

STATE OF OHIO

**OHIO CONSTITUTIONAL  
REVISION COMMISSION**

**Recommendations for Amendments to  
the Ohio Constitution**

**PART 2  
STATE DEBT**



**December 31, 1972**

**Ohio Constitutional Revision Commission**

**20 South Third Street, Room 212,  
Columbus, Ohio 43215**



ERRATA

- Page 5 "Section 7-11" should be Sections 7-11"
- Page 7 Third paragraph from the bottom of the page, first line  
"Article" should be "Articles"
- Page 15 In paragraph 4, line 5 "Ten" should be "Eleven"
- Page 17 Second complete paragraph, last line, "charged" should be "changed"
- Page 35 Third paragraph under "Comment", second line after "only" insert  
"the facility or"
- Page 45 Footnote 1 should be State of Ohio, Debates and Proceedings,  
Constitutional Convention, 1850, pp. 509-510 (June 1850)  
(hereafter cited as Debates).
- Page 46 Footnote 33 should read See McCulloch v. The State of Maryland et al.,  
17 U. S. 316, 4 Wheat. 316, 4 L. Ed. 579 (1819).

*Done*



242.03771  
Ch 36a  
Pt. 2

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**Ohio Constitutional Revision Commission  
20 South Third Street, Room 212  
Columbus, Ohio 43215**

636238



# Ohio Constitutional Revision Commission

20 South Third Street, Room 212

COLUMBUS, OHIO 43215

Tel. (614) 469-6293

Ann M. Eriksson, *Director*

31 December 1972

## SENATORS

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OLIVER OCASEK  
WILLIAM W. TAFT

The Ohio General Assembly  
State House  
Columbus, Ohio

Gentlemen:

I have the honor of submitting this report of the Constitutional Revision Commission, containing the second group of Commission recommendations to the General Assembly and to the people of Ohio.

## REPRESENTATIVES

CHARLES E. FRY  
WILLIAM L. MALLORY  
ALAN E. NORRIS  
ANTHONY J. RUSSO  
WALTER L. WHITE

~~ARTHUR R. WILKOWSKI~~  
Robert A. Nader

The Commission was established by the General Assembly for the primary purpose of studying the Ohio Constitution and recommending amendments. Since January 1971, when we organized for this task, we have held meetings nearly every month and committees created to study particular subjects have also been meeting monthly. Our meetings are all open to the public, and public participation has been encouraged.

## PUBLIC MEMBERS

JOSEPH W. BARTUNEK  
NAPOLEON BELL  
NOLAN W. CARSON  
RICHARD H. CARTER  
*Chairman*  
WARREN CUNNINGHAM  
RICHARD E. GUGGENHEIM  
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FRANK POKORNY  
~~OLIVER C. SCHROEDER, JR.~~  
JAMES W. SHOCKNESSY  
JOHN A. SKIPTON  
JACK D. WILSON  
Katie Sowie

The recommendations in this report, which deal with State Debt, resulted from the work of our Finance and Taxation Committee. Much time and effort has gone into research, hearing testimony and opinions from informed persons, and study and discussion by the committee members. Each element of the proposal was considered from the perspective of history, the desires of Ohio voters expressed through constitutional amendments, and current needs and practices.

Commission members, legislators and public members alike, have worked hard on these proposals, and look forward to presenting additional recommendations to the General Assembly and to the people in the near future, relating to other topics currently being studied by our committees. We are committed to the task of providing the General Assembly and the people the best possible recommendations for constitutional revision.

We are pleased to be associated with this endeavor in Ohio, and believe that the people of Ohio will gain improved governmental structure and services by this kind of thoughtful consideration of current problems and solutions by this Commission and by the General Assembly.

Respectfully submitted on behalf  
of the Commission members,

  
Richard H. Carter, Chairman

RHC/hes

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial data and for providing a clear audit trail.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include direct observation, interviews, and the use of statistical models.

3. The third part of the document describes the results of the data collection and analysis. It shows that there is a significant correlation between the variables being studied, and that the data is consistent with the theoretical model.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results have important implications for the field of study, and that they may be used to inform policy decisions.

5. The fifth part of the document concludes the study and provides a summary of the key findings. It also identifies some of the limitations of the study and suggests areas for future research.

6. The sixth part of the document provides a list of references for the sources used in the study.

7. The seventh part of the document is a list of appendices, which include additional data and information that is not included in the main text.

8. The eighth part of the document is a list of figures and tables, which provide visual representations of the data and results.

9. The ninth part of the document is a list of footnotes, which provide additional information and references for the text.

10. The tenth part of the document is a list of acknowledgments, which thank the individuals and organizations that provided support and assistance during the study.

11. The eleventh part of the document is a list of contact information for the author and other individuals involved in the study.

12. The twelfth part of the document is a list of other relevant documents and resources.

13. The thirteenth part of the document is a list of other relevant websites and online resources.

14. The fourteenth part of the document is a list of other relevant books and articles.

15. The fifteenth part of the document is a list of other relevant journals and magazines.



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## THE OHIO CONSTITUTIONAL REVISION COMMISSION

The 108th General Assembly (1969-70) created the Ohio Constitutional Revision Commission and charged it with these specific duties, as set forth in Section 103.52 of the Revised Code:

- A. Studying the Constitution of Ohio;
- B. Promoting an exchange of experiences and suggestions respecting desired changes in the Constitution;
- C. Considering the problems pertaining to the amendment of the Constitution;
- D. Making recommendations from time to time to the General Assembly for the amendment of the Constitution.

The Commission is composed of thirty-two members, twelve of whom are members of the General Assembly selected (three each) by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President Pro Tem of the Senate, and the Minority Leader of the Senate. The General Assembly members select twenty members from the general public. Currently, there is one vacancy among the public membership.

Part 1 of the Commission's recommendations was presented to the General Assembly December 31, 1971. That report dealt with the organization, administration, and procedures of the General Assembly, and included recommendations for improving the legislative process, having the Governor and Lieutenant Governor elected as a team, and repealing obsolete sections of the Constitution. The recommendations in that report were the result of study by a committee appointed to study the Legislative and Executive branches of government, chaired by Mr. John A. Skipton of Findlay.

This report is Part 2 of the Commission's recommendations and deals with State Debt. Included are recommendations respecting all sections in Article VIII and one section in Article XII. These recommendations resulted from the work of the Finance and Taxation Committee, chaired by Mr. Nolan W. Carson of Cincinnati. Other members of the committee are: Senators Dennis and Ocasek, Representative White, and Messrs. Bartunek, Bell, Carter, Guggenheim, Hovey, Mansfield, and Wilson.

The Legislative-Executive Committee has continued with a study of Article III and related sections in other Articles, relating to the Executive Branch. In addition to Mr. Skipton, committee members are: Senators Applegate and Taft, Representatives Mallory and Norris, Messrs. Cunningham, King, Montgomery, and Shocknessy, and Mrs. Sowle.

The Local Government Committee has continued to study Articles X and XVIII and related sections, and is considering other possible local government structural patterns and powers not presently provided for in the Ohio Constitution. Mrs. Alexander Orfirer of Cleveland is Chairman, and committee members are: Senators Calabrese and Gillmor, Representatives Fry, Nader, and Russo, Mr. Heminger, Mrs. Hessler, and Messrs. Ostrum and Pokorny.

When the Commission reorganized in 1972, Mr. Richard H. Carter of Fostoria was re-elected Chairman and Mrs. Alexander Orfirer of Cleveland was re-elected Vice-Chairman.

During the 109th General Assembly, corrective legislation was enacted to clarify several provisions in the law creating the Commission.



# OHIO CONSTITUTIONAL REVISION COMMISSION

As of December 1, 1972

## General Assembly Members

*Appointed by the President pro tem of the Senate:*

Senator Max H. Dennis  
Senator Paul E. Gillmor  
Senator William W. Taft

*Appointed by the Minority Leader of the Senate:*

Senator Douglas Applegate  
Senator Anthony O. Calabrese  
Senator Oliver Ocasek

*Appointed by the Speaker of the House of Representatives:*

Representative Charles E. Fry  
Representative Alan E. Norris  
Representative Walter L. White

*Appointed by the Minority Leader of the House of Representatives:*

Representative William L. Mallory  
Representative Robert A. Nader  
Representative Anthony J. Russo

## Public Members

(Appointed by the General Assembly members)

JOSEPH W. BARTUNEK Cleveland, Ohio	MRS. ALEXANDER ORFIRER, (Vice-Chairman) Cleveland, Ohio
NAPOLEON A. BELL Columbus, Ohio	DEAN G. OSTRUM Cleveland, Ohio
NOLAN W. CARSON Cincinnati, Ohio	FRANK R. POKORNY Cleveland, Ohio
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# Summary of Recommendations

## PART 2 STATE DEBT

The Commission recommends to the General Assembly the following amendments to the Constitution of the State of Ohio:

Article VIII	Section 1	Repeal and Enact a New Section
	Section 2	Repeal and Enact a New Section
	Section 2b	Repeal
	Section 2c	Repeal
	Section 2d	Repeal
	Section 2e	Repeal
	Section 2f	Repeal
	Section 2g	Repeal
	Section 2h	Repeal
	Section 2i	Repeal
	Section 3	Repeal and Enact a New Section
	Section 4	Repeal and Enact a New Section
	Section 6	Repeal
Section 7	Repeal	
Section 8	Repeal	
Section 9	Repeal	
Section 10	Repeal	
Section 11	Repeal	
Section 12	Repeal	
Section 13	Amend, including changing the section number from 13 to 6	
Article XII	Section 6	Repeal

The recommendations in this report concern primarily the general obligation debt of the state, also called the guaranteed debt. General obligation debt, as defined in the Commission's proposal, is debt to the repayment of which the faith, credit, and taxing power of the state are pledged.

Mr. Nolan W. Carson, of Cincinnati, is chairman of the Commission's Committee on Finance and Taxation, which prepared these recommendations. The committee has been meeting on a monthly basis since April, 1971, and, in preparing the recommendations, consulted many experts familiar with Ohio's bonded debt, including its development and structure. The committee studied Ohio cases involving questions of state debt, and studied the evolution of the constitutional provisions presently governing Ohio's bonded indebtedness. In addition, the committee surveyed the constitutions of sister states and the works of leading writers on the theory of constitutional provisions on state debt. Attorneys who are noted for their expertise in the fields of state and local debt in Ohio contributed generously of their time during consideration of technical details.

Before its proposals were put into final form, the committee distributed them to interested individuals and groups, and held public hearings to receive their opinions. The committee's final proposals were then

presented to the Commission, which held public hearings on them and, after making minor changes, adopted them as its recommendations to the General Assembly on Article VIII of the Ohio Constitution.

In more detail, the recommendations would do the following:

- • • Establish a constitutional debt formula, based on a moving average of state revenues, by which the state, by a three-fifths (3/5) vote of the General Assembly, could incur debt for capital improvement purposes. The proposed formula would in effect limit the amount of money which could be spent to repay such debt to six per cent (6%) of the base, which is the average of the revenues of the state, as defined in the Constitution, for the then preceding two fiscal years. The proposed formula would also limit the amount of the principal of new debt which could be issued in any fiscal year to eight per cent (8%) of the base, and require that a specific part of the total be repaid every fiscal year.
- • • Continue the authority of the state to contract debt outside the debt limit to repel invasion, suppress insurrection, and defend the state in war.
- • • Authorize short-term borrowing by the state to meet appropriations and require that money borrowed for this purpose be repaid within the fiscal year in which it is borrowed.
- • • Require voter approval in a referendum for incurring debt outside the debt limit or for purposes other than capital improvements.
- • • Require the General Assembly to prescribe the methods and procedures for evidencing, refunding, and retiring state debt, and to provide for its full and timely payment.
- • • Require the General Assembly to perform certain functions of a technical nature in connection with the state's bonded debt, and impose certain duties on the Treasurer of State in regard to it.
- • • Permit that state debt be contracted, and the credit of the state be extended, only for a public purpose declared by the General Assembly in the law authorizing such debt or use of credit.
- • • Continue the authority of the state to issue revenue bonds in the manner and for the purposes enumerated in present Section 2i of Article VIII.
- • • Continue to prohibit local governmental entities in this state from becoming stockholders in, raise money for, or lending credit to, a joint stock company, corporation or association unless permitted to do so by law.
- • • Expand the purposes for which the state may issue industrial development bonds, to include situations in which the issuance of such bonds helps to *preserve existing jobs* in Ohio. Also, the present prohibition against the issuance of such bonds for public utilities would be modified to the extent of permitting issuance of such bonds for public utilities for the purpose of financing facilities used primarily for pollution control.
- • • Repeal unnecessary provisions relating to the Sinking Fund and the Commissioners of the Sinking Fund.



- • • Repeal the provision relating to the Superintendent of Public Works.
- • • Repeal specific debt-authorizing sections, many of which are now obsolete.
- • • Establish a schedule which would assure a smooth transition from present sections of Article VIII to those proposed in this report, including a provision which will assure the continued validity of all obligations of the state outstanding on the date of the adoption of this amendment, and a provision which will include all general obligation debt outstanding on the date of the adoption of this amendment for purposes of calculating the state's general obligation debt limit under the formula proposed in this report.

Finally, it must be noted that the Commission does not recommend any change in the present prohibition against the assumption by the state of the debts of local political subdivisions.



## STATE DEBT INTRODUCTION

The questions of public debt are concerned with how much debt may be incurred, for what purposes, and how it should be repaid. These are not just questions of finance. Rather, the quantitative answers reflect important policy determinations that greatly affect all citizens of the State of Ohio.

In contrast to the federal government, the bonded debt of this state is not and cannot now be used for operating deficits, but is reserved primarily for capital improvements—roads, hospitals, schools and similar public facilities which benefit our citizens generally for many future decades. Clearly, there are occasions when it is not feasible to finance urgently needed facilities solely from current revenues. The structuring of debt thus becomes the decision-making process for determining how the burden of paying for these needed facilities should be allocated between present and future taxpayers who will benefit from them.

If the debt is too severely limited, our proper public purposes will have been jeopardized. If the debt becomes excessively great—or the repayment thereof is not completed within the useful life of the facilities financed thereby—future taxpayers will be unfairly burdened with paying for facilities benefiting earlier taxpayers who did not carry their fair share of the repayment burden.

Since these are complex matters and it is impossible to fully anticipate future needs, several knowledgeable observers have argued that the Constitution should not include any debt limit and that the responsibility for such matters should be left solely to the collective judgment of the Legislature—to our elected representatives in the General Assembly. ~~The~~ <sup>Eleven</sup> states have adopted this approach. The Commission has, however, concluded that, in view of its history and culture, Ohioans will not accept the principle of delegating this responsibility entirely to the General Assembly. The Commission has also concluded that constitutionally determined debt limits—however defined—may well be regarded as future authorizations to incur debt. The above observations thus have led to the recognition by the Commission that any constitutionally defined debt limit should receive the most careful consideration. It has further concluded that such a limit should have both flexibility and a direct relationship to ability to repay. Flexibility is an important concept since any fixed limit, however reasonable today, cannot anticipate the future; and “ability to repay” is a well-recognized principle of finance as a basic criterion for determining appropriate levels of borrowing.

These are the principles that have guided the Commission in the development of the debt limit proposed in this report—a limitation that is not so restrictive that it will thwart our proper purposes, and yet not so permissive as to lead to future excesses.

A notable by-product of the Commission’s recommendations—resulting principally from the removal of provisions authorizing the issuance of general obligation debt in specific amounts or to specific limits—is a reduction of approximately 85% in the length of Article VIII, from an estimated 11,200 words to 1,672 words.

The provisions of Article VIII of the Ohio Constitution of 1851, many of which have survived with little or no change since their adoption, are largely the result of an attempt by the Constitutional Convention of 1850-1851 to remedy by constitutional means the fiscal problems caused by the

involvement of the state and its political subdivisions in the building of canals, railroads, and turnpikes during the period 1820 to 1850. The principal reasons for calling the Convention were to forestall repudiation of the state debt and to work out a constitutional framework for its repayment.<sup>1</sup> The latter object was "the main principle" behind Article VIII.<sup>2</sup> The provisions of this article, and its companion Article XII, were legislative in character and were deliberately designed to severely restrict the power of the General Assembly in fiscal matters. These characteristics are a hallmark of state constitutions written during this era of American history, and the shortcomings of this approach to constitution-making became evident within a few years. As one observer remarked in 1875: "The spirit of these enactments, however harsh, may be justifiable in view of the recklessness and extravagance of the past; but let us understand that we are doing penance, and not pretend to say that such is a normal one for a healthy commonwealth,"<sup>3</sup> and in what Benjamin U. Ratchford, the leading student of American state debts,<sup>4</sup> was to call a pioneering work,<sup>5</sup> Horace Secrist wrote in 1914:

"If the purpose of the restrictions on the financial powers of the states was to prohibit the use of credit, they have served it well. If the restrictions were intended to take the states out of the industrial field they have been as equally successful. That the purpose in mind was often of this double character, there can be no doubt, but that such was in every case a policy of wisdom may be questioned. State borrowing is in essence a question of political and financial expediency, and its use or non-use should be judged by political standards and by the rules of finance. At any time, given the needs for public revenues, there are two sources open for their acquisition, *viz.*, direct taxation and public borrowing. The method used will be governed largely by the purposes for which the money is to be expended. If the amount is large, and the expenditure of a non-recurrent nature, and such that taxation cannot or ought not to be adjusted to raise the money, then public credit should be utilized. The duration of loans should be determined by the benefits accruing from the expenditures, and the rule of equality between the present and the future become the guide. Even with the most restricted state policy public borrowing remains a valid instrument of public financing. Borrowing, far from always being an evil, is frequently a public good, providing it is not used as a cloak for perpetual debt."

\* \* \*

"The state is an organism, and its essential nature like that of life in general is dynamic, and no cut-and-dried field of endeavor can be mapped out as good for this and all future times. If this is true, then the above limitations for the most part are inappropriate, when made a part of constitutions, since financial expedients cannot readily be adjusted to a changing political philosophy. The state should and does conserve the interests of the people in perpetuity, and a philosophy of a rigid character should never control its policy or hamper its use of borrowed funds if they are necessary for its operation."<sup>6</sup>

The Commission believes that, within reasonable constitutional limits, the determination of matters concerning the state debt and the extension of the credit of the state is, and should clearly be recognized as, a legislative responsibility. The people of Ohio, in a series of amendments to Article VIII proposed by the General Assembly and adopted by substantial margins during the last 25 years, have shown a willingness to accept

legislative recommendations in fiscal matters, including recommendations which have established the principle of borrowing as an instrument of public finance in the Constitution. At the end of fiscal 1972, the state's bonded indebtedness, incurred under this series of amendments, totaled \$1,237,090,000, broken down as follows:

Section of Art. VIII	Year Passed	Favorable Vote	Purpose	Amount Authorized <sup>(a)</sup>	Amount Issued <sup>(a)</sup>	Amount Outstanding 6/30/72 <sup>(b)</sup>
2(c)	1953	60%	Major Thoroughfare Construction	\$500	\$500	\$ 16.3
2(d)	1956	71%	Korean Conflict Bonus	90	60 (tot.)	2.4
2(e)	1955	56%	Capital Improvements Construction	150	150	13.9
2(f)	1963	60%	Public Works	250	250	248.1
2(g)	1964	65%	Highways	500	500	302.9
2(h)	1965	57%	Development	290	290	253.2
2(i)	1968	53%	Highway Obligations	500 <sup>(c)</sup>	225 <sup>(c)</sup>	220.6
2(i)			Public Improvements	259 <sup>(c)</sup>	185 <sup>(c)</sup>	179.6

During the 15-year period 1953-1968, the voters of Ohio approved capital improvement debt averaging \$163,000,000 per year in authorization. There is, to the knowledge of the Commission, no "ideal" or "proper" level of state debt. However, the Commission concludes that Ohio's post-war debt has not been excessive in comparison to the debt of other states. For example, according to statistics computed from information published by the Bureau of the Census, at the end of fiscal 1970, on a *per capita* basis, Ohio ranked 23rd among the states in the amount of general obligation debt, 26th in the amount of non-guaranteed debt, and 25th in total debt.<sup>7</sup>

However, the Commission concludes, considering Ohio's post-war borrowing pattern, that the state's present \$750,000 debt limit is illusory, and that the present method of incurring additional debt, through referenda resulting in constitutional amendments, is certainly unnecessarily cumbersome and potentially ineffective as a device to control state debt. For these reasons, the Commission recommends that both the \$750,000 unvoted general obligation debt limit and the method for incurring additional guaranteed debt be ~~changed~~ *changed*.

