

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1011

S.P. 351

In Senate, February 24, 2005

An Act To Establish the Maine Taxpayers' Bill of Rights

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ANDREWS of York.
Cosponsored by Representative LEWIN of Eliot and
Senators: COURTNEY of York, PLOWMAN of Penobscot, Representatives: BOWEN of
Rockport, CROSTHWAITE of Ellsworth, JOY of Crystal, KAELIN of Winterport, NUTTING
of Oakland, TARDY of Newport.

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

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 C, §2, is repealed.

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 A, §1 and affected by §14, is repealed.

8 **Sec. 3. 5 MRSA §1518-A**, as enacted by PL 2005, c. 2, Pt. A, §4 and affected by §14, is repealed.

10 **Sec. 4. 5 MRSA §§1521 and 1522** are enacted to read:

12 **§1521. Maine Budget Stabilization Fund**

14 **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.

16 **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 1995 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 1994 in years when state revenues are less than the amount necessary to finance the level of expenditure permitted under section 1994.

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 1995.

24 **§1522. Maine Highway Budget Stabilization Fund**

26 **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 **2. Transfers to fund; limits.** The fund may receive
4 transfers by the State Controller of unallocated Highway Fund
6 surplus at the close of a fiscal year as provided in section 1996
8 and any other funds identified by law. The fund may not exceed
10 10% of the total Highway Fund revenues received in the
12 immediately preceding fiscal year and may not lapse, but remains
14 in a continuing carrying account to carry out the purposes of
16 this section. The limit at the close of a fiscal year is based
18 on the total Highway Fund revenues received in the fiscal year
20 being closed.

22 **3. Use of fund.** The Legislature may authorize transfers,
24 appropriations and allocations from the fund only to fund the
26 costs of the Highway Fund budget up to the expenditure limit
28 calculated under section 1994 in years when Highway Fund revenues
30 are less than the amount necessary to finance the level of
32 expenditures permitted under section 1994.

34 **4. Investment of funds; proceeds.** The money in the fund
36 may be invested as provided by law with the earnings credited to
38 the fund. At the close of every month during which the fund is
40 at the 10% limitation described in subsection 2, the State
42 Controller shall transfer the excess to the Highway Fund Reserve
44 Fund established under section 1996.

46 **Sec. 5. 5 MRSA c. 142,** as enacted by PL 2005, c. 2, Pt. A, §5
48 and affected by §14, is repealed.

50 **Sec. 6. 5 MRSA §1664, last ¶,** as amended by PL 2005, c. 2, Pt.
A, §6 and affected by §14, is further amended to read:

 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~~ 1994.

Sec. 7. 5 MRSA §1665, sub-§1, as amended by PL 2005, c. 2, Pt.
A, §7 and affected by §14, 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
and on blanks furnished them 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

2 fiscal year. The total General Fund appropriation requests
3 submitted by each department and agency for each fiscal year may
4 not exceed the General Fund appropriation of the previous fiscal
5 year multiplied by one plus the ~~average-real-personal-income~~
6 ~~growth-rate-or-2.75%,--whichever-is-less~~ inflation adjustment
7 factor as defined in section 1992. For--purposes--of--this
8 subsection,--"average-real-personal-income-growth-rate"--means--the
9 average--for--the--prior--10--calendar--years,--ending--with--the--most
10 recent--calendar--year--for--which--data--is--available,--of--the--percent
11 change--in--personal--income--in--this--State--for--a--calendar--year,--as
12 estimated--by--the--United--States--Department--of--Commerce,--Bureau--of
13 Economic--Analysis,--less--the--percent--change--in--the--Consumer--Price
14 Index--for--that--calendar--year,--For--purposes--of--this--subsection,
15 "Consumer--Price--Index"--has--the--same--meaning--as--in--Title--36,
16 section--5402,--subsection--1. The expenditure estimates must be
17 classified to set forth the data by funds, organization units,
18 character and objects of expenditure. The organization units may
19 be subclassified by functions and activities, or in any other
20 manner, at the discretion of the State Budget Officer.

21 All departments and other agencies receiving or desiring to
22 receive state funds from the Highway Fund shall submit to the
23 officer estimates of their expenditure and appropriation
24 requirements for each fiscal year of the ensuing biennium that do
25 not exceed the Highway Fund appropriation of the previous fiscal
26 year multiplied by one plus the ~~average-real-personal-income~~
27 ~~growth-rate-or-2.75%,--whichever-is-less~~ inflation adjustment
28 factor as defined in section 1992. The Highway Fund highway and
29 bridge improvement accounts are exempt from this spending
30 limitation.

