

Article 4.

Budget Requirements.

§ 143C-4-1. Annual balanced budget.

The budget recommended by the Governor and the budget enacted by the General Assembly shall be balanced and shall include two fiscal years beginning on July 1 of each odd-numbered year. Each fiscal year and each fund shall be balanced separately. The budget for a fund is balanced when the beginning unreserved fund balance for the fiscal year, together with the projected receipts to the fund during the fiscal year, is equal to or greater than the sum of appropriations from the fund for that fiscal year. (2006-203, s. 3.)

§ 143C-4-2. Savings Reserve.

(a) Creation. – The Savings Reserve is established as a reserve in the General Fund and is a component of the unappropriated General Fund balance.

(b) General Use of Funds. – In each fiscal year, funds reserved to the Savings Reserve shall be available for expenditure in an aggregate amount that does not exceed seven and one-half percent (7.5%) of the prior fiscal year's General Fund operating budget appropriations, excluding departmental receipts, upon appropriation by a majority vote of the membership of the Senate and House of Representatives present and voting for any of the following purposes:

- (1) To cover a decline in General Fund revenue from one fiscal year to another.
- (2) To cover the difference between that fiscal year's General Fund operating budget appropriations, excluding departmental receipts, and projected revenue.
- (3) To pay costs imposed by a court or administrative order.
- (4) To provide relief and assistance from the effects of an emergency, as that term is defined in G.S. 166A-19.3.

(b1) Extraordinary Use of Funds. – In each fiscal year, funds reserved to the Savings Reserve shall be available for expenditure upon a two-thirds vote of the membership of the Senate and House of Representatives present and voting for any of the following purposes:

- (1) To use for any of the purposes set forth in subdivisions (1) through (4) of subsection (b) of this section in an aggregate amount that exceeds seven and one-half percent (7.5%) of the prior fiscal year's General Fund operating budget appropriations, excluding departmental receipts.
- (2) For a purpose not set forth in subdivisions (1) through (4) of subsection (b) of this section in any amount.

(c) Repealed by Session Laws 2017-5, s. 1, effective October 1, 2017.

(d) Savings Reserve Requirement. – Each Current Operations Appropriations Act enacted by the General Assembly shall include a transfer to the Savings Reserve of fifteen percent (15%) of each fiscal year's estimated growth in State tax revenues that are deposited in the General Fund, except that if that transfer would cause the balance of the Reserve to exceed the recommended Savings Reserve balance developed pursuant to subsection (f) of this section then the amount transferred pursuant to this subsection shall be reduced accordingly.

(e) Actual Transfer of Funds to Savings Reserve. – Each fiscal year, the Office of State Controller shall transfer to the Savings Reserve the estimated growth amount required by subsection (d) of this section. Upon calculation of the actual growth in State tax revenues that are deposited in the General Fund, the Office of State Controller shall adjust the amount of the transfer to the Savings Reserve to achieve an amount equivalent to fifteen percent (15%) of the actual growth.

(f) Evaluation of Savings Reserve. – The Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall jointly develop and annually produce an evaluation of the adequacy of the Savings Reserve based on the volatility of North Carolina's General Fund tax structure, which shall take into consideration relevant statistical and economic literature. After completing the evaluation, these entities may revise the methodology as needed to estimate the target for the Savings Reserve balance, which shall be calculated so as to be sufficient to cover two years of need for nine out of 10 scenarios involving a decline in General Fund revenue from one fiscal year to the next fiscal year. The recommended balance shall be expressed as a percentage of the prior year General Fund operating budget appropriations, excluding departmental receipts. The Office of State Budget and Management shall report this percentage to the Chairs of the House of Representatives and Senate Appropriations and Finance Committees no later than February 1 of each year.

(g) Additional Transfer of Funds by General Assembly Permissible. – Nothing in this section shall be construed to prohibit the General Assembly from directing the transfer of additional funds into the Savings Reserve.

(h) Applicability. – Nothing in this section shall be construed to apply to the Highway Fund or the Highway Trust Fund.

(i) Unfunded Liability Solvency Reserve Full-Growth Transfer Requirement. – If, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance developed under subsection (f) of this section as of the last day of the fiscal year, the Current Operations Appropriations Act for the succeeding fiscal year shall include a transfer to the Unfunded Liability Solvency Reserve of fifteen percent (15%) of the succeeding fiscal year's estimated growth in State tax revenues that are deposited in the General Fund.

