

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1351

Short Title: Local Option Education Lottery. (Public)

Sponsors: Representative Owens.

Referred to: Rules, Calendar, and Operations of the House.

May 10, 2004

1 A BILL TO BE ENTITLED
2 AN ACT GIVING COUNTIES THE AUTHORITY TO ALLOW THE OPERATION
3 OF A LOTTERY IN THAT COUNTY, TO PROVIDE FOR STATE
4 REGULATION OF LOCALLY APPROVED LOTTERY OPERATIONS, AND TO
5 DISTRIBUTE TO EACH COUNTY AND THE CITIES LOCATED IN THE
6 COUNTY TWENTY-FIVE PERCENT OF THE NET PROCEEDS OF LOTTERY
7 OPERATIONS TO THE COUNTIES FOR SCHOOL CONSTRUCTION.

8 The General Assembly of North Carolina enacts:

9 Section 1. The General Statutes are amended by adding a new Chapter to
10 read:

11 "Chapter 143D.

12 "Local Option Lottery.

13 "Article 1.

14 "General Provisions.

15 "§ 143D-1. Purpose.

16 This Chapter allows the voters of each county to decide whether a Local Option
17 Education Lottery can be operated in that county for the purposes contained in this
18 Chapter. It also provides for State regulation of lottery operations in counties that have
19 approved these operations.

20 "§ 143D-2. Definitions.

21 The following definitions apply in this Chapter:

- 22 (1) Commission. – The State Lottery Commission.
23 (2) Commissioner. – A member of the State Lottery Commission.
24 (3) Director. – The Director of the State lottery.
25 (4) Lottery contractor. – A person who has entered a contract to provide
26 goods or services to the Commission.
27 (5) Lottery game. – A procedure authorized by the Commission whereby
28 prizes are distributed among persons who have bought tickets or shares
29 that provide the opportunity to win these prizes.

- 1 (6) Lottery game retailer. – The holder of a lottery game retailer permit
2 issued by the Commission.
- 3 (7) Lottery vendor. – A person who submits a bid, proposal, or offer for
4 the purpose of becoming a lottery contractor.
- 5 (8) Major procurement. – Any of the following:
6 a. Printing tickets or shares for use in a lottery game.
7 b. Providing goods or services in connection with the receipt or
8 recordation of number selections in a lottery game.
9 c. Providing goods or services in connection with the
10 determination or generation of winners in a lottery game.
- 11 (9) Person. – An individual, a firm, a partnership, an association, a
12 corporation, or another organization or combination of individuals
13 acting as a unit.
- 14 (10) Share. – A method of participating in a lottery game, other than by
15 purchasing a ticket, on an equivalent basis with participation by
16 purchasing a ticket.

17 **"§ 143D-3. County election to approve lottery.**

18 (a) Call of Election. – The board of elections of a county shall call an election on
19 the date on which a statewide general, special, or primary election is scheduled on the
20 question of the operation of a lottery in the county if the board receives a written request
21 to do so from the board of commissioners of the county. This election shall be held in
22 accordance with Chapter 163 of the General Statutes.

23 (b) Ballot. – The county board of elections shall prepare a ballot for an election
24 held under this section. The ballot shall be in the following form:

25 "[] YES [] NO

26 A Local Option Lottery for Education should be operated in this county."

27 (c) Effect. – If a majority of those voting in an election under this section
28 approve the operation of a lottery, the board of county commissioners shall notify the
29 Commission. If the Governor has not yet appointed the Commission, however, the
30 board shall notify the Governor. When the voters in at least 25 counties have approved
31 the operation of a lottery and the boards of county commissioners in these counties have
32 notified the Commission or the Governor, as appropriate, of the approval, the
33 Commission shall proceed to operate a lottery in the approving counties. The
34 Commission may not operate a lottery in any county until this 25-county requirement is
35 met.

36 If a majority of those voting in an election under this section do not approve the
37 operation of a lottery, the question of whether to allow the operation of a lottery in the
38 county may not be submitted to the voters of the county again for at least five years
39 after the date the election was held.

40 **"§ 143D-4. County election to repeal approval of lottery.**

41 (a) Election. – A county that has approved the operation of a lottery in the county
42 may repeal the approval. To repeal the approval, the county shall hold a special election
43 on the question of repealing the approval; and a majority of those who vote in the
44 election shall vote to repeal the approval. The board of elections of a county shall call a

1 special election on the question of repealing approval of the operation of a lottery in the
2 county in the same circumstances in which it is required to call a special election on the
3 question of approving the operation of a lottery in the county. The special election shall
4 be held in accordance with Chapter 163 of the General Statutes.

5 (b) Ballot. – The county board of elections shall prepare a ballot for a special
6 election held under this section. The ballot shall be in the following form:

7 "[] FOR [] AGAINST

8 Repeal of operations of the Local Option Education Lottery in the county."

9 (c) Effect. – If a majority of those voting in an election under this section
10 approve the repeal of lottery operations in the county, the board of county
11 commissioners shall notify the Commission. The Commission shall end lottery
12 operations in the county within three months of the date of the election.

13 If a majority of those voting in an election under this section do not approve the
14 repeal of lottery operations in the county, the county lottery operations remain in effect.
15 An election to repeal approval of the operation of a lottery in a county may not be held
16 more than once every three years and may not be held within three years of the date of
17 the election in which operation of the lottery was approved.

