

By the Policy and Steering Committee on Ways and Means; the Committee on Regulated Industries; and Senators Jones and King

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1 A bill to be entitled
2 An act relating to a gaming compact between the State
3 of Florida and the Seminole Tribe of Florida; defining
4 terms; providing that the previous compact between the
5 Tribe and the Governor is not approved or ratified by
6 the Legislature; directing the Governor to negotiate a
7 gaming compact with the Tribe; specifying requirements
8 and minimum standards for the compact; specifying the
9 date on which the authority of the Governor to
10 negotiate a compact expires; specifying games that may
11 be authorized for play pursuant to the compact;
12 specifying revenue sharing between the state and the
13 Tribe; requiring the release of certain gaming
14 revenues to the state; providing for the reduction of
15 the Tribe's net win on which revenue sharing is based
16 if additional Class III games are authorized under
17 certain circumstances; providing for completion of the
18 term of the compact in the event that the voters
19 repeal a constitutional provision authorizing slot
20 machines at certain pari-mutuel facilities; providing
21 that the compact becomes void as the result of a
22 judicial decision or decision of the Secretary of the
23 United States Department of the Interior invalidating
24 certain provisions of the compact; specifying limits
25 on the term of a compact; limiting the number of
26 facilities at which gaming may occur; specifying
27 requirements for a central computer system on gaming
28 facility premises; requiring that the system provide
29 the state with access to certain data; specifying the

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30 authority of the state to oversee gaming activities by
31 the Tribe; requiring medical professionals employed at
32 the Tribe's gaming facilities to have certain minimum
33 qualifications; requiring access for municipal or
34 county emergency medical services; specifying minimum
35 construction standards for the Tribe's gaming
36 facilities; specifying minimum environmental
37 standards; requiring the Tribe to establish procedures
38 to dispose of tort claims; requiring the Tribe to
39 maintain a minimum amount of general liability
40 insurance for tort claims; prohibiting the Tribe or
41 its insurer from invoking sovereign immunity under
42 certain circumstances; requiring the Tribe to waive
43 its sovereign immunity for disputes relating to the
44 compact; requiring presuit arbitration of disputes
45 relating to the compact; requiring the Tribe to
46 maintain nondiscriminatory employment practices;
47 requiring the Tribe to use its best efforts to spend
48 its revenue in this state; providing legislative
49 intent to review the compact; directing the Governor
50 to negotiate agreements with Indian tribes in this
51 state, subject to approval by the Legislature,
52 relating to the application state taxes on Indian
53 lands; amending s. 1013.737, F.S.; authorizing the
54 state to pledge to use revenues from gaming activities
55 to repay bonds; providing a contingent effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. As used in this act, the term:

60 (1) "Agreement" means the document executed by the Seminole
61 Tribe of Florida and the Governor on November 14, 2007,
62 published in the Federal Register on January 7, 2008,
63 subsequently invalidated by the Florida Supreme Court in the
64 case of *Florida House of Representatives, et al., v. Crist*, No.
65 SC07-2154.

66 (2) "Class II gaming" means the forms of gaming defined in
67 25 U.S.C. s. 2703(7) and by the regulations of the National
68 Indian Gaming Commission in effect on January 1, 2009.

69 (3) "Class III gaming" means the forms of Class III gaming
70 defined in 25 U.S.C. s. 2703(8) and by the regulations of the
71 National Indian Gaming Commission in effect on January 1, 2009.

72 (4) "Compact" means the compact between the Seminole Tribe
73 of Florida and the State of Florida executed by the Tribe and
74 the state pursuant to the provisions of the Indian Gaming
75 Regulatory Act of 1988 and this act, and approved or deemed
76 approved by the United States Department of the Interior
77 pursuant to 25 U.S.C. s. 2710(d)(8).

78 (5) "Net win" means gross gaming revenue for Class III
79 games, as such games are defined by the federal Indian Gaming
80 Regulatory Act of 1988, which is the difference between gaming
81 wins and losses, before deducting costs and expenses.

