Stop Overspending Michigan Constitutional Initiative

(New Language underlined - Deleted language ~~struck~~)

A Proposal to Amend the Constitution of the State of Michigan by amending Article 9, Section 24; Article 9, Section 26; Article 9, Section 27; Article 9, Section 28; Article 9, Section 31; Article 9, Section 32; and Article 9, Section 33; as follows:

Article 9, Sec. 24.

Members of the legislature of the state of michigan shall not earn or accrue any financial benefits of a state funded pension plan, deferred compensation plan, retirement savings plan, retirement system of the state, or a matching state contribution, as a result of their legislative service for terms commencing after January 31, 2007. This shall not be construed to affect salaries or expenses, to prevent a person from voluntarily allocating a defined contribution from his or her salary to a retirement savings plan, or to reduce or eliminate any benefits vested prior to the effective date of this amendment. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby. Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

Article 9, Sec. 26.

A) There is hereby established a limit on the total amount of taxes which may be imposed by the legislature in any fiscal year on the taxpayers of this state. This limit shall not be changed without approval of the majority of the qualified electors voting thereon, as provided for in Article 12 of the Constitution. Effective with fiscal year 1979-1980, and for each fiscal year thereafter, the legislature shall not impose taxes of any kind which, together with all other revenues of the state, federal aid excluded, exceed the revenue limit established in this section. The revenue limit shall be equal to the product of the ratio of Total State Revenues in fiscal year 1978-79 divided by the Personal Income of Michigan in calendar year 1977 multiplied by the Personal Income of Michigan in either the prior calendar year or the average of Personal Income of Michigan in the previous three calendar years, whichever is greater.

B) For any fiscal year commencing after December 23, 2006, in the event that Total State Revenues exceed the ~~revenue~~ STATE SPENDING limit established in ~~this~~ Section 28 ~~by 1% or more~~, the excess revenues shall be deemed a surplus. the surplus, or at least 50% thereof, shall be promptly refunded, by individual check for amounts exceeding $25 over existing tax liabilities (adjusted for inflation after 2007), or credited against tax liabilities for lesser amounts, to taxpayers pro rata based on the liability reported on the Michigan income tax ~~and single business tax~~ (or its successor tax or taxes) annual returns filed following the close of such fiscal year after a portion is first transferred ~~If the excess is less than 1%, this excess may be transferred~~ to the State Budget Stabilization Fund. The portion of surplus transferred to the state budget stabilization fund shall be equal to the lesser of (1) an amount necessary to ensure that the balance in the budget stabilization reserve fund attributable to surplus funds or interest thereon at the end of the state fiscal year is an amount equal to 10% of the state spending limit for that fiscal year, or (2) an amount equal to 50% of the surplus.

C) for any state fiscal year that commences after December 23, 2006, if total state revenues are less than the amount of the state spending limit, the state treasurer shall transfer money from the state budget stabilization fund to the general fund from available funds in the minimum amount necessary to offset a shortfall of total state revenues below the state spending limit, under no other circumstances shall the state treasurer transfer moneys from the fund.

D) The revenue limitation established in this section shall not apply to: 1) taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this Article prior to November 7, 2006, or any subsequently authorized bonds which are amortized for at least 20 years and dedicated specifically for the acquisition of, or construction upon, real property, and 2) loans to school districts authorized under Section 16 of this Article.
E) If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutional amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection by both state and local governments does not exceed that amount which would have been authorized without such change.

Article 9, Sec. 27.
A) The state spending limit of section 28 and the revenue limit of Section 26 of this Article may only be exceeded in an emergency, as defined herein, or by a voter-approved suspension.
B) Emergency spending may occur only if all of the following conditions are met: (1) The governor determines that an imminent threat to public health or safety exists and requests the legislature to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specific terms of the governor's request by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expenses which constitute the emergency request.
C) A voter-approved suspension of the state spending limit and the revenue limit may occur only if all the following conditions are met: (1) two-thirds of the members of each house vote to refer a suspension of the limits, up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital letters directly above the ballot title instructs voters: 'a "yes" vote on this measure will authorize the state to retain extra taxes and spend them in excess of constitutional limits by [insert amount of predetermined maximum additional spending.]'; And (3) the suspension is approved by a majority of eligible voters participating in a statewide general election.
D) The state spending limit or the revenue limit may be exceeded only during the fiscal year for which the emergency is declared or suspension is approved. In no event shall any part of the amount representing a refund under Section 26 of this Article be the subject of an emergency request.

Article 9, Sec. 28.
A) No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in Sections 26(A) and 27 of this Article plus federal aid and any surplus from a previous fiscal year.
B) Recognizing that subsection (a) defines a limit on expenses, this subsection (b) establishes a "state spending limit" for any state fiscal year that commences after december 23, 2006, unless subsection (a) would require less spending, as follows: (1) the total amount of state fiscal year spending in the preceding fiscal year increased by a percentage amount equal to the result obtained by adding any positive increase in the rate of inflation for the calendar year ending during the preceding state fiscal year, plus any positive percentage change in state population during the calendar year ending during the preceding state fiscal year, or, (2) the state spending limit for the previous fiscal year; whichever amount is greater.

