

PROGRAM BILL # 98

S.

Senate

IN SENATE--Introduced by Sen

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

----- A.
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 appro-
priated 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 appro-
priated and paid

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

- | | | | | |
|-----------------|---------------|-----------------|------------------|----------------|
| a55 Alessi | a08 Fuschillo | a52 Liboux | s21 Parker | s14 Smith. M. |
| a20 Andrews | a22 Golden | a45 Little | a30 Paterson | s35 Spano |
| a07 Balboni | a33 Gonzalez | a15 Maltese | s61 Rath | s58 Stachowski |
| a42 Bonacic | a06 Hannon | a05 Marcellino | s56 Robach | s16 Stavisky |
| a46 Breslin | a36 Hassell- | s24 Marchi | s13 Sabin | s03 Trunzo |
| a43 Bruno | Thompson | s62 Maziarz | s41 Saland | a49 Valesky |
| a25 Connor | a04 Johnson | a47 Meier | s19 Sampson | s59 Volker |
| a50 DeFrancisco | s34 Klein | s18 Montgomery | s23 Savino | s53 Winner |
| a32 Diaz | s26 Krueger | s38 Morahan | s31 Schneiderman | a48 Wright |
| a17 Dilan | s27 Kruger | s54 Nozzolio | s28 Serrano | s57 Young |
| a29 Duane | s39 Larkin | a12 Onorato | s51 Seward | s60 |
| a44 Farley | s01 LaValle | a37 Oppenheimer | s09 Skelos | |
| a02 Planagan | a40 Leibell | a11 Padavan | s10 Smith. A. | |

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

- | | | | | |
|------------------|------------------|-----------------|-----------------|------------------|
| a049 Abbate | a032 Cook | a083 Heastie | a022 Meng | a012 Saladino |
| a001 Alessi | a107 Crouch | a028 Hevesi | a102 Miller | a113 Sayward |
| a021 Alfano | a063 Cusick | a048 Hkind | a052 Millman | a029 Scarborough |
| a084 Arroyo | a045 Cymbrowitz | a127 Hooker | a060 Hirones | a140 Schimminger |
| a118 Aubertine | a138 DelMonte | a018 Hooper | a132 Morelle | a145 Schroeder |
| a035 Aubry | a116 Destito | a144 Hoyt | a093 Mosiello | a122 Scozzafava |
| a136 Bacalles | a086 Diaz. L. | a062 Ignizio | a037 Nolan | a038 Seminerio |
| a124 Barclay | a085 Diaz. R. | a042 Jacobs | a128 Oaks | a064 Silver |
| a014 Barra | a016 DiNapoli | a131 John | a069 O'Donnell | a099 Stephens |
| a082 Benedetto | a081 Dinowitz | a095 Karben | a137 O'Mara | a011 Sweeney |
| a079 Benjamin | a003 Eddington | a100 Kirwan | a051 Ortiz | a110 Tedisco |
| a073 Bing | a004 Englebright | a129 Kolb | a114 Ortloff | a002 Thiele |
| a055 Boyland | a130 Errigo | a135 Koon | a150 Parment | a031 Titus |
| a089 Bradley | a072 Espallat | a034 Lafayette | a088 Paulin | a143 Tokasz |
| a044 Brennan | a071 Farrell | a091 Latimer | a141 Peoples | a105 Tonko |
| a092 Brodsky | a005 Fields | a061 Lavelle | a039 Feralta | a054 Towns |
| a121 Brown | a123 Finch | a013 Lavine | a058 Perry | a115 Townsend |
| a147 Burling | a007 Fitzpatrick | a050 Lentol | a023 Pheffer | a015 Walker |
| a117 Butler | a090 Galef | a125 Lifton | a068 Powell | a041 Weinstein |
| a101 Cahill | a133 Gantt | a053 Lopez | a007 Pretlow | a020 Weisenberg |
| a096 Calhoun | a036 Gianaris | a126 Lupardo | a146 Quinn | a024 Weprin |
| a043 Camara | a149 Giglio | a111 Magee | a097 Rabbitt | a142 Hirth |
| a106 Canestrari | a066 Glick | a120 Magnarelli | a009 Raia | a070 Wright |
| a026 Carrozza | a040 Gordon | a103 Manning | a006 Ramos | a094 Zebrowski |
| a108 Casale | a075 Gottfried | a030 Markey | a134 Reilich | a008 |
| a119 Christensen | a065 Grannis | a027 Mayersohn | a109 Reilly | a017 |
| a033 Clark | a057 Green | a112 McDonald | a078 Rivera. J. | a059 |
| a046 Cohen. A. | a077 Greene | a019 McDonough | a000 Rivera. N. | a067 |
| a047 Colton | a098 Gunther | a104 McEneny | a076 Rivera. P. | a074 |
| a010 Conte | a148 Hayes | a025 McLaughlin | a056 Robinson | a139 |

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 clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Resolved (if the concur), That section 10 of article
2 7 of the constitution be amended to read as follows:

3 § 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 any other emergency resulting from a disaster, including but not limited
7 to a disaster caused by an act of terrorism; but the money arising from
8 the contracting of such debts shall be applied for the purpose for which
9 it was raised, or to repay such debts, and to no other purpose whatever.
10 No debt shall be contracted pursuant to this section without the concur-
11 rence of the governor and two-thirds of the members elected to each
12 house of the legislature. The governor shall have the power to summon
13 and convene the legislature to special session, the sole purpose of
14 which shall be for the consideration of a law or laws authorizing such
15 emergency debt.

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

18 § 11. 1. Except the debts or refunding debts specified in sections 9,
19 10 and 13 of this article, [no debt shall be hereafter contracted by or
20 in behalf of the state, unless] and subdivisions 2 and 3 of this
21 section, or as expressly provided for elsewhere in this constitution,
22 the state shall not enter into any financing or other similar arrange-
23 ment, whether by statute, appropriation, contract, lease, or otherwise,
24 whereby (i) the state agrees to make payments which will be used direct-
25 ly or indirectly, for the payment of interest, installments of princi-
26 pal, or contributions to sinking funds on indebtedness issued or
27 contracted by any state agency, municipality, individual, or public or
28 private corporation for state purposes or to finance grants or loans

1 made or to be made by or on behalf of the state for any purpose; or (ii)
2 state revenues are diverted to or securitized by any state agency, muni-
3 cipality, individual, or public or private corporation or entity for the
4 purpose of receiving upfront payments or other compensation; or (iii)
5 the state makes payments to any state agency, municipality, individual,
6 or public or private corporation or entity, and these payments are the
7 sole support for payments of interest, installments of principal, or
8 contributions to sinking funds on obligations of said state agency,
9 municipality, individual, or public or private corporation or entity.
10 The foregoing restrictions shall apply whether or not the obligation of
11 the state to make such payments is subject to appropriation or is other-
12 wise contingent.

13 2. The state may contract debt under this subdivision which is secured
14 by a pledge of the full faith and credit of the state if such debt shall
15 be authorized by law, for some single capital work or purpose, to be
16 distinctly specified therein[. No]; provided that no such law shall take
17 effect until it shall, at a general election, have been submitted to the
18 people, and have received a majority of all the votes cast for and
19 against it at such election nor shall it be submitted to be voted on
20 within three months after its passage [nor at any general election when
21 any other law or any bill shall be submitted to be voted for or
22 against].

23 3. The state may also contract debt, in a manner prescribed by law,
24 which is secured by a pledge of specific revenues of the state. The
25 legislature shall, by law, identify the capital works or purposes to be
26 financed with such debt. Revenues in excess of the required payments of
27 interest, installment payments of principal, or contributions to sinking

1 funds for such debt shall be available for such other purposes, as
2 provided by law.

3 4. The state may not contract debt authorized pursuant to subdivision
4 2 or 3 of this section unless the total outstanding principal amount of
5 debt as of the last day of the immediately preceding fiscal year is less
6 than the designated percentage of the total personal income of the state
7 applicable to such fiscal year, where such personal income is defined by
8 and calculated in accordance with law. The total outstanding principal
9 amount of debt shall include all debt or other obligations contracted or
10 otherwise incurred, as described in subdivisions 1, 2 and 3 of this
11 section and classified as a state-related debt obligation, as reported
12 by the state comptroller in the annual report on a cash basis of
13 accounting, excluding debts specified in section 9 of this article. The
14 outstanding principal amount of debt, with regard to the inclusion of
15 either refunded or refunding obligations, shall be defined by law. The
16 designated percentage shall be six percent beginning with fiscal year
17 two thousand eight--two thousand nine, five and one-half percent begin-
18 ning with fiscal year two thousand twelve--two thousand thirteen, five
19 percent beginning with fiscal year two thousand sixteen--two thousand
20 seventeen, four and one-half percent beginning with fiscal year two
21 thousand twenty--two thousand twenty-one, and four percent for fiscal
22 year two thousand twenty-four--two thousand twenty-five and thereafter.

