IN SENATE---Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

Assembly

IN ASSEMBLY---Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

*CONSTCOR*
(Prohibits certain borrowing arrangements, the authorization for the contracting of debt and the manner in which payments are appropriated and paid)

Const. prohibit certain borrowing

CONCURRENT RESOLUTION
OF THE SENATE AND ASSEMBLY
proposing amendments to article 7 of the constitution, in relation to the prohibition of certain borrowing arrangements, the authorization for the contracting of debt and the manner by which payments are appropriated and paid

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction desk with 2 signed copies of bill and 4 copies of memorial in support (single house), or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

LBDC 01/01/06
Section 1. Resolved (if the concur), That section 10 of article 7 of the constitution be amended to read as follows:

§ 10. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, [or]
defend the state in war, [or to suppress forest fires] or to respond to any other emergency resulting from a disaster, including but not limited to a disaster caused by an act of terrorism; but the money arising from the contracting of such debts shall be applied for the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

No debt shall be contracted pursuant to this section without the concurrence of the governor and two-thirds of the members elected to each house of the legislature. The governor shall have the power to summon and convene the legislature to special session, the sole purpose of which shall be for the consideration of a law or laws authorizing such emergency debt.

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

§ 11. 1. Except the debts or refunding debts specified in sections 9, 10 and 13 of this article, [no debt shall be hereafter contracted by or in behalf of the state, unless] and subdivisions 2 and 3 of this section, or as expressly provided for elsewhere in this constitution, the state shall not enter into any financing or other similar arrangement, whether by statute, appropriation, contract, lease, or otherwise, whereby (i) the state agrees to make payments which will be used directly or indirectly, for the payment of interest, installments of principal, or contributions to sinking funds on indebtedness issued or contracted by any state agency, municipality, individual, or public or private corporation for state purposes or to finance grants or loans
made or to be made by or on behalf of the state for any purpose; or (ii) state revenues are diverted to or securitized by any state agency, municipality, individual, or public or private corporation or entity for the purpose of receiving upfront payments or other compensation; or (iii) the state makes payments to any state agency, municipality, individual, or public or private corporation or entity, and these payments are the sole support for payments of interest, installments of principal, or contributions to sinking funds on obligations of said state agency, municipality, individual, or public or private corporation or entity. The foregoing restrictions shall apply whether or not the obligation of the state to make such payments is subject to appropriation or is otherwise contingent. 2. The state may contract debt under this subdivision which is secured by a pledge of the full faith and credit of the state if such debt shall be authorized by law, for some single capital work or purpose, to be distinctly specified therein[. No]; provided that 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]. 3. The state may also contract debt, in a manner prescribed by law, which is secured by a pledge of specific revenues of the state. The legislature shall, by law, identify the capital works or purposes to be financed with such debt. Revenues in excess of the required payments of interest, installment payments of principal, or contributions to sinking
funds for such debt shall be available for such other purposes, as
provided by law.

4. The state may not contract debt authorized pursuant to subdivision
2 or 3 of this section unless the total outstanding principal amount of
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
applicable to such fiscal year, where such personal income is defined by
and calculated in accordance with law. The total outstanding principal
amount of debt shall include all debt or other obligations contracted or
otherwise incurred, as described in subdivisions 1, 2 and 3 of this
section and classified as a state-related debt obligation, as reported
by the state comptroller in the annual report on a cash basis of
accounting, excluding debts specified in section 9 of this article. The
outstanding principal amount of debt, with regard to the inclusion of
either refunded or refunding obligations, shall be defined by law. The
designated percentage shall be six percent beginning with fiscal year
two thousand eight--two thousand nine, five and one-half percent begin-
nning with fiscal year two thousand twelve--two thousand thirteen, five
percent beginning with fiscal year two thousand sixteen--two thousand
seventeen, four and one-half percent beginning with fiscal year two
thousand twenty--two thousand twenty-one, and four percent for fiscal
year two thousand twenty-four--two thousand twenty-five and thereafter.

