

MAINE STATE LEGISLATURE

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Legislative Document

No. 1632

H.P. 1140

House of Representatives, March 21, 2007

An Act To Impose Reasonable Limits on the Growth of State Government

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CEBRA of Naples.
Cosponsored by Senator SNOWE-MELLO of Androscoggin and
Representatives: AYOTTE of Caswell, JOY of Crystal, LANSLEY of Sabattus, MILLETT of
Waterford, ROBINSON of Raymond, THOMAS of Ripley, VAUGHAN of Durham.

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

2 **Sec. 1. 5 MRSA §1507, next to last ¶**, as amended by PL 2005, c. 519, Pt. VV,
3 §1, is repealed.

4 **Sec. 2. 5 MRSA §1511**, as amended by PL 2005, c. 2, Pt. A, §1 and affected by
5 §14 and amended by c. 519, Pt. VV, §2, is repealed.

6 **Sec. 3. 5 MRSA §1522** is enacted to read:

7 **§1522. Maine Budget Stabilization Fund**

8 **1. Establishment.** The Maine Budget Stabilization Fund, referred to in this section
9 as "the fund," is established and must be administered for the purposes identified in this
10 section.

11 **2. Transfers to fund; limits.** The fund may receive transfers by the State Controller
12 of unappropriated surplus at the close of a fiscal year as provided in section 2045 and any
13 other funds identified by law. The fund may not exceed 10% of the total General Fund
14 revenues received in the immediately preceding fiscal year and may not lapse, but
15 remains in a continuing carrying account to carry out the purposes of this section. The
16 limit at the close of a fiscal year is based on the total General Fund revenues received in
17 the fiscal year being closed.

18 **3. Use of fund.** The Legislature may authorize transfers, appropriations and
19 allocations from the fund only to fund the costs of State Government up to the
20 expenditure limit calculated under section 2044 in years when state revenues are less than
21 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
23 provided by law, with the earnings credited to the fund. At the close of every month
24 during which the fund is at the 10% limitation described in subsection 2, the State
25 Controller shall transfer the excess to the Tax Relief Reserve Fund established under
26 section 2045.

27 **5. Death benefits.** The Governor shall allocate funds from the stabilization fund as
28 needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made
29 upon written request of the Chief of the State Police, the State Fire Marshal or the
30 Director of Maine Emergency Medical Services and after consultation with the State
31 Budget Officer.

32 **Sec. 4. 5 MRSA §1523** is enacted to read:

33 **§1523. Maine Highway Budget Stabilization Fund**

34 **1. Establishment.** The Maine Highway Budget Stabilization Fund, referred to in
35 this section as "the fund," is established and must be administered for the purposes
36 identified in this section.

1 **2. Transfers to fund; limits.** The fund may receive transfers by the State Controller
2 of unallocated Highway Fund surplus at the close of a fiscal year as provided in section
3 2046 and any other funds identified by law. The fund may not exceed 10% of the total
4 Highway Fund revenues received in the immediately preceding fiscal year and may not
5 lapse, but remains in a continuing carrying account to carry out the purposes of this
6 section. The limit at the close of a fiscal year is based on the total Highway Fund
7 revenues received in the fiscal year being closed.

8 **3. Use of fund.** The Legislature may authorize transfers, appropriations and
9 allocations from the fund only to fund the costs of the Highway Fund budget up to the
10 expenditure limit calculated under section 2044 in years when Highway Fund revenues
11 are less than the amount necessary to finance the level of expenditures permitted under
12 section 2044.

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

18 **Sec. 5. 5 MRSA §1531, sub-§7,** as enacted by PL 2005, c. 2, Pt. A, §5 and
19 affected by §14, is amended to read:

20 **7. General Fund revenue shortfall.** "General Fund revenue shortfall" means the
21 amount by which the General Fund appropriation limitation established by section 1534
22 1664, subsection 5 exceeds baseline General Fund revenue and other available resources
23 in each state fiscal year.

24 **Sec. 6. 5 MRSA §1532,** as enacted by PL 2005, c. 2, Pt. A, §5 and affected by
25 §14, is repealed.

