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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL  
No. 2082 Session of  
2005

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INTRODUCED BY ALLEN, DALLY, SAYLOR, PETRARCA, ZUG, TRUE, FEESE,  
ARGALL AND KAUFFMAN, OCTOBER 19, 2005

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SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, NOVEMBER 21, 2005

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AN ACT

1 ~~Amending the act of April 9, 1929 (P.L.343, No.176), entitled,~~ <—  
2 ~~as amended, "An act relating to the finances of the State~~  
3 ~~government; providing for the settlement, assessment,~~  
4 ~~collection, and lien of taxes, bonus, and all other accounts~~  
5 ~~due the Commonwealth, the collection and recovery of fees and~~  
6 ~~other money or property due or belonging to the Commonwealth,~~  
7 ~~or any agency thereof, including escheated property and the~~  
8 ~~proceeds of its sale, the custody and disbursement or other~~  
9 ~~disposition of funds and securities belonging to or in the~~  
10 ~~possession of the Commonwealth, and the settlement of claims~~  
11 ~~against the Commonwealth, the resettlement of accounts and~~  
12 ~~appeals to the courts, refunds of moneys erroneously paid to~~  
13 ~~the Commonwealth, auditing the accounts of the Commonwealth~~  
14 ~~and all agencies thereof, of all public officers collecting~~  
15 ~~moneys payable to the Commonwealth, or any agency thereof,~~  
16 ~~and all receipts of appropriations from the Commonwealth,~~  
17 ~~authorizing the Commonwealth to issue tax anticipation notes~~  
18 ~~to defray current expenses, implementing the provisions of~~  
19 ~~section 7(a) of Article VIII of the Constitution of~~  
20 ~~Pennsylvania authorizing and restricting the incurring of~~  
21 ~~certain debt and imposing penalties; affecting every~~  
22 ~~department, board, commission, and officer of the State~~  
23 ~~government, every political subdivision of the State, and~~  
24 ~~certain officers of such subdivisions, every person,~~  
25 ~~association, and corporation required to pay, assess, or~~  
26 ~~collect taxes, or to make returns or reports under the laws~~  
27 ~~imposing taxes for State purposes, or to pay license fees or~~  
28 ~~other moneys to the Commonwealth, or any agency thereof,~~  
29 ~~every State depository and every debtor or creditor of the~~

Commonwealth," establishing appropriations limitations; and  
providing for the disposition of surplus funds.  
ESTABLISHING SPENDING LIMITATIONS ON THE COMMONWEALTH; PROVIDING  
FOR THE DISPOSITION OF SURPLUS FUNDS; AND MAKING A REPEAL OF  
PROVISIONS IN THE FISCAL CODE RELATING TO THE FUNDING OF A  
STABILIZATION RESERVE.

The General Assembly of the Commonwealth of Pennsylvania  
hereby enacts as follows:

~~Section 1. The act of April 9, 1929 (P.L.343, No.176), known~~  
~~as The Fiscal Code, is amended by adding an article to read:~~

ARTICLE XV A

APPROPRIATIONS LIMITATIONS

~~Section 1501 A. Limitations on appropriations.~~

~~(a) General rule. Except as set forth in subsection (b), in~~  
~~any fiscal year, the General Assembly shall not increase total~~  
~~General Fund State appropriations above the amount of total~~  
~~General Fund State appropriations authorized for the preceding~~  
~~fiscal year by a percentage which exceeds the average percentage~~  
~~increase over the immediately preceding three calendar years in~~  
~~the Consumer Price Index for All Urban Consumers of the Bureau~~  
~~of Labor Statistics unless a referendum stating the amount and~~  
~~duration of the increase is approved by a majority of the~~  
~~electors voting on the referendum.~~

~~(b) Exception. Subsection (a) shall not apply to any of the~~  
~~following:~~

~~(1) An appropriation which, as a result of a requirement~~  
~~of Federal law, is made for a new program or service or for~~  
~~an increase in the level of service for an existing program~~  
~~beyond the existing level of service.~~

~~(2) An appropriation which, as a result of a requirement~~  
~~of a Federal or State court order which has become final, is~~  
~~made for a new program or service or for an increase in the~~

~~level of service for an existing program beyond the existing level of service.~~

~~(3) An appropriation which:~~

~~(i) provides for the Commonwealth's share of payments for pension obligations as provided by law; and~~

~~(ii) is approved by three fifths of the members elected to each house of the General Assembly.~~

~~(4) An appropriation which:~~

~~(i) is for the repayment of interest and principal for all debt incurred by or on behalf of the Commonwealth; and~~

~~(ii) is approved by three fifths of the members elected to each house of the General Assembly.~~

~~(5) An appropriation which:~~

~~(i) is in response to a Presidential or gubernatorial declaration of an emergency or major disaster in any part of this Commonwealth; and~~