At the present time, Ohio is one of 16 states requiring constitutional amendment to incur guaranteed debt for capital improvement purposes.<sup>8</sup> Twenty-one states require referenda for this purpose,<sup>9</sup> and eleven states have no constitutional debt limit whatever.<sup>10</sup> In addition, the Constitutions of Hawaii<sup>11</sup> and Pennsylvania<sup>12</sup> contain formulas fixing these states' general obligation debt limits at a multiple of general fund revenues or

(a) Dollar amounts in millions.

(b) Dollar amounts in millions, rounded to nearest tenth. Columns may not total due to rounding.

(c) As of June 30, 1972—and with the exception of the Korean Conflict Compensation Fund authorized by Section 2(d) of Article VIII, under which no more bonds will be issued—all remaining constitutional authority to issue general obligation bonds was under Section 2(i). This authority consisted of \$274 million for highways—if highway authority is looked upon as a "once only" authority, which it is not—and \$74 million for nonhighway public improvements. To the extent that such authority was not used prior to repeal, it would cease upon the repeal of Section 2(i) as proposed by the Commission.

Sources: Office of the Commissioners of the Sinking Fund.  
Office of the Secretary of State.

annual tax revenues, respectively, while the Constitution of the Commonwealth of Puerto Rico limits debt service payments to a maximum percentage of the average of a two-year revenue base.<sup>13</sup>

In its study, the Commission considered the following constitutional alternatives on the question of a state debt limitation:

1. Maintaining the present debt limit, and the present method for incurring additional debt.
2. Maintaining the present debt limit, and requiring only a referendum instead of a constitutional amendment to incur additional debt.
3. Increasing the present debt limit to some higher amount, and either permitting the legislature to incur debt within this limit or requiring referendum approval within this limit.
4. Omitting any constitutional debt limit.
5. Creating a flexible debt limit, within which the General Assembly may incur debt for capital improvement purposes without voter approval, and providing that debt outside the constitutional formula should be subject to referendum.

The Commission rejected the possibility of recommending an increase in the present fixed dollar limit to a higher amount, because it concluded that any dollar amount fixed in the Constitution is as likely to be as inappropriate in the future as the present one is now, since it is impossible to make any reasonably accurate long-range economic forecast or to predict the demands by citizens for governmental services—demands which have been rapidly changing during the 20th century.

The Commission also rejected the possibility of recommending that the present debt limit be maintained, and that there be a change in the method of incurring debt from requiring a constitutional amendment to requiring a simple referendum, as was done in the Michigan Constitution of 1963.<sup>14</sup> The Commission chose not to recommend such a proposal, first because there is doubt of the effectiveness of a referendum requirement as an instrument for limiting state debt and, more importantly, because it shares the view expressed by many informed observers that a referendum requirement has a tendency to encourage revenue bond financing in situations in which such financing may be inappropriate, and to shift responsibility for extremely complex fiscal decisions away from elected representatives. A. James Heins, a leading contemporary writer on state constitutional debt restrictions, writes:

“Others have proposed that states generally adopt the referendum requirement now present in twenty state constitutions. Such action would permit the assumption of present nonguaranteed debt in those states where a pledge of the state’s credit is now impossible without constitutional amendment. It would also permit future borrowing with general obligations, but keep the reins in the hands of the electorate, hopefully forestalling the possibility of a runaway state debt. While the proposal would improve the options available in some states, it would not change the position of states currently having referendum provisions in their constitutions. This latter group of states has relatively as large a debt as states currently unrestricted. A referendum provision does not forestall rapid increases in state debt, because nonguaranteed borrowing is available without resort to a referendum. In Kentucky, a referendum state, the Legislative Research Commission had this to say: ‘The constitutional arrangement for general obligation bonds \*\*\*, designed as a directive and safe-

guard, has served as an effective deterrent. Administrative officials do not relish a statewide drive to gain acceptance of a debt proposal. However, through its corporate agencies the state has employed revenue bonds, which are exempt from the constitutional provisions.' In other words, a referendum provision deters rapid increases in full-faith and credit debt because of the difficulty and cost of holding a referendum, but it does not prevent expensive increases in total debt of which nonguaranteed debt is a part. If a state legislature wishes to borrow without troubling with a referendum, it is generally free to do so through one of the nonguaranteed methods. The cost of referendum and legislative desire to avoid them should not be the deciding factors in the type of obligation selected for issuance by a state. The public should elect responsible officials. If it does not do so, a referendum requirement in a state constitution is not going to protect the public from improper management of state debt."<sup>15</sup>

The National Municipal League, in the sixth edition of its *Model State Constitution*, which is the result of the League's State Constitutional Studies Project, in progress since 1957, also questions the effectiveness of the referendum as an instrument for governing basic debt authority:

"Prior *Models*, and nearly half of existing state constitutions, require that debt authorized by law cannot take effect until approved by referendum of the state's voters. The popular referendum requirement has not proved to be much of a restriction upon the creation of debt, however, since voters are asked to pass judgment with limited or no knowledge of the complex fiscal and general policy issues that prompted the legislature and the governor to seek the new debt."

"Certainly the referendum is not consonant with the fixing of responsibility for policy development in the people's elected representatives. Many believe referenda on debt merely produce legislative irresponsibility, with law-making bodies 'passing the buck' to a bewildered electorate."<sup>16</sup>

Although there is no evidence that the voters of Ohio have ever been deliberately misled in regard to the content and intent of any constitutional amendment under which they have authorized the issuance of additional guaranteed state debt, the Commission believes that the mere scope and complexity of many such amendments make it nearly impossible, in the best of faith, to adequately inform the voters on the issues on which they are being asked to vote, or for the voters to comprehend the issues.

The most complex amendment of this nature now in the Ohio Constitution is Section 2i of Article VIII, adopted in 1968. It provides authority for general obligation debt of up to \$759,000,000, subject to certain limitations. These include:

1. That the purpose of the debt be for capital improvements for highways, water pollution control, water management, higher education, technical education, vocational education, juvenile correction, parks and recreation, research and development facilities for highway improvements, mental hygiene and retardation, police and fire training, airports, and other state buildings and structures.
2. That not more than \$100,000,000 principal amount be issued in any one year for highway improvements and related purposes, and that not more than \$500,000,000 be outstanding at any one time for these purposes.

3. That not more than \$259,000,000 be issued for the other purposes stated; of this amount \$120,000,000 must be used for water pollution control, \$100,000,000 for higher education, vocational education, and juvenile correction, \$20,000,000 for parks and recreation, and \$19,000,000 for airports, state buildings, and police and fire training facilities. (It is important to note that, unlike the provision for highway bonds, these amounts are limits on the authority to issue bonds. Thus, when any one of these purposes has reached its constitutional limit, the General Assembly has no more bonding authority. With highways, on the other hand, the General Assembly can authorize more than \$500,000,000, provided it does not have more than \$500,000,000 outstanding at any time.)
4. That any bond issue be repaid within 30 years.

Section 2i also contains general instructions concerning funding of payment of bonds. It also authorizes the issuance of "hybrid" revenue bonds for a number of purposes, without regard to the dollar limitation referred to above. The purposes for which Section 2i authorizes issuance of such bonds are mental hygiene and retardation, parks and recreation, state-supported and state-assisted institutions of higher education, including technical education, water pollution control and abatement and water management, and housing of branches and agencies of state government. One recent study of the Ohio Constitution concludes as follows in regard to this section:

"Thus, the voters have given the legislature virtually unlimited authority to issue bonds for highway improvements, and a substantial authority \*\*\* for other improvements. There is no termination date in this section for the cessation of the authority. The effect is to nullify the \$750,000 borrowing limitation of Article VIII, Section 1."<sup>17</sup>

This section is a prime example of the debt-authorizing constitutional amendment which, by its very scope, must be over-simplified in the manner in which it is presented to the voter in public information campaigns and on the ballot. Such complexity and over-simplification, combined with the fact that the individual voter must decide whether to accept or reject such an amendment as a "package," in the Commission's view, effectively deprives the electorate of much truly meaningful control over the size of the state's guaranteed and nonguaranteed debt, as well as the purposes for which such debt is incurred, the referendum notwithstanding. The Commission also views a requirement for more frequent and more limited referenda on "ordinary" capital expenditures of the state as impractical and likely to have an unfavorable effect on capital planning and budgeting.

Another alternative rejected by the Commission was that of recommending that the Constitution prescribe no state debt limit at all. As previously indicated, eleven states now have constitutions which fall in this category. Illinois recently adopted such a constitution, in 1970.<sup>18</sup> However, it is the position of the Commission that the Ohio Constitution should contain a debt limit. Also, whatever the merits of the abolition of a state debt limit may be, in the view of the Commission such a proposal would represent too much of a departure from the present method of incurring debt to be acceptable to the people of this state.

The remaining alternative, a basic state general obligation debt limit expressed in a formula based on a moving average of state revenues, which is recommended in this report, seems to this Commission to offer the best solution to the need for modernizing the mechanism by which



the state incurs general obligation or guaranteed debt, while at the same time recognizing the historical preference of the people of Ohio for some amount of constitutional control in fiscal matters.

The concept of a constitutional state debt formula is not novel. Benjamin U. Ratchford advocated such an approach to debt limitation in *American State Debts*, a classic study on the subject published in 1941.<sup>19</sup> Under his proposal, the basic state debt limit would be as follows: the legislature could authorize borrowing so long as the net debt incurred under such authorization did not exceed 100% of the average revenue receipts of the state for the preceding five years. The electorate could, by a referendum vote, authorize borrowing of a similar amount. The normal or basic limit for the debt would thus be an amount equal to twice the average revenue receipts, as defined above, for the preceding five years; it would be a moving limit to be computed each year. Ratchford advocated keeping the voted and nonvoted parts of the limit separate to show (1) the part of the debt authorized by the legislature and by the people and (2) the amount of additional indebtedness which each might authorize. Also, in his proposal, revenue receipts would be defined as (1) net collections from taxes and license and registration fees levied by law; (2) donations and grants from the federal government; and (3) net receipts from state investments and enterprises. While admonishing that "there is no magic in debt limitations, and we should not expect to solve all problems by writing a formula in the constitution,"<sup>20</sup> Ratchford nevertheless strongly advocated the adoption of the formula approach to the limitation of state debt, and evaluated his proposal as follows:

"The \*\*\* plan would allow a reasonable and prudent use of the state's credit but would prevent excessive borrowing. Borrowing could be authorized without undue delay, and the debt limit would rise with the increase of state revenues. If the state desired to make heavy outlays, it could, by increasing revenues, pay for a part of the outlays and at the same time raise the debt limit. Large revenues collected to retire a debt would increase the future margin of borrowing both by reducing the existing debt and by raising the debt limit. In emergencies the legislature could invoke additional borrowing power to a limited extent. These provisions would allow all the borrowing that is desirable under normal conditions. If an emergency should arise to make further borrowing necessary, the people always have the privilege of amending the constitution."<sup>21</sup>

In 1958, Ratchford commented that "there does not seem to have been any basic changes in the methods of limiting debts in recent years. Several proposals, originally advanced more than 20 years ago, have made little or no progress. One of these was to limit debts in terms of average revenue receipts. Apparently no state has tried any version of this idea."<sup>21</sup> Two states and the Commonwealth of Puerto Rico have, since that time, adopted constitutional debt limit formulas. While these formulas are alike to the extent of being based on a moving average of revenues, they vary in their particular details, each reflecting the constitutional history and the fiscal situation of the jurisdiction in which each was adopted. The constitutional state debt formula proposed by the Commission in this report fits the same pattern. This formula, which is the cornerstone of the Commission's recommendations for a revised Article VIII, and the other recommendations of the Commission relating to this article, are examined in detail in the remainder of this report.



# RECOMMENDATIONS

## ARTICLE VIII

### Section 1

#### Present Constitution

Section 1. The State may contract debts, to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

#### Commission Recommendation

The Commission recommends the repeal of Section 1 and the enactment of a new Section 1 to read as follows:

Section 1. (A) THE STATE MAY, BY LAW PASSED WITH THE CONCURRENCE OF THREE-FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE OF THE GENERAL ASSEMBLY, CONTRACT DEBT FOR CAPITAL IMPROVEMENTS, CAPITAL ACQUISITIONS, LAND, AND INTERESTS IN THE FOREGOING, AND FOR REFUNDING DEBT CONTRACTED FOR SUCH PURPOSES. DEBT FOR SUCH PURPOSES SHALL NOT BE CONTRACTED IF, IN ANY FISCAL YEAR, THE AMOUNT REQUIRED FOR PRINCIPAL AND INTEREST PAYMENTS ON SUCH DEBT AND ON ALL OUTSTANDING DEBT PREVIOUSLY CONTRACTED WOULD EXCEED SIX PER CENT OF THE AVERAGE OF THE ANNUAL REVENUES OF THE STATE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, EXCLUDING BORROWED MONEYS, MONEYS RECEIVED FROM THE FEDERAL GOVERNMENT, AND MONEYS REQUIRED TO BE RETURNED BY SECTION 9 OF ARTICLE XII OF THIS CONSTITUTION, RECEIVED BY THE STATE DURING THE THEN TWO PRECEDING FISCAL YEARS. NEW DEBT FOR SUCH PURPOSES SHALL NOT BE CONTRACTED IN ANY FISCAL YEAR IN A TOTAL PRINCIPAL AMOUNT EXCEEDING EIGHT PER CENT OF SUCH REVENUE AVERAGE.

(B) THE STATE MAY, BY LAW, CONTRACT DEBT TO REPEL INVASION, SUPPRESS INSURRECTION, OR DEFEND THE STATE IN WAR.

(C) THE STATE MAY, BY LAW, CONTRACT DEBT TO MEET APPROPRIATIONS DURING ANY FISCAL YEAR, BUT SUCH DEBT SHALL BE PAID NOT LATER THAN THE END OF SUCH FISCAL YEAR.

(D) THE STATE MAY, BY LAW, CONTRACT DEBT IN ADDITION TO THAT, OR FOR PURPOSES OTHER THAN THOSE, PROVIDED FOR IN DIVISION (A), (B), OR (C) OF THIS SECTION, BUT ONLY IF THE QUESTION OF CONTRACTING SUCH DEBT HAS BEEN SUBMITTED TO THE ELECTORS AND APPROVED BY A MAJORITY OF THOSE VOTING ON THE QUESTION. THE MANNER OF SUBMITTING SUCH QUESTIONS SHALL BE PROVIDED BY LAW.

(E) DEBT CONTRACTED PURSUANT TO DIVISION (B), (C), OR (D) OF THIS SECTION SHALL NOT BE INCLUDED IN THE LIMITS OF, NOR BE SUBJECT TO THE REQUIREMENTS OF, DIVISION (A) OR (G) OF THIS SECTION.

(F) THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE PAYMENT OF THE STATE DEBT AND FOR THE METHOD AND PROCEDURE FOR INCURRING, EVIDENCING, REFUNDING, AND RETIRING DEBT. THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT MONEYS AS WILL PROVIDE FOR THE FULL AND TIMELY PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE STATE DEBT. IF THE GENERAL ASSEMBLY DOES NOT, AT ANY TIME, MAKE SUCH APPROPRIATIONS, THE TREASURER OF STATE SHALL SET ASIDE FROM THE FIRST REVENUES OF THE STATE APPLICABLE TO THE GENERAL REVENUE FUND AND ANY OTHER APPROPRIATE FUNDS OF THE STATE SUFFICIENT SUMS TO PROVIDE FOR SUCH FULL AND TIMELY PAYMENT AND SHALL SO APPLY THE MONEY SET ASIDE.

(G) AT LEAST FOUR PER CENT OF THE TOTAL PRINCIPAL AMOUNT OF DEBT OUTSTANDING AT THE BEGINNING OF A FISCAL YEAR SHALL BE PAID, OR MONEYS FOR SUCH PAYMENT SET ASIDE, DURING SUCH FISCAL YEAR. FOR THE PURPOSES OF DIVISION (A) OF THIS SECTION, THE GENERAL ASSEMBLY SHALL PROVIDE FOR COMPUTING REQUIRED PRINCIPAL AND INTEREST PAYMENTS, AND MAY PROVIDE FOR ESTIMATING PRINCIPAL AND INTEREST PAYMENTS ON BONDS WHILE NOTES IN ANTICIPATION THEREOF ARE OUTSTANDING, FOR INCLUDING PRINCIPAL AND INTEREST PAYMENTS ON DEBT CONTRACTED TO REFUND OR RETIRE PRIOR DEBT IN LIEU OF SUCH PAYMENTS ON SUCH PRIOR DEBT, AND FOR THE METHOD OF COMPUTING PRINCIPAL AND INTEREST PAYMENTS ON ANY DEBT REQUIRED TO BE RETIRED, OR FOR WHICH SINKING FUND DEPOSITS ARE REQUIRED, PRIOR TO MATURITY. THE TREASURER OF STATE SHALL DETERMINE AND CERTIFY THE ANNUAL PRINCIPAL AND INTEREST PAYMENTS ON OUTSTANDING DEBT, THE REVENUES OF THE STATE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND OTHER FINANCIAL DATA NECESSARY FOR THE PURPOSES OF DIVISION (A) OF THIS SECTION, AND SUCH CERTIFICATION SHALL BE CONCLUSIVE FOR PURPOSES OF THE VALIDITY OF ANY DEBT CONTRACTED PURSUANT TO SUCH DIVISION.

(H) FOR THE PURPOSES OF THIS SECTION, "DEBT" MEANS GENERAL OBLIGATIONS OF THE STATE FOR WHICH THE FAITH, CREDIT, AND TAXING POWER OF THE STATE ARE PLEDGED.

#### **Comment**

The wording of present Section 1 has not been changed from that which was enrolled by the Constitutional Convention in 1851.<sup>23</sup> The principal feature of this section is the \$750,000 state debt limitation, which was originally inserted into the report by the committee which prepared Article VIII, for discussion purposes, "as a matter of convenience."<sup>24</sup> In 1849, the total revenues of the state were \$2,511,119,<sup>25</sup> so that \$750,000 represented approximately one-third of the revenues of the state when this provision was adopted. Significantly, in fiscal 1972, based on data provided by the Commissioners of the Sinking Fund and the Department of Finance, Ohio's general obligation or guaranteed debt was 33.3% of the total revenues of the state in that year. It is also interesting to note that in 1912, a proposal by the Constitutional Convention of 1912 to authorize the issuance of \$50,000,000 in bonds to finance a state-wide system of inter-county wagon roads was defeated by only two thousand votes, 272,564 to 274,582,<sup>26</sup>

indicating that many voters considered the \$750,000 limitation inadequate even at that time.

