STATE OF NEW YORK

7287

2017-2018 Regular Sessions

IN ASSEMBLY

April 21, 2017

Introduced by M. of A. FARRELL -- (at request of the State Comptroller) -- read once and referred to the Committee on Ways and Means

AN ACT in relation to enacting the New York state fiscal reform and accountability act; to amend the state finance law and the public authorities law, in relation to contents of the state budget and the capital financing and program plan; to repeal section 49 of the state finance law, relating to the segregation of lump sum appropriations; and to amend the state finance law, in relation to the rainy day reserve fund (Part A); to amend the state finance law, in relation to establishing the New York state capital asset/infrastructure council (Part B); to amend the state finance law, in relation to limitations on state-funded debt; to repeal sections 67-a and 67-b of the state finance law, relating to limitations on state-supported debt; and providing for the repeal of certain provisions upon expiration thereof (Part C)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the New York state fiscal reform and accountability act. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

§ 1-a. Short title. This act shall be known and may be cited as "the New York state fiscal reform and accountability act".

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

LBD00039-02-7

PART A

Section 1. Subdivision 5 of section 4 of the state finance law, as amended by section 16 of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

5. No money or other financial resources shall be transferred or temporarily loaned from one fund to another **or, from a public authority to the state, another public authority or any private corporation,** without specific statutory authorization for such transfer or temporary loan **and all such transfer authorizations must include specific amounts to be transferred and identification of the specific fund, account, or public authority from which money or other financial resources are to be transferred and the specific fund, account or public authority to which money or other financial resources are to be transferred**, except that money or other financial resources of a fund may be temporarily loaned to the general fund during the state fiscal year provided that such loan shall be repaid in full no later than (a) four months after it was made or (b) by the end of the same fiscal year in which it was made, whichever period is shorter, so that an accurate accounting and reporting of the balance of financial resources in each fund may be made. The comptroller is hereby authorized to temporarily loan money from the general fund or any other fund to the fund/accounts that are authorized to receive a loan. Such loans shall be limited to the amounts immediately required to meet disbursements, made in pursuance of an appropriation by law and authorized by a certificate of approval issued by the director of the budget with copies thereof filed with the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee. The director of the budget shall not issue such a certificate unless he or she shall have determined that the amounts to be so loaned are receivable on account. When making loans, the comptroller shall establish appropriate accounts and if the loan is not repaid by the end of the month, provide on or before the fifteenth day of the following month to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee, an accurate accounting and report of the financial resources of each such fund at the end of such month. Within ten days of the receipt of such accounting and reporting, the director of the budget shall provide the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee an expected schedule of repayment by fund and by source for each outstanding loan. Repayment shall be made by the comptroller from the first cash receipt of this fund.

§ 2. Paragraphs a and e and subparagraph (v) of paragraph d-2 of subdivision 3 of section 22 of the state finance law, paragraph a as amended by chapter 762 of the laws of 1992, and subparagraph (v) of paragraph d-2 and paragraph e as amended by chapter 1 of the laws of 2007, are amended to read as follows:

a. The appropriations, including reappropriations, made for the current fiscal year, the appropriations and reappropriations recommended for the ensuing fiscal year, the disbursements estimated to be made before the close of the current fiscal year and proposed to be made during the ensuing fiscal year based upon available and recommended appropriations and reappropriations**, and for each item of appropriation where the appropriation is subject to allocation by means of (i) a memorandum of understanding, (ii) an interchange with another item of appropriation, (iii) transfer or sub-allocation to another agency, or (iv)**

any other method of allocating any appropriation or re-appropriation into smaller sums, shall state separately the appropriation amount, by program, object and purpose, and the projected disbursement level, by projected recipient and amount of each smaller sum such item of appropriation is projected to be allocated. Disbursements proposed to be made shall be shown in separate parts as follows: those disbursements proposed to be made for state purposes shall be set forth in one part, those disbursements proposed to be made for local assistance shall be set forth in another separate and distinct part, those disbursements proposed to be made for capital projects shall be set forth in a third separate and distinct part and those disbursements proposed to be made for debt service shall be set forth in a fourth separate and distinct part. The effect of any proposed changes in the payment dates of particular disbursements on the financial plan presented in accordance with subdivision one of this section shall be set forth separately.

(v) an itemized list of transfers to and from [~~the general fund~~] each governmental fund and the effect of such transfers on programs and activities associated with the funds from which money or other financial resources are transferred.

e. [~~The~~] For each fund type, the anticipated [~~general fund~~] quarterly schedule and fiscal year total for the prior, current and next ensuing three fiscal years of: disbursements; receipts; repayments of advances; total tax refunds; and refunds for the tax imposed under article twenty-two of the tax law. Such information shall be presented in the same form as the summary financial plans presented in accordance with subdivisions one and two of this section. A separate, detailed, report of such schedule shall be provided with receipts shown by each major revenue category, including [~~detail for each major tax and major components of miscellaneous receipts, and with disbursements shown by major function or program~~] each individual tax, each individual component part of miscellaneous receipts, and each revenue source which accounts for at least one-half of one percent of all receipts within each fund type and with disbursements shown by major agency or major spending item. The director of the division of the budget shall submit concurrent with the submission of the financial plan to the legislature pursuant to subdivision two of this section and with each update thereafter a revised monthly general fund cash flow projection of receipts and disbursements for the current fiscal year that: (1) compares actual results to (i) actual results through the same period for the prior year and (ii) the most recent prior update to the financial plan and to the enacted budget financial plan; (2) summarizes the reasons for any variances; and (3) describes the revisions to the cash flow projections. The monthly general fund cash flow projection shall be stated by major category of local assistance, personal service, nonpersonal service, general state charges, and debt service, and by major category of revenue and shall include a schedule of actual and planned disbursements by month, by agency, fund type, and program, stating separately and distinctly variances between actual and projected fiscal year to date disbursements and projected disbursements for the remaining months of the fiscal year. Such reports shall utilize a format that shall facilitate comparison and analysis with those reports submitted to the legislature by the office of audit and control pursuant to subdivision nine of section eight of this chapter.