31 **Sec. 8. 5 MRSA §1710-F, sub-§4,** as enacted by PL 2005, c. 2,
32 Pt. A, §8 and affected by §14, is repealed.

33 **Sec. 9. 5 MRSA c. 165** is enacted to read:

34 **CHAPTER 165**

35 **THE TAXPAYERS' BILL OF RIGHTS**

36 **§1991. Expenditure and revenue requirements; construction of**
37 **chapter**

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

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

2 2. Revenue increases. An increase in revenue may only be
adopted as provided in section 1993.

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

8 §1992. Definitions

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

12 1. Election officer. "Election officer" means:

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

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

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

24 A. Enacts a new tax or fee;

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

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

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

40 E. Extends an expiring tax or fee increase.

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

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

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

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

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

38 §1993. Approval of revenue increases

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

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

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

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

A. Annual state or local 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 1999 are followed; or

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

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

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

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

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

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

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

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

40 D. Two summaries, up to 500 words each, one in support of
41 and one in opposition to each proposal, of written comments
42 filed with the election officer by 45 days before the
43 election. A summary may not mention names of persons or
44 private groups, nor any endorsements of or resolutions
45 against the proposal. Measure representatives following
46 these rules shall write this summary for their proposal.
47 The election officer shall maintain and accurately summarize
48 all other relevant written comments.

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

18 **6. Costs.** The State shall reimburse municipalities for the
20 following costs:

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

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

34 **§1994. Expenditure limitations**

36 **1. State expenditure limitation.** Beginning with the first
38 fiscal year that begins after this section takes effect, the
40 maximum annual percentage change in state fiscal year spending in
42 the categories specified in this subsection equals the inflation
44 adjustment factor plus the population adjustment factor and any
46 increases attributable to measures approved under section 1993.
48 This limitation must be calculated separately for the following
50 categories:

A. General Fund:

B. Highway Fund:

C. Quasi-governmental agencies and Other Special Revenue
funds, for which separate individual limitations must be
applied. For quasi-governmental agencies whose primary
purpose is providing educational programs, the limitation
must be calculated by substituting for the population
adjustment factor a factor based on changes in student
enrollment.

2. Local expenditure limitation. Beginning with the first
fiscal year that begins after the effective date of this section,
the maximum annual percentage change in fiscal year spending for
a local district that is a school administrative unit equals the
inflation adjustment factor plus the change in its student
enrollment and any increases attributable to measures approved

2 under section 1993. The maximum annual percentage change in
3 fiscal year spending for a local district that is not a school
4 administrative unit for a fiscal year may not exceed:

5 A. The amount of revenue for the local district for the
6 previous fiscal year adjusted by the change in the assessed
7 value of taxable real and personal property in the local
8 district, or the amount of revenue for the local district
9 for the previous fiscal year adjusted by the inflation
10 adjustment factor plus the population adjustment factor,
11 whichever is lower; plus

12 B. Any increases attributable to measures approved under
13 section 1993.

14 3. Exceptions. The following may not be counted in
15 calculating expenditure limitations under this section:

16 A. Amounts returned to taxpayers as refunds of amounts
17 exceeding the expenditure limitation in a prior year;

18 B. Amounts received from the Federal Government;

19 C. Amounts collected on behalf of another level of
20 government;

21 D. Pension contributions by employees and pension fund
22 earnings;

23 E. Pension and disability payments made to former
24 government employees;

25 F. Amounts received as grants, gifts or donations that must
26 be spent for purposes specified by the donor;

27 G. Amounts paid pursuant to a court award; or

28 H. Reserve transfers or expenditures.

29 4. Exceeding expenditure limitation. If revenues are
30 projected to exceed the expenditure limitations in this section,
31 the amount of revenues exceeding the expenditure limitations may
32 be spent if approved in the same manner as required for a revenue
33 increase under section 1993.

34 **§1995. Transfers and refund of unappropriated General Fund**
35 **surplus**

36 1. Fund created. The Tax Relief Reserve Fund, referred to
37 in this section as "the fund," is created for the purposes set
38

2 forth in this chapter. The fund may not lapse, but remains in a
3 continuing carrying account to carry out the purposes of this
4 section.

