A Roadmap for State Debt Reform

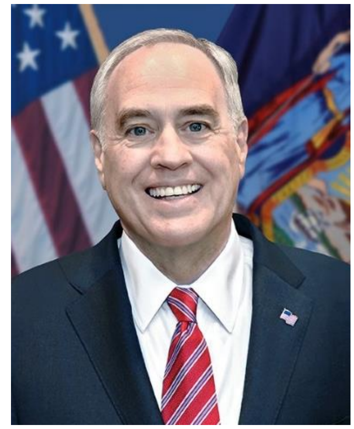
OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

January 2023

Message from the Comptroller

January 2023



New York's infrastructure needs are vast and diverse. Throughout the State's many regions, we build and maintain capital assets that include bridges, roads, airports and mass transit facilities, educational buildings for the State and City Universities of New York (SUNY and CUNY), affordable housing, systems to ensure clean water and clean air, healthcare facilities and many other necessities. Such investments keep the gears of our modern society well-oiled and running efficiently.

These infrastructure needs require considerable capital funding from New York State's budget. And a large and increasing share is funded with long-term borrowing. Generally, long-term borrowing for capital assets is appropriate, as future New Yorkers share in the cost of a capital asset from which they will also benefit. However, overreliance on debt poses challenges for budget management. As noted by the major credit rating agencies, New York has a high debt burden. It also has a history of misusing debt for inappropriate purposes, including burdening future generations with the costs of repaying money borrowed to pay for current operating expenses.

New York has a statutory debt cap, but its sizable and growing debt burden raises systemic concerns. Recent budgetary actions have highlighted the drawbacks and limitations of the State's current debt restrictions. Debt limits have been circumvented too easily, with little consideration or public debate of the long-term impacts. The State's debt caps have been effectively broken, and no longer serve their intended purpose of limiting debt growth and maintaining long-term affordability.

This report provides an overview of State capital and debt practices and trends, and details the vulnerabilities of existing debt restrictions, showing how these guardrails are no longer functioning in a meaningful way to ensure that debt levels remain affordable for State residents for many years to come.

New York State needs to embrace debt policies and practices that are comprehensive and binding, ensure affordability, provide flexibility in times of emergency, and restore accountability to voters. This report provides a roadmap for State debt reform.

Thomas P. DiNapoli
State Comptroller

Table of Contents

I. Introduction & Executive Summary

State debt levels and processes have been debated in New York for many years. New York's high and growing debt burden and its impact on taxpayers have been points of concern for the State's budget practices. Excessive debt also constrains efforts to improve the State's credit rating.

In its recent review, Standard & Poor's stated that New York's "moderately high and growing debt levels" were a factor that would "preclude a higher [credit] rating."[1] Moody's ranks New York as having the second largest total debt burden of all states, following California.[2] The major credit rating agencies have also commented on New York's past history of inappropriately using debt to finance operating expenses, often in response to economic disruptions.

Efforts to reform State debt practices and limit debt can be traced all the way back to the 1800s, when a constitutional change was made to require voter approval for issuing State General Obligation (GO) debt. The State's infrastructure needs have evolved in tandem with the modern economy and are now vastly broader in scope, complexity and magnitude than in the 19th century, requiring an expansive capital plan. The State borrows to finance such spending needs, with public authorities increasingly being utilized to circumvent the constitutional requirement for voter-approval of State debt. "Backdoor borrowing" by public authorities bypasses the public's vested interest in limiting State debt levels, which, in turn, has led to a high debt burden.

High debt levels in the modern era eventually led to the Debt Reform Act of 2000, which imposed caps on State debt outstanding and debt service spending. However, loopholes in the Act were exploited over time to circumvent the limits. Most concerning, debt issued during State fiscal years (SFYs) 2020-21 and 2021-22 has been excluded from the Act's limits altogether, effectively ignoring nearly $18 billion in new State debt as if it did not impact the overall burden on taxpayers. Increased projections of State debt levels, coupled with persistent concerns regarding the State's capital planning process and its shortcomings for effectively prioritizing projects, give taxpayers good cause to be concerned.

These and other recent trends demonstrate a need for State policy makers to give more thoughtful consideration to a strengthened, more comprehensive, more affordable and more accountable approach to limiting State debt levels and reforming New York's financing practices.

---

[1] S&P Global Ratings, "New York State; State University of New York; Appropriations; General Obligation; Non-School State Programs; School State Program," June 28, 2022.

[2] Moody's Investor Service, "States-US - Debt, Pension and OPEB liabilities All Up in Fiscal 2021," September 7, 2022.

