

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 418\*

Short Title: Taxpayers' Bill Of Rights for NC.

(Public)

Sponsors: Senator Webster.

Referred to: Finance.

March 7, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GOVERNMENTAL ACCOUNTABILITY AND PROTECTION TO THE TAXPAYERS BY LIMITING INCREASES IN THE GENERAL FUND BUDGET, REFORMING THE BUDGET PROCESS, ESTABLISHING 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.** Article 1 of Chapter 143 of the General Statutes is amended by adding the following new sections:

**"§ 143-2.1. Definitions and determination of the General Fund expenditure limit.**

(a) Definitions. – The following definitions apply in this section and in G.S. 143-2.3, 143-2.4, and 143-15.3A:

- (1) Credit balance. – That part of the credit balance, as determined on a cash basis, not already reserved to the Emergency Reserve Trust Fund or the Repairs and Renovations Reserve Account, excluding excess revenue that is over the General Fund expenditure limit.
- (2) 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.
- (3) 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.
- (4) Population change. – The percentage change in State population for each calendar year as reported by the Office of State Budget and Management.

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

4       (c) Base Fiscal Year for General Fund Expenditure Limit. – The total authorized  
5 General Fund budget for the fiscal year beginning July 1, 2005, increased by the fiscal  
6 growth factor shall be used to determine the General Fund expenditure limit for the  
7 fiscal year beginning July 1, 2006, which will then be used to determine the General  
8 Fund expenditure limit for succeeding fiscal years.

9       (d) Decreases in General Fund Expenditure Limit. – If, on or after December 31,  
10 2005, the cost of any State program or function is shifted from the General Fund to  
11 another source of funding, including, but not limited to, counties or other units of local  
12 government, or if moneys are transferred from the General Fund to another fund or  
13 account, the General Fund expenditure limit shall be reduced by a like amount.

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

20 **"§ 143-2.2. Increase in General Fund expenditure limited.**

21       (a) Governor Bound by General Fund Expenditure Limit. – In preparing the  
22 budget for a fiscal year, the Governor shall not propose expenditures from the General  
23 Fund for the ensuing fiscal period in excess of the projected General Fund expenditure  
24 limit established under G.S. 143-2.1.

25       (b) General Assembly Bound by General Fund Expenditure Limit. – In enacting  
26 the budget for the fiscal year, the General Assembly shall not make appropriations from  
27 the General Fund in excess of the General Fund expenditure limit established under  
28 G.S. 143-2.1.

29       (c) No State Moneys to Be Paid in Excess of General Fund Expenditure Limit. –  
30 Except as provided in G.S. 143-2.5, no money shall be drawn from the State treasury if  
31 the withdrawal will result in a State expenditure for any fiscal year in excess of the  
32 General Fund expenditure limit established under G.S. 143-2.1. Except as provided in  
33 G.S. 143-2.5, the Governor, the State Treasurer, and the State Controller shall not issue  
34 or redeem any draft, check, warrant, or voucher that will result in a State expenditure for  
35 any fiscal year in excess of the General Fund expenditure limit established under  
36 G.S. 143-2.1.

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

41 **"§ 143-2.3. Use of General Fund credit balance.**

42       The State Controller shall reserve one-fourth of any credit balance remaining in the  
43 General Fund at the end of each fiscal year to the Emergency Reserve Trust Fund. The  
44 State Controller shall reserve three percent (3%) of the replacement value of all State

1 buildings supported from the General Fund at the end of each fiscal year to the Repairs  
2 and Renovations Reserve Account as provided in G.S. 143-15.3A.

3 **"§ 143-2.4. Emergency Reserve Trust Fund.**

4 (a) Emergency Reserve Trust Fund Established. – There is established in the  
5 Department of State Treasurer a noninterest-bearing fund known as the Emergency  
6 Reserve Trust Fund. The Emergency Reserve Trust Fund shall include the funds  
7 reserved by the State Controller in accordance with G.S. 143-2.3. The Emergency  
8 Reserve Trust Fund shall also include revenue in excess of the General Fund  
9 expenditure limit credited in accordance with G.S. 143-2.2.

