**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11‑11‑415 SO AS TO PROVIDE THAT THE LIMIT ON GENERAL FUND APPROPRIATIONS FOR A FISCAL YEAR IS THE TOTAL AMOUNT OF THE GENERAL FUND REVENUE ESTIMATE AS OF FEBRUARY FIFTEENTH FOR FISCAL YEAR 2010‑2011, INCREASED ANNUALLY AND CUMULATIVELY BY THE LESSER OF SIX PERCENT OR A PERCENTAGE DETERMINED BY POPULATION INCREASES AND INCREASES IN THE CONSUMER PRICE INDEX, AND REDUCTIONS FOR NONRECURRING REVENUES, TO PROVIDE FOR THE LIMITATION TO BE SUSPENDED FOR A FISCAL YEAR FOR A SPECIFIC AMOUNT UPON A SPECIAL VOTE OF THE GENERAL ASSEMBLY AND TO DEFINE THIS SPECIAL VOTE, TO ESTABLISH THE INCOME TAX REBATE FUND, TO WHICH ALL SURPLUS GENERAL FUND REVENUES MUST BE CREDITED, TO PROVIDE FOR THE PRIORITY USES OF THE REVENUES OF THIS FUND, INCLUDING AN INCOME TAX REBATE TO TAXPAYERS, AND TO REQUIRE THAT APPROPRIATION OF REVENUES OF THIS FUND MUST BE BY A JOINT RESOLUTION ORIGINATING IN THE HOUSE OF REPRESENTATIVES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑415. (A)(1) In addition to all other applicable constitutional and statutory limitations on general fund appropriations, notwithstanding any other provisions of law, and only to the extent that the limit on general fund appropriations for a fiscal year imposed by this subsection is lower than the annual limit imposed pursuant to Section 7(c) of the Constitution of this State and Section 11‑11‑410, total general fund appropriations for the fiscal year may not exceed the lesser of:

(a) one hundred six percent of the adjusted base‑year estimate; or

(b) the adjusted base‑year estimate increased by a percentage equal to the state’s growth in population applied ratably over the period of the decennial United States census assuming a rate of increase equal to the rate in the most recently completed United States census for which population figures are available over the next preceding census and a percentage equal to the increase, if any, in the consumer price index in the most recently ended federal fiscal year, as determined by the Bureau of Labor Statistics of the United States Department of Labor.

(2) There must be deducted from the limit as calculated pursuant to item (1) of this section all nonrecurring general fund revenue included in the most recent February fifteenth estimate made by the Board of Economic Advisors.

(3) As used in this subsection, the ‘adjusted base‑year estimate’ is the general fund revenue estimate made by the Board of Economic Advisors on February 15, 2010, for fiscal year 2010‑2011, including only recurring revenues from whatever source derived as adjusted annually and cumulatively as provided in items (1) and (2) of this subsection.

(4) The Office of Research and Statistics of the State Budget and Control Board, upon approval by the State Economist and in consultation with the director of the board’s Office of State Budget, shall calculate and provide the appropriate percentages for population and consumer price index growth and an estimate of nonrecurring revenues to the Ways and Means Committee of the House of Representatives and the Senate Finance Committee no later than November tenth of each year.

(5) Before the Governor may submit the proposed budget for these fiscal years, the proposal must include the certificate of the Director of the Office of State Budget that the proposed budget conforms to the limitation imposed by this subsection. The annual general appropriations bill may not be given third reading in the House of Representatives and Senate unless a similar certificate is received by the presiding officer in each house from the Director of the Office of State Budget before the bill is given third reading. The Director of the Office of State Budget shall either provide the certificate to the presiding officers or notify them that the bill does not conform to the spending limitation within two hours of the dispostion of the final amendment made to the bill in each house.

(B)(1) Notwithstanding the provisions of subsection (A) of this section, the General Assembly may declare a financial emergency and suspend the spending limitation imposed pursuant to subsection (A) for any one fiscal year for a specific amount by a special vote as provided in this item by enactment of legislation which relates only to that matter. The state general fund appropriations for the fiscal year following the suspension must be determined as if the suspension had not occurred and, for purposes of determining subsequent limits, must be presumed to have been the maximum limit which could have been authorized if the limitation imposed pursuant to subsection (A) had not been suspended.

(2) The special vote referred to in this item means an affirmative recorded roll‑call vote in each branch of the General Assembly by two‑thirds of the members present and voting but not less than three‑fifths of the total membership in each branch.

(C)(1) There is created in the State Treasury a fund separate and distinct from the general fund of the State, the Capital Reserve Fund, and all other funds entitled the Income Tax Rebate Fund. Notwithstanding any other provision of law providing for the use of surplus general fund revenue, all general fund revenues accumulated in a fiscal year in excess of the limit on appropriations provided pursuant to subsection (A) of this section plus any additional general fund surplus revenues available or determined in the annual report of the Comptroller General pursuant to Section 11-11-180, must be credited to this fund. Revenues credited to this fund in a fiscal year may be appropriated or used to offset general fund revenues not collected by the General Assembly in its regular session in the year following the close of the applicable fiscal year. Revenues in this fund may be appropriated or used as offsets only for the purposes provided in item (2) of this subsection.

(2)(a) If the balance in the general reserve fund established pursuant to Section 36, Article III of the Constitution of this State and Section 11‑11‑310 is less than the required balance, there must be appropriated to it all amounts in the Income Tax Rebate Fund up to the total necessary to replenish the general reserve fund. This amount does not replace or supplant the minimum replenishment amount otherwise required to be made to the general reserve fund.

(b) After the appropriation of amounts required pursuant to subitem (a) of this item, any remaining balance may be appropriated for or used to offset revenue reductions for expenses incurred by this State as a result of natural or other disasters declared by the President of the United States.

(c) After the appropriations or offsets required pursuant to subitems (a) and (b) of this item, any remaining balance must be used as an offset for general fund revenue not collected resulting from an income tax credit, which is hereby enacted, against the state individual and corporate income tax liability of taxpayers. This income tax credit for each such taxpayer is the result produced when multiplying a fraction in which the taxpayer’s income tax liability is the numerator and the denominator is the net state income tax revenues in the last twelve consecutive months for which actual figures are available when the printed format of tax returns for the year is finalized, multiplied by the balance in the Income Tax Rebate Fund available to offset the collective credits. The credit is allowed against the liability on returns due to be filed in the calendar year following the end of the fiscal year in which the surplus occurred.”

SECTION 2. This act takes effect upon approval by the Governor, and applies beginning with state general fund appropriations for fiscal year 2011-2012 and for surplus general fund from revenues occurring after June 30, 2011.

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