18 **"§ 143D-5. Lottery is a lawful activity in counties that vote for the lottery.**

19 A State law or a local ordinance that prohibits the operation of a lottery or the sale or
20 possession of a lottery game ticket or share does not apply to a lottery operated under
21 this Chapter or a lottery game ticket or share issued under this Chapter.

22 **"§ 143D-6. Local governments may not regulate or tax the State lottery.**

23 A local government in a county that has approved the operation of a lottery in the
24 county may not adopt an ordinance that does any of the following:

25 (1) Regulates the operation of the lottery.

26 (2) Imposes a tax on the sale of lottery game tickets or shares.

27 (3) Imposes a tax on the gross receipts of a lottery game retailer from sales
28 of lottery game tickets or shares.

29 **"§ 143D-7. Misdemeanor violations of lottery laws.**

30 Violation of each of the following lottery laws is a Class 1 misdemeanor and is
31 punishable as provided in G.S. 15A-1340.23:

32 (1) Knowingly selling a lottery game ticket or share to a person who is
33 less than 18 years old, in violation of G.S. 143D-32.

34 (2) Selling a lottery game ticket or share for a price other than the retail
35 price set by the Commission, in violation of G.S. 143D-32.

36 (3) Selling a lottery game ticket or share without a lottery game retailer
37 permit or authorization, in violation of G.S. 143D-45.

38 (4) Knowingly giving false information on an application for a lottery
39 game retailer permit, in violation of G.S. 143D-47.

40 **"§ 143D-8. Lottery law enforcement agents.**

41 (a) Appointment. – The Secretary of Crime Control and Public Safety shall
42 appoint lottery law enforcement agents. The Secretary of Crime Control and Public
43 Safety can appoint the same individual as an alcohol law enforcement agent under

1 G.S. 18B-500 and a lottery law enforcement agent under this section and shall do so to
2 the extent practical to achieve efficiency and economy in law enforcement personnel.

3 (b) Subject Matter Jurisdiction. – After a lottery law enforcement agent takes the
4 oath prescribed for a peace officer, the agent has the same authority to arrest and take
5 other investigatory and enforcement actions as an alcohol law enforcement agent. An
6 individual who is a lottery law enforcement agent but not an alcohol law enforcement
7 agent has primary responsibility for enforcement of the lottery laws. An individual who
8 is both a lottery law enforcement agent and an alcohol law enforcement agent has
9 primary responsibility for enforcement of the lottery laws as well as for enforcement of
10 the alcoholic beverage control laws and Article 5 of Chapter 90 of the General Statutes.
11 A lottery law enforcement agent, however, may perform any law enforcement duty
12 assigned by the Secretary of Crime Control and Public Safety or the Governor.

13 (c) Territorial Jurisdiction. – A lottery law enforcement agent is a State officer
14 with jurisdiction throughout the State.

15 (d) Service of Commission Orders. – A lottery law enforcement agent may serve
16 and execute notices, orders, or demands issued by the Commission for the surrender of
17 permits or relating to any administrative proceeding. While serving and executing a
18 notice, order, or demand, a lottery law enforcement agent has the same power and
19 authority that a law enforcement officer has when executing an arrest warrant.

20 "Article 2.

21 "Commission, Director, and Staff.

22 **"§ 143D-10. Creation, membership, and organization of Commission.**

23 (a) Creation. – The State Lottery Commission is established. The Commission is
24 located for administrative purposes in the Department of Commerce but exercises its
25 powers independently of that Department.

26 (b) Membership. – The Commission consists of five members appointed by the
27 Governor, subject to confirmation by the General Assembly by joint resolution. The
28 Governor shall submit the name of an appointee to the General Assembly by May 1 of
29 the year in which the term of the appointee is to begin. Each Commissioner shall be a
30 resident of a different State region, as set out in subsection (i) of this section. A person
31 who has been convicted of a felony may not serve as a Commissioner and no more than
32 three members of the same political party may serve as Commissioners at the same
33 time.

34 (c) Terms. – Except for the terms of the initial Commissioners, the term of a
35 Commissioner is for five years and begins on July 1. The term of one of the initial
36 Commissioners confirmed by the General Assembly ends June 30 one year from the
37 date of appointment; the term of another ends two years from the date of appointment;
38 the term of another ends three years from the date of appointment; the term of another
39 ends four years from the date of appointment; and the term of another ends five years
40 from the date of appointment. When submitting the names of the initial appointees to be
41 confirmed by the General Assembly, the Governor shall state when each appointee's
42 term ends. A Commissioner continues to serve until the Commissioner's successor takes
43 office as a Commissioner, but the continuation does not change the date when the term
44 of the Commissioner's successor ends.

1 (d) Vacancies. – When a vacancy occurs on the Commission and the General
2 Assembly is in session, the Governor shall submit to the General Assembly the name of
3 an appointee to fill the vacancy. The Governor shall submit a name as soon as possible
4 but no later than three weeks after the vacancy occurs.