26 **Sec. 7. 5 MRSA §1533,** as enacted by PL 2005, c. 2, Pt. A, §5 and affected by
27 §14, is amended to read:

28 **§1533. Declaration of budget emergency**

29 If the Legislature has adjourned sine die prior to the close of a fiscal year and the
30 commissioner has provided notification as required by section 1668 that indicates that
31 available General Fund resources will not be sufficient to meet General Fund
32 expenditures, the commissioner may declare a budget emergency. At the close of the
33 fiscal year, the State Controller may transfer from the available balance in the
34 stabilization fund to the General Fund Unappropriated Surplus up to the amount
35 necessary to increase total General Fund resources for that fiscal year to be equal to
36 General Fund expenditures. ~~For the purposes of this section, the Governor may reduce~~
37 ~~the stabilization fund below the 1% minimum threshold established by section 1532.~~ The
38 Governor shall inform the Legislative Council and the joint standing committee of the
39 Legislature having jurisdiction over appropriations and financial affairs immediately
40 upon such transfers from the stabilization fund.

1 **Sec. 8. 5 MRSA §1534**, as amended by PL 2005, c. 683, Pt. M, §1, is repealed.

2 **Sec. 9. 5 MRSA §1535**, as amended by PL 2005, c. 621, §4, is further amended to
3 read:

4 **§1535. General Fund transfers to stabilization fund**

5 Baseline General Fund revenue, as recommended by the Revenue Forecasting
6 Committee and authorized in accordance with chapter 151-B, and other available
7 budgeted General Fund resources that exceed the General Fund appropriation limitation
8 established by section ~~1534~~ 1664, subsection 5 plus the additional cost for essential
9 programs and services for kindergarten to grade 12 education under Title 20-A, chapter
10 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools
11 until the state share of that cost reaches 55% of the total state and local cost must be
12 transferred to the stabilization fund.

13 **Sec. 10. 5 MRSA §1536, sub-§1**, as amended by PL 2005, c. 519, Pt. VV, §4, is
14 further amended to read:

15 **1. Second priority reserve.** The State Controller shall, as the ~~3rd~~ 2nd priority after
16 the ~~transfers transfer~~ to the State Contingent Account pursuant to section 1507 ~~and the~~
17 ~~transfers to the Loan Insurance Reserve pursuant to section 1511~~ at the close of each
18 fiscal year, transfer from the unappropriated surplus of the General Fund an amount equal
19 to the amount available from the unappropriated surplus after all required deductions of
20 appropriations, budgeted financial commitments and adjustments considered necessary
21 by the State Controller have been made as follows:

- 22 A. Thirty-five percent to the stabilization fund;
- 23 B. Twenty percent to the Retirement Allowance Fund established in section 17251;
- 24 C. Twenty percent to the Reserve for General Fund Operating Capital;
- 25 D. Fifteen percent to the Retiree Health Insurance Internal Service Fund established
26 in section 1519 to be used solely for the purpose of amortizing the unfunded actuarial
27 liability associated with future health benefits; and
- 28 E. Ten percent to the Capital Construction and Improvements Reserve Fund
29 established in section 1516-A.

30 **Sec. 11. 5 MRSA §1664, sub-§5**, as enacted by PL 2005, c. 601, §1, is amended
31 to read:

32 **5. Limit on General Fund appropriation.** The total General Fund appropriation
33 for each fiscal year of the biennium in the Governor's budget submission to the
34 Legislature may not exceed the General Fund appropriation ~~limitation established in~~
35 section 1534 of the previous fiscal year multiplied by one plus the population adjustment
36 factor plus the inflation adjustment factor as those terms are defined in section 2042.

37 **Sec. 12. 5 MRSA §1665, sub-§1**, as amended by PL 2005, c. 601, §2, is further
38 amended to read:

1 **2. Increase in revenue.** "Increase in revenue" means any legislation or tax levy that
2 causes a net gain in revenue and:

- 3 A. Enacts a new tax or fee;
- 4 B. Increases the rate or expands the base of an existing tax or fee;
- 5 C. Reduces benefits or eligibility under the Business Equipment Tax Reimbursement
6 program established in Title 36, chapter 915 without providing the same level of
7 benefits and eligibility under a comparable program or without providing a 100%
8 property tax exemption for property eligible for reimbursement under Title 36,
9 chapter 915;
- 10 D. Repeals or reduces any tax exemption, credit or refund; or
- 11 E. Extends an expiring tax or fee increase.

