

3328

2013-2014 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. MORELLE, LUPARDO -- Multi-Sponsored by -- M. of
A. BENEDETTO, BOYLAND, GALEF, HEVESI, LAVINE, MAGEE, ROBINSON, SWEENEY
-- read once and referred to the Committee on Ways and Means

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 ASSEM-
BLY, 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 Article 5-B of the state finance law is REPEALED and a new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 NEW YORK STATE DEBT MANAGEMENT
12 BOARD.
13 67-E. COMPTROLLER'S DUTIES WITH RESPECT TO BOARD.

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

LBD06694-01-3

67-F. LIMITATIONS ON STATE FUNDED DEBT AND STATE DEBT SERVICE PAYMENTS.

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

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

2. "STATE DEBT" SHALL MEAN ALL BONDS AND BOND ANTICIPATION NOTES ISSUED BY THE STATE COMPTROLLER PURSUANT TO ARTICLE FIVE OF THIS CHAPTER.

3. "STATE BACKED DEBT" SHALL MEAN ANY DEBT OR OBLIGATION, OTHER THAN STATE DEBT, THAT IS SUPPORTED IN WHOLE OR IN PART BY ANY FINANCING ARRANGEMENT WHEREBY THE STATE AGREES OR HAS IN THE PAST AGREED, WHETHER BY LAW, CONTRACT, OR OTHERWISE, TO MAKE PAYMENTS WHICH WILL BE USED, DIRECTLY OR INDIRECTLY, FOR THE PAYMENT OF PRINCIPAL, INTEREST, OR RELATED PAYMENTS ON INDEBTEDNESS INCURRED OR CONTRACTED BY THE STATE ITSELF FOR ANY PURPOSE, OR BY ANY STATE AGENCY, MUNICIPALITY, INDIVIDUAL, PUBLIC AUTHORITY OR OTHER PUBLIC OR PRIVATE CORPORATION OR ANY OTHER ENTITY FOR STATE CAPITAL OR OPERATING PURPOSES OR TO FINANCE GRANTS, LOANS OR OTHER ASSISTANCE PAYMENTS MADE OR TO BE MADE BY OR ON BEHALF OF THE STATE FOR ANY PURPOSE. IF THE STATE AGREES TO MAKE FUTURE REVENUES FROM A SPECIFIC STATE SOURCE AVAILABLE FOR THE PURPOSE OF SUPPORTING DEBT OF ANY MUNICIPALITY, INDIVIDUAL, PUBLIC AUTHORITY OR OTHER PUBLIC OR PRIVATE CORPORATION OR ANY OTHER ENTITY, SUCH DEBT SHALL BE CONSIDERED TO BE A DEBT FOR THE PURPOSE OF FINANCING A STATE GRANT, LOAN OR OTHER ASSISTANCE PAYMENT AND SHALL BE A "STATE BACKED DEBT" FOR THE PURPOSES OF THIS ARTICLE. THE TERM "STATE BACKED DEBT" APPLIES TO ALL DEBT OR OBLIGATIONS DESCRIBED IN THIS SUBDIVISION FOR WHICH THE STATE AGREES, OR HAS IN THE PAST AGREED, TO MAKE PAYMENTS (A) WHETHER OR NOT THE OBLIGATION OF THE STATE TO MAKE PAYMENTS IS SUBJECT TO APPROPRIATION OR IS OTHERWISE CONTINGENT, OR (B) WHETHER OR NOT DEBT SERVICE IS TO BE PAID FROM A REVENUE STREAM TRANSFERRED BY THE STATE TO ANOTHER PARTY THAT IS RESPONSIBLE FOR MAKING SUCH PAYMENTS.

