



**House Bill No. 6801**

**June Special Session, Public Act No. 09-2**

***AN ACT AUTHORIZING ECONOMIC RECOVERY NOTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective from passage*) Notwithstanding the provisions of subsection (b) of section 4-30a of the general statutes, the funds in the Budget Reserve Fund shall not be deemed to be appropriated for the purpose of funding the deficit for the fiscal year ending June 30, 2009.

Sec. 2. (NEW) (*Effective from passage*) (a) For the purpose of funding the deficit in the General Fund arising from the operations of the General Fund for the fiscal year ending June 30, 2009, as reported by the Comptroller to the Governor in accordance with section 3-115 of the general statutes, the Treasurer is authorized to issue notes of the state from time to time in an amount not to exceed the amount of such deficit, and to deposit the proceeds thereof in the General Fund. The Comptroller is hereby authorized and directed to certify to the Treasurer the estimated amount of such deficit and the amount so certified shall be conclusive evidence for the purpose of determining at the time of issuance the amount of notes which the Treasurer is authorized to issue pursuant to this section to fund the deficit. The Comptroller shall make such certification promptly upon passage of this section, and may base such certification on the most recent of the Comptroller's monthly reports on the fiscal condition of the state.

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When the actual amount of the accumulated deficit in the General Fund as of June 30, 2009, is known, the Comptroller is hereby authorized and directed to certify to the Treasurer such amount. In the event that the actual amount of the General Fund deficit is more than the amount initially estimated by the Comptroller, the Treasurer is authorized to issue additional notes of the state therefor and to deposit the proceeds thereof in the General Fund. The Treasurer is authorized to issue notes in an amount sufficient to refund any notes previously issued pursuant to this section. In addition to the notes authorized by this section to fund the deficit, including any refunding notes, the Treasurer is authorized to issue notes in such additional amounts as the Treasurer shall determine to pay the costs of issuance of any notes issued pursuant to this section and interest payable or accrued on such notes through June 30, 2011.

(b) Any notes issued pursuant to this section shall be designated economic recovery notes and shall be issued on or after the effective date of this section.

(c) All such notes shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on such notes as the same shall become due, and accordingly and as part of the contract of the state with the holders of such notes, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the Treasurer shall pay such principal and interest as the same become due. All such notes shall be sold at not less than par and accrued interest in such manner and on such terms as the Treasurer may determine is in the best interest of the state, and shall be signed in the name of the state and on its behalf by the Treasurer. All such notes shall mature before July 1, 2016, in such principal amounts and at such times, bear such date or dates, be payable at such place or places, bear interest at such rate or different or varying rates, payable

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at such time or times, be in such denominations, be in such form with or without interest coupons attached, carry such registration and transfer privileges, be payable in such medium of payment, be subject to such terms of redemption with or without premium and have such additional security, covenant or contract provisions, as appropriate or necessary to improve their marketability, as the Treasurer shall determine prior to their issuance. In connection with such notes, the Treasurer may enter into such paying agent agreements, indentures of trust, escrow agreements or other agreements, with such parties and with such provisions as the Treasurer determines are appropriate or necessary.

(d) The Treasurer may obtain from a commercial bank or insurance company authorized to do business within or without this state a letter of credit, line of credit or other liquidity facility or credit facility for the purpose of providing funds for the payments in respect of notes required by the holder thereof to be redeemed or repurchased prior to maturity or for providing additional security for such notes. In connection with any such liquidity facility or credit facility, the Treasurer may enter into any reimbursement agreements, remarketing agreements, standby purchase agreements or any other necessary or appropriate agreements on behalf of the state in connection with securing or insuring or remarketing such notes, on such terms and conditions as the Treasurer determines to be in the best interest of the state. The Treasurer is authorized to pledge the full faith and credit of the state to the state's payment obligations under any such agreement and the Treasurer is authorized to include such pledge in any such agreement as part of the contract with the provider of such liquidity facility or credit facility. The Treasurer shall apply any appropriation for the payment of such notes to such reimbursement repayment if such liquidity facility or credit facility is drawn upon. As part of the contract of the state with the other parties to any agreement entered into pursuant to this subsection for which the full faith and credit of

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the state is pledged to the state's payment obligations under such agreement, appropriation of all amounts necessary for the punctual payment of the obligations of the state under any such agreement is hereby made and the Treasurer shall pay such amounts as the same become due.

