Planning and Financing New York State's Capital Investments

March 2014

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Executive Summary

Investment in capital assets – roads, bridges, water and sewer systems, school buildings and other infrastructure – is essential to New York's economy and its quality of life. A well-planned, effectively executed strategy for capital investment provides assurance that public resources are put to good use and that critical assets are maintained in good condition. Poor capital planning, on the other hand, may lead to the waste of taxpayer dollars and the deterioration of essential infrastructure.

From State Fiscal Year (SFY) 2004-05 through SFY 2013-14, New York State will have spent $81.7 billion – including tax dollars, federal aid, and long-term borrowing – to support its capital program.[1] An additional $9.6 billion in such expenditures is proposed for the upcoming fiscal year.[2] Given the scale and the importance of these investments, effective capital planning is critical.

In recent years, the State has taken important steps to improve its capital planning. Despite progress, however, further reforms are required to assure that New York is deploying its billions of dollars in annual capital investments as cost-effectively as possible. Without the appropriate assessment of capital assets and needs, there is an insufficient basis to judge whether the level and allocation of resources is adequate. The essential next steps are for the State to develop an accounting of its capital assets, comprehensively assess the condition of such assets, identify specific needs for investment over multiple years, and shape funding priorities to meet those needs.

While both the State and its local governments face pressing demands for essential investments in transportation, water and sewer systems, as well as a wide range of other projects, no comprehensive assessment of such needs – and their potential cost – is conducted and reported by the State. Identification of priority needs is especially critical in an environment of limited resources, and at a time when the future of federal assistance – a key source of support for transportation and other infrastructure – is uncertain.

From SFY 2009-10 through SFY 2013-14, the State will have relied more on debt to finance capital projects and less on currently available funds, or "pay-as-you-go expenditures" (PAYGO), compared to the preceding five-year period (SFY 2004-05 through SFY 2008-09). The proposed Five-Year Capital Program and Financing Plan (State Capital Plan) projects that the use of PAYGO as a percentage of total State

[1] All references to SFY 2013-14 spending in this report reflect estimates as provided in the SFY 2014-15 Executive Budget Financial Plan and Capital Plan.

[2] The Enacted Budget Five-Year Capital Program and Financing Plans from SFY 2000-01 through SFY 2013-14 were used to provide data regarding actual State capital spending for purposes of this report. The New York State SFY 2014-15 Five-Year Capital Program and Financing Plan was used for SFY 2013-14 estimates and SFY 2014-15 through SFY 2018-19 projections. Information regarding capital spending for State University of New York dormitories from SFY 2013-14 through SFY 2017-18 is from the Dormitory Authority of the State of New York. Unless otherwise noted, spending estimates in this report include spending for SUNY dormitories.

capital spending will be reduced further over the next five years. Funding essential capital investments requires the State to maintain a difficult balance, providing necessary resources while minimizing costs to taxpayers and project users. More comprehensive capital planning extending across a longer term will enable the State to strike such a balance more effectively.

This report, a follow-up to a November 2010 analysis by the Office of the State Comptroller, describes trends in the State's capital spending over the past decade, and projections for such expenditures in coming years. It examines issues including the importance of a comprehensive assessment of capital assets and needs, and the current lack of integration and coordination between planning and financing, while offering recommendations for reform. Major findings include:

- From SFY 2004-05 through SFY 2013-14, capital spending will have increased 6.3 percent on an average annual basis, compared to an average annual increase of 3.6 percent over the same period in spending from other governmental funds (the General Fund, special revenue and debt service funds).[3] Capital spending grew especially rapidly from SFY 2004-05 through SFY 2008-09, when average annual capital spending growth reached 12.7 percent – almost triple the average annual growth of spending from other funds.

- The State now is slowing the pace of its capital investments, both in absolute dollars and relative to other expenditures. Such spending is projected to decline by an annual average of 1.1 percent from SFY 2014-15 through SFY 2018-19, while spending from other governmental funds is projected to increase by an average of 3.5 percent annually during the same period.[4] Whatever the pace of growth in capital spending, it is difficult to assess the adequacy of such investments without a thorough, accurate inventory of asset conditions and a clear identification of needs and priorities.

- The New York Works Task Force released its first Ten-Year State of New York Statewide Capital Plan (New York Works Plan) on June 6, 2013. This document provides for a ten-year capital planning timeframe, and expands the scope of capital planning by including a number of State public authorities, thus providing a broader, better coordinated picture of planned capital spending. Further steps to improve the New York Works Plan should include additional information about financing, project details, existing assets, and

[3] All references to SFY 2013-14 spending in this report reflect estimates as provided in the SFY 2014-15 Executive Budget Financial Plan and Capital Plan.
[4] Spending figures for SFY 2014-15 through SFY 2017-18 are from the SFY 2014-15 Executive Budget Financial Plan. Spending figures for SFY 2018-19 are estimated based on the average annual growth of the previous five years, as provided in the Executive Budget Financial Plan. Note that the Executive has indicated an intention to hold growth in spending from State Operating funds to 2 percent annually. However, this adjustment is not reflected in the more detailed spending figures, but instead is shown as an overall deduction in summary Financial Plan tables.

potential financing arrangements, including the potential use of private resources and public-private partnerships (P3s).

- The advent of P3s could provide the State with new options for planning, financing and building infrastructure, but this flexibility should not come at the expense of cost-effectiveness, transparency and accountability. It is critical that tax dollars, fees, tolls and other public resources be used in the most economic, efficient and accountable way possible.

- The SFY 2014-15 proposed State Capital Plan indicates planned out-year spending of $1.2 billion for undefined “Core Capital Projects,” to be financed with State-Supported authority bonds. However, no appropriations or bond financing plans have been proposed or authorized for this purpose, and no details regarding the purpose of the spending have been provided.

- Financing for capital purposes has increasingly come from bonds, especially from bonds issued by public authorities. The proportion of capital spending financed with authority bonds will have increased to 50.8 percent over the last five years through SFY 2013-14, compared to 47.9 percent from SFY 2004-05 through SFY 2008-09.

- The State continues to experience limited debt capacity as measured by the statutory cap on debt outstanding established in the Debt Reform Act of 2000. Despite this, more than 60 percent of the $47.6 billion projected to be spent on capital purposes over the next five years is expected to be funded through the issuance of bonds.[5]

- As a result of increasing its debt and underutilizing cash financing during its years of surplus, the State has created a greater-than-necessary debt service burden. The level of PAYGO financing should be determined as part of the State’s larger financial picture, both current and future, to keep debt levels manageable and allow use of debt as a fiscal stabilizing tool when it is most needed.

- Maintaining or increasing capital spending during economic downturns may be desirable because public construction costs often decline in such time periods. In addition, capital expenditures at such times help support much needed economic activity during periods of recession or stagnation.

Recommendations

Given the limited availability of resources, it is critical that the State make further progress to prioritize its capital needs more effectively and spend its capital dollars more efficiently. The first essential step is to inventory all State capital assets and

[5] This includes planned capital spending for SUNY dormitories.

establish an ongoing assessment of such assets and related needs, along with uniform criteria to assess proposed new capital initiatives. Additional reforms, detailed in the concluding section of this report, should include:

- Ending off-budget capital spending.
- Enhancing reporting by agencies, including prioritizing existing capital needs.
- Expanding the State's capital planning process to include State and local public authorities, as well as local governments with primarily State-funded assets.
- Demonstrating a connection between funding and infrastructure improvements, to clarify what projects will receive resources and how such funding will improve asset condition.
- Integrating Legislative capital budget changes within the State Capital Plan.
- Ensuring that any legislation authorizing P3s guards against financial risks, and reflects proper valuation of public assets, reasonable pricing, realistic expectations, and responsible budgeting.

