GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2005**

2

HOUSE BILL 3 Corrected Copy 1/31/05 Short Title: Local Option Education Lottery. (Public) Representatives Owens; Glazier, Hunter, and LaRoque. Sponsors: Referred to: Rules, Calendar, and Operations of the House. January 27, 2005 A BILL TO BE ENTITLED AN ACT GIVING COUNTIES THE AUTHORITY TO ALLOW THE OPERATION OF A LOTTERY IN THAT COUNTY, TO PROVIDE FOR STATE REGULATION OF LOCALLY APPROVED LOTTERY OPERATIONS, AND TO DISTRIBUTE TO EACH COUNTY AND THE CITIES LOCATED IN THE COUNTY TWENTY-FIVE PERCENT OF THE NET PROCEEDS OF LOTTERY OPERATIONS TO THE COUNTIES FOR SCHOOL CONSTRUCTION AND TO **IMPLEMENT** USE ADDITIONAL **FUNDS** TO AND **ENHANCE** EDUCATIONAL PROGRAMS. The General Assembly of North Carolina enacts: **SECTION 1.** The General Statutes are amended by adding a new Chapter to 12 read: "Chapter 143D. "Local Option Lottery. "Article 1.

"§ 143D-1. Purpose.

Η

1 2

3

4

5

6

7

8

9 10

11

13

14

15

16 17

18

19

20

21

22

23

24

26

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

"General Provisions.

"§ 143D-2. Definitions.

The following definitions apply in this Chapter:

- Commission. The State Lottery Commission. (1)
- Commissioner. A member of the State Lottery Commission. 25 (2)
 - Director. The Director of the State lottery. (3)
- Lottery contractor. A person who has entered a contract to provide 27 (4) goods or services to the Commission. 28

Lottery game. – A procedure authorized by the Commission whereby (5) 1 2 prizes are distributed among persons who have bought tickets or shares 3 that provide the opportunity to win these prizes. Lottery game retailer. – The holder of a lottery game retailer permit 4 (6) 5 issued by the Commission. 6 Lottery vendor. – A person who submits a bid, proposal, or offer for <u>(7)</u> 7 the purpose of becoming a lottery contractor. 8 Major procurement. – Any of the following: **(8)** 9 Printing tickets or shares for use in a lottery game. 10 b. Providing goods or services in connection with the receipt or recordation of number selections in a lottery game. 11 12 Providing goods or services in connection with the <u>c.</u> determination or generation of winners in a lottery game. 13 14 (9) Person. – An individual, a firm, a partnership, an association, a corporation, or another organization or combination of individuals 15 acting as a unit. 16 17 (10)Share. – A method of participating in a lottery game, other than by 18 purchasing a ticket, on an equivalent basis with participation by purchasing a ticket. 19 20 "§ 143D-3. County election to approve lottery. Call of Election. – The board of elections of a county shall call an election on 21 the date on which a statewide general, special, or primary election is scheduled on the 22 23 question of the operation of a lottery in the county if the board receives a written request 24 to do so from the board of commissioners of the county. This election shall be held in accordance with Chapter 163 of the General Statutes. 25 Ballot. – The county board of elections shall prepare a ballot for an election 26 held under this section. The ballot shall be in the following form: 27 "[] YES 28 [] NO A Local Option Lottery for Education should be operated in this county." 29 30 (c) Effect. – If a majority of those voting in an election under this section approve the operation of a lottery, the board of county commissioners shall notify the 31 32 Commission. If the Governor has not yet appointed the Commission, however, the 33 board shall notify the Governor. When the voters in at least 25 counties have approved the operation of a lottery and the boards of county commissioners in these counties have 34 35 notified the Commission or the Governor, as appropriate, of the approval, the Commission shall proceed to operate a lottery in the approving counties. The 36 Commission may not operate a lottery in any county until this 25-county requirement is 37 38 met.

