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

5317--B

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to extending the expiration of and amending the provisions authorizing the county of Chautauqua to impose additional sales and compensating use taxes

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

Section 1. Item (iv) of clause 38 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by chapter 223 of the laws of 2013, is amended to read as follows:

(iv) one-half of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning December first, two thousand ten and ending November thirtieth, two thousand [fifteen] SEVENTEEN;

S 2. Clause 38 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by chapter 174 of the laws of 2009, item (iv) as amended by section one of this act, is amended to read as follows:

(38) the county of Chautauqua is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes at a rate that is: (i) one and one-quarter percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning March first, two thousand five and ending August thirty-first, two thousand six; (ii) one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning September first, two thousand six and ending November thirtieth, two thousand seven; (iii) three-quarters

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

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of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten; [and] (iv) one-half of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning December first, two thousand ten and ending November thirtieth, two thousand [seventeen] FIFTEEN; AND (V) ONE PERCENT ADDITIONAL TO THE THREE PERCENT RATE AUTHORIZED ABOVE IN THIS CLAUSE FOR SUCH COUNTY FOR THE PERIOD BEGINNING DECEMBER FIRST, TWO THOUSAND FIFTEEN AND ENDING NOVEMBER THIRTIETH, TWO THOUSAND SEVENTEEN;

S 3. Clause 38 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section two of this act, is amended to read as follows:

(38) the county of Chautauqua is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes at a rate that is: (i) one and one-quarter percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning March first, two thousand five and ending August thirty-first, two thousand six; (ii) one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning September first, two thousand six and ending November thirtieth, two thousand seven; (iii) three-quarters of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten; (iv) one-half of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning December first, two thousand ten and ending November thirtieth, two thousand fifteen; [and] (v) one percent additional to the three percent rate authorized above in this clause for such county for the period beginning December first, two thousand fifteen and ending November thirtieth, two thousand [seventeen] SIXTEEN; AND (VI) ONE-HALF OF ONE PERCENT ADDITIONAL TO THE THREE PERCENT RATE AUTHORIZED ABOVE IN THIS CLAUSE FOR SUCH COUNTY FOR THE PERIOD BEGINNING DECEMBER FIRST, TWO THOUSAND SIXTEEN AND ENDING NOVEMBER THIRTIETH, TWO THOUSAND SEVENTEEN;

S 4. Subparagraph (iii) of the opening paragraph of section 1210 of the tax law, as separately amended by chapters 191, 217 and 325 of the laws of 2013, is amended to read as follows:

(iii) the maximum rate referred to in section twelve hundred twenty-four of this article shall be calculated without reference to the following additional rates authorized in subparagraphs (i) and (ii) of this paragraph: one and one-half percent for the county of Allegany; one percent for the counties of Rensselaer, Erie, Cattaraugus, CHAUTAUQUA, Wyoming, Ulster, Albany, Suffolk, Essex, Greene, Orleans, Franklin, Hamilton, Herkimer, Genesee, Columbia, Schuyler, Chenango, Monroe, Steuben, Chemung, Seneca, Livingston, Niagara, Yates, Tioga, Montgomery, Delaware, Wayne, Schoharie, Putnam, Clinton, St. Lawrence and Onondaga and the cities of Yonkers, Mount Vernon and New Rochelle; three-quarters of one percent for the counties of Dutchess, Lewis, Orange, and Jefferson; one percent and three-quarters of one percent or one-half of one percent for the county of Oneida; three-quarters of one percent and one-half of one percent for the county of Nassau; one-half of one percent and one-quarter of one percent and one-quarter of one percent for the city of White Plains; one-half or one percent for the county of Tompkins; three-eighths of one percent and five-eighths of one percent for the county of Rockland; one-half of one percent for the counties of

Putnam and Schenectady; one-eighth of one percent and three-eighths of one percent for the county of Ontario; AND one-half of one percent and one-half of one percent for the county of Sullivan; [and three-quarters of one percent or one-half of one percent for the county of Chautauqua;]

S 5. Subdivision (ee) of section 1224 of the tax law, as amended by chapter 174 of the laws of 2009, is amended to read as follows:

(ee) The county of Chautauqua shall have the sole right to impose the additional [three-quarters or one-half of] one percent rate of tax which such county is authorized to impose pursuant to the authority of section twelve hundred ten of this article. Such additional rate of tax shall be in addition to any other tax which such county may impose or may be imposing pursuant to this article or any other law and such additional rate of tax shall not be subject to preemption. The maximum three percent rate referred to in this section shall be calculated without reference to the additional [three-quarters or one-half of] one percent rate of tax which the county of Chautauqua is authorized and empowered to adopt pursuant to section twelve hundred ten of this article.

