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

4299--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. BRODSKY, HOYT, CAHILL, LIFTON, CHRISTENSEN, GOTTFRIED, POWELL, FIELDS, SWEENEY, DelMONTE -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, GLICK, KOON, ROBINSON -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to article VII and section 7 of article IV of the constitution, in relation to modifying provisions for the state's finances and the state's budget and to repeal section 17 of article VII of the constitution relating to tax stabilization funds

Section 1. Resolved (if the Senate concur), That section 1 of article 7 of the constitution be amended to read as follows:

Section 1. BY NOVEMBER FIRST OF EACH PROCEEDING BUDGET PERIOD, A PRELIMINARY ANTICIPATED RECEIPTS FORECAST SHALL BE ISSUED BY THE COMPTROLLER AND THE INDEPENDENT BUDGET OFFICE. BY DECEMBER FIRST OF EACH PROCEEDING BUDGET YEAR, THE COMPTROLLER SHALL CERTIFY AND TRANSMIT TO THE GOVERNOR AND THE LEGISLATURE THE ACTUAL AND UNENCUMBERED MONEYS AND RECEIPTS ANTICIPATED TO BE AVAILABLE IN THE STATE TREASURY. For the preparation of the budget, the head of each department of state government, except the legislature and judiciary, shall furnish the governor such estimates and information in such form and at such times as the governor may require, AND, AT SUCH TIMES, SHALL FORTHWITH PROVIDE copies of [which shall forthwith be furnished] SUCH ESTIMATES AND INFORMATION to the appropriate committees of the legislature AND MAKE SUCH ESTIMATES AND INFORMATION AVAILABLE TO THE PUBLIC. The governor shall hold hearings thereon at which the governor may require the attendance of heads of departments and their subordinates. Designated representatives of such committees shall be entitled to attend the hearings thereon and to make inquiry concerning any part thereof. IF THE ANTICIPATED RECEIPTS FORECASTS CANNOT BE AGREED UPON BY THE TWO HOUSES OF THE LEGISLATURE BY

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

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THE TENTH OF MARCH, THE ANTICIPATED RECEIPTS FORECASTS PROVIDED BY THE INDEPENDENT BUDGET OFFICE SHALL BE BINDING.

THE GOVERNOR SHALL HOLD HEARINGS BY THE FIFTEENTH OF FEBRUARY, IN A MANNER PRESCRIBED BY LAW, ON THE CAPITAL NEEDS OF THE STATE, AND SHALL SUBMIT TO THE LEGISLATURE AN ASSESSMENT OF CAPITAL ASSETS AND NEEDS, AT SUCH TIMES AND IN SUCH MANNER PRESCRIBED BY LAW. WITHIN THIRTY DAYS FOLLOWING THE SUBMISSION OF THE BUDGET TO THE LEGISLATURE, THE GOVERNOR SHALL SUBMIT A DETAILED, MULTI-YEAR CAPITAL PROGRAM AND FINANCING PLAN TO THE LEGISLATURE, AS PROVIDED BY LAW.

Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house, and of the judiciary, approved by the court of appeals and certified by the chief judge of the court of appeals, shall be transmitted to the governor not later than the first day of December in each year for inclusion in the budget without revision but with such recommendations as the governor may deem proper. Copies of the itemized estimates of the financial needs of the judiciary also shall forthwith be transmitted to the appropriate committees of the legislature.

S 2. Resolved (if the Senate concur), That section 2 of article 7 of the constitution be amended to read as follows:

S 2. Annually, on or before the first day of February in each year following the year [fixed by the constitution for the election of governor and lieutenant governor] IN WHICH THE GOVERNOR IS ELECTED, PROVIDED SUCH GOVERNOR DID NOT HOLD THE OFFICE OF GOVERNOR AT THE TIME OF THE ELECTION, and on or before [the second Tuesday following the first day of the annual meeting of the legislature] JANUARY FIFTEENTH, in all other years, the governor shall submit to the legislature a budget containing a complete plan of expenditures proposed to be made before the close of the ensuing fiscal year and all moneys [and revenues estimated] AVAILABLE AND ANTICIPATED RECEIPTS CERTIFIED BY THE COMPTROLLER to be available therefor, together with an explanation of the basis of such estimates and recommendations as to proposed legislation, if any, which the governor may deem necessary to provide moneys and [revenues] RECEIPTS sufficient to meet such proposed expenditures. It shall also contain such other recommendations and information as the governor may deem proper and such additional information as may be required by law.

S 3. Resolved (if the Senate concur), That section 3 of article 7 of the constitution be amended to read as follows:

S 3. At the time of submitting the budget to the legislature the governor shall submit a bill or bills containing all the proposed [appropriations and reappropriations] EXPENDITURES included in the budget and the proposed legislation, if any, recommended therein.