4. "STATE FUNDED DEBT" SHALL MEAN THE COMBINED TOTAL OF ALL STATE DEBT, AS DEFINED IN SUBDIVISION TWO OF THIS SECTION, AND ALL STATE BACKED DEBT, AS DEFINED IN SUBDIVISION THREE OF THIS SECTION, EXCEPT SHORT TERM DEBT INCURRED IN ACCORDANCE WITH SECTION NINE OF ARTICLE SEVEN OF THE CONSTITUTION, EMERGENCY DEBT INCURRED IN ACCORDANCE WITH SECTION TEN OF ARTICLE SEVEN OF THE CONSTITUTION, AND REFUNDING DEBT INCURRED IN ACCORDANCE WITH SECTION THIRTEEN OF ARTICLE SEVEN OF THE CONSTITUTION.

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

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

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

(B) THE MAJOR REPAIR OR RENOVATION OF A FIXED ASSET, WHICH MATERIALLY EXTENDS ITS USEFUL LIFE OR MATERIALLY IMPROVES OR INCREASES ITS CAPACITY;

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

6 (D) THE COSTS OF ISSUING DEBT OBLIGATIONS TO FINANCE A CAPITAL
7 PURPOSE.

8 7. "CONDUIT DEBT OBLIGATIONS" SHALL MEAN A DEBT OBLIGATION ISSUED BY A
9 PUBLIC AUTHORITY (THE "CONDUIT ISSUER") ON BEHALF OF A THIRD PARTY (THE
10 "CONDUIT BORROWER") OTHER THAN THE STATE OR A POLITICAL SUBDIVISION OF
11 THE STATE, WHERE PAYMENT OF THE OBLIGATION IS TO BE MADE FROM FUNDS OF
12 THE CONDUIT BORROWER, THE SECURITY FOR THE OBLIGATION IS THE CREDIT OF
13 THE CONDUIT BORROWER AND NO FUNDS OF THE CONDUIT ISSUER, THE STATE OR A
14 POLITICAL SUBDIVISION OF THE STATE ARE PLEDGED TO SECURE THE OBLIGATION,
15 WHETHER OR NOT THE OBLIGATION OF THE CONDUIT ISSUER, THE STATE OR POLI-
16 TICAL SUBDIVISION OF THE STATE IS SUBJECT TO APPROPRIATION OR IS OTHER-
17 WISE CONTINGENT.

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

20 S 67-B. USE OF SURPLUS MONEYS TO REDUCE OUTSTANDING STATE FUNDED DEBT.
21 AT THE CLOSE OF EACH FISCAL YEAR, A PORTION OF ANY CASH SURPLUS REMAIN-
22 ING IN THE GENERAL FUND AFTER THE TRANSFER PURSUANT TO SECTION
23 NINETY-TWO OF THIS CHAPTER SHALL BE TRANSFERRED TO THE DEBT REDUCTION
24 RESERVE FUND ESTABLISHED BY SECTION NINETY-SEVEN-RRR OF THIS CHAPTER.
25 THE PORTION TO BE TRANSFERRED SHALL BE EQUAL TO THE PROJECTED RATIO OF
26 TOTAL DEBT SERVICE DISBURSEMENTS FOR THE FISCAL YEAR TO TOTAL GOVERN-
27 MENTAL FUNDS DISBURSEMENTS FOR STATE AGENCY OPERATIONS FOR THE FISCAL
28 YEAR.

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

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

1 3. THE THIRD PERSON JOINTLY SELECTED BY THE GOVERNOR AND THE COMP-
2 TROLLER TO BE A MEMBER OF THE DEBT MANAGEMENT BOARD SHALL BE A FINANCIAL
3 EXPERT WITH EXPERIENCE IN PUBLIC FINANCE, ECONOMICS, ACADEMICS, OR
4 GOVERNMENT.

5 4. ALL THE MEMBERS OF THE BOARD AND THEIR REPRESENTATIVES SHALL BE
6 ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN
7 THE PERFORMANCE OF OFFICIAL DUTIES PURSUANT TO THIS SECTION OR OTHER
8 PROVISION OF LAW.

