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

3471

2009-2010 Regular Sessions

I N S E N A T E

March 19, 2009

Introduced by Sens. MORAHAN, ALESI, HANNON, O. JOHNSON, LARKIN, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to sections 13, 14 and 16 of article 3, section 7 of article 4, sections 1, 2, 3, 4, 6 and 7 of article 7 and adding a new section 3-a to article 7 of the constitution, in relation to implementing a current services budget in the event a budget is not passed in a timely manner

Section 1. Resolved (if the Assembly concur), That sections 13, 14 and 16 of article 3 of the constitution be amended to read as follows:

S 13. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill, EXCEPT AS PROVIDED IN ARTICLE VII.

S 14. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the governor, or the acting governor, shall have certified, under his or her hand and the seal of the state, the facts which in his or her opinion necessitate an immediate vote thereon, in which case it must nevertheless be upon the desks of the members in final form, not necessarily printed, before its final passage; nor shall any bill be passed or become a law, except by the assent of a majority of the members elected to each branch of the legislature, EXCEPT AS PROVIDED IN ARTICLE VII; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the ayes and nays entered on the journal.

S 16. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be

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

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applicable, except by inserting it in such act, EXCEPT AS PROVIDED IN ARTICLE VII.

S 2. Resolved (if the Assembly concur), That section 7 of article 4 of the constitution be amended to read as follows:

S 7. 1. 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 of money, the governor may object to one or more of such items 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 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 objected to shall be separately reconsidered. If on reconsideration one or more of such items 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 money.

2. IN THE EVENT THAT A BUDGET FOR A FISCAL YEAR IS NOT DULY ENACTED BY THE FIRST DAY OF SUCH FISCAL YEAR, THEN THE PROVISIONS OF SUBDIVISION 1 OF THIS SECTION SHALL BE INAPPLICABLE TO THE IMPLEMENTATION, EFFECTIVENESS, AND ENACTMENT OF THE CURRENT SERVICES BUDGET PURSUANT TO ARTICLE VII.

S 3. Resolved (if the Assembly concur), That sections 1, 2, 3, 4, 6 and 7 of article 7 of the constitution be amended and a new section 3-a be added to read as follows:

Section 1. For the preparation of the budget, THE APPROPRIATION BILLS, AND ANY OTHER BILLS THAT THE GOVERNOR IS REQUIRED OR AUTHORIZED TO SUBMIT TO THE LEGISLATURE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, the head of each department of state government AND EVERY OTHER SEPARATELY BUDGETED STATE ENTITY, 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, copies of which shall forthwith be furnished to the appropriate committees of the legislature. IN ADDITION TO ANY OTHER INFORMATION THAT THE GOVERNOR MAY REQUIRE, SUCH ESTIMATES SHALL INCLUDE PROJECTIONS OF THE EXPENDITURES REQUIRED TO

CONTINUE TO PROVIDE THE SAME LEVEL OF ALL SERVICES AND FUNCTIONS BEING PROVIDED OR PERFORMED IN THE CURRENT FISCAL YEAR THROUGHOUT THE UPCOMING FISCAL YEAR. IN FORMULATING SUCH PROJECTIONS, CONSIDERATION SHALL BE GIVEN TO RELEVANT FACTORS SUCH AS: INFLATION RATES; COST INCREASES DUE TO COMPLIANCE WITH COLLECTIVE BARGAINING AGREEMENTS AND COURT ORDERS; REQUIRED OR ANTICIPATED REGULAR COST OF LIVING ADJUSTMENTS; THE ANNUALIZATION OF SERVICES AND SERVICE LEVELS IMPLEMENTED DURING THE CURRENT FISCAL YEAR; CHANGES IN DEMOGRAPHIC PATTERNS AND PROGRAM WORKLOADS; THE COMPLETION OF PROJECTS; AND ANY OTHER FACTORS THAT SUCH DEPARTMENTS AND ENTITIES MAY BE REQUIRED TO CONSIDER PURSUANT TO STATUTE OR THE DIRECTION OF THE GOVERNOR. 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.

