

# STATE OF NEW YORK

1756

2021-2022 Regular Sessions

## IN SENATE

January 14, 2021

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

AN ACT to amend the state finance law, in relation to establishing a spending cap and increasing the maximum capacity of the rainy day fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The state finance law is amended by adding a new article 17  
2 to read as follows:

### ARTICLE 17

#### ANNUAL SPENDING GROWTH CAP ACT

##### Section 244. Definitions.

245. Establishment of annual spending growth cap.

246. Provisions regarding declaration of emergency.

§ 244. Definitions. As used in this article, the following terms shall have the following meanings, unless otherwise specified:

10 1. "Annual spending growth cap" shall mean a percentage determined by  
11 adding the inflation rates from each of the three calendar years imme-  
12 diately prior to the commencement of a given fiscal year and then divid-  
13 ing that sum by three or two percent, whichever is less.

14 2. "State operating funds spending" shall mean annual disbursements of  
15 all governmental fund types included in the cash-basis financial plan of  
16 the state, excluding disbursements from federal funds and capital  
17 project funds.

18 3. "Inflation rate" shall mean the percentage change in the twelve-  
19 month average of the consumer price index for all urban consumers as  
20 published by the United States department of labor, bureau of labor  
21 statistics or any successor agency for a given calendar year compared to  
22 the prior calendar year.

23 4. "Executive budget" shall mean the budget submitted annually by the  
24 governor pursuant to section one of article VII of the state constitu-  
25 tion.

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

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1 5. "State budget as enacted" shall mean the budget acted upon by the  
2 legislature in a given fiscal year, as subject to section four of arti-  
3 cle VII of the state constitution and section seven of article IV of the  
4 state constitution.

5 6. "Emergency" shall mean an extraordinary, unforeseen, or unexpected  
6 occurrence, or combination of circumstances, including but not limited  
7 to a natural disaster, invasion, terrorist attack, or economic calamity.

8 § 245. Establishment of annual spending growth cap. 1. There is here-  
9 by established an annual spending growth cap.

10 2. The governor shall not submit, and the legislature shall not act  
11 upon, a budget that contains a percentage increase over the prior fiscal  
12 year in state operating funds spending which exceeds the annual spending  
13 growth cap.

14 3. The governor shall certify in writing that state operating funds  
15 spending in the executive budget does not exceed the annual spending  
16 growth cap. If final inflation rate data for the prior calendar year is  
17 not yet available at the time the governor submits his or her executive  
18 budget, he or she shall furnish a reasonable estimate of such prior  
19 calendar year inflation rate.

20 4. The comptroller shall provide, within five days of action by the  
21 legislature upon the budget, a determination as to whether the state  
22 operating funds spending as set forth in the state budget as enacted  
23 exceeds the annual spending growth cap.

24 5. If the comptroller finds that state operating funds spending as set  
25 forth in the state budget as enacted exceeds the annual spending growth  
26 cap, the governor shall take corrective action to ensure that funding is  
27 limited to the amount of the annual spending cap.

28 § 246. Provisions regarding declaration of emergency. 1. Upon a find-  
29 ing of an emergency by the governor, he or she may declare an emergency  
30 by an executive order which shall set forth the reasons for such decla-  
31 ration.

32 2. Based upon such declaration, the governor may submit, and the  
33 legislature may authorize, by a two-thirds supermajority, a budget  
34 containing a percentage increase over the prior fiscal year in state  
35 operating funds spending that exceeds the annual spending growth cap.

36 § 2. Subdivision 2 of section 92-cc of the state finance law, as  
37 amended by section 12-a of part I of chapter 60 of the laws of 2015, is  
38 amended to read as follows:

39 2. Such fund shall have a maximum balance not to exceed [~~five~~ ten per  
40 centum of the aggregate amount projected to be disbursed from the gener-  
41 al fund during the fiscal year immediately following the then-current  
42 fiscal year. At the request of the director of the budget, the state  
43 comptroller shall transfer monies to the rainy day reserve fund up to  
44 and including an amount equivalent to seventy-five one-hundredths of one  
45 per centum of the aggregate amount projected to be disbursed from the  
46 general fund during the then-current fiscal year, unless such transfer  
47 would increase the rainy day reserve fund to an amount in excess of five  
48 per centum of the aggregate amount projected to be disbursed from the  
49 general fund during the fiscal year immediately following the then-cur-  
50 rent fiscal year, in which event such transfer shall be limited to such  
51 amount as will increase the rainy day reserve fund to such five per  
52 centum limitation.

53 § 3. This act shall take effect on the thirtieth day after it shall  
54 have become a law.