

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 492

Short Title: Taxpayers' Bill Of Rights for NC. (Public)

Sponsors: Representatives Blust, Rhodes (Primary Sponsors); Blackwood, Brown, Capps, Cleveland, Culp, Current, Daughtry, Dollar, Folwell, Frye, Gulley, Hilton, Holloway, Lewis, McGee, McMahan, Moore, Pate, Preston, Setzer, Stam, Starnes, Steen, Vinson, Walend, Wiley, and Wilson.

Referred to: Rules, Calendar, and Operations of the House.

March 7, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE GOVERNMENTAL ACCOUNTABILITY AND
2 PROTECTION TO THE TAXPAYERS BY LIMITING INCREASES IN THE
3 GENERAL FUND BUDGET, REFORMING THE BUDGET PROCESS,
4 ESTABLISHING AN EMERGENCY RESERVE TRUST FUND AND TO
5 AMEND THE NORTH CAROLINA CONSTITUTION TO ESTABLISH A
6 GENERAL FUND EXPENDITURE LIMIT.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Article 1 of Chapter 143 of the General Statutes is amended by
10 adding the following new sections:

11 **"§ 143-2.1. Definitions and determination of the General Fund expenditure limit.**

12 (a) Definitions. – The following definitions apply in this section and in
13 G.S. 143-2.3, 143-2.4, and 143-15.3A:

14 (1) Credit balance. – That part of the credit balance, as determined on a
15 cash basis, not already reserved to the Emergency Reserve Trust Fund
16 or the Repairs and Renovations Reserve Account, excluding excess
17 revenue that is over the General Fund expenditure limit.

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

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

1 (4) Population change. – The percentage change in State population for
2 each calendar year as reported by the Office of State Budget and
3 Management.

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

7 (c) Base Fiscal Year for General Fund Expenditure Limit. – The total authorized
8 General Fund budget for the fiscal year beginning July 1, 2005, increased by the fiscal
9 growth factor shall be used to determine the General Fund expenditure limit for the
10 fiscal year beginning July 1, 2006, which will then be used to determine the General
11 Fund expenditure limit for succeeding fiscal years.

12 (d) Decreases in General Fund Expenditure Limit. – If, on or after December 31,
13 2005, the cost of any State program or function is shifted from the General Fund to
14 another source of funding, including, but not limited to, counties or other units of local
15 government, or if moneys are transferred from the General Fund to another fund or
16 account, the General Fund expenditure limit shall be reduced by a like amount.

17 (e) Fiscal Reports. – On or before March 15 of each year, the Fiscal Research
18 Division and the Office of State Budget and Management shall issue a determination of
19 the General Fund expenditure limit for the fiscal year beginning July 1 of that year and a
20 projection of the General Fund expenditure limit for the next fiscal year. If the Fiscal
21 Research Division and the Office of State Budget and Management do not agree on the
22 General Fund expenditure limit, the lowest determination and projection shall be used.

23 "**§ 143-2.2. Increase in General Fund expenditure limited.**

24 (a) Governor Bound by General Fund Expenditure Limit. – In preparing the
25 budget for a fiscal year, the Governor shall not propose expenditures from the General
26 Fund for the ensuing fiscal period in excess of the projected General Fund expenditure
27 limit established under G.S. 143-2.1.

28 (b) General Assembly Bound by General Fund Expenditure Limit. – In enacting
29 the budget for the fiscal year, the General Assembly shall not make appropriations from
30 the General Fund in excess of the General Fund expenditure limit established under
31 G.S. 143-2.1.

32 (c) No State Moneys to Be Paid in Excess of General Fund Expenditure Limit. –
33 Except as provided in G.S. 143-2.5, no money shall be drawn from the State treasury if
34 the withdrawal will result in a State expenditure for any fiscal year in excess of the
35 General Fund expenditure limit established under G.S. 143-2.1. Except as provided in
36 G.S. 143-2.5, the Governor, the State Treasurer, and the State Controller shall not issue
37 or redeem any draft, check, warrant, or voucher that will result in a State expenditure for
38 any fiscal year in excess of the General Fund expenditure limit established under
39 G.S. 143-2.1.

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

44 "**§ 143-2.3. Use of General Fund credit balance.**

1 The State Controller shall reserve one-fourth of any credit balance remaining in the
2 General Fund at the end of each fiscal year to the Emergency Reserve Trust Fund. The
3 State Controller shall reserve three percent (3%) of the replacement value of all State
4 buildings supported from the General Fund at the end of each fiscal year to the Repairs
5 and Renovations Reserve Account as provided in G.S. 143-15.3A.

