

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1113

Short Title: Lottery for Capital Projects.

(Public)

Sponsors: Representatives H. Hunter, Mavretic; Fitch and McLawhorn.

Referred to: Courts, Justice, Constitutional Amendments and Referenda.

April 24, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A STATE LOTTERY, TO DEDICATE THE PROCEEDS  
3 OF THE LOTTERY TO CAPITAL PROJECTS, AND TO LET THE PEOPLE  
4 DECIDE WHETHER TO CONTINUE THE LOTTERY AFTER IT HAS  
5 OPERATED FOR FIVE YEARS.

6 The General Assembly of North Carolina enacts:

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

9 **"CHAPTER 105C.**  
10 **"STATE LOTTERY.**  
11 **"ARTICLE 1.**  
12 **"GENERAL PROVISIONS.**

13 **"§ 105C-1. Purpose.**

14 This Chapter establishes a lottery to be operated by the State for the benefit of  
15 various public purposes. The lottery proceeds are to be used for capital projects in  
16 accordance with Article 5 of this Chapter, thereby enabling the State to provide for  
17 infrastructure needs that it might not otherwise be able to address.

18 **"§ 105C-2. Definitions.**

19 The following definitions apply in this Chapter:

- 20 (1) Commission. The State Lottery Commission.
- 21 (2) Commissioner. A member of the State Lottery Commission.
- 22 (3) Director. The Director of the State lottery.

- 1           (4) Lottery game. A procedure authorized by the Commission whereby  
2           prizes are distributed among persons who have bought tickets or shares  
3           that provide the opportunity to win these prizes.  
4           (5) Lottery game retailer. The holder of a lottery game retailer permit  
5           issued by the Commission.  
6           (6) Person. An individual, a firm, a partnership, an association, a  
7           corporation, or another organization or combination of individuals  
8           acting as a unit.

9 **"§ 105C-3. Lawful activity; no local regulation.**

10 Any State or local law that prohibits the sale, possession, or operation of a lottery  
11 does not apply to this Chapter. No local law may do any of the following:

- 12           (1) Regulate the operation of the lottery conducted under this Chapter.  
13           (2) Impose a tax on the sale of lottery game tickets or shares.  
14           (3) Impose a tax on the gross receipts of a lottery game retailer from sales  
15           of lottery game tickets or shares.

16 **"§ 105C-4. Misdemeanor violations of lottery laws.**

17 Violation of each of the following lottery laws is a misdemeanor and is punishable  
18 as provided in G.S. 14-3:

- 19           (1) Knowingly selling a lottery game ticket or share to a person who is  
20           less than 18 years old, in violation of G.S. 105C-21.  
21           (2) Selling a lottery game ticket or share for a price other than the retail  
22           price set by the Commission, in violation of G.S. 105C-21.  
23           (3) Selling a lottery game ticket or share without a lottery game retailer  
24           permit or authorization, in violation of G.S. 105C-35.  
25           (4) Knowingly giving false information on an application for a lottery  
26           game retailer permit, in violation of G.S. 105C-37.

27 **"ARTICLE 2.**

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

29 **"§ 105C-10. Creation, membership, and organization of Commission.**

30           (a) Creation. – The State Lottery Commission is established. The Commission is  
31 located for administrative purposes in the Department of Economic and Community  
32 Development but shall exercise its powers independently of that Department.

33           (b) Membership. – The Commission consists of five members appointed by the  
34 Governor, subject to confirmation by the General Assembly by joint resolution. Each  
35 Commissioner shall be a resident of a different State region, as set out in subsection (i).  
36 At least one Commissioner shall have a minimum of five years' experience in law  
37 enforcement, and at least one of the other Commissioners shall be a certified public  
38 accountant. A person who has been convicted of a felony may not serve as a  
39 Commissioner and no more than three members of the same political party may serve as  
40 Commissioners at the same time.

41 The Governor shall submit the name of an appointee to the General Assembly by  
42 May 1 of the year in which the term of the appointee is to begin. If the Governor does  
43 not submit a name by May 1, then the Lieutenant Governor and the Speaker of the  
44 House shall submit a name jointly to the General Assembly by May 15.

1       (c) Terms. – Except for the terms of the initial Commissioners, the term of a  
 2 Commissioner is for five years and begins on July 1. The term of one of the initial  
 3 Commissioners ends June 30, 1993; the term of another ends June 30, 1994; the term of  
 4 another ends June 30, 1995; the term of another ends June 30, 1996; and the term of  
 5 another ends June 30, 1997. When submitting the names of the initial appointees, the  
 6 Governor shall state when each appointee's term ends. A Commissioner continues to  
 7 serve until the Commissioner's successor takes office as a Commissioner, but the  
 8 continuation does not change the date when the term of the Commissioner's successor  
 9 ends.

10       (d) Vacancies. – When a vacancy occurs on the Commission and the General  
 11 Assembly is in session, the Governor must submit to the General Assembly the name of  
 12 an appointee to fill the vacancy. The Governor shall submit a name as soon as possible  
 13 but no later than three weeks after the vacancy occurs. If the Governor does not submit  
 14 a name within three weeks, then the Lieutenant Governor and the Speaker of the House  
 15 shall submit a name jointly to the General Assembly.

