

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 188

Short Title: Taxpayer Bill of Rights. (Public)

Sponsors: Representatives Blust, Killian, Holloway, and Dollar (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary.

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GOVERNMENTAL ACCOUNTABILITY AND PROTECTION TO
THE TAXPAYERS BY LIMITING INCREASES IN THE GENERAL FUND BUDGET,
TO REFORM THE BUDGET PROCESS, TO ESTABLISH AN EMERGENCY
RESERVE TRUST FUND, AND TO AMEND THE NORTH CAROLINA
CONSTITUTION TO ESTABLISH A GENERAL FUND EXPENDITURE LIMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-1-1(d) is amended by adding the following new subdivisions to read:

"(12a) Fiscal growth factor. – The average of the sum of inflation and population change for each of the preceding three calendar years. If either inflation or the population change for the preceding three calendar years is negative, then that change shall be counted as zero.

(16b) Inflation. – The percentage change in the consumer price index for the United States for each calendar year as published by the Federal Bureau of Labor Statistics.

(21a) Population change. – The percentage change in State population for each calendar year as reported by the Office of State Budget and Management."

SECTION 2. Article 4 of Chapter 143C of the General Statutes is amended by adding the following new sections to read:

§ 143C-4-8. Determination of General Fund expenditure limit.

(a) General Fund Expenditure Limit. – The General Fund expenditure limit for each fiscal year shall be the previous fiscal year's General Fund expenditure limit increased by a percentage rate that equals the fiscal growth factor.

(b) Base Fiscal Year for General Fund Expenditure Limit. – The total authorized General Fund for the fiscal year beginning July 1, 2012, increased by the fiscal growth factor shall be used to determine the General Fund expenditure limit for the fiscal year beginning July 1, 2013, which will then be used to determine the General Fund expenditure limit for succeeding fiscal years.

(c) Decreases in General Fund Expenditure Limit. – If, on or after December 31, 2012, the cost of any State program or function is shifted from the General Fund to another source of funding, including, but not limited to, counties or other units of local government, or if moneys are transferred from the General Fund to another fund or account, the General Fund expenditure limit shall be reduced by a like amount.



1 (d) Fiscal Reports. – On or before March 15 of each year, the Fiscal Research Division
2 and the Office of State Budget and Management shall issue a determination of the General
3 Fund expenditure limit for the fiscal year beginning July 1 of that year and a projection of the
4 General Fund expenditure limit for the next fiscal year. If the Fiscal Research Division and the
5 Office of State Budget and Management do not agree on the General Fund expenditure limit,
6 the lowest determination and projection shall be used.

7 **"§ 143C-4-9. Increase in General Fund expenditure limited.**

8 (a) Governor Bound by General Fund Expenditure Limit. – In preparing the budget for
9 a fiscal year, the Governor shall not propose expenditures from the General Fund for the
10 ensuing fiscal period in excess of the projected General Fund expenditure limit established
11 under G.S. 143C-4-8.

12 (b) General Assembly Bound by General Fund Expenditure Limit. – In enacting the
13 budget for a fiscal year, the General Assembly shall not make appropriations from the General
14 Fund in excess of the General Fund expenditure limit established under G.S. 143C-4-8.

15 (c) No State Moneys to Be Paid in Excess of General Fund Expenditure Limit. – Except
16 as provided in G.S. 143C-4-10, no money shall be drawn from the State treasury if the
17 withdrawal will result in a State expenditure for any fiscal year in excess of the General Fund
18 expenditure limit established under G.S. 143C-4-8. Except as provided in G.S. 143C-4-10, the
19 Governor, the State Treasurer, and the State Controller shall not issue or redeem any draft,
20 check, warrant, or voucher that will result in a State expenditure for any fiscal year in excess of
21 the General Fund expenditure limit established under G.S. 143C-4-8.

22 (d) Revenue in Excess of General Fund Expenditure Limit Credited to Emergency
23 Reserve Trust Fund. – All General Fund revenue collected in excess of the General Fund
24 expenditure limit shall be credited to the Emergency Reserve Trust Fund at the end of each
25 fiscal year.

26 **"§ 143C-4-10. Two-thirds vote of General Assembly required to exceed General Fund**
27 **expenditure limit.**

28 The General Assembly may, by an affirmative vote of two-thirds of the members of each
29 house, make General Fund appropriations for nonrecurring expenses in excess of the General
30 Fund expenditure limit for a period not to exceed 12 months beginning on the effective date of
31 the appropriations."

32 **SECTION 3.** G.S. 143C-4-2 reads as rewritten:

33 **"§ 143C-4-2. ~~Savings Reserve Account~~ Emergency Reserve Trust Fund and**
34 **appropriation of General Fund unreserved fund balance.**

35 (a) Creation and Source of Funds. – The ~~Savings Reserve Account~~Emergency Reserve
36 Trust Fund is established as a reserve in the General Fund. The Controller shall reserve to the
37 ~~Savings Reserve Account~~Emergency Reserve Trust Fund one-fourth of any unreserved fund
38 balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal
39 year. The Emergency Reserve Trust Fund shall also include revenue in excess of the General
40 Fund expenditure limit credited in accordance with G.S. 143C-4-9(c).

