STATE OF NEW YORK

STATE BOARD OF ELECTIONS

Albany, New York
July 30, 1993

CERTIFICATION

To the Board of Election of the County of ________________________.

Notice is hereby given, that at the General Election to be held in this State on Tuesday, November 2, the following proposals will be submitted to the people for approval: Proposal Number One, An Amendment, Proposal Number Two, An Amendment, and Proposal Number Three, An Amendment.

TEXT OF PROPOSAL NUMBER ONE, AN AMENDMENT

Section 1. Resolved (if the Senate concur), That the opening paragraph of section 2 of article 8 of the constitution be amended to read as follows:

No county, city, town, village or school district shall contract any indebtedness except for county, city, town, village or school district purposes, respectively. No indebtedness shall be contracted for longer than the period of probable usefulness of the object or purpose for which such indebtedness is to be contracted, or, in the alternative, the weighted average period of probable usefulness of the several objects or purposes for which such indebtedness is to be contracted, to be determined by [or] the governing body of the county, city, town, village or school district contracting such indebtedness pursuant to general or special laws of the state legislature, which determination shall be conclusive, and in no event for longer than forty years. [No indebtedness hereafter contracted] Indebtedness or any portion thereof [shall] may be refunded [beyond] within either such period of probable usefulness, or average period of probable usefulness, as may be determined by such governing body computed from the date such indebtedness was contracted. [Indebtedness heretofore contracted may be refunded only with the approval of and on terms and conditions prescribed by the state comptroller, but in no event for a period exceeding twenty years from the date of such refunding.]

§2. Resolved (if the Senate concur), That the second unnumbered paragraph of section 2 of article 8 of the constitution be amended to read as follows:

No indebtedness shall be contracted by any county, city, town, village or school district unless such county, city, town, village or school district shall have pledged its faith and credit

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

for the payment of the principal thereof and the interest thereon. Except for indebtedness contracted in anticipation of the collection of taxes actually levied and uncollected or to be levied for the year when such indebtedness is contracted and indebtedness contracted to be paid in one of the two fiscal years immediately succeeding the fiscal year in which such indebtedness was contracted, all such indebtedness and each portion thereof from time to time contracted, including any refunding thereof, shall be paid in annual installments, the first of which, except in the case of refunding of indebtedness heretofore contracted, shall be paid not more than two years after such indebtedness or portion thereof shall have been contracted, and no installment, except in the case of refunding of indebtedness heretofore contracted, shall be more than fifty per centum in excess of the smallest prior installment<u>, unless the governing body of the county, city, town, village or school district contracting such indebtedness provides for substantially level or declining debt service payments as may be authorized by law</u>.

§3. Resolved (if the Senate concur), That section 2 of article 8 of the constitution be amended by adding a new paragraph to read as follows:

<u>Notwithstanding the foregoing, all interest need not be paid annually on an issue of indebtedness provided that either (a) substantially level or declining debt service payments (including all payments of interest) shall be made over the life of such issue of indebtedness, or (b) there shall annually be contributed to a sinking fund created pursuant to this section, the amount necessary to bring the balance thereof, including income earned on contributions, to the accreted value of the obligations to be paid therefrom on the date such contribution is made, less the sum of all required future contributions of principal, in the case of sinking fund obligations, or payments of principal, in the case of serial obligations. When obligations are sold by a county, city, town, village or school district at a discount, the debt incurred for the purposes of any debt limitation contained in this constitution, shall be deemed to include only the amount of money actually received by the county, city, town, village or school district, irrespective of the face amount of the obligations.</u>

§ 4. Resolved (if the Senate concur), That the foregoing amendments be submitted to the people for approval at the general election to be held in the year 1993 in accordance with the provisions of the election law.

ABSTRACT OF PROPOSAL NUMBER ONE, AN AMENDMENT

The proposal would amend Section 2 of Article 8 of the State Constitution to give local governments and school districts flexibility in relation to the manner of contracting, paying and refunding local debts.

