

PUBLIC INPUT SIGN UP SHEET

9-6-05

**PUBLIC INPUT SHALL BE LIMITED TO
THREE (3) MINUTES PER PERSON.**

EACH PERSON SHOULD:

- (1) STATE YOUR NAME**
- (2) IN WHAT AREA OF THE COUNTY YOU LIVE**
- (3) SPEAK IN A CLEAR AND COURTEOUS MANNER.**

Please Print

	<u>NAME</u>	<u>ADDRESS</u>	<u>ISSUE</u>
✓ 1.	Donnie Bain	Box 98 Tuxedo, NC	Exotic Animals Ordinance
✓ 2.	Eva Ritchey	1928 Brevard Rd, Hville	WHKP
✓ 3.	Richard Rhodes	PO 2270 Hville	Cable channel 11
✓ 4.	Sharon Alexander	240 Third Avenue W. Hudsonville	WHKP/Channel 11
✓ 5.	Robert Danos	Po Box 8 Tuxedo	Exotic Animals
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**7:00 PUBLIC HEARING
SIGN UP SHEET**

Rezoning Application #R-2005-03 (O&I to R-10) Blue Ridge
Community College, Applicant Jon Laughter, Applicant's Agent

Please Print

Name;

Address:

✓ 1. Rocky Hyder

101 E. Allen St.

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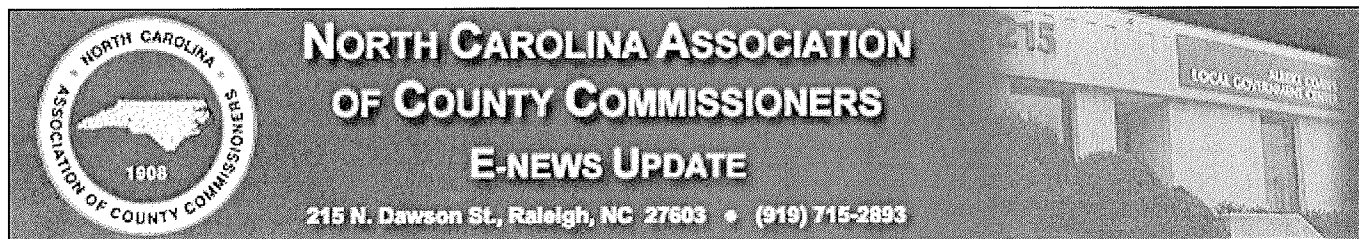
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Russ

From: David E. Nicholson [davidn@hendersoncountync.org]
Sent: Thursday, September 01, 2005 1:06 PM
To: rburrell@hendersoncountync.org
Subject: FW: Estimated Lottery Proceeds for School Construction

David E. Nicholson
Henderson County Manager

From: NCACC [mailto:ncacc@ncacc.org]
Sent: Thursday, September 01, 2005 12:39 PM
To: County Managers; County Clerks
Cc: NCACC-Advocacy
Subject: Estimated Lottery Proceeds for School Construction



Estimated Lottery Proceeds for School Construction

The NCACC Board of Directors considered the lottery issue at its Feb. 23, 2005, meeting and voted to support local option lotteries with a substantial portion of the proceeds to be dedicated to local school construction. We are pleased that the General Assembly has recognized the need for additional school construction funding--the Association's third highest legislative priority--and has pledged substantial lottery proceeds for school capital projects. Please note that the county allocation mechanism was devised solely by the General Assembly.

Please find below the distribution method for the lottery's net revenues and an estimate of lottery proceeds for school construction by county. Our many thanks to the General Assembly's fiscal research staff for providing these projections. Please note that the projections are based on current effective tax rates and ADM counts.

Net revenues (after expenses and prizes) from lottery receipts distributed as follows:

1. 5% to lottery reserve fund until fund reaches \$50 million
2. Remaining net revenue distributed as follows:
 - 50% to support early grade class size reduction (1:18) and academic pre-kindergarten for at-risk 4 year olds
 - **40% to Public School Building Capital Fund**
 - 10% to fund college and university scholarships

Public School Building Capital Fund lottery monies allocated as follows:

9/1/2005

1. 65% allocated to counties on an average daily membership (ADM) basis
 2. 35% allocated to counties whose effective tax rate is greater than the state average effective tax rate
- County effective tax rate = actual county tax rate x 3-year weighted average of county sales/assessment ratio

*Allocation mechanism devised solely by General Assembly.

Public School Building Capital Fund lottery monies to be used as follows:

1. School construction projects, including renovation and repair
2. School construction indebtedness incurred on or after January 1, 2003
3. No county matching funds required
4. Funds cannot be used for school technology needs

Distribution of Projected Lottery Proceeds for School Construction
Method: 65% by ADM, 35% by ADM to counties with above State Avg Effective Tax Rate

Total Distribution: \$ 161,500,000 \$ 158,080,000 \$ 174,860,000 \$ 186,960,000 \$ 196,320,000

County	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Alamance	\$ 1,663,971	\$ 1,628,734	\$ 1,801,623	\$ 1,926,292	\$ 2,022,730
Alexander	442,361	432,994	478,955	512,098	537,736
Alleghany	118,351	115,845	128,142	137,009	143,868
Anson	648,387	634,656	702,024	750,603	788,181
Ashe	247,051	241,819	267,488	285,998	300,316
Avery	178,600	174,818	193,375	206,756	217,107
Beaufort	554,810	543,062	600,707	642,275	674,430
Bertie	496,864	486,342	537,967	575,193	603,990
Bladen	853,781	835,701	924,409	988,377	1,037,859
Brunswick	853,525	835,450	924,132	988,081	1,037,548
Buncombe	2,247,910	2,200,307	2,433,867	2,602,286	2,732,568
Burke	1,116,520	1,092,876	1,208,883	1,292,536	1,357,245
Cabarrus	2,146,575	2,101,118	2,324,150	2,484,977	2,609,385
Caldwell	998,475	977,331	1,081,073	1,155,882	1,213,750
Camden	265,647	260,022	287,623	307,526	322,922
Carteret	629,240	615,915	681,294	728,438	764,906
Caswell	256,709	251,273	277,945	297,179	312,056
Catawba	1,874,536	1,834,840	2,029,606	2,170,051	2,278,693
Chatham	574,357	562,194	621,870	664,903	698,190
Cherokee	281,238	275,282	304,503	325,574	341,874
Chowan	360,775	353,135	390,620	417,651	438,560
Clay	100,951	98,813	109,302	116,866	122,717
Cleveland	1,319,725	1,291,778	1,428,899	1,527,776	1,604,263
Columbus	1,433,900	1,403,536	1,552,519	1,659,951	1,743,055
Craven	1,120,046	1,096,327	1,212,701	1,296,618	1,361,532
Cumberland	7,772,032	7,607,447	8,414,969	8,997,269	9,447,710
Currituck	316,805	310,096	343,012	366,748	385,109
Dare	381,269	373,195	412,810	441,375	463,472
Davidson	1,945,286	1,904,092	2,106,209	2,251,955	2,364,697
Davie	490,499	480,112	531,075	567,825	596,252
Duplin	1,327,196	1,299,091	1,436,988	1,536,425	1,613,345
Durham	4,569,426	4,472,662	4,947,430	5,289,783	5,554,611
Edgecombe	1,130,113	1,106,181	1,223,601	1,308,272	1,373,770
Forsyth	7,277,097	7,122,994	7,879,091	8,424,310	8,846,066
Franklin	1,185,617	1,160,510	1,283,696	1,372,526	1,441,240
Gaston	4,759,238	4,658,454	5,152,943	5,509,518	5,785,347
Gates	289,392	283,264	313,332	335,014	351,786

Graham	94,206	92,211	101,999	109,057	114,517
Granville	1,291,134	1,263,792	1,397,942	1,494,677	1,569,507
Greene	470,448	460,485	509,365	544,612	571,878
Guilford	10,118,927	9,904,644	10,956,010	11,714,146	12,300,605
Halifax	1,363,111	1,334,245	1,475,873	1,578,001	1,657,002
Harnett	2,534,481	2,480,809	2,744,144	2,934,034	3,080,924
Haywood	604,405	591,605	654,404	699,687	734,716
Henderson	973,563	952,946	1,054,100	1,127,042	1,183,467
Hertford	524,467	513,361	567,854	607,148	637,545
Hoke	1,035,430	1,013,503	1,121,085	1,198,662	1,258,672
Hyde	96,612	94,567	104,605	111,843	117,442
Iredell	1,876,989	1,837,241	2,032,262	2,172,890	2,281,674
Jackson	279,935	274,007	303,092	324,066	340,290
Johnston	4,077,905	3,991,549	4,415,247	4,720,775	4,957,116
Jones	203,762	199,447	220,618	235,884	247,693
Lee	1,374,538	1,345,430	1,488,246	1,591,230	1,670,894
Lenoir	1,463,730	1,432,733	1,584,816	1,694,483	1,779,316
Lincoln	1,731,306	1,694,644	1,874,528	2,004,242	2,104,583
Macon	321,557	314,748	348,158	372,250	390,886
Madison	203,819	199,503	220,680	235,950	247,763
Martin	659,369	645,406	713,915	763,316	801,531
McDowell	502,533	491,892	544,105	581,756	610,882
Mecklenburg	18,250,398	17,863,919	19,760,152	21,127,520	22,185,252
Mitchell	176,377	172,642	190,968	204,183	214,405
Montgomery	345,933	338,607	374,550	400,468	420,517
Moore	922,666	903,127	998,993	1,068,121	1,121,596
Nash	2,718,356	2,660,791	2,943,230	3,146,897	3,304,444
New Hanover	3,555,515	3,480,222	3,849,643	4,116,032	4,322,097
Northampton	471,190	461,211	510,169	545,471	572,780
Onslow	3,351,011	3,280,049	3,628,222	3,879,289	4,073,502
Orange	2,617,143	2,561,721	2,833,645	3,029,728	3,181,409
Pamlico	247,542	242,299	268,019	286,566	300,912
Pasquotank	886,875	868,094	960,242	1,026,689	1,078,089
Pender	558,260	546,438	604,442	646,268	678,623
Perquimans	131,152	128,375	142,002	151,828	159,429
Person	867,731	849,355	939,513	1,004,526	1,054,817
Pitt	3,263,452	3,194,343	3,533,419	3,777,925	3,967,064
Polk	189,408	185,397	205,077	219,268	230,245
Randolph	1,768,525	1,731,074	1,914,826	2,047,328	2,149,826
Richmond	1,228,210	1,202,200	1,329,812	1,421,833	1,493,016
Robeson	3,625,118	3,548,351	3,925,004	4,196,607	4,406,707
Rockingham	2,172,221	2,126,221	2,351,917	2,514,666	2,640,560
Rowan	3,083,732	3,018,429	3,338,832	3,569,873	3,748,596
Rutherford	767,828	751,568	831,346	888,873	933,374
Sampson	1,684,262	1,648,595	1,823,591	1,949,781	2,047,395
Scotland	1,009,459	988,082	1,092,966	1,168,597	1,227,102
Stanly	744,065	728,309	805,618	861,365	904,489
Stokes	560,023	548,164	606,350	648,309	680,766
Surry	1,767,369	1,729,943	1,913,574	2,045,990	2,148,421
Swain	138,281	135,353	149,720	160,081	168,095
Transylvania	294,805	288,562	319,193	341,281	358,366
Tyrrell	95,870	93,840	103,801	110,984	116,540
Union	2,330,924	2,281,564	2,523,749	2,698,388	2,833,480
Vance	1,201,348	1,175,908	1,300,729	1,390,737	1,460,363
Wake	9,151,996	8,958,189	9,909,090	10,594,782	11,125,201
Warren	457,685	447,993	495,546	529,837	556,363
Washington	314,770	308,104	340,809	364,392	382,635
Watauga	349,075	341,683	377,952	404,106	424,337
Wayne	2,862,310	2,801,696	3,099,093	3,313,545	3,479,435
Wilkes	776,873	760,421	841,139	899,344	944,369
Wilson	1,862,794	1,823,347	2,016,893	2,156,458	2,264,420
Yadkin	471,336	461,355	510,327	545,641	572,958
Yancey	197,610	193,425	213,957	228,763	240,215

TOTALS \$ 161,500,000 \$ 158,080,000 \$ 174,860,000 \$ 186,960,000 \$ 196,320,000

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H HOUSE BILL 1023
Full text of the North Carolina State Lottery Act, House Bill 1023 (S.L. 2005-344),
as amended by Section 31.1 of Senate Bill 622 (S.L. 2005-276)

Short Title: North Carolina State Lottery Act. (Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A STATE LOTTERY TO GENERATE FUNDS TO
FURTHER THE GOAL OF PROVIDING ENHANCED EDUCATIONAL
OPPORTUNITIES SO THAT ALL STUDENTS IN THE PUBLIC SCHOOLS
CAN ACHIEVE THEIR FULL POTENTIAL, TO SUPPORT SCHOOL
CONSTRUCTION, TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS,
AND TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

THIS VERSION SHOWS HOUSE BILL 1023 AS ENACTED (S.L. 2005-344), ALONG
WITH THE CHANGES MADE BY PART XXXI (SECTION 31.1) OF SENATE BILL
622, S.L. 2005-276 (THE BUDGET). IT IS AN ENROSSMENT. TO SHOW WHAT
THE NORTH CAROLINA STATE LOTTERY ACT LOOKS LIKE WITH THE TWO
ACTS COMPILED TOGETHER.

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

"Chapter 18C.
"North Carolina State Lottery.
"Article 1.

"General Provisions and Definitions.

"§ 18C-101. Citation.

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

"§ 18C-102. Purpose and intent.

The General Assembly declares that the purpose of this Chapter is to establish a
State-operated lottery to generate funds for the public purposes described in this
Chapter.

"§ 18C-103. Definitions.

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

- (1) 'Commission' means the North Carolina State Lottery Commission.
(2) 'Commissioner' means a member of the Commission.
(3) 'Director' means the person selected by the Commission to be the chief
administrator of the North Carolina State Lottery.
(4) 'Game' or 'lottery game' means any procedure or amusement
authorized by the Commission where prizes are distributed among
persons who have paid, or unconditionally agreed to pay, for tickets or
shares that provide the opportunity to win those prizes and does not
utilize a video gaming machine as defined in G.S. 14-306.1(c).
(5) 'Lottery' means any lottery game or series of games established and
operated pursuant to this Chapter.
(6) 'Lottery contractor' means a person other than a lottery retailer with
whom the Commission has contracted for the purpose of providing
goods or services to the Commission.
(7) 'Person' means any natural person or corporation, limited liability
company, trust, association, partnership, joint venture, subsidiary, or
other business entity.
(8) 'Retailer', 'lottery retailer', or 'lottery game retailer' means a person
with whom the Commission has contracted to sell tickets or shares in
lottery games.
(9) 'Share' means any method of participation in a lottery game, other than
by a ticket purchased on an equivalent basis with a ticket.
(10) 'Ticket' means any tangible evidence authorized by the Commission to
demonstrate participation in a lottery game.
(11) 'Vendor' or 'lottery vendor' means any person other than a lottery
retailer who submits a bid, proposal, or offer to procure a contract for
goods or services for the Commission.

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

"Article 2.

"North Carolina State Lottery Commission.

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

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

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

(a) The Commission shall consist of nine members, five of whom shall be
appointed by the Governor, two of whom shall be appointed by the General Assembly
upon the recommendation of the President Pro Tempore of the Senate, and two of
whom shall be appointed by the General Assembly upon the recommendation of the
Speaker of the House of Representatives. The Governor shall select the chair of the
Commission from among its membership, who shall serve at the pleasure of the
Governor.

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

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

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

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

"§ 18C-112. Qualifications of Commissioners.

(a) Of the members of the Commission appointed by the Governor, at least one
member shall have a minimum of five years' experience in law enforcement.

(b) Of the members appointed by the General Assembly upon the
recommendation of the President Pro Tempore of the Senate, one member shall be a
certified public accountant.

(c) Of the members of the Commission appointed by the General Assembly upon
the recommendation of the Speaker of the House of Representatives, one member shall
have retail sales experience as an owner or manager.

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

"§ 18C-113. Meetings; records.

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

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

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

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

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

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

(2) To prescribe the nature of lottery advertising which shall comply with
the following:

- a. All advertising shall include resources for responsible gaming
information.
b. No advertising may intentionally target specific groups or
economic classes.
c. No advertising may be misleading, deceptive, or present any
lottery game as a means of relieving any person's financial or
personal difficulties.
d. No advertising may have the primary purpose of inducing
persons to participate in the Lottery.

(3) To specify the number and value of prizes for winning tickets or shares
in lottery games, including cash prizes, merchandise prizes, prizes
consisting of deferred payments or annuities, and prizes of tickets or
shares in the same lottery game or other lottery games.

(4) To specify the rules of lottery games and the method for determining
winners of lottery games.

(5) To specify the retail sales price for tickets or shares for lottery games.

(6) To establish a system to claim prizes, including determining the time
periods within which prizes must be claimed, to verify the validity of
tickets or shares claimed to win prizes, and to effect payment of those
prizes.

(7) To conduct a background investigation, including a criminal history
record check, of applicants for the position of Director, which may
include a search of the State and National Repositories of Criminal
Histories based on the fingerprints of applicants.

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

(9) To specify the manner of distribution, dissemination, or sale of lottery
tickets or shares to lottery game retailers or directly to the public.

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

(11) To 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 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 with whom the employee has a financial interest.

1 c. No employee of the Commission who leaves the employment of
2 the Commission may represent any vendor or retailer before the
3 Commission for a period of one year following termination of
4 employment with the Commission.
5 d. A background investigation shall be conducted on each
6 applicant for employment with the Commission.
7 e. The Commission shall bond all employees with access to lottery
8 funds or revenue or security.
9 (12) To approve and authorize the Director to enter into agreements with
10 other states to operate and promote multistate lotteries consistent with
11 the purposes set forth in this Chapter.
12 (13) Any other powers necessary for the Commission to carry out its
13 responsibilities under this Chapter.
14 (b) Article 3D of Chapter 147 of the General Statutes shall not apply to the
15 Commission.
16 § 18C-115. Reports.
17 The Commission shall send quarterly and annual reports on the operations of
18 the Commission to the Governor, State Treasurer, and to the General Assembly. The reports
19 shall include complete statements of lottery revenues, prize disbursements, expenses,
20 net revenues, and all other financial transactions involving lottery funds, including the
21 occurrence of any audit.
22 § 18C-116. Audits.
23 The State Auditor shall conduct annual audits of all accounts and transactions of the
24 Commission and any other special postaudits the State Auditor considers to be
25 necessary.
26 §§ 18C-117 through 18C-119: Reserved for future codification purposes.
27 Article 3.
28 North Carolina State Lottery Director.
29 § 18C-120. Selection of the Director; powers and duties.
30 (a) The Commission shall select a Director to operate and administer the Lottery
31 and to serve as the Secretary of the Commission. Except as to the provisions of Articles
32 6 and 7 of Chapter 126 of the General Statutes, the Director shall be exempt from the
33 State Personnel Act.
34 (b) The Director shall have the following powers and duties, under the
35 supervision of the Commission:
36 (1) To provide for the reporting of payment of lottery game prizes to State
37 and federal tax authorities and for the withholding of State and federal
38 income taxes from lottery game prizes as provided in State and federal
39 law.
40 (2) To conduct a background investigation, including a criminal history
41 record check, of applicants for employment with the Commission,
42 lottery retailers, and lottery contractors, which may include a search of
43 the State and National Repositories of Criminal Histories based on the
44 fingerprints of applicants.

1 (3) To set the salaries of all Commission employees, subject to the
2 approval of the Commission. Except for the provisions of Articles 6
3 and 7 of Chapter 126 of the General Statutes, all employees of the
4 Commission shall be exempt from the State Personnel Act.
5 (4) To enter into contracts with lottery retailers and lottery contractors
6 upon approval by the Commission.
7 (5) To provide for the security and accuracy in the operation and
8 administration of the Commission and the Lottery, including
9 examining the background of all prospective employees, lottery
10 vendors, lottery contractors, and lottery retailers.
11 (6) To coordinate and collaborate with the appropriate law enforcement
12 authorities regarding investigations of violations of the laws relating to
13 the operation of the Lottery and make reports to the Commission
14 regarding those investigations.
15 (7) To confer with the Commission on the operation and administration of
16 the Lottery and make available for inspection by the Commission all
17 books, records, files, documents, and other information of the Lottery.
18 (8) To study the operation and administration of other lotteries and to
19 collect demographic and other information concerning the Lottery and
20 make recommendations to improve the operation and administration of
21 the Lottery to the Commission, to the Governor, and to the General
22 Assembly.
23 (9) To provide monthly financial reports to the Commission of all lottery
24 revenues, prize disbursements, expenses, net revenues, and all other
25 financial transactions involving lottery funds.
26 (10) To enter into agreements with other states to operate and promote
27 multistate lotteries consistent with the purposes set forth in this
28 Chapter and upon the approval of the Commission.
29 § 18C-121. Accountability; books and records.
30 The Director shall have made and kept books and records that accurately and
31 completely reflect each day's transactions, including the distribution of tickets or shares
32 to lottery game retailers, receipt of funds, prize claims, prizes paid directly by the
33 Commission, expenses, and all other financial transactions involving lottery funds
34 necessary to permit preparation of financial statements that conform with generally
35 accepted accounting principles.
36 § 18C-122. Independent audits.
37 (a) At the beginning of each calendar year, the Commission shall engage an
38 independent firm experienced in security procedures, including computer security and
39 systems security, to conduct a comprehensive study and evaluation of all aspects of
40 security in the operation of the Commission and of the Lottery. At a minimum, such a
41 security assessment should include a review of network vulnerability, application
42 vulnerability, application code review, wireless security, security policy and processes,
43 security/privacy program management, technology infrastructure and security controls,
44 security organization and governance, and operational effectiveness.

