

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 2075

I.B. 1

House of Representatives, March 16, 2006

An Act To Create the Taxpayer Bill of Rights

Transmitted to the Clerk of the 122nd Maine Legislature by the Secretary of State on March 15, 2006 and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 **Sec. 1. 5 MRSA §1507, next to last ¶,** as enacted by PL 1997, c. 24, Pt. C, §2, is repealed.

6 **Sec. 2. 5 MRSA §1511,** as amended by PL 2003, c. 451, Pt. X, §1, is repealed.

8 **Sec. 3. 5 MRSA §1513,** as amended by PL 2003, c. 451, Pt. X, §§2 to 4, is repealed.

10 **Sec. 4. 5 MRSA §1517,** as amended by PL 2003, c. 451, Pt. X, §6, is repealed.

12 **Sec. 5. 5 MRSA §§1522 and 1523** are enacted to read:

14 **§1522. Maine Budget Stabilization Fund**

16 **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.

18 **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.

20 **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.

22 **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.

24 **§1523. Maine Highway Budget Stabilization Fund**

26 **1. Establishment.** The Maine Highway Budget Stabilization

2 Fund, referred to in this section as "the fund," is established
3 and must be administered for the purposes identified in this
4 section.

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

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

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

30 **Sec. 6. 5 MRSA §1664, last ¶**, as enacted by PL 2003, c. 451,
31 Pt. X, §8, is amended to read:

32
33 The total General Fund appropriation for each fiscal year of
34 the biennium in the Governor's budget submission to the
35 Legislature may not exceed the General Fund appropriation of the
36 previous fiscal year multiplied by one plus the average--real
37 personal--income--growth--rate,--as--defined--in--section--1665,
38 subsection 1, plus the average forecasted inflation rate. For
39 purposes of this paragraph, "average forecasted inflation rate"
40 means the average forecasted change in the Consumer Price Index
41 underlying the revenue projections developed by the Revenue
42 Forecasting Committee pursuant to chapter 151-B. This
43 appropriation limitation may be exceeded only by the amount of
44 the additional costs or the lost federal revenue from the
45 following exceptional circumstances: unfunded or under-funded new
46 federal mandates; losses in federal revenues or other revenue
47 sources; citizens' initiatives or referenda that require
48 increased state spending; court orders or decrees that require
49 additional state resources to comply with the orders or decrees;
50 and sudden or significant increases in demand for existing state

2 services--that--are--not--the--result--of--legislative--changes--that
increased--eligibility--or--increased--benefits,---The--Governor--may
designate--exceptional--circumstances--that--are--not--explicitly
4 defined--in--this--paragraph--but--meet--the--intent--of--this--paragraph.
For--purposes--of--this--paragraph,--"exceptional--circumstances"--means
6 an--unforeseen--condition--or--conditions--over--which--the--Governor--and
the--Legislature--have--little--or--no--control,---Exceptional
8 circumstances--do--not--apply--to--new--programs--or--program--expansions
that--go--beyond--existing--program--criteria--and--operation
10 adjustment factor plus the inflation adjustment factor as those
terms are defined in section 2042, subsections 5 and 3,
12 respectively.

14 **Sec. 7. 5 MRSA §1665, sub-§1**, as amended by PL 2003, c. 451,
Pt. X, §9, is further amended to read:

16 **1. Expenditure and appropriation requirements.** On or
18 before September 1st of the even-numbered years, all departments
and other agencies of the State Government and corporations and
20 associations receiving or desiring to receive state funds under
the provisions of law shall prepare, in the manner prescribed by
22 and on blanks furnished them by the State Budget Officer, and
submit to the officer estimates of their expenditure and
24 appropriation requirements for each fiscal year of the ensuing
biennium contrasted with the corresponding figures of the last
26 completed fiscal year and the estimated figures for the current
fiscal year. The total General Fund appropriation requests
28 submitted by each department and agency for each fiscal year may
not exceed the General Fund appropriation of the previous fiscal
30 year multiplied by one plus the average--real--personal--income
growth--rate,---For--purposes--of--this--subsection,--"average--real
32 personal--income--growth--rate"--means--the--average--for--the--prior--10
calendar--years,--ending--with--the--most--recent--calendar--year--for
34 which--data--is--available,--of--the--percent--change--in--personal--income
in--this--State--for--a--calendar--year,--as--estimated--by--the--United
36 States--Department--of--Commerce,--Bureau--of--Economic--Analysis,--less
the--percent--change--in--the--Consumer--Price--Index--for--that--calendar
38 year,---For--purposes--of--this--subsection,--"Consumer--Price--Index"
has--the--same--meaning--as--in--Title--36,--section--5402,--subsection--1
40 inflation adjustment factor as defined in section 2042. The
expenditure estimates shall must be classified to set forth the
42 data by funds, organization units, character and objects of
expenditure. The organization units may be subclassified by
44 functions and activities, or in any other manner, at the
discretion of the State Budget Officer.