~~(ii) which is approved by three fifths of the members elected to each house of the General Assembly.~~

~~Section 1502 A. Refund of surplus operating funds.~~

~~Surplus operating funds in the General Fund at the end of the fiscal year which are not required by law to be deposited into the Budget Stabilization Reserve Fund shall be refunded pro rata to the citizens of this Commonwealth based on the liability reported on annual returns filed pursuant to section 330 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the fiscal year in which the surplus was created. The pro rata refund shall be in the form of a tax credit applied against the tax liability reported on the annual income tax returns filed pursuant to section 330 of the Tax~~

1 ~~Reform Code of 1971 in the immediately succeeding fiscal year.~~  
2 ~~If the tax credit provided under this section exceeds the~~  
3 ~~taxpayer's liability, the taxpayer shall receive a refund of the~~  
4 ~~amount in excess of the liability.~~

5 ~~Section 2. This act shall take effect immediately.~~

6 SECTION 1. SHORT TITLE.

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7 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE TAXPAYER  
8 FAIRNESS ACT.

9 SECTION 2. DEFINITIONS.

10 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
11 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
12 CONTEXT CLEARLY INDICATES OTHERWISE:

13 ~~"APPROPRIATION LIMIT." THE TOTAL SPENDING BY THE~~  
14 ~~COMMONWEALTH DURING THE FISCAL YEAR PRIOR TO THE BUDGET YEAR~~  
15 ~~UNDER CONSIDERATION, ADJUSTED BY THE LESSER OF:~~

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16 ~~(1) THE AVERAGE PERCENTAGE CHANGE IN PERSONAL INCOME IN~~  
17 ~~PENNSYLVANIA FOR THE THREE PRECEDING CALENDAR YEARS AS~~  
18 ~~REPORTED BY THE FEDERAL GOVERNMENT OR AS DETERMINED PURSUANT~~  
19 ~~TO AN ACT OF THE GENERAL ASSEMBLY; OR~~

20 ~~(2) THE AVERAGE PERCENTAGE CHANGE IN INFLATION FOR THE~~  
21 ~~THREE PRECEDING CALENDAR YEARS PLUS THE AVERAGE PERCENTAGE~~  
22 ~~CHANGE IN STATE POPULATION FOR THE THREE PRECEDING YEARS AS~~  
23 ~~REPORTED BY THE ANNUAL FEDERAL CENSUS ESTIMATES, SUCH NUMBER~~  
24 ~~BEING ADJUSTED EVERY DECADE TO MATCH THE OFFICIAL FEDERAL~~  
25 ~~CENSUS.~~

26 ~~FOR THE PURPOSES OF PARAGRAPHS (1) AND (2), ALL ADJUSTMENT~~  
27 ~~CALCULATIONS SHALL UTILIZE ACTUAL DATA.~~

28 ~~"INFLATION." THE PERCENTAGE CHANGE IN THE UNITED STATES~~  
29 ~~DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE~~  
30 ~~INDEX FOR ALL URBAN CONSUMERS, NOT SEASONALLY ADJUSTED: ALL~~

1 ~~ITEMS INDEX, OR ITS SUCCESSOR INDEX.~~

2 ~~"TOTAL SPENDING BY THE COMMONWEALTH." ALL GENERAL FUND~~  
3 ~~APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY.~~

4 "APPROPRIATION LIMIT." THE TOTAL OF THE AMOUNTS APPROVED AS <—  
5 EXECUTIVE AUTHORIZATIONS BY THE GOVERNOR PLUS THE TOTAL AMOUNTS  
6 OF PREFERRED AND NONPREFERRED APPROPRIATIONS MADE BY THE GENERAL  
7 ASSEMBLY FROM THE GENERAL FUND DURING THE FISCAL YEAR  
8 IMMEDIATELY PRIOR TO THE BUDGET YEAR UNDER CONSIDERATION,  
9 ADJUSTED BY THE LESSER OF:

10 (1) THE AVERAGE PERCENTAGE CHANGE IN PERSONAL INCOME IN  
11 PENNSYLVANIA; OR

12 (2) THE AVERAGE PERCENTAGE CHANGE IN INFLATION PLUS THE  
13 AVERAGE PERCENTAGE CHANGE IN STATE POPULATION.

14 "AVERAGE PERCENTAGE CHANGE IN INFLATION." THE AVERAGE OF THE  
15 PERCENTAGE CHANGE FOR EACH OF THE THREE CALENDAR YEARS, FROM  
16 OCTOBER TO OCTOBER, IMMEDIATELY PRECEDING THE CALENDAR YEAR IN  
17 WHICH A GIVEN EXECUTIVE BUDGET IS SUBMITTED BY THE GOVERNOR, IN  
18 THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
19 STATISTICS, CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, NOT  
20 SEASONALLY ADJUSTED, ALL ITEMS INDEX OR ITS SUCCESSOR INDEX.

