

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 2*

Short Title: 1991 Referendum-State Lottery.

(Public)

Sponsors: Senators Royall; Ballance, Hunt, Lee, Martin of Guilford, Marvin, Perdue, Raynor, Richardson, and Sherron.

Referred to: Finance.

January 30, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A BINDING REFERENDUM ON THE
3 ESTABLISHMENT OF A NORTH CAROLINA STATE LOTTERY.

4 The General Assembly of North Carolina enacts:

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

7 **“CHAPTER 143C.**
8 **“NORTH CAROLINA STATE LOTTERY.**
9 **“ARTICLE 1.**
10 **“GENERAL PROVISIONS AND DEFINITIONS.**

11 **“§ 143C-101. Citation.**

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

14 **“§ 143C-102. Purpose and intent.**

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

22 **“§ 143C-103. Laws not affected.**

1 Nothing contained in this Chapter shall be construed to repeal or modify any
2 existing State law with respect to gambling. In the event of a conflict between the
3 provisions of this Chapter and any other laws of the State of North Carolina, the
4 provisions of this Chapter shall govern.

5 **"§ 143C-104. Prohibition on use of State funds.**

6 It is the intent of this Chapter that the State-operated lottery established by this
7 Chapter shall be a self-supporting revenue-raising agency of State government.

8 **"§ 143C-105. Public purpose to benefit from lottery.**

9 The net revenues of the lottery shall be used to benefit the public purposes set forth
10 in G.S. 143C-175. It is the intent of this Chapter that the net revenues generated by the
11 State-operated lottery established by this Chapter shall not supplant revenues already
12 expended or projected to be expended for the public purpose and that lottery net
13 revenues shall supplement rather than be used as substitute funds for the total amount of
14 money allocated for the public purpose.

15 **"§ 143C-106. Allocation of revenues.**

16 As nearly as practical, at least eighty-four percent (84%) of the total annual revenues
17 from the sale of lottery tickets or shares, as described in this Chapter, shall be returned
18 to the public in the form of prizes and net revenues benefiting the public purposes set
19 forth in G.S. 143C-175. As nearly as practical, at least fifty percent (50%) of the total
20 annual revenues, as described in this Chapter, shall be returned to the public in the form
21 of prizes as described in this Chapter. Unclaimed prize money, as described in this
22 Chapter, shall revert to the benefit of the public purpose as described in this Chapter.
23 No more than sixteen percent (16%) of the total annual revenues as described in this
24 Chapter shall be allocated for payment of expenses of the lottery as described in this
25 Chapter. To the extent that the expenses of the lottery are less than sixteen percent
26 (16%) of total annual revenues, any surplus funds shall also be allocated to the benefit
27 of the public purpose as described in this Chapter.

28 **"§ 143C-107. Definitions.**

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

- 30 (1) 'Commission' or 'Lottery Commission' means the North Carolina State
31 Lottery Commission, the five-member body appointed by the
32 Governor pursuant to this Chapter to oversee the lottery and the
33 Director.
- 34 (2) 'Commissioner' means one of the members of the North Carolina State
35 Lottery Commission appointed by the Governor pursuant to this
36 Chapter to oversee the State lottery.
- 37 (3) 'Director' means the Director of the North Carolina State Lottery
38 appointed by the Governor pursuant to this Chapter as the chief
39 administrator of the State lottery.
- 40 (4) 'Game' or 'Lottery game' means any procedure authorized by the
41 Commission whereby prizes are distributed among persons who have
42 paid, or unconditionally agreed to pay, for tickets or shares that
43 provide the opportunity to win these prizes.

- 1 (5) 'Lottery' or 'State lottery' means the North Carolina State Lottery
2 established and operated pursuant to this Chapter.
- 3 (6) 'Lottery contractor' means a person with whom the North Carolina
4 State Lottery has contracted for the purpose of providing goods and
5 services to the North Carolina State Lottery.
- 6 (7) 'Major procurement' means a procurement for a contract for the
7 printing of tickets or the provision of shares for use in any lottery
8 game, for any goods or services involving the receiving or recording of
9 number selections in any lottery game, or for any goods or services
10 involving the determination or generation of winners in any lottery
11 game.
- 12 (8) 'Person' means any natural person or corporation, trust, association,
13 partnership, joint venture, subsidiary, or other business entity.
- 14 (9) 'Retailer' or 'Lottery retailer' means a person with whom the North
15 Carolina State Lottery Commission has contracted for the purpose of
16 selling tickets or shares in lottery games to the public.
- 17 (10) 'Share' means any method of participation in a lottery game, other than
18 by a ticket purchased on an equivalent basis with a ticket whether
19 presently contemplated or developed in the future.
- 20 (11) 'Ticket' means any tangible evidence issued by the lottery to prove
21 participation in a lottery game.
- 22 (12) 'Vendor' or 'Lottery vendor' means any person who submits a bid,
23 proposal, or offer as part of a procurement for a contract for goods or
24 services for the North Carolina State Lottery.

25 "§§ 143C-108 and 143C-109: Reserved for future codification purposes.

26 "ARTICLE 2.

