

521

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LIBOUS -- 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 the creation of a debt management board, using surplus moneys to reduce outstanding state funded debt, and limiting the amount of state funded debt that may be incurred; and to amend the public authorities law, in relation to defining and listing public authorities, limiting the debt of public authorities, the approval by the comptroller of the terms and conditions of bonds or notes issued by public authorities, the powers and duties of the public authorities control board, and the issuance of bonds and notes of the New York state thruway authority; and to repeal certain provisions of the state finance law relating thereto

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

1 Section 1. Article 5-B of the state finance law is REPEALED and a new
2 article 5-B is added to read as follows:

3 ARTICLE 5-B
4 DEBT MANAGEMENT BOARD
5 AND
6 LIMITATIONS ON STATE-FUNDED DEBT

7 SECTION 67-A. DEFINITIONS.
8 67-B. USE OF SURPLUS MONEYS TO REDUCE OUTSTANDING STATE FUNDED
9 DEBT.
10 67-C. NEW YORK STATE DEBT MANAGEMENT BOARD; CREATION; PROCEDURE.
11 67-D. POWERS AND DUTIES OF THE BOARD.
12 67-E. COMPTROLLER'S DUTIES WITH RESPECT TO BOARD.
13 67-F. LIMITATIONS ON STATE FUNDED DEBT AND STATE DEBT SERVICE
14 PAYMENTS.

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

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1 S 67-A. DEFINITIONS. AS USED IN THIS ARTICLE AND ARTICLE FIVE-C OF
2 THIS CHAPTER THE FOLLOWING TERMS SHALL HAVE THE MEANINGS SET FORTH
3 BELOW:

4 1. "BOARD" SHALL MEAN THE NEW YORK STATE DEBT MANAGEMENT BOARD CREATED
5 BY SECTION SIXTY-SEVEN-C OF THIS ARTICLE.

6 2. "CAPITAL PURPOSE" SHALL MEAN ANY PROJECT INVOLVING:

7 (A) THE ACQUISITION, CONSTRUCTION, DEMOLITION, OR REPLACEMENT OF A
8 FIXED ASSET;

9 (B) THE MAJOR REPAIR OR RENOVATION OF A FIXED ASSET, WHICH MATERIALLY
10 EXTENDS ITS USEFUL LIFE OR MATERIALLY IMPROVES OR INCREASES ITS CAPACI-
11 TY;

12 (C) THE PLANNING OR DESIGN OF THE ACQUISITION, CONSTRUCTION, DEMOLI-
13 TION, REPLACEMENT, MAJOR REPAIR OR RENOVATION OF A FIXED ASSET, INCLUD-
14 ING THE PREPARATION AND REVIEW OF PLANS AND SPECIFICATIONS INCLUDING
15 ENGINEERING AND OTHER SERVICES, FIELD SURVEYS AND SUB-SURFACE INVESTI-
16 GATIONS INCIDENTAL THERETO; OR

17 (D) THE COSTS OF ISSUING DEBT OBLIGATIONS TO FINANCE A CAPITAL
18 PURPOSE.

19 3. "CASH SURPLUS" SHALL MEAN THE AMOUNT BY WHICH GENERAL FUND RECEIPTS
20 IN A FISCAL YEAR EXCEED GENERAL FUND EXPENDITURES IN SUCH FISCAL YEAR.

21 4. "CONDUIT DEBT OBLIGATIONS" SHALL MEAN A DEBT OBLIGATION ISSUED BY A
22 PUBLIC AUTHORITY (HEREINAFTER REFERRED TO IN THIS SUBDIVISION AS THE
23 "CONDUIT ISSUER") ON BEHALF OF A THIRD PARTY (HEREINAFTER REFERRED TO IN
24 THIS SUBDIVISION AS THE "CONDUIT BORROWER") OTHER THAN THE STATE OR A
25 POLITICAL SUBDIVISION OF THE STATE, WHERE PAYMENT OF THE OBLIGATION IS
26 TO BE MADE FROM FUNDS OF THE CONDUIT BORROWER, THE SECURITY FOR THE
27 OBLIGATION IS THE CREDIT OF THE CONDUIT BORROWER AND NO FUNDS OF THE
28 CONDUIT ISSUER, THE STATE OR A POLITICAL SUBDIVISION OF THE STATE ARE
29 PLEDGED TO SECURE THE OBLIGATION, WHETHER OR NOT THE OBLIGATION OF THE
30 CONDUIT ISSUER, THE STATE OR POLITICAL SUBDIVISION OF THE STATE IS
31 SUBJECT TO APPROPRIATION OR IS OTHERWISE CONTINGENT.