Note: On February 24, 2014, the Division of the Budget released revisions to the SFY 2014-15 Financial Plan to reflect changes made in the 21-day and 30-day amendments. These changes do not appear to materially affect the SFY 2014-15 Capital Plan.

Overview of New York State's Capital Planning and Maintenance Process

Preservation of the State's capital assets and infrastructure (including land, buildings, equipment, roads, bridges and dams) is crucially important to the economic future of the State. Aging, weak or inadequate infrastructure can place citizens' safety at risk, compromise communities' quality of life, jeopardize the State's capital investments and undermine the ability of the State to attract and retain jobs and maintain a viable tax base.

Preserving and enhancing such assets requires effective capital asset planning, including:

- Maintaining consistent and updated information on the condition of all capital assets.
- Establishing formal policies on asset maintenance, replacement cycles and future capital needs.
- Instituting policies on prioritization, funding and affordability that are based on appropriate analyses of needs and the State's resources.

These components should be integrated to provide the foundation for both an annually updated multiyear capital plan and a long-term strategic capital plan. Under current law, the Executive includes a State Capital Plan with the Executive Budget proposal.[6] The State Capital Plan, which is updated annually by the Division of the Budget (DOB), is required to include a comprehensive assessment of the capital assets and program needs of all State agencies and an analysis identifying how such requirements would be financed. The State Capital Plan must also include a summary of maintenance activities that are anticipated to be undertaken and a summary of scheduled maintenance requirements.

Despite some progress, the planning and financing of capital needs by the State's agencies and authorities is not fully integrated or coordinated. Improvements are still needed to establish a better connection between State capital planning and the amount of available funding. Furthermore, the State Capital Plan lacks sufficient detail to determine how the levels of financing being proposed will affect the State's current capital asset condition, or whether the most critical projects are being given priority.

[6] See § 22-c, State Finance Law. The Law requires the Executive to submit the State Capital Plan concurrent with the Executive Budget and to submit an update of the State Capital Plan by the later of July 30 or 90 days after the enactment by the Legislature of all budget bills that constitute the budget. Section 23 of the State Finance Law states that "[n]ot later than thirty days after the legislature has completed action on the budget bills submitted by the governor and the period for the governor's review has elapsed, the governor shall cause to be submitted to the legislature the revisions to the financial plans and the capital plan required by subdivisions one, two, four and five of section twenty-two of this article as are necessary to account for all enactments affecting the financial plans and the capital plan."

The State's capital planning process has been hindered by inadequate information on existing assets and needs, which frustrates efforts by policy makers to prioritize projects effectively. Current statutory requirements include no provision for coordinated, comprehensive long-term strategic planning with a 20-year horizon, which would help the State assess its risks, needs and opportunities more effectively.

In New York State, each State agency is required annually to prepare a five-year assessment of its capital asset and maintenance needs, which is incorporated into the State Capital Plan.[7] However, five years – the plan period required by statutory changes enacted more than 20 years ago – is not an adequate planning window for assets with significantly longer useful lives such as bridges, roads and buildings. Inconsistencies in capital planning policies and practices across State agencies may undermine the State Capital Plan's usefulness. Beneficial steps could include establishment of standardized approaches for agencies to assess the condition of their capital assets, consistent policies or guidelines in developing agencies' annual assessments, and consistent standards that define and identify how to achieve a state of good repair. Clear reporting on how the proposed Capital Budget and any legislative changes will affect capital asset conditions would also be helpful.

The State Capital Plan provides a broad overview of capital spending that is enacted in the State Budget, financing sources that flow through the State's accounting system, and spending by public authorities that occurs directly from State-Supported bond proceeds. The Capital Plan, and to a lesser extent the Financial Plan,[8] provide some detail on how funds are spent to meet the State's capital needs. Historically, neither document has provided comprehensive information on existing assets, maintenance needs, planned replacements or expansion, financing decisions or prioritization strategies. Indeed, the State Capital Plan provides little information on the State's capital assets, or on how the proposed or enacted State Capital Plan would affect those assets.

Capital assets, when purchased or built, have an expected useful life that can be reasonably reached if all routine maintenance and needed repairs are performed. The State can avoid more costly repairs, early replacement of assets, and associated adverse financial impacts – along with potential safety risks – when capital assets are maintained in a state of good repair. However, the State does not have comprehensive standards to guide a determination of the state of repair for all New York's capital assets. The State must ensure that all capital assets are properly maintained and that formal capital asset replacement cycles have been adopted. There is currently no public reporting of the assets the State already has, nor of what measures are necessary to maximize their useful lives.

Recognizing the inadequacy of current information on its assets, the State is starting to take action to leverage its new Statewide Financial System to create a

[7] State Finance Law § 14-b.
[8] State Finance Law § 22.

comprehensive inventory of its assets over a multiyear period. Such a step will be one welcome addition to New York's knowledge base regarding its capital assets.

To promote effective forecasting of capital maintenance needs and to establish goals that are related to State assets, legislation was enacted in 1992 requiring the development of a comprehensive Capital Planning and Maintenance System for all capital assets under the jurisdiction of State agencies. This law required separate appropriations for each agency's capital maintenance activities.[9] However, provisions related to separate appropriations have never been fully implemented, and moneys for maintenance are often included along with moneys budgeted for other capital appropriations, such as new construction. The failure to identify this information separately makes it impossible to know exactly how much will be spent by individual agencies on maintenance, or how maintenance will be financed.

Over the past several years, the State has made various changes to its capital planning and financing. These include the creation of the New York Works Task Force and the ten Regional Economic Development Councils, the release of a ten-year New York Works Capital Plan, and the enactment of legislation authorizing design/build capital project management for certain State agencies and public authorities. In addition, consideration has been given to the use of P3s, which are accompanied by their own set of risks and challenges, in New York State.

Various factors drive these policy changes. These include the State's need to continually invest in its capital asset and infrastructure base, coupled with scarce resources and limited statutory debt capacity.[10] While changes such as the introduction of a ten-year capital planning window serve to strengthen the State's capital and financing, additional reforms are needed to make the process as unified, efficient and affordable as possible.

[9] Section 27 of the State Finance Law requires that each fiscal year, the budget submitted by the Executive shall contain separate and distinct appropriations, which may be lump sum appropriations, for scheduled maintenance activities.

[10] The Debt Reform Act of 2000 established a definition for State-Supported debt and imposed statutory limitations on such debt. The law: caps the level of debt outstanding for debt issued after April 1, 2000 at 4.0 percent of Personal Income; caps debt service on new debt issued after April 1, 2000 at 5.0 percent of All Funds receipts; and provides that State-Supported debt issued after April 1, 2000 can only be used for capital works or purposes, and cannot have a maturity longer than 30 years.

New York Works

The State's capital planning process was expanded with the creation of "New York Works" and the New York Works Task Force in 2012. New York Works is a broadly defined program that is intended to create jobs and stimulate the economy in part by better aligning capital planning with the State's economic development efforts.

