

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 809

Short Title: Local Option Lottery for Local Needs.

(Public)

Sponsors: Representatives Culpepper and Nichols (Co-sponsors); Allred, Arnold, Crawford, H. Hunter, Lemmond, Miner, Owens, and Sutton.

Referred to: Finance.

April 11, 1995

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 REGULATION
4 OF LOCALLY APPROVED LOTTERY OPERATIONS, AND TO DISTRIBUTE
5 TO EACH COUNTY AND THE CITIES LOCATED IN THE COUNTY THE NET
6 PROCEEDS OF LOTTERY OPERATIONS IN THAT COUNTY.

7 The General Assembly of North Carolina enacts:

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

9 **"CHAPTER 105C.**

10 **"LOCAL OPTION LOTTERY.**

11 **"ARTICLE 1.**

12 **"GENERAL PROVISIONS.**

13 **"§ 105C-1. Purpose.**

14 This Chapter allows the voters of each county to decide whether a lottery can be
15 operated in that county for the benefit of the county and the cities located in the county.
16 It also provides for State regulation of lottery operations in counties that have approved
17 these operations.

18 **"§ 105C-2. Definitions.**

19 The following definitions apply in this Chapter:

- 1 (1) Commission. – The State Lottery Commission.
2 (2) Commissioner. – A member of the State Lottery Commission.
3 (3) Director. – The Director of the State lottery.
4 (4) Lottery contractor. – A person who has entered a contract to provide
5 goods or services to the Commission.
6 (5) Lottery game. – A procedure authorized by the Commission whereby
7 prizes are distributed among persons who have bought tickets or shares
8 that provide the opportunity to win these prizes.
9 (6) Lottery game retailer. – The holder of a lottery game retailer permit
10 issued by the Commission.
11 (7) Lottery vendor. – A person who submits a bid, proposal, or offer for the
12 purpose of becoming a lottery contractor.
13 (8) Major procurement. – Any of the following:
14 a. Printing tickets or shares for use in a lottery game.
15 b. Providing goods or services in connection with the receipt or
16 recordation of number selections in a lottery game.
17 c. Providing goods or services in connection with the determination
18 or generation of winners in a lottery game.
19 (9) Person. – An individual, a firm, a partnership, an association, a
20 corporation, or another organization or combination of individuals
21 acting as a unit.
22 (10) Share. – A method of participating in a lottery game, other than by
23 purchasing a ticket, on an equivalent basis with participation by
24 purchasing a ticket.

25 **"§ 105C-3. County election to approve lottery.**

26 (a) Call of Election. – The board of elections of a county must call a special
27 election on the question of the operation of a lottery in the county if the board receives a
28 written request to do so from the board of commissioners of the county or receives a
29 petition that calls for the election and is signed by at least fifteen percent (15%) of the
30 total number of votes cast in the county in the most recent election for Governor. The
31 special election must be held in accordance with Chapter 163 of the General Statutes.

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

34 ' FOR the operation of a lottery in the county for the benefit of the county
35 and the cities located in the county.

36 AGAINST the operation of a lottery in the county for the benefit of the
37 county and the cities located in the county.'

38 (c) Effect. – If a majority of those voting in an election under this section approve
39 the operation of a lottery, the board of county commissioners must notify the
40 Commission. If the Governor has not yet appointed the Commission, however, the board
41 must notify the Governor. When the voters in at least 15 counties have approved the
42 operation of a lottery and the boards of county commissioners in these counties have
43 notified the Commission or the Governor, as appropriate, of the approval, the

1 Commission must proceed to operate a lottery in the approving counties. The
2 Commission may not operate a lottery in any county until this 15-county requirement is
3 met.

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

8 **"§ 105C-4. County election to repeal approval of lottery.**

9 (a) Election. – A county that has approved the operation of a lottery in the county
10 may repeal the approval. To repeal the approval, the county must hold a special election
11 on the question of repealing the approval; and a majority of those who vote in the election
12 must vote to repeal the approval. The board of elections of a county must call a special
13 election on the question of repealing approval of the operation of a lottery in the county
14 in the same circumstances in which it is required to call a special election on the question
15 of approving the operation of a lottery in the county. The special election must be held in
16 accordance with Chapter 163 of the General Statutes.

