

2005

**HOUSE SELECT
COMMITTEE ON THE
LOTTERY**

MINUTES

**HOUSE SELECT COMMITTEE ON THE LOTTERY
2005**

**REPRESENTATIVE BILL CULPEPPER
CHAIRMAN**

**DOROTHY C. CROCKER
COMMITTEE ASSISTANT**



OFFICE OF THE SPEAKER
North Carolina House of Representatives

James B. Black, Speaker
State Legislative Building, Room 2304
Raleigh, NC 27601-1096

Pursuant to Rule 26(a) of the Permanent Rules of the 2005 House of Representatives, the Speaker hereby establishes the House Select Committee on the Lottery. The Committee shall consist of the following Members, who shall serve at the pleasure of the Speaker:


Representative Bill Culpepper, Chair
Representative Bernard Allen, Vice Chair
Representative Hugh Holliman, Vice Chair
Representative Stephen LaRoque, Vice Chair
Representative Bill Owens, Vice Chair
Representative Becky Carney
Representative Nelson Cole
Representative Margaret Dickson

Representative Pryor Gibson
Representative Robert Grady
Representative Jim Harrell
Representative Wilma Sherrill
Representative Russell Tucker
Representative Roger West
Representative Arthur Williams
Representative Doug Yongue

The Committee shall study the establishment of a lottery in this State to fund education, which shall include the examination and formulation of legislation to create and implement a lottery and allocate its proceeds.

The Committee is vested with the authority contained in Article 5A of Chapter 120 of the General Statutes.

The Committee shall report its findings and recommendations, including proposed legislation, to the House of Representatives by April 11, 2005. The Committee shall terminate upon the submission of its report or April 11, 2005, whichever shall first occur.


James B. Black,
Speaker of the House of Representatives

April 6, 2005
Date

(Name of Committee)



MINUTES OF THE HOUSE SELECT COMMITTEE ON THE LOTTERY
March 29, 2005

The House Select Committee on the Lottery met for its introductory meeting on March 29, 2005 at 4:20 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Allen, Vice Chairman; Holliman, Vice Chairman; LaRoque, Vice Chairman; Owens, Vice Chairman; Carney, Cole, Dickson, Gibson, Grady, Harrell, Sherrill, Tucker, West, Williams and Yongue.

The following bills were discussed but no votes were taken.

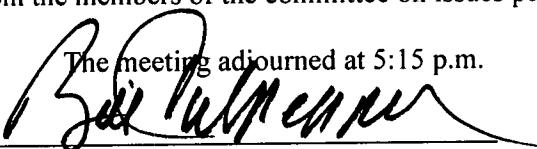
HOUSE BILL 3 - AN ACT GIVING COUNTIES THE AUTHORITY TO ALLOW THE OPERATION OF A LOTTERY IN THAT COUNTY, TO PROVIDE FOR STATE REGULATION OF LOCALLY APPROVED LOTTERY OPERATIONS, AND TO DISTRIBUTE TO EACH COUNTY AND THE CITIES LOCATED IN THE COUNTY TWENTY-FIVE PERCENT OF THE NET PROCEEDS OF LOTTERY OPERATIONS TO THE COUNTIES FOR SCHOOL CONSTRUCTION AND TO USE ADDITIONAL FUNDS TO IMPLEMENT AND ENHANCE EDUCATIONAL PROGRAMS. The chairman asked Representative Owens sponsor, where the net proceeds of the original lottery bill would go. Representative Owens answered that 25% was designated for school construction to the counties that passed the referendum and 75% to the general fund to be appropriated for educational programs. He also stated that the bill contained a nonsupplant clause. Wendy Graf Ray, staff attorney, also answered questions of the chairman. An outline of her comments is attached hereto.

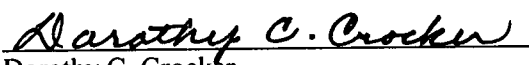
HOUSE BILL 223 - AN ACT AUTHORIZING A REFERENDUM FOR THE ESTABLISHMENT OF AN EDUCATION LOTTERY. Representative Allen, a co-sponsor, was recognized to speak on the bill. The chairman then asked Representative Allen if the bill called for a binding referendum or a nonbinding referendum. Representative Allen replied that it was a binding referendum. In answer to a question by the chairman, Dianna Jessup, committee counsel, stated that the bill did not set an election date for the referendum but that it would be set by the General Assembly.

HOUSE BILL 493 - AN ACT TO CREATE A NORTH CAROLINA LOTTERY FOR EDUCATION. Representative Holliman, co-sponsor, was recognized and spoke on the bill. He stated that under this bill the entire net proceeds of the lottery would go to a scholarship program to be modeled after a Georgia program.

Following the explanations and questions of the three bills, the chairman took general discussion from the members of the committee on issues pertaining to an education lottery.

The meeting adjourned at 5:15 p.m.


Representative Bill Culpepper
Chairman


Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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HOUSE BILL 3

Corrected Copy 1/31/05

Short Title: Local Option Education Lottery.

(Public)

Sponsors: Representatives Owens; Glazier, Hunter, and LaRoque.

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 USE ADDITIONAL FUNDS TO IMPLEMENT AND ENHANCE EDUCATIONAL PROGRAMS.

The General Assembly of North Carolina enacts:

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

"Chapter 143D.

"Local Option Lottery.

"Article 1.

"General Provisions.

"§ 143D-1. Purpose.

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.

"§ 143D-2. Definitions.

The following definitions apply in this Chapter:

(1) Commission. – The State Lottery Commission.

(2) Commissioner. – A member of the State Lottery Commission.

(3) Director. – The Director of the State lottery.

(4) Lottery contractor. – A person who has entered a contract to provide goods or services to the Commission.

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

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

(a) Call of Election. – The board of elections of a county shall call an election on the date on which a statewide general, special, or primary election is scheduled on the question of the operation of a lottery in the county if the board receives a written request 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.

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

"[] YES [] NO

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

(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 Commission. If the Governor has not yet appointed the Commission, however, the 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 notified the Commission or the Governor, as appropriate, of the approval, the Commission shall proceed to operate a lottery in the approving counties. The Commission may not operate a lottery in any county until this 25-county requirement is 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.

(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.

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

- (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.

1 (a) Appointment. – The Secretary of Crime Control and Public Safety shall
2 appoint lottery law enforcement agents. The Secretary of Crime Control and Public
3 Safety can appoint the same individual as an alcohol law enforcement agent under
4 G.S. 18B-500 and a lottery law enforcement agent under this section and shall do so to
5 the extent practical to achieve efficiency and economy in law enforcement personnel.

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

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

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

23 "Article 2.

24 "Commission, Director, and Staff.

25 **"§ 143D-10. Creation, membership, and organization of Commission.**

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

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

37 (c) Terms. – Except for the terms of the initial Commissioners, the term of a
38 Commissioner is for five years and begins on July 1. The term of one of the initial
39 Commissioners confirmed by the General Assembly ends June 30 one year from the
40 date of appointment; the term of another ends two years from the date of appointment;
41 the term of another ends three years from the date of appointment; the term of another
42 ends four years from the date of appointment; and the term of another ends five years
43 from the date of appointment. When submitting the names of the initial appointees to be
44 confirmed by the General Assembly, the Governor shall state when each appointee's

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) Vacancies. – 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:

Region

Counties in Region

1

Avery, Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

2

Alexander, Alleghany, Ashe, Burke, Cabarrus, Caldwell, Catawba, Davidson, Davie, Forsyth, Guilford, Iredell, Randolph, Rockingham, Rowan, Stanly, Stokes, Surry, Yadkin, Watauga, and Wilkes.

- 1 3 Alamance, Anson, Caswell, Chatham, Durham, Hoke, Lee,
2 Montgomery, Moore, Orange, Person, Richmond, Scotland, and
3 Union.
4 4 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 5 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. General laws apply to Commission.**

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

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

24 **"§ 143D-12. Powers and duties of Commission.**

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

27 (b) Duties. – The Commission shall:

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

39 **"§ 143D-13. Selection and compensation of Director.**

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

1 officer of the State, the Director shall take the oath required by Article VI, § 7 of the
2 North Carolina Constitution.

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

6 **"§ 143D-14. Duties and powers of Director.**

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

10 (b) Specific. – The Director shall:

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

13 (2) Study the following:

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

15 b. Available literature on the subject of lotteries.

16 c. Existing or proposed federal laws that may affect the operation
17 of the lottery.

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

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

22 f. The effectiveness of the marketing used on sales of lottery
23 game tickets and shares.

24 (3) Recommend to the Commission improvements in the lottery based on
25 studies made.

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

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

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

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

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

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

44 **"§ 143D-15. Staff.**

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

7 **"§ 143D-16. Assistant directors.**

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

12 **"§ 143D-17. Assistant director for security.**

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

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

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

25 "Article 3.

26 "Lottery Vendors and Lottery Contractors.

27 **"§ 143D-20. Obtaining goods and services.**

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

35 **"§ 143D-21. Contracts for major procurements.**

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

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

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

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

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

15 **"§ 143D-22. Lottery vendor disclosures for major procurements.**

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

21 **"§ 143D-23. Performance bond for major procurements.**

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

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

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

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.
- (2) It shall operate the lottery in a manner consistent with the dignity of 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:

- (1) Be based on the outcome of a particular sporting event, including a 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.
- (3) Use tickets or shares that include the name or photograph of an elected official.
- (4) 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.

(a) 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.

(b) 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.

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

- (1) It may not be sold or given to any of the following:
 - a. A person who is less than 18 years old.
 - b. A Commissioner, the Director, or an employee of the Commission.

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

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

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

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

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

(a) 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 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 another lottery game.

(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 tickets or shares for each particular lottery game for the payment of prizes for that 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 revenue from the lottery game will be enhanced by that higher prize percentage.

(c) Odds. – The following requirements apply:

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

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

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

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

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

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

(1) It shall be open to the public.

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

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

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

"§ 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.

- (2) 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) Time. – The holder of a lottery game ticket or share may claim a prize won 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) 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.

"§ 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.

(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) Prohibition. – 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) Punishment. – Violation of this section is a Class I felony. 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.

(2) 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 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

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

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

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

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

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

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

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

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

28 (a) Amount. – Upon the recommendation of the Director, the Commission shall
29 determine the compensation to be paid to lottery game retailers for their sales of lottery
30 game tickets or shares. Until the Commission establishes a different amount of
31 compensation, the Commission shall pay each lottery game retailer six percent (6%) of
32 the retail price of the tickets or shares sold by the retailer plus an incentive bonus of one
33 percent (1%) of the amount sold above a specified sales volume or the attainment of
34 another objective specified by the Commission.

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

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

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

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

4 **(1) Ownership of the retail business changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

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

3 (2) The remaining net proceeds shall be appropriated by the General
4 Assembly to establish or enhance education programs, including, but
5 not limited to, a voluntary statewide prekindergarten program to
6 prepare at-risk four-year-olds for school in order to close the
7 achievement gap that now exists; enhanced technology programs and
8 infrastructure; programs to reduce class sizes in the public schools; and
9 programs to provide more one-on-one instruction to allow teachers to
10 teach and children to learn so that more children will stay in school,
11 graduate, and go on to college.

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

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

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

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

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

40 **SECTION 4.** G.S. 120-123 is amended by adding a new subdivision to read:

41 "(78) The State Lottery Commission, established by G.S. 143D-2."

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

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

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

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

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

HOUSE BILL 3

- Allows counties to decide by vote if they want a lottery.
- A State lottery may be operated if at least 25 counties approve.
- Lottery would be established and operated by a State Lottery Commission.
- The Commission would be made up of 5 members, appointed by the Governor from 5 different regions in the State (no more than 3 from the same political party).
- There would also be a Director, selected by the Commission, to oversee operation of the lottery and study lottery issues. The Director would also appoint an assistant director for security (with at least 5 years experience in law enforcement).
- Commission would determine types of games, price of tickets, how tickets are distributed, number and value of prizes, methods of determining winners, and procedures for payment of prizes.
- Commission would also issue permits to retailers who would sell tickets.
- Establishes a Lottery Fund within the State treasury.
- Out of lottery revenues:
 - At least 50% goes toward prizes.
 - No more than 16% goes toward expenses of running lottery.
- After that, net proceeds are distributed quarterly as follows:
 - 25% to counties that have the lottery based on the amount of sales in each county. To be used for school construction.
 - 75% appropriated by GA for education programs.
- All lottery money is only to supplement existing funding for education.
- After the lottery is operational (for 12 months), requires independent studies of demographics of players and effectiveness of promotions of the lottery.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 223

Short Title: 2005 Education Lottery Referendum.

(Public)

Sponsors: Representatives B. Allen, Hunter (Primary Sponsors); Bell, Cunningham, and Lucas.

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

February 15, 2005

A BILL TO BE ENTITLED
AN ACT AUTHORIZING A REFERENDUM FOR THE ESTABLISHMENT OF AN
EDUCATION LOTTERY.

The General Assembly of North Carolina enacts:

SECTION 1. The question of whether the General Assembly shall enact an Education Lottery shall be submitted to the qualified voters of the State at an election on the question to be held at a statewide primary, general, or special election on a date to be determined by the General Assembly.

The net proceeds from the Education Lottery shall be used to enable all North Carolina children to have the education they deserve. The funds shall be used to establish a voluntary statewide prekindergarten program to prepare at-risk four-year-olds for school in order to close the achievement gap that now exists. The net proceeds shall also be used to reduce class sizes in our public schools, to fund items necessary to accomplish those ends, and to provide for 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.

The funds from the Education Lottery shall supplement and not supplant other State funds appropriated for education.

The election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] YES [] NO

North Carolina should have an Education Lottery."

SECTION 2. If the question is approved by the qualified voters of this State in the election held under Section 1 of this act, the reasonable additional costs to the State Board of Elections and the county boards of elections for conducting the election shall be considered expenses of any lottery enacted by the General Assembly, and the

1 Education Lottery shall reimburse the State Board of Elections and county boards of
2 elections for these costs from the proceeds of the lottery.

3 **SECTION 3.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 493

Short Title: NC Lottery for Education.

(Public)

Sponsors: Representatives Holliman; B. Allen, L. Allen, and Dickson.

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

March 7, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A NORTH CAROLINA LOTTERY FOR EDUCATION.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. The General Statutes of North Carolina are amended by
5 adding a new Chapter to read:

6 "Chapter 143D.

7 "North Carolina State Lottery for Education.

8 "§ 143D-101. Citation.

9 This Chapter shall be known and may be cited as the North Carolina State Lottery
10 for Education Act.

11 "§ 143D-102. Purpose and intent.

12 The General Assembly declares that the purpose and intent of this Chapter is to
13 provide additional monies to benefit education purposes through the implementation of
14 a State-operated lottery without the imposition of additional or increased taxes. The
15 lottery shall be initiated at the earliest practical time, and it shall be operated to
16 maximize new revenue to the State. That new revenue shall be raised in a manner
17 consistent with the dignity of the State and the general welfare of the people and in a
18 manner consistent with effective business practices.

19 "§ 143D-103. Laws not affected.

20 In the event of a conflict between the provisions of this Chapter and any other laws,
21 including Article 37 of Chapter 14 of the General Statutes, the provisions of this
22 Chapter shall govern.

