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## **An Act To Impose Reasonable Limits on the Growth of State Government**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §1507, next to last ¶**, as amended by PL 2005, c. 519, Pt. VV, §1, is repealed.

**Sec. 2. 5 MRSA §1511**, as amended by PL 2005, c. 2, Pt. A, §1 and affected by §14 and amended by c. 519, Pt. VV, §2, is repealed.

**Sec. 3. 5 MRSA §1522** is enacted to read:

### **§ 1522. Maine Budget Stabilization Fund**

**1. Establishment.** The Maine Budget Stabilization Fund, referred to in this section as "the fund," is established and must be administered for the purposes identified in this section.

**2. Transfers to fund; limits.** The fund may receive transfers by the State Controller of unappropriated surplus at the close of a fiscal year as provided in section 2045 and any other funds identified by law. The fund may not exceed 10% of the total General Fund revenues received in the immediately preceding fiscal year and may not lapse, but remains in a continuing carrying account to carry out the purposes of this section. The limit at the close of a fiscal year is based on the total General Fund revenues received in the fiscal year being closed.

**3. Use of fund.** The Legislature may authorize transfers, appropriations and allocations from the fund only to fund the costs of State Government up to the expenditure limit calculated under section 2044 in years when state revenues are less than the amount necessary to finance the level of expenditure permitted under section 2044.

**4. Investment of funds; proceeds.** The money in the fund may be invested as provided by law, with the earnings credited to the fund. At the close of every month during which the fund is at the 10% limitation described in subsection 2, the State Controller shall transfer the excess to the Tax Relief Reserve Fund established under section 2045.

**5. Death benefits.** The Governor shall allocate funds from the stabilization fund as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, the State Fire Marshal or the Director of Maine Emergency Medical Services and after consultation with the State Budget Officer.

**Sec. 4. 5 MRSA §1523** is enacted to read:

### **§ 1523. Maine Highway Budget Stabilization Fund**

**1. Establishment.** The Maine Highway Budget Stabilization Fund, referred to in this section as "the fund," is established and must be administered for the purposes identified in this section.

**2. Transfers to fund; limits.** The fund may receive transfers by the State Controller of unallocated Highway Fund surplus at the close of a fiscal year as provided in section 2046 and any other funds identified by law. The fund may not exceed 10% of the total Highway Fund revenues received in the immediately preceding fiscal year and may not lapse, but remains in a continuing carrying account to carry out the purposes of this section. The limit at the close of a fiscal year is based on the total Highway Fund revenues received in the fiscal year being closed.

**3. Use of fund.** The Legislature may authorize transfers, appropriations and allocations from the fund only to fund the costs of the Highway Fund budget up to the expenditure limit calculated under section 2044 in years when Highway Fund revenues are less than the amount necessary to finance the level of expenditures permitted under section 2044.

**4. Investment of funds; proceeds.** The money in the fund may be invested as provided by law, with the earnings credited to the fund. At the close of every month during which the fund is at the 10% limitation described in subsection 2, the State Controller shall transfer the excess to the Highway Fund Reserve Fund established under section 2046.

**Sec. 5. 5 MRSA §1531, sub-§7,** as enacted by PL 2005, c. 2, Pt. A, §5 and affected by §14, is amended to read:

**7. General Fund revenue shortfall.** "General Fund revenue shortfall" means the amount by which the General Fund appropriation limitation established by section ~~1534~~1664, subsection 5 exceeds baseline General Fund revenue and other available resources in each state fiscal year.

**Sec. 6. 5 MRSA §1532,** as enacted by PL 2005, c. 2, Pt. A, §5 and affected by §14, is repealed.

**Sec. 7. 5 MRSA §1533,** as enacted by PL 2005, c. 2, Pt. A, §5 and affected by §14, is amended to read:

### **§ 1533. Declaration of budget emergency**

If the Legislature has adjourned sine die prior to the close of a fiscal year and the commissioner has provided notification as required by section 1668 that indicates that available General Fund resources will not be sufficient to meet General Fund expenditures, the commissioner may declare a budget emergency. At the close of the fiscal year, the State Controller may transfer from the available balance in the stabilization fund to the General Fund Unappropriated Surplus up to the amount necessary to increase total General Fund resources for that fiscal year to be equal to General Fund expenditures. ~~For the purposes of this section, the Governor may reduce the stabilization fund below the 1% minimum threshold established by section 1532.~~ The Governor shall inform the Legislative Council and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs immediately upon such transfers from the stabilization fund.

