S T A T E O F N E W Y O R K

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:

Section 1. Short title. This act shall be known and may be cited as the "taxpayer bill of rights".

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

PART A

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

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 Section 3 of the state finance law is REPEALED and a new section 3 is added to read as follows:

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

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

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

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

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

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

S 2. This act shall take effect immediately.

PART B

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

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

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

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

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

PART C

Section 1. Section 305 of the real property tax law, as added by chapter 1057 of the laws of 1981, is amended to read as follows:

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

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

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

2. RESIDENTIAL REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT TWENTY-ONE PERCENT OF ITS ACTUAL VALUE. FOR THE REAL PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE LEGISLATURE SHALL, BY LAW, DETERMINE THE PERCENTAGE OF THE AGGREGATE STATEWIDE VALUATION FOR ASSESSMENT OF RESIDENTIAL REAL PROPERTY. THEREAFTER, FOR EACH REAL PROPERTY TAX YEAR, THE LEGISLATURE, BY LAW, SHALL DETERMINE THE PERCENTAGE OF THE STATEWIDE VALUATION FOR ASSESSMENT WHICH IS ATTRIBUTABLE TO EACH CLASS OF TAXABLE REAL PROPERTY, AFTER ADDING THE INCREASED VALUATION FOR ASSESSMENT ATTRIBUTABLE TO NEW CONSTRUCTION. FOR EACH YEAR IN WHICH THERE IS A CHANGE IN THE LEVEL OF VALUE USED IN DETERMINING ACTUAL VALUE, THE RATIO OF VALUATION FOR ASSESSMENT FOR RESIDENTIAL REAL PROPERTY SHALL BE ADJUSTED TO ENSURE THAT THE PERCENTAGE OF THE AGGREGATE STATEWIDE VALUATION FOR ASSESSMENT WHICH IS ATTRIBUTABLE TO RESIDENTIAL REAL PROPERTY SHALL REMAIN THE SAME AS IT WAS THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH SUCH CHANGE OCCURS. SUCH ADJUSTED RATIO SHALL BE THE RATIO OF VALUATION FOR ASSESSMENT FOR RESIDENTIAL REAL PROPERTY FOR THOSE YEARS FOR WHICH SUCH NEW LEVEL OF VALUE IS USED. ALL OTHER TAXABLE REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT TWENTY-NINE PERCENT OF ITS ACTUAL VALUE.

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

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

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

PART D

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

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

S 2. This act shall take effect immediately.

PART E

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

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

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

PART F

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

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

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

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

and payment account and any other moneys credited or transferred thereto from any other fund, account or source.

S 3. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.

PART G

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

S 2. Definitions. As used in this act:

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

(b) "Emergency" shall not include economic conditions, revenue shortfalls, or salary or benefit increases.

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

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

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

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

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

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

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

(iii) for the first full fiscal year of each proposed tax increase, estimates of the maximum dollar amount of each increase and for government entity fiscal year spending without the increase;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 9. This act shall take effect immediately.

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

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