

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE BILL 1403**

Short Title: Trust Fund For Essential Services. (Public)

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Sponsors: Senators Blake; Apodaca, Berger of Rockingham, Brock, Brown, East, Forrester, Hunt, Jacumin, Pittenger, Smith, Stevens, Tillman, and Webster.

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Referred to: Appropriations/Base Budget.

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May 16, 2006

A BILL TO BE ENTITLED

1 AN ACT TO CREATE A TRUST FUND FOR ESSENTIAL SERVICES TO BE  
2 FUNDED FROM STATE LOTTERY PROCEEDS, AND TO LIMIT ANY  
3 EXPENDITURE FROM THE FUND UNTIL AFTER JANUARY 1, 2057.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article XIV of the Constitution of North Carolina is amended  
6 by adding a new section to read:

7 **"Sec. 6. Trust Fund For Essential Services.**

8 Five percent (5%) or fifteen million dollars (\$15,000,000), whichever is less, of the  
9 net revenues of any State Lottery shall be deposited in the Trust Fund For Essential  
10 Services. The principal and interest of the Trust Fund For Essential Services shall not be  
11 expended before January 1, 2057. On or after January 1, 2057, only one-half of the  
12 annual interest earned on the Trust Fund during the previous year may be appropriated  
13 by the General Assembly. The corpus of the Trust Fund may be expended only after  
14 January 1, 2057, and only upon a vote of two-thirds majority of each house of the  
15 General Assembly present and voting."

16 **SECTION 2.** The amendment set out in Section 1 of this act shall be  
17 submitted to the qualified voters of the State at the statewide general election in  
18 November of 2006, which election shall be conducted under the laws then governing  
19 elections in the State. Ballots, voting systems, or both may be used in accordance with  
20 Chapter 163 of the General Statutes. The question to be used in voting systems and  
21 ballots shall be:

22  FOR  AGAINST

23 Constitutional amendment providing for the establishment of a Trust Fund  
24 For Essential Services."

25 **SECTION 3.** If a majority of the votes cast on the question are in favor of  
26 the amendment set out in Section 1 of this act, the State Board of Elections shall certify  
27 the amendment to the Secretary of State. The amendment becomes effective January 1,  
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1 2007. The Secretary of State shall enroll the amendment so certified among the  
2 permanent records of that office.

3 **SECTION 4.** Chapter 143 of the General Statutes is amended by adding a  
4 new section to read:

5 **"§ 143-15.3E. Trust Fund For Essential Services.**

6 (a) The Trust Fund For Essential Services is established as an interest-bearing,  
7 nonreverting special fund in the Office of State Budget and Management. Moneys in the  
8 Trust Fund For Essential Services shall be held in trust and used solely to provide  
9 essential services to the citizens of North Carolina if funds from all other sources  
10 available to the State are inadequate to provide those essential governmental services.

11 The State Treasurer shall hold the Trust Fund For Essential Services separate and  
12 apart from all other moneys, funds, and accounts. The State Treasurer shall be the  
13 custodian of the Trust Fund For Essential Services and shall invest its assets in  
14 accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the  
15 assets of the Trust Fund For Essential Services shall become part of the Trust Fund For  
16 Essential Services. Any balance remaining in the Trust Fund For Essential Services at  
17 the end of any fiscal year shall be carried forward in the Trust Fund For Essential  
18 Services for the next succeeding fiscal year.

19 The North Carolina State Lottery Commission shall annually pay to the Trust Fund  
20 For Essential Services five percent (5%) or fifteen million dollars (\$15,000,000),  
21 whichever is less, of the net revenues of the State lottery.

22 No funds may be expended from the Trust Fund For Essential Services before  
23 January 1, 2057. After January 1, 2057, only one-half of the annual interest earned on  
24 the Trust Fund during the previous year may be appropriated by the General Assembly.  
25 The corpus of the Trust Fund may be expended only after January 1, 2057, and only  
26 upon a vote of two-thirds majority of each house of the General Assembly present and  
27 voting.

