

2816

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SCHIMMINGER, FIELDS, SCHROEDER -- Multi-Sponsored
by -- M. of A. MAGEE, MAYERSOHN, REILLY -- read once and referred to
the Committee on Ways and Means

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 7 of the constitution, relating to
limiting the growth of New York state revenue, creates a revenue limi-
tation and establishes a budget stabilization fund

1 Section 1. Resolved (if the Senate concur), That article 7 of the
2 constitution be amended by adding a new section 7-a to read as follows:
3 S 7-A. LIMITATION OF STATE REVENUES. FOR THE PURPOSES OF THIS SECTION:
4 1. (A) "STATE REVENUES" SHALL MEAN ALL REVENUES RECEIVED BY THE STATE
5 DURING ANY FISCAL YEAR WHICH ARE INCLUDED IN THE CASH BASIS FINANCIAL
6 PLAN OF THE STATE, EXCLUDING THE PROCEEDS OF GENERAL OBLIGATION BONDS
7 AND BOND ANTICIPATION NOTES AUTHORIZED BY THE VOTERS OF THE STATE AND
8 ISSUED BY THE STATE COMPTROLLER PURSUANT TO SECTION TEN OR ELEVEN OF
9 THIS ARTICLE, EXCLUDING FEDERAL GRANTS RECEIVED BY THE STATE AND EXCLUD-
10 ING AMOUNTS NECESSARY FOR THE PAYMENT OF TAX REFUNDS DURING SUCH FISCAL
11 YEAR.
12 (B) "EMERGENCY" SHALL MEAN AN EXTRAORDINARY, UNFORESEEN OR UNEXPECTED
13 OCCURRENCE OR COMBINATION OF CIRCUMSTANCES, EXCLUDING ECONOMIC CONDI-
14 TIONS, REVENUE SHORTFALLS, OR SALARY OR FRINGE BENEFIT INCREASES, IN A
15 GIVEN FISCAL YEAR WHICH REQUIRES IMMEDIATE AND SUDDEN FISCAL ACTION OF A
16 DRASTIC BUT TEMPORARY NATURE.
17 (C) "FISCAL GROWTH FACTOR" MEANS THE SUM OF INFLATION AND POPULATION
18 CHANGE FOR THE PRIOR CALENDAR YEAR.
19 (D) "INFLATION" MEANS THE CONSUMER PRICE INDEX (ALL ITEMS) FOR THE
20 NORTHEAST URBAN REGION OF THE UNITED STATES OF AMERICA FOR EACH CALENDAR
21 YEAR, AS COMPUTED BY THE FEDERAL BUREAU OF LABOR STATISTICS OR ITS
22 SUCCESSOR AGENCY.
23 (E) "POPULATION CHANGE" MEANS THE PERCENTAGE CHANGE IN STATE POPU-
24 LATION FOR EACH CALENDAR YEAR AS DETERMINED BY THE FEDERAL CENSUS BUREAU
25 OR ITS SUCCESSOR AGENCY.

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

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1 2. (A) THERE IS HEREBY ESTABLISHED A LIMIT ON THE TOTAL AMOUNT OF
2 TAXES WHICH MAY BE IMPOSED BY THE LEGISLATURE IN ANY FISCAL YEAR ON THE
3 TAXPAYERS OF THIS STATE. EFFECTIVE WITH THE FISCAL YEAR IN WHICH THIS
4 SECTION TAKES EFFECT, AND FOR EACH FISCAL YEAR THEREAFTER, THE LEGISLA-
5 TURE SHALL NOT IMPOSE TAXES OF ANY KIND WHICH, TOGETHER WITH ALL OTHER
6 REVENUES OF THE STATE, FEDERAL FUNDS EXCLUDED, EXCEED THE REVENUE LIM-
7 TATION ESTABLISHED IN THIS SECTION. THE REVENUE LIMITATION SHALL BE
8 CALCULATED FOR EACH FISCAL YEAR AND, FOR THE FISCAL YEAR IN WHICH THIS
9 SECTION TAKES EFFECT, SHALL BE EQUAL TO THE PRIOR FISCAL YEAR'S REVENUE
10 INCREASED BY A PERCENTAGE RATE, THE FISCAL GROWTH FACTOR; AND, FOR EACH
11 SUBSEQUENT YEAR, SHALL BE EQUAL TO THE PRIOR YEAR'S ALLOWABLE REVENUE
12 INCREASED BY A PERCENTAGE RATE, THE FISCAL GROWTH FACTOR.