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

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

39

40

41 42

43

Page 2 H3 [Edition 2]

- (a) Election. A county that has approved the operation of a lottery in the county may repeal the approval. To repeal the approval, the county shall hold a special election on the question of repealing the approval; and a majority of those who vote in the election shall vote to repeal the approval. The board of elections of a county shall call a special election on the question of repealing approval of the operation of a lottery in the county in the same circumstances in which it is required to call a special election on the question of approving the operation of a lottery in the county. The special election shall be held in accordance with Chapter 163 of the General Statutes.
- (b) Ballot. The county board of elections shall prepare a ballot for a special election held under this section. The ballot shall be in the following form:

"[] FOR [] AGAINST

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

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

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

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

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

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

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

- (1) Regulates the operation of the lottery.
- (2) Imposes a tax on the sale of lottery game tickets or shares.
- (3) Imposes a tax on the gross receipts of a lottery game retailer from sales of lottery game tickets or shares.

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

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

- (1) Knowingly selling a lottery game ticket or share to a person who is less than 18 years old, in violation of G.S. 143D-32.
- (2) Selling a lottery game ticket or share for a price other than the retail price set by the Commission, in violation of G.S. 143D-32.
- (3) Selling a lottery game ticket or share without a lottery game retailer permit or authorization, in violation of G.S. 143D-45.
- (4) Knowingly giving false information on an application for a lottery game retailer permit, in violation of G.S. 143D-47.

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

- (a) Appointment. The Secretary of Crime Control and Public Safety shall appoint lottery law enforcement agents. The Secretary of Crime Control and Public Safety can appoint the same individual as an alcohol law enforcement agent under G.S. 18B-500 and a lottery law enforcement agent under this section and shall do so to the extent practical to achieve efficiency and economy in law enforcement personnel.
- (b) Subject Matter Jurisdiction. After a lottery law enforcement agent takes the oath prescribed for a peace officer, the agent has the same authority to arrest and take other investigatory and enforcement actions as an alcohol law enforcement agent. An individual who is a lottery law enforcement agent but not an alcohol law enforcement agent has primary responsibility for enforcement of the lottery laws. An individual who is both a lottery law enforcement agent and an alcohol law enforcement agent has primary responsibility for enforcement of the lottery laws as well as for enforcement of the alcoholic beverage control laws and Article 5 of Chapter 90 of the General Statutes. A lottery law enforcement agent, however, may perform any law enforcement duty assigned by the Secretary of Crime Control and Public Safety or the Governor.
- (c) <u>Territorial Jurisdiction. A lottery law enforcement agent is a State officer with jurisdiction throughout the State.</u>
- (d) Service of Commission Orders. A lottery law enforcement agent may serve and execute notices, orders, or demands issued by the Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing a notice, order, or demand, a lottery law enforcement agent has the same power and authority that a law enforcement officer has when executing an arrest warrant.

"Article 2.

"Commission, Director, and Staff.

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

- (a) <u>Creation. The State Lottery Commission is established. The Commission is located for administrative purposes in the Department of Commerce but exercises its powers independently of that Department.</u>
- (b) Membership. The Commission consists of five members appointed by the Governor, subject to confirmation by the General Assembly by joint resolution. The Governor shall submit the name of an appointee to the General Assembly by May 1 of the year in which the term of the appointee is to begin. Each Commissioner shall be a resident of a different State region, as set out in subsection (i) of this section. A person who has been convicted of a felony may not serve as a Commissioner, and no more than three members of the same political party may serve as Commissioners at the same time.
- (c) Terms. Except for the terms of the initial Commissioners, the term of a Commissioner is for five years and begins on July 1. The term of one of the initial Commissioners confirmed by the General Assembly ends June 30 one year from the date of appointment; the term of another ends two years from the date of appointment; the term of another ends four years from the date of appointment; and the term of another ends five years from the date of appointment. When submitting the names of the initial appointees to be confirmed by the General Assembly, the Governor shall state when each appointee's

Page 4 H3 [Edition 2]

term ends. A Commissioner continues to serve until the Commissioner's successor takes
 office as a Commissioner, but the continuation does not change the date when the term
 of the Commissioner's successor ends.