82 (6) "Revenue-sharing cycle" means a 12-month period, with
83 the first such cycle beginning on the day the compact executed
84 pursuant to this act is approved or deemed approved by the
85 Secretary of the United States Department of the Interior, as
86 evidenced by the date of publication in the Federal Register.

87 (7) "Tribe" means the Seminole Tribe of Florida.

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88 Section 2. The agreement executed by the Governor and the
89 Tribe is not ratified or approved by the Legislature.

90 Section 3. (1) The Governor is hereby authorized and
91 directed to execute a compact on behalf of the State of Florida
92 with the Tribe pursuant to the federal Indian Gaming Regulatory
93 Act of 1988, 18 U.S.C. ss. 1166-1168, and 25 U.S.C. s. 2701 et
94 seq., and this act for the purpose of authorizing class III
95 gaming on Seminole lands within this state.

96 (2) The Legislature recognizes the efforts of the Governor
97 and the Tribe in the negotiation and formulation of the
98 agreement. The Legislature intends that the compact entered into
99 pursuant to this act conform to the terms and standards in the
100 agreement to the extent that such terms and standards do not
101 conflict with the minimum terms and standards provided in this
102 act.

103 (3) A compact that meets all of the minimum terms and
104 standards specified in this act does not require subsequent
105 approval or ratification by the Legislature. The compact shall
106 specify a procedure for amending the compact. Any amendment to
107 the compact which is consistent with the minimum terms and
108 standards provided in this act does not require subsequent
109 approval or ratification by the Legislature.

110 (4) If any provision of the compact relating to covered
111 games, payments, suspension or reduction in payments, or
112 exclusivity is held by a court of competent jurisdiction or by
113 the Secretary of the United States Department of the Interior to
114 be invalid, the compact is void.

115 (5) The Governor shall ensure that all revenue sharing
116 received pursuant to the compact is deposited into the Education

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117 Enhancement Trust Fund.

118 (6) The Governor shall provide a copy of the compact to the
119 President of the Senate and the Speaker of the House of
120 Representatives as soon as it is executed by the state and the
121 Tribe and before or simultaneous with its submission to the
122 Department of the Interior.

123 (7) The Governor shall preserve all documents, if any,
124 which relate to the intent or interpretation of the compact, and
125 maintain such documents for at least the term of the compact.

126 (8) Except for the authority granted to the Governor in
127 section 7 of this act, the authority granted to the Governor by
128 this act expires at 11:59 p.m. on August 31, 2009.

129 (9) Before entering into the compact, the Governor shall
130 verify and ensure that the Tribe has the capacity to make the
131 periodic revenue-sharing payments required by this act, and that
132 the Tribe is reasonably expected to reach a minimum of \$1.37
133 billion in net win during at least the first three revenue-
134 sharing cycles.

135 (10) The compact shall also require that the Governor and
136 the Tribe will use their best efforts to obtain the approval of
137 the compact by the United States Department of the Interior.

138 Section 4. The Division of Pari-mutuel Wagering of the
139 Department of Business and Professional Regulation is designated
140 as the state agency having the authority to carry out the
141 state's oversight responsibilities under a compact authorized by
142 this act.

143 Section 5. (1) Notwithstanding any other provision of law
144 to the contrary, the Governor is authorized to negotiate a
145 compact with the Tribe to permit the Tribe to offer for play any

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146 of the following games that are permitted in this state under
147 limited circumstances at licensed pari-mutuel facilities:

148 (a) Slot machines, as defined in s. 551.102(8), Florida
149 Statutes.

150 (b)1. Charity celebrity poker tournaments, if the compact
151 specifies the minimum percentage of the net proceeds from each
152 poker tournament which must be donated to a charitable
153 organization organized pursuant to s. 501(c)(3) of the Internal
154 Revenue Code, limits the number of tournaments that may be held
155 each year, limits the maximum number of days that tournaments
156 may be played, and limits the frequency of the tournaments.

157 2. The compact shall permit the Tribe to conduct games of
158 poker without betting limits if such games are authorized in
159 this state to any person for any purpose.

160 (c) Any devices or games that are authorized under state
161 law to the Florida State Lottery, except that the Tribe may not
162 offer such games through the Internet unless others in the state
163 are permitted to do so.

