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I N   A S S E M B L Y

May 19, 2016

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to article 7 of the constitution, in relation to authorization of debt to respond to acts of terrorism, a limit on the total amount of state-funded debt, and the refunding of state debts

1     Section 1. Resolved (if the Senate concur), That section 10 of article  
2     7 of the constitution be amended to read as follows:  
3     S 10. In addition to the above limited power to contract debts, the  
4     state may contract debts to repel invasion, suppress insurrection, [or]  
5     defend the state in war, [or] to suppress forest fires OR TO RESPOND TO  
6     AN ACT OF TERRORISM; but the money arising from the contracting of such  
7     debts shall be applied for the purpose for which it was raised, or to  
8     repay such debts, and to no other purpose whatever.  
9     S 2. Resolved (if the Senate concur), That section 11 of article 7 of  
10    the constitution be amended to read as follows:  
11    S 11. 1. Except the debts or refunding debts specified in sections 9,  
12    10 and 13 of this article, no debt shall be hereafter contracted by or  
13    [in] ON behalf of the state, unless such debt shall be authorized by law  
14    PURSUANT TO THIS SECTION, for some single work or purpose, to be  
15    distinctly specified therein. [No such law] DEBT SUBJECT TO THE  
16    PROVISIONS OF THIS SECTION SHALL INCLUDE ANY DEBT OR OBLIGATION, OTHER  
17    THAN DEBT OR REFUNDING DEBT INCURRED PURSUANT TO SECTIONS 9, 10 AND 13  
18    OF THIS ARTICLE, SUPPORTED IN WHOLE OR IN PART BY ANY FINANCING ARRANGE-  
19    MENT WHEREBY THE STATE AGREES, WHETHER BY LAW, CONTRACT, OR OTHERWISE,  
20    TO MAKE PAYMENTS WHICH ARE TO BE USED, DIRECTLY OR INDIRECTLY, FOR THE  
21    PAYMENT OF PRINCIPAL, INTEREST, OR RELATED PAYMENTS ON INDEBTEDNESS  
22    INCURRED OR CONTRACTED BY THE STATE ITSELF FOR ANY PURPOSE, OR BY ANY  
23    STATE AGENCY, MUNICIPALITY, INDIVIDUAL, PUBLIC AUTHORITY OR OTHER PUBLIC  
24    OR PRIVATE CORPORATION OR ANY OTHER ENTITY FOR STATE CAPITAL OR OPERAT-  
25    ING PURPOSES OR TO FINANCE GRANTS, LOANS OR OTHER ASSISTANCE PAYMENTS  
26    MADE OR TO BE MADE BY OR ON BEHALF OF THE STATE FOR ANY PURPOSE. IF THE  
27    STATE AGREES OR HAS AGREED ON OR AFTER APRIL FIRST, NINETEEN HUNDRED  
28    NINETY-SEVEN TO MAKE FUTURE REVENUES FROM A SPECIFIC STATE SOURCE AVAIL-  
29    ABLE FOR THE PURPOSE OF SUPPORTING DEBT OF ANY MUNICIPALITY, INDIVIDUAL,

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

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1 PUBLIC OR PRIVATE CORPORATION OR ANY OTHER ENTITY, OR, IF ON OR AFTER  
2 SUCH DATE, A PROGRAM OF DEBT IS AUTHORIZED TO BE ISSUED WHERE STATE AID  
3 IS INTENDED TO BE THE SOLE SOURCE OF PAYMENT OF DEBT SERVICE, SUCH DEBT  
4 SHALL BE CONSIDERED TO BE A DEBT FOR THE PURPOSE OF FINANCING A STATE  
5 GRANT, LOAN OR OTHER ASSISTANCE PAYMENT AND SHALL BE SUBJECT TO THE  
6 PROVISIONS OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL APPLY  
7 (I) WHETHER OR NOT THE OBLIGATION OF THE STATE TO MAKE PAYMENTS IS  
8 SUBJECT TO APPROPRIATION, OR (II) WHETHER OR NOT DEBT SERVICE IS TO BE  
9 PAID FROM A REVENUE STREAM TRANSFERRED BY THE STATE TO ANOTHER PARTY  
10 THAT IS RESPONSIBLE FOR MAKING SUCH PAYMENTS.

11 2. THE LEGISLATURE MAY, BY LAW, AUTHORIZE THE STATE TO CONTRACT DEBT  
12 SECURED BY A PLEDGE OF SPECIFIC STATE REVENUES AUTHORIZED BY SUCH LAW TO  
13 BE DEPOSITED IN A DEDICATED TRUST FUND OR FUNDS CREATED FOR CAPITAL  
14 WORKS OR PURPOSES. THE LEGISLATURE SHALL, BY LAW, IDENTIFY THE CAPITAL  
15 WORKS OR PURPOSES TO BE FINANCED WITH SUCH DEBT. REVENUES IN EXCESS OF  
16 THE REQUIRED PAYMENTS OF DEBT SERVICE AND RELATED PAYMENTS ON SUCH DEBT  
17 SHALL BE AVAILABLE FOR OTHER PURPOSES, AS PROVIDED BY LAW.

18 3. EXCEPT AS PROVIDED IN SUBDIVISION 5 OF THIS SECTION, NO LAW AUTHOR-  
19 IZING DEBT TO BE CREATED BY THE STATE PURSUANT TO SUBDIVISIONS 1 AND 2  
20 OF THIS SECTION shall take effect until it shall, at a general election,  
21 have been submitted to the people, and have received a majority of all  
22 the votes cast for and against it at such election nor shall it be  
23 submitted to be voted on within three months after its passage [nor at  
24 any general election when any other law or any bill shall be submitted  
25 to be voted for or against] BY THE LEGISLATURE.

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

30 4. DURING THE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND TWENTY-  
31 SIX AND IN EVERY FISCAL YEAR THEREAFTER, NO DEBT AUTHORIZED PURSUANT TO  
32 THIS SECTION SHALL BE INCURRED UNLESS THE TOTAL PRINCIPAL AMOUNT OF DEBT  
33 TO BE INCURRED PURSUANT TO SUCH LAW, TOGETHER WITH THE TOTAL PRINCIPAL  
34 AMOUNT OF DEBT ALREADY OUTSTANDING, SHALL BE EQUAL TO OR LESS THAN FIVE  
35 PERCENT OF THE TOTAL PERSONAL INCOME OF THE STATE AS DETERMINED BY LAW.  
36 DEBTS SUBJECT TO THE LIMITS IMPOSED BY THIS SECTION SHALL INCLUDE ALL  
37 DEBT, WHENEVER ISSUED, DESCRIBED IN SUBDIVISIONS 1 AND 2 OF THIS SECTION  
38 BUT SHALL NOT INCLUDE THE DEBTS SPECIFIED IN SECTIONS 9, 10 AND 13 OF  
39 THIS ARTICLE.

40 5. DURING ANY FISCAL YEAR, DEBT IN THE COMBINED AGGREGATE AMOUNT OF  
41 ONE-HALF OF ONE PERCENT OF TOTAL GOVERNMENTAL FUNDS TAX RECEIPTS IN THE  
42 IMMEDIATELY PRECEDING FISCAL YEAR MAY BE INCURRED PURSUANT TO A LAW OR  
43 LAWS THAT ARE NOT SUBMITTED FOR APPROVAL BY THE PEOPLE. SUCH DEBT SHALL  
44 BE INCURRED ONLY FOR CRITICAL CAPITAL NEEDS. HOWEVER, IN NO EVENT SHALL  
45 DEBT INCURRED IN FISCAL YEARS BEGINNING IN TWO THOUSAND TWENTY-SIX AND  
46 THEREAFTER PURSUANT TO SUCH LAW OR LAWS RESULT IN A TOTAL PRINCIPAL  
47 AMOUNT OF DEBT IN EXCESS OF THE LIMIT DETERMINED PURSUANT TO SUBDIVISION  
48 4 OF THIS SECTION.

49 6. (I) ALL DEBT SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL,  
50 EXCEPT FOR REFUNDING DEBT, BE INCURRED ONLY FOR A CAPITAL PURPOSE  
51 AUTHORIZED BY LAW, AND (II) ALL DEBT SUBJECT TO THE PROVISIONS OF THIS  
52 SECTION AND ALL DEBT AND REFUNDING DEBT SPECIFIED IN SECTIONS 9, 10 AND  
53 13 OF THIS ARTICLE SHALL, IF INCURRED ON OR AFTER THE FIRST DAY OF THE  
54 FIRST FISCAL YEAR BEGINNING AT LEAST ONE YEAR AFTER THE DATE THIS SUBDI-  
55 VISION SHALL HAVE TAKEN EFFECT, BE IN THE FORM OF OBLIGATIONS ISSUED BY  
56 THE COMPTROLLER.