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

19 FOR repeal of lottery operations in the county.

20 AGAINST repeal of lottery operations in the county.'

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

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

30 **"§ 105C-5. Lottery is a lawful activity in counties that vote for the lottery.**

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

34 **"§ 105C-6. Local governments may not regulate or tax the State lottery.**

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

37 (1) Regulates the operation of the lottery.

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

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

41 **"§ 105C-7. Misdemeanor violations of lottery laws.**

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

- 1 (1) Knowingly selling a lottery game ticket or share to a person who is less
2 than 18 years old, in violation of G.S. 105C-32.
- 3 (2) Selling a lottery game ticket or share for a price other than the retail
4 price set by the Commission, in violation of G.S. 105C-32.
- 5 (3) Selling a lottery game ticket or share without a lottery game retailer
6 permit or authorization, in violation of G.S. 105C-45.
- 7 (4) Knowingly giving false information on an application for a lottery game
8 retailer permit, in violation of G.S. 105C-47.

9 **"§ 105C-8. Lottery law enforcement agents.**

10 (a) Appointment. – The Secretary of Crime Control and Public Safety must
11 appoint lottery law enforcement agents. The Secretary of Crime Control and Public
12 Safety can appoint the same individual as an alcohol law enforcement agent under G.S.
13 18B-500 and a lottery law enforcement agent under this section and must do so to the
14 extent practical to achieve efficiency and economy in law enforcement personnel.

15 (b) Subject Matter Jurisdiction. – After a lottery law enforcement agent takes the
16 oath prescribed for a peace officer, the agent has the same authority to arrest and take
17 other investigatory and enforcement actions as an alcohol law enforcement agent. An
18 individual who is a lottery law enforcement agent but not an alcohol law enforcement
19 agent has primary responsibility for enforcement of the lottery laws. An individual who
20 is both a lottery law enforcement agent and an alcohol law enforcement agent has
21 primary responsibility for enforcement of the lottery laws as well as for enforcement of
22 the alcoholic beverage control laws and Article 5 of Chapter 90 of the General Statutes.
23 A lottery law enforcement agent, however, may perform any law enforcement duty
24 assigned by the Secretary of Crime Control and Public Safety or the Governor.

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

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

32 **"ARTICLE 2.**

33 **"COMMISSION, DIRECTOR, AND STAFF.**

34 **"§ 105C-10. Creation, membership, and organization of Commission.**

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

38 (b) Membership. – The Commission consists of five members appointed by the
39 Governor, subject to confirmation by the General Assembly by joint resolution. The
40 Governor must submit the name of an appointee to the General Assembly by May 1 of
41 the year in which the term of the appointee is to begin. Each Commissioner must be a
42 resident of a different State region, as set out in subsection (i) of this section. A person

1 who has been convicted of a felony may not serve as a Commissioner and no more than
2 three members of the same political party may serve as Commissioners at the same time.

3 (c) Terms. – Except for the terms of the initial Commissioners, the term of a
4 Commissioner is for five years and begins on July 1. The term of one of the initial
5 Commissioners confirmed by the General Assembly ends June 30, 1997; the term of
6 another ends June 30, 1998; the term of another ends June 30, 1999; the term of another
7 ends June 30, 2000; and the term of another ends June 30, 2001. When submitting the
8 names of the initial appointees to be confirmed by the General Assembly, the Governor
9 must state when each appointee's term ends. A Commissioner continues to serve until the
10 Commissioner's successor takes office as a Commissioner, but the continuation does not
11 change the date when the term of the Commissioner's successor ends.

12 (d) Vacancies. – When a vacancy occurs on the Commission and the General
13 Assembly is in session, the Governor must submit to the General Assembly the name of
14 an appointee to fill the vacancy. The Governor must submit a name as soon as possible
15 but no later than three weeks after the vacancy occurs.

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

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

24 (e) Chair. – When the initial Commissioners are confirmed by the General
25 Assembly, the Governor must designate one of the Commissioners as Chair of the
26 Commission. The initial Chair serves as Chair until June 30, 1997. Succeeding Chairs
27 serve three-year terms as Chair that end on June 30. If a Chair leaves the Commission
28 before completing a three-year term as Chair, the Governor must designate another
29 Commissioner as Chair to serve for the remainder of the unexpired term as Chair.