§ 3. Subdivision 4 of section 23 of the state finance law, as amended by chapter 1 of the laws of 2007, is amended to read as follows:

4. Financial plan updates. Quarterly, throughout the fiscal year, the governor shall submit to the comptroller, the chairs of the senate finance and the assembly ways and means committees, within thirty days of the close of the quarter to which it shall pertain, a report which summarizes the actual experience to date and projections for the remaining quarters of the current fiscal year and for each of the next two fiscal years of receipts, disbursements, tax refunds, and repayments of advances presented in forms suitable for comparison with the financial plan submitted pursuant to subdivisions one, four, and five, of section twenty-two of this article **including detail for each individual tax, each individual component part of miscellaneous receipts, and each revenue source which accounts for at least one-half of one percent of all receipts within each fund type and with disbursements shown by major agency or major spending item** and revised in accordance with the provisions of subdivision three of this section. **Such report shall include a schedule of actual and planned disbursements by month, by agency, fund type, and program, stating separately and distinctly variances between actual and projected fiscal year to date disbursements and projected disbursements for the remaining months of the fiscal year.** The governor shall submit with the budget a similar report that summarizes revenue and expenditure experience to date in a form suitable for comparison with the financial plan submitted pursuant to subdivision two of section twenty-two of this article and revised in accordance with the provisions of subdivision three of this section. Such reports shall provide an explanation of the causes of any major deviations from the revised financial plans and, shall provide for the amendment of the plan or plans to reflect those deviations. The governor may, if he determines it advisable, provide more frequent reports to the legislature regarding actual experience as compared to the financial plans. The quarterly financial plan update most proximate to October thirty-first of each year shall include the calculation of the limitations on the issuance of state-supported debt computed pursuant to the provisions of subdivisions one and two of section sixty-seven-b of this chapter. **On or after January first, two thousand nineteen, the enacted budget financial plan and financial plan updates submitted by the governor pursuant to this subdivision shall bear the financial plan program reference number or numbers to which every appropriation or reappropriation shall pertain, and shall be classified into the same category as the associated program or programs have been classified in such financial plan, and for each item of appropriation where the appropriation is subject to allocation by means of (i) a memorandum of understanding, (ii) an interchange with another item of appropriation, (iii) transfer or suballocation to another agency, or (iv) any other method of allocating any appropriation or reappropriation into smaller sums, shall state separately the appropriation amount, by program, object and purpose, and the projected disbursement level, by projected recipient and amount of each smaller sum such item of appropriation is projected to be allocated.**

§ 4. Section 22 of the state finance law is amended by adding two new subdivisions 5-a and 5-b to read as follows:

5-a. For each agency or public authority, by program and fund, identify:

(a) amounts, by appropriation or reappropriation, proposed to maintain current services;

(b) amounts, by appropriation or reappropriation, proposed to support new program initiatives, or policy changes;

(c) estimated disbursements for each appropriation or reappropriation separately identified in paragraphs (a) and (b) of this subdivision; and

(d) estimated disbursements for carry-over spending for each appropriation, by program and fund.

5-b. Include summaries that identify disbursements, carry-over spending and new spending by each agency or public authority, by program and fund, separately identified for state purposes, local assistance, capital projects, and general state charges.

§ 5. Subdivision 3 of section 23 of the state finance law, as amended by chapter 1 of the laws of 2007, is amended to read as follows:

3. [~~Financial~~] Preliminary budget assessment, financial plans and capital improvement program; revisions. Prior to the date the legislature finally acts upon the appropriation bill or bills submitted by the governor pursuant to section three of article seven of the state constitution, the governor shall cause to be submitted to the legislature and made accessible to the public, via an official or shared internet web site, a preliminary overview of the estimated financial plan impact of revisions to the budget that occurred between the submission of the budget bills by the governor and the bills, as amended by the legislature, that are anticipated to be passed by both houses of the legislature and constitute final passage of the budget which shall include, but not be limited to, a description of receipts and disbursements in the general fund and all governmental funds as well as a general description, by agency and program where applicable, of changes in revenue and spending projections that occurred between the governor's submission and action by the legislature. Not later than thirty days after the legislature has completed action on the budget bills submitted by the governor and the period for the governor's review has elapsed, the governor shall cause to be submitted to the legislature the revisions to the financial plans and the capital plan required by subdivisions one, two, three, four [~~and~~], five, five-a, and five-b of section twenty-two of this article as are necessary to account for all enactments affecting the financial plans and the capital plan. The financial plan shall also contain a cash flow analysis of projected receipts and disbursements and other financing sources or uses for each month of the state's fiscal year. Notwithstanding any other law to the contrary, such revised plans and accompanying cash flow analysis shall be submitted to the legislature and the comptroller in the same form as the plans required by such subdivisions.

§ 6. The state finance law is amended by adding a new section 40-b to read as follows:

§ 40-b. Appropriation of state funds; agencies and authorities. Notwithstanding the provisions of any other section of law to the contrary, no moneys shall be paid from any fund under the management of the state, or any agency or officer thereof for any state agency or public authority spending for a state purpose or project supported in any way by state funds, including state funded public authority bond proceeds, except in pursuance of an appropriation by law and payable only upon audit and warrant of the state comptroller.

