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

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

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

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

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

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

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

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

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


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

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

(c) Goal for Savings Reserve Account Balance. – The General Assembly recognizes the need to establish and maintain sufficient reserves to address unanticipated events and circumstances such as natural disasters, economic downturns, threats to public safety, health, and welfare, and other emergencies. It is a goal of the General Assembly and the State to
accumulate and maintain a balance in the Savings Reserve Account equal to or greater than
eight percent (8%) of the prior year’s General Fund operating budget.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Any onetime revenues in the prior calendar year shall not be included in the
revenue estimates.
If the budget proposes any revenue increases due to increases in taxes or fees to be enacted, or new taxes or fees to be enacted, an estimate of collections of such increased or new taxes or fees may be made, but the revenue estimate for that fiscal year may not exceed the lower of an estimate made by the Fiscal Research Division or an estimate made by the Office of State Budget and Management.

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

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

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

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

"Sec. 15. General Fund expenditure limit.

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

(a) 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.

(b) 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.

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

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

(3) Base fiscal year for General Fund expenditure limit. The total authorized General Fund budget 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.

(4) 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.

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

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

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

"[ ] FOR [ ] AGAINST

Constitutional amendment to limit the General Fund expenditures for each fiscal year to an amount that does not exceed the previous year's General Fund expenditure limit increased by a percentage rate that equals the fiscal growth factor and to provide that the base fiscal year for the General Fund expenditure limit shall be the total authorized General Fund budget for the fiscal year beginning July 1, 2012, increased by the fiscal growth factor. That baseline 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."

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

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

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