

10951

I N A S S E M B L Y

May 5, 2010

Introduced by M. of A. BALL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law, in relation to the fiscal year of the state; and to repeal section 3 of the state finance law relating to the fiscal year (Part A); to amend the state finance law, in relation to requiring the legislature to provide sufficient revenue to cover all state expenditures (Part B); to amend the real property tax law, in relation to the valuation of real property (Part C); to amend the legislative law, in relation to prohibiting the imposition of any state charge, fee or tax for the benefit of any municipal corporation or school district (Part D); to amend the legislative law, in relation to prohibiting the provision of tax exemptions to business corporations (Part E); to amend the vehicle and traffic law and the state finance law, in relation to requiring the deposit, into the dedicated highway and bridge trust fund, of all fees received by the department of motor vehicles (Part F); and to restrain the growth of government at all levels within the state (Part G)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "taxpayer bill of rights".
3 S 2. This act enacts into law major components of legislation which
4 are necessary to enact the taxpayer bill of rights. Each component is
5 wholly contained within a Part identified as Parts A through G. The
6 effective date for each particular provision contained within such Part
7 is set forth in the last section of such Part. Any provision in any
8 section contained within a Part, including the effective date of the
9 Part, which makes reference to a section "of this act", when used in
10 connection with that particular component, shall be deemed to mean and
11 refer to the corresponding section of the Part in which it is found.
12 Section four of this act sets forth the general effective date of this
13 act.

14 PART A

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 Section 1. Section 3 of the state finance law is REPEALED and a new
2 section 3 is added to read as follows:

3 S 3. FISCAL YEAR. 1. THE CURRENT FISCAL YEAR OF THE STATE WHICH
4 COMMENCED WITH THE FIRST DAY OF APRIL, TWO THOUSAND TEN, IS HEREBY
5 EXTENDED AND SHALL END WITH THE THIRTIETH DAY OF SEPTEMBER, TWO THOUSAND
6 ELEVEN. FOR ALL PURPOSES OF DETERMINING ANNUAL INCREMENTS OF STATE
7 EMPLOYEES PURSUANT TO THE EDUCATION LAW, THE CIVIL SERVICE LAW OR OTHER
8 STATE LAW, AND FOR ALL PURPOSES WHENEVER BY LAW SOME ACT IS TO BE
9 PERFORMED OR TIME IS TO BE MEASURED BY THE FISCAL YEAR OF THE STATE, THE
10 CURRENT FISCAL YEAR, AS SO ABRIDGED, SHALL BE DEEMED TO BE A FULL YEAR
11 UNLESS THE CONTEXT CLEARLY REQUIRES A CONTRARY CONSTRUCTION.

12 ON AND AFTER THE FIRST DAY OF OCTOBER, TWO THOUSAND ELEVEN, THE FISCAL
13 YEAR OF THE STATE, FOR THE PURPOSE OF BUDGET, APPROPRIATIONS, RECEIPTS
14 AND DISBURSEMENTS OF STATE MONEYS AND ALL OTHER STATE AFFAIRS WHICH ARE
15 REGULATED IN ACCORDANCE WITH OR BASED ON FISCAL YEARS, INCLUDING THE
16 FISCAL AFFAIRS OF ALL STATE DEPARTMENTS, COMMISSIONS, BOARDS, AGENCIES,
17 OFFICES AND INSTITUTIONS, SHALL BEGIN WITH THE FIRST DAY OF OCTOBER AND
18 END WITH THE NEXT FOLLOWING THIRTIETH DAY OF SEPTEMBER.

19 2. ALL BOOKS AND ACCOUNTS IN THE OFFICES OF THE COMPTROLLER AND THE
20 DEPARTMENT OF TAXATION AND FINANCE SHALL BE KEPT BY FISCAL YEARS. ALL
21 ANNUAL ACCOUNTS REQUIRED TO BE RENDERED TO THE COMPTROLLER OR TO SUCH
22 DEPARTMENT BY ANY PERSON SHALL BE CLOSED ON THE THIRTIETH DAY OF SEPTEMBER
23 IN EACH YEAR, AND BE RENDERED AS SOON THEREAFTER AS PRACTICABLE, IF
24 NO TIME IS SPECIALLY PRESCRIBED BY LAW.

25 3. WHERE ANY STATUTE PROVIDES, IN TERMS OR EFFECT, THAT ANY INVENTORY
26 OR ACCOUNT, OR A REPORT RELATING IN WHOLE OR IN PART TO RECEIPTS AND
27 DISBURSEMENTS OF MONEY, BE MADE TO THE LEGISLATURE OR ANY STATE OFFICER
28 ANNUALLY, OR FOR A YEAR, BY A DEPARTMENT, COMMISSION, BOARD, OR OFFICER
29 UNDER THE STATE GOVERNMENT, SUCH INVENTORY OR ACCOUNT, AND SUCH REPORT
30 SO FAR AS IT RELATES TO SUCH RECEIPTS AND DISBURSEMENTS, SHALL BE FOR
31 THE PRECEDING FISCAL YEAR, UNLESS THE CALENDAR YEAR BE EXPRESSLY
32 MENTIONED.

33 4. EXISTING PROVISIONS OF OTHER LAWS DESCRIBING OR REFERRING TO A
34 FISCAL YEAR OF THE STATE AS BEGINNING APRIL FIRST AND ENDING MARCH THIRTY-FIRST,
35 OR MAKING ANY REQUIREMENT WITH RESPECT TO SUCH FISCAL YEAR, OR
36 REFERRING TO ANY YEAR SO BEGINNING AND ENDING WHICH APPLIES TO INVENTORIES
37 OR ACCOUNTS IN STATE MATTERS, OR TO REPORTS RELATING TO STATE MONEY
38 OR PROPERTY, SHALL BE DEEMED MODIFIED BY AND BE CONSTRUED IN CONNECTION
39 WITH THIS SECTION, AND BE DEEMED TO REFER TO A FISCAL OR TO ANOTHER YEAR
40 OR PERIOD BEGINNING AND ENDING AS HEREIN PRESCRIBED FOR A FISCAL YEAR.

41 5. ON OR BEFORE AUGUST FIFTEENTH EACH YEAR, THE LEGISLATURE SHALL
42 ADOPT A JOINT RESOLUTION THAT ESTABLISHES THE MAXIMUM APPROPRIATION TO
43 EACH STATE AGENCY FOR STATE OPERATIONS, LOCAL ASSISTANCE AND CAPITAL
44 CONSTRUCTION.

45 S 2. This act shall take effect immediately.

46

PART B

47 Section 1. Section 42 of the state finance law is amended to read as
48 follows:

49 S 42. Limitation on expenditures. 1. The several amounts appropriated
50 in any act shall be deemed to be only for so much thereof as shall be
51 sufficient to accomplish in full the purposes designated by the appropriations
52 and shall be paid by the division of the treasury, department
53 of taxation and finance, from the respective funds as specified, pursuant
54 to the requirements of this chapter. It shall be the duty of the

1 comptroller to report annually to the legislature the detail of the
2 several expenditures.

3 2. NO STATE BUDGET NOR ANY OTHER APPROPRIATION SHALL BE ENACTED INTO
4 LAW UNLESS THE LEGISLATURE SHALL HAVE ENACTED LAWS PROVIDING REVENUE IN
5 SUCH AMOUNTS AS SHALL BE NECESSARY TO FUND ALL EXPENDITURE REQUIRED BY
6 THE STATE BUDGET AND OTHER APPROPRIATIONS.

7 S 2. This act shall take effect September 1, 2011.

8

PART C

9 Section 1. Section 305 of the real property tax law, as added by chap-
10 ter 1057 of the laws of 1981, is amended to read as follows:

11 S 305. Assessment methods and standard. 1. [The existing assessing
12 methods in effect in each assessing unit on the effective date of this
13 section may continue.

14 2. All real property in each assessing unit shall be assessed at a
15 uniform percentage of value (fractional assessment) except that, if the
16 administrative code of a city with a population of one million or more
17 permitted, prior to January first, nineteen hundred eighty-one, a clas-
18 sified assessment standard, such standard shall govern unless such city
19 by local law shall elect to be governed by the provisions of this
20 section.

21 3. Any assessing unit in which assessments are at full value by reason
22 of a revaluation may adopt a level of assessment in accordance with this
23 section.] EVERY REAL PROPERTY TAX LEVY SHALL BE IMPOSED IN A UNIFORM
24 MANNER UPON ALL REAL PROPERTY, NOT OTHERWISE EXEMPT FROM SUCH TAXATION,
25 LOCATED WITHIN THE TERRITORIAL JURISDICTION OF THE TAXING AUTHORITY. THE
26 ACTUAL VALUE OF EACH PARCEL OF REAL PROPERTY SHALL BE DETERMINED IN A
27 MANNER TO SECURE JUST AND EQUALIZED VALUATIONS. VALUATIONS FOR ASSESS-
28 MENTS SHALL BE BASED ON APPRAISAL BY THE ASSESSING AUTHORITY DETERMINED
29 BY APPROPRIATE CONSIDERATION OF COST APPROACH, MARKET APPROACH AND
30 INCOME APPROACH. HOWEVER, THE ACTUAL VALUE OF RESIDENTIAL REAL PROPERTY
31 SHALL BE DETERMINED SOLELY BASED ON CONSIDERATION OF COST APPROACH AND
32 MARKET APPROACH. THE ACTUAL VALUE OF AGRICULTURAL LAND SHALL BE DETER-
33 MINED SOLELY BY CONSIDERATION OF THE EARNING OR PRODUCTIVE CAPACITY OF
34 SUCH LAND.

35 2. RESIDENTIAL REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT TWEN-
36 TY-ONE PERCENT OF ITS ACTUAL VALUE. FOR THE REAL PROPERTY TAX YEAR
37 COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE LEGISLA-
38 TURE SHALL, BY LAW, DETERMINE THE PERCENTAGE OF THE AGGREGATE STATEWIDE
39 VALUATION FOR ASSESSMENT OF RESIDENTIAL REAL PROPERTY. THEREAFTER, FOR
40 EACH REAL PROPERTY TAX YEAR, THE LEGISLATURE, BY LAW, SHALL DETERMINE
41 THE PERCENTAGE OF THE STATEWIDE VALUATION FOR ASSESSMENT WHICH IS
42 ATTRIBUTABLE TO EACH CLASS OF TAXABLE REAL PROPERTY, AFTER ADDING THE
43 INCREASED VALUATION FOR ASSESSMENT ATTRIBUTABLE TO NEW CONSTRUCTION. FOR
44 EACH YEAR IN WHICH THERE IS A CHANGE IN THE LEVEL OF VALUE USED IN
45 DETERMINING ACTUAL VALUE, THE RATIO OF VALUATION FOR ASSESSMENT FOR
46 RESIDENTIAL REAL PROPERTY SHALL BE ADJUSTED TO ENSURE THAT THE PERCENT-
47 AGE OF THE AGGREGATE STATEWIDE VALUATION FOR ASSESSMENT WHICH IS ATTRIB-
48 UTABLE TO RESIDENTIAL REAL PROPERTY SHALL REMAIN THE SAME AS IT WAS THE
49 YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH SUCH CHANGE OCCURS. SUCH
50 ADJUSTED RATIO SHALL BE THE RATIO OF VALUATION FOR ASSESSMENT FOR RESI-
51 DENTIAL REAL PROPERTY FOR THOSE YEARS FOR WHICH SUCH NEW LEVEL OF VALUE
52 IS USED. ALL OTHER TAXABLE REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT
53 AT TWENTY-NINE PERCENT OF ITS ACTUAL VALUE.