23 "§ 143D-104. Commission a self-supporting agency.

24 It is the intent of this Chapter that the Commission established by this Chapter shall
25 be an independent, self-supporting, and revenue-raising agency of State government.

26 "§ 143D-105. Public purposes to benefit from lottery.

27 The net proceeds from the North Carolina State Lottery for Education shall be used
28 to provide scholarships for citizens of this state to attend colleges and universities
29 located within this state. The funds from the North Carolina State Lottery for Education

1 shall supplement and not supplant other State funds appropriated for scholarships and
2 tuition assistance.

3 **"§ 143D-106. Allocation of revenues.**

4 (a) As nearly as practical, revenues shall be allocated in the following manner:

5 (1) At least fifty percent (50%) of the total annual revenues, as described
6 in this Chapter, shall be returned to the public in the form of prizes as
7 described in this Chapter.

8 (2) At least thirty-four percent (34%) of the total annual revenues, as
9 described in this Chapter, shall be used for the public purposes
10 described in G.S. 143D-119.

11 (3) No more than sixteen percent (16%) of the total annual revenues, as
12 described in this Chapter, shall be allocated for payment of expenses
13 of the Commission as described in this Chapter.

14 (b) Unclaimed prize money held by the Commission in the Lottery Fund, as
15 described in this Chapter, may be used by the Commission to enhance prizes in other
16 lottery games.

17 (c) To the extent that the expenses of the Commission are less than sixteen
18 percent (16%) of total annual revenues, any surplus funds may be allocated, in any
19 proportion:

20 (1) To increase prize payments; or

21 (2) To the benefit of the public purposes as described in this Chapter.

22 **"§ 143D-107. Creation of Commission.**

23 (a) There is created a North Carolina State Lottery for Education Commission
24 which shall consist of seven members, three of whom shall be appointed by the
25 Governor, two of whom shall be appointed by the General Assembly upon the
26 recommendation of the President Pro Tempore of the Senate, and two of whom shall be
27 appointed by the General Assembly upon the recommendations of the Speaker of the
28 House of Representatives.

29 (b) Of the initial appointees of the Governor, two members shall serve terms of
30 three years and one member shall serve a term of five years. Of the initial appointees of
31 the General Assembly upon the recommendation of the President Pro Tempore of the
32 Senate, one member shall serve a term of three years, and one member shall serve a
33 term of five years. Of the initial appointees of the General Assembly upon the
34 recommendation of the Speaker of the House of Representatives, one member shall
35 serve a term of three years, and one member shall serve a term of five years. All
36 succeeding appointments shall be for terms of five years.

37 (c) All initial appointments shall be made within 30 days of the effective date of
38 this Chapter.

39 (d) Vacancies shall be filled within 30 days of their occurrence by the appointing
40 authority for the unexpired portion of the term in which they occur.

41 (e) All appointments made by the General Assembly shall be made in accordance
42 with the applicable sections of Article 16 of Chapter 120 of the General Statutes.

43 **"§ 143D-108. Powers and duties of the Commission.**

1 The Commission shall exercise all powers necessary to effectuate the purposes of
2 this Chapter, including the issuance of rules and the establishment of licensing and
3 contracting requirements and procedures.

4 **"§ 143D-109. Annual selection of chairman.**

5 The initial chairman shall be selected, and thereafter the Commission shall annually
6 select a chairman from its membership.

7 **"§ 143D-110. Meetings; records.**

8 (a) Meetings of the Commission shall be open and public in accordance with
9 Article 33C of Chapter 143 of the General Statutes.

10 (b) Records of the Commission shall be open and available to the public in
11 accordance with the provisions of Chapter 132 of the General Statutes.

12 (c) The Commission shall meet with the Director at least quarterly to make
13 recommendations and set policy, to approve or reject reports of the Director, to issue
14 rules, and to transact any other business that may properly be brought before it. Regular
15 meetings shall be held no more often than monthly, unless required by an emergency.

16 (d) The chairman or a majority of the members of the Commission shall have the
17 power to call special meetings of the Commission upon advance written notice to all of
18 the members of the Commission and the Director.

19 **"§ 143D-111. Quorum; voting.**

20 A majority of the total membership of the Commission constitutes a quorum. All
21 decisions of the Commission shall be made by a majority vote at a meeting at which a
22 quorum is present.

23 **"§ 143D-112. Reports.**

24 The Commission shall make quarterly and annual reports on the operations of the
25 Commission to the Governor, Attorney General, State Treasurer, and to the Joint
26 Legislative Commission on Governmental Operations. The reports shall include full and
27 complete statements of lottery revenues, prize disbursements, expenses, net revenues,
28 and all other financial transactions involving lottery funds.

29 **"§ 143D-113. Operation of the North Carolina State Lottery for Education.**

30 The Commission shall establish policies and issue rules for the operation of the
31 North Carolina State Lottery for Education for the benefit of the general welfare of the
32 public including the following:

- 33 (1) Appointment of a lottery director and other Commission personnel.
- 34 (2) Contracting with lottery vendors and retailers.
- 35 (3) Operation of lottery games.
- 36 (4) Payment of lottery prizes.
- 37 (5) All other matters for the efficient, effective, and secure operation of
38 the lottery.

39 **"§ 143D-114. North Carolina State Lottery for Education Fund; Lottery**
40 **Scholarship Fund.**

41 (a) An enterprise fund, to be known as the 'North Carolina State Lottery for
42 Education Fund', is created within the State treasury. The North Carolina State Lottery
43 for Education Fund is continuously appropriated to the Commission for the purposes of
44 operating the Commission and the lottery games.

(b) A special revenue fund, to be known as the 'Lottery Scholarship Fund', is created within the State treasury. The Lottery Scholarship Fund is continuously appropriated to the State Education Assistance Authority for the purposes set forth in G.S. 143D-119.

"§ 143D-115. Types of income to the North Carolina State Lottery for Education Fund.

The North Carolina State Lottery for Education Fund shall receive all of the following monies:

- (1) All proceeds from the sale of lottery tickets or shares.
- (2) The funds for initial start-up costs provided by the State.
- (3) All other monies credited to the Commission from any source.

"§ 143D-116. Types of disbursements from the North Carolina State Lottery for Education Fund.

Disbursements shall be made from the North Carolina State Lottery for Education Fund for any of the following purposes:

- (1) The payment of prizes to the holders of valid winning lottery tickets or shares.
- (2) Expenses of the Commission, including initial start-up costs.
- (3) Transfer of funds from the North Carolina State Lottery for Education Fund to the Lottery Scholarship Fund.

"§ 143D-117. Prize payments of the lottery.

(a) As nearly as practical, at least fifty percent (50%) of the total projected revenue as computed on a year-round basis for the total of all lottery games, accruing from the sales of all lottery tickets or shares from lottery games, shall be allocated for payment of prizes for lottery games.

(b) The Commission may allocate a larger percentage of the total projected revenue for a lottery game to prizes if it concludes that the total annual net revenues from the lottery game will be enhanced by that prize percentage.

"§ 143D-118. Expenses of the lottery.

(a) Expenses of the lottery may include any of the following:

- (1) The costs incurred in the operation and administration of the Commission, including initial start-up costs.
- (2) The costs resulting from any contracts entered into for the purchase or lease of goods or services required by the Commission.
- (3) The compensation paid to lottery game retailers.
- (4) The costs of supplies, materials, tickets, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, bonding for lottery game retailers, printing, and distribution of tickets and shares.
- (5) The costs of reimbursing other governmental entities for services provided to the Commission.
- (6) The costs for any other goods and services needed to accomplish the purposes of this Chapter.

(b) As nearly as practical, no more than sixteen percent (16%) of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be expended for the payment of expenses of the Commission.

"§ 143D-119. Transfer of net revenues.

(a) The funds remaining in the North Carolina State Lottery for Education Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be deemed to be the net revenues of the Lottery Fund. On or before the fifteenth day of each quarter, the net revenues from the preceding quarter shall be transferred to the Lottery Scholarship Fund.

(b) The Lottery Scholarship Fund shall be used to provide scholarships for citizens of this State to attend colleges and universities located within this State pursuant to Article 35A of Chapter 115C of the General Statutes. The funds from the North Carolina State Lottery for Education shall supplement and not supplant other State funds appropriated for scholarships and tuition assistance.

(c) A scholarship shortfall reserve subaccount shall be maintained within the Lottery Scholarship Fund. An amount equal to five percent (5%) of the total amount of net revenues disbursed during the preceding fiscal year in the form of scholarships and grants for higher education shall be deposited from the net revenues each year until the reserve amount equals fifty percent (50%) of the disbursements for the previous fiscal year. Thereafter, only an amount necessary to maintain the scholarship shortfall reserve subaccount in an amount equal to fifty percent (50%) of the amount of net revenues disbursed during the preceding fiscal year shall be deposited into the subaccount.

After the scholarship shortfall reserve subaccount has been funded equal to fifty percent (50%) of the disbursements for the previous fiscal year, the subaccount may be used to supplement the scholarship disbursements in a fiscal year where the net revenue available for scholarships is less than seventy-five percent (75%) of the disbursements for the previous fiscal year. An amount necessary to equal the disbursements for the previous fiscal year may be used from the subaccount. However, funds from the subaccount may not be used more than two years consecutively.

(d) At the end of each fiscal year, if the scholarship shortfall reserve subaccount is fully funded, any funds remaining after funding the scholarship program shall be transferred to the Savings Reserve Account established by G.S. 143-15.3.

"§ 143D-120. Sales to persons under the age of 18.

(a) No tickets or shares in lottery games shall be sold to persons under the age of 18 years. Selling tickets or shares to a person under the age of 18 years shall be a Class 1 misdemeanor.

(b) To prevent the sale of lottery tickets or shares to persons under the required age, the Commission shall issue rules prescribing the procedures to be followed by lottery retailers in determining the age of potential lottery purchasers.

(c) It shall be a defense to violation of subsection (a) of this section if the retailer does either of the following:

- (1) Shows that the purchaser produced a drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing his age to be at least the required age for

1 purchase and bearing a physical description of the person named on
2 the card reasonably describing the purchaser.

3 (2) Produces evidence of other facts that reasonably indicated at the time
4 of sale that the purchaser was at least the required age.

5 (d) Nothing in this Article shall be construed to prevent any person 18 years or
6 older from giving or assigning lawfully purchased lottery tickets or shares to another
7 person of any age.

8 **"§ 143D-121. Taxes.**

9 No sales taxes shall be imposed on the sale of lottery tickets or shares of lottery
10 games established by this Chapter.

11 **"§ 143D-122. Preemption of local regulation.**

12 All matters relating to the operation of the Commission and lottery games
13 established by this Chapter shall be governed solely by the provisions of this Chapter
14 and shall be free from regulation or legislation by local governments, including cities
15 and counties.

16 **"§ 143D-123. Lawful activity.**

17 Any other State or local law, ordinance, or regulation providing any penalty,
18 disability, restriction, regulation, or prohibition for the manufacture, transportation,
19 storage, distribution, advertising, possession, or sale of any lottery tickets or shares or
20 for the operation of any lottery game shall not apply to the operation of the Commission
21 or lottery games established by this Chapter."

22 **SECTION 2.** Chapter 115C of the General Statutes is amended by adding a
23 new Article to read:

24 **"Article 35A.**

25 **College Scholarships and Grants.**

26 **"§ 115C-499.1. Definitions.**

27 The following definitions apply to this Article:

28 (1) Academic year. – A period of time, typically nine months, in which a
29 full-time student is expected to complete the equivalent of at least two
30 semesters' or three quarters' academic work.

31 (2) Certificate. – A credential other than a degree, indicating satisfactory
32 completion of training in a program of study offered by an institution
33 of the North Carolina System of Community Colleges.

34 (3) Eligible high school. – A public school in North Carolina, or a
35 nonpublic secondary school which is:

36 (a) Located in North Carolina and meets the requirements of Part 1
37 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
38 or

39 (b) Located in another state and accredited by one of the following
40 regional agencies:

41 a. The Southern Association of Colleges and Schools;

42 b. The New England Association of Schools and Colleges;

43 c. The Middle States Association of Colleges and Schools;

44 d. The North Central Association of Colleges and Schools;

- 1 e. The Northwestern Association of Schools and Colleges;
2 f. The Western Association of Schools and Colleges;
3 g. The Alabama Independent School Association; or
4 h. The Southern Association of Independent Schools.
- 5 (4) Eligible postsecondary institution. – A school which is:
6 (a) A constituent institution of The University of North Carolina;
7 (b) An institution of the North Carolina Community College
8 System;
9 (c) A nonpublic postsecondary educational institution licensed
10 pursuant to G.S. 116-15.
- 11 (5) Freshman student. – A student at a postsecondary institution who has
12 attempted less than 46 quarter hours or less than 31 semester hours.
- 13 (6) Full-time student. – A matriculated student attending a postsecondary
14 educational institution and enrolled for at least 12 semester hours or
15 the equivalent in any given semester or quarter.
- 16 (7) Grade point average. – The numbered grade average calculated using a
17 4.0 scale.
- 18 (8) Grant. – A grant for education awarded pursuant to G.S. 115C-499.4.
- 19 (9) Half-time student. – A matriculated student attending a postsecondary
20 educational institution and enrolled for six to 11 semester hours or the
21 equivalent in any given semester or quarter.
- 22 (10) Junior student. – A student at a postsecondary institution who has
23 attempted at least 91 quarter hours but less than 136 quarter hours or at
24 least 61 semester hours but less than 91 semester hours.
- 25 (11) Mandatory fees. – Fees that are charged by a postsecondary institution
26 to every student enrolled in that institution, regardless of the student's
27 program of study.
- 28 (12) Matriculated status. – Being recognized as a student in a defined
29 program of study leading to a degree, diploma, or certificate at a
30 postsecondary institution.
- 31 (13) Part-time student. – A matriculated student attending a postsecondary
32 educational institution and enrolled for less than 12 semester hours or
33 the equivalent in any given semester or quarter and who has never
34 been enrolled for 12 or more semester hours or the equivalent in any
35 given semester or quarter.
- 36 (14) Quarter hours. – Each quarter hour attempted, whether remedial or for
37 credit toward a degree, certificate, or diploma.
- 38 (15) Scholarship. – A scholarship for education awarded pursuant to
39 G.S. 115C-499.2 or G.S. 115C-499.3.
- 40 (16) Semester hours. – Each semester hour attempted, whether remedial or
41 for credit toward a degree, certificate, or diploma.
- 42 (17) Senior student. – A student at a postsecondary institution who has
43 attempted at least 136 quarter hours but less than 191 quarter hours or
44 at least 91 semester hours but less than 128 semester hours.

1 (18) Sophomore student. – A student at a postsecondary institution who has
2 attempted at least 46 quarter hours but less than 91 quarter hours or at
3 least 31 semester hours but less than 61 semester hours.

4 (19) Title IV. – Title IV of the Higher Education Act of 1965, as amended,
5 20 U.S.C § 1070, et seq.