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

12 S 67-D. POWERS AND DUTIES OF THE NEW YORK STATE DEBT MANAGEMENT BOARD.

13 1. THE BOARD SHALL HAVE THE POWER AND THE DUTY TO (A) ANNUALLY DETERMINE
14 THE TOTAL DEBT LIMIT OF THE STATE BY CALCULATING THE DOLLAR AMOUNT
15 EQUIVALENT TO FIVE PERCENT OF THE TOTAL PERSONAL INCOME OF THE STATE, AS
16 DEFINED IN SECTION SIXTY-SEVEN-A OF THIS ARTICLE, AND (B) ANNUALLY
17 PRESCRIBE A DEBT AFFORDABILITY LEVEL, WHICH ON OR AFTER APRIL FIRST, TWO
18 THOUSAND TWENTY-ONE SHALL BE NO HIGHER THAN THE TOTAL DEBT LIMIT OF THE
19 STATE.

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

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

50 4. THE BOARD SHALL HAVE THE POWER AND IT SHALL BE ITS DUTY TO MAKE
51 RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE OF POLICIES TO
52 GOVERN THE ISSUANCE OF ALL STATE FUNDED DEBT AND OTHER CAPITAL FINANCING
53 MATTERS.

54 5. THE BOARD SHALL ADOPT POLICY STANDARDS RELATING TO THE ISSUANCE OF
55 ALL STATE FUNDED DEBT AND FOR CAPITAL FINANCING. SUCH STANDARDS SHALL

1 REQUIRE THE UNANIMOUS APPROVAL OF ALL THREE MEMBERS OF THE BOARD, AND
2 SHALL COVER, AMONG OTHER ITEMS, THE FOLLOWING:

3 (A) STRUCTURES FOR STATE FUNDED DEBT, SUCH AS RATE OF AMORTIZATION OF
4 PRINCIPAL, THE USE OF PREMIUMS, AND CAPITALIZATION OF INTEREST ON STATE
5 FUNDED DEBT;

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

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

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

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

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

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

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

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

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

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

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

55 2. WITH THE EXCEPTION OF SHORT TERM DEBT INCURRED IN ACCORDANCE WITH
56 SECTION NINE OF ARTICLE SEVEN OF THE CONSTITUTION, EMERGENCY DEBT

1 INCURRED IN ACCORDANCE WITH SECTION TEN OF ARTICLE SEVEN OF THE CONSTI-
2 TUTION, AND REFUNDING DEBT, NO STATE FUNDED DEBT SHALL BE INCURRED
3 EXCEPT TO FINANCE A CAPITAL PURPOSE.

4 3.(A) ALL DEBT SUBJECT TO THE PROVISIONS OF THIS SECTION (I) SHALL,
5 EXCEPT FOR REFUNDING DEBT, BE INCURRED ONLY FOR A CAPITAL PURPOSE
6 AUTHORIZED BY LAW, AND (II) SHALL, IF INCURRED ON OR AFTER THE FIRST DAY
7 OF THE FIRST FISCAL YEAR BEGINNING AT LEAST ONE YEAR AFTER THE EFFECTIVE
8 DATE OF AN AMENDMENT TO SECTION ELEVEN OF ARTICLE SEVEN OF THE CONSTITU-
9 TION, BE IN THE FORM OF OBLIGATIONS ISSUED BY THE COMPTROLLER.

10 (B) ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN, NO DEBT OBLIGATION
11 SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL BE ISSUED UNLESS THE
12 COMPTROLLER DETERMINES THAT SUCH ISSUANCE IS WITHIN THE DEBT AFFORDABIL-
13 ITY LEVEL FOR THAT FISCAL YEAR ESTABLISHED BY THE DEBT MANAGEMENT BOARD
14 PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE. ON OR AFTER APRIL
15 FIRST, TWO THOUSAND TWENTY-ONE, NO SUCH DEBT OBLIGATION SHALL BE ISSUED
16 UNLESS THE COMPTROLLER DETERMINES THAT SUCH ISSUANCE IS WITHIN (I) THE
17 LIMIT ON STATE DEBT AND (II) THE DEBT AFFORDABILITY LEVEL ESTABLISHED BY
18 THE DEBT MANAGEMENT BOARD PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS
19 ARTICLE.