1 (b) The portion of the security audit report containing the overall evaluation of
2 the Commission and of lottery games in terms of each aspect of security shall be
3 presented to the Commission, to the Governor, and to the General Assembly.
4 (c) The portion of the security audit report containing specific recommendations
5 shall be confidential, shall be presented only to the Director and to the Commission, and
6 shall be exempt from Chapter 132 of the General Statutes. The Commission may hear
7 the report of such an audit, discuss, and take action on any recommendations to address
8 that audit under G.S. 143-318.11(a)(1).
9 (d) Biennially at the end of the fiscal year, the Commission shall engage an
10 independent auditing firm that has experience in evaluating the operation of lotteries to
11 perform an audit of the Lottery. The results of this audit shall be presented to the
12 Commission, to the Governor, and to the General Assembly.
13 §§ 18C-123 through 18C-129: Reserved for future codification purposes.
14 Article 4.
15 Operation of Lottery.
16 § 18C-130. Types of lottery games; lottery games and lottery advertising; certain
17 disclosures and information to be provided.
18 (a) The Commission shall determine the type of lottery games that may be used
19 in the Lottery. Games may include instant lotteries, online games, games played on
20 computer terminals or other devices, and other games traditional to a lottery or that have
21 been conducted by any other state government-operated lottery.
22 (b) In lottery games using tickets, each ticket in a particular game shall have
23 printed on it a unique number distinguishing it from every other ticket in that lottery
24 game and an abbreviated form of the game-play rules, including resources for
25 responsible gaming information. In lottery games using tickets, each ticket may have
26 printed on it a depiction of one or more cartoon characters, whose primary appeal is not
27 to minors. In lottery games using tickets with preprinted winners, the overall estimated
28 odds of winning prizes shall be printed on each ticket. No name or photograph of a
29 current or former elected official shall appear on the tickets of any lottery game.
30 (c) In games using electronic computer terminals or other devices to play lottery
31 games, no coins or currency shall be dispensed to players from those electronic
32 computer terminals or devices.
33 (d) No games shall be based on the outcome of a particular sporting event or on
34 the results of a series of sporting events.
35 (e) Lottery advertising shall be tastefully designed and presented in a manner to
36 minimize the appeal of lottery games to minors. The use of cartoon characters or of
37 false, misleading, or deceptive information in lottery advertising is prohibited. All
38 advertising promoting the sale of lottery tickets or shares for a particular game shall
39 include the actual or estimated overall odds of winning the game.
40 (f) The Commission shall make available a detailed tabulation of the estimated
41 number of prizes of each particular prize denomination that are expected to be awarded
42 in each lottery game or the estimated odds of winning these prizes at the time that
43 lottery game is offered for sale to the public.

1 (g) The Commission shall, in consultation with the Department of Health and
2 Human Services, develop and provide information to the public about gambling
3 addiction and treatment.
4 § 18C-131. Sales and sale price of tickets and shares; sales to minors prohibited.
5 (a) The Commission may sell tickets and shares directly to the public, contract
6 with lottery game retailers to sell tickets and shares, or distribute tickets or shares
7 through any other method authorized by the Commission.
8 (b) No ticket or share in a lottery game shall be sold or resold for more than the
9 retail sales price established by the Commission.
10 (c) The minimum retail price of each ticket or share in any lottery game shall be
11 fifty cents (50¢). The minimum retail price shall not apply to any discounts or
12 promotions authorized by the Commission for a particular lottery game.
13 (d) It shall be unlawful for a person to sell a lottery ticket or share to a person
14 under the age of 18 years. No person under the age of 18 years shall purchase a lottery
15 ticket or share. A person who violates this subsection shall be guilty of a Class 1
16 misdemeanor.
17 (e) It shall be a defense for the person who sold a ticket or share in violation of
18 subsection (d) of this section if the person does either of the following:
19 (1) Shows that the purchaser produced a drivers license, a special
20 identification card issued under G.S. 20-37.7, a military identification
21 card, or a passport, showing the purchaser to be at least 18 years old
22 and bearing a physical description of the person named on the card that
23 reasonably describes the purchaser.
24 (2) Produces evidence of other facts that reasonably indicated at the time
25 of sale that the purchaser was at least 18 years old.
26 § 18C-132. Procedures for drawings and claiming prizes; payment of prizes;
27 protection of information concerning certain prize winners.
28 (a) If a lottery game uses a daily or less frequent drawing of winning numbers, a
29 drawing among entries, or a drawing among finalists, all of the following conditions
30 shall be met:
31 (1) The drawings shall be open to the public.
32 (2) The drawings shall be witnessed by an independent certified public
33 accountant.
34 (3) Any equipment used in the drawings shall be inspected by the
35 independent certified public accountant and an employee of the
36 Commission both before and after the drawings.
37 (4) Audio and visual records of the drawings and inspections shall be
38 made.
39 (b) Prizes that remain unclaimed after the period set by the Commission for
40 claiming the prizes shall not be considered abandoned property. If a valid claim is not
41 made for a prize within the applicable period, the unclaimed prize money shall be
42 handled in accordance with Article 35A of Chapter 115C of the General Statutes.
43 (c) After the expiration of the claim period for prizes for each lottery game, the
44 Commission shall make available a detailed tabulation of the total number of prizes of

1 each prize denomination that was actually claimed and paid directly by the
2 Commission.

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

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

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

- 14 (1) The same lottery game retailer who sold the winning ticket or share.
- 15 (2) Any other lottery retailer.
- 16 (3) The Commission.

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

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

22 (i) No ticket or share in a lottery game shall be purchased by, and no prize shall
23 be paid to, a member of the Commission, the Director, or employee of the Commission,
24 or to any spouse, parent, or child living in the same household as a person disqualified
25 by this subsection.

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

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

38 (l) All prizes are subject to the State income tax.

39 **"§ 18C-133. Lottery game-play rules and winner validation procedures.**

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

43 (b) All players acknowledge that the determination of whether the player is a
44 winner is subject to the game-play rules and the winner validation procedures and

1 confidential validation tests established by the Commission for the particular lottery
2 game involved.

3 **"§ 18C-134. Setoff for debt collection against lottery prizes.**

4 (a) Purpose. – The Commission must establish a debt set-off program by which
5 lottery prize payments may be used to satisfy a debt owed or collected by a claimant
6 agency that is at least fifty dollars (\$50.00). The collection remedy under this section is
7 in addition to and not in substitution for any other remedy available by law.

8 (b) Notification. – A claimant agency seeking to attempt collection of a debt
9 through setoff must notify the Commission in writing and supply information necessary
10 to identify the debtor. The claimant agency may include with the notification the date, if
11 any, that the debt is expected to expire. The agency must notify the Commission in
12 writing when a debt has been paid or is no longer owed the agency. A local agency may
13 not submit a debt for collection under this section until it has met the requirements of
14 G.S. 105A-5, and it must submit the debt to the Commission through one of the entities
15 listed in G.S. 105A-3(b1).

16 (c) Setoff. – The Commission must match the information submitted by the
17 claimant agency with persons who are entitled to a State lottery prize payment in an
18 amount of six hundred dollars (\$600.00) or more. If there is a match, the Commission
19 must set off the debt against the lottery winnings to which the debtor would otherwise
20 be entitled. When there are multiple claims to be set off, the priority in claims to set off
21 is the same as provided in G.S. 105A-12. The winnings that exceed the amount of the
22 debt, if any, must be paid to that person. The Commission must mail the debtor written
23 notice that the setoff has occurred and must transfer the net proceeds collected to the
24 claimant agency. If the claimant agency is a State agency, that agency must credit the
25 amount received to a nonreverting trust account and must follow the procedure set in
26 G.S. 105A-8.

27 (d) Collection Assistance Fee. – To recover the costs incurred by the
28 Commission in collecting debts under this section, a collection assistance fee of five
29 dollars (\$5.00) may be imposed on each debt collected through setoff. The Commission
30 must collect this fee as part of the debt and retain it. To recover the costs incurred by
31 local agencies in submitting debts for collection under this section, a collection
32 assistance fee of fifteen dollars (\$15.00) may be imposed on each local agency debt
33 collected through setoff. The Commission must collect this fee as part of the debt and
34 remit it to the clearinghouse that submitted the debt. The collection assistance fees do
35 not apply to child support debts. If the Commission is able to collect only part of a debt
36 through setoff, the Commission's collection assistance fee has priority over the local
37 collection assistance fee and over the remainder of the debt. The local collection
38 assistance fee has priority over the remainder of the debt.

39 (e) Confidentiality. – Notwithstanding any confidentiality statute of a claimant
40 agency, the exchange of information among the Commission, the claimant agency, the
41 organization submitting debts on behalf of a local agency, and the debtor necessary to
42 implement this section is lawful. The information an agency or organization obtains
43 from the Commission in accordance with the exemption in this subsection may be used

1 by the agency or organization only in the pursuit of its debt collection duties and
2 practices.

3 (f) Definitions. – The definitions in G.S. 105A-2 apply in this section.

4 **"§§ 18C-135 through 18C-139: Reserved for future codification purposes.**

5 "Article 5.

6 "Lottery Game Retailers.

7 **"§ 18C-140. Contracting with lottery game retailers.**

8 The Commission may contract with lottery game retailers to sell tickets or shares for
9 lottery games upon such terms and conditions as it considers appropriate. The contract
10 entered into between the Commission and the lottery game retailer shall be considered a
11 permit for purposes of Chapter 18B of the General Statutes. No contract to act as a
12 lottery game retailer is assignable or transferable. All contracts with lottery game
13 retailers shall provide that the Director may terminate the contract if the lottery game
14 retailer violates a provision of this Chapter.

15 **"§ 18C-141. Selection of lottery game retailers.**

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

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

- 20 (1) A natural person under 21 years of age. This minimum age shall not
21 prohibit employees of a lottery game retailer who are under 21 years of
22 age from selling lottery tickets or shares during their employment.
- 23 (2) A person who would be engaged exclusively in the business of selling
24 lottery tickets or shares or operating electronic computer terminals or
25 other devices solely for entertainment.
- 26 (3) A person who is not current in filing all applicable tax returns to the
27 State and in payment of all taxes, interest, and penalties owed to the
28 State, excluding items under formal appeal under applicable statutes.
29 Upon request of the Director, the Department of Revenue shall provide
30 this information about a specific person to the Commission.
- 31 (4) A person who resides in the same household as a member of the
32 Commission, the Director, or any other employee of the Commission.