30 (f) Compensation. – Each Commissioner receives a per diem allowance for each
31 day the Commissioner attends a meeting of the Commission, attends a meeting of another
32 body as a representative of the Commission, is traveling as a representative of the
33 Commission, or is otherwise acting in the service of the Commission. The amount of the
34 allowance is the amount a member of the General Assembly receives as a subsistence
35 allowance under G.S. 120-3.1(a)(3). This allowance is in lieu of amounts allowed under
36 G.S. 138-5.

37 (g) Organization. – The Commission must meet at the call of the Chair or at the
38 call of a majority of the Commissioners. A majority of the Commissioners is a quorum.
39 The Commission must make all its decisions by a majority vote.

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

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

Region	Counties in Region
<u>1</u>	<u>Avery, Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey</u>
<u>2</u>	<u>Alexander, Alleghany, Ashe, Burke, Cabarrus, Caldwell, Catawba, Davidson, Davie, Forsyth, Guilford, Iredell, Randolph, Rockingham, Rowan, Stanly, Stokes, Surry, Yadkin, Watauga, and Wilkes</u>
<u>3</u>	<u>Alamance, Anson, Caswell, Chatham, Durham, Hoke, Lee, Montgomery, Moore, Orange, Person, Richmond, Scotland, and Union</u>
<u>4</u>	<u>Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Franklin, Gates, Granville, Halifax, Harnett, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Vance, Wake, Warren, Washington, and Wilson</u>
<u>5</u>	<u>Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Johnston, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Robeson, Sampson, and Wayne.</u>

"§ 105C-11. General laws apply to Commission.

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.
- (3) Articles 3 and 3C of Chapter 143 of the General Statutes, which govern the purchase of goods and services by a State agency.
- (4) Article 33C of Chapter 143 of the General Statutes, which governs meetings of a State agency.
- (5) 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.

"§ 105C-12. Powers and duties of Commission.

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

(b) Duties. – The Commission must:

- (1) Establish and operate a lottery in the counties that have approved the operation of a lottery.
- (2) Ensure that the lottery is operated efficiently and honestly.

1 (3) Meet with the Director at least monthly to set policy, approve or reject
2 reports of the Director, and transact any other business of the
3 Commission.

4 (4) Make quarterly and annual reports to the Governor, the Attorney
5 General, the State Treasurer, and the General Assembly on the operation
6 of the lottery, including full and complete statements of lottery
7 revenues, prize disbursements, expenses, net income, and all other
8 financial transactions involving lottery funds.

9 **"§ 105C-13. Selection and compensation of Director.**

10 (a) Selection. – The office of Director of the Commission is established. The
11 Director is selected by the Commission and serves at the pleasure of the Commission.
12 The Director must be qualified by training and experience to direct the operations of a
13 lottery. A person who has been convicted of a felony may not serve as Director. As an
14 officer of the State, the Director must take the oath required by Article VI, § 7 of the
15 North Carolina Constitution.

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

19 **"§ 105C-14. Duties and powers of Director.**

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

23 (b) Specific. – The Director must:

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

26 (2) Study the following:

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

28 b. Available literature on the subject of lotteries.

29 c. Existing or proposed federal laws that may affect the operation of
30 the lottery.

31 d. The reaction of the citizens of the counties that have approved
32 the operation of a lottery to existing or proposed features in a
33 lottery game.

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

35 f. The effectiveness of the marketing used on sales of lottery game
36 tickets and shares.

37 (3) Recommend to the Commission improvements in the lottery based on
38 studies made.

39 (4) Make and keep books and records that accurately and fairly reflect each
40 day's lottery transactions, including the distribution of lottery game
41 tickets or shares to lottery game retailers, the receipt of funds and prize
42 claims, the amount of prizes paid directly by the Commission, and all

1 other financial transactions involving lottery funds necessary to
2 maintain daily accountability of lottery funds.

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

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

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

11 (8) Report to the Secretary of Revenue the payment of a lottery game prize
12 that must be reported to the Internal Revenue Service under section
13 3402 of the Internal Revenue Code.