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

26 5. DURING EACH FISCAL YEAR BEGINNING ON OR AFTER THE EFFECTIVE DATE OF
27 THIS SECTION, UP TO AND INCLUDING ANY FISCAL YEAR ENDING IN TWO THOUSAND
28 TWENTY-TWO NO NEW STATE FUNDED DEBT SHALL BE INCURRED IN AN AGGREGATE
29 PRINCIPAL AMOUNT EXCEEDING NINETY-FIVE PERCENT OF THE AGGREGATE PRINCI-
30 PAL AMOUNT OF NEW STATE FUNDED DEBT INCURRED IN THE PRECEDING FISCAL
31 YEAR.

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

43 7. DEBT OBLIGATIONS ISSUED TO REFUND OUTSTANDING STATE FUNDED DEBT,
44 REGARDLESS OF WHETHER SUCH OUTSTANDING DEBT WAS INCURRED PRIOR TO THE
45 EFFECTIVE DATE OF THIS SUBDIVISION, SHALL NOT BE COUNTED FOR THE
46 PURPOSES OF THE DEBT LIMIT AND THE DEBT AFFORDABILITY LEVEL DETERMINED
47 PURSUANT TO SECTION SIXTY-SEVEN-D OF THIS ARTICLE IF SUCH REFUNDING IS
48 CONDUCTED IN ALL RESPECTS AS IF SECTION THIRTEEN OF ARTICLE SEVEN OF THE
49 CONSTITUTION APPLIED. DEBT SERVICE EXPENSES ON DEBT THAT HAS BEEN
50 REFUNDED IN ACCORDANCE WITH SECTION THIRTEEN OF ARTICLE SEVEN OF THE
51 CONSTITUTION SHALL BE EXCLUDED FOR THE DEBT AFFORDABILITY LEVEL TO THE
52 EXTENT THAT SUCH DEBT SERVICE EXPENSES ARE TO BE PAID FROM AN ESCROW
53 FUND ESTABLISHED WITH PROCEEDS OF THE REFUNDING DEBT, BUT DEBT SERVICE
54 EXPENSES ON THE REFUNDING DEBT SHALL BE INCLUDED EXCEPT TO THE EXTENT
55 THAT SUCH DEBT SERVICE EXPENSES ARE TO BE PAID FROM SUCH AN ESCROW FUND.
56 FOR THE PURPOSES OF THIS SUBDIVISION AND SUBDIVISIONS SIX AND EIGHT OF

1 THIS SECTION, ANY REFUNDING DEBT THAT DOES NOT EXTEND BEYOND THE FINAL
2 MATURITY OF THE DEBT BEING REFUNDED SHALL BE DEEMED TO BE IN COMPLIANCE
3 WITH THE PROVISIONS OF SUBDIVISION SIX OF SECTION THIRTEEN OF ARTICLE
4 SEVEN OF THE CONSTITUTION MADE APPLICABLE BY THIS SUBDIVISION IF THERE
5 IS AN ACTUAL DEBT SERVICE SAVINGS IN EVERY YEAR TO MATURITY AS A RESULT
6 OF THE ISSUANCE OF THE REFUNDING DEBT.

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

25 S 2. Subdivision 2 of section 68-a of the state finance law, as
26 amended by section 36 of part U of chapter 59 of the laws of 2012, is
27 amended to read as follows:

28 2. "Authorized purpose" for purposes of this article and section nine-
29 ty-two-z of this chapter shall mean any [purposes] PURPOSE for which
30 [state-supported] STATE FUNDED debt, as defined by section sixty-seven-a
31 of this chapter, may BE or has been issued except debt for which the
32 state is constitutionally obligated thereunder to pay debt service and
33 related expenses, and except (a) as authorized in paragraph (b) of
34 subdivision one of section three hundred eighty-five of the public
35 authorities law, (b) as authorized for the department of health of the
36 state of New York facilities as specified in paragraph a of subdivision
37 two of section sixteen hundred eighty of the public authorities law, (c)
38 state university of New York dormitory facilities as specified in subdivi-
39 sion eight of section sixteen hundred seventy-eight of the public
40 authorities law, and (d) as authorized for mental health services facil-
41 ities by section nine-a of section one of chapter three hundred ninety-
42 two of the laws of nineteen hundred seventy-three constituting the New
43 York state medical care facilities [financing] FINANCE AGENCY act.
44 Notwithstanding the provisions of clause (d) of this subdivision, for
45 the period April first, two thousand nine through March thirty-first,
46 two thousand thirteen, mental health services facilities, as authorized
47 by section nine-a of section one of chapter three hundred ninety-two of
48 the laws of nineteen hundred seventy-three constituting the New York
49 state medical care facilities [financing] FINANCE AGENCY act, shall
50 constitute an authorized purpose.