(j) Unfunded Liability Solvency Reserve Partial Growth Transfer Requirement. – If, and to the extent that, the balance of the Savings Reserve is below the recommended Savings Reserve balance developed under subsection (f) of this section as of the last day of the fiscal year, prior to the transfer of fifteen percent (15%) of the succeeding fiscal year's estimated growth in State tax revenues that are deposited in the General Fund, then the following shall apply:

- (1) If, upon transfer to the Savings Reserve funds in the amount of fifteen percent (15%) of estimated growth in State tax revenues deposited in the General Fund, the balance of the Savings Reserve is above the recommended Savings Reserve balance developed under subsection (f) of this section, then the Current Operations Appropriations Act shall include a transfer to the Unfunded Liability Solvency Reserve of an amount equal to the difference between the

recommended balance of the Savings Reserve developed under subsection (f) of this section and the balance of the Savings Reserve upon transfer of fifteen percent (15%) of estimated growth in State tax revenues.

- (2) If, upon transfer to the Savings Reserve funds in the amount of fifteen percent (15%) of estimated growth in State tax revenues deposited in the General Fund, the balance of Savings Reserves is at or below the recommended Savings Reserve balance developed under subsection (f) of this section, then no such transfer described in subdivision (1) of this subsection shall occur. (2006-203, s. 3; 2017-5, s. 1; 2018-30, s. 2(c).)

§ 143C-4-3: Repealed by Session Laws 2017-57, s. 36.12, effective July 1, 2019.

§ 143C-4-3.1. State Capital and Infrastructure Fund.

(a) Legislative Intent. – The General Assembly recognizes the need to establish and maintain a sufficient funding source to address the ongoing capital and infrastructure needs of the State. The General Assembly further recognizes the need to protect the State's substantial improvements in existing public facilities while providing a stable funding source to pay for new facilities to meet the needs of a growing population.

(b) Creation and Source of Funds. – There is established in the General Fund the State Capital and Infrastructure Fund, hereinafter referred to as the "Fund." The Fund shall be maintained as a special fund and administered by the Office of State Budget and Management to carry out the provisions of this section. With the exception of debt service obligations, appropriations from the Fund may be administered by other State agencies as deemed necessary by the Office of State Budget and Management. Interest accruing from the monies in the Fund shall be credited to the Fund. The Fund shall consist of the following sources of funding:

- (1) 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.
- (2) Four percent (4%) of the net State tax revenues that are deposited in the General Fund during the fiscal year.
- (3) All monies appropriated by the General Assembly for the purposes of General Fund capital improvements, as defined in G.S. 143C-1-1(d).
- (4) All interest and investment earnings received on monies in the Fund.
- (5) Any other funds, as directed by the General Assembly.

(c) Funding Requirements. – Each Current Operations Appropriations Act enacted by the General Assembly shall include (i) a transfer to the Fund of four percent (4%) of each fiscal year's estimated net State tax revenues that are deposited in the General Fund and (ii) one-fourth of the General Fund unreserved fund balance, as determined on a cash basis, at the end of each fiscal year.

(d) Transfer of Funds to the Fund. – Each fiscal year, the Office of State Controller shall transfer to the Fund the estimated amounts required pursuant to subsection (c) of this section. Each fiscal year, the Office of State Controller shall transfer to the Fund one-fourth

of the General Fund unreserved fund balance, as determined on a cash basis, at the end of the fiscal year.

(e) Use of Funds. – Monies in the Fund shall first be used to meet the debt service obligations supported by the General Fund. In addition to meeting the debt service obligations supported by the General Fund, monies in the Fund may be used for the following purposes:

- (1) New State and The University of North Carolina capital projects governed pursuant to Article 8 of Chapter 143C of the General Statutes.
- (2) Repair and renovation of existing capital assets, as provided in G.S. 143C-8-13.
- (3) Broadband infrastructure projects funded through appropriations to the Growing Rural Economies with Access to Technology Fund established in G.S. 143B-1373(b).
- (4) Projects and grants identified in the Current Operations Appropriations Act or that have been authorized and funded by an act of the General Assembly.

(f) Funds Available Only Upon Appropriation. – Funds reserved to the Fund shall be available for expenditure only upon an act of appropriation by the General Assembly.

(g) Unexpended Funds. – Funds appropriated for a project that are unspent and unencumbered upon completion of the project shall revert to the Fund.