§ 7. Section 24 of the state finance law, as amended by chapter 762 of the laws of 1992, subdivision 1 as amended and subdivisions 4 and 5 as added by chapter 1 of the laws of 2007, and subdivision 2 as amended by section 2 of part O of chapter 59 of the laws of 2009, is amended to read as follows:

§ 24. Budget bills. 1. The budget submitted annually by the governor shall be simultaneously accompanied by a bill or bills for all proposed

appropriations and reappropriations and for the proposed measures of taxation or other legislation, if any, recommended therein. Such bills shall be submitted by the governor and shall be known as budget bills; provided, however, that all appropriations and reappropriations contained in such budget bills shall only contain itemized appropriations which shall not be in the form of lump sum appropriations. On or after January first, two thousand nineteen, every proposed appropriation or reappropriation submitted by the governor shall specifically relate to a program which is included in the financial plan presented as part of the budget submitted pursuant to section twenty-two of this article. Each proposed appropriation or reappropriation for a program shall bear the financial plan program reference number or numbers to which it shall pertain, and shall be classified into the same category as the associated program or programs have been classified in such financial plan.

(a) [~~For all~~] All non-federal state operations appropriations [~~, such bill or bills shall only contain itemized appropriations and~~] shall not be made in form of lump sum appropriations and shall be [~~made, where practicable,~~] itemized by agency and within each agency by program and within each program at the following level of detail and in the following order:

(i) by fund type, which at a minimum shall include general fund, special revenue-other funds, capital projects funds, and debt service funds;

(ii) for personal service appropriations, separate appropriations shall be made for regular personal service, temporary personal service, and holiday and overtime pay;

(iii) for nonpersonal service appropriations, separate appropriations shall be made for supplies and materials, travel, contractual services, equipment, and fringe benefits, as appropriate.

(b) Any appropriation for temporary assistance for needy families, the environmental protection fund, and the medical assistance program, shall only contain itemized appropriations which shall not be in the form of lump sum appropriations, provided, however, for the purposes of the medical assistance program, itemized appropriations shall consist of categories-of-service with separate appropriations for hospital inpatient, hospital outpatient and emergency room, clinic, nursing home, other long-term care, managed care, pharmacy, dental, transportation, and other non-institutional services.

2. (a) On or after January first, nineteen hundred eighty-four, no budget bill submitted by the governor may include any proposed appropriation or reappropriation for any capital project which is not included in the capital plan presented as part of the budget submitted pursuant to section twenty-two of this article. Each proposed appropriation or reappropriation for a capital project shall bear the capital plan project reference number or numbers to which it shall pertain, and shall be classified into the same category as the associated capital project or projects have been classified in such capital plan. Reappropriations of appropriations effective for fiscal years beginning prior to April first, nineteen hundred eighty-four may be presented by the categories of appropriation contained in the bill originally enacting such appropriation.

(b) On or after January first, two thousand ten, any budget bill submitted by the governor containing a proposed appropriation from the dedicated highway and bridge trust fund shall not be made in form of lump sum appropriations and shall be itemized to show the following information for each such appropriation:

(i) each amount appropriated from the dedicated highway and bridge trust fund for capital purposes;

(ii) the amount of each such appropriation to be used for personal service expenses; and

(iii) the amount of each such appropriation to be used for non-personal service expenses.

3. Any appropriation for maintenance undistributed shall be shown as apportioned among the items covered [~~to the extent practicable~~].

4. Any appropriation added to such budget bills, pursuant to section four of article seven of the constitution **or concurrent resolution**, shall only contain itemized appropriations which shall not be in the form of lump sum appropriations, and provided further that for all non-federal state operations appropriations, such bill or bills [~~shall only contain itemized appropriations and~~] shall **not be made in form of lump sum appropriations and shall** be [~~made, where practicable,~~] **itemized** by agency, and within each agency by program and within each program at the following level of detail and in the following order:

(a) by fund type, which at a minimum shall include general fund, special revenue-other funds, capital projects funds and debt service funds;

(b) for personal service appropriations, separate appropriations shall be made for regular personal service, temporary personal service, and holiday and overtime pay;

(c) for nonpersonal service appropriations, separate appropriations shall be made for supplies and materials, travel, contractual services, equipment and fringe benefits, as appropriate.

5. [~~Any appropriation added pursuant to section four of article seven of the constitution without designating a grantee shall be allocated only pursuant to a plan setting forth an itemized list of grantees with the amount to be received by each, or the methodology for allocating such appropriation. Such plan shall be subject to the approval of the chair of the senate finance committee, the chair of the assembly ways and means committee, and the director of the budget, and thereafter shall be included in a concurrent resolution calling for the expenditure of such monies, which resolution must be approved by a majority vote of all members elected to each house upon a roll call vote~~]

(a) To the extent that any appropriation or reappropriation either (i) does not identify a specific recipient, or (ii) is not subject to allocation by a statutory formula, such appropriation or reappropriation must identify an administering state agency or public authority and, prior to the disbursement of any funds so appropriated, each such state agency or public authority shall:

(i) develop and execute a process in accordance with all provisions of law applicable to a program administered by a state agency whereby each project proposed to be funded with such appropriation or reappropriation shall be scored and ranked based on clear, measurable and objective criteria. The ranking of such projects shall indicate their relative importance in the best interest of the state;

(ii) develop and execute a process in accordance with all provisions of law applicable to a program administered by a state agency for entering into any contract or commitment for the disbursement of such funds which shall include, where appropriate, public advertising for bids or proposals, and a method for awarding contracts under each project that shall permit full and free competition. Such method shall be based on clear, measurable and objective criteria; and

(iii) identify each project to be funded with such appropriation or reappropriation and the portion of such appropriation or reappropriation to be allocated to each project.

(b) Any appropriation added pursuant to section four of article seven of the constitution shall identify a specific recipient or grantee, or shall be subject to allocation by a statutory formula, or shall be subject to allocation pursuant to the provisions of paragraph (a) of this subdivision.

§ 8. Section 49 of the state finance law is REPEALED.

