

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**HOUSE BILL 1023
RATIFIED BILL**

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.

The General Assembly of North Carolina enacts:

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

**"Chapter 18C.
"North Carolina State Lottery.**

"Article 1.

"General Provisions and Definitions.

"§ 18C-101. Citation.

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

"§ 18C-102. Purpose and intent.

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

"§ 18C-103. Definitions.

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

- (1) 'Commission' means the North Carolina State Lottery Commission.
- (2) 'Commissioner' means a member of the Commission.
- (3) 'Director' means the person selected by the Commission to be the chief administrator of the North Carolina State Lottery.
- (4) 'Game' or 'lottery game' means any procedure or amusement authorized by the Commission where prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win those prizes.
- (5) 'Lottery' means any lottery game or series of games established and operated pursuant to this Chapter.
- (6) 'Lottery contractor' means a person other than a lottery retailer with whom the Commission has contracted for the purpose of providing goods or services to the Commission.
- (7) 'Person' means any natural person or corporation, limited liability company, trust, association, partnership, joint venture, subsidiary, or other business entity.

- (8) 'Retailer', 'lottery retailer', or 'lottery game retailer' means a person with whom the Commission has contracted to sell tickets or shares in lottery games.
- (9) 'Share' means any method of participation in a lottery game, other than by a ticket purchased on an equivalent basis with a ticket.
- (10) 'Ticket' means any tangible evidence authorized by the Commission to demonstrate participation in a lottery game.
- (11) 'Vendor' or 'lottery vendor' means any person who submits a bid, proposal, or offer to procure a contract for goods or services for the Commission.

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

"Article 2.

"North Carolina State Lottery Commission.

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

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

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

(a) The Commission shall consist of nine members, three of whom shall be appointed by the Governor, three of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and three of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. The Governor shall select the initial chair of the Commission from among its membership, who shall serve as chair for one year from the date of appointment. Thereafter, the Commission shall select a chair from among its membership to serve at the pleasure of the Commission.

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

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

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

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

"§ 18C-112. Qualifications of Commissioners.

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

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

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

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

"§ 18C-113. Meetings; records.

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

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

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

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

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

- (1) To specify the types of lottery games and gaming technology to be 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.

"North Carolina State Lottery Director.

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

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

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

- (1) To provide for the reporting of payment of lottery game prizes to State and federal tax authorities and for the withholding of State and federal income taxes from lottery game prizes as provided in State and federal law.
- (2) To conduct a background investigation, including a criminal history record check, of applicants for employment with the Commission, lottery retailers, and lottery contractors, which may include a search of the State and National Repositories of Criminal Histories based on the fingerprints of applicants.
- (3) To set the salaries of all Commission employees, subject to the approval of the Commission, and to employ all personnel of the Commission. Except for the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes, all employees of the Commission shall be exempt from the State Personnel Act.
- (4) To enter into contracts with lottery retailers and lottery contractors upon approval by the Commission.
- (5) To provide for the security and accuracy in the operation and administration of the Commission and the Lottery, including examining the background of all prospective employees, lottery vendors, lottery contractors, and lottery retailers.
- (6) To receive reports of alleged violations of the law relating to the operation of the Lottery and report those violations to the appropriate law enforcement authority.
- (7) To confer with the Commission on the operation and administration of the Lottery and make available for inspection by the Commission all books, records, files, documents, and other information of the Lottery.
- (8) To study the operation and administration of other lotteries and to collect demographic and other information concerning the Lottery and make recommendations to improve the operation and administration of the Lottery to the Commission, to the Governor, and to the General Assembly.
- (9) To provide monthly financial reports to the Commission of all lottery revenues, prize disbursements, expenses, net revenues, and all other 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 each ticket. No name or photograph of a current or former elected official shall appear on the tickets of any lottery game.

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

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

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

(f) The Commission shall make available 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 at the time that lottery game is offered for sale to the public.

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

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

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

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

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

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

(e) It shall be a defense for the person who sold a ticket or share in violation of subsection (d) of this section if the person 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 the purchaser to be at least 18 years old and bearing a physical description of the person named on the card that reasonably describes the purchaser.

(2) Produces evidence of other facts that reasonably indicated at the time 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, or to any spouse, parent, or child living in the same household as a person disqualified by this subsection.