32 5. "STATE BACKED DEBT" SHALL MEAN ANY DEBT OR OBLIGATION, OTHER THAN
33 STATE DEBT, THAT IS SUPPORTED IN WHOLE OR IN PART BY ANY FINANCING
34 ARRANGEMENT WHEREBY THE STATE AGREES OR HAS IN THE PAST AGREED, WHETHER
35 BY LAW, CONTRACT, OR OTHERWISE, TO MAKE PAYMENTS WHICH WILL BE USED,
36 DIRECTLY OR INDIRECTLY, FOR THE PAYMENT OF PRINCIPAL, INTEREST, OR
37 RELATED PAYMENTS ON INDEBTEDNESS INCURRED OR CONTRACTED BY THE STATE
38 ITSELF FOR ANY PURPOSE, OR BY ANY STATE AGENCY, MUNICIPALITY, INDIVID-
39 UAL, PUBLIC AUTHORITY OR OTHER PUBLIC OR PRIVATE CORPORATION OR ANY
40 OTHER ENTITY FOR STATE CAPITAL OR OPERATING PURPOSES OR TO FINANCE
41 GRANTS, LOANS OR OTHER ASSISTANCE PAYMENTS MADE OR TO BE MADE BY OR ON
42 BEHALF OF THE STATE FOR ANY PURPOSE. IF THE STATE AGREES TO MAKE FUTURE
43 REVENUES FROM A SPECIFIC STATE SOURCE AVAILABLE FOR THE PURPOSE OF
44 SUPPORTING DEBT OF ANY MUNICIPALITY, INDIVIDUAL, PUBLIC AUTHORITY OR
45 OTHER PUBLIC OR PRIVATE CORPORATION OR ANY OTHER ENTITY, SUCH DEBT SHALL
46 BE CONSIDERED TO BE A DEBT FOR THE PURPOSE OF FINANCING A STATE GRANT,
47 LOAN OR OTHER ASSISTANCE PAYMENT AND SHALL BE A "STATE BACKED DEBT" FOR
48 THE PURPOSES OF THIS ARTICLE. THE TERM "STATE BACKED DEBT" APPLIES TO
49 ALL DEBT OR OBLIGATIONS DESCRIBED IN THIS SUBDIVISION FOR WHICH THE
50 STATE AGREES, OR HAS IN THE PAST AGREED, TO MAKE PAYMENTS (A) WHETHER OR
51 NOT THE OBLIGATION OF THE STATE TO MAKE PAYMENTS IS SUBJECT TO APPROPRI-
52 ATION OR IS OTHERWISE CONTINGENT, OR (B) WHETHER OR NOT DEBT SERVICE IS
53 TO BE PAID FROM A REVENUE STREAM TRANSFERRED BY THE STATE TO ANOTHER
54 PARTY THAT IS RESPONSIBLE FOR MAKING SUCH PAYMENTS.

55 6. "STATE FUNDED DEBT" SHALL MEAN THE COMBINED TOTAL OF ALL STATE
56 DEBT, AS DEFINED IN THIS SECTION, AND ALL STATE BACKED DEBT, AS DEFINED

1 IN SUBDIVISION FIVE OF THIS SECTION, EXCEPT SHORT TERM DEBT INCURRED IN
2 ACCORDANCE WITH SECTION N IN OF ARTICLE SEVEN OF THE CONSTITUTION, EMER-
3 GENCY DEBT INCURRED IN ACCORDANCE WITH SECTION TEN OF ARTICLE SEVEN OF
4 THE CONSTITUTION, AND REFUNDING DEBT INCURRED IN ACCORDANCE WITH SECTION
5 THIRTEEN OF ARTICLE SEVEN OF THE CONSTITUTION.

6 7. "STATE DEBT" SHALL MEAN ALL BONDS AND BOND ANTICIPATION NOTES
7 ISSUED BY THE STATE COMPTROLLER PURSUANT TO ARTICLE FIVE OF THIS CHAP-
8 TER.

9 8. "TOTAL PERSONAL INCOME OF THE STATE" SHALL MEAN THE MOST RECENTLY
10 PUBLISHED ESTIMATED DOLLAR AMOUNT DETERMINED AS TOTAL PERSONAL INCOME OF
11 THE STATE OF NEW YORK BY THE UNITED STATES DEPARTMENT OF COMMERCE OR ANY
12 SUCCESSOR AGENCY FOR THE FOUR MOST RECENT SUCCESSIVE CALENDAR QUARTERS
13 FOR WHICH INFORMATION IS AVAILABLE PRIOR TO OCTOBER THIRTY-FIRST OF EACH
14 YEAR. SUBSEQUENT REVISIONS OF THE PUBLISHED ESTIMATED DOLLAR AMOUNT FOR
15 SUCH CALENDAR QUARTERS SHALL NOT AFFECT THE VALIDITY OF THE DETERMI-
16 NATION MADE BY THE BOARD FOR ANY FISCAL YEAR.

17 S 67-B. USE OF SURPLUS MONEYS TO REDUCE OUTSTANDING STATE FUNDED DEBT.
18 AT THE CLOSE OF EACH FISCAL YEAR, A PORTION OF ANY CASH SURPLUS REMAIN-
19 ING IN THE GENERAL FUND AFTER THE TRANSFER PURSUANT TO SECTION
20 NINETY-TWO OF THIS CHAPTER SHALL BE TRANSFERRED TO THE DEBT REDUCTION
21 RESERVE FUND ESTABLISHED BY SECTION NINETY-SEVEN-RRR OF THIS CHAPTER, AS
22 ADDED BY SECTION THIRTY-SIX OF PART B OF CHAPTER FIFTY-SEVEN OF THE LAWS
23 OF NINETEEN HUNDRED NINETY-EIGHT. THE PORTION TO BE TRANSFERRED SHALL
24 BE EQUAL TO THE PROJECTED RATIO OF TOTAL DEBT SERVICE DISBURSEMENTS FOR
25 THE FISCAL YEAR TO TOTAL GOVERNMENTAL FUNDS DISBURSEMENTS FOR STATE
26 AGENCY OPERATIONS FOR THE FISCAL YEAR.

27 S 67-C. NEW YORK STATE DEBT MANAGEMENT BOARD; CREATION; PROCEDURE. 1.
28 THE NEW YORK STATE DEBT MANAGEMENT BOARD IS HEREBY CREATED TO HAVE AND
29 EXERCISE THE POWERS, DUTIES AND PREROGATIVES PROVIDED BY THE PROVISIONS
30 OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW.