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

10 A. Eighty percent of the unappropriated surplus must be
11 transferred to the fund; and

12 B. Twenty percent of the unappropriated surplus must be
13 transferred to the Maine Budget Stabilization Fund
14 established in section 1521.

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

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

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

41 **§1996. Transfers and refund of unallocated Highway Fund surplus**

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

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

5 A. Eighty percent of the unallocated surplus must be
6 transferred to the fund; and

7 B. Twenty percent of the unallocated surplus must be
8 transferred to the Maine Highway Budget Stabilization Fund
9 established in section 1522.

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

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

19 **§1997. Revenues of quasi-governmental agencies and Other Special**
20 **Revenue funds accounts**

21 By September 15th annually, each quasi-governmental agency
22 or state agency that manages an Other Special Revenue funds
23 account shall submit an annual report to the Legislature
24 identifying revenues received in the preceding fiscal year that
25 exceed the expenditure limitation established in section 1994 and
26 any other uncommitted revenues received during the previous
27 fiscal year and proposing a plan for refunding the amount
28 identified that exceeds 10% of the previous fiscal year's
29 expenditure.

30 **§1998. Refund of excess local revenues**

31 If a local district receives revenues in a fiscal year in
32 excess of the expenditure limitation under section 1994, the
33 local district must use the amount of the unprotected excess to
34 reduce the amount of property tax assessed in the succeeding
35 year. For purposes of this section, "unprotected excess" means
36 the amount in excess of an amount set aside in a reserve account
37 for unanticipated contingencies, which may not exceed 10% of the
38 previous fiscal year's expenditure.

39 **§1999. Emergency taxes**

40 1. Emergency taxes permitted; conditions. The State or a
41 local district may impose emergency taxes only in accordance with
42 this section:

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

6
8 B. Emergency tax revenue may be spent only after other
 available reserves are depleted and must be refunded 180
10 days after the emergency ends if not spent on the emergency;
 and

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

14
16 2. Absence of approval. If not approved by the voters as
 provided in this section, an emergency tax expires 30 days
 following the election.

18
20 Individual or class action lawsuits may be filed to enforce
 this chapter and must be given the highest civil priority for
22 resolution. Successful plaintiffs are allowed costs and
 reasonable attorney's fees, but a district is not unless a suit
24 against it is ruled frivolous. Revenue collected, kept or spent
 in conflict with this chapter for 4 full fiscal years before a
26 suit is filed must be refunded with 10% annual simple interest
 from the initial conduct.

28 **Sec. 10. 5 MRSA §13063-C, sub-§4, ¶B.** as amended by PL 2005,
30 c. 2, Pt. A, §9 and affected by §14, is further amended to read:

32 B. Notwithstanding section 1585, any balance remaining in
 the program after July 31, 2007 must be transferred to the
34 Maine Budget Stabilization Fund as established in section
 ~~1532~~ 1521.

36 **Sec. 11. 25 MRSA §1612, sub-§7,** as amended by PL 2005, c. 2,
38 Pt. A, §12 and affected by §14, is further amended to read:

40 **7. Payment from the Maine Budget Stabilization Fund.**
 Benefits are payable from the Maine Budget Stabilization Fund as
42 provided in Title 5, section ~~1532~~,--~~subsection-6~~ 1521.

44 **Sec. 12. 36 MRSA §3321, sub-§5** is enacted to read:

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

50

2 **Sec. 13. Maine Budget Stabilization Fund.** The Maine Budget
3 Stabilization Fund established in the Maine Revised Statutes,
4 Title 5, section 1521 is the successor in every way to the Maine
5 Budget Stabilization Fund established under Title 5, section 1532
6 that is repealed in this Act. All funds in the Maine Budget
7 Stabilization Fund established under Title 5, section 1532 are
8 transferred to the Maine Budget Stabilization Fund established in
9 Title 5, section 1521 on the effective date of this Act.

10 **Sec. 14. Revisor's review; cross-references.** The Revisor of
11 Statutes shall review the Maine Revised Statutes and include in
12 the errors and inconsistencies bill submitted to the Second
13 Regular Session of the 122nd Legislature pursuant to Title 1,
14 section 94 any sections necessary to correct and update any
15 cross-references in the statutes to provisions of law repealed in
16 this Act.

18

SUMMARY

20

21 The purpose of this bill is to restrain the growth in state
22 and local government by imposing expenditure limitations on state
23 and local government. This requires a procedure of voter
24 approval of tax and fee increases.

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