27 "NORTH CAROLINA STATE LOTTERY COMMISSION.

28 "§ 143C-110. Creation of Commission.

29 There is created a North Carolina State Lottery Commission.

30 "§ 143C-111. Commission membership; appointment; vacancies; removal.

31 (a) The North Carolina State Lottery Commission shall consist of five members
32 appointed by the Governor who shall serve at the pleasure of the Governor.

33 (b) The Commissioners shall be appointed for the following initial terms: one
34 member shall be appointed for a term of two years, one member shall be appointed for a
35 term of three years, one member shall be appointed for a term of four years, and two
36 members shall be appointed for terms of five years. All succeeding appointments shall
37 be for terms of five years.

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

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

42 "§ 143C-112. Qualifications of Commissioners.

43 At least one of the Commissioners shall have a minimum of five years experience in
44 law enforcement, and at least one of the other Commissioners shall be a certified public

1 accountant. No person shall be appointed as a Commissioner who has been convicted
2 of a felony. No more than three members of the Commission shall be of the same
3 political party.

4 **"§ 143C-113. Compensation and expenses.**

5 Commissioners shall be compensated at the rate of one hundred dollars (\$100.00)
6 for each day engaged in Commission business. Commissioners shall be reimbursed for
7 actual expenses incurred on Commission business, including, necessary travel expenses.

8 **"§ 143C-114. Powers and duties of the Commission.**

9 The Commission shall exercise all powers necessary to effectuate the purposes of
10 this Chapter.

11 **"§ 143C-115. Annual selection of chairman.**

12 The Commission shall annually select a chairman from its membership.

13 **"§ 143C-116. Meetings; records.**

14 Meetings of the Commission shall be open and public in accordance with Article
15 33C of Chapter 143 of the General Statutes. Records of the Commission shall be open
16 and available to the public in accordance with the provisions of Chapter 132 of the
17 General Statutes. The Commission shall meet with the Director at least monthly to
18 make recommendations and set policy, to approve or reject reports of the Director, to
19 adopt rules in accordance with Chapter 150B of the General Statutes, and to transact
20 any other business that may properly be brought before it. The chairman or a majority
21 of the members of the Commission shall have the power to call special meetings of the
22 Commission upon advance written notice to all of the members of the Commission and
23 the Director.

24 **"§ 143C-117. Quorum; voting.**

25 A majority of the total membership of the North Carolina Lottery Commission
26 constitutes a quorum. All decisions of the Commission shall be made by a majority
27 vote.

28 **"§ 143C-118. Reports.**

29 The Commission shall make quarterly and annual reports on the operation of the
30 lottery to the Governor, Attorney General, State Treasurer, and to the General
31 Assembly. The reports shall include full and complete statements of lottery revenues,
32 prize disbursements, expenses, net revenues, and all other financial transactions
33 involving lottery funds.

34 **"§ 143C-119: Reserved for future codification purposes.**

35 **"ARTICLE 3.**

36 **"NORTH CAROLINA STATE LOTTERY DIRECTOR.**

37 **"§ 143C-120. Appointment and removal of Director.**

38 The Governor shall appoint a Director within 30 days of the effective date of this
39 Chapter. The Director shall direct the operations of the State lottery. The Governor
40 may remove the Director upon notification to the Commission. The Director shall be
41 exempt from the State Personnel Act.

42 **"§ 143C-121. Qualifications of the Director.**

1 The Director shall be qualified by training and experience to direct the operations of
2 a State-operated lottery. No person shall be appointed Director who has been convicted
3 of a felony.

4 **"§ 143C-122. Salary.**

5 During the first fiscal year of the operation of the lottery, the Director shall receive
6 compensation as set by the Commission and approved by the Governor. Thereafter the
7 compensation of the Director shall be set by the General Assembly in the Current
8 Operations Appropriations Act. The Director shall render full-time attention to the
9 duties of the office.

10 **"§ 143C-123. Duties and powers of the Director.**

11 The Director shall perform all duties, exercise all powers, assume and discharge all
12 responsibilities, and carry out and effect all purposes provided by this Chapter. The
13 Director shall act as the Secretary and Executive Officer of the North Carolina State
14 Lottery Commission. The Director shall act in accordance with this Chapter, the rules
15 adopted by the Commission, and under the guidance of the Commission.

16 **"§ 143C-124. Power to hire.**

17 The Director shall hire, subject to the approval of the Commission, the professional,
18 clerical, technical and administrative personnel needed to carry out the provisions of
19 this Chapter. No person shall be employed by the lottery who has been convicted of a
20 felony. Each person employed by the lottery shall execute an authorization to allow an
21 investigation of his background.

22 **"§ 143C-125. Assistant directors.**

23 The Director may appoint, and prescribe the duties for, up to four assistant directors.
24 The compensation of each assistant director shall be set by the Commission and shall
25 not exceed the Director's compensation. The Director may designate one of the
26 assistant directors as the deputy director. All employees of the North Carolina State
27 Lottery shall be exempt from the State Personnel Act.

