

Article VIII, Section II, Paragraph 3 New Jersey Constitution

LEGISLATIVE HISTORY CHECKLIST

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(Requires voter approval when the State borrows money by issuing State independent authority bonds backed by annual appropriations)

New Jersey Constitution: Article VIII, Section II, Paragraph 3

BILL NO: SCR39

SPONSOR: Lance, Lesniak, Watson Coleman, Albano, Milam, Doherty, Dancer, Stender, Bucco, Buono, Bateman, Cardinale, Ciesla, Haines, T. Kean, S. Kean, Kyrillos, Oroho, O'Toole, Pennacchio, Singer, Adler, Allen, Baroni, Beck, Connors, Van Drew, Munoz, Bramnick, Wisniewski, Greenstein, Lampitt, Moriarty

DATE INTRODUCED: 1/8/2008

COMMITTEE:
Assembly: Appropriations
Senate: Budget and Appropriations

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 6/23/2008

SENATE: 6/23/2008

FILED WITH SECRETARY OF STATE: 6/24/2008

DATE OF ADOPTION: 11/4/2008

EFFECTIVE: 12/4/2008

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced bill enacted) Yes

SPONSOR'S STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS: No

HEARINGS:

Yes

974.90 Public hearing before Senate Budget and Appropriations Committee : Senate concurrent resolution no. 39 C758 (proposes constitutional amendment to require voter approval when the state borrows money issuing state 2008 independent authority bonds backed by annual appropriations) : [June 9, 2008, Trenton, New Jersey]

NEWSPAPER ARTICLES:

Yes

Judging the Corzine plan. (2008, January 8). *Star-Ledger, The (Newark, NJ)*, p. 12.

HARPER Staff Writer, D. (2008, January 9). state of the state address / Corzine plans major toll hike to pay debt. *Press of Atlantic City, The (NJ)*, p. A1

LU, A. (2008, January 21). 3 ways to fix finances that don't involve toll hikes. *Record, The (Hackensack, NJ)*, p. A01.

Grossman, S. (2008, January 27). I didn't go to Middle Township High School last Saturday to get arrested or to get on TV. I didn't even go to protest. The Liberty and Prosperity group, of which I am acting president, went there to participate in Gov. Jon Corzine's town meeting.. *Gloucester County Times, The (NJ)*.

HARPER Statehouse Bureau, D. (2008, February 19). 1st District reps propose toll-hike alternatives. *Press of Atlantic City, The (NJ)*, p. C1

REITMEYER, J. (2008, February 24). What to expect from budget: Cuts, cuts, cuts - Corzine likely to shrink tax rebates, services. *Record, The (Hackensack, NJ)*, p. A01

McNICHOL, D. (2008, March 11). Voters may decide on borrowing. *Star-Ledger, The (Newark, NJ)*, p. 18.

POST, K. (2008, March 16). marketplace / Business people support Corzine's budget. *Press of Atlantic City, The (NJ)*, p.C6.

Maxed out - Taking away the state's credit cards. (2008, March 16). *Record, The (Hackensack, NJ)*, p. O02.

Goldstein, S. (2008, May 30). Proposal to Limit State Borrowing Gets Hearing Date. *NJBIZ (New Brunswick, NJ)*.

HEININGER, C. (2008, June 1). Closer look at debt plan Vote may be needed for state borrowing. *Times, The (Trenton, NJ)*, p. A01.

HEININGER, C. (2008, June 8). Proposed: Voters to OK all borrowing Measure advances to rein in state debt. *Star-Ledger, The (Newark, NJ)*, p. 21.

HEININGER, C. (2008, June 9). Amendment would require voters to approve all borrowing. *Times, The (Trenton, NJ)*, p.A05

G. Graber, T. (2008, June 10). Measure gives voters fiscal power. *Gloucester County Times, The (NJ)*

State budget deal close. (2008, June 10). *Trentonian, The (Trenton, NJ)*, p. 4

Give voters say on more of debt. (2008, June 11). *Gloucester County Times, The (NJ)*.

To the Editor:.. (2008, June 12). *Gloucester County Times, The (NJ)*.

Writer, S. (2008, June 12). EDITORIAL: Legislature passing buck on NJ debt?. *Hillsborough Beacon (NJ)*

Mulshine, P. (2008, July 15). Last week, it looked like the Christie administration had pulled a fast one on the Democrats by introducing a plan to bail out the Transportation Trust Fund with revenues that would have gone to the canceled ARC tunnel project.. *Today's Sunbeam (Salem, NJ)*.

