Nassau County Interim Finance Authority

NIFA

REVIEW AND ANALYSIS OF THE MULTI-YEAR FINANCIAL PLAN UPDATE FISCAL 2024 – 2027

August 2, 2024

NASSAU COUNTY
INTERIM FINANCE AUTHORITY

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I. Summary of Findings

On June 30, 2024, the County Executive released his Updated Multi-Year Financial Plan, Fiscal 2024-2027 (the "Update"). The Update contains the Administration's revised projections for FY 2024 and an updated outlook for FYs 2025-2027 (the "Out-Years").

After reviewing the Update and independently developing projections of year-end results, we have concluded that the County's near-term fiscal outlook in the Major Funds is buttressed by a one-shot infusion of funds from the American Rescue Plan Act ("ARPA"), while the long-term fiscal outlook has weakened.[1] Specifically, compared to our previous assessment of the adopted Multi-Year Financial Plan, our analysis of the Update shows: (1) a concerning fiscal outlook for FY 2024 masked by the non-recurring injection of hundreds of millions of dollars in federal funds; (2) a worse level of Out-Year risks; (3) still significant long-term liabilities; but (4) large reserve balances available to mitigate near-term unforeseen risks.

Specifically, our analysis indicates that the operating results for FY 2024 would show a deficit of $104.5 million but for the transfer of $222.3 million of ARPA monies into the General Fund, allowing FY 2024 to show a surplus of $117.8 million, and in contrast to FY 2024, we are projecting large deficits in the Out-Years that could reach between $302.8 million and $328.5 million in FY 2027, as shown in the following table.

Operating Results on a GAAP Basis
Control Period Calculation
($ in millions)

FY 2018	FY 2019	FY 2020 *	FY 2021*	FY 2022	FY 2023	FY 2024p	FY 2025p	FY 2026p	FY 2027p
($61.2)	$76.8	$90.6	$27.2	$79.7	$19.3	$117.8	($186.1)	($268.3)	($302.8)
							($186.9)	($269.3)	($328.5)

Top shaded row reflects projected baseline operating results. Bottom shaded row reflects projections including other Opportunities and Risks.
* Operating results include CARES Act funding and/or unbudgeted debt restructuring savings.

The projected deficits exceed the one percent threshold for imposing a Control Period in each of the Out-Years, which will be addressed later in the report.

The near-term budgetary improvement is the result of a combination of favorable and unfavorable changes in our projections.

Favorable changes:

- transfer of unbudgeted ARPA resources into the General Fund;
- higher-than-assumed revenue from fines and forfeitures;
- higher-than-assumed Federal and State aid;
- higher-than-assumed salary savings from vacancies;
- lower-than-assumed costs for debt service; and

[1] "Major Funds" are defined as the General Fund, the Police District Fund, the Police Headquarters Fund, the Fire Commission Fund, and the Debt Service Fund. The Major Funds are the only Funds that are part of the NIFA Control Period calculation, and do not include certain major expenditures, such as the funding of sewer and storm water services and support payments to Nassau Community College.

- lower-than-assumed costs for other-than-personal services.

Unfavorable changes:

- higher-than-assumed costs for employee and retiree fringe benefits;
- higher-than-assumed costs for overtime and terminal leave;
- lower-than-assumed departmental revenues;
- lower-than-assumed sales tax revenues;
- lower-than-assumed revenue from rental income;
- higher-than-assumed spending on Early Intervention/Pre-K Special Education; and
- higher-than-assumed spending on social services programs.

Although we are projecting Out-Year deficits, the Update includes budgeted contingency reserves of $30.0 million in FY 2025, $30.0 million in FY 2026 and $5.0 million in FY 2027. These amounts are higher than the adopted Multi-Year Financial Plan by $9.0 million, $13.0 million and $5.0 million in FY 2025, FY 2026 and FY 2027, respectively. The County's near-term financial outlook has been bolstered by the transfer of $225.0 million in surplus resources (generated in FY 2023) into various reserves, which as of December 31, 2023, total $629.8 million, including $85.6 million in the opioid settlement fund. These resources, which are not appropriated in the Major Funds, can support limited expenditures in future years for, among other purposes, tax certiorari refunds, judgments and settlements, and retirement system costs without negatively impacting the Control Period calculation.

In accordance with Federal regulations governing ARPA, the County applied $262.3 million of the $385.0 million in Federal aid it received from ARPA to offset revenue losses it experienced in its operating funds due to the COVID-19 pandemic and for other purposes. Of this amount, the County transferred $222.3 million into the General Fund and $25.0 million into the Sewer and Storm Water Resources District Fund, and the remaining $15.0 million has been allocated to be used as initiatives in the different Nassau County Legislative districts.

Despite the size of the County's reserves, we have ongoing concerns regarding significant liabilities that could impair the County's ability to sustain its fiscal progress. These concerns include the County's approximately $1.0 billion in long-term liabilities for tax certiorari refunds, non-certiorari litigation, Workers' Compensation claims and the County's $97.4 million of contingent liability stemming from the deteriorating finances of the Nassau Health Care Corporation.[2] Each of these liabilities could dramatically disrupt the fiscal progress that has been made by the County since 2018.