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

15 **"§ 105C-15. Staff.**

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

22 **"§ 105C-16. Assistant directors.**

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

27 **"§ 105C-17. Assistant director for security.**

28 (a) Selection. – The assistant director for security is responsible for a security
29 division. The assistant director for security must have at least five years' experience in
30 law enforcement, must have knowledge and experience in computer security, and must
31 otherwise be qualified by training and experience for the position.

32 (b) Duties. – The assistant director for security must:

33 (1) Investigate the background of all prospective employees, lottery game
34 retailers, and lottery vendors for major procurements.

35 (2) Recommend procedures to the Director that ensure the security,
36 honesty, fairness, and integrity of the lottery.

37 (3) Report any alleged violation of law to the appropriate law enforcement
38 authority for further investigation and action.

39 (4) Perform other duties assigned by the Director.

40 **"ARTICLE 3.**

41 **"LOTTERY VENDORS AND LOTTERY CONTRACTORS.**

42 **"§ 105C-20. Obtaining goods and services.**

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

8 **"§ 105C-21. Contracts for major procurements.**

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

14 In choosing among lottery vendors, the State must take into account the particularly
15 sensitive nature of the lottery and must consider the competence, quality of product,
16 experience, and timely performance of the lottery vendors in order to promote and ensure
17 security, honesty, fairness, and integrity in the operation and administration of the lottery
18 and maximize the objective of raising revenues. The Commission may engage an
19 independent firm experienced in evaluating government procurement proposals to aid in
20 evaluating proposals for a major procurement.

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

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

32 **"§ 105C-22. Lottery vendor disclosures for major procurements.**

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

38 **"§ 105C-23. Performance bond for major procurements.**

39 Each lottery contractor for a major procurement must, at the time of executing the
40 contract with the Commission, post an appropriate bond or letter of credit with the
41 Commission, in an amount equal to the full amount estimated to be paid annually to the
42 lottery contractor under the contract. The Commission may decrease the bond or letter of
43 credit requirement for a major procurement if it determines that the decrease will result in

1 a cost savings to the lottery while still providing adequate protection against
2 nonperformance.

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

9 (1) Certificates of deposit issued by a bank or savings institution whose
10 principal place of business is located in this State.

11 (2) United States bonds and bills for which the full faith and credit of the
12 government of the United States is pledged for the payment of principal
13 and interest.

14 (3) General obligation bonds and notes of any political subdivision of the
15 State.

16 (4) Corporate bonds of a corporation that is not an affiliate or subsidiary of
17 the depositor.

18 Securities accepted under this section are held in trust and must have at all times a
19 market value at least equal to the full amount estimated to be paid annually to the
20 contractor under the contract.

21 "ARTICLE 4.

22 "OPERATION OF THE LOTTERY.

23 "§ 105C-30. Guiding principles.

24 The Commission must operate a lottery in the counties that have approved the
25 operation of the lottery in accordance with the following guidelines:

26 (1) It must operate the lottery so as to maximize lottery revenue to the State.

27 (2) It must operate the lottery in a manner consistent with the dignity of the
28 State, the general welfare of the people, and effective business practices.

29 "§ 105C-31. Types of lottery games.

30 Upon the recommendation of the Director, the Commission must determine the types
31 of lottery games offered by the lottery. The games offered may be instant lotteries or on-
32 line games or other electronic games played on computer terminals or other devices. A
33 lottery game, however, may not do any of the following:

34 (1) Be based on the outcome of a particular sporting event, including a dog
35 race or a horse race.

36 (2) Use tickets or shares that do not have unique numbers distinguishing
37 them from every other ticket or share in that lottery game.

38 (3) Use tickets or shares that include the name or photograph of an elected
39 official.

40 (4) If the game uses a computer terminal or other electronic device,
41 dispense coins or currency from the device.

42 "§ 105C-32. Sales price and distribution of tickets and shares.

1 (a) Price. – Upon the recommendation of the Director, the Commission must set
2 the retail sales price for each ticket or share for each lottery game. The retail sales price
3 for each ticket or share for a lottery game must be the same in each county in which the
4 lottery is operated.