G. Graber, T. (2008, July 28). Gov's critic: Block funds. *Today's Sunbeam (Salem, NJ)*.

**SENATE CONCURRENT
RESOLUTION No. 39**

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator LEONARD LANCE
District 23 (Warren and Hunterdon)
Senator RAYMOND J. LESNIAK
District 20 (Union)

Co-Sponsored by:

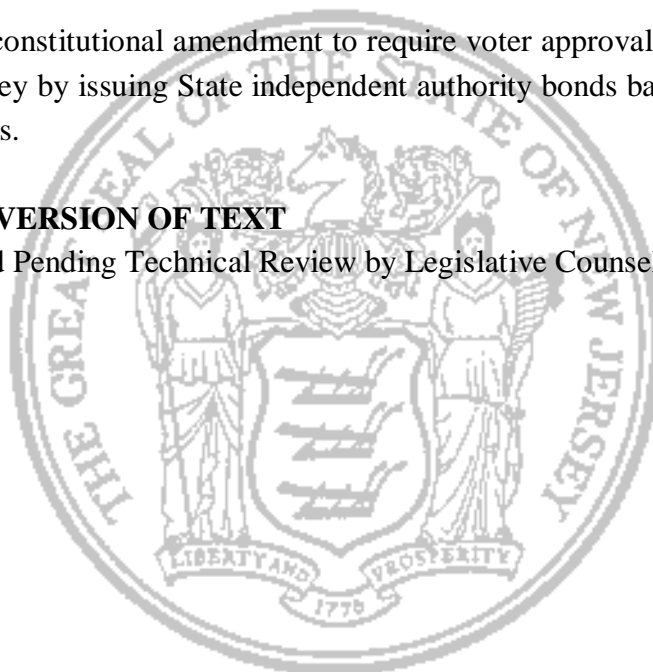
**Senators Bucco, Buono, Bateman, Cardinale, Ciesla, Haines, T.Kean,
S.Kean, Kyrillos, Oroho, O'Toole, Pennacchio, Singer, Adler, Allen,
Baroni, Beck and Connors**

SYNOPSIS

Proposes constitutional amendment to require voter approval when the State borrows money by issuing State independent authority bonds backed by annual appropriations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/7/2008)

1 A CONCURRENT RESOLUTION proposing to amend Article VIII,
2 Section II, paragraph 3 of the Constitution of the State of New
3 Jersey.

4
5 BE IT RESOLVED by the Senate of the State of New Jersey (the
6 General Assembly concurring):

7
8 1. The following proposed amendment to the Constitution of the
9 State of New Jersey is agreed to:

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PROPOSED AMENDMENT

12

13 Amend Article VIII, Section II, paragraph 3 to read as follows:

14 3. a. The Legislature shall not, in any manner, create in any
15 fiscal year a debt or debts, liability or liabilities of the State, which
16 together with any previous debts or liabilities shall exceed at any
17 time one per centum of the total amount appropriated by the general
18 appropriation law for that fiscal year, unless the same shall be
19 authorized by a law for some single object or work distinctly
20 specified therein. Regardless of any limitation relating to taxation in
21 this Constitution, such law shall provide the ways and means,
22 exclusive of loans, to pay the interest of such debt or liability as it
23 falls due, and also to pay and discharge the principal thereof within
24 thirty-five years from the time it is contracted; and the law shall not
25 be repealed until such debt or liability and the interest thereon are
26 fully paid and discharged. Except as hereinafter provided, no such
27 law shall take effect until it shall have been submitted to the people
28 at a general election and approved by a majority of the legally
29 qualified voters of the State voting thereon.

30 b. On and after the date on which this subparagraph b. becomes
31 part of the Constitution, the Legislature shall not enact any law that,
32 in any manner, creates or authorizes the creation of a debt or
33 liability of an autonomous public corporate entity, established either
34 as an instrumentality of the State or otherwise exercising public and
35 essential governmental functions, which debt or liability has a
36 pledge of an annual appropriation as the ways and means to pay the
37 interest of such debt or liability as it falls due and pay and
38 discharge the principal of such debt, unless a law authorizing the
39 creation of that debt for some single object or work distinctly
40 specified therein shall have been submitted to the people at a
41 general election and approved by a majority of the legally qualified
42 voters of the State voting thereon. Voter approval shall not be
43 required for any such law providing that the ways and means to pay
44 the interest of and to pay and discharge the principal of such debt or
45 liability shall be subject to appropriations of an independent non-

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 State source of revenue paid by third persons for the use of the
2 single object or work thereof, or from a source of State revenue
3 otherwise required to be appropriated pursuant to another provision
4 of this Constitution.

5 c. No voter approval shall be required for any such law under
6 subparagraphs a. or b. of this paragraph authorizing the creation of
7 a debt or debts in a specified amount or an amount to be determined
8 in accordance with such law for the refinancing of all or a portion
9 of any outstanding debts or liabilities of the State, or of an
10 autonomous public corporate entity, established either as an
11 instrumentality of the State or otherwise exercising public and
12 essential governmental functions, heretofore or hereafter created, so
13 long as such law shall require that the refinancing provide a debt
14 service savings determined in a manner to be provided in such law
15 and that the proceeds of such debt or debts and any investment
16 income therefrom shall be applied to the payment of the principal
17 of, any redemption premium on, and interest due and to become due
18 on such debts or liabilities being refinanced on or prior to the
19 redemption date or maturity date thereof, together with the costs
20 associated with such refinancing.