5 When a vacancy occurs on the Commission and the General Assembly is not in
6 session, the vacated position remains vacant until the General Assembly convenes
7 unless the Governor considers filling the vacancy urgent. If the Governor finds it urgent
8 to fill the vacancy, the Governor may appoint a person to serve as a Commissioner on
9 an interim basis pending confirmation by the General Assembly. When the General
10 Assembly convenes, it shall consider the confirmation of an interim appointment.

11 A Commissioner appointed to fill a vacancy serves for the unexpired portion of the
12 term vacated.

13 (e) Chair. – When the initial Commissioners are confirmed by the General
14 Assembly, the Governor shall designate one of the Commissioners as Chair of the
15 Commission. All Chairs serve three-year terms as Chair that end on June 30. If a Chair
16 leaves the Commission before completing a three-year term as Chair, the Governor shall
17 designate another Commissioner as Chair to serve for the remainder of the unexpired
18 term as Chair.

19 (f) Compensation. – Each Commissioner receives a per diem allowance for each
20 day the Commissioner attends a meeting of the Commission, attends a meeting of
21 another body as a representative of the Commission, is traveling as a representative of
22 the Commission, or is otherwise acting in the service of the Commission. The amount of
23 the allowance is the amount a member of the General Assembly receives as a
24 subsistence allowance under G.S. 120-3.1(a)(3). This allowance is in lieu of amounts
25 allowed under G.S. 138-5.

26 (g) Organization. – The Commission shall meet at the call of the Chair or at the
27 call of a majority of the Commissioners. A majority of the Commissioners is a quorum.
28 The Commission shall make all its decisions by a majority vote.

29 (h) Oath. – As an officer of the State, each Commissioner shall take the oath
30 required by Article VI, § 7 of the North Carolina Constitution.

31 (i) Regions. – To obtain statewide representation among the membership of the
32 Commission, the State is divided into the following five regions:

<u>Region</u>	<u>Counties in Region</u>
34 <u>1</u>	<u>Avery, Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham,</u> 35 <u>Haywood, Henderson, Jackson, Lincoln, Macon, Madison,</u> 36 <u>McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain,</u> 37 <u>Transylvania, and Yancey.</u>
38 <u>2</u>	<u>Alexander, Alleghany, Ashe, Burke, Cabarrus, Caldwell, Catawba,</u> 39 <u>Davidson, Davie, Forsyth, Guilford, Iredell, Randolph,</u> 40 <u>Rockingham, Rowan, Stanly, Stokes, Surry, Yadkin, Watauga, and</u> 41 <u>Wilkes.</u>
42 <u>3</u>	<u>Alamance, Anson, Caswell, Chatham, Durham, Hoke, Lee,</u> 43 <u>Montgomery, Moore, Orange, Person, Richmond, Scotland, and</u> 44 <u>Union.</u>

1 4 Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe,
2 Franklin, Gates, Granville, Halifax, Harnett, Hertford, Hyde,
3 Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell,
4 Vance, Wake, Warren, Washington, and Wilson.

5 5 Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland,
6 Duplin, Greene, Johnston, Jones, Lenoir, New Hanover, Onslow,
7 Pamlico, Pender, Robeson, Sampson, and Wayne.

8 **"§ 143D-11. General laws apply to Commission.**

9 As a State agency, the general laws that apply to State agencies apply to the
10 Commission. These laws include the following:

- 11 (1) Chapter 126 of the General Statutes, the State Personnel Act.
12 (2) Chapter 132 of the General Statutes, which governs public access to
13 records of a State agency.
14 (3) Articles 3 and 3C of Chapter 143 of the General Statutes, which
15 govern the purchase of goods and services by a State agency.
16 (4) Article 33C of Chapter 143 of the General Statutes, which governs
17 meetings of a State agency.
18 (5) Chapter 150B of the General Statutes, which governs the adoption of
19 rules by a State agency and the review of certain decisions of a State
20 agency.

21 **"§ 143D-12. Powers and duties of Commission.**

22 (a) Powers. – The Commission has all powers necessary to perform its duties
23 under this Chapter. The Commission may adopt rules to implement this Chapter.

24 (b) Duties. – The Commission shall:

- 25 (1) Establish and operate a lottery in the counties that have approved the
26 operation of a lottery.
27 (2) Ensure that the lottery is operated efficiently and honestly.
28 (3) Meet with the Director at least monthly to set policy, approve or reject
29 reports of the Director, and transact any other business of the
30 Commission.
31 (4) Make quarterly and annual reports to the Governor, the Attorney
32 General, the State Treasurer, and the General Assembly on the
33 operation of the lottery, including full and complete statements of
34 lottery revenues, prize disbursements, expenses, net income, and all
35 other financial transactions involving lottery funds.

36 **"§ 143D-13. Selection and compensation of Director.**

37 (a) Selection. – The office of Director of the Commission is established. The
38 Director is selected by the Commission and serves at the pleasure of the Commission.
39 The Director shall be qualified by training and experience to direct the operations of a
40 lottery. A person who has been convicted of a felony may not serve as Director. As an
41 officer of the State, the Director shall take the oath required by Article VI, § 7 of the
42 North Carolina Constitution.

1 (b) Compensation. – The Director receives the salary set by the Commission. The
2 Director is reimbursed for travel expenses in accordance with G.S. 136-8. The Director
3 is not subject to Chapter 126 of the General Statutes, the State Personnel Act.