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

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

24       (e) Chair. – When the initial Commissioners are confirmed by the General  
 25 Assembly, the Governor shall designate one of the Commissioners as Chair of the  
 26 Commission. The initial Chair shall serve as Chair until June 30, 1995. Succeeding  
 27 Chairs shall serve three-year terms as Chair that end on June 30 in each year that is  
 28 divisible by three. If a Chair leaves the Commission before completing a three-year  
 29 term as Chair, the Governor shall designate another Commissioner as Chair to serve for  
 30 the remainder of the unexpired term as Chair.

31       (f) Compensation. – Each Commissioner, other than the Chair, shall receive the  
 32 same salary as a member of the Utilities Commission. The Chair of the Commission  
 33 shall receive the same salary as the Chair of the Utilities Commission. Each  
 34 Commissioner shall be reimbursed for travel expenses in accordance with G.S. 138-6.

35       (g) Organization. – The Commission shall meet at the call of the Chair and at the  
 36 call of a majority of the Commissioners. A majority of the Commissioners is a quorum.  
 37 The Commission shall make all its decisions by a majority vote.

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

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

<u>Region</u>	<u>Counties in Region</u>
<u>1</u>	<u>Avery, Buncombe, Cherokee, Clay, Cleveland, Gaston,</u> <u>Graham, Haywood, Henderson, Jackson, Lincoln, Macon,</u>

1 Madison, McDowell, Mecklenburg, Mitchell, Polk,  
 2 Rutherford, Swain, Transylvania, and Yancey

3 2 Alexander, Alleghany, Ashe, Burke, Cabarrus, Caldwell,  
 4 Catawba, Davidson, Davie, Forsyth, Guilford, Iredell,  
 5 Randolph, Rockingham, Rowan, Stanly, Stokes, Surry,  
 6 Yadkin, Watauga, and Wilkes

7 3 Alamance, Anson, Caswell, Chatham, Durham, Hoke, Lee,  
 8 Montgomery, Moore, Orange, Person, Richmond, Scotland,  
 9 and Union

10 4 Beaufort, Bertie, Camden, Chowan, Currituck, Dare,  
 11 Edgecombe, Franklin, Gates, Granville, Halifax, Harnett,  
 12 Hertford, Hyde, Martin, Nash, Northampton, Pasquotank,  
 13 Perquimans, Pitt, Tyrrell, Vance, Wake, Warren, Washington,  
 14 and Wilson

15 5 Bladen, Brunswick, Carteret, Columbus, Craven,  
 16 Cumberland, Duplin, Greene, Johnston, Jones, Lenoir, New  
 17 Hanover, Onslow, Pamlico, Pender, Robeson, Sampson, and  
 18 Wayne.

19 **"§ 105C-11. General laws apply to Commission; exception for certain purchases**  
 20 **and contracts.**

21 (a) Laws. – As a State agency, the general laws that apply to State agencies apply  
 22 to the Commission. These laws include the following:

- 23 (1) Chapter 132 of the General Statutes, which governs public access to  
 24 records of a State agency.  
 25 (2) Article 33C of Chapter 143 of the General Statutes, which governs  
 26 meetings of a State agency.  
 27 (3) Chapter 150B of the General Statutes, which governs the adoption of  
 28 rules and other administrative procedures by a State agency.  
 29 (4) Except as modified by subsection (b), Article 3 of Chapter 143, which  
 30 governs purchases and contracts of a State agency.

31 (b) Purchases and Contracts. – The Secretary of Administration shall consult  
 32 with the Commission in preparing the specifications for goods or services for the  
 33 Commission when the competitive bidding procedure must be used in obtaining the  
 34 goods or services. In evaluating a bid for goods or services to be provided to the  
 35 Commission, the Secretary of Administration shall consider the extent to which the  
 36 proposal maximizes net lottery revenue to the State in addition to the criteria contained  
 37 in G.S. 143-52. When the competitive bidding procedure is used to obtain goods or  
 38 services for the Commission, the Secretary of Administration shall review the submitted  
 39 bids with the Commission and consult with the Commission in deciding which bid to  
 40 accept.

41 **"§ 105C-12. Powers and duties of Commission.**

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

44 (b) Duties. – The Commission shall:

- 1           (1) Establish and operate a lottery.
- 2           (2) Ensure that the lottery is operated efficiently and honestly.
- 3           (3) Meet with the Director at least monthly to set policy, approve or reject  
4 reports of the Director, and transact any other business of the  
5 Commission.
- 6           (4) Make quarterly and annual reports to the Governor, the Attorney  
7 General, the State Treasurer, and the General Assembly on the  
8 operation of the lottery, including full and complete statements of  
9 lottery revenues, prize disbursements, expenses, net income, and all  
10 other financial transactions involving lottery funds.

11 **"§ 105C-13. Appointment, removal, and compensation of Director.**

12       (a) Appointment. – The office of Director of the Commission is established. The  
13 Director shall be appointed by the Governor, subject to confirmation by the General  
14 Assembly by joint resolution. The Director shall be qualified by training and  
15 experience to direct the operations of a State lottery. A person who has been convicted  
16 of a felony may not serve as Director.

17       The Director shall be appointed and confirmed in accordance with the procedure for  
18 appointing and confirming a Commissioner. A vacancy in the office of Director shall  
19 be filled in accordance with the procedure for filling a vacancy in the membership of the  
20 Commission. The term of the Director shall be the same as the term of the Chair of the  
21 Commission.

22       As an officer of the State, the Director shall take the oath required by Article VI, § 7  
23 of the North Carolina Constitution.

24       (b) Removal. – The Governor may remove the Director upon the Director's  
25 incapacity to serve. The Governor shall remove the Director when a majority of the  
26 Commissioners ask the Governor to do so by voting in favor of removal.

