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

9076

I N A S S E M B L Y

January 20, 2012

Introduced by M. of A. OAKS, BLANKENBUSH, BUTLER, CALHOUN, CORWIN, FINCH, GRAF, MURRAY, RA, RABBITT, RAIA, TEDISCO, TOBACCO, WALTER -- Multi-Sponsored by -- M. of A. AMEDORE, BARCLAY, BURLING, CERETTO, CONTE, CROUCH, DUPREY, FITZPATRICK, FRIEND, GIGLIO, HAWLEY, JOHNS, JORDAN, KOLB, P. LOPEZ, McDONOUGH, J. MILLER, PALMESANO, SALADINO, SAYWARD -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law and the legislative law, in relation to the legislative budget and deposits to the tax stabilization reserve fund

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

Section 1. The state finance law is amended by adding a new section 24-a to read as follows:

S 24-A. LEGISLATIVE BUDGET REVIEW; CONFERENCE COMMITTEES. 1. NO LATER THAN MARCH FIFTEENTH OF EACH YEAR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY SHALL JOINTLY CONVENE A GENERAL BUDGET CONFERENCE COMMITTEE COMPRISED OF MEMBERS OF EACH HOUSE OF THE LEGISLATURE TO ESTABLISH PROCEDURES TO RESOLVE THE DIFFERENCES BETWEEN EACH HOUSE CONCERNING THE EXECUTIVE BUDGET. THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL BE COMPRISED OF TEN MEMBERS: FOUR APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; FOUR APPOINTED BY THE SPEAKER OF THE ASSEMBLY; ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND ONE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. THE ADOPTION OF ANY DECISION OF THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL BE AFFIRMED BY A MAJORITY VOTE OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE APPOINTED TO SUCH COMMITTEE.

2. THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL ESTABLISH BUDGET CONFERENCE SUBCOMMITTEES, EACH TO BE COMPRISED OF MEMBERS OF BOTH HOUSES OF THE LEGISLATURE, TO RESOLVE DIFFERENCES BETWEEN EACH HOUSE CONCERNING THE EXECUTIVE BUDGET, BASED ON THE PROCEDURES ESTABLISHED BY THE GENERAL BUDGET CONFERENCE COMMITTEE, FOR SPECIFIC AREAS OF THE BUDGET TO BE DETERMINED BY THE GENERAL BUDGET CONFERENCE COMMITTEE. SUCH PROCEDURES SHALL INCLUDE A REQUIREMENT THAT ALL MEETINGS OF THE GENERAL BUDGET

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

LBD02427-01-1

CONFERENCE COMMITTEE AND OF THE SUBCOMMITTEES BE HELD IN PUBLIC. THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL PROVIDE ESTIMATES OF ANY MONEYS ESTIMATED TO BE AVAILABLE FOR THE ENSUING FISCAL YEAR FROM SOURCES OTHER THAN IN SUBDIVISION SIX OF SECTION TWENTY-THREE OF THIS ARTICLE. SUCH ESTIMATE WHEN COMBINED WITH THOSE ESTIMATES REQUIRED BY SUBDIVISION SIX OF SECTION TWENTY-THREE OF THIS ARTICLE SHALL BE ALL MONEYS FROM SUCH SOURCES DESCRIBED IN THIS SUBDIVISION ESTIMATED TO BE AVAILABLE TO MAKE DISBURSEMENTS AUTHORIZED BY THE APPROPRIATION BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO SECTION THREE OF ARTICLE SEVEN OF THE CONSTITUTION AND ACTED ON BY THE LEGISLATURE FOR THE ENSUING FISCAL YEAR. THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL ESTABLISH LIMITATIONS ON DISBURSEMENTS WHICH MAY BE AGREED TO BY EACH BUDGET CONFERENCE SUBCOMMITTEE TO INSURE THAT TOTAL DISBURSEMENTS TO BE MADE FOR THE ENSUING FISCAL YEAR DO NOT EXCEED THE FINAL ESTIMATE OF MONEYS AND REVENUES AVAILABLE TO MAKE SUCH DISBURSEMENTS AS PROVIDED BY SUBDIVISION SIX OF SECTION TWENTY-THREE OF THIS ARTICLE. THE NUMBER OF BUDGET CONFERENCE SUBCOMMITTEES AND THE MEMBERSHIP OF THE BUDGET CONFERENCE SUBCOMMITTEE SHALL BE DETERMINED BY THE GENERAL BUDGET CONFERENCE COMMITTEE; PROVIDED, HOWEVER, THAT NO LESS THAN ONE MEMBER OF EACH BUDGET CONFERENCE SUBCOMMITTEE SHALL BE APPOINTED EACH BY THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY.