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

54 6. Any resolution or other agreement authorizing revenue bonds under
55 this article shall reserve the right of the state, upon amendment OF
56 SECTION ELEVEN OF ARTICLE SEVEN of the New York state constitution

1 allowing the issuance or assumption of bonds, notes or other obligations
2 secured by revenues, which may include the revenues securing revenue
3 bonds of authorized issuers (a) to assume, in whole or in part, revenue
4 bonds of the authorized issuers, (b) to extinguish the existing lien of
5 such resolution, or other agreement and (c) to substitute security for
6 the revenue bonds of the authorized issuers, in each case only so long
7 as such assumption, extinguishment or substitution is done in accordance
8 with such resolution or other agreement AND SUCH CONSTITUTIONAL AMEND-
9 MENT.

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

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

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

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

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

27 (a) for the payment of principal, interest, and related expenses on
28 general obligation bonds, lease purchase payments, or special contractu-
29 al obligation payments, or] ONLY for the [purposes] PURPOSE of retiring
30 or defeasing bonds OR NOTES previously issued, including any accrued
31 interest thereon, for any [state-supported bonding program or programs,
32 and;

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

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

39 6. THE BUDGET BILLS SHALL INCLUDE AN APPROPRIATION OF THE AVAILABLE
40 BALANCE FROM THE DEBT REDUCTION RESERVE FUND CREATED BY SECTION NINETY-
41 SEVEN-RRR OF THIS CHAPTER TO BE USED EXCLUSIVELY FOR THE PURPOSE OF
42 RETIRING OR DEFEASING STATE FUNDED DEBT OBLIGATIONS IN ACCORDANCE WITH
43 THE CRITERIA ESTABLISHED BY THE DEBT MANAGEMENT BOARD.

44 S 6. Subdivision 1 of section 51 of the public authorities law, as
45 added by chapter 838 of the laws of 1983, paragraph k as added by chap-
46 ter 506 of the laws of 1995 and paragraph l as added by chapter 468 of
47 the laws of 2004, paragraph m as added by section 10 of part E of chap-
48 ter 494 of the laws of 2009, paragraph n as added by chapter 533 of the
49 laws of 2010, is amended to read as follows:

50 1. [The] SUBJECT TO (A) THE COMPTROLLER'S CONSTITUTIONAL AUTHORITY TO
51 SUPERVISE THE ACCOUNTS OF PUBLIC AUTHORITIES, (B) THE COMPTROLLER'S
52 STATUTORY AUTHORITY TO APPROVE THE TERMS AND CONDITIONS OF DEBT OBLI-
53 GATIONS ISSUED BY PUBLIC AUTHORITIES, AND (C) THE POLICY STANDARDS
54 ESTABLISHED BY THE DEBT MANAGEMENT BOARD PURSUANT TO SECTION SIXTY-SEV-
55 EN-D OF THE STATE FINANCE LAW IN RELATION TO PUBLIC AUTHORITY DEBT, THE
56 New York state public authorities control board shall have the power and

1 it shall be its duty to receive applications for approval of the financ-
2 ing and construction of any project proposed by any [of the following
3 state public benefit corporations:
4 a. New York state environmental facilities corporation
5 b. New York state housing finance agency
6 c. New York state medical care facilities finance agency
7 d. Dormitory authority
8 e. New York state urban development corporation
9 f. Job development authority
10 g. Battery park city authority
11 h. New York state project finance agency
12 i. State of New York mortgage agency
13 j. New York state energy research and development authority
14 k. Long Island Power Authority
15 l. Albany Convention Center Authority
16 m. State of New York Municipal Bond Bank Agency for bonds issued
17 pursuant to section two thousand four hundred thirty-six-b of this chap-
18 ter

19 n. North Country Power Authority] CLASS A OR CLASS B PUBLIC AUTHORITY,
20 AS DEFINED IN SECTION TWO OF THIS CHAPTER.