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[2] Assumes NHCC reimburses the County for the debt service payment scheduled to made on August 1, 2024.

What follows is additional analysis of the Update: Section II discusses FY 2024 and Section III discusses the Out-Year Gaps. To fully understand NIFA's opinions regarding the County's financial position, this report should be read in tandem with NIFA's October 24, 2023 report on the Proposed Multi-Year Financial Plan, Fiscal 2024-2027, which can be found on the NIFA website at https://nifa.ny.gov/financial-plan-reports.

II. Discussion of FY 2024

The following discussion contains our detailed fiscal assessment of the County's Major Funds based on available data as of June 30, 2024.

Projected Variances in FY 2024

We conclude, after adding all our favorable and unfavorable projected variances, that FY 2024 could end with a surplus of $117.8 million on a GAAP basis, which is an improvement from our last assessment of the adopted budget (the "Budget"). The potentially large surplus is composed of many favorable and unfavorable variances; however, it is primarily driven by the transfer of $222.3 million of ARPA funding into the General Fund, and not due to any improvement in the County's underlying finances.

The following table lists our baseline projections.

FY 2024 Projected Results Surplus / (Risk) ($ in millions)			
($ in millions)	2024 Adopted Budget	2024 NIFA Projections	Surplus / (Risk)
Revenues:			
Fines and Forfeitures	**$101.8**	**$99.5**	**($2.3)**
Fines & Administrative Fee	*24.7*	*20.6*	*(4.1)*
Red Light Camera & Administrative Fee	*48.1*	*47.8*	*(0.3)*
Boot & Tow and School Bus Stop Arm Camera	*3.5*	*2.4*	*(1.1)*
Other Fines	*25.5*	*28.7*	*3.2*
Investment Income	***38.9***	***42.2***	***3.3***
Rents and Recoveries	**31.2**	**36.5**	**5.3**
Reversal of Prior Year Encumbrances	*10.4*	*30.0*	*19.6*
Las Vegas Sands Revenue	*5.9*	*0.0*	*(5.9)*
Sale of County Land	*4.2*	*0.0*	*(4.2)*
Other Recoveries	*10.7*	*6.5*	*(4.2)*
Departmental Revenues	**194.8**	**180.9**	**(13.9)**
Revenue from Income and Expense Law	*5.0*	*0.0*	*(5.0)*
GIS Tax Map	*25.0*	*20.2*	*(4.8)*
Ambulance Fees	*24.0*	*19.5*	*(4.5)*
Other Departmental Revenues	*140.8*	*141.2*	*0.4*
Capital Resources for Debt	**19.9**	**6.6**	**(13.3)**
Federal & State Aid	**476.2**	**511.9**	**35.7**
Sales Tax	**1,605.3**	**1,591.9**	**(13.4)**
Other Revenue	**1,013.2**	**1,014.5**	**1.3**
Total Revenues	**$3,481.3**	**$3,484.0**	**$2.7**
Expenditures:			
Salaries and Wages	**$1,020.9**	**$1,033.5**	**($12.6)**
*Full-Time, Part Time and Seasonal Savings **	*814.6*	*763.8*	*50.8*
Overtime	*80.5*	*127.9*	*(47.4)*
Terminal Leave	*39.0*	*49.1*	*(10.1)*
Other	*86.8*	*92.7*	*(5.9)*
Fringe Benefits	**645.8**	**670.7**	**(24.9)**
Health Insurance (Active & Retirees)	*351.6*	*382.2*	*(30.6)*
Other	*294.2*	*288.5*	*5.7*
Debt Service	**222.9**	**205.2**	**17.7**
Local Government Assistance	**94.1**	**93.3**	**0.8**
Contingency Reserve	**39.4**	**0.0**	**39.4**
Early Intervention/Pre-School	**162.8**	**194.8**	**(32.0)**
Social Services Programs	**461.6**	**513.5**	**(51.9)**
Other Expenditures	**833.6**	**804.5**	**29.1**
Total Expenditures	**$3,481.1**	**$3,515.5**	**($34.4)**
Total Projected Operating Results (Budgetary Basis)			**($31.7)**
GAAP Basis Adjustments**			**(72.8)**
Total Projected Operating Results (GAAP Basis)			**($104.5)**
ARPA Resources			**222.3**
Total Projected Operating Results (Including ARPA)			**$117.8**

*** Includes all costs associated with full time employees (e.g., COLA, steps, retroactive payments)**

****Comptroller's estimated accounting adjustments for the Major Funds defined in the NIFA Act. We were advised that this calculation is subject to change since it does not include adjustments for GASB No. 87, GASB No. 94 and GASB No. 96.**

Major Revenue Variances

Fines and Forfeitures

Our analysis of prior year results and current trending indicates that revenues from fines and forfeitures are likely to be $2.3 million lower-than-assumed in the Budget.

Of this amount, we project: (1) fines and general administrative fees to be down $4.1 million; (2) red light camera revenues, including administrative fees, to be slightly down $0.3 million; (3) school bus camera fines to be down $0.6 million; and (4) boot and tow fees to be down $0.5 million. The boot and tow program was suspended by County Executive order during the pandemic and never reinstated. Fines in other agencies are projected to have a $0.8 million shortfall. These negatives variances are offset by a projected favorable variance in Public Safety fees of $4.0 million.

