

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 424\***

Short Title: Taxpayers' Protection Act. (Public)

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Sponsors: Representatives Brubaker, Kiser, Gulley (Primary Sponsors); Allred, Almond, Barnhart, Blackwood, Brown, Capps, Church, Clary, Cleveland, Culp, Current, Daughtridge, Daughtry, Dockham, Dollar, Eddins, Folwell, Frye, Gillespie, Grady, Hill, Hilton, Hollo, Holloway, Howard, Johnson, Justice, Justus, Langdon, LaRoque, Lewis, McComas, McGee, Moore, Pate, Preston, Ray, Sauls, Setzer, Sherrill, Stam, Starnes, Steen, Stiller, Vinson, Walend, Walker, West, Wiley, and Wilson.

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Referred to: Rules, Calendar, and Operations of the House.

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March 1, 2005

A BILL TO BE ENTITLED  
AN ACT TO IMPOSE CONSTITUTIONAL LIMITS ON THE GROWTH OF THE  
STATE BUDGET.

The General Assembly of North Carolina enacts:

**SECTION 1.** The North Carolina Constitution is amended by adding a new Article to read:

"ARTICLE V-A

"TAXPAYERS' PROTECTION ACT

**Section 1. Definitions.**

The following definitions apply in this Article:

- (a) Emergency. – An extraordinary event or occurrence that could not have been reasonably foreseen or prevented and that requires immediate expenditure to preserve the health, safety, and general welfare of the people. The term does not include a revenue or budget shortfall.
- (b) Fiscal year. – Any accounting period consisting of 12 consecutive months.
- (c) Fiscal year spending. – The total amount of monies appropriated by the State not including the following:
  - (i) Appropriations funded by monies received from the federal government.
  - (ii) Principal and interest on bonded indebtedness.

- 1           (iii) Appropriations funded by unemployment and disability  
2           insurance funds.
- 3           (iv) Appropriations funded by discretionary user charges to the  
4           extent that the charges do not exceed the cost of the goods or  
5           services and its purchase by the user is discretionary.
- 6           (v) Appropriations funded from permanent endowments, trust  
7           funds, or pension funds.
- 8           (vi) Proceeds of gifts or bequests made for purposes specified by the  
9           donor.
- 10          (vii) Monies appropriated for tax relief.
- 11          (d) Inflation. – The percentage change in the consumer price index for the  
12          United States for each calendar year as published by the Federal  
13          Bureau of Labor Statistics.
- 14          (e) Population. – The number of people residing in the State, excluding  
15          armed forces stationed overseas, as determined by the United States  
16          Census Bureau based on decennial census figures or as estimated  
17          annually by the United States Census Bureau.
- 18          (f) Total State revenues. – All monies derived from the State's own  
19          revenue sources.

20 **"Sec. 2. Spending limits.**

21          (1) Fiscal year spending limit. – The maximum annual percentage change in  
22          State fiscal year spending equals inflation plus the percentage change in State  
23          population in the prior calendar year.

24          (2) Modification by super majority vote. – The General Assembly may vote to  
25          increase the fiscal year spending limit established under this section. An increase in the  
26          fiscal year spending limit must be approved by a three-fifths majority of the members of  
27          each chamber of the General Assembly.

28 **"Sec. 3. Establishment of Emergency Reserve Fund and Budget Stabilization**  
29 **Fund.**

30          (1) Emergency Reserve Fund. – There is created within the Office of State  
31          Budget and Management a reserve to be known as the Emergency Reserve Fund.  
32          Monies in the Emergency Reserve Fund may be expended for declared emergencies  
33          only. Appropriations from the Fund must be approved by a three-fifths majority of the  
34          members of each chamber of the General Assembly. Interest or other income earned on  
35          the Emergency Reserve Fund accrues to the Fund.

36          (2) Budget Stabilization Fund. – There is created within the Office of State  
37          Budget and Management a reserve to be known as the Budget Stabilization Fund.  
38          Monies in the Budget Stabilization Fund may be expended only to make up the  
39          difference between total State revenues and the fiscal year spending limit imposed under  
40          Section 2 of this Article when total State revenues are less than the fiscal year spending  
41          limit. Under no other circumstances may monies be transferred from the Budget  
42          Stabilization Fund. Interest or other income earned on the Budget Stabilization Fund  
43          accrues to the Fund.

