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I N   S E N A T E

March 29, 2010

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Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law and the legislative law, in relation to enacting a balanced budget requirement and creating the New York state governmental accounting review board

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

1     Section 1. The state finance law is amended by adding a new article  
2     3-A to read as follows:

3                                     ARTICLE 3-A

4                     BUDGETING ACCORDING TO GENERALLY  
5                     ACCEPTED ACCOUNTING PRINCIPLES

6     SECTION 35. DEFINITIONS.

7             36. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED  
8             BUDGET.

9             37. NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD.

10     S 35. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND  
11     TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE  
12     ANOTHER OR DIFFERENT MEANING OR INTENT.

13         1. "BOARD" MEANS NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD  
14     PURSUANT TO SECTION THIRTY-SEVEN OF THIS ARTICLE.

15         2. "REVENUES" MEAN ALL TAXES, RENTS, FEES, CHARGES, PAYMENTS, ALL  
16     PROCEEDS FROM BORROWINGS AND OTHER INCOME AND RECEIPTS PAID OR PAYABLE  
17     TO OR FOR THE STATE'S TREASURY.

18         3. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS THE SET OF  
19     ACCOUNTING PRINCIPLES FOR FINANCIAL REPORTING ESTABLISHED BY THE FINANCIAL  
20     ACCOUNTING STANDARDS ADVISORY BOARD AND GOVERNED BY THE AMERICAN  
21     INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR FEDERAL REPORTING ENTITIES.  
22     TIES.

23         4. "EXECUTIVE BUDGET SUBMISSION" MEANS THE DOCUMENT SUBMITTED BY THE  
24     GOVERNOR TO THE LEGISLATURE PURSUANT TO SECTION TWO OF ARTICLE SEVEN OF  
25     THE STATE CONSTITUTION.

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

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1 5. "ENACTED BUDGET" MEANS THE DOCUMENT PASSED BY BOTH HOUSES OF THE  
2 LEGISLATURE PURSUANT TO SECTION FOUR OF ARTICLE SEVEN OF THE STATE  
3 CONSTITUTION.

4 S 36. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED BUDG-  
5 ET. 1. FOR FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOU-  
6 SAND ELEVEN, THE EXECUTIVE BUDGET SUBMISSION AND THE ENACTED BUDGET  
7 COVERING ALL EXPENDITURES OTHER THAN CAPITAL ITEMS SHALL BE PREPARED AND  
8 BALANCED SO THE RESULTS THEREOF WOULD NOT SHOW A DEFICIT WHEN REPORTED  
9 IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

10 2. THE GOVERNOR, THE LEGISLATURE AND THE NEW YORK STATE GOVERNMENTAL  
11 ACCOUNTING REVIEW BOARD SHALL CONFER CONCERNING THE REQUIREMENT TO  
12 BALANCE THE BUDGET, AS WELL AS THE PROJECTED EFFECT ON THE BUDGETS BY  
13 ANY CHANGE IN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OR CHANGE IN THE  
14 APPLICATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE STATE.  
15 THE GOVERNOR AND/OR THE LEGISLATURE MAY PETITION THE BOARD TO EXEMPT  
16 EITHER THE EXECUTIVE BUDGET SUBMISSION OR THE ENACTED BUDGET FROM THE  
17 PROVISIONS OF THIS SECTION.

18 S 37. NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD. 1. THERE IS  
19 HEREBY CREATED THE NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD.  
20 THE BOARD SHALL BE A GOVERNMENTAL AGENCY AND INSTRUMENTALITY AS IS SET  
21 FORTH IN THIS ARTICLE.

22 2. THE BOARD SHALL HAVE THE FOLLOWING FUNCTIONS:

23 A. TO CONFER WITH THE GOVERNOR AND THE LEGISLATURE CONCERNING THE  
24 REQUIREMENT TO BALANCE THE BUDGET AS PROVIDED IN SECTION THIRTY-SIX OF  
25 THIS ARTICLE, THE PROJECTED EFFECT ON THE BUDGETS BY ANY CHANGE IN  
26 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND CHANGE IN THE APPLICATION  
27 OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE STATE BUDGET;

28 B. TO HEAR PETITIONS FROM THE GOVERNOR OR LEGISLATURE WITH RELATION TO  
29 MODIFYING OR EXEMPTING THE EXECUTIVE BUDGET SUBMISSION OR THE ENACTED  
30 BUDGET FROM THE BALANCED BUDGET REQUIREMENT OF SECTION THIRTY-SIX OF  
31 THIS ARTICLE OR FROM THE REQUIREMENTS OF ANY NEW OR EXISTING GOVERN-  
32 MENTAL ACCOUNTING STANDARDS, BOARD STATEMENTS, INTERPRETATIONS, TECHNI-  
33 CAL BULLETINS, AND CONCEPT STATEMENTS; AND