5. The state may not contract debt authorized pursuant to subdivision
3 of this section unless the total outstanding principal amount of such
debt as of the last day of the immediately preceding fiscal year is less
than two percent of the total personal income of the state applicable to
such fiscal year, as defined pursuant to subdivision 4 of this section.
The total outstanding principal amount of debt shall include all debt or
other obligations contracted or otherwise incurred pursuant to subdivision 3 of this section and classified as a state-related debt obligation, as reported by the state comptroller in the annual report on a cash basis of accounting as newly issued on and after April first, two thousand eight. The outstanding principal amount of debt, with regard to the inclusion of either refunded or refunding obligations, shall be defined by law.

6. The state may not contract debt authorized pursuant to subdivision 2 or 3 of this section unless the total amount of interest, installments of principal, contributions to sinking funds, and related payments by the state on a cash basis of accounting for debt in the immediately preceding fiscal year is less than the designated percentage of total governmental funds receipts for such fiscal year, where such total governmental receipts is defined by and calculated in accordance with law. This shall include the total amount of such payments by the state on debt contracted or otherwise incurred, as described in subdivisions 1, 2 and 3 of this section and classified as a state-related debt obligation, as reported by the state comptroller in the annual report on a cash basis of accounting, excluding debts specified in section 9 of this article, but shall not include payments in any fiscal year made by the state to defease or retire debt not required by mandatory payments. The designated percentage shall be five percent for fiscal year two thousand eight—two thousand nine and thereafter.

7. Notwithstanding the foregoing, the designated percentages contained in subdivisions 4, 5 and 6 of this section may be amended by law, provided that no such law shall take effect until it shall, at a general election, have been submitted to the people and received a majority of
all of 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.

8. 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] of a particular law authorized under subdivision 2 or 3 of this section, repeal [the same] such law authorizing the issuance of such debt; and may at any time, by law, forbid the contracting of any further debt or liability under such law.

9. No debt shall be contracted pursuant to subdivision 2 or 3 of this section, except to finance capital works or purposes.

10. The state may contract debt to refund debt contracted pursuant to subdivision 2 or 3 of this section provided such refundings are conducted in accordance with the provisions of section 13 of this article. Notwithstanding the foregoing, the provisions of section 13 of this article relating to the maintenance or management of escrow funds and sinking funds shall only be applicable to debt issued by the comptroller.

11. The provisions of subdivision 1 of this section shall not prohibit the state from providing monies for any of the obligations hereafter prohibited by said subdivision 1, including for payment of interest, installments of principal, or contributions to sinking funds on obligations to the extent such obligations were contracted for or otherwise incurred prior to the effective date of such subdivision or on obligations issued to refund such obligations, provided such refundings are conducted in accordance with the applicable provisions of section 13 of this article. Notwithstanding the foregoing, the provisions of section 13 of this article relating to the maintenance or management of escrow funds shall
funds and sinking funds shall only be applicable to debt issued by the state comptroller.

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

§ 12. Except the debts or refunding debts specified in sections 9, 10 and 13 of this article, all debts contracted by the state and each portion of any such debt from time to time so contracted shall be subject to the following rules:

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 subdi-
vision 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 annual installment on such debt shall be paid, or the first annual contribution shall be made to a sinking fund, not more than one year, and the last installment shall be paid, or contribution made not more than [forty] thirty 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 capital work or purpose for which the debt is to be contracted, or in the alternative, the weighted average period of probable life of the capital 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 capital 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 or premium, 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 capital 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.

§ 4. Resolved (if the 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 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 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. Provided however, with respect to debt contracted pursuant to subdivision 3 of section 11 of this article, if at any time the legislature shall fail to make any such appropriation, the comptroller shall set apart from the first revenues received and pledged to such payments, 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, provided however that such revenues must be set aside and applied in a manner which ensures that pledged revenues are applied only to payments on and relating to debt for which such revenues were pledged pursuant to subdivision 3 of section 11 of this article. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds.

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 deter-
mined 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 comp-
troller has complied with the prescribed conditions of such covenant.

§ 5. Resolved (if the concur), That the foregoing amendments be

referred to the first regular legislative session convening after the

next succeeding general election of members of the assembly, and, in

conformity with section 1 of article 19 of the constitution, be

published for 3 months previous to the time of such election.