Section 1 of the Commission's proposal for a revised Article VIII is more comprehensive in scope than present Section 1. Section 1 of the Commission's proposal would not only prescribe a new method for computing the state's guaranteed or general obligation debt limit, but it would also set forth all other constitutional matters relating to guaranteed or general obligation debt. The remainder of the comments under this section deal with each one of these matters, beginning with the basic general obligation state debt limit contained in proposed Section 1, Division (A). Division (A) reads as follows:

(A) THE STATE MAY, BY LAW PASSED WITH THE CONCURRENCE OF THREE-FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE OF THE GENERAL ASSEMBLY, CONTRACT DEBT FOR CAPITAL IMPROVEMENTS, CAPITAL ACQUISITIONS, LAND, AND INTERESTS IN THE FOREGOING, AND FOR REFUNDING DEBT CONTRACTED FOR SUCH PURPOSES. DEBT FOR SUCH PURPOSES SHALL NOT BE CONTRACTED IF, IN ANY FISCAL YEAR, THE AMOUNT REQUIRED FOR PRINCIPAL AND INTEREST PAYMENTS ON SUCH DEBT AND ON ALL OUTSTANDING DEBT PREVIOUSLY CONTRACTED WOULD EXCEED SIX PER CENT OF THE AVERAGE OF THE ANNUAL REVENUES OF THE STATE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, EXCLUDING BORROWED MONEYS, MONEYS RECEIVED FROM THE FEDERAL GOVERNMENT, AND MONEYS REQUIRED TO BE RETURNED BY SECTION 9 OF ARTICLE XII OF THIS CONSTITUTION, RECEIVED BY THE STATE DURING THE THEN TWO PRECEDING FISCAL YEARS. NEW DEBT FOR SUCH PURPOSES SHALL NOT BE CONTRACTED IN ANY FISCAL YEAR IN A TOTAL PRINCIPAL AMOUNT EXCEEDING EIGHT PER CENT OF SUCH REVENUE AVERAGE.

Division (A) of Section 1 of the proposed Article VIII would permit the General Assembly, by a three-fifths ( $\frac{3}{5}$ ) vote of the members elected to each house, to contract general obligation or guaranteed debt, subject to limitations contained in the section, for "capital improvements, capital acquisitions, land, and interests in the foregoing." Although the Commission feels that broad interpretation of "capital improvements" would probably cover all the items enumerated, it concluded that it is preferable to list these items in order to avoid any uncertainty regarding the intent of this provision. Guaranteed debt could also be contracted for refunding debt for the foregoing purposes, with the intent of giving the state the flexibility to take advantage of favorable changes in the money market or in financing methods, as such changes and methods may develop in the future.

The three-fifths ( $\frac{3}{5}$ ) vote requirement is recommended to assure that any debt-authorizing legislation has broad support in the General Assembly. It corresponds with the present requirement of  $\frac{3}{5}$  of each house to place a proposed constitutional amendment on the ballot for voter approval.

The base from which the state's basic general obligation debt limit would be calculated is the average of the annual state revenues subject to appropriation by the General Assembly in the then preceding two fiscal years, excluding borrowed moneys, moneys received from the federal government, and 50% of the income and inheritance taxes which are required by the Constitution to be returned to specified local governmental units. The reason for recommending the exclusion of borrowed moneys is that the

Commission believes that the state ought not to include in the base used to calculate the amount it can borrow, moneys which it has already borrowed. The Commission also believes that federal funds ought not to be included for the reason that this source of revenue is too unpredictable, being entirely dependent on federal laws and programs over which the state presently has little or no control. Further, the Commission believes that the one-half ( $\frac{1}{2}$ ) of all income and inheritance taxes which the state must share with local government units under Section 9 of Article XII should logically also be excluded from the base, since the state has no control over these funds.

The Commission believes that the revenue base it has chosen to recommend is one which reasonably reflects the state's ability to repay borrowed funds, and that the elements constituting the base can be determined with certainty.

The choice of a two fiscal year period for determining the base is deliberate, since the Commission believes that the debt limit should be quickly affected by a change in revenues, particularly in periods of economic recession.

The amount of debt which could be contracted pursuant to Division (A) would be limited in two ways: (1) an overall debt service limit of 6% of the base and (2) an annual principal amount limit of 8% of the base. The overall debt service limit of 6% would serve to limit the amount of the state's revenues (as defined, constituting the base) which could be spent in any fiscal year to pay principal and interest on general obligation or guaranteed debt.

This division would expressly prohibit the contracting of debt if, in any fiscal year, payments for principal and interest on the proposed debt, and all guaranteed or general obligation debt previously contracted—including general obligation debt contracted under present constitutional provisions<sup>27</sup> would exceed 6% of the base. In point of fact, Ohio has, during several recent fiscal years, spent more on general obligation debt service than would be permitted under the proposed 6% general obligation debt service limit. With the revenue base defined as proposed by the Commission in this report, such debt service was 4.8% of revenues in fiscal 1967; 6.5% of revenues in fiscal 1968; 6.0% of revenues in fiscal 1969; 7.3% of revenues in fiscal 1970; 7.0% of revenues in fiscal 1971; and 7.1% of revenues in fiscal 1972.<sup>28</sup>

The second limitation on debt issuance, the annual 8% principal amount limit, will assure that an inordinate amount of new debt would not be issued in any one fiscal year. Five of the six capital improvement bond amendments adopted in recent years have included provisions limiting the amount of new debt issuable in any one year and the imposition of this second restriction on the General Assembly's authority to issue new debt seems desirable to the Commission. With the revenue base defined as proposed, the 8% principal amount limit would have amounted to approximately \$120,000,000 for fiscal years 1967 and 1968; \$129,000,000 in fiscal 1969; \$146,000,000 in fiscal 1970; \$162,000,000 in fiscal 1971; and \$172,000,000 in fiscal 1972. New debt actually issued in each of the last four years of this period considerably exceeded 8% of the base revenues, and the annual average of the principal amount of bonds issued during these six fiscal years amounted to \$207,000,000.<sup>29</sup> The calculation of the principal amount limit for fiscal 1973, \$193,000,000, when compared to this historical average of bonds issued indicates that the proposed 8% limit, if it were now in force, would permit approximately the same level of new indebted-

ness in fiscal 1973 as that incurred, on an average basis, in recent fiscal years.

The Commission believes that the adoption of the foregoing general obligation debt formula would have several beneficial effects on the capital spending program of the state. First, it would transfer to the General Assembly the responsibility for making decisions on "ordinary" expenditures for capital improvements, at spending levels approximating those which the people of Ohio, through the approval of a series of constitutional amendments authorizing the contracting of debt, have shown themselves willing to accept. This transfer of responsibility, in the Commission's view, is likely to lead to an improvement in capital planning and budgeting processes by constantly calling attention to the link between capital expenditures and revenues and the need for careful coordination between the two. Such coordination is not neglected in Ohio at the present time under the Capital Plan,<sup>30</sup> but would almost certainly be improved by a procedure under which the debt margin could be calculated and a program of capital improvements carried out on a regular and systematic basis without having to accumulate capital projects for presentation in a referendum not necessarily when they are needed but when it is politically feasible to do so. Second, the Commission believes that the formula will provide sufficient leeway to allow the state to finance or refinance through general obligation bonds some projects which it is now financing through revenue bonds at higher interest rates. General obligation debt is, as a rule, significantly less costly than revenue bond debt.<sup>31</sup>

Division (B) reads as follows:

**(B) THE STATE MAY, BY LAW, CONTRACT DEBT TO REPEL INVASION, SUPPRESS INSURRECTION, OR DEFEND THE STATE IN WAR.**

Division (B) of the proposed Section 1 would give the General Assembly power to contract debt outside the debt limit "to repel invasion, suppress insurrection, and defend the state in war." Similar authorization is granted in present Section 2 of Article VIII of the Constitution, which would be replaced by Division (B). The Commission recommends the preservation of such authority while realizing that, in a strict sense, such a provision may not be necessary today because military defense is recognized as an essentially federal function.

Division (C) reads as follows:

**(C) THE STATE MAY, BY LAW, CONTRACT DEBT TO MEET APPROPRIATIONS DURING ANY FISCAL YEAR, BUT SUCH DEBT SHALL BE PAID NOT LATER THAN THE END OF SUCH FISCAL YEAR.**

Division (C) of the proposed Section 1 would give the state short-term borrowing authority to meet appropriations, an authority which is not presently contained in the Constitution. This authority would have no dollar limit, but it could not be used as the basis for long-term borrowing, since all money borrowed under this division would have to be repaid within the fiscal year in which it is borrowed. The provision is recommended solely for the purpose of giving the state an option available to the money managers of private businesses, namely to borrow for short periods of time in order to alleviate cash-flow problems within a fiscal year. At the present time, since the state has no short-term borrowing authority, it must keep large cash balances on hand during the "high-cash" periods in order to be able to meet payrolls and other payables falling due during the "low-cash" periods.

For example, because of the inherently cyclical nature of the tax-collection process, the state has more cash or "near-cash" funds at certain times of the year than at other times. Constitutional short-term borrowing authority would at least give the state the option to choose the most appropriate fiscal course of action in any given circumstances—and permit the state to rely on short-term borrowing to bridge a temporary shortage in cash-flow, as is normal business practice. Second, short-term borrowing authority would enable the state to take advantage of the discount, normally ranging from 2% to 3%, which many vendors offer the state for prompt payment of bills, also in accordance with usual business practice. In the appropriate circumstance, the cost of borrowing for a short period—for example, a month or less—could be more than offset by the saving represented by a discount, resulting in a net saving to the taxpayer. Third, short-term borrowing authority would minimize the possibility that the state would have to "borrow" from its creditors or local governments by late payment. This situation was observed in Michigan, prompting the Convention which produced the Michigan Constitution of 1963 to recommend a provision authorizing short-term borrowing, and to state as follows:

"The financial flexibility introduced here should make it unnecessary for the state to continue the present practice of 'borrowing' from its creditors and local governments by late payment—a policy which has been sometimes required because the state's income flow is irregular and often not correlated as to time with its disbursements."<sup>32</sup>

For these reasons, the Commission recommends Division (C) of the proposed Section 1.

Division (D) reads as follows:

(D) THE STATE MAY, BY LAW, CONTRACT DEBT IN ADDITION TO THAT, OR FOR PURPOSES OTHER THAN THOSE, PROVIDED FOR IN DIVISION (A), (B), OR (C) OF THIS SECTION, BUT ONLY IF THE QUESTION OF CONTRACTING SUCH DEBT HAS BEEN SUBMITTED TO THE ELECTORS AND APPROVED BY A MAJORITY OF THOSE VOTING ON THE QUESTION. THE MANNER OF SUBMITTING SUCH QUESTIONS SHALL BE PROVIDED BY LAW.

Division (D) would authorize the state to contract debt in addition to, or for purposes other than, those set forth in Divisions (A), (B), and (C) of this section, provided the question of whether such debt could be incurred has been submitted to the electorate and has received a majority vote for passage. The last sentence would authorize the General Assembly to prescribe the technical procedures for submitting such questions to the electorate. The purpose of this division would be to require voter approval for incurring debt in addition to or outside of the constitutional limits prescribed in Divisions (A), (B), and (C), without a constitutional amendment, thus preventing the accumulation of needless and often obsolete clutter of financial detail in the Constitution. The situations in which such authority might be sought could include noncapital items, such as veterans' bonuses. Other situations might arise in which the debt limit, in the opinion of the General Assembly, should be increased for a particular capital improvement need, and the legislature could present that need to the voters for their approval in a referendum.

The Commission believes that its recommendation of Division (D) is consistent with its recommendation of Division (A). The basic purpose of Division (A) is to provide the General Assembly freedom within an historically justifiable limit with respect to "ordinary" capital improvements, which are a normal part of state government. In regard to such expendi-



tures, the Commission believes that the General Assembly should be free to incur debt without either a constitutional amendment or a referendum, within the flexible debt limit proposed in this report. However, the Commission also believes that the General Assembly should have to seek voter approval before incurring general obligation debt outside the proposed debt limit. It is for this reason that the adoption of Division (D) is recommended.

Division (E) reads as follows:

(E) DEBT CONTRACTED PURSUANT TO DIVISION (B), (C), OR (D) OF THIS SECTION SHALL NOT BE INCLUDED IN THE LIMITS OF, NOR BE SUBJECT TO THE REQUIREMENTS OF, DIVISION (A) OR (G) OF THIS SECTION.

Division (E) of the proposed Section 1 would exclude debt contracted pursuant to Division (B), (C), or (D) of this section from the limits or requirements of Division (A) or (G) of this section. Excluding voter-approved and emergency debt from the limit continues the present situation, and the Commission believes that short-term borrowing should also be excluded, as being different in duration and purpose from borrowing for capital improvements.

Division (F) reads as follows:

(F) THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE PAYMENT OF THE STATE DEBT AND FOR THE METHOD AND PROCEDURE FOR INCURRING, EVIDENCING, REFUNDING, AND RETIRING DEBT. THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT MONEYS AS WILL PROVIDE FOR THE FULL AND TIMELY PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE STATE DEBT. IF THE GENERAL ASSEMBLY DOES NOT, AT ANY TIME, MAKE SUCH APPROPRIATIONS, THE TREASURER OF STATE SHALL SET ASIDE FROM THE FIRST REVENUES OF THE STATE APPLICABLE TO THE GENERAL REVENUE FUND AND ANY OTHER APPROPRIATE FUNDS OF THE STATE SUFFICIENT SUMS TO PROVIDE FOR SUCH FULL AND TIMELY PAYMENT AND SHALL SO APPLY THE MONEY SET ASIDE.

Division (F) prescribes certain conditions attached to all state general obligation borrowing, whether for capital improvements or for other purposes. It would require that state debt be repaid, and authorize the General Assembly to enact the necessary laws respecting methods and procedures for incurring, evidencing, refunding, and retiring state debt, and require the Treasurer to set aside sufficient moneys from the state revenues to pay the state debt if the General Assembly fails to appropriate or make adequate appropriations. The latter provision offers a guarantee to bond purchasers that a debt will be repaid. The Commission has been advised that such a guarantee is most desirable, from a practical point of view, to facilitate the marketing of state bonds. Presently effective Sections 2b through 2i of Article VIII, which authorize the issuance of general obligation debt above the \$750,000 limitation and which would be repealed under the Commission proposal, purport to be self-executing by providing that the moneys pledged to the repayment of the debt authorized in each section are subjected to repayment of the debt without necessity for further appropriation. While the last sentence of Division (F) is not an exact equivalent of such a provision it is, likewise, intended to give the bond buyer a protection which he would not otherwise have.

Division (G) reads as follows:

(G) AT LEAST FOUR PER CENT OF THE TOTAL PRINCIPAL AMOUNT OF DEBT OUTSTANDING AT THE BEGINNING OF A FISCAL YEAR SHALL BE PAID, OR MONEYS FOR SUCH PAYMENT SET ASIDE, DURING SUCH FISCAL YEAR. FOR THE PURPOSES OF DIVISION (A) OF THIS SECTION, THE GENERAL ASSEMBLY SHALL PROVIDE FOR COMPUTING REQUIRED PRINCIPAL AND INTEREST PAYMENTS, AND MAY PROVIDE FOR ESTIMATING PRINCIPAL AND INTEREST PAYMENTS ON BONDS WHILE NOTES IN ANTICIPATION THEREOF ARE OUTSTANDING, FOR INCLUDING PRINCIPAL AND INTEREST PAYMENTS ON DEBT CONTRACTED TO REFUND OR RETIRE PRIOR DEBT IN LIEU OF SUCH PAYMENTS ON SUCH PRIOR DEBT, AND FOR THE METHOD OF COMPUTING PRINCIPAL AND INTEREST PAYMENTS ON ANY DEBT REQUIRED TO BE RETIRED, OR FOR WHICH SINKING FUND DEPOSITS ARE REQUIRED, PRIOR TO MATURITY. THE TREASURER OF STATE SHALL DETERMINE AND CERTIFY THE ANNUAL PRINCIPAL AND INTEREST PAYMENTS ON OUTSTANDING DEBT, THE REVENUES OF THE STATE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND OTHER FINANCIAL DATA NECESSARY FOR THE PURPOSES OF DIVISION (A) OF THIS SECTION, AND SUCH CERTIFICATION SHALL BE CONCLUSIVE FOR PURPOSES OF THE VALIDITY OF ANY DEBT CONTRACTED PURSUANT TO SUCH DIVISION.

Division (G) of proposed Section 1 is concerned with the technical aspects of the administration of state debt. The first sentence would require that at least 4% of the principal of the general obligation debt outstanding at the beginning of the fiscal year be repaid within that fiscal year, or money for its payment set aside. The 4% is not intended to apply to any particular issue of bonds, but rather to the aggregate of the principal of the general obligation debt, including debt which would be outstanding at the time of the adoption of this proposal. The Commission believes that this approach would preserve a measure of desirable flexibility in regard to structuring the repayment of particular debts, while at the same time assuring that at least 4% of the principal of the total debt outstanding at the beginning of a fiscal year is repaid within that fiscal year, or money for its payment is set aside. The practical effect of the foregoing provision would be to require the establishment and maintenance of orderly repayment schedules. The option to set money aside is proposed because there are bonds by the terms of which payment of principal to the bondholder is not required in every fiscal year during which the bond is outstanding.

Division (G) would further require the General Assembly to provide the required principal and interest payments for the nonvoted capital improvement debt, and authorize other provisions deemed necessary for the purpose of estimating principal and interest payments on bonds issued for such purposes while bond anticipation notes are outstanding on such bonds, to include payments on debt contracted to refund or retire prior debt for other payments on such prior debt, and for computing principal and interest payments on debt which is required to be retired before maturity, or in connection with which sinking fund deposits are required. This division also imposes on the Treasurer of State the duty to certify the financial data necessary for the computations of Division (A), and provides that such certification shall be conclusive for purposes of the debt contracted pursuant to Division (A). The provision regarding the conclusiveness of the Treasurer's certification is inserted because the Com-

mission has been informed that its omission could result in an adverse effect on the credit rating of the state and the marketability of its bonds, since certainty in the authority to issue bonds is required in bond market transactions.

Division (H) reads as follows:

(H) FOR THE PURPOSES OF THIS SECTION, "DEBT" MEANS GENERAL OBLIGATIONS OF THE STATE FOR WHICH THE FAITH, CREDIT, AND TAXING POWER OF THE STATE ARE PLEDGED.

Division (H) of the proposed Section 1 would define "debt" for purposes of this section.

