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1 A bill to be entitled
2 An act relating to operation of the Florida Lottery;
3 amending s. 20.317, F.S.; clarifying provisions concerning
4 regional offices; amending s. 24.101, F.S.; revising a
5 reference; amending s. 24.102, F.S.; revising provisions
6 relating to legislative intent to provide for operation of
7 the lottery under a concession agreement; amending s.
8 24.103, F.S.; providing additional definitions; amending
9 s. 24.104, F.S.; revising language concerning the purpose
10 of the Department of the Lottery to permit operation of
11 the lottery by the state through a concessionaire;
12 amending s. 24.105, F.S.; revising provisions concerning
13 the powers and duties of the Department of the Lottery to
14 allow for possible operation of the lottery through a
15 concessionaire; providing that specified provisions apply
16 whether the department operates the lottery directly or
17 through a concessionaire; deleting obsolete language;
18 amending s. 24.107, F.S.; revising provisions concerning
19 lottery security to conform to the possible operation of
20 the lottery through a concessionaire; amending ss. 24.108
21 and 24.111, F.S.; revising provisions to conform to the
22 possible operation of the lottery through a
23 concessionaire; creating s. 24.1115, F.S.; providing for a
24 concession agreement under which the lottery may be
25 operated; providing intent; providing definitions;
26 limiting the duration of such an agreement; providing
27 limits on the games that may be offered under such an
28 agreement; providing for an initial payment to the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 department by a concessionaire; providing for royalty
30 payments by a concessionaire; providing for collection of
31 funds in excess of a specified baseline growth percentage
32 to ensure that the concessionaire does not earn excess
33 revenue; providing requirements for the contents of a
34 concession agreement; requiring periodic investigations of
35 the performance by a concessionaire; providing for a
36 request for qualifications process to select a
37 concessionaire; providing for the public records status of
38 specified materials under existing exemptions; providing
39 for negotiations between one or more offerors and the
40 department; providing selection procedures; requiring a
41 public hearing; providing for designation of a
42 concessionaire by the Governor; providing for status of
43 debt offering by the concessionaire; providing for a time
44 period for challenges to designation of a concessionaire;
45 providing department powers; providing that there is no
46 prohibition on additional legislative authorization of
47 other forms of gambling; amending s. 24.112, F.S.;
48 revising provisions concerning retailers of lottery
49 tickets to conform to the possible operation of the
50 lottery through a concessionaire; amending s. 24.113,
51 F.S.; providing that provisions concerning minority
52 participation also apply if the lottery is operated
53 through a concessionaire; amending ss. 24.114, 24.115,
54 24.1153, 24.117, 24.118, and 24.120, F.S.; revising
55 provisions to conform to the possible operation of the
56 lottery through a concessionaire; amending 24.121, F.S.;

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57 | revising provisions to conform to the possible operation
 58 | of the lottery through a concessionaire; providing for a
 59 | minimum allocation of proceeds received under a concession
 60 | agreement to the Florida Bright Futures Scholarship
 61 | Program; amending ss. 24.122, 24.123, and 24.124, F.S.;
 62 | revising provisions to conform to the possible operation
 63 | of the lottery through a concessionaire; providing an
 64 | effective date.

65 |
 66 | Be It Enacted by the Legislature of the State of Florida:

67 |
 68 | Section 1. Subsection (3) of section 20.317, Florida
 69 | Statutes, is amended to read:

70 | 20.317 Department of the Lottery.--There is created a
 71 | Department of the Lottery.

72 | (3) The headquarters of the department shall be located in
 73 | Tallahassee. However, the department may establish such regional
 74 | offices throughout the state as the secretary deems necessary to
 75 | perform its duties concerning the efficient operation of the
 76 | state lottery.

77 | Section 2. Section 24.101, Florida Statutes, is amended to
 78 | read:

79 | 24.101 Short title.--This chapter ~~act~~ may be cited as the
 80 | "Florida Public Education Lottery Act."

81 | Section 3. Section 24.102, Florida Statutes, is amended to
 82 | read:

83 | 24.102 Purpose and intent.--

84 (1) The purpose of this chapter ~~act~~ is to implement s. 15,
85 Art. X of the State Constitution in a manner that enables the
86 people of the state to benefit from significant additional
87 moneys for education and also enables the people of the state to
88 play the best lottery games available.

89 (2) The intent of the Legislature is:

90 (a) That the net proceeds of lottery games conducted
91 pursuant to this chapter ~~act~~ be used to support improvements in
92 public education and that such proceeds not be used as a
93 substitute for existing resources for public education.

94 (b) That the lottery games be operated by a department of
95 state government that functions as much as possible in the
96 manner of an entrepreneurial business enterprise or through a
97 concession agreement with an entrepreneurial business enterprise
98 operating with oversight by the department. The Legislature
99 recognizes that the operation of a lottery is a unique activity
100 for state government and that structures and procedures
101 appropriate to the performance of other governmental functions
102 are not necessarily appropriate to the operation of a state
103 lottery.

104 (c) That the lottery games be operated by a self-
105 supporting, revenue-producing department or through a concession
106 agreement with an entrepreneurial business enterprise under
107 government oversight.

108 (d) That the department be accountable to the Legislature
109 and the people of the state through a system of audits and
110 reports and through compliance with financial disclosure, open
111 meetings, and public records laws and that any entity operating

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112 the lottery under a concession agreement must also be
 113 accountable to the Legislature and the people of the state.

114 Section 4. Section 24.103, Florida Statutes, is amended to
 115 read:

116 24.103 Definitions.--As used in this chapter ~~act~~:

117 (1) "Concession agreement" means that agreement entered
 118 into pursuant to which the state may grant a license or other
 119 contractual right to manage or operate the lottery on the
 120 state's behalf to a concessionaire and further pursuant to which
 121 the concessionaire may receive certain lottery ticket or share
 122 sales and related proceeds in consideration of the payment of a
 123 fee or fees to the state.

124 (2) "Concessionaire " means an entity that manages or
 125 operates the lottery on behalf of the state under a concession
 126 agreement.

127 (3)~~(1)~~ "Department" means the Department of the Lottery.

128 (4) "Major procurement" means a procurement for a contract
 129 for the printing of tickets for use in any lottery game,
 130 consultation services for the startup of the lottery, any goods
 131 or services involving the official recording for lottery game
 132 play purposes of a player's selections in any lottery game
 133 involving player selections, any goods or services involving the
 134 receiving of a player's selection directly from a player in any
 135 lottery game involving player selections, any goods or services
 136 involving the drawing, determination, or generation of winners
 137 in any lottery game, the security report services provided for
 138 in this chapter ~~act~~, or any goods and services relating to
 139 marketing and promotion that ~~which~~ exceed a value of \$25,000.

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140 (5)~~(3)~~ "Person" means any individual, firm, association,
 141 joint adventure, partnership, estate, trust, syndicate,
 142 fiduciary, corporation, or other group or combination and shall
 143 include any agency or political subdivision of the state.

144 (6)~~(5)~~ "Retailer" means a person who sells lottery tickets
 145 on behalf of the department or the concessionaire pursuant to a
 146 contract.

147 (7)~~(2)~~ "Secretary" means the secretary of the department.

148 (8)~~(6)~~ "Vendor" means a person who provides or proposes to
 149 provide goods or services to the department, but does not
 150 include an employee of the department, a retailer, or a state
 151 agency.

152 Section 5. Section 24.104, Florida Statutes, is amended to
 153 read:

154 24.104 Department; purpose.--The purpose of the department
 155 is to operate the state lottery as authorized by s. 15, Art. X
 156 of the State Constitution directly or through a concessionaire
 157 so as to maximize revenues in a manner consonant with the
 158 dignity of the state and the welfare of its citizens.

159 Section 6. Subsections (2), (4), (6), (7), (8), (9), (11),
 160 (15), (17), (18), and (19) of section 24.105, Florida Statutes,
 161 are amended to read:

162 24.105 Powers and duties of department.--The department
 163 shall:

164 (2) Supervise and administer the operation of the lottery
 165 itself or through a concessionaire in accordance with the
 166 provisions of this chapter ~~act~~ and rules adopted pursuant
 167 thereto.

168 (4) Submit monthly and annual reports to the Governor, the
 169 Chief Financial Officer, the President of the Senate, and the
 170 Speaker of the House of Representatives disclosing the total
 171 lottery revenues, prize disbursements, and other expenses of the
 172 department during the preceding month or, if the lottery is
 173 operated under a concession agreement, comparable information
 174 provided by the concessionaire. The annual report shall
 175 additionally describe the organizational structure of the
 176 department, including its hierarchical structure, and shall
 177 identify the divisions and bureaus created by the secretary and
 178 summarize the departmental functions performed by each.

179 (6) Maintain weekly or more frequent records of lottery
 180 transactions, including the distribution of tickets to
 181 retailers, revenues received, claims for prizes, prizes paid,
 182 and other financial transactions of the department. If the
 183 lottery is operated under a concession agreement, the agreement
 184 shall require the concessionaire to maintain comparable
 185 information.

