

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2209

S. P. 772

Governor's Bill. The Committee on Appropriations and Financial Affairs suggested and 3,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Sewall of Penobscot.

Cosponsor: Senator Danton of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

RESOLUTION, Proposing an Amendment to the Constitution to Limit the Amount of Government Spending and Taxes which may be Made without Voter Approval.

Constitutional amendment. RESOLVED: Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

Constitution, Art. 1, § 22, sub-§§ 1 to 7 are enacted to read:

1. **Control of appropriations.** Notwithstanding any other provisions of the Constitution, commencing with any fiscal year after 1979, the annual appropriations of a unit of government during any fiscal year shall not exceed the appropriations, as adjusted, for the prior year, except for cost-of-living changes, unless a majority of the voting electors of such unit of government approve a different amount. Any amount appropriated above this limitation shall not be effective until ratified by the electors of such unit of government by referendum.

2. **Refund of excess revenues.** Revenues accruing to a unit, in excess of the limitation determined in subsection 1 shall be refunded or credited to the

taxpayers or used to prepay long-term indebtedness. Tax rates shall be adjusted to minimize such excesses. Amounts collected in excess of appropriations, but less than the limitation determined in accordance with subsection 1, may be appropriated as a reserve and used for whatever purposes the governing body may determine.

3. **Special Reserve Fund.** The State is authorized to establish a Special Reserve Fund to which may be appropriated annually an amount equal to one percent of the limit as determined in subsection 1. An appropriation from the Special Reserve Fund may be made for any purpose upon a two-thirds vote of the Legislature. Appropriations to or from the Special Reserve Fund shall be excluded from the calculation in determining the appropriations limit for the subsequent year under subsection 1.

4. **Protection of local government for state-required costs.** The State is prohibited from requiring that local units of government provide any new or expanded programs or services without full state financing or from shifting the costs of existing programs and services to the local units.

5. **Severability.** If any expenditure category or revenue source shall be judged exempt or excluded from the restrictions of this section, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the process for computing the appropriations for that and subsequent fiscal years shall be adjusted accordingly. If any section, part, clause or phrase in this constitutional amendment is for any reason held invalid or unconstitutional the remaining section shall not be affected but will remain in full force and effect.

6. **Legislative responsibilities and exclusions.** The Legislature may enact implementing statutes consistent with the purposes and intent of this section.

A. Appropriations or expenditures of the following revenues or moneys shall not be considered appropriations subject to the control of subsection 1:

(1) Moneys received directly or indirectly from the United States of America;

(2) Moneys paid to and from the Unemployment Insurance Compensation Fund;

(3) Intergovernmental transfers, meaning that is, moneys received by one unit of government from another, except the proceeds of taxes, fees or penalties imposed by the receiving unit yet collected by another unit of government;

(4) Moneys derived from the issuance of, or to pay interest on, or to repay

the principal of indebtedness authorized and issued in accordance with law;

(5) The proceeds of contracts, grants, gifts, donations and bequests made to the unit of government for a purpose as specified by the contractor or donor;

(6) Use charges derived by the unit of government from the sale of a product or service for which the quantity of the product or the level of service provided to a user is at the discretion of a user, and the total user charge collected is no greater than the cost reasonably ascertained to have been borne by the unit of government in providing the product for its service to the user;

(7) The balances of funds established pursuant to subsections 2 and 3; and

(8) Allocations of revenues received pursuant to Article IX, section 19.

B. The annual appropriation made to a county shall be considered an appropriation of the county for the purpose of subsection 1 and shall not be considered an appropriation of any other unit of government.

C. Adjustments of appropriations under subsection 1 shall be made:

(1) For the transfer of funding responsibility for a program or service from one entity to another, provided the upward adjustment in appropriations of the receiving entity shall be no greater than the downward adjustment in appropriations of the surrendering entity;

(2) For additions to the balances of emergency and other funds established pursuant to subsections 2 and 3;

(3) For increases or decreases approved by the electors for the prior year;

(4) If any unit of government transfers the funding of any program or service from revenues generated by taxes levied by the unit to a use charge, the unit's expenditure limit under subsection 1 shall be reduced by the amount of the reduction in expenditures from tax based sources; and

(5) For local units, upward in the same amount as any decrease in state financing for existing programs or services, and downward in the same amount as any increase in state financing for existing programs or services.

D. For the purposes of this section:

(1) "Unit of government" is the State of Maine, any county, any city, town or plantation, any school district, or any other political subdivision

created by the Legislature excluding tax districts;

(2) A "local unit of government" is any political subdivision of the State but is not the State or any of its departments, agencies, bureaus, boards or commissions; if there be no electors of a unit of government, the Legislature shall prescribe the methods by which issues requiring approval of the electors shall be decided;

(3) "Cost of living" means the change in the cost of living experienced by the people of Maine as measured by any reasonable method in accordance with law for the most recently available 12-month period.

7. Standing. Any group of one hundred persons who are electors and taxpayers of this State shall have standing to bring an action in the Supreme Judicial Court to enforce subsections 1 to 6.

Constitution, Art. IX, § 19, sub-§§ 1 and 2 are enacted to read:

1. Control of allocations. Notwithstanding any other provision of the Constitution, commencing with any fiscal year after 1979 the annual allocations made under this section during any fiscal year shall not exceed the allocations, as adjusted, for the prior year, except for cost of living changes, unless the electors approve a different amount. Any amount allocated above this limitation shall not be made effective until ratified by the electors by referendum.

2. Application of the provisions of Article I, section 22. The following provisions of Article I, section 22 shall apply to this section: Subsections 2, 4, 5, subsection 6, paragraph A, subparagraphs 1 to 7, subsection 6, paragraphs C and D and subsection 7. For the purposes of this section, wherever in Article I, section 22, the word "appropriations" appears, it shall mean allocations, and the words "unit of government" shall mean the services provided by revenues received subject to this section.

Constitutional referendum procedure; form of question; effective date. Resolved: That the city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at the next general election in the month of November or special statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

"Shall the Constitution be amended, as proposed by the first special session of the 108th Legislature, to limit the amount of government spending and taxes

which may be made without voter approval?"

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the words "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment shall become part of the Constitution on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

This resolution will limit the amount of government spending which may be made from tax revenues in any fiscal year without approval of the voters.