6 **"§ 143-2.4. Emergency Reserve Trust Fund.**

7 (a) Emergency Reserve Trust Fund Established. – There is established in the
8 Department of State Treasurer a noninterest-bearing fund known as the Emergency
9 Reserve Trust Fund. The Emergency Reserve Trust Fund shall include the funds
10 reserved by the State Controller in accordance with G.S. 143-2.3. The Emergency
11 Reserve Trust Fund shall also include revenue in excess of the General Fund
12 expenditure limit credited in accordance with G.S. 143-2.2.

13 (b) Transfers From Emergency Reserve Trust Fund Permissible to Pay
14 Appropriations When Budgeted Funds Are Insufficient. – If the Director of the Budget
15 determines that: (i) pursuant to the provisions of G.S. 143-25, the aggregate revenues
16 collected and available during a fiscal year are not sufficient to pay all of the
17 appropriations for that fiscal year in full; or (ii) pursuant to the provisions of Section
18 5(3) of Article III of the North Carolina Constitution, receipts during a fiscal year when
19 added to the surplus remaining in the State treasury at the beginning of the fiscal year
20 will not be sufficient to meet budgeted expenditures, the Director may, in the Director's
21 discretion, transfer funds from the Emergency Reserve Trust Fund to pay the
22 appropriations for the fiscal year to the extent funds are available. If the Director of the
23 Budget decides not to transfer the funds from the Emergency Reserve Trust Fund as
24 provided in this section, the Director shall proceed as provided in G.S. 143-25 or
25 Section 5(3) of Article III of the North Carolina Constitution to administer the budget so
26 as to prevent any overdraft or deficit.

27 (c) Two-Thirds Vote Required to Appropriate Funds From the Emergency
28 Reserve Trust Fund. – The General Assembly may make appropriations out of the
29 Emergency Reserve Trust Fund only by the affirmative vote of two-thirds of the
30 members of each house.

31 (d) Excess Funds to Be Returned to Taxpayers. – If the total funds in the
32 Emergency Reserve Trust Fund at the end of the fiscal year exceeds an amount equal to
33 five percent (5%) of the total General Fund appropriation for the prior fiscal year, the
34 excess over five percent (5%) shall be reserved to provide tax relief to the citizens of
35 North Carolina.

36 **"§ 143-2.5. Two-thirds vote of General Assembly required to exceed General Fund**
37 **expenditure limit.**

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

42 **SECTION 2.** G.S. 143-15.2 and G.S. 143-15.3 are repealed. The funds in
43 the Savings Reserve Account are transferred to the Emergency Reserve Trust Fund
44 established by G.S. 143-2.4, as enacted by Section 1 of this act.

1 **SECTION 3.** Article V of the North Carolina Constitution is amended by
2 adding a new section to read:

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

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

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

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

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

15 (2) General Fund expenditure limit. The General Fund expenditure limit for each
16 fiscal year shall be the previous year's General Fund expenditure limit increased by a
17 percentage rate that equals the fiscal growth factor. The Governor shall not propose
18 expenditures from the General Fund for the ensuing fiscal period in excess of the
19 projected General Fund expenditure limit. In enacting the budget for the fiscal year, the
20 General Assembly shall not make appropriations from the General Fund in excess of the
21 General Fund limit.

22 (3) Base fiscal year for General Fund expenditure limit. The total authorized
23 General Fund budget for the fiscal year beginning July 1, 2005, increased by the fiscal
24 growth factor, shall be used to determine the General Fund expenditure limit for the
25 fiscal year beginning July 1, 2006, which will then be used to determine the General
26 Fund expenditure limit for succeeding fiscal years.

27 (4) Decreases in General Fund expenditure limit. If, on or after December 31,
28 2005, the cost of any State program or function is shifted from the General Fund to
29 another source of funding, including, but not limited to, counties or other units of local
30 government, or if moneys are transferred from the General Fund to another fund or
31 account, the General Fund expenditure limit shall be reduced by a like amount.

32 (5) Two-thirds vote of General Assembly required to exceed General Fund
33 expenditure limit. The General Assembly may, by an affirmative vote of two-thirds of
34 the members of each house, make General Fund appropriations for nonrecurring
35 expenses in excess of the General Fund expenditure limit for a period not to exceed 12
36 months beginning on the effective date of the appropriations.

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

40 **SECTION 4.** The amendment set out in Section 3 of this act shall be
41 submitted to the qualified voters of the State at the next general election, which election
42 shall be conducted under the laws then governing elections in the State. Ballots, voting
43 systems, or both may be used in accordance with Chapter 163 of the General Statutes.
44 The question to be used in the voting systems and ballots shall be:

