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## HOUSE JOINT RESOLUTION NO. 684

Offered January 10, 2007

Prefiled January 9, 2007

*Proposing an amendment to the Constitution of Virginia by adding in Article X a section numbered 8-A, relating to spending limits on government.*

\_\_\_\_\_  
Patron—Frederick

\_\_\_\_\_  
Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article X a section numbered 8-A as follows:

## ARTICLE X

## TAXATION AND FINANCE

*Section 8-A. Spending limits on government.*

*A. Spending limits.*

*A "state spending limit" is established equal to the total amount of state fiscal year spending in the preceding fiscal year increased by a percentage equal to the result obtained by adding any positive increase in the rate of inflation for the calendar year ending during the preceding fiscal year, plus any positive percentage change in state population during the calendar year ending during the preceding fiscal year. This state spending limit is the binding constraint on the total amount of revenue the state can spend in any fiscal year in which revenue exceeds the state spending limit.*

*For any fiscal year in which state revenue is less than the state spending limit for that year, the state spending limit for that fiscal year becomes the binding constraint on the amount of revenue the state can spend in all subsequent fiscal years until revenue again exceeds that state spending limit.*

*The maximum annual percentage change in each local district's fiscal year spending equals inflation in the prior calendar year plus annual local growth. "Local growth" for a non-school district means a net percentage change in actual value of all real property in a district from construction of taxable real property improvements, minus destruction of similar improvements, and additions to, minus deletions from, taxable real property. For a school district, "local growth" means the percentage change in its student enrollment.*

*B. Revenue limits.*

*The maximum annual percentage change in each local district's property tax revenue equals inflation in the prior calendar year plus annual growth, adjusted for property tax revenue changes approved by voters.*

*Regardless of reassessment frequency, valuation notices shall be mailed annually and may be appealed annually, with no presumption in favor of any pending valuation. Past or future sales by a lender or government shall also be considered as comparable market sales and their sales prices kept as public records. Actual value shall be stated on all property tax bills and valuation notices and, for residential real property, determined solely by the market approach to appraisal.*

*C. Budget stabilization fund.*

*For any fiscal year in which district revenue exceeds the district spending limit, the district shall deposit into a budget stabilization fund all of the excess revenue, except that the total amount in the budget stabilization fund may not exceed an amount equal to 10 percent of the district's spending limit for that fiscal year.*

*For any fiscal year in which district revenue is less than the amount of the spending limit for that year, the district shall transfer money from the district budget stabilization fund to the general fund from available funds in the minimum amount necessary to offset a shortfall of revenue below the spending limit. The district may also make expenditures from its budget stabilization fund, only by a majority vote to provide relief from taxes imposed by state or local government. Under no other circumstances shall money be transferred from the budget stabilization fund.*

*D. Tax refunds.*

*The district shall return to the taxpayers the amount of any excess revenue received in any fiscal year that is not deposited into the budget stabilization fund. If the revenue received by the district in any calendar year, for the calendar year districts, or in any fiscal year, for fiscal year districts, exceeds*

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59 the district's spending limit, it shall return to the taxpayers the amount of the excess revenue received in  
60 the calendar year or fiscal year, as applicable. The tax refund shall be made in the calendar year, for  
61 calendar year districts, or in the fiscal year, for fiscal year districts, immediately following the calendar  
62 year or the fiscal year in which the district has the excess revenue.

63 Subject to judicial review, districts may use any reasonable method for refunding surplus revenue.  
64 This may include tax rebates and/or rate reductions. When possible these refunds should be proportional  
65 to the excess taxes paid; however, refunds need not be proportional when prior payments are  
66 impractical to identify or return.

67 E. Emergency spending and suspension of spending limits.

68 The state spending limit may only be exceeded in an emergency, as defined herein, or by a  
69 voter-approved suspension. The state spending limit may be exceeded only during the fiscal year for  
70 which the emergency is declared or suspension is approved. In no event shall any part of the amount  
71 representing a refund be the subject of an emergency request.