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

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

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

- (e) Chair. When the initial Commissioners are confirmed by the General Assembly, the Governor shall designate one of the Commissioners as Chair of the Commission. All Chairs serve three-year terms as Chair that end on June 30. If a Chair leaves the Commission before completing a three-year term as Chair, the Governor shall designate another Commissioner as Chair to serve for the remainder of the unexpired term as Chair.
- (f) Compensation. Each Commissioner receives a per diem allowance for each day the Commissioner attends a meeting of the Commission, attends a meeting of another body as a representative of the Commission, is traveling as a representative of the Commission, or is otherwise acting in the service of the Commission. The amount of the allowance is the amount a member of the General Assembly receives as a subsistence allowance under G.S. 120-3.1(a)(3). This allowance is in lieu of amounts allowed under G.S. 138-5.
- (g) Organization. The Commission shall meet at the call of the Chair or at the call of a majority of the Commissioners. A majority of the Commissioners is a quorum. The Commission shall make all its decisions by a majority vote.
- (h) Oath. As an officer of the State, each Commissioner shall take the oath required by Article VI, § 7 of the North Carolina Constitution.
- (i) Regions. To obtain statewide representation among the membership of the Commission, the State is divided into the following five regions:

36	<u>Region</u>	Counties in Region
37	<u>1</u>	Avery, Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham,
38		Haywood, Henderson, Jackson, Lincoln, Macon, Madison,
39		McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain,
40		Transylvania, and Yancey.
41	<u>2</u>	Alexander, Alleghany, Ashe, Burke, Cabarrus, Caldwell, Catawba,
42		Davidson, Davie, Forsyth, Guilford, Iredell, Randolph,
43		Rockingham, Rowan, Stanly, Stokes, Surry, Yadkin, Watauga, and
44		Wilkes.

1	<u>3</u>	Alamance, Anson, Caswell, Chatham, Durham, Hoke, Lee,
2		Montgomery, Moore, Orange, Person, Richmond, Scotland, and
3		<u>Union.</u>
4	<u>4</u>	Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe,
5		Franklin, Gates, Granville, Halifax, Harnett, Hertford, Hyde,
6		Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell,
7		Vance, Wake, Warren, Washington, and Wilson.
8	<u>5</u>	Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland,
9		Duplin, Greene, Johnston, Jones, Lenoir, New Hanover, Onslow,
10		Pamlico, Pender, Robeson, Sampson, and Wayne.
11	"§ 143D-11. Gene	ral laws apply to Commission.

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

12

13 14

15

16

17

18

19

20

21

22 23

24

25

26 27

28

29

30

31

32

33 34

35

36

37 38

39

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

- (1) Chapter 126 of the General Statutes, the State Personnel Act.
- (2) Chapter 132 of the General Statutes, which governs public access to records of a State agency.
- Articles 3 and 3C of Chapter 143 of the General Statutes, which (3) govern the purchase of goods and services by a State agency.
- Article 33C of Chapter 143 of the General Statutes, which governs <u>(4)</u> meetings of a State agency.
- <u>(5)</u> Chapter 150B of the General Statutes, which governs the adoption of rules by a State agency and the review of certain decisions of a State agency.

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

- Powers. The Commission has all powers necessary to perform its duties under this Chapter. The Commission may adopt rules to implement this Chapter.
 - Duties. The Commission shall: (b)
 - Establish and operate a lottery in the counties that have approved the (1) operation of a lottery.
 - Ensure that the lottery is operated efficiently and honestly. (2)
 - Meet with the Director at least monthly to set policy, approve or reject (3) reports of the Director, and transact any other business of the Commission.
 - Make quarterly and annual reports to the Governor, the Attorney <u>(4)</u> General, the State Treasurer, and the General Assembly on the operation of the lottery, including full and complete statements of lottery revenues, prize disbursements, expenses, net income, and all other financial transactions involving lottery funds.

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

Selection. – The office of Director of the Commission is established. The 40 Director is selected by the Commission and serves at the pleasure of the Commission. 41 42 The Director shall be qualified by training and experience to direct the operations of a lottery. A person who has been convicted of a felony may not serve as Director. As an 43

Page 6 H3 [Edition 2]

- officer of the State, the Director shall take the oath required by Article VI, § 7 of the North Carolina Constitution.
 - (b) Compensation. The Director receives the salary set by the Commission. The Director is reimbursed for travel expenses in accordance with G.S. 136-8. The Director is not subject to Chapter 126 of the General Statutes, the State Personnel Act.