Investment Income

Our projections indicate that investment income will result in a surplus of $3.3 million compared to the Budget. The increase is attributed to higher-than-assumed cash balances and interest rates.

Rents and Recoveries

Our analysis indicates that revenues from rents and recoveries could be higher-than-assumed in the Budget by $5.3 million. The largest component of this variance results from higher-than-budgeted recoveries of prior year encumbrances ($19.6 million). We note that this amount is included in the multiple year-end GAAP adjustments to be made by the Comptroller's office and is factored into the $72.8 million negative adjustment labeled "GAAP Basis Adjustments," in the table above.

Our variance also includes a $5.9 million shortfall in rental income that had been anticipated from a lease agreement with Las Vegas Sands. The original lease was declared terminated by the State Supreme Court in February of this year. In response, the Administration presented to the County Legislature a substitute proposed operational lease agreement, which will be considered for approval at the next full legislative meeting scheduled for August 5, 2024, along with a term sheet for a separate future lease for the development of the casino site. Consequently, we are not including any revenue that would be realized under the terms of the proposed lease until legislative approval is granted and the Comptroller determines the proper accounting treatment of the expected payments. A detailed discussion of the new proposed lease can be read in Section III of this report.

The projected $5.3 million variance also includes a $4.2 million shortfall in revenue anticipated from the sale of County property. Although the County has had past success in selling some of its properties, it is still being determined if the County can reach agreements to sell certain newly designated properties, get requisite legislative approvals, and close the transactions before the end of the year.

Other variances in Rents and Recoveries include: a $1.3 million shortfall in uncollected recoveries from Worker's Compensation and $2.9 million in various other recoveries, such as damaged County property, grant recoveries and cash recoveries.

Departmental Revenues

Our analysis indicates a potential shortfall of $13.9 million in departmental revenues. We project weak real estate-related revenues, such as GIS tax map verification fees ($4.8 million). These revenues softened as interest rates rose, driving down the volume of home sale and mortgage refinancing transactions.

Further, our projections for GIS tax map reflect the fee reduction approved by the Legislature in April 2023, from $355 to $270 per document, following an adverse State appellate ruling on the legality of the fee. Although we are using the County's lower fee schedule in our baseline risk calculation, the plaintiff has challenged the County's actions. Consequently, our analysis of the Out-Years includes a potential risk for the possibility that the additional litigation results in the Court mandating the County to abolish the fee.

Other major components of departmental revenue variances include: (1) no revenue from the County's Income and Expense Law ($5.0 million), which was proposed several years ago but suspended due to ongoing litigation; (2) lower-than-anticipated ambulance fees ($4.5 million); and (3) favorable miscellaneous revenue variances of $0.4 million.

Capital Resources for Debt

Our analysis indicates a projected shortfall of $13.3 million. The shortfall is comprised of two components: (1) $15.0 million from capital project closeouts in which unused bond proceeds are subsequently used to pay debt service (an operating expense) and therefore not recognized under the Control Period calculation; and (2) a positive variance of $1.7 million in bond premiums received on County borrowings.

Federal and State Aid

State Aid is projected to be $35.7 million higher than the Budget. The surplus is attributable to additional aid related to higher-than assumed cost for Early Intervention and Pre-school services. Our analysis also includes an increase in Statewide Mass Transportation Operating Assistance ("STOA") grant funding. Federal Aid is also projected to be higher than the Budget by $6.0 million due to an increase in caseloads in partially reimbursable social services programs. These positive variances are offset by $6.2 million of lower aid from the Federal Transportation Authority.

Sales Tax Revenue

Our analysis indicates that net sales tax revenue could fall below the Budget by \$12.6 million.[3] This projection is composed of \$13.4 million in unfavorable gross sales tax revenue offset by \$0.8 million in lower payments for local government assistance.

As shown in the following table, year-to-date sales tax revenue is basically flat compared to the same period last year, rising by only 0.2%. However, after falling by a combined 0.9% in the first four months of 2024, sales tax revenue rebounded by 2.4% in May. It is unclear if growth exhibited in May is indicative of a new period of trending strength or merely an anomaly in an otherwise weak year. For example, preliminary June data, which is incomplete due to normal reporting lags, underscores this uncertainty because it preliminarily indicates a continuing rebound with year-over-year growth of 3.5% for the month.

Sales Tax Growth 2024 versus 2023	
January	(1.7%)
February	0.5%
March	(2.3%)
April	(0.2%)
YTD through April	**(0.9%)**
May	2.4%
June (partial)	3.5%
YTD through June	**0.2%**

Our projections assume sales tax revenue will be flat in the remaining months of the year compared to the same period last year. Each percentage point of growth (contraction) in the remaining checks of FY 2024 will add (subtract) approximately \$8.1 million in net revenue to (from) the projected \$12.6 million negative variance.

Other Revenues

"Other Revenues" include categories such as higher collections from the County's 911 cell phone surcharge and its entertainment tax based on current trends; higher-than assumed interest penalty on tax; and lower Interfund Revenue due to a lower debt service chargeback related to the sewer debt held in the operating funds.