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

48 **CHAPTER 167**

THE TAXPAYERS' BILL OF RIGHTS

2
4 §2041. Expenditure and revenue requirements; construction of chapter

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

8 1. Expenditure limitations. Annual state and local
10 expenditures may not exceed the limits provided in this chapter.

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

16 3. Construction. It is the intent of the Legislature that
18 this chapter be interpreted liberally to restrain excess growth
of state and local government.

20 §2042. Definitions

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

24 1. Election officer. "Election officer" means:

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

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

34 2. Increase in revenue. "Increase in revenue" means any
legislation, local ordinance or tax levy that causes a net gain
36 in revenue and:

38 A. Enacts a new tax or fee;

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

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

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

2 E. Extends an expiring tax or fee increase.

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

10 4. Local district. "Local district" means any county,
municipality or other substate governmental entity with the
12 authority to collect revenue.

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

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

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

34 §2043. Approval of revenue increases

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

40 A. The measure must be approved by a vote of 2/3 of all the
members of each House of the Legislature or 2/3 of the
42 members of the legislative body of a quasi-municipal agency
or a local district; and

44 B. Except as provided in subsection 2, the measure must be
approved by a majority of the voters in the jurisdiction as
46 described in subsection 3.

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

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

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

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

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

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

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

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

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

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

48 C. For the first full fiscal year of each proposed revenue
49 increase, estimates of the maximum dollar amount of each

2 increase and of fiscal year spending without the increase;
3 and

4 D. Two summaries, up to 500 words each, one in support of
5 and one in opposition to each proposal, of written comments
6 filed with the election officer by 45 days before the
7 election. A summary may not mention names of persons or
8 private groups, nor any endorsements of or resolutions
9 against the proposal. Measure representatives following
10 these rules shall write this summary for their proposal.
11 The election officer shall maintain and accurately summarize
12 all other relevant written comments.

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

21
22 6. Costs. The State shall reimburse municipalities for the
23 following costs:

24
25
26 A. The costs of any election under this section and
27 providing the notice required under subsection 5 if the
28 election provides for a state tax increase; and

29
30 B. The cost of one local district election per year under
31 this section if that election occurs during a regular
32 election.

33
34 **§2044. Expenditure limitations**

35
36 1. State expenditure limitation. Beginning with the first
37 fiscal year that begins after this section takes effect, the
38 maximum annual percentage change in state fiscal year spending in
39 the categories specified in this subsection equals the inflation
40 adjustment factor plus the population adjustment factor and any
41 increases attributable to measures approved under section 2043.
42 This limitation must be calculated separately for the following
43 categories:

44
45 A. General Fund;

46
47 B. Highway Fund;

48
49 C. Quasi-governmental agencies and Other Special Revenue
50 funds, for which separate individual limitations must be

2 applied. For quasi-governmental agencies whose primary
4 purpose is providing educational programs, the limitation
6 must be calculated by substituting for the population
8 adjustment factor a factor based on changes in student
10 enrollment.

12 **2. Local expenditure limitation.** Beginning with the first
14 fiscal year that begins after the effective date of this section,
16 the maximum annual percentage change in fiscal year spending for
18 a local district that is a school administrative unit equals the
20 inflation adjustment factor plus the change in its student
22 enrollment and any increases attributable to measures approved
24 under section 2043. The maximum annual percentage change in
26 fiscal year spending for a local district that is not a school
28 administrative unit for a fiscal year may not exceed:

30 A. The amount of revenue for the local district for the
32 previous fiscal year adjusted by the change in the assessed
34 value of taxable real and personal property in the local
36 district, or the amount of revenue for the local district
38 for the previous fiscal year adjusted by the inflation
40 adjustment factor plus the population adjustment factor,
42 whichever is lower; plus

44 B. Any increases attributable to measures approved under
46 section 2043.

48 **3. Exceptions.** The following may not be counted in
50 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; or

H. Reserve transfers or expenditures.

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

8 **§2045. Transfers and refund of unappropriated General Fund**
9 **surplus**

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

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

18 A. Eighty percent of the unappropriated surplus must be
19 transferred to the fund; and

20 B. Twenty percent of the unappropriated surplus must be
21 transferred to the Maine Budget Stabilization Fund
22 established in section 1522.

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

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

32 5. Refund in case of legislative inaction. If the
33 Legislature does not enact legislation by October 15th to provide
34 refunds pursuant to subsection 4, then the State Controller
35 shall, by October 30th, notify the State Tax Assessor of the
36 amount in the fund. The State Tax Assessor shall calculate a
37 one-time bonus personal exemption refund. The amount of the
38 personal exemption refund must be calculated by dividing the
39 amount in the fund identified by the State Controller under
40 subsection 3 by the number of personal exemptions claimed on
41 income tax returns filed for tax years beginning in the previous
42 calendar year and rounded down to the nearest \$5 increment. The
43 State Tax Assessor shall issue a refund by November 30th to a

2 taxpayer who filed an income tax return by April 15th of the same
3 calendar year based on the number of personal exemptions claimed
4 on the taxpayer's return without regard to the taxpayer's tax
5 liability for the year.