(h) In each fiscal year, the Office of State Budget and Management may reallocate appropriations from the State Capital and Infrastructure Fund between projects to meet cash flow requirements for a project, provided that the following criteria are met:

- (1) If the project for which funds have been appropriated is for one of the constituent institutions of The University of North Carolina, then unencumbered funds may be allocated from another project for a constituent institution of The University of North Carolina for which funds have been appropriated.
- (2) If the project for which funds have been appropriated is for a State agency that is not The University of North Carolina, then unencumbered funds may be allocated from another project for a State agency for which funds have been appropriated.
- (3) The amount disbursed will not exceed amounts appropriated from the State Capital and Infrastructure Fund.
- (4) The amount disbursed on any project cannot exceed the amount authorized for that project.
- (5) The amount reallocated cannot be used to expand the scope of the project.
- (6) A project shall not begin until the fiscal year authorized by the General Assembly. (2017-57, s. 36.12(b); 2018-5, s. 36.8(a); 2020-81, s. 4(f).)

§ 143C-4-4. Contingency and Emergency Fund.

(a) Creation. – The Contingency and Emergency Fund is established within the General Fund. The General Assembly shall appropriate a specific amount to this fund for contingencies and emergencies in the Current Operations Appropriations Act or other appropriations bill.

(b) Authorized Uses. – Notwithstanding any other provision of law, funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required: (i) by a court or Industrial Commission order, (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act, or (iii) for other statutorily authorized purposes or other contingencies and emergencies.

(c) Request for Allocation. – A State agency may request an allocation from the Contingency and Emergency Fund by submitting a request in writing to the Director along with any information required by the Director. If the Director approves the request, the Director shall present the request, together with a recommendation, to the Council of State for its approval. If the Council of State approves the request, the Director shall order the Controller to allocate the funds requested. The Director shall report on the request at the next scheduled meeting of the Joint Legislative Commission on Governmental Operations. (2006-203, s. 3; 2012-12, s. 2(v).)

§ 143C-4-5. Non-State match restrictions.

Whenever money is required to match an appropriation made for a specific purpose by the State of North Carolina, the recipient of the appropriation shall actually receive as a gift, grant, earnings in actual money, or a pledge that can be used as collateral in any prudent loan transaction, the matching amount required. The recipient shall retain the matching amount received in its possession until spent for that purpose and shall spend an equal percentage of the appropriation and of the matching amount each time an expenditure is made, unless the individual appropriation requires otherwise. (2006-203, s. 3.)

§ 143C-4-6. General Fund operating budget size limited.

(a) Size Limitation. – Except as otherwise provided in this section, the General Fund operating budget each fiscal year shall not be greater than seven percent (7%) of the projected total State personal income for that fiscal year.

(b) Increase in Size Limitation. – To the extent that any percent increase in appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii) operation of the courts or (iv) the costs of providing health insurance for teachers and State employees, exceeds the percent increase in State personal income growth for the same period, the limitation on the size of the General Fund operating budget provided in subsection (a) of this section for that fiscal year shall be increased by the dollar amount represented by the excess percentage. For all subsequent fiscal years, the percent limitation contained in subsection (a) shall then be increased to reflect that dollar adjustment.

(c) Fiscal Reports. – The Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall each submit a tentative estimate of total State personal income for the upcoming fiscal year to the General Assembly no later than February 1 of each year. The Office and the Fiscal Research Division shall each submit a final projection of total State personal income for the upcoming fiscal year to the General Assembly no later than May 1 of each year. The General Assembly shall use the lower of the two final projections to calculate the limitation on the size of the General Fund operating budget provided in this section. (2006-203, s. 3; 2007-393, s. 5.)

§ 143C-4-7. Limit on number of permanent positions budgeted.

The total number of permanent budgeted positions established in State agencies shall not be increased by the end of any State fiscal year by a greater percentage rate of change than the percentage rate of change of the residential population growth for the State of North Carolina. The Office of State Budget and Management shall be responsible for computing the annual percentage rates of change for each measure. The population growth rate shall be computed by averaging the annual residential population growth rate in each of the preceding 10 fiscal years as stated in the annual estimates of residential population in North Carolina made by the United States Census Bureau. The growth rate of the number of budgeted positions shall be computed by averaging the annual rate of growth of State budgeted positions in each of the preceding 10 fiscal years. The total number of permanent budgeted positions established in State agencies shall be computed by adding the total number of budgeted Full-Time Equivalents from all fund types. This section does not apply to State-funded positions supported by the State in a local public school system or local community college institution. (2006-203, s. 3.)