72 (a) Emergency spending may occur only if all of the following conditions are met: (1) The governor  
73 determines that an imminent threat to public health or safety exists and requests the legislature to  
74 declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount  
75 of the emergency, and the method by which the emergency will be funded; and (3) the legislature  
76 thereafter declares an emergency in accordance with the specific terms of the governor's request by a  
77 two-thirds vote of the members elected to and serving in each house. The emergency must be declared  
78 in accordance with this subsection prior to incurring any of the expenses which constitute the emergency  
79 request. Emergency excludes economic conditions, revenue shortfalls or fringe benefit increases.  
80 Emergency expenditures shall be made only when funds are available in the budget stabilization fund.  
81 When the above conditions are met the State Treasurer shall transfer funds from the budget stabilization  
82 fund to the general fund in the amount of emergency expenditures authorized. The funds so transferred  
83 must be replaced in the budget stabilization fund from surplus revenue in the next fiscal year in which  
84 surplus revenue is available. Emergency spending does not modify the state spending limits applicable  
85 in subsequent fiscal years.

86 (b) A voter-approved suspension of the state spending limit may occur only if all of the following  
87 conditions are met: (1) two-thirds of the members of each house vote to refer a suspension of the limits,  
88 up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital letters directly  
89 above the ballot title instructs voters: 'a "yes" vote on this measure will authorize the state to retain  
90 extra taxes and spend them in excess of constitutional limits by [insert amount of predetermined  
91 maximum additional spending.]'; and (3) the suspension is approved by a majority of eligible voters  
92 participating in a statewide general election.

93 F. State mandates.

94 The legislature may, by law, adjust any spending limit imposed under this article:

95 (a) To accommodate the transfer of services from any district subject to a spending limit under this  
96 article to any other such district, including the transfer of services that results from annexation. Any  
97 increase to a district's spending limit under this subdivision shall be offset with a corresponding  
98 decrease to the spending limit of other entities affected by the transfer of services.

99 (b) To reflect the elimination or reduction of a state-mandated service. The state spending  
100 limit under this article for any year shall be reduced by the amount of any reduction in that year in the  
101 aggregate amount of state aid to any of the categories of county, city, village, town, special purpose  
102 district, school district, or technical college district, as compared to the previous year.

103 A state law or administrative rule that increases a local governmental unit's expenditures may not be  
104 enacted or adopted on or after the ratification of this article unless the state pays the reasonable costs  
105 incurred by the entity to comply with the law or rule. This article does not apply to any law or rule that  
106 is enacted or adopted in order to comply with a requirement of federal law, including a requirement  
107 related to receiving federal aid.

108 No local governmental unit may be required under state law to increase its annual compensation for  
109 any employee or group of employees by a percentage that exceeds the allowable percentage increase in  
110 the spending limit for that local governmental unit under this article.

111 Except for public education through grade 12 or as required of a local district by federal law, a  
112 local district may reduce or end its subsidy to any program delegated to it by the general assembly for  
113 administration. For current programs, the state may require 90 days notice and that the adjustment  
114 occur in a maximum of three equal annual installments.

115 G. Election provisions.

116 Starting January 1, 2009, districts must have voter approval in advance for:

117 (a) any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment  
118 ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly  
119 causing a net tax revenue gain to any district.

120 (b) Except for refinancing district bonded debt at a lower interest rate or adding new employees to

existing district pension plans, creation of any multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years.

Election provisions are as follows:

(a) Ballot issues shall be decided in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years. Except for petitions, bonded debt, or charter or constitutional provisions, districts may consolidate ballot issues and voters may approve a delay of up to four years in voting on ballot issues. District actions taken during such a delay shall not extend beyond that period.