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

- (a) General. The Director is the secretary and executive officer of the Commission. The Director's position is a full-time position; the Director may not engage in any other occupation or profession while serving as Director.
 - (b) Specific. The Director shall:
 - (1) Supervise and administer the operation of the lottery in accordance with this Chapter.
 - (2) Study the following:
 - a. Lotteries operated by another state or a foreign country.
 - <u>b.</u> Available literature on the subject of lotteries.
 - <u>c.</u> Existing or proposed federal laws that may affect the operation of the lottery.
 - d. The reaction of the citizens of the counties that have approved the operation of a lottery to existing or proposed features in a lottery game.
 - e. The demographic characteristics of the players of lottery games.
 - <u>f.</u> The effectiveness of the marketing used on sales of lottery game tickets and shares.
 - (3) Recommend to the Commission improvements in the lottery based on studies made.
 - (4) Make and keep books and records that accurately and fairly reflect each day's lottery transactions, including the distribution of lottery game tickets or shares to lottery game retailers, the receipt of funds and prize claims, the amount of prizes paid directly by the Commission, and all other financial transactions involving lottery funds necessary to maintain daily accountability of lottery funds.
 - (5) Report monthly to the Commission on the amount of revenue generated by the lottery during the preceding month and the amount of expenses incurred by the lottery during the preceding month.
 - (6) Provide for federal income tax to be withheld from a lottery game prize as required by section 3402 of the Internal Revenue Code.
 - (7) Provide for State income tax in the amount of seven percent (7%) of a lottery game prize to be withheld from a prize from which federal income tax is required to be withheld.
 - (8) Report to the Secretary of Revenue the payment of a lottery game prize that shall be reported to the Internal Revenue Service under section 3402 of the Internal Revenue Code.
 - (9) Perform other duties assigned by the Commission.

"§ 143D-15. Staff.

The Director may hire professional, clerical, technical, and administrative personnel needed to operate a lottery. The Director may not hire a person who has been convicted of a felony. Before hiring a person, the Director shall investigate the person's background. As a condition of employment, each applicant for employment with the Commission shall sign an authorization allowing the Director to investigate the applicant's background.

"§ 143D-16. Assistant directors.

1 2

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

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

- (a) <u>Selection. The assistant director for security is responsible for a security division. The assistant director for security shall have at least five years' experience in law enforcement, shall have knowledge and experience in computer security, and shall otherwise be qualified by training and experience for the position.</u>
 - (b) <u>Duties. The assistant director for security shall:</u>
 - (1) Investigate the background of all prospective employees, lottery game retailers, and lottery vendors for major procurements.
 - (2) Recommend procedures to the Director that ensure the security, honesty, fairness, and integrity of the lottery.
 - (3) Report any alleged violation of law to the appropriate law enforcement authority for further investigation and action.
 - (4) Perform other duties assigned by the Director.

"Article 3.

"Lottery Vendors and Lottery Contractors.

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

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

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

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

In choosing among lottery vendors, the State shall take into account the particularly sensitive nature of the lottery and shall consider the competence, quality of product, experience, and timely performance of the lottery vendors in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of

Page 8 H3 [Edition 2]

the lottery and maximize the objective of raising revenues. The Commission may engage an independent firm experienced in evaluating government proposals to aid in evaluating proposals for a major procurement.

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

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

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

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

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

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

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

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

H3 [Edition 2] Page 9

1 2

3

4

5

6

7

8

9

10

11

12

13

14 15

16

17 18

19

20

21

22

23

24

25

26

27

28 29

30

31 32

33

34

35

36

3738

39

40

41

42

43

44

b.

Commission.

Securities accepted under this section are held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the contractor under the contract. "Article 4. "Operation of the Lottery. "§ 143D-30. Guiding principles. The Commission shall operate a lottery in the counties that have approved the operation of the lottery in accordance with the following guidelines: (1) It shall operate the lottery so as to maximize lottery revenue to the State. It shall operate the lottery in a manner consistent with the dignity of (2) the State, the general welfare of the people, and effective business practices. "§ 143D-31. Types of lottery games. Upon the recommendation of the Director, the Commission shall determine the types of lottery games offered by the lottery. The games offered may be instant lotteries or online games or other electronic games played on computer terminals or other devices. A lottery game, however, may not do any of the following: Be based on the outcome of a particular sporting event, including a (1) dog race or a horse race. **(2)** Use tickets or shares that do not have unique numbers distinguishing them from every other ticket or share in that lottery game. Use tickets or shares that include the name or photograph of an elected (3) official. <u>(4)</u> If the game uses a computer terminal or other electronic device, dispense coins or currency from the device. "§ 143D-32. Sales price and distribution of tickets and shares. Price. – Upon the recommendation of the Director, the Commission shall set the retail sales price for each ticket or share for each lottery game. The retail sales price for each ticket or share for a lottery game shall be the same in each county in which the lottery is operated. The Commission may not set the retail sales price of a lottery game ticket or share at less than fifty cents (50¢). The Commission may, however, authorize a discount for purchases of multiple tickets or shares. Distribution. – Upon the recommendation of the Director, the Commission shall specify the manner of distributing lottery game tickets. The Commission may distribute the tickets or shares directly to the public or to lottery game retailers for distribution to the public. Restrictions. – Distribution of a lottery game ticket or share is subject to all of the following restrictions: It may not be sold or given to any of the following: (1) A person who is less than 18 years old. a.