4 **"§ 143D-14. Duties and powers of Director.**

5 (a) General. – The Director is the secretary and executive officer of the
6 Commission. The Director's position is a full-time position; the Director may not
7 engage in any other occupation or profession while serving as Director.

8 (b) Specific. – The Director shall:

9 (1) Supervise and administer the operation of the lottery in accordance
10 with this Chapter.

11 (2) Study the following:

12 a. Lotteries operated by another state or a foreign country.

13 b. Available literature on the subject of lotteries.

14 c. Existing or proposed federal laws that may affect the operation
15 of the lottery.

16 d. The reaction of the citizens of the counties that have approved
17 the operation of a lottery to existing or proposed features in a
18 lottery game.

19 e. The demographic characteristics of the players of lottery games.

20 f. The effectiveness of the marketing used on sales of lottery
21 game tickets and shares.

22 (3) Recommend to the Commission improvements in the lottery based on
23 studies made.

24 (4) Make and keep books and records that accurately and fairly reflect
25 each day's lottery transactions, including the distribution of lottery
26 game tickets or shares to lottery game retailers, the receipt of funds
27 and prize claims, the amount of prizes paid directly by the
28 Commission, and all other financial transactions involving lottery
29 funds necessary to maintain daily accountability of lottery funds.

30 (5) Report monthly to the Commission on the amount of revenue
31 generated by the lottery during the preceding month and the amount of
32 expenses incurred by the lottery during the preceding month.

33 (6) Provide for federal income tax to be withheld from a lottery game
34 prize as required by section 3402 of the Internal Revenue Code.

35 (7) Provide for State income tax in the amount of seven percent (7%) of a
36 lottery game prize to be withheld from a prize from which federal
37 income tax is required to be withheld.

38 (8) Report to the Secretary of Revenue the payment of a lottery game
39 prize that shall be reported to the Internal Revenue Service under
40 section 3402 of the Internal Revenue Code.

41 (9) Perform other duties assigned by the Commission.

42 **"§ 143D-15. Staff.**

43 The Director may hire professional, clerical, technical, and administrative personnel
44 needed to operate a lottery. The Director may not hire a person who has been convicted

1 of a felony. Before hiring a person, the Director shall investigate the person's
2 background. As a condition of employment, each applicant for employment with the
3 Commission shall sign an authorization allowing the Director to investigate the
4 applicant's background.

5 **"§ 143D-16. Assistant directors.**

6 The Director shall appoint an assistant director for security and may appoint and
7 establish the duties for up to three additional assistant directors. The Commission
8 determines the compensation of the assistant directors. The Director may designate one
9 of the assistant directors as the deputy director.

10 **"§ 143D-17. Assistant director for security.**

11 (a) Selection. – The assistant director for security is responsible for a security
12 division. The assistant director for security shall have at least five years' experience in
13 law enforcement, shall have knowledge and experience in computer security, and shall
14 otherwise be qualified by training and experience for the position.

15 (b) Duties. – The assistant director for security shall:

- 16 (1) Investigate the background of all prospective employees, lottery game
17 retailers, and lottery vendors for major procurements.
- 18 (2) Recommend procedures to the Director that ensure the security,
19 honesty, fairness, and integrity of the lottery.
- 20 (3) Report any alleged violation of law to the appropriate law enforcement
21 authority for further investigation and action.
- 22 (4) Perform other duties assigned by the Director.

23 "Article 3.

24 "Lottery Vendors and Lottery Contractors.

25 **"§ 143D-20. Obtaining goods and services.**

26 The Commission shall follow the procedures in Articles 3 and 3A of Chapter 143 of
27 the General Statutes when it purchases or leases goods or services needed to conduct the
28 lottery. The Commission may not contract with any private party or other
29 nongovernmental entity for the operation and administration of the lottery, but may
30 enter into a contract with a private party for a major procurement or other procurement
31 that integrates functions such as lottery game design, supply of goods and services, and
32 advertising.

33 **"§ 143D-21. Contracts for major procurements.**

34 A contract for a major procurement shall be awarded to the responsible lottery
35 vendor who submits the best proposal that maximizes the benefits to the State. A
36 contract for a major procurement may not be awarded to a person who has been
37 convicted of a felony or any gambling offense in any state or federal court of the United
38 States within 10 years of entering into the contract.

39 In choosing among lottery vendors, the State shall take into account the particularly
40 sensitive nature of the lottery and shall consider the competence, quality of product,
41 experience, and timely performance of the lottery vendors in order to promote and
42 ensure security, honesty, fairness, and integrity in the operation and administration of
43 the lottery and maximize the objective of raising revenues. The Commission may

1 engage an independent firm experienced in evaluating government procurement
2 proposals to aid in evaluating proposals for a major procurement.

3 Before a contract for a major procurement is awarded, the assistant director for
4 security shall conduct a thorough background investigation of all of the following:

- 5 (1) Each lottery vendor who submitted a bid, proposal, or offer.
- 6 (2) Any parent or subsidiary corporation, if any, of each lottery vendor
7 who submitted a bid, proposal, or offer.
- 8 (3) All shareholders who own at least a five percent (5%) interest in each
9 lottery vendor, or parent or subsidiary corporation of each lottery
10 vendor, who submitted a bid, proposal, or offer.
- 11 (4) All officers and directors of each lottery vendor or parent or subsidiary
12 corporation of each lottery vendor who submitted a bid, proposal, or
13 offer.