Major Expenditure Variances

Salaries and Wages

Our analysis indicates that expenditures on salaries and wages could be \$12.6 million higher-than-assumed in the Budget. The negative variance is composed primarily of an increase in overtime costs and termination pay. These negative variances are offset

[3] This projection assumes that the County will receive \$5.2 million in lower sales tax revenue due to shortfalls in sales tax revenue in that is generated outside the City of Long Beach.

by projected savings from 239 full-time net vacancies.[4] The departments with the largest number of full-time vacancies are listed in the table below.

Department	FY 2024 Budget	On Board as of 6/30/2024	Vacancies
Social Services	566	464	102
NC Sheriff/Correctional Center	940	842	98
Police Headquarters	1,654	1,580	74
Assessment Department	164	116	48
Public Works Department	415	374	41
District Attorney	460	423	37
Board of Elections	160	134	26
Probation	221	195	26
Health Department	281	262	19
Fire Commission	115	98	17
County Comptrollers	95	81	14
Parks, Recreation and Museums	151	137	14
County Clerk	90	77	13
Other Agencies	2,472	2,457	15
Attrition Factor (budgeted centrally)	(305)	0	(305)
	7,479	**7,240**	**239**

As stated before, savings from these vacancies, even if assuming positions are filled before the end of FY 2024, will mostly offset the $47.4 million in projected County-wide overspending on overtime and $10.1 million in termination pay. The County should closely examine these full-time vacancies for opportunities to eliminate unneeded positions, thereby ensuring recurring savings. There are also other opportunities for savings in part-time and seasonal positions.

Our analysis indicates that overtime continues to be underfunded, particularly in the Police Department and the Correctional Center. NIFA is currently projecting overtime in the Police Department to be $23.9 million higher than the Budget. Overtime costs in the Correctional Center may be $18.3 million higher than the Budget. Other departments that contribute to the unfavorable variances are the Fire Commission, Public Works, and the Department of Social Services.

Costs associated with termination pay are $10.1 million higher-than assumed in the Budget. The Police Department accounts for $8.3 million of the variance. However, as described below, the Administration has $44.9 million of resources to address these costs

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[4] The number of vacancies (and value of savings) in individual departments is partially offset by an attrition factor that was budgeted centrally.

in the Employee Benefit Accrued Liability Reserve Fund, of which $23.1 million is available for the Police District and $21.0 million for the General Fund.

Fringe Benefits

Our analysis projects Fringe Benefits to be $24.9 million higher when compared to the Budget. The main driver is the higher-than-assumed health insurance rates issued by the New York State Department of Civil Service for both the Empire Plan and the Excelsior Plan. The latter was a change negotiated as a concession by the Civil Service Employee Association ("CSEA"), where all CSEA members and retired employees (former CSEA members) would be transferred to the Excelsior plan. The Excelsior Plan was expected to be a lower cost insurance plan; however, the State increased the 2024 rates in some cases by more than forty percent. The negative variance for health insurance for active and retired employees is $30.6 million.

Another contributing factor to the shortfall is the class action litigation filed by certain of the retirees who had been members of CSEA to prevent the change in insurance plans. In December 2023, the New York State Supreme Court issued a temporary order preventing the County from switching CSEA retirees' health insurance coverage and directed the County to continue their membership in the Empire Plan until a determination is made on a preliminary injunction motion.

The negative variance in health insurance is offset by savings on cost associated with Social Security; lower-than-expected payments to the Police and Fire Retirement System and savings on Medicare reimbursement.

Debt Service

Our analysis indicates that there are savings of $17.7 million in principal and interest expenditures. Savings stem from two major actions: (1) NIFA undertook a tender offer transaction to refund certain outstanding NIFA bonds to take advantage of a favorable interest rate environment. The transaction resulted in approximately $8.0 million in net present value savings to the County over seven years through reduced NIFA debt service, or approximately $1.1 million per year; and (2) a County initiative to utilize part of its reserves to defease almost $100.0 million in outstanding County debt to generate approximately $16.0 million in recurring debt service savings for roughly six years.

Local Government Assistance

Pursuant to Section 1262-e of New York State Tax Law, the County must establish a Local Government Assistance Program to distribute sales tax collections to the towns and cities within the County in an amount equal to a 0.25% component of the 4.25% local sales tax.[5] Consequently, since we are projecting sales tax revenues to fall short of the Budget, we are likewise projecting payments for the Local Government Assistance Program to decrease by $0.8 million.

Contingency Reserve

At this time, we estimate that the budgeted contingency reserve will remain available at year-end; therefore, we are projecting a favorable variance in the amount of $39.4 million.

Early Intervention/Preschool Special Education

Early Intervention is a program that provides services to children under the age of three with developmental delays and disabilities. Preschool Special Education serves children ages three to five providing educational and supportive services.

Based on historical trends, our analysis indicates that the cost for these services can be as high as $194.8 million, which is $32.0 million higher than the Budget. We will monitor these programs closely and will adjust our projections, as necessary, once the new school year starts and caseloads can be assessed.