Page 10 H3 [Edition 2]

A Commissioner, the Director, or an employee of the

44

A lottery game contractor or an officer or employee of a lottery 1 <u>c.</u> 2 game contractor whose contract concerns a major procurement. 3 <u>d.</u> A spouse, parent, or child living in the same household as a person disqualified by subparts b. or c. of this subdivision. 4 5 It may not be sold for a price that is higher than the retail price set by **(2)** 6 the Commission. 7 It may not be given as a premium or an enticement to promote the sale (3) 8 of an item or a product. 9 "§ 143D-33. Number and value of prizes. 10 Type. – Upon the recommendation of the Director, the Commission shall determine the number and value of prizes for winning tickets or shares in each lottery 11 12 game. A prize may be a cash prize paid in a lump sum, in deferred payments, or by an annuity, a merchandise prize, or a prize of a ticket or share in the same lottery game or 13 14 another lottery game. 15 (b) Prize Percentage. – As nearly as practical, the Commission shall allocate at least fifty percent (50%) of the total projected annual revenue from the sale of lottery 16 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 annual revenue from a lottery game to prizes if it concludes that the total annual net 19 20 revenue from the lottery game will be enhanced by that higher prize percentage. 21 (c) Odds. – The following requirements apply: In lottery games using tickets with preprinted winners, the overall 22 (1) 23 estimated odds of winning prizes shall be printed on each ticket. 24 A detailed tabulation of the estimated number of prizes of each (2) particular prize denomination that are expected to be awarded in each 25 lottery game, or the estimated odds of winning these prizes, shall be 26 available from the Commission when the lottery game is offered for 27 sale to the public. 28 29 All printed or point-of-sale advertising promoting the sale of lottery (3) 30 tickets for a particular game shall include the actual or estimated odds of winning that game. 31 "§ 143D-34. Method of determining winners. 32 Method. – Upon the recommendation of the Director, the Commission shall 33 specify the method for determining winners in each lottery game. If more than one 34 35 person is entitled to the same prize, each person shall receive a proportional share of the prize. 36 37 Drawings. – If a lottery game uses a drawing of winning numbers, a drawing (b) 38 among entries, or a drawing among finalists to determine the winner, the drawing shall 39 comply with all of the following requirements: 40 It shall be open to the public. (1) It shall be witnessed by an independent certified public accountant. 41 (2) 42 (3) Any equipment used in the drawing shall be inspected, both before and

H3 [Edition 2] Page 11

employee of the Commission.

after the drawing, by an independent certified public accountant and an

(4) <u>It and any inspection of equipment used in it shall be recorded on both video and audio tape.</u>

"§ 143D-35. Payment of prizes.

