

# What to Look for in the NYS FY 2022 Executive Budget

January 15, 2021

The October Mid-Year Financial Plan Update reported New York State was facing an \$8.2 billion budget gap in the current year and a \$16.7 billion gap in fiscal year 2022, absent \$8 billion in recurring to-be-determined local aid cuts. Since then, a federal aid package was approved, and the State Comptroller has projected that State receipts will be \$4.2 billion higher than projected. These favorable developments will narrow these gaps, but balancing the fiscal year 2022 budget will require some combination of spending cuts, federal aid, other actions, and possibly additional revenue.

## Revenues

- **Tax Revenue Forecast Changes** – Personal income and consumption tax revenues have been performing better than projected. The Office of the State Comptroller’s “quick start” revenue projections are \$3.8 billion and \$4.2 billion more than Division of the Budget (DOB) projected in fiscal years 2021 and 2022, respectively.<sup>1</sup> If accurate, this would reduce the fiscal year 2021 deficit from \$8.2 billion to \$4.4 billion and the fiscal year 2022 deficit from \$16.7 billion to \$12.6 billion. It is possible the Executive Budget will include conservative revenue projections based on a reasonable concern that wealthy New Yorkers will change residency to avoid higher taxes. Remote work during the pandemic has increased this risk.
- **Budget Balance if Additional Federal Aid is Not Received** – The State will not have a clear picture of federal aid supplementing the December \$908 billion federal package until after the Executive Budget is released. The December stimulus package provides another round of education aid which can offset some State spending and includes additional fiscal relief to the Metropolitan Transportation Authority. The State adopted an unbalanced fiscal year 2021 budget, with the implicit assumption that federal aid would close the gap. While the State should receive additional federal aid, the Executive

Budget should present a plan to close the entire State budget gap if it does not receive federal aid.

- **Recreational Marijuana Legalization** – The Governor and legislative leaders have previously supported legalization and taxation, but have not been able to agree on how revenues should be distributed and other program elements. The Governor has included a legalization proposal in each of the past two Executive budgets and said he would include a proposal again this year. According to CBC’s research, states have rarely recognized full revenues within a year. Any proposal should be realistic about the timing of revenue, and avoid dedicating revenue to uses beyond programs related to the consequences of use.
- **Expanded Gambling Opportunities** – The State Constitution authorizes up to seven casinos in New York State; however, State statute prohibits any casinos in the New York City metropolitan area until upstate casinos have been licensed for seven years.<sup>2</sup> Given the State’s current fiscal crisis and expected substantial license fees for facilities in New York City, there have been calls for the State to rescind the seven-year waiting period and pursue expanded gambling in order to help close the fiscal year 2022 gap. The Executive Budget will also propose allowing mobile sports betting.
- **Other Tax Increases** – The Governor generally has opposed tax increases; legislative leaders have been more willing to increase taxes to close current and future budget gaps. However, when the December federal aid package did not include unrestricted federal aid, the Governor said that tax increases may have to be part of the solution to the State’s fiscal problem. Potential Executive Budget proposals could include a personal income tax increase on high earners, freezing or delaying middle class tax cuts previously scheduled, delaying business tax credits, and increasing fees.
- **One Shots** – Despite the multiyear nature of the State’s fiscal woes, the Executive Budget is likely to rely on at least a few one-time revenues. This may include fund sweeps, selling assets, or accessing reserves. New York’s rainy day funds contain \$2.5 billion, the Economic Uncertainties Fund has \$1.5 billion, and other reserves of \$3.3 billion bring the total to \$7 billion. The State also has assets it could sell (for example, ski areas, golf courses, and closed state facilities).

## Spending

- **Kicking Cans Down the Road** – In past years, especially during economic downturns, the State has deferred paying bills by a few days in order to shift the expense into the next fiscal year. Even during an economic expansion, New York State shifted \$1.7 billion in State Medicaid costs from March 2019 into April 2019, causing the payment to move from fiscal year 2019 to fiscal year 2020. It did the same in March 2020. Shifting these payments makes the State budget appear balanced on paper, but spending is outpacing revenues. Such gimmicks in the early stages of a fiscal crisis will make it even harder to balance the State’s budget in future years.
- **Converting “Withheld” Spending into Cuts** – The Governor has exercised broad authority granted as part of the Fiscal Year 2021 Budget to withhold 20 percent of certain payments to localities, school districts, nonprofits, state vendors, and state operations spending, including employee raises. The State had withheld at least \$2.6 billion as of the end of September.<sup>3</sup> The Governor pledged to restore \$1.5 billion of these payments to organizations experiencing extreme financial stress.<sup>4</sup> However, details of withheld payments have not been released, and it is not clear if a significant portion of these payments will be permanently withheld, and hence cut. If those cuts are further extended, it would provide additional savings in fiscal year 2022 as well.
- **Across-The-Board Cuts** – Spending reductions will be necessary. It may be politically advantageous to reduce spending by a set percentage share; however, spending reductions should be targeted to minimize impact rather than reduce all spending uniformly.
- **Capital Spending Financing and Focus** – The Fiscal Year 2021 Enacted Budget Capital Plan included \$4.1 billion in pay-as-you-go capital spending, which could have been funded using debt to free up that cash for operating expenses.<sup>5</sup> The Fiscal Year 2022 Executive Budget should increase use of debt to finance capital expenses and limit capital expenses to investments that are necessary to maintain critical infrastructure, preserve public health and safety, and provide demonstrable economic benefits.<sup>6</sup>
- **Better School Aid Targeting** – School aid accounts for almost 30 percent of State Operating Funds spending, with \$1.6 billion annually going to wealthy districts that already spend enough local revenues to fund a sound basic education. In light of the current economic and fiscal crisis, New York State should focus its scarce resources on those districts that lack the local resources to fund a sound basic education.
- **Medicaid Savings** – The Fiscal Year 2021 Executive Budget reconstituted the Medicaid Redesign Team (MRT) with the goal of saving \$2.5 billion in fiscal year 2021; however,