6 **"§ 115C-499.2. Eligibility requirements for a scholarship at a constituent**
7 **institution of The University of North Carolina; scholarship amount.**

8 (a) To be eligible for a scholarship, an entering freshman student seeking an
9 associate or baccalaureate degree at a constituent institution of The University of North
10 Carolina shall:

11 (1) Meet residency requirements by meeting the requirements to be
12 classified as a legal resident of North Carolina as established by the
13 program regulations promulgated by the State Education Assistance
14 Authority which shall be based upon the requirements for being
15 considered a resident for tuition purposes by The University of North
16 Carolina.

17 (2) Meet achievement standards by:

18 a. Having graduated from an eligible high school while meeting
19 the curriculum requirements of his or her program of study in
20 2007 or after and meeting the requirements set out in
21 G.S. 115C-499.5.

22 b. In the case of a student who is otherwise qualified but:

23 1. Did not graduate from high school or complete a home
24 study program meeting the requirements of Part 3 of
25 Article 39 of Chapter 115C of the General Statutes,
26 having received the general educational development
27 (GED) diploma awarded by the North Carolina
28 Community College System after June 30, 2007,
29 provided that such student shall only be eligible for a
30 scholarship pursuant to subsection (e) of this section;

31 2. Completed a home study program meeting the
32 requirements of Part 3 of Article 39 of Chapter 115C of
33 the General Statutes in lieu of graduating from an
34 eligible high school, earning a cumulative grade point
35 average of at least 3.0 at a constituent institution of The
36 University of North Carolina at the end of the quarter or
37 semester in which the student has attempted 45 quarter
38 hours or 30 semester hours, provided that such student
39 shall be eligible to receive a retroactive scholarship for
40 such student's freshman year to be paid at the end of the
41 freshman year; or 3. Graduated from a high school which
42 is not an eligible high school, earning a cumulative grade
43 point average of at least 3.0 at a constituent institution of
44 The University of North Carolina at the end of the

1 quarter or semester in which the student has attempted
2 45 quarter hours or 30 semester hours, provided that
3 such student shall be eligible to receive a retroactive
4 scholarship for such student's freshman year to be paid at
5 the end of the freshman year; and

6 (3) Meet enrollment standards by being admitted, enrolled, and classified
7 as an undergraduate student in a matriculated status.

8 (b) To be eligible for a scholarship, a sophomore student seeking an associate or
9 baccalaureate degree at a constituent institution of The University of North Carolina
10 shall:

11 (1) Meet residency requirements by meeting the requirements to be
12 classified as a legal resident of North Carolina as established by the
13 program regulations promulgated by the State Education Assistance
14 Authority which shall be based upon the requirements for being
15 considered a resident for tuition purposes by The University of North
16 Carolina.

17 (2) Meet achievement standards by meeting the following criteria:

18 a. Earning a cumulative grade point average of at least 3.0 at a
19 postsecondary institution:

20 1. At the end of the quarter or semester in which the student
21 has attempted 45 quarter hours or 30 semester hours if
22 such student is a full-time student; or

23 2. At the end of three consecutive quarters or semesters if
24 such student is a part-time student and has maintained
25 part-time student status for three consecutive quarters or
26 semesters; and

27 b. Maintaining satisfactory academic progress in a course of study
28 in accordance with the standards and practices used for federal
29 Title IV programs by the postsecondary institution in which the
30 student is enrolled; and

31 (3) Meet enrollment standards by being admitted, enrolled, and classified
32 as an undergraduate student in a matriculated status or, in the case of
33 an otherwise eligible student who is classified as a professional level
34 student rather than an undergraduate student, being accepted into the
35 professional level program of study prior to receiving a baccalaureate
36 degree.

37 (c) To be eligible for a scholarship, a junior student seeking a baccalaureate
38 degree at a constituent institution of The University of North Carolina shall:

39 (1) Meet residency requirements by meeting the requirements to be
40 classified as a legal resident of North Carolina as established by the
41 program regulations promulgated by the State Education Assistance
42 Authority which shall be based upon the requirements for being
43 considered a resident for tuition purposes by The University of North
44 Carolina.

- 1 (2) Meet achievement standards by meeting the following criteria:
2 a. Earning a cumulative grade point average of at least 3.0 at a
3 postsecondary institution at the end of the quarter or semester in
4 which the student has attempted 90 quarter hours or 60 semester
5 hours; and
6 b. Maintaining satisfactory academic progress in a course of study
7 in accordance with the standards and practices used for federal
8 Title IV programs by the postsecondary institution in which the
9 student is enrolled; and
- 10 (3) Meet enrollment standards by being admitted, enrolled, and classified
11 as an undergraduate student in a matriculated status or, in the case of
12 an otherwise eligible student who is classified as a professional level
13 student rather than an undergraduate student, being accepted into the
14 professional level program of study prior to receiving a baccalaureate
15 degree.
- 16 (d) To be eligible for a scholarship, a senior student seeking a baccalaureate
17 degree at a constituent institution of The University of North Carolina shall:
- 18 (1) Meet residency requirements by meeting the requirements to be
19 classified as a legal resident of North Carolina as established by the
20 program regulations promulgated by the State Education Assistance
21 Authority which shall be based upon the requirements for being
22 considered a resident for tuition purposes by The University of North
23 Carolina.
- 24 (2) Meet achievement standards by meeting the following criteria:
25 a. Earning a cumulative grade point average of at least 3.0 at a
26 postsecondary institution at the end of the quarter or semester in
27 which the student has attempted 135 quarter hours or 90
28 semester hours; and
29 b. Maintaining satisfactory academic progress in a course of study
30 in accordance with the standards and practices used for federal
31 Title IV programs by the postsecondary institution in which the
32 student is enrolled; and
- 33 (3) Meet enrollment standards by being admitted, enrolled, and classified
34 as an undergraduate student in a matriculated status or, in the case of
35 an otherwise eligible student who is classified as a professional level
36 student rather than an undergraduate student, being accepted into the
37 professional level program of study prior to receiving a baccalaureate
38 degree.
- 39 (e) A full-time student who fails to maintain a cumulative grade point average of
40 at least 3.0 at the end of the quarter or semester in which the student has attempted 45
41 quarter hours or 30 semester hours may attend the next 45 quarter or 30 semester hours
42 without a scholarship.
- 43 (1) An otherwise eligible full-time student who regains a cumulative grade
44 point average of at least 3.0 at the end of a quarter or semester in

1 which the full-time student has attempted 90 or 135 quarter hours or
2 60 or 90 semester hours may requalify for a scholarship.

3 (2) An otherwise eligible part-time student who regains or attains a
4 cumulative grade point average of at least 3.0 at the end of a quarter or
5 semester in which the part-time student has attempted 45, 90, or 135
6 quarter hours or 30, 60, or 90 semester hours may attain or requalify
7 for a scholarship.

8 (3) In addition to other requirements, and regardless of quarter hours or
9 semester hours of coursework attempted, a student who fails to possess
10 a cumulative grade point average of at least 3.0 at the end of each
11 spring quarter or semester or at the end of three consecutive quarters or
12 semesters for a part-time student pursuant to subdivision (2) of
13 subsection (b) of this section shall be ineligible for a scholarship until
14 such time as the student regains or attains a cumulative grade point
15 average of at least 3.0 at one of the 45, 90, or 135 quarter hour grade
16 point average checkpoints or at one of the 30, 60, or 90 semester hour
17 grade point average checkpoints, at which time the student will regain
18 or attain eligibility if other terms and conditions in this section are also
19 satisfied.

20 (f) For students eligible for a scholarship under this section, no minimum
21 number of hours of enrollment is required.

22 (g) Except as set out in subsection (h) of this section, a student may receive the
23 scholarship until the first of these events:

24 (1) The student has earned a baccalaureate degree; or

25 (2) The student has attempted at any postsecondary institution a total of
26 190 quarter hours or 127 semester hours.

27 (h) Notwithstanding subsection (g) of this section, a student enrolled in an
28 undergraduate degree program designed to be more than 190 quarter hours or 127
29 semester hours in length is eligible to receive the scholarship for the lesser of:

30 a. A total of 225 attempted quarter hours or 150 attempted
31 semester hours; or

32 b. The number of hours required for graduation if the student has a
33 cumulative grade point average of at least 3.0 after the term in
34 which the student attempted 190 quarter hours or 127 semester
35 hours.

36 (i) Subject to the amount of net income available pursuant to G.S. 143D-119, a
37 scholarship awarded under this section shall include tuition, approved mandatory fees,
38 and a book allowance not to exceed one hundred dollars (\$100.00) per quarter or one
39 hundred fifty dollars (\$150.00) per semester.

40 **"§ 115C-499.3. Eligibility requirements for a scholarship at a nonpublic**
41 **postsecondary institution; scholarship amount.**

42 (a) To be eligible for a scholarship, an entering freshman student seeking an
43 associate or baccalaureate degree at an eligible nonpublic postsecondary institution
44 shall:

- 1 (1) Meet residency requirements by meeting the requirements to be
2 classified as a legal resident of North Carolina as established by the
3 program regulations promulgated by the State Education Assistance
4 Authority which shall be based upon the requirements for being
5 considered a resident for tuition purposes by The University of North
6 Carolina.
- 7 (2) Meet achievement standards by:
- 8 a. Having graduated from an eligible high school while meeting
9 the curriculum requirements of his or her program of study in
10 2007 or after and meeting the requirements set out in
11 G.S. 115C-499.5.
- 12 b. In the case of a student who is otherwise qualified but:
- 13 1. Did not graduate from high school or complete a home
14 study program meeting the requirements of Part 3 of
15 Article 39 of Chapter 115C of the General Statutes,
16 having received the general educational development
17 (GED) diploma awarded by the North Carolina
18 Community College System after June 30, 2007,
19 provided that such student shall only be eligible for a
20 scholarship pursuant to subsection (e) of this section;
- 21 2. Completed a home study program meeting the
22 requirements of Part 3 of Article 39 of Chapter 115C of
23 the General Statutes in lieu of graduating from an
24 eligible high school, earning a cumulative grade point
25 average of at least 3.0 at an eligible nonpublic
26 postsecondary institution at the end of the quarter or
27 semester in which the student has attempted 45 quarter
28 hours or 30 semester hours, provided that such student
29 shall be eligible to receive a retroactive scholarship for
30 such student's freshman year to be paid at the end of the
31 freshman year; or
- 32 3. Graduated from a high school which is not an eligible
33 high school, earning a cumulative grade point average of
34 at least 3.0 at an eligible nonpublic postsecondary
35 institution at the end of the quarter or semester in which
36 the student has attempted 45 quarter hours or 30
37 semester hours, provided that such student shall be
38 eligible to receive a retroactive scholarship for such
39 student's freshman year to be paid at the end of the
40 freshman year; and
- 41 (3) Meet enrollment standards by being admitted, enrolled, and classified
42 as an undergraduate student in a matriculated status.
- 43 (b) To be eligible for a scholarship, a sophomore student seeking an associate or
44 baccalaureate degree at an eligible nonpublic postsecondary institution shall:

- 1 (1) Meet residency requirements by meeting the requirements to be
2 classified as a legal resident of North Carolina as established by the
3 program regulations promulgated by the State Education Assistance
4 Authority which shall be based upon the requirements for being
5 considered a resident for tuition purposes by The University of North
6 Carolina.
- 7 (2) Meet achievement standards by meeting the following criteria:
8 a. Earning a cumulative grade point average of at least 3.0 at a
9 postsecondary institution:
10 1. At the end of the quarter or semester in which the student
11 has attempted 45 quarter hours or 30 semester hours if
12 such student is a full-time student; or
13 2. At the end of three consecutive quarters or semesters if
14 such student is a part-time student and has maintained
15 part-time student status for three consecutive quarters or
16 semesters; and
17 b. Maintaining satisfactory academic progress in a course of study
18 in accordance with the standards and practices used for federal
19 Title IV programs by the postsecondary institution in which the
20 student is enrolled; and
- 21 (3) Meet enrollment standards by being admitted, enrolled, and classified
22 as an undergraduate student in a matriculated status or, in the case of
23 an otherwise eligible student who is classified as a professional level
24 student rather than an undergraduate student, being accepted into the
25 professional level program of study prior to receiving a baccalaureate
26 degree.
- 27 (c) To be eligible for a scholarship, a junior student seeking a baccalaureate
28 degree at a nonpublic postsecondary institution shall:
- 29 (1) Meet residency requirements by meeting the requirements to be
30 classified as a legal resident of North Carolina as established by the
31 program regulations promulgated by the State Education Assistance
32 Authority which shall be based upon the requirements for being
33 considered a resident for tuition purposes by The University of North
34 Carolina.
- 35 (2) Meet achievement standards by meeting the following criteria:
36 a. Earning a cumulative grade point average of at least 3.0 at a
37 postsecondary institution at the end of the quarter or semester in
38 which the student has attempted 90 quarter hours or 60 semester
39 hours; and
40 b. Maintaining satisfactory academic progress in a course of study
41 in accordance with the standards and practices used for federal
42 Title IV programs by the postsecondary institution in which the
43 student is enrolled; and

- 1 (3) Meet enrollment standards by being admitted, enrolled, and classified
2 as an undergraduate student in a matriculated status or, in the case of
3 an otherwise eligible student who is classified as a professional level
4 student rather than an undergraduate student, being accepted into the
5 professional level program of study prior to receiving a baccalaureate
6 degree.
- 7 (d) To be eligible for a scholarship, a senior student seeking a baccalaureate
8 degree at a nonpublic postsecondary institution shall:
- 9 (1) Meet residency requirements by meeting the requirements to be
10 classified as a legal resident of North Carolina as established by the
11 program regulations promulgated by the State Education Assistance
12 Authority which shall be based upon the requirements for being
13 considered a resident for tuition purposes by The University of North
14 Carolina.
- 15 (2) Meet achievement standards by meeting the following criteria:
- 16 a. Earning a cumulative grade point average of at least 3.0 at a
17 postsecondary institution at the end of the quarter or semester in
18 which the student has attempted 135 quarter hours or 90
19 semester hours; and
- 20 b. Maintaining satisfactory academic progress in a course of study
21 in accordance with the standards and practices used for federal
22 Title IV programs by the postsecondary institution in which the
23 student is enrolled; and
- 24 (3) Meet enrollment standards by being admitted, enrolled, and classified
25 as an undergraduate student in a matriculated status or, in the case of
26 an otherwise eligible student who is classified as a professional level
27 student rather than an undergraduate student, being accepted into the
28 professional level program of study prior to receiving a baccalaureate
29 degree.
- 30 (e) A full-time student who fails to maintain a cumulative grade point average of
31 at least 3.0 at the end of the quarter or semester in which the student has attempted 45
32 quarter hours or 30 semester hours may attend the next 45 quarter or 30 semester hours
33 without a scholarship.
- 34 (1) An otherwise eligible full-time student who regains a cumulative grade
35 point average of at least 3.0 at the end of a quarter or semester in
36 which the full-time student has attempted 90 or 135 quarter hours or
37 60 or 90 semester hours may requalify for a scholarship.
- 38 (2) An otherwise eligible part-time student who regains or attains a
39 cumulative grade point average of at least 3.0 at the end of a quarter or
40 semester in which the part-time student has attempted 45, 90, or 135
41 quarter hours or 30, 60, or 90 semester hours may attain or requalify
42 for a scholarship.
- 43 (3) In addition to other requirements, and regardless of quarter hours or
44 semester hours of coursework attempted, a student who fails to possess

1 a cumulative grade point average of at least 3.0 at the end of each
2 spring quarter or semester or at the end of three consecutive quarters or
3 semesters for a part-time student pursuant to subsection (b)(2) of
4 this section shall be ineligible for a scholarship until such time as the
5 student regains or attains a cumulative grade point average of at least
6 3.0 at one of the 45, 90, or 135 quarter hour grade point average
7 checkpoints or at one of the 30, 60, or 90 semester hour grade point
8 average checkpoints, at which time the student will regain or attain
9 eligibility if other terms and conditions in this section are also
10 satisfied.

