



Third Term, First Budget: An NYS Budget Strategy

January 10, 2019

Governor Andrew Cuomo will release the Fiscal Year 2020 Executive Budget, the first budget of his third term, on January 15. The context for this budget is different from past years in two respects. First, while the nation is experiencing a record-long economic expansion, some economists caution that growth is slowing and a recession may not be far off.¹ Second, Democratic control of the State Senate will alter the debate on issues such as health care, funding the Metropolitan Transportation Authority (MTA), and increasing education aid.

Political pressures to increase spending in these areas should be tempered by fiscal realities—the State faces a \$3.1 billion gap in fiscal year 2020 and a \$16.1 billion gap cumulatively through fiscal year 2022. A recession equivalent to the average of the last three recessions would reduce revenues dramatically and increase the gaps by almost \$44 billion over the three years.

In this uncertain economic and fiscal environment, the Governor should follow a three-pronged strategy that prepares for economic and fiscal setbacks, controls spending to maintain economic competitiveness, and addresses policy priorities in a fiscally responsible manner. This blog details those strategies and provides questions that allow New Yorkers to understand the Executive Budget.

Prepare for Economic and Fiscal Uncertainty

- **Build reserves:** The State has not made any deposits to its rainy day funds since fiscal year 2015; the funds have only has \$1.8 billion, less than 3 percent of general fund tax revenues. In contrast, California has amassed reserves of approximately [10 percent of state general fund tax revenues](#). Will the Governor add to reserves?
- **Do not use one-time revenues to fund recurring spending:** The current budget relies on one-time revenues from financial settlements (\$383 million) and \$500 million from the Fidelis conversion to fund operations.² Additionally the State received \$800 million in settlements after the fiscal year 2019 budget was adopted. Will the Fiscal Year 2020 Executive Budget [use these funds responsibly to build reserves](#) or exacerbate future deficits by using the funds for recurring expenses?
- **Be prepared for possible changes to the Affordable Care Act (ACA):** A recent federal court ruling invalidated the ACA. New York receives significant funding under the ACA, including for the Essential Plan program (\$5 billion), increased Medicaid eligibility (\$3.1 billion), tax credits to subsidize health insurance purchases (\$530

million), and legally residing immigrant health insurance (\$3.1 billion). How will the Governor address the potential loss of federal funds?

- **Build reserves and restrain spending rather than expand Executive Authority to manage uncertainty:** The Governor previously proposed language to allow the executive branch to transfer spending between purposes, institute uniform cuts to local aid, or make targeted cuts without legislative approval if revenues fall below budgeted levels. The Legislature rejected these proposals but granted authority to craft a plan to address significant revenue shortfalls that would go into effect absent alternative legislative action. Will the Governor again propose using fiscal or economic uncertainty as a reason to expand his authority?

Maintain Economic Competitiveness & Control Spending

- **Maintain responsible spending growth without using gimmicks:** The most recent update to the financial plan assumes \$2.7 billion in savings from keeping spending growth to 2 percent, which would reduce the fiscal year 2020 gap to \$402 million. State operating spending (SOS) remained below 2 percent in the early years of the Cuomo administration; however, in the last two years, restraint has loosened. Will the Governor keep spending growth to 2 percent or resort to [spending shifts and reclassifications of expense items](#) to make it appear the cap has been met?
- **Improve workforce productivity to keep agency spending flat:** Since Governor Cuomo came into office total spending on salaries and wages has been [largely flat](#) despite collectively bargained wage increases with employee unions. [Headcount is down](#) significantly compared to 2011. Will agencies continue to shed personnel and improve efficiency to accommodate raises in order to operate under flat appropriations?
- **Continue to adhere to, and expand, the Medicaid Global Cap:** [Medicaid cost growth has slowed](#) since the Medicaid Redesign Team was established. Will Medicaid costs continue to remain below the Medicaid cap, and will additional expenses be incorporated under the cap to further restrain spending growth?³
- **Increase transparency, focus, and effectiveness of economic development investments:** The State's [\\$4.8 billion](#) annual economic development incentives [lack transparency and have not produced desired results](#). Will the Executive Budget include long-needed [disclosure improvements and program redesign](#)? Will adjustments be made to the [Excelsior Program](#) to accommodate Amazon?
- **Improve State income tax competitiveness:** New York State is very reliant on taxpayers with incomes greater than \$1 million: they make up 0.6 percent of filers but comprise approximately 40 percent, or \$20 billion, of personal income tax receipts.⁴ Federal tax reform in 2017 capped the deductibility of state and local taxes (SALT), making the state a less competitive location for many high earners by [increasing their tax burden relative to low-tax jurisdictions](#).⁵ A personal income tax surcharge on millionaires is set to expire on January 1, 2020, which would drop the top marginal tax rate from 8.82 percent to 6.85 percent. Extending the tax would

provide more than \$1 billion in fiscal year 2020 and \$4.5 billion annually.⁶ While the Governor has stated that he wants to “maintain our millionaire’s tax,” he has also recognized the dangers of the federal tax law.⁷ Will the Governor propose lower top marginal tax rates to improve New York’s competitiveness? If the tax is extended, will the funds be used to prepare for uncertainty?

- **Apply sales tax fairly to online purchases:** Last year’s unsuccessful proposal to require third-party sellers to collect sales tax was estimated to yield \$159 million for the State and a similar amount for localities. Expanding to all sellers would garner considerably more revenue. With the Supreme Court ruling that states can require out-of-state online retailers to collect sales tax on sales in their states, will the Governor include legislation to level the playing field for brick and mortar retailers and capture this revenue?