1 3. (A) DURING EACH YEAR THE OFFICE OF REAL PROPERTY SERVICES SHALL
 2 CONDUCT A VALUATION FOR ASSESSMENT STUDY. EACH SUCH STUDY SHALL DETER-
 3 MINE WHETHER OR NOT EACH ASSESSING AUTHORITY HAS COMPLIED WITH THE
 4 PROVISIONS OF LAW RELATING TO THE ASSESSMENT OF REAL PROPERTY AND HAS
 5 DETERMINED THE ACTUAL VALUE AND VALUATION FOR ASSESSMENT OF EACH AND
 6 EVERY CLASS OF REAL PROPERTY. THE STUDY SHALL SAMPLE NOT LESS THAN ONE
 7 PERCENT OF EACH AND EVERY CLASS OF REAL PROPERTY IN EACH COUNTY.

8 (B) IF ANY SUCH STUDY REVEALS THAT AN ASSESSING AUTHORITY DID NOT
 9 COMPLY WITH THE PROVISIONS OF THIS CHAPTER, THE OFFICE OF REAL PROPERTY
 10 SERVICES SHALL ORDER SUCH ASSESSING AUTHORITY TO REAPPRAISE THE AFFECTED
 11 REAL PROPERTY.

12 S 2. This act shall take effect on the first of January next succeed-
 13 ing the date on which it shall have become a law.

14 PART D

15 Section 1. The legislative law is amended by adding a new section 57
 16 to read as follows:

17 S 57. IMPOSITION OF FEES, CHARGES AND TAXES FOR THE BENEFIT OF LOCAL
 18 GOVERNMENTS. THE LEGISLATURE SHALL NOT CONSIDER OR PASS ANY BILL WHICH
 19 IMPOSES ANY FEE, CHARGE OR TAX THE PROCEEDS OF WHICH ARE FOR THE BENEFIT
 20 OF ANY MUNICIPAL CORPORATION, OR AGENCY OR PUBLIC AUTHORITY THEREOF.
 21 HOWEVER, NO PROVISION OF THIS SECTION SHALL BE DEEMED TO PROHIBIT THE
 22 ENACTMENT OF ANY LAW WHICH AUTHORIZES A MUNICIPAL CORPORATION TO IMPOSE
 23 ANY FEE, CHARGE OR TAX FOR THE BENEFIT OF SUCH CORPORATION.

24 S 2. This act shall take effect immediately.

25 PART E

26 Section 1. The legislative law is amended by adding a new section 58
 27 to read as follows:

28 S 58. CORPORATE TAXATION. NOTWITHSTANDING ANY PROVISION OF LAW TO THE
 29 CONTRARY, NO LAW SHALL BE ENACTED WHICH GRANTS ANY BUSINESS CORPORATION
 30 AN EXEMPTION FROM ANY TAX IMPOSED BY THE STATE OR ANY POLITICAL SUBDIVI-
 31 SION THEREOF. EVERY LAW ENACTED IN VIOLATION OF THIS SECTION SHALL BE
 32 VOID AND OF NO FORCE OR EFFECT.

33 S 2. This act shall take effect on the first of January next succeed-
 34 ing the date on which it shall have become a law.

35 PART F

36 Section 1. The vehicle and traffic law is amended by adding a new
 37 section 202-c to read as follows:

38 S 202-C. FEES, FINES AND PENALTIES RECEIVED BY THE DEPARTMENT.
 39 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER
 40 SHALL ON OR BEFORE THE TENTH DAY OF EACH MONTH PAY TO THE STATE COMP-
 41 TROLLER ALL FEES, FINES AND PENALTIES COLLECTED BY THE DEPARTMENT PURSU-
 42 ANT TO THIS CHAPTER DURING THE PRECEDING CALENDAR MONTH. UPON RECEIPT OF
 43 MONEYS PURSUANT TO THIS SECTION, THE STATE COMPTROLLER SHALL DEPOSIT
 44 SUCH MONEYS TO THE CREDIT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND
 45 ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