§ 9. The state finance law is amended by adding a new section 24-a to read as follows:

§ 24-a. Budget director; spending transparency report. The budget director shall report annually to the legislature, the office of the state comptroller and the public on all spending for which an appropriation does not provide either a specific recipient and/or the allocation of an appropriation is not provided for through a statutory formula, including, but not limited to the allocation of lump sum appropriations and other discretionary funds, identifying, by appropriation, the amount allocated by project, the selection process and criteria used, overall scoring and ranking of projects evaluated, and each funded project score. Such report shall also provide the final allocation of any appropriation subject to allocation by means of (i) a memorandum of understanding, (ii) an interchange with another item of appropriation, (iii) transfer or suballocation to another agency, or (iv) any other method of allocating an appropriation into smaller sums, identifying disbursement information by agency, fund and program with project-level detail. Such report shall also include the fiscal and programmatic impact of any executed transfers between funds and/or public authorities on programs and activities associated with such funds and/or public authorities from which money or other financial resources are transferred and to which money or financial resources are transferred.

§ 10. The public authorities law is amended by adding a new section 2801-a to read as follows:

§ 2801-a. Quarterly reports by authorities. 1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit quarterly to the governor, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee, the state comptroller and the authorities budget office, for their information, a report on the expenditure of funds pursuant to an appropriation by the state, including identifying, by appropriation, the amount allocated by project, the selection process and criteria used, and each funded project score, as well as the overall scoring and ranking of projects evaluated.

2. Local authorities. Every local authority heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit quarterly to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or governments, the office of the state comptroller and the authorities budget office for their information, a report on the expenditure of funds pursuant to an appropriation by the state, including identifying, by appropriation, the amount allocated by project, the selection process and criteria used, and each funded project score, as well as the overall scoring and ranking of projects evaluated.

§ 11. Section 51 of the public authorities law is amended by adding a new subdivision 6 to read as follows:

6. The board shall make accessible to the public, via its official or shared internet web site, by meeting date, all resolutions, project descriptions, board materials and project lists, for at least ten years.

§ 12. Subdivisions 1 and 2 of section 92-cc of the state finance law, subdivision 1 as added by chapter 1 of the laws of 2007 and subdivision 2 as amended by section 12-a of part I of chapter 60 of the laws of 2015, are amended and new subdivision 2-a is added to read as follows:

1. **a.** There is hereby established in the state treasury a fund to be known as the "rainy day reserve fund". Such fund shall consist of moneys deposited therein and monies shall be withdrawn from such fund only for the purposes as provided therein.

b. For the purposes of this subdivision, "cash surplus" shall mean the positive amount by which, at of the close of each fiscal year, the total general fund balance exceeds the general fund balance as projected in the enacted budget financial plan.

2. Such fund shall have a maximum balance not to exceed [~~five~~] **eight** per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year. [~~At the request of the director of the budget, the~~] **The** state comptroller shall transfer monies to the rainy day reserve fund [~~up to and including~~] **in** an amount equivalent to [~~seventy-five one-hundredths of one per centum of the aggregate amount projected to be disbursed from the general fund during the then-current fiscal year~~] **the cash surplus**, **provided, however, that in cases where tax receipts received in all governmental funds and miscellaneous receipts received in the general fund for the immediately preceding fiscal year decreased or did not increase or decrease from the fiscal year preceding such year, the state comptroller shall transfer monies to the rainy day reserve fund at the request of the director of the budget** unless such transfer would increase the rainy day reserve fund to an amount in excess of [~~five~~] **eight** per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year, in which event such transfer shall be limited to such amount as will increase the rainy day reserve fund to such [~~five~~] **eight** per centum limitation.

2-a. At the close of each fiscal year, any cash surplus remaining in the general fund after transfers pursuant to section ninety-two of this article and this section shall be deposited in the debt reduction reserve fund established pursuant to section ninety-seven-rrr of this chapter.

§ 13. This act shall take effect immediately.

PART B

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

ARTICLE 17

NEW YORK STATE CAPITAL ASSET AND INFRASTRUCTURE COUNCIL

Section 250. Definitions.
251. New York state capital asset and infrastructure council; creation; procedure.
252. Powers and duties.

§ 250. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Capital assets" shall mean fixed assets and infrastructure assets, including, but not limited to, land, buildings, equipment, roads, and bridges of the state, a state agency or state authority, and shall also include any capital asset of a local authority or a municipal corporation that, in the judgment of the New York state capital asset and infrastructure council is significantly funded by state monies.

2. "Council" shall mean the New York state capital asset and infrastructure council established pursuant to section two hundred fifty-one of this article.

3. "Construction" shall mean the erection, acquisition, alteration, reconstruction, repair, rehabilitation, improvement, equipping, enlargement or extension of a capital asset, including land acquisition and the engineering, architectural, legal, fiscal and economic investigations, studies, surveys, designs, plans, drawings, specifications, procedures and other actions relating to a capital asset.

4. "Local authority" shall mean:

(a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments;

(b) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government;

(c) a local industrial development agency or authority or other local public benefit corporation; or

(d) an affiliate or subsidiary of such local authority.

5. "State authority" shall mean a public authority or public benefit corporation created by or existing under this chapter or any other law of the state, with one or more of its members appointed by the governor or who serve as members by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including subsidiaries of such public authority or public benefit corporation.

6. "Maintenance" shall mean any regularly scheduled activity including a routine repair intended to ensure that a capital asset continues to operate safely and efficiently and as intended.

7. "Municipal corporation" shall mean a county, city, town or village and shall include any special district therein.

8. "Rehabilitation" shall mean an action to extend the useful life or improve the effectiveness of an existing capital asset.

§ 251. New York state capital asset and infrastructure council; creation; procedure. 1. Within the executive department there is hereby established an independent council to be known as the New York state capital asset and infrastructure council to have and exercise the powers and duties provided by the provisions of this article.