27       (c) Compensation. – The Director shall receive the same salary as a member of  
28 the Commission. The Director shall be reimbursed for travel expenses in accordance  
29 with G.S. 136-8.

30 **"§ 105C-14. Duties and powers of Director.**

31       (a) General. – The Director is the secretary and executive officer of the  
32 Commission. The Director's position is a full-time position; the Director may not  
33 engage in any other occupation or profession while serving as Director. All actions of  
34 the Director are subject to the approval of the Commission.

35       (b) Specific. – The Director shall:

- 36           (1) Supervise and administer the operation of the lottery in accordance  
37 with this Chapter.
- 38           (2) Study the following:
  - 39               a. Lotteries operated by another state or a foreign country.
  - 40               b. Available literature on the subject of lotteries.
  - 41               c. Existing or proposed federal laws that may affect the operation  
42 of the lottery.
  - 43               d. The reaction of the citizens of the State to existing or proposed  
44 features in a lottery game.

1 e. The demographic characteristics of the players of lottery games.  
2 f. The effectiveness of the marketing used on sales of lottery  
3 game tickets and shares.

4 (3) Recommend to the Commission improvements in the lottery based on  
5 studies made.

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

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

15 (6) Perform other duties assigned by the Commission.

16 **"§ 105C-15. Staff.**

17 The Director may hire professional, clerical, technical, and administrative personnel  
18 needed to operate a lottery. The Director may not hire a person who has been convicted  
19 of a felony. Before hiring a person, the Director, with the assistance of the State Bureau  
20 of Investigation, shall investigate the person's background. As a condition of  
21 employment, each applicant for employment with the Commission shall sign an  
22 authorization allowing the Director to investigate the applicant's background.  
23 Employees of the Commission are subject to Chapter 126 of the General Statutes, the  
24 State Personnel Act.

25 **"§ 105C-16. Assistant directors.**

26 The Director may appoint and establish the duties for up to four assistant directors.  
27 The Commission shall set the compensation of the assistant directors. The Director may  
28 designate one of the assistant directors as the deputy director.

29 **"§ 105C-17. Assistant director for security.**

30 (a) Selection. – One of the assistant directors shall be responsible for a security  
31 division. The assistant director for security shall have at least five years' experience in  
32 law enforcement, shall have knowledge and experience in computer security, and shall  
33 otherwise be qualified by training and experience for the position.

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

35 (1) With the assistance of the State Bureau of Investigation, investigate the  
36 background of all prospective employees, lottery game retailers, and  
37 lottery contractors who propose to contract to provide goods or  
38 services concerning the printing of tickets or shares for use in a lottery  
39 game, the receipt or recording of number selections in a lottery game,  
40 or the determination or generation of winners in a lottery game.

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

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

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

2 **"ARTICLE 3.**

3 **"OPERATION OF THE LOTTERY.**

4 **"§ 105C-20. Types of lottery games.**

5 Upon the recommendation of the Director, the Commission shall determine the types  
6 of lottery games offered by the lottery. A lottery game, however, may not do any of the  
7 following:

8 (1) Use the theme of bingo, dog racing, or horse racing.

9 (2) Be based on the outcome of a particular sporting event, including a  
10 dog race or a horse race, or on the results of a series of sporting events.

11 (3) Use tickets or shares that do not have unique numbers distinguishing  
12 them from every other ticket or share in that lottery game.

13 (4) Use tickets or shares that include the name or photograph of an elected  
14 official.

15 (5) If the game uses a computer terminal or other electronic device,  
16 dispense coins or currency from the device.

17 **"§ 105C-21. Sales price and distribution of tickets and shares.**

18 (a) Price. – Upon the recommendation of the Director, the Commission shall set  
19 the retail sales price for each ticket or share for each lottery game. The Commission  
20 may not set the retail sales price of a lottery game ticket or share at less than fifty cents  
21 (50¢). The Commission may, however, authorize a discount for purchases of multiple  
22 tickets or shares.

23 (b) Distribution. – Upon the recommendation of the Director, the Commission  
24 shall specify the manner of distributing lottery game tickets. The Commission may  
25 distribute the tickets or shares directly to the public or to lottery game retailers for  
26 distribution to the public.

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

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

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

31 b. A Commissioner, the Director, or an employee of the  
32 Commission.

33 c. A lottery game retailer or an officer or employee of a lottery  
34 game retailer.

35 d. A lottery game contractor or an officer or employee of a lottery  
36 game contractor whose contract concerns the printing of tickets  
37 or shares for use in a lottery game, the receipt or recording of  
38 number selections in a lottery game, or the determination or  
39 generation of winners in a lottery game.

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

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

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

3 **"§ 105C-22. Number and value of prizes.**

4       (a)    Type. – Upon the recommendation of the Director, the Commission shall  
5 determine the number and value of prizes for winning tickets or shares in each lottery  
6 game. A prize may be a cash prize paid in a lump sum, in deferred payments, or by an  
7 annuity, a merchandise prize, or a prize of a ticket or share in the same lottery game or  
8 another lottery game.

9       (b)    Prize Percentage. – The Commission shall allocate at least fifty percent (50%)  
10 of the total projected annual revenue from the sale of lottery tickets or shares for each  
11 particular lottery game for the payment of prizes for that lottery game. The  
12 Commission may allocate a larger percentage of the total projected annual revenue from  
13 a lottery game to prizes if it concludes that the total annual net revenue from the lottery  
14 game will be enhanced by that higher prize percentage.