164 (d) Any new Class II game authorized by Florida law for any
165 person for any purpose.

166 (2) Notwithstanding any other provision of law to the contrary,
167 a compact negotiated pursuant to this section shall permit the
168 Tribe to offer for play banked card games, including baccarat,
169 chemin de fer, and blackjack or 21, if blackjack or 21 is
170 authorized for play at licensed pari-mutuel facilities located
171 in Miami-Dade County or Broward County and chapter 551, Florida
172 Statutes.

173 (3) Notwithstanding any other provision of law to the
174 contrary, a compact negotiated pursuant to this act shall permit

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175 the tribe to offer for play all of the following Class III
176 games:

177 (a) Roulette or roulette style games; and

178 (b) Craps or craps style games.

179 (4) (a) In consideration for authority to play the specified
180 Class III games described in this section, the compact shall
181 provide for revenue sharing through periodic payments to the
182 state during the term of the compact. If net win in any cycle is
183 less than or equal to \$2 billion, revenue sharing for that cycle
184 shall be \$400 million. If net win in any cycle is more than \$2
185 billion and less than or equal to \$4 billion, revenue sharing
186 for that cycle shall be \$400 million plus 10 percent of net win
187 that is more than \$2 billion and less than or equal to \$4
188 billion. If net win in any cycle is more than \$4 billion,
189 revenue sharing for that cycle shall be \$600 million plus 25
190 percent of net win that is over \$4 billion. However, revenue
191 sharing may be:

192 1 Reduced or suspended if the net win in any cycle fails to
193 reach \$1.37 billion and shall resume when the net win for a
194 cycle or any subsequent period when revenue sharing is reduced
195 or suspended reaches \$1.37 billion.

196 2. Reduced pursuant to subsection (8).

197 (b) The compact shall specify a process for determining the
198 timing and amount of any reduction of revenue-sharing payments.
199 The process shall provide the state with at least 30 days to
200 review the Tribe's projection or determination that the net win
201 for any cycle will or has failed to reach \$1.37 billion.

202 (5) Revenue sharing required by this section shall be in
203 addition to assessments by the state, consistent with 25 U.S.C.

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204 s. 2710(d)(3)(C)(iii), in such amounts as are necessary to
205 defray the costs of regulating activity conducted pursuant to
206 the compact; payments, consistent with 25 U.S.C. s. 2710
207 (b)(2)(B)(v), to help fund operations of local government
208 agencies; any other provision of the compact relating to
209 financial obligations of the Tribe; taxation by the Indian
210 tribe, consistent with 25 U.S.C. 2710(d)(3)(C)(iv), of certain
211 activities in amounts comparable to amounts assessed by the
212 State for comparable activities; and any separate legal document
213 obligating the Tribe to make payments or to share revenues.

214 (6) In recognition of the fact that the Tribe has been
215 conducting gaming consistent with the provisions of the
216 agreement, all revenues shared or anticipated to be shared
217 pursuant to that agreement before the date the compact is
218 approved or deemed approved by the United States Department of
219 the Interior shall be ratified and released to the State of
220 Florida without further obligation or encumbrance. Acceptance of
221 such funds by the state does not validate the agreement or the
222 operation of the Class III gaming by the Tribe during the period
223 a valid compact was not in effect.

224 (7) In consideration for any additional Class III games
225 authorized for the Tribe under subsection (3), the compact may
226 not provide for the elimination or reduction of revenue sharing
227 in the event that blackjack is authorized for play at licensed
228 pari-mutuel facilities located in Miami-Dade County or Broward
229 County.

230 (8) The compact must provide that if one or more additional
231 Class III games not specifically provided for in this act are
232 authorized in this state, such event shall not result in the

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233 elimination of revenue-sharing payments under the compact, but
234 shall provide that the Tribe's net win on which its revenue
235 sharing is based be reduced by an amount reasonably calculated
236 by the parties to equal the net win from any such additional
237 Class III gaming activities that are authorized after the
238 effective date of the compact. However, the compact may not
239 permit a reduction in revenue sharing as the result of an
240 authorization for additional Class III games in Gadsden,
241 Liberty, and Franklin Counties or counties west of those
242 counties.