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

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

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

24 **6. Revenue.** "Revenue" means taxes and fees collected by the State or a quasi-
25 governmental agency pursuant to the statutes of the State, including those collected under
26 Title 36, Part 2. It includes money received from the sale of goods and services only to
27 the extent that the receipts exceed the cost of providing the goods or services.

28 **§2043. Approval of revenue increases**

29 **1. Approval of increases.** The following forms of approval are required to adopt an
30 increase in revenue:

- 31 A. The measure must be approved by a vote of 2/3 of all the members of each House
32 of the Legislature; and
- 33 B. Except as provided in subsection 2, the measure must be approved by a majority
34 of the voters in the State.

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

- 36 A. Annual state revenue is less than annual payments on general obligation bonds,
37 required payments related to pensions and final court judgments;

1 B. The measure is an emergency tax and the provisions of section 2048 are followed;
2 or

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

5 For the purposes of this subsection, "emergency" does not include economic conditions or
6 revenue shortfalls.

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

14 **4. Revenue estimates.** A measure submitted to the voters under this section must
15 include an estimate of the amount to be raised by the measure for the first 4 fiscal years of
16 its implementation.

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

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

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

26 C. For the first full fiscal year of each proposed revenue increase, estimates of the
27 maximum dollar amount of each increase and of fiscal year spending without the
28 increase; and

29 D. Two summaries, up to 500 words each, one in support of and one in opposition to
30 each proposal, of written comments filed with the election officer by 45 days before
31 the election. A summary may not mention names of persons or private groups, nor
32 any endorsements of or resolutions against the proposal. Representatives of a
33 measure under this section shall write a summary for their proposal. The election
34 officer shall maintain and accurately summarize all other relevant written comments.

35 Except by later voter approval, if an increase in revenue exceeds any estimate prepared
36 under paragraph C for the same fiscal year, the tax increase is thereafter reduced in
37 proportion to the amount of the excess, and the excess revenue that was collected must be
38 refunded in the next fiscal year. Ballot questions for revenue increases must begin:
39 "Shall state revenues be increased (amount of first or, if phased in, full fiscal year dollar
40 increase) annually...?"

1 6. Costs. The State shall reimburse municipalities for the costs of any election under
2 this section and providing the notice required under subsection 5 if the election provides
3 for a state tax increase.

4 **§2044. Expenditure limitations**

5 1. State expenditure limitation. Beginning with the first fiscal year that begins
6 after this section takes effect, the maximum annual percentage change in state fiscal year
7 spending in the categories specified in this subsection equals the inflation adjustment
8 factor plus the population adjustment factor and any increases attributable to measures
9 approved under section 2043. This limitation must be calculated separately for the
10 following categories:

11 A. General Fund;

12 B. Highway Fund; and

13 C. Quasi-governmental agencies and Other Special Revenue Funds, for which
14 separate individual limitations must be applied. For state-level quasi-governmental
15 agencies whose primary purpose is providing education programs, the limitation must
16 be calculated by substituting for the population adjustment factor a factor based on
17 changes in student enrollment.

18 2. Exceptions. The following may not be counted in calculating expenditure
19 limitations under this section:

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

22 B. Amounts received from the Federal Government;

23 C. Amounts collected on behalf of another level of government;

24 D. Pension contributions by employees and pension fund earnings;

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

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

28 G. Amounts paid pursuant to a court award; and

29 H. Reserve transfers or expenditures.

30 3. Exceeding expenditure limitations. If revenues are projected to exceed the
31 expenditure limitations in this section, the amount of revenues exceeding the expenditure
32 limitations may be spent if approved in the same manner as required for a revenue
33 increase under section 2043.

34 **§2045. Transfers and refund of unappropriated General Fund surplus**

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

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

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

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

6 **3. Notification.** By September 15th annually, the State Controller shall notify the
7 Legislature and the State Tax Assessor of the amount in the fund as a result of the
8 transfers required by subsection 2.

