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

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2009-2010 Regular Sessions

I N S E N A T E

March 27, 2009

Introduced by Sens. FLANAGAN, HANNON, LAVALLE, MORAHAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT creating the rebuild and renew New York state parks bond act of 2009; to amend the parks, recreation and historic preservation law, in relation to implementing such bond act; and to amend the state finance law, in relation to creating the rebuild and renew New York state parks bond fund

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

Section 1. 1. Short title. This section shall be known and may be cited as the "rebuild and renew New York state parks bond act of 2009".

2. Creation of a state debt. The creation of a state debt to an amount not exceeding in the aggregate up to five hundred million dollars ($500,000,000) is hereby authorized to provide moneys for the purposes of improving, enhancing, preserving and restoring the quality of the state's parks infrastructure by the planning and design, construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation of the lands and facilities of the office of parks, recreation and historic preservation as well as the land and facilities within the jurisdiction of the office of parks, recreation and historic preservation.

3. Bonds of the state. The state comptroller is hereby authorized and empowered to issue and sell bonds of the state up to the amount of five hundred million dollars ($500,000,000) for the purpose of this act, subject to the provisions of article 5 of the state finance law. The aggregate principal amount of such bonds shall not exceed five hundred million dollars ($500,000,000) excluding bonds issued to refund or otherwise repay bonds heretofore issued for such purpose; provided, however, that upon any such refunding or repayment, the total aggregate principal amount of outstanding bonds may be greater than five hundred

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

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million dollars ($500,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. The method for calculating present value shall be determined by law.

4. Use of moneys received. The moneys received by the state from the sale of bonds sold pursuant to this act shall be expended in the following amounts, pursuant to annual appropriations:

a. for the planning and design, construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation, of existing projects of the office of parks, recreation and historic preservation that have not been completed, three hundred million dollars ($300,000,000);

b. for the remediation of the former Kings Park psychiatric center campus, ten million dollars ($10,000,000); and

c. to be allocated pursuant to a formula to be determined by the commissioner of parks, recreation and historic preservation, in consultation with the director of the budget, one hundred ninety million dollars ($190,000,000).

S 2. The parks, recreation and historic preservation law is amended by adding a new article 18 to read as follows:

ARTICLE 18

IMPLEMENTATION OF THE REBUILD AND RENEW NEW YORK STATE PARKS BOND ACT OF 2009

SECTION 18.01. EXPENDITURE OF MONEYS.
18.03. DEFINITIONS.
18.05. POWERS AND DUTIES OF THE COMMISSIONER.
18.07. CONTRACTS FOR PARKS INFRASTRUCTURE PROJECTS.
18.09. MAINTENANCE OF RECORDS.
18.11. CONSISTENCY WITH FEDERAL TAX LAW.
18.13. COMPLIANCE WITH OTHER LAW.

S 18.01 EXPENDITURE OF MONEYS. 1. IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AUTHORIZING THE CREATION OF GENERAL OBLIGATION DEBT IN THE AMOUNT OF FIVE HUNDRED MILLION DOLLARS ($500,000,000), THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES SHALL BE EXPENDED FOR USES ELIGIBLE PURSUANT TO THIS ARTICLE PURSUANT TO ANNUAL APPROPRIATIONS AS FOLLOWS:

A. FOR THE PLANNING AND DESIGN, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, RECONDITIONING, REHABILITATION AND PRESERVATION, OF EXISTING PROJECTS OF THE OFFICE THAT HAVE NOT BEEN COMPLETED, THREE HUNDRED MILLION DOLLARS ($300,000,000);

B. FOR THE REMEDIATION OF THE FORMER KINGS PARK PSYCHIATRIC CENTER CAMPUS, TEN MILLION DOLLARS ($10,000,000); AND

C. TO BE ALLOCATED PURSUANT TO A FORMULA TO BE DETERMINED BY THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, ONE HUNDRED NINETY MILLION DOLLARS ($190,000,000).

2. PROGRAM DISTRIBUTION. A. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSUANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH A OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: THREE HUNDRED MILLION DOLLARS ($300,000,000) FOR THE PLANNING AND DESIGN, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, RECONDITIONING, REHABILITATION AND PRESERVATION, OF EXISTING PROJECTS OF THE OFFICE THAT HAVE NOT BEEN COMPLETED.

B. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSUANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: TEN MILLION DOLLARS ($10,000,000) FOR THE REMEDIATION OF THE FORMER KINGS PARK PSYCHIATRIC CENTER CAMPUS.

C. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSUANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH C OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: ONE HUNDRED NINETY MILLION DOLLARS ($190,000,000) TO BE ALLOCATED PURSUANT TO A FORMULA TO BE DETERMINED BY THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET.