41 (b) ~~Use of Funds.~~Two-Thirds Vote Required to appropriate Funds From the
42 Emergency Reserve Trust Fund. – The ~~Savings Reserve Account~~Emergency Reserve Trust
43 Fund is a component of the unappropriated General Fund balance. Funds reserved to the
44 ~~Savings Reserve Account~~Emergency Reserve Trust Fund shall be available for expenditure
45 only upon an act of appropriation by the General ~~Assembly~~Assembly that passes by an
46 affirmative vote of two-thirds of the members of each house.

47 (c) ~~Goal for Savings Reserve Account Balance.~~ – ~~The General Assembly recognizes the~~
48 ~~need to establish and maintain sufficient reserves to address unanticipated events and~~
49 ~~circumstances such as natural disasters, economic downturns, threats to public safety, health,~~
50 ~~and welfare, and other emergencies. It is a goal of the General Assembly and the State to~~

1 ~~accumulate and maintain a balance in the Savings Reserve Account equal to or greater than~~
2 ~~eight percent (8%) of the prior year's General Fund operating budget.~~

3 (d) Transfers From Emergency Reserve Trust Fund Permissible to Pay Appropriations
4 When Budgeted Funds Are Insufficient. – If the Director of the Budget determines that (i)
5 pursuant to the provisions of G.S. 143C-6-2, the aggregate revenues collected and available
6 during a fiscal year are not sufficient to pay all of the appropriations for that fiscal year in full
7 or (ii) pursuant to the provisions of Section 5(3) of Article III of the North Carolina
8 Constitution, receipts during a fiscal year when added to the surplus remaining in the State
9 treasury at the beginning of the fiscal year will not be sufficient to meet budgeted expenditures,
10 the Director may, in the Director's discretion, transfer funds from the Emergency Reserve Trust
11 Fund to pay the appropriations for the fiscal year to the extent funds are available. If the
12 Director of the Budget decides not to transfer the funds from the Emergency Reserve Trust
13 Fund as provided in this section, the Director shall proceed as provided in G.S. 143C-6-2 or
14 Section 5(3) of Article III of the North Carolina Constitution to administer the budget so as to
15 prevent any overdraft or deficit.

16 (e) Excess Funds to Be Returned to Taxpayers. – If the total funds in the Emergency
17 Reserve Trust Fund at the end of the fiscal year exceed an amount equal to five percent (5%) of
18 the total General Fund appropriation for the prior fiscal year, the excess over five percent (5%)
19 shall be reserved to provide tax relief to the citizens of North Carolina."

20 **SECTION 4.** The funds in the Savings Reserve Account are transferred to the
21 Emergency Reserve Trust Fund established by G.S. 143C-4-2.

22 **SECTION 5.** The State Budget Act, Chapter 143C of the General Statutes, is
23 amended by adding the following new section to read:

24 **§ 143C-3.6. Collections for prior calendar year to be revenue estimates for next fiscal**
25 **year.**

26 (a) In preparing the budget for a fiscal year, the Governor shall use as the State funds
27 revenue estimate for the General Fund no more than the total State funds received for the
28 calendar year ending December 31 immediately prior to the fiscal year, with the following
29 changes only:

30 (1) If any revenue decreases were effective for only part of that calendar year,
31 the revenue estimate shall be reduced by an annualized total of the impact of
32 such decreases.

33 (2) If the budget proposes any revenue reductions to be effective during the
34 fiscal year, the revenue estimate shall be reduced by the total estimated
35 amount of such reductions during the fiscal year.

36 (3) Any onetime revenues in the prior calendar year shall not be included in the
37 revenue estimates.

38 (4) If the budget proposes any revenue increases due to increases in taxes or fees
39 to be enacted, or new taxes or fees to be enacted, an estimate of collections
40 of such increased or new taxes or fees may be made.

41 (b) In enacting the budget for a fiscal year, the General Assembly shall use as the
42 revenue estimate no more than the total State funds received for the calendar year ending
43 December 31 immediately prior to the fiscal year, with the following changes only:

44 (1) If any revenue decreases were effective for only part of that calendar year,
45 the revenue estimate shall be reduced by an annualized total of the impact of
46 such decreases.

47 (2) If the budget proposes or assumes any revenue reductions to be effective
48 during the fiscal year, the revenue estimate shall be reduced by the total
49 estimated amount of such reductions during the fiscal year.

50 (3) Any onetime revenues in the prior calendar year shall not be included in the
51 revenue estimates.

1 (4) If the budget proposes any revenue increases due to increases in taxes or fees
2 to be enacted, or new taxes or fees to be enacted, an estimate of collections
3 of such increased or new taxes or fees may be made, but the revenue
4 estimate for that fiscal year may not exceed the lower of an estimate made
5 by the Fiscal Research Division or an estimate made by the Office of State
6 Budget and Management.