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

36 **"§ 18C-142. Compensation for lottery game retailers.**

37 The amount of compensation paid to lottery game retailers for their sales of lottery
38 tickets or shares shall be seven percent (7%) of the retail price of the tickets or shares
39 sold for each lottery game. The Commission shall require submission of reports and
40 remission of lottery revenues to the Commission on a timely basis.

41 **"§ 18C-143. Responsibilities of lottery game retailers.**

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

1 (b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer
2 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
3 tickets or shares. The Commission shall issue a certificate of authority to each lottery
4 game retailer for purposes of display for each retail outlet owned or operated by the
5 lottery game retailer. No certificate is assignable or transferable.

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

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

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

18 (e) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make
19 any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or
20 service, excluding food and beverages having an aggregate value not exceeding one
21 hundred dollars (\$100.00) in any calendar year, to the Director, to any member or
22 employee of the Commission, or to any member of the immediate family residing in the
23 same household as one of these individuals.

24 **"§§ 18C-144 through 18C-149: Reserved for future codification purposes.**

25 "Article 6.

26 "Lottery Vendors and Lottery Contractors.

27 **"§ 18C-150. Procurements.**

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

31 **"§ 18C-151. Contracts.**

32 (a) Except as otherwise specifically provided in this subsection for contracts for
33 the purchase of services, apparatus, supplies, materials, or equipment. Article 8 of
34 Chapter 143 of the General Statutes, including the provisions relating to minority
35 participation goals, shall apply to contracts entered into by the Commission. If this
36 subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection
37 shall control. In recognition of the particularly sensitive nature of the Lottery and the
38 competence, quality of product, experience, and timeliness, fairness, and integrity in the
39 operation and administration of the Lottery and maximization of the objective of raising
40 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
41 equipment requiring an estimated aggregate expenditure of ninety thousand dollars
42 (\$90,000) or more may be awarded by the Commission only after the following have
43 occurred:

- (1) The Commission has invited proposals to be submitted by advertisement by electronic means or advertisement in a newspaper having general circulation in the State of North Carolina and containing the following information:
a. The time and place where a complete description of the services, apparatus, supplies, materials, or equipment may be had.
b. The time and place for opening of the proposals.
c. A statement reserving to the Commission the right to reject any or all proposals.
(2) Proposals may be rejected for any reason determined by the Commission to be in the best interest of the Lottery.
(3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under G.S. 114-19.6.
(4) The Commission has complied with the minority participation goals of G.S. 143-128.2 and G.S. 143-128.3.
(5) The Commission may not award a contract to a lottery vendor who has been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract, or employs officers and directors who have been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract.
(6) The Commission shall investigate and compare the overall business practices, ethical reputation, criminal record, civil litigation, competence, integrity, background, and regulatory compliance record of lottery vendors.
(7) The Commission may engage an independent firm experienced in evaluating government procurement proposals to aid in evaluating proposals for a major procurement.
(8) The Commission shall award the contract to the responsible lottery vendor who submits the best proposal that maximizes the benefits to the State.
(b) Upon the completion of the bidding process, a contract may be awarded to a lottery contractor with whom the Commission has previously contracted for the same purposes.
(c) Before a contract is awarded, the Director shall conduct a thorough background investigation of all of the following:
(1) The vendor to whom the contract is to be awarded.
(2) Any parent or subsidiary corporation of the vendor to whom the contract is to be awarded.

- (3) All shareholders with a five percent (5%) or more interest in the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded.
(4) All officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded.
(d) The Commission may terminate the contract, without penalty, of a lottery contractor that fails to comply with the Commission's instruction to implement the recommendations of the State Auditor or an independent auditor in an audit conducted of Lottery security or operations.
(e) After entering into a contract with a lottery contractor, the Commission shall require the lottery contractor to periodically update the information required to be disclosed under G.S. 18C-149. Any contract with a lottery contractor who does not periodically update the required disclosures may be terminated by the Commission.
(f) No lottery system vendor nor any applicant for a contract may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any member or employee of the corporation, or a member of the immediate family residing in the same household as any of these individuals.
§ 18C-152. Investigation of lottery vendors.
(a) Lottery vendors shall cooperate with the Director in completing any investigation required under G.S. 18C-151(c), including any appropriate investigation authorizations needed to facilitate these investigations.
(b) The Commission shall adopt rules that provide for disclosures of information required to be disclosed under subsection (c) of this section by lottery vendors to ensure that the vendors provide all the information necessary to allow for a full and complete evaluation by the Director and Commission of the competence, integrity, background, and character of the lottery vendors. Information shall be disclosed for the following:
(1) If the vendor is a corporation, the officers, directors, and each stockholder in that corporation; however, in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially five percent (5%) or more of the securities need be disclosed.
(2) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust.
(3) If the vendor is an association, the members, officers, and directors.
(4) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.
(5) For any vendor, any person who can exercise control or authority, or both, on behalf of the vendor.
(c) For purposes of this subsection, the term "vendor" shall include the vendor and each of the persons applicable under subsection (b) of this section. At a minimum, the vendor required to disclose information for a thorough background investigation under G.S. 18C-151 shall do all of the following:

- (1) Disclose the vendor's name, phone number, and address.
(2) Disclose all the states and jurisdictions in which the vendor does business and the nature of the business for each state or jurisdiction.
(3) Disclose all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including lottery goods and services, and the nature of the goods or services involved for each state or jurisdiction.
(4) Disclose all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license or permit of any kind or had fines or penalties assessed on a license, permit, contract, or operation and the disposition of such in each such state or jurisdiction. If any lottery or gaming license, permit, or contract has been revoked or has not been renewed or any lottery or gaming license, permit, or application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive that license shall be disclosed.
(5) Disclose the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court of the vendor for any felony or any other criminal offense other than a minor traffic violation.
(6) Disclose the details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor.
(7) If at least twenty-five percent (25%) of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.
(8) Make any additional disclosures and information the Commission determines to be appropriate for the contract involved.
(d) All documents compiled by the Director in conducting the investigation of the lottery vendors shall be held as confidential information under Chapter 132 of the General Statutes.
§§ 18C-153 through 18C-159: Reserved for future codification purposes.
Article 7.
North Carolina State Lottery Fund.
§ 18C-160. North Carolina State Lottery Fund.
An enterprise fund, to be known as the North Carolina State Lottery Fund, is created within the State treasury. The North Carolina State Lottery Fund is appropriated to the Commission and may be expended without further action of the General Assembly for the purposes of operating the Commission and the lottery games.
§ 18C-161. Types of income to the North Carolina State Lottery Fund.
The following revenues shall be deposited in the North Carolina State Lottery Fund:
(1) All proceeds from the sale of lottery tickets or shares.

- (2) The funds for initial start-up costs provided by the State
(3) All other funds credited or appropriated to the Commission from any source.
(4) Interest earned by the North Carolina State Lottery Fund.
§ 18C-162. Allocation of revenues.
(a) To the extent practicable, the Commission shall allocate revenues to the North Carolina State Lottery Fund in the following manner:
(1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
(2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.
(3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed one percent (1%) of the total annual revenues.
(4) No more than seven percent (7%) of the total annual revenues, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers.
(b) To the extent that the expenses of the Commission are less than eight percent (8%) of total annual revenues, the Commission may allocate any surplus funds:
(1) To increase prize payments; or
(2) To the benefit of the public purposes as described in this Chapter.
(c) Unclaimed prize money shall be held separate and apart from the other revenues and allocated as follows:
(1) Fifty percent (50%) to enhance prizes under subdivision (a)(1) of this section.
(2) Fifty percent (50%) to the Education Lottery Fund to be allocated in accordance with G.S. 18C-164(c).
§ 18C-163. Expenses of the Lottery.
Expenses of the Lottery may include any of the following:
(1) The costs incurred in operating and administering the Commission, including initial start-up costs.
(2) The costs resulting from any contracts entered into for the purchase or lease of goods or services required by the Commission.
(3) A transfer of one million dollars (\$1,000,000) annually to the Department of Health and Human Services for gambling addiction education and treatment programs.
(4) The costs of supplies, materials, tickets, independent studies and audits, data transmission, advertising, promotion, incentives, public relations, communications, bonding for lottery game retailers, printing, and distribution of tickets and shares.
(5) The costs of reimbursing other governmental entities for services provided to the Commission.

(6) The costs for any other goods and services needed to accomplish the purposes of this Chapter.
§ 18C-164. Transfer of net revenues.
(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred periodically to the Education Lottery Fund, which shall be created in the State treasury.
(b) From the Education Lottery Fund, the Commission shall transfer a sum equal to five percent (5%) of the net revenue of the prior year to the Education Lottery Reserve Fund. A special revenue fund for this purpose shall be established in the State treasury to be known as the Education Lottery Reserve Fund, and that fund shall be capped at fifty million dollars (\$50,000,000). Monies in the Education Lottery Reserve Fund may be appropriated only as provided in subsection (e) of this section.
(c) The Commission shall distribute the remaining net revenue of the Education Lottery Fund as follows, in the following manner:
(1) A sum equal to fifty percent (50%) to support reduction of class size in early grades to class size allotments not exceeding 1:18 in order to eliminate achievement gaps and to support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.
(2) A sum equal to forty percent (40%) to the Public School Building Capital Fund in accordance with G.S. 115C-546.2.
(3) A sum equal to ten percent (10%) to the State Educational Assistance Authority to fund college and university scholarships in accordance with Article 35A of Chapter 115C of the General Statutes.
(d) Of the sums transferred under subsection (c) of this section, the General Assembly shall appropriate the funds annually based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the North Carolina General Assembly.
(e) If the actual net revenues are less than the appropriation for that given year, then the Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal the appropriation by the General Assembly. If the monies available in the Education Lottery Reserve Fund are insufficient to reach a full appropriation, the Governor shall transfer monies in order of priority, to the following:
(1) To support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.
(2) To reduce class size.
(3) To provide financial aid for needy students to attend college.