11 (f) For students eligible for a scholarship under this section, no minimum
12 number of hours of enrollment is required.

13 (g) Except as set out in subsection (h) of this section, a student may receive the
14 scholarship until the first of these events:

15 (1) The student has earned a baccalaureate degree; or

16 (2) The student has attempted at any postsecondary institution a total of
17 190 quarter hours or 127 semester hours.

18 (h) Notwithstanding subsection (g) of this section, a student enrolled in an
19 undergraduate degree program designed to be more than 190 quarter hours or 127
20 semester hours in length is eligible to receive the scholarship for the lesser of:

21 (1) A total of 225 attempted quarter hours or 150 attempted semester
22 hours; or

23 (2) The number of hours required for graduation if the student has a
24 cumulative grade point average of at least 3.0 after the term in which
25 the student attempted 190 quarter hours or 127 semester hours.

26 (i) Subject to the amount of net income available pursuant to G.S. 143D-119, a
27 scholarship awarded under this section for any academic year shall be in an amount
28 equivalent to tuition and mandatory fees at the University of North Carolina at Chapel
29 Hill for full-time enrollment and half that amount for half-time enrollment and a book
30 allowance not to exceed one hundred dollars (\$100.00) per quarter or one hundred fifty
31 dollars (\$150.00) per semester.

32 **"§ 115C-499.4. Eligibility requirements for a grant at an institution of the North**
33 **Carolina Community College System; limitation on hours eligibility.**

34 (a) To be eligible for a grant, a student seeking a degree or certificate at an
35 institution of the North Carolina Community College System shall:

36 (1) Meet residency requirements by meeting the requirements to be
37 classified as a legal resident of North Carolina as established by the
38 program regulations promulgated by the State Education Assistance
39 Authority which shall be based upon the requirements for being
40 considered a resident for tuition purposes by The University of North
41 Carolina.

42 (2) Meet enrollment standards by being admitted, enrolled, and classified
43 as an undergraduate student in a matriculated status in a program of
44 study leading to a degree or certificate and maintaining satisfactory

1 academic progress in accordance with the standards and practices used
2 for federal Title IV programs by the institution at which the student is
3 enrolled.

4 (b) There is no minimum number of hours of enrollment required for eligibility
5 for a grant under this section.

6 (c) Subject to the provisions of subsection (e) of this section, an eligible student
7 may receive grants for all coursework required by the institution for programs of study
8 leading to a degree or certificate, including remedial or developmental studies.

9 (d) Subject to the amount of net income available pursuant to G.S. 143D-119, a
10 grant awarded under this section shall include tuition, approved mandatory fees, and a
11 book allowance not to exceed one hundred dollars (\$100.00) per quarter or one hundred
12 fifty dollars (\$150.00) per semester.

13 (e) No student may receive grants for more than 95 quarter hours or 63 semester
14 hours of attempted coursework, except as provided for in subsection (f) of this section.
15 No student may receive more than a cumulative total of 190 quarter hours or 127
16 semester hours of combined scholarships and grants, unless in accordance with
17 G.S. 115C-499.2 and G.S. 115C-499.3.

18 (f) A student enrolled in a degree or certificate program designed to be more
19 than 95 quarter hours or 63 semester hours in length is eligible to receive a HOPE grant
20 for the lesser of:

21 (1) A total of 130 attempted quarter hours or 86 attempted semester hours;
22 or

23 (2) The number of hours required for graduation.

24 **"§ 115C-499.5. Uniform reporting system for scholarships and grants.**

25 (a) It is the intent of the General Assembly to establish a uniform reporting
26 system to be used as one of the criteria to determine eligibility of students seeking
27 scholarships or grants pursuant to this Article.

28 (b) Each school system and private school shall adopt the reporting system
29 described in this subsection for purposes of identifying and qualifying graduating
30 seniors for the scholarship and grant programs in this Article:

31 (1) Each school system and private school shall transmit, in a manner and
32 at times prescribed by the State Education Assistance Authority, a
33 transcript of courses and course grades for each graduating senior that
34 reflects the complete high school academic record of the student,
35 including scores on any State tests required for graduation, the grading
36 scales used by the school system or private school for the time periods
37 referenced by the transcripts, and any other pertinent information as
38 determined by the State Education Assistance Authority. Each grade
39 reported by a school system or private school to the Authority for the
40 purpose of calculating the grade point average for scholarship
41 eligibility shall be the actual grade earned by the student, with no
42 weighting or addition of points by the local school system or private
43 school;

(2) The State Education Assistance Authority shall calculate a grade point average for the purpose of determining eligibility for the scholarship from these transcripts and shall notify students of their eligibility and high schools as to the eligibility of students;

(3) For students otherwise qualified and enrolling as freshmen students in eligible public or nonpublic postsecondary institutions for the first time on May 1, 2007, or thereafter, the State Education Assistance Authority shall calculate grade point averages for determining eligibility for the scholarship as follows:

a. For students receiving a college or university preparatory diploma, each grade for a student in attempted coursework in English, mathematics, science, social studies, and foreign language that would, if successfully completed, satisfy a core graduation requirement for the college preparatory curriculum shall be equated to a grade on a 4.0 scale, such that a grade of 'A' = 4.0, a grade of 'B' = 3.0, a grade of 'C' = 2.0, a grade of 'D' = 1.0, and a grade of 'F' = 0; or

b. For students receiving a career preparatory or college technical preparatory diploma, each grade for a student in attempted coursework in English, mathematics, science, and social studies that would, if successfully completed, satisfy a core graduation requirement for the career/technical curriculum shall be equated to a grade on a 4.0 scale, such that a grade of 'A' = 4.0, a grade of 'B' = 3.0, a grade of 'C' = 2.0, a grade of 'D' = 1.0, and a grade of 'F' = 0. Grades for coursework that is classified as advanced placement or international baccalaureate shall be weighted by the State Education Assistance Authority in calculating the overall grade point averages for students, provided that the weighting of such course grades is uniformly applied to all students in the State taking the specified coursework. The sum of the equated grades shall be divided by the number of course grades, adjusted for term length, to yield a grade point average on a 4.0 scale.

(4) Qualification for the scholarship shall be determined from the grade point average calculated as set out in subdivision (3) of this subsection. Students with grade point averages equal to or in excess of 3.0 on the 4.0 scale with a college or university preparatory diploma shall meet achievement standards for the scholarship; students receiving a career preparatory or college technical preparatory diploma shall meet achievement standards for the scholarship with a grade point average equal to or in excess of 3.2 on a 4.0 scale.

"§ 115C-499.6. Scholarship amounts dependent on net income available; restrictions on increase.

1 Subject to the maximum amounts provided in this Chapter, the State Education
2 Assistance Authority shall have the power to determine the actual scholarship amounts
3 disbursed to individuals in any given year, based on the amount of net income available
4 pursuant to G.S. 143D-119. If the net income available is not sufficient to fully fund the
5 scholarships to the maximum amount, all scholarships shall be reduced equally so that
6 every eligible applicant that is a full-time student shall receive the same scholarship
7 amount and every eligible applicant that is a half-time student shall receive half that
8 amount.

9 Notwithstanding G.S. 115C-499.2(i), 115C-499.3(i), and 115C-499.4(d), if the net
10 income available is sufficient to fully fund the scholarships, the amount of the
11 individual scholarships shall not be increased more than three percent (3%) above the
12 previous year's scholarship amount. However, the amount may be increased up to ten
13 percent (10%) if the previous year's scholarship amount was more than twenty-five
14 percent (25%) below the maximum allowed by this Article due to insufficient net
15 income available.

16 **"§ 115C-499.7. Reporting requirements.**

17 The State Education Assistance Authority shall report no later than June 1, 2008,
18 and annually thereafter to the Joint Legislative Education Oversight Committee. The
19 report shall contain, for the previous academic year, the amount of scholarship and grant
20 money disbursed, the number of students eligible for the funds, the number of eligible
21 students receiving the funds, and a breakdown of the postsecondary institutions that
22 received the funds."

23 **SECTION 3.** G.S. 116-204 reads as rewritten:

24 **"§ 116-204. Powers of Authority.**

25 The Authority is hereby authorized and empowered:

- 26 (1) To fix and revise from time to time and charge and collect fees for its
27 acts and undertakings;
- 28 (2) To establish rules and regulations concerning its acts and undertakings;
- 29 (3) To acquire, hold and dispose of personal property in the exercise of its
30 powers and the performance of its duties;
- 31 (4) To make and enter into all contracts and agreements necessary or
32 incidental to the performance of its duties and the execution of its
33 powers under this Article;
- 34 (5) To employ, in its discretion, consultants, attorneys, accountants, and
35 financial experts, superintendents, managers and such other employees
36 and agents as may be necessary in its judgment, and to fix their
37 compensation to be payable from funds made available to the
38 Authority by law;
- 39 (6) To receive and accept from any federal or private agency, corporation,
40 association or person grants to be expended in accomplishing the
41 objectives of the Authority, and to receive and accept from the State,
42 from any municipality, county or other political subdivision thereof
43 and from any other source aid or contributions of either money,

1 property, or other things of value, to be held, used and applied only for
2 the purposes for which such grants and contributions may be made;

3 (7) To sue and to be sued; to have a seal and to alter the same at its
4 pleasure; and to make and from time to time amend and repeal bylaws,
5 rules and regulations not inconsistent with law to carry into effect the
6 powers and purposes of the Authority;

7 (8) To do all other acts and things necessary or convenient to carry out the
8 powers expressly granted in this Article; provided, however, that
9 nothing in this Article shall be construed to empower the Authority to
10 engage in the business of banking or insurance.

11 (9) To collect loan repayments for loans awarded under the Teaching
12 Fellows Program pursuant to G.S. 115C-363.23A if the loan
13 repayment is outstanding for more than 30 days.

14 (10) To collect loan repayments for loans awarded from the Scholarship
15 Loan Fund for Prospective Teachers pursuant to Article 32A of
16 Chapter 115C of the General Statutes if the loan repayment is
17 outstanding for more than 30 days.

18 (11) To administer the Lottery Scholarship Fund pursuant to the provisions
19 of Article 35A of Chapter 115C."

20 **SECTION 4.** This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

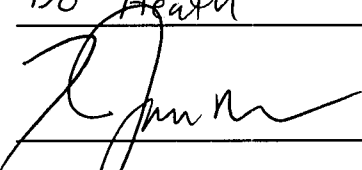
The Select Committee on The Lottery

March 29, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ERIC DYER	Greensboro News & Record
David Ingram	WSJ
Michael Houser	NCAE
Bill Holmes	AP
Bo Heath	NLGA Staff
	NCRA
Chris Fitzsimon	NC Policy Watch
BRUCE THOMPSON	PARKER POE ADAMS & BERNSTEIN
Tracy Kimbrell	Parker Poe
Cam Cover	BPM NL
Tory Adams	NCOAA

VISITOR REGISTRATION SHEET

The Select Committee on The Lottery

March 29, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Matting	Bou Office
R Lamm	FH/C
Jim Canby	NCAAA
Patrick Clancy	Speaker's Office
Kyle Britton	Charlotte Bobcats
Molly Ryan	NCSBA
John Bowditch	ADA
Bill Rustin	ACP
John R...	NL Family Policy Council
Maile Johnson	The Charlotte Observer
Jim Agn	SBE/DPI

VISITOR REGISTRATION SHEET

The Select Committee on The Lottery

March 29, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

1 Ken Melton

D.O.R.

Jim Hobbs

NC Build Schools

MINUTES OF THE HOUSE SELECT COMMITTEE ON THE LOTTERY
April 6, 2005

The House Select Committee on the Lottery met on April 6, 2005 at 11:15 a.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Allen, Vice Chairman; Holliman, Vice Chairman, LaRoque, Vice Chairman; Owens, Vice Chairman; Carney, Cole, Dickson, Gibson, Grady, Harrell, Owens, Sherrill, Tucker, West, Williams and Yongue.

The following bill was considered;

PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 1023
changing the title to AN ACT TO ESTABLISH A STATE LOTTERY TO SUPPORT SCHOOL CONSTRUCTION, TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS, AND TO GENERATE FUNDS TO FURTHER THE GOAL OF PROVIDING ENHANCED EDUCATIONAL OPPORTUNITIES SO THAT ALL STUDENTS IN THE PUBLIC SCHOOLS CAN ACHIEVE THEIR FULL POTENTIAL, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE LOTTERY was offered for purposes of discussion, and Representative Owens moved for its adoption. Without objection, it was before the committee. Dianna Jessup, committee counsel, was recognized and explained the committee substitute using the attached bill analysis.

The chairman recognized the primary sponsors, Representatives Owens, Bernard Allen, Holliman and LaRoque for any comments they wished to make on the bill.

Representative Owens commended the staff for an excellent job in preparing the committee substitute. He thought the college and university scholarships will help the taxpayers of the state and the 50% distribution of net revenues for school construction will help county commissioners and school boards across the state. He thinks it is a very good bill.

Representative Holliman said that it would be a plus for school boards not to have to deal with grants, and he was pleased that the estimates show that 48,000 additional students will receive scholarships in the amount of \$80 million dollars to \$100 million dollars spread across the university system, community colleges and independent colleges.

Representative Allen also commended the staff for an excellent job in putting together a very good document. He reminded the members of a fact sheet he had passed out regarding the states contiguous to North Carolina that have lotteries.

Representative LaRoque also thanked the staff for their work on the bill. He thought that it is a good bill that will really help North Carolina taxpayers, students and families.

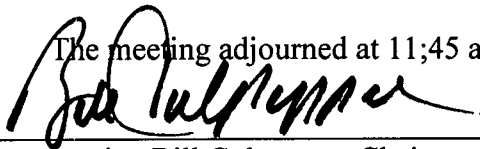
The chairman then opened the meeting for questions of the staff or discussion by the members.

Representative Grady asked if all lottery game retailers would receive the incentive bonus set out in section 18C of the proposed committee substitute. Dianna Jessup replied that the incentive bonus would be paid if the lottery game retailers submit reports and remit lottery revenues to the Commission on a timely basis, and she presumed the Commission would determine what a timely basis would be. The chairman further explained that they are guaranteed six percent and if they do what they are supposed to do, they will get an extra one percent.

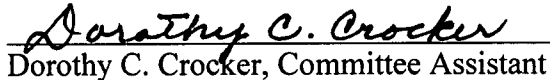
Representative Gibson asked if there should be a change by later General Assemblies in the Pell Grant as set out in line 34, page 14. The chairman replied that this is not a constitutional matter and that he expects this matter will be a work in progress for quite sometime

Representative Owens moved that the proposed committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

The meeting adjourned at 11:45 a.m.