Social Services

Our analysis projects a net shortfall of $51.9 million in social services programs as follows:

Overspending on Recipient Grants ($23.5 million), Purchased Services ($19.4 million) and Emergency Vendor Payments ($4.2 million) is driven, in part, by higher caseloads than assumed in the Budget. The County's expenditures for Medicaid are also projected to exceed the Budget by $4.8 million. The negative variance in Medicaid is due to higher-than-budgeted weekly share payments to New York State offset partially by lower indigent care quarterly payments.

We remain concerned that the projected overspending on Recipient Grants may continue if the increases in the number of eligible families and individuals receiving Temporary Assistance for Needy Families and Safety Net Assistance do not decline in the Out-Years.

Similarly, our analysis indicates that expenditures for Purchased Services and Emergency Vendor Payments will continue unabated if the higher-than-assumed caseloads for family day care services and shelter care, respectively, do not revert to lower levels.

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[5] There is also a program to distribute a portion of sales tax collections to the incorporated villages within the County, which has typically amounted to $1.25 million annually.

Other Expenditures

"Other expenditures" include projected surpluses in the following categories: Contractual Services; Utility Costs; General Expenses; Workers' Compensation; Mass Transportation; and Other Expenses.

Contractual Services and General Expenses are projected to have a favorable variance when compared to the Budget. Our analysis takes into consideration prior year results and current trends. Departments with positive variances are: Police Department; Traffic & Parking Violations Agency; Information Technology and Human Services. The positive variances are offset by a negative variance in the County Attorney's Office. The Administration recently appropriated $6.0 million in additional funding for legal contractual expenses (in the Litigation Fund) to cover overspending in the County Attorney's Office.

Utility Costs are projected to be lower than the Budget. The positive variances are driven by lower fuel costs and savings in telephone expenses.

Other areas with a positive variance include Workers' Compensation and lower-than-budgeted expenses related to the LIRR Station Maintenance offset by a one-time amount payable to Nassau Community College.

ARPA Resources

In accordance with Federal regulations governing ARPA, the County applied $262.3 million of the $385.0 million in Federal aid it received from ARPA to offset revenue losses it experienced in its operating funds due to the COVID-19 pandemic and for other purposes. Of this amount, $222.3 million was transferred into the General Fund.

County Reserves

As of December 31, 2023, the County has $629.8 million held in several reserves (outside of the Major Funds) earmarked for specific purposes, as shown in the following table. These reserves are available to fund future County obligations, subject to the reserves' specific restrictions, without negatively impacting the Control Period calculation.

Fund	Balance Available as of 12/31/2023 ($ in millions)
Litigation	
Non-Certiorari Judgments	$86.4
Workers' Compensation	14.0
Longevity Payments - non-Police District	34.7
Non-Certiorari Judgments - Police District	28.8
Longevity Payments - Police District	27.5
Tax Certiorari	78.0
Total Litigation Fund	**$269.4**
Operating Reserve Fund	
Health Insurance Reserve	$50.1
Labor Reserve	33.9
Insurance Reserve	10.0
Total Operating Reserve Fund	**$94.0**
Employee Benefit Accrued Liability Reserve Fund	$44.9
Bonded Indebtedness Reserve Fund	63.0
Retirement Contribution Reserve (General Fund)	72.9
Total Reserves	**$544.2**
Opioid Litigation Settlement	$85.6
Total Reserves and Opioid Litigation Settlement	**$629.8**

The following discussion provides a brief synopsis of the Litigation Fund and the Other Reserves listed in the above table.

The Litigation Fund was established in 2015 in accordance with the transitional borrowing plan approved by NIFA to ensure that the County no longer borrowed for judgments and settlements. Since its inception the County has allocated year-end surpluses to dedicated purposes within the Litigation Fund, such as: Workers' Compensation claims, longevity payments owed to satisfy labor settlements, judgments and settlements (non-certs related) specific to the Police District Fund, and tax certiorari refunds. Although a portion of unused FY 2023 resources were transferred back into the Litigation Fund at year-end, overall balances fell by $171.9 million after accounting for the net outflow of disbursements for these purposes and the transfer of resources into the new Operating Reserves Fund.

The Operating Reserves Fund was established in 2023 with the sole purpose to cover extraordinary expenses under the following categories (segregated specifically): (1) healthcare – to cover unbudgeted or extraordinary expenditures related to healthcare insurance for existing and retired employees; (2) labor – to provide for payment of unbudgeted or extraordinary personnel costs, and expenditures related to negotiated labor agreements, awards or settlements; and (3) insurance – to provide for the retention of risk to strengthen the County's risk management strategy through high deductible, excess loss property and casualty, public entity liability and other polices.

The Employee Benefit Accrued Liability Reserve Fund was created in 2004 with the sole purpose to fund future termination payouts for unused vacation and sick leave accruals and other similar payments. The $44.9 million in the Employee Benefit Accrued Liability Reserve Fund is used to mitigate any shortages related to terminal leave pay in the Police District Fund ($23.1 million) and the General Fund ($21.0 million).[6] Terminal leave pay associated with the General Fund, or any other operating fund, cannot be paid out of the Police District Fund and conversely.

The Bonded Indebtedness Reserve Fund was established in 2005. Its purpose is to set aside resources for future partial payments of debt service. In FY 2023, the County transferred $35.0 million of the budgetary surplus to supplement this reserve after drawing down approximately $97.0 million to defease outstanding long-term debt. The reserve cannot be used unless included in the Budget.