186 (7) Make a continuing study of the lottery to ascertain
 187 any defects of this chapter ~~act~~ or rules adopted thereunder
 188 which could result in abuses in the administration of the
 189 lottery; make a continuing study of the operation and the
 190 administration of similar laws in other states and of federal
 191 laws that ~~which~~ may affect the lottery; and, if the department
 192 directly operates the lottery, make a continuing study of the
 193 reaction of the public to existing and potential features of the
 194 lottery.

195 (8) If the lottery is operated directly by the department,
 196 conduct such market research as is necessary or appropriate,
 197 which may include an analysis of the demographic characteristics
 198 of the players of each lottery game and an analysis of
 199 advertising, promotion, public relations, incentives, and other
 200 aspects of communications.

201 (9) Adopt rules governing the establishment and operation
 202 of the state lottery, including:

203 (a)1. If the lottery is operated directly by the
 204 department, the type of lottery games to be conducted.

205 2. Regardless of whether the lottery is operated directly
 206 by the department or through a concessionaire, except that:

207 a.1- No name of an elected official shall appear on the
 208 ticket or play slip of any lottery game or on any prize or on
 209 any instrument used for the payment of prizes, unless such prize
 210 is in the form of a state warrant.

211 b.2- No coins or currency shall be dispensed from any
 212 electronic computer terminal or device used in any lottery game.

213 c.3- Other than as provided in sub-subparagraph d.
 214 ~~subparagraph 4.~~, no terminal or device may be used for any
 215 lottery game that ~~which~~ may be operated solely by the player
 216 without the assistance of the retailer.

217 d.4- The only player-activated machine that ~~which~~ may be
 218 utilized is a machine that ~~which~~ dispenses instant lottery game
 219 tickets following the insertion of a coin or currency by a
 220 ticket purchaser. To be authorized a machine must+ be under the
 221 supervision and within the direct line of sight of the lottery
 222 retailer to ensure that the machine is monitored and only

223 operated by persons at least 18 years of age ~~and~~ be capable of
 224 being electronically deactivated by the retailer to prohibit use
 225 by persons less than 18 years of age through the use of a
 226 lockout device that maintains the machine's deactivation for a
 227 period of no less than 5 minutes unless the machine uses a
 228 method of verifying the age of an operator that the department
 229 certifies is equivalent or superior to line-of-sight monitoring
 230 and lockout by the retailer. Such a machine must also ~~and~~ be
 231 designed to prevent its use or conversion for use in any manner
 232 other than the dispensing of instant lottery tickets. Authorized
 233 machines may dispense change to players purchasing tickets but
 234 may not be utilized for paying the holders of winning tickets of
 235 any kind. At least one clerk must be on duty at the lottery
 236 retailer while the machine is in operation. However, at least
 237 two clerks must be on duty at any lottery location that ~~which~~
 238 has violated s. 24.1055.

239 (b) If the lottery is operated directly by the department,
 240 the sales price of tickets.

241 (c) If the lottery is operated directly by the department,
 242 the number and sizes of prizes.

243 (d) If the lottery is operated directly by the department,
 244 the method of selecting winning tickets. However, regardless of
 245 whether the lottery is operated directly by the department or
 246 through a concessionaire, if a lottery game involves a drawing,
 247 the drawing shall be public and witnessed by an accountant
 248 employed by an independent certified public accounting firm. The
 249 equipment used in the drawing shall be inspected before and
 250 after the drawing.

251 (e) If the lottery is operated directly by the department,
 252 the manner of payment of prizes to holders of winning tickets.

253 (f) If the lottery is operated directly by the department,
 254 the frequency of drawings or selections of winning tickets.

255 (g) If the lottery is operated directly by the department,
 256 the number and type of locations at which tickets may be
 257 purchased.

258 (h) If the lottery is operated directly by the department,
 259 the method to be used in selling tickets.

260 (i) If the lottery is operated directly by the department,
 261 the manner and amount of compensation of retailers.

262 (j) Such other matters necessary or desirable for the
 263 efficient or economical operation of the lottery directly by the
 264 department or for the convenience of the public.

265 (11) In the selection of games and method of selecting
 266 winning tickets, be sensitive to the impact of the lottery upon
 267 the pari-mutuel industry and, accordingly, the department or the
 268 concessionaire may use for any game the theme of horseracing,
 269 dogracing, or jai alai and may allow a lottery game to be based
 270 upon a horserace, dograce, or jai alai activity so long as the
 271 outcome of such lottery game is determined entirely by chance.

272 (15) Or the concessionaire, if any, shall have the
 273 authority to charge fees to persons applying for contracts as
 274 vendors or retailers, which fees are reasonably calculated to
 275 cover the costs of investigations and other activities related
 276 to the processing of the application.

277 (17) Or the concessionaire, if any, shall, in accordance
 278 with the provisions of this chapter ~~act~~, enter into contracts

279 with retailers so as to provide adequate and convenient
 280 availability of tickets to the public for each game.

281 (18) Or the concessionaire, if any, shall have the
 282 authority to enter into agreements with other states for the
 283 operation and promotion of a multistate lottery if such
 284 agreements are in the best interest of the state lottery. ~~The~~
 285 ~~authority conferred by this subsection is not effective until 1~~
 286 ~~year after the first day of lottery ticket sales.~~

287 (19) Employ division directors and other staff as may be
 288 necessary to carry out the provisions of this chapter ~~act~~;
 289 however:

290 (a) No person shall be employed by the department who has
 291 been convicted of, or entered a plea of guilty or nolo
 292 contendere to, a felony committed in the preceding 10 years,
 293 regardless of adjudication, unless the department determines
 294 that:

295 1. The person has been pardoned or his or her civil rights
 296 have been restored; or

297 2. Subsequent to such conviction or entry of plea the
 298 person has engaged in the kind of law-abiding commerce and good
 299 citizenship that would reflect well upon the integrity of the
 300 lottery.

301 (b) No officer or employee of the department having
 302 decisionmaking authority shall participate in any decision
 303 involving any vendor or retailer with whom the officer or
 304 employee has a financial interest. No such officer or employee
 305 may participate in any decision involving any vendor or retailer
 306 with whom the officer or employee has discussed employment

307 opportunities without the approval of the secretary or, if such
308 officer is the secretary, without the approval of the Governor.
309 Any officer or employee of the department shall notify the
310 secretary of any such discussion or, if such officer is the
311 secretary, he or she shall notify the Governor. A violation of
312 this paragraph is punishable in accordance with s. 112.317.

313 (c) No officer or employee of the department who leaves
314 the employ of the department shall represent any vendor or
315 retailer or the concessionaire, if any, before the department
316 regarding any specific matter in which the officer or employee
317 was involved while employed by the department, for a period of 1
318 year following cessation of employment with the department. A
319 violation of this paragraph is punishable in accordance with s.
320 112.317.

321 (d) The department shall establish and maintain a
322 personnel program for its employees, including a personnel
323 classification and pay plan which may provide any or all of the
324 benefits provided in the Senior Management Service or Selected
325 Exempt Service. Each officer or employee of the department shall
326 be a member of the Florida Retirement System. The retirement
327 class of each officer or employee shall be the same as other
328 persons performing comparable functions for other agencies.
329 Employees of the department shall serve at the pleasure of the
330 secretary and shall be subject to suspension, dismissal,
331 reduction in pay, demotion, transfer, or other personnel action
332 at the discretion of the secretary. Such personnel actions are
333 exempt from the provisions of chapter 120. All employees of the
334 department are exempt from the Career Service System provided in

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335 chapter 110 and, notwithstanding the provisions of s.
336 110.205(5), are not included in either the Senior Management
337 Service or the Selected Exempt Service. However, all employees
338 of the department are subject to all standards of conduct
339 adopted by rule for career service and senior management
340 employees pursuant to chapter 110. In the event of a conflict
341 between standards of conduct applicable to employees of the
342 Department of the Lottery the more restrictive standard shall
343 apply. Interpretations as to the more restrictive standard may
344 be provided by the Commission on Ethics upon request of an
345 advisory opinion pursuant to s. 112.322(3)(a), for purposes of
346 this subsection the opinion shall be considered final action.

347 (e) No employee of a concessionaire operating the lottery
348 shall receive membership in the Florida Retirement System or any
349 other state retirement or other state employee benefits on the
350 basis of such employment.

351 Section 7. Section 24.107, Florida Statutes, is amended to
352 read:

353 24.107 Advertising and promotion of lottery games.--

354 (1) The Legislature recognizes the need for extensive and
355 effective advertising and promotion of lottery games. It is the
356 intent of the Legislature that such advertising and promotion be
357 consistent with the dignity and integrity of the state. In
358 advertising the value of a prize that will be paid over a period
359 of years, the department or the concessionaire, if any, may
360 refer to the sum of all prize payments over the period.

361 (2) The department or the concessionaire, if any, may act
 362 as a retailer and may conduct promotions that ~~which~~ involve the
 363 dispensing of lottery tickets free of charge.