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. Annually, AT LEAST EIGHTY DAYS PRIOR TO THE FIRST DAY OF THE UPCOMING FISCAL YEAR, OR 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 WHERE SUCH FIRST DAY OF FEBRUARY FALLS LESS THAN EIGHTY DAYS PRIOR TO THE UPCOMING FISCAL YEAR, [and on or before the second Tuesday following the first day of the annual meeting of the legislature, in all other years,] the governor shall submit to the legislature a budget containing:

1. a complete plan of expenditures AS proposed BY THE LEGISLATURE AND THE JUDICIARY to be made FOR THEIR OPERATIONS, AND BY THE GOVERNOR TO BE MADE FOR ALL OTHER PURPOSES, before the close of the ensuing fiscal year [and];

2. A STATEMENT OF all moneys and revenues estimated to be available therefor, together with an explanation of the basis of such estimates [and];

3. recommendations as to proposed legislation, if any, which the governor may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures[. It shall also contain];

4. RECOMMENDATIONS AS TO ANY OTHER PROPOSED LEGISLATION WHICH THE GOVERNOR MAY DEEM NECESSARY TO IMPLEMENT THE EXPENDITURES PROPOSED TO BE MADE BEFORE THE CLOSE OF THE ENSUING FISCAL YEAR;

5. such other recommendations and information as the governor may deem proper;

6. A CURRENT SERVICES BUDGET, IN A FORMAT THAT FACILITATES COMPARISON WITH THE BUDGET PROPOSED BY THE GOVERNOR, SETTING FORTH THE PROJECTIONS OF THE GOVERNOR REGARDING THE EXPENDITURES REQUIRED TO CONTINUE TO PROVIDE THE SAME LEVEL OF ALL SERVICES AND FUNCTIONS BEING PROVIDED OR PERFORMED IN THE CURRENT FISCAL YEAR THROUGHOUT THE UPCOMING FISCAL YEAR; PROVIDED FURTHER THAT IN FORMULATING SUCH PROJECTIONS, CONSIDERATION SHALL BE GIVEN TO ALL THE FACTORS LISTED IN SECTION 1 OF THIS ARTICLE, AS WELL AS TO ANY OTHER FACTORS AS MAY BE REQUIRED BY STATUTE;

7. A DESCRIPTIVE LISTING OF ALL LEGISLATION THAT THE GOVERNOR MAY DEEM NECESSARY TO IMPLEMENT THE CURRENT SERVICES BUDGET FOR THE UPCOMING FISCAL YEAR; and

8. such additional information as may be required by law.

S 3. At the time of submitting the budget to the legislature the governor shall submit:

1. a bill or bills containing all the proposed appropriations and reappropriations [included] NECESSARY TO MAKE THE EXPENDITURES PROPOSED in the budget [and the] BY THE LEGISLATURE AND THE JUDICIARY FOR THEIR OPERATIONS AND BY THE GOVERNOR FOR ALL OTHER PURPOSES;

2. A BILL OR BILLS CONSTITUTING ALL THE PROPOSED LEGISLATION THAT THE GOVERNOR MAY DEEM NECESSARY TO PROVIDE MONEYS AND REVENUES SUFFICIENT TO MAKE SUCH PROPOSED EXPENDITURES;

3. A BILL OR BILLS CONSTITUTING ALL THE PROPOSED LEGISLATION WHICH THE GOVERNOR MAY DEEM NECESSARY TO IMPLEMENT SUCH PROPOSED EXPENDITURES;

4. SUCH OTHER proposed legislation, if any, recommended [therein] IN THE BUDGET;

5. A BILL OR BILLS, CONFORMING TO SUCH REQUIREMENTS AS MAY BE REQUIRED BY STATUTE, CONTAINING ALL THE PROPOSED APPROPRIATIONS AND REAPPROPRIATIONS NECESSARY TO MAKE THE EXPENDITURES PROJECTED BY THE GOVERNOR IN THE CURRENT SERVICES BUDGET TO BE REQUIRED TO CONTINUE TO PROVIDE THE SAME LEVEL OF ALL SERVICES AND FUNCTIONS BEING PROVIDED OR PERFORMED IN THE CURRENT FISCAL YEAR THROUGHOUT THE UPCOMING FISCAL YEAR;

6. A BILL OR BILLS CONSTITUTING ALL THE PROPOSED LEGISLATION THAT THE GOVERNOR MAY DEEM NECESSARY TO IMPLEMENT THE CURRENT SERVICES BUDGET FOR THE UPCOMING FISCAL YEAR.

The governor may at any time within thirty 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.

S 3-A. 1. ANNUALLY, BEFORE THE FIRST DAY OF ANY FISCAL YEAR, THE LEGISLATURE SHALL PASS A BUDGET FOR THE UPCOMING FISCAL YEAR.