21 "AVERAGE PERCENTAGE CHANGE IN PERSONAL INCOME." THE AVERAGE  
22 OF THE PERCENTAGE CHANGE IN PERSONAL INCOME ESTIMATES FOR  
23 PENNSYLVANIA, FROM SECOND CALENDAR QUARTER TO SECOND CALENDAR  
24 QUARTER, FOR EACH OF THE THREE CALENDAR YEARS IMMEDIATELY  
25 PRECEDING THE CALENDAR YEAR IN WHICH A GIVEN EXECUTIVE BUDGET IS  
26 SUBMITTED BY THE GOVERNOR, AS REPORTED BY THE UNITED STATES  
27 DEPARTMENT OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS, SQ4  
28 QUARTERLY INCOME SUMMARY FOR PENNSYLVANIA OR ITS SUCCESSOR INDEX  
29 OR AS DETERMINED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY.

30 "AVERAGE PERCENTAGE CHANGE IN STATE POPULATION." THE AVERAGE

1 OF THE PERCENTAGE CHANGE IN STATE POPULATION FOR EACH OF THE  
2 THREE MOST RECENT YEARS IMMEDIATELY PRECEDING THE CALENDAR YEAR  
3 IN WHICH A GIVEN EXECUTIVE BUDGET IS SUBMITTED BY THE GOVERNOR,  
4 AS REPORTED BY THE UNITED STATES CENSUS BUREAU FOR JULY 1 OF  
5 EACH YEAR.

6 SECTION 3. SPENDING LIMITATIONS.

7 (A) GENERAL RULE.--TOTAL SPENDING BY THE COMMONWEALTH IN ANY  
8 FISCAL YEAR SHALL NOT EXCEED THE APPROPRIATION LIMIT AS SET  
9 FORTH IN THIS ACT.

10 ~~(B) EXCEPTIONS. THE APPROPRIATION LIMIT OF THE COMMONWEALTH~~ <—

11 (B) EXCEPTIONS.-- <—

12 (1) THE APPROPRIATIONS LIMIT OF THE COMMONWEALTH MAY BE  
13 EXCEEDED IN ANY FISCAL YEAR FOR THE FOLLOWING:

14 ~~(1) TO RESPOND TO A PRESIDENTIALLY DECLARED EMERGENCY IF~~ <—

15 (I) TO RESPOND TO A PRESIDENTIALLY DECLARED <—  
16 EMERGENCY IF THE GENERAL ASSEMBLY APPROVES BY AN  
17 AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS ELECTED TO  
18 EACH HOUSE OF THE GENERAL ASSEMBLY.

19 ~~(2) TO RESPOND TO A GUBERNATORIALLY DECLARED EMERGENCY~~ <—

20 (II) TO RESPOND TO A GUBERNATORIALLY DECLARED <—  
21 EMERGENCY IF THE GOVERNOR SO REQUESTS AND THE GENERAL  
22 ASSEMBLY APPROVES BY AN AFFIRMATIVE VOTE OF THREE-FIFTHS  
23 OF THE MEMBERS ELECTED TO EACH HOUSE OF THE GENERAL  
24 ASSEMBLY.

25 ~~(3) IN OTHER SITUATIONS IF THE GOVERNOR SO REQUESTS AND~~ <—

26 (III) IN OTHER SITUATIONS IF THE GENERAL ASSEMBLY <—  
27 APPROVES BY AN AFFIRMATIVE VOTE OF TWO-THIRDS OF THE  
28 MEMBERS ELECTED TO EACH HOUSE OF THE GENERAL ASSEMBLY.

29 ~~IN NO CASE SHALL THE EXCESS SPENDING AUTHORIZED BY EXCEEDING THE~~ <—

30 (2) FOR EXCEPTIONS SET FORTH UNDER PARAGRAPH (1)(I) AND <—

(II), THE EXCESS SPENDING AUTHORIZED BY EXCEEDING THE  
APPROPRIATION LIMIT IN THIS MANNER SHALL NOT BE INCLUDED IN  
THE COMPUTATION BASE OF THE APPROPRIATION LIMIT FOR ANY  
SUBSEQUENT FISCAL YEAR.

(3) FOR EXCEPTIONS SET FORTH UNDER PARAGRAPH (1)(III),  
THE EXCESS SPENDING MAY BE INCLUDED IN THE COMPUTATION BASE  
OF THE APPROPRIATION LIMIT FOR ANY SUBSEQUENT FISCAL YEAR IF  
THE EXCESS SPENDING REPRESENTS A RECURRING OBLIGATION OF THE  
COMMONWEALTH AND AN ACT OF THE GENERAL ASSEMBLY AUTHORIZING  
THE EXCESS OF SPENDING SPECIFICALLY AUTHORIZES THE EXCESS  
SPENDING TO BE INCORPORATED IN THE BASE.

