

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 159

Short Title: Taxpayer Bill of Rights. (Public)

Sponsors: Representatives Blust, Setzer, Holloway, Cleveland (Primary Sponsors); Allred, Blackwood, Burr, Current, Daughtry, Dockham, Dollar, Folwell, Frye, Gulley, Hurley, Johnson, Justice, Justus, Killian, Langdon, Lewis, McGee, Mills, Neumann, Randleman, Samuelson, Starnes, and Tillis.

Referred to: Rules, Calendar, and Operations of the House, if favorable, Judiciary I, if favorable, Appropriations.

February 16, 2009

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

7 The General Assembly of North Carolina enacts:

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

10 "(12a) Fiscal growth factor. – The average of the sum of inflation and population  
11 change for each of the preceding three calendar years. If either inflation or  
12 the population change for the preceding three calendar years is negative,  
13 then that change shall be counted as zero.

14 (16a) Inflation. – The percentage change in the consumer price index for the  
15 United States for each calendar year as published by the Federal Bureau of  
16 Labor Statistics.

17 (21a) Population change. – The percentage change in State population for each  
18 calendar year as reported by the Office of State Budget and Management."

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

21 "**§ 143C-4-8. Determination of General Fund expenditure limit.**

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

25 (b) Base Fiscal Year for General Fund Expenditure Limit. – The total authorized  
26 General Fund for the fiscal year beginning July 1, 2009, increased by the fiscal growth factor  
27 shall be used to determine the General Fund expenditure limit for the fiscal year beginning July  
28 1, 2009, which will then be used to determine the General Fund expenditure limit for  
29 succeeding fiscal years.

30 (c) Decreases in General Fund Expenditure Limit. – If, on or after December 31, 2009,  
31 the cost of any State program or function is shifted from the General Fund to another source of  
32 funding, including, but not limited to, counties or other units of local government, or if moneys



1 are transferred from the General Fund to another fund or account, the General Fund  
2 expenditure limit shall be reduced by a like amount.

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

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

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

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

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

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

28 **"§ 143C-4-10. Two-thirds vote of General Assembly required to exceed General Fund**  
29 **expenditure limit.**

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

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

35 **"§ 143C-4-2. ~~Savings Reserve Account~~ Emergency Reserve Trust Fund and**  
36 **appropriation of General Fund unreserved fund balance.**

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

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

49 (c) Goal for Savings Reserve Account Balance. – The General Assembly recognizes the  
50 need to establish and maintain sufficient reserves to address unanticipated events and  
51 circumstances such as natural disasters, economic downturns, threats to public safety, health,

1 and welfare, and other emergencies. It is a goal of the General Assembly and the State to  
2 accumulate and maintain a balance in the Savings Reserve Account equal to or greater than  
3 eight percent (8%) of the prior year's General Fund operating budget.

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

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

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

23 **SECTION 5.** Article V of the North Carolina Constitution is amended by adding a  
24 new section to read:

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

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

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

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

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

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

42 (3) Base fiscal year for General Fund expenditure limit. The total authorized General  
43 Fund budget for the fiscal year beginning July 1, 2009, increased by the fiscal growth factor,  
44 shall be used to determine the General Fund expenditure limit for the fiscal year beginning July  
45 1, 2010, which will then be used to determine the General Fund expenditure limit for  
46 succeeding fiscal years.

47 (4) Decreases in General Fund expenditure limit. If, on or after December 31, 2009, the  
48 cost of any State program or function is shifted from the General Fund to another source of  
49 funding, including, but not limited to, counties or other units of local government, or if moneys  
50 are transferred from the General Fund to another fund or account, the General Fund  
51 expenditure limit shall be reduced by a like amount.