15       (c)    Odds. – When the Commission decides to offer a lottery game, it shall  
16 prepare a statement of the estimated number of prizes of each particular denomination  
17 expected to be awarded in that lottery game and of the estimated odds of winning each  
18 prize. The statement shall be available at the Commission's office and from each lottery  
19 game retailer who sells tickets or shares for that lottery game. If a lottery game uses  
20 tickets or shares with preprinted winners, each ticket or share shall state the odds of  
21 winning a prize.

22 **"§ 105C-23. Method of determining winners.**

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

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

29           (1)    It shall be open to the public.

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

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

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

36 **"§ 105C-24. Payment of prizes.**

37       (a)    Procedures. – Upon the recommendation of the Director, the Commission  
38 shall establish procedures for verifying the validity of a lottery game ticket or share  
39 presented as the winner of a prize and for paying prizes won in a lottery game. The  
40 Commission may authorize lottery game retailers to pay some prizes at their premises,  
41 such as prizes for less than six hundred dollars (\$600.00). The Commission may require  
42 prizes to be paid only by the Commission.



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

4           **(1)** To whom a lottery game ticket or share cannot be sold or given, as  
5 listed in G.S. 105C-21.

6           **(2)** Who presents a lottery game ticket or share that is stolen, counterfeit,  
7 altered, fraudulent, unissued, produced or issued in error, unreadable,  
8 not presented by the applicable deadline, lacking in captions that  
9 conform with the lottery play symbols for the lottery game involved,  
10 or does not otherwise comply with any applicable requirements.

11       **(c) Time.** – The holder of a lottery game ticket or share may claim a prize won  
12 by the ticket or share for 180 days after the drawing or the end of the lottery game in  
13 which the prize was won. The Commission may set a shorter time period for eligibility  
14 for entry into a drawing for entries or finalists.

15       **(d) Unclaimed Prizes.** – A prize that is not claimed within the time limit is  
16 forfeited. The value of all forfeited prizes shall be credited to the Infrastructure Fund  
17 established in Article 5 of this Chapter.

18       **(e) Information.** – At the end of the time period for claiming prizes for each  
19 lottery game, the Commission shall prepare a detailed statement of the total number of  
20 prizes of each prize denomination that were claimed and were paid directly by the  
21 Commission. The Commission shall make this statement available at its office and  
22 from lottery game retailers.

23 **§ 105C-25. Player agreement.**

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

28 **§ 105C-26. Audits.**

29       **(a) State Auditor.** – The State Auditor shall conduct quarterly and annual audits  
30 of all accounts and transactions of the Commission and shall conduct any other special  
31 audits considered necessary. The State Auditor may examine any records of the  
32 Commission, a lottery game retailer, or a lottery game contractor whose contract to  
33 provide goods or services concerns the printing of tickets or shares for use in a lottery  
34 game, the receipt or recording of number selections in a lottery game, or the  
35 determination or generation of winners in a lottery game.

36       **(b) Independent.** – Every two years, the Commission shall engage an independent  
37 firm experienced in security procedures to study all aspects of security in the operation  
38 of the lottery. As part of the study, the independent firm shall identify any practices  
39 that could be improved and describe how a practice identified as needing improvement  
40 should be changed. The portion of the security audit report containing the overall  
41 evaluation of each aspect of security in the operation of the lottery shall be presented to  
42 the Commission, to the Governor, and to the General Assembly. The portion of the  
43 security audit report identifying specific practices that need to be changed and

1 describing how they should be changed is confidential and shall be presented only to the  
2 assistant director for security, the Director, and the Commission.

3 **"§ 105C-27. Expense restriction.**

4 The Commission may not spend more than sixteen percent (16%) of the total annual  
5 revenues accruing from the sale of all lottery game tickets and shares from all lottery  
6 games for expenses of the lottery.

7 **"§ 105C-28. No financial interest in contractors allowed and no bribes or gifts**  
8 **from contractors allowed.**

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

11 (1) Have a financial interest in a person that provides goods or services to  
12 the Commission.

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

15 a. A person who provides goods or services to the Commission.

16 b. A person who has submitted a bid to provide goods or services  
17 to the Commission.

18 c. A person who could reasonably be expected to submit a bid to  
19 provide goods or services to the Commission.

20 (b) Punishment. – Violation of this section is a Class J felony. A person  
21 convicted of violating this section shall be removed from office or employment with the  
22 State.

23 **"ARTICLE 4.**

24 **"LOTTERY GAME RETAILERS.**

25 **"§ 105C-35. Permit required; qualifications for permit.**

26 (a) Requirement. – To sell lottery game tickets or shares to the public, a person  
27 other than a unit of State or local government must obtain a permit from the  
28 Commission. A lottery game retailer permit authorizes the holder to sell lottery game  
29 tickets or shares to the public, on behalf of the State, at the retail business named in the  
30 permit. The Commission may authorize units of State or local government to sell  
31 lottery tickets or shares to the public at designated locations. The Commission may not,  
32 however, allow an ABC store to sell lottery game tickets or shares.

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

35 (1) Be at least 21 years old.

36 (2) Be engaged in a retail business at an established location in this State  
37 from which the person intends to sell lottery game tickets or shares in  
38 addition to conducting the existing retail business.

39 (3) Be a resident of North Carolina unless:

40 a. The person is an officer, a director, or a stockholder of a  
41 corporate applicant and is not a manager or is not otherwise  
42 responsible for the day-to-day operation of the business.