**Sec. 8. 5 MRSA §1534,** as amended by PL 2005, c. 683, Pt. M, §1, is repealed.

**Sec. 9. 5 MRSA §1535,** as amended by PL 2005, c. 621, §4, is further amended to read:

### **§ 1535. General Fund transfers to stabilization fund**

Baseline General Fund revenue, as recommended by the Revenue Forecasting Committee and authorized in accordance with chapter 151-B, and other available budgeted General Fund resources that exceed the General Fund appropriation limitation established by section ~~1534~~1664, subsection 5 plus the additional cost for essential programs and services for kindergarten to grade 12 education under Title 20-A, chapter 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools until the state share of that cost reaches 55% of the total state and local cost must be transferred to the stabilization fund.

**Sec. 10. 5 MRSA §1536, sub-§1**, as amended by PL 2005, c. 519, Pt. VV, §4, is further amended to read:

**1. Second priority reserve.** The State Controller shall, as the ~~3rd~~2nd priority after the ~~transfer~~transfer to the State Contingent Account pursuant to section 1507 and ~~the transfers to the Loan Insurance Reserve pursuant to section 1511~~ at the close of each fiscal year, transfer from the unappropriated surplus of the General Fund an amount equal to the amount available from the unappropriated surplus after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made as follows:

- A. Thirty-five percent to the stabilization fund;
- B. Twenty percent to the Retirement Allowance Fund established in section 17251;
- C. Twenty percent to the Reserve for General Fund Operating Capital;
- D. Fifteen percent to the Retiree Health Insurance Internal Service Fund established in section 1519 to be used solely for the purpose of amortizing the unfunded actuarial liability associated with future health benefits; and
- E. Ten percent to the Capital Construction and Improvements Reserve Fund established in section 1516-A.

**Sec. 11. 5 MRSA §1664, sub-§5**, as enacted by PL 2005, c. 601, §1, is amended to read:

**5. Limit on General Fund appropriation.** The total General Fund appropriation for each fiscal year of the biennium in the Governor's budget submission to the Legislature may not exceed the General Fund appropriation limitation ~~established in section 1534~~of the previous fiscal year multiplied by one plus the population adjustment factor plus the inflation adjustment factor as those terms are defined in section 2042.

**Sec. 12. 5 MRSA §1665, sub-§1**, as amended by PL 2005, c. 601, §2, is further amended to read:

**1. Expenditure and appropriation requirements.** On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner prescribed by the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium contrasted with the corresponding

figures of the last completed fiscal year and the estimated figures for the current fiscal year. The total General Fund appropriation requests submitted by each department and agency for each fiscal year may not exceed the General Fund appropriation of the previous fiscal year multiplied by one plus the inflation adjustment factor as defined in section 2042. The expenditure estimates must be classified to set forth the data by funds, organization units, character and objects of expenditure. The organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the State Budget Officer.

All departments and other agencies receiving or desiring to receive state funds from the Highway Fund shall submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium that do not exceed the Highway Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. The Highway Fund highway and bridge improvement accounts are exempt from this spending limitation.

**Sec. 13. 5 MRSA c. 167** is enacted to read:

## **CHAPTER 167**

### **the taxpayer bill of rights**

#### **§ 2041. Expenditure and revenue requirements; construction of chapter**

The following provisions of this section apply, notwithstanding any other provision of law.

**1. Expenditure limitations.** Annual state expenditures may not exceed the limits provided in this chapter.

**2. Revenue increases.** An increase in revenue may be adopted only as provided in section 2043.

**3. Construction.** It is the intent of the Legislature that this chapter be interpreted liberally to restrain excess growth of State Government.

#### **§ 2042. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Election officer.** "Election officer" means the municipal registrar of voters.

**2. Increase in revenue.** "Increase in revenue" means any legislation or tax levy that causes a net gain in revenue and:

**A.** Enacts a new tax or fee;

**B.** Increases the rate or expands the base of an existing tax or fee;

C. Reduces benefits or eligibility under the Business Equipment Tax Reimbursement program established in Title 36, chapter 915 without providing the same level of benefits and eligibility under a comparable program or without providing a 100% property tax exemption for property eligible for reimbursement under Title 36, chapter 915;

D. Repeals or reduces any tax exemption, credit or refund; or

E. Extends an expiring tax or fee increase.

**3. Inflation adjustment factor.** "Inflation adjustment factor" means the increase in the Consumer Price Index for the most recently available calendar year as calculated by the United States Department of Labor, Bureau of Labor Statistics.