31 2. THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF THREE PERSONS, INCLUD-
32 ING THE GOVERNOR, THE COMPTROLLER AND A THIRD PERSON WHO SHALL BE JOINT-
33 LY APPOINTED BY THE GOVERNOR AND THE COMPTROLLER. THE TERM OF OFFICE OF
34 THE MEMBERS OF THE BOARD SHALL BE THE SAME AS THE TERMS OF OFFICE OF THE
35 GOVERNOR AND THE COMPTROLLER. IF THE THIRD MEMBER OF THE BOARD RESIGNS,
36 BECOMES INCAPACITATED, IS JOINTLY REMOVED BY THE GOVERNOR AND THE COMP-
37 TROLLER, OR IS OTHERWISE UNABLE TO SERVE, THE GOVERNOR AND THE COMP-
38 TROLLER SHALL JOINTLY APPOINT A SUCCESSOR TO SERVE THE REMAINDER OF THE
39 UNEXPIRED TERM. THE GOVERNOR SHALL BE THE CHAIRPERSON OF THE BOARD.
40 THE BOARD SHALL ACT BY MAJORITY OF ALL OF THE MEMBERS OF THE BOARD,
41 EXCEPT THAT CHANGING THE DEBT AFFORDABILITY LEVEL PREVIOUSLY ESTABLISHED
42 BY THE BOARD SHALL REQUIRE UNANIMOUS APPROVAL BY ALL THE MEMBERS OF THE
43 BOARD. ANY ACTION BY THE BOARD SHALL BE EVIDENCED BY A CERTIFICATION
44 THEREOF SIGNED BY A MAJORITY OF ALL THE MEMBERS, EXCEPT THAT ALL MEMBERS
45 SHALL SIGN A CERTIFICATION OF ANY ACTION REQUIRING UNANIMOUS APPROVAL.
46 EACH MEMBER OF THE BOARD SHALL BE ENTITLED TO DESIGNATE A REPRESENTATIVE
47 TO ATTEND MEETINGS OF THE BOARD IN HIS OR HER PLACE, AND TO VOTE OR
48 OTHERWISE ACT ON HIS OR HER BEHALF IN HIS OR HER ABSENCE. NOTICE OF SUCH
49 DESIGNATION SHALL BE FURNISHED IN WRITING TO THE BOARD BY THE DESIGNAT-
50 ING MEMBER. A REPRESENTATIVE SHALL SERVE AT THE PLEASURE OF THE DESIG-
51 NATING MEMBER DURING THE MEMBER'S TERM OF OFFICE. A REPRESENTATIVE SHALL
52 NOT BE AUTHORIZED TO DELEGATE ANY OF HIS OR HER DUTIES OR POWERS TO ANY
53 OTHER PERSON.

54 3. THE THIRD MEMBER JOINTLY APPOINTED BY THE GOVERNOR AND THE COMP-
55 TROLLER SHALL BE A FINANCIAL EXPERT WITH EXPERIENCE IN PUBLIC FINANCE,
56 ECONOMICS, ACADEMICS, OR GOVERNMENT.

1 4. ALL THE MEMBERS OF THE BOARD AND THEIR REPRESENTATIVES SHALL BE
2 ENTITLED TO REIMBURSEMENT FOR THEIR ACTUAL AND NECESSARY EXPENSES
3 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES PURSUANT TO THIS
4 SECTION OR ANY OTHER PROVISION OF LAW.

5 5. THE BOARD SHALL MEET SEMI-ANNUALLY OR MORE FREQUENTLY AT THE CALL
6 OF THE CHAIRPERSON. MEETINGS OF THE BOARD SHALL BE SUBJECT TO THE OPEN
7 MEETINGS LAW ESTABLISHED BY ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

8 S 67-D. POWERS AND DUTIES OF THE BOARD. 1. THE BOARD SHALL HAVE THE
9 POWER AND THE DUTY TO (A) ANNUALLY DETERMINE THE TOTAL DEBT LIMIT OF THE
10 STATE BY CALCULATING THE DOLLAR AMOUNT EQUIVALENT TO FIVE PERCENT OF THE
11 TOTAL PERSONAL INCOME OF THE STATE, AS DEFINED IN SECTION SIXTY-SEVEN-A
12 OF THIS ARTICLE, AND (B) ANNUALLY PRESCRIBE A DEBT AFFORDABILITY LEVEL,
13 WHICH ON AND AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN SHALL BE NO HIGH-
14 ER THAN THE TOTAL DEBT LIMIT OF THE STATE.

15 2. ON OR BEFORE OCTOBER THIRTY-FIRST OF EACH YEAR, THE BOARD SHALL
16 DETERMINE THE TOTAL DEBT LIMIT OF THE STATE FOR THE NEXT FISCAL YEAR,
17 AND REPORT THE LIMIT TO THE TEMPORARY PRESIDENT OF THE SENATE, THE
18 SPEAKER OF THE ASSEMBLY, THE CHAIRPERSON AND RANKING MINORITY MEMBER OF
19 THE SENATE FINANCE COMMITTEE, AND THE CHAIRPERSON AND RANKING MINORITY
20 MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. ON OR BEFORE THE SAME
21 DATE, THE BOARD SHALL ISSUE A PUBLIC ANNOUNCEMENT OF SUCH LIMIT.