243 (9) The compact may not provide for the elimination or
244 reduction of revenue sharing based on the authorization of
245 historic racing or additional Class II gaming in this state,
246 including any Class II electronic gaming machines that may be
247 authorized for play at licensed pari-mutuel facilities anywhere
248 in the state.

249 (10) The provisions of the compact, including the revenue-
250 sharing provisions, may not be reduced or eliminated by the
251 existence of any gaming activities being conducted in Florida at
252 the time this compact is ratified which are illegal or are of
253 unsettled legal status as long as the state and its local
254 governmental entities maintain at least their current reasonable
255 level of enforcement actions against such illegal gaming
256 activities.

257 (11) If the Florida Constitution is amended to repeal the
258 slot machine amendment in s. 23, Article X of the State
259 Constitution, the Legislature authorizes the Seminoles to
260 continue to offer the play of slot machines under the terms of
261 the compact authorized pursuant to this section during the

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262 remainder of the term of the compact.

263 (12) The compact shall provide that the compact is void if
264 any provision of the compact relating to covered games,
265 payments, reduction or suspension of payments, or exclusivity is
266 held by a court of competent jurisdiction or determined by the
267 Secretary of the United States Department of the Interior to be
268 invalid.

269 Section 6. The compact negotiated pursuant to this act must
270 meet the following additional minimum terms and standards:

271 (1) The compact shall provide for a term of at least 10
272 years and no more than 25 years.

273 (2) The compact shall authorize the Tribe to offer the play
274 of specified Class III games at no more than seven existing
275 Seminole Tribe of Florida gaming facilities. The compact shall
276 identify the specific lands, locations, and existing gaming
277 facilities on which the Tribe is authorized to offer the play of
278 such games under the compact. The compact may permit any
279 identified facility to be expanded or replaced by another
280 facility on the same reservation with advance notice to the
281 State of no less than 60 calendar days, but the number of
282 existing facilities on each reservation shall remain the same.

283 (3) The compact shall provide that all gaming machines on
284 the premises of the authorized facilities will be connected to a
285 central computerized reporting and auditing system on the gaming
286 facility premises. The system shall:

287 (a) Collect on a continual basis the unaltered activity of
288 each gaming machine in use at the gaming facility.

289 (b) Provide access to the state by a dedicated
290 telecommunications connection, on a "read-only" basis, upon

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291 entry of appropriate security codes and permit access to and
292 downloads of the wager and payout data of each machine,
293 electronically captured by the central computer. However, the
294 compact may not authorize the state to alter or affect the
295 operation of any gaming machine or other device on the premises
296 of the authorized gaming facility or the data provided to the
297 central computer.

298 (c) Be constructed and installed at the Tribe's expense to
299 provide electronic access to the state for the machine wager and
300 payout data collected by the central computer.

301 (d) Be designed in conjunction with the state and the
302 Tribe's technical staff so as to preserve the integrity of the
303 system and the data contained therein, to minimize any
304 possibility of unauthorized access to the system or tampering
305 with the data, and to minimize any access by the state to
306 information other than machine wager and payout data residing in
307 the central reporting and auditing system.

308 (4) The compact shall designate the Division of Pari-mutuel
309 Wagering of the Department of Business and Professional
310 Regulation as the state agency authorized to carry out the
311 state's oversight responsibilities under the compact.

312 (5) The compact shall require the state to monitor the
313 Tribe's compliance with the provisions of the compact, and:

314 (a) Permit the state to have access, during regular hours
315 of operation, to any public areas of each gaming facility that
316 is conducting gaming activities under the authority of the
317 compact without prior notice, or with concurrent notice, and to
318 any nonpublic area of the facilities without prior notice, or
319 with concurrent notice;

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320 (b) Permit the state to conduct oversight testing,
321 including random inspections, of any games or devices authorized
322 under the compact;

323 (c) Provide for annual audits by the state or an
324 independent third party to review slot machine and other Class
325 III gaming compliance under the terms of the compact;

326 (d) Require an annual independent financial audit to verify
327 compliance with any obligations of the Seminole Tribe of Florida
328 under the compact, including financial and auditing provisions,
329 which audit shall be paid by the Tribe; and

330 (e) Permit the state to inspect, review, and receive
331 requested copies of any records of the Tribe which it deems
332 necessary to verify compliance with any gaming or financial
333 obligations of the Seminole Tribe of Florida under the compact.