The Retirement Contribution Reserve Fund was formed in 2004. It was created to allocate resources to cover portions of future retirement systems payments. The funds are currently allocated to the General Fund.

As a consequence of the settlements of certain legal action(s) initiated against manufacturers, distributors and pharmacies that were involved in the marketing, selling and/or distribution of opioids in the County, the County received $55.9 million in FY 2021, $20.5 million in FY 2022 and an additional $11.4 million in FY 2023.[7] As directed by State and County legislation, these funds are earmarked for the treatment and prevention of opioid addiction and family support. As of June 30, 2024, the County has appropriated $15.0 million to fund opioid prevention programs.

On January 22, 2024, the Administration presented to the Legislature a request for approval to transfer $262.3 million of resources from the American Rescue Plan Fund to the General Fund ($222.3 million) and to the Sewer and Storm Water Resources District Fund ($25.0 million). The County plans to apply these resources to offset revenues losses due to the COVID-19 pandemic. The Legislature also allocated $15.0 million to be used as initiatives in the different Nassau County Legislative districts. As of today, the Administration has not disclosed the distribution of the funding within the General Fund. However, as mentioned earlier in this report, the resources may significantly augment the County's other existing reserves.

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[6] There is also $0.8 million in investment income in the Fund.

[7] Reported in the Comptroller's Annual Comprehensive Financial Report for FY 2023.

III. The Out-Year Gaps: FY 2025 – FY 2027

The County is required to submit its FY 2025-2028 Multi-Year Financial Plan to NIFA on September 15, 2024. Although the proposed Plan will not be effective until January 1, 2025, the County should take steps to ensure that its progress toward GAAP balance can be sustained.

THE COUNTY'S CURRENT OUT-YEAR PROJECTIONS

The Administration projects Out-Year surpluses of approximately $3.0 million in FY 2025, $2.0 million in FY 2026, and $1.7 million in FY 2027. Our analysis demonstrates that the County's projections are too optimistic and do not account for any economic downturn.

As shown in the table below, NIFA is projecting deficits in FY 2025, FY 2026, and FY 2027 in both our baseline projections and after including other potential opportunities and risks.

PROJECTED OUT-YEAR EXPENDITURES EXCEED REVENUES

($ in millions)	FY 2025	FY 2026	FY 2027
County Estimate of Surplus	**$3.0**	**$2.0**	**$1.7**
NIFA Estimate (baseline scenario)	**($186.1)**	**($268.3)**	**($302.8)**
NIFA Estimate (opportunities and risks)*	**($186.9)**	**($269.3)**	**($328.5)**

*Projected deficits have been reduced by the budgeted contingency reserves of $30.0 million, $30.0 million, and $5.0 million, respectively.

Major Differences in Out-Year Projections

The major components contributing to the unrecognized gaps by the County consist of:

- Overestimated sales tax revenue. The Administration is being optimistic in its projection of sales tax revenue and is using projected sales tax growth rates of 1.5% in 2024, and 2.0% in each of 2025, 2026 and 2027. However, the current uncertain economic conditions are concerning. Consequently, our assumptions are more cautious and are based on growth rates of 0.1% in 2024 followed by 1.5% in each of 2025, 2026 and 2027, including lower payments for Local Government Assistance. These growth rates would result in net sales tax shortfalls of approximately $31.2 million in FY 2025, $39.3 million in FY 2026, and $47.7 million in FY 2027. The shortfalls could be greater if the economy enters a recession;

- Overestimated investment income, mainly due to our assumptions for lower interest rates and declining cash balances resulting in projected shortfalls of approximately $15.3 million in FY 2025 and $29.4 million in each of FY 2026 and FY 2027;

- Overestimated departmental revenues, including from the GIS Tax Map Verification fee, which is being litigated. The courts have determined that the existing fee was unconstitutional, but instead of eliminating the fees, the County reduced it from $355 to $270 per document. The revised fee schedule is being challenged; consequently, our projection in the bottom row of the above table reflects a 50% discount for a potential adverse court ruling. Suffolk County's tax map verification fee is also being challenged. Other fees in this category are also overestimated, such as those from the Income and Expense Law and mortgage recording fees. In sum, the projected shortfalls total approximately $18.7 million in FY 2025, $26.4 million in FY 2026, and $31.4 million in FY 2027;

- Overestimated revenues from Fines and Forfeitures, mainly due to revenues related to fines from tickets issued by the Police Department and red light cameras. The projected shortfalls total approximately $9.2 million in each of FY 2025, FY 2026 and FY 2027;

- Uncertain revenue from the annual sale of County property and recoveries. In addition, our analysis excludes budgeted amounts from prior-year recoveries since these proceeds do not constitute revenue under GAAP. We also exclude proceeds from cash recoveries from capital project closeouts since these resources would be used to pay debt service (an operating expense) and therefore excluded under the Control Period calculation.[8] Our baseline projections exclude revenue anticipated from a new lease with Las Vegas Sands because at the time of this writing the agreement has not been approved by the County Legislature. We include the revenue as an opportunity in our projections listed in the bottom row of the above table;

