

MEMORANDUM

AN ACT to authorize the director of the budget to reduce payment of all or part of certain appropriations; and providing for the repeal of such provisions upon expiration thereof

Purpose of the Bill:

This bill would make clear that the Director of the Budget may direct reduction of payment of appropriated funds in an amount not to exceed that which is necessary to ensure that expenditures do not exceed anticipated receipts in fiscal year 2009-10.

Summary of Provisions of the Bill:

Section 1 of the bill authorizes the Director of the Budget, in addition to any authority otherwise provided by law and upon approval of the Governor, to direct reduction of payment of all or part of any appropriation for Fiscal Year 2009-10, provided that such reductions are uniformly applied to the extent practicable and are in an amount that does not exceed the amount necessary to reduce estimated annual state disbursements to estimated annual receipts expected to be available in such fiscal year. Such direction may be exercised notwithstanding any other provision of law, except that it shall not apply to any funds appropriated for the payment of debt service and related expenses, funds appropriated pursuant to a collective bargaining agreement, and any payment required by federal law or the United States or New York Constitution. It is the intent of this section that any direction to deny payment shall relieve the State of any future liability for such payment.

Section 2 of the bill provides that it would be effective immediately, and would expire and be deemed repealed on December 31, 2009.

Existing Law:

The New York State Finance Law allows the Director of the Budget to manage the State's cash flow and expenditures, including the following provisions:

New York State Finance Law § 42 provides that amounts appropriated in any act shall be deemed to be only for so much as necessary to fulfill the purposes of such act.

New York State Finance Law § 49 provides that no lump sum appropriations for personal service, or for maintenance and operation or for non-personal service, or for maintenance undistributed including personal service, other than appropriations for the legislature or judiciary, and appropriations from proprietary or fiduciary funds, shall be available for payments for personal service, or maintenance and operation or for non-personal service, or maintenance undistributed including personal service until approved by the Director of the Budget.



Statement in Support:

In FY 2009-10, a mid-year deficit has developed in the State budget, now reaching \$3.2 billion. No legislation has been enacted, however, that would address this gap. As a result of this shortfall, the State faces the genuine threat that it will run out of money, and as a result will not be able to pay its obligations. Moreover, traditional mechanisms for securing the funds necessary to run the State may not be available.

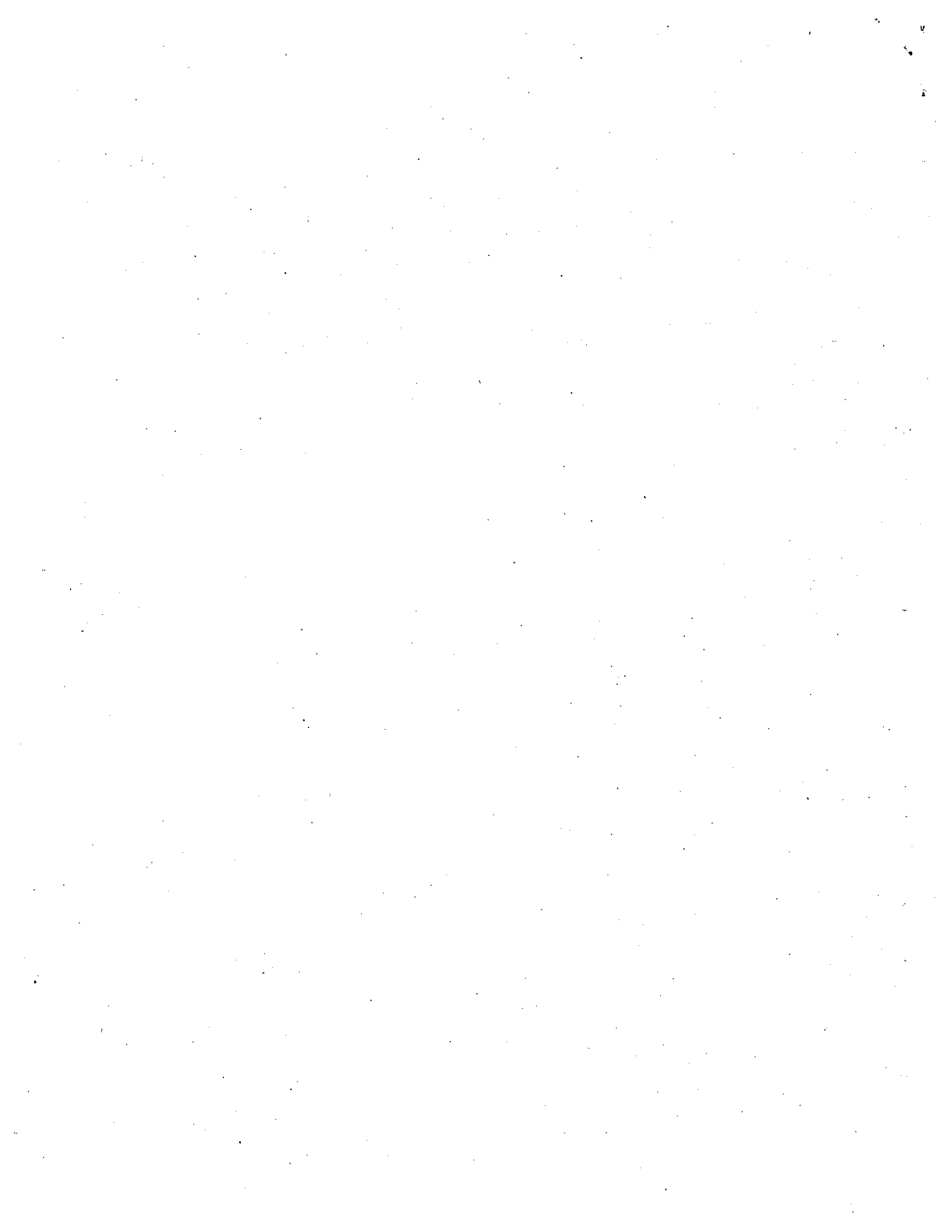
The State needs a formal process to address this eventuality. This bill would set forth such a process, under which the Legislature would specifically condition existing appropriations for the present fiscal year on the Governor's ability to direct denial of payment thereon solely to the extent necessary to ensure that disbursements do not exceed anticipated receipts. This would allow the State to prepare for and protect against the devastating impact of the State Treasury running out of cash, with no available stream of funds to replace it. This legislation will be in addition to the financial management tools in existing law.