Representative Bill Culpepper. Chairman



Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1023

PROPOSED COMMITTEE SUBSTITUTE H1023-PCS30172-SW-17

Short Title: North Carolina State Lottery Act.

(Public)

Sponsors:

Referred to:

March 31, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A STATE LOTTERY TO SUPPORT SCHOOL
3 CONSTRUCTION, TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS,
4 AND TO GENERATE FUNDS TO FURTHER THE GOAL OF PROVIDING
5 ENHANCED EDUCATIONAL OPPORTUNITIES SO THAT ALL STUDENTS
6 IN THE PUBLIC SCHOOLS CAN ACHIEVE THEIR FULL POTENTIAL, AS
7 RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE
8 LOTTERY.

9 The General Assembly of North Carolina enacts:

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

12 "Chapter 18C.

13 "North Carolina State Lottery.

14 "Article 1.

15 "General Provisions and Definitions.

16 "§ 18C-101. Citation.

17 This Chapter shall be known and may be cited as the North Carolina State Lottery
18 Act.

19 "§ 18C-102. Purpose and intent.

20 The General Assembly declares that the purpose of this Chapter is to establish a
21 State-operated lottery to generate funds for the public purposes described in this
22 Chapter. The net revenues generated by the lottery shall not supplant revenues already
23 expended or projected to be expended for those public purposes, and lottery net
24 revenues shall supplement rather than be used as substitute funds for the total amount of
25 money allocated for those public purposes.

26 "§ 18C-103. Definitions.

27 As used in this Chapter, unless the context requires otherwise:

28 (1) 'Commission' means the North Carolina State Lottery Commission.

- 1 (2) 'Commissioner' means a member of the Commission.
2 (3) 'Director' means the person selected by the Commission to be the chief
3 administrator of the North Carolina State Lottery.
4 (4) 'Game' or 'lottery game' means any procedure or amusement
5 authorized by the Commission where prizes are distributed among
6 persons who have paid, or unconditionally agreed to pay, for tickets or
7 shares that provide the opportunity to win those prizes.
8 (5) 'Lottery' means any lottery game or series of games established and
9 operated pursuant to this Chapter.
10 (6) 'Lottery contractor' means a person other than a lottery retailer with
11 whom the Commission has contracted for the purpose of providing
12 goods or services to the Commission.
13 (7) 'Person' means any natural person or corporation, limited liability
14 company, trust, association, partnership, joint venture, subsidiary, or
15 other business entity.
16 (8) 'Retailer', 'lottery retailer', or 'lottery game retailer' means a person
17 with whom the Commission has contracted to sell tickets or shares in
18 lottery games.
19 (9) 'Share' means any method of participation in a lottery game, other than
20 by a ticket purchased on an equivalent basis with a ticket.
21 (10) 'Ticket' means any tangible evidence authorized by the Commission to
22 demonstrate participation in a lottery game.
23 (11) 'Vendor' or 'lottery vendor' means any person who submits a bid,
24 proposal, or offer to procure a contract for goods or services for the
25 Commission.

26 **"§§ 18C-104 through 18C-109: Reserved for future codification purposes.**

27 **"Article 2.**

28 **"North Carolina State Lottery Commission.**

29 **"§ 18C-110. Establishment of the North Carolina State Lottery Commission to be**
30 **a self-supporting agency of the State.**

31 There is created the North Carolina State Lottery Commission to establish and
32 oversee the operation of a Lottery. The Commission shall be located in the Department
33 of Commerce for budgetary purposes only; otherwise, the Commission shall be an
34 independent, self-supporting, and revenue-raising agency of the State. The Commission
35 shall reimburse other governmental entities that provide services to the Commission.

36 **"§ 18C-111. Commission membership; appointment; selection of chair; vacancies;**
37 **removal; meetings; compensation.**

38 (a) The Commission shall consist of nine members, three of whom shall be
39 appointed by the Governor, three of whom shall be appointed by the General Assembly
40 upon the recommendation of the President Pro Tempore of the Senate, and three of
41 whom shall be appointed by the General Assembly upon the recommendation of the
42 Speaker of the House of Representatives. The Governor shall select the initial chair of
43 the Commission from among its membership, who shall serve as chair for one year from

1 the date of appointment. Thereafter, the Commission shall select a chair from among its
2 membership to serve at the pleasure of the Commission.

3 (b) Of the initial appointees of the Governor, one member shall serve a term of
4 one year, one member shall serve a term of two years, and one member shall serve a
5 term of three years. Of the initial appointees of the General Assembly upon the
6 recommendation of the President Pro Tempore of the Senate, one member shall serve a
7 term of one year, one member shall serve a term of two years, and one member shall
8 serve a term of three years. Of the initial appointees of the General Assembly upon the
9 recommendation of the Speaker of the House of Representatives, one member shall
10 serve a term of one year, one member shall serve a term of two years, and one member
11 shall serve a term of three years. All succeeding appointments shall be for terms of five
12 years. Members shall not serve for more than two successive terms.

13 (c) Vacancies shall be filled by the appointing authority for the unexpired portion
14 of the term in which they occur.

15 (d) The Commission shall meet at least quarterly upon the call of the chair. A
16 majority of the total membership of the Commission shall constitute a quorum.

17 (e) Members of the Commission shall receive per diem, subsistence, and travel
18 as provided in G.S. 138-5 and G.S. 138-6.

19 **"§ 18C-112. Qualifications of Commissioners.**

20 (a) Of the members of the Commission appointed by the Governor, at least one
21 member shall have a minimum of five years' experience in law enforcement, and no
22 more than two members shall be from the same political party as the Governor.

23 (b) Of the members appointed by the General Assembly upon the
24 recommendation of the President Pro Tempore of the Senate, one member shall be a
25 certified public accountant, and no more than two members shall be from the same
26 political party as the President Pro Tempore of the Senate.

27 (c) Of the members of the Commission appointed by the General Assembly upon
28 the recommendation of the Speaker of the House of Representatives, one member shall
29 have retail sales experience, and no more than two members shall be from the same
30 political party as the Speaker of the House of Representatives.

31 (d) In making appointments to the Commission, the appointing authorities shall
32 consider the composition of the State with regard to gender, ethnic, racial, and age
33 composition.

34 **"§ 18C-113. Meetings; records.**

35 (a) Meetings of the Commission shall be subject to Article 33C of Chapter 143
36 of the General Statutes.

37 (b) Except as provided in this Article, records of the Commission shall be open
38 and available to the public in accordance with Chapter 132 of the General Statutes.

39 (c) Personnel records of the Commission are subject to Article 7 of Chapter 126
40 of the General Statutes.

41 **"§ 18C-114. Powers and duties of the Commission.**

42 (a) The Commission shall have the following powers and duties:

43 (1) To specify the types of lottery games and gaming technology to be
44 used in the Lottery.

- (2) To prescribe the nature of lottery advertising.
- (3) To specify the number and value of prizes for winning tickets or shares in lottery games, including cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of tickets or shares in the same lottery game or other lottery games.
- (4) To specify the rules of lottery games and the method for determining winners of lottery games.
- (5) To specify the retail sales price for tickets or shares for lottery games.
- (6) To establish a system to claim prizes, including determining the time periods within which prizes must be claimed, to verify the validity of tickets or shares claimed to win prizes, and to effect payment of those prizes.
- (7) To conduct a background investigation, including a criminal history record check, of applicants for the position of Director, which may include a search of the State and National Repositories of Criminal Histories based on the fingerprints of applicants.
- (8) To determine the salary of the Director and the terms and conditions for employment contracts for the Director.
- (9) To specify the manner of distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or directly to the public.
- (10) To determine the incentives, if any, for any lottery employees, lottery vendors, lottery contractors, or electronic computer terminal operators.
- (11) To approve and authorize the Director to enter into contracts with lottery game retailers upon terms and conditions as specified by the Commission.
- (12) To approve and authorize the Director to enter into agreements with other states to operate and promote multistate lotteries consistent with the purposes set forth in this Chapter.
- (13) Any other powers necessary for the Commission to carry out its responsibilities under this Chapter.

(b) The Commission may adopt rules to carry out its duties and responsibilities under this Chapter.

"§ 18C-115. Reports.

The Commission shall send quarterly and annual reports on the operations of the Commission to the Governor, State Treasurer, and to the General Assembly. The reports shall include complete statements of lottery revenues, prize disbursements, expenses, net revenues, and all other financial transactions involving lottery funds, including the occurrence of any audit.

"§ 18C-116. Audits.

The State Auditor shall conduct annual audits of all accounts and transactions of the Commission and any other special postaudits the State Auditor considers to be necessary.

"§§ 18C-117 through 18C-119: Reserved for future codification purposes.

"Article 3.

1 "North Carolina State Lottery Director.

2 **"§ 18C-120. Selection of the Director; powers and duties.**

3 (a) The Commission shall select a Director to operate and administer the Lottery
4 and to serve as the Secretary of the Commission. Except as to the provisions of Articles
5 6 and 7 of Chapter 126 of the General Statutes, the Director shall be exempt from the
6 State Personnel Act.

7 (b) The Director shall have the following powers and duties, under the
8 supervision of the Commission:

- 9 (1) To provide for the reporting of payment of lottery game prizes to State
10 and federal tax authorities and for the withholding of State and federal
11 income taxes from lottery game prizes as provided in State and federal
12 law.
- 13 (2) To conduct a background investigation, including a criminal history
14 record check, of applicants for employment with the Commission,
15 lottery retailers, and lottery contractors, which may include a search of
16 the State and National Repositories of Criminal Histories based on the
17 fingerprints of applicants.
- 18 (3) To set the salaries of all Commission employees, subject to the
19 approval of the Commission, and to employ all personnel of the
20 Commission. Except for the provisions of Articles 6 and 7 of Chapter
21 126 of the General Statutes, all employees of the Commission shall be
22 exempt from the State Personnel Act.
- 23 (4) To enter into contracts with lottery retailers and lottery contractors
24 upon approval by the Commission.
- 25 (5) To provide for the security and accuracy in the operation and
26 administration of the Commission and the Lottery, including
27 examining the background of all prospective employees, lottery
28 vendors, lottery contractors, and lottery retailers.
- 29 (6) To receive reports of alleged violations of the law relating to the
30 operation of the Lottery and report those violations to the appropriate
31 law enforcement authority.
- 32 (7) To confer with the Commission on the operation and administration of
33 the Lottery and make available for inspection by the Commission all
34 books, records, files, documents, and other information of the Lottery.
- 35 (8) To study the operation and administration of other lotteries and to
36 collect demographic and other information concerning the Lottery and
37 make recommendations to improve the operation and administration of
38 the Lottery to the Commission, to the Governor, and to the General
39 Assembly.
- 40 (9) To provide monthly financial reports to the Commission of all lottery
41 revenues, prize disbursements, expenses, net revenues, and all other
42 financial transactions involving lottery funds.

(10) To enter into agreements with other states to operate and promote multistate lotteries consistent with the purposes set forth in this Chapter and upon the approval of the Commission.

"§ 18C-121. Accountability; books and records.

The Director shall make and keep books and records that accurately and completely reflect each day's transactions, including the distribution of tickets or shares to lottery game retailers, receipt of funds, prize claims, prizes paid directly by the Commission, expenses, and all other financial transactions involving lottery funds necessary to permit preparation of financial statements that conform with generally accepted accounting principles.

"§ 18C-122. Independent audits.

(a) At the beginning of each calendar year, the Director shall engage an independent firm experienced in security procedures, including computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the Commission and of the Lottery. At a minimum, such a security assessment should include a review of network vulnerability, application vulnerability, application code review, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness.

(b) The portion of the security audit report containing the overall evaluation of the Commission and of lottery games in terms of each aspect of security shall be presented to the Commission, to the Governor, and to the General Assembly.

(c) The portion of the security audit report containing specific recommendations shall be confidential, shall be presented only to the Director and to the Commission, and shall be exempt from Chapter 132 of the General Statutes. The Commission may hear the report of such an audit, discuss, and take action on any recommendations to address that audit under G.S. 143-318.11(a)(1).

(d) Biennially at the end of the fiscal year, the Director shall engage an independent auditing firm that has experience in evaluating the operation of lotteries to perform an audit of the Lottery. The results of this audit shall be presented to the Commission, to the Governor, and to the General Assembly.

"§§ 18C-123 through 18C-129: Reserved for future codification purposes.

"Article 4.

"Operation of Lottery.

"§ 18C-130. Types of lottery games; lottery games and lottery advertising; certain disclosures and information to be provided.

(a) The Commission shall determine the type of lottery games that may be used in the Lottery. Games may include instant lotteries, online games, games played on computer terminals or other devices, and other games traditional to a lottery or that have been conducted by any other state government-operated lottery.

(b) In lottery games using tickets, each ticket in a particular game shall have printed on it a unique number distinguishing it from every other ticket in that lottery game and an abbreviated form of the game-play rules. In lottery games using tickets with preprinted winners, the overall estimated odds of winning prizes shall be printed on

1 each ticket. No name or photograph of a current or former elected official shall appear
2 on the tickets of any lottery game.

3 (c) In games using electronic computer terminals or other devices to play lottery
4 games, no coins or currency shall be dispensed to players from those electronic
5 computer terminals or devices.

6 (d) No games shall be based on the outcome of a particular sporting event or on
7 the results of a series of sporting events.

8 (e) The only advertising of the Lottery that shall be permitted is point-of-sale
9 advertising and advertising on the premises of lottery retailers. Lottery advertising shall
10 be designed and presented in a manner to minimize the appeal of lottery games to
11 minors. The use of cartoon characters or of false, misleading, or deceptive information
12 in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets
13 or shares for a particular game shall include the actual or estimated overall odds of
14 winning the game.

15 (f) The Commission shall make available a detailed tabulation of the estimated
16 number of prizes of each particular prize denomination that are expected to be awarded
17 in each lottery game or the estimated odds of winning these prizes at the time that
18 lottery game is offered for sale to the public.

19 (g) The Commission shall, in consultation with the Department of Health and
20 Human Services, develop and provide information to the public about gambling
21 addiction and treatment.

22 **"§ 18C-131. Sales and sale price of tickets and shares; sales to minors prohibited.**

23 (a) The Commission may sell tickets and shares directly to the public, contract
24 with lottery game retailers to sell tickets and shares, or distribute tickets or shares
25 through any other method authorized by the Commission.

26 (b) No ticket or share in a lottery game shall be sold or resold for more than the
27 retail sales price established by the Commission.

28 (c) The minimum retail price of each ticket or share in any lottery game shall be
29 fifty cents (50¢). The minimum retail price shall not apply to any discounts or
30 promotions authorized by the Commission for a particular lottery game.

31 (d) It shall be unlawful for a person to sell a lottery ticket or share to a person
32 under the age of 18 years. No person under the age of 18 years shall purchase a lottery
33 ticket or share. A person who violates this subsection shall be guilty of a Class 1
34 misdemeanor.

35 (e) It shall be a defense for the person who sold a ticket or share in violation of
36 subsection (d) of this section if the person does either of the following:

37 (1) Shows that the purchaser produced a drivers license, a special
38 identification card issued under G.S. 20-37.7, a military identification
39 card, or a passport, showing the purchaser to be at least 18 years old
40 and bearing a physical description of the person named on the card that
41 reasonably describes the purchaser.