364 Section 8. Subsections (2), (5), (6), and (7) of section
 365 24.108, Florida Statutes, are amended to read:

366 24.108 Division of Security; duties; security report.--

367 (2) The director and all investigators employed by the
 368 division shall meet the requirements for employment and
 369 appointment provided by s. 943.13 and shall satisfy the
 370 requirements for certification established by the Criminal
 371 Justice Standards and Training Commission pursuant to chapter
 372 943. The director and such investigators shall be designated law
 373 enforcement officers and shall have the power to investigate and
 374 arrest for any alleged violation of this chapter ~~act~~ or any rule
 375 adopted pursuant thereto, or any law of this state. Such law
 376 enforcement officers may enter upon any premises in which
 377 lottery tickets are sold, manufactured, printed, or stored
 378 within the state for the performance of their lawful duties and
 379 may take with them any necessary equipment, and such entry shall
 380 not constitute a trespass. In any instance in which there is
 381 reason to believe that a violation has occurred, such officers
 382 have the authority, without warrant, to search and inspect any
 383 premises where the violation is alleged to have occurred or is
 384 occurring. Any such officer may, consistent with the United
 385 States and Florida Constitutions, seize or take possession of
 386 any papers, records, tickets, currency, or other items related
 387 to any alleged violation.

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388 (5) The Department of Law Enforcement shall provide
389 assistance in obtaining criminal history information relevant to
390 investigations required for honest, secure, and exemplary
391 lottery operations, and such other assistance as may be
392 requested by the secretary and agreed to by the executive
393 director of the Department of Law Enforcement. Any other state
394 agency, including the Department of Business and Professional
395 Regulation and the Department of Revenue, shall, upon request,
396 provide the Department of the Lottery with any information
397 relevant to any investigation conducted pursuant to this chapter
398 ~~act~~. The Department of the Lottery shall maintain the
399 confidentiality of any confidential information it receives from
400 any other agency. The Department of the Lottery shall reimburse
401 any agency for the actual cost of providing any assistance
402 pursuant to this subsection.

403 (6) If the lottery is operated directly by the department,
404 the division shall monitor ticket validation and lottery
405 drawings.

406 (7) (a) If the lottery is operated directly by the
407 department ~~After the first full year of sales of tickets to the~~
408 ~~public, or sooner if the secretary deems necessary,~~ the
409 department shall, as it deems appropriate, but at least once
410 every 2 years engage an independent firm experienced in security
411 procedures, including, but not limited to, computer security and
412 systems security, to conduct a comprehensive study and
413 evaluation of all aspects of security in the operation of the
414 department.

415 (b) The portion of the security report containing the
 416 overall evaluation of the department in terms of each aspect of
 417 security shall be presented to the Governor, the President of
 418 the Senate, and the Speaker of the House of Representatives. The
 419 portion of the security report containing specific
 420 recommendations shall be confidential and shall be presented
 421 only to the secretary, the Governor, and the Auditor General;
 422 however, upon certification that such information is necessary
 423 for the purpose of effecting legislative changes, such
 424 information shall be disclosed to the President of the Senate
 425 and the Speaker of the House of Representatives, who may
 426 disclose such information to members of the Legislature and
 427 legislative staff as necessary to effect such purpose. However,
 428 any person who receives a copy of such information or other
 429 information that ~~which~~ is confidential pursuant to this chapter
 430 ~~act~~ or rule of the department shall maintain its
 431 confidentiality. The confidential portion of the report is
 432 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 433 of the State Constitution.

434 ~~(c) Thereafter, similar studies of security shall be~~
 435 ~~conducted as the department deems appropriate but at least once~~
 436 ~~every 2 years.~~

437 Section 9. Subsection (1) and paragraph (h) of subsection
 438 (2) of section 24.111, Florida Statutes, are amended to read:

439 24.111 Vendors; disclosure and contract requirements.--

440 (1) The department may enter into contracts for the
 441 purchase, lease, or lease-purchase of such goods or services as
 442 are necessary for effectuating the purposes of this chapter ~~act~~.

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443 The department may ~~not~~ contract with any person or entity for
444 the total operation and administration of the state lottery
445 established by this chapter as provided in s. 24.1115 or ~~act~~ but
446 may make procurements that ~~which~~ integrate functions such as
447 lottery game design, supply of goods and services, and
448 advertising. In all procurement decisions, the department shall
449 take into account the particularly sensitive nature of the state
450 lottery and shall consider the competence, quality of product,
451 experience, and timely performance of the vendors in order to
452 promote and ensure security, honesty, fairness, and integrity in
453 the operation and administration of the lottery and the
454 objective of raising net revenues for the benefit of the public
455 purpose described in this chapter ~~act~~.

456 (2) The department shall investigate the financial
457 responsibility, security, and integrity of each vendor with
458 which it intends to negotiate a contract for major procurement.
459 Such investigation may include an investigation of the financial
460 responsibility, security, and integrity of any or all persons
461 whose names and addresses are required to be disclosed pursuant
462 to paragraph (a). Any person who submits a bid, proposal, or
463 offer as part of a major procurement must, at the time of
464 submitting such bid, proposal, or offer, provide the following:

465 (h) If the department operates the lottery directly, it
466 ~~The department~~ shall lease all instant ticket vending machines.

467
468 The department shall not contract with any vendor who fails to
469 make the disclosures required by this subsection, and any
470 contract with a vendor who has failed to make the required

471 disclosures shall be unenforceable. Any contract with any vendor
 472 who does not comply with such requirements for periodically
 473 updating such disclosures during the tenure of such contract as
 474 may be specified in such contract may be terminated by the
 475 department. This subsection shall be construed broadly and
 476 liberally to achieve the ends of full disclosure of all
 477 information necessary to allow for a full and complete
 478 evaluation by the department of the competence, integrity,
 479 background, and character of vendors for major procurements.

480 Section 10. Section 24.1115, Florida Statutes, is created
 481 to read:

482 24.1115 Concession agreement.--

483 (1) In construing this section, it is the intent of the
 484 Legislature that the concessionaire be accountable to the
 485 Legislature and the people of this state through a system of
 486 audits and reports and by complying with the financial
 487 disclosure requirements of this section. The powers conferred by
 488 this section are in addition and supplemental to the powers
 489 conferred by any other law. If any other law or rule is
 490 inconsistent with this section, this section is controlling as
 491 to any concession agreement entered into under this section.

492 (2) As used in this section, the term:

493 (a) "Offeror" means a person that responds to a request
 494 for qualifications under this section.

495 (b) "Request for qualifications" means all materials and
 496 documents prepared by the department to solicit the following
 497 from offerors:

498 1. Statements of qualifications.

499 2. Proposals to enter into a management agreement.
 500 (c) "Selected offer" means the final offer of an offeror
 501 that is the preliminary selection to be the concessionaire for
 502 the lottery under subsection (12).
 503 (3)(a) This section contains full and complete authority
 504 for a concession agreement between the department and a
 505 concessionaire and any rules adopted thereunder. No law,
 506 procedure, proceeding, publication, notice, consent, approval,
 507 order, or act by the department or any other officer,
 508 department, agency, or instrumentality of the state or any
 509 political subdivision is required for the department to enter
 510 into a concession agreement under this section.
 511 (b) This section contains full and complete authority for
 512 the department to approve any subcontracts entered into by a
 513 concessionaire under the terms of a management agreement.
 514 (4) Subject to the other provisions of this section, the
 515 department may enter into a concession agreement with a
 516 concessionaire for a term not to exceed 30 years.
 517 (5) The department may not enter into a concession
 518 agreement that authorizes a concessionaire to operate any of the
 519 following games or a game simulating any of the following games:
 520 (a) Video lottery games.
 521 (b) Pari-mutuel wagering on any form of racing.
 522 (c) A game in which winners are selected on the results of
 523 a race or sporting event.
 524 (d) Any other game commonly considered to be a form of
 525 gambling that is not a game or a variation of a game that the
 526 department operated before the concession agreement is executed

527 or is operating on the date the concession agreement is
528 executed.

529 (6) (a) The concession agreement must establish a
530 substantial benchmark amount. The concession agreement must
531 require the concessionaire to make an initial payment to the
532 department on the effective date of the concession agreement in
533 an amount that exceeds the benchmark amount established in the
534 management agreement.

535 (b) The initial payment required under paragraph (a) shall
536 be deposited as provided in s. 24.121.

537 (c) If the concessionaire fails to make any payment under
538 this section by the due date of the payment, the concession
539 agreement is terminated.

540 (7) (a) The concession agreement must require the
541 concessionaire to pay a royalty in the amount equal to one
542 quarter of the lottery's annual profits in the last full fiscal
543 year preceding the agreement to the department four times each
544 year beginning on a date that is specified in the concession
545 agreement and that occurs during the first year after the
546 execution of the management agreement. The payments received
547 under this subsection shall be deposited as provided in s.
548 24.121.