That provision presently provides that debt of counties, cities, towns, villages and school districts cannot be contracted for longer than the period of probable usefulness of the object or purpose which the debt finances. The proposed amendment authorizes the alternative of using the weighted average period of probable usefulness of the several objects or purposes which the debt finances.

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This proposal would authorize an alternative with regard to the payment of debt. Generally, the indebtedness of local governments and school districts must be paid in annual installments and no installment can be more than fifty per centum greater than the smallest prior installment. The proposed amendment would also authorize substantially level or declining debt service payments.

The proposed amendment would authorize local governments and school districts to issue debt which does not pay interest annually.

FORM OF SUBMISSION OF PROPOSAL NUMBER ONE, AN AMENDMENT

CONTRACTING, PAYING AND REFUNDING LOCAL DEBT

The proposed amendment to Section 2 of Article 8 of the State Constitution amends the manner of contracting, paying and refunding debts of any county, city, town, village or school district. Currently, localities or school districts may not contract debt for longer than the period of probable usefulness of the object or purpose which the debt finances, and must repay such debt in annual installments meeting specific requirements. As alternatives, the proposed amendment authorizes localities and school districts to contract debt for no longer than the weighted average period of probable usefulness of all projects financed by such debt, and to repay their debt with level or declining debt service. The proposed amendment also authorizes localities and school districts to issue debt which does not pay interest annually and provides that when debt is issued at a discount, only the amount received would count towards constitutional debt limits. Shall the proposed amendment be approved?

TEXT OF PROPOSAL NUMBER TWO, AN AMENDMENT

Section 1. Resolved (if the Senate concur), That paragraph E of section 5 of article 8 of the constitution be amended to read as follows:

E. Indebtedness contracted on or after January first, nineteen hundred sixty-two and prior to January first, [nineteen hundred ninety-four] <u>two thousand four</u>, for the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any such indebtedness to be excluded shall be determined, and no such indebtedness shall be excluded except in accordance with such determination.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 1993 in accordance with the provisions of the election law.

EXPLANATION--Matter <u>underscored</u> is new; matter in brackets [ ] is old law to be omitted.

1. The principal of each debt or any portion thereof shall either be paid in equal annual installments or in installments that result in substantially level or declining debt service payments such as shall be authorized by law, or, in the alternative, contributions of principal in the amount that would otherwise be required to be paid annually shall be made to a sinking fund.

2. When some portions of the same debt are payable annually while other portions require contributions to a sinking fund, the entire debt shall be structured so that the combined amount of annual installments of principal paid and/or annual contributions of principal made in each year shall be equal to the amount that would be required to be paid if the entire debt were payable in annual installments.

3. When interest on state obligations is not paid at least annually, there shall also be contributed to a sinking fund at least annually, the amount necessary to bring the balance thereof, including income earned on contributions, to the accreted value of the obligations to be paid therefrom on the date such contribution is made, less the sum of all required future contributions of principal, in the case of sinking fund obligations, or payments of principal, in the case of serial obligations. Notwithstanding the foregoing, nothing contained in this subdivision shall be deemed to require contributions for interest to sinking funds if total debt service due on the debt or portion thereof in the year such interest is due will be substantially the same as the total debt service due on such debt or portion thereof in each other year or if the total amount of debt service due in each subsequent year on such debt or portion thereof shall be less than the total debt service due in each prior year.

4. The first [of which] annual installment on such debt shall be [payable] paid, or the first annual contribution shall be made to a sinking fund, not more than one year, and the last [of which] installment shall be [payable] paid, or contribution made not more than forty years, after such debt or portion thereof shall have been contracted, provided, however, that in contracting any such debt the privilege of paying all or any part of such debt prior to the date on which the same shall be due may be reserved to the state in such manner as may be provided by law.

5. No such debt shall be contracted for a period longer than that of the probable life of the work or purpose for which the debt is to be contracted, [to] or in the alternative, the weighted average period of probable life of the works or purposes for which such indebtedness is to be contracted. The probable lives of such works or purposes shall be determined by general laws, which determination shall be conclusive.

