

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS75157-LB-89B (2/5)**

Short Title: Lottery Act Changes.

(Public)

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Sponsors: Senator Rand.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA STATE  
LOTTERY ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18C-114(a)(8), (10), and (11) read as rewritten:

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

(8) To charge a fee of lottery ~~vendors~~ potential contractors not to exceed the cost of the criminal record check of the lottery ~~vendor~~ potential contractor.

...

(10) To determine the incentives, if any, for any lottery employees, lottery ~~vendors~~ potential contractors, lottery contractors, or electronic computer terminal operators.

(11) To specify the authority, compensation, and role of the Director, and to specify the authority, selection, and role of the other employees of the Commission. All of the following apply to all employees of the Commission:

a. No employee of the Commission may have a financial interest in any lottery ~~vendor~~ potential contractor or lottery contractor, other than an interest as part of a mutual fund.

b. No employee of the Commission with decision-making authority shall participate in any decision involving the retailer or ~~vendor~~ potential contractor with whom the employee has a financial interest.

c. No employee of the Commission who leaves the employment of the Commission may represent any ~~vendor~~ contractor, potential contractor, or retailer before the Commission for a period of one

1 year following termination of employment with the  
2 Commission.

3 d. A background investigation shall be conducted on each  
4 applicant for employment with the Commission.

5 e. The Commission shall bond all employees with access to lottery  
6 funds or revenue or security.

7 ...."

8 **SECTION 2.** The title of Article 6 of Chapter 18C of the General Statutes  
9 reads as rewritten:

10 "Article 6.

11 Lottery ~~Vendors~~Potential Contractors and Lottery Contractors."

12 **SECTION 3.** G.S. 18C-151 reads as rewritten:

13 **"§ 18C-151. Contracts.**

14 (a) Except as otherwise specifically provided in this subsection for contracts for  
15 the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of  
16 Chapter 143 of the General Statutes, including the provisions relating to minority  
17 participation goals, shall apply to contracts entered into by the Commission. If this  
18 subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection  
19 shall control. In recognition of the particularly sensitive nature of the Lottery and the  
20 competence, quality of product, experience, and timeliness, fairness, and integrity in the  
21 operation and administration of the Lottery and maximization of the objective of raising  
22 revenues, a contract for the purchase of services, apparatus, supplies, materials, or  
23 equipment requiring an estimated aggregate expenditure of ninety thousand dollars  
24 (\$90,000) or more may be awarded by the Commission only after the following have  
25 occurred:

26 (1) The Commission has invited proposals to be submitted by  
27 advertisement by electronic means or advertisement in a newspaper  
28 having general circulation in the State of North Carolina and  
29 containing the following information:

30 a. The time and place where a complete description of the  
31 services, apparatus, supplies, materials, or equipment may be  
32 had.

33 b. The time and place for opening of the proposals.

34 c. A statement reserving to the Commission the right to reject any  
35 or all proposals.

36 (2) Proposals may be rejected for any reason determined by the  
37 Commission to be in the best interest of the Lottery.

38 (3) All proposals shall be accompanied by a bond or letter of credit in an  
39 amount equal to not less than five percent (5%) of the proposal and the  
40 fee to cover the cost of the criminal record check conducted under  
41 G.S. 114-19.6.

42 (4) The Commission has complied with the minority participation goals of  
43 G.S. 143-128.2 and G.S. 143-128.3.