46 S 2. Subdivision 4 of section 89-b of the state finance law, as added
 47 by chapter 56 of the laws of 1993, is amended to read as follows:

48 4. The highway and bridge capital account shall consist of all moneys
 49 DEPOSITED PURSUANT TO SECTION TWO HUNDRED TWO-C OF THE VEHICLE AND TRAF-
 50 FIC LAW AND ALL MONEYS transferred from the special obligation reserve

1 and payment account and any other moneys credited or transferred thereto
2 from any other fund, account or source.
3 S 3. This act shall take effect on the first of April next succeeding
4 the date on which it shall have become a law.

5

PART G

6 Section 1. General provisions. The provisions of this act are intended
7 and shall be deemed to have been enacted for the purpose of restraining
8 the growth of government. The provisions of this act may be enforced by
9 means of a civil cause of action commenced in supreme court by any resi-
10 dent of the state or by any class of such residents. Prevailing plain-
11 tiffs shall be allowed their court costs and reasonable attorneys fees.
12 All revenue collected, kept or spent in violation of this act during the
13 four state fiscal years preceding the commencement of the cause of
14 action shall be repaid to taxpayers with ten percent simple interest
15 thereon. The method of providing any such refund shall be as determined
16 by the trial court for the cause of action, including the temporary
17 provision of tax credits or rate reductions.

18 S 2. Definitions. As used in this act:

19 (a) "Ballot-issue" means a referendum.

20 (b) "Emergency" shall not include economic conditions, revenue short-
21 falls, or salary or benefit increases.

22 (c) "Fiscal year spending" means all expenditures and reserve increase
23 of a government entity, except those made for refunds, and those from
24 gifts, federal funds, a public retirement system, reserve transfers and
25 property sales.

26 (d) "Government entity" means the state or any political subdivision
27 thereof.

28 (e) "Inflation" means the percentage change in the United States
29 Bureau of Labor Statistics Consumer Price Index for all urban consumers.

30 S 3. Referendum provisions. (a) All referenda shall be presented to
31 the registered voters of the appropriate government entity on the date
32 of the general election.

33 (b) Not less than 30 days before the day of the general election at
34 which a referendum will be on the ballot, the government entity shall
35 mail notice of such referendum addressed to "All Registered Voters" at
36 the address of each registered voter. The titles on every such notice
37 shall have the following order of preference: "NOTICE OF ELECTION TO
38 INCREASE TAXES/TO INCREASE DEBT/ ON A CITIZEN PETITION/ ON A REFERRED
39 MEASURE". Every notice shall include:

40 (i) the date and hours of the election, referendum title and text, and
41 the address and telephone number of the board of elections;

42 (ii) for proposed tax and/or debt increases, the estimated or actual
43 total of government entity spending for the current fiscal year and each
44 of the past 4 fiscal years, and the overall percentage and dollar
45 change;

46 (iii) for the first full fiscal year of each proposed tax increase,
47 estimates of the maximum dollar amount of each increase and for govern-
48 ment entity fiscal year spending without the increase;

49 (iv) for proposed debt increases, the principal amount of the debt,
50 and the maximum annual and total repayment costs; and the principal
51 balance of any existing debt and its maximum annual and total repayment
52 costs; and

53 (v) two summaries, of not more than 500 words each, one of which
54 supports the approval of the referendum and the other of which supports

1 the rejection of the referendum. No such summary shall include the name
2 of any person or entity supporting or opposing the referendum.

3 (c) Except as otherwise provided after voter approval, if a tax
4 increase or fiscal year spending exceeds any estimate established pursu-
5 ant to paragraph (iii) of subdivision (b) of this section for the same
6 fiscal year, such tax increase shall be reduced up to one hundred
7 percent in proportion to the combined dollar excess, and the combined
8 excess revenue refunded in the next fiscal year. Government entity debt
9 shall not issue on terms that would exceed its share of its maximum
10 repayment costs established in paragraph (iv) of subdivision (b) of this
11 section. Referendum titles for tax or debt increases shall begin:
12 "SHALL (government entity) TAXES BE INCREASED \$ _____ ANNUALLY?"
13 or "SHALL (government entity) DEBT BE INCREASED (principal amount), WITH
14 REPAYMENT COST OF \$ _____?".