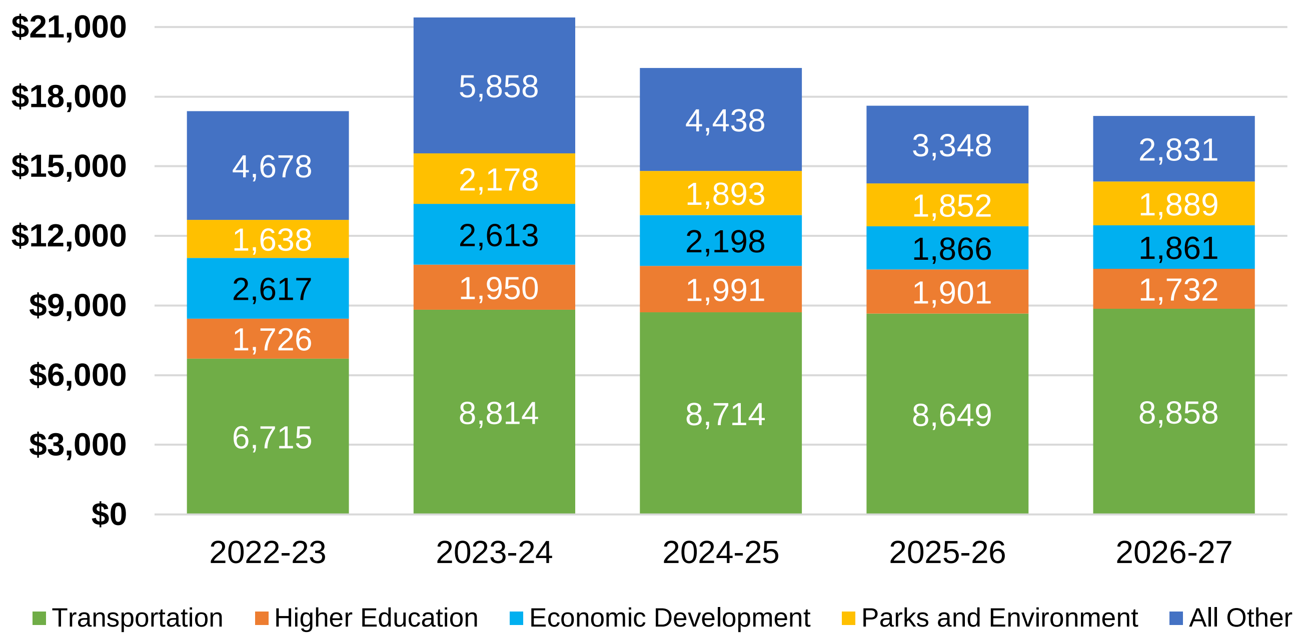
II. New York State's Capital and Debt Plan

Capital Plan

New York encompasses a variety of geographic environments and residential communities, ranging from the urban settings of the nation's largest city to sparsely populated rural communities. Facilitating economic activity, transportation, service provision and quality of life are multi-faceted systems of infrastructure and capital assets that require upgrades and significant annual public investments, including through the issuance of State debt.

The State of New York outlines its capital investments in its annual budget. The SFY 2022-23 Enacted Budget Capital Program and Financing Plan (Plan), released in May 2022, forecasts $92.8 billion in capital spending from SFY 2022-23 through 2026-27, an average of approximately $18.6 billion annually.

Figure 1
New York State, Projected Capital Spending, SFY 2022-23 – SFY 2026-27
(in millions of dollars)



Source: New York State Division of Budget, FY 2023 Enacted Budget Capital Program and Financing Plan, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-cp.pdf.

The largest portion of spending is for transportation, making up 45 percent of the total, about $8.4 billion annually on average. (See Figure 1.) Spending on economic development is projected at 12 percent in the current Plan. Other significant investments are planned in higher education and environment, with each comprising about 10 percent of the current Plan. Environmental spending includes $605 million of anticipated spending from the $4.2 billion Clean Water, Clean Air and Green Jobs Environmental GO Bond Act, which was recently approved by voters. Capital spending on elementary and secondary education, mental hygiene, health and social welfare, including housing, public protection, general government and all other areas is projected to constitute 22.8 percent of total spending.

The Enacted Budget Capital Plan represents a total increase of $15.4 billion, or 19.9 percent, from the five-year plan adopted just one year prior, in SFY 2021-22. Approximately 31.2 percent or $4.8 billion of the increase is for transportation needs, including a new $32.8 billion five-year Department of Transportation (DOT) capital plan. Other increases reflect a new $25 billion five-year housing plan, over $3 billion in new economic development funding, and $1.6 billion for healthcare facilities.

Previous reports from the Office of the State Comptroller have raised concerns regarding shortcomings with the prioritization and cost-effectiveness for the State's infrastructure investments, due to limitations in the State's capital planning process.[3] While these concerns persist, this report discusses the implications of the State's debt burden.

Financing Plan

The Plan relies heavily on debt to finance capital spending. The use of debt financing applies the principle of "generational equity," where the significant costs incurred to build and reconstruct infrastructure and other assets are spread equitably by repaying annual debt service costs over a time frame associated with the assets' useful lives.

