

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 87

Short Title: Taxpayers' Protection Act. (Public)

Sponsors: Senators Tillman; Allran, Berger of Rockingham, Blake, Brock, Brown, Brunstetter, Forrester, Goodall, Hunt, Jacumin, Preston, and Rucho.

Referred to: Ways and Means.

February 10, 2009

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



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 State  
38 Controller shall transfer any remaining excess of total State revenues over  
39 the fiscal year spending limit determined pursuant to Section 2 of this Article  
40 to the Budget Stabilization Fund to the extent necessary to ensure that the  
41 balance of the Fund at the end of the fiscal year is an amount equal to  
42 eighteen percent of the fiscal year spending limit. The State is not required to  
43 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.