28 (b) The Director may not use funds in the Trust Fund For Essential Services  
29 unless the use has been approved by an act of the General Assembly."

30 **SECTION 5.** G.S. 18C-164 reads as rewritten:

31 **"§ 18C-164. Transfer of net revenues.**

32 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of  
33 all revenues to the Lottery Fund and after accrual of all obligations of the Commission  
34 for prizes and expenses shall be considered to be the net revenues of the North Carolina  
35 State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be  
36 transferred periodically to the Education Lottery Fund, which shall be created in the  
37 State treasury.

38 (a1) From the Education Lottery Fund, the Commission shall transfer a sum equal  
39 to five percent (5%) of the net revenue of the prior year, but not to exceed fifteen  
40 million dollars (\$15,000,000), to the Trust Fund For Essential Services established by  
41 G.S. 143-15.3E.

42 (b) After making the transfer required by subsection (a1) of this section, if five  
43 percent (5%) of net revenue exceeds fifteen million dollars (\$15,000,000) in a prior  
44 year, from ~~From~~ the Education Lottery Fund, the Commission shall transfer a sum equal

1 to the difference between fifteen million dollars (\$15,000,000) and five percent (5%) of  
2 the net revenue of the prior year to the Education Lottery Reserve Fund. A special  
3 revenue fund for this purpose shall be established in the State treasury to be known as  
4 the Education Lottery Reserve Fund, and that fund shall be capped at fifty million  
5 dollars (\$50,000,000). Monies in the Education Lottery Reserve Fund may be  
6 appropriated only as provided in subsection (e) of this section.

7 (c) The Commission shall distribute the remaining net revenue of the Education  
8 Lottery Fund, as follows, in the following manner:

9 (1) A sum equal to fifty percent (50%) to support reduction of class size in  
10 early grades to class size allotments not exceeding 1:18 in order to  
11 eliminate achievement gaps and to support academic prekindergarten  
12 programs for at-risk four-year-olds who would otherwise not be served  
13 in a high-quality education program in order to help those  
14 four-year-olds be prepared developmentally to succeed in school.

15 (2) A sum equal to forty percent (40%) to the Public School Building  
16 Capital Fund in accordance with G.S. 115C-546.2.

17 (3) A sum equal to ten percent (10%) to the State Educational Assistance  
18 Authority to fund college and university scholarships in accordance  
19 with Article 35A of Chapter 115C of the General Statutes.

20 (d) Of the sums transferred under subsection (c) of this section, the General  
21 Assembly shall appropriate the funds annually based upon estimates of lottery net  
22 revenue to the Education Lottery Fund provided by the Office of State Budget and  
23 Management and the Fiscal Research Division of the North Carolina General Assembly.

24 (e) If the actual net revenues are less than the appropriation for that given year,  
25 then the Governor may transfer from the Education Lottery Reserve Fund an amount  
26 sufficient to equal the appropriation by the General Assembly. If the monies available in  
27 the Education Lottery Reserve Fund are insufficient to reach a full appropriation, the  
28 Governor shall transfer monies in order of priority, to the following:

29 (1) To support academic prekindergarten programs for at-risk  
30 four-year-olds who would otherwise not be served in a high-quality  
31 education program in order to help those four-year-olds be prepared  
32 developmentally to succeed in school.

33 (2) To reduce class size.

34 (3) To provide financial aid for needy students to attend college.

35 (4) To the Public School Building Capital Fund to be spent in accordance  
36 with this section.

37 (f) If the actual net revenues exceed the amounts appropriated in that fiscal year,  
38 the excess net revenues shall remain in the Education Lottery Fund, and then be  
39 transferred as follows:

40 (1) Fifty percent (50%) to the Public School Building Capital Fund to be  
41 spent in accordance with this section.

42 (2) Fifty percent (50%) to the State Educational Assistance Authority to  
43 be spent in accordance with this section."

44 **SECTION 6.** This act is effective when it becomes law.