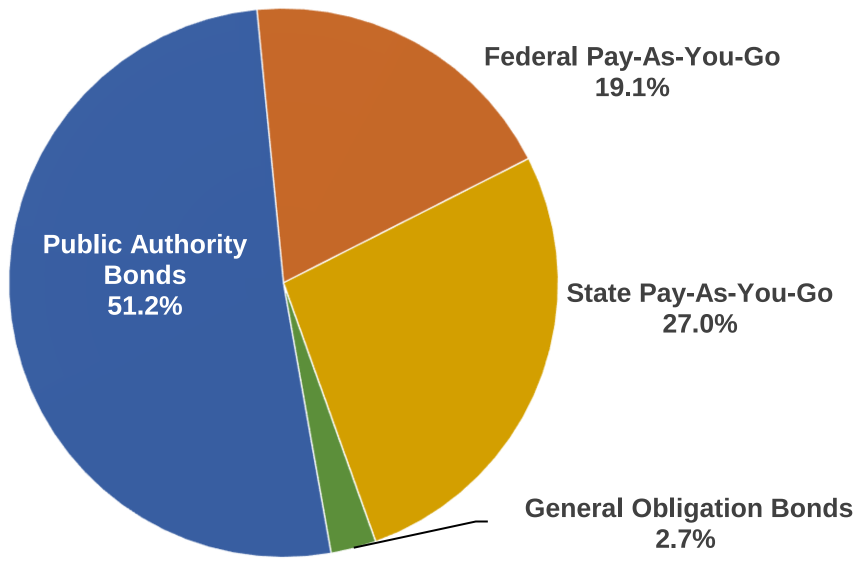
Over the last 20 years, debt has financed 53.4 percent of New York State's capital spending. As shown in Figure 2, over the life of the Enacted Budget Capital Plan, debt will finance 53.9 percent of total spending, primarily from bonds issued by public authorities on behalf of the State (51.2 percent). The remainder is supported by federal grants and state tax dollars, known as "pay-as-you-go" (PAYGO) resources.[4]

---

[3] Office of the New York State Comptroller, *Strengthening New York's Infrastructure: Spending Trends and Planning Challenges*, August 2019, https://www.osc.state.ny.us/files/reports/special-topics/pdf/capital-report-2019.pdf.

[4] While the Plan reflects a considerable investment of $6 billion in additional pay-as-you-go resources, this only partially offsets an estimated $15.5 billion increase in total capital spending, resulting in higher levels of debt.

Figure 2
Financing Plan Sources for New York State Capital Plan,
SFYs 2022-23 – 2026-27



Source: New York State Division of Budget, FY 2023 Enacted Budget Capital Program and Financing Plan, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-cp.pdf.

Debt Outstanding

State-supported debt includes voter-approved General Obligation debt, backed by the full faith and credit of the State. It also includes so-called "backdoor borrowing" by public authorities, for which the State is contractually obligated to pay debt service, subject to appropriation, for bonds issued for State purposes. As most recently reflected in the Mid-Year Update to the FY 2023 Financial Plan, State-supported debt is projected to increase from $61.9 billion in SFY 2021-22 to $88 billion in SFY 2026-27, an increase of $26 billion or 42 percent. This reflects average annual growth of 7.3 percent over the next five years. This considerable growth builds from a base of what the credit rating agencies consider to be an already-high State debt burden. In the previous 20-plus years since the Debt Reform Act was enacted, State-supported debt outstanding increased $25 billion, or 2.5 percent annually.

