** § 1689-i. Public school districts; authority financing of projects under the expanding our children's education and learning (EXCEL) program. 1. The dormitory authority is authorized to finance EXCEL projects for those school districts which are eligible to receive an apportionment for expanding our children's education and learning (EXCEL) pursuant to subdivision fourteen of section thirty-six hundred forty-one of the education law.

2. Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in the financing of such EXCEL projects, the director of the budget is authorized in any state fiscal year commencing April first, two thousand six and thereafter to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

3. Any service contract entered into pursuant to this section or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

4. Any such service contract shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature.

5. Any service contract or contracts entered into pursuant to this section shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as

shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related expenses required for any bonds, notes, or other obligations.

6. The commissioner of education shall certify, from time to time, to the dormitory authority, the comptroller, the director of the division of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee each school district for which he or she has determined an aid apportionment for authority financing of an EXCEL project pursuant to subdivision fourteen of section thirty-six hundred forty-one of the education law. Such certification, which shall be made within thirty days after such determination or as soon thereafter as is practicable, shall identify the amount of aid apportionment which has been approved for such school district and shall estimate the date or dates when such project will be undertaken.

7. On or before November fifteenth of each year and again on or after February fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the division of the budget, the state comptroller, the commissioner of education, the chair of the senate finance committee and the chair of the assembly ways and means committee a report setting forth the estimated amounts, if any, of all annual payments required to be appropriated to the dormitory authority pursuant to such service contracts between the dormitory authority and the director of the division of the budget pursuant to this section.

8. To obtain funds for the purposes of this section, the authority shall have power from time to time, to issue negotiable bonds or notes of the authority. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

9. The dormitory authority shall not issue any bonds or notes in an amount in excess of two billion six hundred million dollars for the purposes of this section, excluding a principal amount of bonds or notes issued to fund one or more debt service reserve funds, to pay for the

costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds, and bonds or notes previously issued. Except for the purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds or notes.

10. In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this section, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

11. The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.

* NB Repealed December 31, 2029

* NB There are 2 § 1689-i's