The governor may at any time within [thirty] TWENTY-ONE days thereafter and, with the consent of the legislature, at any time before the adjournment thereof, amend or supplement the budget and submit amendments to any bills submitted by him or her or submit supplemental bills.

The governor and the heads of departments shall have the right, and it shall be the duty of the heads of departments when requested by either house of the legislature or an appropriate committee thereof, to appear and be heard in respect to the budget during the consideration thereof, and to answer inquiries relevant thereto. The procedure for such appearances and inquiries shall be provided by law.

NO EXPENDITURE SHALL PROVIDE ANY LANGUAGE WHICH ATTEMPTS TO MODIFY ANY GENERAL, SPECIAL OR LOCAL LAW, OR WHICH ATTEMPTS TO CREATE AN EXCEPTION TO ANY SUCH LAW.

S 4. Resolved (if the Senate concur), That section 4 of article 7 of the constitution be amended to read as follows:

S 4. The legislature may not alter an [appropriation] EXPENDITURE bill submitted by the governor except to strike out or reduce items OR ALL SUCH CONDITIONS CONTAINED therein, but it may add thereto items of [appropriation] EXPENDITURE provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. None of the restrictions of this section, however, shall apply to [appropriations] EXPENDITURES for the legislature or judiciary.

[Such an appropriation] AN EXPENDITURE bill MAKING AN EXPENDITURE SOLELY FOR THE PURPOSE OF MEETING THE LEGAL REQUIREMENTS OF THE STATE'S DEBT SERVICE AND LEASE PURCHASE PAYMENTS OR OTHER SPECIAL CONTRACTUAL OBLIGATIONS shall, when passed by both houses, be [a] law immediately without further action by the governor, except that [appropriations] SEPARATE ITEMS ADDED TO THE GOVERNOR'S BILLS BY THE LEGISLATURE SHALL BE SUBJECT TO THE GOVERNOR'S APPROVAL AS PROVIDED IN SECTION 7 OF ARTICLE IV AND EXCEPT THAT EXPENDITURES for the legislature and judiciary and separate items added to the governor's bills by the legislature shall be subject to approval of the governor as provided in section 7 of article IV.

ACTION BY THE LEGISLATURE ON THE EXPENDITURE BILLS AND PROPOSED LEGISLATION, IF ANY, SUBMITTED BY THE GOVERNOR SHALL NOT RESULT IN EXPENDITURES FOR THE ENSUING FISCAL YEAR BEING IN EXCESS OF MONEYS AND ANTICIPATED RECEIPTS CERTIFIED BY THE COMPTROLLER TO BE AVAILABLE FOR SUCH FISCAL YEAR, AS PROVIDED BY LAW. THE COMPTROLLER SHALL CERTIFY AND ENSURE THAT EACH EXPENDITURE BILL AND PROPOSED LEGISLATION SHALL NOT BE IN EXCESS OF MONEYS AND ANTICIPATED RECEIPTS AVAILABLE FOR SUCH FISCAL YEAR.

S 5. Resolved (if the Senate concur), That section 5 of article 7 of the constitution be amended to read as follows:

S 5. Neither house of the legislature shall consider any other bill making an [appropriation] EXPENDITURE until all the [appropriation] EXPENDITURE bills submitted by the governor shall have been finally acted on by both houses, except on message from the governor certifying to the necessity of the immediate passage of such a bill.

IF, BY APRIL FIFTEENTH, THE LEGISLATURE HAS NOT FINALLY ACTED UPON ALL OF THE EXPENDITURE BILLS SUBMITTED BY THE GOVERNOR FOR SUCH FISCAL YEAR, A CONTINGENCY BUDGET, AS THE LEGISLATURE SHALL PROVIDE BY LAW, SHALL TAKE EFFECT WITHOUT FURTHER ACTION BY THE LEGISLATURE OR THE GOVERNOR; PROVIDED, HOWEVER, THAT EXPENDITURES FOR THE LEGISLATURE AND JUDICIARY AND SEPARATE ITEMS ADDED TO THE GOVERNOR'S BILLS BY THE LEGISLATURE SHALL BE SUBJECT TO APPROVAL OF THE GOVERNOR AS PROVIDED IN SECTION 7 OF ARTICLE IV. THE CONTINGENCY BUDGET SHALL PROVIDE THE SAME EXPENDITURES AS WERE ENACTED OR OTHERWISE BECAME LAW FOR THE IMMEDIATELY PRECEDING FISCAL YEAR, AND EXPENDITURE AND ANTICIPATED RECEIPTS PROVISIONS IN EFFECT FOR THE IMMEDIATELY PRECEDING FISCAL YEAR SHALL REMAIN IN EFFECT UNTIL THE CONCLUSION OF THE CONTINGENCY PERIOD. THOSE PROVISIONS IN THE CONTINGENCY BUDGET NOT ALTERED BY THE LEGISLATURE SHALL REMAIN IN EFFECT UNTIL SUCH PROVISIONS ARE REENACTED, REPEALED OR SUPERSEDED BY SUBSEQUENT LEGISLATION OR THE COMMENCEMENT OF THE NEXT FISCAL YEAR.