At the present time, the Constitution contains no definition of the word "debt"—which is intended to refer to general obligation or guaranteed debt only for purposes of Section 1 of the proposed Article VIII. The Commission believes that this section should contain such a definition, for purposes of clearly distinguishing general obligation debt from debt incurred through revenue bonds. The traditional definition of general obligation debt is that it is debt to the repayment of which the "faith and credit" or "full faith and credit" of the state are pledged. However, these terms, standing alone, still appear to have no precise definition themselves, in relation to state financing, despite broad use. It does appear, however, that the essential characteristic of general obligation debt is that the pledge to repay it is expressly or impliedly backed by the taxing power of the state, and that the concept of what constitutes "taxing power" is universally understood.<sup>33</sup> In practical terms, "the power of taxation is a power to enforce contribution from persons and property for the maintenance of the government."<sup>34</sup>

#### **Recommendation for Repeal**

The Commission recommends the repeal of the following sections of present Article VIII contemporaneously with the enactment of the proposed Section 1 of Article VIII: Sections 1, 2, 3, and 2b, 2c, 2d, 2e, 2f, 2g, and 2h.<sup>35</sup> The Commission also recommends the repeal of present Section 2i except that the "hybrid" revenue bond portion of this section would be preserved as a new Section 3 in the proposed article.

The Commission further recommends the repeal of present Section 6 of Article XII which reads as follows: "Except as otherwise provided in this Constitution the state shall never contract any debt for purposes of internal improvement." The Commission feels that this section is no longer necessary, since the proposed Article VIII would adequately and completely cover the question of how the state may incur debt for internal improvement or other public purposes.

## **ARTICLE VIII**

### **Section 2**

#### **Present Constitution**

Section 2. In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State: but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the State, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

#### **Commission Recommendation**

The Commission recommends the repeal of Section 2 and the enactment of a new Section 2 to read as follows:

Section 2. NO STATE DEBT SHALL BE CONTRACTED NOR SHALL THE CREDIT OF THE STATE BE USED EXCEPT FOR A PUBLIC PURPOSE DECLARED BY THE GENERAL ASSEMBLY IN THE LAW AUTHORIZING SUCH DEBT OR USE OF CREDIT.

#### **Comment**

Present Section 2 of Article VIII has two parts: the first, which ends with the word "whatever," contains the so-called "emergency borrowing power" to repel invasion, suppress insurrection, or defend the state in war, or to redeem "the present outstanding indebtedness of the state," and mandates that all moneys borrowed for these purposes shall be applied to no other purpose. The second part requires that all debt incurred to redeem the present outstanding indebtedness of the state shall be repaid through a sinking fund to be provided for in the Constitution.

Section 2 has survived unchanged since the time of its adoption, and exemplifies the preoccupation of its drafters with "the present outstanding indebtedness of the state," that is, the specific debt arising from internal improvements, mainly canals, which is referred to in the introduction to this report.

In Division (B) of proposed Section 1, the Commission recommends the retention of the provision which authorizes borrowing outside the general obligation debt limit to repel invasion, suppress insurrection, and defend the state in war. However, the Commission believes that a constitutional provision that all moneys arising from a loan for these purposes shall be applied to them, as required by present Section 2, is redundant, and should be omitted from the Constitution. The references to Ohio's canal debt, which has long been paid, should also be omitted. In addition, the Commission recommends the repeal of all constitutional provisions relating to the Sinking Fund, as explained in the Comments to Sections 7-11 of Article VIII.

The proposed Section 2 reads as follows:

"No state debt shall be contracted nor shall the credit of the state be used except for a public purpose declared by the General Assembly in the law authorizing such debt or use of credit."

This new section would replace present Section 4 of Article VIII. It would prohibit the contracting of state debt and the extension of state credit except when a public purpose has been declared by the General Assembly, whereas present Section 4 of Article VIII prohibits the extension of state credit for any individual, association or corporation, whether or not a public purpose would be served by it, and also prohibits the state from being a joint owner or stockholder in any company or association, regardless of the purpose for which such company or association is formed. In the Commission's view, neither of these prohibitions is necessary in the Constitution today and may, in fact, prevent such beneficial cooperation as may be deemed advisable by the General Assembly between the governmental and private sectors in providing essential benefits and services for the public good. It seems to the Commission that such cooperation is receiving increasing attention in modern society and that the judgment should properly be a legislative matter.

There has already been a relaxation of the ban against the extension of the credit of the state in two significant constitutional amendments adopted in the last decade. Article VI, Section 5, adopted in 1965, permits the state to guarantee loans to Ohio residents for higher education, and Article VIII, Section 13, adopted in 1968, permits the state, as well as its

political subdivisions, taxing districts or public authorities, to guarantee or make loans and to borrow money and issue revenue bonds for purposes of industrial development.

As to the determination of what constitutes a "public purpose," the Commission believes that when the General Assembly has made such a determination, its decision should not be lightly disturbed by the courts, and that the definition of what constitutes a "public purpose" should not be "frozen" into the Constitution.

As stated in *Chase v. Board of Tax Appeals*: "When dealing with constitutional phrases such as "public property" and "public use" we must remember that if these phrases are to be anything more than frozen abstractions embedded in the rock of past generations, they must be amenable to the expansion necessary to meet the exigencies of the present. As Mr. Justice Holmes has stated: 'A word is not a crystal, transparent and unchanging, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used.'"<sup>36</sup> And the California Constitution Revision Commission has said:

"It appears that the term "public purpose" is not necessarily a static concept, but rather adjusts to the changing concepts of government. If the activity falls within the realm of governmental duty, the requisite public purpose will probably be found even though certain persons or organizations may be directly benefited. Under this test, it is the essential character of the activity promoted which determines the validity of expenditure.

Other cases have measured the validity of the interest to be promoted by determining the magnitude of the interest to be effected. Whether a given expenditure will be held valid depends on the degree to which the general community is ultimately benefited. If a large number of people are benefited, there is greater likelihood that the legislation will be upheld.

In a pragmatic sense the Legislature largely determines what is a public purpose. In this determination, the Legislature is vested with discretion which is not controlled by the courts unless the action is clearly evasive or violative of other constitutional provisions. In other words, the Legislature determines the method of promoting a public purpose and it is the sole judge of the wisdom and necessity of expending public funds. *When the Legislature has declared the use to be public its judgment will be respected by the courts unless the use is palpably without reasonable foundation. Alameda County v. Janssen*, 16 Calif. 2d 276, 281, 106 P. 2d 11 (1940)."<sup>37</sup> (Emphasis added.)

It is with the hope and intent of removing an impediment to beneficial cooperation between the public and private sectors for public purposes—cooperation which the Commission believes the citizens of Ohio accept and expect as a matter of course—and fixing responsibility for determining "public purpose" in the General Assembly while minimizing the need for litigation in this area, that the Commission recommends the adoption of proposed Section 2 and the repeal of Section 4 of the present Article VIII.

## ARTICLE VIII

### Section 3

#### Present Constitution

Section 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by, or on behalf of the State.

### **Commission Recommendation**

The Commission recommends the repeal of Section 3 and the enactment of a new Section 3 to read as follows:

Section 3. THE GENERAL ASSEMBLY MAY AUTHORIZE THE ISSUANCE OF REVENUE OBLIGATIONS AND OTHER OBLIGATIONS, THE OWNERS OR HOLDERS OF WHICH ARE NOT GIVEN THE RIGHT TO HAVE EXCISES OR TAXES LEVIED BY THE GENERAL ASSEMBLY FOR THE PAYMENT OF PRINCIPAL THEREOF OR INTEREST THEREON, FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, OR OTHER IMPROVEMENT OF, AND PROVISION OF EQUIPMENT FOR, BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS, AND NECESSARY PLANNING AND ENGINEERING, AND THE ACQUISITION AND IMPROVEMENT OF REAL ESTATE AND INTERESTS THEREIN REQUIRED WITH RESPECT TO THE FOREGOING, INCLUDING PARTICIPATION IN SUCH CAPITAL IMPROVEMENTS WITH THE FEDERAL GOVERNMENT, MUNICIPAL CORPORATIONS, COUNTIES, OR OTHER GOVERNMENTAL ENTITIES OR ANY ONE OR MORE OF THEM WHICH PARTICIPATION MAY BE BY GRANTS, LOANS, OR CONTRIBUTIONS TO THEM FOR ANY OF SUCH CAPITAL IMPROVEMENTS, FOR MENTAL HYGIENE AND RETARDATION, PARKS AND RECREATION, STATE SUPPORTED AND STATE ASSISTED INSTITUTIONS OF HIGHER EDUCATION, INCLUDING THOSE FOR TECHNICAL EDUCATION, WATER POLLUTION CONTROL AND ABATEMENT, WATER MANAGEMENT, AND HOUSING OF BRANCHES AND AGENCIES OF STATE GOVERNMENT, WHICH OBLIGATIONS SHALL NOT BE DEEMED TO BE DEBTS OR BONDED INDEBTEDNESS OF THE STATE UNDER OTHER PROVISIONS OF THIS CONSTITUTION. SUCH OBLIGATIONS MAY BE SECURED BY A PLEDGE UNDER LAW, WITHOUT NECESSITY FOR FURTHER APPROPRIATION, OF ALL OR SUCH PORTION AS THE GENERAL ASSEMBLY AUTHORIZES OF CHARGES FOR THE TREATMENT OR CARE OF MENTAL HYGIENE AND RETARDATION PATIENTS, RECEIPTS WITH RESPECT TO PARKS AND RECREATIONAL FACILITIES, RECEIPTS OF OR ON BEHALF OF STATE SUPPORTED AND STATE ASSISTED INSTITUTIONS OF HIGHER EDUCATION, OR OTHER REVENUES OR RECEIPTS, SPECIFIED BY LAW FOR SUCH PURPOSE, OF THE STATE OR ITS OFFICERS, DEPARTMENTS, DIVISIONS, INSTITUTIONS, BOARDS, COMMISSIONS, AUTHORITIES, OR OTHER STATE AGENCIES OR INSTRUMENTALITIES, AND THIS PROVISION MAY BE IMPLEMENTED BY LAW TO BETTER PROVIDE THEREFOR; PROVIDED, HOWEVER, THAT ANY CHARGES FOR THE TREATMENT OR CARE OF MENTAL HYGIENE OR RETARDATION PATIENTS MAY BE SO PLEDGED ONLY TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS FOR MENTAL HYGIENE AND RETARDATION, ANY RECEIPTS WITH RESPECT TO PARKS AND RECREATION MAY BE SO PLEDGED ONLY TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS FOR PARKS AND RECREATION, ANY RECEIPTS OF OR ON BEHALF OF STATE SUPPORTED OR STATE ASSISTED INSTITUTIONS OF HIGHER EDUCATION MAY BE SO PLEDGED ONLY TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS FOR STATE SUPPORTED OR STATE ASSISTED INSTITUTIONS OF HIGHER EDUCATION, AND ANY OTHER REVENUES OR RECEIPTS MAY BE SO PLEDGED ONLY TO OBLIGATIONS ISSUED FOR CAPITAL IM-

PROVEMENTS WHICH ARE IN WHOLE OR IN PART USEFUL TO, CONSTRUCTED BY, OR FINANCED BY THE DEPARTMENT, BOARD, COMMISSION, AUTHORITY, OR OTHER AGENCY OR INSTRUMENTALITY THAT RECEIVES THE REVENUES OR RECEIPTS SO PLEDGED. THE AUTHORITY PROVIDED BY THIS SECTION IS IN ADDITION TO, CUMULATIVE WITH, AND NOT A LIMITATION UPON, THE AUTHORITY OF THE GENERAL ASSEMBLY UNDER OTHER PROVISIONS OF THIS CONSTITUTION; SUCH SECTION DOES NOT IMPAIR ANY LAW HERETOFORE ENACTED BY THE GENERAL ASSEMBLY, AND ANY OBLIGATIONS ISSUED UNDER ANY SUCH LAW CONSISTENT WITH THIS SECTION SHALL BE DEEMED TO BE ISSUED UNDER AUTHORITY OF THIS SECTION. THE PRINCIPAL OF AND INTEREST ON OBLIGATIONS AUTHORIZED BY THIS SECTION SHALL BE EXEMPT FROM TAXATION WITHIN THIS STATE.

#### **Comment**

Under the Commission's proposal, present Section 3 would be repealed as obsolete, and a new Section 3 substituted in its place. The proposed Section 3 is a transfer of the "hybrid" revenue bond provisions of present Section 2i of Article VIII. The Commission intends no substantive change to be effected by the transfer, the purpose of minor language changes being solely for purposes of grammar.

The proposed Section 3, like the corresponding provisions of present Section 2i, would authorize the issuance of "hybrid" revenue bonds for capital improvements for purposes of mental hygiene and retardation, parks and recreation, state supported and state assisted institutions of higher education, including technical education, water pollution control and abatement, water management, and housing of branches and agencies of state government.

A "pure" revenue bond is a revenue bond to the repayment of which only <sup>the facility or</sup> the revenues generated by the facility being financed with the proceeds of the bond are pledged, while a "hybrid" revenue bond is a bond to the repayment of which certain other revenues or receipts may be pledged as well. Present Section 2i and the proposed Section 3 permit the General Assembly to make such a pledge by law. The issuance of a "pure" revenue bond does not create a debt of the state. Therefore, such a bond does not fall within the \$750,000 debt limitation of present Section 1 of Article VIII, and no constitutional authorization is needed for its issuance. The effect of the "hybrid" revenue bond provisions of present Section 2i is to exempt "hybrid" bonds from the \$750,000 limitation, also. The Commission is mindful of the fact that the voters approved "hybrid" revenue bond financing quite recently, in 1968. Primarily for this reason, the Commission recommends that the "hybrid" revenue bond provisions of present Section 2i be retained as a new Section 3 of Article VIII and that bonds issued pursuant to this section be exempt from the general obligation debt limit, as is presently the case.

However, consistent with its view that all sections of Article VIII which authorize the issuance of general obligation bonds in specific amounts for specific purposes should be removed from the Constitution, the Commission recommends the repeal of the general obligation bond provisions of present Section 2i. At the same time, the Commission wishes to emphasize that the enumeration of purposes for which revenue bonds may be issued under the proposed Section 3 is not intended as a limit on the power of the General Assembly to define "public purpose" pursuant to the proposed

Section 2. Neither is the enumeration of purposes for which revenue bonds may be issued under the proposed Section 3 intended to prevent the General Assembly from financing or refinancing facilities for which revenue bonds have been or may be issued pursuant to present Section 2i of Article VIII or the proposed Section 3 with general obligation bonds under the provisions of Section 1 of the proposed Article VIII.

## ARTICLE VIII

### Section 4

#### Present Constitution

Section 4. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the State ever hereafter become a joint owner, or stockholder, in any company or association in this State, or elsewhere, formed for any purpose whatever.

#### Commission Recommendation

The Commission recommends the repeal of Section 4 and the enactment of a new Section 4 to read as follows:

Section 4. EXCEPT AS PROVIDED BY LAW, NO LOCAL GOVERNMENTAL ENTITY IN THIS STATE SHALL BECOME A STOCKHOLDER IN, RAISE MONEY FOR, OR LOAN ITS CREDIT TO OR IN AID OF, ANY JOINT STOCK COMPANY, CORPORATION, OR ASSOCIATION.

#### Comment

Section 4 of Article VIII of the present Constitution is recommended for repeal, and the subject matter covered by it is included in the Commission recommendation for a new Section 2. For a discussion of the present Section 4 and the reasons for the proposed Section 2, see the Comment following Section 2.

The proposed new Section 4 is intended to replace present Section 6, which would be repealed. Section 6 presently reads as follows:

Section 6. No laws shall be passed authorizing any county, city, town or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association: provided, that nothing in this section shall prevent the insuring of public buildings or property in mutual insurance associations or companies. Laws may be passed providing for the regulation of all rates charged or to be charged by any insurance company, corporation or association organized under the laws of this state or doing any insurance business in this state for profit.

The first portion of present Section 6 prohibits any county, city, town or township from extending its credit, and joint ownership or ownership of stock. This portion of present Section 6 dates from the Constitutional Convention of 1850-1851, while the second portion relating to the insurance of public buildings or property and the regulation of insurance companies dates from the Constitutional Convention of 1912.

Undoubtedly, the 1851 portion of this section was motivated by a desire on the part of that Convention to separate the public and private sectors of the economy as completely as possible to stop abuses prevalent at the time. The framers of this provision wanted to prevent the public-private mix even though a public purpose would be accomplished. Indeed, one delegate stated that he thought the purpose of present Section 6 was to "pre-



vent municipal corporations from combining their means with those of individuals, for the purpose of effecting a *public object*.”<sup>38</sup> The Commission believes that the absolute separation of the public and private sectors mandated by present Section 6 is no longer consonant with the views of the majority of citizens regarding the proper relationship of the two sectors, and yet feels that some continuing constitutional control over the financial activities of local governments is desirable. Therefore, the proposed Section 4 would permit the General Assembly to prescribe by law the conditions under which local governmental entities could engage in activities prohibited by present Section 6. As indicated in the Comment on proposed Section 2, present Section 13 has already modified these prohibitions in the area of industrial development financing. The Commission chose to substitute the expression “local governmental entity” for “county, city, town or township,” presently used in Section 6, because it seems desirable that the scope of proposed Section 4 should cover all types of governmental entities now in existence as well as forms of local governmental organization which may be formed in the future.

The Commission also intends that the use of the term “local governmental entity” will serve to distinguish units of local government with general governmental powers, such as cities and villages, from special purpose districts which may be defined as “political subdivisions” by law. Parenthetically, it may be noted that the phrase “governmental entities” is presently used, without definition, in the first paragraph of Section 2h of Article VIII.

The insurance provisions of present Section 6 appear to have no relationship to the first part of the section discussed above. However, these were added in 1912 as the result of two 1911 opinions of the Attorney General which held that the insurance of public buildings or property in mutual insurance associations or companies violated Section 6 of Article VIII as it stood at that time by constituting either an extension of public credit or unconstitutional joint ownership. These two opinions figured prominently in the discussion of Proposal 51 which, upon adoption, became the “proviso” and the final sentence of this section.<sup>39</sup> The “proviso” permits any city, county, town or township to insure public property or buildings in mutual insurance associations or companies. The final sentence authorizes the state to regulate rates charged by any insurance company, corporation or association in Ohio.

The “proviso” is, obviously, a direct response to the Attorney General’s opinions. Research indicates that there are no statutes at the present to implement it, and in the few instances in which the right of local governmental entities to insure public buildings or property in mutual companies has been before the courts, they have recognized the right as being derived directly from Section 6 of Article VIII.<sup>40</sup> The Commission views the “proviso” as legislative detail which should not be in the Constitution. However, if this provision were simply repealed, it is possible that the reasoning of the Attorney General’s opinions would still be applied to cast doubt on the ability of governmental entities to insure public buildings and property in mutual associations or companies. Assuming that the General Assembly wishes to continue the authority of political subdivisions to insure public buildings and property in mutual associations or companies, it could enact legislation for this purpose, to become effective at the time the “proviso” is repealed. The General Assembly would have the power, under the proposed Section 4, to prescribe by law how local governmental entities could extend their credit or become stockholders in a joint stock company, corporation

or association. The beginning phrase of the proposed Section 4—"Except as provided by law"—is intended to give this power to the General Assembly.