- 1           (5) The Commission may not award a contract to a lottery ~~vendor~~  
2           potential contractor who has been convicted of a felony or any  
3           gambling offense in any state or federal court of the United States  
4           within 10 years of entering into the contract, or employs officers and  
5           directors who have been convicted of a felony or any gambling offense  
6           in any state or federal court of the United States within 10 years of  
7           entering into the contract.
- 8           (6) The Commission shall investigate and compare the overall business  
9           practices, ethical reputation, criminal record, civil litigation,  
10          competence, integrity, background, and regulatory compliance record  
11          of lottery ~~vendors~~potential contractors.
- 12          (7) The Commission may engage an independent firm experienced in  
13          evaluating government procurement proposals to aid in evaluating  
14          proposals for a major procurement.
- 15          (8) The Commission shall award the contract to the responsible lottery  
16          ~~vendor~~ potential contractor who submits the best proposal that  
17          maximizes the benefits to the State.
- 18          (b) Upon the completion of the bidding process, a contract may be awarded to a  
19          lottery contractor with whom the Commission has previously contracted for the same  
20          purposes.
- 21          (c) Before a contract is awarded, the Director shall conduct a thorough  
22          background investigation of all of the following:
- 23                  (1) The ~~vendor~~ potential contractor to whom the contract is to be  
24                  awarded.
- 25                  (2) Any parent or subsidiary corporation of the ~~vendor~~ potential contractor  
26                  to whom the contract is to be awarded.
- 27                  (3) All shareholders with a five percent (5%) or more interest in the  
28                  ~~vendor~~ potential contractor or parent or subsidiary corporation of the  
29                  ~~vendor~~ potential contractor to whom the contract is to be awarded.
- 30                  (4) All officers and directors of the ~~vendor~~ potential contractor or parent  
31                  or subsidiary corporation of the ~~vendor~~ potential contractor to whom  
32                  the contract is to be awarded.
- 33          (d) The Commission may terminate the contract, without penalty, of a lottery  
34          contractor that fails to comply with the Commission's instruction to implement the  
35          recommendations of the State Auditor or an independent auditor in an audit conducted  
36          of Lottery security or operations.
- 37          (e) After entering into a contract with a lottery contractor, the Commission shall  
38          require the lottery contractor to periodically update the information required to be  
39          disclosed under G.S. 18C-152(c). Any contract with a lottery contractor who does not  
40          periodically update the required disclosures may be terminated by the Commission.
- 41          (f) No lottery system vendor nor any applicant for a contract may pay, give, or  
42          make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality,  
43          or service, excluding food and beverages having an aggregate value not exceeding one  
44          hundred dollars (\$100.00) in any calendar year, to the Director, any member or

1 employee of the corporation, or a member of the immediate family residing in the same  
2 household as any of these individuals."

3 **SECTION 4.** G.S. 18C-152 reads as rewritten:

4 "**§ 18C-152. Investigation of lottery ~~vendors~~, potential contractors.**

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

8 (b) The Commission shall adopt rules that provide for disclosures of information  
9 required to be disclosed under subsection (c) of this section by lottery ~~vendors~~ potential  
10 contractors to ensure that the ~~vendors~~ potential contractors provide all the information  
11 necessary to allow for a full and complete evaluation by the Director and Commission  
12 of the competence, integrity, background, and character of the lottery ~~vendors~~ potential  
13 contractors. Information shall be disclosed for the following:

- 14 (1) If the ~~vendor~~ potential contractor is a corporation, the officers,  
15 directors, and each stockholder in that corporation; however, in the  
16 case of owners of equity securities of a publicly traded corporation,  
17 only the names and addresses of those known to the corporation to  
18 own beneficially five percent (5%) or more of the securities need be  
19 disclosed.
- 20 (2) If the ~~vendor~~ potential contractor is a trust, the trustee and all persons  
21 entitled to receive income or benefits from the trust.
- 22 (3) If the ~~vendor~~ potential contractor is an association, the members,  
23 officers, and directors.
- 24 (4) If the ~~vendor~~ potential contractor is a partnership or joint venture, all  
25 of the general partners, limited partners, or joint venturers.
- 26 (5) For any ~~vendor~~ potential contractor, any person who can exercise  
27 control or authority, or both, on behalf of the ~~vendor~~ potential  
28 contractor. For any ~~vendor~~ potential contractor, any person who can  
29 exercise control or authority, or both, on behalf of the ~~vendor~~ potential  
30 contractor.

31 (c) For purposes of this subsection, the term "~~vendor~~" potential contractor" shall  
32 include the ~~vendor~~ potential contractor and each of the persons applicable under  
33 subsection (b) of this section. At a minimum, the ~~vendor~~ potential contractor required to  
34 disclose information for a thorough background investigation under G.S. 18C-151 shall  
35 do all of the following:

- 36 (1) Disclose the ~~vendor's~~ potential contractor's name, phone number, and  
37 address.
- 38 (2) Disclose all the states and jurisdictions in which the ~~vendor~~ potential  
39 contractor does business and the nature of the business for each state  
40 or jurisdiction.
- 41 (3) Disclose all the states and jurisdictions in which the ~~vendor~~ potential  
42 contractor has contracts to supply gaming goods or services, including  
43 lottery goods and services, and the nature of the goods or services  
44 involved for each state or jurisdiction.