549 (b) The concession agreement must include the following
550 provisions to ensure that the concessionaire does not earn
551 excess revenue under the concession agreement:

552 1. The Office of Policy and Budget in the Executive Office
553 of the Governor shall calculate the percentage rate of average
554 annual growth in gross revenue earned by the department during

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555 the last 5 full state fiscal years preceding the commencement of
556 the concession agreement. For purposes of this subsection, this
557 percentage is referred to as the "baseline growth percentage".

558 2. Beginning with the second full state fiscal year after
559 the execution of the management agreement, the Office of Policy
560 and Budget in the Executive Office of the Governor shall for
561 each state fiscal year calculate the growth, expressed as a
562 percentage, in gross revenue earned by the concessionaire under
563 the concession agreement, as compared to the preceding state
564 fiscal year.

565 3. The department shall establish an excess payments
566 account for purposes of this paragraph. Any earnings from money
567 in the excess payments account accrue to the account. Money in
568 the excess payments account may be used only to make payments to
569 a concessionaire as required by this paragraph and to receive
570 payments from a concessionaire as required by this paragraph.

571 4. If the percentage calculated by the Office of Policy
572 and Budget in the Executive Office of the Governor under
573 subparagraph 2. for a particular state fiscal year exceeds the
574 baseline growth percentage, the concessionaire must make an
575 additional payment to the department. The amount of the
576 additional payment for the state fiscal year is equal to the
577 gross revenue earned by the concessionaire from lottery tickets
578 in the state fiscal year multiplied by one-half the difference
579 between the percentage calculated by the Office of Policy and
580 Budget in the Executive Office of the Governor under
581 subparagraph 2. for the state fiscal year and the baseline
582 growth percentage. The department shall deposit any additional

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583 payment made by the concessionaire under this subparagraph into
584 the excess payments account.

585 5. If the baseline growth percentage exceeds the
586 percentage calculated by the Office of Policy and Budget in the
587 Executive Office of the Governor under subparagraph 2. for a
588 particular state fiscal year, the department must make a payment
589 to the concessionaire from the excess payments account. However,
590 the department is required to make a payment to the
591 concessionaire only if the excess payments account has a
592 positive balance. The amount of the payment by the department
593 for the state fiscal year is equal to the lesser of:

594 a. The result of the gross revenue earned by the
595 concessionaire from lottery tickets in the state fiscal year
596 multiplied by one-half the difference between the baseline
597 growth percentage and the percentage calculated by the Office of
598 Policy and Budget in the Executive Office of the Governor under
599 subparagraph 2. for the state fiscal year; or

600 b. The balance in the excess payments account.

601 6. The concession agreement must specify the time by which
602 a payment required under this paragraph shall be made.

603 7. If at the expiration or termination of the concession
604 agreement there is money remaining in the excess payments
605 account, it shall be transferred to the department and deposited
606 as provided in s. 24.121.

607 (8) A concession agreement must contain the following:

608 (a) The original term of the management agreement.

609 (b) A requirement that the concessionaire locate its
610 principal office within this state.

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- 611 (c) The transition of rights and obligations from the
612 department to the concessionaire with respect to the operation
613 of the lottery, including the following:
- 614 1. The right to use, or ownership of, equipment and other
615 assets used in the operation of the lottery.
- 616 2. The rights and obligations under contracts with
617 retailers and vendors.
- 618 3. The implementation of a comprehensive security program
619 by the concessionaire.
- 620 4. The implementation of a comprehensive system of
621 internal audits.
- 622 5. The implementation of a program by the concessionaire
623 to curb compulsive gambling by persons playing the lottery.
- 624 6. A system for determining the following:
- 625 a. The type of lottery games to be conducted.
- 626 b. The method of selecting winning tickets.
- 627 c. The manner of payment of prizes to holders of winning
628 tickets.
- 629 d. The frequency of drawings of winning tickets.
- 630 e. The method to be used in selling tickets.
- 631 f. A system for verifying the validity of tickets claimed
632 to be winning tickets.
- 633 g. The basis upon which retailer commissions are
634 established by the concessionaire.
- 635 h. Minimum payouts.
- 636 7. A requirement that advertising and promotion must be
637 consistent with the dignity and integrity of the state.

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638 (d) Guidelines to ensure that advertising and promoting of
639 the lottery by the concessionaire are not misleading and fairly
640 balance the potential benefits and the potential costs and risks
641 of playing lottery games.

642 (e) A code of ethics for the concessionaire's officers and
643 employees.

644 (f) Monitoring of the concessionaire's practices by the
645 department and the taking of action that the department
646 considers appropriate to ensure that the concessionaire is in
647 compliance with the terms of the concession agreement, while
648 allowing the concessionaire, unless specifically prohibited by
649 law or the concession agreement, to negotiate and sign its own
650 contracts with vendors.

651 (g) A provision requiring the concessionaire to
652 periodically file appropriate financial statements in a form and
653 manner acceptable to the department.

654 (h) Cash reserve requirements.

655 (i) Procedural requirements for obtaining approval by the
656 department when a management agreement or an interest in a
657 management agreement is sold, assigned, transferred, or pledged
658 as collateral to secure financing. A management agreement or an
659 interest in a management agreement may not be sold, assigned,
660 transferred, or pledged as collateral to secure financing
661 without the approval of the department.

662 (j) Grounds for termination of the concession agreement by
663 the department or the concessionaire.

664 (k) Procedures for amendment of the management agreement.

665 (l) A provision prohibiting the department from entering
666 into another concession agreement under this section as long as
667 the original concession agreement has not been terminated.

668 (m) The transition of rights and obligations, including
669 any associated equipment or other assets used in the operation
670 of the lottery, from the concessionaire to any successor
671 concessionaire of the lottery, including the department,
672 following the termination of or foreclosure upon the management
673 agreement.

674 (n) Ownership of all copyrights, trademarks, and service
675 marks by the department in the name of the state.

676 (o) Minority participation as provided in s. 24.113.

677 (9) (a) The concessionaire shall undergo a complete
678 investigation every 3 years by the department to determine
679 whether the concessionaire remains in compliance with this
680 chapter and the management agreement.

681 (b) The concessionaire shall bear the cost of an
682 investigation or reinvestigation of the concessionaire under
683 this subsection.

684 (10) (a) Before the department enters into a concession
685 agreement pursuant to this section, a request for qualifications
686 must be issued as set forth in this section. A request for
687 qualifications for a concession agreement may be issued in one
688 or more phases.

689 (b) A request for qualifications must include the
690 following:

691 1. The factors or criteria that will be used in evaluating
692 an offeror's statement of qualifications and proposal.

693 2. A statement that a proposal must be accompanied by
694 evidence of the offeror's financial responsibility.

695 3. A statement concerning whether discussions may be
696 conducted with the offerors for the purpose of clarification to
697 ensure full understanding of and responsiveness to the
698 solicitation requirements.

699 4. A statement concerning any other information to be
700 considered in evaluating the offeror's qualifications and
701 proposal.

702 (c) Notice of a request for qualifications shall be
703 published twice at least 7 calendar days apart, with the second
704 publication made at least 7 days before any initial submission
705 is due.

706 (d) As provided in a request for qualifications,
707 discussions may be conducted with the offerors for the purpose
708 of clarification to ensure full understanding of and
709 responsiveness to the solicitation requirements.

710 (11) The contents of proposals are competitive sealed
711 replies in response to an invitation to negotiate for purposes
712 of s. 119.071(1)(b) and are exempt from s. 119.07(1) and s.
713 24(a), Art. I of the State Constitution until disclosure of the
714 contents that are not otherwise exempt under s. 119.071 or other
715 law is required under s. 119.071(1)(b).

716 (12)(a) The department may negotiate with one or more
717 offerors the department determines are responsible and
718 reasonably capable of managing the lottery and may seek to
719 obtain a final offer from one or more of those offerors.

720 (b) The department shall consider the statement of
721 qualifications and the proposals to enter into a concession
722 agreement that are submitted in response to a request for
723 qualifications in making a determination under this section,
724 including the following as they apply to the offeror and its
725 partners, if any:

726 1. Expertise, qualifications, competence, skills, and plan
727 to perform obligations under the concession agreement in
728 accordance with the management agreement.

729 2. Financial strength, including capitalization and
730 available financial resources.

731 3. Experience in operating government-authorized lotteries
732 and gaming and other similar projects and the quality of any
733 past or present performance on similar or equivalent
734 engagements.

735 4. Integrity, background, and reputation.

736 (c) The requirements set forth in paragraph (b) also apply
737 to the approval of any successor concessionaire.

738 (13) (a) After the final offers from offerors have been
739 negotiated under subsection (12), the department shall:

740 1. Make a preliminary selection of an offeror as the
741 concessionaire for the lottery; or

742 2. Terminate the request for qualifications process.