5 The Commission may not set the retail sales price of a lottery game ticket or share at
6 less than fifty cents (50¢). The Commission may, however, authorize a discount for
7 purchases of multiple tickets or shares.

8 (b) Distribution. – Upon the recommendation of the Director, the Commission
9 must specify the manner of distributing lottery game tickets. The Commission may
10 distribute the tickets or shares directly to the public or to lottery game retailers for
11 distribution to the public.

12 (c) Restrictions. – Distribution of a lottery game ticket or share is subject to all of
13 the following restrictions:

14 (1) It may not be sold or given to any of the following:

15 a. A person who is less than 18 years old.

16 b. A Commissioner, the Director, or an employee of the
17 Commission.

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

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

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

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

26 **"§ 105C-33. Number and value of prizes.**

27 (a) Type. – Upon the recommendation of the Director, the Commission must
28 determine the number and value of prizes for winning tickets or shares in each lottery
29 game. A prize may be a cash prize paid in a lump sum, in deferred payments, or by an
30 annuity, a merchandise prize, or a prize of a ticket or share in the same lottery game or
31 another lottery game.

32 (b) Prize Percentage. – As nearly as practical, the Commission must allocate at
33 least fifty percent (50%) of the total projected annual revenue from the sale of lottery
34 tickets or shares for each particular lottery game for the payment of prizes for that lottery
35 game. The Commission may allocate a larger percentage of the total projected annual
36 revenue from a lottery game to prizes if it concludes that the total annual net revenue
37 from the lottery game will be enhanced by that higher prize percentage.

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

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

41 (2) A detailed tabulation of the estimated number of prizes of each
42 particular prize denomination that are expected to be awarded in each
43 lottery game, or the estimated odds of winning these prizes, must be

1 available from the Commission when the lottery game is offered for sale
2 to the public.

- 3 (3) All printed or point-of-sale advertising promoting the sale of lottery
4 tickets for a particular game must include the actual or estimated odds
5 of winning that game.

6 **"§ 105C-34. Method of determining winners.**

7 (a) Method. – Upon the recommendation of the Director, the Commission must
8 specify the method for determining winners in each lottery game. If more than one
9 person is entitled to the same prize, each person must receive a proportional share of the
10 prize.

11 (b) Drawings. – If a lottery game uses a drawing of winning numbers, a drawing
12 among entries, or a drawing among finalists to determine the winner, the drawing must
13 comply with all of the following requirements:

- 14 (1) It must be open to the public.
15 (2) It must be witnessed by an independent certified public accountant.
16 (3) Any equipment used in the drawing must be inspected, both before and
17 after the drawing, by an independent certified public accountant and an
18 employee of the Commission.
19 (4) It and any inspection of equipment used in it must be recorded on both
20 video and audio tape.

21 **"§ 105C-35. Payment of prizes.**

22 (a) Procedures. – Upon the recommendation of the Director, the Commission must
23 establish procedures for verifying the validity of a lottery game ticket or share presented
24 as the winner of a prize and for paying prizes won in a lottery game. The Commission
25 may authorize lottery game retailers to pay some prizes at their premises and may require
26 prizes to be paid only by the Commission.

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

- 30 (1) To whom a lottery game ticket or share cannot be sold or given, as listed
31 in G.S. 105C-32.
32 (2) Who presents a lottery game ticket or share that is stolen, counterfeit,
33 altered, fraudulent, unissued, produced or issued in error, unreadable,
34 not presented by the applicable deadline, or lacking in captions that
35 conform with the lottery play symbols for the lottery game involved, or
36 does not otherwise comply with any applicable requirements.

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

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

4 (e) Information. – At the end of the time period for claiming prizes for each lottery
5 game, the Commission must prepare a detailed statement of the total number of prizes of
6 each prize denomination, claimed and paid directly by the Commission. The
7 Commission must make this statement available at its office and from lottery game
8 retailers.

9 **"§ 105C-36. Player agreement.**

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

14 **"§ 105C-37. Audits.**

15 (a) State Auditor. – The State Auditor must conduct semiannual and annual audits
16 of all accounts and transactions of the Commission and must conduct any other special
17 audits considered necessary. The State Auditor may examine any records of the
18 Commission. The State Auditor may examine the records of the following that are
19 relevant to the State lottery:

20 (1) A lottery game retailer.