State-supported debt is projected to grow

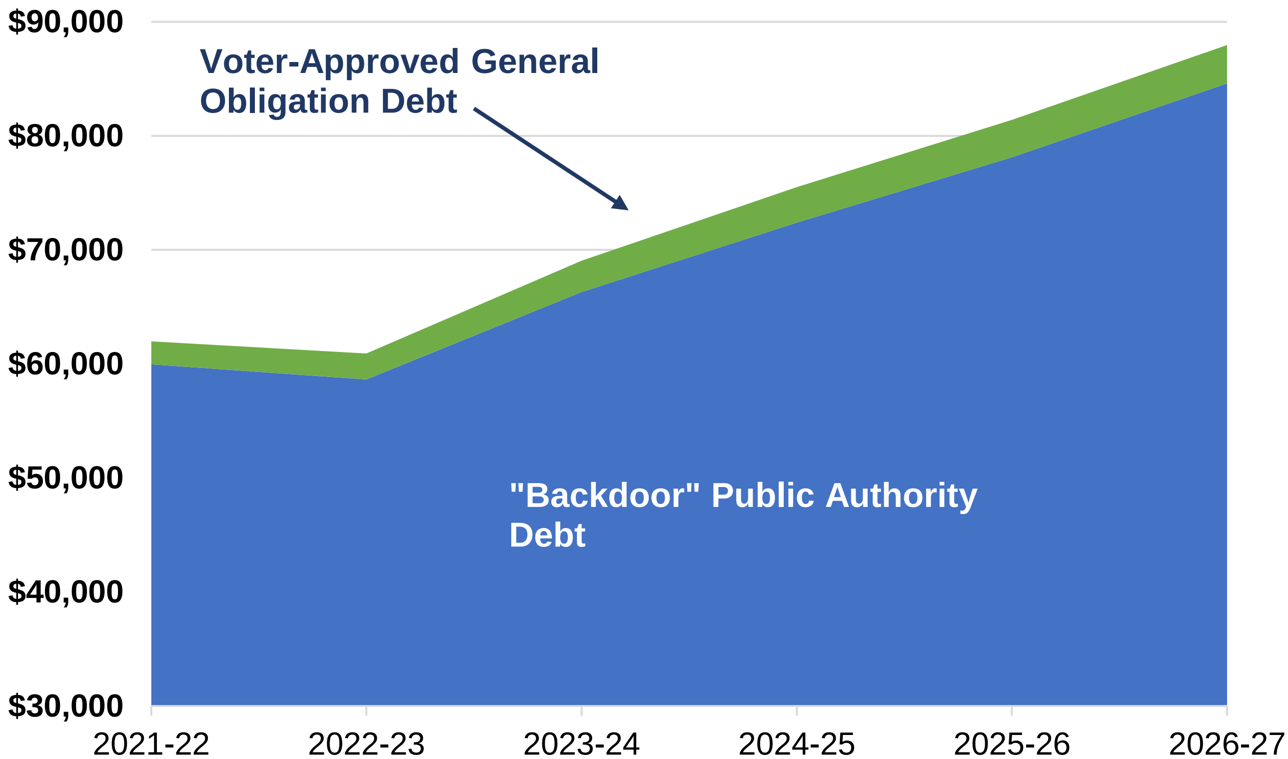
42%

to $88.0 billion in SFY 2026-27

Growth in debt outstanding is occurring because of higher capital spending levels, as well as an increasing share of such capital spending being financed with debt rather than with PAYGO resources. As of SFY 2021-22, nearly 97 percent of State-supported debt outstanding was issued by public authorities, primarily Personal Income Tax and Sales Tax Revenue Bonds issued on behalf of the State. There is just under $2 billion of voter-approved General Obligation debt outstanding compared to $60 billion from public authorities. The Plan anticipates $605 million of spending during the next five years from the $4.2 billion General Obligation Bond Act for environmental purposes recently approved by the voters.

Debt outstanding is expected to grow over the life of the Plan, primarily from public authority borrowings for which the State is obligated to repay the debt service. (See Figure 3.)

Figure 3
New York State-Supported Debt Outstanding, SFY 2021-22 – SFY 2026-27
(in millions of dollars)



Note: The decline of debt outstanding in SFY 2022-23 reflects a defeasance of $6.7 billion of debt.
Source: New York State Division of Budget, Mid-Year Update to the FY 2023 Enacted Budget Financial Plan, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-fp-myu.pdf.

Debt Service

Over the last 20 years, State-supported debt service spending has increased 44.7 percent. Adjusting for prepayment actions, State-supported debt service is projected to increase by $2.5 billion over the next five years, or 42.2 percent. (See Figure 4.) This growth is considerably faster than the projected trend for overall State Operating Funds disbursements. Debt service is projected to consume an increasing share of State Operating Funds spending over the next five years, growing from 5.4 to 5.9 percent. This constricts flexibility in the operating budget; fewer resources are available for other priorities and programs.

Figure 4
State-Supported Debt Service As a Share of Total State Operating Funds, SFY 2021-22 – SFY 2026-27
(in millions of dollars)

	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Debt Service	5,995	6,687	7,159	7,615	8,017	8,527
State Operating Funds (SOF) Spending	110,854	120,907	127,097	132,673	138,480	144,337
Debt Service as a % SOF Spending	5.4%	5.5%	5.6%	5.7%	5.8%	5.9%

Note: State Operating Funds Spending reflects adjustments for debt service prepayment actions.
Source: New York State Division of Budget, Mid-Year Update to the FY 2023 Enacted Budget Financial Plan, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-fp-myu.pdf; and Office of the State Comptroller.

III. Weakened Guardrails

Current State Debt Limits

To ensure that debt does not become too onerous to residents and the tax base, most states have some form of legal or policy restrictions on debt.[5] These may consist of voter approval requirements to incur General Obligation debt, limits on what share of the operating budget can be used for repaying debt, or more comprehensive limitations on the amount of debt that can be authorized and/or on debt service spending.