23 5. The state may not contract debt authorized pursuant to subdivision
24 3 of this section unless the total outstanding principal amount of such
25 debt as of the last day of the immediately preceding fiscal year is less
26 than two percent of the total personal income of the state applicable to
27 such fiscal year, as defined pursuant to subdivision 4 of this section.
28 The total outstanding principal amount of debt shall include all debt or

1 other obligations contracted or otherwise incurred pursuant to subdivi-
2 sion 3 of this section and classified as a state-related debt obli-
3 gation, as reported by the state comptroller in the annual report on a
4 cash basis of accounting as newly issued on and after April first, two
5 thousand eight. The outstanding principal amount of debt, with regard to
6 the inclusion of either refunded or refunding obligations, shall be
7 defined by law.

8 6. The state may not contract debt authorized pursuant to subdivision
9 2 or 3 of this section unless the total amount of interest, installments
10 of principal, contributions to sinking funds, and related payments by
11 the state on a cash basis of accounting for debt in the immediately
12 preceding fiscal year is less than the designated percentage of total
13 governmental funds receipts for such fiscal year, where such total
14 governmental receipts is defined by and calculated in accordance with
15 law. This shall include the total amount of such payments by the state
16 on debt contracted or otherwise incurred, as described in subdivisions
17 1, 2 and 3 of this section and classified as a state-related debt obli-
18 gation, as reported by the state comptroller in the annual report on a
19 cash basis of accounting, excluding debts specified in section 9 of this
20 article, but shall not include payments in any fiscal year made by the
21 state to defease or retire debt not required by mandatory payments. The
22 designated percentage shall be five percent for fiscal year two thousand
23 eight--two thousand nine and thereafter.

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

1 all of the votes cast for and against it at such election nor shall it
2 be submitted to be voted on within three months after its passage.

3 8. The legislature may, at any time [after the approval of such law by
4 the people], if no debt shall have been contracted in pursuance [there-
5 of] of a particular law authorized under subdivision 2 or 3 of this
6 section, repeal [the same] such law authorizing the issuance of such
7 debt; and may at any time, by law, forbid the contracting of any further
8 debt or liability under such law.

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

11 10. The state may contract debt to refund debt contracted pursuant to
12 subdivision 2 or 3 of this section provided such refundings are
13 conducted in accordance with the provisions of section 13 of this arti-
14 cle. Notwithstanding the foregoing, the provisions of section 13 of
15 this article relating to the maintenance or management of escrow funds
16 and sinking funds shall only be applicable to debt issued by the comp-
17 troller.

18 11. The provisions of subdivision 1 of this section shall not prohibit
19 the state from providing monies for any of the obligations hereafter
20 prohibited by said subdivision 1, including for payment of interest,
21 installments of principal, or contributions to sinking funds on obli-
22 gations to the extent such obligations were contracted for or otherwise
23 incurred prior to the effective date of such subdivision or on obli-
24 gations issued to refund such obligations, provided such refundings are
25 conducted in accordance with the applicable provisions of section 13 of
26 this article. Notwithstanding the foregoing, the provisions of section
27 13 of this article relating to the maintenance or management of escrow

1 funds and sinking funds shall only be applicable to debt issued by the
2 state comptroller.

