

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

D

SENATE DRS35035-LY-74C (1/31)

Short Title: Taxpayers' Protection Act. (Public)

Sponsors: Senators Smith, and Stevens.

Referred to:

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.
- (iii) Appropriations funded by unemployment and disability insurance funds.
- (iv) 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.

- 1 (v) Appropriations funded from permanent endowments, trust
2 funds, or pension funds.
- 3 (vi) Proceeds of gifts or bequests made for purposes specified by the
4 donor.
- 5 (vii) Monies appropriated for tax relief.
- 6 (d) Inflation. – The percentage change in the consumer price index for the
7 United States for each calendar year as published by the Federal
8 Bureau of Labor Statistics.
- 9 (e) Population. – The number of people residing in the State, excluding
10 armed forces stationed overseas, as determined by the United States
11 Census Bureau based on decennial census figures or as estimated
12 annually by the United States Census Bureau.
- 13 (f) Total State revenues. – All monies derived from the State's own
14 revenue sources.

15 **"Sec. 2. Spending limits.**

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

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

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

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

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

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

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

- 1 (a) The State Controller shall transfer total State revenues in excess of the
2 fiscal year spending limit determined pursuant to Section 2 of this
3 Article to the Emergency Reserve Fund to the extent necessary to
4 ensure that the balance of the Fund at the end of the fiscal year is an
5 amount equal to three percent of the fiscal year spending limit. The
6 State is not required to transfer any monies other than total State
7 revenues in excess of the fiscal year spending limit to the Fund.
- 8 (b) After making the transfer required in subdivision (a) of this section,
9 the State Controller shall transfer any remaining excess of total State
10 revenues over the fiscal year spending limit determined pursuant to
11 Section 2 of this Article to the Budget Stabilization Fund to the extent
12 necessary to ensure that the balance of the Fund at the end of the fiscal
13 year is an amount equal to eighteen percent of the fiscal year spending
14 limit. The State is not required to transfer any monies other than total
15 State revenues in excess of the sum of the fiscal year spending limit
16 and the transfer required under subdivision (a) of this section to the
17 Fund.
- 18 (c) Any excess that remains after the State Controller makes the transfers
19 required in subdivisions (a) and (b) of this section shall be refunded to
20 the taxpayers in the form of tax rebates or temporary tax rate
21 reductions.

22 **"Sec. 5. Transfers prohibited.**

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

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

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

41 **"Sec. 7. Severability.**

42 If any expenditure category or revenue source shall, by a court of competent
43 jurisdiction in a final order, be adjudged exempt from this Article, the process of

1 computing the fiscal year spending limit shall be adjusted accordingly and all remaining
2 provisions shall remain in full force and effect.

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

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

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

11 FOR AGAINST

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

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