Budget Implications:

This bill would allow the State to reduce expenditures and liabilities in the current fiscal year, so as to address the current year deficit in an orderly fashion.

Effective Date:

This bill would be effective immediately, and would expire and be deemed repealed December 31, 2009.



PROGRAM BILL #211

S.

Senate

EXTRAORDINARY SESSION #17

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Authorizes the director of the
budget to reduce payment of all or
part of any appropriation for fiscal
year 2009-2010 upon certification)

Reduce payment of appropri

AN ACT

to authorize the director of the
budget to reduce payment of all or
part of certain appropriations; and
providing for the repeal of such
provisions upon expiration thereof

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

- | | | | | |
|-----------------|-----------------|----------------|------------------|----------------|
| s20 Adams | s03 Foley | s24 Lanza | s12 Onorato | s09 Skelos |
| s15 Addabbo | s08 Fuschillo | s39 Larkin | s37 Oppenheimer | s14 Smith |
| s55 Alessi | s22 Golden | s01 LeValle | s11 Padavan | s25 Squadron |
| s48 Aubartine | s47 Griffo | s40 Leibell | s21 Parker | s58 Stachowski |
| s42 Bonacic | s06 Hamon | s52 Libous | s30 Perkins | s16 Stavisky |
| s46 Breslin | s36 Hassell- | s45 Little | s61 Ransenhofen | s35 Stewart- |
| s50 DeFrancisco | Thompson | s05 Marcellino | s56 Robach | Cousins |
| s32 Diaz | s10 Runtley | s52 Maziarz | s41 Saland | s60 Thompson |
| s17 Dilan | s07 Johnson, C. | s43 McDonald | s19 Sampson | s49 Valesky |
| s29 Duane | s04 Johnson, O. | s13 Monserrate | s23 Savino | s59 Volker |
| s33 Espada | s34 Klein | s18 Montgomery | s31 Schneiderman | s53 Winner |
| s44 Farley | s26 Krueger | s38 Morahan | s28 Serrano | s57 Young |
| s02 Flanagan | s27 Kruger | s54 Nozzolio | s51 Seward | |