28 **"§ 143C-126. Assistant director for security.**

29 One of the assistant directors shall be responsible for a security division to assure the
30 security, honesty, fairness, and integrity in the operation and administration of the
31 lottery, including an examination of the background of all prospective employees,
32 lottery vendors, and lottery contractors. The assistant director for security shall be
33 qualified by training and experience including at least five years of law enforcement
34 experience and knowledge and experience in computer security. The assistant director
35 for security may, in conjunction with the Director, confer with the Attorney General or
36 his designee, to promote and ensure the security, honesty, fairness, and integrity of the
37 operation and administration of the lottery. The assistant director for security, in
38 conjunction with the Director, shall report any alleged violation of law to the
39 appropriate law enforcement authority for further investigation and action. The
40 assistant director for security shall have peace officer status in this State.

41 **"§ 143C-127. Criminal identification information available to lottery; peace officer**
42 **status.**

43 Upon the request of the assistant director for security, the Attorney General and the
44 Secretary of Crime Control and Public Safety shall furnish information to the Director

1 and the assistant director for security, necessary to assure the security, honesty, fairness,
2 and integrity in the operation and administration of the lottery which they have in their
3 possession, including computerized or other information and data. For the purpose of
4 requesting and receiving this information, the State lottery shall be considered to be a
5 'criminal justice agency' and its enforcement agents to be 'peace officers'. State lottery
6 enforcement agents shall have the same authority with respect to service and execution
7 of arrest warrants and search warrants as is conferred on other peace officers of this
8 State.

9 **"§ 143C-128. Coordination with Commission.**

10 The Director shall confer as frequently as necessary, but not less than monthly, with
11 the Commission on the operation and administration of the lottery. The Director shall
12 make available for inspection by the Commission all books, records, files, documents,
13 and other information of the lottery and shall make recommendations for the improved
14 operation and administration of the lottery.

15 **"§ 143C-129. Study of lottery systems; recommendations for improvement.**

16 The Director shall make an ongoing study of the operation and administration of the
17 lotteries that are in operation in other states and countries, of available literature on the
18 subject of lotteries, of federal laws which may affect the operation of the lottery, and of
19 the reaction of the citizens of the State to existing or proposed features in lottery games.
20 The Director shall conduct this research in order to recommend improvements that will
21 serve the purposes of this Chapter. The Director may make recommendations to the
22 Commission, to the Governor, and to the General Assembly on any matters concerning
23 the secure, profitable, and efficient operation and administration of the lottery and the
24 convenience of the purchasers of tickets and shares.

25 **"§ 143C-130. Accountability; books and records.**

26 The Director shall make and keep books and records that accurately and fairly
27 reflect each day's transactions, including the distribution of tickets or shares to lottery
28 game retailers, receipt of funds, prize claims, prizes paid directly by the Commission,
29 expenses, and all other financial transactions involving lottery funds necessary to permit
30 preparation of daily financial statements in conformity with generally accepted
31 accounting principles, in order to maintain daily accountability.

32 **"§ 143C-131. Monthly financial reports.**

33 The Director shall make a monthly financial report to the Commission, to the
34 Governor, to the State Treasurer, and to the General Assembly. The report shall include
35 a statement of all lottery revenues, prize disbursements, expenses, net revenues, and all
36 other financial transactions involving lottery funds for the preceding month.

37 **"§ 143C-132. Independent study of demographics of lottery players.**

38 Within the first six months of sales of tickets or shares to the public, the Director
39 shall engage an independent firm experienced in demographic analysis to conduct a
40 special study to ascertain the demographic characteristics of the players of each lottery
41 game, including their income, age, sex, education, and frequency of participation. This
42 report shall be presented to the Commission, to the Governor, and to the General
43 Assembly. Similar studies shall be conducted on a continuing, periodic basis.

44 **"§ 143C-133. Independent study of effectiveness of lottery communications.**

1 After the first full year of sales of tickets or shares to the public, the Director shall
2 engage an independent firm experienced in the analysis of advertising, promotion,
3 public relations, and other aspects of communications to conduct a special study of the
4 effectiveness of the communications activities undertaken by the lottery and make
5 recommendations to the Commission on the future conduct and future rate of
6 expenditures for these activities. This report shall be presented to the Commission, to
7 the Governor, and to the General Assembly. Similar studies shall be conducted on a
8 continuing, periodic basis.

9 **"§ 143C-134. Independent audit of lottery security.**

10 The Director shall, in addition to all other security measures, engage an independent
11 firm experienced in security procedures, including computer security and systems
12 security, to conduct a continuing comprehensive study and evaluation of all aspects of
13 security in the operation of the lottery. The study shall include:

14 (1) Personnel security;

15 (2) Lottery game retailer security;

16 (3) Lottery contractor security;

17 (4) Security of manufacturing operations of lottery contractors;

18 (5) Security against ticket counterfeiting, alteration, and other
19 means of fraudulently winning; security of drawings among entries
20 or finalists;

21 (6) Computer security;

22 (7) Data communications security;

23 (8) Database security;

24 (9) Systems security;

25 (10) Lottery premises and warehouse security;

26 (11) Security in distribution;

27 (12) Security involving validation and payment procedures;

28 (13) Security involving unclaimed prizes;

29 (14) Security aspects applicable to each particular lottery game;

30 (15) Security of drawings in games where winners are
31 determined by drawings of numbers;

32 (16) Any other aspects of security applicable to any particular
33 lottery game and to the lottery and its operations.