(4) Matriculated status. - Being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at an eligible postsecondary institution.
(5) Scholarship. - A scholarship for education awarded under this Article.
(6) Title IV. - Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070, et seq.
§ 115C-499.2. Eligibility requirements for a scholarship.
In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible postsecondary institution must meet all of the following requirements:
(1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed five thousand dollars (\$5,000).
(2) The student must meet all other eligibility requirements for the federal Pell Grant, with the exception of the expected family contribution.
(3) The student must qualify as a legal resident of North Carolina and as a resident for tuition purposes in accordance with definitions of residency that may from time to time be adopted by the Board of Governors and published in the residency manual of the Board of Governors.
(4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible postsecondary institution.
(5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible postsecondary institution in which the student is enrolled.
(6) A student may not receive a scholarship under this Article for more than four full academic years.
§ 115C-499.3. Scholarship amounts; amounts dependent on net income available.
(a) Subject to the amount of net income available under Chapter 18C of the General Statutes, a scholarship awarded under this Article to a student at an eligible postsecondary institution shall be based upon the enrollment status and expected family contribution of the student and shall not exceed four thousand dollars (\$4,000) per academic year, including any federal Pell Grant, to be used for the costs of attendance as defined for federal Title IV programs.
(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the amount of net income available under Chapter 18C of the General Statutes. If the net income available is not sufficient to fully fund the

(4) To the Public School Building Capital Fund to be spent in accordance with this section.
(f) If the actual net revenues exceed the amounts appropriated in that fiscal year, the excess net revenues shall remain in the Education Lottery Fund, and then be transferred as follows:
(1) Fifty percent (50%) to the Public School Building Capital Fund to be spent in accordance with this section.
(2) Fifty percent (50%) to the State Educational Assistance Authority to be spent in accordance with this section.
§§ 18C-165 through 18C-169: Reserved for future codification purposes.
Article 8.
Miscellaneous.
§ 18C-170. Preemption of local regulation.
A county or municipality shall not enact any ordinance or regulation relating to the Lottery, and this Chapter preempts all existing county or ordinances or regulations that would impose additional restrictions or requirements in the operation of the Lottery. To the extent that this Chapter conflicts with any local act, this Chapter prevails to the extent of the conflict.
§ 18C-171. Lawful activity.
Other than this Chapter, any other public or local law, ordinance, or regulation providing any penalty, restriction, regulation, or prohibition for the manufacture, transportation, storage, distribution, advertising, possession, or sale of any lottery tickets or shares, or for the operation of any lottery game shall not apply to the operation of the Commission or lottery games established by this Chapter where the penalty, restriction, regulation, or prohibition applies only to the Lottery as operated by the North Carolina State Lottery Commission.
§§ 18C-172 through 18C-179: Reserved for future codification purposes.
SECTION 2. Chapter 115C of the General Statutes is amended by adding a new Article to read:
Article 35A.
College Scholarships.
§ 115C-499.1. Definitions.
The following definitions apply to this Article:
(1) Academic year. - A period of time in which a student is expected to complete the equivalent of at least two semesters' or three quarters' academic work.
(2) Authority. - The State Education Assistance Authority created by Article 23 of Chapter 116 of the General Statutes.
(3) Eligible postsecondary institution. - A school that is:
a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4);
b. A community college as defined in G.S. 115D-2(2); or
c. A nonpublic postsecondary institution as defined in G.S. 116-22(1) or 116-43.5(a)(1).

scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive the same scholarship amount.
(c) The minimum award of a scholarship under this Article shall be one hundred dollars (\$100.00).
§ 115C-499.4. Scholarship administration; reporting requirements.
(a) The scholarships provided for in this Article shall be administered by the Authority under rules adopted by the Authority in accordance with the provisions of this Article.
(b) The Authority shall report no later than June 1, 2008, and annually thereafter to the Joint Legislative Education Oversight Committee. The report shall contain, for the previous academic year, the amount of scholarship and grant money disbursed, the number of students eligible for the funds, the number of eligible students receiving the funds, and a breakdown of the eligible postsecondary institutions that received the funds.
(c) The Authority may use up to one and one-half percent (1.5%) of the funds transferred in accordance with Chapter 18C of the General Statutes for administrative purposes.
(d) Scholarship funds unexpended shall remain available for future scholarships to be awarded under this Article.
SECTION 3.(a) G.S. 14-289 reads as rewritten:
§ 14-289. Advertising lotteries.
Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if anyone by writing or printing or by circular or letter or in any other way, advertises or publishes an account of a lottery, whether within or without this State, stating how, when or where the same is to be or has been drawn, or what are the prizes therein or any of them, or the price of a ticket or any share or interest therein, or where or how it may be obtained, he shall be guilty of a Class 2 misdemeanor. News medium as defined in G.S. 8-53.11 shall be exempt from this section provided the publishing is in connection with a lawful activity of the news medium.
SECTION 3.(b) G.S. 14-290 reads as rewritten:
§ 14-290. Dealing in lotteries.
Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot, carry on, promote, make or draw, publicly or privately, a lottery, by whatever name, style or title the same may be denominated or known; or if any person shall, by such way and means, expose or set to sale any house, real estate, goods, chattels, cash, written evidence of debt, certificates of claims or any other thing of value whatsoever, every person so offending shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed two thousand dollars (\$2,000). Any person who engages in disposing of any species of property whatsoever, including money and evidences of debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps, seals on containers, other devices or certificates sold for that purpose, shall be held

1 liable to prosecution under this section. Any person who shall have in his possession
2 any tickets, certificates or orders used in the operation of any lottery shall be held liable
3 under this section, and the mere possession of such tickets shall be prima facie evidence
4 of the violation of this section. This section shall not apply to the possession of a lottery
5 ticket or share for a lottery game being lawfully conducted in another state."

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

7 "§ 14-291. Selling lottery tickets and acting as agent for lotteries.

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

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

15 "§ 14-291.1. Selling 'numbers' tickets; possession prima facie evidence of violation.

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

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

27 "§ 14-292. Gambling.

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

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

35 "§ 14-293. Allowing gambling in houses of public entertainment; penalty.

36 Except as provided in Chapter 18C of the General Statutes, if any keeper of an
37 ordinary or other house of entertainment, or of a house wherein alcoholic beverages are
38 retailed, shall knowingly suffer any game, at which money or property, or anything of
39 value, is bet, whether the same be in stake or not, to be played in any such house, or in
40 any part of the premises occupied therewith; or shall furnish persons so playing or
41 betting either on said premises or elsewhere with drink or other thing for their comfort
42 or subsistence during the time of play, he shall be guilty of a Class 2 misdemeanor. Any
43 person who shall be convicted under this section shall, upon such conviction, forfeit his
44 license to do any of the businesses mentioned in this section, and shall be forever

1 debarred from doing any of such businesses in this State. The court shall embody in its
2 judgment that such person has forfeited his license, and no board of county
3 commissioners, board of town commissioners or board of aldermen shall thereafter have
4 power or authority to grant to such convicted person or his agent a license to do any of
5 the businesses mentioned herein."

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

7 "§ 14-299. Property exhibited by gamblers to be seized; disposition of same.

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

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

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

26 ...

27 (23) The North Carolina State Lottery Commission."

28 SECTION 6. Part 2 of Article 4 of Chapter 114 is amended by adding a new

29 section to read:

30 "§ 114-19.16. Criminal record checks for the North Carolina State Lottery

31 Commission and its Director. The Department of Justice may provide to the
32 North Carolina State Lottery Commission and to its Director from any State and
33 National Repositories of Criminal Histories the criminal history of any prospective
34 employee of the Commission and any prospective lottery vendor. The North Carolina
35 State Lottery Commission or its Director shall provide to the Department of Justice,
36 along with the request, the fingerprints of the prospective employee of the Commission,
37 or of the prospective lottery vendor, a form signed by the prospective employee of the
38 Commission, or of the prospective vendor consenting to the criminal record check and
39 use of fingerprints and other identifying information required by the State and National
40 Repositories, and any additional information required by the Department of Justice. The
41 fingerprints of the prospective employee of the Commission, or prospective lottery
42 vendor, shall be forwarded to the State Bureau of Investigation for a search of the
43 State's criminal history record file, and the State Bureau of Investigation shall forward a
44 set of fingerprints to the Federal Bureau of Investigation for a national criminal history

1 record check. The North Carolina State Lottery Commission and its Director shall remit
2 any fingerprint information retained by the Commission to alcohol law enforcement
3 agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep
4 all information obtained pursuant to this section confidential. The Department of Justice
5 shall charge a reasonable fee only for conducting the checks of the national criminal
6 history records authorized by this section.

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

8 "(f) A lottery prize that remains unclaimed after the period set by the North
9 Carolina State Lottery Commission for claiming those prizes shall not constitute
10 abandoned property."

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

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

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

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

- 18 (1) Constitutional officers of the State.
19 (2) Officers and employees of the Judicial Department.
20 (3) Officers and employees of the General Assembly.
21 (4) Members of boards, committees, commissions, councils, and advisory
22 councils compensated on a per diem basis.
23 (5) Officials or employees whose salaries are fixed by the General
24 Assembly, or by the Governor, or by the Governor and Council of
25 State, or by the Governor subject to the approval of the Council of
26 State.
27 (6) Employees of the Office of the Governor that the Governor, at any
28 time, in the Governor's discretion, exempts from the application of the
29 provisions of this Chapter by means of a letter to the State Personnel
30 Director designating these employees.
31 (7) Employees of the Office of the Lieutenant Governor, that the
32 Lieutenant Governor, at any time, in the Lieutenant Governor's
33 discretion, exempts from the application of the provisions of this
34 Chapter by means of a letter to the State Personnel Director
35 designating these employees.
36 (8) Instructional and research staff, physicians, and dentists of The
37 University of North Carolina.
38 (9) Employees whose salaries are fixed under the authority vested in the
39 Board of Governors of The University of North Carolina by the
40 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
41 (10) Repealed by Session Laws 1991, c. 84, s. 1.
42 (11) North Carolina School of Science and Mathematics' employees whose
43 salaries are fixed in accordance with the provisions of
44 G.S. 116-235(c)(1) and G.S. 116-235(c)(2).

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

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

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

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

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

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

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

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

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

(22) Employees of the North Carolina Turnpike Authority.

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

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

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

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

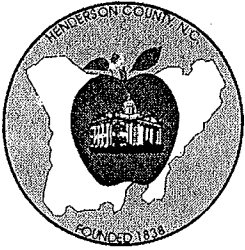
- (1) The Teachers' and State Employees' Retirement System,
(2) The Consolidated Judicial Retirement System,
(3) The Teachers' and State Employees' Hospital and Medical Insurance
Plan,
(4) The General Assembly Medical and Hospital Care Plan,
(5) The Disability Salary Continuation Plan,
(6) The Firemen's and Rescue Workers' Pension Fund,
(7) The Local Governmental Employees' Retirement System,
(8) The Legislative Retirement System,
(9) The Escheat Fund,
(10) The Legislative Retirement Fund,
(11) The State Education Assistance Authority,
(12) The State Property Fire Insurance Fund,
(13) The Stock Workers' Compensation Fund,
(14) The Mutual Workers' Compensation Fund,
(15) The Public School Insurance Fund,
(16) The Liability Insurance Trust Fund,
(17) Trust funds of The University of North Carolina and its constituent
institutions deposited with the State Treasurer pursuant to
G.S. 116-36.1.