3. AFTER THE ESTABLISHMENT OF LIMITATIONS ON DISBURSEMENTS FOR EACH BUDGET CONFERENCE SUBCOMMITTEE AS PROVIDED BY SUBDIVISION TWO OF THIS SECTION, EACH BUDGET CONFERENCE SUBCOMMITTEE SHALL CONVENE AT A TIME OR TIMES DETERMINED BY THE GENERAL BUDGET CONFERENCE COMMITTEE AND SHALL REPORT BACK TO THE GENERAL BUDGET CONFERENCE COMMITTEE AT A TIME OR TIMES DETERMINED BY THE GENERAL BUDGET CONFERENCE COMMITTEE ON THE RESULTS OF EFFORTS TO RESOLVE THE DIFFERENCES BETWEEN EACH HOUSE IN THE SPECIFIC AREAS OF THE BUDGET ASSIGNED TO EACH SUBCOMMITTEE. ON COMPLETION OF EFFORTS TO RESOLVE ALL DIFFERENCES BETWEEN EACH HOUSE, EACH BUDGET CONFERENCE SUBCOMMITTEE SHALL SUBMIT A FINAL REPORT TO THE GENERAL BUDGET CONFERENCE COMMITTEE ON THE RESULTS OF SUCH EFFORTS AND MAKE RECOMMENDATIONS FOR FINAL ACTION TO BE TAKEN ON THE BUDGET BILLS SUBMITTED BY THE GOVERNOR FOR THE ENSUING FISCAL YEAR. EACH FINAL REPORT SHALL ALSO INDICATE THE ESTIMATED IMPACT THAT EACH RECOMMENDATION WOULD HAVE ON STATE FINANCES FOR THE ENSUING AND NEXT TWO SUCCEEDING FISCAL YEARS.

4. THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL EITHER APPROVE THE FINAL REPORT OF EACH BUDGET CONFERENCE SUBCOMMITTEE OR AGREE UPON MODIFICATIONS OF SUCH SUBCOMMITTEE REPORTS, AND, THE GENERAL BUDGET CONFERENCE COMMITTEE SHALL REPORT IN WRITING TO THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY ON ALL RECOMMENDATIONS FOR FINAL ACTION TO BE TAKEN ON THE BUDGET BILLS SUBMITTED BY THE GOVERNOR FOR THE ENSUING FISCAL YEAR. THE FINAL GENERAL CONFERENCE COMMITTEE REPORT SHALL INCLUDE THE ESTIMATED IMPACT OF ANY PROPOSED MODIFICATIONS TO LAW THAT AFFECT RECEIPTS FOR THE ENSUING AND NEXT TWO SUCCEEDING FISCAL YEARS. SUCH FINAL GENERAL CONFERENCE COMMITTEE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC.

S 2. Subdivisions 1, 2 and 3 of section 40 of the state finance law, as amended by chapter 169 of the laws of 1994, are amended to read as follows:

1. The budget and the budget bills submitted by the governor shall include all appropriations which in the opinion of the governor will be required during the full succeeding fiscal year. IN THE CASE OF APPRO-

PRIATIONS FOR THE GENERAL SUPPORT OF PUBLIC SCHOOLS AND THE STATE LOTTERY FUND, THE BUDGET AND THE BUDGET BILLS SUBMITTED BY THE GOVERNOR SHALL INCLUDE ALL APPROPRIATIONS FOR THE GENERAL SUPPORT OF PUBLIC SCHOOLS AND THE STATE LOTTERY FUND WHICH IN THE OPINION OF THE GOVERNOR WILL BE REQUIRED DURING THE NEXT FULL FISCAL YEAR FOLLOWING THE SUCCEEDING FISCAL YEAR, AND ANY ADDITIONAL APPROPRIATIONS FOR THE GENERAL SUPPORT OF PUBLIC SCHOOLS WHICH IN THE OPINION OF THE GOVERNOR WILL BE REQUIRED DURING THE FULL SUCCEEDING FISCAL YEAR ABOVE, AT OR BELOW THE AMOUNTS APPROPRIATED FOR SUCH PURPOSES IN THE CURRENT FISCAL YEAR. SUCH APPROPRIATIONS SHALL BE PROPOSED AS SEPARATE APPROPRIATIONS APPLYING INDIVIDUALLY TO THE SUCCEEDING FISCAL YEAR AND THE NEXT SUCCEEDING FISCAL YEAR.