2. The purpose of the council is to develop and implement a process to identify, monitor, plan, recommend, and publicly report on all capital assets of state agencies and state authorities and, in the discretion of the council, local authorities and municipal corporations, to ensure that the capital assets meet current and future needs of the public, facilitate economic growth, are maintained in a good operating condition that ensures public safety, and are developed or modified in a sustainable manner as provided by the provisions of this article.

3. The council shall consist of five members appointed by the governor, one of whom shall be appointed upon the recommendation of the temporary president of the senate, one of whom shall be appointed upon the recommendation of the speaker of the assembly, and one of whom shall be appointed upon the recommendation of the comptroller. One of the members shall be designated as chair by the governor. Each member of the council shall have experience in one or more of the fields of economics, public administration, civil engineering, public works, construction or a related design profession, planning, public investment financing, environmental engineering or water resources engineering. The two members first appointed by the governor without the recommendation of any other state official shall serve an initial term of four years; the member first appointed upon the recommendation of the temporary president of the senate shall serve an initial term of three years; the member first appointed upon the recommendation of the speaker of the assembly shall serve an initial term of three years; and the member first appointed upon the recommendation of the state comptroller shall serve an initial term of two years. Upon expiration of a member's initial term, each subsequent term shall be for a period of four years.

4. Notwithstanding any inconsistent provision of law, no officer or employee of the state, of any political subdivision of the state, of any governmental entity operating any public school or college, or of any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit such office or employment by reason of acceptance or appointment as a member, representative, officer, employee or agent of the council. The members, their representatives, officers and staff to the council shall be deemed employees within the meaning of section seventeen of the public officers law.

5. The members of the council shall serve without salary or per diem allowance but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties pursuant to this article; provided, however, that such members and representatives are not, at the time such expenses are incurred, public employees otherwise entitled to such reimbursement.

§ 252. Powers and duties. 1. The council shall have the power to:

(a) hold such hearings, meet and act at such times and places, take such testimony, administer such oaths or affirmations and receive such evidence as the council considers advisable to carry out its responsibilities;

(b) require the production of any books, and collection and compilation of data deemed relevant or material to any review undertaken pursuant to its purpose under this article;

(c) request and receive from any department, division, board, commission or other agency of the state, including any state authorities, local authorities and municipal corporations any relevant information necessary to carry out the responsibilities and provisions set forth in this article;

(d) enter into cooperative agreements with other government offices, state agencies, state authorities, local authorities and municipal corporations to efficiently support the work of the council and carry out its responsibilities;

(e) have direct input and prompt access to the head of any state agencies, state authorities, local authorities and municipal corporations and any member and employee thereof when necessary or useful in the performance of the duties or responsibilities of the council;

(f) issue such reports and other documents as the council determines to be necessary or advisable; and

(g) advise and make recommendations to the governor, the legislature, the comptroller, and other agencies, state authorities, local authorities and municipal corporations of the state on matters affecting the condition of the capital assets within the state.

2. The council shall identify the capital assets located within the state on a periodic basis and assess the condition of the assets by:

(a) developing uniform criteria and procedures for use in conducting inventories and assessments, including formal standards defining a state of good repair and replacement cycles for capital assets, and standards requiring clear justification in terms of rigorous economic analysis for proposed new capital investments or expansions;

(b) inventorying all existing capital assets using to the extent practicable, existing inventories available from all sources; where existing inventories are not available, a process for state agencies and state authorities and, in the discretion of the council, local authorities and municipal corporations, to inventory all existing capital assets will be developed subject to approval of the council; and

(c) assessing the condition of capital assets, including but not limited to changes in the condition of those capital assets as compared with preceding years and identification of needed improvements.

3. The council shall develop recommendations based on comprehensive studies and assessments undertaken pursuant to subdivision two of this section, and shall report its findings and recommendations to the governor, the legislature and the comptroller not later than June fifteenth, two thousand nineteen, and annually thereafter, and shall make such reports accessible to the public, via its official or shared internet web site. The recommendations of the council shall include:

(a) proposed improvements in prioritizing the planning and funding of capital asset investments;

(b) improved procedures for ensuring that state agencies and state authorities and, in the discretion of the council, local authorities and municipal corporations replace assets on regular replacement schedules according to reliable estimates of their useful lives; and

(c) improvements in criteria and procedures that may be used by state agencies and state authorities and, in the discretion of the council, local authorities and municipal corporations, in:

(i) determining the capacity of capital assets to sustain current and anticipated economic development and competitiveness, including long-term economic growth, including the potential return on investments in new capital assets as opposed to investments in existing capital assets;

(ii) maintaining data in a form that is readily accessible to the public;

(iii) the methods used to finance the construction, acquisition, rehabilitation and maintenance of capital assets;

(iv) comprehensive investment requirements, by type of capital asset, that are necessary to maintain the current condition and performance of the capital assets and the investment needed to improve capital assets in the future;

(v) trends or innovations in construction methods or materials for capital assets;

(vi) the impact of local development patterns on demand for funding of capital assets;

(vii) the impact of deferred maintenance; and

(viii) the impact of deteriorated capital assets.

4. The council shall report updated findings and recommendations in a manner consistent with the provisions of subdivision three of this section, to be known as the "comprehensive statewide capital needs assessment". Such reports shall be issued not later than the last day of the calendar year following the year in which the report required by subdivision three of this section is issued and, thereafter, on an annual basis.

5. (a) The council shall issue a comprehensive twenty year strategic plan for capital needs encompassing necessary maintenance activities, scheduled asset replacement and expansion, the status of current capital activities, and related financing. The long-term strategic plan shall be developed based on the capital projects identified in the comprehensive statewide capital needs assessment and future capital project needs of the state, with clear interim goals and benchmarks.