21 d. All money to be raised by the authority of such law shall be
22 applied only to the specific object stated therein, and to the payment
23 of the debt thereby created.

24 e. This paragraph shall not be construed to refer to any money
25 that has been or may be deposited with this State by the government
26 of the United States. Nor shall anything in this paragraph contained
27 apply to the creation of any debts or liabilities for purposes of war,
28 or to repel invasion, or to suppress insurrection or to meet an
29 emergency caused by disaster or act of God.

30 (cf: Article VIII, Section II, paragraph 3 effective Dec. 8, 1983)

31

32 2. When this proposed amendment to the Constitution is finally
33 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
34 shall be submitted to the people at the next general election
35 occurring more than three months after the final agreement and
36 shall be published at least once in at least one newspaper of each
37 county designated by the President of the Senate, the Speaker of the
38 General Assembly and the Attorney General, not less than three
39 months prior to the general election.

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41 3. This proposed amendment to the Constitution shall be
42 submitted to the people at that election in the following manner and
43 form:

44 There shall be printed on each official ballot to be used at the
45 general election, the following:

46 a. In every municipality in which voting machines are not used,
47 a legend which shall immediately precede the question, as follows:

48 If you favor the proposition printed below make a cross (X), plus

SCR39 LANCE, LESNIAK

- 1 (+), or check (✓) in the square opposite the word "Yes." If you are
2 opposed thereto make a cross (X), plus (+) or check (✓) in the
3 square opposite the word "No."
4 b. In every municipality the following question
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		VOTERS TO APPROVE STATE AUTHORITY BONDS PAYABLE FROM STATE APPROPRIATIONS
	YES	Do you approve the proposed amendment to the State Constitution which provides that, after this amendment becomes part of the Constitution, a law enacted thereafter that authorizes State debt created through the sale of bonds by any autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, such as an independent State authority, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, will be subject to voter approval, unless the payment of the debt is made subject to appropriations of an independent non-State source of revenue paid by third persons for the use of the object or work bonded for, or are from a source of State revenue otherwise required to be appropriated pursuant to another provision of the Constitution?

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		INTERPRETIVE STATEMENT
	NO	<p>This amendment to the State Constitution will require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by a pledge of an annual appropriation to pay the principal and interest on the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such borrowing. That requirement is followed only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Most State authority bonds can be issued without voter approval because the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. The courts have said this is a legal means of avoiding submitting the issuance of debt for voter approval. Laws to permit such debt that are enacted after December 4, 2003 will have to authorize voter referenda for approval of such debts. Exceptions to voter approval for authority bonds will be permitted if the bonds are to paid off from 1) a source of revenue dedicated by the State Constitution, which only the voters can establish, or 2) an independent non-State government source of payments for use of projects built or obtained with the borrowed money, such as highway tolls or user fees.</p>

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STATEMENT

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This concurrent resolution proposes to amend the State Constitution so that voter approval will be required when the State borrows money by issuing certain types of State independent

1 authority bonds backed by annual appropriations.

2 The Debt Limitation Clause of the New Jersey Constitution
3 requires voter approval before the State can borrow money.
4 However, State court decisions over the last 30 years have allowed
5 the Governor and the Legislature to forgo seeking voter approval by
6 using State public authorities as a conduit for State debt. These
7 court decisions provide that if a public authority issues debt backed
8 by a State promise to make annual appropriations in the future to
9 repay (as opposed to a State issue of debt backed by a direct and
10 irrevocable guarantee of the State's taxing power as a repayment
11 source), then no voter approval is required. Thus, independent
12 authorities have been used to incur State debt without voter
13 approval to finance projects such as the construction and
14 rehabilitation of State office buildings and higher education
15 facilities and the purchase of equipment. Because the courts have
16 construed the annual appropriations to pay the bonds as lease
17 payments that are not binding on future legislative majorities, no
18 voter approval has been necessary. More recently, independent
19 authority debt has been used to cover regular State government
20 operating obligations such as funding the payment of the unfunded
21 accrued liability of the State's pension systems and the court-
22 ordered obligation to fund capital improvements in the public
23 schools in "Abbott districts."

24 This concurrent resolution to amend the constitution will require
25 voter approval of new laws that allow the State to borrow money by
26 issuing bonds through any State agency or independent authority
27 backed by a pledge of an annual appropriation to pay the principal
28 and interest on the bonds. New laws to allow the issuance of these
29 State authority bonds for State government purposes will be subject
30 to voter approval. Only in circumstances where the debt of an
31 independent authority is supported by a constitutional dedication of
32 State revenue or from an independent non-State source of revenue
33 paid by third persons for the use of the financed project would the
34 requirement for voter approval not apply. Laws to permit bond debt
35 that are enacted after December 4, 2003 that are not exempt under
36 the provisions of the amendment will have to authorize voter
37 referenda for approval of such debts.