15 S 4. Required referenda. Except as otherwise provided in section six
16 of this act, each government entity shall hold a referendum in advance
17 for:

18 (a) any new tax, tax rate increase, increase in real property tax
19 rate, extension of an expiring tax or change of tax policy directly
20 causing a net tax revenue gain; or

21 (b) creation of any multiple fiscal year direct or indirect government
22 entity debt or other financial obligation whatsoever without adequate
23 present cash reserves pledged irrevocably and held for payments in all
24 future fiscal years.

25 S 5. Emergency reserves. For use in declared emergencies only, each
26 government entity shall reserve three percent or more of its fiscal year
27 spending excluding debt service. Any unused reserves shall apply to the
28 following fiscal year's reserve.

29 S 6. Emergency taxes. No government entity shall impose an emergency
30 real property tax. However, all other emergency taxes are authorized
31 under the following conditions:

32 (a) upon the declaration of an emergency and the approval of an emer-
33 gency tax by a two-thirds majority vote of the legislative body or
34 bodies of the government entity. The declaration of an emergency and the
35 imposition of an emergency tax shall be separately approved by the
36 appropriate legislative body or bodies;

37 (b) emergency tax revenue shall be expended only after the government
38 entity has depleted its emergency reserves, and shall be refunded within
39 one hundred eighty days after the emergency ends if not expended; and

40 (c) any emergency tax rejected at the succeeding general election,
41 held not less than sixty days after the emergency, shall be immediately
42 repealed after such election.

43 S 7. Spending limits. (a) The maximum annual percentage change in the
44 state budget shall not exceed the rate of inflation plus the percentage
45 change in state population in the prior calendar year, adjusted for
46 revenue changes. State population shall be determined by annual federal
47 census estimates and such number shall be adjusted every decade to match
48 the federal census.

49 (b) The maximum annual percentage change in municipal fiscal year
50 spending shall not exceed the rate of inflation plus local growth,
51 adjusted for revenue changes.

52 (c) The maximum annual percentage change in real property tax revenue
53 of any government entity shall not exceed inflation in the prior calen-
54 dar year plus annual growth, adjusted for revenue changes.

55 (d) If revenue from sources not excluded from fiscal year spending
56 exceeds the limits for the fiscal year, the excess shall be refunded in

1 the next fiscal year unless the voters approve a revenue change as an
2 offset.

3 S 8. Revenue limits. (a) No government entity shall increase or estab-
4 lish new transfer taxes on real property. The state shall be prohibited
5 from imposing real property taxes. No municipality shall impose an
6 income tax on any individual or entity.

7 (b) Regardless of the frequency of reassessment, valuation notices
8 shall be mailed annually and may be grieved and appealed annually, with
9 no presumption in favor of any prior valuation. Actual value shall be
10 stated on all real property tax bills and valuation notices, and for
11 residential real property, shall be determined solely at the market
12 approach to appraisal.

13 S 9. This act shall take effect immediately.

14 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
15 sion, section or part of this act shall be adjudged by any court of
16 competent jurisdiction to be invalid, such judgment shall not affect,
17 impair or invalidate the remainder thereof, but shall be confined in its
18 operation to the clause, sentence, paragraph, subdivision, section or
19 part thereof directly involved in the controversy in which such judgment
20 shall have been rendered. It is hereby declared to be the intent of the
21 legislature that this act would have been enacted even if such invalid
22 provisions had not been included in this act.

23 S 4. This act shall take effect immediately; provided, however, that
24 the applicable effective date of Parts A through G of this act shall be
25 as specifically set forth in the last section of such Parts.