(b) The long-term strategic plan shall be updated and revised every even-numbered year, and issued simultaneously with the comprehensive statewide capital needs assessment of that year.

§ 2. The opening paragraph of section 22-c of the state finance law, as amended by section 3 of part F of chapter 389 of the laws of 1997, is amended to read as follows:

The governor shall annually submit to the legislature a capital program and financing plan concurrent with the executive budget, in addition to the information required by section twenty-two of this article. The plan, along with capital appropriations proposed in the executive budget or enacted by the legislature, shall derive from the long-term strategic plan established by subdivision five of section two hundred fifty-two of this chapter. Any deviation from the long-term strategic plan must be justified. The plan shall contain a comprehensive assessment of the capital assets and program needs of all state agencies, a review and analysis of how such requirements would be financed, an analysis of the affordability of state-supported debt, and an analysis of all costs related to the financing of such plan.

§ 3. This act shall take effect immediately.

PART C

Section 1. Sections 67-a and 67-b of the state finance law are REPEALED and five new sections 67-a, 67-b, 67-b-1, 67-b-2 and 67-d are added to read as follows:

§ 67-a. Definitions. As used in this article the following terms shall have the following meanings:

1. "State debt" shall mean all bonds, bond anticipation notes, tax and revenue anticipation notes and revenue debt issued by the comptroller pursuant to article five of this chapter.

2. "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 or has agreed on or after April first, nineteen hundred ninety-seven 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, or, if on or after such date, a program of debt is authorized to be issued where state aid is intended to be the sole source of payment of debt service, 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 (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.

3. "State-funded debt" shall mean the combined total of all state debt, as defined in subdivision one of this section, and all state-backed debt except short term debt incurred in accordance with section nine of article seven of the constitution, and shall include all debt outstanding on the effective date of this section.

4. "State-supported debt" shall mean any bonds or notes, including bonds or notes issued to fund reserve funds and costs of issuance, issued by the state or a state public corporation for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service subject to an appropriation, except where the state has a contingent contractual obligation.

5. "Revenue debt" shall mean state debt issued by the comptroller and supported by future revenues from a specific state source.

6. "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 for any fiscal year.

7. "Capital work or purpose" shall mean any project involving:

(a) the acquisition, construction, demolition or replacement of a fixed asset or assets;

(b) the major repair or renovation of a fixed asset, which materially extends its useful life or materially improves or increases its capacity; or

(c) the planning or design of the acquisition, construction, demolition, replacement, major repair or renovation of a fixed asset, including the preparation and review of plans and specifications including engineering and other services, field surveys and sub-surface investigations incidental thereto.

8. "Conduit debt obligation" shall mean a debt obligation issued by a public authority (the "conduit issuer") on behalf of a third party (the "conduit borrower") other than the state or a political subdivision of the state, where payment of the obligation is to be made from funds of the conduit borrower, the security for the obligation is the credit of the conduit borrower and no funds of the conduit issuer, the state or a political subdivision of the state are pledged to secure the obligation, whether or not the obligation of the conduit issuer, the state or political subdivision of the state is subject to appropriation or is otherwise contingent.

§ 67-b. Duties with respect to state-funded debt. 1. On or before October thirty-first, two thousand twenty-six and on or before October thirty-first of each year thereafter, the division of budget shall have the responsibility to determine the total debt limit of the state by calculating the dollar amount equivalent to five percent of the total personal income of the state.

2. On or before October thirty-first, two thousand twenty-six and on or before October thirty-first of each year thereafter, the division of budget shall determine the total debt limit of the state, and pursuant to section sixty-seven-b-two of this article for the next fiscal year and determine whether the total principal amount of additional debt projected to be incurred in the next fiscal year, together with the total principal amount of state-funded debt already outstanding is equal to or greater than the debt limit, and report such information by October thirty-first, to the temporary president of the senate, the speaker of the assembly, the chairperson and ranking minority member of the senate finance committee, the chairperson and ranking minority member of the assembly ways and means committee, and the comptroller. On or before such date, the division of budget shall issue a public announcement of such limit.

3. The executive's proposed budget for state fiscal year two thousand eighteen--two thousand nineteen shall include a plan setting forth the annual target percentages and methodology for the implementation of the provisions of subdivision one of section sixty-seven-b-two of this article by April first, two thousand twenty-seven. A progress report with respect to meeting annual target percentages in the plan shall be issued annually by the executive with release of the proposed budget and, in the event the actual percentages deviate from the target percentages set forth in the initial plan, shall include an explanation of such deviations and the proposed remedial actions deemed necessary to meet such target percentages by April first, two thousand twenty-seven.

§ 67-b-1. Limitations on the issuance of state-supported debt. 1. (a) State-supported debt may not be contracted for unless, as of October thirty-first, two thousand one and as of each October thirty-first thereafter, the total outstanding principal amount of such debt, as of the last day of the immediately preceding fiscal year, is less than the designated percentage of the total personal income of the state. Nothing shall preclude the contracting of state-supported debt prior to October thirty-first of each year if, as of the last day of the immediately preceding fiscal year, the total outstanding principal amount of such debt was less than the designated percentage of the total personal income of the state. The total outstanding principal amount of debt shall include all state-supported debt issued on and after April first, two thousand. Such designated percentage shall be seven and one-half-tenths of one percent for fiscal year two thousand--two thousand one, and shall increase by five-tenths of one percent in fiscal year two thousand one--two thousand two, by an additional four-tenths of one percent in fiscal year two thousand two--two thousand three, and by an additional one-third of one percent in each of the seven subsequent fiscal years. The designated percentage for fiscal year two thousand ten--two thousand eleven and for each fiscal year thereafter shall be four percent.