S 6. Section 1262-o of the tax law, as amended by chapter 223 of the laws of 2013, is amended to read as follows:

S 1262-o. Disposition of net collections from the additional rate of sales and compensating use taxes in the county of Chautauqua. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one and one-quarter percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of the period beginning March first, two thousand five and ending August thirty-first, two thousand six, the additional one percent rate authorized by such section for all or any of the period beginning September first, two thousand six and ending November thirtieth, two thousand seven, the additional three-quarters of one percent rate authorized by such section for all or any of the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten, the county shall allocate one-fifth of the net collections from the additional three-quarters of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional three-quarters of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one-half percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of the period beginning December first, two thousand ten and ending November thirtieth, two thousand [fifteen] SEVENTEEN, the county shall allocate three-tenths of the net collections from the additional one-half of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and

published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one-half of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. The net collections from the additional rates imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county to be used for purposes above described.

S 7. Section 1262-o of the tax law, as amended by section six of this act, is amended to read as follows:

S 1262-o. Disposition of net collections from the additional rate of sales and compensating use taxes in the county of Chautauqua. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one and one-quarter percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of the period beginning March first, two thousand five and ending August thirty-first, two thousand six, the additional one percent rate authorized by such section for all or any of the period beginning September first, two thousand six and ending November thirtieth, two thousand seven, the additional three-quarters of one percent rate authorized by such section for all or any of the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten, the county shall allocate one-fifth of the net collections from the additional three-quarters of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional three-quarters of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one-half percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of the period beginning December first, two thousand ten and ending November thirtieth, two thousand [seventeen] FIFTEEN, the county shall allocate three-tenths of the net collections from the additional one-half of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one-half of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for

local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, IF THE COUNTY OF CHAUTAUQUA IMPOSES THE ADDITIONAL ONE PERCENT RATE OF SALES AND COMPENSATING USE TAXES AUTHORIZED BY SUCH SECTION TWELVE HUNDRED TEN FOR ALL OR ANY OF THE PERIOD BEGINNING DECEMBER FIRST, TWO THOUSAND FIFTEEN AND ENDING NOVEMBER THIRTIETH, TWO THOUSAND SEVENTEEN, THE COUNTY SHALL ALLOCATE THREE-TWENTIETHS OF THE NET COLLECTIONS FROM THE ADDITIONAL ONE PERCENT TO THE CITIES, TOWNS AND VILLAGES IN THE COUNTY ON THE BASIS OF THEIR RESPECTIVE POPULATIONS, DETERMINED IN ACCORDANCE WITH THE LATEST DECENNIAL FEDERAL CENSUS OR SPECIAL POPULATION CENSUS TAKEN PURSUANT TO SECTION TWENTY OF THE GENERAL MUNICIPAL LAW COMPLETED AND PUBLISHED PRIOR TO THE END OF THE QUARTER FOR WHICH THE ALLOCATION IS MADE, AND ALLOCATE THE REMAINDER OF THE NET COLLECTIONS FROM THE ADDITIONAL ONE PERCENT AS FOLLOWS: (1) TO PAY THE COUNTY'S EXPENSES FOR MEDICAID AND OTHER EXPENSES REQUIRED BY LAW; (2) TO PAY FOR LOCAL ROAD AND BRIDGE PROJECTS; (3) FOR THE PURPOSES OF CAPITAL PROJECTS AND REPAYING ANY DEBTS INCURRED FOR SUCH CAPITAL PROJECTS IN THE COUNTY OF CHAUTAUQUA THAT ARE NOT OTHERWISE PAID FOR BY REVENUE RECEIVED FROM THE MORTGAGE RECORDING TAX; AND (4) FOR DEPOSIT INTO A RESERVE FUND FOR BONDED INDEBTEDNESS ESTABLISHED PURSUANT TO THE GENERAL MUNICIPAL LAW. The net collections from the additional rates imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county to be used for purposes above described.