The SFY 2012-13 Enacted State Budget included a new provision related to infrastructure investment which, in part, created the New York Works Task Force (members were appointed by the Executive and Legislative leaders on May 3, 2012). The role of the Task Force is to "advise on coordinating the capital plans of New York state agencies and authorities, including leveraging and accelerating funding streams and financing mechanisms to enhance infrastructure investment throughout New York state."[11] The new infrastructure investment provision also requires the Task Force to:

- Develop a coordinated capital infrastructure plan among State agencies and authorities focusing on the efficient and accelerated deployment of resources to meet regional and statewide infrastructure needs.
- Recommend prioritization of and financing options for capital infrastructure projects and the allocation of capital resources.
- Make recommendations regarding State actions necessary to advance priority infrastructure projects.
- Advise State agencies and authorities on the use of procurement and contracting methods.[12]

New York Works Plan

The SFY 2013-14 proposed State Capital Plan submitted with the SFY 2013-14 Executive Budget included an overview of a new ten-year capital planning initiative through the New York Works Task Force. The overview incorporated the proposed State Capital Plan as well as projected disbursements for SFY 2013-14 by State public authorities for capital projects that occur outside of the State's budget process.

On June 6, 2013, the Task Force released the New York Works Plan covering SFY 2013-14 through SFY 2022-23, representing the first attempt in recent history at long-term capital planning in the State. The Task Force's stated intention with the New York Works Plan is to provide "a strategic, forward-looking plan designed to break down the old 'silo-based' approach to capital investment, better leverage existing investment dollars and grow the State's economy." Establishing better coordination among State agencies and authorities, standardizing the State's approach to planning, and providing for a longer range planning horizon are each intended to improve the planning process.

[11] State Finance Law, Article 5-E, as added by Part HH of Chapter 58 of the Laws of 2012.
[12] Ibid.

The New York Works Plan includes projected capital spending and financing from 47 State agencies and public authorities.[13] Spending over ten years is projected to total over $174 billion, averaging $17.4 billion annually. Annual spending is projected to decline from $20.1 billion in SFY 2013-14 to $16.2 billion in SFY 2018-19, then rise to $18.2 billion in SFY 2022-23. Figure 1 illustrates annual projected spending from the New York Works Plan, which incorporates the broader State Capital Plan.[14]

Figure 1

New York Works Plan - Projected Capital Spending

(in thousands of dollars)

FYE	New York Works Plan
2014	20,064,816
2015	16,810,809
2016	17,827,862
2017	16,445,007
2018	16,429,934
2019	16,201,563
2020	16,411,764
2021	17,883,362
2022	18,131,052
2023	18,187,092
Total	**174,393,261**

Source: New York Works Task Force

For reasons not made clear in the documentation, certain major capital projects and related financing sources are not incorporated into the New York Works Plan. These include the Tappan Zee Bridge replacement as well as spending associated with various repairs and upgrades as a result of Superstorm Sandy. Such projections are also not included in the State Capital Plan.[15]

[13] Public authorities are created pursuant to State law. While most New York State public authorities are entities of the State alone, they also include the Buffalo and Fort Erie Public Bridge Authority, the Thousand Islands Bridge Authority and the Port Authority of New York and New Jersey, each of which are interstate or international public benefit corporations and jointly established by both the State and entities external to New York State.

[14] The New York Works Plan was released in June 2013 and has not yet been updated. Spending estimates from the SFY 2013-14 Enacted Budget State Capital Plan are incorporated in the broader New York Works Plan shown above. These estimates have been subsequently updated with the Executive's proposed SFY 2014-15 State Capital Plan.

[15] The SFY 2013-14 Enacted Budget included a $450 million appropriation for the Division of Homeland Security and Emergency Services for Superstorm Sandy-related costs that could be reimbursed with federal funds when available. This appropriation was also intended to be used to finance the $23.4 million in storm-related costs that

The New York Works Plan has lengthened New York's planning timeframe from five years to ten, and expanded the scope of comprehensive capital planning in the State by including a number of statewide public authorities, thus providing a broader picture of planned capital spending. While the New York Works Plan is a positive step toward longer term planning, as well as improved coordination and planning for maintenance and new initiatives, it lacks detail on existing assets and financing arrangements, including the potential use of private resources and public-private partnerships.

The New York Works Plan does not provide the same level of detail as the statutorily required State Capital Plan, nor does it provide annual spending totals for the State, annual spending totals by financing category or projected spending by appropriation. For example, the State Capital Plan covers capital spending included in the Financial Plan as well as spending from public authorities that occurs directly from State-Supported bond proceeds (commonly referred to as "off-budget" capital spending) over the next five years.

The State Capital Plan also includes projected spending over the life of the Plan by appropriation, using a unique identifier provided to each capital appropriation passed in the Enacted Budget (not all off-budget spending is appropriated even though it may be funded with State-Supported debt and included as part of the State Capital Plan).

In comparison, the New York Works Plan provides a high-level summary of projected investment commitments by sector (transportation, environment, education, etc.) and by capital plan category (e.g., state of good repair, capacity optimization, transformational initiatives, uncategorized). The source of funding (bond financing, federal pay-as-you-go, State pay-as-you-go, authority pay-as-you-go, etc.) is also provided for each entity within each sector. This information is helpful to State policy makers and the public with respect to the projected level of spending over time, but leaves questions about how the level of investment relates to the inventory and condition of assets.

The New York Works Plan indicates that capital investment criteria were developed and an investment process, including measures to review performance, was adopted.[16] However, this information is not included in the New York Works Plan. The New York Works Plan also does not include details regarding infrastructure assessment; ideally, such detail would support the recommended allocation of resources.

As a result, it is difficult to discern the current condition of the State's capital assets and to assess how the overall condition of these assets will change as a result of the

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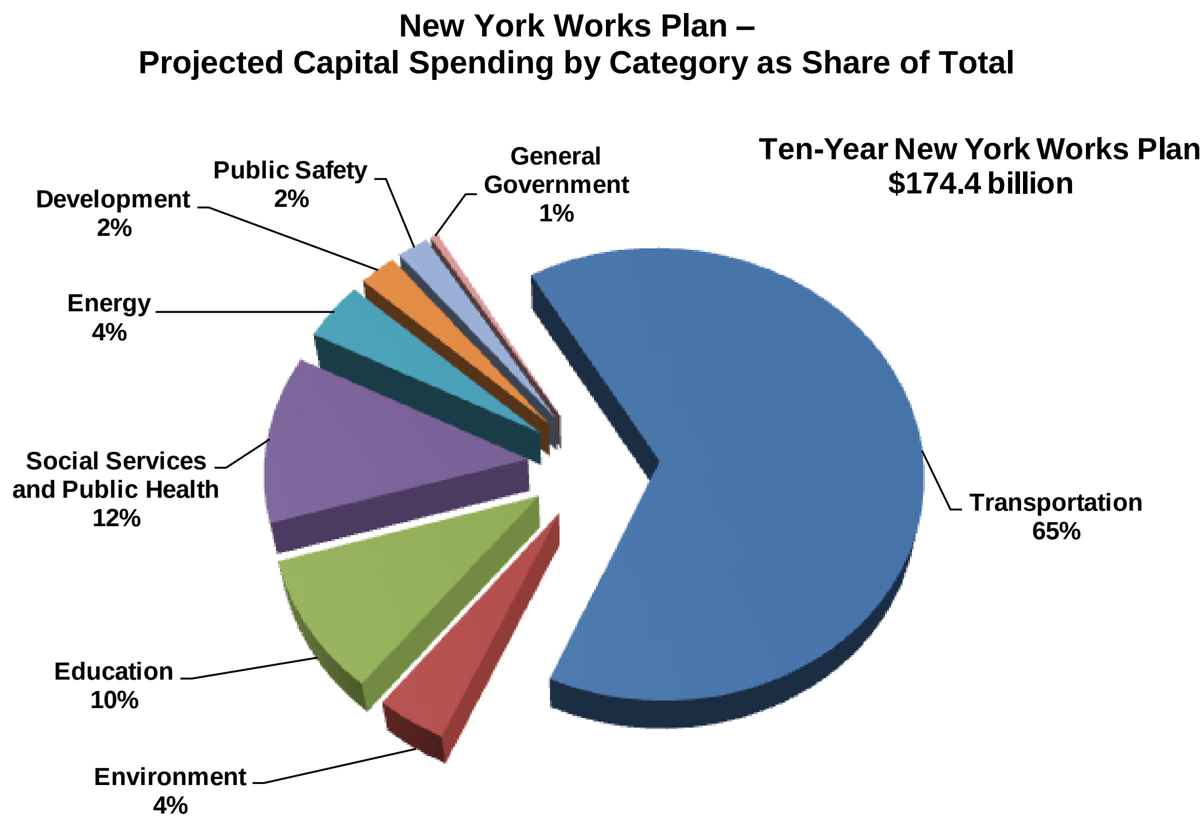
the Executive expected would not be reimbursed. The $450 million is reappropriated in the SFY 2014-15 Executive Budget.