The last sentence of present Section 6, relating to the regulation of insurance rates, was added to assure that the state had the power to do this. Although the delegate who first offered an amendment relating to this subject apparently regarded insurance companies as public utilities and had no doubt that the state could regulate insurance rates without a constitutional provision, he thought the Convention should take the opportunity to declare this in the Constitution. "If we are going to amend this section why not say in plain English that we have that right,"<sup>41</sup> he asked. In the view of the Commission, the last sentence of present Section 6 is also legislative detail which should be removed from the Constitution. The state could, without question, undertake such regulation, absent any constitutional provision. The United States Supreme Court has declared that a state possesses the power to regulate the business of insurance companies which do business in the state, and to regulate their rates, provided such regulation is not confiscatory.<sup>42</sup>

## ARTICLE VIII

### Section 5

#### Present Constitution

Section 5. The State shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

#### Commission Recommendation

The Commission recommends no change in present Section 5 of Article VIII.

#### Comment

Present Section 5 is also part of the original Constitution of 1851. Its intent was to keep the state from assuming the debts of local political subdivisions for internal improvements.<sup>43</sup> The Commission believes that there are ample means other than the assumption of debts through which the state can and does assist local governments financially, and since repeal of this section might conceivably be viewed by some local governments as an invitation to overextend themselves financially, the Commission recommends no change in this section.

## ARTICLE VIII

### Section 6

#### Present Constitution

Section 6. No laws shall be passed authorizing any county, city, town or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association: provided, that nothing in this section shall prevent the insuring of public buildings or property in mutual insurance associations or companies. Laws may be passed providing for the regulation of all rates charged or to be charged by any insurance company, corporation or association organized under the laws of this state or doing any insurance business in this state for profit.

#### Commission Recommendation

The Commission recommends the repeal of present Section 6, and the transfer of its provisions, with some changes, to new Section 4. For a

discussion of the section and the proposed changes, see the Comment following Section 4.

Present Section 13 of Article VIII would be amended in the Commission recommendations, including an amendment to change the number of the Section from 13 to 6. A discussion of that section and the proposed changes is found following Section 13.

## ARTICLE VIII

### Sections 7-11

#### Present Constitution

Section 7. The faith of the State being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the State, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

Section 8. The governor, treasurer of state, auditor, secretary of state, and attorney general, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund".

Section 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the General Assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the Governor, who shall transmit the same with his regular message, to the General Assembly; and the General Assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

Section 10. It shall be the duty of the said Commissioners faithfully to apply said fund, together with all moneys that may be, by the General Assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the State, excepting only, the school and trust funds held by the State.

Section 11. The said Commissioners shall, semi-annually, make a full and detailed report of their proceedings to the Governor, who shall, immediately, cause the same to be published, and shall also communicate the same to the General Assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

#### Commission Recommendation

The Commission recommends repeal of Sections 7-11.

#### Comment

The Commission proposes the repeal of Sections 7 through 11 of Article VIII, which deal with the Commissioners of the Sinking Fund and their duties, and the Sinking Fund itself. Whatever justification these sections might have had at one time, in the Commission's view they no longer serve a useful constitutional purpose. The very concept of the sinking fund, in which large sums of money are accumulated until they are needed to pay bonds at maturity, has fallen into disfavor. Today, the bond which is the norm for public financing is the serial bond:

"State and local debt nowadays is almost always in serial form, that is, when the debt is incurred, provision is made for annual retirement of the principal, so that the annual carrying charge for a twenty-year issue includes a sum sufficient to redeem, say, one-twentieth of the principal, as well as a sum of interest."<sup>44</sup>

However, in suggesting the deletion of sections relating to the Sinking Fund, the Commission is not suggesting that the General Assembly should not have the power to establish either a sinking fund or a sinking fund commission, should it desire to do so, and hence Section 1 of the proposed

Article VIII would provide ample authority to do so. The deletion of these sections is recommended only because the Commission believes that these sections are not needed in the Constitution.

## **ARTICLE VIII**

### **Section 12**

#### **Present Constitution**

Section 12. So long as this state shall have public works which require superintendence, a superintendent of public works shall be appointed by the governor for the term of one year, with the powers and duties now exercised by the board of public works until otherwise provided by law, and with such other powers as may be provided by law.

#### **Commission Recommendation**

The Commission recommends repeal of Section 12.

#### **Comment**

The Commission recommends repeal of Section 12 of Article VIII, relating to the Superintendent of Public Works, because it sees no need for this office to be a constitutional office.

## **ARTICLE VIII**

### **Section 13 (new 6)**

#### **Present Constitution**

Section 13. To create jobs and employment opportunities and to improve the economic welfare of the people of the state, it is hereby determined to be in the public interest and a proper public purpose for the state or its political subdivisions, taxing districts, or public authorities, its or their agencies or instrumentalities, or corporations not for profit designated by any of them as such agencies or instrumentalities, to acquire, construct, enlarge, improve, or equip, and to sell, lease, exchange, or otherwise dispose of property, structures, equipment, and facilities within the State of Ohio for industry, commerce, distribution, and research, to make or guarantee loans and to borrow money and issue bonds or other obligations to provide moneys for the acquisition, construction, enlargement, improvement, or equipment, of such property, structures, equipment and facilities. Laws may be passed to carry into effect such purposes and to authorize for such purposes the borrowing of money by, and the issuance of bonds or other obligations of, the state, or its political subdivisions, taxing districts, or public authorities, its or their agencies or instrumentalities, or corporations not for profit designated by any of them as such agencies or instrumentalities, and to authorize the making of guarantees and loans and the lending of aid and credit, which laws, bonds, obligations, loans, guarantees, and lending of aid and credit shall not be subject to the requirements, limitations, or prohibitions of any other section of Article VIII, or of Article XII, Sections 6 and 11, of the Constitution, provided that moneys raised by taxation shall not be obligated or pledged for the payment of bonds or other obligations issued or guarantees made pursuant to laws enacted under or ratified, validated, confirmed, and approved by this section.

No guarantees or loans and no lending of aid or credit shall be made under laws enacted or validated, ratified, confirmed, and approved pursuant to or by this section of the Constitution for facilities to be constructed for the purpose of providing electric or gas utility service to the public.

The powers herein granted shall be in addition to and not in derogation of existing powers of the state or its political subdivisions, taxing districts, or public authorities, or their agencies or instrumentalities or corporations not for profit designated by any of them as such agencies or instrumentalities.

Any corporation organized under the laws of Ohio is hereby authorized to lend or contribute moneys to the state or its political subdivisions or agencies or instrumentalities thereof on such terms as may be agreed upon in furtherance of laws enacted pursuant to this section or validated, ratified, confirmed, and approved by it.

Amended Substitute House Bill 270 enacted by the General Assembly on June 4, 1963, and Amended Senate Bill 360 enacted by the General Assembly on June 27, 1963, are hereby validated, ratified, confirmed, and approved in all respects, and they shall be in full force and effect from and after the effective date of this section as laws of this state until amended or repealed by law.

### Commission Recommendation

The Commission recommends the amendment Section 13 as follows:

Section ~~13~~ 6. To create OR PRESERVE jobs and employment opportunities and to improve the economic welfare of the people of the state, it is hereby determined to be in the public interest and a proper public purpose for the state or its political subdivisions, taxing districts, or public authorities, its or their agencies or instrumentalities, or corporations not for profit designated by any of them as such agencies or instrumentalities, to acquire, construct, enlarge, improve, or equip, and to sell, lease, exchange, or otherwise dispose of property, structures, equipment, and facilities within the State of Ohio for industry, commerce, distribution, and research, to make or guarantee loans and to borrow money and issue bonds or other obligations to provide moneys for the acquisition, construction, enlargement, improvement, or equipment, of such property, structures, equipment, and facilities. Laws may be passed to carry into effect such purposes and to authorize for such purposes the borrowing of money by, and the issuance of bonds or other obligations of, the state, or its political subdivisions, taxing districts, or public authorities, its or their agencies or instrumentalities, or corporations not for profit designated by any of them as such agencies or instrumentalities, and to authorize the making of guarantees and loans and the lending of aid and credit, which laws, bonds, obligations, loans, guarantees, and lending of aid and credit shall not be subject to the requirements, limitations, or prohibitions of any other section of Article VIII, or Article XII, Sections 6 and 11, of the Constitution, provided that moneys raised by taxation shall not be obligated or pledged for the payment of bonds or other obligations issued or guarantees made pursuant to laws enacted under ~~or ratified, validated, confirmed, and approved by~~ this section.

EXCEPT FOR FACILITIES USED PRIMARILY FOR POLLUTION CONTROL, ~~No~~ NO guarantees or loans and no lending of aid or credit shall be made under laws enacted ~~or validated, ratified, confirmed, and approved~~ pursuant to ~~or by~~ this section of the Constitution for facilities to be constructed for the purpose of providing electric or gas utility service to the public.

The powers herein granted shall be in addition to and not in derogation of existing powers of the state or its political subdivisions, taxing districts, or public authorities, or their agencies or instrumentalities or corporations not for profit designated by any of them as such agencies or instrumentalities.

Any corporation organized under the laws of Ohio is hereby authorized to lend or contribute moneys to the state or its political subdivisions or agencies or instrumentalities thereof on such terms as may be agreed upon in furtherance of laws enacted pursuant to this section ~~or validated, ratified, confirmed, and approved by it.~~

Amended Substitute House Bill 270 enacted by the General Assembly on June 4, 1963, and Amended Senate Bill 360 enacted by the General Assembly on June 27, 1963, are hereby validated, ratified, confirmed, and approved in all respects, and they shall be in full force and effect from and after the effective date of this section as laws of this state until amended or repealed by law.

### Comment

Section 13 of Article VIII would be amended under the Commission recommendation, including an amendment to change the section number

to 6 since the intervening sections would be repealed. Section 13 permits what is commonly known as "industrial development" revenue bond financing. The Commission recommendation, in addition to renumbering the section, removes obsolete language dealing with acts of the General Assembly which have since been replaced with other statutes.

The proposal would also make the following changes:

1) Expand the scope of the section to permit revenue bond financing of industrial projects which will serve to preserve existing jobs and employment in this state. The purpose of present Section 13 is limited to creating new jobs. The Commission believes that circumstances will arise where it would be desirable to use industrial revenue bonds to finance the construction of replacement facilities, modernization of existing plants, or the addition of pollution abatement facilities in order to maintain existing jobs in Ohio. The Commission feels that this change is consonant with the objectives of Section 13.

2) Make an exception to the prohibition presently existing in Section 13 which is applicable to gas and electric utilities in order to permit such financing for pollution control facilities for such utilities. The Commission sees no reason why industrial development revenue bonds should not be used, in a proper case, to finance pollution control facilities required by existing Ohio utilities.

Since the adoption of present Section 13, industrial development revenue bond financing has been used extensively and successfully, to the benefit of the people of Ohio, and the Commission believes that this method of financing ought to remain available for use in the future.

## **ARTICLE VIII**

### **Schedule**

All obligations of the state issued under authority of any section of Article VIII of the Constitution of Ohio repealed by this amendment, or under authority of any law enacted pursuant to or validated by any such section, which obligations are outstanding on the date of the adoption of this amendment, shall remain valid and enforceable obligations of the state according to their terms and conditions. Any law enacted pursuant to or validated by any section of Article VIII of this Constitution repealed by this amendment shall remain valid and enforceable as if such section had not been repealed. The repeal of such sections and the adoption of this amendment shall not be deemed to impair, diminish, or restrict the rights or benefits of any holder or owner of any such obligations, nor any liability, covenant, or pledge of the state with respect thereto, including those for the levy and collection of taxes, the maintenance of funds, and the appropriation and application of money.

Any moneys set aside or appropriated by or pursuant to any section of Article VIII repealed by this amendment for the payment of the principal of or interest on debts contracted thereunder shall be included in revenues of the state subject to appropriation by the general assembly for purposes of the computations to be made under divisions (A) and (G) of Section 1, Article VIII, enacted by this amendment.

Section 3 of Article VIII, enacted by this amendment, is a substitution for the equivalent provisions of Section 2i of Article VIII, repealed by this

amendment, and any references to such provisions of Section 2i shall be deemed to be references to Section 3.

Section 6 of Article VIII, enacted by this amendment, is a substitution for the equivalent provisions of Section 13 of Article VIII, repealed by this amendment, and any references to such provisions of Section 13 shall be deemed to be references to Section 6.

**Comment**

The first paragraph of the proposed schedule would assure the continuing validity of all state obligations existing at the time the revised Article VIII is adopted. The second paragraph, in the view of the Commission, is necessary to assure that all outstanding general obligation bonds issued under any section of the present Article VIII would be included in the computations to be made under Divisions (A) and (G) of Section 1 of the proposed Article VIII, in determining the state's general obligation or guaranteed debt limit. In the absence of a provision such as contained in the second paragraph of the proposed schedule, some question might arise as to whether the funds pledged to the payment of debt contracted under any section of present Article VIII—namely Sections 2b through 2i—were “subject to appropriation by the General Assembly” within the meaning of Division (A) of proposed Section 1, because each of these sections purports to be self-executing to the extent of providing that the funds pledged to the repayment of debt contracted pursuant to each section may be applied to such payment without necessity of further appropriation. The second paragraph of the proposed schedule would assure that these funds would be considered to be subject to appropriation by the General Assembly for purposes of calculating the state's basic debt limit, the provisions of individual bond amendments notwithstanding.

The third paragraph of the proposed schedule would assure that all existing references to the revenue bond portions of Section 2i of the present Article VIII would be construed as references to the proposed Section 3, to which the revenue bond provisions of present Section 2i would be transferred. The fourth paragraph of the proposed schedule would assure that all existing references to Section 13 of the present Article VIII would be construed as references to the proposed Section 6, since the section number of Section 13 would be changed to 6.

Although the schedule is presented in this report as one section, separate elements of it would, of course, be made applicable to separate amendments if all sections of Article VIII are not included in one amendment.





## FOOTNOTES

1. 1 *State of Ohio, Debates and Proceedings, Constitutional Convention, 1850*, pp. 509-510 (June, 1850). (hereafter cited as *Debates*).
2. 1 *Debates* 527 (June 21, 1850).
3. H. Reed, "Some Late Effects of Constitutional Reform", *North American Review*, Vol. 121, p. 26 (1875).
4. James A. Maxwell, *Financing State and Local Governments*, rev. ed. (Washington, The Brookings Institution, 1969), p. 194.
5. Benjamin U. Ratchford, "A Formula for Limiting State and Local Debts," *Quarterly Journal of Economics* LI (November, 1936), p. 72.
6. Horace Secrist, *An Economic Analysis of the Constitutional Restrictions Upon Public Indebtedness* (Ph. D. diss., Bulletin of the University of Wisconsin No. 637, Madison, 1914).
7. "State Government Finances in 1970", U. S. Department of Commerce, Bureau of the Census, 1971.
8. The states requiring constitutional amendment are Alabama, Arizona, Colorado, Georgia, Indiana, Louisiana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, West Virginia and Wisconsin.
9. The states requiring referenda are Alaska, Arkansas, California, Florida, Idaho, Iowa, Kansas, Kentucky, Maine, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Virginia, Washington and Wyoming.
10. The states having no constitutional debt limits are Delaware, Illinois, Massachusetts, Minnesota, Connecticut, Maryland, Mississippi, Montana, New Hampshire, Tennessee and Vermont. Maryland has a fifteen year maturity limit, which acts as a debt limit in practice.
11. Hawaii: "... provided that such bonds at the time of authorization would not cause the total of state indebtedness to exceed a sum equal to three and one-half times the average of the general fund revenues of the state in the three fiscal years immediately preceding the session of the legislature authorizing such issuance..." Article VI, Section 3, approved November 5, 1968.
12. Pennsylvania: "... one and three-quarters times the average of the annual tax revenues deposited in the previous five fiscal years..." Article 8, Section 7 (4), 1968 Amendment, adopted April 23, 1968.
13. Puerto Rico: "... 15 per cent of the average of the total amount of the annual revenues raised under the provisions of commonwealth legislation and covered into the Treasury of Puerto Rico in the two fiscal years next preceding the then current fiscal year..." Article VI, Section 2, 1961 Amendment, adopted December 10, 1961.
14. *Michigan Constitution of 1963*, Article IX, Section 15.
15. James A. Heins, *Constitutional Restrictions Against State Debt* (Madison: The University of Wisconsin Press, 1963) pp. 86-87.
16. National Municipal League, *Model State Constitution* (6th ed., 1968 rev.). See also Gordon Tullock, "Some Problems in Majority Voting",

- reprinted in *State and Local Finance*, William E. Mitchell and Ingo Walter, eds. (New York: The Ronald Press Company, 1970), pp. 54-62.
17. *State Government for Our Times—A New Look at Ohio's Constitution* (Stephen H. Wilder Foundation, Cincinnati, 1970) p. 31.
  18. See *Illinois Constitution of 1970*, Article 9, Section 9.
  19. Benjamin U. Ratchford, *American State Debts* (Durham: Duke University Press, 1941), pp. 592-599. See also Benjamin U. Ratchford, "A Formula for Limiting State and Local Debts", *Quarterly Journal of Economics* LI (November, 1936), pp. 71-89.
  20. Ratchford, *American State Debts*, p. 592.
  21. *Ibid.*, p. 598.
  22. *Proceedings of the National Tax Association*, 1958, p. 218.
  23. 2 *Debates* 861 (March 10, 1851).
  24. 1 *Debates* 467 (June 17, 1850).
  25. *Report of the Auditor of State for 1849*, p. 6.
  26. *State of Ohio, Proceedings and Debates, Constitutional Convention, 1912*, p. 2113. (hereafter cited as *Proceedings and Debates, 1912*).
  27. See table "General Obligation Debt Service Requirements on Bonds Issued for Capital Items under Article VIII, Ohio Constitution", Appendix A, p. 53.
  28. Percentages calculated from data furnished by Department of Finance and Office of the Commissioners of the Sinking Fund.
  29. Annual average calculated from data appearing in the *Semi-Annual Report of the Commissioners of the Sinking Fund* for the period January 1, 1972 to June 30, 1972.
  30. Section 125.82 of the Revised Code.
  31. It is said that, as a general rule, the cost of financing by means of revenue bonds is from  $\frac{1}{4}\%$  to 1% higher than the cost of financing by means of general obligation bonds. See Manuel Gottlieb, "The Revenue Bond and Public Debt", reprinted in Mitchell and Walter, *State and Local Finance*, pp. 183-193.
  32. Convention Comment, *Michigan Constitution of 1963*, Article 9, Section 14.
  33. See <sup>McCulloch</sup> ~~McCulloch~~ *McCulloch v. The State of Maryland et al.*, 17 U.S. 316, 4 Wheat. 316, 4 L. Ed. 579 (1819).
  34. *Shurtleff v. City of Chicago*, 190 Ill. 473, 60 N. E. 870 (1901).
  35. For texts of Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, and 2i, see Appendix B, pp. 55-73.
  36. *Chase v. Board of Tax Appeals*, 10 Ohio App. 2d 75 (1967).
  37. *Article XVI, State Debt, Background Study 4*, California Constitution Revision Commission (February, 1970) pp. 7-8.
  38. 2 *Debates* 311 (January 13, 1851).
  39. *Proceedings and Debates, 1912*, pp. 1015-1025, 1721-1731, 1824-1825.
  40. See *Bunt v. City of Cleveland*, 76 Ohio App. 457 (1945).
  41. *Proceedings and Debates, 1912*, p. 1024.