334 (6) The compact may not:

335 (a) Limit the number of times or opportunities that the
336 state may inspect any covered games or gaming devices in
337 operation at facilities on a random basis to confirm that the
338 operation and play of the games or devices conform to
339 manufacturer's technical standards or to the standards specified
340 in the compact; or

341 (b) Limit the number of times the state may review internal
342 controls and violations by authorized facilities.

343 (7) The compact shall require the Tribe to:

344 (a) Employ, permit, or authorize only medical professionals
345 at its gaming facilities who are licensed by this state; and

346 (b) Allow unimpeded access to the gaming facilities by
347 municipal or county emergency medical services.

348 (8) The compact shall require the Tribe to ensure that the

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349 construction and maintenance of gaming facilities will comply
350 with standards that are at least as stringent as the Florida
351 Building Code.

352 (9) The compact shall provide that, at a minimum, the
353 environmental requirements of any federal permit must ensure
354 that the standards established for the state's environmental
355 resource permitting program as provided for in s. 373.414,
356 Florida Statutes, are met.

357 (10) The compact shall require the Tribe to establish
358 written, reasonable procedures for the disposition of tort
359 claims arising from personal injury or property damage alleged
360 to have been suffered by patrons and invitees of its authorized
361 gaming facilities and to enact such tribal law as is necessary
362 to implement these procedures. The procedures shall include all
363 such tort claims, including claims that exceed the liability
364 insurance limits specified in subsection (11). The procedures
365 shall include all time limits that are applicable to the
366 disposition of the tort claim and a provision that, upon
367 request, the patron or invitee, or the patron's or invitee's
368 designated representative, shall be provided with a copy of the
369 procedures as well as the name, address, and telephone number of
370 the operator of the facility and the mailing address and
371 telephone number of the clerk of the Tribe's tribal court. The
372 Tribe shall not be deemed to have waived its sovereign immunity
373 from suit with respect to such claims by establishing such
374 procedures but must agree not to assert its sovereign immunity
375 with respect to such claims as provided in subsection (11).

376 (11) The compact shall provide that, during the term of the
377 compact, the Tribe shall maintain a policy of commercial general

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378 liability insurance which has a combined single limit for
379 personal injury and property damage of not less than \$2 million
380 per occurrence and in the aggregate. The compact shall require
381 the amount of the coverage to be adjusted annually based on
382 increases in the Consumer Price Index. The insurance policy
383 shall:

384 (a) Prohibit the insurer or the Tribe from invoking tribal
385 sovereign immunity up to the limits of the policy with respect
386 to any claim covered under the policy and disposed of in
387 accordance with the Tribe's tort claim procedures.

388 (b) Include covered claims made by a patron or invitee for
389 personal injury or property damage.

390 (c) Permit the insurer or the Tribe to assert any statutory
391 or common law defense other than sovereign immunity.

392 (d) Provide that any award or judgment rendered in favor of
393 a patron or invitee shall be satisfied solely from insurance
394 proceeds.

395 (12) The compact shall provide a reasonable process for the
396 expedited resolution of disputes between the state and the Tribe
397 which arise under the compact. The compact shall:

398 (a) Provide that the Tribe waives its sovereign immunity as
399 to any disputes between the state and the Tribe arising out of
400 the compact.

401 (b) Require presuit nonbinding arbitration before a lawsuit
402 can be filed concerning the dispute.

403 (c) Provide that either party may demand presuit nonbinding
404 arbitration to resolve any dispute between the parties arising
405 under the compact.

406 1. The party demanding the presuit nonbinding arbitration

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407 shall immediately ask the American Arbitration Association to
408 furnish a list of 11 arbitrators, each of whom shall have at
409 least 5 years of commercial arbitration experience and no
410 financial interest in or prior relationship with any of the
411 parties or their affiliated or related entities or principals.