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

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

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

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

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

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

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

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

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

"Article 5.

"Lottery Game Retailers.

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

The Commission may contract with lottery game retailers to sell tickets or shares for lottery games upon such terms and conditions as it considers appropriate. No contract to act as a lottery game retailer is assignable or transferable. All contracts with lottery game retailers shall provide that the Director may terminate the contract if the lottery game retailer knowingly violates a provision of this Chapter.

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

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

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

- (1) A natural person under 21 years of age. This minimum age shall not prohibit employees of a lottery game retailer who are under 21 years of age from selling lottery tickets or shares during their employment.
- (2) A person who would be engaged exclusively in the business of selling lottery tickets or shares or operating electronic computer terminals or other devices solely for entertainment.

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

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

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

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

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

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

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

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

- (1) Account for all tickets or shares in their custody, including tickets and shares sold.
- (2) Account for the money collected from the sale of tickets and shares.
- (3) Remit funds to the Commission, provided that all payments shall be in the form of electronic fund transfers or other recorded financial instruments as authorized by the Commission and approved by the Director.

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

"Article 6.

"Lottery Vendors and Lottery Contractors.

"§ 18C-150. Procurements.

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

"§ 18C-151. Contracts.

(a) Article 8 of Chapter 143 of the General Statutes shall apply to all contracts entered into by the Commission, including the provisions relating to minority

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

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

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

- (1) The vendor to whom the contract is to be awarded.
- (2) Any parent or subsidiary corporation of the vendor to whom the contract is to be awarded.
- (3) All shareholders with a five percent (5%) or more interest in the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded.
- (4) All officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded.

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

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

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

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

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

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

"Article 7.

"North Carolina State Lottery Fund.

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

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

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

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

- (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 funds credited or appropriated to the Commission from any source.
- (4) Interest earned by the North Carolina State Lottery Fund.

"§ 18C-162. Allocation of revenues.

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

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

(2) At least thirty-four percent (34%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.

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

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

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

(1) To increase prize payments; or

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

"§ 18C-163. Expenses of the Lottery.

Expenses of the Lottery may include any of the following:

(1) The costs incurred in operating and administering 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 and audits, 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.

"§ 18C-164. Transfer of net revenues.

(a) The funds remaining in the North Carolina State Lottery 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 considered to be the net revenues of the North Carolina State Lottery Fund.

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

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

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

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

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

"Article 8.

"Miscellaneous.

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

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

"§ 18C-171. Lawful activity.

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

"§§ 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 achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible postsecondary institution in which the student is enrolled.
- (6) A student may not receive a scholarship under this Article for more than four full academic years.

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

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

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

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

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

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

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

"§ 14-289. Advertising lotteries.

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

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

"§ 14-290. Dealing in lotteries.

Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot, carry on, promote, make or draw, publicly or privately, a lottery, by whatever name, style or title the same may be denominated or known; or if any person shall, by such way and means, expose or set to sale any house, real estate, goods, chattels, cash, written evidence of debt, certificates of claims or any other thing of value whatsoever, every person so offending shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed two thousand dollars (\$2,000). Any person who engages in disposing of any species of property whatsoever, including money and evidences of debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps,

seals on containers, other devices or certificates sold for that purpose, shall be held liable to prosecution under this section. Any person who shall have in his possession any tickets, certificates or orders used in the operation of any lottery shall be held liable under this section, and the mere possession of such tickets shall be prima facie evidence of the violation of this section. This section shall not apply to the possession of a lottery ticket or share for a lottery game being lawfully conducted in another state."

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

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

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

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

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

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

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

"§ 14-292. Gambling.

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

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

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

~~If~~ Except as provided in Chapter 18C of the General Statutes, if any keeper of an 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.

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

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

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

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

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

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

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

- (1) Constitutional officers of the State.
- (2) Officers and employees of the Judicial Department.

- (3) Officers and employees of the General Assembly.
- (4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
- (5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
- (6) Employees of the Office of the Governor that the Governor, at any time, in the Governor's discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in the Lieutenant Governor's 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 the General Assembly. The Commission shall repay any funds lent to it pursuant to this section within twenty-four months after the effective date of this act.

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

In the General Assembly read three times and ratified this the 30th day of August, 2005.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2005