(b) At least 30 days before a ballot issue election, districts shall mail at the least cost, and as a package where districts with ballot issues overlap, a titled notice or set of notices addressed to "All Registered Voters" at each address of one or more active registered electors. The districts may coordinate the mailing required by this subdivision (b) with the distribution of the ballot information in order to save mailing costs.

Titles shall have this order of preference: **"NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE."** Except for district voter-approved additions, notices shall include only:

(i) The election date, hours, ballot title, text, and local election office address and telephone number.

(ii) For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change.

(iii) For the first full fiscal year of each proposed district tax increase, district estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.

(iv) For proposed district bonded debt, its principal amount and maximum annual and total district repayment cost, and the principal balance of total current district bonded debt and its maximum annual and remaining total district repayment cost.

(v) Two summaries, up to 500 words each, one for and one against the proposal, of written comments filed with the election officer by 45 days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The election officer shall maintain and accurately summarize all other relevant written comments.

Except by later voter approval, if a tax increase or fiscal year spending exceeds any estimate in (iii) for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess, and the combined excess revenue refunded in the next fiscal year. District bonded debt shall not issue on terms that could exceed its share of its maximum repayment costs in (iv). Ballot titles for tax or bonded debt increases shall begin, **"SHALL (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?"** or **"SHALL (DISTRICT) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total district cost), ...?"**

H. Enforcement provisions.

This amendment to the Constitution takes effect January 1, 2009. Its preferred interpretation shall reasonably restrain most the growth of government. All provisions are self-executing and severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions. Other limits on district revenue, spending, and debt may be weakened only by future voter approval.

Individual or class action enforcement suits may be filed and shall have the highest civil priority of resolution. Successful plaintiffs are allowed costs and reasonable attorney fees, but a district is not unless a suit against it be ruled frivolous. Revenue collected, kept, or spent illegally since four full fiscal years before a suit is filed shall be refunded with 10% annual simple interest from the initial conduct.

I. Definitions.

Term definitions are as follows:

(a) "Ballot issue" means a non-recall petition or referred measure in an election.

(b) "District" means the state or any local government, excluding enterprises.

(c) "Emergency" excludes economic conditions, revenue shortfalls, or district salary or fringe benefit increases.

(d) "Enterprise" means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all state and local governments combined.

(e) "Fiscal year spending" means all district expenditures except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, damage awards, or property sales. Fiscal year spending does not include 1) any appropriations to fund 'emergencies' as defined in this subsection; 2) any appropriations funded by a suspension vote pursuant to this article; 3) any surplus

182 revenues transferred or rebated pursuant to this article; 4) the payment of principal and interest on  
183 bonds contracted specifically for the acquisition of tangible assets or the construction of public projects  
184 which are amortized over a period of at least 20 years; 5) the proceeds of any bonds expended before  
185 the end of the 2006-2007 fiscal year and the proceeds of any bonds contracted specifically for the  
186 acquisition of tangible assets or the construction of public projects which are amortized over a period of  
187 at least 20 years issued after November 7, 2006; 6) revenue from licenses and fees, if the money does  
188 not exceed the cost of issuing the license or providing the service associated with the license or fee.

189 (f) "Local growth" for a non-school district means a net percentage change in actual value of all  
190 real property in a district from construction of taxable real property improvements, minus destruction of  
191 similar improvements, and additions to, minus deletions from, taxable real property. For a school  
192 district, it means the percentage change in its student enrollment.

193 (g) "Inflation" means the percentage change in the United States Bureau of Labor Statistics  
194 Consumer Price Index for all items, all urban consumers, or its successor index.

195 (h) "Population" means the number of people residing in the state, excluding armed forces stationed  
196 overseas, as estimated by the annual census conducted by the Federal Census Bureau, and such number  
197 shall be adjusted to match the federal decennial census.

198 (i) "Bonds" means any form of multi-fiscal year indebtedness, including non-recourse, limited tax  
199 general obligation bonds, or limited liability bonds.