[16] State of New York Statewide Capital Plan, May 2013, p. 5.

recommended investment of capital resources. Figure 2 illustrates total projected spending by sector in the New York Works Plan.

Figure 2



Sources: New York Works Task Force

The New York Works Plan provides a high-level overview of what the New York Works Task Force considers "State" capital spending. For instance, this Plan projects that spending in the "transportation" category will total $113.4 billion over the 10-year period from SFY 2013-14 through SFY 2022-23, reflecting approximately 65 percent of the total projected capital spending of $174.4 billion. This includes expenditures by 13 public authorities (including the Port Authority of New York and New Jersey), the Department of Transportation and the Department of Motor Vehicles.[17] Much of the spending covered is financed with revenues generated by public authorities, such as Thruway tolls or bus fares. The Plan does not specify which kinds of authority expenditures are associated with "State" capital investments.

[17] The Department of Motor Vehicles does not have capital projects, although a portion of its operating expenses are funded from Capital Projects appropriations through the Dedicated Highway and Bridge Trust Fund.

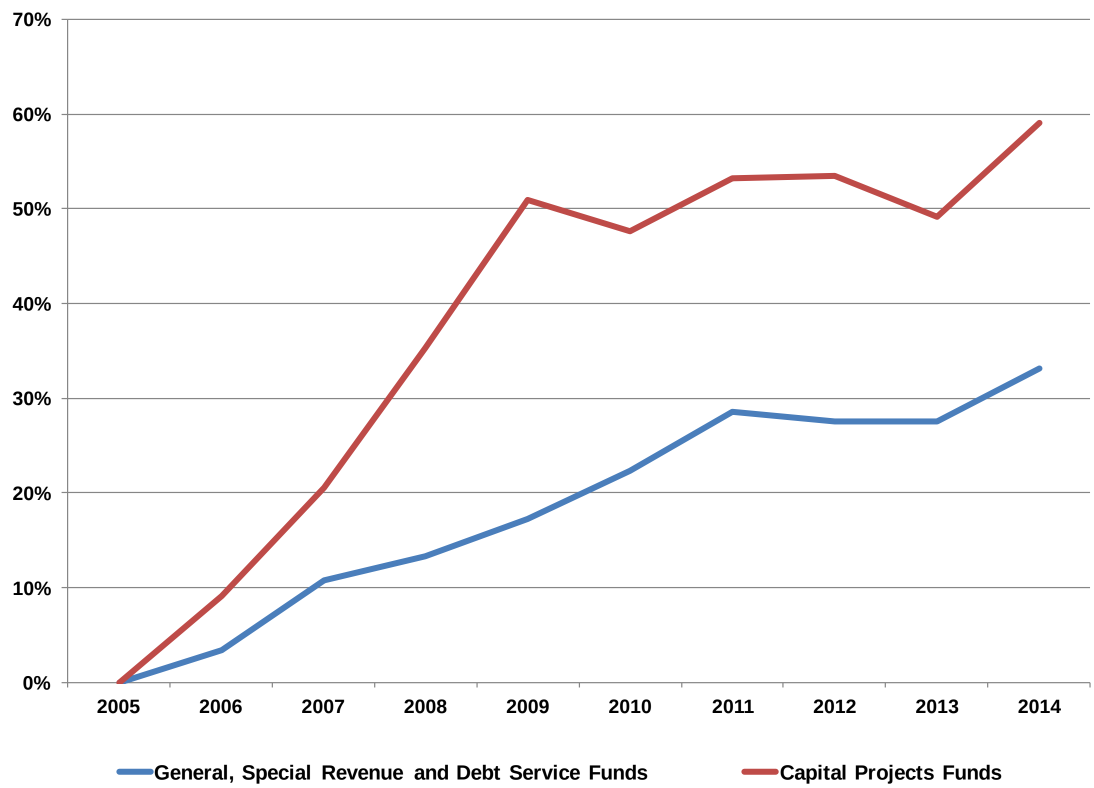
State Capital Plan – Actual and Projected Spending

SFY 2004-05 through SFY 2013-14[18]

For the ten-year period from SFY 2004-05 through SFY 2013-14, New York State's capital spending will have increased by 73.7 percent, representing an average annual increase of 6.3 percent. In comparison, as illustrated in Figure 3, spending from other governmental funds (the General Fund, special revenue and debt service funds) will have increased a total of $36.2 billion, or 38.1 percent, in the same period, representing an annual average increase of 3.6 percent. Figure 3 also illustrates that capital spending grew significantly faster from SFY 2004-05 through SFY 2008-09, during which time average annual growth reached 12.7 percent for capital spending – almost triple the average annual growth of spending from other funds. Growth in capital spending during that period was primarily driven by transportation spending.

Figure 3

Cumulative Spending Growth from All Governmental Funds –
Capital Funds Compared to General, Special Revenue and Debt Service Funds



Source: Division of the Budget

[18] All references to SFY 2013-14 spending in this report reflect estimates as provided in the SFY 2014-15 Executive Budget Financial Plan and Capital Plan.

For the five-year period from SFY 2009-10 through SFY 2013-14, New York will have spent $46.1 billion for capital purposes, including new assets as well as replacement and maintenance of existing capital assets, accounting for approximately 6.9 percent of All Funds spending on average annually. This represents an increase of just under $10.4 billion, or 29.6 percent, in spending compared to the previous five-year period from SFY 2004-05 through SFY 2008-09.[19]

Of this $46.1 billion total, $7.7 billion is considered off-budget spending including spending for SUNY dormitories that, until SFY 2013-14, was counted as off-budget spending but is now no longer counted in that total.[20] After a period of sustained growth, capital spending declined slightly in SFY 2009-10, as shown in Figure 3. A modest uptick in the next two years was followed by another decrease in SFY 2012-13. Spending in SFY 2013-14 is projected to increase 9.9 percent from SFY 2012-13, with more than half the growth due to spending on transportation and higher education purposes.