6. The money arising from any loan creating such debt or liability shall be applied only to the work or purpose specified in the act authorizing such debt or liability, or for the payment of such debt or liability, including any notes or obligations issued in anticipation of the sale of bonds evidencing such debt or liability.

7. Any sinking funds created pursuant to this section shall be maintained and managed by the state comptroller or an agent or trustee designated by the state comptroller, and amounts in sinking funds created pursuant to this section, and earnings thereon, shall be used solely for the purpose of retiring the obligations secured thereby except that amounts in excess

of the required balance on any contribution date and amounts remaining in such funds after all of the obligations secured thereby have been retired shall be deposited in the general fund.

8. No appropriation shall be required for disbursement of money, or income earned thereon, from any sinking fund created pursuant to this section for the purpose of paying principal of and interest on the obligations for which such fund was created, except that interest shall be paid from any such fund only if, and to the extent that, it is not payable annually and contributions on account of such interest were made thereto.

9. The provisions of section 15 of this article shall not apply to sinking funds created pursuant to this section.

10. When state obligations are sold at a discount, the debt incurred for purposes of determining the amount of debt issued or outstanding pursuant to a voter approved bond referendum or other limitation on the amount of debt that may be issued or outstanding for a work or purpose shall be deemed to include only the amount of money actually received by the state notwithstanding the face amount of such obligations.

§ 3. Resolved (if the Senate concur), That section 13 of article 7 of the constitution be amended to read as follows:

§ 13. The legislature may provide means and authority whereby any state debt or debts, or any portion or combination thereof, may be refunded [if, when it was contracted, the privilege to pay prior to the date payable was reserved to the state and provided that the debt as thus refunded shall be paid in equal annual installments which shall be not less in amount than the required annual installments of the debt so refunded.] in accordance with the following provisions:

1. State debts may be refunded at any time after they are incurred provided that the state will achieve a debt service savings on a present value basis as a result of the refunding transaction, and further provided that no maturity shall be called for redemption unless the privilege to pay prior to the maturity date was reserved to the state. The legislature may provide for the method of computation of present value for such purpose.

2. In no event shall refunding obligations be issued in an amount exceeding that necessary to provide sufficient funds to accomplish the refunding of the obligations to be refunded including paying all costs and expenses related to the refunding transaction and, in no event, shall the proceeds of refunding obligations be applied to any purpose other than accomplishing the refunding of the debt to be refunded and paying costs and expenses related to the refunding.

3. Proceeds of refunding obligations shall be deposited in escrow funds which shall be maintained and managed by the state comptroller or by an agent or trustee designated by the state comptroller and no legislative appropriation shall be required for disbursement of money, or income earned thereon, from such escrow funds for the purposes enumerated in this section.

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4. Refunding obligations may be refunded pursuant to this section.

5. Refunding obligations shall either be paid in annual installments or annual contributions shall be made to a sinking fund in amounts sufficient to retire the refunding obligations at their maturity. No annual installments or contributions of principal need be made with respect to all or any portion of an issue of refunding obligations in years when debt service on such refunding obligations or portion thereof is paid or contributed entirely from an escrow fund created pursuant to subdivision 3 of this section or in years when no installments or contributions would have been due on the obligations to be refunded. So long as any of the refunding obligations remain outstanding, installments or contributions shall be made in any years that installments or contributions would have been due on the obligations to be refunded.

6. In no event shall the last annual installment or contribution on any portion of refunding debt, including refunding obligations issued to refund other refunding obligations, be made after the termination of the period of probable life of the projects financed with the proceeds of the relevant portion of the debt to be refunded, or any debt previously refunded with the refunding obligations to be refunded, determined as of the date of issuance of the original obligations pursuant to section 12 of this article to finance such projects, or forty years from such date, if earlier; provided, however, that in lieu of the foregoing, an entire refunding issue or portion thereof may be structured to mature over the remaining weighted average useful life of all projects financed with the obligations being refunded.