43 b. The person has executed a power of attorney designating a  
44 qualified resident of this State to serve as attorney in fact for the

1 purposes of receiving service of process and managing the  
2 business for which the permit is sought.

3 (4) Not have been convicted of a felony or a misdemeanor gambling  
4 offense within the last 10 years.

5 (5) Not have had a permit issued under this section revoked within the last  
6 10 years.

7 (c) Conviction Defined. – For purposes of this section, a conviction is a judgment  
8 against a person that includes a finding of guilt or an entry of a plea of guilty or **nolo**  
9 **contendere.** A felony conviction in another jurisdiction disqualifies a person from  
10 being eligible to receive or hold a lottery game retailer permit if the person's conduct  
11 would also constitute a felony in North Carolina. A conviction of a misdemeanor  
12 gambling offense in another jurisdiction disqualifies a person from being eligible to  
13 receive or hold a lottery game retailer permit if the person's conduct would constitute an  
14 offense in North Carolina, unless the Commission determines that under North Carolina  
15 procedure judgment would not have been entered under the same circumstances.  
16 Revocation of a similar permit or authority to sell lottery tickets in another jurisdiction  
17 disqualifies a person if the person's conduct would be grounds for revocation in North  
18 Carolina.

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

22 (1) The owner of a sole proprietorship.

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

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

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

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

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

33 **§ 105C-36. Issuance of lottery game retailer permit.**

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

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

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

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

44 (4) The financial responsibility of the applicant.

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

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

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

8           **"§ 105C-37. Application for permit; fees.**

9           (a) Form. – An application for a lottery game retailer permit shall be on a form  
10           prescribed by the Commission and shall be notarized. The application shall be signed  
11           and sworn to by each person required to qualify under G.S. 105C-30(d).

12           (b) Investigation. – Before issuing a new permit, the Commission, with the  
13           assistance of the State Bureau of Investigation, shall investigate the applicant and the  
14           applicant's retail business. An applicant shall cooperate fully with the investigation.

15           (c) False Information. – Knowingly making a false statement in an application  
16           for a lottery game retailer permit is grounds for denying, suspending, or revoking the  
17           permit and is unlawful.

18           (d) Fees. – An application for a lottery game retailer permit shall be accompanied  
19           by the application fee, if any, set by the Commission. An application fee is not  
20           refundable.

21           **"§ 105C-38. Compensation for lottery game retailers.**

22           (a) Amount. – Upon the recommendation of the Director, the Commission shall  
23           determine the compensation to be paid to lottery game retailers for their sales of lottery  
24           game tickets or shares. Until the Commission establishes a different amount of  
25           compensation, the Commission shall pay each lottery game retailer five percent (5%) of  
26           the retail price of the tickets or shares sold by the retailer plus an incentive bonus of one  
27           percent (1%) of the amount sold above a specified sales volume or the attainment of  
28           another objective specified by the Commission.

29           (b) Effect on Lease or Rental Agreement. – If a lease or rental agreement made  
30           by a lottery game retailer is based on a percentage of the retailer's retail sales, the  
31           retailer's sales of lottery game tickets or shares shall not be counted in computing the  
32           amount payable under the agreement unless the agreement explicitly includes these  
33           sales. Conversely, a lease or rental agreement based on a percentage of sales includes  
34           the amount of compensation paid to a lottery game retailer under subsection (a) unless  
35           the agreement specifically excludes these payments.

36           **"§ 105C-39. Duration of permit; renewal and transfer.**

37           (a) Duration. – A lottery game retailer permit is valid for a two-year period that  
38           begins on July 1 and ends on June 30.

39           (b) Renewal. – Application for renewal of a lottery game permit shall be on a  
40           form prescribed by the Secretary. An application for renewal shall be accompanied by  
41           the renewal fee, if any, set by the Commission. A renewal fee is not refundable.

42           (c) Change in Ownership. – A lottery game retailer permit for a retail business  
43           automatically expires and shall be surrendered to the Commission if any of the  
44           following occurs:

- 1           (1) Ownership of the retail business changes.
- 2           (2) There is a change in the membership of the firm, association, or  
3 partnership owning the retail business and the change involves the  
4 acquisition of a ten percent (10%) or greater share in the firm,  
5 association, or partnership by someone who did not previously own a  
6 ten percent (10%) or greater share.
- 7           (3) Ten percent (10%) or more of the stock of the corporate permit holder  
8 owning the retail business is acquired by someone who did not  
9 previously own ten percent (10%) or more of the stock.
- 10       (d) Change in Management. – A corporation holding a lottery game retailer  
11 permit for a retail business for which the manager is required to qualify as an applicant  
12 under G.S. 105C-30(d) shall, within 30 days after employing a new manager, submit to  
13 the Commission an application for substitution of a manager. The application shall be  
14 signed by the new manager, shall be on a form provided by the Commission, and shall  
15 be accompanied by a fee of ten dollars (\$10.00). The fee is not refundable.
- 16       (e) Transfer. – A lottery game retailer permit may not be transferred from one  
17 person to another or from one location to another.
- 18       (f) Lost Permit. – The Commission may issue a duplicate lottery game retailer  
19 permit for a retail business when the permit issued has been lost or damaged. A request  
20 for a duplicate permit shall be on a form provided by the Commission, certified by the  
21 lottery game retailer whose permit is lost or damaged, and accompanied by a fee of ten  
22 dollars (\$10.00).
- 23       (g) Name Change. – The Commission may issue a new lottery game retailer  
24 permit for a retail business when the name of the retail business changes. A request for  
25 a new permit shall be on a form provided by the Commission, certified by the lottery  
26 game retailer whose business name has changed, and accompanied by a fee of ten  
27 dollars (\$10.00).
- 28 **"§ 105C-40. Denial, suspension, or revocation of a lottery game retailer permit.**
- 29       (a) The Commission may deny, suspend, or revoke a lottery game retailer permit  
30 for any of the following reasons:
- 31           (1) Knowingly making a false statement on an application for a lottery  
32 game retailer permit.
- 33           (2) Failing to keep records as required by the Commission.
- 34           (3) Failing to account for lottery game tickets or shares received or the  
35 proceeds from the sale of the tickets or shares.
- 36           (4) Failing to file a bond required by the Commission.
- 37           (5) Failing to comply with the rules of the Commission concerning the  
38 payment of prizes or other matters.
- 39           (6) Conviction of an offense that would make an applicant ineligible to  
40 receive a permit.
- 41           (7) Making misrepresentations concerning a lottery game or doing other  
42 acts that create a lack of public confidence in the lottery.
- 43           (8) Failing to sell enough lottery game tickets or shares to meet the  
44 Commission's projected sales volume.