13 (B) THE REVENUE LIMITATION ESTABLISHED IN THIS SECTION SHALL NOT APPLY
14 TO TAXES IMPOSED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS,
15 AUTHORIZED BY THE VOTERS OF THE STATE AND ISSUED BY THE STATE COMP-
16 TROLLER PURSUANT TO SECTION TEN OR ELEVEN OF THIS ARTICLE.

17 (C) IF BY ORDER OF ANY COURT, OR LEGISLATIVE ENACTMENT, THE COSTS OF A
18 FEDERAL OR LOCAL GOVERNMENT PROGRAM ARE TRANSFERRED TO OR FROM THE STATE
19 OF NEW YORK, THE OTHERWISE APPLICABLE REVENUE LIMITATION SHALL BE
20 INCREASED OR DECREASED, AS THE CASE MAY BE, BY THE DOLLAR AMOUNT OF THE
21 COSTS OF THE PROGRAM.

22 (D) NO EXPENSES OF STATE GOVERNMENT, EXCLUDING THE DISBURSEMENT OF THE
23 PROCEEDS OF GENERAL OBLIGATION BONDS AND BOND ANTICIPATION NOTES AUTHOR-
24 IZED BY THE VOTERS OF THE STATE AND ISSUED BY THE STATE COMPTROLLER
25 PURSUANT TO SECTION TEN OR ELEVEN OF THIS ARTICLE, EXCLUDING THE
26 DISBURSEMENT OF FEDERAL GRANTS RECEIVED BY THE STATE OF NEW YORK AND
27 EXCLUDING THE PAYMENT OF TAX REFUNDS DURING THE CURRENT FISCAL YEAR,
28 SHALL BE INCURRED IN ANY FISCAL YEAR WHICH EXCEED THE SUM OF THE REVENUE
29 LIMITATION ESTABLISHED IN THIS SECTION.

30 3. THE STATE OF NEW YORK IS PROHIBITED FROM REQUIRING ANY NEW OR
31 EXPANDED ACTIVITIES BY COUNTIES OR OTHER POLITICAL SUBDIVISIONS WITHOUT
32 FULL STATE FINANCING, OR FROM SHIFTING THE TAX BURDEN TO COUNTIES AND
33 OTHER POLITICAL SUBDIVISIONS.

34 4. PURSUANT TO THIS SECTION, THE STATE OF NEW YORK IS HEREBY PROHIBIT-
35 ED FROM REDUCING THE STATE FINANCED PROPORTION OF THE COSTS OF ANY
36 EXISTING ACTIVITY OR SERVICE REQUIRED OF COUNTIES AND OTHER POLITICAL
37 SUBDIVISIONS. A NEW ACTIVITY OR SERVICE OR AN INCREASE IN THE LEVEL OF
38 ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING LAW SHALL NOT
39 BE REQUIRED BY THE LEGISLATURE OR ANY STATE AGENCY OF COUNTIES OR OTHER
40 POLITICAL SUBDIVISIONS, UNLESS A STATE APPROPRIATION IS MADE AND
41 DISBURSED TO PAY THE COUNTY OR OTHER POLITICAL SUBDIVISION FOR ANY
42 INCREASED COSTS.