1 (17a) North Carolina Veterans Home Trust Fund,
2 (17b) North Carolina National Guard Pension Fund,
3 (17c) Retiree Health Premium Reserve Account,
4 (17d) The Election Fund,
5 (17e) The North Carolina State Lottery Fund, and
6 (18) Any other special fund created by or pursuant to law for purposes
7 other than meeting appropriations made pursuant to the Executive
8 Budget Act."
9 SECTION 10.1(a) G.S. 18B-101 is amended by adding a new subdivision to
10 read:
11 "(8a) 'Lottery law' or 'lottery laws' means any provision of Chapter 18C of
12 the General Statutes and the rules issued by the Lottery Commission
13 under the authority of Chapter 18C of the General Statutes."
14 SECTION 10.1(b) G.S. 18B-500(b) reads as rewritten:
15 "(b) Subject Matter Jurisdiction. - After taking the oath prescribed for a peace
16 officer, an alcohol law-enforcement agent shall have authority to arrest and take other
17 investigatory and enforcement actions for any criminal offense. The primary
18 responsibility of an agent shall be enforcement of the ABC laws, lottery laws, and
19 Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may
20 perform any law-enforcement duty assigned by the Secretary of Crime Control and
21 Public Safety or the Governor."
22 SECTION 10.1(c) G.S. 18B-500(d) reads as rewritten:
23 "(d) Service of Commission Orders. - Alcohol law-enforcement agents may serve
24 and execute notices, orders, or demands issued by the Alcoholic Beverage Control
25 Commission or the North Carolina State Lottery Commission for the surrender of
26 permits or relating to any administrative proceeding. While serving and executing such
27 notices, orders, or demands, alcohol law-enforcement agents shall have all the power
28 and authority possessed by law-enforcement officers when executing an arrest warrant."
29 SECTION 10.2(a) Effective for taxable years beginning on or after January
30 1, 2005, Article 4A of Chapter 105 of the General Statutes is amended by adding a new
31 section to read:
32 "§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.
33 The North Carolina State Lottery Commission, established by Chapter 18C of the
34 General Statutes, must deduct and withhold State income taxes from the payment of
35 winnings that are reportable to the Internal Revenue Service under section 3406 of the
36 Code. The amount of taxes to be withheld is seven percent (7%) of the winnings. The
37 Commission must file a return and pay the withheld taxes in the time and manner
38 required under G.S. 105-163.6 as if the winnings were wages. The taxes the
39 Commission withholds are held in trust for the Secretary."
40 SECTION 10.2(b) G.S. 105-259(b) is amended by adding a new subdivision
41 to read:
42 "(b) Disclosure Prohibited. - An officer, an employee, or an agent of the State
43 who has access to tax information in the course of service to or employment by the State

1 may not disclose the information to any other person unless the disclosure is made for
2 one of the following purposes:
3 ...
4 (33) To provide to the North Carolina State Lottery Commission the
5 information required under G.S. 18C-141."
6 SECTION 10.3. G.S. 105-134 reads as rewritten:
7 "§ 105-134. Purpose.
8 The general purpose of this Part is to impose a tax for the use of the State
9 government upon the taxable income collectible annually:
10 (1) Of every resident of this State.
11 (2) Of every nonresident individual deriving income from North Carolina sources
12 attributable to the ownership of any interest in real or tangible personal property in this
13 State, deriving income from a business, trade, profession, or occupation carried on in
14 this State, or deriving income from gambling activities in this State."
15 SECTION 10.4 Effective for taxable years beginning on or after January 1,
16 2005, G.S. 105-134.5(b) reads as rewritten:
17 "(b) Nonresidents. - For nonresident individuals, the term "North Carolina taxable
18 income" means the taxpayer's taxable income as determined under the Code, adjusted as
19 provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the
20 denominator of which is the taxpayer's gross income as determined under the Code,
21 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which
22 is the amount of that gross income, as adjusted, that is derived from North Carolina
23 sources and is attributable to the ownership of any interest in real or tangible personal
24 property in this State, is derived from a business, trade, profession, or occupation
25 carried on in this State, or is derived from gambling activities in this State."
26 SECTION 11.1. G.S. 150B-1(c) reads as rewritten:
27 "(c) Full Exemptions. - This Chapter applies to every agency except:
28 (1) The North Carolina National Guard in exercising its court-martial
29 jurisdiction.
30 (2) The Department of Health and Human Services in exercising its
31 authority over the Camp Butner reservation granted in Article 6 of
32 Chapter 122C of the General Statutes.
33 (3) The Utilities Commission.
34 (4) The Industrial Commission.
35 (5) The Employment Security Commission.
36 (6) The State Board of Elections in administering the HAVA
37 Administrative Complaint Procedure of Article 8A of Chapter 163 of
38 the General Statutes.
39 (7) The North Carolina State Lottery."
40 SECTION 12. The first security audit required under G.S. 18C-123(a) shall
41 be conducted at the beginning of the first calendar year after the effective date of this
42 act. The first audit required under G.S. 18C-123(d) shall be conducted at the end of the
43 first fiscal year after the effective date of this act.

1 SECTION 13. The Department of Health and Human Services shall study
2 the effects of the establishment and operation of the North Carolina State Lottery on the
3 incidence of gambling addiction in this State. The Department shall report the results of
4 its study, including any proposed legislation, to the Joint Legislative Health Care
5 Oversight Committee, the Senate Appropriations Committee on Health and Human
6 Services, the House of Representatives Appropriations Subcommittee on Health and
7 Human Services, and the Fiscal Research Division not later than January 1, 2007.
8 SECTION 14. Nothing in this act shall be construed to obligate the General
9 Assembly to appropriate funds to implement this act.
10 SECTION 15. The State Treasurer shall lend to the North Carolina State
11 Lottery Commission, at a rate of interest comparable to short-term rates in the private
12 capital market and with repayment terms satisfactory to both parties, sufficient funds to
13 cover initial operating expenses of the Commission, except that the total amount
14 borrowed by the Commission shall not exceed ten million dollars (\$10,000,000). The
15 borrowed funds shall be deposited in the North Carolina State Lottery Fund and shall be
16 available for expenditure for the purposes set forth in this act without further action by
17 the General Assembly. The Commission shall repay any funds lent to it pursuant to this
18 section within twenty-four months after the effective date of this act.
19 SECTION 15.1. Notwithstanding G.S. 18C-164, as enacted by Section 1 of
20 this act, all net revenues for fiscal year 2005-2006 shall be transferred to the Education
21 Lottery Reserve Fund.
22 SECTION 15.2. G.S. 115C-546.2 is amended by adding a new subsection to
23 read:
24 "(d) Monies transferred into the Fund in accordance with Chapter 18C of the
25 General Statutes shall be allocated for capital projects for school construction projects
26 as follows:
27 (1) A sum equal to sixty-five percent (65%) of those monies transferred in
28 accordance with G.S. 18C-164 shall be allocated on a per average
29 daily membership basis according to the average daily membership for
30 the budget year as determined and certified by the State Board of
31 Education.
32 (2) A sum equal to thirty-five percent (35%) of those monies transferred in
33 accordance with G.S. 18C-164 shall be allocated to those local school
34 administrative units located in whole or part in counties in which the
35 effective county tax rate as a percentage of the effective State average
36 tax rate is greater than one hundred percent (100%), with the following
37 definitions applying to this subdivision:
38 a. "Effective county tax rate" means the actual county tax rate
39 multiplied by a three-year weighted average of the most recent
40 annual sales assessment ratio studies.
41 b. "State average effective tax rate" means the average effective
42 county tax rates for all counties.

1 c. "Sales assessment ratio studies" means sales assessment ratio
2 studies performed by the Department of Revenue under
3 G.S. 105-289(h).
4 (3) No county shall have to provide matching funds required under
5 subsection (c) of this section.
6 (4) A county may use monies in this Fund to pay for school construction
7 projects in local school administrative units and to retire indebtedness
8 incurred for school construction projects incurred on or after January
9 1, 2003.
10 (5) A county may not use monies in this Fund to pay for school technology
11 needs."
12 SECTION 15.3. Notwithstanding G.S. 18C-162(c), the General Assembly
13 shall transfer the unclaimed prize money from the North Carolina State Lottery Fund to
14 the Escheat Fund in an amount equal to the principal transferred from the Escheat Fund
15 for scholarships in fiscal years 2003-2004, 2004-2005, 2005-2006, and 2006-2007 until
16 the Escheat Fund is repaid for any amounts of principal appropriated in those fiscal
17 years, if any.
18 SECTION 16. Except as otherwise provided in this act, it is effective when
19 it becomes law.



HENDERSON COUNTY
OFFICE OF THE COUNTY MANAGER

100 NORTH KING STREET
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MEMO

TO: Board of Commissioners

FROM: David E. Nicholson
County Manager

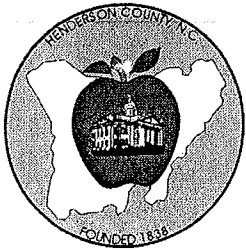
DATE: August 18, 2003

SUBJECT: Radio Signal and HCTV

I am writing to express my thoughts to the Board concerning the use of a radio signal on Henderson County's cable channel. This item is scheduled for your August 20, 2003 meeting.

While developing the cable channel, I was approached by representatives of WHKP who expressed their interest in assisting Henderson County with the purchase and operation of a character generator. We chose not to accept their offer. However, in 1999 they approached the Board requesting that their signal be used. The Board approved allowing WHKP to be broadcast on the channel when we were not utilizing it for programming. At this time, WTZQ was just a simulcast of a radio station in Asheville.

We have been approached by the owner of WTZQ expressing his interest in broadcasting his signal on the cable channel. He has stated that his station is now locally operated and wishes the same cable coverage that we have provided to WHKP. Following the request from WTZQ last year, I spoke to representatives of both stations and notified them of our desire to fully utilize the cable channel for our use in the long term. Following this year's budget deliberations, I held a meeting with representatives of the two radio stations and Mediacom. I expressed my desire that both stations share the cable channel with the understanding that it is still our goal to fully utilize this channel. Both stations stated that it would not be practical to share the channel. WHKP stated that they had been on local cable since they started cable in our community. WTZQ stated that Henderson County had allowed WHKP to utilize the channel for the past years and since they were also a locally operated station that they should be able to use it for the next several years. I stated that I believed the only alternative would be to use one of Mediacom's music channels for background music for the character generator as offered at no cost to the County by Mediacom.



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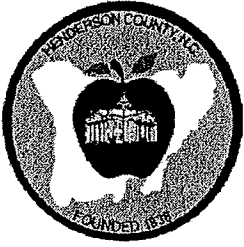
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We have utilized both stations to inform the community of events and emergencies during the time of the day that they locally broadcast (approximately 5:00 am to 6:00 pm). We also have the ability to override the entire cable system for emergencies.

As the Board knows, I have held discussions with Blue Ridge Community College concerning their use of the cable channel. I requested funding for this effort in the budget which was not approved. However in recent discussions with the College, they still wish to utilize the cable channel. Instead of a 'live' head-in and studio at the College, they are now planning to utilize the channel in the same manner as the County. They are discussing the purchase of three digital tape decks for their programming thus doubling our current programming capacity.