2. (a) No appropriation made at a regular session of the legislature shall, unless the contrary is expressly provided in the act by which such appropriation is made, be available prior to the commencement of the fiscal year for which the budget is adopted at such session, and every appropriation made at such session, except as provided in paragraphs (b), (d), and (e) of this subdivision, shall cease to have force and effect, except as to liabilities already incurred thereunder, at the close of [such] THE fiscal year IN WHICH SUCH APPROPRIATION SHALL FIRST BECOME AVAILABLE.

(b) Every deficiency appropriation made at a regular session of the legislature which by the express terms of the act by which such appropriation is made shall be available prior to the commencement of the fiscal year for which the budget is adopted at such session shall cease to have force and effect, except as to liabilities already incurred thereunder, at the close of the fiscal year in which such appropriation shall become available.

(c) Every appropriation made at an extraordinary session of the legislature shall, unless the contrary is expressly provided in the act by which such appropriation is made, be available immediately upon the taking effect of such act and shall cease to have force and effect, except as to liabilities already incurred thereunder, at the close of the fiscal year in which such appropriation shall become available.

(d) Every appropriation enacted in the fund type special revenue funds-federal for a grant period which extends beyond [March thirty-first] APRIL THIRTIETH of the fiscal year in which the appropriations are enacted shall be available for liabilities incurred during such grant period after such [March thirty-first] APRIL THIRTIETH date.

(e) All state operations appropriations made to the city university of New York and the state university of New York shall cease to have force and effect, except as to liabilities already incurred thereunder, as of the thirtieth day of June immediately following the state fiscal year for which they are enacted.

3. Every appropriation for whatever purpose which at the close of the fiscal year IN WHICH SUCH APPROPRIATION SHALL FIRST BECOME AVAILABLE, shall cease to have force and effect except as to liabilities already incurred thereunder shall as to such liabilities continue in force and effect until the dates specified in paragraphs (a), (b), (c) and (d) of this subdivision, on which dates such appropriation shall lapse and no money shall thereafter be paid out of the state treasury or any of its funds or any of the funds under its management pursuant to such appropriation.

(a) Except for appropriations made to THE city university of New York and the state university of New York, all state operations appropriations including special revenue funds-federal appropriations continued

pursuant to paragraph (d) of subdivision two of this section shall lapse on the [thirtieth] THIRTY-FIRST day of [June] JULY immediately following the close of the fiscal year. The appropriations made to the city university of New York or the state university of New York shall lapse on the thirtieth day of September immediately following the close of the fiscal year.

(b) All aid to localities appropriations including special revenue funds-federal appropriations continued pursuant to paragraph (d) of subdivision two of this section shall lapse on the fifteenth day of [September] OCTOBER immediately following the close of the fiscal year.

(c) All capital projects appropriations shall lapse on the fifteenth day of [September] OCTOBER immediately following the close of the fiscal year.

(d) All other appropriations shall lapse on the fifteenth day of [September] OCTOBER immediately following the close of the fiscal year.

S 3. Subdivisions 3 and 4 of section 92 of the state finance law, as separately amended by chapters 405 and 957 of the laws of 1981, are amended to read as follows:

3. At the close of each fiscal year any cash surplus remaining in the general fund over and above the norm for such fiscal year shall be transferred from or retained in such fund as hereinafter in this subdivision provided. There shall be transferred to the tax stabilization reserve fund all of such surplus moneys, up to and including an amount equivalent to [two-tenths] ONE-HALF of one per centum of such norm, unless such transfer would increase such reserve fund to an amount in excess of [two] FIVE per centum of the amount of the norm for such fiscal year, in which event such transfer shall be limited to such amount as will increase such reserve fund to such [two] FIVE per centum limitation. Any balance of such surplus moneys, thereafter remaining in the general fund, shall be retained in such fund and be available for the reduction of state taxes.