Article 9, Sec. 31.
Units of Local Government are hereby prohibited from levying or charging any new local tax, excise, special assessment, or mandatory user fee not authorized by law or charter when this section is ratified and already being lawfully levied or charged on november 7, 2006, or from increasing the rate of an existing tax or amount of a mandatory user fee above that rate or amount authorized by law or charter when this section is ratified and already being lawfully levied or charged on november 7, 2006 without the approval of a majority of the qualified electors of

that unit of Local Government voting thereon. If the definition of the base of an existing local tax or mandatory user fee is broadened, the maximum authorized rate or amount ~~of taxation~~ on the new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value. No unit of local government may request approval from the voters for any tax that, together with all other taxes then authorized, would exceed the maximum tax that may be imposed under state law, charter, or this constitution if such a tax were levied at the beginning of the next fiscal or calendar year, whichever is sooner. The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment.

Article 9, Sec. 32.
Any taxpayer of the state shall have standing to bring suit within 3 years of the accrual of the cause of action in the Michigan State Court of Appeals to enforce the provisions of Section 6, Section 24, and Sections 25 through 34, inclusive, of this Article, by means of injunctive, monetary, and/or other relief and, if the suit is sustained, shall receive from the applicable unit of government his costs and expenses incurred in maintaining such suit, including actual reasonable attorney fees. no costs or attorney fees shall be ordered against such plaintiffs unless the action is determined frivolous under Michigan law.

Article 9, Sec. 33.
Definitions. The definitions of this section shall apply to Section 6, and Sections 25 through 34 of Article IX, inclusive.
A) “Total State Revenues” means all moneys or credits received by the state from any source now in existence, or created or identified in the future, including bonds, fees, and tobacco settlement proceeds, except the following: 1) moneys received from the federal government; 2) moneys received as gifts which must be expended for purposes specified by the donor; 3) moneys which are income earned on moneys in permanent endowment funds, trust funds, pension funds, disability funds, unemployment funds and deferred compensation funds, and which are credited to such funds; 4) the proceeds of bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of more than/at least 20 years; 5) moneys transferred from the budget stabilization fund; 6) the amount of any credits based on actual tax liabilities or the imputed tax components of any rental payments, carry-over funds from prior years and non-refundable property tax credits; and 7) proceeds from the sale of government assets to non-government entities at real market value to the extent the proceeds are dedicated as surpluses to taxpayer refunds, or to the budget stabilization fund, according to section 26 of this article. This definition shall not be construed to alter or change the base year ratio as previously established in section 26 of this article, which is 9.49% of personal income in the state of michigan. ~~includes all general and special revenues, excluding federal aid, as defined in the budget message of the governor for fiscal year 1978-1979. Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, but shall include the amount of any credits not related to actual tax liabilities.~~
B) “Personal Income of Michigan” is the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency.

C) “Local Government” means any political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government.
D) “General Price Level” means the Consumer Price Index for the United States as defined and officially reported by the United States Department of Labor or its successor agency.
E) “Inflation” means an increase expressed as a percentage of the general price level.
F) “Population” means the number of people residing in the state, excluding armed forces stationed overseas, as determined by the annual federal census estimates, and such number shall be adjusted to match the federal decentennial census.
G) “Bonds” means any form of multi-fiscal year indebtedness, including nonrecourse, limited tax general obligation bonds, or limited liability bonds, and any instruments meeting this definition shall require voter approval pursuant to section 6 and/or section 15 of this article.
H) “Mandatory user fee” means a compulsory obligation to pay for goods or services, under circumstances where the user does not have the absolute discretion to choose how much of the good or service to use, or whether to use or buy it at all, without giving up common law rights incidental to private property ownership.
I) “Local” tax, excise, special assessment, or mandatory user fee, as used in section 31 of this article, means any tax, excise, special assessment, or mandatory user fee levied or charged by any political subdivision or government entity chartered under the authority of the state, other than one imposed by the Michigan legislature.
J) “Fiscal year spending” means the total amount of moneys appropriated by the state legislature in a fiscal year from any revenue source except from the following excluded revenue categories listed in the definition of total state revenues in subsection a hereof, being a(1), a(2), a(6), and a(7), plus the following exceptions, 1) any appropriations to fund emergencies pursuant to section 27 of this article; 2) any expenditures from the funds listed in section 33(a)(3) of this article; 3) any appropriations funded by a suspension vote pursuant to section 27 of this article unless the suspension vote passed during the november general election in an even-numbered year; 4) any surplus revenues transferred or rebated pursuant to section 26(b) of this article; 5) the payment of principal and interest on bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years; and, 6) the proceeds of any bonds expended before the end of the 2006-2007 fiscal year and the proceeds of any bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years issued after November 7, 2006, and the proceeds from any article 9, section 14 borrowing.