**ASSEMBLY CONCURRENT
RESOLUTION No. 151**

**STATE OF NEW JERSEY
213th LEGISLATURE**

INTRODUCED FEBRUARY 26, 2008

Sponsored by:

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Proposes constitutional amendment to require voter approval of State independent authority bonds backed primarily by State appropriation of State revenue.

CURRENT VERSION OF TEXT

As introduced.



1 A **CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, paragraph 3 of the Constitution of the State of New
3 Jersey.

4
5 **BE IT RESOLVED** by the General Assembly of the State of New
6 Jersey (the Senate concurring):

7
8 1. The following proposed amendment to the Constitution of the
9 State of New Jersey is agreed to:

10
11 PROPOSED AMENDMENT

12
13 Amend Article VIII, Section II, paragraph 3 to read as follows:

14 3. a. The Legislature shall not, in any manner, create in any
15 fiscal year a debt or debts, liability or liabilities of the State, which
16 together with any previous debts or liabilities shall exceed at any
17 time one per centum of the total amount appropriated by the general
18 appropriation law for that fiscal year, unless the same shall be
19 authorized by a law for some single object or work distinctly
20 specified therein. Regardless of any limitation relating to taxation in
21 this Constitution, such law shall provide the ways and means,
22 exclusive of loans, to pay the interest of such debt or liability as it
23 falls due, and also to pay and discharge the principal thereof within
24 thirty-five years from the time it is contracted; and the law shall not
25 be repealed until such debt or liability and the interest thereon are
26 fully paid and discharged. Except as hereinafter provided, no such
27 law shall take effect until it shall have been submitted to the people
28 at a general election and approved by a majority of the legally
29 qualified voters of the State voting thereon.

30 b. On and after the date on which this subparagraph b. becomes
31 part of the Constitution, the Legislature shall not enact any law that,
32 in any manner, creates or authorizes the creation of a debt or
33 liability of an autonomous public corporate entity, established either
34 as an instrumentality of the State or otherwise exercising public and
35 essential governmental functions, which debt or liability has as the
36 ways and means to pay the interest of such debt or liability as it
37 falls due and pay and discharge the principal of such debt, the
38 primary pledge of an annual State appropriation of State revenue,
39 unless a law authorizing the creation of that debt for some single
40 object or work distinctly specified therein shall have been submitted
41 to the people at a general election and approved by a majority of the
42 legally qualified voters of the State voting thereon. Voter approval
43 shall not be required for any such law if that law provides that the
44 ways and means to pay the interest of and to pay and discharge the
45 principal of such debt or liability has as its primary pledge the State

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 appropriation of a source of State revenue otherwise specifically
2 authorized to be appropriated for debt financing purposes pursuant
3 to another provision of this Constitution.

4 c. No voter approval shall be required for any such law under
5 subparagraphs a. or b. of this paragraph authorizing the creation of
6 a debt or debts in a specified amount or an amount to be determined
7 in accordance with such law for the refinancing of all or a portion
8 of any outstanding debts or liabilities of the State, or of an
9 autonomous public corporate entity, established either as an
10 instrumentality of the State or otherwise exercising public and
11 essential governmental functions, heretofore or hereafter created, so
12 long as such law shall require that the refinancing provide a debt
13 service savings determined in a manner to be provided in such law
14 and that the proceeds of such debt or debts and any investment
15 income therefrom shall be applied to the payment of the principal
16 of, any redemption premium on, and interest due and to become due
17 on such debts or liabilities being refinanced on or prior to the
18 redemption date or maturity date thereof, together with the costs
19 associated with such refinancing.

20 d. All money to be raised by the authority of such law shall be
21 applied only to the specific object stated therein, and to the payment
22 of the debt thereby created.

23 e. This paragraph shall not be construed to refer to any money
24 that has been or may be deposited with this State by the government
25 of the United States. Nor shall anything in this paragraph contained
26 apply to the creation of any debts or liabilities for purposes of war,
27 or to repel invasion, or to suppress insurrection or to meet an
28 emergency caused by disaster or act of God.

29 (cf: Article VIII, Section II, paragraph 3 effective Dec. 8, 1983)

30

31 2. When this proposed amendment to the Constitution is finally
32 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
33 shall be submitted to the people at the next general election
34 occurring more than three months after the final agreement and
35 shall be published at least once in at least one newspaper of each
36 county designated by the President of the Senate, the Speaker of the
37 General Assembly and the Secretary of State, not less than three
38 months prior to the general election.