2. ANNUALLY, AFTER THE APPROPRIATE COMMITTEES OF THE LEGISLATURE HAVE REVIEWED AND HELD HEARINGS ON THE BUDGET SUBMITTED BY THE GOVERNOR PURSUANT TO SECTION 2 OF THIS ARTICLE, THE SENATE AND ASSEMBLY SHALL EACH, BY THE ASSENT OF A MAJORITY OF THE MEMBERS ELECTED THERETO, ADOPT A RESOLUTION ON THE BUDGET. EACH SUCH RESOLUTION SHALL CONTAIN THE HOUSE'S DETERMINATION AS TO THE APPROPRIATE LEVELS OF REVENUES AND EXPENDITURES, FOR THE ENSUING FISCAL YEAR, BOTH IN TOTAL AND WITH RESPECT TO EACH OF THE MAJOR FUNCTIONAL CATEGORIES OF REVENUES AND EXPENDITURES, WITH THOSE CATEGORIES TO BE ESTABLISHED BY LAW. EACH SUCH RESOLUTION SHALL ALSO SET FORTH THE HOUSE'S DETERMINATION AS TO THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE LEVEL OF STATE REVENUES SHOULD BE INCREASED OR DECREASED BY BILLS TO BE REPORTED BY THE APPROPRIATE COMMITTEES OF THE LEGISLATURE. THE ASSEMBLY AND THE SENATE SHALL ADOPT SUCH A RESOLUTION AT LEAST FIFTEEN DAYS BEFORE THE BEGINNING OF THE FISCAL YEAR TO WHICH IT RELATES. WITHIN TWO DAYS OF THE ADOPTION OF SUCH A RESOLUTION BY BOTH THE ASSEMBLY AND SENATE, A CONFERENCE COMMITTEE SHALL BE HELD TO RECONCILE ANY DIFFERENCES THAT MAY EXIST BETWEEN SUCH RESOLUTIONS AND REPORT A CONCURRENT BUDGET RESOLUTION TO BOTH HOUSES FOR

THEIR CONSIDERATION. THE CONCURRENT RESOLUTION SHALL BE ADOPTED AT LEAST TEN DAYS BEFORE THE BEGINNING OF THE FISCAL YEAR TO WHICH IT RELATES. SUCH CONCURRENT BUDGET RESOLUTION, WHEN ADOPTED, SHALL SERVE AS AN INTERNAL MECHANISM FOR GUIDING THE ACTIONS OF BOTH HOUSES OF THE LEGISLATURE AND THEIR COMMITTEES ON THE BILLS SUBMITTED BY THE GOVERNOR IN ACCORDANCE WITH SECTION 3 OF THIS ARTICLE AND ON ALL OTHER BILLS WITH FISCAL IMPLICATIONS THAT IT MAY CONSIDER PRIOR TO ITS ADJOURNMENT. UNTIL SUCH A CONCURRENT BUDGET RESOLUTION IS ADOPTED BY BOTH HOUSES OF THE LEGISLATURE, IT SHALL NOT BE IN ORDER IN THE SENATE OR THE ASSEMBLY, WITH RESPECT TO THE FISCAL YEAR COVERED BY THAT RESOLUTION, TO CONSIDER ANY OTHER BUDGET-RELATED MATTER. AT ANY TIME AFTER A CONCURRENT BUDGET RESOLUTION FOR A FISCAL YEAR HAS BEEN AGREED TO BY BOTH HOUSES, AND BEFORE THE END OF SUCH FISCAL YEAR, THE TWO HOUSES MAY ADOPT A CONCURRENT RESOLUTION ON THE BUDGET WHICH REVISES OR REAFFIRMS THE CONCURRENT BUDGET RESOLUTION FOR SUCH FISCAL YEAR MOST RECENTLY ADOPTED.

S 4. 1. The legislature may not alter an appropriation bill submitted by the governor PURSUANT TO SUBDIVISION 1 OF SECTION 3 OF THIS ARTICLE except to strike out or reduce items therein, but it may add thereto items of appropriation 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 for the legislature or judiciary.

2. Such an appropriation bill shall when passed by both houses be a law immediately without further action by the governor, except that appropriations 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.