743 (b) If the department makes a preliminary selection of the
744 concessionaire under this subsection, the department shall
745 schedule a public hearing on the preliminary selection and
746 provide public notice of the hearing at least 7 days before the
747 hearing. The notice must include the following:

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- 748 1. The date, time, and place of the hearing.
- 749 2. The subject matter of the hearing.
- 750 3. A brief description of the concession agreement to be
751 awarded.
- 752 4. The identity of the offeror that has been preliminarily
753 selected as the concessionaire .
- 754 5. The address and telephone number of the department.
- 755 6. A statement indicating that, subject to subsection
756 (11), and except for those parts that are confidential under s.
757 s. 119.071 or other applicable law, the selected offer and an
758 explanation of the basis upon which the preliminary selection
759 was made are available for public inspection and copying at the
760 principal office of the department during regular business hours
761 and, to the extent feasible, on the Internet.
- 762 (c) Subject to subsection (11), and except for those parts
763 that are confidential under s. s. 119.071 or other applicable
764 law, the selected offer and a written explanation of the basis
765 upon which the preliminary selection was made shall be made
766 available for inspection and copying in accordance with s.
767 119.07 and, to the extent feasible, on the Internet at least 7
768 calendar days before the hearing scheduled under this section.
- 769 (d) At the hearing, the department shall allow the public
770 to be heard on the preliminary selection.
- 771 (14)(a) After the hearing required under subsection (13),
772 the department shall determine if a concession agreement should
773 be entered into with the offeror that submitted the selected
774 offer. If the department makes a favorable determination, the
775 department shall submit the determination to the Governor.

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776 (b) After review of the department's determination, the
777 Governor may accept or reject the department's determination. If
778 the Governor accepts the department's determination, the
779 Governor shall designate the offeror who submitted the selected
780 offer as the concessionaire for the lottery.

781 (c) After the Governor designates the concessionaire, the
782 department may execute a concession agreement with the
783 designated concessionaire.

784 (15) The concessionaire may finance its obligations with
785 respect to the lottery and the concession agreement in the
786 amounts and upon the terms and conditions determined by the
787 concessionaire. However, any bonds, debt, other securities, or
788 other financing issued for the purposes of this section shall
789 not be considered to constitute a debt of the state or any
790 political subdivision of the state or a pledge of the faith and
791 credit of the state or any political subdivision of the state.

792 (16) An action to contest the validity of a concession
793 agreement entered into under this section may not be brought
794 after the 15th day after the publication of the notice of the
795 designation of the concessionaire under the concession agreement
796 as provided in subsection (14).

797 (17) (a) The department must use appropriate experts and
798 professionals needed to conduct a competitive bidding proceeding
799 as required under this section and may use the services of
800 outside professionals to the extent necessary to carry out its
801 obligations under this section.

802 (b) The department may exercise any powers provided under
803 this section in participation or cooperation with any other

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804 governmental entity and enter into any contracts to facilitate
805 that participation or cooperation without compliance with any
806 other statute.

807 (c) The department may make and enter into all contracts
808 and agreements necessary or incidental to the performance of the
809 department's duties under this section and the execution of the
810 department's powers under this section. These contracts or
811 agreements are not subject to any approval by any other
812 governmental entity and may be for any term of years and contain
813 any terms that are considered reasonable by the department.

814 (d) The department may make and enter into all contracts
815 and agreements with a state agency necessary or incidental to
816 the performance of the duties and the execution of the powers
817 granted to the department or the state agency in accordance with
818 this section or the management agreement. These contracts or
819 agreements are not subject to any approvals by any other
820 governmental entity and may be for any term of years and contain
821 any terms that are considered reasonable by the department or
822 the state agency.

823 (18) (a) The department may not sell the authorization to
824 operate the lottery.

825 (b) Any tangible personal property used exclusively in
826 connection with the lottery that is owned by the department and
827 leased to the concessionaire shall be owned by the department in
828 the name of the state and shall be considered to be public
829 property devoted to an essential public and governmental
830 function.

831 (c) Any bonds, debt, other securities, or other financing
832 issued by the concessionaire to finance its obligations with
833 respect to the concession agreement shall not be considered to
834 constitute a debt of the state or any political subdivision of
835 the state or a pledge of the faith and credit of the state or
836 any political subdivision.

837 (19) The department may exercise any of its powers under
838 this chapter or any other law as necessary or desirable for the
839 execution of the department's powers under this section.

840 (20) Neither this section nor any concession agreement
841 entered into under this section prohibits the Legislature from
842 authorizing forms of gambling that are not in direct competition
843 with the lottery.

844 Section 11. Section 24.112, Florida Statutes, is amended
845 to read:

846 24.112 Retailers of lottery tickets.--

847 (1) If the department directly operates the lottery, the
848 department shall promulgate rules specifying the terms and
849 conditions for contracting with retailers who will best serve
850 the public interest and promote the sale of lottery tickets.

851 (2) If the department directly operates the lottery, in
852 the selection of retailers, the department shall consider
853 factors such as financial responsibility, integrity, reputation,
854 accessibility of the place of business or activity to the
855 public, security of the premises, the sufficiency of existing
856 retailers to serve the public convenience, and the projected
857 volume of the sales for the lottery game involved. In the
858 consideration of these factors, the department may require the

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859 information it deems necessary of any person applying for
860 authority to act as a retailer. However, the department may not
861 establish a limitation upon the number of retailers and shall
862 make every effort to allow small business participation as
863 retailers. It is the intent of the Legislature that retailer
864 selections be based on business considerations and the public
865 convenience and that retailers be selected without regard to
866 political affiliation.

867 (3) If the department directly operates the lottery, the
868 department shall not contract with any person as a retailer who:

869 (a) Is less than 18 years of age.

870 (b) Is engaged exclusively in the business of selling
871 lottery tickets; however, this paragraph shall not preclude the
872 department from selling lottery tickets.

873 (c) Has been convicted of, or entered a plea of guilty or
874 nolo contendere to, a felony committed in the preceding 10
875 years, regardless of adjudication, unless the department
876 determines that:

877 1. The person has been pardoned or the person's civil
878 rights have been restored;

879 2. Subsequent to such conviction or entry of plea the
880 person has engaged in the kind of law-abiding commerce and good
881 citizenship that would reflect well upon the integrity of the
882 lottery; or

883 3. If the person is a firm, association, partnership,
884 trust, corporation, or other entity, the person has terminated
885 its relationship with the individual whose actions directly
886 contributed to the person's conviction or entry of plea.

887 (4) If the department directly operates the lottery, the
 888 department shall issue a certificate of authority to each person
 889 with whom it contracts as a retailer for purposes of display
 890 pursuant to subsection (6). The issuance of the certificate
 891 shall not confer upon the retailer any right apart from that
 892 specifically granted in the contract. The authority to act as a
 893 retailer shall not be assignable or transferable.

894 (5) Any contract executed by the department under ~~pursuant~~
 895 ~~to~~ this section shall specify the reasons for any suspension or
 896 termination of the contract by the department, including, but
 897 not limited to:

898 (a) Commission of a violation of this chapter ~~act~~ or rule
 899 adopted pursuant thereto.

900 (b) Failure to accurately account for lottery tickets,
 901 revenues, or prizes as required by the department.

902 (c) Commission of any fraud, deceit, or misrepresentation.

903 (d) Insufficient sale of tickets.

904 (e) Conduct prejudicial to public confidence in the
 905 lottery.

906 (f) Any material change in any matter considered by the
 907 department in executing the contract with the retailer.

908 (6) Every retailer shall post and keep conspicuously
 909 displayed in a location on the premises accessible to the public
 910 its certificate of authority and, with respect to each game, a
 911 statement supplied by the department or the concessionaire of
 912 the estimated odds of winning some prize for the game.

913 (7) No contract with a retailer shall authorize the sale
 914 of lottery tickets at more than one location, and a retailer may

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915 | sell lottery tickets only at the location stated on the
916 | certificate of authority.

917 | (8) If the department directly operates the lottery, with
918 | respect to any retailer whose rental payments for premises are
919 | contractually computed, in whole or in part, on the basis of a
920 | percentage of retail sales, and where such computation of retail
921 | sales is not explicitly defined to include sales of tickets in a
922 | state-operated lottery, the compensation received by the
923 | retailer from the department shall be deemed to be the amount of
924 | the retail sale for the purposes of such contractual
925 | compensation.

926 | (9) If the department directly operates the lottery:

927 | (a) The department may require every retailer to post an
928 | appropriate bond as determined by the department, using an
929 | insurance company acceptable to the department, in an amount not
930 | to exceed twice the average lottery ticket sales of the retailer
931 | for the period within which the retailer is required to remit
932 | lottery funds to the department. For the first 90 days of sales
933 | of a new retailer, the amount of the bond may not exceed twice
934 | the average estimated lottery ticket sales for the period within
935 | which the retailer is required to remit lottery funds to the
936 | department. This paragraph shall not apply to lottery tickets
937 | that ~~which~~ are prepaid by the retailer.

938 | (b) In lieu of such bond, the department may purchase
939 | blanket bonds covering all or selected retailers or may allow a
940 | retailer to deposit and maintain with the Chief Financial
941 | Officer securities that are interest bearing or accruing and
942 | that, with the exception of those specified in subparagraphs 1.

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943 and 2., are rated in one of the four highest classifications by
 944 an established nationally recognized investment rating service.
 945 Securities eligible under this paragraph shall be limited to:

946 1. Certificates of deposit issued by solvent banks or
 947 savings associations organized and existing under the laws of
 948 this state or under the laws of the United States and having
 949 their principal place of business in this state.