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

- | | | | | |
|-------------------|------------------|-------------------|-----------------|-------------------|
| a049 Abbate | a010 Conte | a148 Hayes | a017 McKevitt | a067 Rosenthal |
| a001 Alessi | a032 Cook | a083 Heastie | a022 Meng | a118 Russell |
| a021 Alfano | a142 Corwin | a028 Nevesi | a102 Miller, J. | a012 Saladino |
| a105 Amedore | a085 Crespo | a048 Hikinid | a038 Miller, M. | a113 Sayward |
| a084 Arroyo | a107 Crouch | a018 Hooper | a052 Millman | a029 Scarborough |
| a035 Aubry | a063 Cusick | a144 Hoyt | a103 Molinaro | a016 Schimel |
| a136 Bacalles | a045 Cymbrowitz | a060 Nyer-Spencer | a132 Morelle | a140 Schimadinger |
| a099 Ball | a138 DeMonte | a042 Jacobs | a037 Nolan | a145 Schroeder |
| a124 Barclay | a034 DenDekker | a095 Jaffee | a128 Oaks | a122 Scozzafava |
| a014 Barra | a116 Destito | a057 Jeffries | a069 O'Donnell | a064 Silver |
| a040 Barron | a081 Dinowitz | a131 John | a137 O'Mara | a100 Skartados |
| a082 Benedetto | a114 Duprey | a112 Jordan | a051 Ortiz | a093 Spano |
| a079 Benjamin | a003 Eddington | a074 Kavanagh | a150 Parment | a121 Stirpe |
| a073 Bing | a004 Englebright | a065 Kellner | a088 Paulin | a011 Sweeney |
| a055 Boyland | a130 Errigo | a129 Kolb | a141 Peoples- | a110 Tedisco |
| a008 Boyle | a072 Espallat | a135 Koon | Stokes | a002 Thiele |
| a089 Bradley | a071 Farrell | a025 Lancman | a039 Feralta | a061 Titone |
| a044 Brennan | a005 Fields | a091 Latimer | a058 Perry | a031 Titus |
| a092 Brodsky | a123 Finch | a013 Lavine | a023 Pheffer | a062 Tobacco |
| a046 Brook-Krasny | a007 Fitzpatrick | a050 Lentol | a068 Powell | a054 Towns |
| a147 Burling | a143 Gabryszak | a125 Lifton | a087 Pretlow | a115 Townsend |
| a117 Butler | a090 Galef | a127 Lopez, P. | a146 Quinn | a015 Walker |
| a101 Cahill | a133 Gantt | a053 Lopez, V. | a097 Rabbitt | a041 Weinstein |
| a096 Calhoun | a036 Gianaris | a126 Lupardo | a009 Raia | a020 Weisenberg |
| a043 Camara | a077 Gibson | a111 Magee | a006 Ramos | a024 Weprin |
| a106 Canestrari | a149 Giglio | a120 Magarelli | a134 Reillich | a070 Wright |
| a026 Carrozza | a066 Glick | a059 Maisel | a109 Raily | a094 Zebrowski |
| a086 Castro | a108 Gordon | a030 Markey | a078 Rivera, J. | |
| a119 Christensen | a075 Gottfried | a027 Meyersohn | a080 Rivera, N. | |
| a033 Clark | a098 Gunther | a019 McDonough | a076 Rivera, P. | |
| a047 Colton | a139 Hawley | a104 McEneny | a056 Robinson | |

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single bill); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Legislative findings. The legislature finds that the defi-
2 cit in New York state's current accounts presents a genuine danger that
3 the state will lack the funds necessary to make payments as they come
4 due. Further, the legislature finds that alternative means of securing
5 funds to make such payments may not be available. Therefore, in light of
6 the above and the state's extremely precarious and worsening fiscal
7 situation, the legislature intends that it shall be a condition of all
8 appropriations made for fiscal year 2009-2010 that the governor may
9 direct reduction of payment of a part of any appropriation solely as
10 necessary to allow for disbursements to be made, and with the proviso
11 that no obligation for debt service, compliance with collective bargain-
12 ing agreements or payments required by federal statute, or the state or
13 federal constitution shall be altered as a result of this condition.

14 § 2. In addition to authority otherwise provided by law, the director
15 of the budget shall be authorized, upon approval of the governor, to
16 direct reduction of payments of part of any appropriation for fiscal
17 year 2009-2010, provided that such reductions are uniformly applied to
18 the extent practicable and are in an amount that does not exceed the
19 amount necessary to reduce estimated annual state disbursements to a
20 level not to exceed the estimated annual receipts expected to be avail-
21 able in such fiscal year. Such direction may be exercised notwithstand-
22 ing any other provision of law, except that it shall not apply to any
23 funds appropriated for the payment of debt service, related expenses or
24 funds appropriated pursuant to an agreement entered into pursuant to
25 article 14 of the civil service law, and any payment required under
26 federal law or the state or federal constitution.

27 § 3. This act shall take effect immediately, and shall expire and be
28 deemed repealed December 31, 2009.