42. See *Osborn v. Ozlin*, 60 S. Ct. 758, 310 U. S. 53, 84 L. Ed. 1074 (1940); *German Alliance Insurance Company v. Lewis*, 34 S. Ct. 612, 233 U. S. 389, 58 L. Ed. 1011 (1914); *Aetna Insurance Company v. Hyde*, 275 U. S. 440, 72 L. Ed. 357 (1928).
43. See 2 *Debates* 308 f. (January 11, 1851).
44. Maxwell, *Financing State and Local Governments*, p. 185.



## MINORITY REPORT

With considerable reluctance, I have voted "No" on the motion to accept the Finance and Taxation Committee report with respect to Article VIII (State Debt) as amended July 20 and recommend it to the General Assembly.

My reluctance to vote "No" exists because I am in accord with most of the provisions contained in proposed Article VIII; because of the great amount of time that the members of the Finance and Taxation Committee have spent in the development of the form and substance of Article VIII as contained in that Committee's report as amended on July 20; and because of my respect for the abilities and competencies of the chairman and my other colleagues on that Committee.

It is in the degree to which the debt limit would be liberalized that I find myself in disagreement, both as to the amount of authorized debt and the permitted purposes of such debt. A brief explanation is, I believe, in order.

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1. Under the proposal, state debt (including the total amount of debt presently outstanding) may be created by the General Assembly for capital improvements, capital acquisitions, and land, so long as the amount required in any fiscal year for payments on principal and payments for interest on such debt and all debt previously contracted does not exceed 6% of the average annual revenues (with certain specified exclusions) of the state subject to appropriation by the General Assembly and received by the state during the then next preceding two fiscal years. There is a second limitation that no debt in excess of 8% of such revenue average may be created in any fiscal year. This provision, generally speaking, is to replace the existing limitation on the Legislature of seven hundred and fifty thousand dollars.

Presently outstanding general obligation debt amounts to approximately \$1.3 billion and all of it except for \$750,000 was created by permissive constitutional amendments adopted by the electorate. It is my understanding that present requirements for payments on principal and payments for interest are somewhat in excess of 6% of the revenue average, but fairly close. But to the extent that the amount of these payments is reduced because of a reduction in the principal amount outstanding, the General Assembly would have the power to create new debt. Therefore, aside from certain increases in the revenue average, the effect of the provision is to permit continuous replacement by action of the General Assembly of approximately \$1.3 billion of general obligation debt.

Furthermore, under the proposal any new general obligation debt created by the electorate through the referendum procedure is not to be charged against the amount that the General Assembly may create. In other words, presently outstanding debt created by the electorate is, in effect, used as a measure for determining future permissible debt creation by the Legislature, but any future debt created by the electorate has no bearing on the Legislature's authority to create future debt.

The existing limitation, for all intents and purposes, precludes the creation of general obligation debt by the Legislature without approval of the electorate. It is obsolete and unrealistic and should be changed. Further, I agree with the concept of a varying limitation depending upon available revenue for debt service and amortization of principal. Plain

logic, however, suggests either (a) including all future debt, irrespective of the manner in which it is created, within any general limitation, or (b) excluding all present debt created by the electorate in determining a limitation on the General Assembly's power to create general obligation debt.

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2. I fully support proposed Section 13, which continues and/or creates certain exceptions to the prohibitions in Sections 4 and 6, but I do not approve of the repeal or modification of provisions in existing Sections 4 and 6, which prohibit the lending of funds or the credit of the State or of a political subdivision to or in aid of a private business entity. The present or equivalent safeguards are needed to prevent the wholesale entry of governmental financing into the realm of private enterprise. Should these recommendations be incorporated into the constitution, there is literally very little that state or local governments could not undertake by way of financing ventures as long as approved by the Legislature. Misuse and abuse of public funds, all too incipient even under the present constitutional strictures, is to be feared if there are to be no constitutional rules. I am aware that proposed Section 2 provides, in part, that no credit of the state may be used except for "a public purpose declared by the General Assembly", and that proposed Section 4 prohibits the lending of credit of a political subdivision to a private business association "except as provided by law". I am also aware that there is no definition of the phrase "a public purpose", which presumably means any purpose declared to be such by the General Assembly and by the Supreme Court of Ohio.

The prohibitions in existing Sections 4 and 6 have been, and are, in the public interest and have, in the past, served the people well. I consider their repeal or modification as provided in proposed Sections 2 and 4 as not being a good substitute.

D. BRUCE MANSFIELD  
9/22/72

## COMMENTS ON MINORITY REPORT

A distinguished member of the Commission, Mr. D. Bruce Mansfield, has submitted a separate statement indicating his disagreement with certain features of the Commission's recommendation with respect to Article VIII. In order that those who will be weighing the merits of the recommendation are fully apprised of the Committee's position, a response to the minority statement seems advisable.

Mr. Mansfield's statement indicates he agrees that the present \$750,000 debt limit is "obsolete and unrealistic and should be changed". He also agrees with the flexible debt limit approach which is the keystone of the Commission's recommendation. His disagreement, it appears, lies only in the *scope* of the new debt authority which the proposal would give to the General Assembly. He suggests that any future voter-approved debt should be "charged against" the amount of debt which the General Assembly could authorize under the proposal. This suggestion, although expressed by Mr. Mansfield to the full Commission, was not adopted—presumably because it is directly contradictory to the basic philosophy embodied in the Commission's revision. That philosophy, briefly expressed, is that the General Assembly should have some *meaningful* amount of authority to create debt for needed capital improvements without seeking voter approval. In seeking to define "meaningful", the Commission has, in effect, suggested that it is not unreasonable to empower the General Assembly to devote up to six per cent of the state's available revenues for meeting the debt service requirements on capital improvement bonds. Some observers will undoubtedly consider this formula too restrictive while others will consider it too permissive. However, since the Commission's recommendation was adopted with only three negative votes, it appears that the Commission proposal may well represent just what was intended—a formula occupying the middle ground between the two extremes. In evaluating the Commission's recommendation in the light of Mr. Mansfield's suggestions, the following points should be considered:

1. The six per cent debt service limit is significantly *less* than the percentage of revenues devoted to debt service in recent years. In fact, in four of the five most recent fiscal years, debt service has exceeded six per cent of base revenues, and in three of those years, it exceeded seven per cent. In fiscal 1972, debt service was 7.1% of base revenues—a level 18% over the debt service limit recommended by the Commission for governing future debt.
2. Although the magnitude of the state's current general obligation debt (\$1.237 billion at June 30, 1972) may seem unduly large to some, in all fairness it should be viewed alongside the debt of Ohio's sister states and in perspective with Ohio's present-day resources and needs. A number of the members of the Commission felt the following points were significant:
  - a. Ohio stands about in the middle of the 50 states, 23rd, in the per capita ratio of general obligation debt to revenues—indicating that her debt level is in the mainstream of current debt trends among the various states.
  - b. All of Ohio's present debt has been incurred with the approval of the people expressed through substantial majorities at the polls—indicating that this level of debt is not offensive to the attitudes of a majority of our citizens.

- c. Ohio's current ratio of general obligation debt to revenues, 1 to 3, is almost identical to the ratio which the \$750,000 debt limit bore to the state's revenues at the time that limit was adopted in 1851—indicating that the Commission's debt level concept has historical support.

Looking into the core of Mr. Mansfield's suggestion, it is difficult to see the logic in combining General Assembly-approved debt and any new voter-approved debt into one six per cent debt service limit. If that plan were accepted and a sizeable amount of voter-approved debt should be authorized, the probable result would be a total prohibition against the creation of any new debt by the General Assembly for needed capital improvements, possibly for years on end. This would be inimical to the objectives inherent in the Commission's proposal. If the Commission is correct that the six per cent limit should be adequate to accommodate Ohio's normal debt structure in the future, the submission of bond issues to the voters should be seldom required—and when and if such issues are sent to the people, they will have a clear choice of keeping the debt service expense at six per cent by voting "No" or permitting it to be increased by voting "Yes". And since this choice is clearly reserved to the people, it would appear that ample constitutional guarantees against runaway debt have been provided.

In effect, what the Commission proposal would do is update the constitutional \$750,000 debt limit, presently restricting the General Assembly, to modern terms, and permit the people the same choice they presently have of going beyond the limit.

Mr. Mansfield's alternate suggestion that all presently outstanding debt be excluded from the debt service formula likewise contradicts the basic concept of the Commission's recommendations. To the extent the General Assembly is given authority under the formula to issue new debt, Ohio's debt service level could *increase* above its present 7.1% level if outstanding debt service were excluded. This the Commission was not prepared to recommend.

Mr. Mansfield's statement also takes exception to those portions of the report which recommend repeal of Section 4 and changes in Section 6 of Article VIII. Considerable discussion was held during the Commission's deliberations about the desirability of making it possible for the state and local units of government to participate with private enterprise in solving future problems in our state. In the view of a majority of the Commission, the state should have this capability among its available tools. It was also concluded that local governments—subject to prior authorization by the General Assembly—should have a similar capability. In the view of the Commission, the ability to effectively utilize the private sector in solving the increasingly broad range of complex problems facing the public should no longer be prohibited. The new "public purpose" restriction contained in Section 2 of the recommendation is deemed by a majority of the Commission to be an adequate and effective limitation.

NOLAN W. CARSON, *Chairman*  
Committee on Finance and Taxation



## APPENDIX A

General Obligation Debt Service Requirements  
on Bonds Issued for Capital Items under Article VIII  
Ohio Constitution

Fiscal Year	Principal	Interest	Total Debt Service
1972	\$91,320,000	\$56,940,588	\$148,260,588
1973	82,540,000	59,930,710	142,470,710
1974	68,070,000	56,973,180	125,043,180
1975	69,075,000	53,883,282	122,958,282
1976	68,690,000	50,616,723	119,306,723
1977	60,085,000	47,272,637	107,357,637
1978	58,250,000	44,329,839	102,579,839
1979	64,870,000	41,151,875	106,021,875
1980	55,335,000	37,927,625	93,262,625
1981	55,790,000	34,950,755	90,740,755
1982	56,195,000	32,108,812	88,303,812
1983	56,705,000	29,336,865	86,041,865
1984	57,235,000	26,517,847	83,752,847
1985	57,790,000	23,624,403	81,414,403
1986	58,385,000	20,660,400	79,045,400
1987	59,000,000	17,633,370	76,633,370
1988	58,255,000	14,524,795	72,779,795
1989	58,650,000	11,510,288	70,160,288
1990	54,175,000	8,470,546	62,645,546
1991	51,045,000	5,856,843	56,901,843
1992	34,800,000	3,505,956	38,305,956
1993	16,855,000	2,058,450	18,913,450
1994	14,065,000	1,246,857	15,311,857
1995	14,615,000	524,605	15,139,605
1996	4,170,000	83,400	4,253,400

Source: Ohio Constitutional Revision Commission (April 21, 1972).

Computed from data furnished by the Office of the Commissioners of the Sinking Fund.



# APPENDIX B

## ARTICLE VIII

**Section 2b.** The board of commissioners created by section 8 of Art. VIII of the Constitution of the state of Ohio, designated therein "The Commissioners of the Sinking Fund", shall, forthwith upon the adoption of this amendment, proceed to issue and sell, from time to time, bonds of the state of Ohio in such amounts of face value as it may deem necessary to provide the funds, or such part thereof, as may be required to pay the compensation and the expenses of administering this section as herein provided for, provided, however, that the aggregate total amount of face value of bonds so issued shall not exceed three hundred million dollars. The full faith and credit of the state of Ohio is hereby pledged for the payment of such bonds. All bonds so issued shall mature in thirty semi-annual installments after the respective dates thereof, and the maturities thereof shall be so fixed that the total amounts of payments on account of principal and interest to be paid on each of such semi-annual installment payment dates shall be approximately equal, but no such bonds shall be issued or bear dates later than the first day of April, 1951. All bonds so issued shall bear interest at such rates as the commissioners of the sinking fund may fix, which interest shall be payable semi-annually. Such bonds, and the interest thereon as income, shall be exempt from all taxes levied by the state of Ohio or any taxing district thereof. The bonds may, at the option of the sinking fund commission, be issued subject to call on any interest payment date at par and accrued interest. All sales of such bonds by the commissioners of the sinking fund shall be in accordance with such regulations as it shall make and promulgate, provided, however, that such bonds shall be sold only to the highest bidder or bidders therefor after notice of such sale shall have been published once each week for three consecutive weeks on the same day of each of such weeks, the first of such notices being published at least twenty-one full days before the date of sale, in a newspaper of general circulation in each of the eight most populous counties in the state of Ohio, and provided that each of such published notices shall state the day, hour and place of the sale, the total face value of the bonds to be sold, their denominations, dates, and the dates of their maturities, information relative to the rates of interest which the bonds will bear, and the dates upon which interest will be payable. The commissioners of the sinking fund shall have the right to reject any or all bids and to re-advertise and re-offer bonds for sale. Out of the proceeds of the sale of all bonds that amount which represents accrued interest, if any, shall be paid into the treasury of the state of Ohio into a fund to be known as the World War II compensation bond retirement fund. The balance shall be paid into the treasury of the state of Ohio into a fund to be known as the World War II compensation fund. The general assembly

of the state of Ohio may appropriate and cause to be paid into the World War II compensation bond retirement fund or the World War II compensation fund, out of the funds in the treasury of the state not otherwise appropriated, such amounts as it may deem proper for use upon order of the commissioners of the sinking fund for the purposes for which such funds are created as herein provided. If the general assembly should so appropriate any funds to the World War II compensation fund prior to the time the commissioners of the sinking fund shall have issued bonds of the aggregate total amount of face value authorized in this section, the aggregate total amount of face value of bonds so authorized to be issued shall be reduced by the amount of the funds so appropriated.

During the period of fifteen years beginning January 1, 1949, the treasurer of state of the state of Ohio shall, without appropriation thereof by the general assembly, transfer into said World War II compensation bond retirement fund one million dollars each month out of funds in the state treasury derived from taxes levied by the state for the purpose of providing revenues to defray the expenses of the state, excepting the taxes levied by the state by sections 5527, 5541, and 6291 of the General Code of Ohio [RC §§ 5735.05, 5735.25, 4503.02] as the same may be in effect on the effective date of this section. To secure such monthly transfer of funds a lien is hereby created upon all funds coming into the state treasury after January 1, 1949, derived from taxes as aforesaid, which lien shall be the first and best lien upon all such funds. It shall be the duty of the treasurer of state to set aside and use for the purpose of making such monthly transfer of funds, part of each dollar received in the state treasury in each calendar year during said period of fifteen years beginning January 1, 1949, derived from taxes as aforesaid, so that the total amount of money so set aside in each of such calendar years shall be twelve million dollars, and so that the ratio which the amount of each dollar so set aside shall bear to one dollar shall be the same as the ratio which the amount of twelve million dollars shall bear to the total amount of money received in the state treasury in such calendar years derived from taxes as aforesaid. The treasurer of state shall set aside part of each such dollar before paying out, transferring, or disposing of in any other manner, such dollar or any part thereof for any other purpose whatsoever, and he shall make the transfer of one million dollars each month to the World War II compensation bond retirement fund, hereinabove provided for, out of said sum of twelve million dollars so set aside in each of such calendar years.

The commissioners of the sinking fund shall, on or before the first day of July in each calendar year, levy and certify to the auditor of the state of Ohio a state tax on all taxable property subject to taxation on the general tax lists of all counties in the state of Ohio for such year at such rate as it shall determine to be necessary to provide, together

with other money which will be available in the World War II compensation bond retirement fund, the total amount of funds which will be required in the next following calendar year for the retirement of bonds and the payment of interest payable in such year. Such levy shall be in addition to all other taxes levied now or hereafter within the period during which bonds issued pursuant to the provisions of this section shall be outstanding, by or pursuant to law or any provision of the Constitution of the state of Ohio, and shall not be considered in applying any limitation or aggregate tax rates now or hereafter within the period during which bonds issued pursuant to the provisions of this section shall be outstanding, provided by or pursuant to law or any provision of the Constitution of the state of Ohio. The auditor of state shall certify such levies to the auditor of each county in the state of Ohio, who shall extend the same on the tax lists of his county for the year in which such levy is made and shall place same for collection on the tax duplicates of his county to be collected at the same time and in the same manner as other taxes on such duplicates. Said taxes herein authorized, when collected, shall be paid into the World War II compensation bond retirement fund in the treasury of the state. The World War II compensation bond retirement fund shall be paid out, without appropriation thereof by the general assembly of Ohio, upon the order of the commissioners of the sinking fund for the purpose of the payment, or retirement in other manner, of said bonds and interest thereon.

The World War II compensation fund shall be paid out upon order of the commissioners of the sinking fund, without appropriation by the general assembly of Ohio, in payment of the expenses of administering this section, and as compensation as follows: every person who shall have served in active duty in the armed forces of the United States at any time between December 7, 1941, and September 2, 1945, both dates inclusive, and who, at the time of commencing such service, was and had been a resident of the state of Ohio for at least one year immediately preceding the commencement of such service, and who shall have been separated from such service under honorable conditions, or who is still in such service, or who has been retired, and who was in such service for a period of at least ninety days, shall be entitled to receive compensation of ten dollars for each month during which such person was in active domestic service and fifteen dollars for each month during which such person was in active foreign service within said period of time; provided, however, that any person who was serving in active duty in the armed forces of the United States on the seventh day of December, 1941, and who did not so serve at least ninety days thereafter because of a service-connected injury or death shall be deemed to have served at least ninety days within the period of time commencing December 7, 1941 and ending September 2, 1945; and provided, further, that the maximum amount of compensation payable under this section shall not be in excess of four hundred dollars; and

provided, further, that no compensation shall be paid under this section to any person who shall have received from another state a bonus or compensation of a like nature as is provided under this section. No compensation shall be paid under this section to any person for any periods of time spent under penal confinement during the period of active duty. Compensation for a fraction of a month of service shall be paid on the basis of one-thirtieth of the above monthly amounts for each day of such service. Service in the merchant marine of the United States shall not be considered for the purpose of this section. "Domestic service" as used herein means service within the continental limits of the United States (excluding Alaska). "Foreign service" as used herein means service in all other places, including sea duty.

Either the surviving husband or wife, or the surviving child or children, or the surviving parents or parent, of a deceased person shall be paid the same amount of compensation that such deceased person would be entitled to receive under this section, if living; provided, however, that if such deceased person's death was service-connected and in line of duty, his survivors as hereinbefore designated, shall be paid four hundred dollars regardless of the amount of compensation which such deceased person would be entitled to receive under this section, if living; provided further, that the amount of compensation payable to such survivors of such deceased person shall be payable only to one of the three groups of survivors hereinbefore designated in the order in which said groups are herein named; and provided further, that the surviving husband or wife of more than one deceased person who would be entitled to receive compensation under this section, if living, shall be paid only that amount of compensation payable by reason of the first of the deaths of such deceased persons.

No sale or assignment of any right or claim to compensation under this section shall be valid, no claims of creditors shall be enforceable against rights or claims to or payments of compensation under this section, and no fees shall be charged for services in connection with the prosecution of any right or claim to compensation or the collection of any compensation under this section.

The commissioners of the sinking fund shall have complete charge of making payments of the compensation provided for in this section and shall adopt and promulgate regulations governing their procedure in connection therewith, including determinations as to who are proper beneficiaries and the amounts to which such beneficiaries are entitled, determinations as to whether an applicant has the necessary residence requirements, and such other regulations as it may deem necessary and proper; provided, however, that all applications for payment of compensation under this section shall be made to the commissioners of the sinking fund before July 1, 1950.