22 3. ON OR BEFORE OCTOBER THIRTY-FIRST OF EACH YEAR, THE BOARD SHALL
23 PRESCRIBE THE DEBT AFFORDABILITY LEVEL OF THE STATE FOR THE NEXT FISCAL
24 YEAR, AND REPORT THE LEVEL TO THE TEMPORARY PRESIDENT OF THE SENATE, THE
25 SPEAKER OF THE ASSEMBLY, THE CHAIRPERSON AND RANKING MINORITY MEMBER OF
26 THE SENATE FINANCE COMMITTEE, AND THE CHAIRPERSON AND RANKING MINORITY
27 MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. ON OR BEFORE THE SAME
28 DATE, THE BOARD SHALL ISSUE A PUBLIC ANNOUNCEMENT OF SUCH LEVEL. WITHIN
29 THE LIMITATION ESTABLISHED BY THE TOTAL DEBT LIMIT OF THE STATE, THE
30 DEBT AFFORDABILITY LEVEL OF THE STATE SHALL BE BASED UPON THE BOARD'S
31 EVALUATION OF THE TOTAL AMOUNT OF ADDITIONAL DEBT THAT MAY BE INCURRED
32 AND THE TOTAL DEBT SERVICE OBLIGATIONS AND RELATED PAYMENTS THAT MAY BE
33 UNDERTAKEN BY THE STATE WITHOUT OVERBURDENING PRESENT OR FUTURE GENER-
34 ATIONS, TAKING INTO ACCOUNT THE CURRENT AND EXPECTED REVENUES AND
35 EXPENSES OF THE STATE, THE CURRENT AND EXPECTED TRENDS AFFECTING THE
36 ECONOMY OF THE STATE, AND SUCH OTHER FACTORS AS THE BOARD DEEMS RELE-
37 VANT. IN ADDITION TO THE DEBT AFFORDABILITY LEVEL OF THE STATE FOR THE
38 NEXT FISCAL YEAR, THE BOARD'S REPORT TO THE LEGISLATURE AND ANNOUNCEMENT
39 TO THE PUBLIC SHALL INCLUDE THE BOARD'S FORECAST OF THE DEBT AFFORDABIL-
40 ITY LEVELS EXPECTED FOR THE TWO SUCCEEDING FISCAL YEARS. FOLLOWING THE
41 BOARD'S ESTABLISHMENT OF A DEBT AFFORDABILITY LEVEL OF THE STATE FOR A
42 FISCAL YEAR, THERE SHALL BE NO CHANGE IN SUCH LEVEL (OTHER THAN A DEBT
43 AFFORDABILITY LEVEL FORECAST FOR A FISCAL YEAR AFTER THE NEXT FISCAL
44 YEAR) EXCEPT WITH THE UNANIMOUS APPROVAL OF THE MEMBERS OF THE BOARD.

45 4. THE BOARD SHALL HAVE THE POWER AND IT SHALL BE ITS DUTY TO MAKE
46 RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE OF POLICIES TO
47 GOVERN THE ISSUANCE OF ALL STATE FUNDED DEBT AND OTHER CAPITAL FINANCING
48 MATTERS.

49 5. THE BOARD SHALL ADOPT POLICY STANDARDS RELATING TO THE ISSUANCE OF
50 ALL STATE FUNDED DEBT AND FOR CAPITAL FINANCING. SUCH STANDARDS SHALL
51 REQUIRE THE UNANIMOUS APPROVAL OF ALL THREE MEMBERS OF THE BOARD, AND
52 SHALL COVER, AMONG OTHER ITEMS, THE FOLLOWING:

53 (A) STRUCTURES FOR STATE FUNDED DEBT, SUCH AS RATE OF AMORTIZATION OF
54 PRINCIPAL, THE USE OF PREMIUMS, AND CAPITALIZATION OF INTEREST ON STATE
55 FUNDED DEBT;

1 (B) CRITERIA FOR REFUNDING OUTSTANDING STATE FUNDED DEBT, INCLUDING,
2 BUT NOT LIMITED TO, SUCH MATTERS AS EXTENSION OF THE TERM OF OUTSTANDING
3 DEBT, PRESENT VALUE SAVINGS AND DISTRIBUTION OF ACTUAL SAVINGS;

4 (C) THE USE OF CREDIT ENHANCEMENTS, DERIVATIVE INSTRUMENTS AND VARI-
5 ABLE OR FIXED RATE DEBT OBLIGATIONS WITH RESPECT TO STATE FUNDED DEBT;

6 (D) GOALS FOR THE PROPORTION OF STATE CAPITAL SPENDING TO BE FINANCED
7 WITH DEBT AND THE PROPORTION TO BE FINANCED WITH CURRENT APPROPRIATIONS;

8 (E) THE METHOD OF SALE, SUCH AS COMPETITIVE OR NEGOTIATED, OF STATE
9 FUNDED DEBT OBLIGATIONS;

10 (F) CRITERIA TO BE USED IN SELECTING STATE FUNDED DEBT OBLIGATIONS TO
11 BE RETIRED OR DEFEASED BY THE USE OF THE PORTION OF ANY CASH SURPLUS,
12 DETERMINED PURSUANT TO SECTION SIXTY-SEVEN-B OF THIS ARTICLE, THAT SHALL
13 BE DEDICATED TO THE EXCLUSIVE PURPOSE OF REDUCING THE AGGREGATE AMOUNT
14 OF OUTSTANDING STATE FUNDED DEBT OBLIGATIONS;

15 (G) THE DEFINITION OF NON-RECURRING REVENUES WHICH SHALL BE USED FOR
16 THE FUNDING OF CAPITAL PROJECTS WHICH HAVE BEEN AUTHORIZED BY LAW TO BE
17 FINANCED THROUGH THE ISSUANCE OF STATE FUNDED DEBT OR FOR THE PURPOSE OF
18 RETIRING OR DEFEASING BONDS OR NOTES PREVIOUSLY ISSUED;

19 (H) SUCH OTHER POLICY MATTERS RELATING TO THE ISSUANCE OF STATE FUNDED
20 DEBT AS THE BOARD MAY DETERMINE TO BE APPROPRIATE; AND

21 (I) POLICY STANDARDS TO BE FOLLOWED BY STATE AUTHORITIES, AS DEFINED
22 IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, IN RELATION TO THE ISSU-
23 ANCE BY SUCH PUBLIC AUTHORITIES OF DEBT OBLIGATIONS OTHER THAN CONDUIT
24 DEBT OBLIGATIONS. IN THE DISCRETION OF THE COMPTROLLER, SUCH POLICY
25 STANDARDS MAY BE APPLIED BY THE COMPTROLLER IN THE EXERCISE OF HIS OR
26 HER CONSTITUTIONAL AUTHORITY TO SUPERVISE THE ACCOUNTS OF PUBLIC AUTHOR-
27 ITIES, AS DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, AND
28 POLITICAL SUBDIVISIONS.