43 5. THE REVENUE LIMITATION OF THIS SECTION MAY BE EXCEEDED ONLY IF ALL
44 THE FOLLOWING CONDITIONS ARE MET: (A) THE GOVERNOR FINDS AND DECLARES AN
45 EMERGENCY; (B) THE GOVERNOR PRESENTS TO THE LEGISLATURE A SPECIFIC PLAN
46 AS TO THE NATURE OF THE EMERGENCY, THE DOLLAR AMOUNT OF THE EMERGENCY,
47 AND THE METHOD BY WHICH THE EMERGENCY SHALL BE FUNDED; AND (C) THE
48 LEGISLATURE AUTHORIZES THE PLAN BY A TWO-THIRDS VOTE OF THE MEMBERS
49 ELECTED TO AND SERVING IN EACH HOUSE. SUCH AUTHORIZATION SHALL OCCUR IN
50 ACCORDANCE WITH THIS SUBDIVISION PRIOR TO INCURRING ANY OF THE EXPENSES
51 WHICH CONSTITUTE THE EMERGENCY PLAN. THE REVENUE LIMITATION MAY BE
52 EXCEEDED ONLY DURING THE FISCAL YEAR FOR WHICH THE EMERGENCY IS
53 DECLARED.

54 6. IN ANY FISCAL YEAR IF STATE REVENUES EXCEED THE REVENUE LIMITATION
55 ESTABLISHED IN THIS SECTION, ONE-HALF OF THE EXCESS REVENUE SHALL BE
56 REFUNDED TO THE TAXPAYERS OF THE STATE OF NEW YORK PRO RATA BASED ON THE

LIABILITY REPORTED ON NEW YORK STATE INCOME TAX ANNUAL RETURNS FILED FOLLOWING THE CLOSE OF SUCH FISCAL YEAR AND THE OTHER ONE-HALF OF THE EXCESS REVENUE SHALL BE PLACED IN THE BUDGET STABILIZATION FUND IN ACCORDANCE WITH SECTION SEVENTEEN-A OF THIS ARTICLE.

7. ANY TAXPAYER OR STATEWIDE ELECTED OFFICIAL MAY BRING AN ACTION IN A COURT OF PROPER JURISDICTION IN ORDER TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE; IF THE SUIT IS SUSTAINED, THE TAXPAYER OR STATEWIDE ELECTED OFFICIAL SHALL RECEIVE FROM THE APPLICABLE UNIT OF GOVERNMENT HIS OR HER COSTS, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN MAINTAINING SUCH SUIT.

S 2. Resolved (if the Senate concur), That article 7 of the constitution be amended by adding a new section 17-a to read as follows:

S 17-A. BUDGET STABILIZATION FUND. 1. THERE IS HEREBY ESTABLISHED A FUND, TO BE KNOWN AS THE BUDGET STABILIZATION FUND, TO AID IN THE STABILIZATION OF STATE REVENUES, THE REDUCTION OF STATE TAXES, AND THE REDUCTION OF STATE INDEBTEDNESS. THE MONIES OF THE FUND SHALL BE HELD SEPARATE AND APART FROM THE MONIES OF ALL OTHER FUNDS OF THE STATE. THE BUDGET STABILIZATION FUND SHALL NOT EXCEED FIVE PER CENTUM OF STATE REVENUES AS AUTHORIZED AND DEFINED BY THIS SECTION.

2. FOR THE PURPOSE OF THIS SECTION: (A) "STATE REVENUES" SHALL MEAN ALL REVENUES RECEIVED BY THE STATE DURING ANY FISCAL YEAR WHICH ARE INCLUDED IN THE CASH BASIS FINANCIAL PLAN OF THE STATE, EXCLUDING THE PROCEEDS OF GENERAL OBLIGATION BONDS AND BOND ANTICIPATION NOTES AUTHORIZED BY THE VOTERS OF THE STATE AND ISSUED BY THE STATE COMPTROLLER PURSUANT TO SECTION TEN OR ELEVEN OF THIS ARTICLE, EXCLUDING FEDERAL GRANTS RECEIVED BY THE STATE AND EXCLUDING AMOUNTS NECESSARY FOR THE PAYMENT OF TAX REFUNDS DURING SUCH FISCAL YEAR.