SECTION 4. DISPOSITION OF SURPLUS REVENUES.

(A) TRANSFER OF SURPLUS.--

(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), FOR ANY  
FISCAL YEAR IN WHICH THE GOVERNOR CERTIFIES THAT A SURPLUS  
EXISTS IN THE GENERAL FUND, 50% 35% OF THAT SURPLUS SHALL BE  
DEPOSITED BY THE END OF THE NEXT SUCCEEDING QUARTER INTO THE  
BUDGET STABILIZATION RESERVE FUND ESTABLISHED IN SECTION  
1701-A OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN  
AS THE FISCAL CODE, AND 50% 65% OF THAT SURPLUS SHALL BE  
DEPOSITED BY THE END OF THE NEXT SUCCEEDING QUARTER INTO THE  
TAXPAYER FAIRNESS FUND, WHICH FUND IS HEREBY ESTABLISHED IN  
THE STATE TREASURY.

(2) FOR ANY FISCAL YEAR IN WHICH THE STATE TREASURER  
CERTIFIES THAT THE BALANCE IN THE BUDGET STABILIZATION  
RESERVE FUND EQUALS OR EXCEEDS 10% 7.5% OF THE TOTAL OF ALL  
GENERAL FUND APPROPRIATIONS IN THE PRECEDING FISCAL YEAR,  
100% OF THE SURPLUS CERTIFIED BY THE GOVERNOR UNDER PARAGRAPH  
(1) SHALL BE DEPOSITED INTO THE TAXPAYER FAIRNESS FUND.

~~(B) DISTRIBUTION. THE MONEYS IN THE TAXPAYER FAIRNESS FUND~~

1 (B) DISTRIBUTION.--

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2 (1) THE MONEYS IN THE TAXPAYER FAIRNESS FUND SHALL BE  
3 DISTRIBUTED TO TAXPAYERS WHO HAVE LIABILITY FOR THE TAX  
4 IMPOSED UNDER ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6,  
5 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, THROUGH A  
6 TEMPORARY REDUCTION IN THE RATE OF SUCH TAX, WHICH REDUCTION  
7 SHALL BE ~~ESTABLISHED BY AN ACT OF THE GENERAL ASSEMBLY TO BE~~  
8 ~~EFFECTIVE~~ EFFECTIVE FOR JANUARY 1 THROUGH DECEMBER 31 OF THE  
9 UPCOMING CALENDAR YEAR.

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10 (2) THE SECRETARY OF THE BUDGET, IN CONJUNCTION WITH THE  
11 SECRETARY OF REVENUE, SHALL CERTIFY THE TEMPORARY RATE FOR  
12 THE UPCOMING CALENDAR YEAR NO LATER THAN SEPTEMBER 30. THE  
13 TEMPORARY RATE SHALL BE PUBLISHED IN THE PENNSYLVANIA  
14 BULLETIN, POSTED ON THE STATE'S PUBLICLY ACCESSIBLE INTERNET  
15 WEBSITE AND REPORTED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF  
16 THE APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRMAN  
17 AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE  
18 HOUSE OF REPRESENTATIVES.

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19 (C) ACCUMULATION.--NO MONEYS SHALL BE DISTRIBUTED FROM THE  
20 TAXPAYER FAIRNESS FUND PURSUANT TO SUBSECTION (B) UNTIL SUCH  
21 TIME AS THE MONEYS DEPOSITED THEREIN ARE SUFFICIENT TO PROVIDE A  
22 TEMPORARY REDUCTION OF AT LEAST 0.01% IN THE RATE OF TAXATION  
23 FOR THE TAX IMPOSED UNDER ARTICLE III OF THE TAX REFORM CODE OF  
24 1971.

25 ~~(C)~~ (D) APPROPRIATED FUNDS.--THE GENERAL ASSEMBLY MAY AT ANY  
26 TIME PROVIDE ADDITIONAL AMOUNTS FROM ANY FUNDS AVAILABLE TO THE  
27 COMMONWEALTH AS AN APPROPRIATION TO THE BUDGET STABILIZATION  
28 RESERVE FUND.

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29 SECTION 5. REPEAL.

30 ~~SECTION 1702 A OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),~~

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1 REPEALS ARE AS FOLLOWS:

2 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER  
3 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE PROVISIONS OF  
4 THIS ACT.

5 (2) SECTION 1702-A OF THE ACT OF APRIL 9, 1929 (P.L.343,  
6 NO.176), KNOWN AS THE FISCAL CODE, IS REPEALED.

7 SECTION 6. EFFECTIVE DATE.

8 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.