New York has both constitutional and statutory limits on State debt. Under the Constitution, State General Obligation debt must be approved by the voters through a ballot proposal for a single work or purpose. This requirement, imposed in the 1800s, was originally established to limit the amount of State debt that can be incurred, and was done at a time when State infrastructure needs and purposes were significantly smaller in scope, complexity and magnitude than they are in today's modern society. Through the years, however, the constitutional limitation has largely been circumvented through the use of debt issued by State public authorities, and repaid by the State, subject to appropriation. As noted, nearly 97 percent of State debt outstanding consists of backdoor borrowing by public authorities.

The State's statutory debt limit was enacted with the Debt Reform Act of 2000. It imposed caps on State-supported debt – that is, voter-approved General Obligation debt and public authority backdoor borrowings – providing a more comprehensive approach to limiting State debt. This cap on debt outstanding, imposed on only new debt issued after April 1, 2000, was phased in over 11 years and eventually limited debt levels to 4 percent of State personal income. The Act also limited debt service spending to 5 percent of All Funds receipts. In addition, the Act imposed other best practices relating to bond financings, including limiting the use of State debt to only capital purposes and establishing a maximum final maturity of 30 years.

While the cap on debt outstanding imposed a meaningful affordability limit on State borrowing, it also introduced a measure of unpredictability to State debt and capital planning due to the volatility inherent to annual changes in personal income as the basis of its cap calculation. This volatility and risk is also inherent to the State's financial plan, which strongly relies on annual personal income tax receipts. As noted regularly by the Office of State Comptroller, it is imperative for the State to implement its plan to bolster reserve levels to cushion against adverse impacts during economic downturns.[6]

---

[5] See National Association of State Budget Officers, *Budget Processes in the States*, Spring 2021, pg. 74, https://www.nasbo.org/reports-data/budget-processes-in-the-states.

[6] See most recently, Office of the New York State Comptroller, *State Fiscal Year 2022-23 Enacted Budget Financial Plan Report*, July 2022, https://www.osc.state.ny.us/files/reports/budget/pdf/budget-enacted-financial-plan-2022-23.pdf.

Weakened Guardrails, Hazardous Turns

While public authority borrowings have been used to circumvent the constitutional requirement for voter approval of State debt, the limitations imposed by the Debt Reform Act have also been circumvented over time by subsequent statutory actions. These actions served to bypass the Act's intended benefit to taxpayers of constraining debt. Examples include the creation of new forms of State debt outside of the definitions of the Act, such as bonds paid from tobacco settlement receipts and to finance State University of New York (SUNY) dormitory facilities.

Most recently, the SFY 2022-23 Enacted Budget included a $2.35 billion State commitment to repay a federal transportation loan for the Gateway project. Since the Act only counts "bonds or notes" issued after April 1, 2000, this proposal exploits a loophole in the law by structuring the debt in such a way that it can be incurred without meeting the technical definition for being counted towards the cap. Further, the Enacted Budget suggested categorizing this borrowing as if it were State-related debt, by redefining this to include "inter-governmental loans." State-related debt refers to debt repaid from non-State sources; State appropriations are contingently available, but typically not expected to be needed, to make payments. It has not - and should not - include debt where the State is directly obligated, by contract or otherwise, to pay debt service, which is State-supported debt. State-related debt is not restricted under the Debt Reform Act.

Other statutory bonding constructs include the assignment of the receipt of State local assistance payments or revenues to pay for New York City Sales Tax Asset Receivable Corporation (NYC STARC) bonds, the Transitional Finance Authority's Building Aid Revenue Bonds (TFA BARBs) for New York City school construction, and the Payroll Mobility Tax (PMT) bonds issued for MTA capital purposes.

While these actions expose shortcomings in the Act's coverage, the guardrails of the Debt Reform Act were significantly eroded by actions included in the SFY 2020-21 and 2021-22 Enacted Budgets to exclude any State-supported debt issued during those two years (about $18 billion) from the Act's debt caps.[7] They also allowed the use of debt for non-capital purposes and permitted up to 50-year maturities for bonds issued for MTA purposes, which was reauthorized again this year. Combined with debt that had been initially excluded from the Act, nearly one-third of State-supported debt was excluded from the State's debt limits as of SFY