10 (b) Transfers From Emergency Reserve Trust Fund Permissible to Pay  
11 Appropriations When Budgeted Funds Are Insufficient. – If the Director of the Budget  
12 determines that: (i) pursuant to the provisions of G.S. 143-25, the aggregate revenues  
13 collected and available during a fiscal year are not sufficient to pay all of the  
14 appropriations for that fiscal year in full; or (ii) pursuant to the provisions of Section  
15 5(3) of Article III of the North Carolina Constitution, receipts during a fiscal year when  
16 added to the surplus remaining in the State treasury at the beginning of the fiscal year  
17 will not be sufficient to meet budgeted expenditures, the Director may, in the Director's  
18 discretion, transfer funds from the Emergency Reserve Trust Fund to pay the  
19 appropriations for the fiscal year to the extent funds are available. If the Director of the  
20 Budget decides not to transfer the funds from the Emergency Reserve Trust Fund as  
21 provided in this section, the Director shall proceed as provided in G.S. 143-25 or  
22 Section 5(3) of Article III of the North Carolina Constitution to administer the budget so  
23 as to prevent any overdraft or deficit.

24 (c) Two-Thirds Vote Required to Appropriate Funds From the Emergency  
25 Reserve Trust Fund. – The General Assembly may make appropriations out of the  
26 Emergency Reserve Trust Fund only by the affirmative vote of two-thirds of the  
27 members of each house.

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

33 **"§ 143-2.5. Two-thirds vote of General Assembly required to exceed General Fund**  
34 **expenditure limit.**

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

39 **SECTION 2.** G.S. 143-15.2 and G.S. 143-15.3 are repealed. The funds in  
40 the Savings Reserve Account are transferred to the Emergency Reserve Trust Fund  
41 established by G.S. 143-2.4, as enacted by Section 1 of this act.

42 **SECTION 3.** Article V of the North Carolina Constitution is amended by  
43 adding a new section to read:

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

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

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

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

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

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

19 (3) Base fiscal year for General Fund expenditure limit. The total authorized  
20 General Fund budget for the fiscal year beginning July 1, 2005, increased by the fiscal  
21 growth factor, shall be used to determine the General Fund expenditure limit for the  
22 fiscal year beginning July 1, 2006, which will then be used to determine the General  
23 Fund expenditure limit for succeeding fiscal years.

24 (4) Decreases in General Fund expenditure limit. If, on or after December 31,  
25 2005, the cost of any State program or function is shifted from the General Fund to  
26 another source of funding, including, but not limited to, counties or other units of local  
27 government, or if moneys are transferred from the General Fund to another fund or  
28 account, the General Fund expenditure limit shall be reduced by a like amount.

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

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

37 **SECTION 4.** The amendment set out in Section 3 of this act shall be  
38 submitted to the qualified voters of the State at the next general election, which election  
39 shall be conducted under the laws then governing elections in the State. Ballots, voting  
40 systems, or both may be used in accordance with Chapter 163 of the General Statutes.  
41 The question to be used in the voting systems and ballots shall be:

42 "[ ] FOR [ ] AGAINST

43 Constitutional amendment to limit the General Fund expenditures for each  
44 fiscal year to an amount that does not exceed the previous year's General Fund

1 expenditure limit increased by a percentage rate that equals the fiscal growth factor and  
2 to provide that the base fiscal year for the General Fund expenditure limit shall be the  
3 total authorized General Fund budget for the fiscal year beginning July 1, 2005,  
4 increased by the fiscal growth factor. That baseline shall be used to determine the  
5 General Fund expenditure limit for the fiscal year beginning July 1, 2006, which will  
6 then be used to determine the General Fund expenditure limit for succeeding fiscal  
7 years."

8           **SECTION 5.** If a majority of the votes cast on the question is in favor of the  
9 amendment set out in Section 3 of this act, the State Board of Elections shall certify the  
10 amendment to the Secretary of State. The amendment becomes effective upon this  
11 certification. The Secretary of State shall enroll the amendment so certified among the  
12 permanent records of that office.

13           **SECTION 6.** Sections 1 and 2 of this act become effective only if the  
14 constitutional amendment set out in Section 3 of this act is approved by the qualified  
15 voters of the State, as provided in Section 4 of this act.

16           **SECTION 7.** This act is effective when it becomes law.  
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