34 The portion of the security audit report containing the overall evaluation of the lottery in
35 terms of each aspect of security shall be presented to the Commission, to the Governor,
36 and to the General Assembly. The portion of the security audit report containing
37 specific recommendations shall be confidential and shall be presented only to the
38 Director, to the assistant director for security, and to the Commission. Similar audits of
39 security shall be conducted biennially thereafter.

40 **"§§ 143C-135 to 143C-139: Reserved for future codification purposes.**

41 **"ARTICLE 4.**

42 **"OPERATION OF LOTTERY.**

43 **"§ 143C-140. Initiation and operation of lottery.**

1 The Commission shall initiate operation of the lottery on a continuous basis at the
2 earliest feasible and practical time. The lottery shall be initiated and shall continue to be
3 operated so as to produce the maximum amount of net revenues to benefit the public
4 purpose described in this Chapter consistent with the purposes stated in G.S. 143C-102.
5 Other departments, boards, commissions, and agencies of the State and their officers
6 shall cooperate with the Commission to aid the Commission in fulfilling these
7 objectives.

8 **"§ 143C-141. Types of lottery games.**

9 (a) Upon the recommendation of the Director, the Commission shall adopt rules,
10 in the manner prescribed by Chapter 150B of the General Statutes specifying the types
11 of lottery games to be conducted by the lottery, including but not limited to, instant
12 lotteries, on-line games, and other games traditional to the lottery, provided, however:

- 13 (1) No lottery game may use the theme of bingo, dog racing, or horse
14 racing;
- 15 (2) No lottery game may be based on the outcome of a particular sporting
16 event or on the results of a series of sporting events;
- 17 (3) In lottery games using tickets, each ticket in a particular game shall
18 bear a unique number distinguishing it from every other ticket in that
19 lottery game;
- 20 (4) No name or photograph of an elected official shall appear on the
21 tickets of any lottery game; and
- 22 (5) In games using electronic computer terminals or other devices, no
23 coins or currency shall be dispensed to players from those electronic
24 computer terminals or devices.

25 (b) The Commission may authorize the use of any type of lottery game that
26 has been conducted by any state government-operated lottery in the United States
27 including, but not limited to, the sale of instant tickets or shares by electronic computer
28 terminals or devices, or any other type of lottery game that will achieve the revenue
29 objectives of the lottery consistent with the purposes stated in G.S. 143C-102.

30 **"§ 143C-142. Number and value of prizes.**

31 Upon the recommendation of the Director, the Commission shall adopt rules as
32 prescribed by Chapter 150B of the General Statutes that specify the number and value
33 of prizes for winning tickets or shares in each lottery game including cash prizes,
34 merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of
35 tickets or shares in the same lottery game or other lottery games conducted by the
36 lottery, provided:

- 37 (1) In lottery games using tickets with preprinted winners, the overall
38 estimated odds of winning prizes shall be printed on each ticket; and
- 39 (2) A detailed tabulation of the estimated number of prizes of each
40 particular prize denomination that are expected to be awarded in each
41 lottery game, or the estimated odds of winning these prizes, shall be
42 available at the offices of the lottery at the time that lottery game is
43 offered for sale to the public.

44 **"§ 143C-143. Method of determining winners.**

1 (a) Upon the recommendation of the Director, the Commission shall adopt rules
2 as prescribed by Chapter 150B of the General Statutes, which specify the method for
3 determining winners in each lottery game, provided that if a lottery game uses a
4 drawing of winning numbers, a drawing among entries, or a drawing among finalists:

5 (1) The drawings shall always be open to the public;

6 (2) The drawings shall be witnessed by an independent certified public
7 accountant;

8 (3) Any equipment used in the drawings shall be inspected by the
9 independent certified public accountant and an employee of the lottery
10 both before and after the drawings; and

11 (4) The drawings and inspections shall be recorded on both video and
12 audio tape.

13 (b) It is the intent of this Chapter that the Commission may authorize the use
14 of any of a variety of existing or future methods or technologies in determining winners.

15 **"§ 143C-144. Sale price of tickets and shares.**

16 Upon the recommendation of the Director, the Commission shall adopt rules as
17 prescribed by Chapter 150B of the General Statutes, specifying the retail sales price for
18 each ticket or share for each lottery game, provided:

19 (1) No ticket or share shall be sold for more than the retail sales price
20 established by the Commission; and

21 (2) The minimum retail price of each ticket, share, or transaction in any
22 lottery game shall be fifty cents (50¢), except to the extent of any
23 discounts or promotions authorized by the Commission for a particular
24 lottery game.