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

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

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

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

21 3. When interest on state obligations is not paid at least annually,
22 there shall also be contributed to a sinking fund at least annually, the
23 amount necessary to bring the balance thereof, including income earned
24 on contributions, to the accreted value of the obligations to be paid
25 therefrom on the date such contribution is made, less the sum of all
26 required future contributions of principal, in the case of sinking fund
27 obligations, or payments of principal, in the case of serial obli-
28 gations. Notwithstanding the foregoing, nothing contained in this subdi-

1 vision shall be deemed to require contributions for interest to sinking
2 funds if total debt service due on the debt or portion thereof in the
3 year such interest is due will be substantially the same as the total
4 debt service due on such debt or portion thereof in each other year or
5 if the total amount of debt service due in each subsequent year on such
6 debt or portion thereof shall be less than the total debt service due in
7 each prior year.

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

16 5. No such debt shall be contracted for a period longer than that of
17 the probable life of the capital work or purpose for which the debt is
18 to be contracted, or in the alternative, the weighted average period of
19 probable life of the capital works or purposes for which such indebt-
20 edness is to be contracted. The probable lives of such works or purposes
21 shall be determined by general laws, which determination shall be
22 conclusive.

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

1 7. Any sinking funds created pursuant to this section shall be main-
2 tained and managed by the state comptroller or an agent or trustee
3 designated by the state comptroller, and amounts in sinking funds
4 created pursuant to this section, and earnings thereon, shall be used
5 solely for the purpose of retiring the obligations secured thereby
6 except that amounts in excess of the required balance on any contrib-
7 ution date and amounts remaining in such funds after all of the obli-
8 gations secured thereby have been retired shall be deposited in the
9 general fund.

10 8. No appropriation shall be required for disbursement of money, or
11 income earned thereon, from any sinking fund created pursuant to this
12 section for the purpose of paying principal of and interest on the obli-
13 gations for which such fund was created, except that interest shall be
14 paid from any such fund only if, and to the extent that, it is not paya-
15 ble annually and contributions on account of such interest were made
16 thereto.

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

19 10. When state obligations are sold at a discount or premium, the debt
20 incurred for purposes of determining the amount of debt issued or
21 outstanding pursuant to a voter approved bond referendum or other limi-
22 tation on the amount of debt that may be issued or outstanding for a
23 capital work or purpose shall be deemed to include only the amount of
24 money actually received by the state notwithstanding the face amount of
25 such obligations.

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

1 § 16. The legislature shall annually provide by appropriation for the
2 payment of the interest upon and installments of principal of all debts
3 or refunding debts created on behalf of the state except those
4 contracted under section 9 of this article, as the same shall fall due,
5 and for the contribution to all of the sinking funds created by law, of
6 the amounts annually to be contributed under the provisions of section
7 12, 13 or 15 of this article. If at any time the legislature shall fail
8 to make any such appropriation, the comptroller shall set apart from the
9 first revenues thereafter received, applicable to the general fund of
10 the state, a sum sufficient to pay such interest, installments of prin-
11 cipal, or contributions to such sinking fund, as the case may be, and
12 shall so apply the moneys thus set apart. Provided however, with
13 respect to debt contracted pursuant to subdivision 3 of section 11 of
14 this article, if at any time the legislature shall fail to make any such
15 appropriation, the comptroller shall set apart from the first revenues
16 received and pledged to such payments, a sum sufficient to pay such
17 interest, installments of principal, or contributions to such sinking
18 fund, as the case may be, and shall so apply the moneys thus set apart,
19 provided however that such revenues must be set aside and applied in a
20 manner which ensures that pledged revenues are applied only to payments
21 on and relating to debt for which such revenues were pledged pursuant to
22 subdivision 3 of section 11 of this article. The comptroller may be
23 required to set aside and apply such revenues as aforesaid, at the suit
24 of any holder of such bonds.

25 Notwithstanding the foregoing provisions of this section, the comp-
26 troller may covenant with the purchasers of any state obligations that
27 they shall have no further rights against the state for payment of such
28 obligations or any interest thereon after an amount or amounts deter-

1 mined in accordance with the provisions of such covenant is deposited in
2 a described fund or with a named or described agency or trustee. In such
3 case, this section shall have no further application with respect to
4 payment of such obligations or any interest thereon after the comp-
5 troller has complied with the prescribed conditions of such covenant.

6 § 5. Resolved (if the concur), That the foregoing amendments be
7 referred to the first regular legislative session convening after the
8 next succeeding general election of members of the assembly, and, in
9 conformity with section 1 of article 19 of the constitution, be
10 published for 3 months previous to the time of such election.