**4. Population adjustment factor.** "Population adjustment factor" means the increase or decrease in population for the preceding calendar year over the prior calendar year as determined annually by the Executive Department, State Planning Office statewide and for each municipality based on federal census estimates.

**5. Quasi-governmental agency.** "Quasi-governmental agency" means any separate legal entity for which the State is financially accountable and that is included in the financial statements of the State for financial reporting purposes under guidelines established by generally accepted accounting principles mandated by a governmental accounting standards board.

**6. Revenue.** "Revenue" means taxes and fees collected by the State or a quasi-governmental agency pursuant to the statutes of the State, including those collected under Title 36, Part 2. It includes money received from the sale of goods and services only to the extent that the receipts exceed the cost of providing the goods or services.

### **§ 2043. Approval of revenue increases**

**1. Approval of increases.** The following forms of approval are required to adopt an increase in revenue:

A. The measure must be approved by a vote of 2/3 of all the members of each House of the Legislature; and

B. Except as provided in subsection 2, the measure must be approved by a majority of the voters in the State.

**2. Exceptions.** Voter approval under subsection 1, paragraph B is not required if:

A. Annual state revenue is less than annual payments on general obligation bonds, required payments related to pensions and final court judgments;

B. The measure is an emergency tax and the provisions of section 2048 are followed; or

C. The increase in revenue applies to a quasi-governmental agency that does not have a body of voters.

For the purposes of this subsection, "emergency" does not include economic conditions or revenue shortfalls.

**3. Approval by voters; emergency approval.** The question of whether to adopt legislation to impose an increase in revenue of the State must be submitted to the voters for approval at the next general election as defined in Title 21-A, section 1. If the Legislature determines by a 2/3 vote that legislation to increase taxes or fees should take effect sooner than the next general election, the Legislature may provide for submission of the question to the voters at any regular or special election as defined in Title 21-A, section 1.

**4. Revenue estimates.** A measure submitted to the voters under this section must include an estimate of the amount to be raised by the measure for the first 4 fiscal years of its implementation.

**5. Notice.** At least 30 days before an election required under this chapter, the election officer shall mail at the least cost a titled notice or set of notices addressed to "All Registered Voters" at each address of every registered voter. Notices must include the following information and may not include any additional information:

A. The election date, hours, ballot title and text and local election office address and telephone number;

B. For each proposed revenue increase, the estimated or actual total of fiscal year spending for the current year and each of the past 4 years and the overall percentage and dollar change;

C. For the first full fiscal year of each proposed revenue increase, estimates of the maximum dollar amount of each increase and of fiscal year spending without the increase; and

D. Two summaries, up to 500 words each, one in support of and one in opposition to each proposal, of written comments filed with the election officer by 45 days before the election. A summary may not mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Representatives of a measure under this section shall write a summary for their proposal. The election officer shall maintain and accurately summarize all other relevant written comments.

Except by later voter approval, if an increase in revenue exceeds any estimate prepared under paragraph C for the same fiscal year, the tax increase is thereafter reduced in proportion to the amount of the excess, and the excess revenue that was collected must be refunded in the next fiscal year. Ballot questions for revenue increases must begin: "Shall state revenues be increased (amount of first or, if phased in, full fiscal year dollar increase) annually...?"

**6. Costs.** The State shall reimburse municipalities for the costs of any election under this section and providing the notice required under subsection 5 if the election provides for a state tax increase.

## **§ 2044. Expenditure limitations**

**1. State expenditure limitation.** Beginning with the first fiscal year that begins after this section takes effect, the maximum annual percentage change in state fiscal year spending in the categories specified in this subsection equals the inflation adjustment factor plus the population adjustment factor and any increases attributable to measures approved under section 2043. This limitation must be calculated separately for the following categories:

- A. General Fund;
- B. Highway Fund; and
- C. Quasi-governmental agencies and Other Special Revenue Funds, for which separate individual limitations must be applied. For state-level quasi-governmental agencies whose primary purpose is providing education programs, the limitation must be calculated by substituting for the population adjustment factor a factor based on changes in student enrollment.