4. In the event that at the close of any fiscal year the receipts derived from the taxes, fees and other sources, required to be paid during such fiscal year into the general fund of the state shall fall below the norm for such fiscal year, there shall be transferred from the tax stabilization reserve fund to the general fund to the extent that there are sufficient moneys in the tax stabilization reserve fund, an amount equal to the difference between the norm and the amount of such receipts. If such transfer reduces the tax stabilization reserve fund to an amount less than [two] FIVE per centum of the norm for such fiscal year, the amount so transferred shall be repaid in cash prior to the computation and payment of any transfer to the fund pursuant to subdivision three of this section in not less than three equal annual installments within the period of six years or less next succeeding the date of such transfer; provided, however, that if any such annual installment shall increase such reserve fund to an amount in excess of [two] FIVE per centum of the amount of the norm for the then current fiscal year, such installment shall be limited to such amount as will increase such reserve fund to such [two] FIVE per centum limitation and no further repayment of the whole or any part of such transfer shall be required in any subsequent fiscal year. Repayments to the tax stabilization reserve fund shall be stipulated in annual budget bills.

S 4. The legislative law is amended by adding a new section 53-a to read as follows:

S 53-A. FAILURE TO ENACT A TIMELY STATE BUDGET. AFTER THE COMMENCEMENT OF THE FISCAL YEAR OF THE STATE, UNTIL ALL THE APPROPRIATION BILLS

SUBMITTED BY THE GOVERNOR FOR THAT FISCAL YEAR AND ALL THE BILLS SUBMITTED BY THE GOVERNOR CONTAINING THE PROPOSED LEGISLATION RECOMMENDED IN THE BUDGET FOR THAT FISCAL YEAR SHALL HAVE BEEN FINALLY ACTED ON BY BOTH HOUSES OF THE LEGISLATURE, NEITHER HOUSE SHALL CONSIDER OR TAKE ANY ACTION WHATSOEVER ON ANY OTHER BILL, RESOLUTION OR OTHER MATTER PENDING BEFORE EITHER SUCH HOUSE OR ANY COMMITTEE THEREOF, EXCEPT FOR APPROPRIATION BILLS SUBMITTED TO THE LEGISLATURE ON MESSAGE FROM THE GOVERNOR CERTIFYING TO THE NECESSITY OF THE IMMEDIATE PASSAGE OF SUCH BILL.

S 5. Section 54 of the legislative law is amended by adding three new subdivisions 3, 4 and 5 to read as follows:

3. WHEN BOTH HOUSES ARE IN AGREEMENT AND PREPARED TO FINALLY ACT ON THE APPROPRIATION BILLS SUBMITTED BY THE GOVERNOR IN ACCORDANCE WITH ARTICLE SEVEN OF THE CONSTITUTION, THE SECRETARY OF THE SENATE FINANCE COMMITTEE AND THE SECRETARY OF THE ASSEMBLY WAYS AND MEANS COMMITTEE SHALL PREPARE AND DELIVER TO THE DIVISION OF THE BUDGET A LETTER THAT STATES THAT BOTH HOUSES ARE IN AGREEMENT AND PREPARED TO FINALLY ACT ON THE APPROPRIATION BILLS AND PROPOSED LEGISLATION SUBMITTED BY THE GOVERNOR IN ACCORDANCE WITH ARTICLE SEVEN OF THE CONSTITUTION. THE SECRETARY OF THE SENATE FINANCE COMMITTEE AND THE SECRETARY OF THE ASSEMBLY WAYS AND MEANS COMMITTEE SHALL FURNISH THE DIVISION OF THE BUDGET, CONCURRENT WITH THE SUBMISSION OF THE JOINT LETTER, INFORMATION SUFFICIENT FOR THE PREPARATION OF A SUMMARY REPORT, INCLUDING THE APPROPRIATION BILLS AND PROPOSED LEGISLATION ON WHICH BOTH HOUSES ARE IN AGREEMENT AND PREPARED TO ACT.

