

**ASSEMBLY CONCURRENT
RESOLUTION No. 191**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

Amends Constitution to require deposit of excess revenue in Surplus Revenue Fund and restricts appropriations therefrom.

CURRENT VERSION OF TEXT

As introduced.



1 A CONCURRENT RESOLUTION proposing to amend Article VIII,
2 Section I, paragraph 7 and Article VIII, Section II of the State
3 Constitution.

4
5 BE IT RESOLVED by the General Assembly of the State of New
6 Jersey (the Senate concurring):

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is hereby agreed to:

10
11 PROPOSED AMENDMENT

12
13 a. Amend Article VIII, Section I, paragraph 7 to read as
14 follows:

15 7. a. No tax shall be levied on personal incomes of
16 individuals, estates and trusts of this State unless the entire net
17 receipts therefrom shall be received into the treasury, **[placed]**
18 deposited in a perpetual fund designated the Property Tax Relief
19 Fund and be annually appropriated, pursuant to formulas
20 established from time to time by the Legislature, to the several
21 counties, municipalities and school districts of this State exclusively
22 for the purpose of reducing or offsetting property taxes. In no event,
23 however, shall a tax so levied on personal incomes be levied on
24 payments received under the federal Social Security Act, the federal
25 Railroad Retirement Act, or any federal law which substantially
26 reenacts the provisions of either of those laws.

27 b. There shall be annually credited from the General Fund and
28 **[placed]** deposited in a special account in the perpetual Property
29 Tax Relief Fund established pursuant to this paragraph, which
30 account shall be designated the Property Tax Reform Account, an
31 amount equal to the annual revenue derived from a tax rate of 0.5%
32 imposed under the "Sales and Use Tax Act," P.L.1966, c.30
33 (C.54:32B-1 et seq.), as amended and supplemented, or any other
34 subsequent law of similar effect, which amount shall be
35 appropriated annually by the Legislature exclusively for the purpose
36 of property tax reform.

37 c. There shall be annually credited from the Property Tax
38 Relief Fund and deposited to a separate property tax relief account
39 in the Surplus Revenue Fund an amount equal to 50% of the
40 revenues collected from any tax levied pursuant to subparagraph a.
41 during the immediately preceding fiscal year which exceeded the
42 annual average revenue collected over the five fiscal years prior to
43 the immediately preceding fiscal year. The deposit shall be made
44 within 100 days following the start of a State fiscal year. If in the
45 fiscal year preceding a fiscal year in which a credit is required there

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 is a law enacted to increase or decrease revenue from a tax levied
2 pursuant to subparagraph a., the change in revenue resulting from
3 such law shall be disregarded in determining the amount to be
4 deposited to the Surplus Revenue Fund for that fiscal year and five
5 fiscal years thereafter.

6 (cf: Art.VIII, Sec.I, par.7 effective December 7, 2006)

7
8 b. Amend Article VIII, Section II by adding the following
9 paragraph:

10 10. a. There is established a special fund of the State designated
11 as the Surplus Revenue Fund. There shall be annually credited from
12 the General Fund and deposited to the Surplus Revenue Fund, an
13 amount equal to 50 percent of the amount of revenue deposited in
14 the General Fund during the immediately preceding fiscal year
15 which exceeded the annual average revenue deposited in the
16 General Fund over the five fiscal years prior to the immediately
17 preceding fiscal year. The deposit shall be made within 100 days
18 following the start of a State fiscal year. If in the fiscal year
19 preceding a fiscal year in which a credit is required there is a law
20 enacted to increase or decrease revenue deposits to the General
21 Fund, the change in revenue resulting from that law shall be
22 disregarded in determining the amount to be deposited to the
23 Surplus Revenue Fund for that fiscal year and five fiscal years
24 thereafter. Money from the federal government deposited to the
25 General Fund shall not be included in the calculation of the deposit
26 required pursuant to this subparagraph.

27 b. Amounts in the Surplus Revenue Fund shall not be available
28 for appropriation except as provided in this subparagraph. Amounts
29 in the Surplus Revenue Fund may be appropriated by the
30 Legislature only if:

31 (1) the Legislature finds that: (a) State revenues during the fiscal
32 year will be at least two percent less than the average annual State
33 revenue over the prior five fiscal years; (b) an appropriation from
34 the Surplus Revenue Fund is a more prudent fiscal policy than
35 imposing new taxes or increasing any rate of tax or otherwise
36 modifying a tax structure; and (c) an appropriation from the Surplus
37 Revenue Fund is a more prudent fiscal policy than de-appropriating
38 amounts already appropriated in the existing annual appropriation
39 law;

40 (2) the Legislature determines it is necessary to spend amounts
41 in the Surplus Revenue Fund to meet an emergency requiring an
42 immediate response for the protection of the life, safety, or well-
43 being of the residents of this State, or to meet an emergency
44 requiring an immediate response for the protection of public or
45 private property; or

46 (3) the appropriation is approved by a vote of two-thirds of all
47 the members of each House of the Legislature.