1 **"Sec. 4. Treatment of total State revenues in excess of the fiscal year spending**  
2 **limit.**

3 In any year in which total State revenues exceed the fiscal year spending limit, total  
4 State revenues in excess of the fiscal year spending limit shall be treated in the  
5 following manner:

6 (a) The State Controller shall transfer total State revenues in excess of the  
7 fiscal year spending limit determined pursuant to Section 2 of this  
8 Article to the Emergency Reserve Fund to the extent necessary to  
9 ensure that the balance of the Fund at the end of the fiscal year is an  
10 amount equal to three percent of the fiscal year spending limit. The  
11 State is not required to transfer any monies other than total State  
12 revenues in excess of the fiscal year spending limit to the Fund.

13 (b) After making the transfer required in subdivision (a) of this section,  
14 the State Controller shall transfer any remaining excess of total State  
15 revenues over the fiscal year spending limit determined pursuant to  
16 Section 2 of this Article to the Budget Stabilization Fund to the extent  
17 necessary to ensure that the balance of the Fund at the end of the fiscal  
18 year is an amount equal to eighteen percent of the fiscal year spending  
19 limit. The State is not required to transfer any monies other than total  
20 State revenues in excess of the sum of the fiscal year spending limit  
21 and the transfer required under subdivision (a) of this section to the  
22 Fund.

23 (c) Any excess that remains after the State Controller makes the transfers  
24 required in subdivisions (a) and (b) of this section shall be refunded to  
25 the taxpayers in the form of tax rebates or temporary tax rate  
26 reductions.

27 **"Sec. 5. Transfers prohibited.**

28 Transfers of State cash fund principal from any State cash fund to the General Fund,  
29 other than transfers from the Emergency Reserve Fund or the Budget Stabilization Fund  
30 to the General Fund, are prohibited. State cash fund appropriations that either supplant  
31 any General Fund appropriation or would necessitate a General Fund appropriation if  
32 not made are prohibited. For purposes of this section, a State cash fund appropriation  
33 that is funded by user charges or fees imposed on goods or services that do not exceed  
34 the cost of the goods or services provided is not an appropriation that supplants any  
35 General Fund appropriation.

36 **"Sec. 6. Mandated and shifted costs.**

37 The State shall not impose upon any unit of local government any part of the total  
38 costs of new programs or services, or increases in existing programs or services, unless  
39 a specific appropriation is made sufficient to pay the unit of local government for that  
40 purpose. The proportion of State revenue paid to all units of local government, taken as  
41 a group, shall not be reduced below that proportion in effect on July 1, 2006. Where  
42 costs are transferred from one unit of government to another unit of government, either  
43 by law or court order, the limitation imposed by Section 2 of this Article shall be

1 adjusted and transferred accordingly so that total costs are not increased as a result of  
2 the transfer.

3 **"Sec. 7. Severability.**

4 If any expenditure category or revenue source shall, by a court of competent  
5 jurisdiction in a final order, be adjudged exempt from this Article, the process of  
6 computing the fiscal year spending limit shall be adjusted accordingly and all remaining  
7 provisions shall remain in full force and effect.

8 **"Sec. 8. Implementation.**

9 The General Assembly shall enact legislation that may be necessary to implement  
10 and enforce the provisions of this Article."

11 **SECTION 2.** The amendment set out in Section 1 of this act shall be  
12 submitted to the qualified voters of the State at the primary election in May of 2006,  
13 which election shall be conducted under the laws then governing elections in the State.  
14 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the  
15 General Statutes. The question to be used in the voting systems and ballots shall be:

16 "[ ] FOR [ ] AGAINST

17 Constitutional amendment limiting the annual growth of the State budget to a  
18 percentage equal to the sum of annual inflation and the State's annual population growth  
19 rate."

20 **SECTION 3.** If a majority of votes cast on the question are in favor of the  
21 amendment set out in Section 1 of this act, the State Board of Elections shall certify the  
22 amendment to the Secretary of State. The Secretary of State shall enroll the amendment  
23 so certified among the permanent records of that office. The amendment set out in  
24 Section 1 of this act becomes effective July 1, 2006, and applies to fiscal years  
25 beginning on or after that date.