7. Subject to the provisions of subdivision 5 of this section, each annual installment or contribution of principal of refunding obligations shall be equal to the amount that would be required by subdivision 1 of section 12 of this article if such installments or contributions were required to be made from the year that the next installment or contribution would have been due on the obligations to be refunded, if they had not been refunded, until the final maturity of the refunding obligations but excluding any year in which no installment or contribution would have been due on the obligations to be refunded or, in the alternative, the total payments of principal and interest on the refunding bonds shall be less in each year to their final maturity than the total payments of principal and interest on the bonds to be refunded in each such year.

8. The provisions of subdivision 3 and subdivisions 7 through 9 of section 12 of this article shall apply to sinking funds created pursuant to this section for the payment at maturity of refunding obligations.

§ 4. Resolved (if the Senate concur), That section 16 of article 7 of the constitution be amended to read as follows:

§ 16. The legislature shall annually provide by appropriation for the payment of the interest upon and installments of principal of all debts or refunding debts created on behalf of the state except those contracted under section 9 of this article, as the same shall fall due, and for the contribution to all of the sinking funds [heretofore] created by law, of the amounts annually to be contributed under the provisions of section 12, 13 or 15 of this article. If at any time the legislature shall fail to make any such appropriation, the comptroller shall set

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ABSTRACT OF PROPOSAL NUMBER TWO, AN AMENDMENT

The State Constitution currently provides that indebtedness contracted on or after January 1, 1962 and prior to January 1, 1994, for the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage, shall be excluded from the constitutional debt limits of counties, cities, towns and villages. The proposed amendment would extend for ten years, until January 1, 2004, the period during which sewer debt shall be excluded from the constitutional debt limits of counties, cities, towns and villages.

FORM OF SUBMISSION OF PROPOSAL NUMBER TWO, AN AMENDMENT

DEBT LIMITS FOR SEWAGE FACILITIES

The proposed amendment to Article 8, Section 5 of the constitution would extend for ten years, until January 1, 2004, the authority of counties, cities, towns and villages to exclude from their constitutional debt limits indebtedness contracted for the construction or reconstruction of sewage facilities. Shall the proposed amendment be approved?

TEXT OF PROPOSAL NUMBER THREE, AN AMENDMENT

Section 1. Resolved (if the Senate concur), That section 11 of article 7 of the constitution be amended to read as follows:

§ 11. Except the debts <u>or refunding debts</u> specified in sections 9 [and]<u>,</u> 10 <u>and 13</u> of this article, no debt shall be hereafter contracted by or in behalf of the state, unless such debt shall be authorized by law, for some single work or purpose, to be distinctly specified therein. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election nor shall it be submitted to be voted on within three months after its passage nor at any general election when any other law or any bill shall be submitted to be voted for or against.

The legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law.

§ 2. Resolved (if the Senate concur), That section 12 of article 7 of the constitution be amended to read as follows:

§ 12. Except the debts <u>or refunding debts</u> specified in sections 9 [and]<u>,</u> 10 <u>and 13</u> of this article, all debts contracted by the state and each portion of any such debt from time to time so contracted shall be [paid in equal annual installments, the] <u>subject to the following rules:</u>

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apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such interest, installments of principal, or contributions to such sinking fund, as the case may be, and shall so apply the moneys thus set apart. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds.

<u>Notwithstanding the foregoing provisions of this section, the comptroller may covenant with the purchasers of any state obligations that they shall have no further rights against the state for payment of such obligations or any interest thereon after an amount or amounts determined in accordance with the provisions of such covenant is deposited in a described fund or with a named or described agency or trustee. In such case, this section shall have no further application with respect to payment of such obligations or any interest thereon after the comptroller has complied with the prescribed conditions of such covenant.</u>

§ 5. Resolved (if the Senate concur), That the foregoing amendments be submitted to the people for approval at the general election to be held in the year 1993 in accordance with the provisions of the election law.