42 (2) Produces evidence of other facts that reasonably indicated at the time
43 of sale that the purchaser was at least 18 years old.

"§ 18C-132. Procedures for drawings and claiming prizes; payment of prizes; protection of information concerning certain prize winners.

(a) If a lottery game uses a daily or less frequent drawing of winning numbers, a drawing among entries, or a drawing among finalists, all of the following conditions shall be met:

(1) The drawings shall be open to the public.

(2) The drawings shall be witnessed by an independent certified public accountant.

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

(4) Audio and visual records of the drawings and inspections shall be made.

(b) If a valid claim is not made for a prize within the applicable period, the unclaimed prize money may be used to increase prize payments for future games or may be used for other purposes consistent with this Chapter. Prizes that remain unclaimed after the period set by the Commission for claiming the prizes shall not be considered abandoned property.

(c) After the expiration of the claim period for prizes for each lottery game, the Commission shall make available a detailed tabulation of the total number of prizes of each prize denomination that was actually claimed and paid directly by the Commission.

(d) No prize shall be paid for a lottery ticket or share that is stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or recorded by the Commission by the applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with any additional specific rules and public or confidential validation and security tests appropriate to the particular game involved.

(e) No particular prize in any lottery game shall be paid more than once. The Director, Commission, and the State shall be discharged of all liability upon payment of a prize.

(f) Winners of less than six hundred dollars (\$600.00) shall be permitted to claim prizes from any of the following:

(1) The same lottery game retailer who sold the winning ticket or share.

(2) From any other lottery retailer.

(3) Directly from the Commission.

(g) Winners of six hundred dollars (\$600.00) or more shall claim prizes directly from the Commission.

(h) The right of any person to a prize shall not be assignable. Payment of any prize may be paid to the estate of a deceased prizewinner or to a person designated pursuant to a court order.

(i) No ticket or share in a lottery game shall be purchased by, and no prize shall be paid to, a member of the Commission, the Director, or employee of the Commission.

1 or to any spouse, parent, or child living in the same household as a person disqualified
2 by this subsection.

3 (j) No prize shall be paid to a person under the age of 18.

4 (k) If a prize winner submits to the Commission a copy of a protective order
5 without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of
6 any court of competent jurisdiction restricting the access or contact of one or more
7 persons with that prize winner or a current and valid Address Confidentiality Program
8 authorization card issued pursuant to the provisions of Chapter 15C of the General
9 Statutes, that prize winner's identifying information shall be treated as confidential
10 information under G.S. 132-1.2 as long as the protective order remains in effect or the
11 prize winner remains a certified program participant in the Address Confidentiality
12 Program. That prize winner's identifying information shall be available for inspection
13 by a law enforcement agency or by a person identified in a court order if inspection of
14 the address by that person is directed by that court order.

15 **"§ 18C-133. Lottery game-play rules and winner validation procedures.**

16 (a) By purchasing a ticket or share in a lottery game, a player agrees to abide by,
17 and be bound by, the game-play rules adopted by the Commission that apply to any
18 particular lottery game involved.

19 (b) All players acknowledge that the determination of whether the player is a
20 winner is subject to the game-play rules and the winner validation procedures and
21 confidential validation tests established by the Commission for the particular lottery
22 game involved.

23 **"§ 18C-134. Prize winners with outstanding debts to State agencies, delinquent**
24 **taxes, or past-due child support; offset.**

25 (a) Before paying a prize of six hundred dollars (\$600.00) or more to a person
26 who claims to have won the prize, the Commission shall submit the name of that person
27 to the Department of Revenue. The Department of Revenue shall, within 10 days after
28 receiving the name of the person, identify whether that person owes a debt to a State
29 agency as provided in the Setoff Debt Collection Act, Chapter 105A of the General
30 Statutes, and shall notify the Commission of the amount of the prize subject to debt
31 set-off. The Commission shall remit the amount identified by the Department of
32 Revenue to the Department, and shall pay any remaining funds from the prize to the
33 prizewinner.

34 (b) Except as provided in this section, the provisions of Chapter 105A of the
35 General Statutes apply to the funds identified by the Department of Revenue and
36 remitted by the Commission to the Department.

37 **"§§ 18C-135 through 18C-139: Reserved for future codification purposes.**

38 **"Article 5.**

39 **"Lottery Game Retailers.**

40 **"§ 18C-140. Contracting with lottery game retailers.**

41 The Commission may contract with lottery game retailers to sell tickets or shares for
42 lottery games upon such terms and conditions as it considers appropriate. No contract to
43 act as a lottery game retailer is assignable or transferable. All contracts with lottery

1 game retailers shall provide that the Director may terminate the contract if the lottery
2 game retailer knowingly violates a provision of this Chapter.

3 **"§ 18C-141. Selection of lottery game retailers.**

4 (a) The Director shall recommend to the Commission those persons with whom
5 to contract as lottery game retailers. To the extent practicable, the Director shall meet
6 the minority participation goals under Article 8 of Chapter 143 of the General Statutes.

7 (b) The Director may not recommend contracting with any of the following:

8 (1) A natural person under 21 years of age. This minimum age shall not
9 prohibit employees of a lottery game retailer who are under 21 years of
10 age from selling lottery tickets or shares during their employment.

11 (2) A person who would be engaged exclusively in the business of selling
12 lottery tickets or shares or operating electronic computer terminals or
13 other devices solely for entertainment.

14 (c) Upon approval of the Commission, the Director shall enter into a contract
15 with the person to sell tickets or shares upon such terms and conditions as the
16 Commission directs.

17 **"§ 18C-142. Compensation for lottery game retailers.**

18 The amount of compensation paid to lottery game retailers for their sales of lottery
19 tickets or shares shall be six percent (6%) of the retail price of the tickets or shares sold
20 for each lottery game. The Commission shall authorize an incentive bonus of up to one
21 percent (1%) of the retail price of the tickets or shares sold based on submission of
22 reports and remission of lottery revenues to the Commission on a timely basis.

23 **"§ 18C-143. Responsibilities of lottery game retailers.**

24 (a) A lottery game retailer shall comply with all provisions of this Article and the
25 contract with the Commission.

26 (b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer
27 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
28 tickets or shares.

29 (c) A lottery game retailer shall furnish an appropriate bond or letter of credit, if
30 so requested by the Director. The Commission may authorize the Director to purchase
31 blanket bonds covering the activities of any or all lottery game retailers.

32 (d) The Commission shall adopt rules to establish procedures governing how the
33 lottery game retailers:

34 (1) Account for all tickets or shares in their custody, including tickets and
35 shares sold.

36 (2) Account for the money collected from the sale of tickets and shares.

37 (3) Remit funds to the Commission, provided that all payments shall be in
38 the form of electronic fund transfers or other recorded financial
39 instruments as authorized by the Commission and approved by the
40 Director.

41 **"§§ 18C-144 through 18C-149: Reserved for future codification purposes.**

42 **"Article 6.**

43 **"Lottery Vendors and Lottery Contractors.**

44 **"§ 18C-150. Procurements.**

1 The Commission shall be exempt from Article 3 of Chapter 143 of the General
2 Statutes but may use the services of the Department of Administration in procuring
3 goods and services for the Commission.

4 **"§ 18C-151. Contracts.**

5 (a) Article 8 of Chapter 143 of the General Statutes shall apply to all contracts
6 entered into by the Commission, including the provisions relating to minority
7 participation goals, and the Commission shall be considered a political subdivision of
8 the State for those purposes of contracting under Article 8 of Chapter 143 of the General
9 Statutes. Contracts for the provision of services to the Commission shall be treated as a
10 contract for the purchase of apparatus, supplies, materials, or equipment. The bonding
11 requirements of G.S. 143-129(b) for construction contracts shall apply to all contracts of
12 the Commission and may be waived at the discretion of the Commission.

13 (b) Upon the completion of the bidding process, a contract may be awarded to a
14 lottery contractor with whom the Commission has previously contracted for the same
15 purposes.

16 (c) Before a contract required to be let under G.S. 143-129 is awarded, the
17 Director shall conduct an investigation of all of the following:

18 (1) The vendor to whom the contract is to be awarded.

19 (2) Any parent or subsidiary corporation of the vendor to whom the
20 contract is to be awarded.

21 (3) All shareholders with a five percent (5%) or more interest in the
22 vendor or parent or subsidiary corporation of the vendor to whom the
23 contract is to be awarded.

24 (4) All officers and directors of the vendor or parent or subsidiary
25 corporation of the vendor to whom the contract is to be awarded.

26 (d) The Commission may terminate the contract, without penalty, of a lottery
27 contractor that fails to comply with the Commission's instruction to implement the
28 recommendations of the State Auditor or an independent auditor in an audit conducted
29 of Lottery security or operations.

30 **"§ 18C-152. Investigation of lottery vendors.**

31 (a) Lottery vendors shall cooperate with the Director in completing any
32 investigation required under G.S. 18C-151(c), including any appropriate investigation
33 authorizations needed to facilitate these investigations.

34 (b) The Commission shall adopt rules that provide for disclosures by lottery
35 vendors to ensure that the vendors provide all the information necessary to allow for a
36 full and complete evaluation by the Director and Commission of the competence,
37 integrity, background, and character of the lottery vendors.

38 (c) All documents compiled by the Director in conducting the investigation of
39 the lottery vendors shall be held as confidential information under Chapter 132.

40 **"§§ 18C-153 through 18C-159: Reserved for future codification purposes.**

41 "Article 7.

42 "North Carolina State Lottery Fund.

43 **"§ 18C-160. North Carolina State Lottery Fund.**

1 An enterprise fund, to be known as the North Carolina State Lottery Fund, is created
2 within the State treasury. The North Carolina State Lottery Fund is appropriated to the
3 Commission and may be expended without further action of the General Assembly for
4 the purposes of operating the Commission and the lottery games.

5 **"§ 18C-161. Types of income to the North Carolina State Lottery Fund.**

6 The following revenues shall be deposited in the North Carolina State Lottery Fund:

- 7 (1) All proceeds from the sale of lottery tickets or shares.
- 8 (2) The funds for initial start-up costs provided by the State.
- 9 (3) All other funds credited or appropriated to the Commission from any
10 source.
- 11 (4) Interest earned by the North Carolina State Lottery Fund.

12 **"§ 18C-162. Allocation of revenues.**

13 (a) To the extent practicable, the Commission shall allocate revenues to the
14 North Carolina State Lottery Fund in the following manner:

- 15 (1) At least fifty percent (50%) of the total annual revenues, as described
16 in this Chapter, shall be returned to the public in the form of prizes.
- 17 (2) At least thirty-four percent (34%) of the total annual revenues, as
18 described in this Chapter, shall be transferred as provided in
19 G.S. 18C-164.
- 20 (3) No more than sixteen percent (16%) of the total annual revenues, as
21 described in this Chapter, shall be allocated for payment of expenses
22 of the Lottery.

23 (b) Unclaimed prize money held by the Commission in the North Carolina State
24 Lottery Fund may be used by the Commission to enhance prizes in other lottery games.

25 (c) To the extent that the expenses of the Commission are less than sixteen
26 percent (16%) of total annual revenues, the Commission may allocate any surplus
27 funds:

- 28 (1) To increase prize payments; or
- 29 (2) To the benefit of the public purposes as described in this Chapter.

30 **"§ 18C-163. Expenses of the Lottery.**

31 Expenses of the Lottery may include any of the following:

- 32 (1) The costs incurred in operating and administering the Commission,
33 including initial start-up costs.
- 34 (2) The costs resulting from any contracts entered into for the purchase or
35 lease of goods or services required by the Commission.
- 36 (3) The compensation paid to lottery game retailers.
- 37 (4) The costs of supplies, materials, tickets, independent studies and
38 audits, data transmission, advertising, promotion, incentives, public
39 relations, communications, bonding for lottery game retailers, printing,
40 and distribution of tickets and shares.
- 41 (5) The costs of reimbursing other governmental entities for services
42 provided to the Commission.
- 43 (6) The costs for any other goods and services needed to accomplish the
44 purposes of this Chapter.

1 **"§ 18C-164. Transfer of net revenues.**

2 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of
3 all revenues to the Lottery Fund and after accrual of all obligations of the Commission
4 for prizes and expenses shall be considered to be the net revenues of the North Carolina
5 State Lottery Fund.

6 (b) On June 30 of each year, the Commission shall distribute the net revenue of
7 the North Carolina State Lottery Fund as follows:

8 (1) Fifty percent (50%) shall be transferred to the Public School Building
9 Capital Fund created in Article 38A of Chapter 115C of the General
10 Statutes and is appropriated for expenditure in accordance with that
11 Article. It is the purpose of this subdivision for counties to appropriate
12 funds generated under this subdivision to increase the level of county
13 spending for public school capital outlay purposes other than the
14 retirement of indebtedness. A county must continue to spend for public
15 school capital outlay purposes the same amount of money it would
16 have spent for those purposes if it had not received the monies
17 appropriated under this subdivision.

18 (2) Twenty-five percent (25%) shall be transferred to the State
19 Educational Assistance Authority and is appropriated to fund
20 scholarships pursuant to Article 35A of Chapter 115C of the General
21 Statutes.

22 (3) Twenty-five percent (25%) shall be transferred to a special revenue
23 fund to be established in the State treasury and to be known as the
24 Education Enhancement Fund. This fund shall be subject to
25 appropriation by the General Assembly and shall be used to further the
26 goal of providing enhanced educational opportunities so that all
27 students in the public schools can achieve their full potential.

28 **"§§ 18C-165 through 18C-169: Reserved for future codification purposes.**

29 "Article 8.

30 "Miscellaneous.

31 **"§ 18C-170. Preemption of local regulation.**

32 A county or municipality shall not enact any local law, ordinance, or regulation
33 relating to the Lottery, and this Chapter preempts all existing county or municipal laws,
34 ordinances, or regulations that would impose additional restrictions or requirements in
35 the operation of the Lottery. To the extent that this Chapter conflicts with any local act,
36 this Chapter prevails to the extent of the conflict.

37 **"§ 18C-171. Lawful activity.**

38 Other than this Chapter, any other State or local law, ordinance, or regulation
39 providing any penalty, disability, restriction, regulation, or prohibition for the
40 manufacture, transportation, storage, distribution, advertising, possession, or sale of any
41 lottery tickets or shares or for the operation of any lottery game shall not apply to the
42 operation of the Commission or lottery games established by this Chapter.

43 **"§§ 18C-172 through 18C-179: Reserved for future codification purposes.**

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 35A.

"College Scholarships.

"§ 115C-499.1. Definitions.

The following definitions apply to this Article:

- (1) Academic year. – A period of time in which a student is expected to complete the equivalent of at least two semesters' or three quarters' academic work.
- (2) Authority. – The State Education Assistance Authority created by Article 23 of Chapter 116 of the General Statutes.
- (3) Eligible postsecondary institution. – A school that is:
 - a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4);
 - b. A community college as defined in G.S. 115D-2(2); or
 - c. A nonpublic postsecondary institution as defined in G.S. 116-22(1) or 116-43.5(a)(1).
- (4) Matriculated status. – Being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at an eligible postsecondary institution.
- (5) Scholarship. – A scholarship for education awarded under this Article.
- (6) Title IV. – Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070, et seq.