950 2. United States bonds, notes, and bills for which the
 951 full faith and credit of the government of the United States is
 952 pledged for the payment of principal and interest.

953 3. General obligation bonds and notes of any political
 954 subdivision of the state.

955 4. Corporate bonds of any corporation that is not an
 956 affiliate or subsidiary of the depositor.

957
 958 Such securities shall be held in trust and shall have at all
 959 times a market value at least equal to an amount required by the
 960 department.

961 (10) Every contract entered into by the department
 962 pursuant to this section shall contain a provision for payment
 963 of liquidated damages to the department for any breach of
 964 contract by the retailer.

965 (11) If the department directly operates the lottery, the
 966 department shall establish procedures by which each retailer
 967 shall account for all tickets sold by the retailer and account
 968 for all funds received by the retailer from such sales. The
 969 contract with each retailer shall include provisions relating to
 970 the sale of tickets, payment of moneys to the department,

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971 reports, service charges, and interest and penalties, if
972 necessary, as the department shall deem appropriate.

973 (12) If the department directly operates the lottery, no
974 payment by a retailer to the department for tickets shall be in
975 cash. All such payments shall be in the form of a check, bank
976 draft, electronic fund transfer, or other financial instrument
977 authorized by the secretary.

978 (13) Each retailer shall provide accessibility for
979 disabled persons on habitable grade levels. This subsection does
980 not apply to a retail location that ~~which~~ has an entrance door
981 threshold more than 12 inches above ground level. As used herein
982 and for purposes of this subsection only, the term
983 "accessibility for disabled persons on habitable grade levels"
984 means that retailers shall provide ramps, platforms, aisles and
985 pathway widths, turnaround areas, and parking spaces to the
986 extent these are required for the retailer's premises by the
987 particular jurisdiction where the retailer is located.
988 Accessibility shall be required to only one point of sale of
989 lottery tickets for each lottery retailer location. The
990 requirements of this subsection shall be deemed to have been met
991 if, in lieu of the foregoing, disabled persons can purchase
992 tickets from the retail location by means of a drive-up window,
993 provided the hours of access at the drive-up window are not less
994 than those provided at any other entrance at that lottery
995 retailer location. Inspections for compliance with this
996 subsection shall be performed by those enforcement authorities
997 responsible for enforcement pursuant to s. 553.80 in accordance
998 with procedures established by those authorities. Those

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999 enforcement authorities shall provide to the Department of the
 1000 Lottery a certification of noncompliance for any lottery
 1001 retailer not meeting such requirements.

1002 (14) If the department directly operates the lottery, the
 1003 secretary may, after filing with the Department of State his or
 1004 her manual signature certified by the secretary under oath,
 1005 execute or cause to be executed contracts between the department
 1006 and retailers by means of engraving, imprinting, stamping, or
 1007 other facsimile signature.

1008 Section 12. Section 24.113, Florida Statutes, is amended
 1009 to read:

1010 24.113 Minority participation.--

1011 (1) It is the intent of the Legislature that the
 1012 department or the concessionaire, whichever is operating the
 1013 lottery, encourage participation by minority business
 1014 enterprises as defined in s. 288.703. Accordingly, 15 percent of
 1015 the retailers shall be minority business enterprises as defined
 1016 in s. 288.703(2); however, no more than 35 percent of such
 1017 retailers shall be owned by the same type of minority person, as
 1018 defined in s. 288.703(3). The department or the concessionaire
 1019 is encouraged to meet the minority business enterprise
 1020 procurement goals set forth in s. 287.09451 in the procurement
 1021 of commodities, contractual services, construction, and
 1022 architectural and engineering services. This section shall not
 1023 preclude or prohibit a minority person from competing for any
 1024 other retailing or vending agreement awarded by the department
 1025 or the concessionaire.

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1026 (2) The department or the concessionaire, whichever is
 1027 operating the lottery, shall ~~is directed to~~ undertake training
 1028 programs and other educational activities to enable minority
 1029 persons to compete for such contracts on an equal basis.

1030 Section 13. Section 24.114, Florida Statutes, is amended
 1031 to read:

1032 24.114 Bank deposits and control of lottery
 1033 transactions.--

1034 (1) If the department directly operates the lottery, all
 1035 moneys received by each retailer from the operation of the state
 1036 lottery, including, but not limited to, all ticket sales,
 1037 interest, gifts, and donations, less the amount retained as
 1038 compensation for the sale of the tickets and the amount paid out
 1039 as prizes, shall be remitted to the department or deposited in a
 1040 qualified public depository, as defined in s. 280.02, as
 1041 directed by the department. The department shall have the
 1042 responsibility for all administrative functions related to the
 1043 receipt of funds. The department may also require each retailer
 1044 to file with the department reports of the retailer's receipts
 1045 and transactions in the sale of lottery tickets in such form and
 1046 containing such information as the department may require. The
 1047 department may require any person, including a qualified public
 1048 depository, to perform any function, activity, or service in
 1049 connection with the operation of the lottery as it may deem
 1050 advisable pursuant to this chapter ~~act~~ and rules of the
 1051 department, and such functions, activities, or services shall
 1052 constitute lawful functions, activities, and services of such
 1053 person.

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1054 (2) If the department directly operates the lottery, the
 1055 department may require retailers to establish separate
 1056 electronic funds transfer accounts for the purpose of receiving
 1057 moneys from ticket sales, making payments to the department, and
 1058 receiving payments from the department.

1059 (3) If the department directly operates the lottery, each
 1060 retailer is liable to the department for any and all tickets
 1061 accepted or generated by any employee or representative of that
 1062 retailer, and the tickets shall be deemed to have been purchased
 1063 by the retailer unless returned to the department within the
 1064 time and in the manner prescribed by the department. All moneys
 1065 received by retailers from the sale of lottery tickets, less the
 1066 amount retained as compensation for the sale of tickets and the
 1067 amount paid out as prizes by the retailer, shall be held in
 1068 trust prior to delivery to the department or electronic transfer
 1069 to the Operating Trust Fund.

1070 Section 14. Section 24.115, Florida Statutes, is amended
 1071 to read:

1072 24.115 Payment of prizes.--

1073 (1) If the department directly operates the lottery, the
 1074 department shall promulgate rules to establish a system of
 1075 verifying the validity of tickets claimed to win prizes and to
 1076 effect payment of such prizes; however, the following shall
 1077 apply whether the lottery is operated directly by the department
 1078 or through a concessionaire:

1079 (a) The right of any person to a prize, other than a prize
 1080 that is payable in installments over time, is not assignable.
 1081 However, any prize, to the extent that it has not been assigned

1082 or encumbered pursuant to s. 24.1153, may be paid to the estate
 1083 of a deceased prize winner or to a person designated pursuant to
 1084 an appropriate court order. A prize that is payable in
 1085 installments over time is assignable, but only pursuant to an
 1086 appropriate court order as provided in s. 24.1153.

1087 (b) No prize shall be paid to any person under the age of
 1088 18 years unless the winning ticket was lawfully purchased and
 1089 made a gift to the minor. In such case, the department or the
 1090 concessionaire, if the concessionaire operates the lottery,
 1091 shall direct payment to an adult member of the minor's family or
 1092 the legal guardian of the minor as custodian for the minor. The
 1093 person named as custodian shall have the same powers and duties
 1094 as prescribed for a custodian pursuant to chapter 710, the
 1095 Florida Uniform Transfers to Minors Act.

1096 (c) No prize may be paid arising from claimed tickets that
 1097 are stolen, counterfeit, altered, fraudulent, unissued, produced
 1098 or issued in error, unreadable, not received or not recorded by
 1099 the department or the concessionaire, if the concessionaire
 1100 operates the lottery, by applicable deadlines, lacking in
 1101 captions that confirm and agree with the lottery play symbols as
 1102 appropriate to the lottery game involved, or not in compliance
 1103 with such additional specific rules and public or confidential
 1104 validation and security tests of the department or the
 1105 concessionaire, if the concessionaire operates the lottery,
 1106 appropriate to the particular lottery game involved.

1107 (d) No particular prize in any lottery game may be paid
 1108 more than once, and in the event of a binding determination that
 1109 more than one claimant is entitled to a particular prize, the

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1110 sole remedy of such claimants is the award to each of them of an
 1111 equal share in the prize.

1112 (e) For the convenience of the public, retailers may be
 1113 authorized to pay winners amounts less than \$600 after
 1114 performing validation procedures on their premises appropriate
 1115 to the lottery game involved.

1116 (f) Holders of tickets shall have the right to claim
 1117 prizes for 180 days after the drawing or the end of the lottery
 1118 game or play in which the prize was won; except that with
 1119 respect to any game in which the player may determine instantly
 1120 if he or she has won or lost, such right shall exist for 60 days
 1121 after the end of the lottery game. If a valid claim is not made
 1122 for a prize within the applicable period, the prize shall
 1123 constitute an unclaimed prize for purposes of subsection (2).