39

40 3. This proposed amendment to the Constitution shall be
41 submitted to the people at that election in the following manner and
42 form:

43 There shall be printed on each official ballot to be used at the
44 general election, the following:

45 a. In every municipality in which voting machines are not used, a
46 legend which shall immediately precede the question as follows:

47 If you favor the proposition printed below make a cross (X), plus
48 (+), or check (✓) in the square opposite the word "Yes." If you are

ACR151 ALBANO, MILAM

1 opposed thereto make a cross (X), plus (+) or check (✓) in the
2 square opposite the word "No."

3 b. In every municipality the following question:

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	YES	<p>REQUIRES VOTER APPROVAL OF STATE AUTHORITY BONDS PAID PRIMARILY FROM APPROPRIATION OF STATE REVENUE</p> <p>Do you approve the proposed amendment to the State Constitution which provides that, after this amendment becomes part of the Constitution, a law enacted thereafter that authorizes State debt created through the sale of bonds by any autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, such as an independent State authority, which debt or liability has the primary pledge of a State appropriation of State revenue as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, will be subject to voter approval, unless the primary pledge for payment of the debt is the appropriation of a source of State revenue otherwise specifically authorized to be appropriated for debt financing purposes pursuant to another provision of this Constitution?</p>
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	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This amendment to the State Constitution will require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by the primary pledge of a State appropriation of State revenue to pay off the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval. In the past State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such borrowing. That requirement exists currently only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Most State authority bonds can be issued without voter approval because the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. The courts have said this is a legal means of avoiding submitting the issuance of debt for voter approval. Under this amendment, laws to permit such debt will have to require voter referenda for approval. An exception to voter approval for authority bonds will be permitted if the bonds are to be paid off from a source of revenue dedicated by the State Constitution for debt financing purposes, which only the voters can establish.</p>
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STATEMENT

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This concurrent resolution proposes to amend the State Constitution to require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by the primary pledge of a State appropriation of State revenue to pay off the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval.

1 In the past State courts have ruled that the State constitutional
2 requirement that the Legislature and Governor must seek voter
3 approval for bonded debt does not apply to such borrowing. That
4 requirement exists currently only for proposed State bonds that
5 contain a binding, non-repealable pledge to pay off the bonds
6 directly with State taxes. Most State authority bonds can be issued
7 without voter approval because the payment of the bonds is backed
8 only by a promise of the Legislature and the Governor that they will
9 enact appropriations in the future to meet the bond payments. The
10 courts have said this is a legal means of avoiding submitting the
11 issuance of debt for voter approval.

12 Under this amendment, laws to permit such debt will have to
13 require voter referenda for approval. An exception to voter
14 approval for authority bonds will be permitted if the bonds are to be
15 paid off from a source of revenue dedicated by the State
16 Constitution for debt financing purposes, which only the voters can
17 establish.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 39

STATE OF NEW JERSEY

DATED: MARCH 10, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Concurrent Resolution No. 39.

Senate Concurrent Resolution No. 39 proposes to amend the State Constitution to require voter approval of new laws that allow the State to borrow money by issuing certain State independent authority bonds backed by a pledge of State annual appropriations to pay the principal and interest on the bonds.

The Debt Limitation Clause of the New Jersey Constitution requires voter approval before the State can borrow money. However, State court decisions over the last 30 years have allowed State government to bypass referenda by using State public authorities and autonomous public corporate entities as a conduit for appropriations-backed State debt. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such State independent authority borrowing. The voter approval requirement exists currently only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Thus, State authority bonds can be issued without voter approval if the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. Under this amendment, new laws to permit such debt will have to require Statewide voter referenda for approval.

An exception to the voter approval requirement for such authority bonds will be permitted if the bonds are to be paid off from a constitutional dedication of State revenue or from an independent non-State source of revenue paid by third persons for the use of the financed project.

This concurrent resolution was prefiled for introduction in the 2008-2009 session pending technical review. As reported, the resolution includes the changes required by technical review, which has been performed.

FISCAL IMPACT:

This concurrent resolution has not been certified for a Fiscal Note. Any effort to project a fiscal impact would have to rely upon speculative analyses of future enactments to authorize certain bonded

indebtedness not currently authorized and projections of the outcome of potential voter referenda. By way of historical background however, the Office of Legislative Services notes, that as permitted under State court decisions over the last 30 years, independent authorities and autonomous public corporate entities have incurred substantial levels of State debt without voter approval. Tax supported (voter approved and State appropriation pledged) bonds had totaled approximately \$12.2 billion as of June 30, 1998 which has increased to about \$27.0 billion as of June 30, 2007. Only \$11.9 billion of this \$27.0 billion is voter approved debt (\$2.8 billion in general obligation bonds and \$9.1 billion in bonds financed through constitutionally dedicated sources of revenue).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY CONCURRENT RESOLUTION No. 151

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Concurrent Resolution No. 151.

This substitute proposes to amend the State Constitution to require voter approval of new laws that allow the State to borrow money by issuing certain State independent authority bonds backed by a pledge of State annual appropriations to pay the principal and interest on the bonds.