The commissioners of the sinking fund shall select and

appoint such legal counsel and employees as it may deem necessary, fix their compensation and prescribe their duties, and all such appointees shall serve at its pleasure.

The people of the state of Ohio declare that their enactment of this special amendment of the Constitution of the state of Ohio is to meet the specific emergency covered thereby, and they declare it to be their intention to in no manner affect or change any of the existing provisions of the said Constitution except as herein set forth. The provisions of this section shall be self executing.

Upon the retirement of all of the bonds that may be issued hereunder and the payment of all valid claims for compensation made within the limitations of time as prescribed herein, the commissioners of the sinking fund shall make a final report to the general assembly of Ohio, and any balance remaining in any of the funds herein created and referred to shall be disposed of as shall be provided by law.

**Section 2c.** The state may contract debts not exceeding five hundred million dollars for the purpose of providing moneys for acquisition of rights-of-way and for construction and reconstruction of highways on the state highway system. Not more than one hundred twenty-five million dollars of the debt authorized by this section shall be contracted within any calendar year, and no part of such debt shall be contracted after the thirty-first day of March, 1962. The principal amount of any part of such debt at any time contracted shall be paid in substantially equal semi-annual or annual installments, beginning not later than eighteen months after such debt is contracted, and in such number of installments that the entire debt shall be discharged not later than the year 1972. Securities evidencing the debt authorized by this section shall bear interest and shall be sold upon such terms as may be prescribed by law. Both the principal of such debt and the interest thereon shall be exempt from taxation by this state or by any taxing subdivision thereof. Moneys raised under the authority of this section shall be expended only to provide adequate highways, including the acquisition of rights-of-way and including participation therein with federal government, municipal corporations, counties and other legally authorized participants, but excluding costs of planning and supervision by the state. All construction shall be done by contract as shall be provided by law. No part of such proceeds shall be appropriated except to meet the requirements of programs or schedules of acquisition of rights of way, highway construction and reconstruction which the governor, or other highway authority with the concurrence of the governor, shall submit to the general assembly before such appropriations are made. Such appropriations shall be made only for major thoroughfares of the state highway system and urban extensions thereof. The debt contracted under the authority of this section shall be paid by revenue bonds issued by the state of Ohio as provided by law, secured

by a pledge of moneys derived from fees, excises or license taxes, levied by the state of Ohio, relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles, and a sufficient amount thereof shall be set aside each year, before any other distribution is made, to pay the interest on the outstanding debt and principal of such debt becoming due in that year, without other appropriations, but according to regulations to be established by law.

The general assembly shall meet on the second Monday in January, 1954, for the sole purpose of enacting laws pursuant to this section.

**Section 2d.** The board of commissioners created by section 8 of Article VIII of the Ohio Constitution, designated therein "The Commissioners of the Sinking Fund," shall, forthwith upon the adoption of this amendment, proceed to issue and sell, from time to time, bonds of the state of Ohio in such amounts of face value as are necessary to provide the funds, or such part thereof, as may be required to pay the compensation and the expenses of administering this section as herein provided for, provided that the aggregate total amount of face value of bonds so issued shall not exceed ninety million dollars. The full faith and credit of the state of Ohio is hereby pledged for the payment of such bonds. All bonds so issued shall mature in thirty semiannual installments commencing not later than two years after the respective dates thereof. The maturities thereof shall be so fixed that the total amounts of payments on account of principal and interest to be paid on each of such semiannual installment payment dates shall be substantially equal. No such bonds shall be issued or bear dates later than the first day of April, 1959. All bonds so issued shall bear interest at such rates as the commissioners of the sinking fund may fix, which interest shall be payable semiannually. Such bonds, and the interest thereon as income, shall be exempt from all taxes levied by the state of Ohio or any taxing district thereof. The bonds may, at the option of The Commissioners of the Sinking Fund, be issued subject to call on any interest payment date at par and accrued interest. All sales of such bonds by The Commissioners of the Sinking Fund shall be in accordance with such regulations as it shall make and promulgate, provided that such bonds shall be sold only to the highest bidder or bidders therefor after notice of such sale shall have been published once each week for three consecutive weeks on the same day of each of such weeks, the first of such notices being published at least twenty-one full days before the date of sale, in a newspaper of general circulation in each of the eight most populous counties in the state of Ohio, and provided that each of such published notices shall state the day, hour and place of the sale, the total face value of the bonds to be sold, their denominations, dates, and the dates of their maturities, information relative to the rates of interest which the bonds will bear, and the dates upon which interest will be



payable. The Commissioners of the Sinking Fund shall have the right to reject any or all bids and to re-advertise and re-offer bonds for sale. Out of the proceeds of the sale of all bonds that amount which represents accrued interest, if any, shall be paid into the treasury of the state of Ohio into a fund to be known as The Korean Conflict Compensation Bond Retirement Fund. The balance shall be paid into the treasury of the state of Ohio into a fund to be known as The Korean Conflict Compensation Fund. The General Assembly of the state of Ohio may appropriate and cause to be paid into The Korean Conflict Compensation Bond Retirement Fund or The Korean Conflict Compensation Fund, out of the funds in the treasury of the state not otherwise appropriated, such amount as is proper for use upon order of The Commissioners of the Sinking Fund for the purposes for which such funds are created as herein provided. If the General Assembly should so appropriate any funds to The Korean Conflict Compensation Fund prior to the time The Commissioners of the Sinking Fund shall have issued bonds of the aggregate total amount of face value authorized in this section, the aggregate total amount of face value of bonds so authorized to be issued shall be reduced by the amount of the funds so appropriated.

The Commissioners of the Sinking Fund shall, on or before the first day of July in each calendar year, levy and certify to the auditor of the state of Ohio a state tax on all taxable property subject to taxation on the general tax lists of all counties in the state of Ohio for such year at such rate as it shall determine to be necessary to provide, together with other money which will be available in The Korean Conflict Compensation Bond Retirement Fund, the total amount of funds which will be required in the next following calendar year for the retirement of bonds and the payment of interest payable in such year. Such levy shall be in addition to all other taxes levied now or hereafter within the period during which bonds issued pursuant to the provisions of this section shall be outstanding, by or pursuant to law or any provision of the Ohio constitution, and shall not be considered in applying any limitation or aggregate tax rates now or hereafter within the period during which bonds issued pursuant to the provisions of this section shall be outstanding, provided by or pursuant to law or any provision of the Ohio constitution. The auditor of state shall certify such levies to the auditor of each county in the state of Ohio, who shall extend the same on the tax lists of his county for the year in which such levy is made and shall place the same for collection on the tax duplicates of his county to be collected at the same time and in the same manner as other taxes on such duplicates. Said taxes herein authorized, when collected, shall be paid into The Korean Conflict Compensation Bond Retirement Fund in the treasury of the state. The Korean Conflict Compensation Bond Retirement Fund shall be paid out, without appropriation thereof by the General Assembly of Ohio, upon the order of The Commissioners of the Sinking

Fund for the purpose of the payment, or retirement in other manner, of said bonds and interest thereon.

The Korean Conflict Compensation Fund shall be paid out upon order of The Commissioners of the Sinking Fund, without appropriation by the General Assembly of Ohio, in payment of the expenses of administering this section, and as compensation as follows: Every person who shall have served on active duty in the armed forces of the United States at any time between June 25, 1950, and July 19, 1953, both dates inclusive, and who, at the time of commencing such service, was and had been a resident of the state of Ohio for at least one year immediately preceding the commencement of such service, and (1) who shall have been separated from such service under honorable conditions, or (2) who is still in such service, or (3) who has been retired, shall be entitled to receive compensation of ten dollars for each month during which such person was in active domestic service and of fifteen dollars for each month during which such person was in active foreign service within said period of time; provided that the maximum amount of compensation payable under this section shall not be in excess of four hundred dollars; and provided that no compensation shall be paid under this section to any person who shall have received from another state a bonus or compensation of a like nature as is provided under this section. Compensation for a fraction of a month of service shall be paid on the basis of one-thirtieth of the above monthly amounts for each day of such service. Service in the Merchant Marine of the United States shall not be considered for the purpose of this section. "Domestic service" as used herein, means service within the continental limits of the United States excluding Alaska and sea duty. "Foreign service" as used herein means service in all other places, including sea duty.

No compensation shall be paid under this section to any person for any periods of time spent under penal confinement during the period of active duty.

Either the surviving husband or wife, or the surviving child or children, or the surviving parents or parent, including persons standing in loco parentis for one year preceding commencement of service in the armed forces of the United States, of a deceased person shall be paid the same amount of compensation that such deceased person would have been entitled to receive under this section, if living; provided that if such deceased person's death is determined to have been service-connected by the Veterans Administration of the United States government, his survivors as herein designated, shall be entitled to four hundred dollars regardless of the amount of compensation which such deceased person would have been entitled to receive under this section, if living; provided that the amount of compensation payable to such survivors of such deceased person shall be payable only to one of the three groups of survivors herein designated in the order in which said groups are named.

No sale or assignment of any right or claim to compensation under this section shall be valid, no claims of creditors shall be enforceable against rights or claims to or payments of compensation under this section, and no fees shall be charged for services in connection with the prosecution of any right or claim to compensation or the collection of any compensation under this section.

The Commissioners of the Sinking Fund shall have complete charge of making payments of the compensation provided for in this section and shall adopt and promulgate regulations governing their procedure in connection therewith, including determinations as to who are proper beneficiaries and the amounts to which such beneficiaries are entitled, determinations as to whether an applicant has the necessary residence requirements, and such other regulations that are necessary and proper; provided that all applications for payment of compensation under this section shall be made to the commissioners of the sinking fund before January 1, 1959.

The Commissioners of the Sinking Fund shall select and appoint such legal counsel and employees that are necessary, fix their compensation and prescribe their duties, and all such appointees shall serve at its pleasure.

The Commissioners of the Sinking Fund shall permit review of individual records of claims by representatives of recognized veterans organizations when authorized to do so by the applicant.

There is hereby transferred, out of the fund known as the "World War II Compensation Fund", created by section 2b of Article VIII of the Ohio Constitution, the sum of four million dollars, to The Korean Conflict Compensation Fund, for the purpose of defraying the immediate cost of administration and compensation.

The people of the state of Ohio declare that their enactment of this special amendment of the Ohio Constitution is to meet the specific emergency covered thereby, and they declare it to be their intention to in no manner affect or change any of the existing provisions of the said constitution except as herein set forth. The provisions of this section shall be self executing.

Upon payment of all valid claims for compensation made within the limitations of time as prescribed herein, The Commissioners of the Sinking Fund may transfer any funds in The Korean Conflict Compensation Fund to The Korean Conflict Compensation Bond Retirement Fund.

Upon retirement of all of the bonds that may be issued hereunder and the payment of all valid claims for compensation made within the limitations of time as prescribed herein, The Commissioners of the Sinking Fund shall make a final report to the General Assembly of Ohio, and any balance remaining in any of the funds herein created and referred to shall be disposed of as shall be provided by law.

**Section 2e.** The state may borrow money and issue bonds or other obligations therefor for the purpose of acquiring, constructing, reconstructing and otherwise improving and equipping buildings and structures, excluding highways, and for the purpose of acquiring sites for such buildings and structures, for the penal, correctional, mental, and welfare institutions of the state; for the state supported universities and colleges of the state; for class room facilities to be leased or sold by the state to public school districts unable within limitations provided by law to provide adequate facilities without assistance from the state; and for state offices; provided that the aggregate total amount of such borrowing under authority of this section shall not exceed \$150,000,000. Not more than thirty million dollars of such borrowing shall be contracted within any calendar year. No part of such borrowing shall be contracted after the last day of December 1964. All bonds or other obligations issued pursuant to this section shall mature within twenty years from date of issue. Not more than \$75,000,000 of the total expenditure from such borrowing shall be for acquisition, construction, reconstruction and other improvement and equipping of buildings and structures, or for acquisition of sites for such buildings and structures, for the state supported universities and colleges, public school class room facilities and state offices; and not more than \$75,000,000 of the total expenditure from such borrowing shall be for acquisition, construction, reconstruction and other improvement and equipping of buildings and structures, or for acquisition of sites for such buildings and structures, for the penal, correctional, mental, and welfare institutions of the state.

The faith and credit of the state are hereby pledged for the payment of such bonds or other obligations and the interest thereon, and they shall be payable from all excises and taxes of the state, except ad valorem taxes on real and personal property, income taxes, and fees, excises, or license taxes relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles.

During the period beginning with the effective date of the first authorization to issue bonds or other obligations under authority of this section and ending on the last day of December 1964, and continuing during such time as such bonds or other obligations are outstanding, and moneys in the capital improvements bond retirement fund are insufficient to pay all interest, principal and charges for the issuance and retirement of such bonds and other obligations, there shall be levied, for the purpose of paying interest, principal, and charges for the issuance and retirement of such bonds and other obligations, an excise tax on sales of cigarettes at the rate of one-half cent on each ten cigarettes or fractional part thereof, and an excise tax on the use, consumption, or storage for consumption of cigarettes by consumers in this state at the rate of one-half cent on each ten cigarettes or fractional part thereof. Such tax on the

use, consumption, or storage for consumption of cigarettes by consumers in this state shall not be levied upon cigarettes upon which the tax on sales has been paid. The moneys received into the state treasury from the one-half cent excise tax on sales of cigarettes and from the one-half cent excise tax on the use, consumption, or storage for consumption of cigarettes by consumers in this state shall be paid into the capital improvements bond retirement fund. The general assembly of Ohio shall enact laws providing for the collection of such taxes.

There is hereby created in the state treasury a fund to be known as the capital improvements bond retirement fund. The capital improvements bond retirement fund shall consist of all moneys received by the state from taxes on cigarettes levied under authority of this section, and all other moneys credited to the fund pursuant to law. Such moneys shall be expended, as provided by law, for the purpose of paying interest, principal, and charges for the issuance and retirement of bonds and other obligations issued under authority of this section.

Sufficient amounts of such moneys in the capital improvements bond retirement fund are hereby appropriated for the purpose of paying interest, principal, and charges for the issuance and retirement of bonds or other obligations issued under authority of this section, without other appropriations but according to law.

Any balance remaining in the capital improvements bond retirement fund after payment of all interest, principal, and charges for the issuance and retirement of bonds and other obligations issued under authority of this section, shall be disposed of as shall be provided by law.

As long as any of such bonds or other obligations are outstanding there shall be levied and collected, in amounts sufficient to pay the principal of and the interest on such bonds or other obligations, excises and taxes, excluding those above excepted.

The general assembly shall meet on the third Monday of January, 1956 for the purpose of enacting laws pursuant to this section.

**Section 2f.** In addition to the authorization in Article VIII, Section 2e, the state may borrow not to exceed two hundred fifty million dollars and issue bonds or other obligations therefor, for the purpose of acquiring, constructing, reconstructing, and otherwise improving and equipping buildings and structures, excluding highways; and for the purpose of acquiring lands and interests in lands for sites for such buildings and structures; and, for the purpose of assisting in the development of the State, to acquire lands and interests in lands and to develop such lands and interests or other state lands for water impoundment sites, park and recreational uses, and conservation of natural resources; and for use in conjunction

with federal grants or loans for any of such purposes. Of said amount, for the purpose of acquiring, constructing, reconstructing, and otherwise improving and equipping buildings and structures, excluding highways, and for the purpose of acquiring lands and interests in lands for sites for such buildings and structures, one hundred seventy-five million dollars shall be issued for the state supported or assisted colleges or universities including community colleges, municipal universities, and university branches, thirty-five million dollars shall be issued for providing classroom facilities for the public schools to be leased or sold by the State to public school districts unable, within the limitations provided by law, to provide adequate facilities without assistance from the state, and fifteen million dollars shall be issued for state functions, activities, offices, institutions, including penal, correctional, mental, and welfare, and research and development; and for the purpose of assisting in the development of the state by acquiring lands and interests in lands and to develop such lands and interests or other state lands for water impoundment sites, park and recreational uses, and conservation of natural resources twenty-five million dollars shall be issued. Not more than one hundred million dollars of such borrowing shall be contracted within any calendar year. No part of such borrowing shall be contracted after the thirty-first day of December, 1972. All bonds or other obligations issued pursuant to this section shall mature at such time or times not exceeding thirty years from date of issue and in such amounts as shall be fixed by the commissioners of the sinking fund, and shall bear interest and be sold as shall be authorized by law. Both the principal of such debt and the interest thereon shall be exempt from taxation within this state.

The faith and credit of the state are hereby pledged for the payment of such bonds or other obligations, and the interest thereon. They shall be payable from all excises and taxes of the state except ad valorem taxes on real and personal property, income taxes, and fees, excises or license taxes relating to registration, operation, or use of vehicles on public highways or to fuels used for propelling such vehicles. The excises and taxes of the state from which such bonds and other obligations shall be paid shall include an excise tax on sales of cigarettes at the rate of one-half cent on each ten cigarettes or fractional part thereof, and an excise tax on the use, consumption, or storage for consumption of cigarettes by consumers in this state, at the rate of one-half cent on each ten cigarettes or fractional part thereof, which shall be levied during the period beginning with January 1, 1965, and continuing until December 31, 1972, and thereafter as long as any of such bonds and other obligations are outstanding and moneys in the separate and distinct bond retirement fund hereinafter created are insufficient to pay all interest, principal, and charges for the issuance and retirement of such bonds and other obligations. Such tax on the use, consumption, or storage for consump-

tion of cigarettes by consumers in this state shall not be levied upon cigarettes upon which the tax on sales has been paid. The General Assembly of the State of Ohio shall enact laws providing for the collection of such taxes. The moneys received into the state treasury from such one-half cent excise tax on sales of cigarettes and from such one-half cent excise tax on the use, consumption, or storage for consumption of cigarettes by consumers in this state shall be paid into a separate and distinct bond retirement fund hereby created. There shall be transferred in each year from said bond retirement fund to the capital improvements bond retirement fund created by Article VIII, Section 2e of the Constitution of the State of Ohio, from the proceeds of the levy of such excise taxes on cigarettes, such amounts as may be necessary for the payment in such year of the interest, principal, and charges of the bonds or other obligations issued pursuant to said Article VIII, Section 2e falling due in such year, to the extent that moneys in said capital improvements bond retirement fund in such year are insufficient to pay such interest, principal, and charges.

The excise taxes on the sale, use, consumption or storage of cigarettes authorized to be levied by Article VIII, Section 2e of the Constitution of the State of Ohio for the payment of bonds and other obligations issued under authority of that section shall not be levied during any period that they are not required to be levied by Article VIII, Section 2e of the Constitution of the State of Ohio.

Sufficient amounts of such moneys remaining in said separate and distinct bond retirement fund created by this section, after such transfers, are hereby appropriated for the purpose of paying interest, principal, and charges for the issuance and retirement of bonds and other obligations issued under authority of this section, without other appropriations but according to law. In the event the moneys in the separate and distinct bond retirement fund created by this section are at any time insufficient to pay the current interest, principal, and charges for the issuance and retirement of bonds and other obligations issued under authority of this section, then such moneys as may be required to pay such current interest, principal, and charges are hereby appropriated for those purposes, without other appropriations but according to law, from the proceeds of all excises and taxes excluding those above excepted. Provision may be made by law for the transfer and the use of any amount in said separate and distinct bond retirement fund in excess of that required in any year for payment of interest, principal, and charges for the issuance and retirement of bonds and other obligations issued under authority of said Article VIII, Section 2e and this section.