25 **"§ 143C-145. Validation and payment of prizes.**

26 Upon the recommendation of the Director, the Commission shall adopt rules as
27 prescribed by Chapter 150B of the General Statutes, to establish a system of verifying
28 the validity of tickets or shares claimed to win prizes and to effect payment of those
29 prizes, provided:

30 (1) For the convenience of the public, lottery retailers may be authorized
31 by the Commission to pay winners of up to an amount appropriate to
32 the lottery game involved, after performing validation procedures on
33 their premises, and with the approval of the Director;

34 (2) No prize shall be paid to any person under the age of 18 years;

35 (3) No prize may be paid arising from claimed tickets or shares that are
36 stolen, counterfeit, altered, fraudulent, unissued, produced or issued in
37 error, unreadable, not received or recorded by the lottery by the
38 applicable deadlines, lacking in captions that conform and agree with
39 the lottery play symbols as appropriate to the lottery game involved, or
40 not in compliance with any additional specific rules and regulations
41 and public or confidential validation and security tests of the lottery
42 appropriate to the particular game involved;

43 (4) No particular prize in any lottery game may be paid more
44 than once, and in the event of a binding determination that more than

1 one claimant is entitled to a particular prize, the sole remedy for
2 these claimants is the award to each of them of a proportionate share
3 in the prize;

4 (5) The Commission may specify that winners of twenty-five
5 dollars (\$25.00) or less may claim the prizes from either the same
6 lottery game retailer who sold the winning ticket or share or from the
7 lottery itself or from any other lottery retailer;

8 (6) Holders of tickets or shares shall have the right to claim
9 prizes for 120 days after the drawing or the end of the lottery game
10 or play in which the prize was won. The Commission may define
11 shorter time periods for eligibility for entry into drawings involving
12 entries or finalists. If a valid claim is not made for a prize payable
13 directly by the Commission within the applicable period, the
14 unclaimed prize money will revert to the North Carolina State
15 Lottery Fund;

16 (7) After the expiration of the claim period for prizes for each
17 lottery game, the Commission shall make available a detailed
18 tabulation of the total number of prizes of each prize denomination
19 that were actually claimed and paid directly by the Commission;

20 (8) The right of any person to a prize shall not be assignable, except that
21 payment of any prize may be paid to the estate of a deceased
22 prizewinner or to a person designated pursuant to an appropriate
23 judicial order. The Director, Commission, State lottery, and the State
24 shall be discharged of all liability upon payment of a prize; and

25 (9) No ticket or share in a lottery game shall be purchased by, and no prize
26 shall be paid to a member of the Commission, the Director, an
27 assistant lottery director, or employee of the lottery or to any spouse,
28 parent, or child living in the same household as a person disqualified
29 by this provision.

30 **§ 143C-146. Lottery game play rules and winner validation procedures.**

31 All prizes contemplated in each lottery game by its prize structure for a given level
32 of sales shall be paid to the players of the lottery game. Conversely, in order to preserve
33 the fiscal integrity of the lottery and to protect public funds, no prizes shall be paid
34 which are invalid and not contemplated by the prize structure of the lottery game
35 involved. By purchasing a ticket or share in a lottery game, a player agrees to abide by,
36 and be bound by, the lottery's game play rules developed by the Director, and approved
37 by the Commission, to apply to any particular lottery game involved. An abbreviated
38 form of the game play rules may appear on tickets in lottery games using tickets. In
39 particular a player acknowledges that the determination of whether the player is a
40 winner is subject to the game play rules and the winner validation procedures and
41 confidential validation tests established by the lottery for the particular lottery game
42 involved. The game play rules shall not be considered to be rules or regulations for the
43 purpose of Chapter 150B of the General Statutes.

44 **§ 143C-147. Distribution of tickets and shares.**

1 (a) Upon the recommendation of the Director, the Commission shall adopt rules
2 as prescribed by Chapter 150B of the General Statutes, specifying the manner of
3 distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or
4 directly to the public, and the incentives, if any, for any lottery employees or lottery
5 retailers engaged in these activities. Notwithstanding any other provisions of this
6 Chapter, no lottery ticket or shares may be sold or resold by any party except at the sales
7 price or value established by the Commission, except as specifically authorized by the
8 Commission. In lottery games using electronic computer terminals or devices, the
9 lottery may employ or engage persons with experience in the repair, maintenance, or
10 operation of comparable equipment.

11 (b) The Commission may enter into agreements with other states for the
12 operation and promotion of multistate lotteries consistent with the purposes set forth in
13 G.S. 143C-102.

14 "§§ 143C-148 and 143C-149: Reserved for future codification purposes.

15 "ARTICLE 5.

16 "LOTTERY GAME RETAILERS.

17 "§ 143C-150. Contracting with lottery game retailers.

18 Upon the recommendation of the Director, the Commission shall adopt rules as
19 prescribed by Chapter 150B of the General Statutes, specifying the terms and conditions
20 for contracting with lottery game retailers to provide adequate and convenient
21 availability of tickets or shares to prospective buyers of each lottery game. The
22 Commission may permit the North Carolina State Lottery to sell tickets and shares
23 directly to the public or to make these sales by any other method authorized by the
24 Commission.

25 "§ 143C-151. Selection of lottery game retailers.

