

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS85343-LH-245 (05/09)

Short Title: Taxpayer Protect Act.

(Public)

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Sponsors: Senators Smith, and Stevens.

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Referred to:

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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:

(1) 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.

(2) Fiscal year. – Any accounting period consisting of 12 consecutive months.

(3) Fiscal year spending. – The total amount of monies appropriated by the State not including the following:

(a) Appropriations funded by monies received from the federal government.

(b) Principal and interest on bonded indebtedness.

(c) Appropriations funded by unemployment and disability insurance funds.

(d) Appropriations funded by discretionary user charges to the extent that the charges do not exceed the cost of the goods or services and its purchase by the user is discretionary.

(e) Appropriations funded from permanent endowments, trust funds, or pension funds.

1           (f) Proceeds of gifts or bequests made for purposes specified by the  
2           donor.

3           (g) Monies appropriated for tax relief.

4       (4) Inflation. – The percentage change in the consumer price index for the United  
5 States for each calendar year as published by the Federal Bureau of Labor Statistics.

6       (5) Population. – The number of people residing in the State, excluding armed  
7 forces stationed overseas, as determined by the United States Census Bureau based on  
8 decennial census figures or as estimated annually by the United States Census Bureau.

9       (6) Total State revenues. – All monies derived from the State's own revenue  
10 sources.

11 **"Sec. 2. Spending limits.**

12       (a) Fiscal year spending limit. – The maximum annual percentage change  
13 in State fiscal year spending equals inflation plus the percentage  
14 change in State population in the prior calendar year.

15       (b) Modification by super majority vote. – The General Assembly may  
16 vote to increase the fiscal year spending limit established under this  
17 section. An increase in the fiscal year spending limit must be approved  
18 by a three-fifths majority of the members of each chamber of the  
19 General Assembly.

20 **"Sec. 3. Establishment of Emergency Reserve Fund and Budget Stabilization**  
21 **Fund.**

22       (a) Emergency Reserve Fund. – There is created within the Office of State  
23 Budget and Management a reserve to be known as the Emergency  
24 Reserve Fund. Monies in the Emergency Reserve Fund may be  
25 expended for declared emergencies only. Appropriations from the  
26 Fund must be approved by a three-fifths majority of the members of  
27 each chamber of the General Assembly. Interest or other income  
28 earned on the Emergency Reserve Fund accrues to the Fund.

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

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

40       In any year in which total State revenues exceed the fiscal year spending limit, total  
41 State revenues in excess of the fiscal year spending limit shall be treated in the  
42 following manner:

43       (1) The State Controller shall transfer total State revenues in excess of the fiscal  
44 year spending limit determined pursuant to Section 2 of this Article to the Emergency

1 Reserve Fund to the extent necessary to ensure that the balance of the Fund at the end of  
2 the fiscal year is an amount equal to three percent (3%) of the fiscal year spending limit.  
3 The State is not required to transfer any monies other than total State revenues in excess  
4 of the fiscal year spending limit to the Fund.

5 (2) After making the transfer required in subdivision (a) of this section, the State  
6 Controller shall transfer any remaining excess of total State revenues over the fiscal  
7 year spending limit determined pursuant to Section 2 of this Article to the Budget  
8 Stabilization Fund to the extent necessary to ensure that the balance of the Fund at the  
9 end of the fiscal year is an amount equal to eighteen percent (18%) of the fiscal year  
10 spending limit. The State is not required to transfer any monies other than total State  
11 revenues in excess of the sum of the fiscal year spending limit and the transfer required  
12 under subdivision (a) of this section to the Fund.

13 (3) Any excess that remains after the State Controller makes the transfers  
14 required in subdivisions (a) and (b) of this section shall be refunded to the taxpayers in  
15 the form of tax rebates or temporary tax rate reductions.

16 **"Sec. 5. Transfers prohibited.**

17 Transfers of State cash fund principal from any State cash fund to the General Fund,  
18 other than transfers from the Emergency Reserve Fund or the Budget Stabilization Fund  
19 to the General Fund, are prohibited. State cash fund appropriations that either supplant  
20 any General Fund appropriation or would necessitate a General Fund appropriation if  
21 not made are prohibited. For purposes of this section, a State cash fund appropriation  
22 that is funded by user charges or fees imposed on goods or services that do not exceed  
23 the cost of the goods or services provided is not an appropriation that supplants any  
24 General Fund appropriation.

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

26 The State shall not impose upon any unit of local government any part of the total  
27 costs of new programs or services, or increases in existing programs or services, unless  
28 a specific appropriation is made sufficient to pay the unit of local government for that  
29 purpose. The proportion of State revenue paid to all units of local government, taken as  
30 a group, shall not be reduced below that proportion in effect on July 1, 2007. Where  
31 costs are transferred from one unit of government to another unit of government, either  
32 by law or court order, the limitation imposed by Section 2 of this Article shall be  
33 adjusted and transferred accordingly so that total costs are not increased as a result of  
34 the transfer.

35 **"Sec. 7. Severability.**

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

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

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

43 **SECTION 2.** The amendment set out in Section 1 of this act shall be  
44 submitted to the qualified voters of the State at the statewide general election in

1 November of 2006, which election shall be conducted under the laws then governing  
2 elections in the State. Ballots, voting systems, or both may be used in accordance with  
3 Chapter 163 of the General Statutes. The question to be used in the voting systems and  
4 ballots shall be:

5  FOR  AGAINST

6 Constitutional amendment limiting the annual growth of the State budget to a  
7 percentage equal to the sum of annual inflation and the State's annual population growth  
8 rate."

9 **SECTION 3.** If a majority of votes cast on the question are in favor of the  
10 amendment set out in Section 1 of this act, the State Board of Elections shall certify the  
11 amendment to the Secretary of State. The Secretary of State shall enroll the amendment  
12 so certified among the permanent records of that office. The amendment set out in  
13 Section 1 of this act becomes effective January 1, 2007, and applies to fiscal years  
14 beginning on or after that date.

15 **SECTION 4.** This act is effective when it becomes law.