- 1 (4) Disclose all the states and jurisdictions in which the ~~vendor~~-potential  
2 contractor has applied for, has sought renewal of, has received, has  
3 been denied, has pending, or has had revoked a lottery or gaming  
4 license or permit of any kind or had fines or penalties assessed on a  
5 license, permit, contract, or operation and the disposition of such in  
6 each such state or jurisdiction. If any lottery or gaming license, permit,  
7 or contract has been revoked or has not been renewed or any lottery or  
8 gaming license, permit, or application has been either denied or is  
9 pending and has remained pending for more than six months, all of the  
10 facts and circumstances underlying the failure to receive that license  
11 shall be disclosed.
- 12 (5) Disclose the details of any finding or plea, conviction, or adjudication  
13 of guilt in a state or federal court of the ~~vendor~~ potential contractor for  
14 any felony or any other criminal offense other than a minor traffic  
15 violation.
- 16 (6) Disclose the details of any bankruptcy, insolvency, reorganization, or  
17 corporate or individual purchase or takeover of another corporation,  
18 including bonded indebtedness, or any pending litigation of the  
19 ~~vendor~~-potential contractor.
- 20 (7) If at least twenty-five percent (25%) of the cost of a ~~vendor's~~ potential  
21 contractor's contract is subcontracted, the ~~vendor~~-potential contractor  
22 shall disclose all of the information required by this section for the  
23 subcontractor as if the subcontractor were itself a ~~vendor~~-potential  
24 contractor.
- 25 (8) Make any additional disclosures and information the Commission  
26 determines to be appropriate for the contract involved.
- 27 (d) All documents compiled by the Director in conducting the investigation of  
28 the lottery ~~vendors~~-potential contractors shall be held as confidential information under  
29 Chapter 132 of the General Statutes."

30 **SECTION 5.** G.S. 18C-103 reads as rewritten:

31 **"§ 18C-103. Definitions.**

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

- 33 (1) "Commission" means the North Carolina State Lottery Commission.  
34 (2) "Commissioner" means a member of the Commission.  
35 (3) "Director" means the person selected by the Commission to be the  
36 chief administrator of the North Carolina State Lottery.  
37 (4) "Game" or "lottery game" means any procedure or amusement  
38 authorized by the Commission where prizes are distributed among  
39 persons who have paid, or unconditionally agreed to pay, for tickets or  
40 shares that provide the opportunity to win those prizes and does not  
41 utilize a video gaming machine as defined in G.S. 14-306.1(c).  
42 (5) "Lottery" means any lottery game or series of games established and  
43 operated pursuant to this Chapter.

- 1 (6) "Lottery contractor" means a person other than a lottery retailer with  
2 whom the Commission has contracted for the purpose of providing  
3 goods or services to the ~~Commission~~Commission on an ongoing  
4 basis.
- 5 (6a) "Lottery supplier" means a person, other than a lottery retailer, with  
6 whom the Commission has contracted for the purpose of providing  
7 goods or services to the Commission for an individual purchase which  
8 may include a maintenance program.
- 9 (7) "Person" means any natural person or corporation, limited liability  
10 company, trust, association, partnership, joint venture, subsidiary, or  
11 other business entity.
- 12 (7a) "Potential contractor" means any person other than a lottery retailer  
13 who submits a bid, proposal, or offer to procure a contract for goods or  
14 services for the Commission.
- 15 (8) "Retailer", "lottery retailer", or "lottery game retailer" means a person  
16 with whom the Commission has contracted to sell tickets or shares in  
17 lottery games.
- 18 (9) "Share" means any method of participation in a lottery game, other  
19 than by a ticket purchased on an equivalent basis with a ticket.
- 20 (10) "Ticket" means any tangible evidence authorized by the Commission  
21 to demonstrate participation in a lottery game.
- 22 (11) ~~"Vendor" or "lottery vendor" means any person other than a lottery~~  
23 ~~retailer who submits a bid, proposal, or offer to procure a contract for~~  
24 ~~goods or services for the Commission."~~

25 **SECTION 6.** G.S. 18C-113 is amended by adding a new subsection to read:

26 "(d) Only the following information concerning a lottery winner is a public  
27 record: (i) name, (ii) city and state of residence, (iii) game played, (iv) amount won, and  
28 (v) date won."

29 **SECTION 7.** G.S. 18C-120(b) reads as rewritten:

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

- 32 (1) To provide for the reporting of payment of lottery game prizes to State  
33 and federal tax authorities and for the withholding of State and federal  
34 income taxes from lottery game prizes as provided in State and federal  
35 law.
- 36 (2) To conduct a background investigation, including a criminal history  
37 record check, of applicants for employment with the Commission,  
38 lottery retailers, and lottery potential contractors, which may include a  
39 search of the State and National Repositories of Criminal Histories  
40 based on the fingerprints of applicants.
- 41 (3) To set the salaries of all Commission employees, subject to the  
42 approval of the Commission. Except for the provisions of Articles 6  
43 and 7 of Chapter 126 of the General Statutes, all employees of the  
44 Commission shall be exempt from the State Personnel Act.

