THE JAMES MADISON INSTITUTE

Model Florida Taxpayer Protection Act (State and Local)

SECTION 1. SPENDING LIMITS

State appropriations shall be subject to a limit equal to total appropriations 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 appropriations limit is the binding constraint on total appropriations in any fiscal year in which revenue exceeds the appropriations limit.

For any fiscal year in which state revenue from all sources is less than the appropriations limit for that year, the appropriations 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 jurisdiction'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 that jurisdiction's population. For a school district, "local growth" means the percentage change in its student enrollment.

SECTION 2. REVENUE LIMITS

The maximum annual percentage change in each local jurisdiction'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.

SECTION 3. BUDGET STABILIZATION FUND

For any fiscal year in which a jurisdiction's revenue exceeds that jurisdiction's spending limit, the jurisdiction 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 jurisdiction's spending limit for that fiscal year.

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

SECTION 4. TAX REFUNDS

Jurisdictions 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 jurisdiction in any fiscal year exceeds the jurisdiction's spending limit, it shall return to the taxpayers the amount of the excess revenue received in that year. The tax refund shall be made in the fiscal year immediately following the calendar year or the fiscal year in which the jurisdiction has the excess revenue.

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

SECTION 5. EMERGENCY SPENDING AND SUSPENSION OF SPENDING LIMITS

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

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

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

Local jurisdiction spending limits may only be exceeded in an emergency which meets the same criteria as for state emergencies, or by a voter-approved suspension.

(a) Emergency spending may occur only if the local jurisdiction makes a specific request to the state legislature stating the dollar amount needed, and that request is approved by a two-thirds vote of each house, and by the Governor. Funds may then be transferred from the local jurisdiction's budget stabilization fund for that dollar amount. The funds so transferred must be replaced in the budget stabilization fund from surplus revenue in the next fiscal year in which surplus revenue is available. Emergency spending does not modify the local jurisdiction's applicable spending limits in subsequent fiscal years.

(b) A voter-approved suspension of a local jurisdiction's spending limit may occur only if all the following conditions are met: two-thirds of the members of the governing body (e.g., city or county commission) vote to refer a suspension of the limits, up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital letters directly above the ballot title instructs voters: 'a "yes" vote on this measure will authorize the jurisdiction to exceed its constitutional spending limit by [insert the amount of predetermined maximum additional spending]'; and (3) the suspension is approved by a majority of the eligible voters participating in a general election in that jurisdiction.

SECTION 6. STATE MANDATES

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

(a) To accommodate the transfer of services from any jurisdiction subject to a spending limit under this section to any other such jurisdiction, including the transfer of services that results from annexation. Any increase to a jurisdiction's spending limit under this paragraph shall be offset with a corresponding decrease to the spending limit of other entities affected by the transfer of services.

(b) To reflect the elimination or reduction of a state−mandated service.

The state spending limit under this section for any year shall be reduced by the amount of any reduction in that year in the aggregate amount of state aid to any of the categories of county, city, special purpose district, or school district, as compared to the previous year.

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

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

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

SECTION 7. ELECTION PROVISIONS

Starting (insert date) all jurisdictions must have voter approval in advance for:
(a) any new tax, tax rate increase, mill levy above that for the prior year, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district.
(b) Except for refinancing bonded debt at a lower interest rate or adding new employees to existing jurisdiction pension plans, creation of any multiple-fiscal year direct or indirect 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, local jurisdiction election, or on the first Tuesday in November of odd-numbered years. Except for petitions, bonded debt, or charter or constitutional provisions, jurisdictions may consolidate ballot issues and voters may approve a delay of up to four years in voting on ballot issues. Jurisdiction actions taken during such a delay shall not extend beyond that period.
(b) At least 30 days before a ballot issue election, jurisdictions shall mail at the least cost, and as a package where jurisdictions 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 jurisdictions may coordinate the mailing required by this paragraph (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 local government 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 tax or bonded debt increases, the estimated or actual total of 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 tax increase, estimates of the maximum dollar amount of each increase and of fiscal year spending without the increase.
(iv) For proposed bonded debt, its principal amount and maximum annual and total repayment cost, and the principal balance of total current bonded debt and its maximum annual and remaining total jurisdiction 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. 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**

(JURISDICTION) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?" or "SHALL (JURISDICTION) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total district cost), ...?"

SECTION 8. ENFORCEMENT PROVISIONS

This amendment to the constitution takes effect (insert starting date) Its preferred interpretation shall reasonably restrain the growth of government. All provisions are severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions. Other limits on jurisdiction 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 jurisdiction 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.

SECTION 9. DEFINITIONS

Term definitions are as follows:
(a) "Ballot issue" means a non-recall petition or referred measure in an election.
(b) "Jurisdiction" 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 jurisdiction 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 section; 2) any appropriations funded by a suspension vote pursuant to this section 3) any surplus revenues transferred or rebated pursuant to this section 4) the payment of principal and interest on bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years; 5) the proceeds of any bonds expended before the end of the 2006-2007 fiscal year and the proceeds of any bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years issued after November 7, 2006; 6) revenue from licenses and fees, if the money does not exceed the cost of issuing the license or providing the service associated with the license or fee.

(f) “Local growth” for a non-school district means a net percentage change in actual value of all real property in a jurisdiction 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, it means the percentage change in its student enrollment.
(g)“Inflation” means the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for ____________, all items, all urban consumers, or its successor index.
(h)“Population” means the number of people residing in the state, excluding armed forces stationed overseas, as estimated by the annual census conducted by the Federal Census Bureau, and such number shall be adjusted to match the federal decentennial census.
(i) “Bonds” means any form of multi-fiscal year indebtedness, including non-recourse, limited tax general obligation bonds, or limited liability bonds.