The Debt Limitation Clause of the New Jersey Constitution requires voter approval before the State can borrow money. However, State court decisions over the last 30 years have allowed State government to bypass referenda by using State public authorities and autonomous public corporate entities as a conduit for appropriations-backed State debt. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such State independent authority borrowing. The voter approval requirement exists currently only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Thus, State authority bonds can be issued without voter approval if the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. Under this amendment, new laws to permit such debt will have to require Statewide voter referenda for approval.

An exception to the voter approval requirement for such authority bonds will be permitted if the bonds are to be paid off from a constitutional dedication of State revenue or from an independent non-State source of revenue paid by third persons for the use of the financed project.

As substituted and reported by the committee, the Assembly Committee Substitute for Assembly Concurrent Resolution No. 151 is identical to Senate Concurrent Resolution No. 39 of 2008.

FISCAL IMPACT:

This concurrent resolution has not been certified for a Fiscal Note.

Any effort to project a fiscal impact would have to rely upon speculative analyses of future enactments to authorize certain bonded indebtedness not currently authorized and projections of the outcome of potential voter referenda. By way of historical background however, the Office of Legislative Services notes, that as permitted under State court decisions over the last 30 years, independent authorities and autonomous public corporate entities have incurred substantial levels of State debt without voter approval. Tax supported (voter approved and State appropriation pledged) bonds had totaled approximately \$12.2 billion as of June 30, 1998 which has increased to about \$27.0 billion as of June 30, 2007. Only \$11.9 billion of this \$27.0 billion is voter approved debt (\$2.8 billion in general obligation bonds and \$9.1 billion in bonds financed through constitutionally dedicated sources of revenue).

ASSEMBLY COMMITTEE SUBSTITUTE FOR
**ASSEMBLY CONCURRENT
RESOLUTION No. 151**

**STATE OF NEW JERSEY
213th LEGISLATURE**

ADOPTED JUNE 5, 2008

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MICHAEL J. DOHERTY

District 23 (Warren and Hunterdon)

Assemblyman RONALD S. DANCER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Assemblymen Munoz, Bramnick, Wisniewski, Assemblywomen

Greenstein, Lampitt and Assemblyman Moriarty

SYNOPSIS

Proposes constitutional amendment to require voter approval when the State borrows money by issuing State independent authority bonds backed by annual appropriations.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

(Sponsorship Updated As Of: 6/24/2008)

1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, paragraph 3 of the Constitution of the State of New
3 Jersey.

4
5 **BE IT RESOLVED** by the General Assembly of the State of New
6 Jersey (the Senate concurring):

7
8 1. The following proposed amendment to the Constitution of the
9 State of New Jersey is agreed to:

10

11

PROPOSED AMENDMENT

12

13 Amend Article VIII, Section II, paragraph 3 to read as follows:

14 3. a. The Legislature shall not, in any manner, create in any
15 fiscal year a debt or debts, liability or liabilities of the State, which
16 together with any previous debts or liabilities shall exceed at any
17 time one per centum of the total amount appropriated by the general
18 appropriation law for that fiscal year, unless the same shall be
19 authorized by a law for some single object or work distinctly
20 specified therein. Regardless of any limitation relating to taxation in
21 this Constitution, such law shall provide the ways and means,
22 exclusive of loans, to pay the interest of such debt or liability as it
23 falls due, and also to pay and discharge the principal thereof within
24 thirty-five years from the time it is contracted; and the law shall not
25 be repealed until such debt or liability and the interest thereon are
26 fully paid and discharged. Except as hereinafter provided, no such
27 law shall take effect until it shall have been submitted to the people
28 at a general election and approved by a majority of the legally
29 qualified voters of the State voting thereon.

30 b. On and after the date on which this subparagraph b. becomes
31 part of the Constitution, the Legislature shall not enact any law that,
32 in any manner, creates or authorizes the creation of a debt or
33 liability of an autonomous public corporate entity, established either
34 as an instrumentality of the State or otherwise exercising public and
35 essential governmental functions, which debt or liability has a
36 pledge of an annual appropriation as the ways and means to pay the
37 interest of such debt or liability as it falls due and pay and discharge
38 the principal of such debt, unless a law authorizing the creation of
39 that debt for some single object or work distinctly specified therein
40 shall have been submitted to the people at a general election and
41 approved by a majority of the legally qualified voters of the State
42 voting thereon. Voter approval shall not be required for any such
43 law providing that the ways and means to pay the interest of and to
44 pay and discharge the principal of such debt or liability shall be
45 subject to appropriations of an independent non-State source of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 revenue paid by third persons for the use of the single object or
2 work thereof, or from a source of State revenue otherwise required
3 to be appropriated pursuant to another provision of this
4 Constitution.