412 2. The state and the Tribe shall each select a single
413 arbitrator from the list provided by the American Arbitration
414 Association within 10 days after receipt, and the individuals so
415 selected shall choose one additional arbitrator from the list
416 within the next 10 days. The three arbitrators selected shall
417 constitute the panel that shall arbitrate the dispute between
418 the parties pursuant to the American Arbitration Association
419 Commercial Arbitration Rules and chapter 682, Florida Statutes.

420 3. At the conclusion of the proceedings, which shall be no
421 later than 90 days after the demand for arbitration, the
422 arbitration panel shall present to the parties a proposed
423 agreement that the majority of the panel believes equitably
424 balances the rights, interests, obligations, and reasonable
425 expectations of the parties.

426 4. The parties shall, within 10 days after the arbitration
427 panel's issuance of the proposed agreement, enter into such
428 agreement or notify the opposing party of its intent to reject
429 the agreement and proceed with a lawsuit to resolve the dispute.

430 5. Each party shall pay its respective costs of arbitration
431 and shall pay one-half of the costs of the arbitration panel.

432 (13) The compact shall provide for the exercise of fair
433 employment practices by the Tribe. The compact shall require the
434 Tribe to maintain employment standards that are comparable to
435 the standards provided in federal laws and state laws which

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436 forbid employers from discriminating in connection with
437 employment of persons working at the gaming facilities
438 identified under the compact on the basis of race, color,
439 religion, natural origin, gender, age, disability or handicap,
440 or marital status. The Tribe may give preference in employment,
441 promotion, seniority, layoffs, or retention to members of the
442 Tribe and other federally recognized Tribes. The Tribe shall
443 provide a process for employee disputes which permits the
444 employee to be represented by an attorney or other legally
445 authorized representative. The process shall permit the employee
446 to use language interpreters, including interpreters for the
447 deaf or hard of hearing.

448 (14) The compact shall provide that the Tribe will use its
449 best efforts to spend its revenue in this state to acquire goods
450 and services from Florida-based vendors, professionals, and
451 material and service providers.

452 (15) It is the intent of the Legislature to review a
453 compact entered into under the provisions of this section every
454 5 years. It is the intent of the Legislature to consider the
455 authorization of additional Class III games for operation by the
456 Tribe based upon successful implementation of the compact and
457 the history of compliance with the compact.

458 Section 7. The Governor of this state is hereby authorized
459 and directed to execute an agreement on behalf of the State of
460 Florida with the Indian tribes in this state, acting on a
461 government-to-government basis, to develop and implement a fair
462 and workable arrangement to apply state taxes on persons and
463 transactions on Indian lands. Such agreements shall address the
464 imposition of specific taxes and exemptions from those taxes. An

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465 agreement executed by the Governor pursuant to the authority
466 granted in this section shall not take effect unless approved or
467 ratified by the Legislature.

468 Section 8. Subsection (3) of section 1013.737, Florida
469 Statutes, is amended to read:

470 1013.737 The Class Size Reduction Lottery Revenue Bond
471 Program.—There is established the Class Size Reduction Lottery
472 Revenue Bond Program.

473 (3) The state hereby covenants with the holders of such
474 revenue bonds that it will not take any action that will
475 materially and adversely affect the rights of such holders so
476 long as bonds authorized by this section are outstanding. The
477 state does hereby additionally authorize the establishment of a
478 covenant in connection with the bonds which provides that any
479 additional funds received by the state from new or enhanced
480 lottery programs; video gaming; banking card games including
481 baccarat, chemin de fer, or blackjack; electronic or
482 electromechanical facsimiles of any game of chance; casino
483 games; slot machines; or other similar activities will first be
484 available for payments relating to bonds pledging revenues
485 available pursuant to s. 24.121(2), prior to use for any other
486 purpose.

487 Section 9. This act shall take effect on the same date that
488 section 1 of CS for SB 836, or similar legislation, takes effect
489 if such legislation is adopted during the 2009 legislative
490 session, or an extension thereof, and becomes law.