From SFY 2004-05 through SFY 2008-09, the State spent $35.6 billion on capital purposes, representing average annual spending of approximately 6.4 percent of All Funds spending. Of the $35.6 billion, 52.9 percent was spent on transportation projects (over $18.8 billion), with the next largest share being used for higher education purposes. Over the next five-year period from SFY 2009-10 through SFY 2013-14, the share of capital spending for transportation will have declined to 48.1 percent. During the same two periods, the overall share of capital spending for higher education will have increased from 11.9 percent to 20.6 percent, and for economic development from 6.3 percent to 8.3 percent.

The SFY 2013-14 Enacted Budget included $465 million in new appropriations for various transportation, environmental conservation, parks and recreation, and economic development projects for New York Works. In SFY 2013-14, an estimated $51.1 million will have been spent from these appropriations.

[19] Capital spending referenced throughout this report includes “off-budget” spending. These are expenditures for State purposes that are not reported in total spending figures in cash budgeting or accounting documents, including the State’s Financial Plan. Such spending is related to certain programs that are funded by public authorities directly with bond proceeds. “All Funds” spending does not include off-budget capital spending.

[20] The SFY 2013-14 Enacted State Budget included the adoption of a new mechanism to finance SUNY dormitory projects. The measure provided that SUNY dormitory debt service costs would no longer be paid through a State appropriation. Instead, the Dormitory Authority of the State of New York (DASNY) would issue bonds under a new credit backed solely by dorm fees, with no State appropriations required. This measure takes debt service spending for SUNY dormitories off-budget and allows new debt to be excluded from the State’s statutory debt caps, raising questions as to the effectiveness of the existing debt limits. Furthermore, capital spending for SUNY dorms, formerly counted as off-budget spending in the State Capital Plan, will be removed entirely from the Plan. Removal of the debt service and off-budget capital spending from the Financial Plan and State Capital Plan, respectively, has the effect of showing lower growth for debt service and capital projects spending. With the exception of Figure 1, the projections contained in this Report adjust spending to include debt service and spending for SUNY dorms.

SFY 2014-15 through SFY 2018-19

The SFY 2014-15 proposed State Capital Plan includes $510 million in new New York Works-related appropriations, and the proposed Capital Plan indicates plans to disburse $3.2 billion over the next five years for New York Works (which would require additional appropriation authority in subsequent budgets).

The SFY 2014-15 proposed State Capital Plan includes additional out-year spending totaling $1.2 billion for “Core Capital Projects.” Little additional information on such projects is available. The Plan indicates that such spending will be financed through the issuance of bonds and is included in projections for State-Supported debt outstanding, meaning that this is also included in projections of the State’s debt capacity. However, no appropriations or bond financings have been proposed or authorized for this purpose.

The SFY 2014-15 Executive Budget proposes increased bonding authorization totaling approximately $6.9 billion, including a $2 billion Smart Schools Bond Act that will require voter approval. The Bond Act would provide voters with the opportunity to have input on major borrowing decisions that will affect them financially.

While the Executive Budget includes a proposal for new voter-approved debt, the growth in debt and debt service anticipated from the Executive Budget is almost entirely due to the use of public authority debt, both on-budget and off-budget. Statutory debt capacity remains limited in the mid-years of the proposed State Capital Plan, but is projected to begin to increase in the out-years.

The SFY 2014-15 proposed State Capital Plan projects that annual capital spending will increase from $9.4 billion in SFY 2014-15 to $10.3 billion in SFY 2015-16, and then decline to $9.2 billion in SFY 2018-19, totaling $46.8 billion over five years. However, after adjusting these figures to include an additional $781 million over five years for SUNY dormitories, the total increases to $47.6 billion, representing an increase of $1.6 billion from spending that will have occurred over the previous five-year period through SFY 2013-14.

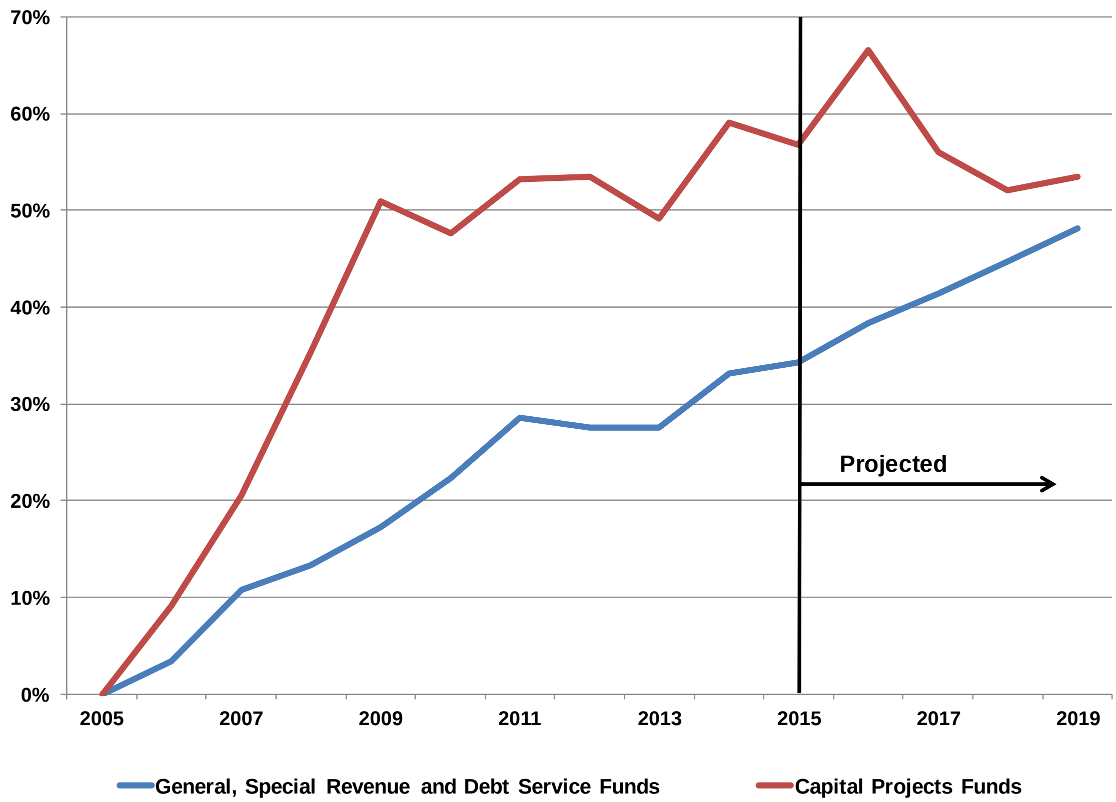
Of this $47.6 billion total, $5.0 billion (including spending for SUNY dormitories) is considered off-budget spending. This reflects a decline of $2.6 billion, or 34 percent, over the previous five-year period through SFY 2013-14. The decline in off-budget capital spending largely reflects the SFY 2014-15 Executive Budget proposal to move the Consolidated Highway Improvement Program and the Marchiselli Program “on-budget” so that such capital spending will be counted within the Financial Plan.