29 THE BOARD SHALL ANNUALLY REVIEW THE POLICY STANDARDS AND ADOPT SUCH
30 CHANGES OR ADDITIONS AS IT DEEMS ADVISABLE ON OR BEFORE THE ANNIVERSARY
31 DATE OF ITS ORIGINAL STANDARDS.

32 S 67-E. COMPTROLLER'S DUTIES WITH RESPECT TO BOARD. THE COMPTROLLER
33 SHALL COLLECT AND ANALYZE DATA WITH RESPECT TO OUTSTANDING STATE FUNDED
34 DEBT, AND, AT LEAST ANNUALLY, ON OR BEFORE THE ONE HUNDRED FIFTIETH DAY
35 FOLLOWING THE END OF THE STATE FISCAL YEAR, REPORT TO THE BOARD, THE
36 GOVERNOR, THE TEMPORARY PRESIDENT AND THE MINORITY LEADER OF THE SENATE,
37 AND THE SPEAKER AND MINORITY LEADER OF THE ASSEMBLY ON THE CONDITION OF
38 STATE FUNDED DEBT. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO,
39 THE AMOUNT OF STATE FUNDED DEBT OUTSTANDING, THE DIFFERENT ISSUERS AND
40 CATEGORIES OF SUCH DEBT, AND ANY DIFFERENCES IN CREDIT RATINGS AMONG
41 CATEGORIES AND ISSUES.

42 S 67-F. LIMITATIONS ON STATE FUNDED DEBT AND STATE DEBT SERVICE
43 PAYMENTS. 1. NO ADDITIONAL STATE FUNDED DEBT SHALL BE INCURRED AFTER
44 APRIL FIRST, TWO THOUSAND SEVENTEEN IF THE TOTAL PRINCIPAL AMOUNT OF
45 SUCH ADDITIONAL DEBT, TOGETHER WITH THE TOTAL PRINCIPAL AMOUNT OF STATE
46 FUNDED DEBT ALREADY OUTSTANDING AND THE TOTAL PRINCIPAL AMOUNT OF STATE
47 FUNDED DEBT ALREADY AUTHORIZED BUT NOT YET INCURRED, IS EQUAL TO OR
48 GREATER THAN THE TOTAL DEBT LIMIT OF THE STATE AS DETERMINED BY THE
49 BOARD PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE.

50 2. WITH THE EXCEPTION OF SHORT TERM DEBT INCURRED IN ACCORDANCE WITH
51 SECTION NINE OF ARTICLE SEVEN OF THE CONSTITUTION, EMERGENCY DEBT
52 INCURRED IN ACCORDANCE WITH SECTION TEN OF ARTICLE SEVEN OF THE CONSTI-
53 TUTION, AND REFUNDING DEBT, NO STATE FUNDED DEBT SHALL BE INCURRED
54 EXCEPT TO FINANCE A CAPITAL PURPOSE.

55 3.(A) ALL DEBT SUBJECT TO THE PROVISIONS OF THIS SECTION (I) SHALL,
56 EXCEPT FOR REFUNDING DEBT, BE INCURRED ONLY FOR A CAPITAL PURPOSE

1 AUTHORIZED BY LAW, AND (II) SHALL, IF INCURRED ON OR AFTER THE FIRST DAY
2 OF THE FIRST FISCAL YEAR BEGINNING AT LEAST ONE YEAR AFTER THE EFFECTIVE
3 DATE OF AN AMENDMENT TO SECTION ELEVEN OF ARTICLE SEVEN OF THE CONSTITU-
4 TION, BE IN THE FORM OF OBLIGATIONS ISSUED BY THE COMPTROLLER.

5 (B) ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, NO DEBT OBLIGATION
6 SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL BE ISSUED UNLESS THE
7 COMPTROLLER DETERMINES THAT SUCH ISSUANCE IS WITHIN THE DEBT AFFORDABIL-
8 ITY LEVEL FOR THAT FISCAL YEAR ESTABLISHED BY THE DEBT MANAGEMENT BOARD
9 PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE. ON OR AFTER APRIL
10 FIRST, TWO THOUSAND SEVENTEEN, NO SUCH DEBT OBLIGATION SHALL BE ISSUED
11 UNLESS THE COMPTROLLER DETERMINES THAT SUCH ISSUANCE IS WITHIN (I) THE
12 LIMIT ON STATE DEBT AND (II) THE DEBT AFFORDABILITY LEVEL ESTABLISHED BY
13 THE BOARD PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE.

14 4. NO STATE FUNDED DEBT SHALL BE INCURRED IN THE FORM OF AN OBLIGATION
15 WITH A FINAL MATURITY EXCEEDING THE PROBABLE LIFE OF THE CAPITAL PROJECT
16 FINANCED BY SUCH DEBT, AS SPECIFIED IN SECTION SIXTY-ONE OF THIS CHAP-
17 TER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
18 STATE FUNDED DEBT SHALL BE INCURRED IN THE FORM OF AN OBLIGATION WITH A
19 FINAL MATURITY OF MORE THAN THIRTY YEARS.

20 5. DURING EACH FISCAL YEAR BEGINNING ON OR AFTER THE EFFECTIVE DATE OF
21 THIS SECTION, UP TO AND INCLUDING ANY FISCAL YEAR ENDING IN TWO THOUSAND
22 SIXTEEN NO NEW STATE FUNDED DEBT SHALL BE INCURRED IN AN AGGREGATE PRIN-
23 CIPAL AMOUNT EXCEEDING NINETY-FIVE PERCENT OF THE AGGREGATE PRINCIPAL
24 AMOUNT OF NEW STATE FUNDED DEBT INCURRED IN THE PRECEDING FISCAL YEAR.