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

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

32 **"§ 105C-38. Expenses and expense restriction.**

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

38 **"§ 105C-39. No financial interest in certain persons allowed and no bribes or gifts**
39 **from certain persons allowed.**

40 (a) Prohibition. – A Commissioner, the Director, or an employee of the
41 Commission may not:

42 (1) Have a financial interest in a lottery contractor.

43 (2) Solicit, accept, or agree to accept anything from any of the following:

- 1 a. A lottery contractor.
- 2 b. A lottery vendor.
- 3 c. A person who could reasonably be expected to submit a bid to
- 4 provide goods or services to the Commission.

5 (b) Punishment. – Violation of this section is a Class I felony. A person convicted
6 of violating this section must be removed from office or employment with the State.

7 "ARTICLE 5.

8 "LOTTERY GAME RETAILERS.

9 "§ 105C-45. Permit required; qualifications for permit.

10 (a) Requirement. – To sell lottery game tickets or shares to the public, a person
11 other than a unit of State or local government must obtain a permit from the Commission.
12 A lottery game retailer permit authorizes the holder to sell lottery game tickets or shares
13 to the public at the retail business named in the permit. The Commission may authorize
14 units of State or local government to sell lottery game tickets or shares to the public at
15 designated locations. The Commission may not, however, allow an ABC store to sell
16 lottery game tickets or shares.

17 (b) Qualifications. – To be eligible for a lottery game retailer permit, a person
18 must meet all of the following requirements:

- 19 (1) Be at least 21 years old.
- 20 (2) Be engaged in a retail business at an established location in this State
21 from which the person intends to sell lottery game tickets or shares in
22 addition to conducting the existing retail business.
- 23 (3) Be a resident of North Carolina unless either of the following applies:
 - 24 a. The person is an officer, a director, or a stockholder of a
25 corporate applicant and is not a manager or is not otherwise
26 responsible for the day-to-day operation of the business.
 - 27 b. The person has executed a power of attorney designating a
28 qualified resident of this State to serve as attorney-in-fact for the
29 purposes of receiving service of process and managing the
30 business for which the permit is sought.
- 31 (4) Not have been convicted of a felony or a misdemeanor gambling
32 offense within the last 10 years.
- 33 (5) Not have had a permit issued under this section revoked within the last
34 10 years.

35 (c) Conviction Defined. – For purposes of this section, a 'conviction' is a judgment
36 against a person that includes a finding of guilt or an entry of a plea of guilty or nolo
37 contendere. A felony conviction in another jurisdiction disqualifies a person from being
38 eligible to receive or hold a lottery game retailer permit if the person's conduct would
39 also constitute a felony in North Carolina. A conviction of a misdemeanor gambling
40 offense in another jurisdiction disqualifies a person from being eligible to receive or hold
41 a lottery game retailer permit if the person's conduct would constitute an offense in North
42 Carolina, unless the Commission determines that under North Carolina procedure
43 judgment would not have been entered under the same circumstances. Revocation of a

1 similar permit or authority to sell lottery tickets in another jurisdiction disqualifies a
2 person if the person's conduct would be grounds for revocation in North Carolina.

3 (d) Who Must Qualify. – For a lottery game retailer permit to be issued to and held
4 by a business, each of the following persons associated with that business must qualify
5 under subsection (b) of this section:

6 (1) The owner of a sole proprietorship.

7 (2) Each member of a firm, an association, or a general partnership.

8 (3) Each general partner in a limited partnership.

9 (4) Each officer, director, and owner of more than ten percent (10%) of the
10 stock of a corporation, except that the age requirement of subdivision
11 (b)(1) of this section does not apply to a stockholder who is not a
12 manager of or is not otherwise responsible for the day-to-day operation
13 of the applicant's retail business.

14 (5) The manager of a retail business operated by a corporation.

15 (6) Any manager who has been empowered as attorney-in-fact for a
16 nonresident individual or partnership.

17 **"§ 105C-46. Issuance of lottery game retailer permit.**

18 (a) Factors. – Before issuing a lottery game retailer permit, the Commission must
19 be satisfied that the applicant is a suitable person to hold the permit and that the
20 applicant's retail business is a suitable place to sell lottery game tickets and shares. The
21 Commission may consider any of the following factors in making its decision:

22 (1) The reputation, character, and criminal record of the applicant.