- (a) Procedures. Upon the recommendation of the Director, the Commission shall establish procedures for verifying the validity of a lottery game ticket or share presented as the winner of a prize and for paying prizes won in a lottery game. The Commission may authorize lottery game retailers to pay some prizes at their premises and may require prizes to be paid only by the Commission.
- (b) Restrictions. The right of a person to a prize is not assignable. A prize may be paid to the estate of a deceased prize winner, however, or to a person designated pursuant to a judicial order. A lottery game prize may not be paid to a person:
 - (1) To whom a lottery game ticket or share cannot be sold or given, as listed in G.S. 143D-32.
 - Who presents a lottery game ticket or share that is stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not presented by the applicable deadline, or lacking in captions that conform with the lottery play symbols for the lottery game involved, or does not otherwise comply with any applicable requirements.
- (c) <u>Time. The holder of a lottery game ticket or share may claim a prize won</u> by the ticket or share for 180 days after the drawing or the end of the lottery game in which the prize was won. The Commission may set a shorter time period for eligibility for entry into a drawing for entries or finalists. The Commission may set a different time period for a lottery game that involves a lottery in another state.
- (d) Unclaimed Prizes. A prize that is not claimed within the time limit may not be claimed after the time limit expires. The value of all unclaimed prizes shall be credited to the Lottery Fund established in Article 6 of this Chapter.
- (e) <u>Information. At the end of the time period for claiming prizes for each lottery game, the Commission shall prepare a detailed statement of the total number of prizes of each prize denomination, claimed and paid directly by the Commission. The Commission shall make this statement available at its office and from lottery game retailers.</u>

"§ 143D-36. Player agreement.

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

"§ 143D-37. Audits.

- (a) State Auditor. The State Auditor shall conduct semiannual and annual audits of all accounts and transactions of the Commission and shall conduct any other special audits considered necessary. The State Auditor may examine any records of the Commission. The State Auditor may examine the records of the following that are relevant to the State lottery:
 - (1) A lottery game retailer.
 - (2) A lottery game contractor who has a contract for a major procurement.

Page 12 H3 [Edition 2]

 (b) Independent. – Every two years, the Commission shall engage an independent firm experienced in security procedures to study all aspects of security in the operation of the lottery. As part of the study, the independent firm shall identify any practices that could be improved and describe how a practice identified as needing improvement should be changed. The portion of the security audit report containing the overall evaluation of each aspect of security in the operation of the lottery shall be presented to the Commission, to the Governor, and to the General Assembly. The portion of the security audit report identifying specific practices that need to be changed and describing how they should be changed is confidential and may be presented only to the assistant director for security, the Director, and the Commission.

"§ 143D-38. Expenses and expense restriction.

All expenses incurred by a State agency in performing duties related to the State lottery are expenses of the lottery and shall be charged to the lottery. The Commission may not spend more than sixteen percent (16%) of the total annual revenues accruing from the sale of all lottery game tickets and shares from all lottery games for expenses of the lottery.

"§ 143D-39. No financial interest in certain persons allowed and no bribes or gifts from certain persons allowed.

- (a) <u>Prohibition.</u> A Commissioner, the Director, or an employee of the Commission may not:
 - (1) Have a financial interest in a lottery contractor.
 - (2) Solicit, accept, or agree to accept anything from any of the following:
 - a. A lottery contractor.
 - b. A lottery vendor.
 - c. A person who could reasonably be expected to submit a bid to provide goods or services to the Commission.
- (b) <u>Punishment.</u> <u>Violation of this section is a Class I felony.</u> A person convicted of violating this section shall be removed from office or employment with the State.

"Article 5.

"Lottery Game Retailers.

"§ 143D-45. Permit required; qualifications for permit.

- (a) Requirement. To sell lottery game tickets or shares to the public, a person other than a unit of State or local government shall obtain a permit from the Commission. A lottery game retailer permit authorizes the holder to sell lottery game tickets or shares to the public at the retail business named in the permit. The Commission may authorize units of State or local government to sell lottery game tickets or shares to the public at designated locations. The Commission may not, however, allow an ABC store to sell lottery game tickets or shares.
- (b) Qualifications. To be eligible for a lottery game retailer permit, a person shall meet all of the following requirements:
 - (1) Be at least 21 years old.