26 (a) The Director shall select as lottery game retailers those persons deemed best
27 able to serve the public convenience and to promote the sale of tickets or shares. No
28 natural person under 21 years of age shall be a lottery game retailer. This minimum age
29 does not prohibit employees of a retailer who are under 21 years of age from selling
30 lottery tickets or shares during their employment. In the selection of a lottery game
31 retailer the Director shall consider:

32 (1) Financial responsibility;

33 (2) Accessibility of the place of business or activity to the public;

34 (3) Security of the premises;

35 (4) Integrity;

36 (5) Reputation;

37 (6) The sufficiency of existing lottery game retailers for any particular
38 lottery game to serve the public convenience; and

39 (7) The projected volume of sales for the lottery game involved.

40 No contract with any lottery game retailer shall be entered into if the retailer has been
41 convicted of a felony or a gambling-related offense in any state or federal court of the
42 United States of America within 10 years of entering into the contract.

43 (b) No person shall be a lottery game retailer who is engaged exclusively in
44 the business of selling lottery tickets or shares. A person lawfully engaged in

1 nongovernmental business on State property or an owner or lessee of premises on which
2 alcoholic beverages are sold may be selected as a lottery game retailer. A civic or
3 fraternal organization may be selected as a lottery game retailer. Political subdivisions
4 or their agencies or departments may be selected as lottery game retailers for sales from
5 their premises. The Director may contract with lottery retailers on a permanent,
6 seasonal, or temporary basis. The lottery may require payment by each lottery game
7 retailer to the lottery of an initial fee or an annual fee, or both, as established by the
8 Commission, to maintain the contract to be a lottery game retailer.

9 **"§ 143C-152. Nonassignability.**

10 The contract to act as a lottery game retailer is not assignable or transferable.

11 **"§ 143C-153. Termination of a contract with a lottery game retailer.**

12 The Director may terminate a contract with a lottery game retailer under the
13 provisions for termination included in the contract. These provisions for termination
14 shall include the knowing sale of tickets or shares to any person under the age of 18
15 years.

16 **"§ 143C-154. Compensation for lottery game retailers.**

17 Upon the recommendation of the Director, the Commission shall adopt rules as
18 prescribed by Chapter 150B of the General Statutes, to determine the compensation to
19 be paid to lottery game retailers for their sales of lottery tickets or shares. Until the
20 Commission determines otherwise, the compensation paid to lottery game retailers shall
21 be five percent (5%) of the retail price of the tickets or shares plus an incentive bonus of
22 one percent (1%) based on attainment of sales volume or other objectives specified by
23 the Director for each lottery game. In cases of a lottery game retailer whose rental
24 payments for premises are contractually computed on the basis of a percentage of retail
25 sales, and where the computation of retail sales is not explicitly defined to include sales
26 of tickets or shares in a State lottery, the compensation received by the lottery game
27 retailer from the lottery shall be deemed to be the amount of the retail sale for the
28 purposes of this contractual computation.

29 **"§ 143C-155. Sales to persons under the age of 18.**

30 No tickets or shares in lottery games shall be sold to persons under the age of 18
31 years. Selling tickets or shares to a person under the age of 18 years shall be a
32 misdemeanor. In the case of lottery tickets or shares sold by lottery game retailers or
33 their employees, those persons shall establish safeguards to help assure that sales are not
34 made to natural persons under the age of 18 years. In the case of sales of tickets or
35 shares sold by vending machines, electronic computer terminals, or other devices, the
36 Commission shall establish safeguards to help assure that the vending machines or
37 devices are not operated by natural persons under the age of 18 years. Nothing in this
38 Article shall be construed to prevent any person 18 years or older from giving lottery
39 tickets or shares to another as a gift.

40 **"§ 143C-156. Payment of prize won by person under 18.**

41 If the person entitled to a prize or any winning ticket is under the age of 18 years,
42 and the prize is less than five thousand dollars (\$5,000), the Director may direct
43 payment of the prize by delivery of a check or draft payable to the order of the person
44 under 18 years of age to an adult member of that person's family or to that person's legal

1 guardian. If the person entitled to a prize or any winning ticket is under the age of 18
2 years, and the prize is five thousand dollars (\$5,000) or more, the Director may direct
3 payment to that person by depositing the amount of the prize in any insured depository
4 institution to the credit of an adult member of that person's family, or the legal guardian
5 of the person, as custodian for that person.

6 **"§ 143C-157. Display of certificate of authority.**

7 No lottery tickets or shares shall be sold by a lottery game retailer unless the retailer
8 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
9 tickets or shares.

10 **"§ 143C-158. Bonding.**

11 The Director may require an appropriate bond from any lottery game retailer or may
12 purchase blanket bonds covering the activities of selected lottery game retailers.

13 **"§ 143C-159. Lottery game retailer accounting; payments.**

14 (a) The Director shall establish procedures which shall be used by lottery game
15 retailers to account for all tickets or shares that are sold by them to the public and to
16 account for all funds received by them from the public for the tickets or shares.

17 (b) No payment by lottery game retailers to the lottery for tickets or shares
18 shall be in cash. All payments shall be in the form of checks, bank drafts, electronic
19 fund transfers, or other recorded financial instruments as approved by the Director.