As shown in Figure 4, the State is now slowing the pace of its capital investments. Such spending is projected to decline by an annual average of 1.1 percent from SFY

2014-15 through SFY 2018-19, while spending from other governmental funds is projected to increase by an annual average of 3.5 percent during the same period.[21]

Figure 4

Cumulative Spending Growth from All Governmental Funds – Capital Funds Compared to General, Special Revenue and Debt Service Funds



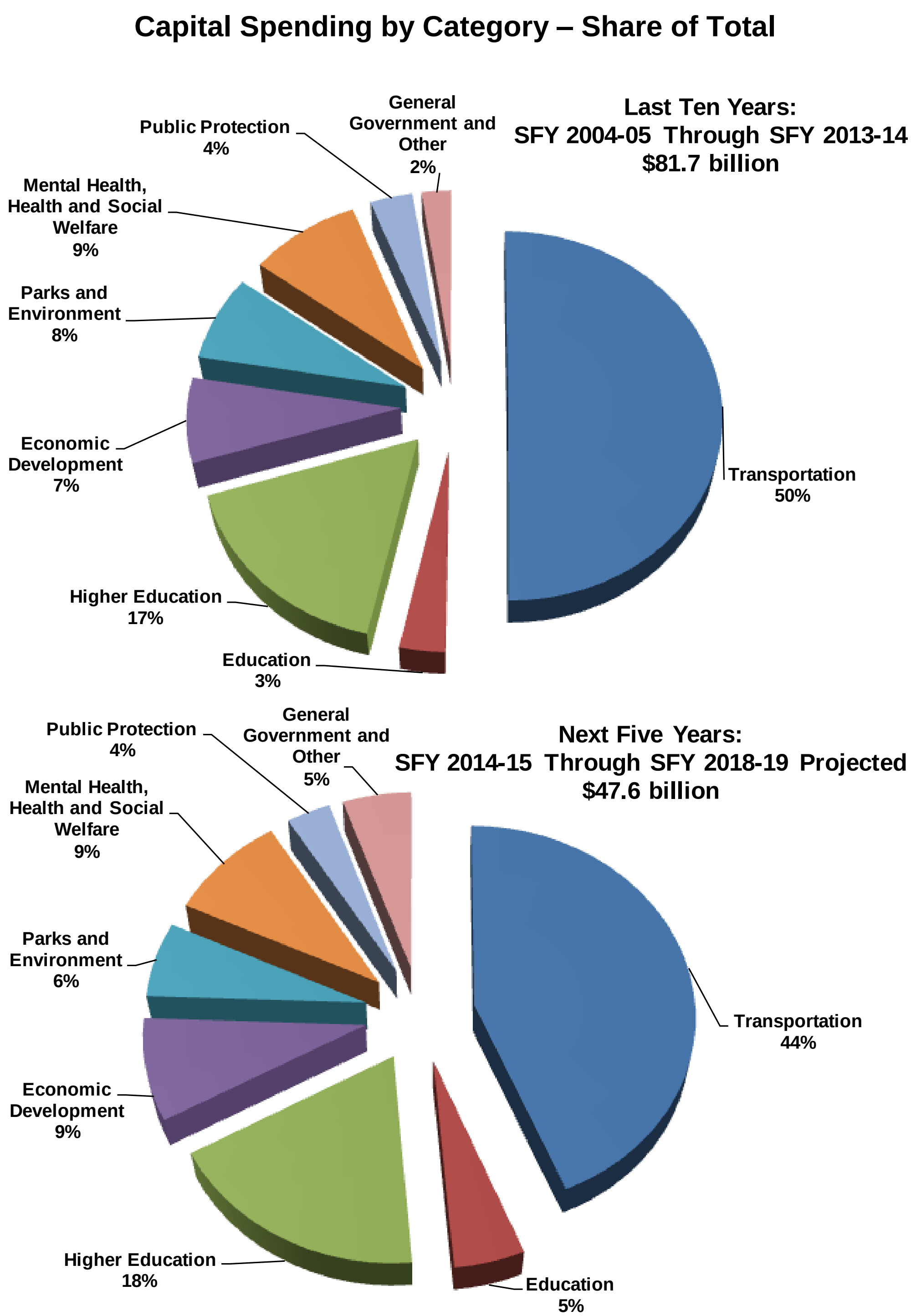
Source: Division of the Budget

Figure 5 illustrates the share of total projected spending by category for the five-year period from SFY 2014-15 through SFY 2018-19 compared to the previous 10 years. The General Government/Other category includes $1.2 billion in spending not yet approved by the Legislature (identified in the plan as Core Capital Investments) and another $358.4 million for the State and Municipal Facilities program added in the SFY 2013-14 Enacted Budget.

[21] Spending figures for SFY 2014-15 through SFY 2017-18 are from the SFY 2014-15 Executive Budget Financial Plan. Spending figures for SFY 2018-19 are estimated based on the average annual growth of the previous five years, as provided in the Executive Budget Financial Plan. Note that the Executive has indicated an intention to hold growth in spending from State Operating funds to 2 percent annually. However, this adjustment is not reflected in the more detailed spending figures, but instead is shown as an overall deduction in summary Financial Plan tables.

Although Transportation comprises the largest share of total projected spending over the next five years, its 44 percent share represents a decline from the estimated annual average of 50 percent over the last 10 years.

Figure 5



Sources: NYS Division of the Budget

Funding for the State Capital Plan

Capital spending generally supports an asset (such as a bridge or building) with a multiyear or multi-decade useful life, meaning it provides a benefit over an extended period of time. For this reason, funding for capital spending is often financed using long-term debt.

Four major sources of funds support New York's capital spending: voter-approved General Obligation bonds; non-voter-approved bonds issued on behalf of the State by public authorities (commonly referred to as backdoor borrowing); State-sourced current resources (cash), otherwise referred to as pay-as-you-go (State PAYGO); and federally sourced current resources (Federal PAYGO). The mix of financing sources can fluctuate dramatically depending on economic conditions and budgetary priorities.

New York's use of current resources to finance capital projects has varied greatly throughout its recent history, ranging from over 54.1 percent of its capital program in 1985 to a low of only 10.2 percent in 1991. For the recent ten-year period from SFY 2004-05 through SFY 2013-14, on average, the State will have used cash (including federal resources) for 24 percent of its capital program.

SFY 2004-05 through SFY 2013-14[22]

In recent years, financing for capital purposes has increasingly come from borrowing, especially from bonds issued by public authorities. For the five-year period from SFY 2004-05 through SFY 2008-09, 47.9 percent of the $35.6 billion in capital spending was financed with bonds issued on behalf of the State by public authorities. That proportion will have increased to 50.8 percent of the $46.1 billion in capital spending over the last five years, through SFY 2013-14.

While spending financed with authority bonds will have increased as a percentage of the whole between the two periods, spending financed with voter-approved General Obligation bonds will also have increased from 3.1 percent from SFY 2004-05 through SFY 2008-09 to 4.7 percent from SFY 2008-09 through SFY 2013-14. This primarily reflects the $2.9 billion Rebuild and Renew Transportation Bond Act of 2005.

Both Federal PAYGO and State PAYGO financing will have declined as shares of total capital spending from the first five-year period to the second – Federal PAYGO from 24.9 to 20.9 percent, and State PAYGO from 24.1 to 23.6 percent of the total.

[22] All references to SFY 2013-14 spending in this report reflect estimates as provided in the SFY 2014-15 Executive Budget Financial Plan and Capital Plan.