14 **"§ 143D-22. Lottery vendor disclosures for major procurements.**

15 A lottery vendor who submits a bid, proposal, or offer for a major procurement shall
16 disclose the information required by the State to enable the State to evaluate the
17 vendor's competence, integrity, background, and character. A lottery vendor shall
18 submit to the assistant director for security any appropriate investigation authorizations
19 needed to facilitate these evaluations.

20 **"§ 143D-23. Performance bond for major procurements.**

21 Each lottery contractor for a major procurement shall, at the time of executing the
22 contract with the Commission, post an appropriate bond or letter of credit with the
23 Commission, in an amount equal to the full amount estimated to be paid annually to the
24 lottery contractor under the contract. The Commission may decrease the bond or letter
25 of credit requirement for a major procurement if it determines that the decrease will
26 result in a cost savings to the lottery while still providing adequate protection against
27 nonperformance.

28 In lieu of a bond or letter of credit, a contractor may, to ensure the faithful
29 performance of its obligations, deposit and maintain with the Commission securities that
30 accrue interest and that, with the exception of those specified in subdivisions (1) or (2)
31 of this section, are rated in one of the four highest classifications by an established
32 nationally recognized investment rating service. Securities eligible under this section are
33 limited to the following:

- 34 (1) Certificates of deposit issued by a bank or savings institution whose
35 principal place of business is located in this State.
- 36 (2) United States bonds and bills for which the full faith and credit of the
37 government of the United States is pledged for the payment of
38 principal and interest.
- 39 (3) General obligation bonds and notes of any political subdivision of the
40 State.
- 41 (4) Corporate bonds of a corporation that is not an affiliate or subsidiary
42 of the depositor.

1 c. A lottery game contractor or an officer or employee of a lottery
2 game contractor whose contract concerns a major procurement.

3 d. A spouse, parent, or child living in the same household as a
4 person disqualified by subparts b. or c. of this subdivision.

5 (2) It may not be sold for a price that is higher than the retail price set by
6 the Commission.

7 (3) It may not be given as a premium or an enticement to promote the sale
8 of an item or a product.

9 **"§ 143D-33. Number and value of prizes.**

10 (a) Type. – Upon the recommendation of the Director, the Commission shall
11 determine the number and value of prizes for winning tickets or shares in each lottery
12 game. A prize may be a cash prize paid in a lump sum, in deferred payments, or by an
13 annuity, a merchandise prize, or a prize of a ticket or share in the same lottery game or
14 another lottery game.

15 (b) Prize Percentage. – As nearly as practical, the Commission shall allocate at
16 least fifty percent (50%) of the total projected annual revenue from the sale of lottery
17 tickets or shares for each particular lottery game for the payment of prizes for that
18 lottery game. The Commission may allocate a larger percentage of the total projected
19 annual revenue from a lottery game to prizes if it concludes that the total annual net
20 revenue from the lottery game will be enhanced by that higher prize percentage.

21 (c) Odds. – The following requirements apply:

22 (1) In lottery games using tickets with preprinted winners, the overall
23 estimated odds of winning prizes shall be printed on each ticket.

24 (2) A detailed tabulation of the estimated number of prizes of each
25 particular prize denomination that are expected to be awarded in each
26 lottery game, or the estimated odds of winning these prizes, shall be
27 available from the Commission when the lottery game is offered for
28 sale to the public.

29 (3) All printed or point-of-sale advertising promoting the sale of lottery
30 tickets for a particular game shall include the actual or estimated odds
31 of winning that game.

32 **"§ 143D-34. Method of determining winners.**

33 (a) Method. – Upon the recommendation of the Director, the Commission shall
34 specify the method for determining winners in each lottery game. If more than one
35 person is entitled to the same prize, each person shall receive a proportional share of the
36 prize.

37 (b) Drawings. – If a lottery game uses a drawing of winning numbers, a drawing
38 among entries, or a drawing among finalists to determine the winner, the drawing shall
39 comply with all of the following requirements:

40 (1) It shall be open to the public.

41 (2) It shall be witnessed by an independent certified public accountant.

42 (3) Any equipment used in the drawing shall be inspected, both before and
43 after the drawing, by an independent certified public accountant and an
44 employee of the Commission.

1 (4) It and any inspection of equipment used in it shall be recorded on both
2 video and audio tape.

3 **"§ 143D-35. Payment of prizes.**

4 (a) Procedures. – Upon the recommendation of the Director, the Commission
5 shall establish procedures for verifying the validity of a lottery game ticket or share
6 presented as the winner of a prize and for paying prizes won in a lottery game. The
7 Commission may authorize lottery game retailers to pay some prizes at their premises
8 and may require prizes to be paid only by the Commission.

9 (b) Restrictions. – The right of a person to a prize is not assignable. A prize may
10 be paid to the estate of a deceased prize winner, however, or to a person designated
11 pursuant to a judicial order. A lottery game prize may not be paid to a person:

12 (1) To whom a lottery game ticket or share cannot be sold or given, as
13 listed in G.S. 143D-32.