**2. Exceptions.** The following may not be counted in calculating expenditure limitations under this section:

- A. Amounts returned to taxpayers as refunds of amounts exceeding the expenditure limitation in a prior year;
- B. Amounts received from the Federal Government;
- C. Amounts collected on behalf of another level of government;
- D. Pension contributions by employees and pension fund earnings;
- E. Pension and disability payments made to former government employees;
- F. Amounts received as grants, gifts or donations that must be spent for purposes specified by the donor;
- G. Amounts paid pursuant to a court award; and
- H. Reserve transfers or expenditures.

**3. Exceeding expenditure limitations.** If revenues are projected to exceed the expenditure limitations in this section, the amount of revenues exceeding the expenditure limitations may be spent if approved in the same manner as required for a revenue increase under section 2043.

## **§ 2045. Transfers and refund of unappropriated General Fund surplus**

**1. Fund created.** The Tax Relief Reserve Fund, referred to in this section as "the fund," is created for the purposes set forth in this chapter. The fund may not lapse, but remains in a continuing carrying account to carry out the purposes of this section.

**2. Transfer.** At the close of each fiscal year, the State Controller shall identify the amount of General Fund unappropriated surplus and make the following transfers:

- A. Eighty percent of the unappropriated surplus must be transferred to the fund; and
- B. Twenty percent of the unappropriated surplus must be transferred to the Maine Budget Stabilization Fund established in section 1522.

**3. Notification.** By September 15th annually, the State Controller shall notify the Legislature and the State Tax Assessor of the amount in the fund as a result of the transfers required by subsection 2.

**4. Refund through legislative action.** If the amount in the fund exceeds \$25,000,000, the Legislature shall, by the following October 15th, enact legislation to provide for the refund to taxpayers of amounts in the fund. Refunds may take the form only of temporary or permanent broad-based tax credits, rebates or rate reductions.

**5. Refund in case of legislative inaction.** If the Legislature does not enact legislation by October 15th to provide refunds pursuant to subsection 4, then the State Controller shall, by October 30th, notify the State Tax Assessor of the amount in the fund. The State Tax Assessor shall calculate a one-time bonus personal exemption refund. The amount of the personal exemption refund must be calculated by dividing the amount in the fund identified by the State Controller under subsection 3 by the number of personal exemptions claimed on income tax returns filed for tax years beginning in the previous calendar year and rounded down to the nearest \$5 increment. The State Tax Assessor shall issue a refund by November 30th to each taxpayer who filed an income tax return by April 15th of the same calendar year based on the number of personal exemptions claimed on the taxpayer's return without regard to the taxpayer's tax liability for the year.

## **§ 2046. Transfers and refund of unallocated Highway Fund surplus**

**1. Fund created.** The Highway Fund Reserve Fund, referred to in this section as "the fund," is created for the purposes set forth in this chapter.

**2. Transfer.** At the close of each fiscal year, the State Controller shall identify the amount of Highway Fund unallocated surplus and make the following transfers:

- A. Eighty percent of the unallocated surplus must be transferred to the fund; and
- B. Twenty percent of the unallocated surplus must be transferred to the Maine Highway Budget Stabilization Fund established in section 1523.

**3. Notification.** By September 15th annually, the State Controller shall notify the Legislature of the amount in the fund as a result of the transfers required by subsection 2.



**4. Reduction in taxes when surplus.** If the amount in the fund exceeds 10% of Highway Fund expenditures for the previous fiscal year, the State Tax Assessor shall calculate, based on the amount in the fund, a proportional reduction in the taxes on motor fuels under Title 36, Part 5 to become effective the following January 1st and remain in effect for one calendar year.

**§ 2047. Revenues of quasi-governmental agencies and Other Special Revenue Funds accounts**

By September 15th annually, each quasi-governmental agency or state agency that manages an Other Special Revenue Funds account shall submit a report to the Legislature identifying revenues received in the preceding fiscal year that exceed the expenditure limitation established in section 2044 and any other uncommitted revenues received during the previous fiscal year and proposing a plan for refunding to taxpayers the amount identified that exceeds 10% of the previous fiscal year's expenditure.

**§ 2048. Emergency taxes**

**1. Emergency taxes permitted; conditions.** The State may impose emergency taxes only in accordance with this section:

- A. The tax must be approved for a specified time period by a 2/3 majority of the members of each House of the Legislature;
- B. Emergency tax revenue may be spent only after other available reserves are depleted and must be refunded 180 days after the emergency ends if not spent on the emergency; and
- C. The tax must be submitted for approval by the voters at the next statewide election.