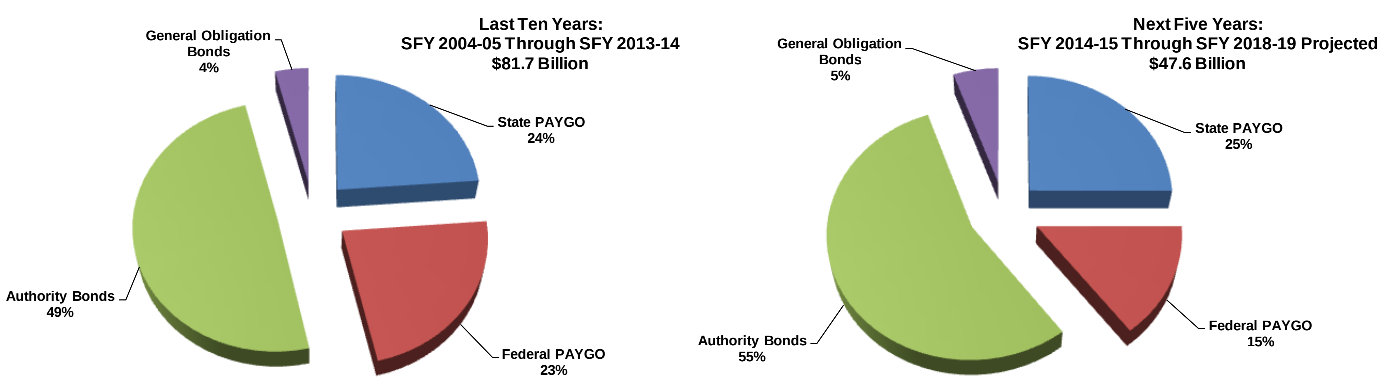
SFY 2014-15 through SFY 2018-19

According to the SFY 2014-15 proposed State Capital Plan, the State continues to operate with limited debt capacity as measured by the cap on State-Supported debt outstanding established in the Debt Reform Act of 2000. Despite this, more than 60 percent of the $47.6 billion SFY 2014-15 proposed State Capital Plan, when adjusted to include planned spending of $781 million for SUNY dormitories, is expected to be funded with the issuance of bonds.

As shown in Figure 6, the share of capital spending financed with Federal PAYGO and General Obligation bonds is projected to decline from approximately 27 percent over the last decade to approximately 20 percent over the next five years, while the share of capital spending to be financed with authority bonds is projected to increase from 50 percent to 55 percent.

Figure 6

State Capital Plan Spending by Financing Category – Share of Total
(figures rounded to percentages)



Source: NYS Division of the Budget

As a result of increasing its debt and underutilizing cash financing during its years of surplus, the State has created a greater-than-necessary debt service burden. While there is no established standard for the level of PAYGO financing, PAYGO levels should be determined as part of the larger budgetary picture, both current and future. Debt can appropriately be used to support capital investment activity across business cycles.

Maintaining infrastructure and other capital projects is by definition a continuing process, best addressed from a multiyear perspective. During downturns in the economy when revenue collections fall, the State's responsibility to continue essential infrastructure investments remains in place along with other spending priorities. A focus on capital spending during economic downturns may be desirable for two reasons. First, public construction costs often decline in response to economic recession or stagnation, as evidenced by indicators such as the National Highway Construction Cost Index published by the Federal Highway Administration. When costs are lower, a given level of governmental expenditure results in additional work accomplished, all other factors being equal. (As the economy improves, additional revenues can and should be used to pay down debt and/or increase PAYGO financing.) In addition, capital expenditures help support business activity and good-paying jobs that are especially needed when the economy is less strong.

Consideration of Public-Private Partnerships

In the last few years, the State has considered several new approaches to contracting for public works. In 2011, legislation authorizing the use of design/build contracts was approved as part of the Infrastructure Investment Act. This Act authorized the New York State Thruway Authority, the New York State Bridge Authority, the Department of Transportation, the Office of Parks, Recreation and Historic Preservation and the Department of Environmental Conservation to use design-build contracts and alternative methods of procurement, including "best value," "cost plus," and "lump sum" awards for construction contracts, as well as incentive clauses, for certain infrastructure projects.

The SFY 2013-14 Executive Budget proposal included provisions to allow private financing for public works, expanding on the 2011 legislation. Although these provisions were not included in the Enacted Budget, discussions continue with respect to the efforts by the New York Works Task Force to identify alternative financing mechanisms for State capital projects.

The SFY 2014-15 Executive Budget originally proposed to eliminate the sunset on the Infrastructure Investment Act provisions enacted in 2011, and proposed to extend the authorization to use design-build and alternative methods of procurement for certain projects to all counties, and to cities, towns and villages with populations greater than 50,000. The proposed expansion of the authorization to local governments was removed in the 30-day amendments. The amendments also revised the provision related to the existing sunset of such provisions; rather than being eliminated, the sunset would be extended to December 9, 2017. The amendments also include a requirement that Project Labor Agreements (PLAs) be included in the Requests For Proposals for capital projects that use design-build contracts and are estimated to cost in excess of $10 million. However, the amendments also provide an exemption if the State entity can determine, based on a feasibility study, that a PLA would not result in savings of at least 5 percent and that a PLA would not provide any other benefits, such as ensuring the best work at the lowest possible price or preventing fraud and favoritism.

In addition, the Executive's 30-day amendments include a proposal that would authorize the creation of a privately financed public-private partnership involving a New York State agency and a public authority. The proposal would permit the Department of Health (DOH) to negotiate a contract for the design, construction, financing, operation and maintenance, or any combination of these functions, for a new consolidated laboratory that could serve a number of different State or local departments, agencies, institutions and public authorities, as well as, potentially, private entities. DASNY would be authorized to act as agent and project advisor for DOH.

The proposal is similar in some ways to the design-build authorization that was enacted in 2011 for the State's transportation and environmental agencies, but breaks new ground in certain areas. The State might not directly finance the new facility. Instead, the private sector could be responsible for project financing. Any debt issued by the contractor pursuant to the agreement would not be considered State-Supported debt. As a result, such debt would not be subject to the State's statutory debt cap or certain other provisions of the State Finance Law, including provisions that place a maximum term of 30 years on State-Supported debt and the requirement that debt be issued for capital purposes only.

While DASNY would be authorized to act as DOH's agent and advisor for the project, it is unclear whether DASNY could also act as an issuer of debt for the project's private investors. The proposed language appears to limit oversight by the Office of the State Comptroller and other State agencies with respect to the project agreement and agreements between non-State parties, thus limiting accountability and important checks and balances. The proposal does not appear to impose any financial limits on the size or scope of the project.

As discussion and debate continue regarding this public policy issue, it is important to consider both the potential benefits and potential drawbacks of public-private partnerships (P3s), in which private companies may assume larger roles not only in project financing but also in other decisions traditionally made by public agencies. Such P3s may save the public money and improve services, but they can also burden the public with costs that could have been avoided, while posing risks to service quality and public access.

Other states' experiences with P3s clearly demonstrate that these are complicated financial transactions, requiring careful planning and negotiations with private partners. Key financial risks associated with P3 financing structures include: the failure to identify the full value of public property; unfavorable pricing mechanisms; unrealistic expectations; poorly drafted agreements; and budget gimmickry.

The Comptroller has identified issues of concern with respect to P3 financing structures. Given the fiscal constraints facing New York State and its local governments, P3 agreements may be viewed as an alternative means of constructing and maintaining facilities and providing services. However, to mitigate the financial risks inherent in P3s, the State must adopt appropriate policies and principles, including ensuring that the public receives the full, fair value for the use of its property, and that P3 agreements do not burden the public with unwarranted expenses, excessive fees, or high toll increases. Any P3 agreements must include realistic expectations. The State must avoid budget gimmickry by adopting financing rules that prevent a disproportionate shift of current capital costs onto future taxpayers. To protect the public's interests and provide a consistent framework for these projects, the State should proceed with caution and foresight.