7 (c) If the budget contains an estimate of any credit balance at the end of the fiscal year
8 ending immediately prior to the beginning of the fiscal year covered by the budget, one-half of
9 that credit balance may be proposed only for capital projects, or other projects with a fiscal
10 impact only in that fiscal year.

11 (d) Revenue from borrowings in the prior calendar year shall not be included in the
12 estimates, unless expenditure of the funds is proposed during the fiscal year covered by the
13 proposed budget. Proposed revenue from borrowing in the proposed budget shall only be
14 included to the extent that appropriations against such borrowings are budgeted.

15 (e) If the General Assembly appropriates any credit balance in the State treasury at the
16 end of the fiscal year ending immediately prior to the beginning of the fiscal year covered by
17 the budget, one-half of that credit balance may be appropriated only for capital projects, or
18 other projects with a fiscal impact only in that fiscal year."

19 **SECTION 6.** Article V of the North Carolina Constitution is amended by adding a
20 new section to read:

21 **"Sec. 15. General Fund expenditure limit.**

22 (1) Definitions. The following definitions apply in this section:

23 (a) Fiscal growth factor. The average of the sum of inflation and population
24 change for each of the preceding three calendar years. If either inflation or
25 the population change for the preceding three calendar years is negative,
26 then that change shall be counted as zero.

27 (b) Inflation. The percentage change in the consumer price index for the United
28 States for each calendar year as published by the Federal Bureau of Labor
29 Statistics.

30 (c) Population change. The percentage change in State population for each
31 calendar year as reported by the Office of State Budget and Management.

32 (2) General Fund expenditure limit. The General Fund expenditure limit for each fiscal
33 year shall be the previous year's General Fund expenditure limit increased by a percentage rate
34 that equals the fiscal growth factor. The Governor shall not propose expenditures from the
35 General Fund for the ensuing fiscal period in excess of the projected General Fund expenditure
36 limit. In enacting the budget for the fiscal year, the General Assembly shall not make
37 appropriations from the General Fund in excess of the General Fund limit.

38 (3) Base fiscal year for General Fund expenditure limit. The total authorized General
39 Fund budget for the fiscal year beginning July 1, 2012, increased by the fiscal growth factor,
40 shall be used to determine the General Fund expenditure limit for the fiscal year beginning July
41 1, 2013, which will then be used to determine the General Fund expenditure limit for
42 succeeding fiscal years.

43 (4) Decreases in General Fund expenditure limit. If, on or after December 31, 2012, the
44 cost of any State program or function is shifted from the General Fund to another source of
45 funding, including, but not limited to, counties or other units of local government, or if moneys
46 are transferred from the General Fund to another fund or account, the General Fund
47 expenditure limit shall be reduced by a like amount.

48 (5) Two-thirds vote of General Assembly required to exceed General Fund expenditure
49 limit. The General Assembly may, by an affirmative vote of two-thirds of the members of each
50 house, make General Fund appropriations for nonrecurring expenses in excess of the General

1 Fund expenditure limit for a period not to exceed 12 months beginning on the effective date of
2 the appropriations.

3 (6) Any funds that are unexpended as a result of this provision that exceed five percent
4 (5%) of the General Fund appropriation for the prior fiscal year shall be returned to the
5 taxpayers."

6 **SECTION 7.** The amendment set out in Section 6 of this act shall be submitted to
7 the qualified voters of the State at the general election in November of 2012, which election
8 shall be conducted under the laws then governing elections in the State. Ballots, voting
9 systems, or both may be used in accordance with Chapter 163 of the General Statutes. The
10 question to be used in the voting systems and ballots shall be:

11 "[] FOR [] AGAINST

12 Constitutional amendment to limit the General Fund expenditures for each fiscal
13 year to an amount that does not exceed the previous year's General Fund expenditure limit
14 increased by a percentage rate that equals the fiscal growth factor and to provide that the base
15 fiscal year for the General Fund expenditure limit shall be the total authorized General Fund
16 budget for the fiscal year beginning July 1, 2012, increased by the fiscal growth factor. That
17 baseline shall be used to determine the General Fund expenditure limit for the fiscal year
18 beginning July 1, 2013, which will then be used to determine the General Fund expenditure
19 limit for succeeding fiscal years."

20 **SECTION 8.** If a majority of the votes cast on the ballot question, as set out in
21 Section 7 of this act, are in favor of the amendment set out in Section 6 of this act, the State
22 Board of Elections shall certify the amendment to the Secretary of State. The amendment
23 becomes effective upon this certification. The Secretary of State shall enroll the amendment so
24 certified among the permanent records of that office.

25 **SECTION 9.** Sections 1 through 5 of this act become effective only if the
26 constitutional amendment set out in Section 6 of this act is approved by the qualified voters of
27 the State, as provided in Section 7 of this act. In such case, Section 5 of this act is effective
28 beginning with the budget for fiscal year 2013-2014.

29 **SECTION 10.** This act is effective when it becomes law.