"§ 115C-499.2. Eligibility requirements for a scholarship.

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible postsecondary institution must meet all of the following requirements:

- (1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed five thousand dollars (\$5,000).
- (2) The student must meet all other eligibility requirements for the federal Pell Grant, with the exception of the expected family contribution.
- (3) The student must qualify as a legal resident of North Carolina and as a resident for tuition purposes in accordance with definitions of residency that may from time to time be adopted by the Board of Governors and published in the residency manual of the Board of Governors.
- (4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible postsecondary institution.
- (5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet

1 achievement standards by maintaining satisfactory academic progress
2 in a course of study in accordance with the standards and practices
3 used for federal Title IV programs by the eligible postsecondary
4 institution in which the student is enrolled.

5 (6) A student may not receive a scholarship under this Article for more
6 than four full academic years.

7 **"§ 115C-499.3. Scholarship amounts; amounts dependent on net income available.**

8 (a) Subject to the amount of net income available under G.S. 18C-164(b)(2), a
9 scholarship awarded under this Article to a student at an eligible postsecondary
10 institution shall be based upon the enrollment status and expected family contribution of
11 the student and shall not exceed four thousand dollars (\$4,000) per academic year,
12 including any federal Pell Grant, to be used for the costs of attendance as defined for
13 federal Title IV programs.

14 (b) Subject to the maximum amounts provided in this section, the Authority shall
15 have the power to determine the actual scholarship amounts disbursed to students in any
16 given year based on the amount of net income available under G.S. 18C-164(b)(2). If
17 the net income available is not sufficient to fully fund the scholarships to the maximum
18 amount, all scholarships shall be reduced equally, to the extent practicable, so that every
19 eligible applicant shall receive the same scholarship amount.

20 **"§ 115C-499.4. Scholarship administration; reporting requirements.**

21 (a) The scholarships provided for in this Article shall be administered by the
22 Authority under rules adopted by the Authority in accordance with the provisions of this
23 Article.

24 (b) The Authority shall report no later than June 1, 2008, and annually thereafter
25 to the Joint Legislative Education Oversight Committee. The report shall contain, for
26 the previous academic year, the amount of scholarship and grant money disbursed, the
27 number of students eligible for the funds, the number of eligible students receiving the
28 funds, and a breakdown of the eligible postsecondary institutions that received the
29 funds."

30 **SECTION 3.(a) G.S. 14-289 reads as rewritten:**

31 **"§ 14-289. Advertising lotteries.**

32 Except as provided in Chapter 18C of the General Statutes or in connection with a
33 lawful raffle as provided in Part 2 of this Article, if anyone by writing or printing or by
34 circular or letter or in any other way, ~~advertise or publish~~ advertises or publishes an
35 account of a lottery, whether within or without this State, stating how, when or where
36 the same is to be or has been drawn, or what are the prizes therein or any of them, or the
37 price of a ticket or any share or interest therein, or where or how it may be obtained, he
38 shall be guilty of a Class 2 misdemeanor."

39 **SECTION 3.(b) G.S. 14-290 reads as rewritten:**

40 **"§ 14-290. Dealing in lotteries.**

41 Except as provided in Chapter 18C of the General Statutes or in connection with a
42 lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot,
43 carry on, promote, make or draw, publicly or privately, a lottery, by whatever name,
44 style or title the same may be denominated or known; or if any person shall, by such

1 way and means, expose or set to sale any house, real estate, goods, chattels, cash,
2 written evidence of debt, certificates of claims or any other thing of value whatsoever,
3 every person so offending shall be guilty of a Class 2 misdemeanor which may include
4 a fine not to exceed two thousand dollars (\$2,000). Any person who engages in
5 disposing of any species of property whatsoever, including money and evidences of
6 debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps,
7 seals on containers, other devices or certificates sold for that purpose, shall be held
8 liable to prosecution under this section. Any person who shall have in his possession
9 any tickets, certificates or orders used in the operation of any lottery shall be held liable
10 under this section, and the mere possession of such tickets shall be prima facie evidence
11 of the violation of this section. This section shall not apply to the possession of a lottery
12 ticket or share for a lottery game being lawfully conducted in another state."

13 **SECTION 3.(c)** G.S. 14-291 reads as rewritten:

14 **"§ 14-291. Selling lottery tickets and acting as agent for lotteries.**

15 Except as provided in Chapter 18C of the General Statutes or in connection with a
16 lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or
17 otherwise dispose of any lottery ticket or order for any number of shares in any lottery,
18 or shall in anywise be concerned in such lottery, by acting as agent in the State for or on
19 behalf of any such lottery, to be drawn or paid either out of or within the State, such
20 person shall be guilty of a Class 2 misdemeanor."

21 **SECTION 3.(d)** G.S. 14-291.1 reads as rewritten:

22 **"§ 14-291.1. Selling 'numbers' tickets; possession prima facie evidence of violation.**

23 Except as provided in Chapter 18C of the General Statutes, in connection with a
24 lawful lottery conducted in another state, or in connection with a lawful raffle as
25 provided in Part 2 of this Article, if any person shall sell, barter or cause to be sold or
26 bartered, any ticket, token, certificate or order for any number or shares in any lottery,
27 commonly known as the numbers or butter and egg lottery, or lotteries of similar
28 character, to be drawn or paid within or without the State, such person shall be guilty of
29 a Class 2 misdemeanor. Any person who shall have in his possession any tickets,
30 tokens, certificates or orders used in the operation of any such lottery shall be guilty
31 under this section, and the possession of such tickets shall be prima facie evidence of
32 the violation of this section."

33 **SECTION 3.(e)** G.S. 14-292 reads as rewritten:

34 **"§ 14-292. Gambling.**

35 Except as provided in Chapter 18C of the General Statutes or in Part 2 of this
36 Article, any person or organization that operates any game of chance or any person who
37 plays at or bets on any game of chance at which any money, property or other thing of
38 value is bet, whether the same be in stake or not, shall be guilty of a Class 2
39 misdemeanor. This section shall not apply to a person who plays at or bets on any
40 lottery game being lawfully conducted in any state."

41 **SECTION 3.(f)** G.S. 14-293 reads as rewritten:

42 **"§ 14-293. Allowing gambling in houses of public entertainment; penalty.**

43 If Except as provided in Chapter 18C of the General Statutes, if any keeper of an
44 ordinary or other house of entertainment, or of a house wherein alcoholic beverages are

retailed, shall knowingly suffer any game, at which money or property, or anything of value, is bet, whether the same be in stake or not, to be played in any such house, or in any part of the premises occupied therewith; or shall furnish persons so playing or betting either on said premises or elsewhere with drink or other thing for their comfort or subsistence during the time of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under this section shall, upon such conviction, forfeit his license to do any of the businesses mentioned in this section, and shall be forever debarred from doing any of such businesses in this State. The court shall embody in its judgment that such person has forfeited his license, and no board of county commissioners, board of town commissioners or board of aldermen shall thereafter have power or authority to grant to such convicted person or his agent a license to do any of the businesses mentioned herein."

SECTION 3.(g) G.S. 14-299 reads as rewritten:

"§ 14-299. **Property exhibited by gamblers to be seized; disposition of same.**

~~All~~ Except as provided in Chapter 18C of the General Statutes or in G.S. 14-292, all moneys or other property or thing of value exhibited for the purpose of alluring persons to bet on any game, or used in the conduct of any such game, including any motor vehicle used in the conduct of a lottery within the purview of G.S. 14-291.1, shall be liable to be seized by any court of competent jurisdiction or by any person acting under its warrant. Moneys so seized shall be turned over to and paid to the treasurer of the county wherein they are seized, and placed in the general fund of the county. Any property seized which is used for and is suitable only for gambling shall be destroyed, and all other property so seized shall be sold in the manner provided for the sale of personal property by execution, and the proceeds derived from said sale shall (after deducting the expenses of keeping the property and the costs of the sale and after paying, according to their priorities all known prior, bona fide liens which were created without the lienor having knowledge or notice that the motor vehicle or other property was being used or to be used in connection with the conduct of such game or lottery) be turned over and paid to the treasurer of the county wherein the property was seized, to be placed by said treasurer in the general fund of the county."

SECTION 4. Chapter 14 of the General Statutes is amended by adding the following new section to read:

"§ 14-309.2. **Part does not apply to the Lottery.**

The provisions of this Part shall not apply to the North Carolina State Lottery established in Chapter 18C of the General Statutes."

SECTION 5. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

...

(23) The North Carolina State Lottery Commission."

SECTION 6. Part 2 of Article 4 of Chapter 114 is amended by adding a new section to read:

"§ 114-19.16. **Criminal record checks for the North Carolina State Lottery Commission and its Director.**

1 The Department of Justice may provide to the North Carolina State Lottery
2 Commission and to its Director from the State and National Repositories of Criminal
3 Histories the criminal history of any prospective employee of the Commission and any
4 prospective lottery retailer or lottery contractor. The North Carolina State Lottery
5 Commission or its Director shall provide to the Department of Justice, along with the
6 request, the fingerprints of the prospective employee of the Commission, or of the
7 prospective lottery retailer or lottery contractor, a form signed by the prospective
8 employee of the Commission, or of the prospective lottery retailer or lottery contractor
9 consenting to the criminal record check and use of fingerprints and other identifying
10 information required by the State and National Repositories, and any additional
11 information required by the Department of Justice. The fingerprints of the prospective
12 employee of the Commission, or prospective lottery retailer or lottery contractor, shall
13 be forwarded to the State Bureau of Investigation for a search of the State's criminal
14 history record file, and the State Bureau of Investigation shall forward a set of
15 fingerprints to the Federal Bureau of Investigation for a national criminal history record
16 check. The North Carolina State Lottery Commission and its Director shall keep all
17 information obtained pursuant to this section confidential."

18 SECTION 7. G.S. 116B-54 is amended by adding a new subsection to read:

19 "(f) Prizes that remain unclaimed after the period set by the Commission for
20 claiming those prizes, as provided in G.S. 143D-145(a)(6), are not abandoned property."

21 SECTION 8. G.S. 120-123 is amended by adding a new subdivision at the
22 end to read:

23 "(78) The North Carolina State Lottery Commission, as established in
24 Chapter 18C of the General Statutes."

25 SECTION 9. G.S. 126-5(c1) reads as rewritten:

26 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
27 of this Chapter shall not apply to:

- 28 (1) Constitutional officers of the State.
- 29 (2) Officers and employees of the Judicial Department.
- 30 (3) Officers and employees of the General Assembly.
- 31 (4) Members of boards, committees, commissions, councils, and advisory
32 councils compensated on a per diem basis.
- 33 (5) Officials or employees whose salaries are fixed by the General
34 Assembly, or by the Governor, or by the Governor and Council of
35 State, or by the Governor subject to the approval of the Council of
36 State.
- 37 (6) Employees of the Office of the Governor that the Governor, at any
38 time, in the Governor's discretion, exempts from the application of the
39 provisions of this Chapter by means of a letter to the State Personnel
40 Director designating these employees.
- 41 (7) Employees of the Office of the Lieutenant Governor, that the
42 Lieutenant Governor, at any time, in the Lieutenant Governor's
43 discretion, exempts from the application of the provisions of this

Chapter by means of a letter to the State Personnel Director designating these employees.

(8) Instructional and research staff, physicians, and dentists of The University of North Carolina.

(9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.

(10) Repealed by Session Laws 1991, c. 84, s. 1.

(11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).

(12), (13) Repealed by Session Laws 2001-474, s. 15, effective November 29, 2001.

(14) Employees of the North Carolina State Ports Authority.

(15) Employees of the North Carolina Global TransPark Authority.

(16) The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.

(17) Repealed by Session Laws 2004-129, s. 37, effective July 1, 2004.

(18) Employees of the Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.

(19) Employees of the Health and Wellness Trust Fund Commission established in Article 21 of Chapter 130A of the General Statutes.

(20) Employees of the North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes.

(21) Employees of the Clean Water Management Trust Fund.

(22) Employees of the North Carolina Turnpike Authority.

(23) The Executive Administrator and the Deputy Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan.

(24) The North Carolina State Lottery Director and employees of the North Carolina State Lottery."

SECTION 10. G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of:

(1) The Teachers' and State Employees' Retirement System,

(2) The Consolidated Judicial Retirement System,

(3) The Teachers' and State Employees' Hospital and Medical Insurance Plan,

(4) The General Assembly Medical and Hospital Care Plan,

(5) The Disability Salary Continuation Plan,

(6) The Firemen's and Rescue Workers' Pension Fund,

(7) The Local Governmental Employees' Retirement System,

(8) The Legislative Retirement System,

- (9) The Escheat Fund,
(10) The Legislative Retirement Fund,
(11) The State Education Assistance Authority,
(12) The State Property Fire Insurance Fund,
(13) The Stock Workers' Compensation Fund,
(14) The Mutual Workers' Compensation Fund,
(15) The Public School Insurance Fund,
(16) The Liability Insurance Trust Fund,
(17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1,
(17a) North Carolina Veterans Home Trust Fund,
(17b) North Carolina National Guard Pension Fund,
(17c) Retiree Health Premium Reserve Account, and
(17d) ~~The Election Fund-Fund,~~
(17e) The North Carolina State Lottery Fund, and
(18) Any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act."

SECTION 11.(a) The Commission may adopt emergency rules pursuant to G.S. 150B-21.1A with a reference to this section as the basis for the adoption of those rules as emergency rules.

SECTION 11.(b) This section shall become effective when it becomes law and shall expire June 30, 2007.

SECTION 12. The first security audit required under G.S. 18C-123(a) shall be conducted at the beginning of the first calendar year after the effective date of this act. The first audit required under G.S. 18C-123(d) shall be conducted at the end of the first fiscal year after the effective date of this act.

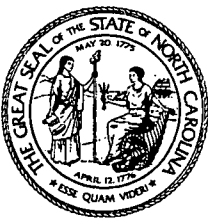
SECTION 13. The Department of Health and Human Services shall study the effects of the establishment and operation of the North Carolina State Lottery on the incidence of gambling addiction in this State. The Department shall report the results of its study, including any proposed legislation, to the Joint Legislative Health Care Oversight Committee, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2007.

SECTION 14. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement this act.

SECTION 15. The State Treasurer shall lend to the North Carolina State Lottery Commission, at a rate of interest comparable to short-term rates in the private capital market and with repayment terms satisfactory to both parties, sufficient funds to cover initial operating expenses of the Commission, except that the total amount borrowed by the Commission shall not exceed ten million dollars (\$10,000,000). The borrowed funds shall be deposited in the North Carolina State Lottery Fund and shall be available for expenditure for the purposes set forth in this act without further action by

1 the General Assembly. The Commission shall repay any funds lent to it pursuant to this
2 section within twenty-four months after the effective date of this act.

3 **SECTION 16.** Except as otherwise provided in this act, it is effective when
4 it becomes law.