(e) In connection with or incidental to the carrying of such notes, or in connection with or incidental to the sale and issuance of such notes, the Treasurer may enter into such contracts as the Treasurer may determine to be necessary or appropriate to place the obligation of the state, as represented by the notes, in whole or in part, on such interest rate or cash flow basis as the Treasurer may determine, including without limitation, interest rate swap agreements, insurance agreements, forward payment conversion agreements, futures contracts, contracts providing for payments based on levels of, or changes in, interest rates or market indices, contracts to manage interest rate risk, including without limitation, interest rate floors or caps, options, puts, calls and similar arrangements. Such contracts shall contain such payment, security, default, remedy and other terms and conditions as the Treasurer may deem appropriate and shall be entered into with such party or parties as the Treasurer may select, after giving due consideration, where applicable, for the creditworthiness of the counter party or counter parties, including any rating by a nationally recognized rating agency, the impact on any rating on outstanding bonds or notes or any other criteria as the Treasurer may deem appropriate, provided the unsecured long-term obligations of the counter party is rated the same or higher than the underlying rating of the state on the applicable notes by at least one nationally recognized rating agency. The Treasurer is authorized to pledge the full faith and credit of the state to the state's payment obligations under any contract entered into pursuant to this subsection. As part of the contract of the state with the other parties to any agreement entered into pursuant to this subsection for which the

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full faith and credit of the state is pledged to the state's payment obligations under such agreement, appropriation of all amounts necessary for the punctual payment of the obligations of the state under any such agreement is hereby made and the Treasurer shall pay such amounts as the same become due.

(f) The Superior Court shall have jurisdiction to enter judgment against the state founded (1) upon any express contract between the state and the purchasers and subsequent owners and transferees of any economic recovery notes issued or contracted to be issued by the state, and (2) upon any agreement entered into pursuant to subsection (d) or (e) of this section. Any action brought under this subsection shall be brought in the superior court for the judicial district of Hartford. The jurisdiction conferred upon the Superior Court by this subsection includes any set-off, claim or demand whatever on the part of the state against any plaintiff commencing an action under this subsection. Such action shall be tried to the court without a jury. All legal defenses, except governmental immunity, shall be reserved to the state. Any action brought under this subsection shall be privileged in respect to assignment for trial upon motion of either party.

(g) Any expense incurred in connection with the issuance or renewal of the economic recovery notes shall be paid from the accrued interest and premiums on such notes, from the proceeds of the sale of such notes or otherwise from the General Fund. The Treasurer may make representations and agreements for the benefit of the holders of any such notes which are necessary or appropriate to ensure the inclusion or exclusion of interest on such notes of the state from taxation under the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, including agreements to pay rebates to the federal government of investment earnings derived from the investment of the proceeds of notes. The Treasurer may make representations and

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agreements for the benefit of the holders of such notes on behalf of the state to provide secondary market disclosure information. Any such agreement may include: (1) Covenants to provide secondary market disclosure information, (2) arrangements for such information to be provided with the assistance of a paying agent, trustee or other agent, and (3) remedies for breach of such agreement, which remedies may be limited to specific performance. The state shall protect and save harmless any official or former official of the state from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence on the part of such official, while acting in the discharge of his or her official duties, in providing secondary market disclosure information or performing any other duties set forth in any agreement to provide secondary market disclosure information. Nothing in this section shall be construed to preclude the defense of governmental immunity to any such claim, demand or suit. For purposes of this subsection "official" means any person elected or appointed to office or any state employee. This indemnity provision shall not apply to cases of wilful and wanton fraud.

(h) All such notes, their transfer and the income therefrom, including any profit on the sale or transfer thereof, shall at all times be exempt from all taxation by the state or under its authority, except for estate or succession taxes, but the interest on such notes shall be included in the computation of any excise or franchise tax. Such notes are hereby made and declared to be (1) legal investments for savings banks and trustees unless otherwise provided in the instrument creating the trust, (2) securities in which all public officers and bodies, all insurance companies and associations and persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and persons carrying on a banking or investment business, all administrators,

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guardians, executors, trustees and other fiduciaries and all persons whatsoever who are or may be authorized to invest in notes of the state, may properly and legally invest funds, including capital in their control or belonging to them, and (3) securities which may be deposited with and shall be received by all public officers and bodies for any purpose for which the deposit of notes of the state is or may be authorized.