3. THE LEGISLATURE MAY NOT ALTER A BILL SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISIONS 5 AND 6 OF SECTION 3 OF THIS ARTICLE IN ANY WAY UNLESS SUCH AMENDMENTS ARE RECOMMENDED BY THE STATE COMPTROLLER AS BEING NECESSARY TO ENSURE THAT THOSE BILLS, IF ENACTED PURSUANT TO SUBDIVISION 4 OF THIS SECTION, WOULD PROVIDE IN THE UPCOMING FISCAL YEAR THE SAME LEVEL OF ALL SERVICES AND FUNCTIONS AS IN THE CURRENT FISCAL YEAR AFTER TAKING INTO CONSIDERATION THE SAME FACTORS THAT BUDGETED AGENCIES ARE REQUIRED BY SECTION 1 OF THIS ARTICLE TO TAKE INTO CONSIDERATION WHEN PREPARING THEIR ESTIMATES FOR THIS PURPOSE, INCLUDING ANY ADDITIONAL FACTORS THAT THE LEGISLATURE MAY BY STATUTE REQUIRE SUCH AGENCIES TO CONSIDER IN PREPARING THEIR CURRENT SERVICES BUDGET ESTIMATES, AND UNLESS SUCH AMENDMENTS ARE MADE AND MADE AVAILABLE TO THE PUBLIC AT LEAST SEVEN DAYS BEFORE THE FIRST DAY OF THE FISCAL YEAR.

4. IF BY THE FIRST DAY OF THE FISCAL YEAR, BOTH HOUSES OF THE LEGISLATURE HAVE NOT ACTED ON THE APPROPRIATIONS AND REAPPROPRIATIONS BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISION 1 OF SECTION 3 OF THIS ARTICLE IN A MANNER THAT, AS DETERMINED BY THE STATE COMPTROLLER, IS SUFFICIENT FOR THE ONGOING OPERATION AND SUPPORT OF STATE GOVERNMENT AND LOCAL ASSISTANCE FOR THE UPCOMING FISCAL YEAR, THEN THE CURRENT SERVICES BUDGET BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISIONS 5 AND 6 OF SECTION 3 OF THIS ARTICLE AND AS AMENDED IN ACCORDANCE WITH SUBDIVISION 3 OF THIS SECTION SHALL BE DEEMED ENACTED AND SHALL REMAIN IN EFFECT FOR THE ENTIRE FISCAL YEAR UNLESS, WITHIN SIXTY DAYS OF THE BEGINNING OF SUCH FISCAL YEAR, BOTH HOUSES OF THE LEGISLATURE HAVE ACTED ON THE APPROPRIATIONS BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISION 1 OF SECTION 3 OF THIS ARTICLE IN A MANNER THAT, AS DETERMINED BY THE STATE COMPTROLLER, IS SUFFICIENT FOR THE ONGOING OPERATION AND SUPPORT OF STATE GOVERNMENT AND LOCAL ASSISTANCE FOR THE UPCOMING FISCAL YEAR. IN SUCH LATTER EVENT, THE APPROPRIATIONS AND REAPPROPRIATIONS

BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISION 1 OF SECTION 3 OF THIS ARTICLE, AS ACTED ON BY THE LEGISLATURE SHALL SUPERSEDE SUCH CURRENT SERVICES BUDGET, WHICH SHALL BE DEEMED REPEALED ON SUCH DATE AS MAY BE DETERMINED BY THE LEGISLATURE, EXCEPT THAT APPROPRIATIONS FOR THE LEGISLATURE AND JUDICIARY AND 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.

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. NO PROPOSED CHANGES IN THE STATUTES OF THE STATE SHALL BE INCLUDED EITHER DIRECTLY OR INDIRECTLY IN ANY APPROPRIATION BILL SUBMITTED BY THE GOVERNOR OR IN SUCH SUPPLEMENTAL APPROPRIATION BILL. IN THE EVENT THAT A CHANGE IN THE STATUTES OF THE STATE IS DEEMED NECESSARY BY THE GOVERNOR TO IMPLEMENT THE PROPOSED BUDGET, SUCH CHANGES SHALL BE INCLUDED IN A BILL SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISION 2, 3 OR 4 OF SECTION 3 OF THIS ARTICLE.

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 by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, 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. IF A BILL OR BILLS CONTAINING ALL THE PROPOSED APPROPRIATIONS AND REAPPROPRIATIONS NECESSARY TO MAKE THE EXPENDITURES PROJECTED BY THE GOVERNOR IN THE CURRENT SERVICES BUDGET, SUBMITTED BY THE GOVERNOR PURSUANT TO SUBDIVISION 5 OF SECTION 3 OF THIS ARTICLE, IS DEEMED ENACTED PURSUANT TO SUBDIVISION 4 OF SECTION 4 OF THIS ARTICLE, SUCH ENACTMENT SHALL BE AN APPROPRIATION BY LAW FOR PURPOSES OF THIS SECTION FOR THE PERIOD OF ITS EFFECTIVENESS PURSUANT TO SECTION 4 OF THIS ARTICLE.

S 4. Resolved (if the Assembly concur), That the foregoing amendment 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.