

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH50080-MC-47 (1/28)

Short Title: Taxpayers' Protection Act.

(Public)

Sponsors: Representatives Dollar, Burris-Floyd, Wiley, and Gillespie (Primary Sponsors).

Referred to:

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

4 The General Assembly of North Carolina enacts:

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

7 "ARTICLE V-A

8 "TAXPAYERS' PROTECTION ACT

9 **"Section 1. Definitions.**

10 The following definitions apply in this Article:

- 11 (a) Emergency. – An extraordinary event or occurrence that could not have been
12 reasonably foreseen or prevented and that requires immediate expenditure to
13 preserve the health, safety, and general welfare of the people. The term does
14 not include a revenue or budget shortfall.
- 15 (b) Fiscal year. – Any accounting period consisting of 12 consecutive months.
- 16 (c) Fiscal year spending. – The total amount of monies appropriated by the State
17 not including the following:
- 18 1. Appropriations funded by monies received from the federal
19 government.
- 20 2. Principal and interest on bonded indebtedness.
- 21 3. Appropriations funded by unemployment and disability insurance
22 funds.
- 23 4. Appropriations funded by discretionary user charges to the extent
24 that the charges do not exceed the cost of the goods or services, and
25 their purchase by the user is discretionary.
- 26 5. Appropriations funded from permanent endowments, trust funds, or
27 pension funds.
- 28 6. Proceeds of gifts or bequests made for purposes specified by the
29 donor.
- 30 7. Monies appropriated for tax relief.
- 31 (d) Inflation. – The percentage change in the consumer price index for the
32 United States for each calendar year as published by the Federal Bureau of
33 Labor Statistics.
- 34 (e) Population. – The number of people residing in the State, excluding armed
35 forces stationed overseas, as determined by the United States Census Bureau



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1 based on decennial census figures or as estimated annually by the United
2 States Census Bureau.

3 (f) Total State revenues. – All monies derived from the State's own revenue
4 sources.

5 **"Sec. 2. Spending limits.**

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

9 (2) Modification by super majority vote. – The General Assembly may vote to increase
10 the fiscal year spending limit established under this Section. An increase in the fiscal year
11 spending limit must be approved by a three-fifths majority of the members of each chamber of
12 the General Assembly.

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

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

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

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

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

30 (a) The State Controller shall transfer total State revenues in excess of the fiscal
31 year spending limit determined pursuant to Section 2 of this Article to the
32 Emergency Reserve Fund to the extent necessary to ensure that the balance
33 of the Fund at the end of the fiscal year is an amount equal to three percent
34 of the fiscal year spending limit. The State is not required to transfer any
35 monies other than total State revenues in excess of the fiscal year spending
36 limit to the Fund.

37 (b) After making the transfer required in subdivision (a) of this Section, the
38 State Controller shall transfer any remaining excess of total State revenues
39 over the fiscal year spending limit determined pursuant to Section 2 of this
40 Article to the Budget Stabilization Fund to the extent necessary to ensure
41 that the balance of the Fund at the end of the fiscal year is an amount equal
42 to eighteen percent of the fiscal year spending limit. The State is not required
43 to transfer any monies other than total State revenues in excess of the sum of
44 the fiscal year spending limit and the transfer required under subdivision (a)
45 of this Section to the Fund.

46 (c) Any excess that remains after the State Controller makes the transfers
47 required in subdivisions (a) and (b) of this Section shall be refunded to the
48 taxpayers in the form of tax rebates or temporary tax rate reductions.

49 **"Sec. 5. Transfers prohibited.**

50 Transfers of State cash fund principal from any State cash fund to the General Fund, other
51 than transfers from the Emergency Reserve Fund or the Budget Stabilization Fund to the

1 General Fund, are prohibited. State cash fund appropriations that either supplant any General
2 Fund appropriation or would necessitate a General Fund appropriation if not made are
3 prohibited. For purposes of this Section, a State cash fund appropriation that is funded by user
4 charges or fees imposed on goods or services that do not exceed the cost of the goods or
5 services provided is not an appropriation that supplants any General Fund appropriation.

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

7 The State shall not impose upon any unit of local government any part of the total costs of
8 new programs or services, or increases in existing programs or services, unless a specific
9 appropriation is made sufficient to pay the unit of local government for that purpose. The
10 proportion of State revenue paid to all units of local government, taken as a group, shall not be
11 reduced below that proportion in effect on July 1, 2008. Where costs are transferred from one
12 unit of government to another unit of government, either by law or court order, the limitation
13 imposed by Section 2 of this Article shall be adjusted and transferred accordingly so that total
14 costs are not increased as a result of the transfer.

15 **"Sec. 7. Severability.**

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

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

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

23 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
24 the qualified voters of the State at the primary election in May of 2010, which election shall be
25 conducted under the laws then governing elections in the State. Ballots, voting systems, or
26 both may be used in accordance with Chapter 163 of the General Statutes. The question to be
27 used in the voting systems and ballots shall be:

28 " FOR AGAINST

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

31 **SECTION 3.** If a majority of votes cast on the question are in favor of the
32 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
33 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
34 certified among the permanent records of that office. The amendment set out in Section 1 of
35 this act becomes effective July 1, 2010, and applies to fiscal years beginning on or after that
36 date.