Conclusion and Recommendations

Over the past decade through the end of its current fiscal year, New York State will have spent an estimated $81.7 billion on capital projects. Existing capital assets include buildings, roads, bridges and land as well as historic properties. Every year, the Executive proposes a new Five-Year State Capital Plan, as statutorily required. While State Capital Plans contain significant amounts of information, they historically have provided very little insight regarding the condition and maintenance needs of existing assets. Without this information, it is impossible to determine the best and most efficient way to use the limited resources that are available to maintain New York's aging assets and to create much-needed new infrastructure.

The Executive and the Legislature have taken steps toward improving capital planning by creating the New York Works Task Force. The Task Force was assigned a purpose similar to Comptroller DiNapoli's proposed Capital Asset and Infrastructure Council, although the Task Force's responsibilities are more narrowly defined. The Task Force's mission is to develop a coordinated, accelerated infrastructure investment plan for the State, and ensure that taxpayer resources are being targeted to critical infrastructure needs and job creation. An implementation council has also been created, comprising all major State agencies and public authorities, to assist the Task Force in coordinating the State's capital investment planning process.

The New York Works initiative reflects an acknowledgment that the State needs a longer term perspective and a better focus to effectively manage its capital resources. The ten-year outlook is an improvement on the State's longstanding five-year capital planning horizon. The Plan includes information on how much is projected to be spent by capital plan category (e.g., state of good repair, capacity optimization, and transformational initiatives), and recognizes that the planning process should begin with a statewide infrastructure assessment. Further detail on projections in the plan, the condition of existing assets, and needed repairs and replacements would provide a stronger foundation for effective planning and investment.

Additional reforms are needed to ensure that the State's capital dollars are spent in the most responsible manner for the most critical needs. Consistent with Comptroller DiNapoli's longstanding call for a comprehensive inventory and assessment of its capital assets, the State is laying the groundwork to use its Statewide Financial System to provide a full accounting of such assets. Such a step should be accompanied by broad assessment of and reporting on the condition of capital assets and future needs. This assessment would allow policy makers to prioritize those capital projects most in need of repair and most critical to the economic recovery of New York. This assessment would lead to an improved Five-Year State Capital Plan, building on the currently required five-year plan to include detail on such elements as maintenance and improvements of existing assets as well as new initiatives.

Other essential reforms include:

- **Prohibiting off-budget capital spending.** The State has taken steps over the years to move certain capital expenditures off-budget – meaning such spending is not appropriated, and thus may receive less public scrutiny. Most recently, the SFY 2013-14 Enacted Budget included a measure to remove capital spending for SUNY dormitory projects and related debt service from both the State's Financial Plan and the State Capital Plan. The new debt would also be excluded from the State's statutory debt caps. This movement not only takes this spending off-budget, but makes tracking the associated debt difficult, as it will no longer be detailed or considered within the State Capital Plan. Provisions such as this have the effect of reducing controls over spending, distorting assessments of spending growth and diminishing transparency and accountability.

  The SFY 2014-15 Executive Budget moves the Consolidated Highway Improvement Program and the Marchiselli Program "on-budget" so that such capital spending will be counted within the Financial Plan. While this is a step in the right direction, billions of dollars for capital projects, as well as spending for SUNY dormitories, which is no longer counted in either the State Capital Plan or the Financial Plan, continue to be spent off-budget.

  The Comptroller's Debt Reform proposals would ban bond-financed off-budget spending by eliminating the use of backdoor borrowing by public authorities. Until that reform is enacted, the State should take an interim step by requiring that all capital programs financed with State dollars must be budgeted and accounted for through traditional processes, involving State agency review – programmatic and fiscal – and State Comptroller oversight.

- **Enhancing agency-level reporting, including establishing criteria for prioritizing existing capital needs.** Capital planning activities of all State agencies should be coordinated, capital project monitoring systems should be developed, and capital plan documents should be prepared in a consistent format to ensure a holistic approach to the State Capital Plan.

  Each State agency should be required to develop and release a multiyear capital plan that includes an articulation of how its capital assets relate to its overall mission and goals, an inventory of its capital assets (at a minimum, in summary form suitable for public understanding), an assessment of the physical condition of those assets, and an articulation of prioritized major capital needs for existing assets and new assets. Agencies should also produce reports illustrating compliance with their capital plans.

  The agency plan should also include an analysis of the financial resources necessary to address its capital needs, as well as details on how those resources will be applied and how these investments will address its capital needs (e.g., how many bridges will be improved from "poor" condition to "good"). This planning process could be required annually or periodically, such as every three years, unless existing law already prescribes a longer, more comprehensive planning process.

- **Expand the scope of the State's capital planning process to include State and local authorities, as well as municipalities with assets primarily financed with State funds.** Authorities are involved in financing, building and maintaining a wide range of capital assets that serve New Yorkers. These include State-funded projects for environmental, economic development, transportation and other purposes. Even when State budget resources are not involved, authority capital investments are intended to serve public purposes, and may be funded by tolls or other charges that are borne, at least in part, by New York residents. For these and other reasons, the Comptroller's reform proposals would require authorities' projects to be treated as integral parts of the State's overall capital planning.

- **Establishing criteria for new capital initiatives.** Every appropriation for new capital funding initiatives should be required to be justified as meeting one or more of several standardized criteria. Categories of criteria may include health and safety, preservation of facilities, legal or court mandate, economic development, quality of life, or enhancing mission effectiveness.

- **Demonstrating connections between funding and infrastructure improvements.** The State Capital Plan should be revised to include summary information from the agencies' capital plans as recommended above. The critical element to be added would be the inclusion of clear, demonstrated connections between proposed funding recommendations and the assets being funded. Establishing these connections is intended to ensure that the proposed financing has a duration similar to or shorter than the useful life of the asset, and to provide a clear indication of how the financing will affect the condition of the asset.

- **Integrating Legislative changes.** Legislative changes to the capital budget would have to be accompanied by a report articulating how such changes relate to the State Capital Plan, what planning criteria are being addressed, and the overall budget implications of the changes.

- **Address the potential risks associated with P3 projects.** New York currently has no comprehensive statutory framework for P3 projects. If the Legislature chooses to authorize privately financed P3s, the Comptroller recommends New York enact a P3 framework to reduce financial risks, protect public assets, and reduce the likelihood of problems that have plagued P3 projects elsewhere.[23]

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[23] Details of the Comptroller's recommendations regarding P3s are contained in *Controlling Risk Without Gimmicks: New York's Infrastructure Crisis and Public-Private Partnerships* and *Private Financing of Public Infrastructure: Risks and Options for New York State*, released by the Office of the State Comptroller in January 2011 and June 2013, respectively, available at www.osc.state.ny.us/reports/infrastructure/pppjan61202.pdf and www.osc.state.ny.us/ reports/infrastructure/p3_report_2013.pdf, respectively.

These broad recommendations provide a framework for improved capital planning. New York faces the ongoing challenge of investing adequately in its capital assets while meeting the competing demands of funding current services and holding taxes, charges and fees to affordable levels. Effective capital planning is essential to ensuring that infrastructure investments are targeted where they are most needed and used as efficiently as possible.

The State has taken some important and long-needed steps to improve its capital planning, but more work remains to be done. Comprehensive assessment of capital assets and their condition, identification of specific needs for future investment, and the additional steps outlined in this report will help ensure that finite levels of investment deliver maximum value to the State's economy, while improving New Yorkers' quality of life as much as possible.