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

S. 3323 A. 5334

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 16, 2011

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

IN ASSEMBLY -- Introduced by M. of A. TEDISCO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law, in relation to enacting the "over-expenditure, under-expenditure, transfer notification (OUT) act"

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

Section 1. This act shall be known and may be cited as the "over-expenditure, under-expenditure, transfer notification (OUT) act".

S 2. The state finance law is amended by adding a new section 53-e to read as follows:

S 53-E. SURPLUS APPROPRIATED FUNDS; OVER-EXPENDITURE APPROVAL. 1. DEFINITIONS. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "STATE AGENCY" SHALL MEAN ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, COUNCIL, OFFICE, OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE; AND

B. "SURPLUS APPROPRIATED FUNDS" SHALL MEAN THE AMOUNT OF FUNDS APPROPRIATED TO A STATE AGENCY IN A FISCAL YEAR REDUCED BY THE TOTAL EXPENDITURES BY SUCH STATE AGENCY FOR SUCH FISCAL YEAR, BUT SUCH TERM SHALL ONLY APPLY TO AMOUNTS OF FUNDS GREATER THAN ZERO.

2. SURPLUS APPROPRIATED FUNDS. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY STATE AGENCY WHICH ON APRIL FIRST HAS SURPLUS APPROPRIATED FUNDS SHALL, ON OR BEFORE APRIL FIFTEENTH OF SUCH YEAR, NOTIFY THE GOVERNOR, THE COMPTROLLER AND THE LEGISLATURE THAT SUCH AGENCY HAS SURPLUS APPROPRIATED FUNDS AND THE AMOUNT OF SUCH SURPLUS. UPON RECEIPT OF SUCH NOTIFICATION, THE LEGISLATURE AND THE GOVERNOR MAY, ON OR BEFORE MAY THIRTY-FIRST OF SUCH YEAR, ENACT LEGISLATION PROVIDING THAT SUCH

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

LBD08870-02-1

SURPLUS APPROPRIATED FUNDS MAY BE USED BY SUCH STATE AGENCY OR TRANSFERRED TO ANOTHER STATE AGENCY OR BOTH. SUCH LEGISLATION SHALL CLEARLY SET FORTH THE PARTICULAR PURPOSE OR PURPOSES FOR WHICH SUCH SURPLUS APPROPRIATED FUNDS SHALL BE USED OR TRANSFERRED. ANY LEGISLATION ENACTED PURSUANT TO THIS SUBDIVISION SHALL CONTAIN A CONDITION THAT SUCH SURPLUS APPROPRIATED FUNDS SHALL NOT BE USED AS SET FORTH IN SUCH LEGISLATION WITHOUT THE APPROVAL OF THE STATE COMPTROLLER.

B. ON OR BEFORE JUNE THIRTIETH OF SUCH YEAR, THE COMPTROLLER MAY APPROVE THE USE OR TRANSFER OF FUNDS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION. IF THE COMPTROLLER FAILS TO APPROVE SUCH USE OR TRANSFER OF FUNDS BY JUNE THIRTIETH OF SUCH YEAR, SUCH SURPLUS APPROPRIATED FUNDS SHALL BE TRANSFERRED TO THE GENERAL FUND AND SHALL BE USED FOR THE SOLE PURPOSE OF REDUCING DEBT OF THE STATE.

C. ANY SURPLUS APPROPRIATED FUNDS FOR WHICH THE LEGISLATURE AND THE GOVERNOR FAIL TO ENACT LEGISLATION PROVIDING FOR THE USE OR TRANSFER OF SUCH FUNDS SHALL BE TRANSFERRED TO THE GENERAL FUND AND SHALL BE USED FOR THE SOLE PURPOSE OF REDUCING DEBT OF THE STATE.

3. OVER-EXPENDITURE APPROVAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY STATE AGENCY WHICH FOR ANY REASON INTENDS TO EXPEND FUNDS FOR ANY PURPOSE IN ANY FISCAL YEAR IN AN AMOUNT GREATER THAN AMOUNTS APPROPRIATED TO SUCH AGENCY FOR SUCH FISCAL YEAR, SHALL, PRIOR TO SUCH EXPENDITURE, NOTIFY THE GOVERNOR, THE COMPTROLLER AND THE LEGISLATURE REGARDING SUCH INTENTION WITH A DETAILED EXPLANATION OF WHY SUCH EXPENDITURE IS NECESSARY. UPON RECEIPT OF SUCH NOTIFICATION, THE LEGISLATURE AND THE GOVERNOR MAY ENACT LEGISLATION PROVIDING FOR AN APPROPRIATION FOR SUCH EXPENDITURE. SUCH LEGISLATION SHALL CLEARLY SET FORTH THE PARTICULAR PURPOSE OR PURPOSES FOR WHICH SUCH APPROPRIATION IS MADE. ANY LEGISLATION ENACTED PURSUANT TO THIS SUBDIVISION SHALL CONTAIN A CONDITION THAT SUCH FUNDS SHALL NOT BE APPROPRIATED WITHOUT THE APPROVAL OF THE STATE COMPTROLLER.

S 3. This act shall take effect immediately.