

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Regulated Industries Committee

BILL: SB 482

SPONSOR: Senator Clary

SUBJECT: State Lottery

DATE: March 22, 2005      REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Sumner  | Imhof          | RI        | <b>Favorable</b> |
| 2. |         |                | GE        |                  |
| 3. |         |                | WM        |                  |
| 4. |         |                |           |                  |
| 5. |         |                |           |                  |
| 6. |         |                |           |                  |

## I. Summary:

The bill directs that eighty percent of lottery unclaimed prize money shall be deposited in the Educational Enhancement Trust Fund. The remaining twenty percent of the unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. Currently, all unclaimed prize money is added to the pool from which future prizes are awarded or is used for special prize promotions.

The bill allows the Florida Department of the Lottery (department) to pay variable percentages to the public in the form of prizes and to transfer variable percentages to the Educational Enhancement Trust Fund from both instant and on-line lottery tickets. The bill deletes current language which requires that 50 percent of the gross revenue from sale of on-line lottery tickets be returned to the public as prizes and 39 percent of the funds be deposited in the Educational Enhancement Trust Fund.

The bill substantially amends the following sections of the Florida Statutes: 24.115, 24.121, and 1010.70.

## II. Present Situation:

The Florida Lottery was established by the Legislature in 1987 (codified as Chapter 24, F.S.) in order to implement Article X, Section 15 of the State Constitution.

The state lottery offers two styles of games: on-line games, which entail picking numbers that are randomly drawn and include such games as Lotto, Mega Money, Fantasy 5, Play 4, and Cash 3; and instant games, which include various scratch-off tickets.<sup>1</sup>

Section 24.115 (1) (f), F. S., states that holders of tickets shall have the right to claim prizes for 180 days after the drawing or the end of the lottery game or play in which the prize was won; except that with respect to any game in which the player may determine instantly if he or she has won or lost, such right shall exist for 60 days after the end of the lottery game. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (2), which provides that all unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. All unclaimed prize money is required to be added to the pool for future prizes and for special prize promotions.

In 2002, s. 24.121, F.S., was amended by changing the prize percentage payouts for on-line lottery tickets and how the prize payouts would be paid for instant tickets.<sup>2</sup> As nearly as practical, at least 50 percent of the gross revenue from the sale of on-line lottery tickets and variable percentages, as determined by the department, of the gross revenue from the sale of instant lottery tickets shall be returned to the public in the form of prizes.

At least 39 percent of the gross revenue from the sale of on-line lottery tickets and variable percentages, as determined by the department, of the gross revenue from the sale of instant lottery tickets are required to be deposited in the Educational Enhancement Trust Fund (EETF) administered by the Department of Education. The funds remaining (about 11 percent) shall be used for payment of administrative expenses of the department. At the end of each fiscal year any unencumbered funds in the Administrative Trust Fund must be transferred to the EETF. The funds in the EETF are required to be used to the benefit of public education in accordance with the provisions of ch. 24, F.S.

According to the department, this legislation enabled the department to maximize transfers to education. However, the department states that the legislative change in 2002 does not give the same flexibility to vary the prize payout percentage for its instant (scratch-off) games. The department states that unclaimed prize money represents the only resource currently available to increase the prize payout percentage for on-line games.

The department states that using all available unclaimed prize money to increase on-line game prize payout percentages will only increase payouts from 50 percent to between 52-53 percent. The department's research suggests that the optimal prize payout level needed to maximize revenues for education is between 55 percent and 60 percent.

Lottery revenues transferred to the EETF must be reserved as needed and pledged to the payment of debt service on bonds issued by the state on behalf of the Classrooms First Program, the

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<sup>1</sup> Report of Total Revenues, Prize Disbursements and Other Expenses, January, 2005

<sup>2</sup> HB 2011

School Capital Outlay Bond Program or the Class Size Reduction Lottery Revenue Bond Program.<sup>3</sup>

Lottery revenue has been obligated to fund several major public education initiatives, such as the Bright Futures Scholarship Program. Funds in the EETF are allocated annually to the Bright Futures Scholarship Program prior to equitable distribution to public schools, community colleges, or state universities.<sup>4</sup>

During the 2003 Legislative Special Session E, HB 43E transferred \$30 million, a one time unclaimed Lotto Jackpot, into the EETF and appropriated these funds to community colleges and state universities to match private donations received under the provisions of s. 1011.85 and 1011.94, F.S.<sup>5</sup>

Section 1010.70, F.S., also requires that each fiscal year, at least 39 percent of the gross revenue from the sale of lottery tickets, variable percentages of the gross revenue from the sale of instant lottery tickets, as determined by the department, and other earned revenue, excluding application processing fees, shall be deposited in the EETF.