14 (2) Who presents a lottery game ticket or share that is stolen, counterfeit,
15 altered, fraudulent, unissued, produced or issued in error, unreadable,
16 not presented by the applicable deadline, or lacking in captions that
17 conform with the lottery play symbols for the lottery game involved,
18 or does not otherwise comply with any applicable requirements.

19 (c) Time. – The holder of a lottery game ticket or share may claim a prize won
20 by the ticket or share for 180 days after the drawing or the end of the lottery game in
21 which the prize was won. The Commission may set a shorter time period for eligibility
22 for entry into a drawing for entries or finalists. The Commission may set a different time
23 period for a lottery game that involves a lottery in another state.

24 (d) Unclaimed Prizes. – A prize that is not claimed within the time limit may not
25 be claimed after the time limit expires. The value of all unclaimed prizes shall be
26 credited to the Lottery Fund established in Article 6 of this Chapter.

27 (e) Information. – At the end of the time period for claiming prizes for each
28 lottery game, the Commission shall prepare a detailed statement of the total number of
29 prizes of each prize denomination, claimed and paid directly by the Commission. The
30 Commission shall make this statement available at its office and from lottery game
31 retailers.

32 **"§ 143D-36. Player agreement.**

33 By purchasing a ticket or share in a lottery game, a player agrees to be bound by the
34 lottery game's play rules. In particular, the purchaser of a ticket or share acknowledges
35 that the determination of whether the purchaser is a winner is subject to the game play
36 rules and the winner validation procedures for the lottery game.

37 **"§ 143D-37. Audits.**

38 (a) State Auditor. – The State Auditor shall conduct semiannual and annual
39 audits of all accounts and transactions of the Commission and shall conduct any other
40 special audits considered necessary. The State Auditor may examine any records of the
41 Commission. The State Auditor may examine the records of the following that are
42 relevant to the State lottery:

43 (1) A lottery game retailer.

44 (2) A lottery game contractor who has a contract for a major procurement.

- 1 (2) Be engaged in a retail business at an established location in this State
2 from which the person intends to sell lottery game tickets or shares in
3 addition to conducting the existing retail business.
- 4 (3) Be a resident of North Carolina unless either of the following applies:
5 a. The person is an officer, a director, or a stockholder of a
6 corporate applicant and is not a manager or is not otherwise
7 responsible for the day-to-day operation of the business.
8 b. The person has executed a power of attorney designating a
9 qualified resident of this State to serve as attorney-in-fact for
10 the purposes of receiving service of process and managing the
11 business for which the permit is sought.
- 12 (4) Not have been convicted of a felony or a misdemeanor gambling
13 offense within the last 10 years.
- 14 (5) Not have had a permit issued under this section revoked within the last
15 10 years.

16 (c) Conviction Defined. – For purposes of this section, a 'conviction' is a
17 judgment against a person that includes a finding of guilt or an entry of a plea of guilty
18 or nolo contendere. A felony conviction in another jurisdiction disqualifies a person
19 from being eligible to receive or hold a lottery game retailer permit if the person's
20 conduct would also constitute a felony in North Carolina. A conviction of a
21 misdemeanor gambling offense in another jurisdiction disqualifies a person from being
22 eligible to receive or hold a lottery game retailer permit if the person's conduct would
23 constitute an offense in North Carolina, unless the Commission determines that under
24 North Carolina procedure judgment would not have been entered under the same
25 circumstances. Revocation of a similar permit or authority to sell lottery tickets in
26 another jurisdiction disqualifies a person if the person's conduct would be grounds for
27 revocation in North Carolina.

28 (d) Who Shall Qualify. – For a lottery game retailer permit to be issued to and
29 held by a business, each of the following persons associated with that business shall
30 qualify under subsection (b) of this section:

- 31 (1) The owner of a sole proprietorship.
32 (2) Each member of a firm, an association, or a general partnership.
33 (3) Each general partner in a limited partnership.
34 (4) Each officer, director, and owner of more than ten percent (10%) of
35 the stock of a corporation, except that the age requirement of
36 subdivision (b)(1) of this section does not apply to a stockholder who
37 is not a manager of or is not otherwise responsible for the day-to-day
38 operation of the applicant's retail business.
39 (5) The manager of a retail business operated by a corporation.
40 (6) Any manager who has been empowered as attorney-in-fact for a
41 nonresident individual or partnership.

42 **"§ 143D-46. Issuance of lottery game retailer permit.**

43 (a) Factors. – Before issuing a lottery game retailer permit, the Commission shall
44 be satisfied that the applicant is a suitable person to hold the permit and that the

1 applicant's retail business is a suitable place to sell lottery game tickets and shares. The
2 Commission may consider any of the following factors in making its decision:

- 3 (1) The reputation, character, and criminal record of the applicant.
- 4 (2) The number of places already holding lottery game retailer permits in
5 the neighborhood.
- 6 (3) The convenience of the applicant's retail business to the public,
7 including available parking and the traffic conditions in the
8 neighborhood.
- 9 (4) The financial responsibility of the applicant.
- 10 (5) The volume of lottery game tickets and shares the applicant expects to
11 sell.
- 12 (6) Any other information that would tend to show whether the applicant
13 would comply with the lottery laws.