(i) Notwithstanding any provision of the general statutes, for the purpose of determining at any time or times the position of the General Fund as of June 30, 2010, the Comptroller is authorized and directed to give effect to and to show the funding of the General Fund deficit as of June 30, 2009, as certified and provided for in this section in an amount equal to the principal amount of the notes issued and deposited in the General Fund, provided the notes authorized in this section have been so issued prior to such time or times of determination, it being hereby declared to be the intent and purpose of this section to provide for the General Fund deficit as of June 30, 2009, by the funding thereof through the issuance of such notes.

Sec. 3. Subsection (a) of section 3-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No bonds, notes or other evidences of indebtedness for borrowed money payable from General Fund tax receipts of the state shall be authorized by the General Assembly or issued except such as shall not cause the aggregate amount of the total amount of bonds, notes or other evidences of indebtedness payable from General Fund tax receipts authorized by the General Assembly but which have not been issued and the total amount of such indebtedness which has been issued and remains outstanding to exceed one and six-tenths times the total General Fund tax receipts of the state for the fiscal year in which any such authorization will become effective or in which such

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indebtedness is issued, as estimated for such fiscal year by the joint standing committee of the General Assembly having cognizance of finance, revenue and bonding in accordance with section 2-35. In computing such aggregate amount of indebtedness at any time, there shall be excluded or deducted, as the case may be, (1) the principal amount of all such obligations as may be certified by the Treasurer (A) as issued in anticipation of revenues to be received by the state during the period of twelve calendar months next following their issuance and to be paid by application of such revenue, or (B) as having been refunded or replaced by other indebtedness the proceeds and projected earnings on which or other funds are held in escrow to pay and are sufficient to pay the principal, interest and any redemption premium until maturity or earlier planned redemption of such indebtedness, or (C) as issued and outstanding in anticipation of particular bonds then unissued but fully authorized to be issued in the manner provided by law for such authorization, provided, as long as any of such obligations are outstanding, the entire principal amount of such particular bonds thus authorized shall be deemed to be outstanding and be included in such aggregate amount of indebtedness, or (D) as payable solely from revenues of particular public improvements, (2) the amount which may be certified by the Treasurer as the aggregate value of cash and securities in debt retirement funds of the state to be used to meet principal of outstanding obligations included in such aggregate amount of indebtedness, (3) every such amount as may be certified by the Secretary of the Office of Policy and Management as the estimated payments on account of the costs of any public work or improvement thereafter to be received by the state from the United States or agencies thereof and to be used, in conformity with applicable federal law, to meet principal of obligations included in such aggregate amount of indebtedness, (4) all authorized and issued indebtedness to fund any budget deficits of the state for any fiscal year ending on or before June 30, 1991, (5) all authorized indebtedness to fund the program created

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pursuant to section 32-285, (6) all authorized and issued indebtedness to fund any budget deficits of the state for any fiscal year ending on or before June 30, 2002, (7) all indebtedness authorized and issued pursuant to section 1 of public act 03-1 of the September 8 special session\*, (8) all authorized indebtedness issued pursuant to section 3-62h, [and] (9) any indebtedness represented by any agreement entered into pursuant to subsection (b) or (c) of section 3-20a as certified by the Treasurer, provided the indebtedness in connection with which such agreements were entered into shall be included in such aggregate amount of indebtedness, and (10) all indebtedness authorized and issued pursuant to section 2 of this act. In computing the amount of outstanding indebtedness, only the accreted value of any capital appreciation obligation or any zero coupon obligation which has accreted and been added to the stated initial value of such obligation as of the date of any computation shall be included.

Sec. 4. (*Effective from passage*) Notwithstanding the provisions of section 4-30a of the general statutes, after the accounts for the fiscal year ending June 30, 2010, and each fiscal year thereafter, until and including the fiscal year ending June 30, 2017, are closed, if the Comptroller determines there exists an unappropriated surplus in the General Fund, the amount of any such surplus shall first be used for redeeming prior to maturity any outstanding notes issued under section 2 of this act.

Approved September 1, 2009