S 7-a. Section 1262-o of the tax law, as amended by section seven of this act, is amended to read as follows:

S 1262-o. Disposition of net collections from the additional rate of sales and compensating use taxes in the county of Chautauqua. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one and one-quarter percent rate of sales and compensating use taxes authorized by section twelve hundred ten of this article for all or any portion of the period beginning March first, two thousand five and ending August thirty-first, two thousand six, the additional one percent rate authorized by such section for all or any of the period beginning September first, two thousand six and ending November thirtieth, two thousand seven, the additional three-quarters of one percent rate authorized by such section for all or any of the period beginning December first, two thousand seven and ending November thirtieth, two thousand ten, the county shall allocate one-fifth of the net collections from the additional three-quarters of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional three-quarters of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded

indebtedness established pursuant to the general municipal law. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one-half percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of the period beginning December first, two thousand ten and ending November thirtieth, two thousand fifteen, AND BEGINNING DECEMBER FIRST, TWO THOUSAND SIXTEEN AND ENDING NOVEMBER THIRTIETH, TWO THOUSAND SEVENTEEN, the county shall allocate three-tenths of the net collections from the additional one-half of one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one-half of one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. Notwithstanding any contrary provision of law, if the county of Chautauqua imposes the additional one percent rate of sales and compensating use taxes authorized by such section twelve hundred ten for all or any of the period beginning December first, two thousand fifteen and ending November thirtieth, two thousand [seventeen] SIXTEEN, the county shall allocate three-twentieths of the net collections from the additional one percent to the cities, towns and villages in the county on the basis of their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, and allocate the remainder of the net collections from the additional one percent as follows: (1) to pay the county's expenses for Medicaid and other expenses required by law; (2) to pay for local road and bridge projects; (3) for the purposes of capital projects and repaying any debts incurred for such capital projects in the county of Chautauqua that are not otherwise paid for by revenue received from the mortgage recording tax; and (4) for deposit into a reserve fund for bonded indebtedness established pursuant to the general municipal law. The net collections from the additional rates imposed pursuant to this section shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county to be used for purposes above described.

S 8. The authorization to impose an additional one percent sales and compensating use taxes granted to the county of Chautauqua pursuant to section two of this act, and the provisions of sections four, five and seven of this act, on and after December 1, 2015, shall be contingent upon the legislative body of such county submitting, by means of electronic transmission, to the commissioner of taxation and finance, on or before November 1, 2015, a statement that such legislative body has passed legislation, and such proof as the commissioner of taxation and finance shall determine to be suitable, that such legislation has become a local law or ordinance or adopted resolution, which provides for a real property tax levy for the county of Chautauqua during the 2016 tax year which is a minimum of 3 percent less than the real property tax

levy for such purposes during the 2015 tax year. Provided, further, that the authorization to impose an additional one percent sales and compensating use taxes granted to the county of Chautauqua pursuant to section two of this act, and the provisions of sections four, five and seven of this act, on and after December 1, 2016, shall be contingent upon (a) a real property tax levy for the county of Chautauqua during the 2016 tax year which is a minimum of 3 percent less than the real property tax levy for such purposes during the 2015 tax year; and (b) the legislative body of such county submitting, by means of electronic transmission, to the commissioner of taxation and finance, on or before November 1, 2016, a statement that such legislative body has passed legislation which provides for a real property tax levy for the county of Chautauqua during the 2017 tax year which is a minimum of 3 percent less than the real property tax levy for such purposes during the 2015 tax year, and also submits such proof as such commissioner shall determine to be suitable, that such legislation has become a local law or ordinance, or adopted resolution. In the event the legislative body of Chautauqua county fails to submit such statement regarding the 2017 county tax year on or before November 1, 2016, sections three and seven-a of this act shall take effect, and sections four and five of this act shall be REPEALED December 1, 2016.

S 8-a. Notwithstanding any other provision of any state or local law to the contrary, any local law, ordinance or resolution enacted, adopted or amended to impose the sales and compensating use taxes at the one percent additional rate of tax authorized by this act, shall take effect in accordance with the provisions of subdivision (d) of section 1210 of the tax law, subject to the provisions of section eight of this act, except that the minimum notice requirements shall be deemed complied with upon mailing by registered mail to the commissioner of taxation and finance at his or her office in Albany no later than November 5, 2015 for the 2016 county tax year and no later than November 5, 2016 for the 2017 county tax year, a certified copy of such local law, ordinance or resolution.

S 9. This act shall take effect immediately, provided, however, that sections two, four, five and seven of this act shall take effect only if the provisions of section eight of this act are satisfied for the 2016 county tax year; and provided, further that if the provisions of section eight of this act are satisfied for the 2016 county tax year and are not satisfied for the 2017 county tax year sections three and seven-a of this act shall take effect, and sections four and five of this act shall be deemed REPEALED. Provided, that the commissioner of taxation and finance shall notify the legislative bill drafting commission upon the compliance or noncompliance with the provisions of section eight of this act by the legislative body of the county of Chautauqua in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.