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An Act To Provide Taxpayer Relief

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 VV, §1, is repealed.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. 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 VV, §2, is repealed.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 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 Tax Relief Reserve Fund established under section 2045.

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 c. 142, as amended, is repealed.

Sec. 6. 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. 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. 7. 5 MRSA §1710-F, sub-§4, as amended by PL 2005, c. 2, Pt. A, §8 and affected by §14, is repealed.

Sec. 8. 5 MRSA c. 167 is enacted to read:

CHAPTER 167

Tax and Spending Limitations

§ 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 and local expenditures may not exceed the limits provided in this chapter unless authorized by the procedures specified in this chapter.

2. Revenue increases. An increase in revenue of the State 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 and local 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:

A. In a statewide, county or municipal election, the municipal registrar of voters; or

B. In an election by the voters of a local district that is not a municipality, the official with responsibility for managing the list of voters of the local district.

2. Increase in revenue. "Increase in revenue" means any legislation, local ordinance 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. Repeals or reduces any tax exemption, credit or refund; or

D. 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. Local district. "Local district" means any county, municipality or school administrative unit.

5. Population adjustment factor. "Population adjustment factor" means the average annual percentage increase in population for the 3 most recent years for which data is available as determined annually by the Executive Department, State Planning Office statewide and for each municipality based on federal census estimates. The population adjustment factor may not be less than zero.

6. Revenue. "Revenue" means taxes and fees collected by the State or a local district 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. For an increase in revenue of the State:

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

(2) Except as provided in subsection 2, the measure must be approved by a majority of the voters as described in subsection 3.

B. For an increase in revenue of a local district the measure must be approved in the manner provided by Title 20-A, chapter 606-B for school administrative units, Title 30-A, section 706-A for counties and Title 30-A, section 5721-A for municipalities.

2. Exceptions. Voter approval under subsection 1, paragraph A, subparagraph (2) 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; or

B. The measure is an emergency tax and the provisions of section 2049 are followed.

For the purposes of this subsection, "emergency" does not include economic conditions, revenue shortfalls or district salary or fringe benefits increases.

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 subsection 3 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 subsection 3, 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 active 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; and
- 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.

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 (specify district) 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. Other Special Revenue Funds, for which separate individual limitations must be applied.

2. Local expenditure limitation. Expenditure limits for local districts that are school administrative units are governed by Title 20-A, chapter 606-B; for local districts that are counties, by Title 30-A, section 706-A; and for local districts that are municipalities, by Title 30-A, section 5721-A.

3. Exceptions. The following may not be counted in calculating expenditure limitations under subsection 1:

- 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; or

H. Reserve transfers or expenditures.

4. Exceeding expenditure limitation. If state 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 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 a 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. Refund through legislative action. 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 Other Special Revenue Funds accounts

By September 15th annually, each state agency that manages an Other Special Revenue Funds account shall submit an annual 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 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.

Sec. 9. 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 ~~1532~~1522.

Sec. 10. 5 MRSA §17253, sub-§3, as amended by PL 2005, c. 2, Pt. A, §10 and affected by §14, is further amended to read:

3. Components of unfunded liability contribution. The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section ~~1532~~.

Sec. 11. 20-A MRSA §15671-A, sub-§3, as amended by PL 2005, c. 2, Pt. D, §35 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is further amended to read:

3. Exceeding maximum local cost share expectations; separate article. Beginning with the 2005-2006 school budget, the legislative body of a school administrative unit may adopt an additional local appropriation that exceeds the local cost share expectation established by section 15688, subsection 3-A, paragraph A only if that action is approved in a separate article by a vote of the school administrative unit's legislative body through the same process ~~that by which~~ the school budget is approved in that school administrative unit and in accordance with section 15690 and that action is approved by the voters at a referendum. If that additional appropriation causes the school administrative unit to exceed the maximum state and local spending target described in subsection 4, the requirements of subsection 5 apply.

Sec. 12. 20-A MRSA §15671-A, sub-§5, ¶B, as amended by PL 2005, c. 12, Pt. WW, §3 and affected by §18, is further amended to read:

B. In a municipality where the responsibility for final adoption of the school budget is vested by the municipal charter in a council, this paragraph applies, ~~except that the petition and referendum provisions apply only if the municipal charter does not otherwise provide for or prohibit a petition and referendum process with respect to the matters described in this paragraph.~~

(1) A majority of the entire membership of the school board or committee must approve the additional amount in a regular budget meeting.