- Be engaged in a retail business at an established location in this State from which the person intends to sell lottery game tickets or shares in addition to conducting the existing retail business.
 - (3) Be a resident of North Carolina unless either of the following applies:
 - a. The person is an officer, a director, or a stockholder of a corporate applicant and is not a manager or is not otherwise responsible for the day-to-day operation of the business.
 - b. The person has executed a power of attorney designating a qualified resident of this State to serve as attorney-in-fact for the purposes of receiving service of process and managing the business for which the permit is sought.
 - (4) Not have been convicted of a felony or a misdemeanor gambling offense within the last 10 years.
 - (5) Not have had a permit issued under this section revoked within the last 10 years.
 - (c) Conviction Defined. For purposes of this section, a 'conviction' is a judgment against a person that includes a finding of guilt or an entry of a plea of guilty or nolo contendere. A felony conviction in another jurisdiction disqualifies a person from being eligible to receive or hold a lottery game retailer permit if the person's conduct would also constitute a felony in North Carolina. A conviction of a misdemeanor gambling offense in another jurisdiction disqualifies a person from being eligible to receive or hold a lottery game retailer permit if the person's conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been entered under the same circumstances. Revocation of a similar permit or authority to sell lottery tickets in another jurisdiction disqualifies a person if the person's conduct would be grounds for revocation in North Carolina.
 - (d) Who Shall Qualify. For a lottery game retailer permit to be issued to and held by a business, each of the following persons associated with that business shall qualify under subsection (b) of this section:
 - (1) The owner of a sole proprietorship.
 - (2) Each member of a firm, an association, or a general partnership.
 - (3) Each general partner in a limited partnership.
 - (4) Each officer, director, and owner of more than ten percent (10%) of the stock of a corporation, except that the age requirement of subdivision (b)(1) of this section does not apply to a stockholder who is not a manager of or is not otherwise responsible for the day-to-day operation of the applicant's retail business.
 - (5) The manager of a retail business operated by a corporation.
 - (6) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

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

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

Page 14 H3 [Edition 2]

- applicant's retail business is a suitable place to sell lottery game tickets and shares. The
 Commission may consider any of the following factors in making its decision:
 - (1) The reputation, character, and criminal record of the applicant.
 - (2) The number of places already holding lottery game retailer permits in the neighborhood.
 - (3) The convenience of the applicant's retail business to the public, including available parking and the traffic conditions in the neighborhood.
 - (4) The financial responsibility of the applicant.
 - (5) The volume of lottery game tickets and shares the applicant expects to sell.
 - (6) Any other information that would tend to show whether the applicant would comply with the lottery laws.
 - (b) Commission's Authority. The Commission has the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a lottery game retailer permit.

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

- (a) Form. An application for a lottery game retailer permit shall be on a form prescribed by the Commission and shall be notarized. The application shall be signed and sworn to by each person required to qualify under G.S. 143D-45(d).
- (b) <u>Investigation</u>. <u>Before issuing a new permit, the Commission shall investigate the applicant and the applicant's retail business. An applicant shall cooperate fully with the investigation.</u>
- (c) Fees. An application for a lottery game retailer permit shall be accompanied by the application fee, if any, set by the Commission. An application fee is not refundable.

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

- (a) Amount. Upon the recommendation of the Director, the Commission shall determine the compensation to be paid to lottery game retailers for their sales of lottery game tickets or shares. Until the Commission establishes a different amount of compensation, the Commission shall pay each lottery game retailer six percent (6%) of the retail price of the tickets or shares sold by the retailer plus an incentive bonus of one percent (1%) of the amount sold above a specified sales volume or the attainment of another objective specified by the Commission.
- (b) Effect on Lease or Rental Agreement. If a lease or rental agreement made by a lottery game retailer is based on a percentage of the retailer's retail sales, the retailer's sales of lottery game tickets or shares may not be counted in computing the amount payable under the agreement unless the agreement explicitly includes these sales. Conversely, a lease or rental agreement based on a percentage of sales includes the amount of compensation paid to a lottery game retailer under subsection (a) of this section unless the agreement specifically excludes these payments.

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

(a) <u>Duration. – A lottery game retailer permit is valid until it is surrendered,</u> suspended, or revoked.