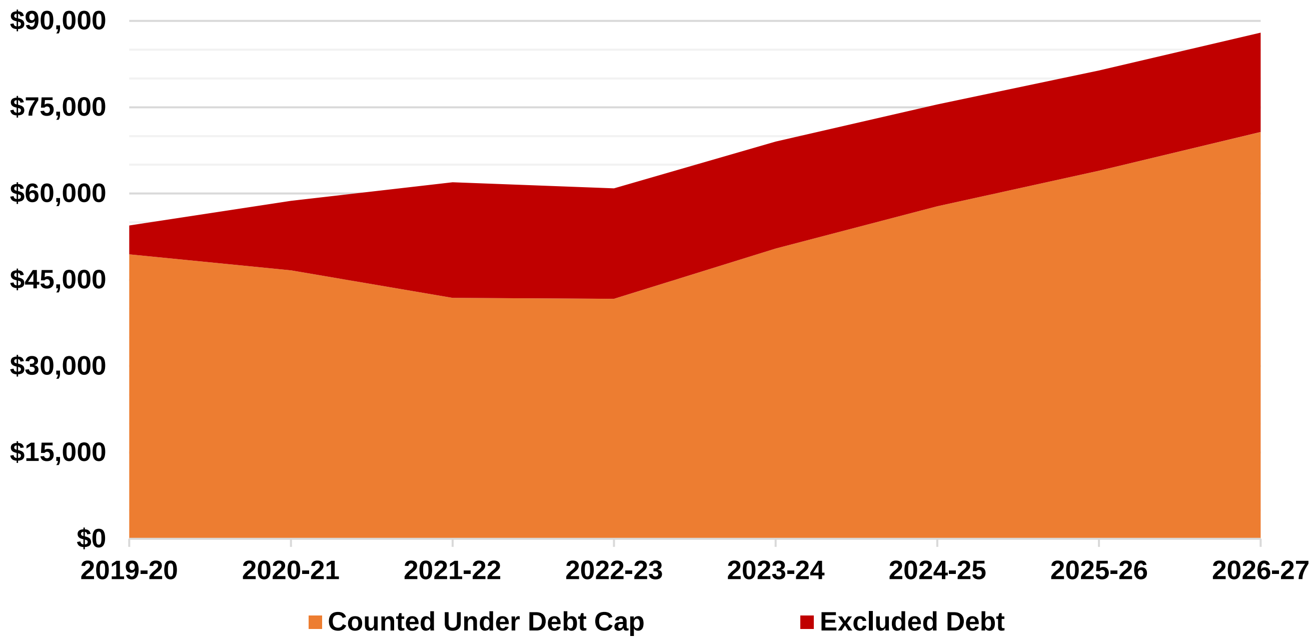
$20 billion

– nearly one-third –
of State-supported debt was excluded from the State's debt limits as of SFY2021-22

[7] The exemption of debt issued during SFY 2020-21 was in reaction to expected declines in personal income resulting from the then-emerging economic impacts of the COVID-19 crisis. However, not only did such declines subsequently not come to fruition in the magnitude anticipated, but the exemption was continued for a second year in SFY 2021-22 and used to accommodate considerable expansions of debt newly authorized in that year's Enacted Budget.

2021-22, reflecting a total of $20 billion in debt. (See Figure 5.) Without the debt exclusions, the State debt limit would be breached by up to $16.9 billion by the end of the Plan. If the proposed funding to pay for the federal loan for the Gateway project were appropriately counted under the debt limit, this would add a further $2-plus billion, to nearly $19.3 billion over the cap. These actions have rendered the State's debt limits functionally meaningless.

Figure 5
State-Supported Debt Excluded from Debt Cap, SFY 2019-20 – SFY 2026-27
(in millions of dollars)



Note: Does not reflect proposed $2.35 billion loan for the Gateway project.
Source: New York State Division of Budget, Mid-Year Update to the FY 2023 Enacted Budget Financial Plan, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-fp-myu.pdf.

Concerns with breaching the cap were noted in previous budget reports by the Office of the State Comptroller, but there was little public debate about the best uses for limited debt capacity and the long-term affordability of such trends leading up to budget adoption.[8] As discussed, State debt levels will now greatly exceed the affordability measure intended by the debt cap and will also result in debt service spending consuming an increasing share of the State's operating budget, leaving less funding available for other budget priorities. This will further diminish State resources that would otherwise be available for other program areas, such as school aid and healthcare.

[8] Office of the New York State Comptroller, *Report on the State Fiscal Year 2021-22 Executive Budget*, March 2021, https://www.osc.state.ny.us/files/reports/budget/pdf/executive-budget-report-2021-22.pdf.

Policy Considerations

The relative ease with which the caps in the Debt Reform Act were bypassed in the past two fiscal years demonstrates the limited effectiveness of having State debt limits embedded in statute alone. Even before these actions, the Office of the State Comptroller had previously noted the shortcomings of the Act, calling for more comprehensive reforms and limits, along with enhanced transparency and accountability.[9]

While no reform will be perfect, recent actions make it clear that a comprehensive constitutional reform of the State's debt practices would be the most effective route to imposing meaningful affordability limits on State debt levels, and to establishing modernized best practices for the proper use of limited State capital and debt resources, all while enhancing accountability to State residents.

Such reform would:

- ensure that the boundaries for long-term debt affordability are maintained for taxpayers;
- enhance the effective deployment of limited resources used to finance the State's infrastructure needs; and
- improve the responsiveness of State government to its citizenry.