1124 (g) No prize shall be paid upon a ticket purchased or sold
 1125 in violation of this chapter ~~act~~ or to any person who is
 1126 prohibited from purchasing a lottery ticket pursuant to this
 1127 chapter ~~act~~. Any such prize shall constitute an unclaimed prize
 1128 for purposes of subsection (2).

1129 (2) (a) Eighty percent of all unclaimed prize money shall
 1130 be deposited in the Educational Enhancement Trust Fund
 1131 consistent with the provisions of s. 24.121(2). Subject to
 1132 appropriations provided in the General Appropriations Act, these
 1133 funds may be used to match private contributions received under
 1134 the postsecondary matching grant programs established in ss.
 1135 1011.32, 1011.85, 1011.94, and 1013.79.

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1136 (b) The remaining 20 percent of unclaimed prize money
1137 shall be added to the pool from which future prizes are to be
1138 awarded or used for special prize promotions.

1139 (3) The department or the concessionaire, if the
1140 concessionaire operates the lottery, shall be discharged of all
1141 liability upon payment of a prize.

1142 (4) It is the responsibility of the appropriate state
1143 agency and of the judicial branch to identify to the department
1144 or the concessionaire, in the form and format prescribed by the
1145 department or the concessionaire, persons owing an outstanding
1146 debt to any state agency or owing child support collected
1147 through a court, including spousal support or alimony for the
1148 spouse or former spouse of the obligor if the child support
1149 obligation is being enforced by the Department of Revenue. Prior
1150 to the payment of a prize of \$600 or more to any claimant having
1151 such an outstanding obligation, the department or the
1152 concessionaire shall transmit the amount of the debt to the
1153 agency claiming the debt and shall authorize payment of the
1154 balance to the prize winner after deduction of the debt. If a
1155 prize winner owes multiple debts subject to offset under this
1156 subsection and the prize is insufficient to cover all such
1157 debts, the amount of the prize shall be transmitted first to the
1158 agency claiming that past due child support is owed. If a
1159 balance of lottery prize remains after payment of past due child
1160 support, the remaining lottery prize amount shall be transmitted
1161 to other agencies claiming debts owed to the state, pro rata,
1162 based upon the ratio of the individual debt to the remaining
1163 debt owed to the state.

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1164 Section 15. Section 24.1153, Florida Statutes, is amended
 1165 to read:

1166 24.1153 Assignment of prizes payable in installments.--

1167 (1) The right of any person to receive payments under a
 1168 prize that is paid in installments over time by the department
 1169 or the concessionaire may be voluntarily assigned, in whole or
 1170 in part, if the assignment is made to a person or entity
 1171 designated pursuant to an order of a court of competent
 1172 jurisdiction located in the judicial district where the
 1173 assigning prize winner resides or where the headquarters of the
 1174 department is located or where in the state the headquarters of
 1175 the concessionaire is located. A court may issue an order
 1176 approving a voluntary assignment and directing the department or
 1177 the concessionaire to make prize payments in whole or in part to
 1178 the designated assignee, if the court finds that all of the
 1179 following conditions have been met:

1180 (a) The assignment is in writing, is executed by the
 1181 assignor, and is, by its terms, subject to the laws of this
 1182 state.

1183 (b) The purchase price being paid for the payments being
 1184 assigned represents a present value of the payments being
 1185 assigned, discounted at an annual rate that does not exceed the
 1186 state's usury limit for loans.

1187 (c) The assignor provides a sworn affidavit attesting that
 1188 he or she:

1189 1. Is of sound mind, is in full command of his or her
 1190 faculties, and is not acting under duress;

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1191 2. Has been advised regarding the assignment by his or her
1192 own independent legal counsel, who is unrelated to and is not
1193 being compensated by the assignee or any of the assignee's
1194 affiliates, and has received independent financial or tax advice
1195 concerning the effects of the assignment from a lawyer or other
1196 professional who is unrelated to and is not being compensated by
1197 the assignee or any of the assignee's affiliates;

1198 3. Understands that he or she will not receive the prize
1199 payments or portions thereof for the years assigned;

1200 4. Understands and agrees that with regard to the assigned
1201 payments the department or the concessionaire and its officials
1202 and employees will have no further liability or responsibility
1203 to make the assigned payments to him or her;

1204 5. Has been provided with a one-page written disclosure
1205 statement setting forth, in bold type of not less than 14
1206 points, the payments being assigned, by amounts and payment
1207 dates; the purchase price being paid; the rate of discount to
1208 present value, assuming daily compounding and funding on the
1209 contract date; and the amount, if any, of any origination or
1210 closing fees that will be charged to him or her; and

1211 6. Was advised in writing, at the time he or she signed
1212 the assignment contract, that he or she had the right to cancel
1213 the contract, without any further obligation, within 3 business
1214 days following the date on which the contract was signed.

1215 (d) Written notice of the proposed assignment and any
1216 court hearing concerning the proposed assignment is provided to
1217 the department's or the concessionaire's counsel at least 10
1218 days prior to any court hearing. The department or the

1219 concessionaire is not required to appear in or be named as a
 1220 party to any such action seeking judicial confirmation of an
 1221 assignment under this section, but may intervene as of right in
 1222 any such proceeding.

1223 (2) A certified copy of a court order approving a
 1224 voluntary assignment must be provided to the department or the
 1225 concessionaire no later than 14 days before the date on which
 1226 the payment is to be made.

1227 (3) In accordance with the provisions of s. 24.115(4), a
 1228 voluntary assignment may not include or cover payments or
 1229 portions of payments that are subject to offset on account of a
 1230 defaulted or delinquent child support obligation or on account
 1231 of a debt owed to a state agency. Each court order issued under
 1232 subsection (1) shall provide that any delinquent child support
 1233 obligations of the assigning prize winner and any debts owed to
 1234 a state agency by the assigning prize winner, as of the date of
 1235 the court order, shall be offset by the department or the
 1236 concessionaire first against remaining payments or portions
 1237 thereof due the prize winner and then against payments due the
 1238 assignee.

1239 (4) The department or the concessionaire, and its
 1240 respective officials and employees, shall be discharged of all
 1241 liability upon payment of an assigned prize under this section.

1242 (5) The department or the concessionaire may establish a
 1243 reasonable fee to defray any administrative expenses associated
 1244 with assignments made under this section, including the cost to
 1245 the department or the concessionaire of any processing fee that
 1246 may be imposed by a private annuity provider. The fee amount

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1247 shall reflect the direct and indirect costs associated with
 1248 processing such assignments.

1249 (6) If at any time the Internal Revenue Service or a court
 1250 of competent jurisdiction issues a determination letter, revenue
 1251 ruling, other public ruling of the Internal Revenue Service, or
 1252 published decision to any state lottery or prize winner of any
 1253 state lottery declaring that the voluntary assignment of prizes
 1254 will affect the federal income tax treatment of prize winners
 1255 who do not assign their prizes, the secretary of the department
 1256 shall immediately file a copy of that letter, ruling, or
 1257 published decision with the Secretary of State and the Office of
 1258 the State Courts Administrator. A court may not issue an order
 1259 authorizing a voluntary assignment under this section after the
 1260 date any such ruling, letter, or published decision is filed.

1261 Section 16. Section 24.117, Florida Statutes, is amended
 1262 to read:

1263 24.117 Unlawful sale of lottery tickets; penalty.--Any
 1264 person who knowingly:

1265 (1) Sells a state lottery ticket when not authorized by
 1266 the department or this chapter ~~act~~ to engage in such sale;

1267 (2) Sells a state lottery ticket to a minor; or

1268 (3) If the department directly operates the lottery, sells
 1269 a state lottery ticket at any price other than that established
 1270 by the department;

1271
 1272 commits ~~is guilty of~~ a misdemeanor of the first degree,
 1273 punishable as provided in s. 775.082 or s. 775.083.

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1274 Section 17. Subsections (4) and (5) of section 24.118,
 1275 Florida Statutes, are amended to read:

1276 24.118 Other prohibited acts; penalties.--

1277 (4) BREACH OF CONFIDENTIALITY.--Any person who, with
 1278 intent to defraud or with intent to provide a financial or other
 1279 advantage to himself, herself, or another, knowingly and
 1280 willfully discloses any information relating to the lottery
 1281 designated as confidential and exempt from the provisions of s.
 1282 119.07(1) pursuant to this chapter commits ~~act is guilty of~~ a
 1283 felony of the first degree, punishable as provided in s.
 1284 775.082, s. 775.083, or s. 775.084.

1285 (5) UNLAWFUL REPRESENTATION.--

1286 (a) Any person who uses point-of-sale materials issued by
 1287 the department or the concessionaire or otherwise holds himself
 1288 or herself out as a retailer without being authorized by the
 1289 department or the concessionaire to act as a retailer commits ~~is~~
 1290 ~~guilty of~~ a misdemeanor of the first degree, punishable as
 1291 provided in s. 775.082 or s. 775.083.