6 **§2046. Transfers and refund of unallocated Highway Fund surplus**

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

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

16 A. Eighty percent of the unallocated surplus must be
17 transferred to the fund; and

18 B. Twenty percent of the unallocated surplus must be
19 transferred to the Maine Highway Budget Stabilization Fund
20 established in section 1523.

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

26 4. Refund through legislative action. If the amount in the
27 fund exceeds 10% of Highway Fund expenditures for the previous
28 fiscal year, the State Tax Assessor shall calculate, based on the
29 amount in the fund, a proportional reduction in the taxes on
30 motor fuels under Part 5 to become effective the following
31 January 1st and remain in effect for one calendar year.

34 **§2047. Revenues of quasi-governmental agencies and Other Special**
35 **Revenue funds accounts**

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

46 **§2048. Refund of excess local revenues**

48 If a local district receives revenues in a fiscal year in
49 excess of the expenditure limitation under section 2044 the
50 amount in excess shall be refunded to the local district.

2 local district must use the amount of the unprotected excess to
3 reduce the amount of property tax assessed in the succeeding
4 year. For purposes of this section, "unprotected excess" means
5 the amount in excess of an amount set aside in a reserve account
6 for unanticipated contingencies, which may not exceed 10% of the
7 previous fiscal year's expenditure.

8 **§2049. Emergency taxes**

10 1. Emergency taxes permitted; conditions. The State or a
11 local district may impose emergency taxes only in accordance with
12 this section:

14 A. The tax must be approved for a specified time period by
15 a 2/3 majority of the members of each House of the
16 Legislature or by a 2/3 majority of the legislative body of
17 a local district;

18 B. Emergency tax revenue may be spent only after other
19 available reserves are depleted and must be refunded 180
20 days after the emergency ends if not spent on the emergency;
21 and

22 C. The tax must be submitted for approval by the voters at
23 the next statewide or districtwide election.

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

27 Individual or class action lawsuits may be filed to enforce
28 this chapter and must be given the highest civil priority for
29 resolution. Successful plaintiffs are allowed costs and
30 reasonable attorney's fees, but a district is not unless a suit
31 against it is ruled frivolous. Revenue collected, kept or spent
32 in conflict with this chapter for 4 full fiscal years before a
33 suit is filed must be refunded with 10% annual simple interest
34 from the initial conduct.

35 **Sec. 9. 36 MRSA §3321, sub-§5** is enacted to read:

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

41 **Sec. 10. Maine Budget Stabilization Fund.** The Maine Budget
42 Stabilization Fund established in the Maine Revised Statutes,
43 Title 5, section 1522 is the successor in every way to the Maine
44

2 Budget Stabilization Fund established under Title 5, section 1513
3 that is repealed in this Act. All funds in the Maine Budget
4 Stabilization Fund established under Title 5, section 1513 are
5 transferred to the Maine Budget Stabilization Fund established in
6 Title 5, section 1522 on the effective date of this Act.

7 **Sec. 11. Legislative intent; relationship to private and special laws.**

8 It is the intent of the Legislature that the provisions of this
9 Act supersede any conflicting provisions of private and special
10 law relating to the determination of revenue, fees and
11 expenditures.

12 **Sec. 12. Legislative intent; relationship to county tax and budget**
13 **laws.** It is the intent of the Legislature that the provisions of
14 this Act supersede any conflicting provisions of the Maine
15 Revised Statutes, Title 30-A, chapter 3 relating to the
16 assessment of county taxes and county expenditures.
17

18
19 **SUMMARY**

20
21 **22** The bill proposes to restrain the growth in state and local
22 government by imposing expenditure limitations on state and local
23 government and by requiring a procedure of voter approval of tax
24 and fee increases.
25

26 Under this bill, growth in annual expenditures of the
27 General Fund, the Highway Fund, quasi-governmental organizations,
28 Other Special Revenue funds and local district governments are
29 limited according to increases in population and inflation.
30 Growth in budgets of school administrative units and state-level
31 educational institutions is limited according to increases in
32 inflation and student enrollment. For the General Fund and
33 Highway Fund budgets, revenues exceeding the expenditure
34 limitation must be distributed by directing 20% of that excess to
35 a budget stabilization fund and 80% of that excess to a tax
36 relief fund. The budget stabilization funds may be used only in
37 years when revenues are not sufficient to fund the level of
38 expenditure permitted by the growth limits. The tax relief funds
39 must be used to provide tax relief through refunds proportional
40 to individual income tax personal exemptions claimed in the
41 previous tax year or a decrease in motor fuels taxes. For
42 quasi-governmental agencies and state agencies that manage Other
43 Special Revenue funds, the managers of those funds must report
44 excess surpluses to the Legislature with a plan for refund of
45 those revenues.
46

47 Under this bill, an increase in revenue would be possible
48 only by a 2/3 vote of each House of the Legislature or the
49 legislative body of a local district or the governing body of a
50

2 quasi-governmental agency and the approval of the voters of the jurisdiction, if applicable.