[9] Most recently, Office of the New York State Comptroller, *Debt Impact Study*, December 2017, https://www.osc.state.ny.us/files/reports/special-topics/pdf/debt-impact-2017.pdf.

IV. A Roadmap for State Debt Reform

The Mid-Year Update to the FY 2023 Financial Plan projects only modest out-year budget gaps.[10] While economic uncertainty is heightened and spending risks linger, the return to economic progress, and the improved stability this has brought to State finances, is a major change from the uncertainty and crisis budgeting experienced during the onset and height of the pandemic. This provides a rare opportunity for lawmakers to take actions in the coming budget cycle and beyond to improve the long-term sustainability of the State's fiscal health. As previously recommended by the Office of the State Comptroller, appropriately matching budget challenges with recurring solutions and enhancing the State's reserve levels are important ways to help New York better prepare for the next economic downturn.

A critical component of improving the long-term sustainability of the State's fiscal health will be to restore prudent debt practices. This would help ensure the long-term affordability of State debt levels and restore accountability to taxpayers, while prioritizing the purposes for which limited debt capacity is used and how that debt is structured. These measures should be high priorities for the Executive and the Legislature. Essential elements and key policy considerations follow in this roadmap for debt reform.

Comprehensive and Binding

For meaningful reform of the State's debt practices to take place, it must comprehensively address all State borrowing practices and impose binding debt limits. The relative ease with which the State's current statutory debt caps were bypassed and effectively dismissed in recent fiscal years provides strong evidence that meaningful debt reform needs to be addressed through a constitutional amendment. The amendment must include a binding constitutional cap on all existing and future State debt outstanding that covers backdoor borrowing, which currently accounts for nearly 97 percent of outstanding debt.

Generally speaking, capping State debt levels by a percentage of personal income is a rational and effective approach based on a commonly-accepted measure of affordability. Based on the estimates in the SFY 2022-23 Mid-Year Update, a debt cap of 5 percent of State personal income should provide an effective limit on debt outstanding. Unlike the current debt cap, however, the new cap must comprehensively include all existing and future State debt outstanding. Calculation of the cap should be based on a rolling ten-year average of personal income growth. This methodology enhancement will provide improved stability and predictability for State capital and debt financing plans by smoothing out the inherent volatility of annual personal income growth, which can swing sharply from robust growth in good times to drastic reductions during economic downturns.

---

[10] New York State Division of Budget, *Mid-Year Update to the FY 2023 Enacted Budget Financial Plan*, https://www.budget.ny.gov/pubs/archive/fy23/en/fy23en-fp-myu.pdf.

A comprehensive reform must also include a modernization of the State's constitutional debt authorizations, much of which have remained in an antiquated state since the 1800s. The existing constitutional debt approaches were designed in a long bygone era dominated by transportation on horseback and commerce by canal or then-emerging railroad lines. They do not realistically accommodate modern infrastructure requirements for roads and bridges, airports and mass transit, water and sewer lines, affordable housing and other capital priorities in a state as large and as regionally diverse as New York.

Therefore, the Constitution should be amended to permit the issuance of both General Obligation debt, which is backed by the full faith and credit of the State, as well as a limited capacity for State revenue bonds supported by specific sources of revenue. The added options for newly-authorized constitutional State revenue bonds will increase investor interest and capacity for buying New York bonds, thereby reducing the State's overall borrowing costs. The State's existing Personal Income Tax and Sales Tax Revenue Bond programs could be transformed into constitutional revenue bonds.[11]

All "backdoor" debt and other types of borrowings used to circumvent the intent of existing constitutional State debt restrictions should be banned, with very limited exceptions. Public authorities and localities should be expressly prohibited from issuing bonds for non-State purposes, as secured by the assignment of State aid or revenues. Precedents that have a significant importance for the New York City metropolitan area could be "grandfathered" in. For example, exceptions could include MTA borrowings paid from State-established and State-assigned revenue sources in the metropolitan region, such as the PMT and congestion tolling, as well as TFA BARBs secured by New York City's assignment of that component of school aid received by the City from the State.

Public Authority Revenue Bonds

Current State debt levels largely consist of "backdoor" borrowing by public authorities, which are repaid by the State and subject to appropriation. However, such financings should not be confused with public authority revenue bonds or conduit financings. These are repaid from non-State revenues of the public authorities or secured by payments from conduit borrowers, such as healthcare and higher education institutions. Examples include Thruway bonds repaid from toll revenues, and Dormitory Authority financings for hospitals and private colleges. These types of borrowings are not State debt and would not be captured by the proposed reforms.

[11] If approved by the voters with a future ballot proposal, the option for a third revenue bond program could also permit further flexibility.

Accountability

Accountability to New York State voters is paramount to meaningful debt reform. Requiring voter approval of all State bonds is one clear way to re-establish this accountability.