- Underestimated costs for salaries and fringe benefits, including annual projected funding shortfalls for overtime of approximately $20.0 million in each of FYs 2025-2027, and health insurance for both current employees and retirees of approximately $39.2 million in FY 2025, $53.1 million in FY 2026, and $68.3 million in FY 2027;

- Underestimated costs for Early Intervention and Special Education programs, which our analysis indicates may be underfunded by

[8] Resources realized from capital project closeouts are used by the County to pay debt service, which is an operating expense. Since these unused resources were originally raised through the issuance of bonds, they do not contribute to the County's operating results for Control Period calculation purposes.

approximately \$26.0 million in FY 2025, \$30.0 million in FY 2026, and \$32.2 million in FY 2027; and

- Underestimated costs for social services programs, which our analysis indicates may be underfunded by approximately \$16.7 million in FY 2025, \$19.2 million in FY 2026, and \$21.7 million in FY 2027.

OTHER CONCERNS

Nassau Health Care Corporation

The financial health of the Nassau Health Care Corporation ("NHCC") and its potential impact on the County, including but not limited to Correctional Center health care services, continues to be a major source of concern for NIFA. The report of the independent certified public accountants for NHCC's 2023 audited financial statements continues to state that substantial doubt exists about NHCC's ability to continue as a going concern.

NHCC has experienced recurring operating losses, a working capital deficit and has a total negative net position of approximately \$1.2 billion at December 31, 2023. It is also dependent on the continuation of Federal, State and local subsidies, certain of which have or are scheduled to end or be reduced. Further, NHCC's collective bargaining agreement with the CSEA expired at the end of 2022. Consequently, any future agreement will likely result in increased labor costs.

NHCC adopted a budget for 2024 that anticipated an operating loss of \$66.6 million. Based on current trends, we are concerned that the loss may significantly exceed NHCC's assumptions. Most worrisome is that NHCC has reported a cash balance of \$39.7 million at December 31, 2023, which was down from the \$83.2 million balance reported one year earlier. Cashflow fluctuates on any given day due to, among many factors, the timing of revenue collections, payroll runs, and payments to its vendors. Its cash balance on August 1, 2024 was \$39.0 million, virtually unchanged from the end of 2023, and its daily operating expense burn rate is approximately \$1.9 million.

The year-over-year downward trend is particularly noteworthy because, among other payables, NHCC's outstanding liability owed to the New York State Health Insurance Plan for coverage of its employees and retirees totals approximately \$361.0 million (at the end of July) and continues to grow by approximately \$7.0 million each month as NHCC conserves desperately needed cash. The liability would have been \$60.0 million higher if not for a grant from the New York State Department of Health ("State DOH") applied against the outstanding balance. Further, in a report sent to State DOH, NHCC projects that it will virtually deplete its available cash balances by the end of the year.

The circumstances are troubling for the obvious reason that the County has a direct-pay guarantee on NHCC's outstanding debt, which totaled \$100.0 million at December 31, 2023 (\$84.5 million after the debt service payment due August 1st), or approximately \$117.9 million of remaining principal and interest payments (\$97.4 million after the debt service payment due August 1st). Our projections reflect the potential risk that the County will be required to fund this liability over five years.

The County may incur additional costs in the event it provides additional funding to NHCC as a moral obligation to the County's underserved residents.

The County also contracts with NHCC to provide medical, mental health, dental, and ancillary services to inmates incarcerated at the Correctional Center and services for individuals needing inpatient and outpatient treatment for chemical dependency. Consequently, the County may need to secure alternatives to NHCC for the provision of these services, at possibly a greater cost, should NHCC reach a point that it is unable to deliver them.

Labor Costs

Contracts with most of the County's labor unions expire on June 30, 2026. The County's contract with the CSEA expires on December 31, 2030. It is concerning that the Update does not make any accommodation for additional labor costs that would be incurred after successor labor agreements are reached (which are unlikely to be cost-neutral), beginning in 2026.

Tax Certiorari Backlog

The total tax certiorari liability was reported by the Comptroller in the County's Annual Comprehensive Financial Report ("ACFR") to be $269.6 million at December 31, 2023. This included $161.1 million of non-current liabilities, including $6.7 million in estimated non-current liabilities payable from the Disputed Assessment Fund ("DAF"), and $108.5 million in current liabilities, including $6.9 million in estimated current liabilities payable for DAF. The long-term liability decreased by approximately $113.8 million during 2023.

The County has included only $30.0 million in each of FY 2025, FY 2026, and FY 2027 for tax certiorari refunds. The County also has $78.0 million in its Litigation Fund to supplement these allocations.

We remain concerned that the Administration's decision to continue its freeze of the assessment roll will result in an inequitable shift in the property tax burden to those properties whose owners do not challenge their assessments and a tax certiorari refund liability that will grow in future years.

Non-Certiorari Litigation

The County has estimated its liabilities for non-certiorari judgments and settlements that may result from the multitude of lawsuits the County is currently litigating, including proceedings referred to as the "Utilities Litigations," which refund it estimates could be as high as $153.0 million alone. These liabilities were reported by the Comptroller in the ACFR to be $475.5 million at December 31, 2023.