S 6. Resolved (if the Senate concur), That section 6 of article 7 of the constitution be amended to read as follows:

S 6. [Except for appropriations contained in the bills submitted by the governor and in a supplemental appropriation bill for the support of government, no appropriations shall be made except by separate bills

each for a single object or purpose. All such bills and such supplemental appropriation bill shall be subject to the governor's approval as provided in section 7 of article IV.

No provision shall be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation.] NOTWITHSTANDING ANY OTHER CONSTITUTIONAL PROVISION, THE LEGISLATURE MAY AMEND OR STRIKE OR ADD LANGUAGE TO ANY EXPENDITURE OR BUDGET BILL SUBMITTED BY THE GOVERNOR.

S 7. Resolved (if the Senate concur), That section 7 of article 7 of the constitution be amended to read as follows:

S 7. No money shall ever be paid out of the state treasury or any of its funds, or any of the funds under its management, except in pursuance of an [appropriation] EXPENDITURE by law; nor unless such payment be made within two years next after the passage of such [appropriation] EXPENDITURE act; and every such law making a new [appropriation] EXPENDITURE or continuing or reviving an [appropriation] EXPENDITURE, shall distinctly specify the sum [appropriated] OF THE EXPENDITURE, and the object or purpose to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

S 8. Resolved (if the Senate concur), That section 11 of article 7 of the constitution be amended to read as follows:

S 11. Except the debts or refunding debts specified in sections 9, 10 and 13 of this article, no debt shall be hereafter contracted by or in behalf of the state, unless such debt shall be authorized by law, for some single work or [purpose] MULTIPLE WORK OR PURPOSES, to be distinctly specified therein[. No]; PROVIDED THAT NO such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election nor shall it be submitted to be voted on within three months after its passage nor at any general election [when any other law or any bill shall be submitted to be voted for or against]. THE STATE SHALL NOT ENTER INTO ANY BORROWING ARRANGEMENT, INCLUDING ANY CONTRACT, LEASE OR OTHER SIMILAR AGREEMENT, WHETHER OR NOT ON A CONTINGENT BASIS, FOR THE PURPOSES OF MAKING PAYMENTS OF PRINCIPAL OR INTEREST ON INDEBTEDNESS OF THE STATE OR ANY MUNICIPALITY, INDIVIDUAL, OR PUBLIC OR PRIVATE CORPORATION.

The legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law.

S 9. Resolved (if the Senate concur), That subdivision 8 of section 12 of article 7 of the constitution be amended to read as follows:

8. No appropriation shall be required for [disbursement] EXPENDITURE of money, or income earned thereon, from any sinking fund created pursuant to this section for the purpose of paying principal of and interest on the obligations for which such fund was created, except that interest shall be paid from any such fund only if, and to the extent that, it is not payable annually and contributions on account of such interest were made thereto.

S 10. Resolved (if the Senate concur), That subdivision 3 of section 13 of article 7 of the constitution be amended to read as follows:

3. Proceeds of refunding obligations shall be deposited in escrow funds which shall be maintained and managed by the state comptroller or by an agent or trustee designated by the state comptroller and no legis-

lative [appropriation] EXPENDITURE shall be required for disbursement of money, or income earned thereon, from such escrow funds for the purposes enumerated in this section.

S 11. Resolved (if the Senate concur), That section 16 of article 7 of the constitution be amended to read as follows:

S 16. The legislature shall annually provide by [appropriation] EXPENDITURE for the payment of the interest upon and installments of principal of all debts or refunding debts created on behalf of the state except those contracted under section 9 of this article, as the same shall fall due, and for the contribution to all of the sinking funds created by law, of the amounts annually to be contributed under the provisions of section 12, 13 or 15 of this article. If at any time the legislature shall fail to make any such [appropriation] EXPENDITURE, the comptroller shall set apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such interest, installments of principal, or contributions to such sinking fund, as the case may be, and shall so apply the moneys thus set apart. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds.

Notwithstanding the foregoing provisions of this section, the comptroller may covenant with the purchasers of any state obligations that they shall have no further rights against the state for payment of such obligations or any interest thereon after an amount or amounts determined in accordance with the provisions of such covenant is deposited in a described fund or with a named or described agency or trustee. In such case, this section shall have no further application with respect to payment of such obligations or any interest thereon after the comptroller has complied with the prescribed conditions of such covenant.