My recommendation to the Board is to use one of the music channels from Mediacom for background music when we are not using the channel for programming. I had hoped to work out some type of compromise between the two local radio stations. However, both stations stated that sharing the channel for their radio signals would not work. I do not believe that it is appropriate that the County get between two local companies trying to generate business. I am still planning to work towards fully utilizing the channel with programming from the County and the College. I would also hope that the municipalities would choose to use the channel in the future.

DENabm



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MEMO

TO: Board of Commissioners

FROM: David E. Nicholson
County Manager

A handwritten signature in black ink, appearing to read "David E. Nicholson".

DATE: September 6, 2005

SUBJECT: Radio/HCTV-11

At the last Board of Commissioners meeting, the Board discussed the issue of WHKP's radio signal on HCTV-11. There was some discussion of 'community criteria' in choosing to allow any radio station to use the cable channel. After speaking to staff, we came up with the following programming thoughts.

Important to County Government:
Emergency Information

Community Information:
Local news and weather
Local events
Public Service Announcements

As you can see, staff believes that it is important to have access to inform the community in the case of inclement weather or disasters. I have found that both radio stations welcomed my calls and visits during last year's storms. The other items are of interest to the community. However, I would just question if this is the County's role.

This Board discussed this issue on August 20, 2003. I have attached the memo that was a part of that agenda item. I would again echo my recommendation from that memo. As a follow up from that memo and from discussions during the Cable Franchise Renewal Advisory Committee, the issue of the head-in to the cable system is being discussed. This would allow the governmental channel as well as the proposed educational channel to greatly increase cable programming.

NO. COA04-1252

NORTH CAROLINA COURT OF APPEALS

Filed: 16 August 2005

THE KNIGHT PUBLISHING CO.,
d/b/a The Charlotte Observer,
Plaintiff-Appellee,

v.

Mecklenburg County
No. 04 CvS 547

THE CHARLOTTE-MECKLENBURG
HOSPITAL AUTHORITY d/b/a,
CAROLINAS HEALTHCARE SYSTEM,
Defendant-Appellant.

Appeal by defendant from order and judgment entered 2 August 2004 by Judge David S. Cayer in Superior Court, Mecklenburg County. Heard in the Court of Appeals 11 May 2005.

Brooks, Pierce, McLendon, Humphrey, & Leonard, L.L.P., by Mark J. Prak, Marcus W. Trathen and Charles E. Coble, for plaintiff-appellee.

Robinson, Bradshaw & Hinson, P.A., by Mark W. Merritt and Blake W. Thomas, for defendant-appellant.

Linwood L. Jones for North Carolina Hospital Association, amicus curiae.

McGEE, Judge.

The Charlotte-Mecklenburg Hospital Authority d/b/a, Carolinas Healthcare System (defendant) is a "public body and a body corporate and politic" organized and existing under the Hospital Authorities Act, N.C. Gen. Stat. § 131E-15 *et seq.* See N.C. Gen. Stat. § 131E-17(c) (2003). Knight Publishing Co., d/b/a *The Charlotte Observer* (plaintiff), sent a letter to defendant on 18 October 2002, requesting access to certain records of defendant

pursuant to the Public Records Act, N.C. Gen. Stat. § 132-1 et seq., and the Public Hospital Personnel Act, N.C. Gen. Stat. § 131E-257 et seq. Specifically, plaintiff sought (1) the "current compensation (in any form) currently paid to" seventeen of defendant's existing and former employees; (2) "records describing the last compensation to" such individuals if they were not currently being paid; (3) "[r]ecords describing the date and amount of the most recent increase or decrease in salary" for the seventeen individuals; (4) "[r]ecords describing any additional monetary or other benefits (including but not limited, to retirement benefits, severance package, or pension benefits) paid or promised to" three of the seventeen named individuals; and (5) "[d]ocuments relating to expense reimbursement requests" for these three individuals.

Ten days after receiving plaintiff's request for information, defendant sent a letter to plaintiff explaining that defendant was governed by N.C. Gen. Stat. § 131E-257.2, which defendant argued expressly limited to "current salary" the compensation information that a public hospital could release regarding its employees. Defendant thereby only provided plaintiff with: (1) the current salary paid to each current employee of defendant identified by plaintiff; (2) the last salary paid to each former employee of defendant requested by plaintiff; and (3) the dates and amounts of the most recent increase or decrease in salary for the identified individuals. Defendant stated in its letter that the additional information requested by plaintiff did not, "in the opinion of

Carolinas Health Care System, fall within the definition of 'salary.'"

Plaintiff took no further action until 12 January 2004, when plaintiff filed suit against defendant under the Public Records Act and the Public Hospital Personnel Act seeking production of the documents and information it had requested earlier. Plaintiff also sought a declaratory judgment that N.C.G.S. § 131E-257.2 "requires the disclosure of, among other personnel information, information concerning any retirement benefits or severance pay promised to or received by former . . . employees [of defendant]." Defendant filed its answer to plaintiff's complaint on 19 February 2004, and plaintiff moved for summary judgment on 26 May 2004.

In an order and judgment entered 2 August 2004, the trial court granted summary judgment in favor of plaintiff, concluding that the Public Hospital Personnel Act, when read *in pari materia* with the Public Records Act, did not cover the documents and information requested by plaintiff. The trial court ordered defendant to provide the requested personnel information and documents to plaintiff. Defendant filed and served notice of appeal on 4 August 2004 and moved the trial court to stay the proceedings pending appeal. The trial court denied defendant's motion on 16 August 2004. Our Court temporarily stayed the 2 August 2004 order and judgment on 18 August 2004 and granted defendant's writ of supersedeas on 31 August 2004.

A summary judgment should be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file,

together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." N.C. Gen. Stat. § 1A-1, Rule 56(c) (2003). A moving party "has the burden of establishing the lack of any triable issue of fact." *Kidd v. Early*, 289 N.C. 343, 352, 222 S.E.2d 392, 399 (1976). As our Supreme Court has stated:

The purpose of summary judgment can be summarized as being a device to bring litigation to an early decision on the merits without the delay and expense of a trial where it can be readily demonstrated that no material facts are in issue. Two types of cases are involved: (a) Those where a claim or defense is utterly baseless in fact, and (b) those where only a question of law on the indisputable facts is in controversy and it can be appropriately decided without full exposure of trial.

Kessing v. Mortgage Corp., 278 N.C. 523, 533, 180 S.E.2d 823, 829 (1971). In cases "[w]here there is no genuine issue as to the facts, the presence of important or difficult questions of law is no barrier to the granting of summary judgment." *Id.* at 534, 180 S.E.2d at 830.

In the present case, defendant does not argue that there are genuine issues of material fact for trial, nor has defendant assigned error on this ground. This is a proper case for summary judgment because a question of law, being the interpretation of N.C. Gen. Stat. § 131E-257.2 and its legal effect on the undisputed facts, was in controversy. See *Blades v. City of Raleigh*, 280 N.C. 531, 545, 187 S.E.2d 35, 43 (1972) (ruling summary judgment was proper where there was "no substantial controversy as to the facts[,] only as to the "legal significance of those facts").

While it is undisputed that the information requested from defendant by plaintiff constitutes public records under the Public Records Act, it is disputed whether the information requested is protected from disclosure under the Public Hospital Personnel Act. The specific issue before this Court is what compensation information regarding public hospital employees is a matter of public record.

Under the Public Records Act, the public generally has liberal access to public records. *Virmani v. Presbyterian Health Services Corp.*, 350 N.C. 449, 462, 515 S.E.2d 675, 685 (1999). "[I]n the absence of clear statutory exemption or exception, documents falling within the definition of 'public records' in the Public Records [Act] must be made available for public inspection." *News and Observer Publishing Co. v. Poole*, 330 N.C. 465, 486, 412 S.E.2d 7, 19 (1992); see also N.C. Gen. Stat. § 132.6 (2003) (providing for the inspection and examination of public records). "Public records" are defined as

all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.

N.C. Gen. Stat. § 132-1(a) (2003).

Defendant, in the present case, asserts that its personnel records, including the documents requested by plaintiff, are exempted from the Public Records Act by the Public Hospital

Personnel Act, and therefore the trial court erred in ordering defendant to produce the documents requested by plaintiff. The Public Hospital Personnel Act provides the following with regard to the privacy of public hospital employee personnel records:

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees and applicants for employment maintained by a public hospital are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the public hospital with respect to an employee and, by way of illustration but not limitation, relating to the employee's application, selection or nonselection, performance, promotions, demotions, transfers, suspensions and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes both current and former employees of a public hospital.

N.C. Gen. Stat. § 131E-257.2(a) (2003).

Defendant argues that the General Assembly intended the Public Hospital Personnel Act to be a statutory exception to the Public Records Act, thereby affording greater privacy protection to public hospitals' personnel records than to personnel records of other public entities. To determine a statute's purpose, we must first examine the statute's plain language. *State v. Hooper*, 358 N.C. 122, 125, 591 S.E.2d 514, 516 (2004). "'Where the language of a statute is clear and unambiguous, there is no room for judicial construction and the courts must construe the statute using its plain meaning.'" *Id.* (quoting *Burgess v. Your House of Raleigh*, 326 N.C. 205, 209, 388 S.E.2d 134, 136 (1990)). Defendant

correctly asserts that N.C.G.S. § 131E-257.2 clearly and unambiguously limits what and when information in the personnel records of public hospitals can be disclosed publicly, notwithstanding the Public Records Act.

The Public Hospital Personnel Act is a very specific statute regarding public hospitals. In the section providing for the privacy of public hospital employee personnel records, the statute explicitly provides that "personnel files of employees and applicants for employment maintained by a public hospital are subject to inspection and may be disclosed *only as provided by this section.*" N.C.G.S. § 131E-257.2(a) (emphasis added). The statute then broadly defines an employee's personnel file as consisting of "any information in any form gathered by the public hospital with respect to an employee *and*, by way of illustration but not limitation, *relating to* the employee's application, selection or nonselection, performance, promotions, demotions, transfers, suspensions and other disciplinary actions, evaluation forms, leave, salary, and termination of employment." *Id.* (emphasis added).

The plain language of the statute, especially the definition of "personnel file," is virtually identical to the plain language of N.C. Gen. Stat. § 126-22, and to the definition of "personnel file" included therein. See N.C. Gen. Stat. § 126-22 (2003). Our Supreme Court, in evaluating N.C.G.S. § 126-22, which provides for the privacy of state employee personnel records, concluded that the General Assembly intended for the personnel files of state

employees to be exempt from the Public Records Act. *News and Observer Publishing Co.*, 330 N.C. at 476, 412 S.E.2d at 14. Therefore, in the present case, like in *News and Observer Publishing Co.*, "[u]nder the plain meaning of the statutory language, any information satisfying the definition of 'personnel file' is excepted from the Public Records Law." *See id.*

Six types of information "with respect to each public hospital employee" listed in subsection (b) of N.C.G.S. § 131E-257.2 are a matter of public record:

- (1) Name.
- (2) Age.
- (3) Date of original employment.
- (4) Current position title, current salary, and the date and amount of the most recent increase or decrease in salary.
- (5) Date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification.
- (6) The office to which the employee is currently assigned.