20 **"ARTICLE 6.**

21 **"LOTTERY VENDORS AND LOTTERY CONTRACTORS.**

22 **"§ 143C-160. Procurements.**

23 Notwithstanding other provisions of law, the Director may purchase or lease goods
24 or services or combinations of goods and services needed to effectuate the purposes of
25 this Chapter. The lottery may not contract with any private party or non-governmental
26 entity for the operation and administration of the State lottery established by this
27 Chapter; however, the foregoing shall not preclude procurements that integrate
28 functions such as lottery game design, supply of goods and services, and advertising. In
29 all procurements, the Director and Commission shall act to promote the objective of
30 raising net revenues for the benefit of the public purpose described in this Chapter.

31 **"§ 143C-161. Contracts.**

32 The Director may directly solicit proposals or enter into contracts for the purchase or
33 lease of goods or services to effectuate the purposes of this Chapter. In awarding
34 contracts in response to solicitations for proposals, the Director shall award the
35 contracts to the responsible vendor submitting the best proposal which he determines
36 maximizes the benefits to the State. In all procurement decisions, the Director, or the
37 Commission, if the Commission chooses to make the decision, shall take into account
38 the particularly sensitive nature of the lottery and shall consider the competence, quality
39 of product, experience, and timely performance of the vendors in order to promote and
40 ensure security, honesty, fairness, and integrity in the operation and administration of
41 the lottery and objective of raising net revenues for the benefit of the public purpose
42 described in this Chapter. The Director may engage an independent firm experienced in
43 evaluating government procurement proposals to aid in the evaluation of proposals to

1 the lottery. Before a contract for a major procurement is awarded, the assistant director
2 for security shall conduct a thorough background investigation of:

3 (1) The vendor to whom the contract is to be awarded;

4 (2) Any parent or subsidiary corporation of the vendor to whom
5 the contract is to be awarded;

6 (3) All shareholders with a five percent (5%) or more interest in
7 the vendor or parent or subsidiary corporation of the vendor to
8 whom the contract is to be awarded; and

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

12 All contract awards made by the Director are made subject to the approval of the
13 Commission. No contract may be awarded to any person convicted of a felony or any
14 gambling offense in any state or federal court of the United States of America within 10
15 years of entering into the contract. The Commission may by rule designate classes of
16 contracts other than major procurements that do not require approval of the
17 Commission.

18 **"§ 143C-162. Lottery vendor disclosures for major procurements.**

19 Upon the recommendation of the Director, the Commission shall adopt rules as
20 prescribed by Chapter 150B of the General Statutes, to provide for disclosures by
21 vendors submitting bids, proposals, or offers as part of a major procurement to ensure
22 that the vendors provide all the information necessary to allow for a full and complete
23 evaluation by the lottery of the competence, integrity, background, and character of the
24 lottery vendors. The rules shall require that all lottery vendors submit to the assistant
25 director for security any appropriate investigation authorizations needed to facilitate
26 these investigations.

27 **"§ 143C-163. Compliance with applicable laws.**

28 Each lottery contractor shall perform its contract consistent with the laws of this
29 State, federal law, and laws of the state or states in which the lottery contractor is
30 performing or producing, in whole or in part, any of the goods or services contracted
31 for.

32 **"§ 143C-164. Performance bond.**

33 Each lottery contractor in a major procurement shall, at the time of executing the
34 contract with the Director, post an appropriate bond or letter of credit with the Director,
35 in an amount equal to the full amount estimated to be paid annually to the lottery
36 contractor under the contract. The Commission may issue a rule allowing the Director
37 to decrease the bond or letter of credit requirement for a major procurement if the
38 Director determines that the decrease will result in a cost savings to the lottery while
39 still providing adequate protection against nonperformance. In lieu of a bond or letter
40 of credit, a contractor may, to assure the faithful performance of its obligations, deposit
41 and maintain with the Director securities that are interest bearing or accruing that, with
42 the exception of those specified in subdivision (1) or (2), are rated in one of the
43 four highest classifications by an established nationally recognized investment rating
44 service. Securities eligible under this section are limited to the following:

- 1 (1) Certificates of deposit issued by solvent banks and savings
2 associations organized and existing under North Carolina law or under
3 the laws of the United States and having their principle place of
4 business in North Carolina.
- 5 (2) United States bonds and bills for which the full faith and credit of the
6 government of the United States is pledged for the payment of
7 principal and interest.
- 8 (3) General obligation bonds and notes of any political subdivision of the
9 State.
- 10 (4) Corporate bonds of a corporation that is not an affiliate or subsidiary
11 of the depositor.

12 Securities shall be held in trust and must have at all times a market value at least equal
13 to the full amount estimated to be paid annually to the contractor under contract.

14 "§§ 143C-165 to 143C-169: Reserved for future codification purposes.

15 "ARTICLE 7.

16 "NORTH CAROLINA STATE LOTTERY FUND.

17 "§ 143C-170. North Carolina State Lottery Fund.