THE STATE SHALL HAVE LIMITED AUTHORITY TO ISSUE REVENUE BONDS AS THE LEGISLATURE SHALL PROVIDE BY LAW.

S 12. Resolved (if the Senate concur), That section 17 of article 7 of the constitution be REPEALED and a new section 17 be added to read as follows:

S 17. THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE FISCAL STABILIZATION RESERVE FUND. SUCH FUND SHALL CONSIST OF MONEYS DEPOSITED THEREIN, AND MONEYS SHALL BE WITHDRAWN FROM SUCH FUND ONLY FOR THE PURPOSES AS PROVIDED HEREIN. FOR EACH FISCAL YEAR COMMENCING ON OR AFTER MAY FIRST, TWO THOUSAND TWELVE, AN AMOUNT SHALL BE TRANSFERRED FROM THE GENERAL FUND AND DEPOSITED IN THE FISCAL STABILIZATION RESERVE FUND WHICH SHALL BE CALCULATED AS ONE PERCENT OF ALL MONEYS DEPOSITED INTO THE STATE TREASURY, EXCLUDING FEDERAL FUNDS, FIDUCIARY FUNDS AND BOND PROCEEDS, DURING THE IMMEDIATELY PRECEDING FISCAL YEAR, REDUCED BY THE AMOUNT THAT THE SUM OF THE BALANCE OF THE FUND AT THE BEGINNING OF THE FISCAL YEAR AND ONE PERCENT OF ALL THE MONEYS DEPOSITED INTO THE STATE TREASURY DURING THE IMMEDIATELY PRECEDING FISCAL YEAR EXCEEDS FIVE PERCENT OF THE MONEYS EXCLUDING FEDERAL FUNDS, FIDUCIARY FUNDS AND BOND PROCEEDS DEPOSITED INTO THE STATE TREASURY DURING THE IMMEDIATELY PRECEDING FISCAL YEAR. MONEYS AVAILABLE IN THE FISCAL STABILIZATION RESERVE FUND SHALL BE WITHDRAWN FROM THE FUND AND TRANSFERRED TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR IN THE AMOUNT THAT MONEYS DEPOSITED IN THE GENERAL FUND DURING SUCH FISCAL YEAR IS LESS THAN THE AMOUNT PAID FROM THE GENERAL FUND DURING SUCH FISCAL YEAR, PROVIDED THAT THE AMOUNT TRANSFERRED SHALL NOT EXCEED THE AMOUNT OF MONEYS AVAILABLE IN THE FISCAL STABILIZATION RESERVE FUND.

THIS SECTION SHALL NOT APPLY IN CASES OF INVASION, SUPPRESSION OF INSURRECTION, OR DEFENSE OF THE STATE IN WAR, OR SUPPRESSION OF FOREST FIRES.

S 13. Resolved (if the Senate concur), That article 7 of the constitution be amended by adding a new section 20 to read as follows:

S 20. INDEPENDENT BUDGET OFFICE. THERE IS HEREBY ESTABLISHED AN INDEPENDENT BUDGET OFFICE TO PROVIDE INDEPENDENT ANALYSIS OF FISCAL AND ECONOMIC CONDITIONS.

THIS SECTION SHALL TAKE EFFECT ONE YEAR AFTER IT SHALL HAVE BECOME LAW.

S 14. Resolved (if the Senate concur), That section 7 of article 4 of the constitution be amended to read as follows:

S 7. Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if the governor approve, he or she shall sign it; but if not, he or she shall return it with his or her objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the governor. In all such cases the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him or her, the same shall be a law in like manner as if he or she had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. If any bill presented to the governor contain several items of [appropriation] EXPENDITURE of money, the governor may object to one or more of such [items] EXPENDITURES while approving of the other portion of the bill. In such case the governor shall append to the bill, at the time of signing it, a statement of the items to which he or she objects; and the [appropriation] EXPENDITURE so objected to shall not take effect. If the legislature be in session, he or she shall transmit to the house in which the bill originated a copy of such statement, and the [items] EXPENDITURES objected to shall be separately reconsidered. EITHER HOUSE OF THE LEGISLATURE MAY RECONSIDER THE GOVERNOR'S OBJECTIONS FIRST. IF THE HOUSE THAT WAS NOT OF ORIGINAL JURISDICTION WISHES TO RECONSIDER THE OBJECTIONS FIRST, SUCH HOUSE MAY RECALL THE BILL FROM THE HOUSE OF ORIGINAL JURISDICTION. If on reconsideration one or more of such [items] EXPENDITURES be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he or she shall withhold approval from any item or items contained in a bill [appropriating] EXPENDING money.

S 15. Resolved (if the Senate concur), That the foregoing amendments be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.