25 6. NO STATE FUNDED DEBT OUTSTANDING ON THE EFFECTIVE DATE OF THIS
26 SUBDIVISION SHALL BE REFUNDED UNLESS (A) SUCH REFUNDING IS CONDUCTED IN
27 ALL RESPECTS AS IF SECTION THIRTEEN OF ARTICLE SEVEN OF THE CONSTITUTION
28 APPLIED, AND (B) ANY SUCH REFUNDING OBLIGATIONS ISSUED ON OR AFTER THE
29 FIRST DAY OF THE FIRST FISCAL YEAR BEGINNING AT LEAST ONE YEAR AFTER THE
30 EFFECTIVE DATE OF AN AMENDMENT TO SECTION ELEVEN OF ARTICLE SEVEN OF THE
31 CONSTITUTION IMPOSING A LIMIT ON THE TOTAL AMOUNT OF STATE DEBT, ARE
32 ISSUED BY THE COMPTROLLER. SUCH OUTSTANDING DEBT OBLIGATIONS AND THE
33 DEBT SERVICE EXPENSES, DIRECT OR INDIRECT, REQUIRED FOR SUCH OBLIGATIONS
34 SHALL BE INCLUDED IN THE DETERMINATION OF THE DEBT LIMIT AND THE DEBT
35 AFFORDABILITY LEVEL PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE.

36 7. DEBT OBLIGATIONS ISSUED TO REFUND OUTSTANDING STATE FUNDED DEBT,
37 REGARDLESS OF WHETHER SUCH OUTSTANDING DEBT WAS INCURRED PRIOR TO THE
38 EFFECTIVE DATE OF THIS SUBDIVISION, SHALL NOT BE COUNTED FOR THE
39 PURPOSES OF THE DEBT LIMIT AND THE DEBT AFFORDABILITY LEVEL DETERMINED
40 PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE IF SUCH REFUNDING IS
41 CONDUCTED IN ALL RESPECTS AS IF SECTION THIRTEEN OF ARTICLE SEVEN OF THE
42 CONSTITUTION APPLIED. DEBT SERVICE EXPENSES ON DEBT THAT HAS BEEN
43 REFUNDED IN ACCORDANCE WITH SECTION THIRTEEN OF ARTICLE SEVEN OF THE
44 CONSTITUTION SHALL BE EXCLUDED FOR THE DEBT AFFORDABILITY LEVEL TO THE
45 EXTENT THAT SUCH DEBT SERVICE EXPENSES ARE TO BE PAID FROM AN ESCROW
46 FUND ESTABLISHED WITH PROCEEDS OF THE REFUNDING DEBT, BUT DEBT SERVICE
47 EXPENSES ON THE REFUNDING DEBT SHALL BE INCLUDED EXCEPT TO THE EXTENT
48 THAT SUCH DEBT SERVICE EXPENSES ARE TO BE PAID FROM SUCH AN ESCROW FUND.
49 FOR THE PURPOSES OF THIS SUBDIVISION AND SUBDIVISIONS SIX AND EIGHT OF
50 THIS SECTION, ANY REFUNDING DEBT THAT DOES NOT EXTEND BEYOND THE FINAL
51 MATURITY OF THE DEBT BEING REFUNDED SHALL BE DEEMED TO BE IN COMPLIANCE
52 WITH THE PROVISIONS OF SUBDIVISION SIX OF SECTION THIRTEEN OF ARTICLE
53 SEVEN OF THE CONSTITUTION MADE APPLICABLE BY THIS SUBDIVISION IF THERE
54 IS AN ACTUAL DEBT SERVICE SAVINGS IN EVERY YEAR TO MATURITY AS A RESULT
55 OF THE ISSUANCE OF THE REFUNDING DEBT.

1 8. AFTER THE EFFECTIVE DATE OF THIS SECTION THE STATE SHALL NOT,
2 EXCEPT AS SPECIFICALLY AUTHORIZED BY A PROVISION OF THE CONSTITUTION
3 OTHER THAN SECTION ELEVEN OF ARTICLE SEVEN OF THE CONSTITUTION, AGREE TO
4 MAKE PAYMENTS, DIRECTLY OR INDIRECTLY, WHETHER OR NOT SUBJECT TO APPRO-
5 PRIATION, THAT ARE TO BE AVAILABLE TO PAY DEBT SERVICE ON ANY DEBT
6 INCURRED BY A MUNICIPALITY, INDIVIDUAL, PUBLIC AUTHORITY OR OTHER PUBLIC
7 OR PRIVATE CORPORATION OR ANY OTHER ENTITY, FOR ANY PURPOSE, IF SUCH
8 PAYMENTS ARE EXPECTED TO BE USED TO PAY DEBT SERVICE ONLY IF OTHER
9 SOURCES AVAILABLE FOR THE PAYMENT OF DEBT SERVICE ARE INADEQUATE.
10 OUTSTANDING DEBT THAT WOULD BE PROHIBITED BY THIS SUBDIVISION IF SUCH
11 DEBT HAD BEEN INCURRED AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION MAY
12 BE REFUNDED BY THE ENTITY THAT INCURRED THE OUTSTANDING DEBT PROVIDED
13 THAT ALL PROVISIONS OF SUBDIVISIONS SIX AND SEVEN OF THIS SECTION ARE
14 COMPLIED WITH EXCEPT THE REQUIREMENT THAT SUCH REFUNDING DEBT OBLI-
15 GATIONS BE ISSUED BY THE COMPTROLLER, AND REFUNDING DEBT SERVICE
16 EXPENSES SHALL ONLY BE INCLUDED IN DEBT AFFORDABILITY DETERMINATIONS IF
17 DEBT SERVICE EXPENSES ON THE DEBT BEING REFUNDED WOULD HAVE BEEN
18 INCLUDED.