N.C. Gen. Stat. § 131E-257.2(b) (2003). Subsection (c) of the statute provides that "[a]ll information contained in a public hospital employees's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only" in certain instances. N.C. Gen. Stat. § 131E-257.2(c) (2003). When read together, these subsections show that not all of the information or documents included in the personnel file of a public hospital employee is

public record. Rather, only the information¹ listed in section (b) is public record. Thus, with regard to a public hospital employee's compensation, only the employee's "current salary, and the date and amount of the [employee's] most recent increase or decrease in salary" are public records.

The determination that N.C.G.S. § 131E-257.2 is an exception to the Public Records Act, is supported by the plain language of additional statutes relating to health care facilities. First, the General Assembly explicitly provided that "[t]he purpose of [the Public Hospital Personnel Act] is to protect the privacy of the personnel records of public hospital employees[.]" N.C. Gen. Stat. § 131E-257(b) (2003). Second, in the Hospital Licensure Act, the General Assembly enacted a statute to address the confidentiality of personnel information, which provides: "the personnel files of employees or former employees, and the files of applicants for employment maintained by a public hospital as defined in G.S. 159-39 . . . are not public records as defined by Chapter 132 of the General Statutes." N.C. Gen. Stat. § 131E-97.1(a) (2003).

Plaintiff argues that the information it requested from defendant, such as "contract and payroll documents," is not included in the definition of "personnel file" in N.C.G.S. § 131E-257.2 because that information is not "gathered" by defendant. Plaintiff further asserts that by using the words "information

¹The plain language of subsection (b) of the statute requires only the *information* with regard to these six items relating to a public hospital employee be public record. The statute does not require specific *documents* to be disclosed except as provided in subsection (c).

. . . gathered by the public hospital," see N.C.G.S. § 131E-257.2(a), the General Assembly intended to exempt from the Public Records Act only "information actually collected by the public hospital about its own employees, such as internal performance reviews or evaluations." Plaintiff thus argues that "personnel file," as it is defined in N.C.G.S. § 131E-257.2, does not cover "contract and payroll documents[,] " which "relate to the expenditure of public monies and to the terms and conditions of public employment," but rather covers only performance information about public hospital employees "for use in making employment or disciplinary decisions."

Plaintiff does not cite any authority supporting its contention. Moreover, plaintiff's narrow definition of "gathered" is not consistent with rules of statutory construction. If a statute "contains a definition of a word used therein, that definition controls," but nothing else appearing, "words must be given their common and ordinary meaning[.]" *In re Clayton-Marcus Co.*, 286 N.C. 215, 219, 210 S.E.2d 199, 203 (1974). Since "gathered" is not defined by the Public Hospital Personnel Act, we must employ its common and ordinary meaning. "Gather" is defined as: (1) "[t]o cause to come together; convene[.]" (2) "[t]o accumulate gradually; amass[.]" (3) "[t]o harvest or pick: *gather flowers*[.]" or (4) "[t]o collect in one place; assemble." The American Heritage Dictionary 550 (2d college ed. 1991). Logically, a personnel file, in the "commonly understood definition of a personnel file," see *Elkin Tribune, Inc. v. Yadkin County Bd. of*

Commissioners, 331 N.C. 735, 737, 417 S.E.2d 465, 466 (1992), is comprised of information and documents, including employee contracts and payroll documents, which are amassed, accumulated, and collected into one place by the employer. Contrary to plaintiff's argument in this case, the documents it requested from defendant were "gathered" by defendant if the documents were amassed or assembled in an employee's personnel file.

The definition of "gathered" in the present case follows our Supreme Court's interpretation of "gathered" in *Elkin Tribune, Inc.* In addressing a question similar to the one before us in the present case, our Supreme Court analyzed N.C. Gen. Stat. § 153A-98, which provides for the privacy of county employee personnel records. *Elkin Tribune, Inc.*, 331 N.C. 735, 417 S.E.2d 465. N.C. Gen. Stat. § 153A-98 contains almost identical language as is contained in N.C.G.S. § 131E-257.2. See N.C. Gen. Stat. § 153A-98 (2003). The plaintiffs in *Elkin Tribune, Inc.* argued that a county employee's application for employment was not included in the personnel file because the applications were sent to the county, not "gathered" by the county. *Elkin Tribune, Inc.*, 331 N.C. at 737-38, 417 S.E.2d at 467. The plaintiffs therefore argued that the applications they sought were not protected from public disclosure by N.C.G.S. § 153A-98. *Elkin Tribune, Inc.*, 331 N.C. at 737-38, 417 S.E.2d at 467. Our Supreme Court ruled, however, that "gathered" included the applications that were sent to the county. *Id.* Although not explicitly defining the term "gathered," the Supreme Court clearly did not interpret "gathered" narrowly, but

rather, read "gathered" to mean amassed or collected in one place, which, as discussed above, is how we must now read "gathered" in N.C.G.S. § 131E-257.2.

Having determined, in light of our Supreme Court's decision in *News and Observer Publishing Co.*, that the General Assembly intended N.C.G.S. § 131E-257.2 to be a "clear statutory exemption or exception" to the Public Records Act, and having determined, in light of our Supreme Court's decision in *Elkin Tribune, Inc.*, that the General Assembly intended "gathered" to mean amassed or collected in one place, we now evaluate what compensation-related records are included in a personnel file of a public hospital employee. Defendant contends that "'current salary' is the *only* compensation information about a public hospital employee that is public record." Specifically, defendant argues that the trial court erred in ordering defendant to produce employment contracts, severance agreements, and "any other documents that describe[d] in whole or in part compensation paid (in any form) to [the persons listed in plaintiff's complaint]," when these documents exceeded the scope of "current salary."

Prior to the enactment of the Public Hospital Personnel Act in 1997, the confidentiality of personnel records for public hospital employees was governed by N.C.G.S. § 131E-97.1, which provided that "total compensation," among other things, was a matter of public record subject to disclosure. N.C. Gen. Stat. § 131E-97.1(b) (1994). In 1997, the General Assembly repealed this provision in subsection (b) of N.C.G.S. § 131E-97.1, and enacted the Public

Hospital Personnel Act, which, as discussed above, provides that with regard to compensation, only an employee's "[c]urrent salary, and the date and amount of the most recent increase or decrease in salary" is a matter of public record. We agree with defendant that because "[t]he legislature is always presumed to act with full knowledge of prior and existing law[,] " *A&F Trademark, Inc. v. Tolson*, 167 N.C. App. 150, 156, 605 S.E.2d 187, 192 (2004), making only "current salary," rather than "total compensation," a matter of public record indicates that the General Assembly deliberately chose to limit public disclosure of a public hospital employee's compensation to the employee's current salary.

The General Assembly's deliberate choice not to have "total compensation" be a matter of public record is further evidenced by the fact that the General Assembly used the broader term "compensation" in other sections of the Public Hospital Personnel Act, enacted at the same time as N.C.G.S. § 131E-257.2. For instance, the General Assembly provided in N.C.G.S. § 131E-257(b) that part of the purpose of the Public Hospital Personnel Act was "to authorize public hospitals to determine employee compensation[.]" N.C.G.S. § 131E-257(b). The General Assembly also used "compensation" in N.C. Gen. Stat. § 131E-257.1, which provides that "[a] public hospital shall determine the pay, expense allowances, and other compensation of its officers and employees[.]" N.C. Gen. Stat. § 131E-257.1(a) (2003). As defendant asserts, "[i]n the absence of contrary indication, it is presumed that no word of any statute is a mere redundant

expression. Each word is to be construed upon the supposition that the Legislature intended thereby to add something to the meaning of the statute." *Transportation Service v. County of Robeson*, 283 N.C. 494, 500, 196 S.E.2d 770, 774 (1973). The General Assembly distinguished between "compensation" and "current salary," and consciously chose to use the term "current salary" in deciding what parts of a public hospital employee's personnel file was a matter of public record.

Defendant contends that the "common and ordinary meaning" of "salary" is "[a] fixed compensation for services, paid to a person on a regular basis." See *The American Heritage Dictionary* 1085. Plaintiff advocates for a broader reading of "current salary," arguing that defendant's reading of "salary" is inconsistent. Specifically, plaintiff asserts that defendant is trying to have "personnel file" encompass all forms of compensation, but to narrowly define "salary" as "fixed compensation." Because subsection (a) of N.C.G.S. § 131E-257.2 defines "personnel file" as consisting of "any information in any form gathered by the public hospital with respect to an employee and, by way of illustration but not limitation, relating to . . . salary," plaintiff argues that "salary" in section (a) and (b) must be read consistently; i.e., "salary" cannot mean "total compensation" in section (a) and mean "fixed compensation" in section (b). We agree. However, the list of items in subsection (a), to which the information in a personnel file must relate, is merely illustrative. The statute explicitly qualifies the list with the phrase: "by way of

illustration but not limitation." Other forms of compensation, such as severance agreements, are documents that would normally be included in what is "the commonly understood definition of a personnel file." See *Elkin Tribune, Inc.*, 331 N.C. at 737, 417 S.E.2d at 466. Furthermore, forms of compensation, other than salary, would relate to a public hospital employee's "selection or nonselection, performance, promotions," and possibly to the employee's "termination of employment." See N.C.G.S. § 131E-257.2(a). Therefore, we are not persuaded by plaintiff's argument that forms of compensation, other than salary, are not part of a public hospital employee's personnel file.

Plaintiff also argues that it offends common sense to "allow public institutions to avoid revealing how public officials are paid simply by shifting the form of pay from fixed salary to bonuses, lump-sum payments, or other forms of compensation." However, plaintiff ignores, as we have established above, that the General Assembly deliberately chose to treat public hospitals differently from other public institutions, by excepting personnel records of public hospital employees from the Public Records Act. Defendant asserts that the General Assembly enacted the Public Hospital Personnel Act to strike a balance between the public's interest in having access to financial information of government entities and the public hospital's need to compete effectively for qualified personnel with private hospitals that are not subject to public records laws. Whatever the General Assembly's policy considerations, the language employed by the General Assembly shows

that it was concerned about protecting the confidentiality of public hospital personnel information, thereby specifically exempting this information from broad public access. *Cf. Virmani*, 350 N.C. at 477, 515 S.E.2d at 693 (discussing N.C. Gen. Stat. § 131E-95 and stating "the legislature has determined that this right of access is outweighed by the compelling countervailing governmental interest in protecting the confidentiality of the medical peer review process").

We reverse the order of the trial court granting plaintiff summary judgment and remand for entry of an order granting summary judgment in favor of defendant.

Reversed and remanded.

Judges CALABRIA and ELMORE concur.