14 (b) Commission's Authority. – The Commission has the sole power, in its
15 discretion, to determine the suitability and qualifications of an applicant for a lottery
16 game retailer permit.

17 **"§ 143D-47. Application for permit; fees.**

18 (a) Form. – An application for a lottery game retailer permit shall be on a form
19 prescribed by the Commission and shall be notarized. The application shall be signed
20 and sworn to by each person required to qualify under G.S. 143D-45(d).

21 (b) Investigation. – Before issuing a new permit, the Commission shall
22 investigate the applicant and the applicant's retail business. An applicant shall cooperate
23 fully with the investigation.

24 (c) Fees. – An application for a lottery game retailer permit shall be accompanied
25 by the application fee, if any, set by the Commission. An application fee is not
26 refundable.

27 **"§ 143D-48. Compensation for lottery game retailers.**

28 (a) Amount. – Upon the recommendation of the Director, the Commission shall
29 determine the compensation to be paid to lottery game retailers for their sales of lottery
30 game tickets or shares. Until the Commission establishes a different amount of
31 compensation, the Commission shall pay each lottery game retailer five percent (5%) of
32 the retail price of the tickets or shares sold by the retailer plus an incentive bonus of one
33 percent (1%) of the amount sold above a specified sales volume or the attainment of
34 another objective specified by the Commission.

35 (b) Effect on Lease or Rental Agreement. – If a lease or rental agreement made
36 by a lottery game retailer is based on a percentage of the retailer's retail sales, the
37 retailer's sales of lottery game tickets or shares may not be counted in computing the
38 amount payable under the agreement unless the agreement explicitly includes these
39 sales. Conversely, a lease or rental agreement based on a percentage of sales includes
40 the amount of compensation paid to a lottery game retailer under subsection (a) of this
41 section unless the agreement specifically excludes these payments.

42 **"§ 143D-49. Duration and transfer of permit.**

43 (a) Duration. – A lottery game retailer permit is valid until it is surrendered,
44 suspended, or revoked.

1 (b) Change in Ownership. – A lottery game retailer permit for a retail business
2 automatically expires and shall be surrendered to the Commission if any of the
3 following occurs:

4 (1) Ownership of the retail business changes.

5 (2) There is a change in the membership of the firm, association, or
6 partnership owning the retail business and the change involves the
7 acquisition of a ten percent (10%) or greater share in the firm,
8 association, or partnership by someone who did not previously own a
9 ten percent (10%) or greater share.

10 (3) Ten percent (10%) or more of the stock of the corporate permit holder
11 owning the retail business is acquired by someone who did not
12 previously own ten percent (10%) or more of the stock.

13 (c) Change in Management. – A corporation holding a lottery game retailer
14 permit for a retail business for which the manager is required to qualify as an applicant
15 under G.S. 143D-45(d) shall, within 30 days after employing a new manager, submit to
16 the Commission an application for substitution of a manager. The application shall be
17 signed by the new manager, shall be on a form provided by the Commission, and shall
18 be accompanied by a fee of ten dollars (\$10.00). The fee is not refundable.

19 (d) Transfer. – A lottery game retailer permit may not be transferred from one
20 person to another or from one location to another.

21 (e) Lost Permit. – The Commission may issue a duplicate lottery game retailer
22 permit for a retail business when the permit issued has been lost or damaged. A request
23 for a duplicate permit shall be on a form provided by the Commission, certified by the
24 lottery game retailer whose permit is lost or damaged, and accompanied by a fee of ten
25 dollars (\$10.00).

26 (f) Name Change. – The Commission may issue a new lottery game retailer
27 permit for a retail business when the name of the retail business changes. A request for a
28 new permit shall be on a form provided by the Commission, certified by the lottery
29 game retailer whose business name has changed, and accompanied by a fee of ten
30 dollars (\$10.00).

31 **"§ 143D-50. Denial, suspension, or revocation of a lottery game retailer permit.**

32 (a) The Commission may deny, suspend, or revoke a lottery game retailer permit
33 for any of the following reasons:

34 (1) Knowingly making a false statement on an application for a lottery
35 game retailer permit.

36 (2) Failing to keep records as required by the Commission.

37 (3) Failing to account for lottery game tickets or shares received or the
38 proceeds from the sale of the tickets or shares.

39 (4) Failing to file a bond required by the Commission.

40 (5) Failing to comply with the rules of the Commission concerning the
41 payment of prizes or other matters.

42 (6) Conviction of an offense that would make an applicant ineligible to
43 receive a permit.

1 (7) Making misrepresentations concerning a lottery game or doing other
2 acts that create a lack of public confidence in the lottery.

3 (8) Failing to sell enough lottery game tickets or shares to meet the
4 Commission's projected sales volume.

5 (9) A change in circumstances that makes the retail business for which a
6 permit has been issued no longer suitable to hold a permit.

7 **"§ 143D-51. Records, payments, and bonds of lottery game retailers.**

8 (a) Records. – A lottery game retailer shall keep books and records of lottery
9 game tickets and shares received, lottery game tickets or shares sold, and lottery game
10 prize winners and prize payments as required by the Commission. The books and
11 records of a lottery game retailer are subject to inspection by the Commission during
12 business hours of the retail business.