HOUSE BILL 1023: North Carolina State Lottery Act

BILL ANALYSIS

Committee: House Select Committee on the Lottery
Date: April 6, 2005
Version: PCS H1023-PCS30172-SW-17

Introduced by: Reps. Owens, B. Allen, Holliman, LaRoque
Summary by: Dianna Jessup and Wendy Graf Ray
Committee Counsel

SUMMARY: *House Bill 1023 would establish a State Lottery. Funds from the Lottery would be used to support school construction, fund college and university scholarships, and to "further the goal of providing enhanced educational opportunities so that all students in the public schools can achieve their full potential." The act would become effective when it becomes law.*

CURRENT LAW AND BILL ANALYSIS:

Section 1. - Establishment of a State Lottery. House Bill 1023 would add a new Chapter 18C to the General Statutes to establish a State lottery. Lottery activities are currently prohibited under State law.

Purpose and Intent (G.S. 18C-102): The purpose of the lottery would be to generate funds "for the public purposes described in this Chapter", i.e. funding school construction, college and university scholarships, and other educational needs as described in the bill. The section would also prohibit net revenues generated by the lottery to be used to supplant existing funds allocated for those purposes.

The North Carolina State Lottery Commission (Article 2): The bill would establish a nine member Commission to establish and oversee the operation of the Lottery. The Commission would be located in the Department of Commerce for budgetary purposes, but otherwise would be independent. The members would be appointed by the Governor (3 members), the General Assembly upon the recommendation of the President Pro Tempore of the Senate (3 members), and the General Assembly upon the recommendation of the Speaker of the House of Representatives (3 members). Members would serve staggered terms of 1, 2, and 3 years, and then members would serve five-year terms. The Governor would appoint the first chair of the Commission from among the membership, but after the first year the Commission would select its chair. Of the members of the Commission, one would be required to have at least 5 years' law enforcement experience, one would have to be a certified public accountant, and one would have to have retail sales experience. No more than two of the three appointees from each appointing authority could be from the same political party as the appointing authority. In making appointments to the Commission, the appointing authorities would consider the composition of the State with regard to gender, ethnic, racial, and age composition.

The Commission would determine how to operate the Lottery (subject to the provisions of the Chapter), including determining the types of lottery games and the rules for the games, establishing a system to claim prizes, specifying the manner of distributing lottery tickets, and approving and authorizing the Director to enter into contracts.

The North Carolina State Lottery Director (Article 3): The Commission would select a Lottery Director to operate and administer the Lottery and to serve as Secretary of the Commission. The Director would hire the Commission's employees. The Director and the Commission employees would be exempt from the State Personnel Act. The Director, under supervision of the Commission, would enter into contracts

HOUSE BILL 1023

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with lottery retailers (the persons who would be selling the tickets), lottery contractors (the persons who would be providing goods and services to the Commission), and other states (for multistate lotteries). The bill would require the Director to provide for the security of the Lottery, confer with the Commission on operations and offer recommendations for improvements, and provide monthly financial reports.

Audits (G.S. 18C-116 and G.S. 18C-122): The bill would require annual audits by the State Auditor, and independent audits of Lottery security and operations.

Operation of the Lottery (Article 4): The bill would prescribe certain aspects of the Lottery, including:

- The appearance of tickets (unique numbers, no names or photographs of elected officials, rules, odds)
- Advertising (only point of sale and advertising on the premises of lottery retailers, minimize appeal of Lottery to minors, odds)
- Limitations on games (no coins or currency may be dispensed, no games based on the outcome of a sporting event)
- Offering a detailed tabulation of the estimated number of prizes to be awarded for games
- No sales of tickets to minors (Class 1 misdemeanor) or payment of prizes to minors
- No resales of tickets for more than the price set by the Commission
- Procedures for drawings and paying prizes
- Protection of the identification of winners who are domestic violence victims or participants in the Address Confidentiality Program
- Procedures for offsetting the winnings of persons who owe a debt under the Setoff Debt Collection Act
- The development of information concerning gambling addiction and treatment that would be provided to the public

Lottery Game Retailers (Article 5): The bill would authorize the Director, upon the Commission's approval, to contract with lottery game retailers to sell tickets or shares for lottery games. To the extent practicable, the Director would be required to meet the minority participation goals under Article 8 of Chapter 143. Natural persons under age 21 and persons who would be engaged exclusive in the business of selling lottery tickets or operating electronic computer terminals or other devices solely for entertainment could not be lottery retailers. Lottery game retailers would be compensated at 6% of the retail price of tickets sold plus a 1% incentive bonus for submitting reports and remitting lottery revenues on a timely basis. Lottery game retailers would have to display a certificate of authority signed by the Director and would have to account for tickets and money collected in a manner prescribed by the Commission.

Lottery Vendors and Lottery Contractors (Article 6): The Commission would be exempt from the procurement provisions of Chapter 143 but would be able to use the services of the Department of Administration in procuring goods and services for the Commission. Contracts of the Commission would be subject to current public contracting provisions in Article 8 of Chapter 143, which would include minority participation goals. Under the bill, contracts for services would be treated the same as contracts for goods, and for those contracts requiring an expenditure in excess of \$90,000, bidding is required and the Director must conduct a background check of the vendor.

HOUSE BILL 1023

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The North Carolina State Lottery Fund (Article 7): The bill would establish a North Carolina State Lottery Fund for the purposes of operating the Commission and the lottery games. Income to the Lottery Fund would include proceeds from ticket sales and interest earned by the Fund. Of the revenues in the Lottery Fund, 50% would be allocated to pay prizes and 16% would be allocated for Lottery expenses. The remaining 34% would be considered net revenues and would be distributed as follows:

- 50% would be transferred to the Public School Building Capital Fund, which is used for school construction. Counties would not be permitted to use these funds to supplant current spending for construction.
- 25% would be transferred to the State Education Assistance Authority to fund college and university scholarships (see Section 2).
- 25% would be transferred to a special revenue fund (the Education Enhancement Fund) to be appropriated by the General Assembly to "further the goal of providing enhanced educational opportunities so that all students in the public schools can achieve their full potential."

Miscellaneous (Article 8): Counties and municipalities would be preempted from adopting laws or ordinances to restrict the Lottery.

Section 2. - Scholarships. This section would create a scholarship program to be administered by the State Education Assistance Authority and funded by 25% of the net Lottery revenues. The scholarships would be need-based only and awarded to students for up to four academic years of postsecondary education, covering \$4,000 per year for education related expenses at any eligible postsecondary institution. The scholarships would be intended to assist the neediest students in North Carolina by picking up where the federal Pell Grant program leaves off. A recipient of a federal Pell Grant can receive up to \$4,050 per year, depending on his or her level of need. The scholarship program would provide funds for students who do not receive a full Pell Grant and students who do not qualify for a Pell Grant at all but who are still quite needy. Each student who qualifies would receive a total of \$4,000 per academic year, including any Pell Grant money received.

Features of the scholarship program would include:

- Eligible students must be "needy". Need would be determined using the federal methodology, which determines the student's and family's capacity to pay for postsecondary education each year. A student would not be eligible if the student's expected family contribution exceeds \$5,000.
- Eligible students must meet all qualifications for a federal Pell Grant, other than the expected family contribution requirement.
- Eligible students must be enrolled at an eligible postsecondary institution (defined as a constituent institution of The University of North Carolina, a community college, or a nonpublic postsecondary institution).
- Eligible students must be legal residents of North Carolina.
- Once in school, a student must maintain satisfactory academic progress to continue to be eligible.

If the available income is not sufficient to fund all scholarships to the maximum amount, all scholarships would be reduced equally, to the extent practicable, so that every eligible applicant receives the same amount.

HOUSE BILL 1023

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Sections 3 through 10 – Conforming Changes. These sections would make conforming changes to the gambling statutes (Sections 3 and 4); the Umstead Act (Section 5); the Department of Justice statutes, in order to conduct background checks of employees, retailers, vendors, and contractors (Section 6); the escheats statutes, to prevent unclaimed prize funds from reverting (Section 7); the statute that prohibits General Assembly members from serving on certain board and commissions (Section 8); the State Personnel Act (Section 9); and the statute concerning investment of funds by the State Treasurer (Section 10).

Section 11 – Emergency Rulemaking. This section would permit the Commission to utilize emergency rulemaking procedures until June 30, 2007.

Section 12 – Audits. This section would prescribe when the first independent security audit and general audit would take place.

Section 13 – Study of Incidence of Gambling Addiction. This section would require the Department of Health and Human Services to study the effects of the establishment and the operation of the Lottery on the incidence of gambling addiction and report the results of its study, including any proposed legislation, to the health and human services appropriations subcommittees of both houses, the Joint Legislative Health Care Oversight Committee, and the Fiscal Research Division not later than January 1, 2007.

Section 14 – Appropriations. Under this section, nothing must be construed to obligate the General Assembly to appropriate funds.

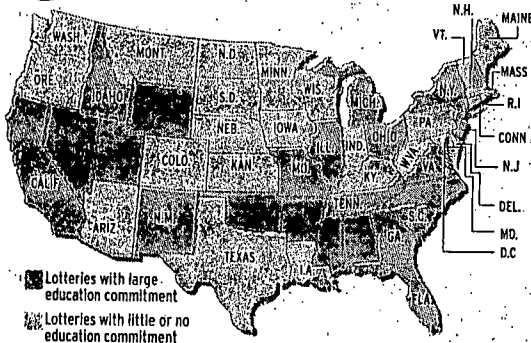
Section 15 – Start Up Loan. This section would require the State Treasurer to loan the Commission up to \$10 million for start up costs. The Commission would be required to repay the loan, with interest, within 24 months.

Section 16 – Effective Date. Except as otherwise provided (see Section 11), the act would become effective when it would become law.

H1023-SMSW-001

STATES WITH LOTTERIES

Here are the states which, along with the District of Columbia, have state-run lotteries. Those that earmark a large portion of the proceeds for education programs are indicated. Not shown are Alaska and Hawaii, which do not have lotteries.



Source: North American Association of State and Provincial Lotteries

The News & Observer



REPRESENTATIVE BERNARD ALLEN

NORTH CAROLINA HOUSE OF REPRESENTATIVES

33RD DISTRICT

STATE LEGISLATIVE BUILDING
 16 W. JONES STREET, ROOM 1325
 RALEIGH, NC 27601-1096
 919-733-5772 TELEPHONE
 919-754-3292 FAX
 BERNARDA@NCLEG.NET

HOME ADDRESS
 6204 CHARLES ST.
 RALEIGH, NC 27610
 919-231-1970

LOTTERY

CONTINUED FROM PAGE 1A

Any North Carolina lottery, they pledge, will be an "education lottery," meaning that roughly one-third of the total take will be spent on the state's students.

That's where it gets sticky.

Passing out proceeds

A special House committee made up mostly of lottery supporters is weighing how the proceeds would be doled out.

It's a delicate effort; Committee members want to please enough lawmakers to secure the votes to pass the bill.

But opinions on how the money should be spent are as numerous as the rows of scratch-off cards that color convenience stores in Virginia, South Carolina, Georgia and Tennessee.

"We simply are not going to keep everybody happy," said state Rep. Bill Owens, an Elizabeth City Democrat and a lottery supporter. "It's going to have to be for education for it to even have a chance. But even then, who knows?"

For now, House leaders are planning to direct much of the money to school construction and college scholarships, though some could go to pre-kindergarten programs.

Others want the money for better school technology, or for poorer school districts or to boost teacher pay. Still others think some should go to help the early childhood program Smart Start or to help pay Medicaid costs.

Committee members are expected to review the latest bill in public for the first time Tuesday. A vote could come soon after.

While the prospect of a lottery vote has lingered for years, Black suddenly called for quick work on the issue late last month.

Black said he will not allow any type of advisory voter referendum, in contrast to past lottery efforts. He said the legislature should make a decision once and for all.

A vote for a lottery in the House could assure its eventual passage. The Senate would still have to vote but has been supportive in the past.

Black and other leaders have said that about 10 House members who are undecided will determine the outcome.

IN ADJOINING STATES

VIRGINIA

Since 1999, Virginia has sent all lottery proceeds to local school divisions to be used on K-12 educational purposes.

Before that, proceeds had been dedicated to capital construction projects or to the state's general operating fund.

FY 2004 SALES: \$1.2 billion

FY 2004 PROCEEDS TO EDUCATION: \$408.1 million

SOUTH CAROLINA

Begun in 2002, the South Carolina lottery sends most of its proceeds to education. The major area of support is various K-12 programs and to endow research at the state's major universities.

FY 2004 SALES: \$953.2 million

FY 2004 PROCEEDS TO EDUCATION: \$290.1 million

GEORGIA

Begun in 1993, the Georgia lottery was one of the first in a wave focused on providing the proceeds for education only. Scholarships go to students with a B average to be used at eligible public and private colleges and universities and public technical colleges. Other money goes for a pre-kindergarten program for all 4-year-olds and technological upgrades for schools, technical institutes, colleges and universities.

FY 2004 SALES: \$2.71 billion

FY 2004 PROCEEDS TO EDUCATION: \$782 million

TENNESSEE

Tennessee officials say the first year, 2004, beat their goals. Lottery proceeds provide \$3,000-per-year scholarships to students who have a 3.0 grade point average or score a 21 on the ACT test. More is available for those with "outstanding academic credentials." College students must maintain a B average.

CY 2004 SALES: \$863.4 million

CY 2004 PROCEEDS TO EDUCATION: \$246 million

SOURCE: NEWS & OBSERVER RESEARCH

Tax Center, which advocates for the state's poor, said it is wrong to bet on a lottery being good for public schools.

"A perception develops that the lottery is taking care of the schools," said Elaine Mejia, the center's director. "As a result, the yearly amounts going to schools over the long term begins to slow. It ends up being less than what they were get-

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Culpepper (Chair) for the Committee on **The Select Committee On The Lottery**.

☐ Committee Substitute for

H.B. 1023 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A STATE LOTTERY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to the committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

VISITOR REGISTRATION SHEET

Rules

Name of Committee

4-06-05

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

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FIRM OR AGENCY

George Suddath	PBV
Steve Brook	SeAA
ROZ Sawitt	NCCCA
Came Cover	BPM 14L
Scott Mooneyham	Insider / C. y. Lt Pastor Assoc.
Robert Williams	S.O.S
GNN Lake	DUNS
Honey Williams	NCLM
W. Moore	NCLM
Allison Clipp	
Meredith Nader	
Andy Romanet	NCLM
Tracy Kimbrell	Parker Poe
BROCK THOMPSON	PARKER POE
Michael Houser	NCAE
John Moore	Gaucho's
Mark Johnson	The Charlotte Observer
Jack Patta	Charlotte Observer
J. Bolton	AC-T
Gary Robertson	AP
Amy Hobbs	Hobbs & Co
Phil Jones	NC Bureau Schools
Kathleen Edwards	unc-CH Legislative Reporting Service
Emilie Edwards	NC Council of Churches
George Reed	NC Council of Churches
ERIC DYER	Greensboro News & Record
Donald Trump	Trump Casinos

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

[Signature]
Molly Ryan
MAURICE GREEN

[Signature]
NCSBA

Molly Griffin

Charlotte - Meck School Bd

[Signature]

[Signature]

[Signature]

EMS

Jeane Winner

NCSBA

John Hood

JLF

Robin Staudt

CSE/Freedom Works

Roy Hoflin

CSE/Freedom Works

Kathy Hartkopf

CSE/Freedom Works

Jim Hobbs

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Esther Vaden

UNC-TV

Laurie Clowers

WRAL