the MRT-identified savings totaled \$1.6 billion, not all recommendations were accepted by the Legislature, and some adopted proposals have been delayed because of Federal prohibitions against limiting eligibility while enhanced Federal Medical Assistance Percentage (eFMAP) is in effect.<sup>7</sup> With Medicaid enrollment growing as a result of the economic climate, and the program accounting for more than 20 percent of State Operating Funds spending, additional savings will have to be achieved in order to reduce future budget gaps.

## Other

- **Cost Shifts to Local Government** – In recent years the State has intercepted \$200 million in sales tax revenues from New York City and \$50 million in sales tax money outside of New York City to offset Medicaid expenses in fiscal years 2021 and 2022. The State is intercepting \$59 million from counties to fund portions of the Aid and Incentives for Municipalities (AIM) program and \$170 million from New York City to fund the MTA. The State should avoid balancing this year's budget using cost shifts or revenue intercepts that harm local governments. The State should especially avoid shifting Medicaid costs onto localities.
- **Expansion of Executive Power** – The Fiscal Year 2021 Budget authorized the Governor to reduce aid to localities spending across the board or through targeted cuts, and the Legislature must either accept these cuts or adopt a plan of its own within 10 days. Instead of exercising this power, the Governor chose to delay payments to localities and contractors. Previous proposals to allow the Executive branch to transfer spending authority between purposes, institute uniform cuts to local aid, or make targeted cuts without legislative approval have been rejected by the Legislature. Such expansions of Executive power are likely to be proposed again.
- **Extend \$3.5 billion in Short-Term Debt** – As part of the Fiscal Year 2021 Budget, the Division of the Budget (DOB) was authorized to issue up to \$11 billion in short-term debt, which can be converted to long-term debt. The State has issued \$4.5 billion of debt to cover delayed personal income tax filings from April 15 to July 15; it repaid \$1 billion in December, and reportedly plans to repay the remaining \$3.5 billion within this fiscal year.<sup>8</sup> The State could choose to delay repaying the remaining \$3.5 billion from March 31, 2021 until March 31, 2022, at which time it could convert it to long-term debt, essentially using long term debt to fund operations. This would not be prudent; borrowing to fund current operations would support unsustainable spending, increase

long-term costs, obligate future New Yorkers to pay for current services, and constrain the ability to fund future services. Borrowing for operations should be a last resort, used only after the State exhausts less harmful strategies, and should be accompanied by a multi-year fiscal stability plan and increased transparency and oversight. The State should not convert this to long term debt.

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## Endnotes

1. Office of the New York State Comptroller, *Report on Estimated Receipts and Disbursement State Fiscal Years 2020-21 through 2022-23* (November 2020), [www.osc.state.ny.us/files/reports/budget/pdf/budget-receipts-disbursement-20-23.pdf](http://www.osc.state.ny.us/files/reports/budget/pdf/budget-receipts-disbursement-20-23.pdf).
2. The first casino license was effective March 1, 2016, meaning the 7-year wait period would prohibit a New York City area casino until March 1, 2023. See: New York State Gaming Commission, *Gaming Facility License Award Montreign Operating Company, LLC* (December 21, 2015), [www.gaming.ny.gov/pdf/Montreign.pdf](http://www.gaming.ny.gov/pdf/Montreign.pdf).
3. New York State Division of the Budget, *FY 2021 Mid-Year Update* (October 2020), p. 19, [www.budget.ny.gov/pubs/archive/fy21/enac/fy21-fp-myupdate.pdf](http://www.budget.ny.gov/pubs/archive/fy21/enac/fy21-fp-myupdate.pdf).
4. Governor Andrew M. Cuomo, "Video, Audio, Photos & Rush Transcript: Governor Cuomo Announces New York State Will Advance \$1.5 Billion to Organizations Needing Cash Flow Until Early 2021" (December 16, 2020), [www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-announces-new-york-state-will-advance-15](http://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-announces-new-york-state-will-advance-15).
5. David Friedfel, *New York State's Hard Choices; Next Steps to Address Fiscal Stress* (Citizens Budget Commission, May 22, 2020), <https://cbcny.org/research/new-york-states-hard-choices>.
6. The Division of the Budget released a budget bulletin to all Executive Departments in April of 2020 calling for Department to limit capital spending to projects that are necessary to prevent imminent threat to public health and safety. See Robert Mujica, New York State Division of the Budget, letter to all department and agency heads, (April 28, 2020), [www.budget.ny.gov/guide/bprm/b/b-1223.html](http://www.budget.ny.gov/guide/bprm/b/b-1223.html).
7. Patrick Orecki, "Maintaining Momentum on Medicaid Redesign" (*Citizens Budget Commission Blog*, March 27, 2020), <https://cbcny.org/research/maintaining-momentum-medicaid-redesign>.
8. Office of the New York State Comptroller, "DiNapoli: State Tax Revenues \$3 Billion Below Last Year" (press release, December 18, 2020), [www.osc.state.ny.us/press/releases/2020/12/dinapoli-state-tax-revenues-3-billion-below-last-year](http://www.osc.state.ny.us/press/releases/2020/12/dinapoli-state-tax-revenues-3-billion-below-last-year).