1       (b) Principal. – The principal of the Infrastructure Fund may be used only for one  
2 or more of the following purposes:

3           (1) To provide revenue, by an appropriation, for a specific capital  
4 construction project of the State, including the placement of natural  
5 gas distribution lines in utility corridors along highway rights-of-way.

6           (2) To provide revenue, by an appropriation, to maintain a State building  
7 or other State property.

8           (3) To provide revenue, by an appropriation from the Fund, for one or  
9 more of the following Funds:

10           a. The Clean Water Revolving Loan and Grant Fund, established  
11 by G.S. 159G-5.

12           b. The Critical School Facility Needs Fund, established by G.S.  
13 115C-489.1.

14           c. The Public School Building Capital Fund, established by G.S.  
15 115C-546.1.

16           d. The Solid Waste Management Loan Fund, established by G.S.  
17 159I-7.

18       (c) Interest. – Interest and other investment income earned by the Infrastructure  
19 Fund, but not the principal of the Infrastructure Fund, may be used only for a purpose  
20 for which the principal can be used or to make a loan or grant to a unit of local  
21 government for a specific capital construction project of the local unit. A grant or loan  
22 may not be made from the Infrastructure Fund, however, for a project that is within the  
23 scope of projects that can be funded from a Fund listed in subdivision (b)(3).

24 **"§ 105C-52. Application procedure for a loan or grant from the Infrastructure**  
25 **Fund.**

26       (a) OSBM. – The Office of State Budget and Management shall make loans and  
27 grants to units of local government from the interest and other investment income  
28 earned by the Infrastructure Fund. The Office shall select the units of local government  
29 that are to receive a loan or grant from among the units that apply for a loan or grant.  
30 The Office, with the assistance of the Local Government Commission, shall determine  
31 whether a selected unit shall receive a loan as opposed to a grant and the interest rate  
32 that applies to any loan made.

33       (b) Application. – A unit of local government may apply to the Office of State  
34 Budget and Management for a capital project loan or grant from the investment income  
35 earned by the principal in the Infrastructure Fund. An application shall include all of  
36 the following:

37           (1) A description of the capital project for which the application is  
38 submitted.

39           (2) A detailed statement of the projected costs of the capital project,  
40 including the cost to plan, design, and construct the project and acquire  
41 any interest in real property needed for the project.

42           (3) An explanation of why the capital project is needed and the benefits  
43 the unit expects to derive from the project.

44           (4) The unit's ability to pay for the capital project.

1           (5) Any other information needed by the Office of State Budget and  
2           Management to enable the Office to make a decision on the  
3           application.

4           (c) Procedure. – To process the applications received from units of local  
5           government for a loan or grant from the investment income of the Infrastructure Fund,  
6           the Office of State Budget and Management shall divide the year into two periods. The  
7           Office shall consider together all complete applications first received in a period and all  
8           applications first considered in the previous period but not selected. A unit of local  
9           government whose application is not selected after it is considered for two successive  
10           periods must submit a new application to receive further consideration.

11 **"§ 105C-53. Selection for loan or grant from Infrastructure Fund.**

12           (a) Priorities. – The Office of State Budget and Management shall select the  
13           applications that are to receive loans or grants from the investment income of the  
14           Infrastructure Fund based on the capital needs of the local units of government that  
15           submitted the applications and their ability to finance these needs without a loan or  
16           grant from the State. The Office shall give first priority to capital projects that both  
17           promote the economic development of the unit and enable the unit to take better  
18           advantage of the improvements to the Intrastate System listed in G.S. 136-179. The  
19           Office shall give second priority to capital projects that promote the economic  
20           development of the unit but are not related to improvements in the Intrastate System.

21           (b) Ability To Pay. – The Office shall determine the ability of a unit of local  
22           government to finance its capital needs on the basis of the per capita property tax value  
23           in the unit and the property tax burden in the unit. The property tax burden is the  
24           percentage of per capita income in the unit that is consumed by the payment of property  
25           taxes. A unit with a high property tax burden is considered to have less ability to  
26           finance its needs than a unit with a low property tax burden. Conversely, a unit with a  
27           low per capita property tax value is considered to have less ability to finance its needs  
28           than a unit with a high per capita property tax value.