The payment of this liability is not factored into our Out-Year risk assessment but could require significant expenditures to the extent that the costs exceed the amounts appropriated in the operating budget and/or held in the Litigation Fund. The County has included only $25.0 million in each of FY 2025, FY 2026, and FY 2027 for non-certiorari judgments and settlements. The County also has $115.2 million in its Litigation Fund to supplement these allocations.

Workers' Compensation Claims

The County's liabilities for Workers' Compensation claims were reported by the Comptroller in the ACFR to be $308.7 million at December 31, 2023. With respect to its similar prior year estimate, the County noted in its May bonds official statement that "no assurance can be given that additional claims will not be made or that the ultimate liability on existing and future claims will not be greater." The County has designated a portion of the Litigation Fund for Workers' Compensation claims totaling $14.0 million.

POTENTIAL GAP-CLOSING PLAN INITIATIVES

The Administration contends, "[t]he County's Fiscal 2024-2027 Multi-Year Financial Plan is structurally balanced with no gaps; therefore, no discussion of a gap closing plan is required." However, the Administration did identify several initiatives it is pursuing to improve the County's finances. These initiatives have been included in previous iterations of the County's Gap-Closing Plan.

State Aid Mandated Cap

The County pays third-party vendors to provide preschool education for certain children aged five or younger and receives a 59.5% reimbursement from the State for the costs incurred. The Administration wants the State to increase the reimbursement rate to offset the increasing expenses being incurred by the County, which are not within the County's control. It is unclear if there is any support in the State Legislature to make this change.

Building Consolidation

The Administration, without any specifics or supporting documentation, expects to reduce expenses through centralization and reduction of office space, generating additional savings in utilities and maintenance costs. Although the County workforce has declined over the years, we are holding this initiative at risk until a detailed plan is developed that lays out specific initiatives with appropriate tasks and milestones.

Efficiency Program

The Administration expects to realize savings from permanently consolidating and realigning its workforce levels. We continue to question this initiative since there is a lack of specificity and the County continues to carry 239 full-time vacancies in the Budget.

Economic Development

The Administration has stated that there are opportunities for economic development of downtown areas, but has not identified any specific projects or explained how this would generate new revenue.

Las Vegas Sands Development

As a result of litigation, the Administration has submitted to the Legislature a substitute proposed lease with the Las Vegas Sands ("LVS") for the operation of approximately 72-acres of land at the Nassau Coliseum site and separately a term sheet for a proposed lease for the redevelopment of the property, with certain terms modified from the prior proposed lease that is the subject of the litigation. The LVS plans include a casino, hotel and entertainment center.

Although the restructured proposed leases also provide significant additional benefits should LVS be successful in its application for a casino license, the County is no longer receiving a non-refundable, advance rent payment of $54.0 million that had been touted in the original deal.

It is now slated to receive non-refundable annual payments of $10.0 million for the first three years which are to be deducted from the $54.0 million held by the County under the prior proposed lease, with the balance returned to LVS, resulting in a net negative to the County of $24 million. LVS is now to pay rent in the amount of $1.00 per year for the first three years followed by annual payments of $5.0 million which inflate each year by two percent beginning in the fifth year of the lease. (Under the prior proposed lease, the $5.0 million in annual rental payments would have started in the first year of the lease and would have begun escalating in the second year.) The County will also receive $900,000 additional rent annually (which will inflate each year of the lease by two percent beginning in the second year) towards public safety while LVS awaits a potential State gaming license. Upon the commencement of the casino operation, the annual rent and public safety rental payments would double to $10.0 million and $1.8 million, respectively, subject to two percent annual escalation. LVS will also pay a non-refundable, one-time fixed payment for its use and occupancy of the premises in the amount of $1.0 million upon the effective date of the operational lease.

According to the Administration's staff summary submitted with the term sheet for the proposed development lease, LVS would also pay the County a minimum of $25.0 million annually for the Gaming Tax Revenue Guarantee (upon the commencement of the casino operation or three-year anniversary of the license award) and annually fund a Community Benefits Program commencing upon the opening of the casino, which would grow from $2.0 million to $4.0 million over the term of the lease. The Gaming Tax Revenue Guarantee would double to $50.0 million under certain circumstances, such as the issuance of a certificate of occupancy for the full gaming space. According to the term sheet, the Gaming Tax Revenue Guarantee payments would be subject to two percent annual escalation. The Administration expects the licensing decision before the end of 2025.

IV. CONCLUSION

The County's fiscal outlook during FY 2024 relies substantially on a significant one-shot transfer of ARPA resources into the General Fund, which does not demonstrate lasting improvement in the County's fiscal strength or management of risks as evidenced by the weakened fiscal outlook in the Out-Years of the Update. We project growing deficits in FY 2025, FY 2026 and FY 2027, which could reach more than nine times the one percent threshold requiring a Control Period, and for which the County has not supplied us with its proposed solutions.

In addition, despite our request, the County has still not clarified its role in stabilizing NHCC's fiscal standing or explained to us how it will handle health care for its inmates if NHCC is forced to curtail its operations.

We will help the County to continue its fiscal recovery and will continue to update our evaluation of its sustainability. The County can help in that process by responding to our prior unanswered requests for information and by improving the transparency of its decision-making.