Any balance remaining in the separate and distinct bond retirement fund created by this section after payment of all interest, principal, and charges for the issuance and retirement of bonds or other obligations issued under authority of

this section shall be disposed of for the purposes enumerated in this section as may be provided by law.

As long as any of such bonds or other obligations are outstanding there shall be levied and collected in amounts sufficient to pay the principal of and interest on such bonds or other obligations, excises and taxes, excluding those above excepted.

**Section 2g.** The state may contract debts not exceeding five hundred million dollars for the purpose of providing moneys for acquisition of rights-of-way and for construction and reconstruction of highways on the state highway system and urban extensions thereof. The principal amount of any part of such debt at any time contracted shall be paid at such time or times and in such amounts as shall be fixed by the Commissioners of the Sinking Fund provided that the entire debt shall be discharged not later than the year 1989. The bonds or other obligations evidencing the debt authorized by this section shall bear interest and shall be sold upon such terms as may be prescribed by law. Both the principal of such debt and the interest thereon shall be exempt from taxation within this state. Moneys raised under the authority of this section shall be expended only to provide adequate highways, including engineering and the acquisition of rights-of-way and including participation therein with the federal government, municipal corporations, counties and other legally authorized participants. All construction shall be done by contract as shall be provided by law. No part of such proceeds shall be appropriated except to meet the requirements of programs or schedules or acquisition of rights-of-way, highway construction and reconstruction which the governor, or other highway authority designated by law, with the concurrence of the governor, shall submit to the general assembly before such appropriations are made. Such appropriations shall be made only for major thoroughfares of the state highway system and urban extensions thereof. The debt contracted under the authority of this section shall be evidenced by bonds or other obligations issued by the State of Ohio as provided by law. The faith and credit of the state are hereby pledged for the payment thereof and the interest thereon. Such bonds or other obligations shall be paid from moneys derived from fees, excises, or license taxes, levied by the State of Ohio, relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles, and a sufficient amount thereof, after provision for the amounts required by Article VIII, Section 2c of the Constitution of the State of Ohio for obligations issued pursuant to that section, is hereby appropriated in each year for the purpose of paying the interest on the outstanding debt and the principal of such debt contracted under authority of this section becoming due in that year, without other appropriations, but according to regulations to be established by law. Provision may be made by law for the transfer and the use of any amount of such moneys in excess of that required,



in any year, for the payment of interest on and the principal of such debt contracted under authority of this section and said section 2c.

**Section 2h.** The State may, from time to time, borrow not to exceed two hundred ninety million dollars and issue bonds or other obligations thereof for any one or more of the following purposes: acquiring, constructing, reconstructing or otherwise improving and equipping buildings and structures of the state and state supported and assisted institutions of higher education, including those for research and development; acquiring lands and interests in lands for sites for such buildings and structures; assisting in the development of the State, to acquire and develop lands and interests in lands and develop other state lands for water impoundment sites, flood control, parks and recreational uses, or conservation of natural resources; to develop state parks and recreational facilities including the construction, reconstruction and improvement of roads and highways therein; to assist the political subdivisions of the state to finance the cost of constructing and extending water and sewerage lines and mains; for use in conjunction with Federal grants or loans for any of such purposes; and for use in conjunction with other governmental entities in acquiring, constructing, reconstructing, improving, and equipping water pipelines, stream flow improvements, airports, historical or educational facilities. The aggregate total amount of such borrowing outstanding under authority of this section shall not, at any time, exceed such sum as will require, during any calendar year, more than \$20,000,000 to meet the principal and interest requirements of any such bonds and other obligations, and the charges for the issuance and retirement of such bonds and other obligations, falling due that year. No part of such borrowing shall be contracted after the last day of December, 1970. All bonds or other obligations issued pursuant to this section shall mature within thirty years from the date of issue.

The faith and credit of the state are hereby pledged for the payment of such bonds or other obligations or the interest thereon, and they shall be payable from all excises and taxes of the state, except ad valorem taxes on real and personal property, income taxes, and fees, excises or license taxes relating to the registration, operation, or use of vehicles on the public highways, or to fuels used for propelling such vehicles, after making provision for payment of amounts pledged from such excises and taxes for payment of bonds issued under authority of Sections 2e and 2f of this Article.

During the period beginning with the effective date of the first authorization to issue bonds or other obligations under authority of this section and continuing during such time as such bonds or other obligations are outstanding, and so long as moneys in the Development Bond Retirement Fund are insufficient to pay all interest, principal and charges of such bonds or other obligations issued under authority of this section and becoming due in each year, a sufficient

amount of moneys derived from such excises and taxes of the state is hereby appropriated in each year for the purpose of paying the interest, principal and charges for the issuance and retirement of bonds or other obligations issued under authority of this section becoming due in that year without other appropriation but according to law. The moneys derived from such excises and taxes and hereby appropriated shall be paid into a distinct bond retirement fund designated "Development Bond Retirement Fund," hereby created. Such moneys shall be expended as provided by law for the purpose of paying interest, principal and charges for the issuance and retirement of bonds and other obligations issued under authority of this section.

Sufficient amounts of such moneys in the Development Bond Retirement Fund are hereby appropriated for the purpose of paying interest, principal and charges for the issuance and retirement of bonds or other obligations issued under authority of this section, so long as any of them are outstanding, without other appropriations but according to law.

Any balance remaining in the Development Bond Retirement Fund after payment of all interest, principal and charges for the issuance and retirement of bonds and other obligations issued under authority of this section, shall be disposed of as shall be provided by law.

As long as any of such bonds or other obligations are outstanding there shall be levied and collected, in amounts sufficient to pay the principal of and the interest on such bonds or other obligations, excises and taxes, excluding those above excepted.

**Section 2i.** In addition to the authorization otherwise contained in Article VIII of the Ohio Constitution, the general assembly, in accordance with but subject to the limitations of this section, may authorize the issuance of obligations, including bonds and notes, of the state or of state institutions, boards, commissions, authorities, or other state agencies or instrumentalities for any one or more of the following public capital improvements: the construction, reconstruction, or other improvement of highways, including those on the state highway system and urban extensions thereof, those within or leading to public parks or recreational areas, and those within or leading to municipal corporations, the acquisition, construction, reconstruction, or other improvement of, and provision of equipment for, buildings, structures, or other improvements, and necessary planning and engineering, for water pollution control and abatement, including those for sewage collection, treatment, or disposal, water management, including those for water distribution, collection, supply, storage, or impoundment, and stream flow control, and flood control, state supported or assisted institutions of higher education, technical education, vocational education, juvenile correction, training and rehabilitation, parks and recreation, research

and development with respect to transportation, highways and highway transportation, mental hygiene and retardation, police and fire training, airports, and other state buildings and structures, and the acquisition and improvement of real estate and interests therein required with respect to the foregoing, including participation in any such capital improvements with the federal government, municipal corporations, counties, or other governmental entities or any one or more of them which participation may be by grants, loans or contributions to them for any of such capital improvements. It is hereby determined that such capital improvements will directly or indirectly create jobs, enhance employment opportunities, and improve the economic welfare of the people of the state.

The issuance under authority of this section of obligations the holders or owners of which are given the right to have excises and taxes levied by the general assembly for the payment of the principal thereof or interest thereon, herein called tax supported obligations, shall be subject to the following limitations. Not more than one hundred million dollars principal amount may be issued in any calendar year and not more than five hundred million dollars principal amount may be outstanding at any one time for such capital improvements for highways and research and development with respect to highways and highway transportation, herein called highway obligations, provided that fifty per cent of the proceeds of the first five hundred million dollars of such tax supported highway obligations shall be used for urban extensions of state highways and highways within or leading to municipal corporations. Not more than two hundred fifty nine million dollars aggregate principal amount of such tax supported obligations may be issued for the other capital improvements aforesaid, provided that from the proceeds thereof one hundred twenty million dollars shall be used for water pollution control and abatement and water management, one hundred million dollars shall be used for higher education, technical and vocational education, and juvenile correction, training and rehabilitation, twenty million dollars shall be used for parks and recreation, and nineteen million dollars for airports, and for construction, rehabilitation and equipping of other state buildings and structures, including those for police and fire training. If tax supported obligations are issued under authority of this section to retire tax supported obligations previously issued under authority of this section, such new obligations shall not be counted against such limits to the extent that the principal amount thereof does not exceed the principal amount of the obligations to be retired thereby.

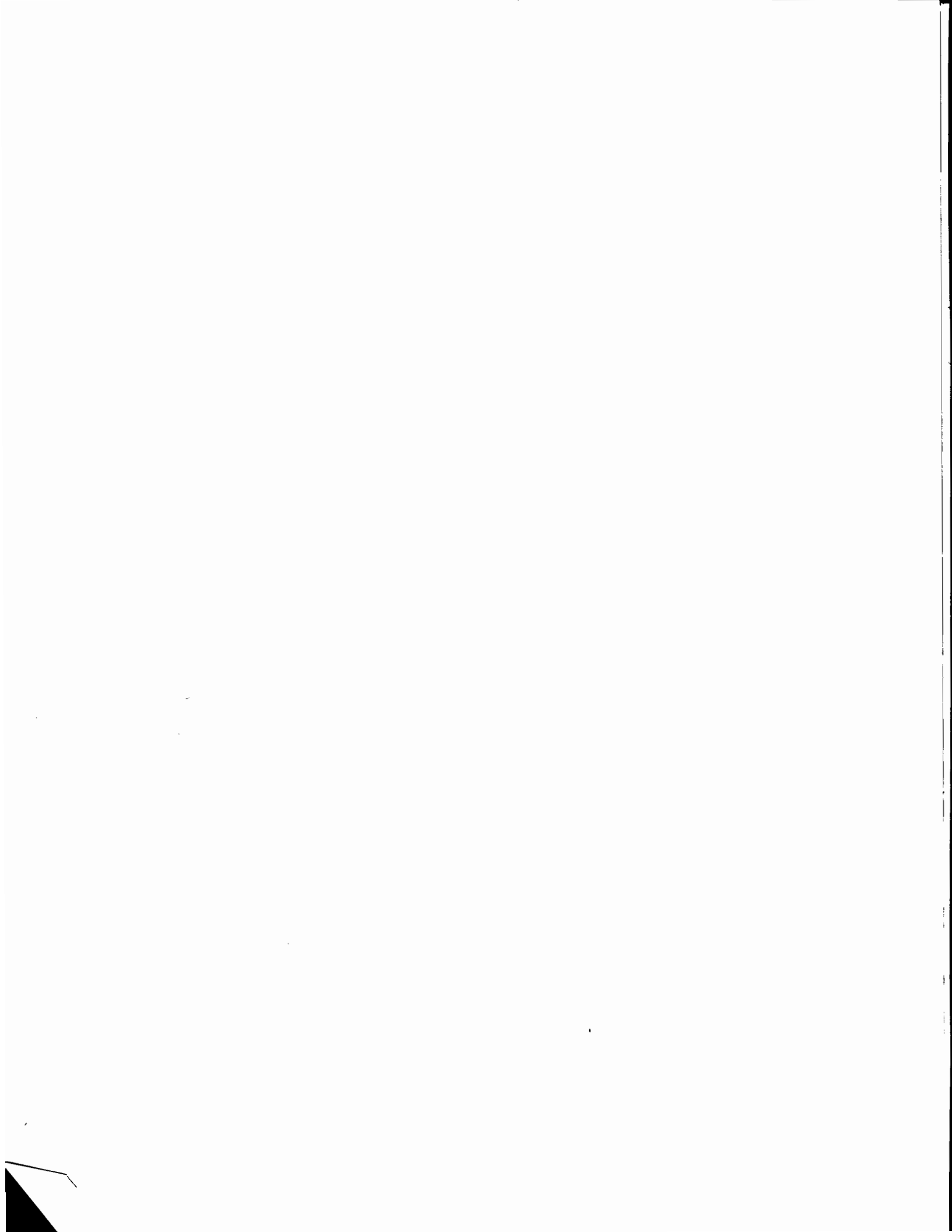
Each issue of tax supported obligations issued pursuant to this section shall mature in not more than thirty years from the date of issuance thereof, or, if issued to retire obligations issued hereunder, within thirty years from the date such debt was originally contracted. If such tax supported

obligations are issued as notes in anticipation of the issuance of bonds, provision shall be made by law for setting aside, so long as such notes are outstanding, into a special fund or funds such amounts from the sources authorized for payment of such bonds under this section as would be sufficient for payment of that amount of principal on such bonds that would have been payable during such period if such bonds, maturing during a period of thirty years, had been issued without prior issuance of such notes. Such fund or funds may be used solely for the payment of principal of such notes or of bonds in anticipation of which such notes have been issued.

The faith and credit and excises and taxes of the state, excluding ad valorem taxes on real or personal property and income taxes, shall be pledged to the payment of the principal of and interest on such tax supported obligations, sinking or bond retirement fund provisions shall be made therefor, and this section shall otherwise be implemented, all in the manner and to the extent provided by law by the general assembly, including provisions for appropriation of pledged excises and taxes, and covenants to continue their levy, collection and application, to continue so long as such tax supported obligations are outstanding, without necessity for further appropriation notwithstanding Section 22 of Article II, Ohio Constitution; provided that the moneys referred to in Section 5a of Article XII, Ohio Constitution, herein called highway user receipts, shall, after provision for payment of amounts pledged to obligations heretofore or hereafter issued under Sections 2c and 2g of this Article, be pledged to the payment of the principal of and interest on highway obligations authorized by this section but not to other obligations authorized hereby. If excises and taxes other than highway user receipts are pledged to the payment of the principal of or interest on highway obligations authorized by this section, in each year that such highway user receipts are available for such purpose, the same shall be appropriated thereto and the required application of such other excises and taxes shall be reduced in corresponding amount.

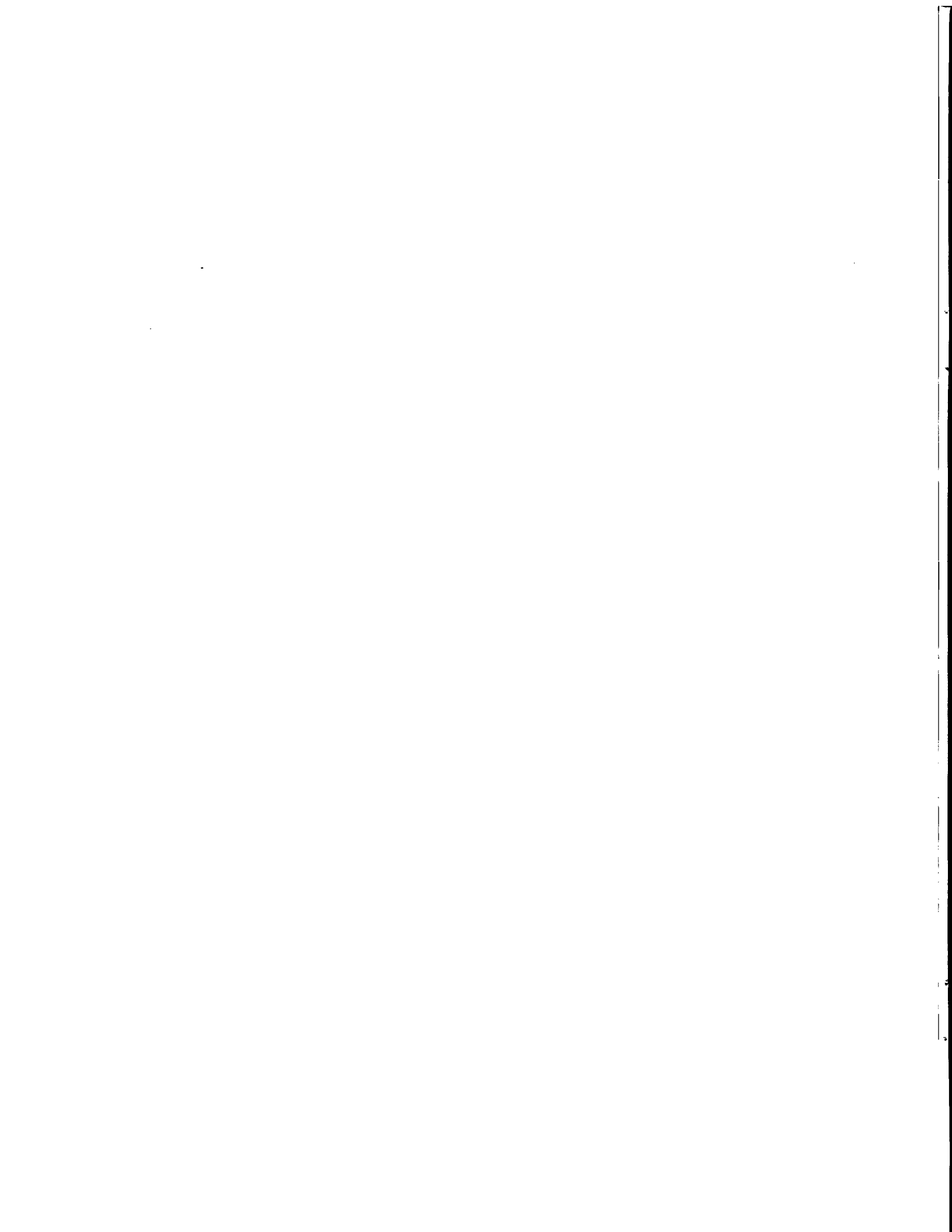
The general assembly also may authorize the issuance of revenue obligations and other obligations, the owners or holders of which are not given the right to have excises or taxes levied by the general assembly for the payment of principal thereof or interest thereon, for such capital improvements for mental hygiene and retardation, parks and recreation, state supported and state assisted institutions of higher education, including those for technical education, water pollution control and abatement, water management, and housing of branches and agencies of state government, which obligations shall not be subject to other provisions of this section and shall not be deemed to be debts or bonded indebtedness of the state under other provisions of this Constitution. Such obligations may be secured by a pledge under law, without necessity for further appropriation, of all or





such portion as the general assembly authorizes of charges for the treatment or care of mental hygiene and retardation patients, receipts with respect to parks and recreational facilities, receipts of or on behalf of state supported and state assisted institutions of higher education, or other revenues or receipts, specified by law for such purpose, of the state or its officers, departments, divisions, institutions, boards, commissions, authorities, or other state agencies or instrumentalities, and this provision may be implemented by law to better provide therefor; provided, however, that any charges for the treatment or care of mental hygiene or retardation patients may be so pledged only to obligations issued for capital improvements for mental hygiene and retardation, any receipts with respect to parks and recreation may be so pledged only to obligations issued for capital improvements for parks and recreation, any receipts of or on behalf of state supported or state assisted institutions of higher education may be pledged only to obligations issued for capital improvements for state supported or state assisted institutions of higher education, and any other revenues or receipts may be so pledged only to obligations issued for capital improvements which are in whole or in part useful to, constructed by, or financed by the department, board, commission, authority, or other agency or instrumentality that receives the revenues or receipts so pledged. The authority provided by this paragraph is in addition to, cumulative with, and not a limitation upon, the authority of the general assembly under other provisions of this Constitution; such paragraph does not impair any law heretofore enacted by the general assembly, and any obligations issued under any such law consistent with the provisions of this paragraph shall be deemed to be issued under authority of this paragraph.

Both the principal of all obligations authorized under authority of this section and the interest thereon shall be exempt from taxation within this state.







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