- 1 (4) To enter into contracts with lottery retailers and lottery contractors  
2 upon approval by the Commission.
- 3 (5) To provide for the security and accuracy in the operation and  
4 administration of the Commission and the Lottery, including  
5 examining the background of all prospective employees, ~~lottery~~  
6 ~~vendors,~~ lottery potential contractors, and lottery retailers.
- 7 (6) To coordinate and collaborate with the appropriate law enforcement  
8 authorities regarding investigations of violations of the laws relating to  
9 the operation of the Lottery and make reports to the Commission  
10 regarding those investigations.
- 11 (7) To confer with the Commission on the operation and administration of  
12 the Lottery and make available for inspection by the Commission all  
13 books, records, files, documents, and other information of the Lottery.
- 14 (8) To study the operation and administration of other lotteries and to  
15 collect demographic and other information concerning the Lottery and  
16 make recommendations to improve the operation and administration of  
17 the Lottery to the Commission, to the Governor, and to the General  
18 Assembly.
- 19 (9) To provide monthly financial reports to the Commission of all lottery  
20 revenues, prize disbursements, expenses, net revenues, and all other  
21 financial transactions involving lottery funds.
- 22 (10) To enter into agreements with other states to operate and promote  
23 multistate lotteries consistent with the purposes set forth in this  
24 Chapter and upon the approval of the Commission."

25 **SECTION 8.** G.S. 18C-132(h) reads as rewritten:

26 "(h) The right of any person to a prize shall not be assignable. Payment of any  
27 prize may be paid ~~to the estate of a deceased prizewinner or to a person designated~~  
28 pursuant to a court order. Any prize or portion of a prize remaining unpaid at the death  
29 of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee  
30 of a trust established by the prize winner or as designated in the deceased prize winner's  
31 will, living trust, or other preprepared legal instrument."

32 **SECTION 9.** G.S. 18C-134(b) reads as rewritten:

33 "(b) Notification. – A claimant agency ~~seeking to attempt collection of a debt~~  
34 ~~through setoff must notify the Commission in writing and supply information necessary~~  
35 ~~to identify the debtor. The claimant agency may include with the notification the date, if~~  
36 ~~any, that the debt is expected to expire. The agency must notify the Commission in~~  
37 ~~writing when a debt has been paid or is no longer owed the agency. A local agency may~~  
38 ~~not submit a debt for collection under this section until it has met the requirements of~~  
39 ~~G.S. 105A-5, and it must submit the debt to the Commission through one of the entities~~  
40 ~~listed in G.S. 105A-3(b1).~~ is automatically enrolled in the Commission's debt set-off  
41 program if it is enrolled in the Department of Revenue debt set-off program. To provide  
42 for more efficient operations, the Department of Revenue shall provide to the  
43 Commission on a periodic basis all updates to its debt set-off program as soon as  
44 practicable."

1           **SECTION 10.** G.S. 18C-134(e) reads as rewritten:

2           "(e) Confidentiality. – Notwithstanding any confidentiality statute of a claimant  
3 agency, the exchange of information among the Commission, the Department of  
4 Revenue, the claimant agency, the organization submitting debts on behalf of a local  
5 agency, and the debtor necessary to implement this section is lawful. The information  
6 an agency or organization obtains from the Commission in accordance with the  
7 exemption in this subsection may be used by the agency or organization only in the  
8 pursuit of its debt collection duties and practices."

9           **SECTION 11.** G.S. 18C-141(a) reads as rewritten:

10          "(a) The Director shall recommend to the Commission those persons with whom  
11 to contract as lottery game retailers. To the extent practicable, the Director shall meet  
12 the minority participation goals under Article 8 of Chapter 143 of the General Statutes.  
13 Documents compiled by the Director in conducting investigations of lottery retailers are  
14 confidential."

15          **SECTION 12.** G.S. 18C-142 reads as rewritten:

16          "**§ 18C-142. Compensation for lottery game retailers.**

17          The amount of compensation paid to lottery game retailers for their sales of lottery  
18 tickets or shares shall be seven percent (7%) of the ~~retail price~~ face value of the tickets  
19 or shares sold for each lottery game. The Commission shall require submission of  
20 reports and remission of lottery revenues to the Commission on a timely basis."