1 7. NOTHING CONTAINED IN THIS SECTION SHALL INVALIDATE DEBT OBLIGATIONS  
2 OUTSTANDING ON THE DATE THIS SUBDIVISION SHALL HAVE TAKEN EFFECT THAT  
3 WOULD BE SUBJECT TO THE PROVISIONS OF THIS SECTION IF INCURRED AFTER THE  
4 DATE THIS SUBDIVISION SHALL HAVE TAKEN EFFECT, AND THE STATE MAY CONTIN-  
5 UE TO PROVIDE FOR PAYMENTS RELATED TO SUCH DEBT ON THE SAME TERMS UNDER  
6 WHICH SUCH DEBT WAS INCURRED; PROVIDED, HOWEVER, THAT NO SUCH DEBT SHALL  
7 BE REFUNDED UNLESS SUCH REFUNDING COMPLIES IN ALL RESPECTS WITH THE  
8 REQUIREMENTS OF SECTION 13 OF THIS ARTICLE. THE PROVISIONS OF SECTION 16  
9 OF THIS ARTICLE SHALL NOT APPLY TO STATE PAYMENTS WITH RESPECT TO ANY  
10 SUCH OUTSTANDING OBLIGATIONS UNLESS SUCH PROVISIONS WOULD HAVE APPLIED  
11 PRIOR TO THE DATE THIS SUBDIVISION SHALL HAVE TAKEN EFFECT.

12 8. DEBT OBLIGATIONS ISSUED TO REFUND OUTSTANDING STATE DEBT, REGARD-  
13 LESS OF WHETHER SUCH OUTSTANDING DEBT WAS INCURRED PRIOR TO THE DATE  
14 THIS SUBDIVISION SHALL HAVE TAKEN EFFECT, SHALL NOT BE COUNTED FOR THE  
15 PURPOSES OF THE LIMIT IMPOSED BY SUBDIVISION 4 OF THIS SECTION IF SUCH  
16 REFUNDING COMPLIES IN ALL RESPECTS WITH SECTION 13 OF THIS ARTICLE. FOR  
17 PURPOSES OF THIS SUBDIVISION AND SUBDIVISION 7 OF THIS SECTION, ANY  
18 REFUNDING DEBT THAT DOES NOT EXTEND BEYOND THE FINAL MATURITY OF THE  
19 DEBT BEING REFUNDED SHALL BE DEEMED TO COMPLY WITH THE PROVISIONS OF  
20 SUBDIVISION 6 OF SECTION 13 OF THIS ARTICLE, PROVIDED THAT THERE IS AN  
21 ACTUAL DEBT SERVICE SAVINGS IN EVERY YEAR TO MATURITY AS A RESULT OF THE  
22 ISSUANCE OF THE REFUNDING DEBT.

23 9. AFTER THE DATE THIS SECTION SHALL HAVE TAKEN EFFECT, THE STATE  
24 SHALL NOT, EXCEPT AS SPECIFICALLY AUTHORIZED IN ANOTHER SECTION OF THIS  
25 CONSTITUTION, AGREE TO MAKE PAYMENTS, DIRECTLY OR INDIRECTLY, WHETHER OR  
26 NOT SUBJECT TO APPROPRIATION, THAT ARE TO BE AVAILABLE TO PAY INTEREST,  
27 INSTALLMENTS OF PRINCIPAL, CONTRIBUTIONS TO SINKING FUNDS, AND RELATED  
28 PAYMENTS ON ANY DEBT INCURRED BY A MUNICIPALITY, INDIVIDUAL, PUBLIC  
29 AUTHORITY OR OTHER PUBLIC OR PRIVATE CORPORATION OR ANY OTHER ENTITY,  
30 FOR ANY PURPOSE, IF SUCH PAYMENTS ARE EXPECTED TO BE USED TO PAY INTER-  
31 EST, INSTALLMENTS OF PRINCIPAL, CONTRIBUTIONS TO SINKING FUNDS, AND  
32 RELATED PAYMENTS ONLY IF OTHER SOURCES AVAILABLE FOR THE PAYMENT OF  
33 INTEREST, INSTALLMENTS OF PRINCIPAL, CONTRIBUTIONS TO SINKING FUNDS, AND  
34 RELATED PAYMENTS ARE INADEQUATE. ANY PROVISION REQUIRING THE STATE TO  
35 REPLACE MONIES USED TO PAY INTEREST, INSTALLMENTS OF PRINCIPAL, CONTRIB-  
36 UTIONS TO SINKING FUNDS, AND RELATED PAYMENTS SHALL BE INCLUDED IN THE  
37 PROHIBITION SET FORTH IN THIS SUBDIVISION. OUTSTANDING DEBT THAT WOULD  
38 BE PROHIBITED BY THIS SUBDIVISION IF SUCH DEBT HAD BEEN INCURRED AFTER  
39 THE DATE THIS SUBDIVISION SHALL HAVE TAKEN EFFECT MAY BE REFUNDED BY THE  
40 ENTITY THAT INCURRED THE OUTSTANDING DEBT PROVIDED THAT THE PROVISIONS  
41 OF SUBDIVISIONS 7 AND 8 OF THIS SECTION ARE COMPLIED WITH EXCEPT THE  
42 REQUIREMENT THAT SUCH REFUNDING DEBT OBLIGATIONS BE ISSUED BY THE COMP-  
43 TROLLER.