ABSTRACT OF PROPOSAL NUMBER THREE, AN AMENDMENT

Section 12 of Article 7 of the State Constitution presently requires that State debts (other than short-term debt authorized by Section 9 of Article 7 and debt on account of invasion, insurrection, war and forest fires authorized by Section 10 of Article 7) be paid in equal annual installments of principal. In order to allow the State to issue bonds calling for other methods of payment, for example, zero coupon and term bonds, the proposed amendment amends Section 12 of Article 7 to provide:

(1) for the payment of principal of State debt in equal annual installments, as presently, or for the payment of substantially level or declining payments of debt service, that is, of principal and interest in combination;

(2) for the creation of sinking funds to retire debt secured thereby, to be maintained and managed by the State Comptroller, or by an agent or trustee designated by the State Comptroller. Disbursements from such sinking funds do not require appropriations;

(3) in the case of debt secured by a sinking fund, for contributions to the sinking fund at least annually of principal in amounts necessary to meet the requirements for equal annual installments of principal or for substantially level or declining debt service;

(4) for contributions to a sinking fund at least annually with respect to debt, such as zero coupon debt, for which interest is not paid at least annually, to achieve the accreted value of such debt on the date of contribution, less future payments or contributions of principal; provided that contributions for interest are not required with respect to debt for which debt service is substantially level or declining;

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(5) that debt shall not be contracted for a period longer than that of the probable life of the work or purpose which the debt finances, as presently, or, alternatively, the weighted average period of the probable life of the works or purposes which the debt finances; and

(6) that when the State issues debt at a discount, the debt incurred shall be deemed to include the amount received by the State rather than, as presently, the face amount of the debt.

With respect to the State's refunding debt, the proposed amendment amends Section 13 of Article 7:

(1) to authorize refunding debt to achieve debt service savings on a present value basis, the method of computing present value savings to be provided by the Legislature.

(2) to authorize refunding debt to refund refunding debt issued previously;

(3) to provide that the last installment or contribution to a sinking fund on any portion of refunding debt shall not be made after the termination of the period of probable life of the financed projects, determined as of the date of issuance of the original debt issued to finance the projects, or, if earlier, forty years from such date; or, alternatively, the refunding debt or portion thereof may be structured to mature over the remaining weighted average useful life of all projects financed with the debt being refunded;

(4) to require annual payment or contribution to sinking funds of principal with respect to the refunding debt in amounts equal to the amounts which would have been required with respect to the refunded debt, or, alternatively, that the amount of annual debt service on the refunding debt shall be less in each year than the total debt service would have been with respect to the refunded debt in each such year; and

(5) to authorize the deposit of proceeds of refunding debt into escrow funds maintained and managed by the State Comptroller, or an agent or trustee designated by the State Comptroller.

The proposed amendment amends Section 16 of Article 7 to provide that purchasers of debt which has been defeased shall have no further right against the State for payment of the defeased debt.

FORM OF SUBMISSION OF PROPOSAL NUMBER THREE, AN AMENDMENT

CONTRACTING, PAYING AND REFUNDING STATE DEBTS

The proposed amendment to Sections 11, 12, 13 and 16 of Article 7 of the State Constitution amends the manner of contracting, paying and refunding State debts. Article 7 presently requires that certain State debt be paid in equal annual installments. The proposed amendment authorizes, as an alternative, principal payment or contributions to a sinking fund

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in installments that result in substantially level or declining debt service payments. In addition, the proposed amendment expands Article 7's existing provision regarding the refunding of State debt by specifying when refunding bonds may be issued by the State and what restrictions must be observed. Shall the proposed amendment be approved?

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I hereby certify that the foregoing text of Ballot Proposal Number One, An Amendment, Proposal Number Two, An Amendment, and Proposal Number Three, An Amendment is a correct copy of the original as certified to be on file in the Department of State.

GIVEN under my hand and official Seal of the State Board of Elections, at the City of Albany, this 30th day of July, in the year one thousand nine hundred and ninety-three.

Thomas R. Wilkey
Executive Director