(b) If state-supported debt is issued to refund or otherwise affect the refunding, retirement or defeasance of state-supported debt originally issued on and after April first, two thousand, provided such refundings are conducted in accordance with section thirteen of article

seven of the constitution, the calculation of the total outstanding principal amount of debt shall exclude such refunding debt, and shall only include the amount of prior refunded debt, as if it were still outstanding, in each year until such refunding debt is finally retired. Notwithstanding the foregoing, the provisions of such section thirteen of article seven of the constitution relating to the maintenance or management of escrow funds and sinking funds shall only be applicable to state-supported debt issued by the state comptroller. If state-supported debt is issued to refund or otherwise affect the refunding, retirement or defeasance of state-supported debt issued prior to April first, two thousand, then the amount of such refunding debt shall be excluded from the calculation of the total outstanding principal amount of debt in each year until such refunding debt is finally retired. In addition, if state-supported debt is retired or defeased with payments in any fiscal year made by the state that are not required by mandatory payments, such debt shall be excluded from the calculation of the total outstanding principal amount of debt, including retirements or defeasances accomplished on an economic basis.

2. State-supported debt may not be contracted for unless, as of October thirty-first, two thousand one and as of each October thirty-first thereafter, the total amount of interest, installments of principal, contributions to sinking funds, and related payments on a cash basis of accounting for state-supported debt in the immediately preceding fiscal year is less than the designated percentage of total governmental funds receipts for such fiscal year. Nothing shall preclude the contracting of state-supported debt prior to October thirty-first of each year if, in the immediately preceding fiscal year, the total amount of interest, installments of principal, contributions to sinking funds, and related payments was less than the designated percentage of total governmental funds receipts. This shall include the total amount of payments on such debt issued on and after April first, two thousand, but shall not include payments in any fiscal year made by the state to defease or retire debt not required by mandatory payments nor payments made by the state for debt issued to refund debt that was issued prior to April first, two thousand. In addition, if state-supported debt is issued to refund or otherwise affect the refunding, retirement or defeasance of state-supported debt originally issued on and after April first, two thousand, provided such refundings are conducted in accordance with section thirteen of article seven of the constitution, the calculation of the total amount of interest, installments of principal, contributions to sinking funds, and related payments shall exclude payments made on such refunding debt, and shall only include the payments on the prior refunded debt, as if it were still outstanding, in each year until such refunding debt is finally retired. Such designated percentage shall be seven and one-half-tenths of one percent for fiscal year two thousand--two thousand one, and shall increase by five-tenths of one percent in fiscal year two thousand one--two thousand two, by an additional four-tenths of one percent in fiscal year two thousand two--two thousand three, and by an additional one-third of one percent in each of the ten subsequent fiscal years. The designated percentage for fiscal year two thousand thirteen--two thousand fourteen and for each fiscal year thereafter shall be five percent.

§ 67-b-2. Limitations on state-funded debt. 1. No additional state-funded debt shall be incurred after April first, two thousand twenty-seven if the total principal amount of such additional debt projected to be incurred in such year, together with the total principal amount of

state-funded debt already outstanding is equal to or greater than the total debt limit of the state excluding short term debt incurred in accordance with section nine of article seven of the constitution, debt incurred in accordance with section ten of article seven of the constitution, and refunding debt.

2. With the exception of short term debt incurred in accordance with section nine of article seven of the constitution, debt incurred in accordance with section ten of article seven of the constitution, and refunding debt, no state-funded debt shall be incurred except to finance a capital work or purpose. No such state-funded debt shall be incurred if the total principal amount of such debt together with the total principal amount of such debt already outstanding is equal to or greater than the total debt limit of the state.

3. All debt subject to the provisions of this section shall, if incurred on or after the first day of the first fiscal year beginning at least one year after the effective date of an amendment adding a new subdivision six to section eleven of article seven of the constitution, be in the form of obligations issued by the comptroller.

4. No state-funded debt shall be incurred in the form of an obligation with a final maturity exceeding the probable life of the capital project financed by such debt, as specified in section sixty-one of this chapter. Notwithstanding any other provision of law to the contrary, no state-funded debt shall be incurred in the form of an obligation with a final maturity of more than thirty years.

5. No state-funded debt outstanding on the effective date of this subdivision shall be refunded unless such refunding is conducted in all respects as if subject to the provisions of section thirteen of article seven of the constitution. Such outstanding debt obligations shall be included in the determination of the debt limit. For the purposes of this subdivision and section sixty-seven-d of this article, any refunding debt that does not extend beyond the final maturity of the debt being refunded shall be deemed to be in compliance with the provisions of subdivision six of section thirteen of article seven of the constitution made applicable by this subdivision if there is an actual debt service savings in every year to maturity as a result of the issuance of the refunding debt.

6. Any refunding obligations issued pursuant to subdivision five of this section on or after the first day of the first fiscal year beginning at least one year after the effective date of an amendment to section eleven of article seven of the constitution imposing a limit on the total amount of state debt shall be issued by the comptroller.

§ 67-d. Prohibition of contingent obligation debt. After the effective date of this section, the state shall not, except as specifically authorized by a provision of the constitution other than section eleven of article seven, agree to make payments, directly or indirectly, whether or not subject to appropriation, that are to be available to pay debt service on any debt incurred by a municipality, individual, public authority or other public or private corporation or any other entity, for any purpose, if such payments are expected to be used to pay debt service only if other sources available for the payment of debt service are inadequate. Any provision requiring the state to replace monies used to pay debt service shall be included in the prohibition set forth in this subdivision. Outstanding debt that would be prohibited by this section may be refunded by the entity that incurred the outstanding debt.