18 A special account to be known as the 'North Carolina State Lottery Fund' is created
19 within the State treasury. The North Carolina State Lottery Fund is continuously
20 appropriated to the Commission for the purposes of operating the Commission and the
21 State lottery.

22 "§ 143C-171. Types of income to the North Carolina State Lottery Fund.

23 The North Carolina State Lottery Fund shall receive the following monies:

- 24 (1) All proceeds from the sale of lottery tickets or shares;
- 25 (2) The investments for initial start-up costs; and
- 26 (3) All other monies credited to the lottery from any lottery-
27 related source.

28 "§ 143C-172. Types of disbursements from the North Carolina State Lottery
29 Fund.

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

- 32 (1) The payment of prizes to the holders of valid winning
33 lottery tickets or shares;
- 34 (2) Expenses of the lottery, including initial start-up costs; and
- 35 (3) Transfer of funds from the North Carolina State Lottery
36 Fund to the General Fund for the benefit of the public purpose
37 described in this Chapter.

38 "§ 143C-173. Prize payments of the lottery.

39 As nearly as practical, at least fifty percent (50%) of the total projected revenue as
40 computed on a year-round basis for each lottery game, accruing from the sales of all
41 lottery tickets or shares from that lottery game shall be apportioned for payment of
42 prizes for that lottery game. The North Carolina State Lottery Commission may
43 allocate a larger percentage of the total projected revenue for a lottery game to prizes if

1 it concludes that the total annual net revenue from the lottery game will be enhanced by
2 that prize percentage.

3 **"§ 143C-174. Expenses of the lottery.**

4 Expenses of the lottery shall include:

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

18 No more than sixteen percent (16%) of the total annual revenues accruing from the sale
19 of all lottery tickets and shares from all lottery games shall be expended for the payment
20 of expenses of the lottery.

21 **"§ 143C-175. Transfer of net revenues.**

22 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of
23 all revenues to the North Carolina State Lottery Fund and after accrual of all obligations
24 of the lottery for prizes and expenses shall be deemed to be the net revenues of the
25 lottery.

26 (b) The net revenues of the lottery shall be transferred from the North Carolina
27 State Lottery Fund periodically to the General Fund to be used as the General Assembly
28 determines.

29 (c) All net revenues from the lottery shall be held by the State Treasurer and shall
30 be disbursed to the General Fund, but no more frequently than quarterly. The transfer
31 of revenues to the agencies and funds specified in subsection (b) of this section shall
32 begin during the 1991-92 fiscal year.

33 **"§ 143C-176. Intergovernmental reimbursements for services.**

34 It is the intent of this Chapter that the lottery shall be a self-supporting agency of
35 State government. The North Carolina State Lottery Commission shall reimburse, at a
36 reasonable rate, all other governmental entities for any and all services necessary to
37 effectuate the purposes of this Chapter provided by those governmental entities to the
38 Commission.

39 **"§ 143C-177. Audits.**

40 The State Auditor shall conduct annual postaudits of all accounts and transactions of
41 the Commission and any other special postaudits the State Auditor deems to be
42 necessary. The Auditor or his agents conducting an audit may examine any records of
43 the Commission, its distributing agencies, lottery contractors, and lottery game retailers.

44 **"§§ 143C-178 and 143C-179: Reserved for future codification purposes.**

"ARTICLE 8.
"MISCELLANEOUS.

"§ 143C-180. Taxes.

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

"§ 143C-181. Preemption of local laws.

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

"§ 143C-182. Lawful activity.

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 does not apply to the operation of the lottery established by this Chapter."

Sec. 2. G.S. 147-69.2(a) is amended by adding a new subdivision to read:

" (17.1) The North Carolina State Lottery Fund."

Sec. 3. If Sections 1 and 2 of this act are approved by the qualified voters in the referendum called for in Section 5 of this act, then the reasonable costs to the State Board of Elections and to the boards of elections of the various counties for the referendum called for by Section 3 of this act and attributable specifically to the question of establishing a North Carolina State Lottery shall be expenses of the lottery pursuant to G.S. 143C-174 and shall be reimbursed to the State Board of Elections and to boards of elections of the various counties from the Lottery Fund.

If Sections 1 and 2 of this act are not approved by the qualified voters in the referendum called for in Section 5 of this act, then the State Board of Elections and the boards of elections of the various counties may seek reimbursement from the General Assembly for the reasonable costs of the referendum called for by Section 3 of this act and attributable specifically to the question of establishing a North Carolina State Lottery.

Sec. 4. If approved by the qualified voters of the State of North Carolina, Sections 1 and 2 of this act become effective January 1, 1992. The question of the approval of Sections 1 and 2 of this act shall be submitted to the qualified voters of the State of North Carolina at an election on November 5, 1991.

The referendum shall be held in accordance with the provisions of Chapter 163 of the General Statutes, and the form of the ballot shall be:

FOR approval of an act establishing a North Carolina State Lottery.

AGAINST approval of an act establishing a North Carolina State Lottery."

If less than a majority of the votes are cast in favor of the approval of Sections 1 and 2 of this act, they shall have no force or effect.

Sec. 5. This act is effective upon ratification.