21          **SECTION 13.** G.S. 18C-151(a) reads as rewritten:

22          "(a) Except as otherwise specifically provided in this subsection for contracts for  
23 the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of  
24 Chapter 143 of the General Statutes, including the provisions relating to minority  
25 participation goals, shall apply to contracts entered into by the Commission. If this  
26 subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection  
27 shall control. In recognition of the particularly sensitive nature of the Lottery and the  
28 competence, quality of product, experience, and timeliness, fairness, and integrity in the  
29 operation and administration of the Lottery and maximization of the objective of raising  
30 revenues, a contract for the purchase of services, apparatus, supplies, materials, or  
31 equipment requiring an estimated aggregate expenditure of ninety thousand dollars  
32 (\$90,000) or more may be awarded by the Commission only after the following have  
33 occurred:

- 34           (1) The Commission has invited proposals to be submitted by  
35 advertisement by electronic means or advertisement in a newspaper  
36 having general circulation in the State of North Carolina and  
37 containing the following information:
- 38           a. The time and place where a complete description of the  
39 services, apparatus, supplies, materials, or equipment may be  
40 had.
  - 41           b. The time and place for opening of the proposals.
  - 42           c. A statement reserving to the Commission the right to reject any  
43 or all proposals.



- 1 (2) Proposals may be rejected for any reason determined by the  
2 Commission to be in the best interest of the Lottery.
- 3 (3) All proposals shall be accompanied by a bond or letter of credit in an  
4 amount equal to not less than five percent (5%) of the proposal and the  
5 fee to cover the cost of the criminal record check conducted under  
6 G.S. 114-19.6.
- 7 (4) The Commission has complied with the minority participation goals of  
8 G.S. 143-128.2 and G.S. 143-128.3.
- 9 (5) The Commission may not award a contract to a lottery vendor who has  
10 been convicted of a felony or any gambling offense in any state or  
11 federal court of the United States within 10 years of entering into the  
12 contract, or employs officers and directors who have been convicted of  
13 a felony or any gambling offense in any state or federal court of the  
14 United States within 10 years of entering into the contract.
- 15 (6) The Commission shall investigate and compare the overall business  
16 practices, ethical reputation, criminal record, civil litigation,  
17 competence, integrity, background, and regulatory compliance record  
18 of lottery vendors.
- 19 (7) The Commission may engage an independent firm experienced in  
20 evaluating government procurement proposals to aid in evaluating  
21 proposals for a major procurement.
- 22 (7a) When (i) performance or price competition for a product are not  
23 available; (ii) a needed product is available from only one source of  
24 supply; or (iii) standardization or compatibility is the overriding  
25 consideration, a competitive bid is not required.
- 26 (8) The Commission shall award the contract to the responsible lottery  
27 vendor who submits the best proposal that maximizes the benefits to  
28 the State."

29 **SECTION 14.** G.S. 18C-151(c) reads as rewritten:

30 "(c) Before a contract to a lottery contractor is awarded, the Director shall conduct  
31 a thorough background investigation of all of the following:

- 32 (1) The ~~vendor~~ potential contractor to whom the contract is to be awarded.
- 33 (2) Any parent or subsidiary corporation of the ~~vendor~~ potential  
34 contractor to whom the contract is to be awarded.
- 35 (3) All shareholders with a five percent (5%) or more interest in the  
36 ~~vendor~~ potential contractor or parent or subsidiary corporation of the  
37 ~~vendor~~ potential contractor to whom the contract is to be awarded.
- 38 (4) All officers and directors of the ~~vendor~~ potential contractor or parent  
39 or subsidiary corporation of the ~~vendor~~ potential contractor to whom  
40 the contract is to be awarded."

41 **SECTION 15.** G.S. 18C-151(f) reads as rewritten:

42 "(f) No lottery system ~~vendor nor any applicant for a contract~~ contractor or  
43 potential contractor may pay, give, or make any economic opportunity, gift, loan,  
44 gratuity, special discount, favor, hospitality, or service, excluding food and beverages

1 having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar  
2 year, to the Director, any member or employee of the corporation, or a member of the  
3 immediate family residing in the same household as any of these individuals."

4 **SECTION 16.** G.S. 18C-162(a)(4) reads as rewritten:

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

7 ...

8 (4) No more than seven percent (7%) of the ~~total annual revenues,~~ face  
9 value of tickets or shares, as described in this Chapter, shall be  
10 allocated for compensation paid to lottery game retailers."

11 **SECTION 17.** G.S. 18C-164(a) reads as rewritten:

12 "(a) The funds remaining in the North Carolina State Lottery Fund after receipt of  
13 all revenues to the Lottery Fund and after accrual of all obligations of the Commission  
14 for prizes and expenses shall be considered to be the net revenues of the North Carolina  
15 State Lottery Fund. Unclaimed prizes are not revenue. The net revenues of the North  
16 Carolina State Lottery Fund shall be transferred four times a year to the Education  
17 Lottery Fund, which shall be created in the State treasury."

18 **SECTION 18.** This act is effective when it becomes law.