§ 2. Paragraph i of subdivision 3 of section 22 of the state finance law, as amended by chapter 1 of the laws of 2007, is amended to read as follows:

i. A statement setting forth state involvement in the fiscal operations of those public authorities and public benefit corporations which may be part of the development of a comprehensive state budget system and provided therefor in the state financial plan. Such statement shall include those public authorities and public benefit corporations with disbursements which are not currently reflected in the state central accounting system from proceeds of any notes or bonds issued by any public authority, and which bonds or notes would be considered as [~~state-supported~~] state-funded debt as defined in section sixty-seven-a of this chapter. Such statement shall set forth the amount of all of the bonds, notes and other obligations of each public authority, public benefit corporation and all other agencies and instrumentalities of the state for which the full faith and credit of the state has been pledged or on account of which the state has by law given its pledge or assurance for the continued operation and solvency of the authority, public corporation, or other agency or instrumentality of the state, as the case may be. Such statement shall also set forth all proposed appropriations to be made to any public authority, public benefit corporation, and any other agency or instrumentality of the state which has been created or continued by law and which is separate and distinct from the state itself.

§ 3. Paragraph b of subdivision 15 of section 22 of the state finance law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

b. The capital program and financing plan submitted pursuant to section twenty-two-c of this article, and the update thereto required pursuant to section twenty-three of this article, shall include a report on the management of [~~state-supported~~] state-funded debt. Such report may include, but is not limited to: (1) an assessment of the affordability of state debt, including debt as a percent of personal income, debt per capita, and debt service costs as a percent of the budget; (2) a summary and analysis of the interest rate exchange agreements and variable rate exposure; and (3) an assessment of financing opportunities related to the state's debt portfolio.

§ 4. The opening paragraph and paragraph (f) of subdivision 1, and subparagraphs (iv), (v), (vi), (vii) and (viii) of paragraph (c) of subdivision 3 of section 22-c of the state finance law, as amended by section 3 of part F of chapter 389 of the laws of 1997, are amended to read as follows:

The governor shall annually submit to the legislature a capital program and financing plan concurrent with the executive budget, in addition to the information required by section twenty-two of this article. The plan shall contain a comprehensive assessment of the capital assets and program needs of all state agencies, a review and analysis of how such requirements would be financed, an analysis of the affordability of [~~state-supported~~] state-funded debt, and an analysis of all costs related to the financing of such plan.

(f) "[~~State-supported~~] State-funded debt" shall [~~mean any bonds or notes issued by the state or a state public corporation for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service subject to an appropriation, except where the state has a contingent contractual obligation~~] have the same meaning as set forth in section sixty-seven-a of this chapter.

(iv) schedules of the projected annual [~~state-supported~~] **state-funded** bond issuances, proposed for each capital program, by agency, by issuer, and an analysis of existing debt authorizations and the need for any additional authorizations;

(v) schedules of projected outstanding bonds, including retirements by year identified separately for [~~state-supported~~] **state-funded** bond issuances by issuer, and by capital program by agency, where practicable;

(vi) schedules of the projected personal income of the state and the projected ratio of outstanding [~~state-supported~~] **state-funded** bonds to personal income;

(vii) schedules of projected [~~state-supported~~] **state-funded** debt service costs by issuer, and by capital program by agency, where practicable; and

(viii) an analysis of trends in municipal bond interest rates and an explanation of the interest rate assumptions, timing of principal and interest payments, and the timing and size of projected [~~state-supported~~] **state-funded** bond sales used in the debt service projections.

§ 5. Subdivision 4 of section 23 of the state finance law, as amended by chapter 1 of the laws of 2007, is amended to read as follows:

4. Financial plan updates. Quarterly, throughout the fiscal year, the governor shall submit to the comptroller, the chairs of the senate finance and the assembly ways and means committees, within thirty days of the close of the quarter to which it shall pertain, a report which summarizes the actual experience to date and projections for the remaining quarters of the current fiscal year and for each of the next two fiscal years of receipts, disbursements, tax refunds, and repayments of advances presented in forms suitable for comparison with the financial plan submitted pursuant to subdivisions one, **three,** four, [~~and~~] five, **five-a and five-b** of section twenty-two of this article and revised in accordance with the provisions of subdivision three of this section. The governor shall submit with the budget a similar report that summarizes revenue and expenditure experience to date in a form suitable for comparison with the financial plan submitted pursuant to subdivision two of section twenty-two of this article and revised in accordance with the provisions of subdivision three of this section. Such reports shall provide an explanation of the causes of any major deviations from the revised financial plans and, shall provide for the amendment of the plan or plans to reflect those deviations. The governor may, if he determines it advisable, provide more frequent reports to the legislature regarding actual experience as compared to the financial plans. The quarterly financial plan update most proximate to October thirty-first of each year **prior to October thirty-first, two thousand twenty-six** shall include the calculation of the limitations on the issuance of state-supported debt computed pursuant to the provisions of subdivisions one and two of section [~~sixty-seven-b~~] **sixty-seven-b-one** of this chapter. **The quarterly financial plan update most proximate to October thirty-first of each year on or after October thirty-first, two thousand twenty-six shall include the calculation of the limitations on the issuance of state-funded debt computed pursuant to the provisions of subdivision three of section sixty-seven-b of this chapter.**

§ 6. Paragraph (a) of subdivision 3 of section 97-rrr of the state finance law, as amended by section 45 of part H of chapter 56 of the laws of 2000, is amended to read as follows:

(a) for the payment of principal, interest, and related expenses on general obligation bonds, lease purchase payments, or special contractual obligation payments, or for the purposes of retiring or defeasing

bonds previously issued, including any accrued interest thereon, for any [~~state-supported~~] **state-funded** bonding program or programs, and;

§ 7. This act shall take effect immediately, provided, however, that section 67-b-1 of the state finance law, as added by section one of this act, shall expire and be deemed repealed March 31, 2027; provided, further, that the provisions of section 67-b-2 of the state finance law as added by section one of this act shall take effect March 31, 2027.

§ 2. 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.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.