§ 143C-4-8. Use of funds appropriated to a reserve.

All funds appropriated into a reserve by a Current Operations Appropriations Act or other act of the General Assembly may be expended only for the purpose or purposes for which the reserve was established. (2017-57, s. 6.3.)

§ 143C-4-9. Pay Plan Reserve.

(a) Creation. – The Pay Plan Reserve is established within the General Fund. The General Assembly shall appropriate in the Current Operations Appropriations Act (Act) or other appropriations act a specific amount to this reserve for allocation, on an as-needed basis only, to fund statutory and scheduled pay expenses authorized by:

- (1) G.S. 20-187.3, for troopers of the State Highway Patrol compensated pursuant to an experience-based salary schedule.
- (2) G.S. 7A-102.
- (3) G.S. 7A-171.1.
- (4) Teacher Salary Schedule, as enacted by the General Assembly.
- (5) Pay Plans for Principals and Assistant Principals, as enacted by the General Assembly.
- (6) The Act, for law enforcement officers of the State Bureau of Investigation and Alcohol Law Enforcement.

(b) Authorized Uses. – The funds in the Pay Plan Reserve are available to agencies for employee salary and benefit costs only if the amount of funds appropriated for statutory or scheduled salaries and benefits expenses, in any fiscal year, would be insufficient to cover those expenses for eligible employees.

(c) Request for Allocation. – After January 1 of each fiscal year, an agency may request an allocation from the Pay Plan Reserve by submitting:

- (1) A detailed description of the pay plan design, including the salary or salary range at each step within the pay plan and the criteria for movement between steps of the pay plan.

- (2) Proof to the Office of State Budget and Management (OSBM) that the agency has exhausted or is projected to exhaust funds appropriated for statutory or scheduled salary and benefit expenses.

The OSBM must certify the need for any allocation before disbursing funds from the reserve. The OSBM shall report to Fiscal Research Division on or before April 1 of each year on any disbursements made from the reserve and regarding projected recurring appropriations necessary to fully fund positions eligible for funding in the next fiscal year. Funds from the reserve may be allocated and reallocated only as expressly provided by this section. (2017-57, s. 35.17; 2018-5, s. 35.17; 2019-210, s. 4.1; 2019-211, s. 5.1.)

§ 143C-4-10. Unfunded Liability Solvency Reserve.

(a) **Creation.** – The Unfunded Liability Solvency Reserve is established as a reserve in the General Fund. The Unfunded Liability Solvency Reserve is an employee benefits trust as described under G.S. 143C-1-3(a).

(b) **Definitions.** – The following definitions apply in this section:

- (1) **Benefit enhancement.** – Any change to the benefits provided under the Teachers' and State Employees' Retirement System of North Carolina established under G.S. 135-2 or to the Retiree Health Benefit Fund established under G.S. 135-7(f) that is estimated to increase the contributions or liabilities associated with either program, as indicated by an actuarial note provided under G.S. 120-114.
- (2) **Health Benefit Fund.** – The Retiree Health Benefit Fund established under G.S. 135-7(f).
- (3) **Health Benefit Fund Actuarial Committee.** – The Committee on Actuarial Valuation of Retired Employees' Health Benefits established under G.S. 135-48.12.
- (4) **Reserve.** – The Unfunded Liability Solvency Reserve established under subsection (a) of this section.
- (5) **Retirement System.** – The Teachers' and State Employees' Retirement System of North Carolina established under G.S. 135-2.

(c) **Source of Funds.** – The Reserve shall receive the following funds:

- (1) Any amounts that shall be appropriated by the General Assembly.
- (2) Funds transferred under G.S. 142-15.4, 142-96, and 143C-4-2.
- (3) Any funds, in an amount directed by the State Treasurer to be transferred, that meet all of the following criteria:
 - a. The funds are the result of rebates received by the Department of State Treasurer from a company administering supplemental voluntary insurance benefits authorized under G.S. 120-4.32(b), 128-38.3(b), 135-18.8(b), or 135-75(b).
 - b. The funds are not owed to a company administering, or individuals participating in, supplemental voluntary insurance benefits.
 - c. As determined by the Board of Trustees of the Retirement System, the funds are not to be needed to pay future administrative costs of the supplemental voluntary insurance benefits.