- (b) Change in Ownership. A lottery game retailer permit for a retail business automatically expires and shall be surrendered to the Commission if any of the following occurs:
 - (1) Ownership of the retail business changes.
 - (2) There is a change in the membership of the firm, association, or partnership owning the retail business, and the change involves the acquisition of a ten percent (10%) or greater share in the firm, association, or partnership by someone who did not previously own a ten percent (10%) or greater share.
 - (3) Ten percent (10%) or more of the stock of the corporate permit holder owning the retail business is acquired by someone who did not previously own ten percent (10%) or more of the stock.
- (c) Change in Management. A corporation holding a lottery game retailer permit for a retail business for which the manager is required to qualify as an applicant under G.S. 143D-45(d) shall, within 30 days after employing a new manager, submit to the Commission an application for substitution of a manager. The application shall be signed by the new manager, shall be on a form provided by the Commission, and shall be accompanied by a fee of ten dollars (\$10.00). The fee is not refundable.
- (d) <u>Transfer. A lottery game retailer permit may not be transferred from one</u> person to another or from one location to another.
- (e) Lost Permit. The Commission may issue a duplicate lottery game retailer permit for a retail business when the permit issued has been lost or damaged. A request for a duplicate permit shall be on a form provided by the Commission, certified by the lottery game retailer whose permit is lost or damaged, and accompanied by a fee of ten dollars (\$10.00).
- (f) Name Change. The Commission may issue a new lottery game retailer permit for a retail business when the name of the retail business changes. A request for a new permit shall be on a form provided by the Commission, certified by the lottery game retailer whose business name has changed, and accompanied by a fee of ten dollars (\$10.00).

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

- (a) The Commission may deny, suspend, or revoke a lottery game retailer permit for any of the following reasons:
 - (1) Knowingly making a false statement on an application for a lottery game retailer permit.
 - (2) Failing to keep records as required by the Commission.
 - (3) Failing to account for lottery game tickets or shares received or the proceeds from the sale of the tickets or shares.
 - (4) Failing to file a bond required by the Commission.
 - (5) Failing to comply with the rules of the Commission concerning the payment of prizes or other matters.
 - (6) Conviction of an offense that would make an applicant ineligible to receive a permit.

Page 16 H3 [Edition 2]

- 1 (7) <u>Making misrepresentations concerning a lottery game or doing other</u> 2 <u>acts that create a lack of public confidence in the lottery.</u>
 - (8) Failing to sell enough lottery game tickets or shares to meet the Commission's projected sales volume.
 - (9) A change in circumstances that makes the retail business for which a permit has been issued no longer suitable to hold a permit.

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

- (a) Records. A lottery game retailer shall keep books and records of lottery game tickets and shares received, lottery game tickets or shares sold, and lottery game prizewinners and prize payments as required by the Commission. The books and records of a lottery game retailer are subject to inspection by the Commission during business hours of the retail business.
- (b) Bonds. The Commission may require a lottery game retailer to give a bond in an amount set by the Commission. The bond shall be in the form specified by the Commission, shall be conditioned on the lottery game retailer's compliance with the lottery laws, and shall be payable to the State.
- (c) Remittance. A lottery game retailer shall periodically report and send to the Commission the amount of revenue received by the retailer from sales of lottery game tickets or shares, less the amount of prizes paid by the retailer and the retailer's compensation for making the sales. The Commission shall establish the periods and methods for reporting revenue under this section.

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

- (a) Posting Permit. The holder of a lottery game retailer permit shall post the permit in a prominent place at the retail business named in the permit.
- (b) Notice of Issuance. When the Commission issues a lottery game retailer permit, it shall notify the following people of the issuance and give the name and address of the retail business for which the permit was issued:
 - (1) The governing body and sheriff of the county in which the retail business is located.
 - (2) If the retail business is located inside a city, the governing body and the chief of police of the city.

"Article 6.

"Use of Lottery Proceeds.

"§ 143D-55. Lottery Fund.

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

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

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

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

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

Assembly to establish or enhance education programs, including, but not limited to, a voluntary statewide prekindergarten program to prepare at-risk four-year-olds for school in order to close the achievement gap that now exists; enhanced technology programs and infrastructure; programs to reduce class sizes in the public schools; and programs to provide more one-on-one instruction to allow teachers to teach and children to learn so that more children will stay in school, graduate, and go on to college.

Revenue distributed to a county under subdivision (1) of this section shall be used for school construction.

Revenue distributed pursuant to this section shall be used to supplement and not supplant funds regularly appropriated by the General Assembly for these purposes."

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

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

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

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

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

"<u>l.</u> <u>Procedures and instructions for playing a lottery game.</u>"

Page 18 H3 [Edition 2]

SECTION 6. The limitation in G.S. 143D-38, as enacted by this act, on the amount of revenue that may be spent on expenses of the State lottery does not apply to the first 12 months in which the lottery is operated. The State Lottery Commission, however, shall keep the expenses of the State lottery as low as practical.

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

SECTION 8. This act is effective when it becomes law.