Repayments should not be required until personal income or state tax revenues have regained pre-recession levels. Alternatively, a mandatory minimum payment when revenue growth exceeds the norm would obviate the need for a repayment term. At a minimum, the TSRF model of repayment over a six year period should apply to both funds.

ENDNOTES

- ¹ The first quarter of the state fiscal year is April to June. Data from Office of the New York State Comptroller, *Monthly Report on State Funds Cash Basis of Accounting, April, May and June 2008 and April, May and June 2010*.
- ² The coefficient of variation is the standard deviation divided by the mean.
- ³ Office of the New York State Comptroller, *Annual Report to the Legislature on State Funds Cash Basis of Accounting, Fiscal Year Ended March 31, 2010*.
- ⁴ U.S. Census Bureau, State Government Finances, *Annual Survey of State Government Finances, 2009*. Accessed May 11, 2011, and available at <http://www.census.gov/govs/state/>.
- ⁵ CBC analysis of U.S. Department of Commerce, Bureau of Economic Analysis, *Regional Economic Accounts*. Updated November 18, 2010. Accessed May 11, 2011, and available at <http://bea.gov/regional/gsp/>.
- ⁶ The Constitution of the State of New York, Article VII, Section 17, "Authorizing the legislature to establish a fund or funds for tax revenue stabilization reserves; regulating payments thereto and withdrawals therefrom." Amendment adopted November 2, 1943. Accessed on April 26, 2011 and available at <http://www.dos.state.ny.us/info/constitution.htm>.
- ⁷ Laws of The State of New York, State Finance, Article 6, Section 92, "Tax stabilization reserve fund." Available at <http://public.leginfo.state.ny.us/>.
- ⁸ The statute stipulates that repayments shall be made in "not less than three equal annual installments within the period of six years or less next succeeding the date of such transfer." It also states that if a repayment would cause the TSRF balance to exceed the 2 percent of General Fund expenditures limit, then the repayment is reduced so that the balance conforms with that level and future repayments would not be required.
- ⁹ In the 1960's, excess revenues were directed to the capital construction program where they would be available to the state's building program, rather than deposited in the reserve fund. See The New York State Commission on the Constitutional Convention, "State Finance," March, 1967. Available at http://nysl.nysed.gov/uhtbin/cgiirsi/20110429160817/SIRSI/0/518/0/4116707/Content/1?new_gateway_db=ILINK.
- ¹⁰ Laws of The State of New York, State Finance, Article 6, Section 92-CC, "Rainy day reserve fund." Available at <http://public.leginfo.state.ny.us/>.
- ¹¹ The Office of the New York State Comptroller has submitted legislation that would increase the cap on the rainy day reserve fund to 5 percent of General Fund expenditures. The legislation also would require that annual surpluses are deposited into the fund. See April 19, 2011 press release. Available at <http://www.osc.state.ny.us/press/releases/apr11/041911.htm>.
- ¹² The statute gives the governor leeway to use the catastrophic funds "to repel invasion, suppress insurrection, defend the state in war, or to respond to any other emergency resulting from a disaster, including but not limited to, a disaster caused by an act of terrorism."
- ¹³ Citizens Budget Commission, *Options for Budget Reform in New York State*, September 20, 2007. Available at http://www.cbccny.org/sites/default/files/report_budgetreform_09202007.pdf. See also, New York State Division of the Budget, *New York State 2006-07 Enacted Budget Report*, May 12, 2006.
- ¹⁴ The Associated Press, "'Rainy Day Funds' Sit Unused in Handful of States," March 09, 2011. Accessed April 18, 2011, and available at http://www.syracuse.com/news/index.ssf/2011/03/rainy_day_funds_sit_unused_in.html.
- ¹⁵ Robin Prunty, "Top 10 Management Characteristics of Highly Rated Credits in U.S. Public Finance," Standard and Poor's, July 26, 2010, p. 2.
- ¹⁶ Office of the New York State Comptroller, *New York State's Cash Flow Crunch*, November 2009. Available at <http://osc.state.ny.us/reports/budget/2009/cashflowcrunch.pdf>.
- ¹⁷ Office of the New York State Comptroller, *Monthly Report on State Funds Cash Basis of Accounting*, May 2009.
- ¹⁸ Daniel G. Thatcher, *State Budget Stabilization Funds*, National Conference of State Legislatures, September, 2008. Accessed on April 28, 2011, and available at <http://www.ncsl.org/?TabId=12630>. A chart summarizing rainy day fund provisions in various states that accompanies the report is available at <http://www.ncsl.org/Portals/1/documents/fiscal/rdfo8apa.pdf>. Arkansas, Kansas and Montana are the states without a rainy day fund. Alabama has a fund that may be used only for education expenditures.
- ¹⁹ Russell S. Sobel and Randall G. Holcombe, "The Impact of State Rainy Day Funds in Easing State Fiscal Crises During the 1990-1991 Recession." *Public Budgeting and Finance* 16 (1996): 28-48.

²⁰ Gary A. Wagner and Erick M. Elder, "The Role of Budget Stabilization Funds in Smoothing Government Expenditures over the Business Cycle," *Public Finance Review* 33 (2005): 439-465.

²¹ Gary A. Wagner, "The Bond Market and Fiscal Institutions: Have Budget Stabilization Funds Reduced State Borrowing Costs?" *The National Tax Journal*, vol. 57, 4 (2004): 785-804.

²² Cleopatra Grizzle, "The Impact of Budget Stabilization Funds on State General Obligation Bond Ratings," *Public Budgeting and Finance* 30 (2010): 95-111.

²³ See Citizens Budget Commission, *In the Danger Zone: A Comparative Analysis of New York State's Long-Term Obligations*, March, 2010. Available at http://www.cbcny.org/sites/default/files/REPORT_DangerZone_03092010_1.pdf.

²⁴ According to data from the New York State Division of the Budget, *2011-12 Executive Budget, Economic and Revenue Outlook* and CBC calculations based on cash basis accounting. Tax receipts have been adjusted to account for tax policy changes.

²⁵ Office of the New York State Comptroller, *Annual Report to the Legislature on State Funds Cash Basis of Accounting, Fiscal Years 2004 and 2008*.

²⁶ According to data from the Office of the New York State Comptroller, *Annual Report to the Legislature on State Funds Cash Basis of Accounting, Various Years* and CBC calculations. Peak anticipated tax receipts calculated to be the previous year's actual receipts plus 4 percent. This is compared to actual collections for that recessionary year.

²⁷ Others have suggested that states should hold balances as high as 15 percent of state expenditures. See Elizabeth McNichol and Kwame Boadi, *Why and How States Should Strengthen Their Rainy Day Funds*, Center on Budget and Policy Priorities, February 3, 2011. Accessed May 5, 2011, and available at <http://www.cbpp.org/files/2-3-11sfp.pdf>.

²⁸ This change would also, presumably, be bound by the constitutional three-year aging rule, but would likely be moot since there is little chance the fund will come close to reaching even the existing cap in that time.