5 c. No voter approval shall be required for any such law under
6 subparagraphs a. or b. of this paragraph authorizing the creation of
7 a debt or debts in a specified amount or an amount to be determined
8 in accordance with such law for the refinancing of all or a portion
9 of any outstanding debts or liabilities of the State, or of an
10 autonomous public corporate entity, established either as an
11 instrumentality of the State or otherwise exercising public and
12 essential governmental functions, heretofore or hereafter created, so
13 long as such law shall require that the refinancing provide a debt
14 service savings determined in a manner to be provided in such law
15 and that the proceeds of such debt or debts and any investment
16 income therefrom shall be applied to the payment of the principal
17 of, any redemption premium on, and interest due and to become due
18 on such debts or liabilities being refinanced on or prior to the
19 redemption date or maturity date thereof, together with the costs
20 associated with such refinancing.

21 d. All money to be raised by the authority of such law shall be
22 applied only to the specific object stated therein, and to the payment
23 of the debt thereby created.

24 e. This paragraph shall not be construed to refer to any money
25 that has been or may be deposited with this State by the government
26 of the United States. Nor shall anything in this paragraph contained
27 apply to the creation of any debts or liabilities for purposes of war,
28 or to repel invasion, or to suppress insurrection or to meet an
29 emergency caused by disaster or act of God.

30 (cf: Article VIII, Section II, paragraph 3 effective Dec. 8, 1983)

31

32 2. When this proposed amendment to the Constitution is finally
33 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
34 shall be submitted to the people at the next general election
35 occurring more than three months after the final agreement and
36 shall be published at least once in at least one newspaper of each
37 county designated by the President of the Senate, the Speaker of the
38 General Assembly and the Secretary of State, not less than three
39 months prior to the general election.

40

41 3. This proposed amendment to the Constitution shall be
42 submitted to the people at that election in the following manner and
43 form:

44 There shall be printed on each official ballot to be used at the
45 general election, the following:

46 a. In every municipality in which voting machines are not used,
47 a legend which shall immediately precede the question, as follows:

48 If you favor the proposition printed below make a cross (X), plus

1 (+), or check (✓) in the square opposite the word "Yes." If you are
 2 opposed thereto make a cross (X), plus (+) or check (✓) in the
 3 square opposite the word "No."

4 b. In every municipality the following question
 5

	<p>YES</p>	<p style="text-align: center;">VOTERS TO APPROVE STATE AUTHORITY BONDS PAYABLE FROM STATE APPROPRIATIONS</p> <p>Do you approve the proposed amendment to the State Constitution which provides that, after this amendment becomes part of the Constitution, a law enacted thereafter that authorizes State debt created through the sale of bonds by any autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, such as an independent State authority, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, will be subject to voter approval, unless the payment of the debt is made subject to appropriations of an independent non-State source of revenue paid by third persons for the use of the object or work bonded for, or are from a source of State revenue otherwise required to be appropriated pursuant to another provision of the Constitution?</p>
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		INTERPRETIVE STATEMENT
	NO	<p>This amendment to the State Constitution will require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by a pledge of an annual appropriation to pay the principal and interest on the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such borrowing. That requirement is followed only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Most State authority bonds can be issued without voter approval because the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. The courts have said this is a legal means of avoiding submitting the issuance of debt for voter approval. Laws to permit such debt that are enacted after this amendment becomes part of the Constitution will have to authorize voter referenda for approval of such debts. Exceptions to voter approval for authority bonds will be permitted if the bonds are to be paid off from 1) a source of revenue dedicated by the State Constitution, which only the voters can establish, or 2) an independent non-State government source of payments for use of projects built or obtained with the borrowed money, such as highway tolls or user fees.</p>

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**SENATE CONCURRENT
RESOLUTION No. 39**

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator LEONARD LANCE

District 23 (Warren and Hunterdon)

Senator RAYMOND J. LESNIAK

District 20 (Union)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MICHAEL J. DOHERTY

District 23 (Warren and Hunterdon)

Assemblyman RONALD S. DANCER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Bucco, Buono, Bateman, Cardinale, Ciesla, Haines, T.Kean, S.Kean, Kyrillos, Oroho, O'Toole, Pennacchio, Singer, Adler, Allen, Baroni, Beck, Connors, Van Drew, Assemblymen Munoz, Bramnick, Wisniewski, Assemblywomen Greenstein, Lampitt and Assemblyman Moriarty

SYNOPSIS

Proposes constitutional amendment to require voter approval when the State borrows money by issuing State independent authority bonds backed by annual appropriations.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee with technical review.

(Sponsorship Updated As Of: 6/24/2008)

1 A CONCURRENT RESOLUTION proposing to amend Article VIII,
2 Section II, paragraph 3 of the Constitution of the State of New
3 Jersey.