21 Any application made concerning a project shall include the terms,
22 conditions and dates of the repayment of state appropriations authorized
23 by law pursuant to a repayment agreement, AND A CURRENT LISTING OF ALL
24 OUTSTANDING DEBT AND DEBT SERVICE OBLIGATIONS OF THE APPLICANT. Any
25 subsidiary of, or corporation with the same members or directors as, a
26 public benefit corporation subject to the provisions of this section
27 shall also be subject to the provisions of this section. All applica-
28 tions and submissions to the board required to be made by a subsidiary
29 shall be made on behalf of such subsidiary by the public benefit corpo-
30 ration which created the subsidiary. No public benefit corporation
31 subject to the provisions of this section shall make any commitment,
32 enter into any agreement or incur any indebtedness for the purpose of
33 acquiring, constructing, or financing any project unless prior approval
34 has been received from the board by such public benefit corporation as
35 provided herein.

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

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

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

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

47 THE BOARD SHALL PUBLISH SUCH REPORT BY POSTING SUCH REPORT ON THE
48 BOARD'S INTERNET WEBSITE. EACH SUCH REPORT POSTED ON THE BOARD'S INTER-
49 NET WEBSITE SHALL BE MAINTAINED ON SUCH WEBSITE FOR AT LEAST TWELVE
50 MONTHS OR UNTIL THE NEXT SUCH REPORT IS POSTED ON SUCH WEBSITE, WHICHEV-
51 ER IS LATER. THE BOARD SHALL ISSUE A NEWS RELEASE ANNOUNCING SUCH REPORT
52 TO NEWSPAPERS OF GENERAL CIRCULATION AND RADIO AND TELEVISION NEWS
53 BUREAUS WITHIN THE STATE.

54 S 8. Subdivision 2 of section 365 of the public authorities law, as
55 separately amended by sections 349 and 381 of chapter 190 of the laws of
56 1990, is amended to read as follows:

1 2. The notes and bonds shall be authorized by resolution of the board,
2 shall bear such date or dates and mature at such time or times, in the
3 case of notes and any renewals thereof within five years after their
4 respective dates and in the case of bonds not exceeding forty years from
5 their respective dates, as such resolution or resolutions may provide.
6 The notes and bonds shall bear interest at such rate or rates, be in
7 such denominations, be in such form, either coupon or registered, carry
8 such registration privileges, be executed in such manner, be payable in
9 such medium of payment, at such place or places, and be subject to such
10 terms of redemption as such resolution or resolutions may provide. Bonds
11 and notes shall be sold by the authority, at public or private sale, at
12 such price or prices as the authority may determine. Bonds and notes of
13 the authority shall not be sold by the authority at private sale unless
14 such sale and the terms thereof have been approved in writing by the
15 comptroller, where such sale is not to the comptroller, or by the direc-
16 tor of the budget, where such sale is to the comptroller. [Bonds and
17 notes sold at public sale shall be sold by the comptroller, as agent of
18 the authority, in such manner as the authority, with the approval of the
19 comptroller, shall determine.]

20 S 9. This act shall take effect immediately, provided, however, that
21 paragraph a of subdivision 3 and subdivision 6 of section 67-f of the
22 state finance law, as added by section one of this act, and section
23 three of this act, shall take effect on the same date as a concurrent
24 resolution of the Senate and Assembly entitled "proposing amendments to
25 article 7 of the state constitution, in relation to the authorization of
26 debt in times of public emergency, a limit on the total amount of state
27 debt, the establishment of a debt management board, and refunding of
28 state debts", takes effect.