23 (2) The number of places already holding lottery game retailer permits in
24 the neighborhood.

25 (3) The convenience of the applicant's retail business to the public,
26 including available parking and the traffic conditions in the
27 neighborhood.

28 (4) The financial responsibility of the applicant.

29 (5) The volume of lottery game tickets and shares the applicant expects to
30 sell.

31 (6) Any other information that would tend to show whether the applicant
32 would comply with the lottery laws.

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

36 **"§ 105C-47. Application for permit; fees.**

37 (a) Form. – An application for a lottery game retailer permit must be on a form
38 prescribed by the Commission and must be notarized. The application must be signed
39 and sworn to by each person required to qualify under G.S. 105C-45(d).

40 (b) Investigation. – Before issuing a new permit, the Commission must investigate
41 the applicant and the applicant's retail business. An applicant must cooperate fully with
42 the investigation.

1 (c) Fees. – An application for a lottery game retailer permit must be accompanied
2 by the application fee, if any, set by the Commission. An application fee is not
3 refundable.

4 **"§ 105C-48. Compensation for lottery game retailers.**

5 (a) Amount. – Upon the recommendation of the Director, the Commission must
6 determine the compensation to be paid to lottery game retailers for their sales of lottery
7 game tickets or shares. Until the Commission establishes a different amount of
8 compensation, the Commission must pay each lottery game retailer five percent (5%) of
9 the retail price of the tickets or shares sold by the retailer plus an incentive bonus of one
10 percent (1%) of the amount sold above a specified sales volume or the attainment of
11 another objective specified by the Commission.

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

19 **"§ 105C-49. Duration and transfer of permit.**

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

22 (b) Change in Ownership. – A lottery game retailer permit for a retail business
23 automatically expires and must be surrendered to the Commission if any of the following
24 occurs:

25 (1) Ownership of the retail business changes.

26 (2) There is a change in the membership of the firm, association, or
27 partnership owning the retail business and the change involves the
28 acquisition of a ten percent (10%) or greater share in the firm,
29 association, or partnership by someone who did not previously own a
30 ten percent (10%) or greater share.

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

34 (c) Change in Management. – A corporation holding a lottery game retailer permit
35 for a retail business for which the manager is required to qualify as an applicant under
36 G.S. 105C-45(d) must, within 30 days after employing a new manager, submit to the
37 Commission an application for substitution of a manager. The application must be signed
38 by the new manager, must be on a form provided by the Commission, and must be
39 accompanied by a fee of ten dollars (\$10.00). The fee is not refundable.

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

42 (e) Lost Permit. – The Commission may issue a duplicate lottery game retailer
43 permit for a retail business when the permit issued has been lost or damaged. A request

1 for a duplicate permit must be on a form provided by the Commission, certified by the
2 lottery game retailer whose permit is lost or damaged, and accompanied by a fee of ten
3 dollars (\$10.00).

4 (f) Name Change. – The Commission may issue a new lottery game retailer
5 permit for a retail business when the name of the retail business changes. A request for a
6 new permit must be on a form provided by the Commission, certified by the lottery game
7 retailer whose business name has changed, and accompanied by a fee of ten dollars
8 (\$10.00).

9 **"§ 105C-50. Denial, suspension, or revocation of a lottery game retailer permit.**

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

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

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

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

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

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

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

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

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

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

28 **"§ 105C-51. Records, payments, and bonds of lottery game retailers.**

29 (a) Records. – A lottery game retailer must keep books and records of lottery game
30 tickets and shares received, lottery game tickets or shares sold, and lottery game prize
31 winners and prize payments as required by the Commission. The books and records of a
32 lottery game retailer are subject to inspection by the Commission during business hours
33 of the retail business.

34 (b) Bonds. – The Commission may require a lottery game retailer to give a bond in
35 an amount set by the Commission. The bond must be in the form specified by the
36 Commission, must be conditioned on the lottery game retailer's compliance with the
37 lottery laws, and must be payable to the State.