(d) Transfer of Funds From the Reserve. – The transfer of funds from the Reserve shall meet all of the following requirements:

- (1) The funds in the Reserve shall be used only for transfers to the (i) Health Benefit Fund or (ii) the Retirement System for the purpose of reducing the unfunded liabilities of those two funds.
- (2) Funds in the Reserve must be appropriated by the end of the next fiscal year after the funds entered the Reserve.
- (3) Transfers from the Reserve to the Health Benefit Fund and the Retirement System shall not supplant employer contributions otherwise designated for the Health Benefit Fund or Retirement System. Transfers shall be made from the Reserve only upon the following conditions:
 - a. The portion of the State's employer contribution rate provided to the Health Benefit Fund is not less than the cost of the premiums for the retirees served by the Retiree Health Benefit Fund in the most recent plan year.
 - b. The portion of the State's employer contribution rate provided to the Retirement System in effect at the time of the transfer is equal to or greater than the rate certified under G.S. 135-8 as necessary by the Board of Trustees of the Retirement System.
 - c. Transfers from the Reserves shall not be used to pay the cost of benefit enhancements commencing after July 1, 2017.

(e) Use of Funds in the Reserve. – On the first day of each fiscal year, the total balance of the Reserve as of the last day of the preceding fiscal year shall be used to appropriate an additional employer contribution to the Health Benefit Trust and the Retirement System. This additional employer contribution shall be calculated as follows:

- (1) The total balance in the Reserve as of the last day of the preceding fiscal year shall be divided between the Health Benefit Fund and the Retirement System according to each program's proportion of the State's total unfunded liability of both programs as reported in the most recent Comprehensive Annual Financial Report issued by the State Controller.
- (2) Each program's pro rata share of the total balance in the Reserve as of the last day of the preceding fiscal year shall be converted into a percentage of the General Fund payroll of covered members of the Health Benefit Fund and the Retirement System.
- (3) Each program's percentage of General Fund payroll of covered members, as calculated in subdivision (2) of this subsection, shall be set as an additional portion of the State's employer contribution rate budgeted for retirement and related benefits. The following shall also apply:
 - a. The percentage of General Fund payroll of covered members allocated to the Health Benefit Fund shall be added to the portion of the State's employer contribution rate budgeted for hospital and medical benefits.
 - b. The percentage of General Fund payroll of covered members allocated to the Retirement System shall be added to the State's employer contribution rate budgeted for the Retirement System.

(f) Not Considered Debt Service Funds. – Any funds in the Reserve, as well as any funds from the Reserve used to establish additional contributions to the Health Benefit

Fund or Retirement System, shall not be considered debt service funds for general long-term debt principal and interest.

(g) Funds Do Not Revert. – No portion of the Fund shall be transferred to the General Fund, and any appropriation made to the Fund shall not revert. (2018-30, s. 1; 2020-48, s. 2.2(a), (c).)

§ 143C-4-11. Medicaid Contingency Reserve.

(a) Medicaid Contingency Reserve. – The Medicaid Contingency Reserve is established as a reserve to be used only for budget shortfalls in the Medicaid or NC Health Choice program.

(b) Funds from the Medicaid Contingency Reserve may be allocated or expended only if all of the following criteria are met:

- (1) There is an act of appropriation by the General Assembly.
- (2) After the State Controller has verified that all Medicaid and NC Health Choice program receipts are being used appropriately, the Director of the Budget has found that additional funds are needed to cover a shortfall in the Medicaid or NC Health Choice budget for the State fiscal year.
- (3) The Director of the Budget has reported immediately to the Fiscal Research Division on the amount of the shortfall found in accordance with subdivision (2) of this subsection. This report shall include an analysis of the causes of the shortfall, such as (i) unanticipated enrollment and mix of enrollment, (ii) unanticipated growth or utilization within particular service areas, (iii) errors in the data or analysis used to project the Medicaid or NC Health Choice budget, (iv) the failure of the program to achieve budgeted savings, (v) other factors and market trends that have impacted the price of or spending for services, (vi) variations in receipts from prior years or from assumptions used to prepare the Medicaid and NC Health Choice budgets for the current fiscal year, or (vii) other factors. The report shall also include data in an electronic format that is adequate for the Fiscal Research Division to confirm the amount of the shortfall and its causes.

(c) Nothing in this section shall be construed to limit the authority of the Governor to carry out the Governor's duties under the Constitution. (2020-88, s. 14.)