19 S 2. Subdivision 2 of section 68-a of the state finance law, as added
20 by section 2 of part I of chapter 383 of the laws of 2001, is amended to
21 read as follows:

22 2. "Authorized purpose" for purposes of this article and section nine-
23 ty-two-z of this chapter shall mean any [purposes] PURPOSE for which
24 [state-supported] STATE FUNDED debt, as defined by section sixty-seven-a
25 of this chapter, may BE or has been issued except debt for which the
26 state is constitutionally obligated thereunder to pay debt service and
27 related expenses, and except (a) as authorized in paragraph (b) of
28 subdivision one of section three hundred eighty-five of the public
29 authorities law, (b) as authorized for the department of health of the
30 state of New York facilities as specified in paragraph a of subdivision
31 two of section sixteen hundred eighty of the public authorities law, (c)
32 state university of New York dormitory facilities as specified in subdivi-
33 sion eight of section sixteen hundred seventy-eight of the public
34 authorities law, and (d) as authorized for mental health services facil-
35 ities by section nine-a of section one of chapter three hundred ninety-
36 two of the laws of nineteen hundred seventy-three constituting the New
37 York state medical care facilities [financing] FINANCE AGENCY act.

38 S 3. Subdivision 6 of section 68-c of the state finance law, as added
39 by section 2 of part I of chapter 383 of the laws of 2001, is amended
40 and a new subdivision 7 is added to read as follows:

41 6. Any resolution or other agreement authorizing revenue bonds under
42 this article shall reserve the right of the state, upon amendment OF
43 SECTION ELEVEN OF ARTICLE SEVEN of the New York state constitution
44 allowing the issuance or assumption of bonds, notes or other obligations
45 secured by revenues, which may include the revenues securing revenue
46 bonds of authorized issuers (a) to assume, in whole or in part, revenue
47 bonds of the authorized issuers, (b) to extinguish the existing lien of
48 such resolution, or other agreement and (c) to substitute security for
49 the revenue bonds of the authorized issuers, in each case only so long
50 as such assumption, extinguishment or substitution is done in accordance
51 with such resolution or other agreement AND SUCH CONSTITUTIONAL AMEND-
52 MENT.

53 7. ON AND AFTER THE FIRST DAY OF THE FIRST FISCAL YEAR BEGINNING AT
54 LEAST ONE YEAR AFTER THE EFFECTIVE DATE OF AN AMENDMENT OF SECTION ELEV-
55 EN OF ARTICLE SEVEN OF THE CONSTITUTION IMPOSING A LIMIT ON THE TOTAL
56 AMOUNT OF STATE DEBT, NO REVENUE BONDS SHALL BE ISSUED.

1 S 4. Section 97-rrr of the state finance law, as amended by section 45
2 of part H of chapter 56 of the laws of 2000, is amended to read as
3 follows:

4 S 97-rrr. Debt reduction reserve fund. 1. There is hereby established
5 in the joint custody of the comptroller and the commissioner of taxation
6 and finance a fund to be known as the debt reduction reserve fund. [Such
7 fund shall be established as a capital projects fund.]

8 2. Such fund shall consist of all monies credited or transferred ther-
9 eto from the general fund or from any other fund or sources pursuant to
10 law.

11 3. The monies in such fund, following appropriation by the legislature
12 and allocation by the director of the budget, shall be available [for
13 the following purposes:

14 (a) for the payment of principal, interest, and related expenses on
15 general obligation bonds, lease purchase payments, or special contractu-
16 al obligation payments, or] ONLY for the [purposes] PURPOSE of retiring
17 or defeasing bonds OR NOTES previously issued, including any accrued
18 interest thereon, for any [state-supported bonding program or programs,
19 and;

20 (b) for the funding of capital projects, equipment acquisitions, or
21 similar expenses which have been authorized by law to be financed
22 through the issuance of bonds, notes, or other obligations] STATE FUNDED
23 DEBT.

24 S 5. Section 24 of the state finance law is amended by adding a new
25 subdivision 6 to read as follows:

26 6. THE BUDGET BILLS SHALL INCLUDE AN APPROPRIATION OF THE AVAILABLE
27 BALANCE FROM THE DEBT REDUCTION RESERVE FUND CREATED BY SECTION NINETY-
28 SEVEN-RRR OF THIS CHAPTER, AS ADDED BY SECTION THIRTY-SIX OF PART B OF
29 CHAPTER FIFTY-SEVEN OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT, TO BE
30 USED EXCLUSIVELY FOR THE PURPOSE OF RETIRING OR DEFEASING STATE FUNDED
31 DEBT OBLIGATIONS IN ACCORDANCE WITH THE CRITERIA ESTABLISHED BY THE NEW
32 YORK STATE DEBT MANAGEMENT BOARD.