38 (c) Remittance. – A lottery game retailer must periodically report and send to the
39 Commission the amount of revenue received by the retailer from sales of lottery game
40 tickets or shares, less the amount of prizes paid by the retailer and the retailer's
41 compensation for making the sales. The Commission must establish the periods and
42 methods for reporting revenue under this section.

43 **"§ 105C-52. Miscellaneous provisions concerning lottery game retailer permits.**

1 (a) Posting Permit. – The holder of a lottery game retailer permit must post the
2 permit in a prominent place at the retail business named in the permit.

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

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

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

10 **"ARTICLE 6.**

11 **"USE OF LOTTERY PROCEEDS.**

12 **"§ 105C-55. Lottery Fund.**

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

18 **"§ 105C-56. Distribution of lottery proceeds to counties and cities.**

19 The Commission must distribute the net proceeds of the lottery to the participating
20 counties on a quarterly basis. To make the distribution, the Commission must allocate to
21 each participating county the net proceeds of the revenue collected in that county from
22 lottery operations during the quarter. The Commission must then divide the amount
23 allocated to the county between the county and the cities located in the county on the
24 basis of either population or property tax levies, as designated by the board of county
25 commissioners. The two ways of dividing lottery revenue between the county and the
26 cities located in the county are the same as the per capita and ad valorem methods of
27 distributing local sales and use tax revenue described in G.S. 105-472.

28 To designate a basis of distribution, the board of county commissioners must adopt a
29 resolution specifying the basis by which the Commission is to distribute the county's
30 lottery revenue and send a certified copy of the resolution to the Commission. A
31 resolution designating a basis of distribution applies to distributions made for quarters
32 beginning after the date the Commission receives the resolution. A board of county
33 commissioners may designate a basis of distribution under this section that is different
34 from the basis chosen under G.S. 105-472. If a participating county does not designate a
35 basis of distribution under this section, the basis that applies under G.S. 105-472 applies
36 to the distribution under this section.

37 Revenue distributed to a county or city under this section may be used by the county
38 or city for any public purpose. The term 'city' has the same meaning in this section as in
39 G.S. 105-472."

40 Sec. 2. Studies. (a) Demographics. – After the first 12 months of sales in at least
41 10 counties of both instant winner and on-line lottery game tickets or shares to the public,
42 the Commission must engage an independent firm experienced in demographic analysis
43 to conduct a special study to determine the demographic characteristics of the players of

1 each lottery game, including their income, age, sex, education, and frequency of
2 participation. When completed, the study must be presented to the Governor, the
3 Lieutenant Governor, the President Pro Tempore of the Senate, and the Speaker of the
4 House of Representatives.

5 (b) Effectiveness. – After the first 12 months of sales in at least 10 counties of both
6 instant winner and on-line lottery game tickets or shares to the public, the Commission
7 must engage an independent firm experienced in the analysis of advertising, promotion,
8 public relations, and other aspects of communications to conduct a special study of the
9 effectiveness of the communications activities undertaken by the Commission and to
10 make recommendations to the Commission on the future conduct of and the future rate of
11 expenditures for these activities. When completed, the study must be presented to the
12 Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, and the
13 Speaker of the House of Representatives.

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

21 Sec. 4. G.S. 120-123 is amended by adding a new subdivision to read:

22 "(63) The State Lottery Commission, established by G.S. 105C-2."

23 Sec. 5. G.S. 150B-2(8a) is amended by adding a new subpart to read:

24 "k. Procedures and instructions for playing a lottery game."

25 Sec. 6. The limitation in G.S. 105C-38, as enacted by this act, on the amount
26 of revenue that may be spent on expenses of the State lottery does not apply to the first 12
27 months in which the lottery is operated. The State Lottery Commission, however, shall
28 keep the expenses of the State lottery as low as practical.

29 Sec. 7. When the voters of any county approve the operation of a lottery in
30 that county, the Governor must appoint five State Lottery Commissioners within 30 days
31 after the results of the election are certified. Appointments must be made in accordance
32 with G.S. 105C-10(i), as enacted by this act. The appointees are subject to confirmation
33 by the General Assembly when it convenes. The interim appointees must begin operation
34 of lottery games as soon as practical.

35 Sec. 8. This act is effective upon ratification.