1292 (b) Any person who without being authorized by the
 1293 department or the concessionaire in writing uses the term
 1294 "Florida Lottery," "State Lottery," "Florida State Lottery," or
 1295 any similar term in the title or name of any charitable or
 1296 commercial enterprise, product, or service commits ~~is guilty of~~
 1297 a misdemeanor of the first degree, punishable as provided in s.
 1298 775.082 or s. 775.083.

1299 Section 18. Subsections (1) and (2) of section 24.120,
 1300 Florida Statutes, are amended to read:

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1301 24.120 Financial matters; Operating Trust Fund;
1302 interagency cooperation.--

1303 (1) There is hereby created in the State Treasury an
1304 Operating Trust Fund to be administered in accordance with
1305 chapters 215 and 216 by the department. If the department
1306 directly operates the lottery, all money received by the
1307 department which remains after payment of prizes and initial
1308 compensation paid to retailers shall be deposited into the
1309 Operating Trust Fund. All moneys in the trust fund are
1310 appropriated to the department for the purposes specified in
1311 this chapter ~~act~~.

1312 (2) Moneys available for the payment of prizes awarded by
1313 the department in its direct operation of the lottery on a
1314 deferred basis shall be invested by the State Board of
1315 Administration in accordance with a trust agreement approved by
1316 the secretary and entered into between the department and the
1317 State Board of Administration in accordance with ss. 215.44-
1318 215.53. The investments authorized by this subsection shall be
1319 done in a manner designed to preserve capital and to ensure the
1320 integrity of the lottery disbursement system by eliminating the
1321 risk of payment of funds when due and to produce equal annual
1322 sums of money over the required term of the investments.

1323 Section 19. Subsections (1), (2), and (3) of section
1324 24.121, Florida Statutes, are amended to read:

1325 24.121 Allocation of revenues and expenditure of funds for
1326 public education.--

1327 (1) If the department directly operates the lottery,
1328 variable percentages of the gross revenue from the sale of

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1329 | online and instant lottery tickets shall be returned to the
1330 | public in the form of prizes paid by the department or retailers
1331 | as authorized by this chapter ~~aet.~~ The variable percentages of
1332 | gross revenue from the sale of online and instant lottery
1333 | tickets returned to the public in the form of prizes shall be
1334 | established by the department in a manner designed to maximize
1335 | the amount of funds deposited under subsection (2).

1336 | (2) Each fiscal year, if the department directly operates
1337 | the lottery, variable percentages of the gross revenue from the
1338 | sale of online and instant lottery tickets as determined by the
1339 | department consistent with subsection (1), and other earned
1340 | revenue, excluding application processing fees, shall be
1341 | deposited in the Educational Enhancement Trust Fund, which is
1342 | hereby created in the State Treasury to be administered by the
1343 | Department of Education. If the department operates the lottery
1344 | through a concession agreement, the proceeds to the department
1345 | from the concession agreement shall be deposited in the
1346 | Educational Enhancement Trust Fund, with, at minimum, the
1347 | greater of \$400 million or one-third of the funds deposited into
1348 | the trust fund to be allocated the Florida Bright Futures
1349 | Scholarship Program. The Department of the Lottery shall
1350 | transfer moneys to the Educational Enhancement Trust Fund at
1351 | least once each quarter. Funds in the Educational Enhancement
1352 | Trust Fund shall be used to the benefit of public education in
1353 | accordance with the provisions of this chapter ~~aet.~~
1354 | Notwithstanding any other provision of law, lottery revenues
1355 | transferred to the Educational Enhancement Trust Fund shall be
1356 | reserved as needed and used to meet the requirements of the

1357 documents authorizing the bonds issued by the state pursuant to
 1358 s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school
 1359 districts for the Classrooms First Program as provided in s.
 1360 1013.68. Such lottery revenues are hereby pledged to the payment
 1361 of debt service on bonds issued by the state pursuant to s.
 1362 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on
 1363 bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or
 1364 s. 1013.737 shall be payable from, and is secured by a first
 1365 lien on, the first lottery revenues transferred to the
 1366 Educational Enhancement Trust Fund in each fiscal year. Amounts
 1367 distributable to school districts that request the issuance of
 1368 bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds
 1369 pursuant to s. 11(d), Art. VII of the State Constitution.

1370 (3) The funds remaining in the Operating Trust Fund after
 1371 transfers to the Educational Enhancement Trust Fund shall be
 1372 used for the payment of administrative expenses of the
 1373 department. These expenses shall include all costs incurred in
 1374 the department's direct operation and administration of the
 1375 lottery or the concession agreement and all costs resulting from
 1376 any contracts entered into for the purchase or lease of goods or
 1377 services required by the lottery, including, but not limited to:

- 1378 (a) The compensation paid to retailers;
- 1379 (b) The costs of supplies, materials, tickets, independent
 1380 audit services, independent studies, data transmission,
 1381 advertising, promotion, incentives, public relations,
 1382 communications, security, bonding for retailers, printing,
 1383 distribution of tickets, and reimbursing other governmental
 1384 entities for services provided to the lottery; and

1385 (c) The costs of any other goods and services necessary
 1386 for effectuating the purposes of this chapter act.

1387 Section 20. Section 24.122, Florida Statutes, is amended
 1388 to read:

1389 24.122 Exemption from taxation; state preemption;
 1390 inapplicability of other laws.--

1391 (1) This chapter act shall not be construed to authorize
 1392 any lottery except the lottery operated by the department or the
 1393 concessionaire under ~~pursuant to~~ this chapter act.

1394 (2) No state or local tax shall be imposed upon any prize
 1395 paid or payable under this chapter act or upon the sale of any
 1396 lottery ticket pursuant to this chapter act.

1397 (3) All matters relating to the operation of the state
 1398 lottery are preempted to the state, and no county, municipality,
 1399 or other political subdivision of the state shall enact any
 1400 ordinance relating to the operation of the lottery authorized by
 1401 this chapter act. However, this subsection shall not prohibit a
 1402 political subdivision of the state from requiring a retailer to
 1403 obtain an occupational license for any business unrelated to the
 1404 sale of lottery tickets.

1405 (4) Any state or local law providing any penalty,
 1406 disability, restriction, or prohibition for the possession,
 1407 manufacture, transportation, distribution, advertising, or sale
 1408 of any lottery ticket, including chapter 849, shall not apply to
 1409 the tickets of the state lottery operated pursuant to this
 1410 chapter act; nor shall any such law apply to the possession of a
 1411 ticket issued by any other government-operated lottery. In

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1412 addition, activities of the department under this chapter ~~act~~
 1413 are exempt from the provisions of:

1414 (a) Chapter 616, relating to public fairs and expositions.

1415 (b) Chapter 946, relating to correctional work programs.

1416 (c) Chapter 282, relating to communications and data
 1417 processing.

1418 (d) Section 110.131, relating to other personal services.

1419 Section 21. Section 24.123, Florida Statutes, is amended
 1420 to read:

1421 24.123 Annual audit of financial records and reports.--

1422 (1) The Legislative Auditing Committee shall contract with
 1423 a certified public accountant licensed pursuant to chapter 473
 1424 for an annual financial audit of the department. The certified
 1425 public accountant shall have no financial interest in any vendor
 1426 or concessionaire with whom the department is under contract.

1427 The certified public accountant shall present an audit report no
 1428 later than 7 months after the end of the fiscal year and shall
 1429 make recommendations to enhance the earning capability of the
 1430 state lottery or the concession agreement and to improve the
 1431 efficiency of department operations. The certified public
 1432 accountant shall also perform a study and evaluation of internal
 1433 accounting controls and shall express an opinion on those
 1434 controls in effect during the audit period. The cost of the
 1435 annual financial audit shall be paid by the department.

1436 (2) The Auditor General may at any time conduct an audit
 1437 of any phase of the operations of the state lottery or the
 1438 concession agreement and shall receive a copy of the yearly

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1439 independent financial audit and any security report prepared
 1440 pursuant to s. 24.108.

1441 (3) A copy of any audit performed pursuant to this section
 1442 shall be submitted to the secretary, the Governor, the President
 1443 of the Senate, the Speaker of the House of Representatives, and
 1444 members of the Legislative Auditing Committee.

1445 Section 22. Section 24.124, Florida Statutes, is amended
 1446 to read:

1447 24.124 Responsibility for ticket accuracy; department,
 1448 retailer, and vendor liability.--

1449 (1) If the department directly operates the lottery,
 1450 purchasers of online games tickets shall be responsible for
 1451 verifying the accuracy of their tickets, including the number or
 1452 numbers printed on the tickets. In the event of an error, the
 1453 ticket may be canceled and a replacement ticket issued pursuant
 1454 to rules promulgated by the department ~~of the Lottery~~.

1455 (2) If the department directly operates the lottery, other
 1456 than the issuance of a replacement ticket, there shall be no
 1457 right or cause of action and no liability on the part of the
 1458 department, retailer, vendor, or any other person associated
 1459 with selling an online games ticket, with respect to errors or
 1460 inaccuracies contained in the ticket, including errors in the
 1461 number or numbers printed on the ticket.

1462 Section 23. This act shall take effect January 1, 2009.