4. PROMPTLY UPON RECEIPT OF THE JOINT LETTER AND INFORMATION DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, THE DIVISION OF THE BUDGET SHALL PREPARE A PLAIN LANGUAGE SUMMARY REPORT OF THE APPROPRIATION BILLS AND RELATED LEGISLATION TO BE ENACTED BY THE LEGISLATURE. SUCH SUMMARY REPORT SHALL BE IN SUCH A FORM AS TO INDICATE THAT THE BUDGET AS AMENDED PROVIDES THAT, FOR THE GENERAL FUND, THE TOTAL OF ANTICIPATED DISBURSEMENTS, INCLUDING TRANSFERS TO OTHER FUNDS, IS NOT GREATER THAN THE TOTAL OF ANTICIPATED RECEIPTS, INCLUDING TRANSFERS FROM OTHER FUNDS, PLUS ANY BALANCE AVAILABLE IN SUCH FUND. THE SUMMARY REPORT SHALL FURTHER DESCRIBE THE IMPACT OF PROPOSED LEGISLATIVE AMENDMENTS ON THE RECEIPT AND DISBURSEMENT ESTIMATES CONTAINED IN THE EXECUTIVE BUDGET FOR SUCH FISCAL YEAR AND FOR THE SUCCEEDING TWO FISCAL YEARS. THE SUMMARY REPORT SHALL BE IN SUCH FORMAT AS THE DIVISION OF THE BUDGET MAY DETERMINE.

5. THE DIVISION OF THE BUDGET SUMMARY REPORT AS DESCRIBED IN SUBDIVISION FOUR OF THIS SECTION SHALL BE PLACED ON THE DESKS OF EACH MEMBER OF THE LEGISLATURE, AND SHALL BE MADE AVAILABLE TO THE PUBLIC FOR A PERIOD OF AT LEAST FORTY-EIGHT HOURS PRIOR TO THE PASSAGE OF THE APPROPRIATION BILLS AND RELATED LEGISLATION BY EACH HOUSE.

S 6. 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. THE TOTAL AMOUNT OF ALL FUNDS SPENDING, WHICH SHALL INCLUDE SPENDING FROM ALL STATE REVENUE SOURCES INCLUDING TAXES, FEES, FINES, FEDERAL GRANTS, BOND PROCEEDS, LOTTERY PROCEEDS AND MISCELLANEOUS RECEIPTS, AND WHICH COMPRISES SPENDING FROM THE GENERAL FUND, SPECIAL REVENUE FUNDS, CAPITAL PROJECTS FUND, DEBT SERVICE FUNDS, INTERNAL SERVICE FUNDS, ENTERPRISE FUNDS AND FIDUCIARY FUNDS, SHALL NOT EXCEED SPENDING IN THE PRIOR YEAR BY MORE THAN THE RATE OF INFLATION AS DETERMINED BY THE PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS (CPI-W) PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR

STATISTICS; PROVIDED, HOWEVER, THAT SUCH SPENDING MAY EXCEED THE RATE OF INFLATION BY THE AMOUNT OF ANY UNEXPECTED FEDERAL FUNDS RECEIVED BY THE STATE.

S 7. 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, THE BUDGET SUBMITTED PURSUANT TO THIS SECTION SHALL NOT PROVIDE FOR TOTAL ALL FUNDS SPENDING IN AN AMOUNT WHICH EXCEEDS SPENDING IN THE PRIOR YEAR BY MORE THAN THE RATE OF INFLATION AS DETERMINED BY THE PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS (CPI-W) PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS. FOR THE PURPOSES OF THIS SUBDIVISION ALL FUNDS SPENDING SHALL INCLUDE SPENDING FROM ALL STATE REVENUE SOURCES INCLUDING TAXES, FEES, FINES, FEDERAL GRANTS, BOND PROCEEDS, LOTTERY PROCEEDS AND MISCELLANEOUS RECEIPTS, AND SHALL COMPRISE SPENDING FROM THE GENERAL FUND, SPECIAL REVENUE FUNDS, CAPITAL PROJECTS FUND, DEBT SERVICE FUNDS, INTERNAL SERVICE FUNDS, ENTERPRISE FUNDS AND FIDUCIARY FUNDS.

S 8. Of moneys appropriated to state operations and aid to localities in the general fund, community projects fund - 007, no such moneys shall be appropriated for services and expenses, grants in aid, or for contracts with certain not-for-profit agencies, universities, colleges, school districts, corporations, and/or municipalities unless such appropriation is set forth with such specificity as is reasonable to determine how such moneys shall be expended.

S 9. This act shall take effect immediately; provided however that the provisions of section three of this act shall take effect three years after it shall have become a law.