(2) An article approving the additional amount must conform to the requirements of section 15690, subsection 3, paragraph B and be approved by a majority of the entire membership of the council in a vote taken in accordance with section 15690, subsection 5 ~~or, if the council votes not to approve the article, and~~ by a majority of voters voting in a referendum ~~called pursuant to subparagraph (4)~~.

(3) ~~If an article is approved by the council pursuant to subparagraph (2), the voters may petition for a referendum vote on the same article in accordance with subparagraph (4). If a petition is filed in accordance with subparagraph (4), the vote of the council is suspended pending the~~

~~outcome of the referendum vote. Upon approval of the article by a majority of the voters voting in that referendum, the article takes effect. If the article is not approved by a majority of the voters voting in that referendum, the article does not take effect. Subsequent to the vote, the school committee or board may again propose an additional amount, subject to the requirements of this section.~~

~~(4) If a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the additional amount is submitted to the municipal officers within 30 days of the council's vote pursuant to subparagraph (2), the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for the purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.~~

Sec. 13. 25 MRSA §1612, sub-§7, as amended by PL 2005, c. 2, Pt. A, §12 and affected by §14, is repealed.

Sec. 14. 30-A MRSA §706-A, sub-§7, as affected by PL 2005, c. 2, Pt. B, §4 and amended by c. 12, Pt. WW, §10 and affected by §§13 and 14, is further amended to read:

7. Process for exceeding county assessment limit. A county may exceed or increase the county assessment limit only if approved by a vote of a majority of all the members of both the county budget committee or county budget advisory committee and the county commissioners and if approved by the voters at a referendum.

~~Unless a county charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the county, requesting a vote on the question of exceeding the county assessment limit is submitted to the county commissioners within 30 days of the commissioners' vote pursuant to this subsection, the article voted on by the commissioners must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters, the filing requirement contained in section 2528 does not apply and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the county commissioners and entered upon the county records.~~

Sec. 15. 30-A MRSA §5721-A, sub-§7, ¶B, as affected by PL 2005, c. 2, Pt. C, §5 and amended by c. 12, Pt. WW, §12 and affected by §§15 and 16, is further amended to read:

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only if approved by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit and approved by the voters at a referendum. ~~Unless a municipal charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the question of exceeding the property tax levy limit is submitted to the municipal officers within 30 days of the council's vote pursuant to this paragraph, the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.~~

Sec. 16. 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. 17. 36 MRSA §7302, sub-§2, as enacted by PL 2005, c. 2, Pt. H, §2, is amended to read:

2. Indicators; annual report. With reference to Title 5, chapter 142; Title 20-A, section 15671, subsection 1; and Title 30-A, sections 706-A and 5721-A, ~~the~~The State Planning Office shall develop and apply specific, quantifiable performance indicators against which the progress in achieving the tax burden reduction goals established in section 7301 can be measured. On January 15, 2006 and annually thereafter, the State Planning Office shall report to the Governor and to the joint standing committee of the Legislature having jurisdiction over taxation matters on the progress made by the State, counties, municipalities and school administrative units, respectively, in achieving the tax burden reduction goals. The report required by this subsection must be comprised of 4 distinct parts reporting on the progress made by the State, municipalities, counties and school administrative units, respectively. The State Planning Office may also include in its report recommendations on alternative strategies to achieve the tax burden reduction goals established in section 7301 that reflect the best practices in this State, other states and other countries.

Sec. 18. 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. 19. 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. 20. 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.

Sec. 21. Application. This Act applies to fiscal years beginning on or after the effective date of this Act.

SUMMARY

This bill proposes to restrain the growth in state and local government by imposing expenditure limitations on state and local government and by requiring a procedure of voter approval of certain tax and fee increases.

Under this bill, growth in annual expenditures of the General Fund, the Highway Fund and Other Special Revenue Funds are limited according to increases in population and inflation. 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 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.

State expenditure limits contained in this bill could be exceeded by a 2/3 vote of each House of the Legislature and approval by the voters. Local district expenditure limits could be exceeded by a majority vote of the voters of the local district.

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