29           (c) Ranking. – The Office of State Budget and Management shall rank each  
30           application considered in a period and shall send each unit of local government a  
31           statement of the ranking of the unit's application. The Office shall select applications  
32           beginning with the application with the highest ranking and shall select as many  
33           applications as can be funded for a period, taking into consideration the interest rate, if  
34           any, set for loans for applications selected and whether the applications selected are to  
35           receive grants rather than loans.

36 **"§ 105C-54. Decision on financial terms for selected applications.**

37           (a) Grant. – The Office of State Budget and Management shall make a grant  
38           rather than a loan to a unit of local government whose application is selected when, with  
39           the assistance of the Local Government Commission, it determines that the unit of local  
40           government has no resources to repay a loan. A unit is considered to have no resources  
41           to repay a loan only if a five percent (5%) increase in the property tax rate of the unit of  
42           local government would not produce the amount of the proposed loan.

43           (b) Loan. – The Office of State Budget and Management shall make a loan to a  
44           unit of local government rather than a grant when the unit does not qualify for a grant



1 under subsection (a). The Office, with the approval of the Local Government  
2 Commission, shall set the terms and conditions for repayment of a loan. The Local  
3 Government Commission shall review and approve a proposed loan to a unit of local  
4 government under this Article under the provisions of Articles 4 and 5, Chapter 159 of  
5 the General Statutes, as if the unit proposed to issue bonds rather than obtain a loan.

6 The Office of State Budget and Management may make an interest-free loan or set  
7 an interest rate at any amount that is not more than the prevailing national market rate  
8 for general obligation bonds having the same maturity as the term of the loan. With the  
9 approval of the Local Government Commission, the Office shall decide the interest rate  
10 that applies to a particular loan based on the borrowing unit's resources to repay the loan  
11 and the effect of repaying the loan with interest on the property tax burden in the unit.

12 A unit of local government that receives a loan shall sign a debt instrument  
13 evidencing the loan and the terms of the loan. The Office of State Budget and  
14 Management and the State Treasurer, with the assistance of the Local Government  
15 Commission, shall develop appropriate debt instruments for use under this Article. The  
16 Local Government Commission shall establish procedures for the delivery of debt  
17 instruments to the State without any public bidding.

18 (c) Payment. – When the Office of State Budget and Management makes a grant  
19 or a loan, it shall determine whether to pay the grant or loan in a lump sum or to make  
20 installment payments of the grant or loan as the capital project funded by the grant or  
21 loan progresses.

22 **"§ 105C-55. Local government borrowing authority.**

23 (a) Authority. – A unit of local government may execute a debt instrument  
24 payable to the State in order to obtain a revolving loan under this Article. A unit of  
25 local government shall pledge as security for the debt the user fee revenues derived  
26 from operating the facilities or systems benefited by the loan, the unit's faith and credit,  
27 or both user fee revenues and the unit's faith and credit. The faith and credit of a unit of  
28 local government shall not be pledged or be considered to be pledged unless the  
29 requirements of Article 4 of Chapter 159 of the General Statutes have been met.

30 (b) Nature. – A revolving loan under this Article is considered outstanding debt  
31 under Article 10 of Chapter 159 of the General Statutes."

32 Sec. 2. Studies. (a) Demographics. – After the first 12 months of sales of  
33 lottery game tickets or shares to the public, the Commission shall engage an  
34 independent firm experienced in demographic analysis to conduct a special study to  
35 determine the demographic characteristics of the players of each lottery game, including  
36 their income, age, sex, education, and frequency of participation. The study shall be  
37 completed by November 1, 1992, and presented to the Governor, the Lieutenant  
38 Governor, the President Pro Tempore of the Senate, and the Speaker of the House of  
39 Representatives.

40 (b) Effectiveness. – After the first 12 months of sales of lottery game tickets  
41 or shares to the public, the Commission shall engage an independent firm experienced  
42 in the analysis of advertising, promotion, public relations, and other aspects of  
43 communications to conduct a special study of the effectiveness of the communications  
44 activities undertaken by the Commission and to make recommendations to the

1 Commission on the future conduct of and the future rate of expenditures for these  
2 activities. The study shall be completed by November 1, 1992, and presented to the  
3 Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, and the  
4 Speaker of the House of Representatives.

5 Sec. 3. There is appropriated from the General Fund to the Lottery  
6 Commission the sum of \$15,000,000 for the 1991-92 fiscal year for start-up costs of the  
7 State lottery. This amount shall be repaid to the General Fund from the revenue of the  
8 State lottery within the first 12 months after lottery game tickets or shares are sold.

9 Sec. 4. G.S. 114-15 reads as rewritten:

10 **"§ 114-15. Investigations of lynchings, election frauds, etc.; services subject to call**  
11 **of Governor; witness fees and mileage for Director and assistants.**