S 18.03 DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "PARKS INFRASTRUCTURE PROJECT" SHALL MEAN A PROJECT UNDERTAKEN WITH FUNDS PROVIDED IN WHOLE OR IN PART BY THIS ARTICLE, FOR THOSE PARKS PROGRAMS SET FORTH IN PARAGRAPH A OF SUBDIVISION ONE OF SECTION 18.01 OF THIS ARTICLE.

2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION OF THE STATE OF NEW YORK.

3. "OFFICE" SHALL MEAN THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION OF THE STATE OF NEW YORK.

4. "FEDERAL ASSISTANCE" SHALL MEAN FUNDS AVAILABLE FROM THE FEDERAL GOVERNMENT FOR ANY PARKS INFRASTRUCTURE PROJECT.

5. "BOND PROCEEDS" SHALL MEAN MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES SOLD PURSUANT TO THIS ARTICLE FOR USES SET FORTH IN PARAGRAPH A OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE.

S 18.05 POWERS AND DUTIES OF THE COMMISSIONER. IN ADDITION TO OTHER POWERS PROVIDED FOR IN LAW, THE COMMISSIONER IS HEREBY AUTHORIZED:

1. TO PROVIDE FOR THE ACCOMPLISHMENT OF ANY AUTHORIZED PARKS INFRASTRUCTURE PROJECT, WITHIN THE LIMITATIONS OF APPROPRIATIONS AVAILABLE THEREFOR, PURSUANT TO A CONTRACT BETWEEN THE COMMISSIONER AND ANY PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, UNDERTAKING SUCH PROJECT.

2. TO UTILIZE FEDERAL MONEYS AVAILABLE OR WHICH MAY BECOME AVAILABLE TO THE STATE IN THE FORM OF FEDERAL ASSISTANCE FOR THE PURPOSE OF EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

3. TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR THE PURPOSE OF EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

4. TO APPROVE VOUCHERS FOR THE PAYMENT OF STATE FINANCIAL ASSISTANCE TO ANY PERSON, FIRM, CORPORATION OR AGENCY, PRIVATE OR GOVERNMENTAL, PURSUANT TO CONTRACTS FOR THE ACCOMPLISHMENT OF PARKS INFRASTRUCTURE PROJECTS.

5. TO PROMULGATE SUCH RULES AND REGULATIONS, AND TO DEVELOP SUCH FORMS AND PROCEDURES AS HE OR SHE MAY DEEM APPROPRIATE TO EFFECTUATE THE PROVISIONS OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO REQUIREMENTS FOR THE FORM, CONTENT AND SUBMISSION OF APPLICATIONS BY ANY PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR THE PURPOSE OF EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

6. TO PERFORM SUCH OTHER AND ADDITIONAL ACTS AS HE OR SHE DEEMS NECESSARY OR DESIRABLE TO EFFECTIVELY CARRY OUT THE PROVISIONS OF THIS ARTICLE.

S 18.07 CONTRACTS FOR PARKS INFRASTRUCTURE PROJECTS. ANY CONTRACT BETWEEN THE COMMISSIONER AND ANY PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL MAY INCLUDE SUCH PROVISIONS AS MAY BE AGREED UPON BY THE PARTIES THERETO, AND SHALL INCLUDE, IN SUBSTANCE, THE FOLLOWING:

1. AN ESTIMATE OF THE REASONABLE COST OF THE PROJECT AS DETERMINED BY THE COMMISSIONER;

2. AN AGREEMENT BY THE COMMISSIONER TO PAY TO THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL DURING THE PROGRESS OF CONSTRUCTION OR FOLLOWING COMPLETION OF CONSTRUCTION AN AMOUNT AS MAY BE AGREED UPON BY THE PARTIES;

3. AN AGREEMENT BY THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL:

A. TO PROCEED EXPEDITIOUSLY WITH AND COMPLETE THE PROJECT AS APPROVED BY THE COMMISSIONER,

B. TO APPLY FOR AND/OR MAKE REASONABLE EFFORTS TO SECURE FEDERAL OR PRIVATE ASSISTANCE, IF ANY, FOR THE PROJECT.

S 18.09 MAINTENANCE OF RECORDS. IN CONNECTION WITH EACH CONTRACT, THE COMMISSIONER SHALL KEEP ADEQUATE RECORDS OF THE AMOUNT OF THE PAYMENT BY THE STATE, THE AMOUNT OF FEDERAL OR PRIVATE ASSISTANCE, IF ANY, RECEIVED BY THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR THE PROJECT, AND OF ALL MONEYS EXPENDED BY THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR SUCH PROJECT. THE COMMISSIONER SHALL HAVE AUTHORITY TO CARRY OUT, OR TO CAUSE TO BE CARRIED OUT, AUDITS OF SUCH CONTRACTS AND RECORDS PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

S 18.11 CONSISTENCY WITH FEDERAL TAX LAW. ALL ACTIONS TAKEN PURSUANT TO THIS ARTICLE SHALL BE REVIEWED FOR CONSISTENCY WITH PROVISIONS OF THE FEDERAL INTERNAL REVENUE CODE AND REGULATIONS THEREUNDER, IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN CONNECTION WITH THE ISSUANCE OF ANY TAX EXEMPT BONDS PURSUANT TO THIS ARTICLE, TO PRESERVE THE TAX EXEMPT STATUS OF SUCH BONDS.