Prudently Address Priority Policy Areas

- **Enact congestion pricing to support the MTA:** Last year, the State adopted new surcharges on taxis and for-hire vehicles and dedicated the revenues to the MTA. The Governor has expressed support for a full congestion pricing plan [in concert with reforming MTA management](#). Will the Executive Budget include a congestion pricing plan, and [will all of the revenue be dedicated to the MTA](#)?
- **Reallocate education aid to the highest need districts:** The current financial plan assumes school aid increases of 3.6 percent, or \$956 million. Advocates and the Board of Regents are recommending increases of more than twice that amount.⁸ CBC found the State can fund a sound, basic education with a 2 percent increase and by reallocating school aid to high-need districts. Will the Executive Budget restrain total growth in favor of [better targeting aid to districts that need it](#)?
- **Provide the New York City Housing Authority (NYCHA) with funding and design-build authorization:** Last year’s budget included \$450 million for NYCHA but made the funding contingent on appointment of an emergency manager who was never named pending resolution of a Federal consent decree. The State also authorized design-build procurement for projects utilizing the contingent funding. Will the Governor eliminate restrictions for the funding and design-build or increase the allocation of State appropriations or financing for NYCHA [to help address its \\$32 billion capital needs](#)?
- **Continue to transform the health care system:** The Governor has not heeded calls to increase access to health care by adopting a state single-payer health care plan. Such a change is [not currently feasible](#) because it would require federal approvals that are not forthcoming and significant fiscal and health care market shifts. Will the State pursue the New York Health Act or [more targeted measures](#) to improve access, reform the delivery system, and support the safety net? For example, will the budget include an individual mandate, a targeted public option health plan, a global geographic budget pilot, or [changes to the Disproportionate Share Hospital](#)

program so more funding goes to hospitals providing the most care to the uninsured and underinsured?⁹

- **Avoid over-estimating revenue from recreational marijuana:** The Governor has stated his support for legalized recreational marijuana. Will the Governor's Executive Budget proposal include speculative revenues from [marijuana sales or propose legalization and revenues under a more realistic timeframe](#)?
- **Responsibly address climate change:** The Governor promised a "Green New Deal" to make New York's electricity carbon neutral by 2040. For more than two years the Public Service Commission and New York Independent System Operator have been coordinating on a carbon tax proposal. Will the Executive Budget include a carbon tax proposal, and [will it apply across all sectors](#)?¹⁰

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Footnotes

1. Kevin Kelleher, "U.S. Economy Will Slow in 2019, May Enter Recession in 2020, Economists Forecast. Trump Administration Disagrees," *Fortune* (November 21, 2018), <http://fortune.com/2018/11/21/us-economy-slow-2019-recession-2020-economist-forecast>.
2. The nonprofit health insurance company Fidelis received State approval to be acquired by a for-profit health insurance company in the spring of 2018. In exchange Fidelis and its new parent company agreed to pay the State \$2 billion over the next five years. For additional information see: New York State Division of the Budget, *FY 2019 Mid-Year Update* (November 2018), p. 102, <https://www.budget.ny.gov/pubs/archive/fy19/enac/fy19myfp.pdf>.
3. The Medicaid Global Cap limits the annual growth rate of certain Medicaid expenditures to the 10-year average of medical inflation. If partway through the year spending subject to the cap is projected to exceed growth limits, the State Health Commissioner is empowered to reduce reimbursement rates or take other actions to reduce spending. As part of the fiscal year 2019 budget \$425 million in additional Medicaid spending was included under the cap.
4. New York State Division of the Budget, *FY 2019 Economic and Revenue Outlook* (January 2018), p. 171, <https://www.budget.ny.gov/pubs/archive/fy19/exec/fy19ero/economicRevenueOutlook.pdf>.
5. As a state with relatively high state and local taxes, imposing a \$10,000 cap on federal deductions of those taxes increased the net cost to New York's taxpayers. For example, a married couple living in New York City with \$10 million in income saw the net cost of their state and local taxes increase from \$631,913 to \$1,068,586. See: Andrew Rein, *Practical Policy in Challenging Circumstances: How NYS and NYC Should Respond to the Tax Cuts and Jobs Act* (March, 2018), <https://cbcny.org/research/practical-policy-challenging-circumstances>.
6. The fiscal year 2020 estimate reflects one-quarter of collections from January to March 2020. Fiscal year 2021 begins on April 1, 2020.
7. Andrew M. Cuomo, Governor, State of New York, "Governor Cuomo Unveils Agenda for First 100 Days - 2019 Justice Agenda" (speech given to the New York City Bar Association, New York City, December 17, 2018), <https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-unveils-agenda-first-100-days-2019-justice>.
8. New York State Department of Education, "Board of Regents Advances 2019 Budget and Legislative Priorities and State Aid Request for the 2019-2020 School Year" (press release, December 10, 2018), www.nysed.gov/news/2018/board-regents-advances-2019-budget-and-legislative-priorities-and-state-aid-request-2019.
9. Nick Reisman, "Cuomo: Single Payer On State Level Unlikely," *State of Politics Blog* (November 15, 2018), <http://www.nystateofpolitics.com/2018/11/cuomo-single-payer-on-state-level-unlikely>.



10. The State can impose a carbon tax on the electricity-generating sector through regulatory action of the Public Service Commission; however, imposing a tax on other sectors requires legislative action.