Another approach for enhancing oversight and control by the voters could be through voter approval of a constitutional amendment setting the debt cap, and then any subsequent amendments to the cap.

For example, the constitutional amendment could first establish the cap on debt outstanding not to exceed 5 percent of State personal income. As with the current process for General Obligation bond acts, the cap limit could be subsequently amended by voter approval of a ballot initiative. Ballot proposals could authorize an amount of General Obligation bonds for some single capital work or purpose, as is current practice, which voters deem to be of such importance it should be placed outside of the cap limit. Alternatively, voters could authorize additional capacity above that determined annually by the cap. Multiple ballot proposals could be allowed in a single year. Absent such annual actions from voters, State debt could be subject to the approval of the Executive and the Legislature through the budget process, within the voter-established debt limits.

Requiring all State debt to be issued by the State Comptroller would yield benefits analogous to those provided by the Comptroller serving as trustee of the State pension fund. This will insulate such long-term liabilities and their associated costs from the temptations of annual budget-cycle gimmicks, where debt is sometimes used for inappropriate purposes or structured in a short-sighted manner for near-term budget relief at the expense of higher long-term costs.

Responsibility and Sustainability

In addition to establishing a firm cap under the control of the voters to ensure that the State's debt burden remains affordable, further guardrails would provide responsible and sustainable best practices to use for debt issuances on an ongoing basis. To avoid short-sighted debt gimmicks used for budget relief, all State debt would be required to be issued with a level or declining debt service structure, be limited to a final maturity of 30 years or less, and must have the first principal amortization occur within one year of issuance. These requirements are similar to existing limits applicable to State General Obligation bonds.

Bond refundings are the method by which the State and other municipal bond issuers appropriately take advantage of improved market conditions to refinance debt at lower interest rates. However, at times refundings have also been used inappropriately for budget gimmickry, with too much focus on short-term budget savings and not enough on long-term costs. With reform, refundings would be required to generate both an actual cash flow savings in each year, and a total present value savings overall. Refundings would also be precluded from extending beyond the original final maturity of the bonds to be refunded.

In addition, the use of State debt would be precluded from solely benefiting a private enterprise. Most such projects are undertaken for economic development and could continue as long as projects are financed with pay-as-you-go funding. This measure will enhance prioritization in the use of limited State borrowing capacity. It will also ensure best financing practices, where long-term debt liabilities are balanced with the municipal assets being created or improved from their proceeds.

To further ensure that the State's critical infrastructure needs are met as effectively and efficiently as possible, improvements are needed to require comprehensive capital planning, including the integration of capital needs assessments with debt capacity projections. This will enhance planning to remain within the debt cap limit, while ensuring the deployment of the State's limited borrowing capacity for its highest priority requirements.

Flexibility in Times of Emergency

While a comprehensive and binding reform of the State's debt practices through constitutional amendment is critically important, it should not be so limited nor severe as to disregard the flexibility that may be needed for future emergencies. The Constitution currently provides emergency contingencies to issue debt without voter approval to repel invasion, suppress insurrection, defend the State in war, and to suppress forest fires.

While such contingencies continue to be prudent, the Constitution should be updated to account for the potential crises of the modern era. In addition to the existing contingencies, the temporary use of debt in excess of the cap could be permitted in the case of potential terrorist attacks, and in response to major economic, public health or other emergencies. Any such debt uses should: require a declaration of emergency enacted by the Governor and the Legislature; be limited to debt being issued in no more than three years after such declaration; not exceed a maximum amount specified in the declaration; and have a final maturity of no more than ten years.

V. Conclusion

The need for substantive debt reform is clear. Enacting a constitutional amendment is rarely an easy accomplishment, but is the most effective way to implement meaningful change to New York's debt practices. This is especially true given the relative ease by which the State's current statutory restrictions were bypassed, and the sheer magnitude by which those limits have been exceeded and effectively dismissed. Given the many years since State debt practices were significantly updated, a considerable modernization of such authorizations in the Constitution is required.

A complete State debt reform effort must adhere to a roadmap of principles encompassing these four overarching goals: it must be comprehensive and binding; it must be accountable to State taxpayers and voters; it must impose responsible and sustainable affordability limits and practices; and it must allow flexibility for the potential emergencies of modern times.

Achieving this reform will confer an enduring benefit on the people of New York through a sustainable and affordable debt limit, and help to ensure the prudent use of limited public resources.

Contact
Office of the New York State Comptroller
110 State Street, 15th Floor
Albany, New York 12236

(518) 474-4044

www.osc.state.ny.us

Prepared by the Office of Budget and Policy Analysis

Andrea Miller, Executive Deputy Comptroller
Maria Doulis, Deputy Comptroller
Pat Reale, Assistant Comptroller
Todd Scheuermann, Assistant Comptroller
Steven Jongeling, Director of Budget Studies and Debt Policy