13 (b) Bonds. – The Commission may require a lottery game retailer to give a bond
14 in an amount set by the Commission. The bond shall be in the form specified by the
15 Commission, shall be conditioned on the lottery game retailer's compliance with the
16 lottery laws, and shall be payable to the State.

17 (c) Remittance. – A lottery game retailer shall periodically report and send to the
18 Commission the amount of revenue received by the retailer from sales of lottery game
19 tickets or shares, less the amount of prizes paid by the retailer and the retailer's
20 compensation for making the sales. The Commission shall establish the periods and
21 methods for reporting revenue under this section.

22 **"§ 143D-52. Miscellaneous provisions concerning lottery game retailer permits.**

23 (a) Posting Permit. – The holder of a lottery game retailer permit shall post the
24 permit in a prominent place at the retail business named in the permit.

25 (b) Notice of Issuance. – When the Commission issues a lottery game retailer
26 permit, it shall notify the following people of the issuance and give the name and
27 address of the retail business for which the permit was issued:

28 (1) The governing body and sheriff of the county in which the retail
29 business is located.

30 (2) If the retail business is located inside a city, the governing body and
31 the chief of police of the city.

32 "Article 6.

33 "Use of Lottery Proceeds.

34 **"§ 143D-55. Lottery Fund.**

35 The Lottery Fund is established as a proprietary fund within the State treasury. The
36 Lottery Fund accounts for all revenues and expenses of the lottery. Interest and other
37 investment income earned by the Lottery Fund accrue to the Lottery Fund. The Lottery
38 Fund is continuously appropriated to the Commission to provide funds for the
39 Commission and the operation of the lottery.

40 **"§ 143D-56. Distribution of lottery proceeds.**

41 The Commission shall distribute the net proceeds of the lottery on a quarterly basis.
42 The proceeds shall be distributed in the following manner:

43 (1) Twenty-five percent (25%) of the net proceeds shall be distributed to
44 the counties in which the lottery is operated on the basis of the ratio of

1 the sales of lottery tickets in that county bears to the total sales of
2 lottery tickets in all counties in which the lottery is operated.

3 (2) The remaining net proceeds shall be appropriated by the General
4 Assembly to establish or enhance education programs, including for a
5 voluntary statewide prekindergarten program to prepare at-risk
6 four-year-olds for school in order to close the achievement gap that
7 now exists; for programs to reduce class sizes in the public schools;
8 and for programs to provide more one-on-one instruction to allow
9 teachers to teach and children to learn so that more children will stay
10 in school, graduate, and go on to college.

11 Revenue distributed to a county under this section shall be used for school
12 construction."

13 **SECTION 2.** Studies. (a) Demographics. – After the first 12 months of
14 sales in at least 25 counties of both instant winner and on-line lottery game tickets or
15 shares to the public, the Commission shall engage an independent firm experienced in
16 demographic analysis to conduct a special study to determine the demographic
17 characteristics of the players of each lottery game, including their income, age, sex,
18 education, and frequency of participation. When completed, the study shall be presented
19 to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, and
20 the Speaker of the House of Representatives.

21 (b) Effectiveness. – After the first 12 months of sales in at least 25
22 counties of both instant winner and on-line lottery game tickets or shares to the public,
23 the Commission shall engage an independent firm experienced in the analysis of
24 advertising, promotion, public relations, and other aspects of communications to
25 conduct a special study of the effectiveness of the communications activities undertaken
26 by the Commission and to make recommendations to the Commission on the future
27 conduct of and the future rate of expenditures for these activities. When completed, the
28 study shall be presented to the Governor, the Lieutenant Governor, the President Pro
29 Tempore of the Senate, and the Speaker of the House of Representatives.

30 **SECTION 3.** To provide for the start-up costs of the State lottery, the State
31 Lottery Commission shall estimate the initial working capital needed and submit the
32 estimate to the Office of State Budget and Management for approval. If the Office of
33 State Budget and Management and the State Treasurer approve the amount, the State
34 Controller shall advance the approved amount by internal borrowing from other
35 available State funds. The terms and conditions of the temporary loan or loans shall be
36 determined by the State Treasurer.

37 **SECTION 4.** G.S. 120-123 is amended by adding a new subdivision to read:
38 "(78) The State Lottery Commission, established by G.S. 143D-2."

39 **SECTION 5.** G.S. 150B-2(8a) is amended by adding a new sub-subdivision
40 to read:

41 "l. Procedures and instructions for playing a lottery game."

42 **SECTION 6.** The limitation in G.S. 143D-38, as enacted by this act, on the
43 amount of revenue that may be spent on expenses of the State lottery does not apply to

1 the first 12 months in which the lottery is operated. The State Lottery Commission,
2 however, shall keep the expenses of the State lottery as low as practical.

3 **SECTION 7.** When the voters of 25 counties approve the operation of a
4 lottery in those counties, the Governor shall appoint five State Lottery Commissioners
5 within 30 days after the results of the twenty-fifth election are certified. Appointments
6 shall be made in accordance with G.S. 143D-10(i), as enacted by this act. The
7 appointees are subject to confirmation by the General Assembly when it convenes. The
8 interim appointees shall begin operation of lottery games as soon as practical.

9 **SECTION 8.** This act is effective upon ratification.