34 C. TO DETERMINE WHETHER IMMEDIATE COMPLIANCE WITH THE PROVISIONS OF  
35 SECTION THIRTY-SIX OF THIS ARTICLE WILL HAVE A MATERIAL EFFECT ON STATE  
36 BUDGETS OVER A TIME PERIOD INSUFFICIENT TO ACCOMMODATE THE EFFECT WITH-  
37 OUT A SUBSTANTIAL ADVERSE IMPACT ON THE DELIVERY OF ESSENTIAL SERVICES,  
38 AND, UPON SUCH DETERMINATION, TO AUTHORIZE AND APPROVE A METHOD OF PHAS-  
39 ING THE REQUIREMENTS OF THIS SECTION INTO SUCH BUDGETS OVER SUCH REASON-  
40 ABLY EXPEDITIOUS TIME PERIOD AS THE BOARD DEEMS APPROPRIATE.

41 3. THE BOARD SHALL BE COMPRISED OF FIVE MEMBERS, ONE OF WHOM WILL  
42 SERVE AS CHAIR; WHO ARE NOMINATED BY THE GOVERNOR AND APPOINTED WITH  
43 ADVICE AND CONSENT OF THE SENATE. ALL OF THE APPOINTED MEMBERS SHALL BE  
44 RESIDENTS OF THE STATE. SUCH APPOINTED MEMBERS SHALL SERVE A TERM OF  
45 FIVE YEARS. ALL APPOINTED MEMBERS SHALL HAVE ACADEMIC OR BUSINESS EXPE-  
46 RIENCE IN GOVERNMENTAL ACCOUNTING STANDARDS AND GENERALLY ACCEPTED  
47 ACCOUNTING PRINCIPLES. THE BOARD SHALL ACT BY A MAJORITY QUORUM VOTE OF  
48 THE ENTIRE BOARD. THE BOARD SHALL MAINTAIN A RECORD OF ITS PROCEEDINGS  
49 IN SUCH FORM AS IT MAY DETERMINE, BUT SUCH RECORD SHALL INDICATE ATTEND-  
50 ANCE AND ALL VOTES CAST BY EACH MEMBER.

51 4. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR  
52 EMPLOYEE OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE, ANY  
53 GOVERNMENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE OR OTHER  
54 PUBLIC AGENCY OR INSTRUMENTALITY OR UNIT OF GOVERNMENT WHICH EXERCISES  
55 GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS  
56 OFFICE OR EMPLOYMENT BY REASON OF HIS ACCEPTANCE OR APPOINTMENT AS A

MEMBER, REPRESENTATIVE, OFFICER, EMPLOYEE OR AGENT OF THE BOARD NOR SHALL SERVICE AS SUCH MEMBER, OFFICER, EMPLOYEE OR AGENT OF THE BOARD BE DEEMED INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

5. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT SALARY OR PER DIEM ALLOWANCE BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES UNDER THIS ACT, PROVIDED HOWEVER THAT SUCH MEMBERS AND REPRESENTATIVES ARE NOT, AT THE TIME SUCH EXPENSES ARE INCURRED, PUBLIC EMPLOYEES OTHERWISE ENTITLED TO SUCH REIMBURSEMENT.

6. ALL AGENCIES, AUTHORITIES, AND INSTITUTIONS OF THE STATE SHALL COOPERATE WITH AND PROVIDE SUCH ASSISTANCE TO THE BOARD AS THE BOARD MAY REQUEST.

7. THE CHAIR, IN CONSULTATION WITH THE BOARD, MAY HIRE OR APPOINT AN EXECUTIVE DIRECTOR FOR THE BOARD IF DEEMED NECESSARY.

S 2. Section 22 of the state finance law is amended by adding a new subdivision 17 to read as follows:

17. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

(A) A DESCRIPTION OF ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW; AND

(B) A DESCRIPTION OF ALL THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE GOVERNOR DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW.

S 3. Paragraph (a) of subdivision 2 of section 54 of the legislative law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

(a) The legislature shall enact a budget for the upcoming fiscal year that it determines is balanced [in the general fund].

S 4. Subdivision 2 of section 54 of the legislative law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

(I) ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW; AND

(II) A DESCRIPTION OF ALL OF THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE LEGISLATURE DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW.

S 5. Separability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the

1 application thereof to any other person, but shall be confined to such  
2 part or provision.  
3 S 6. This act shall take effect immediately, provided that if this act  
4 shall take effect after April 1, 2011, it shall be deemed to have been  
5 in effect on and after April 1, 2011.