(B) "EMERGENCY" SHALL MEAN AN EXTRAORDINARY, UNFORESEEN OR UNEXPECTED OCCURRENCE OR COMBINATION OF CIRCUMSTANCES, EXCLUDING ECONOMIC CONDITIONS, REVENUE SHORTFALLS, OR SALARY OR FRINGE BENEFIT INCREASES, IN A GIVEN FISCAL YEAR WHICH REQUIRES IMMEDIATE AND SUDDEN FISCAL ACTION OF A DRASTIC BUT TEMPORARY NATURE.

3. IN ANY FISCAL YEAR IF STATE REVENUES EXCEED THE REVENUE LIMITATION, ONE-HALF OF THE EXCESS REVENUE SHALL, UPON RECEIPT, BE TRANSFERRED TO THIS FUND. INCOME EARNED ON THE FUND SHALL ACCRUE TO THE FUND.

4. THE MONIES OF THIS FUND MAY BE WITHDRAWN AND DISBURSED PURSUANT TO APPROPRIATION, BY THE APPROVAL OF TWO-THIRDS OF THE LEGISLATURE, DURING ANY FISCAL YEAR ONLY WHEN STATE REVENUES ARE LESS THAN THE REVENUE LIMITATION FOR SUCH YEAR OR WHEN THE GOVERNOR DECLARES AN EMERGENCY, PROVIDED THAT THE REVENUE LIMITATION SHALL NOT BE EXCEEDED THROUGH SUCH APPROPRIATION.

5. IF IN ANY FISCAL YEAR THE MONIES IN THE FUND EXCEED FIVE PER CENTUM OF STATE REVENUES AS AUTHORIZED AND DEFINED BY THIS SECTION, THE EXCESS MONIES SHALL BE WITHDRAWN AND DISBURSED PURSUANT TO APPROPRIATION, BY THE APPROVAL OF THE LEGISLATURE: (A) FOR THE REDUCTION OF STATE TAXES; AND/OR (B) FOR THE RETIREMENT OF THE PRINCIPAL AMOUNT OF INDEBTEDNESS ISSUED BY OR ON BEHALF OF THE STATE EXCLUDING NOTES ISSUED IN ANTICIPATION OF TAX OR OTHER REVENUES OF THE STATE; AND/OR (C) IN ANY OTHER MANNER DETERMINED BY THE STATE LEGISLATURE, PROVIDED THAT THE REVENUE LIMITATION SHALL NOT BE EXCEEDED THROUGH SUCH OTHER DETERMINATION.

S 3. Resolved (if the Senate concur), That section 17 of article 7 of the constitution be amended to read as follows:

S 17. The legislature may establish a fund or funds, OTHER THAN THE BUDGET STABILIZATION FUND ESTABLISHED PURSUANT TO SECTION SEVENTEEN-A OF THIS ARTICLE, to aid in the stabilization of the tax revenues of the state available for expenditure or distribution. Any law creating such a

1 fund shall specify the tax or taxes to which such fund relates, and
2 shall prescribe the method of determining the amount of revenue from any
3 such tax or taxes which shall constitute a norm of each fiscal year.
4 Such part as shall be prescribed by law of any revenue derived from such
5 tax or taxes during a fiscal year in excess of such norm shall be paid
6 into such fund. No moneys shall at any time be withdrawn from such fund
7 unless the revenue derived from such tax or taxes during a fiscal year
8 shall fall below the norm for such year; in which event such amount as
9 may be prescribed by law, but in no event an amount exceeding the
10 difference between such revenue and such norm, shall be paid from such
11 fund into the general fund.

12 No law changing the method of determining a norm or prescribing the
13 amount to be paid into such a fund or to be paid from such a fund into
14 the general fund may become effective until three years from the date of
15 its enactment.

16 S 4. Resolved (if the Senate concur), That the foregoing amendments be
17 referred to the first regular legislative session convening after the
18 next succeeding general election of members of the assembly, and, in
19 conformity with section 1 of article 19 of the constitution, be
20 published for 3 months previous to the time of such election.