S 18.13 COMPLIANCE WITH OTHER LAW. EVERY RECIPIENT OF FUNDS TO BE MADE AVAILABLE PURSUANT TO THIS ARTICLE SHALL COMPLY WITH ALL APPLICABLE STATE, FEDERAL AND LOCAL LAWS.

S 3. The state finance law is amended by adding a new section 97-j to read as follows:

S 97-J. REBUILD AND RENEW NEW YORK STATE PARKS BOND FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "REBUILD AND RENEW NEW YORK STATE PARKS BOND FUND".

2. THE COMPTROLLER SHALL ESTABLISH AT LEAST THREE SEPARATE AND DISTINCT ACCOUNTS WITHIN THE REBUILD AND RENEW NEW YORK STATE PARKS BOND FUND AS FOLLOWS, WHICH SHALL INCLUDE THE FOLLOWING: (A) AN ACCOUNT CONTAINING ALL MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO PARAGRAPH A OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SECTION; (B) AN ACCOUNT CONTAINING ALL MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SECTION; AND (C) AN ACCOUNT CONTAINING ALL MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO PARAGRAPH C OF SUBDIVISION

FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SECTION.

3. MONEYS IN ANY ACCOUNT OF THIS FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE AND ALLOCATION BY THE DIRECTOR OF THE BUDGET, SHALL BE AVAILABLE ONLY FOR REIMBURSEMENT OF EXPENDITURES MADE FROM APPROPRIATIONS FROM THE CAPITAL PROJECTS FUND FOR THE PURPOSE OF THIS FUND, AS SET FORTH IN ARTICLE EIGHTEEN OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW.

4. NO MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES SOLD PURSUANT TO ARTICLE EIGHTEEN OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW SHALL BE EXPENDED FOR ANY PROJECT UNTIL FUNDS THEREFOR HAVE BEEN ALLOCATED PURSUANT TO THE PROVISIONS OF THIS SECTION AND COPIES OF THE APPROPRIATE CERTIFICATES OF APPROVAL FILED WITH THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE STATE COMPTROLLER.

S 4. The comptroller is authorized to receive, hold and disburse funds deposited with the comptroller by any public or private source pursuant to an agreement entered pursuant to this act for a project financed in part from the proceeds of bonds and/or notes issued pursuant to this act. Any such private funds deposited with the comptroller shall not be deemed funds of the state and, notwithstanding section 4 of the state finance law, the comptroller may disburse such funds, without an appropriation thereof, if such disbursement is consistent with such agreement.

S 5. It is the intent of the governor of the state of New York, the temporary president of the senate and the speaker of the assembly to enter into at least one memorandum of understanding with respect to the implementation of paragraph c of subdivision 1 of section 18.01 of the parks, recreation and historic preservation law, no later than June 1, 2010. Nothing herein shall preclude the governor of the state of New York and the temporary president of the senate and the speaker of the assembly from agreeing to prepare additional memoranda of understanding as may be needed to implement this act. Any memoranda of understanding prepared pursuant to this section shall be consistent with the provisions of article 18 of the parks, recreation and historic preservation law and shall include at a minimum projects for which funds are committed pursuant to an appropriation contained in a chapter of the laws of 2009.

S 6. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 7. This act shall take effect immediately, provided that the provisions of section one of this act shall not take effect unless and until this act shall have been submitted to the people at the general election to be held in November 2009 and shall have been approved by a majority of all votes cast for and against it at such election. Upon approval by the people, section one of this act shall take effect immediately. The ballots to be furnished for the use of voters upon submission of this act shall be in the form prescribed by the election law and the proposition or question to be submitted shall be printed

thereon in substantially the following form, namely "To promote and assure the preservation, renewal and improvement of the state's parks for the benefit of the people of the state, shall section one of a chapter of the laws of two thousand nine, enacting and constituting the "REBUILD AND RENEW NEW YORK STATE PARKS BOND ACT OF 2009" authorizing the creation of a state debt in the amount of five hundred million dollars ($500,000,000) for the construction, improvement, reconditioning and preservation of parks infrastructure and facilities, be approved?"