12 The Bureau shall, through its Director and upon request of the Governor, investigate  
13 and prepare evidence in the event of any lynching or mob violence in the ~~State;~~ State.  
14 With the approval of the Governor, the Bureau shall investigate all cases arising from  
15 frauds in connection with elections when requested to do so by the Board of Elections,  
16 and when so directed by the Governor, shall investigate all cases arising from violations of  
17 the lottery laws when requested to do so by the Lottery Commission. Such  
18 investigation, however, shall in nowise interfere with the power of the Attorney General  
19 to make such investigation as he is authorized to make under the laws of the State. The  
20 Bureau is authorized further, at the request of the Governor, to investigate cases of  
21 frauds arising under the Social Security Laws of the State, of violations of the gaming  
22 laws, and lottery laws, and matters of similar kind when called upon by the Governor so  
23 to do. In all such cases it shall be the duty of the Department to keep such records as  
24 may be necessary and to prepare evidence in the cases investigated, for the use of  
25 enforcement officers and for the trial of causes. The services of the Director of the  
26 Bureau, and of his assistants, may be required by the Governor in connection with the  
27 investigation of any crime committed anywhere in the State when called upon by the  
28 enforcement officers of the State, and when, in the judgment of the Governor, such  
29 services may be rendered with advantage to the enforcement of the criminal law. The  
30 State Bureau of Investigation is hereby authorized to investigate without request the  
31 attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any  
32 State-owned personal property, buildings, or other real property or any assault upon or  
33 threats against any legislative officer named in G.S. 147-2(1), (2), or (3) or any  
34 executive officer named in G.S. 147-3(c).

35 Upon the request of the Lottery Commission and the approval of the Governor, the  
36 State Bureau of Investigation is authorized to investigate the background of an applicant  
37 for employment with the Lottery Commission, the background of an applicant for a  
38 lottery game retailer permit, and the background of a prospective contractor with the  
39 Lottery Commission for goods or services concerning the printing of tickets or shares  
40 for use in a lottery game, the receipt or recording of number selections in a lottery game,  
41 or the determination or generation of winners in a lottery game. The Bureau also is  
42 authorized at the request of the Governor to conduct a background investigation on a  
43 person that the Governor plans to nominate for a position that must be confirmed by the  
44 General Assembly, the Senate, or the House of Representatives. The background

1 investigation of the proposed nominee shall be limited to an investigation of the person's  
2 criminal record, educational background, employment record, records concerning the  
3 listing and payment of taxes, and credit record, and to a requirement that the person  
4 provide the information contained in the statements of Executive Order Number 1, filed  
5 on January 31, 1985, as contained on pages 1405 through 1419 of the 1985 Session  
6 Laws (First Session, 1985). The Governor must give the person being investigated  
7 written notice that he intends to request a background investigation at least 10 days prior  
8 to the date that he requests the State Bureau of Investigation to conduct the background  
9 investigation. The written notice shall be sent by regular mail, and there is created a  
10 rebuttable presumption that the person received the notice if the Governor has a copy of  
11 the notice.

12 The State Bureau of Investigation is further authorized, upon request of the  
13 Governor or the Attorney General, to investigate the commission or attempted  
14 commission of the crimes defined in the following statutes:

- 15 (1) All sections of Article 4A of Chapter 14 of the General Statutes;
- 16 (2) G.S. 14-277.1;
- 17 (3) G.S. 14-277.2;
- 18 (4) G.S. 14-283;
- 19 (5) G.S. 14-284;
- 20 (6) G.S. 14-284.1;
- 21 (7) G.S. 14-288.2;
- 22 (8) G.S. 14-288.7;
- 23 (9) G.S. 14-288.8; and
- 24 (10) G.S. 14-288.20.

25 All records and evidence collected and compiled by the Director of the Bureau and  
26 his assistants shall not be considered public records within the meaning of G.S. 132-1,  
27 and following, of the General Statutes of North Carolina and may be made available to  
28 the public only upon an order of a court of competent jurisdiction. Provided that all  
29 records and evidence collected and compiled by the Director of the Bureau and his  
30 assistants shall, upon request, be made available to the district attorney of any district if  
31 the same concerns persons or investigations in his district.

32 In all cases where the cost is assessed against the defendant and paid by him, there  
33 shall be assessed in the bill of cost, mileage and witness fees to the Director and any of  
34 his assistants who are witnesses in cases arising in courts of this State. The fees so  
35 assessed, charged and collected shall be forwarded by the clerks of the court to the  
36 Treasurer of the State of North Carolina, and there credited to the Bureau of  
37 Identification and Investigation Fund."

38 Sec. 5. G.S. 120-123 is amended by adding a new subdivision to read:

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

40 Sec. 6. Temporary Rules. Notwithstanding Chapter 150B of the General  
41 Statutes, until September 30, 1992, the Commission may adopt temporary rules to  
42 implement this Chapter subject to approval by the Governor. A temporary rule  
43 approved by the Governor becomes effective on the date stated in the rule or the date it

1 is approved by the Governor, whichever comes first. A temporary rule adopted under  
2 this section expires October 1, 1992.

3           Sec. 7. This act is effective upon ratification. This act expires July 1, 1997,  
4 if the majority of votes cast in a referendum held at the November 1996 general election  
5 are not in favor of the continued operation of the State lottery. At the November 1996  
6 general election, the question of the continued operation of the State lottery shall be  
7 submitted to the qualified voters of the State. The referendum shall be held in  
8 accordance with Chapter 163 of the General Statutes. The form of the ballot for the  
9 referendum shall be:

10           " FOR continued operation of the State lottery.

11            AGAINST continued operation of the State lottery."

12           If the voters do not approve the continued operation of the State lottery in the  
13 referendum, the Commission shall stop selling lottery game tickets or shares effective  
14 January 1, 1997, and shall proceed to end all lottery operations. The holder of a  
15 winning lottery game ticket or share who has not claimed the prize won by January 1,  
16 1997, may claim the prize until June 30, 1997. After July 1, 1997, no claims for a  
17 lottery prize shall be accepted.