44 S 3. Resolved (if the Senate concur), That section 16 of article 7 of  
45 the constitution be amended to read as follows:

46 S 16. The legislature shall annually provide by appropriation for the  
47 payment of the interest upon and installments of principal of all debts  
48 or refunding debts created on behalf of the state except those  
49 contracted under section 9 of this article, as the same shall fall due,  
50 and for the contribution to all of the sinking funds created by law, of  
51 the amounts annually to be contributed under the provisions of section  
52 12, 13 or 15 of this article. [If] WITH RESPECT TO DEBT CONTRACTED OTHER  
53 THAN PURSUANT TO SUBDIVISION 2 OF SECTION 11 OF THIS ARTICLE, IF at any  
54 time the legislature shall fail to make any such appropriation, the  
55 comptroller shall set apart from the first revenues thereafter received,  
56 applicable to the general fund of the state, a sum sufficient to pay

1 such interest, installments of principal, or contributions to such sink-  
2 ing fund, as the case may be, and shall so apply the moneys thus set  
3 apart. IF AT ANY TIME THE LEGISLATURE SHALL FAIL TO MAKE AN APPROPRI-  
4 ATION FOR THE PAYMENT OF INTEREST OR INSTALLMENTS OF PRINCIPAL OR SINK-  
5 ING FUND PAYMENTS OR RELATED PAYMENTS ON ANY DEBT CONTRACTED PURSUANT TO  
6 SUBDIVISION 2 OF SECTION 11 OF THIS ARTICLE, THE COMPTROLLER SHALL SET  
7 APART FROM THE FIRST REVENUES RECEIVED AND PLEDGED TO SUCH PAYMENTS, A  
8 SUM SUFFICIENT TO PAY SUCH INTEREST OR INSTALLMENT OF PRINCIPAL OR  
9 CONTRIBUTIONS TO SUCH SINKING FUND PAYMENTS, AND SHALL SO APPLY THE  
10 MONEYS THUS SET APART, PROVIDED HOWEVER THAT SUCH REVENUES MUST BE SET  
11 ASIDE AND APPLIED IN A MANNER WHICH ENSURES THAT PLEDGED REVENUES ARE  
12 APPLIED ONLY TO PAYMENTS ON DEBT FOR WHICH SUCH REVENUES WERE PLEDGED  
13 PURSUANT TO SUBDIVISION 2 OF SECTION 11 OF THIS ARTICLE. The comptroller  
14 may be required to set aside and apply such revenues as aforesaid, at  
15 the suit of any holder of such bonds.

16 Notwithstanding the foregoing provisions of this section, the comp-  
17 troller may covenant with the purchasers of any state obligations that  
18 they shall have no further rights against the state for payment of such  
19 obligations or any interest thereon after an amount or amounts deter-  
20 mined in accordance with the provisions of such covenant is deposited in  
21 a described fund or with a named or described agency or trustee. In such  
22 case, this section shall have no further application with respect to  
23 payment of such obligations or any interest thereon after the comp-  
24 troller has complied with the prescribed conditions of such covenant.

25 S 4. Resolved (if the Senate concur), That the foregoing amendments be  
26 referred to the first regular legislative session convening after the  
27 next succeeding general election of members of the assembly, and, in  
28 conformity with section 1 of article 19 of the constitution, be  
29 published for 3 months previous to the time of such election.