4
5 BE IT RESOLVED by the Senate of the State of New Jersey (the
6 General Assembly concurring):

7
8 1. The following proposed amendment to the Constitution of the
9 State of New Jersey is agreed to:

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PROPOSED AMENDMENT

12

13 Amend Article VIII, Section II, paragraph 3 to read as follows:

14 3. a. The Legislature shall not, in any manner, create in any
15 fiscal year a debt or debts, liability or liabilities of the State, which
16 together with any previous debts or liabilities shall exceed at any
17 time one per centum of the total amount appropriated by the general
18 appropriation law for that fiscal year, unless the same shall be
19 authorized by a law for some single object or work distinctly
20 specified therein. Regardless of any limitation relating to taxation in
21 this Constitution, such law shall provide the ways and means,
22 exclusive of loans, to pay the interest of such debt or liability as it
23 falls due, and also to pay and discharge the principal thereof within
24 thirty-five years from the time it is contracted; and the law shall not
25 be repealed until such debt or liability and the interest thereon are
26 fully paid and discharged. Except as hereinafter provided, no such
27 law shall take effect until it shall have been submitted to the people
28 at a general election and approved by a majority of the legally
29 qualified voters of the State voting thereon.

30 b. On and after the date on which this subparagraph b. becomes
31 part of the Constitution, the Legislature shall not enact any law that,
32 in any manner, creates or authorizes the creation of a debt or
33 liability of an autonomous public corporate entity, established either
34 as an instrumentality of the State or otherwise exercising public and
35 essential governmental functions, which debt or liability has a
36 pledge of an annual appropriation as the ways and means to pay the
37 interest of such debt or liability as it falls due and pay and
38 discharge the principal of such debt, unless a law authorizing the
39 creation of that debt for some single object or work distinctly
40 specified therein shall have been submitted to the people at a
41 general election and approved by a majority of the legally qualified
42 voters of the State voting thereon. Voter approval shall not be
43 required for any such law providing that the ways and means to pay
44 the interest of and to pay and discharge the principal of such debt or
45 liability shall be subject to appropriations of an independent non-

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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1 State source of revenue paid by third persons for the use of the
2 single object or work thereof, or from a source of State revenue
3 otherwise required to be appropriated pursuant to another provision
4 of this Constitution.

5 c. No voter approval shall be required for any such law under
6 subparagraphs a. or b. of this paragraph authorizing the creation of
7 a debt or debts in a specified amount or an amount to be determined
8 in accordance with such law for the refinancing of all or a portion
9 of any outstanding debts or liabilities of the State, or of an
10 autonomous public corporate entity, established either as an
11 instrumentality of the State or otherwise exercising public and
12 essential governmental functions, heretofore or hereafter created, so
13 long as such law shall require that the refinancing provide a debt
14 service savings determined in a manner to be provided in such law
15 and that the proceeds of such debt or debts and any investment
16 income therefrom shall be applied to the payment of the principal
17 of, any redemption premium on, and interest due and to become due
18 on such debts or liabilities being refinanced on or prior to the
19 redemption date or maturity date thereof, together with the costs
20 associated with such refinancing.

21 d. All money to be raised by the authority of such law shall be
22 applied only to the specific object stated therein, and to the payment
23 of the debt thereby created.

24 e. This paragraph shall not be construed to refer to any money
25 that has been or may be deposited with this State by the government
26 of the United States. Nor shall anything in this paragraph contained
27 apply to the creation of any debts or liabilities for purposes of war,
28 or to repel invasion, or to suppress insurrection or to meet an
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30 (cf: Article VIII, Section II, paragraph 3 effective Dec. 8, 1983)

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SCR39 LANCE, LESNIAK

- 1 (+), or check (✓) in the square opposite the word "Yes." If you are
2 opposed thereto make a cross (X), plus (+) or check (✓) in the
3 square opposite the word "No."
4 b. In every municipality the following question
5

	YES	<p style="text-align: center;">VOTERS TO APPROVE STATE AUTHORITY BONDS PAYABLE FROM STATE APPROPRIATIONS</p> <p>Do you approve the proposed amendment to the State Constitution which provides that, after this amendment becomes part of the Constitution, a law enacted thereafter that authorizes State debt created through the sale of bonds by any autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, such as an independent State authority, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, will be subject to voter approval, unless the payment of the debt is made subject to appropriations of an independent non-State source of revenue paid by third persons for the use of the object or work bonded for, or are from a source of State revenue otherwise required to be appropriated pursuant to another provision of the Constitution?</p>
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1

		INTERPRETIVE STATEMENT
	NO	<p>This amendment to the State Constitution will require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by a pledge of an annual appropriation to pay the principal and interest on the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such borrowing. That requirement is followed only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Most State authority bonds can be issued without voter approval because the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. The courts have said this is a legal means of avoiding submitting the issuance of debt for voter approval. Laws to permit such debt that are enacted after this amendment becomes part of the Constitution will have to authorize voter referenda for approval of such debts. Exceptions to voter approval for authority bonds will be permitted if the bonds are to be paid off from 1) a source of revenue dedicated by the State Constitution, which only the voters can establish, or 2) an independent non-State government source of payments for use of projects built or obtained with the borrowed money, such as highway tolls or user fees.</p>

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