9 **4. Refund through legislative action.** If the amount in the fund exceeds
10 \$25,000,000, the Legislature shall, by the following October 15th, enact legislation to
11 provide for the refund to taxpayers of amounts in the fund. Refunds may take the form
12 only of temporary or permanent broad-based tax credits, rebates or rate reductions.

13 **5. Refund in case of legislative inaction.** If the Legislature does not enact
14 legislation by October 15th to provide refunds pursuant to subsection 4, then the State
15 Controller shall, by October 30th, notify the State Tax Assessor of the amount in the
16 fund. The State Tax Assessor shall calculate a one-time bonus personal exemption
17 refund. The amount of the personal exemption refund must be calculated by dividing the
18 amount in the fund identified by the State Controller under subsection 3 by the number of
19 personal exemptions claimed on income tax returns filed for tax years beginning in the
20 previous calendar year and rounded down to the nearest \$5 increment. The State Tax
21 Assessor shall issue a refund by November 30th to each taxpayer who filed an income tax
22 return by April 15th of the same calendar year based on the number of personal
23 exemptions claimed on the taxpayer's return without regard to the taxpayer's tax liability
24 for the year.

25 **§2046. Transfers and refund of unallocated Highway Fund surplus**

26 **1. Fund created.** The Highway Fund Reserve Fund, referred to in this section as
27 "the fund," is created for the purposes set forth in this chapter.

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

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

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

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

35 **4. Reduction in taxes when surplus.** If the amount in the fund exceeds 10% of
36 Highway Fund expenditures for the previous fiscal year, the State Tax Assessor shall
37 calculate, based on the amount in the fund, a proportional reduction in the taxes on motor
38 fuels under Title 36, Part 5 to become effective the following January 1st and remain in
39 effect for one calendar year.

1 **§2047. Revenues of quasi-governmental agencies and Other Special Revenue Funds**
2 **accounts**

3 By September 15th annually, each quasi-governmental agency or state agency that
4 manages an Other Special Revenue Funds account shall submit a report to the Legislature
5 identifying revenues received in the preceding fiscal year that exceed the expenditure
6 limitation established in section 2044 and any other uncommitted revenues received
7 during the previous fiscal year and proposing a plan for refunding to taxpayers the
8 amount identified that exceeds 10% of the previous fiscal year's expenditure.

9 **§2048. Emergency taxes**

10 **1. Emergency taxes permitted; conditions.** The State may impose emergency
11 taxes only in accordance with this section:

12 A. The tax must be approved for a specified time period by a 2/3 majority of the
13 members of each House of the Legislature;

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

17 C. The tax must be submitted for approval by the voters at the next statewide
18 election.

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

21 Individual or class action lawsuits may be filed to enforce this chapter and must be
22 given the highest civil priority for resolution. Successful plaintiffs are allowed costs and
23 reasonable attorney's fees. Revenue collected, kept or spent in conflict with this chapter
24 for 4 full fiscal years before a suit is filed must be refunded with 10% annual simple
25 interest from the initial action causing the conflict.

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

28 B. Notwithstanding section 1585, any balance remaining in the program after July
29 31, 2007 must be transferred to the Maine Budget Stabilization Fund as established in
30 section ~~4532~~ 1522.

31 **Sec. 15. 5 MRSA §17253, sub-§3,** as amended by PL 2005, c. 2, Pt. A, §10 and
32 affected by §14, is repealed.

33 **Sec. 16. 25 MRSA §1612, sub-§7,** as amended by PL 2005, c. 2, Pt. A, §12 and
34 affected by §14, is further amended to read:

35 **7. Payment from the Maine Budget Stabilization Fund.** Benefits are payable from
36 the Maine Budget Stabilization Fund as provided in Title 5, section ~~4532~~ 1522,
37 subsection ~~6~~ 5.

1 fund and 80% of that excess to a tax relief fund. The budget stabilization funds may be
2 used only in years when revenues are not sufficient to fund the level of expenditure
3 permitted by the growth limits. The tax relief funds must be used to provide tax relief
4 through refunds proportional to individual income tax personal exemptions claimed in the
5 previous tax year or a decrease in motor fuels taxes. For quasi-governmental agencies
6 and state agencies that manage Other Special Revenue Funds, the managers of those
7 funds must report excess surpluses to the Legislature with a plan for refund of those
8 revenues.

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