

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 779

H.P. 574

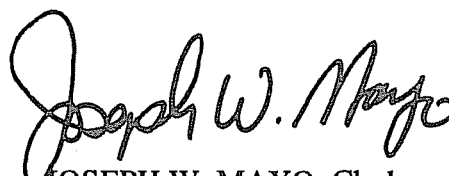
House of Representatives, March 4, 1993

**An Act to Implement the Constitutional Requirement for State Funding  
of Mandates Imposed on Local Units of Government.**

(EMERGENCY)

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Reference to the Committee on State and Local Government suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative GRAY of Sedgwick.  
Cosponsored by Senators: BERUBE of Androscoggin, FOSTER of Hancock.

2 Constitutionally required vote; preamble. This measure  
3 implements the Constitution of Maine, Article IX, Section 21,  
4 governing state funding of mandates imposed on municipalities.  
5 Pursuant to the Constitution of Maine, Article IX, Section 21,  
6 two thirds of all of the members elected to each House have voted  
7 to enact this measure.

8 Emergency preamble. Whereas, Acts of the Legislature do not  
9 become effective until 90 days after adjournment unless enacted  
10 as emergencies; and

11 Whereas, unless this legislation is enacted as an emergency  
12 measure, the Constitution of Maine, Article IX, Section 21 will  
13 be subject to varying and inconsistent interpretations; and

14 Whereas, the interpretation of certain terms used in that  
15 section must be fixed immediately in order that the Legislature  
16 can complete its work this session; and

17 Whereas, in the judgment of the Legislature, these facts  
18 create an emergency within the meaning of the Constitution of  
19 Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
21 safety; now, therefore,

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

23 Sec. 1. 30-A MRSA §5684, as amended by PL 1991, c. 847, §4,  
24 is repealed.

25 Sec. 2. 30-A MRSA §5685 is enacted to read:

26 §5685. Funding for state-mandated programs

27 1. Definitions. As used in this section and in the  
28 Constitution of Maine, Article IX, Section 21, unless the context  
29 otherwise indicates, the following terms have the following  
30 meanings.

31 A. "Local revenue" means revenues generated by local units  
32 of government, including property taxes, other locally  
33 levied taxes and user fees, and revenues, such as excise  
34 taxes, collected and retained by local units of government  
35 pursuant to statutory authority.

36 B. "Local units of government" means municipalities, school  
37 districts, counties and special districts.

38 C. "State mandate" means any regulatory or statutory action  
39 that requires local units of government to establish, expand  
40 or modify their activities in such a way as to necessitate

2 additional expenditures from local revenues and includes  
3 laws and rules that apply to both the public and private  
4 sector.

6 2. Scope of mandates. Mandates imposed on local units of  
7 government include but are not limited to statutes or rules that:

8 A. Reduce a local unit of government's ability to generate  
9 taxes or revenues;

10 B. Are enacted or adopted to comply with a federal  
11 requirement, to the extent that the statute or rule exceeds  
12 the requirements of the federal law; or

13 C. Reduce any state aid program and necessitate the  
14 expenditure of additional local revenues by local units of  
15 government unless the Legislature suspends or modifies other  
16 specific mandates at the same time and the suspension or  
17 modification results in a savings at least equal to the  
18 additional local expenditures, except that this paragraph  
19 does not require the State to pay more than the amount  
20 provided in the Constitution of Maine, Article IV, Part  
21 Third, Section 23 for property tax exemptions.

22 3. Exempt mandates. The State is not required to fund any  
23 state mandate that promotes equal justice; ensures due process;  
24 results from an order issued by a state court or federal court;  
25 creates, expands or amends criminal laws or civil infractions or  
26 penalties enforced by municipalities; pertains to wages, salaries  
27 or benefits for state and local public employees; is necessary to  
28 comply with a federal mandate; accommodates a request from a  
29 local unit of government; or imposes routine obligations, as long  
30 as a single mandate would not impose costs of more than \$100,000  
31 in additional annual local cost and the combined cost of all such  
32 mandates in any calendar year is less than .001 of the total  
33 amount of property taxes collected in the State during the  
34 previous year.

35 4. Failure to fund; effect. A mandate is not legally  
36 effective and imposes no obligations on a local unit of  
37 government until the State provides sufficient funds to meet its  
38 obligation under this section.

39 5. Funding. Funds to implement mandates must come from  
40 revenues appropriated by the State and may not come from funds  
41 from programs established prior to January 1, 1993 that provide  
42 funds to local units of government. The State's obligation to  
43 fund mandates is not met through state authorization to local  
44 units of government to levy fees or taxes not previously levied  
45 by local government.

2 If a local unit of government receives any funds from the sale or  
4 disposition of any real or personal property purchased with state  
6 funds provided to implement a mandate, it must forward the  
8 proceeds to the State after deducting the costs of the sale or  
10 disposition.

12 6. Amendments. This section implements the Constitution of  
14 Maine, Article IX, Section 21 and pursuant to that section may  
16 not be amended except by a proper enactment upon the vote of 2/3  
18 of the elected members of both the Senate and the House of  
20 Representatives. Amendments may include, but are not limited to,  
22 legislation establishing a process to determine the projected  
24 costs of state mandates, the level of funds necessary for the  
26 State to pay for its share of funding by measuring the mandates'  
28 combined impact on local units of government on a statewide basis  
30 or a mechanism to disburse the funds in a fair and reasonable  
32 manner.

34 Nothing in this subsection prevents the Legislature from enacting  
36 a law by which a single local unit of government may demonstrate  
38 that circumstances unique to that unit require the appropriation  
40 of additional funds in order for the mandate to be funded at the  
42 90% level established by the Constitution of Maine, Article IX,  
44 Section 21.

46 **Emergency clause.** In view of the emergency cited in the  
48 preamble, this Act takes effect when approved.

#### STATEMENT OF FACT

32 This bill provides enabling legislation to implement the  
34 provisions of the Constitution of Maine, Article IX, Section 21.

36 The bill defines some of the terms used in the  
38 constitutional amendment; requires that if the Legislature  
40 reduces any state aid programs it must also suspend or modify  
42 existing mandates to allow similar cost savings at the local  
44 level; requires the State to fund mandates through state funding  
46 sources, rather than the authorization of local fees or taxes;  
48 and requires that if local units of government sell property  
purchased with funds provided from the State to meet a mandate,  
the proceeds from the sale must be returned to the State.

The bill makes clear that the funding of mandates must come  
from state revenues and prohibits funding of mandates by taking  
funds from existing programs that provide funds to local units of  
government.

2 The bill also exempts certain mandates from the requirements  
of state funding, including activities that result from a court  
4 order, that expand the criminal laws, that pertain to salaries  
and benefits of public employees and that result from a request  
6 made by a unit of government, and mandates that impose costs that  
are below \$100,000 per year so long as a cumulative impact  
ceiling is not reached.

8  
10 The Constitution of Maine prohibits the Legislature from  
amending the statutory provisions of this bill except by a 2/3  
vote of all members elected to each House.