48 Amounts in the separate property tax relief account in the

1 Surplus Revenue Fund may be appropriated only if the
2 appropriation additionally is for the purpose of reducing or
3 offsetting property taxes.

4 The Legislature shall not appropriate more than 50 percent of the
5 total amount in the Surplus Revenue Fund in any appropriation law
6 allowed pursuant to this subparagraph. Notwithstanding Article
7 VIII, Section II, paragraph 2 of the Constitution, an appropriation
8 made pursuant to this subparagraph shall be a separate law from the
9 annual appropriation law, but shall not cover any period beyond the
10 period that the annual appropriation law covers.

11

12 2. When this proposed amendment to the Constitution is finally
13 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
14 shall be submitted to the people at the next general election
15 occurring more than three months after the final agreement and
16 shall be published at least once in at least one newspaper of each
17 county designated by the President of the Senate, the Speaker of the
18 General Assembly and the Secretary of State, not less than three
19 months prior to the general election.

20

21 3. This proposed amendment to the Constitution shall be
22 submitted to the people at that election in the following manner and
23 form:

24 There shall be printed on each official ballot to be used at the
25 general election, the following:

26 a. In every municipality in which voting machines are not used,
27 a legend which shall immediately precede the question as follows:

28 If you favor the proposition printed below make a cross (X), plus
29 (+), or check (✓) in the square opposite the word "Yes." If you are
30 opposed thereto make a cross (X), plus (+) or check (✓) in the
31 square opposite the word "No."

32 b. In every municipality the following question:

	YES	<p>CONSTITUTIONAL AMENDMENT TO REQUIRE DEPOSIT OF EXCESS REVENUE TO SURPLUS REVENUE FUND AND LIMITING SPENDING FROM THE FUND</p> <p>Do you approve amending the Constitution to require the State to deposit certain excess revenues to a Surplus Revenue Fund? The State will only be allowed to spend the money in the fund in certain circumstances.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment requires the State to deposit 50 percent of certain excess revenues to a Surplus Revenue Fund.</p> <p>If after the end of a fiscal year, revenue from personal income taxes, or general taxes and fees, was above the average of revenue received in the prior five fiscal years, then the State will have to deposit 50 percent of the above average amount in to the Surplus Revenue Fund.</p> <p>Once deposited, the State can spend the money in the Fund only in one of the following three circumstances:</p> <p>(1) If the Legislature determines that revenues are two percent less than the average revenue over the prior five years, and spending money in the Fund is more prudent policy than new taxes or reallocating other money;</p> <p>(2) If the Legislature determines it is necessary to spend money in the Fund to address an emergency requiring an immediate response for the protection of life or property; or</p> <p>(3) If two-thirds of each House of the Legislature approves spending money from the Fund.</p> <p>In any of the three circumstances, the State can only spend 50 percent of the money in the Fund at once.</p>

SCHEDULE

This constitutional amendment shall become part of the Constitution on July 1 next following the general election at which it is approved by the voters.

STATEMENT

This concurrent resolution proposes a constitutional amendment to require the State to deposit certain excess revenues to a Surplus Revenue Fund.

Following every fiscal year, the State will be required to deposit in to the Fund 50 percent of the amount that exceeded the average revenue over the prior five fiscal years. Excess revenue from taxes authorized on personal income, otherwise dedicated to the Property Tax Relief Fund, will be deposited in the property tax relief account in the Surplus Revenue Fund. Excess revenue, otherwise deposited in the General Fund, will be deposited in the Surplus Revenue Fund.

An increase in tax revenue collections that is the result of enactment of a law for that purpose would not be counted in this calculation for a period of five fiscal years from the fiscal year in which such law became effective.

The Legislature will only be allowed to appropriate money in the Fund in three circumstances:

(1) The Legislature finds that State revenues during the fiscal year will be at least two percent lower than the average annual State revenue over the prior five fiscal years, and an appropriation from the Fund is a more prudent fiscal policy than imposing new taxes or de-appropriating amounts already appropriated in the existing annual appropriation law;

(2) the Legislature determines it is necessary to spend amounts in the Fund to meet an emergency requiring an immediate response for the protection of life or property; or

(3) the appropriation is approved by a vote of two-thirds of all the members of each house of the Legislature.

Even in these three circumstances, any amounts in the Fund which were deposited from excess gross income tax revenue can only be appropriated for property tax relief.

The Legislature will not be allowed to appropriate more than 50 percent of the total amount in the Surplus Revenue Fund at once. In addition, an appropriation made from the Fund must be a separate law from the annual appropriation law, and cannot cover any period beyond the period that the existing annual appropriation law covers.