### III. Effect of Proposed Changes:

**Section 1** amends s. 24.115(2), F.S., to distribute eighty percent of the unclaimed prize money to the Educational Enhancement Trust Fund. The remaining twenty percent shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.

**Section 2** amends s. 24.121(1) and (2), F.S., to allow the department to pay variable percentages of revenue from the sale of both on-line and instant lottery tickets to the public in the form of prizes. Section 24.121(2), F.S. is amended to allow the department to deposit variable percentages of revenue into the Educational Enhancement Trust Fund.

**Section 3** amends s. 1010.70, F.S., providing that variable percentages of gross revenue from the sale of on-line and instant tickets will be deposited into the Educational Enhancement Trust Fund.

**Section 4** provides an effective date of July 1, 2005.

According to the department, these changes will give flexibility to vary the prize payout percentage for its on-line games as it does for its scratch-off games and will:

- generate substantial additional revenue for education, based on a projected increase in on-line ticket sales due to higher prize payouts;
- reduce the departments need for unclaimed prize money as a means to increase prize payouts, thereby allowing 80 percent of the unclaimed prize money to be deposited directly into the Educational Enhancement Trust Fund; and

<sup>3</sup> Section 1013.68, 1013.70, 1013.737, F.S

<sup>4</sup> Section 24.121(5)(e), F.S.

<sup>5</sup> Chapter 2003-426, L.O.F.

- allow both scratch-off and on-line games, over a period of time, to operate at or near the levels necessary to maximize revenues for education, as required by law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The department states that based on the projection of the Revenue Estimating Conference from February 2004 and the current rate of vendor compensation, the Lottery's on-line vendor would receive an additional \$2.31 million during FY 2005-06 and an additional \$6.31 million during FY 2006-07.

The department states that lottery retailers would receive an additional \$8.86 million in commissions during FY 2005-06 and an additional \$24.1 million in commissions during FY 2006-07.

##### **C. Government Sector Impact:**

According to the department, in mid-fiscal year 2005-06, the Lottery would begin increasing the prize payout percentage of its on-line games in small increments. Using the February 2004 Revenue Estimating Conference projection for FY 2005-06 on-line sales as a baseline, increasing the prize payout percentage from 50% to 53% midyear is projected to generate an additional \$161.1 million in on-line sales and an additional \$31.1 million dollars in transfers to the Educational Enhancement Trust Fund.

Using the same data from the Revenue Estimating Conference, the department estimates that for FY 2006-07 the increase in payouts from 53% to 54% is projected to generate an additional \$438.1 million in on-line sales and an additional \$80.1 million in transfers to the Educational Enhancement Fund.

The department states that based on the above projections and current rate of vendor compensation, the on-line vendor would receive an additional \$2.31 million, during FY 2005-06 and an additional \$6.31 million during FY 2006-07.

Lottery retailers would receive an additional \$8.86 million in commissions during FY 2005-06 and an additional \$24.1 million in commissions during FY 2006-07.

The Revenue Estimating Conference adopted the following consensus estimate on March 18, 2005 for increased revenue to the Educational Enhancement Trust Fund:

|                               | FY 2005-06<br>Annualized | FY 2005-06<br>Cash | FY 2005-06<br>Cash |
|-------------------------------|--------------------------|--------------------|--------------------|
| General Revenue               |                          |                    |                    |
| Educational<br>Enhancement TF | \$41.3 million           | \$20.6 million     | \$52.2 million     |
| Local Impact                  | 0                        | 0                  | 0                  |
| Total Impact                  | \$41.3 million           | \$20.6 million     | \$52.2 million     |

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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