33 S 6. Subdivision 1 of section 51 of the public authorities law, as
34 added by chapter 838 of the laws of 1983, paragraph k as added by chap-
35 ter 506 of the laws of 1995 and paragraph l as added by chapter 468 of
36 the laws of 2004, is amended to read as follows:

37 1. [The] SUBJECT TO (A) THE COMPTROLLERS' CONSTITUTIONAL AUTHORITY TO
38 SUPERVISE THE ACCOUNTS OF PUBLIC AUTHORITIES, (B) THE COMPTROLLER'S
39 STATUTORY AUTHORITY TO APPROVE THE TERMS AND CONDITIONS OF DEBT OBLI-
40 GATIONS ISSUED BY PUBLIC AUTHORITIES, AND (C) THE POLICY STANDARDS
41 ESTABLISHED BY THE NEW YORK STATE DEBT MANAGEMENT BOARD PURSUANT TO
42 SECTION SIXTY-SEVEN-D OF THE STATE FINANCE LAW IN RELATION TO PUBLIC
43 AUTHORITY DEBT, THE New York state public authorities control board
44 shall have the power and it shall be its duty to receive applications
45 for approval of the financing and construction of any project proposed
46 by any [of the following state public benefit corporations:

- 47 a. New York state environmental facilities corporation
- 48 b. New York state housing finance agency
- 49 c. New York state medical care facilities finance agency
- 50 d. Dormitory authority
- 51 e. New York state urban development corporation
- 52 f. Job development authority
- 53 g. Battery park city authority
- 54 h. New York state project finance agency
- 55 i. State of New York mortgage agency
- 56 j. New York state energy research and development authority

1 k. Long Island Power Authority

2 l. Albany Convention Center Authority] CLASS A OR CLASS B PUBLIC
3 AUTHORITY, AS DEFINED IN SECTION TWO OF THIS CHAPTER.

4 Any application made concerning a project shall include the terms,
5 conditions and dates of the repayment of state appropriations authorized
6 by law pursuant to a repayment agreement, AND A CURRENT LISTING OF ALL
7 OUTSTANDING DEBT AND DEBT SERVICE OBLIGATIONS OF THE APPLICANT. Any
8 subsidiary of, or corporation with the same members or directors as, a
9 public benefit corporation subject to the provisions of this section
10 shall also be subject to the provisions of this section. All applica-
11 tions and submissions to the board required to be made by a subsidiary
12 shall be made on behalf of such subsidiary by the public benefit corpo-
13 ration which created the subsidiary. No public benefit corporation
14 subject to the provisions of this section shall make any commitment,
15 enter into any agreement or incur any indebtedness for the purpose of
16 acquiring, constructing, or financing any project unless prior approval
17 has been received from the board by such public benefit corporation as
18 provided herein.

19 S 7. Section 51 of the public authorities law is amended by adding a
20 new subdivision 6 to read as follows:

21 6. NOT LATER THAN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, THE
22 BOARD SHALL SUBMIT TO THE GOVERNOR, THE COMPTROLLER, THE TEMPORARY PRES-
23 IDENT AND THE MINORITY LEADER OF THE SENATE, AND THE SPEAKER AND THE
24 MINORITY LEADER OF THE ASSEMBLY, AN ANNUAL REPORT DETAILING: (A) THE
25 AGGREGATE AMOUNT OF DEBT APPROVED BY THE BOARD DURING SUCH FISCAL YEAR;

26 (B) A LIST OF THE INDIVIDUAL PROJECTS APPROVED BY THE BOARD FOR EACH
27 PUBLIC AUTHORITY DURING SUCH FISCAL YEAR; AND

28 (C) THE TOTAL AMOUNT OF NEW DEBT OBLIGATIONS THE BOARD HAS APPROVED
29 DURING SUCH FISCAL YEAR FOR ISSUANCE BY EACH PUBLIC AUTHORITY.

30 THE BOARD SHALL PUBLISH SUCH REPORT BY POSTING SUCH REPORT ON THE
31 BOARD'S INTERNET WEBSITE. EACH SUCH REPORT POSTED ON THE BOARD'S INTER-
32 NET WEBSITE SHALL BE MAINTAINED ON SUCH WEBSITE FOR AT LEAST TWELVE
33 MONTHS OR UNTIL THE NEXT SUCH REPORT IS POSTED ON SUCH WEBSITE, WHICHEV-
34 ER IS LATER. THE BOARD SHALL ISSUE A NEWS RELEASE ANNOUNCING SUCH REPORT
35 TO NEWSPAPERS OF GENERAL CIRCULATION AND RADIO AND TELEVISION NEWS
36 BUREAUS WITHIN THE STATE.

37 S 8. Subdivision 2 of section 365 of the public authorities law, as
38 separately amended by sections 349 and 381 of chapter 190 of the laws of
39 1990, is amended to read as follows:

40 2. The notes and bonds shall be authorized by resolution of the board,
41 shall bear such date or dates and mature at such time or times, in the
42 case of notes and any renewals thereof within five years after their
43 respective dates and in the case of bonds not exceeding forty years from
44 their respective dates, as such resolution or resolutions may provide.
45 The notes and bonds shall bear interest at such rate or rates, be in
46 such denominations, be in such form, either coupon or registered, carry
47 such registration privileges, be executed in such manner, be payable in
48 such medium of payment, at such place or places, and be subject to such
49 terms of redemption as such resolution or resolutions may provide. Bonds
50 and notes shall be sold by the authority, at public or private sale, at
51 such price or prices as the authority may determine. Bonds and notes of
52 the authority shall not be sold by the authority at private sale unless
53 such sale and the terms thereof have been approved in writing by the
54 comptroller, where such sale is not to the comptroller, or by the direc-
55 tor of the budget, where such sale is to the comptroller. [Bonds and
56 notes sold at public sale shall be sold by the comptroller, as agent of

1 the authority, in such manner as the authority, with the approval of the
2 comptroller, shall determine.]
3 S 9. This act shall take effect immediately; provided, however, that
4 paragraph a of subdivision 3 and subdivision 6 of section 67-f of the
5 state finance law, as added by section one of this act, and section
6 three of this act, shall take effect on the same date as a concurrent
7 resolution of the Senate and Assembly entitled "proposing amendments to
8 article 7 of the constitution, in relation to the authorization of debt
9 in times of public emergency, a limit on the total amount of state debt,
10 the establishment of a debt management board, and refunding of state
11 debts", takes effect.