**2. Absence of approval.** If not approved by the voters as provided in this section, an emergency tax expires 30 days following the election.

Individual or class action lawsuits may be filed to enforce this chapter and must be given the highest civil priority for resolution. Successful plaintiffs are allowed costs and reasonable attorney's fees. Revenue collected, kept or spent in conflict with this chapter for 4 full fiscal years before a suit is filed must be refunded with 10% annual simple interest from the initial action causing the conflict.

**Sec. 14. 5 MRSA §13063-C, sub-§4, ¶B,** as amended by PL 2005, c. 2, Pt. A, §9 and affected by §14, is further amended to read:

- B. Notwithstanding section 1585, any balance remaining in the program after July 31, 2007 must be transferred to the Maine Budget Stabilization Fund as established in section 15321522.

**Sec. 15. 5 MRSA §17253, sub-§3,** as amended by PL 2005, c. 2, Pt. A, §10 and affected by §14, is repealed.

**Sec. 16. 25 MRSA §1612, sub-§7,** as amended by PL 2005, c. 2, Pt. A, §12 and affected by §14, is further amended to read:

**7. Payment from the Maine Budget Stabilization Fund.** Benefits are payable from the Maine Budget Stabilization Fund as provided in Title 5, section ~~1532~~1522, subsection ~~65~~.

**Sec. 17. 36 MRSA §1611, sub-§2, ¶A,** as enacted by PL 2005, c. 624, §1, is amended to read:

A. The growth limitation factor for the aggregate cost of the municipal cost components provided by the State is the same as the General Fund appropriation limitation factor calculated under Title 5, section ~~1534~~1664, subsection ~~25~~.

**Sec. 18. 36 MRSA §3321, sub-§5** is enacted to read:

**5. Voter approval.** Beginning on the July 1st following the effective date of this subsection, a change in the rate of excise tax resulting from the adjustment required in subsection 1 may take effect only if approved by a majority of the voters at a regular or special election.

**Sec. 19. 37-B MRSA §745, sub-§4,** as enacted by PL 2005, c. 634, §13, is amended to read:

**4. Fund balance.** The fund's balance may not exceed \$3,000,000. Any amount, including interest, that accrues in excess of \$3,000,000 must be transferred by the State Controller to the Maine Budget Stabilization Fund, established in Title 5, section ~~1532~~1522.

**Sec. 20. Maine Budget Stabilization Fund.** The Maine Budget Stabilization Fund established in the Maine Revised Statutes, Title 5, section 1522 is the successor in every way to the Maine Budget Stabilization Fund established under Title 5, section 1532, which is repealed in this Act. All funds in the Maine Budget Stabilization Fund established under Title 5, section 1532 are transferred to the Maine Budget Stabilization Fund established in Title 5, section 1522 on the effective date of this Act.

**Sec. 21. Legislative intent; relationship to private and special laws.** It is the intent of the Legislature that the provisions of this Act supersede any conflicting provisions of private and special law relating to the determination of revenue, fees and expenditures.

## SUMMARY

This bill is the so-called “Taxpayer Bill of Rights” or “TABOR” that was sent to referendum in November 2006, except that the restrictions imposed by TABOR on county, municipal or school governmental units have been removed in this bill. The bill proposes to restrain the growth in State Government by imposing expenditure limitations on State Government and by requiring a procedure of voter approval of tax and fee increases.

Under this bill, growth in annual expenditures of the General Fund, the Highway Fund, quasi-governmental organizations and Other Special Revenue Funds are limited according to increases in population and inflation. Growth in budgets of state-level education institutions is limited according to increases in inflation and student enrollment. For the General Fund and Highway Fund budgets, revenues exceeding the expenditure limitation must be distributed by directing 20% of that excess to a budget stabilization fund and 80% of that excess to a tax relief fund. The budget stabilization funds may be used only in years when revenues are not sufficient to fund the level of expenditure permitted by the growth limits. The tax relief funds must be used to provide tax relief through refunds proportional to individual

income tax personal exemptions claimed in the previous tax year or a decrease in motor fuels taxes. For quasi-governmental agencies and state agencies that manage Other Special Revenue Funds, the managers of those funds must report excess surpluses to the Legislature with a plan for refund of those revenues.

Under this bill, an increase in revenue would be possible only by a 2/3 vote of each House of the Legislature and the approval of the voters of the State, if applicable.